5-7-2018

Lamont Bair Enterprises, Inc. v. City of Idaho Falls Clerk's Record Dckt. 45819

IN THE SUPREME COURT OF THE STATE OF IDAHO

LAMONT BAIR ENTERPRISES INC. an Idaho corporation, Plaintiff/Appellant, v. CITY OF IDAHO FALLS, a municipal corporation, Defendant/Respondent.	)	Case No. CV-2016-5711 Docket No. 45819

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CLERK'S RECORD ON APPEAL

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Appeal from the District Court of the
Seventh Judicial District of the State of Idaho,
in and for the County of Bonneville

HONORABLE DANE H. WATKINS, District Judge.

* * * * * * * * * * * * * *

Jared A. Allen
2105 Coronado Street
Idaho Falls, ID 83404
Attorney for Appellant

Blake G. Hall
1075 S. Utah Suite 150
Idaho Falls, ID 83402
Attorney for Respondents

Lamont Bair Enterprises, Inc. vs. City of Idaho Falls, Idaho,

Date	Code	User		Judge
10/21/2016	SMIS	CPETERSON	Summons Issued	Dane H Watkins Jr
	NCOC	CPETERSON	New Case Filed-Other Claims	Dane H Watkins Jr
	NOAP	CPETERSON	Plaintiff: Lamont Bair Enterprises, Inc. Notice Of Appearance Jared W Allen	Dane H Watkins Jr
		CPETERSON	Filing: AA- All initial civil case filings in District Court of any type not listed in categories E, F and H(1) Paid by: Beard St. Clair Gaffney, PA Receipt number: 0045541 Dated: 10/24/2016 Amount: $221.00 (Check) For: Lamont Bair Enterprises, Inc. (plaintiff)	Dane H Watkins Jr
	COMP	CPETERSON	Complaint and Demand for Jury Trial	Dane H Watkins Jr
11/22/2016	NOAP	BJENNINGS	Defendant: City of Idaho Falls, Idaho, Notice Of Appearance Blake G. Hall	Dane H Watkins Jr
		BJENNINGS	Filing: I1 - Initial Appearance by persons other than the plaintiff or petitioner Paid by: Hall, Blake G. (attorney for City of Idaho Falls, Idaho,) Receipt number: 0049963 Dated: 11/23/2016 Amount: $136.00 (Check) For: City of Idaho Falls, Idaho, (defendant)	Dane H Watkins Jr
	ANSW	BJENNINGS	Answer and Demand for Jury Trial	Dane H Watkins Jr
	NTOS	BJENNINGS	Notice Of Service - Defendant's First Set of Interrogatories and Requests for Production of Documents	Dane H Watkins Jr
2/23/2017	HRSC	CARTER	Hearing Scheduled (Scheduling Conference 04/13/2017 09:00 AM)	Dane H Watkins Jr
		CARTER	Notice of Hearing	Dane H Watkins Jr
	NTOS	JNICHOLS	Notice Of Service Plaintiff's Response To Defendant's First Set OF Interrogatories And Requests For Production Of Documents	Dane H Watkins Jr
2/27/2017	NTOS	BJENNINGS	Notice Of Service - Plaintiff's First Set of Interrogatories, Requests for Production, and Requests for Admissions to Defendant	Dane H Watkins Jr
3/31/2017	NTOS	BJENNINGS	Notice Of Service - Defendant's Response to First Set of Interrogatories, Requests for Production of Documents and Requests for Admission	Dane H Watkins Jr
4/13/2017	MINE	CARTER	Minute Entry Hearing type: Scheduling Conference Hearing date: 4/13/2017 Time: 9:08 am Courtroom: Court reporter: Minutes Clerk: Cassie Carter Tape Number: Party: City of Idaho Falls, Idaho,, Attorney: Blake Hall Party: Lamont Bair Enterprises, Inc., Attorney: Jared Allen	Dane H Watkins Jr

Lamont Bair Enterprises, Inc. vs. City of Idaho Falls, Idaho,

Date	Code	User		Judge
4/13/2017	HRSC	CARTER	Hearing Scheduled (Pretrial Conference 12/20/2017 08:30 AM)	Dane H Watkins Jr
	HRSC	CARTER	Hearing Scheduled (Jury Trial 01/23/2018 10:00 AM)	Dane H Watkins Jr
	DCHH	CARTER	Hearing result for Scheduling Conference scheduled on 04/13/2017 09:00 AM: District Court Hearing Held Court Reporter: Amy Bland Number of Transcript Pages for this hearing estimated:	Dane H Watkins Jr
4/17/2017	ORDR	CARTER	Order Setting Trial and Pretrial Conference	Dane H Watkins Jr
9/18/2017	NOTC	BJENNINGS	Notice of Deposition of Rick Ackerman	Dane H Watkins Jr
10/10/2017	NOTC	CPETERSON	Amended Notice of Deposition of Rick Ackerman	Dane H Watkins Jr
10/11/2017	NDDT	TCORONA	Notice Of Deposition of City of Idaho Falls Pursuant to I.R.C.P. 30(B)(6)	Dane H Watkins Jr
10/13/2017	NTOS	CPETERSON	Notice Of Service - Plaintiff's Second Set of Interrogatories, Requests for Production, and Requests for Admission	Dane H Watkins Jr
10/18/2017	NOTC	CPETERSON	Notice of Deposition of Brian Hansen	Dane H Watkins Jr
10/20/2017	HRSC	CARTER	Hearing Scheduled (Motion 12/13/2017 09:00 AM) Mtn for Summary Judgment	Dane H Watkins Jr
10/23/2017	NTOS	CPETERSON	Notice Of Service - Defendant's Amended Response to First Set of Interrogatories, Requests for Production of Documents and Requests for Admission	Dane H Watkins Jr
	MOTN	ALINARES	Defendant's Motion For Summary Judgment	Dane H Watkins Jr
	AFFD	ALINARES	Affidavit of David Richards In Support of Motion For Summary Judgment	Dane H Watkins Jr
	AFFD	ALINARES	Affidavit of David Stangel In Support of Motion For Summary Judgment	Dane H Watkins Jr
	AFFD	ALINARES	Affidavit of Blake G. Hall In Support of Motion For Summary Judgment	Dane H Watkins Jr
	MEMO	ALINARES	Memorandum In Support of Motion For Summary Judgment	Dane H Watkins Jr
	NOTH	ALINARES	Notice Of Hearing - 12/13/2017 at 9:00 a.m.	Dane H Watkins Jr
	MOTN	ALINARES	Motion For Extension of Time For Court To Hear Dispositive Motions	Dane H Watkins Jr
10/25/2017	NDDT	TCORONA	Notice Vacating Deposition of Brian Hansen	Dane H Watkins Jr
11/3/2017	ORDR	CARTER	Order Granting Extension of Time for Hearing Dispositive Motions	Dane H Watkins Jr
11/7/2017	RTCT	ALINARES	T&T Reporting	Dane H Watkins Jr
	RTCT	ALINARES	T&T Reporting	Dane H Watkins Jr
11/16/2017	NTOS	TCORONA	Notice Of Service Defendant's Second Set of Interrogatories and Production of Documents and Requests for Admission	Dane H Watkins Jr

Lamont Bair Enterprises, Inc. vs. City of Idaho Falls, Idaho,

Date	Code	User		Judge
11/29/2017	MOTN	TCORONA	Plaintiff's Motion to Strike	Dane H Watkins Jr
	AFFD	TCORONA	Affidavit of Counsel Re: Motion for Summary Judgment and Motion to Strike	Dane H Watkins Jr
	MEMO	TCORONA	Memorandum in Support of Motion to Strike	Dane H Watkins Jr
	MEMO	TCORONA	Memorandum in Opposition to Motion for Summary Judgment	Dane H Watkins Jr
	NOTH	TCORONA	Notice Of Hearing 12/13/17 @9:00 AM Motion to Strike	Dane H Watkins Jr
12/5/2017	RESP	TCORONA	Response Memorandum in Opposition to Plaintiff's Motion to Strike	Dane H Watkins Jr
	RESP	TCORONA	Reply Memorandum in support of Motion for Summary Judgment	Dane H Watkins Jr
12/13/2017	MINE	CARTER	Minute Entry Hearing type: Motion Hearing date: 12/13/2017 Time: 8:45 am Courtroom: Court reporter: Minutes Clerk: Cassie Carter Tape Number: Party: City of Idaho Falls, Idaho,, Attorney: Blake Hall Party: Lamont Bair Enterprises, Inc., Attorney: Jared Allen	Dane H Watkins Jr
	CONT	CARTER	Hearing result for Jury Trial scheduled on 01/23/2018 10:00 AM: Continued 4 days	Dane H Watkins Jr
	CONT	CARTER	Hearing result for Pretrial Conference scheduled on 12/20/2017 08:30 AM: Continued	Dane H Watkins Jr
	DCHH	CARTER	Hearing result for Motion scheduled on 12/13/2017 09:00 AM: District Court Hearing Hel Court Reporter: Amy Bland Number of Transcript Pages for this hearing estimated: Mtn for Summary Judgment	Dane H Watkins Jr
	HRSC	CARTER	Hearing Scheduled (Pretrial Conference 04/19/2018 08:30 AM)	Dane H Watkins Jr
	HRSC	CARTER	Hearing Scheduled (Jury Trial 05/15/2018 10:00 AM) 4 days	Dane H Watkins Jr
		CARTER	Notice of Hearings	Dane H Watkins Jr
1/9/2018	MEMO	CARTER	Memorandum Decision and Order RE: Motion to Strike and Motion for Summary Judgment	Dane H Watkins Jr
2/1/2018	HRVC	CARTER	Hearing result for Jury Trial scheduled on 05/15/2018 10:00 AM: Hearing Vacated 4 days	Dane H Watkins Jr
	HRVC	CARTER	Hearing result for Pretrial Conference scheduled on 04/19/2018 08:30 AM: Hearing Vacated	Dane H Watkins Jr
	JDMT	CARTER	Judgment of Dismissal	Dane H Watkins Jr
	STATUS	CARTER	Case Status Changed: Closed	Dane H Watkins Jr

Lamont Bair Enterprises, Inc. vs. City of Idaho Falls, Idaho,

Date	Code	User		Judge
2/1/2018	CDIS	CARTER	Civil Disposition entered for: City of Idaho Falls, Idaho,, Defendant; Lamont Bair Enterprises, Inc., Plaintiff. Filing date: 2/1/2018	Dane H Watkins Jr
2/5/2018	MEMO	ALINARES	Memorandum of Costs	Dane H Watkins Jr
	AFFD	ALINARES	Affidavit In Support of Memorandum of Costs	Dane H Watkins Jr
3/2/2018		FREYJ	Filing: L4 - Appeal, Civil appeal or cross-appeal to Supreme Court Paid by: Beard St. Clair Gaffney, PA Receipt number: 0009226 Dated: 3/2/2018 Amount: $129.00 (Check) For: Lamont Bair Enterprises, Inc. (plaintiff)	Dane H Watkins Jr
	BNDC	FREYJ	Bond Posted - Cash (Receipt 9231 Dated 3/2/2018 for 100.00)	Dane H Watkins Jr
	TRAN	FREYJ	Transcript Filed (Receipt 9232 Dated 3/2/2018 for 200.00)	Dane H Watkins Jr
	NOTC	FREYJ	Plaintiff's Notice of Appeal	Dane H Watkins Jr
	APSC	FREYJ	Appealed To The Supreme Court	Dane H Watkins Jr
3/5/2018	NOTC	CPETERSON	Plaintiff's Notice of Appeal (With Attachment)	Dane H Watkins Jr
3/7/2018	CERTAP	LSPOKLIE	Clerk's Certificate of Appeal	Dane H Watkins Jr
3/15/2018	JDMT	CARTER	Judgment on Costs - $644.77	Dane H Watkins Jr
	STATUS	CARTER	Case Status Changed: Closed pending clerk action	Dane H Watkins Jr
3/16/2018	BNDE	PADILLA	Transcript Bond Exonerated (Amount 200.00)	Dane H Watkins Jr
3/30/2018	MOTN	ALINARES	Plaintiff's Motion For Stay of Execution and Waiver of Bond Requirement (I.A.R.13(b)(15))	Dane H Watkins Jr
	MEMO	ALINARES	Memorandum In Support of Plaintiff's Motion For Stay of Execution and Waiver of Bond Requirement (I.A.R.13(b)(15))	Dane H Watkins Jr
	AFFD	ALINARES	Affidavit of Counsel RE: Motion For Stay of Execution and Waiver of Bond Requirement (I.A.R.13(b)(15))	Dane H Watkins Jr
4/2/2018	HRSC	CARTER	Hearing Scheduled (Motion 05/16/2018 11:00 AM) Mtn for Stay of Execution	Dane H Watkins Jr
	BNDC	ALINARES	Bond Posted - Cash (Receipt 13801 Dated 4/2/2018 for 876.89)	Dane H Watkins Jr
	MOTN	ALINARES	Plaintiff's Amended Motion For Stay of Execution (I.A.R. 13 (b)(15))	Dane H Watkins Jr
4/6/2018	NOTC	CPETERSON	Defendant's Notice of Non-Opposition to Plaintiff's Amended Motion for Stay of Execution	Dane H Watkins Jr
4/12/2018	BNDC	ALINARES	Bond Posted - Cash (Receipt 15431 Dated 4/12/2018 for 271.70)	Dane H Watkins Jr

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Attorney for Plaintiff, Lamont Bair Enterprises, Inc.

DISTRICT COURT SEVENTH JUDICIAL DISTRICT
BONNEVILLE COUNTY IDAHO

LAMONT BAIR ENTERPRISES, INC., an Idaho corporation, Plaintiff, vs. CITY OF IDAHO FALLS, a municipal corporation, Defendants.	Case No.: CV16-5711 COMPLAINT AND DEMAND FOR JURY TRIAL

Lamont Bair Enterprises, Inc. alleges and complains as follows:

PARTIES

1. The plaintiff, Lamont Bair Enterprises, Inc. (LBE or the plaintiff) is an Idaho corporation with its principal place of business in Idaho Falls, Idaho.

2. The defendant, the City of Idaho Falls (the City or the defendant), is a municipal corporation located in Bonneville County, Idaho.

JURISDICTION AND VENUE

3. This Court has jurisdiction over this action and the parties to this action pursuant to Idaho Code §§ 5-404, 6-910 and 6-914.

4. This is a proper venue for this action pursuant to Idaho Code § 6-915.

GENERAL ALLEGATIONS

5. LBE is the owner of multiple residential rental units situated on the east side of Skyline Drive at the intersection of Skyline Drive and Brentwood Drive in the City of Idaho Falls including a four-plex rental property located at 547 South Skyline Drive (the Property).

6. The Property is serviced by the municipal water lines owned and maintained by the City.

7. On or about December 28, 2015, a municipal water main line ruptured at the intersection of Brentwood Drive and Skyline Drive.

8. Water from the rupture eroded the soil and flowed along the exterior of the service line through which water is delivered to the Property.

9. The water flowed outside and along the service line with sufficient force to cause substantial subterranean erosion beneath Skyline Drive, beneath the driveway and courtyard at the Property.

10. The water further caused erosion to the soil providing structural support and stability to the structure on the Property.

11. Water and eroded soil flowed beneath the structure until it built up sufficient hydraulic pressure to fracture the concrete basement floor beneath one of the units, at which point water and mud flowed into the structure and flooded all or part of the basement of each of the four rental units.

12. The flooding from the broken water main caused substantial damage to the Property including erosion of soils beneath concrete slabs resulting in settlement cracks and partial collapse of the concrete slabs, erosion of the soils providing structural stability and support to the structure on the property, hydraulic fracturing of the basement concrete slab, and flooding and water damage to the interior of the property.

13. In addition to the significant damage to the property, LBE incurred additional losses in the form of lost rent from tenants and additional expenses to provided tenants with an alternate location to reside during the remediation process required to return to the Property to a livable condition.

14. On June 16, 2016, 171 days after the rupture of the water main line and after first attempting to reach an amicable resolution to the situation, LBE caused a Notice of Tort Claim to be filed upon the City's clerk by hand delivery pursuant to the requirements of the Idaho Tort Claims Act, Idaho Code §§ 6-901 et. seq.

15. More than 90 days have passed since the service of the Notice of Tort Claim upon the City's clerk and City has failed to approve or deny the claim resulting in a deemed denial.

16. Based upon that denial, LBE brings this action pursuant to Idaho Code § 6-910.

COUNT ONE – NEGLIGENCE

17. LBE realleges all preceding paragraphs by reference.

18. The City has a duty to exercise reasonable care in the installation, maintenance, repair, and replacement of its municipal water pipes.

19. The City breached its duty by failing to exercise reasonable care in the maintenance, repair, and replacement of its municipal water pipes.

20. The City's failure to exercise reasonable care in the maintenance, repair, and replacement of its municipal water pipes is the direct and proximate cause of the damage to the Property and the losses sustained by LBE as a result thereof.

21. LBE has suffered damages in the manner outlined above in an amount to be determined at trial.

22. The City, having discovered the water main rupture and having repaired the subsurface erosion beneath Skyline Drive between the location of the rupture and the Property, has actual knowledge of the subsurface erosion and its cause and its failure to resolve LBE's claim is in bad faith entitling LBE to the recovery of costs and attorney fees herein pursuant to Idaho Code § 6-918A and other applicable rule or law.

COUNT TWO – RES IPSA LOQUITUR

23. LBE realleges all preceding paragraphs by reference.

24. Water main lines do not typically fail in the absence of a failure to correctly, and with reasonable care, install, maintain, repair, and replace the lines.

25. The water main line at issue was in the exclusive control of the City and was buried beneath the City road ruling out the possibility that the actions of LBE or any third party caused the water main line failure and subsequent injury to the Property owned by LBE.

26. The City, acting in its proprietary capacity as the owner, maintainer, and operator of the municipal water system for the benefit of city residents and customers, is liable for damages arising from its negligence under the same rules as are applied to private enterprise and the failure to adequately maintain the water main line is within the scope of the City's duty to IBE.

27. Because the City has exclusive control of the water main line, a finder of fact may infer from the water main line failure and from the damages suffered by IBE that the City acted negligently.

28. LBE has suffered damages in the manner outlined above in an amount to be determined at trial.

29. The City, having discovered the water main rupture and having repaired the subsurface erosion beneath Skyline Drive between the location of the rupture and the Property, has actual knowledge of the subsurface erosion and its cause and its failure to resolve LBE's claim is in bad faith entitling LBE to the recovery of costs and attorney fees herein pursuant to Idaho Code § 6-918A and other applicable rule or law.

PRAYER FOR RELIEF

The plaintiff, Lamont Bair Enterprises, Inc., prays for relief from this Court as follows:

1. Entry of judgment in favor of LBE and against the City awarding to LBE damages in an amount to be determined at trial;

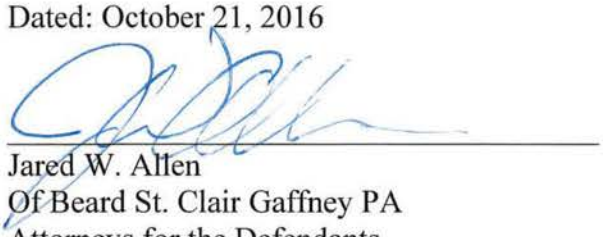
2. An additional award of attorney fees and costs incurred herein pursuant to Idaho Code § 6-918A, Rule 54 of the Idaho Rules of Civil Procedure, and other applicable rule or law;

3. Such other relief as the Court may deem just and appropriate under the totality of the circumstances.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38 of the Idaho Rules of Civil Procedure, LBE demands trial by jury on all issues triable to a jury.

Dated: October 21, 2016



Jared W. Allen
Of Beard St. Clair Gaffney PA
Attorneys for the Defendants

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SAM L. ANGELL, ESQ.
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Attorneys for Defendant

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE

LAMONT BAIR ENTERPRISES, INC., an Idaho corporation, Plaintiff, v. CITY OF IDAHO FALLS, a municipal corporation, Defendant.	Case No. CV-2016-5711 **ANSWER AND DEMAND FOR JURY TRIAL**

By and through counsel of record, Defendant submits the following as an Answer to Plaintiff's Complaint and Demand for Jury Trial (hereinafter "Complaint").

In answering this Complaint, Defendant expressly reserves, in addition to the defenses set forth below, all other defenses provided by law. Moreover, Defendant states that its investigation of this matter is continuing and as such, certain averments, statements and defenses may change in the future in light of additional or newly discovered information.

GENERAL DENIAL

Defendant denies any and all allegations in Plaintiff's Complaint not expressly admitted herein.

1. With regard to Paragraph 1, Defendant is without information sufficient to either admit or deny, and therefore, denies the same.

2. With regard to Paragraph 2, Defendant admits the same.

3. With regard to Paragraph 3, Defendant is without information sufficient to either admit or deny, and therefore, denies the same.

4. With regard to Paragraph 4, Defendant is without information sufficient to either admit or deny, and therefore, denies the same.

5. With regard to Paragraph 5, Defendant is without information sufficient to either admit or deny, and therefore, denies the same.

6. With regard to Paragraph 6, Defendant is without information sufficient to either admit or deny, and therefore, denies the same.

7. With regard to Paragraph 7, Defendant is without information sufficient to either admit or deny, and therefore, denies the same.

8. With regard to Paragraph 8, Defendant is without information sufficient to either admit or deny, and therefore, denies the same.

9. With regard to Paragraph 9, Defendant is without information sufficient to either admit or deny, and therefore, denies the same.

10. With regard to Paragraph 10, Defendant is without information sufficient to either admit or deny, and therefore, denies the same.

11. With regard to Paragraph 11, Defendant is without information sufficient to either admit or deny, and therefore, denies the same.

12. With regard to Paragraph 12, Defendant is without information sufficient to either admit or deny, and therefore, denies the same.

13. With regard to Paragraph 13, Defendant is without information sufficient to either admit or deny, and therefore, denies the same.

14. With regard to Paragraph 14, Defendant denies the same.

15. With regard to Paragraph 15, Defendant is without information sufficient to either admit or deny, and therefore, denies the same.

16. With regard to Paragraph 16, Defendant is without information sufficient to either admit or deny, and therefore, denies the same.

17. With regard to Paragraph 17, this paragraph contains no allegations of fact and therefore, Defendant denies the same.

18. With regard to Paragraph 18, Defendant denies the same.

19. With regard to Paragraph 19, Defendant denies the same.

20. With regard to Paragraph 20, Defendant denies the same.

21. With regard to Paragraph 21, Defendant denies the same.

22. With regard to Paragraph 22, Defendant denies the same.

23. With regard to Paragraph 23, this paragraph contains no allegations of fact and therefore, Defendant denies the same.

24. With regard to Paragraph 24, Defendant denies the same.

25. With regard to Paragraph 25, Defendant denies the same.

26. With regard to Paragraph 26, Defendant denies the same.

27. With regard to Paragraph 27, Defendant denies the same.

28. With regard to Paragraph 28, Defendant denies the same.

29. With regard to Paragraph 29, Defendant denies the same.

AFFIRMATIVE DEFENSES

1. Plaintiff's Complaint, and each and every allegation contained therein, fails to state a claim against Defendant upon which relief can be granted.

2. Plaintiff has failed to comply with requirements of the Idaho Tort Claims Act.

3. Defendant is entitled to immunity under the Idaho Tort Claims Act.

4. Plaintiff has failed to exhaust administrative remedies with regard to some or all of the claims asserted for which exhaustion is required under applicable law.

5. Plaintiff's damages, if any, are solely attributable to the conduct of Plaintiff and/or were proximately caused in whole or in part by unforeseeable, independent, intervening, and/or superseding events and by the unforeseeable, acts and/or omissions of persons or entities other than Defendant.

6. Plaintiff lacks standing to pursue claims in this matter and/or Plaintiff's claims are moot and/or not yet ripe.

7. Plaintiff's claims are precluded by the doctrines of Waiver, Estoppel and/or Laches.

8. Plaintiff's claims are precluded by the applicable Statutes of Limitation, specifically I.C. §§ 5-218 and 5-219.

9. Plaintiff has failed to mitigate damages, if any.

10. The acts or omissions of Plaintiff and/or others constitute comparative negligence which, pursuant to Idaho Code § 6-801 *et seq*, or other applicable laws, bars or reduces Plaintiff's recovery, if any, against Defendant.

11. The actions of Defendant were at all times carried out in good faith. Defendant had objectively reasonable belief that all conduct was lawful at all times stated in Plaintiff's Complaint.

12. Equitable remedies are not appropriate.

13. Plaintiff's damages, if any, were caused by the actions of Plaintiff and/or other individuals or entities other than Defendant.

14. The foregoing defenses are applicable, where appropriate, to any and all of Plaintiff's claims for relief. In asserting these defenses, Defendant does not admit that it has the burden of proving the allegations or denials contained in the defenses, but, to the contrary, asserts that by reasons of the denials and/or by reason of relevant statutory and judicial authority, the burden of proving the facts relevant to many of the defenses and/or the burden of proving the inverse to the allegations contained in many of the defenses is upon the Plaintiffs. Defendant does not admit, in asserting any defense, any responsibility or liability, but, to the contrary, specifically denies any and all allegations of responsibility and liability in Plaintiffs' Complaint.

15. Defendant has considered and believes that it may have additional defenses to Plaintiffs' Complaint, but cannot at this time, consistent with Rule 11 of the Idaho Rules of Civil Procedure, state with specificity those defenses. Accordingly, Defendant reserves the right to supplement its Answer and add additional defenses as discovery in this case progresses.

REQUEST FOR ATTORNEY FEES

Defendant has been required to retain counsel to defend this action, and is entitled to recover reasonable attorney fees and costs incurred in the defense of this action from Plaintiff, pursuant to Idaho Code §§ 6-918A, 12-117, 12-120, 12-121, Rules 54 and 58 of the Federal Rules of Civil Procedure and all other applicable laws allowing for the recovery of costs or attorney fees in this action. Defendant denies that Plaintiff is entitled to any award of attorney fees.

WHEREFORE, Defendant prays for judgment as follows:

1. That Plaintiff's Complaint be dismissed with prejudice, with Plaintiff taking nothing thereunder;

2. Defendant be awarded costs and attorney fees necessarily incurred in defending this action;

3. For such other relief as the Court may deem just and proper.

Dated this 22 day of November, 2016.

BLAKE G. HALL

DEMAND FOR JURY TRIAL

Defendant requests a trial of the issues of fact herein by a jury.

Dated this 22 day of November, 2016.

BLAKE G. HALL

CERTIFICATE OF SERVICE

I hereby certify that I served a true copy of the foregoing document upon the following this 22 day of November, 2016, by the method indicated below:

Jared W. Allen, Esq.
John M. Avondet, Esq.
BEARD ST CLAIR GAFFNEY
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[X] Mailing
[ ] Facsimile
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Blake G. Hall
BLAKE G. HALL

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Attorneys for Defendant

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE

LAMONT BAIR ENTERPRISES, INC., an Idaho corporation, Plaintiff, v. CITY OF IDAHO FALLS, a municipal corporation, Defendant.	Case No. CV-2016-5711 **MOTION FOR SUMMARY JUDGMENT**

Defendant, CITY OF IDAHO FALLS, by and through counsel of record, HALL ANGELL & ASSOCIATES, LLP, hereby moves this Court for an Order granting summary judgment in this matter, pursuant to I.R.C.P. Rule 56. This motion is based upon the record, pleadings, memorandum in support, and affidavits in support filed herewith. Oral argument is requested.

Dated this 23 day of October, 2017.

BLAKE G. HALL

CERTIFICATE OF SERVICE

23 I hereby certify that I served a true copy of the foregoing document upon the following this day of October, 2017, by the method indicated below:

Jared W. Allen, Esq.
John M. Avondet, Esq.
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[ ] Hand-Delivery

BLAKE G. HALL

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ISB Nos. 2434 and 7012
bgh@hasattorneys.com
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Attorneys for Defendant

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE

LAMONT BAIR ENTERPRISES, INC., an Idaho corporation, Plaintiff, v. CITY OF IDAHO FALLS, a municipal corporation, Defendant.	Case No. CV-2016-5711 **AFFIDAVIT OF DAVID RICHARDS IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT**

STATE OF IDAHO)
: ss.
County of Bonneville)

DAVID RICHARDS, being first duly sworn upon oath, deposes and states as follows:

1. That I am over the age of eighteen (18) and am competent to testify in this matter. I make this affidavit based on my own personal knowledge unless otherwise indicated. This affidavit is made under the penalty of perjury.

2. I am a licensed professional engineer in Idaho, and I work for the City of Idaho Falls as the Superintendent of the Water Division for the Public Works Department. I am

familiar with engineering standards for the design, construction, and maintenance of water conveyance systems and am intimately familiar with the City's water system at issue in this case.

3. I have a bachelor's degree in civil and environmental engineering and have over twenty years of planning, design, and construction experience in a variety of public works projects specializing in water system projects. I have worked as Water Superintendent for the City of Idaho Falls for the past fourteen years. Attached as *Exhibit A* is a true and correct copy of my curriculum vitae.

4. I am aware that on December 28, 2015, there was a break in the City's water line at the intersection of Skyline Drive and Brentwood Drive in Idaho Falls, Idaho. The break occurred in the line running west from the Skyline Drive intersection down Brentwood Drive. Attached as *Exhibit B* is an aerial photo with markings I have created to accurately depict the location of the break and general area at issue.

5. The type of break that occurred here was a shear break, or in other words a clean snap of the entire circumference of the pipe. The water line in question is 6-inch diameter, cast iron piping that was installed in 1959.

6. The City has over 314 miles of public pipeline made of various materials, including asbestos cement, cast iron, ductile iron, galvanized steel, polyethylene, and steel. In the early 1900s, the City of Idaho Falls began using steel piping in its water system. Steel piping is very strong but is easily susceptible to corroding. During this same time period, the City also began using cast iron piping because although it is a little more brittle than steel, it does not exhibit the same corrosive characteristics. Cast iron piping in the early 1900s was cast with thick walls and often referred to as "sand-cast" cast iron piping.

7. In the 1920s, manufacturers made improvements to manufacturing practices of their cast iron piping allowing the walls to be reduced in thickness. During the 1940s, there was a shortage of steel caused by World War II. Almost all of the country's steel was being utilized in making tanks and ships. Iron also became scarce.

8. Manufacturers during the 1940s learned to reduce the wall thickness of cast iron piping through centrifugal casting. Asbestos cement was also created during this time due to shortages in steel and iron. Although asbestos cement piping was used in some areas, the City of Idaho Falls largely installed cast iron piping during this period.

9. In the 1960s, pipe manufacturers began blending cast iron and steel to generate a new form of pipe called ductile iron piping. This new piping exhibits more of the strength of steel piping coupled with the non-corrosive nature of cast iron, creating a more durable and longer lasting product. In 1976, the City officially transitioned to installing ductile iron piping.

10. With cast iron piping, the life expectancy varies based on the time periods in which the piping was installed due to changing manufacturing technique and materials. Late 1800s to early 1900s cast iron piping has a life expectancy of 120 years. Cast iron piping installed in the 1920s to 1940s has a life expectancy of 100 years. Cast iron piping installed in the 1940s and newer has a life expectancy of 75 years.

11. In 2014, the City retained the engineering services of Murray, Smith & Associates, Inc. (Murray Smith) to assist in preparing a water facility plan for the City. I worked closely with Murray Smith to develop a plan for pipeline replacement and prioritization. Attached as *Exhibit C* is a true and correct copy of the portion of the City's Water Facility Plan, pertaining to pipeline replacement and prioritization. The City's plan as set forth in Table 6-10 indicates that the City expects to replace its cast iron piping installed between 1940 and 1959

within 15 years. The City's Water Facility Plan was prepared by professional engineers and conforms with engineering standards.

12. As Superintendent of the Water Division, it was my responsibility to familiarize myself with and understand the City's resources in assisting in the development of a plan that meets the needs of the City. Because the Water Facility Plan includes recommendations for future capital improvements, it was developed based on the City's resources, including manpower, machinery, budgetary constraints, and the public interest. Decisions regarding the Water Facility Plan are made only after considering these City resources.

13. After Murray Smith had completed the City's Water Facility Plan, the plan was presented to the city council on May 11, 2015. A public meeting on the plan was held on July 20, 2015 and public comments were solicited until August 3, 2015. On July 27, 2015, the Idaho Department of Environmental Quality approved the Water Facility Plan.

14. On August 13, 2015, the Idaho Falls City Council accepted the Facility Plan and adopted the recommendations contained therein. Attached as *Exhibit D* is a true and correct copy of the Agenda for the August 13, 2015 city council meeting. On page 6 of the agenda, the Water Facility Plan is discussed. Attached as *Exhibit E* is a true and correct copy of the minutes from the August 13, 2015 city council meeting. Pages 15 and 16 of the minutes demonstrate that the city council accepted the Water Facility Plan and adopted the recommendations contained therein.

15. The City is consistently increasing water rates to achieve the goals set forth in the Water Facility Plan. The plan recommends that this piping be replaced within 15 years so that no pipes used in the City's system, barring unforeseen circumstances, will have exceeded their respective life expectancies.

16. The piping at issue in this matter was approximately 56 years old and had not exceeded its life expectancy, and the City has not had issues with leaks in the area where this incident occurred. The City did not have notice of any defects in its waterline.

17. In general, there are very few problems of leaks in the City's water lines west of the Snake River. The subsoil west of the Snake River is soft and sandy creating an environment that is easy on the water lines. Conversely, the subsoil east of the Snake River tends to have more clay and be harder on the water lines. Attached as *Exhibit F* is a true and correct copy of a map of the City's water system displaying the location of leaks in the system as of March 20, 2017. As can be seen on the map, there are few leaks west of the river.

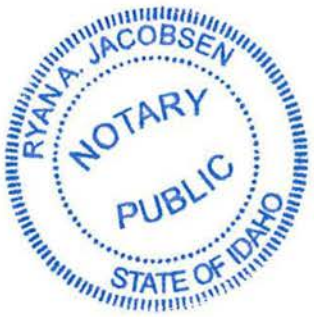
18. The break at issue here occurred in late December of 2015 and was a shear break of the 6-inch piping. It is my professional opinion that this break was caused by shifting soils due to deep frost penetration, and that the circumstances giving rise to the break were not within the City's control or ability to prevent.

19. Further, it is my professional opinion that the City of Idaho Falls' water line located at the intersection of Skyline Drive and Brentwood Drive and at issue in this matter was designed, constructed, and maintained in accordance with engineering standards and met all state and federal standards on December 28, 2015. Although a water system may meet all state and federal standards, it remains vulnerable to acts of nature such as significant freezing and frost penetration into subsoils.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

DAVID RICHARDS

SUBSCRIBED AND SWORN TO, before me the undersigned, a Notary Public in and for said State, this 19 day of October, 2017.



Notary Public for Idaho
Residing at: Idaho Falls
My commission expires: 7/15/2021

CERTIFICATE OF SERVICE

I hereby certify that I served a true copy of the foregoing document upon the following this 23 day of October, 2017, by the method indicated below:

Jared W. Allen, Esq.
John M. Avondet, Esq.
BEARD ST CLAIR GAFFNEY
2105 Coronado Street
Idaho Falls, ID 83404
Fax: (208) 529-9732
Email: allen@beardstclair.com
Email: javondet@beardstclair.com.

[X] Mailing
[ ] Facsimile
[X] Email
[ ] Hand-Delivery

BLAKE G. HALL

EXHIBIT A

731 Ensign Drive
Ammon, Idaho 83406
Home/Cell: (208) 705-0045
david-richards@live.com

David P. Richards, P.E.

TOTAL YEARS OF WORKING EXPERIENCE:

20 ½ Years

WORK EXPERIENCE:

2004-Present **City of Idaho Falls** – Idaho Falls, Idaho, **Water Superintendent**
Responsibilities include: Full management of City's water system including responsible charge of 17 employees; department budgeting and expenditures; capital project master planning; asset management; sampling compliance; personnel training & safety; review and approval of development documents, including dedication plats, site plans, and improvement drawings; establishing division policy.

1998-2004 **Layton City Corporation** – Layton, Utah, **Assistant City Engineer**
Duties included: construction project design and review for street, water, storm sewer, and sanitary sewer construction projects; complete review and approval of development documents, including dedication plats, site plans, and improvement drawings; construction drawing and specification preparation; water and storm drain system modeling, traffic supervision, traffic signal design.

1997-1998 **Sunrise Engineering, Inc.** – Mesa, Arizona, **Engineering Assistant**
Assist registered professional engineers with engineering duties from project inception to close-out including project proposals, feasibility studies, technical reports, preparation of construction drawings & specifications, construction surveying and inspection.

EDUCATION:

Degree: B.S., August 1997, Brigham Young University (Provo), Civil and Environmental Engineering

Key Studies: Water Mechanics, Hydrology, Technical Writing, Highway Design, Foundation Design, Soil Mechanics, Surveying, Drafting (AutoCAD)

LICENSES, CERTIFICATIONS, AND REGISTRATIONS:

Registered Professional Engineer since October 2001 (Utah) and May 2004 (Idaho)
Licensed Idaho Class IV Water Distribution Operator since May 2004
Water Utility Management Leadership Training – Sept. 2005 – Utah State University
International Municipal Signal Association (IMSA) Certified – Work Zone Safety, Traffic Signal Levels I and II
Member American Water Works Association (AWWA)

KEY PROJECT EXPERIENCE:

- Street Design
- Traffic Signal Design
- Water Distribution Systems
- Water Supply – Wells
- Water Pump Stations
- Storm Drainage Design
- Wastewater Collection
- Water Storage – Tanks
- Water System Telemetry
- Design Drawing Review

KEY RESPONSIBILITIES:

- Personnel Management
- Asset Management
- Emergency Response Planning
- Budgeting
- Master Planning
- Safety Planning

KEY TRAINING AND SKILLS:

- Wood Badge Leadership Training
- Safety Training
- Traffic Signal Design Training
- Round-a-bout Design Training
- Management/Leadership Training
- Risk Management Training
- Sexual Harassment Training
- Technical Writing

VOLUNTEER EXPERIENCE:

2009-2017	Vice President - Eastern Idaho Water Rights Coalition
2007-2013	Board Member - Intermountain Section AWWA
2012	Section Chair - Intermountain Section AWWA
2007	Relay for Life Team Member for City of Idaho Falls
2006-2017	Board Member - SE Idaho Subsection of Intermountain Section AWWA
2005	City of Idaho Falls United Way Drive Co-coordinator
2003-2009	Water Week Water Festival Committee
2003-2008	Church Clerk
1990-1991	Full-time Representative, LDS Church, Chile, Osorno Mission

PERSONAL ACTIVITIES, AWARDS, QUALITIES:

- Married with three children
- BYU Academic Scholarship Recipient
- 4-yr Air Force ROTC Scholarship Recipient
- Member BYU Alumni
- Problem Solver
- Bilingual – Spanish
- Excel in Public Relations
- Enjoy Sports, Outdoor Related Activities
- Punctual
- Strong Work Ethic

REFERENCES:

Furnished upon request

EXHIBIT B

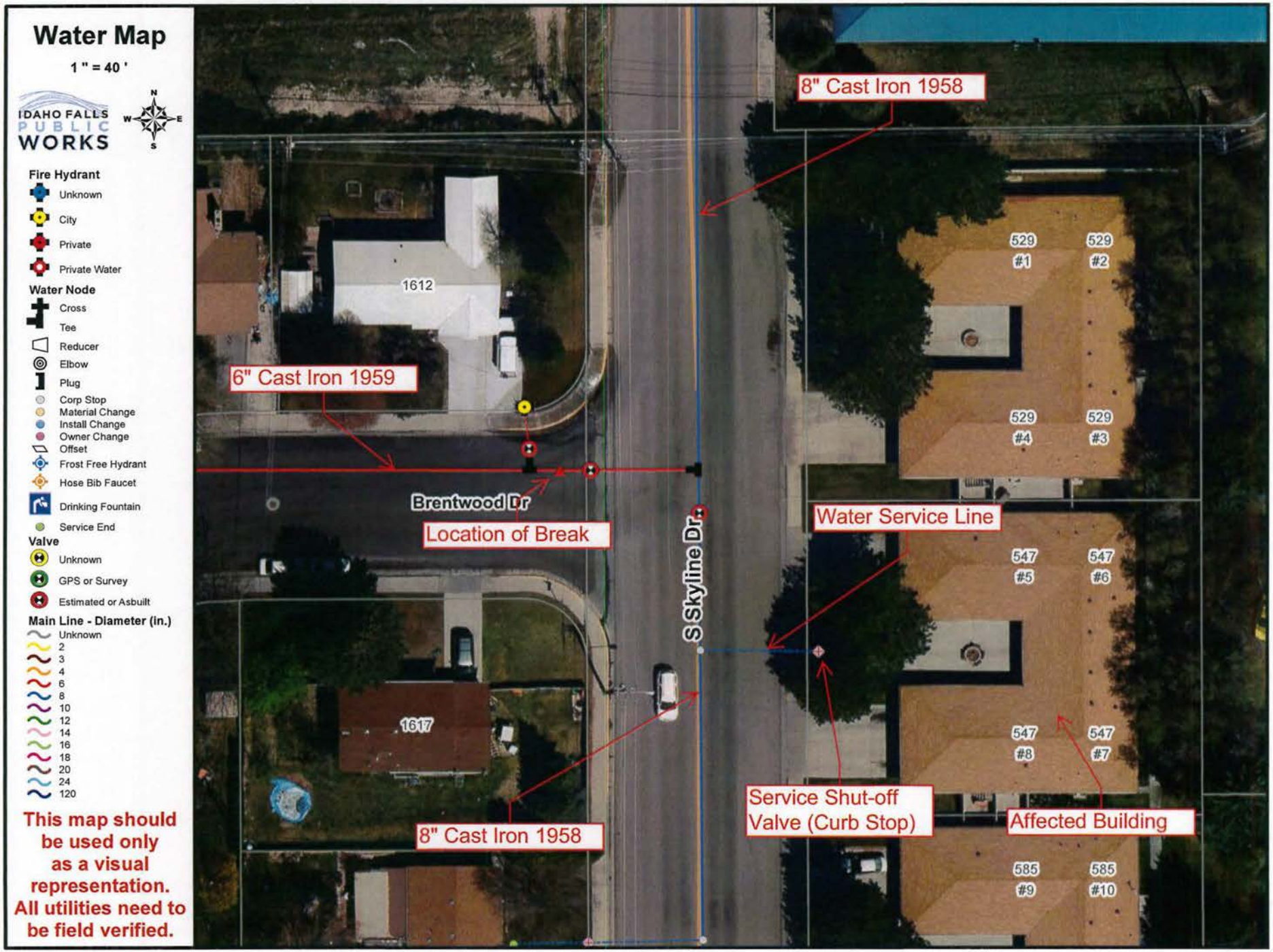

Water Map
1 " = 40 '
IDAHO FALLS PUBLIC WORKS
N
W
E
S
Fire Hydrant
Unknown
City
Private
Private Water
Water Node
Cross
Tee
Reducer
Elbow
Plug
Corp Stop
Material Change
Install Change
Owner Change
Offset
Frost Free Hydrant
Hose Bib Faucet
Drinking Fountain
Service End
Valve
Unknown
GPS or Survey
Estimated or Asbuilt
Main Line - Diameter (in.)
Unknown
2
3
4
6
8
10
12
14
16
18
20
24
120
This map should be used only as a visual representation. All utilities need to be field verified.
8" Cast Iron 1958
6" Cast Iron 1959
Brentwood Dr
Location of Break
S Skyline Dr
Water Service Line
Service Shut-off Valve (Curb Stop)
Affected Building
8" Cast Iron 1958
1612
1617
529 #1
529 #2
529 #4
529 #3
547 #5
547 #6
547 #8
547 #7
585 #9
585 #10

EXHIBIT C

Table 6-10 highlights the pipeline replacement priority based on break records, material, and age as shown in the previous two tables, and indicates the approximate number of years it will take to accomplish the replacement assuming the City replaces 3.2 miles (16,800 ft) of pipeline per year. See Figure 6-3 for a map showing the pipe location for each category in the table. The high priority replacement should focus on cast iron piping installed between 1902 and 1959. The replacement of both the public and private piping at 3.2 miles per year will take the City approximately 19.5 years to complete.

Table 6-10
Years for Pipeline Replacement and Prioritization

Years to Replace[1]											
Install Date	Asbestos Cement	Cast Iron	Ductile Iron	Galvanized Steel	Copper [2]	Polyethylene	Steel	Cast in Place Pipe	UNK	Total	Percent
1902 - 1919	-	0.77	-	0.06	-	-	0.12	-	-	0.95	0.9%
1920 - 1939	0.06	3.81	0.06	0.06	-	-	0.65	-	-	4.58	4.3%
1940 - 1959	1.13	15.00	0.30	0.48	-	-	0.18	-	-	17.02	16.0%
1960 - 1979	0.12	18.93	9.17	0.12	-	-	0.06	-	-	28.33	26.6%
1980 - 1999	-	0.18	26.73	-	-	-	-	-	-	26.90	25.3%
2000 - 2012	-	0.18	23.93	-	-	0.06	0.18	-	-	24.40	22.9%
UNK	-	1.67	1.19	0.12	-	-	-	-	1.19	4.23	4.0%
Total	**1.31**	**40.60**	**61.31**	**0.77**	**-**	**0.06**	**1.13**	**-**	**1.31**	**106.49**	
Percent	1.2%	38.1%	57.6%	0.7%	0.0%	0.1%	1.1%	0.0%	1.2%		

Replacement priority
High
Medium
Low

General note: Includes City, park and private pipelines.

[1] *Values shown as number of years to replace each type of pipeline assuming a replacement rate of 16,800 ft/yr.*

[2] *Values indicated as 0.00 were lost to rounding and truncation.*

In addition to water main pipeline replacement, service pipelines, including both laterals from the water main to meter pit (property line where no pit exists) and hydrant laterals, should be considered for replacement while the water mains are being replaced. City design criteria dictate the standard service material is 1-inch diameter, Type K copper for domestic connections. Larger hydrant lateral connections are typically ductile iron.

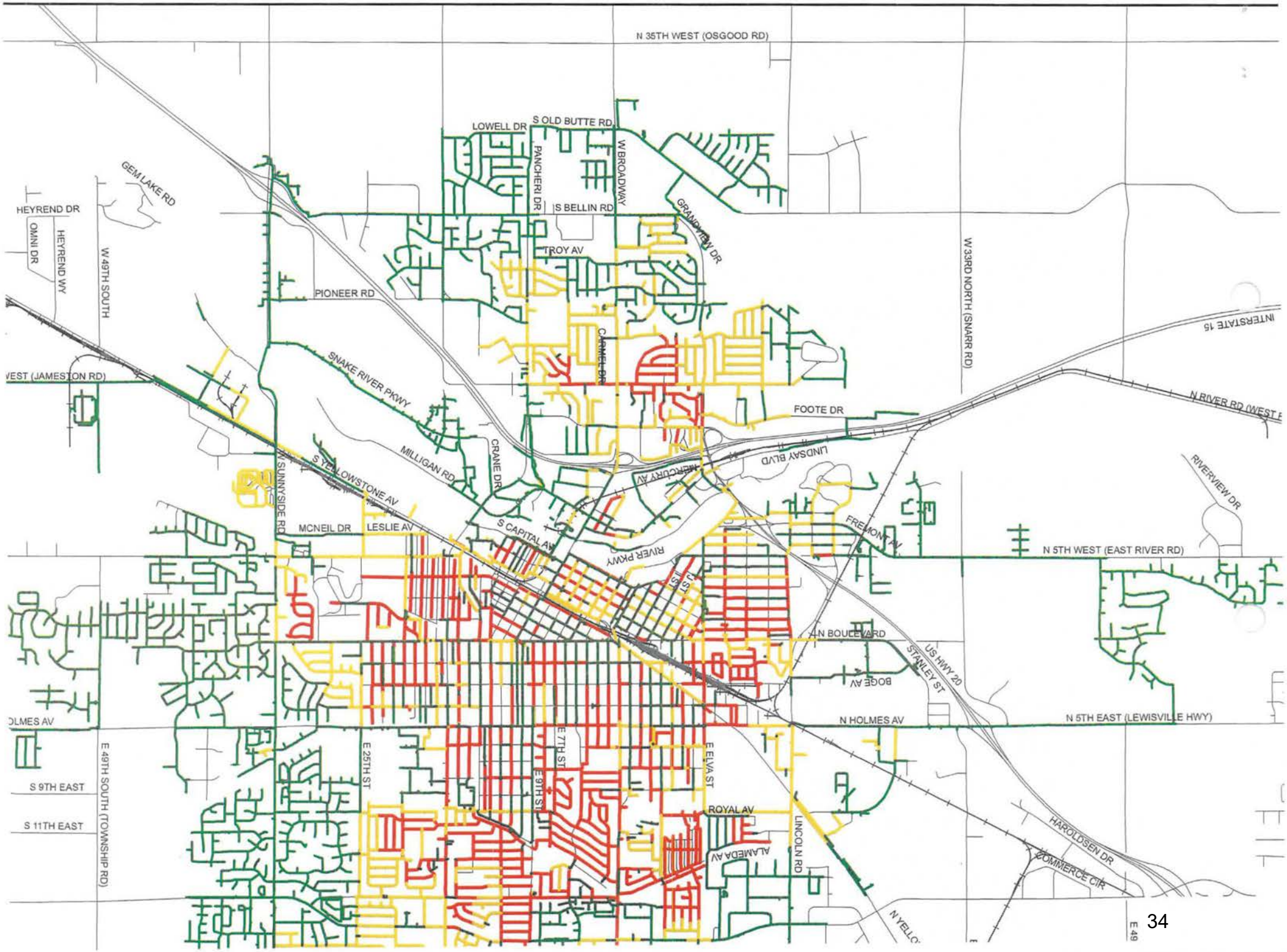

N 35TH WEST (OSGOOD RD)
LOWELL DR
S OLD BUTTE RD
PANCHERI DR
W BROADWAY
S BELLIN RD
GRANDVIEW DR
GEM LAKE RD
HEYREND DR
OMNI DR
HEYREND WY
W 49TH SOUTH
TROY AV
PIONEER RD
CARMEL DR
W 33RD NORTH (SNARR RD)
INTERSTATE 15
VEST (JAMESTON RD)
SNAKE RIVER PKWY
FOOTE DR
N RIVER RD (WEST F
MILLIGAN RD
CRANE DR
LINDSAY BLVD
MERCURY AV
RIVERVIEW DR
N SUNNYSIDE RD
S YELLOWSTONE AV
MCNEIL DR
LESLIE AV
S CAPITAL AV
RIVER PKWY
FREMONT AV
N 5TH WEST (EAST RIVER RD)
N BOULEVARD
US HWY 20
STANLEY ST
BOGE AV
N HOLMES AV
N 5TH EAST (LEWISVILLE HWY)
OLMES AV
E 49TH SOUTH (TOWNSHIP RD)
E 25TH ST
E 7TH ST
E 9TH ST
E ELVA ST
S 9TH EAST
S 11TH EAST
ROYAL AV
ALAMEDA AV
LINCOLN RD
HAROLDSEN DR
COMMERCE CIR
N YELLO
E 49

EXHIBIT D

CITY OF IDAHO FALLS, IDAHO
COUNCIL MEETING AGENDA
REGULAR MEETING

Thursday, August 13, 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 express your thoughts on a matter listed below, please contact Councilmembers by email or personally before the meeting. If you wish to comment on a matter that is not on this Agenda, you may comment during Agenda Item number 3 below. Be aware that 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 "RECOMMENDED ACTION" on this agenda are only potential outcomes. 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 also use this time to 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 may be removed from the Consent Agenda at the request of any member of the Council and that item would be considered separately later. Approval by roll call vote:

A. Items from the City Clerk:

1. Approval of Minutes from the June 25, 2015, Regular Council Meeting, July 6, 2015, Council Work Session, July 9, 2015, Regular Council Meeting, July 13, 2015, Budget Work Session, May 28, 2015, Idaho Falls Power Board Meeting, June 25, 2015, Idaho Falls Power Board Meeting, July 9, 2015, Idaho Falls Power Board Meeting.

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

3. Approval of the Monthly Expenditure Summary for the months of June, 2015, and July, 2015.

4. Approval of Monthly Treasurer's Report for the months of June, 2015, and July, 2015.

5. Request for Council ratification for the publication of legal notices calling for public hearings on August 13, 2015.

B. Item from the Police Department:

1. Traffic Safety Committee Recommendations.

The Idaho Falls Police Department respectfully requests approval of the Traffic Safety Committee's recommendation in the recorded meeting minutes to install a crosswalk on the eastside of Blue Ridge Dr. to include flashing lights and a shared crossing guard. This crosswalk would accommodate and provide for safer pedestrian travel to Fox Hollow Elementary School. Public Works Department has estimated the cost at $17,900. The Idaho Falls Police Department has budgeted $20,000 in FY 2016 to share costs with School District #91 for crossing guards.

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

5. **REGULAR AGENDA**:

A. **Airport:**

1. **Notice of Award–Air Carrier Apron Expansion, Deice Pad and Employee Parking Lot Project – FAA AIP Project No. 3-16-0018-040-2015:** For your consideration is a Notice of Award to the firm providing the low bid, TMC Contractors, Inc. in the amount of $2,384,000.00. On July 16, 2015, bids were received and opened for the Air Carrier Apron Expansion, Deice Pad and Employee Parking Lot Project. The Federal Aviation Administration (FAA) has approved the bid tabs and the recommendation to award to the low bidder. The Notice of Award is contingent upon the issuance and acceptance of FAA Grant Offer ATP #40 which will provide funding at 93.75% with the remaining costs covered under Airport budgeted funds.

RECOMMENDED ACTION: To approve Notice of Award to TMC Contractors, Inc. and give authorization for the Mayor to sign and execute said document (or take other action deemed appropriate).

B. **Idaho Falls Fire Department:**

1. **Bonneville Ambulance Contract:** For your consideration and approval is the 2015/2016 Ambulance Service Contract with Bonneville County. This year's contract includes changes to our service agreement which adds a sixth ambulance here in Idaho Falls and includes us servicing the Swan Valley area with a seventh ambulance. In consideration of these changes the County will be paying us $2.3M as compared to the $1.75M in last year's contract. Idaho Falls Fire Chief respectfully requests approval of this contract for service. In addition to the contract approval, it is also requested authorization to move forward on hiring of 10 Paramedic/Firefighters to fill the positions needed for the sixth and seventh ambulance. This is being requested now so that we will be able to get the positions filled before the contract service begins on Oct. 1. Our intent is to hire through an expedited process of Lateral Transfers from other existing Fire Departments. Approval has

already been obtained from the Civil Service Commission to bypass our normal hiring process and use a Lateral process this one time.

RECOMMENDED ACTION: To approve the 2015/2016 Ambulance Service Contract with Bonneville County and authorization to hire 10 Paramedic/Firefighters through the process of Lateral Transfers (or take other action deemed appropriate).

2. **Construction Management/General Contractor (CMGC) Agreement for Fire Station 1:** For your consideration and approval is the agreement for Construction Management and General Contractor services for Fire Station 1. Over the past month the City conducted a Request for Proposal (RFQ) process to select the CMGC for the project. The Committee that was used to select the Architect was also used for this process and consisted of the Council Liaisons, Public Works Director, Staff from Municipal Services, and Staff from the Fire Department. Our Architect was also on the committee. We had seven proposals submitted, three were from local companies and four from outside the area. The Committee narrowed the field to four and conducted interviews. The committee voted and selected Matt Morgan Construction as our CMGC. The agreement reflects fixed costs for Mobilization/Demobilization Equipment, a Temporary Facility Fee, and an On Site Superintendent fee. In addition the CMGC fee was negotiated at 7% of budgeted amount. The Fire Department requests approval for the contract for services.

RECOMMENDED ACTION: To approve the agreement for Matt Morgan Construction as the Construction Management and General Contractor services for Fire Station 1 (or take other action deemed appropriate).

3. **Bonneville County Fire Protection District 1 Agreement:** For your consideration is the Bonneville County Fire Protection District #1 agreement with the City of Idaho Falls Fire Department. This agreement is for one (1) year. This year the revenue created will offset the Wages and Benefits of fifteen (15) Fire/EMS personnel. Continuation of this agreement will benefit the City of Idaho Falls Fire Department and Bonneville County Fire Protection District by combining the resources and assets mutually held. Through this agreement we increase the protection to the citizens we protect in each of our areas of jurisdiction. The fire department respectfully requests Council approval to continue this agreement and grant authorization for the Mayor, City Clerk and Fire Chief to sign.

RECOMMENDED ACTION: To approval the agreement and grant authorization for the Mayor, City Clerk and Fire Chief to sign said document (or take other action deemed appropriate).

C. **Municipal Services Department**:

1. **Bid IF-15-25 Electrical Inventory:** It is the recommendation of Municipal Services and of Idaho Falls Power to accept the lowest responsive responsible bid from the following:

Codale Electrical Supply	$	38,139.04
General Pacific, Inc.	$	2,523.72
Graybar Electric	$	799.50
HD Supply Power Solutions	$	25,419. 50
Lump Sum Total	$	66,881.76

RECOMMENDED ACTION: To accept the lowest responsible bid for Electrical Inventory (or take other action deemed appropriate).

2. **Advertisements for Bids:** Municipal Services respectfully requests authorization to advertise and receive bids for various items including; Equipment, Equipment and Materials for Idaho Falls Power, and miscellaneous items for Public Works, all approved in the 2015-2016 Budget.

RECOMMENDED ACTION: To authorize to advertise and receive bids for miscellaneous items approved in the 2015-2016 Budget (or take other action deemed appropriate).

3. **Publication of "Notice of Public Hearing" 2015-2016 Fiscal Year Budget:** Municipal Services respectfully requests the Mayor and Council to tentatively approve the 2015-2016 Fiscal Year Budget in the amount of $191,657,450. Approval is also requested to publish the "Notice of Public Hearing" of the 2015-2016 Fiscal Year Budget with publication dates set for August 23, 2015, and August 30, 2015. The Public Hearing is scheduled for 7:30 p.m., Thursday, September 3, 2015, in the Council Chambers of the City Annex Building located at 680 Park Avenue in Idaho Falls, Idaho.

RECOMMENDED ACTION: To tentatively approve the 2015-2016 Fiscal Year Budget in the amount of $191,657,450 and approval to publish the "Notice of Public Hearing" of the 2015-2016 Fiscal Year Budget with publication dates set for August 23, 2015, and August 30, 2015 (or take other action deemed appropriate).

4. **Publication of "Notice of Public Hearing" – Imposition of New Fees or Fee Increases for Fiscal Year 2015-2016:** Municipal Services respectfully requests the Mayor and Council's approval to publish the "Notice of Public Hearing" regarding the imposition of new fees or fee increases for fiscal year 2015-2016, with publication dates set for August 23, 2015, and August 30, 2015. The Public Hearing is scheduled for 7:30 p.m., Thursday, September 3, 2015, in the Council Chambers of the City Annex Building located at 680 Park Avenue in Idaho Falls, Idaho.

RECOMMENDED ACTION: To approve to publish the "Notice of Public Hearing" regarding the imposition of new fees or fee increases for fiscal year 2015-2016, with publication dates set for August 23, 2015, and August 30, 2015 (or take other action deemed appropriate).

D. **Idaho Falls Police Department:**

1. **School Resource Officers (SRO) Agreement:** The Idaho Falls Police Department has provided sworn officers to work as School Resource Officers within Idaho Falls School District #91 schools. This continued agreement provides for reimbursement by the School District for worked performed by the School Resource Officers. This agreement is the same as approved by the Council last year with a change of dates to make it effective during school year 2015-2016.

RECOMMENDED ACTION: To approve the School Resource Officers Agreement and give authorization for the Mayor to sign and execute said document (or take other action deemed appropriate).

E. **Public Works Department:**

1. **Bid Award – Sewer Repairs 2015:** On July 28, 2015, bids were received and opened for the Sewer Repairs 2015 project. Public Works recommends approval of the plans and specifications, award to the lowest responsive, responsible bidder, DePatco, Inc. in an amount of $172,333.00 and, authorization for the Mayor and City Clerk to sign contract documents.

RECOMMENDED ACTION: To approve of the plans and specifications, award to the lowest responsive, responsible bidder, DePatco, Inc. in an amount of $172,333.00 and, authorization for the Mayor and City Clerk to sign contract documents (or take other action deemed appropriate).

2. **Bid Award – West Snake River Greenbelt:** On August 4, 2015, bids were received and opened for the West Snake River Greenbelt project. Public Works recommends approval of the plans and specifications, award to the lowest responsive, responsible bidder, DePatco, Inc. in an amount of $852,488.88 and, authorization for the Mayor and City Clerk to sign contract documents.

RECOMMENDED ACTION: To approve of the plans and specifications, award to the lowest responsive, responsible bidder, DePatco, Inc. in an amount of $852,488.88 and, authorization for the Mayor and City Clerk to sign contract documents (or take other action deemed appropriate).

3. **Bid Award – Waste Water Treatment Plant (WWTP) Primary Digester Coating – Phase II:** On August 4, 2015, bids were received and opened for the WWTP Primary Digester Coating - Phase II project. Public Works recommends approval of the plans and specifications, award to the lowest responsive, responsible bidder, Orion Construction in an amount of $272,785.00 and, authorization for the Mayor and City Clerk to sign contract documents.

RECOMMENDED ACTION: To approve of the plans and specifications, award to the lowest responsive, responsible bidder, Orion Construction in an amount of $272,785.00 and, authorization for the Mayor and City Clerk to sign contract documents (or take other action deemed appropriate).

4. **Change Order No. 3 - Pancheri Drive; Bellin Road to Skyline Drive Project:** This change order provides for additional soft spot repair to subgrade conditions encountered during construction. The total cost to the project for this change order is $86,000.00 and total change orders to date amount to $99,607.15 which is 2.8% of the contract. This change order has been reviewed by the City Attorney.

RECOMMENDED ACTION: To approve Change Order No. 3; and, authorization for Mayor and City Clerk to sign the documents. (or take other action deemed appropriate).

5. **Amendment to Sewer Service Agreement - American Heritage Charter School:** Public Works is submitting for your consideration an amendment to the Sewer Service Agreement with American Heritage Charter School. The proposed amendment will allow for an additional sewer service to a new building that will accommodate Junior/Senior High School students.

RECOMMENDED ACTION: To approve the amendment to the Sewer Service Agreement with American Heritage Charter School; and, authorization for Mayor and City Clerk to sign the documents (or take other action deemed appropriate).

6. **Water Facility Plan:** In 2014, the City retained services of Murray, Smith and Associates (MSA) to conduct a Water Facility Plan Study and develop a related implementation plan. The study identified capital improvement needs and proposed suggestions for efficient management of the utility spanning a 20-year period. Findings of the Water Facility Plan's executive summary were presented to the City Council on May 11, 2015, a public meeting regarding the Plan was held on July 20, 2015, and public comments on the Plan were solicited through August 3, 2015. The Facility Plan was submitted to the Idaho Department of Environmental Quality and approval received on July 27, 2015.

RECOMMENDED ACTION: To accept the Water Facility Plan and adoption of the recommendations made therein (or take other action deemed appropriate).

7. **Joint Powers Agreement with the City of Ammon - 25th East (Hitt Road) And East 25th Street Traffic Signal Improvements:** For your consideration is a Joint Powers Agreement with the City of Ammon for proposed intersection improvements to 25th East (Hitt Road) and East 25th Street. The agreement addresses shared costs and other applicable items associated with improvements to this intersection. The agreement was prepared by the City Attorney.

RECOMMENDED ACTION: To approve the Joint Powers agreement with the City of Ammon; and, authorization for Mayor and City Clerk to sign the documents (or take other action deemed appropriate).

8. **Bid Authorization - 25th East (Hitt Road) and East 25th Street Traffic Signal Improvements:** Public Works requests authorization to advertise to receive bids for the 25th East (Hitt Road) and East 25th Street Traffic Signal Improvements project.

RECOMMENDED ACTION: To authorize to advertise to receive bids for the 25th East (Hitt Road) and East 25th Street Traffic Signal Improvements project (or take other action deemed appropriate).

F. **Human Resources Department:**

1. **Group Health Insurance and Vision Rate Sheet with Blue Cross of Idaho for the 2015-16 Plan Year:** For your consideration is the Group Health Insurance Rate Sheets with Blue Cross of Idaho for the new rates that will take effect October 1, 2015. The health insurance premium increased by 9.72 percent. The vision insurance premium increased by 12 percent. The projected total annual premium increase for health insurance and vision insurance is approximately $900,000.

RECOMMENDED ACTION: To authorize the Mayor to sign the City of Idaho Falls Group Health Insurance and Vision Rate Sheets with Blue Cross of Idaho for the 2015-16 Plan Year (or take other action deemed appropriate).

2. **Group Dental Insurance Renewal Rates with Delta Dental for the 2015-16 Plan Year:** The Department of Human Resources recommends approval of the Group Dental Insurance Renewal Rates with Delta Dental for the 2015-16 plan year. The

proposed Delta Dental rates took a 4% increase for the 2015-16 plan year, which is about a $27,250.00 annual increase.

RECOMMENDED ACTION: To approve the City of Idaho Falls Group Dental Insurance Rate with Delta Dental for the 2015-16 Plan Year (or take other action deemed appropriate).

G. **Idaho Falls Power:**

1. **Authorize a Professional Services Contract for Municipal Broadband Infrastructure Engineering Upgrade/Future Consideration Analysis:** Idaho Falls Power issued a Request for Qualifications for consulting services to provide engineering and business recommendations for future expansion of the City's existing fiber optic network The engineering and business analysis was included in both FY15 and FYI6 budgets. The three firms responding to the solicitation were evaluated. Based upon this evaluation, Idaho Falls Power requests authorization to negotiate a contract with Finley Engineering Company, Inc. for an amount not to exceed $56,904.00.

RECOMMENDED ACTION: To authorize to negotiate a Professional Services Contract with Finley Engineering Company, Inc. for an amount not to exceed $56,904.00 (or take other action deemed appropriate).

H. **Legal Department:**

1. **Memorandum of Understanding (MOU) between City of Idaho Falls, Idaho, and the Bonneville County Prosecuting Attorney's Office:** The Legal Department of the City of Idaho Falls, Idaho, and the Bonneville County Prosecuting Attorney's Office have negotiated an agreement for the purpose of establishing a protocol and procedures for the prosecution of felony and misdemeanor charges that arise out of the same incident and for juvenile cases charged by the Idaho Falls Police which would not normally arise out of the Juvenile Corrections Act but are converted to juvenile cases. Under the terms of the agreement, the Bonneville County will prosecute certain misdemeanors that the City would normally prosecute because these crimes arise out of the same incident as a felony and the City will prosecute certain converted juvenile cases that the County Prosecutor's Office would otherwise prosecute.

RECOMMENDED ACTION: To approve the Memorandum of Understanding between the Bonneville County, Idaho, Prosecuting Attorney's Office and the City of Idaho Falls, Idaho, and authorize Mayor's signature on the agreement (or take other action deemed appropriate).

2. **Elected Official Compensation Ordinance:** As directed by the City Council, the City Attorney's office has prepared an ordinance to amend Idaho Falls City Code Sections 1-5-8 and 1-6-5 to increase the compensation of the Mayor and Councilmembers effective January 1, 2016. The proposed ordinance complies with the requirements of Idaho Code § 50-203, which requires that the compensation of mayors and councilmembers of Idaho cities be fixed by ordinance published at least seventy-five (75) days before a general city election and that the compensation changes be effective for all officials commencing on January 1, following the general city election.

RECOMMENDED ACTION: To approve the Ordinance amending Idaho Falls City Code Sections 1-5-8 and 1-6-5 to increase the compensation of the Mayor and Councilmembers effective January 1, 2016, 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).

I. **Community Development Services Department:**

1. **Final Plat, Development Agreement, and Reasoned Statement of Relevant Criteria and Standards for Intermountain Business and Technology Park, Division No. 8:** Attached is the application for Final Plat, Development Agreement, and Reasoned Statement of Relevant Criteria and Standards for Intermountain Business and Technology Park, Division No. 8. The Planning and Zoning Commission considered this application at its July 7, 2015 meeting and recommended approval by a 6-0 vote. Staff concurs and recommends approval of the application. This item is now being submitted to the Mayor and City Council for approval.

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

a. To approve the Development Agreement for Intermountain Business and Technology Park, Division No. 8, and give authorization for the Mayor and City Clerk to execute the necessary documents.

b. To accept the Final Plat for Intermountain Business and Technology Park, Division No. 8, 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 Intermountain Business and Technology Park, Division No. 8, and give authorization for the Mayor to execute the necessary documents.

2. **Public Hearing – Annexation with Initial Zoning of C-1, Final Plat, Annexation Agreement, Annexation Ordinance, Zoning Ordinance, and Reasoned Statements of Relevant Criteria and Standards for Snake River Landing Division No. 9:** Attached is the application for Annexation with Initial Zoning of C-1, Final Plat, Annexation Agreement, Annexation Ordinance, Zoning Ordinance, and Reasoned Statements of Relevant Criteria and Standards for Snake River Landing Division No. 9. The Planning and Zoning Commission considered this application at its June 16, 2015, meeting and recommended approval by a 5-1 vote. Staff concurs and recommends approval of the application. This item is now being submitted to the Mayor and City Council for approval.

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

a. To approve the Annexation Agreement for Snake River Landing Division No. 9, and give authorization for the Mayor and City Clerk to execute the necessary documents.

b. To approve the Ordinance annexing Snake River Landing Division No. 9, 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 Snake River Landing Division No. 9, and give authorization for the Mayor to execute the necessary documents.

d. To approve the Ordinance assigning a Comprehensive Plan Designation as Greenbelt Mixed Uses and establishing the initial zoning for Snake River Landing Division No. 9, as C-1 (Limited Business), 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 C-1 Limited Business Zoning for Snake River Landing Division No. 9, and give authorization for the Mayor to execute the necessary documents.

f. To accept the Final Plat for Snake River Landing Division No. 9, 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 Snake River Landing Division No. 9, and give authorization for the Mayor to execute the necessary documents.

3. **Public Hearing – Annexation with Initial Zoning of GC-1, Annexation Agreement, Annexation and Zoning Ordinances, and Reasoned Statements of Relevant Criteria and Standards, for M&B 6.007 Acres, NW ¼, Section 24, T 2N, R 37:** Attached is the application for Annexation with Initial Zoning of GC-1, Annexation Agreement, Annexation and Zoning Ordinances, and Reasoned Statements of Relevant Criteria and Standards, for M&B 6.007 Acres, NW ¼, Section 24, T 2N, R 37. The Planning and Zoning Commission considered this application at its July 7, 2015, meeting and recommended approval with conditions by a 5-0 vote, with one member abstaining. Staff concurs and recommends approval of the application. This item is now being submitted to the Mayor and City Council for approval.

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

a. To approve the Annexation Agreement for M&B 6.007 Acres, NW ¼, Section 24, T 2N, R 37, and give authorization for the Mayor and City Clerk to execute the necessary documents.

b. To approve the Ordinance annexing M&B 6.007 Acres, NW ¼, Section 24, T 2N, R 37, 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 M&B 6.007 Acres, NW ¼, Section 24, T 2N, R 37, and give authorization for the Mayor to execute the necessary documents.

d. To approve the Ordinance assigning a Comprehensive Plan Designation as Commercial and establishing the initial zoning for M&B 6.007 Acres, NW ¼, Section 24, T 2N, R 37, as GC-1 (General Commercial), 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 GC-1 General Commercial Zoning for M&B 6.007 Acres, NW ¼, Section 24, T 2N, R 37, and give authorization for the Mayor to execute the necessary documents.

4. **Public Hearing – Annexation with Initial Zoning of R-1, Annexation and Zoning Ordinances, Development Agreement, Final Plat, and Reasoned Statements of Relevant Criteria and Standards, Trumblee Acres, Division No. 1:** Attached is the application for Annexation with Initial Zoning of R-1, Annexation and Zoning Ordinances, Development Agreement, Final Plat, and Reasoned Statements of Relevant Criteria and Standards, Trumblee Acres, Division No. 1. The Planning and Zoning Commission considered this item at its June 2, 2015, meeting and recommended approval by unanimous vote. Staff concurs with this recommendation. The application is now being submitted to the Mayor and City Council for consideration.

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

a. To approve the Development Agreement for Trumblee Acres, Division No. 1, and give authorization for the Mayor and City Clerk to execute the necessary documents.

b. To approve the Ordinance annexing Trumblee Acres, Division No. 1, 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 south of and adjacent to W. 17th South (Mill Road), east of Ironwood Drive, and give authorization for the Mayor to execute the necessary documents.

d. To approve the Ordinance assigning a Comprehensive Plan Designation of Low Density Residential and establishing the initial zoning of approximately 0.211 Acres as R-1 Zone 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 property south of and adjacent to W. 17th South (Mill Road), east of Ironwood Drive, and give authorization for the Mayor to execute the necessary documents.

f. To accept the Final Plat for Trumblee Acres, Division No. 1, located south of and adjacent to W. 17th South (Mill Road), east of Ironwood Drive, 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 Trumblee Acres, Division No. 1, located south of and adjacent to W. 17th South (Mill Road), east of Ironwood Drive, 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 Kathy Hampton 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.

EXHIBIT E

AUGUST 13, 2015

The City Council of the City of Idaho Falls met in Regular Council Meeting, Thursday, August 13, 2015, 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 Rebecca Casper
Councilmember Michael Lehto
Councilmember Sharon D. Parry
Councilmember Ed Marohn
Councilmember David M. Smith (by phone)
Councilmember Thomas Hally
Councilmember Barbara Ehardt

Also present:

Randy Fife, City Attorney
Kathy Hampton, City Clerk
All available Department Directors

Mayor Casper invited Melvin Bundy, Boy Scout Troop #338, to come forward and lead those present in the Pledge of Allegiance.

Mayor Casper announced Community Development Services Department agenda item 5.I.2., regarding Snake River Landing, had been tabled until a future meeting and item 5.I.4., regarding Trumblee Acres, had been withdrawn from the meeting.

Mayor Casper invited any public comments not related to items on the agenda.

Ann Killian, 240 Alpine, Idaho Falls, appeared to request recycling efforts in the City.

Jeff Forbes, 272 10th Street, Idaho Falls, appeared to express his support for the greenbelt pathways. He stated a majority of the pathway projects have been provided by grants and he appreciates the Parks and Recreation staff. However, he realizes there are additional costs for maintenance and upkeep and has requested the City dedicate adequate funding on a yearly basis for the Connecting Our Communities plan.

CONSENT AGENDA ITEMS:

The City Clerk requested approval of Minutes from the June 25, 2015, Regular Council Meeting, July 6, 2015, Council Work Session, July 9, 2015, Regular Council Meeting, July 13, 2015, Budget Work Session, May 28, 2015, Idaho Falls Power Board Meeting, June 25, 2015, Idaho Falls Power Board Meeting, July 9, 2015, Idaho Falls Power Board Meeting.

The City Clerk requested approval of License Applications, all carrying the required approvals.

The City Clerk requested approval of the Monthly Expenditure Summary for the months of June, 2015, and July, 2015.

June 2015:

FUND	TOTAL EXPENDITURE
General Fund	$680,290.15
Street Fund	88,681.95
Recreation Fund	24,430.13
Library Fund	155,865.03
Municipal Equipment Replacement Fund (MERF)	265,201.67
Electric Light Public Purpose Fund	64,875.56
Golf Fund	63,983.80
Self-Insurance Fund	39,192.15
Street Capital Improvement Fund	450,814.92
Parks Capital Improvement Fund	19,100.00
Airport Fund	71,588.34
Water and Sewer Fund	425,934.84
Sanitation Fund	39,139.58
Ambulance Fund	15,677.31
Electric Light Fund	2,407,224.83
Payroll Liability Fund	2,592,468.97
TOTAL	7,404,469.23

July 2015:

FUND	TOTAL EXPENDITURE
General Fund	$931,331.75
Street Fund	635,793.58
Recreation Fund	34,649.91
Library Fund	182,692.21
Municipal Equipment Replacement Fund (MERF)	154,996.01
Electric Light Public Purpose Fund	33,033.13
Bus Improvement District	11,400.00
Golf Fund	82,970.44
Self-Insurance Fund	61,026.26
Street Capital Improvement Fund	1,155,216.22
Traffic Light Cap Imp Fund	56,178.11
Parks Capital Improvement Fund	6,000.00
Airport Fund	135,744.59
Water and Sewer Fund	2,576,198.06
Sanitation Fund	14,644.70
Ambulance Fund	41,536.63
Electric Light Fund	3,666,600.36
Payroll Liability Fund	4,189,463.33
TOTAL	13,969,475.29

The City Clerk requested approval of Monthly Treasurer's Report for the months of June, 2015, and July, 2015.

June 2015

Dear Mayor and City Council Members:

Attached please find the City of Idaho Falls, Idaho, Monthly Treasurer's Report for the above referenced month, as required by Idaho Code Section 50-208.

This report was filed in the City Clerk's Office on or before the 10th day from the end of the month of the Report.

OATH

I, Kenneth McOmber, the City of Idaho Falls Treasurer, do hereby affirm that this City of Idaho Falls, Idaho, Monthly Treasurer's Report is true and accurate to the best of my knowledge and that it shows the state of the City Treasury as of the date of this Report and the balance of money in the City Treasury, all as required by Idaho Code Section 50-208.

s/ Kenneth McOmber
Kenneth McOmber

July 8, 2015
Date Signed

ACKNOWLEDGEMENT

STATE OF IDAHO)
) ss.
County of Bonneville)

On this 8th day of July, 2015, before me, the undersigned, a Notary Public for Idaho, personally appeared KENNETH MCOMBER known to me to be the Treasurer of the City of Idaho Falls, the municipal corporation that executed the foregoing document and acknowledged to that such City executed the same.

(SEAL)

s/ Hollie Pettingill
Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: 03-26-2021

July 2015

Dear Mayor and City Council Members:

Attached please find the City of Idaho Falls, Idaho, Monthly Treasurer's Report for the above referenced month, as required by Idaho Code Section 50-208.

This report was filed in the City Clerk's Office on or before the 10th day from the end of the month of the Report.

OATH

I, Kenneth McOmber, the City of Idaho Falls Treasurer, do hereby affirm that this City of Idaho Falls, Idaho, Monthly Treasurer's Report is true and accurate to the best of my knowledge and that it shows the state of the City Treasury as of the date of this Report and the balance of money in the City Treasury, all as required by Idaho Code Section 50-208.

s/ Kenneth McOmber
Kenneth McOmber

August 7, 2015
Date Signed

ACKNOWLEDGEMENT

STATE OF IDAHO)
) ss.
County of Bonneville)

On this 7th day of August, 2015, before me, the undersigned, a Notary Public for Idaho, personally appeared KENNETH MCOMBER known to me to be the Treasurer of the City of Idaho Falls, the municipal corporation that executed the foregoing document and acknowledged to that such City executed the same.

(SEAL)

s/ Kami Morrison
Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: 03-16-2021

The City Clerk requested Council ratification for the publication of legal notices calling for public hearings on August 13, 2015.

The Police Department requested one item:

MEMORANDUM

To: Rebecca Casper, Mayor
From: Mark McBride, Chief of Police
Subject: City Council Consent Agenda Item/Traffic Safety Committee Recommendations

The Idaho Falls Police Department respectfully requests approval of the Traffic Safety Committee's recommendation in the recorded meeting minutes to install a crosswalk on the eastside of Blue Ridge Dr. to include flashing lights and a shared crossing guard. This crosswalk would accommodate and provide for safer pedestrian travel to Fox Hollow Elementary School. Public Works Department has estimated the cost at $17,900. The Idaho Falls Police Department has budgeted $20,000 in FY 2016 to share costs with School District #91 for crossing guards.

It was moved by Councilmember Marohn, seconded by Councilmember Lehto, to approve all items on the Consent Agenda. Roll call as follows:

Aye: Councilmember Marohn
Councilmember Lehto

Councilmember Ehardt
Councilmember Hally
Councilmember Parry
Councilmember Smith

Nay: None

Motion carried.

REGULAR AGENDA ITEMS:

The Idaho Falls Airport submitted the following item for Council consideration:

MEMORANDUM

To: Honorable Mayor & City Council
From: Craig H. Davis, Airport Director
Subject: Notice of Award–Air Carrier Apron Expansion, Deice Pad and Employee Parking Lot Project – FAA AIP Project No. 3-16-0018-040-2015

Attached for your consideration is a Notice of Award to the firm providing the low bid, TMC Contractors, Inc. in the amount of $2,384,000.00. On July 16, 2015, bids were received and opened for the Air Carrier Apron Expansion, Deice Pad and Employee Parking Lot Project. The Federal Aviation Administration (FAA) has approved the bid tabs and the recommendation to award to the low bidder.

	Engineer's Estimate	TMC Contractors, Inc.	DePatco, Inc.	HK Contractors, Inc.
Schedule I	$2,082,156.20	$1,916,085.00	$2,429,419.63	$2,074,047.50
Schedule II	$371,690.15	$467,915.00	$540,319.25	$424,749.75
Total	**$2,453,846.35**	**$2,384,000.00**	**$2,969,738.88**	**$2,498,797.25**

The Notice of Award is contingent upon the issuance and acceptance of FAA Grant Offer ATP #40 which will provide funding at 93.75% with the remaining costs covered under Airport budgeted funds.

s/ Craig H. Davis

It was moved by Councilmember Parry, seconded by Councilmember Smith, to approve Notice of Award to TMC Contractors, Inc. and give authorization for the Mayor to sign and execute said document. Roll call as follows:

Aye: Councilmember Hally
Councilmember Smith
Councilmember Lehto
Councilmember Ehardt
Councilmember Marohn
Councilmember Parry

Nay: None

Motion carried.
The Idaho Falls Fire Department submitted the following items for Council consideration:

MEMORANDUM

To: Mayor and City Council
From: Dave Hanneman, Fire Chief
Subject: Bonneville Ambulance Contract

Attached for your consideration and approval is the 2015/2016 Ambulance Service Contract with Bonneville County. This year's contract includes changes to our service agreement which adds a sixth ambulance here in Idaho Falls and includes us servicing the Swan Valley area with a seventh ambulance. In consideration of these changes the County will be paying us $2.3M as compared to the $1.75M in last year's contract. Idaho Falls Fire Chief respectfully requests approval of this contract for service.

In addition to the contract approval, it is also requested authorization to move forward on hiring of 10 Paramedic/Firefighters to fill the positions needed for the sixth and seventh ambulance. This is being requested now so that we will be able to get the positions filled before the contract service begins on Oct. 1. Our intent is to hire through an expedited process of Lateral Transfers from other existing Fire Departments. Approval has already been obtained from the Civil Service Commission to bypass our normal hiring process and use a Lateral process this one time.

s/ Dave Hanneman

After brief explanation by Fire Chief Hanneman, it was moved by Councilmember Marohn, seconded by Councilmember Hally, to approve the 2015/2016 Ambulance Service Contract with Bonneville County and authorization to hire 10 Paramedic/Firefighters through the process of Lateral Transfers. Roll call as follows:

Aye: Councilmember Smith
Councilmember Hally
Councilmember Lehto
Councilmember Ehardt
Councilmember Marohn

Nay: Councilmember Parry

Motion carried.

MEMORANDUM

To: Mayor and City Council
From: Dave Hanneman, Fire Chief
Subject: Construction Management/General Contractor (CMGC) Agreement for Fire Station 1

For your consideration and approval is the agreement for Construction Management and General Contractor services for Fire Station 1. Over the past month the City conducted a Request for Proposal (RFQ) process to select the CMGC for the project. The Committee that was used to select the Architect was also used for this process and consisted of the Council Liaisons, Public Works Director, Staff from Municipal Services, and Staff from the Fire Department. Our Architect was also on the committee. We had seven proposals submitted, three were from local companies and four from outside the area. The Committee narrowed the field to four and conducted interviews. The committee voted and selected Matt Morgan Construction as our CMGC. The agreement reflects fixed costs for Mobilization/Demobilization Equipment, a Temporary Facility Fee, and an On Site Superintendent fee. In addition the CMGC fee was negotiated at 7% of budgeted amount. The Fire Department requests approval for the contract for services.

s/ Dave Hanneman

Councilmember Marohn stated the ground breaking for the Fire Station is scheduled for October 2015. The agreement is with a local company. Fire Chief Hanneman stated the architect agreement also includes the engineering team. The process in the State of Idaho allows a Construction Manager and a General Contractor, CMGC, which allows an overall savings with the project. Councilmember Lehto stated a new fire station has been in discussion for more than three (3) years and believes this process is appropriate. After further discussion, it was moved by Councilmember Marohn, seconded by Councilmember Hally, to approve the agreement for Matt Morgan Construction as the Construction Management and General Contractor services for Fire Station 1. Roll call as follows:

Aye: Councilmember Hally
Councilmember Marohn
Councilmember Parry
Councilmember Lehto
Councilmember Smith
Councilmember Ehardt

Nay: None

Motion carried.

MEMORANDUM

To: Mayor and City Council
From: Dave Hanneman, Fire Chief
Subject: Bonneville County Fire Protection District 1 Agreement

Attached for your consideration is the Bonneville County Fire Protection District #1 agreement with the City of Idaho Falls Fire Department. This agreement is for one (1) year. This year the revenue created will offset the Wages and Benefits of fifteen (15) Fire/EMS personnel.

Continuation of this agreement will benefit the City of Idaho Falls Fire Department and Bonneville County Fire Protection District by combining the resources and assets mutually

held. Through this agreement we increase the protection to the citizens we protect in each of our areas of jurisdiction.
The fire department respectfully requests Council approval to continue this agreement and grant authorization for the Mayor, City Clerk and Fire Chief to sign.

Councilmember Marohn explained a minor correction in the agreement regarding personnel calculation.

It was moved by Councilmember Marohn, seconded by Councilmember Hally, to approve the agreement with modification of Schedule A to read Exhibit C and grant authorization for the Mayor, City Clerk and Fire Chief to sign said document. Roll call as follows:

Aye: Councilmember Marohn
Councilmember Lehto
Councilmember Ehardt
Councilmember Hally
Councilmember Smith

Abstain: Councilmember Parry

Nay: None

Motion carried.

The Municipal Services Department submitted the following items for Council consideration:

MEMORANDUM

To: Honorable Mayor and City Council
From: Craig Rockwood, Municipal Services Director
Subject: Bid IF-15-25 Electrical Inventory

It is the recommendation of Municipal Services and of Idaho Falls Power to accept the lowest responsive responsible bid from the following:

Codale Electrical Supply	$	38,139.04
General Pacific, Inc.	$	2,523.72
Graybar Electric	$	799.50
HD Supply Power Solutions	$	25,419. 50
Lump Sum Total	$	66,881.76

s/ Craig Rockwood

It was moved by Councilmember Marohn, seconded by Councilmember Smith, to accept the lowest responsive responsible for Electrical Inventory. Roll call as follows:

Aye: Councilmember Smith
Councilmember Hally

Councilmember Lehto
Councilmember Parry
Councilmember Ehardt
Councilmember Marohn

Nay: None

Motion carried.

MEMORANDUM

To: Honorable Mayor and City Council
From: Craig Rockwood, Municipal Services Director
Subject: Advertisements for Bids

Municipal Services respectfully requests authorization to advertise and receive bids for the following items approved in the 2015-2016 Budget.

1. Equipment
2. Equipment and Materials for Electrical Generation, Transmission, Distribution, Fiber Optics, Metering and Signalization
3. Water Pipe Fittings and Other Water Line Equipment and Materials
4. Sewer Department Materials and Supplies
5. Chlorine and Sodium Bisulfite (Sewer and Water Departments)
6. Sludge Removal (Sewer Department)
7. Road Salt and Sand (Street Department)
8. Aggregate (Crushed Gravel) (Street Department)
9. Asphalt Plant Mix/Modified Crack Sealant (Street Department)
10. Traffic Striping Paint and Solvent
11. Sanitation Refuse Containers
12. Motor Fuels, Lubricants and Services; and the Fuel obtained through a computerized fuel dispensing system

s/ Craig Rockwood

It was moved by Councilmember Marohn, seconded by Councilmember Smith, to authorize to advertise and receive bids for miscellaneous items approved in the 2015-2016 Budget. Roll call as follows:

Aye: Councilmember Ehardt
Councilmember Parry
Councilmember Smith
Councilmember Marohn
Councilmember Lehto
Councilmember Hally

Nay: None

Motion carried.

MEMORANDUM

To: Honorable Mayor and City Council
From: Craig Rockwood, Municipal Services Director
Subject: Publication of "Notice of Public Hearing" 2015-2016 Fiscal Year Budget

Municipal Services respectfully requests the Mayor and Council to tentatively approve the 2015-2016 Fiscal Year Budget in the amount of $191,657,450.

Approval is also requested to publish the "Notice of Public Hearing" of the 2015-2016 Fiscal Year Budget with publication dates set for August 23, 2015, and August 30, 2015.

The Public Hearing is scheduled for 7:30 p.m., Thursday, September 3, 2015, in the Council Chambers of the City Annex Building located at 680 Park Avenue in Idaho Falls, Idaho.

s/ Craig Rockwood

Mayor Casper stated this is an adoption of a preliminary budget only with public hearing to follow. Councilmember Marohn briefly explained the budget, including comparison to previous years.

It was moved by Councilmember Marohn, seconded by Councilmember Smith, to tentatively approve the 2015-2016 Fiscal Year Budget in the amount of $191,657,450 and approval to publish the "Notice of Public Hearing" of the 2015-2016 Fiscal Year Budget with publication dates set for August 23, 2015, and August 30, 2015. Roll call as follows:

Aye: Councilmember Marohn
Councilmember Lehto
Councilmember Ehardt
Councilmember Hally
Councilmember Smith

Nay: Councilmember Parry

Motion carried.

MEMORANDUM

To: Honorable Mayor and City Council
From: Craig Rockwood, Municipal Services Director
Subject: Publication of "Notice of Public Hearing" – Imposition of New Fees or Fee Increases for Fiscal Year 2015-2016

Municipal Services respectfully requests the Mayor and Council's approval to publish the "Notice of Public Hearing" regarding the imposition of new fees or fee increases for fiscal year 2015-2016, with publication dates set for August 23, 2015, and August 30, 2015.

The Public Hearing is scheduled for 7:30 p.m., Thursday, September 3, 2015, in the Council Chambers of the City Annex Building located at 680 Park Avenue in Idaho Falls, Idaho.

s/ Craig Rockwood

Mayor Casper stated any fee increase of 5% or greater is required by State law to be published.

It was moved by Councilmember Marohn, seconded by Councilmember Smith, to approve to publish the "Notice of Public Hearing" regarding the imposition of new fees or fee increases for fiscal year 2015-2016, with publication dates set for August 23, 2015, and August 30, 2015. Roll call as follows:

Aye: Councilmember Hally
Councilmember Smith
Councilmember Lehto
Councilmember Ehardt
Councilmember Marohn

Nay: Councilmember Parry

Motion carried.

The Police Department submitted the following item for Council consideration:

MEMORANDUM

To: Rebecca Casper, Mayor
From: Mark McBride, Chief of Police
Subject: School Resource Officers (SRO) Agreement

The Idaho Falls Police Department has provided sworn officers to work as School Resource Officers within Idaho Falls School District #91 schools. This continued agreement provides for reimbursement by the School District for worked performed by the School Resource Officers. This agreement is the same as approved by the Council last year with a change of dates to make it effective during school year 2015-2016.

It was moved by Councilmember Parry, seconded by Councilmember Hally, to approve the School Resource Officers Agreement and give authorization for the Mayor to sign and execute said document. Roll call as follows:

Aye: Councilmember Smith
Councilmember Hally
Councilmember Parry
Councilmember Lehto
Councilmember Ehardt
Councilmember Marohn

Nay: None.
Motion carried.

Public Works Department submitted the following items for Council consideration:

MEMORANDUM

To: Honorable Mayor & City Council
From: Chris H Fredericksen, Public Works Director
Subject: Bid Award – Sewer Repairs 2015

On July 28, 2015, bids were received and opened for the Sewer Repairs 2015 project. A tabulation of bid results is attached.

Engineer's Estimate	DePatco, Inc.	HK Contractors, Inc.	TMC Contractors, Inc.
$149,320.00	$172,333.00	$449,669.00	$175,885.00

Public Works recommends approval of the plans and specifications, award to the lowest responsive, responsible bidder, DePatco, Inc. in an amount of $172,333.00 and, authorization for the Mayor and City Clerk to sign contract documents.

s/ Chris H Fredericksen

It was moved by Councilmember Ehardt, seconded by Councilmember Lehto, to approve of the plans and specifications, award to the lowest responsive, responsible bidder, DePatco, Inc. in an amount of $172,333.00 and, authorize the Mayor and City Clerk to sign necessary documents. Roll call as follows:

Aye: Councilmember Lehto
Councilmember Parry
Councilmember Marohn
Councilmember Smith
Councilmember Hally
Councilmember Ehardt

Nay: None.

Motion carried.

MEMORANDUM

To: Honorable Mayor & City Council
From: Chris H Fredericksen, Public Works Director
Subject: Bid Award – West Snake River Greenbelt

On August 4, 2015, bids were received and opened for the West Snake River Greenbelt project. A tabulation of bid results is attached.

Engineer's Estimate	DePatco, Inc.	Knife River Corporation	TMC Contractors, Inc.	HK Contractors, Inc.
$725,929.11	$852,488.88	$1,036,631.83	$1,111,195.30	$1,165,343.00

Public Works recommends approval of the plans and specifications, award to the lowest responsive, responsible bidder, DePatco, Inc. in an amount of $852,488.88 and, authorization for the Mayor and City Clerk to sign contract documents.

s/ Chris H Fredericksen

Director Fredericksen stated approximately $400,000 was received from the Redevelopment Agency (RDA), approximately $300,000 was received from Federal Aid, and the City's contribution was just over $100,000. Councilmember Hally stated the purpose of the RDA is for the public interest of development. The RDA is funded by tax dollars.

It was moved by Councilmember Ehardt, seconded by Councilmember Lehto, to approve of the plans and specifications, award to the lowest responsive, responsible bidder, DePatco, Inc. in an amount of $852,488.88 and, authorize the Mayor and City Clerk to sign necessary documents. Roll call as follows:

Aye: Councilmember Ehardt
Councilmember Marohn
Councilmember Hally
Councilmember Parry
Councilmember Smith
Councilmember Lehto

Nay: None.

Motion carried.

MEMORANDUM

To: Honorable Mayor & City Council
From: Chris H Fredericksen, Public Works Director
Subject: Bid Award – Waste Water Treatment Plant (WWTP) Primary Digester Coating – Phase II

On August 4, 2015, bids were received and opened for the WWTP Primary Digester Coating - Phase II project. A tabulation of bid results is attached.

Engineer's Opinion of Probable Cost	Orion Construction	Purcell Painting & Coating, LLC
$242,190.00	$272,785.00	$294,049.81

Public Works recommends approval of the plans and specifications, award to the lowest responsive, responsible bidder, Orion Construction in an amount of $272,785.00 and, authorization for the Mayor and City Clerk to sign contract documents.

s/ Chris H Fredericksen

It was moved by Councilmember Ehardt, seconded by Councilmember Lehto, to approve of the plans and specifications, award to the lowest responsive, responsible bidder, Orion Construction in an amount of $272,785.00 and, authorize the Mayor and City Clerk to sign necessary documents. Roll call as follows:

Aye: Councilmember Parry
Councilmember Ehardt
Councilmember Smith
Councilmember Marohn
Councilmember Lehto
Councilmember Hally

Nay: None.

Motion carried.

MEMORANDUM

To: Honorable Mayor & City Council
From: Chris H Fredericksen, Public Works Director
Subject: Change Order No. 3 - Pancheri Drive; Bellin Road to Skyline Drive Project

Attached is Change Order No. 3 to the Pancheri Drive; Bellin Road to Skyline Drive project. This change order provides for additional soft spot repair to subgrade conditions encountered during construction. The total cost to the project for this change order is $86,000.00 and total change orders to date amount to $99,607.15 which is 2.8% of the contract. This change order has been reviewed by the City Attorney.

Public Works recommends approval of this change order; and, authorization for Mayor and City Clerk to sign the documents.

s/ Chris H Fredericksen

It was moved by Councilmember Ehardt, seconded by Councilmember Lehto, to approve Change Order No. 3; and, authorize Mayor and City Clerk to sign the documents. Roll call as follows:

Aye: Councilmember Lehto
Councilmember Smith
Councilmember Marohn
Councilmember Ehardt
Councilmember Hally
Councilmember Parry

Nay: None.

Motion carried.

MEMORANDUM

To: Honorable Mayor & City Council
From: Chris H Fredericksen, Public Works Director
Subject: Amendment to Sewer Service Agreement - American Heritage Charter School

Public Works is submitting for your consideration an amendment to the Sewer Service Agreement with American Heritage Charter School. The proposed amendment will allow for an additional sewer service to a new building that will accommodate Junior/Senior High School students.

Public Works recommends approval of this agreement amendment; and, authorization for Mayor and City Clerk to sign the documents.

s/ Chris H Fredericksen

It was moved by Councilmember Ehardt, seconded by Councilmember Lehto to approve the amendment to the Sewer Service Agreement with American Heritage Charter School and, authorize Mayor and City Clerk to sign the necessary documents. Roll call as follows:

Aye: Councilmember Ehardt
Councilmember Parry
Councilmember Smith
Councilmember Marohn
Councilmember Lehto
Councilmember Hally

Nay: None.

Motion carried.

MEMORANDUM

To: Honorable Mayor & City Council
From: Chris H Fredericksen, Public Works Director
Subject: Water Facility Plan

In 2014, the City retained services of Murray, Smith and Associates (MSA) to conduct a Water Facility Plan Study and develop a related implementation plan. The study identified capital improvement needs and proposed suggestions for efficient management of the utility spanning a 20-year period. Findings of the Water Facility Plan's executive summary were presented to the City Council on May 11, 2015, a public meeting regarding the Plan was held on July 20, 2015, and public comments on the Plan were solicited through August 3, 2015.

The Facility Plan was submitted to the Idaho Department of Environmental Quality and approval received on July 27, 2015. Attached is a copy of the Facility Plan.

Public Works recommends acceptance of the Water Facility Plan and adoption of the recommendations made therein.

s/ Chris H Fredericksen

Councilmember Ehardt stated although this Water Facility Plan will increase fees, she believes the fee increases are necessary. The fees will be reevaluated on a yearly basis. Councilmember Lehto stated water fees have not been increased since 2008 and the infrastructure is in need of repairs. He stated the Water Facility Plan has been in discussion for approximately three (3) years. After brief discussion, it was moved by Councilmember Ehardt, seconded by Councilmember Lehto to accept the Water Facility Plan and adoption of the recommendations made therein. Roll call as follows:

Aye: Councilmember Parry
Councilmember Ehardt
Councilmember Hally
Councilmember Smith
Councilmember Marohn
Councilmember Lehto

Nay: None.

Motion carried.

MEMORANDUM

To: Honorable Mayor & City Council
From: Chris H Fredericksen, Public Works Director
Subject: Joint Powers Agreement with the City of Ammon - 25th East (Hitt Road) And East 25th Street Traffic Signal Improvements

For your consideration is a Joint Powers Agreement (JPA) with the City of Ammon for proposed intersection improvements to 25th East (Hitt Road) and East 25th Street. The agreement addresses shared costs and other applicable items associated with improvements to this intersection. The agreement was prepared by the City Attorney.

Public Works recommends approval of this agreement; and, authorization for Mayor and City Clerk to sign the documents.

s/ Chris H Fredericksen

Councilmember Ehardt stated this project began with the late Councilmember Dee Whittier and appreciates all his efforts to coordinate with the City of Ammon. Councilmember Hally appreciates the cooperation with the Target management to pursue this project. Director

Fredericksen clarified two (2) clerical errors in the JPA which will be corrected by the City Attorney.

It was moved by Councilmember Ehardt, seconded by Councilmember Lehto, to approve this Joint Powers Agreement, with correction of clerical errors, with the City of Ammon; and, authorization for Mayor and City Clerk to sign the documents. Roll call as follows:

Aye: Councilmember Smith
Councilmember Hally
Councilmember Lehto
Councilmember Parry
Councilmember Ehardt
Councilmember Marohn

Nay: None.

Motion carried.

MEMORANDUM

To: Honorable Mayor & City Council
From: Chris H Fredericksen, Public Works Director
Subject: Bid Authorization - 25th East (Hitt Road) and East 25th Street Traffic Signal Improvements

Public Works requests authorization to advertise to receive bids for the 25th East (Hitt Road) and East 25th Street Traffic Signal Improvements project.

s/ Chris Fredericksen

It was moved by Councilmember Ehardt, seconded by Councilmember Lehto, to authorize to advertise to receive bids for the 25th East (Hitt Road) and East 25th Street Traffic Signal Improvements project. Roll call as follows:

Aye: Councilmember Marohn
Councilmember Lehto
Councilmember Ehardt
Councilmember Hally
Councilmember Parry
Councilmember Smith

Nay: None.

Motion carried.

Human Resources Department submitted the following items for Council consideration:

MEMORANDUM

Group Health Insurance and Vision Rate Sheet with Blue Cross of Idaho for the 2015-16 Plan Year

For your consideration is the Group Health Insurance Rate Sheets with Blue Cross of Idaho for the new rates that will take effect October 1, 2015. The health insurance premium increased by 9.72 percent. The vision insurance premium increased by 12 percent.

The projected total annual premium increase for health insurance and vision insurance is approximately $900,000.

The Department of Human Resources recommends the Mayor be authorized to sign the Group Health Insurance and Vision Rate Sheet with Blue Cross of Idaho for the 2015-16 Plan Year.

It was moved by Councilmember Marohn, seconded by Councilmember Ehardt, to authorize the Mayor to sign the Group Health Insurance and Vision Rate Sheet with Blue Cross of Idaho for the 2015-16 Plan Year. Roll call as follows:

Aye: Councilmember Hally
Councilmember Marohn
Councilmember Lehto
Councilmember Smith
Councilmember Ehardt

Nay: Councilmember Parry

Motion carried.

MEMORANDUM

Group Dental Insurance Renewal Rates with Delta Dental for the 2015-16 Plan Year

The Department of Human Resources recommends approval of the Group Dental Insurance Renewal Rates with Delta Dental for the 2015-16 plan year.

The proposed Delta Dental rates took a 4% increase for the 2015-16 plan year, which is about a $27,250.00 annual increase.

It was moved by Councilmember Marohn, seconded by Councilmember Ehardt, to approve the City of Idaho Falls Group Dental Insurance Rate with Delta Dental for the 2015-16 Plan Year. Roll call as follows:

Aye: Councilmember Marohn
Councilmember Lehto
Councilmember Ehardt
Councilmember Hally
Councilmember Parry
Councilmember Smith

Nay: None.

Motion carried.

Idaho Falls Power submitted the following item for Council consideration:

MEMORANDUM

To: Honorable Mayor and City Council
From: Jackie Flowers, General Manager
Subject: Authorize a Professional Services Contract for Municipal Broadband Infrastructure Engineering Upgrade/Future Consideration Analysis

Idaho Falls Power issued a Request for Qualifications for consulting services to provide engineering and business recommendations for future expansion of the City's existing fiber optic network. The engineering and business analysis was included in both FY15 and FYI6 budgets.

The three firms responding to the solicitation were evaluated. Based upon this evaluation, Idaho Falls Power requests authorization to negotiate a contract with Finley Engineering Company, Inc. for an amount not to exceed $56,904.00.

Councilmember Lehto stated this item has been thoroughly discussed in the Idaho Falls Power Board Meetings.

It was moved by Councilmember Lehto, seconded by Councilmember Ehardt, to authorize to negotiate a Professional Services Contract with Finley Engineering Company, Inc. for an amount not to exceed $56,904.00. Roll call as follows:

Aye: Councilmember Hally
Councilmember Smith
Councilmember Lehto
Councilmember Ehardt
Councilmember Marohn
Councilmember Parry

Nay: None.

Motion carried.

The Legal Department submitted the following items for Council consideration:

MEMORANDUM

To: Honorable Mayor and City Council
From: Randy Fife, City Attorney
Subject: Memorandum of Understanding (MOU) between City of Idaho Falls, Idaho, and the Bonneville County Prosecuting Attorney's Office

The Legal Department of the City of Idaho Falls, Idaho, and the Bonneville County Prosecuting Attorney's Office have negotiated an agreement for the purpose of establishing a protocol and procedures for the prosecution of felony and misdemeanor charges that arise out of the same incident and for juvenile cases charged by the Idaho Falls Police which would not normally arise out of the Juvenile Corrections Act but are converted to juvenile cases. Under the terms of the agreement, the Bonneville County will prosecute certain misdemeanors that the City would normally prosecute because these crimes arise out of the same incident as a felony and the City will prosecute certain converted juvenile cases that the County Prosecutor's Office would otherwise prosecute.

Councilmember Ehardt believes the City is being requested to increase the work load without any trade off from the County. Mr. Fife explained the City Attorney's Office prefers to coordinate with the County and the judges. He stated there is no additional compensation for this MOU but believes the current staff can manage the caseload. It was also stated there is a 30-day opt out in the MOU if this is not a workable solution. Due to the fact Councilmember Ehardt is the liaison for the City Attorney's office and stated she is not in favor of the MOU, she declined to make a motion for approval. After further discussion, it was moved by Councilmember Marohn, seconded by Councilmember Lehto, to approve the Memorandum of Understanding between the Bonneville County, Idaho, Prosecuting Attorney's Office and the City of Idaho Falls, Idaho. Roll call as follows:

Aye: Councilmember Smith
Councilmember Lehto
Councilmember Marohn

Nay: Councilmember Hally
Councilmember Parry
Councilmember Ehardt

Being a tie vote, Mayor Casper voted Aye.

Motion carried.

MEMORANDUM

To: Honorable Mayor and City Council
From: Randy Fife, City Attorney
Subject: Elected Official Compensation Ordinance

As directed by the City Council, the City Attorney's office has prepared an ordinance to amend Idaho Falls City Code Sections 1-5-8 and 1-6-5 to increase the compensation of the Mayor and Councilmembers effective January 1, 2016. The proposed ordinance complies with the requirements of Idaho Code § 50-203, which requires that the compensation of mayors and councilmembers of Idaho cities be fixed by ordinance published at least seventy-five (75) days before a general city election and that the compensation changes be effective for all officials commencing on January 1, following the general city election.

Councilmember Lehto stated he requested this draft ordinance, indicating there have been no salary adjustments for the Council for the previous 16 years and no salary adjustments for the Mayor for the previous eight (8) years. He proposed the Council salary increase to $12,500 effective January 1, 2016, and $13,000 effective January 1, 2017. He also proposed the Mayor's salary increase to $84,000 effective January 1, 2016, and $86,000 effective January 1, 2017. After brief discussion it was moved by Councilmember Lehto, seconded by Councilmember Marohn, to approve the Ordinance amending Idaho Falls City Code Sections 1-5-8 and 1-6-5 to increase the compensation of the Mayor and Councilmembers effective January 1, 2016, under the suspension of the rules requiring three complete and separate readings and that it be read by title and published by summary. Roll call as follows:

Aye: Councilmember Lehto
Councilmember Marohn
Councilmember Smith
Councilmember Hally
Councilmember Ehardt

Nay: Councilmember Parry

Motion carried.

At the request of Councilmember Lehto, the City Clerk read the Ordinance by title only, as follows:

ORDINANCE NO. 3015

AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, AMENDING IDAHO FALLS CITY CODE SECTION 1-5-8 AND 1-6-5 TO INCREASE THE COMPENSATION OF THE MAYOR AND COUNCILMEMBERS EFFECTIVE JANUARY 1, 2016; PROVIDING SEVERABILITY, CODIFICATION, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.

Councilmember Smith ended phone conferencing.

The Community Development Services Department submitted the following items for Council consideration:

MEMORANDUM

To: Honorable Mayor and City Council
From: Brad Cramer, Community Development Services Director
Subject: Final Plat, Development Agreement, and Reasoned Statement of Relevant Criteria and Standards for Intermountain Business and Technology Park, Division No. 8

Attached is the application for Final Plat, Development Agreement, and Reasoned Statement of Relevant Criteria and Standards for Intermountain Business and Technology Park, Division No. 8. The Planning and Zoning Commission considered this application at its July 7, 2015

meeting and recommended approval by a 6-0 vote. Staff concurs and recommends approval of the application. This item is now being submitted to the Mayor and City Council for approval.

Director Cramer appeared and explained this application is for a one (1)-lot plat. Following is a list of exhibits used in connection with this request:

Slide 1:	Zoning map of property
Slide 2:	Aerial photo of vicinity map
Slide 3:	Additional aerial photo with surrounding land use
Slide 4:	Photo of the preliminary plat
Slide 5:	Photo of final plat
Slide 6:	Photo looking south at extension of Boge Avenue
Slide 7:	Photo looking southwest at parcel under consideration

Director Cramer stated the application complies with the Subdivision Ordinance.

It was moved by Councilmember Parry, seconded by Councilmember Lehto, to approve the Development Agreement for Intermountain Business and Technology Park, Division No. 8, and give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows:

Aye: Councilmember Ehardt
Councilmember Marohn
Councilmember Hally
Councilmember Parry
Councilmember Lehto

Nay: None.

Motion carried.

It was moved by Councilmember Parry, seconded by Councilmember Lehto, to accept the Final Plat for Intermountain Business and Technology Park, Division No. 8, and give authorization for the Mayor, City Engineer, and City Clerk to sign said Final Plat. Roll call as follows:

Aye: Councilmember Parry
Councilmember Ehardt
Councilmember Marohn
Councilmember Lehto
Councilmember Hally

Nay: None.

Motion carried.

It was moved by Councilmember Parry, seconded by Councilmember Lehto, to approve the Reasoned Statement of Relevant Criteria and Standards for the Final Plat for Intermountain

Business and Technology Park, Division No. 8, and give authorization for the Mayor to execute the necessary documents. Roll call as follows:

Aye: Councilmember Lehto
Councilmember Marohn
Councilmember Ehardt
Councilmember Hally
Councilmember Parry

Nay: None.

Motion carried.

MEMORANDUM

To: Honorable Mayor and City Council
From: Brad Cramer, Community Development Services Director
Subject: Public Hearing – Annexation with Initial Zoning of C-1, Final Plat, Annexation Agreement, Annexation Ordinance, Zoning Ordinance, and Reasoned Statements of Relevant Criteria and Standards for Snake River Landing Division No. 9

Attached is the application for Annexation with Initial Zoning of C-1, Final Plat, Annexation Agreement, Annexation Ordinance, Zoning Ordinance, and Reasoned Statements of Relevant Criteria and Standards for Snake River Landing Division No. 9. The Planning and Zoning Commission considered this application at its June 16, 2015, meeting and recommended approval by a 5-1 vote. Staff concurs and recommends approval of the application. This item is now being submitted to the Mayor and City Council for approval.

It was moved by Councilmember Parry, seconded by Councilmember Lehto, to recess the application for Annexation with Initial Zoning of C-1, Final Plat, Annexation Agreement, Annexation Ordinance, Zoning Ordinance, and Reasoned Statements of Relevant Criteria and Standards for Snake River Landing Division No. 9 to the August 27, 2015, Regular Council Meeting. Roll call as follows:

Aye: Councilmember Ehardt
Councilmember Parry
Councilmember Marohn
Councilmember Lehto
Councilmember Hally

Nay: None.

Motion carried.

MEMORANDUM

To: Honorable Mayor and City Council
From: Brad Cramer, Community Development Services Director

Subject: Public Hearing – Annexation with Initial Zoning of GC-1, Annexation Agreement, Annexation and Zoning Ordinances, and Reasoned Statements of Relevant Criteria and Standards, for M&B 6.007 Acres, NW ¼, Section 24, T 2N, R 37

Attached is the application for Annexation with Initial Zoning of GC-1, Annexation Agreement, Annexation and Zoning Ordinances, and Reasoned Statements of Relevant Criteria and Standards, for M&B 6.007 Acres, NW ¼, Section 24, T 2N, R 37. The Planning and Zoning Commission considered this application at its July 7, 2015, meeting and recommended approval with conditions by a 5-0 vote, with one member abstaining. Staff concurs and recommends approval of the application. This item is now being submitted to the Mayor and City Council for approval.

Director Cramer appeared and requested the slides, Planning and Zoning Commission minutes and staff report be entered into the record. Mayor Casper so ordered. Following is a list of exhibits used in connection with this request.

Slide 1: Zoning map of property
Slide 2: Aerial photo of vicinity map with surrounding land uses
Slide 3: Site view of property with surrounding land uses
Slide 4: Comprehensive Plan Future Land Use map
Slide 5: Photo looking west across the site from Colorado Avenue
Slide 6: Additional Photo looking west from Colorado Avenue
Slide 7: Photos of north property line

Director Cramer stated lengthy discussion had been held with the Planning and Zoning Commission regarding the buffer surrounding this area including landscaping with a six (6) foot berm and planting of mature trees. He also explained areas are defined in the Zoning Ordinance and are not as defined on the Comprehensive Plan Map but staff is comfortable with the development being presented for this specific area. Brief discussion was held regarding the General Commercial (GC) Zone.

Mayor Casper invited any public comment. Travis Waters, owner of Printcraft Press, 3834 S. Professional Way, Idaho Falls, ID 83402 appeared. He stated any additional photos were to suggest possible structures to the Planning Commission. Mayor Casper closed the public hearing.

It was moved by Councilmember Parry, seconded by Councilmember Lehto, to approve the Annexation Agreement for M&B 6.007 Acres, NW ¼, Section 24, T 2N, R 37, and give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows:

Aye: Councilmember Hally
Councilmember Parry
Councilmember Lehto
Councilmember Ehardt
Councilmember Marohn

Nay: None.

Motion carried.

It was moved by Councilmember Parry, seconded by Councilmember Lehto, to approve the Ordinance annexing M&B 6.007 Acres, NW ¼, Section 24, T 2N, R 37, under the suspension of the rules requiring three complete and separate readings and that it be read by title and published by summary. Roll call as follows:

Aye: Councilmember Lehto
Councilmember Parry
Councilmember Marohn
Councilmember Hally
Councilmember Ehardt

Nay: None.

Motion carried.

At the request of Mayor Casper, the City Clerk read the Ordinance by title only, as follows:

ORDINANCE NO. 3016

AN ORDINANCE ANNEXING CERTAIN LANDS OF APPROXIMATELY 6.007 ACRES TO THE CITY OF IDAHO FALLS; DESCRIBING SUCH LANDS; 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.

It was moved by Councilmember Parry, seconded by Councilmember Lehto, to approve the Reasoned Statement of Relevant Criteria and Standards for the annexation of M&B 6.007 Acres, NW ¼, Section 24, T 2N, R 37, and give authorization for the Mayor to execute the necessary documents. Roll call as follows:

Aye: Councilmember Ehardt
Councilmember Marohn
Councilmember Hally
Councilmember Parry
Councilmember Lehto

Nay: None.

Motion carried.

It was moved by Councilmember Parry, seconded by Councilmember Lehto, to approve the Ordinance assigning a Comprehensive Plan Designation as Commercial and establishing the initial zoning for M&B 6.007 Acres, NW ¼, Section 24, T 2N, R 37, as GC-1 (General Commercial), under the suspension of the rules requiring three complete and separate readings and that it be read by title and published by summary, 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. Roll call as follows:

Aye: Councilmember Parry
Councilmember Ehardt
Councilmember Marohn
Councilmember Lehto
Councilmember Hally
Nay: None.

Motion carried.

At the request of Mayor Casper, the City Clerk read the Ordinance by title only, as follows:

ORDINANCE NO. 3017

AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; PROVIDING FOR THE INITIAL ZONING OF APPROXIMATELY 6.007 ACRES DESCRIBED IN SECTION 1 OF THIS ORDINANCE AS GC-1 ZONE; ESTABLISHING A COMPREHENSIVE PLAN DESIGNATION OF "COMMERCIAL" AND PROVIDING SEVERABILITY, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.

It was moved by Councilmember Parry, seconded by Councilmember Lehto, to approve the Reasoned Statement of Relevant Criteria and Standards for the Initial Zoning of GC-1 General Commercial Zoning for M&B 6.007 Acres, NW ¼, Section 24, T 2N, R 37, and give authorization for the Mayor to execute the necessary documents. Roll call as follows:

Aye: Councilmember Lehto
Councilmember Marohn
Councilmember Ehardt
Councilmember Hally
Councilmember Parry

Nay: None.

Motion carried.

There being no further business, it was moved by Councilmember Marohn, seconded by Councilmember Lehto, that the meeting adjourn at 10:50 p.m. which motion passed by the following:
+
Aye: Councilmember Parry
Councilmember Ehardt
Councilmember Marohn
Councilmember Lehto
Councilmember Hally

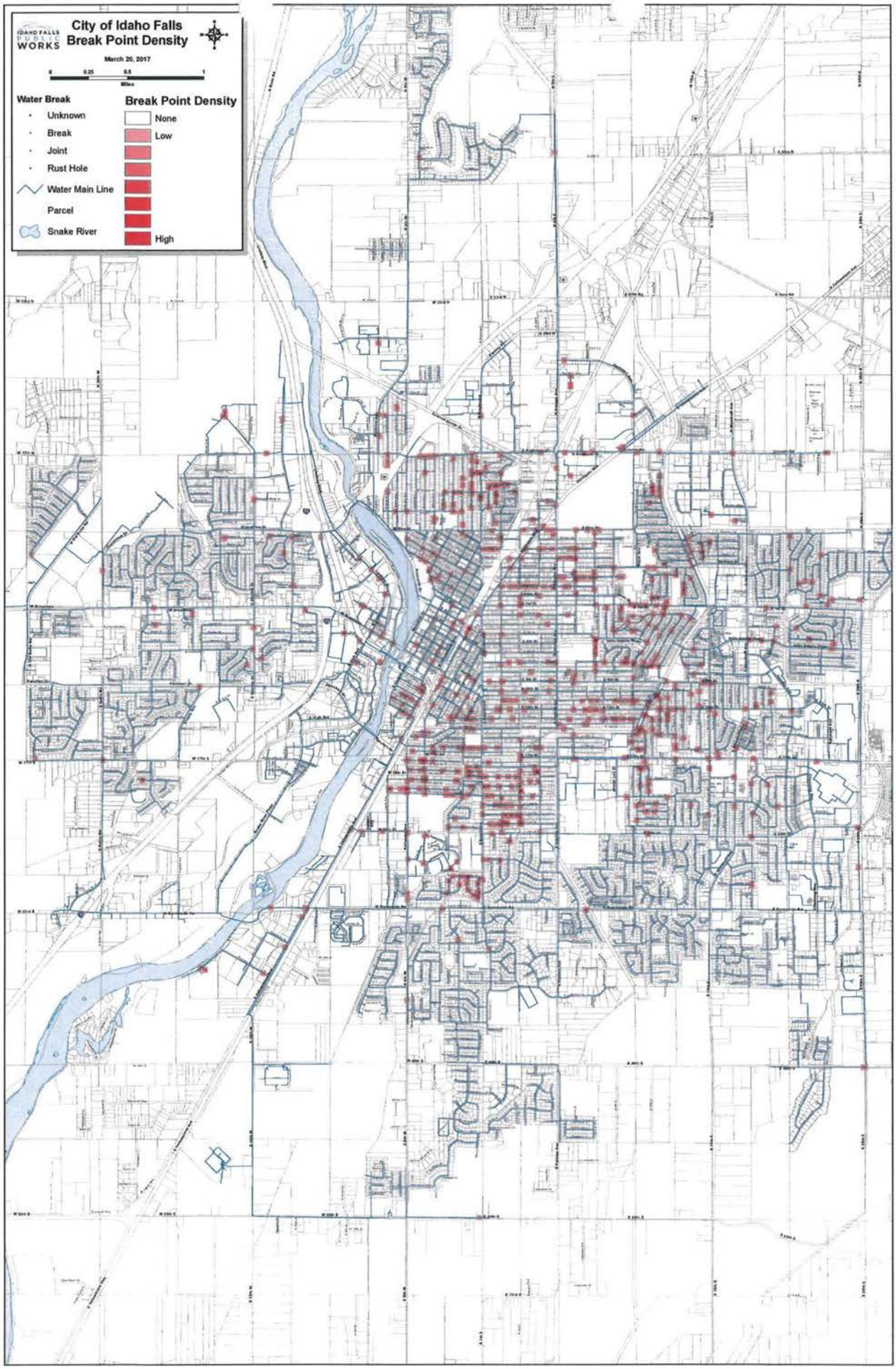
Nay: None

Motion carried.

_____ _____

CITY CLERK MAYOR

EXHIBIT F


IDAHO FALLS PUBLIC WORKS
City of Idaho Falls
Break Point Density
March 20, 2017
0 0.25 0.5 1
Miles
Water Break
Unknown
Break
Joint
Rust Hole
Water Main Line
Parcel
Snake River
Break Point Density
None
Low
High

BLAKE G. HALL, ESQ.
SAM L. ANGELL, ESQ.
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Telephone (208) 522-3003
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ISB Nos. 2434 and 7012
bgh@hasattorneys.com
sla@hasattorneys.com

Attorneys for Defendant

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE

LAMONT BAIR ENTERPRISES, INC., an Idaho corporation, Plaintiff, v. CITY OF IDAHO FALLS, a municipal corporation, Defendant.	Case No. CV-2016-5711 **AFFIDAVIT OF DAVID STANGEL IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT**

STATE OF IDAHO)
: ss.
County of Bonneville)

DAVID STANGEL, being first duly sworn upon oath, deposes and states as follows:

1. That I am over the age of eighteen (18) and am competent to testify in this matter. I make this affidavit based on my own personal knowledge unless otherwise indicated. This affidavit is made under the penalty of perjury.

2. I am a licensed professional engineer in Idaho and serve as the Vice President of Murraysmith, Inc. (formerly known as Murray, Smith & Associates, Inc.). I am familiar with

engineering standards for the design, construction, and maintenance of municipal water supply and distribution systems.

3. I have a master's degree in water resource engineering and have over twenty years of planning, design, and construction experience in a variety of public works projects specializing in water system projects. I have worked at Murraysmith, Inc. for the past ten years and currently have the title of Vice President. Attached as *Exhibit A* is a true and correct copy of my curriculum vitae.

4. In 2014, the City of Idaho Falls retained the engineering services of Muraysmith Inc. to assist in preparing a Water Facility Plan for the City. I served as the Project Manager, overseeing the development of the plan. In developing the plan, I worked closely with the City's Superintendent of the Water Division, David Richards.

5. The Water Facility Plan identifies a short and long term capital improvement plan including a proposed approach for the replacement and prioritization of the City's water lines. Attached as *Exhibit B* is a true and correct copy of the portion of the City's Water Facility Plan, pertaining to pipeline replacement and prioritization. The City's plan as set forth in Table 6-10 indicates that the City will prioritize the replacement of pre 1960 Cast Iron pipe as funding for condition and age based replacement becomes available. The City's Water Facility Plan was prepared by professional engineers and conforms with engineering standards.

6. The City's Water Facility Plan was completed and approved by the Idaho Department of Environmental on July 27, 2015. The Idaho Department of Environmental Quality is a state department created as a regulatory agency to enforce various state environmental regulations and administer a number of federal environmental protection laws, and its approval of the plan further demonstrates that the plan conforms with applicable state and federal laws.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

DAVID STANGEL

SUBSCRIBED AND SWORN TO, before me the undersigned, a Notary Public in and for said State, this 19 day of October, 2017.

OFFICIAL STAMP
DONNA MARIE BIGGERSTAFF
NOTARY PUBLIC-OREGON
COMMISSION NO. 957442
MY COMMISSION EXPIRES JANUARY 02, 2021

Notary Public for Idaho Oregon
Residing at: Umatilla County
My commission expires: 01/02/22

CERTIFICATE OF SERVICE

I hereby certify that I served a true copy of the foregoing document upon the following this 23 day of October, 2017, by the method indicated below:

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BLAKE G. HALL

EXHIBIT A

DAVID STANGEL, PE

Vice President

David has 23 years of engineering experience and offers highly specialized qualifications and expertise in hydraulic modeling and GIS applications. He specializes in master planning of water and wastewater collection systems and has been involved with more than 75 such projects as project manager, senior reviewer, and project engineer during his career. He is experienced with a wide array of hydraulic modeling and database tools and routinely leverages available GIS-based data into hydraulic modeling formats, planning documents and other engineering projects. David has worked in Oregon, Washington, and Idaho during his career, as well as serving on several overseas assignments.

SELECT PROJECT EXPERIENCE

WATER FACILITY PLAN, CITY OF IDAHO FALLS, ID; *Project Manager.* David served as project manager for Idaho Falls' first water master plan update in more than 20 years. This plan leveraged information developed as part of the recent VFD Study, including system description and existing water usage information. A long-term water supply evaluation was also completed. The updated hydraulic model was used to identify distribution system upgrades. A detailed analysis of the City's well and booster facilities was completed to ensure code compliance and define a long-term replacement program. The City developed their first conservation planning document for inclusion in the overall plan. David and the Murraysmith team evaluated current O&M procedures and made recommendations for where further documentation is required. A prioritized 20-year capital plan was developed with an emphasis on those projects that were required in the first five years. Working with a specialty consultant, David and the team also developed an updated rate structure to finance the identified improvements.

WATER MASTER PLAN, CITY OF WARRENTON, OR; *Project Manager.* Murraysmith was selected to develop a Water Master Plan update for the City of Warrenton, their first in 20 years. The Plan focus is to ensure that adequate water supply is available for the next 20 years. The City's hydraulic model is being updated and analyzed to identify deficiencies and associated improvements under existing and future conditions. Another focus area of the Plan is Operations and Maintenance. Benchmarking of similar utilities is being completed to identify additional programs and staffing that may be required. Ultimately, a 5- and 20-year capital plan is being developed and compared to the City's available funding levels.

SMALL MAINS REPLACEMENT, ASOTIN COUNTY PUD, WA; *Principal-In-Charge.* Muraysmith is providing support for the Asotin County PUD's water capital improvement projects, which will replace existing steel water mains in projects phased over several years. As part of the initial phase of work, Muraysmith developed standard specifications and details. These were included in the Water System Master Plan and approved by the Washington Department of Ecology. Muraysmith also developed cost estimates and the front end documents for the first phase of construction. Muraysmith assisted during the bidding process, and we are currently providing services during construction. This work consists of helping with project meetings, developing standard construction forms and training PUD staff and inspectors.

WATER FACILITY PLAN, CITY OF BAKER CITY, OR; *Project Manager.* Muraysmith was selected to develop an updated water master plan for Baker City which

YEARS OF EXPERIENCE

23

EDUCATION

- MS, Water Resource Engineering, Oregon State University
- BS, Geography, Oregon State University

REGISTRATION

Professional Engineer - ID, OR, WA, & CO

PROFESSIONAL ACTIVITIES

- American Water Works Association
- Water For People
- American Public Works Association
- American Council of Engineering Companies

KEY EXPERTISE

WATER

- Integrated Water System Planning
- Water System Planning
- Hydraulic Modeling & Water Distribution System Analysis
- Water Management & Conservation Plans
- GIS Applications
- Programs: InfoWater, H2OMap, H2ONet, WaterCad,EPANet, InfoSWMM, ArcGIS

WASTEWATER

- Wastewater Conveyance Planning
- Collection System Analysis/Basin Modeling

serves approximately 10,000 people. The City has a surface water supply that is augmented by groundwater under peak demand conditions. The City also employs ASR techniques to reduce iron and manganese levels in the native groundwater. This project includes many typical master planning components, including the development of a system description, population and demand forecasting, system analysis, and capital improvement plan development. A unique aspect includes the evaluation of additional hydropower generation options on the City's source water pipelines. The project includes the development of the City's first hydraulic model and creation of a water system GIS layer. Muraysmith will also be responsible for evaluating the City's current rate structure to ensure it can pay for the identified capital improvement projects and for making a final presentation to City Council.

WATER FACILITY PLAN, CITY OF POCATELLO, ID; *Project Manager.* Muraysmith was selected to develop a Water Facility Plan update for the City of Pocatello. The City serves approximately 55,000 customers from an all groundwater-supplied system. The system is comprised of 42 pressure zones, 16 storage tanks, and 20 wells. Current maximum day demand is 33 mgd. The planning effort includes an update and calibration of the their hydraulic model and analysis of capacity under existing, 5- and 20-year conditions. The City also utilizes an extended period model to evaluate system operations, which was recalibrated as part of the project. A capital improvement plan will be developed and evaluated in relation to available funding.

AUTOMATED METER READING SYSTEM, CITY OF NAMPA, ID; *Principal-In-Charge.* David served as principal-in charge on the project which includes a technical and financial analysis of the City of Nampa water meter read system and meter replacement program. It also evaluated the latest automated meter reading (AMR) technology including a fixed base data communications network, also known as advanced metering infrastructure (AMI), and compared this technology to an alternative mobile AMR system as well as current manual meter reading operations. Financial analysis indicated that use of the latest AMI technology for meter reading operations will produce the most efficient and cost effective services for the City. The capabilities of a new AMI system will be used to realize staff efficiency and safety goals as well as provide substantial data for water system troubleshooting, optimization, and design support. There was also an analysis of the City's meter replacement program to more accurately measure water usage and provide the basis for revenues to support the City's potable water system. After financial analysis was completed, a new AMI system and meter replacement program was designed, and the new system is currently under construction. Muraysmith is providing construction oversight services to ensure a smooth transition to the new meter read system.

ADVANCED METERING INFRASTRUCTURE FINANCIAL ANALYSIS AND IMPLEMENTATION STRATEGY, CITY OF MERIDIAN, ID; *Principal-In-Charge.* David served as principal-in-charge for the project that completed a technical and financial analysis of the City of Meridian meter reading system. The City currently uses a Sensus mobile automated meter reading system (AMR) that is fully implemented. However, the City wanted to investigate the feasibility of migrating to new fixed base, advanced metering infrastructure (AMI) for its water meter read system. Muraysmith performed a financial and implementation analysis and determined that the City may cost effectively perform the transition over the timeframe of its current meter replacement schedule (15 years). Muraysmith is negotiating design services with the City to provide bidding and contract documents for the new AMI system.

WATER MASTER PLAN UPDATE, CITY OF MERIDIAN, ID; *Project Manager.* David was project manager of the 2006 and 2011 Water System Master Plan Updates for the City of Meridian, Idaho, a growing community of approximately 75,000. The plan included evaluating water system hydraulics, modeling of system improvements for future growth areas outside the city's urban growth boundary, producing a 20-year projected capital improvements plan and evaluating options for financing future improvements. David recently began work on the 2016 update to the plan.

COMPREHENSIVE WATER SYSTEM STUDY, MOUNTAIN HOME AIR FORCE BASE, ID; *Project Manager.* David served as project manager on the Comprehensive Water System Study for the Mountain Home Air Force Base in Mountain Home, Idaho. The study focused on ensuring adequate water infrastructure would be in place to provide service for at least 50 years. The primary areas of focus for the study included condition assessment, hydraulic modeling and source of supply. Hydraulic model construction, calibration and analysis were performed to assess the hydraulic capacity of the system, and a capital improvements plan was developed to allow the Base to continue to provide adequate, high-quality water in the future.

HYDRAULIC MODEL ANALYSIS AND TRAINING, PUD NO. 1, ASOTIN COUNTY, WA; *Project Manager.* David is currently assisting Asotin County Public Utility District (PUD) in support of their water system hydraulic modeling program and other planning initiatives. Recent work assignments include assisting the PUD in evaluating modeling software and then subsequently converting their model to H2OMap. The model conversion included adding recently constructed facilities as well as ensuring that both existing and future modeling scenarios operated correctly. Training in the use of the software was also provided to PUD staff over a period of two days, allowing the PUD to operate the model in-house for evaluations of fire flow and new development.

WATER FACILITY PLAN, CITY OF IDAHO FALLS, ID; *Project Manager.* David served as project manager for Idaho Falls' first water master plan update in more than 20 years. This plan leveraged information developed as part of the recent VFD Study, including system description and existing water usage information. A long-term water supply evaluation was also completed. The updated hydraulic model was used to identify distribution system upgrades. A detailed analysis of the City's well and booster facilities was completed to ensure code compliance and define a long-term replacement program. The City developed their first conservation planning document for inclusion in the overall plan. David and the Murraysmith team evaluated current O&M procedures and made recommendations for where further

** Project completed with previous firm*

documentation is required. A prioritized 20-year capital plan was developed with an emphasis on those projects that were required in the first five years. Working with a specialty consultant, David and the team also developed an updated rate structure to finance the identified improvements.

DEVELOPMENT OF A WATER SYSTEM HYDRAULIC MODEL, CITY OF IDAHO FALLS, ID; *Project Manager.* David developed a water system hydraulic model in Infowater for the City of Idaho Falls, Idaho. The model was created as a one-to-one relationship with the GIS and includes all pipes except hydrant and service laterals. The project includes calibrating the model against field data and providing training in the use of the Infowater software.

WATER SYSTEM MASTER PLAN UPDATE AND WATER SYSTEM OPTIMIZATION, CITY OF BEND, OR; *Project Manager.* David served as project manager on a project that completed a comprehensive water system master plan update for the City of Bend in 2007. In 2009, David and Muraysmith worked with Optimatics to begin the development of an updated and calibrated dynamic water model that was synchronized with the City's GIS. Existing demands were developed by identifying the average day demand for each customer and then geocoding the location of that meter. Diurnal curves were developed from SCADA and current City operations added to the model. The model is based on the Infowater modeling platform that runs within ArcGIS. The model will be used to optimize both the operations and capital improvements for the water system using state of the art modeling software allowing for the analysis of hundreds of thousands of individual iterations to find the best solution to minimize costs. Both existing, five-year and 20-year evaluations will be included to assist in prioritizing and sizing future improvements. Muraysmith will develop future demand scenarios using the vacant parcels within the City, their associated land use and the urban growth boundary. Muraysmith will also be responsible for the development of a unidirectional flushing program for the City using the updated hydraulic model.

WELL 23 ALTERNATIVES ANALYSIS, CITY OF MERIDIAN, ID; *Principal-in-Charge.* David was retained on a fast-track project by the City of Meridian, Idaho to evaluate potential options for the continued use of Well 23 due to its exhibiting uranium levels over the federally mandated MCL. The project included meeting with Idaho Department of Environmental Quality (IDEQ) and the City to assess potential options, including treatment, blending, new water sources, aquifer storage and recovery (ASR), irrigation uses, and continued seasonal use with expanded water quality monitoring.

HYDRAULIC ANALYSIS, CITY OF ONTARIO, OR; *Senior Review.* David served as senior reviewer for the City of Ontario, Oregon Hydraulic Analysis. This project focused on evaluating operational changes to the City's system. The analysis recommended the removal of one of the City's pressure zones, simplifying system operations and reducing maintenance associated with the eliminated PRV stations.

WATER MASTER PLAN ANALYSIS AND HYDRAULIC MODEL TRAINING, CITY OF THE DALLES, OR; *Project Manager.** David assisted the City of The Dalles, Oregon in evaluating the water system under current and future conditions. This analysis included identifying the need for new reservoirs, supply and pumping, and potential locations for those facilities. David also provided City staff a two-day training course on the use of the hydraulic model. The training included instruction on how to use the software, update the model, and perform fire flow and improvement analysis.

WATER SYSTEM MASTER PLAN UPDATE, CITY OF TUALATIN, OR; *Task Lead.* David served as task lead on the Water System Master Plan Update and reservoir predesign for the City of Tualatin, Oregon, a growing community of approximately 21,000. The plan involved evaluating water system hydraulics using state-of-the-art modeling tools and procedures, including dynamic simulation, to evaluate the ability to fill and drain the proposed reservoir based on various capital improvements and operating scenarios. The dynamic simulation modeling included developing diurnal demand curves and loading operational data in order to simulate actual system operation over a period of 48 to 72 hours. Recent work has been done to assist the City in submitting a Stage 2 DBP Rule IDSE Plan using the SSS modeling option.

GEODATABASE CONSTRUCTION AND HYDRAULIC MODEL DEVELOPMENT, SNOHOMISH COUNTY PUD, WA; *Project Manager.* Since 2003, David has been working as project manager for the Snohomish County PUD in support of their geodatabase construction and hydraulic model. This work originally included developing an updated hydraulic model from GIS data and then calibrating and using it to update the capital improvements program for the PUD, but recent work has involved preparing a Stage 2 DBP Rule IDSE Plan using the SSS option with the PUD's hydraulic model.

WATER AND WASTEWATER MASTER PLAN, CITY OF REDMOND, OR; *Task Lead.* David served as task lead for the hydraulic analysis portion of the Water and Wastewater Master Plan for the City of Redmond, Oregon. The project included developing a new hydraulic model from available GIS data, calibrating that model, and evaluating existing and future scenarios. The significant growth that Redmond is experiencing, in addition to a large urban growth boundary, required an evaluation that included identification of the large diameter distribution and collection grid for growth in the next 50 years.

HYDRAULIC MODEL, CITY OF SPOKANE, WA; *Senior Review.* David provided senior level guidance to the City of Spokane, Washington to construct an all-pipe dynamic hydraulic model for their distribution system. The project entails four key tasks: 1) model construction from an existing ESRI Geodatabase structure including all pipes (16,000-18,000 pipes) with the exception of service and hydrant laterals; 2) demand allocation by parcel using existing billing records geo-located and referenced to demand nodes; 3) steady state and dynamic calibration including four to six weeks of field pressure; and 4) flow measurements and ongoing model maintenance coordinated with the City's GIS database.

Project work also included
training for City staff in the use of the hydraulic modeling software.

WATER COMPREHENSIVE PLAN AND ONGOING MODELING SUPPORT, SAMMAMISH PLATEAU WATER AND SEWER DISTRICT, WA; *Project Manager.* David has been supporting Washington's Sammamish Plateau Water and Sewer District in modeling, planning and design for their water system since early 1999. The work began as part of a master plan update where David was responsible for updating their existing hydraulic model to H2OMap from an older format and incorporating newly available GIS data. The update included a field data collection effort to calibrate the model, which was then used to identify and phase capital improvements through build-out. Ongoing work includes source of supply alternative analysis and advancing model development to include extended period, water quality modeling and the development of a unidirectional flushing program.

UPDATED WATER SYSTEM HYDRAULIC MODEL, CITY OF EVERETT, WA.

WATER SYSTEM MASTER PLAN, CITY OF WACO, TX; *Task Lead.** David served as task lead for the construction of an extended period model to help site future reservoir and pump station facilities for the completion of the Water System Master Plan for the City of Waco, Texas. Diurnal demand information was developed from available SCADA records. The extended period simulations also helped define operational settings for many pump stations that had historically been operated manually. The ultimate product of the hydraulic analysis was a capital improvements program used to assure that the water system infrastructure can provide for future growth.

WATER INFRASTRUCTURE IMPROVEMENT PROJECT, COMMONWEALTH OF PUERTO RICO; *Task Lead.** David worked as task lead on a water infrastructure improvement project for the Commonwealth of Puerto Rico, including water master plan development, synthesis of hydraulic models from existing hard copy maps and field verification for a portion of the island serving approximately 250,000 people. Identification of water distribution system improvements, including pipes, pump stations, reservoirs and valves for current and year 2020 scenarios, involved approximately $45 million worth of hydraulic improvements to be constructed on a two-year schedule. Acquisition of existing and new GIS data sources for use in model development included registered satellite and aerial photography.

UNIDIRECTIONAL FLUSHING (UDF) PROGRAM, SAMMAMISH PLATEAU WATER AND SEWER DISTRICT, WA; *Project Manager.* David managed a project for the Sammamish Plateau Water and Sewer District to develop a unidirectional flushing (UDF) program for its water system. The District has historically performed traditional flushing of hydrants,but in 2008, in conjunction with additional hydraulic model refinements, Muraysmith was contracted to develop a system-wide plan for UDF. The UDF plan provides a methodical approach for maintenance crews to open and close valves and hydrants in the system to achieve adequate velocities during the flushing process. This plan ultimately provides more than 500 individual flushing sequences in a map book format for use in the field.

WATER MASTER PLAN, CITY OF GRESHAM, OR; *Task Lead.* David was the task lead for the system analysis and hydraulic model update as part of a water master plan update for the City of Gresham, Oregon. As part of the project, the City's ESRI Geodatabase water layers were modified to ensure topological connectivity and attribute completeness prior to use in generating a new GIS based hydraulic model. The model was calibrated using field data and evaluated under existing and future peak demand and fire flow conditions. New groundwater supply available from a joint Rockwood PUD groundwater project was also incorporated into the analysis. Growth areas to the south of the City were evaluated in terms of supply, transmission and storage requirements. Ultimately, procedures to maintain the model and GIS synchronization were implemented.

SHILO WELL WELL HOUSE IMPROVEMENTS, CITY OF BEND, OR; *Task Lead.* Muraysmith completed a design to retrofit the existing well house for the Shilo Well. Three wells were housed in a wood frame well house. The well house and existing site piping were removed and one of the wells was abandoned. A second well pump was removed and replaced with a level transducer which was connected to the telemetry system that was constructed as part of the well house retrofit. The third well, which has a capacity of approximately 1,400 gpm was left in place and will initially pump to the City's Pressure Zone #4. The design included analysis and predesign of a system that allows the well to also pump into the City's Pressure Zone #2. This system included a booster pumping system, connection to the Shilo Meadows Well, and connection to the Murphy Pump Station. David led the hydraulic analysis during the schematic design phase.

WATER SYSTEM MASTER PLAN UPDATE, ROCKWOOD WATER PUD, OR; *Task Lead.* David served as the hydraulic modeling lead for the Rockwood Water PUD's Water System Master Plan which updated earlier water system master planning completed by Muraysmith. The Rockwood Water PUD provides water service to customers within a 12 square mile area inside the District boundary in Multnomah County. The district boundary includes area within the cities of Gresham, Fairview, Troutdale, and Portland. The District serves approximately 13,000 customers including residential, public, commercial, and industrial users.

WATER SYSTEM MASTER PLAN, SUEZ, BOISE, ID; *Project Manager.* A detailed demand forecast and water supply projection was developed for each pressure zone to determine the additional supply or pumping capacity that may be required in the next 20 years. Water quality regulations for both existing and projected conditions were developed to identify where treatment may be required in the system. A capital improvement plan was developed that fits within the utility's six-year budget cycle.

URBAN GROWTH BOUNDARY EXPANSION STUDY, CITY OF BEND, OR; *Project Manager.* David served as the project manager for the water and sewer portions of the City's Urban Growth Boundary (UGB) expansion study. The study was an extension of the water and sewer optimized master planning efforts. Long-term utility infrastructure were planned and optimized for a two-mile buffer outside of the existing UGB. Various near-term capital improvement scenarios were ranked to determine the most effective near-term expansion areas. David presented results of the infrastructure analysis to City staff and the UGB Technical Advisory Committee.

WATER PLANNING, MODELING AND HYDRAULIC ANALYSIS, CITY OF WINTER PARK, FL; *Project Manager.** David has been working with the City of Winter Park, Florida since 2000 as project manager in support of their water planning and modeling. This work has included updating and calibrating the model and developing a distribution system capital improvements plan. Winter Park chose to submit a Stage 2 DBP Rule IDSE Plan using the SSS modeling option which David prepared and submitted to the EPA.

WATER DISTRIBUTION SYSTEM CONVERSION AND MODELING PROJECT, CITY OF PHOENIX, AZ; *Project Engineer.** As project engineer, David worked on the Water Distribution System Conversion and Modeling project for the City of Phoenix, Arizona. The project included reduction of over one million GIS water pipes into a skeletonized system of 50,000 pipes of six inches in diameter and greater. Work also included conversion of a filtered system into CAD format while maintaining attribute information for all features. GIS-based land use and population coverages, combined with Thiessen procedures, were used to calculate water demands to input into hydraulic modeling.

WATER SYSTEM MASTER PLAN UPDATE, FAIRVIEW, OR.

WATER SYSTEM MASTER PLAN UPDATE, DALLAS, OR.

WASTEWATER PROJECTS

COLLECTION SYSTEM MODEL DEVELOPMENT, CITY OF IDAHO FALLS, ID; *Project Manager.* David served as project manager for the development of a collection system model for the City of Idaho Falls, Idaho. The project included constructing the model from the City's GIS data as well as collecting flow data from locations within the system to perform both dry and wet weather calibration. The final phase of the project includes performing existing and future deficiency analysis and subsequent identification of improvements. Training of City staff on the use of the InfoSWMM model is also included in the project.

OPTIMIZED SEWER COMPREHENSIVE SEWER PLAN UPDATE, CITY OF BEND, OR; *Project Manager.* David led the Optimized Sewer Collection System Master Plan Update for the City of Bend, Oregon. The City blended traditional and non-traditional approaches to the master planning process using a formal optimized decision support analysis applied to the system to identify a range of alternative, low-cost (capital and life cycle cost) solutions for the system for review and consideration by City staff and community stakeholders. The Optimized Sewer Collection System Master Plan Update is an element of a larger sewer-related engineering, planning, financing, and public relations project that will help guide development in Bend for decades to come. The planning effort reduced the identified capacity improvements from approximately $130M to less than $90M.

COMPREHENSIVE SEWER PLAN, CITY OF PASCO, WA; *Task Lead.* David was lead for the collection system analysis as part of the City of Pasco Comprehensive Sewer Plan. The City's system operates with an NPDES Waste Discharge Permit that allows treated effluent to discharge to the Columbia River. The collection system analysis included the development of a new GIS-based collection system model, flow monitoring to calibrate the model, and the analysis of deficiencies to develop an updated long range 20-year CIP. A second treatment plant was one of the included alternatives to address treating future wastewater in West Pasco. Treated effluent from this plant may be combined with the City's current separate non-potable irrigation water system, with solid slurry being pumped to the current plant for treatment and processing.

SEWER FLOW MONITORING, CITY OF BEND, OR; *Project Manager.* David served as project manager for the Sewer Flow Monitoring project for the City of Bend. The goal of the project was to develop a flow monitoring plan that would be implemented to collect flow data that will eventually be used to calibrate the City's InfoSWMM sewer model and also identify any infiltration/inflow responses within the collection system. As part of this project, Muraysmith first recommended 33 different sites to be monitored based on a review of previous collection system plans and then evaluated different options to monitor these sites. These flow monitoring options ranged from City staff installation of rented flow meters to bidding all services out to a third party vendor. Part of Muraysmith's task was to analyze data from the flow monitoring effort.

COLLECTION SYSTEM MODEL DEVELOPMENT AND CAPITAL IMPROVEMENT PLAN DEVELOPMENT, CITY OF TWIN FALLS, ID; *Project Manager.* David served as project manager for the Collection System Model Development and Capital Improvement Plan Development for the City of Twin Falls, Idaho. The project involved creating a model network from a combination of available electronic and hard copy data (including as-builts), calibrating that model to field collected flow measurements, and providing an existing and future capital improvements plan.

SEWER COLLECTION SYSTEM MODEL CALIBRATION, CITY OF BEND, OR; *Project Manager.* David served as the project manager for the City of Bend, Oregon Sewer Collection System Model and Capital Plan. The project includes a storm frequency analysis, network review, model calibration, hydraulic analysis of system deficiencies and improvements, and a capital improvement analysis through 2030. The model, in INFOSWMM with the EPASWMM hydraulic engine, has been set up to incorporate both

dry weather flows and system response to infiltration and inflow. The modeling effort provides system improvements and costs for both conveyance and pumping capacity. The project culminated in the identification of improvements for major interceptor lines in the City's system for 20-year and build-out conditions.

COLLECTION SYSTEM MASTER PLAN, CITY OF POCATELLO, ID; *Project Manager*. David served as project manager to complete a collection system master plan for the City of Pocatello, Idaho. The work included the development of a new GIS-integrated hydraulic model, calibration of the model and deficiency analysis under existing and future conditions. Condition assessment information available in the City's maintenance management system was evaluated in conjunction with hydraulic deficiencies to develop a comprehensive capital improvement plan for the next 20 years. Recommendations for inflow reduction in the historical city center were made from a comprehensive flow monitoring program. Lift stations were evaluated for condition, and operations and maintenance (O&M) procedures will be reviewed. Ultimately, the new model was provided to City staff by Muraysmith.

SEWER COLLECTION SYSTEM HYDRAULIC MODEL CONVERSION, CITY OF MERIDIAN, ID; *Project Manager.* David served as a project manager for the City of Meridian, Idaho Sewer Collection System Hydraulic Model Conversion project. The model was converted from HYDRA to EPASWMM and provided a validation of the existing model. Training in the use of EPASWMM was provided.

COST OF SERVICE STUDY, CITY OF NAMPA, ID; *Task Lead.* David worked with Alden Holm to develop an updated rate and hook-up fee structure for the wastewater utility within the City of Nampa, Idaho. The project included calculating a present value for both the wastewater treatment facilities within the City and the collection system. Spreadsheet tools have been developed as part of the project and have been delivered to the City, allowing for in-house sensitivity analysis of rates and fees.

I&I STUDY, CITY OF MERIDIAN, ID; *Project Manager.* David served as project manager, developing a multi-year plan to reduce infiltration and inflow (I&I) in the City of Meridian, Idaho sewer collection system. The first step in the process is to identify problem areas in the system. Muraysmith has developing a flow monitoring program that is being executed by City staff. This flow data was compared to the information in the City's sanitary sewer collection system hydraulic model. Muraysmith will review both dry weather flows as well as system response to I&I to identify potential problem areas. Maintenance data (e.g. CCTV database, O&M staff interviews) will also be used. Identified problem areas had alternatives developed for system improvement. Potential improvements include open cut pipe replacement, pipe replacement with trenchless technologies (e.g. sliplining, pipe bursting, cast-in-place pipe) and manhole rehabilitation.

COLLECTION SYSTEM MASTER PLAN, CITY OF NAMPA, ID; *Project Manager*. Muraysmith is developing an updated sewer collection system master plan for the City of Nampa. This effort will include the development of an updated hydraulic model. Flow monitoring at eight locations in the system was collected to characterize the average and peak flows within each major sewer basin. Manhole rim and invert elevations at a number of locations were collected to validate the information included in the hydraulic model and GIS. Updated loadings will be developed based on winter time water use and calibrated using the flow monitoring information. The City has recently collected system condition information that will be incorporated into the planning effort. The system will be evaluated on hydraulic capacity based on existing, 20 year and build-out conditions. A capital improvement plan was developed focusing on what needs to be constructed in the next five years. Muraysmith will provide an updated hydraulic model and recommendation for software at the conclusion of the planning effort.

COLLECTION SYSTEM MASTER PLAN, CITY OF PENDLETON, OR; *Project Manager.* Muraysmith developed sewer, water, and stormwater master plans for the City of Pendleton, Oregon with a population of approximately 18,000. The first step in the project was to develop a GIS database for each of the sewer, water, and stormwater utilities for use in developing hydraulic models and supporting the overall master plan development. The plan evaluated the ability of the City to convey existing and future water loads in all portions of the system through build-out. The project also provided updated design and construction standards for use internally as well as for developer reference. An overall sewer system asset management schedule was identified using a 100-year replacement schedule for piping. Lift station pumping capacity was reviewed by sewer basin to identify any future needs. A capital improvement plan was developed to address any existing and future projects. Muraysmith delivered an updated sewer GIS and associated hydraulic model as part of the project. Suggestions on modeling software and training were provided to City staff.

COLLECTION SYSTEM PLAN, ASOTIN COUNTY PUD, WA; *Project Manager.* Muraysmith completed a Collection System Plan update for the Asotin County PUD. In 2010, the PUD acquired Asotin County's Sewer System, which serves a large area of the unincorporated County outside the City of Clarkston. The updated collection system model developed in conjunction with the creation of a PUD-wide GIS, was used to evaluate the capacity of the system. Flow monitoring was completed in the system in 2011 and 2012 for use in calibrating the model and to determine the amount of infiltration and inflow in the system. One of the primary areas of focus was to evaluate ways to reduce the number of septic systems in the County. Some of these systems are failing and the PUD wants to be proactive in protecting the groundwater supply used to provide potable water to more than 20,000 County and City residents. The PUD is faced with challenging topography in many areas and collection system expansion requires an innovative approach. The plan also focuses on ensuring adequate O&M procedures and design standards are in place. A financial evaluation was also developed to ensure that system revenues meet capital and operational costs.

HYDRAULIC COMPUTER MODEL FOR THE SANITARY AND

COMBINED SEWER SYSTEM, CITY OF EVERETT, WA; *Task Lead/ GIS Coordinator.* As task lead/GIS coordinator on the Hydraulic Computer Model for the Sanitary and Combined Sewer System for the City of Everett, Washington, David coordinated GIS to develop a hydraulic computer model for analysis of the sanitary and combined sewer system. The City had a large existing ArcInfo database of Coverages and Shapefiles, information that was processed using a series of QA/QC steps to ensure attribute completeness, accuracy and correct topology in many areas where pipes were not connected properly or had been digitized in the wrong direction. This project required significant coordination to establish a readily maintainable, one-way transfer of sewer system data from the City's ArcInfo GIS to the hydraulic model.

GENERAL SEWER PLAN UPDATE, CITY OF MERCER ISLAND, WA; *Project Manager.** David served as project manager for the General Sewer Plan Update for the City of Mercer Island, Washington, and was responsible for general coordination and capital improvement plan coordination. Hydraulic models of the City's central business district and lake line were developed to evaluate existing and future growth scenarios, and a plan was developed and submitted to the Department of Energy (DOE) in less than one year. A primary project component was a collection system hydraulic model built from the City's Geodatabase. This effort required significant clean-up of the City's data for use in the hydraulic model. Errors or omissions in the data were fixed and the corrected information was returned to the City for incorporation into the master Waste Water System Geodatabase.

JUNIPER RIDGE – DEVELOPMENT REVIEW, CITY OF BEND, OR; *Project Manager.* Muraysmith was contracted by the City of Bend to evaluate the water and wastewater infrastructure requirements for a large multi-phase development. This project included calculating the required water supply and storage as well as potential sites for those facilities. Peak demands and fire flow volumes were calculated and potential pipeline alignments were evaluated using the City's hydraulic model to ensure velocities and pressures in the system were acceptable. For the sewer system, existing lift station capacity was evaluated and recommendations were made for serving near-term development by pumping and longer term growth through a regional gravity sewer using the City's InfoSWMM model. Ultimately, a presentation was made to the City and the development board that included order of magnitude costs for all infrastructure components. David served as project manager.

WASTEWATER SYSTEM DESIGN PROJECT, CITY OF LIMA, PERU; *Project Engineer.** As project engineer, David worked on the Water and Wastewater System Design project for the City of Lima, Peru, where he collected water and sewer system information on-site in Lima. He used existing AutoCAD files as a digital basemap and commenced "heads up" digitizing of systems, linked CAD files to the database and generated hydraulic model input for both sewer and water systems. David used ArcInfo- and ArcView-based GIS to create demand values for the water model. These demands were then scaled by a field-verified multiplier for the sewer model. Hydraulic modeling was used as a design tool to indicate and then verify where improvements or replacements in the system were to be made.

EXHIBIT B

Table 6-10 highlights the pipeline replacement priority based on break records, material, and age as shown in the previous two tables, and indicates the approximate number of years it will take to accomplish the replacement assuming the City replaces 3.2 miles (16,800 ft) of pipeline per year. See Figure 6-3 for a map showing the pipe location for each category in the table. The high priority replacement should focus on cast iron piping installed between 1902 and 1959. The replacement of both the public and private piping at 3.2 miles per year will take the City approximately 19.5 years to complete.

Table 6-10
Years for Pipeline Replacement and Prioritization

Years to Replace[1]											
Install Date	Asbestos Cement	Cast Iron	Ductile Iron	Galvanized Steel	Copper [2]	Polyethylene	Steel	Cast in Place Pipe	UNK	Total	Percent
1902 - 1919	-	0.77	-	0.06	-	-	0.12	-	-	0.95	0.9%
1920 - 1939	0.06	3.81	0.06	0.06	-	-	0.65	-	-	4.58	4.3%
1940 - 1959	1.13	15.00	0.30	0.48	-	-	0.18	-	-	17.02	16.0%
1960 - 1979	0.12	18.93	9.17	0.12	-	-	0.06	-	-	28.33	26.6%
1980 - 1999	-	0.18	26.73	-	-	-	-	-	-	26.90	25.3%
2000 - 2012	-	0.18	23.93	-	-	0.06	0.18	-	-	24.40	22.9%
UNK	-	1.67	1.19	0.12	-	-	-	-	1.19	4.23	4.0%
Total	**1.31**	**40.60**	**61.31**	**0.77**	-	**0.06**	**1.13**	-	**1.31**	**106.49**	
Percent	1.2%	38.1%	57.6%	0.7%	0.0%	0.1%	1.1%	0.0%	1.2%		

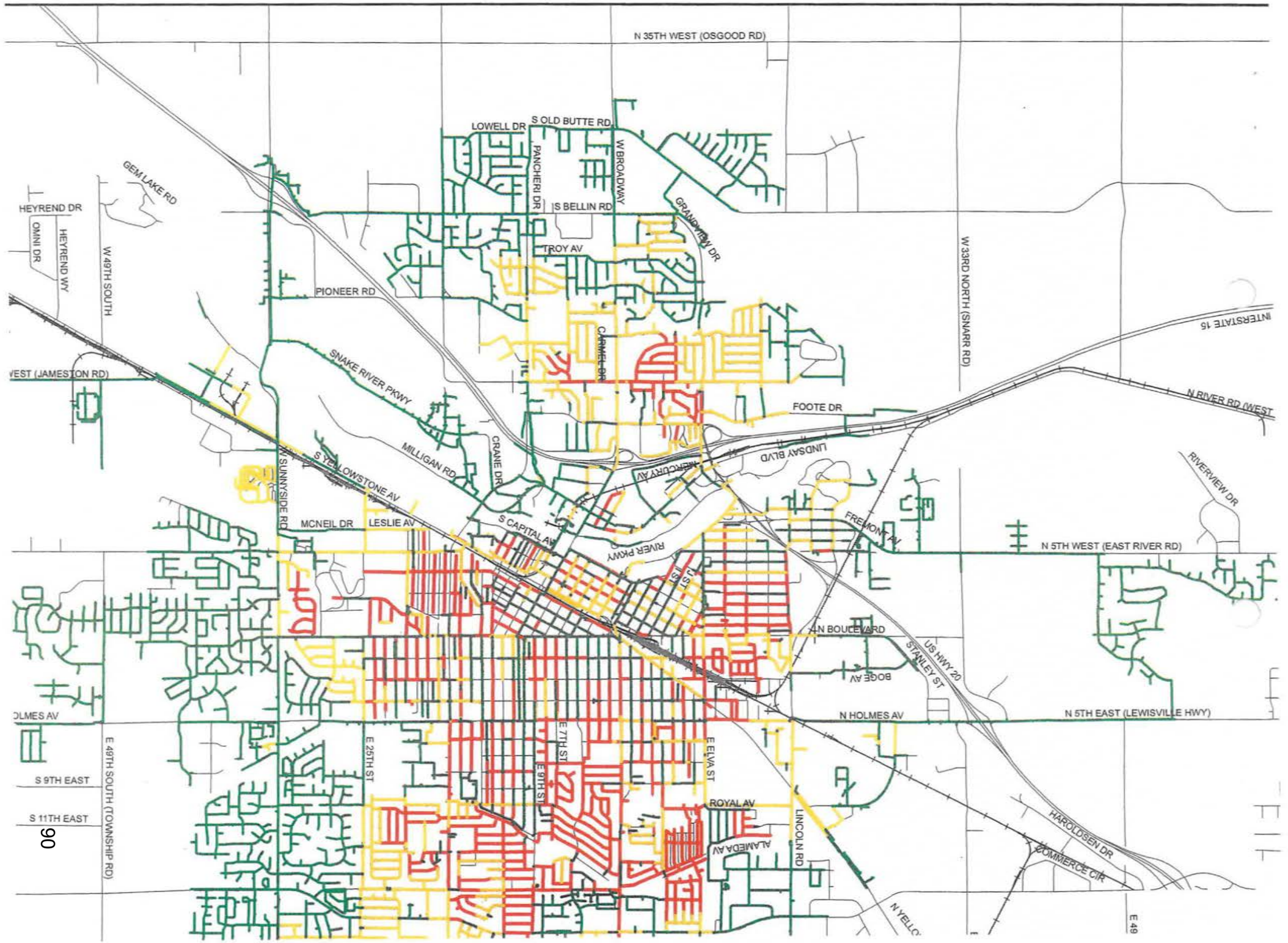
Replacement priority
High
Medium
Low

General note: Includes City, park and private pipelines.

[1] *Values shown as number of years to replace each type of pipeline assuming a replacement rate of 16,800 ft/yr.*

[2] *Values indicated as 0.00 were lost to rounding and truncation.*

In addition to water main pipeline replacement, service pipelines, including both laterals from the water main to meter pit (property line where no pit exists) and hydrant laterals, should be considered for replacement while the water mains are being replaced. City design criteria dictate the standard service material is 1-inch diameter, Type K copper for domestic connections. Larger hydrant lateral connections are typically ductile iron.


N 35TH WEST (OSGOOD RD)
LOWELL DR
S OLD BUTTE RD
PANCHERI DR
W BROADWAY
S BELLIN RD
GRANDVIEW DR
GEM LAKE RD
HEYREND DR
OMNI DR
HEYREND WY
W 49TH SOUTH
TROY AV
PIONEER RD
W 33RD NORTH (SNARR RD)
CARMEL DR
INTERSTATE 15
VEST (JAMESTON RD)
SNAKE RIVER PKWY
FOOTE DR
N RIVER RD (WEST
MILLIGAN RD
CRANE DR
LINDSAY BLVD
MERCURY AV
S YELLOWSTONE AV
N SUNNYSIDE RD
RIVERVIEW DR
MCNEIL DR
LESLIE AV
S CAPITAL AV
FREMONT AV
RIVER PKWY
N 5TH WEST (EAST RIVER RD)
U ST
N BOULEVARD
US HWY 20
STANLEY ST
BOISE AV
OLMES AV
N HOLMES AV
N 5TH EAST (LEWISVILLE HWY)
E 49TH SOUTH (TOWNSHIP RD)
E 25TH ST
E 7TH ST
E 9TH ST
E ELVA ST
S 9TH EAST
S 11TH EAST
ROYAL AV
ALAMEDA AV
LINCOLN RD
HAROLDSEN DR
COMMERCE CIR
N YELLO
E 49

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IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE

LAMONT BAIR ENTERPRISES, INC., an Idaho corporation, Plaintiff, v. CITY OF IDAHO FALLS, a municipal corporation, Defendant.	Case No. CV-2016-5711 **AFFIDAVIT OF BLAKE G. HALL IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT**

STATE OF IDAHO)
: ss.
County of Bonneville)

BLAKE G. HALL, being first duly sworn upon oath, deposes and states as follows:

1. I am one of the attorneys for the Defendant indicated above, I have personal knowledge of the following except where otherwise stated, and I am competent to testify.

2. That attached hereto as *Exhibit A* is a true and correct copy of the referenced deposition pages of the Deposition of Rick Ackerman, taken on October 11, 2017, pursuant to I.R.C.P. Rule 30(b)(6).

FURTHER YOUR AFFIANT SAYETH NAUGHT.

BLAKE G. HALL

SUBSCRIBED AND SWORN TO, before me the undersigned, a Notary Public in and for said State, this 23 day of October, 2017.

LESLIE GEORGESON
Notary Public
State of Idaho

Notary Public for Idaho
Residing at: Rigby ID
My commission expires: 4/30/20

CERTIFICATE OF SERVICE

I hereby certify that I served a true copy of the foregoing document upon the following this 23 day of October, 2017, by the method indicated below:

Jared W. Allen, Esq.
John M. Avondet, Esq.
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[ ] Facsimile
[X] Email
[ ] Hand-Delivery

BLAKE G. HALL

EXHIBIT A

In The Matter Of:

LAMONT BAIR ENTERPRISES, INC. vs.
CITY OF IDAHO FALLS

RICK ACKERMAN
October 11, 2017

T&T Reporting, LLC
477 Shoup Avenue, Suite 105
Idaho Falls, Idaho 83402

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apartment rentals? Is that what you're referring to?
Q. Yeah. I'm just trying to figure out what this company is.
A. That would be the real property, yes.
Q. Does it own more than one rental property?
A. Not that I know of to my knowledge.
Q. This rental property that's the subject of the flood in this case, is it a four-plex?
A. Yes, sir.
Q. So Lamont Bair Enterprises owns that four-plex, if I'm understanding you right?
A. Yes.
Q. Does it own any further four-plexes, for instance?
A. Yes.
Q. Okay. Do you know how many?
A. On Skyline there's five. There's a building on -- an eight-plex on Laprelle -- or on Vasser, excuse me. And to the best of my knowledge there's nine or ten buildings on Laprelle. A total of seventy-six apartments.
Q. Does Lamont Bair Enterprises own any other real property besides the apartments, the

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seventy-six apartments?
A. I couldn't answer that. I'm not -- that's not part of my information.
Q. What do you do for Lamont Bair Enterprises?
A. Property management.
Q. What does that entail?
A. Overseeing property, renting, collecting money, deposits, overseeing maintenance.
Q. Is this a full-time job?
A. Yes, sir.
Q. Do you have employees that work under you?
A. I do.
Q. Who do you have working under you?
A. I have two. Tim -- gosh, you caught me on surprise on that one.
Q. It always happens.
A. All of a sudden my mind went -- Mark Reed and Tim -- gosh, I can't remember his name. Can I look at my phone?
Q. Yeah. Oh, that's fine. Sure. While you're getting that out --
A. I apologize. All of is sudden my mind just went completely blank.

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Q. Are they maintenance guys?
A. Yes, sir. Mitchell, Tim Mitchell.
Q. Are they full time as well?
A. Yes, sir.
Q. Were they both with you back on the date that this flood happened?
A. No, sir.
Q. Did you have different maintenance guys then?
A. Uh-huh.
Q. Is that a yes?
A. Yes.
Q. I just -- you probably haven't done this before. --
A. I know. Okay.
Q. -- but in order for the transcript to come out and look good, we'll have to be careful to say yes or no as opposed to uh-huh. Even though I understand what you said, it doesn't come out well on the transcript.
A. No problem.
Q. Do you recall who your maintenance guys were at the time of this flood?
A. His name is Roy Smith.
Q. Where is he at now?

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A. He took employment out at the site.
Q. Did he show up on the day that this flood was happening when the water was coming in?
A. Yes, sir.
Q. Do you happen to have his phone number?
A. I do.
MR. ANGELL: Do you know if that was in discovery, Jared?
THE WITNESS: I don't believe it was.
MR. ALLEN: No, it doesn't look like it was.
Q. (BY MR. ANGELL:) If you don't mind looking up his phone number?
A. Area code 208-821-1111.
Q. Thank you. Have you had a chance to talk to him about this flood since it happened?
A. No. Well, no. Not at any length, no.
Q. About this lawsuit, for instance?
A. He knew of it --
Q. Okay.
A. -- because he was employed at the time.
Q. When did he leave your employment?
A. I really couldn't give you an answer

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Q. And then what year -- I'm trying to do math, but I can't in my head.
What year did you start doing the property management.
A. It was -- now you're asking me to do the math a little bit.
Q. Early '80s? Is that what it puts it at, '83? Wait.
A. No. It would have been '70s, oh, '70.
Q. No, you're right.
A. '74, to the best of my knowledge.
Q. So it's been owned by Lamont Bair the entire time?
A. Yes, sir.
Q. During that time frame -- I'm glad you've been around forever -- has this four-plex had flooding issues before?
A. Not to this extent, no.
Q. Let me ask it this way, because there are different kinds of flooding: Has it had flooding from an external source? So I would be talking about something other than the pipes inside the house having trouble.
A. Not to the best of my knowledge, no.
Q. Have you ever had the basement floor

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replaced in that four-plex prior to this flood?
A. The concrete replaced?
Q. Yes.
A. No, sir.
Q. And so, the foundation basement floor is the same that was there up -- was the same from the construction up until the date of this flood?
A. Yes, sir.
Q. Are you aware of any recent changes that had been made to the plumbing in this four-plex before the flood?
A. No, sir.
Q. I read somewhere that there was a trench that had been dug to the four-plex from the street prior to this flood.
Do you recall that?
A. I do not recall.
MR. ANGELL: Let me see if I can find that. Just go off the record for a minute.
(Discussion off the record.)
(Deposition Exhibit 4 was marked for identification.)
Q. (BY MR. ANGELL:) Let me hand you what we've marked as Exhibit 4 and have you glance at that, and let me know if you know what that is.

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A. It's from the engineer.
Q. Looks like it was produced by Northwest Investigative Engineering.
Do you know who it is?
A. Not up until this date, no. But I do from this association with them, yes.
Q. Brian Hansen?
A. Yes.
Q. Did you retain these engineers?
A. No. This, I believe, was initiated by Mr. Wray, W-r-e-y (sic).
Q. It's Korden Wray, K-o-r-d-e-n, W-r-a-y.
So was he an insurance adjuster for your insurance? Do you remember?
A. No, he wasn't.
Q. Was he the ICRMP adjuster?
A. Yes.
Q. Okay. And so did he retain the engineer, or did you guys?
A. He did.
Q. Have you seen this report before?
A. Yes, sir.
Q. So what I was curious about is in -- on the second and third page of this, sorry, third page, it says: On discussion of results -- do you

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see that paragraph?
A. Yes, sir.
Q. Couple of sentences in it says: For some reason -- and then in parenthesis -- likely due to the frozen surface soil, the least resistance pathway was from the area of the leak to the basement of the claimant's four-plex likely through the trench that was excavated during the installation of the water line to the four-plex.
Do you know what he's talking about there?
A. No, sir. Not knowing exactly what he's referring to, no.
Q. Do you know --
A. Unless it was a construction phase of the building.
Q. That's what I wondered.
A. That's the only possibility I can think of.
Q. Are you aware if the city or any of your employees have excavated a trench close to the waterline on this particular four-plex?
A. No.
Q. No? No, you're not aware, or no it didn't happen?

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A. Not that I'm aware of.
Q. So the city hasn't been out doing work on the connection line prior to this that you recall?
A. Not that I can recall.
Q. Has there been a flood caused by a leak from the city water system to any of the neighboring properties that you manage in this area?
A. In reference to that, no. As far as the water mains, no. The building just to the north of it, a couple years prior had a sewer backup and flooded that four-plex.
Q. And that was on a sewer side?
A. It was on the sewer side, yes, sir.
Q. As far as on the water side, have you had any problems on the water side?
A. No, sir.
Q. Are all the properties that Lamont Bair Enterprises owns, are they over on the west side of the highway, or are they scattered around?
A. They're all within a couple block radius right there.
Q. Okay. Off of Skyline?
A. Off of Skyline on Skyline and Laprelle.

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Q. And during your time with Lamont Bair, do you recall if you've had any other floods in any of the other Lamont Bair apartments? Let me qualify that while you're laughing.
A. Oh.
Q. On the city water side as far as water supply.
A. As far as the main, if I understand what you're referring to, no.
Q. Now, I understand you've probably had floods over the years from tenants doing the things that tenants do, and washer and dryer lines and other things, but I'm really wanting to focus just on the city's provision of water services to the four-plexes --
A. Right.
Q. -- if you've had problems with that service in the past?
A. (Shakes head.)
Q. Okay. Why don't we just jump to this flood.
Can you tell me what you recall happening, just in your words?
A. Basically, I was notified by the tenant number seven that she had water in her basement, and

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I was close, so I was there within a matter of, you know, less than ten minutes.
When I got there, it wasn't just a little bit of water, it was a lot of water. And so immediately, I went into my mitigation mode of trying to stop whatever was causing it, started looking through -- it wasn't coming from her apartment, so -- and at the time the apartment -- that building at 547 is apartment number five, six, seven, and eight.
At the time apartment number eight was vacant. We were in the process of remodeling it, so immediately had access and went in there, and water was just all over three to four inches deep on the whole floor.
And walked through it, and seen where the water was actually boiling up through the water from the floor. I couldn't see the crack. Obviously, it was covered by water, but common sense told you that's where it was coming from.
Roy and I, because he was there with me, started to go through and try to get the water turned off, and so we turned the main valve off which is in number eight's basement, the main valve there, which didn't slow it down, didn't do

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anything, and then called Holeshot.
And it was just a matter of procession of different people showing up because Tobins were coming to mitigate the problem to try to help suck the water out. Holeshot was there trying to figure out what was going on, so there was multiple people there.
We couldn't get the water to shut off down into number eight's basement, so it kept flowing. The city did come out. They turned the water off on their valve, and then that pretty much stopped it.
And then it was a matter of cleaning up and repairs and restoration after that.
Q. Did you call the city or did someone else? Do you remember?
A. I believe I called the city.
Q. Do you recall how long it was before you called the city from when you got over there?
A. I can only estimate. I couldn't even give you a real valid answer. Within twenty minutes of being on the scene.
Q. Did you happen to know the city guys that showed up to work on it?
A. No.

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no longer needed.
Q. And you don't know where that plumber was that evening when the IF guys, city guys, were there?
A. No, sir. I was.
Q. That seems a little chaotic?
A. I was in and out of four apartments and had the three different tenants not very happy.
Q. Did all four apartments sustain damage?
A. Yes, sir.
Q. Do they each have a basement area in that four-plex?
A. Yes.
Q. Oh, I was under the impression that there were lower level apartments and then upper level in that four-plex.
A. No, sir. Actually, there's four apartments there, and they all have their individual -- actually, unfinished basement except for apartment number six, which was a finished basement. She's a long-term tenant and been there probably as long as I have, and she finished her basement.
Q. Before this flood or after?

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A. No, no. Before.
Q. Did we flood her out?
A. Oh, yes.
Q. Is her stuff in these invoices, or do you know?
A. No. Actually, I was advised to give each one of them their independent loss notifications, and they dealt with the city on their own.
Q. Okay. Okay. Let me have you look at what we've marked as Exhibit Number 2, and that's the complaint in this case.
Have you had a chance to look at that before?
A. Yes, I believe I've seen it.
Q. I don't expect you to -- well, let me just ask this question: Do you know what it is you're alleging that you believe was negligent on the part of the City of Idaho Falls? Can you describe that for me?
A. I have four dry, empty basements, and then after the water main was leaking or had ruptured, I had four wet apartments. Outside of that, I'm -- I don't know what else to tell.
Q. Has Lamont Bair Enterprises retained any

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experts in this case?
A. No.
Q. Okay.
A. Experts meaning?
Q. On liability, on negligence.
A. Oh, no.
Q. Let's separate that out because you do have some invoices you've submitted from Tobins and some other folks.
A. Correct.
Q. What about expert, maybe, engineer to talk about how the water got into the apartments?
A. No, sir.
Q. Any experts in regard to erosion or structural experts to testify about damages to the apartment complex?
A. Not other than what was already listed previously.
Q. Okay. Now, I have a number of invoices here, and I'm going to take a quick break, and I want to compare those against the new one that I just got from you today, but let me just ask this question first: Are you -- do you know of any other invoices that have not been submitted to us that relate to any of the damages you're claiming in this

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case?
A. Not to the best of my knowledge.
Q. So we should have them all at this point?
A. Yes, sir.
Q. Have each of the invoices that you've submitted to us been paid by Lamont Bair?
A. Yes, sir.
Q. And were any of them discounted below the rates indicated on the invoices?
A. No, sir.
Q. Gotta ask. Tobins wanted all of their fifty some odd thousand dollars?
A. We can only wish they'd cut me a break. They didn't.
MR. ALLEN: Small one.
MR. ANGELL: They did give you --
MR. ALLEN: There was --
MR. ANGELL: -- a small difference.
THE WITNESS: Yeah. I think somebody goofed up there.
MR. ANGELL: But the amounts indicated there's a difference on the new invoice.
MR. ALLEN: The new invoice, yeah, shows a few dollars difference.

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IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE

LAMONT BAIR ENTERPRISES, INC., an Idaho corporation, Plaintiff, v. CITY OF IDAHO FALLS, a municipal corporation, Defendant.	Case No. CV-2016-5711 **MEMORANDUM IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT**

Defendant, CITY OF IDAHO FALLS, by and through counsel of record, HALL ANGELL & ASSOCIATES, LLP, hereby submits its Memorandum in Support of Motion for Summary Judgment as follows:

INTRODUCTION

In this case, Plaintiff surreptitiously attempts to hold the City of Idaho Falls liable as an insurer under a theory of absolute or strict liability. Plaintiff has not presented any evidence of negligence. The City is not an insurer against injury to Plaintiff arising out of the installation, maintenance or operation of its water system. Rather, the City's liability depends upon

negligence. Summary judgment should be granted, and Plaintiff's claims against the City should be dismissed with prejudice because the City exercised reasonable care in the installation, maintenance, repair, and replacement of its waterlines. Indeed, at the time the incident at issue here occurred, the City's waterline met engineering standards, and the City lacked notice of any defect in its waterline.

Moreover, the City cannot be held liable for injury to Plaintiff because the City is entitled to immunity under the Idaho Tort Claims Act. Specifically, the City is immune under the discretionary function and construction design defenses of Idaho Code Section 6-904(1) and (7). Thus, the City of Idaho Falls is entitled to summary judgment on all claims, and this case should be dismissed.

STATEMENT OF FACTS

1. The City of Idaho Falls has over 314 miles of public pipeline made of various materials, including asbestos cement, cast iron, ductile iron, galvanized steel, polyethylene, and steel. *See* Richards Aff., ¶ 6. During the 1940s and 1950s, the City routinely used cast iron piping in its water system. *See* Richards Aff., Ex. C.

2. With cast iron piping, the life expectancy varies based on the time periods in which the piping was installed due to changing manufacturing technique and materials. Cast iron piping installed in the late 1800s to early 1900s has a life expectancy of 120 years. Cast iron piping installed in the 1920s to 1940s has a life expectancy of 100 years. Cast iron piping installed in the 1940s and newer has a life expectancy of 75 years. *See* Richards Aff., ¶ 10.

3. In 2014, the City retained the engineering services of Murray, Smith & Associates, Inc. (Murray Smith) to assist in preparing a water facility plan for the City. The City's Superintendent of the Water Division, David Richards, worked closely with Murray Smith

to develop a plan for pipeline replacement and prioritization. *See* Richards Aff., ¶ 11; Stangel Aff., ¶ 5. The City's plan sets forth the timeframe and priority in which the City expects to replace its cast iron piping. The City's cast iron piping installed between 1940 and 1959 is expected to be replaced within 15 years. *See* Richards Aff., ¶ 15.

4. The City's Water Facility Plan was prepared by professional engineers and conforms with engineering standards. *See* Richards Aff., ¶ 11; Stangel Aff., ¶ 5.

5. As Superintendent of the Water Division, it was Mr. Richards' responsibility to familiarize himself with and understand the City's resources in assisting in the development of a plan that meets the needs of the City. *See* Richards Aff., ¶ 12. Because the Water Facility Plan includes recommendations for future capital improvements, it was developed based on the City's resources, including manpower, machinery, budgetary constraints, and the public interest. Decisions regarding the Water Facility Plan are made only after considering these City resources. *See* Richards Aff., ¶ 12.

6. After Murray Smith completed the City's Water Facility Plan, the plan was presented to the city council on May 11, 2015. A public meeting on the plan was held on July 20, 2015 and public comments were solicited until August 3, 2015. On July 27, 2015, the Idaho Department of Environmental Quality approved the Water Facility Plan. *See* Richards Aff., ¶ 13. Subsequently, on August 13, 2015, the Idaho Falls City Council accepted the Facility Plan and adopted the recommendations contained therein. *See* Richards Aff., ¶ 14.

7. The City is consistently increasing water rates to achieve the goals set forth in the Water Facility Plan. The plan recommends that this piping be replaced within 15 years so that no pipes used in the City's system will have exceeded their respective life expectancies. *See* Richards Aff., ¶ 15.

8. Unfortunately, on or about December 28, 2015, there was a break in the City's water line at the intersection of Skyline Drive and Brentwood Drive in Idaho Falls, Idaho. The break occurred in the line running west from the Skyline Drive intersection down Brentwood Drive. *See* Richards Aff., ¶ 4.

9. Plaintiff, Lamont Bair Enterprises, LLC, is a business that owns rental properties in Idaho Falls, Idaho. Plaintiff experienced flooding to its rental property located at 547 South Skyline Dr., Idaho Falls, Idaho. *See* Complaint, ¶¶ 5–12.

10. Plaintiff owns seventy-six apartments all within an approximate two-block radius of 547 South Skyline Drive, where this incident occurred. *See* Ackerman Depo., p. 9, ll. 9–23; p. 21, ll. 18–25. Over the past forty-three years, Lamont Bair has not experienced any flooding from the City's waterlines in any of its seventy-six apartments. *See* Ackerman Depo., p. 17, ll. 15–24; p. 21, ll. 6–17; p. 22, ll. 1–22.

11. Plaintiff has not produced and is not aware of any evidence that the City acted negligently with respect to the maintenance of its water system. When asked what facts support an allegation of negligence, Plaintiff has testified:

> I have four dry, empty basements, and then after the water main was leaking or had ruptured, I had four wet apartments. Outside of that, I'm—I don't know what else to tell.

See Ackerman Depo., p. 30, ll. 16–24.

12. The type of break that occurred in this case was a shear break, or in other words a clean snap of the entire circumference of the pipe. The water line in question is a 6-inch diameter, cast iron pipe that was installed in 1959. *See* Richards Aff., ¶ 5.

13. The piping at issue in this matter was installed in 1959 and was approximately 56 years old at the time of the incident giving rise to this lawsuit. It had not exceeded its life

expectancy. *See* Richards Aff., ¶ 16. Additionally, the City has not had issues with leaks in the area where this incident occurred. In general, there are few problems of leaks in the City's water lines west of the Snake River. *See* Richards Aff., ¶ 17. The subsoil west of the Snake River is soft and sandy creating an environment that is easy on the water lines. Conversely, the subsoil east of the Snake River tends to have more clay and be harder on the water lines. The City experiences very few leaks west of the river. *See* Richards Aff., ¶ 17.

14. The break at issue here occurred in late December of 2015 and was a shear break of the 6-inch cast iron piping. *See* Richards Aff., ¶ 18. This shear break was caused by shifting soils due to deep frost penetration, and that the circumstances giving rise to the break were not within the City's control or ability to prevent. *See* Richards Aff., ¶ 18.

15. The City's water line located at the intersection of Skyline Drive and Brentwood Drive and at issue in this matter was designed, constructed, and maintained in accordance with engineering standards and met all state and federal standards on December 28, 2015. *See* Richards Aff., ¶ 19. The City did not have notice of decay, defects, or breaks in the waterline at issue. Moreover, the City did not have notice of any waterline breaks on the west side of Idaho Falls near 547 South Skyline Drive. *See* Richards Aff., ¶ 16.

16. The City now seeks summary dismissal of Plaintiff's claims.

LEGAL STANDARD

In considering a motion for summary judgment, the Court may properly grant the motion when there are no genuine issues of material fact and the moving party is entitled to judgment as a matter of law. I.R.C.P. 56(c). In determining whether any issue of material fact exists, this court construes all facts and inferences contained in the pleadings, depositions, and admissions, together with the affidavits, if any, in a light most favorable to the non-moving party. *Partout v.*

Harper, 145 Idaho 683, 685, 183 P.3d 771, 773 (2008). The Court draws all inferences and conclusions in the non-moving party's favor and if reasonable people could reach different conclusions or draw conflicting inferences, then the motion for summary judgment must be denied. *Zimmerman v. Volkswagen of America, Inc.*, 128 Idaho 851, 854, 920 P.2d 67, 70 (1996).

However, if the evidence shows no disputed issues of material fact, then summary judgment should be granted. *Smith v. Meridian Joint School District No. 2*, 128 Idaho 714, 718, 918 P.2d 583, 587 (1996); *Loomis v. City of Hailey*, 119 Idaho 434, 437, 807 P.2d 1272, 1275 (1991). A mere scintilla of evidence or only slight doubt as to the facts is not sufficient to create a genuine issue for purposes of summary judgment. S*amuel v. Hepworth, Nungester & Lezamiz, Inc.*, 134 Idaho 84, 87, 996 P.2d 303, 306 (2002). The non-moving party "must respond to the summary judgment motion with specific facts showing there is a genuine issue for trial." *Id.*

ARGUMENT

I. PLAINTIFF HAS FAILED TO PRESENT A GENUINE ISSUE OF MATERIAL FACT IN SUPPORT OF ITS CLAIMS.

Plaintiff has failed to present any evidence that the City acted negligently in its installation, maintenance, repair, and/or replacement of its water system. "Generally, to state a cause of action for negligence, a plaintiff must establish four elements: '(1) a duty, recognized by law, requiring a defendant to conform to a certain standard of conduct; (2) a breach of that duty; (3) a causal connection between the defendant's conduct and the resulting injuries; and (4) actual loss or damage.'" *Grabicki v. City of Lewiston*, 154 Idaho 686, 691, 302 P.3d 26, 31 (2013) (citing *Fragnella v. Petrovich,* 153 Idaho 266, 272, 281 P.3d 103, 109 (2012).

A city is subject to liability for damages arising out of its negligence under the same rules as are applied to private individuals or corporations. *Hansen v. City of Pocatello*, 145 Idaho 700,

704, 184 P.3d 206, 210 (2008) (summary judgment granted where "there was no direct evidence" of negligence). A city "is not an insurer against injury to others arising out of the installation, maintenance or operation of its water system. Its liability for such injury depends upon negligence." *C.C. Anderson Stores Co. v. Boise Water Corp.*, 84 Idaho 355, 359, 372 P.2d 752, 754 (1962). A city has "a general duty to use due or ordinary care not to injure others, to avoid injury to others by any agency set in operation by [it], and to do [its] work, render services, or use [its] property as to avoid such injury." *Sharp v. W.H. Moore, Inc.*, 118 Idaho 297, 300, 796 P.2d 506, 509 (1990) (*quoting Whitt v. Jarnagin*, 91 Idaho 181, 188, 418 P.2d 278, 285 (1966)). "A city is not liable for damages occasioned by a latent defect in its water system in the absence of notice, express or implied, of such defective condition; it must have had actual notice or the defect actually existed for such a length of time or under such conditions that it should have known of the defect." *Yearsley v. City of Pocatello*, 71 Idaho 347, 353, 231 P.2d 743, 747 (1951). Thus, without notice of an alleged defective condition, a city cannot be held liable for claims arising from such an alleged defect.

A. Plaintiff has failed to present any evidence of negligence.

Here, the City acted reasonably and did not breach a duty owed to Plaintiff. At the time the water leak occurred on December 28, 2015, the City's water system and piping met engineering standards. *See* Richards Aff., ¶ 19. Prior to the incident giving rise to this litigation, the City adopted a Water Facility Plan, which was prepared by professional engineers at Murray, Smith & Associates, Inc. *See* Richards Aff., ¶ 11; Stangel Aff., ¶ 4. The City Council formally accepted and adopted the Water Facility Plan on August 13, 2015, and the plan conforms with engineering standards. *See* Richards Aff., ¶ 11, 14; Stangel Aff., ¶ 5. The piping at issue in this case was approximately 56 years old and has a life expectancy of at least 75 years. *See* Richards

Aff., ¶ 10, 16. The City is consistently increasing water rates to achieve the goals set forth in the Water Facility Plan. The plan recommends that this piping be replaced within 15 years so that no pipes used in the City's system will have exceeded their respective life expectancies. *See* Richards Aff., ¶ 15. The City cannot be said to have acted negligently when its piping and water system met engineering standards and complied with all federal and state laws at the time the leak allegedly occurred.

Plaintiff has acknowledged that it is not aware of any negligence on the City's part. Rather, Plaintiff improperly seeks to hold the City liable under a theory of absolute or strict liability. When asked what facts support an allegation of negligence, Plaintiff has testified:

> I have four dry, empty basements, and then after the water main was leaking or had ruptured, I had four wet apartments. Outside of that, I'm—I don't know what else to tell.

See Ackerman Depo., p. 30, ll. 16–24. The mere fact that Plaintiff's property was damaged, does not demonstrate negligence. Here, because the City's water system and piping met engineering standards at the time the leak occurred on December 28, 2015, there is simply no evidence of negligence in this case.

B. <u>The City lacked actual and constructive notice of any defects or breaks in its waterline</u>.

Additionally, the City lacked actual and constructive notice of any defect or leak in the cast iron piping located at the intersection of Skyline Drive and Brentwood Drive. The piping at issue was well within its expected useful life of 75 years, and the piping was located in an area in which the City typically does not experience these issues. As David Richards has testified, there are few problems of leaks in the City's water lines west of the Snake River due to the subsoil. *See* Richards Aff., ¶ 16–17. The subsoil west of the Snake River is soft and sandy creating an

environment that is easy on the water lines unlike the subsoil east of the Snake River, which tends to have more clay and be harder on the water lines. *See* Richards Aff., ¶ 17. Indeed, Plaintiff owns seventy-six apartments all within an approximate two-block radius of where the leak occurred, and it has not experienced any flooding from the City's waterlines in any of its seventy-six apartments over the past forty-three years. *See* Ackerman Depo., p. 9, ll. 9–23; p. 17, ll. 15–24; p. 21, ll. 6–25; p. 22, ll. 1–22.

While the City recognizes that its water lines are subject to wear and deterioration over time, the life expectancy of the piping in question was 75 years, and the piping was only 56 years old. *See* Richards Aff., ¶ 10, 16. As the Idaho Supreme Court determined in *Yearsley*, the City cannot be liable for damages caused in the absence of actual or constructive notice. *Yearsley*, 71 Idaho at 353. There is no evidence that would suggest the City was aware or should have been aware of a defect or leak in its water line at the intersection of Skyline Drive and Brentwood Drive. Because the City lacked actual and constructive notice, it cannot be held liable for damages in this matter.

C. <u>The doctrine of res ipsa loquitur does not apply in this case</u>.

Further, the doctrine of res ipsa loquitur does not apply in this case. Plaintiff's claims stem from the allegation that the City failed to adequately install, maintain, and repair its water system. *See* Complaint, ¶¶ 18, 27. "The doctrine of res ipsa loquitur is applicable when two elements co-exist: (1) the agency or instrumentality causing the injury was under the exclusive control and management of the defendant; and (2) the circumstances were such that common knowledge and experience would justify the inference that the accident would not have ordinarily happened in the absence of negligence." *Brizendine v. Nampa Meridian Irrigation Dist.*, 97 Idaho 580, 583, 548 P.2d 80, 83 (1976). The doctrine of res ipsa loquitur does not

transform liability for negligence into insurance or absolute liability. *Skaggs Drug Centers, Inc. v. City of Idaho Falls*, 90 Idaho 1, 8, 407 P.2d 695, 698 (1965). The only function of res ipsa loquitur is to:

> replace direct evidence of negligence with a *permissive* inference of negligence. It warrants, but does not compel, a finding of negligence. It furnishes circumstantial evidence of defendant's negligence where direct evidence may be lacking. The burdens of proof of the parties remain the same-the plaintiff, with the aid of the inference, must prove his case by a preponderance of the evidence; if the plaintiff presents sufficient evidence to get to the jury, the defendant is obligated to produce evidence to explain or rebut plaintiff's prima facie case.

Id.

In this case, Plaintiff has failed to present any evidence to survive summary judgment. Plaintiff attempts to hold the City liable as an insurer under a theory of absolute or strict liability. There is no evidence in this matter that the City acted negligently in its installation, maintenance, and/or repair of its water system. While it is true that the City may have exclusive control over its water system, res ipsa loquitur cannot apply because the break that occurred here is such that can occur in the absence of negligence. The break at issue here occurred in late December of 2015 and was a shear break of a 6-inch cast iron pipe. *See* Richards Aff., ¶ 18. As Mr. Richards has testified, in his professional opinion "the break was caused by shifting soils due to deep frost penetration, and that the circumstances giving rise to the break were not within the City's control or ability to prevent." *See* Richards Aff., ¶ 18. Although a water system may comply with engineering standards, it still remains vulnerable to acts of nature such as significant freezing and frost penetration into subsoils. *See* Richards Aff., ¶ 19. The City's water line at issue in this matter was designed, constructed, and maintained in accordance with engineering standards and met all state and federal standards on December 28, 2015. *See* Richards Aff., ¶ 19. Thus, Plaintiff

has failed to present any evidence to survive summary judgment, and this case should be dismissed in its entirety.

II. THE CITY IS ENTITLED TO IMMUNITY UNDER THE IDAHO TORT CLAIMS ACT.

Even if the Court determines a genuine issue of material fact exists with respect to Plaintiff's claims, the City is immune from any liability under the Idaho Tort Claims Act. In considering a motion for summary judgment for a governmental entity involving a question of immunity under the Idaho Tort Claims Act, the reviewing court should determine:

> . . . whether tort recovery is allowed under the laws of Idaho; and, if so, whether an exception to liability found in the tort claims act shields the alleged misconduct from liability; and, if no exception applies, whether the merits of the claim as presented for consideration on the motion for summary judgment entitle the moving party to dismissal.

Harris v. State Dep't of Health & Welfare, 123 Idaho 295, 298 n. 1, 847 P.2d 1156, 1159 n. 1 (1992). Pursuant to I.C. § 6-903, a governmental entity is subject to liability for money damages arising out of its negligent conduct and those of its employees acting within the course and scope of their employment to the extent a private party would be liable. However, a governmental entity may qualify for immunity under one of the exceptions to government liability provided in I.C. § 6-904. Section 6-904 provides two exceptions to governmental liability that apply in this matter. Sub-paragraph (1) provides an exception commonly known as the "discretionary function" defense. I.C. § 6-904(1). Sub-paragraph (7) provides an exception to governmental liability for conduct that arises out of the "plan or design for construction or improvement to . . . public property . . . ." I.C. § 6-904(7); *see also Lawton v. City of Pocatello*, 126 Idaho 454, 460, 886 P.2d 330, 336 (1994). The City of Idaho Falls qualifies for both exceptions to governmental liability and is therefore entitled to immunity.

A. The City is entitled to immunity because Plaintiff's claims arise out of a plan or design for construction or improvement of public property.

Plaintiff alleges in its complaint that the City was negligent with respect to the installation, maintenance, and repair of its water system for failing to prevent the break that occurred in its water line on December 28, 2015. The City is afforded immunity from liability with respect to Plaintiff's claim pursuant to I.C. § 6-904(7). Specifically, § 6-904(7) provides immunity to governmental entities from claims which:

> Arises out of a plan or design for construction or improvement to the highways, roads, streets, bridges, or other public property where such plan or design is prepared in substantial conformance with engineering or design standards in effect at the time of preparation of the plan or design or approved in advance of the construction by the legislative body of the governmental entity or by some other body or administrative agency, exercising discretion by authority to give such approval.

To be afforded immunity under § 6-904(7), a city must show: (1) the existence of a plan or design that was (2) *either* prepared in substantial conformance with existing engineering or design standards *or* approved in advance of construction by the legislative or administrative authority." *Grabicki v. City of Lewiston*, 154 Idaho 686, 693, 302 P.3d 26, 33 (2013) (quoting *Brown v. City of Pocatello,* 148 Idaho 802, 811, 229 P.3d 1164, 1173 (2010)). A city is entitled to immunity when a plan for improvement was approved by the city council or other entity with authority. *Grabicki*, 154 Idaho at 694.

With respect to the first element, the City has adopted a Water Facility Plan to make capital improvements to its water system, replacing waterlines over a period of time. *See* Richards Aff., ¶ 11–14; Stangel Aff., ¶ 4–5. Accordingly, the City has established the first element of its defense for purposes of summary judgment.

Next, the City is entitled to immunity pursuant to § 6-904(7) because the City's Water Facility Plan conforms with engineering standards. *See* Richards Aff., ¶ 11. Further, the water system and piping at issue in this matter met engineering standards on December 28, 2015. *See* Richards Aff., ¶ 19. In 2014, the City retained the engineering services of Murray, Smith & Associates, Inc. to assist in preparing a water facility plan for the City. The City's plan provides for the replacement and prioritization of its cast iron piping installed between 1940 and 1959. *See* Richards Aff., ¶ 11; Stangel Aff., ¶ 5. The City's Water Facility Plan was prepared by professional engineers and conforms with engineering standards. *See* Richards Aff., ¶ 11; Stangel Aff., ¶ 5. The City is consistently increasing water rates to achieve the goals set forth in the Water Facility Plan, which recommends that the piping in question should be replaced within 15 years. *See* Richards Aff., ¶ 15. Because the City's Water Facility Plan sets forth a plan for replacing its pipelines and because the system was maintained in accordance with engineering standards and met all state and federal standards on December 28, 2015, it is entitled to immunity.

Moreover, the City's Water Facility Plan, which establishes the timeframe and priority for replacement of the City's water lines, was formally accepted and adopted by the Idaho Falls City Council on August 13, 2015. *See* Richards Aff., ¶ 14. The City Council is the appropriate legislative body to adopt the City's plan and such adoption entitles the City to immunity. *See Grabicki*, 154 Idaho at 694. Therefore, Plaintiff's claims against the City should be dismissed with prejudice.

B. <u>The City is entitled to immunity under the "discretionary function" exception to governmental liability.</u>

A governmental entity is entitled to absolute immunity regarding claims arising from the

performance of a "discretionary function." *Sterling v. Bloom*, 111 Idaho 211, 723 P.2d 755 (1986); *see also* Idaho Code § 6-904(1). In one of the earlier decisions addressing the discretionary function exception, the Court in *Sterling* discussed the immunity provided to discretionary decisions:

> In short, prior to the adoption of the Idaho Act, the United States Supreme Court had established that the discretionary function exception provided immunity to (1) activities which involved the establishment of plans, specifications and schedules where there is room for policy judgment and decision (generally referred to as planning activities), and (2) activities involving the implementation of statutory or regulatory policy (generally referred to as operational activities), so long as those activities are performed with due care. Under this test, the reviewing court looks not to the status or rank of the actor, but rather to the nature of the conduct in order to determine whether that conduct involved the exercise of discretion. The court then, guided by the Supreme Court's general distinctions as set out above, determines whether the conduct is planning or operational. If the former is the case, the government is immune even where the planning was negligent; if the latter, immunity is contingent upon the use of due or ordinary care.

Sterling, 111 Idaho at 229-30, 723 P.2d at 773-74. "[D]ecisions involving a consideration of the financial, political, economic, and social effects of a particular plan are likely 'discretionary' and will be accorded immunity." *Lawton*, 126 Idaho at 460, 886 P.2d at 336 (citing *Ransom v. City of Garden City*, 113 Idaho 202, 205, 743 P.2d 70, 73 (1987)). "The discretionary function exception applies to government decisions entailing planning or policy formation." *Dorea Enterprises, Inc. v. City of Blackfoot*, 144 Idaho 422, 163 P.3d 211, 214 (2007); *see also City of Lewiston v. Lindsey*, 123 Idaho 851, 855, 853 P.2d 596, 600 (Ct. App. 1993).

> There is a two step process for determining the applicability of this exception. The first step is to examine the nature and quality of the challenged actions. 'Routine, everyday matters not requiring evaluation of broad policy factors will more likely than not be operational.' Decisions involving a consideration of the financial, political, economic and social effects of a policy or plan will generally be planning and discretionary. . . . The second step is to examine the underlying policies of the discretionary function, which are: to permit those who govern to do so without being unduly inhibited by the threat of liability for tortious conduct,

> and also, to limit judicial re-examination of basic policy decisions properly entrusted to other branches of government.

Id. (citing *Ransom v. City of Garden City*, 113 Idaho 202, 205, 743 P.2d 70, 73 (1987)).

In *Marty v. State*, 117 Idaho 133, 786 P.2d 524 (Ct. App. 1990), the plaintiff alleged that a number of governmental entities were liable when his farm was flooded. Particularly, plaintiff alleged that the defendants were negligent in failing to shore up dikes along Mud Lake and properly divert water in order to avoid flooding following an unusually wet spring. The court held that decisions on what to do or not to do in the face of potential flooding were planning decisions for which the statute provided immunity. Articulating the standard identified in *Ransom*, the *Marty* court stated:

> Applying these principles to the claim against the flood control district leads us to the conclusion that the actions of the district about which the landowners complain were correctly characterized by the trial court as "planning" and fall within the discretionary function exception of I.C. § 6–904(1). The landowners assert that the activities of the flood control district upon which they seek to predicate their case include (1) the shoring up of the Mud Lake dikes, (2) the diversion of waters from the Bybee structure and (3) the failure to account for incoming flood water which had been previously diverted into the Mud Lake water system's upstream diversions.
>
> Of these activities, we have no difficulty in characterizing the first two as "planning" rather than "operational." These were not routine, everyday matters, but rather decisions and actions that involved their financial, political, economic and social effects. The fact that they were planned and carried out in conjunction with IDWR and other entities and individuals is a further indication that they were not operational. To allow judicial re-examination of these decisions and actions would invade the authority properly entrusted to the flood control district.

Marty, 117 Idaho at 141, 786 P.2d at 532. The court in *Marty* went on to note that although the flood plan was not perfect and had some adverse consequences, the district was nonetheless entitled to immunity.

Additionally, in *Dorea Enterprises, Inc. v. City of Blackfoot*, the Idaho Supreme Court determined that the City of Blackfoot's decision to flush its sewer lines annually constituted a discretionary function, where it was not an operational, every day decision that simply carried out existing policy. 144 Idaho at 426. There, because the sewer department supervisor considered budgetary constraints and social considerations in arriving at his decision, the court determined it should not review the discretionary decision. *Id.* Specifically, the court stated:

> When and how many financial and human resources should be allocated to perform the myriad tasks of running the City . . . are basic policy decisions properly entrusted to other branches of government, and it would contravene the purpose of the discretionary function exception to allow the City's decisions on those matters to be reviewed by the judicial process.

Id. (quoting *Lindsey*, 123 Idaho at 855–56, 853 P.2d at 600–01). Consequently, a city is immune from liability on claims surrounding discretionary decisions.

In this matter, the City's decisions relating to capital improvement of its water system constitutes a discretionary function. These decisions involves consideration of the City's resources, including manpower, machinery, budgetary constraints, and the public interest. *See* Richards Aff., ¶ 12; *see also Dorea*, 144 Idaho 422, 163 P.3d at 214. This exact issue was previously decided by the Idaho Supreme Court in *Dorea v. City of Blackfoot*. As in *Dorea*, where the City of Blackfoot was entitled to immunity on claims pertaining to the decision to flush a sewer line on an annual basis, here, the City is entitled to immunity because its decisions surrounding improvements to its water system are based upon financial, political, economic, and social effects.

In addition, the second factor weighs in favor of providing immunity to the City in order to further the goal of permitting "those who govern to do so without being unduly inhibited by the threat of liability for tortious conduct, and also, to limit judicial re-examination of basic

policy decisions properly entrusted to other branches of government." *Id.* It is imperative that the City be permitted to analyze the needs of the community and make decisions for water system maintenance when needed, without constant fear of being sued anytime a resident is dissatisfied with the outcome. While it is unfortunate that Plaintiff may have suffered damages as a result of the break in the City's water line on December 28, 2015, the Idaho Legislature has intentionally provided immunity to local governments to be free from this type of suit. Therefore, the City is entitled to immunity under the discretionary function defense, and this matter should be dismissed with prejudice.

CONCLUSION

Based on the foregoing, Defendant City of Idaho Falls respectfully requests that this Court grant summary judgment, and that Plaintiff's claims against the City be dismissed with prejudice.

Dated this 23 day of October, 2017.

BLAKE G. HALL

CERTIFICATE OF SERVICE

23 I hereby certify that I served a true copy of the foregoing document upon the following this day of October, 2017, by the method indicated below:

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DISTRICT COURT SEVENTH JUDICIAL DISTRICT
BONNEVILLE COUNTY IDAHO

LAMONT BAIR ENTERPRISES, INC., an Idaho corporation, Plaintiff, vs. CITY OF IDAHO FALLS, a municipal corporation, Defendant.	Case No.: CV-2016-5711 MOTION TO STRIKE

Plaintiff, Lamont Bair Enterprises, Inc. (LBE), though counsel of record, Beard St. Clair Gaffney PA, respectfully moves this Court for an order striking paragraph 19 from the Affidavit of David Richards in Support of Motion for Summary Judgment on the grounds and for the reasons that the testimony is not supported by appropriate foundational evidence and is inconsistent with Mr. Richards deposition testimony.

This motion is supported by the contemporaneously filed Memorandum in Support of Motion to Strike. Oral argument is requested.

Dated: November 29, 2017.

Jared W. Allen
Of Beard St. Clair Gaffney PA
Attorney for Plaintiff

CERTIFICATE OF MAILING OR HAND DELIVERY

I certify I am a licensed attorney in the state of Idaho, I have my office in Idaho Falls, Idaho, and on November 29, 2017, I served a true and correct copy of the MOTION TO STRIKE upon the following by the method of delivery designated:

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Attorney for Plaintiff

DISTRICT COURT SEVENTH JUDICIAL DISTRICT
BONNEVILLE COUNTY IDAHO

LAMONT BAIR ENTERPRISES, INC., an Idaho corporation, Plaintiff, vs. CITY OF IDAHO FALLS, a municipal corporation, Defendant.	Case No.: CV-2016-5711 AFFIDAVIT OF COUNSEL RE: MOTION FOR SUMMARY JUDGMENT AND MOTION TO STRIKE

STATE OF IDAHO)
) ss.
COUNTY OF BONNEVILLE)

I, Jared W. Allen, having first been sworn, hereby depose and state:

1. I am over the age of eighteen, am competent to testify and do so from personal knowledge.

2. I am an attorney at Beard St. Clair Gaffney PA, counsel for the Plaintiff.

3. Attached as Exhibit A is a true and correct copy of referenced deposition pages of the Deposition of David Richards, taken on October 20, 2017, pursuant to the Idaho Rules of Civil Procedure.

4. Attached as Exhibit B is a true and correct copy the Water Facility Plan of the City of Idaho Falls identified as Exhibit 5 to the Deposition of David Richards, taken on October 20, 2017, pursuant to the Idaho Rules of Civil Procedure.

5. Attached as Exhibit C is a true and correct copy the Water Department Service/Repair Order applicable to the December 28, 2015 water main failure at Skyline Drive and Brentwood Drive identified as Exhibit 2 to the Deposition of David Richards, taken on October 20, 2017, pursuant to the Idaho Rules of Civil Procedure.

6. Attached as Exhibit D is a true and correct copy of referenced deposition pages of the Deposition of Rick Ackerman, taken on October 11, 2017, pursuant to the Idaho Rules of Civil Procedure.

DATED: November 29, 2017.

Jared W. Allen

Subscribed and sworn to before me on this 29th day of November 2017.

Notary Public for Idaho
Residing at: Rigby
My Commission Expires: 6-21-22

SHAUNTEL BELL
NOTARY
(SEAL)
PUBLIC
STATE OF IDAHO

CERTIFICATE OF MAILING OR HAND DELIVERY

I certify I am a licensed attorney in the state of Idaho, I have my office in Idaho Falls, Idaho, and on November 29, 2017, I served a true and correct copy of the AFFIDAVIT OF COUNSEL RE: MOTION FOR SUMMARY JUDGMENT AND MOTION TO STRIKE upon the following by the method of delivery designated:

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Jared W. Allen
Of Beard St. Clair Gaffney PA
Attorney for Plaintiff

In The Matter Of:

LAMONT BAIR ENTERPRISES, INC vs.
CITY OF IDAHO FALLS

DAVID RICHARDS
October 20, 2017

T&T Reporting, LLC
477 Shoup Avenue, Suite 105
Idaho Falls, Idaho 83402

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IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE

LAMONT BAIR ENTERPRISES, INC., an Idaho corporation,

Plaintiff,

vs.

Case No. CV-2016-5711

CITY OF IDAHO FALLS, a municipal corporation,

Defendants.

DEPOSITION OF DAVID RICHARDS

Friday, October 20, 2017, 9:00 a.m.

Idaho Falls, Idaho

BE IT REMEMBERED that the deposition of David Richards was taken by the attorney for the plaintiffs at the office of Beard, St. Clair, Gaffney, P.A., located at 2105 Coronado Street, Idaho Falls, Idaho, before Shantae Miller, Court Reporter and Notary Public, in and for the State of Idaho, in the above-entitled matter.

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A P P E A R A N C E S

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Also Present:
Cheri Lee

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E X A M I N A T I O N

E X H I B I T S

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(The deposition proceeded at 9:00 a.m. as follows:)

David Richards,

produced as a witness at the instance of the defendant, having been first duly sworn, was examined and testified as follows:

MR. ALLEN: All right. Let the record reflect that this is the time and place for a 30(b)(6) deposition of the City of Idaho Falls and that the City has designated Mr. David Richards as its designee.

Is he the designee as to all matters?

MR. ANGELL: Yes.

MR. ALLEN: Okay. The deposition is being taken pursuant to notice and the Idaho Rules of Civil Procedure.

EXAMINATION

BY MR. ALLEN:

Q. Mr. Richards, will you state you name for the record and spell your last name?

A. David Richards, R-i-c-h-a-r-d-s.

Q. Okay. Have you ever been deposed before?

A. No, I have not.

Q. Okay. Have you ever testified at a

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trial?
A. No.
Q. All right. Let me run through a couple of ground rules real quick, then, just so we create a clear record.
The first one: You and I need to avoid talking over each other. That's really hard for her to transcribe if you start answering before I finish my question or if I start asking the next question before you finish your answer. It's something we do every day in casual conversation, so we have to be a little more careful so we get a clean record.
For the same reason, all of your answers have to be audible. Even if my questions are yes or no, you can't use a shake or nod of the head. She needs to be able to hear your answer so we get it clear on the record. And the same with -- we have a tendency to use phrases like uh-huh or huh-uh, you need to say yes or no or something along those lines so that that's clear. Pretty hard to transcribe an uh-huh.
What did you do to prepare for this deposition?
A. To prepare for the deposition?
Q. Yes.

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A. I've spoken with the employees that had firsthand accounts of the evening and the activity that transpired.
Q. Okay.
A. And reviewed documents that were part of the interrogatories and the reproduction requests.
Q. Which employees did you talk to?
A. In particular, I've spoken with Rob Miller, Brian Jones, and some of the others that were there weren't present at the time. It was yesterday.
Q. Okay. What documents did you review?
A. The documents in particular I reviewed were e-mails that were sent along with the work orders that were the accounting of what happened.
Q. Okay. Did you review any written witness statements or anything along those lines?
A. No.
Q. Okay. Did you look at any photographs or diagrams?
A. Some I did review. There was a report that was presented by a third-party investigator.
Q. Okay.
A. I reviewed that, and there were pictures involved with that.
Q. Who have you talked to about giving the deposition today?
A. My boss and employees from the Water Division.
Q. Who is your boss?
A. Chris Fredrickson, public works director.
Q. What did the two of you discuss?
A. I just let him know what I would be doing this day. He's aware of the events.
Q. Okay. How did he become aware of the events?
A. He is made aware of the events -- basically the night of the event, I -- or the next day I let him know what had transpired, plus he is made aware of any claims that come through the City. He is copied on those.
Q. Okay. Who else did you talk to about it? You mentioned a couple of -- I mean, you mentioned employees, but I don't think you said who.
A. Oh, my foreman, letting them know basically that I would be gone for three hours this day. You know, if they needed -- and letting them know why, that I was coming for a deposition.
Q. Okay. Did you discuss any details of the case with them?

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A. No.
Q. Okay. Let's talk a little bit about your background. First, where do you reside?
A. I reside at 731 Ensign Drive, that's spelled E-n-s-i-g-n, in Ammon.
Q. Okay. I assume you're a high school graduate?
A. Yes.
Q. Where did you graduate from high school?
A. Polson High School in Polson, Montana.
Q. Okay. And where did you go to college?
A. Brigham Young University in Provo.
Q. What year?
A. I graduated in 1997.
Q. What did you graduate in?
A. Civil and environmental engineering.
Q. What did you do after graduation?
A. After graduation, I worked for a private engineering firm in Mesa, Arizona named Sunrise Engineering. I worked there for one year.
Q. What type of work did you do there?
A. I was an engineering intern. I did some CAD drawing for a variety of projects; waterlines, mainly a sewer line replacement project.
Q. Okay. Did you go to graduate school at

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all?
A. No, I did not.
Q. Okay. Where did you go from Sunrise?
A. From Sunrise I went to -- I was hired by Layton City in Layton, Utah, where I served as the assistant city engineer for five years.
Q. So that gets us to 2003-ish?
A. Yeah, about 2004.
Q. Okay. What were your responsibilities as an assistant city engineer?
A. As assistant city engineer, I reviewed construction drawings, site plans, dedication plats for new developments. I also was responsible for creating projects from inception to closeout. It included drafting and engineering studies. Those were my basic job functions there.
Q. Okay. You were there until roughly '94, where did you go next?
A. 'Til 2004.
Q. Or, excuse me, 2004, yeah.
A. That was when I was hired by the City of Idaho Falls.
Q. Okay. And when you were first hired by the City of Idaho Falls, was that in your current capacity?

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A. Yes.
Q. So you've been here from 2004 to the present?
A. Yes.
Q. Okay. And what is your title?
A. Water superintendent.
Q. Can you tell me what that entails, what the responsibilities of that position are?
A. Basically it's management of the City's public drinking water system and its employees, forecasting capital projects, and...
Q. Okay. What are your duties with respect to water main installations?
A. I suggest and program projects. I review the construction drawings before those projects get bid and then approve payments, basically, for those projects as my division pays for them.
MR. ALLEN: Let's mark this as 1.
(EXHIBIT-1 WAS MARKED FOR IDENTIFICATION)
Q. (BY MR. ALLEN) I'm going to hand you a notice of deposition. Have you seen that before?
A. Yes.
Q. Okay. I'll represent to you that this is the notice that was sent out to schedule this

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deposition, and it indicates a number of matters upon which we desire to take testimony from the City. I just want to run through those really quick.
Number 1, it's beginning on page 2, "The allegations in the Plaintiff's complaint and the City's response thereto and affirmative defenses."
Are you prepared to testify regarding those matters today?
A. Yes.
Q. Okay. Is there anyone with the City that would have better knowledge about those things than you do?
A. No.
Q. Okay. And number 2 says, "Chapter 4 of the Idaho Falls City Code," I think it's actually Chapter 4 of Title 8 of the Idaho Falls Code. Are you familiar with that?
A. Yes.
Q. And are you prepared to testify about that today?
A. Yes.
Q. Again, is there anyone that would have better knowledge than you?
A. No.
Q. Okay. Number 3, "The City of Idaho

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Falls Water Facility Plan including the development and implementation," are you prepared to address that today?
A. Yes.
Q. And is there anyone who would have better knowledge than you?
A. No.
Q. All right. "The December 28, 2015, water main failure at the intersection of Brentwood Drive and Skyline Drive," are you prepared to discuss that?
A. Yes.
Q. And is there anyone who would have better knowledge?
A. As far as better knowledge, there are firsthand accounts of what happened. I have received those firsthand accounts.
Q. Okay.
A. So I feel like I am a definite...
Q. Did you visit the property at all?
A. After.
Q. How long after?
A. Oh, it was -- I went by the next day to see how the repairs had gone. The repairs were at night.

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Q. Okay. Were the repairs still exposed?
A. No, they were backfilled.
Q. Okay. Rather than go through these line by line, let me just have you read through those really quick.
A. Okay.
Q. And let me know if there are any on which you're not prepared to testify today and if there are any for which someone else would have better knowledge than you have.
A. Only perhaps line 6. When the City -- when the Water Division for the City completes repairs, we send a notice to our street division, and the street division actually conducts the street patching and the concrete replacement.
Q. Okay. Are you aware of what was done?
A. Yes.
Q. Okay. Who would be the person in the street division to talk to about that?
A. Most likely the superintendent.
Q. Okay. And who is that?
A. Brian Cardon.
Q. Okay. Let's talk about the water main failure on December 28th, 2015. First of all, you're aware that there was a break in the water main at

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that location, Brentwood and Skyline, on that date?
A. Yes.
Q. Okay. Is that water main there part of the City's municipal system?
A. Yes.
Q. And is it in exclusive control and management of the City?
A. Yes.
Q. Okay. Does the City have any policy as it relates to inspecting that water main or any water mains?
A. Yes.
Q. What is the policy?
A. The water main as it's being installed is part of a City project. It is inspected by City inspectors in the Public Works division -- or Public Works Department. Sorry.
Q. Okay. Is there any inspection of the lines once they're installed?
A. Yes.
Q. Okay. What are the policies as it relates to post-installation inspection?
A. Post-installation inspection is performed by the Water Division. The Water Division goes and makes sure that all valves are operational

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and exposed, that hydrants are operational and exposed -- or are operational.
Q. Is there anything done to inspect the integrity of the lines themselves?
A. Once they're buried, there's not much that can be done to inspect the integrity.
Q. Okay. Is there a routine for inspecting the valves and the hydrants as you've expressed?
A. Yes.
Q. Okay. What does that entail? What is that routine?
A. That routine, once the project is completed, the City's engineering staff notifies the Water Division to have us go out. The City goes out with the contractor who did the installation.
Q. Okay.
A. And with the contractor make sure that all the valves are operational; that we can get our keys on the valves to turn them off and on; that they're left in the on position; that all valves are available and accessible as according to the plans.
Q. Who does that inspection?
A. It's changed. Right now we have a valve and hydrant crew as of just this last -- just this past year. Prior to that we had service operators

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that would perform those inspections.
Q. Okay. Is there any type of scheduled inspection of those valves and hydrants over time after the initial inspection post installation?
A. In advance of projects, we go out and inspect those valves to make sure that they are operational.
Q. Okay. Any other inspections that are done?
A. In the past, no; currently that's why we have hired a valve and hydrant crew.
Q. Okay. So as of 2015 there was not, but today there is some kind of scheduled inspection?
A. Yes.
Q. Okay. What is that scheduled inspection now?
A. That scheduled inspection -- well, it's still in the planning, but the idea is to section the City off into areas that the valve and hydrant crew can go and -- they have a valve exercising trailer that they will take out and operate each of the valves in that section on an annual basis, and then they'll rotate through sections.
Q. All right.
A. The intent is to make it through the

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City within five years.
Q. Okay. And then start over?
A. Right.
Q. All right. Have they started doing those yet?
A. No, not as of yet.
Q. They're still working on --
A. Yeah.
Q. Okay. When was that crew created?
A. That crew was created just this past fiscal year.
Q. Okay. Did you have to increase your staffing to create that crew?
A. Yes.
Q. So how many people currently work for the Water Division?
A. Currently there are 18 total.
Q. 18 total employees?
A. Yes, including myself.
Q. And how many would there have been in December of 2015?
A. There would have been 16.
Q. Okay. Are the two additional the valve and hydrant crew?
A. Yes.

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Q. Do you have any idea when the nearest valve to this break would have been inspected prior to -- the last time it would have been inspected prior to December of 2015?
A. No.
Q. Had there been any prior reports of any leaking in that area during the 12 months leading up to the break?
A. When you say "that area," exactly --
Q. The Skyline and Brentwood --
A. The intersection there?
Q. -- that intersection?
A. No.
Q. Okay. Any leaks in that line within, say, a mile of that spot?
A. There was one main break on a street, I believe it's Stimson, that happened probably about not quite a year prior.
Q. Was that a main that was made of the same material?
A. Yes.
Q. And installed at about the same time?
A. Yes.
Q. What is the material of the main there?
A. Cast iron.

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Q. And do you know when it was installed?
A. 1959.
Q. Is there an intersection of the main there? Is there a joint there --
A. Yes.
Q. -- at that location at Brentwood and Skyline?
A. Yes, there is.
Q. So describe for me what the line looks like there.
A. Skyline is a street that runs north/south. There is an eight-inch cast iron water main installed in 1958 that runs down Skyline, and there is a T that extends a six-inch cast iron pipe west down Brentwood in the intersection.
Q. So it only flows west off of that eight-inch main?
A. Correct.
Q. So the residents on Skyline, then, are serviced by the eight-inch main, and then the residents going west down Brentwood would be serviced by the six-inch main?
A. Yes. The only ones that would be maybe different would be the ones on the corners, they could access off of either side.

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Q. Got it. And this break that occurred in December of 2015, was it the eight-inch line or the six-inch line that broke?
A. The six-inch in Brentwood.
Q. Okay. And where did that break at in relation to the joint?
A. Well, the joint is right at the intersection of the two lines, so on the six-inch it was west of the joint.
Q. But how far from the joint?
A. Oh, 20, 25 feet.
Q. Okay. So in relation to that intersection -- let's talk center lines. You've got center line of Skyline Drive and center line of Brentwood Drive. Where does the eight-inch line sit in relation to the center line of Skyline?
A. Probably five to ten feet west.
Q. So it is west of the center line?
A. Yes, I believe so.
Q. And then where does the six-inch line sit in relation to the center line of Brentwood?
A. From what I remember, it's about center of center line.
Q. Okay. And so the break was actually up the road on Brentwood 15 feet or so?

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A. Yeah, about 25 feet away from the main line in, yeah.
Q. Okay.
A. And those are estimates.
Q. Yeah. Had there been any reports of inadequate pressure of that area immediately prior to the break --
A. No.
Q. -- or around the time of?
Okay. If there had been, would there be a report of it?
A. Yes.
Q. How were those reports recorded?
A. Those reports are recorded similar to the other -- at the time similar to the other work orders that you see --
Q. Okay.
A. -- in front of you.
Q. Where are those complaints maintained?
A. At the Water Division.
Q. All right. How did you first become aware of the break?
A. I first became aware of the break -- it was just about closing time on the day that the break happened. We had Water Division employees repairing

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another break on the east side of town, the far east side of town at the time, and we needed some assistance to go out and hurry and shut the water off as it was an emergency call that was called in. We found the closest employees we had at the time. Typically they operate our wells, but they are well versed as well in distribution system maintenance. So we dispatched them as they were the first ones available.
Q. So that was roughly 5 o'clock in that evening?
A. We end our day at 4:30 --
Q. 4:30?
A. -- so it was probably right around 4 o'clock, I believe.
Q. Okay. And how would they shut off the water, then, at that location?
A. By a curb stop valve. A service line that extends from the main out on Skyline Drive that runs to the property, right about property line there is a valve that they isolate with. Because the call was originally called in as a service line leak.
Q. Okay. So they came out and turned off the service line?
A. Yes.

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Q. But the water was still leaking from the main?
A. When they turned off the service line, they asked the person present at the time if that stopped the water flow, and they were told that, yes, it looked like it had slowed it down.
Q. Okay. So was the water shut off in the main line as well to perform the repair?
A. Well, at the time we did not realize it was a main break.
Q. Okay.
A. We still envisioned it as a service line break that we had isolated and that it had resolved the issue.
Q. Gotcha.
A. Yeah.
Q. Okay. Was there, in fact, a service line break?
A. No.
Q. Okay. You've probably already answered this, at least maybe not directly but implicitly, you didn't ever see the break in the main, correct?
A. Correct.
Q. Do you know what kind of break it was?
A. It was a full circle sheer break.

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Q. Can you explain what that means?
A. It's basically that if pressure gets applied to a pipe, that the pipe itself cracks completely around the full circumference of the pipe and it separates, it's called a sheer break.
Q. Would you agree that these cast iron pipes were at or near the end of their design life?
A. No.
Q. Okay. What do you base your disagreement on?
A. Reports from the American Water Works Association, cast iron pipes of that age were determined to last up to around 75 years on average.
MR. ALLEN: Okay. Let's mark this as 2. Let's get into the repair a little bit.
(EXHIBIT-2 WAS MARKED FOR IDENTIFICATION)
Q. (BY MR. ALLEN) Can you identify these documents?
A. Yes. These documents are the work orders that were created as a result of the leak that happened at Skyline and Brentwood that night.
Q. Are these all of the work orders that relate to that leak?
A. Yes.
Q. All right. Let's just walk through it

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page by page, if you could explain to me what each page represents. And let's reference the Bates numbers down in the lower right-hand corner. So the first one is DEFENDANT 000698. Tell me what that particular page represents.

A. That is the work order that was created for the work done to actually perform the repair of the main line.

Q. Okay. So this would have been created after they knew that the main line was broken?

A. Correct.

Q. Okay. And it identifies a number of individuals, I guess there's five there, that performed the work. It just has first names. Can you tell me the last name of those individuals?

A. Brian Jones, Scott Davis, Paul Livesay, spelled L-i-v-e-s-a-y, Jared Marshall, and Sloan Pintar, P-i-n-t-a-r.

Q. And are they still with the City?

A. All about -- well, are all still with the City. Scott Davis no longer works for the Water Division. He's moved to the Parks Division.

Q. Are the rest still with the Water Division, then?

A. Yes.

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Q. Okay. So can you tell, based on this document, how the repair was performed?

A. Yes. They dug down to the broken main. It was approximately four feet deep. They used 16-inch diameter by 12-inches long full circle clamp for a cast iron pipe. It's just a sleeve that goes over the pipe with a rubber gasket on the inside to seal it up.

Q. Okay. There's a reference here to "Materials" at the bottom, and it looks like the first line item is the clamp you've just referenced. What is that second line item?

A. "Valve Box Lids," those are just the access -- the lids for the access ports to turn the valves on and off.

Q. Okay. So where would that valve box be in relation to where the break was?

A. It was to the east of where the break was.

Q. Okay. Does that valve box exist at the junction of the lines, or where is that at?

A. It's between where the break was and the junction of the lines.

Q. Okay. That's so you can stop flow to the broken line and perform the repair?

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A. Yeah.

Q. All right. Take a look at page 2, tell me what this one is. Or excuse me, page 699.

A. That is just an estimate of the materials that were used.

Q. Okay. And 700?

A. 700 is an edit to our inventory that we can review of the materials that were used to verify their accuracy.

Q. And 701?

A. 701 is a posting of the materials against our inventory, to remove them out of inventory.

Q. Okay. All right. What is 702?

A. 702 appears to be the initial call that came in for the waterline leak in the basement.

Q. Okay. So this was reported on December 28th?

A. Correct.

Q. And it looks like maybe it was just a little earlier than you may have recalled?

A. A little earlier. 3 o'clock.

Q. 3 o'clock?

A. Yeah.

Q. Okay. Is that --

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A. Completed at 4 o'clock.

Q. Okay. And what was completed at 4 o'clock?

A. The isolation of the service line.

Q. Okay. Turning off the service line to the property?

A. Yes.

Q. Okay. Let's go to 703. Tell me what this one is.

A. This work order was after the office had closed, when the person who was present at the time, I'm not sure who placed the call, called our after-hours number and got ahold of our on-call person that evening to let him know that there was still a leak in the basement, that there was still water coming in.

Q. Okay. So the original call was at 3 o'clock, and then at roughly 5 o'clock there was another call saying that there was still water flowing into the basement?

A. Yes.

Q. Okay. And is that how the break to the six-inch main was discovered?

A. Yes.

Q. Okay. So that was called in at

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5 o'clock, and they were on site at 11:00 p.m.?
A. "On Site Time" at 11:00 p.m. That was the way it was entered, yes.
Q. Okay. You sound a little bit surprised. Is that unusual --
A. No.
Q. -- that it would take that long for them to get out there?
A. I know -- well, I know we had people there prior. I don't know if that is a result of another work order in here or not.
No, it seems to be the way it was entered in.
Q. Okay.
A. I know Brian was there present prior to that trying to isolate the valves to turn the water off.
Q. Would that time reflect what time they got the equipment there to actually start digging and --
A. Yes.
Q. Okay.
A. The crew shown on here was designated to repair another leak that we had that evening. They were coming in to work at night.

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Q. Okay. Let's go back to 702 for just a minute.
A. Okay.
Q. You've got a couple of names again on this one. These are the guys that went out and turned the water off apparently. "ROBBIE," what's Robbie's last name?
A. His full name is Robert Serr, S-e-r-r.
Q. Okay. And "JDE," who is that?
A. James Erickson.
Q. Okay. And "ROB"?
A. Rob Miller.
Q. And is "PAUL" the same Paul Livesay?
A. Yes.
Q. Did I pronounce that right?
A. Livesay.
Q. Livesay?
A. Uh-huh.
Q. Okay. Is 703 just essentially a computer duplicate of 698?
A. Yes.
Q. Okay. What is 704?
A. 704 is after things were completed and they were requested to turn the water back on to the four-plex unit.

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Q. Okay.
A. So the service line was still in the off position.
Q. Okay. So this was just turning the service line back on?
A. Correct.
Q. I may have already asked this, but did the service line require any repair?
A. No.
Q. Okay. It looks like this one identifies "ROBBIE," is that Robert Serr, again?
A. Yes.
Q. All right. The next one, 705, can you tell me what this one is?
A. The valve box, what's called a curb box over the isolation valve on the service line, needed to be raised up. So they went out and raised that up and just backfilled in around it.
Q. Okay. So this was really unrelated to the --
A. Unrelated.
Q. -- flooding itself in the main break?
A. Uh-huh. Yes.
Q. All right. Were there any other repairs required in the area at the time to the water

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delivery system?
A. No.
MR. ALLEN: Okay. Let's mark this one next.
(EXHIBIT-3 WAS MARKED FOR IDENTIFICATION)
Q. (BY MR. ALLEN) This might be where we're getting into information that might be a little outside your scope of work and more appropriately addressed with Brian Cardon, but let's see what we can cover with you.
First of all, can you identify what these are?
A. It appears that item 706 and 707 are an e-mail from our engineering inspection to Brian Cardon -- or actually to myself. Let's see. Hold on.
The initial e-mail was from our engineering inspection to Jaime Burrows copied to Brian Cardon. Jaime must work for H-K Contractors.
Q. Okay.
A. Brian forwarded that e-mail along with basically what the repairs were like out there at that -- for the asphalt repairs --
Q. Okay. So when --
A. -- and concrete.
Q. Just o we've got a clear record, Brian

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e-mails you on March 14th, and he describes some work in the body of his e-mail. And then it says "Attached is the invoice," is that the attachment that's 708 and 709?

A. Yes.

Q. Okay. So this was all sent to you at the same time?

A. Yes.

Q. Okay. So describe for me what was performed out there by H-K?

A. Well, this happened in March, so there was an initial patch that was done on the water main repair. They waited for spring so that if there was any settlement, they didn't have to go out and recut. Basically they waited for the street to settle.

Q. Yes.

A. And then they made a larger cut out in the street besides what we had just dug for our water main repair. And it includes some -- it included some concrete on a cross drain that's at the intersection to allow storm water to pass through the intersection.

Q. Okay. So it says "16' of C&G," is that the cross drain?

A. That's curb and gutter.

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Q. Curb and gutter. All right. Do you know where that curb and gutter was?

A. Offhand I don't.

Q. Okay. And then it says ten feet of curb and gutter. Well, it looks like it does identify the location. It looks like, and you correct me if I'm wrong, but it says --

A. Oh.

Q. -- 16 feet of curb and gutter, and 5 by 15 of four-inch flat work replaced at 547 South Skyline, Apartment 8. So would that be the curb and gutter in the sidewalk immediately in front of 547 South Skyline?

A. I would believe so, yes.

Q. Okay. And then it says ten feet of curb and gutter completed the following day, it looks like at the same location. Well, it says Apartment 5. I think the unit numbers on that building are 567 and -8, so it would be -- would that be the opposite end of the building, perhaps?

A. I would envision so, yes.

Q. Okay.

A. I would envision that those are the two whose addresses are most visible from the street.

Q. Okay. You're familiar with what the property looks like, right?

A. Yes.

Q. It's kind of a horseshoe that there's -- okay.

The next item referenced says, "crossdrain and ADA ramps @ Brentwood and Skyline." Is that on the opposite side of the road?

A. Yes.

Q. And then it says, it looks like 34 feet of curb and gutter and 30 feet of sidewalk. Do you know where that's at?

A. I would envision -- the City has been replacing what are called curb returns, that's where the handicap ramps come down.

Q. Yes.

A. And as they were in there doing the work, I don't think these were damaged as a result necessarily of the waterline repair, but I envision that the City took the opportunity while they were doing the concrete there to replace those corners with ADA compliant handicap ramps.

Q. Aside from the first two items, the 16 feet of curb and gutter, and the 15 feet of sidewalk, and then the 10 feet of curb and gutter, do any of these relate to the property at 547 South Skyline?

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A. No.

Q. And do you know why the curb and gutter and sidewalk would have needed to be replaced in front of 547 South Skyline?

A. I know some sidewalk had to be removed to gain access to the curb stop to shut off the service line.

Q. Okay. What about the curb and gutter, do you know why it needed to be --

A. I don't know offhand.

Q. Okay.

A. Unless the curb and gutter was just in a state of disrepair and while they were replace -- but that's an assumption on my part.

Q. Would Brian Cardon know why that was replaced?

A. Yes.

Q. Okay. All right. Let's talk about the property itself a little bit. You were informed that the property had flooded, correct?

A. Yes.

Q. Did you ever visit and observe the flooding in the property?

A. No.

Q. Did you draw any conclusions about the

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source of the water flooding the property?
A. The water -- it was envisioned that that was a leak on the water system.
Q. Okay. But did you draw any conclusions about where that water came from?
A. At what point?
Q. Ever?
A. Ever? Well, from the main break --
Q. Okay.
A. -- on Skyline and Brentwood.
Q. Okay. How long did it take you to realize that the main break was the source of the water in the property?
A. Once we found the main break, I was sure that that's where the water had come from.
Q. Okay. Is it common for a broken water main to flood a residential property like that?
A. Not typically.
Q. Why do you think this situation was different?
A. I believe that the water followed piping or a trench underneath the ground that was bridged by frost.
Q. Okay. So it followed the existing piping and couldn't go down, is that what you're

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saying?
A. It couldn't come up.
Q. Couldn't come up?
A. Water usually follows the path of least resistance, and that's usually close to the break. It finds a spot to surface so that you can see that there's water leaking.
Q. Got it. Okay. So in this case, that wasn't the path of least resistance is what you're saying?
A. Correct.
MR. ALLEN: All right. Let's see. Mark this one next.
(EXHIBIT-4 WAS MARKED FOR IDENTIFICATION)
Q. (BY MR. ALLEN) Can you identify this one that's numbered DEFENDANT 5, and I think it's Exhibit Number 4.
A. This is an e-mail from myself to the controller's office, copied to the public works director and assistant public works director.
Q. Okay.
A. Informing them that there was a main line break and that we knew there was flooding of property.
Q. Okay. Did you author this e-mail?

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A. Yes.
Q. In your capacity as the superintendant?
A. Yes.
Q. Was that in the ordinary course of your work as the superintendent?
A. Yes.
MR. ALLEN: Okay. Let's mark this one.
(EXHIBIT-5 WAS MARKED FOR IDENTIFICATION)
Q. (BY MR. ALLEN) Can you tell me what this document is?
A. This document is a Water Facility Plan. It is, in essence, a road map for the Water Division of the City. It explains where we are at, identifies deficiencies, and proposes a path moving forward to address those.
Q. Okay. How did it come into existence?
A. It was a discussion between myself and the public works director, Chris Fredrickson, that the Water Division needed a planning document to help us proceed in the future and to plan for the future.
Q. Okay. So if I understand your testimony correctly, the purpose of this document is to basically establish a plan of how to manage the ongoing use of the system and its future use and development; is that a fair way to put it?

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A. Yes. It projects future growth and makes suggestions for projects to -- you know, to address future growth, as well as ongoing maintenance of the system, to make sure that the City has the financial capabilities to address issues and address growth.
Q. Okay. What was your involvement in its creation aside from the discussion you had with Chris Fredrickson?
A. I was involved in selecting the engineers that performed and created --
Q. Murray, Smith & Associates?
A. Yes.
Q. Were you involved in their efforts to perform the work to create the document?
A. Yes. We supplied background data for them to help them in their engineering decisions. I also completed a couple of sections that are located in the appendix inhouse.
Q. And I did not include the appendix. We've just got the plan itself.
A. Yeah.
Q. Do you know what sections you completed in the appendix?
A. There was a water right section and a

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conservation section.
Q. So those don't relate in any way to the -- those sections in any way to the delivery system itself and the integrity of the delivery system?
A. No.
Q. Okay. Do you believe that this document contains an accurate representation of the condition of the water supply system at the time it was created?
A. Yes.
Q. Okay. Does the City maintain an operations and maintenance manual for the water system?
A. Yes. It's being improved as we go.
Q. Okay. Tell me what's in the operations and maintenance manual.
A. Currently the operations and maintenance manual consists of our well sites and their construction drawings, in addition to an emergency response plan and vulnerability assessment. And currently that's the state it's in.
Q. Okay.
A. We are in the process of comp --
Q. So that's something that's being developed?

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A. Yes.
Q. Okay. Does that operations and maintenance manual address pipe replacement at all in its current state?
A. There were a couple of studies performed just to identify what are considered the most critical areas for pipeline replacement, and the criticality was determined on crossings of the interstate, crossings of the railroad, and crossings of canals and other structures.
Q. Were those studies related to the Water Facility Plan?
A. No.
Q. Okay. All right. Was the Water Facility Plan adopted by the City?
A. Yes.
Q. So what does that mean going forward?
A. That means going forward that we have, at the time, council buy in to address the problems that were identified in here --
Q. Okay.
A. -- and to establish a rate proposal that was proposed in the Water Facility Plan to increase water rates on a periodic basis so that we have the funding to address the problems --

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Q. Okay.
A. -- in the plan.
Q. Okay. Did the establishment of the -- I think you called it a valve and hydrant crew. Did the establishment of that crew arise as a result of the Water Facility Plan?
A. Yes.
Q. So that was in order to address a need that was identified --
A. Yes.
Q. -- in the plan?
Okay. Let's mark this one next.
(EXHIBIT-6 WAS MARKED FOR IDENTIFICATION)
Q. (BY MR. ALLEN) Can you tell me what this is?
A. It's the section of the City code that governs water service.
Q. And what's its purpose?
A. Its purpose is to identify the policies by which the water system is operated.
Q. Okay. How does it relate to your role and responsibility -- your roles and responsibilities?
A. It is my role to make sure that these sections are complied with within the City.

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Q. Okay. Were you involved at all in the creation of this chapter?
A. No. I may have been involved with minor revisions from time to time.
Q. Okay. What is your involvement with respect to the enforcement and application of its content?
A. It is my responsibility to ensure that it gets enforced.
Q. Okay. So when it comes to water service, you're the guy, right? I mean --
A. Yes.
MR. ALLEN: Okay.
(EXHIBIT-7 WAS MARKED FOR IDENTIFICATION)
Q. (BY MR. ALLEN) I'll hand you what's been marked as 7. Can you identify that one?
A. This was the third-party investigative report that was performed that I had referred to previously.
Q. Okay. So this is the one you reviewed in preparation for today?
A. Yes.
Q. All right. Had you reviewed it prior to that time?
A. No.

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Q. Do you know Brian Hansen?
A. No.
Q. You've never met him?
A. Not that I can recall.
Q. Okay. Did you contribute in any way to the creation of this report?
A. No.
Q. What do you know about the report?
A. Well, from what I read yesterday, it was just an investigation. They went in to take a look at the property and impacts on the property, trying to identify damage that would have been created as a result of the incident.
MR. ALLEN: Okay. All right. Go ahead and mark this one next.
(EXHIBIT-8 WAS MARKED FOR IDENTIFICATION)
Q. (BY MR. ALLEN) I'll hand you what's been marked as Number 8. Do you recognize this one?
A. Yeah, this is the Notice of Tort Claim from your office to the City clerk.
Q. Okay. Would you have reviewed this at the time that it came in?
A. No.
Q. Have you ever reviewed it?
A. No.

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Q. Okay. Do you know what its purpose is?
A. Not from the legal world probably not, no.
Q. Okay. Do you have any reason to believe that it was not filed within 180 days of discovery of the flood at 547 South Skyline?
A. No.
Q. Do you have any reason to believe it doesn't comply with the requirements of the Idaho Tort Claims Act?
A. No.
(EXHIBIT-9 WAS MARKED FOR IDENTIFICATION)
Q. (BY MR. ALLEN) Can you identify that one, Exhibit-9?
A. It appears to be a notice of a request for jury trial.
Q. Okay. That's part of it. Have you ever seen it before?
A. No, I don't believe so.
Q. Okay. I'll represent to you that this is our complaint that we filed to initiate this action against the City. You've never reviewed it?
A. No.
Q. Okay. So did you participate in any way to responding to the allegations in here? Probably not if you've never seen it.
A. No.
Q. Okay. Let's just walk through a couple of the allegations and see where we have disagreement or not.
Let's go to page 2. Paragraph 6 says that "The Property is serviced by the municipal water lines owned and maintained by the City"; is that correct?
A. Yes.
Q. Okay. And I think we already talked about those being in the exclusive control of the City, correct?
A. Yes. The service line up to the shutoff at the property line.
Q. The service lines in -- oh.
A. Yeah. The main line, yes, under our exclusive control, and then we maintain the service line from the main line --
Q. Up to the --
A. -- up to the shutoff valve.
Q. The valve stop, yeah. Okay.
A. Yeah.
Q. Paragraph 7, it says, On or about December 28th a municipal water main line ruptured at the intersection of Brentwood Drive and Skyline Drive; is that correct?
A. Yes.
Q. Paragraph 8, "Water from the rupture eroded the soil and flowed along the exterior of the service line through which water is delivered to the Property"; is that accurate?
A. It's -- I believe it's an assumption as to how it got there, but it would appear to be a good assumption.
Q. Okay. Do you have any basis to dispute that?
A. No.
Q. Okay. Paragraph 9, "The water flowed outside and along the service line with sufficient force to cause substantial subterranean erosion beneath Skyline Drive, beneath the driveway and courtyard at the Property."
I suppose that's subjective to "substantial"?
A. Yeah.
Q. Maybe you can't really answer that one?
A. Yeah, I don't know that I can answer that. I -- from what I saw of the third-party investigation, they said some of that appeared that

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it may have occurred prior to.
Q. Okay. Let's go to 11. "Water and eroded soil flowed beneath the structure until it built up sufficient hydraulic pressure to fracture the concrete basement floor --" sorry, I'm going too fast "-- beneath one of the units, at which point water and mud flowed into the structure and flooded all or part of the basement of each of the four rental units."
Do you have any reason to dispute any of that?
A. No.
Q. In your mind, is that an accurate characterization of how the flood occurred, that it broke the basement floor and flowed in that way?
A. Yes.
Q. Okay. Rather than me making her type it, just read through 12 since this is an exhibit anyway. Tell me if there's anything in paragraph 12 you disagree with.
A. I agree with the hydraulic fracturing of the basement concrete slab and flooding water damage.
With regards to the settlement, in the third-party investigative report he believed that some of that was -- some or all of that was a result

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of prior -- something prior to the waterline break.
Q. Okay. So you don't have any personal knowledge, you're just relying on --
A. Right. Nothing personal.
Q. -- on Brian Hansen's report?
A. Right.
MR. ALLEN: Okay. Let's go ahead and mark this one.
(EXHIBIT-10 WAS MARKED FOR IDENTIFICATION)
Q. (BY MR. ALLEN) We've been going about an hour, but I'm also really close to being done. Do you want to take a break or just keep going?
A. We can keep going.
Q. All right. Let's go ahead and show you that one. Have you ever seen this one before?
MR. ANGELL: What do we have that one marked as?
REPORTER: 10.
MR. ALLEN: 10, yeah.
MR. ANGELL: 10. Okay.
THE WITNESS: No, I don't believe so.
Q. (BY MR. ALLEN) All right. I will represent to you that this is the document that Mr. Angell's office filed in response to Exhibit-9 where they've outlined the City's responses to our

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allegations and what are known as affirmative defenses. You don't believe you've ever seen it?
A. I may have seen this. I'm more familiar with all of the documents that I compiled as a result of the request for information.
Q. Okay.
A. But I may have this.
Q. Okay. Let's go to page 4. Under "AFFIRMATIVE DEFENSES," are you aware of anything that Lamont Bair Enterprises did to cause the flooding in the basement?
A. To cause the flooding? No.
Q. Okay. Are you aware of anything they did to contribute to the flooding?
A. Other than the fact that when we first shut off the service line, someone told our guys we thought -- they thought they had it settled.
Q. Okay. So you're talking about that window of time --
A. Right.
Q. -- between roughly 4 o'clock and 5 o'clock --
A. Right.
Q. -- when they called back and said --
Okay. Affirmative Defense Number 9

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says, "Plaintiff has failed to mitigate damages, if any."
Do you know what "mitigate" means? It's kind of a legal term. Are you familiar with what that means?
A. Yeah.
Q. Are you aware of anything that the Plaintiffs could have done to mitigate their damages that they didn't do?
A. Other than that -- again, that initial statement that was made while we had people on site. We could have reacted a lot faster, I believe, to the leak had we felt that it was still coming into the basement.
Q. Okay. Number 10 says the Plaintiff or others -- "The acts or omissions of Plaintiff and/or others constitute comparative negligence."
Would you be relying on the same thing to explain that, the communication that the shutoff of the service line stopped the flooding?
A. In my mind's eye for that, yes.
Q. Was there anything that you're aware of that Lamont Bair Enterprises or its agents did that would be characterized as negligence other than what you've referenced with respect to believing that the

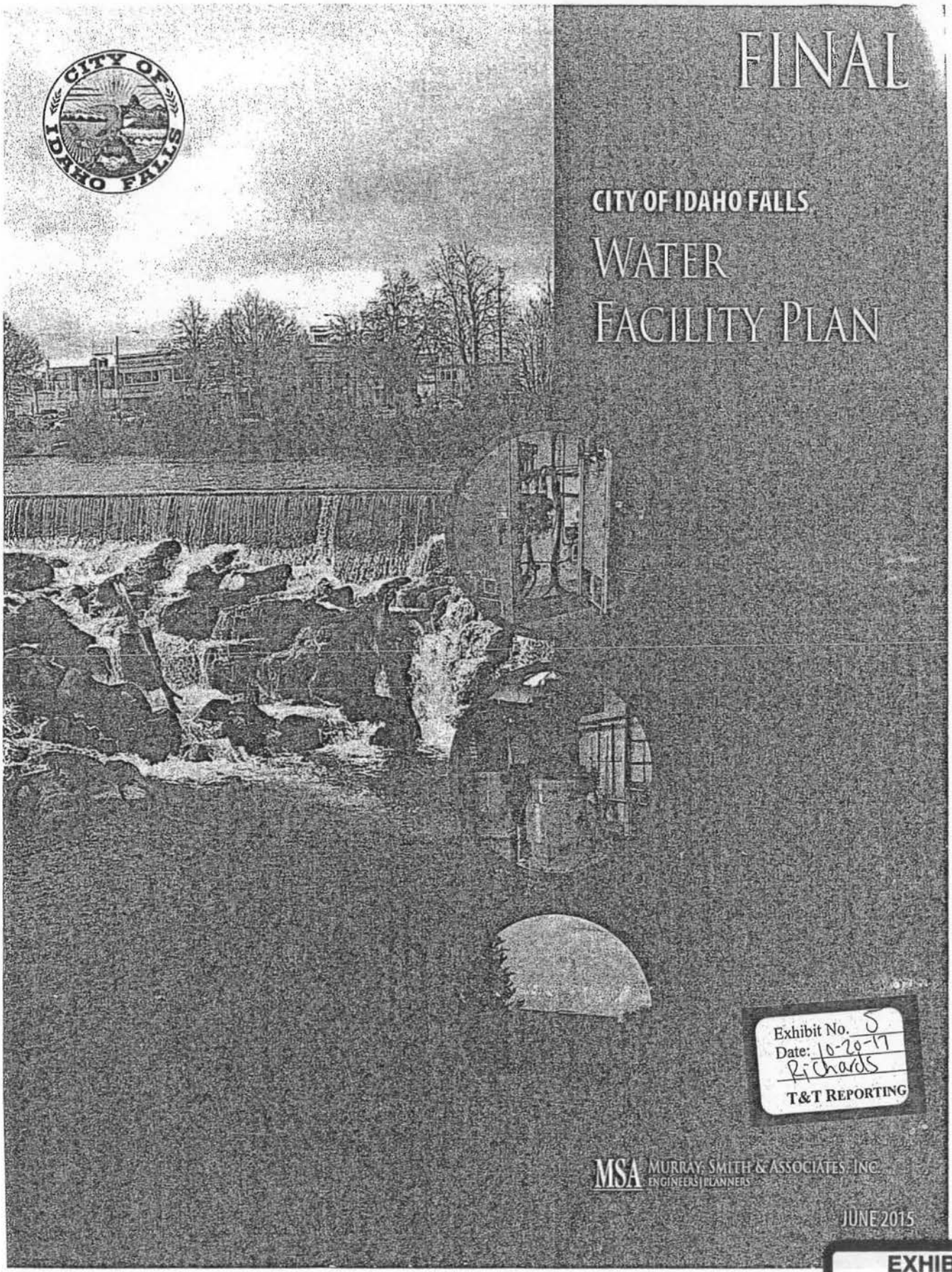
FINAL
CITY OF IDAHO FALLS
WATER
FACILITY PLAN
Exhibit No. 5
Date: 10-20-17
Richards
T&T REPORTING
MSA MURRAY, SMITH & ASSOCIATES, INC.
ENGINEERS | PLANNERS
JUNE 2015

EXHIBIT
B

WATER FACILITY PLAN

FOR

THE CITY OF IDAHO FALLS

JUNE 2015

MURRAY, SMITH & ASSOCIATES, INC.
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Boise, ID 83706
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14-1550 MSA-ID 06/15

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ACRONYMS & ABBREVIATIONS

A	
AACE	AACE International
ADD	average day demand
AMI	advanced metering infrastructure
ATS	automatic transfer switch
AWWA	American Water Works Association
B	
BAT	backflow assembly tester
BMPO	Bonneville Metropolitan Planning Organization
C	
CAGR	compounded annual growth rate
CCR	Consumer Confidence Report
CIP	capital improvement program
CL	chlorine
D	
DEQ	Idaho Department of Environmental Quality
DSC	debt service coverage
E	
ERP	Emergency Response Plan
F	
fps	feet per second
ft	foot, feet
FTE	full-time equivalent
FY	fiscal year
G	
GIS	geographical information system
gpcd	gallons per capita per day
gpd	gallons per day
gpm	gallons per minute
H	
hp	horsepower
HVAC	heating, ventilating and air conditioning
I	
IDAPA	Idaho Administrative Procedures Act
in	inch, inches
IWA	International Water Association
K	
kgals	thousand gallons

M	
MCC	motor control center
MDD	maximum day demand
MERF	Municipal Equipment Replacement Fund
MG	million gallons
mgd	million gallons per day
mg/L	milligrams per liter
MSA	Murray, Smith & Associates, Inc.
MSL	mean sea level
MUA	multi-attribute utility analysis
N	
NEC	National Electric Code
O	
O&M	operations and maintenance
OIT	operator in training
P	
%	percent (use with numerals – e.g., 13%)
PAYGO	Pay-As-You-Go
PER	Preliminary Engineering Report
PF	peaking factor
PHD	peak hour demand
PILOT	payments in lieu of taxes
PLC	programmable logic controllers
PRV	pressure reducing valve
psi	pounds per square inch
PUD	public utility district
S	
SCADA	supervisory control and data acquisition
SCBA	self-contained breathing apparatus
SFR	single family residential
SRF	State Revolving Fund
T	
TAZ	traffic analysis zone
U	
UNK	unknown
V	
VA	Vulnerability Assessment
VFD	variable frequency drive
VSP	variable speed pump
W	
WFP	Water Facility Plan

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MSA
Murray, Smith & Associates, Inc.
Engineers/Planners

SECTION 1
Executive Summary

SECTION 1
EXECUTIVE SUMMARY

Introduction

The City of Idaho Falls (City) operates a public drinking water system through the Water Division (Division) of the Public Works Department. This Water Facility Plan (WFP) documents key water system information and provides analysis and recommendations that inform infrastructure development and operational decisions by City staff.

How This Plan Should Be Used

This WFP guides future water system improvements, and should:

- Be reviewed annually to prioritize and budget needed improvement projects.
- Be updated every 5 years to address current conditions.
- Have the system mapping updated regularly to reflect ongoing development and construction.
- Have its specific project recommendations regarded as conceptual. (The location, size, and timing of projects may change as additional site-specific details and potential alternatives are investigated and analyzed in the preliminary engineering phase of project design.).
- Have its cost estimates updated and refined with preliminary engineering and final project designs.

Scope of Work

The City selected Murray, Smith & Associates, Inc. (MSA) to create a Water Facility Plan (WFP) for its drinking water system. The scope of work for this WFP includes the following major tasks and deliverables:

- Describe the City's existing water system.
- Update the hydraulic model.
- Develop population and water demand projections.
- Develop water system performance criteria.
- Evaluate the water system's hydraulic capacity to identify deficiencies for existing and future planning horizons.
- Gather and summarize benchmarking data comparing the City's operations and maintenance (O&M) practices to similar municipalities, and provide improvement recommendations.
- Evaluate the existing condition of well and booster pump facilities and their compliance with State of Idaho drinking water rules and guidelines.

- Develop an ongoing repair and replacement program for system piping.
- Develop a capital improvement program (CIP) and cost estimates for recommended projects.
- Develop a water system financial plan that identifies a funding strategy that supports the implementation of the CIP and growth of the utility.
- Estimate the conceptual costs and analyze the financial impacts of a City-wide meter installation program.
- Review the City's existing rates, identify and evaluate feasible rate structure alternatives, and recommend changes congruous with available billing data.

Organization of the WFP

This WFP is organized into ten sections, as described in Table 1-1. Detailed technical information and support documents are included in the appendices.

Table 1-1
WFP Organization

Section	Description
1 – Executive Summary	Purpose and scope of the WFP and summary of key components of each part of the plan.
2 – Existing System Description	Description of the service area and overview of the existing system and facilities.
3 – Population and Demand Projections	Population projections and water demand estimates for existing and future service area boundaries.
4 – Distribution and Supply Analysis	Overview of system performance criteria. Discussion of supply, storage, and pumping capacity, and distribution system hydraulic analysis for existing and future planning horizons.
5 – Operations and Maintenance	Description of current O&M procedures, overview of benchmarking results comparing the City to similar municipalities, and a summary of recommendations.
6 – System Condition and Code Evaluation	Determination of the operational and code compliance for the pumping facilities in the water supply and distribution system.
7 – Capital Improvement Program	Improvement project recommendations including cost estimates and timeframe for implementation.
8 – Financial Plan	Strategy for funding water system improvements and projected financial performance of the system.
9 – Financial Impacts of City-wide Meter Implementation	The conceptual costs, funding plan, and estimated financial impacts of a meter installation program
10 – Alternative Rates	Proposed changes to billing methodologies, rate structures, and fee levels by customer class.

Existing System Description

The water system includes over 310 miles of City pipe and about 25 miles of privately owned pipe. The system serves approximately 24,000 accounts, about 250 of which are metered, and serves over 52,000 people according to Bonneville Metropolitan Planning Organization (BMPO) projections (census data indicates that the City has an approximate population of 58,000, but BMPO data was used to calculate population projections in this WFP). The entire system is on a single hydraulic gradient (pressure) zone set by the overflow of the elevated tank.

Most of the system's 19 groundwater wells pump into ground-level contact tanks. The water is then boosted from the tanks to system pressure through 13 booster stations located at the well sites. The 65th South Booster Station is currently the only pump station not served directly by a well, but there are plans to add one at this location.

The City has a 0.5 million gallon (MG) elevated storage tank at Well 3 and two large ground-level storage tanks at Well 15/15B and the 65th South Booster Station that are 3 MG and 2.25 MG, respectively. The remainder of the tanks are small and intended primarily for chlorine contact time rather than system storage.

System piping diameters range from 2 to 24 inches, with the majority of pipes measuring either 6 or 8 inches. Most pipes are made of ductile iron; other materials include cast iron, steel, and asbestos cement. The oldest pipe dates back to the early 1900s.

Population and Demand Projections

The City has little existing customer use data, because only 250 accounts are metered. Therefore, overall system production and BMPO projections were used to predict population and spatially allocate demand in the system.

Historical production records were evaluated to determine average day demand (ADD) and peaking factors for maximum day demand (MDD) and peak hour demand (PHD). Based on these records and the BMPO population estimate of 52,000 people in the service area, the ADD per capita demand in the system is 455 gallons per capita per day.

The per capita demand and existing peaking factors are used with the City's projected service area expansion and BMPO population growth projections to calculate anticipated demands for the 5-, 20-, and 40-year time horizons. Based on City input, additional demand was also placed at three locations to serve potential industrial customers. Two of these locations are in the southwest of the system and another in the northeast near future growth areas.

The resulting system-wide demand projections in million gallons per day (mgd) are shown in Table 1-2.

Table 1-2
Demand Projections

Year	Demand Type	ADD (mgd)	MDD (mgd)	PHD (mgd)
2014 (Existing)	Existing Production	24.5	58.5	80.4
	Industrial Point Loads[1]	2.2	2.2	2.2
	Total	**26.7**	**60.7**	**82.6**
2020 (5-Year)	Based on Per Capita Demand	27.1	67.7	92.1
	Industrial Point Loads[1]	4.6	4.6	4.6
	Total	**31.7**	**72.3**	**96.7**
2035 (20-Year)	Based on Per Capita Demand	35.0	87.4	118.9
	Industrial Point Loads[1]	4.6	4.6	4.6
	Total	**39.6**	**92.0**	**123.5**
2055 (40-Year)	Based on Per Capita Demand	49.2	123.1	167.4
	Industrial Point Loads[1]	4.6	4.6	4.6
	Total	**53.8**	**127.7**	**172.0**

[1] *Industrial point demands are assumed to be relatively constant throughout the day, so peaking factors are not applied.*

Although not used as the basis for the WFP analysis, a separate demand projection was developed based on the installation of meters at all customer locations. A literature review of demand reductions for other utilities converting to meters and with similar climates assumes that a 30% reduction in average demand and a 40% reduction in peak demands could occur. Assuming these reductions and a 10-year implementation schedule for City-wide meter installations, the 20-year peak demands fall below existing demands and the 20-year ADD is only 3 mgd above the existing ADD. The installation of meters and charging customers for actual water usage could have a significant reduction in the number of new supply and pumping improvements required in the 20-year horizon.

Distribution and Supply Analysis

The City provides a reliable water supply to its customers and was evaluated based on criteria for pressure, storage, pumping, and fire suppression capability shown in Table 1-3.

Table 1-3
Performance Criteria

System Attribute	Evaluation Criterion
Water Supply	Firm supply capacity under MDD[1]
Distribution Storage	Sum of operational, equalization, fire and dead storage is adequate
Pump Stations and Wells	Redundant pumps Capacity to meet PHD or MDD+fire flow (whichever is larger) Backup power adequate to serve ADD + largest fire flow
Service Pressure	20 pounds per square inch (psi) minimum during MDD + fire flow 40 psi minimum during PHD 40-80 psi standard operating range
Distribution Piping	8-inch minimum future pipe diameter (exception: 6-inch for short, dead-end mains without fire service)
Fire Suppression[2]	Residential: 1,500 gallons per minute (gpm) for 2 hours Commercial/Industrial: 2000-3,000 gpm for 2 hours Heavy Industrial: 4,500 gpm for 4 hours

[1] *Firm capacity: the total production capacity with the largest-capacity well, Well 5, out of service.*
[2] *For all fire flow evaluations, it is assumed that flow for only one fire at a time must be available.*

Due to high summertime demands, deficiencies in instantaneous water rights, peak supply, and pumping capacity have been identified. It should be noted that the demand projections are based on the assumption that existing per capita average and peak water use trends will continue (i.e. customer meters are not installed). If per capita water use trends decrease, fewer future supply and pumping improvements will be required. The hydraulic model was utilized to evaluate existing, 5 and 20 year conditions. Supply evaluations were also conducted using 40 year projections. The following lists describe each respective analysis section:

Storage Analysis Summary

- The City has adequate storage for existing and 5-year conditions.
- The City will have a system-wide future storage deficit of 1.6 MG by the 20-year horizon.

Supply Analysis Summary

- The City has adequate yearly average and instantaneous water rights to meet existing and 5-year demands.
- The yearly average water right is adequate through the 2055 projection; however, the instantaneous water right will have a 7.4 mgd deficiency by the 20-year horizon and another 35.7 mgd deficiency by the 40-year horizon (43.1 mgd total).
- The City has adequate total and firm supply capacity (with Well 5 out of service) to

meet existing MDD. However due to transmission limitations to convey the existing supply at adequate service pressures, as identified through the hydraulic model analysis, an additional 10.8 mgd of well capacity is recommended in the 5-year horizon, and another 11.7 mgd within 20 years (22.5 total). Increased well capacity is recommended over significant transmission piping improvements due to cost effectiveness.

- Based on a demand and supply mass balance, approximately 26 mgd more (totaling over 48 mgd) will be required to supply the 40-year projected MDD.
- Due to changes in state regulations since the City's last water facility plan, current backup power capacity is deficient by 11.1 mgd, and by the 20-year horizon will be short an additional 13 mgd (24.1 mgd total).

Peak Pumping Analysis Summary

- The current pumping capacity is adequate for existing demands.
- For the 5-year horizon, an additional 4.3 mgd of pumping capacity is needed to meet PHD. This booster pumping capacity is included as part of the facility to increase well supply. By the 20-year horizon, another 17.4 mgd will be required (21.7 mgd total). All but 5.8 mgd of this booster pumping capacity is recommend in combination with new well supply.

Distribution System Analysis Summary

- For existing demands, the system has generally adequate pressures under ADD, MDD and PHD conditions, with one area modeled slightly above 80 psi during ADD, and one area under 40 psi in the hydraulic model during PHD conditions.
- A significant number of locations do not provide adequate fire flow under existing conditions. Many of these deficiencies are due to undersized pipes.
- Future scenarios were modeled assuming adequate supply and that existing deficiencies had been resolved.
- Under the 5-year demand projection, no locations have pressures over 80 psi, and only one new location has PHD pressures under 40 psi.
- For the 5-year fire flow analysis, five new areas have deficiencies, although all are less than 200 gpm below the requirement.
- No new pressure deficiencies are anticipated for the 20-year ADD and MDD conditions. However, the 20-year PHD analysis indicated significant portions of the north and south ends of the system with pressures below 40 psi. Transmission piping improvements were added to resolve the 20-year PHD deficiencies.
- No new fire flow deficiencies were identified under the 20-year analysis.
- Specific projects to address these deficiencies are described in Section 7—Capital Improvement Program. Some piping projects are also included to improve transmission from new supply facilities and expanded booster pumping capacity.

System-Wide Summary

The storage, well supply, and booster pumping deficiencies and recommended solutions for each evaluation horizon are detailed in Table 1-4 (deficient numbers are inside parentheses).

Table 1-4
Storage, Supply, Pumping Summary Deficiencies

Timeframe	Deficiency			Recommended Solution[1]
	Storage (MG)	Well Pumping Capacity (mgd)	Booster Pumping Capacity (mgd)	
2014 (Existing)	No Deficiency	No Deficiency	No Deficiency	• N/A
2020 (5-year)	No Deficiency	(10.8)	(4.3)	• New facility with 4.3 mgd well capacity, 4.3 mgd booster capacity and 1.25 MG storage[2] • New 6.5 mgd well at 65th Street facility
2035 (20-year)	(1.6)	(22.5)	(21.7)	• New facility with 5.2 mgd well capacity, 5.2 mgd booster capacity, and 1.25 MG storage • New facility with 2.2 mgd well capacity, 2.2 mgd booster capacity, and 0.1 MG storage • New facility with 4.3 mgd well capacity, 4.3 mgd booster capacity, and 1 MG storage[3] • Additional 3.6 mgd in booster capacity at 65th Street facility • Additional 2.2 mgd in booster capacity

[1] *To adequately address the storage, supply and pumping deficiencies, transmission piping improvements are also required. Recommended improvements are outlined in Section 7.*
[2] *Storage is not required until 2035, but is driven by the timing of supply and booster requirements.*
[3] *Storage is not required by 2035, but is driven by the timing of supply and booster requirements and lack of storage in the north of the system.*

Operations and Maintenance

The City's water system Operations and Maintenance (O&M) program was assessed to determine current deficiencies in its existing procedures and to identify areas of improvement. This assessment and its resulting program improvement recommendations are based on information supplied by City staff, pertinent regulatory requirements, and comparison of the City's O&M practices to those of seven comparably sized utilities.

Currently, 14 full-time Water Division employees work under the direction of the Water Superintendent; all are involved in the operations or maintenance of the system in some capacity. Routine operations involve the analysis, formulation, and implementation of procedures to ensure that the facilities are functioning efficiently and meeting quality, quantity, and pressure requirements, as well as other system demands. Routine items include making daily rounds to visually check system facilities, visually monitoring flow and reservoir level recording devices on a regular basis during the day, and responding to customer inquiries and complaints.

Benchmark comparisons revealed that the City spends less per year on population served and total distribution system length than half of the surveyed utilities. The City ranks second in total length of distribution system operated per full-time equivalent (FTE) staff. The City provides the greatest average daily flow per both FTE and dollar spent in annual budget.

It should be noted that the three largest systems used for comparison (Meridian, Nampa, and Redmond) have all experienced rapid, recent growth. According to the 2010 U.S. Census, Meridian's population grew by 115%, Nampa's by 57%, and Redmond's by 94% between 2000 and 2010. (Idaho Falls grew 12% in the same timeframe.) It is reasonable to conclude that large portions of these systems' infrastructures will likely be newer, having been built to accommodate this recent growth, and will thus require fewer near-term O&M program improvements and structural replacements.

The following conclusions and recommendations for improving the City's O&M program include:

- Implement a water storage tank inspection and cleaning program to assess every storage tank within the system at least once every five years.
- Develop a pipeline replacement program to replace approximately 3.2 miles (16,800 ft) of publicly owned pipeline per year.
- Continue to develop the unidirectional flushing program.
- Establish a valve exercise program that locates, operates, and rates the condition of all distribution valves on a five-year basis.
- Develop a water meter testing program and construct a dedicated test facility.
- Continue to update and maintain the City's safety plan and safety equipment.
- Continue to evaluate different, safer, disinfection alternatives.
- Conduct ongoing record-keeping training for staff to maintain a disciplined documentation program.
- Maintain concrete and asphalt flatwork at each well facility.
- Implement asset management software to help manage the O&M staff's tasks.
- Add two FTEs and equipment to the water distribution section to implement the valve exercising, unidirectional flushing, and meter testing programs.

- Add one additional FTE and equipment to the water supply section to aid ongoing facility O&M work.

System Condition and Code Evaluation

To determine the status of the City's water supply system, MSA and City staff reviewed all wells, booster stations with regard to both the existing condition of the facility, and its compliance with 2014 Idaho Administrative Procedures Act (IDAPA) drinking water rules and applicable Idaho Department of Environmental Quality (DEQ) guidelines.

Multiple sources of information were synthesized to determine the status of the City's drinking water system, including interviews with system operators, site visits, and reviews of as-built design drawings and geographic information system (GIS) data. The two components comprising the system, production facilities (combined well and booster stations) and the distribution system (piping), were analyzed and ranked to identify where the City should begin rehabilitation and component replacement efforts.

The City's GIS records were analyzed to compare each buried pipeline's age, material, and break records with its expected life to determine which pipelines were in most need of repair. Results of this analysis suggest that the City needs to first focus its replacement efforts on cast iron piping installed between 1902 and 1959, and then on pipes with the highest number of breaks.

Specific improvements were identified for all well production facilities to ensure they meet the operators' needs and comply with current state and federal standards. Many of the recommended improvements apply to all except the three newest facilities (Wells 15, 16, and 17).

In general, wells that produce the most water and need the most updates are recommended to be improved first. Table 1-5 shows the improvement prioritization of all well facilities. No assessments were performed for Well 7 due to water quality problems; this well has not been used for some time and the City will likely abandon it. For detailed facility rankings and improvement recommendations, see Section 6—System Condition and Code Evaluation in this WFP.

Table 1-5
Well Facility Improvement Ranking

Ranking	Facility
1	Wells 9 & 10
2	Well 3
3	Well 1
4	Well 4
5	Well 8
6	Well 5
7	Well 12
8	Wells 11 & 14
9	Wells 13 & 13B
10	Well 6
11	Well 16
12	Well 17
13	Well 2
14	Wells 15 & 15B

Capital Improvement Program

The Capital Improvement Program (CIP) focuses on system improvements required in the existing, 5-year and 20-year planning horizons to provide reliable water supply and distribution throughout the City's service area; longer-term (21- to 40-year) supply needs are described in general terms.

The CIP generally consists of four improvement project categories:

New and Upgraded Pipelines

The system analysis includes 87 pipeline projects to address hydraulic capacity constraints over the next 20 years. Pipeline projects are generally prioritized within each planning horizon, based on the severity of the hydraulic deficiency, size of the impacted area, and pipe condition.

Pipeline Replacement

The City plans to replace all system piping over a 100-year period at about 1% per year. Due to budget constraints, full funding for this replacement program is not proposed in the next 20 years; however, the City intends to address capacity-related improvements first, with any pipe replacement contributing to the overall 100-year plan.

To help prioritize pipe replacement, the existing infrastructure was assessed based on age, material, and associated main breaks. Pipes were then assigned a condition rating of high, medium, or low; high-priority pipes are in the poorest condition and should be replaced first. The City will have the flexibility to use funds currently identified for capacity-related pipe improvements for high-priority replacements as needed over the 20 year planning period. Estimates for the yearly cost of replacing 3.2 miles of pipeline are approximately $3.14 million, depending on project specifics and actual bid prices. Discrete condition replacement projects are not identified in the pipeline CIP, because they will be conducted in conjunction with other utility or street work, or bundled into construction packages where a large area or neighborhood can be completed as a single project.

New and Upgraded Facilities

Facility projects are prioritized based on the severity of hydraulic deficiency, City preference, the facility's condition, and budget constraints. Improvement recommendations include 24 individual facility projects and 3 ongoing repair-and-replacement budget items for all facilities over the next 20 years.

Metering

Future regulations may mandate the City to meter all of its water accounts. In anticipation of this requirement, the CIP includes $250,000 annually to begin installing meters on the largest service accounts. The City has begun installing meter pits on all new residential construction as required by state regulations. The water metering analysis conducted as part of this WFP and documented in Section 9—Financial Impact of City-wide Meter Implementation, assumes that if the City begins metering all customers, it will implement advanced metering infrastructure (AMI), which will necessitate installing associated hardware and software to enable centralized collection of customer usage records. Full metering costs are not included in the CIP.

Backup Power

Backup power is included in many facility upgrade projects and with all new facilities. At the completion of the 20-year CIP, over half the wells and booster stations will have backup power.

As detailed in Table 1-6, the total project costs are approximately $23,000,000 for the 1- to 5-year planning horizon, and $60,000,000 for years 6 to 20. Funding and implementation of the 1- to 5-year projects outlined in Section 8—Financial Plan begins in fiscal year (FY) 2016 and runs through FY 2020. The priority of the improvement projects may vary somewhat from these recommendations as the City annually reviews system needs and budget constraints.

Table 1-6
CIP Summary

	Cost of Required 2020 Improvements (1 to 5 Year)	Cost of Required 2035 Improvements (6 to 20 Year)
New and Upgraded Pipelines[1]	$7,000,000	$28,014,000
New and Upgraded Facilities	$14,715,000	$28,328,000
Metering	$1,250,000	$3,750,000
Total	**$22,965,000**	**$60,092,000**
Annual Average	$4,593,000	$4,006,133

[1] *The City intends to use funding from this category to address capacity- or condition-related pipeline improvements*

Financial Plan

The projected financial performance of the system is impacted by capital improvement needs, increasing operation and maintenance requirements associated with existing and new infrastructure, and renewal and rehabilitation of system assets. Forecasts of financial performance were developed using a financial planning model designed to represent utility cash flows under alternative assumptions related to revenue generation, O&M expenses, and alternative funding plans for capital investment.

The City's existing rates and charges for water service are among the lowest in southeastern Idaho, and low compared to cities of similar size in the greater intermountain region. The last water rate increase occurred on July 1, 2008. Despite static revenues, however, the Division is in a strong financial position, evidenced by substantial available reserves in the combined water and wastewater operating fund. The reserves enable financing of the Division's capital program without reliance on future debt issues or implementation of more significant near-term rate increases.

The CIP reflects priority needs of the system and, after adjusting for inflation, is expected to require expenditures of $26.20 million between FY 2015 and FY 2020. As outlined in Table 1-7, these capital projects will be funded with current operating revenues ($18.68 million, 71.2%), connection fee revenues ($2.25 million, 8.6%), and operating reserves ($5.32 million, 20.3%).

Table 1-7
FY 2015 – FY 2020 CIP Funding Plan

	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	TOTAL	Percent
Projected Capital Expenditures	**$ 2.12**	**$ 4.72**	**$ 5.09**	**$ 5.34**	**$ 4.43**	**$ 4.51**	**$ 26.20**	**100.0%**
Operating Revenues[2]	1.81	3.01	3.11	3.29	3.57	3.89	18.68	71.2%
Connection Fee Revenues[3]	-	0.45	0.45	0.45	0.45	0.45	2.25	8.6%
Existing Reserves[4]	0.39	1.19	1.59	1.61	0.33	0.21	5.32	20.3%
Used (Unused) Balance[5]	(0.08)	0.07	(0.06)	(0.01)	0.08	(0.04)	(0.05)	
Total Funds	**$ 2.12**	**$ 4.72**	**$ 5.09**	**$ 5.34**	**$ 4.43**	**$ 4.51**	**$ 26.20**	**100.0%**

1 All numbers in millions, slight calculation discrepancies may exist due to rounding

2 Includes increased rate revenues associated with proposed rate adjustments

3 Represents transfers from the Division's Fund 44 (Connection Fees) to pay for qualifying capital improvement projects

4 Represents existing operating reserves of the Division that may be used for ongoing and future CIP projects

5 After using funds from various sources for the CIP, approximately $50,000 will remain (unused balance) to fund future projects

Use of operating revenues to finance the capital program is made possible by a proposed five-year rate plan that specifies a 20% increase at the beginning of FY 2016 followed by annual 5% increases from FY 2017 through FY 2020.

Largely due to the proposed rate plan, total system revenues are forecasted to increase 49.8%, from $7.11 million to $10.65 million between FY 2015 and FY 2020. The Division's total operating expenditures—including O&M expense (both baseline and incremental costs), General Fund Transfers, Municipal Equipment Replacement Fund (MERF) Contributions, and Capital Outlay—will increase 27.4%, from $5.31 million to $6.77 million over the same time period. Net operating revenues will increase from $1.81 million in FY 2015 to $3.89 million in FY 2020, and will be used to fund a significant portion of the capital program as shown in Table 1-7.

Financial Impacts of City-Wide Meter Implementation

The financial feasibility of a City-wide meter installation program was analyzed, including demand reduction assumptions based on customers' response to volumetric pricing, the potential costs of installing meters across the existing customer base, and identification of capital projects within the 20-year forecast horizon that may be deferred as a result of decreased system production requirements.

Conservation education programs are beneficial, but will not yield the type of results associated with the financial incentives of metered water service. Customers that must pay for the amount of water they use naturally respond to such price signals by decreasing both indoor and outdoor water consumption to reduce their water bill. The actual demand reduction impact associated with meter installation is difficult to predict, and will vary based on how quickly the program is implemented and the proposed rate structure. This analysis assumes that customers will be subject to a simple, uniform volumetric rate one year after

they receive a meter, that system average day and peak demand will be reduced 30 and 40 percent respectively, and that the meter program will require a ten-year implementation period.

The conceptual costs of a City-wide meter installation program are estimated to be $77.68 million in current dollars. The results of the financial impacts analysis rely heavily on the estimated cost of program implementation. To the extent that actual program costs differ from those estimated, the financial impacts outlined in this report could vary substantially.

Due to the time required to transition all customer accounts to meters, many near-term capital projects are still required. However, various facilities projects and other investments can either be deferred beyond FY 2035 or eliminated altogether, resulting in a reduction of $27.76 million in CIP requirements over the 20-year forecast period. When combined with the $87.03 million nominal cost estimate to install meters, the net cost of the program is projected to be $59.27 million. These costs represent capital project requirements *in addition to those* already outlined in the CIP.

Issuances of long-term debt are required to provide adequate funding amounts for the capital program. The funding analysis assumes that the Division will have access to low-interest State Revolving Fund (SRF) loans under terms similar to those recently secured for the City's wastewater system. As summarized in Table 1-8, projected capital expenditures under a metering scenario will be funded through four sources: rate revenues (34.5%), connection fee revenues (3.4%), long-term debt (60.8%), and existing reserves (1.3%). The addition of debt as a majority funding source is one of the primary differences compared to the financial plan without meter installation.

Table 1-8
FY 2015 – FY 2020 CIP Funding Plan with Metering

	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	TOTAL	Percent
Projected Capital Expenditures	**$ 2.12**	**$ 12.23**	**$ 12.79**	**$ 13.24**	**$ 12.52**	**$ 12.81**	**$ 65.72**	**100.0%**
Operating Revenues[2]	1.81	-	-	-	9.00	11.85	22.65	34.5%
Connection Fee Revenues[3]	-	0.45	0.45	0.45	0.45	0.45	2.25	3.4%
Long-term Debt[4]	-	40.00	-	-	-	-	40.00	60.8%
Existing Reserves[5]	0.39	-	-	-	-	0.45	0.85	1.3%
Used (Unused) Balance[6]	(0.08)	(28.22)	12.34	12.79	3.07	0.06	(0.03)	
Total Funds	**$ 2.12**	**$ 12.23**	**$ 12.79**	**$ 13.24**	**$ 12.52**	**$ 12.81**	**$ 65.72**	**100.0%**

1 All numbers in millions, slight calculation discrepancies may exist due to rounding
2 Includes increased rate revenues associated with proposed rate adjustments
3 Represents transfers from the Division's Fund 44 (Connection Fees) to pay for qualifying capital improvement projects
4 Anticipated issuance of low-interest, State Revolving Fund (SRF) loan to support the meter installation program
5 Represents existing operating reserves of the Division that may be used for ongoing and future CIP projects
6 After using funds from various sources for the CIP, approximately $30,000 will remain (unused balance) to fund future projects

Annual rate increases of 20% percent are required from FY 2016 to FY 2020 in order to support the debt service payments associated with the Division's anticipated SRF loans and fund the CIP. The equivalent water bill for a residential customer will increase from $21.00 to $52.26 by FY 2020, an increase of 148.9%. Additional rate increases beyond FY 2020 are not necessary under the metering scenario.

In municipal credit markets, the affordability of long-term borrowing is established by calculating a financial performance ratio known as debt service coverage (DSC). Forecasted DSC on the Division's proposed SRF loans is estimated to range above the threshold established for subordinate financing instruments, but the Division will need to further investigate the availability of such loans.

The financial impact analysis for metering should not be interpreted as a recommendation to implement a City-wide metering program. Instead, an estimate of the potential rate impacts associated with such a scenario is offered as a single data point along an array of potential implementation options. Policymakers must ultimately identify feasible options, weigh the advantages and disadvantages of each, and determine the most beneficial course of action for the City of Idaho Falls.

Alternative Rates

The City requested an evaluation of the advantages and disadvantages of the Division's existing rate structure, along with recommendations to improve the rate structure while acknowledging the current limitations of available billing determinants.

In the absence of metered consumption data, several rate structure alternatives were developed for the following four customer categories: Residential Indoor; Residential Outdoor; Non-Residential Indoor, and Non-Residential Outdoor. A structured decision framework was created in order to weigh the qualitative benefit and cost tradeoffs associated with each of the rate structure alternatives. This process involved identification of various policy objectives (criteria) and an assessment of relative importance. The list of objectives reflects customer, administrator, and policymaker perspectives. Each of the rate alternatives was scored against the policy objectives, and the recommended rate structure alternatives for each major category are identified in Section 11.

Besides the recommended rate structure alternatives, the following modifications to current billing methodologies are recommended to improve rate transparency and reduce customer confusion:

- Incorporate one-time charges like the seasonal irrigation charge and DEQ fee into the monthly flat rate for all unmetered customers (residential and non-residential), thus ensuring customers receive the same monthly rate year-round.
- Increase the proportion of revenues that are attributed to outdoor water use by decreasing the monthly flat rate and increasing the seasonal irrigation charge. This

won't change the cost of water service (if one-time charges are annualized and included in the monthly bill), but better communicates the relative cost of outdoor water use.

- Simplify the rate structure for metered, non-residential customers by replacing the minimum bill concept with a monthly customer charge based on meter size, eliminating the volume allowance, and establishing a volumetric rate that would be applied to all water use.
- Improve equity through the rate design process by setting fees for outdoor use that are internally consistent among unmetered and metered non-residential customers.

A rate design model was constructed to summarize billing determinants and provide for an iterative analysis of potential fee levels for the recommended rate structures. The purpose of the model is to "calibrate" observed revenue levels with existing rates and to facilitate rate design by predicting rate revenues under various fee scenarios. The recommended rates are presented in Table 1-9 by customer type. The recommended rates are *revenue-neutral*; that is, they are expected to provide the same level of rate revenues received by the Division under existing rates.

Table 1-9
Recommended Rate Structure Alternatives by Major Category

Customer Class	Customer Segment	Billed Units	Proposed Rate	Proposed Revenues[1]	Percent by Type	Existing Revenues	Percent by Type
Residential	Single Family Residence	17,374	$ 23.50	$ 4,899,468	66.7%	$ 4,709,275	67.0%
	Apartment Units	4,137	$ 14.68	$ 728,774	9.9%	$ 819,465	11.7%
Non-Residential	Unmetered, indoor	2,079	varies	$ 1,043,256	14.2%	$ 1,050,722	14.9%
	Unmetered, outdoor	172,775	$ 1.23	$ 212,513	2.9%	$ 41,200	0.6%
	Metered, base charge	247	varies	$ 171,898	2.3%	$ 122,800	1.7%
	Metered, volume charge	422,028	$ 0.45	$ 189,913	2.6%	$ 184,143	2.6%
Outside City	All customers	185	$ 47.00	$ 104,340	1.4%	$ 103,793	1.5%
Subtotal, all customers				**$ 7,350,161**	**100.0%**	**$ 7,031,396**	**100.0%**

1 Recommended alternative rates presented in this table are revenue-neutral; that is, they are expected to provide the same level of rate revenues received by the Division under existing rates after accounting for the predicted-to-actual calibration ratio described in this report.

All unmetered customers will be transitioned to a single monthly flat rate that includes fee components for both indoor and outdoor use. The indoor rate for apartment units will be set at 80% of the single family residential (SFR) indoor rate, while the outdoor rate will be set at 25% of the SFR outdoor rate based on a sampling of the average landscaped area per apartment unit. Unmetered non-residential customers will be assigned to one of five general rate categories based on an analysis of indoor water usage patterns for metered customers. Based on measurements for individual customers, an annual charge per 100 square feet of

landscaped area will be assessed to all non-residential customers for outdoor water use. Metered customers' bills will include a monthly customer charge based on meter size and a revised volumetric rate that will be applied to all water use. Metered customers will no longer be subject to a minimum bill. The monthly customer charge will be scaled up for larger meter sizes based on the American Water Works Association's (AWWA) hydraulic meter ratios.

The rate design process was based on the best available data at this time. Prior to implementation, the Division should carefully review the assumptions of this analysis with the benefit of improved customer data provided by the City's new billing platform. Also, the bill impacts for specific non-residential customers, both metered and unmetered, should be investigated to determine whether adjustments to the revised rate schedule are warranted.

Summary and Overall WFP Recommendations

This WFP constituted a major investment of time and resources for City staff, and the City is commended for initiating such a comprehensive scope of work in order to successfully operate, maintain, and improve the City's drinking water system. This WFP utilized industry-standard evaluation criteria and approaches by analyzing the City's GIS records, conducting site visits, interviewing City staff, reviewing as-built site drawings, applying weighted rankings to help determine improvement hierarchy, and utilizing a hydraulic model analysis to identify system deficiencies and refine recommended improvement projects.

Collecting and compiling system data presented an accurate, comprehensive look at the water system as a whole. Hydraulic modeling was used to evaluate existing, 5- and 20-year conditions, and supply and water right evaluations were also conducted using 40-year projections. The capital projects that have been identified provide a plan, phased over the next 20 years, which will enable the City to continue providing high quality water to its customers at a reasonable cost.

As a result of this WFP, the following recommendations are made:

- Update the WFP every 5 years to incorporate changes in the system related to growth, regulations and facility and piping condition.
- Continue improving the quality of available water system information, specifically:
    - Continue updating and utilizing the hydraulic model as a tool for testing the impact of future development and operational changes.
- Continue evaluating the feasibility of metering all water customers and implement use-based billing to help reduce overall water demand.
- Continue proactively managing the City's water rights portfolio to ensure adequate long term supply.
- Develop a 100 year pipeline replacement program to replace approximately 3.2 miles (16,800 feet) of publicly owned pipeline per year.

    - Focus these replacement efforts on cast iron piping installed between 1902 and 1959, and then on pipes with the highest number of breaks.
- O&M programs should continue to improve preventative maintenance procedures and documentation to enable the City to provide high quality water.
- Hire additional staff to perform identified programs and overall system maintenance.
- Make investments in existing facilities to address:
    - Existing condition issues
    - Code and safety compliance
- Implement the projects identified in the 5-year CIP and adopt a rate structure to fund them.
- Establish a new Capital Projects fund to consolidate project budgeting and capital expenditures, facilitate funding from multiple sources, and improve transparency of the capital program.
- Evaluate the existing connection fee methodology and determine whether an increase to the fee is justified given the magnitude of planned capital expenditures outlined in this report.
- Review and revise the CIP and CIP funding plan annually based on updated information, including comparisons of actual to projected costs and financial performance.
- After the new billing software is implemented, make recommended changes to the City's existing rate structure to improve rate transparency and reduce customer confusion.

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Murray, Smith & Associates, Inc.
Engineers/Planners

SECTION 2

Existing System Description

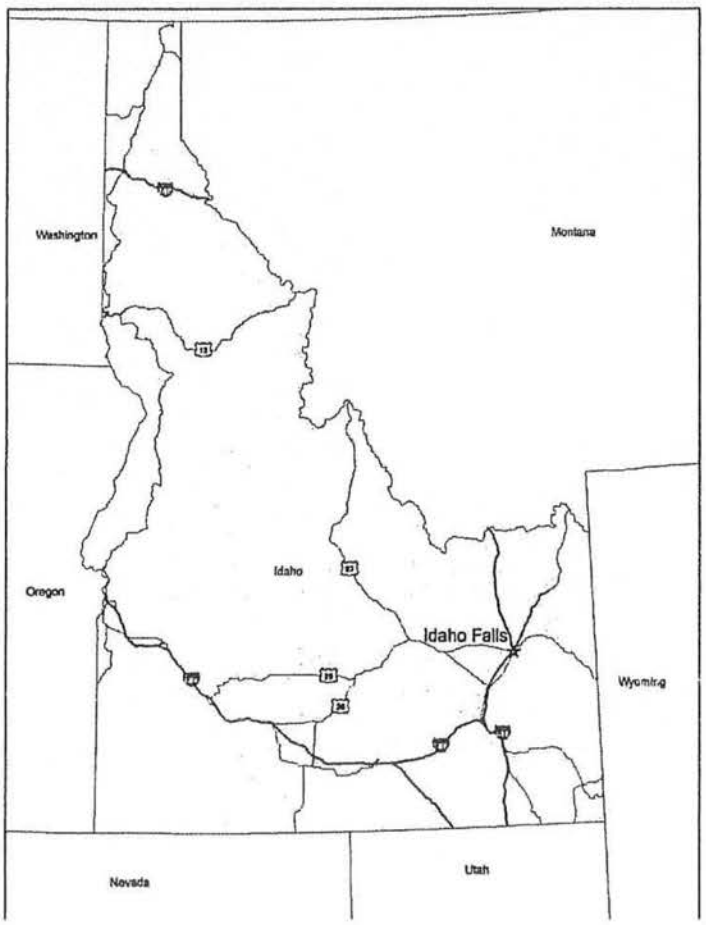
SECTION 2
EXISTING SYSTEM DESCRIPTION

Introduction

This section provides an overview of the existing water system and descriptions of the major facilities.

The City of Idaho Falls (City) is located in southeastern Idaho, approximately 50 miles west of the Idaho-Wyoming border and approximately 100 miles north of the Idaho-Utah border. The City is located in Bonneville County. Elevation within the City ranges from approximately 4,600 to 4,800 feet above mean sea level (MSL). The City covers an area of approximately 23 square miles and based on the 2010 census has a population of approximately 58,000.

Figure 2-1
Location of Idaho Falls



The Idaho Falls water system is operated through the Water Division of the Public Works Department. The City's Water Division is directed by a water superintendent, supply foreman and distribution foreman. The water superintendent, along with the office assistant, handles most administrative duties. Operation and maintenance of the City's wells is handled by the supply foreman, with operation and maintenance of the distribution system, including water mains, water services, valves and hydrants, overseen by the distribution foreman. The system (PWS #7100039) provides service to approximately 24,000 accounts and over 52,000 people according to the Bonneville Metropolitan Planning Organization projections.

The system contains over 310 miles of City pipe and approximately 2,100 fire hydrants. The City's system operates on a single hydraulic gradient (pressure) zone with the hydraulic grade set by the overflow of the elevated tank at 4,879 feet above MSL. Supply is provided by 19 groundwater wells located throughout the system. Most of the wells pump into a contact tank to allow sufficient chlorine contact time, and the water is then boosted from the tanks into the distribution system. Each of the major hydraulic elements is summarized below and the locations of the facilities throughout the service boundary are illustrated in Figure 2-2.

Supply

Supply Wells

The potable water for the City system is supplied solely by groundwater sources derived from 19 water wells distributed across the City's service boundary. The City's water supply comes from the lower zone of the East Snake River Plain Aquifer, which stretches from St. Anthony, Idaho to Thousand Springs near Twin Falls, Idaho. The groundwater level is typically 130 to 170 feet below ground surface and the upper zones of the aquifer, which may be more susceptible to contamination, are sealed by layers of dense basalt. The City wells are typically drilled below this upper zone to at least 400 feet below ground surface.

City wells are named chronologically, with Well 1 the first well constructed and originally drilled in 1927 and Well 17 the most recently drilled. Those well sites with a "B" following the well number, such as Well 13B and Well 15B, do not follow this naming convention and are instead associated with the well where they share a location. The majority of well sites (Wells 1-8, 12, 16 and 17) contain a single well. Wells 9 and 10 share a common site, but have separate well houses. Wells 11 and 14, 13 and 13B, and 15 and 15B each have a similar configuration with a common site, but separate well house facilities. Wells 12 and 16 were designed with space to accommodate a second well to be drilled when needed.

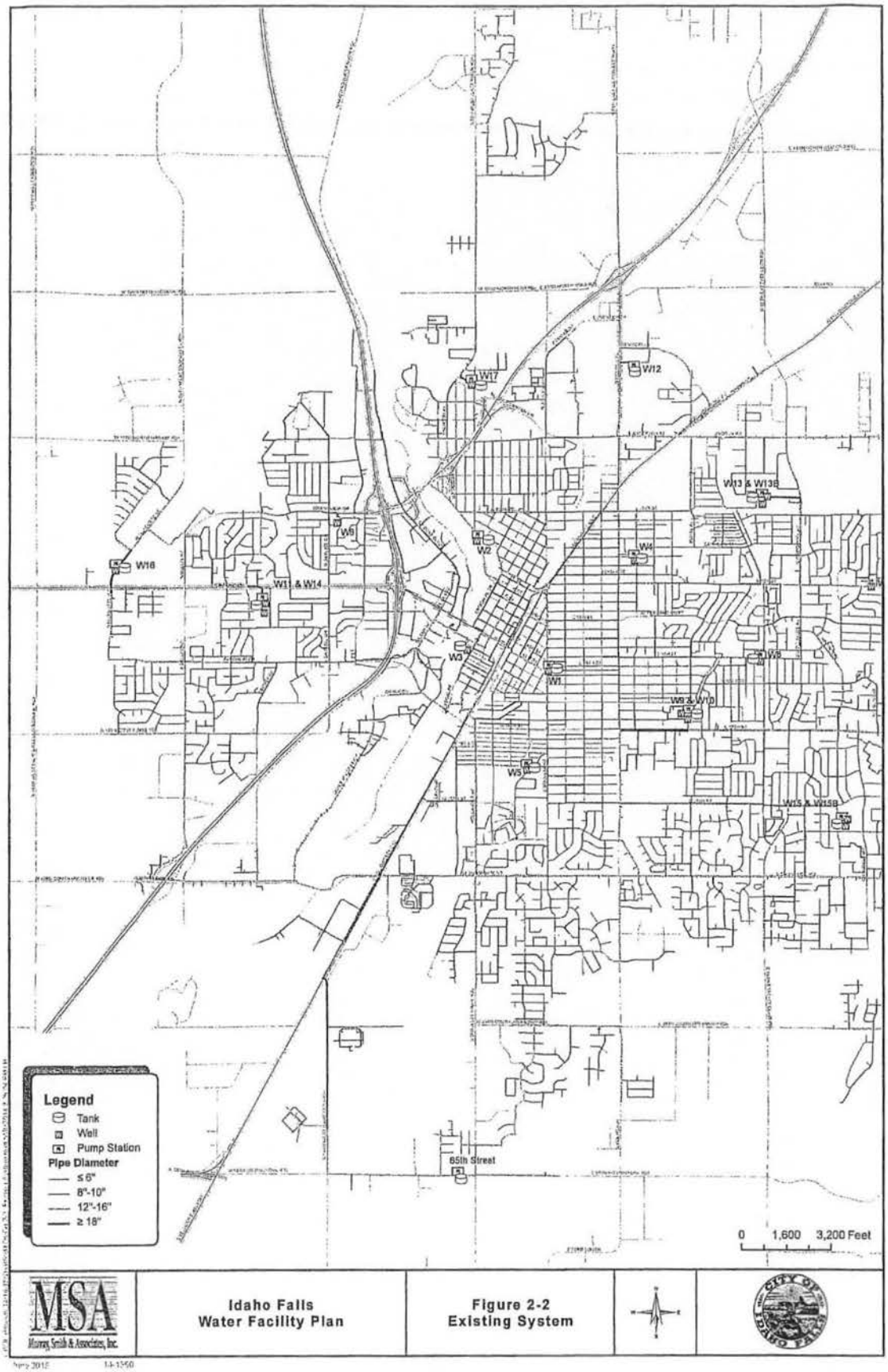
Well 3 pumps directly into the elevated tank. Well 6 pumps into underground pressurized tanks and then directly to system pressure; most other wells pump first to a ground-level contact tank and are then boosted to system pressure. Most of the wells produce high-quality water; however, Well 7 can have air entrainment issues and is no longer used. Well 8 produces sand, primarily during startup. The total capacity of all active wells in the City's water system is 61,150 gpm (88.1 mgd). During a power outage, facilities with backup power generation on site can provide a total well pumping capacity of 13,700 gpm (19.7 mgd) and total booster pumping capacity of 22,900 gpm (33.0 mgd).

Using the limiting capacity (well pump or booster pump) at each active facility with backup power, the system can pump 15,300 gpm (22.0 mgd) under emergency power conditions. Table 2-1 presents basic information for each well. The locations of the wells are shown in Figure 2-2.

Table 2-1
Well Summary

Well	Location	Pumping Capacity (gpm)	Status	Contact Tank	Backup Power
1	S Boulevard & 10th Street	4,000	Active	Yes	No
2	Riverside Drive & I Street	3,150	Active	Yes	No
3	S Capital Avenue & Cliff Street	4,000	Active	No	No
4	Cleveland Street & N Freeman Avenue	4,500	Active	Yes	No
5	W 21st Street & Calkins Avenue	5,500	Active	Yes	No
6	N Skyline Drive & Grandview Drive	1,150	Active	No	No
7	1st Street & Eastview Drive	-	Inactive	No	No
8	9th Street & St Clair Road	1,650	Active	Yes	No
9	E 15th Street & SE Bonneville Drive	3,600	Active	Yes (shared with 10)	Yes[1]
10	E 15th Street & SE Bonneville Drive	4,400	Active	Yes (shared with 9)	Yes[1]
11	Dale Drive & W Broadway Street	4,000	Active	Yes (shared with 14)	Yes[2]
12	Pop Kroll Way & N Holmes Avenue	4,000	Active	Yes	No
13	Between N Woodruff Avenue & Hollipark Drive	3,100	Active	Yes (shared with 13B)	Yes[3]
13B	Between N Woodruff Avenue & Hollipark Drive	2,500	Active	Yes (shared with 13)	Yes[3]
14	Dale Drive & W Broadway Street	3,300	Active	Yes (shared with 11)	Yes[2]
15	Barbara Avenue & E 25th Street	2,200	Active	Yes (shared with 15B)	Yes
15B	Barbara Avenue & E 25th Street	2,000	Active	Yes (shared with 15)	No
16	N Old Butte Road & W Broadway Street	3,600	Active	Yes	No
17	Fremont Avenue & Energy Drive	4,500	Active	Yes	No
Total		**61,150**			

[1] *Backup power at well 9/10 can supply either well 9 and booster 9 or well 10 and booster 10, but not both.*
[2] *Backup power at well 11/14 can supply either well 11 and booster 11 or well 14 and booster 14, but not both.*
[3] *Backup power at well 13/13B can supply either well 13 and boosters 13-1 and 13-2 or well 13B and booster 13-3, but not both.*


W17
W12
W13 & W13B
W16
W6
W2
W4
W1 & W14
W3
W8
W1
W9 & W10
W5
W15 & W15B
65th Street
Legend
Tank
Well
Pump Station
Pipe Diameter
≤ 6"
8"-10"
12"-16"
≥ 18"
0 1,600 3,200 Feet
MSA
Murray, Smith & Associates, Inc.
Idaho Falls
Water Facility Plan
Figure 2-2
Existing System

Treatment

Disinfection is the only process applied to source water in the system. All of the well locations are equipped with chlorine gas injection systems. The chlorine is dosed to provide a target chlorine residual concentration of 0.3 mg/L in the distribution system.

Booster Stations

Each supply facility, except Wells 3, 6, and 7, has booster stations that pump water from the contact tanks into the distribution system. Booster Stations 1-12 and 14 contain a single pump designed at a similar capacity as the well pump. Booster Stations 13, 15, 16 and 17 have multiple pumps designed for redundancy and to provide operational flexibility. Currently, the booster pump at Well 12 is the only variable speed pump (VSP) in the City. However, the City is in the process of designing other VSPs, starting with Booster Station 15/15B, to provide additional operational flexibility. All other booster pumps are constant speed and utilize electric valve actuators to control flow by matching booster pump flow with the deep well flow. A summary of booster stations is shown in Table 2-2.

Table 2-2
Booster Station Summary

Booster Station	Location	Number of Pumps	Total Pumping Capacity (gpm)	Backup Power
1	S Boulevard & 10th Street	1	4,000	No
2	Riverside Drive & I Street	1	3,500	No
4	Cleveland Street & N Freeman Avenue	1	4,500	No
5	W 21st Street & Calkins Avenue	1	5,500	No
8	9th Street & St. Clair Road	1	1,600	No
9/10	E 15th Street & SE Bonneville Drive	2	8,000	Yes[1]
11/14	Dale Drive & W Broadway Street	2	7,250	Yes[1]
12	Pop Kroll Way & N Holmes Avenue	1	4,000	No
13/13B	Between N Woodruff Avenue & Hollipark Drive	3	6,500	Yes[2]
15/15B	Barbara Avenue & E 25th Street	3	6,000	Yes[3]
16	N Old Butte Road & W Broadway Street	2	3,600	No
17	Fremont Avenue & Energy Drive	2	4,000	No
18	S 5th West (Park Road) & W 65th South (York Road)	3	4,900	Yes[3]
Total			**63,350**	

[1] *Backup power is sufficient for only one of the booster pumps at a time.*
[2] *Backup power is sufficient for booster pumps 13-1 and 13-2 with well 13 or booster pump 13-3 with well 13B, but not all booster pumps simultaneously.*
[3] *Backup power is sufficient for all booster pumps.*

Tanks

The water system contains 14 tanks and two pressurized vessels. Most reservoirs are ground-level concrete tanks designed solely to provide adequate chlorine contact time, rather than as system storage. The tanks range in type and size, and most are less than 0.5 million gallons (MG). Well 3 pumps into the only elevated tank in the City. The elevated tank stores 0.5 MG and is used primarily to regulate the City's system pressure. Wells 6 and 7 each pump into underground pressurized vessels. Wells 9 and 10 share a common contact tank, as do Wells 11 and 14, 13 and 13B, and 15 and 15B. The contact tank at Wells 15 and 15B is sized to provide system storage and has a capacity of 3 MG. A 2.25 MG tank was recently built on W 65th S Street that is not currently associated with a well, but is designed for a future well and is intended to provide system storage under peak demand or emergency conditions. An overview of the tanks in the system is provided in Table 2-3.

Table 2-3
Tank Summary

Tank	Location	Volume (MG)	Tank Type
1	S Boulevard & 10th Street	0.1	Ground
2	Riverside Drive & I Street	0.1	Ground
3	S Capital Avenue & Cliff Street	0.5	Elevated
4	Cleveland Street & N Freeman Avenue	0.15	Ground
5	W 21st Street & Calkins Avenue	0.15	Ground
6	N Skyline Drive & Grandview Drive	0.03	Underground Pressure
7	1st Street & Eastview Drive	0.03	Underground Pressure
8	9th Street & St. Clair Road	0.1	Ground
9/10	E 15th Street & SE Bonneville Drive	0.24	Ground
11/14	Dale Drive & W Broadway Street	0.275	Ground
12	Pop Kroll Way & N Holmes Avenue	0.275	Ground
13/13B	Between N Woodruff Avenue & Hollipark Drive	0.315	Ground
15/15B	Barbara Avenue & E 25th Street	3	Ground
16	N Old Butte Road & W Broadway Street	0.315	Ground
17	Fremont Avenue & Energy Drive	0.22	Ground
18	S 5th West (Park Road) & W 65th South (York Road)	2.25	Ground
Total		**7.99**	

System Controls

The status of the water system is primarily monitored and controlled through a supervisory control and data acquisition (SCADA) system. The SCADA system monitors flow, pressure, and various status conditions at each well through programmable logic controllers (PLCs). Information is transferred by wireless and fiber connections from the PLCs to the City's Water Division shop,

allowing the City to control the functionality of the wells remotely. Well pumps with contact tanks are triggered to turn off and on by tank levels.

The wells that pump directly to the system and the booster pumps are triggered by pressure points located throughout the system. Based on set pressure values, these pumps turn on and off as needed to maintain system pressure at these points. Pressure readings at these points are transmitted to the Water Division via a dedicated phone line. Flow at the booster pumps is regulated by electric valve actuators that monitor tank levels and manipulate a valve to adjust flow through the boosters to match the flow of the well pumps, aiming to keep the water level in the contact tanks constant.

Distribution

Pipe

The City's water distribution piping includes over 310 miles of pipe, ranging in size from 2 to 24 inches in diameter. The oldest pipe in the system dates back to the early 1900s, with large quantities of pipe installed in the 1920s, 1950s, 1980s and 2000s. These pipes are made of cast iron, ductile iron, steel and asbestos cement. A large portion of the system is cast iron, but since the mid-1970s, City standards have required the use of ductile iron pipe. A summary of the length of City-owned pipe by diameter and age is in Table 2-4. An additional 25 miles of privately owned and maintained pipe connect to the City system and are not included in Table 2-4. A map showing the existing distribution piping is provided above in Figure 2-2.

Table 2-4
Pipeline Length by Age

	Year of Installation - Length (1,000 ft)									
Diameter (in)	**Before 1950**	**1950-1959**	**1960-1969**	**1970-1979**	**1980-1989**	**1990-1999**	**2000-2013**	**Unk**	**Total**	**Percent**
< 6	109	55	6	4	3	1	2	12	192	11.6%
6-8	37	149	145	182	126	166	240	23	1,068	64.5%
10-16	10	17	53	62	46	62	126	7	383	23.1%
18-24	0	0	1	4	0	8	1	0	14	0.8%
Total	**156**	**221**	**205**	**252**	**175**	**237**	**369**	**42**	**1,657**	—
Percent	9.4%	13.4%	12.4%	15.2%	10.5%	14.3%	22.3%	2.5%	—	100%

Services

There are currently over 24,000 service connections to the City's system. Just over 2,300 of these are commercial/industrial connections. With the exception of approximately 250 commercial/industrial services, none of the services are metered; however, in compliance with state regulations, all new construction is required to install provisions for meters, with all new commercial construction adding meters.

Hydrants

Approximately 2,100 fire hydrants are located throughout the City's system. The Fire Department determines hydrant spacing and location during construction drawing review. After installation, the Water Division is responsible for the operation and maintenance of the hydrants. However, the Fire Department does an annual check to verify that all hydrants are operational. Any issues identified during the Fire Department's annual check are reported to the Water Division, which then makes any necessary repairs.

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SECTION 3

Population and Demand Projections

SECTION 3
POPULATION AND DEMAND PROJECTIONS

Introduction

Water infrastructure planning calculates future water demands to identify anticipated water supply requirements and to size piping and related water facilities. The method used to determine future demands depends on available forecasting information. The City of Idaho Falls (City) has very limited existing customer use data, because most customers in the City are not metered. However, overall system production and population projections provide valuable tools for performing the calculations. Existing water demand can be described on a per capita usage rate by dividing the total existing production by the number of people served. Assuming per customer usage rates remain the same, future population projections can be multiplied by the per capita water usage, yielding future water demand.

The populations developed by the Bonneville Metropolitan Planning Organization (BMPO) were used for projection purposes. The BMPO data are useful in allocating population throughout the system because the population data is spatially distributed using Traffic Analysis Zone (TAZ) boundaries. The TAZ boundaries do not align exactly with the census boundaries so the base population used for projections in this section differ from the population reflected in other sections of this plan, which are based on census data. The TAZ data provides location-specific population growth information and thus is useful in projecting the locations of growth throughout the system, which was used to determine future water demand and size infrastructure within specific areas of the system. This section presents current population and water production information and uses it in conjunction with future population to calculate future water system demands.

Definition of Terms

Demand: the total system production, which is the quantity of water provided by the supply source(s) during a given time period. This information, which is typically reported on a yearly, daily and hourly basis, is required to meet the needs of domestic, commercial, industrial, and institutional use; this includes firefighting, system losses, and other miscellaneous applications. Demands are normally discussed and quantified in terms of flow rates, such as million gallons per day (mgd) or gallons per minute (gpm).

Flow rate: a volume of water delivered during a specific period. Flow rates used in this plan are as follows:

- Average Day Demand (ADD): the total volume of water delivered to the system in a year, divided by 365 days.
- Maximum Day Demand (MDD): the maximum volume of water delivered to the system during any single day.

- Peak Hour Demand (PHD): the maximum volume of water delivered to the system during any single hour.

Peaking factor (PF): the relationship between the ADD and other demand parameters, such as the MDD and PHD.

Per capita demand: the total system demand divided by the total population served expressed in gallons per capita per day (gpcd).

Water Production

Table 3-1 provides a summary of monthly water production records for the years 2009 through 2013. The volume of water produced is the amount pumped from the aquifer, chlorinated, and put into the distribution system. Table 3-2 shows the ADD, MDD, PHD and the associated peaking factors for each year. The average peaking factors for the five-year period are used in the report to calculate future MDD and PHD from ADD values.

Table 3-1
Historical Water Production (Millions of Gallons)

Month	2009	2010	2011	2012	2013
January	353	322	322	295	314
February	324	299	285	279	303
March	351	328	298	304	301
April	399	389	311	498	431
May	956	672	554	1,112	1,073
June	753	990	1,049	1,370	1,406
July	1,517	1,578	1,685	1,583	1,665
August	1,470	1,479	1,460	1,667	1,607
September	1,142	1,043	1,196	1,177	789
October	415	652	527	605	428
November	317	307	300	280	279
December	353	321	303	292	338
Total	**8,350**	**8,380**	**8,290**	**9,462**	**8,934**

Table 3-2
Historical Demands and Peaking Factors

Year	ADD (mgd)	MDD (mgd)	PHD (mgd)	PF_{MDD} (MDD/ADD)	PF_{PHD} (PHD/ADD)
2009	22.9	57.1	84.0	2.5	3.7
2010	23.0	54.2	76.1	2.4	3.3
2011	22.7	58.5	79.4	2.6	3.5
2012	25.9	66.0	82.1	2.5	3.2
2013	24.5	56.8	80.4	2.3	3.3
Averages	23.8	58.5	80.4	2.5	3.4

Per Capita Demand

Per capita demand is a convenient method of comparing the water use of different water systems or areas served by the system. Differences in climate, type of development, cost of water and usage trends influence the per capita demand for different water systems. Because there is a portion of the population within the City limits not served by the water system and some customers outside of the City limits served by the City water system, the service area population differs from the City population. To increase the accuracy of per capita demand calculations and be more conservative in future demand projections, the service area population (as calculated from BMPO TAZ data) was used instead of the City limit population. Using the BMPO data to estimate the service population, results in a lower population served than the Census City limit populations. Consequently, this results in a more conservative per capita demand and future demand projection values. However, BMPO does not have population estimates for each year, so the 2014 population estimate distribution was used, resulting in a service area population estimate of 52,300 people.

The City meters less than 1% of its water customers, making it difficult to develop a demand estimate any more refined than an average per capita demand based on system-wide production, which includes all uses and system losses. Using an average of the demands from the past five-years and the BMPO population estimate of 52,000 people in the service area, results in an ADD of 455 gpcd, and a MDD of 1,119 gpcd.

Non-Revenue Water

The International Water Association (IWA) and the American Water Works Association (AWWA) have published and promoted a water audit methodology that has been widely recognized and adopted throughout the water industry. This method provides definitions and classifications for annual water production and consumption, shown in Table 3-3. Column E identifies "non-revenue" water as the unbilled component of production; this is the difference between the volume of water produced and the volume of water sold to customers. Since only a small percentage of City customers are metered, there is no accurate way to estimate

non-revenue water in the system. Existing per capita usage rates include non-revenue water and as part of the projections are assumed to continue to constitute the same percentage of overall water production as the system expands in the future.

Table 3-3
Components of the IWA/AWWA Water Balance

A	B	C	D	E
System Input Volume = Production = System Demand	Authorized Consumption	Billed Authorized Consumption	Billed metered consumption (including water exported to another system) Billed unmetered consumption	Revenue Water
		Unbilled Authorized Consumption	Unbilled metered consumption Unbilled unmetered consumption	Non-Revenue Water
	Water Losses	Apparent Losses	Unauthorized consumption Data handling error Metering Inaccuracies	
		Real Losses	Leakage from transmission and/or distribution mains Storage leakage and overflows Leakage from service connections up to a point of customer metering	

From AWWA. Manual M36, Water Supply Practices. Water Audits and Loss Control Programs (3rd edition, 2009).

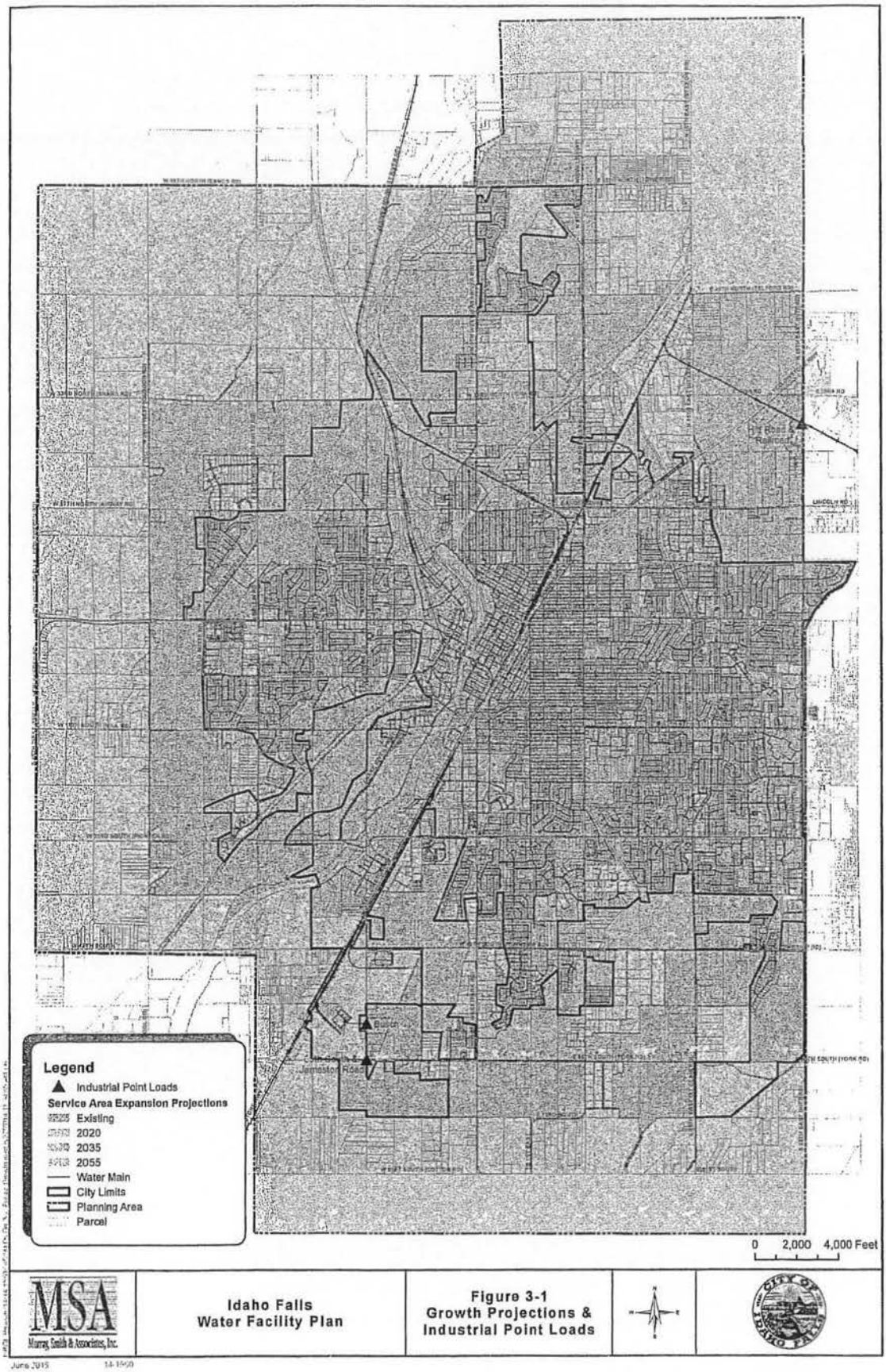
Future Service Area Boundaries & Population Served

City staff developed an estimated geographic boundary and associated timeline for the expansion of the City's current service area to its full planning boundary at build-out. This service boundary expansion is illustrated in Figure 3-1. BMPO population estimates for 2014 and 2035 associated with these geographic service boundaries were used to predict the service area populations for the existing and 20-year horizons. Census data show that the City has grown, on average, over 1% each year for the past few decades. Using BMPO estimates, the growth rate for the service population over the next 20-years is approximately 1.75% per year, which was used to calculate the intermediate 5-year (2020) and future 40-year (2055) service populations, as shown in Table 3-4.

Table 3-4
Service Area Population Projections

Year	Service Area Population Estimate[1]
2014 (Existing)	52,300
2020 (5-year)	58,000
2035 (20-year)	75,300
2055 (40-year)	106,600

[1] *Service area population differs from city limit population. Populations have been rounded to nearest 100.*


Legend
Industrial Point Loads
Service Area Expansion Projections
Existing
2020
2035
2055
Water Main
City Limits
Planning Area
Parcel
0 2,000 4,000 Feet
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Idaho Falls
Water Facility Plan
Figure 3-1
Growth Projections &
Industrial Point Loads
June 2015
14-1550

Future Water Demand Projections

Industrial Demand Reserve

Since less than 1% of City water customers are metered and there is no accurate way to distinguish between unmetered residential and non-residential demand, the per capita demand reflects an average for all uses and non-revenue water across the system. However, because the City is committed to meeting the existing and future demands of large industrial customers in particular areas of the system, three locations have been identified for future large localized demands. These locations are shown in Figure 3-1 and summarized in Table 3-5. Currently, the City has a contractual obligation to provide up to 2.16 mgd on an as-needed basis to the Busch malting plant. Busch has not utilized this amount of water recently, however it is included in the 2014 and future demands since the City could be required to provide it at any time. Two other large demand locations on Hitt Road and York Road have been identified for potential future water intensive industrial developments. The City also has an agreement with the Grupo Modelo malting facility. Since the agreement was made, the facility has taken measures to reduce its water use so the potential for this demand is assumed to be within the demand loading at York & Jameston Roads.

Table 3-5
Service Area Demand Projections

Location	Demand Loading (mgd)	Timeline[1]
Busch	2.16	2014
York & Jameston Roads	1.0	2020
Hitt Road near Railroad Crossing	1.5	2020

[1] *Also assumed to be included in all subsequent future analysis horizons.*

System Demand

As described earlier, an average per capita demand of 455 gpcd is used as the primary demand forecasting value. In addition, the specific industrial loads from Table 3-5 are added to calculate a system-wide demand. System projections for ADD, MDD and PHD water demands are shown in Table 3-6. The starting demand was determined from the historic production using the most recent (2013) or five-year average demand, whichever was greater. The projected values were calculated using population projections, average per capita demand, average peaking factors, and the specific industrial demands.

Table 3-6
Demand Projections

Year	Demand Type	ADD (mgd)	MDD (mgd)	PHD (mgd)
2014 (Existing)	Existing Production	24.5	58.5	80.4
	Industrial Point Load[1]	2.2	2.2	2.2
	Total	**26.7**	**60.7**	**82.6**
2020 (5-Year)	Based on Per Capita Demand	27.1	67.7	92.1
	Industrial Point Loads[1]	4.6	4.6	4.6
	Total	**31.7**	**72.3**	**96.7**
2035 (20-Year)	Based on Per Capita Demand	35.0	87.4	118.9
	Industrial Point Loads[1]	4.6	4.6	4.6
	Total	**39.6**	**92.0**	**123.5**
2055 (40-Year)	Based on Per Capita Demand	49.2	123.1	167.4
	Industrial Point Loads[1]	4.6	4.6	4.6
	Total	**53.8**	**127.7**	**172.0**

[1] *Industrial point demands are assumed to be relatively constant throughout the day so peaking factors are not applied.*

Impact of Metering on Future Water Demands

If the City began metering and charged based on customer use, a significant decline in per capita water usage would likely occur. A reduction could have a significant impact on the future water supply needs of the system. A second calculation was completed assuming the amount of water required if average per capita demand was reduced by 30% to 319 gpcd. This 30% reduction in average demand and an estimated 40% reduction in peak demands was based upon a literature review of demand reductions other utilities in similar climates have observed when metering is implemented. The actual reduction due to metering could vary from these estimates based upon many factors including the implementation and rate structure. Further explanation of these values is provided in Section 9—Financial Plan. Additionally the City could see reductions from conservation measures, as outlined in the City's recently developed Conservation Plan (Appendix A). However, metering is assumed to provide the greatest potential for demand reductions.

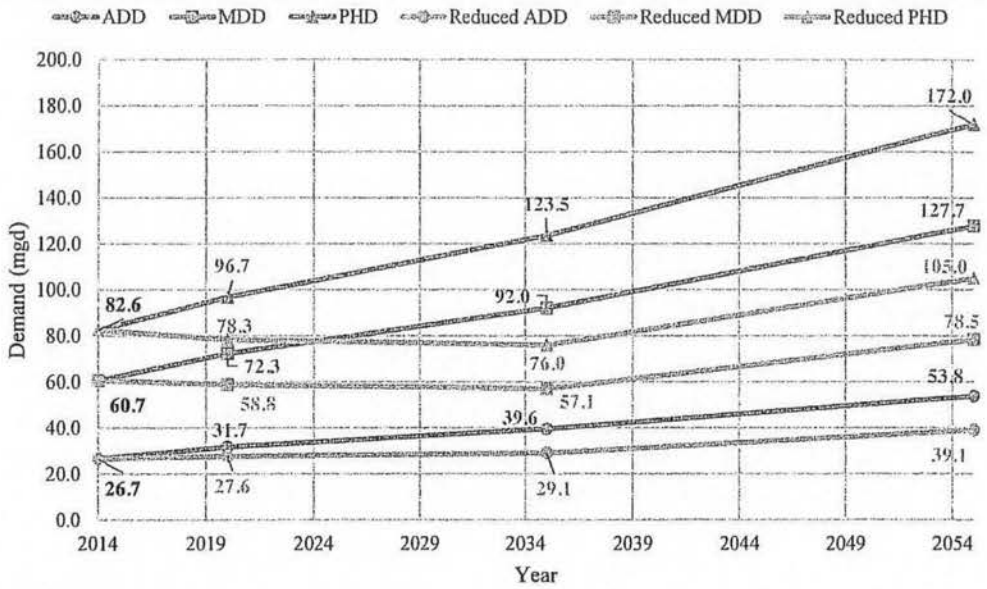
Since the possible conversion to metering would occur over a number of years, an assumption was made that half of the 30% and 40% reduction (15% and 20%) would be realized by 2020. It was assumed that all customers would be metered by 2035. The resulting demand values are in Table 3-7. Figure 3-2 shows the resulting demands at the 5-, 20- and 40-year horizons with and without a reduction due to metering.

Table 3-7
Demand Projections Assuming Metering

Year	Demand Type	ADD (mgd)	Reduction in Average Demand From Non-Metered Projections	MDD (mgd)	PHD (mgd)	Reduction in Peak Demand From Non-Metered Projections
2014 (Existing)	Existing Production	24.5	-	58.5	80.4	-
	Industrial Point Load[1]	2.2	-	2.2	2.2	-
	Total	**26.7**	**-**	**60.7**	**82.6**	**-**
2020 (5-Year)	Based on Per Capita Demand	23.0	15%	54.2	73.7	20%
	Industrial Point Loads[1]	4.6	0%	4.6	4.6	0%
	Total	**27.6**	**13%**	**58.8**	**78.3**	**19%**
2035 (20-Year)	Based on Per Capita Demand	24.5	30%	52.5	71.4	40%
	Industrial Point Loads[1]	4.6	0%	4.6	4.6	0%
	Total	**29.1**	**27%**	**57.1**	**76.0**	**38%**
2055 (40-Year)	Based on Per Capita Demand	34.5	30%	73.9	100.4	40%
	Industrial Point Loads[1]	4.6	0%	4.6	4.6	0%
	Total	**39.1**	**27%**	**78.5**	**105.0**	**39%**

[1] *Industrial point loads are assumed to be relatively constant so peaking factors are not applied.*

Figure 3-2
Demand Projections Comparison



Conclusions

As described in Table 3-7 and Figure 3-2, the City's overall water demand could be reduced if the system is metered and use based billing is implemented. This could result in a significant reduction related to the requirement for future water rights and supply infrastructure. The viability of metering will be evaluated further in Section 9.

While the projected demands over the next 5 and 20 years will be used to evaluate the hydraulic capacity of the system and identify improvements, the actual timing of those improvements should be scrutinized and based on when system demands reach certain thresholds.

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SECTION 4

Distribution and Supply Analysis

SECTION 4
DISTRIBUTION AND SUPPLY ANALYSIS

This section documents the overall water supply and distribution system analysis for the City of Idaho Falls (City) for existing and future conditions. The water demand forecast summarized in Section 3—Population and Demand Projections was used in conjunction with performance criteria to assess water system characteristics, including supply capacity, service pressures, system storage, pumping capacity, and emergency fire flow availability. A 20-year horizon was used to evaluate the distribution system. For water supply needs, a longer, 40-year horizon was evaluated to facilitate long-term planning. This section provides the basis for recommended system improvements presented in Section 7—Capital Improvement Program.

Performance Criteria

The water distribution system should be capable of operating within certain performance limits under varying customer demand and operational conditions. The recommendations of this plan are based on the performance criteria summarized in Table 4-1. The criteria are based on the requirements within the Idaho Department of Environmental Quality administrative rules (IDAPA 58.01.08), many of which come directly from the federal Safe Drinking Water Act requirements. Other standards that have been referenced include the American Water Works Association (AWWA) acceptable practice guidelines, Ten States Standards and the Washington State *Water System Design Manual.*

Table 4-1
Performance Criteria

System Attribute	Evaluation Criterion	Value
Water Supply	Firm Supply Capacity[1]	MDD[2]
Distribution Storage	Total Distribution Storage Capacity	Sum of operational, equalization, fire & dead storage
Pump Stations and Wells	Minimum No. of Pumps	2
	Capacity	PHD[3] or MDD+ fire flow (whichever is larger)
	Emergency Power	At least two independent sources, system-wide adequate to serve ADD[4] + largest fire flow
Service Pressure	Minimum during MDD + fire flow	20 pounds/square inch (psi) at service junctions
	Minimum, during PHD	40 psi
	Standard Range	40-80 psi
	Maximum	80 psi preferred[5]
Distribution Piping	Maximum Velocity during MDD	5 feet/second (fps)
	Velocity during PHD or Fire Flow	Not to exceed 10 fps
	Minimum Future Pipe Diameter	8-inch (exception: 6-inch for short, dead-end mains without fire service)
Fire Suppression	Available Fire Flow Requirements[6]	Residential: 1,500 gpm[7] for 2 hours Commercial/Industrial: 2000-3,000 gpm for 2 hours Heavy Industrial: 4,500 gpm for 4 hours

[1] *Firm capacity: the total production capacity with the largest-capacity well, Well 5, out of service.*
[2] *MDD: Maximum day demand: the maximum volume of water delivered to the system during any single day.*
[3] *PHD: Peak hour demand: the maximum volume of water delivered to the system during any single hour of the maximum demand day.*
[4] *ADD: Average day demand: the total volume of water delivered to the system throughout the year averaged over 365 days.*
[5] *For pressures greater than 80 psi, installation of individual pressure reducing valves (PRVs) is recommended.*
[6] *For all fire flow evaluations, it is assumed that flow for only one fire at a time must be available.*
[7] *gpm: Gallons per minute.*

Storage Analysis

Storage Criteria

Reservoirs intended to store water and meet demand in the system serve four purposes: operational storage, equalization storage, fire storage, and standby or emergency storage (if adequate standby power is not provided). The total distribution storage required is the sum of these four components plus dead storage that is not available for use or provides substandard flows and pressures. The system is evaluated and will be recommended to provide adequate

standby power so storage is not intended to provide emergency/standby volume.

Required storage volumes in millions of gallons were calculated according to the following criteria:

- *Dead Storage* – storage not available for use in the system.
- *Operational Storage* – storage that supplies water under normal conditions when the sources are off.
- *Equalization Storage* – the difference between a system's maximum pumping capacity and PHD provided for 150 minutes.
- *Fire Storage* – largest fire flow requirement within the system, multiplied by the duration of that flow (see Table 4-1 for fire flow requirements).

Storage Findings

Most of the reservoirs in the City's water system are intended to provide chlorine contact time for the groundwater supply and are not sized to provide storage to meet peak or emergency demand within the system. However, the 0.5-million-gallon (MG) elevated tank at Well 3, the 2.25-MG tank at the 65th Street facility and the 3-MG tank at Well 15/15B, resulting in 5.75 MG of existing storage are intended to meet peak demands in the system. The results of the storage analysis are shown in Table 4-2 and indicates that the existing storage is just adequate through the 5-year horizon with another 1.6 MG needed within 20 years.

Table 4-2
Storage Analysis

Timeframe	Well 15/15B (MG)[1]		Well 3/ Elevated (MG)[1]		65th Street (MG)[1]		System-wide (MG)[1]		Total Effective Storage Needed (MG)[1]	Surplus/ Deficiency (MG)[1]
	Dead[2]	Operational	Dead[2]	Operational	Dead[2]	Operational	Fire	Equalization		
2014 (Existing)	0.3	0.5	0.04	0.2	0.2	0.4	1.1	0.4	3.1	2.7
2020 (5-Year)								1.8	4.5	1.2
2035 (20-Year)								4.6	7.3	(1.6)

[1] *MG: million gallons.*
[2] *Assumes 2.5 feet of unusable storage in each tank.*

Supply Analysis

Water Rights and Long-Term Supply

The City has a varied portfolio of water rights, including hydropower rights and municipal groundwater rights, along with surface water irrigation shares and storage water shares. The municipal groundwater rights provide the supply to the City's potable distribution system and are summarized in Table 4-3.

Table 4-3
Municipal Groundwater Rights

Right # or Permit #	Wells	Priority Date	Instantaneous Flow (cfs[1]; gpm)	Annual Volume (Acre-Feet)
25-02095	#1	02/25/1927	5.20; 2,340	3,758
25-02142 & 35-03020	#2, #3, #4, #5, #7, #8 & #6	04/08/1963	50.20; 22,590	20,200
25-02143	#9, #10	11/22/1963	17.10; 8,019	12,358
35-07001	#11	07/13/1967	8.90; 4,005	6,432
25-07022	#12	01/18/1972	7.35; 3,308	5,312
25-07058	#13, #13-B	08/22/1974	6.14; 2,763	4,437
35-07841	#14	02/07/1979	7.35; 3,308	5,312
25-07298 & 25-07398	#15	12/23/1982 01/11/1985	3.35; 1,503 1.55; 696	2,421 1,120
25-07654 (Permit)	#15-B	09/03/1997	6.70; 3,015	4,842
35-08682	#16	02/10/1988	8.02; 3,609	5,796
25-07467	#17	09/09/1988	8.02; 3,609	5,796
Total			**129.88; 58,765**	**77,784**

[1] *cfs: Cubic feet per second.*

As indicated in Table 4-1, the firm supply is required to meet or exceed maximum day demand (MDD). The City currently has adequate water rights to meet demand, although peak irrigation season demands have in the past approached instantaneous flow allowance. As shown in Table 4-4, the City's existing average yearly water rights are adequate to meet demand projections through the next 40 years. However, the instantaneous demand, represented by MDD, will surpass the City's instantaneous water rights flow rate prior to the 20-year timeframe. The City has recently developed a Water Rights Plan to assess the options to best utilize existing rights and adequately provide for future demands. A copy of the Water Rights Plan, which addresses the adequacy of water rights and options for

addressing future shortfalls, is included in Appendix B. A separate assessment below evaluates the adequacy of the system's pumping capacity to convey the water into the system and meet demand.

Table 4-4
Municipal Water Rights Analysis

Timeframe	Average Yearly Demand (acre-feet)	Existing Yearly Water Rights (acre-feet)	Yearly Water Rights Surplus (acre-feet)
2014 (Existing)	29,909	77,784	47,875
2020 (5-Year)	35,510	77,784	42,274
2035 (20-Year)	44,359	77,784	33,425
2055 (40-Year)	60,266	77,784	17,518
Timeframe	**Instantaneous Peak Demand (MDD) (mgd)[1]**	**Existing Instantaneous Water Rights (mgd)**	**Instantaneous Surplus/Deficiency (mgd)**
2014 (Existing)	60.7	84.6	23.9
2020 (5-Year)	72.3	84.6	12.3
2035 (20-Year)	92.0	84.6	(7.4)
2055 (40-Year)	127.7	84.6	(43.1)

[1] *mgd: Million gallons per day.*

Supply Criteria

To adequately meet system demands, supply facilities must be capable of providing MDD with the largest pump out of service. This state requirement assumes that all demands above MDD, such as peak hour demand (PHD) and fire flows, must be provided by storage. The City could choose to provide for demands that exceed MDD directly from supply; however, this analysis assumes that supply will equal MDD.

Supply Findings

Since the City is comprised of a single hydraulic grade line (pressure zone), the supply

evaluation is determined on a system-wide basis with the single largest capacity well pump, Well 5, out of service. Since most of the wells pump water to a contact tank where it is then boosted into the system through a booster station, the limiting pumping capacity (well or pump station) was used to evaluate each facility's contribution to the system capacity. As shown in Table 4-5, the system has sufficient supply over the 5-year horizon and requires an additional 12.7 million gallons per day (mgd) in pumping capacity to serve the 20-year projected demands. By the 40-year horizon, another 35.7 mgd (48.4 mgd total) of additional supply will be required.

Table 4-5
Supply Capacity Analysis

Timeframe	MDD (mgd)	Existing Supply Firm Capacity (mgd)	Surplus/Deficiency (mgd)[1]
2014 (Existing)	60.7	79.3	18.6
2020 (5-Year)	72.3	79.3	7.0
2035 (20-Year)	92.0	79.3	(12.7)
2055 (40-Year)	127.7	79.3	(48.4)

[1] *Based on supply and conveyance capacity evaluated using the hydraulic model, the actual 2020 supply deficiency is 10.8 mgd and the 2035 supply deficiency is an additional 11.7 mgd (22.5 mgd total).*

No additional supply capacity is required according to the mass balance analysis, which simply compares system-wide supply to system-wide demand. However, a hydraulic model analysis (described in detail later in this section) is done to determine if the distribution system can adequately convey the water from the supply locations to the areas of demand. The model analysis indicates the need for additional supply in areas of the system where conveyance limitations exist. The model analysis indicates an additional 10.8 mgd of well capacity is needed in the 5-year horizon and another 11.7 mgd (22.5 mgd total) of well capacity is necessary for the 20-year timeframe. To remain consistent with current City operations, recommendations for well capacity will be accompanied by storage and booster pumping capacity.

Backup Power Criteria

In the event of a power outage, the system should have adequate backup power to meet average day demand (ADD) plus the largest fire flow requirement in the system.

Backup Power Findings

The largest fire flow requirement in the system is 4,500 gallons per minute (gpm). It is assumed that fire flow requirements do not change over the 20-year analysis period. As described in Section 2—Existing System Description, some facilities only have adequate backup power to serve some combination of the well and booster pumps at the facility, not all pumps. For these facilities, the largest viable combination of pumps was used to determine available backup power supply to the system. As Table 4-6 indicates, the City is currently 11.1 mgd short of having adequate backup power, with this amount increasing as future demand grows.

Table 4-6
Backup Power Analysis

Timeframe	Fire Flow Requirement (mgd)	ADD (mgd)	Existing Backup Power (mgd)	Surplus/Deficiency (mgd)
2014 (Existing)	6.5	26.7	22.0	(11.1)
2020 (5-Year)	6.5	31.7	22.0	(16.1)
2035 (20-Year)	6.5	39.6	22.0	(24.1)

Pumping Analysis

Pumping Criteria

The majority of storage in the City system is pumped from ground level so the pumping capacity must have sufficient firm booster capacity to supply PHD or MDD plus the highest fire flow requirement in the system, whichever is largest. For each timeframe, the PHD is the largest requirement.

Pumping Findings

The firm pumping capacity is the total production capacity of the system with its largest pump, the Well 5 booster pump, removed. For Well 3 and Well 6, which do not pump through a booster station, the facility capacity was determined by the well capacity. For each of the other facilities, the capacity was calculated as the booster station capacity. A summary of the system pumping capacity and projected demand conditions is in Table 4-7. Based only on a mass balance analysis, there is a pumping deficiency of 6 mgd by the 5-year horizon and another 26.8 mgd (32.8 mgd total) by the 20-year horizon.

Table 4-7
Pumping Capacity Analysis

Timeframe	MDD (mgd)	Fire Flow Requirement (mgd)	MDD + fire flow (mgd)	PHD (mgd)	Existing Pumping Firm Capacity [1] (mgd)	Surplus/ Deficiency [2] (mgd)
2014 (Existing)	60.7	6.5	67.2	82.6	90.7	8.1
2020 (5-year)	72.3	6.5	78.8	96.7	90.7	(6.0)
2035 (20-year)	92.0	6.5	98.5	123.5	90.7	(32.8)

[1] *Pumping capacity is based on the design point for each pump. Under peak hour operating conditions, regulations allow the system minimum pressure to drop to 40 psi, so pump capacity will increase as the head requirement decreases. As a result the hydraulic model was used to validate the actual system capacity under peak conditions.*

[2] *Based on peak pumping capacity evaluated using the hydraulic model, the actual 2020 pumping deficiency is reduced to 4.3 mgd and the 2035 pumping deficiency is reduced to an additional 17.4 mgd (21.7 mgd total).*

The system is designed to provide 40 to 80 psi under standard operating conditions, with the pump design capacity providing a head at the upper end of this range. This standard design point capacity was used for the evaluation in Table 4-7. As demand increases to flows required above MDD, system pressures drop and pumps produce more flow as they operate farther out on their pump curves. As long as the pumps maintain system pressures above 40 psi, acceptable service is provided. As a result, to determine the actual peak pumping deficiency the pumping capacity was evaluated using the hydraulic model.

The results of the model analysis indicate that the actual booster pumping deficiency in the 5-year horizon is 4.3 mgd, with another 17.4 mgd (21.7 mgd total) booster pumping deficiency for the 20-year horizon under PHD conditions. See Table 4-7 for details related to the peak pumping requirements. The detailed hydraulic model analysis and results are discussed in the next section. Described further in Section 7, the needed pumping capacity is recommended through a combination of additional well and booster capacity, with 15.9 mgd of the increased pumping capacity recommended through facilities that include adding new well supply along with booster station capacity and only 5.8 mgd of booster pumping upgrade improvements at already existing or previously recommended well sites.

Distribution System Analysis

Distribution System Criteria

Service Pressure

Distribution system performance was assessed based on the following service pressure

criteria discussed earlier and summarized in Table 4-1. A distribution system should:

- Provide approximately 40 to 80 psi at service connections under ADD, MDD, or PHD conditions.
- Maintain minimum pressure of 40 psi at service connections under PHD conditions.
- Maintain a minimum service pressure of 20 psi under MDD plus fire flow conditions.
- Keep static pressure within the distribution system below 100 psi and, where possible, below 80 psi.

Pipe Flow Velocity

Pipe flow velocity criteria were also used during distribution system analysis to indicate areas of undersized piping. These criteria alone did not dictate system improvements, but helped guide system analysis and the prioritization of system improvements. Distribution piping was assessed based on the following criteria:

- Velocity below 5 feet per second (fps) under MDD conditions.
- Velocity below 10 fps under PHD or fire flow conditions.

Hydraulic Model

A steady-state hydraulic network analysis model was used to evaluate the performance of the existing distribution system, and identify deficiencies and subsequently proposed piping improvements. The purpose of the model is to determine pressure and flow relationships throughout the distribution system for a variety of demand, supply and emergency conditions. The model is EPANet-based and was previously developed in InfoWater software and updated as part of previous projects from geographic information system (GIS) water piping and facility data provided by the City.

Field testing was conducted to evaluate the relationship between model results and field data. City water customers' usage is unmetered, making it difficult to accurately allocate demand within the model and thus presenting challenges in the validation process. A summary of the calibration process and results is presented in Appendix C. The model remains useful in predicting general areas with pressure and capacity constraints, and was analyzed to identify hydraulic deficiencies under current and future demand conditions. Where necessary, the model was expanded to include proposed improvements required to correct existing deficiencies and provide for future development.

Modeling Conditions

System analysis was performed under existing, 5-year and 20-year demand conditions for ADD, MDD, PHD and MDD plus fire flow conditions. Fire flow scenarios test the distribution system's ability to provide required fire flows at a given location while

simultaneously supplying MDD and maintaining a minimum residual pressure of 20 psi at all services. Pressure criteria deficiencies were identified and used to develop the improvement projects outlined in Section 7.

Demand

Existing demand was allocated throughout the system based on the location of occupied parcels, identified through previous projects, and was updated to match current production records. As described in Section 3, future water demands were estimated using Bonneville Metropolitan Planning Organization (BMPO) data, along with production information and City-identified areas of growth. Future demand was allocated and scaled in the current hydraulic model to match projections.

Fire Flow

Fire flows are illustrated in Figure 4-1 and were assigned based on general zoning classifications, with some specific location fire flows identified by City staff.

Facilities

For distribution system modeling, which wells were operated was based on the amount of demand required and the typical order of operation. System storage tanks were modeled half full for the fire flow analysis. During non-fire flow conditions, system tanks were operated at the bottom of the operational band (when well pumps would turn on to fill them).

Distribution System Findings

A detailed system analysis was performed to assess the ability of the City's current distribution system to provide water for existing and projected future demands and emergency fire suppression. As previously indicated, the model was also utilized to validate the supply and pumping evaluations in conjunction with system distribution and transmission capabilities.

Existing Condition Analyses

The current system was modeled under existing demands and for ADD, MDD and PHD conditions. Adequate pressures between 40 and 80 psi exist throughout the system, with very few exceptions. There is one location that has pressure under 40 psi during PHD conditions, and a small area with pressures just over 80 psi during ADD conditions as shown in Figure 4-2. There are also some pipes that exceed the recommended criteria of 5 fps during MDD and 10 fps during PHD conditions. Although deviation from velocity criteria alone does not trigger improvements, it does indicate potential limiting points in the system.

Under MDD plus fire flow conditions, there are a number of locations with hydrants that do not currently maintain 20 psi under the required fire flow, including the location that also had

inadequate pressure under PHD conditions. Many of these locations are on old, undersized pipes. These locations are identified in Figure 4-2.

Future System Analysis

Similar demand scenarios (ADD, MDD, PHD and MDD plus fire flow) were modeled for the 5-year and 20-year horizon. For ADD, MDD, and PHD, the 5-year demand conditions were modeled with existing supply and piping to identify areas needing improvements. The analysis also assumed full use of the 65th Street storage facility, which has no direct well supply and could have difficulty filling under peak demand conditions, resulting in the recommendation to continue with City plans to add a well source to directly fill the storage tank.

Under the future scenarios, no locations have pressures above 80 psi and only one new area, located in the far northeast portion of the system in the vicinity of the Well 7 site, has pressures just under 40 psi during PHD conditions. The locations are shown in Figure 4-3. There are some additional pipes exceeding the recommended velocity during the 5-year MDD and PHD evaluations. These pipe locations are also shown in Figure 4-3.

The 5-year MDD plus fire flow analysis was analyzed assuming improvements are in place to address the existing fire flow deficiencies. This was done to identify any new locations with inadequate fire flow due to future demand conditions. Only five hydrant locations become deficient in the 5-year horizon that were not already deficient under existing conditions. All locations were deficient by 200 gpm or less from the required fire flow. These locations are identified in Figure 4-3.

For all of the 20-year conditions, the system was evaluated with pipe improvements required to address existing or 5-year deficiencies in place. Due to the significant expected increase in MDD and analysis from Table 4-4, along with transmission constraints of existing supply to growth areas, 18 mgd in additional well pumping capacity was added where required. The locations of the new supply were determined based on projected growth patterns, areas identified to have low pressure under the 5-year demand conditions, and City input. New supply locations are shown in Figure 4-4. These assumptions allowed any new deficiencies to be determined, distinct from previously identified deficiencies or those due only to inadequate system-wide supply. Assumed improvements are explained further in Section 7.

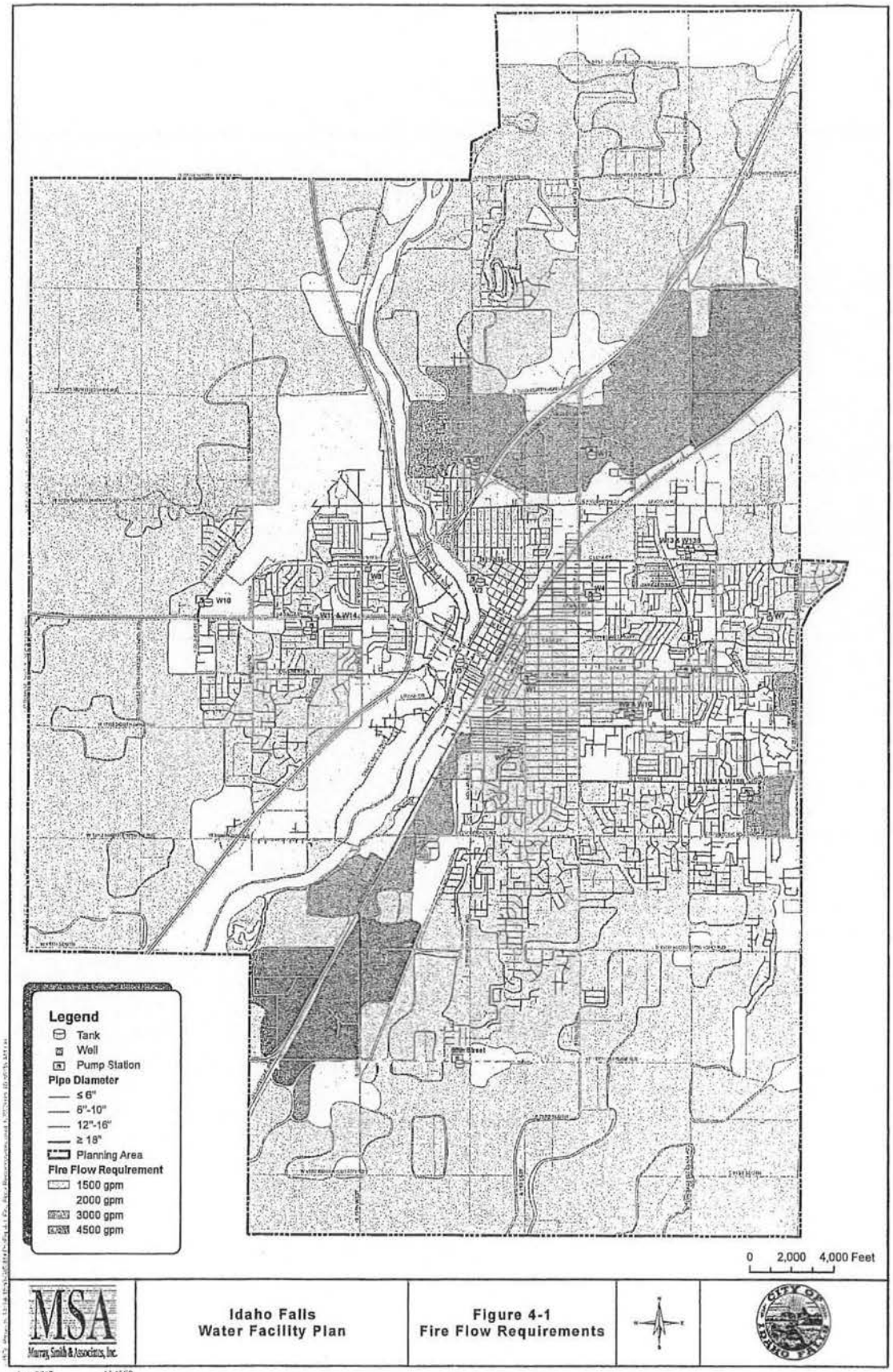
Under the 20-year ADD and MDD, there are no new pressure deficiencies. For the 20-year PHD condition, areas of low pressure exist, particularly in the far south and north of the system, as seen in Figure 4-4. There are some additional pipes exceeding the recommended velocity during the 20-year MDD and PHD. These pipe locations are also shown in Figure 4-4.

The pressure deficiencies identified in the PHD analysis are due to a lack of transmission capacity to serve growth areas in the system and the pumping deficiency under PHD identified in Table 4-6. New transmission pipe and an additional 3.2 mgd in additional well

pumping capacity (in addition to the 18 mgd in previously added supply) and 2.2 mgd in additional booster pumping capacity was added to specifically address the areas of low pressure identified during the 20-year PHD analysis and pumping deficiency identified in Table 4-6. The proposed piping and new pump locations are shown in Figure 4-5.

New pump locations were selected over adding pumping capacity to existing booster stations based on the projected growth in the north of the system, lack of existing supply in the area, and hydraulic and/or space restrictions at many of the existing facilities. The new piping and pumping capacity was added prior to the fire flow analysis to discern distinct fire flow inadequacies from low domestic pressure issues due to pumping and transmission capacity issues under 20-year demand conditions.

As mentioned, the MDD plus fire flow analysis for the 20-year horizon was done with piping improvements in place to address the existing and 5-year fire flow deficiencies, as well as supply, pumping and storage improvements to address those deficiencies. No new fire flow locations at hydrants are deficient under the 20-year demand conditions that were not previously identified under existing or 5-year conditions.


Legend
Tank
Well
Pump Station
Pipe Diameter
≤ 6"
6"-10"
12"-16"
≥ 18"
Planning Area
Fire Flow Requirement
1500 gpm
2000 gpm
3000 gpm
4500 gpm
0 2,000 4,000 Feet
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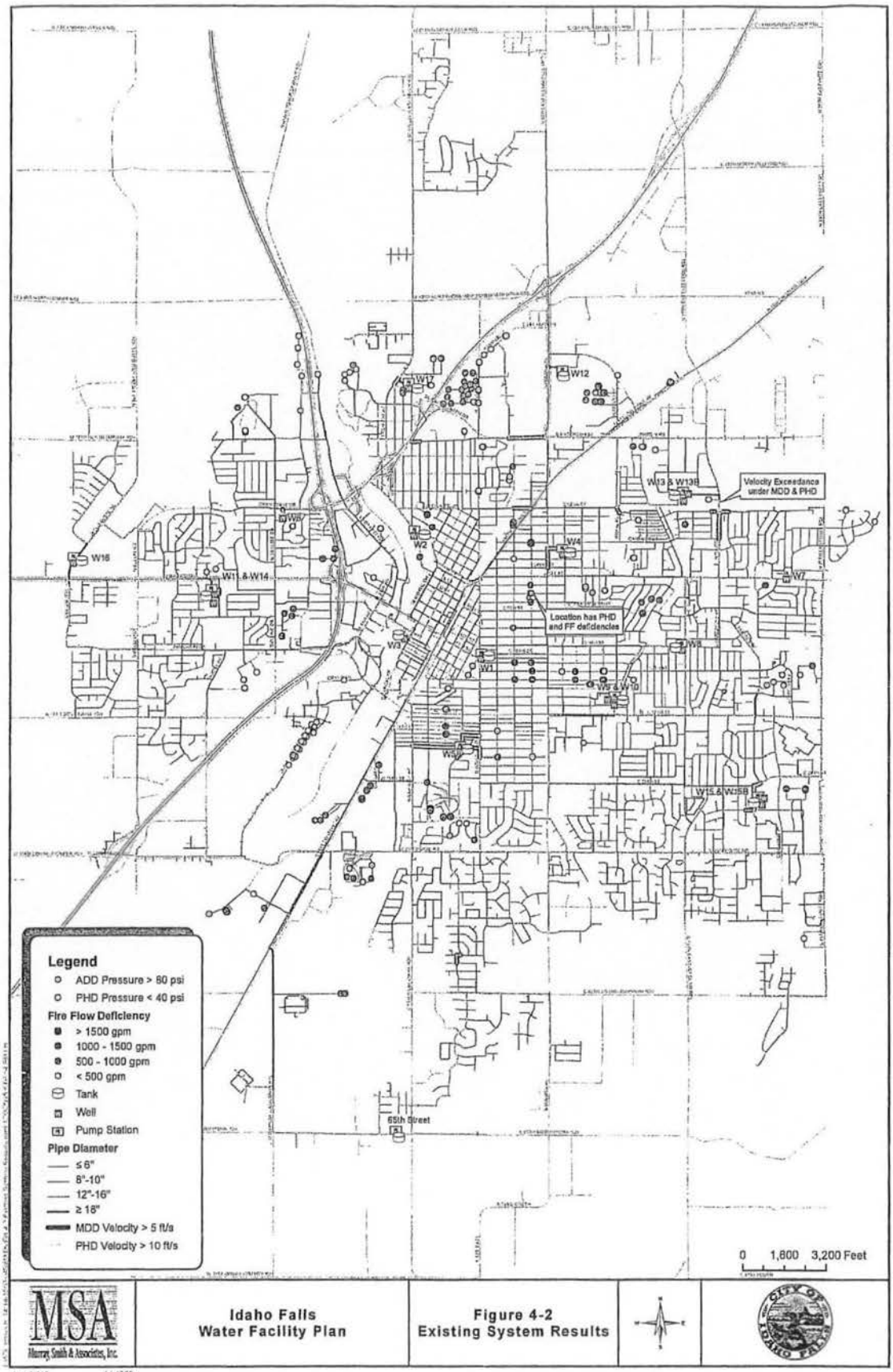
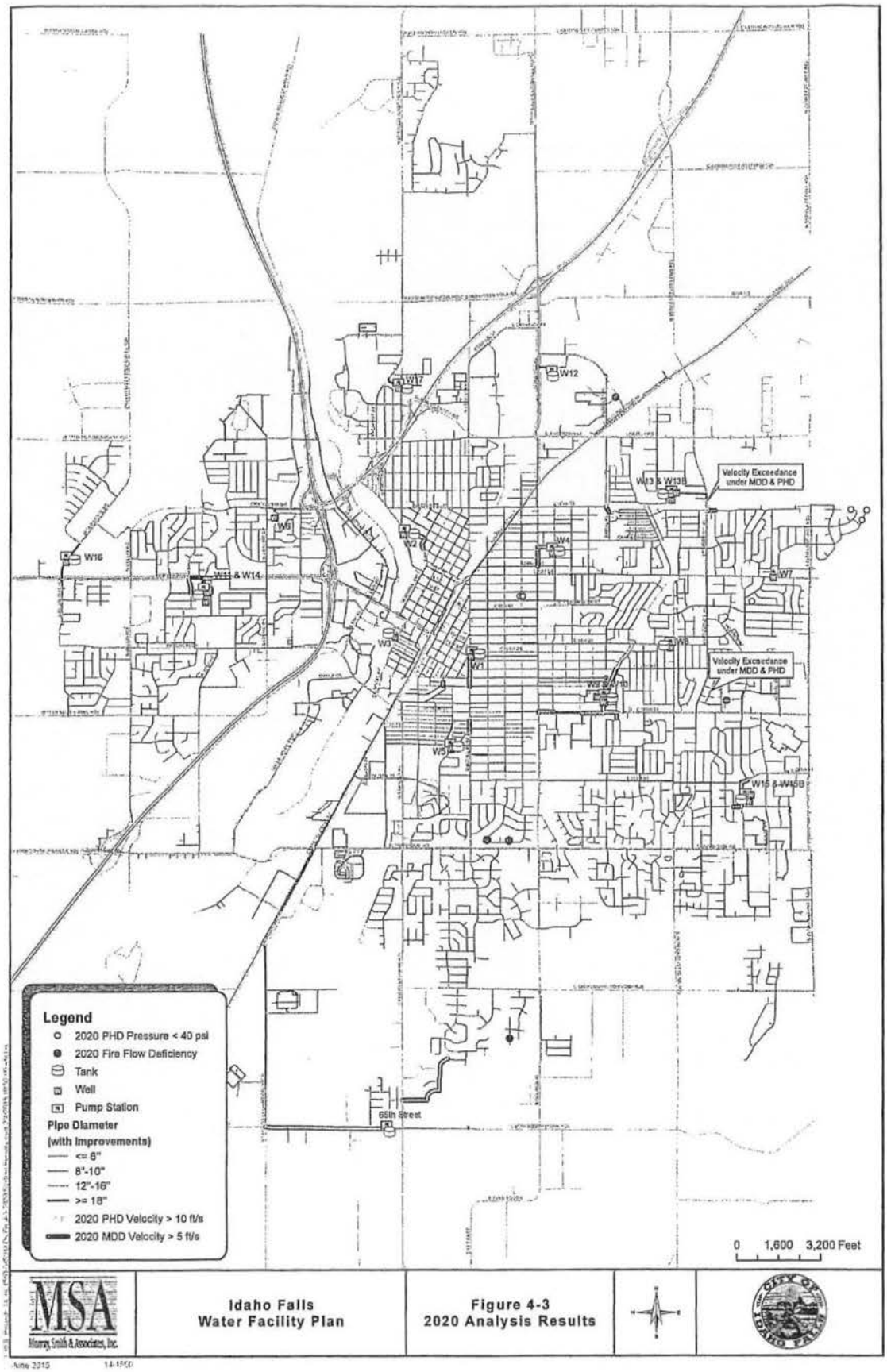
Idaho Falls
Water Facility Plan
Figure 4-1
Fire Flow Requirements
CITY OF IDAHO FALLS


Legend
ADD Pressure > 60 psi
PHD Pressure < 40 psi
Fire Flow Deficiency
> 1500 gpm
1000 - 1500 gpm
500 - 1000 gpm
< 500 gpm
Tank
Well
Pump Station
Pipe Diameter
≤ 6"
8"-10"
12"-16"
≥ 18"
MDD Velocity > 5 ft/s
PHD Velocity > 10 ft/s
Velocity Exceedance under MDD & PHD
Location has PHD and FF deficiencies
W1 & W14
W13 & W13B
W15 & W15B
65th Street
0 1,600 3,200 Feet
MSA
Murray, Smith & Associates, Inc
Idaho Falls
Water Facility Plan
Figure 4-2
Existing System Results
CITY OF IDAHO FALLS


Velocity Exceedance under MDD & PHD
Velocity Exceedance under MDD & PHD
W12
W13 & W13B
W16
W15 & W14
W7
W15 & W15B
65th Street
Legend
2020 PHD Pressure < 40 psi
2020 Fire Flow Deficiency
Tank
Well
Pump Station
Pipe Diameter
(with Improvements)
<= 6"
8"-10"
12"-16"
>= 18"
2020 PHD Velocity > 10 ft/s
2020 MDD Velocity > 5 ft/s
0 1,600 3,200 Feet
MSA
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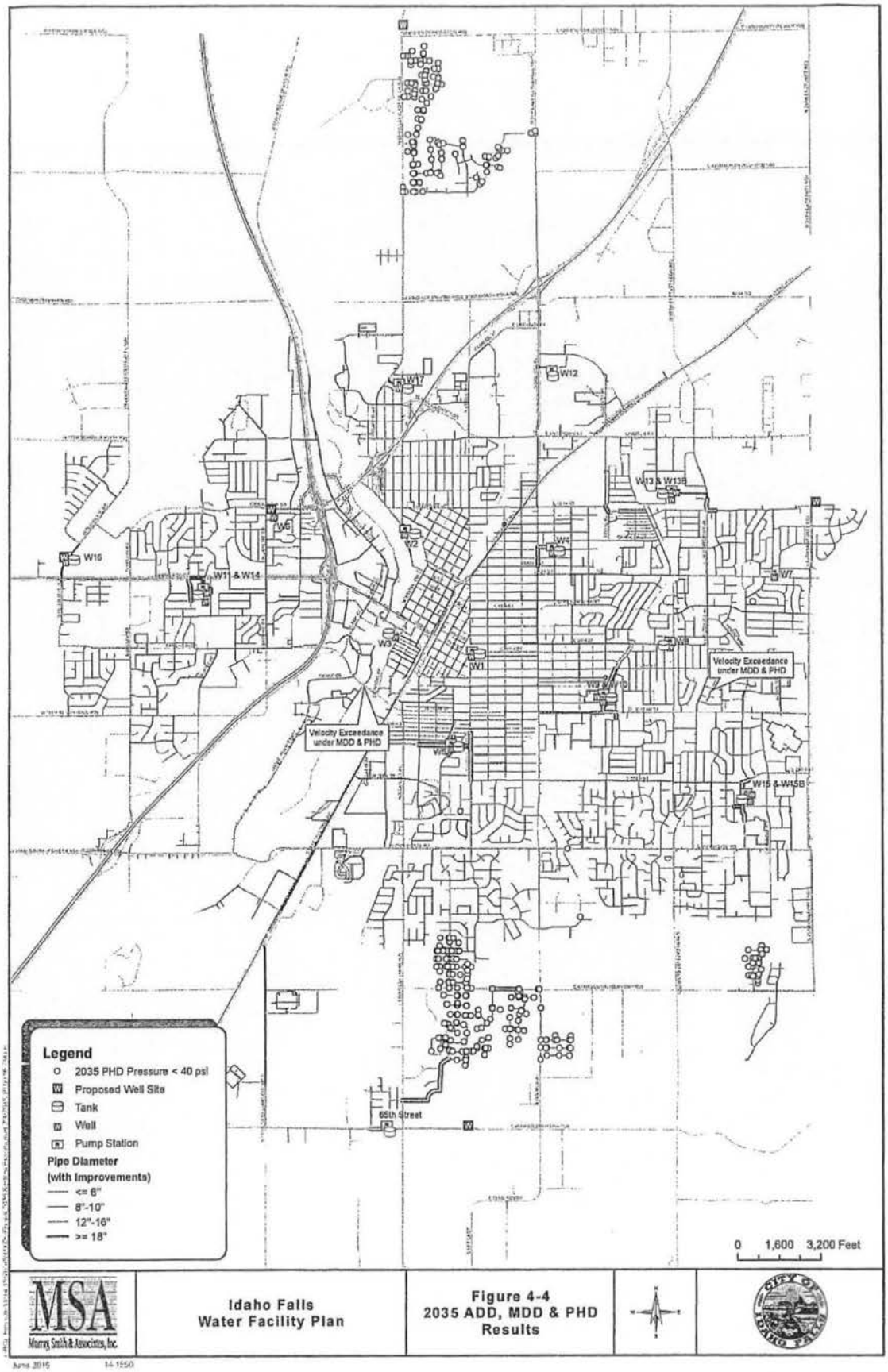
Water Facility Plan
Figure 4-3
2020 Analysis Results


W
W12
W17
W13 & W13B
W16
W5
W2
W4
W1 & W14
W7
W3
W1
W8
Velocity Exceedance under MDD & PHD
Velocity Exceedance under MDD & PHD
W15 & W15B
65th Street
Legend
2035 PHD Pressure < 40 psi
Proposed Well Site
Tank
Well
Pump Station
Pipe Diameter (with Improvements)
<= 6"
8"-10"
12"-16"
>= 18"
0 1,600 3,200 Feet
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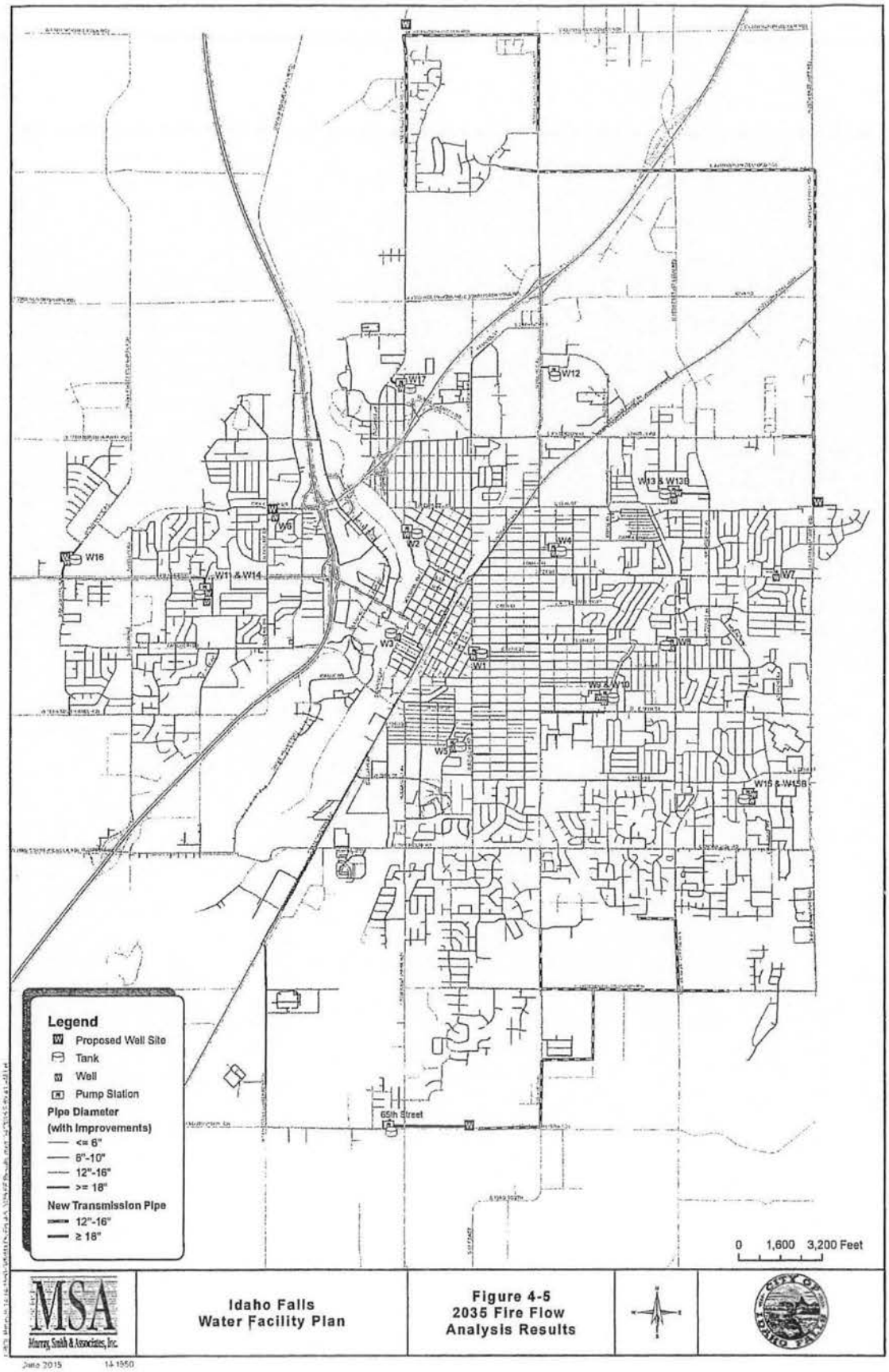
Water Facility Plan
Figure 4-4
2035 ADD, MDD & PHD
Results
CITY OF IDAHO FALLS
June 2015
14-1550



June 2015 14-1550

Summary

The City provides reliable water supply to its customers and was evaluated on criteria for pressure, storage, pumping and fire suppression capability for existing, 5 and 20-year conditions. Supply evaluations were also conducted using 40-year projections. Due to high summertime demands, deficiencies in instantaneous water rights, peak supply, and pumping capacity have been identified. It should be noted that the demand projections are based on per capita average and peak water use trends continuing into the future. If per capita water use trends decrease, fewer future supply and pumping improvements will be required. The following lists describe the high-level takeaways from each of the respective analysis sections:

Storage Analysis Summary

- The City has adequate storage for existing and 5-year conditions.
- The City will have a system-wide future storage deficit of 1.6 MG by the 20-year horizon.

Supply Analysis Summary

- The City has adequate yearly average and instantaneous water rights to meet existing and 5-year demands.
- The yearly average water right is adequate through the 2055 projection; however, the instantaneous water right will have a 7.4 mgd-deficiency by the 20-year horizon and another 35.7 mgd deficiency by the 40-year horizon (43.1 mgd total).
- The City has adequate total and firm supply capacity (with Well 5 out of service) to meet existing MDD. However, due to transmission limitations to convey the existing supply at adequate service pressures as identified through the hydraulic model analysis, an additional 10.8 mgd of well capacity is recommended in the 5-year horizon. Increased well capacity is recommended over significant transmission piping improvements due to cost effectiveness.
- From the hydraulic analysis of existing supply, another 11.7 mgd (22.5 total) of firm supply capacity will be required within 20 years
- Based on a demand and supply mass balance, approximately 26 mgd more (total of over 48 mgd) will be required to supply the 40-year projected MDD.
- Due to changes in state regulations since the City's last water facility plan, backup power capacity is currently deficient by 11.1 mgd, and by the 20-year horizon will be short an additional 13 mgd (24.1 mgd total).

Peak Pumping Analysis Summary

- The current pumping capacity is adequate for existing demands. Although the mass balance in Table 4-7 shows a substantial pumping deficiency for 5-year and 20-year conditions, the hydraulic analysis indicates smaller actual deficiencies.
- For the 5-year horizon an additional 4.3 mgd of pumping capacity is needed to meet PHD. This additional booster pumping capacity is included as part of the facility to increase well supply.
- For the 20-year horizon, another 17.4 mgd (21.7 mgd total) in pumping capacity is required. All but 5.8 mgd of this booster pumping capacity is recommend in combination with new well supply.

Distribution System Analysis Summary

- For existing demands, the system has generally adequate pressures under ADD, MDD and PHD conditions, with one area slightly over 80 psi under ADD in the model, and one area under 40 psi in the hydraulic model during PHD conditions.
- There are a significant number of locations that do not provide adequate fire flow under existing conditions. Many of the deficiencies are due to undersized mains.
- Future scenarios were modeled assuming adequate supply, and that existing deficiencies were resolved.
- Under the 5-year demand projection, no locations have pressures over 80 psi and only one new location has PHD pressures under 40 psi.
- For the 5-year fire flow analysis, five new areas have fire flow deficiencies, although all are less than 200 gpm below the requirement.
- No new pressure deficiencies are anticipated for the 20-year ADD and MDD conditions. However, the 20-year PHD analysis indicated significant portions of the north and south ends of the system with pressures below 40 psi. Transmission piping improvements were added to resolve these deficiencies prior to the fire flow analysis.
- No new fire flow deficiencies were identified under the 20-year analysis.
- Specific projects to address these deficiencies are discussed in Section 7. Some piping projects are also included to improve transmission from new supply facilities and expanded booster pumping capacity.

System-wide Summary

A list of the storage, well supply, and booster pumping deficiencies and recommended solutions is in Table 4-8 for each evaluation horizon (deficient numbers are inside parentheses).

Table 4-8
Storage, Supply, Pumping Summary

Timeframe	Deficiency			Recommended Solution[1]
	Storage (MG)	Well Pumping Capacity (mgd)	Booster Pumping Capacity (mgd)	
2014 (Existing)	No Deficiency	No Deficiency	No Deficiency	• N/A
2020 (5-year)	No Deficiency	(10.8)	(4.3)	• New facility with 4.3 mgd well capacity, 4.3 mgd booster capacity, and 1.25 MG storage[2] • New 6.5 mgd well at 65th Street facility
2035 (20-year)	(1.6)	(22.5)	(21.7)	• New facility with 5.2 mgd well capacity, 5.2 mgd booster capacity, 1.25 MG storage • New facility with 2.2 mgd well capacity, 2.2 mgd booster capacity, and 0.1 MG storage • New facility with 4.3 mgd well capacity, 4.3 mgd booster capacity, and 1 MG storage[3] • Additional 3.6 mgd in booster capacity at 65th Street facility • Additional 2.2 mgd in booster capacity

[1] *To adequately address the storage, supply and pumping deficiencies, transmission piping improvements are also required. Recommended improvements are outlined in Section 7.*
[2] *Storage is not required until 2035, but is driven by the timing of supply and booster requirements.*
[3] *Storage is not required by 2035, but is driven by the timing of supply and booster requirements and lack of storage in the north of the system.*

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Engineers/Planners

SECTION 5
Operations and Maintenance

SECTION 5
OPERATIONS AND MAINTENANCE

This section assesses the City of Idaho Falls' (City's) Operations and Maintenance (O&M) program for its water system based on information supplied by City staff, comparison of the City's O&M practices to those of comparably sized utilities, and pertinent regulatory requirements. The resulting program improvement recommendations are detailed at the end of this section.

O&M Regulations and Guidelines

The Idaho Department of Environmental Quality (DEQ) promulgates the rules governing drinking water systems as set forth in Idaho Administrative Procedures Act (IDAPA) 58.01.08 – Idaho Rules for Public Drinking Water Systems, as follows:

- *58.01.08.501.07 – Reliability and Emergency Operation*. New community water systems constructed [or substantially modified] after April 15, 2007 are required to have sufficient dedicated on-site standby power, with automatic switch-over capability, or standby storage so that water may be treated and supplied to pressurize the entire distribution system during power outages. During a power outage, the water system shall be able to meet the operating pressure requirements of Subsection 552.01.b. for a minimum of eight (8) hours at average day demand plus fire flow where provided. A minimum of eight (8) hours of fuel storage shall be located on site unless an equivalent plan is authorized by the Department. Standby power provided in a public drinking water system shall be coordinated with the standby power that is provided in the wastewater collection and treatment system.
- *58.01.08.501.12 – Operation and Maintenance Manual*. A new or updated operation and maintenance manual that addresses all water system facilities shall be submitted to the Department for review and approval prior to start-up of the new or materially modified public water system unless the same system components are already covered in an existing operation and maintenance manual. For existing systems with continual operational problems, the Department may require that an operation and maintenance manual be submitted for review and approval. The operator shall ensure that the system is operated in accordance with the approved operation and maintenance manual.
- *58.01.08.554.01 – Licensed Operator Required*. Owners of all community and non-transient, non-community public drinking water systems must place the direct supervision of their drinking water system, including each treatment facility and/or distribution system, under the responsible charge of a properly licensed operator.

Pursuant to the authority of Idaho's Board of Drinking Water and Wastewater Professionals, IDAPA 24.05.01.250.01 describes two types of operator licenses: one for distribution systems and one for treatment systems. Both require operators to receive certification relevant to the classification of the system being operated. System classifications range from

Very Small to Class IV, depending upon size of population served; they are classified as follows:

- Very Small Public Drinking Water System – population of 500 or fewer and
  - no treatment other than disinfection, or
  - treatment that does not require chemical usage, process adjustments, backwashing, or media regeneration by an operator.
- Class I – 501 to 1,500.
- Class II – 1,501 to 15,000.
- Class III – 15,001 to 50,000.
- Class IV – 50,001 or more.

In addition to state regulations, the 10 States Standards *(Recommended Standards for Water Works*, 2007 Edition), recommends the following regarding water system O&M:

- An operation and maintenance manual including a parts list and parts order form, operator safety procedures and an operational troubleshooting section shall be supplied to the water works as part of any proprietary unit installed in the facility.

In addition to state regulations and recommended standards, the City has established basic drawings and specifications regarding connection, design, and construction of the water distribution and service connection system. These City documents provide design guidelines not covered the previously mentioned references.

System Overview, O&M Staff, and Licensure Status

The following list provides an overview of the City's water distribution system:

- System serves approximately 58,000 people and is classified as Class IV.
- Service Area: 23.0 square miles.
- Volume of water produced (2013 values).
  - Average Daily Demand (ADD): 24.5 million gallons per day (mgd).
  - Maximum Daily Demand (MDD): 56.8 mgd.
  - Peak Hourly Demand (PHD): 80.4 mgd.
- Unmetered service connections: 24,000.
- Metered service connections: 250.
- Total length of water line: 310 miles.
- Number of wells: 19.
- Number of booster pumping stations: 15.
- Number of chlorine contact tanks: 14.
- Number of pressure zones: 1.

- Average residential customer consumption: 455 gallons per capita per day (gpcd).
- Standard residential customer service line size: 1 inch.

The City's Water Division staff are responsible for the maintenance and operation of the distribution and treatment systems. Based on the system size, the state requires a Water Distribution Level IV operator license for the individual directly in charge of the system. A licensed treatment operator is not required, because only chlorination occurs and IDAPA rules consider chlorination a function of distribution. Table 5-1 lists current City state-licensed personnel.

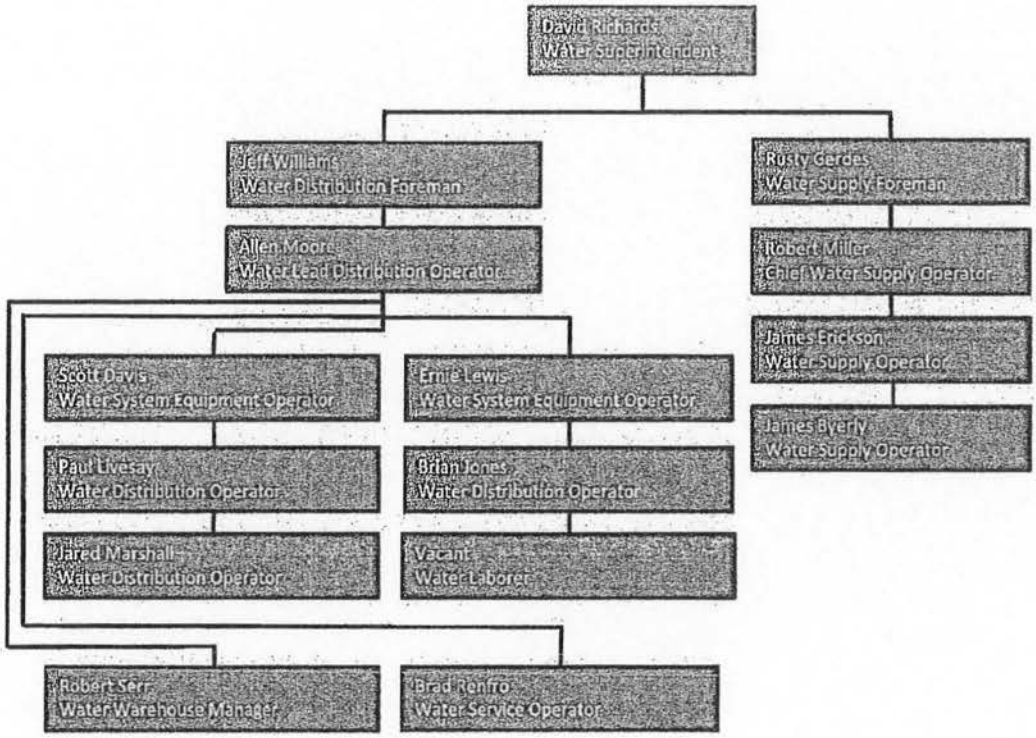
Table 5-1
Certification Status of Personnel

Operator Name		Position	Licensure[1]
Last	First		
Byerly	James	Water Supply Operator	Distribution III
		Water Supply Operator	BAT
Davis	Scott	Water System Equipment Operator	Distribution I
Erickson	James	Water Supply Operator	Distribution I
Gerdes	Rusty	Water Supply Foreman	Distribution IV
		Water Supply Foreman	BAT
Lewis	Ernie	Water System Equipment Operator	Distribution II
		Water System Equipment Operator	BAT
Livesay	Paul	Water Distribution Operator	Distribution I
Marshall	Jared	Water Distribution Operator	Distribution OIT
Miller	Robert	Water Supply Operator, Chief	Distribution IV
Moore	Allen	Water Lead Distribution Operator	Distribution III
		Water Lead Distribution Operator	BAT
Jones	Brian	Water Distribution Operator	Distribution I
		Water Distribution Operator	BAT
Renfro	Brad	Water Service Operator	Distribution II
Richards	David	Water Superintendent	Distribution IV
		Water Superintendent	BAT
Serr	Robert	Water Warehouse Manager	Distribution I
Williams	Jeff	Water Distribution Foreman	Distribution IV
		Water Distribution Foreman	BAT

[1] *Licensure acronym definitions: BAT = Backflow Assembly Tester; OIT = Operator in Training.*

The water system O&M operates under the direction of the Water Superintendent, who reports to the Director of Public Works. There are currently 14 full-time employees working in the Water Division under the direction of the Water Superintendent, all of whom are involved in the operation or maintenance of the system in some capacity. The organizational structure of the Water Division is outlined in Figure 5-1.

Figure 5-1
Water Division Organizational Chart



Current O&M Practices

Standard operations involve analyzing, formulating, and implementing procedures to ensure that the facilities function efficiently and meet quality, quantity, and pressure requirements, as well as other system demands. Routine tasks include daily rounds to visually check system facilities, visually monitoring flow and reservoir level recording devices on a regular basis during the day, and responding to customer inquiries and complaints.

General System Operation

The City's drinking water is supplied solely by groundwater from 19 wells distributed across the City's service boundary via an underground pipeline network. These wells are located at 15 pumping facilities, some of which house two wells. The facilities include the well pump, chlorine contact chamber, and booster pumps identified by well number (e.g., Well #1). Wells are numbered chronologically: Well 1 is the oldest, constructed in 1927, and Well 17, the newest, was built in 1994

All wells are equipped with chlorine gas injection systems. With the exception of Wells 3 and 6, wells pump directly into chlorine contact tanks, and then booster pumps deliver water from the chlorine contact tanks into the distribution system. Well 3 pumps into an elevated storage tank and Well 6 pumps directly into the system. Well 7 is currently not in use. Each facility is referred to as a numbered well (e.g., Well 1), and each well in this report refers to the entire facility, including the well pump, chlorine contact chamber, and booster pumps.

Water customers are responsible for service lines on their property, and the City maintains and operates all facilities and appurtenances within the water system up to the property line. All field personnel evaluate the system's performance daily, and with the exception of a few outsourced tasks such as meter pit installation or major water main and facility repairs, City staff handle the majority of O&M duties.

To check for any issues in the water system, staff make daily visits to each in-use pumping facility to record well production readings, chlorine usage, and building temperature, and they also perform a visual site inspection. Typically, all of the well facilities are in use during the summer and only a select group of facilities are used in the winter, when the demand is low.

The City has supervisory control and data acquisition (SCADA) equipment installed at each of the well facilities. The SCADA equipment records pertinent system information for review by the Water Division staff. The following system information is monitored:

- Reservoir water levels.
- Water pressure at the well facility discharge into the system.
- Water pressure at ten remote locations throughout the distribution network, used to determine the need for more water from the well/booster facilities.
- Flow rates as the water enters the distribution system from the well facility
- Pump power usage.
- Well water level measurements. (Currently Well #12 does not have well water level measurement abilities due to an obstructed stilling well.)

City staff read customer water meters monthly.

The City has a Geographic Information System (GIS) geodatabase that maintains detailed information about the system. The geodatabase provides extensive information about facilities, pipelines, and appurtenances throughout the system. It spatially locates each part of the system and includes attributes relevant to each feature, such as material, diameter, pressure settings, elevations, and other relevant characteristics. The GIS can be leveraged in the office and in the field via laptop.

Well Site Preventive Maintenance

Currently there is no formal documentation for well site preventative maintenance procedures. However, the water supply foreman submitted the following list of preventative maintenance activities and how often they are performed by the supply operators:

Daily

- Write down readings at each well.
- Check building temperatures.
- Check property.

Weekly

- Sweep floors and remove cobwebs.
- Run/exercise generator sets.

Monthly

- Check/test chlorine sniffer/sensor units.

Semiannually

- Test heater operation.

Annually

- Change oil in motors.
- Paint floors, pipes, pumps, and walls.
- Repack bearings where packing glands are all the way down.
- Grease pumps and motors.
- Change oil and filters in emergency generators.
- Calibrate flow meters.
- Calibrate pressure transmitters.
- Inspect tanks.
- Replace or repair chlorine tubing.
- Reload reading sheets into clipboards.
- Reload generator run sheets into clipboards.
- Change air filters in motor control center (MCC) cabinets.

As-Needed

- Dust and wipe down motors.
- Tighten packing gland.

Water Quality Monitoring

The City currently has a sampling plan that follows federal and state requirements for water quality monitoring. This plan describes the contaminant, point locations, and sampling frequency.

The water system is sampled for eighty-seven different regulated contaminants as required by federal and state standards. All samples are collected according to regulating agency timelines and laboratory instructions, and are evaluated by third-party laboratories.

The City monitors the following contaminant groups:

- Disinfectants.
- Inorganic chemicals.
- Organic chemicals.
- Radionuclides.
- Disinfection byproducts.
- Microorganisms.

The City also has a written Total Coliform Rule which describes the population based sampling plan for bacteriological contaminants.

Historical water quality monitoring indicates that the City's water meets federal and state requirements. The most current water quality reports are available as part of the City's annual consumer confidence report and can be found on the City's website.

Emergency Response Plan

The Water Division has a current Emergency Response Plan (ERP) and Vulnerability Assessment (VA). The ERP provides the City with a standardized response and recovery protocol to prevent, minimize, and mitigate injury and damage resulting from natural or manmade emergencies or disasters.

The VA describes how the Water Division will respond to potential threats, actual terrorist scenarios, and other emergency response situations.

Customer Complaints

The Water Division uses work order software that logs every customer request and complaint. Once dispatched, crews complete the work order, and data is entered into the software program and saved. The current software was created by a programmer who is no longer employed with the City; consequently, software capability is very limited and is not integrated with the GIS or associated mapping capability.

Cross-Connection Control

Aside from a pertinent section in the City code, there are currently no official guidelines for cross-connection control procedures. However, the Water Division recently purchased a software package for tracking backflow assemblies and is in the process of producing an outline for the City's cross-connection control program.

Source Water Protection

There is currently no formal documentation for source water protection. The DEQ supplied the City with a Source Water Assessment Report in February 2002, which is updated by the state when new sources are brought online by the City. The City's source water delineations from the EPA extend beyond city and county limits, and therefore a regional approach to source water protection makes the most sense. No organization has yet attempted to bring all stakeholders together.

Public Information

The City's Public Information Officer assists City divisions and departments with disseminating public information through a variety of sources (print and broadcast media, the web, social networking, etc.). The City's website also has an online Q&A program where the public can ask questions and have them answered by City staff. Other information is communicated in the Water Division's web page and through utility bill stuffers, which include brochures for the Consumer Confidence Report (CCR), Conservation, and Freeze Protection. Water Division personnel also interact with the public by participating in Earth Day and Water Week events.

Water Meter Calibration and Replacement Program

Due to the small number (250) of metered connections billed by the City, meters are only replaced when reading abnormalities are identified. There is currently no formal calibration maintenance program.

System Flushing Program

The City's Fire Department annually exercises all public fire hydrants within the system. They do not, however, measure flow, nor do they leave the hydrants flowing long enough to adequately flush the mains. The City is in the early stages of developing a unidirectional flushing program. Currently the Water Division flushes additional mains on an as-needed basis to address water quality complaints.

Valve Exercising Program

Currently there is no formal documentation for valve exercising procedures. However, the Water Division distribution operators perform the following main line valve exercises:

- in advance of City water distribution projects to ensure functionality.
- on an as-needed basis for emergency repairs.

System Leak Detection Program

No official guidelines exist for system leak detection. However, the City does perform an annual leak-detection project that tests approximately 10% of the system. The distribution foreman keeps a City map updated with sections that have been tested each year.

Safety Procedures

The Water Division currently has no formal safety manual, but conducts monthly safety training meetings. The supply and distribution operators meet separately each day as needed to conduct pertinent safety table-top discussions. They have also recently purchased an air quality tester and a confined-space tripod with man lift and harness, and anticipate producing a formalized procedure for permit-required confined space entry.

Benchmarking

Seven other comparably sized regional utilities were surveyed to compare their O&M practices to the City's current program. These utilities and the populations they serve are listed below:

1. Asotin County Public Utility District (PUD), Washington = 19,750
2. City of Lewiston, Idaho = 16,000
3. City of Meridian, Idaho = 66,000
4. City of Nampa, Idaho = 81,000
5. City of Pendleton, Oregon = 17,611
6. City of Redmond, Oregon = 27,000
7. City of Walla Walla, Washington = 35,000

Because each surveyed system has unique attributes, a number of the system characteristics were calculated on a unit basis for means of comparison. The results of these performance indicators are summarized in Table 5-2. Tables 5-3 to 5-12 highlight the responses to specific survey questions.

The City ranks third in population served and first in average flow rates in comparison to the other utilities surveyed. The City ranks second in the length of lines maintained and number of well and booster pump stations maintained. The City is fourth in the number of water system O&M staff and is ranked third in O&M budget. It should be noted that the three largest systems used for comparison (Meridian, Nampa, and Redmond) have all experienced rapid, recent growth since 2000. According to the 2010 U.S. Census, Meridian's population grew by 115%, Nampa's by 57%, and Redmond's by 94% between 2000 and 2010. In

comparison, Idaho Falls grew 12% in the same timeframe. It is logical to conclude that large portions of these systems' infrastructures will be newer, having been built to accommodate this recent growth, and will thus require fewer near-term O&M program improvements and structural replacements.

Benchmark comparisons revealed that the City spends less per year on population served and total distribution system length than half of the surveyed utilities. The City ranks second in total length of distribution system operated per full-time equivalent (FTE) staff. The City provides the greatest average daily flow per both FTE and dollar spent in annual budget.

The performance indicators show that each City FTE is responsible for more daily average water supply and there are fewer FTEs per 10,000 population than the other utilities. The City ranks second to Meridian for total length of the distribution system operated per FTE. The previous comparisons shows that the City operates with fewer staff than the rest of the survey group. Additionally, national data from the *2012 Benchmarking, Performance Indicators for Water and Wastewater Utilities: Survey Data and Analyses Report* reveals that the national median is 210,000 gpd per FTE. The City's 1,633,000 gpd per FTE indicates that it is understaffed.

Similar to other utilities, the City receives almost all of its funding from water rates, with a small percentage of funds coming from connection fees. The City's connection fee and monthly water rates are low compared to some of the other utilities surveyed.

Table 5-2
Benchmarking – Performance Indicators[1]

Utility Name	Annual Budget/ Population Served ($/person)	Annual Budget/ Average Day Flow ($/mgd)	Annual Budget/ System Pipe Length ($/lf)	Average Day Flow/ FTEs (gal/FTE)	Feet of Pipe/ FTEs (lf/FTE)	Annual Budget/ FTEs ($/FTE)	FTEs/ 10,000 Population (FTE/ 10k persons)
Asotin PUD	111	542,000	3.5	507,000	79,000	275,000	4.1
Idaho Falls	**63**	**149,000**	**2.2**	**1,633,000**	**109,000**	**244,000**	**2.6**
Lewiston	225	878,000	5.9	293,000	44,000	257,000	8.8
Meridian	58	442,000	1.6	430,000	119,000	190,000	3.0
Nampa	14	176,000	0.9	236,000	47,000	41,000	3.5
Pendleton	142	676,000	4.4	617,000	94,000	417,000	3.4
Redmond	178	956,000	5.6	500,000	86,000	478,000	3.7
Walla Walla	55	201,000	2.0	592,000	60,000	119,000	4.6

[1] *Large numbers have been rounded for ease of comparison.*

Table 5-3
Benchmarking – Service Areas[1]

Utility Name	Rank (population served)	Population Served	Number of Service Connections	Service Area (sq. miles)
Asotin PUD	6	19,800	7,000	20.0
Idaho Falls	**3**	**58,000**	**24,000**	**23**
Lewiston	8	16,000	6,000	17
Meridian	2	66,000	27,300	30
Nampa	1	81,000	28,000	35
Pendleton	7	17,600	6,200	13.4
Redmond	5	26,900	10,000	10.2
Walla Walla	4	34,900	10,900	13.0

[1] *Large numbers have been rounded for ease of comparison.*

Table 5-4
Benchmarking – Flow Rates

Utility Name	Rank (ADD)	Volume of Water Produced (mgd)			Non-Revenue Water (%)
		ADD	MDD	PHD	
Asotin PUD	7	4.1	12.1	18.0	5
Idaho Falls	**1**	**24.5**	**56.8**	**80.4**	**Unknown**
Lewiston	6	4.1	10.5	NA[1]	6
Meridian	3	8.6	17.2	25.7	3
Nampa	4	6.6	7.5	13.0	18
Pendleton	8	3.7	9.4	14.3	7
Redmond	5	5.0	13.2	NA[1]	2
Walla Walla	2	9.5	20.0	26.8	31

[1] *NA = No answer.*

Table 5-5
Benchmarking – Distribution Pipe

Utility Name	Rank (Length of Distribution Pipe)	Total Length of Distribution Pipe (Miles)	Number of Hydrants
Asotin PUD	6	120	1,010
Idaho Falls	**2**	**310**	**2,100**
Lewiston	7	116	864
Meridian	1	450	4,380
Nampa	3	250	4,457
Pendleton	8	107	700
Redmond	5	163	1,700
Walla Walla	4	183	2,300

Table 5-6
Benchmarking – PRVs

Utility Name	Rank (Number of PRVs)	Number of PRVs	Number of Pressure Zones
Asotin PUD	2	25	9
Idaho Falls	**8**	**0**	**1**
Lewiston	1	28	8
Meridian	4	21	4
Nampa	6	6	2
Pendleton	5	9	13
Redmond	7	4	4
Walla Walla	2	25	4

Table 5-7
Benchmarking – Wells

Utility Name	Rank (Number of Wells)	Number of Wells	Largest Well Pump (hp)	Smallest Well Pump (hp)	Number of Wells with Backup Power
Asotin County PUD	5	7	900	200	1
Idaho Falls	**2**	**19**	**450**	**125**	**4**
Lewiston	8	6	350	75	0
Meridian	1	20	200	50	13
Nampa	3	14	250	30	14
Pendleton	4	8	450	100	0
Redmond	5	7	600	150	6
Walla Walla	5	7	500	200	0

Table 5-8
Benchmarking – Booster Stations

Utility Name	Rank (Number of Booster Stations)	Number of Booster Stations	Largest Pump (hp)	Smallest Pump (hp)	Number of Booster Stations with Backup Power
Asotin PUD	5	3	500	50	2
Idaho Falls	**1**	**15**	**350**	**50**	**3**
Lewiston	3	9	400	1.5	6
Meridian	7	2	100	25	2
Nampa	5	3	1100	60	3
Pendleton	2	13	100	1.5	1
Redmond	4	4	150	15	4
Walla Walla	8	1	25	15	0

Table 5-9
Benchmarking – Reservoirs

Utility Name	Rank (Number of Reservoirs)	Total Number	Tank Types				
			Pre-Stressed Concrete	Cast-In-Place Concrete	Welded Steel	Bolted Steel	Other
Asotin PUD	6	5	x		x	x	
Idaho Falls	**1**	**14**	**x**	**x**	**x[1]**		
Lewiston	4	7		x	x		x
Meridian	8	2	x		x		
Nampa	4	7	x		x		
Pendleton	2	8		x	x		x
Redmond	2	8	x		x		
Walla Walla	7	3	x		x		

[1] *The only welded steel tank is the elevated storage tank.*

Table 5-10
Benchmarking – Staff

Utility Name	Rank	Number of FTEs on Staff	Number of Licensed Distribution Operators			
			Class I	Class II	Class III	Class IV
Asotin PUD	7	8	1	5	2	0
Idaho Falls	**4**	**15**	**5**	**3**	**2**	**3**
Lewiston	5	14	2	3	2	1
Meridian	2	20	3	8	2	5
Nampa	1	28	7	8	5	2
Pendleton	8	6	5	0	1	0
Redmond	6	10	0	3	6	0
Walla Walla	3	16	0	4	1	0

Table 5-11
Benchmarking – Budget

Utility Name	Rank	Total O&M Budget
Asotin PUD	6	$2,200,000
Idaho Falls	**3**	**$3,660,000**
Lewiston	4	$3,600,000
Meridian	2	$3,800,000
Nampa	8	$1,160,000
Pendleton	5	$2,500,000
Redmond	1	$4,780,000
Walla Walla	7	$1,900,000

Table 5-12
Benchmarking – Financing

Utility Name	Residential Water Fees		Source of Budget (%)			
	Connection Fee	Average Monthly Water Rate	Connection Fee	Water Rates	General Fund	Loans
Asotin PUD	$1,650	$30.00	1	99	0	0
Idaho Falls	**$1,312**	**$21.00**	**4**	**96**	**0**	**0**
Lewiston	$1,500	$70.00	5	95	0	0
Meridian	$1,794	$24.24	0[1]	100	0	0
Nampa	$3,696	$16.08	18	82	0	0
Pendleton	$0	$20.00	0	100	0	0
Redmond	$400	$35.00	14	86	0	0
Walla Walla	$2,408	$54.00	3	97	0	0

[1] *Meridian connection fees are used to subsidize capital improvements, but do not fund O&M.*

The following summarizes information gathered from other questions in the benchmarking survey. Not all questions were answered by all surveyed utilities.

- *System Age*: The oldest part of the City's system is approximately 110 years old with the majority of the system less than 50. It should be noted that the three largest systems used for comparison (Meridian, Nampa, and Redmond) have all experienced rapid, recent growth, and much of their systems are newer, having been constructed to serve the increased growth.
- *Surface Water Sources*: Three utilities (Lewiston, Pendleton and Walla Walla) have a surface water source.
- *Budget Allocation*: The City's per-unit spending was comparable to other utilities; however, its O&M budget was the third largest of the group.
- *System Flushing:* The City and Pendleton lack a flushing program.
- *Valve Exercising:* The City is one of four utilities (Nampa, Lewiston and Pendleton) without a valve exercising program.
- *Cathodic Protection:* Approximately half of the utilities surveyed employ cathodic protection. (Idaho Falls, Meridian, Lewiston, Nampa, Walla Walla, and Redmond do not.)
- *Cross-Connection Control Program:* All utilities report having a cross-connection control program or are developing one.
- *Leak Detection:* The City is one of four utilities (along with Walla Walla, Asotin, and Lewiston) with some type of leak detection practice.
- *Well Head Protection Plan*: Idaho Falls and Redmond are the only utilities surveyed that do not have a well head protection plan.

Conclusions and Recommendations

The following conclusions and recommendations are based on the review of the City's current O&M practices and benchmarking of other water system O&M programs, as presented above.

General

O&M programs that effectively address issues with customer interaction, water quality, and infrastructure maintenance rely on timely, relevant information. This requires successfully transferring information from staff in the field to managers, which is achieved by meticulous record-keeping practices. To become more efficient overall and ensure compliance with state and industry recommendations, the City's water system O&M program should:

- Adopt formal procedures and documentation regarding the City's existing O&M programs as described in the *Current O&M Practices* section above.

- Expand existing forms to record and document each activity performed. These forms should track equipment, maintenance records, and staff hours.
- Invest in ongoing record-keeping training for staff to maintain a disciplined documentation program.
- Track and compare annual maintenance costs for each piece of equipment to help ensure informed repair or replacement decisions.
- Continue to log customer complaints and issues. Include date, time, location, cause of the issue, and measures taken to mitigate it.
- Implement an asset-management software to assist in performing the recommendations described above.

Wells and Booster Pumps

In addition to the existing well and booster pump station maintenance activities, the City should develop a program that closely follows the equipment manufacturers' recommendations for activities such as lubrication of bearings, oil changes and parts replacement to avoid invalidating equipment warranties. Specific requirements of individual pump stations should also be closely followed. In addition, operation manuals should be required from each manufacturer of proprietary units installed in the system.

The following recommendations will help improve the City's pump station operations and maintenance program:

- Continue to develop an O&M manual for each well and booster pump station to provide consistent maintenance practices over the life of the station. This will also encourage the transfer of the City field crew's knowledge and experience to new staff. The O&M manual should include a recommended inventory of critical components, supplier and manufacturer's contact information, and a list of local contractors for emergency repairs, including after-hours contacts. See Appendix D for a proposed schedule of pump inspection tasks that can be used by the City to create a pump station checklist.
- Pump station electrical equipment has a typical of life of 20 to 30 years. See Section 7—Capital Improvements Program for defined repair-and-replacement program costs.
- Develop annual maintenance program to repair, improve, or maintain concrete and asphalt flatwork at each well facility and the Water Division shop.

Water Storage Tanks

To ensure long tank life and high-quality water, storage tanks should be inspected and cleaned at least every five to ten years, depending on the structure and the wells' sand production. Routine inspections also provide benchmarks for assessing the coating system and helping to identify repairs.

The following recommendations will allow the City to improve its water storage tank operations and maintenance program:

- Implement a water storage tank inspection and cleaning program to assess every storage tank within the system at least once every five years.
- Set up an annual maintenance contract with an independent certified inspection company.
- Repaint, re-coat and re-roof the interior and exterior of the tanks when inspection reveals deficiencies.
- Well 3's elevated steel storage tank needs of major repairs, including foundation assessment and stripping of the lead paint and recoating. Section 6— System Conditions and Code Evaluation recommends demolishing the existing 0.5-MG tank and replacing it with a new, elevated 1-MG tank. See Section 7 for defined costs.

Distribution System

Water distribution systems O&M practices typically include the following maintenance programs:

- Water meter calibration and replacement.
- Pipeline replacement.
- System flushing.
- Valve exercising.
- System leak detection.

The City should continue to develop and formalize these programs and evaluate staffing needs to ensure these services.

The following recommendations have been defined for improving water distribution system O&M:

- Implement a pipe replacement plan. Analysis of the system's pipeline condition performed in Section 6 concludes that the City's pipeline replacement schedule should include replacing approximately 3.2 miles (16,800 ft) of pipeline per year starting with cast iron piping installed between 1902 and 1959.
- Continue systematic pipeline cleaning through the developing the unidirectional pipe flushing program. The Fire Department should begin to measure flow, and to flush for the appropriate amount of time.
- Create a valve exercise program that locates, operates, and rates the condition of all distribution valves on a five-year basis. The program will maintain the reliability of the valve service and help identify whether replacement is necessary. The City should focus on critical isolation valves within the distribution system.

- Develop a water meter testing program and construct a dedicated facility. The very small number of existing installed water meters can all be tested in a single year. Idaho currently has no regulations for frequency of water meter testing, but both Wyoming and Montana indicate that meters should be tested every four to ten years, depending on their size.

Most meters are equipped with touch-pad reading devices. At some point, the Water Division wishes to equip existing meters with radios supported by the fixed-base mesh network meter reading system recently installed by Idaho Falls Power. As Idaho Falls Power converts their meters to this new system, it will open the window for the Water Division to do the same.

Safety Plan

The City's drinking water disinfection program uses chlorine gas to provide primary and residual disinfection. Although chlorine gas is a simple, effective, and economical choice for disinfection, it is a highly hazardous substance, and handling it requires strict adherence to safety procedures. To provide a safe working environment, all chlorine gas feed and storage room facilities should be designed and operated to meet at least minimum state and federal safety standards.

The following list provides examples of the minimum required operator safety standards when working with chlorine gas. The first four items are already included in the City's safety plan; however, a more-complete procedure should be developed to include all of the following:

- Wear chemical goggles and a face shield.
- Use an approved, canister type respirator for use when making or breaking connections.
- Wear impervious (rubber) gloves.
- Use an approved self-contained breathing apparatus (SCBA) when making repairs on leaks or emergencies.
- Have access to an emergency eye-wash station.
- Work in pairs or teams.

Section 7 includes defined costs for equipment needed in each facility to provide a safe working environment.

It should be noted that the City plans to evaluate alternatives to its existing chlorine disinfection process. Should another process be implemented, it could potentially affect the current safety plan.

Staffing

As noted earlier in this section, the water system has 14 FTEs, not including the Water Superintendent. There are four staff assigned to operate and maintain the water supply and facilities, and ten responsible for the distribution system.

As shown in Table 5-2, the City maintains its water system with fewer staff than most cities, which indicates that there may not be adequate staff to perform O&M tasks for the system. The need for additional staff will grow as the system expands, water flows increase, and regulatory requirements become more stringent throughout the planning horizon. It is recommended that the City review its staffing needs in detail to determine the need for additional staff.

The City would potentially require two additional staff to implement the flushing, valve exercising, meter testing, and leak detection programs. The initial implementation of the program can be expected to proceed slowly, with only a few valves exercised per day. As the program advances and the old valve boxes have been vacuumed-out, broken valves replaced, and lost valves found and mapped, the number of staff could be reduced due to improved program efficacy.

For proper continued O&M of the existing well production facilities, it is recommended the City add one FTE staff and implement the new position with the proper equipment (truck, tools) to perform the work.

Summary of Recommendations

Based on the analyses detailed throughout this section, it is advised that the City consider the following recommendations:

- Develop and adopt formal procedures and documentation regarding the City's current O&M programs to include:
    - Implementing a water storage tank inspection and cleaning program to assess every storage tank within the system at least once every five years.
    - Developing a pipeline replacement program replacing approximately 3.2 miles (16,800 ft) of pipeline per year. (Costs to implement the pipe replacement program is included in Section 7.)
    - Continuing to develop the unidirectional flushing program.
    - Establishing a valve exercise program that locates, operates and rates the condition of all distribution valves on a five-year basis.
    - Developing a water meter testing program and facility for the City to perform meter testing.
    - Continuing to update and maintain the City's safety plan and safety equipment.

- The City's O&M investment areas should include:
  - Ongoing record-keeping training for staff to maintain a disciplined documentation program.
  - Budgeting annual costs for maintaining concrete and asphalt flatwork at each well facility. Costs for annual flatwork maintenance are included in Section 7.
  - Implementing asset management software to help manage the O&M tasks to be done by the operation staff.
  - Adding two FTE staff and equipment to the water distribution team for the implementation of the valve exercising, unidirectional flushing, and meter testing programs.
  - Adding one additional FTE staff and equipment to the water supply section to aid ongoing facility O&M work.

MSA
Murray, Smith & Associates, Inc.
Engineers/Planners

SECTION 6

System Condition and Code Evaluation

SECTION 6
SYSTEM CONDITION AND CODE EVALUATION

Introduction

As part of the water supply system planning effort, the City of Idaho Falls (City) has chosen to develop a long-term plan for the rehabilitation and replacement of the drinking water system facility components. These components include the water production facilities, and the distribution system. The water production facilities are comprised of wells, reservoirs, and booster pumps. The distribution system is comprised of buried pipelines and service connections.

To determine the status of the water supply system, a review of all wells, booster stations, and distribution system piping was performed with regard to both the existing condition of the facility and compliance with 2014 Idaho Administrative Procedures Act (IDAPA) drinking water rules, and applicable Idaho Department of Environmental Quality (DEQ) guidelines.

This section summarizes the evaluation and review of the City's existing water supply facilities, and provides recommendations for the rehabilitation and replacement of the system facility components for use in the City's long-term plan. Ultimately, the replacement plan will be utilized to identify long-term budgeting levels to ensure that system components are repaired or replaced prior to failure.

The overall system evaluation was performed through desktop review of the 2013 DEQ Enhanced Sanitary Survey, as-built engineering drawings of each system facility, interviews and questionnaires with the City's operation staff, an onsite review of each facility on August 5, 2014, and geographic information system (GIS) system review.

The onsite well facility review included a visual facility inspection by Murray, Smith & Associates, Inc. (MSA), Control Engineers (subconsultant to MSA), and City operators in an effort to identify issues and improvements.

The distribution system assessment was done primarily through a desktop review of GIS data.

Background

The City's drinking water system is supplied solely by groundwater derived from 19 wells distributed across the City's service boundary by an underground pipeline network. These wells are located at 15 pumping facilities, some of which house two wells. The facilities include the well pump, chlorine contact chamber, and booster pumps, and are identified by a well number (e.g., Well 1). These numbers are assigned chronologically by age (for example, Well 1 was constructed first, and Well 17 the most recently constructed).

All wells are equipped with chlorine gas injection systems. With the exception of Wells 3, 6, and 7, wells pump directly into chlorine contact tanks, and then booster pumps deliver water from the chlorine contact tanks into the distribution system. Well 3 pumps into an elevated storage tank, and Wells 6 & 7 pump through a buried, pressurized tank directly into the system. Well 7 is currently not in use due to water quality concerns resulting from air entrainment. The 19 wells are located at 15 pumping facilities, with some facilities housing two wells.

The distribution system consists of over 300 miles of underground pipeline ranging in size from 2 to 24 inches in diameter. The pipeline diameter, size, age, and material vary through the system. The oldest pipeline on record is a 4-inch steel pipe installed in 1902, serving residences around 16th St. and Lee Ave. The most recent sections of pipeline are 8-inch ductile iron installed in 2014, serving the South Bel Aire subdivision.

Facility Evaluation Process

Each facility was evaluated using input from multiple sources to help identify problems and areas of concerns. Process problems relating to well water pumping, treatment, and storage were noted, along with operator safety, equipment operation, and facility construction concerns.

As mentioned earlier, facility evaluation sources included a desktop review of the 2013 DEQ Enhanced Sanitary Surveys to gain an understanding of items the state has catalogued as deficient or not meeting the current IDAPA regulations.

A desktop review of the well facility as-built drawing was performed to identify site layout and buried piping sizes, and to determine general dimensions. Several of the facility as-builts were not current, particularly with respect to the electrical system and equipment.

MSA prepared and sent an Operator Survey so operations staff could document their general assessment of each well facility. Staff assessments were reviewed to help gain an understanding of each facility that may not be apparent through review of the as-built plans. The survey results (included in Appendix E) were combined with a similar survey chronicled by the operation staff in 2012 for the variable frequency drive (VFD) Conversion Study (see Appendix F).

The survey questions in Appendix E cover the condition, safety concerns, and operational deficiencies for the pump house, pump equipment, electrical equipment and chlorination system. The survey also assesses the condition of site access and security, and well water quality or quantity problems.

The final evaluation process included an onsite review of each facility to further identify issues and catalogue needed improvements. Each facility inspection reviewed its layout, overall condition and state of its equipment, and identified potential improvement options. No testing or structural evaluations (e.g., equipment testing, destructive load) were

performed during the onsite review. The evaluation process was used to develop the Facility Condition and Facility Code Compliance ranking assessment scenarios, described below.

Facility Condition Assessment

Facility conditions were ranked based on responses to the operator survey questions mentioned earlier. Each facility was given a score of 1 (good or not applicable), 2 (average) or 3 (poor) for each survey question.

The score for each question response was then multiplied by a weighting factor between 1 and 3 to obtain the weighted ranking. The weighting factors are shown in Table 6-1 and were applied to help increase the effects of facility safety deficiencies; the higher the number, the more the deficiency was weighted.

The weighted rankings for each facility were then added, and their total scores compared. The highest score was given the highest rank (i.e., the highest score of 140 was given the rank of 1), indicating that it is the facility in greatest need of improvement based on the criteria listed.

The facility ranking is summarized in Table 6-1 below. It should be noted that Well 7 was not ranked because it has water quality problems and has not been used for some time; it is understood the City is planning to abandon this well.

Facility Code Compliance Assessment

Each facility was reviewed to determine compliance with current IDAPA 58.01.08 rules for public drinking water systems, which are enforced by regulating agencies including the DEQ and Idaho Department of Water Resources.

The IDAPA rules that apply to drinking water systems and well construction set minimum design, construction, operations, and maintenance standards to help ensure that the drinking water system is protected from contamination that might harm the health of its consumers.

IDAPA's updated construction and design standards have become increasingly stringent. Therefore, well facilities built to meet the previous regulations might not comply with current requirements. Facilities constructed prior to existing regulations are generally allowed to continue operation until major upgrades or modifications are performed, at which time the entire facility must be upgraded.

Further compliance assessment included MSA's review of the 2013 Enhanced Sanitary Survey, as well as data from record drawings and onsite visits for each well facility. The as-built and site-visit reviews consisted of visually observing facility design and construction relative to IDAPA 58.01.08 – Idaho Rules for Public Drinking Water Systems, and relevant National Electric Code (NEC) rules. Detailed equipment performance, subsurface construction, and structural testing were not performed.

A list of each facility deficiency discovered in the code compliance assessment task is shown in Table 6-2. (The IDAPA rules applicable to each violation are cited to facilitate further research and investigation.) If a facility is in violation of a particular code, it is given a score; otherwise, it is not scored. Similar to the facility condition assessment, weighting factors were applied to help increase the effects of facility safety deficiencies as defined in IDAPA Section 303.03 and operator safety (IDAPA Section 531.05). These received a high weighting of 4; items with a lower impact on health and safety were weighted between 1 and 3.

The Facility Code Compliance ranking is summarized in Table 6-2. To achieve this summary, weighed rankings for each facility were added and their total scores compared. A low total score means that a facility is generally more compliant with the IDAPA rules than a facility with a higher score. The highest score equaled the highest rank: the facility least compliant with IDAPA rules received a total score of 29 and was ranked 1.

It should be noted that no code compliance investigation or rankings were performed for Well 7, because it violates IDAPA Code 58.01.08.510.09, which requires any water supply no longer used to be properly abandoned.

Table 6-1 shows that Well 3 is most in need of improvement, followed by Well 1. The rankings indicate that older wells are generally in greater need of improvement that the newer ones. This finding is expected, because older buildings and equipment are nearer to the end their intended design life. Well 2 is an exception, due primarily to the extensive equipment and electrical upgrades performed in 2010 and 2011.

Table 6-2 shows that Well 12 has the greatest number of code violations and is ranked highest in need of improvements. However, the spread between the top five ranked facilities (Wells 12, 5, 1, 9, and 13) is narrow, indicating they are all very similarly positioned. Many of the improvements listed in Table 6-2 can be done fairly easily (safety equipment and automatic chlorine gas tank switchover devices), but some improvements will require major facility construction efforts (second reservoir access hatch and ladder). Similar to the facility assessment ratings, many older facilities require more improvements than the newer facilities.

Table 6-1
Facility Condition Assessment Rankings

				Weighted Rankings[1]													
Assessment Criteria	Facility Element	Question Number	Weighting Value	Well 1	Well 2	Well 3	Well 4	Well 5	Well 6	Well 8	Wells 9 & 10	Wells 11 & 14	Well 12	Wells 13 & 13B	Wells 15 & 15B[2]	Well 16	Well 17
Condition of facility ventilation	Pump House General	1	2	6	2	6	6	6	4	6	6	6	6	2	2	2	2
Condition of facility lighting		2	1	2	1	3	3	3	1	2	3	2	3	1	1	1	1
Condition of facility plumbing		3	1	2	1	2	3	2	1	2	2	2	2	1	1	1	1
Structural deficiencies		4	2	4	2	6	4	6	6	6	4	4	2	4	2	2	2
Pipe chase flooded? Is ponding water an issue?		5	2	4	2	6	4	6	4	6	4	2	4	2	2	2	2
Does pump house have any safety concerns?		6	3	9	3	9	6	3	6	6	6	6	9	6	6	3	6
Condition of site and site accessibility.	Site	7	2	6	2	2	4	4	2	2	2	4	2	2	2	2	4
Protection from vandals and trespassers.		8	3	9	3	9	6	9	9	9	6	6	9	6	6	3	6
Condition of the pumps.	Equipment	9	2	2	2	6	6	4	2	4	2	2	2	2	2	2	2
Conditions of pipes, valving, pressure gauges, meters		10	2	4	2	4	4	4	2	4	4	4	4	2	2	2	2
Condition of motor.		11	2	2	4	4	2	4	2	2	6	2	2	2	2	2	2
Are components maintained at recommended schedules?		12	2	2	4	4	2	2	2	2	2	2	2	2	2	2	2
Concerns regarding operation of pumps, valves & piping.		13	2	4	4	2	4	4	2	4	2	2	6	2	2	2	2
Equipment access and maintenance concerns.		14	2	4	2	2	4	4	4	6	6	2	6	2	2	2	2
Is CL in separate room w/ ventilation & alarms?	Chlorination System	15	3	3	3	3	3	6	3	3	3	3	3	3	3	3	3
Does gas CL feed have automatic switchover?		16	3	9	9	9	9	9	9	9	9	9	9	9	9	9	3
Water quality issues	Water	17	3	3	3	9	3	3	3	6	3	3	3	3	3	3	3
Water quantity issues		18	2	2	2	6	2	2	4	4	2	2	6	2	4	2	2
MCC condition	Electrical	19	3	9	3	9	3	3	3	3	9	3	3	3	3	3	3
Electrical system condition		20	3	9	3	9	6	3	3	3	9	3	3	3	3	3	3
Is open door control cabinet venting required?		21	2	4	2	6	2	4	2	2	6	6	6	2	2	2	2
CL room gas detection sensors, alarms?		22	3	3	3	6	3	3	3	3	3	3	3	3	3	3	3
Generator backed facility?		23	2	6	6	6	6	6	6	6	2	2	6	2	2	6	6
If generator backed, can ATS power all wells & booster pumps?		24	2	6	6	6	6	6	6	6	6	6	6	6	2	6	6
Well water depth, discharge pressure & flow sensors?		25	3	6	3	6	3	3	3	3	3	3	6	3	3	3	3
Condition of existing generator.		26	3	3	3	3	3	3	3	3	9	9	3	9	3	3	3
Sum of weighted ratings				120	77	140	104	109	92	115	110	89	113	75	71	71	73
Facility Condition Ranking (highest ranking facility is in the greatest condition deficiency)				2	10	1	7	6	8	3	5	9	4	11	13	13	12

[1] *Weighted ranking values are the result of multiplying the raw operator score by the weighting values.*
[2] *Assessment analysis assumes current Well 15 VFD Conversion Project has been completed.*

Table 6-2
Facility Code Compliance Ranking

Code Description	IDAPA Code	Weighted Score	Well 1	Well 2	Well 3	Well #4	Well #4	Well 6	Well 8	Wells 9 & 10	Wells 11 & 14	Well 12	Wells 13 & 13B	Wells 15 & 15B	Well 16	Well 17
Well annular seal needed.	510.03.b	3	-	-	3	-	-	-	-	-	-	-	-	-	-	-
Well needs to be properly abandoned.	510.09	3	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Need Pump to waste piping.	511.02	2	2	-	2	2	2	2	2	2	2	2	2	-	-	-
Well casing needs to extend 12in above floor.	511.06.a	2	2	2	2	2	2	2	2	2	-	2	-	-	-	-
Well water level measurement needed.	511.06.c	2	-	-	-	-	-	-	-	-	-	2	-	-	-	-
Need standby chlorination with automatic switchover.	530.01.a.ii	3	3	3	3	3	3	3	3	3	3	3	3	3	-	-
Two chlorination contact tanks, unless one can be bypassed.	530.01.b.ii	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
Pump house needs ventilation.	541.01.e	2	2	-	2	2	2	2	2	2	2	2	2	-	-	-
Site security fencing.	544.04	2	2	2	-	2	2	2	-	-	-	2	-	-	-	-
Tank overflow pipe is small.	544.06	1	1	1	-	1	1	-	1	1	-	1	1	-	-	1
Storage tank overflow needed	544.06	2	-	-	-	-	-	-	-	-	2	-	-	-	-	-
Overflow needs air gap between 12-24in	544.06	2	2	-	-	2	-	2	2	2	2	2	2	-	2	2
Overflow needs to be screened with mesh.	544.06.b.i	2	-	-	-	2	-	-	-	2	-	2	-	-	-	-
Storage tank needs 2nd hatch & ladder	544.07	2	2	2	-	2	2	-	2	2	2	2	2	2	2	2
Separate chlorine room with ventilation needed.	530.04	4	-	-	-	-	4	-	-	-	-	-	-	-	-	-
Chlorine gas safety equipment. (respirator, SCBA, gloves)	531.05	4	4	4	4	4	4	4	4	4	-	4	4	-	4	-
Chlorination room floor drain is connected to common drain.	541.01.i	4	-	-	-	-	-	-	-	-	4	-	-	-	-	-
Spaces about electrical equipment, 3.5ft minimum.	NEC 110.26	4	-	-	-	-	-	-	-	-	-	-	4	4	-	-
Arc flash warning, field marking & labels.	NEC 110.16	4	4	4	4	-	4	4	4	4	-	4	4	4	4	4
Sum of weighted ratings			25	19	21	23	27	22	23	25	18	29	25	14	13	10
Facility Code Compliance Ranking (highest ranking facility is the least compliant)			**3**	**10**	**9**	**6**	**2**	**8**	**6**	**3**	**11**	**1**	**3**	**12**	**13**	**14**

Risk and Failure Rankings

The facility condition and code compliance show similar ranking values for the facilities. Table 6-3 summarizes the rankings for each assessment and an average ranking between the two. The highest ranked facility is the most deficient.

Table 6-3
Summary of Facility Condition and Code Compliance Rankings

Facility	Facility Condition Assessment Ranking	Facility Code Compliance Ranking	Average Rank
Well 12	4	1	2.5
Well 1	2	3	2.5
Well 5	6	2	4
Wells 9 & 10	5	3	4
Well 8	3	6	4.5
Well 3	1	9	5
Well 4	7	6	6.5
Wells 13 & 13B	11	3	7
Well 6	8	8	8
Wells 11 & 4	9	11	10
Well 2	10	10	10
Wells 15 & 15B	13	12	12.5
Well 16	13	13	13
Well 17	12	14	13

Table 6-3 shows that Wells 12 and 1 are tied for the highest average rank and are the most deficient when comparing both facility condition and code compliance; however, this ranking does not necessarily mean that they should be the highest on the City's improvement priority list. Further evaluation was performed using the wells' water production values to provide a metric for understanding how important each facility is to the City. This analysis assumes that wells producing more water are of greater importance than wells that produce less. Table 6-4 summarizes the firm and average daily production at each facility.

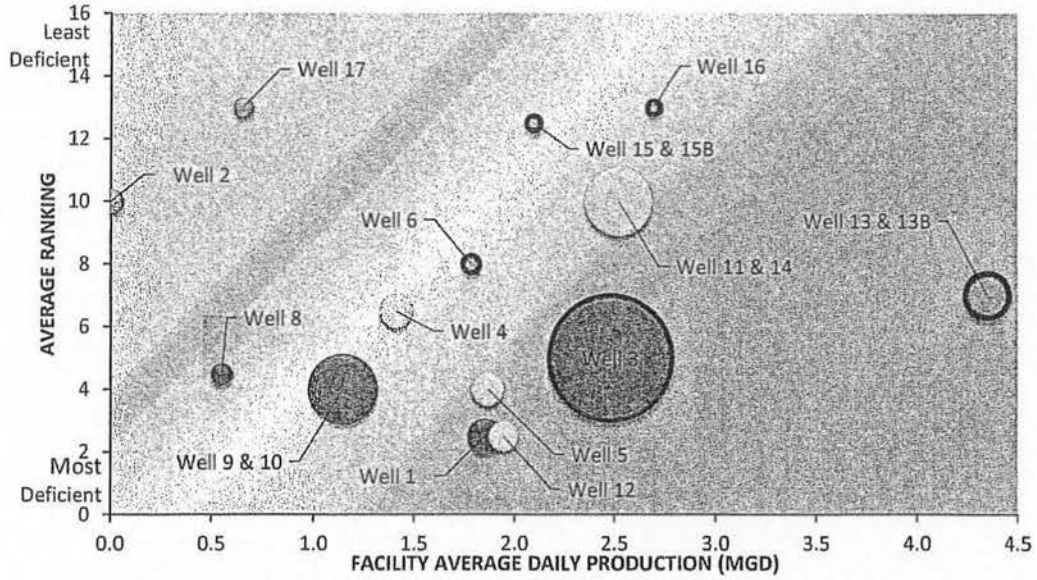
Table 6-4
Facility Production

Facility	Firm Supply Capacity (MGD)[1]	Average Daily Production (MGD)[2]	Year-Round Operation
Well 1	5.76	1.85	No
Well 2	4.53	0.00	No
Well 3	5.76	2.48	Yes
Well 4	6.48	1.41	No
Well 5	7.92	1.87	No
Well 6	1.65	1.78	Yes
Well 8	2.30	0.55	No
Wells 9 & 10	11.52	1.15	No
Wells 11 & 14	10.44	2.52	No
Well 12	5.76	1.94	No
Wells 13 & 13B	8.06	4.35	Yes
Wells 15 & 15B	6.04	2.09	Yes
Well 16	5.18	2.69	Yes
Well 17	5.76	0.66	No

[1] *Firm Supply Capacity to System from Section 5.*
[2] *Average production values recorded from August 2011 – July 2012.*

Facility average ranking was compared to both the average daily production and firm system capacity in order to prioritize the order for recommended facility improvements. The results of this analysis are shown in Figures 6-1 and 6-2, respectively. These figures illustrate additional facility details, including the relative cost for facility improvements (indicated by circle size) and risk of facility failure (indicated by circle color), and identify which facilities are used during the winter. Additional details and explanations are located after the figures, in Notes.

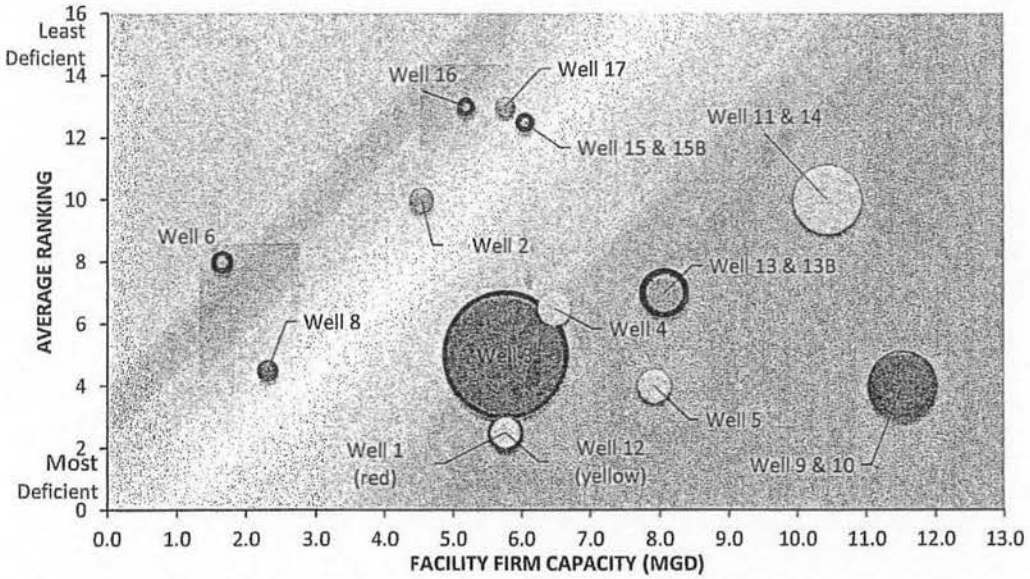
Figure 6-1
Well Ranking vs Average Daily Production



Notes:

1. Circle sizes indicate the relative costs for facility improvements: the larger the circle, the greater the costs.
    a. Improvements include new generator sets for Wells 9&10, 11&14 and 13&13B.
    b. Improvements include new 1MG elevated storage tank for Well 3.
2. Wells shown with black outer bands are used year round.
3. Color of symbol indicates well facility risk of failure. Risk of failure determined from Facility Assessment question numbers 5,9,10,11,12,13,14,19, 20, and 26:
    a. RED = High risk of failure.
    b. YELLOW = Moderate risk of failure.
    c. GREEN = Low risk of failure.
4. Well 15's risk of failure was calculated based on electrical improvements being performed in 2014.

Figure 6-2
Well Ranking vs Facility Firm Capacity



Notes:

1. Circle sizes indicate the relative costs for facility improvements: the larger the circle, the greater the costs.
    a. Improvements include new generator sets for Wells 9&10, 11&14 and 13&13B.
    b. Improvements include new 1MG elevated storage tank for Well 3.
2. Wells shown with black outer band are used year-round.
3. Color of symbol indicates well facility risk of failure. Risk of failure determined from Facility Assessment question numbers 5,9,10,11,12,13,14,19, 20 & 26:
    a. RED = High risk of failure.
    b. YELLOW = Moderate risk of failure.
    c. GREEN = Low risk of failure.
4. Well 15's risk of failure was calculated based on electrical improvements being performed in 2014.

Recommended facility improvement ranking orders are shown in Table 6-5. The initial order of the facility improvements is based on the highest risk of failure, highest production, and lowest average assessment ranking. Where the advantage of improving one facility over the other remained unclear, engineers' reasoned judgment and further input from City staff were used to select the order of the facilities.

Table 6-5
Well Facility Improvement Ranking

Order of Improvements	Facility
1	Wells 9 & 10
2	Well 3
3	Well 1
4	Well 4
5	Well 8
6	Well 5
7	Well 12
8	Wells 11 & 14
9	Wells 13 & 13B
10	Well 6
11	Well 16
12	Well 17
13	Well 2
14	Wells 15 & 15B

Recommended Improvements

The recommended facility improvements are shown in Table 6-6. Several facilities require additional improvements that are not completely represented in Table 6-6, and are further described in narratives following the table.

Table 6-6
Facility Improvements

	HVAC Improvements	Facility Security			Facility Safety		Piping Modifications			Facility Improvements	Well Improvements	Reservoir Improvements				Electrical Improvements		Additional Improvements
Well and Booster Facility Improvements	Upgrade or install new ventilation fans	Install motion sensors	Install door alarms	Site security fencing	Install eye wash station	Install SCBA	Pump to waste piping	Move piping out of pipe chase	New discharge flow meter	Replace pipe chase covers with grating	Extend well casing above finished floor	Add a second access hatch & ladder	Modify overflow air-gap	New level sensor	Replace membrane roofing	New MCCs	Upgrade generators to run all pumps & relocate	
Well 1	•	•	•		•	•	•	•	•	•	•	•	•	•	•	•		Exterior CL room door, new building windows, replace submersible well with vertical turbine.
Well 2	•			•	•	•					•	•	•			•		Well level sensor.
Well 3	•	•	•		•	•	•									•		New building windows, well casing repair, well sanitary seal, well level sensor, new elevated storage tank
Well 4	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•		Lighting, construct new chlorine room, skylight replacement, replace 2300V submersible pump with a 480V vertical turbine pump, MCC and transformer.
Well 5	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•		Lighting, enclose chlorine room, new building heater, install floor drains, well level sensor, site grading for tank overflow.
Well 6	•			•	•	•	•	•		•	•					•		Interior & exterior lighting, building addition, well level sensor.
Well 7																		Abandon well.
Well 8	•				•	•		•	•	•	•	•	•			•		Building structural inspection, brick repair, booster pump inspection, lighting, new building windows, sump discharge piping.
Wells 9 & 10	•			•	•	•	•		•		•	•	•	•		•	•	Brick repair, heating system, Well 10 building expansion, replace Well 10 submersible with turbine.
Wells 11 & 14	•			•			•		•			•	•	•		•	•	Reservoir roof replacement to allow second access hatch.
Well 12	•	•	•	•	•	•	•		•				•	•		•		Lighting, well level sensor and stilling well repair, reservoir roof replacement to allow second access hatch.
Wells 13 & 13B	•					•	•		•			•	•		•	•	•	Lighting improvements. Reservoir roof replacement to allow second access hatch.
Wells 15 & 15B												•						
Well 16					•	•			•			•	•			•		Exterior lighting.
Well 17									•			•	•			•		Well level sensor.

Well 1 contains a 200-HP submersible well pump, 250-HP centrifugal booster pump, 150,000-gallon concrete reservoir, and a small brick pump house. Facility improvements include all of those indicated in Table 6-6, plus the following: install an exterior door in the chlorine room, replace the building windows, and replace the existing 200-HP submersible pump with a vertical turbine pump.

Well 2 contains a 200-HP vertical turbine well pump, 200-HP centrifugal booster pump, 100,000-gallon concrete reservoir, and a large brick pump house. Facility improvements include those indicated in Table 6-6; in addition, the well needs a well-water level measurement device.

Well 3 contains a 400-HP vertical turbine well pump and a 170-foot high, 500,000-gallon elevated steel storage reservoir. Facility improvements include those indicated in Table 6-6; the pump house also needs to have all of the building's windows replaced. The well needs a section of corroded well casing to be repaired, and a sanitary seal around the well casing and a level sensor should be installed. Due to the condition of the elevated storage tank, it is recommended that a new 1 MG elevated storage tank be constructed and the existing tank demolished.

Well 4 contains a 450-HP submersible well pump, 250-HP centrifugal booster pump, 150,000-gallon concrete reservoir and a large cement block pump house. Facility improvements include those indicated in Table 6-6; in addition, the pump house needs lighting improvements, construction of a new chlorine room to allow piping changes, and replacement of the building skylight. The existing 450-HP well pump motor is wound and operated at 2300 volts. Because replacement MCC parts and equipment for that voltage is difficult to find, it is recommended that the 2300V submersible pump be replaced with a 480V vertical turbine pump, and all associated 2300V equipment (transformer, MCC, wiring) be replaced with 480-volt equipment.

Well 5 contains a 450-HP vertical turbine well pump, 350-HP centrifugal booster pump, 150,000-gallon concrete reservoir, and a wooden residential-type pump house. Facility improvements include those indicated in Table 6-6; in addition, the pump house needs lighting improvements; construction of an enclosed chlorine room; installation of a new building heater, well water level measurement device, and floor drains; and site grading to ensure tank overflow drains to the appropriate location.

Well 6 contains a 150-HP vertical turbine well pump in a small brick pump house and a 30,000-gallon buried pressurized vessel. Facility improvements include those indicated in Table 6-6; in addition, the pump house needs interior and exterior lighting improvements, a small building expansion to facilitate elevating the discharge piping above the finish floor elevation, and a well-water level measurement device.

Well 7 has historically had poor water quality due to air entrainment, and the City has not used it in about a decade. The facility contains a 12-inch diameter production well with no pump, an 800-square foot wooden pump building, and a 30,000-gallon buried pressurized

vessel. It is recommended that this well be abandoned by an approved well driller according to state standards.

Well 8 contains a 125-HP vertical turbine well pump, 100-HP centrifugal booster pump, 100,000-gallon concrete reservoir and a large brick pump house. Facility improvements include those indicated in Table 6-6; in addition, the pump house needs to have a structural inspection performed to determine if repairs are needed; cracking exterior bricks should be repaired, the booster pump needs to be inspected and balanced; interior and exterior lighting improvements need to be made, building windows replaced, and the discharge piping from the basement sump pump needs to be buried. It is recommended that the vertical turbine well pump be closely monitored, because its manufacturer is no longer in business and replacement parts could require long lead times to procure.

Wells 9 and 10 contain a 250-HP vertical turbine well pump, a 200-HP submersible pump, two 250-HP centrifugal booster pumps, a 240,000-gallon concrete reservoir, and two brick pump houses with a 750-KW diesel driven generator. The existing 750-KWgenerator is sufficient to power Well 9 (200 HP) and Booster 9 (250 HP) or Well 10 (200 HP) and Booster 10 (250 HP), but not all booster and well pumps simultaneously.

Facility improvements include those indicated in Table 6-6; in addition, the pump house's exterior brick structure needs to be repaired, the heating system needs to be upgraded, the existing generator should be replaced with a larger one that is sized to run all pumps and boosters, and the existing 200-HP submersible pump should be replaced with a vertical turbine pump, which will require a building addition to accommodate the appropriate electrical offsets.

Wells 11 and 14 contain two 250-HP vertical turbine well pumps, two 200-HP vertical turbine booster pumps, a 275,000-gallon concrete reservoir, and two brick pump houses with a 460-KW diesel driven generator. The existing 460-KW generator is sufficient to supply either well 11 (250 HP) and booster 11 (200 HP), or well 14 (250 HP) and booster 14 (200 HP), but not both sets simultaneously. Facility improvements include those indicated in Table 6-6; further recommended improvements include replacing the existing generator with a larger one sized to run all pumps and boosters, replacing the existing venturi meter with a new magnetic flow meter to the pump discharge piping, and installing pump-to-waste piping in both well pumps. The reservoir roof is post-tensioned concrete, and adding the required second access hatch cannot be done unless a new reservoir roof is installed with two access hatches and safety ladder to meet minimum standards.

Well 12 contains a 250-HP vertical turbine well pump, 250-HP vertical turbine booster pump, 275,000-gallon concrete reservoir and two brick pump houses. Facility improvements include those indicated in Table 6-6; in addition, the well needs its water level stilling well to be repaired, a new water level sensor to be installed, and lighting improvements to be made. The reservoir roof is post-tensioned concrete, and adding the required second access hatch cannot be done unless a new reservoir roof is installed with two access hatches and safety ladder to meet minimum standards.

Wells 13 and 13B contain two 200-HP vertical turbine well pumps, one 100-HP vertical turbine booster pump, one 50-HP vertical turbine booster pump, one 125-HP vertical turbine booster pump, a 310,000-gallon concrete reservoir, and two brick pump houses with a 475-KW diesel-driven generator. The existing generator is sufficient to power Well 13 (200 HP) and boosters 13-1 and 13-2 (100 HP and 50 HP), or well 13B (200 HP) and Booster 13-3 (125 HP), but not all booster and well pumps simultaneously.

Facility improvements include those indicated in Table 6-6; in addition, the pump house's exterior lighting needs to be improved and the existing generator should be replaced with a larger one sized to run all pumps and boosters. The reservoir roof is post-tensioned concrete, and adding the required second access hatch cannot be done unless a new reservoir roof is installed with two access hatches and a safety ladder to meet minimum standards. Electrical MCC improvements indicated in Table 6-6 include converting the motor controls to a VFD system. VFD upgrades will include replacing the two booster motor starters with VFD and upgrading the booster motors to handle the new service.

Wells 15 & 15B's improvement ranking analysis assumes the VFD Conversion Project is completed or is under construction during the writing of this analysis. The VFD Conversion project involves replacing all three booster motor starters with VFDs, providing new booster motors, rehabilitating the booster pumps, replacing the existing booster pump control valves, providing a new flow meter, and providing a pump to waste line for the Well 15 well pump. Recommended future projects include those indicated in Table 6-6.

Well 16 contains a 250-HP vertical turbine pump, a 150-HP vertical turbine booster pump, a 75-HP vertical turbine booster pump, a 315,000-gallon concrete reservoir, and a large brick pump house. Facility improvements include those indicated in Table 6-6; in addition, the pump house needs improved exterior lighting. Electrical MCC improvements indicated in Table 6-6 include converting the motor controls to a VFD system. VFD upgrades will require replacing the two booster motor starters with VFD and upgrading the booster motors to handle the new service.

Well 17 contains a 300-HP vertical turbine well pump, one 100-HP vertical turbine booster pump, one 150-HP vertical turbine booster pump, a 220,000-gallon concrete reservoir, and a large brick pump house. Facility improvements include those indicated in Table 6-6; in addition, the well needs a well-water-level measurement device. It is recommended that the three vertical turbine pumps be closely monitored, because their manufacturer is no longer in business and replacement parts may be unavailable or take longer to procure.

Pipe Replacement Program

MSA conducted a desktop analysis to identify a long-term replacement program for the City's water distribution piping. MSA used pipeline information from GIS, staff interviews and pipe break locations to identify the prospective useful life of the differing age and pipe materials within the system.

Table 6-7 below shows the public water pipeline material length and age in the City's distribution system. The table includes all active pipelines owned by the City or the Parks department. In addition, Table 6-8 shows privately owned pipeline sorted by material, length, and age. The combination of public and private pipelines comprise the total system length.

Analysis of Table 6-7 shows that the majority of the City's public distribution system piping material is ductile iron and was installed within regular intervals since the 1960s. Table 6-8 shows the majority of the private pipelines material is a slightly newer ductile iron installed since the 1980s.

Table 6-7
Public Pipeline Length by Material and Age

Material Type and Length (1,000 ft) (rounded to nearest 1,000 ft)											
Install Date	Asbestos Cement	Cast Iron	Ductile Iron	Galvanized Steel	Copper	Polyethylene	Steel	Cast in Place Pipe	UNK	Total	Percent
1902 - 1919	0	13	0	1	0	0	2	0	0	16	1.0%
1920 - 1939	1	63	1	1	0	0	11	0	0	76	4.6%
1940 - 1959	19	252	4	8	0	0	3	0	0	285	17.2%
1960 - 1979	2	300	152	2	0	0	1	0	0	456	27.5%
1980 - 1999	0	3	409	0	0	0	0	0	0	412	24.9%
2000 - 2013	0	3	362	0	0	0	3	0	0	369	22.3%
UNK	0	26	8	2	0	0	0	0	5	42	2.5%
Total	**22**	**661**	**936**	**13**	**1**	**0**	**19**	**0**	**6**	**1,657**	**100.0%**
Percent	1.3%	39.9%	56.5%	0.8%	0.1%	0.0%	1.1%	0.0%	0.4%	100.0%	

General note: No private pipelines included.

Table 6-8
Private Pipeline Length by Material and Age

Material Type and Length (1,000 ft) (rounded to nearest 1,000 ft)											
Install Date	Asbestos Cement	Cast Iron	Ductile Iron	Galvanized Steel	Copper	Polyethylene	Steel	Cast in Place Pipe	UNK	Total	Percent
1902 - 1919	0	0	0	0	0	0	0	0	0	0	0.0%
1920 - 1939	0	1	0	0	0	0	0	0	0	1	1.3%
1940 - 1959	0	0	1	0	0	0	0	0	0	1	13.0%
1960 - 1979	0	18	2	0	0	0	0	0	0	20	14.3%
1980 - 1999	0	0	40	0	0	0	0	0	0	40	26.0%
2000 - 2013	0	0	40	0	0	1	0	0	0	41	26.6%
UNK	0	2	12	0	0	0	0	0	15	29	19.5%
Total	**0**	**21**	**94**	**0**	**0**	**1**	**0**	**0**	**16**	**132**	**100.0%**
Percent	0.0%	15.9%	71.2%	0.0%	0.0%	0.8%	0.0%	0.0%	12.1%	100.0%	

General note: No public City or park pipelines included.

The City has recorded the location, date, and description of water main breaks and repairs since the mid-1980s. This information is invaluable for determining generally what type and age of pipe is breaking and should be scheduled for replacement. Table 6-9 summarizes the pipeline or joint break counts relative to age and material of the pipeline.

Table 6-9
Pipeline Break Count

Material Type and Break Count											
Install Date	Asbestos Cement	Cast Iron	Ductile Iron	Galvanized Steel	Copper	Polyethylene	Steel	Cast in Place Pipe	UNK	Total	Percent
1902 - 1919	0	18	0	0	0	0	3	0	0	21	3%
1920 - 1939	0	127	0	0	0	0	46	0	0	173	23%
1940 - 1959	12	324	2	6	0	0	12	0	0	356	48%
1960 - 1979	1	81	13	1	0	0	0	0	0	96	13%
1980 - 1999	0	2	8	0	0	0	0	0	0	10	1%
2000 - 2012	0	10	24	0	0	0	0	0	0	34	5%
UNK	0	44	3	4	0	0	0	0	6	57	8%
Total	**13**	**606**	**50**	**11**	**0**	**0**	**61**	**0**	**6**	**747**	**100%**
Percent	2%	81%	7%	1%	0%	0%	8%	0%	1%	100%	

General note: Includes City, park and private pipelines.

The break counts indicate that cast iron pipeline installed between 1920 and 1959 accounts for approximately 70% of the City's breaks or repairs. Descriptions of the types of breaks and repairs performed on the 1950s-era cast iron pipe include many joint leak repairs and clamp-type repairs of rusting and cracked pipelines. These failure types indicate that the material is past its design life and is need of replacement.

The City's proposed pipeline replacement schedule is based on water mains having a 100-year design life. As identified in Table 6-7, the City currently has 314 miles (1,657,000 feet) of public pipeline and 25 miles (132,000 feet) of private pipeline installed. Per the City's recommendation, only the public pipelines will considered for replacement. The 100-year design life schedule replaces approximately 3.2 miles (16,800 feet) of public pipeline per year.

The pipeline replacement prioritization should be based on the following indicators:

- Known condition issues
- Capacity and condition issues
- Pipe material issues based on complaint and breakage records
- Pipeline age

Table 6-10 highlights the pipeline replacement priority based on break records, material, and age as shown in the previous two tables, and indicates the approximate number of years it will take to accomplish the replacement assuming the City replaces 3.2 miles (16,800 ft) of pipeline per year. See Figure 6-3 for a map showing the pipe location for each category in the table. The high priority replacement should focus on cast iron piping installed between 1902 and 1959. The replacement of both the public and private piping at 3.2 miles per year will take the City approximately 19.5 years to complete.

Table 6-10
Years for Pipeline Replacement and Prioritization

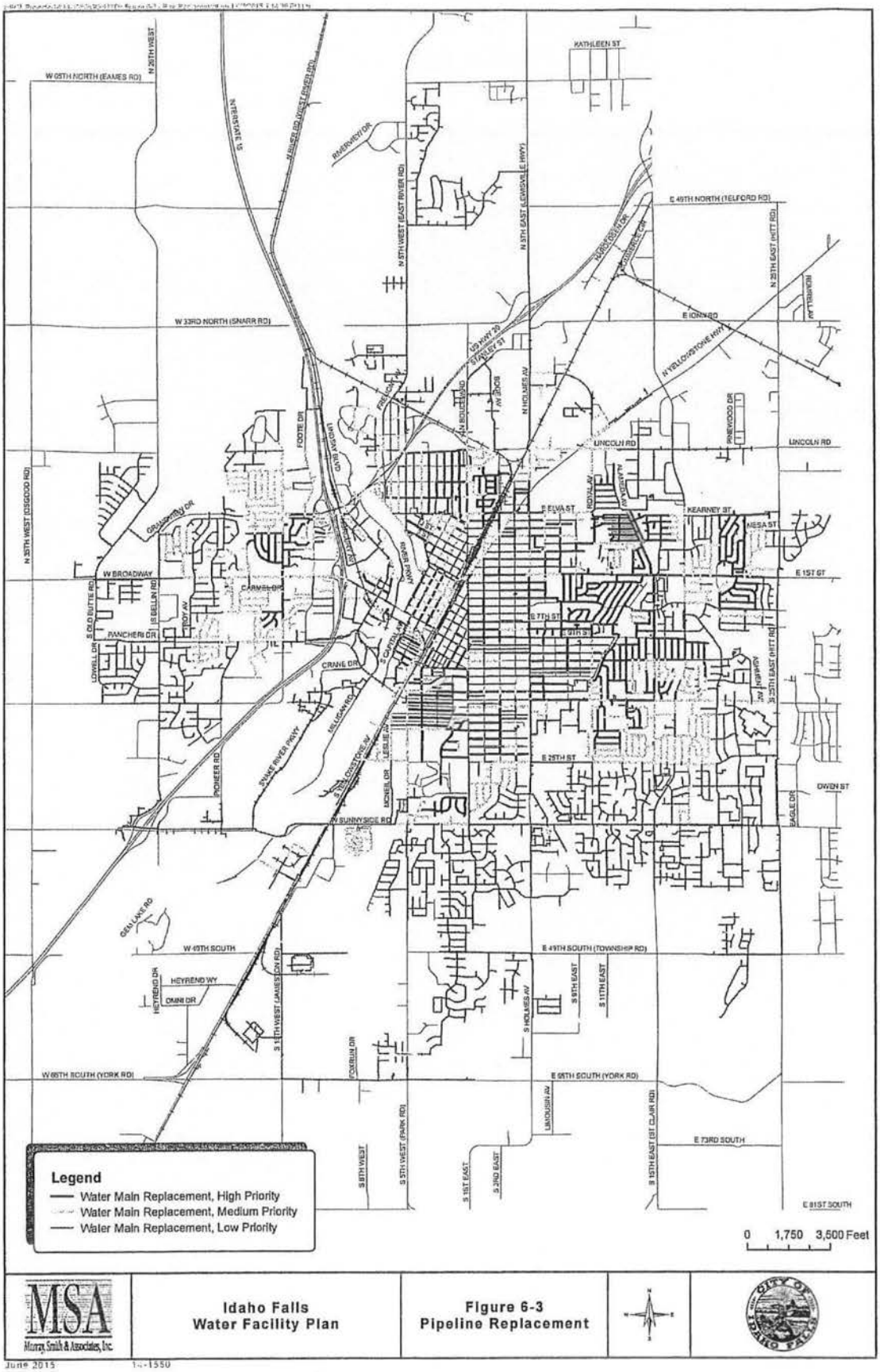
Years to Replace[1]											
Install Date	Asbestos Cement	Cast Iron	Ductile Iron	Galvanized Steel	Copper [2]	Polyethylene	Steel	Cast in Place Pipe	UNK	Total	Percent
1902 - 1919	-	0.77	-	0.06	-	-	0.12	-	-	0.95	0.9%
1920 - 1939	0.06	3.81	0.06	0.06	-	-	0.65	-	-	4.58	4.3%
1940 - 1959	1.13	15.00	0.30	0.48	-	-	0.18	-	-	17.02	16.0%
1960 - 1979	0.12	18.93	9.17	0.12	-	-	0.06	-	-	28.33	26.6%
1980 - 1999	-	0.18	26.73	-	-	-	-	-	-	26.90	25.3%
2000 - 2012	-	0.18	23.93	-	-	0.06	0.18	-	-	24.40	22.9%
UNK	-	1.67	1.19	0.12	-	-	-	-	1.19	4.23	4.0%
Total	**1.31**	**40.60**	**61.31**	**0.77**	**-**	**0.06**	**1.13**	**-**	**1.31**	**106.49**	
Percent	1.2%	38.1%	57.6%	0.7%	0.0%	0.1%	1.1%	0.0%	1.2%		
Replacement priority											
High											
Medium											
Low											

General note: Includes City, park and private pipelines.

[1] *Values shown as number of years to replace each type of pipeline assuming a replacement rate of 16,800 ft/yr.*

[2] *Values indicated as 0.00 were lost to rounding and truncation.*

In addition to water main pipeline replacement, service pipelines, including both laterals from the water main to meter pit (property line where no pit exists) and hydrant laterals, should be considered for replacement while the water mains are being replaced. City design criteria dictate the standard service material is 1-inch diameter, Type K copper for domestic connections. Larger hydrant lateral connections are typically ductile iron.


Legend
Water Main Replacement, High Priority
Water Main Replacement, Medium Priority
Water Main Replacement, Low Priority
0 1,750 3,500 Feet
MSA
Murray, Smith & Associates, Inc.
Idaho Falls
Water Facility Plan
Figure 6-3
Pipeline Replacement
June 2015
14-1550

Summary and Recommendations

Multiple sources of information were reviewed to evaluate the condition of the City's drinking water system. The two components comprising the system—production facilities (combined well and booster stations) and the distribution system (piping)—were analyzed and then ranked to identify where the City should begin rehabilitation and component replacement efforts.

The City's GIS records were analyzed to compare each buried pipeline's age, material, and break records with its expected life to determine which pipelines were most in need of repair. Results of this analysis suggest that the City needs to focus its replacement efforts on cast iron piping installed between 1902 and 1959.

Evaluation results were used to identify specific improvements for all well production facilities to ensure they meet the operators' needs and comply with current state and federal standards. Many of the recommended improvements appear to be recurring issues at all but the three newest facilities (Wells 15, 16, and 17).

The recommended order for well facility improvements is based on MSA and City staff evaluation of the facility condition assessment, the facility code compliance rankings, and the quantity of water produced at each facility. In general, wells that produce the most water and are in need of the most updates are recommended to be improved first.

MSA
Murray, Smith & Associates, Inc.
Engineers/Planners

SECTION 7

Capital Improvement Program

SECTION 7
CAPITAL IMPROVEMENT PROGRAM

This section describes the water system improvements required to serve Idaho Falls' (City's) service area under existing, 5- and 20-year planning horizons. Longer term 40-year (21- to 40-year) supply needs are also described in general terms; however, specific locations and costs have not been identified for those projects. The City is also undertaking a long-term program to replace all piping in the system on a 100-year cycle based on condition prioritization. The recommended improvement projects are shown in Figure 7-1 and summarized in Tables 7-1, 7-2, and 7-3. The total cost of projects within the 0- to 5-year timeframe is approximately $23,000,000 and within the 6- to 20-year timeframe is approximately $60,000,000.

Customer Metering

An analysis related to installing meters on all customer connections was conducted as part of this Water Facility Plan. It is believed that installing meters and charging customers based on actual water use would have a significant impact in reducing average and peak demands over time. The cost to implement metering is significant, estimated at between $40 million and $100 million. Metering would reduce or eliminate the need for future supply and pumping projects of approximately $15.8 million over the 20-year planning period, in addition to stretching existing water rights into the future.

The CIP included in this section is based on the assumption that metering is not implemented system-wide and that current water usage trends continue over the next 20 years. $250,000 per year has been included in the Capital Improvement Program (CIP) to begin installing meters on the City's largest service accounts. The City currently installs meter pits on all new residential construction as required by state regulations. The installed residential pits do not include water meters. However, new commercial construction is currently required to install water meters. Additional analysis related to the cost of metering is included in Appendix G.

Cost Estimating

All project descriptions and estimates represent planning-level accuracy and opinions of costs (+50%, -30%). During the design phase of each improvement project, recommended pipe lengths should be verified and an engineering evaluation should be performed.

Recommended pipeline diameters will vary based on final design requirements. Total project costs will depend on actual labor and material costs, site conditions, competitive market conditions, regulatory requirements, project schedule, and other factors. Therefore, project feasibility and risks should be carefully reviewed prior to making specific financial decisions or establishing project budgets to help ensure proper project evaluation and adequate funding. A Preliminary Engineering Report (PER) should be completed for each

improvement project to identify the final sizing and location. A PER looks at a specific project in more detail than the analysis conducted within this WFP.

All project costs presented in this WFP are developed in 2014 dollars, using the 2014 RSMeans Heavy Construction Cost Data (RSMeans), recent City project bid tabs, City input, and local contractor and supplier rates. The project costs presented in this plan include estimated construction charges, and allow for contingency, permitting, legal, administrative, and engineering fees. Construction costs are based on the preliminary concepts and layouts of the water system components developed during the system modeling. The detailed cost methodology is presented in Appendix H.

Project Descriptions

The City has a reliable water system, but existing or projected deficiencies in supply, backup power and pumping capacity are anticipated because of high summertime demands. Much of this CIP is based on capacity deficiencies as identified in Section 4—Distribution and Supply Analysis. The remainder of needed improvements are identified in Section 5—System Condition and Code Evaluation, and Section 6—Operations and Maintenance.

Projects are recommended to maintain and improve the existing level of redundancy, flexibility, supply, and delivery of water in the system. Based on information in Section 4, these improvements are recommended to address hydraulic deficiencies:

- Existing well, booster, and storage facility upgrades.
- New well, booster and storage facilities.
- New and upgraded water transmission or distribution pipelines.

Due to the age of the system and facilities, there were several recurrent deficiencies identified in Section 5 that must be corrected to meet minimum IDEQ requirements. Recommended improvements related to the ongoing system operations and maintenance (O&M) are identified in Section 6. Additional projects recommended in Sections 5 and 6 include:

- Existing well and booster facility improvements to address condition and code compliance.
- Pipeline replacement.

All projects include identifiers (IDs) that designate them as either pipelines or facilities. Pipeline projects are labeled with a P, followed by a number: existing pipeline deficiencies are 100 numbers, 2020 deficiencies are 200 numbers, and 2035 deficiencies are labeled with 300 numbers. Within each timeframe, projects are also loosely prioritized, with 101 taking priority over 102, and so on. This prioritization order was based on the severity of the hydraulic deficiency, size of the area impacted, and pipe condition.

Facility projects are labeled with an F, and a number based on timeframe and priority, with 1 being prioritized over 2, and so on. This prioritization was based on the severity of the hydraulic deficiency, City preference, then on the condition of the facility, and finally, budget constraints.

Projects are depicted in Figure 7-1 and are described below. As the City annually reviews system needs and budget constraints, the list of projects to be constructed may vary from the recommendations in this section. It is also recommended that the City update this WFP and associated CIP every five years to ensure projects meet current system requirements.

Pipelines

Approximately 37.9 miles of pipeline improvements have been identified based on the hydraulic analysis (to address fire flows, low system pressures and create additional distribution capacity from new supply facilities) and are organized as distinct projects. These projects address deficiencies under existing, 2020, and 2035 conditions, and have been prioritized for implementation over the next five years (by 2020) and 6 to 20 years (by 2035). The existing projects address fire flow deficiencies, which consist of primarily undersized pipelines that should be replaced to provide adequate service. The projects required by 2020 are due to fire flow and pressure deficiencies. New piping is also required to distribute water from proposed supply facilities. The 2035 piping projects are required due to pressure and piping deficiencies associated with new supply. Tables 7-1, 7-2, and 7-3 summarize the pipeline projects due to existing deficiencies as Pipeline – 1A and Pipelines – 1B, 2020 deficiencies as Pipelines – 2, and 2035 deficiencies as Pipelines – 3. Due to budget constraints, some existing pipeline deficiencies will be addressed in the 6- to 20-year timeframe (Pipelines – 1B). The locations of pipeline improvements are depicted in Figure 7-1 and are summarized in Appendix I.

It is the City's intent to implement a program to replace all piping in the system over a period of 100 years (e.g. 1% per year). Due to budget constraints, it will not be possible to fully fund this program in the next 20 years. In general, the City intends to address capacity related improvements first, however any pipe replacement will also contribute to the overall 100 year replacement program. The City will also have the flexibility to utilize funds currently identified for capacity related pipe improvements for high priority condition replacements on an as-needed basis.

To help in prioritizing which pipes should be addressed first from a condition perspective, the existing pipeline infrastructure was rated either high, medium, or low, based on age, material and associated main breaks (e.g. pipes with higher priorities are in poorer condition than those pipes with medium or low priorities). Each of the pipeline projects has an associated replacement priority listed in Appendix I. In general, piping improvements to address hydraulic deficiencies are prioritized above those with condition issues in the CIP. Some hydraulic improvements may also address high priority condition issues.

As noted above the City intends to replace all piping in the system over a 100 year period. Many condition based pipe improvements will be completed in conjunction with street reconstruction, overlays or other underground utility projects.

Improvement projects to address deficiencies in privately owned piping, regardless of hydraulic deficiency or replacement priority, is scheduled for improvement beyond 20 years due to budget constraints as shown in Table 7-3 in Project ID Pipelines – 4. These pipelines also have a "P" added to the end of their Project ID number as shown in Figure 7-1 and Appendix I.

Facilities

Existing Well and Booster Facilities' Operation and Maintenance Projects

As described in previous sections of this WFP, the City currently operates 14 wells and booster stations. The City owns 15 supply facilities; however, the Well 7 facility is not used due to water quality issues. Each facility was analyzed in Section 5, and recommended improvements were described (Table 5-6). The results of system condition and code evaluations were ranked in Table 5-5, from most to least important. These facility analyses determined an overall 20-year project implementation, allowing approximately one facility improvement per year.

The facilities recommended for improvement over the next five years (by 2020) are Wells 9 and 10 (F-3), Well 3 (F-4.1), Well 1 (F-5), Well 4 (F-6), Well 8 (F-7), Wells 13 and 13B (F-8), and Well 16 (F-9).

The facilities recommended for improvement for years 6 to 20 (by 2035) are Well 12 (F-19), Wells 11 and 14 (F-20), Well 16 (F-21), Well 16 (F-22), Well 17 (F-23), Well 2 (F-24), Wells 15 and 15B (F-25), and Well 7 (F-26)

Each upgrade and its associated cost is summarized in Tables 7-1 and 7-2. The improvements identified in Section 5 focused on bringing each facility up to 2014 standards and to address recurring problems. Detailed costs associated with the improvements identified at each facility are included in Appendix J.

Three specific ongoing repair and replacement budget items have been identified by the City, and are included in this CIP. The first includes replacing the doors and locks for security at each well facility (F-10) over three years at $75,000 per year. The second provides funds for the transition from a radio supervisory control and data acquisition (SCADA) to a fiber SCADA system (F-11). This transition is scheduled to occur over three years at $40,000 per year. The third budget item will pay for maintaining concrete and asphalt flatwork at each well facility and the department shop (F-12) at approximately $10,000 annually over five years.

Water Supply Wells

As described in Section 4, the City's water distribution system was evaluated for deficiencies over the next 20 years, and its supply needs were identified over the next 40 years. Results from these analyses indicate additional supply requirements as shown in Tables 7-1, 7-2 and 7-3. The CIP includes 5 new wells in the 20-year horizon and another 8 new wells (13 total) by the 40-year timeframe.

To support projected growth in the northeast portion of the system and provide increased pressure to existing areas at higher elevations, additional supply is needed near Well 7, which, as previously mentioned, is no longer in service. Because Well 7 is close to the Well 13 and 13B facility and there is available space at this site, a new well and booster facility is recommended at that location (F-2). This facility is recommended in the 5-year timeframe.

The 65th South Facility does not have a dedicated supply, is far from existing wells, and is currently used only as a "peaking" source. A new well (F-1) is recommended near the existing facility in the 5-year timeframe to supply water under average day demand and maximum day demand conditions. The new well will be located at City-owned property about a half mile east of the booster and reservoir, and will require a dedicated pipeline to convey water from the well to directly fill the reservoir.

Two new wells are needed in the 20-year horizon, based on projected growth and limited supply on the west side of the system: one well located in the vicinity of Well 6 (F-14) and another at the existing Well 16 facility (F-13).

The far north portion of the system is relatively isolated from existing supplies and is projected to grow in the 20-year planning horizon. To better serve this area, a new well is recommended near the intersection of East River and Tower Roads (F-18).

Another eight well facilities (F-27), at least half including backup power, are recommended in the 40-year horizon to meet demand projections. The project cost and locations for these facilities has not been determined, and will need to be identified through subsequent planning.

Reservoirs and Storage

The City prefers to construct and operate well facilities that have well water conveyed directly to a reservoir and then boosted through a pump station to the system. Based upon existing supply capacity and projected demand growth, the City will require new or replacement reservoirs as summarized in Tables 7-1 and 7-2. Some of the reservoirs serve as storage for the system, and some serve as contact tanks for chlorination. Each of the recommended reservoirs corresponds to one of the new wells previously described.

In the 5-year horizon, a new storage reservoir is recommended to accompany the new well (F-2) at the existing Well 13 and 13B facility site; this will increase overall storage in the east portion of the system.

In the 20-year horizon, two new and two replacement reservoirs are recommended. The first is new reservoir is a small contact tank for chlorination to accompany the new well near the existing Well 6 (F-14) site. The second new reservoir is near the East River Road and Tower Road Well (F-18), and will provide storage for the system's north area. The first replacement is a larger reservoir at the current Well 16 (F-13) site to support the new and existing wells at this location. The elevated reservoir at Well 3 is also recommended for replacement (F-4.2, second project at the facility) in the 20-year horizon due to the condition assessment as summarized in Section 5.

Booster Stations

Tables 7-1 and 7-2 summarize the need for several additional or upgraded booster stations over the next 20 years, as determined in Section 4. Many of the required booster station improvements are associated with well and reservoir recommendations, and are a mix of new and upgrade projects.

In the 5-year timeframe, a new booster station needs to be built with the new well facility at Well 13 and 13B (F-2). Due to hydraulic limitations resulting from increasing the existing Well 13 and 13B booster station, a new facility (rather than an upgrade) is recommended to convey the increased water demand associated with the new facility. At the 20-year horizon, an additional pump (F-17) will be needed in this booster station to expand capacity and meet future peak demands.

In the 20-year horizon, new booster stations are needed at the new wells near Well 6 (F-14) and another at the new facility near the East River Road and Tower Road intersection (F-18). The additional new well and increased storage reservoir at the existing Well 16 location are needed to provide adequate supply and capacity to the west of the system, and will require a new booster station (F-13).

The existing Well 5 Facility is currently the largest capacity booster station in the system, but lacks a redundant pump. Replacing this facility's (F-16) booster station is recommended to increase the firm capacity to the system with a booster station with one that has at least two pumps.

The existing 65th South pumps do not meet the system hydraulic grade line, and as demand increases in the southern part of the system, these pumps will need to be replaced (F-15) with ones that can provide additional head. The capacity upgrade at 65th South booster stations will also require an additional pump and other upgrades in the 20-year timeframe to meet increased demands in the system, particularly during peak hour conditions.

Water Treatment Systems

As described in Section 2, disinfection is the only treatment process applied to well water. All of the well locations are equipped with chlorine gas injection systems to meet residual disinfection requirements.

The City is considering switching from chlorine gas, which poses a health and security hazards, to a safer sodium or calcium hypochlorite system. Although hypochlorite is somewhat more expensive, has less strength, and will require new control and feed systems, safety and security concerns have prompted the City to weigh the benefits of changing its disinfection system.

Because the City is still considering whether to convert from chlorine gas to another form of disinfection, no costs for this work are included in this CIP.

Automated Metering Infrastructure

The water metering analysis described above assumes that if the City begins metering all customers, advanced metering infrastructure (AMI) would be implemented. This involves installing the associated hardware and software to enable centralized collection of customer usage records. The costs of installing meters and AMI radio endpoints are further described in Section 9—Financial Impacts of City-Wide Meter Implementation. The City has elected to include $250,000 per year in its CIP for future water meter installation (projects Meter 1 and Meter 2). It should be noted that Idaho Falls Power system already utilizes data collectors and the Water Department is currently conducting a pilot project to test the capability of the existing data collectors for water meter reading.

Backup Power

Backup power has been included in many facility upgrade projects, and with all new facilities. Each new well (F-1, F-2, F-13, F-14, F-16, and F-18) and each new booster station (F-2, F-13, F-14, F-17, and F-18) includes backup power, as do many condition improvement projects (F-3, F-6, F-8, and F-20). At the completion of the 20-year CIP, over half the wells and booster stations will have backup power.

Pipeline Replacement Program

The desktop analysis of the system's pipeline condition concluded that the City should replace approximately 3.2 miles of public pipeline per year, starting with cast iron piping installed between 1902 and 1959. At a 1 percent per year rate, the water pipeline replacement program is estimated to cost approximately $3.14 million annually. Although it will not be fully funded in the first twenty years, the City intends to begin this program immediately, and after year 20, the requisite $3.14 million will be budgeted for this program annually. The 21 to 40 year CIP includes the $3.14 million budget per year for pipeline replacement. As the

system continues to expand and new pipelines are installed, the yearly budget for pipeline replacement will need to increase to account for the larger system.

As described above, all existing piping has been assigned a pipeline condition priority. No discrete projects have been identified to address condition in the CIP as they will be conducted on an opportunistic basis in conjunction with other utility or street work or bundled into construction packages where a large section or neighborhood can be completed as a single project. The City will target approximately 3.2 miles of condition based replacement each year however the exact amount that will be constructed will be dependent on actual bid prices.

Improvements by Timeframe

Recommended pipeline and facility projects to be implemented by 2020 (years 0 to 5), 2035 (years 6 to 20), and by 2055 (years 21 to 40) are summarized in Tables 7-1, 7-2, and 7-3, respectively. These tables present each project's ID and name, the primary reason for the project, its type, a short description of each project, the project's recommended size, and its total cost.

Table 7-1
Summary of Required 2020 (0 to 5 Year) Improvements

Project ID	Project Name	Primary Reason for Project	Project Type	Description	Recommended Size	Total Cost[1]
Pipelines – 1A (See Appendix I)	Capacity Related Existing Pipeline Improvements	Capacity: Fire Flow	New Piping and Pipeline Replacement	Replacement and new pipelines for to address existing deficiencies (fire flow). Funding for the improvements is as follows: Year 1 = $1.2M, Year 2 = $1.3M, Year 3 = $1.4M, Year 4 = $1.5M, Year 5 = $1.6M. Projects that cannot fit within the funding are deferred beyond year 5 (year 6 to 20) as shown in Table 7-2.	6-, 8-, 10-, and 12-in diameter; 19.3 miles	$7,000,000
F-1	New 65th South Well (Project 1)	Capacity: Supply	New Well Dedicated Supply Pipeline to Reservoir	New well including backup power and dedicated supply piping to 65th South Reservoir. First of two projects in 20-year CIP at this location.	Well – 4,500 gpm Supply Pipeline – P-207: 24 in, 3,450 lf	$3,050,000
F-2	New Well Facility at Well 13 and 13B Facility (Project 1)	Capacity: Supply	New Well New Reservoir New Booster Station New Supply Pipeline	New well, booster station and storage reservoir including backup power and new supply piping to provide for new demand requirements and existing pressure requirements. First of two projects in 20 year CIP at this location.	Well – 3,000 gpm Reservoir – 1.25 MG Booster Station – 3,000 gpm Supply Pipeline – (P-208: 18 in 4,000 lf	$5,236,000
F-3	Wells 9 and 10 Upgrades	Condition	Facility Upgrade	Facility upgrade to security system, safety equipment, well pump change-out, piping, HVAC, well, reservoir, electrical system, generator and well pump.	-	$1,516,000
F-4.1	Well 3 Upgrades (Project 1)	Condition	Facility Upgrade	Facility upgrade to security system, safety equipment, piping, building, well and electrical system. First of 2 projects in 20 year CIP at this location.	-	$1,066,000
F-5	Well 1 Upgrades	Condition	Facility Upgrade	Facility upgrade to security system, safety equipment, piping, HVAC, building, well, reservoir and electrical system.	-	$703,000
F-6	Well 4 Upgrades	Condition	Facility Upgrade	Facility upgrade to security system, safety equipment, piping, HVAC, building, well, reservoir, electrical system, 2300v well pump change-out, and new generator.	-	$1,136,000
F-7	Well 8 Upgrades	Condition	Facility Upgrade	Facility upgrade to safety equipment, piping, HVAC, building, well, reservoir and electrical system.	-	$285,000
F-8	Well 13 and 13B VFD Installation (Project 1)	Condition	Facility Upgrade	Facility upgrade to replace well pump MCCs, upgrade boosters to VFD's, replace booster motor and pump 13-1 and 13-2, safety equipment and backup generator. First of two projects in 20 year CIP at this location.	-	$1,032,000
F-9	Well 16 VFD Installation (Project 1)	Condition	Facility Upgrade	Facility upgrade to replace well pump MCCs, upgrade boosters to VFD's, replace booster motor 16-1 and 16-2, and install safety equipment. First of two projects in 20 year CIP at this location.	-	$296,000
F-10	All Facilities: Door Replacement	Condition	Facility Upgrade	Facility upgrade to replace exterior doors: $75,000 budgeted annually for 3 years.	-	$225,000
F-11	All Facilities: SCADA Upgrade	Condition	Facility Upgrade	Conversion from radio SCADA to fiber SCADA: $40,000 budgetary annually for 3 years.	-	$120,000
F-12	All Facilities: Concrete Maintenance	Condition	Facility Upgrade	Concrete and asphalt maintenance and repair: $10,000 budgetary annually for 5 years.	-	$50,000
Meter 1	Water Meter Installation	-	-	Water Meter installation: $250,000 budgeted annually for 5 years.	-	$1,250,000
					Total	$22,965,000

[1] Total Cost: Project estimates are based on the type and size of projects identified in this WFP and were prepared in accordance with the guidelines of American Association of Cost Engineers (AACE) International Class 5 Estimate, with a typical accuracy of -30% to +50%. Project estimates are based on 2014 dollars and include design (unless noted otherwise), construction, and site-specific information as described in Appendix H.

General notes: The proposed locations of all water facilities in Section 7 (CIP) and this table are based on conceptual data available at the time this WFP was prepared. The actual location, routing, type, or size of any public water facility may vary from what is shown, because of actual physical conditions, the timing of development, the availability or cost of rights-of-way or easements, final engineering design considerations, or other similar reasons. To the extent any planned future water improvement is shown on private property, the location is only approximate and does not constrain or limit development on that property.

Table 7-2
Summary of Required 2035 (6 to 20 Year) Improvements

Project ID	Project Name	Primary Reason for Project	Project Type	Description	Recommended Size	Total Cost[1]
Pipelines – 1B (See Appendix I)[2]	Deferred existing capacity related pipeline improvements	Capacity: Fire Flow	Pipeline	Remainder of deferred existing pipeline improvements: New and replacement pipelines to address fire flow and operating pressure deficiencies.	Remainder of existing capacity-related existing pipelines. See Table 7-1	$11,454,000
Pipelines – 2 (See Appendix I)[2]	Capacity related 2020 pipeline improvements	Capacity: Fire Flow and Supply	Pipeline	New and replacement pipelines to address fire flow and operating pressure deficiencies by 2020.	8-, 12- and 16-in diameter; 5,400 lf	$1,312,000
F-4.2	Replacement of Well 3 Reservoir (Project 2)	Capacity: Storage and Condition	New Elevated Reservoir	Replacement of existing reservoir and construction of new elevated reservoir. Second project at this location in 20-year CIP.	1.0 MG	$6,334,000
F-13	Well 16 Upgrade (Project 2)	Capacity: Supply	New Well Replacement Reservoir Replacement Booster Station	New well, replacement reservoir and booster station including backup power and facility improvements due to new demand requirements and distribution limitations in this portion of system. Second project at this location in 20-year CIP.	Well – 3,600 gpm Reservoir – 1.25 MG Booster Station – 7,200 gpm	$5,026,000
F-14	New Well Facility Near Well 6	Capacity: Supply	New Well New Reservoir New Booster Station	New well, reservoir and booster station including backup power due to new demand requirements and distribution limitations in this portion of system.	Well – 1,500 gpm Reservoir – 0.1 MG Booster Station – 1,500 gpm	$1,840,000
F-15	65th South Booster Station Upgrades (Project 2)	Capacity: Pumping	Facility Upgrade	New booster pump and replacement of existing pumps due to demand and head requirements. Second project at this location in 20 year CIP.	Pump 1 – 2,000 gpm Pump 2 – 2,000 gpm Pump 3 – 900 gpm Pump 4 – 2,500 gpm	$790,000
F-16	Well 5 Booster Station Replacement	Capacity: Pumping and Condition	New Booster Station	New booster pump station to address condition issues and the addition of a second pump to address redundancy requirements.	6,000 gpm	$2,127,000
F-17	New Booster Pump at New Well Facility at Well 13 and 13B (Project 2)	Capacity: Pumping	Facility Upgrade	New booster pump at Project F-2 to increase pumping capacity. Second project at this location in 20-year CIP.	Additional Pump – 1,500 gpm	$180,000
F-18	New Well Facility near East River Road and Tower Road	Capacity: Supply	New Well New Reservoir New Booster Station New Supply Pipeline	New well, reservoir, and booster station including backup power, as well as new supply piping to connect to the distribution system.	Well – 3,000 gpm Reservoir – 1.0 MG Booster Station – 3,000 gpm Supply Pipeline – P-307: 16-in, 14,650 lf	$7,966,000
F-19	Well 12 Upgrades	Condition	Facility Upgrade	Facility upgrade to security system, safety equipment, piping, HVAC, reservoir and electrical system.	-	$874,000
F-20	Well 11 and 14 Upgrades	Condition	Facility Upgrade	Facility upgrade to security system, piping modifications, HVAC, reservoir, generator and electrical system.	-	$1,734,000

Table 7-2 Continued

Project ID	Project Name	Primary Reason for Project	Project Type	Description	Recommended Size	Total Cost[1]
F-21	Well 13 and 13B Upgrades (Project 2)	Condition	Facility Upgrade	Facility upgrade to piping, HVAC, and reservoir. Second project at this location in 20-year CIP.	-	$550,000
F-22	Well 6 Upgrades	Condition	Facility Upgrade	Facility upgrade to install safety equipment, piping modifications, HVAC, facility, well, reservoir and electrical system.	-	$203,000
F-23	Well 17 Upgrades	Condition	Facility Upgrade	Facility upgrade to piping, reservoir and electrical system.	-	$254,000
F-24	Well 2 Upgrades	Condition	Facility Upgrade	Facility upgrade to security system, safety equipment, piping, HVAC, well, reservoir and electrical system.	-	$337,000
F-25	Well 15 and 15B Reservoir Upgrades	Condition	Facility Upgrade	Facility upgrade to building lighting and reservoir (hatches and ladder).	-	$22,000
F-26	Abandon Well 7	Condition	Facility Upgrade	Abandon well and removal of 30,000 gallon tank.	-	$91,000
Meter 2	Meter Installation	-	-	Water Meter installation: $250,000 budgeted annually for 15 years.	-	$3,750,000
Pipelines – 3 (See Appendix I)	Capacity related 2035 pipeline improvements	Capacity: Fire Flow and Supply	Pipeline	Fire flow, operating pressure deficiencies and transmission piping.	6-, 8-, 12- and 16-in diameter; 11.1 miles	$15,248,000
					Total	$60,092,000

[1] *Total Cost: Project estimates are based on the type and size of projects identified in this WFP and were prepared in accordance with the guidelines of American Association of Cost Engineers (AACE) International Class 5 Estimate, with a typical accuracy of -30% to +50%. Project estimates are based on 2014 dollars and include design (unless noted otherwise), construction, and site-specific information as described in Appendix H.*

[2] *Pipeline projects have been delayed beyond the hydraulic deficiency timeframe due to budget limitations.*

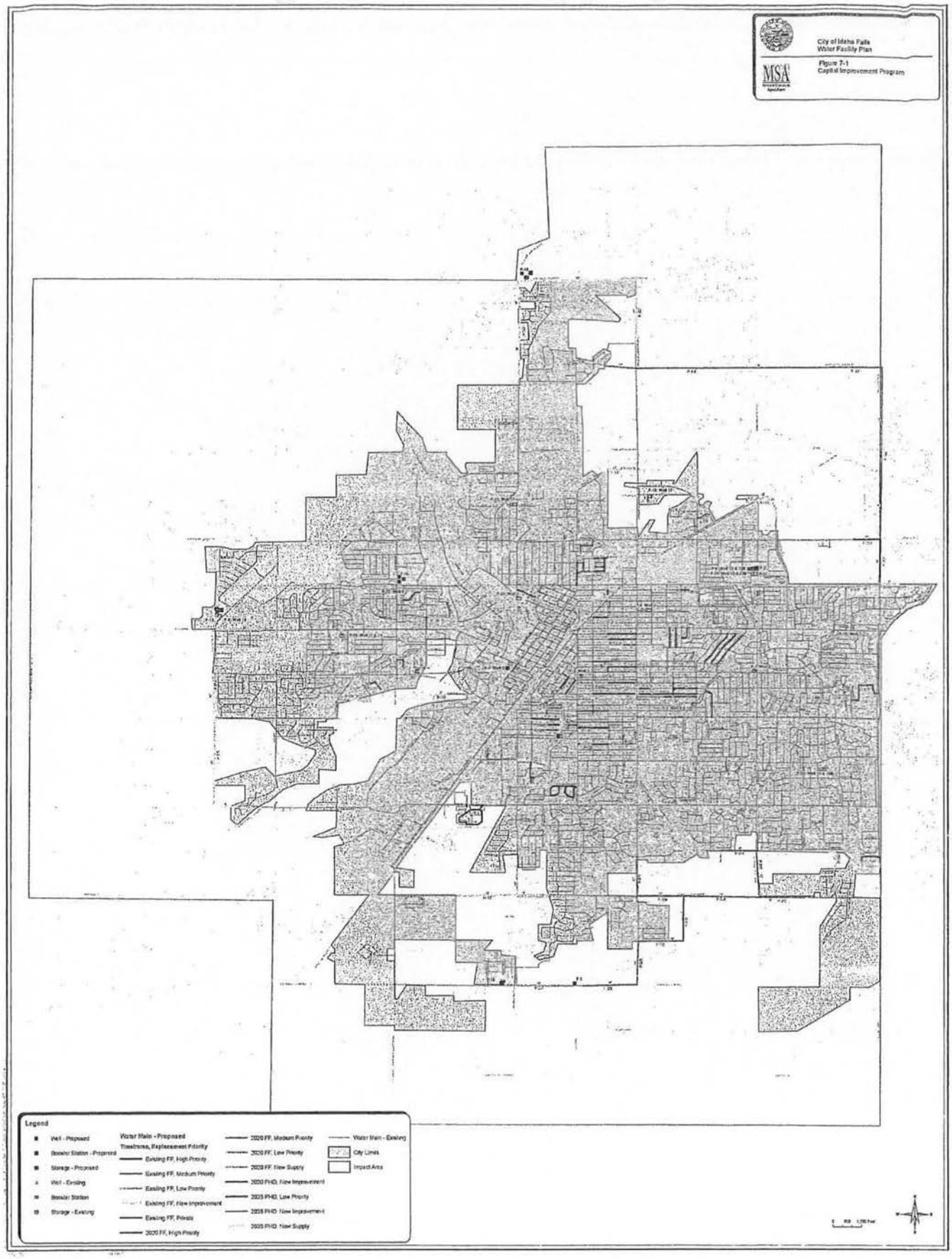
General notes: The proposed locations of all water facilities in Section 7 (CIP) and this table are based on conceptual data available at the time this WFP was prepared. The actual location, routing, type, or size of any public water facility may vary from what is shown, because of actual physical conditions, the timing of development, the availability or cost of rights-of-way or easements, final engineering design considerations, or other similar reasons. To the extent any planned future water improvement is shown on private property, the location is only approximate and does not constrain or limit development on that property.

Table 7-3
Summary of Required 2055 (21 to 40 Year) Improvements

Project ID	Project Name	Primary Reason for Project	Project Type	Description	Recommended Size	Total[1] Cost
Pipelines - 4 (See Appendix I)	Capacity related pipeline improvements to Private Pipelines	Fire Flow and Capacity	Pipeline	Fire flow and operating pressure deficiencies on private pipelines.	6-, 8-, 10-, and 12-in diameter; 2.4 miles	$2,406,000
Pipeline Replacement	Pipeline Replacement Program	Condition	Pipeline	Replacement of the existing distribution system at $3,140,000 per year, approximately 1% of the system, as described in this section and Section 5.	-	$62,800,000
F-27	8 new supply facilities, at least half with backup power	Capacity and Condition	New Well	New demand requirements.	Not Defined	Not Defined

[1] Total Cost: Project estimates are based on the type and size of projects identified in this WFP and were prepared in accordance with the guidelines of American Association of Cost Engineers (AACE) International Class 5 Estimate, with a typical accuracy of -30% to +50%. Project estimates are based on 2014 dollars and include design (unless noted otherwise), construction, and site-specific information as described in Appendix H.

General notes: The proposed locations of all water facilities in Section 7 (CIP) and this table are based on conceptual data available at the time this WFP was prepared. The actual location, routing, type, or size of any public water facility may vary from what is shown, because of actual physical conditions, the timing of development, the availability or cost of rights-of-way or easements, final engineering design considerations, or other similar reasons. To the extent any planned future water improvement is shown on private property, the location is only approximate and does not constrain or limit development on that property.


City of Idaho Falls
Water Facility Plan
Figure 7-1
Capital Improvement Program
MSA
Legend
Well - Proposed
Booster Station - Proposed
Storage - Proposed
Well - Existing
Booster Station
Storage - Existing
Water Main - Proposed
Timeframe, Replacement Priority
Existing FF, High Priority
Existing FF, Medium Priority
Existing FF, Low Priority
Existing FF, New Improvement
Existing FF, Private
2020 FF, High Priority
2020 FF, Medium Priority
2020 FF, Low Priority
2020 FF, New Supply
2020 FHD, New Improvement
2035 FHD, Low Priority
2035 FHD, New Improvement
2035 FHD, New Supply
Water Main - Existing
City Limits
Impact Area

MSA
Murray, Smith & Associates, Inc.
Engineers/Planners

SECTION 8
Financial Plan

SECTION 8
FINANCIAL PLAN

Introduction

The projected financial performance of the City of Idaho Fall's (City's) water system is impacted by capital improvement needs, increasing operation and maintenance requirements associated with existing and new infrastructure, and renewal and rehabilitation of select system assets (including annual pipeline replacement). This section presents an overview of historical financial performance, a comprehensive funding plan for proposed capital projects, corresponding water rate adjustments and bill comparisons, and forecasts of future financial performance from fiscal year (FY) 2015 through FY 2020.[1]

Forecasts have been developed using a financial planning model designed to represent utility cash flows under alternative assumptions related to revenue generation, operations and maintenance (O&M) expenses, and financing structures for capital investment. The financial planning model incorporates projections of annual cash flow requirements developed through the City's budgeting process, as well as capital requirements identified in Section 7 – Capital Improvement Program (CIP). Forecasts also reflect discussions with City personnel in both the Water Division (Division) and Controller's Office.

Historical Performance

Table 8-1 presents a brief overview of the financial performance of the Division from FY 2011 through FY 2014 as reflected in various financial statements and other budget documents provided by the City.[2]

Water rates were last increased on July 1, 2008, from $15.00 per month for a single family dwelling to $21.00 (an increase of 40%). Water rate revenues have therefore remained fairly constant over the historical period, increasing slightly year over year as a result of customer growth. Water rate revenues were $6.86 million in FY 2011 and increased to $6.99 million in FY 2014, a compounded annual growth rate (CAGR) of 0.62%. Other sources of operating revenues include the sale of water meters and the Division's share of fees associated with delinquent payments. The sale of water meters has ranged from a low of roughly $2,800 in FY 2012 to a high of approximately $20,800 in FY 2014. Late fees for the combined water and wastewater systems have fluctuated between a low of $38,900 in FY 2011 to a high of $45,700 in FY 2013. Such fees are not tracked separately for each system. However, for reporting purposes, it is assumed that they accrue to the water system roughly in proportion to the overall ratio of water rate revenues to total rate revenues (40%).[3]

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[1] The City's fiscal year runs from October 1 through September 30.
[2] The Water Division is not set up as a separate enterprise fund, and audited statements for that specific system are not available.
[3] On average, water rate revenues have historically represented approximately 40% of total rate revenues.

Table 8-1
Water System Historical Operating Results[1]

	FY 2011	FY 2012	FY 2013	FY 2014
Water Rate Revenue	$ 6,857.6	$ 6,912.9	$ 6,961.8	$ 6,986.9
Other Operating Revenues	23.4	19.3	27.9	37.1
Interest Revenues	48.1	61.9	45.9	37.4
Transfers from MERF[2]	19.3	50.0	69.4	-
Total Operating Revenue	**$ 6,948.5**	**$ 7,044.1**	**$ 7,104.9**	**$ 7,061.5**
Operations & Maintenance	2,614.5	3,087.8	3,366.9	3,334.0
General Fund Transfers	1,114.4	1,283.4	1,214.4	1,315.6
MERF Contributions[2]	76.4	78.9	99.4	94.7
Capital Outlay	44.7	96.6	103.6	65.5
Total Expense	**$ 3,850.0**	**$ 4,546.7**	**$ 4,784.3**	**$ 4,809.8**
Net Operating Revenues	**$ 3,098.5**	**$ 2,497.4**	**$ 2,320.6**	**$ 2,251.7**

1 All numbers in thousands, slight calculation discrepancies may exist due to rounding

2 City's Municipal Equipment Replacement Fund (MERF)

Interest revenues are earned on the combined (water and wastewater) operating fund balance, and have fluctuated between a low of $93,600 in FY 2014 to a high of $154,800 in FY 2012. Similar to late fees, the allocation of this revenue source to the Water Division is assumed to be 40%.

Other non-operating revenues available to the Division consist of revenue transfers from the City's Municipal Equipment Replacement Fund (MERF). As described below, the Division accesses this fund to offset the cost of new vehicle purchases. Transfers from MERF are highly variable, totaling between $0 in FY 2014 to as much as $69,400 in FY 2013 based on the vehicle replacement needs of the Division.

Total operating revenues of the system (excluding transfers from MERF) increased 1.9%, from $6.95 million in FY 2011 to $7.06 million in FY 2014.

Over the same time period, O&M expenses increased 27.5%, from $2.61 million to $3.33 million. Much of this increase can be attributed to more proactive efforts to enhance preventive maintenance activities. Additionally, two specific operational changes are significant contributing factors to the O&M cost increase. First, expenditures have increased with the installation of meter pits on new residential construction and on service line replacements as required by new state regulations. Second, policy changes requiring specialized backfill when patching street cuts from water line improvements has increased expenditures.

Transfers to the General Fund are based on the Division's share of direct costs for services from other City Divisions, including Engineering, Billings and Collections, and GIS. Transfers also include indirect cost allocations for the Division's share of Public Works Department administration costs and general City administration expense. The direct and indirect cost allocations are established by the City Controller's Office and applied to the City's cost estimates for the current budget year. General Fund transfers have increased from $1.11 million to $1.32 million, and represented approximately 25.4% to 28.9% of the Division's total expense over the historical period.

Other expenses of the Division include contributions to MERF and other capital expenses necessary for O&M of the system. Annual MERF contributions are based on the estimated useful lives and future replacement costs of existing Division-owned vehicles. Annual contributions accrue within the fund such that monies are available for replacement vehicle purchases. The program distributes the costs of vehicle acquisition across the life of the asset, effectively smoothing potential budget impacts associated with new automotive equipment. MERF contributions have varied between $76,400 and $99,400 per year over the historical period. The Capital Outlay cost category includes office equipment, software purchases, and other minor equipment. This category also includes the purchases of Division vehicles, although funds for such costs are paid for from the MERF as described earlier.[4] As a result, capital outlay expense has varied year over year, from $44,700 in FY 2011 to $103,600 in FY 2013.

Total expenses of the Division were $3.85 million in FY 2011 and $4.81 million in FY 2014, an increase of 24.9%. As a consequence of increasing operating costs and relatively stagnant revenue growth, net operating revenues of the system decreased from $3.10 million to $2.25 million over the historical period (a 27.3% reduction).

At this time, the Division does not carry any long-term debt. Annual net operating revenues of the system have been used to pay for capital improvement projects and augment the Division's operating reserve balances in order to strengthen the financial security of the utility.

Financial Management

A system of fund accounting is used to track revenues and expenses associated with the Division's various operating functions. These funds are separate accounts used to facilitate the accounting and reporting of operating and capital-related financial transactions.

[4] The MERF Contributions expense item represents the amount the Division contributes to MERF for replacement vehicle purchases, while the Capital Outlay budget category includes the purchases themselves. Table 8-1 shows the corresponding revenue offset line item (Transfers from MERF) which represents the use of previously contributed funds for vehicle replacement purchases in the Capital Outlay budget category.

Operating Fund

The Division records operating revenues and expenditures in its Operating Fund (Fund 61). The water system is not currently accounted for as a single enterprise fund, and this account is currently shared with the City's wastewater system. Although rate revenues from each enterprise are deposited into the same account, operating budgets are prepared and tracked separately for the water and wastewater systems. For the water system, appropriations are allocated and operating expenditures are accounted for in the Division's various operating categories for each budget year. The Division recently consolidated the number of categories tracked within the operating budget. Such categories now include Administration, Well Maintenance & Operations, Distribution System Maintenance & Operations, and New Construction.

Capital expenditures are budgeted within the New Construction category of the operating budget. Under current City policy, if actual capital expenditures are lower than budgeted capital expenditures, the remaining budgeted funds do not automatically become available for the subsequent budget year within the New Construction operating category. Instead, the excess funds become an addition to the reserve balance of Fund 61.

As of the beginning of FY 2015, the reserve balance of Fund 61 was $32.15 million. This balance includes pooled cash as well as investments the City has made to increase the operating reserves of the system. It also includes reserves associated with MERF ($3.01 million) and other assets restricted to equipment replacement for the wastewater system ($1.73 million). The unrestricted water and wastewater reserve operating balance was therefore approximately $27.41 million at the beginning of FY 2015.

Connection Fee Fund

The Division currently charges a water system connection fee for new customers requesting water service. Revenues from water system connection fees are placed into Fund 44 and tracked independent of wastewater connection fee revenues, which are deposited into Fund 40. Existing City ordinances require that connection fee revenues be used to pay for growth-related infrastructure such as new wells, new water mains, or additional service capacity within the system. The balance of Fund 44 was $1.72 million as of the beginning of FY 2015.

Water Rates & Charges

Existing Rate Structure

Because the majority of City customers receive unmetered water service, the existing rate structure is comprised mainly of fixed charges for both indoor and outdoor water use. Single family residential customers currently pay $21.00 per month for indoor water service, an annual $17.46 irrigation charge (for outdoor use), and a $3.00 per year charge associated with the Idaho Department of Environmental Quality's (DEQ) administration of the state's

drinking water program. These charges are considered flat rates, since none vary based on the amount of actual water used by the customer. When factoring in the annual charges, the effective monthly flat rate for a single family residential customer is approximately $22.71.

Non-residential customers that are not metered pay a flat monthly rate for indoor use based on the type of business located at the property. Rates for restaurants, schools, laundromats, and various other customer types are identified within the City's rate schedule. Some of these, such as office buildings, pay a flat rate per 1,000 square feet of area. Others, such as hotels, pay a flat rate per room. Non-residential customers not specifically listed within the rate schedule pay the same rate as single family residential customers, $21.00 per month. The annual rate for outdoor use for unmetered non-residential customers is $97.59 per acre of lawn or cultivated area.[5] Non-residential customers also pay the annual $3.00 DEQ water quality program administration fee.

The City also provides service to a small number of residential and non-residential customers located outside the City limits. With the exception of the annual DEQ water quality program administration fee, these customers are charged twice the rates of similar customers located within the City. The effective rate for outside-City residential customers is therefore approximately $45.16.

Approximately 10% of the City's non-residential customers receive bills based on metered water use.[6] These customers pay a $21.00 monthly base charge and $0.55 for each thousand gallons of water used, after a 12,000 gallon minimum allowance. The determination of the monthly bill is subject to a minimum bill based on the size of the metered connection, with 1-inch (and smaller) customers paying at least $21.00 per month and 2-inch customers—the most common meter size of metered customers—paying $41.79 per month. As recommended in the American Water Works Association's (AWWA) M1 Manual of Practice: *Principles of Water Rates, Fees, and Charges*, the minimum bills for larger meter sizes are scaled up to recover fixed, capacity-related costs for those customers who have, based on meter size, reserved a higher allocation of capacity within the system.

Connection Fees

The City charges a connection fee to recover a part of the incremental costs associated with system expansion or capacity upgrades related to new development. This fee varies based on the demands the new customer will place on the system (as determined by service line size), but is currently $1,312 for a typical residential customer with a 1-inch connection. Consistent with AWWA's M1 Manual, connection fees are higher for new customers with larger diameter service lines. The fee for new customers with a 1.5-inch connection is $2,624, the fee for a 2-inch connection is $5,248 and the fee for a 4-inch connection is $20,992.

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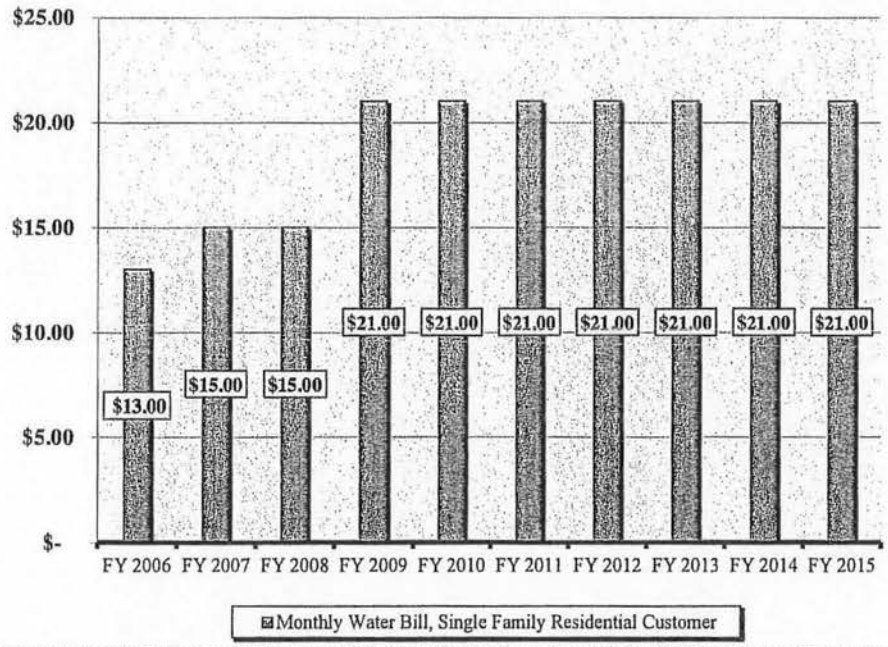
[5] Unmetered non-residential customers with less than 1/20th of an acre of cultivated area are not required to pay for outdoor water use.

[6] While some customers are metered for indoor and outdoor use, the majority of these existing customers receive a metered water bill for indoor consumption only.

Historical Rate Adjustments

The City last increased rates on July 1, 2008. At that time, all rate components were increased 40%, which represented an increase from $15.00 per month to $21.00 per month for single family residential customers. Prior to that, water rates were increased approximately 15% at the beginning of FY 2007 (October 1, 2006). Figure 8-1 presents the monthly bill for indoor water use for single family residential customers during the last ten fiscal years. The CAGR for water rates over this time period was approximately 5.5% per year.

Figure 8-1
Residential Water Rates, FY 2006 – FY 2015[1]



1 The rate comparison excludes annual charges for outdoor use and the DEQ water quality program administration fee.

Regional Water Rate Comparison

Local and regional communities were surveyed in early calendar year 2015 to determine how the City's existing rates compare to nearby water service providers or other communities of similar size within the intermountain west. Table 8-2 presents water rate information for these communities, including the monthly base charge and a description of the volumetric rate structure for single family residential users of each community. A comparison of the summer month water bill (assumed water use of 20,000 gallons) is presented for each community.

The rate comparison demonstrates that the City's existing water rates (highlighted in gray) are among the lowest in the region, especially when compared to communities of similar size. In fact, both the City's existing water bill and proposed FY 2016 water bill for residential users (highlighted in yellow and described later in this section) are lower than many smaller cities located in southeastern Idaho.

Table 8-2
Regional Water Rate Comparison, Single Family Residential Rates

Community	Monthly Charge	Volumetric Rate	Total Bill (20 kgals)
Butte, MT	$ 26.84	Varies per hundred cubic feet, declining block structure	$ 83.53
Bozeman, MT	$ 14.65	Varies, inclining block structure	$ 68.82
Malad, ID	$ 43.00	$0.60 / kgal after first 5 kgals	$ 52.00
Pocatello, ID	$ 7.55	$2.00 / kgal for first 25 kgals	$ 47.55
Boise, ID	$ 10.40	Varies, inclining block structure	$ 46.20
Meridian, ID	$ 5.49	$1.90 / kgal, no minimum	$ 43.49
Logan, UT	$ 16.00	$0.99 / kgal for first 10 kgal, $1.60 beyond that	$ 41.90
Twin Falls, ID	$ 10.74	$1.70 / kgal after first 2 kgals	$ 41.34
St. Anthony, ID	$ 27.13	$0.54 / kgal, no minimum	$ 37.93
Ammon, ID	$ 37.25	Flat rate (some residential customers charged $44.75/mo.)	$ 37.25
Nampa, ID	$ 34.90	Flat rate	$ 34.90
American Falls, ID	$ 24.15	$0.89 / kgal after first 15 kgals	$ 30.50
Blackfoot, ID	$ 21.90	$1.54 / kgal after first 15 kgals	$ 29.60
Burley, ID	$ 18.70	$0.573 / kgal after first 3 kgals	$ 28.44
Rexburg, ID	$ 15.87	$0.82 / kgal after first 6 kgals	$ 27.35
Idaho Falls, ID (proposed)*	$ 25.20	Flat rate (incorporates annualized irrigation charge and DEQ fee)	$ 27.20
Brigham City, UT	$ 9.31	$1.31 / kgal after first 7 kgals	$ 26.34
Idaho Falls, ID (existing)	$ 21.00	Flat rate (incorporates annualized irrigation charge and DEQ fee)	$ 22.71
Rigby, ID	$ 19.00	Flat rate	$ 19.00
Shelley, ID	$ 17.50	Flat rate	$ 17.50

** Monthly rate after proposed FY 2016 increase of 20% (described later in this section)*

Capital Financing

The Division's CIP contemplates expenditure requirements of $22.97 million in current dollars between FY 2016 and FY 2020 as outlined in Section 7. Combined with budgeted capital expenditures for the current fiscal year (FY 2015) of $2.12 million, projected capital expenditures over the forecast period are $25.08 million in current dollars. Capital projects include various facilities projects at the City's wells, boosters and reservoirs, along with annual pipeline work and concrete and asphalt maintenance. Budgeted expenditures also include exterior door replacement for existing facilities and conversion from radio to fiber SCADA. Capital project costs are scheduled across the forecast period based on priority needs of the system and are escalated at 2.5% per annum to account for cost inflation. In nominal dollars, the capital program is expected to require $26.20 million over the forecast period.

Table 8-3 identifies projected capital project expenditures and matching sources of funds. Projected capital expenditures will be funded through three sources: rate revenues (71.2%), connection fee revenues (8.6%), and existing reserves (20.3%).

Table 8-3
Capital Program Sources and Uses of Funds[1]

	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	TOTAL	Percent
Projected Capital Expenditures	**$ 2.12**	**$ 4.72**	**$ 5.09**	**$ 5.34**	**$ 4.43**	**$ 4.51**	**$ 26.20**	**100.0%**
Operating Revenues[2]	1.81	3.01	3.11	3.29	3.57	3.89	18.68	71.2%
Connection Fee Revenues[3]	-	0.45	0.45	0.45	0.45	0.45	2.25	8.6%
Existing Reserves[4]	0.39	1.19	1.59	1.61	0.33	0.21	5.32	20.3%
Used (Unused) Balance[5]	(0.08)	0.07	(0.06)	(0.01)	0.08	(0.04)	(0.05)	
Total Funds	**$ 2.12**	**$ 4.72**	**$ 5.09**	**$ 5.34**	**$ 4.43**	**$ 4.51**	**$ 26.20**	**100.0%**

1 All numbers in millions, slight calculation discrepancies may exist due to rounding

2 Includes increased rate revenues associated with proposed rate adjustments

3 Represents transfers from the Division's Fund 44 (Connection Fees) to pay for qualifying capital improvement projects

4 Represents existing operating reserves of the Division that may be used for ongoing and future CIP projects

5 After using funds from various sources for the CIP, approximately $50,000 will remain (unused balance) to fund future projects

Rate revenues of the system will be the primary funding source for the capital program. This funding method is often referred to as current revenue financing or "Pay-As-You-Go" (PAYGO) funding because it leverages excess revenues of the system to pay for capital improvements on an annual basis. Excess revenues are those that remain after paying operating expenditures, debt service requirements, and all other costs of the utility (such as General Fund transfers). Revenues currently exceed operating expenses by approximately $1.81 million per year under existing rates.[7] This amount is used annually by the Division to pay for capital projects, and represents the current level of PAYGO funding. Proposed rate increases will be required to increase annual excess revenues of the Division and generate the $18.68 million of operating revenues proposed to fund the capital program.

Annual connection fee revenues have ranged between a low of $140,378 in FY 2011 to a high of $318,434 in FY 2013 over the last six fiscal years. Excluding the peak year, FY 2013, annual connection fee revenues have averaged $204,204 over a historical period that reflects periods of strong economic recession and slowed development activities. This financial plan conservatively assumes that annual connection fee revenues will be $200,000 per year over the forecast period. Furthermore, the financial plan assumes that the Division will use existing Fund 44 reserves in the amount of $250,000 per year to augment the annual amount available for the proposed capital program. In total, connection fee revenues are expected to contribute $0.45 million annually and $2.25 million over the forecast period. As stated earlier in this section, the City's water and wastewater operating fund has accrued an estimated unrestricted fund balance of approximately $27.41 million. These operating

[7] Based on forecasted or budgeted revenues and expenses of the Division for the current fiscal year.

reserves have accumulated over time as the Division has exercised fiscal restraint both in terms of operating expense and capital expenditures. After receiving input from City personnel, this financial plan assumes that approximately $8.25 million of the unrestricted fund balance is available for the Division. Of this amount, the Division expects to draw down $5.32 million of operating reserves to fund the capital program over the forecast period. A $2.90 million reserve balance will remain at the end of FY 2020.

The Division's capital improvement plan is subject to frequent review and modification based on evolving priorities and growth-related expansion of the system. To the extent that actual CIP costs vary from estimated expenditures in a given forecast year, the Division will adjust cash financing amounts of the capital program and/or reschedule previously identified capital projects to ensure the funding plan remains viable.

Forecasted Operating Results

Table 8-4 presents the cash flow forecasts for the Division's operating fund (Fund 61). Financial planning alternatives are developed to ensure compliance with City policy to maintain reserve balances equal to a minimum of three months of operating expense, to achieve minimum targeted debt service coverage where applicable, and to provide opportunities to cash-finance a significant portion of capital projects during the forecast period (thus avoiding interest payments on long-term debt).

Table 8-4
Projected Sources and Uses of Cash, Fund 61[1]

	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Beginning Cash Balance	*$ 8,223.7*	*$ 7,829.0*	*$ 6,638.8*	*$ 5,050.8*	*$ 3,440.0*	*$ 3,114.5*
Water Rate Revenue	$ 7,000.0	$ 7,026.3	$ 7,078.9	$ 7,132.0	$ 7,185.5	$ 7,239.4
Rate Revenue from Increases	-	1,405.3	1,840.5	2,303.6	2,796.2	3,320.1
Other Operating Revenues	25.0	25.2	25.4	25.6	25.8	26.0
Interest Revenues	48.0	47.0	39.8	30.3	20.6	18.7
Transfers from MERF	41.0	42.6	44.3	46.1	48.0	49.9
Total Sources	**$ 7,114.0**	**$ 8,546.3**	**$ 9,029.0**	**$ 9,537.7**	**$ 10,076.1**	**$ 10,654.0**
O&M Expense	$ 3,814.2	$ 3,966.8	$ 4,279.3	$ 4,539.6	$ 4,718.7	$ 4,904.9
General Fund Transfers	1,323.5	1,383.3	1,445.8	1,511.1	1,579.3	1,650.6
MERF Contributions	85.6	88.2	90.8	93.5	96.3	99.2
Capital Outlay	85.4	98.3	101.2	104.2	107.4	110.6
Debt Service	-	-	-	-	-	-
PAYGO Transfers	2,200.0	4,200.0	4,700.0	4,900.0	3,900.0	4,100.0
Total Uses	**$ 7,508.7**	**$ 9,736.5**	**$ 10,617.1**	**$ 11,148.4**	**$ 10,401.7**	**$ 10,865.3**
Ending Cash Balance	*$ 7,829.0*	*$ 6,638.8*	*$ 5,050.8*	*$ 3,440.0*	*$ 3,114.5*	*$ 2,903.2*

1 All numbers in thousands, slight calculation discrepancies may exist due to rounding

Revenues and Other Sources of Funds

The Division receives revenues predominantly from water rates. Less substantial sources of funds include revenues associated with operation of the system, such as late fees or the sale of water meters to new non-residential customers.

Because the majority of system customers are not metered, the Division forecasts rate revenues based on observed historical figures. Trends such as average water use by customer and volume of water billed by consumption increment (kgals) are not available without metered data. Because most customers pay the same monthly rate regardless of water use, total rate revenues do not vary significantly with changes in weather patterns or increases in rates (i.e. there is no price elasticity response).

The most recent 10-year CAGR for the Division's customer base was 1.18%. In the last three years, that same number has been 0.63%. This financial plan assumes that the system will grow at a rate of 0.75% over the forecast period, and the base rate revenue forecast reflects this assumption. To account for the fact that growth typically occurs over the course of a fiscal year, a mid-year forecasting convention is used to reduce the forecasted revenue base in FY 2016. Base rate revenues are therefore projected to grow from $7.00 million in FY 2015 to $7.24 million by FY 2020, an increase of 3.4%.

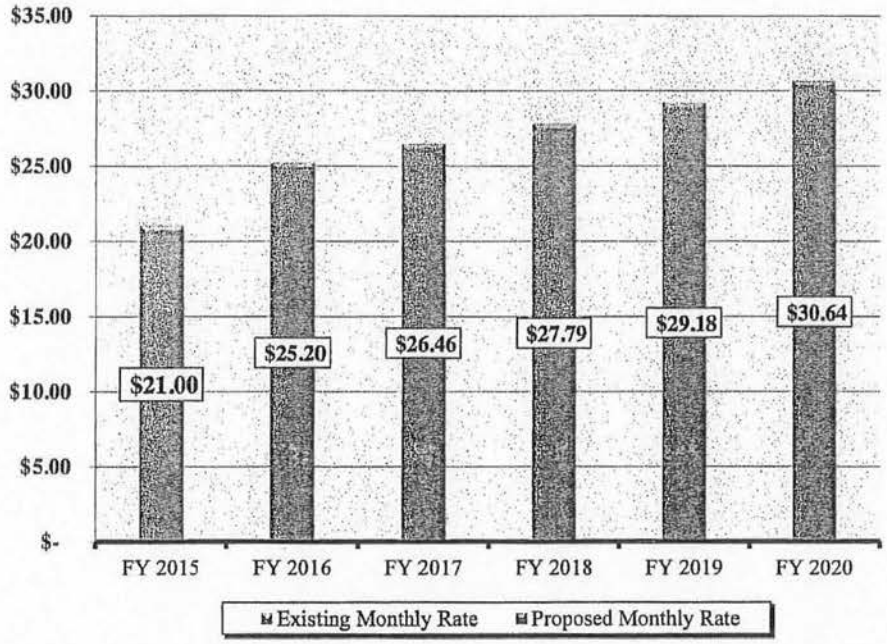
A five-year rate increase program is necessary to generate sufficient revenues to (1) keep pace with increasing operating costs, (2) fund additional operating and maintenance positions in the Division as outlined in Section 5—Operations and Maintenance, and (3) provide for the levels of PAYGO financing specified in the CIP funding plan. The proposed rate plan specifies an increase of 20% at the beginning of FY 2016, then 5% per annum increases for the next four fiscal years (FY 2017 through FY 2020).[8] With the exception of the DEQ water quality program administration fee and connection fee charges, all water rates and charges will be increased. The proposed rate plan balances the use of existing operating reserves with customer rate impacts, while ensuring the Division continues to meet financial performance targets such as minimum fund balance requirements. Figure 8-2 presents the monthly water bill for residential customers of the system from FY 2015 through FY 2020 based on the proposed rate plan.

While the proposed rate plan will result in a 45.9% overall increase in the monthly flat rate paid by residential customers, the financial plan assumes that there will be no corresponding reduction in demand because only a small percentage of the Division's customers can influence the price they pay for water service.[9] The FY 2016 rate increase is therefore expected to result in an additional $1.41 million of water rate revenues in the first year of implementation. In total, the proposed rate plan should provide approximately $11.67 million

[8] The financial plan assumes rate increases will be implemented at the beginning of each fiscal year.
[9] Residential customers are not metered; only 10% of the Division's non-residential customers are metered and can respond to price increases by reducing consumption.

over the five-year forecast period, covering a significant portion of the capital improvement requirements.

Figure 8-2
Proposed Residential Water Rates, FY 2016 – FY 2020



Other operating revenues of the system are comprised of two different categories: sale of water meters and late fees. The sale of water meters represents revenues received from new non-residential customers that are required to have a metered connection. While these customers may purchase a meter from any retailer, the Division offers the convenience of purchasing a meter from them.[10] Customers who do not pay their water bill in a timely manner are assessed a late fee, which is the other source of operating income for the Division. Together, these two revenue items are expected to be $25,000 in the current budget year (FY 2015), a slightly lower total than the most recent 4-year historical average. Other operating revenues are expected to increase over time based on the rate of customer growth within the system assumed for financial projections (0.75%). Over the forecast period, this revenue source will provide approximately $0.15 million.[11]

[10] The Division does not profit from the sale of meters; meters are sold at the Division's cost and an offsetting expense line item is included in the O&M budget forecasts.
[11] The Division also receives a share of Miscellaneous Revenues, considered another component of Other Operating Revenues. However, this revenue source is purposely excluded from the analysis because of its highly unpredictable nature.

Fund 61, the combined water and wastewater operating fund, receives interest earnings each year based on the existing reserve balance within this fund. Interest revenues are assumed to accrue to the water and wastewater systems based on a 40/60 allocation as outlined earlier in this section. Because this revenue category can fluctuate based on market rates and other external economic forces, the base year forecast is established as the average interest earnings of the water system during the last four fiscal years, which equates to $48,000. Interest revenues are projected to vary over time based on the ending balance of the Division's unrestricted operating reserves. Because the CIP funding plan proposes to use a significant portion of the water system's reserves, the forecasted interest revenues decline over the forecast period from $48,000 in FY 2015 to $18,700 in FY 2020. This revenue source is expected to contribute a total of $0.20 million over the planning period.

The Division also receives transfers *from* the City's MERF to offset the cost of purchasing replacement vehicles. Because both the annual contribution to the MERF and the purchase costs of vehicles are included in the operating expense forecast, the flow of funds in Table 8-4 includes MERF transfers as an offsetting source of funds. The forecast of MERF transfers exactly mirrors the forecasted cost of vehicle purchases, and totals $0.27 million through FY 2020.

Largely as a result of the proposed five-year rate plan outlined above, annual water rate revenues are forecast to increase slightly more than 50%, from $7.00 million in FY 2015 to $10.56 million in FY 2020. Total operating revenues (excluding transfers from MERF) are forecasted to increase from $7.07 million to $10.60 million. In FY 2020, the Division's sources of funds will be comprised of rate revenues (99.11%), other operating revenues (0.24%), interest revenues (0.18%), and transfers from MERF (0.47%).

Expenses and Other Uses of Funds

The Division's total budgeted expenses are $5.31 million in FY 2015 and constitute the primary use of funds. Expenditures are grouped into various categories for forecasting purposes, including: O&M Expense, General Fund Transfers, MERF Contributions, and Capital Outlay.

O&M expenses are comprised of personnel costs (such as salaries and wages, overtime, and employee benefits), operational and administrative supplies, repair and maintenance costs, professional services, and office expenses, among others. O&M expense has increased significantly over the last four fiscal years, averaging a CAGR of more than 9.8%. Much of this increase can be attributed to more proactive efforts to enhance preventive maintenance activities, but two specific operational changes are also significant contributing factors to the cost increase. First, expenditures have increased to include the installation of meter pits on service line replacements as required by new state regulations. Second, policy changes requiring specialized backfill when patching street cuts from water line improvements has increased expenditures.

For forecasting purposes, the financial plan assumes that the O&M cost category will increase at 4.0% per year to account for the increasing cost of employee benefits as well as utility costs that often out-pace the inflation rate. The O&M expense forecast also includes incremental personnel costs that recognize additional Division staffing needs identified in Section 5. Fully loaded labor estimates (salary and fringe) for two O&M staff have been added to the forecast in FY 2017 ($153,800), and another $90,700 added to the forecast in FY 2018 to represent the hiring of a third Division employee.[12] As with other O&M expenses, incremental personnel expense is escalated at 4.0% per annum across the forecast period. Total O&M expense is projected to increase 28.6%, from $3.81 million in FY 2015 to $4.90 million in FY 2020.

Transfers to the General Fund are based on the Division's share of direct costs for services from other City Divisions, including Engineering, Billings and Collections, and GIS. Transfers also include indirect cost allocations for the Division's share of Public Works Department administration costs and general City administration expense. This expense category also includes payments in lieu of taxes (PILOT) and the Division's share of costs for projects implemented by other City Divisions. The majority of costs within the General Fund Transfers category are established as an allocated percentage of other City Divisions. As a result, these costs have remained relatively stable over the historical period, growing at an annual compounded rate of 4.5%. The financial plan assumes that these costs will grow over time at that same rate, increasing from $1.32 million in FY 2015 to $1.65 million in FY 2020 (24.7%).

Contributions to the MERF are expected to increase 3.0% per year, from a budgeted estimate for the current fiscal year of $85,600 to $99,200 by FY 2020. As explained earlier in this section, this cost category represents the annual contributions to the MERF for replacement vehicle purchases—the purchases themselves are budgeted within the Capital Outlay cost category.

The Capital Outlay expense category includes equipment purchases, software programs, and vehicle purchases. This category *does not* include major capital improvement expenditures like those outlined in Section 7. Historical cost levels of this category have fluctuated significantly as a result of the variable nature of vehicle purchases. The budget estimate for the current fiscal year is $85,400, and the average cost over the last four fiscal years has been $77,600. To reflect the Division's share of anticipated costs for the City's new billing software, the forecasting basis for this category was increased to $98,300 in FY 2016. Capital Outlay expense is escalated at 3.0% per year over the forecast period.

Total budgeted expenses of the system will increase 27.4% over the forecast period, from $5.31 million in FY 2015 to $6.77 million in FY 2020. The aggressive escalation of some cost categories represents a conservative approach to the forecasted financial performance of the Division. In FY 2020, the composition of forecasted expenses will include O&M

[12] Cost estimates were provided by the Division in current dollars, then converted to nominal dollars based on the timing of new hires and a 4.0% escalation rate for this cost category.

Expense (72.5%), General Fund Transfers (24.4%), MERF Contributions (1.5%), and Capital Outlay (1.6%).

Equity Financing of Capital (PAYGO)

As indicated in Table 8-3, the Division's five-year financing plan assumes that $24.00 million will be drawn from the Division's operating revenues ($18.68 million) and existing operating reserves ($5.32 million) to fund the capital program. The combined equity financing amounts vary based on the capital project requirements and the projected performance of the operating fund (Fund 61), but are expected to range between $2.20 million and $4.90 million over the forecast period as shown in Table 8-4. The specified PAYGO transfers are enabled by the proposed rate plan, which will significantly increase the net operating revenues of the system.[13] As a result of the proposed FY 2016 rate increase of 20%, net operating revenues of the system increase from $1.81 million in FY 2015 to $3.01 million in FY 2016. By the end of the forecast period, net operating revenues reach $3.89 million.

Fund Balances

The City's policy is to maintain at least enough cash reserves to equal approximately three months of budgeted expenditures (approximately $1.33 million) to provide adequate working capital for the Division's operations and to respond to any unforeseen emergencies. Despite a plan to equity finance $24.00 million of CIP over the forecast period, the projected ending cash balance for the Division's operating fund far exceeds the minimum requirement. As previously shown in Table 8-4, the projected ending balance for Fund 61 ranges from $7.83 million in FY 2015 to $2.90 million in FY 2020.

Table 8-5 presents the flow of funds for Fund 44, the fund used to track revenues from water connection fees assessed to new customers. As outlined earlier in this section, these revenues must be used to pay for growth-related infrastructure such as new wells, new water mains, or additional service capacity within the system. The balance of Fund 44 was $1.72 million as of the beginning of FY 2015. Annual connection fee revenues are projected to be $200,000 per year and increase at a rate of 3.0% per year. The proposed capital funding plan calls for annual transfers of $450,000 per year beginning in FY 2016, which will reduce the ending balance of Fund 44 to $0.69 million by FY 2020.

[13] Net operating revenues are defined as the operating revenues of the system minus total operating expenses (including any debt service payments). The annual MERF contribution is included because the offsetting expense is part of forecasted operating expenses. PAYGO is excluded from the calculation, since these transfers represent the use of net operating revenues to pay for the capital program.

Table 8-5
Projected Sources and Uses of Cash, Fund 44[1]

	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Beginning Cash Balance	*$ 1,721.7*	*$ 1,921.7*	*$ 1,673.2*	*$ 1,426.2*	*$ 1,180.7*	*$ 936.8*
Annual Revenues	200.0	201.5	203.0	204.5	206.1	207.6
Transfers for Capital Projects	-	450.0	450.0	450.0	450.0	450.0
Ending Cash Balance	*$ 1,921.7*	*$ 1,673.2*	*$ 1,426.2*	*$ 1,180.7*	*$ 936.8*	*$ 694.4*

1 All numbers in thousands, slight calculation discrepancies may exist due to rounding

Drawing down of both Fund 61 and Fund 44 balances enables financing of the Division's capital program without issuance of long-term debt or implementation of more significant near-term rate increases. Despite the reliance on reserves from these funds to pay for the capital program, fund balances will continue to exceed established performance targets.

Funding Plan for the Extended Forecast Period

The financial analysis presented in this section has focused on a six-year forecast period—the current budget year plus a five-year planning horizon. However, Section 7 identifies a number of capital projects beyond FY 2020, including additional well, booster station and reservoir upgrades, fire-flow improvements, and other pipeline projects. Projects from FY 2021 through FY 2035 (the final year of the extended forecast period) total $60.09 million in current dollars, or just more than $4.0 million per year, on average, over the 15-year period.[14] After applying a 2.5% per annum escalation factor, the nominal dollar total is expected to be $81.28 million.

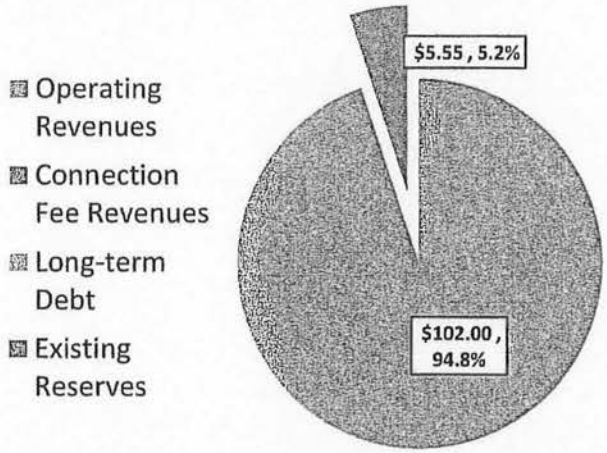
Developing detailed funding plans too far into the future isn't always practical, since changes to operating procedures, system development plans, and other economic factors can significantly affect the prospective capital plan. However, it is still a worthwhile exercise to estimate feasible amounts from potential CIP funding sources and gauge the corresponding rate impacts associated with a long-term funding plan.

Figure 8-3 presents a funding summary based on total CIP requirements of $107.48 million over the extended forecast horizon ($26.20 million from FY 2015 through FY 2020, and $81.28 million from FY 2021 through FY 20135). Under this financing plan, the Division continues to rely heavily on PAYGO transfers to fund the capital program ($102.00 million, 94.8%) and connection fee revenues ($5.55 million, 5.2%). While the Division expects to use existing operating reserves through the early part of the extended forecast period (as outlined

[14] This level of expenditures does not fully fund a 100-year useful life replacement schedule for the City's pipelines, as recommended in Section 7.

earlier), the funding plan anticipates rebuilding the Fund 61 balance over time and eventually restoring it to previous levels.[15]

Figure 8-3
Proposed Funding Plan, FY 2015 – FY 2035



Revenue and expense forecast assumptions for the extended forecast period do not vary from those presented earlier in this section. Customer growth, for financial purposes, is assumed to be 0.75% per year, while operating expenditures continue to grow between 3.0% and 4.5% per year depending on the nature of the expense.

In order to generate sufficient operating revenues for the PAYGO transfer requirements, rate increases beyond the proposed five-year rate plan are necessary. The prospective capital program will require 3.9% rate increases for the subsequent five-year period (FY 2021 through FY 2025) and 3.0% rate increases for the final ten-year period (FY 2026 through FY 2035). The additional rate increases will generate approximately $56.08 million over the extended forecast period[16], and PAYGO transfers will average $5.20 million per year and total $78.00 million between FY 2021 and FY 2035.

Annual transfers from Fund 44 (connection fee revenues) will increase slightly to $220,000, essentially the equivalent of the revenues the Division receives each year from this funding source. The ending balance of Fund 44 in FY 2035 is projected to be $0.70 million, only nominally higher than the balance at the end of the initial planning horizon. Connection fee revenues will provide $3.30 million for the capital funding plan from FY 2021 through FY 2035.

[15] The ending balance of Fund 61 in FY 2035 is projected to be $9.48 million, slightly higher than the $8.22 million beginning fund balance in FY 2015.
[16] This estimate represents incremental revenues expected from rate increases implemented in FY 2021 and beyond and is in addition to the incremental revenues generated from the proposed FY 2016 to FY 2020 rate plan.

Conclusions and Recommendations

This financial analysis has presented forecasts of revenues, expenses, and fund performance between FY 2015 and FY 2020 to indicate the financial feasibility of the Division's proposed capital improvement plan, including incremental operation and maintenance requirements and renewal and rehabilitation needs of select system assets (including annual pipeline replacement).

The historical and forecasted financial performance of the system is summarized as follows:

- In the absence of rate increases, net operating revenues of the system have steadily declined over the last five fiscal years as operating expenses continue to increase.
- The City's existing rates and charges for water service are among the lowest in southeastern Idaho, and low compared to cities of similar size in the greater intermountain region.
- Total system revenues, including transfers from MERF, are forecasted to increase 49.8%, from $7.11 million to $10.65 million between FY 2015 and FY 2020.
- The Division's total operating expenditures—including O&M expense (both baseline and incremental costs), General Fund Transfers, MERF Contributions, and Capital Outlay—will increase 27.4%, from $5.31 million in FY 2015 to $6.77 million in FY 2020.
- The Division's CIP reflects priority needs of the system and, after adjusting for inflation, is expected to require expenditures of $26.20 million between FY 2015 and FY 2020. These capital projects will be funded with current operating revenues ($18.68 million, 71.2%), connection fee revenues ($2.25 million, 8.6%), and system operating reserves ($5.32 million, 20.3%).
- Revenue growth and corresponding PAYGO financing of the capital program is made possible by a proposed five-year rate plan that specifies a 20% increase at the beginning of FY 2016 followed by annual 5% increases from FY 2017 through FY 2020.
- The strong financial position of the Division, evidenced by substantial available reserves in Fund 61 and Fund 44, enables financing of the Division's capital program without reliance on future debt issues or implementation of more significant near-term rate increases.
- The Division is able to fully restore the operating reserves of Fund 61 and fund an additional $81.28 million in capital projects over the extended forecast period (FY 2021 through FY 2035) with implementation of annual rate increases at or slightly above the anticipated rate of inflation.

As the Division prepares to implement the proposed capital improvement plan and corresponding FY 2016 rate increase, the following steps are recommended:

1. As summarized earlier in this section, the capital funding plan will require a combination of current operating revenues (PAYGO transfers), Fund 61 reserves, annual connection fee revenues, and Fund 44 reserves. Currently, the Division must budget projects within separate funds to take advantage of multiple funding sources in a single fiscal year. Also, budgeted capital spending must conclude before the end of the fiscal year or funds automatically revert back to the reserve balance. It is recommended that the Division establish a new Capital Projects fund to consolidate project budgeting and capital expenditures. This action will facilitate the integration and year-to-year rollover of available funds from multiple sources, enable spending over multiple fiscal years for larger, more complex projects, and increase transparency for the Division's capital program.

2. This financial plan assumes that connection fees charged to new customers remain at existing levels over the forecast period. However, the Division should evaluate the existing fee methodology and determine whether an increase to the connection fee is justified given the magnitude of planned capital expenditures outlined in this report. An increase to the water connection fee would necessarily reduce the funding requirements from PAYGO transfers, although the near-term impact may not be significant in light of the ratio of this funding source to total capital project requirements.

3. Following sound financial planning principles, the forecasts of financial performance in this report are presented with as much accuracy as possible but are generally conservative in nature (i.e., forecasted revenues err on the low side of potential results and estimates of future expenses tend to the high side). The financing plan incorporates the best available system information at this time, but the Division should review the plan on a regular basis to determine whether adjustments are necessary. In particular, actual financial performance should be compared to projected financial performance—and corresponding revenue and expense forecasts updated—to evaluate potential changes in the capital funding plan, including adjustments to the proposed five-year rate plan.

MSA
Murray, Smith & Associates, Inc.
Engineers/Planners

SECTION 9

Financial Impact of City-Wide Meter Implementation

SECTION 9
FINANCIAL IMPACTS OF CITY-WIDE METER IMPLEMENTATION

Introduction

As a separate component of the financial analysis of the water system, the City of Idaho Falls (City) requested that the project team evaluate the financial feasibility of City-wide meter installation. This section presents a summary of that analysis, including demand reduction assumptions based on customers' response to volumetric pricing, the potential costs of installing meters across the existing customer base, and potential capital projects within the 20-year forecast horizon that may be deferred as a result of decreased system production requirements. Other implementation assumptions, such as the timing and duration of the meter installation program, are also identified. Finally, the proposed funding plan and potential rate impacts of City-wide meter installation are summarized.

This analysis represents an attempt to estimate the potential financial impacts associated with meter installation throughout the City. The results of the analysis rely heavily on a single input—the estimated cost of program implementation. To the extent that actual program costs differ from those estimated for this analysis, the financial impacts outlined in this section could vary substantially.

The conceptual costs of meter installation represent capital project requirements in addition to those already outlined in Section 7—Capital Improvement Program (CIP). This analysis therefore presents the estimated financial impacts under a scenario in which the Water Division (Division) implements the recommended capital program and installs meters. The information presented in this section should not be interpreted as a recommendation to implement a City-wide metering program. Instead, an estimate of the potential rate impacts associated with such a scenario is offered as a single data point along an array of potential implementation options. Policymakers must ultimately identify feasible options, weigh the advantages and disadvantages of each, and determine the most beneficial course of action for the City.

Demand Impacts of Metering

As discussed in Appendix A, one of the conservation tools that can have the greatest impact on customer demand is the installation of meters and subsequent implementation of a volumetric rate. Conservation education programs are beneficial, but will not yield the type of results associated with established financial incentives. Customers that must pay for the amount of water they use naturally respond to such price signals by decreasing both indoor and outdoor water consumption to reduce their water bill. Implementation of a City-wide metering program would likely result in a significant decrease in water demand throughout the system.

The actual demand reduction impact associated with such a program is difficult to predict, and will vary based on many factors including how quickly the program is implemented and the proposed volumetric rate structure. For example, an inclining block rate structure—which charges higher volumetric rates for higher incremental levels of monthly water use—can result in substantially lower demand. A metering program implemented over a shorter time period will yield results sooner than one that is gradually implemented over time (such as converting neighborhoods or other sections of the City one at a time).

A review of water studies and other relevant literature was conducted to estimate the potential for demand reduction associated with metering. Examples of such studies include scholars or other water professionals that have attempted to quantify the demand impacts of meter implementation, comparisons of water use among metered and unmetered customers within the same geographic region, and analyses of demand data for previously unmetered communities that had converted to meters. The results of the literature review are summarized in Table 9-1.

The literature review acknowledges the wide variations in reduced water demand, with both estimated and actual average day demand (ADD) reduction ranging from 15% to 60%. Fewer studies make reference to peak day demands—an important input for the capital planning process. However, for those that did, reported peak or seasonal demand reduction numbers were estimated between 40% and 50%.

Studies of communities or other customer groups that have installed water meters also indicated that demand impacts occur soon after customers are subjected to any type of rate structure that requires payment per water increment used. The studies also observed that the initial decrease in customer demand was sustained over time, representing a permanent change in customers' water usage habits rather than a one-time reaction to higher water bills.

Based on the results of the literature review and subsequent discussions with the Division, it was decided that the City's metering analysis would assume a 30% reduction in ADD and a 40% reduction in peak day demand.

Table 9-1
Literature Search: Water Demand Impacts of Meter Installation

Author(s)	Title	Conclusion
Howe and Linaweaver	***The Impact of Price on Residential Water Demand and its Relation to System Design and Pricing Structure***	After controlling for income, climate, market value of dwelling, age of dwelling, price, quantity consumed, and marginal commodity charge, the average use per non-metered dwelling was 692 gallons per day and 458 gallons per day for a metered dwelling (reduction of 34%); authors studied various flat rate and metered customers across the country, but climate and other factors were controlled to produce the results;
Hanke	***Demand for Water Under Dynamic Conditions***	Time series data from Boulder, CO between 1956 to 1958; determined that initial demand reduction was 36% for the first year metering was deployed and remained stable thereafter;
Walters and Young	***Economic Factors Affecting Residential Water Demand in Colorado***	Study included Colorado communities presented in AWWA's Annual Utility Reporting Data, 1980; authors also mailed survey to utilties in 6 great basin and desert states; 18 of 66 data points (returned and completed surveys) were from non-metered utilities even though AWWA more utilities were non-metered; average use per non-metered household was 27,176, while metered household was 11,543 gallons-- reduction of 58%;
Alliance for Water Efficiency	***Metering Introduction (part of Resource Library shown on web)***	Unmetered water consumption is reduced 15 to 30% when metering and commodity rates are implemented, as measured recently by utilities (source data not provided);
Acres Consulting Services Ltd	***City of Calgary Water Conservation Study***	Provides range of 25-50% average demand reduction; average metered per capita (liters per day) across major metropolitan providers = 500, same number was 755 for unmetered customers (references several canadian service providers); max day demand is almost half (48% reduction), and max hour is 42% reduction for metered customers;
SPUR (San Francisco Planning and Urban Research)	***Bringing Water Consumption down as the Drought Heats Up (web)***	Communities without water meters use 39% more than the state-wide average;
Walski	***Advanced Water Distribution Modeling and Management***	Approximate 50% reduction (106 to 211 gallons per capita per day for unmetered use), cites a 1979 Metcalf and Eddy study
Bishop and Weber	***Impacts of Metering, A Case Study at Denver Water***	Cites average annual demand reduction of 28 percent, peak seasonal reduction of 38 percent

Conceptual Costs of Meter Installation

A conceptual cost estimate of City-wide meter installation was developed in order to estimate the potential financial impacts of the program. The cost estimate was prepared in accordance with the guidelines of AACE International (formerly the Association for the Advancement of Cost Engineering International) and is based on average costs from City input and information provided by local suppliers.[1]

[1] Appendix G provides additional detail related to the development of the conceptual cost estimate.

The cost estimate is categorized as Class 5 and represents planning-level accuracy and opinions of costs (+50%, -30%). Specifics of design including project scope and specific information (e.g., number and size of service meters) should be verified during a more detailed investigation of project requirements. The final cost will depend on actual labor and material costs, site conditions, competitive market conditions, regulatory requirements, project schedule, and other factors.

Construction Costs

Specific costs were identified based on the assumed service line diameter (and corresponding meter size) of various customer classes. Cost components include construction costs and a contingency factor to account for any unanticipated components of the project. For all meter installations, the construction cost is assumed to include excavation, backfill and related materials, costs related to the disposal of waste material, and surface restoration costs. Costs also include the insulation and construction of the meter pit, the meter itself, automated metering endpoint, and meter testing (among others). The cost estimate does not include costs to replace corroded service lines that will not allow a water-tight connection when the new meter is installed. In some cases, service line replacement will be necessary and construction costs of the program will increase.

Cost Allowances

Additional construction cost allowances, briefly summarized in Table 9-2, were also added to the cost estimates. These allowances include traffic control, erosion control, contractor overhead and profit, mobilization, and contingency.

Table 9-2
Additional Construction Costs

Additional Cost Factor	Percent
Traffic Control	0.1%
Erosion Control	1.0%
Contractor Overhead and Profit	10.0%
Mobilization	10.0%
Contingency	30.0%

Minor traffic control will be required from time to time while installing water meters. The cost and level of traffic control should be evaluated on a case-by-case basis for each meter installation. For planning purposes, the cost of traffic control is estimated at 0.1% for all installation. The traffic control mark-up accounts for the cost of signage, flagging and temporary barriers, pavement markings, lane delineators, and lighting at flagging locations.

While each water meter installation is small in area, the combined excavation area for all locations will be significant. Depending on the way the project is phased, Erosion and

Sediment Control Plans or Stormwater Pollution Prevention Plans may be necessary. For planning purposes, erosion control is estimated at 1% of the construction costs. Erosion control mark-up accounts for materials and practices to protect adjacent property, stormwater systems, and surface water in accordance with regulatory requirements.

Other allowances include a 10% mark-up for the contractor's indirect project costs and anticipated profit; a 10% mobilization mark-up for the cost of the contractor's administrative and direct expenses to mobilize equipment, materials and labor to the work site; and a 30% increase to account for uncertainties inherent in planning-level estimates.

Cost Summary

Based on the methodology described above, fully loaded cost estimates were developed for installation of 1-inch and 2-inch meters. The cost of each meter installation was applied to the number of unmetered customers within each class. The majority of residential customers, located both inside and outside the City, are serviced with a 1-inch line and will require installation of a 1-inch meter. The costs for meter pit development were tracked separately for this service line size, since a small number of residential customers already have a meter pit. The cost for those without meter pits is approximately $3,000, while the cost to install a meter if the customer already has a meter pit is $450.[2]

Most commercial customers, as well as residential apartments, will require a 2-inch meter.[3] The approximate cost for installation is $8,500. Table 9-3 summarizes the cost of meter installation by customer class, including a total conceptual cost estimate of $77.68 million in current dollars.

Table 9-3
Conceptual Cost Estimate for Meter Installation

Water Account	Number of Billed Accounts	Meters to be Installed	Service Size	Unit Cost	Total Construction Cost
Residential House	17,374				
(with meter pit already installed)	575	575	1-inch	$450	$258,750
(without meter pit)	16,799	16,799		$3,000	$50,397,000
Residential Apartments	4,137	1,035	2-inch	$8,500	$8,797,500
Commercial	2,079	2,079	2-inch	$8,500	$17,671,500
Outside City Limits	185	185	1-inch	$3,000	$555,000
Metered Accounts	247	0	2-inch	-	-
Total	**24,022**	**20,673**	-	-	**$77,680,000**

[2] This analysis assumes that the City would increase hook-up fees to recover the cost of meter installation directly from new customers that request water service, so the conceptual cost estimate only includes costs to convert existing customers.

[3] Based on feedback from the City, the analysis assumes that a 2-inch master meter will serve 4 apartment units.

Program Implementation Assumptions

To estimate the timing and magnitude of demand reduction over the forecast period and corresponding adjustments to the capital plan, various assumptions must be made regarding the start date and duration of program implementation. After discussions with Division staff, it was determined that the analysis should reflect a 10-year program implementation period beginning in fiscal year (FY) 2016.[4] Installing meters for customers of various types throughout the City will be a complex and time-consuming process. Under the assumed timeline, the City will spend $7.77 million per year for the program (in current dollars). After applying a 2.5% annual escalation factor, the meter program is expected to cost $87.03 million. A more aggressive implementation timeline was not considered feasible, given the scale of other high-priority capital expenditures.

The analysis also assumes that customers will be converted to a uniform volumetric rate one year after meters are installed at their home or place of business. A uniform volumetric rate structure means that customers pay the same rate for each thousand gallons (kgals) of water used. Under this scenario, the Division would anticipate developing a communication program that would educate customers about water use and deliver a "hypothetical water bill" that reflects the cost of service under the volumetric rate structure during the first year metered data is available. This process would allow customers to view the bill for metered service and anticipate the financial impacts before they begin paying the volumetric rate at the beginning of the second year.

Together, these assumptions dictate the pace and schedule of anticipated system demand reductions. Because of the one-year lag period for volumetric rate billing, it is assumed that the first demand reductions will be realized in FY 2017 (the second year of program implementation) as the first 10% of customers begin paying based on metered water use. In each corresponding year of implementation, system demand will be reduced as more customers are converted to meters. The resulting ADD and peak demand reduction schedule is summarized in Table 9-4.

Table 9-4
Estimated Demand Reduction

	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
Program Implementation	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	
Customers Converted	10%	20%	30%	40%	50%	60%	70%	80%	90%	100%	
ADD Reduction		-3%	-6%	-9%	-12%	-15%	-18%	-21%	-24%	-27%	-30%
Peak Demand Reduction		-4%	-8%	-12%	-16%	-20%	-24%	-28%	-32%	-36%	-40%

[4] While the City will likely need more time to prepare for program execution (including implementation of new billing software selected in May 2015 to enable volumetric water pricing), this assumption facilitates an estimate of near-term financial impacts associated with metering (whenever it may begin).

Not only would existing customers receive a meter, but all new customers connecting to the system would be required to install a meter as well. By the end of FY 2020, ADD is expected to decrease by 12%, while peak demand will decrease 16%. Total demand reductions will be realized at the end of FY 2026, the eleventh year of the 20-year forecast horizon, when ADD is reduced by 30% and peak demand is reduced 40%. Under these assumptions, ADD increases from 26.7 mgd in FY 2015 to 29.1 mgd by FY 2035. Peak day and hour demand would actually be less in 20 years than current peak demands, as discussed in Section 3—Population and Demand Projections.

Capital Planning Adjustments

Due to the time required to transition all customer accounts to meters and realize reductions in system demand, capital projects between FY 2016 and FY 2020 to meet demand and other system requirements are still required. Moreover, projects that will improve the condition at existing facilities and pipeline projects needed to serve new areas of the system, convey supply throughout the system, and address fire flow are still needed through the 20-year horizon as described in Section 7. However, as the reduction in demand declines more significantly between FY 2021 and FY 2026, various projects designed to increase the capacity of the system—including new supply and pumping facilities—can be deferred.

Based on the reduced demand projections of a City-wide meter installation scenario, the existing 20-year instantaneous water rights, storage, and system pumping requirements described in Section 4—Distribution and Supply Analysis, would be sufficient over the 20-year timeframe. As a result, five facilities projects recommended as part of the capital program could be deferred beyond FY 2035. These projects include the construction of three new well facilities and associated reservoirs, booster stations, and requisite piping (Projects F-13, F-14, and F-18), as well as two projects that increase booster pumping capacity at already constructed facilities (Projects F-15 and F-17). Deferring these facility projects beyond the 20-year horizon reduces the cost of capital improvements for the FY 2021 to FY 2035 planning period by $15.80 million in current dollars ($21.37 million in nominal dollars).

The capital program outlined in Section 7 also specifies expenditures of $250,000 per year towards incremental water meter installation that would not be needed if a full-scale metering program was funded. Removal of this capital project results in current dollar savings of $5.00 million over the 20-year period ($6.39 million in nominal dollar savings).

Total capital expenditures either deferred beyond the 20-year forecast period or eliminated altogether is $20.80 million in current dollars ($27.76 million in nominal dollars).

Proposed Funding Plan and Rate Impacts of Metering

The financial impacts of the metering program have been estimated using a financial planning model designed to represent utility cash flows under alternative assumptions related

to revenue generation, operations and maintenance expenses, and financing structures for capital investment. Assumptions related to revenue and operating expense forecasts do not vary from those presented in Section 8—Financial Plan, with the exception of the rate increases required to fund the additional capital requirements associated with meter installation.

The net impact of a City-wide metering program on projected capital expenditures is an increase of $59.27 million over the 20-year forecast period (a program cost of $87.03 million and project deferrals of $27.76 million).[5] Over the initial planning horizon, the metering program causes net capital project expenditures to increase to $65.72 million. Table 9-5 identifies the annual CIP and matching sources of funds for this time period—FY 2015 through FY 2020.

Table 9-5
Capital Program Sources and Uses of Funds with Metering[1]

	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	TOTAL	Percent
Projected Capital Expenditures	**$ 2.12**	**$ 12.23**	**$ 12.79**	**$ 13.24**	**$ 12.52**	**$ 12.81**	**$ 65.72**	**100.0%**
Operating Revenues[2]	1.81	-	-	-	9.00	11.85	22.65	34.5%
Connection Fee Revenues[3]	-	0.45	0.45	0.45	0.45	0.45	2.25	3.4%
Long-term Debt[4]	-	40.00	-	-	-	-	40.00	60.8%
Existing Reserves[5]	0.39	-	-	-	-	0.45	0.85	1.3%
Used (Unused) Balance[6]	(0.08)	(28.22)	12.34	12.79	3.07	0.06	(0.03)	
Total Funds	**$ 2.12**	**$ 12.23**	**$ 12.79**	**$ 13.24**	**$ 12.52**	**$ 12.81**	**$ 65.72**	**100.0%**

1 All numbers in millions, slight calculation discrepancies may exist due to rounding
2 Includes increased rate revenues associated with proposed rate adjustments
3 Represents transfers from the Division's Fund 44 (Connection Fees) to pay for qualifying capital improvement projects
4 Anticipated issuance of low-interest, State Revolving Fund (SRF) loan to support the meter installation program
5 Represents existing operating reserves of the Division that may be used for ongoing and future CIP projects
6 After using funds from various sources for the CIP, approximately $30,000 will remain (unused balance) to fund future projects

Projected capital expenditures will be funded through four sources: rate revenues (34.5%), connection fee revenues (3.4%), long-term debt (60.8%), and existing reserves (1.3%). The addition of debt as a majority funding source is one of the primary differences compared to the financing plan without meter installation presented in Section 8. The addition of debt also allows the Division to minimize the use of existing reserves, which constitute less than $1.00 million of the combined funding total under this scenario.

Long-Term Debt

Without some form of borrowing, the City would not be able to finance the meter program *and* the capital improvement requirements identified in Section 7. This analysis assumes that the Division will have access to low-interest State Revolving Fund (SRF) loans to support

[5] All figures quoted in nominal dollars.

funding of the meter program. The terms of this financing instrument are assumed to be similar to the loan recently secured for the City's wastewater system: a 20 year term, 0.75% interest, and a 1.00% annual administrative fee.[6] Costs of issuance equal to 0.50% of proceeds, as well as a funded reserve equal to one year's payment, are added to establish the par amount of the loan.[7]

Debt issuances of $40.00 million in FY 2016 and $25.0 million in FY 2021 are required to provide adequate funding amounts for the capital program. Based on the financing assumptions outlined earlier, the corresponding par amounts of each loan are $42.59 million and $26.62 million, respectively. It is assumed that proceeds would be received at the beginning of each specified fiscal year, and that annual debt service payments would begin the year in which proceeds are received. The annual debt service payment is projected to be $2.54 million on the first debt issuance and $1.59 million on the second debt issuance.

Forecasted Operating Results

In order to demonstrate the full financial impact of the meter installation program, Table 9-6 presents the cash flow forecasts for the Division's operating fund (Fund 61) for a ten-year planning increment (through FY 2025). The financial plan was developed to ensure compliance with the City's financial policies and provide for funding of the CIP—including the conceptual costs of metering.

Annual rate increases of 20% are required from FY 2016 to FY 2020 in order to support the debt service payments associated with the Division's anticipated SRF loans and fund the capital program. These rate increases will provide $28.20 million in additional operating revenues through FY 2020, and $55.10 million from FY 2021 through FY 2025. The equivalent water bill for a residential customer will increase from $21.00 to $52.26 by FY 2020, an increase of 148.9%.[8,9] The proposed FY 2020 residential bill under this plan is similar to the projected $49.98 residential water bill in FY 2035 under the financing scenario outlined in Section 8. Under a metering scenario, however, customers would be subject to the higher bill 15 years earlier, thereby generating a significant amount of additional rate revenues much earlier in the forecast period. *Because of this, rate increases beyond FY 2020 are not necessary under the metering scenario.*

[6] Under the terms of the existing wastewater loan, the administrative fee is combined with the interest rate to create an effective 1.75% total annual cost of borrowing.
[7] The par amount is the total amount of the loan, and includes not only proceeds from the loan, but also issuance costs and the funded reserve.
[8] While the combined nominal increase is 100% over the five-year period, the compounding effects of a multi-year rate increase schedule result in the higher overall increase.
[9] The metering analysis described in this section assumes a revised rate structure (including a monthly base charge and volumetric rate) will be implemented as customers receive metered water service. Although monthly consumption data is not available, this analysis assumes that the new rates will be revenue-neutral; that is, structured to result in a similar monthly bill for the Division's customers and provide for existing levels of revenue recovery.

The revised rate plan provides for adequate revenues to support the debt service on both debt issuances and fund the remainder of capital project requirements after the meter installation program is complete (FY 2026 through FY 2035). In fact, the ending operating fund balance in the final year of the extended forecast period is projected to be $20.81 million, more than twice the current available reserve balance. If predicted financial performance is realized under this scenario, the Division may want to consider a reduction in rates after implementation of the metering program is complete.

With the exception of additional rate revenues from the revised five-year rate plan, all other revenue and expense forecasts summarized in Table 9-6 are the same as those presented in Section 8 of this report. Debt service payments begin in FY 2016 when the first SRF loan is secured, and increase again in FY 2021 when the second SRF loan is issued. PAYGO transfers, totaling $59.70 million between FY 2015 and FY 2025, are generally needed as proceeds from each loan issuance are depleted over the forecast period. The ending fund balance of Fund 61 is projected to be $5.32 million at the end of FY 2025, well above minimum balance targets established by the City.

In FY 2025, total sources of funds available to the system are projected to be $18.86 million, with water rate revenues accounting for more than 99.1 percent of this total. Total revenue requirements of $12.38 million are expected to be comprised of O&M expense (48.1%), General Fund Transfers (16.6%), other costs (1.9%), and annual debt service (33.4%). Annual net operating revenues of the system—excluding PAYGO transfers—are projected to be $6.47 million.

Table 9-6
Projected Sources and Uses of Cash, Fund 61, FY 2015-FY 2025[1]

	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
Beginning Cash Balance	*$ 8,223.7*	*$ 7,829.0*	*$ 8,296.7*	*$ 10,150.7*	*$ 13,816.9*	*$ 10,829.7*	*$ 7,377.1*	*$ 14,478.0*	*$ 21,474.3*	*$ 17,554.8*	*$ 11,743.1*
Water Rate Revenue	$ 7,000.0	$ 7,026.3	$ 7,078.9	$ 7,132.0	$ 7,185.5	$ 7,239.4	$ 7,293.7	$ 7,348.4	$ 7,403.5	$ 7,459.1	$ 7,515.0
Rate Revenue from Increases	-	1,405.3	3,114.7	5,192.1	7,714.4	10,774.6	10,855.4	10,936.8	11,018.8	11,101.5	11,184.7
Other Operating Revenues	25.0	25.2	25.4	25.6	25.8	26.0	26.1	26.3	26.5	26.7	26.9
Interest Revenues	48.0	47.0	49.8	60.9	82.9	65.0	44.3	86.9	128.8	105.3	70.5
Transfers from MERF	41.0	42.6	44.3	46.1	48.0	49.9	51.9	54.0	56.1	58.4	60.7
Total Sources	**$ 7,114.0**	**$ 8,546.3**	**$ 10,313.2**	**$ 12,456.8**	**$ 15,056.5**	**$ 18,154.8**	**$ 18,271.4**	**$ 18,452.4**	**$ 18,633.9**	**$ 18,750.9**	**$ 18,857.8**
O&M Expense	$ 3,814.2	$ 3,966.8	$ 4,279.3	$ 4,539.6	$ 4,718.7	$ 4,904.9	$ 5,098.4	$ 5,299.6	$ 5,508.8	$ 5,726.3	$ 5,952.4
General Fund Transfers	1,323.5	1,383.3	1,445.8	1,511.1	1,579.3	1,650.6	1,725.1	1,802.9	1,884.3	1,969.3	2,058.1
MERF Contributions	85.6	88.2	90.8	93.5	96.3	99.2	102.2	105.3	108.4	111.7	115.0
Capital Outlay	85.4	98.3	101.2	104.2	107.4	110.6	113.9	117.3	120.9	124.5	128.2
Debt Service	-	2,542.1	2,542.1	2,542.1	2,542.1	2,542.1	4,130.9	4,130.9	4,130.9	4,130.9	4,130.9
PAYGO Transfers	2,200.0	-	-	-	9,000.0	12,300.0	-	-	10,800.0	12,500.0	12,900.0
Total Uses	**$ 7,508.7**	**$ 8,078.6**	**$ 8,459.2**	**$ 8,790.5**	**$ 18,043.8**	**$ 21,607.4**	**$ 11,170.5**	**$ 11,456.1**	**$ 22,553.3**	**$ 24,562.7**	**$ 25,284.7**
Ending Cash Balance	*$ 7,829.0*	*$ 8,296.7*	*$ 10,150.7*	*$ 13,816.9*	*$ 10,829.7*	*$ 7,377.1*	*$ 14,478.0*	*$ 21,474.3*	*$ 17,554.8*	*$ 11,743.1*	*$ 5,316.2*

1 All numbers in thousands, slight calculation discrepancies may exist due to rounding

Projected Debt Service Coverage

In municipal credit markets, the affordability of long-term borrowing is established by calculating a financial performance ratio known as debt service coverage (DSC). Debt service coverage compares the annual net operating revenues of the system (after meeting all operating expenses) to the combined annual debt service payments of all outstanding debt—including payments associated with prospective offerings. DSC is most often expressed as the ratio of annual net operating revenues to total annual debt service payments. In general, net operating revenues should exceed debt service payments by 20% to 30% for senior lien debt such as revenue bonds (an equivalent DSC greater than 1.20 or 1.30) and by 10% for subordinate debt (an equivalent DSC of 1.10 or greater).[10]

Repayment of the Division's proposed SRF loans is considered subordinate debt, and therefore subject to the lower 1.10x coverage requirements. To establish the affordability of the Division's proposed long-term borrowing outlined in this analysis, Table 9-7 presents forecasted net operating revenues, expenses, debt service, and debt service coverage from FY 2015 through FY 2025. As indicated in Section 8, revenues were forecasted on a conservative basis and expenses were estimated based on historical spending patterns, adjusted for anticipated inflation and incremental O&M costs associated with new Division staff.

Adjustments are made to both operating revenues and operating expenses to exclude items that should not be considered in the calculation of subordinate debt service coverage. Transfers from MERF do not represent current operating revenues of the system, and are therefore excluded from the calculation. Payments in lieu of taxes (PILOT) and other minor interfund transfers are also typically excluded from the DSC, and are removed from forecasted operating expenses.

Annual net operating revenues available to pay debt service vary between $2.11 million in FY 2015 and $11.77 million in FY 2020, the final year of the revised five-year rate package. In FY 2025, net operating revenues are expected to be $11.08 million, a compounded annual growth rate of 18.0% over the forecast period.

As shown in Table 9-7, forecasted subordinate debt service coverage is estimated to range from 1.30x in FY 2016 to 2.68x in FY 2025. As one would expect, the DSC ratio is lowest during the first year of the proposed rate plan, then peaks in FY 2020 as the proposed rate plan is fully implemented and before the second SRF loan is issued. However, even at the lowest forecasted levels, DSC remains above the 1.10x test required for issuance of subordinate debt. Based on the financial forecasts developed in this plan, forecasted coverage indicates that the proposed SRF loans necessary to fund the meter installation program would be financially feasible.

[10] The subordinate coverage calculation includes payment of senior lien obligations as part of total cost obligations.

Table 9-7
Projected Subordinate Debt Service Coverage, FY 2015-FY 2025[1]

	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
Total Revenues & Transfers	$ 7,114.0	$ 8,546.3	$ 10,313.2	$ 12,456.8	$ 15,056.5	$ 18,154.8	$ 18,271.4	$ 18,452.4	$ 18,633.9	$ 18,750.9	$ 18,857.8
- Transfers from MERF[2]	(41.0)	(42.6)	(44.3)	(46.1)	(48.0)	(49.9)	(51.9)	(54.0)	(56.1)	(58.4)	(60.7)
Total Operating Revenues	$ 7,073.0	$ 8,503.7	$ 10,268.8	$ 12,410.6	$ 15,008.6	$ 18,104.9	$ 18,219.5	$ 18,398.4	$ 18,577.7	$ 18,692.6	$ 18,797.1
Operating Expenses	5,308.7	5,536.5	5,917.1	6,248.4	6,501.7	6,765.3	7,039.6	7,325.2	7,622.4	7,931.7	8,253.7
- Payment in Lieu of Taxes (PILOT)[3]	(350.0)	(365.8)	(382.2)	(399.4)	(417.4)	(436.2)	(455.8)	(476.3)	(497.7)	(520.1)	(543.5)
- Other Asset Transfers[4]	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0
Total Operating Expense	$ 4,963.7	$ 5,175.7	$ 5,539.9	$ 5,854.0	$ 6,089.3	$ 6,334.1	$ 6,588.8	$ 6,853.9	$ 7,129.6	$ 7,416.6	$ 7,715.2
Net Revenue Available for Debt Service	**$ 2,109.3**	**$ 3,327.9**	**$ 4,729.0**	**$ 6,556.6**	**$ 8,919.3**	**$11,770.8**	**$11,630.7**	**$11,544.6**	**$11,448.1**	**$11,276.0**	**$11,081.9**
Existing Subordinate Debt Service[4]	-	-	-	-	-	-	-	-	-	-	-
New Subordinate Debt Service[5]	-	2,542.1	2,542.1	2,542.1	2,542.1	2,542.1	4,130.9	4,130.9	4,130.9	4,130.9	4,130.9
Total Subordinate Debt Service	**$ -**	**$ 2,542.1**	**$ 2,542.1**	**$ 2,542.1**	**$ 2,542.1**	**$ 2,542.1**	**$ 4,130.9**	**$ 4,130.9**	**$ 4,130.9**	**$ 4,130.9**	**$ 4,130.9**
Projected Subordinate Coverage Ratio[6]	**NA**	**1.30**	**1.86**	**2.57**	**3.50**	**4.63**	**2.81**	**2.79**	**2.77**	**2.72**	**2.68**

1 Numbers in thousands, slight calculation discrepancies may exist due to rounding

2 Revenue transfers from MERF are not considered operating revenues for the purpose of calculating debt coverage

3 PILOT expense is typically excluded from the debt coverage calculation

4 Other Asset Transfers, which represent a small, positive offset to the Division's operating expense via Interfund Transfers, are not included in the coverage calculation

5 Forecasted debt service payments associated with anticipated FY 2016 and FY 2021 SRF loans

6 Debt service coverage metrics rounded to the second significant digit

Conclusions

The net cost impact of a meter installation program is estimated to be $59.27 million over a 20-year forecast period (FY 2015 through FY 2035). This estimate accounts for the conceptual costs of extending metered water service to the Division's existing customers and estimated project deferrals (cost savings) associated with reduced water demand. With the addition of metering, total capital requirements will exceed $166 million over the forecast period and require the support of some form of long-term borrowing.

Other key aspects of the metering analysis are summarized as follows:

- The estimated financial impacts of City-wide meter installation rely heavily on one key assumption: the conceptual cost estimate of the metering program. To the extent that actual program costs differ from those estimated for this analysis, the financial impacts outlined in this section could vary substantially.
- Many of the capital projects identified in Section 7—such as facility upgrades and pipeline improvements—are still necessary regardless of expected reductions in overall system demand.
- The financial plan assumes that the Division will be able to secure some form of long-term debt, at favorable terms, to finance the implementation of the meter program.
- After adjusting for inflation, capital improvement expenditures of $65.72 million will be required between FY 2015 and FY 2020 under a metering scenario. The CIP will be funded with current operating revenues ($22.65 million, 34.5%), connection fee revenues ($2.25 million, 3.4%), long-term debt ($40.00 million, 60.8%), and system operating reserves ($0.85 million, 1.3%).
- An ambitious rate plan is required to support debt service payments and meet PAYGO transfer obligations outlined in the financing plan. Annual rate increases of 20.0% are anticipated for a five-year period, from FY 2016 through FY 2020.
- Under the forecasting assumptions outlined in this report, net operating revenues of the system appear adequate to support long-term borrowing: a $40.00 million issuance in FY 2016 and a $25.00 million issuance in FY 2021. Subordinate debt service coverage is expected to range from 1.30x to 4.63x over the meter implementation timeframe.
- Beyond the initial five-year rate package, no other rate increases are necessary to fund the capital improvement requirements of the system and restore operating reserves (the FY 2035 ending balance is projected to be $20.81 million).
- Although financing the meter installation program must, by necessity, rely heavily on debt as a primary funding source, the Division's capital financing plan provides for achievement of subordinate debt service coverage and fund balances in excess of established performance targets.
- This section offers an estimate of the potential financial impacts associated with a meter installation scenario. The information presented in this section should not be

interpreted as a recommendation to implement a City-wide metering program. Policymakers must ultimately identify feasible metering options, weigh the advantages and disadvantages of each, and determine the most beneficial course of action for the City.

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Engineers/Planners

SECTION 10
Alternative Rates

SECTION 10
ALTERNATIVE RATES

Introduction

As part of this study, the City of Idaho Falls (City) requested that the project team (1) evaluate the advantages and disadvantages of the Water Division's (Division's) existing rate structure, and (2) recommend improvements to the rate structure while acknowledging the current limitations of available billing determinants (e.g. no metered water use data). Unlike Section 8—Financial Plan, which presents an analysis of the necessary rate impacts to fund the Capital Improvement Program (CIP)[1], this section presents a review of the Division's existing rate *structure*. The rate structure is the manner in which various base charges, volumetric rates, and flat rates are combined to represent the total cost of water service for various customers. Often times, the rate structure for each customer class (residential, apartments, commercial, industrial, etc) will vary based on the different cost-causing service characteristics that each of those classes place on the system.

This section also summarizes the number and type of accounts serviced by the system, identifies several feasible rate structure alternatives based on the quality and availability of billing data, and describes the process that was used to select the recommended rate structure alternative for each customer class. Additional data development activities are explained, and the rate design process (the act of setting the fees and charges for the chosen rate structure alternatives) is described in detail. Finally, the recommended rates are presented by customer class.

Existing Rate Structure

Because the majority of City customers receive unmetered water service, the existing rate structure is comprised mainly of fixed charges for both indoor and outdoor water use. Single family residential customers currently pay $21.00 per month for indoor water service, an annual $17.46 irrigation charge (for outdoor use), and a $3.00 per year charge associated with the state's water quality program administered by the Department of Environmental Quality (DEQ). These charges are considered flat rates, since none vary based on the amount of actual water used by the customer. When factoring in the annual charges, the effective monthly flat rate for a single family residential customer is approximately $22.71.

Non-residential customers that are not metered pay a flat monthly rate for indoor use based on the type of business located at the property. Rates for restaurants, schools, laundromats, and various other customer types are identified within the City's rate schedule. Some of these, such as office buildings, pay a flat rate per 1,000 square feet of area. Others, such as hotels, pay a flat rate per room. Non-residential customers not specifically listed within the rate schedule pay the same rate as single family residential customers, $21.00 per month. The

[1] Rate impacts specify an across-the-board increase for all rates and fees, but assume the rate structure remains the same.

annual rate for outdoor use for unmetered non-residential customers is $97.59 per acre of lawn or cultivated area.[2] Non-residential customers also pay the annual $3.00 DEQ water quality program administration fee.

The City also provides service to a small number of residential and non-residential customers located outside the City limits. With the exception of the annual DEQ water quality program administration fee, these customers are charged twice the rates of similar customers located within the City. The effective rate for outside-City residential customers is therefore approximately $45.16.

Approximately 10% of the City's non-residential customers receive bills based on metered water use.[3] These customers pay a $21.00 monthly base charge and $0.55 for each thousand gallons of water used, after a 12,000 gallon minimum allowance. The determination of the monthly bill is subject to a minimum bill based on the size of the metered connection, with 1-inch (and smaller) customers paying at least $21.00 per month and 2-inch customers—the most common meter size of metered customers—paying $41.79 per month. As recommended in the American Water Works Association's (AWWA) M1 Manual of Practice: *Principles of Water Rates, Fees, and Charges*, the minimum bills for larger meter sizes are scaled up to recover fixed, capacity-related costs for those customers who have, based on meter size, reserved a higher allocation of capacity within the system.

Based on the existing rate structure and the number and type of customers currently served by the Division (described later in this section), the Division will bill approximately $6.45 million for indoor water use (91.7%) and just $0.58 million for outdoor use (8.3%) in FY 2015. In contrast, the Division estimates—based on seasonal production data—that more than 60% of water is used for outdoor irrigation. This information is summarized in Table 10-1, and appears to suggest that seasonal irrigation charges are too low relative to the flat rates currently assessed for indoor use.

Table 10-1
Indoor versus Outdoor Billings and Production

Revenue Classification	Estimated FY15 Billing ($M)	Percent	Production (MG)	Percent
Indoor Revenues[1]	$6.448	91.7%	2,673	39.6%
Outdoor Revenues	$0.584	8.3%	4,082	60.4%
Total	**$7.031**	**100.0%**	**6,755**	**100.0%**

1 Includes revenues from DEQ water quality program administration fee

[2] Unmetered non-residential customers with less than 1/20th of an acre of cultivated area are not required to pay for outdoor water use.
[3] While some customers are metered for indoor and outdoor use, the majority of these existing customers receive a metered water bill for indoor consumption only.

Data Challenges

The current software used for billing water service is somewhat limited in the type of summary information it can provide. Customer accounts are not identified by customer class (e.g. residential, apartment, commercial, etc), although they can be categorized as residential and commercial through demand codes attributed to their Electric Department accounts. This makes it difficult to fully understand the existing composition of Water Division customers. Rates are also not associated with customers via billing codes, but are hard-coded within the software framework. Moreover, various non-residential customers receive rates based on different billing determinants (square footage, number of hotel rooms, etc) that are also not specifically tracked within the current software.[4] Taken together, these factors make it tough to determine the basis for the current rates assigned to each customer. The City selected a new utility billing software in May 2015 and is currently in the process of establishing a billing structure that will address these challenges.

From an administrative standpoint, the one-time nature of some of the Division's current charges also offers challenges. Division staff have cited the confusion that the DEQ water quality program administration fee can create among its customers, who do not understand the rationale for the fee. In addition, the annual billing of the seasonal irrigation charge can disrupt the monthly billing pattern and may represent a significant unexpected expenditure for some customers.

Since the Division doesn't assign customer classes within the software, rates are updated by applying an across-the-board increase to all customers. Also, because rate codes are not associated with each customer, it is difficult to understand how the Division might implement rate increases or changes to the rate structure for a particular class. In summary, the administrative burden of any proposed changes within the current system is quite high, and extracting and summarizing billing data by customer class required extensive data testing and manipulation.

Rate Structure Alternatives

Based on the known limitations of customer billing data, several rate structure alternatives were developed for the following four customer categories: Residential Indoor; Residential Outdoor; Non-Residential Indoor, and Non-Residential Outdoor. In the absence of metered water service (for most customers), chosen rate structure alternatives were, by necessity, congruous with available data. After discussions with Division staff, rate structure alternatives selected for evaluation for each major rate category included the following:

[4] For example, a non-residential customer may receive an indoor rate based on 4,000 square feet of building space and an outdoor rate based on 1.5 landscaped acres when they first receive water service, but this information is not tracked within the billing system to enable application of a different rate or fee structure in the future.

Residential Indoor

1. A uniform monthly flat rate would be applied to all residential categories, including single family residences (SFR), duplexes, triplexes, and apartment units.

2. A uniform monthly flat rate would be applied to all residential categories except apartments, which would be charged 75-80% of the residential flat rate (including landlord apartments).

3. A monthly flat rate would be charged per residential dwelling based on the number of plumbing fixtures in the residence.

Residential Outdoor

1. A uniform monthly irrigation rate for all residential customers, regardless of dwelling type or size.

2. A monthly irrigation rate based on 2 or 3 general lot size categories (small, medium, large); landscaped area will not be considered, only the size of the lot.

3. A monthly irrigation rate for each residential category (SFR, duplex, triplex, and apartment unit) based on a statistical sampling of measured landscape area for each category.

4. Individual irrigation rates per customer based on specific lot size combined with a statistical analysis to determine the ratio of landscaped area to lot size for a sample of residential customers of each residential category.

Non-Residential Indoor

1. Implement a uniform billing rate for all non-residential customers (either by account or by square footage).

2. A flat monthly rate based on broad customer designations (would rely on analysis of City's metered non-residential customers that can generally be grouped into low/average/high use categories).

3. Develop 3 to 6 customer classes (for most obvious classes such as Hotel/Motel, Restaurant/Food, Office/Retail, "High Use", etc) and determine the average use based on the City's metered data information; continue to charge customers based on different billing determinants (some square feet, others per unit or per room, etc).

4. Develop 8 to 10 general rate categories and assign non-residential customers to each category based on average water use data from similar metered customers. Notably,

customers in each rate would receive a flat monthly rate and non-residential customers would no longer receive rates based on different billing determinants.

5. Specify many different non-residential customer categories, and rely on national usage data (augmented by available City data) to set rates.

Non-Residential Outdoor

1. A uniform monthly outdoor rate per non-residential customer (under the logic that all non-residential customers would contribute to a 'green' City). Non-residential customers without landscaped area could request an exemption.

2. Develop three or four general categories based on the size of landscaped area (such as large landscaped area, medium landscaped area, small landscaped, and exemption).

3. Implement varied rates based on sampling of landscaped area for the chosen non-residential indoor rate categories.

4. A varied rate based on application of stormwater coefficients to average lot size of chosen non-residential indoor categories.

5. Individual monthly rates for every non-residential customer based on the landscaped square footage (City would charge a uniform rate per increment of landscaped area, but would need to develop the corresponding data set for all non-residential customers).

Additional data development would be required for many of these rate structure alternatives; others could be implemented with information already known to the Division. All acknowledge the reality of the current billing platform and are rate methodologies that do not require metered water data for individual customers. Each of the rate structure alternatives also offer tradeoffs between conflicting rate design objectives: some alternatives are more equitable than others, but not politically acceptable; some are more easily implemented and maintained than others, but not defensible; still others may be more readily accepted by the public, but more administratively burdensome. The next step of the evaluation process was to develop a decision framework to weigh the pros and cons of each potential solution.

Rate Structure Selection

A multi-attribute utility analysis (MUA) framework was created in order to weigh the qualitative benefit and cost tradeoffs associated with each of the rate structure alternatives. The first phase in such a process is the identification of various policy objectives (criteria) that will help determine the characteristics and attributes of a favorable rate structure alternative. The project team worked closely with the Division to establish the criteria against which each of the alternatives would be evaluated. The results of this exercise are summarized in Table 10-2.

The criteria should encompass all of the factors or objectives that the Division would consider when comparing rate structure alternatives. The list demonstrates that many factors are important, including customer, administrator, and policymaker perspectives.

Table 10-2
Policy Objectives and Weighting Factors

Policy Objective	Weight
Equitable - Rate structure reflects average cost of providing service to different groups based on area, function, customer class, and service characteristics-- to the extent data allows	14.7%
Understandable - Rates and fees are transparent and easy for general public to understand and calculate based on information provided	16.6%
Implementable - Rates can be implemented without significant resources to develop or assign characteristics (such as square footage or number of plumbing fixtures, for example) to each customer account	9.8%
Administrative Ease - Rate or fee structure can be updated and maintained for each customer with little effort	13.8%
Affordable - Rates are affordable to community, or if not affordable to a segment of the community, a program is in place to provide relief or assistance	11.5%
Defensible - Rate development process reflects attempt to identify water usage differences among various customer categories with limited data available	11.8%
Public Acceptance - Recommended alternative is perceived as fair and generally equitable by diverse customer groups	10.9%
Political Support - Rate development process and recommended alternative represents a solution that will be supported by Mayor and Council	11.0%

Table 10-2 also includes the corresponding weighting factors that each criterion receives within the evaluation process. Weighting factors recognize the fact that some criteria or objectives may be more significant than others, and establish the relative importance of the objectives. Administrators and staff within the Division, as well as other various City divisions (such as Billing & Collections), were asked to allocate 100 shares of weight to each of the policy objectives.[5] This process forces the person conducting the evaluation to take shares of weight from one or more objectives in order to give more weight (or importance) to other objectives. The average weighting factors that resulted from this exercise are shown in

[5] By definition, the weighting factors must sum to 100 across all policy objectives.

Table 10-2.[6] The policy objective that received the highest factor is "Understandable", which may reflect feedback the Division has received related to the existing rate structure. For the most part, each of the policy objectives received a significant share of the possible allocation, indicating that each criterion is moderately to strongly considered when choosing an appropriate rate structure alternative.

Scoring each rate structure alternative against the policy objectives is the next phase of the decision process. Similar to the process used to develop the weighting factors, Division and other City personnel were asked to score each alternative on a scale of 1 to 10 against the objectives shown in Table 10-2. A higher score (trending towards 10) indicates that the rate structure alternative is very consistent with the corresponding policy objective, while a lower score (trending towards 1) suggests that the rate structure alternative is not consistent with the objective. For example, a rate structure alternative that requires a significant amount of time and resources to update and maintain would score low against the "Administrative Ease" criterion.

A process was used to summarize the raw scores from City personnel for each policy objective, then the weighting factors were applied to develop a weighted score by policy objective for each of the rate structures evaluated. The weighted scores were then summed across the policy objectives to establish a total weighted score for each rate structure alternative. Appendix K presents the raw scores, the weighted scores by policy objective, and the total weighted score for each rate structure alternative for the four major rate categories: Residential Indoor; Residential Outdoor; Non-Residential Indoor, and Non-Residential Outdoor.

Based on the MUA process described above, Table 10-3 presents the recommended rate structure alternatives (i.e. those that received the highest weighted score among peer alternatives in the same major rate category).[7] After consulting with the Division, the project team decided to further develop each of the recommended rate structure alternatives, making only a slight change to the recommended alternative for indoor use of non-residential customers. Instead of creating 8-10 general rate categories for non-residential customers, the Division decided that five general rate categories would provide for sufficient data resolution and be easier to manage in the future.

Data Development

Several of the recommended rate structure alternatives include billing determinants that were not previously known or tracked by the Division. For example, the recommended outdoor rate alternative for non-residential customers dictates that each customer be charged based on the measured landscaped area of the property (as measured in increments of 100 square feet). This alternative assumes that the amount of outdoor water use will be strongly correlated

[6] Weight shares for a single policy objective were limited to no more than 25 percent.
[7] It is noteworthy that the recommended indoor and outdoor rate alternatives within the same customer category (residential and non-residential) are compatible with one another.

with the amount of landscaped area the customer is trying to water. Rate equity is improved as smaller billing units (square feet rather than number of acres) are used to assess outdoor water demand, but Division resources must be devoted to data development.

Moreover, the recommended outdoor rate structure for residential customers relies on a statistical sampling of average landscaped areas for each of the different customer types in this category: SFR, apartments, duplexes, and triplexes. The Division was instrumental in gathering or developing this information and other new data to support the rate design process. GIS maps and other property records were analyzed to establish the individual landscaped square footage for non-residential customers, residential customers were sampled to understand the relative differences between landscaped areas, and water use data for metered customers was arrayed in a manner that allowed the project team to evaluate consumption patterns for different types of customers (hotels, restaurants, car washes, etc).

Table 10-3
Recommended Rate Structure Alternatives by Major Category

Rate Category	Recommended Alternative
Residential Indoor	A uniform monthly flat rate would be applied to all residential categories except apartments, which would be charged 75-80% of the residential flat rate (including landlord apartments)
Residential Outdoor	A monthly irrigation rate for each residential category (SFR, duplex, triplex, apartment unit) based on a statistical sampling of measured landscape area for each category
Non-Residential Indoor	Develop 8 to 10 general rate categories and assign non-residential customers to each category based on average water use data from similar metered customers. Notably, customers in each rate would receive a flat monthly rate and non-residential customers would no longer receive rates based on different billing determinants
Non-Residential Outdoor	Individual monthly rates for every non-residential customer based on the landscaped square footage (City would charge a uniform rate per increment of landscaped area, but would need to develop the corresponding data set for all non-residential customers)

Significant work was also done to estimate—with as much accuracy as possible—the number and type of customers served by the system. Since customer class information is not tracked in the existing software, billing data outputs from the City's Electric Department were analyzed to estimate the number of residential and non-residential customers. Table 10-4 presents the results of the analysis, along with a summary of average landscaped area for sampled residential customers and total measured landscaped area for metered and unmetered non-residential customers.

There are roughly 17,374 single family residential customers and 4,137 apartment units served within the City. There are approximately 185 customers located outside the City

boundaries, and most of these are also single family residences. In total, the Division provides water service to nearly 21,700 residential customers.[8] Statistical sampling and GIS records were used to measure the average landscaped area of single family residences, duplexes and triplexes, and apartment units.[9] The average landscaped area for a SFR is 6,440 square feet. In comparison, the average landscaped area for duplexes, triplexes, and apartments—which accounts for the number of units that share a common landscaped area—is 43%, 47%, and 23% of the SFR landscaped area, respectively.

Table 10-4
Number of Accounts and Estimated Landscaped Area by Customer Type

Customer Class	Customer Type	Number of Units	Landscape Area per Unit (sq ft)[1]	Total Landscape Area (sq ft)[2]	Percent by Class	Percent by Type
Residential	SFR	17,374	6,440	111,886,103	83.4%	78.2%
	Duplex[3]	-	2,796	-		0.0%
	Triplex[3]	-	3,003	-		0.0%
	Apartment Units	4,137	1,485	6,143,939		4.3%
	Outside City	185	6,440	1,191,374		0.8%
Non-Residential	Unmetered	2,079	8,310	17,277,500	16.6%	12.1%
	Metered	247	24,487	6,538,135		4.6%
Total				**143,037,050**	**100.0%**	**100.0%**

1 For residential customers, this represents the average of the sampled data for each customer type; for non-residential customers, this is the average landscaped area per customer unit based on the total measured landscaped area.

2 For residential customers, this represents an estimated total landscaped area based on the average per unit measurement from the sample and the total number of customer units.

3 The number of duplex and triplex units could not be determined from the billing data that was provided.

Of the more than 2,300 non-residential customers, approximately 247 receive metered service and the remaining 90% (2,079 customers) are unmetered accounts. After measuring individual lots of non-residential customers, the Division established a total estimated landscaped area of 23.8 million square feet for these customers. The average landscaped area for metered and unmetered non-residential customers is calculated by dividing the total measured area by the number of customers in each group. The average landscaped area for an unmetered non-residential customer is just more than 8,300 square feet, while the average area for a metered customer is just under 25,000 square feet. Clearly, the Division has chosen to meter the non-residential customers most likely to use large amounts of water for outdoor irrigation—at least as far as landscaped area is predictive of outdoor water use.

[8] The number of duplexes and triplexes could not be readily identified in the billing information, although the Division's sampling process did provide an estimate of landscaped area per unit for these customers.
[9] While a smaller number of duplexes and triplexes were sampled, almost 100 SFR customers and 25 apartment complexes were sampled.

Water use assumptions were used to confirm the total estimated landscaped area of system customers. Under an assumed application rate of 2 inches of water per week during the irrigation season,[10] estimated water use per 100 square feet of landscaped area over the course of a year is 2,743 gallons.[11] Multiplying that figure by the estimated number of 100 square feet of landscaped areas (1,430,371, as shown in Table 10-4) results in an estimated outdoor demand of 3,923 million gallons. This estimate compares very favorably to the Division's 4,082 million gallon water production estimate for outdoor demand (presented in Table 10-1), especially when water loss is considered.

After cross-checking the estimated number of accounts and landscaped area against other data sources, the Division concluded that the summary presented in Table 10-4 represented the best available information and instructed the project team to proceed with rate design using those billing determinants.

Rate Design Process

The rate design process involves assigning fees and charges to the new rate structure in order to achieve desired levels of revenue recovery. For example, the recommended rate *structure* for non-residential customers' outdoor water use is a charge based on the measured landscaped area of each customer. The previous section described how the billing determinants were developed, but the rate design process determines *how much* this customer group will pay per increment of landscaped area.

A rate design model was constructed to summarize billing determinants and provide for an iterative analysis of potential fee levels for the recommended rate structures. The purpose of the model is two-fold: first, it should be used to "calibrate" observed revenue levels with existing rates; and second, it should facilitate rate design by predicting rate revenues under various fee scenarios.

Model Calibration

The current rates and fee schedule was applied to the Division's existing billing determinants (mainly, number of accounts for unmetered customers; estimated water consumption and meter sizes for metered non-residential customers) to predict revenues using the rate design model. Indirectly, this calibration test also helps establish the veracity of the estimated billing determinants. The test resulted in estimated revenues of $7.16 million, a 2.2% increase over budgeted FY 2015 rate revenues of $7.00 million.

The fact that predicted revenues, under existing rates, are higher than actual revenues is not surprising. In most cases, the revenue calibration test will yield similar results because of various adjustments that occur to billed revenues. Such adjustments (negative amounts) may

[10] A commonly-used water demand assumption for Division planning based on climate and landscape type.
[11] Assumes an irrigation season of 22 weeks; source of conversion factors is USGS Water Science School, https://water.usgs.gov/edu/earthrain.html

occur as a result of after-meter billing adjustments, bill credits for overpayment, or other similar adjustments which are typical of the billing function of all water service providers.

It is also possible that the Division's billing data includes not only monthly bills, but also bill adjustments for a small number of customers. Although these adjusted bills have the potential to double-count some customers (or otherwise misrepresent the total number of customers that receive a water bill from the City), the very purpose of the revenue calibration test is to establish the ratio of predicted revenues to actual revenues. The difference in these two amounts—in this case, 2.2%—represents billing adjustments as well as other revenue or accounting adjustments made by the Division for bad debt (collections), increased receivables, or other factors.

The predicted to actual revenues ratio is a critical input in the rate design process. In most cases, it is assumed that the same billing and financial adjustments will continue in proportion to observed historical values after the new rates are implemented. The rate design process therefore uses a similar target ratio to ensure adequate revenue recovery. For example, if the ratio related to the revenue calibration test was 15%, then the rate design process might target a revenue level that is also 15% higher than total cost requirements.

In this case, the target ratio for the rate design process was set at 5.0%—higher than the observed historical ratio of 2.2%. A higher ratio provides for a greater margin of error when developing new rates and is appropriate given the uncertainties associated with the Division's existing billing determinants.

Recommended Changes to Rate Methodology

In addition to rate structure changes evaluated as part of this study, the Division has an opportunity to make additional modifications to current billing methodologies that may improve rate transparency and reduce customer confusion. The following revisions are recommended:

- Incorporate one-time charges like the seasonal irrigation charge and DEQ water quality program administration fee into the monthly flat rate for all unmetered customers (residential and non-residential), thus ensuring customers receive the same monthly rate year-round.
- Increase the proportion of revenues that are attributed to outdoor water use by decreasing the monthly flat rate and increasing the seasonal irrigation charge. Since it is proposed that the seasonal irrigation charge be annualized and integrated with the monthly flat rate, this won't change the cost of water service but may better prepare customers for migration to a metered water bill (if the City decides to pursue that option). At a minimum, it better communicates the relative cost of outdoor water use.
- Simplify the rate structure for metered, non-residential customers by replacing the minimum bill concept with a monthly customer charge based on meter size,

eliminating the volume allowance, and establishing a volumetric rate that would be applied to all water use.

- Improve equity through the rate design process by setting fees for outdoor use that are internally consistent among unmetered and metered non-residential customers. Using a purely hypothetical example to illustrate: if the volumetric rate is set at $3.00 per thousand gallons for metered customer, and the assumed water use for every 100 square feet of landscaped area is 2,743 gallons per year, then the outdoor rate per 100 square feet should be established at $8.23 per year (2,743/1,000 * 3.00).

Recommended Rates

Table 10-5 provides a summary of recommended rates, predicted revenues under the new rate structure, actual revenues under the existing rate structure, and the percentage revenue distribution by customer type under each scenario. Each rate is explained in greater detail following the table.

Table 10-5
Recommended Rates and Revenue Distribution by Customer Type

Customer Class	Customer Segment	Billed Units	Proposed Rate	Proposed Revenues[1]	Percent by Type	Existing Revenues	Percent by Type
Residential	Single Family Residence	17,374	$ 23.50	$ 4,899,468	66.7%	$ 4,709,275	67.0%
	Apartment Units	4,137	$ 14.68	$ 728,774	9.9%	$ 819,465	11.7%
Non-Residential	Unmetered, indoor	2,079	varies	$ 1,043,256	14.2%	$ 1,050,722	14.9%
	Unmetered, outdoor	172,775	$ 1.23	$ 212,513	2.9%	$ 41,200	0.6%
	Metered, base charge	247	varies	$ 171,898	2.3%	$ 122,800	1.7%
	Metered, volume charge	422,028	$ 0.45	$ 189,913	2.6%	$ 184,143	2.6%
Outside City	All customers	185	$ 47.00	$ 104,340	1.4%	$ 103,793	1.5%
Subtotal, all customers				**$ 7,350,161**	**100.0%**	**$ 7,031,396**	**100.0%**

1 Recommended alternative rates presented in this table are revenue-neutral; that is, they are expected to provide the same level of rate revenues received by the Division under existing rates after accounting for the predicted-to-actual calibration ratio described in this section.

Based on the recommendations outlined in this report, single family residential customers will pay a single flat rate each month of $23.50. This monthly rate is comprised of an indoor component ($16.00) and the monthly share ($7.50) of a seasonal irrigation charge ($90.00 per year). Based on total SFR units of 17,374, this customer type is expected to produce $4.90 million under the new rate design. The new monthly rate represents a 3.5% increase over the previous effective monthly rate of $22.71, which includes the annualized seasonal irrigation charge and DEQ water quality program administration fee.

All apartment units (including landlord units) will be billed a flat monthly rate of $14.68. This rate includes a $12.80 indoor component (80% of the SFR indoor rate) and a $1.88

outdoor component. The outdoor component is calculated as 25% of the SFR outdoor rate (or 0.25 * $7.50), since the sampling analysis presented in Table 10-4 indicates that the average landscaped area of an apartment unit is approximately 25% of the average landscaped area of SFR customers. The new rate represents a 16.1% decrease of the existing, annualized rate of $17.49 charged to apartment units. The Division provides water service to 4,137 apartment units, and revenues under the new rate design are expected to be $0.73 million per year.

The indoor rate for unmetered non-residential customers will vary based on the number and type of customers that fall into the five new rate categories. The recommended number of rate categories for this alternative was reduced from eight to five because the level of detail within the billing information did not support that level of granularity among unmetered rate categories. Based on an analysis of water usage patterns for various non-residential categories, Table 10-6 presents the assumed number of customers in each category and the corresponding rate. Rates were loosely established based on the relative difference of assumed average indoor water use for each rate category. Revenues from this rate component are expected to generate $1.04 million per year.

Table 10-6
Unmetered Customers Indoor Rates by Non-Residential Rate Category

Rate Category	Number of Customers	Rate	Proposed Revenues
Category 1	903	$ 16.00	$ 173,376
Category 2	962	$ 50.00	$ 577,200
Category 3	25	$ 75.00	$ 22,500
Category 4	166	$ 110.00	$ 219,120
Category 5	23	$ 185.00	$ 51,060
TOTAL	**2,079**		**$ 1,043,256**

The outdoor rate for unmetered non-residential customers will be assessed per 100 square feet of landscaped area.[12] The Division has measured this area for each customer, and this information is summarized in Table 10-4. This rate is set at $1.23 and will be assessed on an annual basis. However, it is anticipated that this rate will be annualized across a 12-month period to ensure non-residential customers pay a single flat rate each month. Revenues from this rate component are expected to total $0.21 million per year.

As described earlier in this section, it is recommended that the Division simplify the rate structure for metered non-residential customers. The proposed revisions are outlined in Table 10-7, and include a monthly customer charge based on meter size, elimination of the volume allowance and minimum bill, and a revised volumetric rate. Monthly customer charges for a

[12] Square footage will be rounded up to the nearest 100 square feet.

1-inch meter (and smaller) are set equal to the indoor rate for SFR customers of the system ($16.00). Charges for larger meter sizes are based on the American Water Works Association's (AWWA) hydraulic meter ratios, adjusted to reflect the 1-inch meter as the basis for all other ratios. The Division's 247 metered customers are expected to generate $0.17 million per year from monthly customer charges.

The volumetric rate for metered water use will be $0.45 per thousand gallons. This rate will be applied to all metered consumption, since the minimum volume allowance will be eliminated. This rate is consistent with the charge for outdoor use for unmetered non-residential customers. The assumed water use for 100 square feet of landscaped area is 2,743 gallons, or 2.743 kgals, as outlined earlier in this section. Since an unmetered customer pays $1.23 for this same amount of water (via the charge per 100 square feet of landscaped area), the effective rate for the unmetered customer is $0.45 per kgal ($1.23 / 2.743 kgals).

Table 10-7
Monthly Customer Charges by Meter Size for Metered Customers

Meter Size	Number of Customers	Scaling Factor[1]	Rate	Proposed Revenues
5/8"	4	1.00	$ 16.00	$ 768
3/4"	9	1.00	$ 16.00	$ 1,728
1"	34	1.00	$ 16.00	$ 6,528
1-1/4"	1	1.50	$ 24.00	$ 288
1-1/2"	37	2.00	$ 32.00	$ 14,208
2"	124	3.20	$ 51.20	$ 76,186
3"	15	6.40	$ 102.40	$ 18,432
4"	18	10.00	$ 160.00	$ 34,560
6"	5	20.00	$ 320.00	$ 19,200
TOTAL	**247**			**$ 171,898**

1 Revised scaling factors based on AWWA's hydraulic meter ratios, revised to reflect a 1-inch meter as the basis for the ratio of larger sizes.

An analysis of metered billing data indicates that billed consumption with the minimum allowance is approximately 334,806 kgals, and is expected to increase to 422,028 kgals if the minimum allowance is removed from the rate structure. The expected revenues from the volumetric rate are therefore $0.19 million.[13]

Consistent with the existing approach, outside-City customers will pay twice as much as customers of the same type located within the City. Since most of these customers are

[13] The analysis of this rate component assumes that all metered customers have metered outdoor use. In reality, those that do not receive metered outdoor service will be billed the rate based on measured landscape area and the predicted revenues from this customer type will increase.

assumed to be single family residences, Table 10-5 presents the new rate for outside-City customers as $47.00 per month (2 x $23.50). The 185 customers in this category are therefore expected to provide approximately $0.10 million per year.

The target revenue level for the rate design process is $7,350,000, equal to the budgeted revenue levels for the current fiscal year multiplied by the 5.0% target ratio discussed earlier in this section. Based on the revised rate structure and recommended fees and charges, predicted revenues are expected to just meet this target at $7,350,161 as shown in Table 10-5.

The recommended alternative rates presented in this section are *revenue-neutral*; that is, they are expected to provide the same level of rate revenues received by the Division under existing rates. Recommended rates would need to be increased based on the same five-year rate plan outlined in Section 8 in order to fund the CIP.

Revenue Distribution

The new rate design does not significantly alter the revenue contributions made by many of the Division's customers. As shown in Table 10-5, single family residential and metered customers contribute approximately the same percentage of revenues. Apartment units, however, will have a lower monthly rate and therefore contribute a lower percentage to total revenues. Unmetered non-residential customers, on the other hand, will pay significantly more for outdoor water use under the new rates.

The other major change under the new rate design is the proportion of indoor to outdoor revenue contributions, as illustrated in Table 10-8. The recommended revisions begin a process of shifting cost responsibilities to outdoor rates, moving from just 8.3% of total revenues under existing rates to 28.5% of total revenues under new rates. While still not consistent with estimated production for outdoor use (currently more than 60% of total water production based on Division estimates), the cost recovery associated with outdoor water use is moving in the right direction.

Table 10-8
Indoor and Outdoor Rate Revenues under New and Existing Rates

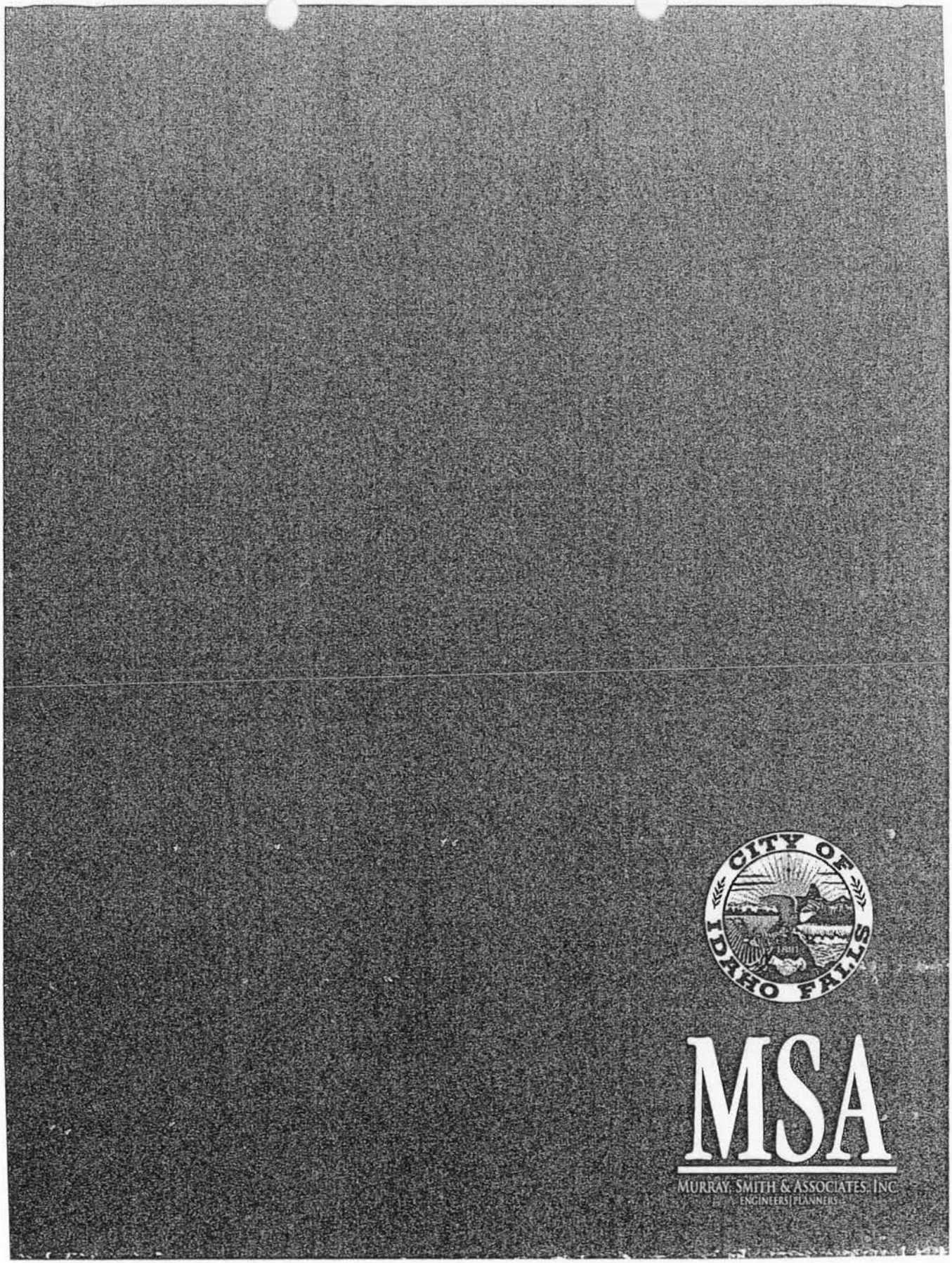
	Proposed Revenues	Percent	Existing Revenues	Percent
Indoor Revenues	$ 5,257,622	71.5%	$ 6,447,534	91.7%
Outdoor Revenues	$ 2,092,539	28.5%	$ 583,863	8.3%
Total	**$ 7,350,161**	**100.0%**	**$ 7,031,396**	**100.0%**

Conclusions and Recommendations

This section presents a review of the City's existing water rate structure and makes recommendations to address various challenges and achieve targeted revenue levels. Results of a MUA decision process were used to select preferred rate alternatives, and a rate design model was constructed to analyze iterative rate and fee scenarios across different types of customers. With implementation of these recommendations, rate equity among customer classes will be improved and the Division's administrative burden will be reduced.

While the rate design is expected to achieve full revenue recovery, the Division should consider the following before implementing revisions:

- The rate design process was based on the best available data at this time. Considerable resources were spent, including significant efforts by the Division, to develop or identify critical billing inputs. However, prior to implementation, the Division should carefully review the assumptions of this analysis with the benefit of improved customer data provided by the City's new billing platform. After the first year billing under the new rates, the Division should compare actual billed revenues to predicted revenues to determine if any adjustments to the rate structure are necessary.
- The bill impacts for non-residential customers, both metered and unmetered, should be investigated to determine whether adjustments to the revised rate schedule are warranted. A limited number of customer types (and even individual customers) were analyzed, but a more thorough study of the potential financial impacts would benefit the Division.


CITY OF IDAHO FALLS
MSA
MURRAY, SMITH & ASSOCIATES, INC.
ENGINEERS | PLANNERS

WATER DEPARTMENT SERVICE/REPAIR ORDER

Job Code #: 8203A1B Work Order #: 150227

Name: _____ By: MHUDMAN

Address: SKYLINE DR-BRENTWOOD DR Phone: _____

Task Description: MAIN BREAK

Date Reported: 12/28/2015 Time Reported: 17:00 On Site Time: 23:00

Date Requested: Appointment Time: Permit Date:

Date Completed: 12/29/2015 Time Completed: 06:30 Permit Time: _____

After Hours Call: X

Complete: X Incomplete: _____ Cuts: Street

Work and Safety Explanation: Repaired 6" Broken Main.
4' deep

Main Valves Operated: X (yes) __ (no) Returned To Service: X (yes) __ (no)

Work Performed By

Brian Jared
Scott Sloan
Paul

Materials

1-6"x12" CI FL Clamp.
2-Water Valve Box Lids.

EXHIBIT
tabbies
C

Exhibit No. 2
Date: 10-20-17
Richards
T&T REPORTING

DEFENDANT 000698

wor570 City of Idaho Falls 1/04/2016 8:16:35
Water Department ESTIMATED Project Cost

Service Order #: 150227 Desc: MAIN BREAK
Address: SKYLINE DR - BRENTWOOD DR

Item Number	Description	Est Qty	Unit Cost	Total Cost
10 136	CLAMPS: REP 6" X 12" FC / C.I.	1	109.2150	109.2150
96 020	VALVES: BOXES LID	2	8.4233	16.8466
	Total Estimated Cost			126.0616

WAR504 Inventory Transaction EDIT Page 1
9:28:29 1/04/16

S/O#	Tran Date	U Cost	Tran Qty	T Cost / A Cost
WA 10 136 CLAMPS:REP 6"X 12" FC / C.I.				
# Avl: 8	Tot $: $873.7200	Avg $: $109.2150	# Cmtd: 0	
150227 INV USED	12/29/2015	.0000	1	109.2150
				109.2150
# Avl: 7	Tot $: $764.5050	Avg $: $109.2150	# Cmtd: 0	
WA 96 020 VALVES:BOXES LID				
# Avl: 216	Tot $: $1,819.4334	Avg $: $8.4233	# Cmtd: 0	
150227 INV USED	12/29/2015	.0000	2	16.8466
				8.4233
# Avl: 214	Tot $: $1,802.5868	Avg $: $8.4233	# Cmtd: 0	

		Total Qty	Total Dollars
Total Valid Records:	2		
	Add Recs:	0	.0000
	Sub Recs:	3	126.0616

Total Records with Errors: 0

DEFENDANT 000700

WAR504 Inventory Transaction POST Page 1
9:28:29 1/04/16

S/O#	Tran Date	U Cost	Tran Qty	T Cost / A Cost
WA 10 136 CLAMPS:REP 6"X 12" FC / C.I.				
# Avl: 8	Tot $: $873.7200	Avg $:	$109.2150	# Cmtd: 0
150227 INV USED	12/29/2015	.0000	1	109.2150
				109.2150
# Avl: 7	Tot $: $764.5050	Avg $:	$109.2150	# Cmtd: 0
WA 96 020 VALVES:BOXES LID				
# Avl: 216	Tot $: $1,819.4334	Avg $:	$8.4233	# Cmtd: 0
150227 INV USED	12/29/2015	.0000	2	16.8466
				8.4233
# Avl: 214	Tot $: $1,802.5868	Avg $:	$8.4233	# Cmtd: 0

		Total Qty	Total Dollars
Total Valid Records:	2		
	Add Recs:	0	.0000
	Sub Recs:	3	126.0616

Total Records with Errors: 0

DEFENDANT 000701

WAR102 **Water Department Service/Repair Order**

Work Order # **150213**
Job Code No. **8207H**

Name _____ Address **547 S SKYLINE DR #6**
Task Description: **WATER OFF FOR REPAIRS, PLEASE ALSO MARK**

Phone # **2085893395**

Date Reported	**12/28/2015**	Time Reported	**15:00**	On Site Time	**15:45**
Date Requested		Appointment Time		Permit Date	
Date Completed	**12/28/2015**	Time Completed	**16:02**	Permit Time	
Task Complete	**X**	Task Incomplete		After Hours Call	
Project Complete	**X**	Project Incomplete		Applicable Qty	

Work Explanation: **WATER OFF**

Safety Explanation:

F3=Exit F4=Ut Address F7=Code Search F8=Address Search F9=Print

WAR101 **Repair/Service Order Continued** 12:56:03
Work Order: **150213** 3/08/17

	Work Performed By:	Hours:	Rate:
X	**ROBBIE**	**0.5**	
X	**JDE**	**0.5**	
X	**ROB**	**0.5**	
X	**PAUL**	**0.5**	

	Valve Control Location	Position Start	Position End	U/S	Misc

F3 = Prior Screen F12 = New S/O to Update F9 = Print

DEFENDANT 000702

WAR102 **Water Department Service/Repair Order**

Work Order # **150227**
Job Code No. **8203A1B**

Name _____ Address **SKYLINE DR-BRENTWOOD DR**
Task Description: **MAIN BREAK**

Phone # _____

Date Reported	12/28/2015	Time Reported	17:00	On Site Time	23:00
Date Requested		Appointment Time		Permit Date	
Date Completed	12/29/2015	Time Completed	6:30	Permit Time	
Task Complete	X	Task Incomplete		After Hours Call	X
Project Complete	X	Project Incomplete		Applicable Qty	

Work Explanation: **REPAIRED 6" BROKEN MAIN 4' DEEP**

Safety Explanation: _____

F3=Exit F4=Ut Address F7=Code Search F8=Address Search F9=Print

WAR101 **Repair/Service Order Continued** 15:37:04
Work Order: **150227** 3/06/17

Work Performed By:	Hours:	Rate:
BRIAN	7.5	
SCOTTY	7.5	
PAUL	7.5	
JARED	7.5	
SLOAN	7.5	

Valve Control Location	Position Start	Position End	U/S	Misc

F3 = Prior Screen F12 = New S/O to Update F9 = Print

DEFENDANT 000703

WAR102 **Water Department Service/Repair Order**

Work Order # **150230**
Job Code No. **8207H**

Name _____ Address **547 S SKYLINE DR #5**
Task Description: **WATER ON, MANAGER SAYS HE IS ON-SITE**

Phone # **2085893395**

Date Reported	**12/30/2015**	Time Reported	**14:00**	On Site Time	**14:30**
Date Requested		Appointment Time		Permit Date	
Date Completed	**12/30/2015**	Time Completed	**14:40**	Permit Time	
Task Complete	**X**	Task Incomplete	-	After Hours Call	-
Project Complete	**X**	Project Incomplete	-	Applicable Qty	

Work Explanation: **WATER ON**

Safety Explanation:

F3=Exit F4=Ut Address F7=Code Search F8=Address Search F9=Print

WAR101 **Repair/Service Order Continued** 12:54:41
Work Order: **150230** 3/08/17

	Work Performed By:	Hours:	Rate:
X	**ROBBIE**	**0.5**	
-			
-			
-			
-			
-			

	Valve Control Location	Position Start	Position End	U/S	Misc
-		-	-	-	
-		-	-	-	
-		-	-	-	
-		-	-	-	

F3 = Prior Screen F12 = New S/O to Update F9 = Print

DEFENDANT 000704

WAR102 **Water Department Service/Repair Order**

Work Order # **149920**
Job Code No. **8204B1**

Name _____ Address **547 S SKYLINE DR #5**
Task Description: **RAISE CURB BOX**

Phone # _____

Date Reported	**12/28/2015**	Time Reported	**8:00**	On Site Time	**10:30**
Date Requested		Appointment Time		Permit Date	
Date Completed	**1/13/2016**	Time Completed	**12:00**	Permit Time	
Task Complete	**X**	Task Incomplete		After Hours Call	
Project Complete	**X**	Project Incomplete		Applicable Qty	

Work Explanation: **RAISED CURB BOX TO GRADE FILLED IN HOLE WITH CRUSH NEEDS CONCRETE REPLACED**

Safety Explanation:

F3=Exit F4=Ut Address F7=Code Search F8=Address Search F9=Print

WAR101 **Repair/Service Order Continued** 12:54:11
Work Order: **149920** 3/08/17

	Work Performed By:	Hours:	Rate:
X	**JARED**	**3.5**	
X	**ERNIE**	**3.5**	
X	**SLOAN**	**3.5**	
X	**BRAD**	**3.5**	

	Valve Control Location	Position Start	Position End	U/S	Misc

F3 = Prior Screen F12 = New S/O to Update F9 = Print

DEFENDANT 000705

In The Matter Of:

LAMONT BAIR ENTERPRISES, INC. vs.
CITY OF IDAHO FALLS

RICK ACKERMAN
October 11, 2017

T&T Reporting, LLC
477 Shoup Avenue, Suite 105
Idaho Falls, Idaho 83402

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE

* * * * *

LAMONT BAIR ENTERPRISES, INC., an Idaho corporation,

Plaintiff,

vs.

CASE NO.: CV-2016-5711

CITY OF IDAHO FALLS, a municipal corporation,

Defendant.

DEPOSITION OF RICK ACKERMAN

Wednesday, October 11, 2017; 1:00 o'clock p.m.

BE IT REMEMBERED that the deposition of RICK ACKERMAN was taken by the attorney for the defendant at the office of Beard St. Clair Gaffney, 2105 Coronado Street, Idaho Falls, Idaho, before DiAnn Erdman Prock, Court Reporter and Notary Public, in and for the State of Idaho, in the above-entitled matter.

A P P E A R A N C E S

For the Plaintiff:
BEARD ST. CLAIR GAFFNEY
BY: JARED W. ALLEN
2105 Coronado Street
Idaho Falls, Idaho 83404
(208) 523-5171
E-mail: allen@beardstclair.com

For the Defendant:
HALL ANGELL & ASSOCIATES, LLP
BY: SAM L. ANGELL
1075 S. Utah
Suite 150
Idaho Falls, Idaho 83402
(208) 522-3003
E-mail: sla@hasattorneys.com

Also Present:
CHERI LEE

I N D E X
E X A M I N A T I O N

I N D E X
E X H I B I T S

(The deposition proceeded at 1:00 p.m. as follows:)
(Deposition Exhibits 1 through 3 were marked for identification.)

WHEREUPON,
RICK ACKERMAN, having been first duly sworn to tell the truth, the whole truth and nothing but the truth, testified as follows:

* * * * * *

EXAMINATION

BY MR. ANGELL:

Q. Let the record reflect that this is the time and place set for the deposition of Rick Ackerman in the case Lamont Bair Enterprises versus City of Idaho Falls.

My name is Sam Angell. I represent the City of Idaho Falls.

I would note that Mr. Ackerman is here, that Jared Allen is here representing the plaintiffs, and that also Miss Lee is here also on behalf of Lamont Bair Enterprises.

Just note also that this deposition is being taken pursuant to notice and the Idaho Rules of Civil Procedure.

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apartment rentals? Is that what you're referring to?
Q. Yeah. I'm just trying to figure out what this company is.
A. That would be the real property, yes.
Q. Does it own more than one rental property?
A. Not that I know of to my knowledge.
Q. This rental property that's the subject of the flood in this case, is it a four-plex?
A. Yes, sir.
Q. So Lamont Bair Enterprises owns that four-plex, if I'm understanding you right?
A. Yes.
Q. Does it own any further four-plexes, for instance?
A. Yes.
Q. Okay. Do you know how many?
A. On Skyline there's five. There's a building on -- an eight-plex on Laprelle -- or on Vasser, excuse me. And to the best of my knowledge there's nine or ten buildings on Laprelle. A total of seventy-six apartments.
Q. Does Lamont Bair Enterprises own any other real property besides the apartments, the

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seventy-six apartments?
A. I couldn't answer that. I'm not -- that's not part of my information.
Q. What do you do for Lamont Bair Enterprises?
A. Property management.
Q. What does that entail?
A. Overseeing property, renting, collecting money, deposits, overseeing maintenance.
Q. Is this a full-time job?
A. Yes, sir.
Q. Do you have employees that work under you?
A. I do.
Q. Who do you have working under you?
A. I have two. Tim -- gosh, you caught me on surprise on that one.
Q. It always happens.
A. All of a sudden my mind went -- Mark Reed and Tim -- gosh, I can't remember his name. Can I look at my phone?
Q. Yeah. Oh, that's fine. Sure. While you're getting that out --
A. I apologize. All of is sudden my mind just went completely blank.

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Q. Are they maintenance guys?
A. Yes, sir. Mitchell, Tim Mitchell.
Q. Are they full time as well?
A. Yes, sir.
Q. Were they both with you back on the date that this flood happened?
A. No, sir.
Q. Did you have different maintenance guys then?
A. Uh-huh.
Q. Is that a yes?
A. Yes.
Q. I just -- you probably haven't done this before. --
A. I know. Okay.
Q. -- but in order for the transcript to come out and look good, we'll have to be careful to say yes or no as opposed to uh-huh. Even though I understand what you said, it doesn't come out well on the transcript.
A. No problem.
Q. Do you recall who your maintenance guys were at the time of this flood?
A. His name is Roy Smith.
Q. Where is he at now?

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A. He took employment out at the site.
Q. Did he show up on the day that this flood was happening when the water was coming in?
A. Yes, sir.
Q. Do you happen to have his phone number?
A. I do.
MR. ANGELL: Do you know if that was in discovery, Jared?
THE WITNESS: I don't believe it was.
MR. ALLEN: No, it doesn't look like it was.
Q. (BY MR. ANGELL:) If you don't mind looking up his phone number?
A. Area code 208-821-1111.
Q. Thank you. Have you had a chance to talk to him about this flood since it happened?
A. No. Well, no. Not at any length, no.
Q. About this lawsuit, for instance?
A. He knew of it --
Q. Okay.
A. -- because he was employed at the time.
Q. When did he leave your employment?
A. I really couldn't give you an answer

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A. Not that I'm aware of.
Q. So the city hasn't been out doing work on the connection line prior to this that you recall?
A. Not that I can recall.
Q. Has there been a flood caused by a leak from the city water system to any of the neighboring properties that you manage in this area?
A. In reference to that, no. As far as the water mains, no. The building just to the north of it, a couple years prior had a sewer backup and flooded that four-plex.
Q. And that was on a sewer side?
A. It was on the sewer side, yes, sir.
Q. As far as on the water side, have you had any problems on the water side?
A. No, sir.
Q. Are all the properties that Lamont Bair Enterprises owns, are they over on the west side of the highway, or are they scattered around?
A. They're all within a couple block radius right there.
Q. Okay. Off of Skyline?
A. Off of Skyline on Skyline and Laprelle.

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Q. And during your time with Lamont Bair, do you recall if you've had any other floods in any of the other Lamont Bair apartments? Let me qualify that while you're laughing.
A. Oh.
Q. On the city water side as far as water supply.
A. As far as the main, if I understand what you're referring to, no.
Q. Now, I understand you've probably had floods over the years from tenants doing the things that tenants do, and washer and dryer lines and other things, but I'm really wanting to focus just on the city's provision of water services to the four-plexes --
A. Right.
Q. -- if you've had problems with that service in the past?
A. (Shakes head.)
Q. Okay. Why don't we just jump to this flood.
Can you tell me what you recall happening, just in your words?
A. Basically, I was notified by the tenant number seven that she had water in her basement, and

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I was close, so I was there within a matter of, you know, less than ten minutes.
When I got there, it wasn't just a little bit of water, it was a lot of water. And so immediately, I went into my mitigation mode of trying to stop whatever was causing it, started looking through -- it wasn't coming from her apartment, so -- and at the time the apartment -- that building at 547 is apartment number five, six, seven, and eight.
At the time apartment number eight was vacant. We were in the process of remodeling it, so immediately had access and went in there, and water was just all over three to four inches deep on the whole floor.
And walked through it, and seen where the water was actually boiling up through the water from the floor. I couldn't see the crack. Obviously, it was covered by water, but common sense told you that's where it was coming from.
Roy and I, because he was there with me, started to go through and try to get the water turned off, and so we turned the main valve off which is in number eight's basement, the main valve there, which didn't slow it down, didn't do

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anything, and then called Holeshot.
And it was just a matter of procession of different people showing up because Tobins were coming to mitigate the problem to try to help suck the water out. Holeshot was there trying to figure out what was going on, so there was multiple people there.
We couldn't get the water to shut off down into number eight's basement, so it kept flowing. The city did come out. They turned the water off on their valve, and then that pretty much stopped it.
And then it was a matter of cleaning up and repairs and restoration after that.
Q. Did you call the city or did someone else? Do you remember?
A. I believe I called the city.
Q. Do you recall how long it was before you called the city from when you got over there?
A. I can only estimate. I couldn't even give you a real valid answer. Within twenty minutes of being on the scene.
Q. Did you happen to know the city guys that showed up to work on it?
A. No.

Jared W. Allen, ISB No. 5793
BEARD ST. CLAIR GAFFNEY PA
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Idaho Falls, Idaho 83404
Telephone: (208) 523-5171
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allen@beardstclair.com

Attorney for Plaintiff

DISTRICT COURT SEVENTH JUDICIAL DISTRICT
BONNEVILLE COUNTY IDAHO

LAMONT BAIR ENTERPRISES, INC., an Idaho corporation, Plaintiff, vs. CITY OF IDAHO FALLS, a municipal corporation, Defendant.	Case No.: CV-2016-5711 MEMORANDUM IN SUPPORT OF MOTION TO STRIKE

Plaintiff, Lamont Bair Enterprises, Inc. (LBE), though counsel of record, Beard St. Clair Gaffney PA, respectfully submits the following memorandum in support of its request for an order striking paragraph 19 from the Affidavit of David Richards.

INTRODUCTION

The Affidavit of David Richards (Richards) submitted in support of the motion for summary judgment filed by the City of Idaho Falls (the City) contains statements that are inadmissible and should not be considered by this Court. The statements are unsupported by proper foundation and are, likewise, unsupportable.

ARGUMENT

In his Affidavit dated October 19, 2017, Richards, the City's water superintendent, opines that the water line located at the intersection of Skyline Drive and Brentwood Drive was designed, constructed, and maintained in accordance with engineering standards and met all state and federal standards on December 28, 2015. Setting aside the considerable extreme improbability that a water main installed in 1959 would comply with more advanced design and constructions standards five and a half decades later, Richards provides literally no foundation for his testimony. He does not identify the standards upon which he relies, he does not establish how he went about formulating his opinion, he does not indicate that he has inspected the line, and he does not indicate that he has inspected the design or plans upon which the City relied in installing the lines. Moreover, his own deposition testimony reveals that he cannot possible know that the water line meets 2015 standards.

Rule 56(e) of the Idaho Rules of Civil Procedure provides:

> Supporting and opposing affidavits shall be made on personal knowledge, *shall set forth such facts as would be admissible in evidence*, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. . . . When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of that party's pleadings, but the party's response, by affidavits or as otherwise provided in this rule, *must set forth specific facts* showing that there is a genuine issue for trial. If the party does not so respond, summary judgment, if appropriate, shall be entered against the party.

IDAHO R. CIV. P. 56(e) (2007) (emphasis added). The requirements of Rule 56(e) are not satisfied by an affidavit that is conclusory, based on hearsay, and not supported by personal knowledge. *State v. Shama Resources Ltd.*, 127 Idaho 267, 271, 899 P.2d 977, 981 (1995).

An affidavit that fails to specify factually what representations were made or when such statements were made and merely states a conclusion that affiant relied upon the advice of the agent is inadmissible. *Casey v. Highlands Ins. Co.*, 100 Idaho 505, 508, 600 P.2d 1387, 1390 (1979). An affidavit stating no more than mere denials, assertions or beliefs of what might have been are legally insufficient to avoid judgment and create a genuine issue of material fact. *Gro-Mor, Inc. v. Butts*, 109 Idaho 1020, 1024, 712 P.2d 721, 725 (Ct. App. 1985). The question of admissibility is a threshold question to be answered before applying the liberal construction and reasonable inference rules of summary judgment. *Hecla Mining Co. v. Star-Morning Mining Co.*, 122 Idaho 778, 784, 839 P.2d 1192, 1198 (1992).

Richards is a relatively young civil and environmental engineer who graduated from Brigham Young University in 1997. Richards Depo., p. 8, ll. 11-16. He first went to work for the City as a water superintendent in 2004, 45 years after the installation of the water line at the intersection of Skyline Drive and Brentwood Drive. *Id.*, p. 9, l. 17-p. 10, l. 18. When asked about the inspection of municipal water lines after installation he testified, "Once they're buried, there's not much that can be done to inspect the integrity." *Id.*, p. 15, ll. 5-6. And with specific reference to the water line in question at Skyline Drive and Brentwood Drive he testified that he did not even inspect the repairs that were performed on that water line because by the time he visited the location the following day to "see how the repairs had gone[,]" he could not see them because "they were backfilled."

Richards testimony in paragraph 19, beyond being wholly incredible, is devoid of foundation and should be stricken from the record. He fails to identify what standards he

believes apply, how he went about concluding that the installed pipes (which he has never apparently seen) conform with those standards, or what data or information he relied upon, if any, to formulate his conclusions.

CONCLUSION

For the foregoing reasons, LBE respectfully requests an order striking paragraph 19 from the Affidavit of David Richards.

Dated: November 29, 2017.

Jared W. Allen
Of Beard St. Clair Gaffney PA
Attorney for Plaintiff

CERTIFICATE OF MAILING OR HAND DELIVERY

I certify I am a licensed attorney in the state of Idaho, I have my office in Idaho Falls, Idaho, and on November 29, 2017, I served a true and correct copy of the MEMORANDUM IN SUPPORT OF MOTION TO STRIKE upon the following by the method of delivery designated:

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DISTRICT COURT SEVENTH JUDICIAL DISTRICT
BONNEVILLE COUNTY IDAHO

LAMONT BAIR ENTERPRISES, INC., an Idaho corporation, Plaintiff, vs. CITY OF IDAHO FALLS, a municipal corporation, Defendant.	Case No.: CV-2016-5711 MEMORANDUM IN OPPOSITION TO MOTION FOR SUMMARY JUDGMENT

Plaintiff, Lamont Bair Enterprises, Inc. (LBE), though counsel of record, Beard St. Clair Gaffney PA, respectfully submits this Memorandum in Opposition to Motion for Summary Judgment.

INTRODUCTION

LBE is the owner of several residential rental units within the City of Idaho Falls (the City).

STATEMENT OF FACTS

The following facts are relevant to the Court's consideration of the City's motion, are taken primarily from the City's own testimony, and demonstrate the existence of disputed issues of fact precluding the entry of the City's requested Summary Judgment:

1. The City operates a public drinking water system (the system) through the Water Division of its Public Works Department. Richards Depo., Exhibit 5, p. 1-1.

2. The system is operated by the City's Water Division under the oversight and direction of its Water Superintendent, David Richards. *Id.*, p. 10, ll. 2-18; Exhibit 5, p. 5-3.

3. The system includes over 310 miles of City pipe. *Id.*, p. 1-3.

4. Those pipes, including the pipes at issue in this case are in the exclusive control of the City. Idaho Falls Code of Ordinances § 8-4-23; *Id.*, p. 13, l. 23-p. 14, l. 8.

5. On or about December 28, 2015, a water main failed near the intersection of Brentwood Drive and Skyline Drive. *Id.*, p, 13, l. 23-p. 14, l. 2.

6. The failed water main was part of the system and was in the exclusive control and management of the City. *Id.*, p. 14, ll. 3-8.

7. The broken main was made of cast iron and was installed by the City in 1958. *Id.* p. 18, l. 24-p. 19, l. 2.

8. The system had sustained another break less than one year prior to a main line of the same material and installed at the same time on Stimson Avenue within less than one mile of the Brentwood/Skyline break. *Id.*, p. 18, ll. 14-18.

9. The December 28, 2015 break occurred on a six-inch mainline at a point along Brentwood approximately 20-25 feet west from the line's juncture with the eight-inch line running along Skyline. *Id.*, p. 19, l. 9-p. 20, l. 11.

10. LBE is an Idaho corporation doing business in Idaho Falls as the owner of 76 apartment units located on or near Skyline Drive, including the four-plex unit at 547 Skyline Drive. Ackerman Depo., p. 9, l. 9-p. 10, l. 6; p. 22, l. 20-p. 24, l. 17.

11. It's property manager, Rick Ackerman, became aware of a flood in the basement of the units at 547 Skyline Drive and contacted the City. *Id.*

12. The City became aware of the leak in the late afternoon when it received an emergency call for assistance in shutting off water because water was leaking into the basement at 547 Skyline Drive. Richards Depo., p. 21, l. 21-p. 22, l. 25; p. 27, l. 14-24.

13. The City initially treated the call as a service line leak and shut off the service line at the location. *Id.*

14. The City's responding crew asked if the closure of the service stopped the water flow and was told that it appeared to be slowing down, but the City's crew did not wait to confirm that the flow of water had in fact stopped. *Id.*, p. 22, l. 16-p. 23, l. 14.

15. Contrary to the City's assumption, the service line was not broken. *Id.*, p. 23, ll. 17-19.

16. Instead, from the main line break on Brentwood Drive, 25 feet east of its junction with the Skyline Drive main line, water flowed underground eastward across Skyline Drive and under the structure on the east side of Skyline Drive until it built up sufficient hydraulic pressure to fracture the concrete basement floor beneath one of the units at 547 Skyline drive at which point water and mud flowed into the structure and flooded all or part of the basement of each of the four units in the four-plex. *Id.*, p. 47, l. 24-p. 49, l. 22.

17. The City was notified by 5:00 p.m. that water was continuing to flow into the basement and by 11:00 p.m. a crew had managed to isolate the leak in the water main where it then performed a repair to the main line. *Id.*, pp. 25-29.

18. While a flood of residential property from a broken water main is atypical, the City's water superintendent knew, as soon as the main break was discovered, that it was the source of the water flooding the basement of 547 Skyline Drive.

19. The City has adopted a Water Facility Plan (WFP) dated June 2015, six months before the flood at 547 Skyline Drive. *Id.*, p. 39, ll. 7-20 & Exhibit 5.

20. At least part of the purpose of the plan is to identify deficiencies in the City's water supply system and in the City's administration of that system. *Id.*

21. More specifically, the plan compares the City's operations and maintenance practices to similar municipalities and provides recommendations for improvement. *Id.*, Exhibit 5, p. 1-1.

22. "The City's water system Operations and Maintenance (O&M) program was assessed to determine current deficiencies in its existing procedures and to identify areas of improvement." *Id.*, p. 1-7.

23. The WFP reveals that the City's water department is understaffed, distributing 1,633,000 gallons per day (gpd) per full time equivalent (FTE) employee as compared to a national average of 210,000 gpd per FTE. *Id.*, Exhibit 5, p. 5-10.

24. The City does not have official guidelines for system leak detection and does not have any policy or procedure in place for ensuring the integrity of its distribution lines. *Id.*, p. 14, l. 9-p. 16, l. 11; Exhibit 5, p. 5-9.

25. Moreover, prior to completion of the WFP, the City did not have a pipe replacement program. *Id.*, Exhibit 5, p. 5-18.

26. The pipe responsible for the flooding of LBE's property is a six-inch cast iron pipe installed in 1959. Richards Depo., p. 18, l. 24-p. 20, l. 4.

27. The City has roughly 30 years of data regarding the location, date, and description of water main breaks in its system revealing that 70% of the breaks occur in cast iron pipe installed between 1920 and 1959. Richards Depo., Exhibit 5, p. 6 - 17.

28. Moreover, "[d]escriptions of the types of breaks and repairs performed on the 1950s-era cast iron pipe include . . . clamp-type repairs of rusting and cracked pipelines. . . . indicat[ing] that the material is past its design life and is (sic) need of replacement." *Id.*

SUMMARY JUDGMENT STANDARD

"Summary judgment is proper 'if the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.'" IDAHO R. CIV. P. 56(c) (2014); *Cox v. Clanton*, 137 Idaho 492, 494, 50 P.3d 987, 989 (2002).

"In a motion for summary judgment, this Court should liberally construe all facts in favor of the nonmoving party and draw all reasonable inferences from the facts in favor of the nonmoving party." *Northwest Bec-Corp v. Home Living Serv.*, 136 Idaho 835, 838, 41 P.3d 263, 266 (2002) (citation omitted). "Summary judgment must be denied if reasonable persons could reach differing conclusions or draw conflicting inferences from the evidence presented." *Id.* (citation omitted).

"The moving party bears the burden of establishing the lack of a genuine issue of material fact." *Tingley v. Harrison*, 125 Idaho 86, 89, 867 P.2d 960, 963 (1994). The non-moving party is entitled to show a genuine issue of material fact regarding the elements challenged by the moving party's motion. *Olsen v. J.A. Freeman Co.*, 117 Idaho 706,

720, 791 P.2d 1285, 1299 (1990). "[M]otions for summary judgment should be granted with caution." *Bonz v. Sudweeks*, 119 Idaho 539, 541, 808 P.2d 876, 878 (1991).

ARGUMENT

The City's motion for summary judgment should be denied because LBE does not have the burden of producing direct evidence of negligence on the part of the City; there is ample evidence from which the trier of fact can conclude the City has been negligent in the maintenance, repair, and replacement of its water lines; and notwithstanding the City's protestations, it is not entitled to immunity in this matter.

In an action sounding in negligence, the plaintiff has the burden of showing: "(1) a duty, recognized by law, requiring the defendant to conform to a certain standard of conduct; (2) a breach of that duty; (3) a causal connection between the defendant's conduct and the resulting injury; and (4) actual loss or damage." *Holdaway v. Broulim's Supermarket*, 158 Idaho 606, 610, 349 P.3d 1197, 1201 (2015) (citations omitted). In the present motion, the City challenges only LBE's ability to show a breach of the duty, the second element of a negligence claim, for perhaps obvious reason.

First, it is settled law in Idaho that "[e]very person has a general duty to use due or ordinary care not to injure others, to avoid injury to others by any agency set in operation by him, and to do his work, render services or use his property as to avoid such injury." *Sharp v. W.H. Moore, Inc.*, 118 Idaho 297, 300, 796 P.2d 506, 509 (1990) (citations omitted). More specifically, with respect to a municipality, "a municipal corporation, acting in a proprietary capacity, such as when it owns, maintains and operates a water system for the benefit of its inhabitants, is subject to liability for damages arising out of its negligence under the same rules as are applied to private individuals or corporations." *Skaggs Drug Centers, Inc. v. City of Idaho Falls*, 90 Idaho

1, 7, 407 P.2d 695, 697 (1965). So, it is not and cannot be disputed that the City had the same duty as any other private individual, to exercise due ordinary care in the operation and use of its water system so as to not injure LBE.

Also undisputed is that LBE has suffered actual loss or injury and that it was caused by a failure of one of the City's water main lines and the resulting flooding of four LBE apartments. The City's Rule 30(b)(6) designee and water superintendent, David Richards, acknowledged that water from the broken mainline, together with eroded soil, "flowed beneath the structure until it built up sufficient hydraulic pressure to fracture the concrete basement floor . . . beneath one of the units, at which point water and mud flowed into the structure and flooded all or part of the basement of each of the four rental units." Richards Depo., p. 49, ll. 2-16.

Because the existence of a duty is undisputed as a matter of law and because it is undisputed that the City's water main ruptured and flooded LBE's property, the City's only challenges to liability on this motion for summary judgment are: (1) whether it breached the applicable standard of care, or in other words, acted with negligence; and (2) whether it is immune from liability pursuant to the Idaho Tort Claims Act. The City contends LBE cannot present evidence that the City breached the standard of care, but the contention is incorrect for two reason. First, pursuant to the doctrine of *res ipsa loquitur*, LBE is not burdened with producing direct evidence of negligence, but may rely upon a permissive inference of negligence to establish its claim. Second, the City's own Water Facility Plan, written mere months before the incident at issue, discloses a number of ways in which the City's handling of its water supply system was deficient. Indeed, the very purpose of that document is to identify deficiencies in the City's water division.

Because the City's negligence can be both inferred and established by direct evidence, the City's motion for summary judgment must fail. Similarly, the City's position on immunity should be rejected and summary judgment should be denied.

I. LBE does not have the burden of producing direct evidence of negligence.

The City contends that LBE can't present any evidence of negligence, but the contention is misplaced because "the thing speaks for itself." Idaho recognizes the doctrine of *res ipsa loquitur*, and has, indeed, recognized the application of that doctrine specifically with respect to flooding caused by the failure of the City's water main. *Res ipsa loquitur*, a Latin phrase meaning "the thing speaks for itself," is a legal doctrine which allows the jury to draw an inference of negligence when: (1) the agency or instrumentality causing injury is under the exclusive control of the defendant; and (2) the circumstances are such that common knowledge and experience justify an inference that the injury would not happen in the absence of negligence. *Wing v. Clark's Air Serv., Inc.*, 106 Idaho 806, 807, 683 P.2d 842, 843 (1984). In considering whether this doctrine applies to the circumstances at issue, a case in which a water main fails and damages private property, our Supreme Court has already responded affirmatively. *Skaggs, supra*, 90 Idaho at 7-8, 407 P.2d at 697-8.

In *Skaggs*, the basement of the old Skaggs Drug Center in Idaho Falls had been flooded by a broken water pipe damaging merchandise and other items in the store. *Id.* at 4, 696. In that instance the break was to the service line between the water main and the curb stop. *Id.* Skaggs tried its claim to a jury and secured a judgment against the City and the City appealed contending that it was error to instruct the jury on *res ipsa loquitur* and that application of the doctrine was neither reasonable nor justified and it made the water

supplier an insurer against damage arising from the operation of the water system.[1] *Id.* at 7-8, 697-8. Rejecting the argument, the Supreme Court reasoned:

> The application of the doctrine of *res ipsa loquitur* does not, theoretically or practicably, transform liability for negligence into insurance or absolute liability. Its only function is to replace direct evidence of negligence with a permissive inference of negligence. It warrants, but does not compel, a finding of negligence. It furnishes circumstantial evidence of defendant's negligence where direct evidence may be lacking.

Id. at 8, 698. Importantly, "the preponderance of the plaintiff's evidence is a question for the trier of fact." So, where *res ipsa loquitur* is applicable, and the Supreme Court has already found it applicable under identical circumstances, summary judgment is improper because the question of whether the inference to be drawn supports a claim is always a question of fact.

In the present case, the doctrine of *res ipsa loquitur* is applicable. First, as noted, the case is indistinguishable on its face from the facts of *Skaggs* and Idaho case in which the Idaho Supreme Court indicated the doctrine applied. Moreover, an application of the specifics of the doctrine reveals its application to the case. As noted, the doctrine applies when the instrumentality causing the injury is in the exclusive control of the defendant, and the harm is of a kind that does not ordinarily occur in the absence of negligence. *Wing, supra.*

Here, the instrumentality in question, the City's municipal water supply system, is indisputably in the exclusive control of the City. Indeed, it is in exclusive control of the City as a matter of law. Section 8-4-23 of the City's Code of Ordinances provides, "City shall have exclusive control and management of City water system and shall have

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[1] Curiously, the City makes the identical argument here, ignoring that it has already been rejected by the Supreme Court of Idaho.

exclusive management and control of the supply and distribution of water to the inhabitants thereof." Furthermore, the City's water superintendent testified that the specific pipe in question at the intersection of Brentwood Drive and Skyline Drive is in the exclusive control and management of the City. Richards Depo., p. 13, l. 23-p. 14, l. 8.

It is precisely because the instrument is in the exclusive control of the defendant that the doctrine of *res ipsa loquitur* arises because that exclusive control strips the plaintiff of the ability to determine the cause of injury. "The major purpose of *res ipsa loquitur* is to create at least an inference of negligence when the plaintiff is unable to prove the occurrence of the negligent act."[2] 65A C.J.S. Negligence § 855. Here, LBE has been denied the opportunity to examine the pipe in question to determine the cause of the break and conducting such an examination is impracticable. Indeed, the City's own representative did not have an opportunity to inspect the pipe and can only speculate as to the cause of the break. Richards did not visit the site until the day after the repairs were performed and by the time he arrived the access had already been backfilled. Richards Depo., p. 12, l. 20-p. 13, l. 2. He never saw the break. *Id.*, p. 23, ll. 20-23. Furthermore, the City's records related to the pipe provide literally zero information regarding the condition of the pipe except to sake that it was broken. Richards Depo., Exhibit 2. Because the broken pipe that caused the flooding was in the exclusive control of the City, circumstances exist to support the application of the doctrine of *res ipsa loquitur*.

Furthermore, the circumstances are such that common knowledge and experience justify an inference that the injury would not happen in the absence of negligence. While

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[2] LBE does not, by any means, concede that it cannot prove the occurrence of negligence. On the contrary, as set forth below, the City's conduct with respect to the water line in question was negligent in many respects.

the City contends that the break of the water main is "such that can occur in the absence of negligence[,]" the City has provided no evidence to support the conclusion, and even if it had, that is the incorrect focus.

The City's conclusory statement that a water main break may occur "in the absence of negligence" fails to address the critical question or whether this main break occurred in the absence of negligence. Setting aside the fact that the City has provided no evidence for its conclusion, it merely begs the question. Richards claims the shear break resulted from shifting soils due to deep frost penetration, but it is axiomatic that a deteriorate or corroded pipe, for example one that is "past its design life and is (sic) need of replacement[,]" is more likely to break under such loads than a pipe in good repair. Moreover, the City's duty was to maintain this particular system in a reasonably safe condition in its particular circumstances, including both the reality of pipe corrosion and the reality of deep frost penetration in December in Southeast Idaho. The City "is bound to take notice" as a water supplier "that water pipes will deteriorate with time and use." *Skaggs, supra*, at 8-9, 698. In that the City had neglected its cast iron pipes to the point they were past their design life, there is a high probability that the deterioration of the pipe in question, and thus the City's negligence, contributed to its failure, even if frost was a factor. The City was on notice of the potential for frost rendering its neglect of the pipes even more consequential.

Furthermore, as noted, the break, beyond being the source of the water that flooded LBE's property, is not the injury and a myopic focus on the break and whether it could occur in the absence of negligence is the incorrect focus. The injury is the flood of private property by water from a municipal water main, and while mains may break, they

do not, in the absence of negligence, fail in such a way that they flood private property. Indeed, by the City's acknowledgement, the flooding of a residential property from a broken water main atypical. Richards Depo., p. 37, ll. 4-18. Something about this particular break in this particular section of the municipal water system permitted water to travel below ground for an extended distance along Brentwood Drive then across Skyline Drive, still subterranean, then across LBE's property where it accumulated beneath the structure until it built up enough hydraulic pressure to fracture a concrete basement floor and flood the property. Common sense and common knowledge dictate that such an event does not occur in the absence of some negligence or error in the maintenance of the municipal water system.

The Court should reject the City's position on the question of *res ipsa loquitur*. It is inconsistent with the Idaho Supreme Court's prior holding in *Skaggs*, and it is inconsistent with the facts and circumstances surrounding LBE's injury. The City had exclusive control of the water system that undisputedly caused the injury, and should not be permitted to simply and literally bury the evidence of its negligence and pretend this is a common occurrence, especially in the face of its admission to the contrary.

II. Though not burdened with proving negligence by direct evidence, the City's Water Facility Plan exposes its negligence and its notice of deficiencies and/or defects in its water supply system.

In addition to the foregoing, there is ample direct evidence from which a jury could conclude the City breached its duty to LBE. Indeed, the City's historical practice as it relates to the water distribution system, and particularly with respect to cast iron pipes, can only be described as neglect. As noted above, the City had a duty "to use due or ordinary care not to injure [LBE]." *Sharp, supra*. Once a City undertakes the operation of a water supply system, the City has a duty to maintain the system in a reasonably safe

condition. *Hansen v. City of Pocatello*, 145 Idaho 700, 703, 184 P.3d 206, 209 (2008). The City's own evidence demonstrates that it has failed in its duty to maintain its system in a reasonably safe condition. It has ignored the condition of its cast iron pipes installed between 1920 and 1959 to the point that they are now past their design life and in need of replacement.

The City adopted its June 2015 WFP roughly six months prior to the injury to LBE's property. Richards Depo., p. 39, ll. 7-20 & Exhibit 5. Unfortunately, the best that could be accomplished with respect to piping beyond its design life is the adoption of a replacement plan, one which should have existed, but did not, that will leave some of those pipes in service for several years to come. At least part of the purpose of the plan is to identify deficiencies in the City's water supply system and the administration of that system. *Id.* And the plan did, in fact, identify several deficiencies in the City's system that contributed to LBE's injury. In other words, the City failed to exercise the due and ordinary care necessary to maintain its water supply system in a reasonably safe condition so as to not injure LBE. Specifically, the City failed to maintain adequate staffing and failed to adopt a pipe replacement plan sufficient to maintain the pipes in reasonably safe condition.

The pipe responsible for the flooding of LBE's property is a six-inch cast iron pipe installed in 1959. Richards Depo., p. 18, l. 24-p. 20, l. 4. The City has roughly 30 years of data regarding the location, date, and description of water main breaks in its system revealing that 70% of the breaks occur in cast iron pipe installed between 1920 and 1959. Richards Depo., Exhibit 5, p. 6 - 17. Moreover, "[d]escriptions of the types of breaks and repairs performed on the 1950s-era cast iron pipe include . . . clamp-type

repairs of rusting and cracked pipelines. . . . indicat[ing] that the material is past its design life and is (sic) need of replacement." *Id.* Approximately one year prior and less than a mile away from the break at issue, there was a break in the main of the same material installed at the same time just around the corner on Stimson Avenue. Richards Depo., p. 18, ll. 14-15. Notwithstanding Richards statements to the contrary regarding the design life of cast iron pipes, the City, with the adoption of its WFP, has admitted that these particular pipes, cast iron installed between 1920 and 1959, were past design life and in need of replacement. At a minimum, the indication in the WFP creates a disputed question of fact.

The City's duty to maintain its mains in a safe and serviceable condition is not in question.

> While a city is not an insurer of the condition of its water system, it is bound to use ordinary care and skill in constructing and maintaining it. . . .
>
> Likewise, the city is bound to take notice that its pipes are liable to deteriorate from time and use and it must take such measures as ordinary care would dictate to guard against the leaking of its water system due to deterioration of the pipes used in its construction.

Yearsley v. City of Pocatello, 71 Idaho 347, 353, 231 P.2d 743, 747 (1951). "The only requirement as to notice is such as is compatible with the application of the doctrine, namely, defendant is bound to take notice that its mains will deteriorate from time and use." C. C. Anderson Stores Co. v. Boise Water Corp., 84 Idaho 355, 362, 372 P.2d 752, 756 (1962).

In other words, the City was on notice that its mains would deteriorate and had actual notice that the main in question was past its design life. Although the City maintained records from which it could have discerned the problems with the cast iron pipes, it ignored the warning signs until the pipes had exceeded their design life. The City

was negligent in its duty to take such measures as ordinary care would dictate to guard against leaking due to deterioration of its water pipes and summary judgment should be denied.

III. The City is not immune from responsibility for its negligence in this matter.

The City also claims it is entitled to immunity under the Idaho Tort Claims Act (ITCA), a claim that is inconsistent with all Idaho case law addressing the failure of municipal water delivery systems. The ITCA does not, in this case, shield the City from liability for its misconduct.

The ITCA provides, "[e]xcept as otherwise provided in this act, every governmental entity is subject to liability for money damages arising out of its negligent or otherwise wrongful acts or omissions and those of its employees acting within the course and scope of their employment or duties . . ." IDAHO CODE ANN. § 6-903(1). The Idaho Supreme Court has explained that the ITCA was enacted "to provide 'much needed relief to those suffering injury from the negligence of government employees.'" *Grabicki v. City of Lewiston*, 154 Idaho 686, 691, 302 P.3d 26, 31 (2013) (citations omitted). "To accomplish that purpose, the ITCA 'is to be construed liberally' and 'liability is the rule and immunity is the exception.' *Id.* (quoting *Sterling v. Bloom*, 111 Idaho 211, 214-15, 723, P.2d 755, 758-59 (1986)). Stated exceptions are closely construed to favor liability and to limit the exceptions. *Id.*

Pointing to two specific exceptions, the discretionary function exception and the design exception, the City seeks not a closely construed interpretation, but an expansive interpretation that is inconsistent with the exceptions as they have been interpreted.

A. The design exception to liability is not applicable.

The City's reliance on the design exception is misplaced because this is not a construction project issue, but rather a failure to maintain a completed project issue and the design exception has no relevance or application.

The ITCA provides a municipality with immunity from liability for a claim that:

> Arises out of a plan or design for construction or improvement to the highways, roads, streets, bridges, or other public property where such plan or design is prepared in substantial conformance with engineering or design standards in effect at the time of preparation of the plan or design or approved in advance of the construction by the legislative body of the governmental entity or by some other body or administrative agency, exercising discretion by authority to give such approval.

IDAHO CODE ANN. § 6-904(7). The exception to liability arises upon the establishment of two elements: "(1) the existence of a plan or design that was (2) either prepared in substantial conformance with existing engineering or design standards or approved **in advance of construction** by the legislative or administrative authority." *Id.* at 693, 33 (citations omitted) (emphasis added).

The flaw with the City's reliance on the design exception is that this is not an issue of improvement or construction and negligence in the design of a project, but rather an ongoing obligation to maintain an existing improvement in a reasonably safe condition. The claim does not arise out of a "plan or design for construction or improvement" but rather the failure of the City to maintain the facilities in a reasonably safe condition. The City, relying upon the foundationless statement of David Richards that the water line was designed, constructed, and maintained in accordance with engineering standards and met all state and federal standards on December 28, 2015, claims that it is there for exempt. But Section 6-904(7) bears no relation to the City's maintenance duties. The law, as stated above, is clear. Irrespective of whether the original

installation was performed in accordance with then existing design standards, and there is no admissible evidence that it was, once the City undertook the operation of the water supply system, the City had a duty to maintain the system in a reasonably safe condition. *Hansen, supra.* Even assuming, arguendo, that the City could establish that the system was installed in accordance with the then applicable engineering and design standards or approved by the relevant administrative authority, the issue is a failure to maintain the system in a safe condition and the exception is simply inapplicable.

Moreover, even if the exception were applicable, the City's reliance on its WFP to support the exception is misplaced. First, the WFP is not a plan or design for construction or improvement, but is instead a plan that "documents key water system information and provides analysis and recommendations that inform infrastructure development and operational decisions by City staff." Richards Depo., Exhibit 5, p. 1-1. The WFP does not contain any information relating to the engineering or design of the existing water system facilities at the intersection of Skyline and Brentwood. Those facilities were installed in 1958-59, over five and a half decades prior to the failure of the main that damaged LBE's property.

To give rise to the exception, the claim at issue would have to arise from a plan or design in the WFP, and it does not. The claim arises from the City's failure to maintain its water mains in a reasonably safe condition. The WFP merely serves to substantiate LBE's claim that the City was negligent in the maintenance, repair, and replacement of the specific water main in question by failing to keep it in a reasonably safe condition because it was "past its design life and is (sic) need of replacement." Richards Depo.,

Exhibit 5, p. 6-17. Accordingly, the design exception does not apply to LBE's claims and summary judgment should be denied.

B. The discretionary function exception to liability is not applicable.

The City's reliance on the discretionary function exception is also misplaced because this is settled law in this state that a municipality, once it exercises its discretion to become a supplier of water, has an affirmative obligation to maintain its system in a safe condition. While the decision to become a supplier of water and install a water supply system may be discretionary, once that discretion has been exercised, the municipality no longer has the discretion to allow that system to become unsafe. Maintaining the system in a reasonably safe condition is a matter of public policy as settled in several cases cited above.

The ITCA provides a municipality with immunity from liability for a claim that:

> Arises out of any act or omission of an employee of the governmental entity exercising ordinary care, in reliance upon or the execution or performance of a statutory or regulatory function, whether or not the statute or regulation be valid, or based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a governmental entity or employee thereof, whether or not the discretion be abused.

IDAHO CODE ANN. § 6-904(1). "The discretionary function exemption does not apply to negligent operational decision-making[.]" *Czaplicki v. Gooding Joint School Dist. No. 231*, 116 Idaho 326, 330, 775 P.2d 640, 644 (1989). On the contrary, the ITCA "makes a governmental entity liable for damages arising out of its own negligent operational acts or omissions." *Id.* at 330-31; 644-45. Section 6-904(1):

> contains two prongs, each of which provides a different degree of governmental immunity. Under the discretionary function prong, a governmental entity is entitled to absolute immunity regarding claims arising from the performance of a "discretionary function." However,

> under the operational prong a government entity can be liable if it fails to exercise ordinary care in implementing a pre-established policy.

Lawton v. City of Pocatello, 126 Idaho 454, 460, 886 P.2d 330, 336 (1994).

In this case, the City's maintenance of its water system in a reasonably safe condition cannot be characterized as a "discretionary function" because there is an established line of authority establishing an affirmative duty. There is a pre-established public policy set forth in myriad cases requiring a city to maintain its municipal water supply system in a reasonably safe condition. Accordingly, as stated in *Lawton*, if a city fails to exercise ordinary care to do so, it is not entitled to immunity under Section 6-904(1). The City must rely upon the second prong of Section 6-904(1) and is not entitled to immunity because it failed to exercise ordinary care in carrying out the pre-established public policy of maintaining a reasonably safe system.

The City leans heavily on *Dorea Enterprises, Inc. v. City of Blackfoot,* 144 Idaho 422, 163 P.3d 211 (2007) to support its position on the discretionary function exception to government liability. That case, however, is distinguishable for several reasons. *Dorea Enterprises* involved the back-flow from a sewage system rather than failure of a water main, a factual distinction of critical importance. First, there is no existing line of authority indicating that a City has an affirmative duty to maintain its sewage system in a reasonably safe condition. It stands to reason that such a public policy would be adopted, considering the proprietary nature of sewage management, but with a water system the public policy is well established as a matter of law. Second and related is the manner in which a sewage blockage can arise. A city can exercise all due care and a blockage could come about as a result of a single isolated incident in which a city has no control. Unlike a water system, the sewage system is not in the exclusive control of the city because

residents are introducing foreign material to the system on a regular basis as part of the ordinary course. Whereas a sewage system can become blocked in an instant through no fault of the city, it takes years of neglect for pipes to exceed their design life.

Also distinguishing the *Dorea Enterprises* is the compliance by the City of Blackfoot with its own policy. The city had an established policy of flushing the system annually, a policy that exceeded the legal requirement by a factor of two. *Dorea Enterprises, supra*, at 426, 215. There was no evidence in the *Dorea Enterprises* that the city had failed to exercise ordinary care in the performance of this policy. In the present case, on the other hand, the evidence is that the City neglected its water system to the point that literally miles of pipe became past their design life and in need of replacement, including the failed pipe at issue, and the City failed to exercise reasonable care in the performance of the important public policy of maintaining the system in a reasonably safe condition. Accordingly, unlike the City of Blackfoot, the City of Idaho Falls is not entitled to immunity.

Importantly, in addition to all of the foregoing arguments, the operation of the water supply system is not a governmental function at all, and thus Section 6-904 should have no application.

"A city acts in a proprietary capacity when it owns, maintains, and operates a water system for the benefit of its inhabitants." *Hansen v. City of Pocatello*, 145 Idaho 700, 703, 184 P.3d 206, 209 (2008) (citing *Skaggs Drug Centers v. City of Idaho Falls*, 90 Idaho 1, 7, 407 P.2d 695, 697 (1965); *Gilbert v. Village of Bancroft*, 80 Idaho 186, 327 P.2d 378 (1958); *Hooton v. City of Burley*, 70 Idaho 369, 219 P.2d 651 (1950)).

"Thus, a city is subject to liability for damages arising out of its negligence under the same rules as are applied to private individuals or corporations." *Id.* (citations omitted).

Prior to the adoption of the ITCA, Idaho municipalities enjoyed sovereign immunity except as it related to proprietary activities. "Where the governmental unit acts in a proprietary capacity, the same rules of tort law which are applicable to private individuals will now apply to the governmental units." *Smith v. State*, 93 Idaho 795, 802, 473 P.2d 937, 944 (1970). "[T]he doctrine of sovereign immunity is no longer a valid defense in actions based upon tortious acts of the state or any of its departments, political subdivisions, counties, or cities, where the governmental unit has acted in a proprietary as distinguished from a governmental capacity." *Id.*

As stated in *Hansen, supra*, a city continues to be liable for negligence committed in its proprietary activities "under the same rules as are applied to private individuals and corporations." Because private individuals and corporations cannot claim "discretionary function" in their failure to maintain their facilities in a safe condition, the City should not be permitted to do so either. The City's attempts to apply the Section 6-904 exceptions to proprietary activities is inconsistent with the purpose and intent of the ITCA, which was, "clearly intended to extend liability to some 'governmental' functions which were formerly immune." *Sterling v. Bloom*, 111 Idaho 211, 222, 723 P.2d 755, 766 (1986). The ITCA was intended to expand governmental liability, not to contract it, but the application argued for by the City would actually serve to contract governmental liability for torts committed by a municipality acting in a proprietary, rather than a governmental capacity. The ITCA was intended to eliminate immunity, not create new immunity, yet that is precisely the result for which the City argues. The act must be read

in the context of its original intent to expand governmental liability together with the requirement that exceptions be closely construed in favor of liability. Under such a reading, it is clear that Section 6-904 does not, and was never intended, to apply to the City's failure to maintain its water supply system.

It is not a discretionary function to maintain municipal water supply systems in a safe condition, but rather it is a matter of public policy that the City, when acting in a proprietary capacity to operate a water system, must exercise the same ordinary care required of a private enterprise and is responsible for the injuries it causes when it fails to do so. If such were not the case, a municipality would never be responsible for maintaining the safety of its facilities.

This Court should reject the City's arguments as they relate to immunity under Section 6-904 and deny the motion for summary judgment.

CONCLUSION

For the foregoing reasons, IBE respectfully requests that this Court deny the City's motion for summary judgment.

Dated: November 29, 2017.

Jared W. Allen
Of Beard St. Clair Gaffney PA
Attorney for Plaintiff

CERTIFICATE OF MAILING OR HAND DELIVERY

I certify I am a licensed attorney in the state of Idaho, I have my office in Idaho Falls, Idaho, and on November 29, 2017, I served a true and correct copy of the MEMORANDUM IN OPPOSITION TO MOTION FOR SUMMARY JUDGMENT upon the following by the method of delivery designated:

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IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE

LAMONT BAIR ENTERPRISES, INC., an Idaho corporation, Plaintiff, v. CITY OF IDAHO FALLS, a municipal corporation, Defendant.	Case No. CV-2016-5711 **RESPONSE MEMORANDUM IN OPPOSITION TO PLAINTIFF'S MOTION TO STRIKE**

Defendant, CITY OF IDAHO FALLS, by and through counsel of record, HALL ANGELL & ASSOCIATES, LLP, hereby submits its Response Memorandum in Opposition to Plaintiff's Motion to Strike as follows:

ARGUMENT

Plaintiff's motion to strike paragraph 19 of David Richards' affidavit should be denied because Mr. Richards is a licensed, professional engineer and has provided ample foundation for his professional opinions. In paragraph 19 of his affidavit, Mr. Richards specifically states:

> Further, it is my professional opinion that the City of Idaho Falls' water line located at the intersection of Skyline Drive and Brentwood Drive and at issue in

> this matter was designed, constructed, and maintained in accordance with engineering standards and met all state and federal standards on December 28, 2015. Although a water system may meet all state and federal standards, it remains vulnerable to acts of nature such as significant freezing and frost penetration into subsoils.

See Richards Aff., ¶ 19. Rather than provide expert testimony of its own to rebut Mr. Richards' professional opinion, Plaintiff instead attempts to discredit him by arguing he is a "relatively young civil and environmental engineer who graduated from Brigham Young University in 1997." *See* Memorandum in Support of Motion to Strike, p. 3. Plaintiff's attack on Mr. Richards' age is unpersuasive. Mr. Richards has over twenty years of experience in planning, design, and construction of water projects, and he has served as the Superintendent of the City of Idaho Falls Water Division for the past fourteen years. *Id.* at ¶ 3.

In his affidavit, Mr. Richards has provided ample foundation for his expert opinions. As a licensed, professional engineer, Mr. Richards sets forth a detailed analysis of waterline materials used from the early 1900s to the present along with their typical respective life expectancies, and provides detailed mapping of leak locations throughout Idaho Falls since the 1980s. Moreover, Mr. Richards testifies that he is intimately familiar with the City of Idaho Falls' water system and is "familiar with engineering standards for the design, construction, and maintenance of water conveyance systems." *Id.* at ¶ 2.

In considering whether the waterline in question met engineering standards, Mr. Richards' affidavit makes clear that he considered the following: (1) the material and life expectancy of the pipe, (2) the type of subsoil at the intersection of Brentwood Drive and Skyline Drive, (3) the number of water main failures near the intersection of Brentwood Drive and Skyline Drive, (4) the type of break that occurred, (5) and conditions at the time of the break. Specifically, Mr. Richards testifies that the waterline in question is made of cast iron, was

installed in 1959, and has a life expectancy of 75 years. *Id.* at ¶¶ 5, 10. Further, Mr. Richards testifies that the City has not had issues with leaks near Brentwood Drive and Skyline Drive because the subsoils are soft and sandy, and thus easy on the pipes. *Id.* at ¶¶ 16–17. Lastly, Mr. Richards testifies the break that occurred here was a "shear break, or in other words a clean snap of the entire circumference of the pipe," which was caused by deep frost penetration in late December 2015. *Id.* at ¶¶ 5, 18.

As Plaintiff points out in its memorandum in opposition to summary judgment, the typical problems seen with cast iron piping is the need for "clamp-type repairs of rusting and cracked pipelines." *See* Memorandum in Opposition to Motion for Summary Judgment, p. 5. In this case, there is no evidence of any rusting or cracks of the pipe that would have required clamp-type repairs. Rather, the entire circumference of the pipe snapped clean, which is not an indicator of deterioration. Mr. Richards relied upon all of these factors as set forth in his affidavit in offering his professional opinion contained in paragraph 19. Mr. Richards' affidavit is certainly not conclusory, and his opinions are supported by his personal knowledge and expertise.

Plaintiff's motion to strike is simply inappropriate here. The proper way to counter Mr. Richards' expert opinion would be to offer rebuttal expert testimony. Significantly, Plaintiff has failed to offer any expert testimony in this case and should not be permitted to strike Mr. Richards' expert testimony merely because it disagrees with him. Plaintiff does not have the skills or expertise to effectively counter Mr. Richards' testimony, and Plaintiff has not presented any other evidence to rebut his testimony. Because Mr. Richards' testimony is supported by all of the factors set forth in his affidavit, Plaintiff's motion to strike should be denied.

CONCLUSION

Based on the foregoing, Defendant City of Idaho Falls respectfully requests that this Court deny Plaintiff's Motion to Strike.

Dated this 5th day of December, 2017.

SAM L. ANGELL

CERTIFICATE OF SERVICE

I hereby certify that I served a true copy of the foregoing document upon the following this 5th day of December, 2017, by the method indicated below:

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IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE

LAMONT BAIR ENTERPRISES, INC., an Idaho corporation, Plaintiff, v. CITY OF IDAHO FALLS, a municipal corporation, Defendant.	Case No. CV-2016-5711 **REPLY MEMORANDUM IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT**

Defendant, CITY OF IDAHO FALLS, by and through counsel of record, HALL ANGELL & ASSOCIATES, LLP, hereby submits its Reply Memorandum in Support of Motion for Summary Judgment as follows:

ARGUMENT

I. PLAINTIFF HAS FAILED TO PRESENT ANY EVIDENCE OF A BREACH OF DUTY BECAUSE THE CITY HAS ADOPTED A PIPE REPLACEMENT PLAN AND THE PIPE IN QUESTION WAS WITHIN ITS LIFE EXPECTANCY.

Despite Plaintiff's unsupported assertion that the City "ignored the condition of its cast iron pipes," the evidence in this matter demonstrates the City has reasonably tracked the location,

date, and description of waterline breaks in the City of Idaho Falls since the 1980s and has implemented a pipe replacement plan to ensure its waterlines are replaced within their life expectancy. *See* Memorandum in Opposition to Motion for Summary Judgment, p. 13. Plaintiff has failed to present any evidence that the City acted negligently in its installation, maintenance, repair, and/or replacement of its water system. Further, Plaintiff has failed to show that the doctrine of *res ipsa loquitur* should apply in this case because the break that occurred here is such that can occur in the absence of negligence. Thus, because there is no evidence of negligence in this case, summary judgment should be granted.

A. Plaintiff has failed to present any evidence of negligence.

Plaintiff has not presented any evidence to suggest the waterline in question, installed in 1959 at the intersection of Skyline Drive and Brentwood Drive, exceeded its life expectancy. David Richards, the Superintendent of the City's Water Division, provides the only testimony in this matter related to the waterline's life expectancy. Mr. Richards has testified that the waterline in question was installed in 1959 and has a life expectancy of 75 years. *See* Richards Aff., ¶¶ 5, 10. With a 75-year life expectancy, the waterline in question will not reach its life expectancy until the year 2034. Further, due to soft and sandy subsoils west of the Snake River in Idaho Falls, the City has never had significant issues with waterline leaks in the area near Brentwood Drive and Skyline Drive. *See* Richards Aff., ¶¶ 16–17.

While it is true that the City's Water Facility Plan indicates 70% of water main breaks have occurred in cast iron pipes installed between 1920 and 1959, the City's map, which displays the location of water main leaks, demonstrates that these leaks have primarily occurred east of the Snake River where subsoils have more clay and are harder on waterlines. *See* Richards Aff., ¶ 17; Ex. F. Because the City did not have notice of any defects in its waterline at the intersection

of Skyline Drive and Brentwood Drive, it cannot be held liable for Plaintiff's claims. *See Yearsley v. City of Pocatello*, 71 Idaho 347, 353, 231 P.2d 743, 747 (1951) ("A city is not liable for damages occasioned by a latent defect in its water system in the absence of notice, express or implied, of such defective condition; it must have had actual notice or the defect actually existed for such a length of time or under such conditions that it should have known of the defect.").

In support of its argument that the City acted with negligence, Plaintiff relies entirely upon the case, *Skaggs Drug Centers, Inc. v. City of Idaho Falls*, 90 Idaho 1, 407 P.2d 695 (1965). In *Skaggs*, flooding occurred after a city waterline ruptured due to corrosion caused by rusting. *Id.* at 4. There, "[t]he City's policy with respect to the maintenance, repair and replacement of the pipelines was to wait until a break or leak was reported and then dispatch a crew to make the necessary repairs. The City took no steps whatsoever to *prevent* leaks caused by rusting...." *Id.* at 4–7. The facts of this case are entirely distinguishable from the facts in *Skaggs*, where, here, the City has a plan to replace its waterlines before they exceed their life expectancy and does not wait until leaks occur before making repairs. Unlike in *Skaggs*, here, the City acted reasonably and did not breach a duty owed to Plaintiff. At the time the water leak occurred on December 28, 2015, the City's water system and piping met engineering standards and had not exceeded its life expectancy. *See* Richards Aff., ¶ 19. Significantly, Plaintiff has not provided any expert testimony of its own to rebut Mr. Richards' expert testimony. In his affidavit, Mr. Richards has provided ample foundation for his expert opinions. As a licensed, professional engineer, Mr. Richards sets forth a detailed analysis of waterline materials used since the early 1900s and their relevant life expectancies, analyzes subsoils in Idaho Falls, provides detailed mapping of leak locations throughout Idaho Falls, establishes the type of break that occurred here, and provides his professional expert opinion.

The fact that Plaintiff has failed to present any expert testimony to rebut Mr. Richards' testimony is fatal to Plaintiff's case. Rather than provide expert testimony, Plaintiff attempts to rely upon the City's Water Facility Plan to suggest that the waterline in question had exceeded its life expectancy. Plaintiff's reliance on the Water Facility Plan is misplaced because it fails to account for various factors in determining a pipe's life expectancy and indicates a failure in the pipe's material that did not occur in this case. For instance, Mr. Richards' testimony regarding the pipe's life expectancy takes into account the nature of the soil—whether sandy, clay, or rock. According to his testimony, the life expectancy of the waterline in question would be longer than a waterline of the same material and installation date installed on the east side of Idaho Falls. *See Skaggs*, 90 Idaho at 4 ("...several factors determine the lifetime of the pipe and that among them were the quality and condition of the pipe and the galvanized coating at the time of installation; the nature of the soil-whether sandy, clay, or rock; and the moisture content of the soil....).

Additionally, as Plaintiff states in its response memorandum, "[d]escriptions of the type of breaks and repairs performed on the 1950s-era cast iron pipe include . . . clamp-type repairs of rusting and cracked pipelines . . . indicat[ing] that the material is past its design life and is (sic) need of replacement." *See* Memorandum in Opposition to Motion for Summary Judgment, p. 5. Significantly, the waterline at issue here was not in need of "clamp-type repairs of rusting and cracked pipelines," but rather experienced a shear break of the piping caused by shifting soils due to deep frost penetration. *See* Richards Aff., ¶ 18. There is no evidence the waterline here had rusted, cracked, or otherwise deteriorated in any way. Thus, Plaintiff's reliance on the Water Facility Plan fails to support its position and only highlights the lack of any evidence to support its claims.

Moreover, prior to the incident giving rise to this litigation, the City adopted a Water Facility Plan, which was prepared by professional engineers at Murray, Smith & Associates, Inc. *See* Richards Aff., ¶ 11; Stangel Aff., ¶ 4. The City Council formally accepted and adopted the Water Facility Plan on August 13, 2015, and the plan conforms with engineering standards. *See* Richards Aff., ¶ 11, 14; Stangel Aff., ¶ 5. The mere fact that Plaintiff's property was damaged does not demonstrate negligence. Here, because the City's water system and piping met engineering standards at the time the leak occurred on December 28, 2015, there is simply no evidence of negligence in this case.

B. The doctrine of *res ipsa loquitur* does not apply in this case.

The doctrine of *res ipsa loquitur* does not apply in this case because the facts demonstrate this accident could have happened in the absence of negligence. While the City's water system may be in its exclusive control, exclusive control is only one of two elements that must be present for *res ipsa loquitur* to apply. Here, Plaintiffs cannot establish that the waterline break could not have happened in the absence of negligence—which is the second element required for the application of *res ipsa loquitur*. Indeed, the only evidence in this case as to the cause of the break comes from Mr. Richards, who has testified that "[i]t is [his] professional opinion that this break was caused by shifting soils due to deep frost penetration, and that the circumstances giving rise to the break were not within the City's control or ability to prevent." *See* Richards Aff., ¶ 18. Mr. Richards' testimony remains uncontested and demonstrates that this break in fact occurred in the absence of negligence and was not within the City's control.

Again, Plaintiff relies solely upon *Skaggs* for its argument that *res ipsa loquitur* should apply in this case. Plaintiff's reliance on Skaggs is unpersuasive, where the facts there demonstrate the city failed to take any steps to prevent leaks in its waterlines and did not have a

plan for replacing its pipes. *Skaggs*, 90 Idaho at 4–7. Unlike in *Skaggs*, here, the City clearly has a plan to replace its waterlines before they exceed their life expectancy and does not wait until leaks occur before making repairs. Here, the City could not have breached a duty owed to Plaintiff because the waterline at issue met engineering standards. *See* Richards Aff., ¶ 19. The fact that Plaintiff has not provided any expert testimony of its own to rebut Mr. Richards' expert testimony is fatal to its case.

Plaintiff is effectively asking this Court to hold the City liable as an insurer under a theory of strict liability. There is no evidence in this matter that the City acted negligently in its installation, maintenance, and/or repair of its water system. The break at issue here occurred in late December of 2015 and was a shear break of a 6-inch cast iron pipe. *See* Richards Aff., ¶ 18. Although a water system may comply with engineering standards, it still remains vulnerable to acts of nature such as significant freezing and frost penetration into subsoils. *See* Richards Aff., ¶ 19. The City's water line at issue in this matter was designed, constructed, and maintained in accordance with engineering standards and met all state and federal standards on December 28, 2015. *See* Richards Aff., ¶ 19. Thus, Plaintiff has failed to present any evidence to survive summary judgment, and this case should be dismissed in its entirety.

II. BOTH THE DESIGN IMMUNITY AND DISCRETIONARY FUNCTION IMMUNITY APPLY IN THIS CASE, SHIELDING THE CITY FROM LIABILITY.

Even if the Court determines a genuine issue of material fact exists with respect to Plaintiff's claims, the City is immune from any liability under the Idaho Tort Claims Act. Section 6-904 of the Idaho Tort Claims Act provides governmental entities with specific immunities from liability on claims that arise under the act. The design immunity applies in this case because the City adopted a plan prepared by professional engineers to replace its waterlines,

and the plan conforms with engineering standards and was adopted by the City Council. *See* Stangel Aff., ¶¶ 4–5; *see also* Richards Aff., ¶ 14. Additionally, the discretionary function immunity applies here because the City's decisions relating to capital improvement of its water system involve consideration of the City's resources, including manpower, machinery, budgetary constraints, and the public interest. *See* Richards Aff., ¶ 12. Because these immunities shield the City from liability on Plaintiff's claims, the Court should grant Defendant's motion for summary judgment.

Plaintiff erroneously attempts to argue that I.C. § 6-904 cannot apply here because the City acts in a proprietary capacity when operating a water system. Plaintiff fails to provide any legal authority in support of its assertion and actually contradicts its own argument by attempting to distinguish this case from *Dorea Enterprises*. Plaintiff has not cited to any case law suggesting the immunities under the Idaho Tort Claims Act do not apply to a governmental entity's proprietary functions, such as the operation of sewer, water, and garbage services. Contrary to Plaintiff's unsupported assertion, the Idaho Supreme Court has clearly determined that the discretionary function immunity under I.C. § 6-904 shielded the City of Blackfoot from liability for its policy decisions in maintaining its sewer system, which is a proprietary function. *Dorea Enterprises, Inc. v. City of Blackfoot*, 144 Idaho 422, 163 P.3d 211 (2007). "The operation of a water system, a sewer system and a garbage collection service by the city is a proprietary function, not a governmental function." *City of Grangeville v. Haskin*, 116 Idaho 535, 538, 777 P.2d 1208, 1211 (1989) (citing *Schmidt v. Village of Kimberly,* 74 Idaho 48, 60, 256 P.2d 515 (1953)). In its response memorandum, Plaintiff concedes that the operation of a sewer system is proprietary in nature. *See* Memorandum in Opposition to Motion for Summary Judgment, p. 19. Nothing in the Idaho Tort Claims Act suggests the exceptions to governmental liability do not

apply to a governmental entity's proprietary functions, and the Idaho Supreme Court specifically held that they do apply in *Dorea Enterprises*.

Plaintiff fails to recognize that the Idaho Tort Claims Act expressly holds governmental entities liable for their negligent conduct with the exception of certain conduct set forth in the act that fails to rise to the level of malice or criminal intent. Specifically, I.C. § 6-904 states:

> A governmental entity and its employees *while acting within the course and scope of their employment and without malice or criminal intent shall not be liable* for any claim which:
>
> 1. Arises out of any act or omission of an employee of the governmental entity exercising ordinary care, in reliance upon or the execution or performance of a statutory or regulatory function, whether or not the statute or regulation be valid, or based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a governmental entity or employee thereof, whether or not the discretion be abused.
> ...
>
> 7. Arises out of a plan or design for construction or improvement to the highways, roads, streets, bridges, or other public property where such plan or design is prepared in substantial conformance with engineering or design standards in effect at the time of preparation of the plan or design or approved in advance of the construction by the legislative body of the governmental entity or by some other body or administrative agency, exercising discretion by authority to give such approval.

Idaho Code § 6-904 (emphasis added). Plaintiff's assertion that "a municipality would never be responsible for maintaining the safety of its facilities" if the immunities under § 6-904 applied is absurd. *See* Memorandum in Opposition to Motion for Summary Judgment, p. 22. Idaho Code § 6-904 simply sets the standard of care as malice or criminal intent. If a governmental entity's conduct falls within the exceptions set forth in § 6-904, a plaintiff must present evidence that the governmental entity acted with malice or criminal intent to survive summary judgment. Here, Plaintiff has never even attempted to argue the City acted with malice or criminal intent.

Consequently, because Plaintiff's claims fall under the design immunity and discretionary function immunity and there is no evidence of malice or criminal intent, Plaintiff's claims should be dismissed in their entirety.

A. Plaintiff's claims arise out of a plan for improvement of public property, which plan conforms with engineering standards and was adopted by the City Council, thus affording immunity to the City.

The City is immune from liability in this matter because it has a plan for the maintenance of its waterlines that conforms with engineering standards and was formally adopted by the City Council. Plaintiff erroneously argues in its response memorandum that the design immunity does not apply because its claims do not arise out of "a construction project issue, but rather a failure to maintain a completed project...." *See* Memorandum in Opposition to Motion for Summary Judgment, p. 16. Plaintiff's argument is misplaced because, contrary to Plaintiff's bare assertion, Idaho Code § 6-904(7) does not apply to new construction only. Indeed, the plain language of the statute states that immunity is afforded when a claim "[a]rises out of a plan or design for construction or *improvement*...." I.C. § 6-904(7) (emphasis added). Certainly, a capital improvement plan for the replacement and prioritization of the City's waterlines constitutes a plan for improvement under I.C. § 6-904(7). Plaintiff specifically states that the issues in this matter pertain to the City's maintenance of its water system, which maintenance is governed by the City's Water Facility Plan. *See* Memorandum in Opposition to Motion for Summary Judgment, pp. 16–17. The design immunity applies when two elements are established: (1) the existence of a plan or design for improvement that was (2) *either* prepared in substantial conformance with existing engineering or design standards *or* approved in advance of construction by the legislative or administrative authority. *Grabicki v. City of Lewiston*, 154

Idaho 686, 693, 302 P.3d 26, 33 (2013) (quoting *Brown v. City of Pocatello,* 148 Idaho 802, 811, 229 P.3d 1164, 1173 (2010)).

Here, the City's plan to prioritize and replace its waterlines was prepared by professional engineers and conforms with engineering standards. *See* Stangel Aff., ¶¶ 4–5. Plaintiff has not contested the fact that the City's capital improvement plan conforms with engineering standards. Rather, without any support whatsoever, Plaintiff attempts to argue that the capital improvement plan is somehow "not a plan or design for construction or improvement." *See* Memorandum in Opposition to Motion for Summary Judgment, p. 17. Notwithstanding Plaintiff's unsupported assertion, David Stangel, the professional engineer who oversaw the development of the City's Water Facility Plan, has testified that the plan includes a short and long-term capital improvement plan for the replacement and prioritization of the City's waterlines and that the plan conforms with engineering standards. *See* Stangel Aff., ¶ 5. This testimony is uncontroverted by the evidence in this matter. Indeed, Plaintiff has not presented any expert testimony of its own to rebut the expert testimony of Mr. Stangel. Such a failure demonstrates Plaintiff's claims cannot withstand summary judgment.

Moreover, on August 13, 2015, the City's plan was formally accepted and adopted by the Idaho Falls City Council, which is the appropriate legislative body. *See* Richards Aff., ¶ 14. In its response memorandum, Plaintiff fails to even address the fact that the City's plan both conforms with engineering standards and was adopted by the City Council. These undisputed facts place the City's plan squarely within the design immunity and shield the City from liability in this matter. *See Grabicki*, 154 Idaho at 694. Therefore, Plaintiff's claims against the City should be dismissed with prejudice.

B. Because the City's decisions with respect to pipe replacement involve financial, political, economic, and social effects, it is entitled to immunity under the "discretionary function" exception to governmental liability.

Despite Plaintiff's misguided attempt to distinguish *Dorea Enterprises Inc. v. City of Blackfoot*, the discretionary function immunity shields the City from liability in this case. A two-step process exists for determining whether the discretionary function immunity applies. First, courts must determine whether the governmental entity's decisions are operational or discretionary. Daily, routine decisions that do not involve policy considerations are operational in nature, whereas decisions that account for financial, political, economic, and social effects are discretionary. *Lawton*, 126 Idaho at 460, 886 P.2d at 336 (citing *Ransom v. City of Garden City*, 113 Idaho 202, 205, 743 P.2d 70, 73 (1987)). Second, courts evaluate "the underlying policies of the discretionary function." *Ransom v. City of Garden City*, 113 Idaho 202, 205, 743 P.2d 70, 73 (1987).

Given the specific two-step process that courts use to determine whether the discretionary function exception applies, Plaintiff's attempt to distinguish the facts of this case from those in *Dorea Enterprises* is clearly misplaced. Plaintiff erroneously argues that the discretionary function should not apply because water systems convey water into a home, whereas sewer systems convey wastewater out of a home. Plaintiff sets up a clever red herring in arguing that because sewer systems convey water out of a home, they are not under the exclusive control of the City as are water systems. Plaintiff's distinction between these two systems is entirely irrelevant because the proper question under the two-step process is whether the governmental entity's decisions related to either system is operational or discretionary. Nowhere under this process are courts to analyze whether the governmental entity has exclusive control.

In this case, the City's decisions relating to capital improvement of its water system are discretionary because they involve consideration of the City's resources. *See* Richards Aff., ¶ 12; *see also Dorea*, 144 Idaho 422, 163 P.3d at 214. David Richards has testified that the City's plan establishes a goal to replace its cast iron waterlines "within fifteen years so that no pipes used in the City's system, barring unforeseen circumstances, will have exceeded their respective life expectancies." *See* Richards Aff., ¶ 15. Moreover, Mr. Richards has testified that the Water Facility Plan was "developed based on the City's resources, including manpower, machinery, budgetary constraints, and the public interest. Decisions regarding the Water Facility Plan are made only after considering these City resources." *Id.* at ¶ 12. Because Mr. Richards must consider City resources in establishing and implementing the City's Water Facility Plan, the nature and quality of the City's decisions pertaining to that plan are discretionary.

Indeed, this judicial district recently determined the discretionary function immunity applies to decisions that involve considerations of a city's resources when establishing and implementing a plan for capital improvements. *See Herndon et al. v. City of Blackfoot*, Case No. CV-2016-1306, OPINION AND ORDER ON DEFENDANT'S MOTION FOR SUMMARY JUDGMENT (Oct. 31, 2017) (see opinion and order attached hereto). In that case, homeowners sued the City of Blackfoot, alleging it failed to properly maintain its sewer pipes after their homes were flooded with wastewater when the city's sewer system backed up during a significant rainstorm. *Id.* at *2. Judge Pickett determined the City of Blackfoot was immune from liability under the discretionary function immunity because the city considered its resources when determining how to implement its capital improvement plan. *Id.* at *12–14. There, Judge Pickett specifically stated:

> These decisions were based on the City's available resources and actual growth. *Such evaluations by the City and its administrators are exactly the decisions the exception seeks to shelter.* They require the use of discretion in financial decisions (i.e. How much of the budget should be spent on the improvement?), political decisions (i.e. Are the improvements desirable or necessary for the community?), economic decisions (i.e. What growth is projected and where is it most likely to occur?), and social effects decisions (i.e. What improvements are needed for the health and safety of the community?). Therefore, the nature and quality of the challenged action fits within the discretionary function exception.

Id. at *12. (internal citations omitted) (emphasis added). Here, as in *Herndon*, the undisputed evidence demonstrates the City makes decisions regarding the Water Facility Plan only after considering these City resources. *See* Richards Aff., ¶ 12.

Next, courts examine the underlying policies of the discretionary function, which also weigh in favor of immunity to further the goal of permitting "those who govern to do so without being unduly inhibited by the threat of liability for tortious conduct, and also, to limit judicial re-examination of basic policy decisions properly entrusted to other branches of government." *Ransom v. City of Garden City*, 113 Idaho 202, 205, 743 P.2d 70, 73 (1987). As Judge Pickett stated in *Herndon*, "[t]he Idaho Supreme Court has expressly concluded that these 'basic policy decisions [are] properly entrusted to other branches of government.... It has held that judicial review of these basic decisions 'contravene[s] the discretionary function exception...." *Herndon et al.*, Case No. CV-2016-1306 at *14.

As in *Herndon*, here, the City must be permitted to analyze the needs of the community and make discretionary policy decisions for water system maintenance without constant fear of being sued anytime a resident is dissatisfied with the outcome. The Idaho Legislature has intentionally provided immunity to local governments to be immune from Plaintiff's claims in

this matter, and the City is therefore entitled to summary judgment under the discretionary function immunity. Consequently, this matter should be dismissed with prejudice.

CONCLUSION

Based on the foregoing, Defendant City of Idaho Falls respectfully requests that this Court grant summary judgment, and that Plaintiff's claims against the City be dismissed with prejudice.

Dated this 5th day of December, 2017.

SAM L. ANGELL

CERTIFICATE OF SERVICE

I hereby certify that I served a true copy of the foregoing document upon the following this 5th day of December, 2017, by the method indicated below:

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SAM L. ANGELL

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BINGHAM

JAMES C. HERNDON, KEVIN DEAN MARTINSEN, TERESA MARTINSEN, MARCUS J. GRAHAM, HEIDI GRAHAM, and BETTY FERRIN, Plaintiff, v. THE CITY OF BLACKFOOT, JOHN DOES I through V, Defendant.	Case No. CV-2016-1306 OPINION AND ORDER ON DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

This Opinion and Order is in respond to Defendant's Motion for Summary Judgment.

I.
FINDINGS OF FACTS

These are the findings of fact, based upon the summary judgment standard:

In 2007, the City commissioned a comprehensive assessment of its sewer system ("the J.U.B report" or "the report"). The J.U.B. report was prepared by J.U.B. Engineers and the report evaluated the functionality and capacity of the City's existing sewer system. The report evaluated the system for compliance with existing standards and laws. It also recommended updates or changes based on the City's projected growth rate. Based on this report and the actual growth

that occurred, the City did not implement some of the recommended improvements to the sewer system.

Years later, On August 6, 2014, the City of Blackfoot, Idaho ("the City") experienced a significant rainstorm. During a period of one and half hours, approximately three inches of rain fell, causing flooding, and rainwater inflow to the City's sewer system. The City maintains two separate systems to collect sewage, and to divert storm water. Because of the design of the sewer system, some inflow of storm water is unavoidable.[1]

Because of the volume of rainfall on August 6, 2014, a significant amount of inflow to the sewer system occurred. These inflows overloaded the sewer system and caused it to backflow and flood the plaintiff's homes with sewage.

II.
PLEADINGS

Plaintiffs assert that the City failed to comply with State and Federal regulations for the operation and maintenance of sewer systems and that the City was grossly negligent in designing and constructing its sewer system.

In response, the City has filed a Motion for Summary Judgment. It asserts that the inflow that caused the flooding was unavoidable, denies liability for any damage caused by the backflow and flooding, Plaintiffs have failed to allege any damages, the sewer system currently in place complies with law, and the City is protected by "design" and "discretionary function" immunity under Idaho Code sections 6-904(1) and 6-904(7). The City maintains that the relevant, recommended updates in the J.U.B. report were unnecessary because the projected growth did not occur. This left the system operating under-capacity.

[1] For instance, the sewer system has manholes placed throughout. Each manhole cover usually has multiple half-inch holes that are necessary for ventilating the sewer system. Because of these holes, surface water may enter the sewer system, especially during heavy rainstorms. Moffat Aff. 2.

III.
APPLICABLE LAW

1. Standard of Review – Motion for Summary Judgment

Summary judgment is proper if, based upon "the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law."[2] In evaluating a party's Motion for Summary Judgment, "[The Court] liberally construes all disputed facts" and draws "all reasonable inferences and conclusions supported by the record in favor of the party opposing the motion."[3] Where there is no "issue of material fact, only a question of law remains."[4] When only a question of law remains, the Court "exercises free review."[5]

Additionally, the nonmoving party must provide more than a "mere scintilla of evidence," creating a genuine issue of material fact.[6] In other words, "[T]he nonmoving party must respond to the summary judgment motion with specific facts showing there is a genuine issue for trial."[7]

2. Negligence

To establish a cause of action under a negligence theory, the Plaintiff must satisfy four elements: "(1) a duty, recognized by law, requiring defendant to conform to a certain standard or conduct; (2) a breach of that duty; (3) a causal connection between the defendant's conduct and the resulting injuries; and (4) actual loss or damage."[8]

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[2] *Kiebert v. Goss*, 144 Idaho 225, 227, 159 P.3d 862, 864 (2007); I.R.C.P. 56(c).
[3] *Kiebert*, 144 Idaho at 227, 159 P.3d at 864.
[4] *Id.*
[5] *Id.*
[6] *Van v. Portneuf Med. Ctr.*, 147 Idaho 552, 556 212 P.3d 982, 986 (2009).
[7] *Id.*
[8] *McDevitt v. Sportsman's Warehouse, Inc.*, 151 Idaho 280, 283, 255 P.3d 1166, 1169 (Idaho 2011).

3. Idaho Tort Claims Act

The Idaho Tort Claims Act ("the Act") is intended to provide relief for those injured and suffering as a result of negligence by government employees.[9] To further the purposes of the Act, its provisions should be construed liberally such that "liability is the rule and immunity is the exception."[10] However, even in light of its purposes, the Act recognizes some exceptions to the general rule. These include: discretionary function immunity, under Idaho Code § 6-904(1), and design immunity, under Idaho Code § 6-904(7). These are each discussed below.

a. Discretionary Function Immunity – Idaho Code § 6-904(1)

As stated, Idaho law recognizes multiple exceptions to liability for government entities and employees "acting within the course and scope of their employment and without malice or criminal intent."[11] One of these exceptions provides immunity for claims:

> Aris[ing] out of any act or omission of an employee of the governmental entity exercising ordinary care, in reliance upon or the execution or performance of a statutory or regulatory function, whether or not the statute or regulation be valid, *or based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a governmental entity or employee thereof,* whether or not the discretion be abused.[12]

This exception is commonly referred to as the "discretionary function" exception.[13]

In *Dorea Enterprises, Inc. v. City of Blackfoot,* the Idaho Supreme Court reasoned that "Decisions involving a consideration of the financial, political, economic and social effects of a policy or plan will generally be 'discretionary.'"[14] Meanwhile, decisions "not involving the consideration of policy factors" are operational.[15] Under this exception, the Idaho Supreme Court has recognized that a governmental entity (e.g. a city) that makes

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[9] *Grabicki v. City of Lewiston*, 154 Idaho 686, 691, 302 P.3d 26, 31 (Idaho 2013).
[10] *Id.* at 691-92, 31-32 (*quoting Sterling v. Bloom,* 111 Idaho 211, 214-15, 723 P.2d 755, 758-59 (Idaho 1986)).
[11] IDAHO CODE ANN. § 6-904 (West 2017)
[12] IDAHO CODE ANN. § 6-904(1) (West 2017) (emphasis added).
[13] *Sterling v. Bloom,* 111 Idaho 211, 214, 723 P.2d 755, 758 (Idaho 1986).
[14] 144 Idaho 422, 425, 163 P.3d 211, 214 (Idaho 2007).
[15] *Id.*

"a policy decision due to budgetary constraints . . . will be immune from liability 'even if the decision was made negligently.'"[16]

b. Design Immunity – Idaho Code § 6-904(7)

Idaho law also recognizes an exception to liability for government entities and employees "acting within the course and scope of their employment and without malice or criminal intent" for claims that:

> Arise[ ] out of a plan or design for construction or improvement to the highways, roads, streets, bridges, or other public property where such plan or design is prepared *in substantial conformance with engineering or design standards in effect at the time of preparation of the plan or design* or approved in advance of the construction by the legislative body of the governmental entity or by some other body or administrative agency, exercising discretion by authority to give such approval.[17]

Thus, on summary judgment, the question becomes whether the entity (i.e. the City) "has established that there is no genuine issue of material fact regarding whether the design was 'prepared in substantial conformance with engineering or design standards in effect at the time of preparation of the plan or design or approved in advance of construction" by the appropriate entity . . . ."[18]

IV.
ANALYSIS

Plaintiffs have asserted that the City of Blackfoot was negligent in the administration and maintenance of its sewer system. The City has moved for summary judgment asserting immunity under the Idaho Tort Claims Act. Specifically, the City asserts immunity under the "design" and "discretionary function" exceptions pursuant to Idaho Code section 6-904(1) & (7).

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[16] *Id.* (*quoting Jones v. City of St. Maries*, 111 Idaho 733, 736, 727 P.2d 1161, 1164 (Idaho 1986).
[17] IDAHO CODE ANN. § 6-904(7) (West 2017) (emphasis added).
[18] *Grabicki*, 154 Idaho at 693, 302 P.3d at 33.

Summary Judgment is proper if, based upon "the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law."[19] In evaluating a party's Motion for Summary Judgment, "[The Court] liberally construes all disputed facts" and draws "all reasonable inferences and conclusions supported by the record in favor of the party opposing the motion."[20] Where there is no "issue of material fact, only a question of law remains."[21] If only a question of law remains, the Court may exercise free review.[22] To survive a motion for summary judgment, the nonmoving party must present more than "[a] mere scintilla of evidence . . ." so as to create "a genuine issue of material issue for trial."[23]

1. Negligence

In order to establish a claim for negligence the Plaintiffs must establish four elements: "(1) a duty, recognized by law, requiring defendant to conform to a certain standard or conduct; (2) a breach of that duty; (3) a causal connection between the defendant's conduct and the resulting injuries; and (4) actual loss or damage."[24] As the following analysis will show, Plaintiffs have not met this burden.

a. Duty

The plaintiffs must first establish a duty owed to them by the City.[25] On Summary Judgment they are not required to definitively prove a duty, but they must provide sufficient evidence to establish a genuine dispute of material fact (i.e. that some duty was owed them).[26] The plaintiffs have pled that the City owed them a duty; however, they have not provided any

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[19] *Kiebert,* 144 Idaho at 227, 159 P.3d at 864; I.R.C.P. 56(c).
[20] *Kiebert*, 144 Idaho at 227, 159 P.3d at 864.
[21] *Id.*
[22] *Id.*
[23] *Van,* 147 Idaho at 556, 212 P.3d t 986.
[24] *McDevitt,* 151 Idaho at 283, 255 P.3d at 1169.
[25] *See id.*
[26] *Olsen v. J.A. Freeman Company,* 117 Idaho 706, 720, 791 P.2d 1285, 1299 (1990).

evidence that creates a genuine issue of material fact. Therefore, as a matter of law, summary judgment should be granted in favor of the defendant.

Although Plaintiffs fail to establish a duty owed by the City, the Court might envision circumstances that might establish a duty. For instance, the City of Blackfoot requires its residents to connect to the city's sewer system. Its municipal code states:

> The owner or occupant of any house, building or property used for residential, commercial, industrial, governmental or recreational use, or other purpose, situated within the city which is abutting on or having a permanent right of access to any street, alley or right of way in which there is located a public sewer of the city hereby is required to . . . at his expense to connect such building directly to the public sewer . . . .[27]

That municipalities may require residents to connect to the municipal sewer system is generally recognized by Idaho Courts.[28]

Here the Court assumes that all Plaintiffs are residents, living within the incorporated limits of the City of Blackfoot. Because they all live within the incorporated city limits, they are all required to connect to the sewer system. Because Plaintiff's are required to connect to the city sewer system, the Court concludes, only for the sake of argument, that the City owes duty of ordinary care in the implementation and maintenance of that sewer system.[29]

b. Breach

In addition to showing that the City owed them a duty, the Plaintiffs must establish the defendant breached that duty.[30] The plaintiffs have failed to plead sufficient facts to establish this element. As stated, Plaintiffs must do more than rely on bare assertions or pleadings to survive a motion for summary judgment.[31] They must produce some evidence that creates a "genuine

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[27] BLACKFOOT, IDAHO, CODE § 9-3-8 (2014).
[28] *Schmidt v. Village of Kimberly,* 74 Idaho 48, 61, 256 P.2d 515, 523 (Idaho 1953).
[29] *Grabicki,* 154 Idaho at 693, 302 P.3d at 33.
[30] *See McDevitt,* 151 Idaho at 283, 255 P.3d at 1169.
[31] *Olsen,* 117 Idaho at 720, 791 P.2d at 1299.

issue of material fact" and they have not done so. [32] To support their claims of negligence Plaintiffs point to the J.U.B. report.

This report was prepared by J.U.B. Engineering in 2007, for the City of Blackfoot. J.U.B. Engineering evaluated the City's existing sewer system, and identified areas where future improvements might become necessary based on the city's projected growth. Despite the fact that these suggested improvements were contingent upon projected growth, the Plaintiffs fail to produce evidence that any growth actually occurred, necessitating these improvements. Further, this report does nothing to establish a breach of any supposed duty.

The Court notes that Plaintiffs have provided two affidavits in opposition to summary judgment. These affidavits are insufficient to save Plaintiffs' claims. The affidavits were prepared by James Herndon, one of the plaintiffs in this suit, and Jeff Freiberg, an engineering expert retained by plaintiffs. Both affidavits assert the inadequacy of the City's existing municipal sewer system. However, the affidavit prepared by James Herndon consists of impermissible expert testimony and that Court will disregard those portions.[33] The Court therefore turns its attention to the affidavit of Jeff Freiberg, plaintiff's retained expert.

In his affidavit, Mr. Freiberg asserts that the City's sewer system is defective as identified in the J.U.B. report. He states that he "reviewed the specific design of the sizes of the wastewater collection system facility which led to the sewage flooding of the Plaintiffs' homes . . . ."[34] And that, "The differing sizes of the lines for wastewater evacuation and the size and position of the cutouts for connecting the differing sizes of lines are defects that caused the flooding . . . ."[35] He

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[32] *Id.*
[33] The Court disregards portions of the Herndon affidavit because they proffer inadmissible opinion testimony by a lay person. These discuss topics and offer opinions of a technical or scientific nature (i.e. expert opinions) that James Herndon is unqualified to offer. IDAHO R. EVID. 701, 702.
[34] Freiberg Aff. 3.
[35] Freiberg Aff. 3.

also states that these defects "were known to the Defendant many years prior to the sewage flooding events causing the damages to the Plaintiffs."[36] These statements are not evidence; rather, they are additional allegations and pleadings disguised by affidavit.

As the Court stated previously, the nonmoving party must provide more than "a mere scintilla of evidence . . ." in order to survive a motion for summary judgment.[37] "[T]he nonmoving party must respond . . . with specific facts showing there is a genuine issue for trial."[38] Here, Plaintiff's expert has provided an affidavit which might have served as evidence, but the statements it contains are conclusory and cannot be considered as evidence. Plaintiff's expert asserts that the City's sewer system doesn't comply with "design or engineering standards" but does not to state what those standards are, or how the system falls below them. Additionally, Plaintiffs' expert asserts that defects exist in the system but fails to provide any specific details regarding the supposed defect(s). Therefore, the Court concludes that Plaintiffs have failed to produce any evidence that a duty was breached by the City and the City is thereby entitled to summary judgment.

c. Causal Connection and Damages

For the sake of argument, the Court continues its analysis of the remaining negligence elements. Even if Plaintiffs sufficiently established the "duty" and "breach" elements to survive the City's motion for summary judgment, summary judgment is still appropriate because that have not established a causal connection between any supposed breach and the damage suffered. Nor have plaintiffs plead any damages. Both a causal connection, between the defendant's

[36] Freiberg Aff. 3.
[37] *Van*, 147 Idaho at 556, 212 P.3d at 986.
[38] *Id.*

conduct and the harm suffered, and a showing of "actual loss or damage" is required to succeed on a negligence claim.[39]

The Plaintiffs assert the causal connection in their claim is the City's inadequate sewer system. The City has responded asserting that the true cause of Plaintiff's harm was the significant rainstorm on August 6, 2014, which overloaded the City's sewer system. As with the other elements, analyzed above, Plaintiffs have provided nothing beyond conclusory allegations to establish a causal connection, or a genuine, triable issue. Therefore, even drawing reasonable inferences in their favor, summary judgment is still appropriate for the City as to the causal connection element.

The final element of a negligence claim is damages.[40] To succeed on a negligence claim, the Plaintiff must allege and prove they were damaged in some way.[41] In the case now before the Court, the Plaintiffs have not plead any damages suffered due to the City's supposed negligence. Without damages, Plaintiff's negligence claim cannot succeed. Therefore, their claims must fail and summary judgment for the City is appropriate.

2. Idaho Tort Claims Act – Immunities

Even if the Plaintiff's had provided sufficient evidence to establish negligence for purposes of summary judgment, judgment in favor of the City is still appropriate under the Idaho Tort Claims Act. The purpose of this act is to provide relief for those injured and suffering as a result of negligence by government employees.[42] In furtherance of this purpose, it should be construed liberally: "[L]iability is the rule and immunity is the exception."[43] However, notwithstanding this mandate, the City is still immune from suit in this case because its conduct

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[39] *See McDevitt,* 151 Idaho at 283, 255 P.3d at 1169.
[40] *See id.*
[41] *See id.*
[42] *Gabicki,* 154 Idaho at 691, 302 P.3d at 31
[43] *Id.* at 691-92, 31-32 (*quoting Sterling v. Bloom,* 111 Idaho 211, 214-15, 723 P.2d 755, 758-59 (Idaho 1986)).

fits within two explicit exceptions provided by the Act. These exceptions are: (1) design immunity, under Idaho Code § 6-904(1), and (2) discretionary function immunity, under Idaho Code § 6-904(7). Each of these is discussed below.

a. Discretionary Function Immunity – Idaho Code § 6-904(1)

As stated, Idaho law recognizes multiple exceptions to liability for government entities and employees. One of these exceptions, under section 6-904(1), provides immunity for claims:

> Aris[ing] out of any act or omission of an employee of the governmental entity exercising ordinary care, in reliance upon or the execution or performance of a statutory or regulatory function, whether or not the statute or regulation be valid, *or based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a governmental entity or employee thereof,* whether or not the discretion be abused.[44]

This exception is commonly referred to as the "discretionary function" exception.[45] The analysis under this exception requires two steps.[46] First, the Court "examine[s] the nature and quality of the challenged actions."[47] Second, the Court evaluates "the underlying policies of the discretionary function."[48]

i. Nature and Quality of Challenged Actions

The nature and quality of the challenged actions support immunity under the discretionary function exception. In evaluating the nature and quality of the challenged actions, the Court must determine whether the City's decision was "a daily, routine decision not involving the consideration of policy factors (operational) or if it was a decision based on a consideration of its financial, political, economic, and social effects (discretionary)."[49]

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[44] IDAHO CODE ANN. § 6-904(1) (West 2017) (emphasis added).
[45] *Sterling*, 111 Idaho at 214, 723 P.2d at 758.
[46] *Dorea Enterprises, Inc.*, 144 Idaho at 425, 163 P.3d at 214.
[47] *Id.*
[48] *Id.* at 426, 215.
[49] *Id.* at 425, 214.

In this case, the nature and quality of the City's decisions relating to the sewer system are discretionary. As stated, the City commissioned a report to evaluate its existing sewer system. This report recommended future improvements based on the City's projected growth. [50] However, some of the projected growth did not occur. [51] The City then made some, but not all, of the recommended improvements.[52]

These decisions were based on the City's available resources and actual growth. [53] Such evaluations by the City and its administrators are exactly the decisions the exception seeks to shelter. They require the use of discretion in financial decisions (i.e. How much of the budget should be spent on the improvement?), political decisions (i.e. Are the improvements desirable or necessary for the community?), economic decisions (i.e. What growth is projected and where is it most likely to occur?), and social effects decisions (i.e. What improvements are needed for the health and safety of the community?). Therefore, the nature and quality of the challenged action fits within the discretionary function exception.

Furthermore, this conclusion is supported by Idaho case law. One of the cases to address this issue was *Dorea v. City of Blackfoot.*[54] At issue in *Dorea* was the City's decision to flush the sewer lines only once per year. [55] By law, the City of Blackfoot was only required to flush the lines every two years. [56] However, it made the determination to flush them once per year.[57]

The Plaintiff in *Dorea,* Dorea Enterprises, owned property that was damaged when a city sewer line became blocked and flooded property it owned.[58] The City argued that the flushing of

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[50] Moffat Aff. 3.
[51] Moffat Aff. 3.
[52] Moffat Aff. 3.
[53] Moffat Aff. 3.
[54] *Dorea Enterprises, Inc.*, 144 Idaho at 426, 163 P.3d at 215.
[55] *Id.*
[56] *Id.*
[57] *Id.*
[58] *Id.*

sewer lines qualified for immunity under the "discretionary function" exception. Dorea argued this decision was merely operational and that the City of Blackfoot was not entitled to immunity.

In its analysis, the Idaho Supreme Court recognized that the department supervisor, Jeff Guthrie, considered available resources in determining how often the sewer lines should be flushed.[59] The Supreme Court recognized that this required him to take "into account budgetary constraints and social considerations . . . ."[60] It ultimately concluded that the City's decision qualified for immunity under the discretionary function exception.[61]

Like the department supervisor in *Dorea*, Rex Moffat, made a decision as the Superintendent of the City's Wastewater Department.[62] After considering the available resources (i.e. budgetary constraint, manpower, equipment, etc.) and other social consideration (i.e. where growth had occurred, where improvements were most needed) he exercised his discretion and made a decision.[63] This included not making improvements to the sewer lines serving Plaintiffs' homes.[64] And based on this analysis, the Court concludes that the City is entitled to immunity in this case and that summary judgment should be granted in the City's favor.

ii. Underlying Policies

The underlying policies for the challenged actions also support immunity under the discretionary function exception. When evaluating the underlying policies, the Court should allow "those who govern to do so without being unduly inhibited . . ." and limit "judicial re-examination of basic policy decisions properly entrusted to other branches government."[65]

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[59] *Id.*
[60] *Id.*
[61] *Id.*
[62] Moffat Aff. 3.
[63] Moffat Aff. 3.
[64] Moffat Aff. 3.
[65] *See Dorea Enterprises, Inc.*, 144 Idaho at 425, 163 P.3d at 214.

Because the projected growth did not occur, the City was selective in which improvements it made to its sewer system. Upon considering the recommended improvements, the Superintendent of the City's Wastewater Department determined how the City's resources (i.e. ". . . manpower, machinery, budgetary constraints and the public interest") would be best allocated.[66] This included *not* making unnecessary improvements to the section(s) of the system that serves the Plaintiffs' homes.[67]

The Idaho Supreme Court has expressly concluded that these "basic policy decisions [are] properly entrusted to other branches of government . . . ."[68] It has held that judicial review of these basic decisions "contravene[s] the discretionary function exception . . . ."[69] It is, therefore, this Court's conclusion that the nature and quality and underlying policies of the City's actions meet the standards laid out for the discretionary function exception. Therefore, the City is immune from suit under I.C. § 6-904(1) and summary judgment should be granted in the City's favor.

3. Design Immunity – Idaho Code § 6-904(7)

Idaho law also recognizes an exception to liability for government entities and employees "acting within the course and scope of their employment and without malice or criminal intent" for claims that:

> Arise[ ] out of a plan or design for construction or improvement to the highways, roads, streets, bridges, or other public property where such plan or design is prepared in substantial conformance with engineering or design standards in effect at the time of preparation of the plan or design or approved in advance of the construction by the legislative body of the governmental entity or by some other body or administrative agency, exercising discretion by authority to give such approval.[70]

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[66] Moffat Aff. 3.
[67] Moffat Aff. 3.
[68] *Dorea Enterprises, Inc.*, 144 Idaho at 425, 163 P.3d at 214.
[69] *Id.*
[70] IDAHO CODE ANN. § 6-904(7) (West 2017).

Idaho courts have found the "design immunity" exception to apply where two elements are established: "(1) the existence of a plan or design that was (2) either prepared in substantial conformance with existing engineering or design standards or approved in advance of construction by the legislative or administrative authority."[71] It also requires that the plan conform to engineering and design standards that existed the time the plan is prepared, or that the plan be approved by the appropriate legislative body.[72]

At summary judgment, the question then becomes whether the entity (i.e. the City) "has established that there is no genuine issue of material fact regarding whether the design was 'prepared in substantial conformance with engineering or design standards in effect *at the time of preparation* of the plan or *design or approved in advance of construction*' by the appropriate entity . . . ."[73] Based on the following analysis, the Court concludes the City is not entitled to summary judgment under the design immunity exception.

As stated, the Plaintiffs assert that the City's existing sewer system is defective and in need of improvements. They allege that the system failed during a significant rainstorm, causing sewage to backflow and flood their homes. The City asserts that it is immune from suit under the design function exception because it designed and constructed the sewer system. Further, the City also asserts immunity under this exception because the sewer system functioned in accordance with the relevant engineering standard(s) during the storm. However, this misstates the requirements of the design immunity exception. Merely designing and constructing a functioning system does not entitle the City to immunity under section 6-904(7).

---

[71] *Brown v. City of Pocatello,* 148 Idaho 802, 811, 229 P.3d 1164, 1173 (Idaho 2010) (*quoting Lawton v. City of Pocatello,* 126 Idaho 454, 459, 886 P.2d 330, 335 (Idaho 1994)).
[72] I.C. § 6-904(7); *Grabicki,* 154 Idaho at 693, 302 P.3d at 33.
[73] *Grabicki,* 154 Idaho at 693, 302 P.3d at 33 (emphasis added).

Instead, both the relevant statute, I.C. § 6-904(7) and subsequent case law require that the City show the design or plan conformed to the relevant engineering and design standards in effect *when the plan or design was prepared,* or that it *was approved by the appropriate legislative body* prior to implementation.[74] Here, the City only asserts that it designed a functioning system. The City has not proffered any evidence that the sewer system was designed and constructed according to the relevant standards when it was designed and implemented. Nor has the City proffered any evidence of legislative approval prior to implementation. Therefore, the City has not established that it qualifies for immunity under the design immunity exception, and it is not entitled to summary judgment under this exception.

V.
CONCLUSION

Based on the foregoing analysis, the Court concludes the City of Blackfoot did not owe a duty to the Plaintiffs. Because it did not owe a duty to Plaintiffs, the Court cannot conclude there was a breach of duty by the City. Even if Plaintiffs sufficiently established a duty, they did establish a breach by the City. Additionally, Plaintiffs have not established a causal connection between any supposed duty and breach, or plead resulting damages. Therefore, summary judgment in favor of the City is appropriate on Plaintiff's negligence claim.

The Court also concludes that the City is entitled to immunity from suit under Idaho Code § 6-904(1). This is because, as the Court's analysis shows, the improvement and maintenance of its sewer system is a discretionary function. Therefore, summary judgment in favor of the City is also appropriate under Idaho Code § 6-904(1).

The City is not entitled to design immunity under Idaho Code § 6-904(7) because the City has not shown the design or plan of its sewer system was approved by the appropriate

[74] *Id.* at 693, 33 (emphasis added).

legislative body prior to construction. Nor has the City shown the system's plan conformed to the relevant engineering standards at the time it was designed and implemented. Although the City is not entitled to design immunity, the City is still entitled to judgment based upon the Court's prior reasoning and analysis of Plaintiffs negligence claim and section 6-904(1).

Therefore, the Court orders as follows:

1- Defendant's Motion for Summary Judgment is GRANTED.

IT IS SO ORDERED.

Dated this 31st day of October 2017.

Bruce L. Pickett
District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 1st day of November 2017, I served a true copy of the foregoing document to the person(s) listed below in the manner indicated:

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PAMELA W. ECKHARDT,
Clerk of the Court

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IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE

LAMONT BAIR ENTERPRISES, INC., an Idaho corporation, Plaintiff, vs. CITY OF IDAHO FALLS, a municipal corporation, Defendant.	Case No. CV-2016-5711 **MEMORANDUM DECISION AND ORDER RE: MOTION TO STRIKE AND MOTION FOR SUMMARY JUDGMENT**

I. STATEMENT OF THE CASE

Lamont Bair Enterprises, Inc. (LBE) brought this negligence action against the City of Idaho Falls (City) after a break in a waterline caused the basement of LBE's apartment building, located at 547 South Skyline Drive (the Property), to flood. The City brought this motion for summary judgment, arguing it is immune from suit under the Idaho Tort Claims Act's (ITCA) discretionary function and design exceptions. The City also argues LBE has failed to present a genuine issue of material fact on its negligence and *res ipsa loquitur* claims.

The ITCA's discretionary function exception grants the City immunity from LBE's claims.

II. ISSUES

1. Should this Court strike paragraph 19 of the Richards Affidavit?

2. Is the City entitled to immunity under the ITCA's discretionary function exception, I.C. § 6-904(1)?

3. Is the City entitled to immunity under the ITCA's design exception, § 6-904(7)?

III. FACTUAL AND PROCEDURAL BACKGROUND

The City maintains a public water system with over 314 miles of pipeline. In 2014, it retained Murray, Smith & Associates, Inc. (Murray Smith), an engineering firm, to assist in preparing a Water Facility Plan (the Plan). The Plan includes a prioritization scheme for pipeline replacement and recommendations for capital improvements. The City and Murray Smith considered the City's resources (including manpower, machinery and budgetary constraints) and the public interest when developing the Plan.

The Plan's findings were presented to the Idaho Falls City Council on May 11, 2015. Richards Aff., Ex. E. A public meeting regarding the Plan was held on July 20, 2015, with public comments solicited through August 3, 2015. *Id.*

The Idaho Department of Environmental Quality approved the Plan on July 27, 2015. *Id.*

On August 13, 2015, the Idaho Falls City Council discussed the Plan, accepted it and adopted the Plan's recommendations. *Id.*

The Plan recommends replacing high priority pipes (cast iron pipes installed between 1902 and 1959) within 15 years in order to ensure pipes are replaced before they exceed their respective life expectancies. Aff. of Counsel Re: M. for Summ. J. and M. to Strike, Ex. B, p. 6-18, Table 6-10.

On December 28, 2015, a break occurred in a water pipeline (the Brentwood pipe), running west down Brentwood Drive in Idaho Falls, near its intersection with Skyline Drive.

Water from the broken pipe flowed beneath Skyline Drive and the Property's driveway. The water eroded the soil adjacent to the Property, fractured the Property's concrete basement floor and flooded the basements of the Property's four rental units.

The Brentwood pipe is made of cast iron and was installed in 1958 or 1959. Cast iron pipes installed during this time period have a life expectancy of 75 years.

LBE served a Notice of Tort Claim on the City on June 16, 2016, and initiated this action on October 21, 2016.

The City filed a motion for summary judgment, arguing LBE has not presented a genuine issue of material fact in support of its negligence and *res ipsa loquitur* claims and that the City is immune from suit under the ITCA. The City also filed an Affidavit of David Richards (Richards Affidavit), Superintendent of the Idaho Falls Water Division, in support of its motion for summary judgment.

IV. STANDARD OF ADJUDICATION

A. Motion to Strike

> "Affidavits supporting or opposing the motion for summary judgment 'shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein.' " *Id.* "The admissibility of the evidence contained in affidavits and depositions in support of or in opposition to a motion for summary judgment is a threshold question to be answered before applying the liberal construction and reasonable inferences rule to determine whether the evidence is sufficient to create a genuine issue for trial." *Id.* "Summary judgment is appropriate where the nonmoving party bearing the burden of proof fails to make a showing sufficient to establish the existence of an element essential to that party's case." *Id.*
>
> Evidentiary rulings shall be reviewed under an abuse of discretion standard. *Perry v. Magic Valley Reg'l. Med. Ctr.*, 134 Idaho 46, 50, 995 P.2d 816 (2000). Upon review to determine whether a trial court abused its discretion, this Court inquires: (1) whether it correctly perceived the issue as discretionary; (2) whether it acted within the boundaries of its discretion and consistently with applicable legal standards; and (3)

> whether it reached its decision by an exercise of reason. *Id; Swallow v. Emergency Med. of Idaho, P.A.*, 138 Idaho 589, 592, 67 P.3d 68, 71 (2003) (citing *State v. Merwin,* 131 Idaho 642, 962 P.2d 1026 (1998); *Sun Valley Shopping Ctr., Inc. v. Idaho Power Co.,* 119 Idaho 87, 94, 803 P.2d 993, 1000 (1991)).

Sprinkler Irrigation Co. v. John Deere Ins. Co., 139 Idaho 691, 696, 85 P.3d 667, 672 (2004).

B. Motion for Summary Judgment

A motion for summary judgment "shall be rendered forthwith if the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." I.R.C.P. 56(c). *See Grover v. Smith*, 137 Idaho 247, 46 P.3d 1105; *Rockefeller v. Grabow*, 136 Idaho 637, 39 P.3d 577 (2002). The burden is, at all times, on the moving party to demonstrate the absence of a genuine issue of material fact. *Jordan v. Beeks*, 135 Idaho 586, 21 P.3d 908 (2001).

The United States Supreme Court, in *Celotex Corp. v. Catrett*, 477 U.S. 317, 106 S.Ct. 2548 (1986), stated:

> Of course, a party seeking summary judgment always bears the initial responsibility of informing the district court of the basis for its motion, and identifying those portions of "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any," which it believes demonstrate the absence of a genuine issue of material fact. But unlike the Court of Appeals, we find no express or implied requirement in Rule 56 that the moving party support its motion with affidavits or other similar materials *negating* the opponent's claim. On the contrary, Rule 56(c), which refers to "the affidavits, *if any*" (emphasis added), suggests the absence of such a requirement. And if there were any doubt about the meaning of Rule 56(c) in this regard, such doubt is clearly removed by Rules 56(a) and (b), which provide the claimants and defendants, respectively, may move for summary judgment "*with or without supporting affidavits*" (emphasis added). The import of these subsections is that, regardless of whether the moving party accompanies its summary judgment motion with affidavits, the motion

> may, and should, be granted so long as whatever is before the district court demonstrates that the standard for the entry of summary judgment, as set forth in Rule 56(c), is satisfied. One of the principal purposes of the summary judgment rule is to isolate and dispose of factually unsupported claims or defenses, and we think it should be interpreted in a way that allows it to accomplish this purpose.

Id. at 323, 106 S.Ct. at 2553 (alterations in original).

When assessing a motion for summary judgment, all controverted facts are to be liberally construed in favor of the non-moving party. *Dodge-Farrar v. American Cleaning Services, Co.*, 137 Idaho 838, 54 P.3d 954 (Ct. App. 2002). In ruling on a motion for summary judgment, a court is not permitted to weigh the evidence to resolve controverted factual issues. *Meyers v. Lott*, 133 Idaho 846, 993 P.2d 609 (2000). Liberal construction of the facts in favor of the non-moving party requires the court to draw all reasonable factual inferences in favor of the non-moving party. *Farnworth v. Ratliff*, 134 Idaho 237, 999 P.2d 892 (2000); *Madrid v. Roth*, 134 Idaho 802, 10 P.3d 751 (Ct. App. 2000).

The Idaho appellate courts have followed the United States Supreme Court's decision in *Celotex*, which stated:

> Summary judgment procedure is properly regarded not as a disfavored procedural shortcut, but rather as an integral part of the Federal Rules as a whole, which are designed "to secure the just, speedy and inexpensive determination of every action." ...Rule 56 must be construed with due regard not only for the rights of persons asserting claims and defenses that are adequately based in fact to have those claims and defenses tried to a jury, but also for the rights of persons opposing such claims and defenses to demonstrate in the manner provided by the Rule, prior to trial, that the claims and defenses have no factual basis.

Id. at 327, 106 S.Ct. at 2555 (citations omitted); *see Win of Michigan, Inc. v. Yreka United, Inc.*, 137 Idaho 747, 53 P.3d 330 (2002); *Thomson v. City of Lewiston*, 137 Idaho 473, 50 P.3d 488 (2002).

A party against whom a summary judgment is sought cannot merely rest on his pleadings but, when faced with affidavits or depositions supporting the motion, must come forward by way of affidavit, deposition, admissions or other documentation to establish the existence of material issues of fact, which preclude the issuance of summary judgment. *Anderson v. Hollingsworth*, 136 Idaho 800, 41 P.3d 228 (2001); *Baxter v. Craney*, 135 Idaho 166, 16 P.3d 263 (2000). The non-moving party's case, however, must be anchored in something more than speculation, and a mere scintilla of evidence is not enough to create a genuine issue of fact. *Wait v. Leavell Cattle, Inc.*, 136 Idaho 792, 41 P.3d 220 (2001).

The moving party is entitled to judgment when the non-moving party fails to make a sufficient showing as to the essential elements to which that party will bear the burden of proof at trial. *Primary Health Network, Inc. v. State, Dept. of Admin.*, 137 Idaho 663, 52 P.3d 307 (2002). Facts in dispute cease to be "material" facts when the plaintiff fails to establish a prima facie case. *Post Falls Trailer Park v. Fredekind*, 131 Idaho 634, 962 P.2d 1018, (1998). In such a situation, there can be no genuine issue of material fact, since a complete failure of proof concerning an essential element of the non-moving party's case necessarily renders all other facts immaterial. *Id.*

V. DISCUSSION

1. LBE's motion to strike should be denied.

LBE moves this Court to strike paragraph 19 of the Richards Affidavit. LBE argues that Richards did not lay sufficient foundation for his conclusions in paragraph 19 and that the statements are conclusory, based on hearsay and outside the scope of Richards's personal knowledge.

Paragraph 19 states:

> [I]t is my professional opinion that the City of Idaho Falls' water line located at the intersection of Skyline Drive and Brentwood Drive and at issue in this matter was designed, constructed, and maintained in accordance with engineering standards and met all state and federal standards on December 28, 2015. Although a water system may meet all state and federal standards, it remains vulnerable to acts of nature such as significant freezing and frost penetration into subsoils.

Richards Aff. at 5.

Prior to paragraph 19, Richards sets forth the following foundational statements and facts:

- He has a bachelor's degree in civil and environmental engineering and is a licensed professional engineer, ¶¶ 2, 3.
- He has served as Superintendent of the Idaho Falls Public Works Department's Water Division, for the past 14 years. *id.*
- The material composition and locations of various water pipes throughout the city, ¶¶ 6-10.
- The age and general life expectancy of the specific pipe in issue, ¶ 16.
- General subsoil types and locations in Idaho Falls and a description of how those subsoil types may impact pipes, § 17.
- A map of leaks throughout Idaho Falls, noting the concentration of leaks east of the Snake River, *id.,* Ex. F.
- The nature of the break on this particular line being a shear break caused by shifting soils following deep frost penetration into the subsoil, ¶ 18.

These statements establish Richards's personal knowledge of the Brentwood pipe and Idaho Falls' water system and lay sufficient foundation for Richards's conclusions in paragraph 19. It does not appear Richards relied on hearsay in reaching his conclusions.

LBE's motion to strike should be denied.

2. The discretionary function exception in I.C. § 6-904(1) grants the City immunity.

The City argues that it is entitled to immunity under I.C. § 6-904(1).

LBE argues § 6-904(1) can never apply to a claim involving a municipality's negligent maintenance of its water system. It also contends that discretionary function immunity does not apply to governmental entities engaging in proprietary, rather than governmental, acts.

The ITCA provides:

> Except as otherwise provided in this act, every governmental entity is subject to liability for money damages arising out of its negligent or otherwise wrongful acts or omissions and those of its employees acting within the course and scope of their employment or duties, whether arising out of a governmental or proprietary function, where the governmental entity if a private person or entity would be liable for money damages under the laws of the state of Idaho . . . .

I.C. § 6-903(1).

Idaho Code § 6-904 provides:

> A governmental entity and its employees while acting within the course and scope of their employment and without malice or criminal intent shall not be liable for any claim which:
>
> > 1. Arises out of any act or omission of an employee of the governmental entity exercising ordinary care, in reliance upon or the execution or performance of a statutory or regulatory function, whether or not the statute or regulation be valid, or based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a governmental entity or employee thereof, whether or not the discretion be abused.

Idaho Code § 6-904.

> This Court uses a two-step analysis for reviewing a motion for summary judgment based upon an immunity defense under the ITCA. First, the Court "determine[s] whether the plaintiffs' allegations and supporting record generally state a cause of action for which 'a private person or entity would be liable for money damages under the laws of the state of Idaho.' " *Czaplicki v. Gooding Joint Sch. Dist. No. 231,* 116 Idaho 326, 330, 775 P.2d 640, 644 (1989) (quoting *Walker v. Shoshone Cnty.,* 112 Idaho 991, 995, 739 P.2d 290, 294 (1987)). "This is essentially a determination of whether there is such a tort under Idaho Law." *Rees v. Dep't of Health & Welfare,* 143 Idaho 10, 14–15, 137 P.3d 397, 401–02 (2006) (citation omitted). The second step is to "determine whether an exception to liability under the ITCA shields the alleged misconduct from liability." *Czaplicki,* 116 Idaho at 330, 775 P.2d at 644.

Grabicki v. City of Lewiston, 154 Idaho 686, 690–91, 302 P.3d 26, 30–31 (2013). The courts are to closely construe exceptions to immunity under the ITCA. *Id.* at 91-92, 302 P.3d at 31-32.

Because the parties do not dispute that LBE has properly asserted a negligence cause of action under Idaho law, this Court only needs to determine whether the ITCA shields the City from liability.

In *Dorea Enterprises, Inc. v. City of Blackfoot,* 144 Idaho 422, 425, 163 P.3d 211, 214 (2007), the City of Blackfoot's sewage system became blocked, causing it to back up and flood the basement of an apartment building. The plaintiff alleged the City was negligent because it was aware of and chose to ignore potential problems with the sewer line. The City moved for summary judgment, arguing it was immune under the ITCA's discretionary function exception because it had adopted a discretionary policy of flushing the sewer lines annually as part of its maintenance routine. The trial court granted summary judgment in favor of the City. The Supreme Court affirmed. The Court explained:

> The discretionary function exception applies to governmental decisions entailing planning or policy formation. *Sterling v. Bloom,* 111 Idaho 211, 723 P.2d 755 (1986). There is a two-step process for determining the applicability of this exception. *Ransom v. City of Garden City,* 113 Idaho 202, 205, 743 P.2d 70, 73 (1987); *City of Lewiston v. Lindsey,* 123 Idaho 851, 856, 853 P.2d 596, 600 (Ct.App.1993). The first step is to examine the nature and quality of the challenged actions. *Id.* "Routine, everyday matters not requiring evaluation of broad policy factors will more likely than not be 'operational.' " *Ransom,* 113 Idaho at 205, 743 P.2d at 73. *Decisions involving a consideration of the financial, political, economic and social effects of a policy or plan will generally be planning and "discretionary." Id.* "While greater rank or authority will most likely coincide with greater responsibility for planning or policy formation decisions; ... those with the least authority may, on occasion, make planning decisions which fall within the ambit of the discretionary function exception." *Id.* at 204, 743 P.2d at 72. The second step is to examine the underlying policies of the discretionary function, which are: to permit those who govern to do so without being unduly inhibited by the threat of liability for tortious conduct, and also, to limit judicial re-examination of basic policy decisions properly entrusted to other branches of government. *Id.* at 205, 743 P.2d at 73. Thus, the question is whether the City's decision to flush the sewage lines was discretionary and therefore, the City would be immune from liability; or alternatively, if the City's decision was operational, and consequently, the City would be subject to liability if it failed to exercise ordinary care. *Jones v. City of St. Maries,* 111 Idaho 733, 736, 727 P.2d 1161, 1164 (1986).

Dorea Enterprises, Inc. v. City of Blackfoot, 144 Idaho 422, 425, 163 P.3d 211, 214 (2007) (emphasis added). The Court concluded that because the City of Blackfoot's decision to flush the sewer system annually was based on a consideration of the city's resources and the public interest, the decision was discretionary and protected under § 6-904(1).

In reaching its conclusion in *Dorea*, the Supreme Court relied on *Jones v. City of St. Maries,* 111 Idaho 733, 736, 727 P.2d 1161, 1164 (1986), and *City of Lewiston v. Lindsey,* 123 Idaho 851, 856, 853 P.2d 596, 600 (Ct.App.1993). In *Jones,* the Supreme Court determined that if a city had "made a policy decision due to budgetary constraints not to inspect its water mains and fire hydrants, the decision would be discretionary, as it

would involve planning rather than operational activity, and the [city] would be immune from liability 'even if the decision was negligently made.'" *Dorea*, 144 Idaho at 425, 163 P.3d at 214 (*quoting Jones,* 111 Idaho at 736, 727 P.2d at 1164). In *Lindsey*, the Idaho Court of Appeals held that a city's consideration of financial and human resources in deciding whether to pursue certain projects and responsibilities was a discretionary function protected under § 6-904(1).

In considering the second step of the § 6-904(1) analysis, the *Dorea* Court quoted the *Lindsey* court's determination that:

> "[w]hen and how many financial and human resources should be allocated to perform the myriad tasks of running the City ... are basic policy decisions properly entrusted to other branches of government, and it would contravene the purpose of the discretionary function exception to allow the City's decisions on those matters to be reviewed by the judicial process."

Dorea, *supra,* (*quoting Lindsey,* 123 Idaho at 855–56, 853 P.2d at 600–01).

In this case, the uncontroverted evidence indicates the City made a policy decision to prioritize and schedule the replacement of its 1902-1959 era cast iron pipes over a 15-year period. This decision was based on the City's budgetary constraints, manpower,[1] other resources, and the public interest. Consideration of these factors supports a determination that the decision was within the realm of discretionary planning. The fact that the City retained the services of a professional engineering company to prepare the Plan and that the Idaho Falls City Council adopted the Plan's recommendations also supports a conclusion that the Plan for pipe replacement was part of planning and policy formation decided at the highest levels of City government. The

[1] As LBE indicates, the Plan acknowledged and considered the fact that the City is understaffed compared to seven other comparably sized utilities. Mem. in Opp'n to M. for Summ. J. at 4 (*citing* Richards Depo., Ex. 5, p. 5-10.

decision of when to replace the system's water lines was not a routine, everyday matter. The adoption of this policy decision and schedule was discretionary and falls within the liability exception set forth in I.C. § 6-904(1). This Court cannot contravene the purpose of the ITCA by reviewing the City's policy decisions.

LBE does not cite any authority in support of its argument that the discretionary function exception can never apply to claims involving a city's water system. Instead, LBE makes this argument based on case law stating that a city has a duty to maintain its water system in a reasonably safe condition. The fact that a city has a duty to safely maintain its water system does not preclude governmental immunity under § 6-904(1), but relates to the first step of an ITCA immunity analysis—whether plaintiffs' allegations state a cause of action for which a private person would be liable. *See Grabicki,* 154 Idaho 686, 690–91, 302 P.3d 26, 30–31 (2013) (indicating the first step of an ITCA analysis is to determine whether plaintiff has stated a cause of action for negligence). As previously noted, LBE's complaint states a negligence claim recognized in Idaho.

LBE cites *Hansen v. City of Pocatello*, 145 Idaho 700, 703, 184 P.3d 206, 209 (2008), in support of its argument that § 6-904(1) does not extend immunity to governmental entities engaged in proprietary functions. *Hansen* stands for the proposition that the operation of a water system is a proprietary function; it does not, however, address the issue of immunity under the ITCA. In fact, the Supreme Court noted that the record on appeal was silent regarding whether the plaintiff had filed a notice of tort claim or whether the city had asserted immunity under the ITCA. *Id.*, at 701, n.1, 184 P.3d at 207.

Idaho Code § 6-903(1) indicates that unless an exception applies, governmental entities are subject to liability for negligent acts, "whether arising out of a governmental or proprietary function." Section 6-904 sets forth the exceptions to liability. Section 6-904 does not indicate that its enumerated exceptions apply only to governmental, and not proprietary, functions. Based on the plain language, of the ITCA, the § 6-904 exceptions apply to both governmental and proprietary functions.

LBE also distinguishes *Dorea* by arguing that a city has greater control over the function of its water system than that of its sewer system (i.e. individual households can damage a sewer system by introducing harmful items to it). Whether and to what extent a governmental entity exerts control over a public works system does not enter the analysis under § 6-904(1). As discussed above, the City was uncontrovertibly engaged in a discretionary function in adopting its plan and is granted absolute immunity under § 6-904(1).

The City engaged in discretionary policy making in determining when to replace the pipes contained within its water system. Such a decision is immune from tort liability under Idaho Code § 6-904(1). LBE's Complaint should be dismissed.

3. The design exception under Idaho Code § 6-904(7) does not grant immunity to the City.

The City argues that it is also entitled to immunity under the design exception carved out by Idaho Code § 6-904(7).

LBE argues that the design exception does not apply because its negligence claim arises out of the City's failure to maintain an existing improvement and not out of a plan or design for construction or improvement of the water system. LBE adds that the Plan is

not a design for construction or improvement at all, but rather a plan to "inform infrastructure development and operational decisions by City staff." Mem. in Opp'n to MSJ at 17 (*quoting* Richards Depo., Ex. 5, p. 1-1).

Idaho Code § 6-904 provides:

> A governmental entity and its employees while acting within the course and scope of their employment and without malice or criminal intent shall not be liable for any claim which:
>
> . . .
>
> 7. *Arises out of a plan or design for construction or improvement* to the highways, roads, streets, bridges, or other public property where such plan or design is prepared in substantial conformance with engineering or design standards in effect at the time of preparation of the plan or design or approved in advance of the construction by the legislative body of the governmental entity or by some other body or administrative agency, exercising discretion by authority to give such approval.

(Emphasis added).

In *Grabicki, supra,* the Idaho Supreme Court explained the distinction between the discretionary function exception and the design exception:

> [W]hile *the discretionary function exception may protect a defendant's policy choices in deciding whether to undertake a . . . project,* once the defendant creates a plan or design, that exception does not provide immunity from a claim of negligent design in implementing its decision.
>
> *In this case, the question is not whether the City was negligent in deciding to replace the storm-water drain system at the intersection of Idaho Street and 21st Street, but whether the City negligently planned or designed the replacement system.* There is no dispute regarding the existence of a plan. . . . Thus, because a plan or design for the gutter replacement project exists, *and the damages in this matter arise from a claim of negligent design,* the discretionary function exception does not apply.

Grabicki v. City of Lewiston, 154 Idaho 686, 692–93, 302 P.3d 26, 32–33 (2013) (note omitted; emphasis added).

LBE's claim is not based on any claim that the Brentwood pipe's design was flawed. The design exception, therefore, does not apply. Idaho Code § 6-904(7) does not provide the City immunity from LBE's claim of negligent maintenance.

VI. CONCLUSION AND ORDER

The discretionary function exception, I.C. § 6-904(1) grants the City immunity from liability based on LBE's negligence and *res ipsa loquitur* claims. LBE's Complaint is dismissed.

IT IS SO ORDERED.

DATED this 8 day of Jan 2018.

DANE H. WATKINS JR.
District Judge

CERTIFICATE OF SERVICE

I hereby certify that on this 9 day of January 2018, I did send a true and correct copy of the foregoing document upon the parties listed below by mailing, with the correct postage thereon; by causing the same to be placed in the respective courthouse mailbox; or by causing the same to be hand-delivered.

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IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE

LAMONT BAIR ENTERPRISES, INC., an Idaho corporation, Plaintiff, v. CITY OF IDAHO FALLS, a municipal corporation, Defendant.	Case No. CV-2016-5711 **JUDGMENT OF DISMISSAL**

JUDGMENT IS ENTERED AS FOLLOWS: The above-captioned matter is dismissed with prejudice against Plaintiff and in favor of Defendant.

Dated this 29 day of January, 2018.

DANE H. WATKINS
District Judge

CLERK'S CERTIFICATE OF SERVICE

I hereby certify that I served a true copy of the foregoing document upon the following this 1 day of January, 2018, by the method indicated below:

Jared W. Allen, Esq.
John M. Avondet, Esq.
BEARD ST CLAIR GAFFNEY
2105 Coronado Street
Idaho Falls, ID 83404
Fax: (208) 529-9732
Email: allen@beardstclair.com
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Blake G. Hall, Esq.
HALL ANGELL & ASSOCIATES
1075 S Utah Avenue, Suite 150
Idaho Falls, ID 83402
Fax: (208) 621-3008
Email: bgh@hasattorneys.com

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[ ] Email
[ ] Hand-Delivery

CLERK OF THE COURT

CMC
DEPUTY CLERK

Jared W. Allen, ISB No. 5793
BEARD ST. CLAIR GAFFNEY PA
2105 Coronado Street
Idaho Falls, Idaho 83404
Telephone: (208) 523-5171
Facsimile: (208) 529-9732
allen@beardstclair.com

Attorney for Plaintiff

DISTRICT COURT SEVENTH JUDICIAL DISTRICT
BONNEVILLE COUNTY IDAHO

LAMONT BAIR ENTERPRISES, INC., an Idaho corporation, Plaintiff/Appellant, vs. CITY OF IDAHO FALLS, a municipal corporation, Defendant/Respondent.	Case No.: CV-2016-5711 PLAINTIFF'S NOTICE OF APPEAL

TO: THE ABOVE-NAMED RESPONDENT, CITY OF IDAHO FALLS, AND THE PARTY'S ATTORNEYS, BLAKE G. HALL AND SAM L. ANGELL, 1075 S. UTAH, SUITE 150, IDAHO FALLS, IDAHO 83402, AND THE CLERK OF THE ABOVE ENTITLED COURT.

NOTICE IS HEREBY GIVEN THAT:

1. The above-named Appellant, Lamont Bair Enterprises, Inc. (LBE), appeals against the above-named Respondent to the Idaho Supreme Court from the District Court's Judgment of Dismissal, dated February 1, 2018, a copy of which is attached, together with interlocutory orders in the above-entitled action pursuant to I.A.R. 17(e)(1)(A), the Honorable Dane H. Watkins, presiding.

2. Lamont Bair Enterprises, Inc. has a right to appeal to the Idaho Supreme Court and the orders from which this appeal is taken are appealable pursuant to Idaho Appellate Rule 11(a)(1).

3. The issues raised on this appeal are as follows:

   a. Whether the District Court erred in denying the Plaintiff's Motion to Strike portions of the Affidavit of David Richards;

   b. Whether the District Court erred in finding that Idaho Code § 6-904(1) provides a municipality immunity for injury caused by the municipality's failure to maintain its municipal water delivery system in a reasonably safe condition; and

   c. Whether the District Court erred in granting the Defendant's Motion for Summary Judgment.

4. An electronic transcript is requested for the following hearings:

   a. Hearing held on December 13, 2017.

5. The Appellant requests that the following documents be included in the clerk's record in addition to those automatically included under Rule 28 of the Idaho Appellate Rules:

   a. Defendant's Motion for Summary Judgment, dated October 23, 2017;

   b. Affidavit of David Richards in Support of Motion for Summary Judgment, dated October 19, 2017;

   c. Affidavit of David Stangel in Support of Motion for Summary Judgment, dated October 19, 2017;

d. Affidavit of Blake G. Hall in Support of Motion for Summary Judgment, dated October 23, 2017;

e. Memorandum in Support of Motion for Summary Judgment, dated October 23, 2017;

f. Plaintiff's Motion to Strike, dated November 29, 2017;

g. Affidavit of Counsel RE: Motion for Summary Judgment and Motion to Strike, dated November 29, 2017;

h. Memorandum in Support of Motion to Strike, dated November 29, 2017;

i. Memorandum in Opposition to Plaintiff's Motion for Summary Judgment, dated November 29, 2017;

j. Memorandum in Opposition to Plaintiff's Motion to Strike, dated December 5, 2017;

k. Reply Memorandum in Support of Motion for Summary Judgment, dated December 5, 2017; and

l. Memorandum Decision and Order RE: Motion to Strike and Motion for Summary Judgment, dated January 9, 2018.

6. No order has been entered sealing any part of the record or transcript.

7. I certify:

a. That a copy of this Notice of Appeal and any request for additional transcript has been served on each report of whom an additional transcript has been requested as named below at the address set out on the Certificate of Service;

b. That the Clerk of the District Court has been paid the estimated fee for the preparation of the reporter's transcript requested in the appeal;

c. That the estimated fees for preparation of the clerk's record have been paid;

d. All appellate filing fees have been paid; and

e. The service has been made upon all parties that are required to be served pursuant to Rule 20 of the Idaho Rules of Appellate Procedure.

Dated: March 2, 2018.

Jared W. Allen
Of Beard St. Clair Gaffney PA
Attorney for Plaintiff

CERTIFICATE OF MAILING OR HAND DELIVERY

I certify I am a licensed attorney in the state of Idaho, I have my office in Idaho Falls, Idaho, and on March 2, 2018 I served a true and correct copy of the PLAINTIFF'S NOTICE OF APPEAL upon the following by the method of delivery designated:

Blake G. Hall
Sam L. Angell
Hall Angell & Associates, LLP
1075 S. Utah, Suite 150
Idaho Falls, ID 83402
Fax: (208) 621-3008

☑ U.S. Mail ☐ Hand-delivered ☐ Facsimile

Bonneville County Courthouse
605 N. Capital Ave.
Idaho Falls, ID 83402
Fax: (208) 529-1300

☐ U.S. Mail ☑ Hand-delivered ☐ Facsimile

Amy Bland, Court Reporter
Bonneville County Courthouse
605 N. Capital Ave.
Idaho Falls, ID 83402
Fax: (208) 529-1300

☐ U.S. Mail ☑ Hand-delivered ☐ Facsimile

Jared W. Allen
Of Beard St. Clair Gaffney PA
Attorney for Plaintiff

3/2
Laura

BONNEVILLE COUNTY, IDAHO

2018 MAR -5 PM 4:27

Jared W. Allen, ISB No. 5793
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allen@beardstclair.com

Attorney for Plaintiff

DISTRICT COURT SEVENTH JUDICIAL DISTRICT
BONNEVILLE COUNTY IDAHO

LAMONT BAIR ENTERPRISES, INC., an Idaho corporation, Plaintiff/Appellant, vs. CITY OF IDAHO FALLS, a municipal corporation, Defendant/Respondent.	Case No.: CV-2016-5711 PLAINTIFF'S NOTICE OF APPEAL

TO: THE ABOVE-NAMED RESPONDENT, CITY OF IDAHO FALLS, AND THE PARTY'S ATTORNEYS, BLAKE G. HALL AND SAM L. ANGELL, 1075 S. UTAH, SUITE 150, IDAHO FALLS, IDAHO 83402, AND THE CLERK OF THE ABOVE ENTITLED COURT.

NOTICE IS HEREBY GIVEN THAT:

1. The above-named Appellant, Lamont Bair Enterprises, Inc. (LBE), appeals against the above-named Respondent to the Idaho Supreme Court from the District Court's Judgment of Dismissal, dated February 1, 2018, a copy of which is attached, together with interlocutory orders in the above-entitled action pursuant to I.A.R. 17(e)(1)(A), the Honorable Dane H. Watkins, presiding.

2. Lamont Bair Enterprises, Inc. has a right to appeal to the Idaho Supreme Court and the orders from which this appeal is taken are appealable pursuant to Idaho Appellate Rule 11(a)(1).

3. The issues raised on this appeal are as follows:

a. Whether the District Court erred in denying the Plaintiff's Motion to Strike portions of the Affidavit of David Richards;

b. Whether the District Court erred in finding that Idaho Code § 6-904(1) provides a municipality immunity for injury caused by the municipality's failure to maintain its municipal water delivery system in a reasonably safe condition; and

c. Whether the District Court erred in granting the Defendant's Motion for Summary Judgment.

4. An electronic transcript is requested for the following hearings:

a. Hearing held on December 13, 2017.

5. The Appellant requests that the following documents be included in the clerk's record in addition to those automatically included under Rule 28 of the Idaho Appellate Rules:

a. Defendant's Motion for Summary Judgment, dated October 23, 2017;

b. Affidavit of David Richards in Support of Motion for Summary Judgment, dated October 19, 2017;

c. Affidavit of David Stangel in Support of Motion for Summary Judgment, dated October 19, 2017;

d. Affidavit of Blake G. Hall in Support of Motion for Summary Judgment, dated October 23, 2017;

e. Memorandum in Support of Motion for Summary Judgment, dated October 23, 2017;

f. Plaintiff's Motion to Strike, dated November 29, 2017;

g. Affidavit of Counsel RE: Motion for Summary Judgment and Motion to Strike, dated November 29, 2017;

h. Memorandum in Support of Motion to Strike, dated November 29, 2017;

i. Memorandum in Opposition to Plaintiff's Motion for Summary Judgment, dated November 29, 2017;

j. Memorandum in Opposition to Plaintiff's Motion to Strike, dated December 5, 2017;

k. Reply Memorandum in Support of Motion for Summary Judgment, dated December 5, 2017; and

l. Memorandum Decision and Order RE: Motion to Strike and Motion for Summary Judgment, dated January 9, 2018.

6. No order has been entered sealing any part of the record or transcript.

7. I certify:

a. That a copy of this Notice of Appeal and any request for additional transcript has been served on each report of whom an additional transcript has been requested as named below at the address set out on the Certificate of Service;

b. That the Clerk of the District Court has been paid the estimated fee for the preparation of the reporter's transcript requested in the appeal;

c. That the estimated fees for preparation of the clerk's record have been paid;

d. All appellate filing fees have been paid; and

e. The service has been made upon all parties that are required to be served pursuant to Rule 20 of the Idaho Rules of Appellate Procedure.

Dated: March 2, 2018.

Jared W. Allen
Of Beard St. Clair Gaffney PA
Attorney for Plaintiff

CERTIFICATE OF MAILING OR HAND DELIVERY

I certify I am a licensed attorney in the state of Idaho, I have my office in Idaho Falls, Idaho, and on March 2, 2018 I served a true and correct copy of the PLAINTIFF'S NOTICE OF APPEAL upon the following by the method of delivery designated:

Blake G. Hall
Sam L. Angell
Hall Angell & Associates, LLP
1075 S. Utah, Suite 150
Idaho Falls, ID 83402
Fax: (208) 621-3008

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Amy Bland, Court Reporter
Bonneville County Courthouse
605 N. Capital Ave.
Idaho Falls, ID 83402
Fax: (208) 529-1300

☐ U.S. Mail ☑ Hand-delivered ☐ Facsimile

Jared W. Allen
Of Beard St. Clair Gaffney PA
Attorney for Plaintiff

BLAKE G. HALL, ESQ.
SAM L. ANGELL, ESQ.
HALL ANGELL & ASSOCIATES, LLP
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ISB Nos. 2434 and 7012
bgh@hasattorneys.com
sla@hasattorneys.com

Attorneys for Defendant

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE

LAMONT BAIR ENTERPRISES, INC., an Idaho corporation, Plaintiff, v. CITY OF IDAHO FALLS, a municipal corporation, Defendant.	Case No. CV-2016-5711 **JUDGMENT OF DISMISSAL**

JUDGMENT IS ENTERED AS FOLLOWS: The above-captioned matter is dismissed with prejudice against Plaintiff and in favor of Defendant.

Dated this 29 day of January, 2018.

/s/ Dane H. Watkins, Jr.

DANE H. WATKINS
District Judge

CLERK'S CERTIFICATE OF SERVICE

I hereby certify that I served a true copy of the foregoing document upon the following this 1 day of January, 2018, by the method indicated below:

Jared W. Allen, Esq.
John M. Avondet, Esq.
BEARD ST CLAIR GAFFNEY
2105 Coronado Street
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Blake G. Hall, Esq.
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Fax: (208) 621-3008
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CLERK OF THE COURT

DEPUTY CLERK

BLAKE G. HALL, ESQ.
SAM L. ANGELL, ESQ.
HALL ANGELL & ASSOCIATES, LLP
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Idaho Falls, Idaho 83402
Telephone (208) 522-3003
Fax (208) 621-3008
ISB Nos. 2434 and 7012
bgh@hasattorneys.com
sla@hasattorneys.com

Attorneys for Defendant

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE

LAMONT BAIR ENTERPRISES, INC., an Idaho corporation, Plaintiff, v. CITY OF IDAHO FALLS, a municipal corporation, Defendant.	Case No. CV-2016-5711 **JUDGMENT ON COSTS**

THIS MATTER having come before the Court on Defendant's Memorandum of Costs dated February 1, 2018, and no objection having been filed by the Plaintiff;

The Court hereby enters a Judgment on Costs in favor of the Defendant and against the Plaintiff in the amount of $644.77.

Dated this 15 day of Mar, 2018.

DANE H. WATKINS
District Judge

CLERK'S CERTIFICATE OF SERVICE

I hereby certify that I served a true copy of the foregoing document upon the following this 15 day of March, 2018, by the method indicated below:

Jared W. Allen, Esq.
John M. Avondet, Esq.
BEARD ST CLAIR GAFFNEY
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Blake G. Hall, Esq.
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Email: bgh@hasattorneys.com

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CLERK OF THE COURT

_____
DEPUTY CLERK

Amy L. Bland, CSR, RPR
Official Court Reporter
Seventh Judicial District
Bonneville County Courthouse
605 N. Capital Ave.
Idaho Falls, Idaho 83402
(208) 529-1350 Ext 1329
E-mail: abland@co.bonneville.id.us

****

NOTICE OF LODGING

****

DATE: May 3, 2018

TO: Stephen W. Kenyon, Clerk of the Court
Supreme Court / Court of Appeals
P.O. Box 83720
Boise, ID 83720-0101

SUPREME COURT DOCKET NO: 45819

DISTRICT COURT CASE NO: CV-2016-5711

CAPTION OF CASE: Lamont Bair Enterprises, Inc., vs. City of Idaho Falls

You are hereby notified that a reporter's appellate transcript in the above-entitled and numbered case has been lodged with the District Court Clerk of the County of Bonneville in the Seventh Judicial District. Said transcript consists of the following proceedings, totaling 61 pages:

1. Motion for Summary Judgment (December 13, 2017)

Respectfully,

AMY L. BLAND
Idaho CSR #SRL-1053

cc: District Court Clerk

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE

LAMONT BAIR ENTERPRISES, INC., an Idaho corporation, Plaintiff/Appellant, v. CITY OF IDAHO FALLS, a municipal corporation, Defendant/Respondent.	Case No. CV-2016-5711 Docket No. 45819 **CLERK'S CERTIFICATION OF EXHIBITS**

STATE OF IDAHO)
)
County of Bonneville)

I, Penny Manning, Clerk of the District Court of the Seventh Judicial District of the State of Idaho, in and for the County of Bonneville, do hereby certify that the foregoing Exhibits were marked for identification and offered in evidence, admitted, and used and considered by the Court in its determination

No Exhibits Reported

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the District Court this 7 day of May, 2018.

PENNY MANNING
Clerk of the District Court

7TH JUDICIAL DISTRICT COUNTY OF BONNEVILLE STATE OF IDAHO DISTRICT COURT

By: _____
Deputy Clerk

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE

LAMONT BAIR ENTERPRISES, INC. an Idaho corporation, Plaintiff/Appellant, v. CITY OF IDAHO FALLS, a municipal corporation, Defendant/Respondent.	Case No. CV-2016-5711 Docket No. 45819 **CLERK'S CERTIFICATE**

STATE OF IDAHO)
)
County of Bonneville)

I, Penny Manning, Clerk of the District Court of the Seventh Judicial District of the State of Idaho, in and for the County of Bonneville, do hereby certify that the above and foregoing Record in the above-entitled cause was compiled and bound under my direction and is a true, correct and complete Record of the pleadings and documents as are automatically required under Rule 28 of the Idaho Appellate Rules.

I do further certify that all exhibits, offered or admitted in the above-entitled cause, will be duly lodged with the Clerk of the Supreme Court along with the Court Reporter's Transcript (if requested) and the Clerk's Record as required by Rule 31 of the Idaho Appellate Rules.

IN WITNESS WHEREOF, I have hereunto set my hand affixed the seal of the District Court this 7 day of May, 2018.

PENNY MANNING
Clerk of the District Court

7TH JUDICIAL DISTRICT COUNTY OF BONNEVILLE STATE OF IDAHO DISTRICT COURT

By: _____
Deputy Clerk

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE

LAMONT BAIR ENTERPRISES, INC. an Idaho corporation, Plaintiff/Appellant, v. CITY OF IDAHO FALLS, a municipal corporation, Defendant/Respondent.	Case No. CV-2016-5711 Docket No. 45819 **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 7 day of May, 2018, I served a copy of the Reporter's Transcript (if requested) and the Clerk's Record in the Appeal to the Supreme Court in the above entitled cause upon the following attorneys:

Jared A. Allen
2105 Coronado Street
Idaho Falls, ID 83404

Blake G. Hall
1075 S. Utah Suite 150
Idaho Falls, ID 83402

by depositing a copy of each thereof in the United States mail, postage prepaid, in an envelope addressed to said attorneys at the foregoing address, which is the last address of said attorneys known to me.

PENNY MANNING
Clerk of the District Court

7TH JUDICIAL DISTRICT COUNTY OF BONNEVILLE STATE OF IDAHO DISTRICT COURT

By: _____
Deputy Clerk