IDAHO FALLS



City Council Agenda

City of Idaho Falls
Regular Council Meeting
680 Park Avenue

Thursday
January 12, 2022
7:30 p.m.

Mayor

Rebecca Casper

City Council

Michelle Ziel-Dingman
Council President

Tom Hally
Council Seat 3

John Radford
Council Seat 5

Jim Francis
Council Seat 4

Jim Freeman
Council Seat 6

Lisa Burtenshaw
Council Seat 2

Livestream at www.idahofallsidaho.gov/429/Live-Stream

PUBLIC PARTICIPATION

Welcome to the Idaho Falls City Council Meeting.

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

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

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

Public Comment Guidelines

Speakers are encouraged to:

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

Public Hearing Guidelines

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

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

City Council Meeting

Agenda

680 Park Avenue
Idaho Falls, ID 83402

Thursday, January 12, 2023 **7:30 PM** **City Council Chambers**

City Council Agenda:

1. Call to Order.

2. Pledge of Allegiance.

3. Special State Agency Project Update: Idaho Transportation Department, I-15/US-20 Connector.

4. Special Presentation: Mayor's Choice Awards.

5. Public Comment.

Please see guidelines above.

6. Consent Agenda.

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

A Idaho Falls Power

1) Idaho Falls Power Board Meeting Minutes - November **21-767**

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

Attachments: 2022 1109 IFP Board Meeting minutes.pdf

B. Public Works

1) Bid Award - Mill Run Storm Drain Improvements **21-772**

On Wednesday, January 4, 2022, bids were received and opened for the Mill Run Storm Drain Improvements project. A tabulation of bid results is attached. The purpose of the proposed bid award is to enter into a contract with the lowest bidder to install additional storm drainage infrastructure within the Mill Run Subdivision.

Attachments: Mill Run Bid Tab.pdf

2) Resolution Allowing Grant Application to Replace the 65th North Bridge over the Idaho Canal **21-773**

Attached for your consideration is a Resolution facilitating submittal of a grant application for federal aid funding to reconstruct the 65th North bridge over the Idaho Canal.

Attachments: Resolution - Bridge Application 65th North 12.14.22.pdf

C. Municipal Services

1) Bid Award IF-23-E, Purchase Dump Truck for Public Works **21-764**

This purchase will replace unit 1530, a 2013 Western Star 4700 Dump Truck that has reached its useful life and is scheduled for replacement. Viking-Cives has agreed to extend quote 169427 until January 20, 2023.

Attachments: Bid IF-23-E Purchase Dump Truck - Quote.pdf
Bid IF-23-E Purchase Dump Truck for Public Works - Proposal.pdf

2) Bid Award IF-23-06, Purchase of Main Line Materials for Public Works **21-768**

Bids were received and opened on Wednesday, December 28, 2022 for main line materials for the Public Works, Water Division. This purchase will replenish main line materials inventory for Water Division operations. Following the opening of the bids, Mountainland Supply Company withdrew their bid.

Attachments: Bid IF-23-06 Main Line Materials for Public Works.pdf

3) Sell Used Snow Loader to City of Shelley, Idaho **21-775**

The City of Shelley has expressed interest in purchasing unit 1520, a 2009 Leeboy 3000 Snow Loader removed from service due to the delivery of a new front-end loader. Resolution 2015-01, Section C, a. allows for the sale of surplus property. The city's Fleet Maintenance Superintendent contacted four companies for a third-party appraisal of unit 1520. The appraised value of the front-end loader ranged from $60,000 on the high-end and $50,000 on the low-end.

Attachments: Surplus Resolution 2015.1.pdf
Bill of Sale - Snow Loader.pdf

D. Clerk's Office

1) License Applications, all carrying the required approvals

Action Item:

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

7. Regular Agenda.

A. Municipal Services

1) IFP 23-04 Upper Plant Runner Hub Rebuild **21-770**

Idaho Falls Power (IFP) solicited bids from qualified construction contractors to rebuild the Upper Plant's runner hub, which includes removal, disassembly and reassembly of the runner and runner hub. The bid includes all equipment, materials and labor. IFP received 1 bid with Thompson- HCMS, being the lowest responsive, responsible bidder.

Action Item:

Approve this agreement with Thompson-HCMS of Hayden, Idaho, for Upper Plant's runner hub rebuild at a not-to-exceed amount of $916,990.00 and give authorization to the Mayor and City Clerk to execute the necessary documents, (or take other action deemed appropriate).

Attachments: IFP 23-04 UP Runner Hub Bid tablulation.pdf
IFP 23-04 Upper Plant Runner Hub Rebuild Bid Doc TGC Exec.pdf

B. Public Works

1) Professional Services Agreement with Forsgren Associates, Inc., supporting the Meppen Canal Trail, Idaho Canal to 25th East Project. **21-747**

The purpose of this Agreement is to establish a contract to provide engineering design and construction assistance for two pedestrian bridges needed for the Meppen Canal Trail project. Pedestrian crossings are proposed over the Idaho Canal at the beginning of the Meppen Canal and over the Meppen Canal at Caribou Street. The proposed work will improve walkability for the community.

Action Item:
Approve the Professional Services Agreement with Forsgren Associates, Inc., and authorize the Mayor and City Clerk to execute the document (or take other action deemed appropriate).

Attachments: 23696 LPA.pdf

C. Idaho Falls Power

1) IFP 21-38 Fiber Optic Cable Installation Services with Wheeler Electric, Inc. **21-765**

City Council approved Wheeler Electric, Inc.'s contract to provide new customers in-home fiber connection installation for an original amount of $456,000 on Sept. 23, 2021. An additional $600,000 of spending authority was approved on Nov. 10, 2021. Wheeler was the only bidder on the original competitive bid. Wheeler has offered to continue working under the existing contract per the installation price from 2021 if additional funding is authorized through FY 2023. Idaho Falls Fiber requests this spending increase to keep up with new customer connection demand that is exceeding projections.

Action Item:
Idaho Falls Fiber (IFF) requests an additional $1,000,000 spending authority under the original Wheeler Electric, Inc. contract approved September 23, 2021, for a contract total of $2,056,000 including previously approved spending, (or take other action deemed appropriate).

2) IFP 21-34 Conduit Fiber Agreement with B. Jackson Construction **21-766**

City Council approved B. Jackson Construction's contract to provide conduit for buried electrical conductor replacement and fiber optic cable installation until the fiber expansion project is complete. Based on quantities installed over the first three years of the conduit/fiber project and per unit bid prices, the value is estimated for FY2023 at $3,430,505.13, plus a ten percent (10%) contingency of $343,050.51 for a total authorization of $3,773,555.64. The 10 percent (10%) contingency is felt to be adequate if we are able to accelerate the construction schedule.

Action Item:
Idaho Falls Fiber (IFF) requests the FY2023 budgeted spending authority of $3,773,555.64 be authorized as previously awarded under the multi-year B. Jackson Construction contract approved August 26, 2021, (or take other action deemed appropriate).

D. Community Development Services

1) Final Plat and Reasoned Statement of Relevant Criteria and Standards, Amerigas Propane Division No. 1. **21-756**

Attached is the application for the Final Plat and Reasoned Statement of Relevant Criteria and Standards for Amerigas Propane Division No. 1. The Planning and Zoning Commission considered this item at its November 9, 2021, meeting and unanimously voted to recommend approval for the final plat as presented. The Commission extended their recommendation to approve the plat on November 1, 2022. Staff concurs with this recommendation.

Action Item:

1. Accept the Final Plat for Amerigas Propane Division No. 1and give authorization for the Mayor, City Engineer, and City Clerk to sign said Final Plat (or take other action deemed appropriate).

2. Approve the Reasoned Statement of Relevant Criteria and Standards for the Final Plat Amerigas Propane Division No. 1 and give authorization for the Mayor to execute the necessary documents (or take other action deemed appropriate).

Attachments: Zoning Map
Aerial
Final Plat
Staff Report
PC Minutes 2021.11.09
PC Minutes 2022.11.01
Reasoned Statement

2) Final Plat, Development Agreement, and Reasoned Statement of Relevant Criteria and Standards, Southpoint Subdivision, Division No. 12. **21-757**

Attached is the application for the Final Plat, Development Agreement, and Reasoned Statement of Relevant Criteria and Standards for Southpoint Subdivision, Division No. 12. The Planning and Zoning Commission considered this item at its July 6, 2021, meeting and unanimously voted to recommend approval for the final plat as presented. The Commission extended their recommendation to approve the plat on June 21, 2022. Staff concurs with this recommendation.

Action Item:

1. Approve the Development Agreement for the Final Plat for Southpoint Subdivision, Division No. 12 and give authorization for the Mayor and City Clerk to sign said agreement (or take other action deemed appropriate).

2. Accept the Final Plat for Southpoint Subdivision, Division No. 12 and give authorization for the Mayor, City Engineer, and City Clerk to sign said Final Plat (or take other action deemed appropriate).

3. Approve the Reasoned Statement of Relevant Criteria and Standards for the Final Plat for Southpoint Subdivision, Division No. 12 and give authorization for the Mayor to execute the necessary documents (or take other action deemed appropriate).

Attachments: Zoning Map
Aerial
Final Plat
Staff Report
PC Minutes 2021.07.06
PC Minutes 2022.06.21
Reasoned Statement
Development Agreement

3) Final Plat, Development Agreement, and Reasoned Statement of Relevant Criteria and Standards, Roderick Business Park. **21-758**

Attached is the application for the Final Plat, Development Agreement, and Reasoned Statement of Relevant Criteria and Standards for Roderick Business Park. The Planning and Zoning Commission considered this item at its September 6, 2022, meeting and voted to recommend approval for the final plat as presented by a 5-1 vote. Staff concurs with this recommendation.

Action Item:

1. Approve the Development Agreement for the Final Plat for Roderick Business Park and give authorization for the Mayor and City Clerk to sign said agreement (or take other action deemed appropriate).

2. Accept the Final Plat for Roderick Business Park and give authorization for the Mayor, City Engineer, and City Clerk to sign said Final Plat (or take other action deemed appropriate).

3. Approve the Reasoned Statement of Relevant Criteria and Standards for the Final Plat for Roderick Business Park and give authorization for the Mayor to execute the necessary documents (or take other action deemed appropriate).

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

4) Legislative Public Hearing-Part 1 of 2 of the Annexation and Initial Zoning-Annexation Ordinance and Reasoned Statement of Relevant Criteria and Standards for 79.716 acres of the South ½ of the NW ¼ of Section 32 and the South ½ of the NE ¼ of Section 31, Township 3 North, Range 38 East. **21-759**

Attached is part 1 of 2 of the application for Annexation and Initial Zoning of R3, Multiple Dwelling Zone with the Approach Surface Airport Overlay Zone which includes the Annexation Ordinance and Reasoned Statement of Relevant Criteria and Standards for 79.716 acres of the South ½ of the NW ¼ of

Section 32 and the South ½ of the NE ¼ of Section 31, Township 3 North, Range 38 East. The Planning and Zoning Commission considered this item at its November 1, 2022, meeting and unanimously voted to recommended approval of the annexation with an initial zoning of R3 with the Approach Surface Airport Overlay Zone as presented. Staff concurs with this recommendation.

Action Item:

1. Approve the Ordinance annexing 79.716 acres of the South ½ of the NW ¼ of Section 32 and the South ½ of the NE ¼ of Section 31, Township 3 North, Range 38 East under a suspension of the rules requiring three complete and separate readings and request that it be read by title and published by summary (or consider the Ordinance on the first reading and that it be read by title, reject the Ordinance, or take other action deemed appropriate).

2. Approve the Reasoned Statement of Relevant Criteria and Standards for the annexation of 79.716 acres of the South ½ of the NW ¼ of Section 32 and the South ½ of the NE ¼ of Section 31, Township 3 North, Range 38 East and give authorization for the Mayor to execute the necessary documents (or take other action deemed appropriate).

Attachments: Zoning Map
Aeiral
Comp Plan Map
Staff Report
Land Use Table Residential
Airport Land Use
PC Minutes
Ordinance
Exhibit A
Map Exhibit
Reasoned Statement

5) Legislative Public Hearing-Part 2 of 2 of the Annexation and Initial Zoning of R3, Multiple Dwelling Residential, with Approach Surface Airport Overlay Zone, Initial Zoning Ordinance and Reasoned Statement of Relevant Criteria and Standards, 79.716 acres of the South ½ of the NW ¼ of Section 32 and the South ½ of the NE ¼ of Section 31, Township 3 North, Range 38 East. **21-760**

Attached is part 2 of 2 of the application for Annexation and Initial Zoning of R3, Multiple Dwelling Residential, with Approach Surface Airport Overlay Zone, Initial Zoning Ordinance and Reasoned Statement of Relevant Criteria and Standards, 79.716 acres of the South ½ of the NW ¼ of Section 32 and the South ½ of the NE ¼ of Section 31, Township 3 North, Range 38 East. The Planning and Zoning Commission considered this item at its November 1, 2022, meeting and unanimously voted to recommend approval of R3, Multiple Dwelling Residential, with Approach Surface Airport Overlay Zone to the Mayor and City Council as presented. Staff concurs with this recommendation.

Action Item:

1. Assign a Comprehensive Plan Designations of “Mixed Use Centers and Corridors” and “General Urban” and approve the Ordinance establishing the initial zoning for R3, Multiple Dwelling Residential with Approach Surface Airport Overlay Zone as shown in the Ordinance exhibits under a suspension of

the rules requiring three complete and separate readings and request that it be read by title and published by summary, that the City limits documents be amended to include the area annexed herewith, and that the City Planner be instructed to reflect said annexation, amendment to the Comprehensive Plan, and initial zoning on the Comprehensive Plan and Zoning Maps located in the Planning office (or consider the Ordinance on the first reading and that it be read by title, reject the Ordinance, or take other action deemed appropriate).

2. Approve the Reasoned Statement of Relevant Criteria and Standards for the Initial Zoning of R3, Multiple Dwelling Residential with Approach Surface Airport Overlay Zone, and give authorization for the Mayor to execute the necessary documents (or take other action deemed appropriate).

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

6) Legislative Public Hearing-Part 1 of 2 of the Annexation and Initial Zoning-Annexation Ordinance and Reasoned Statement of Relevant Criteria and Standards for 95.362 acres of the NE ¼ of Section 5 and a portion of Section 4, Township 1 North, Range 38 East and a portion of Section 32 and 33, Township 2 North, Range 38 East. **21-761**

Attached is part 1 of 2 of the application for Annexation and Initial Zoning of LC Limited Commercial, R3A Residential Mixed Use, R3, Multiple Dwelling Residential, and R2 Mixed Residential Zones which includes the Annexation Ordinance and Reasoned Statement of Relevant Criteria and Standards for 95.362 acres of the NE ¼ of Section 5 and a portion of Section 4, Township 1 North, Range 38 East and a portion of Section 32 and 33, Township 2 North, Range 38 East. The Planning and Zoning Commission considered this item at its August 2, 2022, meeting and voted to recommended approval of the annexation with an initial zoning of LC, R3, and R2 by a vote of 3-1. The Planning Commission's recommendation was to be an approximate of a proposal submitted by the public during the hearing. The applicant has proposed alternative zoning from what was initially submitted in response to the Planning Commission's recommendation which is reflected in the ordinance and exhibits in Part 2 of the memos for this application.

Action Item:

1. Approve the Ordinance annexing 95.362 acres of the NE ¼ of Section 5, and a portion of Section 4, Township 1 North, Range 38 East and a portion of Section 32 and 33, Township 2 North, Range 38 East under a suspension of the rules requiring three complete and separate readings and request that it be read by title and published by summary (or consider the Ordinance on the first reading and that it be read by title, reject the Ordinance, or take other action deemed appropriate).

2. Approve the Reasoned Statement of Relevant Criteria and Standards for the annexation of 95.362 acres of the NE ¼ of Section 5, and a portion of Section 4, Township 1 North, Range 38 East and a portion of Section 32 and 33, Township 2 North, Range 38 East and give authorization for the Mayor to execute the necessary documents (or take other action deemed appropriate).

Attachments: Zoning Map
Comp Plan Map
Aerial
Staff Report
Letter to Idaho Falls City Planner (09.23.2022).pdf
PC Minutes
Member of Public Zoning Rec.jpg
Ordinance
Exhibit A
Map Exhibit
Reasoned Statement
Matt Traynor input for project ANNX22-011.pdf

7) Legislative Public Hearing-Part 2 of 2 of the Annexation and Initial Zoning of LC Limited Commercial, R3A Residential Mixed Use, R3 Multiple Dwelling Residential, and R2 Mixed Residential Zones-Initial Zoning Ordinance and Reasoned Statement of Relevant Criteria and Standards for 95.362 acres of the NE ¼ of Section 5, and a portion of Section 4, Township 1 North, Range 38 East and a portion of Section 32 and 33, Township 2 North, Range 38 East. **21-762**

Attached is part 2 of 2 of the application for Annexation and Initial Zoning of LC Limited Commercial, R3A Residential Mixed Use, R3, Multiple Dwelling Zone, and R2 Mixed Residential Zones which includes the Initial Zoning Ordinance and Reasoned Statement of Relevant Criteria and Standards for 95.362 acres of the NE ¼ of Section 5 and a portion of Section 4, Township 1 North, Range 38 East and a portion of Section 32 and 33, Township 2 North, Range 38 East. The Planning and Zoning Commission considered this item at its November 1, 2022, meeting and voted to recommended approval of the annexation with an initial zoning of LC, R3, and R2 by a vote of 3-1. The Planning Commission's recommendation was to be an approximate of a proposal submitted by the public during the hearing. The applicant has proposed alternative zoning from what was initially submitted in response to the Planning Commission's recommendation which is reflected in the ordinance and exhibits in this part of the memos for this application.

Action Item:

1. Assign Comprehensive Plan Designations of "Mixed Use Centers and Corridors" and "General Urban" and approve the Ordinance establishing the initial zoning for LC Limited Commercial, R3A Residential Mixed Use, R3 Multiple Dwelling Residential, and R2 Mixed Residential Zones as shown in the Ordinance exhibits under a suspension of the rules requiring three complete and separate readings and request that it be read by title and published by summary, that the City limits documents be amended to include the area annexed herewith, and that the City Planner be instructed to reflect said annexation, amendment to the Comprehensive Plan, and initial zoning on the Comprehensive Plan and Zoning Maps located in the Planning office (or consider the Ordinance on the first reading and that it be read by title, reject the Ordinance, or take other action deemed appropriate).

2. Approve the Reasoned Statement of Relevant Criteria and Standards for the initial zoning of LC Limited Commercial, R3A Residential Mixed Use, R3 Multiple Dwelling Residential, and R2 Mixed

Residential Zones and give authorization for the Mayor to execute the necessary documents (or take other action deemed appropriate).

Attachments: Zoning Map
Aerial
Comp Plan Map
Ordinance
Exhibit A
Exhibit B
Reasoned Statement

E. Executive Session

An Executive Session will be held immediately following the conclusion of the agenda items listed above. The Executive Session has been called pursuant to the provisions of Idaho Code Section 74- 206(1)(f) "To communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated, but imminently likely to be litigated." The Executive Session will be held in the City Annex Conference Room. At the conclusion of the Executive Session, the Council will reconvene into Regular Council Meeting for possible action.

F. City Attorney

1) Resolution to Approve a Direct Loan to Idaho Falls Regional Airport **21-769**

Resolution 2020-27 approved the Inter-Departmental Direct Loan Policy. In accordance with that policy, the loan committee reviewed this request for a direct loan and is proposing an 18-month payback period at approximately 5%. Funds to repay the loan will be reimbursed by the Federal Aviation Administration (FAA) within federal fiscal year 2023/24. As part of the FAA grant policies, both interest and loan fees are eligible for reimbursement.

Action Item:

Approve the resolution to provide a direct loan to the Idaho Falls Regional Airport for the purpose of land acquisition and give authorization for the Mayor and City Clerk to execute the necessary documents (or take other action deemed appropriate).

8. Announcements and Adjournment.

Memorandum

File #: 21-767 **City Council Meeting**

FROM: Bear Prairie, General Manager
DATE: Wednesday, January 4, 2023
DEPARTMENT: Idaho Falls Power

Subject
Idaho Falls Power Board Meeting Minutes - November

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

Approve Idaho Falls Power Board meeting minutes from November 9, 2022, (or take other action deemed appropriate).

Description, Background Information & Purpose
The Idaho Open Meeting Law requires that the governing body of a public agency provide for the taking of written minutes for all of its public meetings.

Alignment with City & Department Planning Objectives



☐ ☒ ☐ ☐ ☐ ☐ ☐ ☐

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

Interdepartmental Coordination
n/a

Fiscal Impact
n/a

Legal Review
n/a

November 9, 2022 Unapproved

The Idaho Falls Power Board of the City of Idaho Falls met Wednesday, November 9, 2022, at the Idaho Falls Power Boardroom, 140 S. Capital, Idaho Falls, Idaho at 7:45 a.m.

Call to Order, Roll Call, and Announcements:
There were present:
Mayor Rebecca L Noah Casper
Board Member Michelle Ziel-Dingman
Board Member Tom Hally
Board Member Jim Francis
Board Member Jim Freeman
Board Member John Radford
Board Member Lisa Burtenshaw

Also present:
Bear Prairie, Idaho Falls Power (IFP) General Manager
Stephen Boorman, IFP Assistant General Manager
Michael Baskin, PhD, Principal and Founder of the Resilience Group
Linda Lundquist, IFP Board Secretary

Mayor Casper called the meeting to order at 7:47 a.m.

Calendar, Announcements, Events and Updates
Mayor Casper said she thought there'd been a good policy conversation regarding a 15 megawatt (MW) microreactor in the previous day's Energy Futures Initiative meeting. She then gave a brief overview of the International Atomic Energy Agency (IAEA) conference in Vienna, Austria that she attended. She updated everyone on the presentations and tours she went on. Mayor Casper reviewed upcoming events and provided flyers. General Manager (GM) Prairie stated that he would be putting a light packet together for December in lieu of a Board meeting. He gave a fiber marketing update and explained that the utility is helping to upgrade the art museum's lighting as an energy efficiency project in exchange for some power promotion. He added that Idaho Falls Power (IFP) is sponsoring the Spud Kings power plays. Mayor Casper suggested that it would be ideal if when the announcers had extra time, they could announce some IFP and Idaho Falls Fiber (IFF) sales slogans.

Board Policy No. 3 – Board Training Plan Review
Board Member Francis' feedback was to add an onsite tour and review of the board book.

Board Policy No. 5 – Financial Stability and Creditworthiness Review
GM Prairie said that he'd incorporated edits from the spring 2022 review and explained how the strength and existence of this first formal board policy helped to attain a favorable Fitch bond rating for the Sugarmill to Paine project. Board Member Hally asked if city loans have an impact on our credit rating and GM Prairie stated no, as long as it doesn't affect our cash on hand, ability to raise rates and overall financial health of the utility. Mayor Casper reminded the board that typos do not require board action. Board Member Francis said he'd added clarity to the redlined version pertaining to the financial and physical hedge and GM Prairie reiterated that you can purchase financial or physical energy. Mayor Casper pointed out that there is substantive value in this policy, even when going for funding on other city projects.

It was moved by Board Member Francis and seconded by Board Member Ziel-Dingman to accept the changes made to Board Policy No. 5. Motion passed unanimously, 6-0.

2023 Board Schedule Review

GM Prairie asked if when his business travel schedule conflicts with normal Board meetings, if it is acceptable to the Board to have staff conduct Board presentations and Board Member Freeman said yes, that it was good for succession planning and also good for the Board to hear from various staff members. GM Prairie announced that Josh Roos, City Treasurer would transition to serve as the new chief financial officer for IFP and Mayor Casper said the appointed treasurer position requires a change in the city ordinance.

BCECC Agreement Review

GM Prairie explained the arrangement that IFP, police, fire and the county already have in place at the Bonneville County Emergency Communication Center (BCECC) and noted the location also serves as the airport's internet connection as well as service to other customers. He said while the city owns the building and IFP has fiber assets in the building, that IFP does not control access to the building and there is a general concern over the lack of clarity of responsibility of network equipment and operations with the co-mingled and undocumented network structure. GM Prairie explained how this has prompted all parties involved to come together to explore a cleaner solution where IFP moves their backbone network equipment to their own facility and fiber hut site. As a result, parties involved have arrived on a mutual agreement based on collaborative meetings with law enforcement, BCECC leadership and the County. He said the city attorney department has drafted a memorandum of understanding (MOU), which is included in this packet, but continued to say that a revised MOU without the redlines was forwarded to him the previous night and pointed out that it didn't reflect priorities from prior stakeholder meetings. GM Prairie explained that as a result, he recommends pulling IFP network assets from the building while cleaning up and document a new redundant network design that better serves the needs of all parties. Board Member Radford offered that GM Prairie and the county commissioner should have a discussion about each of their concerns. Board Member Hally said that he feels IFP should remove the backbone fiber assets and leave respectfully and safely while ensuring and building back a network service that is just a reliable or more reliable like he committed to do. Mayor Casper said that she understands GM Prairie's concerns and prefers that the Board decide what to do. Board Member Freeman said he would like to see both MOU's in a side-by-side digital comparison instead of just the two different documents in the packets today. Board Member Ziel-Dingman said she is not in favor of keeping any IFF backbone network equipment in the BCECC, even with the original MOU proposed by the group prior to the Commissioner version sent yesterday. There was more discussion about a likely transition. Board Members Francis and Radford agreed that the revised MOU from the Commissioners was a deal breaker. Board Member Burtenshaw added that the Board was prepared to vote on a MOU that honors an agreement put together by professionals that were sent to come to an agreement by the elected officials of the city and county and added that she supports staff driving the process and also the GM's recommendation following the commissioners revised draft MOU; to support the GM and the original plan. Mayor Casper stated that based upon a review of the final county drafted MOU, that the Board supports a staff driven process and advised GM Prairie to put together a plan that meets everyone's needs and addresses everyone's concerns.

It was moved by Board Member Francis and seconded by Board Member Ziel-Dingman that Idaho Falls Power (IFP) Board finds the county commissioner's revised MOU regarding network infrastructure at the BCECC dated 11/8/22 (noted as final draft) to be unacceptable and therefore directs GM Prairie to begin the process of removal of the Idaho Falls Fiber backbone network infrastructure equipment from the BCECC with all due diligence with all protection of public safety. Motion passed unanimously, 6-0. GM Prairie assured everyone he would continue to collaborate and work with all the stakeholders to make the network services provided to the BCECC more reliable and better documented at the end of this process. There will be a numerous more meetings at the staff level to ensure this is a stepwise and transparent process.

Board Self-Evaluation Survey Questions Review

There was a discussion about the difficulty of tracking improvement if questions are changed year to year versus the value of changing/improving questions to address current issues. GM Prairie invited everyone to update five personalized questions each and Mayor Casper offered her time to work on one to ten standardized questions that could be tracked over time. Board Member Francis is in favor of keeping things simple and Board Member Freeman prefers a scale of 1-5 when appropriate. GM Prairie asked if anyone was in favor of dropping the headings and Board Member Radford said he was and pointed out that the practice of an annual survey doesn't have to be confined to just improving performance, but also providing training for the Board. GM Prairie asked for feedback by the end of the year so that the survey could be sent out in January in time for a February Board presentation. There was agreement and commitment to get review and question revisions back to IFP by the end of the year.

IFP Strategic Plan Review

There was a discussion about keeping the plan in front of the board regularly while dovetailing it into the capital improvement plan (CIP), budget and grant writing discussions and also making timely and incremental changes to the plan as appropriate.

DOE & OEMR Grant Process

Dr. Baskin, Owner of the Resiliency Group explained his role in supporting IFP as funding calls are released by the Department of Energy (DOE), particular to grid resilience, hydropower and energy storage and added that cyber could come in the future. He described the competitive process and explained that the DOE scoring is known prior to submission and pointed out that 20% of the evaluation is related to a community benefits plan. Dr. Baskin advised the Board to consider forming a community engagement committee to discuss job creation and employment opportunities around the federal funding. He said there was a bit of a bell curve on the overall scoring and pointed out that Washington is looking to fund rural and underserved communities. Dr. Baskin added that from a fiscal perspective, the funding is a 1:1 or 1:2 cost share. Mayor Casper mentioned that the funding calls are in line with what IFP is already proposing in their CIP.

Carbon Free Power Project Update

GM Prairie said that there isn't much information available about the Carbon Free Power Project (CFPP) for public consumption as much of the financial discussion has been held in executive session, therefore, he can't provide comment, but pointed out that the Board is welcome to attend the project's public meetings. Board Member Burtenshaw expressed her concerns over lack of subscription and IFP's credit rating being on the line and GM Prairie reminded the Board that CFPP is a public power project and that Utah Associated Municipal Power Systems (UAMPS) benefits from IFP's strong credit rating.

There being no further business, the meeting adjourned at 11:01 a.m.

s/ Linda Lundquist

Linda Lundquist, BOARD SECRETARY

s/ Rebecca L. Noah Casper

Rebecca L. Noah Casper, MAYOR

Memorandum

File #: 21-772 **City Council Meeting**

FROM: Chris H Fredericksen
DATE: Thursday, January 5, 2023
DEPARTMENT: Public Works

Subject
Bid Award - Mill Run Storm Drain Improvements

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

Approve the plans and specifications, award to the lowest responsive, responsible bidder, Knife River Corporation in the amount of $708,888.00 and give authorization for the Mayor and City Clerk to execute the necessary documents (or take other action deemed appropriate).

Description, Background Information & Purpose
On Wednesday, January 4, 2022, bids were received and opened for the Mill Run Storm Drain Improvements project. A tabulation of bid results is attached. The purpose of the proposed bid award is to enter into a contract with the lowest bidder to install additional storm drainage infrastructure within the Mill Run Subdivision.

Alignment with City & Department Planning Objectives



☐ ☐ ☐ ☐ ☒ ☐ ☐ ☐

This project supports the community-oriented result of reliable public infrastructure by improving storm drainage infrastructure.

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

Fiscal Impact
Cost allocation for this project will come from the Wastewater Division and sufficient funding and budget authority exist for completion of the proposed improvements.

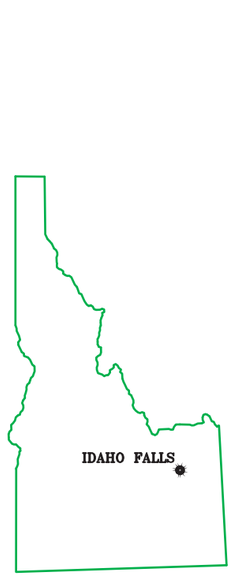
Legal Review

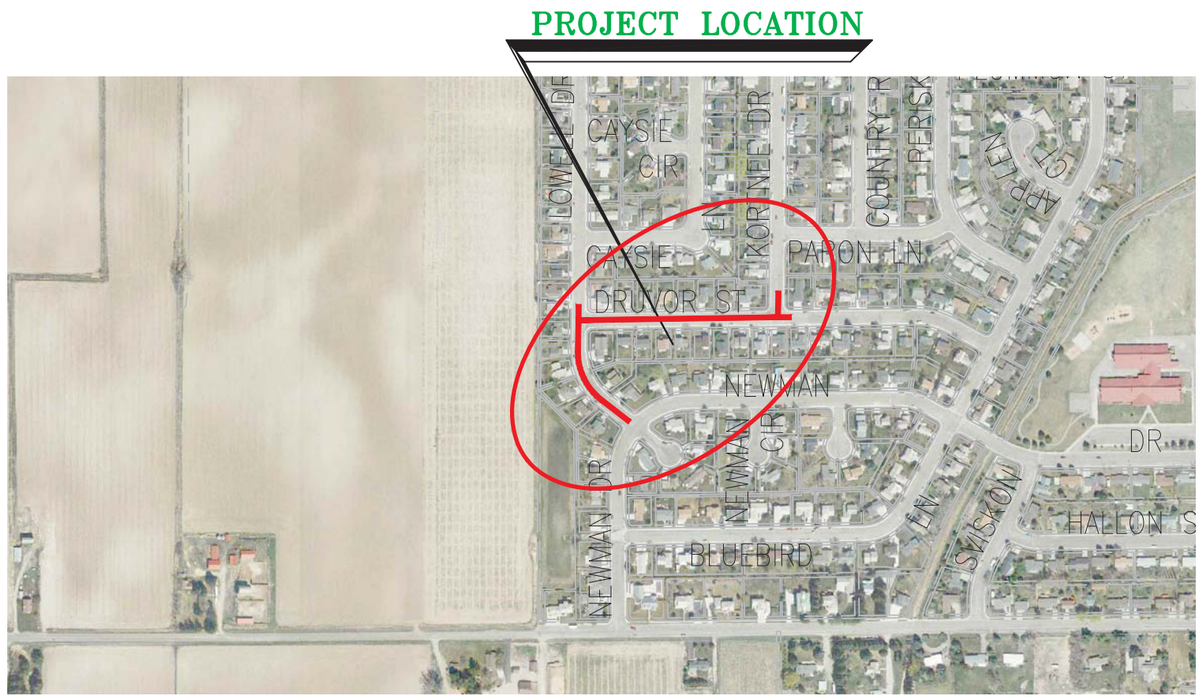
The City Attorney's office has reviewed the bid process and concurs that the Council action desired is within Idaho State Statute.

2-37-22-4-SDN-2023-08
2023-02

MILL RUN STORM DRAIN IMPROVEMENTS

PROJECT # 2-37-22-4-SDN-2023-08





MAYOR

REBECCA L. NOAH CASPER

CITY COUNCIL

MICHELLE ZIEL-DINGMAN
LISA BURTENSHAW
THOMAS HALLY
JIM FRANCIS
JOHN B. RADFORD
JIM FREEMAN

ENGINEERING DIVISION

PUBLIC WORKS DIRECTOR
CHRIS H FREDERICKSEN, P.E.

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

2022

Digitally signed by Kent J Fugal:A01410C00000177F92E041C0001764
Date: 2022.12.09 16:37:53-07'00'

PROFESSIONAL ENGINEER
REGISTERED
9247
STATE OF IDAHO
KENT J. FUGAL

AS BUILT:

SCALE SHOWN IS FOR SHEET 11 x 17 ONLY

ENGINEERING DIVISION

IDAHO FALLS PUBLIC WORKS

MILL RUN STORM DRAIN IMPROVEMENTS TITLEPAGE

CHK BY:	CEP	DSG BY:	DD	DWN BY:	DD
FILE NO. 2-37-22-4-SDN-2023-08		DATE PLOTTED: 12/09/22		SHEET NO. 1 OF 24	
DWG NO. Main_SDN-2023-08_Title-Page					

City of Idaho Falls

Engineering Division

Bid Tabulation

Project: Mill Run Storm Drain Improvements ***Number:*** 2-37-22-4-SDN-2023-08

Submitted: Kent J. Fugal, P.E., PTOE ***Date:*** January 4, 2023

Item Number	Reference Number	Description	Estimated Quantity	Unit	Engineer's Estimate		Knife River Corporation		3H Construction, LLC		RS Jobber Inc		Sunroc Corp DBA Depatco		JM Concrete Inc		Avail Valley Construction	
					Unit Price	Total Amount	Unit Price	Total Amount	Unit Price	Total Amount	Unit Price	Total Amount	Unit Price	Total Amount	Unit Price	Total Amount	Unit Price	Total Amount
		DIVISION 200 - EARTHWORK																
2.01	201.4.1.D.1	Removal of Concrete	407	SY	$20.00	$8,140.00	$12.00	$4,884.00	$29.00	$11,803.00	$26.00	$10,582.00	$18.50	$7,529.50	$10.00	$4,070.00	$12.50	$5,087.50
2.02	201.4.1.E.1	Removal of Curb & Gutter	876	LF	$25.00	$21,900.00	$5.00	$4,380.00	$13.80	$12,088.80	$12.00	$10,512.00	$6.00	$5,256.00	$10.00	$8,760.00	$5.00	$4,380.00
2.03	201.4.1.F.1.a	Removal of Manhole	1	EA	$1,500.00	$1,500.00	$615.00	$615.00	$1,500.00	$1,500.00	$2,300.00	$2,300.00	$590.00	$590.00	$2,000.00	$2,000.00	$1,710.00	$1,710.00
2.04	201.4.1.F.1.b	Removal of Inlet Box	3	EA	$1,000.00	$3,000.00	$345.00	$1,035.00	$775.00	$2,325.00	$1,400.00	$4,200.00	$425.00	$1,275.00	$1,500.00	$4,500.00	$1,640.00	$4,920.00
2.05	202.4.1.A.1	Excavation	1,294	CY	$25.00	$32,350.00	$20.00	$25,880.00	$23.50	$30,409.00	$44.00	$56,936.00	$21.70	$28,079.80	$50.00	$64,700.00	$17.00	$21,998.00
		DIVISION 300 - TRENCHING																
3.01	307.4.1.F.1	Main Line Type "P" Surface Restoration (Asphalt Roadway)	738	LF	$65.00	$47,970.00	$55.00	$40,590.00	$62.00	$45,756.00	$81.00	$59,778.00	$80.00	$59,040.00	$40.00	$29,520.00	$40.00	$29,520.00
3.02	307.4.1.F.5	Service Line Type "P" Surface Restoration (Asphalt Roadway)	227	LF	$65.00	$14,755.00	$93.00	$21,111.00	$62.00	$14,074.00	$41.00	$9,307.00	$83.00	$18,841.00	$40.00	$9,080.00	$44.25	$10,044.75
		DIVISION 400 - WATER																
4.01	401.4.1.A.1	Water Main Pipe, Size 8"	25	LF	$100.00	$2,500.00	$88.00	$2,200.00	$268.00	$6,700.00	$422.00	$10,550.00	$925.00	$23,125.00	$80.00	$2,000.00	$973.00	$24,325.00
4.02	401.4.1.C.1	Temporary Water Service	1	LS	$8,000.00	$8,000.00	$16,550.00	$16,550.00	$16,000.00	$16,000.00	$1,185.00	$1,185.00	$24,350.00	$24,350.00	$15,000.00	$15,000.00	$19,200.25	$19,200.25
4.03	404.4.1.B.1.a	Replace Water Service, Size 1"	8	EA	$3,000.00	$24,000.00	$2,300.00	$18,400.00	$3,600.00	$28,800.00	$3,405.00	$27,240.00	$2,310.00	$18,480.00	$2,000.00	$16,000.00	$9,810.00	$78,480.00
4.04	404.4.1.B.1.b	Replace Water Service, Size 1.5"	1	EA	$3,000.00	$3,000.00	$2,300.00	$2,300.00	$4,500.00	$4,500.00	$3,530.00	$3,530.00	$2,310.00	$2,310.00	$2,500.00	$2,500.00	$12,111.00	$12,111.00
		DIVISION 600 - CULVERTS & STORM DRAINS																
6.01	601.4.1.A.5.a	12" Storm Drain Pipe	280	LF	$80.00	$22,400.00	$72.00	$20,160.00	$48.00	$13,440.00	$72.00	$20,160.00	$49.75	$13,930.00	$80.00	$22,400.00	$57.50	$16,100.00
6.02	601.4.1.A.5.b	24" Storm Drain Pipe	1,170	LF	$100.00	$117,000.00	$86.00	$100,620.00	$89.00	$104,130.00	$149.00	$174,330.00	$109.50	$128,115.00	$110.00	$128,700.00	$107.15	$125,365.50
6.03	601.4.1.A.5.c	24" C900 Storm Drain Pipe	60	LF	$120.00	$7,200.00	$255.00	$15,300.00	$145.00	$8,700.00	$301.00	$18,060.00	$435.00	$26,100.00	$260.00	$15,600.00	$360.00	$21,600.00
6.04	602.4.1.A.1	Storm Drain Manhole, Type A	11	EA	$7,000.00	$77,000.00	$4,900.00	$53,900.00	$4,300.00	$47,300.00	$4,812.00	$52,932.00	$5,700.00	$62,700.00	$5,000.00	$55,000.00	$5,592.00	$61,512.00
6.05	602.4.1.F.1	Catch Basin, Type IV (2' X 3')	15	EA	$4,000.00	$60,000.00	$3,625.00	$54,375.00	$2,648.00	$39,720.00	$2,910.00	$43,650.00	$3,010.00	$45,150.00	$2,500.00	$37,500.00	$3,262.00	$48,930.00
		DIVISION 700 - CONCRETE																
7.01	706.4.1.A.7	Curb and Gutter, Type Standard	876	LF	$75.00	$65,700.00	$55.00	$48,180.00	$61.80	$54,136.80	$41.00	$35,916.00	$56.50	$49,494.00	$40.00	$35,040.00	$85.00	$74,460.00
7.02	706.4.1.E.1.a	Concrete Sidewalks, thickness 4"	162	SY	$125.00	$20,250.00	$90.00	$14,580.00	$154.00	$24,948.00	$94.00	$15,228.00	$157.00	$25,434.00	$80.00	$12,960.00	$206.00	$33,372.00
7.03	706.4.1.E.1.b	Concrete Sidewalks, thickness 5"	209	SY	$140.00	$29,260.00	$130.00	$27,170.00	$180.00	$37,620.00	$121.00	$25,289.00	$187.00	$39,083.00	$90.00	$18,810.00	$246.00	$51,414.00
		DIVISION 800 - AGGREGATES & ASPHALT																
8.01	801.4.1.A.1	Uncrushed Aggregate Base	593	CY	$45.00	$26,685.00	$34.00	$20,162.00	$42.00	$24,906.00	$43.00	$25,499.00	$34.00	$20,162.00	$30.00	$17,790.00	$52.00	$30,836.00
8.02	802.4.1.A.1	Crushed Aggregate for Base Type I	593	CY	$55.00	$32,615.00	$48.00	$28,464.00	$51.00	$30,243.00	$46.00	$27,278.00	$48.00	$28,464.00	$40.00	$23,720.00	$64.00	$37,952.00
8.03	810.4.1.A.1	Plant Mix Pavement 3/4", PG 58-34	494	TO	$135.00	$66,690.00	$110.00	$54,340.00	$128.00	$63,232.00	$180.00	$88,920.00	$109.75	$54,216.50	$150.00	$74,100.00	$131.75	$65,084.50
		DIVISION 2000 - MISCELLANEOUS																
20.01	2010.4.1.A.1	Mobilization	1	LS	$80,000.00	$80,000.00	$105,000.00	$105,000.00	$70,000.00	$70,000.00	$59,800.00	$59,800.00	$159,318.20	$159,318.20	$252,000.00	$252,000.00	$82,359.00	$82,359.00
20.02	2030.4.1.A.1	San Sew Manhole Adjust to Grade	4	EA	$1,000.00	$4,000.00	$1,083.00	$4,332.00	$1,200.00	$4,800.00	$1,590.00	$6,360.00	$1,175.00	$4,700.00	$1,000.00	$4,000.00	$2,315.00	$9,260.00
20.03	2030.4.1.C.1	Valve Box Adjust to Grade	8	EA	$750.00	$6,000.00	$900.00	$7,200.00	$600.00	$4,800.00	$1,290.00	$10,320.00	$1,025.00	$8,200.00	$500.00	$4,000.00	$1,965.00	$15,720.00
20.04	2050.4.1.C.1	Subgrade Preparation Geotextile	3,554	SY	$2.75	$9,773.50	$2.50	$8,885.00	$3.50	$12,439.00	$2.50	$8,885.00	$3.00	$10,662.00	$5.00	$17,770.00	$4.00	$14,216.00
		SPECIAL PROVISIONS																
SP-1	S0605	Inlet Box (Frame & Grate Only)	5	EA	$1,500.00	$7,500.00	$1,655.00	$8,275.00	$2,520.00	$12,600.00	$1,808.00	$9,040.00	$2,040.00	$10,200.00	$1,500.00	$7,500.00	$2,570.00	$12,850.00
		TOTAL				**$799,188.50**		**$708,888.00**		$726,970.60		$817,787.00		$874,805.00		$885,020.00		$912,807.50

Memorandum

File #: 21-773 **City Council Meeting**

FROM: Chris H Fredericksen
DATE: Thursday, January 5, 2023
DEPARTMENT: Public Works

Subject
Resolution Allowing Grant Application to Replace the 65th North Bridge over the Idaho Canal

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

Approval of the Resolution facilitating grant application submittal for federal funds to reconstruct the 65th North bridge over the Idaho Canal and authorizing the Mayor and City Clerk to sign the documents (or take other action deemed appropriate).

Description, Background Information & Purpose
Attached for your consideration is a Resolution facilitating submittal of a grant application for federal aid funding to reconstruct the 65th North bridge over the Idaho Canal.

Alignment with City & Department Planning Objectives



☐ ☐ ☒ ☐ ☐ ☐ ☐ ☒

This Resolution supports the community-oriented result of reliable public infrastructure by seeking funding assistance for the replacement and widening of this bridge.

Interdepartmental Coordination
Coordination will take place as necessary to enhance the city's grant application.

Fiscal Impact
The bridge replacement program has a maximum grant amount of $3,000,000. If the grant is approved, the city would be required to pay the 7.34% match requirement and any amount over the $3,000,000 grant threshold. The grant being sought is for $3,276,000 and would require a local payment in the amount of $496,200.

Legal Review
The Resolution was prepared by the City Attorney's office.

2023-03

RESOLUTION NO. 2023-

A RESOLUTION OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, GRANTING THE MAYOR SPECIFIC AUTHORITY TO APPROVE THE 65th NORTH BRIDGE GRANT APPLICATION; AND PROVIDING THAT THIS RESOLUTION BE EFFECTIVE UPON ITS PASSAGE, APPROVAL, AND PUBLICATION ACCORDING TO LAW.

WHEREAS, the City has a Structurally Deficient Bridge located at 65th North and the Idaho Canal; and

WHEREAS, the City recognizes a value to seek Federal Aid funding to accomplish the replacement of the structure; and

WHEREAS, the City can apply to receive grant funds from, the Local Highway Technical Assistance Council (LHTAC) to replace the bridge at 65th North and the Idaho Canal.

NOW, THEREFORE, THE COUNCIL FOR THE CITY OF IDAHO FALLS, IDAHO, HEREBY ORDERS AS FOLLOWS:

1. That the City of Idaho Falls submit to LHTAC a grant application for the replacement of the bridge structure located at 65th North and the Idaho Canal in the amount of three million two hundred seventy-six thousand dollars ($3,276,000) to include a local match amount of four hundred ninety-six thousand two hundred dollars ($496,200) (7.34% of three million dollars ($3,000,000) plus two hundred seventy-six thousand dollars ($276,000) over three million dollars ($3,000,0000).

2. That the Mayor is hereby authorized and directed to sign the Project Application Packet and submit to LHTAC for prioritization.

ADOPTED and effective this _____ day of January, 2023.

ATTEST: CITY OF IDAHO FALLS, IDAHO

_____ _____

Corrin Wilde, City Clerk Rebecca L. Noah Casper, Ph.D., Mayor

(SEAL)

Memorandum

File #: 21-764 **City Council Meeting**

FROM: Pam Alexander, Municipal Services Director
DATE: Wednesday, January 4, 2023
DEPARTMENT: Municipal Services

Subject
Bid Award IF-23-E, Purchase Dump Truck for Public Works

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

Accept and approve the purchase of one dump truck for Public Works from the Sourcewell cooperative purchasing contact #062222-VCM from Viking-Cives Midwest, Inc. for a total of $307,394.00 (or take other action deemed appropriate).

Description, Background Information & Purpose
This purchase will replace unit 1530, a 2013 Western Star 4700 Dump Truck that has reached its useful life and is scheduled for replacement. Viking-Cives has agreed to extend quote 169427 until January 20, 2023.

Alignment with City & Department Planning Objectives



☐ ☐ ☐ ☐ ☐ ☐ ☐ ☒

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

Interdepartmental Coordination
The Public Works department concurs with the award recommendation.

Fiscal Impact
Funds to purchase the dump truck are within the approved 2022/23 Public Works, Streets Division Municipal Equipment Replacement Fund budget.

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

Viking-Cives Midwest, Inc.
22956 Hwy 61
PO Box 295
Morley, MO 63767
Phone: 573-262-3545
Fax: 573-262-3369

Quote

Quote #	Date
169427	12/02/22

Customer	Ship To
CITY OF IDAHO FALLS *****email invoices***** P O BOX 50220 IDAHO FALLS ID 83405	City of Idaho Falls ATTN: Dave Nelson 2530 Hemmert Idaho Falls ID 83405

Customer PO	Terms	Sales Rep	Lead Time	Ship Via	FOB	VIN
	NET 30	KEVIN	12/02/22	CPU	UTAH	

Item	Description	Ordered	UOM	Price Per	Total Price
SOURCEWELL	Sourcewell Contract # 062222-VCM Customer member # 24211 Item sold NJ2400, NJ2500, SW-TK0115, SW-SP125, SW-SP305, SW-SR0400, SW-CH0210, NJ2600	1.00	EA	0.00	0.00
SALES	BeauRoc 14 cubic yard dump body package CSS model body with sloping rails 54"-36" with 42" sloped rear gate Double link rear gate with air operated hardware Sand blasted, epoxy primed and sing stage Urethane to match cab Force America hydraulic package with front mounted pump Electric cab controls with tower and VT35 assembly Cougar DC3200 vibrator mounted under body with cab control Heavy duty 600 series buck plate with 2300A air operated coupler and remounted trailer connections LED Snow plow lights mounted on hood with Aluminum brackets, connected to chassis electrical circuit MW41R11 plow with Truck mounted Flat Plate UQH and SA lift cylinder All legal lights and flaps, Installed and ready for service	1.00	EA	160,734.00	160,734.00
SALES	14' Viking-Cives VCM-C-14-82-54 201SS drag chain spreader, which includes: - 7 gauge and 10 gauge 201 2B stainless steel resists harsh winter conditions - 50:1 gearbox allows various spreading materials, including salt, sand, and mixes - 2" drive shaft and idler shaft with 8 tooth sprockets - 3/4" poly floor	1.00	EA	0.00	0.00

Viking-Cives Midwest, Inc.
22956 Hwy 61
PO Box 295
Morley, MO 63767
Phone: 573-262-3545
Fax: 573-262-3369

Quote

Quote #	Date
169427	12/02/22

Customer	Ship To
CITY OF IDAHO FALLS *****email invoices***** P O BOX 50220 IDAHO FALLS ID 83405	City of Idaho Falls ATTN: Dave Nelson 2530 Hemmert Idaho Falls ID 83405

Customer PO	Terms	Sales Rep	Lead Time	Ship Via	FOB	VIN
	NET 30	KEVIN	12/02/22	CPU	UTAH	

Item	Description	Ordered	UOM	Price Per	Total Price
	- Top screen breaks up material to prevent damage				
	225 gallon liquid tanks with plumbing for Prewet Hydraulic prewet with flow meter Adjustable spray nozzles located in chute				
	16" Amber LED warning light and spinner light				
21400002	MID-MOUNT EXTENDABLE WING - Final Ass'y	1.00	EA	0.00	0.00
ITD20203	State of Idaho 8ft extendable wing plow (right hand)	1.00	EA	0.00	0.00
	Whelen light kit on moldboard				
ITD20203-L	State of Idaho 8ft extendable wing plow (left hand)	1.00	EA	0.00	0.00
	Whelen light kit on moldboard				
SALES	Force America 6100EX spreader control system	1.00	EA	0.00	0.00
NOTES	Customer to perform prepaint inspection	1.00	EA	0.00	0.00
SALES	Freightliner chassis per attached spec	1.00	EA	136,965.00	136,965.00
	Chassis is a pass through item and any factory implemented surcharges / increases will be passed added				
	2023 model year based on current build slot				
SALES	Wireless Arc temp sensor	1.00	EA	550.00	550.00
SALES	ABL heated LED Plow lights in lieu of Halogen	1.00	EA	575.00	575.00
SALES	VCM Spreader stand SW-SR0450	1.00	EA	4,720.00	4,720.00
	Galvanized spreader stand with adjustable legs for 13' - 15' conveyor spreader				
SALES	Laserline GL Series wing plow guidance laser	1.00	EA	3,850.00	3,850.00

Viking-Cives Midwest, Inc.
22956 Hwy 61
PO Box 295
Morley, MO 63767
Phone: 573-262-3545
Fax: 573-262-3369

Quote

Quote #	Date
169427	12/02/22

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Customer PO	Terms	Sales Rep	Lead Time	Ship Via	FOB	VIN
	NET 30	KEVIN	12/02/22	CPU	UTAH	

Item	Description	Ordered	UOM	Price Per	Total Price

Mounted to cab with in cab controls

Prepared By: knewson@vikingcivesmidwest.com

Memo:

Sub-Total	307,394.00
Shipping	0.000
Discount	0.00
Taxes	0.00
Total	307,394.00

Customer must fill out the information below before the order can be processed.

Accepted by:_____ Date:_____ P.O.#:_____

**Quoted price does not include any applicable taxes.*
**Terms are Due Upon Receipt unless prior credit*
**Terms for established accounts, NET 30 days*
**Please note if chassis is furnished, it is as a convenience and terms are Net Due on Receipt of Chassis*

Prepared for:
Idaho Falls
Purchasing
IDAHO FALLS CITY OF
308 CONSTITUTION
WAY
IDAHO FALLS, ID 83402
Phone: 208-612-8433

Prepared by:
Cliff Scoresby
Premier Truck Group - Idaho
Falls
6413 DOUG ANDRUS DRIVE
IDAHO FALLS, ID 83402
Phone:

A proposal for
IDAHO FALLS CITY OF

Prepared by
Premier Truck Group - Idaho Falls
Cliff Scoresby

Dec 07, 2022

Freightliner 114SD



Components shown may not reflect all spec'd options and are not to scale

Prepared for:
Idaho Falls
Purchasing
IDAHO FALLS CITY OF
308 CONSTITUTION
WAY
IDAHO FALLS, ID 83402
Phone: 208-612-8433



Prepared by:
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Premier Truck Group - Idaho
Falls
6413 DOUG ANDRUS DRIVE
IDAHO FALLS, ID 83402
Phone:

S P E C I F I C A T I O N P R O P O S A L

Data Code	Description	Weight Front	Weight Rear	Retail Price
Price Level				
PRL-27D	SD PRL-27D (EFF:MY24 ORDERS)			STD
Data Version				
DRL-022	SPECPRO21 DATA RELEASE VER 022			N/C
Vehicle Configuration				
001-177	114SD PLUS CONVENTIONAL CHASSIS	7,934	6,476	$159,516.00
004-224	2024 MODEL YEAR SPECIFIED			STD
002-004	SET BACK AXLE - TRUCK	480	-480	($2,235.00)
019-004	STRAIGHT TRUCK PROVISION, NON-TOWING			N/C
003-001	LH PRIMARY STEERING LOCATION			STD
General Service				
AA1-002	TRUCK CONFIGURATION			STD
AA6-001	DOMICILED, USA 50 STATES (INCLUDING CALIFORNIA AND CARB OPT-IN STATES)			STD
A85-011	CONSTRUCTION SERVICE			STD
A84-1CO	CONSTRUCTION BUSINESS SEGMENT			STD
AA4-003	DRY BULK COMMODITY			STD
AA5-002	TERRAIN/DUTY: 100% (ALL) OF THE TIME, IN TRANSIT, IS SPENT ON PAVED ROADS			STD
AB1-008	MAXIMUM 8% EXPECTED GRADE			STD
AB5-001	SMOOTH CONCRETE OR ASPHALT PAVEMENT - MOST SEVERE IN-TRANSIT (BETWEEN SITES) ROAD SURFACE			STD
995-1AE	FREIGHTLINER LEVEL II WARRANTY			N/C
A66-99D	EXPECTED FRONT AXLE(S) LOAD : 20000.0 lbs			
A68-99D	EXPECTED REAR DRIVE AXLE(S) LOAD : 46000.0 lbs			
A63-99D	EXPECTED GROSS VEHICLE WEIGHT CAPACITY : 66000.0 lbs			
Truck Service				



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AA3-005	FLATBED/PLATFORM/STAKE BODY			STD
AF3-2B1	VIKING-CIVES MIDWEST			N/C
Engine				
101-3FH	DETROIT DD13 GEN 5 12.8L 450 HP @ 1625 RPM, 1900 GOV RPM, 1650 LB-FT @ 975 RPM			$1,187.00
Electronic Parameters				
79A-065	65 MPH ROAD SPEED LIMIT			N/C
79B-000	CRUISE CONTROL SPEED LIMIT SAME AS ROAD SPEED LIMIT			N/C
79F-013	FLEET MANAGEMENT - DAILY ENGINE USAGE ENABLED			N/C
79G-006	5 MINUTES IDLE SHUTDOWN WITH CLUTCH AND SERVICE BRAKE OVERRIDE			N/C
80D-001	SOFT CRUISE CONTROL ENABLED			N/C
80L-001	ENABLE AUTO ENGINE RPM ELEVATE FOR EXTENDED IDLE			N/C
Engine Equipment				
99C-021	2010 EPA/CARB/GHG21 CONFIGURATION			N/C
99D-011	2008 CARB EMISSION CERTIFICATION - CLEAN IDLE (INCLUDES 6X4 INCH LABEL ON LOWER FORWARD CORNER OF DRIVER DOOR)			$109.00
13E-001	STANDARD OIL PAN			STD
105-001	ENGINE MOUNTED OIL CHECK AND FILL			STD
014-1B5	SIDE OF HOOD AIR INTAKE WITH DONALDSON HIGH CAPACITY AIR CLEANER WITH SAFETY ELEMENT, FIREWALL MOUNTED			STD
124-1D7	DR 12V 160 AMP 28-SI QUADRAMOUNT PAD ALTERNATOR WITH REMOTE BATTERY VOLT SENSE			STD
292-236	(3) DTNA GENUINE, FLOODED STARTING, MIN 3000CCA, 555RC, THREADED STUD BATTERIES			STD
290-017	BATTERY BOX FRAME MOUNTED			STD
281-001	STANDARD BATTERY JUMPERS			STD
282-003	SINGLE BATTERY BOX FRAME MOUNTED LH SIDE BACK OF CAB			STD
291-017	WIRE GROUND RETURN FOR BATTERY CABLES WITH ADDITIONAL FRAME GROUND RETURN			STD
289-001	NON-POLISHED BATTERY BOX COVER			STD
306-015	PROGRESSIVE LOW VOLTAGE DISCONNECT AT 12.3 VOLTS FOR DESIGNATED CIRCUITS			N/C



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107-046	BW MODEL FE-921 19.0 CFM SINGLE CYLINDER AIR COMPRESSOR WITH SAFETY VALVE			STD
152-041	ELECTRONIC ENGINE INTEGRAL SHUTDOWN PROTECTION SYSTEM			STD
128-002	JACOBS COMPRESSION BRAKE			STD
016-1C2	RH OUTBOARD UNDER STEP MOUNTED HORIZONTAL AFTERTREATMENT SYSTEM ASSEMBLY WITH RH B-PILLAR MOUNTED VERTICAL TAILPIPE	30	25	$816.00
28F-014	ENGINE AFTERTREATMENT DEVICE, AUTOMATIC OVER THE ROAD REGENERATION AND VIRTUAL REGENERATION REQUEST SWITCH IN CLUSTER			N/C
239-026	10 FOOT 06 INCH (126 INCH+0/-5.9 INCH) EXHAUST SYSTEM HEIGHT			($3.00)
237-1CR	RH CURVED VERTICAL TAILPIPE B-PILLAR MOUNTED ROUTED FROM STEP			N/C
23U-002	13 GALLON DIESEL EXHAUST FLUID TANK			STD
30N-003	100 PERCENT DIESEL EXHAUST FLUID FILL			STD
23Y-001	STANDARD DIESEL EXHAUST FLUID PUMP MOUNTING			STD
43X-002	LH MEDIUM DUTY STANDARD DIESEL EXHAUST FLUID TANK LOCATION			STD
43Y-001	STANDARD DIESEL EXHAUST FLUID TANK CAP			STD
242-011	ALUMINUM AFTERTREATMENT DEVICE/MUFFLER/TAILPIPE SHIELD(S)			N/C
273-059	ELECTRONICALLY CONTROLLED VARIABLE SPEED VISCOUS FAN DRIVE			N/C
276-001	AUTOMATIC FAN CONTROL WITHOUT DASH SWITCH, NON ENGINE MOUNTED			STD
110-068	DDC SUPPLIED ENGINE MOUNTED FUEL FILTER/FUEL WATER SEPARATOR WITH WATER-IN-FUEL INDICATOR			STD
118-001	FULL FLOW OIL FILTER			STD
266-107	1400 SQUARE INCH VOCATIONAL RADIATOR	-15		N/C
103-039	ANTIFREEZE TO -34F, OAT (NITRITE AND SILICATE FREE) EXTENDED LIFE COOLANT			STD
171-007	GATES BLUE STRIPE COOLANT HOSES OR EQUIVALENT			STD
172-001	CONSTANT TENSION HOSE CLAMPS FOR COOLANT HOSES			STD
270-023	HDEP FIXED RATIO COOLANT PUMP AND RADIATOR DRAIN VALVE			STD



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Data Code	Description	Weight Front	Weight Rear	Retail Price
360-013	1350 ADAPTER FLANGE FOR FRONT PTO PROVISION	25		$910.00
138-005	PHILLIPS-TEMRO 1500 WATT/115 VOLT BLOCK HEATER	4		$117.00
140-053	BLACK PLASTIC ENGINE HEATER RECEPTACLE MOUNTED UNDER LH DOOR			N/C
155-075	MITSUBISHI 12V MOD 3.175-DP60 STARTER WITH INTEGRATED MAGNETIC SWITCH			STD
Transmission				
342-1M3	ALLISON 4500 RDS AUTOMATIC TRANSMISSION WITH PTO PROVISION	260	100	$13,687.00
Transmission Equipment				
343-339	ALLISON VOCATIONAL PACKAGE 223 - AVAILABLE ON 3000/4000 PRODUCT FAMILIES WITH VOCATIONAL MODELS RDS, HS, MH AND TRV			STD
84B-012	ALLISON VOCATIONAL RATING FOR ON/OFF HIGHWAY APPLICATIONS AVAILABLE WITH ALL PRODUCT FAMILIES			N/C
84C-023	PRIMARY MODE GEARS, LOWEST GEAR 1, START GEAR 1, HIGHEST GEAR 6, AVAILABLE FOR 3000/4000 PRODUCT FAMILIES ONLY			STD
84D-023	SECONDARY MODE GEARS, LOWEST GEAR 1, START GEAR 1, HIGHEST GEAR 6, AVAILABLE FOR 3000/4000 PRODUCT FAMILIES ONLY			STD
84E-000	PRIMARY SHIFT SCHEDULE RECOMMENDED BY DTNA AND ALLISON, THIS DEFINED BY ENGINE AND VOCATIONAL USAGE			STD
84F-000	SECONDARY SHIFT SCHEDULE RECOMMENDED BY DTNA AND ALLISON, THIS DEFINED BY ENGINE AND VOCATIONAL USAGE			STD
84G-000	PRIMARY SHIFT SPEED RECOMMENDED BY DTNA AND ALLISON, THIS DEFINED BY ENGINE AND VOCATIONAL USAGE			STD
84H-000	SECONDARY SHIFT SPEED RECOMMENDED BY DTNA AND ALLISON, THIS DEFINED BY ENGINE AND VOCATIONAL USAGE			STD
84N-200	FUEL SENSE 2.0 DISABLED - PERFORMANCE - TABLE BASED			STD
84U-000	DRIVER SWITCH INPUT - DEFAULT - NO SWITCHES			STD
84V-001	DIRECTION CHANGE ENABLED WITH MULTIPLEXED SERVICE BRAKES - ALLISON 5TH GEN TRANSMISSIONS			STD



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341-018	MAGNETIC PLUGS, ENGINE DRAIN, TRANSMISSION DRAIN, AXLE(S) FILL AND DRAIN			STD
345-003	PUSH BUTTON ELECTRONIC SHIFT CONTROL, DASH MOUNTED			STD
97G-004	TRANSMISSION PROGNOSTICS - ENABLED 2013			STD
370-011	WATER TO OIL TRANSMISSION COOLER, FRAME MOUNTED			STD
346-003	TRANSMISSION OIL CHECK AND FILL WITH ELECTRONIC OIL LEVEL CHECK			STD
35T-001	SYNTHETIC TRANSMISSION FLUID (TES-295 COMPLIANT)			STD
Front Axle and Equipment				
400-1BB	DETROIT DA-F-20.0-5 20,000# FL1 71.0 KPI/3.74 DROP SINGLE FRONT AXLE	190		$3,436.00
402-030	MERITOR 16.5X6 Q+ CAST SPIDER CAM FRONT BRAKES, DOUBLE ANCHOR, FABRICATED SHOES	10		N/C
403-002	NON-ASBESTOS FRONT BRAKE LINING			STD
419-001	CAST IRON OUTBOARD FRONT BRAKE DRUMS			STD
409-006	FRONT OIL SEALS			STD
408-001	VENTED FRONT HUB CAPS WITH WINDOW, CENTER AND SIDE PLUGS - OIL			STD
416-022	STANDARD SPINDLE NUTS FOR ALL AXLES			STD
405-002	MERITOR AUTOMATIC FRONT SLACK ADJUSTERS			STD
406-001	STANDARD KING PIN BUSHINGS			STD
536-055	TRW THP-60 POWER STEERING WITH RCH45 AUXILIARY GEAR	130		N/C
539-003	POWER STEERING PUMP			STD
534-003	4 QUART POWER STEERING RESERVOIR			N/C
533-001	OIL/AIR POWER STEERING COOLER			N/C
40T-001	MINERAL SAE 80/90 FRONT AXLE LUBE			STD
Front Suspension				
620-006	20,000# FLAT LEAF FRONT SUSPENSION	310		$815.00
619-004	GRAPHITE BRONZE BUSHINGS WITH SEALS - FRONT SUSPENSION			N/C
410-998	NO FRONT SHOCK ABSORBERS	-30		N/C
Rear Axle and Equipment				



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420-111	RT-46-160P 46,000# R-SERIES TANDEM REAR AXLE		450	$4,398.00
421-489	4.89 REAR AXLE RATIO			N/C
424-001	IRON REAR AXLE CARRIER WITH STANDARD AXLE HOUSING			STD
386-075	MXL 18T MERITOR EXTENDED LUBE MAIN DRIVELINE WITH HALF ROUND YOKES	-10	-10	$157.00
388-073	MXL 17T MERITOR EXTENDED LUBE INTERAXLE DRIVELINE WITH HALF ROUND YOKES			STD
452-006	DRIVER CONTROLLED TRACTION DIFFERENTIAL - BOTH TANDEM REAR AXLES		30	$1,317.00
878-023	(1) INTERAXLE LOCK VALVE, (1) DRIVER CONTROLLED DIFFERENTIAL LOCK FORWARD-REAR AND REAR-REAR AXLE VALVE			N/C
87A-012	INDICATOR LIGHT FOR EACH INTERAXLE LOCKOUT SWITCH WITH IAD FEEDBACK			N/C
87B-008	INDICATOR LIGHT FOR EACH DIFFERENTIAL LOCKOUT SWITCH			N/C
423-020	MERITOR 16.5X7 Q+ CAST SPIDER CAM REAR BRAKES, DOUBLE ANCHOR, FABRICATED SHOES			STD
433-002	NON-ASBESTOS REAR BRAKE LINING			STD
434-003	STANDARD BRAKE CHAMBER LOCATION			STD
451-001	CAST IRON OUTBOARD REAR BRAKE DRUMS			STD
440-006	REAR OIL SEALS			STD
426-101	WABCO TRISTOP D LONGSTROKE 2-DRIVE AXLE SPRING PARKING CHAMBERS			STD
428-003	HALDEX AUTOMATIC REAR SLACK ADJUSTERS			$93.00
41T-002	CURRENT AVAILABLE SYNTHETIC 75W-90 REAR AXLE LUBE			N/C
42T-001	STANDARD REAR AXLE BREATHER(S)			STD
Rear Suspension				
622-312	HENDRICKSON HAULMAAX EX 46,000# REAR SUSPENSION		420	$5,407.00
621-1AP	HENDRICKSON HAULMAAX/ULTIMAAX - 10.50" RIDE HEIGHT			N/C
624-009	54 INCH AXLE SPACING			N/C
628-010	HENDRICKSON HN, HAULMAAX AND ULTIMAAX SERIES STEEL BEAMS WITH BAR PIN			N/C
623-006	FORE/AFT AND TRANSVERSE CONTROL RODS			N/C
625-008	DOUBLE REBOUND STRAP - INBOARD AND OUTBOARD		13	$100.00

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Data Code	Description	Weight Front	Weight Rear	Retail Price
439-002	REAR SHOCK ABSORBERS - TWO AXLES (TANDEM)		60	$224.00
Brake System				
490-121	WABCO 4S/4M ABS WITH TRACTION CONTROL			$179.00
871-001	REINFORCED NYLON, FABRIC BRAID AND WIRE BRAID CHASSIS AIR LINES			STD
904-001	FIBER BRAID PARKING BRAKE HOSE			STD
412-001	STANDARD BRAKE SYSTEM VALVES			STD
46D-002	STANDARD AIR SYSTEM PRESSURE PROTECTION SYSTEM			STD
413-002	STD U.S. FRONT BRAKE VALVE			STD
432-003	RELAY VALVE WITH 5-8 PSI CRACK PRESSURE, NO REAR PROPORTIONING VALVE			STD
480-009	BW AD-9 BRAKE LINE AIR DRYER WITH HEATER	20		N/C
483-003	BENDIX OIL COALESCING FILTER FOR AIR DRYER			$20.00
479-015	AIR DRYER FRAME MOUNTED			STD
460-001	STEEL AIR BRAKE RESERVOIRS			STD
477-001	PULL CABLE ON WET TANK, PETCOCK DRAIN VALVES ON ALL OTHER AIR TANKS			STD
Wheelbase & Frame				
545-515	5150MM (203 INCH) WHEELBASE			N/C
546-101	11/32X3-1/2X10-15/16 INCH STEEL FRAME (8.73MMX277.8MM/0.344X10.94 INCH) 120KSI	300	-30	$619.00
547-001	1/4 INCH (6.35MM) C-CHANNEL INNER FRAME REINFORCEMENT	190	380	$1,500.00
552-030	1600MM (63 INCH) REAR FRAME OVERHANG			STD
55W-006	FRAME OVERHANG RANGE: 61 INCH TO 70 INCH			N/C
549-002	24 INCH INTEGRAL FRONT FRAME EXTENSION	115	-20	$691.00
AC8-99D	CALC'D BACK OF CAB TO REAR SUSP C/L (CA) : 137.2 in			
AE8-99D	CALCULATED EFFECTIVE BACK OF CAB TO REAR SUSPENSION C/L (CA) : 123.42 in			
AE4-99D	CALC'D FRAME LENGTH - OVERALL : 335.35 in			
FSS-0LH	CALCULATED FRAME SPACE LH SIDE : 23.78 in			N/C
FSS-0RH	CALCULATED FRAME SPACE RH SIDE : 37.62 in			N/C
553-001	SQUARE END OF FRAME			STD
550-001	FRONT CLOSING CROSSMEMBER			STD
559-001	STANDARD WEIGHT ENGINE CROSSMEMBER			STD



Data Code	Description	Weight Front	Weight Rear	Retail Price
562-001	STANDARD MIDSHIP #1 CROSSMEMBER(S)			STD
572-001	STANDARD REARMOST CROSSMEMBER			STD
565-001	STANDARD SUSPENSION CROSSMEMBER			STD
Chassis Equipment				
556-1E5	14 INCH PAINTED STEEL BUMPER	20		$228.00
558-001	FRONT TOW HOOKS - FRAME MOUNTED	15		$80.00
574-001	BUMPER MOUNTING FOR SINGLE LICENSE PLATE			STD
551-007	GRADE 8 THREADED HEX HEADED FRAME FASTENERS			STD
44Z-002	EXTERIOR HARNESSES WRAPPED IN ABRASION TAPE			N/C
607-004	CLEAR FRAME RAIL 36 INCHES FROM BACK OF CAB OUTBOARD OF RH FRAME RAIL			$218.00
Fuel Tanks				
204-156	100 GALLON/378 LITER ALUMINUM FUEL TANK - LH	20		$288.00
218-006	25 INCH DIAMETER FUEL TANK(S)			STD
215-005	PLAIN ALUMINUM/PAINTED STEEL FUEL/HYDRAULIC TANK(S) WITH PAINTED BANDS			STD
212-007	FUEL TANK(S) FORWARD			STD
664-001	PLAIN STEP FINISH			STD
205-001	FUEL TANK CAP(S)			STD
122-1K4	DAVCO 487 FUEL/WATER SEPARATOR WITH ESOC AND 12 VOLT PREHEATER	15		$890.00
216-020	EQUIFLO INBOARD FUEL SYSTEM			STD
202-016	HIGH TEMPERATURE REINFORCED NYLON FUEL LINE			STD
Tires				
093-16E	MICHELIN XZE 425/65R22.5 20 PLY RADIAL FRONT TIRES	170		$972.00
094-1UY	MICHELIN X MULTI D 11R22.5 16 PLY RADIAL REAR TIRES		120	($80.00)
Hubs				
418-060	CONMET PRESET PLUS PREMIUM IRON FRONT HUBS			STD
450-060	CONMET PRESET PLUS PREMIUM IRON REAR HUBS			STD

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Wheels				
502-1H5	ALCOA LVL ONE 82462X 22.5X12.25 10-HUB PILOT 4.68 INSET 10-HAND ALUMINUM DISC FRONT WHEELS	-8		$604.00
505-766	ALCOA ULA18X 22.5X8.25 10-HUB PILOT ALUMINUM DISC REAR WHEELS		-248	$944.00
496-011	FRONT WHEEL MOUNTING NUTS			STD
497-011	REAR WHEEL MOUNTING NUTS			STD
Cab Exterior				
829-1A2	114 INCH BBC FLAT ROOF ALUMINUM CONVENTIONAL CAB			STD
650-008	AIR CAB MOUNTING			STD
648-002	NONREMOVABLE BUGSCREEN MOUNTED BEHIND GRILLE			STD
667-037	SHORT FENDER WITH MUDFLAP			$141.00
678-001	LH AND RH GRAB HANDLES			STD
646-041	STATIONARY BLACK GRILLE			STD
65X-004	BLACK HOOD MOUNTED AIR INTAKE GRILLE			STD
644-004	FIBERGLASS HOOD			STD
727-1AH	SINGLE 14 INCH ROUND POLISHED AIR HORN ROOF MOUNTED			STD
726-001	SINGLE ELECTRIC HORN			STD
728-001	SINGLE HORN SHIELD			STD
575-001	REAR LICENSE PLATE MOUNT END OF FRAME			STD
312-068	HALOGEN COMPOSITE HEADLAMPS WITH BLACK BEZELS			STD
302-047	LED AERODYNAMIC MARKER LIGHTS			$34.00
311-001	DAYTIME RUNNING LIGHTS			$18.00
294-001	INTEGRAL STOP/TAIL/BACKUP LIGHTS			STD
300-015	STANDARD FRONT TURN SIGNAL LAMPS			STD
744-103	DUAL WEST COAST BRIGHT FINISH HEATED MIRRORS WITH LED LIGHTS AND LH AND RH REMOTE			$403.00
797-001	DOOR MOUNTED MIRRORS			STD
796-001	102 INCH EQUIPMENT WIDTH			STD
743-204	LH AND RH 8 INCH BRIGHT FINISH CONVEX MIRRORS MOUNTED UNDER PRIMARY MIRRORS			N/C



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74B-005	RH VELVAC 8 INCH BRIGHT FINISH HOOD MOUNTED CONVEX MIRROR WITH SWING ARM BRACKET, DUAL VIEW	4		$122.00
729-001	STANDARD SIDE/REAR REFLECTORS			STD
677-053	RH AFTERTREATMENT SYSTEM CAB ACCESS WITH PLAIN SHIELDING			STD
768-043	63X14 INCH TINTED REAR WINDOW			STD
661-004	TINTED DOOR GLASS LH AND RH WITH TINTED OPERATING WING WINDOWS			STD
654-011	RH AND LH ELECTRIC POWERED WINDOWS	4	4	$218.00
663-013	1-PIECE SOLAR GREEN GLASS WINDSHELD			STD
659-019	2 GALLON WINDSHIELD WASHER RESERVOIR WITHOUT FLUID LEVEL INDICATOR, FRAME MOUNTED			($80.00)
Cab Interior				
055-019	RUGGED TRIM PACKAGE			N/C
707-107	GRAY & CARBON VINYL INTERIOR "RUGGED"			N/C
70K-020	CARBON WITH PREMIUM GUNMETAL ACCENT (RUGGED)			$100.00
706-013	MOLDED PLASTIC DOOR PANEL			STD
708-013	MOLDED PLASTIC DOOR PANEL			STD
772-006	BLACK MATS WITH SINGLE INSULATION			STD
785-998	NO DASH MOUNTED ASH TRAYS AND LIGHTER			($5.00)
691-001	FORWARD ROOF MOUNTED CONSOLE			$568.00
693-019	LH AND RH DOOR STORAGE POCKETS INTEGRATED INTO MOLDED DOOR PANELS			$69.00
738-021	DIGITAL ALARM CLOCK IN DRIVER DISPLAY			N/C
742-007	(2) CUP HOLDERS LH AND RH DASH			STD
680-029	M2/SD DASH			$121.00
720-003	5 LB. FIRE EXTINGUISHER	10		$60.00
700-002	HEATER, DEFROSTER AND AIR CONDITIONER			STD
701-001	STANDARD HVAC DUCTING			STD
703-005	MAIN HVAC CONTROLS WITH RECIRCULATION SWITCH			STD
170-015	STANDARD HEATER PLUMBING			STD
130-041	VALEO HEAVY DUTY A/C REFRIGERANT COMPRESSOR			STD
702-002	BINARY CONTROL, R-134A			STD
739-033	STANDARD INSULATION			STD



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285-013	SOLID-STATE CIRCUIT PROTECTION AND FUSES			STD
280-007	12V NEGATIVE GROUND ELECTRICAL SYSTEM			STD
324-1B3	STANDARD LED CAB LIGHTING			$55.00
657-001	DOOR LOCKS AND IGNITION SWITCH KEYED THE SAME			STD
78G-004	KEY QUANTITY OF 4			$18.00
655-005	LH AND RH ELECTRIC DOOR LOCKS			$99.00
722-002	TRIANGULAR REFLECTORS WITHOUT FLARES	10		$24.00
756-339	PREMIUM ISRINGHAUSEN HIGH BACK AIR SUSPENSION DRIVERS SEAT WITH 2 AIR LUMBAR, INTEGRATED CUSHION EXTENSION, TILT AND ADJUSTABLE SHOCK	70		$414.00
760-338	BASIC ISRINGHAUSEN HIGH BACK AIR SUSPENSION PASSENGER SEAT WTIH MECHANICAL LUMBAR AND INTEGRATED CUSHION EXTENSION	25	10	$255.00
711-004	LH AND RH INTEGRAL DOOR PANEL ARMRESTS			STD
758-036	VINYL WITH VINYL INSERT DRIVER SEAT			STD
761-036	VINYL WITH VINYL INSERT PASSENGER SEAT			STD
763-101	BLACK SEAT BELTS			STD
532-002	ADJUSTABLE TILT AND TELESCOPING STEERING COLUMN	10		$478.00
540-070	4-SPOKE 18 INCH (450MM) LEATHER WRAPPED STEERING WHEEL WITH CHROME SWITCH BEZELS			$219.00
765-002	DRIVER AND PASSENGER INTERIOR SUN VISORS			STD
Instruments & Controls				
81B-003	DIGITAL PANEL LAMP DIMMER SWITCH IN DRIVER DISPLAY			N/C
106-002	ELECTRONIC ACCELERATOR CONTROL			N/C
732-998	NO INSTRUMENT PANEL-DRIVER			($324.00)
734-022	FULLY CONFIGURABLE CENTER INSTRUMENT PANELS			($53.00)
870-002	BRIGHT ARGENT FINISH GAUGE BEZELS			$1.00
486-001	LOW AIR PRESSURE INDICATOR LIGHT AND AUDIBLE ALARM			STD
840-001	DUAL NEEDLE PRIMARY AND SECONDARY AIR PRESSURE GAUGE			N/C
198-003	DASH MOUNTED AIR RESTRICTION INDICATOR WITH GRADUATIONS			$25.00

Prepared for:
Idaho Falls
Purchasing
IDAHO FALLS CITY OF
308 CONSTITUTION
WAY
IDAHO FALLS, ID 83402
Phone: 208-612-8433



Prepared by:
Cliff Scoresby
Premier Truck Group - Idaho
Falls
6413 DOUG ANDRUS DRIVE
IDAHO FALLS, ID 83402
Phone:

Data Code	Description	Weight Front	Weight Rear	Retail Price
721-001	97 DB BACKUP ALARM		3	$47.00
149-015	ELECTRONIC CRUISE CONTROL WITH CONTROLS ON STEERING WHEEL SPOKES			N/C
156-007	KEY OPERATED IGNITION SWITCH AND INTEGRAL START POSITION; 4 POSITION OFF/RUN/START/ACCESSORY			STD
811-044	PREMIUM INSTRUMENT CLUSTER WITH 5.0 INCH TFT COLOR DISPLAY			$19.00
160-038	HEAVY DUTY ONBOARD DIAGNOSTICS INTERFACE CONNECTOR LOCATED BELOW LH DASH			STD
844-001	2 INCH ELECTRIC FUEL GAUGE			STD
845-011	FUEL FILTER RESTRICTION INDICATOR			STD
148-085	EMISSIONS LIMITED IDLE ADJUST			STD
856-001	ELECTRICAL ENGINE COOLANT TEMPERATURE GAUGE			STD
854-008	DIGITAL ENGINE OIL TEMPERATURE IN DRIVER DISPLAY			N/C
864-001	2 INCH TRANSMISSION OIL TEMPERATURE GAUGE			STD
867-004	ELECTRONIC OUTSIDE TEMPERATURE SENSOR DISPLAY IN DRIVER MESSAGE CENTER			N/C
830-017	ENGINE AND TRIP HOUR METERS INTEGRAL WITHIN DRIVER DISPLAY			STD
852-002	ELECTRIC ENGINE OIL PRESSURE GAUGE			STD
679-998	NO OVERHEAD INSTRUMENT PANEL			($69.00)
746-137	AM/FM/WB WORLD TUNER RADIO WITH BLUETOOTH, USB AND AUXILIARY INPUTS, J1939	10		$490.00
747-001	DASH MOUNTED RADIO			N/C
750-002	(2) RADIO SPEAKERS IN CAB			N/C
748-006	POWER AND GROUND WIRING PROVISION OVERHEAD			$9.00
749-001	ROOF/OVERHEAD CONSOLE CB RADIO PROVISION			$76.00
752-017	MULTI-BAND AM/FM/WB/CB LH MIRROR MOUNTED ANTENNA SYSTEM			$293.00
74D-006	STANDARD RADIO WIRING WITH STEERING WHEEL CONTROLS			N/C
810-027	ELECTRONIC MPH SPEEDOMETER WITH SECONDARY KPH SCALE, WITHOUT ODOMETER			STD



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	Data Code	Description	Weight Front	Weight Rear	Retail Price
	817-001	STANDARD VEHICLE SPEED SENSOR			STD
	812-001	ELECTRONIC 3000 RPM TACHOMETER			STD
	813-1C8	DETROIT CONNECT PLATFORM HARDWARE			N/C
	8D1-203	3 YEARS DETROIT CONNECT BASE PACKAGE (FEATURES VARY BY MODEL) DETROIT CONNECT PLATFORM			N/C
	6TS-008	(2) TMC RP1226 ACCESSORY CONNECTORS: (1) LOCATED BEHIND PASSENGER SIDE REMOVABLE DASH PANEL (1) CENTER OF OVERHEAD CONSOLE			$66.00
	162-002	IGNITION SWITCH CONTROLLED ENGINE STOP			STD
	81Y-005	PRE-TRIP INSPECTION FEATURE FOR EXTERIOR LAMPS ONLY			$12.00
	264-032	(2) OVERHEAD MOUNTED LANYARD CONTROLS: (1) OFFICER AIR HORN AND (1) DRIVER AIR HORN			$105.00
	836-015	DIGITAL VOLTAGE DISPLAY INTEGRAL WITH DRIVER DISPLAY			STD
	660-008	SINGLE ELECTRIC WINDSHIELD WIPER MOTOR WITH DELAY			STD
	304-030	ROTARY HEADLAMP SWITCH, MARKER LIGHTS/HEADLIGHTS SWITCH WITH PULL OUT FOR OPTIONAL FOG/ROAD LAMPS			N/C
	882-009	ONE VALVE PARKING BRAKE SYSTEM WITH WARNING INDICATOR			STD
	299-020	SELF CANCELING TURN SIGNAL SWITCH WITH DIMMER, HEADLAMP FLASH, WASH/WIPE/INTERMITTENT			N/C
	298-046	INTEGRAL ELECTRONIC TURN SIGNAL FLASHER WITH 40 AMP (20 AMP PER SIDE) TRAILER LAMP CAPACITY			N/C
Design					
	065-000	PAINT: ONE SOLID COLOR			STD
Color					
	980-5F6	CAB COLOR A: L0006EY WHITE ELITE EY			STD
	986-020	BLACK, HIGH SOLIDS POLYURETHANE CHASSIS PAINT			STD
	964-020	STANDARD BLACK BUMPER PAINT			STD
	963-003	STANDARD E COAT/UNDERCOATING			STD
Certification / Compliance					
	996-001	U.S. FMVSS CERTIFICATION, EXCEPT SALES CABS AND GLIDER KITS			STD



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Data Code	Description	Weight Front	Weight Rear	Retail Price
Secondary Factory Options				
999-063	DEALER ADVISED/ACCEPTS ESC ON END OF FRAME TOWING FOR TRACTOR FOR YARD HAUL USE			N/C
Sales Programs				
	NO SALES PROGRAMS HAVE BEEN SELECTED			

T O T A L V E H I C L E S U M M A R Y

Adjusted List Price

Adjusted List Price **	$201,232.00

Weight Summary

	Weight Front	Weight Rear	Total Weight
Factory Weight+	10318 lbs	7303 lbs	17621 lbs
Total Weight+	10318 lbs	7303 lbs	17621 lbs

I T E M S N O T I N C L U D E D I N A D J U S T E D L I S T P R I C E

Other Factory Charges

PNZ-003	CARB22 BASE WARRANTY SURCHARGE DD13 / X12	$1,350.00
RD1-203	3 YRS DETRIOT CONNECT BASE PKG (FEATURESVARY BY MODEL) DETROIT CONNECT PLATFORM	N/C
RAC-42N	M2/SD PLUS ESCALATOR	$1,185.00
RFY-022	FRONT TIRE SURCHARGE	$50.00
RFU-022	REAR TIRE SURCHARGE	$200.00
RFZ-024	MY24/CY23 PRICING SURCHARGE	$3,750.00
P73-2FT	STANDARD DESTINATION CHARGE	$3,375.00



(+) Weights shown are estimates only.
If weight is critical, contact Customer Application Engineering.
(**) Prices shown do not include taxes, fees, etc… “Net Equipment Selling Price” is located on the Quotation Details Proposal Report.

(***) All cost increases for major components (Engines, Transmissions, Axles, Front and Rear Tires) and government mandated requirements, tariffs, and raw material surcharges will be passed through and added to factory invoices.

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Q U O T A T I O N

114SD PLUS CONVENTIONAL CHASSIS

SET BACK AXLE - TRUCK
DETROIT DD13 GEN 5 12.8L 450 HP @ 1625 RPM, 1900 GOV RPM, 1650 LB-FT @ 975 RPM
ALLISON 4500 RDS AUTOMATIC TRANSMISSION WITH PTO PROVISION
RT-46-160P 46,000# R-SERIES TANDEM REAR AXLE
HENDRICKSON HAULMAAX EX 46,000# REAR SUSPENSION
DETROIT DA-F-20.0-5 20,000# FL1 71.0 KPI/3.74 DROP SINGLE FRONT AXLE
20,000# FLAT LEAF FRONT SUSPENSION
114 INCH BBC FLAT ROOF ALUMINUM CONVENTIONAL CAB
5150MM (203 INCH) WHEELBASE
11/32X3-1/2X10-15/16 INCH STEEL FRAME (8.73MMX277.8MM/0.344X10.94 INCH) 120KSI
1600MM (63 INCH) REAR FRAME OVERHANG
1/4 INCH (6.35MM) C-CHANNEL INNER FRAME REINFORCEMENT

			PER UNIT		TOTAL
VEHICLE PRICE	**TOTAL # OF UNITS (1)**	$	137,275	$	137,275
EXTENDED WARRANTY		$	0	$	0
DEALER INSTALLED OPTIONS		$	0	$	0
CUSTOMER PRICE BEFORE TAX		**$**	***137,275***	**$**	***137,275***
TAXES AND FEES					
FEDERAL EXCISE TAX (FET)		$	(310)	$	(310)
TAXES AND FEES		$	0	$	0
OTHER CHARGES		$	0	$	0
TRADE-IN					
TRADE-IN ALLOWANCE		$	(0)	$	(0)
BALANCE DUE	**(LOCAL CURRENCY)**	**$**	**136,965**	**$**	**136,965**

COMMENTS:
Projected delivery on ___ / ___ / ___ provided the order is received before ___ / ___ / ___.

APPROVAL:
Please indicate your acceptance of this quotation by signing below:

Customer: X_____ Date: ___ / ___ / ___.

Daimler Truck Financial

Financing that works for you.

See your local dealer for a competitive quote from Daimler Truck Financial, or contact us at Information@dtfoffers.com.

Daimler Truck Financial offers a variety of finance, lease and insurance solutions to fit your business needs. For more information about our products and services, visit our website at www.daimler-truckfinancial.com.

Memorandum

File #: 21-768 **City Council Meeting**

FROM: Pam Alexander, Municipal Services Director
DATE: Wednesday, January 4, 2023
DEPARTMENT: Municipal Services

Subject
Bid Award IF-23-06, Purchase of Main Line Materials for Public Works

Council Action Desired
☐ Ordinance ☐ Resolution ☐ Public Hearing
☒ Other Action (Approval, Authorization, Ratification, etc.)
Accept and approve the bids received from the lowest responsive and responsible bidders HD Fowler for $55,183.65 and Core and Main for $233,364.00, for a combined total of $288,547.65 (or take other action deemed appropriate).

Description, Background Information & Purpose
Bids were received and opened on Wednesday, December 28, 2022 for main line materials for the Public Works, Water Division. This purchase will replenish main line materials inventory for Water Division operations. Following the opening of the bids, Mountainland Supply Company withdrew their bid.

Alignment with City & Department Planning Objectives



☐ ☐ ☐ ☐ ☐ ☐ ☐ ☒

The purchase of the main line materials supports the reliable public infrastructure and transportation community-oriented result by replenishing the Water division inventory.

Interdepartmental Coordination
Public Works concurs with the award recommendation.

Fiscal Impact
Funds to purchase the main line materials are within the Public Works, Water Division 2022/23 operating budget.

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

City of Idaho Falls

Municipal Services Department

Bid Tabulation

Project: Main Line Materials ***Number:*** IF-23-06

Submitted: Municipal Services Finance Division ***Date:*** December 28, 2022

Item Number	Reference Number	Description	Estimated Quantity	Unit	Engineer's Estimate	HD Fowler Idaho Falls, ID				Core and Main Idaho Falls, ID				Vendor Pulled Bid Mountainland Supply Co. Idaho Falls, ID			
					Total Amount	Total Amount	Delivery Time	Addendum #1	Exceptions	Total Amount	Delivery Time	Addendum #1	Exceptions	Total Amount	Delivery Time	Addendum #1	Exceptions
1	Section I	Bolt Packs	1	LS	NA	$ 17,399.00	6-8 Weeks	Yes	None	$ 12,250.00	2-3 Months	Yes	None	$ 10,063.00	12 Weeks	No	None
2	Section II	Service Brass	1	LS	NA	$ 37,407.25	10-12 Weeks			$ 23,660.00	3-4 Months			$ 27,349.05	34 Weeks		
3	Section III	Service Saddles	1	LS	NA	$ 55,284.10	6-8 Weeks			$ 45,075.00	3-4 Months			$ 44,599.85	30 Weeks		
4	Section IV	Meter Box	1	LS	NA	$ 116,914.20	18-20 Weeks			$ 108,960.00	2-3 Months			$ 117,815.00	36 Weeks		
5	Section V	Main Line Fittings	1	LS	NA	$ 44,367.85	6-8 Weeks			$ 43,419.00	2 Months			$ 44,368.58	15 Weeks		
6	Section VI	Valves	1	LS	NA	$ 55,183.65	6-8 Weeks			$ 56,213.50	2 Months			$ 45,325.00	24 Weeks		
		TOTAL				$ 326,556.05				$ 289,577.50				$ 289,520.48			
		Recommended Award Total Per Vendor				$ 55,183.65				$ 233,364.00							
		Recommended Award Total $288,547.65															

Memorandum

File #: 21-775 **City Council Meeting**

FROM: Pam Alexander, Municipal Services Director
DATE: Wednesday, January 4, 2023
DEPARTMENT: Municipal Services

Subject
Sell Used Snow Loader to City of Shelley, Idaho

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

Approve the sale of used Snow Loader to the City of Shelley, Idaho for a total of $50,000 and give authorization for the Mayor and City Clerk to execute the necessary documents (or take other action deemed appropriate).

Description, Background Information & Purpose
The City of Shelley has expressed interest in purchasing unit 1520, a 2009 Leeboy 3000 Snow Loader removed from service due to the delivery of a new front-end loader. Resolution 2015-01, Section C, a. allows for the sale of surplus property. The city's Fleet Maintenance Superintendent contacted four companies for a third-party appraisal of unit 1520. The appraised value of the front-end loader ranged from $60,000 on the high-end and $50,000 on the low-end.

Alignment with City & Department Planning Objectives



☐ ☒ ☐ ☐ ☐ ☐ ☐ ☐

The sale of the snow loader supports the good governance community-oriented result by providing prioritizing the sale to of surplus property to another public entity.

Interdepartmental Coordination

The Public Works Department concurs with the recommendation to sell the front loader to the City of Shelley.

Fiscal Impact

The proceeds from the sale of unity 1520 will be deposited to the Public Works, Streets Division Municipal Equipment Replacement Fund.

Legal Review

The City Attorney concurs that desired Council action is within State Statute and Resolution 2015-01.

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RESOLUTION NO. 2015-01

A RESOLUTION OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, MEMORIALIZING CITY POLICY TO DECLARE CITY PERSONAL PROPERTY SURPLUS AND TO PROVIDE FOR ITS DISPOSAL THROUGH SALE, DONATION, TRANSFER, RECYCLING, DISCARDING, DESTRUCTION, OR EXCHANGE; AND PROVIDING THAT THIS RESOLUTION BE EFFECTIVE UPON ITS PASSAGE, APPROVAL AND PUBLICATION ACCORDING TO LAW.

WHEREAS, Council of the City of Idaho Falls recognizes that storage, maintenance, transportation, and other costs associated with maintaining personal property may exceed the inventory value or fair market value of such property; and

WHEREAS, City personal property has a limited economic and/or useful life; and

WHEREAS, it is sound fiscal policy and good management practice to require the expeditious disposal of surplus personal property; and

WHEREAS, Council is of the opinion that the policy contained herein will promote the efficient disposal of surplus personal property; will allow conveyance of surplus personal property to other state and local agencies where appropriate; will offer surplus personal property for sale to the public at large in some cases; and will provide for maximum value to be received by the City of Idaho Falls with attendant benefits to its citizens; and

WHEREAS, the delegation of responsibility to declare property "surplus" and to designate the manner and conditions of disposal is most efficiently done by delegating such authority to City staff, principally to the Property Manager; and

WHEREAS, all disposal of surplus property shall be done in accordance with then-current law and procedure.

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

CITY SURPLUS PROPERTY POLICY

A. Definition of "surplus": City personal property which is reasonably believed to have little or no further use by the City. "Surplus" for purposes of this Policy, shall not include trash or refuse or other items which are customarily thrown away, recycled, or otherwise discarded or destroyed. Such non-surplus items may be discarded or recycled in a manner deemed efficient by the relevant Division Director.

B. Declaration of surplus:

1. To declare City personal property surplus of status:

a. A department supervisor shall fill out a surplus form and submit it for approval to the supervisor's Division Director.

b. The Division Director, for the property to be declared surplus, shall review and approve by signature the surplus form and submit the completed form to the Property Manager.

c. The Property Manager, after receiving the surplus form, shall make arrangements for the property to be delivered to the surplus building, or another appropriate and secure location, and evaluate whether the property is surplus.

d. If the Property Manager agrees that the property is surplus, the Property Manager shall submit a recommendation of surplus and its disposition to the Director of Municipal Services. The Property Manager may consolidate his or her recommendations to the Director of Municipal Services in a monthly report.

e. The Director of Municipal Services shall review and approve the Property Manager's recommendations and make the final determination regarding whether the item is properly declared to be surplus.

2. The Property Manager shall create and maintain a surplus form. The form should require provision of the following information, where applicable and available:

   a. general identification and description of the personal property;

   b. approximate value of the property;

   c. City Property Number, and

   d. manufacturer, model, and serial number of the property.

   The surplus form may also allow the submitter to suggest the manner by which such item may be disposed (including transfer to another City Division, donation or sale to another public entity, sale, trade, destruction, recycling etc.).

C. Disposal of Surplus.

1. General. City Council hereby delegates to the Director of Municipal Services the authority to make a final declaration of surplus and to approve the manner of disposal for all items which, in the Director of Municipal Services' belief, are in accordance with this Policy.

2. Disposal shall occur according to law in a manner consistent with the laws of the State of Idaho and pursuant to this Policy.

a. Sale. The sale of surplus property shall be conducted pursuant to Idaho law in effect at the time of such sale. This may include the sale of surplus property to another public entity; sale of the item at the original purchase price; sale at a public auction; or sale as otherwise permitted by Idaho law.

b. Donation or Transfer. Surplus property may be transferred to another City Division, or donated to a state or public entity pursuant to Idaho law. Additionally, transfer of surplus property of nominal value may be made without public advertisement or auction to a charitable organization which qualifies under Section 501(c)(3) and 501(c)(19) of the Internal Revenue Service, or to any other person or entity participating in a program with the City when such transfer renders a benefit to the City and its citizens.

c. Recycle. Surplus property not sold or transferred may be recycled whenever practicable.

d. Discarding and/or Destruction. Any item, including a weapon, declared to be surplus that is not sold, transferred, or recycled may be discarded or destroyed.

e. Exchange. Surplus property may be exchanged for other property, value, or consideration where the value received is roughly equivalent to the value of the surplus property.

3. Special considerations:

a. Weapons.

i. Definition. A "weapon" for purposes of this Policy, includes any instrument used in the propulsion of a projectile through the release of pressurized gas, compressed air, expanding gas, ignition of gunpowder, compounder, combustion, accelerant, spring, or other force-producing means, including rifles, shotguns, handguns, air rifles, blow gun, spring gun, wrist rocket, sling shot, airsoft gun, electroshock gun (*e.g.* taser), BB gun, pellet gun, paintball gun, slings, bows and arrows, and crossbows. "Weapons" also include bladed and blunt instruments, including nunchuks, clubs, sais, throwing stars, tonfas, "brass" knuckles, daggers, stilettos, gravity knives, swords, and other similar instruments.

ii. The Property Manager may also declare an item a "weapon" if the Property Manager reasonably believes that it has been used or can be used in a similar manner as another weapon defined in this Policy, or such item, in the opinion of the Property Manager, is reasonably likely to be used as a

weapon, as that word is commonly understood. When making such a determination, the Property Manager is encouraged to consult with the Chief of Police.

iii. Lawful weapons.

1. Officer Duty Weapon - a police officer duty weapon, which is lawful to own, possess, and use, shall be disposed of by sale and transfer to a licensed firearm dealer, consistent with Federal and State law, as determined by the Property Manager. A duty weapon may also be transferred directly to a retiring police officer when a letter authorizing the transfer is submitted by the Chief of Police to the Property Manager and the transfer is approved by the Director of Municipal Services.

2. Confiscated Weapons – confiscated weapons from the Idaho Falls Police Department Evidence Room shall be sold by sealed bid to licensed firearm dealers.

iv. Illegal and Inoperable Weapons. All illegal and inoperable weapons shall be destroyed.

b. Vehicles.

i. Vehicles and automotive-related equipment and materials shall be declared as surplus according to the City's Municipal Equipment Replacement Fund process.

c. Library Materials.

i. City delegates to the Board of Trustees of the Idaho Falls Public Library, the authority to sell, exchange or otherwise dispose of library materials (including books, audio and video recordings, written materials, etc.) when no longer required by the Library because such are surplus, duplicates, worn out, of little or no practical utility, or otherwise unneeded for Public Library purposes.

d. Recycling of Used or Excess Materials for Value:

i. Where materials (such as scrap metal, wire, or similar unused or left-over items) likely have value only if recycled or traded, as determined in good faith by the Division Director, such material may be exchanged by the

Division for its approximate value pursuant to the Division's internal recycling/exchange process.

D. The Property Manager shall submit no less frequently than one (1) time per year, a report to the City Council relating to the disposition of surplus property. Such a report shall not include property determined to have a current value of zero or a value of less than what it would cost to dispose of the surplus at a refuse or recycling vendor.

E. This Resolution shall become effective as of the date of its passage.

ADOPTED and effective this 8th day of January, 2015.

CITY OF IDAHO FALLS, IDAHO

Rebecca L. Noah Casper, Mayor

ATTEST:

Rosemarie Anderson, City Clerk

(SEAL)

CITY OF IDAHO FALLS CORPORATE Seal BONNEVILLE COUNTY, IDAHO

STATE OF IDAHO)
) ss:
County of Bonneville)

I, ROSEMARIE ANDERSON, CITY CLERK OF THE CITY OF IDAHO FALLS, IDAHO, DO HEREBY CERTIFY:

That the above and foregoing is a full, true and correct copy of the Resolution entitled, "A RESOLUTION OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, MEMORIALIZING CITY POLICY TO DECLARE CITY PERSONAL PROPERTY SURPLUS AND TO PROVIDE FOR ITS DISPOSAL THROUGH SALE, DONATION, TRANSFER, RECYCLING, DISCARDING, DESTRUCTION, OR EXCHANGE; AND PROVIDING THAT THIS RESOLUTION BE EFFECTIVE UPON ITS PASSAGE, APPROVAL AND PUBLICATION ACCORDING TO LAW."

CITY OF IDAHO FALLS CORPORATE Seal BONNEVILLE COUNTY, IDAHO

Rosemarie Anderson

Rosemarie Anderson, City Clerk

THIS BILL OF SALE (hereinafter "Agreement"), made his _____day of _____, 2023, between the City of Idaho Falls, Idaho, a municipal corporation of the State of Idaho (hereinafter called "Idaho Falls") and the City of Shelly, Idaho, a municipal corporation of the State of Idaho (hereinafter called "Shelly.")

WITNESSETH:

WHEREAS, Idaho Falls has a snow loader no longer needed for the Idaho Falls's uses; and

WHEREAS, Shelley is a qualified local unit of government, as described by Idaho Code § 67-2322; and

WHEREAS, Shelley has offered to purchase Idaho Falls's snow loader; and

WHEREAS, Idaho Falls finds it in the best interest of the public to transfer the property described in this Agreement to Shelley pursuant to the terms outline herein.

NOW, THEREFORE it is mutually agreed by the parties as follows:

1. In exchange for fifty thousand dollars ($50,000) and other good and valuable considerations, the receipt of which is acknowledged by this Agreement, Idaho Falls agrees to transfer to Shelley the following described property (hereinafter "Property"):

   2009 Leeboy 3000 Snow Loader

2. Shelley accepts sole ownership of the Property in its "AS IS" condition. Shelley assumes all liability for the Property as of the date of this Agreement's execution, including, but not limited to liability for any and all damages arising out of or resulting from the ownership, maintenance and use of the Property. Idaho Falls disclaims all warranties, expressed or implied, including, but not limited to, any warranty of fitness for a particular purpose.

3. Shelley, to the extent permitted by law, agrees to release, indemnify and hold harmless Idaho Falls and its elected officials, employees, and agents, from any liability, damages, loss, claims, demands, actions, expenses and costs arising out of the transfer of the Property to Shelley, or Shelley's use or otherwise resulting from Shelley's possession of the Property, including Shelley's removal/transportation of Property. Shelley specifically agrees that Idaho Falls is not liable for any direct or consequential damages arising from the malfunction of or error in or from condition of Property at time of acceptance.

4. Shelley acknowledges that it has had the opportunity to examine the Property and, as part of the consideration for this Agreement, Shelley agrees to accept all risk associated with the Property as is.

Signed this _____ day of _____, 2023

"Shelley"

By: _____
Stacy Pascoe, Mayor
City of Shelley, Idaho

"Idaho Falls"

By: _____
Rebecca L. Noah Casper, Ph.D., Mayor
City of Idaho Falls, Idaho

BILL OF SALE

STATE OF IDAHO)
) ss.
County of _____)

On this _____day of _____, 2023, before me, the undersigned, a notary public for Idaho, personally appeared Stacy Pascoe, known to me to be the Mayor fo the City of Shelley, Idaho, that executed the foregoing document, and acknowledged to me that they are authorized to execute the same for and on behalf of said City.

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

_____
Notary Public of Idaho
(Seal) Residing at: _____
My Commission Expires:_____

STATE OF IDAHO)
) ss.
County of Bonneville)

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

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

_____
Notary Public of Idaho
(Seal) Residing at: _____
My Commission Expires:_____

Memorandum

File #: 21-770 **City Council Meeting**

FROM: Bear Prairie, General Manager
DATE: Wednesday, January 4, 2023
DEPARTMENT: Idaho Falls Power

Subject
IFP 23-04 Upper Plant Runner Hub Rebuild

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

Approve this agreement with Thompson-HCMS of Hayden, Idaho, for Upper Plant's runner hub rebuild at a not-to-exceed amount of $916,990.00 and give authorization to the Mayor and City Clerk to execute the necessary documents, (or take other action deemed appropriate).

Description, Background Information & Purpose
Idaho Falls Power (IFP) solicited bids from qualified construction contractors to rebuild the Upper Plant's runner hub, which includes removal, disassembly and reassembly of the runner and runner hub. The bid includes all equipment, materials and labor. IFP received 1 bid with Thompson- HCMS, being the lowest responsive, responsible bidder.

Alignment with City & Department Planning Objectives



☐ ☐ ☐ ☐ ☐ ☐ ☐ ☒

This action supports our readiness for reliable public infrastructure by maintaining and improving aging infrastructure to ensure long-term reliability. This action also supports the reliability element of the IFP Strategic Plan.

Interdepartmental Coordination
IFP coordinated with the City Attorney Department.

Fiscal Impact
This is budgeted for the 2022/23 CIP budget.

Legal Review
City Attorney Department has reviewed and approved this agreement.

Idaho Falls Power

Bid Tabulation

Project: Upper Plant Runner Hub Rebuild Number: IFP 23-04

Submitted: Jason Cooper, Senior Civil Engineer Date: December 14, 2022

	Description	Estimated Quantity	Unit	Bidder		Bidder		Bidder	
1	Upper Plant Runner Hub Rebuild	1	1	Thompson-HCMS	Total Amount $916,990		Total Amount		Total Amount
	Acknowledgement of Addendums 1 and 2 Yes/No								
	Project: Upper Plant Runner Hub Rebuild								
			Recommended award				$ -		

CITY OF IDAHO FALLS, IDAHO

CONTRACT DOCUMENTS

for

2023 - IFP

Runner Hub Rebuild

Bid IFP 23-04

REBECCA L. NOAH CASPER, Mayor

City Council

MICHELLE ZIEL-DINGMAN	**THOMAS HALLY**	**JOHN B. RADFORD**
LISA BURTENSHAW	**JIM FRANCIS**	**JIM FREEMAN**

KATHY HAMPTON, City Clerk

JASON COOPER, P.E., SENIOR CIVIL ENGINEER - CDSE

Copy No. _____

2023 – IFP Lower Plant Runner Hub Rebuild - Bid IFP 23-04

Contract Documents

Table of Contents

General Conditions	00100
Advertisement for Bids	00111
Instructions to Bidders	00200
Bid Form	00410
Bid Bond	00430
Naming of Subcontractor Form	00440
Notice of Award	00510
Agreement	00520
Notice to Proceed	00550
Performance Bond	00610
Payment Bond	00615
Supplementary Conditions	00800
Special Provisions	00820
Additional Information, Plans and Specifications	

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

TABLE OF CONTENTS

Page

Article 1—Definitions and Terminology 1
1.01 Defined Terms 1
1.02 Terminology 6
Article 2—Preliminary Matters 7
2.01 Delivery of Performance and Payment Bonds; Evidence of Insurance 7
2.02 Copies of Documents 7
2.03 Before Starting Construction 7
2.04 Preconstruction Conference; Designation of Authorized Representatives 8
2.05 Acceptance of Schedules 8
2.06 Electronic Transmittals 8
Article 3—Contract Documents: Intent, Requirements, Reuse 9
3.01 Intent 9
3.02 Reference Standards 9
3.03 Reporting and Resolving Discrepancies 10
3.04 Requirements of the Contract Documents 10
3.05 Reuse of Documents 11
Article 4—Commencement and Progress of the Work 11
4.01 Commencement of Contract Times; Notice to Proceed 11
4.02 Starting the Work 11
4.03 Reference Points 12
4.04 Progress Schedule 12
4.05 Delays in Contractor's Progress 12
Article 5—Site; Subsurface and Physical Conditions; Hazardous Environmental Conditions 14
5.01 Availability of Lands 14
5.02 Use of Site and Other Areas 14
5.03 Subsurface and Physical Conditions 15
5.04 Differing Subsurface or Physical Conditions 16

5.05 Underground Facilities 17
5.06 Hazardous Environmental Conditions at Site 19
Article 6—Bonds and Insurance 22
6.01 Performance, Payment, and Other Bonds 22
6.02 Insurance—General Provisions 22
6.03 Contractor's Insurance 24
6.04 Builder's Risk and Other Property Insurance 25
6.05 Property Losses; Subrogation 26
6.06 Receipt and Application of Property Insurance Proceeds 27
Article 7—Contractor's Responsibilities 27
7.01 Contractor's Means and Methods of Construction 27
7.02 Supervision and Superintendence 28
7.03 Labor; Working Hours 28
7.04 Services, Materials, and Equipment 28
7.05 "Or Equals" 28
7.06 Substitutes 29
7.07 Concerning Subcontractors and Suppliers 31
7.08 Patent Fees and Royalties 32
7.09 Permits 33
7.10 Taxes 33
7.11 Laws and Regulations 33
7.12 Record Documents 35
7.13 Safety and Protection 35
7.14 Hazard Communication Programs 37
7.15 Emergencies 37
7.16 Submittals 37
7.17 Contractor's General Warranty and Guarantee 40
7.18 Indemnification 41
7.19 Delegation of Professional Design Services 41
Article 8—Other Work at the Site 42
8.01 Other Work 42
8.02 Coordination 43
8.03 Legal Relationships 43

Article 9—Owner's Responsibilities 44
9.01 Communications to Contractor 44
9.02 Replacement of Engineer 44
9.03 Furnish Data 45
9.04 Pay When Due 45
9.05 Lands and Easements; Reports, Tests, and Drawings 45
9.06 Insurance 45
9.07 Change Orders 45
9.08 Inspections, Tests, and Approvals 45
9.09 Limitations on Owner's Responsibilities 45
9.10 Undisclosed Hazardous Environmental Condition 45
9.11 Evidence of Financial Arrangements 45
9.12 Safety Programs 45
Article 10—Engineer's Status During Construction 46
10.01 Owner's Representative 46
10.02 Visits to Site 46
10.03 Resident Project Representative 46
10.04 Engineer's Authority 46
10.05 Determinations for Unit Price Work 47
10.06 Decisions on Requirements of Contract Documents and Acceptability of Work 47
10.07 Limitations on Engineer's Authority and Responsibilities 47
10.08 Compliance with Safety Program 47
Article 11—Changes to the Contract 48
11.01 Amending and Supplementing the Contract 48
11.02 Change Orders 48
11.03 Work Change Directives 48
11.04 Field Orders 49
11.05 Owner-Authorized Changes in the Work 49
11.06 Unauthorized Changes in the Work 49
11.07 Change of Contract Price 49
11.08 Change of Contract Times 51
11.09 Change Proposals 51
11.10 Notification to Surety 52

Article 12—Claims 52
12.01 Claims 52
Article 13—Cost of the Work; Allowances; Unit Price Work 53
13.01 Cost of the Work 53
13.02 Allowances 57
13.03 Unit Price Work 57
Article 14—Tests and Inspections; Correction, Removal, or Acceptance of Defective Work 58
14.01 Access to Work 58
14.02 Tests, Inspections, and Approvals 58
14.03 Defective Work 59
14.04 Acceptance of Defective Work. 60
14.05 Uncovering Work 60
14.06 Owner May Stop the Work 60
14.07 Owner May Correct Defective Work 61
Article 15—Payments to Contractor; Set-Offs; Completion; Correction Period 61
15.01 Progress Payments 61
15.02 Contractor's Warranty of Title 64
15.03 Substantial Completion 64
15.04 Partial Use or Occupancy 65
15.05 Final Inspection 66
15.06 Final Payment 66
15.07 Waiver of Claims 67
15.08 Correction Period 68
Article 16—Suspension of Work and Termination 69
16.01 Owner May Suspend Work 69
16.02 Owner May Terminate for Cause 69
16.03 Owner May Terminate for Convenience 70
16.04 Contractor May Stop Work or Terminate 70
Article 17—Final Resolution of Disputes 71
17.01 Methods and Procedures 71
Article 18—Miscellaneous 71
18.01 Giving Notice 71
18.02 Computation of Times 71

18.03 Cumulative Remedies 72
18.04 Limitation of Damages 72
18.05 No Waiver 72
18.06 Survival of Obligations 72
18.07 Controlling Law 72
18.08 Assignment of Contract 72
18.09 Successors and Assigns 72
18.10 Headings 72

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

ARTICLE 1—DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

A. Wherever used in the Bidding Requirements or Contract Documents, a term printed with initial capital letters, including the term's singular and plural forms, will have the meaning indicated in the definitions below. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.

1. *Addenda*—Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the proposed Contract Documents.

2. *Agreement*—The written instrument, executed by Owner and Contractor, that sets forth the Contract Price and Contract Times, identifies the parties and the Engineer, and designates the specific items that are Contract Documents.

3. *Application for Payment*—The document prepared by Contractor, in a form acceptable to Engineer, to request progress or final payments, and which is to be accompanied by such supporting documentation as is required by the Contract Documents.

4. *Bid*—The offer of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.

5. *Bidder*—An individual or entity that submits a Bid to Owner.

6. *Bidding Documents*—The Bidding Requirements, the proposed Contract Documents, and all Addenda.

7. *Bidding Requirements*—The Advertisement or invitation to bid, Instructions to Bidders, Bid Bond or other Bid security, if any, the Bid Form, and the Bid with any attachments.

8. *Change Order*—A document which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, or other revision to the Contract, issued on or after the Effective Date of the Contract.

9. *Change Proposal*—A written request by Contractor, duly submitted in compliance with the procedural requirements set forth herein, seeking an adjustment in Contract Price or Contract Times; contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Contract.

10. *Claim*

a. A demand or assertion by Owner directly to Contractor, duly submitted in compliance with the procedural requirements set forth herein, seeking an adjustment of Contract Price or Contract Times; contesting an initial decision by Engineer concerning the

requirements of the Contract Documents or the acceptability of Work under the Contract Documents; contesting Engineer's decision regarding a Change Proposal; seeking resolution of a contractual issue that Engineer has declined to address; or seeking other relief with respect to the terms of the Contract.

b. A demand or assertion by Contractor directly to Owner, duly submitted in compliance with the procedural requirements set forth herein, contesting Engineer's decision regarding a Change Proposal, or seeking resolution of a contractual issue that Engineer has declined to address.

c. A demand or assertion by Owner or Contractor, duly submitted in compliance with the procedural requirements set forth herein, made pursuant to Paragraph 12.01.A.4, concerning disputes arising after Engineer has issued a recommendation of final payment.

d. A demand for money or services by a third party is not a Claim.

11. *Constituent of Concern*—Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), lead-based paint (as defined by the HUD/EPA standard), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to Laws and Regulations regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.

12. *Contract*—The entire and integrated written contract between Owner and Contractor concerning the Work.

13. *Contract Documents*—Those items so designated in the Agreement, and which together comprise the Contract.

14. *Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Contract Documents.

15. *Contract Times*—The number of days or the dates by which Contractor shall: (a) achieve Milestones, if any; (b) achieve Substantial Completion; and (c) complete the Work.

16. *Contractor*—The individual or entity with which Owner has contracted for performance of the Work.

17. *Cost of the Work*—See Paragraph 13.01 for definition.

18. *Drawings*—The part of the Contract that graphically shows the scope, extent, and character of the Work to be performed by Contractor.

19. *Effective Date of the Contract*—The date, indicated in the Agreement, on which the Contract becomes effective.

20. *Electronic Document*—Any Project-related correspondence, attachments to correspondence, data, documents, drawings, information, or graphics, including but not limited to Shop Drawings and other Submittals, that are in an electronic or digital format.

21. *Electronic Means*—Electronic mail (email), upload/download from a secure Project website, or other communications methods that allow: (a) the transmission or communication of Electronic Documents; (b) the documentation of transmissions, including sending and receipt; (c) printing of the transmitted Electronic Document by the

recipient; (d) the storage and archiving of the Electronic Document by sender and recipient; and (e) the use by recipient of the Electronic Document for purposes permitted by this Contract. Electronic Means does not include the use of text messaging, or of Facebook, Twitter, Instagram, or similar social media services for transmission of Electronic Documents.

22. *Engineer*—The individual or entity named as such in the Agreement.

23. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but does not change the Contract Price or the Contract Times.

24. *Hazardous Environmental Condition*—The presence at the Site of Constituents of Concern in such quantities or circumstances that may present a danger to persons or property exposed thereto.

    a. The presence at the Site of materials that are necessary for the execution of the Work, or that are to be incorporated into the Work, and that are controlled and contained pursuant to industry practices, Laws and Regulations, and the requirements of the Contract, is not a Hazardous Environmental Condition.

    b. The presence of Constituents of Concern that are to be removed or remediated as part of the Work is not a Hazardous Environmental Condition.

    c. The presence of Constituents of Concern as part of the routine, anticipated, and obvious working conditions at the Site, is not a Hazardous Environmental Condition.

25. Laws and Regulations; Laws or Regulations—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and binding decrees, resolutions, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

26. *Liens*—Charges, security interests, or encumbrances upon Contract-related funds, real property, or personal property.

27. *Milestone*—A principal event in the performance of the Work that the Contract requires Contractor to achieve by an intermediate completion date, or by a time prior to Substantial Completion of all the Work.

28. *Notice of Award*—The written notice by Owner to a Bidder of Owner's acceptance of the Bid.

29. *Notice to Proceed*—A written notice by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work.

30. *Owner*—The individual or entity with which Contractor has contracted regarding the Work, and which has agreed to pay Contractor for the performance of the Work, pursuant to the terms of the Contract.

31. *Owner-Furnished Items*- Any and all designs, Drawings, Specifications, Technical Data, and Owner Supplied Materials furnished by Owner for use or incorporation in the Work under this Agreement as well as any work of any other Owner contractor for the Project.

32. *Progress Schedule*—A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising Contractor's plan to accomplish the Work within the Contract Times.

33. *Project*—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the Work to be performed under the Contract Documents is a part.
34. *Resident Project Representative*—The authorized representative of Engineer assigned to assist Engineer at the Site. As used herein, the term Resident Project Representative (RPR) includes any assistants or field staff of Resident Project Representative.
35. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.
36. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements for Engineer's review of the submittals.
37. *Schedule of Values*—A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor's Applications for Payment.
38. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Contract Documents.
39. *Site*—Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands or areas furnished by Owner which are designated for the use of Contractor.
40. a *Specifications*—The part of the Contract that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.

39.b *Standard Specifications*— Wherever in these Contract Documents reference is made to the Standard Specifications, said reference shall be understood as referring to the Idaho Standards for Public Works Construction which applicable parts are incorporated herein and made a part of these Documents by specific reference thereto. If requirements contained in the Standard Specifications are modified by or are in conflict with supplemental information in these Contract Documents, the requirements of these Contract Documents shall prevail.

41. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.
42. *Submittal*—A written or graphic document, prepared by or for Contractor, which the Contract Documents require Contractor to submit to Engineer, or that is indicated as a Submittal in the Schedule of Submittals accepted by Engineer. Submittals may include Shop Drawings and Samples; schedules; product data; Owner-delegated designs; sustainable design information; information on special procedures; testing plans; results of tests and evaluations, source quality-control testing and inspections, and field or Site quality-control testing and inspections; warranties and certifications; Suppliers' instructions and reports; records of delivery of spare parts and tools; operations and maintenance data; Project photographic documentation; record documents; and other such documents required by the Contract Documents. Submittals, whether or not

approved or accepted by Engineer, are not Contract Documents. Change Proposals, Change Orders, Claims, notices, Applications for Payment, and requests for interpretation or clarification are not Submittals.

43. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. In this case "Substantial Completion" means the unit has been commissioned. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion of such Work.

44. *Successful Bidder*—The Bidder to which the Owner makes an award of contract.

45. *Supplementary Conditions*—The part of the Contract that amends or supplements these General Conditions.

46. *Supplier*—A manufacturer, fabricator, supplier, distributor, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.

47. *Technical Data*

    a. Those items expressly identified as Technical Data in the Supplementary Conditions, with respect to either (1) existing subsurface conditions at or adjacent to the Site, or existing physical conditions at or adjacent to the Site including existing surface or subsurface structures (except Underground Facilities) or (2) Hazardous Environmental Conditions at the Site.

    b. If no such express identifications of Technical Data have been made with respect to conditions at the Site, then Technical Data is defined, with respect to conditions at the Site under Paragraphs 5.03, 5.04, and 5.06, as the data contained in boring logs, recorded measurements of subsurface water levels, assessments of the condition of subsurface facilities, laboratory test results, and other factual, objective information regarding conditions at the Site that are set forth in any geotechnical, environmental, or other Site or facilities conditions report prepared for the Project and made available to Contractor.

    c. Information and data regarding the presence or location of Underground Facilities are not intended to be categorized, identified, or defined as Technical Data, and instead Underground Facilities are shown or indicated on the Drawings.

48. *Underground Facilities*—All active or not-in-service underground lines, pipelines, conduits, ducts, encasements, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or systems at the Site, including but not limited to those facilities or systems that produce, transmit, distribute, or convey telephone or other communications, cable television, fiber optic transmissions, power, electricity, light, heat, gases, oil, crude oil products, liquid petroleum products, water, steam, waste, wastewater, storm water, other liquids or chemicals, or traffic or other control systems. An abandoned facility or system is not an Underground Facility.

49. *Unit Price Work*—Work to be paid for on the basis of unit prices.

50. *Work*—The entire construction or the various separately identifiable parts thereof

required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Contract Documents.

51. *Work Change Directive*—A written directive to Contractor issued on or after the Effective Date of the Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work.

1.02 *Terminology*

A. The words and terms discussed in Paragraphs 1.02.B, C, D, and E are not defined terms that require initial capital letters, but, when used in the Bidding Requirements or Contract Documents, have the indicated meaning.

B. *Intent of Certain Terms or Adjectives*: The Contract Documents include the terms "as allowed," "as approved," "as ordered," "as directed" or terms of like effect or import to authorize an exercise of professional judgment by Engineer. In addition, the adjectives "reasonable," "suitable," "acceptable," "proper," "satisfactory," or adjectives of like effect or import are used to describe an action or determination of Engineer as to the Work. It is intended that such exercise of professional judgment, action, or determination will be solely to evaluate, in general, the Work for compliance with the information in the Contract Documents and with the design concept of the Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective is not intended to and shall not be effective to assign to Engineer any duty or authority to supervise or direct the performance of the Work, or any duty or authority to undertake responsibility contrary to the provisions of Article 10 or any other provision of the Contract Documents.

C. *Day*: The word "day" means a calendar day of 24 hours measured from midnight to the next midnight.

D. *Defective*: The word "defective," when modifying the word "Work," refers to Work that is unsatisfactory, faulty, or deficient in that it:

1. does not conform to the Contract Documents;

2. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents; or

3. has been damaged prior to Engineer's recommendation of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion in accordance with Paragraph 15.03 or Paragraph 15.04).

E. *Furnish, Install, Perform, Provide*

1. The word "furnish," when used in connection with services, materials, or equipment, means to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.

2. The word "install," when used in connection with services, materials, or equipment, means to put into use or place in final position said services, materials, or equipment complete and ready for intended use.

3. The words “perform” or “provide,” when used in connection with services, materials, or equipment, means to furnish and install said services, materials, or equipment complete and ready for intended use.
4. If the Contract Documents establish an obligation of Contractor with respect to specific services, materials, or equipment, but do not expressly use any of the four words “furnish,” “install,” “perform,” or “provide,” then Contractor shall furnish and install said services, materials, or equipment complete and ready for intended use.

5. Unless the context specifically requires otherwise, the terms “approval,” “consent,” “accept,” “acceptance,” “authorization,” and terms of similar import shall be deemed to be followed by the phrase “which shall not be unreasonably withheld, unreasonably conditioned or unreasonably delayed”.

6. Unless otherwise expressly required herein, where the terms “determine”, “determination”, “assessment”, “approve”, “approval”, “issue statements or findings”, “conclude”, or “conclusion” are used in this Agreement, such terms shall be interpreted as requiring the Party performing any such act to do so reasonably and in good faith, unless expressly indicated otherwise.

F. *Contract Price or Contract Times*: References to a change in “Contract Price or Contract Times” or “Contract Times or Contract Price” or similar, indicate that such change applies to (1) Contract Price, (2) Contract Times, or (3) both Contract Price and Contract Times, as warranted, even if the term “or both” is not expressed.

G. Unless stated otherwise in the Contract Documents, words or phrases that have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

ARTICLE 2—PRELIMINARY MATTERS

2.01 *Delivery of Performance and Payment Bonds; Evidence of Insurance*

A. *Performance and Payment Bonds*: Within 10 days of when Contractor delivers the signed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner the performance bond and payment bond (if the Contract requires Contractor to furnish such bonds).

B. *Evidence of Contractor’s Insurance*: Within 10 days of when Contractor delivers the signed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner, with copies to each additional insured (as identified in the Contract), the certificates, endorsements, and other evidence of insurance required to be provided by Contractor in accordance with Article 6, except to the extent the Supplementary Conditions expressly establish other dates for delivery of specific insurance policies.

C. *Evidence of Owner’s Insurance*: After receipt of the signed counterparts of the Agreement and all required bonds and insurance documentation, Owner shall promptly deliver to Contractor, with copies to each additional insured (as identified in the Contract), the certificates and other evidence of insurance required to be provided by Owner under Article 6.

2.02 *Copies of Documents*

A. Owner shall furnish to Contractor four printed copies of the Contract (including one fully signed counterpart of the Agreement), and one copy in electronic portable document format (PDF). Additional printed copies will be furnished upon request at the cost of reproduction.

B. Owner shall maintain and safeguard at least one original printed record version of the Contract, including Drawings and Specifications signed and sealed by Engineer and other design professionals. Owner shall make such original printed record version of the Contract available to Contractor for review. Owner may delegate the responsibilities under this provision to Engineer.

2.03 *Before Starting Construction*

A. *Preliminary Schedules*: Within 30 days after the Effective Date of the Contract (or as otherwise required by the Contract Documents), Contractor shall submit to Engineer for timely review:

1. a preliminary Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract;
2. a preliminary Schedule of Submittals; and
3. a preliminary Schedule of Values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

2.04 *Preconstruction Conference; Designation of Authorized Representatives*

A. Before any Work at the Site is started, a conference attended by Owner, Contractor, Engineer, and others as appropriate will be held to establish a working understanding among the parties as to the Work, and to discuss the schedules referred to in Paragraph 2.03.A, procedures for handling Shop Drawings, Samples, and other Submittals, processing Applications for Payment, electronic or digital transmittals, and maintaining required records.

B. At this conference Owner and Contractor each shall designate, in writing, a specific individual to act as its authorized representative with respect to the services and responsibilities under the Contract. Such individuals shall have the authority to transmit and receive information, render decisions relative to the Contract, and otherwise act on behalf of each respective party.

2.05 *Acceptance of Schedules*

A. At least 10 days before submission of the first Application for Payment a conference, attended by Contractor, Engineer, and others as appropriate, will be held to review the schedules submitted in accordance with Paragraph 2.03.A. No progress payment will be made to Contractor until acceptable schedules are submitted to Engineer.

1. The Progress Schedule will be acceptable to Engineer if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefor.
2. Contractor's Schedule of Submittals will be acceptable to Engineer if it provides a

workable arrangement for reviewing and processing the required submittals.

3. Contractor's Schedule of Values will be acceptable to Engineer as to form and substance if it provides a reasonable allocation of the Contract Price to the component parts of the Work.

4. If a schedule is not acceptable, Contractor will have an additional 10 days to revise and resubmit the schedule.

2.06 *Electronic Transmittals*

A. Except as otherwise stated elsewhere in the Contract, the Owner, Engineer, and Contractor may send, and shall accept, Electronic Documents transmitted by Electronic Means.

B. If the Contract does not establish protocols for Electronic Means, then Owner, Engineer, and Contractor shall jointly develop such protocols.

C. Subject to any governing protocols for Electronic Means, when transmitting Electronic Documents by Electronic Means, the transmitting party makes no representations as to long-term compatibility, usability, or readability of the Electronic Documents resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the Electronic Documents.

ARTICLE 3—CONTRACT DOCUMENTS: INTENT, REQUIREMENTS, REUSE

3.01 *Intent*

A. The Contract Documents are complementary; what is required by one Contract Document is as binding as if required by all.

B. It is the intent of the Contract Documents to describe a functionally complete Project (or part thereof) to be constructed in accordance with the Contract Documents.

C. Unless otherwise stated in the Contract Documents, if there is a discrepancy between the electronic versions of the Contract Documents (including any printed copies derived from such electronic versions) and the printed record version, the printed record version will govern.

D. The Contract supersedes prior negotiations, representations, and agreements, whether written or oral.

E. Engineer will issue clarifications and interpretations of the Contract Documents as provided herein.

F. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation will be deemed stricken, and all remaining provisions will continue to be valid and binding upon Owner and Contractor, which agree that the Contract Documents will be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

G. Nothing in the Contract Documents creates:

1. any contractual relationship between Owner or Engineer and any Subcontractor, Supplier, or other individual or entity performing or furnishing any of the Work, for the benefit of such Subcontractor, Supplier, or other individual or entity; or

2. any obligation on the part of Owner or Engineer to pay or to see to the payment of any money due any such Subcontractor, Supplier, or other individual or entity, except as may otherwise be required by Laws and Regulations.

3.02 *Reference Standards*

A. *Standards Specifications, Codes, Laws and Regulations*

1. Reference in the Contract Documents to standard specifications, manuals, reference standards, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, means the standard specification, manual, reference standard, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Contract if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.

2. No provision of any such standard specification, manual, reference standard, or code, and no instruction of a Supplier, will be effective to change the duties or responsibilities of Owner, Contractor, or Engineer from those set forth in the part of the Contract Documents prepared by or for Engineer. No such provision or instruction shall be effective to assign to Owner or Engineer any duty or authority to supervise or direct the performance of the Work, or any duty or authority to undertake responsibility inconsistent with the provisions of the part of the Contract Documents prepared by or for Engineer.

3.03 *Reporting and Resolving Discrepancies*

A. *Reporting Discrepancies*

1. *Contractor's Verification of Figures and Field Measurements*: Before undertaking each part of the Work, Contractor shall carefully study the Contract Documents, and check and verify pertinent figures and dimensions therein, particularly with respect to applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy that Contractor discovers, or has actual knowledge of, and shall not proceed with any Work affected thereby until the conflict, error, ambiguity, or discrepancy is resolved by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract issued pursuant to Paragraph 11.01.

2. *Contractor's Review of Contract Documents*: If, before or during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation, (b) actual field conditions, (c) any standard specification, manual, reference standard, or code, (d) any instruction of any Supplier, or (e) any Owner-Furnished Items, then Contractor shall promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 7.15) until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract issued pursuant to Paragraph 11.01. Contractor shall be entitled to an equitable adjustment of the Progress Schedule, Schedule of Submittals, and any other applicable schedule resulting from delay caused by any such conflict, error, omission, ambiguity, or discrepancy.

3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual

knowledge thereof.

B. *Resolving Discrepancies*

1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the part of the Contract Documents prepared by or for Engineer take precedence in resolving any conflict, error, ambiguity, or discrepancy between such provisions of the Contract Documents and:

a. the provisions of any standard specification, manual, reference standard, or code, or the instruction of any Supplier (whether or not specifically incorporated by reference as a Contract Document); or

b. the provisions of any Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

3.04 *Requirements of the Contract Documents*

A. During the performance of the Work and until final payment, Contractor and Owner shall submit to the Engineer in writing all matters in question concerning the requirements of the Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Contract Documents, as soon as reasonably practicable after such matters are discovered. Engineer will be the initial interpreter of the requirements of the Contract Documents, and judge of the acceptability of the Work.

B. Engineer will, with reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Contract Documents. Engineer's written clarification, interpretation, or decision will be final and binding on Contractor, unless it appeals by submitting a Change Proposal, and on Owner, unless it appeals by filing a Claim.

C. If a submitted matter in question concerns terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work under the Contract Documents, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, then Engineer will promptly notify Owner and Contractor in writing that Engineer is unable to provide a decision or interpretation. If Owner and Contractor are unable to agree on resolution of such a matter in question, either party may pursue resolution as provided in Article 12.

3.05 *Reuse of Documents*

A. Contractor and its Subcontractors and Suppliers shall not:

1. have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer or its consultants, including electronic media versions, or reuse any such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of Owner and Engineer and specific written verification or adaptation by Engineer; or

2. have or acquire any title or ownership rights in any other Contract Documents, reuse any such Contract Documents for any purpose without Owner's express written consent, or violate any

copyrights pertaining to such Contract Documents, excepting any patented, copyrighted, proprietary, trade secret or other intellectual property ("Intellectual Property") information owned by Contractor or its Subcontractors referenced, contained, or embedded in the Contract Documents. Contractor hereby grants to Owner an irrevocable, permanent, transferable, sublicensable, nonexclusive, fully assignable, royalty-free, paid-up license to use the Intellectual Property of Contractor and its Subcontractor(s) embedded in the Work (including pre-existing Intellectual Property embedded in the Work) to allow Owner to operate, maintain, repair, train personnel, modify, improve, and/or alter the Project, and any component or replacement thereof. Nothing contained in this Agreement shall be construed as limiting or depriving Contractor of its rights to use its knowledge and skill to design, construct or carry out other projects or work for itself or others, whether or not such other projects or work are similar to the Work to be performed pursuant to this Agreement. Nothing in this Agreement shall prohibit Owner from complying with the Idaho Public Records Act, Idaho Code Title 74, Chapter 1. Owner agrees, to the fullest extent permitted by law, to defend, indemnify and hold harmless Contractor and its Subcontractors against all liabilities arising from any Claim in any way connected with the unauthorized alteration of the Work and/or the reuse, modification, or dissemination of the Intellectual Property of Contractor or its Subcontractor(s) contained the Contract Documents, by Owner, Owner's separate contractors or forces, or any entity to which Owner provides the documents without the prior separate written authorization of Contractor and any applicable Subcontractor(s).

B. The prohibitions of this Paragraph 3.05 will survive final payment, or termination of the Contract. Nothing herein precludes Contractor from retaining copies of the Contract Documents for record purposes.

ARTICLE 4—COMMENCEMENT AND PROGRESS OF THE WORK

4.01 *Commencement of Contract Times; Notice to Proceed*

A. The Contract Times will commence to run on the 30th day after the Effective Date of the Contract or, if a Notice to Proceed is given, on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within 30 days after the Effective Date of the Contract. In no event will the Contract Times commence to run later than the 60th day after the day of Bid opening or the 30th day after the Effective Date of the Contract, whichever date is earlier.

4.02 *Starting the Work*

A. Contractor shall start to perform the Work on the date when the Contract Times commence to run. No Work may be done at the Site prior to such date.

4.03 *Reference Points*

A. Owner shall provide engineering surveys to establish reference points for construction which in Engineer's judgment are necessary to enable Contractor to proceed with the Work. Contractor shall be responsible for laying out the Work, shall protect and preserve the established reference points and property monuments, and shall make no changes or relocations without the prior written approval of Owner. Contractor shall report to Engineer whenever any reference point or property monument is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for

the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.

4.04 *Progress Schedule*

A. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.05 as it may be adjusted from time to time as provided below.

1. Contractor shall submit to Engineer for acceptance (to the extent indicated in Paragraph 2.05) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times.

2. Proposed adjustments in the Progress Schedule that will change the Contract Times must be submitted in accordance with the requirements of Article 11.

B. Contractor shall carry on the Work and adhere to the Progress Schedule during all disputes or disagreements with Owner, except as otherwise provided in Article 16 concerning non-payment of amounts due under this Agreement. No Work will be delayed or postponed pending resolution of any disputes or disagreements, or during any appeal process, except as permitted by Paragraph 16.04, or as Owner and Contractor may otherwise agree in writing.

4.05 *Delays in Contractor's Progress*

A. If Owner, Engineer, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, including, without limitation, delays, disruptions, or interference attributable to any Owner-Furnished Items, then Contractor shall be entitled to an equitable adjustment in Contract Price or Contract Times.

B. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delay, disruption, or interference caused by or within the responsibility and control of Contractor. Delay, disruption, and interference attributable to and within the responsibility and control of a Subcontractor or Supplier shall be deemed to be within the control of Contractor.

C. If Contractor's performance or progress is delayed, disrupted, or interfered with by unanticipated causes not the fault of and beyond the control of Owner, Contractor, and those for which they are responsible, then Contractor shall be entitled to an equitable adjustment in the Contract Times. Causes of delay, disruption, or interference that may give rise to an adjustment in Contract Times under this paragraph include but are not limited to the following:

1. Severe and unavoidable natural catastrophes such as fires, floods, epidemics, a government emergency declaration of a pandemic (including COVID-19 and variants thereof) or earthquakes;

2. Abnormal weather conditions;

3. Acts or failures to act of third-party utility owners or other third-party entities (other than those third-party utility owners or other third-party entities performing other work at or adjacent to the Site as arranged by or under contract with Owner, as contemplated in Article 8); and

4. Acts of war or terrorism.

D. Contractor's entitlement to an adjustment of Contract Times or Contract Price is limited as follows:

1. Contractor's entitlement to an adjustment of the Contract Times is conditioned on the

delay, disruption, or interference adversely affecting an activity on the critical path to completion of the Work, as of the time of the delay, disruption, or interference.

2. Contractor shall not be entitled to an adjustment in Contract Price for any delay, disruption, or interference if such delay is concurrent with a delay, disruption, or interference caused by or within the control of Contractor. Such a concurrent delay by Contractor shall not preclude an adjustment of Contract Times to which Contractor is otherwise entitled.

3. In the event of a significant delay or price increase of material occurring during the performance of the contract through no fault of Contractor or its subcontractors, the contract sum, time of completion or contract requirements may be equitably adjusted by change order. A change in price of an item of material shall be considered "significant" when the price of an item increases two hundred fifty percent (250%) or more between the effective date of this contract and the date of installation. If Contractor makes a request for an equitable adjustment to the Contract Price based on a significant increase in price, Contractor shall be required at the that time of the request to disclose Contractor's original price that has increased; the date the materials were ordered; the earliest date that Contractor could have ordered the materials; and the good faith efforts of Contractor to secure the original price. No equitable adjustment shall be made in the event that Contractor delays ordering materials because Contractor did not take supply chain conditions into account.

4. Adjustments of Contract Times or Contract Price are subject to the provisions of Article 11.

E. Each Contractor request or Change Proposal seeking an increase in Contract Times or Contract Price must be supplemented by supporting data that sets forth in detail the following:

1. The circumstances that form the basis for the requested adjustment;

2. The date upon which each cause of delay, disruption, or interference began to affect the progress of the Work;

3. The date upon which each cause of delay, disruption, or interference ceased to affect the progress of the Work;

4. The number of days' increase in Contract Times claimed as a consequence of each such cause of delay, disruption, or interference; and

5. The impact on Contract Price, in accordance with the provisions of Paragraph 11.07.

Contractor shall also furnish such additional supporting documentation as Owner or Engineer may require including, where appropriate, a revised progress schedule indicating all the activities affected by the delay, disruption, or interference, and an explanation of the effect of the delay, disruption, or interference on the critical path to completion of the Work.

F. Delays, disruption, and interference to the performance or progress of the Work resulting from the existence of a differing subsurface or physical condition, an Underground Facility that was not shown or indicated by the Contract Documents, or not shown or indicated with reasonable accuracy, and those resulting from Hazardous Environmental Conditions, are governed by Article 5, together with the provisions of Paragraphs 4.05.D and 4.05.E.

G. Paragraph 8.03 addresses delays, disruption, and interference to the performance or progress

of the Work resulting from the performance of certain other work at or adjacent to the Site.

ARTICLE 5—SITE; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS

5.01 *Availability of Lands*

A. Owner shall furnish the Site. Owner shall notify Contractor in writing of any encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor must comply in performing the Work.

B. Upon reasonable written request, Owner shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which permanent improvements are to be made and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.

C. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

5.02 *Use of Site and Other Areas*

A. *Limitation on Use of Site and Other Areas*

1. Contractor shall confine construction equipment, temporary construction facilities, the storage of materials and equipment, and the operations of workers to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and such other adjacent areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for (a) damage to the Site; (b) damage to any such other adjacent areas used for Contractor's operations; (c) damage to any other adjacent land or areas, or to improvements, structures, utilities, or similar facilities located at such adjacent lands or areas; and (d) for injuries and losses sustained by the owners or occupants of any such land or areas; provided that such damage or injuries result from the negligent performance of the Work or from other negligent actions or conduct of the Contractor or those for which Contractor is responsible. Contractor shall not enter upon nor use property not under Owner control until appropriate easements have been executed and a copy is on file at the site.

2. If a damage or injury claim is made by the owner or occupant of any such land or area because of the negligent performance of the Work, or because of other negligent actions or conduct of the Contractor or those for which Contractor is responsible, Contractor shall (a) take immediate corrective or remedial action as required by Paragraph 7.13, or otherwise; (b) promptly attempt to settle the claim as to all parties through negotiations with such owner or occupant, or otherwise resolve the claim by arbitration or other dispute resolution proceeding, or in a court of competent jurisdiction; and (c) to the fullest extent permitted by Laws and Regulations, indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, from and against any such claim, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner, Engineer, or any other party indemnified hereunder to the extent caused directly or indirectly, in whole or in part

by,

or based upon, Contractor's negligent performance of the Work, or because of other negligent actions or conduct of the Contractor or those for which Contractor is responsible.

B. *Removal of Debris During Performance of the Work*: During the progress of the Work the Contractor shall keep the Site and other adjacent areas free from accumulations of waste materials, rubbish, and other debris resulting from the operations of Contractor and its Subcontractors. Removal and disposal of such waste materials, rubbish, and other debris will conform to applicable Laws and Regulations.

C. *Cleaning*: Prior to Substantial Completion of the Work Contractor shall clean the Site and the Work of debris generated by Contractor's and its Subcontractors' operations and make it ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site and adjacent areas all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.

D. *Loading of Structures*: Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent structures or land to stresses or pressures that will endanger them.

5.03 *Subsurface and Physical Conditions*

A. *Reports and Drawings*: The Supplementary Conditions identify:

1. Those reports of explorations and tests of subsurface conditions at or adjacent to the Site that contain Technical Data;

2. Those drawings of existing physical conditions at or adjacent to the Site, including those drawings depicting existing surface or subsurface structures at or adjacent to the Site (except Underground Facilities), that contain Technical Data; and

3. Technical Data contained in such reports and drawings.

B. *Underground Facilities*: Underground Facilities are shown or indicated on the Drawings, pursuant to Paragraph 5.05, and not in the drawings referred to in Paragraph 5.03.A. Information and data regarding the presence or location of Underground Facilities are not intended to be categorized, identified, or defined as Technical Data.

C. *Reliance by Contractor on Technical Data*: Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely upon the accuracy of the Technical Data as defined in Paragraph 1.01.A.46.b.

5.04 *Differing Subsurface or Physical Conditions*

A. *Notice by Contractor*: If Contractor believes that any subsurface or physical condition that is uncovered or revealed at the Site:

1. is of such a nature as to establish that any Technical Data on which Contractor is entitled to rely as provided in Paragraph 5.03 is materially inaccurate;

2. is of such a nature as to require a change in the Drawings or Specifications;

3. differs materially from that shown or indicated in the Contract Documents; or

4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;

then Contractor shall, promptly after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), notify Owner and Engineer in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except with respect to an emergency) until receipt of a written statement permitting Contractor to do so.

B. *Engineer's Review*: After receipt of written notice as required by the preceding paragraph, Engineer will promptly review the subsurface or physical condition in question; determine whether it is necessary for Owner to obtain additional exploration or tests with respect to the condition; conclude whether the condition falls within any one or more of the differing site condition categories in Paragraph 5.04.A; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the subsurface or physical condition in question and the need for any change in the Drawings or Specifications; and advise Owner in writing of Engineer's findings, conclusions, and recommendations.

C. *Owner's Statement to Contractor Regarding Site Condition*: After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the subsurface or physical condition in question, addressing the resumption of Work in connection with such condition, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations, in whole or in part.

D. *Early Resumption of Work*: If at any time Engineer determines that Work in connection with the subsurface or physical condition in question may resume prior to completion of Engineer's review or Owner's issuance of its statement to Contractor, because the condition in question has been adequately documented, and analyzed on a preliminary basis, then the Engineer may at its discretion instruct Contractor to resume such Work.

E. *Possible Price and Times Adjustments*

1. Contractor shall be entitled to an equitable adjustment in Contract Price or Contract Times, to the extent that the existence of a differing subsurface or physical condition, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:

   a. Such condition must fall within any one or more of the categories described in Paragraph 5.04.A;

   b. With respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03; and,

   c. Contractor's entitlement to an adjustment of the Contract Times is subject to the provisions of Paragraphs 4.05.D and 4.05.E.

2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times

with respect to a subsurface or physical condition if:

a. Contractor knew of the existence of such condition at the time Contractor made a commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract, or otherwise;

b. The existence of such condition reasonably could have been discovered or revealed as a result of any visual examination, investigation, exploration, test, or study of the reasonably discernible areas of the Site and contiguous areas expressly required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such commitment; or

c. Contractor failed to give the written notice required by Paragraph 5.04.A.

3. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, then any such adjustment will be set forth in a Change Order.

4. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the subsurface or physical condition in question. If Owner and Contractor do not agree regarding Contractor's entitlement to and/or the amount or extent of any adjustment in the Contract Price or Contract Times, or both under any such Change Proposal, then Contractor may present a Claim in accordance with the terms hereof.

F. *Underground Facilities; Hazardous Environmental Conditions*: Paragraph 5.05 governs rights and responsibilities regarding the presence or location of Underground Facilities. Paragraph 5.06 governs rights and responsibilities regarding Hazardous Environmental Conditions. The provisions of Paragraphs 5.03 and 5.04 are not applicable to the presence or location of Underground Facilities, or to Hazardous Environmental Conditions.

5.05 *Underground Facilities*

A. *Contractor's Responsibilities*: Unless it is otherwise expressly provided in the Supplementary Conditions, the cost of all of the following are included in the Contract Price, and Contractor shall have full responsibility for reviewing and checking all information and data regarding existing Underground Facilities at the Site available from Owner and the Idaho Digline by calling 811;

1. complying with applicable state and local utility damage prevention Laws and Regulations;

2. verifying the actual location of those Underground Facilities shown or indicated in the Contract Documents as being within the area affected by the Work, by contacting the Idaho Digline by calling 811;

3. coordination of the Work with the owners (including Owner) of such Underground Facilities, during construction; and

4. the safety and protection of all existing Underground Facilities at the Site, and repairing any damage thereto resulting from the negligent performance of the Work by Contractor or others for whom it is responsible.

B. *Notice by Contractor*: If Contractor believes that an Underground Facility that is uncovered or

revealed at the Site was not shown or indicated on the Drawings, or was not shown or indicated on the Drawings with reasonable accuracy, then Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), notify Owner and Engineer in writing regarding such Underground Facility.

C. *Engineer's Review*: Engineer will:

1. promptly review the Underground Facility and conclude whether such Underground Facility was not shown or indicated on the Drawings, or was not shown or indicated with reasonable accuracy;

2. identify and communicate with the owner of the Underground Facility; prepare recommendations to Owner (and if necessary issue any preliminary instructions to Contractor) regarding the Contractor's resumption of Work in connection with the Underground Facility in question;

3. obtain any pertinent cost or schedule information from Contractor; determine the extent, if any, to which a change is required in the Drawings or Specifications to reflect and document the consequences of the existence or location of the Underground Facility; and

4. advise Owner in writing of Engineer's findings, conclusions, and recommendations.

During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.

D. *Owner's Statement to Contractor Regarding Underground Facility*: After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the Underground Facility in question addressing the resumption of Work in connection with such Underground Facility, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations in whole or in part.

E. *Early Resumption of Work*: If at any time Engineer determines that Work in connection with the Underground Facility may resume prior to completion of Engineer's review or Owner's issuance of its statement to Contractor, because the Underground Facility in question and conditions affected by its presence have been adequately documented, and analyzed on a preliminary basis, then the Engineer may at its discretion instruct Contractor to resume such Work.

F. *Possible Price and Times Adjustments*

1. Contractor shall be entitled to an equitable adjustment in the Contract Price or Contract Times, to the extent that any existing Underground Facility at the Site that was not shown or indicated on the Drawings, or was not shown or indicated with reasonable accuracy, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:

a. With respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03;

b. Contractor's entitlement to an adjustment of the Contract Times is subject to the provisions of Paragraphs 4.05.D and 4.05.E; and

c. Contractor gave the notice required in Paragraph 5.05.B.

2. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, then any such adjustment will be set forth in a Change Order.

3. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the Underground Facility in question. If Owner and Contractor do not agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, or both under any Change Proposal, then Contractor may present a Claim in accordance with the terms hereof

4. The information and data shown or indicated on the Drawings with respect to existing Underground Facilities at the Site is based on information and data (a) furnished by the owners of such Underground Facilities, or by others, (b) obtained from available records, or (c) gathered in an investigation conducted in accordance with the current edition of ASCE 38, Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data, by the American Society of Civil Engineers. If such information or data is incorrect or incomplete, Contractor's remedies are limited to those set forth in this Paragraph 5.05.F.

5.06 *Hazardous Environmental Conditions at Site*

A. *Reports and Drawings*: The Supplementary Conditions identify:

1. those reports known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site;

2. drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site; and

3. Technical Data contained in such reports and drawings.

B. *Reliance by Contractor on Technical Data Authorized*: Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely on the accuracy of the Technical Data as defined in Paragraph 1.01.A.46.b.

C. Contractor shall not be responsible for testing, removing or remediating any Hazardous Environmental Condition encountered, uncovered, or revealed at the Site unless such removal or remediation is expressly identified in the Contract Documents to be within the scope of the Work.

1. <u>The Contractor's scope of work shall include implementation of necessary safety, public health and environmental procedures and requirements relating to sanitary sewage encountered during the work.</u>

2. <u>The Contractor's scope of work shall include necessary safety and environmental requirements for handling and disposal of asbestos pipe removed from service or excavated during the course of the work.</u>

D. Contractor shall be responsible for controlling, containing, and duly removing all Constituents of Concern brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible, and for any associated costs; and for the costs of removing and remediating any Hazardous Environmental Condition created by the presence of any such Constituents of Concern. Owner shall be responsible for controlling, containing, and duly removing all Constituents of Concern brought to the Site by Owner, Owner's other contractors, or anyone else for whom Owner is responsible, and for any associated costs; and for the costs of removing and remediating any Hazardous Environmental Condition created by the presence of any such Constituents of Concern.

E. If Contractor discovers a Hazardous Environmental Condition whose removal or remediation is not expressly identified in the Contract Documents as being within the scope of the Work, or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition through the release of a Constituent of Concern brought to the Site by Contractor or its Subcontractors, then upon becoming aware thereof Contractor shall immediately: (1) secure or otherwise isolate such condition; (2) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 7.15); and (3) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 5.06.F. If Contractor or anyone for whom Contractor is responsible created the Hazardous Environmental Condition in question, then Owner may remove and remediate the Hazardous Environmental Condition, and impose a set-off against payments to reasonably account for the associated costs subject to Contractor's right to contest the same.

F. Contractor shall not resume Work in connection with such Hazardous Environmental Condition or in any affected area until after Owner has obtained any required permits related thereto, and delivered written notice to Contractor either (1) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work, or (2) specifying any special conditions under which such Work may be resumed safely.

G. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, as a result of such Work stoppage, such special conditions under which Work is agreed to be resumed by Contractor, or any costs or expenses incurred in response to the Hazardous Environmental Condition, then within 30 days of Owner's written notice regarding the resumption of Work, Contractor may submit a Change Proposal, or Owner may impose a set-off as reasonably necessary under the circumstances subject to Contractor's right to contest the same. If Owner and Contractor do not reach agreement upon the same following presentation of such a Change Proposal or imposition, either Party may present a Claim in accordance with the terms hereof. Entitlement to any such adjustment is subject to the provisions of Paragraphs 4.05.D, 4.05.E, 11.07, and 11.08.

H. If, after receipt of such written notice, Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work, following the contractual change procedures in Article 11. Owner may have such deleted portion of the Work performed by Owner's own forces or

others in accordance with Article 8.

I. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, and agents of each and any of them, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) to the extent arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition (1) was not shown or indicated in the Drawings, Specifications, or other Contract Documents, identified as Technical Data, or identified in the Contract Documents to be included within the scope of the Work, and (2) was not created with any Constituent of Concern brought to the Site by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.I obligates Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligent acts or omissions ~~negligence~~.

J. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, and agents, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) to the extent arising out of or relating to the failure to control, contain, or remove a Constituent of Concern brought to the Site by Contractor or by anyone for whom Contractor is responsible, or to a Hazardous Environmental Condition created by the negligent acts or omissions of Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.J obligates Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence. Notwithstanding anything to the contrary, Contractor shall not have any responsibility for a Constituent of Concern brought to or generated at the Site by Owner or others for whom Contractor is not responsible or a Hazardous Environmental Condition caused by others at the Site except to the extent the handling and disposal of such constituent or condition is expressly included in Contractor's scope of Work set forth in the Contract Documents.

K. The provisions of Paragraphs 5.03, 5.04, and 5.05 do not apply to the presence of Constituents of Concern or to a Hazardous Environmental Condition uncovered or revealed at the Site.

ARTICLE 6—BONDS AND INSURANCE

6.01 *Performance, Payment, and Other Bonds*

A. Contractor shall furnish a performance bond and a payment bond, each in an amount at least equal to the Contract Price, as security for the faithful performance and payment of Contractor's obligations under the Contract. These bonds must remain in effect until one year after the date when final payment becomes due or until completion of the correction period specified in Paragraph 15.08, whichever is later, except as provided otherwise by Laws or Regulations, the terms of a prescribed bond form, the Supplementary Conditions, or other provisions of the Contract.

B. Contractor shall also furnish such other bonds (if any) as are required by the Supplementary Conditions or other provisions of the Contract.

C. All bonds must be in the form included in the Bidding Documents or otherwise specified by

Owner prior to execution of the Contract, except as provided otherwise by Laws or Regulations, and must be issued and signed by a surety named in "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Department Circular 570 (as amended and supplemented) by the Bureau of the Fiscal Service, U.S. Department of the Treasury. A bond signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority must show that it is effective on the date the agent or attorney-in-fact signed the accompanying bond.

D. Contractor shall obtain the required bonds from surety companies that are duly licensed or authorized, in the state or jurisdiction in which the Project is located, to issue bonds in the required amounts.

E. If the surety on a bond furnished by Contractor is declared bankrupt or becomes insolvent, or the surety ceases to meet the requirements above, then Contractor shall promptly notify Owner and Engineer in writing and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which must comply with the bond and surety requirements above.

F. If Contractor has failed to obtain a required bond, Owner may exclude the Contractor from the Site and exercise Owner's termination rights under Article 16.

G. Upon request to Owner from any Subcontractor, Supplier, or other person or entity claiming to have furnished labor, services, materials, or equipment used in the performance of the Work, Owner shall provide a copy of the payment bond to such person or entity.

H. Upon request to Contractor from any Subcontractor, Supplier, or other person or entity claiming to have furnished labor, services, materials, or equipment used in the performance of the Work, Contractor shall provide a copy of the payment bond to such person or entity.

6.02 *Insurance—General Provisions*

A. Owner and Contractor shall obtain and maintain insurance as required in this article and in the Supplementary Conditions.

B. All insurance required by the Contract to be purchased and maintained by Owner or Contractor shall be obtained from insurance companies that are duly licensed or authorized in the state or jurisdiction in which the Project is located to issue insurance policies for the required limits and coverages. Unless a different standard is indicated in the Supplementary Conditions, all companies that provide insurance policies required under this Contract shall have an A.M. Best rating of A-VII or better.

C. Alternative forms of insurance coverage, including but not limited to self-insurance and "Occupational Accident and Excess Employer's Indemnity Policies," are not sufficient to meet the insurance requirements of this Contract, unless expressly allowed in the Supplementary Conditions.

D. Contractor shall deliver to Owner, with copies to each additional insured identified in the Contract, certificates of insurance and endorsements establishing that Contractor has obtained and is maintaining the policies and coverages required by the Contract. Upon request by Owner or any other insured, Contractor shall also furnish other evidence of such required insurance, including but not limited to copies of policies, documentation of applicable self-insured retentions (if allowed) and deductibles, full disclosure of all relevant

exclusions, and evidence of insurance required to be purchased and maintained by Subcontractors or Suppliers. In any documentation furnished under this provision, Contractor, Subcontractors, and Suppliers may block out (redact) (1) any confidential premium or pricing information and (2) any wording specific to a project or jurisdiction other than those applicable to this Contract.

E. Owner shall deliver to Contractor, with copies to each additional insured identified in the Contract, certificates of insurance and endorsements establishing that Owner has obtained and is maintaining the policies and coverages required of Owner by the Contract (if any). Upon request by Contractor or any other insured, Owner shall also provide other evidence of such required insurance (if any), including but not limited to copies of policies, documentation of applicable self-insured retentions (if allowed) and deductibles, and full disclosure of all relevant exclusions. In any documentation furnished under this provision, Owner may block out (redact) (1) any confidential premium or pricing information and (2) any wording specific to a project or jurisdiction other than those relevant to this Contract.

F. Failure of Owner or Contractor to demand such certificates or other evidence of the other party's full compliance with these insurance requirements, or failure of Owner or Contractor to identify a deficiency in compliance from the evidence provided, will not be construed as a waiver of the other party's obligation to obtain and maintain such insurance.

G. In addition to the liability insurance required to be provided by Contractor, the Owner, at Owner's option, may purchase and maintain Owner's own liability insurance. Owner's liability policies, if any, operate separately and independently from policies required to be provided by Contractor, and Contractor cannot rely upon Owner's liability policies for any of Contractor's obligations to the Owner, Engineer, or third parties.

H. Contractor shall require:

   1. Subcontractors to purchase and maintain worker's compensation, commercial general liability, and other insurance that is reasonably appropriate for their participation in the Project, and to name as additional insureds Owner (and any other individuals or entities identified in the Supplementary Conditions as additional insureds on Contractor's liability policies) on each Subcontractor's commercial general liability insurance policy; and

   2. Suppliers to purchase and maintain insurance that is appropriate for their participation in the Project.

I. If either party does not purchase or maintain the insurance required of such party by the Contract, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage.

J. If Contractor has failed to obtain and maintain required insurance, Contractor's entitlement to enter or remain at the Site will end immediately, and Owner may impose an appropriate set-off against payment for any associated costs (including but not limited to the cost of purchasing necessary insurance coverage), and exercise Owner's termination rights under Article 16.

K. Without prejudice to any other right or remedy, if a party has failed to obtain required insurance, the other party may elect (but is in no way obligated) to obtain equivalent insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and the Contract Price will be adjusted accordingly.

L. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor or Contractor's interests. Contractor is responsible for determining whether such coverage and limits are adequate to protect its interests, and for obtaining and maintaining any additional insurance that Contractor deems necessary.

M. The insurance and insurance limits required herein will not be deemed as a limitation on Contractor's liability, or that of its Subcontractors or Suppliers, under the indemnities granted to Owner and other individuals and entities in the Contract or otherwise.

N. All the policies of insurance required to be purchased and maintained under this Contract will contain a provision or endorsement that the coverage afforded will not be canceled, or renewal refused, until at least 10 days prior written notice has been given to the purchasing policyholder. Within three days of receipt of any such written notice, the purchasing policyholder shall provide a copy of the notice to each other insured and Engineer.

6.03 *Contractor's Insurance*

A. *Required Insurance*: Contractor shall purchase and maintain Worker's Compensation, Commercial General Liability, and other insurance pursuant to the specific requirements of the Supplementary Conditions.

B. *General Provisions*: The policies of insurance required by this Paragraph 6.03 as supplemented must:

1. include at least the specific coverages required;

2. be written for the limits stated in this Agreement, or those required by Laws or Regulations if applicable, whichever is greater;

3. remain in effect at least until the Work has achieved Substantial Completion (as set forth in Paragraph 15.06.D), and longer if expressly required elsewhere in this Contract, and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work as a warranty or correction obligation, or otherwise, or returning to the Site to conduct other tasks arising from the Contract;

4. apply with respect to the performance of the Work, whether such performance is by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable; and

5. include all necessary endorsements to support the stated requirements.

C. *Additional Insureds*: The Contractor's commercial general liability, automobile liability, employer's liability, umbrella or excess, pollution liability, and unmanned aerial vehicle liability policies, if required by this Contract, must:

1. include and list as additional insureds Owner, and any individuals or entities identified as additional insureds in the Supplementary Conditions;

2. include coverage for the respective officers, directors, members, partners, employees, and consultants of all such additional insureds;

3. afford primary coverage to these additional insureds for all claims covered thereby (including as applicable those arising from both ongoing and completed operations);

4. not seek contribution from insurance maintained by the additional insured; and

5. as to commercial general liability insurance, apply to additional insureds with respect to liability caused in whole or in part by Contractor's acts or omissions, or the acts and omissions of those working on Contractor's behalf, in the performance of Contractor's operations.

6.04 *Builder's Risk and Other Property Insurance*

A. *Builder's Risk*: Unless otherwise provided in the Supplementary Conditions, Contractor shall purchase and maintain builder's risk insurance upon the Work on a completed value basis, in the amount of the Work's full insurable replacement cost (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). The specific requirements applicable to the builder's risk insurance are set forth in the Supplementary Conditions.

B. *Property Insurance for Facilities of Owner Where Work Will Occur*: Owner is responsible for obtaining and maintaining property insurance covering each existing structure, building, or facility in which any part of the Work will occur, or to which any part of the Work will attach or be adjoined. Such property insurance will be written on a special perils (all-risk) form, on a replacement cost basis, providing coverage consistent with that required for the builder's risk insurance, and will be maintained until the Work is complete, as set forth in Paragraph 15.06.D.

C. *Property Insurance for Substantially Complete Facilities*: Promptly after Substantial Completion, and before actual occupancy or use of the substantially completed Work, Owner will obtain property insurance for such substantially completed Work, and maintain such property insurance at least until the Work is complete, as set forth in Paragraph 15.06.D. Such property insurance will be written on a special perils (all-risk) form, on a replacement cost basis, and provide coverage consistent with that required for the builder's risk insurance. The builder's risk insurance may terminate upon written confirmation of Owner's procurement of such property insurance.

D. *Partial Occupancy or Use by Owner*: If Owner will occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work, as provided in Paragraph 15.04, then Owner (directly, if it is the purchaser of the builder's risk policy, or through Contractor) will provide advance notice of such occupancy or use to the builder's risk insurer, and obtain an endorsement consenting to the continuation of coverage prior to commencing such partial occupancy or use.

E. *Insurance of Other Property; Additional Insurance*: If the express insurance provisions of the Contract do not require or address the insurance of a property item or interest, then the entity or individual owning such property item will be responsible for insuring it. If Contractor elects to obtain other special insurance to be included in or supplement the builder's risk or property insurance policies provided under this Paragraph 6.04, it may do so at Contractor's expense.

6.05 *Property Losses; Subrogation*

A. The builder's risk insurance policy and the property insurance policies purchased and maintained by the parties in accordance with Paragraph 6.04 (or an installation floater policy if authorized by the Supplementary Conditions), will contain provisions to the effect that in the event of payment of any loss or damage the insurer will have no rights of recovery against any insureds thereunder, or against Engineer or its consultants, or their officers, directors,

members, partners, employees, agents, consultants, or subcontractors. If the loss insured under the builder's risk policy is attributable to the negligence of Contractor or anyone for whom it is responsible, then Contractor shall pay the first $75,000 of such policy's deductible. Otherwise, Owner shall bear the costs of such policy deductible.

1. Owner and Contractor waive all rights against each other and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils, risks, or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Engineer, its consultants, all individuals or entities identified in the Supplementary Conditions as builder's risk or installation floater insureds, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, under such policies for losses and damages so caused.

2. None of the above waivers extends to the rights that any party making such waiver may have to the proceeds of insurance held by Owner or Contractor as trustee or fiduciary, or otherwise payable under any policy so issued.

B. Any property insurance policy maintained by Owner covering any loss, damage, or consequential loss to Owner's existing structures, buildings, or facilities in which any part of the Work will occur, or to which any part of the Work will attach or adjoin; to adjacent structures, buildings, or facilities of Owner; or to part or all of the completed or substantially completed Work, during partial occupancy or use pursuant to Paragraph 15.04, after Substantial Completion pursuant to Paragraph 15.03, or after final payment pursuant to Paragraph 15.06, will contain provisions to the effect that in the event of payment of any loss or damage the insurer will have no rights of recovery against any insureds thereunder, or against Contractor, Subcontractors, or Engineer, or the officers, directors, members, partners, employees, agents, consultants, or subcontractors of each and any of them, by subrogation or otherwise, and that the insured is allowed to waive the insurer's rights of subrogation in a written contract executed prior to the loss, damage, or consequential loss.

1. Owner waives all rights against Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from fire or any of the perils, occurrences, claims, risks, or causes of loss covered by such policies.

C. The waivers in this Paragraph 6.05 include the waiver of rights due to business interruption, loss of use, or other consequential loss extending beyond actual damages for direct physical loss or damage to Owner's property or the Work however caused, whether by, arising out of, or resulting from fire or other insured peril, risk, or other cause of loss whether or not insured by Owner.

D. Contractor shall be responsible for assuring that each Subcontract contains provisions whereby the Subcontractor waives all rights against Owner, Contractor, all individuals or entities identified in the Supplementary Conditions as insureds, the Engineer and its consultants, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, relating to, or resulting from fire or other peril, risk, or cause of loss covered by builder's risk insurance, installation floater, and any other property insurance applicable to the Work.

6.06 *Receipt and Application of Property Insurance Proceeds*

A. Any insured loss under the builder's risk and other policies of property insurance required by Paragraph 6.04 will be adjusted and settled with the named insured that purchased the policy. Such named insured shall act as fiduciary for the other insureds, and give notice to such other insureds that adjustment and settlement of a claim is in progress. Any other insured may state its position regarding a claim for insured loss in writing within 15 days after notice of such claim.

B. Proceeds for such insured losses may be made payable by the insurer either jointly to multiple insureds, or to the named insured that purchased the policy in its own right and as fiduciary for other insureds, subject to the requirements of any applicable mortgage clause. A named insured receiving insurance proceeds under the builder's risk and other policies of insurance required by Paragraph 6.04 shall maintain such proceeds in a segregated account, and distribute such proceeds in accordance with such agreement as the parties in interest may reach, or as otherwise required under the dispute resolution provisions of this Contract or applicable Laws and Regulations.

C. If no other special agreement is reached, Contractor shall repair or replace the damaged Work, using allocated insurance proceeds.

ARTICLE 7—CONTRACTOR'S RESPONSIBILITIES

7.01 *Contractor's Means and Methods of Construction*

A. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction.

B. If the Contract Documents note, or Contractor determines, that professional engineering or other design services are needed to carry out Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures, or for Site safety, then Contractor shall cause such services to be provided by a properly licensed design professional, at Contractor's expense. Such services are not Owner-delegated professional design services under this Contract, and neither Owner nor Engineer has any responsibility with respect to (1) Contractor's determination of the need for such services, (2) the qualifications or licensing of the design professionals retained or employed by Contractor, (3) the performance of such services, or (4) any errors, omissions, or defects in such services. Owner acknowledges and agrees that Contractor is not a licensed professional engineering or design firm and Contractor may have any such professional services, if any, carried out by a third-party professional licensed subconsultant retained by Contractor.

7.02 *Supervision and Superintendence*

A. Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents.

B. At all times during the progress of the Work, Contractor shall assign a competent resident superintendent who will not be replaced without written notice to Owner and Engineer except under extraordinary circumstances.

7.03 *Labor; Working Hours*

A. Contractor shall provide competent, suitably qualified personnel to survey and lay out the

Work and perform construction as required by the Contract Documents. Contractor shall maintain good discipline and order at the Site.

B. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of Contractor's employees; of Suppliers and Subcontractors, and their employees; and of any other individuals or entities performing or furnishing any of the Work, just as Contractor is responsible for Contractor's own acts and omissions.

C. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site will be performed during regular working hours, Monday through Friday. Contractor will not perform Work on a Saturday, Sunday, or any legal holiday without Owner's written consent. Contractor may perform Work outside regular working hours or on Saturdays, Sundays, or legal holidays only with Owner's written consent, which will not be unreasonably withheld.

7.04 *Services, Materials, and Equipment*

A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start up, and completion of the Work, whether or not such items are specifically called for in the Contract Documents.

B. All materials and equipment incorporated into the Work must be new and of good quality, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications will expressly run to the benefit of Owner. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.

C. All materials and equipment must be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

7.05 *"Or Equals"*

A. *Contractor's Request; Governing Criteria*: Whenever an item of equipment or material is specified or described in the Contract Documents by using the names of one or more proprietary items or specific Suppliers, the Contract Price has been based upon Contractor furnishing such item as specified. The specification or description of such an item is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or equal" item is permitted, Contractor may request that Engineer authorize the use of other items of equipment or material, or items from other proposed Suppliers, under the circumstances described below.

1. If Engineer in its sole discretion determines that an item of equipment or material proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, Engineer will deem it an "or equal" item. For the purposes of this paragraph, a proposed item of equipment or material will be considered functionally equal to an item so named if:

a. in the exercise of reasonable judgment Engineer determines that the proposed item:

1) is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;

2) will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole;

3) has a proven record of performance and availability of responsive service; and

4) is not objectionable to Owner.

b. Contractor certifies that, if the proposed item is approved and incorporated into the Work:

1) there will be no increase in cost to the Owner or increase in Contract Times; and

2) the item will conform substantially to the detailed requirements of the item named in the Contract Documents.

B. *Contractor's Expense*: Contractor shall provide all data in support of any proposed "or equal" item at Contractor's expense.

C. *Engineer's Evaluation and Determination*: Engineer will be allowed a reasonable time to evaluate each "or-equal" request. Engineer may require Contractor to furnish additional data about the proposed "or-equal" item. Engineer will be the sole judge of acceptability. No "or-equal" item will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an "or-equal," which will be evidenced by an approved Shop Drawing or other written communication. Engineer will advise Contractor in writing of any negative determination.

D. *Effect of Engineer's Determination*: Neither approval nor denial of an "or-equal" request will result in any change in Contract Price. The Engineer's denial of an "or-equal" request will be final and binding, and may not be reversed through an appeal under any provision of the Contract.

E. *Treatment as a Substitution Request*: If Engineer determines that an item of equipment or material proposed by Contractor does not qualify as an "or-equal" item, Contractor may request that Engineer consider the item a proposed substitute pursuant to Paragraph 7.06.

7.06 *Substitutes*

A. *Contractor's Request; Governing Criteria*: Unless the specification or description of an item of equipment or material required to be furnished under the Contract Documents contains or is followed by words reading that no substitution is permitted, Contractor may request that Engineer authorize the use of other items of equipment or material under the circumstances described below. To the extent possible such requests must be made before commencement of related construction at the Site.

1. Contractor shall submit sufficient information as provided below to allow Engineer to determine if the item of material or equipment proposed is functionally equivalent to that named and an acceptable substitute therefor. Engineer will not accept requests for review of proposed substitute items of equipment or material from anyone other than Contractor.

2. The requirements for review by Engineer will be as set forth in Paragraph 7.06.B, as

supplemented by the Specifications, and as Engineer may decide is appropriate under the circumstances.

3. Contractor shall make written application to Engineer for review of a proposed substitute item of equipment or material that Contractor seeks to furnish or use. The application:

    a. will certify that the proposed substitute item will:

        1) perform adequately the functions and achieve the results called for by the general design;

        2) be similar in substance to the item specified; and

        3) be suited to the same use as the item specified.

    b. will state:

        1) the extent, if any, to which the use of the proposed substitute item will necessitate a change in Contract Times;

        2) whether use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for other work on the Project) to adapt the design to the proposed substitute item; and

        3) whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty.

    c. will identify:

        1) all variations of the proposed substitute item from the item specified; and

        2) available engineering, sales, maintenance, repair, and replacement services.

    d. will contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including but not limited to changes in Contract Price, shared savings, costs of redesign, and claims of other contractors affected by any resulting change.

B. *Engineer's Evaluation and Determination*: Engineer will be allowed a reasonable time to evaluate each substitute request, and to obtain comments and direction from Owner. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No substitute will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an acceptable substitute. Engineer's determination will be evidenced by a Field Order or a proposed Change Order accounting for the substitution itself and all related impacts, including changes in Contract Price or Contract Times. Engineer will advise Contractor in writing of any negative determination.

C. *Special Guarantee*: Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.

D. *Reimbursement of Engineer's Cost*: Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor. Whether or not Engineer approves a substitute so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of Engineer for evaluating each such proposed substitute. Contractor shall

also reimburse Owner for the reasonable charges of Engineer for making changes in the Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.

E. *Contractor's Expense*: Contractor shall provide all data in support of any proposed substitute at Contractor's expense.

F. *Effect of Engineer's Determination*: If Engineer approves the substitution request, Contractor shall execute the proposed Change Order and proceed with the substitution. The Engineer's denial of a substitution request will be final and binding, and may not be reversed through an appeal under any provision of the Contract. Contractor may challenge the scope of reimbursement costs imposed under Paragraph 7.06.D, by timely submittal of a Change Proposal.

7.07 *Concerning Subcontractors and Suppliers*

A. Contractor may retain Subcontractors and Suppliers for the performance of parts of the Work. Such Subcontractors and Suppliers must be acceptable to Owner. The Contractor's retention of a Subcontractor or Supplier for the performance of parts of the Work will not relieve Contractor's obligation to Owner to perform and complete the Work in accordance with the Contract Documents.

B. Contractor shall retain specific Subcontractors and Suppliers for the performance of designated parts of the Work if required by the Contract to do so.

C. Subsequent to the submittal of Contractor's Bid or final negotiation of the terms of the Contract, Owner may not require Contractor to retain any Subcontractor or Supplier to furnish or perform any of the Work against which Contractor has reasonable objection.

D. Prior to entry into any binding subcontract or purchase order, Contractor shall submit to Owner the identity of the proposed Subcontractor or Supplier (unless Owner has already deemed such proposed Subcontractor or Supplier acceptable during the bidding process or otherwise, which may be achieved through agreement upon a pre-approved list of Subcontractors and Suppliers). Such proposed Subcontractor or Supplier shall be deemed acceptable to Owner unless Owner raises a substantive, reasonable objection within 5 days.

E. Owner may require the replacement of any Subcontractor or Supplier. Owner also may require Contractor to retain specific replacements; provided, however, that Owner may not require a replacement to which Contractor has a reasonable objection. If Contractor has submitted the identity of certain Subcontractors or Suppliers for acceptance by Owner, and Owner has accepted it (either in writing or by failing to make written objection thereto), then Owner may subsequently revoke the acceptance of any such Subcontractor or Supplier so identified solely on the basis of substantive, reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor or Supplier.

F. If Owner requires the replacement of any Subcontractor or Supplier retained by Contractor to perform any part of the Work, then Contractor shall be entitled to an adjustment in Contract Price or Contract Times, with respect to the replacement; and Contractor shall initiate a Change Proposal for such adjustment within 30 days of Owner's requirement of replacement.

G. No acceptance by Owner of any such Subcontractor or Supplier, whether initially or as a replacement, will constitute a waiver of the right of Owner to the completion of the Work in

accordance with the Contract Documents.

H. On a monthly basis, Contractor shall submit to Engineer a complete list of all Subcontractors and Suppliers having a direct contract with Contractor, and of all other Subcontractors and Suppliers known to Contractor at the time of submittal.

I. Contractor shall be solely responsible for scheduling and coordinating the work of Subcontractors and Suppliers.

J. The divisions and sections of the Specifications and the identifications of any Drawings do not control Contractor in dividing the Work among Subcontractors or Suppliers, or in delineating the Work to be performed by any specific trade.

K. All Work performed for Contractor by a Subcontractor or Supplier must be pursuant to an appropriate contractual agreement that specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract for the benefit of Owner and Engineer.

L. In the event any Subcontractor or Supplier notifies Owner that it has not been paid by Contractor for its performance, Owner may furnish to any Subcontractor or Supplier, to the extent practicable, information confirming that Owner has paid Contractor for Work performed for Contractor by the Subcontractor or Supplier.

M. Contractor shall restrict all Subcontractors and Suppliers from communicating with Engineer or Owner, except through Contractor or in case of an emergency, or as otherwise expressly allowed in this Contract.

7.08 *Patent Fees and Royalties*

A. Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work furnished by Contractor of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others to the extent expressly specified in the Contract Document. If an invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work and if, to the actual knowledge of Owner or Engineer, its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights will be disclosed in the Contract Documents. Notwithstanding the foregoing, Contractor is not responsible for any license fees, royalties, and incidental costs relating to Owner-Furnished Items.

B. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, and its officers, directors, members, partners, employees, agents, consultants, and subcontractors, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any Owner-Furnished Items and/or any invention, design, process, product, or device specified in the Contract Documents, but not identified as

being subject to payment of any license fee or royalty to others required by patent rights or copyrights.

C. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner, and its officers, directors, members, partners, employees, agents,

consultants and subcontractors of each and any of them, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device improperly substituted by Contractor and not specified in the Contract Documents.

7.09 *Permits*

A. Unless otherwise provided in the Contract Documents, Contractor shall obtain and pay for all construction permits, licenses, and certificates of occupancy to extent required by the jurisdiction having authority over the Project. Owner shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of the submission of Contractor's Bid (or when Contractor became bound under a negotiated contract). Owner shall pay all charges of utility owners for connections for providing permanent service to the Work.

7.10 *Taxes*

A. Contractor shall pay all sales, consumer, use, and other similar taxes required to be paid by Contractor in accordance with the Laws and Regulations of the place of the Project which are applicable during the performance of the Work, except to the extent that Owner is exempt from any such taxes and provides Contractor with a tax-exemption certificate.

B. In the event of the Contractor's default on the payment of taxes, excises, and license fees as set forth in Idaho Code 63-1503, the Owner shall have the authority to withhold from any payment due the Contractor under this contract, the estimated amount of such accrued and accruing taxes, excises, and license fees for the benefit of all taxing authorities to which said Contractor is liable.

7.11 *Laws and Regulations*

A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to Contractor's performance of the Work. Neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.

B. If Contractor performs any Work or takes any other action knowing that it is contrary to Laws or Regulations, Contractor shall bear all resulting costs and losses, and shall indemnify and hold harmless Owner, and its officers, directors, members, partners, employees, and agents, from and against all claims, costs, losses, and damages to the extent arising out of or relating to such Work or other action. It is not Contractor's responsibility to make certain that the Work described in the Contract Documents is in accordance with such Laws and Regulations, but this does not relieve Contractor of its obligations under Paragraph 3.03. Notwithstanding anything to the contrary, Contractor shall not be responsible for non-compliance with Laws and Regulations to the extent such arises from Contractor's performance of the Work in accordance with any Owner-Furnished Items, including Drawing and Specifications, unless Contractor had actual knowledge of such errors, omissions, discrepancies, or defects in the Owner-Furnished Items and proceeded to perform the affected Work without reporting the same to Owner.

C. Owner or Contractor may give written notice to the other party of any changes after the submission of Contractor's Bid (or after the date when Contractor became bound under a negotiated contract) in Laws or Regulations having an effect on the cost or time of performance of the Work, including but not limited to changes in Laws or Regulations having an effect on procuring permits and on sales, use, value-added, consumption, and other similar taxes, as well as tariffs, taxes, and duties on materials, equipment, or other portions of the Work. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times resulting from such changes, then within 30 days of such written notice Contractor may submit a Change Proposal, and if disagreement continues thereafter either Party may initiate a Claim.

D. While not intended to be inclusive of all Laws or Regulations for which Contractor may be responsible under paragraph 7.11, the following Laws or Regulations are included as mandated by statute or for the convenience of the Contractor;

Idaho Code Section 63-1501. Definitions. As used in this act, the following terms shall have the following meanings:

"Contracting units" shall include the state or any officer or department thereof, the counties or other subdivisions of the state, and all municipal and quasi-municipal corporations therein.

"Contractor" shall mean any person, firm, co-partnership, association, or corporation, foreign or domestic, entering into a contract for the construction, erection, repair, or improvement of any kind or character of public works in this state.

"Taxes" shall mean all taxes, assessments, excises, and license fees authorized to be levied, assessed, and collected under the laws of this state, other than taxes on real property.

"Taxing unit" shall mean the state or any officer or department thereof, the counties or other subdivisions of the state, and all municipal and quasi-municipal corporations therein authorized by law to assess, levy and collect taxes.

Idaho Code Section 63-1502. Conditions precedent to contract for public works. Before entering into a contract for the construction of any public works in this state, the contracting unit shall require as conditions precedent that the contractor be authorized to do business in this state and that he furnish satisfactory evidence that he has paid or secured to the satisfaction of the respective taxing units all taxes for which he or his property is liable then due or delinquent.

Idaho Code Section 63-1503. Contractor for public works to pay or secure taxes—Agreement. Every contract for the construction of public works by a contracting unit of this state shall contain substantially the following provisions:

1. The contractor, in consideration of securing the business of erecting or constructing public works in this state, recognizing that the business in which he is engaged is of a transitory character, and that in the pursuit thereof, his property used therein may be

without the state when taxes, excises, or license fees to which he is liable become payable, agrees:

2. To pay promptly when due all taxes (other than on real property), excises and license fees due to the state, its subdivisions, and municipal and quasi-municipal corporations therein accrued or accruing during the term of this contract, whether or not the same shall be payable at the end of such term;

3. That if the said taxes, excises, and license fees are not payable at the end of said term, but liability for the payment thereof exists, even though the same constitute liens upon his property, to secure the same to the satisfaction of the respective officers charged with the collection thereof; and

4. That in the event of his default in the payment or securing of such taxes, excises, and license fees, to consent that the department, officer, board, or taxing unit entering into this contract may withhold from any payment due him hereunder the estimated amount of such accrued and accruing taxes, excises, and license fees for the benefit of all taxing units to which said contractor is liable.

Idaho Code Section 44-1002 requires the following: The Contractor must employ ninety-five percent (95%) bona fide Idaho residents as employees on any job under any such contract except where under such contracts fifty (50) or less persons are employed, the Contractor may employ ten percent (10%) nonresidents, provided, however, in all cases employers must give preference to the employment of bona fide residents in the performance of said work, and no contract shall be let to any person, firm, association, or corporation refusing to execute an agreement with the above mentioned provisions in it; provided, that, in contracts involving the expenditure of federal aid funds this act shall not be enforced in such a manner as to conflict with or be contrary to the federal statutes prescribing a labor preference to honorably discharged soldiers, sailors, and marines, prohibiting as unlawful any other preference or discrimination among citizens of the United States.

Idaho Code Chapter 19 of Title 54 requires proper licensing of Public Works Contractors.

7.12 *Record Documents*

A. Contractor shall maintain in a safe place at the Site one printed record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, written interpretations and clarifications, and approved Shop Drawings. Contractor shall keep such record documents in good order and annotate or redline them to show changes made during construction. These record documents, together with all approved Samples, will be available to Engineer for reference. Upon completion of the Work, Contractor shall deliver these record documents to Engineer.

7.13 *Safety and Protection*

A. Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve

Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations.

B. Contractor shall designate a qualified and experienced safety representative whose duties and responsibilities are the prevention of Work-related accidents and the maintenance and supervision of safety precautions and programs.

C. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:

1. all persons on the Site or who may be affected by the Work;

2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and

3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, other work in progress, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.

D. All damage, injury, or loss to any property referred to in Paragraph 7.13.C.2 or 7.13.C.3 caused, directly or indirectly, in whole or in part, by the negligence of Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor at its expense (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them), provided, however, such loss may be insured and covered under policies required under Article 6, including, without limitation property insurance and this Paragraph is not intended to waive or impair such coverage.

E. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection.

F. Contractor shall notify Owner; the owners of adjacent property; the owners of Underground Facilities and other utilities (if the identity of such owners is known to Contractor); and other contractors and utility owners performing work at or adjacent to the Site, in writing, when Contractor knows that prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property or work in progress.

G. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. Any Owner's safety programs that are applicable to the Work are identified or included in the Supplementary Conditions or Specifications.

H. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.

I. Contractor's duties and responsibilities for safety and protection will continue until all the Work is completed, Engineer has issued a written notice to Owner and Contractor in

accordance with Paragraph 15.06.C that the Work is acceptable, and Contractor has left the Site (except as otherwise expressly provided in connection with Substantial Completion).

J. Contractor's duties and responsibilities for safety and protection will resume whenever Contractor or any Subcontractor or Supplier returns to the Site to fulfill warranty or correction obligations, or to conduct other tasks arising from the Contract Documents.

7.14 *Hazard Communication Programs*

A. Contractor shall be responsible for coordinating any exchange of safety data sheets (formerly known as material safety data sheets) or other hazard communication information required to be made available to or exchanged between or among employers at the Site in accordance with Laws or Regulations.

7.15 *Emergencies*

A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Contractor is obligated to act to prevent damage, injury, or loss. Contractor shall give Engineer prompt written notice if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused by an emergency, or are required as a result of Contractor's response to an emergency. If Engineer determines that a change in the Contract Documents is required because of an emergency or Contractor's response, a Work Change Directive or Change Order will be issued.

7.16 *Submittals*

A. *Shop Drawing and Sample Requirements*

1. Before submitting a Shop Drawing or Sample, Contractor shall:

a. review and coordinate the Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents;

b. determine and verify:

1) all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect to the Submittal;

2) that the materials and equipment offered conform to the Contract Documents and the proper shipping, handling, storage, assembly, and installation of such materials and equipment pertaining to the performance of the Work; and

3) all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto;

c. confirm that the Submittal is complete with respect to all related data included in the Submittal.

2. Each Shop Drawing or Sample must bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review of that Submittal, and that Contractor approves the Submittal.

3. With each Shop Drawing or Sample, Contractor shall give Engineer specific written notice of any variations that the Submittal may have from the requirements of the Contract

Documents. This notice must be set forth in a written communication separate from the Submittal; and, in addition, in the case of a Shop Drawing by a specific notation made on the Shop Drawing itself.

B. *Submittal Procedures for Shop Drawings and Samples*: Contractor shall label and submit Shop Drawings and Samples to Engineer for review and approval in accordance with the accepted Schedule of Submittals.

1. *Shop Drawings*

a. Contractor shall submit the number of copies required in the Specifications.

b. Data shown on the Shop Drawings must be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to provide, and to enable Engineer to review the information for the limited purposes required by Paragraph 7.16.C.

2. *Samples*

a. Contractor shall submit the number of Samples required in the Specifications.

b. Contractor shall clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the Submittal for the limited purposes required by Paragraph 7.16.C.

3. Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to Engineer's review and approval of the pertinent submittal will be at the sole expense and responsibility of Contractor.

C. *Engineer's Review of Shop Drawings and Samples*

1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the accepted Schedule of Submittals, but unless otherwise mutually agreed in writing in no case will Engineer's review and response to Contractor exceed seven (7) days. Engineer's review and approval will be only to determine if the items covered by the Submittals will, after installation or incorporation in the Work, comply with the requirements of the Contract Documents, and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.

2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction, or to safety precautions or programs incident thereto.

3. Engineer's review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.

4. Engineer's review and approval of a Shop Drawing or Sample will not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 7.16.A.3 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer will document any such approved variation from the requirements of the Contract Documents in a Field Order or other appropriate Contract modification.

5. Engineer's review and approval of a Shop Drawing or Sample will not relieve Contractor from responsibility for complying with the requirements of Paragraphs 7.16.A and B.

6. Engineer's review and approval of a Shop Drawing or Sample, or of a variation from the requirements of the Contract Documents, will not, under any circumstances, change the Contract Times or Contract Price, unless such changes are included in a Change Order.

7. Neither Engineer's receipt, review, acceptance, or approval of a Shop Drawing or Sample will result in such item becoming a Contract Document.

8. Contractor shall perform the Work in compliance with the requirements and commitments set forth in approved Shop Drawings and Samples, subject to the provisions of Paragraph 7.16.C.4.

D. *Resubmittal Procedures for Shop Drawings and Samples*

1. Contractor shall make corrections required by Engineer and shall return the required number of corrected copies of Shop Drawings and submit, as required, new Samples for review and approval. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Engineer on previous Submittals.

2. Contractor shall furnish required Shop Drawing and Sample submittals with sufficient information and accuracy to obtain required approval of an item with no more than two resubmittals. Engineer will record Engineer's time for reviewing a third or subsequent resubmittal of a Shop Drawing or Sample, and Contractor shall be responsible for Engineer's charges to Owner for such time. Owner may impose a set-off against payments due Contractor to secure reimbursement for such charges.

3. If Contractor requests a change of a previously approved Shop Drawing or Sample, Contractor shall be responsible for Engineer's charges to Owner for its review time, and Owner may impose a set-off against payments due Contractor to secure reimbursement for such charges, unless the need for such change is beyond the control of Contractor and subject to Contractor's right to contest the charges or set-off.

E. *Submittals Other than Shop Drawings, Samples, and Owner-Delegated Designs*

1. The following provisions apply to all Submittals other than Shop Drawings, Samples, and Owner-delegated designs:

   a. Contractor shall submit all such Submittals to the Engineer in accordance with the Schedule of Submittals and pursuant to the applicable terms of the Contract Documents.

   b. Engineer will provide timely review of all such Submittals in accordance with the Schedule of Submittals and return such Submittals with a notation of either Accepted or Not Accepted. Any such Submittal that is not returned within the time established in the Schedule of Submittals will be deemed accepted.

   c. Engineer's review will be only to determine if the Submittal is acceptable under the requirements of the Contract Documents as to general form and content of the Submittal.

   d. If any such Submittal is not accepted, Contractor shall confer with Engineer regarding the reason for the non-acceptance, and resubmit an acceptable document.

2. Procedures for the submittal and acceptance of the Progress Schedule, the Schedule of Submittals, and the Schedule of Values are set forth in Paragraphs 2.03. 2.04, and 2.05.

F. Owner-delegated Designs: Submittals pursuant to Owner-delegated designs are governed by the provisions of Paragraph 7.19.

7.17 *Contractor's General Warranty and Guarantee*

A. Contractor warrants and guarantees to Owner that all Work will be provided in accordance with the Contract Documents and will be free from defects in materials and workmanship. Owner is entitled to rely on Contractor's warranty and guarantee.

B. The Warranty Period for any Work that is found not to conform to Contractor's warranties and guarantees in Article 7.17.A herein is set forth in Paragraph 15.08.

C. Contractor's warranty and guarantee hereunder excludes defects or damage caused by or arising from:

1. abuse, or improper modification, maintenance, or operation, by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible;

2. normal wear and tear under normal usage;

3. Owner-Furnished Items.

D. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents is absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents, a release of Contractor's obligation to perform the Work in accordance with the Contract Documents, or a release of Owner's warranty and guarantee rights under this Paragraph 7.17:

1. Observations by Engineer;

2. Recommendation by Engineer or payment by Owner of any progress or final payment;

3. The issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;

4. Use or occupancy of the Work or any part thereof by Owner;

5. Any review and approval of a Shop Drawing or Sample submittal;

6. The issuance of a notice of acceptability by Engineer;

7. Any inspection, test, or approval by others; or

8. Any correction of defective Work by Owner.

E. CONTRACTOR MAKES NO WARRANTY CONCERNING ANY OWNER-FURNISHED ITEMS. THE WARRANTIES PROVIDED IN THIS AGREEMENT ARE EXCLUSIVE AND NO OTHER WARRANTIES OF ANY KIND, WHETHER STATUTORY, EXPRESS, OR IMPLIED (INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE) SHALL APPLY.

7.18 *Indemnification*

A. To the fullest extent permitted by Laws and Regulations, and in addition to any other obligations of Contractor under the Contract or otherwise, Contractor shall indemnify and

hold harmless Owner, and its officers, directors, members, partners, employees, and agents of each and any of them, from losses, damages, costs, and judgments (including but not limited to all fees and charges of attorneys and all court or arbitration or other dispute resolution costs) arising from third-party claims or actions arising or resulting from the performance or furnishing of the Work, provided that any such claim, action, loss, cost, judgment or damage is attributable to bodily injury, sickness, disease, or death, or to damage to or destruction of tangible property (other than the Work itself), but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable.

B. In any and all claims against Owner, or its officers, directors, members, partners, employees, or agents, by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 7.18.A will not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

C. The indemnification obligations of Contractor under Paragraph 7.18.A shall not extend to the liability of Engineer and Engineer's officers, directors, members, partners, employees, agents, consultants and subcontractors arising out of:

1. the preparation or approval of, or the failure to prepare or approve maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications;

2. giving directions or instructions, or failing to give them, if and to the extent that is cause of the injury or damage; or

3. any other wrongful act, error, omission, or negligence by any of them that is a cause of the injury or damage.

D. In the event of the concurrent, joint, or other shared negligence of a party indemnified hereunder, Contractor's obligations under this Paragraph 7.18 shall apply based on its allocable share of fault in causing the claim, damage, or loss.

7.19 *Delegation of Professional Design Services*

A. Owner may require Contractor to provide professional design services for a portion of the Work by express delegation in the Contract Documents. Such delegation will specify the design criteria that such services must satisfy, and the Submittals that Contractor must furnish to Engineer with respect to the Owner-delegated design.

B. Contractor shall cause such Owner-delegated professional design services to be provided pursuant to the professional standard of care by a third-party properly licensed design professional, whose signature and seal must appear on all drawings, calculations, specifications, certifications, and Submittals prepared by such design professional. Such design professional must issue all certifications of design required by Laws and Regulations.

C. If a Shop Drawing or other Submittal related to the Owner-delegated design is prepared by Contractor, a Subcontractor, or others for submittal to Engineer, then such Shop Drawing or

other Submittal must bear the written approval of Contractor's design professional when submitted by Contractor to Engineer.

D. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy, and completeness of the services, certifications, and approvals performed or provided by the design professionals retained or employed by Contractor under an Owner-delegated design, subject to the professional standard of care and the performance and design criteria stated in the Contract Documents.

E. Pursuant to this Paragraph 7.19, Engineer's review, approval, and other determinations regarding design drawings, calculations, specifications, certifications, and other Submittals furnished by Contractor pursuant to an Owner-delegated design will be only for the following limited purposes:

1. Checking for conformance with the requirements of this Paragraph 7.19;

2. Confirming that Contractor (through its design professionals) has used the performance and design criteria specified in the Contract Documents; and

3. Establishing that the design furnished by Contractor is consistent with the design concept expressed in the Contract Documents.

F. Contractor shall not be responsible for the adequacy of performance or design criteria specified by Owner or Engineer.

G. Contractor is not required to provide professional services in violation of applicable Laws and Regulations.

7.20 *Quality Control*

A. Contractor shall provide quality control, which shall include the initial and subsequent inspections of Contractor's Work to ensure that the Work conforms to the Contract Documents.

B. Contractor shall designate the person responsible for Contractor's quality control while Work is in progress, and shall notify Engineer, in writing, prior to any change in quality control representative assignment.

ARTICLE 8—OTHER WORK AT THE SITE

8.01 *Other Work*

A. In addition to and apart from the Work under the Contract Documents, the Owner may perform other work at or adjacent to the Site. Such other work may be performed by Owner's employees, or through contracts between the Owner and third parties. Owner may also arrange to have third-party utility owners perform work on their utilities and facilities at or adjacent to the Site. Owner may supply Owner-Furnished Items to Contractor at the Site for use or incorporation in the Work.

B. If Owner performs other work at or adjacent to the Site with Owner's employees, or through contracts for such other work, then Owner shall give Contractor written notice thereof prior to starting any such other work. If Owner has advance information regarding the start of any third-party utility work that Owner has arranged to take place at or adjacent to the Site, Owner shall provide such information to Contractor.

C. Contractor shall afford proper and safe access to the Site to each contractor that performs such other work, each utility owner performing other work, and Owner, if Owner is performing other work with Owner's employees, and provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work. Owner and Owner's other contractors shall afford Contractor reasonable time free from interference and disruption in order to allow Contractor to safely perform its Work in accordance with the Progress Schedule.

D. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Contractor may cut or alter others' work with the written consent of Engineer and the others whose work will be affected.

E. If the proper execution or results of any part of Contractor's Work depends upon work performed by others, Contractor shall visually inspect such other work at the point of connection or integration and promptly report to Engineer in writing any delays, defects, or deficiencies discovered in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such portion of the other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.

F. The provisions of this article are not applicable to work that is performed by third-party utilities or other third-party entities without a contract with Owner, or that is performed without having been arranged by Owner. If such work occurs, then any related delay, disruption, or interference incurred by Contractor is governed by the provisions of Paragraph 4.05.C.3.

8.02 *Coordination*

A. If Owner intends to contract with others for the performance of other work at or adjacent to the Site, to perform other work at or adjacent to the Site with Owner's employees, or to arrange to have utility owners perform work at or adjacent to the Site, the following will be set forth in the Supplementary Conditions or provided to Contractor prior to the start of any such other work:

1. The identity of the individual or entity that will have authority and responsibility for coordination of the activities among the various contractors;

2. An itemization of the specific matters to be covered by such authority and responsibility; and

3. The extent of such authority and responsibilities.

B. Unless otherwise provided in the Supplementary Conditions, Owner shall have sole authority and responsibility for such coordination.

8.03 *Legal Relationships*

A. If, in the course of performing other work for Owner at or adjacent to the Site, the Owner's employees, any other contractor working for Owner, or any utility owner that Owner has arranged to perform work, causes damage to the Work or to the property of Contractor or its Subcontractors, or delays, disrupts, interferes with, or increases the scope or cost of the

performance of the Work, through actions or inaction, deficiencies, errors, conflicts, or omissions in any Owner-Furnished Items, then Contractor shall be entitled to an equitable adjustment in the Contract Price or the Contract Times. Contractor must submit any Change Proposal seeking an equitable adjustment in the Contract Price or the Contract Times under this paragraph within 30 days of the damaging, delaying, disrupting, or interfering event. The entitlement to, and extent of, any such equitable adjustment will take into account information (if any) regarding such other work that was provided to Contractor in the Contract Documents prior to the submittal of the Bid or the final negotiation of the terms of the Contract, and any remedies available to Contractor under Laws or Regulations concerning utility action or inaction. When applicable, any such equitable adjustment in Contract Price will be conditioned on Contractor assigning to Owner all Contractor's rights against such other contractor or utility owner with respect to the damage, delay, disruption, or interference that is the subject of the adjustment. Contractor's entitlement to an adjustment of the Contract Times or Contract Price is subject to the provisions of Paragraphs 4.05.D and 4.05.E.

B. Contractor shall take reasonable and customary measures to avoid damaging, delaying, disrupting, or interfering with the work of Owner, any other contractor, or any utility owner performing other work at or adjacent to the Site.

   1. If Contractor fails to take such measures and as a result damages, delays, disrupts, or interferes with the work of any such other contractor or utility owner, then Owner may impose a set-off against payments due Contractor as reasonably necessary under the circumstances to adjust for the loss subject to Contractor's right to contest the same, and assign to such other contractor or utility owner the Owner's contractual rights against Contractor with respect to the breach of the obligations set forth in this Paragraph 8.03.B.

   2. When Owner is performing other work at or adjacent to the Site with Owner's employees, Owner shall notify Contractor of such anticipated activities in writing no less than 5 days in advance of commencement of the nature and location of such work. Contractor shall be liable to Owner for damage to such other work, and for the reasonable direct delay, disruption, and interference costs incurred by Owner as a result of Contractor's failure to take reasonable and customary measures with respect to Owner's other work. In response to such damage, delay, disruption, or interference, Owner may impose a set-off against payments due Contractor as reasonably necessary under the circumstances to adjust for the loss, subject to Contractor's right to contest the same.

C. If Contractor damages, delays, disrupts, or interferes with the work of any other contractor, or any utility owner performing other work at or adjacent to the Site, through Contractor's failure to take reasonable and customary measures to avoid such impacts, or if any claim arising out of Contractor's negligent actions, inactions, or negligence in performance of the Work at or adjacent to the Site is made by any such other contractor or utility owner against Contractor, Owner, or Engineer, then Contractor shall (1) promptly attempt to settle the claim as to all parties through negotiations with such other contractor or utility owner, or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law, and (2) indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claims, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such damage, delay, disruption, or interference to the extent attributable to the fault of Contractor

or others for whom it is responsible.

ARTICLE 9—OWNER'S RESPONSIBILITIES

9.01 *Communications to Contractor*

A. Except as otherwise provided in these General Conditions, Owner shall issue all communications to Contractor through Engineer.

9.02 *Replacement of Engineer*

A. Owner may at its discretion appoint an engineer to replace Engineer, provided Contractor makes no reasonable objection to the replacement engineer. The replacement engineer's status under the Contract Documents will be that of the former Engineer.

9.03 *Furnish Data, Drawings, & Equipment*

A. Owner shall promptly furnish the data, Drawings, Specifications, and other Owner-Furnished Items required of Owner under the Contract Documents.

9.04 *Pay When Due*

A. Owner shall make payments to Contractor when they are due as provided in the Agreement.

9.05 *Lands and Easements; Reports, Tests, and Drawings*

A. Owner's duties with respect to providing lands and easements are set forth in Paragraph 5.01.

B. Owner's duties with respect to providing engineering surveys to establish reference points are set forth in Paragraph 4.03.

C. Article 5 refers to Owner's identifying and making available to Contractor copies of reports of explorations and tests of conditions at the Site, and drawings of physical conditions relating to existing surface or subsurface structures at the Site.

9.06 *Insurance*

A. Owner's responsibilities, if any, with respect to purchasing and maintaining liability and property insurance are set forth in Article 6.

9.07 *Change Orders*

A. Owner's responsibilities with respect to Change Orders are set forth in Article 11.

9.08 *Inspections, Tests, and Approvals*

A. Owner's responsibility with respect to certain inspections, tests, and approvals is set forth in Paragraph 14.02.B.

9.09 *Limitations on Owner's Responsibilities*

A. The Owner shall not supervise, direct, or have control or authority over, nor be responsible for, Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Owner will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

9.10 *Undisclosed Hazardous Environmental Condition*

A. Owner's responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in Paragraph 5.06.

9.11 *Evidence of Financial Arrangements*

A. Upon request of Contractor, Owner shall furnish Contractor reasonable evidence that financial arrangements have been made to satisfy Owner's obligations under the Contract (including obligations under proposed changes in the Work).

9.12 *Safety Programs*

A. While at the Site, Owner's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Owner has been informed.

B. Owner shall furnish copies of any applicable Owner safety programs to Contractor.

ARTICLE 10—ENGINEER'S STATUS DURING CONSTRUCTION

10.01 *Owner's Representative*

A. Engineer will be Owner's representative during the construction period. The duties and responsibilities and the limitations of authority of Engineer as Owner's representative during construction are set forth in the Contract.

10.02 *Visits to Site*

A. Engineer will make visits to the Site at intervals appropriate to the various stages of construction as Engineer deems necessary in order to observe, as an experienced and qualified design professional, the progress that has been made and the quality of the various aspects of Contractor's executed Work. Based on information obtained during such visits and observations, Engineer, for the benefit of Owner, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. Engineer will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work. Engineer's efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, Engineer will keep Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.

B. Engineer's visits and observations are subject to all the limitations on Engineer's authority and responsibility set forth in Paragraph 10.07. Particularly, but without limitation, during or as a result of Engineer's visits or observations of Contractor's Work, Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

10.03 *Resident Project Representative*

A. If Owner and Engineer have agreed that Engineer will furnish a Resident Project Representative to represent Engineer at the Site and assist Engineer in observing the progress and quality of the Work, then the authority and responsibilities of any such Resident Project Representative will be as provided in the Supplementary Conditions, and limitations on the responsibilities thereof will be as provided in the Supplementary Conditions and in Paragraph 10.07.

B. If Owner designates an individual or entity who is not Engineer's consultant, agent, or employee to represent Owner at the Site, then the responsibilities and authority of such individual or entity will be as provided in the Supplementary Conditions.

10.04 *Engineer's Authority*

A. Engineer has the authority to reject Work in accordance with Article 14.

B. Engineer's authority as to Submittals is set forth in Paragraph 7.16.

C. Engineer's authority as to design drawings, calculations, specifications, certifications and other Submittals from Contractor in response to Owner's delegation (if any) to Contractor of professional design services, is set forth in Paragraph 7.19.

D. Engineer's authority as to changes in the Work is set forth in Article 11.

E. Engineer's authority as to Applications for Payment is set forth in Article 15.

10.05 *Determinations for Unit Price Work*

A. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor as set forth in Paragraph 13.03.

10.06 *Decisions on Requirements of Contract Documents and Acceptability of Work*

A. Engineer will render decisions regarding the requirements of the Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth herein for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, Engineer will act reasonably and not show partiality to Owner or Contractor, and will not be liable to Owner, Contractor, or others in connection with any proceedings, interpretations, decisions, or judgments conducted or rendered reasonably and in good faith.

10.07 *Limitations on Engineer's Authority and Responsibilities*

A. Neither Engineer's authority or responsibility under this Article 10 or under any other provision of the Contract, nor any decision made by Engineer reasonably and in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer, will create, impose, or give rise to any duty in contract, tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.

B. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

C. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.

D. Engineer's review of the final Application for Payment and accompanying documentation, and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by

Contractor under Paragraph 15.06.A, will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals, that the results certified indicate compliance with the Contract Documents.

E. The limitations upon authority and responsibility set forth in this Paragraph 10.07 also apply to the Resident Project Representative, if any.

10.08 *Compliance with Safety Program*

A. While at the Site, Engineer's employees and representatives will comply with the specific applicable requirements of Owner's and Contractor's safety programs of which Engineer has been informed.

ARTICLE 11—CHANGES TO THE CONTRACT

11.01 *Amending and Supplementing the Contract*

A. The Contract may be amended or supplemented by a Change Order, a Work Change Directive, or a Field Order.

B. If an amendment or supplement to the Contract includes a change in the Contract Price or the Contract Times, such amendment or supplement must be set forth in a Change Order.

C. All changes to the Contract that involve (1) the performance or acceptability of the Work, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, must be supported by Engineer's recommendation. Owner and Contractor may amend other terms and conditions of the Contract without the recommendation of the Engineer.

11.02 *Change Orders*

A. Owner and Contractor shall execute appropriate Change Orders covering:

1. Changes in Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive;

2. Changes in Contract Price resulting from an Owner set-off, unless Contractor has duly contested such set-off;

3. Changes in the Work which are: (a) ordered by Owner pursuant to Paragraph 11.05, (b) required because of Owner's acceptance of defective Work under Paragraph 14.04 or Owner's correction of defective Work under Paragraph 14.07, or (c) agreed to by the parties, subject to the need for Engineer's recommendation if the change in the Work involves the design (as set forth in the Drawings, Specifications, or otherwise) or other engineering or technical matters; and

4. Changes that embody the substance of any final and binding results under: Paragraph 11.03.B, resolving the impact of a Work Change Directive; Paragraph 11.09, concerning Change Proposals; Article 12, Claims; Paragraph 13.02.D, final adjustments resulting from allowances; Paragraph 13.03.D, final adjustments relating to determination of quantities for Unit Price Work; and similar provisions.

B. If Owner or Contractor do not reach mutual agreement upon the terms of a Change Order, the Parties shall adhere to the terms of the Contract Documents governing adjustments, expressly including Paragraph 11.07 regarding change of Contract Price, provided, however,

either Party may present a Claim in accordance with the terms hereof. .

11.03 *Work Change Directives*

A. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the modification ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order, following negotiations by the parties as to the Work Change Directive's effect, if any, on the Contract Price and Contract Times; or, if negotiations are unsuccessful, by a determination under the terms of the Contract Documents governing adjustments, expressly including Paragraph 11.07 regarding change of Contract Price.

B. If Owner has issued a Work Change Directive and:

1. Contractor believes that an adjustment in Contract Times or Contract Price is necessary, then Contractor shall submit any Change Proposal seeking such an adjustment no later than 30 days after the completion of the Work set out in the Work Change Directive. During Contractor's performance of any Work under a Work Change Directive, Contractor shall track its time and Cost of Work incurred with respect to such tasks until Contractor and Owner have reached agreement on the terms of a Change Order or have otherwise resolved the Claim.

2. Owner believes that an adjustment in Contract Times or Contract Price is necessary, then Owner shall submit any Claim seeking such an adjustment no later than 60 days after issuance of the Work Change Directive.

11.04 *Field Orders*

A. Engineer may authorize minor changes in the Work if the changes do not involve a change in scope or an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Such changes will be accomplished by a Field Order and will be binding on Owner and also on Contractor, which shall perform the Work involved promptly.

B. If Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, then before proceeding with the Work at issue, Contractor shall submit a Change Proposal as provided herein.

11.05 *Owner-Authorized Changes in the Work*

A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work. Changes involving the design (as set forth in the Drawings, Specifications, or otherwise) or other engineering or technical matters will be supported by Engineer's recommendation.

B. Such changes in the Work may be accomplished by a Change Order, if Owner and Contractor have agreed as to the effect, if any, of the changes on Contract Times or Contract Price; or by a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved; or, in the case of a deletion in the Work, promptly cease construction activities with respect to such deleted Work. Added or revised Work must be performed under the applicable conditions of the Contract Documents.

C. Nothing in this Paragraph 11.05 obligates Contractor to undertake work that Contractor reasonably concludes cannot be performed in a manner consistent with Contractor's safety obligations under the Contract Documents or Laws and Regulations.

11.06 *Unauthorized Changes in the Work*

A. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents, as amended, modified, or supplemented, except in the case of an emergency as provided in Paragraph 7.15 or in the case of uncovering Work as provided in Paragraph 14.05.C.2.

11.07 *Change of Contract Price*

A. The Contract Price may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Price must comply with the provisions of Paragraph 11.09. Any Claim for an adjustment of Contract Price must comply with the provisions of Article 12.

B. An adjustment in the Contract Price will be determined as follows:

1. Where the Work involved is covered by unit prices contained in the Contract Documents, then by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 13.03);

2. Where the Work involved is not covered by unit prices contained in the Contract Documents, then by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 11.07.C.2); or

3. Where the Work involved is not covered by unit prices contained in the Contract Documents and the parties do not reach mutual agreement to a lump sum, then on the basis of the Cost of the Work (determined as provided in Paragraph 13.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 11.07.C).

C. *Contractor's Fee*: When applicable, the Contractor's fee for overhead and profit will be determined as follows:

1. A mutually acceptable fixed fee; or

2. If a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:

a. For costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2, the Contractor's fee will be 15 percent;

b. For costs incurred under Paragraph 13.01.B.3, the Contractor's fee will be 10 percent;

c. Where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 11.07.C.2.a and 11.07.C.2.b is that the Contractor's fee will be based on: (1) a fee of 15 percent of the costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2 by the Subcontractor that actually performs the Work, at whatever tier, and (2) with respect to Contractor itself and to any Subcontractors of a tier higher than that of the Subcontractor that actually performs the Work, a fee of 10 percent of the amount (fee plus underlying costs incurred) attributable to the next lower tier Subcontractor; provided, however, that for any such subcontracted Work the maximum total fee to be paid by Owner will be no greater than 27 percent of the costs incurred by the Subcontractor that actually performs the Work;

d. No fee will be payable on the basis of costs itemized under Paragraph 13.01.C;

e. The amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in Cost of the Work will be the amount of the actual net decrease in Cost of the Work and a deduction of an additional amount equal to 5 percent of such actual net decrease in Cost of the Work; and

f. When both additions and credits are involved in any one change or Change Proposal, the adjustment in Contractor's fee will be computed by determining the sum of the costs in each of the cost categories in Paragraph 13.01.B (specifically, payroll costs, Paragraph 13.01.B.1; incorporated materials and equipment costs, Paragraph 13.01.B.2; Subcontract costs, Paragraph 13.01.B.3; special consultants costs, Paragraph 13.01.B.4; and other costs, Paragraph 13.01.B.5) and applying to each such cost category sum the appropriate fee from Paragraphs 11.07.C.2.a through 11.07.C.2.e, inclusive.

D. Notwithstanding anything to the contrary, under no circumstances shall the cumulative impact of all deductive Change Order serve to reduce the Contract Price by more than fifteen (15%) without the express written consent of Contractor, which may be withheld in its sole discretion.

11.08 *Change of Contract Times*

A. The Contract Times may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Times must comply with the provisions of Paragraph 11.09. Any Claim for an adjustment in the Contract Times must comply with the provisions of Article 12.

B. Delay, disruption, and interference in the Work, and any related changes in Contract Times, are addressed in and governed by Paragraph 4.05.

11.09 *Change Proposals*

A. *Purpose and Content*: Contractor shall submit a Change Proposal to Engineer to request an adjustment in the Contract Times or Contract Price; contest an initial decision by Engineer concerning the requirements of the Contract Documents or relating to the acceptability of the Work under the Contract Documents; challenge a set-off against payment due; or seek other relief under the Contract. The Change Proposal will specify any proposed change in Contract Times or Contract Price, or other proposed relief, and explain the reason for the proposed change, with citations to any governing or applicable provisions of the Contract Documents. Each Change Proposal will address only one issue, or a set of closely related issues.

B. *Change Proposal Procedures*

1. *Submittal*: Contractor shall submit each Change Proposal to Engineer within 30 days after Contractor's discovery of the event giving rise thereto, or after such initial decision.

2. *Supporting Data*: The Contractor shall submit supporting data, including the proposed change in Contract Price or Contract Time (if any), to the Engineer and Owner within 15 days after the submittal of the Change Proposal.

a. Change Proposals based on or related to delay, interruption, or interference must comply with the provisions of Paragraphs 4.05.D and 4.05.E.

b. Change proposals related to a change of Contract Price must include full and detailed accounts of materials incorporated into the Work and labor and equipment used for the subject Work.

The supporting data must be accompanied by a written statement that the supporting

data are accurate and complete, and that any requested time or price adjustment is the entire adjustment to which Contractor believes it is entitled as a result of said event.

3. *Engineer's Initial Review*: Engineer will advise Owner regarding the Change Proposal, and consider any comments or response from Owner regarding the Change Proposal. If in its discretion Engineer concludes that additional supporting data is needed before conducting a full review and making a decision regarding the Change Proposal, then Engineer may request that Contractor submit such additional supporting data by a date specified by Engineer, prior to Engineer beginning its full review of the Change Proposal.

4. *Engineer's Full Review and Action on the Change Proposal*: Upon receipt of Contractor's supporting data (including any additional data requested by Engineer), Engineer will conduct a full review of each Change Proposal and, within 30 days after such receipt of the Contractor's supporting data, acting reasonably and in good faith, either approve the Change Proposal in whole, deny it in whole, or approve it in part and deny it in part. Such actions must be in writing, with a copy provided to Owner and Contractor. If Engineer does not take action on the Change

   Proposal within 30 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of Engineer's inaction the Change Proposal is deemed denied, thereby commencing the time for appeal of the denial under Article 12.

5. *Binding Decision*: Engineer's decision is final and binding upon Owner and Contractor, unless Owner or Contractor appeals the decision by filing a Claim under Article 12.

C. *Resolution of Certain Change Proposals*: If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties in writing that the Engineer is unable to resolve the Change Proposal. For purposes of further resolution of such a Change Proposal, such notice will be deemed a denial unless the Owner affirmatively accepts the Change Proposal, and Contractor may choose to seek resolution under the terms of Article 12.

D. *Post-Completion*: Contractor shall not submit any Change Proposals after Engineer issues a written recommendation of final payment pursuant to Paragraph 15.06.B.

11.10 *Notification to Surety*

A. If the provisions of any bond require notice to be given to a surety of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Times), the giving of any such notice will be Contractor's responsibility. The amount of each applicable bond will be adjusted to reflect the effect of any such change.

ARTICLE 12—CLAIMS

12.01 *Claims*

A. *Claims Process*: The following disputes between Owner and Contractor are subject to the Claims process set forth in this article:

1. Appeals by Owner or Contractor of Engineer's decisions regarding Change Proposals;

2. Owner demands for adjustments in the Contract Price or Contract Times, or other relief under the Contract Documents and other disputes if Owner or Contractor do not reach mutual agreement upon the terms of a Change Order;

3. Disputes that Engineer has been unable to address because they do not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, including, without limitation, any disagreement between Owner and Contractor concerning a Change Proposal that does not involve the Engineer, any Work performed under a Work Change Directive, any Owner-Furnished Equipment, and/or any discovery of a Hazardous Environmental Condition; and

4. Subject to the waiver provisions of Paragraph 15.07, any dispute arising after Engineer has issued a written recommendation of final payment pursuant to Paragraph 15.06.B.

B. *Submittal of Claim*: The party submitting a Claim shall deliver it directly to the other party to the Contract promptly (but in no event later than 30 days) after the party's discovery of the event giving rise thereto; in the case of appeals regarding Change Proposals within 30 days of the decision under appeal. When a Claim involves the rejection or disagreement of one or more of the parties concerning the terms of a Change Order or other matter requiring mutual assent, the date that written rejection is communicated by one party to the other starts the 30-day time period for assertion of a Claim. The party submitting the Claim shall also furnish a copy to the Engineer, for its information only. The responsibility to substantiate a Claim rests with the party making the Claim. In the case of a Claim by Contractor seeking an increase in the Contract Times or Contract Price, Contractor shall certify that the Claim is made in good faith, that the supporting data are accurate and complete, and that to the best of Contractor's knowledge

and belief the amount of time or money requested accurately reflects the full amount to which Contractor is entitled.

C. *Review and Resolution*: The party receiving a Claim shall review it thoroughly, giving full consideration to its merits. The two parties shall seek to resolve the Claim through the exchange of information and direct negotiations. The parties may extend the time for resolving the Claim by mutual agreement. All actions taken on a Claim will be stated in writing and submitted to the other party, with a copy to Engineer.

D. *Mediation*

1. At any time after initiation of a Claim, Owner and Contractor may mutually agree to mediation of the underlying dispute. The agreement to mediate will stay the Claim submittal and response process.

2. If Owner and Contractor agree to mediation, then after 45 days from such agreement, either Owner or Contractor may unilaterally terminate the mediation process, and the Claim submittal and decision process will resume as of the date of the termination. If the mediation proceeds but is unsuccessful in resolving the dispute, the Claim submittal and decision process will resume as of the date of the conclusion of the mediation, as determined by the mediator.

3. Owner and Contractor shall each pay one-half of the mediator's fees and costs.

E. *Partial Approval*: If the party receiving a Claim approves the Claim in part and denies it in part, such action will be final and binding with respect to the approved and accepted portion of the Claim only. The remaining disputed portion of the Claim so denied shall be resolved in

accordance with the procedure set forth in Article 17 for final resolution of disputes.

F. *Denial of Claim*: If efforts to resolve a Claim are not successful, the party receiving the Claim may deny it by giving written notice of denial to the other party. If the receiving party does not take action on the Claim within 45 days after acknowledgement of receipt of denial, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of the inaction, the Claim is deemed denied, thereby commencing the time for appeal of the denial. the denied Claim will be resolved in accordance with the procedure set forth in Article 17 for the final resolution of disputes.

G. *Final and Binding Results*: If the parties reach a mutual agreement regarding a Claim, whether through approval of the Claim, direct negotiations, mediation, or otherwise; or if a Claim is approved in part and denied in part, or denied in full, and such actions become final and binding; then the results of the agreement or action on the Claim will be incorporated in a Change Order or other written document to the extent they affect the Contract, including the Work, the Contract Times, or the Contract Price.

ARTICLE 13—COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK

13.01 *Cost of the Work*

A. *Purposes for Determination of Cost of the Work*: The term Cost of the Work means the sum of all costs necessary for the proper performance of the Work at issue, as further defined below. The provisions of this Paragraph 13.01 are used for two distinct purposes:

1. To determine Cost of the Work when Cost of the Work is a component of the Contract Price, ~~under cost-plus-fee,~~ time-and-materials, or other cost-based terms; or
2. When needed to determine the value of a Change Order, Change Proposal, including, without limitation, Work under a Work Change Directive that is the subject of Change Proposal or Claim, Claim, set-off, or other adjustment in Contract Price. When the value of any such adjustment is determined on the basis of Cost of the Work, Contractor is entitled only to those additional or incremental costs required because of the change in the Work or because of the event giving rise to the adjustment.

B. *Costs Included*: Except as otherwise may be agreed to in writing by Owner, costs included in the Cost of the Work will be in amounts no higher than those commonly incurred in the locality of the Project, will not include any of the costs itemized in Paragraph 13.01.C, and will include only the following items:

1. Billing rates for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor in advance of the subject Work. Such employees include, without limitation, superintendents, foremen, safety managers, safety representatives, and other personnel employed full time on the Work, and project managers while performing Work for the Project, irrespective of whether they are at the Site. Billing rates for employees not employed full time on the Work will be apportioned on the basis of their time spent on the Work. Payroll costs include, but are not limited to, salaries and wages plus the cost of fringe benefits, which include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, sick leave, and vacation and holiday pay applicable thereto plus small tools/consumables, overhead and profit. The expenses of performing Work outside of regular working hours, on Saturday,

Sunday, or legal holidays, will be included in the quoted straight time and overtime billing rates.

2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts will accrue to Owner. All trade discounts, rebates, and refunds and returns from sale of surplus materials and equipment will accrue to Owner, and Contractor shall make provisions so that they may be obtained.

3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from subcontractors acceptable to Owner and Contractor and shall deliver such bids to Owner, which will then determine, with the advice of Engineer, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee will be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 13.01.

4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed or retained for services specifically related to the Work.

5. Other costs consisting of the following:

    a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.

    b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.

        1) In establishing included costs for materials such as scaffolding, plating, or sheeting, consideration will be given to the actual or the estimated life of the material for use on other projects; or rental rates may be established on the basis of purchase or salvage value of such items, whichever is less. Contractor will not be eligible for compensation for such items in an amount that exceeds the purchase cost of such item.

    c. *Construction Equipment Rental*

        1) Rentals of all construction equipment and machinery, and the parts thereof, in accordance with rental agreements approved by Owner as to price (including any surcharge or special rates applicable to overtime use of the construction equipment or machinery), and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs will be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts must cease when the use thereof is no longer necessary for the Work.

        2) Costs for equipment and machinery owned by Contractor or a Contractor-related entity will be paid at a rate shown for such equipment in the equipment rental

rate book specified in the Supplementary Conditions. An hourly rate will be computed by dividing the monthly rates by 176. These computed rates will include all operating costs.

3) With respect to Work that is the result of a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price ("changed Work"), included costs will be based on the time the equipment or machinery is in use on the changed Work and the costs of transportation, loading, unloading, assembly, dismantling, and removal when directly attributable to the changed Work. The cost of any such equipment or machinery, or parts thereof, must cease to accrue when the use thereof is no longer necessary for the changed Work.

d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, as imposed by Laws and Regulations.

e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.

f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work, provided such losses and damages have resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses will be included in the Cost of the Work for the purpose of determining Contractor's fee.

g. The cost of utilities, fuel, water, and sanitary facilities at the Site.

h. Minor expenses such as communication service at the Site, express and courier services, and similar petty cash items in connection with the Work.

i. The costs of premiums for all bonds and insurance that Contractor is required by the Contract Documents to purchase and maintain.

C. *Costs Excluded*: The term Cost of the Work does not include any of the following items:

1. Payroll costs and other compensation of Contractor's officers, executives, principals, general managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expediters, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 13.01.B.1 or specifically covered by Paragraph 13.01.B.4. The payroll costs and other compensation excluded here are to be considered administrative costs covered by the Contractor's fee.

2. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.

3. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.

4. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including

but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.

5. Expenses incurred in preparing and advancing Claims.

6. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraph 13.01.B.

D. ~~*Contractor's Fee*~~

1. ~~When the Work as a whole is performed on the basis of cost-plus-a-fee, then:~~

a. ~~Contractor's fee for the Work set forth in the Contract Documents as of the Effective Date of the Contract will be determined as set forth in the Agreement.~~

b. ~~for any Work covered by a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price on the basis of Cost of the Work, Contractor's fee will be determined as follows:~~

1) ~~When the fee for the Work as a whole is a percentage of the Cost of the Work, the fee will automatically adjust as the Cost of the Work changes.~~

2) ~~When the fee for the Work as a whole is a fixed fee, the fee for any additions or deletions will be determined in accordance with Paragraph 11.07.C.2.~~

2. ~~When the Work as a whole is performed on the basis of a stipulated sum, or any other basis other than cost-plus-a-fee, then Contractor's fee for any Work covered by a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price on the basis of Cost of the Work will be determined in accordance with Paragraph 11.07.C.2.~~

E. *Documentation and Audit*: Whenever the Cost of the Work for any purpose is to be determined pursuant to this Article 13, Contractor and pertinent Subcontractors will establish and maintain records of the costs in accordance with generally accepted accounting practices. Subject to prior written notice, Owner will be afforded reasonable access, during normal business hours, to all Contractor's accounts, records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda, and similar data relating to the Cost of the Work and Contractor's fee. Contractor shall preserve all such documents for a period of three years after the final payment by Owner. Pertinent Subcontractors will afford such access to Owner, and preserve such documents, to the same extent required of Contractor.

13.02 *Allowances*

A. It is understood that Contractor has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be performed for such sums and by such persons or entities as may be acceptable to Owner and Engineer.

B. *Cash Allowances*: Contractor agrees that:

1. the cash allowances include the cost to Contractor (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and

2. Contractor's costs for unloading and handling on the Site, labor, installation, overhead, profit, and other expenses contemplated for the cash allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment for any of the foregoing will be valid.

C. *Contingency Allowance*: Contractor's contingency allowance, if any, is for the sole use of Contractor to cover unanticipated costs.

D. Prior to final payment, an appropriate Change Order will be issued as recommended by Engineer to reflect actual amounts due Contractor for Work covered by allowances, and the Contract Price will be correspondingly adjusted.

13.03 *Unit Price Work*

A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.

B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Payments to Contractor for Unit Price Work will be based on actual quantities.

C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.

D. Engineer will reasonably determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor the Engineer's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). Engineer's written decision thereon will be final and binding (except as modified by Engineer to reflect changed factual conditions or more accurate data) upon Owner and Contractor, and the final adjustment of Contract Price will be set forth in a Change Order, subject to the provisions of the following paragraph E.

E. *Adjustments in Unit Price*

1. Contractor or Owner shall be entitled to an adjustment in the unit price with respect to an item of Unit Price Work if:

    a. the quantity of the item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement; and

    b. Contractor's unit costs to perform the item of Unit Price Work have changed materially and significantly as a result of the quantity change or Contractor has reasonably incurred additional expenses.

2. The adjustment in unit price will account for and be coordinated with any related changes in quantities of other items of Work, and in Contractor's costs to perform such other Work, such that the resulting overall change in Contract Price is equitable to Owner and Contractor.

3. Adjusted unit prices will apply to all units of that item.

ARTICLE 14—TESTS AND INSPECTIONS; CORRECTION, REMOVAL, OR ACCEPTANCE OF DEFECTIVE WORK PRIOR TO SUBSTANTIAL COMPLETION

14.01 *Access to Work*

A. Owner, Engineer, their consultants and other representatives and personnel of Owner, independent testing laboratories, and authorities having jurisdiction have access to the Site and the Work at reasonable times during normal business hours, subject to reasonable advance written notice, for their observation, inspection, and testing. Contractor shall provide them proper and safe conditions for such access and advise them of Contractor's safety procedures and programs so that they may comply with such procedures and programs as applicable.

14.02 *Tests, Inspections, and Approvals*

A. Contractor shall give Engineer timely notice of readiness of the Work (or specific parts thereof) for all required inspections and tests, and shall cooperate with inspection and testing personnel to facilitate required inspections and tests.

B. Owner shall retain and pay for the services of an independent inspector, testing laboratory, or other qualified individual or entity to perform all inspections and tests expressly required by the Contract Documents to be furnished and paid for by Owner, except that costs incurred in connection with tests or inspections of covered Work will be governed by the provisions of Paragraph 14.05.

C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish Engineer the required certificates of inspection or approval.

D. Contractor shall be responsible for arranging, obtaining, and paying for all inspections and tests required:

1. by the Contract Documents, unless the Contract Documents expressly allocate responsibility for a specific inspection or test to Owner;

2. to attain Owner's and Engineer's acceptance of materials or equipment to be incorporated in the Work;

3. by manufacturers of equipment furnished by Contractor under the Contract Documents;

4. for testing, adjusting, and balancing of mechanical, electrical, and other equipment to be incorporated into the Work; and

5. for acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work.

Such inspections and tests will be performed by independent inspectors, testing laboratories, or other qualified individuals or entities acceptable to Owner and Engineer.

E. If the Contract Documents require the Work (or part thereof) to be approved by Owner, Engineer, or another designated individual or entity, then Contractor shall assume full responsibility for arranging and obtaining such approvals, but shall not bear those parties' costs thereof.

F. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, Contractor shall, if requested by Engineer, uncover such Work for observation. Such uncovering will be at Contractor's expense unless Contractor had given Engineer timely notice of Contractor's intention to cover the

same and Engineer had not acted with reasonable promptness in response to such notice.

14.03 *Defective Work*

A. *Contractor's Obligation*: It is Contractor's obligation to assure that the Work furnished by Contractor is not defective.

B. *Engineer's Authority*: Engineer has the authority to reasonably determine whether Work is defective, and to reject defective Work.

C. *Notice of Defects*: Prompt written notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor.

D. *Correction, or Removal and Replacement*: Promptly after receipt of written notice of defective Work, Contractor shall correct all such defective Work, whether or not fabricated, installed, or completed, or, if Engineer has rejected the defective Work, remove it, replace it, or otherwise fix and cure it in place with Work that is not defective.

E. *Preservation of Warranties*: When correcting defective Work, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.

F. *Costs and Damages*: In addition to its correction, removal, and replacement obligations with respect to defective Work, Contractor shall pay all claims, costs, losses, and damages arising out of or relating to defective Work, including but not limited to the cost of the inspection, testing, correction, removal, replacement, or reconstruction of such defective Work, fines levied against Owner by governmental authorities because the Work is defective, and the costs of repair or replacement of work of others resulting from defective Work. Prior to final payment, if Owner and Contractor are unable to agree as to the measure of such claims, costs, losses, and damages resulting from defective Work, then Owner may impose a reasonable set-off against payments due under Article 15.

14.04 *Acceptance of Defective Work*

A. If, instead of requiring correction or removal and replacement of defective Work, Owner prefers to accept it, Owner may do so (subject, if such acceptance occurs prior to final payment, to Engineer's confirmation that such acceptance is in general accord with the design intent and applicable engineering principles, and will not endanger public safety). Contractor shall pay all claims, costs, losses, and damages attributable to Owner's evaluation of and determination to accept such defective Work (such costs to be approved by Engineer as to reasonableness), and for the diminished value of the Work to the extent not otherwise paid by Contractor. If any such acceptance occurs prior to final payment, the necessary revisions in the Contract Documents with respect to the Work will be incorporated in a Change Order. If the parties are unable to agree as to the decrease in the Contract Price, reflecting the diminished value of Work so accepted, then Owner may impose a reasonable set-off against payments due under Article 15. If the acceptance of defective Work occurs after final payment, Contractor shall pay an appropriate amount to Owner.

14.05 *Uncovering Work*

A. Engineer has the authority to require additional inspection or testing of the Work, whether or not the Work is fabricated, installed, or completed.

B. If any Work is covered contrary to the written request of Engineer, then Contractor shall, if

requested by Engineer, uncover such Work for Engineer's observation, and then replace the covering, all at Contractor's expense.

C. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, then Contractor, at Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Engineer may require, that portion of the Work in question, and provide all necessary labor, material, and equipment.

1. If it is found that the uncovered Work is defective, Contractor shall be responsible for all claims, costs, losses, and damages arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and pending Contractor's full discharge of this responsibility the Owner shall be entitled to impose a reasonable set-off against payments due under Article 15.

2. If the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, then Contractor may submit a Change Proposal within 30 days of the determination that the Work is not defective.

14.06 *Owner May Stop the Work*

A. If the Work is defective, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, then Owner may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of Owner to stop the Work will not give rise to any duty on the part of Owner to exercise this right for the benefit of Contractor, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or employee or agent of any of them.

14.07 *Owner May Correct Defective Work*

A. If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work, or to remove and replace defective Work as required by Engineer, then Owner may, after 7 days' written notice to Contractor, correct or remedy any such deficiency.

B. In exercising the rights and remedies under this Paragraph 14.07, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this paragraph.

C. All claims, costs, losses, and damages incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 14.07 will be charged against Contractor as set-offs against payments due under Article 15 subject to Contractor's right to contest the same. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement

of Contractor's defective Work.

D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 14.07.

ARTICLE 15—PAYMENTS TO CONTRACTOR; SET-OFFS; COMPLETION; CORRECTION PERIOD

15.01 *Progress Payments*

A. *Basis for Progress Payments*: The Schedule of Values established as provided in Article 2 will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments for Unit Price Work will be based on the number of units completed during the pay period, as determined under the provisions of Paragraph 13.03. Progress payments for cost-based Work will be based on Cost of the Work completed by Contractor during the pay period.

B. *Applications for Payments*

1. At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents.

2. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment must also be accompanied by: (a) a bill of sale, invoice, copies of subcontract or purchase order payments, or other documentation establishing full payment by Contractor for the materials and equipment; (b) at Owner's request, documentation warranting that Owner has received the materials and equipment free and clear of all Liens (subject to Contractor's receipt of payment); and (c) evidence that the materials and equipment are covered by appropriate property insurance, a warehouse bond, or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.

3. Beginning with the second Application for Payment, each Application must include an affidavit of Contractor stating that all previous progress payments received by Contractor have been applied to discharge Contractor's legitimate obligations associated with prior Applications for Payment.

4. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.

C. *Review of Applications*

1. Engineer will, within 10 days after receipt of each Application for Payment, including each resubmittal, either indicate in writing a recommendation of payment and present the Application to Owner, or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.

2. Engineer's recommendation of any payment requested in an Application for Payment will

constitute a representation by Engineer to Owner, based on Engineer's observations of the executed Work as an experienced and qualified design professional, and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:

a. the Work has progressed to the point indicated;

b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, the results of any subsequent tests called for in the Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 13.03, and any other qualifications stated in the recommendation); and

c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.

3. By recommending any such payment Engineer will not thereby be deemed to have represented that:

   a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract; or

   b. there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.

4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:

   a. to supervise, direct, or control the Work;

   b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto;

   c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work;

   d. to make any examination to ascertain how or for what purposes Contractor has used the money paid by Owner; or

   e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.

5. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 15.01.C.2.

6. Engineer will recommend reductions in payment (set-offs) necessary in Engineer's opinion to protect Owner from loss because:

   a. the Work is defective, requiring correction or replacement;

   b. the Contract Price has been reduced by Change Orders;

c. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;

d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible; or

e. Engineer has actual knowledge of the occurrence of any of the events that would constitute a default by Contractor and therefore justify termination for cause under the Contract Documents.

D. *Payment Becomes Due*

1. ~~Ten~~ Twenty-one days after presentation of the Application for Payment to Owner with Engineer's recommendation, the amount recommended (subject to any Owner set-offs) will become due, and when due will be paid by Owner to Contractor.

E. *Reductions in Payment by Owner*

1. In addition to any reductions in payment (set-offs) recommended by Engineer, Owner is entitled to impose a set-off against payment based on any of the following:

a. Claims have been made against Owner based on Contractor's conduct in the performance or furnishing of the Work, or Owner has incurred costs, losses, or damages resulting from Contractor's conduct in the performance or furnishing of the Work, including but not limited to claims, costs, losses, or damages from workplace injuries, adjacent property damage, non-compliance with Laws and Regulations, and patent infringement, in each case to the extent attributable to Contractor or others for whom it is responsible;

b. Contractor has failed to take reasonable and customary measures to avoid damage, delay, disruption, and interference with other work at or adjacent to the Site;

c. Contractor has failed to provide and maintain required bonds or insurance;

d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible;

e. Owner has incurred extra charges or engineering costs related to submittal reviews, evaluations of proposed substitutes, tests and inspections, or return visits to manufacturing or assembly facilities;

f. The Work is defective, requiring correction or replacement;

g. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;

h. The Contract Price has been reduced by Change Orders;

i. An event has occurred that would constitute a default by Contractor and therefore justify a termination for cause;

j. Liquidated or other damages have accrued as a result of Contractor's failure to achieve Milestones, Substantial Completion, or final completion of the Work;

k. Liens have been filed in connection with the Work for which Contractor has already been paid or payment is not yet due, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens; or

l. Other items entitle Owner to a set-off against the amount recommended.

2. If Owner imposes any set-off against payment, whether based on its own knowledge or on the written recommendations of Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action and the specific amount of the reduction, and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, if Contractor remedies the reasons for such action. The reduction imposed will be binding on Contractor unless it duly submits a Change Proposal contesting the reduction.

3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld will be treated as an amount due as determined by Paragraph 15.01.D.1 and subject to interest as provided in the Agreement.

15.02 *Contractor's Warranty of Title*

A. Contractor warrants and guarantees that title to all Work, materials, and equipment furnished under the Contract will pass to Owner free and clear of (1) all Liens and other title defects, and (2) all patent, licensing, copyright, or royalty obligations to the extent expressly imposed herein upon Contractor, no later than 7 days after receipt of payment from Owner.

15.03 *Substantial Completion*

A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete and request that Engineer issue a certificate of Substantial Completion. Contractor shall at the same time submit to Owner and Engineer an initial draft of punch list items to be completed or corrected before final payment.

B. Promptly after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to reasonably determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.

C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a preliminary certificate of Substantial Completion which will fix the date of Substantial Completion. Engineer shall attach to the certificate a punch list of items to be completed or corrected before final payment. Owner shall have 7 days after receipt of the preliminary certificate during which to make written objection to Engineer as to any provisions of the certificate or attached punch list. If, after considering the objections to the provisions of the preliminary certificate, Engineer concludes that the Work is not substantially complete, Engineer will, within 14 days after submission of the preliminary certificate to Owner, notify Contractor in writing that the Work is not substantially complete, stating the reasons therefor. If Owner does not object to the provisions of the certificate, or if despite consideration of Owner's objections Engineer concludes that the Work is substantially complete, then Engineer will, within said 14 days, execute and deliver to Owner and Contractor a final certificate of Substantial Completion (with a revised punch list of items to be completed or corrected) reflecting such changes from the preliminary certificate as Engineer believes justified after consideration of any objections from Owner.

D. At the time of receipt of the preliminary certificate of Substantial Completion, Owner and Contractor will confer regarding Owner's use or occupancy of the Work following Substantial

Completion, review the builder's risk insurance policy with respect to the end of the builder's risk coverage, and confirm the transition to coverage of the Work under a permanent property insurance policy held by Owner. Unless Owner and Contractor agree otherwise in writing, Owner shall bear responsibility for security, operation, protection of the Work, property insurance, maintenance, heat, and utilities upon Owner's use or occupancy of the Work.

E. After Substantial Completion the Contractor shall promptly begin work on the punch list of items to be completed or corrected prior to final payment. In appropriate cases Contractor may submit monthly Applications for Payment for completed punch list items, following the progress payment procedures set forth above.

F. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to remove its property and complete or correct items on the punch list.

15.04 *Partial Use or Occupancy*

A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions:

1. At any time, Owner may request in writing that Contractor permit Owner to use or occupy any such part of the Work that Owner believes to be substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor, Owner, and Engineer will follow the procedures of Paragraph 15.03.A through 15.03.E for that part of the Work.

2. At any time, Contractor may notify Owner and Engineer in writing that Contractor considers any such part of the Work substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.

3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 15.03 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.

4. No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Paragraph 6.04 regarding builder's risk or other property insurance.

15.05 *Final Inspection*

A. Upon written notice from Contractor that the entire Work or an agreed portion thereof is complete, Engineer will promptly make a final inspection with Owner and Contractor and will notify Contractor in writing of all particulars in which this inspection reveals that the Work, or agreed portion thereof, is incomplete or defective. Contractor shall immediately take such

measures as are necessary to complete such Work or remedy such deficiencies.

15.06 *Final Payment*

A. *Application for Payment*

1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, annotated record documents (as provided in Paragraph 7.12), and other documents, Contractor may make application for final payment.

2. The final Application for Payment must be accompanied (except as previously delivered) by:

   a. all documentation called for in the Contract Documents;

   b. consent of the surety, if any, to final payment;

   c. satisfactory evidence that all title issues have been resolved such that title to all Work, materials, and equipment has passed to Owner free and clear of any Liens or other title defects, or will so pass upon final payment.

   d. a list of all duly pending Change Proposals and Claims; and

   e. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of the Work, and of Liens filed in connection with the Work.

3. In lieu of the releases or waivers of Liens specified in Paragraph 15.06.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (a) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (b) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner might in any way be responsible, or which might in any way result in liens or other burdens on Owner's property, have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien, or Owner at its option may issue joint checks payable to Contractor and specified Subcontractors and Suppliers.

B. *Engineer's Review of Final Application and Recommendation of Payment*: If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract have been fulfilled, Engineer will, within 10 days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of final payment and present the final Application for Payment to Owner for payment. Such recommendation will account for any set-offs against payment that are necessary in Engineer's opinion to protect Owner from loss for the reasons stated above with respect to progress payments. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.

C. *Notice of Acceptability*: In support of its recommendation of payment of the final Application

for Payment, Engineer will also give written notice to Owner and Contractor that the Work is acceptable, subject to stated limitations in the notice and to the provisions of Paragraph 15.07.

D. *Completion of Work*: The Work is complete (subject to surviving obligations) when it is ready for final payment as established by the Engineer's written recommendation of final payment and issuance of notice of the acceptability of the Work.

E. *Final Payment Becomes Due*: Upon receipt from Engineer of the final Application for Payment and accompanying documentation, Owner shall set off against the amount recommended by Engineer for final payment any further sum to which Owner is entitled, including but not limited to set-offs for liquidated damages and set-offs allowed under the provisions of this Contract with respect to progress payments, subject to Contractor's right to contest the same. Owner shall pay the resulting balance due to Contractor within 30 days of Owner's receipt of the final Application for Payment from Engineer.

15.07 *Waiver of Claims*

A. By making final payment, Owner waives its claim or right to liquidated damages or other damages for late completion by Contractor, except as set forth in an outstanding Claim, appeal under the provisions of Article 17, set-off, or express reservation of rights by Owner. Owner reserves all other unaccrued claims or rights after final payment.

B. The acceptance of final payment by Contractor will constitute a waiver by Contractor of all claims and rights against Owner other than those pending matters that have been duly submitted as a Claim, or appealed under the provisions of Article 17.

15.08 *Warranty Period*

A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the Supplementary Conditions) (the "Warranty Period"), Owner gives Contractor written notice that any Work has been found to be defective, or that Contractor's repair of any damages to the Site or adjacent areas has been found to be defective, then within 10 days after receipt of such notice of defect Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions commence to:

1. correct the defective repairs to the Site or such adjacent areas;

2. correct such defective Work by modification, repair, or replacement;

3. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others, or to other land or areas resulting from the corrective measures.

B. Owner shall give any such notice of defect within 60 days of the discovery that such Work or repairs is defective.

C. If, after receipt of a notice of defect within 60 days and within the correction period, Contractor does not promptly comply with the terms of Paragraph 15.08.A, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced, after written notification and approval by Contractor. Contractor shall pay all reasonable costs arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others). Contractor's failure to pay such costs, losses, and damages within 10 days of invoice from Owner will be deemed the start of an event giving rise to a Claim under

Paragraph 12.01.B, such that any related Claim must be brought within 30 days of the failure to pay. Notwithstanding anything to the contrary, if the emergency is not caused by Contractor or others for whom Contractor is responsible, then the reimbursable costs associated with the remedial repair undertaken by Owner shall not exceed those costs that Contractor would have incurred had Contractor been permitted to act, subject to Contractor being responsible for such defect or non-conformity.

D. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.

E. Where defective Work has been corrected or removed and replaced under this paragraph, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed. Notwithstanding anything to the contrary, no warranty period shall extend beyond two (2) years after Substantial Completion.

F. Contractor's obligations under Paragraphs 7.17 and 15.08 are the sole liability of Contractor and exclusive remedies of Owner with respect to defective or non-conforming Work or its use whether arising under contract, tort (including negligence), strict liability, or otherwise. The provisions of this paragraph are not to be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose with respect to any other alleged breach of the Agreement not involving such defective or allegedly defective or non-conforming Work.

ARTICLE 16—SUSPENSION OF WORK AND TERMINATION

16.01 *Owner May Suspend Work*

A. At any time and without cause, Owner may suspend the Work or any portion thereof for a period of not more than 90 consecutive days by written notice to Contractor and Engineer. Such notice will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be entitled to an adjustment in the Contract Price and/or an extension of the Contract Times directly attributable to any such suspension. Any Change Proposal seeking such adjustments must be submitted no later than 30 days after the date fixed for resumption of Work.

16.02 *Owner May Terminate for Cause*

A. The occurrence of any one or more of the following events will constitute a default by Contractor and justify termination for cause:

1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment, or failure to adhere to the Progress Schedule);

2. Failure of Contractor to perform or otherwise to comply with a material term of the Contract Documents;

3. Contractor's disregard of Laws or Regulations of any public body having jurisdiction; or

4. Contractor's repeated disregard of the authority of Owner or Engineer.

B. If one or more of the events identified in Paragraph 16.02.A occurs and continues without commencement of a cure as set forth in Paragraph 16.02.D, then after giving Contractor (and any surety) 10 days' written notice (and opportunity to cure) that Owner is considering a declaration that Contractor is in default and termination of the Contract, Owner may proceed to:

1. declare Contractor to be in default, and give Contractor (and any surety) written notice that the Contract is terminated; and

2. enforce the rights available to Owner under any applicable performance bond.

C. Subject to the terms and operation of any applicable performance bond, if Owner has terminated the Contract for cause, Owner may exclude Contractor from the Site, take possession of the Work, incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere, and complete the Work as Owner may deem expedient.

D. Owner may not proceed with termination of the Contract under Paragraph 16.02.B if Contractor within 7 days of receipt of notice of intent to terminate begins to correct its failure to perform and proceeds diligently to cure such failure. Such cure must occur within no more than thirty (30) days of said notice unless otherwise extended by the Engineer.

E. If Owner proceeds as provided in Paragraph 16.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds the cost to complete the Work, including all related claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals) sustained by Owner, such excess will be paid to Contractor. If the cost to complete the Work including such related claims, costs, losses, and damages exceeds such unpaid balance, Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be reviewed by Engineer as to their reasonableness and, when so approved by Engineer, incorporated in a Change Order. When exercising any rights or remedies under this paragraph, Owner shall not be required to obtain the lowest price for the Work performed.

F. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue, or any rights or remedies of Owner against Contractor or any surety under any payment bond or performance bond. Any retention or payment of money due Contractor by Owner will not release Contractor from liability.

G. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 6.01.A, the provisions of that bond will govern over any inconsistent provisions of Paragraphs 16.02.B and 16.02.D.

16.03 *Owner May Terminate for Convenience*

A. Upon 7 days' written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items):

1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;

2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses; and

3. other reasonable expenses directly attributable to termination, including costs incurred to prepare a termination for convenience cost proposal, costs of cancelling subcontracts and purchase orders, costs associated with non-cancelable subcontracts and orders, including those for custom equipment and bespoke materials, the transfer and disposition of equipment and materials to Owner or its designees, and costs of demobilization.

B. Contractor shall not be paid for any loss of anticipated profits or revenue, post-termination overhead costs, or other economic loss arising out of or resulting from such termination.

16.04 *Contractor May Stop Work or Terminate*

A. If, through no act or fault of Contractor, (1) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (2) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (3) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon 7 days' written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the contract and recover from Owner payment on the same terms as provided in Paragraph 16.03.

B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, 7 days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The provisions of this paragraph are not intended to preclude Contractor from submitting a Change Proposal for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to Contractor's stopping the Work as permitted by this paragraph.

ARTICLE 17—FINAL RESOLUTION OF DISPUTES

17.01 *Methods and Procedures*

A. *Disputes Subject to Final Resolution*: The following disputed matters are subject to final resolution under the provisions of this article:

1. A timely appeal of any denial in part of a Claim, or of a denial in full of a Claim, pursuant to Article 12; and

2. Disputes between Owner and Contractor concerning the Work, or obligations under the Contract Documents, that arise after final payment has been made.

B. *Final Resolution of Disputes*: For any dispute subject to resolution under this article, Owner or Contractor may:

1. elect in writing to invoke the dispute resolution process provided for in the Supplementary Conditions;

2. agree with the other party to submit the dispute to another dispute resolution process;

or

3. if no dispute resolution process is provided for in the Supplementary Conditions or mutually agreed to, give written notice to the other party of the intent to submit the dispute to a court of competent jurisdiction.

ARTICLE 18—MISCELLANEOUS

18.01 *Giving Notice*

A. Whenever any provision of the Contract requires the giving of written notice to Owner, Engineer, or Contractor, it will be deemed to have been validly given only if delivered:

1. in person, by a commercial courier service or otherwise, to the recipient's place of business;

2. by registered or certified mail, postage prepaid, to the recipient's place of business; or

3. by e-mail to the recipient, with the words "Formal Notice" or similar in the e-mail's subject line.

18.02 *Computation of Times*

A. When any period of time is referred to in the Contract by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.

18.03 *Cumulative Remedies*

A. Except as otherwise expressly provided herein, duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract. The provisions of this paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

18.04 *Limitation of Damages*

A. With respect to any and all Change Proposals, Claims, disputes subject to final resolution, and other matters at issue, neither Owner nor Engineer, nor any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, shall be liable to Contractor for any claims, costs, losses, or damages sustained by Contractor on or in connection with any other project or anticipated project.

B. To the maximum extent permitted by law, Contractor's overall cumulative liability for damages to Owner arising under or in relation to this Agreement will in no event exceed an amount equal to the Contract Price; provided, however, such limitation of liability shall not apply to occurrences against which Contractor is required to insure in accordance with this Agreement, except to the extent the loss exceeds the applicable insurance limits for such occurrences stated in this Agreement. These limitations of liabilities for damages shall apply to the maximum extent permitted by law and regardless whether such liabilities for damages arise out of breach of contract or warranty, tort, including negligence, strict or statutory

liability, or any other cause of action and shall apply to Contractor, its officers, employees, and subcontractors.

18.05 *No Waiver*

A. A party's non-enforcement of any provision will not constitute a waiver of that provision, nor will it affect the enforceability of that provision or of the remainder of this Contract.

18.06 *Survival of Obligations*

A. All representations, indemnifications, warranties, guarantees, allocations of risk and responsibility, and limitations of liability made in, required by, or given in accordance with the Contract, as well as all continuing obligations indicated in the Contract, will survive final payment, completion, and acceptance of the Work or termination of the Contract or of the services of Contractor.

18.07 *Controlling Law*

A. This Contract is to be governed by the law of the state in which the Project is located.

18.08 *Assignment of Contract*

A. Unless expressly agreed to elsewhere in the Contract, no assignment by a party to this Contract of any rights under or interests in the Contract will be binding on the other party without the written consent of the party sought to be bound; and, specifically but without limitation, money that may become due and money that is due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract.

18.09 *Successors and Assigns*

A. Owner and Contractor each binds itself, its successors, assigns, and legal representatives to the other party hereto, its successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

18.10 *Headings*

A. Article and paragraph headings are inserted for convenience only and do not constitute parts of these General Conditions.

ADVERTISEMENT FOR BIDS

IDAHO FALLS POWER
IDAHO FALLS, IDAHO

2023 – IFP Upper Plant Runner Hub Rebuild - Bid IFP 23-04

General Notice

IDAHO FALLS POWER (Owner) is requesting Bids for the construction of the following Project:

2023 – IFP Upper Plant Runner Hub Rebuild - Bid IFP 23-04

Bids for the construction of the Project will be received at the **Idaho Falls Power offices** located at 140 **South Capital, Idaho Falls, Idaho 83402**, until **Wednesday**, **December 14, 2022** at **2:00 pm** local time. At that time the Bids received will be publicly opened and read.

The Project includes the following Work:

> **Base Bid: The removal of the Upper Plant access hatches/covers, take and record the runner blades measurements, isolate governor, remove, dispose of and refill hydraulic oil from runner and governor, remove dispose of and refill the bearing lube oil, remove the top half of the discharge ring, disconnect the oil piping, remove runner hub, disassembly of runner and runner hub, rebuild/reassembly of the runner hub with new bushings, seals, wear parts and other parts needed to shop test runner hub, reinstall a pressure tested and functioning runner hub, reconnect oil piping, refill oil, reassemble top half of discharge ring, take and record as installed blade runner measurements, reinstall access hatches/covers and provide support during the start up and commissioning of the unit. The bid will include all equipment, materials and labor to complete the project. The bid will include a price for the work and schedule to complete the work, these will be used to evaluate the bids and determine the successful bidder.**

Bids are requested for the following Contract:

2023 – IFP Upper Plant Runner Hub Rebuild - Bid IFP 23-04

Separate Bids will be received for the following Contracts:

Owner anticipates that the Project's total bid price will be approximately **$800,000.00** for the runner hub rebuild. The duration of the project is to be proposed by the contractor, The first 60 days of the contract to be used for material acquisition and fabrication. The remainder of the contract days to be used for the removal, rebuild, reinstallation and commissioning of the runner hub.

Obtaining the Bidding Documents

Information and Bidding Documents for the Project can be found at the following designated website:

http://www.idahofallsidaho.gov/Bids.aspx

Bidding Documents may be downloaded from the designated website. Prospective Bidders are urged to register with the designated website as a plan holder, even if Bidding Documents are obtained from a plan room or source other than the designated website in either electronic or paper format. The designated website will be updated periodically with addenda, lists of registered plan holders, reports, and other information relevant to submitting a Bid for the Project. All official notifications, addenda, and

other Bidding Documents will be offered only through the designated website. Neither Owner nor Engineer will be responsible for Bidding Documents, including addenda, if any, obtained from sources other than the designated website.

Complete set of project bidding documents may be viewed at the office of Idaho Falls Power, 140 South Capital St, Idaho Falls, Idaho 83402. Copies may be purchased at the same office for a fee of $25.00 per individual set. Electronic copies of the bidding documents will be provided at no charge. Partial sets of Bidding Documents will not be available from the Issuing Office. Neither Owner nor Engineer will be responsible for full or partial sets of Bidding Documents, including addenda, if any, obtained from sources other than the Issuing Office.

Pre-bid Conference

A mandatory pre-bid conference for the Project will be held on **Wednesday November 30, 2022** at **10:00 am** at **Idaho Falls Power's Upper Plant, 6598 West River Road, Idaho Falls Idaho 83402.** Bids will not be accepted from Bidders that do not attend the mandatory pre-bid conference.

Instructions to Bidders

For all further requirements regarding bid submittal, qualifications, procedures, and contract award, refer to the Instructions to Bidders that are included in the Bidding Documents.

Bids must be accompanied by Bid Security in the form of a bid bond, certified check, cashiers check or cash in the amount of 5% of the amount of the bid proposal. Said bid security shall be forfeited to the City of Idaho Falls as liquidated damages should the successful bidder fail to enter into contract in accordance with their proposal as specified in the Instructions to Bidders.

The City of Idaho Falls reserves the right to reject any or all proposals, waive any nonmaterial irregularities in the bids received, and to accept the proposal deemed most advantageous to the best interest of the City of Idaho Falls.

This Advertisement is issued by:

Owner: **IDAHO FALLS POWER**
By: **Jason Cooper, PE**
Title: **Senior Civil Engineer-CDSE**
Date: **November 11, 2022**

INSTRUCTIONS TO BIDDERS FOR CONSTRUCTION CONTRACT

TABLE OF CONTENTS

Page

Article 1— Defined Terms 1

Article 2— Bidding Documents 1

Article 3— Qualifications of Bidders 2

Article 4— Pre-Bid Conference 2

Article 5— Site and Other Areas; Existing Site Conditions; Examination of Site; Owner's Safety Program; Other Work at the Site 2

Article 6— Bidder's Representations and Certifications 3

Article 7— Interpretations and Addenda 4

Article 8— Bid Security 4

Article 9— Contract Times 5

Article 10— Substitute and "Or Equal" Items 5

Article 11— Subcontractors, Suppliers, and Others 5

Article 12— Preparation of Bid 5

Article 13— Basis of Bid 6

Article 14— Submittal of Bid 7

Article 15— Modification and Withdrawal of Bid 7

Article 16— Opening of Bids 8

Article 17— Bids to Remain Subject to Acceptance 8

Article 18— Evaluation of Bids and Award of Contract 8

Article 19— Bonds and Insurance 9

Article 20— Signing of Agreement 10

Article 21— Sales and Use Taxes 10

Article 22— Contracts to Be Assigned 10

ARTICLE 1—DEFINED TERMS

1.01 Terms used in these Instructions to Bidders have the meanings indicated in the General Conditions and Supplementary Conditions. Additional terms used in these Instructions to Bidders have the meanings indicated below:

A. *Issuing Office*—The office from which the Bidding Documents are to be issued, and which registers plan holders.

ARTICLE 2—BIDDING DOCUMENTS

2.01 Bidder shall obtain a complete set of Bidding Requirements and proposed Contract Documents (together, the Bidding Documents). See the Agreement for a list of the Contract Documents. It is Bidder's responsibility to determine that it is using a complete set of documents in the preparation of a Bid. Bidder assumes sole responsibility for errors or misinterpretations resulting from the use of incomplete documents, by Bidder itself or by its prospective Subcontractors and Suppliers.

2.02 Bidding Documents are made available for the sole purpose of obtaining Bids for completion of the Project and permission to download or distribution of the Bidding Documents does not confer a license or grant permission or authorization for any other use. Authorization to download documents, or other distribution, includes the right for plan holders to print documents solely for their use, and the use of their prospective Subcontractors and Suppliers, provided the plan holder pays all costs associated with printing or reproduction. Printed documents may not be re-sold under any circumstances.

2.03 Owner has established a Bidding Documents Website as indicated in the Advertisement or invitation to bid. Owner recommends that Bidder register as a plan holder with the Issuing Office at such website, and obtain a complete set of the Bidding Documents from such website. Bidders may rely that sets of Bidding Documents obtained from the Bidding Documents Website are complete, unless an omission is blatant. Registered plan holders will receive Addenda issued by Owner.

2.04 *Electronic Documents*

A. When the Bidding Requirements indicate that electronic (digital) copies of the Bidding Documents are available, such documents will be made available to the Bidders as Electronic Documents in the manner specified.

1. Bidding Documents will be provided in Adobe PDF (Portable Document Format) (.pdf) that is readable by Adobe Acrobat Reader Version 10 or later. It is the intent of the Engineer and Owner that such Electronic Documents are to be exactly representative of the paper copies of the documents. However, because the Owner and Engineer cannot totally control the transmission and receipt of Electronic Documents nor the Contractor's means of reproduction of such documents, the Owner and Engineer cannot and do not guarantee that Electronic Documents and reproductions prepared from those versions are identical in every manner to the paper copies.

B. Unless otherwise stated in the Bidding Documents, the Bidder may use and rely upon complete sets of Electronic Documents of the Bidding Documents, described in Paragraph 2.06.A above. However, Bidder assumes all risks associated with differences

arising from transmission/receipt of Electronic Documents versions of Bidding Documents and reproductions prepared from those versions and, further, assumes all risks, costs, and responsibility associated with use of the Electronic Documents versions to derive information that is not explicitly contained in printed paper versions of the documents, and for Bidder's reliance upon such derived information.

ARTICLE 3—QUALIFICATIONS OF BIDDERS

3.01 Bidder is to submit the following information with its Bid to demonstrate Bidder's qualifications to perform the Work:

A. Bidder's state or other contractor license number, if applicable. Bidders are required to submit a current and valid Idaho Public Works Contractors License as part of their Bid.

B. Subcontractor and Supplier qualification information. Refer to Idaho Code Title 67, Chapter 23 regarding listing of subcontractors.

C. Bidder must submit with bid, a reference list of at least three similar completed turbine rebuild projects completed in the last five years. List must include name of company and contact information of company representative the project was completed for.

ARTICLE 4—PRE-BID CONFERENCE

4.01 A mandatory pre-bid conference will be held at the time and location indicated in the Advertisement or invitation to bid. Representatives of Owner and Engineer will be present to discuss the Project. Proposals will not be accepted from Bidders who do not attend the conference. It is each Bidder's responsibility to sign in at the pre-bid conference to verify its participation. Bidders must sign in using the name of the organization that will be submitting a Bid. A list of qualified Bidders that attended the pre-bid conference and are eligible to submit a Bid for this Project will be issued in an Addendum.

4.02 Information presented at the pre-Bid conference does not alter the Contract Documents. Owner will issue Addenda to make any changes to the Contract Documents that result from discussions at the pre-Bid conference. Information presented, and statements made at the pre-bid conference will not be binding or legally effective unless incorporated in an Addendum.

ARTICLE 5—SITE AND OTHER AREAS; EXISTING SITE CONDITIONS; EXAMINATION OF SITE; OWNER'S SAFETY PROGRAM; OTHER WORK AT THE SITE

5.01 *Site and Other Areas*

A. The Site is identified in the Bidding Documents. By definition, the Site includes rights-of-way, easements, and other lands furnished by Owner for the use of the Contractor. Any additional lands required for temporary construction facilities, construction equipment, or storage of materials and equipment, and any access needed for such additional lands, are to be obtained and paid for by Contractor.

5.02 *Existing Site Conditions*

A. *Physical Conditions; Hazardous Environmental Conditions*

1. The contractor should note the conditions of the site during the site visit to inform their bid.

5.03 *Site Visit by Bidders*

A. It is the responsibility of the Bidder to visit the Site and conduct a thorough visual examination of the Site and adjacent areas. During the visit the Bidder must not disturb any ongoing operations at the Site.

B. A Site visit is scheduled for during the pre-bid meeting **Wednesday, November 30, 2022** at **10:00 am** at **Idaho Falls Power's Upper Plant, 6598 West River Road, Idaho Falls Idaho 83402**.

C. Bidders visiting the Site are required to arrange their own transportation to the Site.

D. All access to the Site other than during a regularly scheduled Site visit must be coordinated through the following Owner or Engineer contact for visiting the Site: **Jason Cooper, phone #: 208-612-8573, email: jcooper@ifpower.org**. Bidder must conduct the required Site visit during normal working hours.

E. On request, and to the extent Owner has control over the Site, and schedule permitting, the Owner will provide Bidder general access to the Site to conduct such additional examinations, investigations, explorations, tests, and studies as Bidder deems necessary for preparing and submitting a successful Bid. Owner will not have any obligation to grant such access if doing so is not practical because of existing operations, security or safety concerns, or restraints on Owner's authority regarding the Site. Bidder is responsible for establishing access needed to reach specific selected test sites.

5.04 *Owner's Safety Program*

A. Site visits and work at the Site may be governed by an Owner safety program. If an Owner safety program exists, it will be noted in the Supplementary Conditions.

5.05 *Other Work at the Site*

A. Reference is made to Article 8 of the Supplementary Conditions for the identification of the general nature of other work of which Owner is aware (if any) that is to be performed at the Site by Owner or others (such as utilities and other prime contractors) and relates to the Work contemplated by these Bidding Documents. If Owner is party to a written contract for such other work, then on request, Owner will provide to each Bidder access to examine such contracts (other than portions thereof related to price and other confidential matters), if any.

ARTICLE 6—BIDDER'S REPRESENTATIONS AND CERTIFICATIONS

6.01 *Express Representations and Certifications in Bid Form, Agreement*

A. The Bid Form that each Bidder will submit contains express representations regarding the Bidder's examination of Project documentation, Site visit, and preparation of the Bid, and certifications regarding lack of collusion or fraud in connection with the Bid. Bidder should review these representations and certifications, and assure that Bidder can make the representations and certifications in good faith, before executing and submitting its Bid.

B. If Bidder is awarded the Contract, Bidder (as Contractor) will make similar express representations and certifications when it executes the Agreement.

ARTICLE 7—INTERPRETATIONS AND ADDENDA

7.01 Owner on its own initiative may issue Addenda to clarify, correct, supplement, or change the Bidding Documents.

7.02 Bidder shall submit all questions about the meaning or intent of the Bidding Documents to Engineer in writing. Contact information and submittal procedures for such questions are as follows:

A. **Idaho Falls, Jason Cooper, PE, 140 South Capital, Idaho Falls, ID 83405, jcooper@ifpower.org, 208-612-8573**

7.03 Interpretations or clarifications considered necessary by Engineer in response to such questions will be issued by Addenda delivered to all registered plan holders. **Questions received less than 5 days prior to the date for opening of Bids may not be answered.**

7.04 Only responses set forth in an Addendum will be binding. Oral and other interpretations or clarifications will be without legal effect. Responses to questions are not part of the Contract Documents unless set forth in an Addendum that expressly modifies or supplements the Contract Documents.

ARTICLE 8—BID SECURITY

8.01 A Bid must be accompanied by Bid security made payable to Owner in an amount of **5%** percent of Bidder's maximum Bid price (determined by adding the base bid and all alternates) and in the form of a Bid bond issued by a surety meeting the requirements of Paragraph 6.01 of the General Conditions. Such Bid bond will be issued in the form included in the Bidding Documents.

8.02 The Bid security of the apparent Successful Bidder will be retained until Owner awards the contract to such Bidder, and such Bidder has executed the Contract, furnished the required Contract security, and met the other conditions of the Notice of Award, whereupon the Bid security will be released. If the Successful Bidder fails to execute and deliver the Contract and furnish the required Contract security within 15 days after the Notice of Award, Owner may consider Bidder to be in default, annul the Notice of Award, and the Bid security of that Bidder will be forfeited, in whole in the case of a penal sum bid bond, and to the extent of Owner's damages in the case of a damages-form bond. Such forfeiture will be Owner's exclusive remedy if Bidder defaults.

8.03 The Bid security of other Bidders that Owner believes to have a reasonable chance of receiving the award may be retained by Owner until the earlier of 7 days after the Effective Date of the

Contract or 61 days after the Bid opening, whereupon Bid security furnished by such Bidders will be released.

8.04 Bid security of other Bidders that Owner believes do not have a reasonable chance of receiving the award will be released within 7 days after the Bid opening.

ARTICLE 9—CONTRACT TIMES

9.01 The number of days within which, or the dates by which, the Work is to be (a) substantially completed and (b) ready for final payment, and (c) Milestones (if any) are to be achieved, are set forth in the Agreement.

9.02 Provisions for liquidated damages or bonuses, if any, for failure to timely attain a Milestone, Substantial Completion, or completion of the Work in readiness for final payment, are set forth in the Agreement.

ARTICLE 10—SUBSTITUTE AND "OR EQUAL" ITEMS

10.01 The Contract for the Work, as awarded, will be on the basis of materials and equipment specified or described in the Bidding Documents without consideration during the bidding and Contract award process of possible substitute or "or-equal" items. In cases in which the Contract allows the Contractor to request that Engineer authorize the use of a substitute or "or-equal" item of material or equipment, application for such acceptance may not be made to and will not be considered by Engineer until after the Effective Date of the Contract.

10.02 All prices that Bidder sets forth in its Bid will be based on the presumption that the Contractor will furnish the materials and equipment specified or described in the Bidding Documents, as supplemented by Addenda. Any assumptions regarding the possibility of post-Bid approvals of "or-equal" or substitution requests are made at Bidder's sole risk.

ARTICLE 11—SUBCONTRACTORS, SUPPLIERS, AND OTHERS

11.01 Per Idaho Code 67-2310, Bidder shall include in their bid the name(s), address(es), and Idaho Public Works Contractors License number(s) of the Subcontractors who will, in the event the Bidder secures the Contract, subcontract the plumbing, heating and air conditioning work, and the electrical work under the general Contract. Failure to name Subcontractors as required by this section shall render any Bid unresponsive and void. Use *Naming of Subcontractors Form 00440*.

ARTICLE 12—PREPARATION OF BID

12.01 The Bid Form is included with the Bidding Documents.

A. All blanks on the Bid Form must be completed in ink and the Bid Form signed in ink. Erasures or alterations must be initialed in ink by the person signing the Bid Form. A Bid price must be indicated for each section, Bid item, alternate, adjustment unit price item, and unit price item listed therein.

B. If the Bid Form expressly indicates that submitting pricing on a specific alternate item is optional, and Bidder elects to not furnish pricing for such optional alternate item, then Bidder may enter the words "No Bid" or "Not Applicable."

12.02 If Bidder has obtained the Bidding Documents as Electronic Documents, then Bidder shall prepare its Bid on a paper copy of the Bid Form printed from the Electronic Documents version of the Bidding Documents. The printed copy of the Bid Form must be clearly legible, printed on 8½ inch by 11-inch paper and as closely identical in appearance to the Electronic Document version of the Bid Form as may be practical. The Owner reserves the right to accept Bid Forms which nominally vary in appearance from the original paper version of the Bid Form, providing that all required information and submittals are included with the Bid.

12.03 A Bid by a corporation must be executed in the corporate name by a corporate officer (whose title must appear under the signature), accompanied by evidence of authority to sign. The corporate address and state of incorporation must be shown.

12.04 A Bid by a partnership must be executed in the partnership name and signed by a partner (whose title must appear under the signature), accompanied by evidence of authority to sign. The official address of the partnership must be shown.

12.05 A Bid by a limited liability company must be executed in the name of the firm by a member or other authorized person and accompanied by evidence of authority to sign. The state of formation of the firm and the official address of the firm must be shown.

12.06 A Bid by an individual must show the Bidder's name and official address.

12.07 A Bid by a joint venture must be executed by an authorized representative of each joint venturer in the manner indicated on the Bid Form. The joint venture must have been formally established prior to submittal of a Bid, and the official address of the joint venture must be shown.

12.08 All names must be printed in ink below the signatures.

12.09 The Bid must contain an acknowledgment that Bidder is bound by all Addenda issued prior to the bid award.

12.10 Postal and e-mail addresses and telephone number for communications regarding the Bid must be shown.

12.11 The Bid must contain evidence of Bidder's authority to do business in the state where the Project is located, or Bidder must certify in writing that it will obtain such authority within the time for acceptance of Bids and attach such certification to the Bid.

12.12 If Bidder is required to be licensed to submit a Bid or perform the Work in the state where the Project is located, the Bid must contain evidence of Bidder's licensure, or Bidder must certify in writing that it will obtain such licensure within the time for acceptance of Bids and attach such certification to the Bid. Bidder's state contractor license number, if any, must also be shown on the Bid Form.

ARTICLE 13—BASIS OF BID

13.01 *Base Bid with Alternates*

A. Bidders must submit a Bid on a lump sum basis for the base Bid and include a separate price for each alternate described in the Bidding Documents and as provided for in the Bid Form. The price for each alternate will be the amount added to or deleted from the base Bid if Owner selects the alternate.

B. In the comparison of Bids, alternates will be applied in the same order of priority as listed in the Bid Form.

13.02 *Unit Price*

A. Bidders must submit a Bid on a unit price basis for each item of Work listed in the unit price section of the Bid Form.

B. The "Bid Price" (sometimes referred to as the extended price) for each unit price Bid item will be the product of the "Estimated Quantity", which Owner or its representative has set forth in the Bid Form, for the item and the corresponding "Bid Unit Price" offered by the Bidder. The total of all unit price Bid items will be the sum of these "Bid Prices"; such total will be used by Owner for Bid comparison purposes. The final quantities and Contract Price will be determined in accordance with Paragraph 13.03 of the General Conditions.

C. Discrepancies between the multiplication of units of Work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum.

ARTICLE 14—SUBMITTAL OF BID

14.01 The Bidding Documents include one separate unbound copy of the Bid Form, and, if required, the Bid Bond Form. The unbound copy of the Bid Form is to be completed and submitted with the Bid security and the other documents required to be submitted under the terms of Article 2 of the Bid Form.

14.02 A Bid must be received no later than the date and time prescribed and at the place indicated in the Advertisement or invitation to bid and must be enclosed in a plainly marked package with the Project title, and, if applicable, the designated portion of the Project for which the Bid is submitted, the name and address of Bidder, and must be accompanied by the Bid security and other required documents. If a Bid is sent by mail or other delivery system, the sealed envelope containing the Bid must be enclosed in a separate package plainly marked on the outside with the notation "BID ENCLOSED." A mailed Bid must be addressed to the location designated in the Advertisement.

14.03 Bids received after the date and time prescribed for the opening of bids, or not submitted at the correct location or in the designated manner, will not be accepted and will be returned to the Bidder unopened.

ARTICLE 15—MODIFICATION AND WITHDRAWAL OF BID

15.01 An unopened Bid may be withdrawn by an appropriate document duly executed in the same manner that a Bid must be executed and delivered to the place where Bids are to be submitted

prior to the date and time for the opening of Bids. Upon receipt of such notice, the unopened Bid will be returned to the Bidder.

15.02 If a Bidder wishes to modify its Bid prior to Bid opening, Bidder must withdraw its initial Bid in the manner specified in Paragraph 15.01 and submit a new Bid prior to the date and time for the opening of Bids.

ARTICLE 16—OPENING OF BIDS

16.01 Bids will be opened at the time and place indicated in the advertisement or invitation to bid and, unless obviously non-responsive, read aloud publicly. An abstract of the amounts of the base Bids and major alternates, if any, will be made available to Bidders after the opening of Bids.

ARTICLE 17—BIDS TO REMAIN SUBJECT TO ACCEPTANCE

17.01 All Bids will remain subject to acceptance for the period of time stated in the Bid Form, but Owner may, in its sole discretion, release any Bid and return the Bid security prior to the end of this period.

ARTICLE 18—EVALUATION OF BIDS AND AWARD OF CONTRACT

18.01 Owner reserves the right to reject any or all Bids, including without limitation, nonconforming, nonresponsive, unbalanced, or conditional Bids. Owner also reserves the right to waive all minor Bid informalities not involving price, time, or changes in the Work. Owner further reserves the right to waive minor informalities in bids where a bidder fails to acknowledgment receipt of an addendum, but only if the bid indicates that the bidder received the addendum or the addendum would have a trivial or negligible effect on the price, quality, quantity, delivery, or the relative standing of bidders.

18.02 Owner will reject the Bid of any Bidder that Owner finds, after reasonable inquiry and evaluation, to not be responsible.

18.03 If Bidder purports to add terms or conditions to its Bid, takes exception to any provision of the Bidding Documents, or attempts to alter the contents of the Contract Documents for purposes of the Bid, whether in the Bid itself or in a separate communication to Owner or Engineer, then Owner will reject the Bid as nonresponsive.

18.04 If Owner awards the contract for the Work, such award will be to the responsible Bidder submitting the lowest responsive Bid.

18.05 *Evaluation of Bids*

A. In evaluating the bids, the owner will use the bid price and add alternates in conjunction with the time to complete the work provided by the bidder. A value of generation has been assigned at $10,000.00 per day. This value will be used to evaluate a realized bid price based on generation gained if time to completion is reduced from the longest proposed time. See the example below.

Example of Bid Evaluation (prices and days do not reflect expected costs or times):

Bidder	Bid (Base + Add Alternates)	Number of Day to Date of Completion (NTP to Commissioning)	Gained Generation Dollar Amount (# of days below the longest proposed contract X $10,000.00)	Adjusted Bid for Evaluation
Bidder A	$700,000.00	212 days	-$280,000.00	$420,000.00
Bidder B	$500,000.00	240 days	$0.00	$500.000.00
Bidder C	$600,000.00	226 days	-$140,000.00	$460,000.00

B. In evaluating Bids, Owner will consider whether the Bids comply with the prescribed requirements, and such alternates, unit prices, and other data, as may be requested in the Bid Form or prior to the Notice of Award.

C. In the comparison of Bids, alternates will be applied in the same order of priority as listed in the Bid Form. To determine the Bid prices for purposes of comparison, Owner will announce to all bidders a "Base Bid plus alternates" budget after receiving all Bids, but prior to opening them. For comparison purposes alternates will be accepted, following the order of priority established in the Bid Form, until doing so would cause the budget to be exceeded. After determination of the Successful Bidder based on this comparative process and on the responsiveness, responsibility, and other factors set forth in these Instructions, the award may be made to said Successful Bidder on its base Bid and any combination of its additive alternate Bids for which Owner determines funds will be available at the time of award.

D. For determination of the apparent low Bidder(s) when sectional bids are submitted, Bids will be compared on the basis of the aggregate of the Bids for separate sections and the Bids for combined sections that result in the lowest total amount for all of the Work.

E. For the determination of the apparent low Bidder when unit price bids are submitted, Bids will be compared on the basis of the total of the products of the estimated quantity of each item and unit price Bid for that item, together with any lump sum items.

18.06 The purchase of construction services shall be made pursuant Idaho Statute Title 67, Chapter 28. The acquisition of construction services must be subject to a competitive bidding process made from a qualified public works contractor submitting the lowest bid price complying the bidding procedures and meeting prequalification criteria, if any are provided in accordance with I.C. 67-2805, that are established in the bidding documents. For a Category A bid process, the political subdivision may only consider the amount bid, bidder compliance with the administrative requirements of the bidding process, and whether the bidder holds the requisite State of Idaho Public Works Contractors License and shall award the bid to the responsible bidder submitting the lowest responsive bid.

ARTICLE 19—BONDS AND INSURANCE

19.01 Article 6 of the General Conditions, as may be modified by the Supplementary Conditions, sets forth Owner's requirements as to performance and payment bonds, other required bonds (if

any), and insurance. When the Successful Bidder delivers the executed Agreement to Owner, it must be accompanied by required bonds and insurance documentation. The date upon which the bonds are binding shall be the effective date of the Agreement.

19.02 Article 8, Bid Security, of these Instructions, addresses any requirements for providing bid bonds as part of the bidding process.

ARTICLE 20—SIGNING OF AGREEMENT

20.01 When Owner issues a Notice of Award to the Successful Bidder, it will be accompanied by the unexecuted counterparts of the Agreement along with the other Contract Documents as identified in the Agreement. Within 15 days thereafter, Successful Bidder must execute and deliver the required number of counterparts of the Agreement and any bonds and insurance documentation required to be delivered by the Contract Documents to Owner. Within 10 days thereafter, Owner will deliver one fully executed counterpart of the Agreement to Successful Bidder, together with printed and electronic copies of the Contract Documents as stated in Paragraph 2.02 of the General Conditions.

ARTICLE 21—SALES AND USE TAXES

ARTICLE 22—CONTRACTS TO BE ASSIGNED

ARTICLE 23—STATE OF IDAHO STATUTORY PROVISIONS

23.01 Additional State of Idaho Statutory provisions to be aware of:

A. Title 54, Chapter 19, *Public Works Contractors.*

1. Idaho Code Section 54-1920(2) regarding a public officer who lets a contract to an unlicensed firm may be held personally liable.

2. Idaho Code Section 54-1926 regarding the requirement for payment and performance bonds on all public works projects over $50,000.

3. Idaho Code Section 54-1928 regarding agencies and officials may be held liable for failure to obtain bonds.

B. Idaho Code Title 46, Chapter 10, *State Disaster Preparedness Act*, regarding emergency exceptions,

C. Idaho Code Section 67-2348, *Preference for Idaho Domiciled Contractors on Public Works,*

D. Idaho Code Section 67-2349, *Preference for Idaho Suppliers and Recycled Paper Products for Purchases.*

BID FORM FOR CONSTRUCTION CONTRACT

The terms used in this Bid with initial capital letters have the meanings stated in the Instructions to Bidders, the General Conditions, and the Supplementary Conditions.

ARTICLE 1—OWNER AND BIDDER

1.01 This Bid is submitted to:

Deliver to: (hand delivery, parcel delivery service, etc...)

City of Idaho Falls
Office of Idaho Falls Power
140 South Capital
Idaho Falls, ID 83402

Mail to: (U.S. Postal Service)

City of Idaho Falls
Office of Idaho Falls Power
140 South Capital
Idaho Falls, ID 83402

1.02 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with Owner in the form included in the Bidding Documents to perform all Work as specified or indicated in the Bidding Documents for the prices and within the times indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.

ARTICLE 2—ATTACHMENTS TO THIS BID

2.01 The following documents are submitted with and made a condition of this Bid:

A. Required Bid security;

B. List of Proposed Subcontractors;

C. List of Proposed Suppliers;

D. Evidence of authority to do business in the state of the Project; or a written covenant to obtain such authority within the time for acceptance of Bids;

E. Contractor's license number as evidence of Bidder's State Contractor's License;

F. Required Bidder Qualification Statement with supporting data; and

ARTICLE 3—BASIS OF BID—LUMP SUM BID AND ADD ALTERNATE PRICES

3.01 Lump Sum Bids

A. Bidder will complete the Work in accordance with the Contract Documents for the following lump sum prices:

1. Lump Sum Price (Base Bid and Bid Alternates) and Contract Time

Base Bid of Upper Plant Runner Hub Rebuild	
Base bid includes all labor, tools and material to disassemble, remove, shop tear down, acquire new parts, inspect, media blast, apply coating, reassemble, rebuild, reinstall and commission runner as described in the scope of work.	$ 872,938.00
Bid Add Alternates	

Bid Add alternate #1 – Cladding of the runner shaft (laser or weld build up)	$	7,232.00
Bid Add Alternate #2 – Machining of the Rocker Arms	$	26,300.00
Bid Add Alternate #3 – Hone the servo cylinder	$	10,520.00
Total Bid Price for Base Bid and Add Alternates for Upper Plant Runner Hub Rebuild	$	916,990.00
Contract Time		
Start Date		2/8/2023
End Date		7/15/2023
Total Days		157 days

2. Notes:

   a. Contractor shall supply all materials, equipment and labor to complete the runner hub rebuild except as noted.

   b. Idaho Falls Power will dewater and rewater the plant, and install the safety handrails around the open hatches.

B. Bidder acknowledges that:

1. each Bid Unit Price includes an amount considered by Bidder to be adequate to cover Contractor's overhead and profit for each separately identified item, and

2. estimated quantities are not guaranteed, and are solely for the purpose of comparison of Bids, and final payment for all Unit Price Work will be based on actual quantities, determined as provided in the Contract Documents.

ARTICLE 4—TIME OF COMPLETION

4.01 Bidder agrees that the Work will be substantially complete and will be completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions on or before the dates or within the number of calendar days indicated in the Agreement.

4.02 Bidder accepts the provisions of the Agreement as to liquidated damages.

ARTICLE 5—BIDDER'S ACKNOWLEDGEMENTS: ACCEPTANCE PERIOD, INSTRUCTIONS, AND RECEIPT OF ADDENDA

5.01 *Bid Acceptance Period*

A. This Bid will remain subject to acceptance for 60 days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of Owner.

5.02 *Instructions to Bidders*

A. Bidder accepts all of the terms and conditions of the Instructions to Bidders, including without limitation those dealing with the disposition of Bid security.

5.03 *Receipt of Addenda*

A. Bidder acknowledges that Bidder is bound by all Addenda issued prior to the bid award. Bidder hereby acknowledges receipt of the following Addenda:

Addendum Number	Addendum Date

ARTICLE 6—BIDDER'S REPRESENTATIONS AND CERTIFICATIONS

6.01 *Bidder's Representations*

A. In submitting this Bid, Bidder represents the following:

1. Bidder has examined and carefully studied the Bidding Documents, including Addenda.
2. Bidder has visited the Site, conducted a thorough visual examination of the Site and adjacent areas, and become familiar with the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
3. Bidder is familiar with all Laws and Regulations that may affect cost, progress, and performance of the Work.
4. Bidder has carefully studied the reports of explorations and tests of subsurface conditions at or adjacent to the Site and the drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, with respect to the Technical Data in such reports and drawings.
5. Bidder has carefully studied the reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, with respect to Technical Data in such reports and drawings.
6. Bidder has considered the information known to Bidder itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Bidding Documents; and the Technical Data identified in the Supplementary Conditions or by definition, with respect to the effect of such information, observations, and Technical Data on (a) the cost, progress, and performance of the Work; (b) the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder, if selected as Contractor; and (c) Bidder's (Contractor's) safety precautions and programs.
7. Based on the information and observations referred to in the preceding paragraph, Bidder agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
8. Bidder is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents.
9. Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and of discrepancies between Site conditions and the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.

10. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

11. The submission of this Bid constitutes an incontrovertible representation by Bidder that without exception the Bid and all prices in the Bid are premised upon performing and furnishing the Work required by the Bidding Documents.

6.02 *Bidder's Certifications*

A. The Bidder certifies the following:

1. This Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any collusive agreement or rules of any group, association, organization, or corporation.

2. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid.

3. Bidder has not solicited or induced any individual or entity to refrain from bidding.

4. Bidder has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract. For the purposes of this Paragraph 8.02.A:

a. Corrupt practice means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process.

b. Fraudulent practice means an intentional misrepresentation of facts made (a) to influence the bidding process to the detriment of Owner, (b) to establish bid prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition.

c. Collusive practice means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish bid prices at artificial, non-competitive levels.

d. Coercive practice means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

BIDDER hereby submits this Bid as set forth above:

Bidder:

Thompson Construction Group, Inc.
(typed or printed name of organization)

By: _____
(individual's signature)

Name: Kyle Wagaman
(typed or printed)

Title: General Manager
(typed or printed)

Date: 12/09/2022
(typed or printed)

If Bidder is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.

Attest: _____
(individual's signature)

Name: David Trought
(typed or printed)

Title: Eastern Operations Manager
(typed or printed)

Date: 12/09/2022
(typed or printed)

Address for giving notices:
100 N Main St
Sumter, SC 29150

Bidder's Contact:

Name: Rod Graybeal
(typed or printed)

Title: Director of Western Operations
(typed or printed)

Phone: (208) 635-5551

Email: rgraybeal @ hydro911.com

Address:
11785 N. Tracey
Hayden, ID 83835

Bidder's Contractor License No.: (if applicable) 052748-unlimited-1-4

Attachment B

Thompson | HCMS
A DIVISION OF THOMPSON

REIMBURSABLE RATES & TERMS*

The following rates and terms will apply to all work to be performed on a time and material basis. The billing rates for labor shown below are inclusive of all wages and salaries, payroll taxes and insurance, employee benefits, small tools (initial value less than $1,000) and consumables, overhead, and profit.

Classification	ST Rate	OT Rate
Superintendent	$99.88	$145.73
Foreman	$77.43	$112.97
Hydroelectic Mechanic (HEM)	$69.06	$100.76
HEM Helper	$58.60	$85.49
QC & SSHO Personnel	$94.17	$137.40
Project Manager	$136.03	$198.47
Technical Advisor	$136.03	$198.47
Project Engineer	$136.03	$198.47
Hydroelectric Specialist	$175.00	$175.00

Other costs associated with the work hereunder will be reimbursed as follows:

- Overtime rates will apply to all hours worked beyond 40 hours in a work week.
- Travel time and standby time (due to delays by others) will be invoiced as straight-time or overtime depending on work hours accumulated that week.
- Minimum charge is eight hours plus applicable travel, per diem and other direct charges.
- Precision Tool Box @ $250/day or $1,250/week.
- Turbine Tool Module @ $550/day or $2,750/week.
- HCMS Pick-Up Truck @ $200/day or $600/week.
- Per Diem (lodging and meals) at $175/day (including weekends and holidays) for all site-based personnel – including travel days.
- Permanent materials, travel expenses (airfare, car rentals, etc.), transport of HCMS-furnished tools, subcontracts, fuel, third-party rental equipment/tools at actual cost, including freight and taxes, plus 15 percent.

NOTES:

* - These rates do not represent Union Rates, Prevailing Wage Rates or Federal Government Rates and/or travel policies. If such apply, these rates are subject to change.

Effective through December 31, 2022.

0004216711

STATE OF IDAHO
Office of the secretary of state, Lawerence Denney
ARTICLES OF INCORPORATION (GENERAL BUSINESS CORPORATION)
Idaho Secretary of State
PO Box 83720
Boise, ID 83720-0080
(208) 334-2301
Filing Fee: $100.00

For Office Use Only
-FILED-
File #: 0004216711
Date Filed: 3/23/2021 12:34:52 PM

Articles of Incorporation (General Business Corporation) Select one: Standard, Expedited or Same Day Service (see descriptions below)	Standard (filing fee $100)
Article 1: Corporation Name Type of Corporation	General Business Corporation
Entity name	Thompson Construction Group, Inc.
Business Type: If this corporation is a Benefit Corporation, Insurance Company or Trust, select here:	Not Applicable
Article 2: Effective Date The corporation shall be effective	when filed with the Secretary of State.
Article 3: Shares The number of shares the corporation is authorized to issue:	200,000
Article 4: The mailing address of the corporation shall be: Mailing Address:	100 N MAIN ST SUMTER, SC 29150-4948
Article 5: Registered Agent Name and Address Registered Agent:	CT CORPORATION SYSTEM Commercial Registered Agent Physical Address 921 S ORCHARD ST STE G BOISE, ID 83705 Mailing Address 921 S ORCHARD ST STE G BOISE, ID 83705

☒ I affirm that the registered agent appointed has consented to serve as registered agent for this entity.

Article 6: Incorporator Name(s) and Address(es)

Name	Incorporator Address
Greg A Thompson	100 N MAIN STREET SUMTER, SC 29150

Article 7: Director Names and Addresses

Name	Title	Director Address
C C Hutto	Secretary	100 N MAIN ST SUMTER, SC 29150
William L Bryant	Vice President	100 N MAIN ST SUMTER, SC 29150
Harold L Turner Jr	Director	100 N MAIN ST SUMTER, SC 29150
Lewis E Thompson	Director	100 N MAIN ST SUMTER, SC 29150

B0593-5387 03/23/2021 12:35 PM Received by ID Secretary of State Lawerence Denney

The Articles of Incorporation must be signed by at least one Incorporator.

Greg A Thompson — Sign Here

03/23/2021 — Date

B0593-5388 03/23/2021 12:35 PM Received by ID Secretary of State Lawerence Denney

Brad Little
Governor

State of Idaho

Division of Occupational and Professional Licenses

PUBLIC WORKS CONTRACTORS LICENSING

CONTRACTOR

052748 - UNLIMITED - 1- 4
License Number

05/24/2021
Original License Issued

Categories: 05090

This is to certify that

THOMPSON CONSTRUCTION GROUP INC

has fulfilled the requirements of the law relating to licensing in Idaho Code, Title 54, Chapter 19 & 45 and is hereby granted this certificate.

This license expires: 05/31/2023

Licensee Signature

Russell Barron, Administrator

BID BOND (PENAL SUM FORM)

Bidder	**Surety**
Name: Thompson Construction Group, Inc. Address *(principal place of business)*: 100 N. Main Street Sumter, SC 29150	Name: Continental Casualty Company Address *(principal place of business)*: 151 N. Franklin Street Chicago, IL 60606
Owner	**Bid**
Name: City of Idaho Falls Address *(principal place of business)*: P.O. Box 50220, 140 S. Capital Idaho Fall, ID 83405	Project *(name and location)*: 2023-IFP Runner Hub Rebuild Bid IFP 23-04 Bid Due Date: December 12, 2022

Bond

Penal Sum: Five Percent of the Amount Bid (5%)

Date of Bond: December 12, 2022

Surety and Bidder, intending to be legally bound hereby, subject to the terms set forth in this Bid Bond, do each cause this Bid Bond to be duly executed by an authorized officer, agent, or representative.

Bidder	Surety
Thompson Construction Group, Inc. *(Full formal name of Bidder)*	Continental Casualty Company *(Full formal name of Surety) (corporate seal)*
By: *(Signature)*	By: *(Signature) (Attach Power of Attorney)*
Name: C. Curtis Hutto *(Printed or typed)*	Name: Rebecca E. Cano *(Printed or typed)*
Title: CFO	Title: Attorney-in-Fact
Attest: *(Signature)*	Attest: Debbie Anderson *(Signature)*
Name: Dean Kuhlman *(Printed or typed)*	Name: Debbie Anderson *(Printed or typed)*
Title: VP Safety + Risk Manager	Title: Surety Witness

Notes: (1) Note: Addresses are to be used for giving any required notice. (2) Provide execution by any additional parties, such as joint venturers, if necessary.

THOMPSON CONSTRUCTION GROUP INC CORPORATE SEAL SOUTH CAROLINA 2006

CONTINENTAL CASUALTY COMPANY CORPORATE SEAL 1897

1. Bidder and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to pay to Owner upon default of Bidder the penal sum set forth on the face of this Bond. Payment of the penal sum is the extent of Bidder's and Surety's liability. Recovery of such penal sum under the terms of this Bond will be Owner's sole and exclusive remedy upon default of Bidder.
2. Default of Bidder occurs upon the failure of Bidder to deliver within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents.
3. This obligation will be null and void if:
    3.1. Owner accepts Bidder's Bid and Bidder delivers within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents, or
    3.2. All Bids are rejected by Owner, or
    3.3. Owner fails to issue a Notice of Award to Bidder within the time specified in the Bidding Documents (or any extension thereof agreed to in writing by Bidder and, if applicable, consented to by Surety when required by Paragraph 5 hereof).
4. Payment under this Bond will be due and payable upon default of Bidder and within 30 calendar days after receipt by Bidder and Surety of written notice of default from Owner, which notice will be given with reasonable promptness, identifying this Bond and the Project and including a statement of the amount due.
5. Surety waives notice of any and all defenses based on or arising out of any time extension to issue Notice of Award agreed to in writing by Owner and Bidder, provided that the total time for issuing Notice of Award including extensions does not in the aggregate exceed 120 days from the Bid due date without Surety's written consent.
6. No suit or action will be commenced under this Bond prior to 30 calendar days after the notice of default required in Paragraph 4 above is received by Bidder and Surety, and in no case later than one year after the Bid due date.
7. Any suit or action under this Bond will be commenced only in a court of competent jurisdiction located in the state in which the Project is located.
8. Notices required hereunder must be in writing and sent to Bidder and Surety at their respective addresses shown on the face of this Bond. Such notices may be sent by personal delivery, commercial courier, or by United States Postal Service registered or certified mail, return receipt requested, postage pre-paid, and will be deemed to be effective upon receipt by the party concerned.
9. Surety shall cause to be attached to this Bond a current and effective Power of Attorney evidencing the authority of the officer, agent, or representative who executed this Bond on behalf of Surety to execute, seal, and deliver such Bond and bind the Surety thereby.
10. This Bond is intended to conform to all applicable statutory requirements. Any applicable requirement of any applicable statute that has been omitted from this Bond will be deemed to be included herein as if set forth at length. If any provision of this Bond conflicts with any applicable statute, then the provision of said statute governs and the remainder of this Bond that is not in conflict therewith continues in full force and effect.
11. The term "Bid" as used herein includes a Bid, offer, or proposal as applicable.

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That Continental Casualty Company, an Illinois insurance company, National Fire Insurance Company of Hartford, an Illinois insurance company, and American Casualty Company of Reading, Pennsylvania, a Pennsylvania insurance company (herein called "the CNA Companies"), are duly organized and existing insurance companies having their principal offices in the City of Chicago, and State of Illinois, and that they do by virtue of the signatures and seals herein affixed hereby make, constitute and appoint

Catherine Thompson, Bradley D Lorenzetti, Amy R Waugh, Rebecca E Cano, Noah William Pierce, Stephanie A Toole, Jynell Whitehead, Bryan Caneschi, Individually

of Greenville, SC, their true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on their behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind them thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of their insurance companies and all the acts of said Attorney, pursuant to the authority hereby given is hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law and Resolutions, printed on the reverse hereof, duly adopted, as indicated, by the Boards of Directors of the insurance companies.

In Witness Whereof, the CNA Companies have caused these presents to be signed by their Vice President and their corporate seals to be hereto affixed on this 15th day of September, 2021.

Continental Casualty Company
National Fire Insurance Company of Hartford
American Casualty Company of Reading, Pennsylvania

Paul T. Bruflat — Vice President

State of South Dakota, County of Minnehaha, ss:

On this 15th day of September, 2021, before me personally came Paul T. Bruflat to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is a Vice President of Continental Casualty Company, an Illinois insurance company, National Fire Insurance Company of Hartford, an Illinois insurance company, and American Casualty Company of Reading, Pennsylvania, a Pennsylvania insurance company described in and which executed the above instrument; that he knows the seals of said insurance companies; that the seals affixed to the said instrument are such corporate seals; that they were so affixed pursuant to authority given by the Boards of Directors of said insurance companies and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said insurance companies.

M. BENT
NOTARY PUBLIC
SOUTH DAKOTA

My Commission Expires March 2, 2026

M. Bent — Notary Public

CERTIFICATE

I, D. Johnson, Assistant Secretary of Continental Casualty Company, an Illinois insurance company, National Fire Insurance Company of Hartford, an Illinois insurance company, and American Casualty Company of Reading, Pennsylvania, a Pennsylvania insurance company do hereby certify that the Power of Attorney herein above set forth is still in force, and further certify that the By-Law and Resolution of the Board of Directors of the insurance companies printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said insurance companies this 12th day of December, 2022.

Continental Casualty Company
National Fire Insurance Company of Hartford
American Casualty Company of Reading, Pennsylvania

D. Johnson — Assistant Secretary

Form F6853-4/2012

Go to www.cnasurety.com > Owner / Obligee Services > Validate Bond Coverage, if you want to verify bond authenticity.

Authorizing By-Laws and Resolutions

ADOPTED BY THE BOARD OF DIRECTORS OF CONTINENTAL CASUALTY COMPANY:

This Power of Attorney is made and executed pursuant to and by authority of the following resolution duly adopted by the Board of Directors of the Company at a meeting held on May 12, 1995:

"RESOLVED: That any Senior or Group Vice President may authorize an officer to sign specific documents, agreements and instruments on behalf of the Company provided that the name of such authorized officer and a description of the documents, agreements or instruments that such officer may sign will be provided in writing by the Senior or Group Vice President to the Secretary of the Company prior to such execution becoming effective."

This Power of Attorney is signed by Paul T. Bruflat, Vice President, who has been authorized pursuant to the above resolution to execute power of attorneys on behalf of Continental Casualty Company.

This Power of Attorney is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of the Company by unanimous written consent dated the 25th day of April, 2012:

"Whereas, the bylaws of the Company or specific resolution of the Board of Directors has authorized various officers (the "Authorized Officers")to execute various policies, bonds, undertakings and other obligatory instruments of like nature; and

Whereas, from time to time, the signature of the Authorized Officers, in addition to being provided in original, hard copy format, may be provided via facsimile or otherwise in an electronic format (collectively, "Electronic Signatures"); Now therefore be it resolved: that the Electronic Signature of any Authorized Officer shall be valid and binding on the Company. "

ADOPTED BY THE BOARD OF DIRECTORS OF NATIONAL FIRE INSURANCE COMPANY OF HARTFORD:

This Power of Attorney is made and executed pursuant to and by authority of the following resolution duly adopted by the Board of Directors of the Company by unanimous written consent dated May 10, 1995:

"RESOLVED: That any Senior or Group Vice President may authorize an officer to sign specific documents, agreements and instruments on behalf of the Company provided that the name of such authorized officer and a description of the documents, agreements or instruments that such officer may sign will be provided in writing by the Senior or Group Vice President to the Secretary of the Company prior to such execution becoming effective."

This Power of Attorney is signed by Paul T. Bruflat, Vice President, who has been authorized pursuant to the above resolution to execute power of attorneys on behalf of National Fire Insurance Company of Hartford.

This Power of Attorney is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of the Company by unanimous written consent dated the 25th day of April, 2012:

"Whereas, the bylaws of the Company or specific resolution of the Board of Directors has authorized various officers (the "Authorized Officers")to execute various policies, bonds, undertakings and other obligatory instruments of like nature; and

Whereas, from time to time, the signature of the Authorized Officers, in addition to being provided in original, hard copy format, may be provided via facsimile or otherwise in an electronic format (collectively, "Electronic Signatures"); Now therefore be it resolved: that the Electronic Signature of any Authorized Officer shall be valid and binding on the Company. "

ADOPTED BY THE BOARD OF DIRECTORS OF AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA:

This Power of Attorney is made and executed pursuant to and by authority of the following resolution duly adopted by the Board of Directors of the Company by unanimous written consent dated May 10, 1995:

"RESOLVED: That any Senior or Group Vice President may authorize an officer to sign specific documents, agreements and instruments on behalf of the Company provided that the name of such authorized officer and a description of the documents, agreements or instruments that such officer may sign will be provided in writing by the Senior or Group Vice President to the Secretary of the Company prior to such execution becoming effective."

This Power of Attorney is signed by Paul T. Bruflat, Vice President, who has been authorized pursuant to the above resolution to execute power of attorneys on behalf of American Casualty Company of Reading, Pennsylvania.

This Power of Attorney is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of the Company by unanimous written consent dated the 25th day of April, 2012:

"Whereas, the bylaws of the Company or specific resolution of the Board of Directors has authorized various officers (the "Authorized Officers")to execute various policies, bonds, undertakings and other obligatory instruments of like nature; and

Whereas, from time to time, the signature of the Authorized Officers, in addition to being provided in original, hard copy format, may be provided via facsimile or otherwise in an electronic format (collectively, "Electronic Signatures"); Now therefore be it resolved: that the Electronic Signature of any Authorized Officer shall be valid and binding on the Company. "

1. Bidder and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to pay to Owner upon default of Bidder the penal sum set forth on the face of this Bond. Payment of the penal sum is the extent of Bidder's and Surety's liability. Recovery of such penal sum under the terms of this Bond will be Owner's sole and exclusive remedy upon default of Bidder.

2. Default of Bidder occurs upon the failure of Bidder to deliver within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents.

3. This obligation will be null and void if:

   3.1. Owner accepts Bidder's Bid and Bidder delivers within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents, or

   3.2. All Bids are rejected by Owner, or

   3.3. Owner fails to issue a Notice of Award to Bidder within the time specified in the Bidding Documents (or any extension thereof agreed to in writing by Bidder and, if applicable, consented to by Surety when required by Paragraph 5 hereof).

4. Payment under this Bond will be due and payable upon default of Bidder and within 30 calendar days after receipt by Bidder and Surety of written notice of default from Owner, which notice will be given with reasonable promptness, identifying this Bond and the Project and including a statement of the amount due.

5. Surety waives notice of any and all defenses based on or arising out of any time extension to issue Notice of Award agreed to in writing by Owner and Bidder, provided that the total time for issuing Notice of Award including extensions does not in the aggregate exceed 120 days from the Bid due date without Surety's written consent.

6. No suit or action will be commenced under this Bond prior to 30 calendar days after the notice of default required in Paragraph 4 above is received by Bidder and Surety, and in no case later than one year after the Bid due date.

7. Any suit or action under this Bond will be commenced only in a court of competent jurisdiction located in the state in which the Project is located.

8. Notices required hereunder must be in writing and sent to Bidder and Surety at their respective addresses shown on the face of this Bond. Such notices may be sent by personal delivery, commercial courier, or by United States Postal Service registered or certified mail, return receipt requested, postage pre-paid, and will be deemed to be effective upon receipt by the party concerned.

9. Surety shall cause to be attached to this Bond a current and effective Power of Attorney evidencing the authority of the officer, agent, or representative who executed this Bond on behalf of Surety to execute, seal, and deliver such Bond and bind the Surety thereby.

10. This Bond is intended to conform to all applicable statutory requirements. Any applicable requirement of any applicable statute that has been omitted from this Bond will be deemed to be included herein as if set forth at length. If any provision of this Bond conflicts with any applicable statute, then the provision of said statute governs and the remainder of this Bond that is not in conflict therewith continues in full force and effect.

11. The term "Bid" as used herein includes a Bid, offer, or proposal as applicable.

Naming of Subcontractors Form

Per Idaho Code, 67-2310, Bidder shall include in his or her Bid the names and address, and Idaho Public Works Contractor License Number of the Subcontractors who shall, in the event the Bidder secures the Contract, subcontract the plumbing, heating and air-conditioning work, and electrical work under the general Contract. Failure to name Subcontractors as required shall render any Bid submitted by the Bidder unresponsive and void.

Subcontractor Name and Address	**Classification**	**License Number**

NOTES TO USER

1. This form must be included for all bids.

NOTICE OF AWARD

Date of Issuance:			
Owner:	City of Idaho Falls	Owner's Project No.:	IFP 23-04
Engineer:	Jason Cooper, PE	Engineer's Project No.:	IFP 23-04
Project:	Upper Plant Runner Hub Rebuild		
Contract Name:	2023 – 04 IFP Upper Plant Runner Hub Rebuild		
Bidder:			
Bidder's Address:			

You are notified that Owner has accepted your Bid dated _____ for the above Contract, and that you are the Successful Bidder and are awarded a Contract for:

The Upper Plant Runner Hub Rebuild

The Contract Price of the awarded Contract is $_____. Contract Price is subject to adjustment based on the provisions of the Contract, including but not limited to those governing changes, Unit Price Work, and Work performed on a cost-plus-fee basis, as applicable.

One unexecuted counterpart of the Agreement accompanies this Notice of Award, and one copy of the Contract Documents accompanies this Notice of Award, or has been transmitted or made available to Bidder electronically.

☐ Drawings will be delivered separately from the other Contract Documents.

You must comply with the following conditions precedent within 15 days of the date of receipt of this Notice of Award:

1. Deliver to Owner three counterparts of the Agreement, signed by Bidder (as Contractor).
2. Deliver with the signed Agreement(s) the Contract security (such as required performance and payment bonds) and insurance documentation, as specified in the Instructions to Bidders and in the General Conditions, Articles 2 and 6.
3. Other conditions precedent (if any): Invoices cannot be submitted prior to :

Failure to comply with these conditions within the time specified will entitle Owner to consider you in default, annul this Notice of Award, and declare your Bid security forfeited.

Within 10 days after you comply with the above conditions, Owner will return to you one fully signed counterpart of the Agreement, together with any additional copies of the Contract Documents as indicated in Paragraph 2.02 of the General Conditions.

Owner:

By *(signature)*: _____

Name *(printed)*: _____

Title: _____

Copy: Engineer

AGREEMENT BETWEEN OWNER AND CONTRACTOR FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)

This Agreement is by and between the City of Idaho Falls ("Owner") and ("Contractor").

Terms used in this Agreement have the meanings stated in the General Conditions and the Supplementary Conditions.

Owner and Contractor hereby agree as follows:

ARTICLE 1—WORK

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows: Base Bid: The rebuild of the Lower Plant Runner Hub

ARTICLE 2—THE PROJECT

2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows: Base Bid: The rebuild of the Lower Plant Runner Hub.

ARTICLE 3—ENGINEER

3.01 The Owner is also the ("Engineer"), IFP will designate an employee to act as Owner's representative, assume all duties and responsibilities of Engineer, and have the rights and authority assigned to Engineer in the Contract.

ARTICLE 4—CONTRACT TIMES

4.01 *Time is of the Essence*

A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 *Contract Times: Days*

A. The Work will be substantially complete within number days after the date when the Contract Times commence to run as provided in Paragraph 4.01 of the General Conditions and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions within 30 days after the date when the Contract Times commence to run.

4.03 The project shall proceed from the date of the Notice to Proceed. The procurement of materials is to precede the dewater of the Upper Plant and disassembly.

4.05 *Liquidated Damages*

A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the Contract Times, as duly modified. The parties also recognize the delays, expense, and difficulties involved in proving, in a legal or arbitration

proceeding, the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):

1. *Substantial Completion:* Contractor shall pay Owner **$5,000.00** for each day of fifteen days or more that expires after the contract time (as duly adjusted pursuant to the Contract) specified above for Substantial Completion, until the Work is substantially complete.

B. If Owner recovers liquidated damages for a delay in completion by Contractor, then such liquidated damages are Owner's sole and exclusive remedy for such delay, and Owner is precluded from recovering any other damages, whether actual, direct, excess, or consequential, for such delay, except for special damages (if any) specified in this Agreement.

C. *Bonus:* Contractor and Owner further recognize the Owner will realize financial and other benefits if the Work is completed prior to the time specified for Substantial Completion. Accordingly, Owner and Contractor agree that as a bonus for early completion, Owner shall pay Contractor **$5,000.00** for each day fifteen days or more prior to the contract time specified for Substantial Completion, (as duly adjusted pursuant to the Contract) that the Work is substantially complete.

D. Notwithstanding anything to the contrary, Contractor's total liability to Owner for liquidated damages for delay on the one hand and Owner's total liability to Contractor for an early completion bonus on the other hand shall not exceed five percent (5%) of the Contract Price.

4.06 *Special Damages*

A. Contractor shall reimburse Owner for any fines or penalties imposed on Owner as a direct result of the Contractor's failure to attain Substantial Completion according to the Contract Times.

B. The special damages imposed in this paragraph are supplemental to any liquidated damages for delayed completion established in this Agreement.

4.07 Waiver of Consequential Damages

A. Contractor shall not be liable, whether in contract or in tort, or under any other legal theory, for loss of use, revenue, or profit, or for cost capital or of substitute use or performance or for any other incidental, indirect, special, or consequential damages.

ARTICLE 5—CONTRACT PRICE

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents, the amounts that follow, subject to adjustment under the Contract:

A. For all Work other than Unit Price Work, a lump sum of **$**

All specific cash allowances are included in the above price in accordance with Paragraph 13.02 of the General Conditions.

B. For all Work, at the prices stated in Contractor's Bid, attached hereto as an exhibit.

ARTICLE 6—PAYMENT PROCEDURES

6.01 *Submittal and Processing of Payments*

A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General

Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

B. Invoices shall not be paid prior to:

6.02 *Progress Payments; Retainage*

A. Owner shall make progress payments on the basis of Contractor's Applications for Payment on or about the 15th day of each month during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.

1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract.

a. **90** percent of the value of the Work completed (with the balance being retainage).

1) If 50 percent or more of the Work has been completed, as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, then as long as the character and progress of the Work remain satisfactory to Owner and Engineer, there will be no additional retainage; and

b. **90** percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).

B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to **100** percent of the Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions, and less **150** percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment.

6.03 *Final Payment*

A. Upon final completion and acceptance of the Work, Owner shall pay the remainder of the Contract Price in accordance with Paragraph 15.06 of the General Conditions.

6.04 *Consent of Surety*

A. Owner will not make final payment, or return or release retainage at Substantial Completion or any other time, unless Contractor submits written consent of the surety to such payment, return, or release.

ARTICLE 7—CONTRACT DOCUMENTS

7.01 *Contents*

A. The Contract Documents consist of all of the following:

1. This Agreement.

2. Bonds:
    a. Performance bond (together with power of attorney).
    b. Payment bond (together with power of attorney).
3. General Conditions.
4. Supplementary Conditions.
5. Specifications as listed in the table of contents of the project manual (copy of list attached).
6. Additional Information and Drawings listed on the attached sheet index.
7. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
    a. Notice to Proceed.
    b. Work Change Directives.
    c. Change Orders.
    d. Field Orders.

B. The Contract Documents listed in Paragraph 7.01.A are attached to this Agreement (except as expressly noted otherwise above).

C. There are no Contract Documents other than those listed above in this Article 7.

D. The Contract Documents may only be amended, modified, or supplemented as provided in the Contract.

ARTICLE 8—REPRESENTATIONS, CERTIFICATIONS, AND STIPULATIONS

8.01 *Contractor's Representations*

A. In order to induce Owner to enter into this Contract, Contractor makes the following representations:
    1. Contractor has examined and carefully studied the Contract Documents, including Addenda.
    2. Contractor has visited the Site, conducted a thorough visual examination of the Site and adjacent areas, and become familiar with the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
    3. Contractor is familiar with all Laws and Regulations that may affect cost, progress, and performance of the Work.
    4. Contractor has carefully studied the reports of explorations and tests of subsurface conditions at or adjacent to the Site and the drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been provided by Owner and identified in the Supplementary Conditions, with respect to the Technical Data in such reports and drawings.
    5. Contractor has carefully studied the reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been provided by

Owner and identified in the Supplementary Conditions, with respect to Technical Data in such reports and drawings.

6. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Technical Data identified in the Supplementary Conditions or by definition, with respect to the effect of such information, observations, and Technical Data on (a) the cost, progress, and performance of the Work; (b) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (c) Contractor's safety precautions and programs.

7. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.

8. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.

9. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and of discovered discrepancies between Site conditions and the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.

10. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

11. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

12. The Contractor is an appropriately licensed public works contractor per Idaho Code Section 54-1902.

13. Contractor shall comply with all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither Owner nor Engineer shall be responsible for monitoring the Contractor's compliance with any Laws or Regulations. Contractor shall not be responsible for any variance with applicable Laws and Regulations resulting from Owner-Furnished Items.

8.02 *Contractor's Certifications*

A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 8.02:

1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process or in the Contract execution;

2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner,

(b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;

3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and

4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

8.03 *Owner's Representations*

A. Owner represents and warrants to Contractor that:

B. Owner has all requisite power and authority to conduct its business, controls the land where work is performed, and shall execute and deliver the Contract Documents and perform its obligations hereunder in accordance with the terms hereof.

C. The execution, delivery, and performance of the Contract Documents have been duly authorized by all requisite action and this Agreement constitutes the legal, valid and binding obligation of Owner, enforceable against Owner in accordance with its terms.

D. Neither the execution, delivery or performance of the Contract Documents conflicts with, or results in a violation or breach of the terms, conditions or provisions of, or constitutes a default under, the organizational documents of Owner or any agreement, contract, indenture or other instrument under which Owner or its assets are bound, nor violates or conflicts with any Applicable Law or any judgment, decree, order, writ, injunction or award applicable to Owner.

E. Owner is not in violation of any applicable Laws and Regulation or permit, which violations, individually or in the aggregate, would affect its performance of its obligations under the Contract Documents.

F. Owner is the holder of all governmental consents, licenses, permissions and other authorizations and permits required to operate and conduct its business now and as contemplated by the Contract Documents, other than permits which will be obtained by permits in accordance with the terms of the Contract Documents.

G. There is no pending controversy, legal action, arbitration proceeding, administrative proceeding or investigation instituted, or to the best of Owner's knowledge threatened, against or affecting, or that could affect, the legality, validity and enforceability of the Contract Documents or the performance by Owner of its obligations under the Contract Documents, nor does Owner know of any basis for any such controversy, action, proceeding or investigation.

H. Fair, legal, and ethical business practices will be adhered to during the term of the Agreement by Owner, Engineer, and Owner's separate contractors.

I. Owner shall be financially solvent, able to pay its debts as they mature, and possessed of sufficient funds to complete its obligations under this Agreement.

8.04 *Standard General Conditions*

A. Owner stipulates that if the General Conditions that are made a part of this Contract are ISPWC Division 100, Standard General Conditions for the Construction Contract, published by the Engineers Joint Contract Documents Committee, and if Owner is the party that has

furnished said General Conditions, then Owner has plainly shown all modifications to the standard wording of such published document to the Contractor, through a process such as highlighting or “track changes” (redline/strikeout), or in the Supplementary Conditions.

ARTICLE 9—NON-DISCRIMINATION

CONTRACTOR shall not discriminate against any employee or applicant for employment on the basis of race, color, religion, creed, political ideals, sex, age, marital status, physical, or mental handicap, gender identity/expression, sexual orientation, or national origin.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.

This Agreement will be effective as noted in the Notice to Proceed.

1.

Owner: City of Idaho Falls	Contractor:
(typed or printed name of organization)	Thompson Construction Group *(typed or printed name of organization)*
By: _____ *(individual's signature)*	By: _____ *(individual's signature)*
Date: _____ *(date signed)*	Date: 01.04.2023 *(date signed)*
Name: Rebecca L. Noah Casper *(typed or printed)*	Name: Kyle Wagaman *(typed or printed)*
Title: Mayor *(typed or printed)*	Title: Genergal Manager *(typed or printed)* *(If **[Type of Entity]** is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)*
Attest: _____ *(individual's signature)*	Attest: _____ *(individual's signature)*
Title: _____ *(typed or printed)*	Title: _____ *(typed or printed)*
Address for giving notices: P.O. Box 50220 140 S. Capital Idaho Falls, ID 83405	Address for giving notices: 100 N Main St Sumter, SC 29150
Designated Representative: Name: Jason Cooper, PE *(typed or printed)* Title: Senior Civil Engineer - CDSE *(typed or printed)* Address: P.O. Box 50220 140 S. Capital Idaho Falls, ID 83405 Phone: 208-612-8573 Email: jcooper@ifpower.org *(If **[Type of Entity]** is a corporation, attach evidence of authority to sign. If **[Type of Entity]** is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of this Agreement.)*	Designated Representative: Name: _____ *(typed or printed)* Title: _____ *(typed or printed)* Address: Phone: _____ Email: _____ License No.: _____ *(where applicable)* State: _____

NOTICE TO PROCEED

Owner:	City of Idaho Falls	Owner's Project No.:	IFP-23-04
Engineer:	N/A	Engineer's Project No.:	N/A
Contractor:		Contractor's Project No.:	
Project:	IFP 23-04 Upper Plant Runner Hub Rebuild		
Contract Name:	IFP 23-04 Upper Plant Runner Hub Rebuild		
Effective Date of Contract:			

Owner hereby notifies Contractor that the Contract Times under the above Contract will commence to run on **14 October 2021** pursuant to Paragraph 4.01 of the General Conditions.

On that date, Contractor shall start performing its obligations under the Contract Documents. No Work will be done at the Site prior to such date.

In accordance with the Agreement:

The number of days to achieve Substantial Completion is from the date stated above for the commencement of the Contract Times, resulting in a date for Substantial Completion of and the number of days to achieve readiness for final payment is **15** from the commencement date of the Contract Times, resulting in a date for readiness for final payment of

Before starting any Work at the Site, Contractor must comply with the following:

None noted

Owner:	**City of Idaho Falls**
By *(signature)*:	
Name *(printed)*:	Jason Cooper
Title:	Senior Civil Engineer – CDSE
Date Issued:	

Copy: Engineer

PERFORMANCE BOND

Contractor	**Surety**
Name:	Name:
Address *(principal place of business)*:	Address *(principal place of business)*:
Owner	**Contract**
Name: **Idaho Falls Power**	Description *(name and location)*:
Mailing address *(principal place of business)*:	
140 S. Capital Ave.	
Idaho Falls, ID 83405	Contract Price:
	Effective Date of Contract:

Bond

Bond Amount:

Date of Bond:

(Effective Date of Contract)

Modifications to this Bond form:

☐ None ☐ See Paragraph 16

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth in this Performance Bond, do each cause this Performance Bond to be duly executed by an authorized officer, agent, or representative.

Contractor as Principal	Surety
_____	_____
(Full formal name of Contractor)	*(Full formal name of Surety) (corporate seal)*
By: _____	By: _____
(Signature)	*(Signature)(Attach Power of Attorney)*
Name: _____	Name: _____
(Printed or typed)	*(Printed or typed)*
Title: _____	Title: _____
Attest: _____	Attest: _____
(Signature)	*(Signature)*
Name: _____	Name: _____
(Printed or typed)	*(Printed or typed)*
Title: _____	Title: _____

Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party is considered plural where applicable.

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

2. If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Paragraph 3.

3. If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond will arise after:

    3.1. The Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice may indicate whether the Owner is requesting a conference among the Owner, Contractor, and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Paragraph 3.1 will be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor, and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement does not waive the Owner's right, if any, subsequently to declare a Contractor Default;

    3.2. The Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and

    3.3. The Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.

4. Failure on the part of the Owner to comply with the notice requirement in Paragraph 3.1 does not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.

5. When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

    5.1. Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;

    5.2. Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;

    5.3. Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owners concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or

    5.4. Waive its right to perform and complete, arrange for completion, or obtain a new contractor, and with reasonable promptness under the circumstances:

5.4.1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or

5.4.2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.

6. If the Surety does not proceed as provided in Paragraph 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Paragraph 5.4, and the Owner refuses the payment, or the Surety has denied liability, in whole or in part, without further notice, the Owner shall be entitled to enforce any remedy available to the Owner.

7. If the Surety elects to act under Paragraph 5.1, 5.2, or 5.3, then the responsibilities of the Surety to the Owner will not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety will not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication for:

   7.1. the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;

   7.2. additional legal, design professional, and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 5; and

   7.3. liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

8. If the Surety elects to act under Paragraph 5.1, 5.3, or 5.4, the Surety's liability is limited to the amount of this Bond.

9. The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price will not be reduced or set off on account of any such unrelated obligations. No right of action will accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors, and assigns.

10. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.

11. Any proceeding, legal or equitable, under this Bond must be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and must be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum periods of limitations available to sureties as a defense in the jurisdiction of the suit will be applicable.

12. Notice to the Surety, the Owner, or the Contractor must be mailed or delivered to the address shown on the page on which their signature appears.

13. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement will be deemed deleted therefrom and provisions conforming to such

statutory or other legal requirement will be deemed incorporated herein. When so furnished, the intent is that this Bond will be construed as a statutory bond and not as a common law bond.

14. Definitions

    14.1. *Balance of the Contract Price*—The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made including allowance for the Contractor for any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

    14.2. *Construction Contract*—The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.

    14.3. *Contractor Default*—Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.

    14.4. *Owner Default*—Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

    14.5. *Contract Documents*—All the documents that comprise the agreement between the Owner and Contractor.

15. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond will be deemed to be Subcontractor and the term Owner will be deemed to be Contractor.

16. Modifications to this Bond are as follows: None

PAYMENT BOND

Contractor	**Surety**
Name:	Name:
Address *(principal place of business)*:	Address *(principal place of business)*:
Owner	**Contract**
Name: **Idaho Falls Power** Mailing address *(principal place of business)*: **140 S. Capital Ave.** **Idaho Falls, ID 83405**	Description *(name and location)*: Contract Price: Effective Date of Contract:

Bond

Bond Amount:

Date of Bond:

(Effective Date of Contract)

Modifications to this Bond form:

☐ None ☐ See Paragraph 18

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth in this Payment Bond, do each cause this Payment Bond to be duly executed by an authorized officer, agent, or representative.

Contractor as Principal	Surety
_____	_____
(Full formal name of Contractor)	*(Full formal name of Surety) (corporate seal)*
By: _____	By: _____
(Signature)	*(Signature)(Attach Power of Attorney)*
Name: _____	Name: _____
(Printed or typed)	*(Printed or typed)*
Title: _____	Title: _____
Attest: _____	Attest: _____
(Signature)	*(Signature)*
Name: _____	Name: _____
(Printed or typed)	*(Printed or typed)*
Title: _____	Title: _____

Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party is considered plural where applicable.

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner to pay for labor, materials, and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.

2. If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies, and holds harmless the Owner from claims, demands, liens, or suits by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.

3. If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond will arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Paragraph 13) of claims, demands, liens, or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, and tendered defense of such claims, demands, liens, or suits to the Contractor and the Surety.

4. When the Owner has satisfied the conditions in Paragraph 3, the Surety shall promptly and at the Surety's expense defend, indemnify, and hold harmless the Owner against a duly tendered claim, demand, lien, or suit.

5. The Surety's obligations to a Claimant under this Bond will arise after the following:

    5.1. Claimants who do not have a direct contract with the Contractor

        5.1.1. have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and

        5.1.2. have sent a Claim to the Surety (at the address described in Paragraph 13).

    5.2. Claimants who are employed by or have a direct contract with the Contractor have sent a Claim to the Surety (at the address described in Paragraph 13).

6. If a notice of non-payment required by Paragraph 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Paragraph 5.1.1.

7. When a Claimant has satisfied the conditions of Paragraph 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:

    7.1. Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and

    7.2. Pay or arrange for payment of any undisputed amounts.

    7.3. The Surety's failure to discharge its obligations under Paragraph 7.1 or 7.2 will not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Paragraph 7.1 or 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.

8. The Surety's total obligation will not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Paragraph 7.3, and the amount of this Bond will be credited for any payments made in good faith by the Surety.

9. Amounts owed by the Owner to the Contractor under the Construction Contract will be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfying obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.

10. The Surety shall not be liable to the Owner, Claimants, or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to or give notice on behalf of Claimants, or otherwise have any obligations to Claimants under this Bond.

11. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.

12. No suit or action will be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Paragraph 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit will be applicable.

13. Notice and Claims to the Surety, the Owner, or the Contractor must be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, will be sufficient compliance as of the date received.

14. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement will be deemed deleted here from and provisions conforming to such statutory or other legal requirement will be deemed incorporated herein. When so furnished, the intent is that this Bond will be construed as a statutory bond and not as a common law bond.

15. Upon requests by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.

16. Definitions

    16.1. *Claim*—A written statement by the Claimant including at a minimum:

        16.1.1. The name of the Claimant;

        16.1.2. The name of the person for whom the labor was done, or materials or equipment furnished;

        16.1.3. A copy of the agreement or purchase order pursuant to which labor, materials, or equipment was furnished for use in the performance of the Construction Contract;

        16.1.4. A brief description of the labor, materials, or equipment furnished;

16.1.5. The date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;

16.1.6. The total amount earned by the Claimant for labor, materials, or equipment furnished as of the date of the Claim;

16.1.7. The total amount of previous payments received by the Claimant; and

16.1.8. The total amount due and unpaid to the Claimant for labor, materials, or equipment furnished as of the date of the Claim.

16.2. *Claimant*—An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials, or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond is to include without limitation in the terms of "labor, materials, or equipment" that part of the water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.

16.3. *Construction Contract*—The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.

16.4. *Owner Default*—Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

16.5. *Contract Documents*—All the documents that comprise the agreement between the Owner and Contractor.

17. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond will be deemed to be Subcontractor and the term Owner will be deemed to be Contractor.

18. Modifications to this Bond are as follows: None

SUPPLEMENTARY CONDITIONS OF THE CONSTRUCTION CONTRACT

TABLE OF CONTENTS

Page

Article 1— Definitions and Terminology 1
Article 2— Preliminary Matters 1
Article 3— Contract Documents: Intent, Requirements, Reuse 2
Article 4— Commencement and Progress of the Work 2
Article 5— Site, Subsurface and Physical Conditions, Hazardous Environmental Conditions 2
Article 6— Bonds and Insurance 3
Article 7— Contractor's Responsibilities 5
Article 8— Other Work at the Site 6
Article 9— Owner's Responsibilities 6
Article 10— Engineer's Status During Construction 8
Article 11— Changes to the Contract 9
Article 12— Claims 9
Article 13— Cost of Work; Allowances, Unit Price Work 9
Article 14— Tests and Inspections; Correction, Removal, or Accceptance of Defective Work 10
Article 15— Payments to Contractor, Set Offs; Completions; Correction Period 10
Article 16— Suspension of Work and Termination 10
Article 17— Final Resolutions of Disputes 10

IDAHO FALLS POWER
PROJECT NO. IFP 23 – 04
SUPPLEMENTARY CONDITIONS OF THE CONSTRUCTION CONTRACT

These Supplementary Conditions amend or supplement ISPWC Division 100, Standard General Conditions of the Construction Contract. The General Conditions remain in full force and effect except as amended.

The terms used in these Supplementary Conditions have the meanings stated in the General Conditions. Additional terms used in these Supplementary Conditions have the meanings stated below, which are applicable to both the singular and plural thereof.

The address system used in these Supplementary Conditions is the same as the address system used in the General Conditions, with the prefix "SC" added—for example, "Paragraph SC-4.05."

ARTICLE 1—DEFINITIONS AND TERMINOLOGY

No suggested Supplementary Conditions in this Article.

ARTICLE 2—PRELIMINARY MATTERS

2.01 *Delivery of Bonds and Evidence of Insurance*

A. *Evidence of Contractor's Insurance:* When Contractor delivers the signed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner copies of the policies (including all endorsements, and identification of applicable self-insured retentions and deductibles) of insurance required to be provided by Contractor in this Contract. Contractor may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.

2.02 *Copies of Documents*

Owner shall furnish to Contractor **one** printed copy of the Contract Documents (including one fully signed counterpart of the Agreement), and **one** in electronic portable document format (PDF).

2.03 Contractor Documentation

A. Within ten (10) days after the effective date of the Agreement (unless otherwise specified in the General Requirements), Contractor shall submit to the Owner (or Engineer) the following:

1. WH-5 Public Works Contract Report in conformance with Idaho Code Sections 54-1904A and 63-3624(g), and

2. Affidavit of Payment of Securement of all taxes in conformance with Title 63, Chapter 15 Idaho Code.

2.04 *Preconstruction Conference; Designation of Authorized Representatives*

A. *No Supplementary Conditions in the Article*

2.05 *Acceptance of Schedules*

A. No Supplementary Conditions in the Article

2.06 *Electronic Transmittals*

A. No Supplementary Conditions in the Article

ARTICLE 3—CONTRACT DOCUMENTS: INTENT, REQUIREMENTS, REUSE

3.01 *Intent*

3.02 *Reference Standards*

A. No Supplementary Conditions in this Article

3.03 Reporting and Resolving Discrepancies

A. No Supplementary Conditions in this Article

3.04 Requirements of the Contract Documents

A. No Supplementary Conditions in this Article

3.05 Reuse of Documents

A. No Supplementary Conditions in this Article

ARTICLE 4—COMMENCEMENT AND PROGRESS OF THE WORK

4.01 *Commencement of Contract Times; Notice to Proceed*

A. No Supplementary Conditions in this Article

4.02 Starting the Work

A. No Supplementary Conditions in this Article

4.03 Reference Points

A No Supplementary Conditions in this Article

4.04 Progress Schedule

A. No Supplementary Conditions in this Article

4.05 Delays in Contractor's Progress

A. No Supplementary Conditions in this Article

ARTICLE 5—SITE, SUBSURFACE AND PHYSICAL CONDITIONS, HAZARDOUS ENVIRONMENTAL CONDITIONS

5.01 Availability of Lands

A No Supplementary Conditions in this Article

5.02 Use of Site and Other Areas

A. No Supplementary Conditions in this Article

5.03 Subsurface and Physical Conditions

A. No Supplementary Conditions in this Article

5.04 Differing Subsurface and Physical Conditions

A. No Supplementary Conditions in this Article

5.05 Underground Facilities

A. No Supplementary Conditions in this Article

5.06 Hazardous Environmental Conditions

A. No Supplementary Conditions in this Article

ARTICLE 6—BONDS AND INSURANCE

6.01 *Performance, Payment, and Other Bonds*

1. *Required Performance Bond Form:* The performance bond that Contractor furnishes will be in the form of ISPWC 00610
2. *Required Payment Bond Form:* The payment bond that Contractor furnishes will be in the form of ISPWC 00615
3. The correction period specified as one year after the date of Substantial Completion.

6.02 *Insurance—General Provisions*

A. No Supplementary Conditions in this Article

6.03 *Contractor's Insurance*

A. *Workers' Compensation and Employer's Liability:* Contractor shall purchase and maintain workers' compensation and employer's liability insurance, including, as applicable, United States Longshoreman and Harbor Workers' Compensation Act, Jones Act, stop-gap employer's liability coverage for monopolistic states, and foreign voluntary workers' compensation (from available sources, notwithstanding the jurisdictional requirement of Paragraph 6.02.B of the General Conditions).

Workers' Compensation and Related Policies	**Policy limits of:**
Workers' Compensation	
State	Statutory
Applicable Federal (e.g., Longshoreman's)	Statutory
Foreign voluntary workers' compensation (employer's responsibility coverage), if applicable	Statutory
Employer's Liability	
Each accident	$1,000,000
Each employee	$1,000,000
Policy limit	$1,000,000

B. *Commercial General Liability—Claims Covered:* Contractor shall purchase and maintain commercial general liability insurance, covering all operations by or on behalf of Contractor, on an occurrence basis, against claims for:

1. damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees,
2. damages insured by reasonably available personal injury liability coverage, and
3. damages because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom.

A. l General Liability—Form and Content: Contractor's commercial liability policy must be written on a 1996 (or later) Insurance Services Organization, Inc. (ISO) commercial general liability form (occurrence form) and include the following coverages and endorsements:

1. Products and completed operations coverage.
    a. Such insurance must be maintained for three years after final payment.
    b. Contractor shall furnish Owner and each other additional insured (as identified in the Supplementary Conditions or elsewhere in the Contract) evidence of continuation of such insurance at final payment and three years thereafter.
2. Blanket contractual liability coverage, including but not limited to coverage of Contractor's contractual indemnity obligations in Paragraph 7.18.
3. Severability of interests and no insured-versus-insured or cross-liability exclusions.
4. Underground, explosion, and collapse coverage.
5. Personal injury coverage.
6. Additional insured endorsements that include both ongoing operations and products and completed operations coverage through ISO Endorsements CG 20 10 10 01 and CG 20 37 10 01 (together). If Contractor demonstrates to Owner that the specified ISO endorsements are not commercially available, then Contractor may satisfy this requirement by providing equivalent endorsements.

B. l General Liability—Excluded Content: The commercial general liability insurance policy, including its coverages, endorsements, and incorporated provisions, must not include any of the following:

1. modification of the standard definition of "insured contract" (except to delete the railroad protective liability exclusion if Contractor is required to indemnify a railroad or others with respect to Work within 50 feet of railroad property).
2. exclusion for water intrusion or water damage.
3. provisions resulting in the erosion of insurance limits by defense costs other than those already incorporated in ISO form CG 00 01.
4. exclusion of coverage relating to earth subsidence or movement.

5. exclusion for the insured's vicarious liability, strict liability, or statutory liability (other than worker's compensation).

6. limitation or exclusion based on the nature of Contractor's work.

7. professional liability exclusion broader in effect than the most recent edition of ISO form CG 22 79.

C. l General Liability—Minimum Policy Limits

Commercial General Liability	**Policy limits of:**
General Aggregate	$2,000,000
Products—Completed Operations Aggregate	$1,000,000
Personal and Advertising Injury	$1,000,000
Bodily Injury and Property Damage—Each Occurrence	$1,000,000

D. Liability: Contractor shall purchase and maintain automobile liability insurance for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance, or use of any motor vehicle. The automobile liability policy must be written on an occurrence basis.

Automobile Liability	**Policy limits of:**
Bodily Injury	
Each Person	$1,000,000
Each Accident	$1,000,000
Property Damage	
Each Accident	$1,000,000
[or]	
Combined Single Limit	
Combined Single Limit (Bodily Injury and Property Damage)	$1,000,000

ARTICLE 7—CONTRACTOR'S RESPONSIBILITIES

7.01 *Contractor's Means and Methods of Construction*

A. *No suggested Supplementary Conditions in this Article*

7.02 *Supervision and Superintendence*

A. *No suggested Supplementary Conditions in this Article*

7.03 *Labor; Working Hours*

A. In the absence of any Laws or Regulations to the contrary, Contractor may perform the Work on holidays, during any or all hours of the day, and on any or all days of the week, at Contractor's sole discretion.

7.04 *Services, Materials, and Equipment*

A. Upon the date of the Notice to Proceed, the Contractor will be responsible for the safety and security of Owner supplied materials. Any loss or damage incurred to the Owner Supplied Materials after the date on the Notice to Proceed shall be the responsibility of the Contractor.

7.05 "Or Equals"

A. No Supplementary Conditions in this Article

7.06 Substitutes

A. No Supplementary Conditions in this Article

7.07 Concerning Subcontractors and Suppliers

A. No Supplementary Conditions in this Article

7.08 Patent Fees and Royalties

A. No Supplementary Conditions in this Article

7.09 Permits

A. No Supplementary Conditions in this Article

7.10 *Taxes*

A. Owner is exempt from payment of sales and compensating use taxes of the State of **Idaho** and of cities and counties thereof on all materials to be incorporated into the Work.

1. Owner will furnish the required certificates of tax exemption to Contractor for use in the purchase of supplies and materials to be incorporated into the Work. The Contract Price does not and shall not include sales taxes on any item for which such exemption certificate applies. If and to the extent any tax authority disapproves, rejects, or otherwise denies Owner's sales tax-exempt status with regard to any item of the Work for which an exemption was deemed applicable and claimed hereunder, Owner shall reimburse Contractor for such sales taxes.

7.11 *Laws and Regulations*

A. No Supplementary Conditions in this Article

7.12 *Record Documents*

A. No Supplementary Conditions in this Article

7.13 *Safety and Protection*

SC-7.13 Insert the following after the second sentence of Paragraph 7.13.G:

The following Owner safety programs are applicable to the Work: The American Public Power Association (APPA) Safety Manual 16th Edition. A copy of the manual will be provided to the General Contractor in the initial construction kick off meeting.

ARTICLE 8—OTHER WORK AT THE SITE

8.01 *Coordination*

A. No Supplementary Conditions in this Article

ARTICLE 9—OWNER'S RESPONSIBILITIES

9.01 *Communications to Contractor*

A. No Supplementary Conditions in this Article

9.02 *Replacement of Engineer*

A. No Supplementary Conditions in this Article

9.03 *Furnish Data*

A. No Supplementary Conditions in this Article

9.04 *Pay When Due*

A. No Supplementary Conditions in this Article

9.05 *Lands and Easements; Reports, Tests, and Drawings*

A. No Supplementary Conditions in this Article

9.06 *Insurance*

A. No Supplementary Conditions in this Article

9.07 *Change Orders*

A. No Supplementary Conditions in this Article

9.08 *Inspections, Tests, and Approvals*

A. No Supplementary Conditions in this Article

9.09 *Limitations on Owner's Responsibilities*

A. No Supplementary Conditions in this Article

9.10 *Undisclosed Hazardous Environmental Condition*

A. No Supplementary Conditions in this Article

9.11 *Evidence of Financial Arrangements*

A. No Supplementary Conditions in this Article

9.12 *Safety Programs*

A. No Supplementary Conditions in this Article

9.13 *Owner's Site Representative*

A. Owner will furnish an "Owner's Site Representative" to represent Owner at the Site and assist Owner in observing the progress and quality of the Work. The Owner's Site Representative is not Engineer's consultant, agent, or employee. Owner's Site Representative will be Jason Cooper. The authority and responsibilities of Owner's Site Representative follow: Act as liaison between the Contractor, the Owner and the Engineering Consultant, answer logistical questions and others questions not pertaining to design interpretation.

ARTICLE 10—ENGINEER'S STATUS DURING CONSTRUCTION

10.01 *Resident Project Representative*

A. Owner will furnish Project representation during the construction period. The duties, responsibilities and limitations of the authority specified for the Engineer in Article 9-ENGINEERS STATUS DURING CONSTRUCTION, and elsewhere in the Contract Documents will be those of the Owner:

1. *Conferences and Meetings:* Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences, and other Project-related meetings (but not including Contractor's safety meetings), and as appropriate prepare and circulate copies of minutes thereof.

2. *Safety Compliance:* Comply with Site safety programs, as they apply to RPR, and if required to do so by such safety programs, receive safety training specifically related to RPR's own personal safety while at the Site.

3. *Liaison*

   a. Serve as Engineer's liaison with Contractor. Working principally through Contractor's authorized representative or designee, assist in providing information regarding the provisions and intent of the Contract Documents.

   b. Assist Engineer in serving as Owner's liaison with Contractor when Contractor's operations affect Owner's on-Site operations.

   c. Assist in obtaining from Owner additional details or information, when required for Contractor's proper execution of the Work.

4. *Review of Work; Defective Work*

   a. Conduct on-Site observations of the Work to assist Engineer in determining, to the extent set forth in Paragraph 10.02, if the Work is in general proceeding in accordance with the Contract Documents.

   b. Observe whether any Work in place appears to be defective.

   c. Observe whether any Work in place should be uncovered for observation, or requires special testing, inspection or approval.

5. *Inspections and Tests*

   a. Observe Contractor-arranged inspections required by Laws and Regulations, including but not limited to those performed by public or other agencies having jurisdiction over the Work.

   b. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Work.

6. *Payment Requests:* Review Applications for Payment with Contractor.

7. *Completion*

   a. Participate in Engineer's visits regarding Substantial Completion.

   b. Assist in the preparation of a punch list of items to be completed or corrected.

c. Participate in Engineer's visit to the Site in the company of Owner and Contractor regarding completion of the Work, and prepare a final punch list of items to be completed or corrected by Contractor.

d. Observe whether items on the final punch list have been completed or corrected.

A. The RPR will not:

1. Authorize any deviation from the Contract Documents or substitution of materials or equipment (including "or-equal" items).

2. Exceed limitations of Engineer's authority as set forth in the Contract Documents.

3. Undertake any of the responsibilities of Contractor, Subcontractors, or Suppliers.

4. Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of construction.

5 Advise on, issue directions regarding, or assume control over security or safety practices, precautions, and programs in connection with the activities or operations of Owner or Contractor.

6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by Engineer.

7. Authorize Owner to occupy the Project in whole or in part.

ARTICLE 11—CHANGES TO THE CONTRACT

No suggested Supplementary Conditions in this Article.

ARTICLE 12—CLAIMS

No suggested Supplementary Conditions in this Article.

ARTICLE 13—COST OF WORK; ALLOWANCES, UNIT PRICE WORK

13.01 *Cost of the Work*

No suggested Supplementary Conditions in this Article.

13.02 *Unit Price Work*

A. *Adjustments in Unit Price*

1. Contractor or Owner shall be entitled to an adjustment in the unit price with respect to an item of Unit Price Work if:

a. the extended price of a particular item of Unit Price Work exceeds that included in the Contract Price (based on estimated quantities at the time of Contract formation) and the variation in the quantity of that particular item of Unit Price Work actually furnished or performed by Contractor differs by from the estimated quantity of such item indicated in the Agreement; and

b. Contractor's unit costs to perform the item of Unit Price Work have changed materially and significantly as a result of the quantity change.

2. The adjustment in unit price will account for and be coordinated with any related changes in quantities of other items of Work, and in Contractor's costs to perform such other Work, such that the resulting overall change in Contract Price is equitable to Owner and Contractor.

3. Adjusted unit prices will apply to all units of that item.

ARTICLE 14—TESTS AND INSPECTIONS; CORRECTION, REMOVAL, OR ACCCEPTANCE OF DEFECTIVE WORK

14.01 *Inspections*

1. No Supplementary Conditions in this Article.

ARTICLE 15—PAYMENTS TO CONTRACTOR, SET OFFS; COMPLETIONS; CORRECTION PERIOD

15.01 *Progress Payments*

1. No Supplementary Conditions in this Article.

15.02 *Substantial Completion*

15.03 No Supplementary Conditions in this Article. *Correction Period*

1. The correction period specified as one year after the date of Substantial Completion.

ARTICLE 16—SUSPENSION OF WORK AND TERMINATION

No suggested Supplementary Conditions in this Article.

ARTICLE 17—FINAL RESOLUTIONS OF DISPUTES

17.01 *Arbitration*

No suggested Supplementary Conditions in this Article.

SPECIAL PROVISIONS

2023 IFP Upper Plant Runner Hub Rebuild
Project No. IFP 23-04

CONTENTS

GENERAL INFORMATION 2

SCOPE OF WORK 2

SCHEDULE OF WORK 2

PROJECT MANAGER 3

SPECIAL PROVISION BID ITEMS 4

GENERAL INFORMATION

Perform and complete all work associated with the rebuild of the runner hub, including all materials, labor and equipment required to complete the project in conformance with these Contract Documents, the construction drawings pertaining to this project, any applicable Federal, State and Local requirements and as directed by the Engineer. The scope of work below is not meant to be comprehensive of the work required but is a general outline to guide the bidder.

SCOPE OF WORK

1.0 SCOPE OF WORK

The contractor work scope is provided below.

1.1Material Procurement

1.1.1 Per the manufacturer material specifications procure the needed bushings, seals and other parts required to rebuild runner hub.

1.1.1.1 List of parts that will need replaced (this list is not meant to be comprehensive. It is a list of items replaced on prior runner hub rebuilds).

1.1.1.1.1 Blade trunnion seals: the original seals are no longer manufactured, use Chesterton R22KN5 Kaplan AWC800 850.00X900.00X35 Seal Item # 411582 and R9KSPCR AWC800, 850.00X900.00X21.00 Spacer Item # 410306. There are two per blade for a total of eight.

1.1.1.1.2 Servo Bushings

1.1.1.1.3 Linkage bushings

1.1.1.1.4 Crosshead bushings

1.1.1.1.5 Nose cone bronze hub guides

1.1.1.1.6 Piston rings

1.1.1.1.7 Trunnion arm bushings

1.1.1.1.8 Hardware

1.1.1.1.9 O-rings

1.2 Discharge Ring

1.1.1 Prior to removing the discharge ring take as-found blade tip clearance readings and compare to commissioning manual readings to determine need for blade build up.

1.1.2 Inspect and make repairs as necessary.

- Repairs in 1.1.2 to be completed on T&M basis per contracted rates.
- Prior to any weld repairs contractor will submit weld repair procedure for approval.
- Only stainless-steel materials may be used.
- Any painted surfaces that are damaged during repairs will be repainted by the contractor at their expense.

1.3 Runner Removal

1.3.1 Isolate governor and drain hydraulic oil from runner piping

1.3.2 Remove oil head

1.3.3 Disconnect the hydraulic oil piping

1.3.4 Remove the oil piping

1.3.5 Remove Devcon/Belzona from the blade trunnion bolts

1.3.6 Remove the welded tabs over the runner cap bolts

1.3.7 Remove the runner cap

1.3.8 Remove the shaft seal and ceramic

1.3.9 Remove the runner coupler bolts from shaft

1.3.10 Remove the runner blade(s)

1.3.11 Remove the runner from the pit

1.3.12 Replace the upper hatch to ensure powerhouse is weathertight

1.3.13 Transport off-site for inspections and refurbishment

1.4 Shop Inspections

1.4.1 Fully disassemble the runner and components

1.4.2 Perform visual and dimensional inspections of all parts

1.4.3 Replace servo bushings

1.4.4 Replace Linkage bushings

1.4.5 Replace crosshead bushings

1.4.6 Replace nose cone bronze hub guides

1.4.7 Replace trunnion arm bushings

1.4.8 Replace piston rings

1.4.9 Replace Blade Trunnion Seals.

1.4.10 Replace O-rings

1.4.11 Replace hardware, as needed

1.4.12 Media blast all non-machined internal surfaces and recoat with macro poxy.

1.4.13 Media blast all external parts (nose cone, runner cap, runner, etc..) and recoat with two-part coal tar epoxy

1.4.14 Any recommended repairs must be approved by the owner

1.5Repairs

1.5.1 Perform any additional repairs based upon owner's acceptance

1.6 Shop Reassembly and testing

1.6.1 Reassemble the Runner in the shop ensuring proper fitment and test for proper operation. Idaho Falls Power to be onsite for operational testing in shop.

1.6.2 The shop testing will entail the stroking of the runner hub with the blades installed. Verify

there is no leakage. Seals must meet the specified pressure ratings in the plan and specifications.

1.6.3 Disassemble blades as needed to transport to site.

1.7 On-site Reassembly

1.7.1 Transport the runner hub to the site

1.7.2 Install the runner hub

1.7.3 Connect the runner blades

1.7.4 Install new blade seals

1.7.5 Install nose cone

1.7.6 Install hydraulic piping

1.7.7 Install oil head

1.7.8 Fill the runner hub with oil and test for leaks per the Voest-Alpine procedure. Contractor to provide new governor oil per the manufacturer specifications.

1.7.9 Install Discharge ring half

1.7.10 Take as-left blade clearances

1.7.11 Perform operational testing

1.7.11.1 After the runner has been reassembled it will be tested to ensure that the blades function properly, that the clearances are within specifications and that there are no issues with the rebuild of the runner. The hub will be rotated so that every blade rests in the 12, 3, 6 and 9 o'clock positions and the blades exercised. Measurements will be taken at all positions as well. Check for leakage. Stroke the wicket gates to ensure proper operation.

SCHEDULE OF WORK

Complete all work associated with this project in the time frame disclosed under Article 6 of Document 00410 (Bid Form). Submit a construction schedule at or before the preconstruction conference detailing durations for major aspects of the work to be performed. Notice to Proceed will be issued and Contract Time accounting will commence no later than 15 days after Notice to Proceed

PROJECT MANAGER

Contractor will provide an on-site project manager for the duration of the project who will be the interface between the general contractor, all sub-contractors and the City. The City will meet with this project manager on a regularly scheduled basis for the duration of the project.

SPECIAL PROVISION BID ITEMS

1. Owner will install stop logs and dewater the project
2. Owner to remove stop logs and rewater the project

Memorandum

File #: 21-747 **City Council Meeting**

FROM: Chris H Fredericksen
DATE: Wednesday, December 7, 2022
DEPARTMENT: Public Works

Subject
Professional Services Agreement with Forsgren Associates, Inc., supporting the Meppen Canal Trail, Idaho Canal to 25th East Project.

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

Approve the Professional Services Agreement with Forsgren Associates, Inc., and authorize the Mayor and City Clerk to execute the document (or take other action deemed appropriate).

Description, Background Information & Purpose
The purpose of this Agreement is to establish a contract to provide engineering design and construction assistance for two pedestrian bridges needed for the Meppen Canal Trail project. Pedestrian crossings are proposed over the Idaho Canal at the beginning of the Meppen Canal and over the Meppen Canal at Caribou Street. The proposed work will improve walkability for the community.

Alignment with City & Department Planning Objectives



☐ ☐ ☐ ☐ ☒ ☐ ☐ ☐

This project supports the community-oriented result of livable community by providing better recreational opportunities and increased connectivity to our growing canal pathway network.

Interdepartmental Coordination
Project reviews will be conducted with all necessary departments to ensure coordination of project activities.

Fiscal Impact
The cost to perform services is a not-to-exceed amount of $106,900.00. A fixed fee of $8,629.00 is included in the total agreement amount. Funding to complete this work will be provided by the Parks Department with reimbursement from

the ITD Federal Transportation Alternative Program (reimbursement rate at 92.66%). City match requirement for this project will be $7,846.50 and sufficient funding and budget authority exist to complete the work associated with the Agreement.

Legal Review
The Agreement has been reviewed and approved by the office of the City Attorney.

2022-087

IDAHO TRANSPORTATION DEPARTMENT

LOCAL PROFESSIONAL SERVICES AGREEMENT

Agreement Number
96410

THIS AGREEMENT is made and entered into this _____ day of _____, _____, by and between the CITY OF IDAHO FALLS, whose address is PO Box 50220 Idaho Falls ID 83405, hereinafter called the "Sponsor," and FORSGREN ASSOCIATES, INC., whose address is 1109 W. Myrtle St, Suite 300, Boise, ID, 83702, hereinafter called the "Consultant."

RATIFICATION

The Idaho Transportation Department, representing the Federal Highway Administration on all local federal-aid highway projects, is authorized to ratify all agreements for engineering services entered into between sponsoring local agencies and their retained consultants. All references to State used hereafter shall denote the Idaho Transportation Department.

NOW, THEREFORE, the parties hereby agree as follows:

The work covered by this Agreement is for the following project(s):

PROJECT NAME: MEPPEN CANAL TRAIL, IDAHO CANAL TO 25TH EAST
PROJECT NO: A023(696)
KEY NO: 23696

I. SUBCONSULTANTS

The Sponsor approves the Consultant's utilization of the following Subconsultants:

GeoEngineers, Inc.

II. AGREEMENT ADMINISTRATOR

This Agreement shall be administered by Lisa Popoff, Federal-aid Engineer, LHTAC; (208) 344-0565; or an authorized representative.

III. DUTIES AND RESPONSIBILITIES OF CONSULTANT

A. DESCRIPTION OF WORK

The Consultant shall provide professional services as outlined in the attachment(s) and as further described herein.

1. The following attachments are made a part of this Agreement:

a. **Attachment No. 1L** is the Consultant Agreement Specifications which are applicable to all agreements.

b. **Attachment No. 2** is the negotiated Scope of Work, Cost Estimate, and Man-Day Estimate.

In the case of discrepancy, this Agreement shall have precedence over Attachment No. 2, and Attachment No. 2 shall have precedence over Attachment No. 1L.

2. Per Diem will be reimbursed at the current approved rates. These rates are listed at http://itd.idaho.gov/business/?target=consultant-agreements.

IV. DUTIES AND RESPONSIBILITIES OF SPONSOR AND/OR STATE

The Sponsor and/or State shall provide to the Consultant, upon request, copies of any records or data on hand which are pertinent to the work under the Agreement.

V. TIME AND NOTICE TO PROCEED

A. The Consultant shall start work under this Agreement no later than ten (10) calendar days from the receipt of the written notice to proceed with the work. The Consultant shall complete all work by **12/31/2026**.

B. The Consultant shall remain available to perform additional work for an additional sixty (60) days or until the Agreement is closed out, whichever comes first.

VI. BASIS OF PAYMENT

A. Payment Basis: Cost Plus Fixed Fee

B. Compensation Amount

1. Not-To-Exceed Amount: **$106,900.00**

2. Additional Services Amount: **$0.00**

3. Total Agreement Amount: **$106,900.00**

C. Fixed Fee Amount: **$8,629.00** (This is included in the Total Agreement Amount.)

D. Approved Overhead Rates for Prime Consultant and Subconsultants

FORSGREN ASSOCIATES, INC.	171.29%
GEOENGINEERS, INC.	189.27%

E. Reasonable increases in labor rates during the life of this Agreement will be accepted. Payroll additive rate, general administrative overhead rate, and unit prices are subject to adjustment during the life of this Agreement based on audit and negotiations. If the State approves an adjustment to the overhead rate or unit prices, the Consultant must then submit a written request to the Agreement Administrator requesting use of the approved rate(s) on this agreement. If the new rate(s) are accepted by the Agreement Administrator, they shall apply from the date the written request was made to the Agreement Administrator. An adjustment shall not change the Not-To-Exceed amount of the Agreement. For projects of duration greater than two years, the Not-To-Exceed amount be negotiated. In no case will rates be adjusted more than once per agreement year.

F. Professional Services Authorization and Invoice Summary (Authorization) No. 1 is issued in the amount of **$106,900.00** to perform the work of this Agreement.

An additional services amount may be included in this Agreement. If so, the Sponsor will determine if additional services is required beyond the services outlined in Attachment No. 2. When additional services are required, the additional services amount of the Agreement will be utilized, and a subsequent Authorization will be issued.

IN WITNESS WHEREOF, the Parties hereto have set their hands on the day and year in this Agreement first written above.

FORSGREN ASSOCIATES, INC.
Consultant

By: Brent Schiller Digitally signed by Brent Schiller DN: CN=Brent Schiller, oid=0.9.2342.19200300.100.1.1=A01410D0000017C034FC5AB000018A0, O=Idaho, C=US Date: 2022.11.23 06:47:46-07'00'

Title: Boise Structures Manager

CITY OF IDAHO FALLS
Sponsor

By: _____

Title: _____

IDAHO TRANSPORTATION DEPARTMENT

By: _____

Title: _____

ATTACHMENT NO. 1L

CONSULTANT AGREEMENT SPECIFICATIONS

These specifications supplement Local Professional Services Agreements and shall be attached to said Agreements.

A. DEFINITIONS

1. **Administrator**: Person directly responsible for administering the Professional Services Agreement (Agreement) on behalf of the Local Public Agency.

2. **Combined Overhead**: The sum of the payroll additives and general administrative overhead expressed as a percent of the direct labor cost.

3. **Cost**: Cost is the sum of the hourly charge out rate and other direct costs.

4. **Cost Plus Fixed Fee**: Cost Plus Fixed Fee is the sum of the payroll costs, combined overhead, and other direct costs, plus the fixed fee.

5. **CPM**: Critical Path Scheduling. The CPM will list work tasks, their durations, milestones and their dates, and State/Local review periods.

6. **Fixed Fee**: A dollar amount established to cover the Consultant's profit and business expenses not allocable to overhead. The fixed fee is based on a negotiated percent of direct labor cost and combined overhead and shall take into account the size, complexity, duration, and degree of risk involved in the work. The fee is “fixed,” i.e. it does not change. If extra work is authorized, an additional fixed fee can be negotiated, if appropriate.

7. **General Administrative Overhead (Indirect Expenses)**: The allowable overhead (indirect expenses) expressed as a percent of the direct labor cost.

8. **Hourly Charge Out Rate**: The negotiated hourly rate to be paid to the Consultant which includes all overhead for time worked directly on the project.

9. **Incentive/Disincentive Clause**: Allows for the increase or decrease of total Agreement amount paid based on factors established in the Agreement. Normally, these factors will be completion time and completion under budget.

10. **Lump Sum**: An agreed upon total amount, that will constitute full payment for all work described in the Agreement.

11. **Milestones**: Negotiated portions of projects to be completed within the negotiated time frame. Normally the time frame will be negotiated as a calendar date, but it could also be “working” or “calendar” days. As many milestones as the Consultant and the State/Sponsor believe necessary for the satisfactory completion of the Agreement will be negotiated.

12. **Not-To-Exceed Amount**: The Agreement amount is considered to be a Not-to-Exceed amount, which amount shall be the maximum amount payable and shall not be exceeded unless adjusted by a Supplemental Agreement.

13. **Other Direct Costs**: The out-of-pocket costs and expenses directly related to the project that are not a part of the normal company overhead expense.

14. **Payroll Additives:** All payroll additives allocable to payroll costs such as FICA, State Unemployment Compensation, Federal Unemployment Compensation, Group Insurance, Workmen’s Compensation, Holiday, Vacation, and Sick Leave. The payroll additive is expressed as a percent of the direct labor cost.

15. **Payroll Costs (Direct Labor Cost)**: The actual salaries paid to personnel for the time worked directly on the project. Payroll costs are referred to as direct labor cost.

16. **Per Diem Rates:** Per Diem will be reimbursed at actual cost. However, reimbursements shall not exceed the current approved rates. The current rates are listed on the following Web site: http://itd.idaho.gov/business/?target=consultant-agreements .

17. **Standard of Care:** The level or quality of service ordinarily provided by normally competent practitioners of good standing in that field, contemporaneously providing similar services in the same locality and under the same circumstances.

18. **State**: Normally "State" refers to the Idaho Transportation Department.

19. **Sponsor**: The "Sponsor" refers to the local public agency.

20. **Unit Prices**: The allowable charge out rate for units or items directly related to the project that are not a part of the normal overhead expense.

NOTE: All cost accounting procedures, definitions of terms, payroll cost, payroll additives, general administrative overhead, direct cost, and fixed fee shall comply with Federal Acquisition Regulations, 48 CFR, Part 31, and be supported by audit accepted by the State.

B. STANDARDS OF PERFORMANCE

Except as otherwise specifically provided for in the Consultant's Scope of Work, the Consultant agrees that all work performed under the Agreement will be performed in accordance with Idaho Transportation Department Standards and other appropriate standards with generally acceptable standard of care. When the work is of a nature that requires checking, the checking shall be performed by a qualified person other than the one who performed the work.

C. AGREEMENT ADMINISTRATOR

The Agreement Administrator will administer the Agreement for performance and payment, and will decide all questions which may arise as to quality and acceptability of the work, rate of progress, definition of work to be performed, completion of milestones, and acceptable fulfillment of the Agreement. The Consultant shall address all correspondence, make all requests, and deliver all documents to the Administrator. The Administrator shall be responsible for the timely coordination of all reviews performed by the State or their representatives.

D. PERSONNEL

The Consultant shall provide adequate staff of experienced personnel or Subconsultants capable of and devoted to the successful accomplishment of work to be performed under the Agreement. The specific individuals or Subconsultants listed in this Agreement, including Project Manager, shall be subject to approval by the State and shall not be removed or replaced without the prior written approval of ITD. Replacement personnel submitted for approval must have qualifications, experience and expertise at least equal to those listed in the proposal.

E. SUBCONSULTANTS

The Consultant shall have sole responsibility for the management, direction, and control of each Subconsultant and shall be responsible and liable to the Sponsor for the satisfactory performance and quality of work performed by Subconsultants under the terms and conditions of this Agreement. The Consultant shall include all the applicable terms and conditions of this Agreement in each Subconsultant Agreement between the Consultant and Subconsultant, and provide the State with a copy of each Subconsultant Agreement prior to the Subconsultant beginning work. No other Subconsultant shall be used by the Consultant without prior written consent by the State.

F. PROFESSIONAL SERVICES AUTHORIZATION

1. A written PROFESSIONAL SERVICES AUTHORIZATION (PSA) will be issued by the State to authorize the Consultant to proceed with a specific portion of the work under this Agreement. The number of PSAs required to accomplish all the work under this Agreement is one to several. Each PSA will authorize a maximum dollar amount and specify the milestone(s) for which the PSA represents. The Sponsor assumes no obligation of any kind for expenses incurred by the Consultant prior to the issuance of the PSA; for any expenses incurred by the Consultant for services performed outside the work authorized by the PSA; and for any dollar amount greater than authorized by the PSA.

2. The Consultant's work of this Agreement will be divided into milestones, each governed by a separate PSA. It is not necessary for a PSA to be completed prior to the issuance of the next PSA. The Consultant shall not perform work which has not been authorized by a PSA. When the money authorized by a PSA is nearly exhausted, the Consultant shall inform the Administrator and shall identify the need for additional authorization via issuance of the next PSA. The Administrator must concur with the Consultant prior to the issuance of the next PSA.

3. The Agreement is lump sum, unit cost, or cost plus fixed fee amount as indicated in this Agreement and may include an Additional Services amount for possible extra work not contemplated in the original scope of work. For the Consultant to receive payment for any work under the Additional Services Amount of this Agreement, said work must be authorized and performed under a PSA issued by the State specifically for the extra work. Should the Sponsor request that the Consultant perform additional services, the scope of work and method of payment will be negotiated. The basis of payment for additional work will be set up either as a Lump Sum or Cost Plus Fixed Fee.

G. PROJECT SCHEDULING

All negotiated agreements shall be accompanied by a critical path method schedule (CPM Schedule). The CPM Schedule will list the work tasks for the Agreement, their duration, negotiated milestones and their completion dates, including State/Local review periods. The format of this schedule shall be agreed on prior to signing the Agreement.

Along with the monthly progress report, the Consultant shall provide monthly CPM Schedule updates to the Agreement Administrator for approval. The CPM schedule shall show project percent completed on each task.

H. MONTHLY PROGRESS REPORT

The Consultant shall submit to the State a monthly progress report on Form ITD-771, as furnished by the State. When no work will be performed for a period of time, this requirement can be waived by written notice from the Agreement Administrator. However, at such time as work re-commences, the monthly progress reports shall resume.

The Consultant shall provide monthly progress schedule (CPM) updates to the Agreement Administrator.

The monthly progress report and schedule update will be submitted by the tenth of each month following the month being reported or as otherwise agreed to in the approved scope of work.

The Agreement Administrator will review the progress report and submit approved invoices for payment within two weeks of receiving the invoice, the associated monthly report and the schedule update.

Each progress report shall list invoices by PSA number and reference milestones.

I. PROGRESS AND FINAL PAYMENTS

1. Progress payments will be made once a month for services performed which qualify for payment under the terms and conditions of the Agreement. Such payment will be made based on invoices submitted by the Consultant in the format required by the State. The monthly invoice shall be submitted no later than the tenth of each month following the month being invoiced.

Lump Sum

Progress payments will be made based on a percentage of the work or milestones satisfactorily completed.

Cost Plus Fixed Fee

The Consultant shall submit a breakdown of costs by each item of work on the monthly invoice, and shall show the percent complete of each item of work, each milestone and percent complete of the entire Agreement. Progress payments will be made based on the invoice cost less the fixed fee for the work satisfactorily completed for each invoicing period. Said payment shall not exceed the percent complete of the entire Agreement. Upon satisfactory completion of each milestone, full payment for all approved work performed for that milestone will be made, including Fixed Fee.

Cost

The Consultant shall submit a breakdown of costs by each item of work on the monthly invoice, and shall show the percent complete of each item of work and percent complete of the entire Agreement. Progress payments will be made based on the invoiced cost for the work satisfactorily completed for each item of work. Said payment shall not exceed the percent complete of the entire Agreement.

Direct expenses will be reimbursed at actual cost, not to exceed the current approved rates as identified at http://itd.idaho.gov/business/?target=consultant-agreements .

For "Cost Plus Fixed Fee" and "Cost" agreements, invoices must include backup documentation to support expenditures as appropriate, and as requested by the Agreement Administrator. Such support may consist of copies of time sheets or cost accounting system print-out of employee time, and receipts for direct expenses.

2. The Sponsor will make full payment for the value of the services performed which qualify for payment. This full payment will apply until 95 percent of the work under each Project Agreement PSA or Supplemental Agreement has been completed. No further progress payments will be made until all work under the Agreement has been satisfactorily accomplished and accepted by the Sponsor. If at any time, the Sponsor determines that the work is not progressing in a satisfactory manner, further payments may be suspended or withheld for sums that are deemed appropriate for unsatisfactory services.

3. Final payment of all amounts retained shall be due 60 days after all work under the Agreement has been completed by the Consultant and accepted by the Sponsor. Such final payment will not be made until satisfactory evidence by affidavit is submitted to the State that all indebtedness incurred by the Consultant on this project has been fully satisfied.

4. Agreements which include an incentive/disincentive clause will normally have the clause applied only to the completion of the BID OPENING milestone. If the project is deemed by the Sponsor to be ready for advertisement, but advertisement is postponed at no fault of the Consultant, any incentive earned will be paid.

5. Payments to Subconsultants

The Consultant shall pay each subconsultant for satisfactory performance of its contract items no later than twenty (20) calendar days from receipt of each payment the Consultant receives from the State under this Agreement, in accordance with 49 CFR, Part 26. The Consultant shall return retainage payments to each subconsultant within twenty (20) calendar days after the subconsultant's work is satisfactorily completed. The Consultant will verify that payment or retainage has been released to the subconsultant or suppliers within the specified time for each partial payment or partial acceptance by the Department through entries in the Department's online diversity tracking system during the corresponding monthly audits.

Prompt payment will be monitored and enforced through the Consultant's reporting of monthly payments to its subconsultants and suppliers in the online diversity tracking system. Subconsultants, including lower tier subconsultants, suppliers, or both, will confirm the timeliness and the payment

amounts received utilizing the online diversity tracking system. Discrepancies will be investigated by the Contract Compliance Officer and the Contract Administrator. Payments to the subconsultants, including lower tier subconsultants, and including retainage release after the subconsultant or lower tier subconsultant's work has been accepted, will be reported monthly by the Consultant or the subconsultant.

The Consultant will ensure its subconsultants, including lower tier subconsultants, and suppliers meet these requirements.

J. MISCELLANEOUS PROVISIONS

1. COVENANT AGAINST CONTINGENT FEES

a. The Consultant warrants that they have not:

Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person to solicit or secure this Agreement, other than a bona fide employee of the firm;

agreed, as an expressed or implied condition for obtaining this Agreement, to employ or retain the services of any firm or person in connection with carrying out this Agreement, or;

paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee of the firm) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the Agreement.

b. The Sponsor warrants that the above Consultant or its representative has not been required, directly or indirectly as an expressed or implied condition in connection with obtaining or carrying out this Agreement.

Employ or retain, or agree to employ or retain, any firm or person, or;
pay, or agree to pay to any firm, person or organization, any fee, contribution, donation or consideration of any kind.

2. PROHIBITION AGAINST HIRING PERSONNEL AND WORKING FOR CONTRACTOR

In compliance with the Code of Federal Regulations, (23 CFR, Section 1.33, Conflict of Interest), the Consultant agrees that no one in their employ will work on a part time basis under this Agreement while also in the full-time employ of any Federal Agency, the State, or the Sponsor, without the written consent of the public employer of such person. The Consultant agrees that no one in their employ under any circumstances shall perform any services for the contractor on the construction of this project.

3. CHANGES IN WORK

All changes in work shall conform to one or more of the following conditions and in no instance shall such change in work be undertaken without written order or written approval of the Sponsor.

a. Increase in the work required by the Sponsor due to unforeseen circumstances.
b. Revision in the work required by the Sponsor subsequent to acceptance of such work at the appropriate conference or after revision of such work as outlined at said conference.
c. Items of work which are beyond the scope of intent of this Agreement and pre-approved by the Sponsor.
d. Reduction in the work required by the Sponsor due to unforeseen circumstances.

An increase in compensation will be considered when Department Design Standards or expectations have changed from the time of negotiation.

Adjustment in compensation for either an increase or reduction in work shall be on a negotiated basis arrived at by mutual agreement between the Sponsor and the Consultant. During such

negotiations the Sponsor may examine the documented payrolls, transportation and subsistence costs paid employees actively engaged in the performance of a similar item or items of work on the project, and by estimated overhead and profit from such similar items or items of work.

Said mutual agreement for a negotiated increase or reduction in compensation shall be determined prior to commencement of operations for an increase in a specific item or items of work. In the case of Sponsor order for nonperformance, a reduction in the specific item or items of work will be made as soon as circumstances permit. In the event that a mutual agreement is not reached in negotiations for an increase in work, the Sponsor will use other methods to perform such item or items of work.

The mutually agreed amount shall be covered by a Supplemental Agreement and shall be added to or subtracted from the total amount of the original Agreement.

Adjustment of time to complete the work as may pertain to an increase or a reduction in the work shall be arrived at by mutual agreement of the Sponsor and the Consultant after study of the change in scope of the work.

4. DELAYS AND EXTENSIONS

Time adjustment may occur when the negotiated scope of work is increased or reduced through mutual agreement of the State and the Consultant.

Extensions of time may be granted for the following reasons:

a) Delays in major portions of the work caused by excessive time used in processing of submittals, delays caused by the State, or other similar items which are beyond the control of the Consultant.
b) Additional work ordered in writing by the Sponsor.
c) Department Design Standards have changed or expectations have changed from the time of negotiation.

5. TERMINATION

The Sponsor may terminate or abandon this Agreement at any time, without further obligation, upon giving notice of termination as hereinafter provided, for any of the following reasons:

a. Evidence that progress is being delayed consistently below the progress required in the current approved CPM Schedule.
b. Continued submission of sub-standard work.
c. Violation of any of the terms or conditions set forth in the Agreement, other than for the reasons set forth in a. and b. above.
d. At the convenience of the Sponsor.

Prior to giving notice of termination for the reasons set forth in a through c above, the Sponsor shall notify the Consultant in writing of any deficiencies or default in performance of the terms of this Agreement, and Consultant shall have ten (10) days thereafter in which to correct or remedy such default or deficiency. Upon their failure to do so within said ten (10) days, or for the reasons set forth in c above, such notice of termination in writing shall be given by the Sponsor. Upon receipt of said notice the Consultant shall immediately discontinue all work and service unless directed otherwise, and shall transfer all documents pertaining to the work and services covered under this Agreement, to the Sponsor. Upon receipt by the Sponsor of said documents, payment shall be made to Consultant as provided herein for all acceptable work and services.

6. DISPUTES

Should any dispute arise as to performance or abnormal conditions affecting the work, such dispute shall be referred to the Sponsor and the Director of the Idaho Transportation Department or his duly authorized representative(s) for determination.

Such determination shall be final and conclusive unless, within thirty (30) days of receipt of the decision Consultant files for mediation or arbitration. Consultant agrees that any mediation or arbitration hearing shall be conducted in Boise, Idaho. Consultant and Sponsor agree to be bound by the mediation agreement or the decision of the arbitration. Expenses incurred due to the mediation or arbitration will be shared equally by the Consultant and the Sponsor.

7. ACCEPTANCE OF WORK

a. The Consultant represents that all work submitted shall be in accordance with generally accepted professional practices and shall meet tolerances of accuracy required by State practices and procedures.

b. Acceptance of work will occur at phases appropriate to the terms of the Agreement and level of detail required by the State in its project development procedures.

c. It is understood by the Consultant that the Sponsor is relying upon the professional expertise and ability of the Consultant in performance of the Agreement. Any examination of the Consultant's work product by the State/Sponsor will not be considered acceptance or approval of the work product which would relieve the Consultant for any liability or expense. Consultant is solely responsible for the propriety and integrity of its work product.

Acceptance or approval of any portion of Consultant's work product by the Sponsor for payment, partial or final, shall not constitute a waiver of any rights the Sponsor may have against the Consultant. If due to errors, omissions and negligent acts by the Consultant, or its Subconsultants, agents or employees, in its work product, the Consultant shall make corrections to its work product at no expense to the Sponsor. The Consultant shall respond to the Sponsor's notice of any error or omission within twenty-four hours of receipt, and give immediate attention to any corrections to minimize any delay to the construction contract. This may include, if directed by the Sponsor, visits to the site of the work.

If the Consultant discovers errors or omissions in its work product, it shall notify the State within seven days of discovery. Failure of the Consultant to notify the State shall be grounds for termination of the Agreement.

The Consultant's liability for damages incurred by the Sponsor due to negligent acts, errors or omissions by the Consultant in its work product shall be borne by the Consultant. Increased construction costs resulting from errors, omissions or negligence in Consultant's work product shall not be the Consultant's responsibility unless the additional construction costs were the result of gross negligence of the Consultant.

8. OWNERSHIP OF DOCUMENTS

All material acquired or produced by the Consultant in conjunction with the preparation of the plans, study, or report, shall become the property of, and be delivered to, the Sponsor without restrictions or limitations of their further use. Any use of these materials by the Sponsor for purposes other than intended under this agreement shall be at the risk of the Sponsor. The Consultant has the right to make and retain copies of all data and documents for project files. Documents provided to the State may be public records under the Public Records Act §§ 74-101 through 74-126 and Idaho Code §§ 9-338 *et seq*, and thus subject to public disclosure unless excepted by the laws of the state of Idaho, otherwise ordered by the courts of the state of Idaho, and/or otherwise protected by relevant state and/or federal law.

9. AERIAL PHOTOGRAPHY

After aerial photography has been flown, processed and checked for coverage, the negatives shall be sent to the State at the address indicated on the Agreement for evaluation, labeling, and prints or diapositives as needed by the District and the Consultant. The negatives shall become the property of the State. Along with the negatives, the Consultant shall also deliver the Report of Calibration for the aerial camera used for the aerial photography, the flight maps, and the flight log. Once complete, a copy of the mapping shall be placed on a CD-ROM and sent to the address specified in the Agreement.

10. CADD SPECIFICATIONS

Two copies of all drawings shall be furnished to the Department upon completion of the contract. One copy shall be a durable reproduction of the drawing stamped and signed by the Engineer. An electronic stamp is acceptable, provided it is registered and approved with the Board of Professional Engineers and Land Surveyors. Roadway plans shall be furnished on 11" x 17" sheets. Structures plans shall be furnished on 22" x 34" sheets. The other copy shall be an electronic drawing file in a MicroStation .DGN file format. Electronic files shall be delivered in one of the following:

a. Placed within ITD's ProjectWise DataSource (See CADD Manual for proper locations for file storage
b. Standard CD/DVD-ROM Format

Files shall be developed with MicroStation software, SS4 Version 8.11X or higher; or converted to the MicroStation .DGN file format with all conversion errors corrected prior to delivery. If the consultant elects to convert files from other CADD software to the .DGN format, the consultant may be required at various times during the contract period to provide proof that all conversion errors can be corrected.

Refer to the CADD Manual for a complete set of CADD Standards. The manual is available at the following website: http://apps.itd.idaho.gov/apps/manuals/manualsonline.html .

11. GEOTECHNICAL AND MATERIALS WORK

If geotechnical and materials work is required under this Agreement, the Consultant must ensure that any Subconsultant performing geotechnical and materials work be involved in the final design review. This does not mean that the geotechnical and materials Subconsultant must attend the actual final design review meeting, but does mean that the Subconsultant, will at a minimum, participate in the final design plans and proposal review to assure that all geotechnical and materials recommendations/issues it raised concerning the project have been addressed, or notify the Consultant of any outstanding issues.

12. HIGHWAY CONSTRUCTION ESTIMATING PROGRAM

The Idaho Transportation Department has adopted the Trns.Port Estimator™ Highway Construction Cost Estimation software package as the standard for developing all highway construction cost estimates. Consultants who prepare PS&E (Plans, Specifications and Estimate) packages for submittal to ITD are required to use Estimator. Further information is available at the following Web Site: http://itd.idaho.gov/business/?target=consultant-agreements .

13. INDEMNITY

a. Concerning claims of third parties, the Consultant shall indemnify, and hold harmless and defend the Sponsor from any and all damages of and against any and all suits, actions, claims or losses of every kind, nature and description, including costs, expenses and reasonable attorney fees that may be incurred by reason of any negligent act, error or omission of the Consultant in the prosecution of the work which is the subject of this Agreement.

b. Concerning claims of the Sponsor, the Consultant shall assume the liability and responsibility for negligent acts, errors or omissions caused by the Consultant or a Subconsultant or their agents or employees to the design, preparation of plans and/or specifications, or other assignments completed under this Agreement, to the standards accepted at the time of the Final Design Review, other established review periods.

c. Notwithstanding any other provision of this Agreement, the Consultant shall not be responsible for claims arising from the willful misconduct or negligent acts, errors, or omissions of the Sponsor for contamination of the project site which pre-exist the date of this Agreement or subsequent Task Authorizations. Pre-existing contamination shall include but not be limited to any contamination or the potential for contamination, or any risk to impairment of health related to the presence of hazardous materials or substances.

14. INSURANCE

The Consultant, certifying it is an independent contractor licensed in the State of Idaho, shall acquire and maintain commercial general liability insurance in the amount of $1,000,000.00 per occurrence, professional liability insurance in the amount of $1,000,000.00, and worker compensation insurance in accordance with Idaho Law.

The professional liability insurance coverage shall remain in force and effect for a minimum of one (1) year after acceptance of the construction project by the State (if applicable), otherwise for one (1) year after acceptance of the work by the State.

Regarding workers' compensation insurance, the Consultant must provide either a certificate of workers' compensation insurance issued by an insurance company licensed to write workers' compensation insurance in the State of Idaho as evidence that the Consultant has a current Idaho workers' compensation insurance policy in effect, or an extraterritorial certificate approved by the Idaho Industrial Commission from a state that has a current reciprocity agreement with the Idaho Industrial Commission.

The Consultant shall provide the State with certificates of insurance within ten (10) days of the Notice to Proceed.

15. ENDORSEMENT BY ENGINEER, ARCHITECT, LAND SURVEYOR, AND GEOLOGIST

Where applicable, the Professional Engineer, Architect, Land Surveyor, or Geologist in direct charge of the work or portion of work shall endorse the same. All plans, specifications, cost summaries, and reports shall be endorsed with the registration seal, signature, and date of the Idaho professional in direct charge of the work. In addition, the firm's legal name and address shall be clearly stamped or lettered on the tracing of each sheet of the plans. This endorsement certifies design responsibility in conformance with Idaho Code, ITD's Design Manual, and acceptance of responsibility for all necessary revisions and correction of any errors or omissions in the project plans, specifications and reports relative to the project at no additional cost to the State based on a reasonable understanding of the project at the time of negotiation.

16. LEGAL COMPLIANCE

The Consultant at all times shall ,as a professional, observe and comply with all Federal, State and local laws, by-laws, safety laws, and any and all codes, ordinances and regulations affecting the work in any manner and in accordance with the general standard of care. The Consultant agrees that any recourse to legal action pursuant to this agreement shall be brought in the District Court of the State of Idaho, situated in Ada County, Idaho.

17. SUBLETTING

The services to be performed under this Agreement shall not be assigned, sublet, or transferred except by written consent of the Sponsor. Written consent to sublet, transfer or assign any portions of the work shall not be construed to relieve the Consultant of any responsibility for the fulfillment of this Agreement or any portion thereof.

18. PERMITS AND LICENSES

The Consultant shall procure all permits and licenses, pay all charges, fees, and taxes and give all notices necessary and incidental to the due and lawful prosecution of the work.

19. PATENTS AND COPYRIGHTS

The Consultant shall hold and save the Sponsor and its agents harmless from any and all claims for infringement by reason of the use of any patented design, device, material process, trademark, and copyright.

20. NONDISCRIMINATION ASSURANCES

1050.20 Appendix A:

During the performance of work covered by this Agreement, the Consultant for themselves, their assignees and successors in interest agree as follows:

1. **Compliance With Regulations**. The Consultant shall comply with all regulations of the United States Department of Transportation relative to Civil Rights, with specific reference to Title 49 CFR Part 21, Title VI of the Civil Rights Act of 1964 as amended, and Title 23 CFR Part 230 as stated in the ITD EEO Special Provisions and Title 49 CFR Part 26 as stated in the appropriate ITD DBE Special Provisions. http://apps.itd.idaho.gov/apps/ocr/index.aspx

2. **Nondiscrimination**. The Consultant, with regard to the work performed by them during the term of this Agreement, shall not in any way discriminate against any employee or applicant for employment; subcontractor or solicitations for subcontract including procurement of materials and equipment; or any other individual or firm providing or proposing services based on race, color, sex, national origin, age, disability, limited English proficiency or economic status.

3. **Solicitations for Subcontracts, Including Procurement of Materials and Equipment.** In all solicitations, either by bidding or negotiation, made by the Consultant for work or services performed under subcontract, including procurement of materials and equipment, each potential subcontractor or supplier shall be made aware by the Consultant of the obligations of this Agreement and to the Civil Rights requirements based on race, color, sex, national origin, age, disability, limited English proficiency or economic status.

4. **Information and Reports.** The Consultant shall provide all information and reports required by regulations and/or directives and sources of information, and their facilities as may be determined by the State or the appropriate Federal Agency. The Consultant will be required to retain all records for a period of three (3) years after the final payment is made under the Agreement.

5. **Sanctions for Noncompliance.** In the event the Consultant or a Subconsultant is in noncompliance with the EEO Special Provisions, the State shall impose such sanctions as it or the appropriate Federal Agency may determine to be appropriate, including, but not limited to:

    - Withholding of payments to the Consultant until they have achieved compliance;
    - Suspension of the agreement, in whole or in part, until the Consultant or Subconsultant is found to be in compliance, with no progress payment being made during this time and no time extension made;
    - Cancellation, termination or suspension of the Agreement, in whole or in part;
    - Assess against the Consultant's final payment on this Agreement or any progress payments on current or future Idaho Federal-aid Projects an administrative remedy by reducing the final payment or future progress payments in an amount equal to 10% of this agreement or $7,700, whichever is less.

6. **Incorporation of Provisions.** The Consultant will include the provisions of paragraphs 1 through 5 above in every subcontract of $10,000 or more, to include procurement of materials and leases of equipment unless exempt by the Acts, the Regulations, and directives pursuant thereto. The Consultant will take such action with respect to any subcontract or procurement as the State or the appropriate Federal Agency may direct as a means of enforcing such provisions, including sanctions for noncompliance. Provided, that if the Consultant becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Consultant may request the State to enter into any litigation to protect the interest of the State.In addition, the Consultant may request the United States to enter into the litigation to protect the interests of the United States.

1050.20 Appendix E

During the performance of this contract, the Consultant, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with all non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 4 71, Section 4 7123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U .S.C. 1681 et seq).

21. INSPECTION OF COST RECORDS

The Consultant shall maintain all books, documents, papers, accounting records and other evidence pertaining to costs incurred on the project. They shall make such data available for inspection, and audit, by duly authorized personnel, at reasonable times during the life of this Agreement, and for a period of three (3) years subsequent to date of final payment under this Agreement, unless an audit has been announced or is underway; in that instance, records must be maintained until the audit is completed and any findings have been resolved. Failure to provide access to records may affect payment and may constitute a breach of contract.

22. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

By signing this document the Consultant certifies to the best of his knowledge and belief that except as noted on an attached Exception, the company or its subcontractors, material suppliers, vendors or other lower tier participants on this project:

a. Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal department or agency;

b. have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records making false statements, or receiving stolen property;

c. are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and

d. have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NOTE: Exceptions will not necessarily result in denial of award, but will be considered in determining Consultant responsibility. For any exception noted, indicate to whom it applies, initiating agency and dates of action. Providing false information may result in criminal prosecution or administrative sanctions.

23. CERTIFICATION CONCERNING LOBBYING ACTIVITIES

By signing this document, the Consultant certifies to the best of their knowledge and belief that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

The Consultant also agrees that he or she shall require that the language of this certification shall be included in all lower tier subcontracts, which exceed $100,000, and that all such sub-recipients shall certify and disclose accordingly.

24. EMPLOYEE ELIGIBILITY

The Consultant warrants and takes the steps to verify that it does not knowingly hire or engage persons not authorized to work in the United States; and that any misrepresentation in this regard or any employment of person not authorized to work in the United States constitutes a material breach and shall be cause for the imposition of monetary penalties up to five percent (5%) of the contract price, per violation, and/or termination of its contract.

FORSGREN Associates Inc.

SCOPE OF WORK

Meppen Canal Trail Pedestrian Bridges
Key No. 23696

Project Description

This project involves preparation of bridge plans for two pedestrian path crossings over the Idaho Canal and the Meppen Canal in Idaho Falls. The crossing over the Idaho Canal (Bridge #1) is located approximately 1380 feet north of Garfield Street. The crossing over the Meppen Canal (Bridge #2) is located at Easy Street, approximately 1260 feet north of 1st Street. This scope of work will include hydraulics, geotechnical and bridge disciplines for design and preparation of bridge plans.

Project Team Roles

- **Forsgren Associates (FA)** – bridge hydraulics, bridge design, and bridge plans.
- **GeoEngineers (GEO)** – Geotechnical exploration and report for the foundations. GeoEngineers is a subconsultant to Forsgren Associates.
- **LHTAC** – Federal Aid administration and Environmental clearances & permits.
- **City of Idaho Falls (City)** – All other disciplines and work tasks.

Schedule

- NTP is anticipated no later than 1/3/2023.
- PS&E submittal by 9/1/2023.

Project Assumptions

1. The bridge configurations and abutment geometrics will be similar to the Cranmer Ave pedestrian bridge.
2. The City of Idaho Falls will provide the survey including DTM and topographic files.
3. Bridge plans will utilize current ITD bridge CAD standards.
4. Specifications and bid items for the bridge plans will utilize the current ITD Specifications.
5. Given the nature of the work, no TS&L or S&L submittals are included in the scope of work.
6. Bollards to restrict vehicle access will be provided in the City's plan set. The bollards will not be attached to the bridges or affect the bridge geometrics.
7. The City will not charge Forsgren or its subconsultant for any City permits such as right-of-way permits for drilling.
8. For drillilng by GeoEngineers, the City will coordinate with the Idaho Irrigation District, utilities, nearby residents, the general public, and all other entities.

Task Outline

1. Project Administration

1.1. Project Setup & Internal Kickoff Meeting: Forsgren Associates (FA) will setup the project in our internal accounting system and setup project folder and PM management files on our server. FA will also hold an internal kick-off meeting that will focus on the project objectives, communications, and coordination. The internal kick-off meeting is assumed to last for 1 hour with up to 3 FA team members (PM, 1 bridge engineer,2 Hydraulics staff), plus 2 hours for PM to prepare for meeting and prepare/distribute meeting minutes.

1.2. Internal Monthly Meetings: FA will conduct internal Team meetings once a month for the duration of the project. These meetings will focus on design and coordination issues as well as QC implementation. These meetings are assumed to last for 1/2 hour and will include up to 4 team members.

1.3. Invoicing and Progress Reports: This task will include preparation and submittal of the monthly progress reports. Invoices and supporting documentation will include completion of the Professional Services Authorization (PSAs), and the ITD 0771 Form. It is assumed that each invoice will take support staff 1.5 hours per invoice and an additional 1 hour of review and check by the Project Manager.

1.4. Project Schedule & Administration: The project files will be set up and maintained and other miscellaneous project management tasks will be performed (review of budget, review of schedules, etc.). Schedules will be updated if needed and included with the invoices. It is assumed the PM and support staff will take 2 hours per month to perform this work.

Assumptions

- Plan development is anticipated to take 10 months after NTP. Project Management tasks listed above are based on this 10-month duration.
- Invoices will be submitted every 2 months.
- Progress reports will be submitted once a month, regardless of invoicing. A formal 771 progress report will be submitted during months the project is invoiced. An abbreviated email progress report will be sent on months when the project is not invoiced.

Deliverables

- 5 Invoices are anticipated.
- 10 progress reports are anticipated.

2. Final Bridge Plans

2.1. Coordination with City of Idaho Falls: FA will hold up to 3 coordination meetings with the City and LHTAC. The purpose of these meetings will be to coordinate between the City lead disciplines and Forsgren lead disciplines.

Task 2.1 Meeting Assumptions

- Meeting will last no longer than 1 hour each plus preparation for the meeting and meeting minutes.

- Held via Teams or other Video Conferencing.
- FA attendees (2): PM and either hydraulics or bridge engineer.

2.2. Review of Geotechnical Report: Forsgren will review the geotechnical report and provide comments to GeoEngineers prior to submittal to LHTAC/City. One review/comment/backcheck cycle is anticipated.

2.3. Market Check on Bridge Options: Forsgren will coordinate with up to 2 prefabricated steel bridge manufacturers to obtain estimated costs, configurations, and loads for prefabricated truss bridges. Estimated costs will also be prepared for a prestressed voided slab and a prestressed double tee option. A short memo will then be prepared to document the options and recommend an option.

2.4. Prepare Bridge Plans: The following sheets will be prepared:

Anticipated Bridge Sheet List

Sheet Description	# of Shts
Situation and Layout Bridge #1	1
Situation and Layout Bridge #2	1
Sheet Index, Notes, Quantities, & Vicinity Map	1
Design & General Notes	1
Foundation Details Bridge #1	1
Foundation Details Bridge #2	1
Metal Reinforcement	1
Total Sheets by Forsgren =	7

- Situation and Layout (2 Sheets) – These sheets will consist only of a plan, elevation views, and a profile grade diagram. The design profile grade will be provided by the City. 2 sheets will be prepared, one for each bridge.
- Sheet Index, Quantities, & Vicinity Map (1 sheet) – This sheet will include the sheet index, quantities, and a vicinity map. One sheet will show both bridge locations and quantities for both locations.
- Design & General Notes (1 Sheet) – One sheet will be used for both locations. This sheet will contain the design notes, general notes, and foundation parameters for both locations.
- Foundation Details (2 Sheets) – These sheets will provide the details for the concrete abutments at each bridge location. Spread footings or pile supported footings are anticipated (one or the other at each bridge). The concrete abutments are anticipated to be geometrically similar to the Cranmer Ave abutments and will have no skew.
- Metal Reinforcement (1 Sheet) – This sheet will provide the metal reinforcement details for both bridges.

2.5. Structural Calculations: Structural calculations will be prepared and documented into a calculations package. Calculations are anticipated for the foundation loads and concrete abutments.

- **Foundation Loads –** Foundation loads will be estimated for use by the geotechnical engineer in preparation of his Geotech report. Additionally, the foundation loads will be used in preparation of the special provision for the prefabricated bridges.
- **Concrete Foundation Design Bridge #1 –** A concrete foundation design will be prepared. A spread footing or a pile supported type is anticipated.
- **Concrete Foundation Design Bridge #2 –** A concrete foundation design will be prepared. A spread footing or a pile supported type is anticipated.

2.6. Special Provisions & Contractor Notes: Bridge related special provisions and contractor notes will be prepared utilizing the ITD format and specifications. Forsgren will send the special provisions and contractor notes in a Word file to the City for inclusion into the overall project specifications package. One special provision is anticipated for the prefabricated bridge. Time for 1 contractor note is also included.

2.7. Quantities & Opinion of Probable Cost: Forsgren will document the bridge quantities and prepare opinion of probable cost for both bridges. The City will incorporate the quantities and costs into the overall contract.

2.8. Contract Time: Forsgren will prepare contract time for the bridge construction and provide it to the City for inclusion into the overall construction time.

2.9. MTR Form Preparation: LHTAC's MTR Template will be filled out with the bid items from the bridge plans that require testing per the specifications. No more than 10 bridge related bid items are anticipated. The City will fill out the form for all other bid items.

2.10. Final Design Review Meeting: A Final Design Review Meeting will be held via Teams or other video conference to discuss comments generated from the review. The meeting is anticipated to be no longer than 2 hrs and will be attended by FA's PM and Bridge Engineer.

Assumptions

- The bridge type will be a steel prefabricated truss similar to the Cranmer Ave pedestrian bridge.
- Concrete foundations will be similar at both locations. The concrete foundations can be spread footing, pile supported, or both (only one type per bridge).
- The City will prepare the overall specification package and bid documents.

Deliverables

- Final Bridge Plan Set (PDF)
- Structural Calculations (PDF)
- Quantities (PDF)
- Opinion of Cost (PDF)
- Contract Time (PDF)
- Special Provisions & Contractor Notes (Word)

3. Hydraulics

3.1. Coordination with Client/Idaho Irrigation District: This task includes includes time for coordination with the Idaho Irrigation District (District), the City, and with LHTAC.

3.2. Site Visit to Both Locations: This task includes time for 2 Idaho Falls personnel (1 hydraulics, and 1 staff engineer) to visit both project sites to document site conditions at each location to inform the hydraulic analyses.

3.3. Hydraulics Design for Bridge #1: The Idaho Canal crossing is estimated to be an approximate span of 55-ft. Directly upstream of the proposed crossing is the Meppen Canal diversion where a sluice gate directs flow from the Idaho Canal into the Meppen Canal. This facility is owned and operated by the Irrigation District. The water surface elevation at the proposed crossing is influenced by a weir structure approximately 170-ft downstream of the proposed bridge location. Forsgren anticipates developing a 1D HEC-RAS model utilizing survey data of the channel collected by the City of Idaho Falls to use as the basis of the hydraulic analysis. FA will coordinate with the City of Idaho Falls and the District to confirm the design and maximum flow rates from the Meppen and Idaho Canal and the District's bridge requirements. Once the water surface elevation and hydraulic opening are set, a scour analysis will be performed to check scour potential and mitigation requirements.

3.4. Hydraulics Design for Bridge #2: The Meppen Canal crossing is estimated to be an approximate 25-ft span. The Meppen Canal is sourced by the Idaho Canal with the diversion structure located approximately 1.0 mile upstream of the proposed bridge location. The canal eventually feeds into the Ammon Extension Canal 1.2 miles downstream of the proposed bridge site. A concrete control structure exists less than 100-ft downstream of the proposed crossing that may be used to calibrate the water surface elevation in the model.

We anticipate developing a 1D HEC-RAS model utilizing survey data of the channel collected by the City of Idaho Falls to use as the basis of the hydraulic analysis. FA will coordinate with the City of Idaho Falls and the Irrigation District to confirm the design and maximum flow rates for the Meppen Canal and the District's bridge requirements. Once the water surface elevation and hydraulic opening is set, a scour analysis will be performed to check scour potential and mitigation requirements. The results of the modeling and analysis will be incorporated into the TS&L. This scope assumes no encroachment permitting will be required by the Irrigation District.

Assumptions

- The City will coordinate with the Idaho Irrigation District to obtain any encroachment or other permits required by the District.
- The new bridge crossings will not constrict the existing canal.
- LHTAC or the City will perform all environmental documentation and permits, including ACOE 404 permits and IDWR permits.
- GeoEngineers will provide a median diameter size of the channel material for scour analysis purposes.
- One memo will be prepared for both crossings. An individual SF-211 form will be included for each crossing. Memo is not anticipated to exceed 10 pages total.

Deliverables

- Hydraulics modeling files (HEC-RAS electronic files).
- ITD 211 form and a bridge hydraulics memo that includes the scour analysis.

4. **PS&E Revisions -** FA will complete revisions to the plans package based on comments from the Final Design Review Meeting.

Assumptions

- Only minor comments and revisions are anticipated

Deliverables

- Stamped & Signed Bridge Plan Set. Plans will be in pdf format and digitally stamped and signed.
- Structural Calculations. Calculations package will be in pdf format and digitally stamped and signed.
- Quantities (PDF)
- Opinion of Cost (PDF)
- Contract Time (PDF)
- Special Provisions & Contractor Notes (Word)

5. **Services During Construction**

5.1. Construction Submittal Review Support: The City will review shop drawings and other submittals. Forsgren will support the City for these reviews as requested. Should this task exceed the hours in the attached manhour, additional budget will be required.

- Bridge #1 Pre-Fabricated Bridge Shop Drawings
- Bridge #2 Pre-Fabricated Bridge Shop Drawings
- Miscellaneous Contractor RFIs on the abutment foundations.

Assumptions

- No more than 2 reviews of each shop drawing or submittal are anticipated.
- The City will review the contractor's concrete mix design and any other material related submittals other than those specifically listed in 5.1 above.
- No site visits are planned. If construction related issue requirs a site visit by Forsgren or if requested by the City. Additional budget and travel expenses will be added to the scope of work and manhour.

FORSGREN Associates Inc.

A. SUMMARY ESTIMATED MAN-DAY COSTS

		Man-Hours		Hourly Rate	Raw Labor Cost
1)	PM/Sr. Bridge Eng.	39.00	@	$75.75	$2,954.25
2)	Bridge QA (SIR)	23.25	@	$64.91	$1,509.16
3)	Bridge QC	67.25	@	$53.08	$3,569.63
4)	Bridge Engineer	146.50	@	$39.00	$5,713.50
5)	Bridge CADD	86.00	@	$55.00	$4,730.00
6)	Hydraulics QA (SIR)	8.00	@	$52.50	$420.00
7)	Hydraulics QC	39.50	@	$42.12	$1,663.74
8)	Hydraulics Engineer	95.50	@	$34.50	$3,294.75
9)	Project Engineer	6.00	@	$44.71	$268.26
10)	Clerical	15.00	@	$23.00	$345.00
	Total Man-Hours =	526.00		**Labor Cost =**	**$24,468.29**

B. PAYROLL, FRINGE BENEFIT COSTS & OVERHEAD

Total Raw Labor Cost		Approved Overhead Rate		
$24,468.29	X	**171.29%**	=	**$41,911.73**

C. NET FEE

Total Raw Labor & Overhead		NET FEE[1]		
$66,380.02	X	**13.0%**	=	**$8,629.40**

D. FCCM

Total Raw Labor Cost		Approved FCCM Rate	
$24,468.29	X	**0.17%**	**$41.60**

TOTAL LABOR **$75,051.02**

SEE NEXT PAGE FOR TOTAL

E. OUT-OF-POCKET EXPENSE SUMMARY

	Out-of-Pocket Expense Description	Unit	Estimated Amount		Unit Cost			Estimated Expense
1)	Company Vehicle Mileage[2]	Miles	---	@	$ 0.560	=	$	-
2)	Rental Car	Days	---	@	$ 120.00	=	$	-
3)	Fuel for Rental Car[3]	Miles	---	@	$ 0.250	=	$	-
4)	Per Diem[2]	Days	---	@	$ 59.00	=	$	-
5)	Lodging[2]	Days	---	@	$ 96.00	=	$	-
6)	Taxes on Lodging[4]	Days	---	@	$ 12.48	=	$	-
7)	---	---	---	@	$ -	=	$	-
8)	---	---	---	@	$ -	=	$	-
9)	---	---	---	@	$ -	=	$	-
10)	---	---	---	@	$ -	=	$	-
11)	---	---	---	@	$ -	=	$	-
12)	---	---	---	@	$ -	=	$	-
		TOTAL ESTIMATED EXPENSE				=	**$**	**-**

F. WAGE ESCALATION (See Note 5)

A+B+D		Ratio (Months)		% Raise			
$66,421.62	X	9/10	X	5.00%	=	**$**	**2,988.97**

G. SUBCONSULTANTS

1)	GeoEngineers	=	$	28,837.06
2)	---	=	$	-
3)	---	=	$	-

TOTAL = $106,877.05

Footnotes

1) Negotiated % Fee
2) As per the "FY22 FEDERAL PER DIEM RATES FOR IDAHO"
3) Fuel for rental cars assumes $5.00/Gallon at 20 MPG = $0.250/Mile
4) Based on approximate lodging taxes of 13% x Lodging Rate.
5) We anticipate raises to be implemented in January of 2023. An NTP in late November would result in these raises being effective for 9 out of 10 months of the schedule.

Meppen Canal Trail Pedestrian Bridges
Key No. 23696

FORSGREN Associates Inc.

TASK #	TASK DESCRIPTION		FA TOTAL HOURS	PM/Sr. Bridge Eng.	Bridge QA (SIR)	Bridge QC	Bridge Engineer	Bridge CADD	Hydraulics QA (SIR)	Hydraulics QC	Hydraulics Engineer	Project Engineer	Clerical
1.0	**Project Management**		**55.00**	**27.00**	**1.25**	**1.25**	**3.50**	**0.00**	**0.00**	**3.50**	**3.50**	**0.00**	**15.00**
1.1	Project Setup & Internal Kick-off Meeting		10.00	7.00			1.00			1.00	1.00		
1.2	Internal Monthly Meetings		15.00	5.00	1.25	1.25	2.50			2.50	2.50		
1.3	Invoicing and Progress Reports		15.00	7.50									7.50
1.4	Project Schedule & Administration		15.00	7.50									7.50
2.0	**Final Bridge Plans**		**275.00**	**6.00**	**16.00**	**53.00**	**112.00**	**86.00**	**0.00**	**0.00**	**2.00**	**0.00**	**0.00**
2.1	Coordination with City of Idaho Falls		9.00	3.00		4.00					2.00		
2.2	Review of Geotech Report		3.00	1.00			2.00						
2.3	Market Check on Bridge Options		13.00		1.00	4.00	8.00						
2.4	Prepare Bridge Plans	# Shts											
	Situation and Layout Bridge #1	*1*	27.00		1.00	2.00	8.00	16.00					
	Situation and Layout Bridge #2	*1*	27.00		1.00	2.00	8.00	16.00					
	Sheet Index, Notes, Quantities, & Vicinity Map	*1*	13.50		0.50	1.00	4.00	8.00					
	Design & General Notes	*1*	13.50		0.50	1.00	4.00	8.00					
	Foundation Details Bridge #1	*1*	29.00		1.00	4.00	8.00	16.00					
	Foundation Details Bridge #2	*1*	29.00		1.00	4.00	8.00	16.00					
	Metal Reinforcement	*1*	12.00			2.00	4.00	6.00					
2.5	Structural Calculations												
	Foundation Loads for Geotech & Specs		7.00		1.00	2.00	4.00						
	Concrete Foundation Design #1 - Idaho Canal		26.00		2.00	8.00	16.00						
	Concrete Foundation Design #2 - Meppen Canal		26.00		2.00	8.00	16.00						
2.6	Special Provisions & Contractor Notes		14.00		2.00	4.00	8.00						
2.7	Quantities & Opinion of Probable Cost		9.00		1.00	2.00	6.00						
2.8	Contract Time		5.00		1.00	2.00	2.00						
2.9	MTR Form Preparation		8.00		1.00	3.00	4.00						
2.10	Final Design Review Meetinhg		4.00	2.00			2.00						

Meppen Canal Trail Pedestrian Bridges
Key No. 23696

FORSGREN Associates Inc.

TASK #	TASK DESCRIPTION	FA TOTAL HOURS	PM/Sr. Bridge Eng.	Bridge QA (SIR)	Bridge QC	Bridge Engineer	Bridge CADD	Hydraulics QA (SIR)	Hydraulics QC	Hydraulics Engineer	Project Engineer	Clerical
3.0	**Hydraulics**	**142.00**	**2.00**	**0.00**	**0.00**	**0.00**	**0.00**	**8.00**	**36.00**	**90.00**	**6.00**	**0.00**
3.1	Coordination with Client/ Idaho Irrigation District	14.00	2.00							6.00	6.00	
3.2	Site Visit to Both Locations	8.00							4.00	4.00		
3.3	Hydraulics Design for Bridge #1 (Idaho Canal)	4.00						4.00				
	Gather Data & Information	12.00							4.00	8.00		
	Hydraulics Analysis	22.00							6.00	16.00		
	Scour Calculations	8.00							2.00	6.00		
	Prepare Hydraulics Memo	14.00							4.00	10.00		
3.4	Hydraulics Design for Bridge #2 (Meppen Canal)	4.00						4.00				
	Gather Data & Information	12.00							4.00	8.00		
	Hydraulics Analysis	22.00							6.00	16.00		
	Scour Calculations	8.00							2.00	6.00		
	Prepare Hydraulics Memo	14.00							4.00	10.00		
4.0	**PS&E Revisions**	**28.00**	**2.00**	**6.00**	**5.00**	**15.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**
	PS&E Team Coordination Meeting	5.00	1.00	1.00	1.00	2.00						
	Plan Set	15.00	1.00	2.00	4.00	8.00						
	Special Provisions & Contractor Notes	3.00		1.00		2.00						
	Contract Time, Quantities & Opinion of Probable Cost	2.00		1.00		1.00						
	Structural Calculations	3.00		1.00		2.00						

Meppen Canal Trail Pedestrian Bridges
Key No. 23696

TASK #	TASK DESCRIPTION	FA TOTAL HOURS	PM/Sr. Bridge Eng.	Bridge QA (SIR)	Bridge QC	Bridge Engineer	Bridge CADD	Hydraulics QA (SIR)	Hydraulics QC	Hydraulics Engineer	Project Engineer	Clerical
5.0	**Services During Construction**	**26.00**	**2.00**	**0.00**	**8.00**	**16.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**
	Construction Submittal Review Support	2.00	2.00									
	Bridge #1 Pre-Fabricated Bridge Shop Drawings	8.00			2.00	6.00						
	Bridge #2 Pre-Fabricated Bridge Shop Drawings	8.00			2.00	6.00						
	Miscellaneous Contractor RFIs on the abutment foundations	8.00			4.00	4.00						

Summary of Hours Per Task

1.0	**Project Management**	**55.00**	**27.00**	**1.25**	**1.25**	**3.50**	**0.00**	**0.00**	**3.50**	**3.50**	**0.00**	**15.00**
2.0	**Final Bridge Plans**	**275.00**	**6.00**	**16.00**	**53.00**	**112.00**	**86.00**	**0.00**	**0.00**	**2.00**	**0.00**	**0.00**
3.0	**Hydraulics**	**142.00**	**2.00**	**0.00**	**0.00**	**0.00**	**0.00**	**8.00**	**36.00**	**90.00**	**6.00**	**0.00**
4.0	**PS&E Revisions**	**28.00**	**2.00**	**6.00**	**5.00**	**15.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**
5.0	**Services During Construction**	**26.00**	**2.00**	**0.00**	**8.00**	**16.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**
TOTAL LABOR HOURS		**526.00**	**39.00**	**23.25**	**67.25**	**146.50**	**86.00**	**8.00**	**39.50**	**95.50**	**6.00**	**15.00**

Geotechnical Engineering Services

GeoEngineers, Inc. (GeoEngineers) will provide geotechnical engineering services as a subconsultant to Forsgren Associates, Inc. (Forsgren). The geotechnical investigations are for the pedestrian bridges over the Meppen Canal and the Idaho Canal. The following tasks will be completed by GeoEngineers.

Geotechnical Explorations

Subconsultant will review existing subsurface information from publicly available sources or provided by the client, including geologic maps.

Subconsultant will provide coordination for the field investigation program including:

- Determining exploration locations in coordination with Forsgren and LHTAC;
- Subcontract a geotechnical drill company for the geotechnical exploration program;
- Completing a street use permit application with the City of Idaho Falls (City);
- Preparing a brief exploration plan, including a map of boring locations, planned drilling dates, and photographs of drilling equipment for LHTAC and the City to share with neighboring property owners.
- Visiting the site to mark the exploration locations; and
- Contacting digline utility notification service. We also request that City personnel and local irrigation district personnel review our planned exploration locations for conflicts with known utility locations.

Subconsultant will explore the subsurface soil and groundwater conditions by drilling four (4) geotechnical borings. Subconsultant will also collect a bulk soil sample from the bottom of the canal at each pedestrian bridge location.

The bulk soil samples from the bottom of the canal will be collected for sizing riprap to protect the canals and pedestrian bridge structures from scour. This sample collection will only be performed if the canal is safe to enter and is drained at the time of the exploration program.

The geotechnical borings will be used for the design of the pedestrian bridges over the Meppen Canal and Idaho Canal structures. The borings will be drilled to a depth of about 40 feet below ground surface, or 10 feet into bedrock, if bedrock is encountered before a depth of 40 feet. Standard penetration test (SPT) soil samples will be collected at 2½-foot intervals to a depth of 10 feet and then 5-foot intervals for the remaining exploration depth. All explorations will be backfilled in accordance with state requirements and any explorations completed in the pavement will be patched with cold-patch asphalt or rapid-set concrete.

Geotechnical Laboratory Testing

Subconsultant will evaluate physical and engineering characteristics of the soils and rock based on laboratory tests performed on samples obtained from the borings. For estimating purposes, we assume the laboratory testing program will include four (4) moisture content tests, four (4)

percent fines determination tests, six (6) sieve analysis, two (2) Atterberg limits determinations, and four (4) unconfined compression strength of rock.

Geotechnical Analysis and Reporting

Subconsultant will utilize the geotechnical data to complete the engineering analysis and prepare a draft and final limited geotechnical report. The limited geotechnical report will include:

- Vicinity map and site plan showing the project location and exploration locations
- Geologic conditions and summary of subsurface conditions
- Geotechnical recommendations for each pedestrian bridge foundation support. Recommendations will include:
    - Bearing capacity and settlement of shallow foundations for LRFD bridge design
    - Axial resistance and lateral resistance of deep foundations (if applicable)
    - Lateral earth pressures
    - Settlement and global stability (if applicable)
    - Seismic hazard evaluation (fault rupture, liquefaction, and lateral spreading)
    - Recommended seismic parameters based on AASHTO LRFD Seismic design maps;
    - Backfill recommendations
- Summary of groundwater conditions.
- Aggregate materials and compaction in accordance with Idaho State Public Works Construction (ISPWC) manual.

Products and Deliverables

- Boring Logs and Plan, including latitude and longitude of boring location
- Laboratory Test Results
- Draft limited geotechnical report
- Final limited geotechnical report

Assumptions

- Proposed field explorations including four 40-foot soil borings (two at each bridge) or advancing the boring a minimum of ten feet into rock.
- Design of the pathway pavement section will be completed by the City, or will conform to City/LHTAC standards.
- Geotechnical borings will be completed under one mobilization, and all boring locations are accessible with a truck-mounted drill rig.
- All explorations will be completed within City of Idaho Falls right-of-way and no other permits or right-of-entry permissions are required.
- Traffic control will not be required.
- The City will contact the proper canal authorities for coordination of the field work and marking of canal-owned utilities associated with the Meppen and Idaho Canals.
- Design drawings including subsurface profiles, cross-sections or typical sections are not required.

GeoEngineers

Pedestrian Bridges over the Meppen Canal and Idaho Canal

October 17, 2022

A1 GeoEngineers Labor

	Staff	Hours	Raw Rate	Raw Labor Cost
1	Associate	11	$72.60	$798.60
2	Project Engineer	25	$40.58	$1,014.50
3	Staff Engineer	57	$32.21	$1,835.97
5	CAD	6	$31.90	$191.40
6	Admin	11	$33.72	$370.92
	Sub Total	**110**		**$4,211.39**

B1 GeoEngineers Payroll, Fringe Benefit Costs & Overhead

Total Raw Labor Cost	Approved Rate	Overhead Total
$4,211.39	189.27%	**$7,970.90**

C1 Net Fee

Total Raw Labor & Overhead	Net Fee	Fee Total
$12,182.29	12%	**$1,461.87**

D1 FCCM

Total Raw Labor Cost	Approved FCCM Rate	FCCM Total
$4,211.39	0.14%	**$5.90**

GeoEngineers Labor Total **$13,650.06**

E1 Expenses

	Item	Estimated Amount	Unit Cost	Estimated Expense
1	Mileage (Miles)	600	$0.625	$375.00
2	Lodging (Days)	2	$96.00	$192.00
3	Meals (Days)	3	$59.00	$177.00
4	Rental Car (Days)	0	$85.00	$0.00
5	Laboratory Testing ($)	$1,156.00	NA	$1,156.00
6	Drilling Expense ($)	$13,287.00	N/A	$13,287.00

GeoEngineers Expenses Total **$15,187.00**

GeoEngineers Total **$28,837.06**

F1 Subcontractors

	Subconsultant/Subcontractors	Estimated Expense
1		
2		
	Subconsultant/Subcontractor Total	**$0.00**

TOTAL AGREEMENT AMOUNT **$28,837.06**

GeoEngineers

Pedestrian Bridges over the Meppen Canal and Idaho Canal

October 17, 2022

		Totals	GeoEngineers (GEI) Worker Hours					
		Labor Hours	Associate	Project Engineer	Staff Engineer	CAD	Admin	**Sub Total**
1	**Administration**							
1.1	Project Initiation							
	Project Initiation (set up files/sub agreements/accounting)	**5**	1	2			2	**5**
1.2	Kick-off Meeting, Staffing and Scheduling							
	Staffing, Scheduling	**1**		1				**1**
	Site Meetings (Agendas, Attendance, Travel, Summaries)	**0**						**0**
	Internal Team Meetings	**3**	1	1	1			**3**
1.3	Monthly Progress Reports							
	Prepare monthly progress reports	**0**						**0**
1.4	Subconsultant and Subcontractor Administration							
	Prepare, execute agreements with subs	**0**						**0**
1.5	Budget Tracking and Invoicing							
	monitor budget and prepare monthly invoices	**0**						**0**
	Subtotal Administration	**9**	2	4	1	0	2	**9**
2	**Subsurface Exploration and Laboratory Testing Program**							
2.1	Permits / Coordination							
	Coordination For Drilling and ROW permits	**4**		2	2			**4**
	Exploration plan for locals	**2**		2				**2**
	Marking Exploration Locations	**6**			6			**6**
2.2	Geotechnical Borings							
	Travel	**4**			4			**4**
	Drilling / Field Work	**17**		1	16			**17**
2.4	Laboratory Testing							
	Soil sample review and assign lab testing	**3**		1	2			**3**
	Subtotal Subsurface Exploration and Laboratory Testing	**36**	0	6	30	0	0	**36**
3	**Limited Geotechnical Report**							
3.1	Report							
	Exploration logs and process laboratory results	**7**		1	2		4	**7**
	Engineering analyses and development of recommendations	**26**	4	6	16			**26**
	Report Figures	**6**				6		**6**
	Draft Report Preparation	**22**	4	6	8		4	**22**
	Address Review Comments and Finalize Report	**4**	1	2			1	**4**
	Subtotal Materials Phase II Report	**65**	9	15	26	6	9	**65**
	Labor hour Total	**110**	**11**	**25**	**57**	**6**	**11**	**110**

GeoEngineers

Laboratory Testing Schedule of Charges

Pedestrian Bridges over the Meppen Canal and Idaho Canal

DATE: October 17, 2022

Laboratory Test Description	Test Method	Quantity	Unit	Unit Price	Cost
Moisture Content/Oven	ASTM D2216	4	each	$ 18.00	$ 72.00
Sample Prepration					
Extrusion - Extrude and log (visual classification) Shelby tube	N/A	0	hour	$ 48.00	$ -
Trimming - Trim to 2.41-inch dia for consolidation testing	N/A	0	hour	$ 48.00	$ -
Remolding- Remold a saoil sample to desired moisture/density	N/A	0	hour	$ 48.00	$ -
Moisture/Density					
Rings	N/A	0	each	$ 25.00	$ -
Shelby Tubes, waxed chunk	N/A	0	each	$ 40.00	$ -
Tubes (liners), chunk	N/A	0	each	$ 40.00	$ -
Organic Content (non-contaminated)	ASTM D2974	0	each	$ 62.00	$ -
Particle Size Analysis					
Sieve max size < 3/4 inch (includes -200 wash, dry sieve)	ASTM C136	6	each	$ 88.00	$ 528.00
Sieve max size > 3/4 inch (includes -200 wash, dry sieve)	ASTM C136	0	each	$ 90.00	$ -
Percent Passing No. 200 Wash	ASTM C117-87/D1140	4	each	$ 48.00	$ 192.00
Combined Sieve and Hydrometer	ASTM D422	0	each	$ 150.00	$ -
Hydrometer Only	ASTM D422	0	each	$ 98.00	$ -
Atterberg Limits, plastic	ASTM D4318	2	each	$ 110.00	$ 220.00
Non-plastic	ASTM D4318	0	each	$ 68.00	$ -
Specific Gravity, Fine Material	ASTM D854	0	each	$ 68.00	$ -
Specific Gravity, Course Material	ASTM C-127	0	each	$ 55.00	$ -
Percent of Fracture	ASTM D5821	0	each	$ 38.00	$ -
Sand Equivalent	AASHTO T176, ASTM D2419	0	each	$ 63.00	$ -
Compaction, 4-point	ASTM D1557/D698	0	each	$ 150.00	$ -
Direct Shear, per point	ASTM D3080	0	each	$ 110.00	$ -
Vane Shear, 3 points	ASTM D3080	0	each	$ 57.00	$ -
Consolidation, with 2 timed load increments	ASTM D2435	0	each	$ 360.00	$ -
Permeability					
Constant or falling head in rigid wall permeameter	ASTM D2434, D5856	0	each	$ 190.00	$ -
In Triaxial cell with back pressure saturation	ASTM D5084	0	each	$ 520.00	$ -
One-Dimensional Swell					
Method A	ASTM D4546	0	each	$ 360.00	$ -
Method B	ASTM D4546	0	each	$ 360.00	$ -
Method C	ASTM D4546	0	each	$ 620.00	$ -
Triaxial Compression					
Unconfined Compression - UC	ASTM D2166	0	each	$ 93.00	$ -
Unconsolidated Undrained - UU	ASTM D2850	0	each	$ 180.00	$ -
Unconsolidated Undrained with Back Pressure Saturation	ASTM D2850	0	each	$ 360.00	$ -
Consolidated Undrained with pore press. meas. - CU	ASTM D4767	0	each	$ 520.00	$ -
Consolidated Drained - CD	ASTM D7181	0	each	$ 520.00	$ -
Consolidated Undrained or Consolidated Drained (3 points)	ASTM D4767/D7181	0	each	$ 1,250.00	$ -
CBR with 4 point Proctor	ASTM D1883	0	each	$ 470.00	$ -
Idaho R-Value	Idaho T-8	0	each	$ 470.00	$ -
Rock Point Load Index Test	ASTM D5731	0	each	$ 26.00	$ -
Unconfined compressive strength of rock cores	ASTM D7012	4	each	$ 36.00	$ 144.00
Concrete Cylinders Compressive Strength (includes C31 molding/curing	ASTM C39	0	each	$ 20.00	$ -
Mortar Cylinders	ASTM C780	0	each	$ 20.00	$ -
Masonry Unit Prisms	ASTM C1314	0	each	$ 105.00	$ -
Grout Prisms	ASTM C1019	0	each	$ 26.00	$ -
High Strength Grout Cubes	ASTM C109	0	each	$ 20.00	$ -
Soil Cement/CLSM Unconfined Compression	ASTM D 4832	0	each	$ 80.00	$ -
Concrete Beam Flexural Strength by Third-Point Loading	ASTM C78	0	each	$ 38.00	$ -
pH	ASTM D4972	0	each	$ 10.00	$ -
Resistivity	ASTM G57A	0	each	$ 40.00	$ -
				TOTAL LABORATORY COST =	**$ 1,156.00**

HAZ-TECH DRILLING, INC.
1798 E PLAZA LOOP
NAMPA, ID., 83687
PH: (208) 461-7277 OR 800-359-1502
FAX: (208) 461-5211

PROPOSAL

TO: GEO ENGINEERS
ATTN: KEVIN RUSS

DATE : 10/18/2022

PROJECT: 2 PEDESTRIAN BRIDGES OVER THE MEPPEN CANAL
IDAHO FALLS, ID.

TERMS :

DESCRIPTION	UNITS EST	UNIT PRICE	AMOUNT EST
MOB-DEMOB, TRUCK MOUNT	1.00	$3,750.00	$3,750.00
DRILLING & RELATED ACTIVITIES, PER DAY	2.00	$3,000.00	$6,000.00
TOOL WEAR / BIT CHARGES, PER FOOT	160.00	$5.00	$800.00
PER DIEM, PER DAY	3.00	$375.00	$1,125.00
SUPPORT EQUIPMENT, PER DAY	2.00	$150.00	$300.00
CORE BOXES, EACH	4.00	$10.00	$40.00
BENTONITE, PER BAG	30.00	$12.00	$360.00
ASPHALT PATCH, PER BAG	4.00	$28.00	$112.00
WATER SETUP & PURCHASE, IF NEEDED	1.00	$400.00	$400.00
SIGNAGE & CONES	1.00	$400.00	$400.00
		TOTAL AMOUNT EST:	**$13,287.00**

4 AUGER / CORE BORINGS TO 40' OR 5' TO 10' ROCK

SCOTT CORN

Memorandum

File #: 21-765 **City Council Meeting**

FROM: Bear Prairie, General Manager
DATE: Wednesday, January 4, 2023
DEPARTMENT: Idaho Falls Power

Subject
IFP 21-38 Fiber Optic Cable Installation Services with Wheeler Electric, Inc.

Council Action Desired
☐ Ordinance ☐ Resolution ☐ Public Hearing
☒ Other Action (Approval, Authorization, Ratification, etc.)
Idaho Falls Fiber (IFF) requests an additional $1,000,000 spending authority under the original Wheeler Electric, Inc. contract approved September 23, 2021, for a contract total of $2,056,000 including previously approved spending, (or take other action deemed appropriate).

Description, Background Information & Purpose
City Council approved Wheeler Electric, Inc.'s contract to provide new customers in-home fiber connection installation for an original amount of $456,000 on Sept. 23, 2021. An additional $600,000 of spending authority was approved on Nov. 10, 2021. Wheeler was the only bidder on the original competitive bid. Wheeler has offered to continue working under the existing contract per the installation price from 2021 if additional funding is authorized through FY 2023. Idaho Falls Fiber requests this spending increase to keep up with new customer connection demand that is exceeding projections.

Alignment with City & Department Planning Objectives



☐ ☐ ☒ ☐ ☐ ☐ ☐ ☐
This action supports our readiness for managed, well-planned growth and development by expanding fiber optic services and ensuring reliable community connectivity.

Interdepartmental Coordination
IFF worked with the City Attorney Department.

Fiscal Impact
Budgeted in the 2022/23 CIP budget.

Legal Review

The City Attorney Department agrees that this action is within state statute.

powered by Legistar™

Memorandum

File #: 21-766 **City Council Meeting**

FROM: Bear Prairie, General Manager
DATE: Wednesday, January 4, 2023
DEPARTMENT: Idaho Falls Power

Subject
IFP 21-34 Conduit Fiber Agreement with B. Jackson Construction

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

Idaho Falls Fiber (IFF) requests the FY2023 budgeted spending authority of $3,773,555.64 be authorized as previously awarded under the multi-year B. Jackson Construction contract approved August 26, 2021, (or take other action deemed appropriate).

Description, Background Information & Purpose
City Council approved B. Jackson Construction's contract to provide conduit for buried electrical conductor replacement and fiber optic cable installation until the fiber expansion project is complete. Based on quantities installed over the first three years of the conduit/fiber project and per unit bid prices, the value is estimated for FY2023 at $3,430,505.13, plus a ten percent (10%) contingency of $343,050.51 for a total authorization of $3,773,555.64. The 10 percent (10%) contingency is felt to be adequate if we are able to accelerate the construction schedule.

Alignment with City & Department Planning Objectives



☐ ☐ ☒ ☐ ☐ ☐ ☐ ☐

This action supports our readiness for managed, well-planned growth and development, by expanding residential fiber services and enhancing the reliability of our electric system with timely replacement of aging electrical infrastructure. This action also supports the growth element of the IFP Strategic Plan.

Interdepartmental Coordination
IFP coordinated with the City Attorney Department.

Fiscal Impact

Budgeted in the 2022/23 IFF budget.

Legal Review
The City Attorney Department agrees this action is within state statute.

Memorandum

File #: 21-756 **City Council Meeting**

FROM: Kerry Beutler, Interim Director
DATE: Tuesday, January 3, 2023
DEPARTMENT: Community Development Services

Subject
Final Plat and Reasoned Statement of Relevant Criteria and Standards, Amerigas Propane Division No. 1.

Council Action Desired
☐ Ordinance ☐ Resolution ☐ Public Hearing
☒ Other Action (Approval, Authorization, Ratification, etc.)
1. Accept the Final Plat for Amerigas Propane Division No. 1and give authorization for the Mayor, City Engineer, and City Clerk to sign said Final Plat (or take other action deemed appropriate).

2. Approve the Reasoned Statement of Relevant Criteria and Standards for the Final Plat Amerigas Propane Division No. 1 and give authorization for the Mayor to execute the necessary documents (or take other action deemed appropriate).

Description, Background Information & Purpose
Attached is the application for the Final Plat and Reasoned Statement of Relevant Criteria and Standards for Amerigas Propane Division No. 1. The Planning and Zoning Commission considered this item at its November 9, 2021, meeting and unanimously voted to recommend approval for the final plat as presented. The Commission extended their recommendation to approve the plat on November 1, 2022. Staff concurs with this recommendation.

Alignment with City & Department Planning Objectives



☐ ☒ ☒ ☐ ☒ ☐ ☐ ☐

Consideration of the Final Plat must be consistent with the principles of the Comprehensive Plan and Zoning Ordinance, which includes many policies and goals related to Good Governance, Growth, Sustainability, Transportation, and Livable Communities.

Interdepartmental Coordination
The Final Plat was reviewed by staff from Fire, Idaho Falls Power, BMPO, Water, Planning, Sewer, Engineering, Survey, and Parks and Rec.

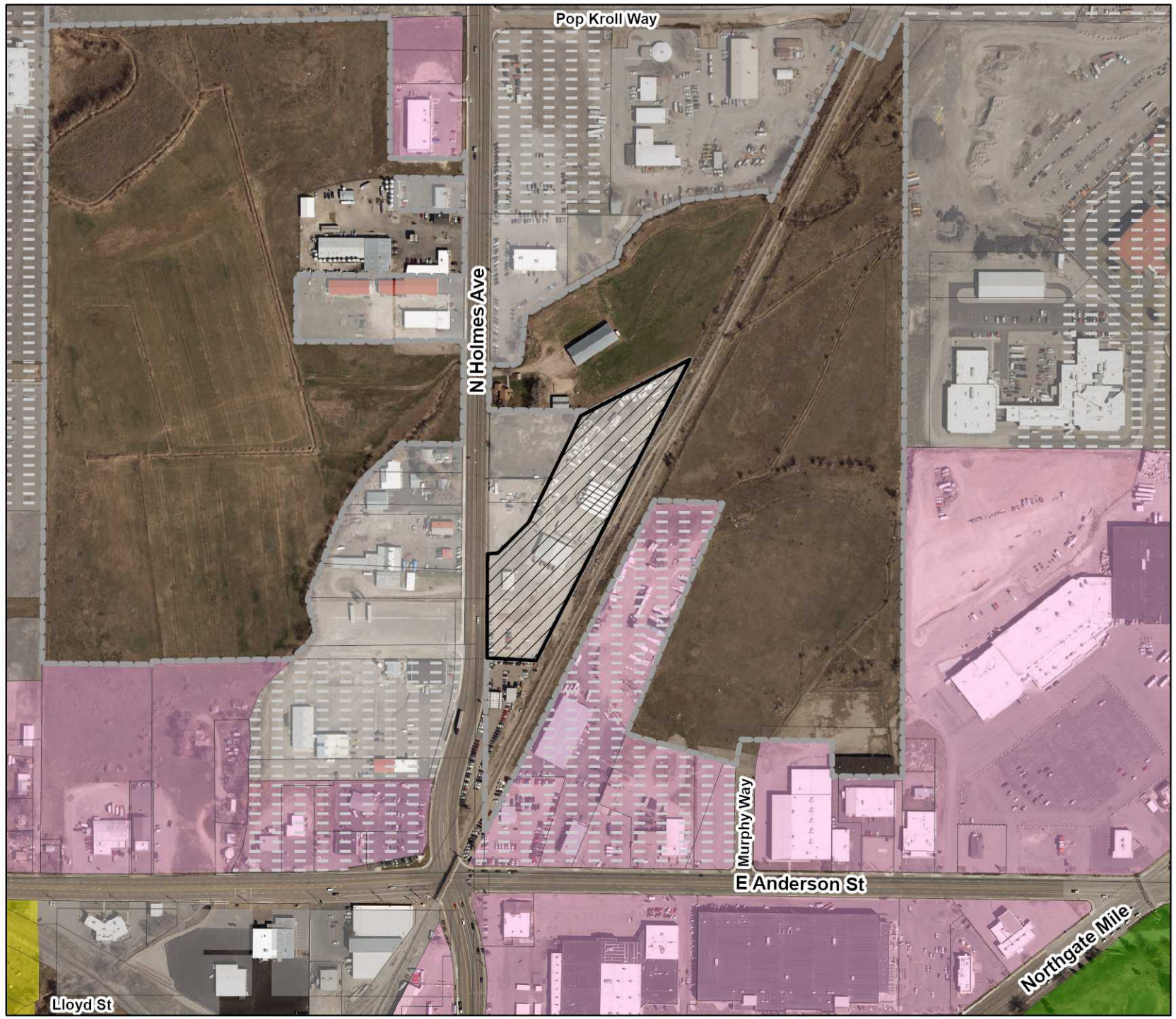
Fiscal Impact

NA

Legal Review
This application has been reviewed by the City Attorney's Office pursuant to applicable law

Final Plat

PLAT21-029 Amerigas Propane L.P.



Legend

- PLAT21-029
- City Limit

Overlays

- PT
- PT&T-1
- PUD
- T-1
- T-2

Zoning

- RE
- RP
- R1
- R2
- TN
- RMH
- R3
- R3A
- PB
- CC
- LC
- HC
- R&D
- LM
- I&M
- P

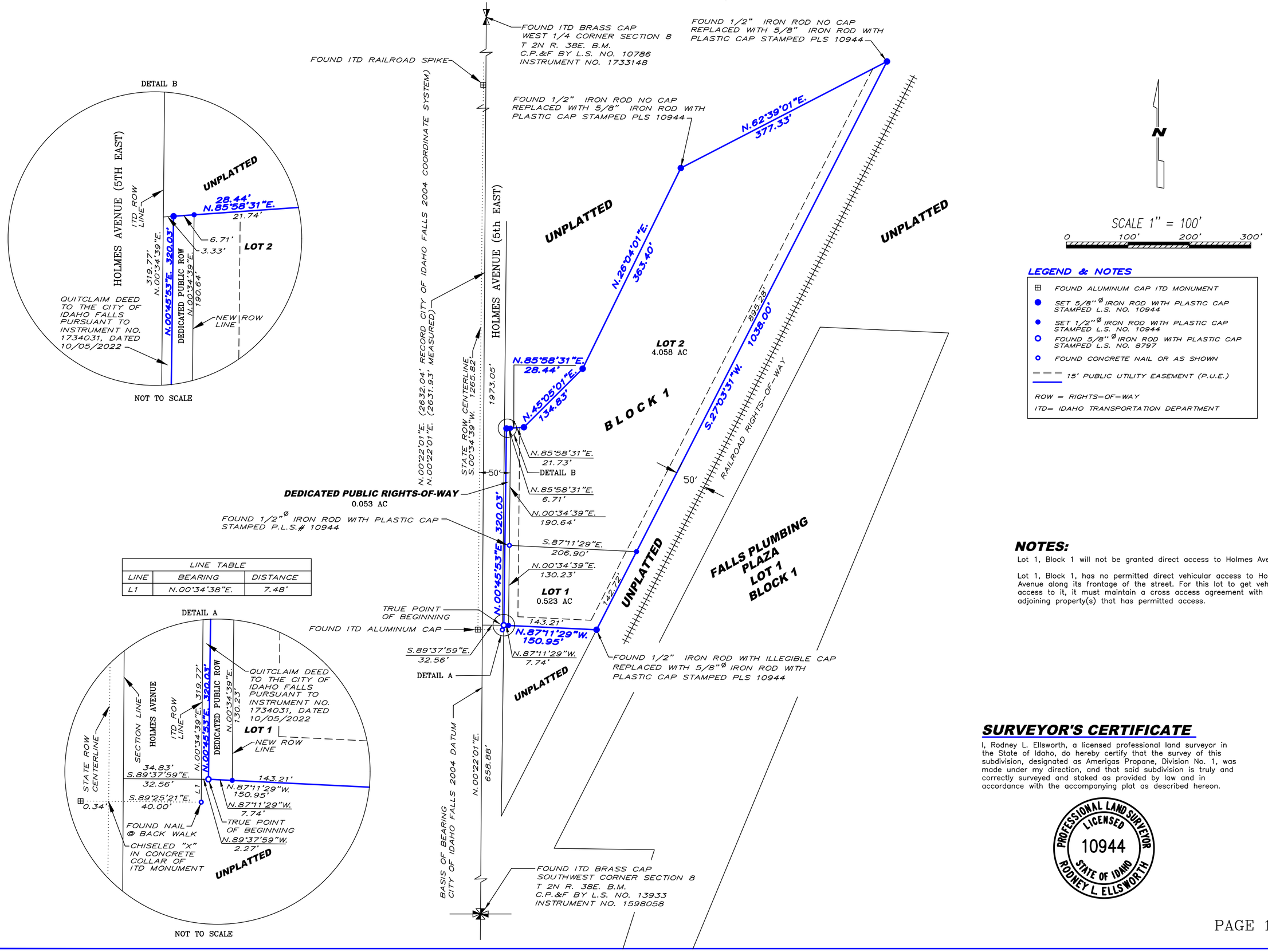
IDAHO FALLS

Planning Division
City Annex Building
680 Park Ave.
Idaho Falls, ID 83402
(208) 612-8276

N


Boge Ave
Pop Kroll Way
Hemmert Ave
N Holmes Ave
Ronald Ave
Environmental Way
Gordon Ave
Murphy Way
E Anderson St
Lincoln Rd
Northgate Mile
Lloyd St
Dunbar Dr

AMERIGAS PROPANE
DIVISION NO. 1
AN ADDITION TO THE CITY OF IDAHO FALLS, IDAHO, BONNEVILLE COUNTY, IDAHO
BEING PART OF THE S.W. 1/4 OF SECTION 8, T. 2 N. R. 38 E. ,B.M.



LINE TABLE		
LINE	BEARING	DISTANCE
L1	N.00°34'38"E.	7.48'

LEGEND & NOTES

- ⊞ FOUND ALUMINUM CAP ITD MONUMENT
- ● SET 5/8"Ø IRON ROD WITH PLASTIC CAP STAMPED L.S. NO. 10944
- ● SET 1/2"Ø IRON ROD WITH PLASTIC CAP STAMPED L.S. NO. 10944
- ○ FOUND 5/8"Ø IRON ROD WITH PLASTIC CAP STAMPED L.S. NO. 8797
- ○ FOUND CONCRETE NAIL OR AS SHOWN
- – – – 15' PUBLIC UTILITY EASEMENT (P.U.E.)
- ROW = RIGHTS-OF-WAY
- ITD= IDAHO TRANSPORTATION DEPARTMENT

NOTES:

Lot 1, Block 1 will not be granted direct access to Holmes Ave.

Lot 1, Block 1, has no permitted direct vehicular access to Holmes Avenue along its frontage of the street. For this lot to get vehicular access to it, it must maintain a cross access agreement with an adjoining property(s) that has permitted access.

SURVEYOR'S CERTIFICATE

I, Rodney L. Ellsworth, a licensed professional land surveyor in the State of Idaho, do hereby certify that the survey of this subdivision, designated as Amerigas Propane, Division No. 1, was made under my direction, and that said subdivision is truly and correctly surveyed and staked as provided by law and in accordance with the accompanying plat as described hereon.

PROFESSIONAL LAND SURVEYOR
LICENSED
10944
STATE OF IDAHO
RODNEY L. ELLSWORTH

Ellsworth & Associates, PLLC
Engineers & Land Surveyors
253 1st Street (208) 522 5414
Idaho Falls, Idaho 83401 Fax 523-2614

AMERIGAS PROPANE
DIVISION NO. 1
AN ADDITION TO THE CITY OF IDAHO FALLS, IDAHO, BONNEVILLE COUNTY, IDAHO
BEING PART OF THE S.W. 1/4 OF SECTION 8, T. 2 N. R. 38 E. ,B.M.

CITY'S ACCEPTANCE

The accompanying plat was duly accepted and approved and the grants and dedications are hereby accepted by the City Council of Idaho Falls adopted this_____day of_____, 2023.

_____ _____
MAYOR CITY CLERK

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

HEALTH DEPARTMENT CERTIFICATE OF APPROVAL

Sanitary restrictions as required by I.C. §50–1326 have been satisfied based on the Department of Environmental Quality review and approval for the design plans and specifications and and the conditions imposed on the developer for continued satisfaction of sanitary restrictions. Water and sewer lines have been completed and services certified as available. Sanitary restrictions may be reimposed, in accordance with I.C. §50–1326, Idaho Code, by the issuance of a certificate of disapproval.

EASTERN IDAHO PUBLIC HEALTH DISTRICT

_____ _____
ENVIRONMENTAL HEALTH SPECIALIST, REHS DATE

IRRIGATION WATER RIGHTS STATEMENT

Water rights and assessment obligations are not appurtenant to the lands included within this plat. Lots within this subdivision will not receive a water right.

COUNTY SURVEYOR'S VERIFICATION

I certify that I am a licensed professional land surveyor in the State of Idaho and that I have examined this plat and find that it complies with I.C. §50–1305.

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

SURVEYOR'S CERTIFICATE

I, Rodney L. Ellsworth, a licensed professional land surveyor in the State of Idaho, do hereby certify that the survey of this subdivision, designated as Amerigas Propane, Division No. 1, was made under my direction, and that said subdivision is truly and correctly surveyed and staked as provided by law and in accordance with the accompanying plat as described hereon.

PROFESSIONAL LAND SURVEYOR LICENSED 10944 STATE OF IDAHO RODNEY L. ELLSWORTH

TREASURER'S CERTIFICATE

I, the undersigned County Treasurer in and for the County of Bonneville, State of Idaho, pursuant to the requirements of I.C. §50–1308, do hereby certify that all County property taxes due for the property included in the Boundary Description shown hereon are current.

_____ _____
DATE BONNEVILLE COUNTY TREASURER

RECORDER'S CERTIFICATE

I hereby certify that the foregoing plat of Amerigas Propane, Division No. 1, was filed in the Office of the Recorder of Bonneville County, Idaho.

_____ _____
DATE BONNEVILLE COUNTY RECORDER

NOTES:

Lot 1, Block 1 will not be granted direct access to Holmes Ave.

Lot 1, Block 1, has no permitted direct vehicular access to Holmes Avenue along its frontage of the street. For this lot to get vehicular access to it, it must maintain a cross access agreement with an adjoining property(s) that has permitted access.

SURVEYOR NARRATIVE

Owner requested to have property platted into 2 Lots.

City of Idaho Falls 2004 Coordinate System was used as the Basis of Bearing. Section corner control as shown.

At the Northwest corner of Mountain River Engineering Record of Survey Instrument No. 1098924 a 5/8" Iron Rod was stamped L.S. 8797 found during the survey, and was used to establish the West line of the proposed subdivision plat. A 1/2" Iron Rod with an illegible cap was found 150.95 feet to the East of the before mentioned rod, as shown on Record of Survey by Ellsworth & Associates PLLC, Instrument No. 1626775 and was determined to be set by L.S. No. 8795 on the West line of the Railroad Right–of–Way. Continuing along the Railroad Rights–of–Way 1038.00 feet to the North–most property corner for Amerigas a 1/2" Iron Rod with No Cap was found and accepted as the North–most corner. This corner was replaced with a 5/8" iron rod with plastic cap stamped P.L.S. # 10944, for Corporation Warranty Deed No. 1100205. Following said Corporation Warranty Deed 377.33 feet to the Southwest, another 1/2" Iron Rod with no cap was found and accepted as the corner, and replaced with a 5/8" iron rod with plastic cap stamped P.L.S. # 10944 for said Corporation Warranty Deed. The final 3 calls of said Corporation Warranty Deed were not found, and were set with 5/8" Iron Rods with plastic caps stamped L.S. No. 10944.

Record deeds used are as follows; 1586872, 1503828, 1280515, 1100205, 899022

DRINKING WATER SYSTEM CERTIFICATE

Pursuant to I.C. §50–1334, the OWNER does hereby certify that the lots shown on this plat are eligible to receive water from the City of Idaho Falls municipal water system, and said City has agreed in writing to provide culinary water service to said lots pursuant to the provisions of Title 8, Chapter 4 of the Idaho Falls City Code as amended from time to time.

IN WITNESS WHEREOF, OWNER has hereunto set its signature this_____day of _____, 2023.

Amerigas Propane, L.P. a Delaware Limited Partnership:

_____
Ann P. Kelly – Vice President of Finance and Chief Financial Officer

OWNER'S DEDICATION

KNOW ALL MEN BY THESE PRESENTS: that the undersigned Amerigas Propane, L.P., a Delaware Limited Partnership, a survivor of the merger of Heritage Operating LP, is the lawful OWNER of the tract of land included within the boundary description shown hereon and has caused the same to be platted and divided into blocks, lots, and streets, which plat shall hereafter be known as Amerigas Propane, Division No. 1, a subdivision of the City of Idaho Falls, Idaho, Bonneville County, Idaho.

BE IT FURTHER KNOWN, that OWNER does hereby dedicate grant and convey to the public, all streets and right–of–ways shown hereon, that OWNER also does hereby grant and convey to the City of Idaho Falls all public easements forever as irrevocable permanent non–exclusive public easements as shown and described hereon.

OWNER, or its heirs and assigns, agree they will construct no permanent structure within or upon any easement shown hereon, and the City of Idaho Falls and its successors, assigns, permitees or licensees shall also have the right, to remove, cut or trim any trees, brush, ornamental shrubbery or plant which may injure or interfere with the use thereof for its intended purposes, such right may be exercised without prior notice to OWNER or its heirs, successors or assigns.

OWNER or its heirs, successors or assigns further agree that they shall not plant any trees, brush, ornamental shrubbery or plants which may hinder the safe and efficient utilization of said easements.

OWNER or its heirs, successors or assigns hereby releases the City of Idaho Falls and its successors, assigns, permitees or licensees from any claim for damages, based upon concealed or undisclosed private improvements constructed or permitted to be constructed by OWNER or its successors or assigns within any public easements, subsequent to recording this subdivision, that may be incurred as a result of the City of Idaho Falls and its successors, assigns, permitees or licensees ordinary use of the public easements with due care.

OWNER or its heirs, successors or assigns do hereby warrant and shall defend such dedication and conveyances in the quiet and peaceful possession of the public or the City of Idaho Falls, as the case may be, against said OWNER and its heirs, successors and assigns, and against every person whomsoever who lawfully holds or who later claims to have lawfully held any rights in said estate as of the date hereof.

IN WITNESS WHEREOF, OWNER has hereunto subscribed its seal and signature this _____ day of_____, 2023.

Amerigas Propane, L.P. a Delaware Limited Partnership:

_____
Ann P. Kelly – Vice President of Finance and Chief Financial Officer

ACKNOWLEDGMENT

STATE OF _____)
:SS.
COUNTY OF_____)

On this_____day of_____, 2023, before me the undersigned, a notary public in and for said state, personally appeared Ann P. Kelly, known or identified to me, to be the Vice President and Chief Financial Officer of Amerigas Propane, L.P., a Delaware Limited Partnership, and the person who subscribed said limited partnership's name to the foregoing OWNER'S Dedication and the Drinking Water System Certificate and acknowledged to me that she executed the same in said limited partnership's name as a person authorized to bind such limited partnership.

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

_____
Notary Public for the State of_____

Residing at:_____

Commission Expiration Date:_____

BOUNDARY DESCRIPTION

Commencing at the Southwest corner of Section 8, Township 2 North, Range 38 East of the Boise Meridian, Bonneville County, Idaho; running thence N.00°22'01"E. along the Section line 658.88 feet; thence S.89°37'59"E. 34.83 feet to the TRUE POINT OF BEGINNING; running thence N.00°45'53"E. 320.03 feet; thence N.85°58'31"E. 28.44 feet; thence N.45°05'01"E. 134.83 feet; thence N.26°04'01"E. 363.40 feet; thence N.62°39'01"E. 377.33 feet to the Westerly Rights–of–Way line of a Railroad; thence S.27°03'31"W. along said Railroad Rights–of–Way line 1038.00 feet; thence N.87°11'29"W. 150.95 feet to the TRUE POINT OF BEGINNING.
SUBJECT TO: existing easements of record.

CONTAINING: 201,851 Sq. Ft. or 4.634 acres.

STAFF REPORT
FINAL PLAT
Amerigas Propane L.P.
January 12, 2023

IDAHO FALLS
Community Development Services

Applicant: Ellsworth & Associates, PLLC

Project Manager: Caitlin Long

Location: Generally, north of E Anderson St, east of N Holmes Ave, south of Pop Kroll Way, west of Hemmert Ave

Size: 4.634 Acres
Lots: 2
Avg Lot Size: 2.317 Acres

Existing Zoning:
Site: LM
North: County IM-1
South: HC
East: HC/County IM-1
West: LM

Existing Land Uses:
Site: Commercial
North: Residential/Industrial
South: Commercial
East: Commercial/Vacant
West: Commercial

Future Land Use Map:
Highway-Related Industrial

Attachments:
1. Subdivision and Zoning Ordinance Requirements
2. Comprehensive Plan Policies
3. Maps and aerial photos
4. Final Plat

Requested Action: To **approve** the final plat for Amerigas Propane L.P.

Staff Comments: This parcel was annexed in December 2019 with a larger City-Wide initiated annexation for non-residential parcels that had city services. It was zoned with the initial zoning of LM. This final plat has two lots with the intent to sell the second lot to the business to the south. Lot 1 will have no direct access to Holmes Ave. Access for Lot 1 will come from the current access point of the parcel to the south and an access across Lot 2 with a cross access easement.

Staff Recommendation: Staff has reviewed the final plat and finds it complies with the Subdivision Ordinance and is consistent with the development standards of the LM Zone. Staff recommends approval of the plat.

Subdivision Ordinance: Boxes with an "X" indicated compliance with the ordinance

REQUIREMENTS	Staff Review
Requirements listed in Section 10-1:	
Building envelopes sufficient to construct a building.	X
Lot dimensions conform to the minimum standards of Zoning Ordinance.	X
Lots have full frontage on, and access to, a dedicated street.	X
Residential lots do not have direct access to arterial streets.	N/A
Direct access to arterial streets from commercial or industrial lots shall be permitted only where it can be demonstrated that: 1) The direct access will not impede the flow of traffic on the arterial or otherwise create an unsafe condition; 2) There is no reasonable alternative for access to the arterial via a collector street; 3) There is sufficient sight distance along the arterial from the proposed point of access; 4) The proposed access is located so as not to interfere with the safe and efficient functioning of any intersection; and 5) The developer or owner agrees to provide all improvements, such as turning lanes or signals, necessitated for the safe and efficient uses of the proposes access.	X
Adequate provisions shall be made for soil preservation, drainage patterns, and debris and waste disposal and collection.	X
Sidelines of lots shall be at, or near, right angles or radial to the street lines. All corner lots shall have a minimum radius of twenty feet on the property line.	X
All property within the subdivision shall be included within a lot or area dedicated for public use.	X
All corner lots zoned RP through R-3, inclusive, shall be a minimum of ten percent larger in area than the average area of all similarly zoned lots in the plat or subdivision under consideration.	N/A
All major streets in subdivision must conform to the major street plan of the City, as set forth in Comprehensive Plan.	N/A
The alignment and width of previously platted streets shall be preserved unless topographical conditions or existing buildings or structures required otherwise.	N/A
Residential lots adjoining arterial streets shall comply with: 1) Such lots shall have reverse frontage on the arterial streets, 2) such lots shall be buffered from the arterial street by any effective combination of the following: lot depth, earth berms, vegetation, walls or fences, and structural soundproofing, 3) Minimum lot depth shall be 150 ft except where the use of berms, vegetation, and structures can be demonstrated to constitute an effective buffer, 4) Whenever practical, existing roadside trees shall be saved and used in the arterial buffer, 5) Parking areas shall be used as part of the arterial buffer for high density residential uses, 6) Annexation and development agreement shall include provisions for installation and continued maintenance of arterial buffers.	N/A
Planning Director to classify street on basis of zoning, traffic volume, function, growth, vehicular & pedestrian safety, and population density.	No New Streets

Subdivision Ordinance:
Section 10-1-9A
(9) If the final plat conforms to the provisions of this Chapter and all other applicable State or Federal laws, or local ordinances, the Council shall approve the final plat and authorize the Mayor and Clerk to sign the original plat.

Zoning Ordinance:
11-3-7: PURPOSE OF INDUSTRIAL ZONES

(A) LM Light Manufacturing and Heavy Commercial Zone. This zone provides a light industrial zone in which the primary use of land is for non-nuisance industries, and heavy commercial establishments. This Zone is characterized by a wide variety of businesses, warehouses, equipment yards, and light manufacturing and industrial uses, and located convenient to transportation systems.

Table 11-3-6: Dimensional Standards for Industrial Zones

	LM	I&M
Site Area- Minimum in acres		
Setbacks – Minimum in ft.		
Front	30	30
Side	0/30*	0/30*
Rear	0/30*	0/30*
Building Height- Maximum	see sub-sections (2) below	
Lot Coverage- Maximum in %	80	
Building Coverage- Maximum in %	50	
*See explanations, exceptions and qualifications that follow in 11-3-8A (1-2) of this Zoning Code.		

Comprehensive Plan Policies:

Lands served by railroad/airport facilities and near or adjacent to State highways shall be retained for industrial development. (pg. 52)

November 9, 2021 7:00 p.m. Planning Department

City Annex Building

MEMBERS PRESENT: Commissioners Brent Dixon, Natalie Black, Joanne Denney, Gene Hicks, Margaret Wimborne, Lindsey Romankiw, George Morrison

MEMBERS ABSENT: Arnold Cantu.

ALSO PRESENT: Planning Director Brad Cramer, Assistant Planning Director Kerry Beutler, and planners Naysha Foster and Caitlin Long, and interested citizens.

CALL TO ORDER: Brent Dixon called the meeting to order at 7:00 p.m.

CHANGES TO AGENDA: None.

MINUTES: Black moved to approve the Minutes from October 5, 2021, Hicks seconded the motion and it passed unanimously.

Hicks moved to approve the Minutes from October 19, 2021, Denney seconded the motion and it passed unanimously.

Business:

5. PLAT 21-029: FINAL PLAT. Final Plat for AmeriGas Propane Division No. 1:

Applicant: Rod Ellsworth, 253 1st Street, Idaho Falls, Idaho. Ellsworth is asking for a final plat of the proposed subdivision.

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

Black asked about Lot 1 not having access to Holmes. Long showed that Lot 1 is the bottom of the subdivision and will have access to the parcel to the south that has access.

Dixon asked if they could have a lot that only has access through an unplatted lot that is not in the City. Long stated that because it is industrial the lots do not need access to the street.

Black moved to recommend to the Mayor and City Council approval of the Final Plat for AmeriGas Propane Division No. 1, Morrison seconded the motion. Dixon called for roll call vote: Black, yes; Denney, yes; Romankiw, yes; Hicks, yes; Morrison, yes; Wimborne, yes. The motion passed unanimously.

November 1, 2022 7:00 p.m. Planning Department

City Annex Building

MEMBERS PRESENT: Commissioners Joanne Denney, Lindsey Romankiw, Arnold Cantu, George Morrison, Brent Dixon (via Webex.

MEMBERS ABSENT: Margaret Wimborne, Glen Ogden, Kristi Brower

ALSO PRESENT: Assistant Planning Director Kerry Beutler; planner Naysha Foster, Caitlin Long and David Peterson; and interested citizens.

CALL TO ORDER: Joanne Denney called the meeting to order at 7:00 p.m.

CHANGES TO AGENDA:

MINUTES: Morrison moved to accept the minutes of October 4, 2022, Cantu seconded the motion. The motion passed unanimously.

Business:

9. PLAT 21-029: FINAL PLAT. Final Plat for Amerigas Propane Division No. 1 Extension.

Applicant: Steve Ellsworth, Ellsworth and Associates. Ellsworth stated that they need an extension as they got hung up in the platting process and are under a second review currently.

Dixon asked how long of an extension is needed, whether it is for months or to the next meeting. Ellsworth is asking for 1 year but hope to have the plat recorded in months. Ellsworth stated that it is typically extended for 1 year.

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

Dixon asked about the property to the south and whether it was annexed. Long stated that it is not annexed and under different ownership.

Dixon moved to recommend to the Mayor and City Council approval of the Final Plat for Amerigas Propane Division No. 1 Extension as requested, Cantu seconded the motion. Denney called for roll call vote: Morrison, yes; Romankiw, yes; Cantu, yes; Dixon, yes; The motion passed unanimously.

REASONED STATEMENT OF RELEVANT CRITERIA AND STANDARDS

FINAL PLAT OF AMERIGAS PROPANE L.P. DIVISION NO. 1, LOCATED GENERALLY NORTH OF E ANDERSTON ST, EAST OF N HOLMES AVE, SOUTH OF POP KROLL WAY, WEST OF HEMMERT AVE

WHEREAS, the applicant filed an application for a final plat on September 13, 2021; and

WHEREAS, this matter came before the Idaho Falls Planning and Zoning Commission during a duly noticed public meeting on November 9, 2021 and November 1, 2022; and

WHEREAS, this matter came before the Idaho Falls City Council during a duly noticed public meeting on January 12, 2023; and

WHEREAS, having reviewed the application, including all exhibits entered and having considered the issues presented:

I. RELEVANT CRITERIA AND STANDARDS

1. The City Council considered the request pursuant to the City of Idaho Falls Comprehensive Plan, the City of Idaho Falls Zoning Ordinance, the City of Idaho Falls Subdivision Ordinance, the Local Land Use Planning Act, and other applicable development regulations.
2. The property is an approximate 4.634 acre parcel located generally north of E Anderson St, east of Holmes Ave, south of Pop Kroll Way, west of Hemmert Ave
3. The property is zone LM.
4. The plat includes 2 lots, all of which meet the minimum standards for the LM Zone.
5. The plat complies with all requirements of the Subdivision Ordinance and Zoning Ordinance.
6. The proposed development is consistent with the principles of the City's Comprehensive Plan.
7. The Planning and Zoning Commission recommended approval of the final plat as presented on November 9, 2021 and extended that recommendation for approval on November 1, 2022.

II. DECISION

Based on the above Reasoned Statement of Relevant Criteria, the City Council of the City of Idaho Falls approved the Final Plat.

PASSED BY THE CITY COUNCIL OF THE CITY OF IDAHO FALLS

THIS _____ DAY OF _____, 2023

_____

Rebecca L. Noah Casper, Mayor

Memorandum

File #: 21-757 **City Council Meeting**

FROM: Kerry Beutler, Interim Director
DATE: Tuesday, January 3, 2023
DEPARTMENT: Community Development Services

Subject
Final Plat, Development Agreement, and Reasoned Statement of Relevant Criteria and Standards, Southpoint Subdivision, Division No. 12.

Council Action Desired
☐ Ordinance ☐ Resolution ☐ Public Hearing
☒ Other Action (Approval, Authorization, Ratification, etc.)
1. Approve the Development Agreement for the Final Plat for Southpoint Subdivision, Division No. 12 and give authorization for the Mayor and City Clerk to sign said agreement (or take other action deemed appropriate).

2. Accept the Final Plat for Southpoint Subdivision, Division No. 12 and give authorization for the Mayor, City Engineer, and City Clerk to sign said Final Plat (or take other action deemed appropriate).

3. Approve the Reasoned Statement of Relevant Criteria and Standards for the Final Plat for Southpoint Subdivision, Division No. 12 and give authorization for the Mayor to execute the necessary documents (or take other action deemed appropriate).

Description, Background Information & Purpose
Attached is the application for the Final Plat, Development Agreement, and Reasoned Statement of Relevant Criteria and Standards for Southpoint Subdivision, Division No. 12. The Planning and Zoning Commission considered this item at its July 6, 2021, meeting and unanimously voted to recommend approval for the final plat as presented. The Commission extended their recommendation to approve the plat on June 21, 2022. Staff concurs with this recommendation.

Alignment with City & Department Planning Objectives



☐ ☒ ☒ ☐ ☒ ☐ ☐ ☐

Consideration of the Final Plat must be consistent with the principles of the Comprehensive Plan and Zoning Ordinance, which includes many policies and goals related to Good Governance, Growth, Sustainability, Transportation, and Livable Communities.

Interdepartmental Coordination
The Final Plat was reviewed by staff from Fire, Idaho Falls Power, BMPO, Water, Planning, Sewer, Engineering, Survey, and Parks and Rec.

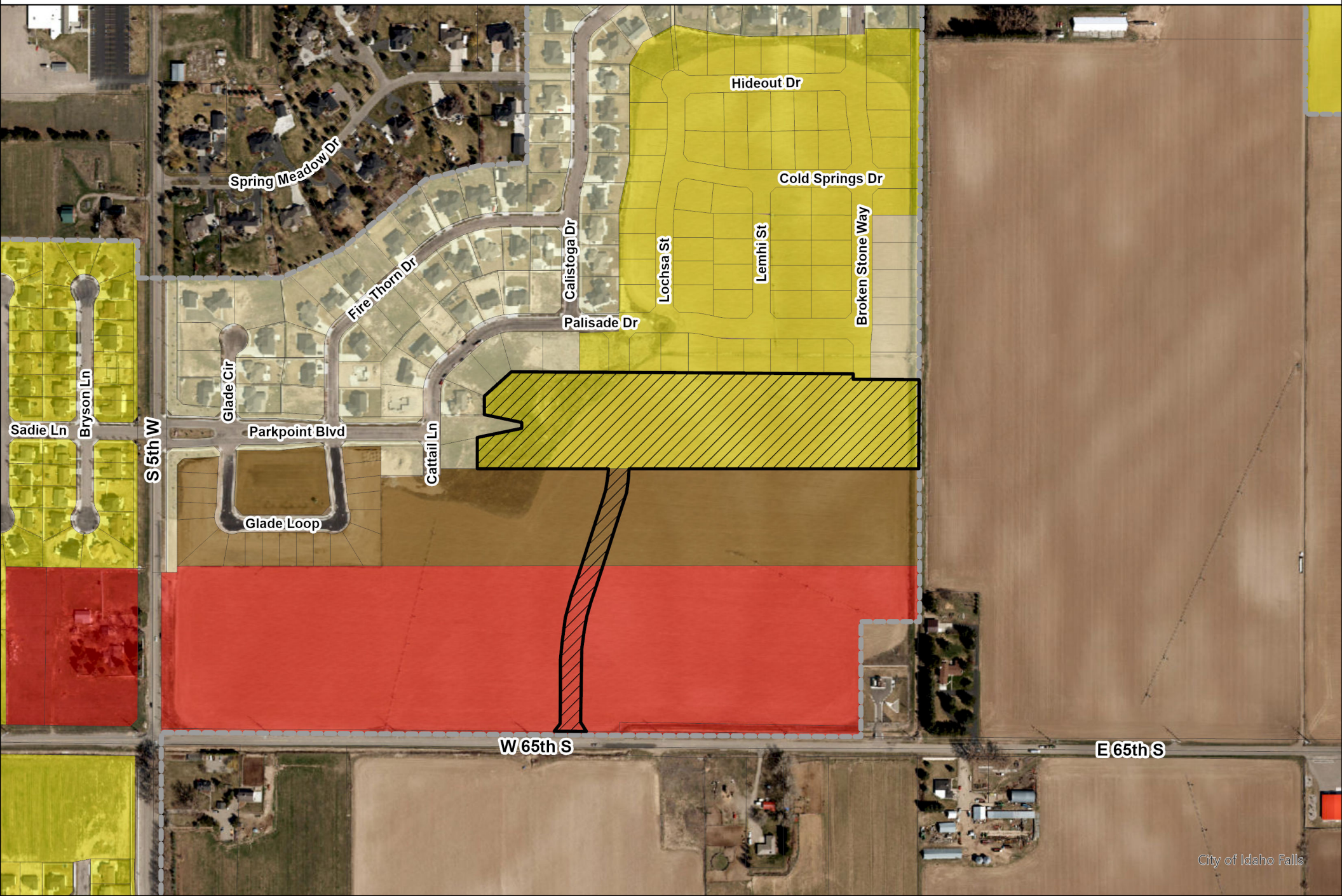
Fiscal Impact
NA

Legal Review
This application has been reviewed by the City Attorney's Office pursuant to applicable law

Zoning

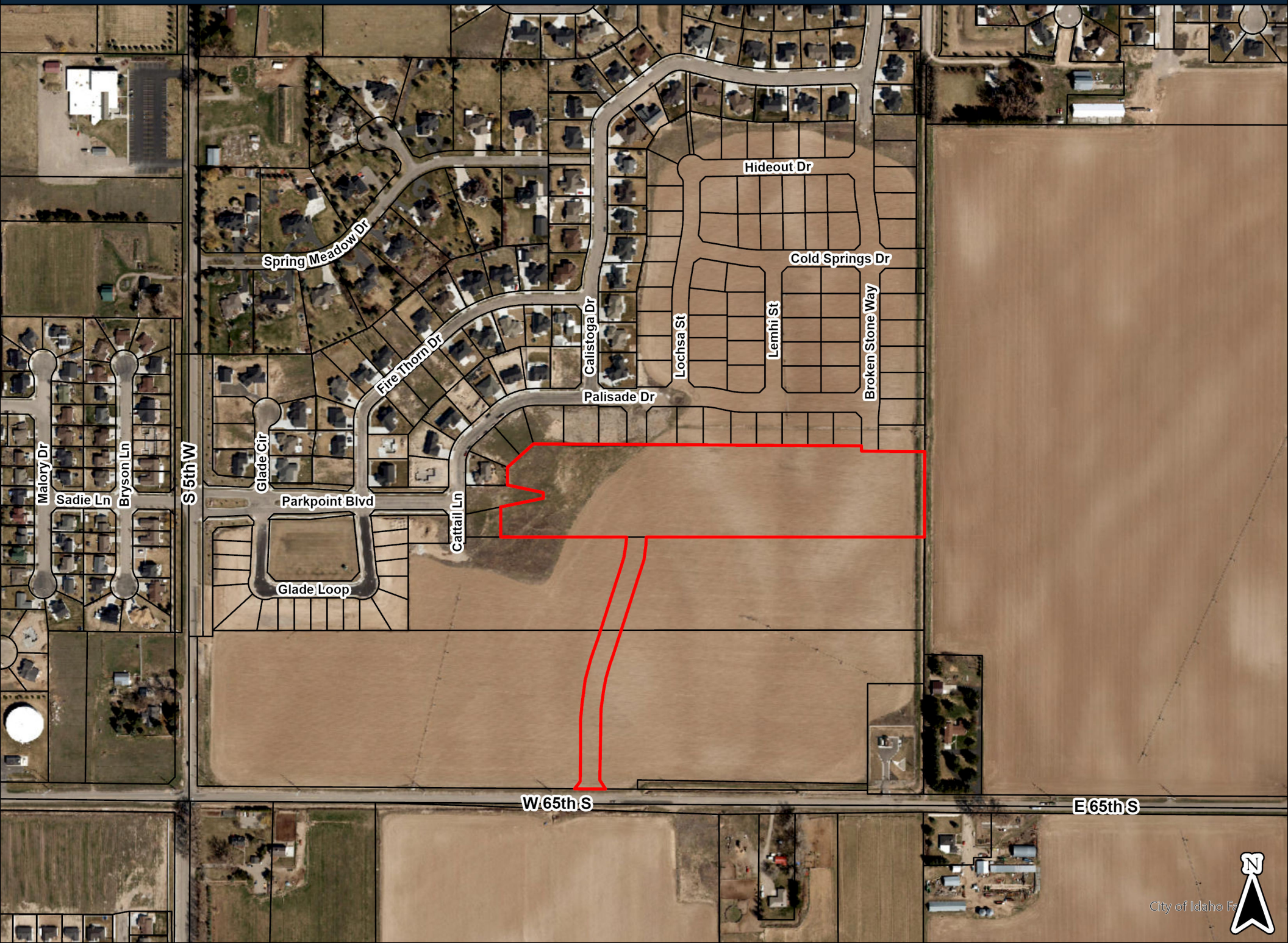
PLAT21-023

RE R1 TN R3 PB LC R&D I&M
RP R2 RMH R3A CC HC LM P



Aerial

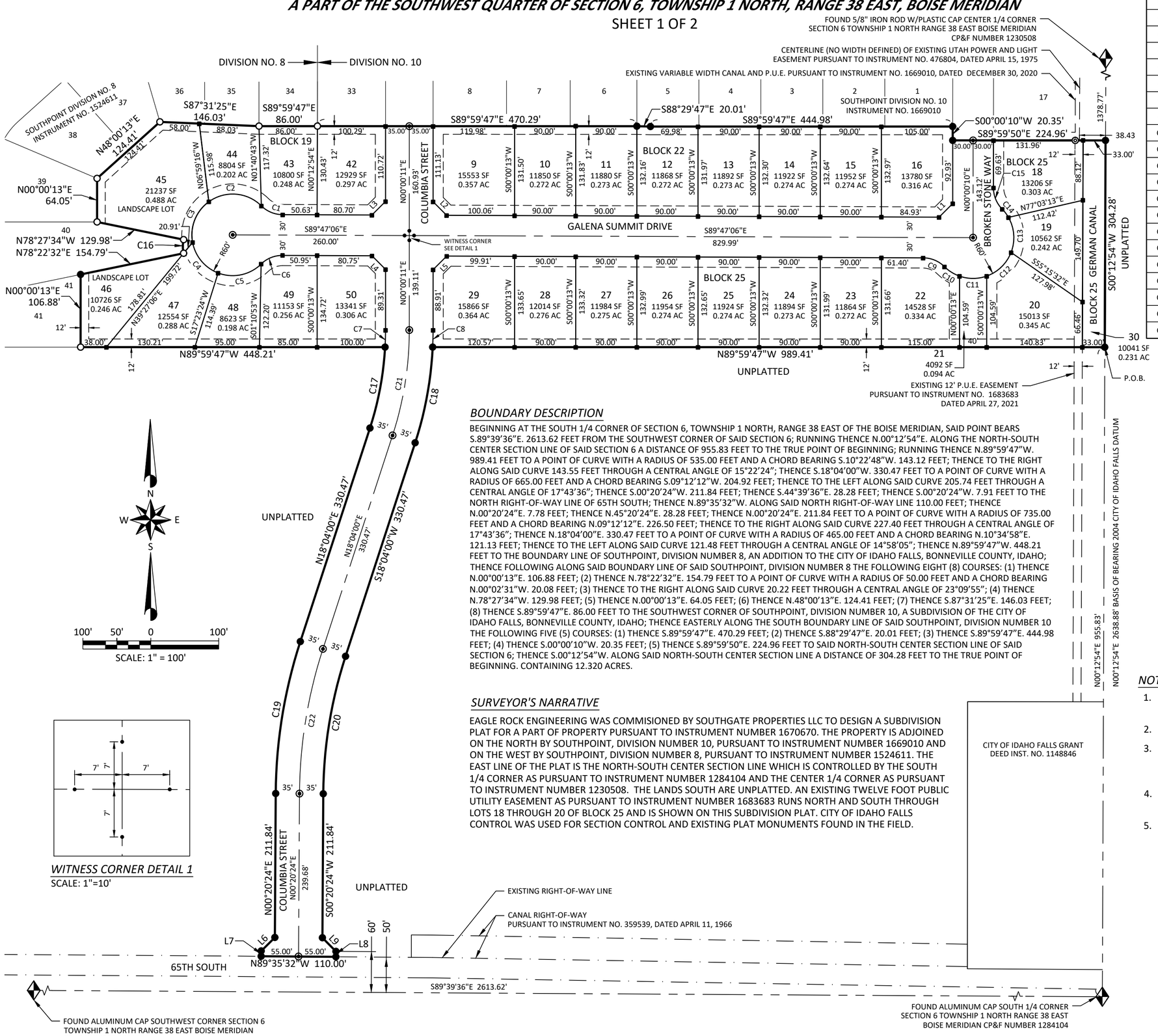
PLAT21-023



SOUTHPOINT DIVISION NO. 12

A SUBDIVISION OF THE CITY OF IDAHO FALLS, BONNEVILLE COUNTY, IDAHO
A PART OF THE SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 1 NORTH, RANGE 38 EAST, BOISE MERIDIAN

SHEET 1 OF 2



CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD LENGTH
C1	34.88'	45.00'	44°24'55"	S67°34'38"E	34.02'
C2	84.26'	60.00'	80°27'34"	N85°35'58"W	77.50'
C3	67.74'	60.00'	64°41'28"	S21°49'31"W	64.20'
C4	61.24'	60.00'	58°28'52"	S39°45'40"E	58.62'
C5	68.28'	60.00'	65°11'55"	N78°23'57"E	64.65'
C6	34.88'	45.00'	44°24'55"	S68°00'26"W	34.02'
C7	25.12'	465.00'	3°05'45"	N01°33'03"E	25.12'
C8	25.12'	535.00'	2°41'26"	N01°20'54"E	25.12'
C9	34.88'	45.00'	44°24'55"	N67°34'38"W	34.02'
C10	26.34'	60.00'	25°09'23"	S57°56'52"E	26.13'
C11	40.78'	60.00'	38°56'33"	S89°59'50"E	40.00'
C12	51.57'	60.00'	49°14'55"	N45°54'26"E	50.00'
C13	53.48'	60.00'	51°04'05"	N04°15'04"W	51.73'
C14	15.32'	60.00'	14°37'39"	N37°05'56"W	15.28'
C15	34.88'	45.00'	44°24'55"	S22°12'18"E	34.02'
C16	20.22'	50.00'	23°09'55"	N00°02'31"W	20.08'
C17	121.48'	465.00'	14°58'05"	N10°34'58"E	121.13'
C18	143.55'	535.00'	15°22'24"	S10°22'48"W	143.12'
C19	227.40'	735.00'	17°43'36"	N09°12'12"E	226.50'
C20	205.74'	665.00'	17°43'36"	S09°12'12"W	204.92'
C21	157.64'	500.00'	18°03'49"	N09°02'06"E	156.98'
C22	216.57'	700.00'	17°43'36"	S09°12'12"W	215.71'

LINE TABLE		
SEGMENT	BEARING	LENGTH
L1	S45°06'32"W	28.34'
L2	S44°53'27"E	28.23'
L3	N45°06'33"E	28.34'
L4	N44°53'27"W	28.23'
L5	S45°06'33"W	28.34'
L6	N45°20'24"E	28.28'
L7	N00°20'24"E	7.78'
L8	S00°20'24"W	7.91'
L9	S44°39'36"E	28.28'

LEGEND

- P.O.B. — POINT OF BEGINNING
- ROADWAY CENTERLINE
- SECTION LINE
- LOT LINE
- PLAT BOUNDARY
- 15' PUBLIC UTILITY EASEMENT (P.U.E.) UNLESS OTHERWISE DIMENSIONED
- EXISTING UTILITY EASEMENT AS NOTED
- PLACED 5/8" X 30" IRON ROD WITH ALUMINUM CAP MARKED P.L.S. 9369 (WITNESS CORNER)
- FOUND 5/8" x 30" IRON ROD WITH YELLOW PLASTIC CAP MARKED P.L.S. 14750 OR AS NOTED
- FOUND 5/8" X 30" IRON ROD WITH ALUMINUM CAP MARKED P.L.S. 14750 WITNESS CORNER
- PLACED 1/2" X 24" IRON ROD WITH YELLOW PLASTIC CAP MARKED P.L.S. 9369
- PLACED 5/8" x 30" IRON ROD WITH YELLOW PLASTIC CAP MARKED P.L.S. 9369
- PLACED 5/8" X 30" IRON ROD WITH ALUMINUM CAP MARKED P.L.S. 9369
- P.L.S.S. CORNER AS NOTED

BOUNDARY DESCRIPTION

BEGINNING AT THE SOUTH 1/4 CORNER OF SECTION 6, TOWNSHIP 1 NORTH, RANGE 38 EAST OF THE BOISE MERIDIAN, SAID POINT BEARS S.89°39'36"E. 2613.62 FEET FROM THE SOUTHWEST CORNER OF SAID SECTION 6; RUNNING THENCE N.00°12'54"E. ALONG THE NORTH-SOUTH CENTER SECTION LINE OF SAID SECTION 6 A DISTANCE OF 955.83 FEET TO THE TRUE POINT OF BEGINNING; RUNNING THENCE N.89°59'47"W. 989.41 FEET TO A POINT OF CURVE WITH A RADIUS OF 535.00 FEET AND A CHORD BEARING S.10°22'48"W. 143.12 FEET; THENCE TO THE RIGHT ALONG SAID CURVE 143.55 FEET THROUGH A CENTRAL ANGLE OF 15°22'24"; THENCE S.18°04'00"W. 330.47 FEET TO A POINT OF CURVE WITH A RADIUS OF 665.00 FEET AND A CHORD BEARING S.09°12'12"W. 204.92 FEET; THENCE TO THE LEFT ALONG SAID CURVE 205.74 FEET THROUGH A CENTRAL ANGLE OF 17°43'36"; THENCE S.00°20'24"W. 211.84 FEET; THENCE S.44°39'36"E. 28.28 FEET; THENCE S.00°20'24"W. 7.91 FEET TO THE NORTH RIGHT-OF-WAY LINE OF 65TH SOUTH; THENCE N.89°35'32"W. ALONG SAID NORTH RIGHT-OF-WAY LINE 110.00 FEET; THENCE N.00°20'24"E. 7.78 FEET; THENCE N.45°20'24"E. 28.28 FEET; THENCE N.00°20'24"E. 211.84 FEET TO A POINT OF CURVE WITH A RADIUS OF 735.00 FEET AND A CHORD BEARING N.09°12'12"E. 226.50 FEET; THENCE TO THE RIGHT ALONG SAID CURVE 227.40 FEET THROUGH A CENTRAL ANGLE OF 17°43'36"; THENCE N.18°04'00"E. 330.47 FEET TO A POINT OF CURVE WITH A RADIUS OF 465.00 FEET AND A CHORD BEARING N.10°34'58"E. 121.13 FEET; THENCE TO THE LEFT ALONG SAID CURVE 121.48 FEET THROUGH A CENTRAL ANGLE OF 14°58'05"; THENCE N.89°59'47"W. 448.21 FEET TO THE BOUNDARY LINE OF SOUTHPOINT, DIVISION NUMBER 8, AN ADDITION TO THE CITY OF IDAHO FALLS, BONNEVILLE COUNTY, IDAHO; THENCE FOLLOWING ALONG SAID BOUNDARY LINE OF SAID SOUTHPOINT, DIVISION NUMBER 8 THE FOLLOWING EIGHT (8) COURSES: (1) THENCE N.00°00'13"E. 106.88 FEET; (2) THENCE N.78°22'32"E. 154.79 FEET TO A POINT OF CURVE WITH A RADIUS OF 50.00 FEET AND A CHORD BEARING N.00°02'31"W. 20.08 FEET; (3) THENCE TO THE RIGHT ALONG SAID CURVE 20.22 FEET THROUGH A CENTRAL ANGLE OF 23°09'55"; (4) THENCE N.78°27'34"W. 129.98 FEET; (5) THENCE N.00°00'13"E. 64.05 FEET; (6) THENCE N.48°00'13"E. 124.41 FEET; (7) THENCE S.87°31'25"E. 146.03 FEET; (8) THENCE S.89°59'47"E. 86.00 FEET TO THE SOUTHWEST CORNER OF SOUTHPOINT, DIVISION NUMBER 10, A SUBDIVISION OF THE CITY OF IDAHO FALLS, BONNEVILLE COUNTY, IDAHO; THENCE EASTERLY ALONG THE SOUTH BOUNDARY LINE OF SAID SOUTHPOINT, DIVISION NUMBER 10 THE FOLLOWING FIVE (5) COURSES: (1) THENCE S.89°59'47"E. 470.29 FEET; (2) THENCE S.88°29'47"E. 20.01 FEET; (3) THENCE S.89°59'47"E. 444.98 FEET; (4) THENCE S.00°00'10"W. 20.35 FEET; (5) THENCE S.89°59'50"E. 224.96 FEET TO SAID NORTH-SOUTH CENTER SECTION LINE OF SAID SECTION 6; THENCE S.00°12'54"W. ALONG SAID NORTH-SOUTH CENTER SECTION LINE A DISTANCE OF 304.28 FEET TO THE TRUE POINT OF BEGINNING. CONTAINING 12.320 ACRES.

SURVEYOR'S NARRATIVE

EAGLE ROCK ENGINEERING WAS COMMISIONED BY SOUTHGATE PROPERTIES LLC TO DESIGN A SUBDIVISION PLAT FOR A PART OF PROPERTY PURSUANT TO INSTRUMENT NUMBER 1670670. THE PROPERTY IS ADJOINED ON THE NORTH BY SOUTHPOINT, DIVISION NUMBER 10, PURSUANT TO INSTRUMENT NUMBER 1669010 AND ON THE WEST BY SOUTHPOINT, DIVISION NUMBER 8, PURSUANT TO INSTRUMENT NUMBER 1524611. THE EAST LINE OF THE PLAT IS THE NORTH-SOUTH CENTER SECTION LINE WHICH IS CONTROLLED BY THE SOUTH 1/4 CORNER AS PURSUANT TO INSTRUMENT NUMBER 1284104 AND THE CENTER 1/4 CORNER AS PURSUANT TO INSTRUMENT NUMBER 1230508. THE LANDS SOUTH ARE UNPLATTED. AN EXISTING TWELVE FOOT PUBLIC UTILITY EASEMENT AS PURSUANT TO INSTRUMENT NUMBER 1683683 RUNS NORTH AND SOUTH THROUGH LOTS 18 THROUGH 20 OF BLOCK 25 AND IS SHOWN ON THIS SUBDIVISION PLAT. CITY OF IDAHO FALLS CONTROL WAS USED FOR SECTION CONTROL AND EXISTING PLAT MONUMENTS FOUND IN THE FIELD.

WITNESS CORNER DETAIL 1
SCALE: 1"=10'

NOTES

1. A 15 FOOT WIDE PUBLIC UTILITY EASEMENT IS HEREBY RESERVED WITHIN EACH LOT ALONG ALL ROAD FRONTAGES AS SHOWN.
2. AREA OF STREETS = 3.922 ACRES.
3. LOTS 45 & 46 BLOCK 19, HAVE A BLANKET PUBLIC STORM WATER DRAINAGE EASEMENT PURSUANT TO THE EXECUTION OF THIS INSTRUMENT.
4. LOT 45 & 46 BLOCK 19 AND LOT 9 AND LOT 21 BLOCK 25 ARE NON-BUILDABLE LOTS.
5. LOT 21, BLOCK 25, IS GRANTED AS A BLANKET PUBLIC UTILITY EASEMENT PURSUANT TO THE EXECUTION OF THIS INSTRUMENT.

PROFESSIONAL LAND SURVEYOR
REGISTERED
9369
STATE OF IDAHO
KURTIS J. ROLAND

EAGLE ROCK ENGINEERING
CIVIL ○ PLANNING ○ SURVEYING
IDAHO FALLS (208) 542-2665 REXBURG (208) 359-2665

OFFICES AT:
1331 Fremont Ave.
Idaho Falls, Idaho 83402
343 E 4th N, Suite 119
Rexburg, Idaho 83440

SURVEYED BY:	T. HANSEN
DRAWN BY:	B. DALEY
APPROVED BY:	K. ROLAND
PROJECT NO.	20242
DATE:	December 8, 2022
CAD NAME:	20242 DIV 12 SOUTHPOINT FINAL PLAT.DWG

STAFF REPORT
FINAL PLAT
Southpoint Division No. 12
January 12, 2023

IDAHO FALLS
Community Development Services

Applicant: Eagle Rock Engineering

Project Manager: Caitlin Long

Location: Generally, north of W 65th S, east of S 5th W, south of Calistoga Dr, west of S Holmes Ave

Size: 12.320 Acres
Lots:
Total: 27
Buildable: 25

Existing Zoning:
Site: R1
North: R1
South:R3
East: County A-1
West: RP

Existing Land Uses:
Site: Vacant
North: Residential
South: Agricultural
East: Agricultural
West: Residential

Future Land Use Map:
Mixed Use Centers and Corridors

Attachments:
1. Subdivision and Zoning Ordinance Requirements
2. Comprehensive Plan Policies
3. Maps and aerial photos
4. Final Plat

Requested Action: To **approve** the final plat for Southpoint Division No. 12.

Staff Comments: This parcel was annexed in April 2021 with a R1, R3 and LC Zone and an updated preliminary plat was approved in February 2021. The previous preliminary plat was from 2000 and had expired. The Final Plat for Division 12 includes 25 buildable lots, with Lot 46 and Lot 45 as a landscape lots and Lot 21 as a non buildable lot The average residential lot size is 12,185 sq ft. Access to the subdivision will be from W 65th S and Columbia St., a residential collector. The final plat is consistent with the preliminary plat.

Staff Recommendation: Staff has reviewed the final plat and finds it complies with the Subdivision Ordinance and is consistent with the development standards of the R1 Zone. Staff recommends approval of the plat.

Subdivision Ordinance: Boxes with an "X" indicated compliance with the ordinance

REQUIREMENTS	Staff Review
Requirements listed in Section 10-1:	
Building envelopes sufficient to construct a building.	X
Lot dimensions conform to the minimum standards of Zoning Ordinance.	X
Lots have full frontage on, and access to, a dedicated street.	X
Residential lots do not have direct access to arterial streets.	X
Direct access to arterial streets from commercial or industrial lots shall be permitted only where it can be demonstrated that: 1) The direct access will not impede the flow of traffic on the arterial or otherwise create an unsafe condition; 2) There is no reasonable alternative for access to the arterial via a collector street; 3) There is sufficient sight distance along the arterial from the proposed point of access; 4) The proposed access is located so as not to interfere with the safe and efficient functioning of any intersection; and 5) The developer or owner agrees to provide all improvements, such as turning lanes or signals, necessitated for the safe and efficient uses of the proposes access.	N/A
Adequate provisions shall be made for soil preservation, drainage patterns, and debris and waste disposal and collection.	X
Sidelines of lots shall be at, or near, right angles or radial to the street lines. All corner lots shall have a minimum radius of twenty feet on the property line.	X
All property within the subdivision shall be included within a lot or area dedicated for public use.	X
All corner lots zoned RP through R-3, inclusive, shall be a minimum of ten percent larger in area than the average area of all similarly zoned lots in the plat or subdivision under consideration.	X
All major streets in subdivision must conform to the major street plan of the City, as set forth in Comprehensive Plan.	X
The alignment and width of previously platted streets shall be preserved unless topographical conditions or existing buildings or structures required otherwise.	X
Residential lots adjoining arterial streets shall comply with: 1) Such lots shall have reverse frontage on the arterial streets, 2) such lots shall be buffered from the arterial street by any effective combination of the following: lot depth, earth berms, vegetation, walls or fences, and structural soundproofing, 3) Minimum lot depth shall be 150 ft except where the use of berms, vegetation, and structures can be demonstrated to constitute an effective buffer, 4) Whenever practical, existing roadside trees shall be saved and used in the arterial buffer, 5) Parking areas shall be used as part of the arterial buffer for high density residential uses, 6) Annexation and development agreement shall include provisions for installation and continued maintenance of arterial buffers.	N/A
Planning Director to classify street on basis of zoning, traffic volume, function, growth, vehicular & pedestrian safety, and population density.	Columbia Street - Residential Collector All others – Local

Subdivision Ordinance:
Section 10-1-9A
(9) If the final plat conforms to the provisions of this Chapter and all other applicable State or Federal laws, or local ordinances, the Council shall approve the final plat and authorize the Mayor and Clerk to sign the original plat.

Zoning Ordinance:
11-3-3: Purpose of Residential Zones,
(C) R1 Single Dwelling Residential Zone. This zone provides a residential zone which is representative of a less automobile-oriented, more walkable development pattern, characterized by somewhat smaller lot widths; and a somewhat denser residential environment than is characteristic of the RP Residential Park Zone. The principal uses in the R1 Residential Zone shall be single detached and attached dwelling units. This zone is also generally located near limited commercial services that provide daily household needs.

(F) R3 Multiple Dwelling Residential Zone. This zone provides a residential zone which is characterized by a variety of dwelling types with a denser residential environment. This Zone is situated along or near major streets such as collectors and arterials. It is also generally located near pedestrian connections and commercial services

11-3-4: STANDARDS FOR RESIDENTIAL ZONES.

Table 11-3-1: Standards for Residential Zones

	RE	RP	R1	R2	TN	R3	R3A	RMH
Lot Area								
Lot Area Minimum in ft^2	1 acre*	12,000	7,000	6,000*	3,000*	5,000*	5,000	5,000
Lot Area Maximum in ft^2			13,500*					
Site Width								
Site Width at Front Setback, Minimum in ft.	150	60	50	50	25	50	50	50
Setbacks, Minimum in ft.								
Front	40	30*	25*	20*	15*	15	15	30
Front Maximum in ft.					20*			
Side	20	7.5/10*	6	6	5	6	6	10
Rear	40	25	25	25	10	25*	25*	25*
Lot Coverage, Building Height, and Density								
Maximum Lot Coverage in %	30	40	40	80	50	80	80	40
Maximum Building Height in ft*	24	24	24	24	*			24
Maximum Density in net units/acre	1	4	6	17	15	35	35	8
*See explanations, exceptions and qualifications in Section 11-3-4A,B,C of this Zoning Code.								

(Ord. 3218, 9-13-18)

11-3-5: PURPOSE OF COMMERCIAL ZONES

(C) LC Limited Commercial Zone. This zone provides a commercial zone for retail and service uses which supply the daily household needs of the City's residents. This Zone is usually located on major streets contiguous to residential uses. This zone is characterized by smaller scale commercial uses which are easily accessible by pedestrians and non-motorized vehicles from the surrounding residential neighborhoods, although larger scale developments such as big-box stores may still serve as anchors. Connectivity is provided with walkways that provide access to and through the development site. Parking for vehicles is understated by the use of landscaping, location, and provision of pedestrian walkways to the businesses.

Table 11-3-5: Dimensional Standards for Commercial Zones

	CC	PB	LC	HC
Site width at front setback - Minimum in ft.		50	*	50
Setbacks – Minimum in ft.				
Front		20	20*	20
Side			*	
Rear			*	
Landscape buffer contiguous to street* in ft.	7*	15	20*	20*
Landscape buffer contiguous to a residential Zones* in ft.	10	10	20/10	30/10
Building height – Maximum in ft.		*	*	
Lot Coverage- Maximum in %		80	80	
*See explanations, exceptions and qualifications that follow in Section 11-3-6A (1-6) of this Zoning Code.				

Comprehensive Plan Policies:

Residential development should reflect the economic and social diversity of Idaho Falls. (pg. 40)

Arterial streets should be located along the perimeter of residential neighborhoods, preferably at the square mile. At least one east-west collector and one north-south collector street should be located in every square mile of residential development. If such collector streets provide access to homes, the design of the collector shall discourage through traffic. (pg. 41)

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

Encourage development in areas served by public utilities or where extensions of facilities are least costly. (pg. 67)

Higher density housing such as apartments are adjacent to collector and arterial streets. (pg. 66)

Develop nodes of clustered development. (pg. 67)

July 6, 2021 7:00 p.m. Planning Department

City Annex Building

MEMBERS PRESENT: Commissioners Brent Dixon, Arnold Cantu, Joanne Denney, Lindsey Romankiw, Natalie Black, Margaret Wimborne.

MEMBERS ABSENT: Gene Hicks, George Morrison

ALSO PRESENT: Planning Director Brad Cramer; Assistant Planning Directors Naysha Foster, Caitlin Long, and interested citizens.

CALL TO ORDER: Brent Dixon called the meeting to order at 7:00 p.m.

CHANGES TO AGENDA: None.

MINUTES: Cantu moved to approve the Minutes from June 1, 2021 and June 15, 2021, Wimborne seconded the motion and it passed unanimously.

Business:

6. PLAT 21-023: FINAL PLAT. Final Plat for Southpoint Division No. 12:

Applicant: Kurt Roland, 1331 Fremont, Idaho Falls, Idaho. Roland stated that there are 56.5 acres with 34 lots with 31 of them buildable. Roland stated that this is south of Division 10 consisting of R1, R3 and LC.

Dixon asked about the arrow shaped lot to the west. Roland stated that it is a storm pond that will create a pass through for foot traffic. Dixon asked how wide the street that meets up with York is and asked if it is wide enough to have left and right turn lanes. Roland stated that they will be putting right and left turn lanes and also on 65th South they will put in turn lanes.

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

Wimborne moved to recommend to the Mayor and City Council approval of the Final Plat for Southpoint Division No. 12, Black seconded the motion. Dixon called for roll call vote: Cantu, yes; Romankiw, yes; Black, yes; Denney, yes; Wimborne, yes. The motion passed unanimously.

June 21, 2022 7:00 p.m. Planning Department

City Annex Building

MEMBERS PRESENT: Commissioners Lindsey Romankiw, Kristi Brower, Arnold Cantu, Brent, Dixon, Glen Ogden (via Webex - late)

MEMBERS ABSENT: Joanne Denney, Margaret Wimborne, George Morrison

ALSO PRESENT: Assistant Planning Director Kerry Beutler; planner Caitlin Long, Brian Stevens, Assistant City Attorney Michael Kirkham, Esq. and interested citizens.

CALL TO ORDER: Lindsey Romankiw called the meeting to order at 7:00 p.m.

CHANGES TO AGENDA: Items 2 and 3 have been postponed until August 2, 2022 (Plat 22-019; PUD 22-001). Kirkham clarified that the applicant requested to have the item removed from the Agenda

MINUTES: Dixon moved accept the minutes of June 7, 2022 with the correction requested Cantu seconded the motion, and the motion passed unanimously.

Business:

7. PLAT 21-023: FINAL PLAT. Southpoint Division No. 12. (Extension Request).

Applicant: No applicant as this is just an extension request.

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

Ogden asked if the portion that was going to be commercial is still owned by the same applicant. Beutler indicated that they do not track sales, but they believe the parcel has been sold. Ogden clarified that they would maintain right of way to access the parcel.

Cantu moved to approve the Extension Request of the Final Plat for Southpoint Division No. 12, Ogden seconded the motion, and it passed unanimously.

REASONED STATEMENT OF RELEVANT CRITERIA AND STANDARDS

FINAL PLAT OF SOUTHPOINT DIVISION NO. 12 LOCATED GENERALLY NORTH OF W 65TH S, EAST OF S 5TH W, SOUTH OF CALISTOGA DR, WEST OF S HOLMES AVE

WHEREAS, the applicant filed an application for a final plat on May 28, 2021; and

WHEREAS, this matter came before the Idaho Falls Planning and Zoning Commission during a duly noticed public meeting on July 6, 2021 and June 21, 2022; and

WHEREAS, this matter came before the Idaho Falls City Council during a duly noticed public meeting on January 12, 2023; and

WHEREAS, having reviewed the application, including all exhibits entered and having considered the issues presented:

I. RELEVANT CRITERIA AND STANDARDS

1. The City Council considered the request pursuant to the City of Idaho Falls Comprehensive Plan, the City of Idaho Falls Zoning Ordinance, the City of Idaho Falls Subdivision Ordinance, the Local Land Use Planning Act, and other applicable development regulations.
2. The property is an approximate 12.320 acre parcel located generally north of W 65th S, east of S 5th W, south of Calistoga Dr, west of S Holmes Ave
3. The property is zoned R1 and includes 27 lots, with 25 buildable lots with 2 non-buildable lots.
4. Access to the development will be consistent with the Access Management Plan.
5. The plat complies with all requirements of the Subdivision Ordinance and Zoning Ordinance.
6. The proposed development is consistent with the principles of the City's Comprehensive Plan.
7. The Idaho Falls Planning and Zoning Commission recommend approval of this Final Plat on July 6, 2021. Since it has been more than a year from the original Commission meeting staff took the plat back to the Commission on June 21, 2022, and the Commission reconfirmed their recommendation to approve the plat.

II. DECISION

Based on the above Reasoned Statement of Relevant Criteria, the City Council of the City of Idaho Falls approved the Final Plat.

PASSED BY THE CITY COUNCIL OF THE CITY OF IDAHO FALLS

THIS _____ DAY OF _____, 2023

_____

Rebecca L. Noah Casper, Mayor

DEVELOPMENT AGREEMENT
SOUTHPOINT DIVISION NO. 12

This DEVELOPMENT AGREEMENT SOUTHPOINT DIVISION NO. 12 ("AGREEMENT"), made this _____day of _____, 2022, by and between CITY OF IDAHO FALLS, IDAHO, a municipal corporation of the State of Idaho, ("CITY"), whose mailing address is P.O. Box 50220, Idaho Falls, Idaho 83405, and SOUTH GATE PROPERTIES, LLC, a limited liability company ("DEVELOPER"), whose mailing address is 3943 Willow Ridge Drive, Idaho Falls, Idaho 83406.

W I T N E S S E T H:

WHEREAS, DEVELOPER is the sole owner, in law or equity, of a certain tract of land in the County of Bonneville, State of Idaho, which land (hereafter referred to as "Subdivision"), is more particularly described in Exhibit "A" attached hereto and by this reference made a part hereof; and,

WHEREAS, DEVELOPER desires to develop the Subdivision within CITY and has submitted a plat bearing the Subdivision name described in the caption of this AGREEMENT; and,

WHEREAS, City Engineer, and the Idaho Falls Planning and Zoning Commission, have recommended such development be allowed, subject to certain requirements and obligations on the part of DEVELOPER; and

WHEREAS, CITY is willing to allow the development of the Subdivision within City of Idaho Falls, Idaho, subject to the terms and conditions of this AGREEMENT and the Special Conditions attached hereto; and

WHEREAS, CITY has authority to approve Subdivision plats and the construction of streets, utility lines and other public improvements within CITY; and

WHEREAS, DEVELOPER specifically waives DEVELOPER's right to protest development requirements described in this AGREEMENT, including DEVELOPER's right of judicial review contained in Chapter 52, Title 67, Idaho Code, and pursuant to the standards set forth in § 67-5279, Idaho Code; and,

WHEREAS, DEVELOPER understands that the public improvements required herein are standards required pursuant to Idaho Falls City Code, Title 10, Chapter 1, and are authorized by Idaho Code §§ 67-6513 and 67-6518; and,

WHEREAS, DEVELOPER and CITY believe that without the public improvements required herein, CITY would not be able to otherwise provide for mitigation of the effects of the Subdivision development on the ability of CITY to deliver services without compromising quality of such service delivery to current CITY residents, or without imposing substantial additional costs upon current CITY residents to accommodate the proposed Subdivision; and,

WHEREAS, CITY desires to ensure that public improvements consisting of those described in this AGREEMENT, including Special Conditions for the Subdivision, are constructed; and,

WHEREAS, DEVELOPER understands that a waiver of public improvements is available pursuant to Idaho Falls City Code, but DEVELOPER specifically does not wish to request such a waiver and wishes to enter into this AGREEMENT; and,

WHEREAS, DEVELOPER enters into this AGREEMENT of DEVELOPER's own free will and accord, without coercion and without inducement and at DEVELOPER's request; and,

WHEREAS, DEVELOPER has read this AGREEMENT, has understood it, and has had the opportunity to avail itself of legal and other counsel prior to entering into this AGREEMENT and prior to signing it; and,

WHEREAS, DEVELOPER has submitted a preliminary plat bearing the Subdivision name described in the caption of this AGREEMENT; and,

WHEREAS, City Engineer and City Planning and Zoning Commission have recommended such Subdivision be approved subject to certain requirements and obligations on the part of DEVELOPER; and,

WHEREAS, CITY is willing to approve the Subdivision to CITY, subject to the terms and conditions of this AGREEMENT and the Special Conditions attached hereto;

NOW, THEREFORE, in consideration of the covenants and conditions set forth herein, the parties agree as follows:

1. Approval of Subdivision. CITY hereby approves the Subdivision plat as described in Exhibit "A" attached hereto and made a part to this AGREEMENT by reference, and agrees that upon DEVELOPER's full and complete performance of the terms and conditions hereto, it will accept and maintain the property dedicated to CITY on the Subdivision plat and all public facilities and improvements shown in the Improvement Plans for the Subdivision.

2. Improvement, Preliminary, and Final Improvement Plans. "Improvement Plans," used in this AGREEMENT, are engineer-designed plans showing all streets, sewer lines, water lines, storm drains, street signs, traffic control devices, barricades, other public utilities (telephone, gas, electricity, fiber optic and irrigation facilities) and other public improvements contemplated within the Subdivision. "Preliminary Improvement Plans" as used in this AGREEMENT, are those Improvement Plans submitted and considered for the Subdivision development prior to the approval of City Engineer, and not yet approved for construction. "Final Improvement Plans" as used in this AGREEMENT, are those Improvement Plans submitted, considered and approved by City Engineer for the Subdivision development.

DEVELOPER anticipates that development of the entire Subdivision will occur in phases or divisions. DEVELOPER has filed, and City Engineer has approved, Improvement Plans for the public improvements to be constructed within public rights-of-way exterior to the Subdivision, (hereafter referred to as the "Exterior Improvement Plans") showing the width, location and alignment of all streets, sewer lines and water lines within the Subdivision and the size and materials specifications for such water and sewer lines. Prior to the commencement of any construction or development within any phase or division of the Subdivision, DEVELOPER shall also file with, and obtain the approval of, City Engineer Improvement Plans (hereafter the "Interior Improvement Plans") for all streets, sewer lines, water lines, storm drainage facilities, street signs, traffic control devices, barricades and other public improvements contemplated within such phase or division of the Subdivision. The filed Improvement Plans shall also show the proposed location of other public utilities (telephone, gas and electricity), and irrigation facilities affected by the development of such phase or division of the Subdivision. Preliminary Improvement Plans are incorporated herein by reference as though set out in full, and the Final Improvement Plans shall also, upon approval by City Engineer, be deemed to be incorporated herein by reference.

3. Construction of Public Improvements. Unless otherwise agreed in the Special Conditions, DEVELOPER shall, at its expense, design and construct all public improvements shown in the Exterior Improvement Plans and Interior Improvement Plans. Unless otherwise agreed in writing by City Engineer, DEVELOPER shall construct all required public improvements within such Improvement Plans in strict accordance with the approved Preliminary and Final Improvement Plans and CITY Standard Engineering Drawings and Specifications (hereafter referred to as the "Standard Specifications") in effect at the time the construction is accomplished. The Standard Specifications are incorporated herein by reference as though set out in full and compliance to the Standard Specifications is a condition of this AGREEMENT.

4. Permits. DEVELOPER shall obtain all right-of-way, excavation and/or other permits required by local ordinance and comply with all requirements therein with respect to the

timely performance of the work governed by such permits.

5. Inspection. DEVELOPER shall retain a professional engineer (hereafter referred to as the "Project Engineer") licensed within the State of Idaho to supervise, inspect and test the construction of all public improvements within the Subdivision in order to ensure such improvements are constructed in accordance with this AGREEMENT, the Improvement Plans and the Standard Specifications. DEVELOPER shall not materially deviate from the Improvement Plans or Standard Specifications without the express written approval of the City Engineer.

6. Corrected Improvement Plans. Prior to acceptance of any phase or division of the Subdivision, DEVELOPER will file "As Constructed"/ "As Built" Improvement Plans (hereafter referred to as the "Corrected Improvement Plans") with City Engineer. Such Corrected Improvement Plans shall be prepared by the Project Engineer and shall show the actual constructed location of all public improvements within the Subdivision including the horizontal and vertical location of all water, sewer and storm drain lines, individual building service lines curb and gutter alignment and street grades. Such Corrected Improvement Plans shall also specifically show all changes between the Final Improvement Plans and the public improvements as actually constructed. The Project Engineer shall also certify upon the Corrected Improvement Plans that such Corrected Improvement Plans correctly show all public improvements as actually constructed and that such public improvements have been constructed in accordance with the Standard Specifications in effect at the time such construction was accomplished. The Project Engineer shall also deliver to City Engineer all compaction reports, daily construction logs, reports, written tests, analysis and other data as may be necessary to verify or support the certification of the Project Engineer.

7. Acceptance of Subdivision. Upon satisfactory completion of such public improvements and facilities, DEVELOPER's delivery of Corrected Improvement Plans and the filing and approval by CITY of a final plat, CITY will accept that portion of the Subdivision for which a final plat has been approved. Such acceptance shall not be valid unless expressly acknowledged in writing by City Engineer. Except as otherwise expressly provided in the Special Conditions, upon acceptance of any phase or division within the Subdivision, CITY shall assume ownership and control of all public facilities within any dedicated street or public utility right-of-way within the Subdivision and shall execute and record an instrument documenting such acceptance and that also references the recording information for this AGREEMENT and thereby releasing the Subdivision, or the accepted portion thereof, from the encumbrances of this AGREEMENT. Acceptance of the Subdivision Improvements and recording the acceptance instrument shall not be deemed as a waiver of DEVELOPER's agreement herein to fully and completely perform the terms and conditions of this AGREEMENT, or as a waiver or release of the warranty set forth below in this AGREEMENT.

8. Warranty. DEVELOPER warrants that the materials and workmanship employed in the construction of all public improvements within the Subdivision shall be good and sound, and shall conform to generally accepted standards within the construction industry. Such warranty shall extend for a period of one (1) year after acceptance of any phase or division of the Subdivision within which such improvements are located, by CITY, provided nothing herein shall limit the time within which CITY may bring an action against DEVELOPER on account of DEVELOPER's failure to construct such improvements in accordance with this AGREEMENT, the Improvement Plans or the Standard Specifications. DEVELOPER, and DEVELOPER's heirs, successors and assigns, shall and do hereby respectively warrant and agree, to defend the quiet and peaceful possession of CITY in all easements, rights-of-way, street dedications or other estates conveyed pursuant to the terms of this AGREEMENT or pursuant to the subdivision plat which is the subject hereof, from and against all claims against DEVELOPER and DEVELOPER's successors or assigns, respectively, and against every person whomsoever who lawfully holds, or who later lawfully claims to have held, rights in the premises by or through DEVELOPER and DEVELOPER's successors or assigns, respectively, as of the date of this AGREEMENT.

9. Water and Sewer Main Connection Charges. DEVELOPER agrees to pay to CITY at the time any separate sanitary sewer service or culinary water service connection to CITY sanitary sewer system or culinary water system is requested, all connection fees, main connection charges, and main charges as set forth in the City Code in effect at the time such request for service is made.

10. Failure to Pay Fees. In the event DEVELOPER fails or refuses to pay any of the fees, charges or costs set forth herein, CITY may disannex any property owned by DEVELOPER within the Subdivision or declare the entire unpaid balance immediately due and payable and collect such sums in the manner provided by law, or may pursue any other remedy set forth herein or as may be available at law or in equity. All such remedies shall be cumulative and CITY may pursue the same separately or simultaneously as it deems necessary or appropriate. In the event of such acceleration, all sums due shall bear interest at the rate established by law for judgments entered in the State of Idaho, commencing on the date the unpaid amount is declared immediately due and written demand therefor is delivered to DEVELOPER.

11. Participation by CITY. The parties agree that those portions of the water main, the sanitary sewer line, storm drains and street section work (hereafter collectively referred to as the "Shared Work"), the cost of which CITY has expressly agreed to pay pursuant to the Special Conditions, including any water or sewer line or storm line extensions, increased line size or capacity and road width or thickness, are required because of future service needs originating from properties not owned by DEVELOPER and located within the vicinity of the Subdivision, and that sound planning requires construction thereof at the present time in order to accommodate future expansion and development. In recognition of the cost savings which can be accomplished by

construction of such excess capacity and improvements concurrently with the facilities to be constructed for DEVELOPER's purposes, and the impracticality or impossibility of constructing such excess capacity and improvements separately or at a later time, DEVELOPER agrees to design and construct such facilities subject to CITY's agreement to reimburse DEVELOPER for a portion of such costs, all as set forth in the Special Conditions. Prior to the commencement of the Shared Work, DEVELOPER shall obtain and deliver to CITY three (3) independent bona fide bids for the performance of such work from qualified and responsible contractors. Such bids shall be solicited and itemized in a manner which allows clear and specific identification of that portion of the construction work for which CITY is responsible. CITY shall have no obligation to pay for any portion of the costs of the Shared work unless prior to the commencement of the work, the parties have expressly agreed in writing to a specific amount for which CITY will reimburse the DEVELOPER. Payment of such costs by CITY shall be due within thirty (30) days from acceptance of the Subdivision by CITY and delivery of an itemized statement to CITY setting forth in detail the total amount of the costs for which CITY is responsible.

12. Special Conditions. In recognition of the unique circumstances relative to this Subdivision the parties agree to the Special Conditions attached hereto as Exhibit "B" and by this reference made a part hereof.

13. Irrigation Facilities. DEVELOPER shall relocate or reconstruct, at DEVELOPER's expense, all ditches, headgate structures, culverts, siphons, drywells or other similar appurtenant structures that will be impaired or otherwise disturbed by the construction of this Subdivision. DEVELOPER shall also obtain the consent of all persons or entities who have any water right or control over such structures. DEVELOPER shall also indemnify and hold CITY harmless from any action, claim, demand or cost of any kind, including attorney's fees and court costs, arising from the relocation or reconstruction of such facilities or DEVELOPER's failure to properly relocate or reconstruct such facilities.

14. Relocation of Power Lines. DEVELOPER shall relocate at its expense, all existing electric utility poles or other utility lines or fixtures necessary to construct the public improvements within this Subdivision as shown on the Improvement Drawings.

15. Construction Schedule Change. Any modification to the public improvements shown in the Improvement Drawings or to the construction phase limits shall be approved by City Engineer. Prior to said approval, revised Improvement Drawings shall be resubmitted to City Engineering Department showing the proposed changes.

16. Taxes and Assessments. DEVELOPER shall pay all real property taxes and assessments levied or assessed against any interest in real property which DEVELOPER has agreed to convey to CITY pursuant to this AGREEMENT up to the date the final Subdivision plat

for this Subdivision is recorded. Such taxes and assessments shall be paid prior to the acceptance by CITY of the public improvements within any phase or division of the Subdivision.

17. Occupancy. No building or structure within the Subdivision shall be used or occupied for any purpose other than for the construction of such building or structure, unless a final plat has been filed and approved and all public improvements within the plat have been completed and accepted by City Engineer. CITY may withhold Certificates of Occupancy until all such work has been completed. Nothing herein shall prevent the use of a model building for the purpose of DEVELOPER's sales promotional efforts provided the building is not occupied for any other commercial or industrial purposes.

18. Default. In the event DEVELOPER fails to comply with the terms and conditions hereof in any material respect, CITY may, without further notice to DEVELOPER, exercise any or all of the following remedies:

A. Withhold the issuance of any building permit or certificate of occupancy for any structure located within any phase or division of the Subdivision affected by such default;

B. Withhold the connection of water, sewer or electric service to any property located within any phase or division of the Subdivision affected by such default;

C. Refuse to accept public ownership and maintenance of public improvements within any phase or division of the Subdivision affected by such default and record a notice of such action with the Bonneville County Recorder's office;

D. Issue a stop work order for any building under construction within any phase or division of the Subdivision affected by such default;

E. Withhold reimbursement of Subdivision inspection fees collected pursuant to the Idaho Falls City Code; and

F. Bring an action for damages, injunctive relief, specific performance or any other remedy available at law or in equity.

19. Notices. Any notice required by this AGREEMENT shall be mailed to the receiving party at the address set forth above or such other address as may be delivered to the sending party in writing. Such notice shall be mailed by certified mail, return receipt requested, postage prepaid and addressed as set forth above and shall be deemed received upon its deposit in the United States mail in such manner.

20. Recording and Recording Fees. CITY may record this AGREEMENT with the

Bonneville County Recorder's office and prior to the execution and approval of this AGREEMENT, DEVELOPER shall pay to CITY all recording fees necessary to record this AGREEMENT with the Bonneville County Recorder's office. Prior to the approval of any final plat within the Subdivision, DEVELOPER shall pay to CITY all recording fees necessary to record such final plat with the Bonneville County Recorder's office.

21. Irrigation District Release. Prior to the approval of the Subdivision plat, DEVELOPER shall: (i) include a statement on the Subdivision plat that the property subject to this AGREEMENT has been excluded from the applicable irrigation district and reference the district's exclusion order by recording date and instrument number; or (ii) obtain a certification upon the Subdivision plat signed by any irrigation district, canal company, ditch association or other similar water delivery entity who provides or delivers water to any property located within the Subdivision. This certification shall contain a statement certifying that the property subject to this AGREEMENT has been excluded from the irrigation district, canal company, ditch association or other similar water delivery entity who provides or delivers water to any property located within the Subdivision or the water rights for all property within the Subdivision have been transferred from such property and that all liens and assessments of such water delivery entity have been satisfied and released.

22. Compliance With Applicable Law and Regulation. DEVELOPER agrees to comply with all applicable rules, regulations, Ordinances, Resolutions, statutes or administrative laws having applicability to development to this Subdivision and or phase of this Subdivision including, of those of CITY, Bonneville County, the State of Idaho, the United States of America, or any agency or political subdivisions thereof having jurisdiction over the Subdivision and to obtain any permits, licenses, permissions, authorizations, etc., that are required for such development.

23. Conflict With Standard Specifications. In the event of any conflict between the terms of this AGREEMENT or the Improvement Plans and the Standard Specifications, the terms of this AGREEMENT or the Improvement Plans shall prevail over any contrary provision of the Standard Specifications. In the event of any conflict between the terms of this AGREEMENT and the Improvement Plans, the terms of this AGREEMENT shall prevail.

24. Covenants Appurtenant to the Land. All covenants and conditions set forth herein shall be appurtenant to and run with the Subdivision and shall be binding upon DEVELOPER's heirs, successors or assigns.

25. Governing Law. This AGREEMENT shall be governed by the laws of the State of Idaho. The venue for any action arising out of this Agreement shall be exclusively in the District Court of the Seventh Judicial District of the State of Idaho, Bonneville County or in the United

States District Court for the District of Idaho.

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

27. Non-Discrimination. DEVELOPER shall not discriminate against any employee or applicant for employment on the basis of race, color, religion, creed, political ideals, sex, age, marital status, physical, or mental handicap, gender identity/expression, sexual orientation, or national origin.

28. Entire Agreement. This writing evidences the final and complete agreement between the parties and no other prior statement, representation or understanding shall be binding upon the parties unless expressly set forth herein.

29. Effective Date. This AGREEMENT shall become valid and binding only upon its approval by CITY Council of CITY and upon its execution by the Mayor.

INWITNESS WHEREOF, the parties have hereunto set their hands and seals this day and year first above written.

ATTEST:

CITY OF IDAHO FALLS, IDAHO

_____
Corrin Wilde, City Clerk

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

SOUTH GATE PROPERTIES, LLC

By _____
Brad Pickett, Manager

STATE OF IDAHO)
) ss.
County of Bonneville)

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

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

_____
Notary Public of Idaho
(Seal) Residing at: _____
My Commission Expires:_____

STATE OF IDAHO)
) ss:
County of Bonneville)

On this 16 day of December, 2022, before me, the undersigned, a notary public, in and for said State, personally appeared Brad Pickett, known or identified to me to be an authorized signator of South Gate Properties, LLC, and whose name is subscribed to the within instrument and acknowledged to me that they are authorized to execute the same for and on behalf of said company.

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

RACHAEL HUNTSMAN Exp. 08/22/2025 NOTARY PUBLIC Comm. No. 62111 STATE OF IDAHO

(Seal)

Rachael Huntsman
Notary Public of Idaho
Residing at: Idaho Falls, Idaho
My Commission Expires: August 22, 2025

EXHIBIT "A"
PROPERTY

LEGAL DESCRIPTION

SOUTHPOINT DIVISION NO. 12

BEGINNING AT THE SOUTH 1/4 CORNER OF SECTION 6, TOWNSHIP 1 NORTH, RANGE 38 EAST OF THE BOISE MERIDIAN, SAID POINT BEARS S.89°39'36"E. 2613.62 FEET FROM THE SOUTHWEST CORNER OF SAID SECTION 6; RUNNING THENCE N.00°12'54"E. ALONG THE NORTH-SOUTH CENTER SECTION LINE OF SAID SECTION 6 A DISTANCE OF 955.83 FEET TO THE TRUE POINT OF BEGINNING; RUNNING THENCE N.89°59'47"W. 989.41 FEET TO A POINT OF CURVE WITH A RADIUS OF 535.00 FEET AND A CHORD BEARING S.10°22'48"W. 143.12 FEET; THENCE TO THE RIGHT ALONG SAID CURVE 143.55 FEET THROUGH A CENTRAL ANGLE OF 15°22'24"; THENCE S.18°04'00"W. 330.47 FEET TO A POINT OF CURVE WITH A RADIUS OF 665.00 FEET AND A CHORD BEARING S.09°12'12"W. 204.92 FEET; THENCE TO THE LEFT ALONG SAID CURVE 205.74 FEET THROUGH A CENTRAL ANGLE OF 17°43'36"; THENCE S.00°20'24"W. 211.84 FEET; THENCE S.44°39'36"E. 28.28 FEET; THENCE S.00°20'24"W. 7.90 FEET TO THE NORTH RIGHT-OF-WAY LINE OF 65TH SOUTH; THENCE N.89°35'32"W. ALONG SAID NORTH RIGHT-OF-WAY LINE 110.00 FEET; THENCE N.00°20'24"E. 7.77 FEET; THENCE N.45°20'24"E. 28.28 FEET; THENCE N.00°20'24"E. 211.84 FEET TO A POINT OF CURVE WITH A RADIUS OF 735.00 FEET AND A CHORD BEARING N.09°12'12"E. 226.50 FEET; THENCE TO THE RIGHT ALONG SAID CURVE 227.40 FEET THROUGH A CENTRAL ANGLE OF 17°43'36"; THENCE N.18°04'00"E. 330.47 FEET TO A POINT OF CURVE WITH A RADIUS OF 465.00 FEET AND A CHORD BEARING N.10°34'58"E. 121.13 FEET; THENCE TO THE LEFT ALONG SAID CURVE 121.48 FEET THROUGH A CENTRAL ANGLE OF 14°58'05"; THENCE N.89°59'47"W. 448.21 FEET TO THE BOUNDARY LINE OF SOUTHPOINT, DIVISION NUMBER 8, AN ADDITION TO THE CITY OF IDAHO FALLS, BONNEVILLE COUNTY, IDAHO; THENCE FOLLOWING ALONG SAID BOUNDARY LINE OF SAID SOUTHPOINT, DIVISION NUMBER 8 THE FOLLOWING EIGHT (8) COURSES: (1) THENCE N.00°00'13"E. 106.88 FEET; (2) THENCE N.78°22'32"E. 154.79 FEET TO A POINT OF CURVE WITH A RADIUS OF 50.00 FEET AND A CHORD BEARING N.00°02'31"W. 20.08 FEET; (3) THENCE TO THE RIGHT ALONG SAID CURVE 20.22 FEET THROUGH A CENTRAL ANGLE OF 23°09'55"; (4) THENCE N.78°27'34"W. 129.98 FEET; (5) THENCE N.00°00'13"E. 64.05 FEET; (6) THENCE N.48°00'13"E. 124.41 FEET; (7) THENCE S.87°31'25"E. 146.03 FEET; (8) THENCE S.89°59'47"E. 86.00 FEET TO THE SOUTHWEST CORNER OF SOUTHPOINT, DIVISION NUMBER 10, A SUBDIVISION OF THE CITY OF IDAHO FALLS, BONNEVILLE COUNTY, IDAHO; THENCE EASTERLY ALONG THE SOUTH BOUNDARY LINE OF SAID SOUTHPOINT, DIVISION NUMBER 10 THE FOLLOWING FIVE (5) COURSES: (1) THENCE S.89°59'47"E. 470.29 FEET; (2) THENCE S.88°29'47"E. 20.01 FEET; (3) THENCE S.89°59'47"E. 444.98 FEET; (4) THENCE S.00°00'10"W. 20.35 FEET; (5) THENCE S.89°59'50"E. 224.96 FEET TO SAID NORTH-SOUTH CENTER SECTION LINE OF SAID SECTION 6; THENCE S.00°12'54"W. ALONG SAID NORTH-SOUTH CENTER SECTION LINE A DISTANCE OF 304.28 FEET TO THE TRUE POINT OF BEGINNING, CONTAINING 12.32 ACRES.

SUBJECT TO: EXISTING EASEMENTS OF RECORD.

EXHIBIT "B"
SPECIAL CONDITIONS

SOUTHPOINT DIVISION NO. 12

S.C. 1.00 Traffic Signs. DEVELOPER agrees to install all street signs designating the names of all streets within the Subdivision. Street signs designating the name of public streets shall be constructed with white letters over green background. Street signs designating the name of private streets shall be constructed with white lettering over blue background. Such signs shall be installed in the manner and locations as directed by CITY's Engineer.

S.C. 2.00 Access to 65th South. Access to Southpoint Division No. 12 shall be in accordance with the Bonneville Metropolitan Planning Organization ("BMPO") Access Management Plan.

S.C. 3.00 Existing Infrastructure. When it is necessary to move or remove existing infrastructure not belonging to CITY and not within CITY right-of-way, DEVELOPER shall coordinate such activities with the applicable owner, (e.g., poles owned by Pacificorp, dba Rocky Mountain Power). Any existing electrical infrastructure owned by Pacificorp, dba Rocky Mountain Power, will require a buy-out from DEVELOPER prior to receipt of electrical service from CITY. Request for the buy-out, if any, is to be initiated by DEVELOPER following annexation.

S.C. 4.00 Street Section Improvements for 65th South. DEVELOPER shall be responsible for the design and construction of the right turn lane in 65th South in accordance with CITY's Approved Improvement Drawings required for this Subdivision.

S.C. 5.00 Subdivision Seal Coat. In order to preserve the long-term effectiveness of required roadway seal coat in the Subdivision, DEVELOPER shall pay all seal coat costs associated with Subdivision improvements rather than applying the seal coat. In lieu of DEVELOPER seal coat application, DEVELOPER shall pay Thirty-Eight Thousand Eighty-Three Dollars and Fifty Cents ($38,083.50) (12,090 square yards at $3.15 per square yard). CITY shall use such payment to apply the required seal coat at a later date, when Subdivision building permits are completed and at CITY's sole discretion on timing.

S.C. 6.00 Water Line Connection in 65th South. CITY agrees to allow DEVELOPER to connect to the water main located in 65th South, subject to DEVELOPER's payment of the water main connection fees in the amount of Four Thousand Eight Hundred and Twenty-Nine Dollars ($4,829.00; 110 feet currently at $43.90 per foot), upon execution of this AGREEMENT, pursuant to Section 8-4-14 (C) of Idaho Falls City Code. Pursuant to section 8-4-14 (B) of the City Code, DEVELOPER or DEVELOPER's heirs or assigns shall also pay individual water system connection fees each time an individual water service line is connected to CITY water systems. Such fees shall be paid in the amounts and manner set forth in such Code Sections.

S.C. 7.00 Sewer Main Connection Fee. CITY agrees to allow DEVELOPER to connect to the sewer previously constructed within the Subdivision, subject to DEVELOPER's payment of the sewer main connection charge pursuant to section 8-1-23(C) of the City Code in the amount of Two Thousand Eight Hundred and Twenty-Seven Dollars ($2,827.00; 110 feet; currently at $25.70 per foot). Mainline connection fee costs will be adjusted accordingly in the event that the connections are

not made at time when CITY Fee Resolution reflects the rate referenced herein. Pursuant to section 8-1-23(B) of the City Code, DEVELOPER or DEVELOPER's heirs or assigns shall also pay individual sewer connection fees each time an individual sewer service line is connected to CITY sewer system. Such fees shall be paid in the amounts and manner set forth in such Code Section.

S.C. 8.00 Storm Drainage. Storm Drainage shall be designed and constructed to accommodate drainage of the lots within the Subdivision by DEVELOPER. The storm drainage system shall meet CITY's Storm Drainage Policy. The storm pond shall be constructed as shown on the CITY-approved Improvement Drawings. DEVELOPER shall provide for the installation of grass and an irrigation system, at DEVELOPER's sole expense, to serve this Subdivision. Maintenance of the storm pond shall be the responsibility of DEVELOPER or DEVELOPER's heirs, successors, or assigns.

S.C. 9.00 Access to City of Idaho Falls Well Lot. DEVELOPER agrees to provide and construct a minimum twenty-six foot (26') wide direct access from Columbia Street East to the City of Idaho Falls Well Lot located at 110 W 65th South, Idaho Falls, ID 83404 within a public easement. Easement details and access roadway pavement section within the easement shall be subject to the approval of CITY. DEVELOPER currently owns the property between Columbia Street East to the City of Idaho Falls Well Lot, and prior to sale of this property shall provide notice to any future owner of this requirement.

Memorandum

File #: 21-758 **City Council Meeting**

FROM: Kerry Beutler, Interim Director
DATE: Tuesday, January 3, 2023
DEPARTMENT: Community Development Services

Subject
Final Plat, Development Agreement, and Reasoned Statement of Relevant Criteria and Standards, Roderick Business Park.

Council Action Desired
☐ Ordinance ☐ Resolution ☐ Public Hearing
☒ Other Action (Approval, Authorization, Ratification, etc.)
1. Approve the Development Agreement for the Final Plat for Roderick Business Park and give authorization for the Mayor and City Clerk to sign said agreement (or take other action deemed appropriate).

2. Accept the Final Plat for Roderick Business Park and give authorization for the Mayor, City Engineer, and City Clerk to sign said Final Plat (or take other action deemed appropriate).

3. Approve the Reasoned Statement of Relevant Criteria and Standards for the Final Plat for Roderick Business Park and give authorization for the Mayor to execute the necessary documents (or take other action deemed appropriate).

Description, Background Information & Purpose
Attached is the application for the Final Plat, Development Agreement, and Reasoned Statement of Relevant Criteria and Standards for Roderick Business Park. The Planning and Zoning Commission considered this item at its September 6, 2022, meeting and voted to recommend approval for the final plat as presented by a 5-1 vote. Staff concurs with this recommendation.

Alignment with City & Department Planning Objectives



☐ ☒ ☒ ☐ ☒ ☐ ☐ ☐

A successful Plat should be consistent with the Comprehensive Plan and Zoning Ordinance, which includes policies and goals related to Growth, Sustainability, Transportation, and Livable Communities.

Interdepartmental Coordination
The Final Plat was reviewed by staff from Fire, Idaho Falls Power, BMPO, Water, Planning, Sewer, Engineering, Survey,

and Parks and Rec.

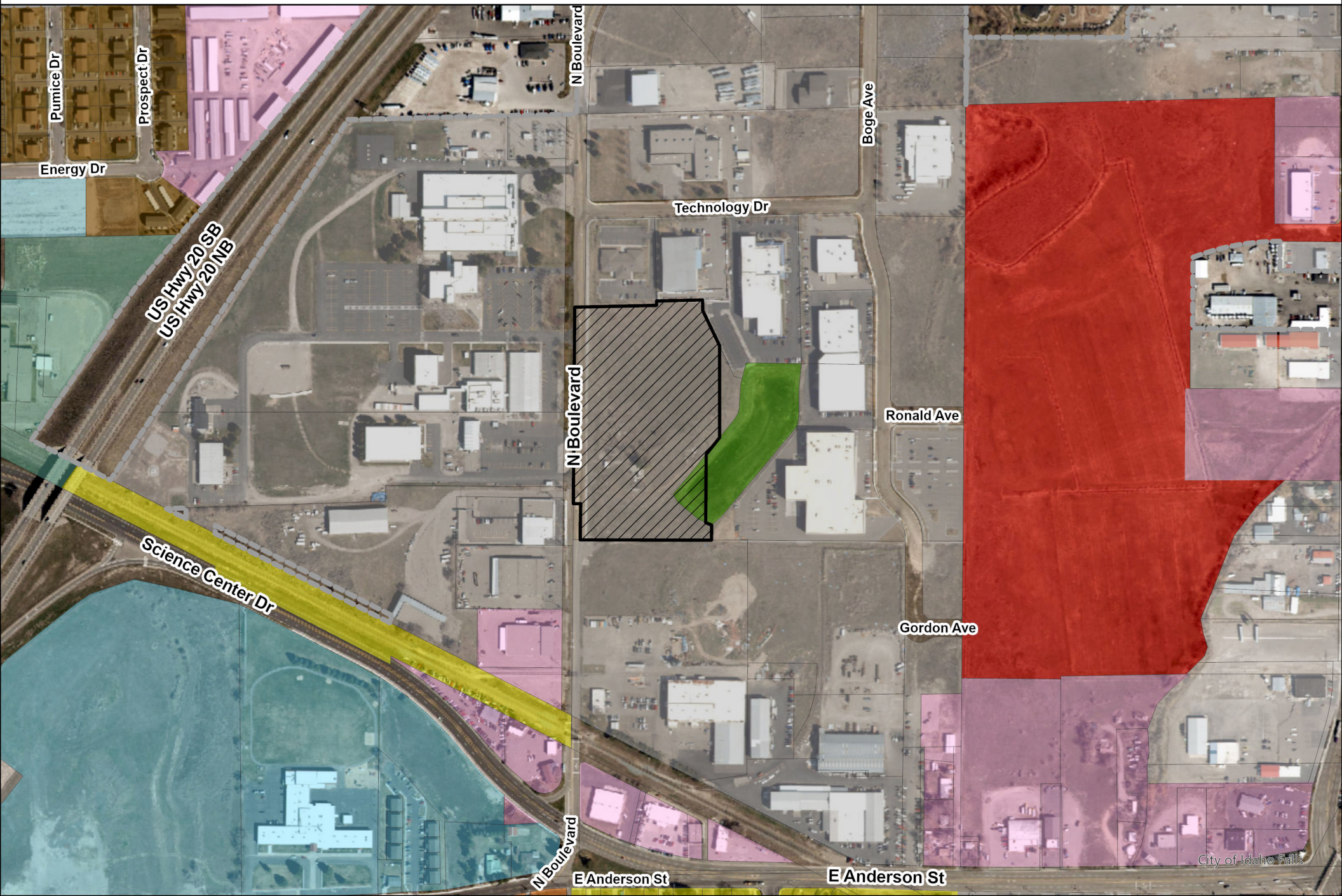
Fiscal Impact
NA

Legal Review
This application has been reviewed by the City Attorney's Office and is consistent with applicable law

Zoning

PLAT22-023

RE R1 TN R3 PB LC R&D I&M
RP R2 RMH R3A CC HC LM P



Aerial

PLAT22-023



RODERICK BUSINESS PARK
IDAHO FALLS

A SUBDIVISION OF THE CITY OF IDAHO FALLS, BONNEVILLE COUNTY, IDAHO LOCATED IN THE SOUTHEAST QUARTER SECTION 7, TOWNSHIP NORTH, RANGE 38 EAST, BOISE MERIDIAN

OWNER'S DEDICATION

Know all men by these presents: that the undersigned Roderick Enterprises, a Utah general partnership, is the lawful OWNER of the tract of land included within the boundary description shown hereon and has caused the same to be platted and divided into blocks, lots, and streets, which plat shall hereafter be known as RODERICK BUSINESS PARK IDAHO FALLS , a subdivision of the City of Idaho Falls, Idaho, Bonneville County, Idaho.

Be it further known, that OWNER does hereby dedicate grant and convey to the public, all streets and right-of-ways shown hereon, that OWNER also does hereby grant and convey to the City of Idaho Falls all public easements forever as irrevocable permanent non-exclusive public easements as shown and described hereon.

OWNER does hereby grant and convey to Lots 1 and 2 , Block 1, a private cross-access easement as shown and described hereon and labeled as CAE 1, the said private cross-access easement is granted by the mutual consent and agreement between the parties, the adequacy and receipt of which is hereby acknowledged, that the OWNER also does hereby grant, bargain, and convey to the owners of said lots hereafter referred to as, BENEFITED CAE HOLDERS, their licensees, invitees, agents, successors, and assigns, the full and free right for said BENEFITED CAE HOLDERS and said BENEFITED CAE HOLDERS' tenants, invitees, licensees, and visitors to the private cross-access agreements described herein in common with all persons designated to have a like right at all times hereafter, for ingress and egress and vehicular access, and a perpetual easement for roadway purposes, on and across the property, except for parking, that OWNER also does hereby grant and convey to the City of Idaho Falls forever a non-exclusive irrevocable easement for right-of-way for emergency vehicles and emergency responders, across the cross-access easement CAE 1.

OWNER, or its heirs, successors or assigns, agree they will construct no permanent structure within or upon any public easement shown hereon, and the City of Idaho Falls and its successors, assigns, permittees or licensees shall also have the right to remove, cut or trim any trees, brush, ornamental shrubbery or plant which may injure or interfere with the use thereof for its intended purposes, and City of Idaho Falls shall have the right, to remove any obstructions on said cross-access easement which may injure or interfere with the City of Idaho Fall's use thereof, such right of removal may be exercised without prior notice to OWNER or OWNER'S heirs, successors, or assigns.

OWNER or its heirs, successors or assigns further agree that they shall not plant any trees, brush, ornamental shrubbery or plants which may hinder the safe and efficient utilization of said easements.

OWNER or its heirs, successors or assigns, further agree that they shall construct no structures or maintain any obstructions on said cross-access easements, including but not limited to gates, barriers, or vehicles of any type.

OWNER or its heirs, successors or assigns, further agree to maintain the said cross-access easements and to remove snow pursuant to the requirements of the International Fire Code §503 as it is amended from time to time, and as adopted by the City of Idaho Falls, Idaho.

OWNER or its heirs, successors or assigns hereby releases the City of Idaho Falls and its successors, assigns, permitees or licensees from any claim for damages, based upon concealed or undisclosed private improvements constructed or permitted to be constructed by OWNER or its successors or assigns within any public easements, subsequent to recording this subdivision, that may be incurred as a result of the City of Idaho Falls and its successors, assigns, permitees or licensees ordinary use of the public easements with due care.

OWNER or its heirs, successors or assigns do hereby warrant and shall defend such dedication and conveyances in the quiet and peaceful possession of the public or the City of Idaho Falls, or each lot owner as the case may be, against said OWNER and its heirs and assigns, and against every person whomsoever who lawfully holds or who later claims to have lawfully held any rights in said estate as of the date hereof.

IN WITNESS WHEREOF, OWNER has hereunto subscribed its seal and signature this _____day of _____, 202___.

Roderick Enterprises, a Utah general partnership

_____

Michael Roderick, General Partner

DRINKING WATER SYSTEM CERTIFICATE

Pursuant to I.C. §50-1334, the OWNER does hereby, certify that all lots shown on this plat are eligible to receive water from the City of Idaho Falls Municipal Water System, and said City has agreed in writing to provide culinary water service to said lots pursuant to the provisions of Title 8, Chapter 4 of the Idaho Falls City Code as amended from time to time.

In witness whereof, OWNER has hereunto set its signature this _____ Day of _____, 2022

Roderick Enterprises, a Utah general partnership

_____,

Michael Roderick, General Partner

RECORDER'S CERTIFICATE

I hereby certify that the forgoing plat RODERICK BUSINESS PARK IDAHO FALLS, was filed in the Office of the Recorder of Bonneville County, Idaho

_____ _____

Bonneville County Recorder Date

HEALTH DEPARTMENT CERTIFICATE OF APPROVAL

Sanitary restrictions as required by I.C. §50-1326 have been satisfied based on Department of Environmental Quality review and approval for the design plans and specifications and the conditions imposed on the developer for continued satisfaction of sanitary restrictions. Water and sewer lines have been completed and services certified as available. Sanitary restrictions may be reimposed, in accordance with I.C. §50-1326, by the issuance of a certificate of disapproval.

Eastern Idaho Public Health District

_____ _____

Environmental Health Specialist, REHS Date:

TREASURER'S CERTIFICATE

I, the undersigned County Treasurer in and for the County of Bonneville, State of Idaho, pursuant to the requirements of I.C. §50-1308, do hereby certify that all County property taxes due for the property included in the Boundary Description shown hereon are current.

_____ _____

Bonneville County Treasurer Date

CITY'S ACCEPTANCE

The accompanying plat was duly accepted and approved and the grants and dedications are hereby accepted by the City Council of Idaho Falls adopted this_____Day of _____, 20____.

_____ _____

Mayor City Clerk

_____ _____

City Engineer
Kent J. Fugal, PE 9247

City Surveyor
Kenneth Baldwin Roberts, PLS 9755

ACKNOWLEDGMENT

STATE OF _____)
:SS.
COUNTY OF _____)

On this _____day of _____, 20___, before me the undersigned, a notary public in and for said state, personally appeared Michael Roderick, known or identified to me, to be a General Partner in the Partnership of Roderick Enterprises, and the General Partner who subscribed said partnership's name to the foregoing OWNER'S Dedication, and the Drinking Water System Certificate and acknowledged to me that he executed the same in said partnership's name as a person authorized to bind said partnerhisp.

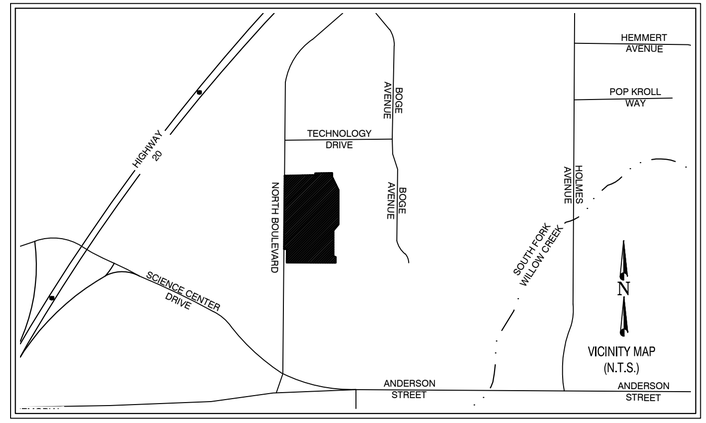
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and the year in this certificate first above written.

_____

Notary Public for the State of _____

Residing at: _____

Commission Expiration Date: _____



IRRIGATION WATER RIGHTS STATEMENT

Water rights and assessment obligations are not appurtenant to the lands included within this plat. Lots within this subdivision will not receive a water right.

SURVEY NARRATIVE

1. The purpose of this survey is to plat the property for development.
2. The boundary was determined by applying survey principles and practices of boundary retracement. The westerly side of the subdivision was determined by holding the record line and distance calls noted in Warranty Deed Instrument No. 1268827. The new right-of-way line along the east side of North Boulevard will be monumented as shown on the plat. The northerly line of the subdivision was determined by holding the adjoining record lines and distances of Lot 5, Block 1, Intermountain Business and Technology Park Division No. 4 Instrument No.1118189 and Lot 6, Block 1, Intermountain Business and Technology Park Division No. 5 Instrument No.1256906 as shown on the recorded plat. The northeasterly corner of the subdivision was determined by holding the adjoining record lines and distances of Lot 2, Block 1, Intermountain Business and Technology Park Division No.1 Amended No.1 Instrument No.1427750 as shown on the recorded plat. A 5/8 inch rebar with an illegible plastic cap was found and held at the angle point of said Lot 2. The easterly line of the subdivision was determined by holding the record line and distance calls noted in Warranty Deed Instrument No. 1738417; Warranty Deed Instrument No. 1738414 and Correction Warranty Deed Instrument No. 947394 held as the easterly boundary. The southeasterly line of the subdivision was determined by holding the adjoining record lines and distances of Lot 9, Block 1, Intermountain Business and Technology Park Division No. 8 Instrument No. 1506986 as shown on the recorded plat. The southwest corner of said Lot 9 was found monumented by a 5/8 inch rebar with no cap and held as the corner of said Lot. The southerly line of the subdivision was determined by holding the record line and distance calls noted in Warranty Deed Instrument No. 1268827. New monuments will be set along the outer boundary of the subject property with 5/8" rebar (as shown on the plat) to be compliant with current requirements.
3. Documents and Instrument numbers used in conjunction with this survey include:
   Intermountain Business and Technology Park Division No. 4 Instrument No. 1118189;
   Intermountain Business and Technology Park Division No. 5 Instrument No.1256422;
   Intermountain Business and Technology Park Division No. 8 Instrument No.1506986;
   Intermountain Business and Technology Park Division No. 1 First Amended Instrument No. 1427798;
   Warranty Deed Instrument No. 1268827
   Correction Warranty Deed Instrument No. 947394
   Warranty Deed Instrument No. 1738414
   Warranty Deed Instrument No. 1738417
4. Basis of Bearing. The bearing along this line is the basis for all other bearings listed on this survey. This bearing relates directly to the " City of Idaho Falls Coordinate System of 2004", which is derived from the Idaho State Plane Coordinate System (East Zone 1101), US Survey Feet, and using a combined scale factor of 1.000277265 for a gird-to-ground conversion (reference frame NAD_83(2011), epoch 2010.0000). The system orientation is based on grid north along the East Zone central meridian. No convergence angle has been applied.

COUNTY SURVEYOR'S VERIFICATION

I certify that I am a licensed professional land surveyor in the State of Idaho and that I have examined this plat and find that it complies with I.C. §50-1305.

_____

Bonneville County Surveyor- David Douglas Romrell, PLS 12223 Date

SURVEYOR'S CERTIFICATE

I, Gary G. Christensen, a licensed professional land surveyor in the State of Idaho, do hereby certify that the survey of this subdivision, designated as RODERICK BUSINESS PARK IDAHO FALLS, was made under my direction, and that said subdivision is truly and correctly surveyed and staked as provided by law and in accordance with the accompanying plat as described hereon.

PROFESSIONAL LAND SURVEYOR LICENSED 13930 12/16/2022 STATE OF IDAHO GARY G. CHRISTENSEN

_____

P.L.S No. 13930

SHEET 1 / 2

PREPARED BY:

CIR CIVIL ENGINEERING + SURVEYING

10718 South Beckstead Lane, Suite 102, South Jordan, Utah 84095
Phone: 435-503-7641

RODERICK BUSINESS PARK
IDAHO FALLS SUBDIVISION

LOCATED IN THE SOUTHEAST QUARTER OF SECTION 7, TOWNSHIP 2 NORTH, RANGE 38 EAST, BOISE MERIDIAN IDAHO FALLS CITY, BONNEVILLE COUNTY, IDAHO

RODERICK BUSINESS PARK
IDAHO FALLS

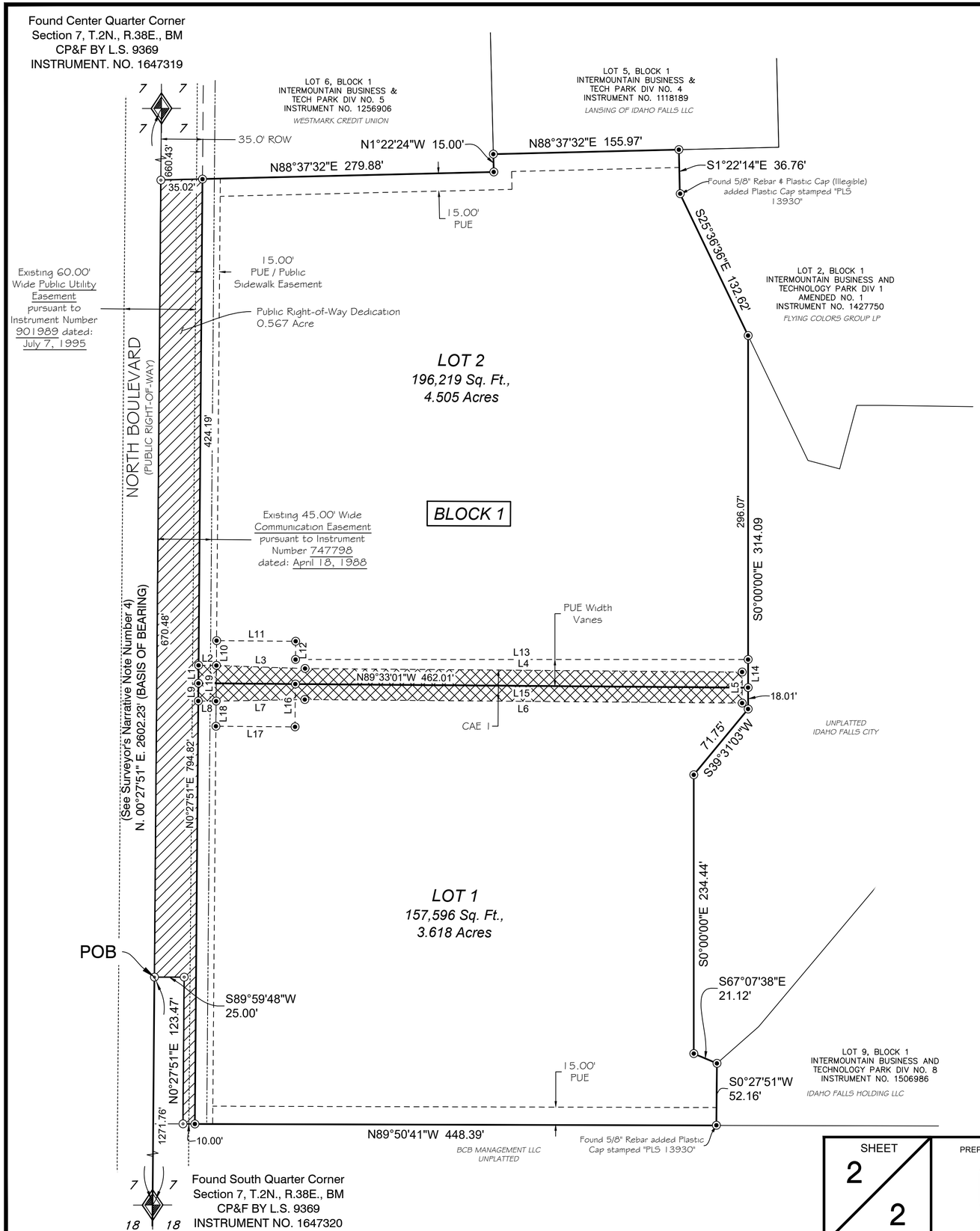
A SUBDIVISION OF THE CITY OF IDAHO FALLS, BONNEVILLE COUNTY, IDAHO LOCATED IN THE SOUTHEAST QUARTER SECTION 7, TOWNSHIP NORTH, RANGE 38 EAST, BOISE MERIDIAN

BOUNDARY DESCRIPTION

An entire tract of land being all or part of the following two (2) parcels of land described in that Warranty Deed recorded July 2, 2007 as Entry No. 1268827 and that Correction Warranty Deed recorded July 28, 1997 as Instrument No. 947394 in the Office of the Bonneville County Recorder. Said entire tract is located in the Southeast Quarter of Section 7, Township 2 North, Range 38 East, Boise Meridian and is described as follows:

Beginning at a point on the Quarter Section line being the southwesterly corner of said parcel of land described in Instrument No. 1268827, which is 1271.76 feet N. 00°27'51" E. along the Quarter Section line from the South Quarter Corner of said Section 7; thence N. 00°27'51" E. 670.48 feet along said Quarter Section line to the southwesterly corner of Intermountain Business & Technology Park Division 5 recorded March 22, 2007 as Instrument No. 1256906 in the Office of said Recorder; thence along said Intermountain Business & Technology Park Division 5 the following two (2) courses: 1) N. 88°37'32" E. 279.88 feet; 2) N. 01°22'24" W. 15.00 feet to the southwesterly corner of Lot 5, Block 1, Intermountain Business and Technology Park Division No. 4 recorded June 23, 2003 as Instrument No. 1118189 in the Office of said Recorder; thence N. 88°37'32" E. 155.97 feet along the southerly line of said Lot 5, to a northwesterly corner of Lot 2, Intermountain Business and Technology Park Division No. 1 First Amended recorded September 25, 2012 as Instrument No. 1427750 in the Office of said Recorder; thence along said Lot 2 the following two (2) courses: 1) S. 01°22'14" E. 36.76 feet; 2) S. 25°36'36" E. 132.62 feet; thence South 314.09 feet along record deed line as described in Instrument No.1738414 to the northwesterly boundary line of said parcel of land described in that Instrument No. 947394; thence along said parcel of land the following three (3) courses: 1) S. 39°31'03" W. 71.75 feet (Record data from the immediately aforesaid document = South 39°05'59" West); 2) South 234.44 feet along a record deed line extended as described in Instrument No. 1738417; 3) S. 67°07'38" E. 21.12 feet along a record deed line as described in Instrument No. 947394 and Instrument No. 1268827 to a northwesterly corner of Lot 9, Block 1, Intermountain Business and Technology Park Div. No. 8 recorded September 11, 2015 as Instrument No. 1506986 in the Office of said Recorder; thence S. 00°27'51" W. 52.16 feet (Record data from the immediately aforesaid document = S00°28'07"W) along the westerly line of said Lot 9 to the southwesterly corner of said Lot 9 and the southeasterly corner of said parcel of land described in Instrument No. 1268827; thence along said parcel of land the following three (3) courses: 1) N. 89°50'41" W. 448.39 feet; 2) N. 00°27'51" E. 123.47 feet; 3) S. 89°59'48" W. 25.00 feet to the **Point of Beginning.**

The above-described tract of land contains 378,531 sq. ft., in area or 8.689 acres, more or less.



CROSS ACCESS EASEMENT (CAE 1) LINE TABLE

LINE #	LENGTH	BEARING
L1	15.12	S0° 27' 51"W
L2	15.00	N89° 32' 09"W
L3	74.53	N88° 02' 07"W
L4	367.41	N89° 32' 09"W
L5	26.10	N0° 00' 00"E
L6	367.62	S89° 32' 09"E
L7	74.53	N88° 57' 49"E
L8	15.00	S89° 32' 09"E
L9	14.88	S0° 27' 51"W

PUBLIC UTILITY EASEMENT LINE TABLE

LINE #	LENGTH	BEARING
L10	20.89	N0° 27' 51"E
L11	66.45	S89° 33' 01"E
L12	15.36	S0° 25' 18"W
L13	380.38	N90° 00' 00"E
L14	23.63	S0° 00' 00"E
L15	380.54	N89° 33' 01"W
L16	36.00	S0° 25' 18"W
L17	66.50	N89° 33' 01"W
L18	21.11	N0° 27' 51"E
L19	30.00	N0° 27' 51"E

PROFESSIONAL LAND SURVEYOR LICENSED 13930 12/16/2022 STATE OF IDAHO GARY G. CHRISTENSEN

Legend of Symbols & Abbreviations

- Plat Boundary Line
- Adjacent Parcel Line
- Lot Line
- Section Line
- Right of Way
- Existing Communication Easement Instrument No. 747798
- Existing PUE Instrument No. 901989
- Right-of-Way Dedication
- Cross Access Easement
- PUE — Public Utility Easement
- Set 5/8" rebar and plastic cap stamped "PLS 13930"
- Set 1" long Mag nail and washer in asphalt stamped "PLS 13930"
- ROW — Right-of-Way
- POB — Point of Beginning

N

0 60 120
1"=60'

SHEET 2 / 2

PREPARED BY:
CIR CIVIL ENGINEERING + SURVEYING
10718 South Beckstead Lane, Suite 102, South Jordan, Utah 84095
Phone: 435-503-7641

RODERICK BUSINESS PARK
IDAHO FALLS SUBDIVISION
LOCATED IN THE SOUTHEAST QUARTER OF SECTION 7, TOWNSHIP 2 NORTH, RANGE 38 EAST, BOISE MERIDIAN
IDAHO FALLS CITY, BONNEVILLE COUNTY, IDAHO

STAFF REPORT
Final Plat
Roderick Business Park
January 12, 2023

IDAHO FALLS
Community Development Services

Applicant: Roderick Enterprises

Project Manager: Naysha Foster

Location: Generally located north of E Anderson St, east of N Boulevard, south of Technology Dr, west of Boge Ave.

Size: 8.689 acres
Total Lots: 2
Buildable Lots: 2

Existing Zoning: I&M
North: I&M
South: I&M
East: I&M
West: I&M

Existing Land Uses:
Site: Vacant
North: Industrial
South: Industrial
East: Industrial
West: Industrial

Future Land Use Map:
Industrial

Attachments:
1. Subdivision and Zoning Ordinance Requirements
2. Maps and aerial photos
3. Final Plat

Requested Action: To approve the Final Plat for Roderick Business Park.

History: The property annexed in September of this 1996 with an initial zone I & M-1, Intermountain Business and Technology Park. In 2019 the City changed the property to I&M, Industrial and Manufacturing as part of the City-wide zone change. Also in 2019, The Controlled Development airport overlay, zone was added.

Staff Comments: The application for the final plat was submitted on June 21, 2022. There will be two buildable lots. The proposed lots meet the minimum lot size requirement as well as street frontage width for the I&M zoning standards. The lots will have direct access to N Boulevard, a major collector.

Staff Recommendation: Staff recommends and the Planning and Zoning Commission recommend approval of the final plat for Roderick Business Park to the Mayor and City Council. The final plat conforms to the requirements outlined in the Zoning and Subdivision Ordinance.

10-1-5: GENERAL SUBDIVISION STANDARDS (F):
(1) Each lot shall be arranged so that the lot meets all qualifications necessary to secure a City building permit.
(2) Lot dimensions shall conform to the minimum standards in the Zoning Ordinance.

Subdivision Ordinance: Boxes with an "X" indicated compliance with the ordinance

REQUIREMENTS	Staff Review
Requirements listed in Section 10-1:	
Building envelopes sufficient to construct a building.	X
Lot dimensions conform to the minimum standards of Zoning Ordinance.	X
Lots have full frontage on, and access to, a dedicated street.	X
Residential lots do not have direct access to arterial streets.	X
Direct access to arterial streets from commercial or industrial lots shall be permitted only where it can be demonstrated that: 1) The direct access will not impede the flow of traffic on the arterial or otherwise create an unsafe condition; 2) There is no reasonable alternative for access to the arterial via a collector street; 3) There is sufficient sight distance along the arterial from the proposed point of access; 4) The proposed access is located so as not to interfere with the safe and efficient functioning of any intersection; and 5) The developer or owner agrees to provide all improvements, such as turning lanes or signals, necessitated for the safe and efficient uses of the proposes access.	N/A
Adequate provisions shall be made for soil preservation, drainage patterns, and debris and waste disposal and collection.	X
Sidelines of lots shall be at, or near, right angles or radial to the street lines. All corner lots shall have a minimum radius of twenty feet on the property line.	X
All property within the subdivision shall be included within a lot or area dedicated for public use.	X
All corner lots zoned RP through R-3, inclusive, shall be a minimum of ten percent larger in area than the average area of all similarly zoned lots in the plat or subdivision under consideration.	N/A
All major streets in subdivision must conform to the major street plan of the City, as set forth in Comprehensive Plan.	N/A
The alignment and width of previously platted streets shall be preserved unless topographical conditions or existing buildings or structures required otherwise.	X
Residential lots adjoining arterial streets shall comply with: 1) Such lots shall have reverse frontage on the arterial streets, 2) such lots shall be buffered from the arterial street by any effective combination of the following: lot depth, earth berms, vegetation, walls or fences, and structural soundproofing, 3) Minimum lot depth shall be 150 ft except where the use of berms, vegetation, and structures can be demonstrated to constitute an effective buffer, 4) Whenever practical, existing roadside trees shall be saved and used in the arterial buffer, 5) Parking areas shall be used as part of the arterial buffer for high density residential uses, 6) Annexation and development agreement shall include provisions for installation and continued maintenance of arterial buffers.	N/A
Planning Director to classify street on basis of zoning, traffic volume, function, growth, vehicular & pedestrian safety, and population density.	No new roads

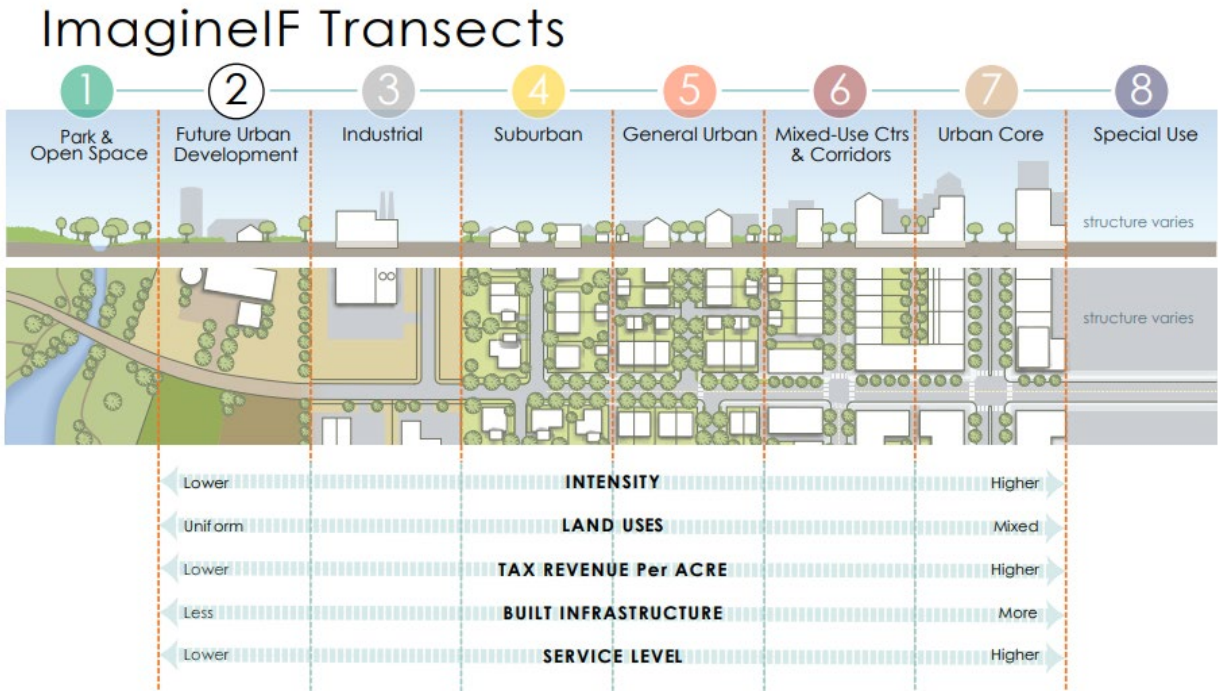
Zoning Ordinance:
11-3-7: Purpose of Industrial Zones

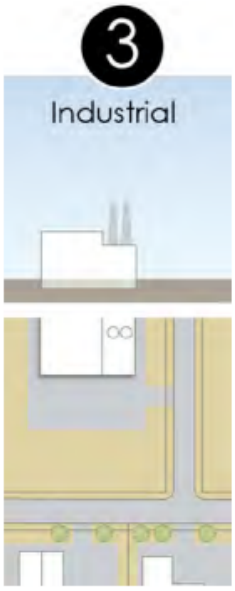
(B) I&M Industrial and Manufacturing Zone. This zone provides an industrial zone in which the primary use of the land is a manufacturing, fabricating, processing, and warehousing. Land zoned I&M should be relatively flat, open land, conveniently located close to transportation, public utilities and other facilities necessary for large employment centers and successful manufacturing operations

Table 11-3-6: Dimensional Standards for Industrial Zones

	LM	I&M
Site Area- Minimum in acres		
Setbacks – Minimum in ft.		
Front	30	30
Side	0/30*	0/30*
Rear	0/30*	0/30*
Building Height- Maximum	see sub-sections (2) below	
Lot Coverage- Maximum in %	80	
Building Coverage- Maximum in %	50	
*See explanations, exceptions and qualifications that follow in 11-3-8A (1-2) of this Zoning Code.		

Comprehensive Plan:





3. **Industrial**

Snapshot: The Industrial Transect denotes areas set aside for all varieties of industrial operations, from manufacturing facilities and related warehousing and distribution to machine shops or greenhouses. These areas are generally near major roadways, with frontage on arterial roadways, and they may have railroad access.

Local examples: Industrial Parks south of Sunnyside Road along the Yellowstone Highway Corridor, Anheuser Bush facilities, industrial park located north of Science Center Drive/Anderson Street and US 20

September 6, 2022 7:00 p.m. Planning Department

City Annex Building

MEMBERS PRESENT: Commissioners Joanne Denney, Margaret Wimborne, Lindsey Romankiw, Glen Ogden, Brent Dixon George Morrison (via Webex), Kristi Brower (via Webex).

MEMBERS ABSENT: Arnold Cantu

ALSO PRESENT: Assistant Planning Director Kerry Beutler; planner Caitlin Long, Naysha Foster, Brian Stevens, Assistant City Attorney Michael Kirkham, Esq. and interested citizens.

CALL TO ORDER: Joanne Denney called the meeting to order at 7:00 p.m.

CHANGES TO AGENDA: None.

MINUTES: Morrison moved to accept the minutes of August 2, 2022, Wimborne seconded the motion and the motion passed. Dixon abstained as he wasn't in attendance of the meeting in August.

Business:

6. PLAT 22-023: FINAL PLAT for Roderick Business Park.

Applicant: No one appeared.

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

Dixon asked about the knob being traded for the triangle portion that is green. Foster indicated that the green area is zoned park because it is a City storm water retention pond, and the City is willing to swap the property. Dixon asked if they'd have to go through a rezone to do that swap. Foster stated that will come later. Beutler stated that the rezone will occur prior to the development.

Ogden moved to recommend to the Mayor and City Council approval of the Final Plat for Roderick Business Park, as presented, Wimborne seconded the motion. Denney called for roll call vote: Wimborne, yes; Romankiw, yes; Ogden, yes; Dixon, no; Brower, yes; Morrison, yes. The motion passed 5-1.

Dixon opposed the motion because he feels the zoning should be cleaned up before they have a final plat.

REASONED STATEMENT OF RELEVANT CRITERIA AND STANDARDS

FINAL PLAT RODERICK BUSINESS PARK, LOCATED GENERALLY NORTH OF E ANDERSON ST, EAST OF N BOULEVARD, SOUTH OF TECHNOLOGY DR, WEST OF BOGE AVE.

WHEREAS, the applicant filed an application for a final plat on June 21, 2022; and

WHEREAS, this matter came before the Idaho Falls Planning and Zoning Commission during a duly noticed public hearing on September 6, 2022; and

WHEREAS, this matter came before the Idaho Falls City Council during a duly noticed public hearing on January 12, 2023; and

WHEREAS, having reviewed the application, including all exhibits entered and having considered the issues presented:

I. RELEVANT CRITERIA AND STANDARDS

1. The Planning and Zoning Commission considered the request pursuant to the City of Idaho Falls 2022 Comprehensive Plan, the City of Idaho Falls Zoning Ordinance, the City of Idaho Falls Subdivision Ordinance, the Local Land Use Planning Act, and other applicable development regulations.
2. The final plat is a 8.689 acre parcel located generally north of E Anderson St, east of N Boulevard, south of Technology Dr, and west of Boge Ave.
3. The property is currently zoned I&M, Industrial Manufacturing.
4. The final plat consists of two buildable lot.
5. The final plat complies with the requirements of both the Subdivision and Zoning Ordinance of the City of Idaho Falls.

II. DECISION

Based on the above Reasoned Statement of Relevant Criteria, the City Council of the City of Idaho Falls approved the Final Plat.

PASSED BY THE CITY COUNCIL OF THE CITY OF IDAHO FALLS

THIS _____ DAY OF _____ 2023

_____

Rebecca L. Noah Casper, Mayor

DEVELOPMENT AGREEMENT
RODERICK BUSINESS PARK

This DEVELOPMENT AGREEMENT RODERICK BUSINESS PARK ("AGREEMENT"), made this _____day of _____, 2023, by and between CITY OF IDAHO FALLS, IDAHO, a municipal corporation of the State of Idaho, ("CITY"), whose mailing address is P.O. Box 50220, Idaho Falls, Idaho 83405, and Roderick Enterprises ("DEVELOPER"), whose mailing address is 1214 E. Vine Street, Salt Lake City, Utah 84121

W I T N E S S E T H:

WHEREAS, DEVELOPER is the sole owner, in law or equity, of a certain tract of land in the County of Bonneville, State of Idaho, which land (hereafter referred to as "Subdivision"), is more particularly described in Exhibit "A" attached hereto and by this reference made a part hereof; and,

WHEREAS, DEVELOPER desires to develop the Subdivision within CITY and has submitted a plat bearing the Subdivision name described in the caption of this AGREEMENT; and,

WHEREAS, City Engineer, and the Idaho Falls Planning and Zoning Commission, have recommended such development be allowed, subject to certain requirements and obligations on the part of DEVELOPER; and

WHEREAS, CITY is willing to allow the development of the Subdivision within City of Idaho Falls, Idaho, subject to the terms and conditions of this AGREEMENT and the Special Conditions attached hereto; and

WHEREAS, CITY has authority to approve Subdivision plats and the construction of streets, utility lines and other public improvements within CITY; and

WHEREAS, DEVELOPER specifically waives DEVELOPER's right to protest development requirements described in this AGREEMENT, including DEVELOPER's right of judicial review contained in Chapter 52, Title 67, Idaho Code, and pursuant to the standards set forth in § 67-5279, Idaho Code; and,

WHEREAS, DEVELOPER understands that the public improvements required herein are standards required pursuant to Idaho Falls City Code, Title 10, Chapter 1, and are authorized by Idaho Code §§ 67-6513 and 67-6518; and,

WHEREAS, DEVELOPER and CITY believe that without the public improvements required herein, CITY would not be able to otherwise provide for mitigation of the effects of the Subdivision development on the ability of CITY to deliver services without compromising quality of such service delivery to current CITY residents, or without imposing substantial additional costs upon current CITY residents to accommodate the proposed Subdivision; and,

WHEREAS, CITY desires to ensure that public improvements consisting of those described in this AGREEMENT, including Special Conditions for the Subdivision, are constructed; and,

WHEREAS, DEVELOPER understands that a waiver of public improvements is available pursuant to Idaho Falls City Code, but DEVELOPER specifically does not wish to request such a waiver and wishes to enter into this AGREEMENT; and,

WHEREAS, DEVELOPER enters into this AGREEMENT of DEVELOPER's own free will and accord, without coercion and without inducement and at DEVELOPER's request; and,

WHEREAS, DEVELOPER has read this AGREEMENT, has understood it, and has had the opportunity to avail itself of legal and other counsel prior to entering into this AGREEMENT and prior to signing it; and,

WHEREAS, DEVELOPER has submitted a preliminary plat bearing the Subdivision name described in the caption of this AGREEMENT; and,

WHEREAS, City Engineer and City Planning and Zoning Commission have recommended such Subdivision be approved subject to certain requirements and obligations on the part of DEVELOPER; and,

WHEREAS, CITY is willing to approve the Subdivision to CITY, subject to the terms and conditions of this AGREEMENT and the Special Conditions attached hereto;

NOW, THEREFORE, in consideration of the covenants and conditions set forth herein, the parties agree as follows:

1. Approval of Subdivision. CITY hereby approves the Subdivision plat as described in Exhibit "A" attached hereto and made a part to this AGREEMENT by reference, and agrees that upon DEVELOPER's full and complete performance of the terms and conditions hereto, it will accept and maintain the property dedicated to CITY on the Subdivision plat and all public facilities and improvements shown in the Improvement Plans for the Subdivision.

2. Improvement, Preliminary, and Final Improvement Plans. "Improvement Plans," used in this AGREEMENT, are engineer-designed plans showing all streets, sewer lines, water lines, storm drains, street signs, traffic control devices, barricades, other public utilities (telephone, gas, electricity, fiber optic and irrigation facilities) and other public improvements contemplated within the Subdivision. "Preliminary Improvement Plans" as used in this AGREEMENT, are those Improvement Plans submitted and considered for the Subdivision development prior to the approval of City Engineer, and not yet approved for construction. "Final Improvement Plans" as used in this AGREEMENT, are those Improvement Plans submitted, considered and approved by City Engineer for the Subdivision development.

DEVELOPER anticipates that development of the entire Subdivision will occur in phases or divisions. DEVELOPER has filed, and City Engineer has approved, Improvement Plans for the public improvements to be constructed within public rights-of-way exterior to the Subdivision, (hereafter referred to as the "Exterior Improvement Plans") showing the width, location and alignment of all streets, sewer lines and water lines within the Subdivision and the size and materials specifications for such water and sewer lines. Prior to the commencement of any construction or development within any phase or division of the Subdivision, DEVELOPER shall also file with, and obtain the approval of, City Engineer Improvement Plans (hereafter the "Interior Improvement Plans") for all streets, sewer lines, water lines, storm drainage facilities, street signs, traffic control devices, barricades and other public improvements contemplated within such phase or division of the Subdivision. The filed Improvement Plans shall also show the proposed location of other public utilities (telephone, gas and electricity), and irrigation facilities affected by the development of such phase or division of the Subdivision. Preliminary Improvement Plans are incorporated herein by reference as though set out in full, and the Final Improvement Plans shall also, upon approval by City Engineer, be deemed to be incorporated herein by reference.

3. Construction of Public Improvements. Unless otherwise agreed in the Special Conditions, DEVELOPER shall, at its expense, design and construct all public improvements shown in the Exterior Improvement Plans and Interior Improvement Plans. Unless otherwise agreed in writing by City Engineer, DEVELOPER shall construct all required public improvements within such Improvement Plans in strict accordance with the approved Preliminary and Final Improvement Plans and CITY Standard Engineering Drawings and Specifications (hereafter referred to as the "Standard Specifications") in effect at the time the construction is accomplished. The Standard Specifications are incorporated herein by reference as though set out in full and compliance to the Standard Specifications is a condition of this AGREEMENT.

4. Permits. DEVELOPER shall obtain all right-of-way, excavation and/or other permits required by local ordinance and comply with all requirements therein with respect to the

timely performance of the work governed by such permits.

5. Inspection. DEVELOPER shall retain a professional engineer (hereafter referred to as the "Project Engineer") licensed within the State of Idaho to supervise, inspect and test the construction of all public improvements within the Subdivision in order to ensure such improvements are constructed in accordance with this AGREEMENT, the Improvement Plans and the Standard Specifications. DEVELOPER shall not materially deviate from the Improvement Plans or Standard Specifications without the express written approval of the City Engineer.

6. Corrected Improvement Plans. Prior to acceptance of any phase or division of the Subdivision, DEVELOPER will file "As Constructed"/ "As Built" Improvement Plans (hereafter referred to as the "Corrected Improvement Plans") with City Engineer. Such Corrected Improvement Plans shall be prepared by the Project Engineer and shall show the actual constructed location of all public improvements within the Subdivision including the horizontal and vertical location of all water, sewer and storm drain lines, individual building service lines curb and gutter alignment and street grades. Such Corrected Improvement Plans shall also specifically show all changes between the Final Improvement Plans and the public improvements as actually constructed. The Project Engineer shall also certify upon the Corrected Improvement Plans that such Corrected Improvement Plans correctly show all public improvements as actually constructed and that such public improvements have been constructed in accordance with the Standard Specifications in effect at the time such construction was accomplished. The Project Engineer shall also deliver to City Engineer all compaction reports, daily construction logs, reports, written tests, analysis and other data as may be necessary to verify or support the certification of the Project Engineer.

7. Acceptance of Subdivision. Upon satisfactory completion of such public improvements and facilities, DEVELOPER's delivery of Corrected Improvement Plans and the filing and approval by CITY of a final plat, CITY will accept that portion of the Subdivision for which a final plat has been approved. Such acceptance shall not be valid unless expressly acknowledged in writing by City Engineer. Except as otherwise expressly provided in the Special Conditions, upon acceptance of any phase or division within the Subdivision, CITY shall assume ownership and control of all public facilities within any dedicated street or public utility right-of-way within the Subdivision and shall execute and record an instrument documenting such acceptance and that also references the recording information for this AGREEMENT and thereby releasing the Subdivision, or the accepted portion thereof, from the encumbrances of this AGREEMENT. Acceptance of the Subdivision Improvements and recording the acceptance instrument shall not be deemed as a waiver of DEVELOPER's agreement herein to fully and completely perform the terms and conditions of this AGREEMENT, or as a waiver or release of the warranty set forth below in this AGREEMENT.

8. Warranty. DEVELOPER warrants that the materials and workmanship employed in the construction of all public improvements within the Subdivision shall be good and sound, and shall conform to generally accepted standards within the construction industry. Such warranty shall extend for a period of one (1) year after acceptance of any phase or division of the Subdivision within which such improvements are located, by CITY, provided nothing herein shall limit the time within which CITY may bring an action against DEVELOPER on account of DEVELOPER's failure to construct such improvements in accordance with this AGREEMENT, the Improvement Plans or the Standard Specifications. DEVELOPER, and DEVELOPER's heirs, successors and assigns, shall and do hereby respectively warrant and agree, to defend the quiet and peaceful possession of CITY in all easements, rights-of-way, street dedications or other estates conveyed pursuant to the terms of this AGREEMENT or pursuant to the subdivision plat which is the subject hereof, from and against all claims against DEVELOPER and DEVELOPER's successors or assigns, respectively, and against every person whomsoever who lawfully holds, or who later lawfully claims to have held, rights in the premises by or through DEVELOPER and DEVELOPER's successors or assigns, respectively, as of the date of this AGREEMENT.

9. Water and Sewer Main Connection Charges. DEVELOPER agrees to pay to CITY at the time any separate sanitary sewer service or culinary water service connection to CITY sanitary sewer system or culinary water system is requested, all connection fees, main connection charges, and main charges as set forth in the City Code in effect at the time such request for service is made.

10. Failure to Pay Fees. In the event DEVELOPER fails or refuses to pay any of the fees, charges or costs set forth herein, CITY may disannex any property owned by DEVELOPER within the Subdivision or declare the entire unpaid balance immediately due and payable and collect such sums in the manner provided by law, or may pursue any other remedy set forth herein or as may be available at law or in equity. All such remedies shall be cumulative and CITY may pursue the same separately or simultaneously as it deems necessary or appropriate. In the event of such acceleration, all sums due shall bear interest at the rate established by law for judgments entered in the State of Idaho, commencing on the date the unpaid amount is declared immediately due and written demand therefor is delivered to DEVELOPER.

11. Participation by CITY. The parties agree that those portions of the water main, the sanitary sewer line, storm drains and street section work (hereafter collectively referred to as the "Shared Work"), the cost of which CITY has expressly agreed to pay pursuant to the Special Conditions, including any water or sewer line or storm line extensions, increased line size or capacity and road width or thickness, are required because of future service needs originating from properties not owned by DEVELOPER and located within the vicinity of the Subdivision, and that sound planning requires construction thereof at the present time in order to accommodate future expansion and development. In recognition of the cost savings which can be accomplished by

construction of such excess capacity and improvements concurrently with the facilities to be constructed for DEVELOPER's purposes, and the impracticality or impossibility of constructing such excess capacity and improvements separately or at a later time, DEVELOPER agrees to design and construct such facilities subject to CITY's agreement to reimburse DEVELOPER for a portion of such costs, all as set forth in the Special Conditions. Prior to the commencement of the Shared Work, DEVELOPER shall obtain and deliver to CITY three (3) independent bona fide bids for the performance of such work from qualified and responsible contractors. Such bids shall be solicited and itemized in a manner which allows clear and specific identification of that portion of the construction work for which CITY is responsible. CITY shall have no obligation to pay for any portion of the costs of the Shared work unless prior to the commencement of the work, the parties have expressly agreed in writing to a specific amount for which CITY will reimburse the DEVELOPER. Payment of such costs by CITY shall be due within thirty (30) days from acceptance of the Subdivision by CITY and delivery of an itemized statement to CITY setting forth in detail the total amount of the costs for which CITY is responsible.

12. Special Conditions. In recognition of the unique circumstances relative to this Subdivision the parties agree to the Special Conditions attached hereto as Exhibit "B" and by this reference made a part hereof.

13. Irrigation Facilities. DEVELOPER shall relocate or reconstruct, at DEVELOPER's expense, all ditches, headgate structures, culverts, siphons, drywells or other similar appurtenant structures that will be impaired or otherwise disturbed by the construction of this Subdivision. DEVELOPER shall also obtain the consent of all persons or entities who have any water right or control over such structures. DEVELOPER shall also indemnify and hold CITY harmless from any action, claim, demand or cost of any kind, including attorney's fees and court costs, arising from the relocation or reconstruction of such facilities or DEVELOPER's failure to properly relocate or reconstruct such facilities.

14. Relocation of Power Lines. DEVELOPER shall relocate at its expense, all existing electric utility poles or other utility lines or fixtures necessary to construct the public improvements within this Subdivision as shown on the Improvement Drawings.

15. Construction Schedule Change. Any modification to the public improvements shown in the Improvement Drawings or to the construction phase limits shall be approved by City Engineer. Prior to said approval, revised Improvement Drawings shall be resubmitted to City Engineering Department showing the proposed changes.

16. Taxes and Assessments. DEVELOPER shall pay all real property taxes and assessments levied or assessed against any interest in real property which DEVELOPER has agreed to convey to CITY pursuant to this AGREEMENT up to the date the final Subdivision plat

for this Subdivision is recorded. Such taxes and assessments shall be paid prior to the acceptance by CITY of the public improvements within any phase or division of the Subdivision.

17. Occupancy. No building or structure within the Subdivision shall be used or occupied for any purpose other than for the construction of such building or structure, unless a final plat has been filed and approved and all public improvements within the plat have been completed and accepted by City Engineer. CITY may withhold Certificates of Occupancy until all such work has been completed. Nothing herein shall prevent the use of a model building for the purpose of DEVELOPER's sales promotional efforts provided the building is not occupied for any other commercial or industrial purposes.

18. Default. In the event DEVELOPER fails to comply with the terms and conditions hereof in any material respect, CITY may, without further notice to DEVELOPER, exercise any or all of the following remedies:

A. Withhold the issuance of any building permit or certificate of occupancy for any structure located within any phase or division of the Subdivision affected by such default;

B. Withhold the connection of water, sewer or electric service to any property located within any phase or division of the Subdivision affected by such default;

C. Refuse to accept public ownership and maintenance of public improvements within any phase or division of the Subdivision affected by such default and record a notice of such action with the Bonneville County Recorder's office;

D. Issue a stop work order for any building under construction within any phase or division of the Subdivision affected by such default;

E. Withhold reimbursement of Subdivision inspection fees collected pursuant to the Idaho Falls City Code; and

F. Bring an action for damages, injunctive relief, specific performance or any other remedy available at law or in equity.

19. Notices. Any notice required by this AGREEMENT shall be mailed to the receiving party at the address set forth above or such other address as may be delivered to the sending party in writing. Such notice shall be mailed by certified mail, return receipt requested, postage prepaid and addressed as set forth above and shall be deemed received upon its deposit in the United States mail in such manner.

20. Recording and Recording Fees. CITY may record this AGREEMENT with the

Bonneville County Recorder's office and prior to the execution and approval of this AGREEMENT, DEVELOPER shall pay to CITY all recording fees necessary to record this AGREEMENT with the Bonneville County Recorder's office. Prior to the approval of any final plat within the Subdivision, DEVELOPER shall pay to CITY all recording fees necessary to record such final plat with the Bonneville County Recorder's office.

21. Irrigation District Release. Prior to the approval of the Subdivision plat, DEVELOPER shall: (i) include a statement on the Subdivision plat that the property subject to this AGREEMENT has been excluded from the applicable irrigation district and reference the district's exclusion order by recording date and instrument number; or (ii) obtain a certification upon the Subdivision plat signed by any irrigation district, canal company, ditch association or other similar water delivery entity who provides or delivers water to any property located within the Subdivision. This certification shall contain a statement certifying that the property subject to this AGREEMENT has been excluded from the irrigation district, canal company, ditch association or other similar water delivery entity who provides or delivers water to any property located within the Subdivision or the water rights for all property within the Subdivision have been transferred from such property and that all liens and assessments of such water delivery entity have been satisfied and released.

22. Compliance With Applicable Law and Regulation. DEVELOPER agrees to comply with all applicable rules, regulations, Ordinances, Resolutions, statutes or administrative laws having applicability to development to this Subdivision and or phase of this Subdivision including, of those of CITY, Bonneville County, the State of Idaho, the United States of America, or any agency or political subdivisions thereof having jurisdiction over the Subdivision and to obtain any permits, licenses, permissions, authorizations, etc., that are required for such development.

23. Conflict With Standard Specifications. In the event of any conflict between the terms of this AGREEMENT or the Improvement Plans and the Standard Specifications, the terms of this AGREEMENT or the Improvement Plans shall prevail over any contrary provision of the Standard Specifications. In the event of any conflict between the terms of this AGREEMENT and the Improvement Plans, the terms of this AGREEMENT shall prevail.

24. Covenants Appurtenant to the Land. All covenants and conditions set forth herein shall be appurtenant to and run with the Subdivision and shall be binding upon DEVELOPER's heirs, successors or assigns.

25. Governing Law. This AGREEMENT shall be governed by the laws of the State of Idaho. The venue for any action arising out of this Agreement shall be exclusively in the District Court of the Seventh Judicial District of the State of Idaho, Bonneville County or in the United

States District Court for the District of Idaho.

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

27. Non-Discrimination. DEVELOPER shall not discriminate against any employee or applicant for employment on the basis of race, color, religion, creed, political ideals, sex, age, marital status, physical, or mental handicap, gender identity/expression, sexual orientation, or national origin.

28. Entire Agreement. This writing evidences the final and complete agreement between the parties and no other prior statement, representation or understanding shall be binding upon the parties unless expressly set forth herein.

29. Effective Date. This AGREEMENT shall become valid and binding only upon its approval by CITY Council of CITY and upon its execution by the Mayor.

INWITNESS WHEREOF, the parties have hereunto set their hands and seals this day and year first above written.

ATTEST:

CITY OF IDAHO FALLS, IDAHO

_____
Kathy Hampton, City Clerk

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

RODERICK ENTERPRISES

By _____
Michael Roderick, General Partner

STATE OF IDAHO)
) ss.
County of Bonneville)

On this _____ day of _____, 2023, before me, the undersigned, a notary public for Idaho, personally appeared Rebecca L. Noah Casper, known to me to be the Mayor of the City of Idaho Falls, Idaho, the municipal corporation that executed the foregoing document, and acknowledged to me that they are authorized to execute the same for and on behalf of said City.

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

_____
Notary Public of Idaho
(Seal) Residing at: _____
My Commission Expires: _____

STATE OF ~~IDAHO~~ Utah)
) ss:
County of Salt Lake)

On this 19th day of December, 2023, before me, the undersigned, a notary public, in and for said State, personally appeared Michael Roderick, known or identified to me to be an authorized signator of Roderick Enterprises, and whose name is subscribed to the within instrument and acknowledged to me that they are authorized to execute the same for and on behalf of said company.

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

CATHERINE MARIE SCHMIDT
NOTARY PUBLIC • STATE OF UTAH
My Commission Expires January 12, 2025
COMMISSION NUMBER 716132

(Seal)

Notary Public of ~~Idaho~~ Utah
Residing at: Midvale
My Commission Expires: 1/12/2025

EXHIBIT "A"
PROPERTY

LEGAL DESCRIPTION

RODERICK BUSINESS PARK

An entire tract of land being all or part of the following two (2) parcels of land described in that Warranty Deed recorded July 2, 2007 as Entry No. 1268827 and that Correction Warranty Deed recorded July 28, 1997 as Instrument No. 947394 in the Office of the Bonneville County Recorder. Said entire tract is located in the Southeast Quarter of Section 7, Township 2 North, Range 38 East, Boise Meridian and is described as follows:

Beginning at a point on the Quarter Section line being the southwesterly corner of said parcel of land described in Instrument No. 1268827, which is 1271.76 feet N. 00°27'51" E. along the Quarter Section line from the South Quarter Corner of said Section 7; thence N. 00°27'51" E. 670.48 feet along said Quarter Section line to the southwesterly corner of Intermountain Business & Technology Park Division 5 recorded March 22, 2007 as Instrument No. 1256906 in the Office of said Recorder; thence along said Intermountain Business & Technology Park Division 5 the following two (2) courses: 1) N. 88°37'32" E. 279.88 feet; 2) N. 01°22'24" W. 15.00 feet to the southwesterly corner of Lot 5, Block 1, Intermountain Business and Technology Park Division No. 4 recorded June 23, 2003 as Entry No. 1118189 in the Office of said Recorder; thence N. 88°37'32" E. 155.97 feet along the southerly line of said Lot 5, to a northwesterly corner of Lot 2, Intermountain Business and Technology Park Division No. 1 First Amended recorded September 25, 2012 as Instrument No. 1427750 in the Office of said Recorder; thence along said Lot 2 the following two (2) courses: 1) S. 01°22'14" E. 36.76 feet; 2) S. 25°36'36" E. 132.62 feet; thence South 314.09 feet to the northwesterly boundary line of said parcel of land described in that Instrument No. 947394; thence along said parcel of land the following three (3) courses: 1) S. 39°31'03" W. (R=South 39°05'59" West) 71.75 feet; 2) South 234.44 feet; 3) S. 67°07'38" E. 21.12 feet to a northwesterly corner of Lot 9, Block 1, Intermountain Business and Technology Park Div. No. 8 recorded September 11, 2015 as Instrument No. 1506986 in the Office of said Recorder; thence S. 00°27'51" W. (R=S00°28'07"W) 52.16 feet along the westerly line of said Lot 9 to the southwesterly corner of said Lot 9 and the southeasterly corner of said parcel of land described in Instrument No. 1268827; thence said parcel of land the following three (3) courses: 1) N. 89°50'41" W. 448.39 feet; 2) N. 00°27'51" E. 123.47 feet; 3) S. 89°59'48" W. 25.00 feet to the Point of Beginning.

The above-described tract of land contains 378,531 sq. ft., in area or 8.689 acres, more or less.

EXHIBIT "B"
SPECIAL CONDITIONS

RODERICK BUSINESS PARK

S.C. 1.00 Access to North Boulevard. Access shall be in accordance with the Bonneville Metropolitan Planning Organization ("BMPO") Access Management Plan.

S.C. 2.00 Existing Infrastructure. When it is necessary to move or remove existing infrastructure not belonging to CITY and not within CITY right-of-way, DEVELOPER shall coordinate such activities with the applicable owner, (e.g., poles owned by Pacificorp, dba Rocky Mountain Power). Any existing electrical infrastructure owned by Pacificorp, dba Rocky Mountain Power, will require a buy-out from DEVELOPER prior to receipt of electrical service from CITY. Request for the buy-out, if any, is to be initiated by DEVELOPER following annexation.

S.C. 3.00 Water Line Connection. CITY agrees to allow DEVELOPER to connect to the water main previously constructed within the Subdivision, subject to DEVELOPER's payment of the water main connection fees in the amount of Thirty-Four Thousand Nine Hundred Dollars and Fifty Cents ($34,900.50; 795 feet currently at $43.90 per foot), upon execution of this AGREEMENT, pursuant to Section 8-4-14 (C) of Idaho Falls City Code. Pursuant to section 8-4-14 (B) of the City Code, DEVELOPER or DEVELOPER's heirs or assigns shall also pay individual water system connection fees each time an individual water service line is connected to CITY water systems. Such fees shall be paid in the amounts and manner set forth in such Code Sections.

S.C. 4.00 Sewer Main Connection Fee. CITY agrees to allow DEVELOPER to connect to the sewer previously constructed within the Subdivision, subject to DEVELOPER's payment of the sewer main connection charge pursuant to section 8-1-23(C) of the City Code in the amount of Twenty Thousand Four Hundred Thirty-One Dollars and Fifty Cents ($20,431.50; 795feet; currently at $25.70 per foot). Mainline connection fee costs will be adjusted accordingly in the event that the connections are not made at time when CITY Fee Resolution reflects the rate referenced herein. Pursuant to section 8-1-23(B) of the City Code, DEVELOPER or DEVELOPER's heirs or assigns shall also pay individual sewer connection fees each time an individual sewer service line is connected to CITY sewer system. Such fees shall be paid in the amounts and manner set forth in such Code Section.

S.C. 5.00 Storm Drainage. Storm Drainage shall be designed and constructed to accommodate drainage of the lots within the Subdivision by DEVELOPER. The storm drainage system shall meet CITY's Storm Drainage Policy. The storm pond shall be constructed as shown on the CITY-approved Improvement Drawings. DEVELOPER shall provide for the installation of grass and an irrigation system, at DEVELOPER's sole expense, to serve this Subdivision. Maintenance of the storm pond shall be the responsibility of DEVELOPER or DEVELOPER's heirs, successors, or assigns.

Memorandum

File #: 21-759 **City Council Meeting**

FROM: Kerry Beutler, Interim Director
DATE: Tuesday, January 3, 2023
DEPARTMENT: Community Development Services

Subject
Legislative Public Hearing-Part 1 of 2 of the Annexation and Initial Zoning-Annexation Ordinance and Reasoned Statement of Relevant Criteria and Standards for 79.716 acres of the South ½ of the NW ¼ of Section 32 and the South ½ of the NE ¼ of Section 31, Township 3 North, Range 38 East.

Council Action Desired

☒ Ordinance ☐ Resolution ☒ Public Hearing
☐ Other Action (Approval, Authorization, Ratification, etc.)
1. Approve the Ordinance annexing 79.716 acres of the South ½ of the NW ¼ of Section 32 and the South ½ of the NE ¼ of Section 31, Township 3 North, Range 38 East under a suspension of the rules requiring three complete and separate readings and request that it be read by title and published by summary (or consider the Ordinance on the first reading and that it be read by title, reject the Ordinance, or take other action deemed appropriate).

2. Approve the Reasoned Statement of Relevant Criteria and Standards for the annexation of 79.716 acres of the South ½ of the NW ¼ of Section 32 and the South ½ of the NE ¼ of Section 31, Township 3 North, Range 38 East and give authorization for the Mayor to execute the necessary documents (or take other action deemed appropriate).

Description, Background Information & Purpose
Attached is part 1 of 2 of the application for Annexation and Initial Zoning of R3, Multiple Dwelling Zone with the Approach Surface Airport Overlay Zone which includes the Annexation Ordinance and Reasoned Statement of Relevant Criteria and Standards for 79.716 acres of the South ½ of the NW ¼ of Section 32 and the South ½ of the NE ¼ of Section 31, Township 3 North, Range 38 East. The Planning and Zoning Commission considered this item at its November 1, 2022, meeting and unanimously voted to recommended approval of the annexation with an initial zoning of R3 with the Approach Surface Airport Overlay Zone as presented. Staff concurs with this recommendation.

Alignment with City & Department Planning Objectives



☐ ☒ ☒ ☐ ☒ ☐ ☐ ☐

Consideration of annexation must be consistent with the principles of the Comprehensive Plan which includes many policies and goals related to Good Governance, Growth, Sustainability, and Livable Communities.

Interdepartmental Coordination
The annexation legal description has been reviewed by the Survey Division.

Fiscal Impact
NA

Legal Review
This application and ordinance have been reviewed by the City Attorney's Office pursuant to applicable law.

Zoning

ANNX22-020 Initial Zoning R3

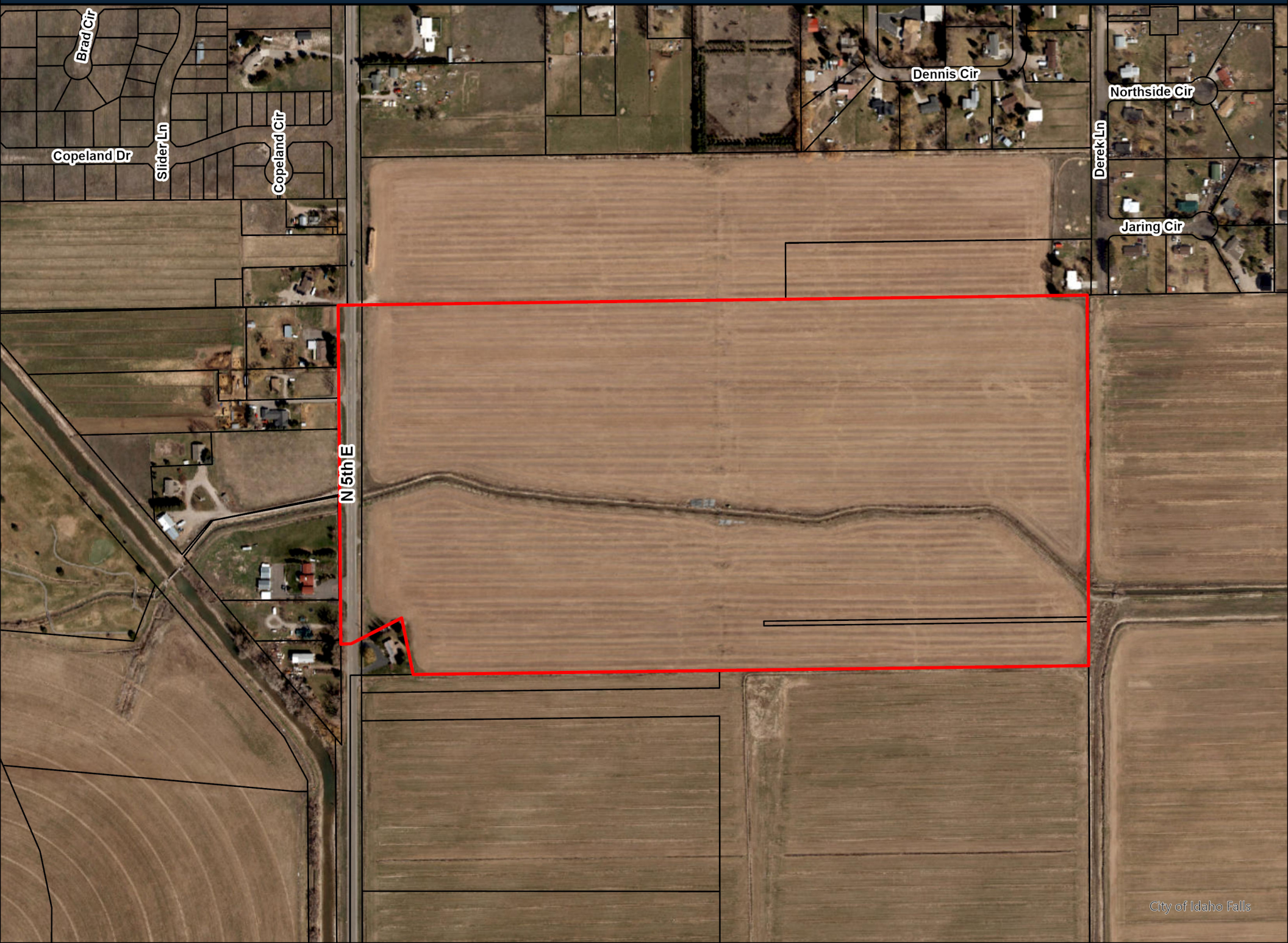
RE R1 TN R3 PB LC R&D I&M

RP R2 RMH R3A CC HC LM P



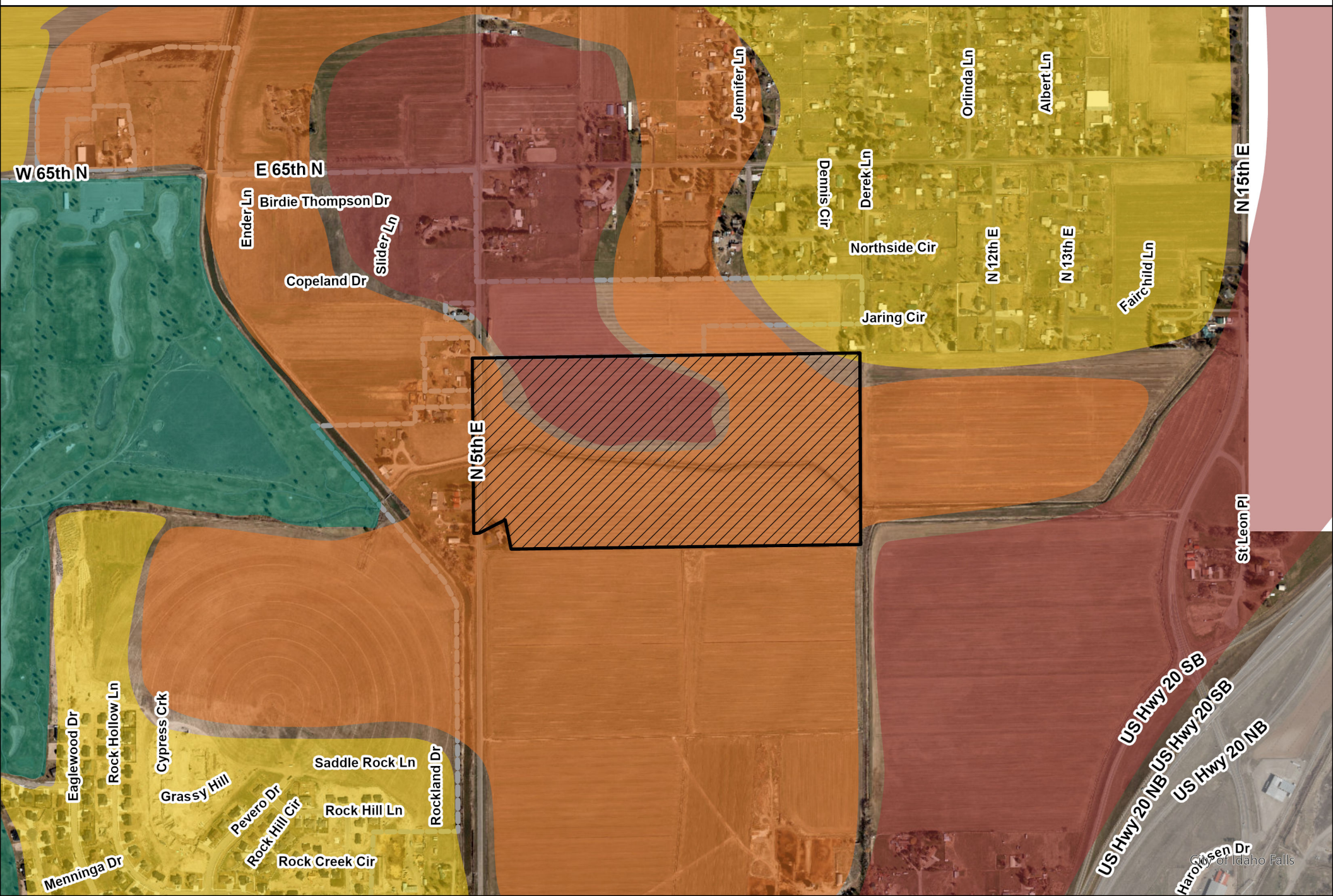
Aerial

ANNX22-020 Initial Zoning R3



Comprehensive Plan

ANNX22-020 Initial Zoning R3



STAFF REPORT

Annexation and Initial Zoning of R3, Multiple Dwelling Residential with a portion of the Approach Surface Airport Overlay Zone.
S ½ of the NW ¼ of Sec 32 & S ½ of the NE ¼ Sec 31, T3N, R38E
January 12, 2023

IDAHO FALLS

Community Development Services

Applicant: Eagle Rock Engineering

Project Manager: Caitlin Long

Location: Generally, north of E 49th N, east of N 5th E, south of E 65th N, west of N 15th E

Size: Approximately 79.716 acres

Zoning:
Existing: County A-1
North: R3, R2, County A-1
South: County A-1
East: County A-1
West: County A-1 & R3

Proposed Zoning: R3, with portion Airport Overlay

Existing Land Uses:
Site: Agricultural
North: Vacant
South: Agriculture
East: Vacant
West: Agriculture

Future Land Use Map:
Mixed Use Center and Corridors and General Urban

Attachments:
1. Comprehensive Plan Policies
2. Zoning Information
3. Maps & Aerial Photos

Requested Action: To **approve** the annexation and initial zoning of R3, Multiple Dwelling Residential with the northwest portion being in the Approach Surface Airport Overlay Zone.

Staff Recommendation: Staff recommends approval of the annexation and initial zoning of R3, Multiple Dwelling Residential with the northwest portion being in the Approach Surface Airport Overlay Zone.

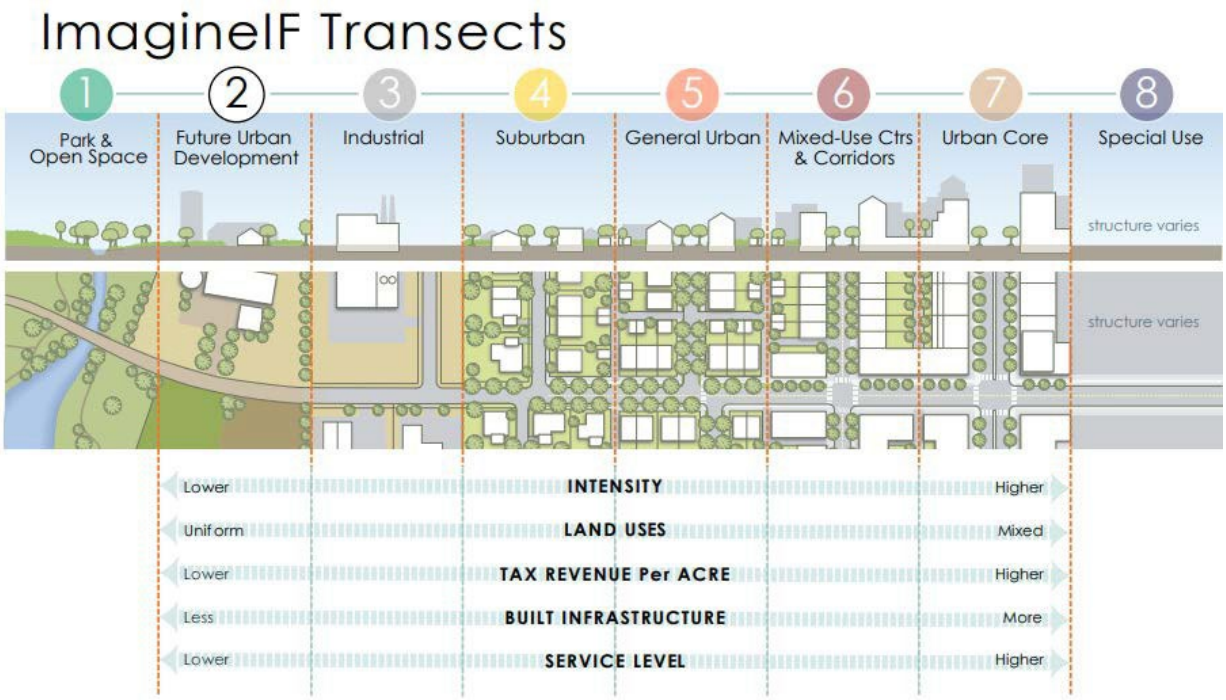
Annexation: This is a Category "A" annexation as it is requested by the property owner. The property is outside of the Area of Impact but is contiguous to City limits along the West and North property lines. Annexation of the property is consistent with the policies of the City's Comprehensive Plan.

Initial Zoning: The proposed zoning is R3, Multiple Dwelling Residential. The R3 zone provides a residential zone which is characterized by a variety of dwelling types with a denser residential environment. This Zone is situated along or near major streets such as collectors and arterials. It is also generally located near pedestrian connections and commercial services. A small portion of the Northwest corner is in the Approach Surface Airport Overlay Zone which does not have limitations on uses in the R3 zone. The property to the north was recently annexed with a portion of it being R3 and the property to the west was also recently annexed with the R3 zoning.

Staff Comments: This property is situated outside of the Area of Impact but is contiguous to city limits. This property will need to be platted before development occurs and utilities are in the vicinity. The Comprehensive Plan identifies this property as Mixed Use Center and Corridor and General Urban. The R3 Zone is consistent with the policies of the Comprehensive Plan as well as existing zoning in the area. R3 is to the north and west of the property. It is consistent with the existing land uses in the area. This property is also in the vicinity of an identified walkable center and the intersection of E 65th N and N 5th E.

Comprehensive Plan Land Use Transects:

pg. 60-70





6. Mixed-Use Centers & Corridors

Snapshot: The Mixed-Use Centers and Corridors Transect denotes areas where people tend to shop, eat and gather. These areas include all housing types but generally at a more intense scale than other areas. These areas also include mixed-use buildings, recreation centers and commercial uses. Mixed-Use Centers and corridors may vary in scale from large, regional commercial centers with supportive housing to smaller commercial pockets called walkable centers that support a well-connected, walkable neighborhood.

Local examples: Northgate Mile and 1st Street corridors, Intersection of 65th South and 5th West, Intersection of Skyline and Broadway, Snake River Landing



5. **General Urban**

Snapshot: The General Urban Transect denotes residential areas with a mix of commercial and service uses convenient to residents. These areas contain a wide variety of housing types, generally including small single-units, duplexes, triplexes, fourplexes, courtyard apartments, bungalow courts, townhouses, multiplexes and live-work units. Lot sizes are smaller and more compact than suburban areas. These areas could also include, parks, schools, churches and commercial services. These areas have highly connective street patterns, similar to the traditional grid-pattern that encourages bicycle and pedestrian usage. These areas should be near an existing or part of a new walkable center.

Local examples: Bonnavista Addition, Johns Height Subdivision, Jennie Lee Addition, Bell-Aire, Linden Park, Linden Trails, Falls Valley

Comprehensive Plan Policies:

Focus on Walkable Centers pg. 82
Identify existing and potential walkable centers and focus on promoting a mix of uses where people can live and easily access daily needs.

Focus on becoming a 15-minute City pg. 82
Identify gaps in 15-minute access from homes to goods and services.

Diversify and Intensify Uses at in Mixed Uses Centers and Corridors pg. 104
Diversify zoning designations at the intersections of arterial and collector streets to zones that allow for neighborhood services to be established.

Increase Availability of Daily Goods and Services pg. 119
Focus on 65th North and 5th East to be an area of expansion that includes Walkable Center principles such as additional housing in a walkable context, daily goods and services, and proper multi-modal infrastructure.

Zoning Ordinance:

11-3-3: PURPOSES OF RESIDENTIAL ZONES

(F) R3 Multiple Dwelling Residential Zone. This zone provides a residential zone which is characterized by a variety of dwelling types with a denser residential environment. This Zone is situated along or near major streets such as collectors and arterials. It is also generally located near pedestrian connections and commercial services.

Table 11-3-1: Standards for Residential Zones

	RE	RP	R1	R2	TN	R3	R3A	RMH
Lot Area								
Lot Area Minimum in ft^2	1 acre*	12,000	7,000	6,000*	3,000*	5,000*	5,000	5,000
Lot Area Maximum in ft^2			13,500 *					
Site Width								
Site Width at Front Setback, Minimum in ft.	150	60	50	50	25	50	50	50
Setbacks, Minimum in ft.								
Front	40	30*	25*	20*	15*	15	15	30
Front Maximum in ft.					20*			
Side	20	7.5/10*	6	6	5	6	6	10
Rear	40	25	25	25	10	25*	25*	25*
Lot Coverage, Building Height, and Density								
Maximum Lot Coverage in %	30	40	40	80	50	80	80	40
Maximum Building Height in ft*	24	24	24	36	*			24
Maximum Density in net units/acre	1	4	6	17	15	35	35	8
*See explanations, exceptions and qualifications in Section 11-3-4A,B,C of this Zoning Code.								

(Ord. 3218, 9-13-18)(Ord. 3310, 6-18-20)

11-2-3: ALLOWED USES IN RESIDENTIAL ZONES.

Table 11-2-1: Allowed Uses in Residential Zones

P = permitted use. C1 = administrative conditional use. C2 = Board of Adjustment conditional use. C3 = City Council conditional use. A blank denotes a use that is not allowed in that zone.

*Indicates uses that are subject to specific land use provisions set forth in the Standards for Allowed Land Uses Section of this Chapter.

	Low Density Residential			Medium Density Residential			High Density Residential	
Proposed Land Use Classification	**RE**	**RP**	**R1**	**R2**	**TN**	**RMH**	**R3**	**R3A**
Accessory Use	P	P	P	P	P	P	P	P
Agriculture*	P							
Animal Care Clinic*					P*			P
Artist Studio					P*			
Bed and Breakfast*								P
Boarding /Rooming House							P	P
Day Care, Center*			C_2	P	P		P	P
Day Care, Group*	C_1		C_1	P	P	C_1	P	P
Day Care, Home	C_1		C_1	P	P	C_1	P	P
Dwelling, Accessory Unit*	P	P	P	P	P	P	P	P
Dwelling, Multi-Unit*				P*	P		P	P
Dwelling, Multi-Unit Attached*				P	P		P	P
Dwelling, Single Unit Attached*			P	P	P	P	P	P
Dwelling, Single Unit Detached	P	P	P	P	P	P	P	P
Dwelling, Two Unit				P	P		P	P
Eating Establishment, Limited					P*			P
Financial Institutions					P*			P
Food Processing, Small Scale					P*			
Food Store					P*			
Fuel Station					P*			
Health Care and Social Services					P*			P
Home Occupation*	C_1		C_1	C_1	C_1	C_1	C_1	C_1
Information Technology								P
Laundry and Dry Cleaning					P*			P
Live-Work*					C_1			P
Manufactured Home*	P	P	P	P	P	P	P	P
Mobile Home Park*						P		C_2
Mortuary								P
Park and Recreation Facility*	P	P	P	P	P	P	P	P
Parking Facility								P
Personal Service					P*			P
Planned Unit Development*	C_3	C_3	C_3	C_3	C_3	C_3	C_3	C_3
Professional Service								P
Public Service Facility*	C_2	C_2	C_2	C_2	C_2	C_2	C_2	C_2
Public Service Facility, Limited	P	P	P	P	P	P	P	P
Public Service Use								P

Proposed Land Use Classification	RE	RP	R1	R2	TN	RMH	R3	R3A
Recreational Vehicle Park*						P		
Religious Institution*	C_2	C_2	C_2	C_2	C_2	C_2	C_2	C_2
Residential Care Facility							P	P
Retail					P*			C_2
School	C_2	C_2	C_2	C_2	C_2	C_2	C_2	C_2
Short Term Rental*	P	P	P	P	P	P	P	P
Transit Station								P

(Ord. 3218, 9-13-18) (Ord. 3358, 12-10-20) (Ord. 3451, 3-31-22) (Ord. 3458, 4-14-22)

Airport Compatible Land Use

ANNX22-020 Initial Zoning R3



November 1, 2022 7:00 p.m. Planning Department

City Annex Building

MEMBERS PRESENT: Commissioners Joanne Denney, Lindsey Romankiw, Arnold Cantu, George Morrison, Brent Dixon (via Webex.

MEMBERS ABSENT: Margaret Wimborne, Glen Ogden, Kristi Brower

ALSO PRESENT: Assistant Planning Director Kerry Beutler; planner Naysha Foster, Caitlin Long and David Peterson; and interested citizens.

CALL TO ORDER: Joanne Denney called the meeting to order at 7:00 p.m.

CHANGES TO AGENDA:

MINUTES: Morrison moved to accept the minutes of October 4, 2022, Cantu seconded the motion. The motion passed unanimously.

Public Hearing(s):

2. ANNX 22-020: ANNEXATION/INITIAL ZONING. Annexation and Initial Zoning of R3 for 79 Acres

Denney opened the public hearing.

Applicant: Kurt Roland, 1331 Fremont Ave., Idaho Falls, Idaho. Roland stated that on North 5th East and E 65th N (Lewisville Highway), Roland is asking for annexation with an R3 zone. Roland stated that R3 is north and west of this property and R3 would be a good fit for this location.

Dixon asked if Derek Lane connects to this or is the access only from N5th E. Roland stated that N5thE is the only access now, but Derek Lane will come down eventually.

Dixon stated that it is a half mile wide site and Roland agreed.

Morrison asked what eventually means, during the project. Roland stated that when development happens the road will come down.

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

Dixon asked what is on the corner of 65th N and 5th E in the red. Long indicated that it is LC. Dixon asked about the property to the east and southeast and whether it has not been proposed for annexation. Long agreed that it has not been proposed for annexation

No one appeared in Support/Opposition.

Denney closed the public hearing.

Dixon stated that he has no problem with the requested zoning but is concerned about using Derek Lane as an access because it goes into a very low-density County subdivision, and it should be protected as a County road. Dixon stated that when the property around it is annexed a road system can be built from the east, but right now N5th E is an arterial and it would be best if

the access of this high density is funneled towards the arterials rather than to low density on Derek Lane.

Cantu moved to recommend to the Mayor and City Council approval of the annexation of 79.175 Acres of the S1/2 of the NW ¼ of Section 32 & N ½ of the NE ¼ Section 31, T3N, R 38 E, with initial zoning of R3 with a portion of the approach surface airport overlay zone, Romankiw seconded the motion. Denney called for roll call vote: Morrison, yes; Romankiw, yes; Cantu, yes; Dixon, yes; The motion passed unanimously.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; PROVIDING FOR THE ANNEXATION OF APPROXIMATELY 79.716 ACRES DESCRIBED IN EXHIBIT A OF THIS ORDINANCE, AMENDING THE LEGAL DESCRIPTION OF THE CITY WITH THE APPROPRIATE COUNTY AND STATE AUTHORITIES; AND PROVIDING SEVERABILITY, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.

WHEREAS, the lands described in Exhibit A of this Ordinance are contiguous and adjacent to the City limits of the City of Idaho Falls, Idaho; and

WHEREAS, such lands described herein are subject to annexation to the City pursuant to the provisions of Idaho Code Section 50-222, and other laws, as amended; and

WHEREAS, the annexation of the lands described in Exhibit A is reasonably necessary to assure the orderly development of the City in order to allow efficient and economically viable provision of tax-supported and fee-supported municipal services; to enable the orderly development of private lands which benefit from a cost-effective availability of City services in urbanizing areas; and to equitably allocate the costs of City/public services in management of development on the City's urban fringe; and

WHEREAS, the City has authority to annex lands into the City pursuant to procedures of Idaho Code Section 50-222, as amended; and

WHEREAS, any portion of a highway lying wholly or partially within the lands to be annexed are included in the lands annexed by this Ordinance; and

WHEREAS, the lands annexed by this Ordinance are not connected to the City only by a "shoestring" or a strip of land which comprises a railroad or right-of-way; and

WHEREAS, all private landowners have consented to annexation of such lands, where necessary; and

WHEREAS, City of Idaho Falls Comprehensive Plan includes the area of annexation; and

WHEREAS, after considering the written and oral comments of property owners whose lands would be annexed and other affected persons, City Council specifically makes the following findings:

1) That the lands annexed meet the applicable requirements of Idaho Code Section 50-222 and does not fall within exceptions or conditional exceptions contained in Idaho Code Section 50-222;

2) The annexation is consistent with public purposes addressed in annexation and related plans prepared by the City; and

3) Annexation of the lands described in Section 1 are reasonably necessary for the orderly development of the City; and

WHEREAS, it appears to the Council that the lands described herein below in Exhibit A of this Ordinance should be annexed to and become a part of the City of Idaho Falls, Idaho; and

WHEREAS, the City wishes to exercise jurisdiction over the annexed lands in a way that promotes the orderly development of such lands; and

WHEREAS, the City of Idaho Falls Comprehensive Plan sets out policies and strategies designed to promote and sustain future growth within the City; and

WHEREAS, such designation is consistent with policies and principles contained within the City of Idaho Falls Comprehensive Plan; and

WHEREAS, the City desires the City of Idaho Falls Comprehensive Plan Map to be amended to reflect the designation contained in this Ordinance.

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

SECTION 1. Annexation of Property. The lands described in Exhibit A are hereby annexed to the City of Idaho Falls, Idaho.

SECTION 2. Amended Map and Legal Description. The City Clerk shall file a certified copy of this Ordinance with the Bonneville County Auditor, Treasurer, and Assessor, within ten (10) days after the effective date hereof. The City Engineer shall, within ten (10) days after such effective date, file an amended legal description and map of the City, with the Bonneville County Recorder and Assessor and the Idaho State Tax Commission, all in accordance with Idaho Code Section 63-2215.

SECTION 3. Findings. The findings contained in the recitals of this Ordinance be, and the same are hereby adopted as the official City Council findings for this Ordinance, and any further findings relative to this Ordinance shall be contained in the officially adopted Council minutes of the meeting in which this Ordinance was passed.

SECTION 4. Savings and Severability Clause. The provisions and parts of this Ordinance are intended to be severable. If any section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

SECTION 5. Publication. This Ordinance, or a summary thereof in compliance with Idaho Code, shall be published once in the official newspaper of the City, and shall take effect immediately upon its passage, approval, and publication.

SECTION 6. Effective Date. This Ordinance shall be in full force and effect from and after its passage, approval and publication.

PASSED BY THE COUNCIL AND APPROVED BY THE MAYOR this_____day of _____, 2023.

_____
Rebecca L. Noah Casper, Mayor

ATTEST:

_____
Corrin Wilde, City Clerk

(SEAL)

STATE OF IDAHO)
: ss.
County of Bonneville)

I, CORRIN WILDE, CITY CLERK OF THE CITY OF IDAHO FALLS, IDAHO, DO HEREBY CERTIFY:

That the above and foregoing is a full, true and correct copy of the Ordinance entitled: "AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; PROVIDING FOR THE ANNEXATION OF APPROXIMATELY 79.716 ACRES DESCRIBED IN EXHIBIT A OF THIS ORDINANCE, AMENDING THE LEGAL DESCRIPTION OF THE CITY WITH THE APPROPRIATE COUNTY AND STATE AUTHORITIES; AND PROVIDING SEVERABILITY, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE."

_____
Corrin Wilde, City Clerk

(SEAL)

EXHIBIT "A"

LEGAL DESCRIPTION (Page 1 of 1)

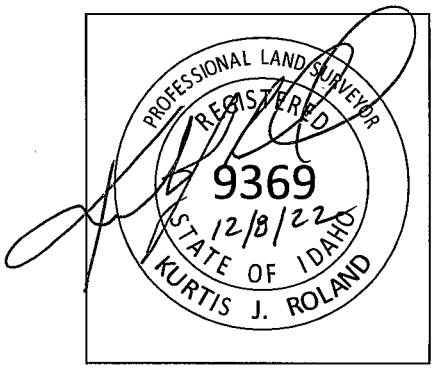
A PARCEL OF LAND BEING SITUATED IN THE SOUTH 1/2 OF THE NORTHWEST 1/4 OF SECTION 32, TOWNSHIP 3 NORTH, RANGE 38 EAST OF THE BOISE MERIDIAN AND IS MORE SPECIFICALLY DESCRIBED AS FOLLOWS.

(SOUTH PROPERTY)
BEGINNING AT A POINT THAT IS S.00°27'10"E. ALONG THE SECTION LINE 1317.23 FEET FROM THE NORTHWEST CORNER OF SECTION 32, TOWNSHIP 3 NORTH, RANGE 38 EAST OF THE BOISE MERIDIAN, SAID POINT BEING ON THE SOUTH LINE OF CITY OF IDAHO FALLS ANNEXATION ORDINANCE NUMBER 3467; RUNNING THENCE N.89°15'07"E. ALONG SAID SOUTH LINE EXTENDED OF SAID CITY OF IDAHO FALLS ANNEXATION ORDINANCE NUMBER 3467 A DISTANCE OF 2631.01 FEET TO THE NORTH-SOUTH CENTER SECTION LINE OF SAID SECTION 32; THENCE S.00°08'23"E. ALONG SAID NORTH-SOUTH CENTER SECTION LINE 1317.20 FEET TO THE SOUTH LINE OF SAID SOUTH 1/2 OF THE NORTHWEST 1/4 OF SAID SECTION 32; THENCE S.89°15'00"W. ALONG SAID SOUTH LINE 2399.96 FEET; THENCE N.11°33'35"W. 205.60 FEET (RECORD= 205.40 FEET); THENCE S.62°39'14"W. 206.59 FEET TO THE WEST LINE OF SAID SECTION 32; THENCE INTO SECTION 31 OF SAID TOWNSHIP 3 NORTH, RANGE 38 EAST OF THE BOISE MERIDIAN THE FOLLOWING SEVEN (7) COURSES: (1) THENCE S.89°32'50"W. 39.94 FEET TO THE WEST RIGHT-OF-WAY LINE OF NORTH 5TH EAST (LEWISVILLE HIGHWAY); (2) THENCE N.00°10'15"W. ALONG SAID WEST RIGHT-OF-WAY LINE 877.04 FEET TO THE SOUTH BOUNDARY LINE OF CITY OF IDAHO FALLS ANNEXATION ORDINANCE NUMBER 3443; (3) THENCE N.88°38'50"E. 2.62 FEET TO THE EAST BOUNDARY LINE OF SAID CITY OF IDAHO FALLS ANNEXATION ORDINANCE NUMBER 3443; (4) THENCE N.00°26'59"W. ALONG SAID EAST BOUNDARY LINE OF SAID CITY OF IDAHO FALLS ANNEXATION ORDINANCE NUMBER 3443 A DISTANCE OF 110.00 FEET TO THE NORTH BOUNDARY LINE OF SAID CITY OF IDAHO FALLS ANNEXATION ORDINANCE NUMBER 3443; (5) THENCE S.88°38'50"W. ALONG SAID NORTH BOUNDARY LINE OF SAID CITY OF IDAHO FALLS ANNEXATION ORDINANCE NUMBER 3443 A DISTANCE OF 2.09 FEET TO SAID WEST RIGHT-OF-WAY LINE OF SAID NORTH 5TH EAST (LEWISVILLE HIGHWAY); (6) THENCE N.00°10'15"W. ALONG SAID WEST RIGHT-OF-WAY LINE 220.73 FEET TO THE SOUTH BOUNDARY LINE OF SAID CITY OF IDAHO FALLS ANNEXATION ORDINANCE NUMBER 3467; (7) THENCE N.89°32'50"E. ALONG SAID SOUTH LINE OF SAID CITY OF IDAHO FALLS ANNEXATION ORDINANCE NUMBER 3467 A DISTANCE OF 33.99 FEET TO THE POINT OF BEGINNING.

CONTAINING 79.716 ACRES

Submitted By:
Firm Name: EAGLE ROCK ENGINEERING
Contact Name: KURT ROLAND
Phone Number: 208-542-2665
Email: kroland@erengr.com

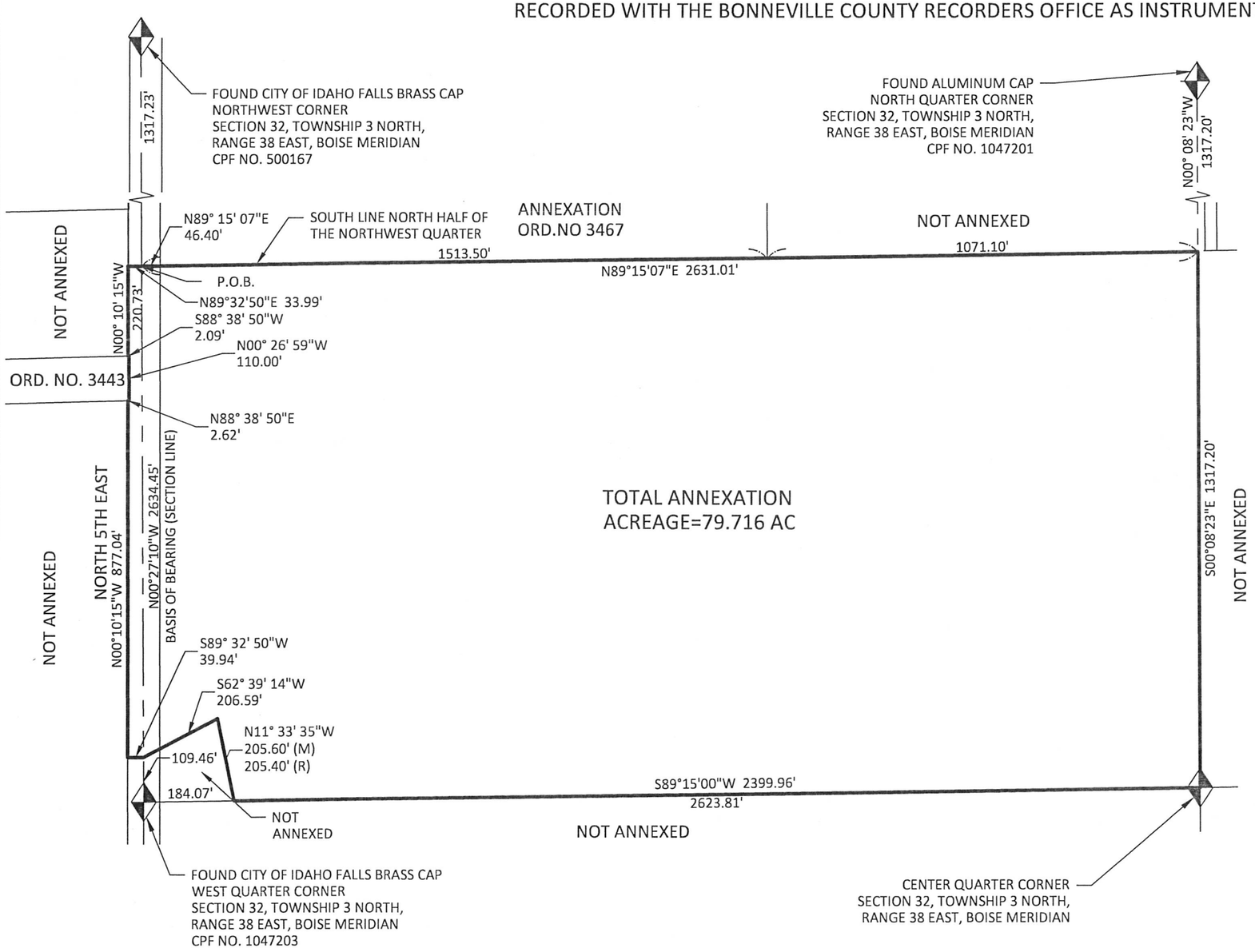
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ANNEXATION ORDINANCE # _____

AN ADDITION TO THE CITY OF IDAHO FALLS, BONNEVILLE COUNTY, IDAHO
LOCATED IN THE SOUTH 1/2 OF THE NORTHWEST 1/4 OF SECTION 32 AND THE SOUTH 1/2 OF THE NORTHEAST 1/4 OF SECTION 31,
TOWNSHIP 3 NORTH, RANGE 38 EAST OF THE BOISE MERIDIAN, BONNEVILLE COUNTY, IDAHO

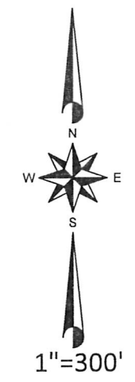
RECORDED WITH THE BONNEVILLE COUNTY RECORDERS OFFICE AS INSTRUMENT NO. _____



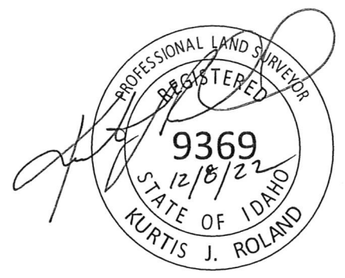
A PARCEL OF LAND BEING SITUATED IN THE SOUTH 1/2 OF THE NORTHWEST 1/4 OF SECTION 32, TOWNSHIP 3 NORTH, RANGE 38 EAST OF THE BOISE MERIDIAN AND IS MORE SPECIFICALLY DESCRIBED AS FOLLOWS.

(SOUTH PROPERTY)
BEGINNING AT A POINT THAT IS S.00°27'10"E. ALONG THE SECTION LINE 1317.23 FEET FROM THE NORTHWEST CORNER OF SECTION 32, TOWNSHIP 3 NORTH, RANGE 38 EAST OF THE BOISE MERIDIAN, SAID POINT BEING ON THE SOUTH LINE OF CITY OF IDAHO FALLS ANNEXATION ORDINANCE NUMBER 3467; RUNNING THENCE N.89°15'07"E. ALONG SAID SOUTH LINE EXTENDED OF SAID CITY OF IDAHO FALLS ANNEXATION ORDINANCE NUMBER 3467 A DISTANCE OF 2631.01 FEET TO THE NORTH-SOUTH CENTER SECTION LINE OF SAID SECTION 32; THENCE S.00°08'23"E. ALONG SAID NORTH-SOUTH CENTER SECTION LINE 1317.20 FEET TO THE SOUTH LINE OF SAID SOUTH 1/2 OF THE NORTHWEST 1/4 OF SAID SECTION 32; THENCE S.89°15'00"W. ALONG SAID SOUTH LINE 2399.96 FEET; THENCE N.11°33'35"W. 205.60 FEET (RECORD= 205.40 FEET); THENCE S.62°39'14"W. 206.59 FEET TO THE WEST LINE OF SAID SECTION 32; THENCE INTO SECTION 31 OF SAID TOWNSHIP 3 NORTH, RANGE 38 EAST OF THE BOISE MERIDIAN THE FOLLOWING SEVEN (7) COURSES: (1) THENCE S.89°32'50"W. 39.94 FEET TO THE WEST RIGHT-OF-WAY LINE OF NORTH 5TH EAST (LEWISVILLE HIGHWAY); (2) THENCE N.00°10'15"W. ALONG SAID WEST RIGHT-OF-WAY LINE 877.04 FEET TO THE SOUTH BOUNDARY LINE OF CITY OF IDAHO FALLS ANNEXATION ORDINANCE NUMBER 3443; (3) THENCE N.88°38'50"E. 2.62 FEET TO THE EAST BOUNDARY LINE OF SAID CITY OF IDAHO FALLS ANNEXATION ORDINANCE NUMBER 3443; (4) THENCE N.00°26'59"W. ALONG SAID EAST BOUNDARY LINE OF SAID CITY OF IDAHO FALLS ANNEXATION ORDINANCE NUMBER 3443 A DISTANCE OF 110.00 FEET TO THE NORTH BOUNDARY LINE OF SAID CITY OF IDAHO FALLS ANNEXATION ORDINANCE NUMBER 3443; (5) THENCE S.88°38'50"W. ALONG SAID NORTH BOUNDARY LINE OF SAID CITY OF IDAHO FALLS ANNEXATION ORDINANCE NUMBER 3443 A DISTANCE OF 2.09 FEET TO SAID WEST RIGHT-OF-WAY LINE OF SAID NORTH 5TH EAST (LEWISVILLE HIGHWAY); (6) THENCE N.00°10'15"W. ALONG SAID WEST RIGHT-OF-WAY LINE 220.73 FEET TO THE SOUTH BOUNDARY LINE OF SAID CITY OF IDAHO FALLS ANNEXATION ORDINANCE NUMBER 3467; (7) THENCE N.89°32'50"E. ALONG SAID SOUTH LINE OF SAID CITY OF IDAHO FALLS ANNEXATION ORDINANCE NUMBER 3467 A DISTANCE OF 33.99 FEET TO THE POINT OF BEGINNING.

CONTAINING 79.716 ACRES



1"=300'



EAGLE ROCK ENGINEERING
CIVIL ○ PLANNING ○ SURVEYING
IDAHO FALLS (208) 542-2665 REXBURG (208) 359-2665

OFFICES AT:

1331 Fremont Ave.
Idaho Falls, Idaho 83402

310 N 2nd East, Suite 153
Rexburg, Idaho 83440

DRAWN BY:	MATT PATZER
APPROVED BY:	KURT ROLAND
PROJECT NO.	21101
SCALE:	1"=300'
DATE:	December, 2022
CAD NAME:	21101 NELSON 5TH EAST_ANNEX MAP 79 ACRES.DWG.dwg

REASONED STATEMENT OF RELEVANT CRITERIA AND STANDARDS

ANNEXATION OF APPROXIMATELY 79.716 ACRES NORTH OF E 49TH N, EAST OF N 5TH E, SOUTH OF E 65TH N, WEST OF N 15TH E.

WHEREAS, the applicant filed an application for annexation on September 16, 2022; and

WHEREAS, this matter came before the Idaho Falls Planning and Zoning Commission during a duly noticed public hearing on November 1, 2022; and

WHEREAS, this matter came before the Idaho Falls City council during a duly noticed public hearing on January 12, 2023; and

WHEREAS, having reviewed the application, including all exhibits entered and having considered the issues presented:

I. RELEVANT CRITERIA AND STANDARDS

1. The City Council considered the request pursuant to City of Idaho Falls Comprehensive Plan, City of Idaho Falls Zoning Ordinance, City of Idaho Falls Subdivision Ordinance, the Local Land Use Planning Act, and other applicable development regulations.
2. The property is approximately 79.716 acres generally located north of north of E 49th N, east of N 5th E, south of E 65th N, west of N 15th E.
3. This property is contiguous to City limits along the West and North property lines.
4. This application is a Category "A" annexation.
5. City utilities are present in the area to provide services to this property.
6. The Comprehensive Plan designates this area as Mixed Use Centers and Corridors and General Urban
7. Idaho Falls Planning and Zoning Commission recommended approval of annexation.

II. DECISION

Based on the above Reasoned Statement of Relevant Criteria, the City Council of the City of Idaho Falls approved the annexation as presented.

PASSED BY CITY COUNCIL OF THE CITY OF IDAHO FALLS

THIS _____ DAY OF _____, 2023

_____

Rebecca L. Noah Casper - Mayor

Memorandum

File #: 21-760 **City Council Meeting**

FROM: Kerry Beutler, Interim Director
DATE: Thursday, January 12, 2023
DEPARTMENT: Community Development Services

Subject
Legislative Public Hearing-Part 2 of 2 of the Annexation and Initial Zoning of R3, Multiple Dwelling Residential, with Approach Surface Airport Overlay Zone, Initial Zoning Ordinance and Reasoned Statement of Relevant Criteria and Standards, 79.716 acres of the South ½ of the NW ¼ of Section 32 and the South ½ of the NE ¼ of Section 31, Township 3 North, Range 38 East.

Council Action Desired
☒ Ordinance ☐ Resolution ☒ Public Hearing
☐ Other Action (Approval, Authorization, Ratification, etc.)
1. Assign a Comprehensive Plan Designations of "Mixed Use Centers and Corridors" and "General Urban" and approve the Ordinance establishing the initial zoning for R3, Multiple Dwelling Residential with Approach Surface Airport Overlay Zone as shown in the Ordinance exhibits under a suspension of the rules requiring three complete and separate readings and request that it be read by title and published by summary, that the City limits documents be amended to include the area annexed herewith, and that the City Planner be instructed to reflect said annexation, amendment to the Comprehensive Plan, and initial zoning on the Comprehensive Plan and Zoning Maps located in the Planning office (or consider the Ordinance on the first reading and that it be read by title, reject the Ordinance, or take other action deemed appropriate).

2. Approve the Reasoned Statement of Relevant Criteria and Standards for the Initial Zoning of R3, Multiple Dwelling Residential with Approach Surface Airport Overlay Zone, and give authorization for the Mayor to execute the necessary documents (or take other action deemed appropriate).

Description, Background Information & Purpose
Attached is part 2 of 2 of the application for Annexation and Initial Zoning of R3, Multiple Dwelling Residential, with Approach Surface Airport Overlay Zone, Initial Zoning Ordinance and Reasoned Statement of Relevant Criteria and Standards, 79.716 acres of the South ½ of the NW ¼ of Section 32 and the South ½ of the NE ¼ of Section 31, Township 3 North, Range 38 East. The Planning and Zoning Commission considered this item at its November 1, 2022, meeting and unanimously voted to recommend approval of R3, Multiple Dwelling Residential, with Approach Surface Airport Overlay Zone to the Mayor and City Council as presented. Staff concurs with this recommendation.

Alignment with City & Department Planning Objectives



☐ ☒ ☒ ☐ ☒ ☐ ☐ ☐

Consideration of initial zoning must be consistent with the principles of the Comprehensive Plan which includes many policies and goals related to Good Governance, Growth, Sustainability, and Livable Communities.

Interdepartmental Coordination
The initial zoning legal description has been reviewed by the Survey Division.

Fiscal Impact
NA

Legal Review
This application and ordinance have been reviewed by the City Attorney's Office pursuant to applicable law.

Zoning

ANNX22-020 Initial Zoning R3

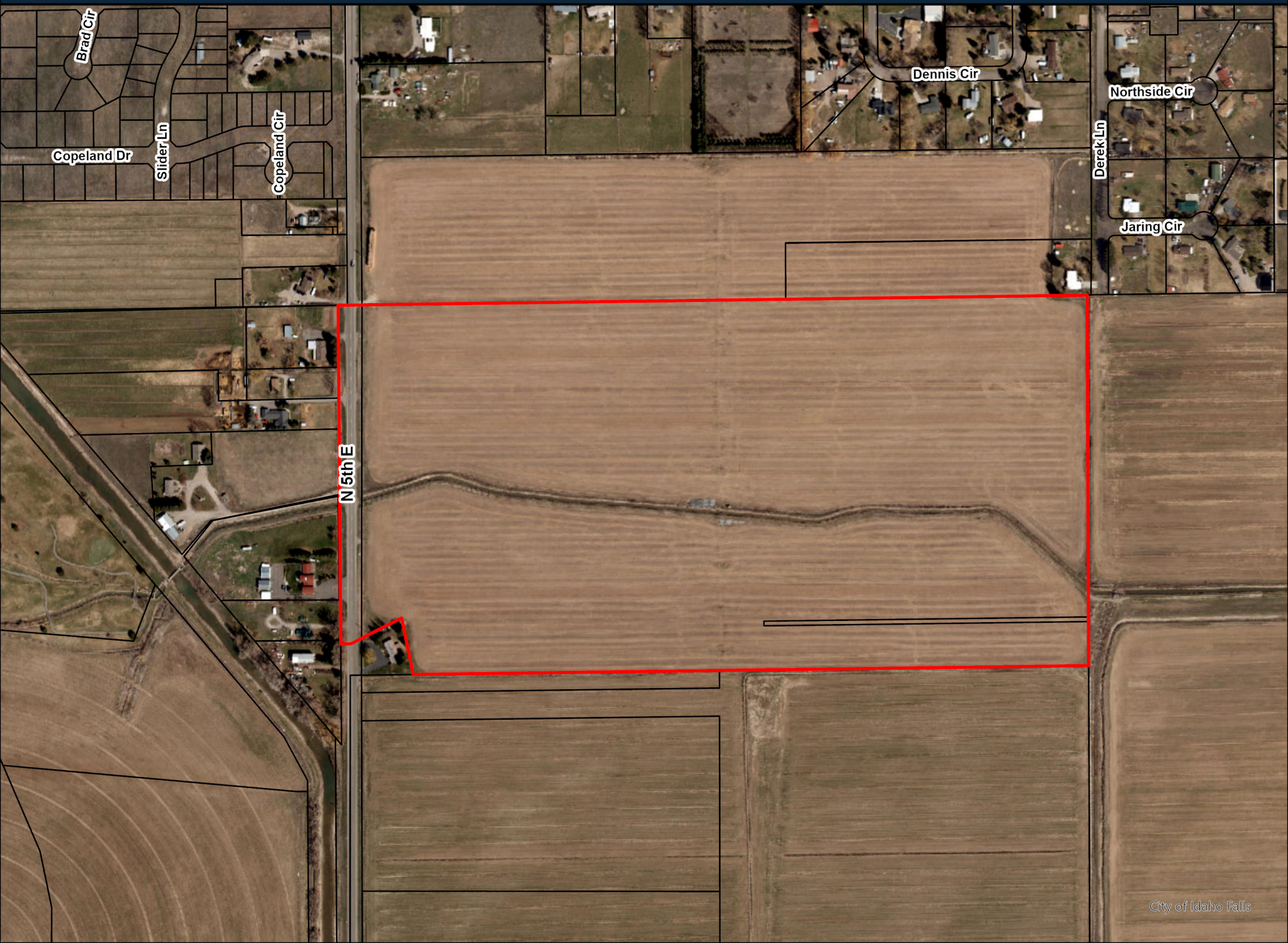
RE R1 TN R3 PB LC R&D I&M

RP R2 RMH R3A CC HC LM P



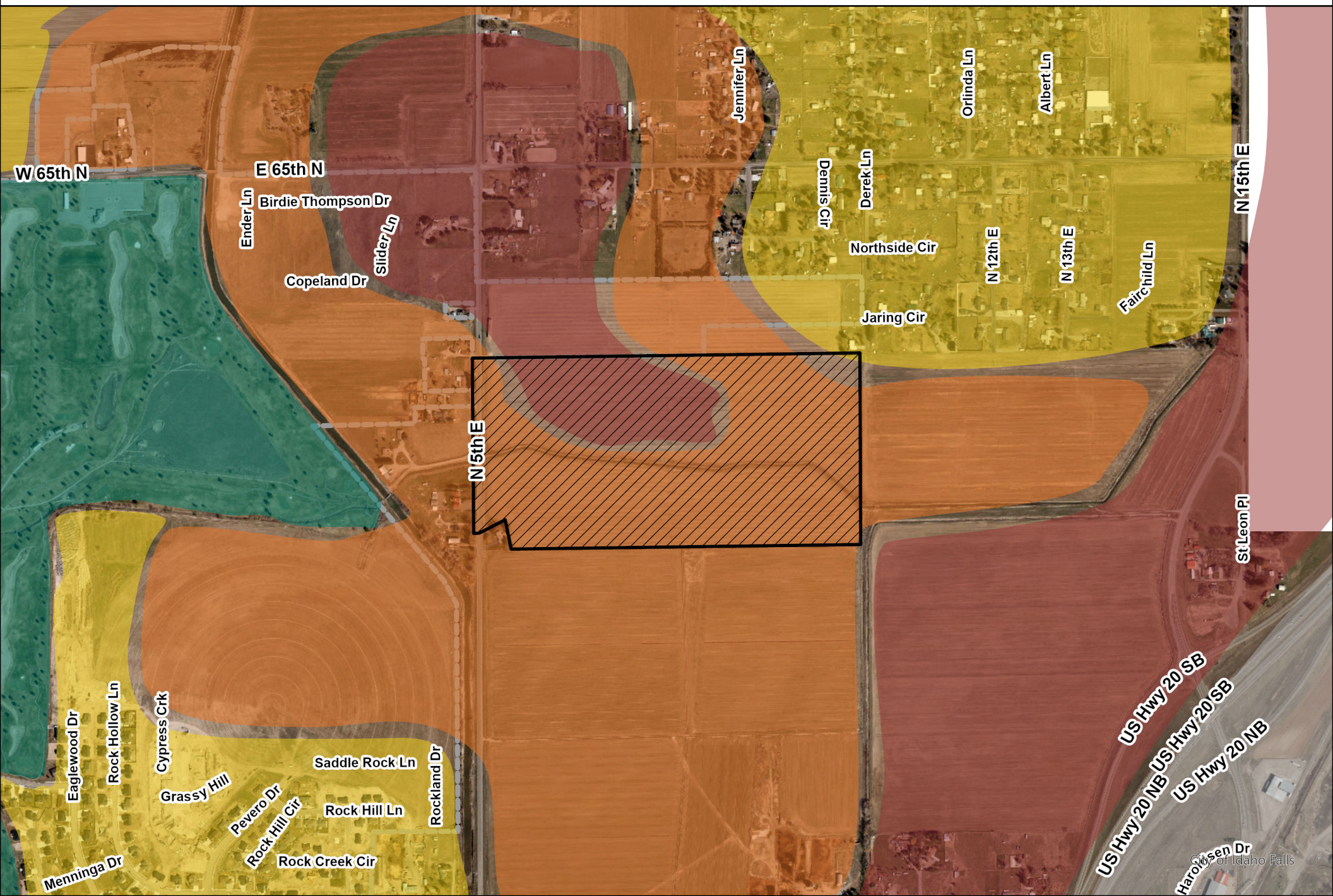
Aerial

ANNX22-020 Initial Zoning R3



Comprehensive Plan

ANNX22-020 Initial Zoning R3



ORDINANCE NO._____

AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; PROVIDING FOR THE INITIAL ZONING OF APPROXIMATELY 79.716 ACRES DESCRIBED IN EXHIBIT A OF THIS ORDINANCE AS R3, MULTIPLE DWELLING RESIDENTIAL AND APPROACH SURFACE AIRPORT OVERLAY ZONES; AND PROVIDING SEVERABILITY, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.

WHEREAS, the proposed initial zoning district of lands described in Exhibit A is R3, Multiple Residential Dwelling and Approach Surface Airport Overlay Zones for such annexed lands is consistent with the current City of Idaho Falls Comprehensive Plan Land use designation "Mixed Use Centers and Corridors"; and

WHEREAS, the proposed zoning district is consistent and compatible with the existing and surrounding zoning districts and is consistent with principles of the City of Idaho Falls Comprehensive Plan; and

WHEREAS, for consistency with the Comprehensive Plan, the Council desires to designate the lands within the area of annexation as "Mixed Use Centers and Corridors"; and "General Urban"; and

WHEREAS, Idaho Falls Planning and Zoning Commission held a duly noticed public hearing on November 1, 2022, and recommended approval of zoning the subject property to R3 Zone with the Approach Surface Airport Overlay Zones; and

WHEREAS, the Council conducted a duly noticed public hearing and passed a motion to approve this zoning on January 12, 2023

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

SECTION 1: Comprehensive Plan Designation. The area described in Exhibit A are hereby given a Comprehensive Plan designation of Mixed Use Corridors and General Urban.

SECTION 2: Legal Description. The lands described in Exhibit A are hereby zoned as R3 Zone with the Approach Surface Airport Overlay Zones.

SECTION 3. Zoning. The property described in Section 1 of this Ordinance be and the same hereby is zoned "R3 Zone" and "Approach Surface" the City Planner is hereby ordered to make the necessary amendments to the official maps of the City of Idaho Falls which are on file at the City Planning Department Offices, 680 Park Avenue.

SECTION 4. Savings and Severability Clause. The provisions and parts of this Ordinance are intended to be severable. If any section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or

unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

SECTION 5. Publication. This Ordinance, or a summary thereof in compliance with Idaho Code, shall be published once in the official newspaper of the City, and shall take effect immediately upon its passage, approval, and publication.

SECTION 6. Effective Date. This Ordinance shall be in full force and effect from and after its passage, approval and publication.

PASSED by the City Council and APPROVED by the Mayor of the City of Idaho Falls, Idaho, this_____day of_____, 2023.

CITY OF IDAHO FALLS, IDAHO

_____
Rebecca L. Noah Casper, Mayor

ATTEST:

_____
Corrin Wilde, City Clerk

(SEAL)

STATE OF IDAHO)
) ss:
County of Bonneville)

I, CORRIN WILDE, CITY CLERK OF THE CITY OF IDAHO FALLS, IDAHO, DO HEREBY CERTIFY:

That the above and foregoing is a full, true and correct copy of the Ordinance entitled, "AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; PROVIDING FOR THE INITIAL ZONING OF APPROXIMATELY 79.716 ACRES DESCRIBED IN SECTION 1 OF THIS ORDINANCE AS R3 ZONE WITH THE CONTROLLED DEVELOPMENT OVERLAY ZONES; AND PROVIDING SEVERABILITY, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE."

_____
Corrin Wilde, City Clerk

EXHIBIT "A"

LEGAL DESCRIPTION (Page 1 of 1)

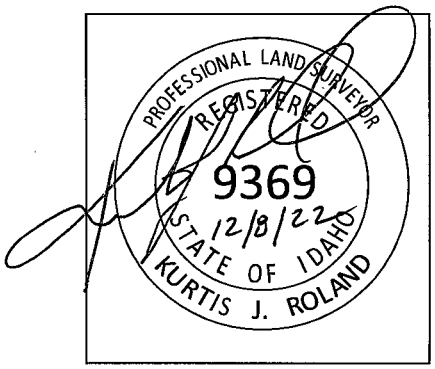
A PARCEL OF LAND BEING SITUATED IN THE SOUTH 1/2 OF THE NORTHWEST 1/4 OF SECTION 32, TOWNSHIP 3 NORTH, RANGE 38 EAST OF THE BOISE MERIDIAN AND IS MORE SPECIFICALLY DESCRIBED AS FOLLOWS.

(SOUTH PROPERTY)
BEGINNING AT A POINT THAT IS S.00°27'10"E. ALONG THE SECTION LINE 1317.23 FEET FROM THE NORTHWEST CORNER OF SECTION 32, TOWNSHIP 3 NORTH, RANGE 38 EAST OF THE BOISE MERIDIAN, SAID POINT BEING ON THE SOUTH LINE OF CITY OF IDAHO FALLS ANNEXATION ORDINANCE NUMBER 3467; RUNNING THENCE N.89°15'07"E. ALONG SAID SOUTH LINE EXTENDED OF SAID CITY OF IDAHO FALLS ANNEXATION ORDINANCE NUMBER 3467 A DISTANCE OF 2631.01 FEET TO THE NORTH-SOUTH CENTER SECTION LINE OF SAID SECTION 32; THENCE S.00°08'23"E. ALONG SAID NORTH-SOUTH CENTER SECTION LINE 1317.20 FEET TO THE SOUTH LINE OF SAID SOUTH 1/2 OF THE NORTHWEST 1/4 OF SAID SECTION 32; THENCE S.89°15'00"W. ALONG SAID SOUTH LINE 2399.96 FEET; THENCE N.11°33'35"W. 205.60 FEET (RECORD= 205.40 FEET); THENCE S.62°39'14"W. 206.59 FEET TO THE WEST LINE OF SAID SECTION 32; THENCE INTO SECTION 31 OF SAID TOWNSHIP 3 NORTH, RANGE 38 EAST OF THE BOISE MERIDIAN THE FOLLOWING SEVEN (7) COURSES: (1) THENCE S.89°32'50"W. 39.94 FEET TO THE WEST RIGHT-OF-WAY LINE OF NORTH 5TH EAST (LEWISVILLE HIGHWAY); (2) THENCE N.00°10'15"W. ALONG SAID WEST RIGHT-OF-WAY LINE 877.04 FEET TO THE SOUTH BOUNDARY LINE OF CITY OF IDAHO FALLS ANNEXATION ORDINANCE NUMBER 3443; (3) THENCE N.88°38'50"E. 2.62 FEET TO THE EAST BOUNDARY LINE OF SAID CITY OF IDAHO FALLS ANNEXATION ORDINANCE NUMBER 3443; (4) THENCE N.00°26'59"W. ALONG SAID EAST BOUNDARY LINE OF SAID CITY OF IDAHO FALLS ANNEXATION ORDINANCE NUMBER 3443 A DISTANCE OF 110.00 FEET TO THE NORTH BOUNDARY LINE OF SAID CITY OF IDAHO FALLS ANNEXATION ORDINANCE NUMBER 3443; (5) THENCE S.88°38'50"W. ALONG SAID NORTH BOUNDARY LINE OF SAID CITY OF IDAHO FALLS ANNEXATION ORDINANCE NUMBER 3443 A DISTANCE OF 2.09 FEET TO SAID WEST RIGHT-OF-WAY LINE OF SAID NORTH 5TH EAST (LEWISVILLE HIGHWAY); (6) THENCE N.00°10'15"W. ALONG SAID WEST RIGHT-OF-WAY LINE 220.73 FEET TO THE SOUTH BOUNDARY LINE OF SAID CITY OF IDAHO FALLS ANNEXATION ORDINANCE NUMBER 3467; (7) THENCE N.89°32'50"E. ALONG SAID SOUTH LINE OF SAID CITY OF IDAHO FALLS ANNEXATION ORDINANCE NUMBER 3467 A DISTANCE OF 33.99 FEET TO THE POINT OF BEGINNING.

CONTAINING 79.716 ACRES

Submitted By:
Firm Name: EAGLE ROCK ENGINEERING
Contact Name: KURT ROLAND
Phone Number: 208-542-2665
Email: kroland@erengr.com

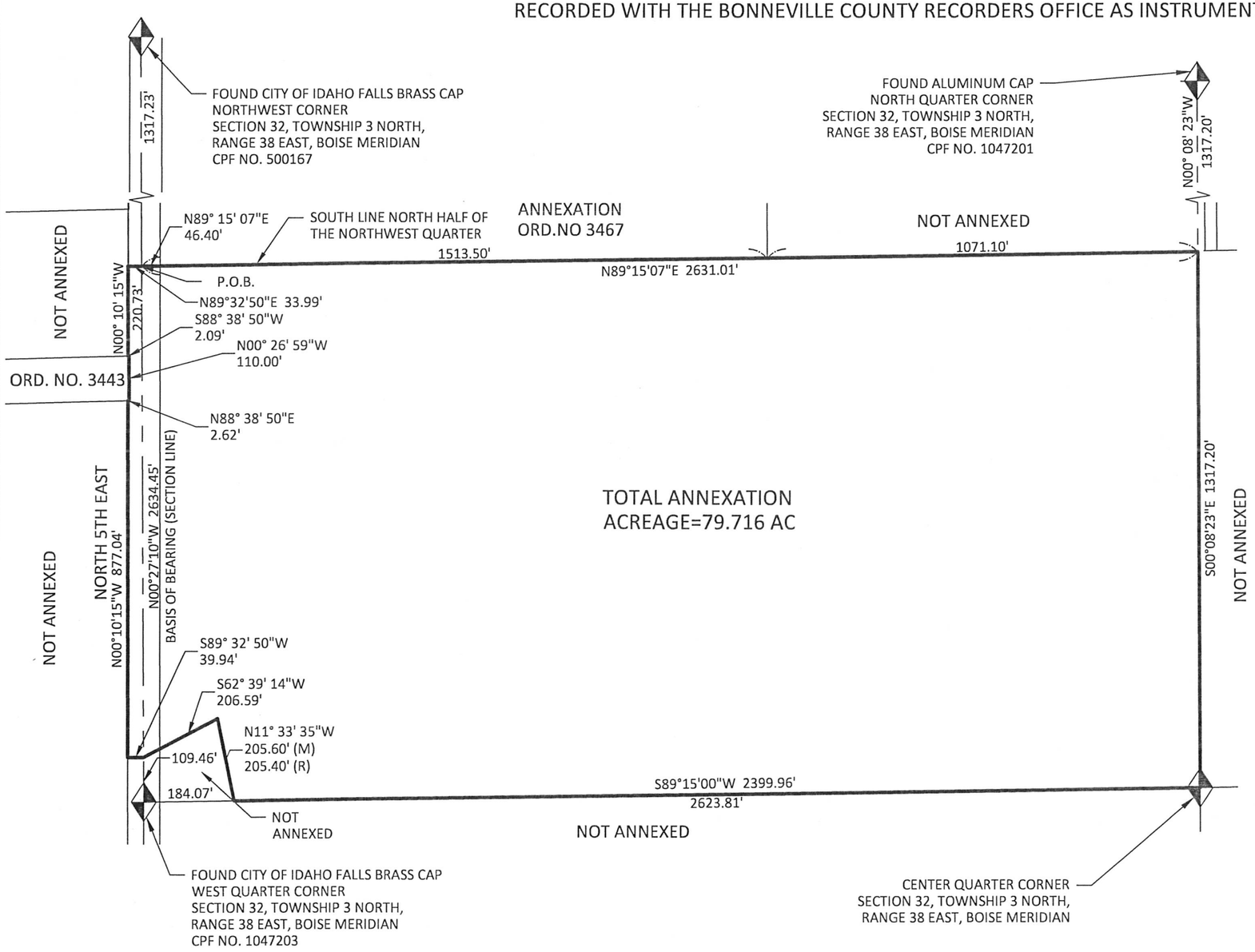
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ANNEXATION ORDINANCE # _____

AN ADDITION TO THE CITY OF IDAHO FALLS, BONNEVILLE COUNTY, IDAHO
LOCATED IN THE SOUTH 1/2 OF THE NORTHWEST 1/4 OF SECTION 32 AND THE SOUTH 1/2 OF THE NORTHEAST 1/4 OF SECTION 31,
TOWNSHIP 3 NORTH, RANGE 38 EAST OF THE BOISE MERIDIAN, BONNEVILLE COUNTY, IDAHO

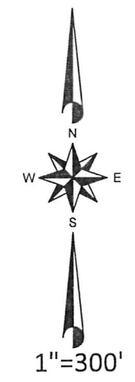
RECORDED WITH THE BONNEVILLE COUNTY RECORDERS OFFICE AS INSTRUMENT NO. _____



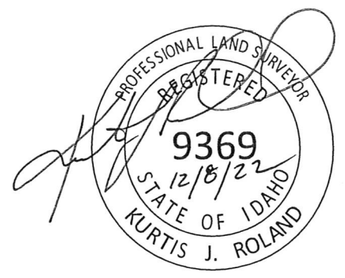
A PARCEL OF LAND BEING SITUATED IN THE SOUTH 1/2 OF THE NORTHWEST 1/4 OF SECTION 32, TOWNSHIP 3 NORTH, RANGE 38 EAST OF THE BOISE MERIDIAN AND IS MORE SPECIFICALLY DESCRIBED AS FOLLOWS.

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CONTAINING 79.716 ACRES



1"=300'



EAGLE ROCK ENGINEERING
CIVIL ○ PLANNING ○ SURVEYING
IDAHO FALLS (208) 542-2665 REXBURG (208) 359-2665

OFFICES AT:

1331 Fremont Ave.
Idaho Falls, Idaho 83402

310 N 2nd East, Suite 153
Rexburg, Idaho 83440

DRAWN BY:	MATT PATZER
APPROVED BY:	KURT ROLAND
PROJECT NO.	21101
SCALE:	1"=300'
DATE:	December, 2022
CAD NAME:	21101 NELSON 5TH EAST_ANNEX MAP 79 ACRES.DWG.dwg

REASONED STATEMENT OF RELEVANT CRITERIA AND STANDARDS

INITIAL ZONING OF R3, MULTIPLE DWELLING RESIDENTIAL WITH APPROACH SURFACE AIRPORT OVERLAY ZONE, AS SHOWN IN THE MAP EXHIBITS, APPROXIMATELY 79.175 ACRES, GENERALLY LOCATED NORTH OF E 49TH N, EAST OF N 5TH E, SOUTH OF E 65TH N, WEST OF N 15TH E.

WHEREAS, the applicant filed an application for annexation on September 16, 2022; and

WHEREAS, this matter came before the Idaho Falls Planning and Zoning Commission during a duly noticed public hearing on November 1, 2022; and

WHEREAS, this matter came before the Idaho Falls City council during a duly noticed public hearing on January 12, 2023; and

WHEREAS, having reviewed the application, including all exhibits entered and having considered the issues presented:

I. RELEVANT CRITERIA AND STANDARDS

1. The City Council considered the request pursuant to City of Idaho Falls Comprehensive Plan, City of Idaho Falls Zoning Ordinance, City of Idaho Falls Subdivision Ordinance, the Local Land Use Planning Act, and other applicable development regulations.
2. The property is approximately 79.716 acres generally located north of E 49th N, east of N 5th E, south of E 65th N, west of N 15th E.
3. The Comprehensive Plan designates this area as Mixed Use Center and Corridor and General Urban.
4. The proposed zoning of R3 is consistent with the Comprehensive Plan map and policies and existing zoning and land uses in the area.
5. Idaho Falls Planning and Zoning Commission recommended approval of zoning the property to R3 and Approach Surface.

II. DECISION

Based on the above Reasoned Statement of Relevant Criteria, the City Council of the City of Idaho Falls approved the initial zoning as presented.

PASSED BY CITY COUNCIL OF THE CITY OF IDAHO FALLS

THIS _____ DAY OF _____, 2023

_____

Rebecca L. Noah Casper - Mayor

Memorandum

File #: 21-761 **City Council Meeting**

FROM: Kerry Beutler, Interim Director
DATE: Tuesday, January 3, 2023
DEPARTMENT: Community Development Services

Subject
Legislative Public Hearing-Part 1 of 2 of the Annexation and Initial Zoning-Annexation Ordinance and Reasoned Statement of Relevant Criteria and Standards for 95.362 acres of the NE ¼ of Section 5 and a portion of Section 4, Township 1 North, Range 38 East and a portion of Section 32 and 33, Township 2 North, Range 38 East.

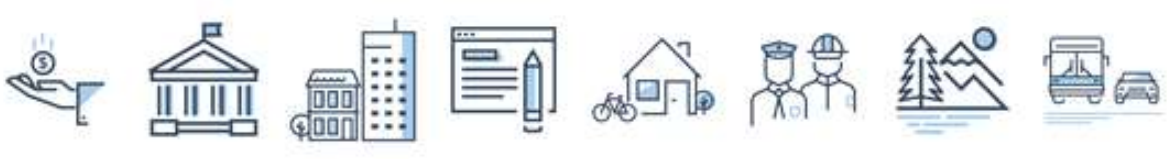
Council Action Desired
☒ Ordinance ☐ Resolution ☒ Public Hearing
☐ Other Action (Approval, Authorization, Ratification, etc.)

1. Approve the Ordinance annexing 95.362 acres of the NE ¼ of Section 5, and a portion of Section 4, Township 1 North, Range 38 East and a portion of Section 32 and 33, Township 2 North, Range 38 East under a suspension of the rules requiring three complete and separate readings and request that it be read by title and published by summary (or consider the Ordinance on the first reading and that it be read by title, reject the Ordinance, or take other action deemed appropriate).

2. Approve the Reasoned Statement of Relevant Criteria and Standards for the annexation of 95.362 acres of the NE ¼ of Section 5, and a portion of Section 4, Township 1 North, Range 38 East and a portion of Section 32 and 33, Township 2 North, Range 38 East and give authorization for the Mayor to execute the necessary documents (or take other action deemed appropriate).

Description, Background Information & Purpose
Attached is part 1 of 2 of the application for Annexation and Initial Zoning of LC Limited Commercial, R3A Residential Mixed Use, R3, Multiple Dwelling Residential, and R2 Mixed Residential Zones which includes the Annexation Ordinance and Reasoned Statement of Relevant Criteria and Standards for 95.362 acres of the NE ¼ of Section 5 and a portion of Section 4, Township 1 North, Range 38 East and a portion of Section 32 and 33, Township 2 North, Range 38 East. The Planning and Zoning Commission considered this item at its August 2, 2022, meeting and voted to recommended approval of the annexation with an initial zoning of LC, R3, and R2 by a vote of 3-1. The Planning Commission's recommendation was to be an approximate of a proposal submitted by the public during the hearing. The applicant has proposed alternative zoning from what was initially submitted in response to the Planning Commission's recommendation which is reflected in the ordinance and exhibits in Part 2 of the memos for this application.

Alignment with City & Department Planning Objectives



☐ ☒ ☒ ☐ ☒ ☐ ☐ ☐

Successful annexation consideration seeks for consistency with the principles of the Comprehensive Plan, including Growth, Sustainability, and Livable Communities.

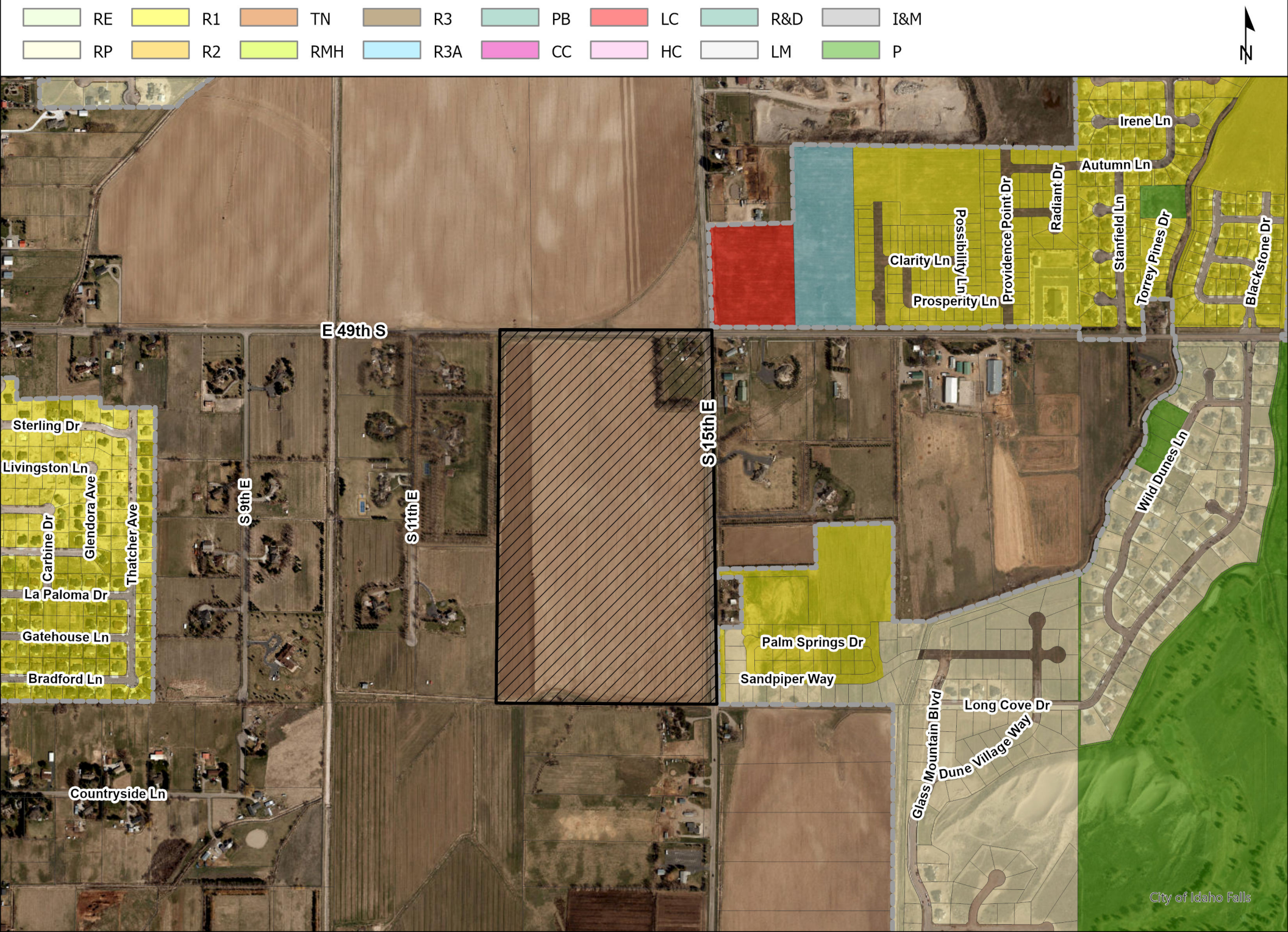
Interdepartmental Coordination
The annexation legal description has been reviewed by the Survey Division.

Fiscal Impact
NA

Legal Review
This application and ordinance have been reviewed by the City Attorney's Office for consistency with state law.

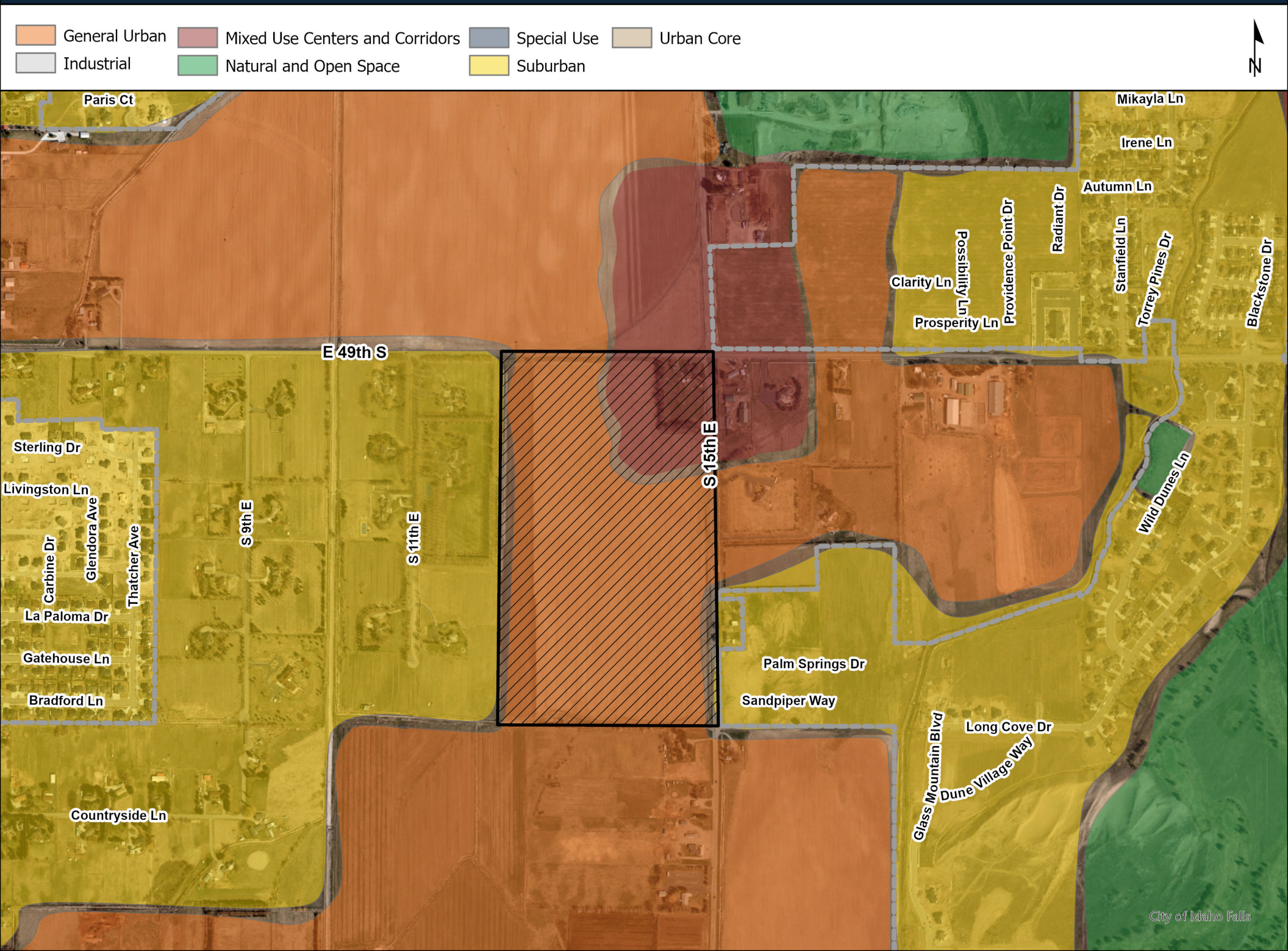
Zoning

ANNX22-011 - Initial Zoning: R3 & LC



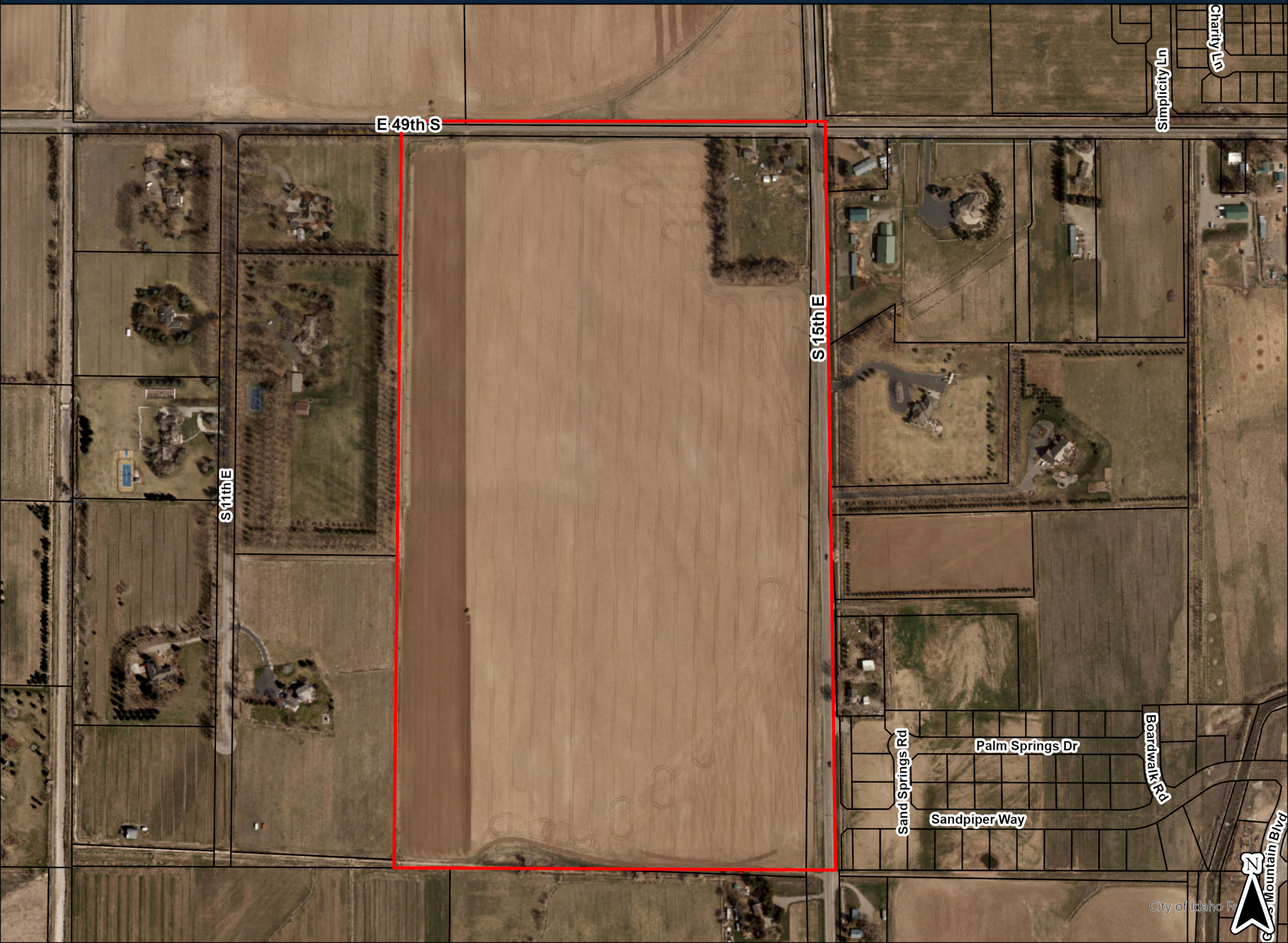
Comprehensive Plan

ANNX22-011 - Initial Zoning: R3 & LC



Aerial

ANNX22-011 - Initial Zoning: R3 & LC



STAFF REPORT

Annexation and Initial Zone: R2, R3, R3A and LC.

Part of Sec 5 T1N R38E

January 12, 2023

IDAHO FALLS

Community Development Services

Applicant:
Eagle Rock Engineering

Project Manager:
Brian J Stevens

Location: Generally North of W65thS, East of the Idaho Canal, South of W49thS, West of S15thE.

Size: Approx. 95.362 acres

Zoning:
Existing: County A-1
North: County A-1
South: County A-1
East: R1& RP, County A-1
West: County A-1

Proposed Zoning:
R2, R3, R3A, & LC

Existing Land Uses:
Site: Residential and Vacant/Agricultural
North: Agricultural
South: Residential Agricultural
East: Residential
West: Residential

Future Land Use Map:
General Urban/ Mixed Use Centers and Corridors

Attachments:
1. Comprehensive Plan Policies
2. Zoning Information
3. Maps and Aerial Photos

Requested Action: To approve of annexation and initial zoning of R2, Mixed Residential Zone, R3, Multiple Dwelling Residential, R3A, Residential Mixed Use Zone, and LC, Limited Commercial, to the Mayor and City Council.

Staff Recommendation: Staff recommends approval of the annexation and initial zoning of R2, R3, R3A, and LC as presented by applicant.

History: From our Aerials dated 1954 this property has been used in the county as residential and agriculture land.

Annexation: This is a category "A" Annexation as it is requested by the property owner. The property is within the Area of Impact and contiguous to the city limits. Annexation of the property is consistent with the City's Comprehensive Plan. City utilities are present in the immediate area to provide services to this property.

Initial Zoning: The applicant is proposing R2, R3, R3A, and LC Zones. These zones are helpful in creating the housing density necessary allow commercial uses to be developed, supportive of missing middle housing and walkable centers. Walkable centers are appropriate to be located in areas on the Comprehensive Plan where you have Mixed Use Centers and Corridors and General Urban Transects come together.

Staff Comments: This area is a mix of larger county residential lots, city single family detached housing, apartments (under construction), a 55 and older community (also under construction), as well as agriculture. 49th South and 15th East run along the parcels North and then East boundary. Both 49th and 15th are Minor Arterials. 49th per the newly mapped Connecting our Communities plan will have a shared use path. 15th is an improved county road section with paved shoulders. 49th is also currently a minimal county road section. Annexation will require 49th and 15th to be developed to city standards as properties develop. The rights-of-way for both 49th and 15th are included in the annexation.

The ImagineIF Comprehensive Plan identifies this area as General Urban and Mixed-Use Centers and Corridors. This area is transitioning with a mix of live, work, and play opportunities. Mixed commercial uses and higher intensity residential uses are compatible within proximity to the intersection of 49th and 15th and will promote walkability and other supportive services for the area. This intersection is recognized as a potential Missing Middle Housing location. It is desirable to have daily services within walking, this allows residents to minimize unnecessary vehicular trips. Development across the intersection has a pattern of LC, then R3A, and R1 which is similar to what is proposed for in the initial zoning.

We see this pattern of development in many areas throughout the city, especially at the intersection of two arterial streets.

We are also seeing the formation of a walkable center at the corner of 65th South and 5th West. This again will allow for daily needs to be obtained while minimizing vehicular traffic which is the number one complaint heard by the general public on a regular basis.

The ImagineIF Comprehensive Plan identifies this area as being within the General Urban transect and Mixed Use Centers and Corridors. This General Urban Transect denotes residential areas with a mix of commercial and service areas convenient to residents. The Mixed-Use Centers and Corridors Transect denotes areas where people tend to shop, eat and gather. These areas include all housing types but generally at a more intense scale than other areas. These areas also include mixed-use buildings, recreation centers and commercial uses. Mixed-Use Centers and corridors may vary in scale from large, regional commercial centers with supportive housing to smaller commercial pockets called walkable centers that support a well-connected, walkable neighborhood.

Currently existing service areas are far away at 17th Street and S Holmes or along S 25th E. The Comprehensive Plan calls out two future mixed used centers at 49th and 15th E and S. Holmes and 65th S. It is favorable for the neighborhood to have services in closer proximity.

To address this issue, many of the action policies of Imagine IF promote housing patterns that bring diversity and fills the middle ground. MMH units such as triplexes, duplexes, bungalow courts and courtyard apartments bring housing that can fulfill the needs of different populations and they can help create more pockets of mixed residential and commercial development, which lessens the community's dependency on cars and instead fosters more walkable and rideable centers for people to live, work and have more direct and easy access to daily services. Many residents, when asked about housing, recognized the need for housing that was more aligned with bringing in diversified housing types to support growth.

Significant portions of the neighborhood are at a low density and typically create higher costs for all city residents associated with future road water sewer, sidewalk replacement and maintenance cost per acre.

Portions of these areas, already within the city, have zoning in place that would allow for future commercial areas that would provide convenient access to daily services. This area also includes existing unannexed residential development on large lots within Bonneville County. These areas are included in the General Urban Transect because of their proximity to major roadways and the potential for the properties to develop or redevelop.

This annexation also neighbors the Suburban transect which denotes existing or planned residential areas in close proximity to or with easy vehicular access to regional commercial service areas that provide daily household needs. These areas contain various housing types, generally including detached and attached single-unit dwellings, accessory dwelling units, duplexes and triplex and fourplex units at a house scale. The General Urban and Suburban Transects both align with the applicants zoning configuration proposed.

The surrounding zones for this property are LC, R3A, R1 and RP and county property largely zoned A-1 or A-2. This area is all within the Area of City Impact and should be anticipated that they might be within the city one day. The housing types (existing and proposed) in this area are varied, including apartments, smaller single unit homes, the typical lot size single unit homes and larger estate residential as well as large county lots.

The Comprehensive Plan supports decreasing the amount of land consumption, reducing minimum lot sizes, and providing for a mix of housing types in areas of high walkability. More compact development better utilizes existing infrastructure. Given the majority of single family detached homes already prevalent in the area this land is a ideal for other housing types.

This parcel is part of the Area 5 neighborhood identified in the Comprehensive Plan. The plan describes Area 5 as being largely homogeneous in terms of housing types with suburban neighborhoods of single family detached housing. Area 5 residents noted the need for more diversified housing and indicated they would like to have more walkable neighborhoods to actual destinations but struggled to see where that might fit within their neighborhood. The General Urban Transect identifies areas where these changes in land use are appropriate. The plan describes the need for every neighborhood to experience change, but not radical change. The addition of an R2,R3, R3A, and LC Zone in this area would represent the incremental change.

Comprehensive Plan Policies:

Challenges to Growth (p.56-58):
The cost of maintaining infrastructure, limited natural resources and overall capacity to provide all City services and utilities are immediate issues facing the Idaho Falls area. These all have related land use implications and various growth patterns have consequences. A city's growth policies can lead to sprawling boundaries with more maintenance and service needs than funds available to meet them, overcrowded areas with too little open space, or some balance between the two.

The consumption of land does not in itself speak at all to the resource commitment in streets, utilities, parks and open space, water, sewer, power and emergency services needed to maintain and service it. The Imagine IF policies recommended in this plan attempt to reverse this trend, especially in light of higher-than average population growth rates for the area. Even prior to the Imagine IF initiative, the City made strides to focus on "infill development" (i.e., utilizing undeveloped lands within the City rather than expanding the city's Boundaries). These efforts are working. From 2010 to 2020, the population grew by 14% while the City's boundaries grew by only 15%, compared to 30% in the previous decade.

Idaho Falls must understand the long-term consequences of its land use decisions. It cannot continue to have policies which are overly favorable to large-lot subdivisions requiring new roads and increased city boundaries instead of more compact development that better utilizes existing infrastructure. Being intentional about growth decisions and cognizant of the financial impacts is a protection against high tax growth and the City's capacity to efficiently and effectively serve its citizens.

Managing Change (p. 58-59):
Although the City needs to rethink how it grows and develops, it must also be cognizant of how change can cause concerns in existing neighborhoods. That is not to say that neighborhoods should never expect to experience changes. Strong Towns, a non-profit planning organization, describes the balance in these terms:
1. No neighborhood can be exempt from change.
2. No neighborhood should experience sudden, radical change.

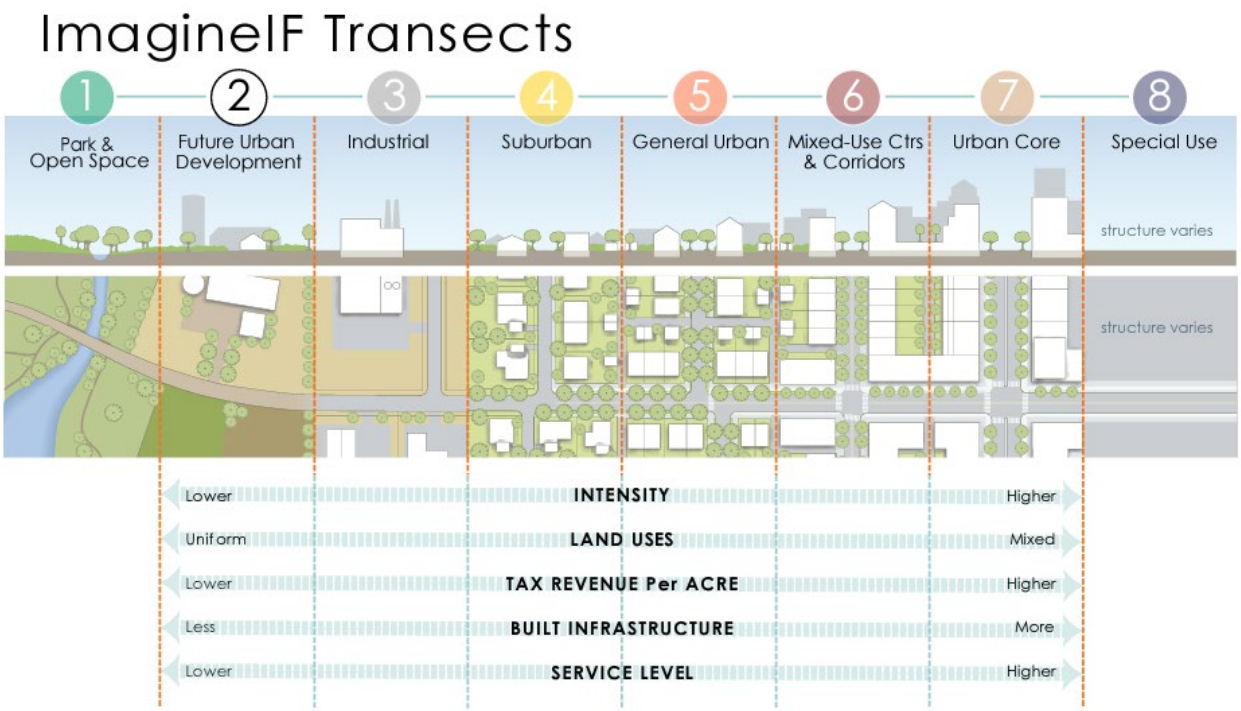
The policies and actions in this plan are intended to strike this balance. In each area and throughout the city, residents also participated in the planning process they recognized the need for improvements and saw the challenges the city is facing. Each neighborhood has its own challenges and opportunities to be part of the solutions.
Degrees of change:
1. Maintain: Smaller, more incremental changes, mostly reinforcing the exiting scale of an area.

2. Evolve: Opportunities for small-to medium-sized public and private investments or projects. Minor changes in scale. Opportunity sites should be targeted.
3. Transform: Opportunities for larger scale changes, such as a significant increase in scale and possible mix of uses. The changes are more likely to be widespread and not on focused sites.

Each of these degrees of change can be found in the Imagine IF plan. Whether it is City-wide code changes, identifying potential walkable centers and redevelopment sites, or thinking about adding benches along pedestrian routes, change is recommended in a variety of ways. The changes are not radical, abrupt changes to Idaho Falls' character. Rather, most are small, incremental changes designed to bring about the vision described by the community during the planning process.

Urban Transects (p.60-61):
Visualizing and Planning for Land Uses and Service Levels Idaho Falls provides a wide variety of services and infrastructure for its residents, property owners and business community. Services such as water, sewer, power, fiber optics, streets, pathways, parks and recreation centers, police, fire, trash removal, library and transit are all examples of amenities provided and funded through the City government. Because land uses, activity levels and service demands vary across the City, not every part of the City has the same access to the same services. To be fiscally responsible, cities allocate such infrastructure according to how fully it is needed and how likely to be used, based on present and potential future land uses. By examining an area's current or anticipated use, it is possible to classify the area's level of need for services. Transect designations are applied to the land use map in broad generalized areas and attempting to capture existing patterns and reflect anticipated development patterns.

It is important to understand what the (Comprehensive Plan Land Use) map is and what it is not. The map is general in nature. It is aspirational and not an exact reflection of what will happen in the future. It is also broad and will not fit every situation that may arise as development occurs. When citizens, developers, planners, elected officials and others are looking to answer, "what is expected to happen here?" the map is an aid, not a blueprint. The map in this plan is also not the same as a zoning map. It does not establish development rights. It does not follow property lines. The map guides zoning and development decisions but does not control them.





5. **General Urban**

Snapshot: The General Urban Transect denotes residential areas with a mix of commercial and service uses convenient to residents. These areas contain a wide variety of housing types, generally including small single-units, duplexes, triplexes, fourplexes, courtyard apartments, bungalow courts, townhouses, multiplexes and live-work units. Lot sizes are smaller and more compact than suburban areas. These areas could also include, parks, schools, churches and commercial services. These areas have highly connective street patterns, similar to the traditional grid-pattern that encourages bicycle and pedestrian usage. These areas should be near an existing or part of a new walkable center.

Local examples: Bonnavista Addition, Johns Height Subdivision, Jennie Lee Addition, Bell-Aire, Linden Park, Linden Trails, Falls Valley



6. **Mixed-Use Centers & Corridors**

Snapshot: The Mixed-Use Centers and Corridors Transect denotes areas where people tend to shop, eat and gather. These areas include all housing types but generally at a more intense scale than other areas. These areas also include mixed-use buildings, recreation centers and commercial uses. Mixed-Use Centers and corridors may vary in scale from large, regional commercial centers with supportive housing to smaller commercial pockets called walkable centers that support a well-connected, walkable neighborhood.

Local examples: Northgate Mile and 1st Street corridors, Intersection of 65th South and 5th West, Intersection of Skyline and Broadway, Snake River Landing

Zoning Ordinance:
11-3-5: PURPOSE OF COMMERCIAL ZONES

R2, Mixed Residential Zone: This zone provides a residential zone characterized by smaller lots and dwellings, more compact and denser residential development; and higher volumes of vehicular and pedestrian traffic than are characteristic of the RE, RP and R1 Zones. The principal uses permitted in the R2 Zone shall be one (1), two (2), three (3), and four (4) dwelling units. This zone is also generally located near limited commercial services that provide daily household needs.

R3 Multiple Dwelling Residential. This zone provides a residential zone which is characterized by a variety of dwelling types with a denser residential environment. This zone is situated along or near major streets such as collectors and arterials. It is also generally located near pedestrian connections and commercial services.

R3A, Residential Mixed Use Zone: To provide for a mix of uses in which the primary use of the land is for residential purposes, but in which office buildings and certain other uses of a semi-commercial nature may be located. Characteristic of this Zone is a greater amount of automobile traffic, greater density, and a wider variety of dwelling types and uses than is characteristic of the R3 Residential Zone. While office buildings and certain other uses of a semi-commercial nature may be located in the Zone, the R3A Zone is essentially residential in character. Therefore, all uses must be developed and maintained in harmony with residential uses. This zone should be located along major streets such as arterials and collectors

11-2-3: ALLOWED USES IN RESIDENTIAL ZONES.

Table 11-2-1: Allowed Uses in Residential Zones

P = permitted use. C1 = administrative conditional use. C2 = Board of Adjustment conditional use. C3 = City Council conditional use. A blank denotes a use that is not allowed in that zone.

*Indicates uses that are subject to specific land use provisions set forth in the Standards for Allowed Land Uses Section of this Chapter.

	Low Density Residential			Medium Density Residential			High Density Residential	
Proposed Land Use Classification	**RE**	**RP**	**R1**	**R2**	**TN**	**RMH**	**R3**	**R3A**
Accessory Use	P	P	P	P	P	P	P	P
Agriculture*	P							
Animal Care Clinic*					P*			P
Artist Studio					P*			
Bed and Breakfast*								P
Boarding /Rooming House							P	P
Day Care, Center*			C_2	P	P		P	P
Day Care, Group*	C_1		C_1	P	P	C_1	P	P
Day Care, Home	C_1		C_1	P	P	C_1	P	P
Dwelling, Accessory Unit*	P	P	P	P	P	P	P	P
Dwelling, Multi-Unit*				P*	P		P	P
Dwelling, Multi-Unit Attached*				P	P		P	P
Dwelling, Single Unit Attached*			P	P	P	P	P	P
Dwelling, Single Unit Detached	P	P	P	P	P	P	P	P
Dwelling, Two Unit				P	P		P	P
Eating Establishment, Limited					P*			P
Financial Institutions					P*			P
Food Processing, Small Scale					P*			
Food Store					P*			
Fuel Station					P*			
Health Care and Social Services					P*			P
Home Occupation*	C_1		C_1	C_1	C_1	C_1	C_1	C_1
Information Technology								P
Laundry and Dry Cleaning					P*			P
Live-Work*					C_1			P
Manufactured Home*	P	P	P	P	P	P	P	P
Mobile Home Park*						P		C_2
Mortuary								P
Park and Recreation Facility*	P	P	P	P	P	P	P	P
Parking Facility								P
Personal Service					P*			P
Planned Unit Development*	C_3	C_3	C_3	C_3	C_3	C_3	C_3	C_3
Professional Service								P
Public Service Facility*	C_2	C_2	C_2	C_2	C_2	C_2	C_2	C_2
Public Service Facility, Limited	P	P	P	P	P	P	P	P
Public Service Use								P

Proposed Land Use Classification	RE	RP	R1	R2	TN	RMH	R3	R3A
Recreational Vehicle Park*						P		
Religious Institution*	C_2	C_2	C_2	C_2	C_2	C_2	C_2	C_2
Residential Care Facility							P	P
Retail					P*			C_2
School	C_2	C_2	C_2	C_2	C_2	C_2	C_2	C_2
Short Term Rental*	P	P	P	P	P	P	P	P
Transit Station								P

(Ord. 3218, 9-13-18) (Ord. 3358, 12-10-20) (Ord. 3451, 3-31-22) (Ord. 3458, 4-14-22)

11-3-4: DIMENSIONAL STANDARDS FOR RESIDENTIAL ZONES.

Table 11-3-1: Standards for Residential Zones

	RE	RP	R1	R2	TN	R3	R3A	RMH
Lot Area								
Lot Area Minimum in ft^2	1 acre*	12,000	7,000	6,000*	3,000*	5,000*	5,000	3,000
Lot Area Maximum in ft^2			13,500*					
Site Width								
Site Width at Front Setback, Minimum in ft.	150	60	50	50	25	50	50	25
Setbacks, Minimum in ft.								
Front	40	30*	25*	20*	15*	15	15	15
Front Maximum in ft.					20*			
Side	20	7.5/10*	6	6	5	6	6	5
Rear	40	25	25	25	10	25*	25*	10
Lot Coverage, Building Height, and Density								
Maximum Lot Coverage in %	30	40	40	80	50	80	80	50
Maximum Building Height in ft*	24	24	24	36	*			24
Maximum Density in net units/acre	1	4	6	17	15	35	35	35
*See explanations, exceptions and qualifications in Section 11-3-4A,B,C of this Zoning Code.								

(Ord. 3218, 9-13-18)(Ord. 3310, 6-18-20) (Ord. 3452, 3-31-22)

(A) Minimum and Maximum Lot Area.

(1) In the R1 Zone, the maximum lot size shall be thirteen thousand five hundred square feet (13,500 ft^2), except for corner lots, wedge-shaped lots in cul-de-sacs, or other unusual shaped lots. This shall also not apply to conditional uses such as schools and religious institutions.

(2) In the R2 zone, seven hundred and fifty square feet (750 ft^2) shall be added to the minimum required area for each additional dwelling unit.

(3) In the TN Zone, the maximum average lot area for subdivisions approved after the adoption of this Code, April 12, 2018, shall be six thousand two hundred and fifty square feet (6,250 ft^2) in order to encourage a mix of lot sizes and dwelling types. (Ord. 3210, 8-23-18)

LC Limited Commercial Zone. This zone provides a commercial zone for retail and service uses which supply the daily household needs of the City's residents. This Zone is usually located on major streets contiguous to residential uses. This zone is characterized by smaller scale commercial uses which are easily accessible by pedestrians and non-motorized vehicles from the surrounding residential neighborhoods, although larger scale developments such as big-box stores may still serve as anchors. Connectivity is provided with walkways that provide access to and through the development site. Parking for vehicles is understated by the use of landscaping, location, and provision of pedestrian walkways to the businesses.

11-2-4: ALLOWED USES IN COMMERCIAL ZONES.

Table 11-2-2: Allowed Uses in Commercial Zones

P = permitted use. C1 = administrative conditional use. C2 = Board of Adjustment conditional use. C3 = City Council conditional use. A blank denotes a use that is not allowed in that zone.

*Indicates uses that are subject to specific land use provisions set forth in the Standards for Allowed Land Uses Section of this Chapter.

	Commercial				
Proposed Land Use Classification	**PB**	**CC**	**LC**	**HC**	**PT**
Accessory Use	P	P	P	P	P
Accessory Use, Fuel Station*		P	P	P	
Accessory Use, Storage Yard*		P	P	P	
Amusement Center, Indoor		P	P	P	
Amusement Center, Indoor Shooting Range*		P	P	P	
Amusement Center, Outdoor*				P	
Animal Care Clinic*	P	P	P	P	
Animal Care Facility*				P	
Bed and Breakfast*		P	P		P
Boarding /Rooming House		P	P		P
Building Material, Garden and Farm Supplies			P	P	
Cemetery*		C_2	C_2	C_2	
Club*		P	P	P	
Communication Facility		P	P	P	
Day Care, all Types*	P	P	P	P	P
Drinking Establishment		P		P	
Drive-through Establishment *	P*	P	P	P	P
Dwelling, Accessory Unit *		P	P	P	P
Dwelling, Multi-Unit*		P	P		P
Dwelling, Multi-Unit Attached*		P	P		P
Dwelling, Single Unit Atached*			P		
Dwelling, Single Unit Detached			P		
Dwelling, Two Unit			P		P
Eating Establishment		P	P	P	P
Eating Establishment, Limited	P	P	P	P	P

Proposed Land Use Classification	PB	CC	LC	HC	PT
Financial Institutions	P	P	P	P	P
Entertainment and Cultural Facilities	P	P	P	P	P
Equipment Sales, Rental and Services			P	P	
Food Processing, Small Scale				P	
Food Store		P	P	P	P
Health Care and Social Services	P	P	P	P	P
Higher Education Center		P	P	P	P
Home Occupation*	P	P	P	P	P
Hospital*	C_2	C_2	C_2	C_2	C_2
Industry, Craftsman	P	P	P	P	
Industry, Light		P		P	
Information Technology	P	P	P	P	P
Laundry and Dry Cleaning		P			P
Live-Work*	C_2	P	P	P	P
Lodging Facility		P	P	P	P
Mortuary				P	P
Parking Facility		P	P	P	P
Pawn Shop		P			
Personal Service	P	P	P	P	P
Professional Service	P	P	P	P	P
Planned Unit Development*		C_3	C_3		C_3
Public Service Facility*	C_2	C_2	C_2	C_2	C_2
Public Service Facility, Limited	P	P	P	P	P
Public Service Use	P	P	P	P	P
Recreation Vehicle Park*				P	
Religious Institution*		P	P	P	P
Residential Care Facility	P	P	P	P	P
Retail		P	P	P	P
School		P	P	P	P
Short Term Rental*		P	P		P
Fuel Station		P	P	P	
Fuel Station, Super		C_2	P	P	
Storage Facility, Indoor		P	P	P	P
Storage Facility, Outdoor				P	
Storage Yard*				P	
Transit Station		P	P	P	P
Vehicle Body Shop				P	
Vehicle Repair and Service		P	P	P	
Vehicle Sales, Rental and Service		P		P	
Vehicle Washing Facility		C_2	C_2	P	

(Ord. 3210, 8-23-18) (Ord. 3218, 9-13-18) (Ord. 3233, 12-20-18) (Ord 3277, 10-10-19) (Ord. 3358, 12-10-20) (Ord. 3451, 3-31-22)

Table 11-3-5: Dimensional Standards for Commercial Zones

	CC	PB	LC	HC
Site width at front setback - Minimum in ft.		50	*	50
Setbacks – Minimum in ft.				
Front		20	20*	20
Side			*	
Rear			*	
Landscape buffer contiguous to street* in ft.	7*	15	20*	20*
Landscape buffer contiguous to a residential Zones* in ft.	10	10	20/10	30/10
Building height – Maximum in ft.		*	*	
Lot Coverage- Maximum in %		80	80	
*See explanations, exceptions and qualifications that follow in Section 11-3-6A (1-3) of this Zoning Code.				

(Ord. 3233, 12-20-18) (Ord. 3277, 10-10-19)

(1) In the LC Zone, structures may encroach into the twenty foot (20') setback up to ten feet (10') when designed with a pedestrian walkway a minimum of five feet (5') in width connecting the public sidewalk to the structure's entrance. Parking is not permitted to encroach into the twenty foot (20') setback.

(2) In the HC Zone, display space may encroach into the landscape buffer contiguous to the street. Such encroachments may not exceed twenty five percent (25%) of the linear frontage contiguous to the street.

(3) In the CC Zone, the landscape buffer contiguous to a street may be reduced or removed where a building is located within the required landscape buffer, as determined by the Zoning Administrator.

(4) When a multi-unit dwelling or commercial use is developed on a property that adjoins a property zoned RE, RP, R1, R2, TN, or unicorporated land designated for Low Density Residential in the City's Comprehensive Plan and the height of the building is over twenty-four feet (24'), every

PARSONS BEHLE & LATIMER

350 Memorial Drive, Suite 300
Idaho Falls, Idaho 83402
Main 208.522.6700
Fax 208.522.5111

A Professional
Law Corporation

Paul S. Evans
Attorney at Law
Direct 208.528.5251
pevans@parsonsbehle.com

September 23, 2022

VIA EMAIL

Brian Stevens
City of Idaho Falls Planner
680 Park Avenue
Idaho Falls, ID 83405
Email: bstevens@idahofalls.gov

RE: Protest of Annexation and Initial Zoning

Dear Mr. Stevens,

Our firm has been retained by a property owner living in close proximity to the proposed annexation and initial zoning of R3, Multiple Dwelling Residential and LC, Limited Commercial by Eagle Rock Engineering on the property located generally north of W 65th S, East of the Idaho Canal, South of W 49th S, and West of S 15th E of approximately 89 acres in size. Our client is opposed to the proposed annexation and initial zoning as it is currently being presented, because there is no infrastructure (e.g., sidewalks, adequate roadways, intersections, etc.) in place to support connecting the above-referenced property to other existing City of Idaho Falls properties currently zoned LC. The roads and intersection along the above-referenced property (49th South and 15th East) are woefully inadequate to accommodate the proposed initial zoning. Multiple fatalities have already occurred at this intersection. Further fatalities will likely result without a robust change to the intersection and roadways due to the added traffic congestion of the proposed development on top of a high school activities complex soon to be completed in the area. Our client believes his concerns represent the opinions of a number of property owners living in close proximity to the referenced property.

With regard to applications for annexation and initial zoning, the City Council is acting in a legislative capacity and thus has broad discretion. At a minimum, our client strongly requests that the City of Idaho Falls delay approval of this annexation until such time as there is an established robust plan agreed to by the developer that addresses the above-referenced critical infrastructure needs. In addition, such a plan would likely require the annexation of county roadways adjacent to said properties by the City. It is strongly requested that any approvals of this proposed project be delayed until such time as the City has control of these roadways and can exert appropriate oversight and influence on the proper development of the needed infrastructure improvements.

Further, our client also requests that serious consideration be given to modifying the proposed annexation to require that significant portions of the acreage be zoned R1, thereby following the pattern of other successful nearby developments, such as Belmont Estates, that have been zoned R1 with LC, limited commercial. This approach is more consistent with the City's stated goal of gradual transitions of contiguous properties, given that Belmonth Estates and properties on 49th South, 9th East and 11th East are all zoned R1, some with significant improved acreages.

Finally, please be advised that our client is also in contact with Bonneville County officials and has requested that no access rights of any kind to county roads be granted for the proposed annexation site until such time as all of the expressed infrastructure needs have been adequately addressed and guaranteed.

We ask that this letter be made part of the official record in opposition to the proposed annexation and initial zoning application.

If you have any questions, please feel free to call me at (208) 528-5251.

Sincerely,

PARSONS BEHLE & LATIMER

Paul S. Evans
Attorney At Law

cc: Mayor Casper and City Council Members

August 2, 2022 7:00 p.m. Planning Department

City Annex Building

MEMBERS PRESENT: Commissioners Joanne Denney, Glen Ogden, Margaret Wimborne, George Morrison, Arnold Cantu.

MEMBERS ABSENT: Brent Dixon, Kristi Brower, Lindsey Romankiw.

ALSO PRESENT: Assistant Planning Director Kerry Beutler; planner Caitlin Long, Naysha Foster, Brian Stevens, Assistant City Attorney Michael Kirkham, Esq. and interested citizens.

CALL TO ORDER: Joanne Denney called the meeting to order at 7:00 p.m.

CHANGES TO AGENDA: None.

MINUTES: Ogden moved to accept the minutes of July 5, 2022, Morrison seconded the motion and the motion passed unanimously.

Public Hearing(s):

1. ANNX 22-011: ANNEXATION/INITIAL ZONING. Annexation of 89 acres with an initial zoning of R3, and LC.

Denney opened the public hearing.

Applicant: Kurt Rolland, 1331 Fremont, Idaho Falls, Idaho. Rolland is asking to annex 89 acres on the southwest corner of 15th East and 49th South. Rolland asked for the initial zoning of 59.14 acres of LC and 35.50 acres of R3. Rolland stated that the Comprehensive Plan suggests that R3 and LC would go in this area for general urban and mixed-use centers.

Stevens presented the staff report a part of the record.

Wimborne asked about the 55 and older development and asked about the nature of the housing. Stevens stated that it is a PUD, and he does not have the numbers for the housing. Stevens indicated there are duplex, row homes, club house. Wimborne asked about the development on Palm Springs Drive and Sandpiper Way. Stevens indicated that the development is single family detached.

Ogden asked about the right of way on and the development of 49th and 15th to be developed to City Standards. Stevens stated that they would have to look at the BMPO. Stevens stated that S 15th E will be improved on the side of the development with likely a turn bay, travel lane, curb and gutter and sidewalk and or a separated path, and 49th will have the same with a separated path. Ogden asked if the property to the north doesn't develop at the same time, then how will it develop. Ogden asked at what time does the City require the road improvements. Stevens stated that the City requires the developer to improve their side of the road at the time of development, or sometimes they pay in lieu, and they will develop both sides of the road when the other side develops.

Beutler stated that generally minor arterial right of ways are 100' so there would be dedication of additional right of way and the specifics with design would be worked out during the planning stage and this property would need a preliminary plat and final plat. Ogden asked how quickly the development on the roads occurs and that is his concern as 49th is already busy as an

alternative to Sunnyside. Beutler stated that an annexation request is should it be in the City boundaries, and is the zoning appropriate for the area, and decisions for right of way and improvements are planning decisions and they will be discussed at the subdivision phase.

Support/Opposition

Matt Trainer, 5203 S 11th E, Idaho Falls, Idaho. Trainer lives on 11th East which is a street adjacent to the area proposed for annexation. Trainer stated that annexation will happen, and he has remarks regarding the zoning. Trainer stated that the zoning is not congruent with the Comprehensive Plan. Trainer stated that the impact on the traffic as 49th is already busy on the intersections and there have been fatalities on the intersections and there are plans for a new high school in the area, and that will increase the traffic significantly. Trainer feels that commercial and higher density housing will increase the traffic load in that area. Trainer stated the minor arterials are different between St. Clair and 49th so they both have the 100' right of way, but the minor arterial for 15th has 2 lanes in each direction with a central turning lane, and 49th would have a bicycle pedestrian minor arterial which is different, and it would have one lane in each direction and a turn lane in between. Trainer stated that adding that much commercial on Township will create problematic increases of the traffic on 49th in addition to what is already anticipated with the school and the growth in the area. Trainer stated that the Comprehensive Plan states that no neighborhood should experience sudden radical change, and the staff report states that the development kiddie corner has a pattern of LC, R3 and R3A that is slightly more intense, but similar to what is proposed in this initial zoning. Trainer did a craft project showing the proposal and the surrounding zones. Trainer feels that the proposal is dramatically more intense than the surrounding development and does not represent a transition which is discussed in the Comprehensive Plan. Trainer offered a suggestion of instead of having all the LC and R3, he proposed a transition with LC on the corner which is consistent with the Comprehensive Plan and then R3 behind the LC which would have access off 15th which has 5 lanes, rather than having the greater impact on 49th and then having a transition of R1/R2 in the area that was shown as R3. (Trainer's craft project was submitted as part of the record.)

James Kennert 4977 S. 11th E, Idaho Falls, Idaho. Kennert showed where his home and stated that there are 14 homes in the 80 acres adjacent to the proposed project. Kennert stated that the properties are between 5 and 15 acres per home. Kennert stated that those 14 homes to have multi-family housing and commercial in their backyard is terrible, and not according to the master plan and is not a gradual change. Kennert stated that a gradual change would be something like Sunterra on the west of Holmes with large homes and Belmont on east of Holmes has smaller homes, and that is a gradual change. Kennert stated that instant multi-family housing in the backyard of people with homes that are tax accessed between $0.5 million and $1 million is criminal and should not be considered and not allowed. Kennert stated that commercial in that area would be tragic.

Robert Hill, 5106 S. 11th E, Idaho Falls, Idaho. Hill feels the critical part is whether the proposal is compatible with surrounding zones and land use. Hill feels that the proposal is not compatible with the large acreages surrounding it. Hill stated that no neighborhood can be exempt from change, but no neighborhood should experience sudden radical change. Hill built 26 years ago, and they expected the City to come to meet them, and it has done that and that is reasonable, but the sudden change from large acreages to possibly up to 35 units per acre in the high-density housing.

Michael Denner, 5428 S. 11th E, Idaho Falls, Idaho. Denner echoed his neighbors about the difficulty with the proposal. Denner pointed out that the wall of vegetation that exists between the large lots and the proposed development are almost all deciduous trees so in December there would be no wall of vegetation. Denner would like the developer to put up a privacy wall between the development and the current subdivision. Denner asked what the implications for his subdivision of the high-density development in terms of the use of individual septic systems as each of the homes on S. 11th East have septic systems and he is worried about regulations endangering those uses. Denner stated that the neighbors in his development are not desirous of annexation.

Ann Trainer, 5203 S. 11th E, Idaho Falls, Idaho. Trainer emphasized that there are street issues. Trainer stated that she has been told that 49th is designed to be a more minor road than 65th and Sunnyside. Trainer stated that this development really makes that a difficult proposition with a high school and multiple commercial developments and multi-family units all going out to a road that is designated to be less of a major artery, then you are going against the planning and that will be a major headache for people involved in the high school, plus the neighborhood residents. Trainer stated that the proposal because of the large commercial and dense housing indications would make it a traffic impossibility. Trainer suggested annexing the property with a less dense zone and avoid/lessen the issues and allow for the higher density and commercial development to go further down on 65th which is designated to be a more major road. Trainer stated that if they allow this to go on 49th, it will delay the proposals on 65th and she feels that they should stick to the plan and allow development on 65th and stick to the plan on 49th. Trainer stated that 11th Street and 9th Street do not have people inclined to parcel up their land and sell it so it will become more like Belmont Estates, and it will stay as an Estate type street, and it makes it not logical to put dense housing next to it. Trainer stated that the Comprehensive Plan allows for a transition.

Marissa Bentley, 5529 S. 11th E, Idaho Falls, Idaho. Bentley stated that her house has no tree barriers. Bentley stated that she has a lot of issues that the traffic that will be coming, and part of the planning was to avoid traffic. Bentley stated that there have been fatalities on 49th and 15th. Bentley asked if there is going to be a traffic light. Bentley echoed her neighbors' feelings of an abrupt change versus a gradual change. Bentley is for development. Bentley stated that they have an opportunity to showcase what Idaho Falls has to offer and consider some of the beautifications of what makes Idaho Falls special and not cram so many buildings.

Annette Jones, 654 E 49th S, Idaho Falls, Idaho. Jones just purchased her home 4 months ago. Jones is concerned that as smaller properties move closer and annexation for larger properties would make sense and it makes it unaffordable to own that much land in the City if the City annexes their property. Jones has a neighbor on 49th across from Taylorview and the properties that were built back there was annexed and the City was not able to provide utilities for one of the homes in that annexation, so that home pays City taxes, but does have City utilities. Jones stated that the idea of smaller homes encroaching on County properties is a concern as it would be very expensive to pay taxes on her land in the City. Jones would like a gradual transition with larger properties to protect their property.

Applicant: Kurt Rolland, 1331 Fremont, Idaho Falls, Idaho. Rolland stated that his firm did Providence point that is the 55 and older complex and they have done a traffic study for that intersection and there is a signal light planned eventually in the near future. Rolland stated that

the property is in the area of impact for the City. Rolland stated that the intersections of major arterials is the best place for planning for LC and that is what they are proposing. Rolland stated that the City cannot force annex County residents into the City.

Wimborne asked if Rolland had a more specific timeline on the "near future" of the stop light. Rolland does not, but stated that it is when development warrants it, and with this proposed development and with Providence Point and a school coming it would be soon. Wimborne asked staff if they had any clarification. Beutler stated that streetlights will be installed when warranted and there are specific milestones that have to be met for safety and design issues. Beutler stated that part of the challenge is you have a mixed jurisdiction right of way with portions in the County and portions in the City. Beutler stated that Providence Point did, as part of their traffic study and development agreement, they participated in a future light which will be a similar situation for this parcel and this parcel will be required to do studies as they develop and that would help to determine when the light would occur, but there is not a fixed time frame. Wimborne asked if with the most recent traffic study are they getting closer to the milestones that need to be met. Beutler stated that each development will bring you closer, and a lot will depend on what develops in this proposed property, and it is a question for the development time.

Denney closed the public hearing.

Ogden asked about the options tonight, being approve or deny the proposal as submitted, and if it is denied, is there an opportunity to give recommendations to the property owner, or is it only approve and deny. Kirkham stated that the question before the commission is 2-fold, with the first being is this area appropriate to be governed by the City and annexed into the City (annexation); and the second question is what is the appropriate zone for the property to be applied under the City's Zoning Ordinance. Kirkham stated that they should remember this is a recommendation to the City Council so if you recommend tonight to no to either question, or you recommend a different zone than what is proposed and requested, you need to explain why you that is your recommendation. Kirkham stated that the zone question should be guided by the adopted Comprehensive Plan that the City has developed with the public's input. Kirkham stated that the Commission is required by the Local Land Use Planning Act to take that into consideration as your primary guiding light on the appropriate zoning for the property.

Ogden stated that as he was reviewing the packet and looking at the parcels, he felt that this would stick out like a sore thumb to have high density in this are compared to what is currently in the area. Ogden stated that the yellow portion to the west isn't what would be considered R1 and so he feels that the proposal as presented would not fit the area and would need to be reconsidered for some additional gradual development up to the commercial. Ogden is in agreement with the annexation and the commercial and higher density, but it needs more of a gradual transition.

Morrison thanked the public for coming out to speak. Morrison stated that there is a need for more commercial and mixed housing on the south part of town. Morrison stated that roads are always 20 years behind and that is a moot point. Morrison stated that he agrees that the transition is needed. Morrison thinks this parcel could be broken into more defined areas of commercial and R3, so it is more obvious to the people how large the commercial zone would be. Morrison asked staff about the septic system question that was asked by public. Kirkham stated that whether or not you can have a septic system is governed by the Idaho Department of Environment Quality and if there is a sewer system that is developed nearby that a property

owner can reasonably connect to, they will be required to connect if they ever choose to redevelop their property, but it doesn't require a person to change from septic to sewer immediately. Kirkham stated that homes annexed into the City can maintain their own septic, unless they decide to tear down their home and build something else. Beutler stated that the health department requires someone to have a replacement drain field on their own property, so if they have issues, they should already have an established replacement area. Morrison stated that his inclination is to vote against this proposal, and he'd like to see some more definitive break down on the property as far as each zone goes.

Wimborne agrees that it makes sense to annex the property into the City. Wimborne is concerned about the transition and feels that a part of the zoning make sense in the area, but she is concerned about the amount of property that is being proposed as LC. Wimborne would be more comfortable with something similar to what is kiddie corner to the development that was recently approved. Wimborne feels that it allows for mixed use development and allows for some commercial development. Wimborne stated that the comprehensive plan has always provided for commercial nodes on major intersections and 49th and 15th is a major intersection. Wimborne stated that she feels that 2/3 or ¾ of the property is LC and that is too much and there is not enough transition. Wimborne feels the spirit is congruent with the Comprehensive Plan, but she wants to provide for the transition and the development kiddie corner does that transition.

There was discussion about how to state the motion with the approval of annexation and denial of the proposed zoning. Ogden stated that Trainer has done a good job of creating a proposal and as that is entered into the public record, can that be used as a guideline for the motion.

Ogden moved to recommend to the Mayor and City Council approval of the annexation of 89 Acres for part of Sec 5, T 1N, R38 E as proposed, with initial zoning approximate to what was introduced into the record by Mathew Trainer with R2 along the western side, LC in the northeast corner and R3 along S 15th E, Wimborne seconded the motion. Denney called for roll call vote: Morrison, no; Wimborne, yes; Ogden, yes; Cantu, yes. The motion passed 3-1.

Morrison voted against the motion because he doesn't feel it is defined good enough in the motion and he wants the developer to address what he has in mind. Morrison agrees with the comments by Wimborne of being a large chunk of LC.

St Clair

Farm

LC

R3A

49MS

Rural Estate

LC

R1/R2

R3

Rural Estate

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; PROVIDING FOR THE ANNEXATION OF APPROXIMATELY 95.362 ACRES DESCRIBED IN EXHIBIT A OF THIS ORDINANCE, AMENDING THE LEGAL DESCRIPTION OF THE CITY WITH THE APPROPRIATE COUNTY AND STATE AUTHORITIES; AND PROVIDING SEVERABILITY, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.

WHEREAS, the lands described in Exhibit A of this Ordinance are contiguous and adjacent to the City limits of the City of Idaho Falls, Idaho; and

WHEREAS, such lands described herein are subject to annexation to the City pursuant to the provisions of Idaho Code Section 50-222, and other laws, as amended; and

WHEREAS, the annexation of the lands described in Exhibit A is reasonably necessary to assure the orderly development of the City in order to allow efficient and economically viable provision of tax-supported and fee-supported municipal services; to enable the orderly development of private lands which benefit from a cost-effective availability of City services in urbanizing areas; and to equitably allocate the costs of City/public services in management of development on the City's urban fringe; and

WHEREAS, the City has authority to annex lands into the City pursuant to procedures of Idaho Code Section 50-222, as amended; and

WHEREAS, any portion of a highway lying wholly or partially within the lands to be annexed are included in the lands annexed by this Ordinance; and

WHEREAS, the lands annexed by this Ordinance are not connected to the City only by a "shoestring" or a strip of land which comprises a railroad or right-of-way; and

WHEREAS, all private landowners have consented to annexation of such lands, where necessary; and

WHEREAS, City of Idaho Falls Comprehensive Plan includes the area of annexation; and

WHEREAS, after considering the written and oral comments of property owners whose lands would be annexed and other affected persons, City Council specifically makes the following findings:

1) That the lands annexed meet the applicable requirements of Idaho Code Section 50-222 and do not fall within exceptions or conditional exceptions contained in Idaho Code Section 50-222;

2) The annexation is consistent with public purposes addressed in annexation and related plans prepared by the City; and

3) Annexation of the lands described in Section 1 are reasonably necessary for the orderly development of the City; and

WHEREAS, it appears to the Council that the lands described herein below in Exhibit A of this Ordinance should be annexed to and become a part of the City of Idaho Falls, Idaho; and

WHEREAS, the City wishes to exercise jurisdiction over the annexed lands in a way that promotes the orderly development of such lands; and

WHEREAS, the City of Idaho Falls Comprehensive Plan sets out policies and strategies designed to promote and sustain future growth within the City; and

WHEREAS, such designation is consistent with policies and principles contained within the City of Idaho Falls Comprehensive Plan; and

WHEREAS, the City desires the City of Idaho Falls Comprehensive Plan Map to be amended to reflect the designation contained in this Ordinance.

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

SECTION 1. Annexation of Property. The lands described in Exhibit A are hereby annexed to the City of Idaho Falls, Idaho.

SECTION 2. Amended Map and Legal Description. The City Clerk shall file a certified copy of this Ordinance with the Bonneville County Auditor, Treasurer, and Assessor, within ten (10) days after the effective date hereof. The City Engineer shall, within ten (10) days after such effective date, file an amended legal description and map of the City, with the Bonneville County Recorder and Assessor and the Idaho State Tax Commission, all in accordance with Idaho Code Section 63-2215.

SECTION 3. Findings. The findings contained in the recitals of this Ordinance be, and the same are hereby adopted as the official City Council findings for this Ordinance, and any further findings relative to this Ordinance shall be contained in the officially adopted Council minutes of the meeting in which this Ordinance was passed.

SECTION 4. Savings and Severability Clause. The provisions and parts of this Ordinance are intended to be severable. If any section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

SECTION 5. Publication. This Ordinance, or a summary thereof in compliance with Idaho Code, shall be published once in the official newspaper of the City, and shall take effect immediately upon its passage, approval, and publication.

SECTION 6. Effective Date. This Ordinance shall be in full force and effect from and after its passage, approval and publication.

PASSED BY THE COUNCIL AND APPROVED BY THE MAYOR this_____day of _____, 2023.

_____
Rebecca L. Noah Casper, Mayor

ATTEST:

_____
Corrin Wilde, City Clerk

(SEAL)

STATE OF IDAHO)
: ss.
County of Bonneville)

I, CORRIN WILDE, CITY CLERK OF THE CITY OF IDAHO FALLS, IDAHO, DO HEREBY CERTIFY:

That the above and foregoing is a full, true and correct copy of the Ordinance entitled: "AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; PROVIDING FOR THE ANNEXATION OF APPROXIMATELY 95.362 ACRES DESCRIBED IN EXHIBIT A OF THIS ORDINANCE, AMENDING THE LEGAL DESCRIPTION OF THE CITY WITH THE APPROPRIATE COUNTY AND STATE AUTHORITIES; AND PROVIDING SEVERABILITY, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE."

_____
Corrin Wilde, City Clerk

(SEAL)

EXHIBIT "A"

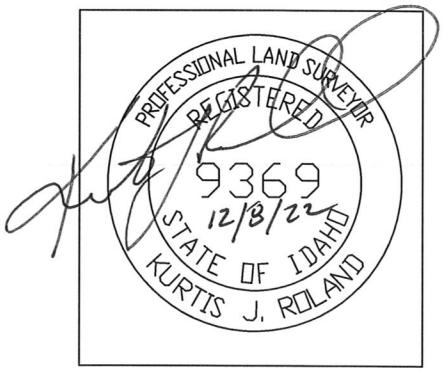
LEGAL DESCRIPTION (Page 1 of 1)

BEGINNING AT A POINT THAT IS S.89°49'47"E. ALONG THE SECTION LINE 30.89 FEET FROM THE NORTHEAST CORNER OF SECTION 5, TOWNSHIP 1 NORTH, RANGE 38 EAST OF THE BOISE MERIDIAN, SAID POINT BEING ON THE NORTH LINE OF SECTION 4 OF SAID TOWNSHIP 1 NORTH, RANGE 38 EAST OF THE BOISE MERIDIAN, SAID POINT ALSO BEING ON THE EAST RIGHT-OF-WAY LINE OF 15TH EAST; RUNNING THENCE INTO SAID SECTION 4 ALONG SAID EAST RIGHT-OF-WAY LINE OF 15TH EAST THE FOLLOWING THREE (3) COURSES: (1) THENCE S.02°07'42"E. 405.27 FEET; (2) THENCE S.00°46'06"E. 2239.38 FEET TO THE SOUTHWEST CORNER OF CITY OF IDAHO FALLS ANNEXATION ORDINANCE NUMBER 3363; (3) THENCE N.89°50'15"W. 78.10 FEET TO THE EAST 1/4 CORNER OF SAID SECTION 5; THENCE INTO SAID SECTION 5 THE FOLLOWING FOUR (4) COURSES: (1) THENCE N.89°43'04"W. ALONG THE EAST-WEST CENTER SECTION LINE OF SAID SECTION 5 A DISTANCE OF 1492.82 FEET; (2) THENCE N.00°07'35"E. 1574.82 FEET TO THE EAST BOUNDARY LINE OF M2 S2 ESTATES, BONNEVILLE COUNTY, IDAHO; (3) THENCE N.00°36'30"E. ALONG SAID EAST BOUNDARY LINE 1030.93 FEET TO THE NORTHEAST CORNER OF LOT 1, BLOCK 2 OF SAID M2 S2 ESTATES; (4) THENCE N.00°35'58"E. ALONG SAID EAST BOUNDARY LINE OF SAID M2 S2 ESTATES 40.15 FEET TO THE NORTH LINE OF SAID SECTION 5; THENCE INTO SECTION 32, TOWNSHIP 2 NORTH, RANGE 38 EAST THE FOLLOWING TWO (2) COURSES: (1) THENCE N.00°21'16"E. 40.00 FEET; (2) THENCE S.89°38'44"E. 1478.37 FEET TO THE EAST LINE OF SAID SECTION 32; THENCE INTO SECTION 33 OF SAID TOWNSHIP 2 NORTH, RANGE 38 EAST OF THE BOISE MERIDIAN THE FOLLOWING TWO (2) COURSES: (1) THENCE S.89°50'50"E. 30.42 FEET TO THE SOUTHWEST CORNER OF CITY OF IDAHO FALLS ANNEXATION ORDINANCE NUMBER 2808; (2) THENCE S.02°50'17"E. 40.06 FEET TO THE SOUTH LINE OF SAID SECTION 33 AND POINT OF BEGINNING.

CONTAINING 95.362 ACRES

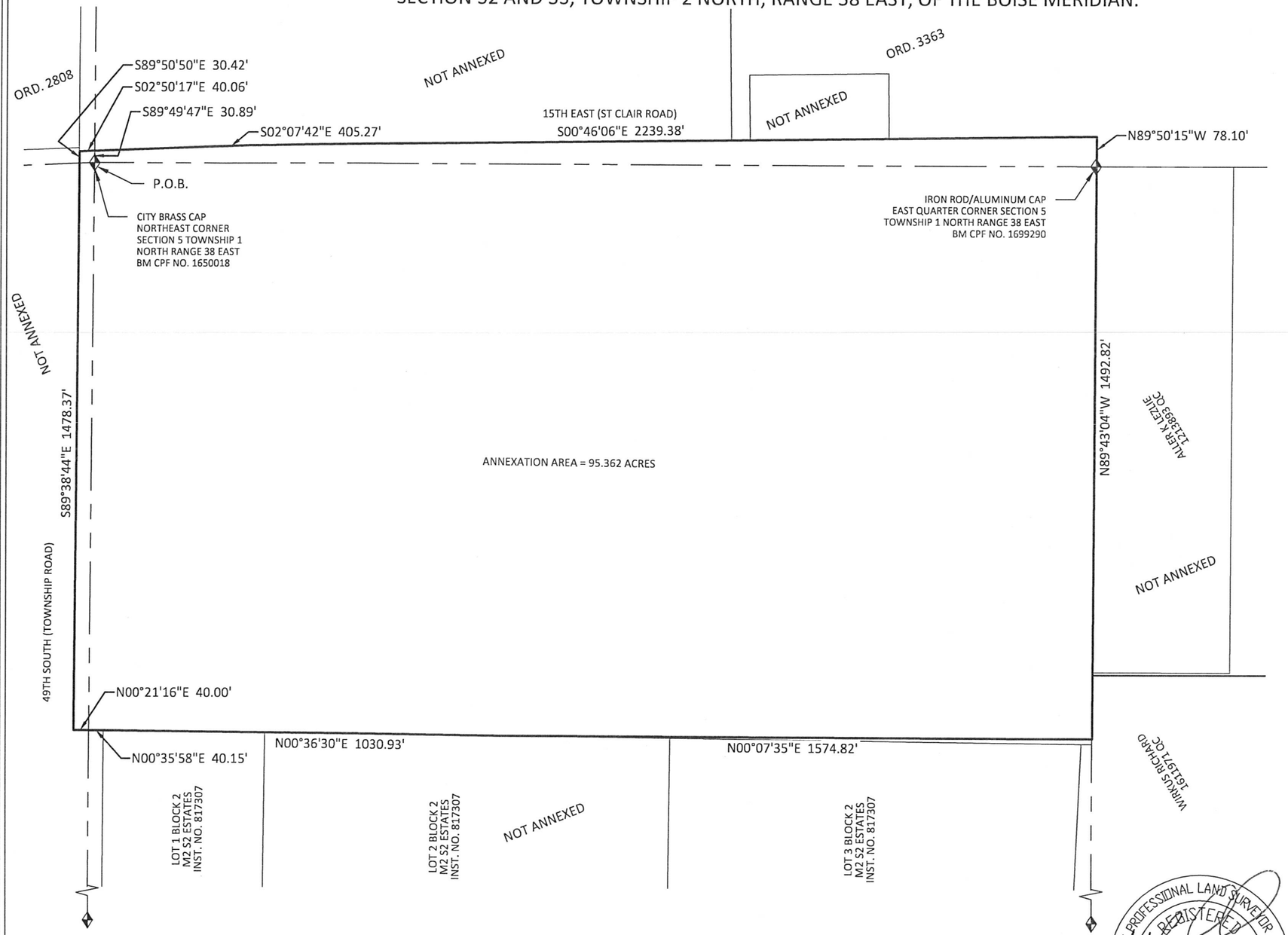
Submitted By:
Firm Name: EAGLE ROCK ENGINEERING
Contact Name: KURT ROLAND
Phone Number: 208-542-2665
Email: kroland@erengr.com

Overall Document Page Range _____of_____



ANNEXATION ORDINANCE # _____

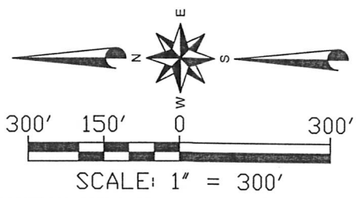
AN ADDITION TO THE CITY OF IDAHO FALLS, BONNEVILLE COUNTY, IDAHO
A PARCEL OF LAND BEING SITUATED IN THE NORTHEAST QUARTER OF SECTION 5, AND A PORTION OF SECTION 4, TOWNSHIP 1 NORTH, RANGE 38 EAST OF THE BOISE MERIDIAN, AND A PORTION OF SECTION 32 AND 33, TOWNSHIP 2 NORTH, RANGE 38 EAST, OF THE BOISE MERIDIAN.



BOUNDARY DESCRIPTION

BEGINNING AT A POINT THAT IS S.89°49'47"E. ALONG THE SECTION LINE 30.89 FEET FROM THE NORTHEAST CORNER OF SECTION 5, TOWNSHIP 1 NORTH, RANGE 38 EAST OF THE BOISE MERIDIAN, SAID POINT BEING ON THE NORTH LINE OF SECTION 4 OF SAID TOWNSHIP 1 NORTH, RANGE 38 EAST OF THE BOISE MERIDIAN, SAID POINT ALSO BEING ON THE EAST RIGHT-OF-WAY LINE OF 15TH EAST; RUNNING THENCE INTO SAID SECTION 4 ALONG SAID EAST RIGHT-OF-WAY LINE OF 15TH EAST THE FOLLOWING THREE (3) COURSES: (1) THENCE S.02°07'42"E. 405.27 FEET; (2) THENCE S.00°46'06"E. 2239.38 FEET TO THE SOUTHWEST CORNER OF CITY OF IDAHO FALLS ANNEXATION ORDINANCE NUMBER 3363; (3) THENCE N.89°50'15"W. 78.10 FEET TO THE EAST 1/4 CORNER OF SAID SECTION 5; THENCE INTO SAID SECTION 5 THE FOLLOWING FOUR (4) COURSES: (1) THENCE N.89°43'04"W. ALONG THE EAST-WEST CENTER SECTION LINE OF SAID SECTION 5 A DISTANCE OF 1492.82 FEET; (2) THENCE N.00°07'35"E. 1574.82 FEET TO THE EAST BOUNDARY LINE OF M2 S2 ESTATES, BONNEVILLE COUNTY, IDAHO; (3) THENCE N.00°36'30"E. ALONG SAID EAST BOUNDARY LINE 1030.93 FEET TO THE NORTHEAST CORNER OF LOT 1, BLOCK 2 OF SAID M2 S2 ESTATES; (4) THENCE N.00°35'58"E. ALONG SAID EAST BOUNDARY LINE OF SAID M2 S2 ESTATES 40.15 FEET TO THE NORTH LINE OF SAID SECTION 5; THENCE INTO SECTION 32, TOWNSHIP 2 NORTH, RANGE 38 EAST THE FOLLOWING TWO (2) COURSES: (1) THENCE N.00°21'16"E. 40.00 FEET; (2) THENCE S.89°38'44"E. 1478.37 FEET TO THE EAST LINE OF SAID SECTION 32; THENCE INTO SECTION 33 OF SAID TOWNSHIP 2 NORTH, RANGE 38 EAST OF THE BOISE MERIDIAN THE FOLLOWING TWO (2) COURSES: (1) THENCE S.89°50'50"E. 30.42 FEET TO THE SOUTHWEST CORNER OF CITY OF IDAHO FALLS ANNEXATION ORDINANCE NUMBER 2808; (2) THENCE S.02°50'17"E. 40.06 FEET TO THE SOUTH LINE OF SAID SECTION 33 AND POINT OF BEGINNING.

CONTAINING 95.362 ACRES



SCALE: 1″ = 300′

RECORDED WITH THE BONNEVILLE COUNTY RECORDERS OFFICE AS INSTRUMENT NO. _____

PROFESSIONAL LAND SURVEYOR
REGISTERED
9369
12/8/22
STATE OF IDAHO
KURTIS J. ROLAND

EAGLE ROCK ENGINEERING
CIVIL ○ PLANNING ○ SURVEYING
IDAHO FALLS (208) 542-2665 REXBURG (208) 359-2665

OFFICES AT:

1331 Fremont Ave.
Idaho Falls, Idaho 83402

310 N 2nd East, Suite 153
Rexburg, Idaho 83440

DRAWN BY:	TH & AG
APPROVED BY:	KURT ROLAND
PROJECT NO.	22040
SCALE:	1"=300'
DATE:	December, 2022
CAD NAME:	ANNEX MAP.DWG

REASONED STATEMENT OF RELEVANT CRITERIA AND STANDARDS

ANNEXATION OF APPROXIMATELY 95.362 ACRES GENERALLY NORTH OF W 65TH S, EAST OF THE IDAHO CANAL, SOUTH OF W 49TH S, WEST OF S 15TH E.

WHEREAS, the applicant filed an application for annexation on June 21, 2022; and

WHEREAS, this matter came before the Idaho Falls Planning and Zoning Commission during a duly noticed public hearing on August 2, 2022; and

WHEREAS, this matter came before the Idaho Falls City council during a duly noticed public hearing on January 12, 2023; and

WHEREAS, having reviewed the application, including all exhibits entered and having considered the issues presented:

I. RELEVANT CRITERIA AND STANDARDS

1. The City Council considered the request pursuant to City of Idaho Falls Comprehensive Plan, City of Idaho Falls Zoning Ordinance, City of Idaho Falls Subdivision Ordinance, the Local Land Use Planning Act, and other applicable development regulations.
2. The property is approximately 95.362 acres generally north of W 65th S, east of the Idaho canal, south of W 49th S, west of S 15th E.
3. This application is a Category "A" annexation.
4. City utilities are present in the area to provide services to this property.
5. The Comprehensive Plan designates this area as General Urban/ Mixed Use Centers and Corridors.
6. Idaho Falls Planning and Zoning Commission recommended approval of annexation, by split vote, recommending the initial zoning include LC, R3 and R2.
7. The applicant provided alternative zoning from the initial submittal, including LC, R3A, R3 and R2 in response to the Planning and Zoning Commission's recommendation.

II. DECISION

Based on the above Reasoned Statement of Relevant Criteria, the City Council of the City of Idaho Falls approved the annexation as presented.

PASSED BY CITY COUNCIL OF THE CITY OF IDAHO FALLS

THIS _____ DAY OF _____, 2023

_____

Rebecca L. Noah Casper - Mayor

Idaho Falls City Council
Annexation and initial zoning hearing

ANNX22-011
SW corner of 49th South and 15th East

Matt Traynor

5203 South 11th East, Idaho Falls

Concerned neighbor



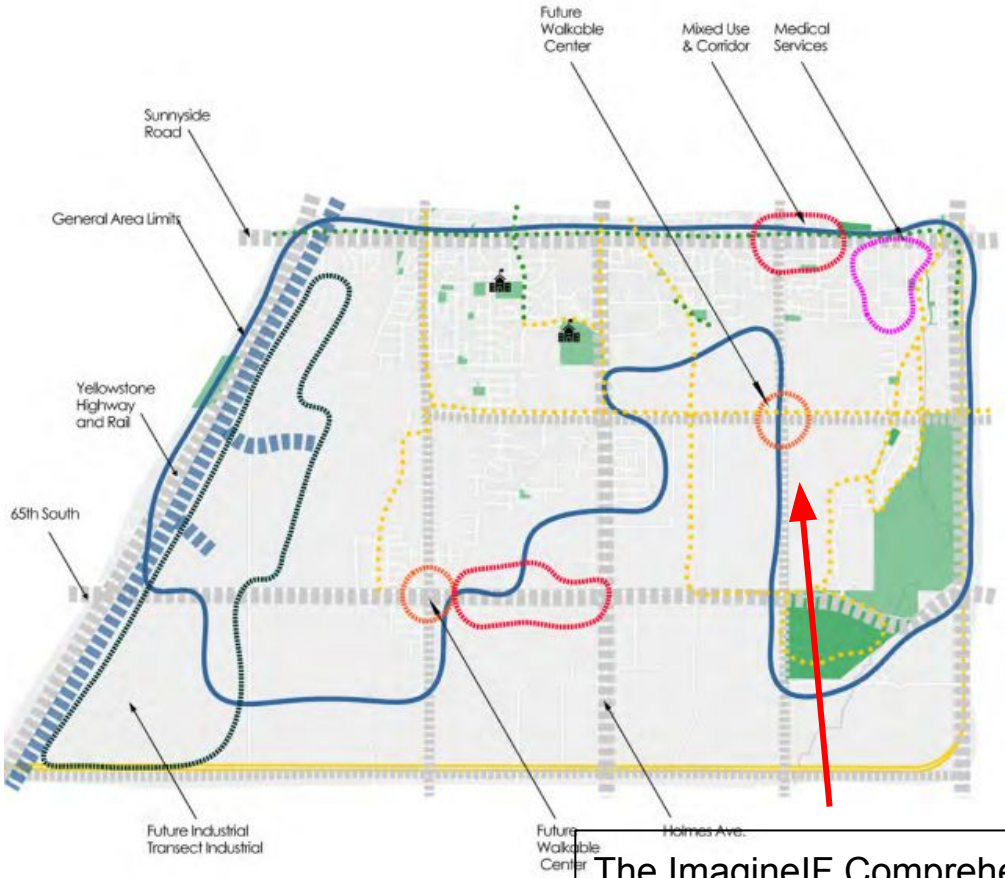
Concerns with this zoning request

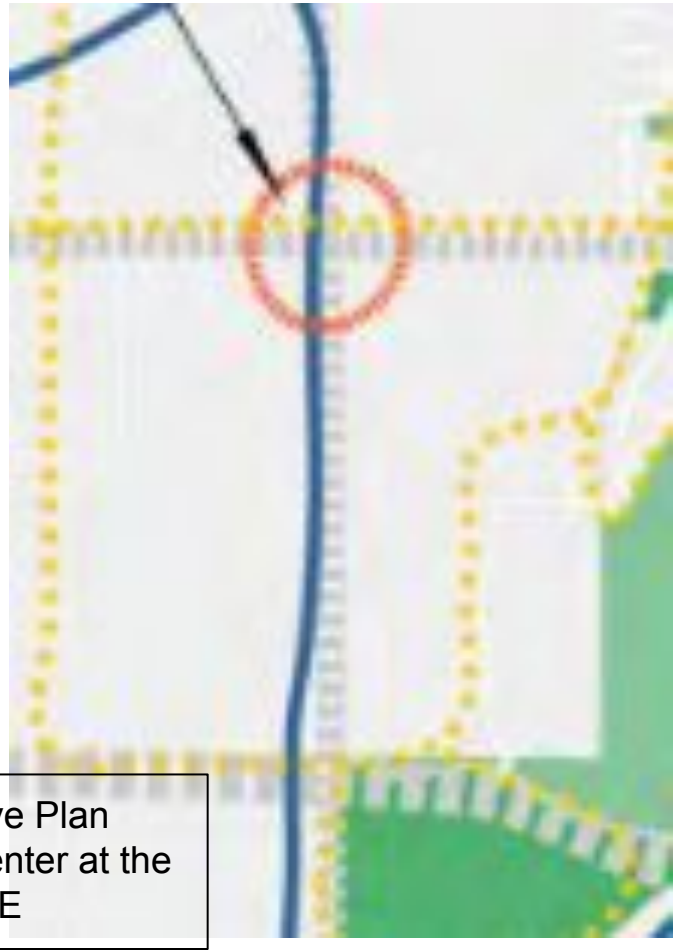
The requested zoning changes are not consistent with the ImagineIF Comprehensive Plan in the following ways:

1. The requested zoning changes would create a much larger area of commercial zoning and high density residential than suggested by the Comprehensive Plan.
2. The requested zoning changes would create a radical change from the surrounding area
3. The requested zoning changes would put too much strain on 49th South, which is designated as a Bicycle/pedestrian minor arterial
4. The requested zoning changes are overly aggressive at diversifying the housing stock in Area 5 and do not correlate with feedback from Area 5 residents or the ImagineIF Actions
5. The requested zoning changes do not reflect the recommendations from the Idaho Falls Planning and Zoning Commission

Concern 1. The requested zoning changes would create a much larger area of commercial zoning and high density housing than suggested by the Comprehensive Plan.

The ImagineIF Comprehensive Plan suggested a ***much smaller*** future walkable center at the intersection of 49th South and 15th East than what is being requested. The following slides show images from the Comprehensive Plan followed by images from the requested zoning changes. These images are then shown side by side and with an overlay for comparison.





The ImagineIF Comprehensive Plan suggests a future walkable center at the intersection of 49th S and 15 E

The requested zoning as shown on the right would create a large area of commercial property and high density housing at the SW corner of this intersection



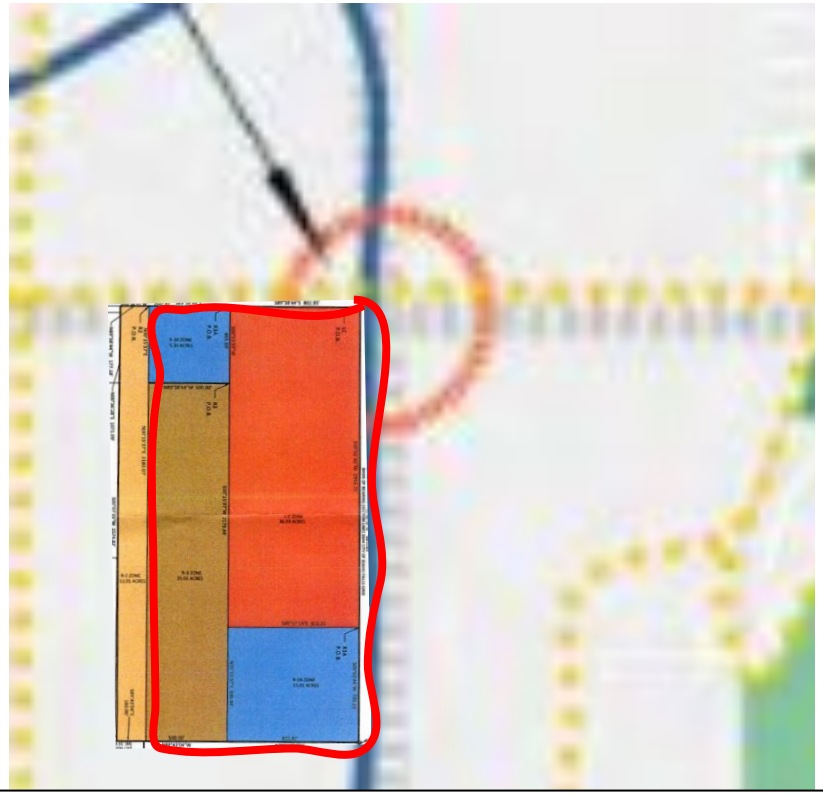




The future walkable center as suggested in the Comprehensive Plan



The requested zoning for commercial and high density residential development





The zoning proposal requests that the area outlined in red be LC, R3A, or R3. This area would be ***much larger*** than what the Comprehensive Plan suggested

Concern 2. The requested zoning changes would create a radical change from the surrounding area

The ImagineIF Comprehensive Plan states:

- While no neighborhood can be exempt from change, no neighborhood should experience sudden, radical change.
- Rather, most are small, incremental changes designed to bring about the vision described by the community during the planning process.

If these zoning requests are granted, they would represent a radical change from the surrounding area–not a small, incremental change

Managing Change

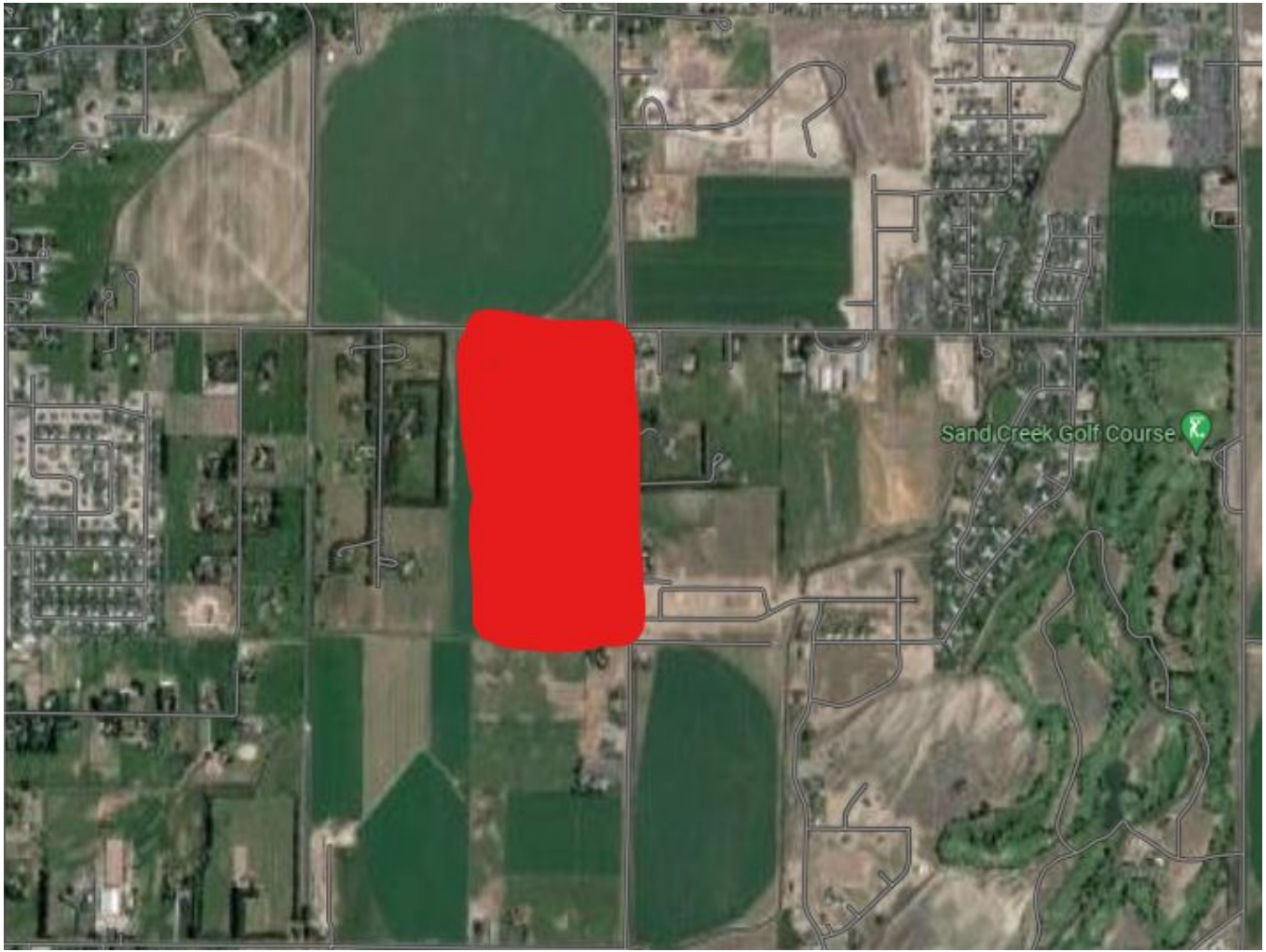
Although the City needs to rethink how it grows and develops, it must also be cognizant of how change can cause concerns in existing neighborhoods. That is not to say that neighborhoods should never expect to experience changes. Strong Towns, a non-profit planning organization, describes the balance in these terms:

1. No neighborhood can be exempt from change.
2. No neighborhood should experience sudden, radical change.

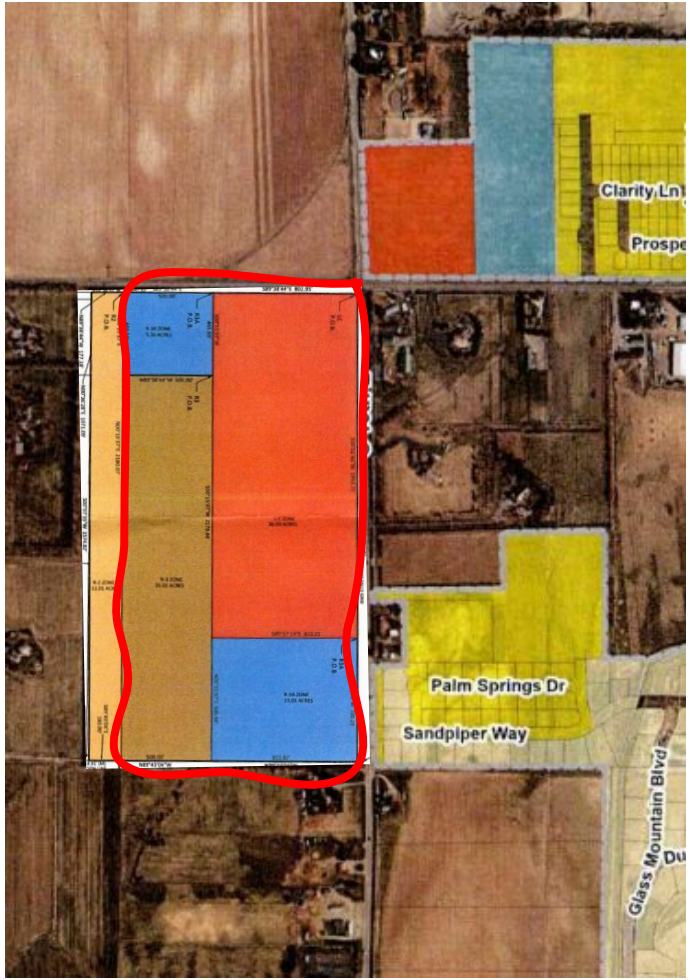
The policies and actions in this plan are intended to strike this balance. In each area and throughout the city, residents also participated in the planning process they recognized the need for improvements and saw the challenges the City is facing. Each neighborhood has its own challenges and opportunities to be part of the solutions. To work together, to bring forward effective and supportable change, the City intends to follow the framework recommended by Daniel Parolek in his book *Missing Middle Housing*. Parolek recommends communities identify the right places to work towards varying degrees of change. He writes, "The desired degree of change in each area should be based on thorough analysis, input from the community, clearly defined goals and objectives and, ideally, a detailed vision. The reason this is important is that most community members typically envision the transformative approach with widespread and dramatic change everywhere, but the reality is that many planning efforts are really targeted for more incremental change."[1] He then recommends three degrees of change:

1. *Maintain*: Smaller, more incremental changes, mostly reinforcing the exiting scale of an area.
2. *Evolve*: Opportunities for small-to-medium-sized public and private investments or projects. Minor changes in scale. Opportunity sites should be targeted.
3. *Transform*: Opportunities for larger-scale changes, such as a significant increase in scale and possible mix of uses. The changes are more likely to be widespread and not on focused sites.

Each of these degrees of change can be found in the Imagine IF plan. Whether it is City-wide code changes, identifying potential walkable centers and redevelopment sites, or thinking about adding benches along pedestrian routes, change is recommended in a variety of ways. The changes are not radical, abrupt changes to Idaho Falls' character. Rather, most are small, incremental changes designed to bring about the vision described by the community during the planning process.



The requested zoning changes would allow land usage radically different from the surrounding area, which is primarily farmland, residential estates, and R1 zoning. The northeast corner of this intersection is currently being developed, but there is much less land zoned for commercial or high density residential.

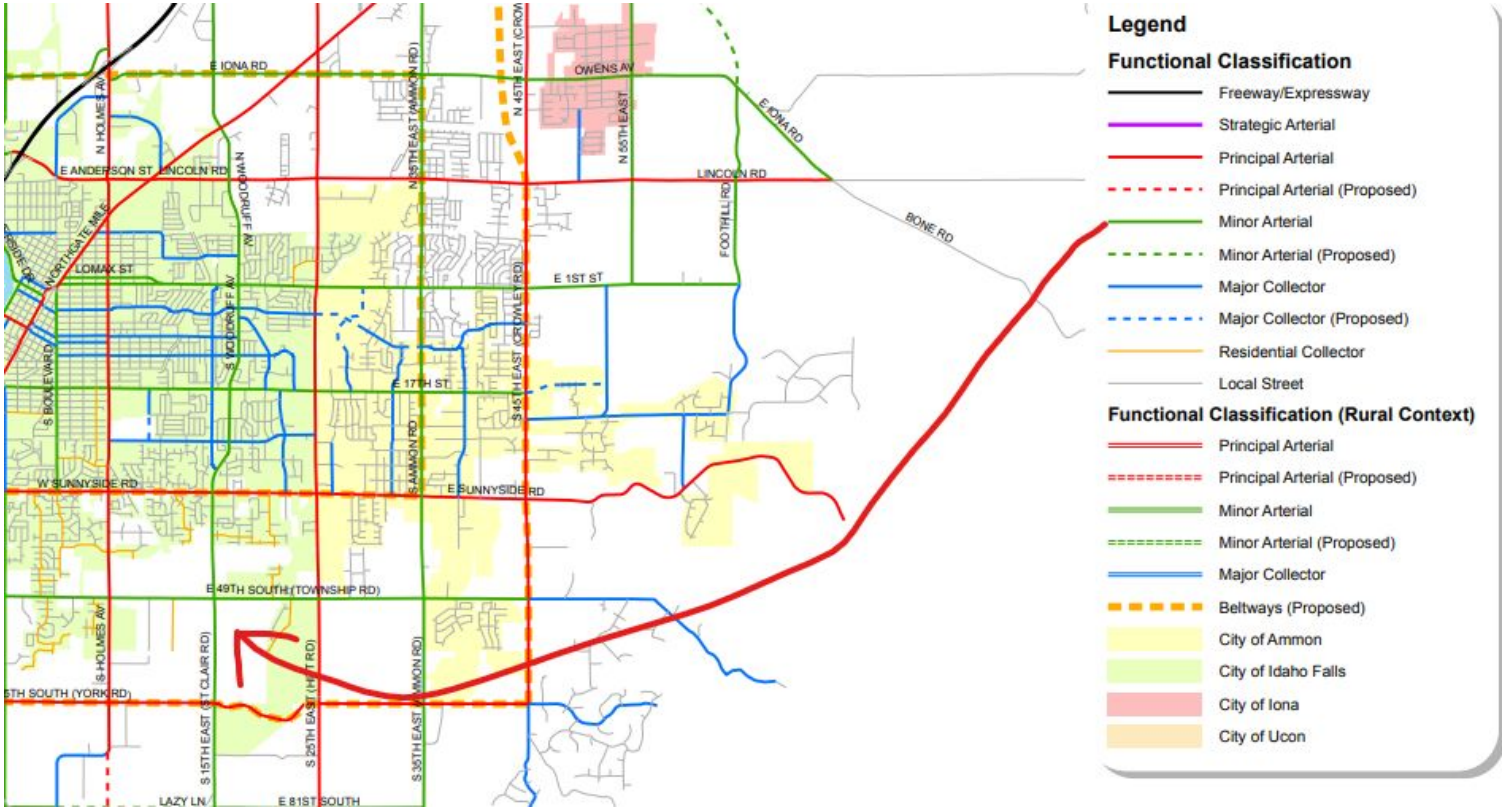


This requested zoning would allow an area of commercial property and high density residential ***many times larger*** than the zoning on the NE corner of the intersection

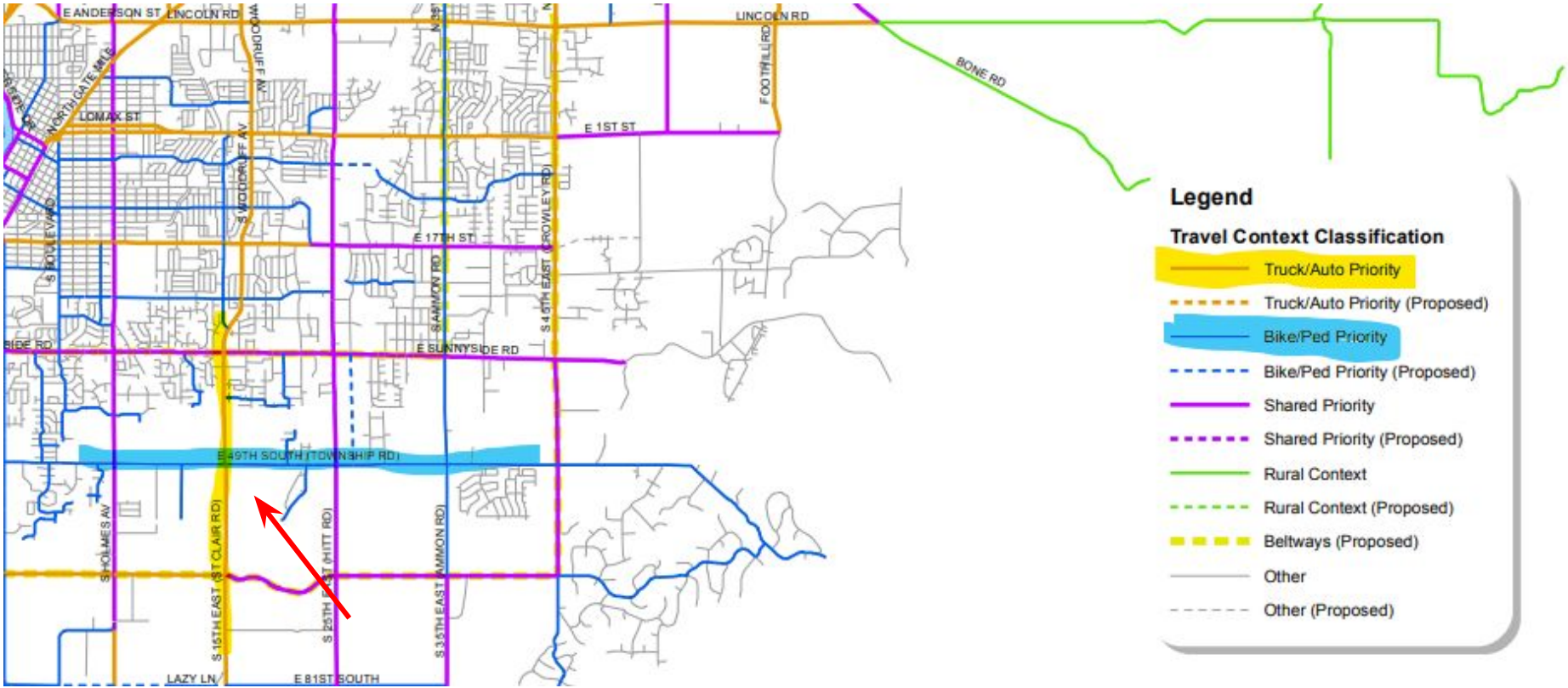
Concern 3. The requested zoning changes would put too much strain on 49th South, which is designated as a Bicycle/pedestrian minor arterial

49th South and 15th East are different types of minor arterials. 15th East is designed to accommodate up to 5 lanes of traffic while 49th South will have only 3 lanes of traffic. 49th South will have bike paths and wider buffers between the traffic lanes and the sidewalks.

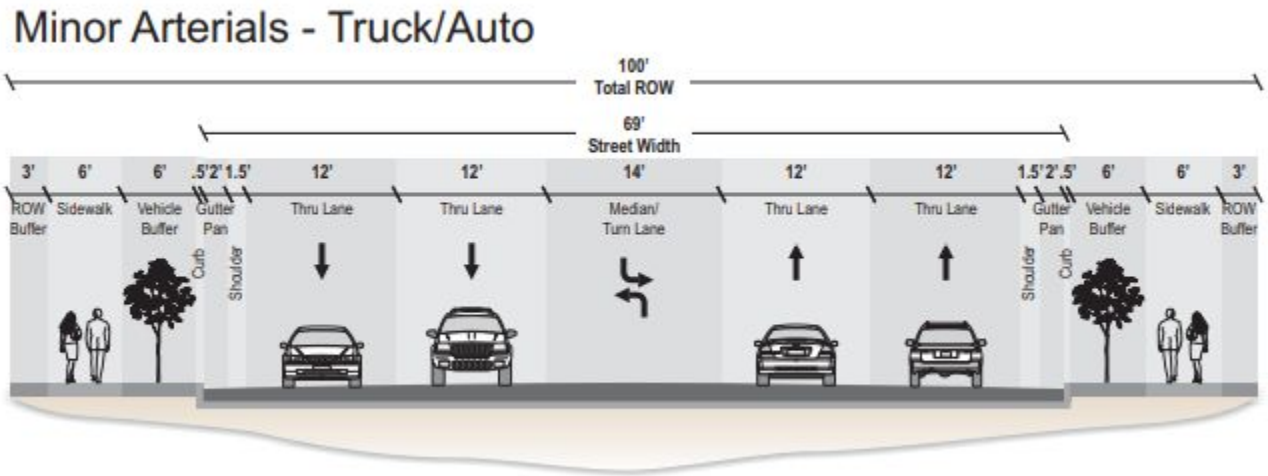
BMPO Access Management Plan



BMPO Access Management Plan

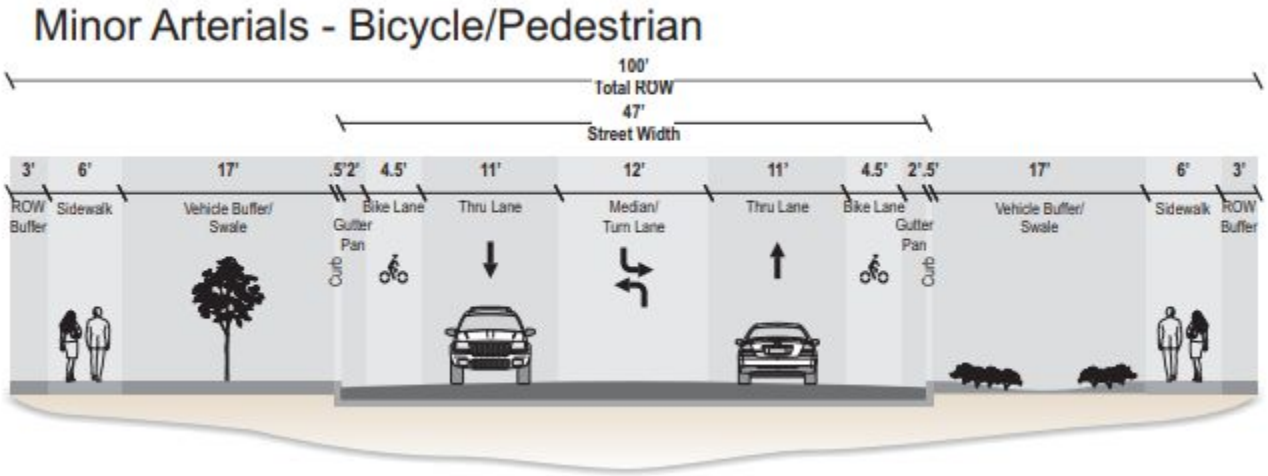


BMPO Access Management Plan



15th East is a minor arterial-Truck/Auto with up to five lanes of traffic

BMPO Access Management Plan



49th South is a minor arterial-Bike/Ped with only three lanes of traffic. It also has bike lanes and wider areas of buffer between the lanes of traffic and the sidewalk.

Concern 3. The requested zoning changes would put too much strain on 49th South, which is designated as a Bicycle/pedestrian minor arterial

With the bike paths and fewer lanes of traffic, 49th South is designed to accommodate a smaller quantity of vehicles compared to 15th East. It would make sense to limit the traffic impact on 49th South from these zoning changes.

Concern 4. The requested zoning changes are overly aggressive at diversifying the housing stock in Area 5 and do not correlate with feedback from Area residents or the ImagineIF Actions

As stated in the ImagineIF Comprehensive Plan, Area 5 is primarily suburban neighborhoods with nearly 80% of the housing being single-family detached housing.

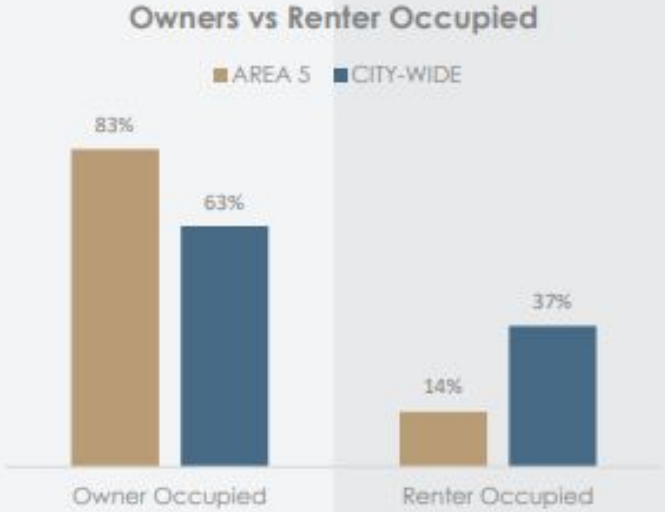
“Area 5 has the highest percentage of owner-occupied units in Idaho Falls (83%) and the lowest in rented units (14%).”

“A neighborhood meeting conducted for this area revealed the residents in Area 5 prefer new homes in a new subdivision with large yards, distance between neighbors, nice landscaping, and aesthetics and good schools”



options in the area.

For housing types, residents in the area meeting showed support of some types of housing diversity such as townhomes, twin homes and accessory dwelling units. Residents struggled to see other types of housing examples, including apartments or bungalow courts, in their area. As the area grows and looks to the future, housing types will change but the goal for this area is to incorporate diverse housing that fits the scale of these neighborhoods. MMH types with appropriate standards will be a key component to diversifying the housing stock.



Concern 4. The requested zoning changes are overly aggressive at diversifying the housing stock in Area 5 and do not correlate with feedback from Area residents or the ImagineIF Actions

“For housing types, residents in the area meeting showed support of some types of housing diversity such as townhomes, twin homes, and accessory dwelling units. Residents struggled to see other types of housing examples, including apartments or bungalow courts”

At the Planning and Zoning Committee meeting, Assistant City Attorney Michael Kirkham stated the following: “the zone question should be guided by the adopted Comprehensive Plan that the City has developed with the public’s input”. Kirkham stated that “the Commission is required by the Local Land Use Planning Act to take that into consideration as your primary guiding light on the appropriate zoning for the property.”

Concern 4. The requested zoning changes are overly aggressive at diversifying the housing stock in Area 5 and do not correlate with feedback from Area residents or the ImagineIF Actions

Table 5.11 Area 5 Housing

Area 5				
Theme	**Issues**	**Objectives**	**Actions**	
Housing	1. Affordability and Availability	A. Diversify Housing Stock	**Action 1:** Modify zoning codes and diversify the zoning in the area to allow more housing types, including duplexes, twin-homes, townhomes, and accessory dwellings, especially at major intersections and along major roads.	$$
			Action 2: Increase housing units, especially within 1/4 - 1/2 miles of identified walkable centers and neighborhood crossroads.	$
			Action 3: Implement zoning related recommendations per MMH reports.	$
		B. Focus on Form	**Action 1:** Explore Form Based regulations for housing types such as duplexes that focus on structure size, orientation, and placement, rather than density calculations.	$

Concern 5. The requested zoning changes do not reflect the recommendations from the Idaho Falls Planning and Zoning Commission

In a hearing before the Idaho Falls Planning and Zoning Commission on Tuesday, 8/2/2022, the developer proposed annexation and initial zoning of this property with zoning very similar to what is being presented to the City Council. As a compromise, I proposed an alternative zoning that would be more consistent with the ImagineIF Comprehensive Plan. After hearing from the developer and many concerned neighbors, the Idaho Falls Planning and Zoning Commission voted to recommend to the Mayor and City council approval of annexation with initial zoning similar to what I had proposed with R2 zoning for the western half of the property, LC in the northeast corner, and R3 along S 15th East.

Concern 5. The requested zoning changes do not reflect the recommendations from the Idaho Falls Planning and Zoning Commission

Comments made by the commissioners reflected their concerns about the amount of commercial zoning being requested and the lack of transition from the rural and residential properties surrounding this development.

Ogden stated that as he was reviewing the packet and looking at the parcels, he felt that this would stick out like a sore thumb to have high density in this are compared to what is currently in the area.

Concern 5. The requested zoning changes do not reflect the recommendations from the Idaho Falls Planning and Zoning Commission

Wimborne agrees that it makes sense to annex the property into the City. Wimborne is concerned about the transition and feels that a part of the zoning make sense in the area, but she is concerned about the amount of property that is being proposed as LC. Wimborne would be more comfortable with something similar to what is kiddie corner to the development that was recently approved.

This is the zoning compromise I had proposed.

R1/R2 for the western half of the property

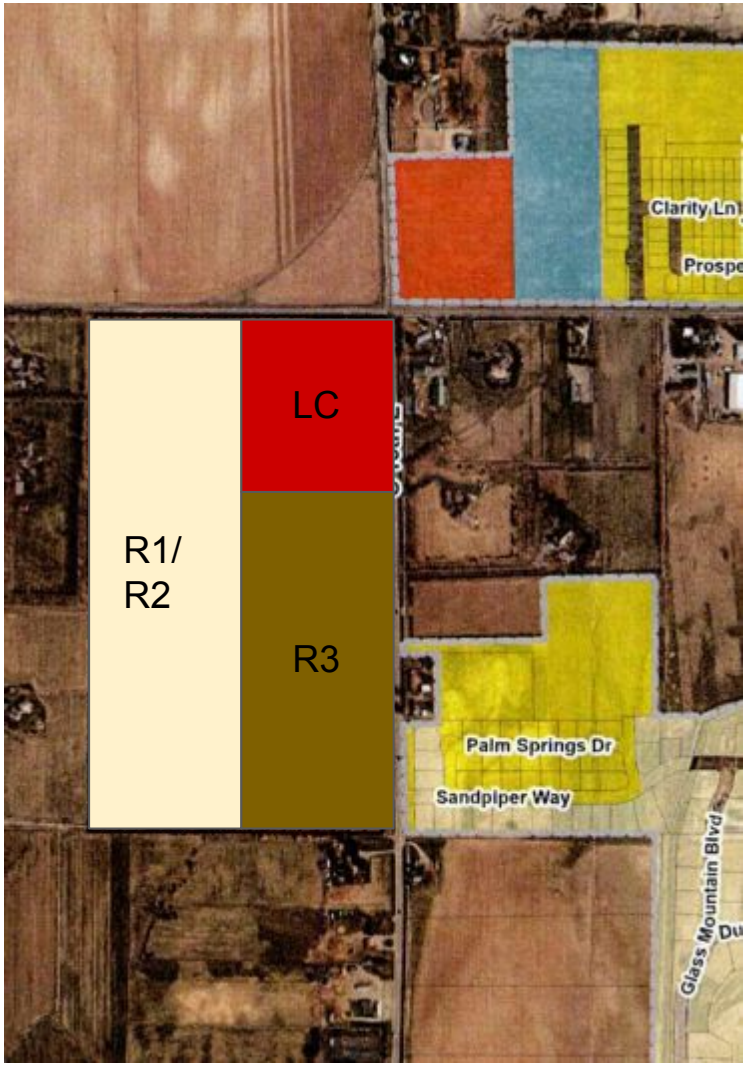
-roughly 45 acres

LC in the northeast corner

-roughly 15 acres

R3 along S 15th East

-roughly 30 acres



This is the zoning that the commissioners ultimately recommended

R2 for the western half of the property

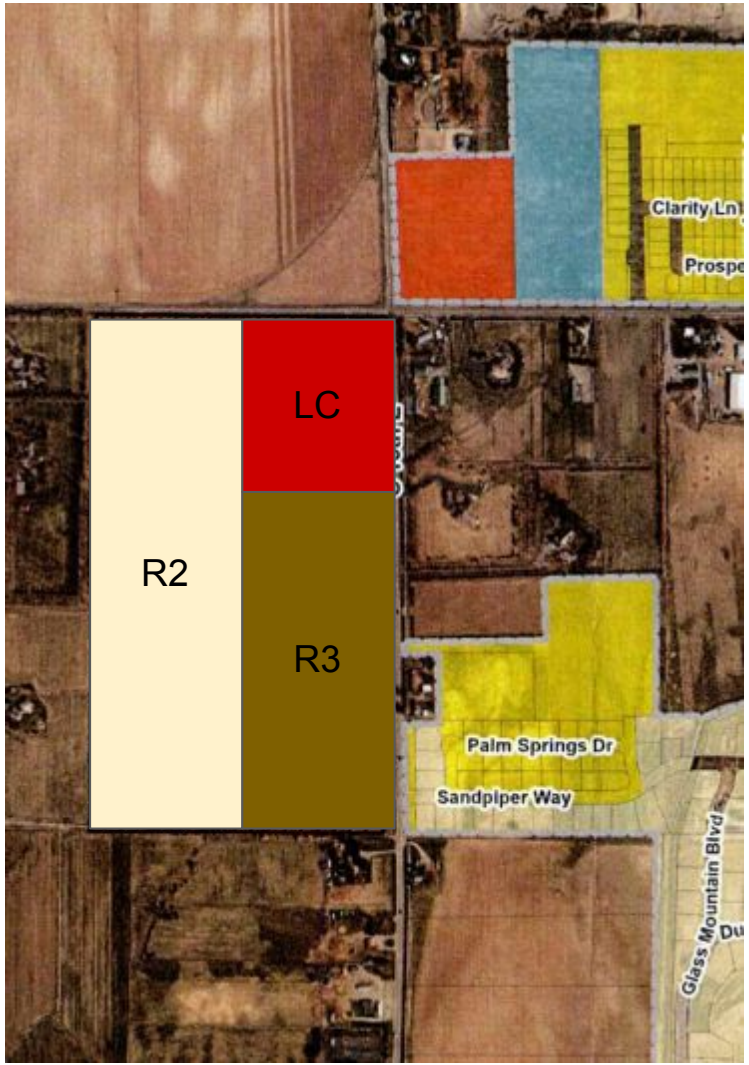
-roughly 45 acres

LC in the northeast corner

-roughly 15 acres

R3 along S 15th East

-roughly 30 acres



Concerns with this zoning request–Summary

The requested zoning changes are not consistent with the ImagineIF Comprehensive Plan in the following ways:

1. The requested zoning changes would create a much larger area of commercial zoning and high density housing than suggested by the Comprehensive Plan.
2. The requested zoning changes would create a radical change from the surrounding area
3. The requested zoning changes would put too much strain on 49th South, which is designated as a Bicycle/pedestrian minor arterial
4. The requested zoning changes are overly aggressive at diversifying the housing stock in Area 5 and do not correlate with feedback from Area residents or the ImagineIF Actions
5. The requested zoning changes do not reflect the recommendations from the Idaho Falls Planning and Zoning Commission

Recommendation

If this property is annexed into the city, I propose the following zoning:

R1/R2 for the western half of the property

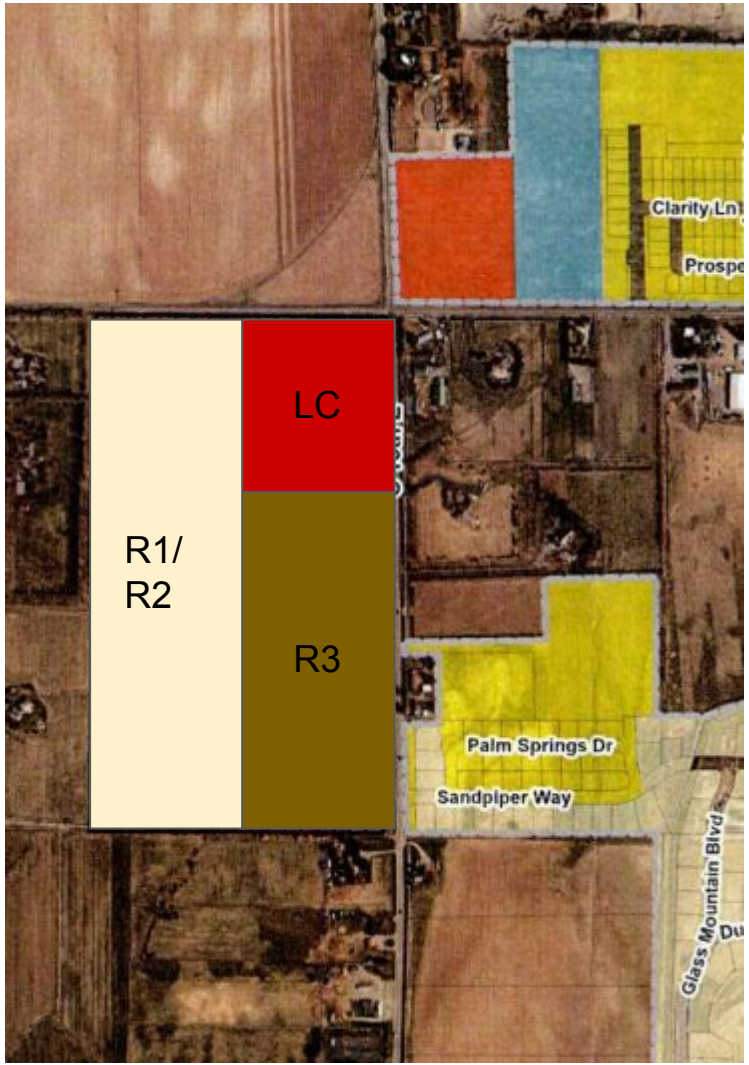
-roughly 45 acres

LC in the northeast corner

-roughly 15 acres

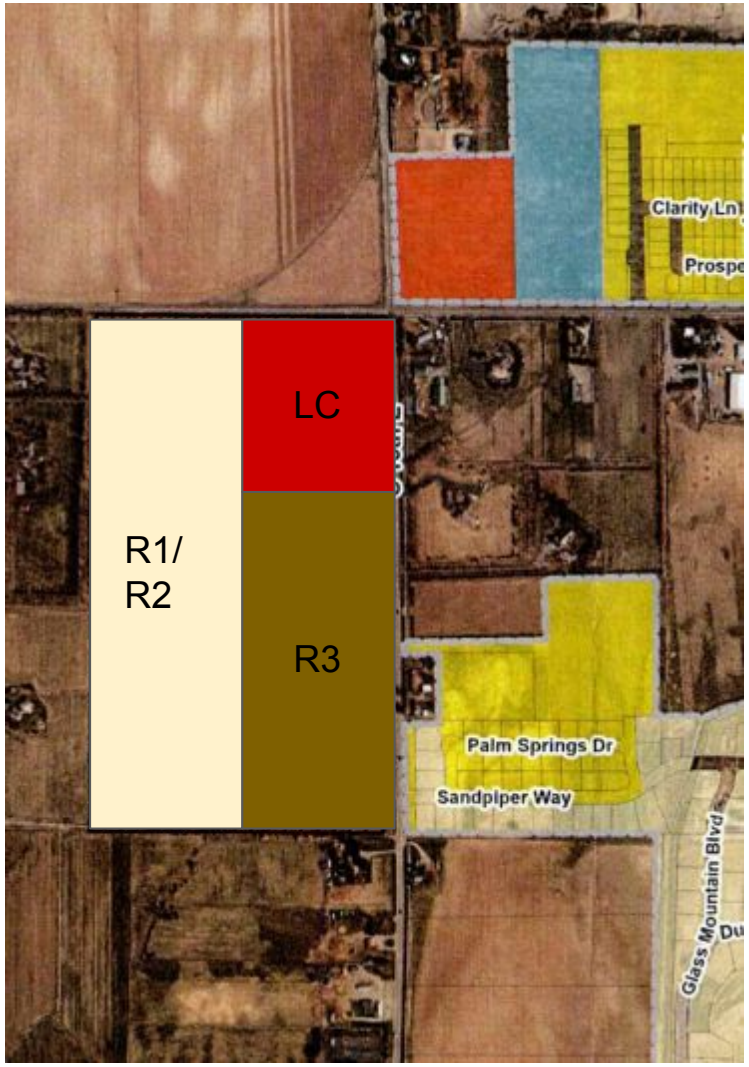
R3 along S 15th East

-roughly 30 acres



This recommendation would be

- More consistent with the ImagineIF Comprehensive Plan in terms of size and scope
- A more gradual transition from the surrounding area
- Less strain on 49th South
- More consistent with the feedback and expressed opinions of residents of Area 5
- More consistent with the recommendations made by the Planning and Zoning Commission



Memorandum

File #: 21-762 **City Council Meeting**

FROM: Kerry Beutler, Interim Director
DATE: Tuesday, January 3, 2023
DEPARTMENT: Community Development Services

Subject
Legislative Public Hearing-Part 2 of 2 of the Annexation and Initial Zoning of LC Limited Commercial, R3A Residential Mixed Use, R3 Multiple Dwelling Residential, and R2 Mixed Residential Zones-Initial Zoning Ordinance and Reasoned Statement of Relevant Criteria and Standards for 95.362 acres of the NE ¼ of Section 5, and a portion of Section 4, Township 1 North, Range 38 East and a portion of Section 32 and 33, Township 2 North, Range 38 East.

Council Action Desired

☒ Ordinance ☐ Resolution ☒ Public Hearing
☐ Other Action (Approval, Authorization, Ratification, etc.)
1. Assign Comprehensive Plan Designations of "Mixed Use Centers and Corridors" and "General Urban" and approve the Ordinance establishing the initial zoning for LC Limited Commercial, R3A Residential Mixed Use, R3 Multiple Dwelling Residential, and R2 Mixed Residential Zones as shown in the Ordinance exhibits under a suspension of the rules requiring three complete and separate readings and request that it be read by title and published by summary, that the City limits documents be amended to include the area annexed herewith, and that the City Planner be instructed to reflect said annexation, amendment to the Comprehensive Plan, and initial zoning on the Comprehensive Plan and Zoning Maps located in the Planning office (or consider the Ordinance on the first reading and that it be read by title, reject the Ordinance, or take other action deemed appropriate).

2. Approve the Reasoned Statement of Relevant Criteria and Standards for the initial zoning of LC Limited Commercial, R3A Residential Mixed Use, R3 Multiple Dwelling Residential, and R2 Mixed Residential Zones and give authorization for the Mayor to execute the necessary documents (or take other action deemed appropriate).

Description, Background Information & Purpose
Attached is part 2 of 2 of the application for Annexation and Initial Zoning of LC Limited Commercial, R3A Residential Mixed Use, R3, Multiple Dwelling Zone, and R2 Mixed Residential Zones which includes the Initial Zoning Ordinance and Reasoned Statement of Relevant Criteria and Standards for 95.362 acres of the NE ¼ of Section 5 and a portion of Section 4, Township 1 North, Range 38 East and a portion of Section 32 and 33, Township 2 North, Range 38 East. The Planning and Zoning Commission considered this item at its November 1, 2022, meeting and voted to recommended approval of the annexation with an initial zoning of LC, R3, and R2 by a vote of 3-1. The Planning Commission's recommendation was to be an approximate of a proposal submitted by the public during the hearing. The applicant has proposed alternative zoning from what was initially submitted in response to the Planning Commission's recommendation which is reflected in the ordinance and exhibits in this part of the memos for this application.

Alignment with City & Department Planning Objectives



☐ ☒ ☒ ☐ ☒ ☐ ☐ ☐

Consideration of initial zoning must be consistent with the principles of the Comprehensive Plan which includes many policies and goals related to Good Governance, Growth, Sustainability, and Livable Communities.

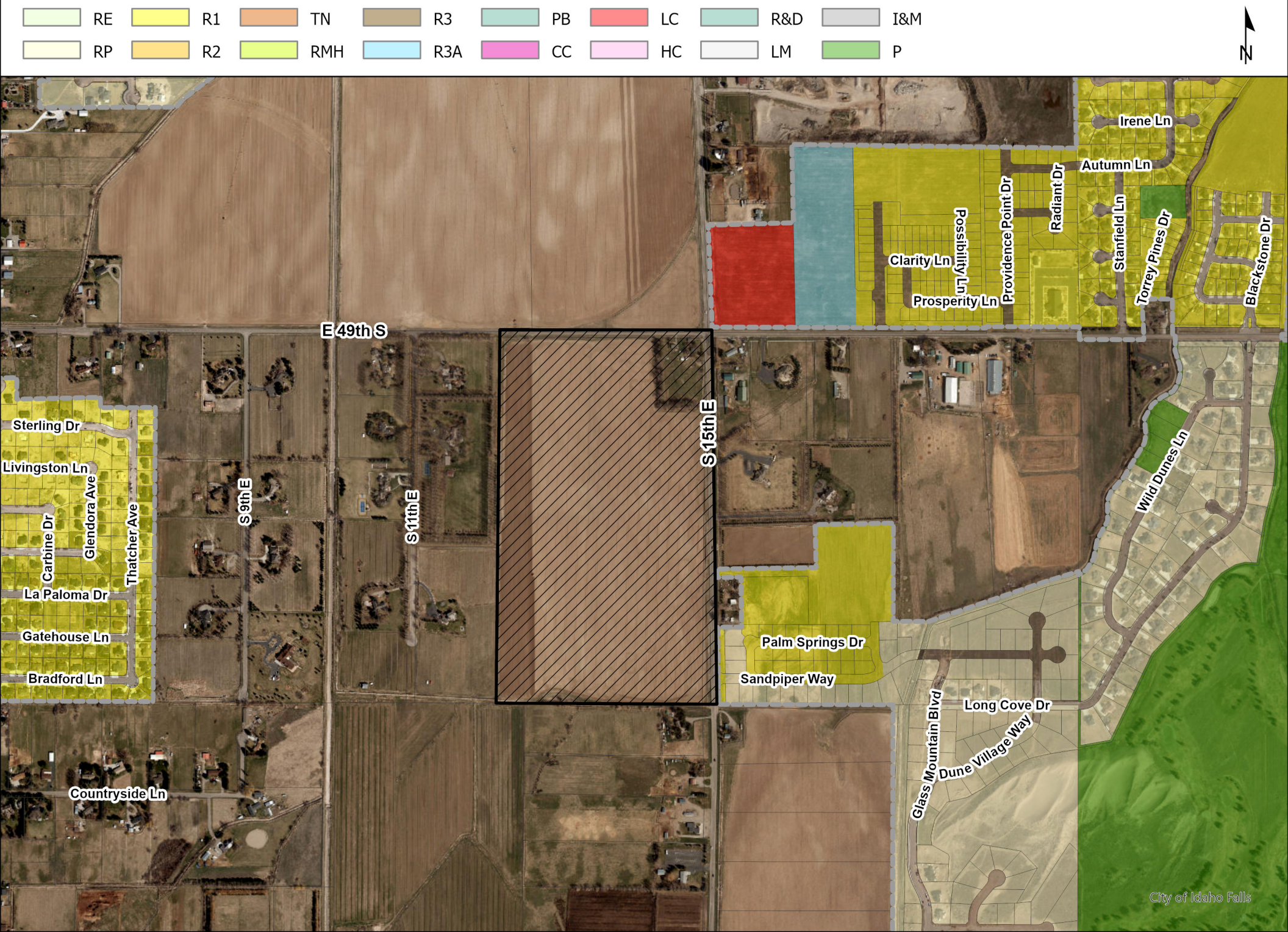
Interdepartmental Coordination

Fiscal Impact
NA

Legal Review
This application and ordinance have been reviewed by the City Attorney's Office pursuant to applicable law.

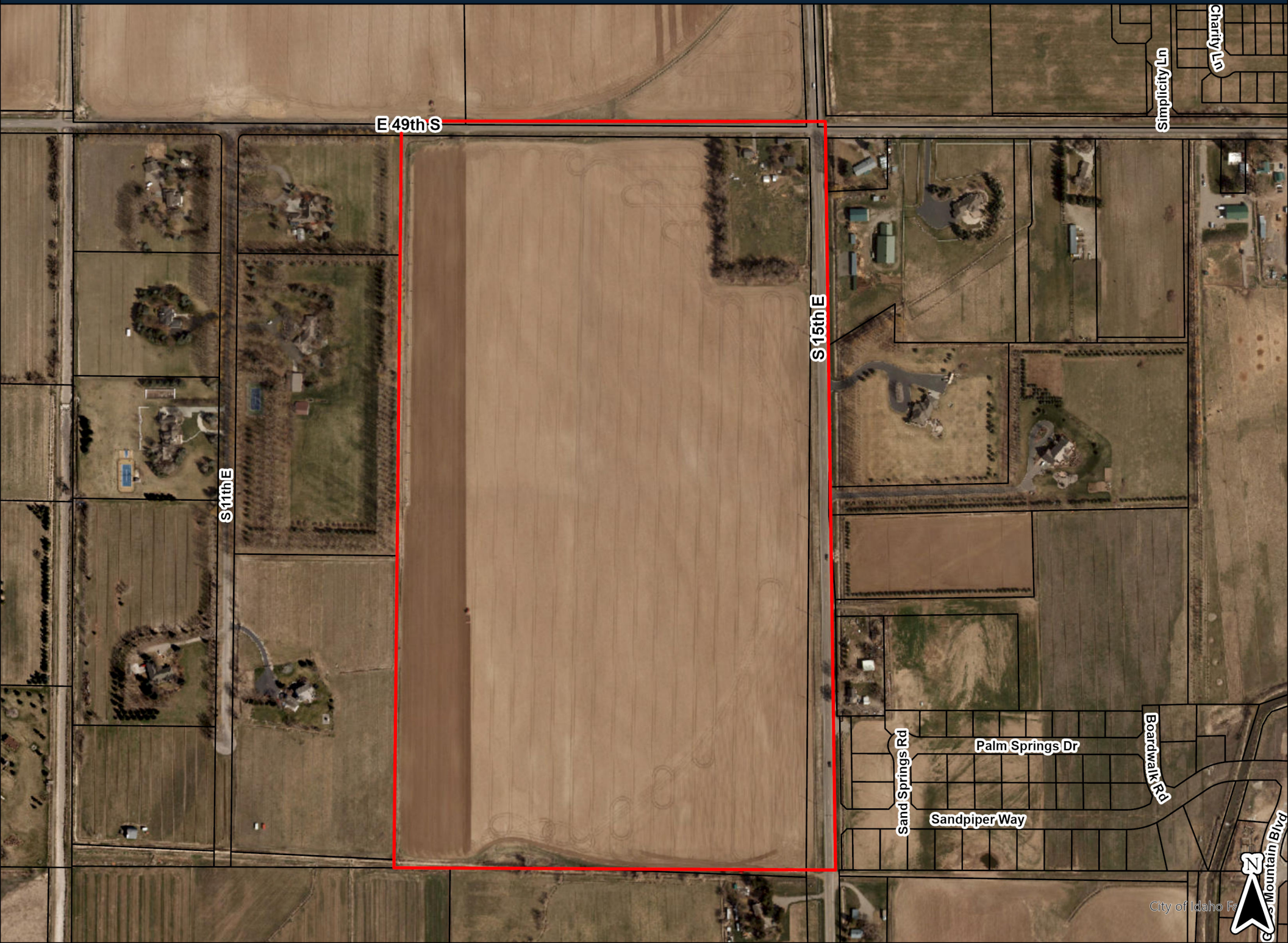
Zoning

ANNX22-011 - Initial Zoning: R3 & LC



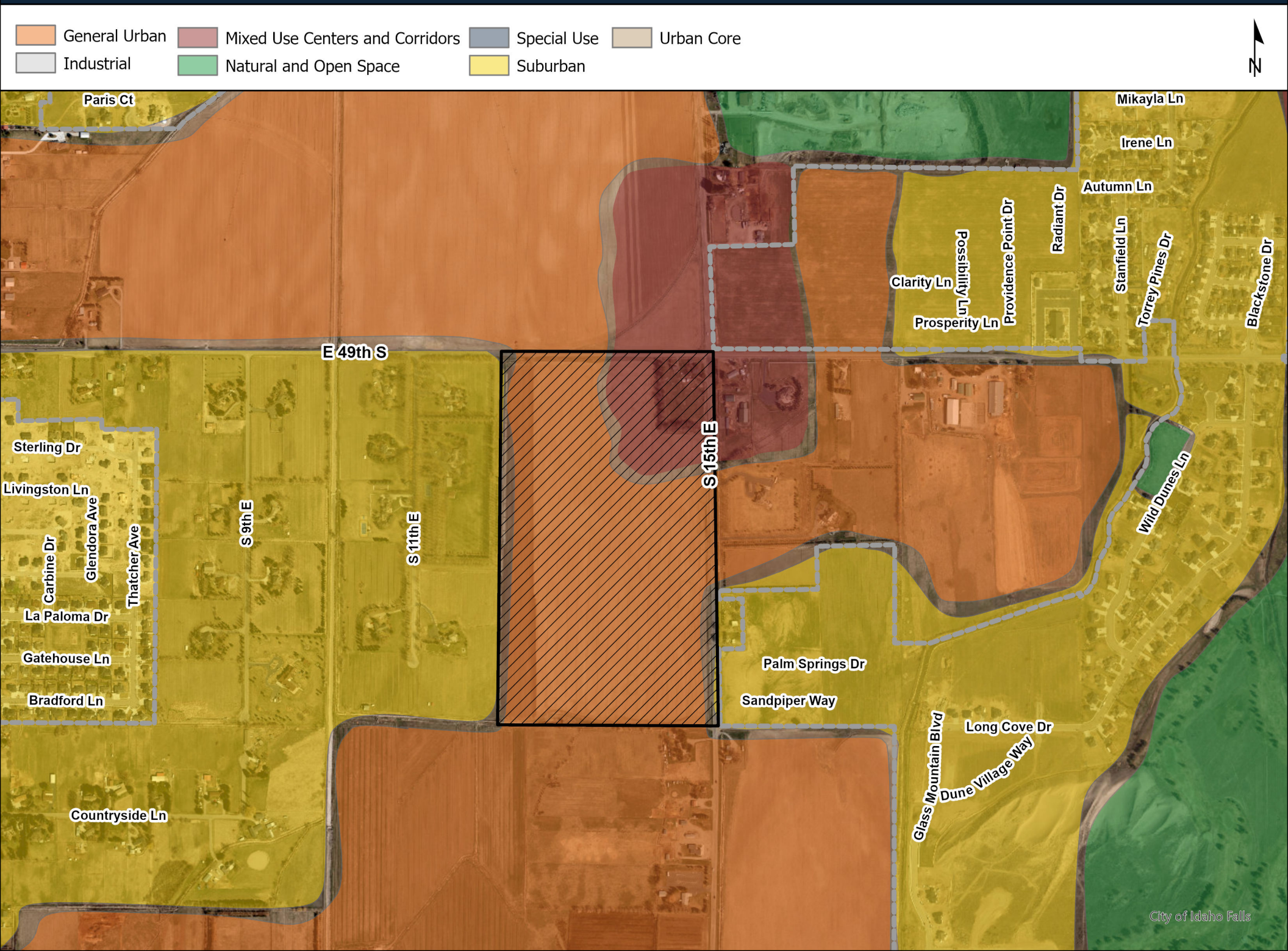
Aerial

ANNX22-011 - Initial Zoning: R3 & LC



Comprehensive Plan

ANNX22-011 - Initial Zoning: R3 & LC



ORDINANCE NO._____

AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; PROVIDING FOR THE INITIAL ZONING OF APPROXIMATELY 95.362 ACRES DESCRIBED IN EXHIBIT A OF THIS ORDINANCE AS LC, R3A, R3 and R2 ZONES; AND PROVIDING SEVERABILITY, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.

WHEREAS, the proposed initial zoning district of lands described in Exhibit A is LC, Limited Commercial, R3A, Residential Mixed Use, R3, Multiple Dwelling Residential and R2, Mixed Residential Zones for such annexed lands is consistent with the current City of Idaho Falls Comprehensive Plan Land use designation "General Urban and Mixed Use Centers and Corridors"; and

WHEREAS, the proposed zoning district is consistent and compatible with the existing and surrounding zoning districts and is consistent with principles of the City of Idaho Falls Comprehensive Plan; and

WHEREAS, for consistency with the Comprehensive Plan, the Council desires to designate the lands within the area of annexation as "General Urban and Mixed Use Centers and Corridors"; and

WHEREAS, Idaho Falls Planning and Zoning Commission held a duly noticed public hearing on August 2, 2022, and recommended approval of zoning the subject property to LC, R3, and R2 Zones; and

WHEREAS, the Council conducted a duly noticed public hearing and passed a motion to approve this zoning on January 12, 2023.

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

SECTION 1: Comprehensive Plan Designation. The area described in Exhibit A are hereby given a Comprehensive Plan designation of General Urban and Mixed Use Centers and Corridors.

SECTION 2: Legal Description. The lands described in Exhibit A are hereby zoned as LC, R3A, R3, and R2 Zones.

SECTION 3. Zoning. The property described in Section 1 of this Ordinance be and the same hereby is zoned "LC, R3A, R3, and R2" and the City Planner is hereby ordered to make the necessary amendments to the official maps of the City of Idaho Falls which are on file at the City Planning Department Offices, 680 Park Avenue.

SECTION 4. Savings and Severability Clause. The provisions and parts of this Ordinance are

intended to be severable. If any section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

SECTION 5. Publication. This Ordinance, or a summary thereof in compliance with Idaho Code, shall be published once in the official newspaper of the City, and shall take effect immediately upon its passage, approval, and publication.

SECTION 6. Effective Date. This Ordinance shall be in full force and effect from and after its passage, approval and publication.

PASSED by the City Council and APPROVED by the Mayor of the City of Idaho Falls, Idaho, this_____day of_____, 2023.

CITY OF IDAHO FALLS, IDAHO

_____
Rebecca L. Noah Casper, Mayor

ATTEST:

_____
Corrin Wilde, City Clerk

(SEAL)

STATE OF IDAHO)
) ss:
County of Bonneville)

I, CORRIN WILDE, CITY CLERK OF THE CITY OF IDAHO FALLS, IDAHO, DO HEREBY CERTIFY:

That the above and foregoing is a full, true and correct copy of the Ordinance entitled, "AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; PROVIDING FOR THE INITIAL ZONING OF APPROXIMATELY 95.362 ACRES DESCRIBED IN EXHIBIT A OF THIS ORDINANCE AS LC, R3A, R3 and R2 ZONES; AND PROVIDING SEVERABILITY, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE."

_____
Corrin Wilde, City Clerk

EXHIBIT "A"

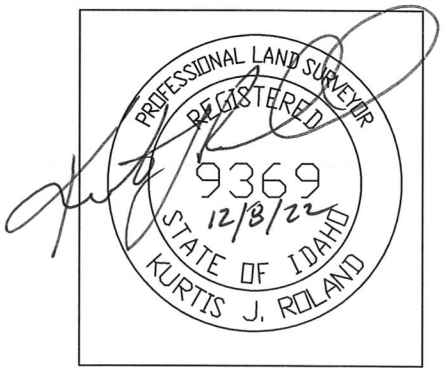
LEGAL DESCRIPTION (Page 1 of 1)

BEGINNING AT A POINT THAT IS S.89°49'47"E. ALONG THE SECTION LINE 30.89 FEET FROM THE NORTHEAST CORNER OF SECTION 5, TOWNSHIP 1 NORTH, RANGE 38 EAST OF THE BOISE MERIDIAN, SAID POINT BEING ON THE NORTH LINE OF SECTION 4 OF SAID TOWNSHIP 1 NORTH, RANGE 38 EAST OF THE BOISE MERIDIAN, SAID POINT ALSO BEING ON THE EAST RIGHT-OF-WAY LINE OF 15TH EAST; RUNNING THENCE INTO SAID SECTION 4 ALONG SAID EAST RIGHT-OF-WAY LINE OF 15TH EAST THE FOLLOWING THREE (3) COURSES: (1) THENCE S.02°07'42"E. 405.27 FEET; (2) THENCE S.00°46'06"E. 2239.38 FEET TO THE SOUTHWEST CORNER OF CITY OF IDAHO FALLS ANNEXATION ORDINANCE NUMBER 3363; (3) THENCE N.89°50'15"W. 78.10 FEET TO THE EAST 1/4 CORNER OF SAID SECTION 5; THENCE INTO SAID SECTION 5 THE FOLLOWING FOUR (4) COURSES: (1) THENCE N.89°43'04"W. ALONG THE EAST-WEST CENTER SECTION LINE OF SAID SECTION 5 A DISTANCE OF 1492.82 FEET; (2) THENCE N.00°07'35"E. 1574.82 FEET TO THE EAST BOUNDARY LINE OF M2 S2 ESTATES, BONNEVILLE COUNTY, IDAHO; (3) THENCE N.00°36'30"E. ALONG SAID EAST BOUNDARY LINE 1030.93 FEET TO THE NORTHEAST CORNER OF LOT 1, BLOCK 2 OF SAID M2 S2 ESTATES; (4) THENCE N.00°35'58"E. ALONG SAID EAST BOUNDARY LINE OF SAID M2 S2 ESTATES 40.15 FEET TO THE NORTH LINE OF SAID SECTION 5; THENCE INTO SECTION 32, TOWNSHIP 2 NORTH, RANGE 38 EAST THE FOLLOWING TWO (2) COURSES: (1) THENCE N.00°21'16"E. 40.00 FEET; (2) THENCE S.89°38'44"E. 1478.37 FEET TO THE EAST LINE OF SAID SECTION 32; THENCE INTO SECTION 33 OF SAID TOWNSHIP 2 NORTH, RANGE 38 EAST OF THE BOISE MERIDIAN THE FOLLOWING TWO (2) COURSES: (1) THENCE S.89°50'50"E. 30.42 FEET TO THE SOUTHWEST CORNER OF CITY OF IDAHO FALLS ANNEXATION ORDINANCE NUMBER 2808; (2) THENCE S.02°50'17"E. 40.06 FEET TO THE SOUTH LINE OF SAID SECTION 33 AND POINT OF BEGINNING.

CONTAINING 95.362 ACRES

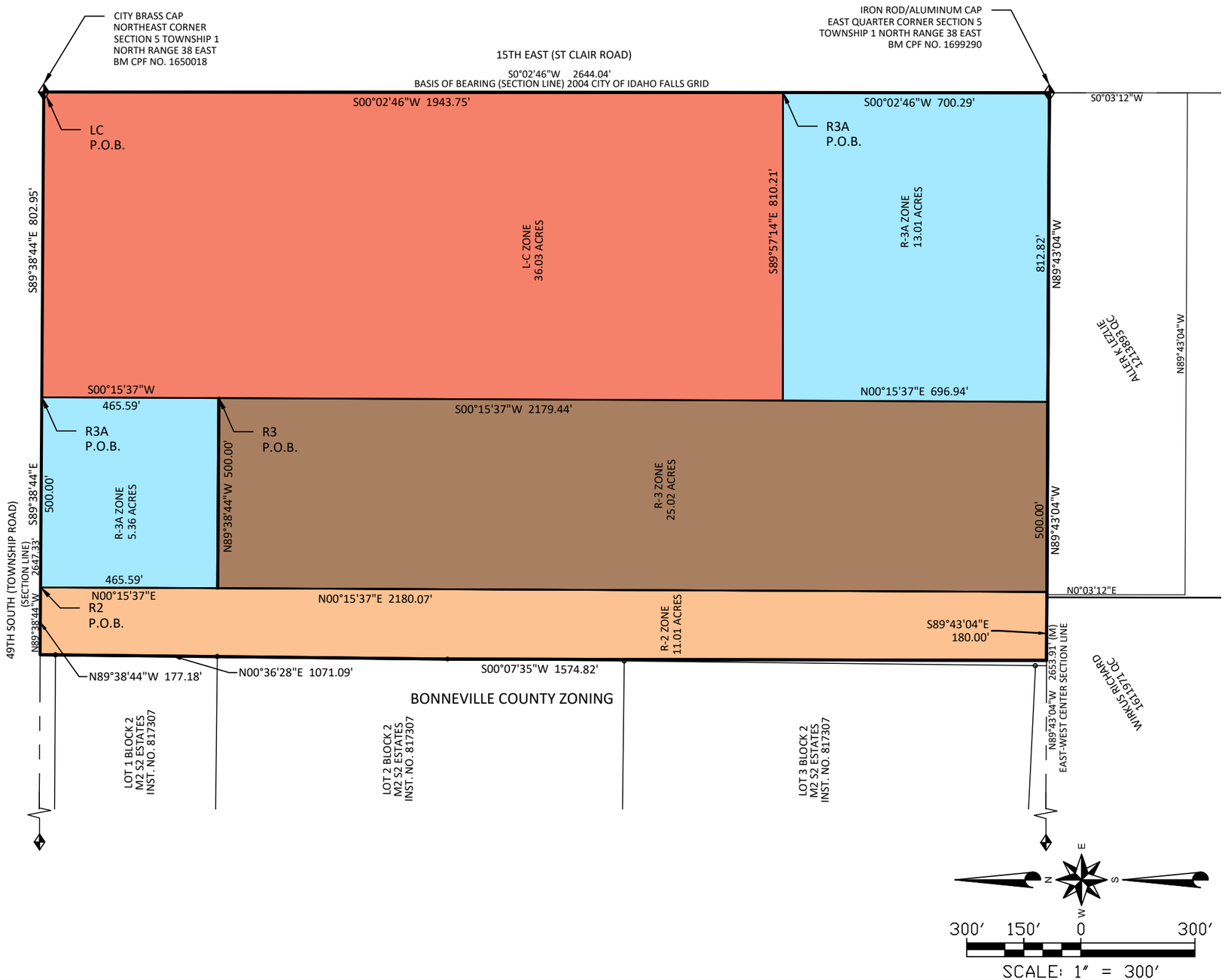
Submitted By:
Firm Name: EAGLE ROCK ENGINEERING
Contact Name: KURT ROLAND
Phone Number: 208-542-2665
Email: kroland@erengr.com

Overall Document Page Range _____of_____



REZONE MAP

A PARCEL OF LAND BEING SITUATED IN THE NORTHEAST QUARTER OF SECTION 5, TOWNSHIP 1 NORTH, RANGE 38 EAST OF THE BOISE MERIDIAN



BOUNDARY DESCRIPTION (LC)

BEGINNING AT THE NORTHEAST CORNER OF SECTION 5, TOWNSHIP 1 NORTH, RANGE 38 EAST OF THE BOISE MERIDIAN; RUNNING THENCE S.00°02'46"W. ALONG THE SECTION LINE 1943.75 FEET, N.89°57'14"W. 810.21 FEET; THENCE N.00°15'37"E. 1948.09 FEET TO THE NORTH LINE OF SAID SECTION 5; THENCE S.89°38'44"E. ALONG SAID NORTH LINE 802.95 FEET TO THE POINT OF BEGINNING, CONTAINING 36.03 ACRES.

BOUNDARY DESCRIPTION (R2)

BEGINNING AT A POINT THAT IS N.89°38'44"W 1302.95 FEET FROM THE NORTHEAST CORNER OF SECTION 5, TOWNSHIP 1 NORTH, RANGE 38 EAST OF THE BOISE MERIDIAN; RUNNING THENCE S.00°15'37"W. 2645.66 FEET; THENCE N.89°43'04"W 180.00 FEET; THENCE N.00°07'35"E. 1574.82 FEET; THENCE N.00°36'28"E. 1071.09 FEET TO THE NORTH LINE OF SAID SECTION 5; THENCE S.89°38'44"E. ALONG SAID NORTH LINE 177.18 FEET TO THE POINT OF BEGINNING, CONTAINING 11.01 ACRES.

BOUNDARY DESCRIPTION (R3A)

BEGINNING AT A POINT THAT IS N.89°38'44"W 802.95 FEET FROM THE NORTHEAST CORNER OF SECTION 5, TOWNSHIP 1 NORTH, RANGE 38 EAST OF THE BOISE MERIDIAN; RUNNING THENCE S.00°15'37"W. 465.59 FEET; THENCE N.89°43'44"W 500.00 FEET; THENCE N.00°15'37"E. 465.59 FEET TO THE NORTH LINE OF SAID SECTION 5; THENCE S.89°38'44"E. ALONG SAID NORTH LINE 500.0 FEET TO THE POINT OF BEGINNING, CONTAINING 5.36 ACRES.

TOGETHER WITH

BEGINNING AT A POINT THAT IS S.00°02'46"W. 1943.75 FEET FROM THE NORTHEAST CORNER OF SECTION 5, TOWNSHIP 1 NORTH, RANGE 38 EAST OF THE BOISE MERIDIAN; RUNNING THENCE S.00°02'46"W. 700.29 FEET; THENCE N.89°43'04"W. 812.82 FEET; THENCE N.00°15'37"E. 696.94 FEET; THENSE S.89°57'14"E. 810.21 FEET TO THE POINT OF BEGINNING, CONTAINING 13.01 ACRES.

BOUNDARY DESCRIPTION (R3)

BEGINNING AT A POINT THAT IS N.89°38'44"W 802.95 FEET AND S.00°15'37"W. 465.59 FEET FROM THE NORTHEAST CORNER OF SECTION 5, TOWNSHIP 1 NORTH, RANGE 38 EAST OF THE BOISE MERIDIAN; RUNNING THENCE S.00°15'37"W. 2179.44 FEET; THENCE N.89°43'04"W 500.00 FEET; THENCE N.00°15'37"E. 2180.07 FEET; THENCE S.89°38'44"E. 500.0 FEET TO THE POINT OF BEGINNING, CONTAINING 25.02 ACRES.

EAGLE ROCK ENGINEERING
CIVIL ○ PLANNING ○ SURVEYING
IDAHO FALLS (208) 542-2665 REXBURG (208) 359-2665

OFFICES AT:

1331 Fremont Ave.
Idaho Falls, Idaho 83402

310 N 2nd East, Suite 153
Rexburg, Idaho 83440

DRAWN BY:	TH & AG
APPROVED BY:	KURT ROLAND
PROJECT NO.	22040
SCALE:	1"=300'
DATE:	AUGUST 2022
CAD NAME:	REZONE MAP.DWG

REASONED STATEMENT OF RELEVANT CRITERIA AND STANDARDS

INITIAL ZONING OF LC, LIMITED COMMERCIAL, R3A, RESIDENTIAL MIXED USE, R3, MULTIPLE DWELLING RESIDENTIAL AND R2, MIXED RESIDENTIAL ZONES AND, APPROXIMATELY 95.362 ACRES, GENERALLY NORTH OF W 65TH S, EAST OF THE IDAHO CANAL, SOUTH OF W 49TH S, WEST OF S 15TH E.

WHEREAS, the applicant filed an application for annexation on June 21, 2022; and

WHEREAS, this matter came before the Idaho Falls Planning and Zoning Commission during a duly noticed public hearing on August 2, 2022; and

WHEREAS, this matter came before the Idaho Falls City council during a duly noticed public hearing on January 12, 2023; and

WHEREAS, having reviewed the application, including all exhibits entered and having considered the issues presented:

I. RELEVANT CRITERIA AND STANDARDS

1. The City Council considered the request pursuant to City of Idaho Falls Comprehensive Plan, City of Idaho Falls Zoning Ordinance, City of Idaho Falls Subdivision Ordinance, the Local Land Use Planning Act, and other applicable development regulations.
2. The property is approximately 95.362 acres generally north of W 65th S, east of the Idaho canal, south of W 49th S, west of S 15th E.
3. The Comprehensive Plan designates this area as General Urban/ Mixed Use Centers and Corridors.
4. The proposed zoning of LC, R3A, R3 and R2 Zones is consistent with the Comprehensive Plan map and policies and existing zoning and land uses in the area.
5. Idaho Falls Planning and Zoning Commission recommended approval of annexation, by split vote, recommending the initial zoning include LC, R3 and R2.
6. The applicant provided alternative zoning from the initial submittal, including LC, R3A, R3 and R2 in response to the Planning and Zoning Commission's recommendation.

II. DECISION

Based on the above Reasoned Statement of Relevant Criteria, the City Council of the City of Idaho Falls approved the initial zoning as presented.

PASSED BY CITY COUNCIL OF THE CITY OF IDAHO FALLS

THIS _____ DAY OF _____, 2023

_____

Rebecca L. Noah Casper - Mayor

Memorandum

File #: 21-769 **City Council Meeting**

FROM: Pam Alexander, Municipal Services Director
DATE: Wednesday, January 4, 2023
DEPARTMENT: Municipal Services

Subject
Resolution to Approve a Direct Loan to Idaho Falls Regional Airport

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

Approve the resolution to provide a direct loan to the Idaho Falls Regional Airport for the purpose of land acquisition and give authorization for the Mayor and City Clerk to execute the necessary documents (or take other action deemed appropriate).

Description, Background Information & Purpose

Resolution 2020-27 approved the Inter-Departmental Direct Loan Policy. In accordance with that policy, the loan committee reviewed this request for a direct loan and is proposing an 18-month payback period at approximately 5%. Funds to repay the loan will be reimbursed by the Federal Aviation Administration (FAA) within federal fiscal year 2023/24. As part of the FAA grant policies, both interest and loan fees are eligible for reimbursement.

Alignment with City & Department Planning Objectives



☐ ☐ ☒ ☐ ☐ ☐ ☐ ☐

The approval of the direct loan for the Idaho Falls Regional Airport supports the well-planed growth and development community-oriented result by planning for long-term regional transportation planning and program implementation.

Interdepartmental Coordination
The Inter-Departmental Loan committee reviewed the direct loan request pursuant to resolution 2020-27.

Fiscal Impact
The Idaho Falls Regional Airport has agreed to repay the loan through FAA reimbursement within the 2023/24 fiscal year.

Legal Review

The City Attorney has reviewed and concurs that the Council action desired is within State Statute and the Inter-Departmental Direct Loan Resolution and Policy.