



MEMO TO CITY COUNCIL

Request to Include Topic on the City Council Work Session Agenda

From:	William L. M. Nary, City Attorney/Risk Manager	Meeting Date:	July 25, 2023
Presenter:	Kurt Starman, Deputy City Attorney	Estimated Time:	15 minutes
Topic:	Franchise Ordinance – Idaho Power Company		

Recommended Council Action:

Receive an update concerning a new franchise for Idaho Power Company (Idaho Power).

Background:

The City granted a franchise to Idaho Power in 1998 to construct, maintain, and operate electrical facilities within the City for 25 years. That franchise will terminate on or about November 1, 2023. Idaho Power would like to secure a new, 25-year franchise well before the current franchise terminates.

Under Idaho law, the City is responsible for granting a franchise to Idaho Power, even though most of the right-of-way within the City is owned and controlled by the Ada County Highway District. To that end, the City Attorney's Office, in consultation with Idaho Power, has drafted the attached franchise ordinance.

The proposed franchise is similar to the existing franchise arrangement. Under the terms of the proposed franchise, which would become effective on November 1, 2023, and remain in place for 25 years, the City would continue to receive franchise fees from Idaho Power. For reference, the City received \$820,781 in General Fund revenue under the current franchise in Fiscal Year 2022.

Under Idaho law, a franchise must be granted via an ordinance. The process to adopt a franchise ordinance differs, however, from the process utilized to adopt other ordinances:

1. After introducing the franchise ordinance for first reading, the City Council must wait a minimum of 30 days before taking any additional action.
2. During the waiting period, a summary of the franchise ordinance must be published at least once in the Idaho Press. Under Idaho law, Idaho Power must bear the expense of publication.
3. After waiting for a minimum of 30 days, the City Council may then approve the franchise ordinance following the typical process – second reading, third reading, and publication. Once again, Idaho Power must bear the expense of publication.
4. Under the terms of the proposed ordinance, Idaho Power must accept the franchise within 30 days. If Idaho Power does not timely accept the franchise, it forfeits any rights and privileges, and the City may repeal the franchise ordinance.

The purpose of this work session agenda item is to provide some background information about the proposed franchise ordinance and the adoption process. If the City Council is receptive to the new franchise, it may introduce the proposed franchise ordinance for first reading at its regular meeting.

Attachment: Proposed Franchise Ordinance