



**AGENDA**  
**City Council Meeting**  
**City of Middleton, Idaho**

Date: Wednesday, January 3, 2024

Time: 5:30 p.m.

Location: **City Hall Council Chambers – 1103 W Main Street**

Call-to-order, Roll Call, Pledge of Allegiance.

**Invocation:** Pastor David Ax, Calvary Chapel.

**Recognition of Council Member Carrie Huggins – Ms. Crofts**

**Action Item:**

- A. Approve Agenda

**Information Item:**

**Action Items:**

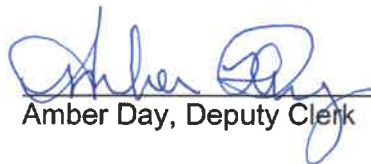
1. Swearing in of Jackie Hutchison as Mayor, and Tim O'Meara and Mark Christiansen as City Council members – Ms. Crofts
2. Swearing in of Officer Noah Palmer – Mayor Hutchison
3. Consent Agenda (items of routine administrative business)
  - a. Consider approving minutes for City Council December 20, 2023, Regular meeting.
  - b. Consider ratifying payroll for December 29, 2023, in the amount of \$122,890.06.
  - c. Consider approving accounts payable through December 22, 2023, in the amount of \$306,895.81.
4. Consider unappointing Hamilton Michaelson & Hilty, LLP, and appointing Yorgason Law as the City Attorney. – Mayor Hutchison

**Public Comments:**

**Mayor, and Council Comments:**

**Adjourn:**

Posted by:

  
Amber Day, Deputy Clerk

Date: December 29, 2023, 11:30 a.m.

Please contact the City Clerk at (208) 585-3133 if you have special needs or require assistance.



# CITY OF MIDDLETON

## Official Oath of Office

I, Jackie Hutchison, do solemnly swear (or affirm) that I will support the Constitution of the United States and the State of Idaho, and the Laws and Ordinances of the City of Middleton, and that I will faithfully discharge the duties of Mayor for the City of Middleton, Idaho, according to the best of my ability.

Signed: \_\_\_\_\_

Subscribed and sworn to before me this 3rd day of January 2024.

\_\_\_\_\_  
City Administrator, Becky Crofts

\_\_\_\_\_  
Council President, Rob Kiser



# CITY OF MIDDLETON

## Official Oath of Office

I, Tim O'Meara, do solemnly swear (or affirm) that I will support the Constitution of the United States and the State of Idaho, and the Laws and Ordinances of the City of Middleton, and that I will faithfully discharge the duties of City Council Member for the City of Middleton, Idaho, according to the best of my ability.

Signed: \_\_\_\_\_

Subscribed and sworn to before me this 3rd day of January 2024.

\_\_\_\_\_  
City Administrator, Becky Crofts

\_\_\_\_\_  
Council President, Rob Kiser





# CITY OF MIDDLETON

## Official Oath of Office

I, Mark Christiansen, do solemnly swear (or affirm) that I will support the Constitution of the United States and the State of Idaho, and the Laws and Ordinances of the City of Middleton, and that I will faithfully discharge the duties of City Council Member for the City of Middleton, Idaho, according to the best of my ability.

Signed: \_\_\_\_\_

Subscribed and sworn to before me this 3rd day of January 2024.

\_\_\_\_\_  
City Administrator, Becky Crofts

\_\_\_\_\_  
Council President, Rob Kiser





# CITY OF MIDDLETON

## Official Oath of Office

I, Noah Palmer, do solemnly affirm that: I will honor and uphold the United States Constitution, the Constitution of the State of Idaho, and the laws and ordinances of the City of Middleton; I will faithfully perform the duties of a Middleton Police Officer according to the best of my ability; I will enforce laws courteously, and without partiality or hypocrisy; and I will be an example of obeying the City rules and laws.

Signed: \_\_\_\_\_

Subscribed and sworn to before me this 3rd day of January 2024.

\_\_\_\_\_  
Jackie Hutchison, Mayor

\_\_\_\_\_  
Jeff Smith, Chief of Police

3a



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**MIDDLETON CITY COUNCIL  
DECEMBER 20, 2023**

The Middleton City Council Meeting was called to order on December 20, 2023, at 5:31 p.m. by Mayor Steve Rule.

**Roll Call:**

City Council: Council President Kiser and Council Members Huggins, Murray and O'Meara were all present.

Mayor Rule, City Attorney Mr. Waterman, Planning & Zoning Official Ms. Stewart, Public Works Director Mr. Van Gilder and Deputy Clerk Ms. Reynolds were present.

**Pledge of Allegiance, Invocation:** Jim Taylor

**Recognition of Council Member Carrie Huggins and Mayor Steve Rule**

**Action Items**

**A. Approve Agenda**

**Motion:** Motion by President Kiser to approve the Agenda posted December 15, 2023, 4:30 p.m. Motion seconded by Council Member O'Meara and approved unanimously.

**Action Item:**

1. **Consent Agenda (items of routine administrative business)**
  - a. **Consider approving minutes for City Council December 6, 2023, Regular meeting.**
  - b. **Consider ratifying payroll for December 15, 2023, in the amount of \$153,497.42.**
  - c. **Consider approving accounts payable through December 15, 2023, in the amount of \$271,953.36.**
  - d. **Consider approving the FCO for Mills Landing Subdivision Project.**

Mayor Rule called the item and President Kiser reviewed the accounts payable with the Council.

**Motion:** Motion by President Kiser to approve Consent Agenda Items 1 a-d. Motion seconded by Councilman O'Meara and approved unanimously.

2. **Consider authorizing the Mayor to sign a Letter of Interest on behalf of the City to apply for funding assistance related to the expansion of the City's Waste Water Treatment Plant. - Mr. Van Gilder**

Mayor Rule called the item and Mr. Van Gilder explained this letter is the first step to being able to apply for a loan or grant from IDEQ to fund the WWTP expansion.

**Motion:** Motion by Council President Kiser authorizing the Mayor to sign a Letter of Interest on behalf of the City to apply for funding assistance related to the expansion of the City's Waste Water Treatment Plant. Motion seconded by Council Member O'Meara and approved unanimously.



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**3. Consider authorizing the Mayor to sign a Letter of Interest on behalf of the City to apply for funding assistance to create a land application plan of operation for the City's Waste Water Treatment Plant. – Mr. Van Gilder**

Mayor Rule called the item and Mr. Van Gilder explained this letter is to request funding to create a plan for an effluent land application operation at the City's WWTP.

**Motion:** Motion by President Kiser authorizing the Mayor to sign a Letter of Interest on behalf of the City to apply for funding assistance to create a land application plan of operation for the City's Waste Water Treatment Plant. Motion seconded by Council Member O'Meara and approved unanimously.

**4. Consider authorizing the Mayor to execute a Task Order with Ardurra Group, Inc (formerly T-O Engineering) to prepare Municipal Stormwater Planning Study in a lump sum not to exceed \$70,070 upon confirmation of an Idaho Department of Environmental Quality (IDEQ) Sewer Overflow and Stormwater Planning Grant award associated with this project. – Mr. Van Gilder**

Mayor Rule called the item and Mr. Van Gilder explained the study will be primarily funded by a grant received from IDEQ. The city will need to do a budget amendment to recognize the receipt and expenditure of the grant funds in this budget.

**Motion:** Motion by President Kiser to Consider authorizing the Mayor to execute a Task Order with Ardurra Group, Inc (formerly T-O Engineering) to prepare Municipal Stormwater Planning Study in a lump sum not to exceed \$70,070. Motion seconded by Council Member O'Meara and approved unanimously.

**5. Consider authorizing the Mayor to execute a Task Order with Ardurra Group, Inc (formerly T-O Engineering) to conduct an evaluation of storm water swales in an amount not to exceed \$67,060 upon confirmation of an Idaho Department of Environmental Quality (IDEQ) Sewer Overflow and Stormwater Planning Grant award associated with this project. – Mr. Van Gilder**

Mayor Rule called the item and Public Works Director Mr. Van Gilder explained the need to evaluate the storm water swales and that this study will be primarily funded by a grant received from IDEQ. The city will need to do a budget amendment to recognize the receipt and expenditure of the grant funds in this budget.

**Motion:** Motion by President Kiser to 5. Consider authorizing the Mayor to execute a Task Order with Ardurra Group, Inc (formerly T-O Engineering) to conduct an evaluation of storm water swales in an amount not to exceed \$67,060. Motion seconded by Council Member O'Meara and approved unanimously.

**6. Consider authorizing the Mayor to execute with Knife River Corporation – Mountain West, Change Order No. 2 for the construction of the City of Middleton – 9<sup>th</sup> Street sidewalk extension project in the amount not to exceed \$8,695.00, for the installation of additional subbase material. – Mr. Van Gilder**

Mayor Rule called the item and Mr. Van Gilder explained the item.

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**Motion:** Motion by President Kiser authorizing the Mayor to execute with Knife River Corporation – Mountain West, Change Order No. 2 for the construction of the City of Middleton – 9th Street sidewalk extension project in the amount not to exceed \$8,695.00, for the installation of additional subbase material. Motion seconded by Council Member O'Meara and approved unanimously.

**7. Consider approving the Mutual Release and Settlement Agreement by and among James G. Thorpe, Trustees of the Thorpe Family Trust, Kenneth J. Dill, Shirley Carnahan and Michelle Blaisure and the City of Middleton. – Mr. Waterman, Legal Counsel**

Mayor Rule called the item and Legal Counsel Mr. Waterman explained the item. This property is east of Middleton Place Park between the park and State Farm parcel. This property is not owned by anyone. So this is the legal process to state it is "not city property".

**Motion:** Motion by President Kiser approving the Mutual Release and Settlement Agreement by and among James G. Thorpe, Trustees of the Thorpe Family Trust, Kenneth J. Dill, Shirley Carnahan and Michelle Blaisure and the City of Middleton. Motion seconded by Council Member O'Meara and approved unanimously.

**8. Public Hearing: Applications by J and J Johnson LLC and AG Land & Development LLC for annexation/rezone, preliminary plat, and development agreement with respect to the Pheasant Heights Subdivision located at 23854 Emmett Road, 13236 Greenwell Lane and 0 Emmett Road, Middleton, Idaho (Tax Parcel Nos. R34445012A0, R34445012A1, R34445012B0, & R34445012A2). Applicants are requesting a zone change from County C-1 (Neighborhood Commercial) and R-1 Single Family to City R-3 Zone (Single Family Residential). The proposed preliminary plat consists of 147 buildable lots and 12 common lots on approximately 54 acres of land. - Ms. Stewart**

Mayor Rule called the item and opened the public hearing at 5:54 p.m.

Planning and Zoning Official Ms. Stewart presented the application (Exhibit 1). She had to add a late Exhibit to the Staff Report. (Exhibit H).

Mayor Rule asked Ms. Stewart to clarify Goal 6 of the Comprehensive Plan.

Applicant Representative: Connor Gray (AG Land Development) gave his presentation. Exhibit 2).

Council Member Murray pointed out that Purple Sage Elementary is purposely kept under capacity because that is where the Special Needs students go.

Mayor Rule opened Public Testimony at 6:33 p.m.

*Greg Baker:* Schools over capacity.

*Todd Ognibene:* Concerned with open space and Emergency Services access.

*Janet Gibson:* Comprehensive Plan Goals 7 & 8? Want Middleton to maintain character. Slow down development.

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*Mike McDougall:* Frustrated they can continually bring back the same application.

*Howard Ronkin:* Safety. Get infrastructure built first.

*Brian Hymas:* Concerned about Right in Right out, and Lift Station for taxpayers.

*Council Member Huggins* clarified that Lift station maintenance is paid through utility fees.

*Nick Hylton:* Concerned about safety at Roundabout. A stoplight at Emmett/SH44 will increase traffic.

*Wendy McDougal:* Concerned about safety at Roundabout and street parking with pickup trucks.

*Mikel Galloway:* Developer should not be allowed to bring back proposal again and again. Why didn't Stonehaven or the RV park have to pay into the stoplight?

*Patty Crawford:* Schools are over capacity

*Brent Heck:* Safety, schools over capacity, and concerns about force annexation.

Mayor Rule called a brief recess at 7:07 p.m. (Mr. Waterman reminded Council they were not to speak to anyone regarding the application during the break.)

Mayor Rule reconvened the meeting at 7:18 p.m.

*Brian Sheets:* The audacity of the applicant is shocking to resubmit an application with no changes.

*Matt Davis:* Should remain R-1. Concerned about the waterway behind the property.

*Austin Lewis:* Concerned about safety.

*Mike Graefe:* Question about the DA. If approved at R-3. Do they have to keep the 11,000 sf lots or do they get R-3 8,000 sf lots if the property is sold, or the preliminary plat expires.

*Dan Crossley:* High density projects are not all good. He doesn't reside in the City, doesn't want to be in the city but is frustrated he doesn't have a say in city matters. Concerned about traffic.

*Ron Thweatt:* Thanked Council for their jobs. Would like city to look at desert landscaping as an option.

*Kyle Restad:* Concerned about traffic and pedestrian safety.

*Tyson Sparrow:* What is the intention with the property?

Mayor Rule closed Public Testimony at 7:39 p.m.

Rebuttal by Applicant Representative – Connor Gray

- City Staff is insisting the light at Emmett/SH44 is built.
- Property is currently in County with R-1 and C-1 designation.
- In order to make any type of improvements required by the City, they have to go R-3.
- School Capacity-understand it is a concern which is why they will donate \$147K.



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Additional Rebuttal – Carl Anderson (Applicant Representative)

- Offering a solution to a real problem. They are putting up a significant amount of money for the light. Everyone needs to be heard. But Council's responsibility is to the residents of the City of Middleton.

Mayor Rule closed Testimony at 7:50 p.m.

Discussion by Council:

- Application looks similar to the last one that was denied. The entrances are the same and same concerns with emergency vehicle access.
- Light at Emmett/SH44 is a topic and likely will be for the next 10-15 years. The fact is that light is outside of the City of Middleton's jurisdiction. ITD will have to fix that intersection. It is not worth the tradeoff.

**Motion:** Motion by President Kiser to **deny** the Applications by J and J Johnson LLC and AG Land & Development LLC for annexation/rezone, preliminary plat, and development agreement with respect to the Pheasant Heights Subdivision located at 23854 Emmett Road, 13236 Greenwell Lane and 0 Emmett Road, Middleton, Idaho (Tax Parcel Nos. R34445012A0, R34445012A1, R34445012B0, & R34445012A2). Motion seconded by Council Member O'Meara and approved unanimously by Roll Call Vote.

Kiser – Yes, Huggins – Yes, Murray – Yes, O'Meara – Yes.

**9. Consider approving Ordinance No. 687 forming a Local Improvement District Committee. – Council Member Murray**

Mayor Rule called the item and Council Member Murray asked Legal Counsel Mr. Waterman to explain the LID (Local Improvement District). This district would not just be restricted to City Residents but would incorporate all School District and County Residents as well. Funds would be collected as a line item on the levy, and funds from the district would be turned over from the County to the City. This ordinance the first step to getting a committee formed for an LID.

**Motion:** Motion by Council President Kiser to read Ord 687 by Title Only. Motion seconded by Council Member Murray and approved unanimously.

President Kiser read Ord 687 by title only.

ORD 687: AN ORDINANCE ENACTED BY THE MIDDLETON CITY COUNCIL AMENDING TITLE 1, CHAPTER 5, CREATING SECTION 1-5-8 OF THE MIDDLETON CITY CODE, PERTAINING TO THE CREATION OF A LOCAL IMPROVEMENT DISTRICT ADVISORY COMMITTEE; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; AND REPEALING ALL ORDINANCES, RESOLUTIONS, ORDERS AND PARTS THEREOF, IN CONFLICT HEREWITH.

**Motion:** Motion by President Kiser to waive the 3-reading rule and adopt Ordinance 687. Motion seconded by Council Member O'Meara and approved by Roll Call Vote.

Kiser – Yes, Huggins – Yes, Murray – Yes, O'Meara – Yes.

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**Public Comments:**

*Tyson Sparrow:* Thanks to Mayor Rule and Ms. Huggins for their many years of service to this community.

*Dan Crossley:* Thanks to Council for your wisdom and Thank you to Mayor Rule for his service.

*Scott Pool:* Thank you to Council and Mayor for service to community. He thinks the LID is a great plan and good way to include the county.

*Howard Ronkin:* Brilliant idea for LID – Hopes research has been done regarding other communities that have done it, so we don't make the same mistakes they have.

*Allen Tremble:* Likes LID. Thanks to Mayor for the last 4 years of service.

**Mayor, Staff and Council Comments:**

*Council Member O'Meara:* Thank you to Mayor Rule and Carrie Huggins for their service. We need to get traffic off 44 and behind the middle school. Need some improvements to the turn lane on SH44 to S Middleton Rd. Too many cars are blocking the fire district exit and too many cars are going straight in the right turn only lane.

*Council Member Murray:* Quality of Carrie Huggins is unmatched. He will miss her on Council. Under existing state law there is no state laws that address school capacity. This is not a simple conversation.

*President Kiser:* Development has a right by State Law to submit applications. We have failed the School District. Every bond has failed. Looking at the location of voters, City residents support bonds more than County residents. He has sat next to Carrie for a long time. He is grateful for her service and wisdom. He also thanked Mayor Rule and wishes them both the best of luck.

*Council Member Huggins:* Thanks to Council. She moved here in 1993, knew growth would come and was excited to see people come. She hopes Middleton will continue to meet the needs of the residents as that growth continues. She thanked staff as well for all their hard work.

*Mayor Rule:* Thanks to all Staff. Becky Crofts is mostly a lawyer, engineer, and a City Administrator. But before Becky there was Jennica and Wendy who helped him gain a footing in the city. Thanks to Lori the Librarian. Thanks to the regular people who show up and participate in the process. Thanks to Sargent Hilkey and Chief Smith. He used to get complaints about the police department before Chief Smith, he doesn't anymore. Thanks to other superstars (Hess/Kofoed) who are getting things done. Thanks to City Council. In 4 years he had only voted one time. The City Council does the work, and a mayor is nothing without a strong City Council. Councilman O'Meara has probably put in more volunteer hours than anyone in this community. Councilman Garner was good, and Councilman Murray is carving his own way. Thanks to Councilman Kiser. Councilman Huggins is probably one of the best council members Middleton has had. If not then Kiser is.

**Adjourn:** Mayor Rule adjourned the meeting at 8:26 p.m.

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ATTEST:

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Rob Kiser, Council President

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Jennica Reynolds, Deputy Clerk  
Minutes Approved: January 3, 2024

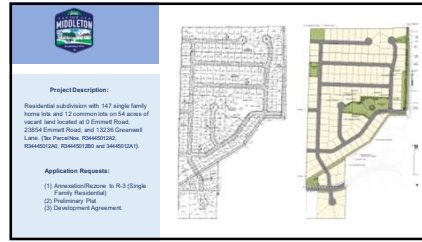
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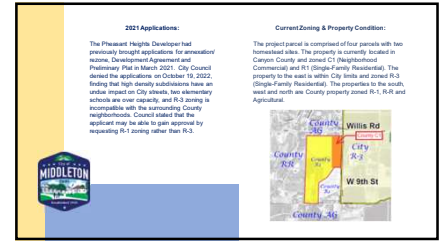
Exhibit 1



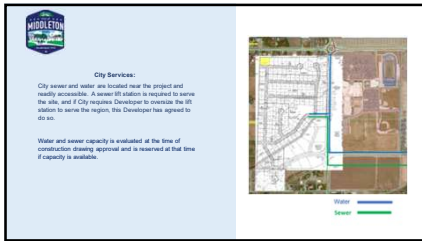
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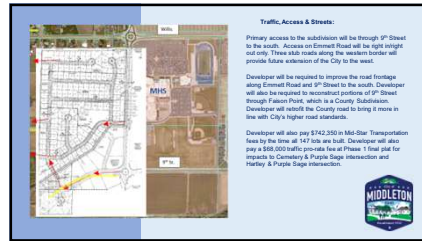
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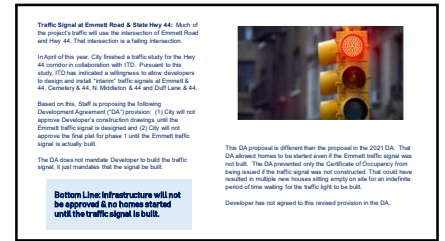
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**Annexation and Zone Change:** Applicants are requesting that the 54-acre project be annexed into the City of Middleton with a zone change from County R-1 and C-1 to the City R-3 Zone (Single Family Residential).

There are two findings that must be made before Annexation can be approved: (1) the property must be contiguous to City limits and (2) the annexation is deemed to be an "inherently development" of the City allowing "efficient and economical extension" of City services such as sewer, water, police/fire protection and roadway system. (State Code 50-222)

An application for rezoning has findings: (1) the rezoning will not adversely affect the City's delivery of services and (2) the rezoning request is not in conflict with the Comprehensive Plan. (State Code 50-211)



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**Annexation:**

With respect to annexation, Planning Staff finds that Applicant's project meets the 1<sup>st</sup> criterion of contiguity. The project is adjacent to City limits.

As to the 2<sup>nd</sup> annexation criteria, Planning Staff finds that the proposed annexation is orderly and efficient with respect to some City services. Specifically, Police and Fire are already providing and serving the site. Sewer and water service lines are already adjacent to the property and can be economically extended to the site.

Services that may be adversely affected are schools and roadway system. The elementary middle, and high schools that will be serving the subdivisions are not part of capacity but very close to capacity.

As to City roadway service, Developer's Transportation Fees will help improve roadway near the project. However, the Emmett & Hwy 44 intersection is a challenging intersection. That intersection should be improved before any homes in new annexation projects are allowed to be built. The proposed Development Agreement contains a provision to that effect. Developer, however, has not agreed to the term.


**Staff Findings**

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**STAFF FINDINGS: Rezoning**

As to the rezoning application, Planning Staff finds that the rezoning will not adversely affect some City services but may adversely affect others as already stated above.

A rezoning also requires a finding that the project will not be in conflict with the City's Comprehensive Plan. Staff finds that the R-3 zoning is not in conflict with the Comprehensive Plan because the project parcel is near other R-3 zoning in the West Highlands and Storlaen Subdivisions. It is also near the large commercial center planned to the south as shown on the Comprehensive Plan's Future Land Use Map.





However, City Council and the Planning & Zoning Commission have based on earlier occasions that R-3 zoning is not character with the Rural County character the north, west and south sides of the project.

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**Preliminary Plat Application:** The preliminary plat shows 147 single family lots and 12 common lots to be built in three phases.

**STAFF FINDING:** The preliminary plat complies with all dimensional standards and codes of the City of Middleton, which means it meets the sole criteria required for an approval by the governing boards. No variances are requested.

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**Development Agreement:** An Annexation/Rezoning generally requires a Development Agreement. Applicant and City Staff have used the City's form for the DA, and have added the following conditions of development to Section 3 of the DA:

Sec. 3.1 & 3.2. Developer to complete all frontage/roadway improvements adjacent to the project.

Sec. 3.3. Developer to construct the project generally consistent with the Concept Plan attached to the DA.

Sec. 3.4. Developer to pay all pro-rata traffic fees prior to final plat approval for phase 1.


Sec. 3.5. Developer cannot obtain approval of its construction drawings until the traffic light at Emmett & 44 is designed. Developer cannot apply for approval of final plat for phase one until the Emmett traffic signal is actually built. (Developer has not agreed to this term.)

Sec. 3.6. Developer shall build a sewer lift station to serve the project site. If the City, in its sole discretion, decides that a regional lift station is required, then Developer shall construct a regional lift station. Developer shall be reimbursed for construction costs over and above its proportionate share via a later term's fee as allowed by MCD 1-7-1.


Sec. 3.7. Developer has 5 years to obtain phase 1 final plat approval (after 2 extensions are approved). Each phase thereafter shall obtain final plat approval within 4 years (which includes late extension). If Developer fails to meet these timelines, City has the right to terminate the DA, and the preliminary plat will be null and void.

Section 3.8. Developer shall provide amenities as already described in the presentation.

Section 3.9. Developer shall construct the missing portion of sidewalk off-site near the Willis roundabout.




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**Comprehensive Plan & Land Use Map:**

Applicant's project complies with the Comprehensive Plan's Future Land Use Map because the project parcel is designated "Residential" on the F.L.U.M., which matches the residential use planned for the site.




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Applicant's project also complies with the Goals, Objectives, and Strategies of the 2019 Middleton Comprehensive Plan as follows:

- Goal 1 & Annexation: New development/annexation will be required to pay for improvements necessitated by its impacts on City Services. Developer will pay for its proportionate impacts on parks, police, fire, and traffic via impact fees. Developer will also extend City utility services at no cost to the City and construct a regional lift station if requested by the City.
- Goals 3 and 5: Developer's impact fees and pro-rata traffic fees will be used for the improvement and safety of surrounding roadways. Developer is also completing a sidewalk project off-site to ensure safe pedestrian passage at a location north of the project site.
- Goal 7 and 8: The addition of homes in Middleton increases the likelihood of bringing more commercial and industrial opportunities to Middleton, thereby increasing local tax revenue and creating employment opportunities.
- Goals 10, 12, and 23: The addition of parks and nice paths and the completion of City sidewalks increases recreational activity and promotes sustainability, social interaction, and health in the Community.
- Goal 11: "Density 2 intensifies", "higher density housing, walkable, etc."

Applicant's project does not comply with the following Goals:

- Goal 6 and Transportation Section, Objectives A and B: If Developer is not required to adhere to the proposed DA provision regarding the Emmett Road & Hwy 44 traffic signal, then the development may not be deemed "inherently" because of the adverse impact on the City's road system and Hwy 44.
- Goal 13 pertains to Schools, but the "Objectives" and "Strategies" for Goal 13 pertain to only vehicle and pedestrian activity. The Comprehensive Plan's Goals and Strategies do not address school overcrowding.



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**Comments:** **Yellow** Comments from City Engineer & Planner, Agencies, and the public were attached as Exhibit D, E, F, and G to the Staff Report and Agenda.

**Applicant Information:** Application was received and accepted on June 9, 2023. The Applicant/Owner is J and J Johnson LLC, 770 Blue Ridge Circle, Hope, UT 84040, and the Representative is AG Land & Development LLC.



**Notes:**

Neighborhood Meeting	Date:
Neighborhood Meeting	3/27/2023
Public Notification	1/20/2023
Public Notification - mailed to Landowners within 50'	1/20/2023
Circulation to Agencies	1/24/2023
Sign Posting property	1/24/2023

**Applicable Codes and Standards:** Idaho Statute, Title 47, Chapter 60 and Title 48, Chapter 2 & 3, Idaho Standards for Public Works Construction, the Middleton Supplemental Rules, Middleton City Code 1-14, 1-15, 5-1, 5-2, 5-3, and 5-4.



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**Planning & Zoning Commission Recommendation:** The P&Z Commission considered the Present Heights applications at a public hearing held on November 13, 2023. The P&Z Commission recommended that the Commission deny all three applications. The Commission noted that the current applications are almost identical to the previous applications that were denied in 2022. Additionally, the Commission noted that the applicants are not interested in the improvements that are required to meet the project's needs. They think the project can be "better" as administered. They further stated that if the intersection is a big concern, then the project should simply not be annexed into the City in the first place.

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**Conclusions and Recommended Conditions of Approval:**

When deciding whether to approve or deny a development application, the governing boards must base their decisions on *Findings of Facts and Conclusions of Law*.

**As to General Facts,** Planning Staff has set forth the findings of facts above in *pastorheases*.

**As to Conclusions of Law,** Planning Staff finds that the Council has the authority to hear these applications and to approve or deny the applications. Additionally, Planning Staff notes that all public notice requirements were met. Planning Staff further set forth the portions of the Idaho State Code and Middleton Code to be considered in making a decision on the applications.



**Conclusions and Recommended Conditions of Approval:**

If City Council is inclined to approve the three applications, then Planning Staff recommends that any approval be subject to the following conditions:

1. City of Middleton municipal domestic water, the flow and sanitary sewer services are to be extended to serve the subdivision.
2. Developer to comply with all terms and provisions of the Development Agreement as proposed by Planning Staff to the Staff Report.
3. License/Access Easement pertaining to the existing home (Lot 16 Block 3) must be terminated or abandoned prior to Phase 1 final plat approval.
4. All pro-rata traffic fees due pursuant to MCC 5-4-3 must be paid prior to phase 1 final plat approval.
5. Off-site installation of driveway between 9th St. Road easement and northern boundary of property to be completed prior to Phase 3 final plat approval.
6. Developer to install landscaping and all amenities in compliance with the Landscape Plan approved with the preliminary plat.
7. Developer shall create a plan for operation, maintenance and repair of stormwater facilities (SWM Plan) contained on the project site. The SWM Plan shall be recorded with the CC&Rs. Developer and/or HOA must maintain and operate the subdivision stormwater facilities in compliance with the SWM Plan.
8. All Civil Engineer, Planner & Agency comments to be completed and approved.
9. Sewer and water capacity, if available, cannot be reserved until the time that City approves the construction drawings for the project.

Finally, if the Council denies the application, then pursuant to the Local Land Use Planning Act (Idaho Statute, Title 87, Chpt. 65) and Middleton City Code 5-14(E)(8), the Council should state on the record what Applicant can do, if anything, to gain approval of the applications.



EX H

December 20, 2023

City of Middleton  
City Council for Agenda/Meeting  
Dec. 20, 2023  
Via email

Re: Pheasant Heights Proposed Subdivision

Round #3: Denied Canyon County 1, Denied City of Middleton 1, Denied Planning and Zoning-  
Middleton 2

Dear Council Members,

I am writing this as I cannot attend the meeting this evening. What a horrible time of year to have to schedule this. Makes me wonder if that is on purpose by the Developer who has been denied as per above referenced. Let me first say, I am very much Against the Approval of Pheasant Heights Subdivision and it's annexation as currently designed.

This subdivision in my opinion, has not addressed the very issues that it was denied for the last go around. The property is not congruent with the other subdivisions in the area. Everything West of Emmett Road (so far) are larger parcels and ranchettes. It does not touch the 1/3 acre home tracts that are all around the Middleton High School. The developer is stating that "affordable" housing that this will provide is needed in the Middleton Area. I beg to differ as there are several approved projects in the Middleton area with 1/3 acre lots-approximately over 2500 homes to be developed, in development or in already approved subdivisions East of Emmett Road. Just to name a few: West Highlands, The Meadows at West Highlands, The Crossings (an additional phase), Stonehaven phases 5-7, Mills Landing, Black Powder, Bridger Creek-and this isn't an exhaustive list. There are proposed in process subdivisions that also fit this 1/3 acre subdivision "affordable" that are East of Emmett Road in the current Middleton City Limits.

Access to the subdivision is through a very nice neighborhood of recently build homes on 11, 1 acre parcels. Right now it is a quiet community. Add over 136 new homes with 2 cars per household driving through this neighborhood would make the neighborhood not safe as it wasn't designed to handle traffic such as this.

Because of the proximity of this subdivision to the Middleton High School it furthers an already overwhelming issue of traffic mitigation for the safety of our kids. Until we get the much needed infrastructure done in this area, I believe it would be very negligent of the council to approve this subdivision.

I haven't even begun to address the sewer issue as the current system is over capacity and in need of updated status according to the State of Idaho and Federal EPA. That is a serious concern as this area would be so negatively impacted should an overflow of over capacity occur. Sewage flows downhill... and would end up in Middleton City proper and the Boise River Basin that is near and dear to this community.

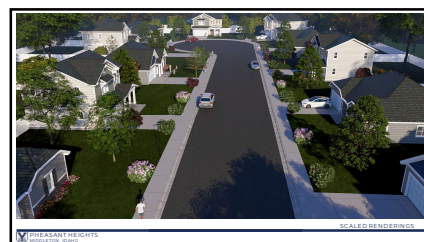
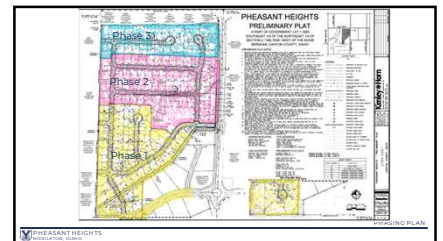
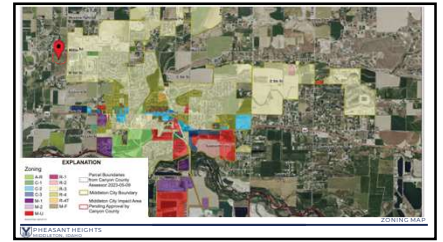
I will stop there, but wish for you to DENY this subdivision. They haven't made any changes to the originally DENIED application or taken any of the possible suggestions to heart to make this work for our community.

Respectfully submit this 20<sup>th</sup> day of December

A handwritten signature in cursive script, appearing to read "Teresa".

Teresa Taresh

13105 Greenwell Lane  
Caldwell, Idaho 83607  
(208) 831-6408







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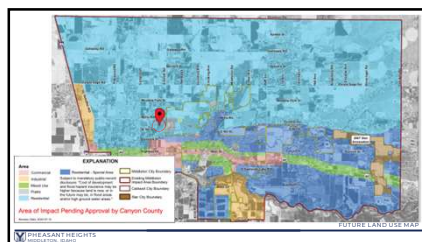
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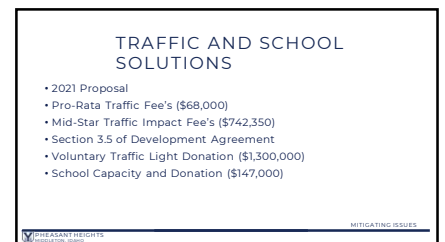
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## SECTION 3.5 ALTERNATIVE

**3.5 Emmett Road and State Highway 44 Intersection Contribution and Exemptions**  
The Developer agrees to contribute a Voluntary Traffic Improvement Donation in the amount of One Million Three Hundred Thousand Dollars (\$1,300,000.00) for improvements at the Emmett Road and State Highway 44 Intersection. In consideration of this Traffic Improvement Donation, the Developer shall be exempt from the obligations to undertake the 9th Street Improvements as outlined in Section 3.2, and the Emmett Road Sidewalk outlined in Section 3.3. The Traffic Improvement Donation shall be payable upon the City's issuance of the first building permit for the Project.

PLEASANT HEIGHTS  
CITY OF TEXAS

MITIGATING ISSUES

19

## CONSCIOUS PLANNING

- WILL NOT CAUSE FORCED ANNEXATION OF NEIGHBORS
- SUPPORTS MIDDLETON'S GROWTH PLAN
- WIDER THAN STANDARD LOTS
- NO DISRUPTIONS IN SURFACE IRRIGATION
- ROAD AND UTILITY IMPROVEMENTS; CONTRIBUTION OF IMPACT FEES

PLEASANT HEIGHTS  
CITY OF TEXAS

CONSCIOUS PLANNING

20



PLEASANT HEIGHTS  
CITY OF TEXAS

QUESTIONS & CONSIDERATIONS

21



8) : Applications by J and J Johnson LLC and AG Land & Development LLC for annexation/rezone, preliminary plat, and development agreement with respect to the Pheasant Heights Subdivision located at 23854 Emmett Road

December 20, 2023 - City Council - Public Hearing

Please check

	Name	Address	Phone or Email	In Favor	Neutral	Opposed	Testify
1	Greg Baker	9863 Meadow Park Blvd	512-992-7245				X
2	TODD OGNI BENE	1973 SCOTCH PINE DR	916 549 0342				X
3	JANET Gibson	on file				X	X
4	MIKE McDougall	13037 GREENWELL	208 606 2273			X	X
5	HOWARD RONKIN	551 7th St.	425-422-6844			X	X
6	Brian Hyman	13094 W 9th St.	208-891-4200			X	X
7	Paul Gursenbuehl	24107 Painted Horse Ct	208 550 0538			X	X
8	NICK HYLTON	13075 WILKIS	208 464-4290			X	X
9	Laurie Syrock	25136 Red Sage Ln	951-271-0510			X	



8) : Applications by J and J Johnson LLC and AG Land & Development LLC for annexation/rezone, preliminary plat, and development agreement with respect to the Pheasant Heights Subdivision located at 23854 Emmett Road

December 20, 2023 - City Council - Public Hearing

Please check

	Name	Address	Phone or Email	In Favor	Neutral	Opposed	Testify
<del>10</del>	DENISE RHODES ✓	24150 N GRAYHAWK	DENISE RHODES @ME.COM			f	
<del>11</del>	Cade Syvock ✓	25136 Red Sage Ln	csyvock@gmail.com			x	
<del>12</del>	WENDY McDougall	13037 GREENWELL	MARK FIGHTINGCLARKES .COM			x	x
<del>13</del>	Miskell Galloway	Spring Creek way	208-891-5018			x	x
14	PATTY CRAWFORD	SPRING CREEK WAY	208-891-5018			x	x
<del>15</del>	Victoria Grandava	24537 Kensington	562 405 1646			x	
<del>16</del>	Brent Heck	GREENWELL LN	208 631 0200			x	x
17	GARY ANDERSON	1816 Idaho Ave Caldwell	208 608 4569 X				x
<del>18</del>	Brian Sheets	24184 Willis Creek St. Caldwell ID 83607	503-830-1448			x	x



8) : Applications by J and J Johnson LLC and AG Land & Development LLC for annexation/rezone, preliminary plat, and development agreement with respect to the Pheasant Heights Subdivision located at 23854 Emmett Road

December 20, 2023 - City Council - Public Hearing

Please check

	Name	Address	Phone or Email	In Favor	Neutral	Opposed	Testify
1	Jose and Lisa Jauregui	13201 Willis Road Caldwell, ID 83607	(208) 695-7665			<input checked="" type="checkbox"/>	No
2	MIKE GRAEFE	1889 RIDGEVIEW AP	208-527-6447		<input checked="" type="checkbox"/>		
3	Scott & Traci Pool	13274 Greenwell Ln Caldwell, 83607	559-470-9274			<input checked="" type="checkbox"/>	No
4	Art & Christy Villines	13258 Greenwell Ln Caldwell				<input checked="" type="checkbox"/>	No
5	Dan & Sherie Crossley	13189 Willis Rd Caldwell	208-585-3823			<input checked="" type="checkbox"/>	Yes
6	Roy Thweatt	13089 Willis Rd Caldwell, ID	530-632-4502			<input checked="" type="checkbox"/>	Yes
7	Johnny Thweatt	13089 Willis Rd Caldwell	(208) 477-7385			<input checked="" type="checkbox"/>	NO
8	Kyle Restad	1660 Loch Ness Ave Midd.	208 971 7761			<input checked="" type="checkbox"/>	No
9	DAVID LUIZ	1594 LOCH NESS AVE MIDDLETON				<input checked="" type="checkbox"/>	NO





8) : Applications by J and J Johnson LLC and AG Land & Development LLC for annexation/rezone, preliminary plat, and development agreement with respect to the Pheasant Heights Subdivision located at 23854 Emmett Road  
December 20, 2023 - City Council - Public Hearing

Please check

	Name	Address	Phone or Email	In Favor	Neutral	Opposed	Testify
10	Nicolas & Amber Arila	13087 W. 9th Street Caldwell ID 83607	niconam715a@gmail.com			✓	
11	DARON MAYGRA	13045 W. 9th ST. Caldwell ID 83607	DRMAYGRA1@gmail.com			X	
12	Aaron Spoor	13279 Greenwell Ln Caldwell ID 83607	(208) 695 8450			X	
13	Tyson Spawson	211 Campbell	20.				
14							
15							
16							
17							
18							



## Public Comment Sign In

City Council - December 20, 2023

	Name	Address	Phone or Email	Topic/Agenda Item #
1	Howard Parkin	551 7th St.	425-422-6844	LID
2	Allen Tremble	952 S. Alturas Lake	203 880 0854	q? Ord. 687? LID
3				
4				
5				
6				
7				
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## Public Comment Sign In

City Council - December 20, 2023

	Name	Address	Phone or Email	Topic/Agenda Item #
1	Tyson Sparrow	211 N CAMPBELL	electsparrow@gmail.com	General
2	Dan Crossley	1389 Willis Rd		Mortensen
3	Roy Thweatt	13089 Willis Rd.		Pheasant Heights
4	Scott Pool	13274 Greenwell Ln.	scottTPool@gmail.com	Pheasant Heights
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## **AGREEMENT FOR CITY ATTORNEY / CIVIL LEGAL SERVICES**

THIS AGREEMENT FOR CITY ATTORNEY / CIVIL LEGAL SERVICES (hereinafter "Agreement") is made and entered into this 5<sup>th</sup> day of May, 2021, by and between the CITY OF MIDDLETON, IDAHO, an Idaho municipal corporation of 1103 West Main Street, Middleton, Idaho 83644 (hereinafter "City"), and HAMILTON, MICHAELSON & HILTY, LLP, an Idaho limited liability partnership of 1303 12<sup>th</sup> Avenue Road, Nampa, Idaho 83686 (hereinafter "HMH").

### **RECITALS**

WHEREAS, the City has a statutory and practical obligation to identify and appoint an official City Attorney to perform general, civil legal services on its behalf; and

WHEREAS, HMH is a law firm composed of licensed, practicing attorneys in the state of Idaho and has significant experience in providing general, civil legal services for municipalities; and

WHEREAS, City has appointed HMH to serve as its City Attorney;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and intending to be legally bound hereby, the City and HMH covenant and agree, as follows:

1. INCORPORATION OF RECITALS. The parties agree that the foregoing Recitals are contractual and binding and are incorporated herein as if set forth in full.

2. DEFINITIONS. In addition to other definitions set forth in this Agreement, for all purposes of this Agreement the following terms are defined and interpreted as herein provided for, unless the clear context of the presentation of the same requires otherwise:

(A) "Additional Legal Services" include the following categories of legal work:



i. Legal work performed by HMH in those cases where litigation has been filed (or is imminent) and one or more HMH attorney is “of record” in the case.

ii. Legal work performed by non-HMH attorneys where highly specialized attorneys are required. This may occur in connection with bonding and municipal financing, environmental matters including water rights, labor disputes or similar areas of law. When this occurs, HMH will facilitate the selection of appropriate outside counsel with the approval of the City, monitor the matter, and keep the Mayor and City Council advised as the case progresses. Unless HMH attorneys are assigned as co-counsel in litigation, HMH will not charge City for time expended in monitoring matters handled by outside counsel as Additional Legal Services.

iii. Legal work on unusual, non-routine legal tasks that involve significant attorney time and are not reasonably characterized as "routine legal services" or "general counsel" work. HMH must prepare and submit for City approval a scope of work and budget setting forth or estimating a reasonable fee outside the general retainer for Retainer Legal Services in an amount not to exceed \$175 per hour. Examples of such work might be rewriting a substantial portion of the City Code or representing the City as a party in a contested matter that is not traditionally understood as litigation (e.g. contested cases, employee grievances, fact-finding, mediation, arbitration, etc.).

(B) “Retainer Legal Services” shall include all reasonably necessary legal services required for the effective representation of City and applies to all services except those specifically identified in the definition of “Additional Legal Services.”

(C) “City Attorney” means Mark Hilty.

(D) “Fiscal Year” means and refers to City’s fiscal year, now beginning October 1 and ending September 30 of each calendar year, as provided by State law and this definition shall be considered automatically amended in the event of an amendment of the provisions of Idaho law relative to the establishment of the fiscal year for City.

3. SERVICES PROVIDED BY HMM. Pursuant to the terms of this Agreement, HMM is hereby appointed by the City to perform all Retainer Legal Services for the City and such other Additional Legal Services approved by the City.

4. PAYMENT FOR SERVICES. City agrees to pay HMM for services rendered pursuant to the terms of this Agreement, as follows:

(A) As compensation for Retainer Legal Services, excluding all out-of-pocket expenses incurred by HMM in performing the Retainer Legal Services, City shall pay HMM the sum of FIVE THOUSAND TWO HUNDRED FIFTY DOLLARS (\$5,250) per month commencing May 6, 2021 and continuing through September 30, 2022. The month of May 2021 shall be prorated for 26 days in the amount of \$4403. Subsequent retainer amounts shall be established on a fiscal year basis through the annual budget process for each year this Agreement continues. Although the parties acknowledge that the Retainer Legal Services are provided on a flat-fee basis, HMM agrees to record and maintain accurate time records of all Retainer Legal Services provided by its attorneys (itemized by date and the attorney performing the services), and to provide the same to the City on a monthly basis.

(B) Compensation for Additional Legal Services performed by HMM at the request of the City shall be paid at the attorney rate of \$175 per hour and the paralegal rate of \$75 per hour.

i. City shall reimburse HMM for actual out-of-pocket expenses but not ordinary office overhead or supplies, mileage, copying or postage, incurred by HMM in the performance of legal services.

ii. HMM shall provide the City with a monthly, itemized invoice of all Additional Legal Services performed, including all out-of-pocket expenses.

5. TERM. The term of this Agreement shall commence on May 6, 2021 and shall continue at the will and pleasure of the Mayor and City Council until September 30, 2022.

6. REPRESENTATIONS AND WARRANTIES OF HMM. HMM represents and warrants to City as follows:

(A) AUTHORITY. HMM has the right, power, legal capacity and authority to enter into and perform its obligations under this Agreement.

(B) NO PROHIBITION TO PERFORMANCE. There are no judgments, liens, actions, or proceedings existing or pending against HMM which would materially affect HMM's ability to enter into or perform under this Agreement.

(C) ENTITY STATUS. HMM is a limited liability partnership, duly organized, validly existing, and in good standing under the laws of the State of Idaho and has all necessary powers to enter into this Agreement.

(D) MARK HILTY DESIGNATED PRIMARY ATTORNEY. HMM acknowledges that Mark Hilty is designated as the attorney partner with primary responsibility for providing legal services to the City pursuant to this Agreement. City acknowledges that Mark Hilty will be assisted by other firm attorneys on various tasks.

(E) PERFORMANCE OF SERVICES. HMM agrees to perform all of the services and work set forth in this Agreement in a timely, efficient, and professional manner, in accordance with the terms of this Agreement and in compliance with existing

laws, ordinances, rules, or regulations of any applicable regulatory authority or governmental body.

(F) NON-EXCLUSIVE AGREEMENT. HMH acknowledges that this Agreement shall not be interpreted to limit the City's authority to retain the services of outside legal counsel to perform any legal services, whether as a result of the City's need for special expertise or otherwise.

7. INSURANCE. For purposes of this Agreement, HMH shall carry the following types of insurance in at least the per occurrence limits specified below:

<u>Coverage</u>	<u>Limits of Liability</u>
Workman's Compensation	Statutory limits
Employer's Liability	\$1,000,000.00
General Liability (bodily injury and/or property damage)	\$1,000,000.00
Professional Liability	\$1,000,000.00

8. EXTENSION OF TERM OF AGREEMENT. This parties may mutually agree to renew or extend the term of this Agreement. Unless services are terminated, this Agreement shall be automatically extended on a month-to-month basis after any scheduled termination date.

9. TERMINATION. This Agreement may be terminated upon mutual agreement of the parties. City shall also have the right to remove HMH's appointment as City's attorneys in the manner as set forth in Idaho Code § 50-206 and terminate this Agreement, with or without cause, at any time, which termination shall be effective upon service of written notice to HMH in the manner set forth herein. In the event of a termination, City shall remain responsible to pay HMH for all services provided through the date of termination pursuant to the terms of this Agreement.

10. GENERAL PROVISIONS.

(A) ATTORNEY FEES. If any action or proceeding is initiated to enforce or construe any provision of this Agreement, the prevailing party in such action or proceeding shall be entitled to recover from any party or parties against whom a judgment is entered, all reasonable attorney fees and costs incurred by the prevailing party in connection with such action or proceeding in addition to such other relief to which such prevailing party is entitled.

(B) BINDING EFFECT. This Agreement shall be binding upon the heirs, estates, personal representatives, successors, and assigns of the parties.

(C) CHOICE OF LAW. This Agreement will be interpreted in accordance with the laws and statutes of the State of Idaho.

(D) NOTICES. Any notice under this Agreement shall be in writing and shall be treated as duly delivered if the same is personally delivered or deposited in the United States mail, certified, return receipt requested, postage prepaid, and properly addressed as follows:

Notice to City:

Becky Crofts, City Administrator  
City of Middleton, Idaho  
1103 West Main Street  
Middleton, Idaho 83644

Notice to HMH:

Mark Hilty  
Hamilton, Michaelson & Hilty, LLP  
1303 – 12<sup>th</sup> Avenue Road  
Nampa, Idaho 83686



(E) PARAGRAPH HEADINGS. The paragraph headings of this Agreement are for clarity in reading and not intended to limit or expand the contents of the respective paragraphs.

(F) PARTIAL INVALIDITY. Whenever possible, each provision of this Agreement shall be interpreted in such a way as to be effective and valid under applicable law. If a provision of this Agreement is prohibited by or invalid under applicable law, it shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement

(G) FURTHER ASSURANCES. The parties each for themselves do further covenant to the others to execute any and all other documents necessary to effect the transfers contemplated by this Agreement.

(H) TIME. Time is declared to be of the essence to this Agreement.

(I) WAIVER. The rights and remedies of the parties to this Agreement are cumulative and not alternative. Neither the failure nor any delay by any party in exercising any right, power, or privilege under this Agreement or the documents referenced in this Agreement will operate as a waiver of such right, power, or privilege, and no single or partial exercise of any such right, power, or privilege will preclude any other or further exercise of such right, power, or privilege or the exercise of any other right, power, or privilege.

(J) NO ASSIGNMENT BY HMH. HMH shall not sell, assign, or transfer all or any portion of its interest in this Agreement at any time.

(K) HANDWRITTEN PROVISIONS. Handwritten provisions inserted in this Agreement, and initialed by the parties in ink, shall control all typewritten provisions in conflict therewith.

(L) ENTIRE AGREEMENT. This Agreement supersedes all prior agreements between the parties with respect to its subject matter, and constitutes (along with the other documents referred to in this Agreement) a complete and exclusive statement of the terms of the agreement between the parties with respect to its subject matter.

(M) EXECUTION AND COUNTERPARTS. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original agreement but all of which shall be considered one instrument.

(N) AMENDMENTS. This Agreement may not be amended, modified, altered or changed in any respect whatsoever, except by further agreement, in writing, duly executed by the parties.

[End of text.]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

THE CITY OF MIDDLETON

  
By: Steven Rule, Mayor

Attest:

  
City Clerk

HAMILTON, MICHAELSON & HILTY, LLP

  
By: MARK HILTY, Partner



**Hamilton, Michaelson & Hilty, LLP**

**Attorneys at Law**

CARL D. HAMILTON\*  
TERRY MICHAELSON\*  
\*Retired

MARK HILTY  
AARON L. SEABLE  
DOUGLAS L. WATERMAN  
TAYLER YETT

May 23, 2023

Hon. Steven Rule, Mayor  
Becky Crofts, City Administrator  
Wendy Miles, Treasurer  
City of Middleton, Idaho  
1103 West Main Street  
Middleton, Idaho 83644

Re: *Fiscal Year 2024 Legal Budget*

via email: [srule@middletoncity.com](mailto:srule@middletoncity.com)  
[bcrofts@middletoncity.com](mailto:bcrofts@middletoncity.com)  
[wmiles@middletoncity.com](mailto:wmiles@middletoncity.com)

Dear Mayor, Becky and Wendy:

I write to convey this firm's legal fees proposal for continued service to the City of Middleton, Idaho ("Middleton") for FY2024. As you know our firm approaches municipal retainers differently than most private firms providing government services. We estimate monthly hours and bill a monthly flat fee (general retainer) for routine municipal matters. The general retainer is based on that estimate of hours multiplied by our government hourly rate. Then, we annually review the general retainer and "true it up" based on actual time spent over the last few months.

We are increasing our monthly "government" hourly billable rate from \$185 to \$195 per hour. This rate is still very competitive and, we believe, below market even for government work. In fact, Nampa's RFP for legal services in 2020 produced no offers for legal services less than \$200 per hour. We believe \$195 per hour is the most efficient rate in the state and it is well below our private client rate of \$250-300 per hour.

For the twelve months ending April 30, 2023, the window for services following our last budget update, we worked on Middleton general retainer matters an average of 62 hours per month. That effort represents a notable increase from our current general retainer hours estimate of 43 per month, however, we also think much of that increase will ease in the coming year given that Middleton faced several unusual legal issues in 2022.

Hon. Steven Rule, Mayor  
Becky Crofts, City Administrator  
Wendy Miles, Treasurer  
May 23, 2023  
Page 2

For FY2023, Middleton pays this firm \$7,955 per month. We think this is the right number for FY2024 as well and propose **no increase in the general monthly retainer**. As always, please let me know if you have any questions.

Very truly yours,

HAMILTON, MICHAELSON & HILTY, LLP



MARK HILTY  
MH/md



## AGREEMENT FOR LEGAL SERVICES

This Agreement, effective the \_\_\_\_ day of January, 2024, is between the City of Middleton, Idaho, an Idaho municipal corporation (the “City”) and Yorgason Law Offices, pllc, (“Yorgason”) whose address is 6200 N. Meeker Place, Boise, Idaho 83713.

### RECITALS:

A. The City is a municipal corporation duly organized and existing under the general municipal laws of the State of Idaho and desires to retain the services of Yorgason to serve as City Attorney to the City; and

B. Yorgason is an attorney duly licensed and practicing in the State of Idaho with the requisite skills to provide the legal services desired by the City; and

C. The parties desire to enter into an agreement for legal services on the terms and conditions set forth herein.

NOW THEREFORE, the parties hereto agree as follows:

1. Yorgason agrees to serve as City Attorney for the City to render civil legal services as set forth herein. Yorgason shall be an independent contractor and shall not be considered an employee of the City.

2. Yorgason shall be compensated by an hourly fee of \$200.00. This fee includes typical overhead charges. Any additional out of pocket charges must be approved by the City prior to incurring such charges. For litigation support or other projects outside of the scope of general representation described herein, Yorgason will be compensated by a rate or fee agreed upon by the parties.

3. Attorney shall provide the following legal services:

- a) Advise the Mayor, the City Council and other City staff, on matters pertaining to the performance of their official City duties.
- b) Draft or review all ordinances, resolutions, contracts, and other legal instruments pertaining to the business of the City and render legal advice with respect thereto.
- c) Advise the City regarding pending lawsuits or other actions at law to which the City may be a party. The actual legal representation in such actions before State or Federal court or other tribunal, including but not limited to arbitration or mediation, shall not be considered a duty of Yorgason pursuant to this Agreement. The legal representation in each such matter shall be determined by the parties on a case-by-case basis and the City may retain special counsel or the City may obtain counsel pursuant to an insurance contract.

4. Yorgason is not required to provide the following legal services:

- a) Private legal advice not pertaining to City business to any City official or employee;
- b) Legal advice pertaining to City business to individual citizens or individual members of the City Council, except where such advice is requested by the Mayor and/or City Council;
- c) Defense or prosecution of civil lawsuits except where the parties herein agree as part of a separate contract; or
- d) Criminal prosecutions.

5. The term of this Agreement shall commence immediately and shall continue month-to-month until terminated. This Agreement may be terminated by either party upon giving at least thirty (30) days written notice of termination to the other party.

6. This Agreement may be modified only by written agreement signed by both parties hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

CITY OF MIDDLETON  
Canyon County, Idaho

By: \_\_\_\_\_  
Jackie Hutchison, Mayor

ATTEST:

\_\_\_\_\_  
Becky Crofts, City Clerk

YORGASON LAW OFFICES, PLLC

By: \_\_\_\_\_  
Christopher E. Yorgason,  
Attorney at Law