CITY OF IDAHO FALLS, IDAHO
COUNCIL MEETING AGENDA
REGULAR MEETING

Thursday, January 22, 2015 **7:30 p.m.**

COUNCIL CHAMBERS
680 PARK AVENUE

The Mayor, City Council, and Staff welcome you to tonight's meeting. We appreciate and encourage public participation. If you wish to comment on a matter that is NOT on the Agenda, you should comment during Agenda Item Number 3. If you do not know whether the Mayor will allow comments on an Item on tonight's Agenda (other than during a public hearing), your comments should be made during Agenda Item Number 3. An amendment to this Agenda may be made upon passage of a motion that states the reason for the amendment and the good faith reason that the Agenda item was not included in the original Agenda posting. Note: Items listed under "ACTION" in this agenda are potential outcomes; however, these matters have not yet been decided. City Council Meetings are live streamed at www.idahofallsidaho.gov, then archived. Thank you for your interest in City Government.

1. **Call to Order and Roll Call.**

2. **Pledge of Allegiance.**

3. **Public Comment and Mayor's Response Time (Limit 15 Minutes)**: *This is the opportunity for members of the public to speak to the City Council regarding matters that are NOT on the Agenda; NOT noticed for a public hearing; NOT currently pending before the Planning Commission or Board of Adjustment; NOT the subject of a pending enforcement action; and NOT relative to a City personnel matter. If you want to speak, please state your name and address for the record and please limit your remarks to three (3) minutes. The Mayor and/or staff may respond to comments from a previous meeting. NOTE: The Mayor may exercise discretion to decide if and when to allow public comment on an Agenda Item that does not include a public hearing. If the Mayor determines that your comments may be made later in the meeting, she will let you know when you may make your comments.*

4. **CONSENT AGENDA:** Any item will be removed from the Consent Agenda at the request of any member of the Council and that item will be considered separately later. Approval by roll call vote:

   a. Items from the City Clerk:

      1. Approval of Minutes from the December 18, 2014 (Idaho Falls Power Board Meeting), the January 5, 2015 Council Work Session, and the January 8, 2015 Regular Council Meeting.

      2. Approval of License Applications, all carrying the required approvals.

      3. Request for Council ratification for the publication of legal notices calling for public hearings on January 22, 2015.

b. Items from the Airport Division:

1. Request for approval of the Airport Ground Lease Agreement between the City of Idaho Falls and Doug Hilborn located at 1845 Foote Drive and authorization for the Mayor and City Clerk to execute the necessary documents. The City Attorney has prepared and reviewed said Lease Agreement.

2. Request for approval of the 2015 Annual Loan Renewal Agreement with the National Museum of the United States Air Force – Static Display Program for the loan property of the F86L Aircraft located at the Idaho Falls Regional Airport, and authorization for the Mayor to execute the necessary documents

3. Request for approval of the On-Airport Auto Rental Concession Agreement between the City of Idaho Falls and Avis/Budget Car Rental, LLC, and authorization for the Mayor and City Clerk to execute the necessary documents. The City Attorney has reviewed said Agreement.

4. Request for approval of the On-Airport Auto Rental Concession Agreement between the City of Idaho Falls and Overland West Inc. (Hertz Car Rental), and authorization for the Mayor and City Clerk to execute the necessary documents. The City Attorney has reviewed said Agreement.

5. Request for approval of the On-Airport Auto Rental Concession Agreement between the City of Idaho Falls and CORPAT, Inc. (Alamo/ National Car Rental), and authorization for the Mayor and City Clerk to execute the necessary documents. The City Attorney has reviewed said Agreement.

6. Request for approval of the On-Airport Auto Rental Concession Agreement between the City of Idaho Falls and Enterprise Rent-A-Car of Utah LLC, and authorization for the Mayor and City Clerk to execute the necessary documents. The City Attorney has reviewed said Agreement.

c. Items from the Idaho Falls Power Division:

1. Request for Council ratification for two purchase and sale agreements for power transactions with Shell Energy. The agreements consist of purchasing 10 megawatts heavy load for August 2015 and selling 10 megawatts light load for July through September 2015. The total from these transactions are $370,320.00, of which $204,960.00 are the above stated sale of energy and $165,360.00 is the August purchase. This bundle of forward power transactions enables the Power Division to better match expected loads with resources.

2. Request for approval of Revision No. 1 to Exhibit D of Transmission Service Agreement No. 10TX-14692 with the Bonneville Power Administration. This revision updates our contract information for the agreement. This revision has been reviewed by the City Attorney. Idaho Falls Power respectfully requests approval of this revision and authorization for the Mayor to execute the necessary documents.

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

5. **REGULAR AGENDA**:

A. **Municipal Services Division**:

1. **Tabulation and Award of Bid for Bid IF-15-04, One (1) New Generation Step-Up Power Transformer**: This is the Tabulation and Award of Bid for One (1) New Generation Step-Up Power Transformer. It is the recommendation of the Municipal Services Division and Idaho Falls Power to accept the lowest responsive, responsible bid of WEG Electric Corporation to furnish a Voltran Generation Step-up Transformer in the amount of $150,000.00.

ACTION: To accept the lowest responsive, responsible bid provided by WEG Electric Corporation to furnish a Voltran Generation Step-up Transformer in the amount of $150,000.00 (or take other action deemed appropriate).

B. **Public Works Division**:

1. **Tabulation and Award of Bid for Well 3 Rehabilitation**: On January 13, 2015, bids were received and opened for the Well 3 Rehabilitation Project. Public Works recommends approval of the plans and specifications, award to the lowest responsive, responsible bidder, 3H Construction LLC in an amount of $45,410.00, and authorization for the Mayor and City Clerk to sign the contract documents.

ACTION: To approve the plans and specifications for the Well 3 Rehabilitation; to accept the lowest responsive, responsible bid provided by 3H Construction LLC in the amount of $45,410.00; and, give authorization for the Mayor and City Clerk to execute the necessary contract documents (or take other action deemed appropriate).

2. **Tabulation and Award of Bid for Well 15 Fencing**: On January 13, 2015, bids were received and opened for the Well 15 Fencing Project. Public Works recommends approval of the plans and specifications, award to the lowest responsive, responsible bidder, Eagle Rock Blasting Incorporated, in an amount of $34,245.80, and give authorization for the Mayor and City Clerk to execute the necessary contract documents.

ACTION: To approve the plans and specifications for Well 15 Fencing; to accept the lowest responsive, responsible bid provided by Eagle Rock Blasting Incorporated in the amount of $34,245.80; and, give authorization for the Mayor and City Clerk to execute the necessary contract documents (or take other action deemed appropriate).

C. **Parks and Recreation Division**:

1. **Tautphaus Park Arcade Concession Agreement Renewal**: This is the Tautphaus Park Arcade Concession Agreement with LOML LLC dba Funland for one (1) year, which has been reviewed and approved by the City Attorney. The Parks and Recreation Division respectfully requests approval of this Agreement and authorization for the Mayor and City Clerk to execute the necessary documents.

ACTION: To approve the Tautphaus Park Arcade Concession Agreement Renewal and give authorization for the Mayor and City Clerk to execute the necessary documents (or take other action deemed appropriate).

2. **Change Order No. 1 to Rock Solid Landscaping Design and Construction Professional Services Agreement**: On May 22, 2014, a Professional Services Agreement was entered into between the City of Idaho Falls and Rock Solid Landscaping Design and Construction for construction management services for the Rock Gardens, Phase 2 Project. Due to additional services performed beyond the original scope of work, the Parks and Recreation Division respectfully requests an increase in the contract amount of $10,560.00, bringing the original award of $60,000.00 to a total of $70,560.00, and request authorization for the Mayor and City Clerk to execute the necessary documents.

ACTION: To approve Change Order No. 1 with Rock Solid Landscaping Design and Construction in the amount of $10,560.00 for construction management services for the Rock Gardens, Phase 2 Project, and give authorization for the Mayor and City Clerk to execute the necessary documents (or take other action deemed appropriate).

3. **Idaho Service Vending Golf Facility Concession Agreement Amendment**: The Parks and Recreation Division respectfully requests authorization to enter into an Amended Agreement with Idaho Service Vending for the purpose of adding a full liquor license to the Pinecrest location which can then be used at the Sand Creek and Sage Lakes locations as needed for special events through a Liquor Catering Permit. This Agreement has been reviewed and approved by the City Attorney. The Parks and Recreation Division respectfully requests approval of this Agreement Amendment and authorization for the Mayor and City Clerk to execute the necessary documents.

ACTION: To approve the Golf Facility Concession Agreement Amendment with Idaho Service Vending, and give authorization for the Mayor and City Clerk to execute the necessary documents (or take other action deemed appropriate).

4. **Signage and Wayfinding Master Plan Resolution**: This is a Resolution to approve and adopt the Idaho Falls Signage and Wayfinding Master Plan. The Parks and Recreation Division respectfully requests approval of the Resolution adopting the Idaho Falls Signage and Wayfinding Master Plan, and authorization for the Mayor and City Clerk to execute the necessary documents.

ACTION: To approve the Resolution adopting the Idaho Falls Signage and Wayfinding Master Plan, and give authorization for the Mayor and City Clerk to execute the necessary documents (or take other action deemed appropriate).

5. **Commercial Watercraft Concession Agreement with Michael Melville**: The Parks and Recreation Division respectfully requests authorization to enter into an Agreement with Mr. Michael Melville for the purpose for permitting a non-exclusive commercial watercraft concession. The agreement is set to commence January 1, 2015 and expire on December 31, 2017. During this time, the concessionaire will maintain all appropriate licenses and authorizations required under the agreement. This agreement has been reviewed and approved by the City Attorney. The Parks and Recreation Division respectfully requests approval of this Agreement and authorization for the Mayor and City Clerk to execute the necessary documents.

ACTION: To approve the Commercial Watercraft Concession Agreement with Michael Melville, and give authorization for the Mayor and City Clerk to execute the necessary documents (or take other action deemed appropriate).

6. **Idaho Falls Zoo at Tautphaus Park Concession Agreement Renewal with Mountain Foods**: This is the Idaho Falls Zoo at Tautphaus Park Concession Agreement with Mountain Foods. This food and beverage concessions agreement has a one (1) year term, and has been reviewed and approved by the City Attorney. The Parks and Recreation Division respectfully requests approval of this Agreement and authorization for the Mayor and City Clerk to execute the necessary documents.

ACTION: To approve the Idaho Falls Zoo at Tautphaus Park Concession Agreement Renewal with Mountain Foods, and give authorization for the Mayor and City Clerk to execute the necessary documents (or take other action deemed appropriate).

7. **Professional Services Agreement with Beck and Baird for Landscape Architecture**: This is a Professional Services Agreement for landscape architecture at the U. S. 20 right-of-way at Riverside Drive and Fremont Avenue in an amount not to exceed $5,350.00. This agreement has been reviewed and approved by the City Attorney. The Parks and Recreation Division respectfully requests approval of this Agreement and authorization for the Mayor and City Clerk to execute the necessary documents.

ACTION: To approve the Professional Services Agreement with Beck and Baird for landscape architecture at the U. S. 20 right-of-way at Riverside Drive and Fremont Avenue in an amount not to exceed $5,350.00, and give authorization for the Mayor and City Clerk to execute the necessary documents (or take other action deemed appropriate).

8. **Cooperative Agreement with Idaho Transportation Department for Landscaping Right-of-Way at Riverside Drive and Fremont Avenue**: This is the Cooperative Agreement between the City of Idaho Falls and Idaho Transportation Department for the landscaping of the U. S. 20 right-of-way at Riverside Drive and Fremont Avenue. The agreement has been reviewed and approved by the City Attorney. The Parks and Recreation Division respectfully requests approval of this Agreement and authorization for the Mayor and City Clerk to execute the necessary documents.

ACTION: To approve the Cooperative Agreement with the Idaho Transportation Department for landscaping the U. S. 20 right-of-way at Riverside Drive and Fremont Avenue, and give authorization for the Mayor and City Clerk to execute the necessary documents (or take other action deemed appropriate).

D. **Idaho Falls Power Division**:

1. **Approve the Usage Monitor Software Access Agreement with Exceleron**: Idaho Falls Power has an existing contract with Exceleron for an energy management web portal that will enable customers to access information on electric use at their premises. Customers will soon be able to voluntarily sign up for this service, if interested. In working with Exceleron to complete this project, we have determined there are efficiency gains to be made to using Exceleron's Meter Data Management (MDM) System. Because we are reaching the end of the contract with our current MDM provider, we are proposing to amend their scope to include providing this service. The City Attorney has reviewed this agreement. Staff recommends that City Council approve that agreement and authorize the Mayor to execute the necessary documents.

ACTION: To approve the Usage Monitor Software Access Agreement with Exceleron, and give authorization for the Mayor to execute the necessary documents (or take other action deemed appropriate).

E. **Planning and Building Division**:

1. **Professional Services Agreement with Idaho Smart Growth**: This is a Professional Services Contract with Idaho Smart Growth. The contract provides for services to assist with training regarding the area of city impact statute and required process. The training will be held February 4, 2015. The contract was prepared by the Legal Department. Staff respectfully requests approval of the contract.

ACTION: To approve the Professional Services Agreement with Idaho Smart Growth and give authorization for the Mayor and City Clerk to execute the necessary documents (or take other action deemed appropriate).

2. **Final Plat and Reasoned Statement of Relevant Criteria and Standards – Parkwood Meadows Addition, Division No. 3, First Amended**: This is an application for a Final Plat and Reasoned Statement of Relevant Criteria and Standards for Parkwood Meadows Addition, Division No. 3, First Amended. The Planning Commission considered the application at its December 2, 2014 Meeting and recommended approval. Staff concurs with this recommendation. The application is now being submitted to the Mayor and City Council for consideration.

ACTION: The following recommendations in sequential order (or take other action deemed appropriate):

a. To approve the Development Agreement for Parkwood Meadows Addition, Division No. 3, First Amended, and give authorization for the Mayor and City Clerk to execute the necessary documents.

b. To approve the Final Plat for Parkwood Meadows Addition, Division No. 3, First Amended, and give authorization for the Mayor, City Engineer, and City Clerk to sign said Final Plat.

c. To approve the Reasoned Statement of Relevant Criteria and Standards for the Final Plat for Parkwood Meadows Addition, Division No. 3, First Amended to the City of Idaho Falls, Idaho, and give authorization for the Mayor to execute the necessary documents.

3. **Adoption of 2012 International Mechanical Code**: The Idaho Building Code Act requires local jurisdictions to adopt and enforce building codes as adopted by the State of Idaho. The State has now adopted the 2012 International Mechanical Code. Staff recommends approval of the Ordinance adopting the code.

ACTION: To approve the Ordinance under the suspension of the rules requiring three complete and separate readings and that it be read by title and published by summary (or consider the Ordinance on the first reading and that it be read by title, or reject the Ordinance).

4. **Adoption of 2012 International Fuel Gas Code**: The Idaho Building Code Act requires local jurisdictions to adopt and enforce building codes as adopted by the State of Idaho. The State has now adopted the 2012 International Fuel Gas Code. Staff recommends approval of the Ordinance adopting the code.

ACTION: To approve the Ordinance under the suspension of the rules requiring three complete and separate readings and that it be read by title and published by summary (or consider the Ordinance on the first reading and that it be read by title, or reject the Ordinance).

5. **Adoption of 2012 International Residential Code**: The Idaho Building Code Act requires local jurisdictions to adopt and enforce building codes as adopted by the State of Idaho. The State has now adopted the 2012 International Residential Code. Staff recommends approval of the Ordinance adopting the code.

ACTION: To approve the Ordinance under the suspension of the rules requiring three complete and separate readings and that it be read by title and published by summary (or consider the Ordinance on the first reading and that it be read by title, or reject the Ordinance).

6. **Public Hearing – Planned Unit Development Ordinance**: This is the Ordinance revising the Planned Unit Development Sections of the Zoning Ordinance. The Ordinance also moves standards for mobile home parks to the Residential Mobile Home (RMH) Zone within the Zoning Ordinance. The Planning Commission considered the Ordinance at its October 7, 2014 Meeting and recommended approval. Staff concurs with this recommendation.

ACTION: To approve the Ordinance under the suspension of the rules requiring three complete and separate readings and that it be read by title and published by summary (or consider the Ordinance on the first reading and that it be read by title, or reject the Ordinance).

7. **Public Hearing – Adoption of 2012 International Energy Conservation Code**: The Idaho Building Code Act requires local jurisdictions to adopt and enforce building codes as adopted by the State of Idaho. The State has now adopted the 2012 International Energy Conservation Code with amendments. Attached is a memorandum from the Idaho Falls Building Official, Reginald Fuller, outlining the Department's recommendation to adopt the code as written, without the amendments. This recommendation was presented in detail at the January 5, 2015 Council Work Session. Staff recommends approval of the attached Ordinance adopting the Code.

ACTION: To approve the Ordinance under the suspension of the rules requiring three complete and separate readings and that it be read by title and published by summary (or consider the Ordinance on the first reading and that it be read by title, or reject the Ordinance).

8. **Public Hearing – Annexation, Annexation Agreement, Annexation Ordinance, Initial Zoning of R-1, Zoning Ordinance, Final Plat, and Reasoned Statements of Relevant Criteria and Standards, Bristol Heights Addition, Division No. 6**: This is the application for annexation, with initial zoning of R-1, annexation agreement, annexation and zoning ordinances, and Reasoned Statements of Relevant Criteria and Standards for Bristol Heights Addition, Division No. 6. The Planning Commission considered the application at its December 2, 2014 Meeting and recommended approval. Staff concurs with this recommendation. The application is now being submitted to the Mayor and City Council for consideration.

ACTION: The following recommendations in sequential order (or take other action deemed appropriate):

a. To approve the Annexation Agreement for Bristol Heights Addition, Division No. 6, and give authorization for the Mayor and City Clerk to execute the necessary documents.

b. To approve the Ordinance annexing Bristol Heights Addition, Division No. 6, under the suspension of the rules requiring three complete and separate readings and that it be read by title and published by summary (or consider the Ordinance on the first reading and that it be read by title, or reject the Ordinance).

c. To approve the Reasoned Statement of Relevant Criteria and Standards for the annexation for Bristol Heights Addition, Division No. 6, and give authorization for the Mayor to execute the necessary documents.

d. To approve the Ordinance assigning a Comprehensive Plan Designation of Low Density and establishing the initial zoning for Bristol Heights Addition, Division No. 6 as R-1 (Single-Family Residential), under the suspension of the rules requiring three complete and separate readings and that it be read by title and published by summary (*or consider the Ordinance on the first reading and that it be read by title, or reject the Ordinance*), that the Comprehensive Plan be amended to include the area annexed herewith, and that the City Planner be instructed to reflect said annexation, zoning, and amendment to the Comprehensive Plan on the Comprehensive Plan and Zoning Maps located in the Planning Office.

e. To approve the Reasoned Statement of Relevant Criteria and Standards for the Initial Zoning of R-1 Residence Zone for Bristol Heights Addition, Division No. 6, and give authorization for the Mayor to execute the necessary documents.

f. To accept the Final Plat for Bristol Heights Addition, Division No. 6, and give authorization for the Mayor, City Engineer, and City Clerk to sign said Final Plat.

g. To approve the Reasoned Statement of Relevant Criteria and Standards for the Final Plat for Bristol Heights Addition, Division No. 6, and give authorization for the Mayor to execute the necessary documents.

9. **Public Hearing – Annexation Prior to Platting, Annexation Agreement, Annexation Ordinance, Initial Zoning of R-1, Zoning Ordinance, and Reasoned Statements of Relevant Criteria and Standards for a Metes and Bounds Legal Description of 1.887 Acres in Section 15, Township 2 North, Range 37, East of the Boise Meridian**: This is the application for annexation prior to platting with initial zoning of R-1 (Single-Family Residential), annexation agreement, annexation and zoning ordinances, and Reasoned Statements of Relevant Criteria and Standards for 1.887 acres located south of 17th North, west of Alayssa Drive, east of 35th West, and north of West Broadway. The Planning Commission considered the application at its December 2, 2014 Meeting and recommended approval. Staff concurs with this recommendation. The application is now being submitted to the Mayor and City Council for consideration.

ACTION: The following recommendations in sequential order (or take other action deemed appropriate):

a. To approve the Annexation Agreement Prior to Platting for a Metes and Bounds Legal Description of 1.887 Acres in Section 15, Township 2 North, Range 37, East of the Boise Meridian, Bonneville County, Idaho, and give authorization for the Mayor and City Clerk to execute the necessary documents.

b. To approve the Ordinance annexing a Metes and Bounds Legal Description 1.887 Acres in Section 15, Township 2 North, Range 37, East of the Boise Meridian, Bonneville County, Idaho, under the suspension of the rules requiring three complete and separate readings and that it be read by title and published by summary (or consider the Ordinance on the first reading and that it be read by title, or reject the Ordinance).

c. To approve the Reasoned Statement of Relevant Criteria and Standards for the annexation of property located generally south of 17th North, west of Alayssa Drive, north of West Broadway, and east of 35th West and give authorization for the Mayor to execute the necessary documents.

d. To approve the Ordinance assigning a Comprehensive Plan Designation of Low Density and establishing the initial zoning of R-1 (Single-Family Residential) for a Metes and Bounds Legal Description of 1.877 Acres in Section 15, Township 2 North, Range 37, East of the Boise Meridian, Bonneville County, Idaho, under the suspension of the rules requiring three complete and separate readings and that it be read by title and published by summary (*or consider the Ordinance on the first reading and that it be read by title, or reject the Ordinance*), that the Comprehensive Plan be amended to include the area annexed herewith, and that the City Planner be instructed to reflect said annexation, zoning, and amendment to the Comprehensive Plan on the Comprehensive Plan and Zoning Maps located in the Planning Office.

e. To approve the Reasoned Statement of Relevant Criteria and Standards for the Initial Zoning of R-1 Residence for property located generally south of 17th North, west of Alayssa Drive, north of West Broadway, and east of 35th West, and give authorization for the Mayor to execute the necessary documents.

Motion to Adjourn.

If you need communication aids or services or other physical accommodations to participate or access this meeting or program of the City of Idaho Falls, you may contact City Clerk Rosemarie Anderson at Telephone Number 612-8414 or the ADA Coordinator Lisa Farris at Telephone Number 612-8323 as soon as possible and they will make every effort to adequately meet your needs.

CONSENT AGENDA:

IDAHO FALLS REGIONAL AIRPORT

2140 N. Skyline Drive #12
Idaho Falls, ID 83402
Phone: (208) 612-8224
Fax: (208) 612-8517

MEMORANDUM

TO: Honorable Mayor and City Council

FROM: Craig H. Davis, Airport Director

DATE: January 22, 2015

SUBJECT: **Airport Ground Lease Agreement – Doug Hilborn**

Attached for your consideration is an Airport ground lease agreement between the City of Idaho Falls, Idaho and Doug Hilborn located at 1845 Foote Drive.

City Attorney has reviewed said Lease.

The Airport Division respectfully requests approval and authorization for the Mayor and City Clerk to sign and execute said document.

Respectfully submitted,

Craig H. Davis
Airport Director

C: City Clerk

AIRPORT LEASE AGREEMENT

Lease Agreement, made and entered this 18th day of December, 2014 by and between the CITY OF IDAHO FALLS, a municipal corporation of Bonneville County, Idaho, herein referred to as IDAHO FALLS REGIONAL AIRPORT herein referred to as "IFRA", and Doug Hilborn. Whose address is 1880 Tiffany Drive, Idaho Falls, Idaho 83404, herein referred to as "LESSEE";

WITNESSETH:

For and in consideration of the mutual covenants, conditions and obligations set forth herein, the parties agree as follows:

1. Premises. IFRA agrees to lease to LESSEE, subject to the full and faithful performance of the terms, conditions and covenants contained herein the premises located at IFRA, at 1845 Foote Drive, Idaho Falls, Idaho 83402, which premises is legally described in Exhibit "A" and Exhibit "B" (a legal description and plot plan showing the location of the improvements on the premises) attached hereto.

2. Rental and Payment. LESSEE agrees to pay to IFRA as rental for the demised premises:

   A. $1,166.92 per annum for 4,667.7 square feet leased, as described in Exhibit "A" and as depicted in Exhibit "B", at an initial rate of $.25 (twenty-five) cents per square foot per annum, and,

   B. If applicable, an infrastructure fee of $.10 (ten) cents per square foot per-annum of the leased area in 2.A to reimburse CITY for the construction of water/sewer and other improvements.

The total amount owed under 2.A and 2.B above is $1,166.92 (total lease payment due per annum). However, that at the expiration of the first (5) years of this Agreement and on each successive five-year period thereafter throughout the term of this Agreement, or any extensions thereof, the amount of such rental shall be adjusted by multiplying the original rental by a fraction determined as follows: The U.S. Consumer Price Index of all Urban Consumers (CPI-U), U.S. City Average as determined by the U.S. Department of Labor, Bureau of Labor Statistics as denominator, and the most current CPI-U available at the time of such adjustment, as numerator. Rental shall be due and payable in advance on or before January 10th of each year. LESSEE shall be subject to a late payment penalty of 1.5% per month or $30 per day for every day the payment is late, whichever is greater.

3. Term. The initial term of this Lease Agreement is Five (5) years and shall commence on December 1, 2014, and shall terminate on November 30, 2019 and that LESSEE shall have the right to renew this Lease Agreement for one (1) additional term of five (5) years. At each of the five-year renewal options, the Agreement shall be brought into conformity with then-existing leases for lease rate, insurance and other provisions which are required by federal or state law or regulation. LESSEE shall give CITY at least sixty (60) days written notice prior to the expiration of the term hereof, or subsequent renewal term, of its intention to exercise such right of renewal.

Note: New Construction Lease Agreements are normally twenty (20) years plus two (2) five year options. Lease Renewals are normally for five (5) years unless major improvements are made to the hangar. After the twenty (20) year renewal, only five-year extensions should be offered unless the facilities are brought to like-new condition.

a. LEASE RENEWALS:
CITY reserves the right to renew or not renew Lease Agreements based on future plans for the AIRPORT including the current Airport Master Plan and/or other aviation uses which may be more desirable to the IFRA. In order to maintain a high standard of hangar quality, improvements to bring hangar maintenance up to date will be one consideration of Lease Agreement renewal.
   i. A five (5) year Lease Agreement renewal may be offered unless major upgrade, repair, and maintenance are done to the hangar.
   ii. A term of up to twenty (20) years will be considered if the LESSEE provides a facility condition assessment report prepared by an independent, qualified contractor, approved by the CITY in writing, attesting to the condition of the leasehold improvements. The facility condition assessment report must indicate what improvements and maintenance need to be accomplished to bring the condition of the leasehold improvement up to a standard that is "like new" or "reconditioned" for the ongoing twenty (20) year period.
   iii. Reversion. All Lease Agreement renewals are subject to a "reversion" clause. Upon termination of a Lease Agreement whereby improvements to AIRPORT property were made by LESSEE or Operator, LESSEE or Operator shall agree that all said improvements as well as the property leased to it, shall, without compensation from the CITY, become the property of the CITY. Under no circumstances shall the party to such Lease Agreement be entitled to any payment by reason of the value of its business or franchise. LEESSEE

may remove improvements from the AIRPORT at LESSEE'S cost provided Lessee is not in default of its Lease Agreement.

4. Infrastructure Fees. An Infrastructure Fee for all new construction for Public improvements, including but not limited to water, power, sewer that have been constructed which LESSEE has the use and benefit of, and for construction and ongoing maintenance of taxi lanes serving the LESSEE hangars. LESSEE agrees to pay ($.10) ten cents per square foot per annum, or a minimum fee of ($200.00) Two-Hundred Dollars per annum for its share of those improvements.

5. Airport Privileges. LESSEE is granted the privilege of using, in common with the public, all existing or future public aeronautical facilities at the IFRA, including but not limited to the landing area, its extensions, additions, roadways, runways, ramps, aprons, taxiways, public air navigation facilities, radio aids, beacons, control towers, signals, floodlights, landing lights, and all other conveniences now or hereafter provided for flying, landing or taking off of aircraft, subject to such reasonable rules, regulations, charges, fees or other costs which may be generally promulgated or established by IFRA or its authorized agents, including the Airport Director; provided, however, that nothing herein shall be construed to grant an exclusive right to LESSEE, and IFRA expressly retains the privilege of entering into other agreements which authorize any lawful use of such AIRPORT facilities upon such terms and conditions as may be determined by IFRA.

6. Improvements/Building Requirements.

a. All structures erected on the AIRPORT premises shall meet the Idaho Falls Building Code. All such structures shall be of a design harmonious with the surrounding structures. All structures will be located in the areas specified for their particular use on the Airport Layout Plan.
b. All buildings, leased areas, and privately owned facilities must be maintained in accordance with pertinent CITY ordinances, rules and regulations.
c. Access shall be provided the CITY to all buildings for periodic inspection purposes.
d. Prior CITY approval must be obtained before any structural alterations, repair, or additional equipment installation.
e. All refueling and fuel storage installations will be located only in the areas so designated on the Airport Layout Plan.
f. All facilities and areas at the Airport shall be used only for purposes directly connected with, or in incident to, aviation (Accepting only those areas designated by CITY for AIRPORT Industrial Park, agriculture, or recreation.)
g. All new construction or alteration required an FAA for 7460 to be filed and approved by Federal Aviation Administration (FAA) prior to approval of improvements by CITY.

6. Limitation on Use.
   a. This Lease Agreement shall be subject to FAA's policy on non-aeronautical use of AIRPORT hangars which requires that AIRPORT's charge LESSEE off AIRPORT fair market rent for hangars not being utilized for aeronautical purposes. These fees will be set by the CITY.
   b. Small amounts of non-aeronautical property of the hangar owner or LESSEE may be allowed so long as airplanes can easily be accessed and at least the number of aircraft the hangar was built for can access and be parked in the hangar.
   c. Temporary use of the hangar to park a personally owned vehicle while the aircraft is flying away from the AIRPORT is permitted.
   d. The N number of all aircraft stored in the hangar shall be reported to the Airport Director annually on October 1st of each year.

e. Failure to report the N number of the aircraft stored in the hangar will result in a de-facto presumption that the hangar is being used for a non-aeronautical purpose and the lease rate will be adjusted to a rate set by the CITY which represents an off AIRPORT non-aeronautical use fee.
f. Non-aeronautical use of a hangar must be reviewed by FAA and if approved cannot exceed five (5) years.
g. Failure to use a hangar for aeronautical purposes as defined by FAA shall result in a presumption that the Lease Agreement terms have been violated and that the Lease Agreement can be cancelled at the option of the CITY.
h. A private motor vehicle may be parked in the aircraft hangar when the stored aircraft is away from the AIRPORT.

8. Utilities. LESSEE will pay for specific utility extension fees required and will pay all utility fees as such utilities are billed for water, electricity, telephone and sewer.

9. Maintenance of Leased Premises. LESSEE agrees to keep the Leased Premises clear of any debris, trash, weeds, clutter or other unattractive items of personal property. LESSEE shall also keep the Leases Premises in good state of repair and shall maintain the same in neat and attractive conditions. Should LESSEE fail to maintain its Leased Premises within thirty (30) days of written notification from the Airport Director then IFRA can arrange for the cleanup of the leasehold and bill the LESSEE for costs incurred including IFRA personnel and equipment.

10. Waste. LESSEE agrees not to commit nor permit any waste, or destruction of the Leased Premises or the improvements thereon, and shall upon the expiration of the term hereof, return the premises to IFRA in as good a condition as the same now exists.

11. Compliance With Applicable Law. LESSEE agrees at all times herein to comply with all applicable rules, regulations, ordinances, statutes and administrative laws of the CITY of Idaho Falls, the State of Idaho, the United States of America or any agency or political subdivisions thereof having jurisdiction over the Leased Premises. LESSEE further agrees to comply with all reasonable rules and regulations, Minimum Standards for Commercial Aviation Activity, and to provide proof of insurance in the amount generally promulgated by the Airport Director for the CITY, which said rules and regulations pertain to the use, operation or maintenance of the IFRA.

12. Compliance with Environmental Laws. LESSEE agrees not to store, dispose, use or allow the use of any "hazardous substance" or "hazardous waste" upon the Leased Premises, as such terms are defined under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA", 42 U.S.C. § 9601, et seq.) the Clean Water Act ("CWA", 33 U.S.C.§ 1251, et seq.), the Clean Air Act ("CAA", 42 U.S.C. § 7401, et seq.), the Toxic Substances Control Act ("TSCA", 15 U.S.C. § 2601, et seq. the Resource Conservation and Recovery Act of 1976 ("RCRA", 42 U.S.C. § 6901, et seq.), the Idaho Environmental Protection and Health Act of 1972 ("IEPHA", Title 39, Chapter 1, Idaho Code), the Idaho Hazardous Waste Management Act of 1983 ("IHWMA", Title 39, Chapter 44, Idaho Code), or any other similar state or federal law or regulation regulating the use, storage, transport or manufacture of a hazardous substance (such laws and regulations are hereafter referred to as "Environmental Laws"), without first

sending written notice of such intended use to IFRA at least sixty (60) days prior to the commencement of such use. Such notice shall specifically describe the hazardous substance involved the reason for such use and all methods, precautions and procedures to be employed by LESSEE to ensure such hazardous substance is not released into the environment. IFRA also agrees to strictly comply with all terms and provisions of such acts, statutes and laws, and any other similar environmental law or any rule or regulations, enacted or promulgated after the date hereof, and to design and construct all facilities in a manner which reasonably ensures hazardous substances will not be released into the environment. IFRA may prohibit the use, storage, or deposit of such substances until LESSEE demonstrates to IFRA complete satisfaction that such proposed use will comply in every respect with such laws and that such use will be conducted in a proper and safe manner. IFRA, and its agents, attorneys, employees, consultants and contractors, hereby reserve the right to enter upon and inspect the real property and facilities leased hereby at any time for the purpose of determining LESSEE'S compliance with the provisions of this paragraph, including without limitation the right to perform such inspections, examinations, subsurface testing, soils and ground water testing and other tests necessary to protect IFRA interest in the property an ensure LESSEE'S compliance with the term's and provisions of this paragraph.

If LESSEE gives notice of an intent to use such hazardous substances, IFRA may require that Lessee annually submit a written site assessment and environmental audit to IFRA, in scope, form and substance satisfactory to IFRA and prepared by an

independent, competent and qualified licensed engineer showing that the engineer has conducted an environmental audit of the Leased Premises, consistent with good commercial and customary practice and certifying that no evidence or indication came to light which would suggest there has been a release of hazardous substances on the demised Leased Premises or which would necessitate an environmental response action by the United States government or the State of Idaho, or any agency thereof. Such assessment shall further certify that LESSEE'S use of the Leased Premises and the condition of the Leased Premises complies with and does not deviate from all applicable environmental statutes, laws, ordinances, rules and regulations, including any licenses, permits or certificates required thereunder. If any environmental response action is initiated by any federal or state agency as a result of LESSEE'S use, storage, generation, disposal or transport of hazardous substances upon the demised Leased Premises, IFRA may require such environmental audit and inquiry be conducted more frequently than annually and as frequently as necessary to ensure LESSEE'S compliance with the terms and provisions hereof. If any environmental response action is initiated or taken by any state or federal regulatory agency as a result of such use by LESSEE, IFRA may require LESSEE to post and deliver a performance bond or policy of insurance indemnifying and holding the CITY harmless from any and all reasonable foreseeable costs, penalties, fines or response costs of any kind which may be assessed by such agency on account of LESSEE'S s failure to comply with the provisions of such environmental laws and regulations, as a condition for LESSEE'S continued use of the Leased Premises pending determination by court of law of

LESSEE's compliance with such statues. If LESSEE fails to strictly comply with the Environmental Laws, IFRA may immediately and without prior notice enter upon the Leased Premises and take such response action as reasonably necessary to bring the property into compliance with such laws and comply with any response action taken by any agency charged with the enforcement thereof. In such event, all costs, expenses and consultants' fees incurred by IFRA for such response or remediation effort shall be promptly and immediately paid by LESSEE, and together with interest at a rate of twelve percent (12%) per annum until paid, from the date such costs were incurred by IFRA.

If LESSEE has used, stored or transported a hazardous substance or waste upon the Leased Premises, IFRA may, at the termination of this Lease Agreement, perform an environmental audit of such scope and extent determined necessary by IFRA, in order to determine LESSEE'S compliance with the terms and provisions of this paragraph. Such audit shall be performed at the sole expense of LESSEE.

LESSEE agrees to indemnify and save IFRA harmless from any and all damages, remedial orders, judgments, decrees, costs and expenses, including but not limited to attorney's fees, consultants' fees, clean-up costs, removal and response costs arising from LESSEE'S failure to strictly comply with the terms and provisions of this paragraph. The terms and provisions of this paragraph shall survive the termination of this Lease Agreement and shall remain in effect for the full period of any statute of limitations with respect to the enforcement of the Environmental Laws or the terms and

conditions of this Lease Agreement, whichever is longer. Nothing herein shall be deemed to impose upon LESSEE any obligation or duty to indemnify IFRA on account of any violation of the Environmental Laws by IFRA or by any leaseholder who was in possession of the demised premises prior to the commencement of the term of this Lease.

13. Subordination to Agreements With United States Government. This Lease Agreement shall be subordinate to any existing or future Lease Agreement which may be made between IFRA r and the United States Government for military or national emergency use of part or all of the AIRPORT, the landing area, publicly-owned air navigation facilities or other aeronautical facilities or areas of the AIRPORT. This Lease Agreement also shall be subordinate to any existing or future Lease Agreements between IFRA Lessor and the United States of America of the State of Idaho, the execution of which has been or may be required as a condition precedent to the expenditure of funds, allocations or grants for the development of the AIRPORT. .

14. Discrimination. LESSEE shall not, on the grounds of race, color or national origin, discriminate or permit discrimination against any person or group of persons in any manner prohibited by Part 21 of the Federal Aviation Regulations or other applicable state or federal law.

15. Interference With Operation of Airport. IFRA reserves the right to take any action it considers necessary to protect the aerial approaches of the AIRPORT against any obstruction which would limit the usefulness of the AIRPORT or constitute a hazard to

aircraft or which would otherwise interface with the safe or efficient operation of the AIRPORT.

16. Indemnification. LESSEE agrees to indemnify, defend and hold CITY, its agents, officers, representatives, and employees harmless from any and all costs, expenses, fees, penalties, liability or loss resulting from any claim or claims, of any kind or nature, arising directly or indirectly from the acts of LESSEE, its agents, servants, guests, employees or invitees, under this Lease Agreement or by reason of any act or omission of Lessee.

17. Assignment and Subletting. LESSEE shall not assign, mortgage, encumber, sublease or transfer this Lease Agreement or any part thereof, or improvements thereon or any privileges arising hereunder, without the prior written consent of the Lessor, which consent shall not be unreasonably withheld.

    a. Any financing proposed for the leasehold Leased Premises shall be subordinate to the interests of CITY and the lien holder shall be responsible to cure lease violations, including but not limited to, delinquent lease fees, violation of Airport Rules and Regulations, failure to provide insurance, and Violation of Airport Minimum Standards.
    b. Subleasing for the storage of aircraft may be permitted if the LESSEE provides proof of adequate insurance, including hangarkeepers insurance if required and a written agreement with the sublease party to provide adequate insurance and follow airport rules and regulations.
    c. Sale of the leasehold will require approval of a separate Lease Agreement transfer/assignment along with payment of lease transfer fees.

18. Termination of Lease. LESSEE agrees to surrender and quit the Leased Premises immediately upon the termination of this Lease Agreement.

19. Default. In the event LESSEE shall file or have filed against it a petition under the Bankruptcy Act, or shall make as assignment for the benefit of creditors, become insolvent, or fail to fully and faithfully comply with the terms and provisions hereof, then in such event, LESSEE shall be deemed to be in default of this Lease Agreement, and in the event LESSEE shall fail to cure such default within thirty (30) days after written notice shall have been given to them by IFRA in a manner provided here in below, CITY may elect to terminate this Lease Agreement or alternately or in addition thereto, the CITY may pursue any other remedies at law or in equity to enforce the performance of this Lease Agreement or to recover damages for the breach thereof. Such notice shall generally set forth the nature of the default claimed by LESSOR.

20. Notices. All notices required under the terms of this Lease Agreement shall be given by depositing a copy of such notice in the United States mail, postage prepaid, certified mail, returned receipt requested, addressed to the receiving party at the address set forth below, or such other addresses as may be given in writing delivered to the sending party. All notices shall be deemed to be received upon their deposit in the United States mail in the manner provided above. For the purposes of this paragraph, the parties' addresses are as follows:

Idaho Falls Regional Airport
Airport Director
2140 N Skyline Drive #12
Idaho Falls, Idaho 83402

Doug Hilborn
1880 Tiffany Drive
Idaho Falls, Idaho 83404

21. Venue and Applicable Laws. This Lease Agreement is governed by the laws of the State of Idaho. The venue for any action or suit arising from the terms and conditions of the Lease Agreement shall be in the District Court of the Seventh Judicial District, Bonneville County, State of Idaho.

22. Attorney's Fee. In the event either party is required to commence legal action to enforce the terms and provisions hereof, the prevailing party shall be entitled to recover from the defaulting party a reasonable attorney's fee and court costs as determined by the court.

23. Waiver/Invalidity. If either waives a breach of this Lease Agreement, such waiver shall not be construed as a waiver of any other simultaneous or subsequent breach of this Lease Agreement. If any provision of this Lease Agreement is found invalid, such invalidity shall not affect the enforcement of any other tremor provision of this of this Lease Agreement

24. Binding Effect. This Lease Agreement shall be binding upon the heirs, successors, personal representatives or assigns of the parties hereto.

25. Complete Lease Agreement. The parties acknowledge and agree that this writing shall constitute the complete and final Lease Agreement of the parties hereto, that all prior negotiations, representations or understandings of the parties shall be deemed to merge into and are superseded by this Lease Agreement. The parties further agree that any prior written agreements regarding the demised Leased Premises, between the parties or between IFRA and LESSEE'S predecessor, shall be superseded by this Lease Agreement. This Lease Agreement may be amended only by written agreement duly and regularly executed by the parties hereto.

Exhibit "A"

LEASE DESCRIPTION

Dr. Douglas J. Hilborn

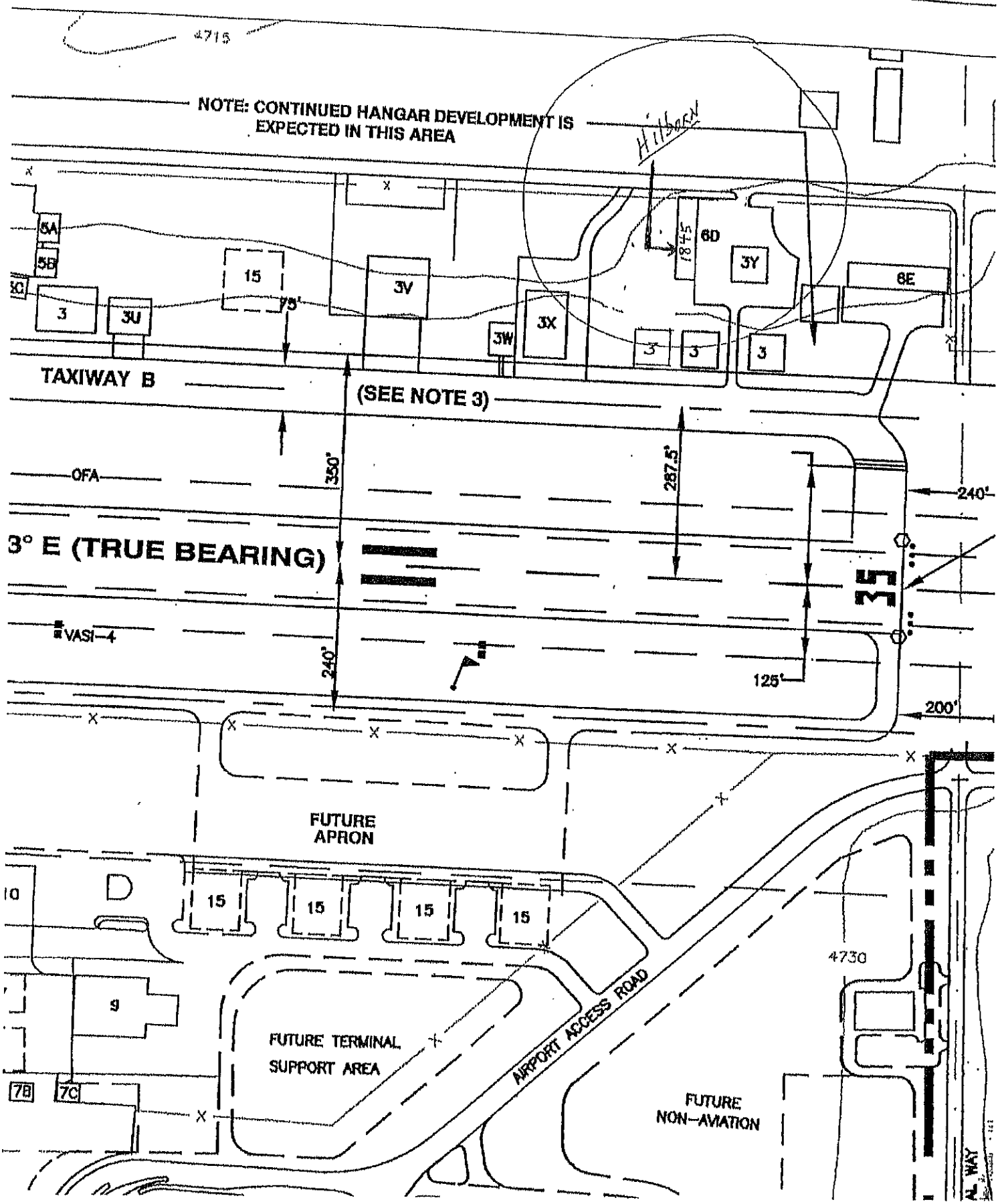
Wilcox Hangar Parcel
Located in Lot 5, Block 5,
Airport Industrial Park Addition
Division No. 3

A parcel being located in the Southwest quarter of Section 12, T2N, R37E.B.M., Bonneville County, Idaho, and being more particularly described as follows:

Beginning at a point which bears N61°19'54"E 940.36 feet from the Southwest corner of said Section 12; running thence N01°31'50"E 36.17 feet; thence S88°08'43"E 129.05 feet; thence S01°31'50"W 36.17 feet; thence N88°08'43"W 129.05 feet to the point of beginning. Containing 4,667.7 square feet, more or less.

DrHilborn_Wilcox.doc
12/11/2003- lt3842

1845 Foote Drive



IN WITNESS WHEREOF, the parties have hereunto set their hands and seals this day and year first above written.

ATTEST:

_____
City Clerk

LESSOR:
CITY OF IDAHO FALLS

By:_____
Rebecca L. Noah Casper
Mayor

LESSEE:

By:_____

APPROVED AS TO FORM:

_____
Randy Fife
City Attorney

_____
Craig Davis
Airport Director

STATE OF IDAHO)
)ss.
County of Bonneville)

On this _____ day of _____, 2014 before me, the undersigned, a Notary Public for Idaho, personally appeared Rebecca L. Noah Casper, known to me to be the Mayor of the City of Idaho Falls, Idaho, the municipal corporation that executed the foregoing document, and acknowledged to me that she is authorized to execute the same for and on behalf of said City.

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

(SEAL)

_____
Notary Public for State of Idaho
Residing at Idaho Falls, Idaho
My Commission Expires:_____

STATE OF IDAHO)
)ss.
County of Bonneville)

On this 29th day of December, 2014 before me, the undersigned, a Notary Public for Idaho, personally appeared Douglas J Hilborn, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he (she) executed the same.

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

(SEAL)

BRENT M. DEES
NOTARY PUBLIC
STATE OF IDAHO

Brent M Dees
Notary Public for State of Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: 2-1-2016

IDAHO FALLS REGIONAL AIRPORT

2140 N. Skyline Drive #12
Idaho Falls, ID 83402
Phone: (208) 612-8224
Fax: (208) 612-8517

MEMORANDUM

TO: Honorable Mayor and City Council

FROM: Craig H. Davis, Airport Director

DATE: January 22, 2015

SUBJECT: **2015 Annual Loan Agreement with the United States Air Force for F86L Aircraft Display**

Attached for your consideration is the 2015 Annual Loan Renewal from the National Museum of the United States Air Force - Static Display Program for the loaned property of the F86L Aircraft located at the Idaho Falls Regional Airport.

The Airport Division respectfully requests approval and authorization for the Mayor to sign and execute said documents.

Respectfully submitted,

Craig H. Davis
Airport Director

NATIONAL MUSEUM of the U.S. AIR FORCE
RCS: HAF-HO(A) 8801 INVENTORY REPORT
Loan Account Number SDA0088

03-Dec-14

ACCESSION #	NOMENCLATURE	Value
SD-2000-0236	AIRCRAFT, F-86L, 53-1022	$10,000

I certify that the above listed items shown on Pages 1 through 1 have been accounted for with any discrepancies so noted.

Signature: _____ _____
(Historical Property Custodian) (Date)

Rebecca L. Noah Casper
Typed or Printed Name

Mayor, City of Idaho Falls, Idaho
Typed or Printed Title

Executed on behalf of the Lender this Ninth Day of December 2014 at Wright-Patterson AFB OH.

UNITED STATES OF AMERICA

OCHS.PATRICIA.A.1230366671 Digitally signed by OCHS.PATRICIA.A.1230366671
DN: c=US, o=U.S. Government, ou=DoD, ou=PKI, ou=USAF, cn=OCHS.PATRICIA.A.1230366671
Date: 2014.12.09 11:05:22 -05'00'

By: PATRICIA A. OCHS
Title: Static Display Administrator

Agency: National Museum of the United States Air Force

Address: NMUSAF/MUC
1100 Spaatz St
Wright-Patterson AFB OH 45433-7102

Telephone: (937) 255-4770 Fax Number: (937) 656-4081

Email: patricia.ochs@us.af.mil

ACCEPTANCE

The Borrower, through its authorized representative hereby accepts responsibility of the loaned property subject to the terms and conditions contained in the Loan Agreement set forth above. The Borrower certifies that they have read, understand and acknowledge that concealing a material fact and/or making a fraudulent statement in dealing with the federal government may constitute a violation of federal law in accordance with 18 USC §1001.

Executed on behalf of the Borrower this_____day of_____2015,

CITY OF IDAHO FALLS, IDAHO FALLS, ID
(Name of Borrower/Organization)

By: _____
(Signature)

(Typed or Printed Name & Title)

Address: P.O. Box 50220
Idaho Falls ID 83405

Telephone: 208-612-8235 Fax Number: 208-612-8560

Email: r.casper@idahofallsidaho.gov

NATIONAL MUSEUM OF THE UNITED STATES AIR FORCE (NMUSAF) STATIC DISPLAY PROGRAM

2015 LOAN AGREEMENT, SDA0088

1.0. Parties. This Agreement is entered pursuant to Public Law 80-421 [10 United States Code (USC) §2572], and any amendments thereto, and is effective as of 1 April 2014 between the United States of America, or, "the Government," represented by the National Museum of the United States Air Force (NMUSAF), and collectively referred to hereinafter as "the Lender," and the **CITY OF IDAHO FALLS** hereinafter called "the Borrower," incorporated and operating under the laws of the State/Country of **ID** and located at **IDAHO FALLS**. The Government hereby establishes with the Borrower a loan agreement for U.S. Air Force (USAF) historical property for the period commencing 1 April 2015 and ending 31 March 2016. This agreement is not transferable.

2.0. Borrower Obligations/Costs. The Borrower has applied, in writing, for the loan of USAF historical property, and hereby agrees to be responsible for all arrangements and, in accordance with 10 USC §2572, is required to pay all costs, charges and expenses incident to the loan of this property, including, but not limited to, the cost of preparation, demilitarization, hazardous material removal, disassembly, packing, crating, handling, maintenance, repair, restoration, transportation and all other actions incidental to the use and/or movement of the loaned property to or from the Borrower's location.

3.0. Loaned Property. The NMUSAF shall loan to the Borrower the historical property identified in the inventory report, which has been included in the loan package and is incorporated into this Agreement by reference as if fully rewritten herein (hereinafter the "Property"). The Borrower accepts the Property on an "as is, where is" basis, and the Lender makes no warranties, expressed or implied, as to the Property's condition, fitness for any particular purpose, or other warranty of any kind.

4.0 Loan Conditions.

4.1. The Borrower agrees that the Property shall be used for static display purposes only. Loaned aerospace vehicles will not be flown or restored to flying condition under any circumstance, nor will they be licensed with the Federal Aviation Administration (FAA). The Borrower shall not remove any parts from loaned aircraft except as directed in paragraph 4.2. Relocation of the Property for temporary special events (parades, ceremonies, air shows, etc.) is not authorized under any circumstances. No decorations of any type, for any purpose (special event, seasonal display, ceremonies, etc.) are authorized to be displayed on any of the Property.

4.2. The Borrower agrees to allow the Lender to remove parts from loaned aerospace vehicles for NMUSAF or military requirements, upon written direction from the NMUSAF. Such parts are generally internal in nature and removal or replacement should not alter the external aesthetic appearance of the aerospace vehicle.

4.3. The Borrower shall not part with possession of the Property or any component of the Property in any manner to any third party either directly or indirectly. The Borrower shall not enter into any negotiations with a third party regarding any future disposition of the loaned material, in whole or in part.

4.4. The Borrower agrees to all of the following: to use the Property in a careful and prudent manner; to not modify the Property in any manner, without prior written permission of the Lender, which would alter the original form, design, or the historical significance of said Property; to perform routine maintenance to include (but not limited to) annual upkeep, periodic painting, repair of damage, day-to-day care and management of the Property, so as to provide an acceptable appearance and to not reflect negatively on the Lender; and to display and protect the Property in accordance with the instructions set forth in Attachments 1 and 2, which are incorporated into this Agreement by reference as if fully rewritten herein.

4.5. The Borrower agrees that any additions, modifications or alterations that improve the Property become part of said Property and are owned by the NMUSAF.

4.6. Interior access to loaned aerospace vehicles (cockpit, cargo areas, etc.) for purposes other than maintenance or restoration work by persons other than staff or authorized maintenance personnel is prohibited. This is to ensure not only the integrity and preservation of the aircraft, but more importantly, the safety and security of the public.

5.0. Use as Security, Sale or Lease. The Borrower agrees not to use the Property as security for any loan, and not to sell, lease, rent, lend, or exchange the Property under any circumstances.

6.0. Professional Photography. The Borrower shall not make or allow the use of the Property in any manner for commercial use, such as still or motion video production, without prior written approval from the Lender. Casual photography or motion video created by visitors for personal or non-promotional use is permitted.

7.0. Incident Reporting. The Borrower shall within one (1) working day of discovery, notify the Lender of any instance of loss, damage or destruction of the Property.

8.0. Title. The Borrower shall obtain no interest in the Property by reason of this Agreement and title shall remain in the Lender at all times.

9.0 Receipt, Custody & Liability.

9.1. This Agreement shall be executed prior to the Borrower accepting physical custody of the Property or on or before 1 April 2015.

9.2. The Borrower agrees to provide a receipt to the Lender at the time it assumes physical custody of the Property (unless the Property is already in its possession).

9.3. The Borrower agrees that it is strictly liable for up to the full replacement value (FRV) of the Property, as identified in the inventory report, and to accept such liability upon assuming physical custody of the Property or execution of this Agreement, whichever occurs first.

9.4. The Borrower agrees that the FRV of the Property is as identified in the inventory report and waives any right to contest the FRV in any legal proceeding. In the event any item of historical property does not have an FRV identified in the inventory report, the FRV shall be determined at the sole discretion of the NMUSAF.

9.5. The Borrower agrees that if the Property, or any portion thereof, has been irreparably damaged, destroyed or stolen the NMUSAF may direct the Borrower to either replace the Property with an historical item of equal value to the satisfaction of the NMUSAF or require monetary reimbursement equaling the FRV. In the event of less than total loss to the Property, or any portion thereof, the Borrower agrees to repair/replace the damage to the Property to the satisfaction of the NMUSAF or reimburse the NMUSAF for the full value of the damage, as determined by the NMUSAF. The election of a remedy under this subparagraph is at the sole discretion of the NMUSAF. This subparagraph is not intended to waive or limit the Government's rights and remedies, legal or equitable, and the Government reserves all such rights and remedies.

9.6. The Borrower agrees to place the Property on exhibit within ninety (90) days from the date it takes physical custody, or as otherwise mutually agreed upon.

10.0 Borrowers Responsibilities.

10.1 The Borrower agrees to indemnify, save harmless, and defend the Lender from and against all claims, demands, actions, liabilities, judgments, costs, and attorney's fees, arising out of, claimed on account of, or in any manner predicated upon personal injury, death, or property damage caused by or resulting from

possession and/or use of the Property.

10.2 The Borrower agrees to report as requested to the Lender on the condition and location of the Property. Further, the Borrower agrees to allow authorized Department of Defense representatives access to the Borrower's records and facilities to assure accuracy of information provided by the Borrower and compliance with the terms of this Agreement.

10.3 The Borrower agrees to return said Property to the Lender on termination of this Agreement or earlier, if it is determined that the Property is no longer required, at no expense to the Lender. In the event of a partial termination, the Borrower agrees to the return of all items of the Property subject to the partial termination, at no expense to the Lender.

11.0 Initial Loan Agreement Requirements.

11.1 The Borrower agrees to furnish the Lender a CD/DVD containing digital images of the Property within fifteen (15) days of taking physical possession of the Property. The image file name must be the accession number for that item (i.e. SD-2000-0136.JPG). For aircraft and ballistic missiles, images will include views showing all external surfaces including tail number and all accessible interior areas including instrument panels, avionics racks and equipment, aircrew, passenger, cargo and payload compartments, wheel wells, and bomb bays. Digital images for all other artifacts will be of sufficient detail to insure positive identification of each object.

11.2 The Borrower shall arrange insurance coverage for the Property on an all-risk, wall-to-wall basis, at a minimum, for an amount that equals the total agreed upon FRV for all items in the inventory report, plus any additional amount to cover the inventory that does not have an identified FRV, so long as the Property remains in its possession. The Borrower further agrees to furnish the Lender proof of said insurance. For Borrowers with private insurance coverage, proof shall constitute a copy of the insurance certificate from the commercial provider, noting any deductible, and showing coverage up to the FRV of the Property and any additional coverage for Property that does not have an FRV identified in the inventory report. For self-insured organizations, proof shall constitute a written and signed statement attesting to its ability to reimburse the Government for the FRV of the Property (as identified in the inventory report and/or as determined by the NMUSAF).

12.0 Annual Loan Renewal Requirements.

12.1. The Borrower agrees to furnish the Lender a CD/DVD containing digital images of the Property. The image name must be the accession number for that item (i.e. SD-2000-0136.JPG). Digital images of aircraft and missiles will provide general views to include sufficient detail to show the overall condition and tail number of the airframe. Digital images for all other artifacts will be of sufficient detail to insure positive identification of each object and its current condition.

12.2. The Borrower agrees to furnish a copy of the most recent annual financial statements to include revenue and expense reporting and a projected budget for the next operating year.

12.3. The Borrower agrees to furnish the Lender proof of insurance as required in subparagraph 11.2 for each renewal period.

12.4. The Borrower agrees to furnish a signed inventory as provided by the Lender with the annual renewal package, which accurately reflects the Property in its possession. Discrepancies in the inventory provided by the Lender shall be noted on the inventory report by the Borrower to the extent that such notes accurately reflect the current inventory held by the Borrower. In the event of a dispute, the Lender shall make the final determination of the current inventory on or near the renewal date and document the NMUSAF records accordingly.

13.0 Display/Maintenance Requirements.

13.1. No aircraft will be renovated, reconfigured, have markings changed, or tail number altered, or any parts added, removed, or replaced as part of a planned restoration effort without prior written approval from the NMUSAF.

13.2. The Borrower agrees that all aircraft, missiles and artifacts on display will have an identification sign adjacent to each display. For aircraft and missiles note the type, model, and serial number. If the aircraft or missile has been reconfigured, markings changed, or serial number altered after acquisition for display purposes, it will be stated on the sign and noted in all records as follows:

"The (item) on display is actually (nomenclature),Serial No. _____, but painted and marked to depict (nomenclature, Serial No. _____, assigned to the (unit and/or person) in (location or theater) during (year)".

13.3. The sign will state that the item is part of the NMUSAF collection as follows:

"This (artifact/object) is on loan from the National Museum of the United States Air Force."

13.4. For aircraft on which the serial number has been altered for display purposes with prior written approval, the model, design and series (i.e. F-100C or F-4C) along with the original serial number will be stenciled in two inch letters using contrasting paint colors on the fuselage under the horizontal stabilizers.

13.5. All record keeping will reflect the true serial number.

14.0 Radioactive Components.

14.1. Completion of Section 2 of Air Force Form 3580, (USAF Museum Aerospace Vehicle Static Display Acceptance Condition and Safety Certificate), or comparable certification indicating that a complete radioactive material survey has been accomplished shall be included in the official file.

14.2. In accordance with Attachment 1, ("NMUSAF Loan and Static Display Programs' Instructions for Preparation and Maintenance of Aerospace Vehicles"), if radioactive items are determined to have been installed or reinstalled during later inspections, the Borrower will pay the cost of removal of the radioactive items and any decontamination required.

15.0 Loan Termination.

15.1. **The failure of the Borrower to observe any of the conditions set forth in this Agreement and Attachments 1 and 2 thereto shall be sufficient cause for the Lender to terminate the loan and repossess the Property.** Repossession of all or any part of the Property by the Lender shall be made at no cost or expense to the Government; the Borrower shall be responsible for paying all maintenance, freight, storage, crating, handling, transportation and other costs or charges attributable to such repossession.

15.2. In the event the loan is terminated for any reason, the provisions of this Agreement will remain in effect until all of the Property, or in the event of a partial termination that portion of the Property at issue, has been relocated and in a condition that is satisfactory to the NMUSAF.

15.3. Termination of the loan and subsequent repossession of all or any part of the Property at the option of the Borrower shall require no less than thirty (30) days advance notice to the Lender in writing. This requirement may be waived by the Lender only through the provision of a written waiver to the Borrower prior to the return of the Property.

15.4. The Lender reserves the right not to renew this Agreement, in all or part, and to recall the Property if required by the Lender to meet the requirements of the NMUSAF, Wright-Patterson AFB, OH or for military

requirements. The Lender will provide a written thirty (30) day notice of intent to recall to the Borrower. In the event of recall, movement of the recalled Property from the Borrower's site will be accomplished at the Lender's expense.

16.0. Dispute Resolution. In the event a dispute arises between the parties over the terms and conditions of this Agreement reasonable attempts will be undertaken to resolve the matter through negotiation between the parties or persons appointed, in writing, by the parties. This Agreement shall be construed and interpreted in accordance with Federal law. If any provision herein is held unlawful or otherwise unenforceable by the Court any remaining provisions shall be considered divisible and remain in full force and effect. In the further event that negotiations fail to reach a resolution, the parties agree that the Federal District Court for the Southern District of Ohio, at Dayton, Ohio, will have exclusive jurisdiction over such disputes.

IDAHO FALLS REGIONAL AIRPORT

2140 N. Skyline Drive #12
Idaho Falls, ID 83402
Phone: (208) 612-8224
Fax: (208) 612-8517

MEMORANDUM

TO: Honorable Mayor and City Council

FROM: Craig H. Davis, Airport Director

DATE: January 22, 2015

SUBJECT: **On-Airport Auto Rental Concession Agreement – Avis/Budget Car Rental**

Attached for your consideration is an On-Airport Auto Rental Concession Agreement between the City of Idaho Falls, Idaho and Avis/Budget Car Rental. This company was selected through a competitive Request For Proposal process. The Agreement has a term of five (5) years.

City Attorney has reviewed said Agreement.

The Airport Division respectfully requests approval and authorization for the Mayor and City Clerk to sign and execute said document.

Respectfully submitted,

Craig H. Davis
Airport Director

C: City Clerk

Idaho Falls Regional Airport

AUTO RENTAL CONCESSION AGREEMENT

This Concession Agreement effective the first day of February 2015, between the City of Idaho Falls, Idaho, (hereinafter referred to as CITY) and AVIS/BUDGET CAR RENTAL, LLC. (hereinafter referred to as Lessee) with its principal office at 6 Sylvan Way, Parsippany, NJ 07054, and operating out of Idaho Falls Regional Airport.

WITNESSETH:

WHEREAS, CITY owns and operates Idaho Falls Regional Airport located in the City of Idaho Falls, State of Idaho (hereinafter called IFRA) and,

WHEREAS, Lessee is engaged in the operation of an automobile rental business and is prepared, equipped and qualified to supply an adequate number of late model automobiles in good mechanical condition and appearance for the operation of an automobile rental business at IFRA, and

WHEREAS, ground transportation of passengers arriving at or departing from IFRA is an essential service to said passengers and to other patrons of IFRA, and,

WHEREAS, it is the intent and desire of the CITY that air passengers shall have available to them their choice of varied types of ground transportation services, any one of which at their option they shall have the right to select and use, and

WHEREAS, it is the desire of CITY to make available to air passengers as a portion of said ground transportation at IFRA an automobile rental business, operated and conducted by Lessee, and,

WHEREAS, four Auto Rental Concession Agreements are available at the beginning of this agreement but more Agreements may be made available during the term of this agreement if space is made available by IFRA; and,

WHEREAS, a Customer Facility Charge has not been adopted by IFRA but it may institute one after consultation with Auto Rental Concessionaires; and,

WHEREAS, Lessee has a franchise of license from _____, a corporation, and said franchise is current and in good standing, or Lessee operates Idaho Falls Regional Airport as a corporate location by_____.

NOW, THEREFORE, the parties agree as follows:

ARTICLE I

For and in consideration of the terms, conditions and covenants of this Agreement to be performed by Lessee, CITY hereby authorizes Lessee to operate a non-exclusive automobile rental concession at IFRA and also leases to Lessee and Lessee hereby hires and takes from CITY certain real premises, together with improvements thereon (hereinafter called the demised premises), and certain attendant privileges, uses and rights as hereinafter specifically set out.

A. DESCRIPTION OF PREMISES DEMISED. The exclusive premises conveyed by this Concession Agreement shall be as follows:

1. Operational Counter Area on the ground floor of the terminal building consisting of some 206.25 square feet of counter space, queuing area, and private office space, more specifically described as Operational Area #2. The actual area is depicted in Exhibit "A".
2. 15 Rental Car Ready/Return Parking Positions in the Return Lot, location to be determined by Airport Director as follows:
   i. At the commencement of this agreement there are a total of 116 Ready/Return spaces. A minimum of 15 Ready/Return Spaces shall be allocated to each on airport RAC agency. The remaining 56 spaces shall be allocated as a ratio of each RAC agency MAG as compared to the total MAG proposed by each successful on airport RAC agency. Each RAC agency shall have their row start at the beginning/street side of one of the four rows.
   ii. After the first two years of this agreement, the Ready/Return spaces shall be allocated based on 15 spaces minimum and the remainder allocated based upon RAC agency actual revenue from rental car percentage rent received by the airport and not MAG, unless MAG is greater than rent paid. If the actual reported rentals fall below MAG payments, the RAC agency will still be required by pay the MAG.
3. Incumbent lessees have the right of first refusal to retain their one (1) Rental Car Storage/Service Center. The Rental Car Storage/Service area #2 consisting of 52,924 square feet is described in Exhibit "B"

B. DESCRIPTION OF PRIVILEGES, USES AND RIGHTS. CITY hereby grants to Lessee the following privileges, uses and rights, all of which shall be subject to the terms,

conditions and covenants hereinafter set forth and all of which shall be non-exclusive on IFRA.

1. The right, license and privilege to operate an automobile rental concession service at the IFRA for the purpose of renting automobiles to airline passengers and such other persons who may request such service at IFRA. "Automobile" does not include moving vans or trucks larger than a pickup or fifteen (15) passenger van. No automobiles may be rented or stored that are more than two model years old.
2. The right of ingress to and egress from the demised premises over and across public roadways serving the passenger terminal building by Lessee, his agents, and servants, patrons and invitees, suppliers of service and furnishers of material. Said right shall be subject to such rules and regulations as now or may hereafter have application at IFRA.
3. The right to install (or cause to be installed) and operate appropriate signs at the terminal building, ready/return spaces, and service facilities, provided that such installation shall be subject to the prior written approval of the CITY.

C. CONDITIONS OF GRANTING AGREEMENT. The granting of this Agreement and its acceptance by Lessee is conditioned upon the following covenants:

1. That no functional alteration of the premises or functional change in the uses of such premises shall be made which shall substantially adversely affect the use by Lessee of the demised premises, without the specific consent of the Lessee herein.

2. That the right to use said public airport facilities in common with others authorized so to do shall be exercised only subject to and in accordance with the laws of the United States of America and the State of Idaho, and all reasonable and applicable rules and regulations of CITY now in force or hereafter prescribed or promulgated by charter authority or by law.

3. That the concession granted by this agreement is NOT an exclusive concession and that CITY shall have the right to deal with and perfect arrangements with any other individual, company, or corporation for engaging in like activity at IFRA provided, however, that any other or future non-exclusive concession for auto rental operations shall not be on terms or conditions more favorable than those granted to Lessee herein.

4. That Lessee is prohibited from transacting or soliciting rental car business at any other point on IFRA unless written permission is obtained from CITY,

which permission, if given, shall require strict observation of all applicable provisions of this agreement.

5. The Lessee may be a single or multi-branded operation. During the course of the current concession, an on-airport operator shall be allowed to introduce an additional brand and operate as a "multi-branded" concession, provided the brand introduced is part of the concessionaire's current parent company. The Lessee will be required to operate within the confines of the counter, ready-return spaces and Service Facility that it operates.

ARTICLE II

INSTALLATIONS BY CITY AND LESSEE

A. TERMINAL BUILDING SPACE.

1. Installations by CITY. In the terminal building baggage claim area CITY will provide a cubicle with a counter and unfinished office space.

2. Installations by Lessee. In the terminal building area Lessee shall provide:

a. All leasehold improvements not provided by CITY including, but not limited to, display cabinets, interior partitions, additional lighting fixtures, decorations and all other fixtures, equipment and supplies.

b. All equipment, furniture, furnishings and fixtures necessary in the proper conduct of Lessee's business. Any improvements, facilities, decorations, fixtures, equipment, supplies and cabinets furnished by Lessee shall be in keeping with the general decor of the terminal building and shall be subject to written approval of CITY prior to installation.

B. APPROVAL OF PLANS AND CONSTRUCTION. Prior to installation of any improvements in its exclusive space, Lessee shall submit to CITY final plans and specifications, layout and architectural renderings for said improvements, which upon written approval by CITY shall become a part thereof. Lessee shall make payment promptly, as due, to all persons supplying labor or materials for the prosecution of the work provided in making such installation and shall not permit any lien or claim to be filed or prosecuted against the CITY on account of any labor or material furnished.

C. ALTERATIONS, ADDITIONS ORREPLACEMENTS. Following any installations by Lessee, as hereinabove set forth, Lessee shall make no alterations, additions or replacements without written approval of CITY. Lessee shall likewise

obtain prior approval from CITY before installing, at its own expense, any equipment which requires new electrical or plumbing connections or changes in those installed on the premises as of the date of occupancy thereof.

ARTICLE III

OBLIGATIONS OF LESSEE

A. HOURS OFOPERATION. Lessee shall, in the operation of the auto rental concession herein granted, maintain and make available a sufficient number of automobiles and personnel to staff each service counter leased at IFRA for adequate public service each day of the year, and during the hours that IFRA is conducting arriving and departing flights.

B. TYPE OF OPERATION. Lessee shall furnish service on a fair, reasonable and non-discriminatory basis to all users of IFRA. Service shall be prompt, courteous and efficient and shall be adequate to meet the demands for said service on IFRA. Lessee shall maintain and operate the concession in a first class manner and shall keep the premises in a safe, clean, orderly and inviting condition at all times, satisfactory to CITY. Lessee shall be responsible for all cleaning of their leased premises. Lessee shall promptly remove all trash from the leased premises and shall deposit all trash in appropriate CITY or Lessee controlled dumpsters. Attractive displays within the premises shall be permitted if approved by CITY.

C. NON-DISCRIMINATION. The Lessee assures that he will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin or sex be excluded from participating in any employment activities covered by 14 CPR Part 152, Subpart E. The Lessee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. The Lessee assures that he will require that his covered sub-organizations provide assurances to the Lessee that they similarly will undertake affirmative action programs and that they will require assurances from their sub-organizations, as required by 14 CFR Part 152, Subpart E, to the same effect. This agreement is subject to the requirements of the U.S. Department of Transportation's Regulations, 49 CFR Part 23, Subpart F. The Lessee agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with award or performance of any concession agreement covered by 49 CFR Part 23, Subpart F. The Lessee agrees to include the above statements in any subsequent concession agreements that it enters and cause those businesses to similarly include

the statements in further agreements.

D. PERSONNEL. Lessee shall at all times retain an active, qualified, competent, and experienced manager to supervise the concession operations and be authorized to represent and act for Lessee. Lessee shall be required to properly uniform or dress its attendants and employees; they shall be clean, courteous, and efficient and neat in appearance at all times. Lessee shall not employ any person(s) in or about the concession premises who shall use improper language or act in a loud, boisterous or otherwise improper manner. Lessee shall maintain a close check over attendants and employees to insure the maintenance of high standards of service to the public, the performance of such obligations to be determined at the sole discretion of the CITY. Lessee shall not allow their employees to bring their minor children with them to work, unless it is a temporary visit that lasts no longer than thirty (30) minutes. Lessee shall replace any employee whose conduct CITY feels is detrimental to the best interests of the IFRA. All Lessee employees and management shall park their vehicles in the employee lot or service center lot as designated by the Airport Director and are not permitted to park in the Ready/Return Lots.

E. LAWS, ORDINANCES, ETC. Lessee shall observe and obey all laws, ordinances, regulations and rules of federal, state, and municipal governments that may be applicable to its operation at IFRA.

F. QUALITY OF RENTAL AUTOS. Lessee shall at all times maintain at its own cost and expense all its rental automobiles in good operating order and free from known mechanical defects; said automobiles shall be kept in clean, neat, and attractive condition inside and out. Lessee shall at no time use automobiles whose model year is more than two model years old.

G. AUTO RENTAL RATES. Lessee's auto rental rates shall be competitive with similar services by comparable Lessees in the Idaho Falls /Pocatello Area. Lessee may make such reasonable and non-discriminatory discounts to volume purchasers as may be allowable under governing statutes.

H. SOLICITATION AND CONDUCT. Lessee shall prohibit its agents, servants, and employees from engaging in any form of solicitation of its auto rental services on or about IFRA. Lessee, its agents, servants and employees shall so conduct said auto rental business on the airport to maintain a friendly and cooperative, though competitive, relationship with other companies engaged in like business on IFRA. Lessee shall not engage in open public disputes, disagreements or conflicts which would tend to deteriorate the quality of the auto rental service of Lessee or its competitors or which

would be incompatible to the best interests of the public at IFRA. CITY shall have the right to resolve all such disputes, disagreements, or conflicts; and its determination thereof of the manner in which Lessee shall thereafter operate shall be binding upon Lessee.

I. COST OF AUTO RENTAL OPERATIONS. Lessee shall bear at its own expense all cost of operating the concession and shall pay, in addition to space rental and concession fees, all other costs connected with the use of the demised premises and facilities, including but not limiting the generality hereof, insurance, any and all taxes, and all permits and licenses required by law.

J. MAINTENANCE. Lessee, shall at its sole cost and expense, maintain the demised premises and every part thereof in good order and repair, and in good and safe condition; shall repair all damages caused by its employees, patrons, or its operation of said services; shall maintain and repair all equipment on said premises; and shall repaint its own leased space when deemed necessary by CITY, such repainting to require the prior approval of the CITY. CITY shall be the sole judge of the quality of maintenance and upon written notice by CITY to Lessee, Lessee shall be required to perform whatever maintenance CITY deems necessary. If said maintenance is not undertaken by Lessee within ten (10) days after receipt of written notice, CITY shall have the right to enter on the demised premises and perform the necessary maintenance, the cost of which shall be borne by Lessee.

K. GASOLINE AND REPAIR SERVICE. Lessee shall not sell gasoline, repair services or related services on IFRA to other than RAC vehicles, however, the Lessee may use the vehicle storage/service area to provide additional parking and service (including gasoline, oil, repairs and other services) for vehicles owned or controlled by Lessee and used in conjunction with the concession granted hereunder. Lessee is prohibited from storing or disposing of waste oil, waste fluids, discarded fluid containers or unmarked hazardous materials of any type on the leased premises in violation of law.

L. PUBLIC ADDRESS SYSTEM. Lessee shall permit the installation in its premises of IFRA's public address system, and the reception thereon of flight announcements and other information, if CITY deems such installation necessary.

M. AUTO RENTAL STORAGE. Rental cars shall be parked in Lessee's allocated positions in the ready, return or storage lots.

N. VENDING MACHINES. Lessee shall neither install nor operate vending machines and coin-operated amusement machines and devices in the terminal building.

ARTICLE IV

OBLIGATIONS OF CITY

CITY shall maintain the structure of the terminal building, the roof and outer walls, HVAC and electrical/mechanical systems. CITY shall maintain the ready/return auto parking positions in the parking area included under the provisions of Article I, Paragraph A, (2) and (3). CITY shall furnish heat, lights and janitorial service for the terminal building.

ARTICLE V

TERM OF AGREEMENT

The term of this agreement shall be for a period of five (5) years commencing on the first (1st) day of February 2015 and ending on the thirty-first (31st) day of January 2020.

ARTICLE VI FEES AND RENTALS

A. CONCESSION FEE AND MINIMUM ANNUAL GUARANTEE. Lessee shall pay to CITY for the rights and privileges herein granted a concession fee of ten percent (10%) of all gross receipts as hereinafter defined, or the Minimum Annual Guarantee (hereinafter called "MAG") as set forth below, whichever sum is greater. The MAG is a floor which shall be paid as a minimum during each of the five (5) years of this agreement unless passenger traffic decreases by at least 15% as defined in Article IX of this agreement.

Annual MAG amount $165,250.00. This number will be the "floor" amount for each of the five (5) years of the agreement.

B. DEFINITION OF GROSS RECEIPTS. "Gross Receipts" shall include but not by definition be necessarily limited to the following:

1. The aggregate amount of all monies paid or payable to Lessee for all time and mileage sales, additional equipment rentals and services performed at IFRA, and all monies paid or payable for sales, rentals, services and exchanges made and performed as a result of passengers arriving by air as commercial or private customers at IFRA.

2. The market value of all exchanges of goods.

3. All monies paid or payable for time and mileage sales, additional equipment rentals, services and exchanges, transactions and contracts performed for customers whose business originates at IFRA.

4. The total sum whether fully retained by Lessee or not, for rentals of vehicles owned, controlled or operated by persons other than Lessee.

5. All monies paid or payable to Lessee for one-way rentals.

7. The Lessee agrees to charge a maximum of a 11.11% "Concession Recovery Fee", which shall be added to gross receipts, and said fee, if charged, shall be listed as a separate charge in the Lessee's advertised rates or rental agreements and such separate charge shall be disclosed to the customer at the time of reservation and again at the time of the actual rental. Furthermore, the Concession Fee must be charged to all customers in a fair and consistent manner. Such fee shall be disclosed and listed as a Concession Fee and shall not be listed as an airport surcharge or tax.

All of the above listed transactions are included in Gross Receipts whether for cash, credit or otherwise of any kind, name, and nature, and regardless of when or whether paid for or not.

C. EXCLUSIONS. Gross Receipts shall exclude the following:

1. Charges to Lessee's customers for repairs to automobiles damaged by such customer.

2. Monies collected from such customers for federal, state, county or municipal taxes now in effect, or hereafter levied, and,

3. Uncollected items resulting from theft, conversion, illegal use of Lessee's automobiles, unless and until charges against such customers who have illegally used said automobiles are collected.

4. All inter-city drop fees.

5. Fees received by Lessee to waive deductible collision insurance features.

6. Credits given to customers for such things as deposits and out-of-pocket purchases for gas, oil or emergency services, regardless of where made.

7. Charges to the customer for refueling services.

8. Customer Facility Charges implemented by CITY after consultation with

Auto Rental Concessionaires.

D. SCHEDULE OF PAYMENTS. Monthly reports, monthly space lease amounts, and concession fees as set out above shall be due and payable to CITY on or before the tenth (10th) day of the following month, with a penalty of twenty dollars ($20.00) per day for each day past the tenth (10th) day for receipt of amounts payable to CITY.

E. ADJUSTMENTS. Adjustments for any deficiency between the percentages set forth in Paragraph A above for any preceding agreement year and the MAG for such year shall be payable within thirty (30) days after the close of each fiscal year. Settlement for any deficiency between the annual guaranteed rental and the percentages payable during a period of less than one complete fiscal year shall be made to CITY on a pro- rata basis within thirty (30) days following the end of such period. Adjustment for overpayment will be issued as a Credit from City and applied against future fees as they become due.

F. RECORDS OF LESSEE. With respect to business done by it hereunder, Lessee shall keep true and accurate accounts, records, books and data, which shall show all the gross receipts, as defined hereinabove, of said business upon and within said IFRA. Lessee agrees to operate its business upon IFRA so that a duplicate rental agreement invoice, serially numbered, shall be issued with each sales or transaction, whether for cash or credit. Lessee further agrees to keep reasonable books and records as CITY may request. The duplicate rental agreements, invoices, and all other books and records of Lessee, as aforesaid, shall be open for inspection by authorized representatives of CITY at all times reasonable during business hours. Lessee shall submit to CITY a detailed statement showing gross receipts from the operation of the auto rental concession for the preceding calendar month on or before the tenth (10th) day of each calendar month. These reports shall show such reasonable detail and breakdown as may be required by CITY. Within thirty (30) days following the end of each fiscal year of operation of the concession, Lessee shall submit to CITY a statement of gross receipts from the concession for the preceding year of operation, such statement to be attested to by the owner and to be accompanied by Lessee's payment covering any deficiency between payments made during the year of previous operation and payments due for such year of operation. Lessee at its own expense shall supply all record forms in a reasonable type, style and form satisfactory to CITY.

G. AUDIT. For the purpose of determining accuracy of reporting gross receipts, CITY may make a spot test audit and base its findings for the entire period upon such spot test; provided, however, that such spot test shall include at least twenty-five percent (25%) of the total time of the period being audited. In addition, if the Lessee has one or more additional outlets within a 25 mile radius of the IFRA outlet, then for purposes of

the audit and spot checks mentioned above, the Lessee agrees to allow a full and complete audit of the additional outlets, said audit to be at the time the audit or spot check is made of the IFRA outlet. In addition, CITY shall have the right during any one fiscal year of the agreement to authorize two audits of Lessee's records pertaining to the concession. Such audits may be undertaken by a reputable firm of independent certified public accountants. The cost of such audits are borne by CITY, unless the results of such audits reveal an underpayment of more than five percent (5%) between the gross receipts reported in accordance with Paragraph D and the gross receipts as determined by audit for any twelve month period. In case of such underpayment, the full cost of the audit shall be borne by Lessee.

H. SPACE RENTALS. In addition to the concession fee set forth above, Lessee shall pay CITY space rental for the Premises conveyed by this Concession Agreement in monthly installments of 1/12th of the following annual rates:

For the counter and office Operational Area, $25.80 (twenty five dollars and 80 cents) per square foot per year;

For the parking positions, the ready positions, and the vehicle return positions, $180 (one-hundred and eighty dollars) per stall per year;

For the vehicle storage/service area, $0.28 (twenty eight cents) per square foot per year.

Space Rental rates under this section H shall be adjusted each January 1st by CPI-U as defined by the Bureau of Labor Statistics as of September of the previous calendar year.

Subject to the Airport Director's advance written approval Lessee may offer to exchange, trade or allocate a portion of its allocated ready, return and/or storage/service area to other of the on-airport automobile rental Lessee operating under an identical Auto Rental Concession Agreement. In the event of a conflict over the availability of the spaces or to whom they will be offered, the Airport Director shall make the final determination.

ARTICLE VII INDEMNIFICATION AND INSURANCE

CITY shall stand indemnified by Lessee as herein provided. Lessee is and shall be deemed to be an independent contractor and Lessee responsible to all parties for its respective acts and omissions, and CITY shall in no way be responsible therefore. In the use of IFRA, in the erection or construction of any improvements thereon, and in the exercise or enjoyment of the privileges herein granted, Lessee shall indemnify and save harmless the CITY from any and all

losses that approximately result to the CITY because of any negligence on the part of the Lessee.

Lessee shall purchase and maintain commercial general liability insurance coverage relative to its services, its operations and business, the Operational Area, the Parking Spaces, the common parking area, and the use and operation of Lessee's vehicles. The commercial general liability insurance coverage shall be in at least the amount of $1,000,000.00 per occurrence and $2,000,000.00 annual aggregate. CITY and its past, present and future officers, members, Airport Director, employees and agents shall be named as additional insureds under the commercial general liability policy or policies.

Lessee shall deliver to the Airport Director certificates of the above insurance coverages at the time this Agreement is executed. The certificates shall provide the coverages referred to therein and shall not be terminated, modified or not renewed until CITY has received thirty-day (30) written notice thereof. In the event an insurance carrier should terminate, modify or not renew any of the above insurance coverages, Lessee shall immediately contract with another insurance carrier to provide the requisite coverage and shall immediately deliver to the Airport Director a replacement certificate.

All of the above coverages shall be written through insurance carriers qualified to do business in the State of Idaho. After consultation with Lessee, the City of Idaho Falls may update insurance requirements.

ARTICLE VIII DAMAGE OR DESTRUCTION OF PREMISES

If the premises leased to Lessee under the terms of Article I, Paragraphs A and B, herein are partially damaged by fire, explosion, the elements, the public enemy, or other casualty, but not rendered untenable, the same will be repaired with due diligence by CITY at its own cost and expense. If the damage shall be so extensive as to render such premises untenable, but capable of being repaired in thirty days, the same shall be repaired with due diligence by CITY at its own cost and expense, and the rent payable herein shall be paid proportionately to the time of such damage and thereafter cease until such time as the premises are fully restored. In the event said premises are completely destroyed by fire, explosion, the elements, the public enemy or other casualty, or so damaged that they will remain untenable for more than thirty (30) days, CITY shall be under no obligation to repair and reconstruct the premises, and rent payable hereunder shall be paid proportionately to the time of such damage or destruction and shall thenceforth cease until such time as the premises may be fully restored. If within twelve (12) months after the time of such damage or destruction said premises shall not have been repaired or reconstructed, Lessee may give CITY written notice of its intention to cancel the Agreement in its entirety as of the date of such damage or destruction.

ARTICLE IX

TERMINATION OF AGREEMENT, ASSIGNMENT AND TRANSFER

A. TERMINATION. This agreement shall terminate at the end of the full term hereof, and Lessee shall have no further right or interest in any of the land or improvements hereby demised except as provided in Article X Property Rights Upon Termination.

B. TERMINATION BY LESSEE. This agreement shall be subject to termination by Lessee upon one or more of the following events:

1. The permanent abandonment of IFRA as an air terminal.

2. The lawful assumption by the United States Government, or authorized agency thereof, of the operation, control, or use of IFRA, or any substantial part or parts thereof, in such a manner as substantially to restrict Lessee for a period of at least ninety days from operating thereon.

3. Issuance by any court of competent jurisdiction of an injunction in any way preventing or restraining the use of IFRA, and the remaining in force of such injunction for a period of at least ninety days.

4. The default by CITY in the performance of any covenant or agreement herein required to be performed by CITY and the failure of CITY to remedy such default for a period of at least sixty days after receipt from Lessee of written notice to remedy the same.

5. The complete destruction of the premises as outlined in Article VIII.

C. TERMINATION BY CITY. This Agreement shall be subject to termination by CITY in the event Lessee shall:

1. Be in arrears in the payment of the whole or in part of the amounts agreed upon hereunder for a period of ten days after the time such payments become due.

2. File a voluntary petition of bankruptcy or make an assignment for the benefit of creditors, or consents in writing to the appointment of a trustee or receiver for itself.

3. If a court of competent jurisdiction shall enter an order, judgment or

decree declaring the Lessee insolvent, or adjudging it bankrupt, or appointing a trustee or receiver of Lessee, or approving a petition filed against Lessee seeking reorganization of the Lessee under any applicable law or statute of the United States of America or any state thereof.

4. If under the provisions of any other law for the relief or aid of debtors, any court of competent jurisdiction shall assume custody or control of Lessee.

5. Abandon the demised premises.

6. Default in the performance of any of the covenants and conditions required herein (except rental payments) to be kept and performed by Lessee, and such default continues for a period of thirty days after receipt of written notice from CITY of said default.

7. Cancel its license or franchise from _____ Rent-A-Car or in the event that _____CONCESSIONAIRE/LESSEE Rent-A-Car shall for any purpose whatsoever cancel the license or franchise of Lessee.

In any of the aforesaid events, CITY may take immediate possession of the demised premises and remove Lessee's effects, forcibly if necessary, without being deemed guilty of trespassing. Upon said entry, this agreement shall terminate except that CITY reserves the right to recover any and all damages it has incurred for Lessee's breach, in addition to terminating the lease, including but not limited to unpaid rent, damage to premises, etc., the remedy of termination not being the exclusive remedy. It is agreed that failure of CITY to declare this Agreement terminated upon the default of Lessee for any of the reasons set out shall not operate to bar or destroy the right of CITY to declare this Agreement null and void by reason of any subsequent violation of the terms of this Agreement.

D. MINIMUM ANNUAL GUARANTEE. In the event Lessee is unable to make the MAG as provided in Article VI, Paragraph A, by reason of fire, strikes, or damage by the elements or of any unavoidable casualty, acts of God, war, legal actions, or take over by public authority, all without fault of Lessee, the MAG shall be forgiven for the period of incapacity, provided, however, the ten percent (10%) of all gross receipts provision shall remain in full force and effect, the MAG to resume after removal of the incapacity.

E. ABATEMENT OF MINIMUM ANNUAL GUARANTEE. In the event that one of the following conditions exists, the MAG provided in ARTICLE VI,A,l. shall be abated for the period of time the condition exists:

1. If the operation of Lessee's car rental business becomes impractical,

unprofitable or impossible because of actual shortages or other disruptions in the supply of automobiles, gasoline or other goods necessary for the operation thereof, through no fault of the Lessee, which conditions persist for at least 30 days;

2. If a strike against any or all of the airlines operating at IFRA results in a thirty percent (30%) diminution of deplaning passengers (as compared with the similar period in the previous Agreement year) for a period of thirty (30) consecutive days;

3. If the Terminal is partially damaged so as to render the Terminal Premises un-tenantable, as more fully set forth above.

4. In any event, and notwithstanding the above provisions, Lessee shall pay 10 percent (10%) of its Gross Revenues during the period of time any condition set forth in above continues to exist. The CITY shall return to Lessee a just proportion of any minimum guarantee payment which may have been paid in advance for a month or portion thereof which fails within the period of abatement.

5. If, during any year of this Agreement (January 1-December 31), the number of deplaning passengers falls below eighty-five percent (85%) of the number of deplaning passengers for the preceding Agreement year, the minimum annual guarantee for that Agreement year shall be reduced to a sum equal to eighty-five percent (85%) of the minimum annual guarantee.

6. If, during any calendar month of the term of this Agreement, runway construction activities result in a reduction in the number of deplaning passengers at IFRA by at least thirty percent (15%), when compared with the same number for the same month in the immediately preceding year, then the minimum annual guarantee for that year shall be reduced by an amount equal to one twelfth (1/12th) of the minimum annual guarantee for said year, times (x) the percentage decrease in the number of deplanements for said month.

7. The MAG is a floor which shall be paid unless circumstances listed in 1-6 of this sub-paragraph lower the MAG. When the circumstances change back to be above the criteria listed, then the MAG returns to the floor set in the proposal.

F. ASSIGNMENT AND TRANSFER. Lessee shall not assign, transfer, or sublease its rights and premises hereunder without the written approval of CITY which shall not be unreasonably delayed.

ARTICLE X

PROPERTY RIGHTS UPON TERMINATION

Upon termination of this Agreement, through passage of time or otherwise, the Lessee shall aid CITY in all ways possible in continuing the operation of said auto rental service on IFRA uninterruptedly. Lessee shall sell any or all of Lessee's furniture, furnishings, fixtures and equipment, which includes improvements made to the leased property and building after initial occupancy and the undepreciated value of all improvements, installed or used upon said premises by Lessee to CITY should CITY notify Lessee in writing within ten (10) days before such termination date that it desires to purchase any or all of the same. In the event CITY exercises its option to purchase any or all of said furniture, furnishings, fixtures and equipment the purchase price shall be the fair market value of such items at the elate of such termination. If the parties are unable to agree upon the fair market value, each party shall then appoint an appraiser; the two appraisers so named shall determine the fair market value of such items, which determination shall be final and binding upon both parties hereto.

Unless a follow on Auto Rental Concession Agreement is entered into by the Lessee the Service Center Building used by Lessee shall revert to CITY at the termination of this .Agreement.

The City (Airport) may choose to utilize the property on which the Service Center Building is erected for other purposes under future agreements. In this case, the Lessee agrees to vacate the premises and mitigate any environmental contingencies caused by lessee.

If the City enters into a follow on RAC agreement with lessee the Lessee has the right of first refusal to continue leasing the ground at the rate set by City.

City reserves the right to require improvements to facilities including exterior finishes, pavement maintenance, fencing, landscaping and general maintenance.

A Plot Plan and Legal Description of Lessees Service Center and Building are attached as Exhibit.

The existing RAC service facilities have been constructed at the cost of the Lessee and neither IFRA nor the City of Idaho Falls has contributed to these facilities other than providing the bare ground for the improvement. The service facilities are taxed by county. The airport required each agency to construct a service facility on the ground leased to them. In order to promote fairness, the RAC service facility owners will be granted 20 years from the time of initial occupancy following construction to conduct their car rental operation from with the following provisions:

- All leases are for bare ground only and the lessee is responsible for all improvements including but not limited to extending utilities.
- If initial occupancy for the purposes of calculating 20 years will begin no later than 6 months from the issuance of a building permit for the service facility.
- Sale of the service facility to another entity does not extend the 20 year time frame.
- RAC service facilities must be continuously used to service rental cars available for rent at IFRA.
- If IFRA determines that the leasehold land is to be used for another purpose other than RAC service facility, then IFRA may at its discretion purchase the undepreciated improvements, real or personal, from the lessee.
- Lessees must provide actual costs for improvements to these facilities and their depreciation schedule to the Airport Director who will verify with City auditors that the costs and schedule is reasonable.
- If RAC lessee does not provide these costs and schedules, it will be assumed that there is no acquisition value to IFRA.
- New capital expenditures may be approved for addition to the depreciation schedule, but the costs and the schedule must be approved by the Airport Director.
- After the initial construction, amortizations of additional improvements are anticipated to be no more than 5 to 10 years.
- RAC agencies who continue to have an agreement to rent cars to the public from IFRA will have the right of first refusal to lease the ground, use the facility and continue to pay property taxes on their service facility.

ARTICLE XI RE-DELIVERY

Lessee shall make no unlawful or offensive use of said premises and will at the expiration of the term hereof or upon any sooner termination, without notice, quit and deliver up said premises to CITY peaceably, quietly and in as good order and condition, reasonable use and wear thereof excepted, as the same now or may hereafter be improved by Lessee or CITY.

ARTICLE XII HOLDING OVER

In the event Lessee shall hold over and remain in possession of the premises herein leased after the expiration of this Agreement without any written renewal thereof, such holding over shall not be deemed to operate as a renewal or extension of said Agreement but shall create only a tenancy from month to month which may be terminated at any time by CITY.

ARTICLE XIII GENERAL PROVISIONS

A. CONFLICTS BETWEEN LESSEES. In the event of a conflict between Lessees and any other Lessee or Lessee in the Terminal Building as to the services to be sold by respective Lessee or Lessees, CITY shall decide which services may be sold by each Lessee and Lessee agrees to be bound by such decision.

B. INSPECTION. CITY, by its officers, employees, agents and representatives, shall have the right at all reasonable times to enter upon the demised premises for the purpose of inspecting same, for observing the performance by Lessee of its obligations hereunder, and for the doing of any act which CITY may be obligated or have the right to do under this Agreement.

C. ATTORNEY'S FEES. In the event this Agreement is placed in the hands of an attorney for the collection of the rentals and fees (or any portion thereof) due or to become due hereunder; to take possession of said concession space; to enforce compliance with this Agreement; or for failure to observe any of the covenants of this Agreement, Lessee shall pay CITY a reasonable attorney's fee for services rendered CITY in that regard.

D. NON-WAIVER. Any waiver by CITY of any breach of covenants herein contained to be kept and performed by Lessee shall not be deemed as a continuing waiver and shall not operate to bar or prevent CITY from declaring forfeiture for any succeeding breach either of the same or other condition or covenant.

E. INDEPENDENCE OF AGREEMENT. It is understood and agreed that nothing herein contained is intended or should be construed as in any way creating or establishing a relationship of co-partners between the parties hereto, or as constituting the Lessee as the agent, representative or employee of the CITY for any purpose or in any manner whatsoever. Lessee is to be and shall remain an independent contractor with respect to all services performed hereunder.

F. QUIET ENJOYMENT. CITY agrees that Lessee, upon payment of rent and all other charges and upon observation of the terms of this Agreement, shall lawfully and quietly hold, occupy, and enjoy the demised premises during the full term of this Agreement without hindrance or molestation from CITY or anyone claiming by, through or under CITY. CITY's agreement is subject; however, to Lessee holding and enjoying said premises under conditions that may reasonably be anticipated in connection with the operation of aircraft or an airport.

G. INVALID PROVISIONS. In the event any covenant, condition, or provision herein contained is held to be invalid by any court of competent jurisdiction, the invalidity of such covenant, condition or provision shall in no way affect any other covenant, condition or provision herein contained; provided that the invalidity of such covenant, condition or provision does not materially prejudice either CITY or Lessee in its respective rights and obligations contained in the valid covenants, conditions and provisions herein.

H. PARAGRAPH HEADINGS. The paragraph headings contained herein are for convenience in reference and are not intended to define or limit the scope of any provision of this Agreement.

I. NOTICES. Notices to CITY provided for herein shall be sufficient if sent by registered mail, postage prepaid, addressed to:

Idaho Falls Regional Airport

2140 North Skyline Drive, Suite 12

Idaho Falls ID 83402

and notice to Lessee, if sent by registered mail, postage prepaid, addressed to:

Avis Budget Car Rental, LLC.

6 Sylvan Way

Parsippany, NJ 07054

or to such other address as the parties may designate to each other in writing from time to time.

J. VENUE AND JURISDICTION. 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 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.

K. SUCCESSORS AND ASSIGNS. All of the terms, covenants, and agreements herein contained shall be binding upon and shall inure to the benefit of successors and assigns to the respective parties hereto.

Idaho Falls Regional Airport

IN WITNESS WHEREOF, the parties have hereunto set their hands this

_____day of _____, 2015

LESSOR:

ATTEST:

CITY OF IDAHO FALLS

_____

City Clerk

_____

Rebecca L. Noah Casper
Mayor

LESSEE:

By: _____

Avis Budget Car Rental, LLC.

APPROVED AS TO FORM:

_____

Randy Fife
City Attorney

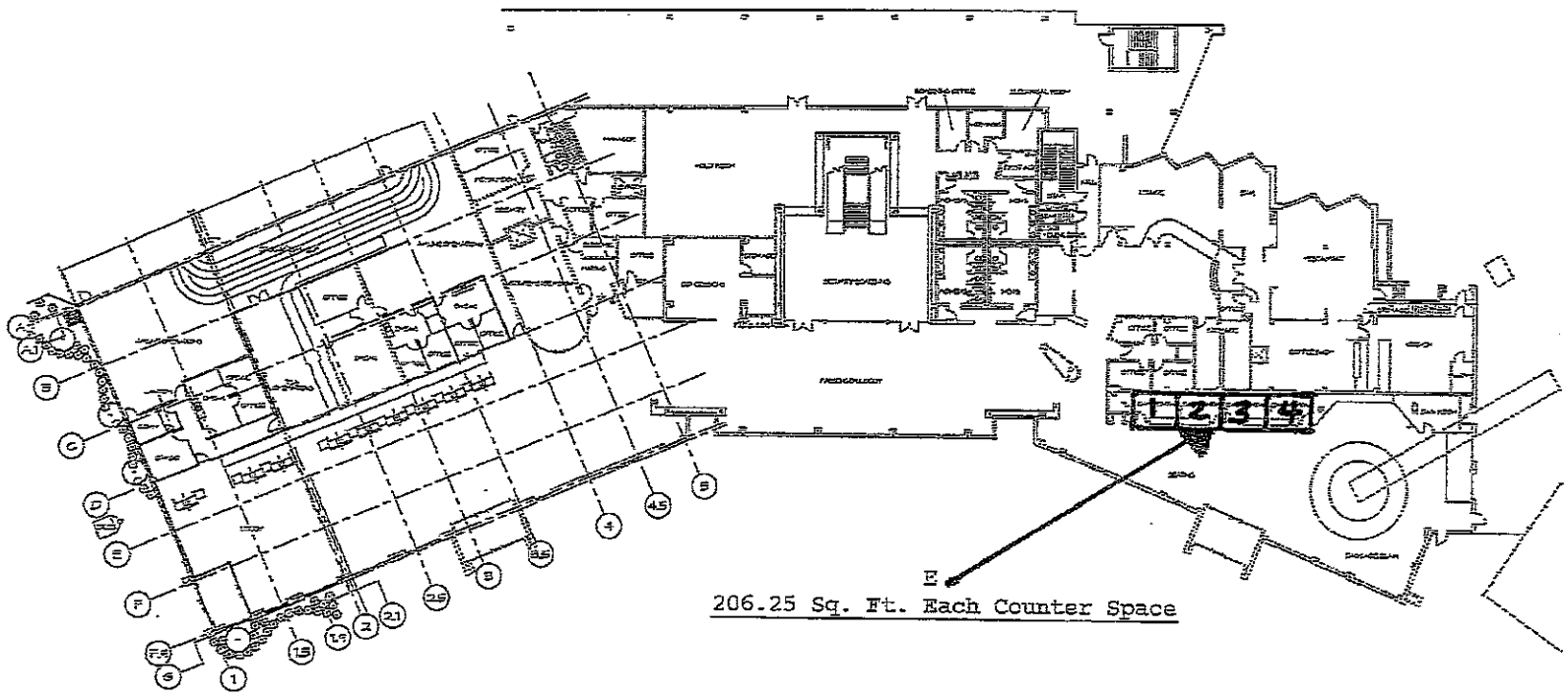
_____

Craig Davis
Airport Director

Idaho Falls Regional Airport

EXHIBIT "A"

EXHIBIT A
RAC Terminal Counter
Concession Space Area



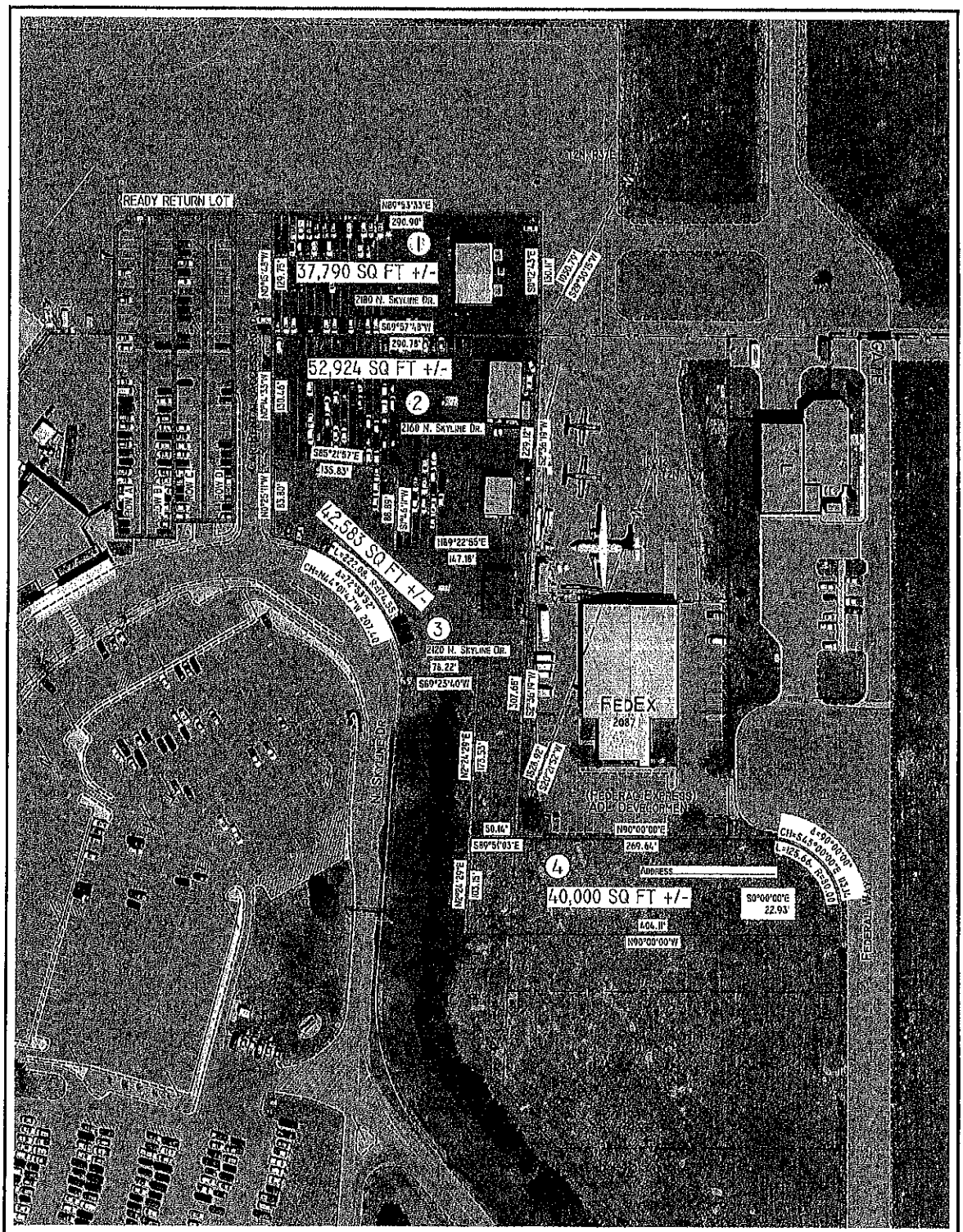
IDAHO FALLS REGIONAL
AIRPORT TERMINAL EXPANSION
2140 N. SKYLINE DR.
IDAHO FALLS, ID 83403 AIP 3-16-0016-0037
GROUND FLOOR PLAN - OVERALL

A1.1A

CITY REVIEW SET - SEPTEMBER 28, 2012

Idaho Falls Regional Airport

EXHIBIT "B"



SCALE

1 INCH =100 FT.

CITY OF IDAHO FALLS

ENGINEERING DEPARTMENT

CAR RENTAL SERVICE AREAS AND READY RETURN
IDAHO FALLS AIRPORT
EAST OF THE TERMINAL BUILDING

SCALE: NO SCALE	PROG. NO. AIR 0000-03	DATE: 10-22-2014
COMPUTER		SHEET NO.
DWG: R:\M-SURVEY BY DEPARTMENT\MIRROR\AIRPORT LEASES\RENT-A-CAR LEASES		1 OF 1
PLOT DATE: 10-22-2014		

IDAHO FALLS REGIONAL AIRPORT

2140 N. Skyline Drive #12
Idaho Falls, ID 83402
Phone: (208) 612-8224
Fax: (208) 612-8517

MEMORANDUM

TO: Honorable Mayor and City Council

FROM: Craig H. Davis, Airport Director

DATE: January 22, 2015

SUBJECT: **On-Airport Auto Rental Concession Agreement – Overland West (Hertz Car Rental)**

Attached for your consideration is an On-Airport Auto Rental Concession Agreement between the City of Idaho Falls, Idaho and Overland West (Hertz Car Rental). This company was selected through a competitive Request For Proposal process. The Agreement has a term of five (5) years.

City Attorney has reviewed said Agreement.

The Airport Division respectfully requests approval and authorization for the Mayor and City Clerk to sign and execute said document.

Respectfully submitted,

Craig H. Davis
Airport Director

C: City Clerk

Idaho Falls Regional Airport

AUTO RENTAL CONCESSION AGREEMENT

This Concession Agreement effective the first day of February 2015, between the City of Idaho Falls, Idaho, (hereinafter referred to as CITY) and OVERLAND WEST, INC. (hereinafter referred to as Lessee) with its principal office at 2805 Washington Blvd., PO Box 590, Ogden, UT, 84404, and operating out of Idaho Falls Regional Airport.

WITNESSETH:

WHEREAS, CITY owns and operates Idaho Falls Regional Airport located in the City of Idaho Falls, State of Idaho (hereinafter called IFRA) and,

WHEREAS, Lessee is engaged in the operation of an automobile rental business and is prepared, equipped and qualified to supply an adequate number of late model automobiles in good mechanical condition and appearance for the operation of an automobile rental business at IFRA, and

WHEREAS, ground transportation of passengers arriving at or departing from IFRA is an essential service to said passengers and to other patrons of IFRA, and,

WHEREAS, it is the intent and desire of the CITY that air passengers shall have available to them their choice of varied types of ground transportation services, any one of which at their option they shall have the right to select and use, and

WHEREAS, it is the desire of CITY to make available to air passengers as a portion of said ground transportation at IFRA an automobile rental business, operated and conducted by Lessee, and,

WHEREAS, four Auto Rental Concession Agreements are available at the beginning of this agreement but more Agreements may be made available during the term of this agreement if space is made available by IFRA; and,

WHEREAS, a Customer Facility Charge has not been adopted by IFRA but it may institute one after consultation with Auto Rental Concessionaires; and,

WHEREAS, Lessee has a franchise of license from Hertz, a corporation, and said franchise is current and in good standing, or Lessee operates Idaho Falls Regional Airport as a corporate location by_____.

NOW, THEREFORE, the parties agree as follows:

ARTICLE I

For and in consideration of the terms, conditions and covenants of this Agreement to be performed by Lessee, CITY hereby authorizes Lessee to operate a non-exclusive automobile rental concession at IFRA and also leases to Lessee and Lessee hereby hires and takes from CITY certain real premises, together with improvements thereon (hereinafter called the demised premises), and certain attendant privileges, uses and rights as hereinafter specifically set out.

A. DESCRIPTION OF PREMISES DEMISED. The exclusive premises conveyed by this Concession Agreement shall be as follows:

1. Operational Counter Area on the ground floor of the terminal building consisting of some 206.25 square feet of counter space, queuing area, and private office space, more specifically described as Operational Area #4. The actual area is depicted in Exhibit "A".
2. 15 Rental Car Ready/Return Parking Positions in the Return Lot, location to be determined by Airport Director as follows:
   i. At the commencement of this agreement there are a total of 116 Ready/Return spaces. A minimum of 15 Ready/Return Spaces shall be allocated to each on airport RAC agency. The remaining 56 spaces shall be allocated as a ratio of each RAC agency MAG as compared to the total MAG proposed by each successful on airport RAC agency. Each RAC agency shall have their row start at the beginning/street side of one of the four rows.
   ii. After the first two years of this agreement, the Ready/Return spaces shall be allocated based on 15 spaces minimum and the remainder allocated based upon RAC agency actual revenue from rental car percentage rent received by the airport and not MAG, unless MAG is greater than rent paid. If the actual reported rentals fall below MAG payments, the RAC agency will still be required by pay the MAG.
3. Incumbent lessees have the right of first refusal to retain their one (1) Rental Car Storage/Service Center. The Rental Car Storage/Service area #1 consisting of 37,790 square feet is described in Exhibit "B"

B. DESCRIPTION OF PRIVILEGES, USES AND RIGHTS. CITY hereby grants to Lessee the following privileges, uses and rights, all of which shall be subject to the terms,

conditions and covenants hereinafter set forth and all of which shall be non-exclusive on IFRA.

1. The right, license and privilege to operate an automobile rental concession service at the IFRA for the purpose of renting automobiles to airline passengers and such other persons who may request such service at IFRA. "Automobile" does not include moving vans or trucks larger than a pickup or fifteen (15) passenger van. No automobiles may be rented or stored that are more than two model years old.
2. The right of ingress to and egress from the demised premises over and across public roadways serving the passenger terminal building by Lessee, his agents, and servants, patrons and invitees, suppliers of service and furnishers of material. Said right shall be subject to such rules and regulations as now or may hereafter have application at IFRA.
3. The right to install (or cause to be installed) and operate appropriate signs at the terminal building, ready/return spaces, and service facilities, provided that such installation shall be subject to the prior written approval of the CITY.

C. CONDITIONS OF GRANTING AGREEMENT. The granting of this Agreement and its acceptance by Lessee is conditioned upon the following covenants:

1. That no functional alteration of the premises or functional change in the uses of such premises shall be made which shall substantially adversely affect the use by Lessee of the demised premises, without the specific consent of the Lessee herein.

2. That the right to use said public airport facilities in common with others authorized so to do shall be exercised only subject to and in accordance with the laws of the United States of America and the State of Idaho, and all reasonable and applicable rules and regulations of CITY now in force or hereafter prescribed or promulgated by charter authority or by law.

3. That the concession granted by this agreement is NOT an exclusive concession and that CITY shall have the right to deal with and perfect arrangements with any other individual, company, or corporation for engaging in like activity at IFRA provided, however, that any other or future non-exclusive concession for auto rental operations shall not be on terms or conditions more favorable than those granted to Lessee herein.

4. That Lessee is prohibited from transacting or soliciting rental car business at any other point on IFRA unless written permission is obtained from CITY,

which permission, if given, shall require strict observation of all applicable provisions of this agreement.

5. The Lessee may be a single or multi-branded operation. During the course of the current concession, an on-airport operator shall be allowed to introduce an additional brand and operate as a "multi-branded" concession, provided the brand introduced is part of the concessionaire's current parent company. The Lessee will be required to operate within the confines of the counter, ready-return spaces and Service Facility that it operates.

ARTICLE II

INSTALLATIONS BY CITY AND LESSEE

A. TERMINAL BUILDING SPACE.

1. Installations by CITY. In the terminal building baggage claim area CITY will provide a cubicle with a counter and unfinished office space.

2. Installations by Lessee. In the terminal building area Lessee shall provide:

a. All leasehold improvements not provided by CITY including, but not limited to, display cabinets, interior partitions, additional lighting fixtures, decorations and all other fixtures, equipment and supplies.

b. All equipment, furniture, furnishings and fixtures necessary in the proper conduct of Lessee's business. Any improvements, facilities, decorations, fixtures, equipment, supplies and cabinets furnished by Lessee shall be in keeping with the general decor of the terminal building and shall be subject to written approval of CITY prior to installation.

B. APPROVAL OF PLANS AND CONSTRUCTION. Prior to installation of any improvements in its exclusive space, Lessee shall submit to CITY final plans and specifications, layout and architectural renderings for said improvements, which upon written approval by CITY shall become a part thereof. Lessee shall make payment promptly, as due, to all persons supplying labor or materials for the prosecution of the work provided in making such installation and shall not permit any lien or claim to be filed or prosecuted against the CITY on account of any labor or material furnished.

C. ALTERATIONS, ADDITIONS ORREPLACEMENTS. Following any installations by Lessee, as hereinabove set forth, Lessee shall make no alterations, additions or replacements without written approval of CITY. Lessee shall likewise

obtain prior approval from CITY before installing, at its own expense, any equipment which requires new electrical or plumbing connections or changes in those installed on the premises as of the date of occupancy thereof.

ARTICLE III

OBLIGATIONS OF LESSEE

A. HOURS OFOPERATION. Lessee shall, in the operation of the auto rental concession herein granted, maintain and make available a sufficient number of automobiles and personnel to staff each service counter leased at IFRA for adequate public service each day of the year, and during the hours that IFRA is conducting arriving and departing flights.

B. TYPE OF OPERATION. Lessee shall furnish service on a fair, reasonable and non-discriminatory basis to all users of IFRA. Service shall be prompt, courteous and efficient and shall be adequate to meet the demands for said service on IFRA. Lessee shall maintain and operate the concession in a first class manner and shall keep the premises in a safe, clean, orderly and inviting condition at all times, satisfactory to CITY. Lessee shall be responsible for all cleaning of their leased premises. Lessee shall promptly remove all trash from the leased premises and shall deposit all trash in appropriate CITY or Lessee controlled dumpsters. Attractive displays within the premises shall be permitted if approved by CITY.

C. NON-DISCRIMINATION. The Lessee assures that he will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin or sex be excluded from participating in any employment activities covered by 14 CPR Part 152, Subpart E. The Lessee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. The Lessee assures that he will require that his covered sub-organizations provide assurances to the Lessee that they similarly will undertake affirmative action programs and that they will require assurances from their sub-organizations, as required by 14 CFR Part 152, Subpart E, to the same effect. This agreement is subject to the requirements of the U.S. Department of Transportation's Regulations, 49 CFR Part 23, Subpart F. The Lessee agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with award or performance of any concession agreement covered by 49 CFR Part 23, Subpart F. The Lessee agrees to include the above statements in any subsequent concession agreements that it enters and cause those businesses to similarly include

the statements in further agreements.

D. PERSONNEL. Lessee shall at all times retain an active, qualified, competent, and experienced manager to supervise the concession operations and be authorized to represent and act for Lessee. Lessee shall be required to properly uniform or dress its attendants and employees; they shall be clean, courteous, and efficient and neat in appearance at all times. Lessee shall not employ any person(s) in or about the concession premises who shall use improper language or act in a loud, boisterous or otherwise improper manner. Lessee shall maintain a close check over attendants and employees to insure the maintenance of high standards of service to the public, the performance of such obligations to be determined at the sole discretion of the CITY. Lessee shall not allow their employees to bring their minor children with them to work, unless it is a temporary visit that lasts no longer than thirty (30) minutes. Lessee shall replace any employee whose conduct CITY feels is detrimental to the best interests of the IFRA. All Lessee employees and management shall park their vehicles in the employee lot or service center lot as designated by the Airport Director and are not permitted to park in the Ready/Return Lots.

E. LAWS, ORDINANCES, ETC. Lessee shall observe and obey all laws, ordinances, regulations and rules of federal, state, and municipal governments that may be applicable to its operation at IFRA.

F. QUALITY OF RENTAL AUTOS. Lessee shall at all times maintain at its own cost and expense all its rental automobiles in good operating order and free from known mechanical defects; said automobiles shall be kept in clean, neat, and attractive condition inside and out. Lessee shall at no time use automobiles whose model year is more than two model years old.

G. AUTO RENTAL RATES. Lessee's auto rental rates shall be competitive with similar services by comparable Lessees in the Idaho Falls /Pocatello Area. Lessee may make such reasonable and non-discriminatory discounts to volume purchasers as may be allowable under governing statutes.

H. SOLICITATION AND CONDUCT. Lessee shall prohibit its agents, servants, and employees from engaging in any form of solicitation of its auto rental services on or about IFRA. Lessee, its agents, servants and employees shall so conduct said auto rental business on the airport to maintain a friendly and cooperative, though competitive, relationship with other companies engaged in like business on IFRA. Lessee shall not engage in open public disputes, disagreements or conflicts which would tend to deteriorate the quality of the auto rental service of Lessee or its competitors or which

would be incompatible to the best interests of the public at IFRA. CITY shall have the right to resolve all such disputes, disagreements, or conflicts; and its determination thereof of the manner in which Lessee shall thereafter operate shall be binding upon Lessee.

I. COST OF AUTO RENTAL OPERATIONS. Lessee shall bear at its own expense all cost of operating the concession and shall pay, in addition to space rental and concession fees, all other costs connected with the use of the demised premises and facilities, including but not limiting the generality hereof, insurance, any and all taxes, and all permits and licenses required by law.

J. MAINTENANCE. Lessee, shall at its sole cost and expense, maintain the demised premises and every part thereof in good order and repair, and in good and safe condition; shall repair all damages caused by its employees, patrons, or its operation of said services; shall maintain and repair all equipment on said premises; and shall repaint its own leased space when deemed necessary by CITY, such repainting to require the prior approval of the CITY. CITY shall be the sole judge of the quality of maintenance and upon written notice by CITY to Lessee, Lessee shall be required to perform whatever maintenance CITY deems necessary. If said maintenance is not undertaken by Lessee within ten (10) days after receipt of written notice, CITY shall have the right to enter on the demised premises and perform the necessary maintenance, the cost of which shall be borne by Lessee.

K. GASOLINE AND REPAIR SERVICE. Lessee shall not sell gasoline, repair services or related services on IFRA to other than RAC vehicles, however, the Lessee may use the vehicle storage/service area to provide additional parking and service (including gasoline, oil, repairs and other services) for vehicles owned or controlled by Lessee and used in conjunction with the concession granted hereunder. Lessee is prohibited from storing or disposing of waste oil, waste fluids, discarded fluid containers or unmarked hazardous materials of any type on the leased premises in violation of law.

L. PUBLIC ADDRESS SYSTEM. Lessee shall permit the installation in its premises of IFRA's public address system, and the reception thereon of flight announcements and other information, if CITY deems such installation necessary.

M. AUTO RENTAL STORAGE. Rental cars shall be parked in Lessee's allocated positions in the ready, return or storage lots.

N. VENDING MACHINES. Lessee shall neither install nor operate vending machines and coin-operated amusement machines and devices in the terminal building.

ARTICLE IV

OBLIGATIONS OF CITY

CITY shall maintain the structure of the terminal building, the roof and outer walls, HVAC and electrical/mechanical systems. CITY shall maintain the ready/return auto parking positions in the parking area included under the provisions of Article I, Paragraph A, (2) and (3). CITY shall furnish heat, lights and janitorial service for the terminal building.

ARTICLE V

TERM OF AGREEMENT

The term of this agreement shall be for a period of five (5) years commencing on the first (1st) day of February 2015 and ending on the thirty-first (31st) day of January 2020.

ARTICLE VI FEES AND RENTALS

A. CONCESSION FEE AND MINIMUM ANNUAL GUARANTEE. Lessee shall pay to CITY for the rights and privileges herein granted a concession fee of ten percent (10%) of all gross receipts as hereinafter defined, or the Minimum Annual Guarantee (hereinafter called "MAG") as set forth below, whichever sum is greater. The MAG is a floor which shall be paid as a minimum during each of the five (5) years of this agreement unless passenger traffic decreases by at least 15% as defined in Article IX of this agreement.

Annual MAG amount $145,000.00. This number will be the "floor" amount for each of the five (5) years of the agreement.

B. DEFINITION OF GROSS RECEIPTS. "Gross Receipts" shall include but not by definition be necessarily limited to the following:

1. The aggregate amount of all monies paid or payable to Lessee for all time and mileage sales, additional equipment rentals and services performed at IFRA, and all monies paid or payable for sales, rentals, services and exchanges made and performed as a result of passengers arriving by air as commercial or private customers at IFRA.

2. The market value of all exchanges of goods.

3. All monies paid or payable for time and mileage sales, additional equipment rentals, services and exchanges, transactions and contracts performed for customers whose business originates at IFRA.

4. The total sum whether fully retained by Lessee or not, for rentals of vehicles owned, controlled or operated by persons other than Lessee.

5. All monies paid or payable to Lessee for one-way rentals.

7. The Lessee agrees to charge a maximum of a 11.11% "Concession Recovery Fee", which shall be added to gross receipts, and said fee, if charged, shall be listed as a separate charge in the Lessee's advertised rates or rental agreements and such separate charge shall be disclosed to the customer at the time of reservation and again at the time of the actual rental. Furthermore, the Concession Fee must be charged to all customers in a fair and consistent manner. Such fee shall be disclosed and listed as a Concession Fee and shall not be listed as an airport surcharge or tax.

All of the above listed transactions are included in Gross Receipts whether for cash, credit or otherwise of any kind, name, and nature, and regardless of when or whether paid for or not.

C. EXCLUSIONS. Gross Receipts shall exclude the following:

1. Charges to Lessee's customers for repairs to automobiles damaged by such customer.

2. Monies collected from such customers for federal, state, county or municipal taxes now in effect, or hereafter levied, and,

3. Uncollected items resulting from theft, conversion, illegal use of Lessee's automobiles, unless and until charges against such customers who have illegally used said automobiles are collected.

4. All inter-city drop fees.

5. Fees received by Lessee to waive deductible collision insurance features.

6. Credits given to customers for such things as deposits and out-of-pocket purchases for gas, oil or emergency services, regardless of where made.

7. Charges to the customer for refueling services.

8. Customer Facility Charges implemented by CITY after consultation with

Auto Rental Concessionaires.

D. SCHEDULE OF PAYMENTS. Monthly reports, monthly space lease amounts, and concession fees as set out above shall be due and payable to CITY on or before the tenth (10th) day of the following month, with a penalty of twenty dollars ($20.00) per day for each day past the tenth (10th) day for receipt of amounts payable to CITY.

E. ADJUSTMENTS. Adjustments for any deficiency between the percentages set forth in Paragraph A above for any preceding agreement year and the MAG for such year shall be payable within thirty (30) days after the close of each fiscal year. Settlement for any deficiency between the annual guaranteed rental and the percentages payable during a period of less than one complete fiscal year shall be made to CITY on a pro- rata basis within thirty (30) days following the end of such period. Adjustment for overpayment will be issued as a Credit from City and applied against future fees as they become due.

F. RECORDS OF LESSEE. With respect to business done by it hereunder, Lessee shall keep true and accurate accounts, records, books and data, which shall show all the gross receipts, as defined hereinabove, of said business upon and within said IFRA. Lessee agrees to operate its business upon IFRA so that a duplicate rental agreement invoice, serially numbered, shall be issued with each sales or transaction, whether for cash or credit. Lessee further agrees to keep reasonable books and records as CITY may request. The duplicate rental agreements, invoices, and all other books and records of Lessee, as aforesaid, shall be open for inspection by authorized representatives of CITY at all times reasonable during business hours. Lessee shall submit to CITY a detailed statement showing gross receipts from the operation of the auto rental concession for the preceding calendar month on or before the tenth (10th) day of each calendar month. These reports shall show such reasonable detail and breakdown as may be required by CITY. Within thirty (30) days following the end of each fiscal year of operation of the concession, Lessee shall submit to CITY a statement of gross receipts from the concession for the preceding year of operation, such statement to be attested to by the owner and to be accompanied by Lessee's payment covering any deficiency between payments made during the year of previous operation and payments due for such year of operation. Lessee at its own expense shall supply all record forms in a reasonable type, style and form satisfactory to CITY.

G. AUDIT. For the purpose of determining accuracy of reporting gross receipts, CITY may make a spot test audit and base its findings for the entire period upon such spot test; provided, however, that such spot test shall include at least twenty-five percent (25%) of the total time of the period being audited. In addition, if the Lessee has one or more additional outlets within a 25 mile radius of the IFRA outlet, then for purposes of

the audit and spot checks mentioned above, the Lessee agrees to allow a full and complete audit of the additional outlets, said audit to be at the time the audit or spot check is made of the IFRA outlet. In addition, CITY shall have the right during any one fiscal year of the agreement to authorize two audits of Lessee's records pertaining to the concession. Such audits may be undertaken by a reputable firm of independent certified public accountants. The cost of such audits are borne by CITY, unless the results of such audits reveal an underpayment of more than five percent (5%) between the gross receipts reported in accordance with Paragraph D and the gross receipts as determined by audit for any twelve month period. In case of such underpayment, the full cost of the audit shall be borne by Lessee.

H. SPACE RENTALS. In addition to the concession fee set forth above, Lessee shall pay CITY space rental for the Premises conveyed by this Concession Agreement in monthly installments of 1/12th of the following annual rates:

For the counter and office Operational Area, $25.80 (twenty five dollars and 80 cents) per square foot per year;

For the parking positions, the ready positions, and the vehicle return positions, $180 (one-hundred and eighty dollars) per stall per year;

For the vehicle storage/service area, $0.28 (twenty eight cents) per square foot per year.

Space Rental rates under this section H shall be adjusted each January 1st by CPI-U as defined by the Bureau of Labor Statistics as of September of the previous calendar year.

Subject to the Airport Director's advance written approval Lessee may offer to exchange, trade or allocate a portion of its allocated ready, return and/or storage/service area to other of the on-airport automobile rental Lessee operating under an identical Auto Rental Concession Agreement. In the event of a conflict over the availability of the spaces or to whom they will be offered, the Airport Director shall make the final determination.

ARTICLE VII INDEMNIFICATION AND INSURANCE

CITY shall stand indemnified by Lessee as herein provided. Lessee is and shall be deemed to be an independent contractor and Lessee responsible to all parties for its respective acts and omissions, and CITY shall in no way be responsible therefore. In the use of IFRA, in the erection or construction of any improvements thereon, and in the exercise or enjoyment of the privileges herein granted, Lessee shall indemnify and save harmless the CITY from any and all

losses that approximately result to the CITY because of any negligence on the part of the Lessee.

Lessee shall purchase and maintain commercial general liability insurance coverage relative to its services, its operations and business, the Operational Area, the Parking Spaces, the common parking area, and the use and operation of Lessee's vehicles. The commercial general liability insurance coverage shall be in at least the amount of $1,000,000.00 per occurrence and $2,000,000.00 annual aggregate. CITY and its past, present and future officers, members, Airport Director, employees and agents shall be named as additional insureds under the commercial general liability policy or policies.

Lessee shall deliver to the Airport Director certificates of the above insurance coverages at the time this Agreement is executed. The certificates shall provide the coverages referred to therein and shall not be terminated, modified or not renewed until CITY has received thirty-day (30) written notice thereof. In the event an insurance carrier should terminate, modify or not renew any of the above insurance coverages, Lessee shall immediately contract with another insurance carrier to provide the requisite coverage and shall immediately deliver to the Airport Director a replacement certificate.

All of the above coverages shall be written through insurance carriers qualified to do business in the State of Idaho. After consultation with Lessee, the City of Idaho Falls may update insurance requirements.

ARTICLE VIII DAMAGE OR DESTRUCTION OF PREMISES

If the premises leased to Lessee under the terms of Article I, Paragraphs A and B, herein are partially damaged by fire, explosion, the elements, the public enemy, or other casualty, but not rendered untenable, the same will be repaired with due diligence by CITY at its own cost and expense. If the damage shall be so extensive as to render such premises untenable, but capable of being repaired in thirty days, the same shall be repaired with due diligence by CITY at its own cost and expense, and the rent payable herein shall be paid proportionately to the time of such damage and thereafter cease until such time as the premises are fully restored. In the event said premises are completely destroyed by fire, explosion, the elements, the public enemy or other casualty, or so damaged that they will remain untenable for more than thirty (30) days, CITY shall be under no obligation to repair and reconstruct the premises, and rent payable hereunder shall be paid proportionately to the time of such damage or destruction and shall thenceforth cease until such time as the premises may be fully restored. If within twelve (12) months after the time of such damage or destruction said premises shall not have been repaired or reconstructed, Lessee may give CITY written notice of its intention to cancel the Agreement in its entirety as of the date of such damage or destruction.

ARTICLE IX

TERMINATION OF AGREEMENT, ASSIGNMENT AND TRANSFER

A. TERMINATION. This agreement shall terminate at the end of the full term hereof, and Lessee shall have no further right or interest in any of the land or improvements hereby demised except as provided in Article X Property Rights Upon Termination.

B. TERMINATION BY LESSEE. This agreement shall be subject to termination by Lessee upon one or more of the following events:

1. The permanent abandonment of IFRA as an air terminal.

2. The lawful assumption by the United States Government, or authorized agency thereof, of the operation, control, or use of IFRA, or any substantial part or parts thereof, in such a manner as substantially to restrict Lessee for a period of at least ninety days from operating thereon.

3. Issuance by any court of competent jurisdiction of an injunction in any way preventing or restraining the use of IFRA, and the remaining in force of such injunction for a period of at least ninety days.

4. The default by CITY in the performance of any covenant or agreement herein required to be performed by CITY and the failure of CITY to remedy such default for a period of at least sixty days after receipt from Lessee of written notice to remedy the same.

5. The complete destruction of the premises as outlined in Article VIII.

C. TERMINATION BY CITY. This Agreement shall be subject to termination by CITY in the event Lessee shall:

1. Be in arrears in the payment of the whole or in part of the amounts agreed upon hereunder for a period of ten days after the time such payments become due.

2. File a voluntary petition of bankruptcy or make an assignment for the benefit of creditors, or consents in writing to the appointment of a trustee or receiver for itself.

3. If a court of competent jurisdiction shall enter an order, judgment or

decree declaring the Lessee insolvent, or adjudging it bankrupt, or appointing a trustee or receiver of Lessee, or approving a petition filed against Lessee seeking reorganization of the Lessee under any applicable law or statute of the United States of America or any state thereof.

4. If under the provisions of any other law for the relief or aid of debtors, any court of competent jurisdiction shall assume custody or control of Lessee.

5. Abandon the demised premises.

6. Default in the performance of any of the covenants and conditions required herein (except rental payments) to be kept and performed by Lessee, and such default continues for a period of thirty days after receipt of written notice from CITY of said default.

7. Cancel its license or franchise from Hertz Rent-A-Car or in the event that _____CONCESSIONAIRE/LESSEE Rent-A-Car shall for any purpose whatsoever cancel the license or franchise of Lessee.

In any of the aforesaid events, CITY may take immediate possession of the demised premises and remove Lessee's effects, forcibly if necessary, without being deemed guilty of trespassing. Upon said entry, this agreement shall terminate except that CITY reserves the right to recover any and all damages it has incurred for Lessee's breach, in addition to terminating the lease, including but not limited to unpaid rent, damage to premises, etc., the remedy of termination not being the exclusive remedy. It is agreed that failure of CITY to declare this Agreement terminated upon the default of Lessee for any of the reasons set out shall not operate to bar or destroy the right of CITY to declare this Agreement null and void by reason of any subsequent violation of the terms of this Agreement.

D. MINIMUM ANNUAL GUARANTEE. In the event Lessee is unable to make the MAG as provided in Article VI, Paragraph A, by reason of fire, strikes, or damage by the elements or of any unavoidable casualty, acts of God, war, legal actions, or take over by public authority, all without fault of Lessee, the MAG shall be forgiven for the period of incapacity, provided, however, the ten percent (10%) of all gross receipts provision shall remain in full force and effect, the MAG to resume after removal of the incapacity.

E. ABATEMENT OF MINIMUM ANNUAL GUARANTEE. In the event that one of the following conditions exists, the MAG provided in ARTICLE VI,A,1. shall be abated for the period of time the condition exists:

1. If the operation of Lessee's car rental business becomes impractical,

unprofitable or impossible because of actual shortages or other disruptions in the supply of automobiles, gasoline or other goods necessary for the operation thereof, through no fault of the Lessee, which conditions persist for at least 30 days;

2. If a strike against any or all of the airlines operating at IFRA results in a thirty percent (30%) diminution of deplaning passengers (as compared with the similar period in the previous Agreement year) for a period of thirty (30) consecutive days;

3. If the Terminal is partially damaged so as to render the Terminal Premises un-tenantable, as more fully set forth above.

4. In any event, and notwithstanding the above provisions, Lessee shall pay 10 percent (10%) of its Gross Revenues during the period of time any condition set forth in above continues to exist. The CITY shall return to Lessee a just proportion of any minimum guarantee payment which may have been paid in advance for a month or portion thereof which fails within the period of abatement.

5. If, during any year of this Agreement (January 1-December 31), the number of deplaning passengers falls below eighty-five percent (85%) of the number of deplaning passengers for the preceding Agreement year, the minimum annual guarantee for that Agreement year shall be reduced to a sum equal to eighty-five percent (85%) of the minimum annual guarantee.

6. If, during any calendar month of the term of this Agreement, runway construction activities result in a reduction in the number of deplaning passengers at IFRA by at least thirty percent (15%), when compared with the same number for the same month in the immediately preceding year, then the minimum annual guarantee for that year shall be reduced by an amount equal to one twelfth (1/12th) of the minimum annual guarantee for said year, times (x) the percentage decrease in the number of deplanements for said month.

7. The MAG is a floor which shall be paid unless circumstances listed in 1-6 of this sub-paragraph lower the MAG. When the circumstances change back to be above the criteria listed, then the MAG returns to the floor set in the proposal.

F. ASSIGNMENT AND TRANSFER. Lessee shall not assign, transfer, or sublease its rights and premises hereunder without the written approval of CITY which shall not be unreasonably delayed.

ARTICLE X

PROPERTY RIGHTS UPON TERMINATION

Upon termination of this Agreement, through passage of time or otherwise, the Lessee shall aid CITY in all ways possible in continuing the operation of said auto rental service on IFRA uninterruptedly. Lessee shall sell any or all of Lessee's furniture, furnishings, fixtures and equipment, which includes improvements made to the leased property and building after initial occupancy and the undepreciated value of all improvements, installed or used upon said premises by Lessee to CITY should CITY notify Lessee in writing within ten (10) days before such termination date that it desires to purchase any or all of the same. In the event CITY exercises its option to purchase any or all of said furniture, furnishings, fixtures and equipment the purchase price shall be the fair market value of such items at the elate of such termination. If the parties are unable to agree upon the fair market value, each party shall then appoint an appraiser; the two appraisers so named shall determine the fair market value of such items, which determination shall be final and binding upon both parties hereto.

Unless a follow on Auto Rental Concession Agreement is entered into by the Lessee the Service Center Building used by Lessee shall revert to CITY at the termination of this .Agreement.

The City (Airport) may choose to utilize the property on which the Service Center Building is erected for other purposes under future agreements. In this case, the Lessee agrees to vacate the premises and mitigate any environmental contingencies caused by lessee.

If the City enters into a follow on RAC agreement with lessee the Lessee has the right of first refusal to continue leasing the ground at the rate set by City.

City reserves the right to require improvements to facilities including exterior finishes, pavement maintenance, fencing, landscaping and general maintenance.

A Plot Plan and Legal Description of Lessees Service Center and Building are attached as Exhibit.

The existing RAC service facilities have been constructed at the cost of the Lessee and neither IFRA nor the City of Idaho Falls has contributed to these facilities other than providing the bare ground for the improvement. The service facilities are taxed by county. The airport required each agency to construct a service facility on the ground leased to them. In order to promote fairness, the RAC service facility owners will be granted 20 years from the time of initial occupancy following construction to conduct their car rental operation from with the following provisions:

- All leases are for bare ground only and the lessee is responsible for all improvements including but not limited to extending utilities.
- If initial occupancy for the purposes of calculating 20 years will begin no later than 6 months from the issuance of a building permit for the service facility.
- Sale of the service facility to another entity does not extend the 20 year time frame.
- RAC service facilities must be continuously used to service rental cars available for rent at IFRA.
- If IFRA determines that the leasehold land is to be used for another purpose other than RAC service facility, then IFRA may at its discretion purchase the undepreciated improvements, real or personal, from the lessee.
- Lessees must provide actual costs for improvements to these facilities and their depreciation schedule to the Airport Director who will verify with City auditors that the costs and schedule is reasonable.
- If RAC lessee does not provide these costs and schedules, it will be assumed that there is no acquisition value to IFRA.
- New capital expenditures may be approved for addition to the depreciation schedule, but the costs and the schedule must be approved by the Airport Director.
- After the initial construction, amortizations of additional improvements are anticipated to be no more than 5 to 10 years.
- RAC agencies who continue to have an agreement to rent cars to the public from IFRA will have the right of first refusal to lease the ground, use the facility and continue to pay property taxes on their service facility.

ARTICLE XI RE-DELIVERY

Lessee shall make no unlawful or offensive use of said premises and will at the expiration of the term hereof or upon any sooner termination, without notice, quit and deliver up said premises to CITY peaceably, quietly and in as good order and condition, reasonable use and wear thereof excepted, as the same now or may hereafter be improved by Lessee or CITY.

ARTICLE XII HOLDING OVER

In the event Lessee shall hold over and remain in possession of the premises herein leased after the expiration of this Agreement without any written renewal thereof, such holding over shall not be deemed to operate as a renewal or extension of said Agreement but shall create only a tenancy from month to month which may be terminated at any time by CITY.

ARTICLE XIII GENERAL PROVISIONS

A. CONFLICTS BETWEEN LESSEES. In the event of a conflict between Lessees and any other Lessee or Lessee in the Terminal Building as to the services to be sold by respective Lessee or Lessees, CITY shall decide which services may be sold by each Lessee and Lessee agrees to be bound by such decision.

B. INSPECTION. CITY, by its officers, employees, agents and representatives, shall have the right at all reasonable times to enter upon the demised premises for the purpose of inspecting same, for observing the performance by Lessee of its obligations hereunder, and for the doing of any act which CITY may be obligated or have the right to do under this Agreement.

C. ATTORNEY'S FEES. In the event this Agreement is placed in the hands of an attorney for the collection of the rentals and fees (or any portion thereof) due or to become due hereunder; to take possession of said concession space; to enforce compliance with this Agreement; or for failure to observe any of the covenants of this Agreement, Lessee shall pay CITY a reasonable attorney's fee for services rendered CITY in that regard.

D. NON-WAIVER. Any waiver by CITY of any breach of covenants herein contained to be kept and performed by Lessee shall not be deemed as a continuing waiver and shall not operate to bar or prevent CITY from declaring forfeiture for any succeeding breach either of the same or other condition or covenant.

E. INDEPENDENCE OF AGREEMENT. It is understood and agreed that nothing herein contained is intended or should be construed as in any way creating or establishing a relationship of co-partners between the parties hereto, or as constituting the Lessee as the agent, representative or employee of the CITY for any purpose or in any manner whatsoever. Lessee is to be and shall remain an independent contractor with respect to all services performed hereunder.

F. QUIET ENJOYMENT. CITY agrees that Lessee, upon payment of rent and all other charges and upon observation of the terms of this Agreement, shall lawfully and quietly hold, occupy, and enjoy the demised premises during the full term of this Agreement without hindrance or molestation from CITY or anyone claiming by, through or under CITY. CITY's agreement is subject; however, to Lessee holding and enjoying said premises under conditions that may reasonably be anticipated in connection with the operation of aircraft or an airport.

G. INVALID PROVISIONS. In the event any covenant, condition, or provision herein contained is held to be invalid by any court of competent jurisdiction, the invalidity of such covenant, condition or provision shall in no way affect any other covenant, condition or provision herein contained; provided that the invalidity of such covenant, condition or provision does not materially prejudice either CITY or Lessee in its respective rights and obligations contained in the valid covenants, conditions and provisions herein.

H. PARAGRAPH HEADINGS. The paragraph headings contained herein are for convenience in reference and are not intended to define or limit the scope of any provision of this Agreement.

I. NOTICES. Notices to CITY provided for herein shall be sufficient if sent by registered mail, postage prepaid, addressed to:

Idaho Falls Regional Airport

2140 North Skyline Drive, Suite 12

Idaho Falls ID 83402

and notice to Lessee, if sent by registered mail, postage prepaid, addressed to:

Overland West, Inc.

2805 Washington Blvd., PO Box 590

Ogden, UT 84401

or to such other address as the parties may designate to each other in writing from time to time.

J. VENUE AND JURISDICTION. 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 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.

K. SUCCESSORS AND ASSIGNS. All of the terms, covenants, and agreements herein contained shall be binding upon and shall inure to the benefit of successors and assigns to the respective parties hereto.

Idaho Falls Regional Airport

IN WITNESS WHEREOF, the parties have hereunto set their hands this

_____day of _____, 2015

LESSOR:

ATTEST:

CITY OF IDAHO FALLS

_____

City Clerk

_____

Rebecca L. Noah Casper
Mayor

LESSEE:

By: _____
V.P. Rental Operations
Overland West, Inc.

APPROVED AS TO FORM:

_____

Randy Fife
City Attorney

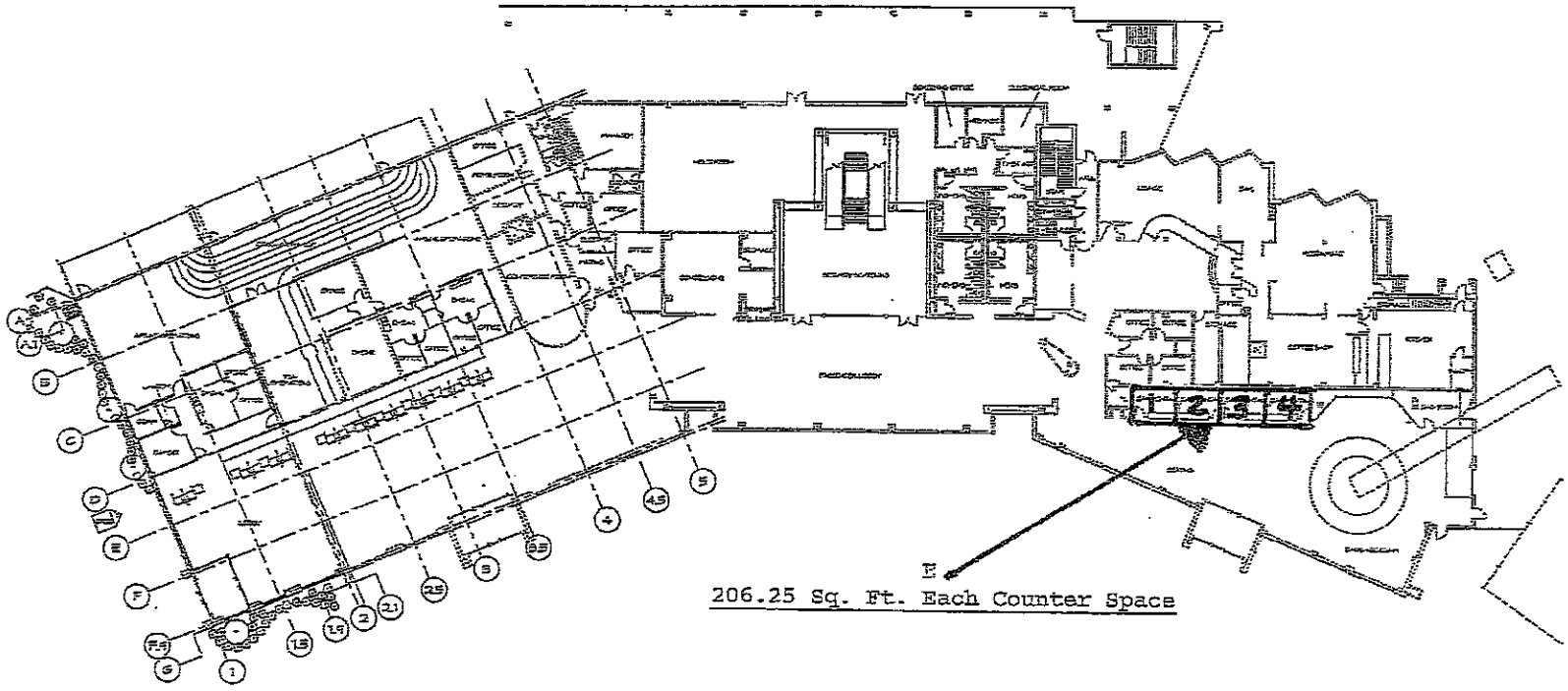
_____

Craig Davis
Airport Director

EXHIBIT A

RAC Terminal Counter

Concession Space Area



IDAHO FALLS REGIONAL AIRPORT TERMINAL EXPANSION

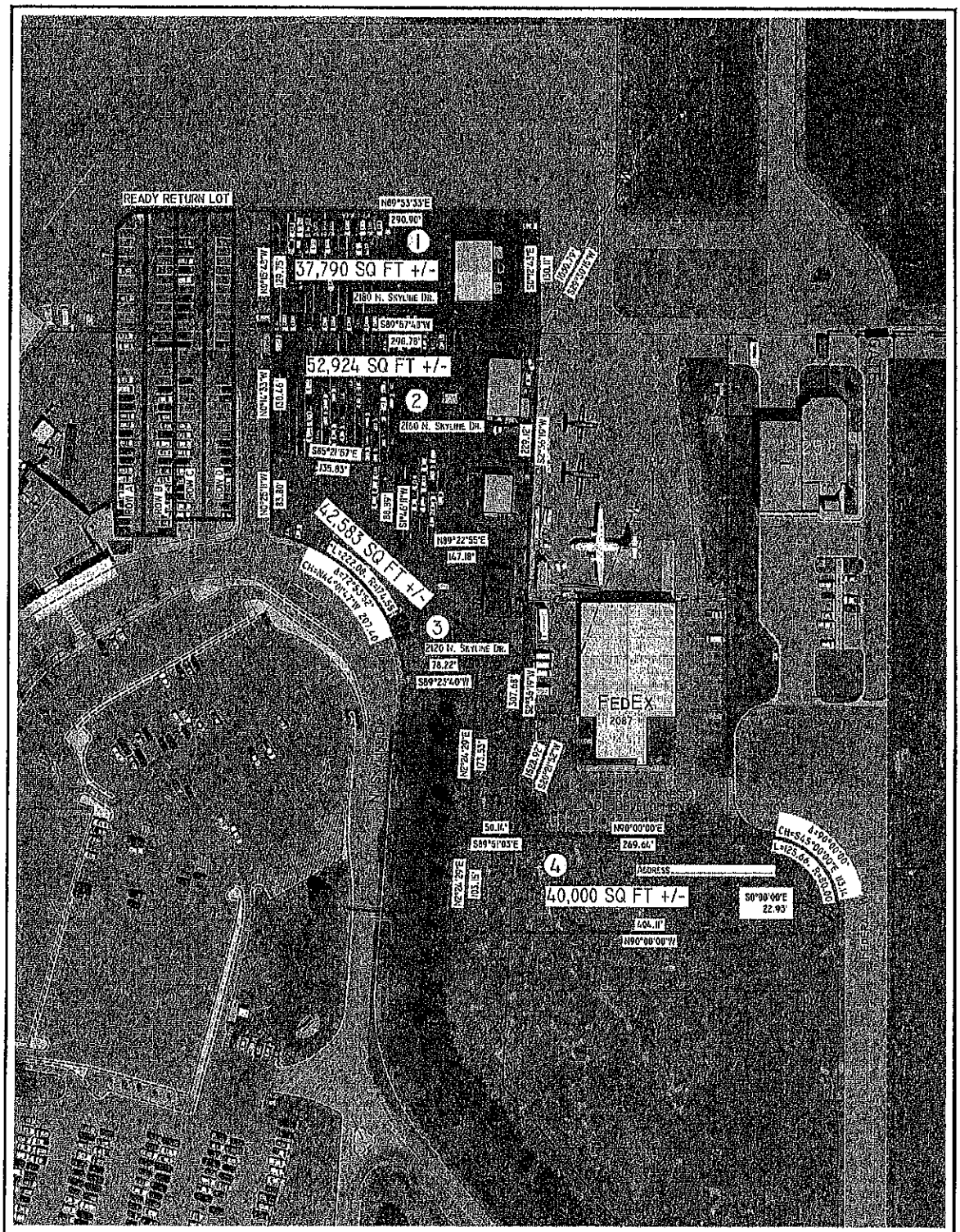
2140 N. SKYLINE DR.

IDAHO FALLS, ID 83402 AIP 3-16-0010-0007

GROUND FLOOR PLAN - OVERALL

A1.1A

CITY REVIEW SET - SEPTEMBER 26, 2012



SCALE

80 40 0 100

100 60 20 60

1 INCH = 100 FT.

CITY OF IDAHO FALLS

ENGINEERING DEPARTMENT

CAR RENTAL SERVICE AREAS AND READY RETURN
IDAHO FALLS AIRPORT
EAST OF THE TERMINAL BUILDING

SCALE: NO SCALE	PROG. NO. AIR 0000-00	DATE: 10-27-2014
COMPUTER		SHEET NO.
DWG: [illegible]		1 OF 1
PLOT DATE: 10-27-2014		

IDAHO FALLS REGIONAL AIRPORT

2140 N. Skyline Drive #12
Idaho Falls, ID 83402
Phone: (208) 612-8224
Fax: (208) 612-8517

MEMORANDUM

TO: Honorable Mayor and City Council

FROM: Craig H. Davis, Airport Director

DATE: January 22, 2015

SUBJECT: **On-Airport Auto Rental Concession Agreement – Alamo/National Car Rental**

Attached for your consideration is an On-Airport Auto Rental Concession Agreement between the City of Idaho Falls, Idaho and Alamo/National Car Rental. This company was selected through a competitive Request For Proposal process. The Agreement has a term of five (5) years.

City Attorney has reviewed said Agreement.

The Airport Division respectfully requests approval and authorization for the Mayor and City Clerk to sign and execute said document.

Respectfully submitted,

Craig H. Davis
Airport Director

C: City Clerk

Idaho Falls Regional Airport

AUTO RENTAL CONCESSION AGREEMENT

This Concession Agreement effective the first day of February 2015, between the City of Idaho Falls, Idaho, (hereinafter referred to as CITY) and CORPAT, INC. dba ALAMO/NATIONAL CAR RENTAL (hereinafter referred to as Lessee) with its principal office at 2000 W. Broadway, Missoula, MT 59808, and operating out of Idaho Falls Regional Airport.

WITNESSETH:

WHEREAS, CITY owns and operates Idaho Falls Regional Airport located in the City of Idaho Falls, State of Idaho (hereinafter called IFRA) and,

WHEREAS, Lessee is engaged in the operation of an automobile rental business and is prepared, equipped and qualified to supply an adequate number of late model automobiles in good mechanical condition and appearance for the operation of an automobile rental business at IFRA, and

WHEREAS, ground transportation of passengers arriving at or departing from IFRA is an essential service to said passengers and to other patrons of IFRA, and,

WHEREAS, it is the intent and desire of the CITY that air passengers shall have available to them their choice of varied types of ground transportation services, any one of which at their option they shall have the right to select and use, and

WHEREAS, it is the desire of CITY to make available to air passengers as a portion of said ground transportation at IFRA an automobile rental business, operated and conducted by Lessee, and,

WHEREAS, four Auto Rental Concession Agreements are available at the beginning of this agreement but more Agreements may be made available during the term of this agreement if space is made available by IFRA; and,

WHEREAS, a Customer Facility Charge has not been adopted by IFRA but it may institute one after consultation with Auto Rental Concessionaires; and,

WHEREAS, Lessee has a franchise of license from National Car Rental Licensing Inc., a corporation, and said franchise is current and in good standing, or Lessee operates Idaho Falls Regional Airport as a corporate location by_____.

NOW, THEREFORE, the parties agree as follows:

ARTICLE I

For and in consideration of the terms, conditions and covenants of this Agreement to be performed by Lessee, CITY hereby authorizes Lessee to operate a non-exclusive automobile rental concession at IFRA and also leases to Lessee and Lessee hereby hires and takes from CITY certain real premises, together with improvements thereon (hereinafter called the demised premises), and certain attendant privileges, uses and rights as hereinafter specifically set out.

A. DESCRIPTION OF PREMISES DEMISED. The exclusive premises conveyed by this Concession Agreement shall be as follows:

1. Operational Counter Area on the ground floor of the terminal building consisting of some 206.25 square feet of counter space, queuing area, and private office space, more specifically described as Operational Area #3. The actual area is depicted in Exhibit "A".
2. 15 Rental Car Ready/Return Parking Positions in the Return Lot, location to be determined by Airport Director as follows:
   i. At the commencement of this agreement there are a total of 116 Ready/Return spaces. A minimum of 15 Ready/Return Spaces shall be allocated to each on airport RAC agency. The remaining 56 spaces shall be allocated as a ratio of each RAC agency MAG as compared to the total MAG proposed by each successful on airport RAC agency. Each RAC agency shall have their row start at the beginning/street side of one of the four rows.
   ii. After the first two years of this agreement, the Ready/Return spaces shall be allocated based on 15 spaces minimum and the remainder allocated based upon RAC agency actual revenue from rental car percentage rent received by the airport and not MAG, unless MAG is greater than rent paid. If the actual reported rentals fall below MAG payments, the RAC agency will still be required by pay the MAG.
3. Incumbent lessees have the right of first refusal to retain their one (1) Rental Car Storage/Service Center. The Rental Car Storage/Service area #3 consisting of 42,583 square feet is described in Exhibit "B"

B. DESCRIPTION OF PRIVILEGES, USES AND RIGHTS. CITY hereby grants to Lessee the following privileges, uses and rights, all of which shall be subject to the terms,

conditions and covenants hereinafter set forth and all of which shall be non-exclusive on IFRA.

1. The right, license and privilege to operate an automobile rental concession service at the IFRA for the purpose of renting automobiles to airline passengers and such other persons who may request such service at IFRA. "Automobile" does not include moving vans or trucks larger than a pickup or fifteen (15) passenger van. No automobiles may be rented or stored that are more than two model years old.
2. The right of ingress to and egress from the demised premises over and across public roadways serving the passenger terminal building by Lessee, his agents, and servants, patrons and invitees, suppliers of service and furnishers of material. Said right shall be subject to such rules and regulations as now or may hereafter have application at IFRA.
3. The right to install (or cause to be installed) and operate appropriate signs at the terminal building, ready/return spaces, and service facilities, provided that such installation shall be subject to the prior written approval of the CITY.

C. CONDITIONS OF GRANTING AGREEMENT. The granting of this Agreement and its acceptance by Lessee is conditioned upon the following covenants:

1. That no functional alteration of the premises or functional change in the uses of such premises shall be made which shall substantially adversely affect the use by Lessee of the demised premises, without the specific consent of the Lessee herein.

2. That the right to use said public airport facilities in common with others authorized so to do shall be exercised only subject to and in accordance with the laws of the United States of America and the State of Idaho, and all reasonable and applicable rules and regulations of CITY now in force or hereafter prescribed or promulgated by charter authority or by law.

3. That the concession granted by this agreement is NOT an exclusive concession and that CITY shall have the right to deal with and perfect arrangements with any other individual, company, or corporation for engaging in like activity at IFRA provided, however, that any other or future non-exclusive concession for auto rental operations shall not be on terms or conditions more favorable than those granted to Lessee herein.

4. That Lessee is prohibited from transacting or soliciting rental car business at any other point on IFRA unless written permission is obtained from CITY,

which permission, if given, shall require strict observation of all applicable provisions of this agreement.

5. The Lessee may be a single or multi-branded operation. During the course of the current concession, an on-airport operator shall be allowed to introduce an additional brand and operate as a "multi-branded" concession, provided the brand introduced is part of the concessionaire's current parent company. The Lessee will be required to operate within the confines of the counter, ready-return spaces and Service Facility that it operates.

ARTICLE II

INSTALLATIONS BY CITY AND LESSEE

A. TERMINAL BUILDING SPACE.

1. Installations by CITY. In the terminal building baggage claim area CITY will provide a cubicle with a counter and unfinished office space.

2. Installations by Lessee. In the terminal building area Lessee shall provide:

a. All leasehold improvements not provided by CITY including, but not limited to, display cabinets, interior partitions, additional lighting fixtures, decorations and all other fixtures, equipment and supplies.

b. All equipment, furniture, furnishings and fixtures necessary in the proper conduct of Lessee's business. Any improvements, facilities, decorations, fixtures, equipment, supplies and cabinets furnished by Lessee shall be in keeping with the general decor of the terminal building and shall be subject to written approval of CITY prior to installation.

B. APPROVAL OF PLANS AND CONSTRUCTION. Prior to installation of any improvements in its exclusive space, Lessee shall submit to CITY final plans and specifications, layout and architectural renderings for said improvements, which upon written approval by CITY shall become a part thereof. Lessee shall make payment promptly, as due, to all persons supplying labor or materials for the prosecution of the work provided in making such installation and shall not permit any lien or claim to be filed or prosecuted against the CITY on account of any labor or material furnished.

C. ALTERATIONS, ADDITIONS ORREPLACEMENTS. Following any installations by Lessee, as hereinabove set forth, Lessee shall make no alterations, additions or replacements without written approval of CITY. Lessee shall likewise

obtain prior approval from CITY before installing, at its own expense, any equipment which requires new electrical or plumbing connections or changes in those installed on the premises as of the date of occupancy thereof.

ARTICLE III

OBLIGATIONS OF LESSEE

A. HOURS OFOPERATION. Lessee shall, in the operation of the auto rental concession herein granted, maintain and make available a sufficient number of automobiles and personnel to staff each service counter leased at IFRA for adequate public service each day of the year, and during the hours that IFRA is conducting arriving and departing flights.

B. TYPE OF OPERATION. Lessee shall furnish service on a fair, reasonable and non-discriminatory basis to all users of IFRA. Service shall be prompt, courteous and efficient and shall be adequate to meet the demands for said service on IFRA. Lessee shall maintain and operate the concession in a first class manner and shall keep the premises in a safe, clean, orderly and inviting condition at all times, satisfactory to CITY. Lessee shall be responsible for all cleaning of their leased premises. Lessee shall promptly remove all trash from the leased premises and shall deposit all trash in appropriate CITY or Lessee controlled dumpsters. Attractive displays within the premises shall be permitted if approved by CITY.

C. NON-DISCRIMINATION. The Lessee assures that he will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin or sex be excluded from participating in any employment activities covered by 14 CPR Part 152, Subpart E. The Lessee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. The Lessee assures that he will require that his covered sub-organizations provide assurances to the Lessee that they similarly will undertake affirmative action programs and that they will require assurances from their sub-organizations, as required by 14 CFR Part 152, Subpart E, to the same effect. This agreement is subject to the requirements of the U.S. Department of Transportation's Regulations, 49 CFR Part 23, Subpart F. The Lessee agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with award or performance of any concession agreement covered by 49 CFR Part 23, Subpart F. The Lessee agrees to include the above statements in any subsequent concession agreements that it enters and cause those businesses to similarly include

the statements in further agreements.

D. PERSONNEL. Lessee shall at all times retain an active, qualified, competent, and experienced manager to supervise the concession operations and be authorized to represent and act for Lessee. Lessee shall be required to properly uniform or dress its attendants and employees; they shall be clean, courteous, and efficient and neat in appearance at all times. Lessee shall not employ any person(s) in or about the concession premises who shall use improper language or act in a loud, boisterous or otherwise improper manner. Lessee shall maintain a close check over attendants and employees to insure the maintenance of high standards of service to the public, the performance of such obligations to be determined at the sole discretion of the CITY. Lessee shall not allow their employees to bring their minor children with them to work, unless it is a temporary visit that lasts no longer than thirty (30) minutes. Lessee shall replace any employee whose conduct CITY feels is detrimental to the best interests of the IFRA. All Lessee employees and management shall park their vehicles in the employee lot or service center lot as designated by the Airport Director and are not permitted to park in the Ready/Return Lots.

E. LAWS, ORDINANCES, ETC. Lessee shall observe and obey all laws, ordinances, regulations and rules of federal, state, and municipal governments that may be applicable to its operation at IFRA.

F. QUALITY OF RENTAL AUTOS. Lessee shall at all times maintain at its own cost and expense all its rental automobiles in good operating order and free from known mechanical defects; said automobiles shall be kept in clean, neat, and attractive condition inside and out. Lessee shall at no time use automobiles whose model year is more than two model years old.

G. AUTO RENTAL RATES. Lessee's auto rental rates shall be competitive with similar services by comparable Lessees in the Idaho Falls /Pocatello Area. Lessee may make such reasonable and non-discriminatory discounts to volume purchasers as may be allowable under governing statutes.

H. SOLICITATION AND CONDUCT. Lessee shall prohibit its agents, servants, and employees from engaging in any form of solicitation of its auto rental services on or about IFRA. Lessee, its agents, servants and employees shall so conduct said auto rental business on the airport to maintain a friendly and cooperative, though competitive, relationship with other companies engaged in like business on IFRA. Lessee shall not engage in open public disputes, disagreements or conflicts which would tend to deteriorate the quality of the auto rental service of Lessee or its competitors or which

would be incompatible to the best interests of the public at IFRA. CITY shall have the right to resolve all such disputes, disagreements, or conflicts; and its determination thereof of the manner in which Lessee shall thereafter operate shall be binding upon Lessee.

I. COST OF AUTO RENTAL OPERATIONS. Lessee shall bear at its own expense all cost of operating the concession and shall pay, in addition to space rental and concession fees, all other costs connected with the use of the demised premises and facilities, including but not limiting the generality hereof, insurance, any and all taxes, and all permits and licenses required by law.

J. MAINTENANCE. Lessee, shall at its sole cost and expense, maintain the demised premises and every part thereof in good order and repair, and in good and safe condition; shall repair all damages caused by its employees, patrons, or its operation of said services; shall maintain and repair all equipment on said premises; and shall repaint its own leased space when deemed necessary by CITY, such repainting to require the prior approval of the CITY. CITY shall be the sole judge of the quality of maintenance and upon written notice by CITY to Lessee, Lessee shall be required to perform whatever maintenance CITY deems necessary. If said maintenance is not undertaken by Lessee within ten (10) days after receipt of written notice, CITY shall have the right to enter on the demised premises and perform the necessary maintenance, the cost of which shall be borne by Lessee.

K. GASOLINE AND REPAIR SERVICE. Lessee shall not sell gasoline, repair services or related services on IFRA to other than RAC vehicles, however, the Lessee may use the vehicle storage/service area to provide additional parking and service (including gasoline, oil, repairs and other services) for vehicles owned or controlled by Lessee and used in conjunction with the concession granted hereunder. Lessee is prohibited from storing or disposing of waste oil, waste fluids, discarded fluid containers or unmarked hazardous materials of any type on the leased premises in violation of law.

L. PUBLIC ADDRESS SYSTEM. Lessee shall permit the installation in its premises of IFRA's public address system, and the reception thereon of flight announcements and other information, if CITY deems such installation necessary.

M. AUTO RENTAL STORAGE. Rental cars shall be parked in Lessee's allocated positions in the ready, return or storage lots.

N. VENDING MACHINES. Lessee shall neither install nor operate vending machines and coin-operated amusement machines and devices in the terminal building.

ARTICLE IV

OBLIGATIONS OF CITY

CITY shall maintain the structure of the terminal building, the roof and outer walls, HVAC and electrical/mechanical systems. CITY shall maintain the ready/return auto parking positions in the parking area included under the provisions of Article I, Paragraph A, (2) and (3). CITY shall furnish heat, lights and janitorial service for the terminal building.

ARTICLE V

TERM OF AGREEMENT

The term of this agreement shall be for a period of five (5) years commencing on the first (1st) day of February 2015 and ending on the thirty-first (31st) day of January 2020.

ARTICLE VI FEES AND RENTALS

A. CONCESSION FEE AND MINIMUM ANNUAL GUARANTEE. Lessee shall pay to CITY for the rights and privileges herein granted a concession fee of ten percent (10%) of all gross receipts as hereinafter defined, or the Minimum Annual Guarantee (hereinafter called "MAG") as set forth below, whichever sum is greater. The MAG is a floor which shall be paid as a minimum during each of the five (5) years of this agreement unless passenger traffic decreases by at least 15% as defined in Article IX of this agreement.

Annual MAG amount $120,110.00. This number will be the "floor" amount for each of the five (5) years of the agreement.

B. DEFINITION OF GROSS RECEIPTS. "Gross Receipts" shall include but not by definition be necessarily limited to the following:

1. The aggregate amount of all monies paid or payable to Lessee for all time and mileage sales, additional equipment rentals and services performed at IFRA, and all monies paid or payable for sales, rentals, services and exchanges made and performed as a result of passengers arriving by air as commercial or private customers at IFRA.

2. The market value of all exchanges of goods.

3. All monies paid or payable for time and mileage sales, additional equipment rentals, services and exchanges, transactions and contracts performed for customers whose business originates at IFRA.

4. The total sum whether fully retained by Lessee or not, for rentals of vehicles owned, controlled or operated by persons other than Lessee.

5. All monies paid or payable to Lessee for one-way rentals.

7. The Lessee agrees to charge a maximum of a 11.11% "Concession Recovery Fee", which shall be added to gross receipts, and said fee, if charged, shall be listed as a separate charge in the Lessee's advertised rates or rental agreements and such separate charge shall be disclosed to the customer at the time of reservation and again at the time of the actual rental. Furthermore, the Concession Fee must be charged to all customers in a fair and consistent manner. Such fee shall be disclosed and listed as a Concession Fee and shall not be listed as an airport surcharge or tax.

All of the above listed transactions are included in Gross Receipts whether for cash, credit or otherwise of any kind, name, and nature, and regardless of when or whether paid for or not.

C. EXCLUSIONS. Gross Receipts shall exclude the following:

1. Charges to Lessee's customers for repairs to automobiles damaged by such customer.

2. Monies collected from such customers for federal, state, county or municipal taxes now in effect, or hereafter levied, and,

3. Uncollected items resulting from theft, conversion, illegal use of Lessee's automobiles, unless and until charges against such customers who have illegally used said automobiles are collected.

4. All inter-city drop fees.

5. Fees received by Lessee to waive deductible collision insurance features.

6. Credits given to customers for such things as deposits and out-of-pocket purchases for gas, oil or emergency services, regardless of where made.

7. Charges to the customer for refueling services.

8. Customer Facility Charges implemented by CITY after consultation with

Auto Rental Concessionaires.

D. SCHEDULE OF PAYMENTS. Monthly reports, monthly space lease amounts, and concession fees as set out above shall be due and payable to CITY on or before the tenth (10th) day of the following month, with a penalty of twenty dollars ($20.00) per day for each day past the tenth (10th) day for receipt of amounts payable to CITY.

E. ADJUSTMENTS. Adjustments for any deficiency between the percentages set forth in Paragraph A above for any preceding agreement year and the MAG for such year shall be payable within thirty (30) days after the close of each fiscal year. Settlement for any deficiency between the annual guaranteed rental and the percentages payable during a period of less than one complete fiscal year shall be made to CITY on a pro- rata basis within thirty (30) days following the end of such period. Adjustment for overpayment will be issued as a Credit from City and applied against future fees as they become due.

F. RECORDS OF LESSEE. With respect to business done by it hereunder, Lessee shall keep true and accurate accounts, records, books and data, which shall show all the gross receipts, as defined hereinabove, of said business upon and within said IFRA. Lessee agrees to operate its business upon IFRA so that a duplicate rental agreement invoice, serially numbered, shall be issued with each sales or transaction, whether for cash or credit. Lessee further agrees to keep reasonable books and records as CITY may request. The duplicate rental agreements, invoices, and all other books and records of Lessee, as aforesaid, shall be open for inspection by authorized representatives of CITY at all times reasonable during business hours. Lessee shall submit to CITY a detailed statement showing gross receipts from the operation of the auto rental concession for the preceding calendar month on or before the tenth (10th) day of each calendar month. These reports shall show such reasonable detail and breakdown as may be required by CITY. Within thirty (30) days following the end of each fiscal year of operation of the concession, Lessee shall submit to CITY a statement of gross receipts from the concession for the preceding year of operation, such statement to be attested to by the owner and to be accompanied by Lessee's payment covering any deficiency between payments made during the year of previous operation and payments due for such year of operation. Lessee at its own expense shall supply all record forms in a reasonable type, style and form satisfactory to CITY.

G. AUDIT. For the purpose of determining accuracy of reporting gross receipts, CITY may make a spot test audit and base its findings for the entire period upon such spot test; provided, however, that such spot test shall include at least twenty-five percent (25%) of the total time of the period being audited. In addition, if the Lessee has one or more additional outlets within a 25 mile radius of the IFRA outlet, then for purposes of

the audit and spot checks mentioned above, the Lessee agrees to allow a full and complete audit of the additional outlets, said audit to be at the time the audit or spot check is made of the IFRA outlet. In addition, CITY shall have the right during any one fiscal year of the agreement to authorize two audits of Lessee's records pertaining to the concession. Such audits may be undertaken by a reputable firm of independent certified public accountants. The cost of such audits are borne by CITY, unless the results of such audits reveal an underpayment of more than five percent (5%) between the gross receipts reported in accordance with Paragraph D and the gross receipts as determined by audit for any twelve month period. In case of such underpayment, the full cost of the audit shall be borne by Lessee.

H. SPACE RENTALS. In addition to the concession fee set forth above, Lessee shall pay CITY space rental for the Premises conveyed by this Concession Agreement in monthly installments of 1/12th of the following annual rates:

For the counter and office Operational Area, $25.80 (twenty five dollars and 80 cents) per square foot per year;

For the parking positions, the ready positions, and the vehicle return positions, $180 (one-hundred and eighty dollars) per stall per year;

For the vehicle storage/service area, $0.28 (twenty eight cents) per square foot per year.

Space Rental rates under this section H shall be adjusted each January 1st by CPI-U as defined by the Bureau of Labor Statistics as of September of the previous calendar year.

Subject to the Airport Director's advance written approval Lessee may offer to exchange, trade or allocate a portion of its allocated ready, return and/or storage/service area to other of the on-airport automobile rental Lessee operating under an identical Auto Rental Concession Agreement. In the event of a conflict over the availability of the spaces or to whom they will be offered, the Airport Director shall make the final determination.

ARTICLE VII INDEMNIFICATION AND INSURANCE

CITY shall stand indemnified by Lessee as herein provided. Lessee is and shall be deemed to be an independent contractor and Lessee responsible to all parties for its respective acts and omissions, and CITY shall in no way be responsible therefore. In the use of IFRA, in the erection or construction of any improvements thereon, and in the exercise or enjoyment of the privileges herein granted, Lessee shall indemnify and save harmless the CITY from any and all

losses that approximately result to the CITY because of any negligence on the part of the Lessee.

Lessee shall purchase and maintain commercial general liability insurance coverage relative to its services, its operations and business, the Operational Area, the Parking Spaces, the common parking area, and the use and operation of Lessee's vehicles. The commercial general liability insurance coverage shall be in at least the amount of $1,000,000.00 per occurrence and $2,000,000.00 annual aggregate. CITY and its past, present and future officers, members, Airport Director, employees and agents shall be named as additional insureds under the commercial general liability policy or policies.

Lessee shall deliver to the Airport Director certificates of the above insurance coverages at the time this Agreement is executed. The certificates shall provide the coverages referred to therein and shall not be terminated, modified or not renewed until CITY has received thirty-day (30) written notice thereof. In the event an insurance carrier should terminate, modify or not renew any of the above insurance coverages, Lessee shall immediately contract with another insurance carrier to provide the requisite coverage and shall immediately deliver to the Airport Director a replacement certificate.

All of the above coverages shall be written through insurance carriers qualified to do business in the State of Idaho. After consultation with Lessee, the City of Idaho Falls may update insurance requirements.

ARTICLE VIII DAMAGE OR DESTRUCTION OF PREMISES

If the premises leased to Lessee under the terms of Article I, Paragraphs A and B, herein are partially damaged by fire, explosion, the elements, the public enemy, or other casualty, but not rendered untenable, the same will be repaired with due diligence by CITY at its own cost and expense. If the damage shall be so extensive as to render such premises untenable, but capable of being repaired in thirty days, the same shall be repaired with due diligence by CITY at its own cost and expense, and the rent payable herein shall be paid proportionately to the time of such damage and thereafter cease until such time as the premises are fully restored. In the event said premises are completely destroyed by fire, explosion, the elements, the public enemy or other casualty, or so damaged that they will remain untenable for more than thirty (30) days, CITY shall be under no obligation to repair and reconstruct the premises, and rent payable hereunder shall be paid proportionately to the time of such damage or destruction and shall thenceforth cease until such time as the premises may be fully restored. If within twelve (12) months after the time of such damage or destruction said premises shall not have been repaired or reconstructed, Lessee may give CITY written notice of its intention to cancel the Agreement in its entirety as of the date of such damage or destruction.

ARTICLE IX

TERMINATION OF AGREEMENT, ASSIGNMENT AND TRANSFER

A. TERMINATION. This agreement shall terminate at the end of the full term hereof, and Lessee shall have no further right or interest in any of the land or improvements hereby demised except as provided in Article X Property Rights Upon Termination.

B. TERMINATION BY LESSEE. This agreement shall be subject to termination by Lessee upon one or more of the following events:

1. The permanent abandonment of IFRA as an air terminal.

2. The lawful assumption by the United States Government, or authorized agency thereof, of the operation, control, or use of IFRA, or any substantial part or parts thereof, in such a manner as substantially to restrict Lessee for a period of at least ninety days from operating thereon.

3. Issuance by any court of competent jurisdiction of an injunction in any way preventing or restraining the use of IFRA, and the remaining in force of such injunction for a period of at least ninety days.

4. The default by CITY in the performance of any covenant or agreement herein required to be performed by CITY and the failure of CITY to remedy such default for a period of at least sixty days after receipt from Lessee of written notice to remedy the same.

5. The complete destruction of the premises as outlined in Article VIII.

C. TERMINATION BY CITY. This Agreement shall be subject to termination by CITY in the event Lessee shall:

1. Be in arrears in the payment of the whole or in part of the amounts agreed upon hereunder for a period of ten days after the time such payments become due.

2. File a voluntary petition of bankruptcy or make an assignment for the benefit of creditors, or consents in writing to the appointment of a trustee or receiver for itself.

3. If a court of competent jurisdiction shall enter an order, judgment or

decree declaring the Lessee insolvent, or adjudging it bankrupt, or appointing a trustee or receiver of Lessee, or approving a petition filed against Lessee seeking reorganization of the Lessee under any applicable law or statute of the United States of America or any state thereof.

4. If under the provisions of any other law for the relief or aid of debtors, any court of competent jurisdiction shall assume custody or control of Lessee.

5. Abandon the demised premises.

6. Default in the performance of any of the covenants and conditions required herein (except rental payments) to be kept and performed by Lessee, and such default continues for a period of thirty days after receipt of written notice from CITY of said default.

7. Cancel its license or franchise from _____ Rent-A-Car or in the event that _____CONCESSIONAIRE/LESSEE Rent-A-Car shall for any purpose whatsoever cancel the license or franchise of Lessee.

In any of the aforesaid events, CITY may take immediate possession of the demised premises and remove Lessee's effects, forcibly if necessary, without being deemed guilty of trespassing. Upon said entry, this agreement shall terminate except that CITY reserves the right to recover any and all damages it has incurred for Lessee's breach, in addition to terminating the lease, including but not limited to unpaid rent, damage to premises, etc., the remedy of termination not being the exclusive remedy. It is agreed that failure of CITY to declare this Agreement terminated upon the default of Lessee for any of the reasons set out shall not operate to bar or destroy the right of CITY to declare this Agreement null and void by reason of any subsequent violation of the terms of this Agreement.

D. MINIMUM ANNUAL GUARANTEE. In the event Lessee is unable to make the MAG as provided in Article VI, Paragraph A, by reason of fire, strikes, or damage by the elements or of any unavoidable casualty, acts of God, war, legal actions, or take over by public authority, all without fault of Lessee, the MAG shall be forgiven for the period of incapacity, provided, however, the ten percent (10%) of all gross receipts provision shall remain in full force and effect, the MAG to resume after removal of the incapacity.

E. ABATEMENT OF MINIMUM ANNUAL GUARANTEE. In the event that one of the following conditions exists, the MAG provided in ARTICLE VI,A,l. shall be abated for the period of time the condition exists:

1. If the operation of Lessee's car rental business becomes impractical,

unprofitable or impossible because of actual shortages or other disruptions in the supply of automobiles, gasoline or other goods necessary for the operation thereof, through no fault of the Lessee, which conditions persist for at least 30 days;

2. If a strike against any or all of the airlines operating at IFRA results in a thirty percent (30%) diminution of deplaning passengers (as compared with the similar period in the previous Agreement year) for a period of thirty (30) consecutive days;

3. If the Terminal is partially damaged so as to render the Terminal Premises un-tenantable, as more fully set forth above.

4. In any event, and notwithstanding the above provisions, Lessee shall pay 10 percent (10%) of its Gross Revenues during the period of time any condition set forth in above continues to exist. The CITY shall return to Lessee a just proportion of any minimum guarantee payment which may have been paid in advance for a month or portion thereof which fails within the period of abatement.

5. If, during any year of this Agreement (January 1-December 31), the number of deplaning passengers falls below eighty-five percent (85%) of the number of deplaning passengers for the preceding Agreement year, the minimum annual guarantee for that Agreement year shall be reduced to a sum equal to eighty-five percent (85%) of the minimum annual guarantee.

6. If, during any calendar month of the term of this Agreement, runway construction activities result in a reduction in the number of deplaning passengers at IFRA by at least thirty percent (15%), when compared with the same number for the same month in the immediately preceding year, then the minimum annual guarantee for that year shall be reduced by an amount equal to one twelfth (1/12th) of the minimum annual guarantee for said year, times (x) the percentage decrease in the number of deplanements for said month.

7. The MAG is a floor which shall be paid unless circumstances listed in 1-6 of this sub-paragraph lower the MAG. When the circumstances change back to be above the criteria listed, then the MAG returns to the floor set in the proposal.

F. ASSIGNMENT AND TRANSFER. Lessee shall not assign, transfer, or sublease its rights and premises hereunder without the written approval of CITY which shall not be unreasonably delayed.

ARTICLE X

PROPERTY RIGHTS UPON TERMINATION

Upon termination of this Agreement, through passage of time or otherwise, the Lessee shall aid CITY in all ways possible in continuing the operation of said auto rental service on IFRA uninterruptedly. Lessee shall sell any or all of Lessee's furniture, furnishings, fixtures and equipment, which includes improvements made to the leased property and building after initial occupancy and the undepreciated value of all improvements, installed or used upon said premises by Lessee to CITY should CITY notify Lessee in writing within ten (10) days before such termination date that it desires to purchase any or all of the same. In the event CITY exercises its option to purchase any or all of said furniture, furnishings, fixtures and equipment the purchase price shall be the fair market value of such items at the elate of such termination. If the parties are unable to agree upon the fair market value, each party shall then appoint an appraiser; the two appraisers so named shall determine the fair market value of such items, which determination shall be final and binding upon both parties hereto.

Unless a follow on Auto Rental Concession Agreement is entered into by the Lessee the Service Center Building used by Lessee shall revert to CITY at the termination of this .Agreement.

The City (Airport) may choose to utilize the property on which the Service Center Building is erected for other purposes under future agreements. In this case, the Lessee agrees to vacate the premises and mitigate any environmental contingencies caused by lessee.

If the City enters into a follow on RAC agreement with lessee the Lessee has the right of first refusal to continue leasing the ground at the rate set by City.

City reserves the right to require improvements to facilities including exterior finishes, pavement maintenance, fencing, landscaping and general maintenance.

A Plot Plan and Legal Description of Lessees Service Center and Building are attached as Exhibit.

The existing RAC service facilities have been constructed at the cost of the Lessee and neither IFRA nor the City of Idaho Falls has contributed to these facilities other than providing the bare ground for the improvement. The service facilities are taxed by county. The airport required each agency to construct a service facility on the ground leased to them. In order to promote fairness, the RAC service facility owners will be granted 20 years from the time of initial occupancy following construction to conduct their car rental operation from with the following provisions:

- All leases are for bare ground only and the lessee is responsible for all improvements including but not limited to extending utilities.
- If initial occupancy for the purposes of calculating 20 years will begin no later than 6 months from the issuance of a building permit for the service facility.
- Sale of the service facility to another entity does not extend the 20 year time frame.
- RAC service facilities must be continuously used to service rental cars available for rent at IFRA.
- If IFRA determines that the leasehold land is to be used for another purpose other than RAC service facility, then IFRA may at its discretion purchase the undepreciated improvements, real or personal, from the lessee.
- Lessees must provide actual costs for improvements to these facilities and their depreciation schedule to the Airport Director who will verify with City auditors that the costs and schedule is reasonable.
- If RAC lessee does not provide these costs and schedules, it will be assumed that there is no acquisition value to IFRA.
- New capital expenditures may be approved for addition to the depreciation schedule, but the costs and the schedule must be approved by the Airport Director.
- After the initial construction, amortizations of additional improvements are anticipated to be no more than 5 to 10 years.
- RAC agencies who continue to have an agreement to rent cars to the public from IFRA will have the right of first refusal to lease the ground, use the facility and continue to pay property taxes on their service facility.

ARTICLE XI RE-DELIVERY

Lessee shall make no unlawful or offensive use of said premises and will at the expiration of the term hereof or upon any sooner termination, without notice, quit and deliver up said premises to CITY peaceably, quietly and in as good order and condition, reasonable use and wear thereof excepted, as the same now or may hereafter be improved by Lessee or CITY.

ARTICLE XII HOLDING OVER

In the event Lessee shall hold over and remain in possession of the premises herein leased after the expiration of this Agreement without any written renewal thereof, such holding over shall not be deemed to operate as a renewal or extension of said Agreement but shall create only a tenancy from month to month which may be terminated at any time by CITY.

ARTICLE XIII GENERAL PROVISIONS

A. CONFLICTS BETWEEN LESSEES. In the event of a conflict between Lessees and any other Lessee or Lessee in the Terminal Building as to the services to be sold by respective Lessee or Lessees, CITY shall decide which services may be sold by each Lessee and Lessee agrees to be bound by such decision.

B. INSPECTION. CITY, by its officers, employees, agents and representatives, shall have the right at all reasonable times to enter upon the demised premises for the purpose of inspecting same, for observing the performance by Lessee of its obligations hereunder, and for the doing of any act which CITY may be obligated or have the right to do under this Agreement.

C. ATTORNEY'S FEES. In the event this Agreement is placed in the hands of an attorney for the collection of the rentals and fees (or any portion thereof) due or to become due hereunder; to take possession of said concession space; to enforce compliance with this Agreement; or for failure to observe any of the covenants of this Agreement, Lessee shall pay CITY a reasonable attorney's fee for services rendered CITY in that regard.

D. NON-WAIVER. Any waiver by CITY of any breach of covenants herein contained to be kept and performed by Lessee shall not be deemed as a continuing waiver and shall not operate to bar or prevent CITY from declaring forfeiture for any succeeding breach either of the same or other condition or covenant.

E. INDEPENDENCE OF AGREEMENT. It is understood and agreed that nothing herein contained is intended or should be construed as in any way creating or establishing a relationship of co-partners between the parties hereto, or as constituting the Lessee as the agent, representative or employee of the CITY for any purpose or in any manner whatsoever. Lessee is to be and shall remain an independent contractor with respect to all services performed hereunder.

F. QUIET ENJOYMENT. CITY agrees that Lessee, upon payment of rent and all other charges and upon observation of the terms of this Agreement, shall lawfully and quietly hold, occupy, and enjoy the demised premises during the full term of this Agreement without hindrance or molestation from CITY or anyone claiming by, through or under CITY. CITY's agreement is subject; however, to Lessee holding and enjoying said premises under conditions that may reasonably be anticipated in connection with the operation of aircraft or an airport.

G. INVALID PROVISIONS. In the event any covenant, condition, or provision herein contained is held to be invalid by any court of competent jurisdiction, the invalidity of such covenant, condition or provision shall in no way affect any other covenant, condition or provision herein contained; provided that the invalidity of such covenant, condition or provision does not materially prejudice either CITY or Lessee in its respective rights and obligations contained in the valid covenants, conditions and provisions herein.

H. PARAGRAPH HEADINGS. The paragraph headings contained herein are for convenience in reference and are not intended to define or limit the scope of any provision of this Agreement.

I. NOTICES. Notices to CITY provided for herein shall be sufficient if sent by registered mail, postage prepaid, addressed to:

Idaho Falls Regional Airport

2140 North Skyline Drive, Suite 12

Idaho Falls ID 83402

and notice to Lessee, if sent by registered mail, postage prepaid, addressed to:

Corpat, Inc. dba Alamo/National Car Rental

2000 W. Broadway

Missoula, MT 59808

or to such other address as the parties may designate to each other in writing from time to time.

J. VENUE AND JURISDICTION. 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 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.

K. SUCCESSORS AND ASSIGNS. All of the terms, covenants, and agreements herein contained shall be binding upon and shall inure to the benefit of successors and assigns to the respective parties hereto.

Idaho Falls Regional Airport

IN WITNESS WHEREOF, the parties have hereunto set their hands this

_____day of _____, 2015

LESSOR:

ATTEST:

CITY OF IDAHO FALLS

_____

City Clerk

_____

Rebecca L. Noah Casper
Mayor

LESSEE:

By:_____

Corpat, Inc.

APPROVED AS TO FORM:

_____

Randy Fife
City Attorney

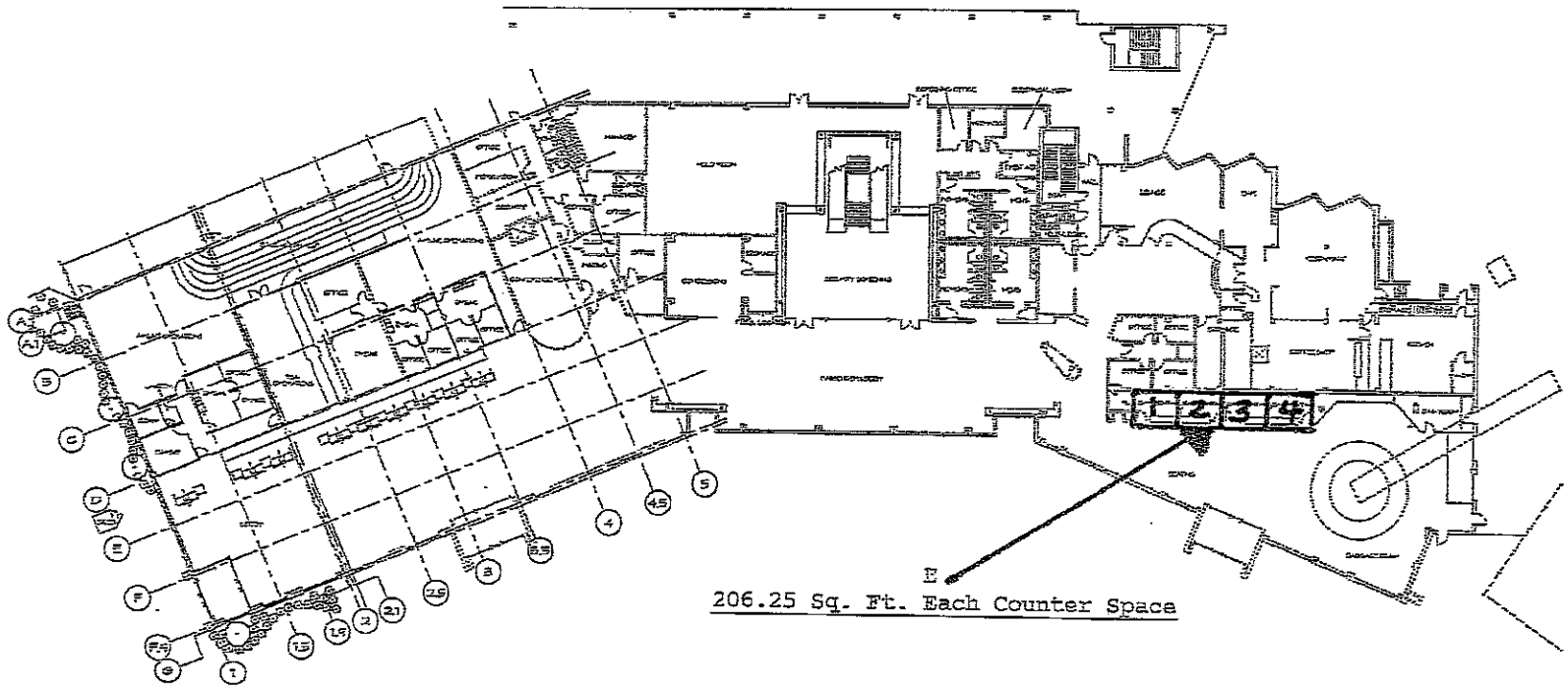
_____

Craig Davis
Airport Director

Idaho Falls Regional Airport

EXHIBIT "A"

EXHIBIT A
RAC Terminal Counter
Concession Space Area



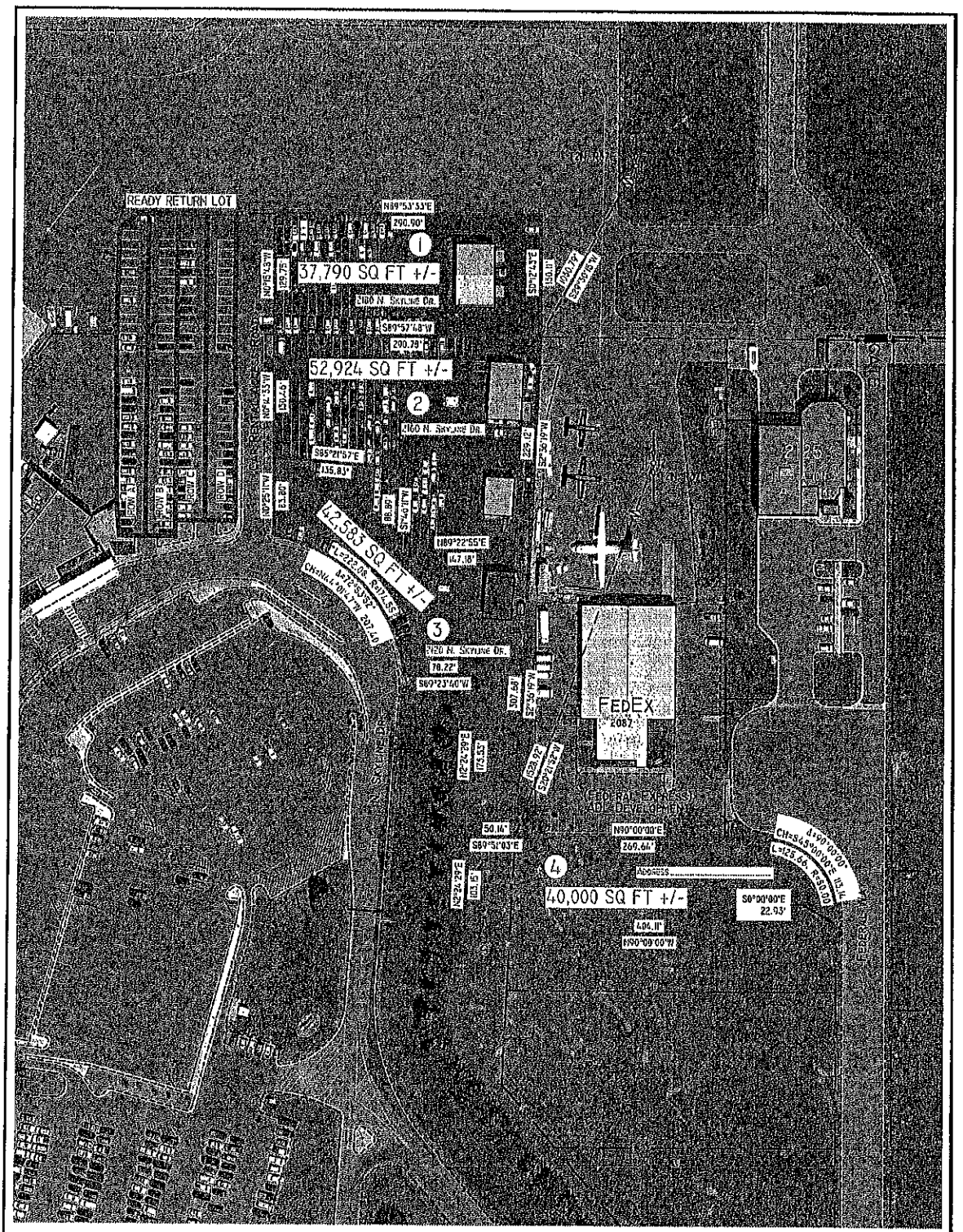
IDAHO FALLS REGIONAL
AIRPORT TERMINAL EXPANSION
2140 N. SKYLINE DR.
IDAHO FALLS, ID 83405 AIP 3-16-0018-0037
GROUND FLOOR PLAN - OVERALL

A1.1A

CITY REVIEW SET - SEPTEMBER 28, 2012

Idaho Falls Regional Airport

EXHIBIT "B"



SCALE

1 INCH = 100 FT.

CITY OF IDAHO FALLS

ENGINEERING DEPARTMENT

CAR RENTAL SERVICE AREAS AND READY RETURN
IDAHO FALLS AIRPORT
EAST OF THE TERMINAL BUILDING

SCALE: NO SCALE	PROG. NO. AIR 6100-00	DATE: 10-27-2014
COMPUTER		SHEET NO.
DWG: [illegible]		1 OF 1
PLOT DATE: 10-27-2014		

IDAHO FALLS REGIONAL AIRPORT

2140 N. Skyline Drive #12
Idaho Falls, ID 83402
Phone: (208) 612-8224
Fax: (208) 612-8517

MEMORANDUM

TO: Honorable Mayor and City Council

FROM: Craig H. Davis, Airport Director

DATE: January 22, 2015

SUBJECT: **On-Airport Auto Rental Concession Agreement – Enterprise Car Rental**

Attached for your consideration is an On-Airport Auto Rental Concession Agreement between the City of Idaho Falls, Idaho and Enterprise Car Rental. This company was selected through a competitive Request For Proposal process. The Agreement has a term of five (5) years.

City Attorney has reviewed said Agreement.

The Airport Division respectfully requests approval and authorization for the Mayor and City Clerk to sign and execute said document.

Respectfully submitted,

Craig H. Davis
Airport Director

C: City Clerk

Idaho Falls Regional Airport

AUTO RENTAL CONCESSION AGREEMENT

This Concession Agreement effective the first day of February 2015, between the City of Idaho Falls, Idaho, (hereinafter referred to as CITY) and ENTERPRISE RENT-A-CAR COMPANY OF UTAH, LLC. (hereinafter referred to as Lessee) with its principal office at 7144 South State Street, Midvale, UT 84047, and operating out of Idaho Falls Regional Airport.

WITNESSETH:

WHEREAS, CITY owns and operates Idaho Falls Regional Airport located in the City of Idaho Falls, State of Idaho (hereinafter called IFRA) and,

WHEREAS, Lessee is engaged in the operation of an automobile rental business and is prepared, equipped and qualified to supply an adequate number of late model automobiles in good mechanical condition and appearance for the operation of an automobile rental business at IFRA, and

WHEREAS, ground transportation of passengers arriving at or departing from IFRA is an essential service to said passengers and to other patrons of IFRA, and,

WHEREAS, it is the intent and desire of the CITY that air passengers shall have available to them their choice of varied types of ground transportation services, any one of which at their option they shall have the right to select and use, and

WHEREAS, it is the desire of CITY to make available to air passengers as a portion of said ground transportation at IFRA an automobile rental business, operated and conducted by Lessee, and,

WHEREAS, four Auto Rental Concession Agreements are available at the beginning of this agreement but more Agreements may be made available during the term of this agreement if space is made available by IFRA; and,

WHEREAS, a Customer Facility Charge has not been adopted by IFRA but it may institute one after consultation with Auto Rental Concessionaires; and,

WHEREAS, Lessee has a franchise of license from _____, a corporation, and said franchise is current and in good standing, or Lessee operates Idaho Falls Regional Airport as a corporate location by_____.

NOW, THEREFORE, the parties agree as follows:

Idaho Falls Regional Airport

ARTICLE I

For and in consideration of the terms, conditions and covenants of this Agreement to be performed by Lessee, CITY hereby authorizes Lessee to operate a non-exclusive automobile rental concession at IFRA and also leases to Lessee and Lessee hereby hires and takes from CITY certain real premises, together with improvements thereon (hereinafter called the demised premises), and certain attendant privileges, uses and rights as hereinafter specifically set out.

A. DESCRIPTION OF PREMISES DEMISED. The exclusive premises conveyed by this Concession Agreement shall be as follows:

1. Operational Counter Area on the ground floor of the terminal building consisting of some 206.25 square feet of counter space, queuing area, and private office space, more specifically described as Operational Area #1. The actual area is depicted in Exhibit "A".
2. 15 Rental Car Ready/Return Parking Positions in the Return Lot, location to be determined by Airport Director as follows:
   i. At the commencement of this agreement there are a total of 116 Ready/Return spaces. A minimum of 15 Ready/Return Spaces shall be allocated to each on airport RAC agency. The remaining 56 spaces shall be allocated as a ratio of each RAC agency MAG as compared to the total MAG proposed by each successful on airport RAC agency. Each RAC agency shall have their row start at the beginning/street side of one of the four rows.
   ii. After the first two years of this agreement, the Ready/Return spaces shall be allocated based on 15 spaces minimum and the remainder allocated based upon RAC agency actual revenue from rental car percentage rent received by the airport and not MAG, unless MAG is greater than rent paid. If the actual reported rentals fall below MAG payments, the RAC agency will still be required by pay the MAG.
3. Rental Car Storage/Service Center. The Rental Car Storage/Service area #4 consisting of 40,000 square feet is described in Exhibit "B". Each Lessee is required to construct a Service/Storage Center facility on the ground leased to them. Improvements must allow for sufficient operations of a full service Rent A Car company at the Airport and should contain the basic elements, similar as to what the incumbent RAC companies service areas have, including but not limited to, pavement, utilities, lighting, fencing, fuel tank, washing area and a storage building. In order to promote fairness, Lessees will be granted Twenty (20) years from the time of initial occupancy to allow the improvements to be depreciated.

These improvements must be completed within nine (9) month from the start this agreement and are subject to the conditions contained in Article II and X of this agreement.

B. DESCRIPTION OF PRIVILEGES, USES AND RIGHTS. CITY hereby grants to Lessee the following privileges, uses and rights, all of which shall be subject to the terms, conditions and covenants hereinafter set forth and all of which shall be non-exclusive on IFRA.

1. The right, license and privilege to operate an automobile rental concession service at the IFRA for the purpose of renting automobiles to airline passengers and such other persons who may request such service at IFRA. "Automobile" does not include moving vans or trucks larger than a pickup or fifteen (15) passenger van. No automobiles may be rented or stored that are more than two model years old.
2. The right of ingress to and egress from the demised premises over and across public roadways serving the passenger terminal building by Lessee, his agents, and servants, patrons and invitees, suppliers of service and furnishers of material. Said right shall be subject to such rules and regulations as now or may hereafter have application at IFRA.
3. The right to install (or cause to be installed) and operate appropriate signs at the terminal building, ready/return spaces, and service facilities, provided that such installation shall be subject to the prior written approval of the CITY.

C. CONDITIONS OF GRANTING AGREEMENT. The granting of this Agreement and its acceptance by Lessee is conditioned upon the following covenants:

1. That no functional alteration of the premises or functional change in the uses of such premises shall be made which shall substantially adversely affect the use by Lessee of the demised premises, without the specific consent of the Lessee herein.

2. That the right to use said public airport facilities in common with others authorized so to do shall be exercised only subject to and in accordance with the laws of the United States of America and the State of Idaho, and all reasonable and applicable rules and regulations of CITY now in force or hereafter prescribed or promulgated by charter authority or by law.

3. That the concession granted by this agreement is NOT an exclusive concession and that CITY shall have the right to deal with and perfect

arrangements with any other individual, company, or corporation for engaging in like activity at IFRA provided, however, that any other or future non-exclusive concession for auto rental operations shall not be on terms or conditions more favorable than those granted to Lessee herein.

4. That Lessee is prohibited from transacting or soliciting rental car business at any other point on IFRA unless written permission is obtained from CITY, which permission, if given, shall require strict observation of all applicable provisions of this agreement.

5. The Lessee may be a single or multi-branded operation. During the course of the current concession, an on-airport operator shall be allowed to introduce an additional brand and operate as a "multi-branded" concession, provided the brand introduced is part of the concessionaire's current parent company. The Lessee will be required to operate within the confines of the counter, ready-return spaces and Service Facility that it operates.

ARTICLE II

INSTALLATIONS BY CITY AND LESSEE

A. TERMINAL BUILDING SPACE.

1. Installations by CITY. In the terminal building baggage claim area CITY will provide a cubicle with a counter and unfinished office space.

2. Installations by Lessee. In the terminal building area Lessee shall provide:

a. All leasehold improvements not provided by CITY including, but not limited to, display cabinets, interior partitions, additional lighting fixtures, decorations and all other fixtures, equipment and supplies.

b. All equipment, furniture, furnishings and fixtures necessary in the proper conduct of Lessee's business. Any improvements, facilities, decorations, fixtures, equipment, supplies and cabinets furnished by Lessee shall be in keeping with the general decor of the terminal building and shall be subject to written approval of CITY prior to installation.

B. APPROVAL OF PLANS AND CONSTRUCTION. Prior to installation of any improvements in its exclusive space, Lessee shall submit to CITY final plans and specifications, layout and architectural renderings for said improvements, which upon written approval by CITY shall become a part thereof. Lessee shall make payment

promptly, as due, to all persons supplying labor or materials for the prosecution of the work provided in making such installation and shall not permit any lien or claim to be filed or prosecuted against the CITY on account of any labor or material furnished.

C. ALTERATIONS, ADDITIONS OR REPLACEMENTS. Following any installations by Lessee, as hereinabove set forth, Lessee shall make no alterations, additions or replacements without written approval of CITY. Lessee shall likewise obtain prior approval from CITY before installing, at its own expense, any equipment which requires new electrical or plumbing connections or changes in those installed on the premises as of the date of occupancy thereof.

ARTICLE III

OBLIGATIONS OF LESSEE

A. HOURS OFOPERATION. Lessee shall, in the operation of the auto rental concession herein granted, maintain and make available a sufficient number of automobiles and personnel to staff each service counter leased at IFRA for adequate public service each day of the year, and during the hours that IFRA is conducting arriving and departing flights.

B. TYPE OF OPERATION. Lessee shall furnish service on a fair, reasonable and non-discriminatory basis to all users of IFRA. Service shall be prompt, courteous and efficient and shall be adequate to meet the demands for said service on IFRA. Lessee shall maintain and operate the concession in a first class manner and shall keep the premises in a safe, clean, orderly and inviting condition at all times, satisfactory to CITY. Lessee shall be responsible for all cleaning of their leased premises. Lessee shall promptly remove all trash from the leased premises and shall deposit all trash in appropriate CITY or Lessee controlled dumpsters. Attractive displays within the premises shall be permitted if approved by CITY.

C. NON-DISCRIMINATION. The Lessee assures that he will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin or sex be excluded from participating in any employment activities covered by 14 CPR Part 152, Subpart E. The Lessee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. The Lessee assures that he will require that his covered sub-organizations provide assurances to the Lessee that they similarly will undertake

affirmative action programs and that they will require assurances from their sub-organizations, as required by 14 CFR Part 152, Subpart E, to the same effect. This agreement is subject to the requirements of the U.S. Department of Transportation's Regulations, 49 CFR Part 23, Subpart F. The Lessee agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with award or performance of any concession agreement covered by 49 CFR Part 23, Subpart F. The Lessee agrees to include the above statements in any subsequent concession agreements that it enters and cause those businesses to similarly include the statements in further agreements.

D. PERSONNEL. Lessee shall at all times retain an active, qualified, competent, and experienced manager to supervise the concession operations and be authorized to represent and act for Lessee. Lessee shall be required to properly uniform or dress its attendants and employees; they shall be clean, courteous, and efficient and neat in appearance at all times. Lessee shall not employ any person(s) in or about the concession premises who shall use improper language or act in a loud, boisterous or otherwise improper manner. Lessee shall maintain a close check over attendants and employees to insure the maintenance of high standards of service to the public, the performance of such obligations to be determined at the sole discretion of the CITY. Lessee shall not allow their employees to bring their minor children with them to work, unless it is a temporary visit that lasts no longer than thirty (30) minutes. Lessee shall replace any employee whose conduct CITY feels is detrimental to the best interests of the IFRA. All Lessee employees and management shall park their vehicles in the employee lot or service center lot as designated by the Airport Director and are not permitted to park in the Ready/Return Lots.

E. LAWS, ORDINANCES, ETC. Lessee shall observe and obey all laws, ordinances, regulations and rules of federal, state, and municipal governments that may be applicable to its operation at IFRA.

F. QUALITY OF RENTAL AUTOS. Lessee shall at all times maintain at its own cost and expense all its rental automobiles in good operating order and free from known mechanical defects; said automobiles shall be kept in clean, neat, and attractive condition inside and out. Lessee shall at no time use automobiles whose model year is more than two model years old.

G. AUTO RENTAL RATES. Lessee's auto rental rates shall be competitive with similar services by comparable Lessees in the Idaho Falls /Pocatello Area. Lessee may make such reasonable and non-discriminatory discounts to volume purchasers as may be allowable under governing statutes.

H. SOLICITATION AND CONDUCT. Lessee shall prohibit its agents, servants, and employees from engaging in any form of solicitation of its auto rental services on or about IFRA. Lessee, its agents, servants and employees shall so conduct said auto rental business on the airport to maintain a friendly and cooperative, though competitive, relationship with other companies engaged in like business on IFRA. Lessee shall not engage in open public disputes, disagreements or conflicts which would tend to deteriorate the quality of the auto rental service of Lessee or its competitors or which would be incompatible to the best interests of the public at IFRA. CITY shall have the right to resolve all such disputes, disagreements, or conflicts; and its determination thereof of the manner in which Lessee shall thereafter operate shall be binding upon Lessee.

I. COST OF AUTO RENTAL OPERATIONS. Lessee shall bear at its own expense all cost of operating the concession and shall pay, in addition to space rental and concession fees, all other costs connected with the use of the demised premises and facilities, including but not limiting the generality hereof, insurance, any and all taxes, and all permits and licenses required by law.

J. MAINTENANCE. Lessee, shall at its sole cost and expense, maintain the demised premises and every part thereof in good order and repair, and in good and safe condition; shall repair all damages caused by its employees, patrons, or its operation of said services; shall maintain and repair all equipment on said premises; and shall repaint its own leased space when deemed necessary by CITY, such repainting to require the prior approval of the CITY. CITY shall be the sole judge of the quality of maintenance and upon written notice by CITY to Lessee. Lessee shall be required to perform whatever maintenance CITY deems necessary. If said maintenance is not undertaken by Lessee within ten (10) days after receipt of written notice, CITY shall have the right to enter on the demised premises and perform the necessary maintenance, the cost of which shall be borne by Lessee.

K. GASOLINE AND REPAIR SERVICE. Lessee shall not sell gasoline, repair services or related services on IFRA to other than RAC vehicles, however, the Lessee may use the vehicle storage/service area to provide additional parking and service (including gasoline, oil, repairs and other services) for vehicles owned or controlled by Lessee and used in conjunction with the concession granted hereunder. Lessee is prohibited from storing or disposing of waste oil, waste fluids, discarded fluid containers or unmarked hazardous materials of any type on the leased premises in violation of law.

L. PUBLIC ADDRESS SYSTEM. Lessee shall permit the installation in its premises of IFRA's public address system, and the reception thereon of flight announcements and

other information, if CITY deems such installation necessary.

M. AUTO RENTAL STORAGE. Rental cars shall be parked in Lessee's allocated positions in the ready, return or storage lots.

N. VENDING MACHINES. Lessee shall neither install nor operate vending machines and coin-operated amusement machines and devices in the terminal building.

ARTICLE IV

OBLIGATIONS OF CITY

CITY shall maintain the structure of the terminal building, the roof and outer walls, HVAC and electrical/mechanical systems. CITY shall maintain the ready/return auto parking positions in the parking area included under the provisions of Article I, Paragraph A, (2) and (3). CITY shall furnish heat, lights and janitorial service for the terminal building.

ARTICLE V

TERM OF AGREEMENT

The term of this agreement shall be for a period of five (5) years commencing on the first (1st) day of February 2015 and ending on the thirty-first (31st) day of January 2020.

ARTICLE VI FEES AND RENTALS

A. CONCESSION FEE AND MINIMUM ANNUAL GUARANTEE. Lessee shall pay to CITY for the rights and privileges herein granted a concession fee of ten percent (10%) of all gross receipts as hereinafter defined, or the Minimum Annual Guarantee (hereinafter called "MAG") as set forth below, whichever sum is greater. The MAG is a floor which shall be paid as a minimum during each of the five (5) years of this agreement unless passenger traffic decreases by at least 15% as defined in Article IX of this agreement.

Annual MAG amount $86,577.00. This number will be the "floor" amount for each of the five (5) years of the agreement.

C. DEFINITION OF GROSS RECEIPTS. "Gross Receipts" shall include but not by

definition be necessarily limited to the following:

1. The aggregate amount of all monies paid or payable to Lessee for all time and mileage sales, additional equipment rentals and services performed at IFRA, and all monies paid or payable for sales, rentals, services and exchanges made and performed as a result of passengers arriving by air as commercial or private customers at IFRA.

2. The market value of all exchanges of goods.

3. All monies paid or payable for time and mileage sales, additional equipment rentals, services and exchanges, transactions and contracts performed for customers whose business originates at IFRA.

4. The total sum whether fully retained by Lessee or not, for rentals of vehicles owned, controlled or operated by persons other than Lessee.

5. All monies paid or payable to Lessee for one-way rentals.

7. The Lessee agrees to charge a maximum of a 11.11% "Concession Recovery Fee", which shall be added to gross receipts, and said fee, if charged, shall be listed as a separate charge in the Lessee's advertised rates or rental agreements and such separate charge shall be disclosed to the customer at the time of reservation and again at the time of the actual rental. Furthermore, the Concession Fee must be charged to all customers in a fair and consistent manner. Such fee shall be disclosed and listed as a Concession Fee and shall not be listed as an airport surcharge or tax.

All of the above listed transactions are included in Gross Receipts whether for cash, credit or otherwise of any kind, name, and nature, and regardless of when or whether paid for or not.

D. EXCLUSIONS. Gross Receipts shall exclude the following:

1. Charges to Lessee's customers for repairs to automobiles damaged by such customer.

2. Monies collected from such customers for federal, state, county or municipal taxes now in effect, or hereafter levied, and,

3. Uncollected items resulting from theft, conversion, illegal use of Lessee's automobiles, unless and until charges against such customers who have illegally used said automobiles are collected.

4. All inter-city drop fees.

5. Fees received by Lessee to waive deductible collision insurance features.

6. Credits given to customers for such things as deposits and out-of-pocket purchases for gas, oil or emergency services, regardless of where made.

7. Charges to the customer for refueling services.

8. Customer Facility Charges implemented by CITY after consultation with Auto Rental Concessionaires.

D. SCHEDULE OF PAYMENTS. Monthly reports, monthly space lease amounts, and concession fees as set out above shall be due and payable to CITY on or before the tenth (10th) day of the following month, with a penalty of twenty dollars ($20.00) per day for each day past the tenth (10th) day for receipt of amounts payable to CITY.

E. ADJUSTMENTS. Adjustments for any deficiency between the percentages set forth in Paragraph A above for any preceding agreement year and the MAG for such year shall be payable within thirty (30) days after the close of each fiscal year. Settlement for any deficiency between the annual guaranteed rental and the percentages payable during a period of less than one complete fiscal year shall be made to CITY on a pro- rata basis within thirty (30) days following the end of such period. Adjustment for overpayment will be issued as a Credit from City and applied against future fees as they become due.

F. RECORDS OF LESSEE. With respect to business done by it hereunder, Lessee shall keep true and accurate accounts, records, books and data, which shall show all the gross receipts, as defined hereinabove, of said business upon and within said IFRA. Lessee agrees to operate its business upon IFRA so that a duplicate rental agreement invoice, serially numbered, shall be issued with each sales or transaction, whether for cash or credit. Lessee further agrees to keep reasonable books and records as CITY may request. The duplicate rental agreements, invoices, and all other books and records of Lessee, as aforesaid, shall be open for inspection by authorized representatives of CITY at all times reasonable during business hours. Lessee shall submit to CITY a detailed statement showing gross receipts from the operation of the auto rental concession for the preceding calendar month on or before the tenth (10th) day of each calendar month. These reports shall show such reasonable detail and breakdown as may be required by CITY. Within thirty (30) days following the end of each fiscal year of operation of the concession, Lessee shall submit to CITY a statement of gross receipts from the concession for the preceding year of operation, such statement to be attested to by the owner and to be accompanied by Lessee's payment covering any deficiency between

payments made during the year of previous operation and payments due for such year of operation. Lessee at its own expense shall supply all record forms in a reasonable type, style and form satisfactory to CITY.

G. AUDIT. For the purpose of determining accuracy of reporting gross receipts, CITY may make a spot test audit and base its findings for the entire period upon such spot test; provided, however, that such spot test shall include at least twenty-five percent (25%) of the total time of the period being audited. In addition, if the Lessee has one or more additional outlets within a 3 mile radius of the IFRA outlet, then for purposes of the audit and spot checks mentioned above, the Lessee agrees to allow a full and complete audit of the additional outlets, said audit to be at the time the audit or spot check is made of the IFRA outlet. In addition, CITY shall have the right during any one fiscal year of the agreement to authorize two audits of Lessee's records pertaining to the concession. Such audits may be undertaken by a reputable firm of independent certified public accountants. The cost of such audits are borne by CITY, unless the results of such audits reveal an underpayment of more than five percent (5%) between the gross receipts reported in accordance with Paragraph D and the gross receipts as determined by audit for any twelve month period. In case of such underpayment, the full cost of the audit shall be borne by Lessee.

H. SPACE RENTALS. In addition to the concession fee set forth above, Lessee shall pay CITY space rental for the Premises conveyed by this Concession Agreement in monthly installments of 1/12th of the following annual rates:

For the counter and office Operational Area, $25.80 (twenty five dollars and 80 cents) per square foot per year;

For the parking positions, the ready positions, and the vehicle return positions, $180 (one-hundred and eighty dollars) per stall per year;

For the vehicle storage/service center area, $0.28 (twenty eight cents) per square foot per year.

Space Rental rates under this section H shall be adjusted each January 1st by CPI-U as defined by the Bureau of Labor Statistics as of September of the previous calendar year.

Subject to the Airport Director's advance written approval Lessee may offer to exchange, trade or allocate a portion of its allocated ready, return and/or storage/service area to other of the on-airport automobile rental Lessee operating under an identical Auto Rental Concession Agreement. In the event of a conflict over the availability of the spaces or to whom they will be offered, the Airport Director shall make the final determination.

ARTICLE VII INDEMNIFICATION AND INSURANCE

CITY shall stand indemnified by Lessee as herein provided. Lessee is and shall be deemed to be an independent contractor and Lessee responsible to all parties for its respective acts and omissions, and CITY shall in no way be responsible therefore. In the use of IFRA, in the erection or construction of any improvements thereon, and in the exercise or enjoyment of the privileges herein granted, Lessee shall indemnify and save harmless the CITY from any and all losses that approximately result to the CITY because of any negligence on the part of the Lessee.

Lessee shall purchase and maintain commercial general liability insurance coverage relative to its services, its operations and business, the Operational Area, the Parking Spaces, the common parking area, and the use and operation of Lessee's vehicles. The commercial general liability insurance coverage shall be in at least the amount of $1,000,000.00 per occurrence and $2,000,000.00 annual aggregate. CITY and its past, present and future officers, members, Airport Director, employees and agents shall be named as additional insureds under the commercial general liability policy or policies.

Lessee shall deliver to the Airport Director certificates of the above insurance coverages at the time this Agreement is executed. The certificates shall provide the coverages referred to therein and shall not be terminated, modified or not renewed until CITY has received thirty-day (30) written notice thereof. In the event an insurance carrier should terminate, modify or not renew any of the above insurance coverages, Lessee shall immediately contract with another insurance carrier to provide the requisite coverage and shall immediately deliver to the Airport Director a replacement certificate.

All of the above coverages shall be written through insurance carriers qualified to do business in the State of Idaho. After consultation with Lessee, the City of Idaho Falls may update insurance requirements.

ARTICLE VIII DAMAGE OR DESTRUCTION OF PREMISES

If the premises leased to Lessee under the terms of Article I, Paragraphs A and B, herein are partially damaged by fire, explosion, the elements, the public enemy, or other casualty, but not rendered untenable, the same will be repaired with due diligence by CITY at its own cost and expense. If the damage shall be so extensive as to render such premises untenable, but capable of being repaired in thirty days, the same shall be repaired with due diligence by CITY at its own cost and expense, and the rent payable herein shall be paid proportionately to the time of such damage and thereafter cease until such time as the premises are fully restored. In the event said premises are completely destroyed by fire, explosion, the elements, the public enemy or other

casualty, or so damaged that they will remain untenable for more than thirty (30) days, CITY shall be under no obligation to repair and reconstruct the premises, and rent payable hereunder shall be paid proportionately to the time of such damage or destruction and shall thenceforth cease until such time as the premises may be fully restored. If within twelve (12) months after the time of such damage or destruction said premises shall not have been repaired or reconstructed, Lessee may give CITY written notice of its intention to cancel the Agreement in its entirety as of the date of such damage or destruction.

ARTICLE IX

TERMINATION OF AGREEMENT, ASSIGNMENT AND TRANSFER

A. TERMINATION. This agreement shall terminate at the end of the full term hereof, and Lessee shall have no further right or interest in any of the land or improvements hereby demised except as provided in Article X Property Rights Upon Termination.

B. TERMINATION BY LESSEE. This agreement shall be subject to termination by Lessee upon one or more of the following events:

1. The permanent abandonment of IFRA as an air terminal.

2. The lawful assumption by the United States Government, or authorized agency thereof, of the operation, control, or use of IFRA, or any substantial part or parts thereof, in such a manner as substantially to restrict Lessee for a period of at least ninety days from operating thereon.

3. Issuance by any court of competent jurisdiction of an injunction in any way preventing or restraining the use of IFRA, and the remaining in force of such injunction for a period of at least ninety days.

4. The default by CITY in the performance of any covenant or agreement herein required to be performed by CITY and the failure of CITY to remedy such default for a period of at least sixty days after receipt from Lessee of written notice to remedy the same.

5. The complete destruction of the premises as outlined in Article VIII.

C. TERMINATION BY CITY. This Agreement shall be subject to termination by

CITY in the event Lessee shall:

1. Be in arrears in the payment of the whole or in part of the amounts agreed upon hereunder for a period of ten days after the time such payments become due.

2. File a voluntary petition of bankruptcy or make an assignment for the benefit of creditors, or consents in writing to the appointment of a trustee or receiver for itself.

3. If a court of competent jurisdiction shall enter an order, judgment or decree declaring the Lessee insolvent, or adjudging it bankrupt, or appointing a trustee or receiver of Lessee, or approving a petition filed against Lessee seeking reorganization of the Lessee under any applicable law or statute of the United States of America or any state thereof.

4. If under the provisions of any other law for the relief or aid of debtors, any court of competent jurisdiction shall assume custody or control of Lessee.

5. Abandon the demised premises.

6. Default in the performance of any of the covenants and conditions required herein (except rental payments) to be kept and performed by Lessee, and such default continues for a period of thirty days after receipt of written notice from CITY of said default.

7. Cancel its license or franchise from _____ Rent-A-Car or in the event that _____CONCESSIONAIRE/LESSEE Rent-A-Car shall for any purpose whatsoever cancel the license or franchise of Lessee.

In any of the aforesaid events, CITY may take immediate possession of the demised premises and remove Lessee's effects, forcibly if necessary, without being deemed guilty of trespassing. Upon said entry, this agreement shall terminate except that CITY reserves the right to recover any and all damages it has incurred for Lessee's breach, in addition to terminating the lease, including but not limited to unpaid rent, damage to premises, etc., the remedy of termination not being the exclusive remedy. It is agreed that failure of CITY to declare this Agreement terminated upon the default of Lessee for any of the reasons set out shall not operate to bar or destroy the right of CITY to declare this Agreement null and void by reason of any subsequent violation of the terms of this Agreement.

E. MINIMUM ANNUAL GUARANTEE. In the event Lessee is unable to make the MAG as provided in Article VI, Paragraph A, by reason of fire, strikes, or damage by the elements or of any unavoidable casualty, acts of God, war, legal actions, or take over by

public authority, all without fault of Lessee, the MAG shall be forgiven for the period of incapacity, provided, however, the ten percent (10%) of all gross receipts provision shall remain in full force and effect, the MAG to resume after removal of the incapacity.

E. ABATEMENT OF MINIMUM ANNUAL GUARANTEE. In the event that one of the following conditions exists, the MAG provided in ARTICLE VI,A,l, shall be abated for the period of time the condition exists:

1. If the operation of Lessee's car rental business becomes impractical, unprofitable or impossible because of actual shortages or other disruptions in the supply of automobiles, gasoline or other goods necessary for the operation thereof, through no fault of the Lessee, which conditions persist for at least 30 days;

2. If a strike against any or all of the airlines operating at IFRA results in a thirty percent (30%) diminution of deplaning passengers (as compared with the similar period in the previous Agreement year) for a period of thirty (30) consecutive days;

3. If the Terminal is partially damaged so as to render the Terminal Premises un-tenantable, as more fully set forth above.

4. In any event, and notwithstanding the above provisions, Lessee shall pay 10 percent (10%) of its Gross Revenues during the period of time any condition set forth in above continues to exist. The CITY shall return to Lessee a just proportion of any minimum guarantee payment which may have been paid in advance for a month or portion thereof which falls within the period of abatement.

5. If, during any year of this Agreement (January 1-December 31), the number of deplaning passengers falls below eighty-five percent (85%) of the number of deplaning passengers for the preceding Agreement year, the minimum annual guarantee for that Agreement year shall be reduced to a sum equal to eighty-five percent (85%) of the minimum annual guarantee.

6. If, during any calendar month of the term of this Agreement, runway construction activities result in a reduction in the number of deplaning passengers at IFRA by at least thirty percent (15%), when compared with the same number for the same month in the immediately preceding year, then the minimum annual guarantee for that year shall be reduced by an amount equal to one twelfth (1/12th) of the minimum annual guarantee for said year, times (x) the percentage decrease in the number of deplanements for said month.

7. The MAG is a floor which shall be paid unless circumstances listed in 1-6 of this sub-paragraph lower the MAG. When the circumstances change back to be above the criteria listed, then the MAG returns to the floor set in the proposal.

F. ASSIGNMENT AND TRANSFER. Lessee shall not assign, transfer, or sublease its rights and premises hereunder without the written approval of CITY which shall not be unreasonably delayed.

ARTICLE X

PROPERTY RIGHTS UPON TERMINATION

Upon termination of this Agreement, through passage of time or otherwise, the Lessee shall aid CITY in all ways possible in continuing the operation of said auto rental service on IFRA uninterruptedly. Lessee shall sell any or all of Lessee's furniture, furnishings, fixtures and equipment, which includes improvements made to the leased property and building after initial occupancy and the undepreciated value of all improvements, installed or used upon said premises by Lessee to CITY should CITY notify Lessee in writing within ten (10) days before such termination date that it desires to purchase any or all of the same. In the event CITY exercises its option to purchase any or all of said furniture, furnishings, fixtures and equipment the purchase price shall be the fair market value of such items at the elate of such termination. If the parties are unable to agree upon the fair market value, each party shall then appoint an appraiser; the two appraisers so named shall determine the fair market value of such items, which determination shall be final and binding upon both parties hereto.

Unless a follow on Auto Rental Concession Agreement is entered into by the Lessee the Service Center Building used by Lessee shall revert to CITY at the termination of this Agreement.

The City (Airport) may choose to utilize the property on which the Service Center Building is erected for other purposes under future agreements. In this case, the Lessee agrees to vacate the premises and mitigate any environmental contingencies caused by lessee.

If the City enters into a follow on RAC agreement with lessee the Lessee has the right of first refusal to continue leasing the ground at the rate set by City.

City reserves the right to require improvements to facilities including exterior finishes, pavement maintenance, fencing, landscaping and general maintenance.

A Plot Plan and Legal Description of Lessees Service Center and Building are attached as Exhibit B.

The existing RAC service facilities have been constructed at the cost of the Lessee and neither IFRA nor the City of Idaho Falls has contributed to these facilities other than providing the bare ground for the improvement. The service facilities are taxed by county. The airport required each agency to construct a service facility on the ground leased to them. In order to promote fairness, the RAC service facility owners will be granted 20 years from the time of initial occupancy following construction to conduct their car rental operation from with the following provisions:

- All leases are for bare ground only and the lessee is responsible for all improvements including but not limited to extending utilities.
- If initial occupancy for the purposes of calculating 20 years will begin no later than 6 months from the issuance of a building permit for the service facility.
- Sale of the service facility to another entity does not extend the 20 year time frame.
- RAC service facilities must be continuously used to service rental cars available for rent at IFRA.
- If IFRA determines that the leasehold land is to be used for another purpose other than RAC service facility, then IFRA may at its discretion purchase the undepreciated improvements, real or personal, from the lessee.
- Lessees must provide actual costs for improvements to these facilities and their depreciation schedule to the Airport Director who will verify with City auditors that the costs and schedule is reasonable.
- If RAC lessee does not provide these costs and schedules, it will be assumed that there is no acquisition value to IFRA.
- New capital expenditures may be approved for addition to the depreciation schedule, but the costs and the schedule must be approved by the Airport Director.
- After the initial construction, amortizations of additional improvements are anticipated to be no more than 5 to 10 years.
- RAC agencies who continue to have an agreement to rent cars to the public from IFRA will have the right of first refusal to lease the ground, use the facility and continue to pay property taxes on their service facility.

ARTICLE XI RE-DELIVERY

Lessee shall make no unlawful or offensive use of said premises and will at the expiration of the term hereof or upon any sooner termination, without notice, quit and deliver up said premises to CITY peaceably, quietly and in as good order and condition, reasonable use and wear thereof excepted, as the same now or may hereafter be improved by Lessee or CITY.

ARTICLE XII HOLDING OVER

In the event Lessee shall hold over and remain in possession of the premises herein leased after the expiration of this Agreement without any written renewal thereof, such holding over shall not be deemed to operate as a renewal or extension of said Agreement but shall create only a tenancy from month to month which may be terminated at any time by CITY.

ARTICLE XIII GENERAL PROVISIONS

A. CONFLICTS BETWEEN LESSEES. In the event of a conflict between Lessees and any other Lessee or Lessee in the Terminal Building as to the services to be sold by respective Lessee or Lessees, CITY shall decide which services may be sold by each Lessee and Lessee agrees to be bound by such decision.

B. INSPECTION. CITY, by its officers, employees, agents and representatives, shall have the right at all reasonable times to enter upon the demised premises for the purpose of inspecting same, for observing the performance by Lessee of its obligations hereunder, and for the doing of any act which CITY may be obligated or have the right to do under this Agreement.

C. ATTORNEY'S FEES. In the event this Agreement is placed in the hands of an attorney for the collection of the rentals and fees (or any portion thereof) due or to become due hereunder; to take possession of said concession space; to enforce compliance with this Agreement; or for failure to observe any of the covenants of this Agreement, Lessee shall pay CITY a reasonable attorney's fee for services rendered CITY in that regard.

D. NON-WAIVER. Any waiver by CITY of any breach of covenants herein contained to be kept and performed by Lessee shall not be deemed as a continuing waiver and shall not operate to bar or prevent CITY from declaring forfeiture for any succeeding breach either of the same or other condition or covenant.

E. INDEPENDENCE OF AGREEMENT. It is understood and agreed that nothing herein contained is intended or should be construed as in any way creating or establishing a relationship of co-partners between the parties hereto, or as constituting the Lessee as the agent, representative or employee of the CITY for any purpose or in any manner whatsoever. Lessee is to be and shall remain an independent contractor with respect to all services performed hereunder.

F. QUIET ENJOYMENT. CITY agrees that Lessee, upon payment of rent and all

other charges and upon observation of the terms of this Agreement, shall lawfully and quietly hold, occupy, and enjoy the demised premises during the full term of this Agreement without hindrance or molestation from CITY or anyone claiming by, through or under CITY. CITY's agreement is subject; however, to Lessee holding and enjoying said premises under conditions that may reasonably be anticipated in connection with the operation of aircraft or an airport.

G. INVALID PROVISIONS. In the event any covenant, condition, or provision herein contained is held to be invalid by any court of competent jurisdiction, the invalidity of such covenant, condition or provision shall in no way affect any other covenant, condition or provision herein contained; provided that the invalidity of such covenant, condition or provision does not materially prejudice either CITY or Lessee in its respective rights and obligations contained in the valid covenants, conditions and provisions herein.

H. PARAGRAPH HEADINGS. The paragraph headings contained herein are for convenience in reference and are not intended to define or limit the scope of any provision of this Agreement.

I. NOTICES. Notices to CITY provided for herein shall be sufficient if sent by registered mail, postage prepaid, addressed to:

Idaho Falls Regional Airport

2140 North Skyline Drive, Suite 12

Idaho Falls ID 83402

and notice to Lessee, if sent by registered mail, postage prepaid, addressed to:

Enterprise Rent-A-Car Company of UT, LLC

7144 South State Street

Midvale, UT 84047

or to such other address as the parties may designate to each other in writing from time to time.

J. VENUE AND JURISDICTION. 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 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.

K. SUCCESSORS AND ASSIGNS. All of the terms, covenants, and agreements herein contained shall be binding upon and shall inure to the benefit of successors and assigns to the respective parties hereto.

IN WITNESS WHEREOF, the parties have hereunto set their hands this

_____ day of _____, 2015

LESSOR:

ATTEST:

CITY OF IDAHO FALLS

_____
City Clerk

_____
Rebecca L. Noah Casper
Mayor

LESSEE:

By: _____

Enterprise Rent-A-Car Company of UT, LLC.

APPROVED AS TO FORM:

_____
Randy Fife
City Attorney

_____
Craig Davis
Airport Director

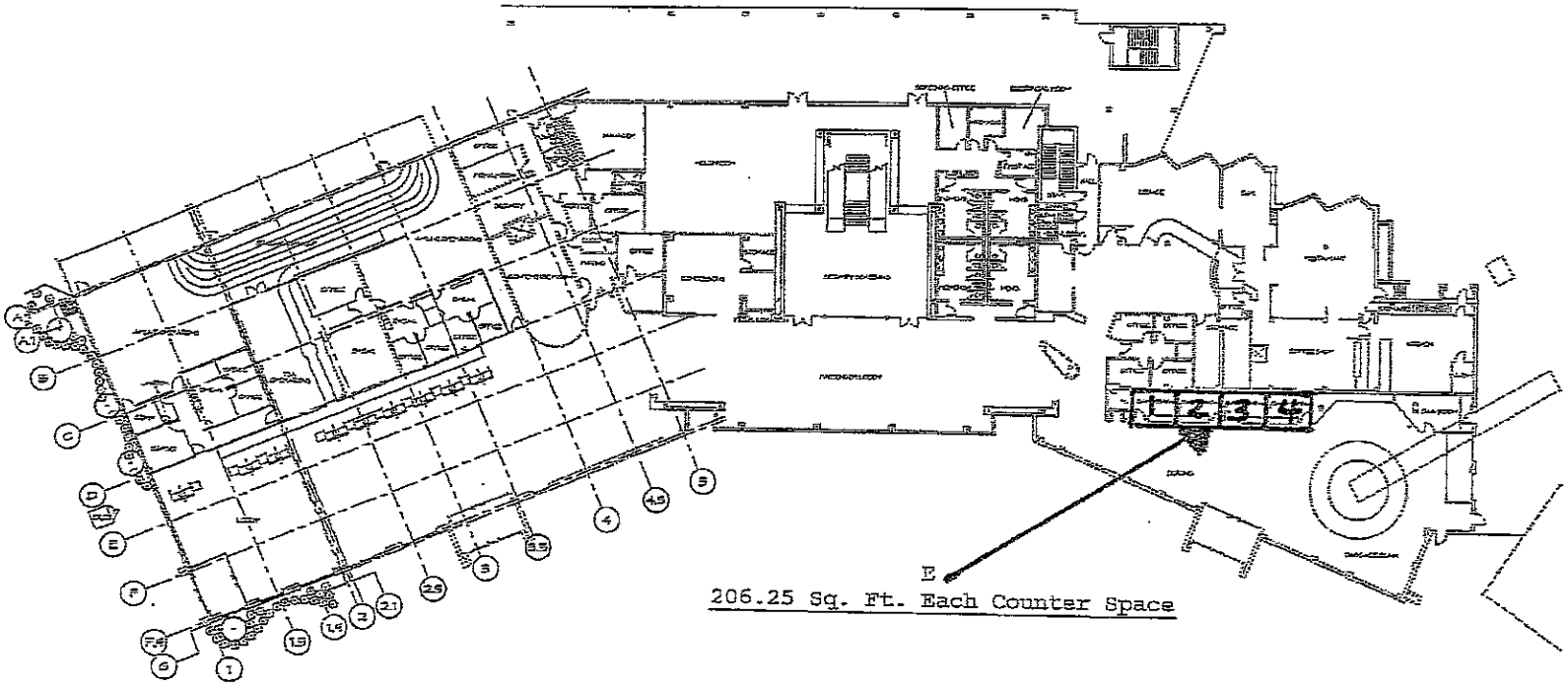
Idaho Falls Regional Airport

EXHIBIT "A"

EXHIBIT A

RAC Terminal Counter

Concession Space Area



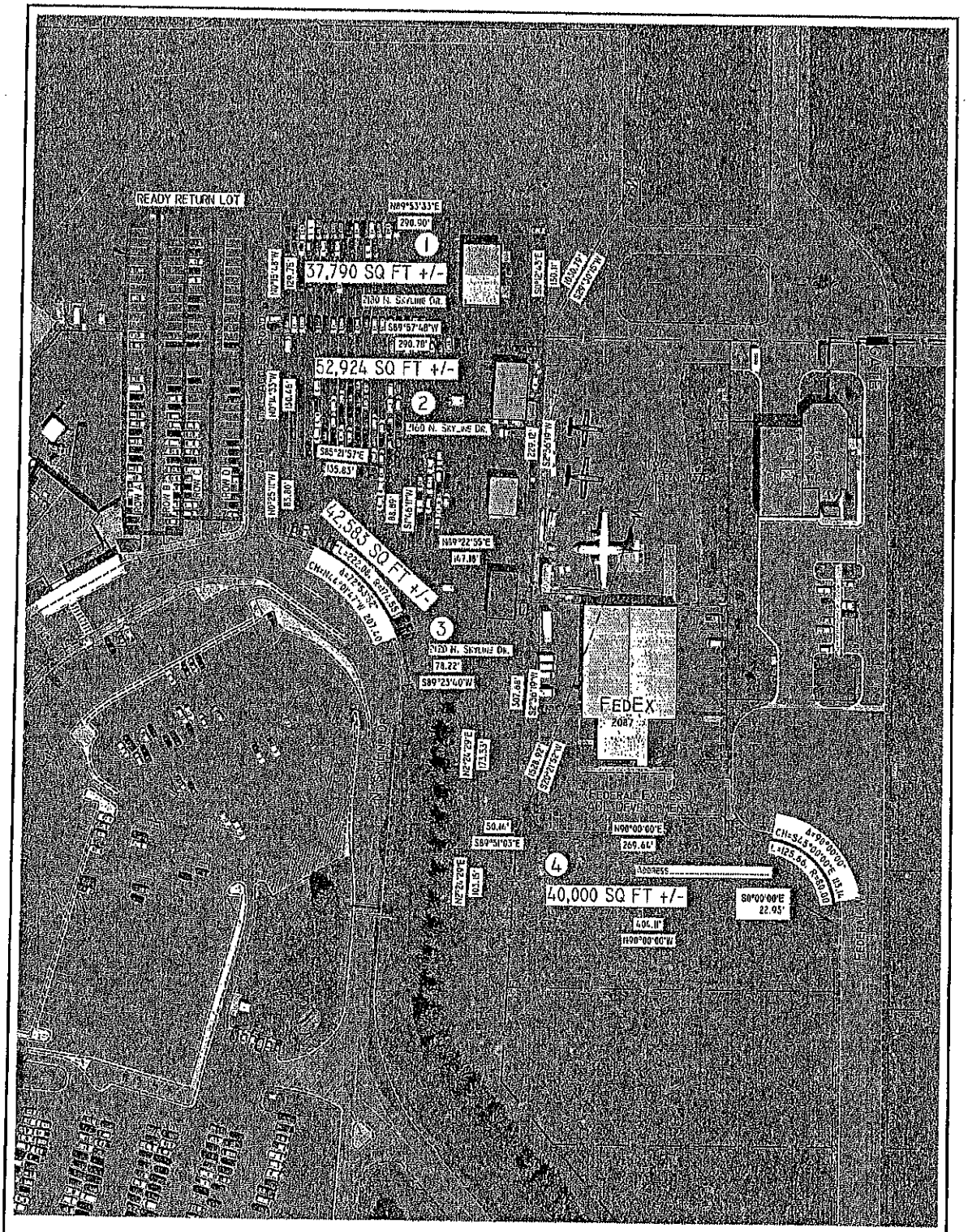
IDAHO FALLS REGIONAL AIRPORT TERMINAL EXPANSION
2140 N. SKYLINE DR.
IDAHO FALLS, ID 83401 AIP 3-16-0018-0037
GROUND FLOOR PLAN - OVERALL

A1.1A

CITY REVIEW SET - SEPTEMBER 20, 2012

Idaho Falls Regional Airport

EXHIBIT "B"



SCALE

1 INCH =100 FT.

N
W E
S

CITY OF IDAHO FALLS

ENGINEERING DEPARTMENT

CAR RENTAL SERVICE AREAS AND READY RETURN
IDAHO FALLS AIRPORT
EAST OF THE TERMINAL BUILDING

SCALE: NO SCALE	PROG. NO. AIR 0000-00	DATE: 10-27-2014
COMPUTER		SHEET NO.
DWG: [illegible]		1 OF 1
PLOT DATE: 10-27-2014		

Idaho Falls Power

A Division of the City of Idaho Falls *"A community with its own kind of energy"*

Reliable Public Power Provider

MEMORANDUM

TO: Honorable Mayor and City Council

FROM: Bear Prairie, Assistant General Manager

DATE: January 15, 2015

Re: **Consent Agenda** - Power Transaction Confirmation Agreements

---

Attached are two purchase and sale agreements for power transactions with Shell Energy. The agreements consist of purchasing 10 megawatts heavy load for August 2015 and selling 10 megawatts light load for July through September 2015.

The total from these transactions are: $370,320 dollars of which $204,960 are the above stated sale of energy and $165,360 dollars is the August purchase.

This bundle of forward power transactions enables the power division to better match expected loads with resources; therefore Idaho Falls Power respectfully requests ratification of the attached agreements.

BP/161

Cc: City Clerk
City Attorney
Jackie Flowers
File

PO Box 50220
140 S Capital
Idaho Falls ID 83405

Phone: 208-612-8430
Fax: 208-612-8435
www.ifpower.org

Shell Energy North America (US), L.P.

1000 MAIN ST LEVEL 12
HOUSTON,TX 77002

713-767-5500

January 06, 2015 Deal No. 2627282

CITY OF IDAHO FALLS
140 S CAPITOL AVENUE,
IDAHO FALLS, ID 83405
Fax: 1(208)612-8435

CONFIRMATION AGREEMENT

This confirmation agreement (this "Confirmation" or "Agreement") shall confirm the agreement reached on January 06, 2015, between Shell Energy North America (US), L.P. ("Shell Energy") and CITY OF IDAHO FALLS ("CounterParty") (herein sometimes referred to as a "Party" and collectively as the "Parties") regarding the sale of electric capacity and/or electric energy under the terms and conditions set forth below.

BUYER:	CITY OF IDAHO FALLS
SELLER:	Shell Energy North America (US), L.P.
PRODUCT/FIRMNESS:	WSPP Sch. C
TERM:	08/01/2015 through 08/31/2015
QUANTITY:	10 Mws of energy per hour
TOTAL MWH:	4,160
PRICE:	$ 39.750/Mwhr Fixed
DELIVERY POINT(S):	MONA
SCHEDULING:	Monday through Saturday, Hours ending 0700 through 2200 Excluding NERC Holidays
TIME ZONE:	PPT

SUBJECT TO MASTER AGREEMENT DATED: WSPP as amended 01/01/2014

No Challenges; Defense of Agreement. Neither Party will exercise any of its respective rights under Section 205 or Section 206 of the Federal Power Acts to challenge or seek to modify any of the rates or other terms and conditions of this Agreement.

Mobile-Sierra.

(a) Absent the agreement of all parties to the proposed change, the standard of review for changes to any portion of this Agreement or any Transaction entered into hereunder proposed by a Party, a non-party, or the Federal Energy Regulatory Commission acting sua sponte, shall be the "public interest" standard of review set forth in United Gas Pipe Line Co. v. Mobile Gas Service Corp., 350 U.S. 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956) (the "Mobile-Sierra" doctrine).

(b) The Parties agree that, if and to the extent that FERC adopts a final Mobile-Sierra policy statement in Docket No. PL02-7-000 ("Final Policy Statement"), which requires that, in order to exclude application of the "just and reasonable" standard under Sections 205 and 206 of the Federal Power Act, the Parties must agree to language which varies from that set forth in clause (a) immediately above, then, without further action of either Party, such Section shall be deemed amended to incorporate the specific language in the Final Policy Statement that requires the "public interest" standard of review.

Deal No. 2627282

This Confirmation sets forth the terms of the transaction into which the Parties have entered into and shall constitute the entire agreement between the Parties relating to the contemplated purchase and sale of electric energy and/or electric capacity please have this confirmation executed by an authorized representative or officer of your company and return via facsimile to (713)767-5414. If no facsimile objection to this Confirmation has been received by Shell Energy by facsimile transmission by 5:00 p.m., Houston, Texas time, five (5) business days after delivery of this Confirmation to the other Party by facsimile, then this Confirmation (i) shall be binding and enforceable against Counterparty and Shell Energy and (ii) shall be the final expression of all the terms hereof, regardless whether executed by the other Party.

CITY OF IDAHO FALLS		Shell Energy North America (US), L.P.	
By:	Bear Prairie	By:	John W. Pillion
Name:	Bear Prairie	Name:	John W. Pillion
Title:	ACM	Title:	Confirmations Team Lead
Date:	1/6/15	Date:	01/06/2015

Shell Energy North America (US), L.P.

1000 MAIN ST LEVEL 12
HOUSTON,TX 77002

713-767-5500

January 06, 2015 Deal No. 2627278

CITY OF IDAHO FALLS
140 S CAPITOL AVENUE,
IDAHO FALLS, ID 83405
Fax: 1(208)612-8435

CONFIRMATION AGREEMENT

This confirmation agreement (this "Confirmation" or "Agreement") shall confirm the agreement reached on January 06, 2015, between Shell Energy North America (US), L.P. ("Shell Energy") and CITY OF IDAHO FALLS ("CounterParty") (herein sometimes referred to as a "Party" and collectively as the "Parties") regarding the sale of electric capacity and/or electric energy under the terms and conditions set forth below.

BUYER:	Shell Energy North America (US), L.P.
SELLER:	CITY OF IDAHO FALLS
PRODUCT/FIRMNESS:	WSPP Sch. C
TERM:	07/01/2015 through 09/30/2015
QUANTITY:	10 Mws of energy per hour
TOTAL MWH:	9,760
PRICE:	$ 21.000/Mwhr Fixed
DELIVERY POINT(S):	BPA
SCHEDULING:	Monday through Saturday, Hours ending 0100 through 0600 Excluding NERC Holidays; Monday through Saturday, Hours ending 2300 through 2400 Excluding NERC Holidays; NERC Holidays, Hours ending 0100 through 2400; Sunday through Sunday, Hours ending 0100 through 2400 Excluding NERC Holidays
TIME ZONE:	PPT

SUBJECT TO MASTER AGREEMENT DATED: WSPP as amended 01/01/2014

No Challenges; Defense of Agreement. Neither Party will exercise any of its respective rights under Section 205 or Section 206 of the Federal Power Acts to challenge or seek to modify any of the rates or other terms and conditions of this Agreement.

Mobile-Sierra.

(a) Absent the agreement of all parties to the proposed change, the standard of review for changes to any portion of this Agreement or any Transaction entered into hereunder proposed by a Party, a non-party, or the Federal Energy Regulatory Commission acting sua sponte, shall be the "public interest" standard of review set forth in United Gas Pipe Line Co. v. Mobile Gas Service Corp., 350 U.S. 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956) (the "Mobile-Sierra" doctrine).

(b) The Parties agree that, if and to the extent that FERC adopts a final Mobile-Sierra policy statement in Docket No. PL02-7-000 ("Final Policy Statement"), which requires that, in order to exclude application of the "just and reasonable" standard under Sections 205 and 206 of the Federal Power Act, the Parties must agree to language which varies from that set forth in clause (a) immediately above, then, without further action of either Party, such Section shall be deemed amended to incorporate the specific language in the Final Policy Statement that requires the "public interest" standard of review.

Companies within the Shell Trading business may monitor and record communications for legal, regulatory and/or business purposes. Such communications will be controlled by Shell Energy North America (US) LP on behalf of all Shell Trading entities within the United States and by Shell International Trading and Shipping Company Ltd for all other Shell Trading entities. Personal data is handled and protected in accordance with applicable data protection laws and relevant Shell policies and rules. Personal data may be disclosed to other Shell companies and to third party organizations providing services to the relevant Shell Company or as required by law.

Deal No. 2627278

This Confirmation sets forth the terms of the transaction into which the Parties have entered into and shall constitute the entire agreement between the Parties relating to the contemplated purchase and sale of electric energy and/or electric capacity please have this confirmation executed by an authorized representative or officer of your company and return via facsimile to (713)767-5414. If no facsimile objection to this Confirmation has been received by Shell Energy by facsimile transmission by 5:00 p.m., Houston, Texas time, five (5) business days after delivery of this Confirmation to the other Party by facsimile, then this Confirmation (i) shall be binding and enforceable against Counterparty and Shell Energy and (ii) shall be the final expression of all the terms hereof, regardless whether executed by the other Party.

CITY OF IDAHO FALLS		Shell Energy North America (US), L.P.	
By:	Bear Prairie	By:	John W. Pillion
Name:	Bear Prairie	Name:	John W. Pillion
Title:	Mgr	Title:	Confirmations Team Lead
Date:	1/6/15	Date:	01/06/2015

Idaho Falls Power

A Division of the City of Idaho Falls

"A community with its own kind of energy"

Reliable Public Power Provider

MEMORANDUM

TO: Honorable Mayor and City Council

FROM: Bear Prairie, Assistant General Manager

DATE: January 15, 2015

Re: **Consent Agenda** - BPA Contract Revision No. 1 to Exhibit D

Attached is a revision to Exhibit D of our Transmission Service Agreement, number 10TX-14692 with the Bonneville Power Administration. This revision updates our contact information for the agreement.

This revision has been reviewed by the City Attorney. Idaho Falls Power respectfully requests City Council approve the Revision and authorize the Mayor to execute the document.

BP/160

Cc: City Clerk
City Attorney
File

PO Box 50220
140 S Capital
Idaho Falls ID 83405

Phone: 208-612-8430
Fax: 208-612-8435
www.ifpower.org

EXHIBIT D, REVISION NO. 1
NOTICES

This Exhibit D, Revision No. 1 updates the contact information under sections 1 and 2, adds section 3 "Scheduling Agent" and replaces Exhibit D in its entirety.

1. **NOTICES RELATING TO PROVISIONS OF THE SERVICE AGREEMENT**
Any notice or other communication related to this Service Agreement, other than notices of an operating nature (section 2 below), shall be in writing and shall be deemed to have been received if delivered in person, by First Class mail, by facsimile or sent by overnight delivery service.

If to the Transmission Customer:

City of Idaho Falls
P.O. Box 50220
Idaho Falls, ID 83405-0220
Attention: Bear Prairie
Title: Assistant General Manager
Phone: (208) 612-8429
E-mail: BPrairie@ifpower.org

Secondary:
Attention: Jackie Flowers
Title: General Manager
Phone: (208) 612-8438
E-mail: jdflowers@ifpower.org

If to the Transmission Provider:

Attention: Transmission Account Executive for City of Idaho Falls – TSE/TPP-2
Phone: (360) 619-6016
Fax: (360) 619-6940

If by First Class Mail:
Bonneville Power Administration
P.O. Box 61409
Vancouver, WA 98666

If by Overnight Delivery Service:
Bonneville Power Administration – TSE/TPP-2
7500 NE 41st Street, Suite 130
Vancouver, WA 98662

2. **NOTICES OF AN OPERATING NATURE**
Any notice, request, or demand of an operating nature by the Transmission Provider or the Transmission Customer shall be made either orally or in writing by First Class mail or by facsimile.

If to the Transmission Customer Primary:
City of Idaho Falls
P.O. Box 50220
Idaho Falls, ID 83405-0220
Attention: Bear Prairie
Title: Assistant General Manager
Phone: (208) 612-8429
E-mail: BPrairie@ifpower.org

If to the Transmission Provider:

Bonneville Power Administration
Idaho Falls District – TFIG-IDAHO FALLS
1350 Lindsay Boulevard
Idaho Falls, ID 83402
Attention: Chief Substation Operator III
Phone: (208) 612-3160

Secondary:
Attention: Jackie Flowers
Title: General Manager
Phone: (208) 612-8438
E-mail: jdflowers@ifpower.org

EMERGENCY ONLY
Primary:
Dittmer Dispatch
Phone: (360) 418-2281
Fax: (360) 418-2938

Secondary:
Munro Dispatch
Phone: (509) 465-1820

3. SCHEDULING AGENT
BPA Power Services.

The Transmission Customer has designated the following scheduling agent:

Utah Associated Municipal Power Systems
155 North 400 West, Suite 480
Salt Lake City, Utah 84103
Attention: Dax Gray
Title: Director of Real Time Operations
Phone: (801) 214-2687
Fax: (801) 561-2687
E-mail: dax@uamps.com
Scheduling Agent for all IFP resources.

4. SIGNATURES
The Parties have executed this Exhibit as of the last date indicated below.

CITY OF IDAHO FALLS	UNITED STATES OF AMERICA Department of Energy Bonneville Power Administration
By: _____	By: _____
Name: _____ *(Print/Type)*	Name: Angela DeClerck *(Print/Type)*
Title: _____	Title: Senior Transmission Account Executive
Date: _____	Date: _____

CCM: 14692_ExhD_ Rev1

REGULAR AGENDA:

CITY OF IDAHO FALLS

P.O. BOX 50220
IDAHO FALLS, IDAHO 83405-0220

MUNICIPAL SERVICES

PHONE: (208) 612-8249
FAX: (208) 612-8148

January 15, 2015

MEMORANDUM

TO: Honorable Mayor and City Council

FROM: Craig Rockwood, Municipal Services Director

SUBJECT: **BID IF-15-04 ONE (1) NEW GENERATION STEP-UP POWER TRANSFORMER**

Attached for your consideration is the tabulation for the above subject bid.

It is the recommendation of Municipal Services and of Idaho Falls Power to accept the lowest responsible bid of WEG Electric Corporation to furnish a Voltran Generation Step-up Transformer for the amount of $150,000.00.

Respectfully,

CRAIG ROCKWOOD
MUNICIPAL SERVICES DIRECTOR

CR/ch
Attachment

CITY OF IDAHO FALLS

Date of Bid Opening: January 12, 2015

Bid IF-15-04 Tabulation for Generation Step-upTransformers

		1. HD Supply Power Systems	2. WEG Electric Corp.	3. Channel E, Inc.	4. Riter Engineering
	City	Billings, MT	Duluth, GA	Katy, TX	SLC, UT
	Manufacturer	R.E. Uptegraff	Voltran	Cheryong Electric	Pacific Crest
	Addendum Attached	x	x	x	x
Quantity	46Y/26.56kV-2.4kV 4 MVA Power Transformer				
1	Price/Each	$206,600.00	$150,000.00	$151,400.00	$299,995.00
	Other Costs	$0.00	$0.00	$18,700.00	$0.00
	Option 1 -Total Cost with Delivery within 26 Weeks	$215,000.00	$150,000.00	$170,100.00	$299,995.00
	Option 2 - Total Cost with Delivery within 40 Weeks	$206,600.00	$150,000.00	$170,100.00	$299,995.00

City of Idaho Falls
PUBLIC WORKS DIVISION

P.O. BOX 50220
IDAHO FALLS, IDAHO 83405
www.idahofallsidaho.gov

MEMORANDUM

To: Honorable Mayor & City Council

From: Chris H Fredericksen, Public Works Director

Date: January 14, 2015

Subject: **BID AWARD – WELL 3 REHABILITATION**

On January 13, 2015, bids were received and opened for the Well 3 Rehabilitation project. A tabulation of bid results is attached.

Public Works recommends approval of the plans and specifications, award to the lowest responsive, responsible bidder, 3H Construction LLC in an amount of $45,410.00 and, authorization for the Mayor and City Clerk to sign contract documents.

Respectfully,

Chris H Fredericksen

Chris H Fredericksen, P.E.
Public Works Director

CF:jk

Attachment

c: Mayor
Council
Fugal

2-37-24-1-WTR-2015-08

2015-7

City of Idaho Falls

Engineering Department

Bid Tabulation

Project..... Well 3 Rehabilitation

Submitted K.J. Fugal, P.E., PTOE

Number..... 2-37-24-1-WTR-2015-08

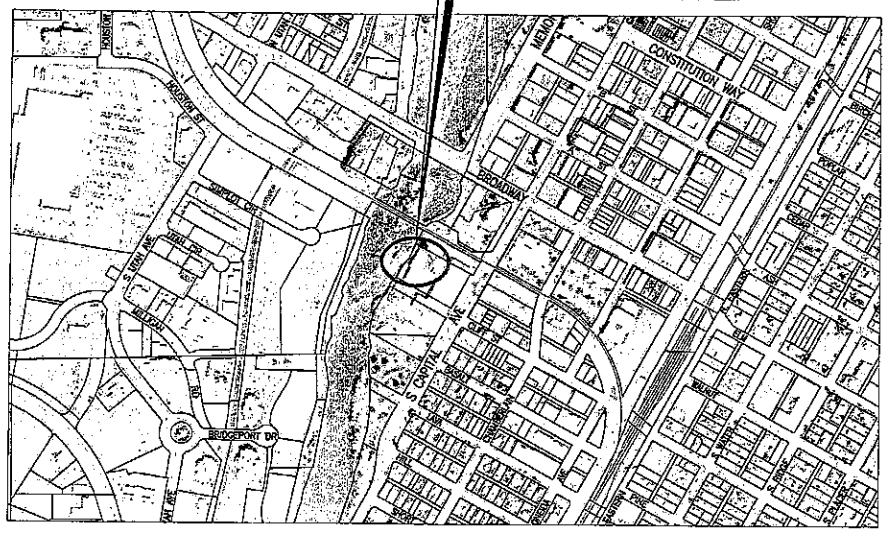
Date..... January 13, 2015

Item Number	Description	Estimated Quantity	Unit	Engineer's Estimate		3H Construction, LLC		Electrical Equipment Company, Inc.		Alan Clark Construction, LLC	
				Unit Price	Total Amount	Unit Price	Total Amount	Unit Price	Total Amount	Unit Price	Total Amount
	SPECIAL PROVISIONS										
SP - 1	Remove & Reinstall Electric Vertical Shaft Motor & Well Discharge Head	1	L.S.	$3,500.00	$3,500.00	$8,800.00	$8,800.00	$2,543.00	$2,543.00	$5,383.00	$5,383.00
SP - 2	Remove & Reinstall 16" Flanged Well Column Pipe & 2-7/16" Shaft Assembly	165	L.F.	$130.00	$21,450.00	$54.00	$8,910.00	$267.45	$44,129.25	$248.37	$40,981.05
SP - 3	Remove, Inspect & Reinstall Well Vertical Turbine Pump Bowl Assembly	1	L.S.	$5,000.00	$5,000.00	$8,000.00	$8,000.00	$6,060.00	$6,060.00	$7,836.00	$7,836.00
SP - 4	Video Log Well	1	L.S.	$1,500.00	$1,500.00	$1,000.00	$1,000.00	$1,000.00	$1,000.00	$999.00	$999.00
SP - 5	Furnish New 5-Foot Well Column Pipe Segment for 16" Flanged Column Pipe	10	L.F.	$200.00	$2,000.00	$420.00	$4,200.00	$599.20	$5,992.00	$688.00	$6,880.00
SP - 6	Furnish New 10-Foot Well Column Pipe Segment for 16" Flanged Column Pipe	20	L.F.	$300.00	$6,000.00	$345.00	$6,900.00	$375.00	$7,500.00	$388.50	$7,770.00
SP - 7	Furnish New 5-Foot Line Shaft Segment for 2-7/16" Line Shaft	10	L.F.	$275.00	$2,750.00	$320.00	$3,200.00	$140.00	$1,400.00	$136.64	$1,366.40
SP - 8	Furnish New 10-Foot Line Shaft Segment for 2-7/16" Line Shaft	20	L.F.	$350.00	$7,000.00	$220.00	$4,400.00	$120.00	$2,400.00	$103.00	$2,060.00
TOTAL					$49,200.00		$45,410.00		$71,024.25		$73,275.45

WELL 3 REHABILITATION

PROJECT # 2-37-24-1-WTR-2015-08

PROJECT LOCATION



REVIEWED BY: WATER DEPARTMENT

DATE: 12-12-14

PROFESSIONAL ENGINEER
REGISTERED
12/16/2014
9247
STATE OF IDAHO
KENT J. FUGAL

MAYOR
REBECCA L. NOAH CASPER

CITY COUNCIL

BARBARA DEE EHARDT
THOMAS HALLY
MICHAEL A. LEHTO
ED MAROHN
SHARON D. PARRY
DEE DAVID WHITTIER

CITY ENGINEERING DEPARTMENT

CITY PUBLIC WORKS DIRECTOR
CHRIS H FREDERICKSEN, P.E.

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

2015

AS BUILT:

SCALE SHOWN IS FOR SHEET 11 x 17 ONLY

CITY OF IDAHO FALLS

ENGINEERING DEPARTMENT

WELL 3 REHABILITATION

CHK BY: K.J.F.	DWG BY: Y.G.	DWN BY: Y.G.	
FILE NO. 2-37-24-1-WTR-2015-08	DATE PLOTTED 12-8-14	SHEET NO. 1 OF 2	
DWG NO. Titlepge			

City of Idaho Falls
PUBLIC WORKS DIVISION

P.O. BOX 50220
IDAHO FALLS, IDAHO 83405
www.idahofallsidaho.gov

MEMORANDUM

To: Honorable Mayor & City Council

From: Chris H Fredericksen, Public Works Director

Date: January 14, 2015

Subject: **BID AWARD – WELL 15 FENCING**

On January 13, 2015, bids were received and opened for the Well 15 Fencing project. A tabulation of bid results is attached.

Public Works recommends approval of the plans and specifications, award to the lowest responsive, responsible bidder, Eagle Rock Blasting Incorporated in an amount of $34,245.80 and, authorization for the Mayor and City Clerk to sign contract documents.

Respectfully,

Chris H Fredericksen, P.E.
Public Works Director

CF:jk

Attachment

c: Mayor
Council
Fugal

2-38-28-4-WTR-2014-43

2015-6

City of Idaho Falls

Engineering Department

Bid Tabulation

Project..... Well 15 Fencing

Number..... 2-38-28-4-WTR-2014-43

Submitted Kent J. Fugal, P.E., PTOE

Date..... January 13, 2015

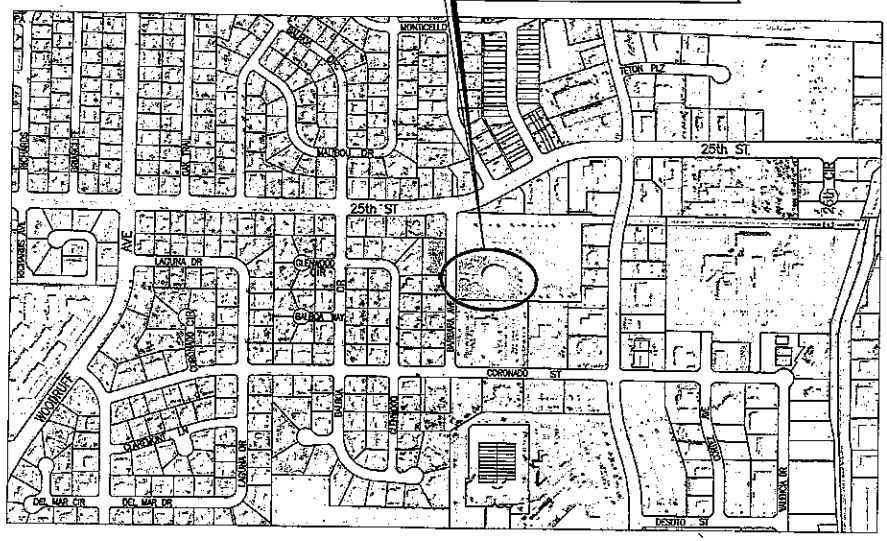
Item Number	Description	Estimated Quantity	Unit	Engineer's Estimate		Eagle Rock Blasting, Inc.		Alan Clark Construction, LLC		Thompson Paving, Inc.		Boise River Fence, Inc.	
				Unit Price	Total Amount	Unit Price	Total Amount	Unit Price	Total Amount	Unit Price	Total Amount	Unit Price	Total Amount
	INCIDENTAL CONSTRUCTION												
409.05.2	6' Chain Link Fence (NO Slats)	1140	L.F.	$40.00	$45,600.00	$27.47	$31,315.80	$35.46	$40,424.40	$36.95	$42,123.00	$57.70	$65,778.00
409.05.3	3' x 6' Pedestrian Gate (NO Slats)	2	EACH	$800.00	$1,600.00	$540.00	$1,080.00	$326.00	$652.00	$800.00	$1,600.00	$500.00	$1,000.00
409.05.4	16' x 6' Vehicular Gate (NO Slats)	1	EACH	$1,800.00	$1,800.00	$1,800.00	$1,800.00	$1,668.00	$1,668.00	$2,500.00	$2,500.00	$1,000.00	$1,000.00
	PORTLAND CEMENT CONCRETE												
509.03.2	4" Flatwork	1	S.Y.	$150.00	$150.00	$50.00	$50.00	$448.00	$448.00	$688.50	$688.50	$1,000.00	$1,000.00
TOTAL					$49,150.00		$34,245.80		$43,192.40		$46,911.50		$68,778.00

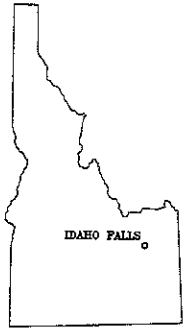
Two additional bids received were determined to be non-responsive.

WELL 15 FENCING

PROJECT # 2-38-28-4-WTR-2014-43

PROJECT LOCATION





REVIEWED BY: WATER DEPARTMENT

DATE: 12-12-14

PROFESSIONAL ENGINEER REGISTERED 12/18/2014 9247 STATE OF IDAHO KENT J. FUGAL

MAYOR

REBECCA L. NOAH CASPER

CITY COUNCIL

BARBARA DEE EHARDT
THOMAS HALLY
MICHAEL A. LEHTO
ED MAROHN
SHARON D. PARRY
DEE DAVID WHITTIER

CITY ENGINEERING DEPARTMENT

CITY PUBLIC WORKS DIRECTOR
CHRIS H FREDERICKSEN, P.E.

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

2015

AS BUILT:

SCALE SHOWN IS FOR SHEET 11 x 17 ONLY

CITY OF IDAHO FALLS

ENGINEERING DEPARTMENT

WELL 15 FENCING

CHK BY: K.J.F.	DWG BY: Y.G.	DES BY: Y.G.	
FILE NO. 2-38-28-4-WTR-2014-43	DATE PLOTTED: 12-8-14	SHEET NO. 1 OF 2	
DWG NO. Titlepge			

IDAHO FALLS
PARKS & RECREATION
a program for everyone
520 Memorial Drive • P.O. Box 50220 • Idaho Falls, ID 83405 • 208-612-8480

MEMORANDUM

To: Honorable Mayor and City Council

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

Date: January 22, 2015

Subject: **TAUTPHAUS PARK ARCADE CONCESSION AGREEMENT RENEWAL**

Mayor and Council:

Attached for your consideration is the Tautphaus Park Arcade Concession Agreement. This one (1) year agreement has been reviewed and approved by the City attorney.

The Parks and Recreation Division respectfully requests approval and authorization for the Mayor and City Clerk to sign and execute said agreement with LOML, L.L.C d/b/a Funland.

Respectfully,

Greg A Weitzel
Division of Parks and Recreation

laj

Attachment

cc: Mayor
City Clerk
File

TAUTPHAUS PARK ARCADE CONCESSION AGREEMENT BETWEEN CITY OF IDAHO FALLS, IDAHO AND LOML, L.L.C.

THIS TAUTPHAUS PARK ARCADE CONCESSION AGREEMENT BETWEEN CITY OF IDAHO FALLS, IDAHO AND LOML, L.L.C. (hereinafter "Agreement"), is made and entered into this _____ day of _____, 2015, by and between the City of Idaho Falls, Idaho, a municipal corporation of the State of Idaho, P.O. Box 50220, Idaho Falls, Idaho 83405 (hereinafter "CITY"), and LOML, L.L.C. d/b/a Funland, a limited liability company, 1680 Lindsey Blvd., Idaho Falls, Idaho (hereinafter "COMPANY").

WITNESSETH:

For and in consideration of the mutual promises, covenants and conditions set forth herein, the parties agree as follows:

1. Grant of Right or License. CITY hereby grants and conveys to COMPANY the right or license to operate an outdoor amusement park and concession facility within the area shown on Exhibit "A" attached hereto and by this reference made a part hereof. COMPANY shall also have the exclusive right to operate outdoor amusement devices and equipment and other appurtenant machinery, and to sell and purvey food, soft drinks, and confections within such area. Nothing herein shall be construed or deemed to allow COMPANY to conduct any other business or activity without prior written permission of the CITY.

2. Term. The term of this Agreement is for one (1) year commencing on February 1, 2015, and terminating on January 31, 2016.

3. Hours of Operation. COMPANY shall operate its business during the following hours and season.

    a. Pre-season: COMPANY agrees to operate the amusement park and log building concessions on the weekends beginning the first full weekend in May through Memorial weekend from 12:00 p.m. until 7:00 p.m., each day. COMPANY agrees to open during the week by reservation only.

    b. Regular Season: COMPANY agrees to operate the amusement park and log building concessions beginning Memorial Day weekend through Labor Day weekend from 11:30 a.m. until 7:00 p.m. Monday through Saturday and 12:00 p.m. until 7:00 p.m. on Sunday.

    c. Post Season: COMPANY agrees to operate the amusement park and log building

concessions on the weekends beginning Labor Day weekend through the last weekend in September from 12:00 pm. until 7:00 p.m. local time each day. COMPANY agrees to open during the week by reservation only.

d. Inclement Weather: Due to inclement weather or other unforeseen emergency, or related circumstances, and in the application of best business practices, COMPANY may decide to close operations temporarily or for the day, at any time during the season. In the event such a decision is made by COMPANY, COMPANY shall contact Parks and Recreation Division at (208) 612-8480 to inform CITY of COMPANY's decision.

4. Operation of Business. COMPANY agrees to operate its business in a lawful and courteous manner, keep its equipment in a safe and good operating condition, and, keep the premises in a clean, orderly and sanitary condition. Without in any way limiting the foregoing, COMPANY shall:

a. Keep the entire premises free of unsecured trash, debris and graffiti at all times during operating hours.

b. Ensure the chain-link and other fencing surrounding the premises is properly maintained and kept free of rust, tears, rips and cracks. All fabric, top rails, top caps, hinges and gates shall be kept in good working condition and not allowed to become unsightly

c. Ensure the interior and exterior of all structures upon the premises are regularly painted and kept free of flaked, peeling or chipped paint, loose boards, protruding screws or nails.

d. Keep the miniature golf course and appurtenant score boards free of debris, trash, trip hazards, tears, rips in putting services, flaked, peeling or chipped paint, loose boards, protruding screws or nails, shall be promptly repaired.

e. Keep all walking paths or areas open to the public free of trash, debris, and other clutter.

f. Regularly maintain all amusement rides, equipment or machinery used in conjunction therewith and ensure their safe operating condition and neat and attractive appearance.

g. Keep the roof, exterior walls, lighting and interior improvements of the half-

dome train storage building clean and in a good state of repair, free from flaked, peeling or chipped paint, loose board, rotting wood, protruding screws and nails.

All of such work shall be completed prior to the commencement of the Pre-season and shall be continued thereafter, as necessary, throughout the remainder of the operating season (including the Post Season).

5. Covenant Against Competition: Amusements. CITY agrees that it does not permit or allow any other private commercial enterprise or non-profit organization to install, construct, or operate any other mechanical outdoor amusement devices or equipment of a kind substantially similar to the outdoor amusement devices now utilized by COMPANY, within the public park known as Tautphaus Park. Nothing herein shall be deemed to prevent or prohibit CITY from installing or permitting others to install any playground equipment or amusement devise for use by the general public without charge.

6. Covenant Against Competition: Food and Drink Concessions. CITY agrees that it will not permit nor allow any other private commercial enterprise or non-profit organization to construct or operate any food, beverage, or confection concession-stand or facility within the area shown in Exhibit "A" (excluding the Ice Rink/Picnic Shelter and Zoo) from the first Saturday in April through the last Sunday in September of each year during the term of this Agreement. Nothing herein shall preclude or prohibit any person or firm from catering food, beverages, drinks or confections to any baseball team, athletic organization, religious, benevolent or charitable entity, civic organization, or other youth or business group or organization, provided food, beverages or confections are not sold commercially to spectators or other persons not affiliated with, employed by or directly associated with the business, group or organization sponsoring said event, nor shall anything herein preclude the charging of a fee for general admission to such events. Nothing herein shall preclude the sale or dispensing of food, beverages or confections to persons attending or participating in any special event approved by CITY Director of Parks and Recreation and sponsored by or for the benefit of any religious, charitable, benevolent organization, youth group or civic organization or public entity or association, including CITY, provided such event does not exceed a period of three (3) consecutive days.

7. Rules and Regulations, and Compliance With Law. COMPANY agrees to abide by all reasonable rules and regulations promulgated by the Director of Parks and Recreation, all ordinances of the CITY, and all applicable state or federal statutes, regulations or laws, including best practices provided by ASTM, IAPA and ANSI standards. COMPANY shall not permit nor allow any illegal action, practice or enterprise to be conducted on the premises. COMPANY further agrees to abide by all laws and ordinances of CITY and the State regulating the sale of alcoholic beverages within CITY, as the same now exist or as may be lawfully adopted hereafter. Nothing herein shall be deemed to grant the COMPANY a CITY license under such laws or ordinances.

8. Rent. COMPANY agrees to pay CITY as a use fee or compensation for the rights granted herein the sum of five percent (5%) of the gross receipts derived by COMPANY from the conduct of its business and use of the rights granted herein. For the purposes hereof, the term "gross receipts" shall mean all revenues and receipts from all sources of any kind and nature except for the state sales tax. All rent shall be due and payable on the 10th day of the month following the month in which the gross receipts are received by COMPANY. All rent shall be paid to the offices of the City Treasurer, P.O. Box 50220, Idaho Falls, Idaho, 83405. Simultaneously with the delivery of such rent payment, COMPANY shall deliver a copy of reports filed with the Idaho State Tax Commission reflecting the daily gross receipts collected and derived from the operation of the business for each operating day during the month for which such rent is payable.

9. Installation of New Devices. COMPANY agrees that it shall not install, replace, or remove any ride, amusement device or equipment without prior written approval of CITY Director of Parks and Recreation.

10. Record Keeping.

    a. COMPANY shall keep records for all attractions as follows:

        1. Any maintenance or rehabbing of the attractions or facilities, plus all documentation of daily preventive maintenance checks preformed;

        2. Any medical injuries (whether the injury is considered a minor to major injury);

        3. All health codes are being followed and being maintained in the concessions operations;

        4. Calendar of events and groups to assist in coordinating park traffic needs.

    b. CITY reserves the right to hire a third party organization to inspect COMPANY facilities, records and equipment during operating season. COMPANY will participate in costs associated with inspection and pay up to fifty percent (50%) of associated costs. CITY further reserves the right to require no less than two (2) inspections per operating season.

11. Examination of Books and Records. CITY shall have at all reasonable times and places, the right to examine all financial records of the COMPANY reflecting COMPANY's daily gross receipts or otherwise containing supporting data upon which the report submitted to the Idaho State Tax Commission is based.

12. Company Staff.

a. COMPANY shall provide and supervise an adequate number of trained employees to render good service and perform necessary maintenance on attractions and on the operations. COMPANY shall provide and supervise an adequate number of trained employees to clean, mop, sanitize, stock, empty trash cans and place trash can liners in cans at the park seating area located on agreed upon the property. COMPANY agrees that it shall not hire or retain any employee who has been convicted of any crime of violence, or crime involving theft, or any felony, within the ten (10) previous years.

b. COMPANY shall designate one (1) member of their staff as the Facility Manager with whom CITY may communicate with on a daily basis. The Facility Manager shall devote substantial time and attention to the operation and be directly involved in all operations. In addition, the Facility Manager shall be fully acquainted with all operations and be familiar with the terms and conditions of this Agreement.

c. COMPANY shall furnish courteous, efficient and quality service to meet the reasonable demands of CITY and all COMPANY customers. COMPANY shall control, and is responsible for, the conduct, demeanor and appearance of its officers, agents, employees, representatives, guests, contractors and others while doing business as provided herein.

d. CITY may at any time give COMPANY written or verbal notice to the effect that the conduct or action of any designated employee of COMPANY is, in the reasonable belief of CITY, detrimental to the interest of the public patronizing. COMPANY will meet with CITY to consider the appropriate course of action with respect to such matter, and COMPANY shall take reasonable measures to assure CITY that the conduct and activities of COMPANY employees will not be detrimental to the interest of the public.

e. COMPANY shall provide an alcohol, smoking and drug free zone, which includes employees being alcohol, smoking and drug free at all times.

13. City Staff.

a. CITY will support COMPANY where practicably providing courteous and professional assistance when requested. CITY will communicate with COMPANY regarding birthday parties, group events and after-hour events at the park, where practicable.

b. CITY will attempt to address any issues presented to CITY by COMPANY regarding needs and will work with COMPANY to resolve issues in a timely manner.

c. CITY will endeavor to meet with COMPANY on a bi-monthly basis to discuss general COMPANY related items, events, parties and review operations.

14. Health Inspections. CITY may contact the Bonneville County Health Department and request an inspection of the log concessions building at any time or for any reason.

15. Insurance and Indemnification.

a. CITY shall be responsible for the following:

1. CITY may, at its sole discretion, maintain fire and property damage insurance for the log concession hut exclusive of the contents.

2. CITY shall have no obligation to maintain any property damage, fire or hazard insurance of any kind on any ride, amusement device or other equipment owned or operated by COMPANY.

b. COMPANY shall be responsible for the following:

1. COMPANY may, at its sole discretion, maintain fire and property damage insurance for the contents of the log concession hut and for the concession-stand and its contents.

2. COMPANY shall secure and maintain throughout the term hereof public liability insurance with a reliable insurance company authorized to do business within the State of Idaho, in an amount of not less than one million dollars ($1,000,000) single limit liability for personal injury, death and property damage. CITY shall be named as an additional insured under such policy. COMPANY further agrees to indemnify, save and hold harmless CITY from any and all claims, actions, suits, attorney fees, costs and expenses arising from or in any way connected with the COMPANY's operation of its business or use of the premises. COMPANY shall deliver to CITY a copy of a certificate of liability evidencing such insurance coverage prior to April 1 of each contract year during the term hereof. Notwith-standing the foregoing, nothing herein shall require COMPANY to indemnify or hold CITY harmless from any claim, action or suit arising from or in any way related to any act or omission of CITY or its agents, officers or employees.

c. Indemnification:

1. CITY, and its respective elected and appointed boards, officials, officers, agents, employees, and volunteers shall have no liability to COMPANY, or any other person or entity, and COMPANY shall indemnify, defend, protect, and hold harmless CITY from and against, any and all liabilities, claims, actions, causes of action, proceedings, suits, damages, judgments, liens, levies, costs, and expenses of whatever nature, including reasonable attorney's fees and disbursements (collectively "Claims"), which CITY may suffer or incur or to which CITY may become subject by reason of, or arising out of, any injury to or death of any person(s), damage to property, loss of use of property, economic loss, or otherwise occurring as a result of, or allegedly caused by, COMPANY's performance of, or failure to perform, any services under this Agreement, or by the neglect or willful acts or omissions of COMPANY, its agents, officers, directors, or employees, committed in performing any of the services under this Agreement.

2. If any action or proceeding is brought against CITY by reason of any of the matters against which COMPANY has agreed to indemnify CITY as provided above, COMPANY, upon notice from CITY, shall defend CITY at its expense by counsel acceptable to CITY, such acceptance not to be unreasonably withheld. CITY need not have first paid for any of the matters to which CITY are entitled to indemnification in order to be so indemnified. The limits of the insurance required to be maintained by COMPANY in this Agreement shall not limit the liability of COMPANY hereunder. The provisions of this section shall survive the expiration or earlier termination of this Agreement.

3. The provisions of this section do not apply to Claims occurring as a result of CITY's active negligence or acts of omission.

16. Utilities. CITY shall furnish all exterior security lighting for the premises; provided, however, COMPANY shall pay for all other electrical, gas, water, sewer, telephone, garbage or other utilities associated with the use by COMPANY of the premises and equipment thereon.

17. Pest Control. COMPANY shall maintain a valid contract from a certified pest control vendor to provide adequate pest control service for the inside of the log concession hut during the term of this Agreement. A copy of the pest control services agreement will be delivered to CITY on or before April 1 of each contract year.

18. Maintenance of the Premises and Improvements.

a. CITY shall be responsible for the following:

1. CITY shall be responsible for the maintenance of the roof, exterior walls, heating and cooling system and the ventilation hood on the fryer of the log concession hut located on the premises during off-season, pre-season and post-season.

2. Performance of adequate pest control on the outside of the log concession hut during the term of this agreement

3. Maintenance of the existing asphalt located within the boundaries of the COMPANY's chain link fence and along the perimeter of the log concession building. This does not preclude CITY from developing and implementing a landscaping plan outside of COMPANY's amusement park boundaries.

4. Maintenance of the roof, exterior walls, lighting, and other interior improvements of the log storage building located just west of the log concession building.

5. Watering and care of all trees adjacent to and within the perimeter of the amusement park. CITY will coordinate all tree trimming with COMPANY in order to minimize or avoid interruption to COMPANY's operations.

6. Maintenance of all access roads and sidewalks entering and exiting the immediate vicinity of the amusement park area.

7. Maintenance and repair of the overhead lighting.

8. Regularly maintain all picnic tables and benches free from broken boards, flaked, peeling or chipped pain and all bolts securely fastened.

b. COMPANY shall be responsible for the following:

1. COMPANY shall be responsible for maintenance of the roof, exterior walls, lighting, plumbing and other interior improvements of the concession hut during regular season.

2. Removal of all debris, waste, garbage generated from COMPANY's operations.

3. Maintenance of the roof, exterior walls, lighting, and other interior improvements of the half-dome miniature train storage building located just east of the log concession building.

4. COMPANY shall perform maintenance of any rides, amusements or other equipment owned or operated by the COMPANY. No deficient ride, amusement, or equipment shall be used prior to correction or repair if such use is reasonably likely to cause injury to any person.

5. COMPANY shall correct any deficiency revealed by the September 2014 International Leisure Consulting, Inc. inspection prior to operating business. Compliance shall be determined by a follow up inspection performed by International Leisure Consulting, Inc. The parties shall share the costs of the compliance inspection equally.

19. CITY Maintenance Inspections. CITY may conduct inspections of the amusement park premises at any time and shall provide COMPANY a copy of each inspection report within forty-eight (48) hours after the completion of the inspection. Such inspection report shall be in substantially the same form as Exhibit "B" attached hereto.

20. Vendors/Supplies. COMPANY shall be responsible for selecting COMPANY's own vendors. All such COMPANY-selected vendors shall be reputable and shall be selected not only because of price but also for quality and overall customer service. COMPANY shall provide CITY with a vendor list that includes contact information, once agreements with the vendors are signed.

21. Non-Exclusive Agreement. This Agreement is not an exclusive contract for such services between CITY and COMPANY. CITY may, at its sole option, contract with other entities for similar services at other CITY venues.

22. Signs, Advertisements and Marketing.

    a. COMPANY shall not erect, install, operate nor cause or permit to be erected, installed or operated in or upon property, any sign or other similar advertising device without having first obtained prior written consent from CITY. COMPANY, at its own expense, shall install a new design type or style of signage that shall be mutually agreed upon by COMPANY and CITY. Any such sign or similar advertising device erected, installed, or operated during the term of this

Agreement must be removed, at the sole cost of COMPANY, immediately upon termination or expiration of this Agreement. COMPANY will not advertise offsite businesses without prior, written approval of CITY.

b. COMPANY will develop a marketing campaign that references Tautphaus Park with CITY'S prior written consent.

c. With the exception of park and food or beverage carts located in the areas shown in Exhibit "A," COMPANY shall not display or sell merchandise outside of the defined exterior walls and permanent doorways of the areas shown in Exhibit "A." COMPANY shall not install any exterior lighting, amplifiers, or similar devices or use in or about the areas shown in Exhibit "A," any advertising medium which may be heard or seen outside the areas shown in Exhibit "A," such as flashing lights, searchlights, loudspeakers, phonographs, or radio broadcasts. COMPANY shall not install any window displays in the areas shown in Exhibit "A," without prior approval of CITY.

23. Quality of Products and Services.

a. In the course of discharging its responsibilities under the terms of this Agreement, COMPANY shall at all times ensure maintenance of the highest standards of quality in both the products offered for sale and in the service provided.

b. COMPANY shall offer for sale only foods and beverages of such quality as judged acceptable by CITY. All products shall be appealing in appearance. CITY shall have the right, at all times when employees or representatives of COMPANY are present, and whether facility is in operation or not, to inspect products to be sold by COMPANY, and approve or reject them if they do not meet the requirements of this Agreement.

c. COMPANY shall furnish prompt, courteous, efficient, inoffensive, and quality service to meet the reasonable demands of CITY, and the public and patrons visiting facility. COMPANY shall furnish all authorized and/or required services on a fair, equal and non-discriminatory basis to all patrons.

d. COMPANY shall conduct its business in an orderly, cooperative and proper manner so as not to annoy, disturb, disrupt, offend or otherwise interfere with the on-going operation of the park and/or CITY's patrons and employees.

24. Non-Exclusive Agreement. This Agreement is not an exclusive contract for such services between CITY and COMPANY. CITY may, at its sole option, contract with other entities for similar services at other CITY venues.

25. Uniforms. COMPANY employees shall be in uniform, or other clothing or markings, that adequately identifies COMPANY employees at all times during operating hours. COMPANY shall consult with, and obtain prior approval from, CITY regarding any proposed uniform.

26. Subcontracting, Delegation and Assignment.

a. COMPANY shall not delegate, subcontract or assign its duties or rights hereunder, either in whole or in part, without the prior written consent of CITY; provided, however, that claims for money due or to become due to COMPANY from CITY under this Agreement may be assigned to a bank, trust company or other financial institution without such approval. Any proposed delegation, assignment or subcontract shall provide a description of the services covered, identification of the proposed assignee, delegee or subcontractor, and an explanation of why and how the same was selected, including the degree of competition involved. Any proposed agreement with an assignee, delegee or subcontractor shall include the following:

1. The amount involved, together with COMPANY's analysis of such cost or price;

2. A provision requiring that any subsequent modification or amendment shall be subject to the prior written consent of CITY; and

3. The requirement to hire only those persons authorized by federal law to work in the United States.

b. Any assignment, delegation or subcontract shall be made in the name of COMPANY and shall not bind or purport to bind CITY and shall not release COMPANY from any obligations under this Agreement including, but not limited to, the duty to properly supervise and coordinate the work of employees, assignees, delegees and subcontractors. No such assignment, delegation or subcontract shall result in any increase in the amount of total compensation payable to COMPANY under this Agreement.

27. Right of First Refusal. During the term of this Agreement, CITY shall have a Right of First Refusal for the purchase of the amusement devices and concession equipment utilized by COMPANY on the licensed premises. If COMPANY receives a *bona fide* offer from a third party for the purchase of all or any portion of the amusement devices or concession equipment, within ten (10) days of receiving said offer, COMPANY shall give CITY written notice thereof and will send to CITY a copy of the offer and proposed purchase agreement outlining the terms of sale to said third party. COMPANY further agrees that it will not accept such offer without full and complete compliance with the terms and conditions of this section.

CITY shall have ten (10) days following the date COMPANY first physically delivers such proposed purchase agreement to decide whether to purchase the amusement devices and concession equipment from COMPANY at the same price and on the same terms as contained in the proposed purchase agreement.

If CITY desires to purchase such devices and equipment in accordance with the terms and conditions of such offer, CITY shall, within said ten (10) day period deliver to COMPANY written notice of its intend to exercise this Right of First Refusal. Within thirty (30) days after delivery of such notice, the parties shall mutually execute a written agreement memorializing the terms and conditions of such agreement. If CITY fails to so exercise this Right of First Refusal, COMPANY shall be at liberty to enter into a contract for the sale of the amusement devices and concession equipment with the original offering party on the same terms and conditions set forth in the offer delivered to CITY.

28. Termination. In the event COMPANY shall file a petition for bankruptcy or have filed against it any such petition, undertake any reorganization of creditors, or fail to substantially conduct business upon the leased premises for ten (10) or more consecutive days during the summer season (April through September, inclusive), excluding CITY authorized closures or closures due to weather or other circumstances not in COMPANY's control, this Agreement may be terminated by CITY upon three (3) days written notice delivered to COMPANY.

29. Removal of Personal Property Upon Termination. In the event this Agreement is terminated by CITY or upon the expiration of the original term of this Agreement, COMPANY shall promptly surrender possession of the premises to CITY on or before midnight of the day of such termination and shall, within one hundred twenty (120) days after such termination date, remove all personal property, equipment and appurtenant machinery owned by COMPANY.

30. Default. If COMPANY fails to abide by contract and/or line items identified in this Agreement, COMPANY will be considered to have defaulted on this Agreement. CITY will communicate with twenty-four (24) hours of notice of any default. COMPANY will have forty-eight (48) hours to comply by curing the breach of this Agreement.

31. Assignment Prohibited. COMPANY shall not sell, convey, lease, sub-lease, encumber or transfer this Concession Agreement, or any of the rights granted herein, to any other party or entity without the express written consent of CITY, which consent shall not be unreasonably withheld. Nothing herein shall be construed as or deemed to be consent on the part of CITY to the filing of any lien or encumbrance by any third party against the premises which are the subject of this Agreement.

32. Relationship between the Parties. Nothing herein shall be construed as or be deemed to create any partnership, joint enterprise or undertaking between the parties and the parties shall be deemed to be independent contractors with respect to each other. Neither party shall have any right or authority to act as an agent or representative of the other.

33. Notices. All notices required or permitted by this Agreement shall be mailed to the parties at the following addresses:

City of Idaho Falls Attn: Parks & Recreation Director P.O. Box 50220 Idaho Falls, Idaho 83405	LOML, L.L.C. d/b/a Funland Ann: Ann Rehnberg 1680 Lindsey Blvd. Idaho Falls, Idaho 83402

All notices shall be deemed delivered upon the deposit thereof in the U.S. Mail, certified mail return receipt requested, postage prepaid, addressed to the receiving party at the address set forth above or such other address which has been given in writing to the sending party.

34. Attorney Fees. In the event it becomes necessary to enforce the terms and provisions hereof, the defaulting party agrees to pay the reasonable attorney's fees and costs of the prevailing party.

35. Complete Agreement. This writing evidences the complete and final agreement between the parties, and no other representation, covenant, promise or statement of the parties shall be binding except as expressly set forth herein.

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

ATTEST:

"CITY"
City of Idaho Falls, Idaho

By_____
Rosemarie Anderson, City Clerk

By_____
Rebecca L. Noah Casper, Mayor

"COMPANY"
LOML, L.L.C. d/b/a Funland

By_____
Ann Rehnberg, Owner

STATE OF IDAHO)
) ss.
County of Bonneville)

On this _____ _____day of January, 2015, before me, the undersigned, a notary public for Idaho, personally appeared Rebecca L. Noah Casper, known or identified to me to be the Mayor of the City of Idaho Falls, Idaho, the municipal corporation that executed the foregoing document, and acknowledged to me that she is authorized to execute the same for and on behalf of said City.

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

_____
Notary Public of Idaho
Residing at: _____
My Commission Expires:_____

(Seal)

STATE OF IDAHO)
) ss:
County of Bonneville)

On this 20th day of January, 2015, before me, the undersigned, a notary public, in and for said State, personally appeared Ann Rehnberg, known or identified to me to be the Owner of LOML, L.L.C. d/b/a Funland, an Idaho company, and whose name is subscribed to the within instrument and acknowledged to me that she is authorized to execute the same for and on behalf of said _____.

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

Lisa A. Jones
Notary Public of Idaho
Residing at: City of Idaho Falls
My Commission Expires: 6-5-19

(Seal) LISA A. JONES
Notary Public
State of Idaho

IDAHO FALLS
PARKS & RECREATION
a program for everyone
520 Memorial Drive • P.O. Box 50220 • Idaho Falls, ID 83405 • 208-612-8480

MEMORANDUM

To: Honorable Mayor and City Council

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

Date: January 22, 20154

Subject: **CHANGE ORDER #1 – ROCK SOLID LANDSCAPING AND DESIGN PROFESSIONAL SERVICES AGREEMENT**

Mayor and Council:

On May 22nd, 2014 a Professional Services Agreement was entered into between the City of Idaho Falls and Rock Solid Landscaping Design and Construction for construction management services of the Rock Gardens Phase 2 Project.

Due to additional services performed beyond the original scope of work, the Division of Parks and Recreation respectfully requests an increase in the contract amount of $10,560.00, bringing the original award of $60,000.00 to a total of $70,560.00, and requests authorization for the Mayor and City Clerk to accept the executed contract as written.

Respectfully,

Greg A. Weitzel, MS, CPRP
Division of Parks and Recreation

laj

Attachment

c: Mayor
City Clerk
File

IDAHO FALLS
PARKS & RECREATION
a program for everyone
520 Memorial Drive • P.O. Box 50220 • Idaho Falls, ID 83405 • 208-612-8480

MEMORANDUM

To: Honorable Mayor and City Council

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

Date: January 22, 2015

Subject: **AMENDED GOLF FACILITY CONCESSION AGREEMENT IDAHO SERVICE VENDING**

Mayor and Council:

The Parks and Recreation Division respectfully requests authorization to enter into an Amended Agreement with Idaho Service Vending for the purpose of adding a full liquor license to the Pinecrest location which can then be used at the Sand Creek and Sage Lakes locations as needed for special events through a liquor catering permit. This agreement has been reviewed and approved by the City Attorney.

The Parks and Recreation Division respectfully requests approval and authorization for the Mayor and City Clerk to sign and execute said agreement.

Respectfully,

Greg A Weitzel
Division of Parks and Recreation

laj

Attachment

cc: Mayor
City Clerk
File

AMENDED GOLF FACILITY CONCESSION AGREEMENT BETWEEN THE CITY OF IDAHO FALLS, IDAHO AND SERVICE VENDING

THIS AMENDED GOLF FACILITY CONCESSION AGREEMENT BETWEEN THE CITY OF IDAHO FALLS, IDAHO AND SERVICE VENDING (hereinafter "Amended Golf Facility Concession Agreement"), is made and entered into this _____ day of _____, 2014, by and between the City of Idaho Falls, Idaho, a municipal corporation of the State of Idaho, P.O. Box 50220, Idaho Falls, Idaho 83405 (hereinafter "CITY"), and SERVICE VENDING OF IDAHO, INC., an Idaho corporation, 1275 Mercury Avenue, Idaho Falls, Idaho 83402 (hereinafter "SV").

WITNESSETH:

For and in consideration of the mutual promises, covenants and conditions set forth herein, the parties agree as follows:

1. Premises. CITY hereby leases to SV all of those certain properties described in this Amended Golf Facility Concession Agreement, together with those certain rooms and space located in the Southwest corner of the Pinecrest Golf Course Clubhouse; the refreshment stand located in the area between the ninth (9) and thirteenth (13) greens of Pinecrest Golf Course; the café at Sandcreek Golf Course; and the café at Sage Lakes Golf Course (hereinafter "Leased Properties") and other areas as approved by the Director of Parks and Recreation and/or his or her designee.

2. Term. The term of this Amended Golf Facility Concession Agreement shall commence on March 1, 2014, and shall terminate on October 31, 2016. In the event the golf season is extended by CITY, CITY shall have the right to require SV to keep the Leased

Properties open during such extended season, provided, however in such event, such extension shall not cause or require any increase in the base rent as set forth in Section 3A of this Amended Golf Facility Concession Agreement.

3. Rent.

A. SV agrees to pay CITY rent for such Leased Properties and facilities in the amount of five percent (5%) of SV's monthly gross receipts derived from the conduct of the Leased Properties, food and beverage cart, vending machines and other business upon the Leased Properties.

B. The terms "gross receipts" for the purposes of computing the rent set forth above shall include all revenue or income from any source derived from the operation of the Leased Properties or any other activity required or allowed under this Golf Facility Concession Agreement, including but not limited to operation of vending machines, commissions on sales from suppliers, and any food or beverage cart or facility. Gross receipts include any that are earned, accrued, or vested during any term of this Golf Facility Concession Agreement, even if not paid to SV before expiration of such term. The term shall not include amounts derived from the collection of any sales taxes by SV in conjunction with such activities.

C. All monthly rent shall be paid on the tenth (10) day of each month following the end of each calendar month. All monthly rent shall be paid in cash, money order, certified check or company check at the office of the City Treasurer, 308 Constitution Way, Idaho Falls, Idaho (the "Treasurer"). SV shall provide and deliver to the Treasurer, simultaneously with the payment of said rent, an itemized statement of SV's monthly gross receipts. In the event SV fails to pay such rent prior to the tenth day of the month, SV shall also pay a late payment penalty in the amount of five percent (5%) of the amount then due. Interest shall also accrue on such unpaid rent at a rate of eighteen percent (18%) per annum, commencing upon such due date.

4. Financial Records. SV shall maintain financial records fully accounting for all gross receipts and disbursements related to all business conducted upon the Leased Properties, including sales taxes collected. All gross revenues and disbursements shall be segregated on a monthly basis in the following categories, namely:

A. Café or Restaurant

B. Vending Machines

C. Catering and Company Outings

D. Food and Beverage Cart

E. Other Activities/Business

SV agrees to permit CITY to inspect and/or audit SV's financial records upon reasonable notice to SV. SV agrees to keep all records in accordance with standard accounting and bookkeeping practices.

5. Hours of Operation. The Leased Properties shall be open to the golfing public coincidental with the seasonal opening of the respective golf course(s). During the golfing season, SV agrees to keep the Leased Properties open and to furnish food and service to the public from 7:00 a.m. to 9:00 p.m. local time on weekdays and 6:00 a.m. to 9:00 p.m. local time on weekends and holidays, except as otherwise approved by the Director of Parks and Recreation, and/or his or her designee. If ordered by the Director of Parks and Recreation, SV agrees to provide food and service at times other than at above hours to meet special situations.

Refreshment stands shall be open and in operation for service to the golfing public at 12:00 p.m. to 7:00 p.m. local time on all weekdays, excepting holidays and tournament days and from 10:00 a.m. to 6:00 p.m. local time on holidays, tournament days and weekends, except as

otherwise approved or modified by the Director of Parks and Recreation and/or his or her designee.

6. Food, Beverage Cart and Vending Services.

A. CITY agrees to provide, and SV agrees to operate, a food and beverage cart during golf tournaments, special events and special weekend activities, at such locations, times and manner as determined by the manager of the respective golf course(s). Such food and beverage cart shall be operated in a clean, sanitary and attractive condition and shall be fully compliant with all health and safety laws of the City of Idaho Falls and the State of Idaho.

B. In consideration of the foregoing, SV is hereby granted the exclusive right to place food and beverage vending machines within the Leased Properties and within five (5) feet of the exterior perimeter of the Leased Properties, provided such vending machines do not obstruct, impede or in any way interfere with the safe, sound and efficient operation of the golf course. CITY reserves the right to place non-food and beverage vending machines along the perimeter of the Leased Properties, as so designated, provided such vending machines do not otherwise impede or impair access to the Leased Properties by SV or its licensees.

C. SV agrees that all food and beverages sold from the beverage cart and vending machines shall be sold at reasonable prices comparable to prices charged at other public golf courses or public recreational facilities within southeast Idaho. SV further agrees to provide copies of SV's daily cash register receipts and Z tapes to CITY upon demand by CITY. Such records and/or receipts shall be provided during normal business hours and within three (3) days after delivery of a written or verbal request for such statements and invoices by CITY or its officers, agents or employees.

D. CITY agrees to allow sales and service of liquor by the drink in or on the premises of CITY Leased Properties covered by this Amended Golf Facility Lease Agreement, where proper licenses and sufficient insurance and assurances are provided by SV to CITY. Breach of any provisions in this Amended Golf Facility Lease Agreement shall result in the termination of permission to sell or serve liquor by the drink at the leased CITY facilities but shalll not, necessarily, terminate the remaining Lease provisions.

7. SV Staff.

A. SV shall provide and supervise an adequate number of trained employees to render good service and to perform necessary maintenance in the Leased Properties and on the beverage cart(s). Additionally, SV shall provide and supervisor an adequate number of trained employees to clean, mop, sanitize, stock, empty trash cans and place trash can liners in cans in the concessions seating area located in and around Leased Properties, including adjacent outside areas. SV agrees that it shall not hire or retain any employee who has been convicted, or who has admitted to the elements of any crime of violence, or crime involving theft, or any felony, within the ten (10) previous years.

B. SV shall designate one (1) member of its staff as the Facility Manager with whom CITY may communicate with on a daily basis. SV's Facility Manager shall devote substantial time and attention to the operation of concession, pursuant to this Amended Golf Facility Concession Agreement and be directly involved in all operations of concession. In addition, SV's Facility Manager shall be fully acquainted with all concession operations, familiar with the terms and conditions of this Amended Golf Facility Concession Agreement and hold a valid Food Safety Certification or equivalent as required by law.

C. SV shall furnish courteous, efficient and quality service to meet the reasonable demands of CITY, and all customers. SV shall control, and is responsible for, the conduct, demeanor and appearance of its officers, agents, employees, representatives, guests, contractors and others while doing business as provided herein.

D. SV employees shall be in uniform at all times during operating hours. SV shall consult with, and obtain prior approval from, CITY regarding any proposed uniform.

E. CITY may, at any time, give SV written or verbal notice to the effect that the conduct or action of any designated employee of SV is, in the reasonable belief of CITY, detrimental to the interest of the public patronizing concession. SV will meet with CITY to consider the appropriate course of action with respect to such matters, and SV shall take reasonable measures to assure CITY that the conduct and activities of SV employees will not be detrimental to the interest of the public.

F. SV shall comply with all applicable Federal, State and local laws, including City of Idaho Falls ordinances, policies and regulations.

8. CITY Staff.

A. CITY will support SV and provide courteous and professional assistance when needed. CITY will make reasonable efforts to communicate with SV regarding birthday parties, group events and after-hour events.

B. CITY will attempt to address any issues presented to CITY regarding this Amended Golf Facility Concession Agreement, and will work with SV to resolve issues as quickly as possible.

C. CITY will meet with SV on a bi-weekly to monthly basis to discuss general golf course related items, events, parties and review concession operations.

9. Exclusive Rights. CITY agrees that it will not permit or authorize any other person to sell, dispense or otherwise engage in the business of selling or dispensing any food or beverages within or upon the Leased Properties, without permission of SV. SV shall pay for all electricity or other utility service except as otherwise agreed hereinbelow. CITY shall provide at its own expense electricity or other utility service for the Pinecrest Great Room, all garbage, water and sewer services required for the demised premises. SV shall provide all janitorial and cleaning services for the demised premises.

10. Utilities. SV shall pay for all electricity or other utility service except as otherwise agreed hereinbelow. CITY shall provide at its own expense all garbage, water and sewer services required for the Leased Properties. SV shall provide all janitorial and cleaning services for the Leased Properties.

11. Health and Sanitary Operation of Leased Properties and Other Activities. SV agrees to conduct its business at all times in accordance with all laws, ordinances, regulations, and standards approved or adopted by the duly constituted public health or other regulatory authorities having jurisdiction over SV. SV further agrees to keep, maintain, operate and conduct operations at the Leased Properties and from food and beverage cart in a clean, sanitary

and attractive condition. All employees shall be properly and neatly attired, trained and shall conduct themselves in a polite and courteous fashion at all times while interfacing with the general public.

12. Compliance With Law. SV agrees to comply with all federal or state laws or regulations or any county, city or other local ordinances or regulations governing the operation of the restaurant or bar business or other activities conducted upon the Leased Properties.

13. Ingress and Egress. SV and its employees and customers shall have the right of ingress and egress to and from the Leased Properties and the parking lots, driveways and sidewalks appurtenant thereto, subject to the rights of existing tenants and in common with other existing and future tenants of CITY. SV and its employees and customers, shall also have a right to use the parking facilities at the respective golf course(s) as may be agreed and approved by the Director of Parks and Recreation.

14. Use and Repair of Equipment.

A. SV is authorized to use concession and all equipment located in the Leased Properties, including all refrigeration units, freezers, grills, fryers, food dispensers, CO_2 bottles, beverage dispensers, warming units, pagers, food slicers, serving and preparation utensils and equipment, holding equipment, restroom with lockers, sinks, ovens, microwaves, ice making machines, beverage carts and external BBQ. CITY agrees to repair CITY's equipment.

B. SV shall obtain prior written approval from CITY to make any major alterations to the set-up of Leased Properties (*e.g.* installation of new equipment).

15. Inventory.

A. Prior to beginning preparations and operations (and prior to each Operating Season thereafter), CITY personnel and SV will conduct an inventory of all equipment and agree upon the equipment contained in the Leased Properties. At the conclusion of each Operating Season, CITY personnel and SV will conduct a final inventory of all equipment contained in the Leased Properties. SV shall be responsible for replacement costs of any missing equipment or damage to any

CITY equipment caused by the acts or omissions of SV or any of its employees, officers, agents or contractors.

B. At the conclusion of each Operating Season, SV shall return the Leased Properties to their clean pre-use condition (to CITY's satisfaction). The parties agree that CITY will charge SV, and SV agrees to pay, for any expense incurred resulting from SV's failure to comply with this requirement.

16. Maintenance of Leased Properties. Except as set forth below, SV agrees to properly maintain the interior walls, ceilings, light fixtures and plumbing fixtures located within the Leased Properties and shall keep the leased equipment in a clean, attractive, neat, orderly, workable and sanitary condition at all times. SV further agrees to repair and restore any property of CITY destroyed or damaged by conduct of SV, its agents or employees. SV shall not be responsible for damage to CITY's property caused by the elements, acts of God, the public enemy or other causes which are beyond SV's control. CITY agrees to maintain at its own expense the roof, exterior walls, exterior glass and any water or sewer mainlines or electrical equipment and appurtenant facilities beyond the boundaries of the Leased Properties.

17. Inspection of Leased Properties. CITY shall have the right to inspect, or to cause to be inspected, said Leased Properties at all reasonable times.

18. Habitability of Leased Properties. In the event the Leased Properties are rendered totally or substantially unfit for use by fire or other casualty not caused by SV, the rent reserved herein shall be suspended or abated in the same proportion as the property is rendered unfit for use until the Leased Properties shall have been put in proper condition for the use herein contemplated, but if the Leased Properties cannot be so restored within ninety (90) days, either party may terminate this Amended Golf Facility Concession Agreement by giving the other written notice of such decision to terminate.

In the event the Leased Properties are rendered totally or partially unfit for use by fire or other casualty not caused by SV, the rent reserved herein shall be suspended or abated until the Leased Properties shall have been put in proper condition for the use herein contemplated, but if the Leased Properties cannot reasonably be rendered habitable within ninety (90) days, either party may terminate this Amended Golf Facility Concession Agreement by giving the other written notice of such decision to terminate.

19. Termination by SV. This Amended Golf Facility Concession Agreement may be terminated by SV upon the happening of any one of the following events, namely:

A. The permanent abandonment of the respective golf course where the Leased Properties are located.

B. Issuance by a court of competent jurisdiction of an injunction against CITY which prevents or restrains the use or operation of the respective golf course by

CITY or which prevents or restrains SV's use of the Leased Properties, and which injunction remains in force for a period of at least ninety (90) days.

C. The default by CITY in the performance of any covenant or agreement herein required to be performed by CITY and failure of CITY to remedy such default for a period of thirty (30) days after receipt from SV of written notice to remedy the same.

20. Termination by CITY. This Amended Golf Facility Concession Agreement may be terminated by CITY upon the happening of any one of the following events, namely:

A. Failure of SV to pay the whole or any part of the rentals, charges, or license fees set forth herein after the same are due and after thirty (30) days written notice of delinquency has been delivered to SV.

B. The making by SV of an assignment for the benefit of creditors, the filing by SV of a voluntary petition in bankruptcy or the filing by any person of a petition for involuntary bankruptcy of SV.

C. The violation by SV of any law, regulation or ordinance in the Leased Properties or in the conduct of SV's business, specifically including provisions related to the sale or provision of liquor and insurance coverage related thereto. SV shall be notified of such violation and be given a reasonable opportunity to correct and rectify the same.

D. The abandonment by SV of the Leased Properties or any substantial portion thereof.

E. SV's default in the performance of any other covenant or condition set forth in this Amended Golf Facility Concession Agreement and failure to remedy such default within thirty (30) days after written notice of such default has been delivered to SV in the manner set forth in Paragraph 27 of this Amended Golf Facility Concession Agreement.

21. Worker's Compensation Insurance. SV agrees to procure and keep in force at all times during operation or use of the Leased Properties, worker's compensation insurance for all of SV's employees, as required by law.

22. Indemnification and Liability Insurance.

A. General Insurance. SV agrees to indemnify and hold harmless CITY from any and all claims, expenses, damages, liabilities, or costs arising from any negligent act or fault of SV or it agents or employees. SV further agrees to procure and maintain liability insurance from a licensed, reputable insurance company, insuring SV and CITY against loss by reason of any such occurrence on the Leased Properties in the amount of not less than the greater of (1) Five Hundred Thousand Dollars ($500,000) single limit liability for death or personal injury and One Hundred Thousand Dollars ($100,000) for property damage or, (2) the amount set forth in Idaho Code Section 6-924 as currently in force or as subsequently amended. Both SV and CITY shall be named insured under any such insurance policy.

B. Liquor Liability Insurance. If SV desires to legally serve and/or to allow the legal consumption of liquor at any time during the term of this Amended Golf Concession Agreement, SV shall furnish to CITY Clerk, a current certificate of insurance evidencing liquor liability insurance coverage that specifically includes assault and battery coverage, not less than thirty (30) days in advance of service or allowing service of liquor, for not less than the following limits of liability:

Each Occurrence Limit for Liquor Liability	$1,000,000

Additionally, SV shall serve liquor only pursuant to its liquor license or SV shall employ a licensed caterer to dispense any alcohol sold, or otherwise dispensed during the term of the Amended Golf Facility Concession Agreement. Both SV and CITY shall receive a certificate of insurance from SV or any liquor vendor. CITY shall be a named insured on the liquor liability policy, and its assault and battery coverage.

23. Warranties. CITY makes no warranties of habitability or fitness for any particular purpose or any other warranty of any kind or nature, express or implied, with regard to any real or personal property or fixtures leased hereby, and SV accepts such property and fixtures in an AS IS condition.

24. Remodeling and Trade Fixtures. SV shall make no improvements, alteration, changes, modifications, or remodeling to the Leased Properties or add or install any fixture, equipment, or other property to the demised premise without the prior written consent of the Director of Parks and Recreation. The cost of any improvements, alterations, changes, modifications, or remodeling made to the Leased Properties by SV shall be borne entirely by SV. Any improvements, alterations, changes, modifications, or remodeling made to the Leased Properties by SV shall become the property of CITY upon termination of this Amended Golf Facility Concession Agreement, without compensation therefor by CITY. Any equipment or movable fixtures installed by SV shall remain the property of SV, and upon termination of this Amended Golf Facility Concession Agreement. SV may remove said equipment or movable fixtures and shall immediately repair any and all damage to the Leased Properties caused by any such removal.

25. Signs, Advertisements and Marketing.

A. SV shall not erect, install, operate nor cause or permit to be erected, installed or operated in or upon the concession buildings, any sign or other similar advertising device without having first obtained prior written consent from CITY. SV, at its own expense, shall install a new design type or style of menu board that shall be mutually agreed upon by SV and CITY. Any such sign or similar advertising device erected, installed, or operated during the term of this Amended Golf Facility Concession Agreement must be removed, at the sole cost of SV, immediately upon termination or expiration of this Amended Golf Facility Concession Agreement. SV will not advertise offsite businesses without prior, written approval of CITY.

B. SV and the CITY will create a long-term marketing campaign that promotes the Idaho Falls Golf Courses and concessions.

26. Maintenance. SV shall maintain the Leased Properties, fixtures, and equipment leased herein in a good, workable condition and return the same at the termination of this Amended Golf Facility Concession Agreement, in as sound as condition as it now is, normal wear, tear and depreciation excepted. SV will maintain all mechanical equipment in accordance with manufacturer's recommendations.

27. Discriminatory Practices. SV agrees to provide fair and impartial treatment to all employees with respect to recruitment, hiring, training, promoting and other personnel programs or benefits without regard to race, color, religion, age, sex, national origin, sexual orientation, gender identity/expression, or physical handicap, except where sex is a bona fide occupational qualification or where a handicap would prevent satisfactory performance. SV shall not engage in any discrimination on account of race, color, religion, age, sex, national origin, sexual orientation, gender identity/expression, or physical handicap with regard to any persons patronizing SV's business.

28. Quality of Service. SV agrees to offer and sell all food, beverages, and other services at fair and reasonable prices and shall cook, prepare, serve and sell said commodities in a sanitary environment and in an expeditious manner. CITY shall have the right to review and approve the concession menu at the commencement of the term of this Amended Golf Facility Concession Agreement.

29. Menu and Pricing.

A. CITY and SV shall agree upon the pricing of the products and services provided by SV.

B. Because of the importance of competitive pricing, SV agrees to price all food, beverages, goods and services at a rate comparable to the prices of said products and services of comparable SV's in Bonneville County, Idaho. SV shall provide for the consideration and selection of patrons, a wide range of standard menu items including, or similar to, those menu items agreed upon between the parties. All such menus and price lists shall be submitted to CITY in writing. CITY shall have ten (10) working days to object to any menu items or prices proposed by SV, or said menu items and prices shall be deemed approved. In addition, said menus and price lists shall be printed by SV, at SV's sole expense, and made available to prospective patrons.

30. Nature of Business. SV agrees to conduct only a restaurant and all business activities normally associated with the conduct thereof along with such other activities as are expressed, permitted by this Amended Golf Facility Concession Agreement. SV shall have no right to conduct any other business unless such other business activity is first expressly approved by CITY in writing.

31. Subcontracting, Delegation and Assignment.

A. SV shall not delegate, subcontract or assign its duties or rights hereunder, either in whole or in part, without the prior written consent of CITY; provided, however, that claims for money due or to become due to SV from CITY under this Amended Golf Facility Concession Agreement may be assigned to a bank, trust company or other financial institution without such approval. Any proposed delegation, assignment or subcontract shall provide a description of the services

covered, identification of the proposed assignee, delegee or subcontractor, and an explanation of why and how the same was selected, including the degree of competition involved. Any proposed agreement with an assignee, delegee or subcontractor shall include the following:

i. The amount involved, together with SV's analysis of such cost or price;

ii. A provision requiring that any subsequent modification or amendment shall be subject to the prior written consent of CITY; and

iii. The requirement to hire only those persons authorized by federal law to work in the United States.

B. Any assignment, delegation or subcontract shall be made in the name of SV and shall not bind or purport to bind CITY and shall not release SV from any obligations under this Amended Golf Facility Concession Agreement including, but not limited to, the duty to properly supervise and coordinate the work of employees, assignees, delegees and subcontractors. No such assignment, delegation or subcontract shall result in any increase in the amount of total compensation payable to SV under this Amended Golf Facility Concession Agreement.

32. Enforcement. If SV defaults in the performance of any of the terms, conditions, covenants, or agreements set forth in this Amended Golf Facility Concession Agreement, the parties agree to attempt to resolve any dispute, claim or controversy arising out of or relating to this Amended Golf Facility Agreement by non-binding mediation. If the parties are unable to resolve the dispute through mediation, SV shall pay to CITY all costs and expenses, including but not limited to a reasonable attorney's fee, including such fees on appeal, with the CITY may incur in enforcing this Amended Golf Facility Concession Agreement, or pursuing any remedy allowed by the law for breach hereof, whether such is incurred by the filing of suit or otherwise.

33. Notices. All notices required or permitted to be given pursuant to the terms of this Amended Golf Facility Concession Agreement shall be deemed to have been delivered upon deposit thereof in the U.S. Mail, postage prepaid, certified mail, return receipt requested, at the

following addresses:

City of Idaho Falls P.O. Box 50220 Idaho Falls, ID 83405-0220	Charles Bowers, President Service Vending 1275 Mercury Avenue Idaho Falls, Idaho 83402

or at such other addresses as the parties may from time to time designate to the other in writing.

34. Complete Agreement. This Amended Golf Facility Concession Agreement shall constitute the complete and entire agreement of the parties, and the parties agree that all other representations, negotiations or statements not expressly set forth herein shall be of no force and effect. The parties further agree that any modification to the terms hereof shall not be effective unless expressly set forth in writing signed by the parties.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seal this day and year first above written.

ATTEST:

By_____
Rosemarie Anderson, City Clerk

"CITY"
City of Idaho Falls, Idaho

By_____
Rebecca L. Noah Casper, Mayor

"SV"
SERVICE VENDING

By Charles Bowers
Charles Bowers, President

STATE OF IDAHO)
) ss.
County of Bonneville)

On this _____ day of _____, 2014, before me, the undersigned, a notary public for Idaho, personally appeared Rebecca L. Noah Casper, known to me to be the Mayor of the City of Idaho Falls, Idaho, the municipal corporation that executed the foregoing document, and acknowledged to me that she is authorized to execute the same for and on behalf of said City.

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

_____
Notary Public of Idaho
Residing at: _____
My Commission Expires: _____

(Seal)

STATE OF IDAHO)
) ss:
County of Bonneville)

On this 14th day of January, 2014, before me, the undersigned, a notary public, in and for said State, personally appeared Charles Bowers, known or identified to me to be one of the President of Service Vending, an Idaho corporation, and whose name is subscribed to the within instrument and acknowledged to me that he is authorized to execute the same for and on behalf of said corporation.

Lisa A Jones
Notary Public of Idaho
Residing at: City of Idaho Falls
My Commission Expires: 6-5-19

(Seal)

IDAHO FALLS
PARKS & RECREATION
a program for everyone
520 Memorial Drive • P.O. Box 50220 • Idaho Falls, ID 83405 • 208-612-8480

MEMORANDUM

To: Honorable Mayor and City Council

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

Date: January 22, 2015

Subject: **SIGNAGE AND WAYFINDING MASTERPLAN RESOLUTION**

Mayor and Council:

Attached for your consideration is a Resolution to approve and adopt the Idaho Falls Signage and Way-Finding Masterplan.

The Parks and Recreation Division respectfully requests approval and authorization for the Mayor and City Clerk to sign and execute the Resolution.

Respectfully,

Greg A Weitzel
Division of Parks and Recreation

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Attachment

cc: Mayor
City Clerk
File

RESOLUTION 2014-

A RESOLUTION OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, APPROVING AND ADOPTING THE "IDAHO FALLS SIGNAGE AND WAY-FINDING MASTER PLAN 2014," AND PROVIDING THAT THIS RESOLUTION BE EFFECTIVE UPON ITS PASSAGE, APPROVAL AND PUBLICATION ACCORDING TO LAW.

WHEREAS, a comprehensive signage and way-finding program guides travelers from the interstate, major and minor arterials and the current and future trail system to City-wide public facilities, including the downtown and other major commercial and non-commercial centers (i.e. parks, museums, zoo, aquatic center, library, high schools, university, future event center, points of historical interest, and other attractions); and

WHEREAS, such a program guides pedestrian and non-motorized travel within the City to its array of shopping, dining destinations and other attractions; and

WHEREAS, a signage and way-finding program establishes universal design standards and City-wide park signage and way-finding that is reflective of the City's brand identity and a signage and way-finding; and

WHEREAS, the signage and way-finding program will assist in development of sign types that are comprehensive and include primary, secondary and tertiary street and vehicular identification and directional, regulatory and informational park signs, trail and bicycle signage, kiosks, as well as area identification, gateway and destination signs; and

WHEREAS, the overall purpose of the City's master way-finding signage program includes promoting tourism, emphasizing Idaho Falls as a destination, highlighting key attractions, enhancing urban design, reinforcing community identity, enhancing the visitor's experience, reducing driver and pedestrian frustration, improving traffic flow and improving roadway safety; and

WHEREAS, as the regional center for healthcare, shopping, and entertainment, Idaho Falls is attractive to small and large businesses alike and consistently finds itself listed in the top ten rankings of many prestigious magazines, newspapers and professional community research publications; and

WHEREAS, the development of a master way-finding signage program is part of an overall economic development effort to attract tourism activity within the community and region; and

WHEREAS, the vision of the Idaho Falls Signage and Way-Finding Master Plan 2014 ("Plan"), is to create a comprehensive program that highlights destinations, and directs visitors and

inhabitants through the City and to the destinations by using attractive, easy-to-understand sign types in a manner that fosters a culture of active living and increases the Idaho Falls area's marketability as a destination for active recreation and transportation; and

WHEREAS, the adopted Plan is to be used as a guiding principle, where practicable, economically feasible, and deemed appropriate by the City, in the planning, design, operation, and maintenance of City signage, kiosks, and other modes of communication to promote safe and convenient access and travel for all users including tourists and inhabitants (whether pedestrians, bicyclists, motorists, transit riders, or others); and

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF IDAHO FALLS, IDAHO, at its regular meeting of said Council held on this this _____ day of _____, 2015, that the City of Idaho Falls hereby endorses and expresses its support for the "Idaho Falls Signage and Way-Finding Master Plan 2014" dated October 2014.

This Resolution shall be in full force and effect from and after its passage by the Council.

ADOPTED and effective this _____ day of _____, 2015.

CITY OF IDAHO FALLS, IDAHO

_____
Rebecca L. Noah Casper, Mayor

ATTEST:

_____
Rosemarie Anderson, City Clerk

(SEAL)

IDAHO FALLS
PARKS & RECREATION
a program for everyone
520 Memorial Drive • P.O. Box 50220 • Idaho Falls, ID 83405 • 208-612-8480

MEMORANDUM

To: Honorable Mayor and City Council

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

Date: January 22, 2015

Subject: **AGREEMENT – COMMERCIAL WATERCRAFT CONCESSION**

Mayor and Council:

The Parks and Recreation Division respectfully requests authorization to enter into an Agreement with Mr. Mike Melville for the purpose of permitting a non-exclusive commercial watercraft concession. The agreement is set to commence January 1, 2015 and expire on December 31, 2017. During this time, the concessionaire will maintain all appropriate licenses and authorizations required under the agreement. This agreement has been reviewed and approved by the City Attorney.

The Parks and Recreation Division respectfully requests approval and authorization for the Mayor and City Clerk to sign and execute said agreement.

Respectfully,

Greg A. Weitzel
Division of Parks and Recreation

laj

Attachment

cc: Mayor
City Clerk
File

COMMERCIAL WATERCRAFT CONCESSION AGREEMENT BETWEEN CITY OF IDAHO FALLS, IDAHO, AND MICHAEL W. MELVILLE

THIS COMMERCIAL WATERCRAFT CONCESSION AGREEMENT (hereinafter "AGREEMENT"), is made this_____day of _____, 2015, by and between the City of Idaho Falls, Idaho, a municipal corporation of the State of Idaho, whose mailing address is P.O. Box 50220, Idaho Falls, Idaho 83405 (hereinafter "CITY"), and MICHAEL W. MELVILLE, an individual, whose mailing address is 1424 Volcano Cove, Idaho Falls, Idaho 83402 (hereinafter "CONCESSIONAIRE").

WITNESSETH:

In consideration of the mutual covenants, conditions and obligations set forth herein, the parties agree as follows:

1. Use of CITY Property. CITY agrees to permit the nonexclusive use by CONCESSIONAIRE of CITY docks and parking facilities at John's Hole Boat Ramp, South Tourist Park, Gem Lake Marina, and Gem Lake Dam to operate one (1) commercial watercraft for guided tours of the Snake River Forebay and the lower Snake River area from John's Hole Forebay, around Keefer's Island and to Freeman Park; from the Gem Lake Dam or Gem Lake Marina to Gem State Power Plant; and from South Tourist Park to the Snake River Falls. CONCESSIONAIRE shall contact Idaho Falls Power to schedule access to reaches of water between Pancheri Bridge and the Snake River Falls. CONCESSIONAIRE shall have no right to operate any commercial watercraft on any other body of water within the CITY limits, or use any other docks or parking facilities of the CITY other than those listed in this paragraph of this AGREEMENT.

2. Permit Fee. Prior to commencing any activity permitted in this AGREEMENT, CONCESSIONAIRE agrees to pay to CITY the sum of one hundred dollars ($100) for the use of the above-named docks and parking facilities for the term of this Agreement.

3. Safety Regulations. CONCESSIONAIRE shall at all times comply with the provisions of Chapter 30, Title 5, of the Idaho Falls City Code.

4. Idaho Outfitters License. CONCESSIONAIRE shall obtain and maintain a current Idaho Outfitters License. Additionally, CONCESSIONAIRE shall obtain all other

permits or licenses required under Idaho state law and federal law for activities set out in this AGREEMENT.

5. Term. The term of this AGREEMENT shall commence on January 1, 2015, and shall terminate on December 31, 2017.

6. Operating Hours. The CONCESSIONAIRE shall operate its commercial watercraft from one-half hour (1/2) before sunrise until one-half (1/2) hour after sunset local time.

7. Maintenance. CONCESSIONAIRE shall keep the docks and parking facilities at John's Hole Boat Ramp, South Tourist Park, Gem Lake Marina, and Gem Lake Dam clear of CONCESSIONAIRE's debris, trash, clutter or other personal property of CONCESSIONAIRE. CONCESSIONAIRE agrees not to commit or permit any waste or destruction of the dock areas, the improvements thereon, the public parking lots or other facilities subject to this Concession AGREEMENT.

8. No Food or Drink. CONCESSIONAIRE shall not provide any food or drink for concession at or from the docks or parking facilities at John's Hole Boat Ramp, South Tourist Park, Gem Lake Marina, or Gem Lake Dam, or while the commercial watercraft is moored at John's Hole, South Tourist Park, Gem Lake Marina, or Gem Lake Dam or from any other property of the CITY.

9. Compliance With Applicable Law. CONCESSIONAIRE agrees to comply with all applicable rules, regulations, ordinances, statutes, or administrative laws of the City of Idaho Falls, Bonneville County, State of Idaho, or the United States of America, or any agency or political subdivisions thereof, having jurisdiction over the property.

10. Indemnification. CONCESSIONAIRE agrees to indemnify, defend and hold CITY, its agents, officers, representatives and employees harmless from any and all costs, expenses, fees, penalties, liability or loss resulting from any claim or any claims, of any kind or nature, arising directly or indirectly from the acts of CONCESSIONAIRE, its agents, servants, guests, or invitees, under this AGREEMENT or by reason of any act of omission of CONCESSIONAIRE.

11. Liability Insurance. CONCESSIONAIRE agrees to purchase and maintain a public liability and property damage insurance policy from the reputable and financially responsible insurance company authorized to do business within the State of Idaho, with a

loss payable endorsement in favor of CITY. The limits of such policy shall not be less than one million dollars ($1,000,000) for bodily or personal injury, death, or property damage or loss as the result of any one occurrence or accident, regardless of the number of persons injured or the number of claimants. CITY shall be the named insured. CONCESSIONAIRE agrees to provide CITY proof of such insurance within thirty (30) days from the date of this AGREEMENT, and to obtain an endorsement on the policy requiring that CITY be notified in writing thirty (30) days before the insurance may be changed or terminated.

12. No Assignment. CONCESSIONAIRE shall not assign, encumber or transfer this AGREEMENT.

13. Default. If CONCESSIONAIRE defaults in the performance of any of the provisions of this AGREEMENT and shall fail to cure such default within fifteen (15) days after written notice to CONCESSIONAIRE by CITY, CITY may terminate this AGREEMENT.

14. Notice. Notice required under the terms of this AGREEMENT shall be given by depositing a copy of the notice in the United States mail, addressed to the receiving party as the address set forth below, or any other address to be given in writing delivered to the sending party. All notices shall be deemed to be received upon such deposit in the United States Mail in the manner provided above. For the purposes of this paragraph, the parties' addresses are as follows:

City of Idaho Falls P.O. 50220 Idaho Falls, ID 83405-0220	Michael W. Melville 1424 Volcano Cove Idaho Falls, ID 83402

15. Accounts. CONCESSIONAIRE shall keep a true and accurate account of all monies received through the operation of the commercial watercraft concession.

INWITNESS WHEREOF, the parties have hereunto set their hands and seals this day and year first above written.

ATTEST:

CITY OF IDAHO FALLS, IDAHO

_____
Rosemarie Anderson, City Clerk

_____
Rebecca L. Noah Casper, Mayor

By_____
Michael W. Melville

STATE OF IDAHO)
) ss.
County of Bonneville)

On the _____day of_____, 2015, 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 he is authorized to execute the same for and on behalf of said City.

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

_____
Notary Public for State of Idaho
Residing at Idaho Falls, Idaho
(Seal) My Commission Expires: _____

STATE OF IDAHO)
) ss.
County of Bonneville)

On the_____day or _____, 2015, before me, the undersigned, a notary public in and for said State, personally appeared Michael W. Melville, known or identified to me to be the person that executed the instrument, and acknowledged to me that he executed the same on his own behalf.

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

_____
Notary Public for State of Idaho
Residing at Idaho Falls, Idaho
(Seal) My Commission Expires: _____

Bonneville County Sheriff's Office

605 N. Capital
Idaho Falls, ID 83402
Main (208) 529-1375 • Jail (208) 529-1315 Ext. 5102

Paul J. Wilde
Sheriff

Samuel Hulse
Patrol Captain

Sid Hamberlin
Jail Captain

September 12, 2014

City of Idaho Falls
Parks & Recreation
Greg A. Weitzel – Director

Dear Greg:

I met with Mike Melville concerning his desire to operate a boating business on the John's Hole Forebay and the waterways near South Tourist Park and Gem State Dam.

Mike is aware of what is required under the Idaho boating Laws, and has not had any mishaps.

I would support the City of Idaho Falls entering into an agreement with Mike, as I see no particular Bonneville County problem with his planned operation.

Sincerely,

Sheriff Paul J. Wilde

PJW/dp

Fax: (208)327-7382

ACORD®

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 06/27/2014

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER

Alpine Insurance Agency
1095 9th Street
Idaho Falls, ID 83404

CONTACT NAME: LuAnn Plourde
PHONE (A/C, No, Ext): 2085222253 FAX (A/C, No): 2085242292
E-MAIL ADDRESS: luann@alpineinsagency.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Burns and Wilcox	
INSURER B :	
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED

Michael Wm Melville
DBA: Melville Outfitters & Guides
P O Box 51060
Idaho Falls, ID 83405-1060

COVERAGES CERTIFICATE NUMBER: 00003649-0 REVISION NUMBER: 1

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY			CPS2001234	06/20/2014	06/20/2015	EACH OCCURRENCE	$ 1,000,000
	X COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 100,000
	CLAIMS-MADE X OCCUR						MED EXP (Any one person)	$ 1,000
							PERSONAL & ADV INJURY	$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$ 2,000,000
	X POLICY PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$ 1,000,000
								$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$
	ANY AUTO						BODILY INJURY (Per person)	$
	ALL OWNED AUTOS / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	HIRED AUTOS / NON-OWNED AUTOS						PROPERTY DAMAGE (Per accident)	$
								$
	UMBRELLA LIAB / OCCUR						EACH OCCURRENCE	$
	EXCESS LIAB / CLAIMS-MADE						AGGREGATE	$
	DED / RETENTION $							$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						WC STATU-TORY LIMITS / OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N (Mandatory in NH)	N / A					E.L. EACH ACCIDENT	$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

CERTIFICATE HOLDER

State of Idaho
Outfitters & Guides Licensing Board
1365 N Orchard, Suite 172
Boise, ID 83706

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

LuAnn H Plourde (LHP)

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IDAHO FALLS
PARKS & RECREATION
a program for everyone
520 Memorial Drive • P.O. Box 50220 • Idaho Falls, ID 83405 • 208-612-8480

MEMORANDUM

To: Honorable Mayor and City Council

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

Date: January 22, 2015

Subject: **IDAHO FALLS ZOO AT TAUTPHAUS PARK CONCESSION AGREEMENT RENEWAL**

Mayor and Council:

Attached for your consideration is the Idaho Falls Zoo at Tautphaus Park Concession Agreement. This food and beverage concessions agreement has a one (1) year term and has been reviewed and approved by the City attorney.

The Parks and Recreation Division respectfully requests approval and authorization for the Mayor and City Clerk to sign and execute said agreement with Mountain Foods.

Respectfully,

Greg A. Weitzel
Division of Parks and Recreation

laj

Attachment

cc: Mayor
City Clerk
File

TAUTPHAUS PARK ZOO CONCESSION AGREEMENT

THIS TAUTPHAUS PARK ZOO CONCESSION AGREEMENT (hereinafter "Agreement"), is made and entered into this _____ day of _____, 2015, by and between the City of Idaho Falls, Idaho, a municipal corporation of the State of Idaho, P.O. Box 50220, Idaho Falls, Idaho 83405 (hereinafter "CITY"), and James Lee and Antoinette Lee, husband and wife acting as sole proprietors doing business as Mountain Foods, a sole proprietorship (hereinafter "MOUNTAIN FOODS"), whose address is 1301 Cornerstone Drive, Idaho Falls, Idaho 83401.

WITNESSETH:

For and in consideration of the mutual promises, covenant and conditions set forth herein, the parties agree as follows:

1. Grant of Right or License. Subject to the terms and conditions of this Agreement, CITY hereby grants to MOUNTAIN FOODS a license to operate a food, beverage and confections concession facility within the Tautphaus Park Zoo at the location shown on Exhibit "A" attached hereto and by this reference made a part hereof. Nothing herein shall be construed or deemed to allow MOUNTAIN FOODS to conduct any other business or activity without the prior written permission of CITY.

2. Term. The term of this Agreement is for one (1) year and shall commence on April 1, 2015 and shall terminate on December 31, 2015.

3. Exclusive Concession Right. CITY shall not permit or allow any other private commercial food service enterprise organization to generally operate any other food, beverage or confection concessions facility within the Tautphaus Park Zoo area (hereinafter "Zoo Area"), as shown on Exhibit "A" attached hereto. Subject to the provisions of Section 9(d)(iii) hereof, nothing herein shall preclude the sale or dispensing of food, beverages or confections to persons attending or participating in any special event approved by CITY and sponsored by any charitable or civic organization or any party, gathering or social event sponsored by an employer or civic organization, provided such event, gathering or party does not exceed a period of three consecutive days.

with the delivery of such payment, MOUNTAIN FOODS shall deliver a report reflecting the daily gross receipts collected and derived from the operation of the business for each operating day during the month for which such fee is payable.

8. Financial Records. MOUNTAIN FOODS shall maintain complete and accurate financial records fully accounting for all gross receipts and disbursements related to all business conducted upon the premises, including sales tax collected. MOUNTAIN FOODS agrees to permit CITY to inspect and/or audit MOUNTAIN FOODS' financial records upon reasonable notice to MOUNTAIN FOODS and during regular business hours. MOUNTAIN FOODS agrees to keep all records in accordance with standard accounting and bookkeeping practices.

9. Operation of Business. MOUNTAIN FOODS agrees to operate the concession stand in a lawful and courteous manner and shall keep the premises, including the dining area, in safe and clean condition at all times and free from trash and debris accumulation. This includes, without limitation, promptly wiping down picnic tables and keeping them clean and free of litter and debris. MOUNTAIN FOODS shall obtain and maintain all public health or restaurant or concession licenses required by law and shall abide by all rules and regulations applicable thereto. MOUNTAIN FOODS must operate the concessions facility as follows:

   a. Days of Operation

      i. Concessions must be operational from the day the Zoo opens for the regular season until the day the Zoo closes for the regular season.

      ii. Inclement Weather Closure - should weather conditions dictate a substantial drop in zoo attendance, the MOUNTAIN FOODS may close the concessions stand on a regular day of operation provided it notifies Zoo Management of such closure, not less than one hour in advance of such closure.

   b. Hours of Operation - MOUNTAIN FOODS' hours of operation must be posted on the concessions stand at all times when the facility is open for business. In the event of a non-operational day or early closure, MOUNTAIN FOODS must place a notice on the concession stand stating that it is closed for business. Except as set forth below, MOUNTAIN

FOODS such written solicitation, or if MOUNTAIN FOODS fails to deliver a written proposal to the Sponsor within such time frame, and after receipt of such written solicitation, then and in such event Sponsor may, at his or her sole discretion, seek catering services from a vendor other than MOUNTAIN FOODS and MOUNTAIN FOODS shall forfeit all rights to provide food, beverage or catering services for such special event.

e. General Operation

i. All food, beverages and confections sold or offered for sale by MOUNTAIN FOODS from the concession facility shall be first approved by the Superintendent of the Zoo.

ii. MOUNTAIN FOODS will ensure that its management staff is an appropriate amount of professionally trained, experienced in public relations and possess all skills necessary to operate a contract concessions operation of high quality. The management will be responsible for all guest complaints or concerns about the quality of food, customer relations and the timeliness of service. If Management is not on site at the time of a customer complaint, there must be a plan in place for Management to be notified of complaints and action to be taken.

iii. A knowledgeable representative of MOUNTAIN FOODS shall attend all regularly scheduled Zoo Staff Meetings in order to facilitate communication about special events. CITY shall keep MOUNTAIN FOODS apprised of the dates, times and locations for such meetings.

iv. All employees of MOUNTAIN FOODS who work within the concessions facility shall wear uniforms approved by the Superintendent of the Zoo.

11. Utilities. CITY shall ensure that water, sewer and electrical power utility services are made available to the concession facility. MOUNTAIN FOODS shall pay for all electrical services on a monthly basis, in accordance with Idaho Falls Power Customer Service policies. MOUNTAIN FOODS will provide their own propane service. CITY will provide at its own expense water, garbage and sewer service. MOUNTAIN FOODS will provide all janitorial and cleaning services for the concessions stand.

12. Maintenance of the Building and Structures. CITY shall be responsible for the maintenance or replacement of items 1-19. All other items are the responsibility of MOUNTAIN FOODS:

    a. Rankin Four (4) burner grill with flattop
    b. Four (4) well electric food steamers
    c. Sharp cash register
    d. Gehl nacho/chili machine
    e. 8 head soda fountain
    f. Refrigerator
    g. Stainless steel hood/exhaust fan system
    h. Swamp cooler
    i. Fast recovery hot water system
    j. Microwave oven
    k. Stainless steel hand washing sink
    l. Towel dispenser
    m. Hand soap dispenser
    n. Stainless steel dishwashing sink with food prep table
    o. Four (4) stainless steel tables- various sizes
    p. Storage shelves (located throughout the trailer)
    q. Four (4) commercial grade rubber floor mats
    r. Commercial deep fryer
    s. The roof, walls, floors, internal electrical systems and sides of the trailer

13. Insurance of the Premises and Improvement. MOUNTAIN FOODS shall have no obligation to maintain property damage, fire and hazard insurance for the concession facility nor shall CITY have any obligation to provide insurance for loss or damage to MOUNTAIN FOODS' personal property stored, kept or maintained on the

parties at the following addresses:

City of Idaho Falls P.O. Box 50220 Idaho Falls, Idaho 83405	James and Antoinette Lee 1301 Cornerstone Drive Idaho Falls, Idaho 83401

All notices shall be deemed delivered upon the deposit thereof in the U.S. Mail, certified mail, return receipt requested, postage prepaid, and addressed to the receiving party at the address set forth above or such other address which has been delivered in writing in the same manner to the sending party.

19. Attorney Fees. In the event it becomes necessary to enforce the terms and provisions hereof, the defaulting party agrees to pay the reasonable attorney's fees and costs of the prevailing party.

20. Complete Agreement. This writing evidences the complete and final agreement between the parties, and no other representation, covenant, promise or statement of the parties shall be binding except as expressly set forth herein.

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

ATTEST:

By_____
Rosemarie Anderson, City Clerk

"CITY"
City of Idaho Falls, Idaho

By_____
Rebecca L. Noah Casper, Mayor

"MOUNTAIN FOODS"

By_____
James Lee, Sole Proprietor

By_____
Antoinette Lee, Sole Proprietor

STATE OF IDAHO)
) ss:
County of Bonneville)

On this _____day of _____, 2015, before me, the undersigned, a notary public, in and for said State, personally appeared Antoinette Lee, known or identified to me to be one of the sole proprietors of MOUNTAIN FOODS, a sole proprietorship, and whose name is subscribed to the within instrument and acknowledged to me that she is authorized to execute the same for and on behalf of said sole proprietorship.

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

_____
Notary Public of Idaho
Residing at: _____
My Commission Expires:_____

(Seal)

IDAHO FALLS
PARKS & RECREATION
a program for everyone
520 Memorial Drive • P.O. Box 50220 • Idaho Falls, ID 83405 • 208-612-8480

MEMORANDUM

To: Honorable Mayor and City Council

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

Date: January 22, 2015

Subject: **LANDSCAPE ARCHITECTURE PROFESSIONAL SERVICES AGREEMENT BECK AND BAIRD RIGHT OF WAY US 20**

Mayor and Council:

Attached for your consideration is a Professional Services Agreement for landscape architecture at the US 20 right of way at Riverside and Freemont Streets. This agreement has been reviewed and approved by the City attorney.

The Parks and Recreation Division respectfully requests approval and authorization for the Mayor and City Clerk to sign and execute said agreement with Beck and Baird for a total amount not to exceed $5,350.00 for work related to this project.

Respectfully,

Greg A Weitzel
Division of Parks and Recreation

laj

Attachment

cc: Mayor
City Clerk
File

AGREEMENT FOR PROFESSIONAL SERVICES RELATED TO ARCHITECTURAL SERVICES FOR ROUTE 20 AND FREMONT INTERSECTION

THIS AGREEMENT FOR PROFESSIONAL SERVICES RELATED TO ARCHITECTURAL SERVICES FOR ROUTE 20 AND FREMONT INTERSECTION (hereinafter "Agreement"), is made and entered into this _____ day of _____, 2015, by and between the City of Idaho Falls, Idaho, a municipal corporation of the State of Idaho, P.O. Box 50220, Idaho Falls, Idaho 83405 (hereinafter "CITY"), and BECK AND BAIRD, 1523 W. Hays St., Boise, Idaho 83702 (hereinafter referred to as "ARCHITECTS").

W I T N E S S E T H:

WHEREAS, CITY desires to develop conceptual design of the Route 20 and Fremont intersection for the Idaho Falls Parks and Recreation Division; and

WHEREAS, CITY requires the services of an architectural company to provide a final landscape master plan of said intersection (Project); and

WHEREAS, ARCHITECTS is an established company that has the skills and experience to apply its professional services to CITY's needs on the Project; and

WHEREAS, CITY Parks and Recreation Division has selected the above-referenced ARCHITECTS to complete the Scope of Work identified herein; and

WHEREAS, ARCHITECTS has prepared the Scope of Work, which is incorporated into this Agreement; and

WHEREAS, CITY wishes ARCHITECTS to complete the Scope of Work, pursuant to this Agreement and for the compensation set out in this Agreement; and

NOW, THEREFORE, be it agreed that for and in consideration of the mutual covenants and promises between the parties hereto, that:

SECTION I: SCOPE OF WORK

A. TASKS provided by ARCHITECTS and its associates:

Task 1. Programming: Meet with Department staff to develop goals and objectives for the scope of work.

Task 2. Base Map Development: Coordinate with City of Idaho Falls Public Works staff for development of all base mapping needed for design.

Task 3. Develop schematic conceptual landscape plan or plans that incorporates programming and design elements developed with staff.

Task 4. Meeting with City staff to discuss design(s) and gather input on final design direction.

Task 5. Develop final landscape master plan. This will show all existing features and new features such as proposed landscaping, lawn areas, boulder groupings or walls, decorative stone groundcover designs, signage locations as well as any proposed way finding features.

ARCHITECTS shall provide a final design upon completion of the project.

B. TASKS provided by CITY:

1. CITY will provide all necessary mapping data in Autocad format.

2. CITY will provide all way finding information to incorporate into design.

SECTION II:

A. Independent Contractor.

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

B. Fees and Conditions for Professional Services.

1. Payment for all services described in this Agreement is provided in accordance with the cost described in Section II.B.2. of this Agreement.

2. The cost for ARCHITECTS' services for Project as described in Section I, Scope of Work, is a fixed "not-to-exceed" five thousand three hundred fifty dollars ($5,350) with payment made upon time and materials at the following rates:

Fee for Professional Services:

Task 1 .....$ 1,632
Task 2 .....$ 360
Task 3 .....$ 2,576
Task 4 .....$ 552
Task 5 .....$ 1,472
Sub-Total for Professional Services .....$ 4,600
Estimated Reimbursable Expenses .....$ 750

Total time and material "not-to-exceed" fee .....$ 5,350

3. Payment is due upon receipt of ARCHITECTS' statement(s).

4. CITY and ARCHITECTS may mutually agree to re-allocate tasks, providing the fixed "not-to-exceed" price described in Section II.B.2. of this Agreement is unchanged.

C. Right to Use Images.

CITY and ARCHITECTS agree that CITY, with this Agreement, acquires the right to use the results of the Project and its image, including any portion of its image. The use of image(s) may include, but is not limited to, electronic and print promotion of CITY - sponsored programs and functions. Image(s) may be provided to other entities, such as newspapers or other publishers, for inclusion in print advertisements, without cost to CITY or payment to ARCHITECTS for use of such image(s).

SECTION III:

A. Termination of Agreement.

This Agreement may be terminated by ARCHITECTS upon thirty (30) days written notice, should CITY fail to substantially perform in accordance with its terms through no fault of ARCHITECTS. CITY may terminate this Agreement with thirty (30) days notice without cause and without further liability to ARCHITECTS except as designated by this section. In the event of termination, ARCHITECTS shall be paid for services performed to termination date, based upon the work completed. All work including reports, shall become the property of, and shall be surrendered to, CITY.

B. Extent of Agreement.

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

C. Project Timeline.

CITY and ARCHITECTS shall agree upon a start date and projected date of project completion after executing this Agreement. CITY shall make available to ARCHITECTS all technical data of record in CITY's possession, including financial, operations, and other information necessary for Project.

D. Termination of Project.

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

E. ARCHITECTS' Insurance.

In performance of professional services, ARCHITECTS will use that degree of care and skill ordinarily exercised under similar circumstances by members of its profession; and no other warranty, either expressed or implied, is made in connection with rendering ARCHITECTS' services. Should ARCHITECTS or any of ARCHITECTS' agents or employees be found to have been negligent in the performance of professional services from which CITY sustains damage, ARCHITECTS has obtained Errors and Omissions Insurance in the minimum amount of Five Hundred Thousand Dollars ($500,000), and said insurance shall be held active for a two (2) year (minimum) period from the date of completion of Project. CITY shall receive notice of any pending termination of said insurance within fifteen (15) days of first notice to ARCHITECTS.

F. ARCHITECTS' Additional Insurance.

ARCHITECTS shall maintain Automobile Insurance and Statutory Workmen's Compensation Insurance coverage, Employer's Liability, and Comprehensive General Liability Insurance coverage. The Comprehensive General Liability Insurance shall have a minimum limit of Five Hundred Thousand Dollars ($500,000) per claim and One Million Dollars ($1,000,000) aggregate, and ARCHITECTS shall cause CITY to be named as an additional insured under said policy.

G. Indemnification.

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

H. Costs and Attorney Fees.

In the event either party incurs legal expenses to enforce the terms and conditions of this Agreement, the prevailing party is entitled to recover reasonable attorney's fees and other costs and expenses, whether the same are incurred with or without suit.

I. Jurisdiction and Venue.

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

J. Binding of Successors.

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

K. Modification and Assignability of Agreement.

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

L. CITY's Representatives.

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

M. Conflict of Interest.

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

N. Ownership and Publication of Materials.

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

O. Non-discrimination.

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

ATTEST:

"CITY"
City of Idaho Falls, Idaho

By_____
Rosemarie Anderson, City Clerk

By_____
Rebecca L. Noah Casper, Mayor

"ARCHITECTS"
Beck and Baird

By_____
Dan Baird, LLA, ASLA, Principal

STATE OF IDAHO)
) ss.
County of Bonneville)

On this _____day of _____, 2015, before me, the undersigned, a notary public for Idaho, personally appeared Rebecca L. Noah Casper, known to me to be the Mayor of the City of Idaho Falls, Idaho, the municipal corporation that executed the foregoing document, and acknowledged to me that she is authorized to execute the same for and on behalf of said City.

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

_____
Notary Public of Idaho
Residing at: _____
My Commission Expires:_____

(Seal)

STATE OF IDAHO)
) ss:
County of Bonneville)

On this _____day of _____, 2015, before me, the undersigned, a notary public, in and for said State, personally appeared Dan Baird, known or identified to me to be the Principal of Beck and Baird, whose name is subscribed to the within instrument and acknowledged to me that he is authorized to execute the same for and on behalf of said _____.

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

_____
Notary Public of Idaho
Residing at: _____
My Commission Expires:_____

(Seal)

IDAHO FALLS
PARKS & RECREATION
a program for everyone
520 Memorial Drive • P.O. Box 50220 • Idaho Falls, ID 83405 • 208-612-8480

MEMORANDUM

To: Honorable Mayor and City Council

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

Date: January 22, 2015

Subject: **COOPERATIVE AGREEMENT WITH IDAHO TRANSPORTATION DEPARTMENT FOR LANDSCAPING RIGHT OF WAY AT RIVERSIDE AND FREEMONT**

Mayor and Council:

Attached for your consideration is the Cooperative Agreement between the City of Idaho Falls and Idaho Transportation Department for the landscaping of the US 20 right of way at Riverside and Freemont Streets. The agreement been reviewed and approved by the City attorney.

The Parks and Recreation Division respectfully requests approval and authorization for the Mayor and City Clerk to sign and execute said agreement with ITD.

Respectfully,

Greg A Weitzel
Division of Parks and Recreation

laj

Attachment

cc: Mayor
City Clerk
File

ITD-500 11-94

IDAHO TRANSPORTATION DEPARTMENT

Department Memorandum

DATE: OCTOBER 29, 2014

Project No.(s): N/A

TO: KIMBOL ALLEN
DISTRICT SIX ENGINEER

Key No.(s): n/a

FROM: HOLLY MCCLURE hm
CAU

Project Identification:
IDAHO FALLS LANDSCAPING

RE: AGREEMENT

Kimbol, enclosed are two originals, and a copy for your files, of the Cooperative Agreement for the above project. Attach the exhibit to each original when you get it, and then staple the agreements at the top.

Please obtain the appropriate signatures from the City of Idaho Falls. Then you sign and return both originals to me for further processing.

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

hm

Enclosures

cc: CAU, W/ATT

COOPERATIVE AGREEMENT
Parks & Recreation
CITY OF IDAHO FALLS

PARTIES

This agreement is made and entered into this _____day of _____ 2014, by and between the Idaho Transportation Department, hereafter called the State, and the City Of Idaho Falls, hereafter called the City.

PURPOSE

The State has a need to manage vegetation along US-20 Right of Way within Idaho Falls, specifically at Riverside and Fremont, as shown on Exhibit A attached hereto. This agreement provides for funding certain activities by the City that will meet the State's needs through local projects.

Authority for this agreement is established by Section 40-317, Idaho Code.

The Parties agree as follows:

SECTION I That the State will:

1. Review and approve project plans for the construction of landscaping improvements along US-20 Right of Way as shown on Exhibit A.

2. Authorize the City to construct the improvements.

3. Process requests for re-imbursement of costs incurred by the City related to the following work:

    a. 100 percent of all material costs related to the underground irrigation and landscaping improvements shown on Exhibit A, up to a maximum of Twenty Five Thousand Dollars ($25,000).

SECTION II That the City will:

1. Provide opportunity to the State to approve the landscape design of upgrades to the US-20 Right of Way at Riverside & Fremont prior to beginning construction of those projects.

2. Acquire permits from the State for all work within the State's Right of Way.

3. Following completion of the work, submit an itemized statement to the State requesting reimbursement as outlined in Section I above.

4. Negotiate with the State to update the Cooperative Agreement for Maintenance of State Highways dated January 15, 2004 to include maintenance of the landscaping improvements. The City will maintain the constructed facilities in accordance with that agreement.

SECTION III General:

1. This Agreement shall become effective on the first date mentioned above, and shall remain in full force and effect until amended or replaced upon the mutual consent of the State and the City.

EXECUTION

This Agreement is executed for the State by its District Engineer, and executed for the City by the Mayor, attested to by the City Clerk, with the corporate seal of City of Idaho Falls.

IDAHO TRANSPORTATION DEPARTMENT

APPROVED BY:

_____

District Engineer

ATTEST:

CITY OF IDAHO FALLS

_____

City Clerk

_____

Mayor

hm:IdahoFalls Coop.docx

RESOLUTION

WHERAS, the Idaho Transportation Department, hereafter called the STATE, has submitted an agreement stating obligations of the STATE and the CITY OF IDAHO FALLS, hereafter called the CITY, to provide funding to the City for certain landscaping expenditures, and

WHEREAS, the City has agreed to the planning, construction and maintenance of these landscape features; and

WHEREAS, the parties have agreed to participate in the costs of such improvements as outlined in this Cooperative Agreement.

NOW, THEREFORE, BE IT RESOLVED:

1. That the Agreement is hereby approved.
2. That the Mayor and the City Clerk are hereby authorized to execute the Agreement on behalf of the CITY.
3. That duly certified copies of the Resolution shall be furnished to the Idaho Transportation Department.

CERTIFICATION

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

(Seal)

_____

City Clerk

COOPERATIVE AGREEMENT
Parks & Recreation
CITY OF IDAHO FALLS

PARTIES

This agreement is made and entered into this _____day of _____ 2014, by and between the Idaho Transportation Department, hereafter called the State, and the City Of Idaho Falls, hereafter called the City.

PURPOSE

The State has a need to manage vegetation along US-20 Right of Way within Idaho Falls, specifically at Riverside and Fremont, as shown on Exhibit A attached hereto. This agreement provides for funding certain activities by the City that will meet the State's needs through local projects.

Authority for this agreement is established by Section 40-317, Idaho Code.

The Parties agree as follows:

SECTION I That the State will:

1. Review and approve project plans for the construction of landscaping improvements along US-20 Right of Way as shown on Exhibit A.

2. Authorize the City to construct the improvements.

3. Process requests for re-imbursement of costs incurred by the City related to the following work:

    a. 100 percent of all material costs related to the underground irrigation and landscaping improvements shown on Exhibit A, up to a maximum of Twenty Five Thousand Dollars ($25,000).

SECTION II That the City will:

1. Provide opportunity to the State to approve the landscape design of upgrades to the US-20 Right of Way at Riverside & Fremont prior to beginning construction of those projects.

2. Acquire permits from the State for all work within the State's Right of Way.

3. Following completion of the work, submit an itemized statement to the State requesting reimbursement as outlined in Section I above.

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EXECUTION

This Agreement is executed for the State by its District Engineer, and executed for the City by the Mayor, attested to by the City Clerk, with the corporate seal of City of Idaho Falls.

IDAHO TRANSPORTATION DEPARTMENT

APPROVED BY:

_____

District Engineer

ATTEST:

CITY OF IDAHO FALLS

_____

City Clerk

_____

Mayor

hm:IdahoFalls Coop.docx

RESOLUTION

WHERAS, the Idaho Transportation Department, hereafter called the STATE, has submitted an agreement stating obligations of the STATE and the CITY OF IDAHO FALLS, hereafter called the CITY, to provide funding to the City for certain landscaping expenditures, and

WHEREAS, the City has agreed to the planning, construction and maintenance of these landscape features; and

WHEREAS, the parties have agreed to participate in the costs of such improvements as outlined in this Cooperative Agreement.

NOW, THEREFORE, BE IT RESOLVED:

1. That the Agreement is hereby approved.
2. That the Mayor and the City Clerk are hereby authorized to execute the Agreement on behalf of the CITY.
3. That duly certified copies of the Resolution shall be furnished to the Idaho Transportation Department.

CERTIFICATION

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

(Seal)

_____

City Clerk

Idaho Falls Power

A Division of the City of Idaho Falls *"A community with its own kind of energy"*

Reliable Public Power Provider

MEMORANDUM

TO: Honorable Mayor and City Council

FROM: Jackie Flowers, General Manager

DATE: January 20, 2015

Re: Approve the Usage Monitor Software Access Agreement with Exceleron

---

Idaho Falls Power has an existing contract with Exceleron for an energy management web portal that will enable customers to access information on electric use at their premises. Customers will soon be able to voluntarily sign up for this service, if interested.

In working with Exceleron to complete this project, we have determined there are efficiency gains to be made to using Exceleron's Meter Data Management (MDM) system. Because we are reaching the end of the contract with our current MDM provider, we are proposing to amend their scope to include providing this service. Attached is a copy of the proposed Software Access Agreement. The City Attorney has reviewed this agreement.

Staff recommends that City Council approve that agreement and authorize the Mayor to execute the document.

JRF/633

Attachment

Cc: City Clerk
City Attorney
file

PO Box 50220
140 S Capital
Idaho Falls ID 83405

Phone: 208-612-8430
Fax: 208-612-8435
www.ifpower.org

MYUSAGE PREPAID SOFTWARE ACCESS AGREEMENT

This MYUSAGE PREPAID Software Access Agreement ("***Agreement***"), dated as of the Effective Date shown below, is entered into by and between Exceleron Software, LLC, with an address of 5440 Harvest Hill Road, Suite 233, Dallas, TX 75230 ("***Exceleron***"), and Customer identified below. This Agreement consists of this cover page (the "***Cover Page***") and the terms and conditions on the attached Exhibits A and B.

Customer Name	Idaho Falls Power		
Contact Name & Title	Mark Reed, Generation and Operations Superintendent		
Street Address	140 S. Capital Avenue		
City, State and ZIP	Idaho Falls, Idaho 83402-3629		
Telephone	208-612-8234		
Fax	208-612-8435		
E-mail Address	mreed@ipower.org		
Effective Date	Upon Signing	**Expiration Date of Initial Term**	September 30, 2016

FEES	
Configuration and Training Fee	$10,000.00 due on the Effective Date.
Notification and IVR Fees	Customer shall pay the following charges for generating and sending and/or receiving notifications: $0.05 for each toll call $0.04 per text message Customer will utilize e-mail for usage monitor notifications at no charge. These communications charges will be billed on a monthly basis.
Monthly Fees	Annual Fee: $36,000.00 ($3,000.00 X 12 months) due on October 1, 2015 (and annual on October 1 if the Agreement is renewed in accordance with the terms and conditions of this Agreement). This annual fee includes MyUsage Prepaid for up to 500 prepaid subscribers per month, MyUsage MDM, and MyUsage Usage monitor portal application for all postpaid consumers. Should customer surpass 500 prepaid subscribers in any given month, customer shall be billed $6.00 per prepaid subscriber above the allotted 500 subscribers.
Payment	The above fees and charges are payable as provided in the attached Exhibit A.

SIGNATURES

In witness whereof, Exceleron and Customer have executed this Agreement by their duly authorized officers as of the Effective Date.

Exceleron Software, LLC	**Customer:**
Signature:	Signature:
Name (printed): Jeffrey A. Severs	Name (printed):
Title: Chief Operating Officer	Title:
Date:	Date:

EXHIBIT A
TERMS AND CONDITIONS

1. Definitions

1.1 "***Go Live Date***" means the first date that the System is used by Customer for productive use.

1.2 "***Prepaid Participants***" means a customer of the Customer who participates in the Customer's alternative prepaid program.

1.3 "***MYUSAGE PREPAID Software***" means that certain Exceleron software called MYUSAGE PREPAID or Prepaid Account Management System.

1.4 "***Confidential Information***" means this Agreement and all its exhibits, the MYUSAGE PREPAID Software, documentation, information, data, drawings, specifications, and any other information supplied by one party to the other and which should reasonably be considered confidential. Confidential Information will not include information that is publicly available, becomes publicly available through no fault of the other party, is already in the other party's possession without a confidentiality obligation, is obtained by the other party from a third party without restrictions on disclosure, or is independently developed by the other party without reference to the Confidential Information.

1.5 "***Customer Data***" means all data and information (whether or not Confidential Information) entered into the System by Customer.

1.6 "***Effective Date***" is defined on the Cover Page.

1.7 "***Initial Term***" is defined on the Cover Page.

1.8 "***System***" means Exceleron's computer systems that are used to host the MYUSAGE PREPAID Software.

2. MYUSAGE PREPAID Software Access

2.1 Exceleron hereby grants to Customer a non-exclusive, nontransferable, non-sublicensable license to use the MYUSAGE PREPAID Software through the System during the Term (as defined below) solely for Customer's internal business purpose related to prepaid electricity service.

2.2 Customer must: (a) provide for its own access to the Internet and pay any service fees associated with such access, and (b) provide all equipment necessary to make such connection to the Internet, including a computer, modem and specified browser and plug-in software.

2.3 Exceleron will retain sole and exclusive ownership of all right, title and interest in and to the MYUSAGE PREPAID Software and System and all copies thereof.

2.4 Customer Data shall be and remain the property of Customer. Upon Customer's request, or upon the termination or expiration of this Agreement, such Customer Data shall be promptly returned to Customer by Exceleron in a form then maintained by Exceleron or, if Customer so elects, shall be destroyed.

3. Service Level and Support

3.1 Exceleron will use commercially reasonable efforts to make the System available for Customer's access between the hours of 5:00 a.m. and 2:00 a.m. Central Time, seven (7) days a week ("***Operating Hours***"). Except in the case of emergencies, Exceleron will provide Customer with at least twenty-four (24) hours prior notice of downtime required during Operating Hours and will use commercially reasonable efforts to accommodate Customer's schedule for such downtime.

3.2 The MYUSAGE PREPAID Software and System will operate in material conformance to the specifications set forth in Exhibit B. As Customer's sole and exclusive remedy, Exceleron will use commercially reasonable efforts to fix any non-conformities. Customer agrees that Exceleron may, in its reasonable commercial judgment, amend Exhibit B from time to time to further detail the MYUSAGE PREPAID Software and System. Amendments to Exhibit B are effective upon Customer's receipt of the revised Exhibit B. However, if: (a) the amendment would materially and adversely affect Customer, (b) Customer provides Exceleron with a written notice describing its objection to the amendment in reasonable detail within five (5) business days of the effective date of the amendment, and (c) Exceleron does not agree to waive the amendment as to Customer within five (5) business days of Customer's notice, then Customer may terminate this Agreement without liability.

3.3 Exceleron will provide Customer with those error corrections and modifications to the MYUSAGE PREPAID Software that Exceleron provides without cost to its other customers that access the MYUSAGE PREPAID Software through the System.

3.4 Exceleron will provide telephone call-back support during Exceleron's normal business hours to permit Customer to report problems and seek reasonable assistance in the use of the MYUSAGE PREPAID Software.

3.5 Exceleron will not be in default of this Agreement, or be liable in any way, to the extent the System is unavailable wholly or partly due to: (i) Customer's failure to perform its obligations under this Agreement that affects the performance of the System; (ii) force majeure events set forth in Section 12.9; (iii) the performance of Customer's third party telecommunications network provider(s); (iv) changes made at the request of Customer; (v) unforeseen capacity increases

based on changes in Customer's business processes for which Exceleron has not received at least thirty (30) days prior written notice from Customer; and (vi) Customer's software or hardware.

4. Other Services

4.1 Exceleron will provide Customer with two (2) business days of training on the use and operation of the System. The class will be held in Dallas, Texas at a mutually agreed upon date and time. Training will be "train the trainer" training and may accommodate up to three (3) individuals. Any additional training will be performed according to mutually agreed terms and conditions.

5. Fees and Payment Procedures

5.1 Customer shall pay Exceleron the fees in accordance with the fee structure set forth on the Cover Page and as otherwise provided in this Agreement. All amounts will be due and payable within twenty (20) days after the date of invoice. Any amounts owing that are not paid when due will accrue interest from the due date at the rate of eighteen percent (18%), or the maximum rate permitted by law, whichever is less.

5.2 All amounts shown in this Agreement are in United States dollars and are net of all sales, use, property and related taxes. Customer shall be responsible for all taxes arising out of or related to this Agreement (except for taxes based upon the net income of Exceleron), regardless of whether Exceleron bills Customer for such taxes.

5.3 In the event that Customer has not timely paid fees due under this Agreement or Customer is otherwise in breach of this Agreement, Customer acknowledges that Exceleron may suspend or deny Customer's access to the MYUSAGE PREPAID Software and System.

6. Term and Termination

6.1 This Agreement will take effect on the Effective Date and, unless terminated earlier as provided in this Section 6, will remain in force during the Initial Term. Following the Initial Term, unless terminated earlier as provided in this Section 6, this Agreement will automatically continue for successive annual periods (a "***Renewal Term***"; collectively with the Initial Term, the "***Term***").

6.2 Either party may terminate this Agreement at the end of the Initial Term or a Renewal Term by providing the other party with at least thirty (30) days written notice prior to the date of termination.

6.3 A party may terminate this Agreement upon written notice to the other party if such other party breaches a material term, condition or provision of this Agreement unless the breach, if capable of being cured, is cured within thirty (30) days (ten (10) days for non-payment) after the non-breaching party gives the breaching party written notice of such breach.

6.4 A party may terminate this Agreement upon written notice to the other party if such other party (i) terminates or suspends its business, (ii) becomes insolvent, admits in writing its inability to pay its debts as they mature, makes an assignment for the benefit of creditors, or becomes subject to direct control of a trustee, receiver or similar authority, or (iii) becomes subject to any bankruptcy or insolvency proceeding under federal or state statutes.

6.5 Notwithstanding Section 6.3, Exceleron may terminate this Agreement immediately upon Customer's breach of the license restrictions in Section 2.1.

6.6 Upon termination for any reason, Customer will immediately cease all use of and access to the System and will pay all amounts due and/or payable through the date of termination.

7. Disclaimer of Warranties

7.1 EXCELERON MAKES NO WARRANTIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY REGARDING OR RELATING TO THE MYUSAGE PREPAID SOFTWARE, THE SYSTEM OR THE DOCUMENTATION, OR ANY MATERIALS OR SERVICES FURNISHED OR PROVIDED TO CUSTOMER UNDER THIS AGREEMENT. EXCELERON SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT.

7.2 Customer represents, warrants, and covenants that it shall comply with all federal, state and local laws and rules.

8. Limitation of Liability

8.1 EXCEPT WITH RESPECT TO BREACHES OF SECTIONS 2.1, 7.2, 9, AND 10, IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND IN CONNECTION WITH OR ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR ANY OTHER LEGAL OR EQUITABLE THEORY, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

8.2 EXCEPT WITH RESPECT TO BREACHES OF SECTIONS 2.1, 7.2, 9, AND 10, IN NO EVENT WILL EITHER PARTY'S AGGREGATE CUMULATIVE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR ANY OTHER LEGAL OR EQUITABLE THEORY, EXCEED THE TOTAL AMOUNT OF ALL FEES ACTUALLY PAID BY CUSTOMER TO EXCELERON

UNDER THIS AGREEMENT FOR THE MONTH IN WHICH THE CAUSE OF ACTION AROSE, PROVIDED HOWEVER, THE LIMITATION ON DAMAGES EXPRESSED IN THE PRECEDING SENTENCE SHALL NOT APPLY TO DAMAGES CAUSED BY THE WILLFUL OR WANTON CONDUCT OF THE PARTY CREATING THE DAMAGES. THIS LIMITATION OF LIABILITY IS INTENDED TO APPLY WITHOUT REGARD TO WHETHER OTHER PROVISIONS OF THIS AGREEMENT HAVE BEEN BREACHED OR HAVE PROVEN INEFFECTIVE.

9. Indemnification

9.1 Exceleron will, at its expense, defend, indemnify and hold Customer harmless from and against all claims, losses and damages related to or arising out of an allegation brought against Customer that the MYUSAGE PREPAID Software as used through the System infringes any patent, copyright, trade secret or other proprietary right of any third party. Customer shall give such assistance and information as Exceleron may reasonably require to oppose such claims. Exceleron shall have no obligation for any claims arising out of a combination or use of the MYUSAGE PREPAID Software as used through the System with non-Exceleron programs, products or data, if such combination or use is the cause of the alleged infringement.

9.2 In the event a third party claim of infringement is threatened or occurs, Customer will immediately notify Exceleron. Exceleron may, in its sole discretion, alter or replace the MYUSAGE PREPAID Software or System with a non-infringing functionally equivalent system. If Exceleron determines that none of these alternatives is reasonably available, Exceleron may terminate this Agreement and refund to Customer any Fees paid in advance for the time following termination.

9.3 Customer acknowledges that (i) Customer has the sole discretion whether to provide electricity service to its customers, (ii) Customer has the sole discretion and authority to disconnect electricity service, and (iii) Customer shall not rely upon Exceleron to determine whether to connect or disconnect electricity service. Accordingly, CUSTOMER WILL, AT ITS EXPENSE, DEFEND, INDEMNIFY AND HOLD EXCELERON HARMLESS FROM AND AGAINST ALL CLAIMS, LOSSES AND DAMAGES, INCLUDING DEATH, RELATED TO OR ARISING OUT OF AN ALLEGATION BROUGHT AGAINST EXCELERON ARISING OUT OF OR RELATED TO THE MYUSAGE PREPAID SOFTWARE, THE SYSTEM OR THIS AGREEMENT (INCLUDING WITHOUT LIMITATION, ANY CLAIMS AS A RESULT OF A BREACH BY CUSTOMER OF THIS AGREEMENT OR ANY OTHER AGREEMENTS AND ANY CLAIMS BY CUSTOMER'S CUSTOMERS WITH RESPECT TO CUSTOMER'S ELECTRIC SERVICE PROVIDER OBLIGATIONS), REGARDLESS OF ANY NEGLIGENCE OR ALLEGED NEGLIGENCE OF EXCELERON EXCEPT TO THE EXTENT PROXIMATELY CAUSED BY THE GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT OF EXCELERON. Exceleron shall give such assistance and information as Customer may reasonably require to oppose such claims.

9.4 At Customer's request, Exceleron may record certain customer support calls for quality assurance purposes. Customer is solely responsible for complying with all legal and regulatory requirements related to the recording such calls, including but not limited to obtaining any necessary waivers or providing customers with the appropriate notifications. In addition, Customer is responsible for notifying Exceleron of any legal or regulatory requirements associated with recording such calls. Customer will, at its expense, defend, indemnify and hold Exceleron harmless from and against all claims, losses, fines and damages brought against Exceleron arising out of or related to Exceleron's recording of customer support calls.

9.5 At Customer's request and subject to any regulatory restrictions, Exceleron will display Customer's name on the "caller id" display for Customer's Prepaid Participants. Customer is solely responsible for complying with all legal and regulatory requirements related to the display of the caller id, including but not limited to obtaining any necessary waivers or providing customers with the appropriate notifications. In addition, Customer is responsible for notifying Exceleron of any legal or regulatory requirements associated with the display of Customer's name on "caller id". Customer will, at its expense, defend, indemnify and hold Exceleron harmless from and against all claims, losses, fines and damages brought against Exceleron arising out of or related to Exceleron's display of Customer's name on caller id.

10. Confidential Information

10.1 Each party ("***Receiving Party***") acknowledges that the other party's ("***Disclosing Party***") Confidential Information constitutes valuable trade secrets and the Receiving Party agrees that it shall use the Disclosing Party's Confidential Information solely in accordance with the provisions of this Agreement and will not disclose, or permit to be disclosed, the same, directly or indirectly, to any third party without the Disclosing Party's prior written consent. The Receiving Party agrees to use the same efforts, but not less than commercially reasonable efforts, to protect the Disclosing Party's Confidential Information from unauthorized use and disclosure as the Receiving Party takes with respect to its own similar confidential information. The Receiving Party may disclose the Disclosing Party's Confidential Information if required to be disclosed by order of a court or other governmental entity or by the Idaho Public Records Law (Idaho Code 9-337 – 9-350), provided that the Receiving Party promptly notifies the Disclosing Party and assists the Disclosing Party in resisting or limiting such disclosure.

10.2 Exceleron may list Customer's name in Exceleron's materials and may otherwise inform third parties that Customer is a customer that uses the MYUSAGE PREPAID Software and System.

10.3 In the event of actual or threatened breach of the provisions of Section 10.1, the Disclosing Party may have no adequate remedy at law and will be entitled to seek immediate and injunctive and other equitable relief.

11. Assignment

11.1 Neither this Agreement nor any rights under this Agreement may be assigned or otherwise transferred by Customer, without providing prior written notice to Exceleron. For purposes of this Agreement, a transaction such as a merger, consolidation, reorganization, change of control, stock sale or exchange, sale of any substantial portion of Customer's assets or similar transaction will be deemed to be an assignment. Subject to the foregoing, this Agreement will be binding upon and will inure to the benefit of the parties and their respective successors and permitted assigns.

12. Miscellaneous

12.1 Any notice required or permitted under the terms of this Agreement or required by law must be in writing and must be (a) delivered in person, (b) sent by first class registered mail, or air mail, as appropriate, or (c) sent by overnight courier, in each case properly posted and fully prepaid to the appropriate address set forth herein. Either party may change its address for notice by notice to the other party given in accordance with this Section. Notices will be considered to have been given at the time of actual delivery in person, three (3) business days after deposit in the mail as set forth above, or one (1) day after delivery to an overnight courier service.

12.2 Any waiver of the provisions of this Agreement or of a party's rights or remedies under this Agreement must be in writing to be effective. Failure, neglect, or delay by a party to enforce the provisions of this Agreement or its rights or remedies at any time, will not be deemed to be a waiver of such party's rights under this Agreement and will not in any way affect the validity of the whole or any part of this Agreement or prejudice such party's right to take subsequent action.

12.3 If any term, condition, or provision in this Agreement is found to be invalid, unlawful or unenforceable to any extent, the parties shall endeavor in good faith to agree to such amendments that will preserve, as far as possible, the intentions expressed in this Agreement. If the parties fail to agree on such an amendment, such invalid term, condition or provision will be severed from the remaining terms, conditions and provisions, which will continue to be valid and enforceable to the fullest extent permitted by law.

12.4 This Agreement contains the entire agreement of the parties with respect to the subject matter of this Agreement and supersedes all previous communications, representations, understandings and agreements, either oral or written, with respect to said subject matter. The Parties acknowledge and agree that this Agreement will replace the Usage Monitor Agreement executed by the Parties and which will expire on September 30, 2015

12.5 This Agreement is for the sole benefit of Exceleron and Customer and their permitted assigns and nothing herein expressed or implied will give or be construed to give to any person, other than Exceleron and Customer and such assigns, any legal or equitable rights hereunder.

12.6 This Agreement may not be amended, except by a writing signed by both parties.

12.7 No exercise or enforcement by either party of any right or remedy under this Agreement will preclude the enforcement by such party of any other right or remedy under this Agreement or that such party is entitled by law to enforce.

12.8 This Agreement may be executed in counterparts, each of which so executed will be deemed to be an original and such counterparts together will constitute one and the same agreement.

12.9 Except for the obligations to make payments hereunder, each party shall be relieved of the obligations hereunder to the extent that performance is delayed or prevented by any cause beyond its reasonable control, including, without limitation, acts of God, public enemies, war, civil disorder, communications failures, failures of third parties, fire, flood, explosion, labor disputes or strikes or any acts or orders of any governmental authority, failures or fluctuations in electrical power, heat, light, air conditioning or telecommunications equipment.

12.10 The provisions of Sections 1, 2.3, 2.4, 5, 6.6, 8, 9, 10, and 12 will survive termination of this Agreement.

12.11 This Agreement shall be governed by and construed in accordance with the laws of the State of Idaho, without reference to its choice of laws provisions. Exclusive venue for any dispute between the parties arising out of or related to this Agreement shall be with the state or federal courts in Idaho Falls, Idaho. Each party consents to the jurisdiction of such courts in any dispute arising out of or related to this Agreement.

****

Exhibit B
Specifications and Functionality

I. Introduction

A. Purpose

This Exhibit defines specific functional and performance requirements of the MYUSAGE PREPAID Software (also referred to as "MYUSAGE PREPAID" herein). Any capitalized terms not defined in this Exhibit B shall have the meaning set forth in the Agreement.

B. Scope

MYUSAGE PREPAID is a web-based system that provides customers with the necessary tools to offer their customers a prepaid alternative to traditional billing options. Prepaid Participants will have the ability to prepay for electricity, monitor their consumption, credit balance and receive notification of pending disconnections. Payments will be posted to the System as they are made available by Customer. Daily usage charges are calculated based on rates established and maintained by Customer. During the enrollment process, Prepaid Participants will provide the Customer with contact information to be used during the notification process.

II. General Description

A. Product Functions

Accounts will be created in MYUSAGE PREPAID as Prepaid Participants are enrolled in Customer's prepaid program. An initial payment (as determined by the Customer) will be posted to the account and displayed as service credits. Usage is monitored daily and the calculated cost for such usage is deducted from the Prepaid Participant's current balance. Prepaid Participants can keep abreast of their balance through receipt of notifications for which they select the method and frequency during account creation. An order is created to disconnect the service when the service credit balance reaches zero. If a payment is received prior to the actual disconnection being completed, the order is automatically cancelled in MYUSAGE PREPAID; therefore, disconnection can be avoided provided the Customer utilizes the "Order Status" feature of MYUSAGE PREPAID as opposed to a disconnection process outside of MYUSAGE PREPAID. If the participant has already been disconnected, a reconnect order will be generated. Additional fees or charges will also be applied when applicable such as disconnect charges or reconnect charges. Prepaid Participants will have 7/24 access to their account via the internet or an IVR.

B. User Capabilities and Objectives

1. Create new prepaid accounts
2. Post payments to accounts and display updated account balance
3. Determine unused credit and estimated number of days of unused service
4. Perform account maintenance (update contact information, address changes etc.)
5. Access pending disconnect and reconnect orders and view their status
6. Insert notes or events on accounts unless business practice dictates insertion of notes or events into CIS only

III. Functional Requirements

A. Create a new account

1. ***Description:*** Customer's customer service representative, hereafter referred to as a CSR, will enter a new participant's name, address, location information and meter information into MYUSAGE PREPAID to establish a new account. Prepaid Participant account information may already exist in current billing system. If access and connectivity is possible, this information will be pre-populated.

B. Process a payment

1. ***Description:*** Payments posted to Customer's billing system will be collected on a scheduled interval and posted to MYUSAGE PREPAID electronically if access and connectivity to the Customer's billing system is possible. The CSR also has the ability to post participant payments to MYUSAGE PREPAID account. This may be accomplished manually and/or automatically depending upon the Customer's payment processing vendor(s) and available integration. Payments posted in MYUSAGE PREPAID will be reported to Customer's CIS system.

C. Account Maintenance

1. ***Description:***
   a. The CSR is able to access a Prepaid Participant's record in MYUSAGE PREPAID in a timely manner and answer questions relative to information contained in MYUSAGE PREPAID.
   b. Prepaid Participant information is organized for quick access.
   c. The account information page allows the CSR to change specific participant information (i.e. billing information, contact information etc.).

d. Billing and payment information, agent location information, order history and current order statuses are available to the CSR for the desired Prepaid Participant.
e. Additional functionality such as payment processing, notes or events and agent lookups are also available features of MYUSAGE PREPAID.

D. Acquisition of Usage Data

1. ***Description:*** Usage data will be acquired from the Customer's AMR database. Access to client side application to query the desired data and transmit such data to the MYUSAGE PREPAID application is required.

E. Calculate Usage Debits

1. ***Description:*** Usage charges will be calculated nightly as new usage is received and inserted into MYUSAGE PREPAID to debit the Prepaid Participant's balance.
2. ***Monitoring:*** Each meter will be monitored to ensure that a usage record is received and processed each night. Accounts for which usage was not received will be displayed in an Exceptions Report.

F. PCA (Power Charge Adjustment) True-up

1. ***Description:*** The PCA, which is used by the rating engine, will initially be entered as an estimate and subsequently updated by Customer. Upon the actual PCA being made available, the appropriate adjustment(s) and/or change(s) will be made. (This portion is applicable only to those Customers utilizing PCA.)

G. Calculate taxes

1. ***Description:*** Applicable taxes will be calculated and applied to the Prepaid Participant's account.

H. Web Service Interface to Disconnect/Reconnect

1. *Description:* Provide a process that will interface with remote disconnect/reconnect collars if available.
   a. A disconnection order will be generated based upon Prepaid Participant's account no longer being in good standing as defined by Customer. Disconnect orders may be viewed through a dynamic orders list which provides easy access to individual accounts. Depending upon the disconnection method utilized by Customer, disconnections may occur automatically or manually. If an automatic process is desired, this setting must be controlled by and deployed by Customer.
   b. A reconnection order will be generated based upon sufficient payment being applied to Prepaid Participant's account to bring account into good standing as established by the Customer. Reconnect orders may be viewed through a dynamic orders list which provides easy access to individual accounts. Depending upon the reconnection method utilized by the Customer, reconnections may occur automatically or manually. If an automatic process is desired, this setting must be controlled by and deployed by Customer

I. Create Notification Events

1. ***Description:*** A list of Prepaid Participants to be notified will be generated based on defined criteria. This list will be used by the notification process to communicate with the Prepaid Participant based upon the Prepaid Participant's selection of method and frequency or based upon the Customer's mandate of specific notification types and/or frequency.

J. Notification Server

1. ***Description:*** The MYUSAGE PREPAID notification server permits Prepaid Participants to receive selected notifications in the form designated and at the time designated. Notification settings can be accessed both through MYUSAGE PREPAID and MyUsage.com by CSRs and Prepaid Participants. Such notifications also trigger events on individual accounts for tracking purposes. Notification methods available include Interactive Voice Response (IVR), SMS text message, pager and email.

K. IVR Inbound Participant Services

1. ***Description:*** Prepaid Participants will have the ability to call an access number to obtain information pertaining to their usage and current balance. The ability to make a payment via the IVR will also be provided.

L. Online Bill View (MyUsage.com)

1. ***Description:*** Prepaid Participants will have access to usage information to include current and limited historical. Payment processing will also be permitted through online bill view (MyUsage.com).

IV. Interface Requirements

A. User Interface

1. GUI - User Service representatives access MYUSAGE PREPAID with a web browser. No additional software is required on the user's workstation.
   a. All MYUSAGE PREPAID functions are accessible via the Main Menu. Access requires a valid user name and password and levels of access are restricted by various permission levels.

b. Navigation is accomplished using standard links and drop down boxes.

B. Interactive Agent (IA)

1. Exceleron will make the Interactive Agent available to the Customer via ftp.
2. Customer will ensure that the IA is properly installed on a computer that has uninterrupted internet access.
3. Customer will ensure that the appropriate access to both the CIS and AMR database is provided including a read only user-id and password and that all necessary network connections are available.

C. MyUsage.com

1. Exceleron will provide all Prepaid Participants internet access to MyUsage.com.
2. Access to MyUsage.com requires a user name and password that is established during account setup in MYUSAGE PREPAID.
3. Customer will have the ability to disable individual account access via the MYUSAGE PREPAID interface.

CITY OF IDAHO FALLS

PLANNING AND BUILDING DIVISION

P.O. BOX 50220
IDAHO FALLS, IDAHO 83405-0220
www.idahofallsidaho.gov

Planning Department • (208) 612-8276 FAX (208) 612-8520 Building Department • (208) 612-8270

BGC-013-15

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Brad Cramer, Planning and Building Director
SUBJECT: Professional Services Contract with Idaho Smart Growth
DATE: January 16, 2015

Attached is a professional services contract with Idaho Smart Growth. The contract provides for services to assist with training regarding the area of city impact statute and required process. The training will be held February 4th. The contract was prepared by the Legal Department. Staff respectfully requests approval of the contract.

Attachments: Contract with Idaho Smart Growth

cc: Rose Anderson
File

AGREEMENT FOR PROFESSIONAL SERVICES RELATED TO CONSULTING AND UPDATING THE AREA OF IMPACT "BOOT CAMP" FOR THE CITY OF IDAHO FALLS, IDAHO

THIS AGREEMENT FOR PROFESSIONAL SERVICES RELATED TO CONSULTING AND UPDATING THE AREA OF IMPACT "BOOT CAMP" FOR THE CITY OF IDAHO FALLS, IDAHO (hereinafter "Agreement"), is made and entered into this _____ day of _____, 2015, by and between the City of Idaho Falls, Idaho, a municipal corporation of the State of Idaho, P.O. Box 50220, Idaho Falls, Idaho 83405 (hereinafter "CITY"), and Idaho Smart Growth, Inc., 910 Main Street Suite 314, Boise, Idaho, 83702 (hereinafter referred to as "CONSULTANT").

W I T N E S S E T H:

WHEREAS, CITY desires to obtain a Consultant to prepare for updating the Area of City Impact; and

WHEREAS, CITY requires the services of a consulting firm to facilitate the discussion and provide presentations as needed related to the relevant "Boot Camp" topics ("Project");

WHREAS, CONSULTANT will help the CITY with policies related to growth and development and the impact of growth, and utility systems; and

WHEREAS, CONSULTANT is an established company that has the skills and experience to apply its professional services to CITY's needs on the Project;

WHEREAS, CITY has selected the above-referenced CONSULTANT to complete the Scope of Work identified herein; and

WHEREAS, CONSULTANT has prepared the Scope of Work, which is incorporated into this Agreement; and

WHEREAS, CITY wishes CONSULTANT to complete the Scope of Work, pursuant to this Agreement and for the compensation set out in this Agreement; and

NOW, THEREFORE, be it agreed that for and in consideration of the mutual covenants and promises between the parties hereto, that:

SECTION I: SCOPE OF WORK

A. TASKS provided by CONSULTANT, and its associates, shall be as follows:

1. Project Schedule
    a. The deadline date for submittals shall be 5:00 PM on January 9, 2015. Proposals received after the submittal deadline will not be considered.
    b. Selection of the qualified firm will be made by January 15, 2015.
    c. Project to be completed by February 13, 2015 (subject to negotiation).

2. Project Tasks
    a. Consultation with City officials and staff to determine topics and agenda for "Boot Camp."
    b. Prepare presentations and needed materials related to identified topics.
    c. Attend "Boot Camp" to act as a presenter and facilitator.

3. Project Deliverables
    a. Attendance at "Boot Camp" to provide facilitation services.
    b. Materials including Power Point presentation, handouts, and copies of the Area of City Impact Toolkit.

CONSULTANT shall provide a written agenda upon completion and attend and present at the "Boot Camp."

B. TASKS provided by CITY:

The parties agree that CITY will provide access to the Project site and documents that may be necessary to assess the Project and estimate Project costs.

SECTION II:

A. Independent Contractor.

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

B. Fees and Conditions for Professional Services.

1. Payment for all services described in this Agreement is provided in accordance with the cost described in Section II.B.2. of this Agreement.

2. The cost for CONSULTANTS' services for Project as described in Section I, Scope of Work, is a fixed "not-to-exceed" Four Thousand Dollars ($4,000).

3. Payment is due upon receipt of CONSULTANT's statement(s).

4. CITY and CONSULTANT may mutually agree to re-allocate tasks, providing the fixed "not-to-exceed" price described in Section II.B.2. of this Agreement is unchanged.

C. Right to Use Images.

CITY and CONSULTANT agree that CITY, with this Agreement, acquires the right to use the results of the Project and its image(s), including any portion of its image(s). The use of image(s) may include, but is not limited to, electronic and print promotion of CITY sponsored programs and functions. Image(s) may be provided to other entities, such as newspapers or other publishers, for inclusion in print advertisements, without cost to CITY or payment to CONSULTANT for use of such image(s).

Nothing in this section shall constrain CONSULTANT from using the PROJECT materials for other training or projects with other entities.

SECTION III:

A. Termination of Agreement.

This Agreement may be terminated by CONSULTANT upon thirty (30) days written notice, should CITY fail to substantially perform in accordance with its terms through no fault of CONSULTANT. CITY may terminate this Agreement with thirty (30) days notice without cause and without further liability to CONSULTANT except as designated by this section. In the event of termination, CONSULTANT shall be paid for services performed to termination date, based upon the work completed. All work including reports, shall become the property of, and shall be surrendered to, CITY.

B. Extent of Agreement.

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

C. Project Timeline.

CITY and CONSULTANT shall agree upon a start date. The projected date of Project completion is February 4, 2015, unless adjusted by mutual agreement between the parties. CITY shall make available to CONSULTANT all technical data of record in CITY's possession, including financial, operations, and other information necessary for Project.

D. Termination of Project.

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

E. CONSULTANT's Insurance.

In performance of professional services, CONSULTANT will use that degree of care and skill ordinarily exercised under similar circumstances by members of its profession; and no other warranty, either expressed or implied, is made in connection with rendering CONSULTANT's services. Should CONSULTANT or any of CONSULTANT's agents or employees be found to have been negligent in the performance of professional services from which CITY sustains damage, CONSULTANT has obtained Errors and Omissions Insurance in the minimum amount of Five Hundred Thousand Dollars ($500,000), and said insurance shall be held active for a two (2) year (minimum) period from the date of completion of Project. CITY shall receive notice of any pending termination of said insurance within fifteen (15) days of first notice to CONSULTANT.

F. CONSULTANT's Additional Insurance.

CONSULTANT shall maintain Automobile Insurance and Statutory Workmen's Compensation Insurance coverage, Employer's Liability, and Comprehensive General Liability Insurance coverage. The Comprehensive General Liability Insurance shall have a minimum limit of Five Hundred Thousand Dollars ($500,000) per claim and One Million Dollars ($1,000,000) aggregate, and CONSULTANT shall cause CITY to be named as an additional insured under said policy.

G. Indemnification.

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

H. Costs and Attorney Fees.

In the event either party incurs legal expenses to enforce the terms and conditions of this Agreement, the prevailing party is entitled to recover reasonable attorney's fees and other costs and expenses, whether the same are incurred with or without suit.

I. Jurisdiction and Venue.

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

J. Binding of Successors.

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

K. Modification and Assignability of Agreement.

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

L. CITY's Representatives.

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

M. Conflict of Interest.

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

N. Ownership and Publication of Materials.

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

O. Non-discrimination.

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

ATTEST:

"CITY"
City of Idaho Falls, Idaho

By_____
Rosemarie Anderson, City Clerk

By_____
Rebecca L. Noah Casper, Mayor

"CONSULTANTS"
IDAHO SMART GROWTH

By_____
Its:_____

STATE OF IDAHO)
) ss.
County of Bonneville)

On this _____day of _____, 2015, before me, the undersigned, a notary public for Idaho, personally appeared Rebecca L. Noah Casper, known to me to be the Mayor of the City of Idaho Falls, Idaho, a municipal corporation that executed the foregoing document, and acknowledged to me that she is authorized to execute the same for and on behalf of said City.

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

_____
Notary Public of Idaho
Residing at: _____
My Commission Expires:_____

(Seal)

STATE OF IDAHO)
) ss:
County of Bonneville)

On this _____day of _____, 2015, before me, the undersigned, a notary public, in and for said State, personally appeared _____, known or identified to me to be the _____ of Idaho Smart Growth, Inc., and whose name is subscribed to the within instrument and acknowledged to me that he is authorized to execute the same for and on behalf of said Idaho Smart Growth.

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

_____
Notary Public of Idaho
Residing at: _____
My Commission Expires:_____

(Seal)

CITY OF IDAHO FALLS

PLANNING AND BUILDING DIVISION

P.O. BOX 50220
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BGC-007-15

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Brad Cramer, Planning and Building Director
SUBJECT: Final Plat, and Reasoned Statement of Relevant Criteria and Standards, Parkwood Meadows, Division No. 3, 1st Amended
DATE: January 16, 2015

Attached is the application for a Final Plat and Reasoned Statements of Relevant Criteria and Standards for Parkwood Meadows, Division No. 3, 1st Amended. The Planning Commission considered the application at its December 2, 2014 meeting and recommended approval. Staff concurs with this recommendation. The application is now being submitted to the Mayor and City Council for consideration.

Attachments:
- Vicinity Map
- Aerial Photo
- Final Plat
- Draft Planning Commission minutes, December 2, 2014
- Staff Report, December 2, 2014
- Development Agreement
- Reasoned Statements of Relevant Criteria and Standards

cc: Rose Anderson
File

Final Plat

Parkwood Meadows Division 3, 1st Amended

Legend

- Site
- RP
- RP-A
- R-1
- R-2
- R2A
- R-3
- R-3A
- PB
- MS
- RSC-1
- C-1
- HC-1
- CC-1
- GC-1
- R&D-1
- M-1
- I&M-1
- I&M-2
- RMH
- PT-1
- PT-2
- PT-2 & T-1
- PUD
- T-1
- T-2
- 30 ' Setback
- 50' Setback
- City Limits
- Area of Impact

N W E S

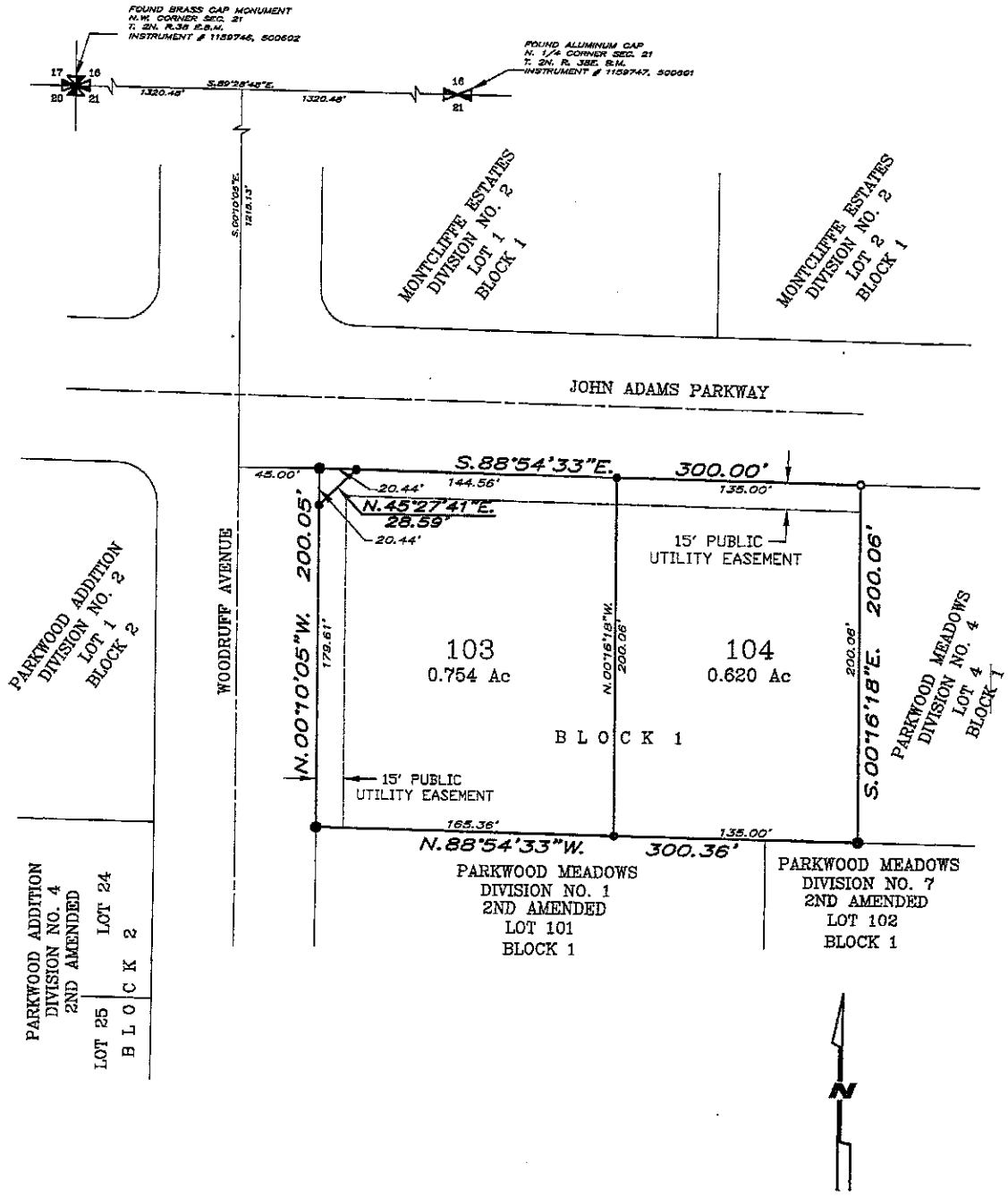
1 " = 800 '

HALSEY ST
GARFIELD ST
HEMLOCK ST
EVERGREEN DR
PINON DR
REDWOOD DR
TABOR AV
UTLEY CIR
BONNEVILLE DR
SYRINGA DR
LINDEN DR
HOLBROOK DR
LINCOLN DR
TENDOY DR
DELBERT DR
CAMBRIDGE DR
ST CLAIR RD
PAUL ST
OXFORD DR
BENTON ST
9TH ST
SE BONNEVILLE DR
10TH ST
SUSANNE AV
CATHRYN AV
BOWER DR
MERRETT DR
ORLIN DR
TERRY DR
AUSTIN AV
12TH ST
HOMER AV
KOSTER AV
STANGER AV
WOODRUFF AV
1ST ST
HENRY DR
CARIBOU ST
CAROL AV
RUTH AV
JOAN AV
MASTERS DR
CATCH DR
ALTURAS ST
MORAN ST
TEAKWOOD ST
ROSEWOOD CIR
PARKWOOD ST
MONTCLIFFE DR
HOOPES AV
GALLUP ST
WESTERGARD AV
STOKES AV
NIXON AV
RIVIERA DR
RIRIE CIR
VAN CIR
OBSIDIAN ST
MELROSE DR
CASCADE ST
SYKES DR
FALLS DR
VALLEY DR
DAVIDSON DR
RENNY AV
TYSON AV
EASTVIEW DR
VIRLOW DR
CROFT ST
MELBOURNE DR
WYATT AV
TYRA AV
WAHLQUIST DR
MEADOW ST
LOGAN DR
MEPPEN DR
JOHN ADAMS PKWY
BODILY ST
STACE ST
ASHMENT AV

1" = 500
TABOR AV
UTLEY CIR
EASY ST
N WOODRUFF AV
CAROL AV
RUTH AV
MASTERS DR
HATCH DR
CASCADE DR
VALLEY DR
DAVIDSON DR
EAST VIEW DR
E 1ST ST
SYRINGA DR
LINCOLN DR
SW BONNEVILLE DR
DELBERT DR
ST CLAIR RD
BULLPEN WY
S WOODRUFF AV
ALTURAS CIR
ALTURAS ST
E ALTURAS CIR
MORAN ST
CROFT ST
MELBOURNE DR
LOGAN DR
WAHLQUIST DR
JOHN ADAMS PKWY
MEADOW ST
MONTCLIFFE DR
MEPPEN DR
JOHN ADAMS CT
PAUL ST
BODILY ST
FOSTER DR
CAMBRIDGE DR
ROSEWOOD CIR
LAURELWOOD AV
STACE ST
OXFORD DR
BENTON ST
PARKWOOD CIR
PARKWOOD ST
HOOPES AV
E 9TH ST
GALLUP ST
E 10TH ST
BOWER DR
MERRETT DR
ORLIN DR
TERRY DR
AUSTIN AV
HOMER AV
KOSTER AV
STANGER AV
WESTERGARD AV
STOKES AV
NIXON AV
PEND OREILLE CIR
CLARK DR
E 12TH ST

PARKWOOD MEADOWS SUBDIVISION, DIVISION NO. 3
1ST AMENDED

AN ADDITION TO THE CITY OF IDAHO FALLS, BONNEVILLE COUNTY, IDAHO
BEING A REPLAT OF LOT 3, BLOCK 1
PARKWOOD MEADOWS SUBDIVISION, DIVISION NO. 3
BEING PART OF THE N.W. 1/4 SECTION 21, T. 2 N. R. 38 E. ,B.M.



that the approval is contingent that the idea that Lot 2 has zero frontage is approved by City Attorney to ensure that it is legitimate with the zoning ordinance.
Dixon moved to recommend to Mayor and City Council, approval of the Final Plat for East Bank Plaza as presented, with the stipulation that the shared access agreement be added to the Plat or on an easement document and that the final approval is contingent upon approval of zero frontage for Lot 2 by the City Attorney. Josephson seconded the motion and it passed unanimously.

Final Plat: Parkwood Meadows Subdivision, Division No. 3, 1st Amended. Beutler presented the staff report, a part of the record. Karst asked if it is shared access, not shared parking. Beutler indicated it is shared access and the parking lots plan is to be seamless in one. Karst clarified and Beutler agreed that each parcel will be required to have enough parking for their site. Wimborne asked that in the notes on the previous Final Plat (East Bank) there was an indication that there needed to be a condition about including the joint access and parking agreement as part of the plat. That is not included in the remarks. Beutler indicated that because the parking is already established and they are proposing to do it already, however it is something that can be memorialized with an agreement. **Wimborne moved to recommend to Mayor and City Council approval of the Final Plat: Parkwood Meadows Subdivision No. 3, 1st amended, as presented with the Stipulation that the cross access agreement and parking is recorded. Black seconded the motion and it passed unanimously.**

Miscellaneous:

Bonneville County Planning Commission Report. Swaney reported there was no Bonneville Planning Commission Meeting in November.

Cramer indicated that it is time to do a morning training session which is good for new members and seasoned members. The training session would be on a Friday at 7:00 a.m., if that would work for the members. Cramer will email available dates to Commission members.

Swaney adjourned meeting at 10:00 p.m.

Respectfully Submitted,

_____

Beckie Thompson, Recorder

IDAHO FALLS PLANNING COMMISSION STAFF REPORT
Parkwood Meadows Subdivision, Division No. 3, 1st Amended
December 2, 2014

Planning and Building Division

Applicant: Ellsworth & Associates, PLLC

Location: Southeast corner of the intersection of John Adams Pkwy and Woodruff Ave.

Size: Approx. 1.37 acres

Existing Zoning:
Site: P-B
North: R-3A/R-1
South: RSC-1
East: P-B
West: R-3A

Existing Land Use:
Site: Commercial/ Vacant
North: Commercial
South: Commercial
East: Vacant
West: Commercial

Future Land Use Map:
Employment Centers

Attachments:
1. Subdivision information
2. Maps and aerial photos
3. Final plat

Requested Action: To **recommend** to the Mayor and City Council approval of the final plat.

Staff Comments: The area is currently zoned Professional-Business Office Zone (P-B). This area was platted as one lot in 1986. In 1987 a site plan was submitted for the construction of an office building on the corner of Woodruff Ave. and John Adams Pkwy (Lot 103). That site plan showed a future office building as phase two on the current vacant portion of the property (Lot 104). At some point since the original platting, the ownership of the parcel was split into two parcels, but did not proceed through the subdivision process. In October of this year a site plan for an office use was submitted for the vacant property. The owners would now like to properly divide the property into two lots.

The existing office has frontage on both Woodruff Ave. and John Adams Pkwy. The vacant portion of the property (Lot 104) will front onto John Adams Pkwy. A shared access, off of John Adams Pkwy, was constructed as part of the original site plan. The proposed office building has been designed to continue to use the shared access as well as provide a connected parking lot as originally intended. No additional rights-of-way are proposed with the amended plat.

The P-B Zone District does not require a minimum lot area. Lot 103 has a width of 144-feet, while Lot 103 width is 135-feet, both exceeding the minimum width of 50-feet required by the zone. Each lot meets the minimum standards of the zone district. The plat is in compliance with the subdivision ordinance.

The objectives of the P-B Zone are to:

The objective in establishing the P-B Professional-Business Office Zone is to provide for business and professional offices, governmental and cultural facilities and certain other uses of a semi-commercial nature. This Zone is characterized by relatively high traffic volumes and a wide variety of office type buildings.

Subdivision Ordinance: Boxes with an "X" indicated compliance with the ordinance

REQUIREMENTS	Staff Review
• Purposes listed in Section 10-1-1 as follows:	
Building envelopes sufficient to construct a building.	X The P-B Zone does not require a minimum lot area.
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.	NA
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.	NA
All major streets in subdivision must conform to the major street plan of the City, as set forth in Comprehensive Plan.	NA No streets proposed
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	NA

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.	
Planning Director to classify street on basis of zoning, traffic volume, function, growth, vehicular & pedestrian safety, and population density.	NA No new streets

Transportation Plan: Woodruff Avenue: Minor Arterial
John Adams Parkway: Major Collector

REASONED STATEMENT OF RELEVANT CRITERIA AND STANDARDS

FINAL PLAT FOR PARKWOOD MEADOWS SUBDIVISION, DIVISION NO. 3, 1ST AMENDED

WHEREAS, the applicant filed an application for final plat on October 29, 2014; and
WHEREAS, this matter came before the Idaho Falls Planning and Zoning Commission on December 2, 2014; and
WHEREAS, this matter came before the Idaho Falls City Council during a duly noticed public hearing on January 22, 2015 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 2013 Comprehensive Plan, the City of Idaho Falls Zoning Ordinance, the Local Land Use Planning Act, and other applicable development regulations.

2. The property is an approximate 1.37 acre parcel located at the southeast corner of the intersection of John Adams Parkway and Woodruff Avenue.

3. This area is zoned P-B.

4. The subdivision includes two commercial lots.

5. The property has frontage on both John Adams Parkway and Woodruff Avenue. The corner lot's access were previously developed and the two lots will have a shared access on John Adams Parkway.

6. The final plat complies with the purposes set forth within the Subdivision 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 plat for Parkwood Meadows Subdivision, Division No. 3, 1st Amended.
PASSED BY THE CITY COUNCIL OF THE CITY OF IDAHO FALLS

THIS _____ DAY OF _____, 2015

_____
Rebecca L. Noah Casper, Mayor

DEVELOPMENT AGREEMENT
PARKWOOD MEADOWS DIVISION NO. 3, 1ST AMENDED

This DEVELOPMENT AGREEMENT, PARKWOOD MEADOWS, DIVISION NO. 3, 1ST AMENDED (hereinafter called "AGREEMENT"), made this _____day of _____, 2014, by and between the CITY OF IDAHO FALLS, a municipal corporation of the State of Idaho, (hereinafter called "CITY"), whose mailing address is P.O. Box 50220, Idaho Falls, Idaho 83405, and BCBY INVESTMENT, LLP, (hereinafter called "DEVELOPER"), whose mailing address is 640 S. WOODRUFF, Idaho Falls, Idaho 83401.

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 the 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 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. Acceptance of the Subdivision 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 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 and against every person whomsoever who lawfully holds, or who later lawfully claims to have held, rights in the premises 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.

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. 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 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 Section 10-1-19 of 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 Fees. 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 obtain a certification upon the 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 state that the water rights for all property within the Subdivision have been transferred from the property and that all liens and assessments of such water delivery entity have been released.

22. Storm Water Discharge Certification. Prior to the acceptance and approval of Final Improvement Plans for any division or phase of the Subdivision, DEVELOPER shall obtain the certification of any Irrigation District, canal company or other entity into which any storm water from such phase or division will be discharged. The certification shall state that such water delivery entity has reviewed and approved the Final Improvement Plans for such phase or division and that the discharge of storm waters from such area into their canal or ditch in the manner shown in the Final Improvement Plans is approved and accepted by such entity.

23. Conflict With Standard Specifications. In the event of any conflict between the terms of this AGREEMENT or the Improvement Plans and the Stand 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. 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.

27. 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

_____
Rosemarie Anderson, City Clerk

By _____
Rebecca L. Noah Casper, Mayor

BCBY Investment, LLP

By _____
Alan R. Cooper, Managing Member

STATE OF IDAHO)

) ss.

County of Bonneville)

On this _____day of _____, 2014, before me, the undersigned, a notary public for Idaho, personally appeared Rebecca L. Noah Casper, known to me to be the Mayor of the City of Idaho Falls, Idaho, the municipal corporation that executed the foregoing document, and acknowledged to me that she is authorized to execute the same for and on behalf of said City.

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

_____

Notary Public of Idaho

Residing at: _____

My Commission Expires:_____

(Seal)

STATE OF IDAHO)
) ss:
County of _____)

On this _____day of _____, 2014, before me, the undersigned, a notary public, in and for said State, personally appeared Alan R. Cooper, known or identified to me to be the Managing Member of BCBY Investment, LLP, a limited liability partnership and whose name is subscribed to the within instrument and acknowledged to me that he is authorized to execute the same for and on behalf of said limited liability 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.

_____
Notary Public of Idaho
Residing at: _____
My Commission Expires:_____

EXHIBIT "A"
PARKWOOD MEADOWS DIVISION NO. 3, 1ST AMENDED

Development Boundary

Commencing at the Northwest corner of Section 21 , Township 2 North, Range 38 East of the Boise Meridian, Bonneville County, Idaho, running thence S.89°28'48"E along the section line 1320.48 feet; thence S.00°10'05"E. 1215.13 feet; thence S.88°54'33"E. 45.00 feet to the TRUE POINT OF BEGINNING; running thence S.88°54'33"E. 300.00 feet to the Northwest corner of Lot 4, Block 1, Parkwood Meadows Subdivision, Division No. 4, Bonneville County, Idaho; thence S.00°16'18"E. along the West boundary line of said Lot 4 a distance of 200.06 feet to the Southwest corner of said Lot 4; thence N.88°54' 33"W. along the North Boundary line of Parkwood Meadows Subdivision, Division No. 1, Bonneville County, Idaho, 300. 36 feet to the Northwest corner of Lot 1, Parkwood Meadows, Division No. 1, said point being on the East Rights-of-Way line of Woodruff Avenue; thence N.00°10'05"W. 200.05 feet to the TRUE POINT OF BEGINNING.

CONTAINING 1.378 acres.

EXHIBIT "B"

SPECIAL CONDITIONS FOR PARKWOOD MEADOWS DIVISON NO. 3, 1ST AMENDED

S-C 1.00. Street Section Improvements. DEVELOPER shall be responsible for constructing street sidewalk improvements along the South side of John Adams Parkway within the subdivision.

S-C 2.00. Storm Drainage Facility. DEVELOPER shall provide adequate disposal of surface waters originating therefrom, either by wholly self-contained system of pumps and retention ponds or by use of private storm drainage interceptors. For purposes of determining adequacy of such facilities, a minimum design standard of 1.33 inches over frozen ground shall be used. DEVELOPER shall design and construct such facilities. All facilities are subject to CITY's prior approval.

S-C 3.00. Water Line Connection Fees. CITY agrees to allow DEVELOPER to connect to the water main located in John Adams Parkway for Block 1 Lot 104, subject to DEVELOPER's payment of the water main connection fees in the amount of $4,725.00 (135' x $35.00 per foot), upon execution of this AGREEMENT and pursuant to section 8-4-14 (C) of the City Code. Pursuant to section 8-4-14 (B) of the City Code, DEVELOPER or its heirs or assigns shall also pay individual water system connection fees each time an individual water service line is connected to the CITY water systems. Such fees shall be paid in the amounts and manner set forth in the City Code.

S-C 4.00. Sewer Main Connection Fee. CITY agrees to allow DEVELOPER to connect to the sewer previously constructed within John Adams Parkway for Block 1 Lot 104, 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 $2,700.00 (135' at $20 per foot). Pursuant to section 8-1-23(B) of the City Code, DEVELOPER or its heirs or assigns shall also pay individual sewer connection fees each time an individual sewer service line is connected to the CITY water system. Such fees shall be paid in the amounts and manner set forth in the City Code.

CITY OF IDAHO FALLS

PLANNING AND BUILDING DIVISION

P.O. BOX 50220
IDAHO FALLS, IDAHO 83405-0220
www.idahofallsidaho.gov

Planning Department • (208) 612-8276 FAX (208) 612-8520 Building Department • (208) 612-8270

BGC-010-15

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Brad Cramer, Planning and Building Director
SUBJECT: Adoption of 2012 International Mechanical Code
DATE: January 15, 2015

The Idaho Building Code Act requires local jurisdictions to adopt and enforce building codes as adopted by the State of Idaho. The State has now adopted the 2012 International Mechanical Code. Staff recommends approval of the attached ordinance adopting the code.

Attachments: Ordinance adopting the 2012 International Mechanical Code

cc: Rose Anderson
File

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 7 OF TITLE 7 OF THE IDAHO FALLS CITY CODE, ADOPTING THE 2012 EDITION OF THE INTERNATIONAL MECHANICAL CODE ; PROVIDING SEVERABILITY, CODIFICATION, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.

WHEREAS, the City strives to maintain the enforcement of the most recent international and similar codes and industry standards; and

WHEREAS, in the case of the code editions and subsequent amendments, these were promulgated by the Idaho State Building Board, in accordance with the Idaho Building Code Act; and

WHEREAS, the Idaho Building Code Act requires jurisdictions in the State (including the City of Idaho Falls) to adopt the prescribed code editions with the amendments mandated by the Board and required by the State legislature; and

WHEREAS, in accordance with the Idaho State Building Board, as published in Idaho Statute, Title 39, Chapter 41 of the Idaho Building Code Act, Idaho Code Section 39-4116 for local government adoption and enforcement of building codes, and in IDAPA 07.03.01, "Rules of Building Safety," Division of Building Safety, City staff recommends that the Code adoptions and amendments in this Ordinance be adopted by the Council; and

WHEREAS, the adoption of such Codes, and amendments, will allow the City to apply and enforce current standards relative to health and safety of its citizens and guests; and

WHEREAS,

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

SECTION 1. Idaho Falls City Code Title 7, Chapter 7 is hereby amended to read as follows:

7-7-1: INTERNATIONAL MECHANICAL CODE ADOPTED:

(A) International Mechanical Code Adopted: The International Mechanical Code, ~~2009~~ 2012 Edition, published by the International Code Council, Inc., is hereby adopted as an official Code of the City, except the portions deleted, modified or amended by the provisions of this Chapter.

(B) Code on File: One (1) copy of the International Mechanical Code, ~~2009~~-2012 Edition, shall be retained by the City Clerk for use and examination by the public.

7-7-2: AMENDMENTS TO THE INTERNATIONAL MECHANICAL CODE:

(A) Section 103.2 of the International Mechanical Code, ~~2009~~ 2012 Edition, shall be amended to read as follows:

103.2 Appointment. The Code Official shall be appointed by the chief appointing authority of the jurisdiction.

(B) Section 109.1 of the International Mechanical Code, ~~2009~~ 2012 Edition, shall be amended to read as follows:

109.1 Application for appeal. A person shall have the right to appeal a decision of the code official to the board of appeals. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted. The application shall be filed on a form obtained from the code official within twenty (20) days after the notice was served.

SECTION 2. Savings and Severability Clause. The provisions and parts of this Ordinance are intended to be severable. If any section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

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

SECTION 4. Publication. This Ordinance, or a summary thereof in compliance with Idaho Code, shall be published once in the official newspaper of the City, and shall take effect immediately upon its passage, approval, and publication.

SECTION 5. Effective Date. This Ordinance shall be in full force and effect from and after its passage, approval and publication.

PASSED by the City Council and APPROVED by the Mayor of the City of Idaho Falls, Idaho, this _____ day of _____, 2014.

CITY OF IDAHO FALLS, IDAHO

_____

REBECCA L. NOAH CASPER, MAYOR

ATTEST:

_____
ROSEMARIE ANDERSON, CITY CLERK

(SEAL)

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 Ordinance entitled, "AN ORDINANCE AMENDING CHAPTER 7 OF TITLE 7 OF THE IDAHO FALLS CITY CODE, ADOPTING THE 2012 EDITION OF THE INTERNATIONAL MECHANICAL CODE ; PROVIDING SEVERABILITY, CODIFICATION, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE."

(SEAL) _____
ROSEMARIE ANDERSON, CITY CLERK

CITY OF IDAHO FALLS

PLANNING AND BUILDING DIVISION

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BGC-009-15

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Brad Cramer, Planning and Building Director
SUBJECT: Adoption of 2012 International Fuel Gas Code
DATE: January 15, 2015

The Idaho Building Code Act requires local jurisdictions to adopt and enforce building codes as adopted by the State of Idaho. The State has now adopted the 2012 International Fuel Gas Code. Staff recommends approval of the attached ordinance adopting the code.

Attachments: Ordinance adopting the 2012 International Fuel Gas Code

cc: Rose Anderson
File

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 4 OF TITLE 7 OF THE IDAHO FALLS CITY CODE, ADOPTING THE 2012 EDITION OF THE INTERNATIONAL FUEL GAS CODE ; PROVIDING SEVERABILITY, CODIFICATION, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.

WHEREAS, the City strives to maintain the enforcement of the most recent international and similar codes and industry standards; and

WHEREAS, in the case of the code editions and subsequent amendments, these were promulgated by the Idaho State Building Board, in accordance with the Idaho Building Code Act; and

WHEREAS, the Idaho Building Code Act requires jurisdictions in the State (including the City of Idaho Falls) to adopt the prescribed code editions with the amendments mandated by the Board and required by the State legislature; and

WHEREAS, in accordance with the Idaho State Building Board, as published in Idaho Statute, Title 39, Chapter 41 of the Idaho Building Code Act, Idaho Code Section 39-4116 for local government adoption and enforcement of building codes, and in IDAPA 07.03.01, "Rules of Building Safety," Division of Building Safety, City staff recommends that the Code adoptions and amendments in this Ordinance be adopted by the Council; and

WHEREAS, the adoption of such Codes, and amendments, will allow the City to apply and enforce current standards relative to health and safety of its citizens and guests; and

WHEREAS,

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

SECTION 1. Idaho Falls City Code Title 7, Chapter 4 is hereby amended to read as follows:

7-4-1: INTERNATIONAL FUEL GAS CODE ADOPTED:

(A) International Fuel Gas Code Adopted: The International Fuel Gas Code, ~~2009~~ 2012 Edition, published by the International Code Council, Inc., is hereby adopted as an official Code of the City, except the portions deleted, modified or amended by the provisions of this Chapter.

(B) Code on File: One (1) copy of the International Fuel Gas Code, ~~2009~~ 2012 Edition, shall be retained by the City Clerk for use and examination by the public.

7-4-2: AMENDMENTS TO THE INTERNATIONAL FUEL GAS CODE:

(A) Section 103.2 of the International Fuel Gas Code, ~~2009~~ 2012 Edition, shall be amended to read as follows:

> 103.2 Appointment. The code official shall be appointed by the chief appointing authority of the jurisdiction.

(B) Section 109.1 of the International Fuel Gas Code, ~~2009~~ 2012 Edition, shall be amended to read as follows:

> 109.1 Application for appeal. A person shall have the right to appeal a decision of the code official to the board of appeals. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder, have been incorrectly interpreted. The application shall be filed on a form obtained from the code official within twenty (20) days after the notice was served.

(C) Sections 620.2 and 620.7 of the International Fuel Gas Code, ~~2009~~ 2012 Edition, are hereby deleted.

SECTION 2. Savings and Severability Clause. The provisions and parts of this Ordinance are intended to be severable. If any section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

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

SECTION 4. Publication. This Ordinance, or a summary thereof in compliance with Idaho Code, shall be published once in the official newspaper of the City, and shall take effect immediately upon its passage, approval, and publication.

SECTION 5. Effective Date. This Ordinance shall be in full force and effect from and after its passage, approval and publication.

PASSED by the City Council and APPROVED by the Mayor of the City of Idaho Falls, Idaho, this _____ day of _____, 2014.

CITY OF IDAHO FALLS, IDAHO

_____

REBECCA L. NOAH CASPER, MAYOR

ATTEST:

_____
ROSEMARIE ANDERSON, CITY CLERK

(SEAL)

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 Ordinance entitled, "AN ORDINANCE AMENDING CHAPTER 4 OF TITLE 7 OF THE IDAHO FALLS CITY CODE, ADOPTING THE 2012 EDITION OF THE INTERNATIONAL FUEL GAS CODE ; PROVIDING SEVERABILITY, CODIFICATION, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.

(SEAL) _____
ROSEMARIE ANDERSON, CITY CLERK

CITY OF IDAHO FALLS

PLANNING AND BUILDING DIVISION

P.O. BOX 50220
IDAHO FALLS, IDAHO 83405-0220
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Planning Department • (208) 612-8276 FAX (208) 612-8520 Building Department • (208) 612-8270

BGC-011-15

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Brad Cramer, Planning and Building Director
SUBJECT: Adoption of 2012 International Residential Code
DATE: January 15, 2015

The Idaho Building Code Act requires local jurisdictions to adopt and enforce building codes as adopted by the State of Idaho. The State has now adopted the 2012 International Residential Code. Staff recommends approval of the attached ordinance adopting the code.

Attachments: Ordinance adopting the 2012 International Residential Code

cc: Rose Anderson
File

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 6 OF TITLE 7 OF THE IDAHO FALLS CITY CODE, ADOPTING THE 2012 EDITION OF THE INTERNATIONAL RESIDENTIAL CODE; PROVIDING SEVERABILITY, CODIFICATION, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.

WHEREAS, the City strives to maintain the enforcement of the most recent international and similar codes and industry standards; and

WHEREAS, in the case of the code editions and subsequent amendments, these were promulgated by the Idaho State Building Board, in accordance with the Idaho Building Code Act; and

WHEREAS, the Idaho Building Code Act requires jurisdictions in the State (including the City of Idaho Falls) to adopt the prescribed code editions with the amendments mandated by the Board and required by the State legislature; and

WHEREAS, in accordance with the Idaho State Building Board, as published in Idaho Statute, Title 39, Chapter 41 of the Idaho Building Code Act, Idaho Code Section 39-4116 for local government adoption and enforcement of building codes, and in IDAPA 07.03.01, "Rules of Building Safety," Division of Building Safety, City staff recommends that the Code adoptions and amendments in this Ordinance be adopted by the Council; and

WHEREAS, the adoption of such Codes, and amendments, will allow the City to apply and enforce current standards relative to health and safety of its citizens and guests.

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

SECTION 1. Idaho Falls City Code Title 7, Chapter 6 be deleted in its entirety and replaced immediately with the following:

7-6-1: INTERNATIONAL RESIDENTIAL CODE ADOPTED:

(A) International Residential Code Adopted: The International Residential Code for One and Two Family Dwellings, 2012 Edition, published by the International Code Council, Inc., including Appendix M, is hereby adopted as an official code of the City, except the portions deleted, modified and amended by the provisions of this Chapter.

(B) Code on File: One (1) copy of the International Residential Code for One and Two Family Dwellings, 2012 Edition, shall be retained by the City Clerk for use and examination by the public.

7-6-2: AMENDMENTS TO INTERNATIONAL RESIDENTIAL CODE:

(A) The Exceptions to Section R101.2 of the International Residential Code, 2012 Edition shall be amended to read as follows:

Exceptions: Owner-occupied lodging houses with five (5) or fewer guestrooms shall be permitted to be constructed in accordance with the International Residential Code for One- and Two-family dwellings.

(B) Paragraph (1) of the "Building" section of Section R105.2, Work Exempt from Permit, shall be amended to read as follows:

Building:

1. One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 200 square feet (18.58 m2).
2. fences not over six (6) feet (one thousand, eight hundred twenty-nine (1,829) mm) high may be exempted from the requirement for a building permit in the absence of any other
3. Retaining walls that are not over 4 feet (1219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge.
4. Water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons (18,927 L) and the ratio of height to diameter or width does not exceed 2 to 1.
5. Sidewalks and driveways.
6. Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.
7. Prefabricated swimming pools that are greater than four (4) feet (one thousand, two hundred nineteen (1219) mm) deep.
8. Swings and other playground equipment.
9. Window awnings supported by an exterior wall which do not project more than 54 inches (1372 mm) from the exterior wall and do not require additional support.
10. Decks not exceeding 200 square feet (18.58 m2) in area, that are not more than 30 inches (762 mm) above grade at any point, are not attached to a dwelling and do not serve the exit door required by Section R311.4.
11. Flag poles.

(C) Table 301.2(1) shall be amended to read as follows:

Table 301.2(1) Climatic and Geographic Design Criteria

Ground Snow Load	Windspeed (MPH)	Seismic Design Category	Subject to Damage From				Winter Design Temp.	Flood Hazard
			Weathering	Frost Line Depth	Termite	Decay		
47	90	C	Severe	30 Inch	Slight to Moderate	None	-6°	1955, Oct, 1986

(D) Section R109.1.3, Floodplain Inspections, shall be amended to read as follows:

R109.1.3 Floodplain Inspections. For construction in areas prone to flooding as established by Table R301.2(1), upon placement of the lowest floor, including basement, the building official is authorized to require submission of documentation of the elevation of the lowest floor, including basement, required in section R322.

(E) Table 302.1, Exterior Walls, shall be amended to read as follows:

TABLE R302.1
Exterior Walls

Minimum Fire Separation Distance	
Walls (fire-resistance rated)	Three (3) Feet
Walls (not fire-resistance rated)	Three (3) Feet
Projections (fire-resistance rated)	Three (3) Feet
Projections (not fire-resistance rated)	Three (3) Feet

(F) The Exception to Section R302.2, Townhouses, shall be amended to read as follows:

Exception: A common one-hour or two-hour fire resistance rated wall assembly tested in accordance with ASTM E 119 or UL 263 is permitted for townhouses is such walls do not contain plumbing or mechanical equipment, ducts or vents in the cavity of the common wall. The wall shall be rated of fire exposure from both sides and shall extended to and be tight against the exterior walls and the underside of the roof sheathing. Penetration of electrical outlet boxes shall be in accordance with Section R302.4.

(G) The Exception to Section R313.1, Townhouse Automatic Fire Sprinkler System, shall be amended to read as follows:

Exception: Automatic residential fire sprinkler systems shall not be required in townhouses where a two-hour fire-resistance rated wall is installed between dwelling units or when additions or alterations are made to existing townhouses that do not have an automatic residential fire sprinkler system installed.

(H) Section R313.2, One- and Two-Family Dwellings Automatic Fire Systems, shall be deleted in its entirety.

(I) Section R315.3, Where Required in Existing Dwellings, shall be amended and read as follows

R315.3 Where required in existing dwellings. Where work requiring a permit occurs in existing dwellings that have attached garages or in existing dwellings within which fuel-fired appliances exist, carbon monoxide alarms shall be provided in accordance with Section R315.1.

Exceptions:

1. Work involving the exterior surfaces of dwellings, such as, but not limited to, replacement of roofing or siding, or the addition or replacement of windows or doors, or the addition of a porch or deck or electrical permits, are exempt from the requirements of this section; and
2. Installation, alteration or repairs of noncombustion plumbing or mechanical systems are exempt from the requirements of this section.

(J) Section R322.1.10, As-built Elevation Documentation, of the International Residential Code, 2012 Edition, shall be deleted in its entirety.

(K) Subparagraph 2.2. of Section R322.2.2, Enclosed Area Below Design Flood Elevation, shall be amended to read as follows:

2.2. The total net area of all opening shall be at least one (1) square inch (645 mm^2) for each square foot (.093 m^2) of enclosed area, or the opening shall be designed and the construction documents shall include a state that the design and installation of the openings will provide for equalization of hydrostatic flood forces on exterior walls by allowing the automatic entry and exit of floodwaters.

(L) The Exception to Section R405.1, Concrete or Masonry Foundations, shall be amended to read as follows:

Exception: A drainage system is not required when the foundation is installed on well-drained ground or sand-gravel mixture soils according to the Unified Soil Classification System, Group 1 and Group II soils, as detailed in Table R405.1.

(M) Section R501.3, Fire Protection of Floors, and the exceptions to R501.3 shall be deleted in their entirety.

(N) Section R602.10, Wall Bracing, of the International Residential Code, 2012 Edition, shall be amended to read as follows:

R602.10 Wall Bracing. Buildings shall be braced in accordance with this section or, when applicable sectionR602.12, or the most current edition of APA System Report SR-102 as an alternate method. Where a building, or portion thereof, does not comply with one (1) or more of the bracing requirements in this section, those portions shall be designated and constructed in accordance with section R301.1.

(O) Section N1102.4.1.2. (R402.4.1.2) Testing, shall be amended to read as follows:

N1102.4.1.2 (R402.4.1.2) Testing option. Building envelope tightness and insulation installation shall be considered acceptable when tested air leakage is less than five (5) air changes per hour (ACH) when tested with a blower door at a pressure of 33.5 psf (50 Pa). Testing shall occur after rough in and after installation of penetrations of the building envelope, including penetrations for utilities, plumbing, electrical, ventilation and combustion appliances. During testing:

i. Exterior windows and doors, fireplace and stove doors shall be closed, but not sealed;
ii. Dampers shall be closed, but not sealed, including exhaust, intake, makeup air, backdraft and flue dampers;
iii. Interior doors shall be open;
iv. Exterior openings for continuous ventilation systems and heat recovery ventilators shall be closed and sealed;
v. Heating and cooling system(s) shall be turned off;
vi. HVAC ducts shall not be sealed; and
vii. Supply and return registers shall not be sealed.

(P) Subparagraph Section N1102.4.1.3. (R402.4.1.3) Visual Inspection Option, shall be amended to read as follows:

N1102.4.1.3 (R402.4.1.3) Visual inspection option. Building envelope tightness and insulation installation shall be considered acceptable when the items listed in Table 402.4.1.1, applicable to the method of construction, are field verified. Where required by

code official an approved party independent from the installer of the insulation shall inspect the air barrier and insulation.

(Q) The following section shall be added to the International Residential Code, 2012 Edition:

N1103.2.3 (R403.2.3). Building framing cavities shall not be used as ducts or plenums.

Exception: Building framing cavities used as ducts or plenums shall comply with Section M1601.1.1.

(R) Table N1102.2.1 (Table R402.1.1) shall be amended to read as follows:

Table N1102.1.1
Insulation and Fenestration Requirements By Componenta

Climate Zone	Fenestration U- Factor	Skylight U-factor	Glazed Fenestration SHGC	Ceiling R-Value	Wood Frame Wall R-Value	Mass Wall R-Value	Floor R-Value	Basement Wall R-Value	Slab R-Value	Crawlspace Wall R-Value
5 and Marine 4	0.32	0.55	NR	49	20 or 13+5h	13/17	30g	15/19	10, 2 ft	15/19
6	0.32	0.55	NR	49	22or 13+10h	15/20	30g	15/19	10, 4 ft	15/19

SECTION 2. Savings and Severability Clause. The provisions and parts of this Ordinance are intended to be severable. If any section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

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

SECTION 4. Publication. This Ordinance, or a summary thereof in compliance with Idaho Code, shall be published once in the official newspaper of the City, and shall take effect immediately upon its passage, approval, and publication.

SECTION 5. Effective Date. This Ordinance shall be in full force and effect from and after its passage, approval and publication.

PASSED by the City Council and APPROVED by the Mayor of the City of Idaho Falls, Idaho, this _____ day of _____, 2014.

CITY OF IDAHO FALLS, IDAHO

_____

REBECCA L. NOAH CASPER, MAYOR

ATTEST:

_____
ROSEMARIE ANDERSON, CITY CLERK

(SEAL)

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 Ordinance entitled, "AN ORDINANCE AMENDING CHAPTER 6 OF TITLE 7 OF THE IDAHO FALLS CITY CODE, ADOPTING THE 2012 EDITION OF THE INTERNATIONAL RESIDENTIAL CODE; PROVIDING SEVERABILITY, CODIFICATION, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE."

(SEAL) _____
ROSEMARIE ANDERSON, CITY CLERK

CITY OF IDAHO FALLS

PLANNING AND BUILDING DIVISION

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BGC-012-15

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Brad Cramer, Planning and Building Director
SUBJECT: Planned Unit Development Ordinance
DATE: January 16, 2015

Attached is the ordinance revising the Planned Unit Development Sections of the Zoning Ordinance. The ordinance also moves standards for mobile home parks to the Residential Mobile Home (RMH) zone within the Zoning Ordinance. The Planning Commission considered the ordinance at its October 7, 2014 meeting and recommended approval. Staff concurs with this recommendation. The ordinance is now being submitted to the Mayor and City Council for consideration

Attachments: Planned Unit Development Ordinance
Planning Commission Minutes, October 7, 2014

cc: Rose Anderson
File

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; AMENDING THE CURRENT VERSION OF IDAHO FALLS ZONING ORDINANCE NO. 1941 OF THE CITY OF IDAHO FALLS AMENDING SECTIONS 2-1-62, 4-26, 8-2-1, TO ALLOW HIGHER DENSITY HOUSING AND MORE FLEXABILITY FROM TRADITIONAL ZONING STANDARDS BY USE OF THE PLANNED UNIT DEVELOPMENT (PUD) OPTION; ESTABLISHING MINIMUM PUD STANDARDS; PUD APPROVAL PROCEDURES; AND CONSOLIDATING MOBILE HOME STANDARDS IN THE ZONING ORDINANCE; AND PROVIDING SEVERABILITY, CODIFICATION, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.

WHEREAS, the City of Idaho Falls proposes to amend its current Planned Unit Development (PUD) language to better align it with the goals of the City's Comprehensive Plan; and

WHERES, the amended PUD language allows higher density housing closer to service areas, provides for innovative approaches to residential development, and encourages walkable communities with a mix of housing types and land uses; and

WHEREAS, the PUD option will provide a mechanism for land development through an overall site planning process while allowing for flexibility from traditional zoning standards; and

WHEREAS, such flexibility will encourage the redevelopment of existing underutilized properties and development of otherwise vacant land; and

WHEREAS, the changes define minimum performance standards for a PUD development and define desired objectives; and

WHEREAS, the language also addresses previous administrative concerns with the phasing of a PUD and proposed amendments to an approved plan; and

WHEREAS, the ordinance changes consolidate language referring to mobile home standards within the Residential Mobile Home Zone (RMH) rather than maintaining separate requirements within the PUD section of the Zoning Ordinance.

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

SECTION 1. Zoning Code Section 2-1-62 of the City of Idaho Falls Zoning Code is hereby amended to read as follows:

. . .

2-1-62 Planned Unit Development: ~~Two or more buildings used for dwelling purposes located on one lot and not subdivided into customary streets and lots.~~ Development of residential and limited commercial uses, or combinations of such uses, in which the requirements of the zone district in which the development is situated may be varied or waived to allow flexibility in site and building design and location, in accordance with an approved plan and imposed requirements.

. . .

SECTION 2. Zoning Code Section 4-26-A of the City of Idaho Falls Zoning Code shall be deleted in its entirety and shall be replaced immediately with the following:

4-26 Special Provisions Applying to Miscellaneous Uses.

A. **Planned Unit Developments (PUD)**

1. General Objectives and Characteristics: Departures from requirements and allowed uses of the zoning district of this Zoning Code may be made based upon criteria established in this Section. The PUD is intended to provide a mechanism for land development through an overall site development, planning, and phasing process. The PUD allows for flexibility from traditional zoning standards as a result of the development providing an improved living environment, including usable common space, amenities or services, increased landscaping, additional architectural features or standards, and compatibility with adjacent neighborhood.

   The objectives of permitting Planned Unit Developments include:

   a) Promoting flexibility and innovation of design while permitting diversification of development types in order to encourage the most suitable use of a site;
   b) Achieving a compatible land use relationship with the surrounding area;
   c) Promoting redevelopment and reuse of previously developed property;
   d) Encouraging development of vacant properties within developed areas;
   e) Providing useable and suitably located common space, recreation facilities or other public/common facilities;
   f) Facilitating functional and efficient systems of streets, pathways, utilities, and municipal services on and off site;
   g) Promoting efficient use of land with a more flexible arrangement of buildings and land uses;

h) Providing for master planned development that includes interconnected design elements between structures or phases, increased amounts of landscaping or natural features, connections to the surrounding neighborhood or public lands and unique architectural features;
i) Ensuring appropriate phasing of development and amenities; and
j) Providing for attractive streetscapes that are not dominated by parked vehicles or garage entrances.

In order to accomplish the objectives and purposes of this Ordinance and to promote the essential characteristics of a PUD, the following regulations shall apply in the PUD:

2. Definitions:
   a) Redeveloping. A parcel of land that has been previously developed or subdivided and to which municipal water, sewer, power, police, fire and other services are already available, but that has never built upon, or where existing buildings are vacant or underutilized and where new building, infrastructure or other development activity is intended to take place.
   b) Mixed Use Development. A development that combines both residential and limited commercial uses within the same physical structure or in close proximity within the same development and where both uses exist individually and are not accessory to each other.
   c) Common Space. Land which is held in common by all property owners in the PUD and is accessible to all occupants of the PUD. Common spaces shall not include areas within any road (excluding landscaped medians within private roads), driveway, parking area, sidewalk adjacent to a street right-of-way, required landscape strip or buffer, or a drainage facility that does not include additional physical amenities other than open space.
   d) Amenity. An area of activity, either indoor or outdoor, designed to be accessible to and principally for the use of persons residing or working within a PUD development. An amenity may be located within the required common space, for example, a playground placed within a common yard.
   e) Homeowners' Association. An incorporated, nonprofit organization operating under recorded agreements through which:
      i) Each owner in the PUD is automatically a member;
      ii) Each lot is automatically subject to a charge for a proportionate share of the expenses for the organization's activities; and
      iii) Common space and facilities are maintained.
   f) Limited Commercial Use. All uses defined and included in groups 4731, 52 through 59, inclusive; group 6 and group 7 of the Standard Land Use Coding Manual, excluding the following classifications: 521 (Lumber and other

building materials - retail), 5211 (Lumber yards - retail), 5212 (Building materials - retail), 5252 (Farm equipment - retail), 5511 (Motor vehicles [new and used cars] - retail), 5512 (Motor vehicles [used cars only] - retail), 5520 (Tires, batteries, and accessories - retail), 5591 (Marine craft and accessories - retail), 5592 (Aircraft and accessories - retail), 5599 (other retail trade - automotive, marine craft, aircraft, and accessories, NEC), 582 (Drinking places [alcoholic beverages], 5820 (Drinking places [alcoholic beverages], 598 (Fuel and ice - retail), 637 (Warehousing and storage services), 641 (Automobile repair and services), 662 (Special construction and trade services), 674 (Correctional institutions), 675 (Military bases and reservations), 721 (Entertainment assembly), 722 (Sports assembly), 731 (Fairgrounds and amusement parks), 739 (Other amusements, NEC).

3. Siting Requirements. The minimum site size for a PUD shall be two (2) acres. Smaller acreage may be considered for a PUD on land that the Council finds is redeveloping, or provides a public benefit or amenity.
4. Regulations and Uses. A PUD shall function as an overlay zone, but may be permitted as a conditional use within any zone, except the R-P Zone. All regulations and the uses permitted within the PUD shall be the same as those of the underlying zone district, except as otherwise permitted in this Section. Within mixed use projects, approval of limited commercial uses not identified within the underlying zone district and as referenced in this Section, may be approved by the Council when they are consistent with the character of the neighborhood, mitigate impacts to the surrounding area and are sited and designed such that the activities present will not detrimentally affect residential uses. No use shall create a traffic or pedestrian safety hazard or generate traffic in excess of the capacity of the public streets serving the development or its own proposed access points to those streets. Limited commercial uses within a PUD in a residential zone shall not constitute more than twenty percent (20%) of its gross land area.
5. Unified Control. The development site of a PUD shall be under unified ownership or control and shall be planned as a whole so that all landscaping, off-street parking and other common areas can be properly maintained.
6. Flexible development standards. Development standards (such as lot size, height, setbacks and required parking) shall be established for each individual PUD based upon the criteria provided in this Section.
7. Establishing additional standards. In addition to general building and development standards, the Planning Commission may recommend and the Council may impose additional conditions consistent with, but not limited to, those set forth in Section 5-10-F of this Ordinance and may establish general design standards and guidelines for the purpose of implementing the provisions of this Section. All conditions for a PUD permit shall be set forth in writing and made part of the PUD permit.

8. Density.

a) The residential density of a PUD shall not exceed the density established by this Section. Allowable PUD density shall be computed on a gross area basis. The maximum number of units permissible in each individual zone shall be calculated separately. There shall be no transfer of allowable dwelling unit densities between zones.

b) Density within residential zones shall be as follows:

i) RP-A Zone – Five (5) dwelling units per acre.

ii) RMH Zone – Eight (8) dwelling units per acre.

iii) R-1 Zone – Eight (8) dwelling units per acre.

iv) R-2 Zone – Seventeen (17) dwelling units per acre.

v) R-2A Zone – Twenty-five (25) dwelling units per acre.

vi) Other Zones where dwellings are permitted – thirty five (35) dwelling units per acre.

9. Lot Size. There shall be no minimum lot size within a PUD.

10. Location of buildings and structures. Setbacks shall reflect the general standards of the area and character of the neighborhood in which the PUD is located. In residential PUDs, the established setbacks of residential properties adjacent to or across the street from the PUD, shall constitute the minimum setback for the perimeter area of the PUD which it is adjacent to. Internal setbacks between buildings or internal lot lines within residential PUDs may be established as part of the PUD process.

11. Height requirements. Setbacks should increase as overall height increases. Taller structures should be located toward the interior of the site (or elsewhere if the potential for adverse impacts is lessened). The maximum structure height for a residential PUD shall be determined by the underlying zone district, except where a structure is set back from required setback lines by at least one foot (1') for each additional foot of building height.

12. Arrangement and design. A PUD shall be compatible with the surrounding neighborhood bulk, scale, structural mass, and character demonstrated by similar building types, construction, separations, and heights. Structures within a PUD should include a high quality of design and architecture as demonstrated by cohesive building styles, a range of building positions, custom architectural features, and varied building materials. Where feasible, buildings and uses of lowest height and intensity shall be arranged around the boundaries of the development. Buildings should be oriented towards common areas. Residential buildings should be separated and arranged to provide for private space, in addition to providing for common areas.

13. Landscaping. All areas within the PUD not covered by buildings, parking spaces, sidewalks or driveways shall be landscaped and maintained. Landscaped areas shall provide lawn, trees, shrubs and other landscaping. Parking areas in excess of twenty four (24) parking spaces shall include landscaping of a minimum of ten percent (10%) of the parking area with trees and appropriate ground cover. Landscape rock alone shall not constitute appropriate ground cover. Interior parking lot landscaping shall be designed to

incorporate pedestrian ways through the parking area and to break large parking areas into smaller "bays".

14. Streetscapes. All PUDs shall have frontage on a public or an approved private street. The development shall provide safe, inviting, and attractive streetscapes. Except for the area occupied by a permitted driveway, a landscape strip shall be provided and maintained along the side of the property bordering any public or private street that is closest to the portion of the lot containing a structure or other development. The landscape strip adjacent to perimeter public streets shall be no less than twenty feet (20') in width and shall include trees (with no less than thirty feet (30') centers separating them) and lawn or other ground cover. The landscape strip adjacent to internal public and private streets shall be no less than ten feet (10') in width and shall include trees (with no less than forty feet (40') centers separating them) and lawn or other ground cover. Trash enclosures and dumpsters shall not be located within setbacks or adjacent to any street. Parking lots containing twenty four (24) or more parking spaces adjacent to public or private streets shall include within the adjacent landscape strip a berm of no less than four feet (4') in height. Alternate tree spacing can be requested as part of the PUD, but shall not reduce the minimum number of trees required.
15. Buffering. All PUDs that include limited commercial uses shall provide a buffer from adjacent residential uses, not part of the development. The buffer shall be no less than ten feet (10') in width and shall include trees (with no less than twenty feet (20') centers separating them) and a six foot (6') opaque fence (opaque fence shall not include chain link fencing with or without slats) or a dense hedge of shrubbery which shall attain a height of at least six feet (6').
16. Common Space. All PUDs shall provide common space and landscape areas. Not less than twenty five percent (25%) of the gross area of a PUD shall be designated and maintained as common space for the recreational and/or common use of the occupants of the development. Common space may include an open space parcel or parcels of land, an area of water, or a combination of land and water, recreational facilities, either public or private, ball courts, swimming pools, playgrounds, drainage facility developed with physical amenities, exercise rooms or similar facilities. Common spaces shall not include areas within any road, driveway, parking area, sidewalk adjacent to a public or private street, required landscape strip or buffer, and a drainage facility that does not include additional physical amenities, as identified in this Section, beyond open space.
17. Amenities. PUDs shall provide amenities in addition to the common space required by this Section. The number and size of amenities should increase as overall acreage and scale of the development increases. Amenities should be placed in logical areas that allow convenient access to a majority of the occupants of the development. PUD projects two (2) acres or greater in size shall provide at least one (1) of the following additional amenities:

a) Private or public recreational facility, such as a swimming pool, ball courts, playground, or picnic area, in scale with the development.
b) Private or public plaza, pedestrian mall, garden, arboretum, square or other similar open space.
c) Public access to or additions to the greenbelt, neighborhood park systems or other public open space or enhanced pedestrian connections to adjacent employment and shopping centers.
d) Trail system or pedestrian paths in addition to necessary circulation paths that would be required if the development was not a PUD.
e) Water features, sculptures or work of art.
f) Attractive entrance(s) to the development, incorporating landscaping, lighting, signage, architectural features and materials matching that of the building construction.
g) Private streets that include landscaped medians.
h) A drainage facility developed with additional physical amenities beyond open space.
i) Similar amenities which reflect the purposes of this Section as approved by the Council.

In reviewing PUDs in redeveloping areas, as defined by this Section, the Council may allow exceptions to the amenity standards of this Section.

18. Pedestrian system. Walkways shall form a logical, safe, and convenient system for pedestrian access to all structures, project facilities and amenities, and principal off-site pedestrian destinations. PUDs shall provide connections to existing or proposed schools, parks, public lands or pathways on adjacent properties.
19. Review and Approval. Approval of a PUD shall consist of three (3) procedural steps: pre-application conference, Planning Commission hearing and recommendation to the Council, and hearing and final plan approval by the Council. With the concurrence of the Zoning Administrator, an applicant may combine the PUD hearings with the hearings required for associated subdivision applications or zoning district changes.
20. Pre-application Conference. Prior to the filing of an application for a PUD permit, the applicant shall request and the Zoning Administrator shall schedule a pre-application conference with the Planning Department staff and other City staff, as deemed necessary. At the pre-application conference, the applicant shall submit a sketch plan of the proposed PUD and shall outline and generally discuss the nature of the development and proposed land use. A pre-application conference with the Planning Department staff is mandatory for all PUD proposals. This step represents an opportunity to identify any major problems that may exist and identify solutions to those problems before formal application.
21. PUD Permit Application Procedure. All applications for a PUD permit shall be made on a form provided by the City and shall be accompanied by a filing fee as set by Resolution of the Council. Applications shall be filed not later than one hundred twenty (120) days after the date of the pre-application conference. All applications for a permit shall include a development plan as defined in this Section, a proposed phasing plan for phased projects,

and any other information required by the Zoning Administrator. The contents of the application shall be of sufficient clarity, quality and detail to allow the City to determine compliance with the performance standards of this article and the other standards imposed by the Zoning Ordinance.

22. Development Plan Contents. All development plans shall consist of a complete site plan drawn in accordance with generally accepted engineering practices, and shall be drawn to one of the following standard scales: 1"=30', 1"=40', 1"=50', 1"=60', or 1" = 100', and shall include the following:
    a) Actual dimensions and the shape of the development and any subdivided lots.
    b) Individual lot lines of each parcel which is to be created for separate ownership.
    c) Topography of land and proposed grading plan.
    d) Plans for handling storm water runoff.
    e) Location of easements for water lines, fire hydrants, sewer lines, storm sewer lines and other utilities.
    f) Size and location of existing or proposed buildings and structures.
    g) Landscape plan, designed by a licensed landscape architect or other qualified person, showing the spacing and sizes of landscaping. Specific types of landscaping may be detailed after the site plan has been approved.
    h) Traffic circulation plan, service areas, private streets and major points of access to public rights-of-way.
    i) Proposed land-uses with location and size of existing and proposed buildings.
    j) Areas to be designated as common space, amenities provided, and public uses.
    k) Density tabulations.
    l) Preliminary drawings and elevations of proposed buildings.
    m) Off-street parking and loading areas.
    n) Lighting and signage proposals for commercial uses.
    o) Sidewalks, crosswalks, and other pedestrian ways.
    p) Solid waste disposal and pick-up areas for commercial uses.
    q) Buffering and screening areas.
    r) Building heights.
    s) Proposed development agreements, condominium agreements, deed restrictions, or other commitments needed to assure adherence to the proposed site plan, in applicable.
    t) Development time schedule, including proposed phasing if applicable.
    u) List and describe the development standards that vary from the underlying zone district.
23. Phasing. Phasing of development and associated public and private improvements is permitted, subject to an approved phasing schedule. Phased development shall be considered with the initial PUD approval process and the phasing schedule shall be approved as part of the development plan. Proposed common space or amenities shall be constructed with the first phase or as approved according to the phasing schedule, provided that a majority of the improvements occur within the first phase. Upon approval of the

development plan and schedule for all phases of the PUD, each phase of the development may occur in accordance with the review and approval procedures, as specified in this article.

24. Planning and Zoning Commission Hearing. At the hearing, the Planning and Zoning Commission shall review the application for compliance with this Section. If the Commission finds that the proposed plan and uses do not comply with this Section, it shall make a finding in writing specifying the reasons why the application is not in compliance with such standards and shall deliver the same to the applicant and the Council within forty five (45) days. The Planning and Zoning Commission may, at any time, recess such hearing to a later date and no further public notice shall be necessary, provided the motion to recess and the date of the recessed hearing is duly noted in the minutes of Planning Commission.
25. Recommendation to Council. Following the conclusion of the hearing, the Planning and Zoning Commission shall, upon request of the applicant, forward its recommendation in writing to the Council, which recommendation shall include proposed findings in accordance with its recommendation. Notwithstanding the foregoing, the applicant may, at any time prior to the consideration of the application by the Council, request that application be withdrawn and resubmitted at a later date to the Commission for purpose of making modifications recommended by the Planning and Zoning Commission. In the event the applicant requests reconsideration of the application within ninety (90) days after the date of the hearing before the Planning and Zoning Commission, no filing fee shall be required for such amended application.
26. Hearing Before Council. Upon receipt of the recommendation of the Commission, the Zoning Administrator shall schedule a hearing before the Council. At the hearing, the Council shall approve or deny the application. If the Council denies the application, it shall prepare specific written findings indicating the basis of its denial and the performance standards not met by such application. If the Council approves the application, it shall adopt the findings of the Commission, together with any additional findings or modifications it deems necessary, and order the Zoning Administrator to issue a permit which incorporates the representations made in the application and any other conditions required by the Council in order ensure compliance with this article.
27. Expiration. Approval of the PUD shall expire if no effort is made to complete the PUD within eighteen (18) months from the date of Council's approval of the development plan, unless the Planning Commission grants a written extension thereof upon good cause shown. For phased PUDs, the PUD or subsequent phases of the initial PUD shall expire automatically if the phases outlined in the development plan are not completed according to the approved phasing schedule identified in this section.
28. Continuing Obligation. After construction of the PUD has commenced, any failure on the part of the developer or assigns or the Homeowners Association or its members to maintain the development in accordance with the agreed management policies, covenants, conditions, restrictions or agreements shall be deemed a public nuisance endangering the

health, safety, and general welfare of the public and a detriment to the surrounding area, and shall be punishable or abated in any manner provided by law. In addition to any other remedy provided by law for the abatement or removal of such public nuisance, the City may remove or abate the nuisance or correct the defect in maintenance and charge the cost thereof, including reasonable attorney's fees to the developer or assigns or the Homeowners Association.

29. Maintenance of Private Property. All maintenance of private property, including, but not limited to, private drives, utilities, drainage, streets, snow removal, common space and any other facilities not dedicated to and accepted by the City, shall be the responsibility of the owner, Homeowner's Association or other entity having the legal obligation to govern and manage the PUD, and its common property and facilities.

30. Amendments to an Approved Plan. PUD amendments shall follow the following procedures for minor and major changes. Amendments shall be in keeping with previous phases or approved PUD development plans and shall meet the same objectives as the original PUD. If the proposed amendment is intended to alter the previously approved plans objectives the applicant will justify how the amendment fits within the whole of the development.

    a) Minor changes. Minor changes to a PUD planned unit development may be approved administratively and in writing whereupon a permit may be issued. Such changes may be authorized without additional public notice at the discretion of the Zoning Administrator. Changes not specifically identified below shall constitute a major change. Minor changes shall be defined as follows:

        i) A change of less than five percent (5%) in the approved number of residential dwelling units, provided an increase will not exceed the permitted density of the zone district.

        ii) A change of less than five percent (5%) in the amount of commercial square footage within the development.

        iii) A change in location or layout of approved common areas and amenities provided there is no decrease.

        iv) A change in building location or placement less than twenty percent (20%) of the building width.

    b) Major changes. Major changes to a PUD planned unit development must follow the same review, public notice and hearing process required for approval of the initial PUD Planned Unit Development. Major changes shall include, but not be limited to the following:

        i) A change in the character of the development.

        ii) A change of greater than five percent (5%) in the approved number of residential dwelling units.

        iii) A change of greater than five percent (5%) in the amount of commercial square footage within the development.

iv) A reduction in the approved common space and/or amenities provided.

v) A change in the location and placement of buildings greater than twenty percent (20%) of the building width.

vi) An increase in the number of lots above what was approved through the preliminary plan review.

vii) Any other change to the plan not defined herein as a minor change.

31. Applicability of Other Regulations. Unless otherwise approved under this PUD process, a PUD shall conform to all requirements set forth elsewhere in this Zoning Code, Subdivision Regulations, Standard Specifications and Drawings, and all other applicable regulations and standards of the City of Idaho Falls.

. . .

SECTION 3. Zoning Code Section 8-2-1 of the City of Idaho Falls Zoning Code is hereby amended to read as follows:

8-2-1 Preliminary Plan and Documents.

The preliminary plan and documents shall be prepared and submitted as follows:

A. Plan Requirements. Six (6) copies of the preliminary plan must be submitted to the Zoning Administrator at least two (2) weeks prior to the meeting of the Planning Commission at which the plan will be considered. The preliminary plan shall be drawn to a scale not smaller than one inch equals one hundred feet (1"=100') or as otherwise recommended by the Zoning Administrator and shall show the following information:

1. Proposed road and trailer space layout.
2. Proposed reservation for parks, playgrounds, and other open space.
3. Proposed location for service facilities.
4. A general~~ized~~ landscape plan.
5. Location of existing and proposed utility lines and easements, water and sewer lines, fire hydrants, storm drains and facilities, curbs, and other improvements.
6. Any other data that the Planning Commission may require.

B. Standards and Requirements.

1. Each travel trailer court shall be held in one (1) ownership and shall contain at least two (2) acres of land.
2. All travel trailer courts shall abut upon a collector or arterial street, as set forth in the City's major street plan ~~of Idaho Falls, Idaho~~.
3. All travel trailers shall be set back at least thirty ~~(30)~~ feet (30') from any public street, and fifteen ~~(15)~~ feet (15') from an interior private roadway.
4. The roadway system shall provide convenient circulation through the travel trailer court and provide access to each travel trailer space. No travel trailer space will be permitted direct access to a public street, road, or highway other than by means of the travel trailer court roadway system. All entrances and exits from the travel trailer courts shall be by forward motions only. No exit or entrance from a travel

trailer court shall be through a residential zone and no entrance or exit shall be located closer than seventy ~~(70)~~ feet (70') to the intersection of two (2) streets.

5. All one-way and two-way roadways shall have a curb-to-curb width of at least thirty-seven ~~(37)~~ feet (37') and all roadways shall be hard-surfaced.
6. All areas within the court which are not hard-surfaced shall be landscaped and maintained with lawns, trees, and shrubs designed to provide privacy and noise containment and shall be equipped with adequate sprinkling or watering devices as approved by the Zoning Administrator. A landscape screen at least eight ~~(8)~~ feet (8') in width shall be provided adjacent to the exterior boundaries of the court.
7. Each travel trailer space shall be at least twenty ~~(20)~~ feet (20') in width and at least forty ~~(40)~~ feet (40') in length.
8. No travel trailer space shall be rented for a period of more than thirty (30) days and no travel trailer which exceeds eight ~~(8)~~ feet (8') in width shall be placed in a travel trailer court.
9. A minimum of fifty ~~(50)~~ percent (50%) of all travel trailer spaces shall be served by an approved water and sewage disposal system. In addition, each travel trailer court shall have a sewage dump for self-contained trailer units.
10. In addition to meeting the above requirements, all travel trailer courts shall conform to the requirements of the State and City ~~H~~health ~~R~~regulations relating to travel trailer courts.
11. The site of any travel trailer court shall be graded and/or filled and maintained so as to prevent the accumulation of storm or waste water of any kind. A travel trailer court shall not be permitted where there is inadequate drainage. Adequate drainage shall be provided and maintained for all patios, travel trailer stands, buildings, streets and other improvements.
12. Signs as may be required by the Zoning Administrator shall be placed in all travel trailer courts indicating the direction of travel and the area where no automobile parking will be permitted on roadways.
13. No permit to construct or enlarge a travel trailer court shall be issued until the plans for the proposed construction or enlargement have been approved by the Zoning Administrator and City Engineer.
14. Both dependent and independent travel trailers shall be allowed to occupy travel trailer spaces in a travel trailer court.
15. All improvements, including utilities, streets, paved areas and landscaping, must be completed within two (2) years of the date the plan is approved by the City Council.
16. Any exterior storage space shall be enclosed within a sight obstructing fence not less than six feet (6') and not more than eight feet (8') in height.
17. Travel trailer courts with a minimum of twenty-five (25) spaces may include a launderette for the use by the occupants of the court, but not by the general public.
18. An aggregate area of at least one-hundred square feet (100 sq ft) for each mobile home space contained within the mobile home court shall be provided for the storage of renter's items that cannot be stored in the mobile homes. This storage space shall be enclosed within a sight obstructing fence or other similarly

effective screening of not less than not less than six feet (6') and not more than eight feet (8') in height.

19. Entrances shall be no closer than one hundred feet (100') from each other, nor closer than seventy feet (70') to the corner of an intersection. All mobile home courts shall have at least two (2) entrances and more may be required depending on the size of the development.
20. Access shall be provided to each mobile home space by means of an access way reserved for maneuvering mobile homes into position and shall be kept free from trees, shrubs and other immovable obstructions. Paving the access way shall not be required. Use of planks, steel mats, or other means during placement of a mobile home shall be allowed so long as the same are removed immediately after placement of the mobile home.
21. Off-Street parking shall be provided at the rate of two parking spaces per mobile home space contained within the mobile home court. In no case shall the parking space be located greater than one-hundred feet (100') away from the mobile home space it is designed to serve.

. . .

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

SECTION 6. 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 7. 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 _____, 2014.

CITY OF IDAHO FALLS, IDAHO

_____

RECECCA L. NOAH CASPER

ATTEST:

_____
ROSEMARIE ANDERSON, CITY CLERK

(SEAL)

STATE OF IDAHO)
) ss:
County of Bonneville)

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

> AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; AMENDING THE CURRENT VERSION OF IDAHO FALLS ZONING ORDINANCE NO. 1941 OF THE CITY OF IDAHO FALLS AMENDING SECTIONS 2-1-62, 4-26, 8-2-1, TO ALLOW HIGHER DENSITY HOUSING AND MORE FLEXABILITY FROM TRADITIONAL ZONING STANDARDS BY USE OF THE PLANNED UNIT DEVELOPMENT (PUD) OPTION; ESTABLISHING MINIMUM PUD STANDARDS; PUD APPROVAL PROCEDURES; AND CONSOLIDATING MOBILE HOME STANDARDS IN THE ZONING ORDINANCE; AND PROVIDING SEVERABILITY, CODIFICATION, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.

_____
ROSEMARIE ANDERSON, CITY CLERK

Linda Martin, Grow Idaho Falls, 151 N. Ridge, Idaho Falls, ID 83402. Martin has been in contact with the owner and she requested the I&M Zoning. It is a catch-all and gives her more latitude to sell to some prospective buyer and hopefully a commercial user. This is a piece that would help to gain access to additional properties for strategic planning for I&M properties within the City. The owner has been very good and amenable to work with and volunteering to do this. Martin recommends that the parcel be annexed.

Swaney closed public hearing.

Dixon indicated that staff alleviated his concerns about the zoning. The zoning provides a lot of flexibility that could tie into some of the existing uses nearby that will not fit into a more restrictive zone. **Dixon moved to recommend to Mayor and City Council approval of annexation with initial zoning of I&M-1 for metes and bounds 1.744 Acres of Sections 8&9, T2 N, R 38 E as presented. Black seconded the motion and it passed unanimously.**

Zoning Ordinance Text Amendment to Section 4-26-A to Amend Requirements and Standards for Planned Unit Developments (PUDS) and Remove PUD Standards Specific to Mobile Home Parks and Zoning Ordinance Text Amendment to Article VIII to Add Standards Specific to Mobile Home Courts be PUD. Beutler presented the amendment as part of the record. Cosgrove asked about minimum size reduced from 2½ acres to 2 acres. Beutler indicated that 2 acres is a common requirement in other jurisdictions and is the minimum to make the new requirements work. Cosgrove asked requirements for PUDs such as Fenway Park that are not completed and a new owner asks to change the character of the development later on. Beutler indicated that there are phasing requirements and an approved PUD will expire after a specific time frame. There is also a new section related to major and minor changes to approved plans. Major changes must go back through the approval process. Cosgrove clarified that after 18 months if no effort is made to complete a PUD, it expires and must go back through the process for approval. Beutler confirmed. Cosgrove thinks this should be more clearly defined in the ordinance. Wimborne commended staff on their efforts.

Dixon asked about statements in the General Objectives and Characteristics providing for development that demonstrates a high quality design and architecture. This is subjective and may not be enforceable. He also questioned appropriate phases of development outlined in Section 29. He also asked about the list of allowed commercial uses and suggested excluding RV Sales specifically. Dixon asked for clarification about Section 4 regarding traffic requirements. The ordinance seems to limit the size of PUDs by not permitting traffic in excess of the adjacent street design. He asked what the difference were between PUD requirements and an underlying zone and what drives the need or desire for a PUD. He commented that landscaping requirements on private streets may be too restrictive. Dixon also asked about the amenities section and what was the intent of requiring 100 square feet of private space for developments less than 2 acres. Beutler clarified the 100 square feet of space is private space, not common space. It is intended to be used for smaller sites with limited available space for amenities. He said the General Objectives, are intended to be broad and general, providing a scope and then with standards of the PUD attempt to accomplish the objectives. For traffic if a developer makes improvements to the street network and increases the capacity of the street, the PUD could still be approved.

Swaney closed public hearing.

Dixon indicated that the items have been addressed and what remains are minor wording changes and reasons for requesting a PUD. Swaney polled commissioners for their support in moving forward:
Black, yes; Wimborne, yes, Morrison, yes; Cosgrove, yes. Cosgrove asked if under limited commercial uses, while drinking places including alcoholic beverages are excluded, if a restaurant that serves beer and wine would be permitted. Beutler stated it could be allowed.

Wimborne moved to recommend approval of the PUD Ordinance to Mayor and City Council with the modifications that have been discussed. Cosgrove seconded motion and it passed unanimously.

Miscellaneous:

Bonneville County Planning Commission Report. Swaney reported that Bonneville County had their meeting last Wednesday, though they experienced one request for a preliminary plat where it was interesting that there was a similar situation at the Bonneville County meeting that we had at our own meeting in September where there was a controversial change in the way the property was going to be platted. The County rejected the plat. They are still planning on meeting for a joint meeting on October 29, 2014. The major item of consideration will be the hand out of the comparison between County and City ordinance information.

Business:

Creation of Eagle Ridge Urban Renewal District. Renee Magee, 150 North Morningside Drive, Idaho Falls, ID. This is a preview of the Eagle Ridge Urban Renewal Plan, which will be on the agenda on election night November 4, 2014. Eagle Ridge Urban Renewal District was originally envisioned to 53 acres. In Urban Renewal District under State Statute, agricultural land owners have to give written consent to be included within a district. Two such property owners decide to stay outside of the District. The area of approximately 50 acres lies between two existing Urban Renewal Districts. Snake River Urban Renewal District and to South is River Commons (Snake River Landing). It has been considered eligible to be a district since 1999 and no developer has stepped up to want to develop it until this year. In order to be a district, there are certain characteristics that the area has to have. City Council determined that this acreage qualified, as it was deteriorating and it has a defective street layout, existing streets do not conform to City standards, no landscaping, unsafe conditions, disposal of construction waste, old foundations, exposed underground pipes in area, abandoned building, trash sites, no utility infrastructure. Proposals in the plan include reconstructing South Utah Ave, constructing Snake River Parkway north of Porter Canal and reconstructing Pioneer Road. It also includes bringing water, fire protection, and sewer and storm drainage to this area, to create amenities such as landscaping and then toward end of District to improve the intersection of Pancheri and South Utah. The draft urban renewal plan is for a 20 yr. period and the cost estimates for the infrastructure total $6.4 million. Anticipated revenues over life of District are $8.5 million. Magee explained how tax increment financing works to the Commission. Dixon asked what happens at the end of the 20 year Plan. Magee stated at the end of the 20 years the Plan is terminated and any monies that have been generated go back to the existing tax entities. Dixon asked if there is any option for extending the life of a District. Magee stated not at this point unless the State statute are changed. Dixon asked if there are other Districts due to expire any time soon. Magee indicated that the Snake River District is the oldest District it was created in 1988 and will expire on December 31, 2018. Magee showed the history of Urban Renewal Districts and discussed changes that happened in other Districts and how it improved Idaho Falls.

Morrison indicated that the next meeting should be moved to Wednesday, November 5, 2014, due to election night on November 4, 2014.

Swaney adjourned meeting at 9:15 p.m.

Respectfully Submitted

_____

Beckie Thompson, Recording Secretary

CITY OF IDAHO FALLS

PLANNING AND BUILDING DIVISION

P.O. BOX 50220
IDAHO FALLS, IDAHO 83405-0220
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Planning Department • (208) 612-8276 FAX (208) 612-8520 Building Department • (208) 612-8270

BGC-008-15

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Brad Cramer, Planning and Building Director
SUBJECT: Adoption of 2012 International Energy Conservation Code
DATE: January 15, 2015

The Idaho Building Code Act requires local jurisdictions to adopt and enforce building codes as adopted by the State of Idaho. The State has now adopted the 2012 International Energy Conservation Code with amendments. Attached is a memorandum from Idaho Falls Building Official, Reginald Fuller, outlining the Department's recommendation to adopt the code as written, without the amendments. This recommendation was presented in detail at the January 5, 2015 Council work session. Staff recommends approval of the attached ordinance adopting the code.

Attachments: Memorandum from Reginald Fuller
Ordinance adopting the 2012 International Energy Conservation Code

cc: Rose Anderson
File

City of Idaho Falls
Building Department
Office of the
Building Official

Memo

To: Mayor and City Council

From: Reginald Fuller-Building Official

CC: Brad Cramer-Planning Director

Date: January 15, 2015

Re: Recommendations for adoption of the 2012 International Energy Conservation Code

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Mayor and Council Members,

In accordance with the Idaho Building Code Act, Idaho Code 39-4116 for local government adoption and enforcement of building codes and in IDAPA 07.03.01, "Rules of Building Safety", Division of Building Safety, adoption of the *2012 International Energy Conservation Code* (IECC) with Idaho amendments is required by local jurisdictions.

Where these amendments do not reflect the code as written which will affect the increase in energy efficiency over the previous 2009 IECC, the building department is recommending adoption of the 2012 IECC without the Idaho amendments with the exception of any local amendments by the jurisdiction. This is also to include the Idaho amendments in Chapter 11 for energy efficiency in the *2012 International Residential Code*. The reason for this recommendation is that the 2009 IECC was adopted statewide in 2011 and had an estimated 15% increase in energy over the previous 2006 edition. The 2012 IECC increases energy efficiency by about another 15% over the 2009 edition.

This in turn creates more energy efficient homes thereby providing energy cost savings for Idaho Falls homeowners.

The Idaho State Building Board requires any jurisdiction wishing to adopt a code with provisions more restrictive than the state amendments advertise for public hearing giving notice for the time and place being published in the official newspaper of general circulation within the jurisdiction. The next available council meeting for this public hearing is January 22, 2015.

If there are any questions or you need additional information, please let me know.

Respectfully,

Reginald Fuller-Building Official

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 11 OF TITLE 7 OF THE IDAHO FALLS CITY CODE, ADOPTING THE 2012 EDITION OF THE INTERNATIONAL ENERGY CONSERVATION CODE ; PROVIDING SEVERABILITY, CODIFICATION, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.

WHEREAS, the City strives to maintain the enforcement of the most recent international and similar codes and industry standards; and

WHEREAS, in the case of the code editions and subsequent amendments, these were promulgated by the Idaho State Building Board, in accordance with the Idaho Building Code Act; and

WHEREAS, the Idaho Building Code Act requires jurisdictions in the State (including the City of Idaho Falls) to adopt the prescribed code editions with the amendments mandated by the Board and required by the State legislature; and

WHEREAS, in accordance with the Idaho State Building Board, as published in Idaho Statute, Title 39, Chapter 41 of the Idaho Building Code Act, Idaho Code Section 39-4116 for local government adoption and enforcement of building codes, and in IDAPA 07.03.01, "Rules of Building Safety," Division of Building Safety, City staff recommends that the Code adoptions and amendments in this Ordinance be adopted by the Council; and

WHEREAS, the adoption of such Codes, and amendments, will allow the City to apply and enforce current standards relative to health and safety of its citizens and guests.

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

SECTION 1. Idaho Falls City Code Title 7, Chapter 11 be deleted in its entirety and replaced immediately with the following:

7-11-1: INTERNATIONAL ENERGY CONSERVATION CODE ADOPTED:

(A) International Energy Conservation Code Adopted: The International Energy Conservation Code, 2012 Edition, published by the International Code Council, Inc., is hereby adopted as an official Code of the City, except the portions deleted, modified or amended by the provisions of this Chapter.

(B) Code on File: One (1) copy of the International Energy Conservation Code, 2012 Edition, duly certified by the Clerk, shall be retained by the City Clerk for use and examination by the public.

7-11-2: AMENDMENTS TO INTERNATIONAL ENERGY CONSERVATION CODE:

(A) Section C405.5.1.1 shall be amended to read as follows:

C405.5.1.1 Screw lamp holders. The wattage shall be the maximum *labeled* wattage of the luminaire.

Exception: Compact Fluorescent lamps shall use the rated wattage of the lamp and ballast.

(B) The following section shall be added to the International Energy Conservation Code, 2012 Edition:

C402.4.1.3 Visual inspection option. Building envelope tightness and insulation installation shall be considered acceptable when the items listed in Table 402.4.1.1, applicable to the method of construction, are field verified. Where required by code official an approved party independent from the installer of the insulation shall inspect the air barrier and insulation.

(C) The following section shall be added to the International Energy Conservation Code, 2012 Edition:

R403.2.3 Building Cavities. Building framing cavities shall not be used as ducts or plenums.

Exception: Building framing cavities used as ducts or plenums shall comply with Section M1601.1.1 (2012 International Residential Code).

(D) Table R402.1.1 (Table N1102.2.1) shall be amended to read as follows:

Table R402.1.1
Insulation and Fenestration Requirements By Component[a]

Climate Zone	Fenestration U- Factor	Skylight U-factor	Glazed Fenestration SHGC	Ceiling R-Value	Wood Frame Wall R-Value	Mass Wall R-Value	Floor R-Value	Basement Wall R-Value	Slab R-Value	Crawlspace Wall R-Value
5 and Marine 4	0.32	0.55	NR	49	20 or 13+5h	13/17	30g	15/19	10, 2 ft	15/19
6	0.32	0.55	NR	49	22or 13+10h	15/20	30g	15/19	10, 4 ft	15/19

SECTION 2. Savings and Severability Clause. The provisions and parts of this Ordinance are intended to be severable. If any section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

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

SECTION 4. Publication. This Ordinance, or a summary thereof in compliance with Idaho Code, shall be published once in the official newspaper of the City, and shall take effect immediately upon its passage, approval, and publication.

SECTION 5. Effective Date. This Ordinance shall be in full force and effect from and after its passage, approval and publication.

PASSED by the City Council and APPROVED by the Mayor of the City of Idaho Falls, Idaho, this _____ day of _____, 2014.

CITY OF IDAHO FALLS, IDAHO

_____

REBECCA L. NOAH CASPER, MAYOR

ATTEST:

_____

ROSEMARIE ANDERSON, CITY CLERK

(SEAL)

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 Ordinance entitled, "AN ORDINANCE AMENDING CHAPTER 11 OF TITLE 7 OF THE IDAHO FALLS CITY CODE, ADOPTING THE 2012 EDITION OF THE INTERNATIONAL ENERGY CONSERVATION CODE ; PROVIDING

SEVERABILITY, CODIFICATION, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE."

(SEAL) ROSEMARIE ANDERSON, CITY CLERK

CITY OF IDAHO FALLS

PLANNING AND BUILDING DIVISION

P.O. BOX 50220
IDAHO FALLS, IDAHO 83405-0220
www.idahofallsidaho.gov

Planning Department • (208) 612-8276 FAX (208) 612-8520 Building Department • (208) 612-8270

BGC-006-15

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Brad Cramer, Planning and Building Director
SUBJECT: Annexation, Annexation Agreement, Annexation Ordinance, Initial Zoning of R-1, Zoning Ordinance, Final Plat, and Reasoned Statements of Relevant Criteria and Standards, Bristol Heights, Division No. 6
DATE: January 16, 2015

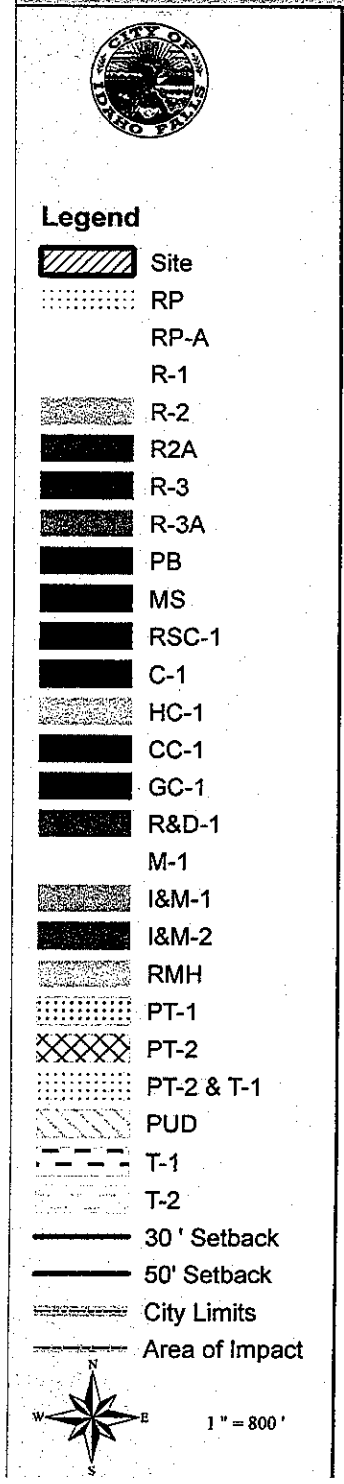
Attached is the application for annexation, with initial zoning of R-1, annexation agreement, annexation and zoning ordinances, and Reasoned Statements of Relevant Criteria and Standards for Bristol Heights Division No. 6. The Planning Commission considered the application at its December 2, 2014 meeting and recommended approval. Staff concurs with this recommendation. The application is now being submitted to the Mayor and City Council for consideration.

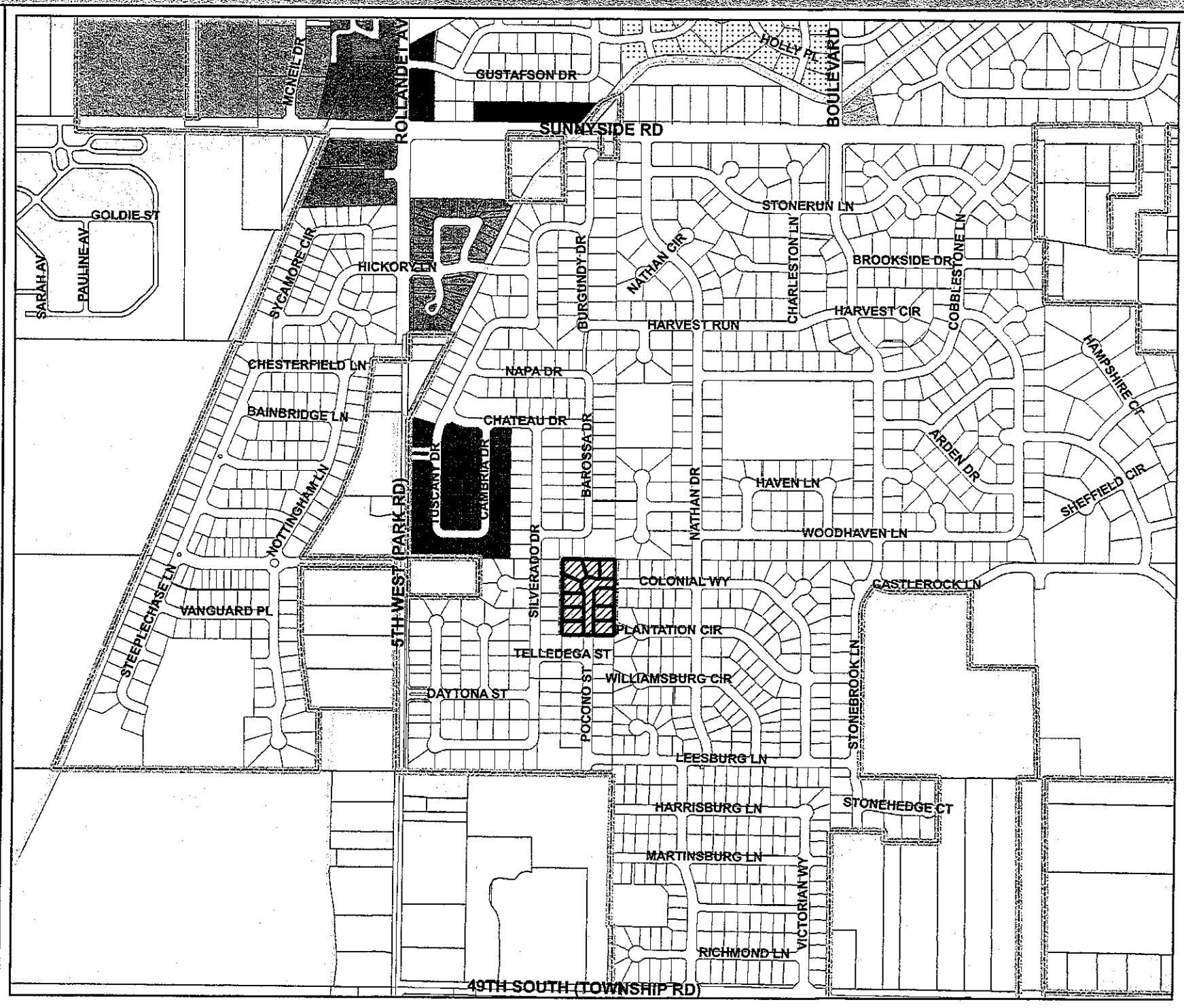
Attachments:
- Vicinity Map
- Aerial Photo
- Final Plat
- Draft Planning Commission minutes, December 2, 2014
- Staff Report, December 2, 2014
- Annexation Agreement
- Annexation Ordinance
- Zoning Ordinance
- Reasoned Statements of Relevant Criteria and Standards

cc: Rose Anderson
File

Annexation, Initial Zoning & Final Plat

Bristol Heights Division 6





1" = 500'
SYCAMORE CIR
HICKORY LN
CHESTERFIELD LN
BAINBRIDGE LN
MANCHESTER LN
NOTTINGHAM LN
STEEPLECHASE LN
BIRMINGHAM LN
CARRIAGEGATE LN
NOTTINGHAM LN
VANGUARD PL
S 5TH WEST (PARK RD)
BURGUNDY DR
NAPA DR
CHATEAU DR
TUSCANY DR
CAMBRIA DR
BAROSSA DR
SILVERADO DR
DAYTONA CIR
DAYTONA ST
TALLADEGA ST
POCONO ST
ROCKINGHAM ST
HARVEST RUN
HARVEST CIR
W COBBLESTONE LN
E COBBLESTONE LN
HAMPTON LN
ARDEN DR
STONEBROOK LN
HAVEN LN
NATHAN DR
W WOODHAVEN LN
E WOODHAVEN LN
COLONIAL WY
CASTLEROCK LN
PLANTATION CIR
PLANTATION LN
WILLIAMSBURG LN
LEESBURG LN
HARRISBURG LN
STONEHEDGE CT
MARTINSBURG LN
VICTORIAN WY
GETTYSBURG LN

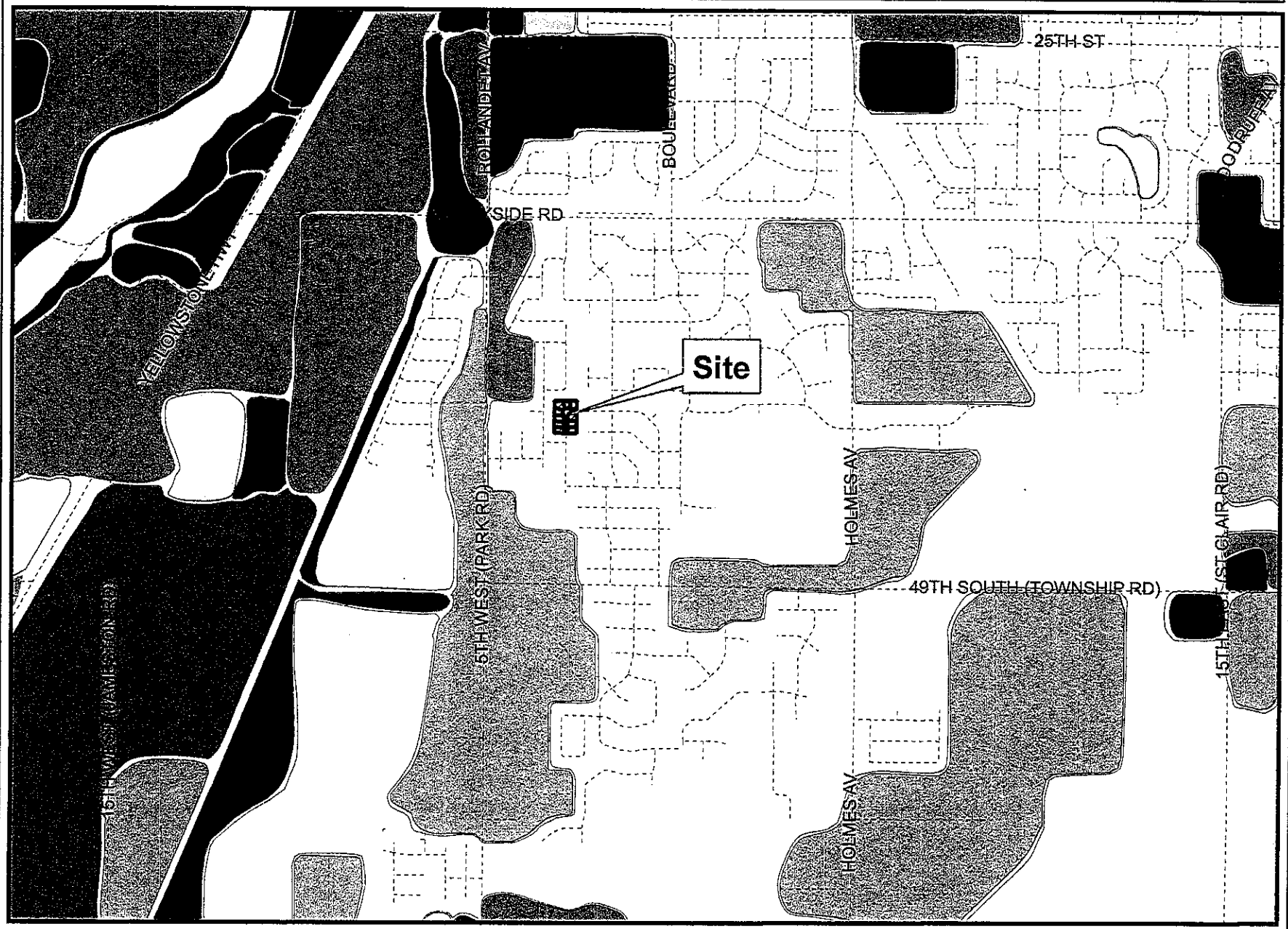
Annexation, Initial Zoning & Final Plat

Bristol Heights Division 6

- Estate
- Low Density
- Higher Density
- Greenbelt Mixed Uses
- Parks, Recreation
- Public Facilities, Open Spaces
- Commercial
- Employment Centers
- Medical Services Center
- Higher Education Centers
- Planned Transition
- Highway-related industrial
- Railroad-related industrial

CITY OF IDAHO FALLS

Comprehensive Plan



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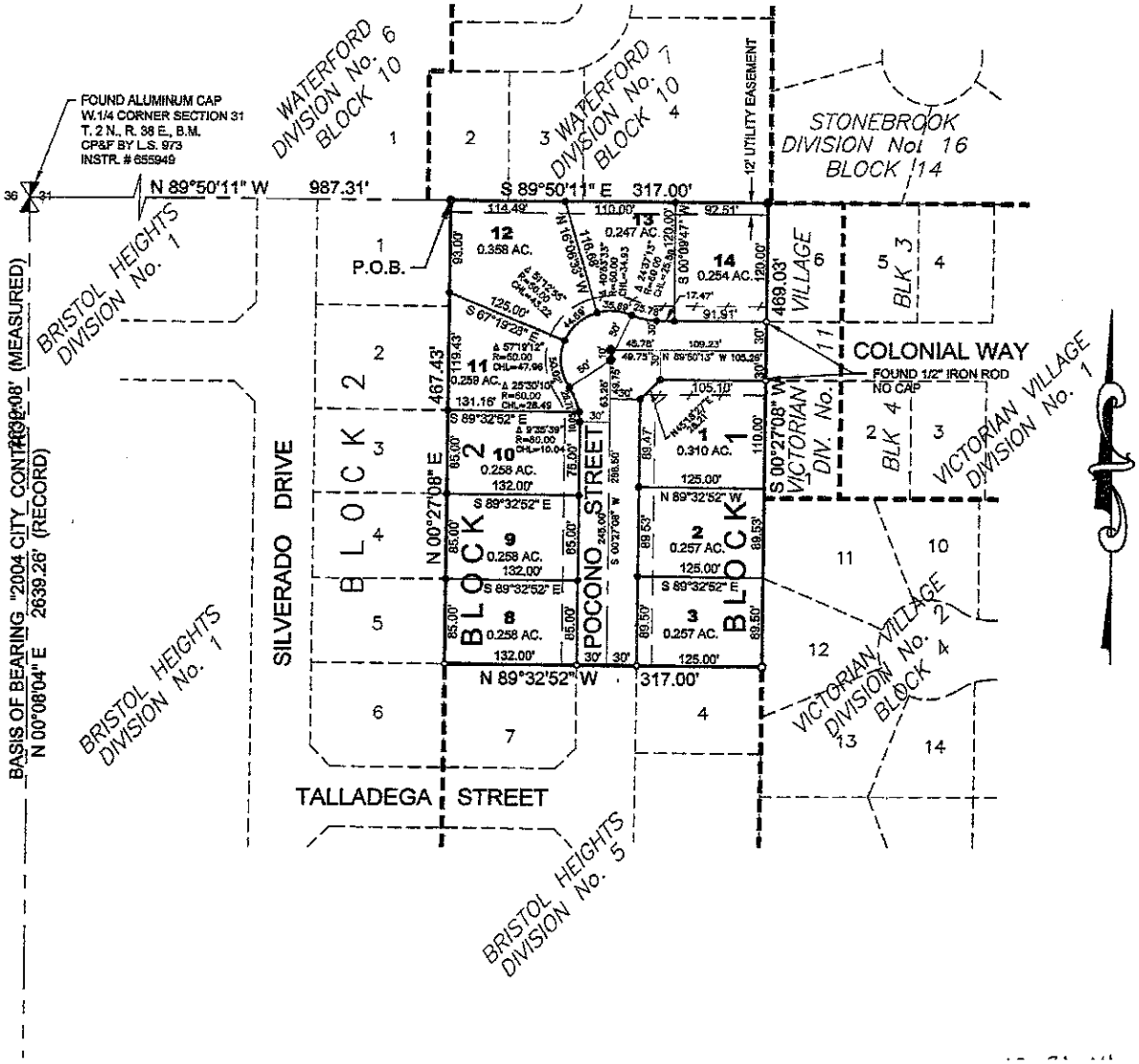
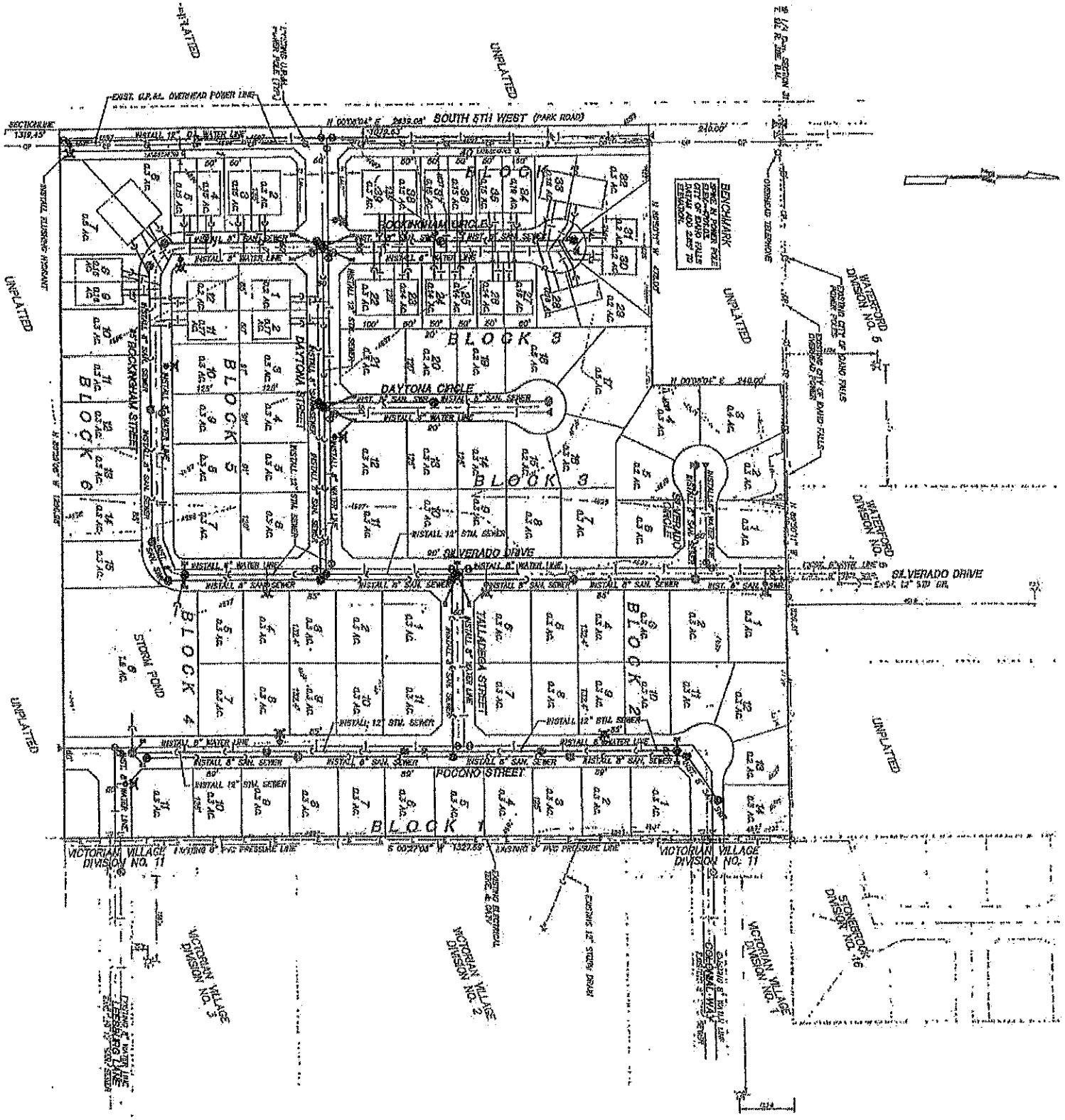
Planning Department
P.O. Box 50220
380 Consitution Way
Idaho Falls, ID 83405
(208) 612-8276

BRISTOL HEIGHTS
DIVISION NO. 6
AN ADDITION TO THE CITY OF IDAHO FALLS, BONNEVILLE COUNTY, IDAHO
BEING PART OF GOVERNMENT LOT 3, SECTION 31, T. 2N., R. 38E. B.M.





BRISTOL HEIGHTS
PRELIMINARY PLAT

December 2, 2014 | 7:00 p.m. | Planning Department
Council Chambers

MEMBERS PRESENT: Commissioners George Swaney, Brent Dixon, George Morrison, Kurt Karst, James Wyatt, Natalie Black, Margaret Wimborne, Donna Cosgrove, and Darren Josephson.

MEMBERS ABSENT: None.

ALSO PRESENT: Planning Director Brad Cramer, Assistant Planning Director Kerry Beutler, and interested citizens.

CALL TO ORDER: Chair Swaney called the meeting to order at 7:00 p.m. and reviewed the public hearing process.

Thank You to Karst: After 21 years of service on the Planning Commission, Kurt Karst is "retiring". The Planning Commission presented him with a plaque to show their gratitude to him for the years of service.

Minutes: Minor changes were requested to be made to the minutes, including typographical errors. **Morrison moved to approve the minutes of November 5, 2014 with requested changes. Black seconded the motion and it passed unanimously.**

Public Hearings:

Annexation of 3.407 Acres with Initial Zoning of R-1 and Final Plat: Bristol Heights, Division No. 6. Cramer presented the staff report, a part of the record. Cosgrove asked if a variance is needed, as the longest block in the Plat is 350, and the ordinance reads *the residential block length shall not exceed 1300 feet or be less than 400 feet;* or is it stubbed and will be longer in the future. Cramer indicated that where it is connected to the south and east, that issue is resolved. The measurement for total block length is down and over to connecting streets. Cosgrove also asked about emergency access as it shows only one access. Cramer pointed out three emergency access points, one from major road to west, and two connecting streets from adjacent subdivision to the east. Cosgrove clarified and Cramer agreed that they are expecting a full build out. Cramer further indicated that the aerial photo is out of date and most of the homes on the southern end have been built. Dixon asked about the need for a temporary road, such as a gravel path for emergency purposes, between the end and the current stub of Talladega until development continues over and connects with Talladega. Cramer indicated that the street is in (as the aerial photo is out of date). Cramer further indicated that per the fire code there is no need for the secondary access until you exceed 30 dwelling units, as such for this section there is sufficient access for fire code.

Swaney opened the Public Hearing.

Fred Walland, 645 Lincoln Dr., Idaho Falls, ID 83401. Walland offered to answer any questions the Commissioners had. No questions were posed to Walland.

Swaney closed Public Hearing.

Cosgrove moved to recommend to Mayor and City Council Annexation of 3.407 Acres with Initial Zoning of R-1 and approval of the Final Plat for Bristol Heights, Division No. 6. Morrison seconded the motion and it passed unanimously.

Annexation prior to Platting of 1.887 Acres with Initial Zoning of R-1. Cramer presented the staff report, a part of the record. Cosgrove asked since the two parcels are each contiguous to City, but not contiguous to each other, is it done as separate pieces or can it be done as one piece as presented. Cramer indicated it can be done as one piece and when the annexation ordinance is written, it will all be bundled into one. Dixon asked for explanation as to the reasoning behind the annexation of the canal, as it is on the edge and can either be left off in the County, but it is contiguous to the City. Cramer indicated that the canals have become more important in the City's view, as not too long ago there was a County development that was contiguous to the City, but was separated by a canal. The County's opinion was there were portions of that canal that were privately owned and so they did not consider that property contiguous and allowed industrial development next to single family residential. So when the County looked into it, the canal was privately owned, however, the City had the understanding that you can annex across a body of water, public right of way, rail road, etc., otherwise it would make growth difficult. Although it is the opinion of the City that you can annex across a canal, it is now the opinion of the City that it is "Safer" to bring in the canal when they can so there is no question about contiguity.

Swaney opened the Public Hearing.

Fred Walland, 645 Lincoln Dr., Idaho Falls, ID 83401. Walland answered the previously posed question for the reason for the annexation, as his understanding is the owner was contacted by the County because the west line of the canal is the center of the section and so all the privately owned parcels in that half of the section were already developed and annexed to the City and the County did not like having a tiny strip still on their rolls. Additionally, the square parcel had similar reasoning as it is County parcel that is cut off from the rest of County property and as such the County asked the owner to "clean it up". The Canal has the same answer as it was included in the plats to the north and was not in the first two or three divisions of the Village Subdivision.

Swaney closed Public Hearing.

Wimborne moved to recommend to Mayor and City Council Annexation prior to Platting of 1.887 Acres with Initial Zoning of R-1. Karst seconded the motion and it passed unanimously.

Preliminary Plat. Beutler presented the staff report, a part of the record. Wimborne asked what the purpose of the cul-de-sac is. Beutler indicated that City does not like to dead end streets, but rather end in a cul-de-sac so there is an opportunity for turn around and emergency access. Wimborne asked why they are asking to only vacate part of the street, rather than the whole street to Denver. Beutler indicated that if you vacated the whole street, the parcels to the north would lose access. Morrison asked who owns Nevada Street. Beutler indicated that Nevada is a dedicated public street. Morrison asked how a business takes over a street as part of their business. Beutler indicated that the business owner would have to go to City Council and request the vacation of the road. The City Council would hold a public hearing to determine if there is still public interest in maintaining that right of way, and if the City Council determined that there wasn't they could then vacate the street. The ownership would then go back to the adjacent property owners once the street was vacated. Cosgrove asked if the City has plans to improve Utah, as the majority of the complaints were regarding the management of Utah and not the vacation of Nevada. Beutler indicated that he is not aware of any plans for improvements along Utah. Black asked if the City Engineers agreed with the findings of the Traffic Study. Beutler indicated that it is his

IDAHO FALLS PLANNING COMMISSION STAFF REPORT
Annexation, Initial Zoning of R-1, Final Plat
Bristol Heights Division No. 6
December 2, 2014

Planning and Building Division

Applicant: Baseline Contractors

Location: East of Park Road, north of Township Road, south of Sunnyside, west of Nathan

Size: Approximately 3.407 acres

Number of Lots: 10

Density: 2.9 units per acre

Existing Zoning:
Site: County A-1
North, east, south, west: R-1
Northeast: RP-A

Existing Land Uses:
Site: Vacant/agriculture
North, east, south, west: Single-family residential

Future Land Use Map: Low-density residential

Attachments:
1. Comprehensive plan information
2. Subdivision and zoning ordinance information
3. Maps and aerial photos
4. Final Plat
5. Preliminary plat

Requested Action: To **recommend** approval of annexation with initial zoning of R-1 and the final plat to the Mayor and City Council

Staff Comments: The proposed annexation and final plat is final phase of the development of the Bristol Heights subdivision. This is a Category A annexation. The proposed R-1 zoning is consistent with the comprehensive plan future land use map designation. It is also consistent with existing zoning in the surrounding area.

Preliminary Plat: The proposed plat is consistent with the preliminary plat.

Subdivision Ordinance: Staff has reviewed the plat and finds it in compliance with the subdivision ordinance.

Transportation Plan: Telledega, Pocono, Silverado, Colonial: Local streets

Comprehensive Plan Policies:

Encourage development in areas served by public utilities or where extensions of facilities are least costly. Not only is a compact city convenient but the provision of public facilities is less expensive. (pg. 35)

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. 39)

Subdivision Ordinance: Boxes with an "X" indicate compliance with the requirement

REQUIREMENTS	Staff Review
Property is contiguous or adjacent to the City boundaries.	X Property is contiguous on all sides
Building envelopes sufficient to construct a building.	X Average lot size is 0.271 acres which is above the minimum size required by the zoning ordinance
Lot dimensions conform to the minimum standards of Zoning Ordinance.	X Minimum lot width in an R-1 zone is 50 feet and minimum size is 6,000 square feet. Smallest lot in the development is 75 feet in width and 10,759 square feet
Lots have full frontage on, and access to, a dedicated street.	X All lots have frontage on Pocono Street or Colonial Way
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.	NA

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.	NA No major streets proposed
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.	NA
Planning Director to classify street on basis of zoning, traffic volume, function, growth, vehicular & pedestrian safety, and population density.	X Streets within the plat are local streets
Minimum right-of-way widths are: 50 feet for 40 or less homes 60 feet for residential/commercial 70 feet for industrial	X All rights-of-way within the plat are 60 feet
Permanent dead end streets are less than 600 ft single family and 400 ft for all other uses.	NA There are not proposed permanent dead end streets
Streets intersect at right angles (10% deviation allowed).	X
Minor streets are laid out to discourage through traffic.	X
Minimum street grades of .4% shall be required with the maximum grade being 7% for secondary and major streets and 10% for local or minor streets.	X
Curbs at street intersections shall be rounded with curves having a minimum radius of 25 feet.	X
No plat shall be laid out for the purpose of creating a spite strip.	X
All streets and alleys within the subdivision shall be dedicated for public use. The dedication of ½ streets is prohibited.	X

The minimum width of an alley is 20ft. Alleys may be required along the rear line of all business properties, and in the rear off all fronting major thoroughfares.	NA
Residential block lengths shall not exceed 1300 ft, nor be less than 400 ft.	X The longest block on the plat, Block 1, is approximately 350 feet long
The City may prohibit the subdivision of any land that lies within the flood plain.	X Property is not in the 100 year flood plain
No unusual problems anticipated with public utilities.	X Utilities exist within the adjacent subdivisions to the east and west

7-3 R-1 RESIDENCE ZONE

7-3-1 General Objectives and Characteristics.

The objective in establishing the R-1 Zone is to provide a residential environment within the City which is characterized by somewhat smaller lot widths, and a somewhat denser residential environment than is characteristic of the RP-A Residence Park Zone. Also characteristic of this Zone are residential amenities adequate to maintain desirable residential neighborhoods. The principle permitted uses in the R-1 Residence Zone shall be one family dwellings and certain other public facilities which are necessary to promote and maintain stable residential neighborhoods.

In order to accomplish the objectives and purposes of this Ordinance and to promote the essential characteristics of this Zone, the following regulations shall apply in the R-1 Zone:

7-3-2 Use Requirements.

The following uses shall be permitted in the R-1 Zone:

A. Any use permitted in the RP Residence Park Zone, and in the RP-A Residence Park Zone.

B. Home occupations.

C. Cemeteries, when approved by the Planning Commission as a conditional use.

D. Day Care Centers when approved by the Planning Commission and City Council as a conditional use.

E. Single-family attached dwellings when found to be in accordance with Section 7-3-10 and approved by the Planning Commission and City Council as a

conditional use.

7-3-3 Area Requirements.
An area of not less than six thousand (6,000) square feet shall be provided and maintained for each dwelling. No minimum area shall be required for other main buildings, except as may be required for conditional uses permitted in the zone.

7-3-4 Width Requirements.
The minimum of any building site for a dwelling shall be fifty (50)[1] feet measured at the building setback line.

7-3-5 Location of Buildings and Structures.

A. Setback. All buildings shall be set back a minimum distance of thirty (30) feet from any public street, except as herein provided and required under the provisions of this Ordinance.

B. Side Yards. For main buildings there shall be a side yard of not less than eight (8) inches for each foot of building height, except that no side yard shall be less than seven (7) feet, six (6) inches. Side yard requirements for accessory buildings shall be the same as for main buildings, except that no side yard shall be required for accessory buildings which are located more than twelve (12) feet in the rear of the main building.

Single-family attached dwellings shall have no side yard setback requirement at the property line separating the attached or party wall or walls; however, all accessory buildings shall comply with the setback requirements set forth above.

C. Rear Yards. For main buildings there shall be a rear yard of not less than twenty-five (25) feet on both interior and corner lots. For accessory buildings, no rear yard shall be required, except where an alley is located at the rear of a lot, in which case a three (3) foot rear yard is required.

7-3-6 Height Requirements.
No building shall be erected to a height of greater than two (2) stories. Roofs above the square of the building, chimneys, flagpoles, television antennas, church towers, and similar structures not used for human occupancy, are excluded in determining height.

7-3-7 Size of Building.
No requirement.

7-3-8 Lot Coverage.
The total area of structures on a lot shall not exceed forty (40) percent of lot area.

---

[1] Amended by Ordinance 2074, dated August 6, 1992. Previous width was 60'.

7-3-9 See Supplementary Regulations.

7-3-10 Special Provisions Regarding Single-Family Attached Dwellings:

A. All lots upon which a single-family home attached dwelling is located shall have frontage upon and vehicular access to a dedicated street.

B. No single-family attached dwelling shall be located above another dwelling unit, either in whole or part.

C. Each single-family attached dwelling shall have at least one direct pedestrian access from the interior of the dwelling to the exterior boundaries of the lot and no pedestrian access may be held in common with another single-family dwelling unit.

D. No more than three (3) single-family dwellings may be attached together.

E. Except as noted below, a single-family attached dwelling shall have no facilities or property in common with another single-family attached dwelling and all dwellings shall be structurally and functionally independent from each other. All single-family attached dwellings shall have separate electrical service, water service lines and sanitary sewer service lines. Common facilities or property are allowed for the following:

1. Common party walls constructed in accordance with the Uniform Building Code.
2. Foundations supporting attached or party walls.
3. Flashing at the termination of the roof covering any attached walls.
4. Roofs.
5. Vehicular access to a dedicated street from off-street parking facilities or garages.

F. No building permit shall be issued for the construction of a single-family attached dwelling unless a common facilities or party wall agreement for Declaration of Condominium has been filed with the Bonneville County Recorders Office for each such dwelling which shares common facilities with another unit. Such agreement shall include a legal description of the lots sharing common facilities and shall allocate responsibility as between the owners of such lots for the use, maintenance, and ownership of all common facilities.

G. All single-family attached dwellings shall meet the dwelling unit separation requirements of the officially adopted and applicable building codes of Idaho Falls.

H. Any lots upon which a single-family attached dwelling is located need not comply with Section 7-3-3, Area Requirements, and Section 7-3-4, Width

Requirements, provided such lot complies with the provisions of Section 7-3-5, Location of Buildings, and Section 7-3-10(K) below.

I. The net density of single-family attached projects shall not exceed seven (7) units per acre. The area within public rights-of-way shall not be included in the calculations for net density.

J. When applications for single-family attached dwellings are submitted for conditional use review, a plat, site plan showing the location of proposed buildings, driveways, sidewalks, and other improvements, and preliminary elevations of the proposed buildings shall be submitted.

K. The side yard adjacent to detached single-family homes shall be fifteen (15) feet.

ANNEXATION AGREEMENT
BRISTOL HEIGHTS DIVISION 6

This Annexation Agreement Bristol Heights Division 6 (hereinafter called "AGREEMENT"), made this _____day of_____, 2015, by and between CITY OF IDAHO FALLS, IDAHO, a municipal corporation (hereinafter called "CITY"), whose mailing address is P.O. Box 50220, Idaho Falls, Idaho 83405, and IDAHO REAL ESTATE INVESTORS, L.L.C., a limited liability company, (hereinafter called "DEVELOPER"), whose mailing address is 3525 Merlin Drive, Idaho Falls, Idaho 83404.

WITNESSETH:

WHEREAS, DEVELOPER is the sole owner, in law or equity, of a certain tract of land in the County of Bonneville, State of Idaho, which land (hereafter referred to as the "Subdivision"), is more particularly described in Exhibit "A" attached hereto and by this reference made a part hereof; and

WHEREAS, DEVELOPER understands that annexation must comply with Idaho Code § 50-222; and

WHEREAS, DEVELOPER voluntarily wishes to proceed with Category A annexation pursuant to Idaho Code § 50-222(3)(a); and

WHEREAS, DEVELOPER specifically waives DEVELOPER's right to protest annexation of DEVELOPER's property 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 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 requested the Subdivision be annexed to CITY and 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 annexation be granted subject to certain requirements and obligations on the part of DEVELOPER; and

WHEREAS, CITY is willing to annex the Subdivision to CITY, subject to the terms and conditions of this AGREEMENT and the Special Conditions attached as Exhibit "B" to this

Agreement and adopted as part of such Agreement and incorporated herewith.

NOW, THEREFORE, in consideration of the covenants and conditions set forth herein, the parties agree as follows:

1. **Annexation.** CITY agrees to annex the Subdivision to the City of Idaho Falls, Idaho, (more particularly described herein as Bristol Heights Division 6 in Exhibit "A" attached hereto and incorporated herein by reference) subject to DEVELOPER's performance of the terms and conditions of this AGREEMENT, including Special Conditions as Exhibit "B" and incorporated herein by this reference.

2. **Construction of Public Improvements.** Unless otherwise agreed in the Special Conditions, DEVELOPER shall, at its expense, design and construct all public improvements required by the Special Conditions attached hereto and incorporated as part of this AGREEMENT. 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.

3. **Permits.** DEVELOPER shall obtain all rights 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.

4. **Completion of Public Improvements.** DEVELOPER agrees that, upon a finding by City Council, duly entered in the official minutes of the proceedings of City Council, that a portion or portions or the entirety of any public improvements "detailed in" the Special Conditions need to be completed in the interest of the public health, welfare or safety, DEVELOPER shall forthwith construct such public improvements. If DEVELOPER does not commence construction of such public improvements within a reasonable time after such finding is made, or if DEVELOPER does not complete such construction within a reasonable time thereafter, CITY may construct or complete such facilities at DEVELOPER's expense. City Council shall not make such finding unless DEVELOPER has been given at least ten (10) days advance written notice of the date and place of the meeting, and DEVELOPER has been given an opportunity to be heard at such meeting. At or before the meeting, City Engineer shall furnish DEVELOPER a cost estimate for completing the required portion or portions of such public improvements.

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 constructed by DEVELOPER in order to ensure such improvements are constructed in accordance with this AGREEMENT, the Special Conditions and the Standard Specifications. DEVELOPER shall not materially deviate from the Special Conditions or Standard Specifications without the express written approval of City Engineer to do so.

6. **Public Improvement Certification.** Prior to acceptance of any phase or division of the Subdivision, DEVELOPER, through the Project Engineer, shall certify that all 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. **Final Plat.** DEVELOPER agrees not to commence any building or construction within the Subdivision until a final subdivision plat (hereinafter referred to as the "Final Plat") of the area encompassing the phase or division where such building or construction is contemplated, has been duly prepared in compliance with Idaho Code § 31-3805, as amended, and Chapter 13, Title 50, Idaho Code, as amended, and has been approved by CITY pursuant to the Subdivision Ordinance of CITY.

8. **Sale, Lease or Conveyance of Part of Property.** DEVELOPER agrees not to sell, lease or convey any portion of the Subdivision unless a Final Plat for the portion to be sold, leased or conveyed, has been approved by CITY and recorded in the Bonneville County Recorder's office.

9. **Acceptance of Subdivision.** Upon satisfactory completion of such public improvements and facilities, DEVELOPER's delivery of Public Improvement Certification 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. Acceptance of the Subdivision 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.

10. **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 Special Conditions or the Standard Specifications. DEVELOPER, and DEVELOPER's heirs, successors and assigns, shall and do hereby 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 and against every person whomsoever who lawfully holds, or who later lawfully claims to have held, rights in the premises as of the date of this AGREEMENT.

11. **Arterial Street, Surface Drainage and Other Impact Fees**. DEVELOPER agrees to pay all Arterial Street and Bridge Fees, Surface Drainage Fees, or any other impact fees in force, at the time of the approval of a final plat covering any portion of the Subdivision. The calculation of such fees shall be based only upon the area included within the final plat. Such fees shall be paid in full prior to the approval of such final plat by CITY, and the amount and other terms and conditions regulating the payment and imposition thereof shall be in accordance with the CITY ordinance in effect at the time the final plat is approved.

12. **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.

13. **Rezoning of Property.** Nothing herein contained shall restrict the right of CITY to change the zoning of any of the Unplatted Property following procedures established by City Zoning Ordinance and the Idaho Local Land Use Planning Act.

14. **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.

15. **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 commercial or industrial purposes.

16. **Irrigation Facilities.** DEVELOPER shall relocate or reconstruct 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.

17. **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 detailed in the Special Conditions.

18. **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. 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.

19. 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 City Code;

F. Bring an action for damages, injunctive relief, specific performance or any other remedy available at law or in equity.

20. 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.

21. Recording Fees. 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.

22. Conflict with Standard Specifications. In the event of any conflict between the terms of this AGREEMENT or the Standard Specifications, the terms of this AGREEMENT shall prevail over any contrary provision of the Standard Specifications.

23. **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.

24. **Remedies Cumulative.** All remedies herein are cumulative and, to the extent not wholly inconsistent with each other, may be enforced simultaneously or separately, at the sole discretion of CITY.

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. **Entire Agreement.** This writing evidences the final and complete agreement between the parties "relative to Annexation" and no other prior statement, representation or understanding shall be binding upon the parties unless expressly set forth herein.

27. **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.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

ATTEST:

_____
Rosemarie Anderson, City Clerk

CITY OF IDAHO FALLS

By_____
Rebecca L. Noah Casper, Mayor

IDAHO REAL ESTATE INVESTORS, LLC

By_____
Lee Gagner, President

APPROVED AS TO FORM:

_____
Randall D. Fife
City Attorney

_____
Chris Canfield, P.E.
Assistant Public Works Director

STATE OF IDAHO)
) ss.
County of Bonneville)

On this _____day of _____, 2015, before me, the undersigned, a notary public for Idaho, personally appeared Rebecca L. Noah Casper, known to me to be the Mayor of the City of Idaho Falls, Idaho, the municipal corporation that executed the foregoing document, and acknowledged to me that she is authorized to execute the same for and on behalf of said City.

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

_____
Notary Public of Idaho
Residing at: _____
My Commission Expires:_____

(Seal)

STATE OF IDAHO)
) ss:
County of Bonneville)

On this _____day of _____, 2015, before me, the undersigned, a notary public, in and for said State, personally appeared Lee Gagner, known or identified to me to be the President of Idaho Real Estate Investors, LLC, a limited liability company, whose name is subscribed to the foregoing document, he acknowledged to me that he is authorized to execute the same for and on behalf of said limited liability 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.

_____
Notary Public of Idaho
Residing at: _____
My Commission Expires: _____

(Seal)

EXHIBIT "A"
BRISTOL HEIGHTS DIVISION 6

Beginning at the Southwest Corner of Section 31, Township 2 North, Range 38 East of the Boise Meridian; running thence N.0°08'04"E. 2639.26 feet along the Section line to the West ¼ Corner of said Section 31; thence S.89°50'11"E. 987.31 feet along the East-West centerline of said Section to the TRUE POINT OF BEGINNING, said point being the Northeast Corner of Bristol Heights, Division No. 1, an addition to the City of Idaho Falls, Bonneville County, Idaho; running thence S.89°50'11"E. along the Southerly boundary of Waterford, Division No. 7, an addition to the City of Idaho Falls, Bonneville County, Idaho 317.00 feet to the Northwest corner of Lot 6, Block 3, Victorian Village, Division No. 11, an addition to the City of Idaho Falls, Bonneville County, Idaho; thence S.0°27'08"W. along the Westerly Boundary lines of said Victorian Village, Division No. 11 and Victorian Village, Division No. 3, an addition to the City of Idaho Falls, Bonneville County, Idaho 469.03 feet to the Northeast Corner of Bristol Heights, Division No. 5, an addition to the City of Idaho Falls, Bonneville County, Idaho; thence N.89°32'52"W. 317.00 feet along the Northerly boundary of said Bristol Heights, Division No. 5 to the Easterly boundary of said Bristol Heights, Division No. 1; thence N.0°27'08"E. along said Easterly boundary 467.43 feet to the TRUE POINT OF BEGINNING.

Containing 3.407 acres.

EXHIBIT "B"
SPECIAL CONDITIONS FOR
BRISTOL HEIGHTS DIVISION 6

S-C 1.00. Arterial Street and Bridge Fees. The Bridge and Arterial Street fee for this Subdivision is $2,000 (10 lots of R1 zone at $200.00 per lot), payable as follows:

Due Date	Payment Amount
Upon execution hereof	$ 200
March 1, 2015	$ 450
June 1, 2015	$ 450
September 1, 2015	$ 450
December 1, 2015	$ 450
TOTAL	$2,000

S-C 2.00. Surface Drainage Fees. The surface drainage fee for this Subdivision is $886.67 (118,222 square feet net area at $ 0.0075 per square foot), payable as follows:

Due Date	Payment Amount
Upon execution hereof	$ 88.67
March 1, 2015	$ 199.50
June 1, 2015	$ 199.50
September 1, 2015	$ 199.50
December 1, 2015	$ 199.50
TOTAL	$886.67

S-C 3.00. Traffic Signs. DEVELOPER agrees to install all street signs designation the names of all streets within the Subdivision. Such signs shall be installed in the manner and locations as directed by the City Engineer.

S-C 4.00. Storm Drainage Facility. DEVELOPER has designed and constructed a storm water retention pond and all other appurtenances as shown on the CITY-approved storm pond plan during the construction of Bristol Heights Division No. 5. With the improvements of Bristol Heights Division 6, DEVELOPER shall specifically install the necessary underground system through the proposed Subdivision to accept water from this subdivision (as shown on the Division No. 6 Improvement Drawings) and connect to Division No. 5. Upon satisfactory completion and acceptance of such storm water facilities, CITY will assume the operation and maintenance thereof.

ORDINANCE NO. _____

AN ORDINANCE ANNEXING CERTAIN LANDS TO THE CITY OF IDAHO FALLS DESCRIBING; 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 Section 1 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 Section 1 is reasonably necessary to assure the orderly development of the City in order to allow efficient and economically viable provision of tax-supported and fee-supported municipal services; to enable the orderly development of private lands which benefit from a cost-effective availability of City services in urbanizing areas; and to equitably allocate the costs of City/public services in management of development on the City's urban fringe; and

WHEREAS, the City has authority to annex lands into the City upon compliance with procedures required in Idaho Code Section 50-222, as amended; and

WHEREAS, any portion of a highway lying wholly or partially within the lands to be annexed are included in the lands annexed by this Ordinance; and

WHEREAS, the lands annexed by this Ordinance are not connected to the City only by a "shoestring" or a strip of land which comprises a railroad or right-of-way; and

WHEREAS, all private landowners have consented to annexation of such lands where necessary; and

WHEREAS, the lands to be annexed are contiguous to the City and the City of Idaho Falls Comprehensive Plan includes the area of annexation; and

WHEREAS, after considering the written and oral comments of property owners whose lands would be annexed and other affected persons, City Council specifically makes the following findings:

1) That the lands annexed meet the applicable requirements of Idaho Code Section 50-222 and does not fall within exceptions or conditional exceptions contained in Idaho Code Section 50-222;

2) The annexation is consistent with public purposes addressed in annexation and related plans prepared by the City; and

3) Annexation of the lands described in Section 1 are reasonably necessary for the orderly development of the City; and

WHEREAS, it appears to the City Council that the lands described hereinbelow in Section 1 of this Ordinance should be annexed to and become a part of the City of Idaho Falls, Idaho; and

WHEREAS, the City wishes to exercise jurisdiction over the annexed lands in a way that promotes the orderly development of such lands; and

WHEREAS, the City of Idaho Falls Comprehensive Plan sets out policies and strategies designed to promote and sustain future growth within the City; and

WHEREAS, for consistency with the Comprehensive Plan, the Council desires to designate the lands within the area of annexation as "Low Density"; and

WHEREAS, such designation is consistent with policies and principles contained within the City of Idaho Falls Comprehensive Plan; and

WHEREAS, the City desires the City of Idaho Falls Comprehensive Plan Map to be amended to reflect the designation contained in this Ordinance.

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

SECTION 1. Annexation of Property. The lands described herein are hereby annexed to the City of Idaho Falls, Idaho:

Beginning at the Southwest Corner of Section 31, Township 2 North, Range 38 East of the Boise Meridian; running thence N.0°08'04"E. 2639.26 feet along the Section line to the West ¼ Corner of said Section 31; thence S.89°50'11"E. 987.31 feet along the East-West centerline of said Section to the TRUE POINT OF BEGINNING, said point being the Northeast Corner of Bristol Heights, Division No. 1, an addition to the City of Idaho Falls, Bonneville County, Idaho; running thence S.89°50'11"E. along the Southerly boundary of Waterford, Division No. 7, an addition to the City of Idaho Falls, Bonneville County, Idaho 317.00 feet to the Northwest corner of Lot 6, Block 3, Victorian Village, Division No. 11, an addition to the City of Idaho Falls, Bonneville County, Idaho; thence S.0°27'08"W. along the Westerly Boundary lines of said Victorian Village, Division No. 11 and Victorian Village, Division No. 3, an addition to the City of Idaho Falls, Bonneville County, Idaho 469.03 feet to the Northeast Corner of Bristol Heights, Division No. 5, an addition to the City of Idaho Falls, Bonneville County, Idaho; thence N.89°32'52"W. 317.00 feet along the Northerly boundary of said Bristol Heights, Division No. 5 to the Easterly boundary

of said Bristol Heights, Division No. 1; thence N.0°27'08"E. along said Easterly boundary 467.43 feet to the TRUE POINT OF BEGINNING.

Containing 3.407 acres.

SECTION 2. Amended Map and Legal Description. The City Clerk shall file a certified copy of this Ordinance with the Bonneville County Auditor, Treasurer, and Assessor, within ten (10) days after the effective date hereof. The City Engineer shall, within ten (10) days after such effective date, file an amended legal description and map of the City, with the Bonneville County Recorder and Assessor and the Idaho State Tax Commission, all in accordance with Idaho Code Section 63-2215.

SECTION 3. Findings. That the findings contained in the recitals of this Ordinance be, and the same are hereby, adopted as the official City Council findings for this Ordinance, and that any further findings relative to this Ordinance shall be contained in the officially adopted Council minutes of the meeting in which this Ordinance was passed.

SECTION 4. Savings and Severability Clause. The provisions and parts of this Ordinance are intended to be severable. If any section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

SECTION 5. Publication. This Ordinance, or a summary thereof in compliance with Idaho Code, shall be published once in the official newspaper of the City, and shall take effect immediately upon its passage, approval, and publication.

SECTION 6. Effective Date. This Ordinance shall be in full force and effect from and after its passage, approval and publication.

PASSED BY THE COUNCIL AND APPROVED BY THE MAYOR this_____day of _____, 2015.

_____
Rebecca L. Noah Casper, Mayor

ATTEST:

Rosemarie Anderson, City Clerk

(SEAL)

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 Ordinance entitled: "AN ORDINANCE ANNEXING CERTAIN LANDS TO THE CITY OF IDAHO FALLS; AMENDING THE CITY MAP; AMENDING THE LEGAL DESCRIPTION OF THE CITY WITH THE APPROPRIATE COUNTY AND STATE AUTHORITIES; AND PROVIDING SEVERABILITY, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE."

Rosemarie Anderson, City Clerk

(SEAL)

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 3.407 ACRES DESCRIBED IN SECTION 1 OF THIS ORDINANCE AS R-1 ZONE; AND PROVIDING SEVERABILITY, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.

WHEREAS, the proposed initial zoning district of lands described in Section 1 is R-1 Zone for such annexed lands such zoning is consistent with the current City of Idaho Falls Comprehensive Plan Land use designation "Low Density"; and

WHEREAS, the proposed zoning district is consistent and compatible with the existing and surrounding zoning districts and is consistent with the City of Idaho Falls Comprehensive Plan; and

WHEREAS, Idaho Falls Planning and Zoning Commission held a duly noticed public hearing on December 2, 2014, and recommended approval of zoning the subject property to R-1 Zone; and

WHEREAS, the Idaho Falls City Council conducted a duly noticed public hearing and passed a motion to approve this zoning on January 22, 2015.

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

SECTION 1: LEGAL DESCRIPTION:

This ordinance shall apply to the following described lands in Idaho Falls, Idaho, Bonneville County, to-wit:

Beginning at the Southwest Corner of Section 31, Township 2 North, Range 38 East of the Boise Meridian; running thence N.0°08'04"E. 2639.26 feet along the Section line to the West ¼ Corner of said Section 31; thence S.89°50'11"E. 987.31 feet along the East-West centerline of said Section to the TRUE POINT OF BEGINNING, said point being the Northeast Corner of Bristol Heights, Division No. 1, an addition to the City of Idaho Falls, Bonneville County, Idaho; running thence S.89°50'11"E. along the Southerly boundary of Waterford, Division No. 7, an addition to the City of Idaho Falls, Bonneville County, Idaho 317.00 feet to the Northwest corner of Lot 6, Block 3, Victorian Village, Division No. 11, an addition to the City of Idaho Falls, Bonneville County, Idaho; thence S.0°27'08"W. along the Westerly Boundary lines of said Victorian Village, Division No. 11 and Victorian Village, Division No. 3, an addition to the City of Idaho Falls, Bonneville County, Idaho 469.03 feet to the Northeast Corner of Bristol Heights, Division No. 5, an addition to the City of Idaho Falls, Bonneville County, Idaho; thence N.89°32'52"W. 317.00 feet along the Northerly boundary of said Bristol Heights, Division No. 5 to the Easterly boundary of said Bristol

Heights, Division No. 1; thence N.0°27'08"E. along said Easterly boundary 467.43 feet to the TRUE POINT OF BEGINNING.

Containing 3.407 acres.

SECTION 2. Zoning. That the property described in Section 1 of this Ordinance be and the same hereby is zoned "R-1, Zone" and the City Planner is hereby ordered to make the necessary amendments to the official maps of the City of Idaho Falls which are on file at the City Planning Department Offices, 680 Park Avenue.

SECTION 3. Savings and Severability Clause. The provisions and parts of this Ordinance are intended to be severable. If any section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

SECTION 4. Publication. This Ordinance, or a summary thereof in compliance with Idaho Code, shall be published once in the official newspaper of the City, and shall take effect immediately upon its passage, approval, and publication.

SECTION 5. Effective Date. This Ordinance shall be in full force and effect from and after its passage, approval and publication.

PASSED by the City Council and APPROVED by the Mayor of the City of Idaho Falls, Idaho, this_____day of_____, 2015.

CITY OF IDAHO FALLS, IDAHO

_____
Rebecca L. Noah Casper, Mayor

ATTEST:

_____
Rosemarie Anderson, City Clerk

(SEAL)

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 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 3.407 ACRES DESCRIBED IN SECTION 1 OF THIS ORDINANCE AS R - 1 ZONE; AND PROVIDING SEVERABILITY, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE."

_____

Rosemarie Anderson, City Clerk

REASONED STATEMENT OF RELEVANT CRITERIA AND STANDARDS

ANNEXATION FOR BRISTOL HEIGHTS DIVISION NO. 6

WHEREAS, the applicant filed an application for annexation with initial zoning of R-1 Residence Zone on October 28, 2014; and

WHEREAS, this matter came before the Idaho Falls Planning and Zoning Commission during a duly noticed public hearing on December 2, 2014; and

WHEREAS, this matter came before the Idaho Falls City Council during a duly noticed public hearing on January 22, 2014; 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 2013 Comprehensive Plan, the City of Idaho Falls Zoning Ordinance, the Local Land Use Planning Act, and other applicable development regulations.

2. The property is an area of 3.407 acres located generally south of Sunnyside Road, east of 5th West, north Telledega Street, and west of Nathan Drive.

3. The surrounding area is zoned R-1. The subdivision to the northeast is zoned RP-A.

4. The 2013 Comprehensive Plan Future Land Use Map designates this area as Low Density.

5. This is a Category A annexation in which the property owner has requested annexation into the City.

6. The property is contiguous to existing City limits on the north, east, south, and west.

II. DECISION

Based on the above Reasoned Statement of Relevant Criteria, the City Council of the City of Idaho Falls approved the annexation of Bristol Heights Division No. 6.

PASSED BY THE CITY COUNCIL OF THE CITY OF IDAHO FALLS

THIS _____ DAY OF _____, 2015

_____

Rebecca L. Noah Casper, Mayor

REASONED STATEMENT OF RELEVANT CRITERIA AND STANDARDS

INITIAL ZONING OF R-1 RESIDENCE ZONE FOR BRISTOL HEIGHTS DIVISION NO. 6

WHEREAS, the applicant filed an application for annexation with initial zoning of R-1 Residence Zone on October 28, 2014; and

WHEREAS, this matter came before the Idaho Falls Planning and Zoning Commission during a duly noticed public hearing on December 2, 2014; and

WHEREAS, this matter came before the Idaho Falls City Council during a duly noticed public hearing on January 22, 2014; 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 2013 Comprehensive Plan, the City of Idaho Falls Zoning Ordinance, the Local Land Use Planning Act, and other applicable development regulations.

2. The property is an area of 3.407 acres located generally south of Sunnyside Road, east of 5th West, north Telledega Street, and west of Nathan Drive.

3. The surrounding area is zoned R-1. The subdivision to the northeast is zoned RP-A.

4. The 2013 Comprehensive Plan Future Land Use Map designates this area as Low Density.

5. The requested R-1 zone is consistent with the Comprehensive Plan designation and zoning in the surrounding area.

II. DECISION

Based on the above Reasoned Statement of Relevant Criteria, the City Council of the City of Idaho Falls approved the initial zoning of R-1 for Bristol Heights Division No. 6.

PASSED BY THE CITY COUNCIL OF THE CITY OF IDAHO FALLS

THIS _____ DAY OF _____, 2015

_____

Rebecca L. Noah Casper, Mayor

REASONED STATEMENT OF RELEVANT CRITERIA AND STANDARDS

FINAL PLAT FOR BRISTOL HEIGHTS DIVISION NO. 6

WHEREAS, the applicant filed an application for Final Plat on October 28, 2014; and

WHEREAS, this matter came before the Idaho Falls Planning and Zoning Commission during a duly noticed public hearing on December 2, 2014; and

WHEREAS, this matter came before the Idaho Falls City Council during a duly noticed public hearing on January 22, 2014; 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 2013 Comprehensive Plan, the City of Idaho Falls Zoning Ordinance, the Local Land Use Planning Act, and other applicable development regulations.

2. The property is an area of 3.407 acres located generally south of Sunnyside Road, east of 5th West, north Telledega Street, and west of Nathan Drive.

3. The surrounding area is zoned R-1. The subdivision to the northeast is zoned RP-A.

4. The 2013 Comprehensive Plan Future Land Use Map designates this area as Low Density.

5. The Final Plat complies with all requirements in the Subdivision Ordinance. All of the lots also meet the minimum standards of the R-1 zone.

6. The Final Plat is consistent with the Preliminary Plat approved for the development.

II. DECISION

Based on the above Reasoned Statement of Relevant Criteria, the City Council of the City of Idaho Falls approved the Final Plat of Bristol Heights Division No. 6.

PASSED BY THE CITY COUNCIL OF THE CITY OF IDAHO FALLS

THIS _____ DAY OF _____, 2015

_____

Rebecca L. Noah Casper, Mayor

CITY OF IDAHO FALLS

PLANNING AND BUILDING DIVISION

P.O. BOX 50220
IDAHO FALLS, IDAHO 83405-0220
www.idahofallsidaho.gov

Planning Department • (208) 612-8276 FAX (208) 612-8520 Building Department • (208) 612-8270

BGC-005-15

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Brad Cramer, Planning and Building Director
SUBJECT: Annexation Prior to Platting, Annexation Agreement, Annexation Ordinance, Initial Zoning of R-1, Zoning Ordinance, and Reasoned Statement of Relevant Criteria and Standards, M&B 1.887 acres, Section 15, T 2N, R 37E
DATE: January 16, 2015

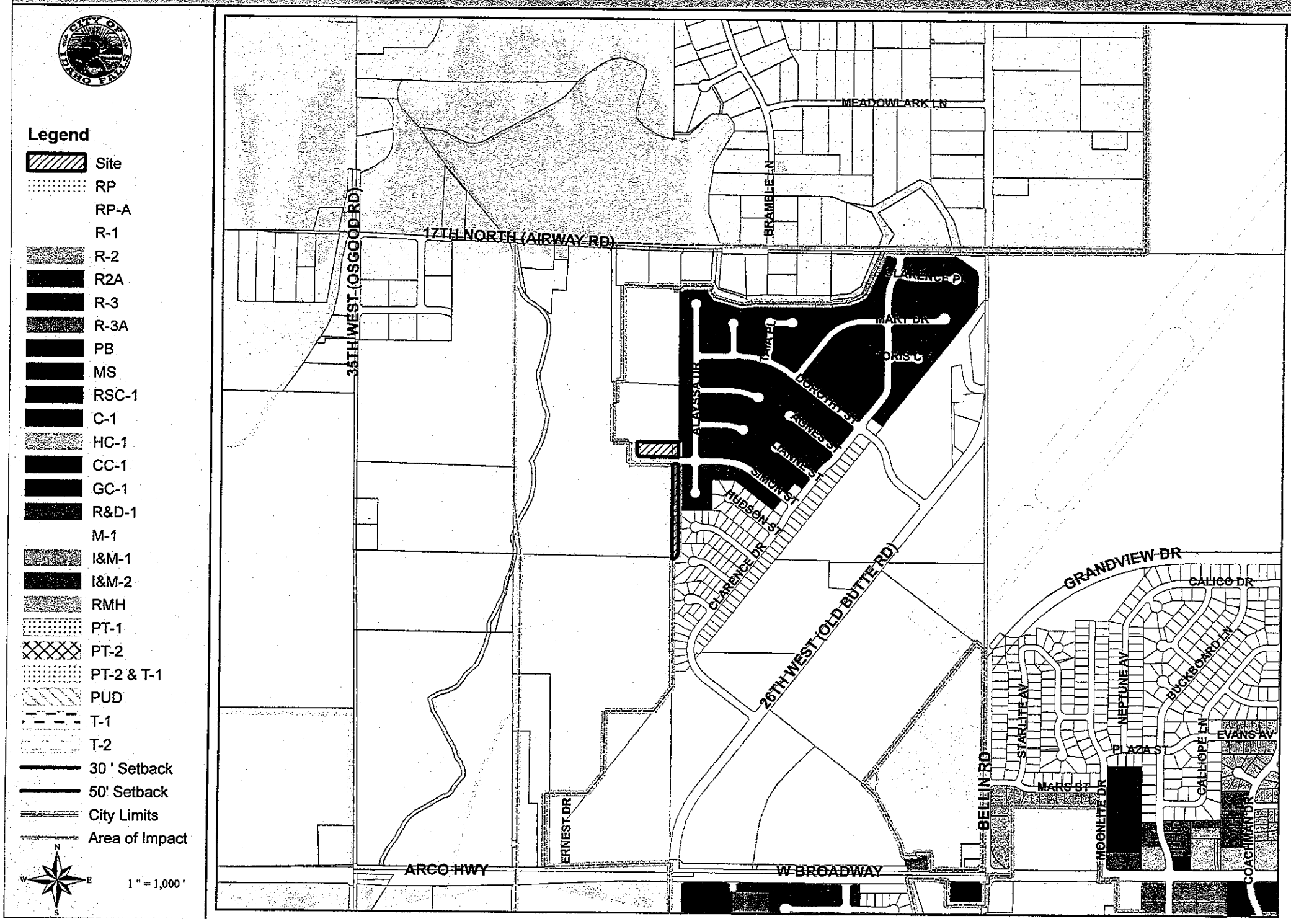
Attached is the application for annexation prior to platting with initial zoning of R-1, annexation agreement, annexation and zoning ordinances, and Reasoned Statement of Relevant Criteria and Standards for 1.887 acres located south of 17th North, west of Alayssa Drive, east of 35th West, and north of West Broadway. The Planning Commission considered the application at its December 2, 2014 meeting and recommended approval. Staff concurs with this recommendation. The application is now being submitted to the Mayor and City Council for consideration.

Attachments:
- Vicinity Map
- Aerial Photo
- Draft Planning Commission minutes, December 2, 2014
- Staff Report, December 2, 2014
- Annexation Agreement
- Annexation Ordinance
- Zoning Ordinance
- Reasoned Statements of Relevant Criteria and Standards

cc: Rose Anderson
File

Annexation & Initial Zoning

M&B: Approximately 1.887 Acres, Section 15, T 2N, R 37E



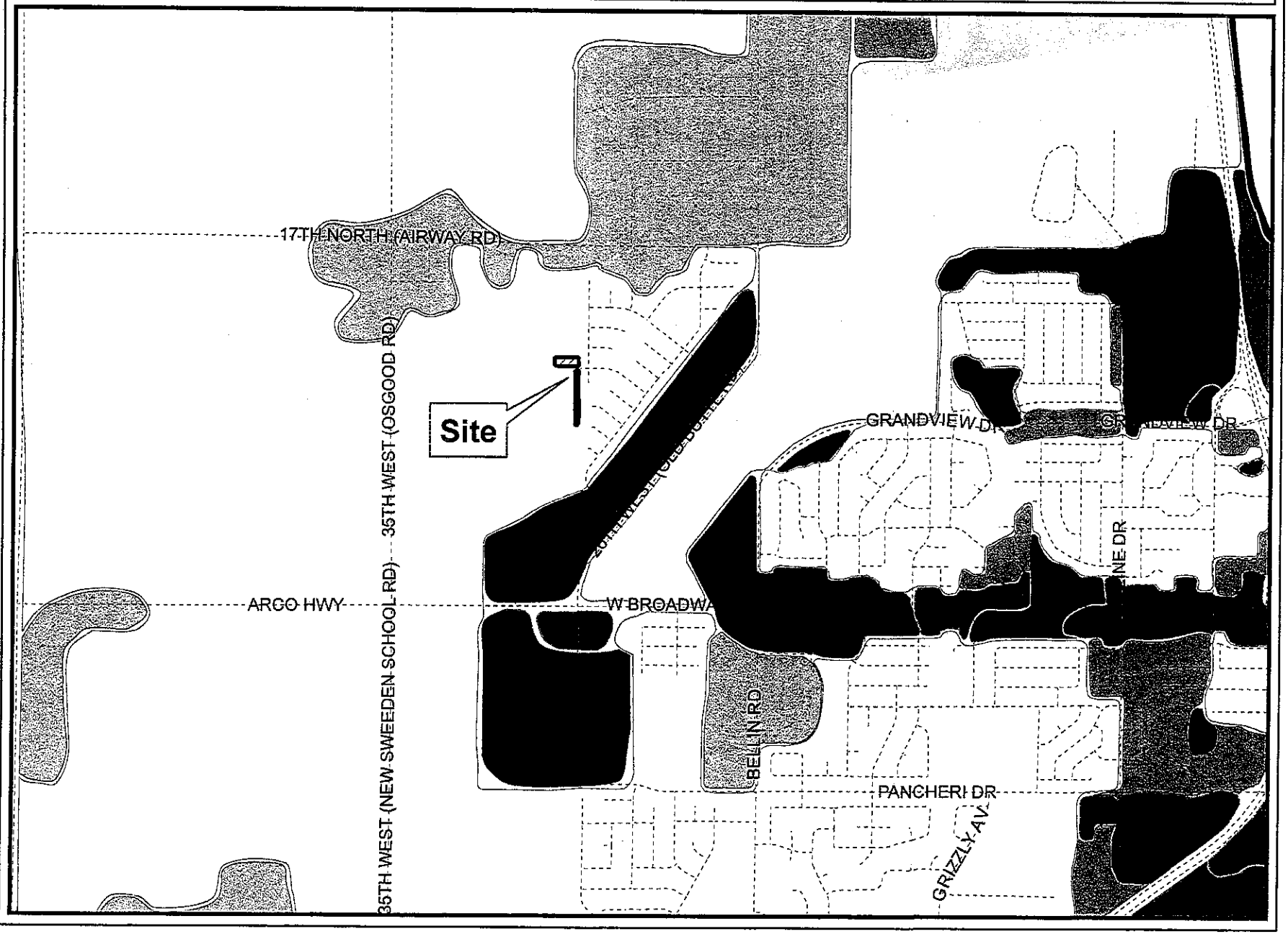
N 26TH WEST (OLD BUTTE RD)
CLARENCE PL
MARY DR
DORIS CIR
VILLAGE BLVD
DOROTHY ST
AGNES ST
LIANNE ST
SIMON ST
HUDSON ST
JACKIE CT
CLARENCE DR
BRAMBLE LN
CHESNEY CT
ALYSSA DR
N OLD BUTTE RD
GRANDVIEW DR
CALICO DR
NEPTUNE DR
PLAZA ST
BUCKBOARD LN
MOONLITE DR
MARS ST
STARLITE AV
N BELLIN RD
ERNEST DR
W 17TH NORTH (AIRWAY RD)
FRANCESCA LN
N 35TH WEST (OSGOOD RD)
W BROADWAY
1" = 800'

Annexation & Initial Zoning

M&B: Approximately 1.887 Acres, Section 15, T 2N, R 37E

- Estate
- Low Density
- Higher Density
- Greenbelt Mixed Uses
- Parks, Recreation
- Public Facilities, Open Spaces
- Commercial
- Employment Centers
- Medical Services Center
- Higher Education Centers
- Planned Transition
- Highway-related industrial
- Railroad-related industrial

Comprehensive Plan



N

Planning Department
P.O. Box 50220
380 Consitution Way
Idaho Falls, ID 83405
(208) 612-8276

Cosgrove moved to recommend to Mayor and City Council Annexation of 3.407 Acres with Initial Zoning of R-1 and approval of the Final Plat for Bristol Heights, Division No. 6. Morrison seconded the motion and it passed unanimously.

Annexation prior to Platting of 1.887 Acres with Initial Zoning of R-1. Cramer presented the staff report, a part of the record. Cosgrove asked since the two parcels are each contiguous to City, but not contiguous to each other, is it done as separate pieces or can it be done as one piece as presented. Cramer indicated it can be done as one piece and when the annexation ordinance is written, it will all be bundled into one. Dixon asked for explanation as to the reasoning behind the annexation of the canal, as it is on the edge and can either be left off in the County, but it is contiguous to the City. Cramer indicated that the canals have become more important in the City's view, as not too long ago there was a County development that was contiguous to the City, but was separated by a canal. The County's opinion was there were portions of that canal that were privately owned and so they did not consider that property contiguous and allowed industrial development next to single family residential. So when the County looked into it, the canal was privately owned, however, the City had the understanding that you can annex across a body of water, public right of way, rail road, etc., otherwise it would make growth difficult. Although it is the opinion of the City that you can annex across a canal, it is now the opinion of the City that it is "Safer" to bring in the canal when they can so there is no question about contiguity.

Swaney opened the Public Hearing.

Fred Walland, 645 Lincoln Dr., Idaho Falls, ID 83401. Walland answered the previously posed question for the reason for the annexation, as his understanding is the owner was contacted by the County because the west line of the canal is the center of the section and so all the privately owned parcels in that half of the section were already developed and annexed to the City and the County did not like having a tiny strip still on their rolls. Additionally, the square parcel had similar reasoning as it is County parcel that is cut off from the rest of County property and as such the County asked the owner to "clean it up". The Canal has the same answer as it was included in the plats to the north and was not in the first two or three divisions of the Village Subdivision.

Swaney closed Public Hearing.

Wimborne moved to recommend to Mayor and City Council Annexation prior to Platting of 1.887 Acres with Initial Zoning of R-1. Karst seconded the motion and it passed unanimously.

Preliminary Plat. Beutler presented the staff report, a part of the record. Wimborne asked what the purpose of the cul-de-sac is. Beutler indicated that City does not like to dead end streets, but rather end in a cul-de-sac so there is an opportunity for turn around and emergency access. Wimborne asked why they are asking to only vacate part of the street, rather than the whole street to Denver. Beutler indicated that if you vacated the whole street, the parcels to the north would lose access. Morrison asked who owns Nevada Street. Beutler indicated that Nevada is a dedicated public street. Morrison asked how a business takes over a street as part of their business. Beutler indicated that the business owner would have to go to City Council and request the vacation of the road. The City Council would hold a public hearing to determine if there is still public interest in maintaining that right of way, and if the City Council determined that there wasn't they could then vacate the street. The ownership would then go back to the adjacent property owners once the street was vacated. Cosgrove asked if the City has plans to improve Utah, as the majority of the complaints were regarding the management of Utah and not the vacation of Nevada. Beutler indicated that he is not aware of any plans for improvements along Utah. Black asked if the City Engineers agreed with the findings of the Traffic Study. Beutler indicated that it is his

IDAHO FALLS PLANNING COMMISSION STAFF REPORT
Annexation Prior to Platting
M&B 1.887 Acres, Section 15, T 2N, R 37E
December 2, 2014

Planning and Building Division

Applicant: Ellsworth & Associates

Location: South of 17th North (Airway Road), north of Broadway, west of Old Butte Road and Alayssa

Size: 1.887 acres

Existing Zoning:
Site, south, west, County A-1
East: R-3
North: R-1

Existing Land Use:
Site, south, west, north: Vacant/Ag
East: Single-family residential

Future Land Use Map: Low Density Residential

Attachments:
1—Zoning and comp plan info
3—Maps and aerial photos

Requested Action: To **recommend** to the Mayor and City Council approval of annexation prior to platting with initial zoning of R-1.

Staff Comments: This request is to clean up areas that were not included in the annexation for the Desert Rose subdivision in 2008. It includes a section between what is planned to be an extension of Simon Street and the future Desert Rose subdivision. The other section is a portion of the Swanson Lateral Canal. This is a Category A annexation request and the proposed zoning is consistent with the Comprehensive Plan.

Comprehensive Plan Policies:

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.

Zoning Ordinance:

R-1 Zone (Section 7-3)

Permitted uses:

Any use permitted RP and RP-A
Single-family residential
Single-family attached residential with approved conditional use permit (see 7-3-10)
Home occupations
Cemeteries and day cares with approved conditional use permit

Lot area: 6,000 sq. ft. (minimum)
Lot width: 50 ft sq. ft.
Setback: 30 ft, Side yard 7 ½ ft min. or 8 inches for each foot of height, Rear yard 25 ft
Height: 2 stories (maximum)
Lot coverage: 40% (maximum)

ANNEXATION AGREEMENT (PRIOR TO PLATTING)
DESERT ROSE

This Annexation Agreement (Prior to Platting) Desert Rose (hereinafter called "AGREEMENT"), made this_____day of_____, 2015, by and between CITY OF IDAHO FALLS, a municipal corporation (hereinafter called " CITY"), whose mailing address is P.O. Box 50220, Idaho Falls, Idaho 83405, and ROSEWOOD CONTRACTORS LLC, a Limited Liability Company, (hereinafter called "DEVELOPER"), whose mailing address is 1735 Bramble Lane, Idaho Falls, Idaho 83401.

WITNESSETH:

WHEREAS, DEVELOPER is the sole owner, in law or equity, of a certain tract of land in the County of Bonneville, State of Idaho, which land (hereafter referred to as the "Subdivision"), is more particularly described in Exhibit "A" attached hereto and by this reference made a part hereof; and

WHEREAS, DEVELOPER understands that annexation must comply with Idaho Code § 50-222; and

WHEREAS, DEVELOPER voluntarily wishes to proceed with Category A annexation pursuant to Idaho Code § 50-222(3)(a); and

WHEREAS, DEVELOPER specifically waives DEVELOPER's right to protest annexation of DEVELOPER's property 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 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 requested the Subdivision be annexed to CITY and 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 annexation be granted subject to certain requirements and obligations on the part of DEVELOPER; and

WHEREAS, CITY is willing to annex the Subdivision to CITY, subject to the terms and conditions of this AGREEMENT and the Special Conditions attached as Exhibit "B" to this Agreement and adopted as part of such Agreement and incorporated herewith.

NOW, THEREFORE, in consideration of the covenants and conditions set forth herein, the parties agree as follows:

1. **Annexation.** CITY agrees to annex the Subdivision to the City of Idaho Falls, Idaho, (more particularly described herein as Desert Rose in Exhibit "A" attached hereto and incorporated herein by reference) subject to DEVELOPER's performance of the terms and conditions of this AGREEMENT, including Special Conditions as Exhibit "B" and incorporated herein by this reference.

2. **Construction of Public Improvements.** Unless otherwise agreed in the Special Conditions, DEVELOPER shall, at its expense, design and construct all public improvements required by the Special Conditions attached hereto and incorporated as part of this AGREEMENT. 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.

3. **Permits.** DEVELOPER shall obtain all rights 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.

4. **Completion of Public Improvements.** DEVELOPER agrees that, upon a finding by City Council, duly entered in the official minutes of the proceedings of City Council, that a portion or portions or the entirety of any public improvements "detailed in" the Special Conditions need to be completed in the interest of the public health, welfare or safety, DEVELOPER shall forthwith construct such public improvements. If DEVELOPER does not commence construction of such public improvements within a reasonable time after such finding is made, or if DEVELOPER does not complete such construction within a reasonable time thereafter, CITY may construct or complete such facilities at DEVELOPER's expense. City Council shall not make such finding unless DEVELOPER has been given at least ten (10) days advance written notice of the date and place of the meeting, and DEVELOPER has been given an opportunity to be heard at such meeting. At or before the meeting, City Engineer shall furnish DEVELOPER a cost estimate for completing the required portion or portions of such public improvements.

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 constructed by DEVELOPER in order to ensure such improvements are constructed in accordance with this AGREEMENT, the Special Conditions and the Standard Specifications. DEVELOPER shall not materially deviate from the Special Conditions or Standard Specifications without the express written approval of City Engineer to do so.

6. **Public Improvement Certification.** Prior to acceptance of any phase or division of the Subdivision, DEVELOPER, through the Project Engineer, shall certify that all 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. **Final Plat.** DEVELOPER agrees not to commence any building or construction within the Subdivision until a final subdivision plat (hereinafter referred to as the "Final Plat") of the area encompassing the phase or division where such building or construction is contemplated, has been duly prepared in compliance with Idaho Code § 31-3805, as amended, and Chapter 13, Title 50, Idaho Code, as amended, and has been approved by CITY pursuant to the Subdivision Ordinance of CITY.

8. **Sale, Lease or Conveyance of Part of Property.** DEVELOPER agrees not to sell, lease or convey any portion of the Subdivision unless a Final Plat for the portion to be sold, leased or conveyed, has been approved by CITY and recorded in the Bonneville County Recorder's office.

9. **Acceptance of Subdivision.** Upon satisfactory completion of such public improvements and facilities, DEVELOPER's delivery of Public Improvement Certification 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. Acceptance of the Subdivision 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.

10. **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 Special Conditions or the Standard Specifications. DEVELOPER, and DEVELOPER's heirs, successors and assigns, shall and do hereby 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 and against every person whomsoever who lawfully holds, or who later lawfully claims to have held, rights in the premises as of the date of this AGREEMENT.

11. Arterial Street, Surface Drainage and Other Impact Fees. DEVELOPER agrees to pay all Arterial Street and Bridge Fees, Surface Drainage Fees, or any other impact fees in force, at the time of the approval of a final plat covering any portion of the Subdivision. The calculation of such fees shall be based only upon the area included within the final plat. Such fees shall be paid in full prior to the approval of such final plat by CITY, and the amount and other terms and conditions regulating the payment and imposition thereof shall be in accordance with the CITY ordinance in effect at the time the final plat is approved.

12. 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.

13. Rezoning of Property. Nothing herein contained shall restrict the right of CITY to change the zoning of any of the Unplatted Property following procedures established by City Zoning Ordinance and the Idaho Local Land Use Planning Act.

14. 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.

15. 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 commercial or industrial purposes.

16. Irrigation Facilities. DEVELOPER shall relocate or reconstruct 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.

17. 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 detailed in the Special Conditions.

18. 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. 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.

19. 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 Section 10-1-19 of City Code;

F. Bring an action for damages, injunctive relief, specific performance or any other remedy available at law or in equity.

20. 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.

21. Recording Fees. 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.

22. Conflict with Standard Specifications. In the event of any conflict between the terms of this AGREEMENT or the Standard Specifications, the terms of this AGREEMENT shall prevail over any contrary provision of the Standard Specifications.

23. 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.

24. **Remedies Cumulative.** All remedies herein are cumulative and, to the extent not wholly inconsistent with each other, may be enforced simultaneously or separately, at the sole discretion of CITY.

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. **Entire Agreement.** This writing evidences the final and complete agreement between the parties "regarding Annexation Prior to Platting," and no other prior statement, representation or understanding shall be binding upon the parties unless expressly set forth herein.

27. **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.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

ATTEST:

_____
Rosemarie Anderson, City Clerk

CITY OF IDAHO FALLS

By_____
Rebecca L. Noah Casper, Mayor

"ROSEWOOD CONTRACTORS LLC"

By_____
Joseph F. Belloff, President

APPROVED AS TO FORM:

_____
Randall D. Fife
City Attorney

_____
Chris Canfield, P.E.
Assistant Public Works Director

STATE OF IDAHO)
) ss.
County of Bonneville)

On this _____day of _____, 2015, before me, the undersigned, a notary public for Idaho, personally appeared Rebecca L. Noah Casper, known to me to be the Mayor of the City of Idaho Falls, Idaho, the municipal corporation that executed the foregoing document, and acknowledged to me that she is authorized to execute the same for and on behalf of said City.

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

_____
Notary Public of Idaho
Residing at: _____
My Commission Expires:_____

(Seal)

STATE OF IDAHO)
) ss:
County of Bonneville)

On this _____day of _____, 2015, before me, the undersigned, a notary public, in and for said State, personally appeared Joseph F. Belloff, known or identified to me to be the President of Rosewood Contractors, LLC., a limited liability company and whose name is subscribed to the within instrument and acknowledged to me that he is authorized to execute the same for and on behalf of Rosewood Contractors, LLC.

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

_____
Notary Public of Idaho
Residing at: _____
My Commission Expires:_____

(Seal)

EXHIBIT "A"
DESERT ROSE

Legal Description

Commencing at the Northwest Corner of Section 15, Township 2 North, Range 37 East of the Boise Meridian, Bonneville County, Idaho; running thence S.87°37'36"E. 2647.39 feet along the Section line to the North ¼ Corner of said Section 15; thence S.0°15'35"E. 351.32 feet along the North-South Center Section line of said section; thence S.89°29'34"E. 50.00 feet to the East bank of the East Lateral of the Swanson Canal being the most Westerly Corner of Lot 17, Block 11, The Village, Division No. 16, an addition to the City of Idaho Falls, Bonneville County, Idaho; thence S.0°15'35"E. 1285.77 feet along said canal bank to the TRUE POINT OF BEGINNING, said point being N.0°15'35"W. 40.98 feet along the Lot line from the Southwest Corner of Lot 2, Block 11 of The Village, Division No. 12; running thence N.89°29'34"W. 50.00 feet to said North-South Center Section line; thence S.89°44'25"W. 295.63 feet; thence S.00°15'35"E. 102.29 feet; thence S.44°52'35"E. 28.09 feet; thence S.89°29'34"E. 275.92 feet to said North-South Center Section line; thence S.89°29'34"E. 50.00 feet to the Southwest Corner of Lot 1, Block 11, Division No. 7 of The Village; thence N.00°15'35"W. 125.98 to the TRUE POINT OF BEGINNING.

CONTAINING: 42,763 Sq. Ft. or 0.982 acres.

and

Legal Description

Commencing at the South 1/4 Corner of Section 15, Township 2 North, Range 37 East of the Boise Meridian, Bonneville County, Idaho; running thence N.0°15'35"W. 2631.00 feet along the North-South Center Section line of said section to the TRUE POINT OF BEGINNNG; running thence N.00°15'35"W. along said North-South Center Section line 806.58 feet; thence S.89°29'34"E. 50.00 feet to the Northwest corner of Lot 1, Block 10, The Village, Division No. 7, Bonneville County, Idaho; thence S.00°15'35"E. along the West boundary of The Village 738.82 feet to a point of curve with a radius of 70.00 feet and a chord that bears S.36°26'22"W. 83.67 feet; thence to the right along said curve a distance of 89.67 feet through a central angle of 73°23'54 to the TRUE POINT OF BEGINNING.

CONTAINING: 39,426 Sq. Ft. or 0.905 Acres.

EXHIBIT "B"
SPECIAL CONDITIONS FOR
DESERT ROSE

S-C 1.00 This is an Annexation Agreement prior to platting. Special Condition details to include annexation fees, plat details, and development requirements will be addressed in a future development agreement for the property.

ORDINANCE NO. _____

AN ORDINANCE ANNEXING CERTAIN LANDS TO THE CITY OF IDAHO FALLS DESCRIBING; 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 Section 1 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 Section 1 is reasonably necessary to assure the orderly development of the City in order to allow efficient and economically viable provision of tax-supported and fee-supported municipal services; to enable the orderly development of private lands which benefit from a cost-effective availability of City services in urbanizing areas; and to equitably allocate the costs of City/public services in management of development on the City's urban fringe; and

WHEREAS, the City has authority to annex lands into the City upon compliance with procedures required in Idaho Code Section 50-222, as amended; and

WHEREAS, any portion of a highway lying wholly or partially within the lands to be annexed are included in the lands annexed by this Ordinance; and

WHEREAS, the lands annexed by this Ordinance are not connected to the City only by a "shoestring" or a strip of land which comprises a railroad or right-of-way; and

WHEREAS, all private landowners have consented to annexation of such lands where necessary; and

WHEREAS, the lands to be annexed are contiguous to the City and the City of Idaho Falls Comprehensive Plan includes the area of annexation; and

WHEREAS, after considering the written and oral comments of property owners whose lands would be annexed and other affected persons, City Council specifically makes the following findings:

1) That the lands annexed meet the applicable requirements of Idaho Code Section 50-222 and does not fall within exceptions or conditional exceptions contained in Idaho Code Section 50-222;

2) The annexation is consistent with public purposes addressed in annexation and related plans prepared by the City; and

3) Annexation of the lands described in Section 1 are reasonably necessary for the orderly development of the City; and

WHEREAS, it appears to the City Council that the lands described hereinbelow in Section 1 of this Ordinance should be annexed to and become a part of the City of Idaho Falls, Idaho; and

WHEREAS, the City wishes to exercise jurisdiction over the annexed lands in a way that promotes the orderly development of such lands; and

WHEREAS, the City of Idaho Falls Comprehensive Plan sets out policies and strategies designed to promote and sustain future growth within the City; and

WHEREAS, for consistency with the Comprehensive Plan, the Council desires to designate the lands within the area of annexation as "Low Density Residential"; and

WHEREAS, such designation is consistent with policies and principles contained within the City of Idaho Falls Comprehensive Plan; and

WHEREAS, the City desires the City of Idaho Falls Comprehensive Plan Map to be amended to reflect the designation contained in this Ordinance.

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

SECTION 1. Annexation of Property. The lands described herein are hereby annexed to the City of Idaho Falls, Idaho:

Commencing at the Northwest Corner of Section 15, Township 2 North, Range 37 East of the Boise Meridian, Bonneville County, Idaho; running thence S.87°37'36"E. 2647.39 feet along the Section line to the North ¼ Corner of said Section 15; thence S.0°15'35"E. 351.32 feet along the North-South Center Section line of said section; thence S.89°29'34"E. 50.00 feet to the East bank of the East Lateral of the Swanson Canal being the most Westerly Corner of Lot 17, Block 11, The Village, Division No. 16, an addition to the City of Idaho Falls, Bonneville County, Idaho; thence S.0°15'35"E. 1285.77 feet along said canal bank to the TRUE POINT OF BEGINNING, said point being N.0°15'35"W. 40.98 feet along the Lot line from the Southwest Corner of Lot 2, Block 11 of The Village, Division No. 12; running thence N.89°29'34"W. 50.00 feet to said North-South Center Section line; thence S.89°44'25"W. 295.63 feet; thence S.00°15'35"E. 102.29 feet; thence S.44°52'35"E. 28.09 feet; thence S.89°29'34"E. 275.92 feet to said North-South Center Section line; thence S.89°29'34"E. 50.00 feet to the Southwest Corner of Lot 1, Block 11, Division No. 7 of The Village; thence N.00°15'35"W. 125.98 to the TRUE POINT OF BEGINNING.

CONTAINING: 42,763 Sq. Ft. or 0.982 acres.
AND

Commencing at the South 1/4 Corner of Section 15, Township 2 North, Range 37 East of the Boise Meridian, Bonneville County, Idaho; running thence N.0°15'35"W. 2631.00 feet along the North-South
Center Section line of said section to the TRUE POINT OF BEGINNNG; running thence N.00°15'35"W. along said North-South Center Section line 806.58 feet; thence S.89°29'34"E. 50.00 feet to the Northwest corner of Lot 1, Block 10, The Village, Division No. 7, Bonneville County, Idaho; thence S.00°15'35"E. along the West boundary of The Village 738.82 feet to a point of curve with a radius of 70.00 feet and a chord that bears S.36°26'22"W. 83.67 feet; thence to the right along said curve a distance of 89.67 feet through a central angle of 73°23'54 to the TRUE POINT OF BEGINNING.

CONTAINING: 39,426 Sq. Ft. or 0.905 Acres.

SECTION 2. Amended Map and Legal Description. The City Clerk shall file a certified copy of this Ordinance with the Bonneville County Auditor, Treasurer, and Assessor, within ten (10) days after the effective date hereof. The City Engineer shall, within ten (10) days after such effective date, file an amended legal description and map of the City, with the Bonneville County Recorder and Assessor and the Idaho State Tax Commission, all in accordance with Idaho Code Section 63-2215.

SECTION 3. Findings. That the findings contained in the recitals of this Ordinance be, and the same are hereby, adopted as the official City Council findings for this Ordinance, and that any further findings relative to this Ordinance shall be contained in the officially adopted Council minutes of the meeting in which this Ordinance was passed.

SECTION 4. Savings and Severability Clause. The provisions and parts of this Ordinance are intended to be severable. If any section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

SECTION 5. Publication. This Ordinance, or a summary thereof in compliance with Idaho Code, shall be published once in the official newspaper of the City, and shall take effect immediately upon its passage, approval, and publication.

SECTION 6. Effective Date. This Ordinance shall be in full force and effect from and after its passage, approval and publication.

PASSED BY THE COUNCIL AND APPROVED BY THE MAYOR this_____day of _____, 2015.

_____
Rebecca L. Noah Casper, Mayor

ATTEST:

_____
Rosemarie Anderson, City Clerk

(SEAL)

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 Ordinance entitled: "AN ORDINANCE ANNEXING CERTAIN LANDS TO THE CITY OF IDAHO FALLS; AMENDING THE CITY MAP; AMENDING THE LEGAL DESCRIPTION OF THE CITY WITH THE APPROPRIATE COUNTY AND STATE AUTHORITIES; AND PROVIDING SEVERABILITY, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE."

_____
Rosemarie Anderson, City Clerk

(SEAL)

ORDINANCE NO._____

AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; PROVIDING FOR THE INITIAL ZONING OF APPROXIMATELY 1.887 ACRES DESCRIBED IN SECTION 1 OF THIS ORDINANCE AS R-1 ZONE; AND PROVIDING SEVERABILITY, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.

WHEREAS, the proposed initial zoning district of lands described in Section 1 is R-1 Zone for such annexed lands such zoning is consistent with the current City of Idaho Falls Comprehensive Plan Land use designation "Low Density"; and

WHEREAS, the proposed zoning district is consistent and compatible with the existing and surrounding zoning districts and is consistent with the City of Idaho Falls Comprehensive Plan; and

WHEREAS, Idaho Falls Planning and Zoning Commission held a duly noticed public hearing on December 2, 2014, and recommended approval of zoning the subject property to R-1 Zone; and

WHEREAS, the Idaho Falls City Council conducted a duly noticed public hearing and passed a motion to approve this zoning on January 22, 2015.

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

SECTION 1: LEGAL DESCRIPTION:

This ordinance shall apply to the following described lands in Idaho Falls, Idaho, Bonneville County, to-wit:

Commencing at the Northwest Corner of Section 15, Township 2 North, Range 37 East of the Boise Meridian, Bonneville County, Idaho; running thence S.87°37'36"E. 2647.39 feet along the Section line to the North ¼ Corner of said Section 15; thence S.0°15'35"E. 351.32 feet along the North-South Center Section line of said section; thence S.89°29'34"E. 50.00 feet to the East bank of the East Lateral of the Swanson Canal being the most Westerly Corner of Lot 17, Block 11, The Village, Division No. 16, an addition to the City of Idaho Falls, Bonneville County, Idaho; thence S.0°15'35"E. 1285.77 feet along said canal bank to the TRUE POINT OF BEGINNING, said point being N.0°15'35"W. 40.98 feet along the Lot line from the Southwest Corner of Lot 2, Block 11 of The Village, Division No. 12; running thence N.89°29'34"W. 50.00 feet to said North-South Center Section line; thence S.89°44'25"W. 295.63 feet; thence S.00°15'35"E. 102.29 feet; thence S.44°52'35"E. 28.09 feet; thence S.89°29'34"E. 275.92 feet to said North-South Center Section line; thence S.89°29'34"E. 50.00 feet to the Southwest Corner of Lot 1, Block 11, Division No. 7 of The Village; thence N.00°15'35"W. 125.98 to the TRUE POINT OF BEGINNING.

CONTAINING: 42,763 Sq. Ft. or 0.982 acres.

AND

Commencing at the South 1/4 Corner of Section 15, Township 2 North, Range 37 East of the Boise Meridian, Bonneville County, Idaho; running thence N.0°15'35"W. 2631.00 feet along the North-South
Center Section line of said section to the TRUE POINT OF BEGINNNG; running thence N.00°15'35"W. along said North-South Center Section line 806.58 feet; thence S.89°29'34"E. 50.00 feet to the Northwest corner of Lot 1, Block 10, The Village, Division No. 7, Bonneville County, Idaho; thence S.00°15'35"E. along the West boundary of The Village 738.82 feet to a point of curve with a radius of 70.00 feet and a chord that bears S.36°26'22"W. 83.67 feet; thence to the right along said curve a distance of 89.67 feet through a central angle of 73°23'54 to the TRUE POINT OF BEGINNING.

CONTAINING: 39,426 Sq. Ft. or 0.905 Acres.

SECTION 2. Zoning. That the property described in Section 1 of this Ordinance be and the same hereby is zoned "R-1, Zone" and the City Planner is hereby ordered to make the necessary amendments to the official maps of the City of Idaho Falls which are on file at the City Planning Department Offices, 680 Park Avenue.

SECTION 3. Savings and Severability Clause. The provisions and parts of this Ordinance are intended to be severable. If any section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

SECTION 4. Publication. This Ordinance, or a summary thereof in compliance with Idaho Code, shall be published once in the official newspaper of the City, and shall take effect immediately upon its passage, approval, and publication.

SECTION 5. Effective Date. This Ordinance shall be in full force and effect from and after its passage, approval and publication.

PASSED by the City Council and APPROVED by the Mayor of the City of Idaho Falls, Idaho, this_____day of_____, 2015.

CITY OF IDAHO FALLS, IDAHO

_____
Rebecca L. Noah Casper, Mayor

ATTEST:

Rosemarie Anderson, City Clerk

(SEAL)

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 Ordinance entitled, "AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; PROVIDING FOR THE INITIAL ZONING OF APPROXIMATELY 1.887 ACRES DESCRIBED IN SECTION 1 OF THIS ORDINANCE AS R - 1 ZONE; AND PROVIDING SEVERABILITY, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE."

Rosemarie Anderson, City Clerk

REASONED STATEMENT OF RELEVANT CRITERIA AND STANDARDS

ANNEXATION FOR PROPERTY LOCATED GENERALLY SOUTH OF 17TH NORTH, WEST OF ALAYSSA DRIVE, NORTH OF WEST BROADWAY, AND EAST OF 35TH WEST

WHEREAS, the applicant filed an application for annexation with initial zoning of R-1 Residence Zone on October 28, 2014; and

WHEREAS, this matter came before the Idaho Falls Planning and Zoning Commission during a duly noticed public hearing on December 2, 2014; and

WHEREAS, this matter came before the Idaho Falls City Council during a duly noticed public hearing on January 22, 2014; 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 2013 Comprehensive Plan, the City of Idaho Falls Zoning Ordinance, the Local Land Use Planning Act, and other applicable development regulations.

2. The property consists of two parcels with an approximate total area of 1.887 acres located generally south of 17th West, west of Alayssa Drive, north of West Broadway, and east of 35th West.

3. Areas to the immediate north are zoned R-1. Areas to the east are zoned R-3 and R-1. Areas to the west and north are zoned A-1 in Bonneville County.

4. The 2013 Comprehensive Plan Future Land Use Map designates this area as Low Density.

5. This is a category A annexation in which the property owner is requesting annexation to the city.

6. The property is contiguous to existing City limits on all sides on the northern parcel, and on the east on the southern parcel.

II. DECISION

Based on the above Reasoned Statement of Relevant Criteria, the City Council of the City of Idaho Falls approved the annexation for the above described property.

PASSED BY THE CITY COUNCIL OF THE CITY OF IDAHO FALLS

THIS _____ DAY OF _____, 2015

_____

Rebecca L. Noah Casper, Mayor

REASONED STATEMENT OF RELEVANT CRITERIA AND STANDARDS

INITIAL ZONING OF R-1 RESIDENCE ZONE FOR PROPERTY LOCATED GENERALLY SOUTH OF 17TH NORTH, WEST OF ALAYSSA DRIVE, NORTH OF WEST BROADWAY, AND EAST OF 35TH WEST

WHEREAS, the applicant filed an application for annexation with initial zoning of R-1 Residence Zone on October 28, 2014; and

WHEREAS, this matter came before the Idaho Falls Planning and Zoning Commission during a duly noticed public hearing on December 2, 2014; and

WHEREAS, this matter came before the Idaho Falls City Council during a duly noticed public hearing on January 22, 2014; 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 2013 Comprehensive Plan, the City of Idaho Falls Zoning Ordinance, the Local Land Use Planning Act, and other applicable development regulations.

2. The property consists of two parcels with an approximate total area of 1.887 acres located generally south of 17th West, west of Alayssa Drive, north of West Broadway, and east of 35th West.

3. Areas to the immediate north are zoned R-1. Areas to the east are zoned R-3 and R-1. Areas to the west and north are zoned A-1 in Bonneville County.

4. The 2013 Comprehensive Plan Future Land Use Map designates this area as Low Density.

5. The requested R-1 zone is consistent with the Comprehensive Plan designation for this area and surrounding zoning.

II. DECISION

Based on the above Reasoned Statement of Relevant Criteria, the City Council of the City of Idaho Falls approved the annexation for the above described property.

PASSED BY THE CITY COUNCIL OF THE CITY OF IDAHO FALLS

THIS _____ DAY OF _____, 2015

_____

Rebecca L. Noah Casper, Mayor