

# CITY OF IDAHO CITY

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REGULAR CITY COUNCIL MEETING  
Wednesday February 10, 2021  
6:00 P.M  
City Hall, 511 Main Street, Idaho City, ID 83631

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**Join Zoom Meeting**  
**<https://us02web.zoom.us/j/4192717240>**  
**Meeting ID: 419 271 7240**

CALL MEETING TO ORDER  
ROLL CALL  
PLEDGE OF ALLEGIANCE

## I. CONSENT AGENDA

The consent calendar includes items which require formal Council action, but which are typically routine or not of great controversy. Individual Council members may ask that any specific item be removed from the consent calendar in order that it is discussed in greater detail. Explanatory information is included in the Council agenda packet regarding these items and any contingencies are part of the approval.

- A. APPROVAL OF MINUTES: January 20, 2021 **ACTION ITEM**
- B. ~~IDAHO CITY EVENT CHECKLIST~~ **ACTION ITEM**
- C. BILLS/PAYABLES: January 21, 2021 through February 10, 2021 **ACTION ITEM**

## II. PUBLIC HEARINGS

Items listed as public hearings allow citizen comment on the subject matter before the Council. Residents or visitors wishing to comment upon the item before the Council should follow the procedural steps. In order to testify, individuals must sign up in advance, providing sufficient information to allow the Clerk to properly record their testimony in the official record of the City Council. Hearing procedures call for presentation by the applicant, submission of information from City staff, followed by public testimony. **ACTION ITEM**

## III. ENGINEER'S REPORT

- 1. UPDATES

## IV. OLD BUSINESS

## V. NEW BUSINESS

- 1. TINA ERBE-USE OF THE RODEO GROUNDS FOR PIONEER REENACTMENTS

## VI. ORDINANCES AND RESOLUTIONS

Ordinances and resolutions are formal measures considered by the City Council to implement policy which the Council has considered. Resolutions govern internal matters to establish fees and charges pursuant to existing ordinances. Ordinances are laws which govern general public conduct. Certain procedures must be followed in the adoption of both ordinances and resolutions; state law often establishes those requirements. **ACTION ITEM**

- 1. 2<sup>nd</sup> AMENDMENT SANCTUARY RESOLUTION
- 2. IDAHO POWER FRANCHISE ORDINANCE-REVIEW

## VII. EXECUTIVE SESSION

Certain City-related matters may need to be discussed confidentially as a matter of law subject to applicable legal requirements; the Council may enter executive session to discuss such matters. **ACTION ITEM**

## VIII. EMPLOYEE UPDATES

- A. PUBLIC WORKS
- B. LAW ENFORCEMENT
- C. CLERK/TREASURER'S OFFICE

## IX. COUNCIL UPDATES

## X. MAYOR UPDATES

## XI. CITIZEN COMMENTS

This section of the agenda is reserved for citizens wishing to address the Council regarding City-related issues that are not on the agenda. In order to ensure adequate public notice, Idaho Law provides that any item requiring Council action must be placed on the agenda of an upcoming Council meeting, except for emergency circumstances. Comments related to future public hearings should be held for that public hearing. Repeated comments regarding the same or similar topics previously addressed are out of order and will not be allowed. Persons wishing to speak will have 5 minutes. Comments regarding performance by city employees are inappropriate at this time and should be directed to the Mayor, either by subsequent appointment or after tonight's meeting, if time permitting.

## ADJOURNMENT

Questions concerning items appearing on this Agenda or requests for accommodation of special needs to participate in the meeting should be addressed to the Office of the City Clerk, 511 Main Street or call 208-392-4584.

Mayor:  
Phillip J Canody  
Council members:  
Tom Secor Jr  
Ken Everhart  
HD Hillyard  
David Martin

Chief of Police:  
Mark Otter  
Public Works:  
Tami Franklin  
Gene Bettys  
Dominick Nalley

City Clerk-Treasurer:  
Nancy L Ptak  
Deputy Clerk:  
Sue Robinson  
Janitorial  
Dale Rutter

511 Main Street  
PO Box 130  
Idaho City, ID 83631  
(208)392-4584  
[4cityfolk@gmail.com](mailto:4cityfolk@gmail.com)  
[idahocityclerk@gmail.com](mailto:idahocityclerk@gmail.com)  
[idahocitypublicworks@gmail.com](mailto:idahocitypublicworks@gmail.com)

# CITY OF IDAHO CITY



REGULAR CITY COUNCIL MEETING  
Wednesday January 27, 2021  
6:00 P.M  
City Hall, 511 Main Street, Idaho City, ID 83631

Join Zoom Meeting  
<https://us02web.zoom.us/j/4192717240>  
Meeting ID: 419 271 7240

CALL MEETING TO ORDER: Mayor Canody called the meeting to order at 6:00 pm.  
ROLL CALL: Martin, Secor, Hillyard present. Everhart absent.

## PLEDGE OF ALLEGIANCE

### I. CONSENT AGENDA

The consent calendar includes items which require formal Council action, but which are typically routine or not of great controversy. Individual Council members may ask that any specific item be removed from the consent calendar in order that it is discussed in greater detail. Explanatory information is included in the Council agenda packet regarding these items and any contingencies are part of the approval.

#### A. APPROVAL OF MINUTES: January 13, 2021 **ACTION ITEM**

Hillyard made a motion to approve the minutes dated January 13, 2021, seconded by Martin. 3 ayes.

#### ~~B. IDAHO CITY EVENT CHECKLIST: **ACTION ITEM**~~

#### C. BILLS/PAYABLES: January 13, 2021 AND January 14, 2021 through January 27, 2021 **ACTION ITEM**

Secor made a motion to pay the bills dated January 13, 2021 in the amount of \$2,295.35, seconded by Martin. 3 ayes.

Secor made a motion to pay the bills dated January 14, 2021 through January 27, 2021 in the amount of \$17,535.47, seconded by Hillyard. 3 ayes.

### II. PUBLIC HEARINGS

Items listed as public hearings allow citizen comment on the subject matter before the Council. Residents or visitors wishing to comment upon the item before the Council should follow the procedural steps. In order to testify, individuals must sign up in advance, providing sufficient information to allow the Clerk to properly record their testimony in the official record of the City Council. Hearing procedures call for presentation by the applicant, submission of information from City staff, followed by public testimony. **ACTION ITEM**

### III. ENGINEER'S REPORT

A meeting has been scheduled with Mountain Waterworks February 10, 2021. An update will be presented at the following meeting.

### IV. OLD BUSINESS

### V. NEW BUSINESS

### VI. ORDINANCES AND RESOLUTIONS

Ordinances and resolutions are formal measures considered by the City Council to implement policy which the Council has considered. Resolutions govern internal matters to establish fees and charges pursuant to existing ordinances. Ordinances are laws which govern general public conduct. Certain procedures must be followed in the adoption of both ordinances and resolutions; state law often establishes those requirements. **ACTION ITEM**

#### 1. RESOLUTION 2021-01 ADOPTING LAND USE – RELATED HEARING PROCEDURES

Secor made a motion to adopt the 2021-01 Resolution Adopting Land Use Related Hearing Procedures, seconded by Hillyard seconded. 3 ayes.

### VII. COMMITTEE REPORTS

#### A. PARKS & RECREATION COMMISSION

John Roberts discussed with the council about patenting the Rodeo Grounds land into the city. He will give more information after March. The rodeo grounds will be having a few events and checklists will be coming into the city for council approval. The Mayor and council thanked John for working on the research. Martin asked John about meeting up with Mores Creek recreation group and found items for them to spend money on, possibly the slab of concrete over by the community hall. Something that might get more use out of it. John had asked about what the thought were on the possibility of a restroom in the area. It had been discussed in the past; it should be relooked into. A lot of opportunities available, council agrees it needs to stay closer to the park, where the Penitentiary is located. John will get back with the council on this area, the city has no funding at the moment.

#### B. HISTORIC PRESERVATION COMMISSION

Rhonda Jameson informed the council regarding the updates on the historic commission and the meeting availabilities and struggles. She will be sending the agendas and minutes to Clerk Ptak in PDF form to upload onto the city website. She mentioned to Subdivision ordinance needed to be amended to allow for the historic portion. The mayor explained that it is already part of the application process to notify the Historic Commission. Secor thought this was something that has already been addressed, the mayor assured her she will receive notification since it's in the application process already. Clerk Ptak suggested to Rhonda that she can come and look at the applications in use and see that all the questions are there as to where the property is located ie, flood zone, historic area. The commission is losing Phil Bandy and will need a new member, Clerk Ptak will put in an advertisement with the Idaho World newspaper until the position has been filled.

#### C. PLANNING & ZONING COMMISSION

Administrator Ptak reported that Rora Canody had been appointed as the new chairperson, Jim Nicholson will be co-chair, Comprehensive plan was tabled and will still be getting a good thorough look over. P&Z answered questions from the public in regards to Randy Hopkins email, who was not in attendance. No action was taken during the meeting.

#### D. IDAHO CITY CHAMBER OF COMMERCE

Rhonda reported on the Chili Cook off and all the regulations around it. She was told if they have it in March it should be all good by then. The chamber will present a checklist when all the regulations have been lifted

### VIII. EXECUTIVE SESSION

Certain City-related matters may need to be discussed confidentially as a matter of law subject to applicable legal requirements; the Council may enter executive session to discuss such matters. **ACTION ITEM**

### IX. EMPLOYEE UPDATES

#### A. PUBLIC WORKS

Mayor Canody reported for public works, signs for no sledding on city streets have been ordered. Main water leak had been found and shut off. They are working on winter maintenance. Already low on sand and using it sparingly unless really needed. Tami has been updating computers to work with the water plant. They are having monthly safety meetings and filing for ICRMP and general public. Council all agrees they are doing a great job considering what they have to work with.

#### B. LAW ENFORCEMENT

Chief Otter reported on warrants getting delivered, drug deliveries stopped, working with US Marshalls stopping a big meth bust. Mark Burnell is coming back to work with the community and policies for the police department. More investigations are in the works.

#### C. CLERK/TREASURER'S OFFICE

Clerk Ptak thanked Rhonda for the grant info regarding the possibility of Community hall. Lack of use has been tough on it and it has not generated much revenue to even keep up with the cost of keeping it empty. If anything can be found to help with the cost and upkeep, it would benefit greatly. The audit has been postponed until March, in between meetings. Year end and payroll training. Scanning a lot of documents on the new printer/scanner set up at each desk area. Asked the council for an update on scheduling usage for community hall. People are asking for March. She will tentatively let people schedule for March. She has also asked everyone to get the W4's back to her so she can get them entered.

### X. COUNCIL UPDATES

Hillyard asked about when the event checklists will be reopened back up. He was informed around march according to CDH and the governors recommendation. He would like to see about getting business going again.

### XI. MAYOR UPDATES

The Idaho City Historic Preservation would like to know if the city would be willing to donate the redwood to fix and rebuild the creek projects in the parks. Hillyard said he would donate his time in the rebuild. The city also has the old rafters and trusses that may be able to be salvaged.

### XII. CITIZEN COMMENTS

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Bobby Mathews addressed the council regarding the city getting recognized as a second amendment sanctuary city. The mayor suggest he submit a proposal to the city and it can get put on the agenda for council review. Phil McKay asked about the 2<sup>nd</sup> amendment sanctuary city and what it entailed and has offered to help Bobby, Hillyard commented that other city's already have done it within our state. John Roberts found Kuna has done the same thing.

**ADJOURNMENT**

6:57pm

ATTEST:

Date approved:

\_\_\_\_\_  
Nancy L Ptak, City Clerk-Treasurer

\_\_\_\_\_  
Phillip Canody, Mayor

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Council members:  
Tom Secor Jr  
Ken Everhart  
HD Hillyard  
David Martin

Chief of Police:  
Mark Otter  
Public Works:  
Tami Franklin  
Gene Bettys  
Dominick Nalley

City Clerk-Treasurer:  
Nancy Ling  
Deputy Clerk:  
Sue Robinson  
Janitorial  
Dale Rutter

511 Main Street  
PO Box 130  
Idaho City, ID 83631  
(208)392-4584  
[4cityfolk@gmail.com](mailto:4cityfolk@gmail.com)  
[idahocityclerk@gmail.com](mailto:idahocityclerk@gmail.com)  
[idahocitypublicworks@gmail.com](mailto:idahocitypublicworks@gmail.com)

# CITY OF IDAHO CITY

## RESOLUTION #2021-02

### SECOND AMENDMENT/LAWFUL GUN OWNER SANCTUARY

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IDAHO CITY, IDAHO, DECLARING THE CITY OF IDAHO CITY, IDAHO A SECOND AMENDMENT/LAWFUL GUN OWNER SANCTUARY; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, the Second Amendment of the United States Constitution reads: "A well-regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed," an individual right affirmed by the United States Supreme Court and,

**WHEREAS**, the State of Idaho has recognized that the Second Amendment to the Constitution of the United States of America protects the fundamental rights of its citizens; and,

**WHEREAS**, the City Council desires to express its deep commitment to the rights of citizens of City of Idaho City to keep and bear arms; and,

**WHEREAS**, the City Council desires to express opposition to any law that would unconstitutionally restrict the rights under the Second Amendment of the citizens of Idaho City, and,

**WHEREAS**, the City Council desires to express its intent to stand as a Sanctuary City for Second Amendment rights and to oppose, within the limits of the Constitution of the United States, any efforts to unconstitutionally restrict such rights, and to use such legal means at its disposal to protect the right of the citizens to keep and bear arms, including through legal action, the power of appropriation of public funds, and the right to petition for redress of grievances.

**NOW THEREFORE BE IT RESOLVED** by the Mayor and City Council of the City of Idaho City, Idaho, as follows:

1. The City Council of the City of Idaho City, Idaho hereby expresses its intent to uphold the Second Amendment rights of the citizens of Idaho City and its intent that public funds of the City not be used to restrict Second Amendment rights or to aid in the unnecessary and unconstitutional restriction of the rights under the Second Amendment of the citizens of Idaho City to bear arms; and
2. The City Council hereby declares its intent to oppose unconstitutional restrictions on the right to keep and bear arms through such legal means as may be expedient; and,
3. The City Council hereby declares the City of Idaho City, Boise County, Idaho, as a "Second Amendment/Lawful Gun Owner Sanctuary."

4. If any part of this resolution is declared to be invalid by a court of competent jurisdiction, then the remaining portion shall remain in effect.
5. The City Clerk is directed to assign the next resolution number in sequence and this resolution is effective upon its approval.

**ADOPTED** by the City Council of the City of Idaho City on \_\_\_\_\_, 2021.

**CITY OF IDAHO CITY**

\_\_\_\_\_  
Phillip J. Canody, Mayor

**Attest:**

\_\_\_\_\_  
Nancy L. Ptak, City Clerk

**Paris Dickerson**  
**Business & Community Development Advisor**  
**Idaho Power Company**  
**Work: (208) 388-2022**  
**Mobile: (406) 546-2074**

For Review

Nancy Ptak  
City Clerk  
City of Idaho City  
P.O. Box 130  
Idaho City, ID 83629

**Subject: City of Idaho City Franchise Agreement with Idaho Power**

**Dear Ms. Ptak:**

The city of Idaho City has recently contacted Idaho Power Company (“Idaho Power” or “Company”) regarding its desire to enter into a new franchise agreement with the Company. Accordingly, I have enclosed a copy of the standard franchise ordinance form which Idaho Power has agreed to with other cities in Idaho. This franchise form authorizes Idaho Power to construct, operate and maintain its electric utility facilities in and upon the streets, highways and other public places within the City’s corporate limits, and also provides for Idaho Power’s payment of a franchise fee to the City, among other things. When the franchise ordinance is adopted by the City and signed by Idaho Power, it represents the franchise agreement between the parties.

The procedure for adopting utility franchise ordinances in Idaho includes the following steps:

**FIRST -** The franchise ordinance is formally introduced at a City Council meeting.

**SECOND -** The franchise ordinance is published in at least one issue of the official newspaper of the city (after introduction of the ordinance and before adoption of the ordinance).

**THIRD -** The franchise ordinance is adopted by the City, at least thirty (30) days after the ordinance was introduced.

**FOURTH -** The franchise ordinance is published again within one month after it is adopted.

**FIFTH –** The franchise ordinance effective date is set on or after the date of the publication described in step four above.



Also attached is a Certificate which Idaho Power requests that the City fill out after the franchise ordinance is adopted. The Certificate provides confirmation that the various legal requirements for the adoption of the franchise ordinance have been met. The Certificate includes the following exhibits, which are to be attached to the Certificate after the franchise ordinance is adopted:

Exhibit A - City Council Meeting Minutes. Minutes from the first City Council meeting, where the franchise ordinance was introduced, and from the final City Council meeting, where the franchise ordinance was adopted.

Exhibit B - Ordinance. Copy of the franchise ordinance.

Exhibit C - Newspaper Notices. A copy of the newspaper notices showing publication of the franchise ordinance - once before the franchise ordinance is adopted and once within thirty (30) days after the franchise ordinance is adopted.

After the franchise ordinance is adopted, please fill out the Certificate form, attach the exhibits as discussed above, and execute the Certificate as the City Clerk representing the City. Upon the City's final adoption of the franchise ordinance, the City and Idaho Power will both execute the franchise ordinance and keep an original for their respective files. Idaho Power will also provide to the City the insurance certificate which is required under Section 7 of the franchise ordinance at that time.

Thank you once again for your assistance with the Idaho Power – Idaho City Franchise Agreement. Please feel free to call me at (406) 546-2074 if you have any questions.

Sincerely,



**Paris Dickerson**  
Business and Community Development Advisor

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✉ pdickerson@idahopower.com  
☎ (208) 388-2022  
📍 10790 Franklin Rd., Boise, ID 83709

PGD:tmv

**CERTIFICATE**

STATE OF IDAHO            )  
  ) ss.  
COUNTY OF BOISE        )

I, the undersigned, the duly qualified and acting City Clerk of the City of Idaho City, Idaho, hereby certify that:

1. Attached hereto as Exhibit A is a full, true and correct copy of portions of the minutes of the regular meetings of the City Council of Idaho City, Idaho, duly held in said City on the dates of \_\_\_\_\_, respectively, at which meetings all of the Council Members recited in the minutes as present were present during the entire meetings; that such portions of the minutes contain all parts of the minutes which relate to the regularity of the meetings or to any and all proceedings had with reference to the passage of Ordinance No. \_\_\_\_\_ granting a franchise to Idaho Power Company, its successors and assigns.

2. At each of the meetings aforesaid the ordinance was read, and said ordinance was duly passed and adopted.

3. Attached hereto as Exhibit B is a full, true and correct copy of Ordinance No. \_\_\_\_\_ as adopted by the City and as appears on record and on file in my office.

4. Said ordinance has never been altered, amended or repealed and is now in full force and effect.

5. At the time of the adoption of said ordinance, there were no rules or regulations of the City Council requiring ordinances or franchises to be passed or adopted in any manner or form different from that followed.

6. I am the legal keeper and custodian of the original records from which the attached copies purport to be made, and that I have compared said copies with the original records, and have found them to be true copies thereof.

7. Both prior to the passage of said ordinance, and within 30 days after the passage of the ordinance, I caused the ordinance to be published in \_\_\_\_\_, which is a newspaper printed, published and having a general circulation in said City of Idaho City. Attached hereto as Exhibit C are copies of the proof of publication forms for the ordinance.

8. At the time of the passage of the above ordinance, the said City of Idaho City, was a City incorporated under and governed by the general

laws of the State of Idaho, and the Mayor of said City and Council Members of said City were as follows:

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9. On \_\_\_\_\_, 2021, being within thirty (30) days after the passage of said ordinance, the Grantee, Idaho Power Company, duly filed with me, as City Clerk of said City, its written acceptance of the franchise granted by said ordinance.

IN WITNESS WHEREOF, I hereunto set my hand and affixed the said seal of said City this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

(SEAL)

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

ORDINANCE NO. \_\_\_\_\_

*For Review*

“AN ORDINANCE IN ACCORDANCE WITH IDAHO CODE 50-328, 50-329 AND 50-329A GRANTING A FRANCHISE TO IDAHO POWER COMPANY, A CORPORATION, AND TO ITS SUCCESSORS AND ASSIGNS, TO CONSTRUCT, MAINTAIN AND OPERATE IN AND UPON THE PRESENT AND FUTURE STREETS, HIGHWAYS AND OTHER PUBLIC PLACES WITHIN THE CORPORATE LIMITS OF THE CITY OF IDAHO CITY, IDAHO, ELECTRIC UTILITY PROPERTY AND FACILITIES FOR SUPPLYING ELECTRICITY AND ELECTRIC SERVICE TO THE CITY, THE INHABITANTS THEREOF, AND OTHERS FOR A TERM OF TEN (10) YEARS, INCLUDING THE NONEXCLUSIVE RIGHT TO PHYSICALLY LOCATE AND MAINTAIN TELEPHONE, CABLE, FIBER OPTICS OR OTHER COMMUNICATIONS FACILITIES; SETTING FORTH AN AGREEMENT NOT TO COMPETE, RESERVING POWER OF EMINENT DOMAIN; PROVIDING FOR THE PAYMENT OF FRANCHISE FEES; AND SPECIFYING OTHER LIMITATIONS, TERMS AND CONDITIONS GOVERNING THE EXERCISE OF SAID FRANCHISE.”

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF IDAHO CITY, IDAHO THAT;

SECTION 1. The City of Idaho City, Idaho (hereinafter called the “City”) hereby grants to IDAHO POWER COMPANY, a corporation, and to its successors and assigns (hereinafter called the “Grantee”) the right (subject to the rights of the City set forth in Section 14 hereof), privilege and franchise for a period of ten (10) years from and after \_\_\_\_\_ (the effective date of this ordinance), however, with the right to amend by mutual agreement in accordance with Section 15, to construct, maintain and operate in and upon the present and future streets, alleys, highways and other public places within the corporate limits of the City, electric utility property and facilities for supplying electricity to the City, and the inhabitants thereof, and to persons and corporations beyond the limits of the City, including the nonexclusive right to physically locate and maintain telephone, cable, fiber optics or other communications facilities of the Grantee or other parties, (provided, that Grantee shall comply with the City’s requirements for cable system franchises) all subject to the terms and conditions hereinafter specified. In the case of annexation of property to the corporate limit, such area will be considered under this agreement, upon effective date of the annexation, subject to Section 9 hereof. All such electric utility property and facilities now maintained by the Grantee within the streets, alleys, highways and other public places within the corporate limits of the City shall be deemed covered by this ordinance as provided herein.

SECTION 2. All of the Grantee’s electric property and facilities in and upon the present and future streets, alleys, highways and public places within the corporate limits of the City shall be constructed and at all times maintained in good order and condition and in accordance with standard engineering practices and all applicable safety codes and lawful governmental regulations, including all applicable state and federal regulations and all construction standards presently in effect by the Idaho Public Utilities Commission or adopted by that Commission during the term of this franchise agreement.

**SECTION 3.** Upon request of the City, the Grantee shall relocate its facilities as necessary within the present and future streets, alleys, highways and other public places owned by the City. The City shall have no responsibility for the costs of such relocations. The Grantee shall bear the cost of relocating its facilities at the City's request, unless the facilities are to be relocated for the benefit of a third party, in which case the third party shall pay the costs of relocation. In the event federal, state or other funds are available in whole or in part for utility relocating purposes, the City shall apply for such funds and the Grantee will be reimbursed to the extent any such funds are actually obtained.

**SECTION 4.** It shall be lawful for the Grantee to make all needful or convenient excavations and/or installations in any of the present and future streets, alleys, highways and other public places within the corporate limits of the City for the purpose of erecting and maintaining the posts, poles, towers, or other supports for its wires or for the purpose of laying, maintaining and operating conduits, vaults and wires and other conductors underground for the purpose aforesaid, or to repair and improve such electric power and light system and to extend the same; provided that when the Grantee or any person or corporation under the authority of this franchise, shall disturb any of said streets, alleys, highways or other public places for the purposes aforesaid, he, it or they shall restore the same to good order and condition as soon as practicable and without unnecessary delay and failing to do so after five days' notice from the City, or its duly authorized officer or officers, then the City may place said street, alley, highway or public place in such condition at the cost and expense of the Grantee, and said Grantee will forthwith pay the full cost and expense thereof upon demand of the City. All facilities constructed under this ordinance shall be placed and maintained at such places and positions in or upon such public ways and public places as shall not interfere with the passage of traffic and shall conform to all applicable laws, rules and regulations.

**SECTION 5.** The City shall have the right and privilege to string and maintain wires for its internal communications for its fire, police, airport and other services upon the poles and other facilities erected and maintained by the Grantee hereunder, subject to the Rules and Regulations of the Idaho Public Utilities Commission. The City shall string, maintain and operate such wires at its own expense, risk and responsibility, and in accordance with all legal requirements and good engineering practices and in such manner as not to impose any additional expense upon Grantee of its said poles and facilities. Any such wires of the City shall be subject to interference by the Grantee only when necessary in the maintenance, operation or repair of the Grantee's own fixtures, wires, facilities and appurtenances.

**SECTION 6.** The Grantee shall at all times indemnify and hold the City, its officers, employees and agents, harmless from any and all expenses or liability arising from, and against or by reason of any negligent act or omission of the Grantee, its representatives or employees, in the construction, operation or maintenance of any of the Grantee's electric utility property or facilities.

**SECTION 7.** Upon acceptance of this franchise by Grantee and before Grantee shall have any rights hereunder, Grantee shall file with the City Clerk a Certificate of Insurance evidencing General Liability Insurance which covers claims for Bodily Injury, Property Damage and Personal Injury. Such insurance shall have minimum limits of \$1,000,000 per occurrence. The City of Idaho City shall be named as an "Additional Named Insured" under Grantee's insurance policy. Should the minimum limits of insurance as set forth herein be increased above \$1,000,000, pursuant to the Idaho Tort Claims Act (Idaho Code Section 6-901 et. seq.) or any similar legislation, the Grantee shall be required to provide the City with a new Certificate of Insurance evidencing the higher limits upon the City's request.

**SECTION 8.** The electric service to be furnished to the public hereunder, and all rates and charges therefore, and all regulation of the Grantee hereunder, shall at all times be subject to all rules, regulations and orders that may be lawfully prescribed by the Idaho Public Utilities Commission or by any other governmental authority now or hereafter having jurisdiction over such matters. During the term of this franchise, Grantee shall at all times assure that customers within the City have access to customer service from the Grantee as required by the Idaho Public Utilities Commission.

**SECTION 9.** As compensation for the right, privilege and franchise hereby granted, Grantee agrees to pay to the City on or before the 30th day of January, April, July and October, an amount equivalent to one percent (1%) of Grantee's "gross revenues" for the preceding calendar quarter. For purposes of this Section, "gross revenues" shall mean the amount of money billed by the Grantee for the electricity it sells within the corporate limits of the City to customers, less uncollectibles. The City shall provide appropriate information to the Grantee to allow the Grantee to identify which of its customers are located within the corporate limits of the City for purposes of paying franchise fees. Grantee shall not be responsible for any failure to pay franchise fees which results from deficiencies in such information provided by the City. In the event the City annexes a new area into its corporate limits, the terms of this Section 9 regarding franchise fees shall not apply to the annexed area until sixty (60) days after the City has supplied the Grantee with appropriate information for the identification of the Grantee's customers within the annexed area.

The Grantee's franchise fee payment obligations hereunder shall commence with the start of the Grantee's first full billing cycle following the effective date of this ordinance; provided, that the Grantee must first receive approval from the Idaho Public Utilities Commission for the collection of the franchise fee in the rates charged by Grantee.

**SECTION 10.** The City shall have the right during the term of this franchise agreement to increase the franchise fee hereunder up to three percent (3%), by obtaining the consent of the Grantee or the approval of a majority of voters of the City voting on the question at an election held in accordance with chapter 4, title 50, Idaho Code. Any such vote to increase the franchise fee hereunder shall provide that the increased franchise fee will apply to any electric service provider (other than the City) who utilizes the City's streets, alleys or other public places to provide electrical service within the City, during the term of this franchise agreement.

**SECTION 11.** The Grantee shall keep accurate books of account for the collection of the franchise fees for a period not to exceed three years hereunder and the City shall have the right to inspect the same at all times during business hours, and from time to time audit the same for the purpose of determining gross revenues under Section 9 above.

**SECTION 12.** The franchise fees paid by the Grantee hereunder will be in lieu of and as payment for any tax or fee imposed by the City on the Grantee by virtue of its status as a public utility including, but not limited to, taxes, fees or charges related to easements, franchises, rights-of-way, utility lines and equipment installation, maintenance and removal during the term of this franchise agreement.

**SECTION 13.** The Grantee shall have the right and privilege, insofar as the City is able to grant the same, in accordance with National Arborist Association standards, of the pruning of all trees which overhang the present and future streets, alleys, highways and other public places within the corporate limits of the City, in such a manner and to such extent as will prevent the branches or limbs or other parts of such trees from touching or interfering with its wires, poles and other fixtures and equipment. However, except in an emergency, no pruning shall be undertaken without giving the occupant of the adjacent property written or oral notice that such pruning will be performed.

**SECTION 14.** In consideration of Grantee's undertaking hereunder as evidenced by its acceptance hereof, the City agrees not to engage in the business of providing electric service during the life of this franchise or any extension thereof in competition with the Grantee, its successors and assigns; but nothing herein contained shall be construed or deemed to prevent the City from exercising at any time any power of eminent domain granted to it under the laws of the State of Idaho. The City shall not grant a franchise to another electric service provider during the term of this franchise agreement unless the electric service provider has received approval to provide electrical service within the City from the Idaho Public Utilities Commission, and the City has imposed the same franchise fee on the electric service provider as paid by the Grantee.

**SECTION 15.** In the event of an amendment to the laws, rules or regulations of the City of Idaho City, the State of Idaho or the Public Utilities Commission of Idaho applicable to this franchise, or for periodic review of any section of this agreement, the terms of this franchise and the rights and privileges hereby conferred may be changed, altered, amended or modified upon mutual agreement between the City and the Grantee. In all cases, 60 days notice shall be required on the part of City or Grantee to reopen the agreement pursuant to this section.

**SECTION 16.** Any violation by the Grantee of the provisions of this ordinance, franchise and grant or any material portions thereof or the failure promptly to perform any of the provisions thereof shall be cause for the forfeiture of this franchise and grant and all rights hereunder by the City after sixty (60) days' written notice to the Grantee and the continuance of such violation, failure or default; however, this provision shall not prevent the Grantee from

submitting such question of violation or forfeiture to the appropriate forum (which may include the district court having jurisdiction or the Idaho Public Utilities Commission) for determination.

SECTION 17. Sale, assignment or lease of this franchise is prohibited without notification to the City.

SECTION 18. The Grantee shall assume the cost of publication of this franchise as such publication is required by law.

SECTION 19. The Grantee shall within thirty (30) days after final passage of this ordinance, file with the City Clerk its acceptance of this franchise in writing signed by its proper officers and attested by its corporate seal.

SECTION 20. The existing franchise agreement between the City and Grantee set forth in Ordinance No. 252, dated July 26, 1996, shall terminate upon the effective date of this ordinance.

SECTION 21. Inasmuch as the Grantee has constructed and now is maintaining and operating the electric utility property and facilities in and upon the streets, alleys, highways, and public places in the City, it is hereby adjudged and declared that this ordinance is necessary for the preservation of the public peace, health and safety, and therefore this ordinance shall take effect on \_\_\_\_\_.

PASSED AND ADOPTED by the Council of the City of Idaho City this \_\_\_\_ day of \_\_\_\_\_, 2021.

APPROVED by the Mayor this \_\_\_\_ day of \_\_\_\_\_, 2021.

ATTEST:

\_\_\_\_\_  
Mayor

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

(Seal)



ACCEPTANCE

IDAHO POWER COMPANY, as the franchisee, accepts the franchise set forth in the above Ordinance and agrees to abide by the terms and conditions thereof.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2021.

By: \_\_\_\_\_  
Adam Richins  
SVP & Chief Operating Officer

ATTEST:

\_\_\_\_\_  
Secretary

(Seal)