

## **AUGUST 26, 2010**

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The City Council of the City of Idaho Falls met in Regular Council Meeting, Thursday, August 26, 2010, in the Council Chambers in the City Annex Building located at 680 Park Avenue in Idaho Falls, Idaho at 7:30 p.m.

There were present:

Mayor Jared D. Fuhriman  
Councilmember Ken Taylor  
Councilmember Thomas Hally  
Councilmember Sharon D. Parry  
Councilmember Michael Lehto  
Councilmember Karen Cornwell  
Councilmember Ida Hardcastle

Also present:

Dale Storer, City Attorney  
Rosemarie Anderson, City Clerk  
All available Division Directors

Mayor Fuhriman requested Boy Scouts Roger and Anton Lane to lead those present in the Pledge of Allegiance.

Mayor Fuhriman and Councilmembers honored three local teenagers, Austin Lane, James Willy, and Brent Pongyan for their assistance in a structure fire earlier this month. The boys had just returned from staffing at an Island Park Boy Scout Camp when a passerby alerted them to a house fire in the 1600 Block of Kearney Street. The boys stopped their car, immediately rushed to the door and awakened Jennifer Woods, who had fallen asleep in the house. Austin Lane grabbed the garden hose and immediately began dousing flames that were spreading across the home's vinyl siding exterior. Brent Pongyan located a fire extinguisher and began battling the fire from inside the home while James Willy remained with the woman until law enforcement arrived. The boys estimated that they fought the fire for approximately 15 minutes before firefighters arrived. Chief Ellis told those present that the house could have been a total loss without the boys' intervention because the siding is highly combustible. As a result of the boys' actions, fire crews needed only to remove burned siding and eaves to extinguish the rest of the fire. Mayor Fuhriman and Councilmembers presented the young men with the City of Idaho Falls' Outstanding Community Service Award.

Mayor Fuhriman requested those to come forward who had issues for the City Council that were not otherwise listed on the Council Agenda.

Janet Jack, 339 West Broadway, appeared to state that she has owned the Antique Gallery for 7 years. The stairs and deck are in bad need of repair. Within the façade improvements grant, she has been able to complete some work on her façade. She understood that there would be grant money available for the deck and stairs. The Planning and Building Director stated that Ms. Jack was given a \$2,000.00 grant to have an architectural or structural engineer look at the back entrance to her building. Once that work was complete, her application would be reviewed for additional monies. The Planning and Building Director stated that Ms. Jack should meet with the Planning and Building Division to figure out where she is in the process.

### **CONSENT AGENDA ITEMS**

The City Clerk requested approval of the Minutes from the August 12, 2010 Regular Council Meeting.

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The City Clerk presented several license applications, all carrying the required approvals, and requested authorization to issue those licenses.

The City Clerk requested Council ratification for the publication of legal notices calling for public hearings on August 26, 2010.

The Idaho Falls Power Director submitted the following memo:

City of Idaho Falls  
August 23, 2010

MEMORANDUM

TO: Honorable Mayor and City Council  
FROM: Jackie Flowers, Idaho Falls Power Director  
SUBJECT: CONSENT AGENDA – RIVER CROSSING, CHANGE ORDER  
NO. 1

Attached is a Change Order for the River Crossing Project for \$30,508.53 due to rock encountered during excavation.

Idaho Falls Power respectfully requests Council approve this Change Order and authorize the Mayor to sign the document.

s/ Jackie Flowers

The Parks and Recreation Director submitted the following memos:

City of Idaho Falls  
August 26, 2010

MEMORANDUM

TO: Honorable Mayor and City Council  
FROM: David J. Christiansen, Parks and Recreation Director  
SUBJECT: AUTHORIZATION TO BID RYDER PARK, PHASE 1B.1

The Division of Parks and Recreation respectfully requests authorization to advertise to receive bids for Ryder Park Urban Fishing Pond Project.

s/ David J. Christiansen

It was moved by Councilmember Taylor, seconded by Councilmember Parry, to approve the Consent Agenda in accordance with the recommendations presented. Roll call as follows:

Aye: Councilmember Parry  
Councilmember Cornwell  
Councilmember Taylor  
Councilmember Hardcastle  
Councilmember Lehto  
Councilmember Hally

Nay: None

Motion Carried.

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**REGULAR AGENDA**

The Airport Director submitted the following memos:

City of Idaho Falls  
August 24, 2010

MEMORANDUM

TO: Honorable Mayor and City Council  
FROM: Len Nelson, Airport Director  
SUBJECT: LEASE AGREEMENT – JEFFREY H. JONES DBA WESTWOOD  
TREE FARM AND NURSERY

Attached for City Council approval is the Lease Agreement by and between the City of Idaho Falls and Jeffrey H. Jones dba Westwood Tree Farm and Nursery.

The City Attorney has approved the Lease Agreement.

The Airport Division recommends approval and requests the Mayor be authorized to execute the documents.

s/ Len Nelson

It was moved by Councilmember Cornwell, seconded by Councilmember Parry, to approve the Lease Agreement between the City of Idaho Falls and Jeffrey H. Jones dba Westwood Tree Farm and Nursery and, further, give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows:

Aye: Councilmember Hally  
Councilmember Taylor  
Councilmember Lehto  
Councilmember Cornwell  
Councilmember Hardcastle  
Councilmember Parry

Nay: None

Motion Carried.

City of Idaho Falls  
August 24, 2010

MEMORANDUM

TO: Honorable Mayor and City Council  
FROM: Len Nelson, Airport Director  
SUBJECT: INDUSTRIAL PARK LEASE AGREEMENT – IDAHO CROP  
IMPROVEMENT ASSOCIATION

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Attached for City Council approval is the Industrial Park Lease Agreement by and between the City of Idaho Falls and Idaho Crop Improvement Association.

Also, attached for authorization is the Declaration of Lease Restrictions and Covenants for the Industrial Park.

The City Attorney has approved the Lease Agreement.

The Airport Division recommends approval and requests the Mayor be authorized to execute the documents.

s/ Len Nelson

It was moved by Councilmember Cornwell, seconded by Councilmember Parry, to approve the Airport Industrial Park Lease Agreement between the City of Idaho Falls and Idaho Crop Improvement Association and, further, give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows:

Aye: Councilmember Taylor  
Councilmember Hally  
Councilmember Parry  
Councilmember Lehto  
Councilmember Cornwell  
Councilmember Hardcastle

Nay: None

Motion Carried.

The Idaho Falls Power Director submitted the following memo:

City of Idaho Falls  
August 23, 2010

MEMORANDUM

TO: Honorable Mayor and City Council  
FROM: Jo Elg, Assistant Idaho Falls Power Director  
SUBJECT: HORSE BUTTE WIND PROJECT POWER SALES CONTRACT

Attached for your consideration is the Horse Butte Wind Project Power Sales Contract between the City of Idaho Falls and Utah Associated Municipal Power Systems and Authorizing Resolution.

The Project is expected to provide a long-term supply of renewable energy at advantageous prices when compared to other renewable energy projects. The low cost of energy results from the cash grant for 30% of the capital costs of renewable energy projects available under the American Recovery and Reinvestment Act of 2009. In order for the Project to qualify for the cash grant, it must commence construction this year. In order for construction to begin, all of the Power Sales Contracts must now be approved so that UAMPS

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can promptly enter into the turbine supply agreement and the construction contract and take all other actions necessary to cause construction to begin as soon as possible. As a result, an urgency exists and it is necessary for the Council to now authorize and approve the Power Sales Contract. The documents have been reviewed by the City Attorney. Idaho Falls Power respectfully requests approval of the Resolution and Contract, and authorization for the Mayor to sign the documents.

We also note that the expected payment obligations of Idaho Falls Power under the Power Sales Contract are within the amounts now on deposit in the Rate Stabilization Fund and we expect to prepay most of these obligations out of amounts now on deposit in the Rate Stabilization Fund.

s/ Jo Elg

**RESOLUTION NO. 2010-16**

A RESOLUTION AUTHORIZING AND APPROVING  
THE HORSE BUTTE WIND PROJECT POWER  
SALES CONTRACT WITH UTAH ASSOCIATED  
MUNICIPAL POWER SYSTEMS; AND RELATED  
MATTERS.

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WHEREAS, the City of Idaho Falls, Idaho (the "Participant") is a member of Utah Associated Municipal Power Systems ("UAMPS") pursuant to the provisions of the Utah Associated Municipal Power Systems Amended and Restated Agreement for Joint and Cooperative Action, as amended (the "Joint Action Agreement");

WHEREAS, one of the purposes of UAMPS under the Joint Action Agreement is the acquisition and construction of electric generating, transmission and related facilities in order to secure reliable, economic sources of electric power and energy for its members;

WHEREAS, UAMPS proposes to acquire a long-term supply of renewable energy from a wind-powered electric generating facility to be located Bonneville County, Idaho known as the Horse Butte Wind Project (the "Project," as further defined in the Power Sales Contract), by entering into a Power Purchase Agreement providing for the purchase and sale of all of the electric power, energy and environmental attributes from the Project;

WHEREAS, the Governing Body has reviewed (or caused to be reviewed on its behalf) certain descriptions and summaries of the Project, the Power Sales Contract and the Project Agreements ("Project Agreements" and other capitalized terms used and not defined herein shall have the meanings assigned to them in the Power Sales Contract), and representatives of the Participant have participated in discussions and conferences with UAMPS and others regarding the Project and have received from UAMPS all requested information and materials necessary for the decision of the Governing Body to authorize and approve the Power Sales Contract;

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WHEREAS, the Participant is authorized to enter into the Power Sales Contract under the applicable provisions of Idaho law, including particularly Section 50-342A, Idaho Code, as amended, which provides that, in order to obtain long-term electric supplies at cost-based rates, a municipal electric utility may acquire a contractual right to the capacity, output or services of joint electric facilities (such as the Project) under a participation agreement (such as the Power Sales Contract) upon the Governing Body's consideration of (i) the Participant's long term power supply and transmission requirements, (ii) the efficiencies and economics of scale expected to be achieved by participating with others in the acquisition and construction of the Project, (iii) the estimated cost, commercial operation date and useful life of the Project, (iv) the technical, financial and regulatory feasibility of constructing and operating the Project, and (v) the availability, reliability and cost of existing or alternate power supply and transmission resources;

WHEREAS, the Participant acknowledges that the obligation of the Participant to make the payments provided for in the Power Sales Contract will be a special obligation of the Participant and an operating expense of the Participant's electric system, payable from the revenues and other available funds of the electric system, and that the Participant shall be unconditionally obligated to make the payments required under the Power Sales Contract whether or not the Project or any portion thereof is acquired, constructed, completed, operable or operating and notwithstanding the suspension, interruption, interference, reduction or curtailment of the output thereof for any reason whatsoever, and the Participant desires to make provision for moneys to be set aside from its current revenues and funds to provide for the payment of its share of the capital costs of the Project;

WHEREAS, in order for the Project to qualify for the cash grant for renewable energy projects provided by the American Recovery and Reinvestment Act of 2009 (the "Act"), it is necessary that the Participant authorize, approve, execute and deliver the Power Sales Contract at this time so that construction of the Project can commence promptly in order to meet the deadlines established by the Act; accordingly, the Participant now desires to authorize and approve the Power Sales Contract;

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the City of Idaho Falls, as follows:

Section 1. Findings and Determinations. (a) Responsive to the provisions of Section 50-342A, Idaho Code, as amended, the Governing Body hereby finds, determines and declares that:

(i) The Power Sales Contract constitutes a long-term, cost-based "participation agreement" for the right to receive a share of the output of the Project which constitutes "joint electric facilities," all within the meaning of Section 50-342A;

(ii) Prior to its authorization of the Power Sales Contract, the Governing Body has, in satisfaction of the requirements of Paragraph (3) of Section 50-342A, considered each of the matters described in the fifth recital of this resolution; and,

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(iii) The terms and provisions of the Power Sales Contract satisfy the requirements of paragraph (4) of Section 50-342A.

(b) Based upon the foregoing and the review and recommendations of management of Idaho Falls Power, the Governing Body hereby finds, determines and declares as follows:

(i) The Project is reasonably expected to provide a long-term supply of renewable energy at economic and cost-based rates that will be advantageous to the operations of Idaho Falls Power;

(ii) The favorable cost of energy from the Project is a direct result of the cash grant for renewable energy projects provided by the Act and the cost of energy from the Project would increase significantly if the Project does not qualify for the cash grant;

(iii) In order for the Project to qualify for the cash grant, UAMPS must now take a number of actions to cause construction of the Project to commence immediately, including entering into wind turbine supply agreements, construction contracts and other arrangements;

(iv) UAMPS has advised the Participants that it is unable to take the steps necessary to commence construction of the Project as required by the Act until the Power Sales Contracts have been executed and delivered by all Participants; and,

(v) As a result of the foregoing, there is a necessity for the Participant to execute the Power Sales Contract immediately and within the current budget year, and it is not possible for the Participant to wait until the next permitted election date to submit the Power Sales Contract to an authorizing vote of its electors.

Accordingly, the Governing Body hereby finds, determines and declares that an urgency exists and that it must now authorize and approve the Power Sales Contract so that construction of the Project may commence immediately.

(c) The Governing Body further finds, determines and declares that (i) the amounts on deposit in the Rate Stabilization Fund are now and are reasonably expected at all times to be sufficient to enable the Participant to meet all of its payment obligations under the Power Sales Contract, (ii) the Participant reasonably expects to apply amounts on deposit in the Rate Stabilization Fund to fund a prepayment to UAMPS for all the Participant's share of the capital costs of the Project and (iii) accordingly, no "indebtedness or liability" of the Participant, within the meaning of Idaho law, is created under the Power Sales Contract. Concurrently with the effective date of the Power Sales Contract, there shall be set aside from the amounts now on deposit in the Rate Stabilization Fund an amount reasonably estimated to be sufficient to pay all of such prepayment.

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Section 2. Execution and Delivery of the Power Sales Contract; Participant's Representative. (a) The Power Sales Contract, in substantially the form attached hereto as Annex A, is hereby authorized and approved, and the Mayor is hereby authorized, empowered and directed to execute and deliver the Power Sales Contract on behalf of the Participant and the City Clerk is hereby authorized, empowered and directed to attest such execution and to affix the corporate seal of the Participant to the Power Sales Contract, with such changes to the Power Sales Contract from the form attached hereto as Annex A as shall be necessary to conform to the Participant's legal status, to complete the form of the Power Sales Contract or to correct any minor irregularities or ambiguities therein and as are approved by the Mayor, his execution thereof to constitute conclusive evidence of such approval.

(b) An Entitlement Share representing up to 3,000 kW of capacity, as such capacity amount may be rounded by the Project Management Committee pursuant to the Power Sales Contract to provide a whole number of turbine generator sets, is hereby authorized and approved.

(c) The appointment of Jo Elg as the Participant's Representative to UAMPS and of Jackie Flowers as an alternate Representative is hereby confirmed. Such Representative (or, in his or her absence, such alternate) is hereby delegated full authority to (i) approve any appendix to the Pooling Agreement between UAMPS and the Participant that may be necessary or desirable in connection with the utilization of the Participant's Entitlement Share and (ii) act on all matters that may come before the Project Management Committee established by the Power Sales Contract, and shall be responsible for reporting regularly to the Governing Body regarding the activities of the Project Management Committee.

Section 3. Compliance with Tax Covenants. The Participant agrees in the Power Sales Contract that it will apply all of the energy acquired under the Power Sales Contract to a Qualified Use and that it will not take or omit to take any action which could adversely affect the Tax Status of any Bond or Bonds theretofore issued or thereafter issuable by UAMPS. In furtherance of that agreement, the Governing Body of the Participant hereby agrees that the Energy acquired under the Power Sales Contract shall be used solely to serve retail customers of the Participant located in areas that have been served by the Participant since February 1, 2001, and hereby allocates such energy to such use.

Section 4. Miscellaneous; Effective Date. (a) This Resolution shall be and remain irrevocable until the expiration or termination of the Power Sales Contract in accordance with its terms.

(b) All previous acts and resolutions in conflict with this Resolution or any part hereof are hereby repealed to the extent of such conflict.

(c) In case any provision in this Resolution shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

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(d) This resolution shall take effect immediately upon its adoption and approval.

CITY OF IDAHO FALLS, IDAHO

By: s/ Jared D. Fuhriman  
Jared D. Fuhriman, Mayor

ATTEST:

s/ Rosemarie Anderson  
Rosemarie Anderson, City Clerk

(SEAL)

**Annex A**

**Horse Butte Wind Project  
Power Sales Contract  
Between  
Utah Associated Municipal Power Systems  
And  
City of Idaho Falls, Idaho**

**Dated as of August 1, 2010**

It was moved by Councilmember Lehto, seconded by Councilmember Parry, to approve the Horse Butte Wind Project Power Sales Contract between the City of Idaho Falls and Utah Associated Municipal Power Systems (UAMPS), along with the Authorizing Resolution and, further, give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows:

Aye: Councilmember Hardcastle  
Councilmember Lehto  
Councilmember Cornwell  
Councilmember Hally  
Councilmember Parry  
Councilmember Taylor

Nay: None

Motion Carried.

The Municipal Services Director submitted the following memo:

City of Idaho Falls  
August 24, 2010

MEMORANDUM

TO: Honorable Mayor and City Council  
FROM: S. Craig Lords, Municipal Services Director  
SUBJECT: AWARD OF THE JOINT USE FUEL FACILITY

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It is the recommendation of Municipal Services and the Bonneville County Commissioners to accept the low bid of \$703,424.00 to TMC Contractors, Inc. It is understood that there will be an additional cost of approximately \$6,000.00 due to the number of fuel cards needed by both entities.

s/ S. Craig Lords

It was moved by Councilmember Taylor, seconded by Councilmember Parry, to accept the low bid from TMC Contractors, Inc. in the amount of \$703,424.00 to complete the Joint Use Fuel Facility with the understanding that there will be an additional cost of approximately \$6,000.00 due to the number of fuel cards needed by Bonneville County and the City of Idaho Falls and, further, give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows:

Aye: Councilmember Cornwell  
Councilmember Hardcastle  
Councilmember Hally  
Councilmember Parry  
Councilmember Taylor  
Councilmember Lehto

Nay: None

Motion Carried.

The Police Chief submitted the following memo:

City of Idaho Falls  
August 18, 2010

MEMORANDUM

TO: Mayor and Council  
FROM: Steve Roos, Chief of Police  
SUBJECT: CITY COUNCIL AGENDA ITEM

Please review the attached 2010-2011 School Resource Officer Agreement.

I respectfully request approval of this Agreement at the City Council Meeting of August 24, 2010.

Thank you.

s/ Steve Roos

It was moved by Councilmember Hardcastle, seconded by Councilmember Cornwell, to approve the 2010-2011 School Resource Officer Agreement with Idaho Falls School District No. 91 and, further, give authorization for the Mayor to execute the necessary documents. Roll call as follows:

Aye: Councilmember Lehto  
Councilmember Parry

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Councilmember Hardcastle  
Councilmember Taylor  
Councilmember Hally  
Councilmember Cornwell

Nay:           None

Motion Carried.

The Public Works Director submitted the following memo:

City of Idaho Falls  
August 20, 2010

MEMORANDUM

TO:           Honorable Mayor and City Council  
FROM:       Chad Stanger, Public Works Director  
SUBJECT:   RESOLUTION – DEPARTMENT OF ENVIRONMENTAL QUALITY,  
              WASTE WATER TREATMENT FACILITIES LOAN AGREEMENT

Attached is a proposed Resolution authorizing the execution and delivery of a Loan Agreement with the State of Idaho, acting by and through the Department of Environmental Quality, regarding the repair, removal and replacement of certain waste water treatment facilities and associated equipment and further authorizing the commencement of preliminary actions necessary to commence and prosecute a judicial confirmation proceeding.

Public Works recommends adoption of the attached Resolution; and, authorization for the Mayor and City Clerk to sign the necessary documents.

s/ Chad Stanger

Mr. Stanger noted that the City Waste Water Treatment Plant had been constructed in 1971 and needs certain upgrades and repairs in order to meet the future sewage treatment requirements imposed upon the City under the Clean Water Act and various other federal and state statutes and regulations. He further noted that in many respects the Plant is using outdated technology and the proposed upgrades will make the Plant much more efficient and economical to operate. In 2008, the Public Works staff determined that the Waste Activated Sludge (“WAS”) thickening equipment needed to be replaced and based thereupon, the cost of such replacement was incorporated into the sewer rate implementation plan. In 2008, Murray Smith and Associates, Inc. (“MSA”) were hired to prepare a comprehensive facilities upgrade plan and to evaluate equipment replacement and process needs and upgrades throughout the facility. A draft copy of the report was provided to the City in 2009 and the completed report was delivered in 2010. The two highest priorities identified by MSA for implementation were the WAS thickening process and upgrades for aeration basins. The cost of such upgrades was respectively estimated to be \$2.27 million and \$18.15 million. In particular, additional aeration basins are necessitated by environmental regulations affecting the effluent discharges from the facility. Some of these discharge limits were included in the current National Pollutant Discharge Elimination (“NPDES”) permit, which limits are currently being protested by the

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City. The plant's effluent discharge ammonia and phosphorus limits are impossible to achieve with the current outmoded and technologically obsolete equipment. Additional aeration basin capacity is critical in order to meet the NPDES ammonia and phosphorus discharge limits. The WAS thickening equipment was installed in the facility in 1971 and it is impossible to obtain replacement parts for such equipment, thus necessitating custom manufacturing at great cost.

Anticipating the need for these facility upgrades and recognizing the inadequate current sewer fund balances, the City made application to the Department of Environmental Quality, State of Idaho, for a State Revolving Fund Loan in the amount of \$18.15 million. The City's ranking by DEQ for eligibility for the loan program was increased substantially by an urgency to meet those discharge limits. Given the time limits imposed by the DEQ loan offer, it is necessary to proceed immediately rather than wait for an authorizing election at the November 2010 general election. Further, a delay to the May 2011 primary election would not leave sufficient time to validate the election results and meet the State-imposed deadline of June 30, 2011. Immediate acquisition of this funding is necessary for timely completion of the aeration basin project and compliance with the City's NPDES permit.

Mr. Storer, the City Attorney, then advised the Council that, under the opinion of the Idaho Supreme Court in *City of Boise v. Frazier*, it is possible that the Loan Agreement could be construed to create an "indebtedness or liability" of the City that is not an "ordinary and necessary expense" within the meaning of Article VIII, Section 3 of the Idaho Constitution. Mr. Storer further advised the Council that the Court's decision in the *Frazier* case raises the question of whether the payment obligations of the City under the Loan Agreement are "ordinary and necessary expenses" within the meaning of Article VIII, Section 3 of the Idaho Constitution. Mr. Storer stated that, while he is of the opinion that the City's payment obligations under the Loan Agreement fall within the "ordinary and necessary expenses" exception, it is his recommendation that the City initiate a proceeding under Idaho's Judicial Confirmation Law to conform the validity of the Loan Agreement.

Mr. Storer stated that DEQ is requiring execution of the Loan Agreement by June 30, 2011, and that it is imperative that the Loan Agreement be approved within the current fiscal year in order to preserve the City's eligibility for the Loan. Mr. Storer further noted that the obligation of the City under the Loan Agreement will not become effective until the City Attorney delivers an approving legal opinion to DEQ and that this opinion cannot be delivered until the constitutional issues have been resolved. As a result, Mr. Storer recommended the Council now authorize and approve the Loan Agreement and undertake the required actions preliminary to the filing of a judicial confirmation proceeding.

**RESOLUTION 2010-17**

A RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT WITH THE STATE OF IDAHO, ACTING BY AND THROUGH THE DEPARTMENT OF ENVIRONMENTAL QUALITY, REGARDING THE REPAIR, REMOVAL AND REPLACEMENT OF CERTAIN WASTE WATER TREATMENT FACILITIES AND ASSOCIATED EQUIPMENT AND FURTHER AUTHORIZING THE COMMENCEMENT OF PRELIMINARY ACTIONS NECESSARY TO COMMENCE AND PROSECUTE A JUDICIAL CONFIRMATION PROCEEDING PURSUANT TO THE PROVISIONS OF TITLE 7, CHAPTER 13, IDAHO CODE.

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WHEREAS, the City of Idaho Falls ("City") owns and operates a waste water treatment facility, pursuant to the provisions of Idaho Code § 50-1020;

WHEREAS, the waste water treatment facility owned and operated by the City was built and constructed in 1971 and is in need of repair and upgrade to maximize use of modern technologies;

WHEREAS, under the provisions of the United States Clean Water Act (33 U. S. C. § 1251, et seq.) the City is required to periodically undertake repair and rehabilitation of its waste water treatment facilities;

WHEREAS, the State of Idaho is authorized by the provisions of Title 39, Chapter 36, of the Idaho Code (the "Act") to make the loans to assist municipalities in the construction and rehabilitation of existing waste water treatment facilities;

WHEREAS, the Idaho Board of Environmental Quality, acting by and through the Idaho Department of Environmental Quality ("DEQ"), is authorized to administer loan programs for municipalities which own and operate waste water treatment facilities within the State;

WHEREAS, DEQ has determined that the City is eligible for a loan under the provisions of the Act and IDAPA 58.01.12, known as the Idaho Rules for Administration of Water Pollution Control Loans;

WHEREAS, the City has made application for the issuance of a loan for the purpose of funding the repair, rehabilitation and construction of an ABF tower, anoxic selector, two additional aeration basins and appurtenant facilities, equipment and infrastructure (collectively referred to as the "Project"), all as necessary to comply with the City's existing NPDES Permit and the provisions of Section 405 of the Clean Water Act and the Solid Waste Disposal Act (42 U. S. C. § 6901) and various other State and Federal regulations concerning the administration and management of such waste water treatment facilities;

WHEREAS, the construction of the Project is necessary to assure the safe, economical and efficient operation of the City Waste Water Treatment Plant;

WHEREAS, continued operation and viability of the waste water treatment plant is necessary for the protection of the health, safety and welfare of the citizens and occupants of the City;

NOW, THEREFORE, BE IT RESOLVED THAT:

Section 1. Execution and Delivery of Loan Agreement. The Loan Agreement, in substantially the form attached hereto as Exhibit "A", is hereby authorized and approved and the Mayor and City Clerk are hereby authorized, empowered and directed to execute and deliver the Loan Agreement to the State of Idaho, acting by and through the DEQ, and to

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further affix the corporate seal of the City to the Loan Agreement, subject to the issuance of an opinion by the City Attorney to the effect that the City has full legal right, power and authority to enter into the Loan Agreement and to carry out and consummate all of the transactions contemplated thereby.

Section 2. Other Actions with Respect to the Loan Agreement. The Mayor, City Clerk, the Director of Public Works, the City Attorney and all other officers and employees of the City shall be and hereby are authorized to take all actions reasonably necessary or reasonably required to carry out, give effect to and consummate the transactions contemplated hereby and to take all actions necessary to carry out and execute and deliver the Loan Agreement and the performance thereof.

Section 3. Judicial Confirmation. The Mayor, City Clerk, City Attorney, and other appropriate officers of the City are hereby authorized and directed to take all preliminary actions necessary for the commencement and prosecution of a judicial confirmation proceedings pursuant to the provisions of the Idaho Judicial Confirmation Law, Title 7, Chapter 13, Idaho Code, as amended, to confirm and establish that the Loan Agreement is a legal, valid, and binding agreement of the City.

Section 4. Public Hearing. A public hearing to consider whether the City should adopt a resolution or an ordinance authorizing the filing of a petition for judicial confirmation of the Loan Agreement under the provisions of Chapter 7, Title 13, Idaho Code shall be conducted on September 23, 2010, and the City Clerk is hereby authorized to cause a notice of public hearing to be published in the Post Register, a newspaper of general circulation in the City, the substance of form of which shall conform to the provision of Idaho Code § 7-1304 and § 7-1306 and to otherwise give notice to interested persons as provided by such sections of the Idaho Code. Such notice shall be published not less than fifteen (15) days prior to the date set for the public hearing.

Section 5. Severability. In the event any provision of this Resolution is determined to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions shall not be affected or impaired thereby.

Section 6. Effective Date. This Resolution shall become effective immediately upon its execution by the Mayor and City Clerk.

CITY OF IDAHO FALLS

s/ Jared D. Fuhriman  
Jared D. Fuhriman  
Mayor

ATTEST:

s/ Rosemarie Anderson  
Rosemarie Anderson  
City Clerk

(SEAL)

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**EXHIBIT "A"**

**STATE OF IDAHO  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
LOAN OFFER, ACCEPTANCE AND AGREEMENT  
FOR WASTEWATER TREATMENT FACILITY  
DESIGN AND CONSTRUCTION  
(DRAFT)**

It was moved by Councilmember Lehto, seconded by Councilmember Hally, to adopt the above Resolution authorizing the execution and delivery of a Loan Agreement with the State of Idaho, acting by and through the Department of Environmental Quality, regarding the repair, removal and replacement of certain Waste Water Treatment Facilities and associated equipment; to authorize the commencement of preliminary actions necessary to commence and prosecute a judicial confirmation proceeding pursuant to the provisions of Title 7, Chapter 13, Idaho Code; and, further, give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows:

Aye: Councilmember Parry  
Councilmember Cornwell  
Councilmember Taylor  
Councilmember Hardcastle  
Councilmember Lehto  
Councilmember Hally

Nay: None

Motion Carried.

Mayor Fuhriman requested Councilmember Taylor to conduct a public hearing, as legally advertised, to consider fee increases greater than 105% for Fiscal Year 2010-2011. At the request of Councilmember Taylor, the City Clerk read the following memo from the Municipal Services Director:

City of Idaho Falls  
August 18, 2010

**MEMORANDUM**

TO: Honorable Mayor and City Council  
FROM: S. Craig Lords, Municipal Services Director  
SUBJECT: ADOPTION OF 2010-2011 PROPOSED FEE INCREASES

Municipal Services respectfully requests the Mayor and Council to approve the 2010-2011 proposed fee increases. The proposed increases were advertised August 15, 2010 and August 22, 2010, as required by Idaho Code.

The Public Hearing is scheduled for 7:30 p.m., Thursday, August 26, 2010, in the Council Chambers in the City Annex Building located at 680 Park Avenue in Idaho Falls, Idaho.

s/ S. Craig Lords

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**PUBLIC NOTICE**

NOTICE IS HEREBY GIVEN that the City of Idaho Falls proposes to increase existing fees beginning October 1, 2010, by amounts that exceed one hundred five percent (105%) of respective fees from the current fiscal year. The fee increases are necessary to cover increased costs associated with these programs.

<b><u>SOURCE OF FEES</u></b>	<b><u>CURRENT FEES</u></b>	<b><u>PROPOSED NEW FEES</u></b>
Planning and Zoning		
Application Fee, Land Use		
Rezoning	\$450.00	\$500.00
Planned Transition Application	\$175.00	\$500.00
Variance	\$300.00	\$325.00
Comprehensive Plan Amendment	\$200.00	\$225.00
RSC-1 Site Plan Review	\$ .00	\$100.00
Issuance Fee		
Electrical Permit	\$ 20.25	\$ 24.25
Mechanical Permit	\$ 20.25	\$ 24.25
Plumbing Permit	\$ 20.25	\$ 24.25
Parks		
Sandy Downs		
Rodeo Setup and Take Down Fee	\$ .00	\$300.00
Tautphaus Park Zoo		
Admissions		
Adult 13-61	\$ 5.50	\$ 6.00
Children 4-12	\$ 2.50	\$ 3.00
Senior 62+	\$ 4.00	\$ 4.50
Adult 13-61 (Group Rate)	\$ 4.50	\$ 5.00
Children 4-12 (Group Rate)	\$ 2.25	\$ 2.50
Senior 62+ (Group Rate)	\$ 3.00	\$ 3.50
Zoo Classes		
60 Minute Class NEW	\$ .00	\$ 17.50
90 Minute Class	\$ 17.50	\$ 20.00
3 Hour Class	\$ 22.50	\$ 25.00
3 Hour Class, Week Long	\$ 80.00	\$ 85.00
3 Hour Class, Week Long (Member Fee)	\$ 65.00	\$ 70.00
7 Hour Class, Week Long	\$135.00	\$140.00
7 Hour Class, Week Long (Member Fee)	\$110.00	\$115.00
Behind the Scenes Tour	\$ 25.00	\$ 30.00
Behind the Scenes Tour (Member Fee)	\$ 20.00	\$ 25.00
Overnight Safari	\$ 50.00	\$ 55.00
Overnight Safari (Member Fee)	\$ 40.00	\$ 45.00
Group Overnight Safari	\$ 45.00	\$ 50.00
Group Overnight Safari (Member Fee)	\$ 35.00	\$ 40.00
Junior Zoo Crew	\$ 90.00	\$105.00
Junior Zoo Crew (Member Fee)	\$ 80.00	\$ 85.00
Rentals		
Tent Rental	\$ 45.00	\$ 75.00
Tent Rental, Additional Hour	\$ 20.00	\$ 35.00
After Hours Fee Per Hour	\$125.00	\$150.00
Animal Encounters Show	\$ 25.00	\$ 35.00
Animal Interaction, 1 Person, 2 Animals, 30 Minutes	\$ 25.00	\$ 35.00
Wagon/Stroller Rental	\$ 3.00	\$ 4.00
Costume Character Appearance, ½ Hour NEW	\$ .00	\$ 35.00
Birthday Package	\$ 75.00	\$100.00

**AUGUST 26, 2010**

<b><u>SOURCE OF FEES</u></b>	<b><u>CURRENT FEES</u></b>	<b><u>PROPOSED NEW FEES</u></b>
Recreation Programs		
Youth Baseball/Softball		
Co-Ed Fall League	\$210.00	\$220.00
Ice Skating Fees		
4-12 Year of Age	\$ 2.00	\$ 2.50
13 and Older	\$ 2.75	\$ 3.25
Ice Rental Fees	\$ 45.00	\$ 55.00
Ice Fees for Tournament and Events	\$105.00	\$120.00
Wes Deist Aquatic Center		
Rental Rates		
120+ (Plus \$2.50 per person over 120)	\$130.00	\$130.50
Second Hour (Plus \$2.00 per person over 120)	\$115.00	\$125.00

Any person who desires to provide comments regarding such fee increases may appear at 7:30 p.m. on Thursday, August 26, 2010, at the City of Idaho Falls Council Chambers, City Hall Annex, 680 Park Avenue, Idaho Falls, Idaho.

s/ Rosemarie Anderson  
Rosemarie Anderson  
City Clerk

Publish: August 15 and August 22, 2010

Councilmember Parry stated that user fees should reflect the cost of doing business.

There being no further discussion either in favor of or in opposition to the imposition of new fees and fee increases greater than 105% for Fiscal Year 2010-2011, Mayor Fuhriman closed the public hearing.

It was moved by Councilmember Taylor, seconded by Councilmember Parry, to approve the imposition of new fees and fee increases greater than 105% for Fiscal Year 2010-2011 as presented. Roll call as follows:

Aye:           Councilmember Hally  
                  Councilmember Taylor  
                  Councilmember Lehto  
                  Councilmember Cornwell  
                  Councilmember Hardcastle  
                  Councilmember Parry

Nay:           None

Motion Carried.

Mayor Fuhriman requested Councilmember Taylor to conduct a public hearing, as legally advertised, to consider the adoption of the 2010-2011 Fiscal Year Budget. At the request of Councilmember Taylor, the City Clerk read the following memo from the Municipal Services Director:

**AUGUST 26, 2010**

City of Idaho Falls  
August 9, 2010

MEMORANDUM

TO: Honorable Mayor and City Council  
FROM: S. Craig Lords, Municipal Services Director  
SUBJECT: PUBLICATION OF "NOTICE OF PUBLIC HEARING" FOR  
2010-2011 FISCAL YEAR BUDGET

Attached for your consideration is a copy of the proposed annual 2010-2011 Fiscal Year Budget that was tentatively approved on August 12, 2010 by the Mayor and City Council and has been advertised as required by Idaho Code.

Municipal Services respectfully requests the adoption of the 2010-2011 Fiscal Year Budget in the amount of \$167,093,018.00 and the attached Appropriation Ordinance, appropriating the monies to and among the various funds.

s/ S. Craig Lords

**NOTICE OF PUBLIC HEARING**  
**PROPOSED BUDGET FOR FISCAL YEAR 2010-2011**  
**CITY OF IDAHO FALLS, IDAHO**

A public hearing pursuant to Idaho Code 50-1002, will be held for consideration of the proposed budget for the fiscal year from October 1, 2010 to September 30, 2011. The hearing will be held at the City of Idaho Falls Council Chambers, in the City Annex Building, located at 680 Park Avenue, Idaho Falls, Idaho at 7:30 p.m., Thursday, August 26, 2010. All interested persons are invited to appear and provide comments regarding the proposed budget. Copies of the proposed budget are available at the Idaho Falls City Controller's Office during regular office hours (8:00 a.m. to 5:00 p.m., weekdays). City Hall is accessible to persons with disabilities. Anyone desiring accommodations for disabilities in order to allow access to the budget documents or to the hearing should contact the City Controller's Office at 612-8230 at least 48 hours prior to the public hearing. The proposed FY 2011 budget is shown below as FY 2011 proposed expenditures and projected revenues.

<b>PROPOSED EXPENDITURES</b>			
<b>Fund Name</b>	<b>FY 2009 Actual Expenditures</b>	<b>FY 2010 Budget Expenditures</b>	<b>FY 2011 Proposed Expenditures</b>
<b>General Fund</b>			
Mayor and Council	\$ 181,392	\$ 201,710	\$ 209,572
Legal	159,953	212,252	214,159
Municipal Services	4,826,870	8,899,620	8,177,260
Planning and Building	1,945,565	2,481,495	2,546,428
Human Resources	97,275	124,672	175,069
Police	11,264,281	11,280,555	11,854,863
Fire	9,362,306	9,109,855	9,405,741
Parks	5,629,468	6,695,061	5,334,288
Public Works	<u>2,242,490</u>	<u>2,022,583</u>	<u>2,067,776</u>
General Fund Total	<u>\$ 35,709,600</u>	<u>\$ 41,027,803</u>	<u>\$ 39,985,156</u>

**AUGUST 26, 2010**

<b>PROPOSED EXPENDITURES</b>			
<b>Fund Name</b>	<b>FY 2009 Actual Expenditures</b>	<b>FY 2010 Budget Expenditures</b>	<b>FY 2011 Proposed Expenditures</b>
<b>Special Revenue Funds</b>			
Street Fund	\$ 3,617,403	\$ 4,041,947	\$ 4,800,705
Recreation Fund	1,214,593	1,214,212	1,295,793
Library Fund	2,468,583	2,755,983	2,916,184
Airport Passenger Facility Charge Fund	480,315	500,000	560,000
Municipal Equipment Replacement Fund	1,267,650	1,548,000	1,390,000
Electric Light Public Purpose Fund	625,723	750,000	600,000
Business Improvement District	65,600	58,000	59,000
Golf Fund	1,689,928	1,815,578	1,883,349
Special Revenue Funds Total	\$ 11,429,795	\$ 12,683,720	\$ 13,505,031
<b>Capital Projects Funds</b>			
Sanitary Sewer Capital Improvement Fund	\$ 17,898	\$ 300,000	\$ 350,000
Municipal Capital Improvement Fund	525,807	2,000,000	2,850,000
Street Capital Improvement Fund	1,831,073	250,000	250,000
Bridge and Arterial Street Fund	70,863	2,000,000	1,500,000
Water Capital Improvement Fund	344,630	500,000	750,000
Surface Drainage Fund	34,825	100,000	100,000
Traffic Light Capital Improvement Fund	614,358	680,000	525,000
Capital Projects Funds Total	\$ 3,439,454	\$ 5,830,000	\$ 6,325,000
<b>Enterprise Funds</b>			
Airport Fund	\$ 5,838,284	\$ 4,719,507	\$ 5,497,822
Water and Sewer Fund	12,339,834	17,937,916	19,723,346
Sanitation Fund	4,104,230	4,389,129	4,257,450
Ambulance Fund	3,029,321	3,325,949	3,410,631
Electric Fund	59,880,075	68,796,786	74,388,582
Enterprise Funds Total	\$ 85,191,744	\$ 99,169,287	\$107,277,841
<b>Total Expenditures - All Funds</b>	<b>\$135,770,593</b>	<b>\$158,710,810</b>	<b>\$167,093,018</b>
<b>PROJECTED REVENUES</b>			
<b>Fund Name</b>	<b>FY 2009 Actual Revenues</b>	<b>FY 2010 Budget Revenues</b>	<b>FY 2011 Projected Revenues</b>
<b>Property Tax Levy</b>			
General Fund	\$ 21,079,824	\$ 21,703,491	\$ 22,095,895
Recreation Fund	444,788	487,126	484,672
Library Fund	1,658,814	1,746,583	1,737,782
Municipal Capital Improvement Fund	1,185,897	1,199,906	696,379
Fire Retirement	1,044,000	1,105,000	1,170,000
Liability Insurance	602,000	526,130	583,508
Property Tax Levy Total	\$ 26,015,323	\$ 26,768,236	\$ 26,768,236
<b>Revenue Sources Other Than Property Tax</b>			
General Fund	\$ 14,719,078	\$ 13,263,182	\$ 13,296,696
Street Fund	2,920,122	2,857,635	2,901,660
Recreation Fund	750,844	755,600	775,350
Library Fund	835,458	878,600	871,601

**AUGUST 26, 2010**

<b>PROJECTED REVENUES</b>			
<b>Fund Name</b>	<b>FY 2009 Actual Revenues</b>	<b>FY 2010 Budget Revenues</b>	<b>FY 2011 Projected Revenues</b>
<b>Revenue Sources Other Than Property Tax, Continued:</b>			
Passenger Facility Fund	480,315	500,000	560,000
Municipal Equipment Replacement Fund	130,431	175,000	100,000
Electric Light Public Purpose Fund	623,012	615,000	607,000
Business Improvement District Fund	49,205	58,000	58,000
Electric Rate Stabilization Fund	546,586	300,000	350,000
Golf Fund	1,613,095	1,858,600	1,837,400
Sanitary Sewer Capital Improvement Fund	102,156	218,750	159,150
Municipal Capital Improvement Fund	39,993	25,000	10,000
Street Capital Improvement Fund	-0-	-0-	-0-
Bridge and Arterial Street Fund	163,197	210,000	130,000
Water Capital Improvement Fund	247,153	243,750	190,550
Surface Drainage Fund	23,082	50,000	25,250
Traffic Light Capital Improvement Fund	310,699	335,237	302,224
Airport Fund	4,702,430	3,979,000	4,821,221
Water and Sewer Fund	17,278,459	15,232,800	17,665,800
Sanitation Fund	3,892,477	3,931,000	3,906,500
Ambulance Fund	3,060,306	3,073,399	3,273,371
Electric Fund	52,551,178	55,564,900	56,751,171
Fund Transfers	2,042,064	1,995,250	2,063,100
Fund Balance Carryover	2,618,030	25,821,871	29,668,738
Other Revenue Sources Total	<u>\$109,755,270</u>	<u>\$131,942,574</u>	<u>\$140,324,782</u>
<b>Total Revenues - All Funds</b>	<b><u>\$135,770,593</u></b>	<b><u>\$158,710,810</u></b>	<b><u>\$167,093,018</u></b>

I, Rosemarie Anderson, City Clerk of the City of Idaho Falls, Idaho certify that the above is a true and correct statement of the proposed expenditures by fund and the entire estimated revenues and other sources of the City of Idaho Falls, Idaho for the Fiscal Year 2010-2011; all of which have been tentatively approved by the City Council on August 12, 2010 and entered at length in the Journal of Proceedings.

Dated this 12<sup>th</sup> day of August, 2010.

s/ Rosemarie Anderson  
Rosemarie Anderson  
City Clerk

Publish: August 15 and August 22, 2010

Councilmember Taylor reviewed for those present the 2010-2011 Budget information. He stated, further, that the City will spend approximately \$30,000,000.00 from savings to provide for some capital improvement projects.

The Municipal Services Director appeared to express his appreciation for the Division Directors in providing tight budgets. The certified tax dollars are the same as the previous budget year. He stated, further, that he appreciated the Mayor and City Council for the work that they put into completing this budget.

Councilmember Taylor explained that the budget process started four months ago. The Division Directors, Mayor, and City Council have put in a significant effort to keep the budget as low as possible.

**AUGUST 26, 2010**

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Councilmember Hally requested the Municipal Services Director to explain the amount of money that the City could have taken in property taxes. The Municipal Services Director stated that \$1,700,000.00 could have been taken in the current year's budget. If the Mayor and City Council wanted to go after all of the dollars available according to State Code, an additional \$3,000,000.00 could have been requested from property taxes.

Councilmember Parry stated that she was surprised with the amount of unsolicited comments she received on this year's budget. Many of the comments expressed gratitude for not raising property taxes.

There being no further discussion either in favor of or in opposition to the 2010-2011 Fiscal Year Budget, Mayor Fuhrman closed the public hearing.

At the request of Councilmember Taylor, the City Clerk read the following Ordinance by title only:

**ORDINANCE NO. 2845**

THE ANNUAL APPROPRIATION ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, FOR THE PERIOD COMMENCING OCTOBER 1, 2010 AND ENDING SEPTEMBER 30, 2011, APPROPRIATING AND APPORTIONING THE MONIES OF SAID CITY TO AND AMONG THE SEVERAL FUNDS OF SAID CITY AND DESIGNATING THE PURPOSE FOR WHICH SAID MONIES MAY BE EXPENDED; SPECIFYING THE AMOUNT OF MONEY PAID BY PROPERTY TAX TO BE APPROPRIATED TO SAID FUNDS; PROVIDING WHEN THE ORDINANCE SHALL BECOME EFFECTIVE.

It was moved by Councilmember Taylor, seconded by Councilmember Parry, to approve the 2010-2011 Fiscal Year Budget in the amount of \$167,093,018.00; and, further, that the provisions of Idaho Code Section 50-902 requiring all Ordinances to be read by title, and once in full, on three separate dates be dispensed with, the Ordinance be passed on all three readings, and, further, give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows:

Aye: Councilmember Hally  
Councilmember Taylor  
Councilmember Lehto  
Councilmember Cornwell  
Councilmember Hardcastle  
Councilmember Parry

Nay: None

Motion Carried.

There being no further business, it was moved by Councilmember Cornwell, seconded by Councilmember Lehto, that the meeting adjourn at 8:15 p.m.

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CITY CLERK

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MAYOR

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