

**COUNCIL MEMBERS:**

SHAWN BARIGAR	DON HALL	SUZANNE HAWKINS	GREGORY LANTING	JIM MUNN, JR.	REBECCA MILLS SOJKA	CHRIS TALKINGTON
<i>Vice Mayor</i>		<i>Mayor</i>				



**AGENDA**  
 Meeting of the Twin Falls City Council  
**Monday, February 11, 2013**  
 City Council Chambers  
 305 3<sup>rd</sup> Avenue East - Twin Falls, Idaho

**5:00 P.M.**

PLEDGE OF ALLEGIANCE TO THE FLAG  
 CONFIRMATION OF QUORUM  
 INTRODUCTION OF STAFF  
 CONSIDERATION OF THE AMENDMENTS TO THE AGENDA:  
 PROCLAMATIONS: None

AGENDA ITEMS	Purpose	By:
<b>I. <u>CONSENT CALENDAR:</u></b> 1. Consideration of a request to approve the accounts payable for February 5 – 11, 2013. 2. Consideration of a request to approve the January 28, 2013, Minutes.	<u>Action</u>	<u>Staff Report</u> Sharon Bryan Leila A. Sanchez
<b>II. <u>ITEMS FOR CONSIDERATION:</u></b> 1. Presentation on the Southern Idaho Solid Waste District by Josh Bartlome, Executive Director of SISWD. 2. Consideration of an agreement for Design, Bidding and Construction Engineering Services with Riedesel Engineering for two FAA construction projects. 3. Presentation by Steve Meyerhoeffer on the contract involving the leasing of the Twin Falls' Golf Club and a report on his first full year as the concessionaire. 4. Presentation on the finances of the City of Twin Falls for the first quarter of fiscal year 2012-2013. The presentation will be an overview of the tax-supported funds and the three major enterprise funds, Water, Wastewater and Sanitation. 5. Consideration of a request to approve the first amendment to the Development Agreement between Chobani, the City of Twin Falls, and the Urban Renewal Agency of the City of Twin Falls. 6. Public input and/or items from the City Manager and City Council.	Presentation Action Presentation Presentation Action	Josh Bartlome Bill Carberry Steve Meyerhoeffer Lorie Race Travis Rothweiler
<b>III. <u>ADVISORY BOARD REPORTS/ANNOUNCEMENTS:</u></b>		
<b>IV. <u>PUBLIC HEARINGS:</u>            6:00 - None</b>		
<b>V. <u>ADJOURNMENT:</u></b>		

*\*Any person(s) needing special accommodations to participate in the above noticed meeting should contact Leila Sanchez at (208) 735-7287 at least two working days before the meeting.*

### Twin Falls City Council-Public Hearing Procedures for Zoning Requests

1. Prior to opening the first Public Hearing of the session, the Mayor shall review the public hearing procedures.
  2. Individuals wishing to testify or speak before the City Council shall wait to be recognized by the Mayor, approach the microphone/podium, state their name and address, then proceed with their comments. Following their statements, they shall write their name and address on the record sheet(s) provided by the City Clerk. The City Clerk shall make an audio recording of the Public Hearing.
  3. The Applicant, or the spokesperson for the Applicant, will make a presentation on the application/request (request). No changes to the request may be made by the applicant after the publication of the Notice of Public Hearing. The presentation should include the following:
    - A complete explanation and description of the request.
    - Why the request is being made.
    - Location of the Property.
    - Impacts on the surrounding properties and efforts to mitigate those impacts.Applicant is limited to 15 minutes, unless a written request for additional time is received, at least 72 hours prior to the hearing, and granted by the Mayor.
  4. A City Staff Report shall summarize the application and history of the request.
    - The City Council may ask questions of staff or the applicant pertaining to the request.
  5. The general public will then be given the opportunity to provide their testimony regarding the request. The Mayor may limit public testimony to no less than two minutes per person.
    - Five or more individuals, having received personal public notice of the application under consideration, may select by written petition, a spokesperson. The written petition must be received at least 72 hours prior to the hearing and must be granted by the mayor. The spokesperson shall be limited to 15 minutes.
    - Written comments, including e-mail, shall be either read into the record or displayed to the public on the overhead projector.
    - Following the Public Testimony, the applicant is permitted five (5) minutes to respond to Public Testimony.
  6. Following the Public Testimony and Applicant's response, the hearing shall continue. The City Council, as recognized by the Mayor, shall be allowed to question the Applicant, Staff or anyone who has testified. The Mayor may again establish time limits.
  7. The Mayor shall close the Public Hearing. The City Council shall deliberate on the request. Deliberations and decisions shall be based upon the information and testimony provided during the Public Hearing. Once the Public Hearing is closed, additional testimony from the staff, applicant or public is not allowed. Legal or procedural questions may be directed to the City Attorney.
- \* Any person not conforming to the above rules may be prohibited from speaking. Persons refusing to comply with such prohibitions may be asked to leave the hearing and, thereafter removed from the room by order of the Mayor.

COUNCIL MEMBERS:

SHAWN BARIGAR	DON HALL	SUZANNE HAWKINS	GREGORY LANTING	JIM MUNN, JR.	REBECCA MILLS SOJKA	CHRIS TALKINGTON
<i>Vice Mayor</i>		<i>Mayor</i>				



**MINUTES**

Meeting of the Twin Falls City Council  
**Monday, January 28, 2013**  
 City Council Chambers  
 305 3<sup>rd</sup> Avenue East - Twin Falls, Idaho

**5:00 P.M.**

PLEDGE OF ALLEGIANCE TO THE FLAG  
 CONFIRMATION OF QUORUM  
 INTRODUCTION OF STAFF  
 CONSIDERATION OF THE AMENDMENTS TO THE AGENDA:  
 PROCLAMATIONS: None

AGENDA ITEMS	Purpose	By:
<b>I. <u>CONSENT CALENDAR:</u></b> 1. Consideration of a request to approve the accounts payable for January 23 – 28, 2013. 2. Consideration of a request to approve the January 14, 2013, and January 22, 2013, Minutes	<u>Action</u>	<u>Staff Report</u> Sharon Bryan L. Sanchez
<b>II. <u>ITEMS FOR CONSIDERATION:</u></b> 1. Consideration of a request to appoint Debbie Lattin to the Twin Falls City Historic Preservation Commission. 2. Presentation of Twin Falls Fire Department Level II Firefighter Certification to Joell Miller, Gerald Dillman, and Jesse Bowman. 3. Presentation of the Twin Falls Fire Department annual review and the department services provided. 4. Public input and/or items from the City Manager and City Council.	Action  Presentation  Presentation	Mitch Humble  Ron Clark  Ron Clark
<b>III. <u>ADVISORY BOARD REPORTS/ANNOUNCEMENTS:</u></b>		
<b>IV. <u>PUBLIC HEARINGS:</u> 6:00 - NONE</b>		
<b>V. <u>ADJOURNMENT:</u></b>		

*\*Any person(s) needing special accommodations to participate in the above noticed meeting should contact Leila Sanchez at (208) 735-7287 at least two working days before the meeting.*

5:00 P.M.

Present: Don Hall, Suzanne Hawkins, Greg Lanting, Jim Munn, Rebecca Mills Sojka, Chris Talkington  
Absent: Shawn Barigar  
Staff Present: City Manager Travis Rothweiler, City Attorney Fritz Wonderlich, Community Development Director Mitch Humble, Zoning & Development Manager Renee Carraway, Fire Chief Ron Clark, Deputy City Clerk Sharon Bryan, Deputy City Clerk Leila A. Sanchez

Mayor Lanting called the meeting to order at 5:00 P.M. He then invited all present, who wished to, to recite the pledge of Allegiance to the Flag with him. Mayor Lanting introduced staff. A quorum is present.

CONSIDERATION OF THE AMENDMENTS TO THE AGENDA: None

PROCLAMATIONS: None

### AGENDA ITEMS

#### **I. CONSENT CALENDAR:**

1. Consideration of a request to approve the accounts payable for January 23 – 28, 2013.
2. Consideration of a request to approve the January 14, 2013, and January 22, 2013, Minutes

#### **MOTION:**

Vice Mayor Hall made the motion to approve the Consent Calendar as presented. The motion was seconded by Councilperson Talkington and roll call vote showed all members present voted in favor of the motion. Approved 6 to 0.

#### **II. ITEMS FOR CONSIDERATION:**

1. Consideration of a request to appoint Debbie Lattin to the Twin Falls City Historic Preservation Commission.

Community Development Director Humble explained the request.

In November 2012, Paul McClintock, resigned due to conflicts with his work schedule. Staff posted the vacancy and received one application from Debbie Lattin. Mayor Lanting and Councilman Hall, the HPC liaison, have reviewed Debbie's application and recommend her appointment to the Commission. On January 22, 2013, the HPC Chairman, Randall Watson, and the Commissioner unanimously supported the Mayor's recommendation. Staff concurs. Should the Council appoint Debbie Lattin to the Historic Preservation Commission, it will be for a partial term expiring in July 2014.

The selection committee recommends that the Council appoint Debbie Lattin to the Historic Preservation Commission to serve a partial term expiring in July 2014.

#### **MOTION:**

Vice Mayor Hall made the motion to approve the appointment of Debbie Lattin to the Twin Falls City Historic Preservation Commission to serve a partial term expiring in July 2014. The motion was seconded by Councilperson Munn and roll call vote showed all members present voted in favor of the motion. Approved 6 to 0.

2. Presentation of Twin Falls Fire Department Level II Firefighter Certification to Joell Miller, Gerald Dillman, and Jesse Bowman.

Fire Chief Clark recognized Firefighters Joell Miller, Gerald Dillman, and Jesse Bowman for completing their Twin Falls Fire Department Firefighter Level II Certification. Fire service training includes classes and coursework on various subjects including First Responder Certification, Hazardous Materials Operations, Building Construction, Arson Detection for First Responders, and Extrication Operations. These individuals dedicated many hours for classes and self-study to successfully complete this Level II certification program.

Mayor Lanting and Councilperson Mills Sojka presented certificates to Joell Miller, Gerald Dillman, and Jesse Bowman.

3. Presentation of the Twin Falls Fire Department annual review and the department services provided.

Fire Chief Clark gave a PowerPoint presentation and reviewed the following:

- Mission Statement  
As the Professional Fire Fighters of Twin Falls, we are dedicated to the continued excellence of life safety, fire suppression, education and community involvement. We affirm our loyalty to our members, our profession and to the citizens we serve.
- Station One – Main Fire Station located at 345 2<sup>nd</sup> Avenue East
- Station Two – located at 635 Falls Avenue
- Station Three- located at 911 Washington Street South
- Station Four – Airport Fire Station
- Equipment
- Training
- Twin Falls Fire Department Response Area is 75 square miles, with the boundaries being  
2600 E – 3300 E  
3150 N – Snake River
- Twin Falls Firefighters – A B C Company
- Fire Marshal Jim Auclair
- Danielle Kolb, Administrative Assistant
- Mitchell Brooks, Training Officer

Council discussion followed.

Councilperson Munn thanked the Fire Department for work well done.

Vice Mayor Hall asked when the ladder truck is scheduled to be rotated out.

Fire Chief Clark stated that at this time he has no plans to rotate the ladder truck. The truck is a 1988 and has been well maintained. The cost to replace the truck is approximately \$750,000 to \$1,500,000.

In closing, Fire Chief Clark expressed the importance of having a fire escape plan and the placement of “working” smoke detectors in the home.

City Manager Rothweiler thanked Fire Chief Clark for the department leadership he displays on a daily basis.

4. Public input and/or items from the City Manager and City Council.

City Manager Rothweiler reported on the following:

AIC Meeting in Boise, January 29 – 31, 2013. The main issue to be discussed is personal property tax.

Annual Chamber of Commerce Banquet, Friday, February 8, 2013, at 6:00 P.M., at the Three Amigos Radio Rondevo

Policeman's Ball, Saturday, February 9, 2013, at Canyon Crest Event Center at 5:30 P.M.

**III. ADVISORY BOARD REPORTS/ANNOUNCEMENTS: - NONE**

**IV. PUBLIC HEARINGS: 6:00 - NONE**

**V. ADJOURNMENT: The meeting adjourned t 6:00 P.M.**

Leila A. Sanchez  
Deputy City Clerk/Recording Secretary



**Date:** Monday, February 11<sup>th</sup>, 2013  
**To:** Honorable Mayor and City Council  
**From:** Bill Carberry, Airport Manager

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**Request:**

Consideration of an Agreement for Design, Bidding and Construction Engineering Services with Riedesel Engineering for Two FAA Construction Projects.

**Time Estimate:**

The request will take approximately 10 minutes with additional time needed for questions and answers.

**Background:**

The Airport's FAA Airport Improvement Program (AIP) capital construction program for the upcoming season consists of two projects. The first project consists of fog sealing and re-marking of the primary runway and the Reeder main aircraft parking ramp. The second project includes pavement reconstruction of several aircraft ramps and taxi lanes. The contract also includes the development of a Pavement Condition Index survey/report to the FAA regarding the status of all areas of airport pavements. The last formal report was completed in 2009. (See attached project descriptions)

The airport advertised an RFQ for engineering services in 2010 for a service period of up to five years. The consulting engineering firm of Riedesel Engineering, Inc. was recommended to the City and County by the Airport Board from amongst the three engineering firms interviewed by the selection committee. The City & County concurred with the Airport Board's recommendation in August 2010. With Riedesel being the engineer of choice, the Airport requested a contract proposal for engineering services for the two 2013 projects. The enclosed contract is for all services related to the two projects to include design, bidding and construction administration and observation.

When FAA AIP projects include engineering costs in excess of \$100,000, all airports are required by the FAA to obtain an independent fee estimate (IFE) from another engineering firm as a means to help compare and negotiate engineering service costs. Staff solicited the assistance of JUB Engineers' aviation personnel in their Boise office to help develop the independent fee estimate based on the defined scope of work for the two projects.

**Budget Impact:**

- The Riedesel Contract- The cost of the contract, inclusive of all areas of service for the 2 projects, totals \$616,199.00. The independent Fee estimate provided by JUB engineers is \$689,956.10. The total fee for the two projects provided by Riedesel is approximately 11% lower than the independent fee estimate. The FAA generally considers fee proposals within 10-15% of each other as a reasonable comparison. (See attached IFE analysis)
- Construction Costs- Estimated construction costs for the runway/apron seal coat project is \$450,000 and the sum of air carrier ramp, east ramp, taxi lane pavement reconstruction, and the PCI report total \$2,775,000 for a total estimated construction cost of \$3,225,000 for the two projects. (See attached project description/cost)

- FAA Funding- Staff has been working with the FAA for several years to try and secure additional discretionary grant funds in 2013 in order to accelerate the pavement maintenance schedule identified in the airport's capital improvement plan. The FAA has advised the airport that in order to be positioned to compete for and accept the requested \$2,500,000 in possible additional discretionary funding this year, the projects should be designed in order to bid this spring and award construction contracts this season. If no discretionary grant funding is offered this season than the airport will work with the \$1,553,000 it has available in entitlement funds, FY 13's \$1,000,000 plus \$553,000 in carry-over entitlement funds from the 3 previous years.
- FAA Grant Offers- The FAA is anticipating the ability to make grant offers in April/May after the U.S. Congress passes a continuing funding resolution for the remainder of the year. The Congress passed a 4 year FAA reauthorization for the Airport Improvement Program (AIP) last year. The funding is budgeted for FY 13; however remaining year appropriation is pending this spring.
- Bidding - The projects will be bid as two projects with the runway & apron fog seal as the first project and the reconstruction of the ramps & taxi lane areas as the second project. The second project will incorporate several bid schedules in order to preserve flexibility with awards based on available funding should less than full grant funding be available.
- Bid Awards- The FAA bases grant offers upon open bids for projects. With this requirement we will bid the two projects in order to provide the FAA the hard costs for the construction. If funding is less than needed for the projects the airport will only award construction contracts based on current available grant offer funding. If needed, any remaining work will be re-bid in fiscal year 2014.
- Local Match-The 2013 airport construction fund includes the locally required City and County 6.25% matching dollars for FAA grants.

### **Regulatory Impact:**

The runway fog seal and remarking project and the pavement rehabilitation projects will help maintain airport pavement conditions at acceptable standards as required by the Federal Aviation Administration.

### **Conclusion:**

Through the strong collaboration between the FAA, the Airport, and our consulting firm, Riedesel, we have positioned the community to take advantage of possible discretionary funding. If the additional funding is realized we will be able to accelerate our pavement maintenance and our capital improvement plan overall.

After reviewing the proposed contract with the City Engineer and the Airport Advisory Board, staff recommends that the City Council approve the agreement for engineering services with Riedesel Engineering in the amount of \$616,199.00, contingent upon FAA concurrence and available funding.

### **Attachments:**

1. Description of Projects
2. Independent Fee Estimate Analysis
3. Riedesel Contract/Scope of Work

## I. DESCRIPTION OF PROJECT

Multiple improvements will be completed as part of the Fiscal Year 2013 FAA Airport Improvement Program (AIP) project at Joslin Field, Magic Valley Regional Airport. These projects and their estimated construction costs include:

1. Runway 7/25 and Apron (AGA-06) Rehabilitation	\$ 450,000
2. Apron Reconstruction (ATERM-02 and -04) and Mill & Overlay (ATERM-01 and -03)	\$ 2,400,000
3. Taxiway 1, 2, 3, and 8 Reconstruction	\$ 375,000
<b>TOTAL ESTIMATED CONSTRUCTION COST</b>	<b>\$ 3,225,000</b>

The project will also include an update to the airport's Pavement Condition Index (PCI) Report.

The first project component will consist of rehabilitation of Runway 7/25 and a portion of the apron northwest of the terminal building (designated AGA-06 in the 2009 PCI report), as shown in Figure 1. Work to be performed in this project includes paint removal, application of a pavement sealer on the porous friction course, application of new runway and taxiway surface markings including renumbering the runway designation to 8/26, and replacement sign panels affected by the change to the runway designation. The project will be carefully coordinated with the airlines, city staff, the FAA, and airport users to minimize disruption of operations. The construction cost is estimated to be \$450,000.



**Figure 1-Runway 7/25 and Apron Rehabilitation**

The second project component will consist of full depth reconstruction of two areas of the apron on the east side of the terminal building (designated ATERM-02 and 04 in the 2009 PCI report) and Taxilanes 1, 2, 3, and 8, which serve the hangars to the northwest of the terminal building, as shown in Figure 2. This project component will also include a mill and asphalt overlay of two additional areas of the terminal apron (designated ATERM-01 and 03 in the 2009 PCI report) as shown in Figure 2. The work includes approximately 200,000 square feet of apron reconstruction, approximately 59,000 square feet of taxilane reconstruction, and approximately 161,000 of apron mill and asphalt overlay. Improvement of these pavements is considered critical for the airport to accommodate current and forecasted ground operations for commercial, airline, and general aviation aircraft. The last significant improvement project for the affected apron was a slurry seal in 2009. The construction cost is estimated to be \$2,400,000 for the apron reconstruction and mill & overlay, and \$375,000 for reconstruction of the taxilanes.



**Figure 2-Apron and Taxilane Reconstruction, Apron Mill & Overlay**

Construction will include the removal of the asphalt pavement, excavation and removal of the existing aggregate section, installation of storm drain piping and underdrain piping (for the apron), placement of aggregate subbase and base materials, construction drainage improvements, asphalt paving, and pavement markings. Total depth of pavement section removal, for reconstruction, will be 24 inches. The mill and asphalt overlay depth will be 2.5". The project will be carefully coordinated with the airlines, city staff, the FAA, and airport users to minimize disruption of operations.

The fourth and final project component will consist of an update of the Airport's Pavement Condition Index (PCI) Report. The last PCI Report for Joslin Field was completed in 2009. The project will include the airport pavements following the FAA standards and supplementing the previous PCI reports completed. The report will be completed in accordance with the FAA Advisory Circular 150/5380-6B, Guidelines and Procedures for Maintenance of Airport Pavements, and ASTM D5340-11, Standard Test Method for Airport Pavement Condition Index Surveys.

**Detailed Cost Analysis- Apron, Taxilane, RY 7/25 fog seal  
Consultant Design, Bidding & Construction Observation Fees**

**Riedesel Engineering Project Fees vs JUB Independent Fee Estimate  
29-Jan-13**

Project : Joslin Field, Magic Valley Regional Airport  
AIP 3-16-0036-034

**Apron & Taxilane Reconstruction, Taxilane Reconstruction, RW 7/25 Rehabilitation**

<b>Project Engineering Fees &amp; Expenses</b>	<b>Riedesel Engineering, Inc.</b>		<b>JUB</b>		<b>Negotiation Difference</b>
<b>Project Phase</b>					
Phase 1 – Project Formulation	\$ 28,206.00		\$ 33,393.20		\$ (5,187.20)
Phase 2 – Preliminary and final design -RY 7/25, Apron Rehabilitation & Marking	\$ 37,328.00		\$ 40,173.80		\$ (2,845.80)
Phase 3 – Bidding-RY 7/25, Apron Rehabilitation & Marking	\$ 19,656.00		\$ 20,785.20		\$ (1,129.20)
Phase 4 – Construction Admin & Observation	\$ 56,208.00		\$ 62,465.80		\$ (6,257.80)
Phase 5 – Preliminary Design-Apron, Taxilanes, and Taxiways	\$ 94,652.00		\$ 106,188.40		\$ (11,536.40)
Phase 6-Final Design Plans and Specifications- Apron, Taxilane, and Taxiways	\$ 103,742.00		\$ 118,770.80		\$ (15,028.80)
Phase 7-Bidding-apron, Taxilane, Taxiway	\$ 21,538.00		\$ 29,115.20		\$ (7,577.20)
Phase 8- Construction Admin & Observation- Apron, Taxilane, Taxiway	\$ 202,372.00		\$ 219,609.60		\$ (17,237.60)
Phase 9-Pavement Conditioning Index Report	\$ 28,364.00		\$ 28,393.90		\$ (29.90)
Phase 10-Project Closeout	\$ 24,133.00		\$ 31,060.20		\$ (6,927.20)
<b>Total Project Fees &amp; Expenses</b>	<b>\$ 616,199.00</b>		<b>\$ 689,956.10</b>		<b>\$ (73,757.10)</b>

<b>Rate Comparison</b>	<b>Riedesel Engineering, Inc.</b>		<b>JUB</b>		<b>Negotiation Difference</b>
Principal Engineer	\$ 160.00		\$ 190.00		\$ (30.00)
Project Manager	\$ 150.00		\$ 165.00		\$ (15.00)
Professional Engineer	\$ 130.00		\$ 135.00		\$ (5.00)
Professional Land Surveyor	\$ 110.00		\$ 125.00		\$ (15.00)
Engineer	\$ 100.00		\$ 110.00		\$ (10.00)
Sr. Designer	\$ 90.00		\$ 95.00		\$ (5.00)
Designer	\$ 80.00		\$ 80.00		\$ -
Draftsperson	\$ 70.00		\$ 75.00		\$ (5.00)
Clerical	\$ 45.00		\$ 55.00		\$ (10.00)
Observation I	\$ 130.00		\$ 95.00		\$ 35.00
Observation II	\$ 80.00		\$ 80.00		\$ -

<b>Project Hours</b>	<b>Riedesel Engineering, Inc.</b>		<b>JUB</b>		<b>Negotiation Difference</b>
Project Phase					
Phase 1 – Project Formulation	212		254		-42
Phase 2 – Preliminary & Final Design Design	380		334		46
Phase 3 –Bidding	186		156		30
Phase 4 – Construction-RY 7/25, Apron Rehab	475		415		60
Phase 5 – Pre Design Apron,Taxilane, TWY	695		699		-4
Phase 6- Final Design Plans & Specs	977		1040		-63
Phase 7- Bidding Apron, Taxilanes, Taxiway	212		221		-9
Phase 8-Construction Admin & Observation	1512		1691		-179
Phase 9-PCI Report	312		241		71
Phase 10-Project Closeout	208		256		-48
<b>Total Project Hours</b>	<b>5169</b>		<b>5307</b>		<b>-138</b>

<b>Total Project Comparison</b>	<b>Riedesel Engineering, Inc.</b>		<b>JUB</b>		<b>Negotiation Difference</b>
Principal Engineer	247		82		165
Project Manager	829		971		-142
Professional Engineer	799		794		5
Professional Land Surveyor	104		65		39
Engineer	142		953		-811
Sr. Designer	892		306		586
Designer	130		230		-100
Draftsperson	302		486		-184
Clerical	498		345		153
Observation I	576		930		-354
Observation II	650		145		505
<b>Total Project Hours</b>	<b>5169</b>		<b>5307</b>		<b>-138</b>

<b>Project Expenses</b>	<b>Riedesel Engineering, Inc.</b>		<b>JUB</b>		<b>Negotiation Difference</b>
Project Phase					
Phase 1 – Project Formulation	\$ 556.00		\$ 633.20		\$ (77.20)
Phase 2 – Preliminary & Final Design Design	\$ 668.00		\$ 978.80		\$ (310.80)
Phase 3 –Bidding	\$ 836.00		\$ 1,365.20		\$ (529.20)
Phase 4 – Construction-RY 7/25, Apron Rehab	\$ 788.00		\$ 860.80		\$ (72.80)
Phase 5 – Pre Design Apron,Taxilane, TWY	\$ 19,112.00		\$ 27,703.40		\$ (8,591.40)
Phase 6- Final Design Plans & Specs	\$ 2,112.00		\$ 6,790.80		\$ (4,678.80)
Phase 7- Bidding Apron, Taxilanes, Taxiway	\$ 1,168.00		\$ 2,165.20		\$ (997.20)
Phase 8-Construction Admin & Observation	\$ 34,752.00		\$ 35,184.60		\$ (432.60)
Phase 9-PCI Report	\$ 1,033.60		\$ 463.90		\$ 569.70
Phase 10-Project Closeout	\$ 684.00		\$ 915.20		\$ (231.20)
<b>Total Project Expenses</b>	<b>\$ 61,709.60</b>		<b>\$ 77,061.10</b>		<b>\$ (15,351.50)</b>

# **JOSLIN FIELD, MAGIC VALLEY REGIONAL AIRPORT**

## **FY2013 AIRPORT IMPROVEMENTS PROJECT (RUNWAY 7/25 AND APRON REHABILITATION, APRON & TAXILANE RECONSTRUCTION, AND PCI REPORT)**

### **DESCRIPTION OF PROJECT AND SCOPE OF CONSULTANT SERVICES**

**AIP 3-16-0036-034**



**Sponsor: City of Twin Falls, Idaho**

**December 11, 2012**

Prepared by:



202 Falls Avenue  
Twin Falls, Idaho 83301  
(208) 733-2446

## TABLE OF CONTENTS

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I. Description of Project .....	1
II. Scope of Engineering Services .....	4
Phase 1 – Project Formulation .....	5
Phase 2 – Preliminary and Final Design – Runway 7/25 Rehabilitation and Re-Marking .....	6
Phase 3 – Bidding – Runway 7/25 Rehabilitation and Re-Marking Project Formulation .....	8
Phase 4 – Construction Administration and Observation – Runway 7/25 Rehabilitation and Re-Marking.....	9
Phase 5 – Preliminary Design – Apron and Taxilanes.....	11
Phase 6 – Final Design Plans and Specifications – Apron and Taxilanes .....	14
Phase 7 – Bidding – Apron and Taxilanes .....	16
Phase 8 – Construction Administration and Observation – Apron and Taxilanes .....	17
Phase 9 – Pavement Condition Index Report .....	19
Phase 10 – Project Closeout.....	20
III. Task List and Labor Estimate - TBD	
IV. Project Schedule - TBD	
V. Preliminary Cost Estimates – TBD	

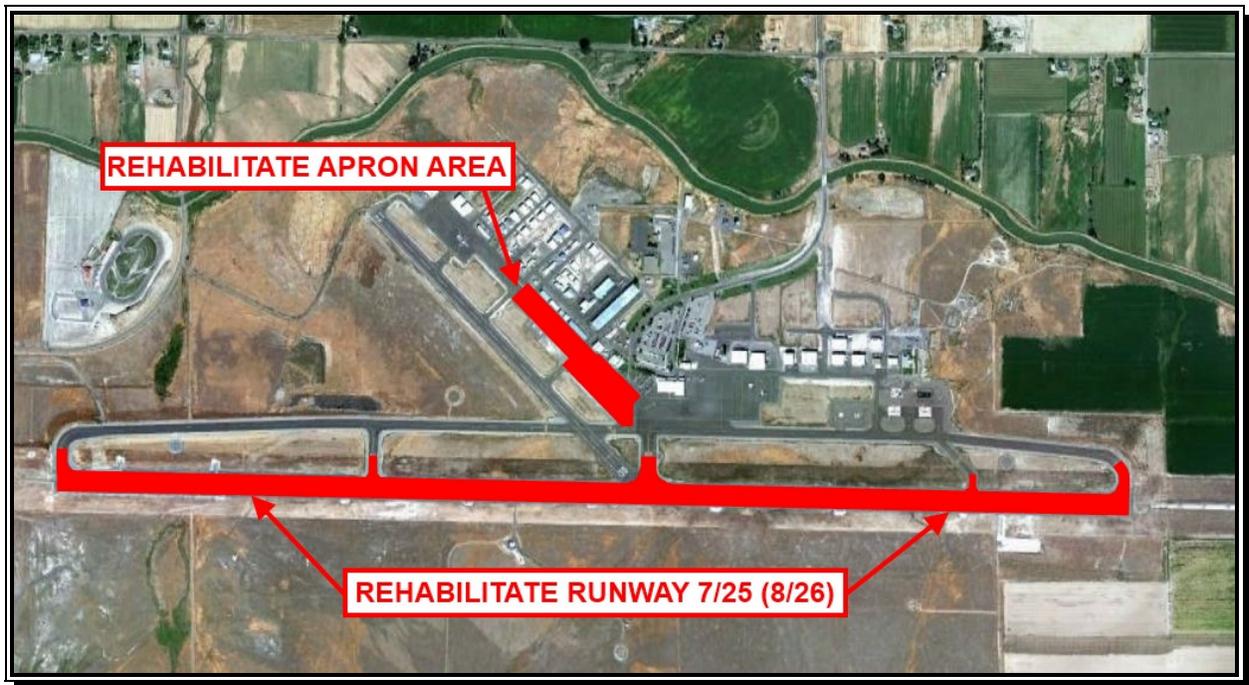
## I. DESCRIPTION OF PROJECT

Multiple improvements will be completed as part of the Fiscal Year 2013 FAA Airport Improvement Program (AIP) project at Joslin Field, Magic Valley Regional Airport. These projects and their estimated construction costs include:

1. Runway 7/25 and Apron (AGA-06) Rehabilitation	\$ 450,000
2. Apron Reconstruction (ATERM-02 and -04) and Mill & Overlay (ATERM-01 and -03)	\$ 2,400,000
3. Taxiway 1, 2, 3, and 8 Reconstruction	\$ 375,000
<b>TOTAL ESTIMATED CONSTRUCTION COST</b>	<b>\$ 3,225,000</b>

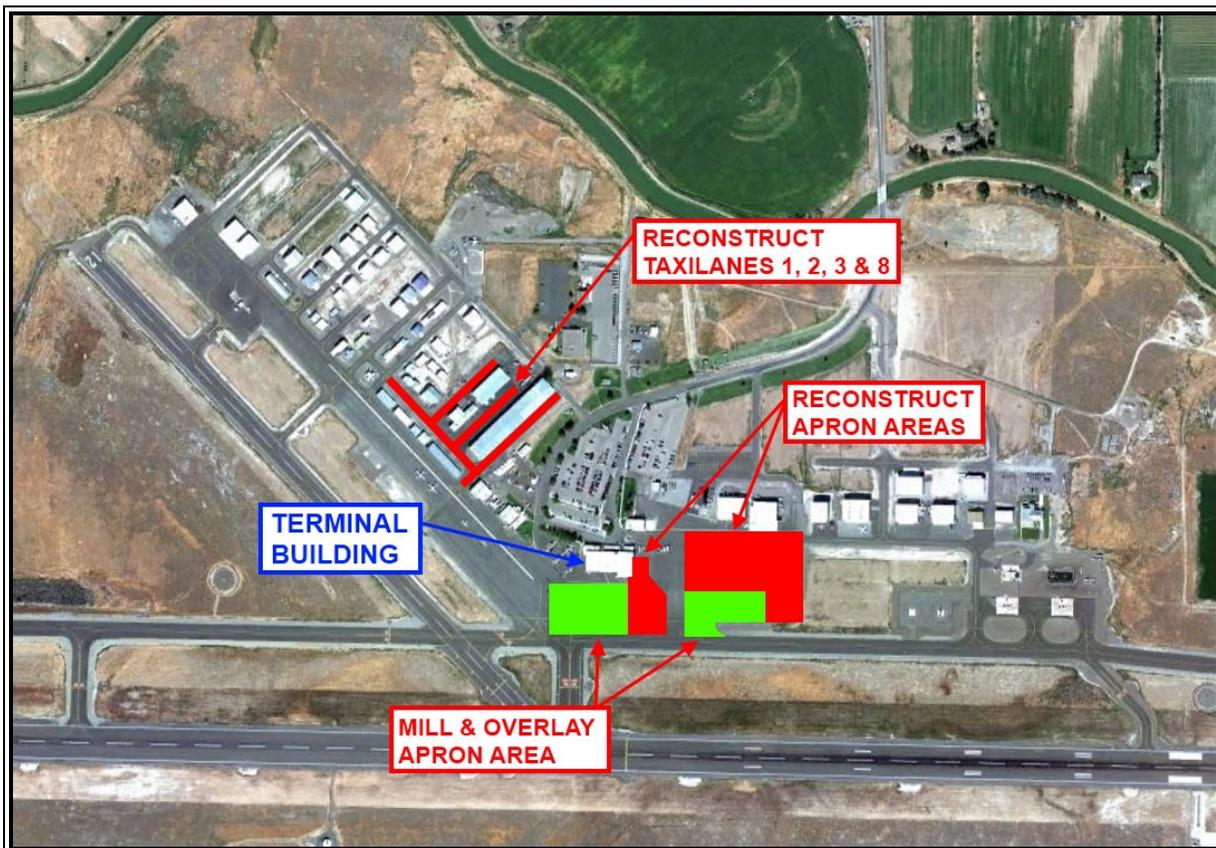
The project will also include an update to the airport's Pavement Condition Index (PCI) Report.

The first project component will consist of rehabilitation of Runway 7/25 and a portion of the apron northwest of the terminal building (designated AGA-06 in the 2009 PCI report), as shown in Figure 1. Work to be performed in this project includes paint removal, application of a pavement sealer on the porous friction course, application of new runway and taxiway surface markings including renumbering the runway designation to 8/26, and replacement sign panels affected by the change to the runway designation. The project will be carefully coordinated with the airlines, city staff, the FAA, and airport users to minimize disruption of operations. The construction cost is estimated to be \$450,000.



**Figure 1-Runway 7/25 and Apron Rehabilitation**

The second project component will consist of full depth reconstruction of two areas of the apron on the east side of the terminal building (designated ATERM-02 and 04 in the 2009 PCI report) and Taxilanes 1, 2, 3, and 8, which serve the hangars to the northwest of the terminal building, as shown in Figure 2. This project component will also include a mill and asphalt overlay of two additional areas of the terminal apron (designated ATERM-01 and 03 in the 2009 PCI report) as shown in Figure 2. The work includes approximately 200,000 square feet of apron reconstruction, approximately 59,000 square feet of taxilane reconstruction, and approximately 161,000 of apron mill and asphalt overlay. Improvement of these pavements is considered critical for the airport to accommodate current and forecasted ground operations for commercial, airline, and general aviation aircraft. The last significant improvement project for the affected apron was a slurry seal in 2009. The construction cost is estimated to be \$2,400,000 for the apron reconstruction and mill & overlay, and \$375,000 for reconstruction of the taxilanes.



**Figure 2-Apron and Taxilane Reconstruction, Apron Mill & Overlay**

Construction will include the removal of the asphalt pavement, excavation and removal of the existing aggregate section, installation of storm drain piping and underdrain piping (for the apron), placement of aggregate subbase and base materials, construction drainage improvements, asphalt paving, and pavement markings. Total depth of pavement section removal, for reconstruction, will be 24 inches. The mill and asphalt overlay depth will be 2.5". The project will be carefully coordinated with the airlines, city staff, the FAA, and airport users to minimize disruption of operations.

The fourth and final project component will consist of an update of the Airport's Pavement Condition Index (PCI) Report. The last PCI Report for Joslin Field was completed in 2009. The project will include the airport pavements following the FAA standards and supplementing the previous PCI reports completed. The report will be completed in accordance with the FAA Advisory Circular 150/5380-6B, Guidelines and Procedures for Maintenance of Airport Pavements, and ASTM D5340-11, Standard Test Method for Airport Pavement Condition Index Surveys.

## **II. SCOPE OF ENGINEERING SERVICES**

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The Scope of Engineering Services for the FY2013 Airport Improvements Project includes the following phases:

Phase 1 – Project Formulation

Phase 2 – Preliminary and Final Design – Runway 7/25 Rehabilitation and Re-Marking

Phase 3 – Bidding – Runway 7/25 Rehabilitation and Re-Marking Project Formulation

Phase 4 – Construction Administration and Observation – Runway 7/25 Rehabilitation and Re-Marking

Phase 5 – Preliminary Design – Apron and Taxilanes

Phase 6 – Final Design Plans and Specifications – Apron and Taxilanes

Phase 7 – Bidding – Apron and Taxilanes

Phase 8 – Construction Administration and Observation – Apron and Taxilanes

Phase 9 – Pavement Condition Index Report

Phase 10 – Project Closeout

These phases are more particularly described in the following sections.

## PHASE 1 – PROJECT FORMULATION

This phase of the project shall include consultation with the Owner and the FAA, development of the project scope and fee, preparation of a contract for engineering services, and review of existing documents. More specifically, this phase of the project includes the following work tasks:

- 1.1 Owner, FAA Consultation and Meetings – Consult with the Owner and the FAA to ascertain the requirements and goals for the project
- 1.2 Scope of Work – Assist the Owner in the development of the project scope preparation of the scope of work narrative for the project, including subconsultants. Assist and advise the owner regarding project schedule and project implementation strategy.
- 1.3 Subconsultant Coordination – Evaluation and coordination of geotechnical requirements required by the project.
- 1.4 Contract – Prepare contract and detailed reasonableness of cost documentation pursuant to FAA guidelines.
- 1.5 Record of Negotiations – Assist the Owner in preparation of necessary documentation, as outlined in FAA guidelines, for the record of negotiations.
- 1.6 FAA Grant Pre-Application – Assist the Owner to prepare and submit a pre-application for federal assistance to the FAA.
- 1.7 Site Review - Conduct three (3) site visits to review the airport’s needs and the specific requirements of the project with the Owner and airport users
- 1.8 Review Existing Documents - Obtain and review existing documents such as ALP drawings, master plans, and construction plans from previous projects.
- 1.9 Preliminary Quantities and Cost Estimate – Prepare a preliminary construction quantity and cost estimate based on information obtained in other scope items in this phase and the existing Capital Improvement Plan (CIP).
- 1.10 Pre-Design Conference – Participate, with the Owner, in a phone pre-design conference with the FAA Project Manager to refine the scope of services for the project and define special and future considerations of the project.
- 1.11 Project Management, Correspondence, and Quality Assurance – Manage the project and assist the owner in maintaining the project schedule, fiscal requirements, assurances, correspondence, and general requirements of this phase of the project. Assist the owner and help in the administration of the project.
- 1.12 Travel time for four trips to the airport to review the project and participate in meetings with the owner.

**PHASE 2 – PRELIMINARY AND FINAL DESIGN - RUNWAY 7/25 REHABILITATION AND RE-MARKING**

This phase of the project shall include preliminary and final design for the runway rehabilitation project. More specifically, this phase of the project includes the following work tasks:

- 2.1. Site Visit – One (1) visit to the airport site to analyze existing pavement condition and to determine proper surface treatment and crack repair options.
- 2.2. Base Map – Prepare a base map drawing for the airport pavement rehabilitation project, indicating the location of the proposed surface treatment, using information collected from field surveys and existing project and airport drawings.
- 2.3. Design Drawings – Prepare final drawings and plans for the pavement rehabilitation project based on FAA standards and preliminary design review comments. Final design plan set shall be prepared in 11”x17” format and is estimated to include the following sheets:

Sheet No.	Description
1	Project Title Sheet
2-4	Project Layout & Safety Plan and General Notes & Legend
5-8	Pavement Rehabilitation Plan and Details
9-12	Pavement Marking and Sign Plan and Details
13-14	Sign Details
15	Miscellaneous Details

- 2.4. Construction Specifications – Prepare construction specifications for the pavement rehabilitation project including bid documents, bid advertisement, bid schedules, contract documents, FAA special provisions, special provisions, FAA general conditions and Owner’s general and supplementary conditions required for execution of a construction contract following bid award. Specifications shall be in accordance with latest edition of FAA AC 150/5370-10, Standards for Specifying Construction of Airports.
- 2.5. Construction Schedule and CSPP – Prepare a construction sequence and Construction Safety and Phasing Plan (CSPP) for the project. Prepare project closure schedule in conjunction with Owner, users, Air Traffic Control, and the FAA.
- 2.6. Quantities and Cost Estimate – Update project bid quantities and prepare an engineer’s estimate for construction cost based on detailed bid schedules. Advise the Owner on budget status and major adjustments to previous preliminary costs.
- 2.7. Design Review Meetings – Participate in two (2) design review meetings with the Owner, airport users, and FAA at various times to ensure design meets the requirements and needs of the various agencies and users.
- 2.8. Project Management, Correspondence, and Quality Assurance – Manage the project and assist the owner in maintaining the project schedule, fiscal requirements, assurances, correspondence, and general requirements of this phase of the project.

- 2.9. Travel Time – Travel time for six (6) trips to the airport to review the project and participate in meetings with the Owner.

### **PHASE 3 – BIDDING - RUNWAY 7/25 REHABILITATION AND RE-MARKING**

This phase of the project shall include assisting the Owner in the competitive sealed bid and contractor selection process, providing bid documents, contacting potential bidders, and preparation and processing of contract award documents. More specifically, this phase of the project includes the following work tasks:

- 3.1. Plans and Specifications Production – Provide twenty (20) sets of the approved Construction Contract Documents for supplying to Contractors requesting plans for purposes of bidding, furnish the FAA and the Owner each with one (1) set for their files, and furnish three (3) sets to the winning Contractor for use during construction.
- 3.2. Contractor Liaison – Contact potential contractors and notify them of the construction project. Respond to contractor/supplier questions during the pre-bid period. Answer contractors’ questions about the scope of the project. Prepare and maintain the list of plan holders.
- 3.3. Pre-Bid Conference and Minutes – Coordinate with FAA and conduct a construction pre-bid conference to familiarize bidders and interested parties with the construction project scope and FAA and owner requirements.
- 3.4. Bid Addendum – Provide an addendum to include pre-bid conference meeting minutes and responses to questions or comments established in the pre-bid conference. The addendum shall also include the official bid proposal with an updated bid form to insure the bid proposal is not removed from the bound construction contract documents. Any required design and/or bidding revisions shall also be included in the addendum.
- 3.5. Bid Opening – Assist the Owner at the bid opening, review bids as received, assist Owner to resolve bidding informalities or irregularities, prepare bid summary and distribute to all plan holders and regulatory agencies, analyze bids and make recommendations to Owner.
- 3.6. Construction Contract(s) – Prepare the construction contract agreements for review and approval by the Owner, submit copies of the contract to the various approving agencies for review and approval, and provide general assistance in contract award proceedings, including issuance to the Contractor(s), by the Owner, of Notice of Award.
- 3.7. Construction Grant Assistance – Assist the Owner to obtain FAA grant for construction including preparation and submittal of final application, preparation and submittal of other required documents, and coordination.
- 3.8. Bid Phase Meetings and Coordination – Meet and coordinate with the Owner and FAA throughout the bidding process to keep them aware of the project status and to inform them of bidding results.
- 3.9. Project Management, Correspondence, and Quality Assurance – Manage the project and assist the owner in maintaining the project schedule, fiscal requirements, assurances, correspondence, and general requirements of this phase of the project.
- 3.10. Travel Time – Travel time for four (4) trips to the airport for the project bidding phase.

## **PHASE 4 – CONSTRUCTION ADMINISTRATION AND OBSERVATION - RUNWAY 7/25 REHABILITATION AND RE-MARKING**

This phase of the project shall include review of Contractor submittals, providing survey control, quality assurance testing coordination, scheduling, on-site construction observation, providing record drawings, and completing a final report. More specifically, this phase of the project includes the following work tasks:

- 4.1. Pre-Construction Conference – Schedule and coordinate a pre-construction conference with the Owner, Contractor, subcontractors, the FAA, and other interested parties prior to commencement of the construction work. Issue Notice to Proceed (NTP).
- 4.2. Submittal Review – Review the necessary safety plans, quality control plans, shop and working drawings, tests, samples and other submissions of the Contractor for conformance with the design concept of the project, and for compliance with the specifications given in the contract documents. Two (2) copies of detailed shop drawings, manufacturer’s specifications, operation and maintenance instructions, etc., as secured from the Contractor, shall be furnished to the Owner for their files.
- 4.3. Construction Observation Plan – Prepare Construction Observation Plan in accordance with the FAA guidelines.
- 4.4. Site Visit(s) – Complete regular visits by the project manager or the design engineer to ensure that the work is being completed in reasonably close conformity with the plans and specifications. Assume one (1) site visit.
- 4.5. Construction Schedule Coordination – Conduct a construction progress review related to the contractor’s date of completion, receive written guarantees, certifications, and related data assembled by the contractor, and issue to the owner a Certificate of Final Payment. When the project has been completed and is ready for final acceptance, arrange for inspection of the finished work by the FAA, the owner, the contractor and the engineer.
- 4.6. Quality Assurance (QA) Testing – Quality Assurance shall consist of aggregate gradation verification, assume 5 samples.
- 4.7. Resident Observation – Provide two (2) on-site construction observation technicians for an estimated ten (10) working days, at an estimated twelve (12) hours per day, on a day-to-day basis to act as an agent of the Owner, under the supervision of the Engineer. The technicians’ duties shall be to keep records, notes, plans, and maps, and to facilitate day-to-day safety and scheduling coordination with Airport staff, contractors, airlines, FAA personnel, and other users. Upon completion of project construction, these items shall be used in preparing record drawings and to advise the owner of deficiencies not corrected by the contractor.
- 4.8. Change Orders – Develop, prepare, and submit to the owner change orders (assume 1 change order) for the Owner and FAA’s consideration. It is assumed that the change order included in this work item will be within the original Scope of Work.
- 4.9. Weekly Reports/Pay Estimates – Prepare and submit weekly progress reports to the owner and FAA. Determine, each month, the amount of work performed on the project by the contractor and prepare estimates of the amount of payment earned by the contractor.

- 4.10. Final Inspection – When project construction has been completed and is ready for final acceptance, as determined by the Contractor, arrange for inspection of the finished work by the Owner, FAA, suppliers, and the Engineer. Coordinate correction, by the Contractor, of any deficiencies identified during the final inspection.
- 4.11. Project Fiscal Coordination – Assist owner with overall budget, cash flow status, and project funding coordination. Prepare, in conjunction with Owner’s representative, grant reimbursement invoices and supply required grant reimbursement documentation. Maintain total project cost, status documentation and update main project components on a monthly basis. Advise the Owner as to final project cost and assisting with a grant amendment request, if required.
- 4.12. Project Management, Correspondence, and Quality Assurance – Manage the project and assist the owner in maintaining the project schedule, fiscal requirements, assurances, correspondence, and general requirements of this phase of the project.
- 4.13. Travel Time – Travel time to and from the airport for the construction phase of the project.

## **PHASE 5 – PRELIMINARY DESIGN – APRON AND TAXILANES**

This phase of the project shall include preliminary design of the apron and taxilane reconstruction and taxilane construction project. More specifically, this phase of the project includes the following work tasks:

- 5.1 DBE Program – Assist the Owner with and prepare three-year DBE Plan and Program to ensure the DBE Plan is in accordance with current FAA requirements.
- 5.2 DBE Goals – Prepare DBE goals in accordance with Subpart D of Department Regulation 49CFR Part 26 for grant. Call potential DBE contractors to notify them of the project and to determine capabilities and interest for the project.
- 5.3 NPDES SWPPP – Prepare NPDES Stormwater Pollution Prevention Plan (SWPPP) for the construction project.
- 5.4 Evaluate Existing Drainage – Analyze the existing surface and subsurface drainage facilities for apron areas and taxilanes. Evaluate the existing drainage capacities, determining impacts of improvements and need for modifications for drainage facilities. Side drains are anticipated as a part of this project for the apron.
- 5.5 Field Review of Existing Pavements – Conduct a field review of the existing asphalt pavement condition for the areas to be rebuilt. Review and evaluate the existing pavement sections to determine the pavement’s history and evaluate causes of failure.
- 5.6 Survey Coordination – Direct surveying staff / sub-consultant to perform topographic surveys to adequately prepare base drawings and in conformance with the following surveying scope of work:
  - (a) Completing topographic survey on a 50-foot grid, including grade breaks. Pavement grades will be established using a level.
  - (b) Provide survey ties to utilities within the project area.
  - (c) Provide survey ties for locating test holes and other items associated with the geotechnical investigation.
  - (d) Completing office computations and preparing data files for use on the project design.
- 5.7 Geotechnical Coordination – Coordinating Geotechnical activities, monitoring schedule, addressing questions, and providing assistance on the project. The scope of services for the geotechnical work includes:
  - (a) Consult with Engineer to ascertain the Owner’s requirements for the project.
  - (b) Obtain and review existing documents such as previous engineering reports and project plans.
  - (c) Manage the start-up of the geotechnical tasks and coordinate schedule with Engineer.
  - (d) Providing a summary of proposed exploration locations to the Engineer for coordination of access and utility clearance.

- (e) Eight to ten cores samples will be obtained from the existing pavement surface of the apron to evaluate pavement condition. Additional manual excavation will be provided to verify the existing pavement section thickness, and observations will be recorded regarding the condition of the asphalt concrete, pavement gravels, sub-base and sub-grade soil condition.
  - (f) Laboratory testing will be conducted on representative samples to evaluate engineering and physical properties. Anticipated tests include moisture content, gradation, Atterberg limits tests, moisture-density relationship and CBR.
  - (g) Manage progress and timeliness of all deliverables to Engineer.
- 5.8 Base Map(s) – Prepare base map drawings from information collected from field surveys and existing project drawings.
  - 5.9 Pavement Section Design – Prepare design calculations to determine the structural section required for the design of the pavement section. Evaluate pavement section alternatives.
  - 5.10 Preliminary Schedule and CSPP – Prepare a conceptual construction sequence and Construction Safety and Phasing Plan (CSPP) for the project for evaluation by the Owner, airport users, and FAA.
  - 5.11 Utility Coordination – Coordinate the field location of existing utilities and develop criteria for protection and/or relocation of existing utilities within project work areas in conjunction with owner and the affected utilities.
  - 5.12 Preliminary Cross Sections – Prepare preliminary cross-sections for the construction area every 50 feet, and as required, from the field survey.
  - 5.13 Preliminary Design Report – Prepare preliminary design report for the project. The report will include project information including general description, design analysis, modifications to standard FAA specifications, geotechnical information, cost estimate, project schedule, safety, and DBE information.
  - 5.14 Preliminary Specification – Prepare preliminary construction specifications for the project including the contract documents, FAA special provisions, special provisions, FAA General Conditions and Owner’s Standard General Conditions.
  - 5.15 Preliminary Design – Complete preliminary design of the project. Prepare preliminary drawings and plans from information collected utilizing the base maps developed for this project. Plans and specifications shall be prepared in accordance with applicable FAA Advisory Circulars including, but not limited to:
    - AC150/5300-13 Airport Design
    - AC150/5320-5 Airport Drainage
    - AC150/5320-6 Pavement Design
    - AC150/5340-1 Airport Markings
    - AC150/5340-30 Design & Installation Details – Airport Visual Aids
    - AC150/5370-2 Operational Safety on Airports during Construction
    - AC150/5370-10 Standards for Specifying Construction of Airports

- 5.16 Preliminary Quantities and Cost Estimate – Prepare preliminary quantities and update the CIP cost estimate for the project using most recent unit costs.
- 5.17 Sponsor Certifications – Prepare Sponsor Certifications and submit to the FAA as a part of the Design Report.
- 5.18 Owner, FAA Consultation and Meetings – Schedule and participate in four design review meetings with owner. Coordinating with the FAA on applicable items. Attend four monthly airport board meetings.
- 5.19 Project Management, Correspondence, and Quality Assurance – Manage the project assisting the owner in maintaining the project schedule, fiscal requirements, assurances, coordination with sub-consultants, correspondence and general requirements of the project.
- 5.20 Travel Time – Travel time for eight trips to the airport to review the project and participate in meetings with the owner.

## PHASE 6 – FINAL DESIGN PLANS AND SPECIFICATIONS – APRON AND TAXILANES

This phase of the project shall include final design for the apron and taxilane reconstruction and taxilane construction project. More specifically, this phase of the project includes the following work tasks:

- 6.1. Final Design Drawings – Prepare final drawings and plans for the pavement reconstruction/construction project based on FAA standards and preliminary design review comments. Final design plan set shall be prepared in 11”x17” format and is estimated to include the following sheets:

Sheet No.	Description
1	Project Title Sheet
2-4	Project Layout & Safety Plan / General Notes & Legend
5-6	Typical Pavement Sections
7-12	Apron Reconstruction / Drainage Plan & Profile
13-16	Apron Mill & Overlay Plan & Profile
17-20	Taxilane Reconstruction Plan & Profile
21-23	Pavement Tie-In Details
24-26	Drainage Details
27-29	Miscellaneous Details
30-33	Pavement Marking Plan and Details

- 6.2. Final Design Grades and Profiles – Review and set the final design grades and design final pavement profiles.
- 6.3. Final Drainage Design – Prepare final design for surface and sub-surface drainage facilities. Evaluate capacity and finalize impacts of improvements.
- 6.4. Final Pavement Marking Design – Finalize design of pavement marking and submit to FAA for review.
- 6.5. Final Cross Sections – Prepare final cross sections for the project.
- 6.6. Final Schedule and CSPP – Finalize construction sequence and Construction Safety and Phasing Plan (CSPP) for the project. Prepare project closure schedule in conjunction with Owner, users, Air Traffic Control, and the FAA.
- 6.7. Final Design – Complete final design construction plans based on FAA standards.
- 6.8. Final Quantities and Cost Estimate – Compute quantities and prepare an Engineer’s cost estimate based on detailed bid schedules and unit costs, and advise the Owner as to budget status. Advise Owner of any adjustments to previous preliminary costs.
- 6.9. Final Specifications and Contract Documents - Prepare construction specifications, bid documents, bid advertisement, bid schedules and contract documents required for execution of construction contract following bid award. Specifications shall be in accordance with FAA AC 150/5370-10, Standards for Specifying Construction of Airports.

- 6.10. Field Review of Final Design – Conduct on site “plans in hand” review and field verify final design with design team and Owner and users.
- 6.11. Constructability Review – Perform a constructability review of the project plans and specifications.
- 6.12. Final Design Report – Prepare final design report including plan review checklists and prepare Modification(s) of FAA Standards, if required.
- 6.13. Review Package Submittal – Submit design report, plans, and specifications to Owner and FAA for review.
- 6.14. Revisions – Revise plans and specifications as needed to finalize for project bidding.
- 6.15. Project Meetings - Meet with the Owner, on a monthly basis, to confirm that the design meets the requirements and needs of the various agencies and users.
- 6.16. Final Plan Review With Owner – Meet with airport maintenance staff to review final plans to insure existing utilities are identified and the physical constraints of existing equipment are met.
- 6.17. Contractor Notification – Contact potential contractors and inform them of the project and schedule.
- 6.18. User Apron Closure Coordination – Coordinate closure of project areas with owner and users in minimize impacts. Review proposed project schedule for construction with Owner and users.
- 6.19. Project Management, Correspondence, and Quality Assurance – Manage the project and assist the owner in maintaining the project schedule, fiscal requirements, assurances, correspondence, and general requirements of this phase of the project.
- 6.20. Travel Time – Travel time for six trips to the airport to review the project and participate in meetings with the owner.

## **PHASE 7 – BIDDING – APRON AND TAXILANES**

*Prior to beginning the bidding phase 7, the Engineer will attain verbal FAA and Owner concurrence.*

This phase of the project shall include assisting the Owner in the competitive sealed bid and contractor selection process, providing bid documents, contacting potential bidders, and preparation and processing of contract award documents. More specifically, this phase of the project includes the following work tasks:

- 7.1. Plans and Specifications Production – Provide thirty (30) sets of the approved Construction Contract Documents for supplying to Contractors requesting plans for purposes of bidding, furnish the FAA and the Owner each with one (1) set for their files, and furnish five (5) sets to the winning Contractor for use during construction.
- 7.2. Contractor Liaison – Contact potential contractors and notify them of the construction project and of potential DBE contractors interested in the project. Notify state DBE officials and potential DBE contractors of the project. Respond to contractor/supplier questions during the pre-bid period. Answer contractor’s questions about the scope of the project. Prepare and maintain the list of plan holders.
- 7.3. Pre-Bid Conference and Minutes – Coordinate with FAA and conduct a construction pre-bid conference to familiarize bidders and interested parties with the construction project scope and FAA and owner requirements.
- 7.4. Bid Addendum – Provide an addendum to include pre-bid conference meeting minutes and responses to questions or comments established in the pre-bid conference. The addendum shall also include the official bid proposal with an updated bid form to insure the bid proposal is not removed from the bound construction contract documents. Any required design and/or bidding revisions shall also be included in the addendum.
- 7.5. Bid Opening – Assist the Owner at the bid opening, review bids as received, assist Owner to resolve bidding informalities or irregularities, prepare bid summary and distribute to all plan holders and regulatory agencies, analyze bids and make recommendations to Owner.
- 7.6. Construction Contract(s) – Prepare the construction contract agreements for review and approval by the Owner, submit copies of the contract to the various approving agencies for review and approval, and provide general assistance in contract award proceedings, including issuance to the Contractor(s), by the Owner, of Notice of Award.
- 7.7. Construction Grant Assistance – Assist the Owner to obtain FAA grant for construction including preparation and submittal of final application, preparation and submittal of other required documents, and coordination.
- 7.8. Bid Phase Meetings and Coordination – Meet and coordinate with the Owner and FAA throughout the bidding process to keep them aware of the project status and to inform them of bidding results.
- 7.9. Project Management, Correspondence, and Quality Assurance – Manage the project and assist the owner in maintaining the project schedule, fiscal requirements, assurances, correspondence, and general requirements of this phase of the project.

7.10. Travel Time – Travel time for four (4) trips to the airport for the project bidding phase.

## **PHASE 8 – CONSTRUCTION ADMINISTRATION AND OBSERVATION – APRON AND TAXILANES**

This phase of the project shall include review of Contractor submittals, providing survey control, quality assurance testing coordination, scheduling, on-site construction observation, providing record drawings, and completing a final report. More specifically, this phase of the project includes the following work tasks:

- 8.1. Pre-Construction Conference – Schedule and coordinate a pre-construction conference with the Owner, Contractor, subcontractors, the FAA, and other interested parties prior to commencement of the construction work. Issue Notice to Proceed (NTP).
- 8.2. Submittal Review – Review the necessary safety plans, quality control plans, shop and working drawings, tests, samples and other submissions of the Contractor for conformance with the design concept of the project, and for compliance with the specifications given in the contract documents. Two (2) copies of detailed shop drawings, manufacturer’s specifications, operation and maintenance instructions, etc., as secured from the Contractor, shall be furnished to the Owner for their files.
- 8.3. Construction Observation Plan – Prepare Construction Observation Plan in accordance with the FAA guidelines.
- 8.4. Construction Schedule Coordination – Conduct a construction progress review related to the contractor’s date of completion, receive written guarantees, certifications, and related data assembled by the contractor, and issue to the owner a Certificate of Final Payment. When the project has been completed and is ready for final acceptance, arrange for inspection of the finished work by the FAA, the owner, the contractor and the engineer.
- 8.5. Survey Control Coordination – Verify the control survey monuments established prior to construction and replace any monuments disturbed. An independent surveyor, as a sub-consultant to the Engineer, may do part or all of the surveying services on the project. The Contractor will provide detailed staking for construction.
- 8.6. NPDES Plan – Distribute NPDES Plans to parties as required by ISPA. File Notice of Intent and Notice of Termination for NPDES General Permit.
- 8.7. Quality Assurance (QA) Testing / Coordination – Perform quality assurance (QA) testing of material not requiring a Contractor’s Certificate of Compliance. Testing may be by an independent subconsultant to the Engineer.
- 8.8. Construction Meetings – Require and attend weekly Contractor construction project progress meetings. The weekly meetings shall be attended by the project manager, on-site construction observers, Contractor superintendent, airport staff and subcontractors as required by Engineer.
- 8.9. Resident Observation – Provide on-site construction observation personnel for an estimated eighty (80) working days, at an estimated nine (9) hours per day, to act as agents of the owner, under the supervision of the Engineer. Construction observation personnel shall be present on a daily basis to keep records, notes, plans and maps for use in preparing record drawings for the project, and to facilitate day-to-day safety and scheduling coordination with Airport staff, contractors, airlines, FAA personnel, and

- other users. The Engineer shall insure that the principle and the project manager are involved and responsible through the project to ensure that the construction project is completed in accordance with the plans and specifications.
- 8.10. Change Orders – Develop, prepare, and submit to the owner change orders (assume 1 change order) for the Owner and FAA’s consideration. It is assumed that the change order included in this work item will be within the original Scope of Work.
  - 8.11. Weekly Reports / Pay Estimates – Prepare and submit weekly progress reports to the owner and FAA. Determine, each month, the amount of work performed on the project by the contractor and prepare estimates of the amount of payment earned by the contractor.
  - 8.12. Wage Compliance – Conduct periodic wage rate interviews with Contractor personnel insure wage compliance. Review wage compliance documents submitted by the Contractor to insure wage compliance prior to submitting monthly pay estimates.
  - 8.13. Final Inspection – When project construction has been completed and is ready for final acceptance, as determined by the Contractor, arrange for inspection of the finished work by the Owner, FAA, suppliers, and the Engineer. Coordinate correction, by the Contractor, of any deficiencies identified during the final inspection.
  - 8.14. Project Fiscal Coordination – Assist owner with overall budget, cash flow status, and project funding coordination. Prepare, in conjunction with Owner’s representative, grant reimbursement invoices and supply required grant reimbursement documentation. Maintain total project cost, status documentation and update main project components on a monthly basis. Advise the Owner as to final project cost and assisting with a grant amendment request, if required.
  - 8.15. Project Meetings – Meet with the owner weekly to inform the owner as to the status of the Project and review any changes or alterations to be recommended.
  - 8.16. Project Management, Correspondence, and Quality Assurance – Manage the project and assist the owner in maintaining the project schedule, fiscal requirements, assurances, correspondence, and general requirements of this phase of the project.
  - 8.17. Travel Time – Travel time to and from the airport for the construction phase of the project.

## **PHASE 9 – PAVEMENT CONDITION INDEX REPORT**

This phase of the project shall complete a Pavement Condition Index (PCI) Report for the existing airport pavements. More specifically, this phase of the project includes the following work tasks:

- 9.1 PCI Inventory and Survey – Conduct an inventory and survey of existing airport pavements as follows:
  - (a) Inventory Airport Pavements – Inventory of existing airport pavements.
  - (b) Research Pavement History – Research history of existing airport pavements and their designs to determine different compositions and ages.
  - (c) PCI Pavement Layout – Prepare pavement and section layout for the PCI survey.
  - (d) PCI Survey – Complete survey of existing pavements recording distresses and condition.
- 9.2 PCI Report – Prepare and submit the PCI report as follows:
  - (a) PCI Drawings – Complete PCI drawings as required for the PCI Report.
  - (b) Input PCI Data – Input pavement survey data into PCI program and produce required graphs and data for the PCI Report.
  - (c) Draft PCI Report – Prepare a draft PCI report and submit to the FAA and owner for their review and comments.
  - (d) Final PCI Report – Prepare and publish final PCI report incorporating FAA and owner comments. The final PCI report shall be in compliance with the FAA standard outline.
- 9.3 Project Management, Correspondence, and Quality Assurance – Manage the project and assist the owner in maintaining the project schedule, fiscal requirements, assurances, correspondence, and general requirements of this phase of the project.
- 9.4 Travel Time - Travel time for three (3) trips to the airport for the Pavement Condition Index (PCI) Report Phase.

## PHASE 10 – PROJECT CLOSEOUT

This phase of the project shall include preparation of record drawings, updating airport planning maps and documents, preparing a final project report, and preparing and/or obtaining documents required to close out the project. More specifically, this phase of the project includes the following work tasks:

- 10.1 Record Drawings – Provide one (1) set of reproducible record drawings, for all construction projects, based on surveys after the completion of the contract, which reasonably show the conditions at the termination of the project. Provide record drawings and updated pavement strength surveys to FAA and owner on compact disk (CD) with electronic files in AutoCAD format.
- 10.2 Update Five-Year CIP – Provide assistance to owner in assessing and updating the five-year Capital Improvement Program (CIP), including coordination with and submittal to the FAA.
- 10.3 Update ALP Drawing(s) – Prepare and update Airport Layout Plan Drawing, including improvements included as a part of the construction projects. Assist the owner with coordination with and submittal to the FAA.
- 10.4 Update Airport Signage Plan – Update the airport signage plan per Part 139 certification requirements. Provide ten (10) full-size copies of the updated plan and assist the Owner with submittal to and approval by the FAA.
- 10.5 Final Project Report – Prepare a final project report for submittal to the FAA and owner. The final project report shall include apron and taxiway reconstruction, runway rehabilitation, and the PCI report. The final project report shall be prepared in compliance with FAA Engineer Guidance 2010-06 and follow the standard outline given, or as directed by the FAA.
- 10.6 Lien Releases – Secure lien releases for both construction projects.
- 10.7 Closeout Documentation – Assist owner to obtain required closeout documentation including, but not limited to, certifications, tax releases, and other documents as required.
- 10.8 Post-Project Meeting – Conduct a post-project meeting with consultant staff and owner to review the project including: design, constructability, schedule and overall project.
- 10.9 Travel Time – Travel time for four (4) trips to the airport for the Project Closeout Phase.

CITY OF TWIN FALLS  
AGREEMENT FOR ENGINEERING SERVICES

JOSLIN FIELD, MAGIC VALLEY REGIONAL AIRPORT  
AGREEMENT FOR ENGINEERING SERVICES  
FY 2013 AIRPORT IMPROVEMENT PROJECT  
“Apron & Taxilane Reconstruction, Taxilane Construction,  
R/W 7/25 Rehabilitation Project, and PCI Report”  
AIP-3-16-0036-034

THIS AGREEMENT is made as of this \_\_\_ day of \_\_\_\_\_, 2013, by and between the City of Twin Falls, Idaho, hereinafter referred to as the OWNER, and Riedesel Engineering, Inc., 202 Falls Avenue, Twin Falls, Idaho, hereinafter referred to as the ENGINEER.

Whereas the OWNER intends to make certain improvements and/or modifications to the Joslin Field, Magic Valley Regional Airport under an FAA Grant and described as:

the design and construction services for: Runway 7/25 and Apron Rehabilitation; Apron Reconstruction; Apron Mill & Overlay; Taxilane Reconstruction; and Pavement Condition Index Report.

hereinafter referred to as the PROJECT, and the ENGINEER agrees to perform or furnish the various professional services stipulated in this Agreement for the design and construction of said PROJECT.

This agreement shall not become valid until the Federal Aviation Administration approves the “Reasonableness of Fee”.

WITNESSETH:

Now, therefore in consideration of the mutual covenants and promises between the parties hereto, it is agreed:

ARTICLE 1  
ENGINEERING SERVICES

1.01 BASIC SERVICES

The ENGINEER agrees to perform or furnish professional engineering services in connection with the PROJECT, including normal civil engineering services related thereto, as set forth in the Scope of Consultant Services attached as Exhibit “A” and contained within this document.

## 1.02 ADDITIONAL SERVICES

When authorized by the OWNER, the ENGINEER agrees to furnish or obtain from others, additional professional services in connection with the PROJECT, as set forth below and as otherwise contained within this Agreement.

- (1) Services as required due to changes in the scope of the PROJECT or its design, including but not limited to, changes in size, complexity, schedule or character of construction.
- (2) Revising studies, reports, design documents, drawings or specifications which have previously been approved by the OWNER, or when such revisions are due to causes beyond the control of the ENGINEER.
- (3) Provide services for the OWNER in connection with litigation, arbitration or other proceedings involving the PROJECT.
- (4) Additional services when the PROJECT involves more than (1) Construction Contract.
- (5) Prepare special Change Orders when requested by the OWNER, which are not within the scope of the original PROJECT.
- (6) Review the PROJECT prior to expiration of the guarantees period and report observed discrepancies under guarantees provided by the Construction Contract.
- (7) Additional or extended services during construction made necessary by (a) work damaged by fire or other cause during construction; (b) defective or incomplete work of the Contractor; (c) prolongation of the initial Construction Contract time beyond the contract time; (d) acceleration of the work schedule involving services beyond established office working hours; and (e) the contractor's default under the Construction Contract due to delinquency or insolvency.
- (8) Provide services for the OWNER in connection with litigation, arbitration or other proceedings involving the PROJECT.
- (9) Should the Contractor elect to submit a proposal for a cost reduction incentive under Section 50-17 of the FAA General Conditions, then the work required to review and make a determination shall be considered additional services.

ARTICLE 2  
OWNER's RESPONSIBILITIES

2.01 OWNER's RESPONSIBILITIES

The OWNER shall:

- (1) Provide to the ENGINEER, upon ENGINEER's request, all available criteria, design and construction standards and full information as to the OWNER's requirements for the PROJECT and review and approve at appropriate stages the ENGINEER's selection of PROJECT design criteria, construction standards, and reports.
- (2) Designate in writing a person authorized to act as the OWNER's contact. The OWNER or his designated contact shall receive and examine documents submitted by the ENGINEER, interpret and define the OWNER's policies and render decisions and authorizations in writing promptly to prevent unreasonable delay in the progress of ENGINEER's services.
- (3) Furnish the ENGINEER with copies of all known available field data and maps which pertain to any aspect of the PROJECT, including maps, surveys, property descriptions, borings, soil reports and other available information pertaining to the ENGINEER's work.
- (4) Hold promptly all required special meetings, serve all required public and private notices, receive and act upon all protests and fulfill all requirements necessary in the development of the PROJECT and pay all costs incidental thereto.
- (5) Provide legal, title insurance, deeds, accounting, and insurance counseling services necessary for the PROJECT, legal review of the Construction Contract Documents, and such auditing services as the OWNER may require to account for the expenditure of construction funds.
- (6) Furnish permits and approvals from all governmental authorities having jurisdiction over this PROJECT and from others as may be necessary for completion of the PROJECT.
- (7) Obtain bids or proposals from contractors for work relating to this PROJECT and bear all costs relating thereto.
- (8) Guarantee full and free access for the ENGINEER to enter upon all property required for the performance of the ENGINEER's services under this Agreement.
- (9) Give prompt written notice to the ENGINEER whenever the OWNER observes or otherwise becomes aware of any defect in the PROJECT or other event, which may substantially affect the ENGINEER's performance of services under this Agreement.

(10) Furnish above services at the OWNER's expense and in such manner that the ENGINEER may rely upon them in the performance of his services under this Agreement.

(11) Compensate the ENGINEER for services rendered under this Agreement.

ARTICLE 3  
COMPENSATION FOR ENGINEERING SERVICES

3.01 BASIC SERVICES COMPENSATION

The ENGINEER shall provide services in connection with the terms and conditions of this Agreement and the OWNER shall compensate the ENGINEER therefore as follows:

(1) Phase 1 – Project Formulation

The OWNER shall compensate the ENGINEER for Phase 1, Project Formulation as described in Exhibit “A”, on the basis of a lump sum in the amount of Twenty-eight thousand two hundred six dollars (\$28,206.00).

(2) Phase 2 –Preliminary and Final Design - Runway 7/25 and Apron Rehabilitation

The OWNER shall compensate the ENGINEER for Phase 2, Preliminary and Final Design as described in Exhibit “A”, on the basis of a lump sum in the amount of Thirty-seven thousand three hundred twenty-eight dollars (\$37,328.00).

(3) Phase 3 – Bidding - Runway 7/25 and Apron Rehabilitation

The OWNER shall compensate the ENGINEER for Phase 3, Bidding as described in Exhibit “A”, on the basis of a lump sum in the amount of Nineteen thousand six hundred fifty-six dollars (\$19,656.00).

(4) Phase 4 – Construction Administration and Observation - Runway 7/25 and Apron Rehabilitation

The OWNER shall compensate the ENGINEER for Phase 4, Construction Administration and Observation as described in Exhibit “A”, on the basis of a time and materials payment. OWNER shall reimburse the ENGINEER his incurred costs at the hourly rates in place at the time of the work being performed.

It is further agreed that the cost ceiling established at Fifty-six thousand two hundred eight dollars (\$56,208.00) under this Phase reflects the ENGINEER’s best estimate of the cost to perform the contract tasks. If, for justifiable reasons, it appears the

cost ceiling will be exceeded by the ENGINEER, the ENGINEER and OWNER will amend the contract in writing to reflect a new cost ceiling.

(5) Phase 5 – Preliminary Design - Apron, Taxilines and Taxiway

The OWNER shall compensate the ENGINEER for Phase 5, Preliminary Design as described in Exhibit “A”, on the basis of a lump sum in the amount of Ninety-four thousand six hundred fifty-two dollars (\$94,652.00).

(6) Phase 6 – Final Design - Apron, Taxilines and Taxiway

The OWNER shall compensate the ENGINEER for Phase 6, Final Design as described in Exhibit “A”, on the basis of a lump sum in the amount of One hundred-three thousand seven hundred forty-two dollars (\$103,742.00).

(7) Phase 7 – Bidding - Apron, Taxilines and Taxiway

The OWNER shall compensate the ENGINEER for Phase 7, Bidding as described in Exhibit “A”, on the basis of a lump sum in the amount of Twenty-one thousand five hundred thirty-eight dollars (\$21,538.00).

(8) Phase 8 – Construction Administration and Observation - Apron, Taxilines and Taxiway

The OWNER shall compensate the ENGINEER for Phase 8, Construction Administration and Observation as described in Exhibit “A”, on the basis of a time and materials payment. OWNER shall reimburse the ENGINEER his incurred costs at the hourly rates in place at the time of the work being performed.

It is further agreed that the cost ceiling established at Two hundred-two thousand three hundred seventy-two dollars (\$202,372.00) under this Phase reflects the ENGINEER’s best estimate of the cost to perform the contract tasks. If, for justifiable reasons, it appears the cost ceiling will be exceeded by the ENGINEER, the ENGINEER and OWNER will amend the contract in writing to reflect a new cost ceiling.

It is further agreed that the cost ceiling may be adjusted based upon the scope of work required by the OWNER which will be based upon available Federal Aviation Administration funding.

(9) Phase 9 – Pavement Condition Index Report

The OWNER shall compensate the ENGINEER for Phase 9, Pavement Condition Index Report as described in Exhibit “A”, on the basis of a lump sum in the amount of Twenty-eight thousand three hundred sixty-four dollars (\$28,364.00).

(10) Phase 10 – Project Closeout

The OWNER shall compensate the ENGINEER for Phase 10, Project Closeout as described in Exhibit “A”, on the basis of a lump sum in the amount of Twenty - four thousand one hundred thirty-four dollars (\$24,134.00).

3.02 ADDITIONAL SERVICES

The OWNER and ENGINEER further agree that for Additional Services:

(1) The OWNER agrees to compensate the ENGINEER for additional services on the basis of time and materials payment or on a negotiated amount agreed to by both the OWNER and ENGINEER. If the OWNER compensates the ENGINEER on the basis of time and materials payment the OWNER shall reimburse the ENGINEER his incurred costs at the certified hourly rates in place at the time of the work being performed. The OWNER shall reimburse the ENGINEER his materials costs at the actual cost plus ten percent and sub consultants at cost.

(2) Progress payments shall be made in proportion to services rendered as indicated within this Agreement and shall be due and owing within thirty (30) days of the ENGINEER’s submittal of his monthly statement. The ENGINEER will work with the OWNER in an attempt to meet the cash flow requirements of the PROJECT.

(3) If the OWNER fails to make monthly payments due the ENGINEER, the ENGINEER may, after giving seven (7) days written notice to OWNER, suspend services under this Agreement.

(4) If the PROJECT is delayed or if the ENGINEER’s services for the PROJECT are delayed or suspended for more than three (3) months for reasons beyond the ENGINEER’s control or beyond the OWNER’s control, the ENGINEER or the OWNER, after giving seven (7) days written notice, may terminate this Agreement and the OWNER shall compensate the ENGINEER in accordance with the termination provision contained hereafter in this Agreement.

ARTICLE 4  
GENERAL PROVISIONS

4.01 OWNERSHIP OF DOCUMENTS

Upon the request of the OWNER and the acceptance of the construction, the ENGINEER shall furnish the OWNER copies of all maps, plots, drawings, estimate sheets, and other contract documents required for the PROJECT. Upon the request of the OWNER and the completion of the work specified herein, copies of all material documents, including but not necessarily limited to the following data, acquired or produced by the ENGINEER in conjunction with the preparation of the plans, shall be delivered to and become the property of the OWNER providing

no future use of said documents or portions thereof shall be made with the ENGINEER's name attached thereto:

- (1) Field notes of all surveys, reference ties, and soil investigations.
- (2) One (1) set of reproducible record drawings of the construction plans.
- (3) A final PROJECT report.
- (4) A disk of PROJECT drawings for both AutoCAD or PDF formats.
- (5) PROJECT Plans or ASCII files submitted to FAA.

Reuse of any of the above said documents by the OWNER on extensions of this PROJECT or on any other PROJECT without written permission of the ENGINEER shall be at the OWNER's risk and the OWNER agrees to defend, indemnify and hold harmless the ENGINEER from all claims, damages and expenses including attorney's fees arising out of such unauthorized reuse of said documents by the OWNER or by others acting through the OWNER.

#### 4.02 DELEGATION OF DUTIES

Neither the OWNER nor the ENGINEER shall delegate, assign, sublet or transfer his duties under this Agreement without the written consent of the other.

#### 4.03 TERMINATION

The OWNER reserves the right to terminate this Agreement at any time, upon written notice should any of the following events occur:

- (1) Upon the completion of any phase of the Agreement.
- (2) If the PROJECT is abandoned or indefinitely postponed.
- (3) If the ENGINEER's services are, in the judgment of the OWNER, unsatisfactory.
- (4) If the ENGINEER fails to prosecute the work with due diligence or fails to complete the work within the time limits specified herein or as subsequently extended.

Except upon voluntary abandonment of the PROJECT by the ENGINEER, in the event the OWNER terminates this Agreement, the OWNER shall be obligated to pay the ENGINEER an amount equal in value to that of the services satisfactorily performed until the time of the termination.

#### 4.04 EXTENT OF AGREEMENT

This Agreement represents the entire and integrated agreement between the OWNER and the ENGINEER and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the OWNER and the ENGINEER.

#### 4.05 FUNCTIONS OF ON-SITE OBSERVATION PERSONNEL

The on-site observation personnel will make reasonable efforts to guard the OWNER against defects and deficiencies in the work of the Contractor and to help determine if the provisions of the Contract Documents are being fulfilled. Their day-to-day observation will not, however, cause the ENGINEER to be responsible for those duties and responsibilities which belong to the construction Contractor and which include, but are not limited to, full responsibility for the techniques and sequences of construction and the safety precautions incidental thereto. The on-site observation personnel have the power to not accept work if the work is not in accordance with the Plans and Specifications. A notice of non-acceptance will be submitted in writing addressed to the Contractor and the OWNER. Rejection of any work will be done by the OWNER in writing based upon the recommendation of the ENGINEER.

#### 4.06 CONSTRUCTION CONTRACTOR'S RESPONSIBILITY

Visits to the construction site and observations made by the ENGINEER's design staff as part of their services shall not relieve the construction Contractor of his obligation to conduct comprehensive inspection of the work sufficient to ensure conformance with construction documents. The Contractor shall not be relieved of his full responsibility for all construction means, methods, techniques, sequences and procedures necessary for coordination and completing all portions of the work under the construction contract and for all safety precautions incidental thereto. Such visits by the ENGINEER's design staff are not to be construed as part of the observation duties of the on-site observation personnel defined in other parts of the Agreement.

#### 4.07 GENERAL

- (1) Should litigation or arbitration occur between the two parties relating to the provisions of this Agreement, all court costs and reasonable attorney fees incurred by the prevailing party shall be paid by the non-prevailing party.
- (2) Neither party shall hold the other responsible for damages or delay in performance caused by acts of God, strikes, lockouts, accidents, or other events beyond the control of the other or the other's employees and agents.
- (3) In the event any provisions of this agreement shall be held to be invalid and unenforceable, the remaining provisions shall be valid and binding upon the parties. One or more waivers by either party of any provisions, terms, conditions or covenants shall

not be construed by the other party as a waiver or subsequent breach of the same by the other party.

(4) The ENGINEER has not been retained or compensated to provide design and construction review services relating to the Contractor's safety precautions or to means, methods, techniques, sequences or procedures required for the Contractor to perform his work but not limited to aircraft safety precautions, shoring, scaffolding, underpinning, temporary retainment of excavations and any erection methods and temporary bracing.

(5) The ENGINEER shall render his services under this Agreement in accordance with generally accepted professional practices.

(6) Any opinions of the estimated Construction Cost prepared by the ENGINEER represent his judgment as a design professional and is supplied for the general guidance of the OWNER. Since the ENGINEER has no control over the cost of labor or materials, or over competitive bidding or market conditions, the ENGINEER does not guarantee that such opinions will conform to actual bids received or actual costs to the OWNER.

(7) In soils investigation work and in determining subsurface conditions for the PROJECT, characteristics may vary greatly between successive test points and sample intervals. The ENGINEER will coordinate this work in accordance with generally accepted engineering practices and make no other warranties expressed or implied, as to the professional advice furnished by others under the terms of this Agreement.

(8) Any notices or other communications required or permitted by this Contract or by law to be served on, given to, or delivered to either party hereto, by the other party shall be in writing and shall be deemed duly served, given, or delivered when personally delivered to the party to whom it is addressed or in lieu of such personal service, when deposited in the United States mail, certified mail, return receipt requested, addressed to the OWNER at City of Twin Falls, P.O. Box 1907, Twin Falls, Idaho 83303 and Twin Falls County, P.O. Box 126, Twin Falls, ID 83303, or to the ENGINEER at 202 Falls Avenue, Twin Falls, Idaho 83301. Either party, the OWNER or the ENGINEER, may change his address for the purpose of this paragraph by giving written notice of such change to the other party in the manner provided in this paragraph.

## ARTICLE 5 SPECIAL PROVISIONS

### 5.01 INSURANCE AND INDEMNITY

#### (1) ENGINEER's Insurance

The ENGINEER shall acquire and maintain statutory workmen's compensation insurance coverage, employer's liability, and comprehensive general liability insurance coverage.

(2) Contractor's Insurance

Prior to commencement of the work, the OWNER shall require the Contractor and any subcontractors to submit evidence that they have obtained for the period of the construction contract and guarantee period comprehensive general liability insurance coverage (including completed operations coverage). This coverage shall provide for bodily injury and property damage arising directly or indirectly out of, or in connection with, the performance of the work under the construction contract, and have a limit of not less than Five hundred thousand dollars (\$500,000.00) for all damages arising out of bodily injury, sickness or death of one (1) person; and an aggregate of One million dollars (\$1,000,000.00) for damages arising out of bodily injury, sickness or death of two (2) or more persons in any one (1) occurrence. The property damage portion will provide for a limit of not less than Five hundred thousand dollars (\$500,000.00) for all others arising directly or indirectly out of or in connection with the performance of the work under the construction contract and in any one (1) occurrence including explosion, collapse or underground exposures.

Included in such coverage will be contractual coverage sufficiently broad to ensure the provision of paragraph 5.01(3), Indemnity. The comprehensive general liability insurance will include, as additional named insured, the OWNER, the ENGINEER, and each of their officers, agents and employees.

(3) Indemnity

The OWNER will require that any Contractor or subcontractor performing work in connection with drawings and specifications produced under this Agreement hold harmless, indemnify and defend the OWNER and the ENGINEER, their consultants, and each of their officers, agents and employees from any and all liability claims, losses, or damages arising out of or alleged to performance of the work described in the Construction Contract Documents, but not including liability that may be due to the sole negligence of the OWNER, the ENGINEER, their consultants, or their officers, agents and employees.

5.02 RESERVATIONS AND COMPLIANCE

(1) The OWNER and the FAA or any of their duly authorized representatives shall have access to any books, documents, papers, and all other records which directly pertain to this PROJECT for the purpose of making audit, examination, excerpts, and transcriptions.

(2) The ENGINEER agrees to comply with Federal Executive Order No. 11246, entitled, "Equal Employment Opportunity", as supplemented in Department of Labor Regulations (41 CFR, Part 60) if this Agreement exceeds \$10,000; Section 103 and 107 of the Contract Work House and Safety Standards Act (40 USC 327-330) as

supplemented by Department of Labor Regulations (29 CFR, Part 5) if this Agreement exceeds \$2,500; and all applicable standards, orders, and regulations issued pursuant to the Clean Air Act of 1970 if this Agreement exceeds \$100,000.

#### 5.03 SUCCESSORS AND ASSIGNMENTS

- (1) The OWNER and ENGINEER each bind themselves, their partners, successors, executors, administrators, and assigns to the other parties to this Agreement and to the successors, executors, administrators and assigns of such other party in respect to all covenants of this Agreement.
- (2) This Agreement shall not be assigned without the written consent of the OWNER.
- (3) It is understood by the OWNER and the ENGINEER that the FAA is not a party to this Agreement and will not be responsible for engineering costs except as should be agreed upon by the OWNER and the FAA under a Grant Agreement for the PROJECT.

#### 5.04 CERTIFICATION OF ENGINEER

The OWNER and ENGINEER hereby certify that the ENGINEER has not been required, directly or indirectly, as an expressed or implied condition in connection with obtaining or carrying out this contract, to:

- (1) Employ or retain, or agree to employ or retain, any firm or persons; or
- (2) Pay, or agree to pay, to any firm, person or organization, any fee, contribution, donation or consideration of any kind.

#### 5.05 LIMIT OF LIABILITY

Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, the total liability, in the aggregate, of ENGINEER and ENGINEER's officers, directors, partners, employees, agents, and ENGINEER's Consultants, and any of them to OWNER and anyone claiming by, through, or under OWNER for any and all claims, losses, costs, or damages whatsoever arising out of, resulting from, or in any way related to the Project or the Agreement for any cause or causes, including but not limited to the negligence, professional errors or omissions, strict liability or breach of contract, or warranty expressed or implied of ENGINEER or ENGINEER's officers, directors, partner, employees, agents or ENGINEER's Consultants, or any of them shall not exceed the total amount of \$1,000,000.00

#### 5.06 TITLE VI ASSURANCES

During the performance of this contract, the ENGINEER, for itself, its assignees and successors in interest (hereinafter referred to as the "ENGINEER") agrees as follows:

(1) Compliance with Regulations

The ENGINEER shall comply with the Regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

(2) Nondiscrimination

The ENGINEER, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of Sub-consultants, including procurements of materials and leases of equipment. The ENGINEER shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

(3) Solicitations for Subcontracts, Including Procurements of Materials and Equipment

In all solicitations either by competitive bidding or negotiation made by the ENGINEER for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential Sub-consultant or supplier shall be notified by the ENGINEER of the ENGINEER's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

(4) Information and Reports

The ENGINEER shall provide all information and reports required by the Regulations or directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Sponsor or the Federal Aviation Administration (FAA) to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of an ENGINEER is in the exclusive possession of another who fails or refuses to furnish this information, the ENGINEER shall so certify to the sponsor or the FAA, as appropriate, and shall set forth what efforts it has made to obtain the information.

(5) Sanctions for Noncompliance

In the event of the ENGINEER's noncompliance with the nondiscrimination provisions of this contract, the sponsor shall impose such contract sanctions as it or the FAA may determine to be appropriate, including, but not limited to:

- a. Withholding of payments to the ENGINEER under the contract until the ENGINEER complies, and/or
- b. Cancellation, termination, or suspension of the contract, in whole or in part.

(6) Incorporation of Provisions

The ENGINEER shall include the provisions of paragraphs 1 through 5 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The ENGINEER shall take such action with respect to any subcontract or procurement as the sponsor or the FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event an ENGINEER becomes involved in, or is threatened with, litigation with a Sub-consultant or supplier as a result of such direction, the ENGINEER may request the Sponsor to enter into such litigation to protect the interests of the sponsor and, in addition, the ENGINEER may request the United States to enter into such litigation to protect the interests of the United States.

5.07 DISADVANTAGED BUSINESS ENTERPRISE (DBE) ASSURANCES

(1) Contract Assurance (§26.13)

The ENGINEER or Sub-consultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The ENGINEER shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the ENGINEER to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the recipient deems appropriate.

(2) Prompt Payment (§26.29)

The ENGINEER agrees to pay each Sub-consultant under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the ENGINEER receives from the OWNER. The ENGINEER agrees further to return retainage payments to each Sub-consultant within 30 days after the Sub-consultant's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the OWNER. This clause applies to both DBE and non-DBE Sub-consultants.

5.08 ACCESS TO RECORDS AND REPORTS

(1) The ENGINEER shall maintain an acceptable cost accounting system. The ENGINEER agrees to provide the OWNER, the Federal Aviation Administration and the Comptroller General of the United States or any of their duly authorized representative's access to any books, documents, papers, and records of the ENGINEER which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The ENGINEER agrees to maintain all books, records and reports required under this contract for a period of not less than three years after final payment is made and all pending matters are closed.

5.09 LOBBYING AND INFLUENCING FEDERAL EMPLOYEES

(1) No Federal appropriated funds shall be paid, by or on behalf of the ENGINEER, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant and the amendment or modification of any Federal grant.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any Federal grant, the ENGINEER shall complete and submit Standard Form-LLL, "Disclosure of Lobby Activities," in accordance with its instructions.

5.10 AIRPORT AND AIRWAY IMPROVEMENT ACT OF 1982, SECTION 520-GENERAL CIVIL RIGHTS PROVISIONS

(1) The ENGINEER assures that it will comply with pertinent statutes, Executive orders and such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision obligates the tenant/concessionaire/lessee or its transferee for the period during which Federal assistance is extended to the airport a program, except where Federal assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon. In these cases the provision obligates the party or any transferee for the longer of the following periods: (a) the period during which the property is used by the OWNER or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits or (b) the period during which the OWNER or any transferee retains ownership or possession of the property. In the case of contractors, this provision binds the contractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

5.10 TRADE RESTRICTION CLAUSE

(1) The ENGINEER or sub-consultant, by submission of an offer and/or execution of a contract, certifies that it:

a. is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms published by the Office of the United States Trade Representative (USTR);

b. has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country on said list,

or is owned or controlled directly or indirectly by one or more citizens or nationals of a foreign country on said list.

c. has not procured any product nor subcontracted for the supply of any product for use on the project that is produced in a foreign country on said list.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to an ENGINEER or sub-consultant who is unable to certify to the above. If the ENGINEER knowingly procures or subcontracts for the supply of any product or service of a foreign country on said list for use on the project, the Federal Aviation Administration may direct through the OWNER cancellation of the contract at no cost to the Government.

Further, the ENGINEER agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in each contract and in all lower tier subcontracts. The ENGINEER may rely on the certification of a prospective sub-consultant unless it has knowledge that the certification is erroneous. The ENGINEER shall provide immediate written notice to the OWNER if the ENGINEER learns that its certification of that of a sub-consultant was erroneous when submitted or has become erroneous by reason of changed circumstances. The sub-consultant agrees to provide written notice to the ENGINEER if at any time it learns that its certification was erroneous by reason of changed circumstances.

This certification is a material representation of fact upon which reliance was placed when making the award. If it is later determined that the ENGINEER or sub-consultant knowingly rendered an erroneous certification, the Federal Aviation Administration may direct through the OWNER cancellation of the contract or subcontract for default at no cost to the Government.

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of an ENGINEER is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001.

#### 5.11 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

(1) The ENGINEER certifies, by acceptance of this contract, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department

or agency. It further agrees by acceptance of this contract that it will include this clause without modification in all lower tier transactions, solicitation, proposals, contracts, and subcontracts. Where the bidder/offeror/ENGINEER or any tier participant is unable to certify to this statement, it shall attach an explanation to this contract.

IN WITNESS WHEREOF, the OWNER and the ENGINEER hereto have made and executed this Agreement as of the day and year first above written.

ATTEST:

\_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

ATTEST:

\_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

OWNER:  
CITY of Twin Falls

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

OWNER:  
Twin Falls County

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

ATTEST:

\_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

ENGINEER:  
RIEDEL ENGINEERING, INC.

By: \_\_\_\_\_

Name: M. Kent Atkin

Title: Project Manager

ENGINEER:

ATTEST:

RIEDESEL ENGINEERING, INC.

\_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: Martin G. Gergen

Title: \_\_\_\_\_

Title: Principal



Date: Monday, February 11, 2013

To: Honorable Mayor and City Council

From: Lorie Race, CFO

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**Request:**

A presentation from Steve Meyerhoeffer on the contract involving the leasing of the Twin Falls' Golf Club. This will be a report regarding his first full year of operations as the concessionaire.

**Time Estimate:**

I estimate the presentation will take approximately 5-10 minutes, plus additional time for questions from Council.

**Background:**

The City entered into a contract with Steve Meyerhoeffer to lease the municipal golf course in June of 2011. From June 1, 2011, through December 31, 2011, Steve maintained and operated the Twin Falls Golf Club in accordance with the terms and conditions of the previous Professional Services Agreement. Commencing January 1, 2012, Steve took over the entire operations of the course.

**Approval Process:**

There is no approval process.

**Budget Impact:**

There is no budget impact.

**Regulatory Impact:**

There is no regulatory impact.

**Conclusion:**

There is no action required by the City Council.

**Attachments:**

C-4340 (Concession Agreement between the City of Twin Falls and Steva LLC)

**CONCESSION AGREEMENT**

THIS CONCESSION AGREEMENT, made and executed this 1st day of June, 2011, by and between the City of Twin Falls, a municipal corporation of Idaho, hereinafter referred to as "City" and Steva LLC., an Idaho limited liability company, hereinafter referred to as "Concessionaire";

WITNESSETH:

WHEREAS, the City has heretofore granted a Concession Agreement in the Twin Falls Golf Club owned by the City and located within the corporate limits; and

WHEREAS, the Mayor and City Council have determined that it is in the community's best interest to continue said Concession Agreement to operate and manage the golf course; and

WHEREAS, the City requested proposals from individuals/entities interested in entering into a Concession Agreement with the City; and

WHEREAS, Concessionaire was selected as having the best proposal.

NOW, THEREFORE, for and in consideration of the mutual covenants and promises herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. GRANT OF CONCESSION. The City hereby grants to Concessionaire the exclusive privilege or Concession of maintaining and operating the Twin Falls Golf Club owned by the City and located within the corporate limits. During the period commencing June 1, 2011 and ending December 31, 2011, the Concessionaire shall maintain and operate the Twin Falls Golf Club in accordance with the terms and conditions of the previous Professional Services Agreement with Mike Hamblin, a copy of which is attached as Exhibit "A". During the period commencing January 1, 2012, and ending December 31, 2018, the Concessionaire shall maintain and operate the Twin Falls Golf Club in accordance with and subject to the terms and conditions that follow herein. The Concessionaire shall have the option to renew this Agreement for additional five-year terms, upon terms mutually agreed to by the parties. The City and the Concessionaire agree to review the terms of this contract at any time during the term of this Agreement, at the request of either party.

2. USE FOR GOLF PROGRAM. The Concession premises and the facilities, fixtures, furnishings, and equipment located therein and thereon shall be used by Concessionaire to conduct a golf program for the citizens of Twin Falls and for other golf patrons. Concessionaire may occasionally use the facilities for other activities, including, banquets, weddings, and other activities that are inconsistent with the operation of a public golf course.

3. PAYMENT TO THE CITY.

After all revenue and expenditures are finalized for the calendar year, if the net profit is less than \$55,000, City will reimburse Concessionaire the difference between the net profit/loss and \$55,000, with maximum reimbursement of \$75,000. In the event net losses exceed the maximum reimbursement due to conditions beyond the control of the Concessionaire, the parties may negotiate a reimbursement exceeding \$75,000. Concessionaire will pay the City 25% of any net profit above \$75,000 but below \$100,000. Concessionaire will pay the City 33% of any net profit above the \$100,000. For the purposes of this agreement, the concessionaire's revenue from lessons and prize money in golf tournaments shall not be included in the golf course's revenue. For the purposes of this paragraph, the term expenditures shall not include any payments to members of the Concessionaire or persons relating by blood or marriage.

4. PERIOD OF OPERATION. Weather or course conditions permitting, the Concessionaire shall operate the Concession from dawn to dusk, seven (7) days per week from January 1 to December 31 each year. Concessionaire may close operation due to inclement weather and related lack of play at the course.

5. SCOPE OF CONCESSIONS TO BE PROVIDED: The scope of this Concession includes a License to go upon and use the Concession premises for the purpose of conducting a golf program, with the necessary rights and responsibilities thereon.

A. CONCESSIONAIRE DUTIES:

- (1) Provide player development programs, including adult and junior instructional programs.
- (2) Provide group and individual lessons.
- (3) Provide pro shop operations, including the sale of golf merchandise, supplies and equipment.

- (4) Provide power carts for rental purposes and club repair services.
- (5) Solicit, facilitate, and provide tournament play, league play and other special golf events.
- (6) Provide support and assistance for organized men's and women's golf associations.
- (7) Coordinate with the local high schools for team practices, matches and tournaments.
- (8) Provide starter services, course marshalling, and tee time reservations
- (9) Enforce PGA, IGA and local golf course rules.
- (10) Manage and oversee golf course security.
- (11) Provide a safe environment for the golfing public and employees.
- (12) Provide a quality food and drink concession operation, including beer, wine and liquor sales upon obtaining appropriate licenses from the State and local authorities.
- (13) Promote and market the golf facility.
- (14) Assist with planning and execution (if possible) with any capital improvements and renovation to the golf courses and/or facilities.
- (15) Provide all necessary supplies, materials, equipment and appropriate staff necessary to manage, operate and maintain the golf course and facility.
- (16) City recognizes the donated golf to the Twin Falls School District, City employee's discounts, and green fee waivers to four tournaments.
- (17) Concessionaire and City will develop the operations budget together.
- (20) Concessionaire shall provide golf carts that are clean, presentable and in good working condition. This may require the purchase of replacement carts.
- (22) Provide a beverage cart for major tournaments and special events and as needed on weekends during the summer months.
- (23) Marketing/Publicity: On or before April 15, 2011, and the start of each succeeding golf season thereafter, Concessionaire shall, subject to City approval, provide a strategic plan to: increase the number of rounds of play; improve the quality of tournament/league play; retain the amount of golfing customers; and promote the facilities to new golfing customers, etc.

#### B. MAINTENANCE OF THE GOLF COURSE:

The Concessionaire will ensure the Twin Falls Golf Club is maintained in a manner outlined below. From time-to-time and with the written consent of the City's Parks and Recreation Director, the Concessionaire may deviate from the maintenance standards.

(1) Concessionaire agrees to maintain the buildings, grounds, and golf course as set forth herein, and to mutually agreed-upon standards to be determined by the parties. In order to provide continuity in the excellent maintenance of the course preceding this Agreement, Concessionaire agrees to retain a Head Greenskeeper during the term of this agreement. The parties agree that the Head Greenskeeper will remain a City employee and entitled to all City benefits. The City will invoice the Concessionaire monthly all City's costs of employment and the Concessionaire will reimburse the City on a quarterly basis.

(2) The Head Greenskeeper with oversight from the Concessionaire will develop and provide to the Parks and Recreation Director a Schedule of routine daily, monthly and annual maintenance of the golf courses (including but not limited to fairway, tees, and greens mowing; changing cups on greens; bunker maintenance; fertilizer, chemical and snow mold protection application; and weed control).

(3) The Concessionaire shall prepare and provide the Director with a monthly report every 30 days following the commencement of the golf season, which Report shall identify any variances from the Schedule occurring during the preceding 30 days.

(4) Concessionaire will exercise reasonable efforts to maintain restrooms in a clean, sanitary condition, on a daily basis, throughout the hours of operation.

(5) Maintenance Standards.

(a) It is the intent of the parties that capital expenditures shall be the obligation of the City and the "day-to-day" maintenance costs shall be the obligation of the Concessionaire. For example, a remodel of the restroom facilities would be a capital expenditure but the repair of a sink or toilet fixture would be a "day-to-day" maintenance. Capital expenditure as used herein shall be defined as any expenditure that extends the life of a City structure or golf course systems such as

the irrigation system, and includes structural damage repairs, the expansion of structures or systems, the remodel of structures or systems, the replacement of mainline or lateral irrigation lines, and the complete asphalt overlay of the parking area. In the event of a dispute between the parties regarding the classification of an expense as either a 'day-to-day maintenance expense' or a 'capital expenditure', the parties agree to negotiate with each other in good faith to resolve the dispute in a fair and equitable manner.

(b) Concessionaire is required, at its sole cost and expense, to maintain and operate the golf course facilities in a good and safe condition in accordance with industry standards. This includes the maintenance and repair of the golf course; all interior and exterior structures; building systems; utility systems and connections; equipment; restrooms; paved areas; irrigation systems; course features; landscaping and natural areas; fencing; lighting; sidewalks; and fixtures. Concessionaire will be required to perform maintenance services at no less than the frequencies indicated in these specifications. Standards and frequencies may be modified from time to time as deemed necessary for the proper maintenance of the golf course. Any modification or changes must be approved by the Parks and Recreation Director.

(c) The Concessionaire shall be generally responsible for maintenance of structural and mechanical components and equipment permanently attached to the Concession premises, including roofs, walls, foundations, heating, ventilation, cooling plant, plumbing and electrical systems, pumps and motors. The Concessionaire shall also be responsible for the repair and maintenance of roads, walks, and parking areas, fixtures and furnishings.

(d) The City will be responsible for all capital improvements to the clubhouse, irrigation system, parking lot, road to the golf course, the course itself and equipment (mowers, tractors, utility vehicles, and vehicles, and other similar equipment)

(e) Concessionaire shall be expected to provide an adequate staff to maintain the golf course and facility in excellent physical condition and appearance.

(6) Greens Maintenance. Maintain all greens according to acceptable playability and industry standards, based on the following minimum standards:

(a) Change cups a minimum of four (4) times per week (leniency on this requirement will be given on a few of the smaller greens that have minimum pin placement locations available) during the active growing season. (“Active growing season” will be defined throughout this document as May through September.) It is recommended that cups will be changed more than this minimum requirement during the peak growing season to lessen compaction of the greens.

(b) Greens will be mowed between .100 and .140, or a different length as may be agreed upon by the parties based upon the condition of the greens and the time of year.

(c) The greens should be verti-cut or groomed once per month or as needed to control mat and thatch buildup.

(d) Aerate greens at least once per year (recommended twice per year) and remove plugs if core aeration is used.

(e) Treat greens with proper chemicals to control insects, disease, weeds and other pests. Apply fungicide as needed and/or other recommended measures to control snow mold and reduce winter desiccation based on a reasonable treatment program approved by the Parks and Recreation Director. Concessionaire will be responsible to monitor greens for signs of snow mold and other problems. If problems or snow mold are identified, immediate corrective action shall be taken by the Concessionaire.

(f) Fertilize greens three (3) times per season or as needed to maintain healthy and uniform growth of the turf.

(g) A soil analysis of greens shall be conducted as needed and a fertilization program shall be adopted based on such soil analysis. Such soil analysis should

be performed by a qualified vendor as approved by the Parks and Recreation Director.

(h) Any damaged areas of the greens will be seeded or sodded to correct the problem area.

(7) Tee Maintenance. Maintain all tees according to acceptable industry standards, based on the following minimum requirements:

(a) Keep ball washers filled with water to proper level as needed. (Washers will not be filled during months that freezing is likely.) Provide towels at ball washers. Towels will be replaced when dirty or missing. Tee markers will be moved a minimum of three (3) times per week during the active growing season or as needed to ensure adequate teeing area with quality turf.

(b) Tees will be mowed to ½ inch or less during the active growing season or a different length as may be agreed upon by the parties depending on the condition of the tees and the time of year. Tees will be mowed during the active growing season as needed so that the turf does not exceed the designated height.

(c) Aerate tees and top dress at least once per year or as needed to maintain healthy turf.

(d) Treat with chemicals to control insects, disease, weeds and pests as needed.

(e) Apply fertilizer two (2) times per year or as needed to maintain healthy and uniform growth of the turf.

(8) Fairway Maintenance. Maintain all fairways according to acceptable industry standards, based on the following minimum requirements:

(a) Mow fairways to ½ inch to ¾ inch during the active growing season or a different length as may be agreed upon by the parties depending on the turf condition and the time of year. Fairways will be mowed during the active growing season as needed so that the turf does not exceed the designated height.

(b) Over-seed and top dress (or sod) worn or barren areas of the fairway as needed.

- (c) Treat turf with chemicals to control weeds, disease, insects and other pests as necessary to maintain healthy turf.
- (d) Apply fertilizer once per year or as needed to maintain healthy turf quality.
- (e) Aerate fairways as needed to ensure quality turf.

(9) Roughs:

- (a) Roughs will be mowed as needed to ensure that rough areas do not exceed two (2) inches. Due to limitations on manpower and equipment, roughs may be allowed to exceed this minimum by no more than one (1) inch and for no more than seven (7) days.
- (b) Roughs will be chemically treated to control weeds, diseases, insects and other pests.
- (c) Apply fertilizer as needed to maintain healthy turf quality.

(10) Natural Areas.

- (a) Natural areas will be maintained in a satisfactory manner. They will be chemically treated to control weeds, diseases, insects and other pests.
- (b) Irrigation of natural areas is limited to keeping the vegetation alive and healthy.

(11) Accessory Equipment. Maintain all golf course accessory equipment in a clean, safe, functioning condition at all times, and replace equipment and/or materials as necessary and within a reasonable amount of time. This includes, but is not limited to the following:

- (a) All signs;
- (b) Tee benches;
- (c) Tee markers;
- (d) Ball washers, including tee towels;
- (e) Out of bounds markers;
- (f) Greens flags, poles and cups;
- (g) Practice greens markers and cups;
- (h) Trash receptacles; and

- (i) Cleat brushes.
- (j) Conduct necessary maintenance on drinking fountains and the leader board signs to keep them in an acceptable, presentable condition. If necessary, replacement will be the responsibility of the City.
- (k) Proper course-identification signs shall be erected upon the Concession premises by the Concessionaire, and shall be maintained in good condition. Such signs shall be constructed and displayed in accordance with the Twin Falls Municipal Code.

(12) Irrigation. Maintain entire irrigation systems, replacing parts as necessary, to ensure that mainlines, valves, lateral lines, sprinkler heads and controllers are in good repair, functioning properly and conforming to manufacturer's specifications. Irrigate as required to maintain adequate moisture for turf growth and appearance. Adequate soil moisture shall be determined by visual observation, plant resiliency and examination of cores by soil probe or other moisture content devices.

- (a) Consideration must be given to soil texture, structure, water holding capacity, drainage, compaction, precipitation rate, runoff, infiltration rate, percolation rate, evapotranspiration, seasonal temperatures, prevailing wind conditions, time of day or night, and type of turf and root structure. Consideration of the above factors may require hand watering and manual watering in certain areas.
- (b) Monitor all systems within the golf course premises and correct for coverage on a weekly basis or more frequently and adjust as necessary.
- (c) Inspect irrigation controls on a weekly basis or more frequently and adjust as necessary to ensure adequate irrigation.
- (d) Perform regular checks for and remedy leaks in a timely fashion.
- (e) In the event of an emergency shortage of available city water, the Concessionaire will be required to adhere to all directives and restrictions imposed by the City regarding water consumption. If water use is restricted, available water shall be distributed according to the following priority: (1) greens; (2) tees; (3) fairways; and (4) other turf and landscape areas.

(13) Other Maintenance Requirements.

- (a) Daily removal of litter from the golf course, including the golf course proper, maintenance yard, landscaped areas and driving range. Remove all trash and debris resulting from golf course maintenance as it occurs. Clean, repair and replace trash receptacles as necessary to maintain clean, safe and sanitary conditions. No major construction projects may occur on the Concession premises unless preceded by notice to and written permission from the City's Park and Recreation Director.
- (b) Maintain all landscaped areas, flower and shrub beds, groundcover planting areas in a manner to promote healthy growth and a pleasing appearance.
- (c) Maintain all trees in a safe, healthy and aesthetically pleasing appearance to the best of Concessionaire's ability. Keep adjacent turf mowed and trimmed around the trunks of trees. Trees will be removed when determined to be dangerous or diseased. All branches and tree debris will be removed from the turf areas as necessary and properly disposed.
- (d) Maintain all sand traps in raked, edged and weed-free condition. Replace sand and rakes as necessary.
- (e) Control rodents and other animal pests to protect destruction of turf and plants on the golf course property.
- (f) Maintain parking lots, driveways, walkways and cart paths in a clean, edged, safe and weed-free condition.
- (g) All buildings, including clubhouse, maintenance and storage buildings will be maintained in a manner to keep them clean, orderly, safe, operational and conforming to all laws and regulations.

C. FINANCIAL REPORTING AND ACCOUNTING RESPONSIBILITIES:

- (1) Collect all golf course fees.
- (2) Beginning January 1, 2012, the concessionaire will provide quarterly financial information to the City by the 20<sup>th</sup> of the following month, detailing revenues and expenditures for each category.

(3) Concessionaire will provide information each quarter of the season to the City. Such report shall include the following: All charges for green fees (9 and 18 hole), passes sold in each category, cart rentals, cart storage, punch cards, tournament/special event information.

6. USE OF CITY'S FIXTURES, FURNISHINGS AND EQUIPMENT. The License granted hereunder includes exclusive right to manage and use the facilities, fixtures, and furnishings owned by the City of Twin Falls and currently located on the Concession premises. All golf course equipment can only be used on the golf course or other City facilities. Said furnishings and equipment are listed in Exhibit "B", attached hereto and incorporated herein. The Concessionaire shall provide all additional facilities, fixtures, furnishings and equipment and personal property necessary for the operation of a golf program, not set out in Exhibit "B". Any such additional facilities, fixtures, furnishings and equipment and personal property not listed in Exhibit "B", but located upon the golf courses, is property of the Concessionaire. At least once each year, a physical inventory of the City's fixtures, furnishings, and equipment shall be taken and a copy delivered to the City Parks and Recreation Director. The Concessionaire shall notify the City of any missing items or any discrepancies found regarding the inventory lists.

Upon termination of this Concession Agreement, all fixtures and furnishings owned by the City shall remain on the premises. Concessionaire shall return all City-owned fixtures and furnishings in as good of a condition as said fixtures and furnishings were in as of the date this Agreement, reasonable wear and tear excepted.

Nothing herein shall preclude the City's right to permit use of the facility or the realty or any City-owned items, including fixtures, furnishings, equipment, and/or personal property during the off-season in any manner which will not cause damage to the Concession premises (such as setting up a cross-country ski course). Concessionaire shall be given advanced notice of such activities and an opportunity to object if Concessionaire believes damage will occur.

Furthermore, the City reserves the right to carry out any redesign, remodeling, reconstruction, or new construction on the Concession premises which it deems advantageous to the long-term operations of the facilities, if such modification can be accomplished without substantial interference with the Concessionaire operations.

The timing, extent, and nature of any improvements shall be solely within the discretion of the Mayor and Council of the City.

7. QUALITY AND COST OF GOLF SERVICES. The Concessions herein granted to maintain the Concession premises and operate a golf program thereon are to be carried out at the Concessionaire's own cost, risk, profit, and expense.

Proposed increases in rates for 2012 and beyond:

- a) Increases five percent (5%) or less must obtain the Golf Advisory Commission consent.
- b) Increases exceeding five percent (5%), shall be presented to the City Council for hearing and approval pursuant to I.C. § 63-1311A.

The Concessionaire agrees that the character of services shall be the best obtainable and shall give priority consideration to the public's convenience and continual use of the premises in a sanitary and orderly manner. The City expressly reserves the right to object to the character of services and the condition of the Concession premises and/or the facility, fixtures, furnishings, and equipment located therein and thereon, and to order the objectionable services and conditions discontinued or remedied at the Concessionaire's expense.

8. ACCEPTANCE OF PREMISES BY CONCESSIONAIRE. The Concessionaire has accepted the premises as is. The Concessionaire agrees to return the premises and the facilities, fixtures, furnishings, and equipment not owned by the Concessionaire to the City in a condition as good as, or better than, when accepted by the Concessionaire, reasonable wear and tear excepted.

9. CITY'S RIGHT TO MAINTAIN PREMISES. The City reserves the right to enter upon the Concession premises at any reasonable time in order to ensure compliance with the terms of this Concession Agreement. The City reserves the right to inspect, investigate, and survey the Concession premises as deemed necessary, and reserves the right to do any and all work of any nature necessary for preservation, maintenance, and operation of the premises. The Concessionaire shall be liable for all expenses incurred by the City for work done by the City in order to preserve, maintain, and operate the Concession premises, when, after giving notice of

default as provided in paragraph 26, such work is necessary to remedy the Concessionaire's negligence or non-compliance with the terms of this Concession Agreement.

10. GOLF ADVISORY COMMISSION: Concessionaire shall report to the Golf Advisory Commission quarterly and annually, the following information regarding play: a summary of daily attendance, greens fees, memberships, cart usage, and tournament/special events.

11. UTILITY SERVICE PAYMENTS. The Concessionaire shall pay all charges for gasoline, heating oil, and natural gas, used in the clubhouse/pro shop, electricity, garbage collection, business telephones (except for the City will maintain and pay for the 208-733-3326 phone line), telephone answering services, and all other commodities and utility services provided to the Concession premises.

Concessionaire shall be responsible for all costs associated with the maintenance of the infrastructure/utility lines inside the boundaries (property lines) of the golf course

12. COMPLIANCE WITH LAWS. The Concessionaire shall strictly comply with all Federal, State and local laws, rules, regulations, and ordinances, including those governing the distribution or sale of beer, wine or liquor. The Concessionaire agrees not to permit or allow any illegal business, trade or occupation in or on the Concession premises and shall not permit the premises to be occupied by or used for any immoral or illegal purposes.

13. INDEMNIFICATION. Concessionaire agrees that it will at all times maintain Worker's Compensation coverage for the benefit of its employees, and adequate liability and property damage insurance as specified in Section 14 below covering the activities of the Concessionaire, its agents, servants and employees, on the leased premises. Concessionaire further agrees to defend, indemnify, and save the City, its agents, employees and public officials, harmless from any and all claims or causes of action of any nature whatsoever arising out of the activities and operations of the Concessionaire, its agents, servants, invitees, officers, and employees, in connection with this Concession Agreement.

14. INSURANCE. In order to effectuate the foregoing indemnification provisions, the Concessionaire shall maintain insurance coverage as follows:

(A) Concessionaire shall purchase public liability insurance in the amount of \$500,000 combined single limit to protect the City from any and all public liability claims. The

City shall be named as an additional insured or be acknowledged by the Concessionaire's insurance carrier as a covered entity under the terms of said policy. Moreover, the Concessionaire is required to put its surety on notice that said surety may not change or cancel the existing insurance policy with the Concessionaire without first giving the City at least thirty (30) days written notice.

(B) The Concessionaire shall purchase personal property insurance in an amount sufficient to insure any and all of its personal property which might be used in Concessionaire's operation of the business.

(C) The Concessionaire shall purchase Worker's Compensation insurance or the equivalent as required by Idaho Code.

(D) A Certificate of Insurance evidencing compliance with the foregoing insurance requirements shall be filed with the Deputy City Clerk prior to or at the time of execution of this Concession Agreement. The above described insurance shall contain contractual coverage sufficiently broad to insure the provisions of Section 13 "Indemnification." The Concessionaire's failure to maintain insurance shall be a basis for immediate termination of this Concession Agreement.

15. PAYMENT OF TAXES. The Concessionaire shall pay all taxes, if any, which may be imposed by proper authority upon the Concessions, the Concession premises, or the facilities, fixtures, furnishings, equipment and personal property therein and thereon, including, if applicable, ad valorem, income, sales, and payroll taxes. However, nothing herein shall preclude the Concessionaire or the City from challenging in good faith the validity of any tax imposed upon the Concessions, the Concession premises, the facilities, fixtures, furnishings, equipment, or personal property therein and thereon.

16. PAYMENT OF BILLS. The Concessionaire shall promptly pay all bills arising from the Concessionaire's operation of this Concession. It is expressly understood that the Concessionaire is a licensee, concessionaire, and independent contractor of the City. As such, the City shall in no way be responsible for any bills or obligations whatever incurred by the Concessionaire in the operation of the Concessions under this Concession Agreement.

17. ACCOUNTING RECORDS. The Concessionaire shall provide the City with a full, true and correct account of all its receipts and disbursements. The Concessionaire shall record all daily sales which record shall identify the date of sale and the amount of each transaction. Duplicate slips on all bank deposits shall be kept on file and all accounts resulting from this Concession Agreement shall be paid by check, credit or debit card. The Concessionaire shall provide the City Financial Officer with a profit and loss statement, and a balance sheet prepared in accordance with the generally accepted accounting principles, covering each annual season, by an independent public accountant, no later than March 31 of each year.

(A) The City's agents shall have the right, at all reasonable times, to examine and inspect the above records and other books and records of the Concessionaire bearing upon or connected with the Concession Agreement, to determine the Concessionaire's compliance with the provisions of this Concession Agreement. The City will keep the information in the financial reports confidential unless the City is required to reveal said information pursuant to Court Order, the State of Idaho Public Writing Laws, or the Federal Freedom of Information Act.

(B) The City has the right, upon reasonable advance request, to perform at its expense an independent audit of Concessionaire's financial records. Concessionaire shall cooperate with the City in effectuating the independent audit of its financial records.

#### 18. CAPITAL EXPENDITURES VS. OPERATING AND MAINTENANCE COSTS

(a.) It is the intent of the parties that capital expenditures shall be the obligation of the City and the "day-to-day" maintenance costs shall be the obligation of the Concessionaire. For example, a remodel of the restroom facilities would be a capital expenditure but the repair of a sink or toilet fixture would be a "day-to-day" maintenance. Capital expenditure as used herein shall be defined as any expenditure that extends the life of a City structure or golf course systems such as the irrigation system, and includes structural damage repairs, the expansion of structures or systems, the remodel of structures or systems, the replacement of mainline or lateral irrigation lines, and the complete asphalt overlay of the parking area. In the event of a dispute between the

parties regarding the classification of an expense as either a 'day-to-day maintenance expense' or a 'capital expenditure', the parties agree to negotiate with each other in good faith to resolve the dispute in a fair and equitable manner.

(b.) Any equipment purchased by the City of Twin Falls shall remain the property of the City, and shall be leased to the Concessionaire based on the length of the contract.

(c.) Any capital improvements must be pre-approved by the City of Twin Falls.

19. PERMITS AND LICENSES. The Concessionaire shall obtain and maintain at its own expense any permits and licenses that may be required by competent authority for the operation of this Concession.

20. CONSEQUENCES OF FRAUD. If, as a result of any audit or other investigation, fraud, or other legal misconduct can be established against any employee of the Concessionaire, then, upon notice in writing by the City setting forth the circumstances relative to the fraudulent action or misconduct, the Concessionaire shall immediately discontinue the services of that employee. If it is established that the Concessionaire took fraudulent action by not making a proper accounting as required above, then such action shall be just cause for immediate termination of this Concession Agreement. Such termination shall not release the Concessionaire from payments required to the City, which may have accrued.

21. NON-DISCRIMINATION. The Concessionaire shall fully comply with the Federal Equal Employment Act and other State and Federal laws requiring the fair, equal, and non-discriminatory treatment of all persons without regard to race, color, religion, sex, age or national origin. The Concessionaire represents, certifies and agrees that no person shall be denied or refused service or full or equal use of the facilities, nor denied employment opportunities by the Concessionaire, as a result of race, creed, color, religion, sex, age, national origin, ancestry, physical or mental handicap unrelated to ability, or marital status.

22. CONCESSIONAIRE'S INDEPENDENT CONTRACTOR STATUS. It is understood and acknowledged by the parties that the relationship of the Concessionaire to the City is that of an independent contractor. The Concessionaire shall have no authority to employ any person as an employee or agent for or on behalf of the City for any purpose, except as otherwise provided

herein. Neither the Concessionaire nor any person engaging in any work relating to this Concession (except for Head Greenskeeper) at the request of or with the consent of the Concessionaire, shall be deemed an employee or agent of the City, nor shall any such person or persons represent himself, herself, or themselves to others as an employee or agent of the City.

When ordering any goods or services for this Concession, the Concessionaire shall place such order in its own name or business name and not in the name of the City. The Concessionaire shall notify its vendors of the independent relationship between the parties to this Concession Agreement and shall advise its vendors that the Concessionaire is solely responsible for the goods or services purchased.

23. CONCESSIONAIRE’S EMPLOYEES. The Concessionaire shall operate this Concession personally or shall employ sufficient and qualified personnel to operate the Concession in a businesslike manner. The golf course shall be staffed with at least one (1) Class A PGA Professional, along with other personnel adequate for the operation of the lunch counter, driving range, and pro shop. In the event of a voluntary or involuntary termination of a Class A PGA Professional or Class A GCSAA member places Concessionaire out of compliance with this paragraph, Concessionaire shall immediately exercise its best efforts to come into compliance with this paragraph. The Parks and Recreation Director may waive, in whole or in part, the requirements of this paragraph 23.

Safety of Concessionaire’s employees shall be a primary concern of the Concessionaire. All employees shall be provided necessary safety training and equipment, and Concessionaire shall require that its employees use the same at all reasonable times.

24. PARKS AND RECREATION DIRECTOR CITY’S REPRESENTATIVE. The Parks and Recreation Director of the City, working with the advice of the Golf Advisory Commission shall represent and manage the City’s interest in the Concession premises. The Director may make reasonable written requests regarding the operation of this Concession to ensure compliance with the terms of this Concession Agreement, with which requests the Concessionaire shall comply.

25. NON-ASSIGNMENT. This Concession Agreement shall not be assigned in whole or in part nor shall the Concession premises or any part thereof be sublicensed, nor shall any right or

privilege herein granted to the Concessionaire be sold, transferred or assigned, without the prior written approval of the City. Any such transfer, sale or assignment, whether voluntary or involuntary, without the written approval of the City, shall be void and shall constitute grounds for the cancellation of this Concession Agreement at the option of the City.

26. MODIFICATIONS OF LICENSE. This Concession Agreement sets forth all of the agreements between the parties hereto, and no change, modification, or amendment thereof shall be valid and binding unless set forth in writing and signed by the City and the Concessionaire.

27. TERMINATION.

(A) If, in the judgment of the City, the Concessionaire breaches or is in default of any term of this Concession Agreement, the City shall give the Concessionaire written notice specifying with reasonable particularity the unsatisfactory performance or default. If such breach or default is capable of being remedied and the Concessionaire fails or refuses to take reasonable steps to remedy such unsatisfactory performance or default within fifteen (15) days after receipt of said notice, the City may terminate this Concession Agreement. If such breach or default is incapable of being remedied, the City may automatically terminate the Concession Agreement granted herein upon written notice to Concessionaire of the breach or default.

(B) If, in the judgment of the Concessionaire, the City breaches or is in default of any term of this Concession Agreement, the Concessionaire shall give the City written notice specifying with reasonable particularity the unsatisfactory performance or default. If such breach or default is capable of being remedied and the City fails or refuses to remedy such unsatisfactory performance or default within fifteen (15) days after receipt of said notice, the Concessionaire may seek whatever remedy is available at law or in equity.

(C) Notwithstanding the foregoing, Concessionaire shall have the absolute right to terminate this agreement by giving written notice to the City one hundred eighty (180) in advance of the termination.

28. DESTRUCTION OF PREMISES. In the event the Concession premises are damaged by fire or other casualty to such an extent that the continued use of the premises by the

C-4346

Concessionaire is not desirable, the City or the Concessionaire may immediately terminate this Concession Agreement. The City may, but is not obligated to, repair or rebuild the Concession premises. In that event, if any portion of the original Concession Agreement period remains, the Concessionaire, upon written notice, shall resume operation of the Concession in accordance with this Concession Agreement. The Concessionaire may apply to the City Council for payment relief if a destruction event occurs on the licensed premises.

29. REMOVAL OF PROPERTY ON TERMINATION. In the event this Concession Agreement expires or is terminated as herein provided, the Concessionaire shall immediately vacate the Concession premises and shall remove (a) all fixtures and personal property not on the inventory in Exhibit "B", (b) all fixtures and personal property not purchased to replace such inventory in Exhibit "B", and (c) all fixtures and personal property in which Concessionaire holds actual title. Should the Concessionaire fail to remove or dispose of such property as herein provided, the City may consider it abandoned and may claim proper title to it or dispose of the same at the Concessionaire's expense.

The Concessionaire shall quit and surrender the said premises and shall leave the City's fixtures, equipment, furnishings, and personal property in as good or better condition as when accepted by the Concessionaire, reasonable wear and tear excepted. Removal of any fixtures and improvements attached to the structures on the Concession premises shall not leave the structures in a worse condition than at the time of the execution of this Concession Agreement.

Concessionaire shall transfer the liquor license to the City upon termination

30. LIENS AND ENCUMBRANCES. The Concessionaire shall keep the Concession premises, including all City-owned facilities, City-owned furnishings, City-owned fixtures, City-owned equipment and other City-owned property therein and thereon, free and clear from any liens and encumbrances arising from or growing out of the Concessionaire's use of the Concession premises. At the City's request, the Concessionaire shall furnish the City's Chief Financial Officer written proof of payment of any item which might constitute the basis for such a lien on the premises, facilities, fixtures, furnishings, equipment or other property.

31. TERMINATION UPON BANKRUPTCY. Except, to the extent prohibited by applicable law, upon the occurrence of any one or more of the following events the Concession Agreement granted herein shall be deemed to have terminated automatically:

(A) The filing by the Concessionaire of the voluntary Petition in bankruptcy or the making of an assignment for the benefit of creditors; or

(B) The filing of an involuntary bankruptcy Petition against the Concessionaire that is not withdrawn or dismissed within ten (10) days; or

(C) A consenting by the Concessionaire to the appointment of a receiver or trustee of all or part of the Concessionaire's assets; or

(D) The filing by the Concessionaire of a Petition or Answer seeking an arrangement or reorganization under the Federal Bankruptcy Act or any other applicable State or Federal law; or

(E) The filing by the Concessionaire of a Petition to take advantage of any insolvency law or act.

32. NON-WAIVER OF BREACH. The waiver by the City of any breach by Concessionaire of any provision contained in this Concession Agreement shall not be deemed to be a waiver of such provision or any subsequent breach of the same. The acceptance of any payment by the City shall not be deemed to be a waiver of any prior occurring breach by the Concessionaire regardless of knowledge by the City of such prior existing breach at the time of accepting such payment.

33. WRITING IS ENTIRE AGREEMENT. This Concession Agreement constitutes the entire agreement between the parties. No evidence of any prior or contemporaneous agreements, written or oral, may be used to modify the express terms of this writing.

34. SEVERABILITY. If any provision or portion of any provision of this Concession Agreement shall be deemed illegal or unenforceable by a Court of competent jurisdiction, the unaffected provisions or portions thereof shall remain in full force and effect.

35. JURISDICTION AND VENUE. Any action or proceeding relative to this Lease Agreement shall be maintained in the District Court, Fourth Judicial District County of Twin Falls, State of Idaho.

C 4340

36. NOTICE. All notices under this Concession Agreement shall be deemed to be properly served if sent by certified mail to the last address previously furnished by the parties hereto. Until hereafter changed by written notice, said addresses shall be as follows:

City of Twin Falls

Attn: Parks and Recreation Director

P.O. Box 1907

Twin Falls, ID 83303-1907

Steva LLC

Attn: Steve Meyerhoeffer

2064 Oakwood Drive

Twin Falls, ID 83301

Notice shall be complete upon receipt, unless the recipient ignores or refuses to sign for the certified letter, in which event notice shall be deemed to have been completed on the first attempted delivery by the United State Post Office.

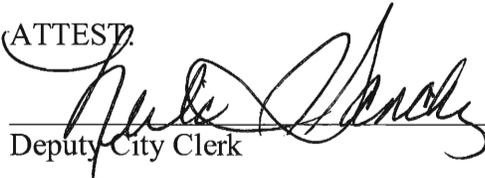
47. ATTORNEY'S FEES UPON BREACH. In the event it becomes necessary for either party to enforce the terms of this Concession Agreement, the prevailing party shall be awarded by a sum which will reasonably compensate it for the attorney's fees and costs incurred by such party to enforce the terms of this agreement. In the event attorney fees are awarded by a Court of law, the parties agree that a reasonable rate for attorney fees is \$150.00 per hour.

IN WITNESS WHEREOF, the parties hereto have executed this Concession Agreement by and through their authorized representatives the day and year first-above written.

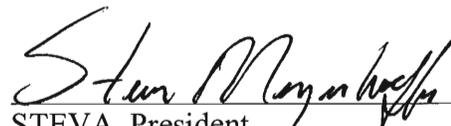
CITY OF TWIN FALLS, a municipal corporation of Idaho

  
DON HALL, Mayor

ATTEST:

  
Deputy City Clerk

Steva, LLC

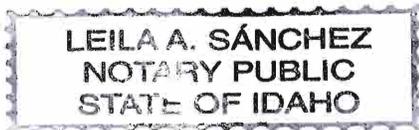
  
STEVA, President

STATE OF IDAHO )  
 )  
:ss  
County of Twin Falls )

On this 31<sup>st</sup> day of May, 2011, before me, the undersigned, a Notary Public in and for the State, personally appeared Steva, the authorized agents for Steva, LLC, an LLC, known to me to be the person who executed the foregoing instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

(SEAL)



  
NOTARY PUBLIC FOR IDAHO  
Residing in: Twin Falls  
My Commission Expires: May 18, 2012

C-43110

**EXHIBIT "A"**  
**PROFESSIONAL SERVICES AGREEMENT**

C-4446

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT, Made and entered into this 2nd day of October, 2009, by and between the CITY OF TWIN FALLS, IDAHO, a municipal corporation, hereinafter referred to as "City", and MIKE HAMBLIN, hereinafter referred to as "Professional".

WHEREAS, Hamblin has been the Golf Professional at the Twin Falls Municipal Golf Course; and,

WHEREAS, the parties hereto agree that Hamblin should be an independent contractor under a written professional services agreement.

NOW THEREFORE, in consideration of the mutual promises, covenants and agreements hereinafter contained, the parties hereto agree as follows.

I. TERM OF AGREEMENT

The term of this Agreement shall be for a period of commencing on the date of this Agreement and ending December 31, 2014. This Agreement may be extended for an additional five (5) year term upon such terms and conditions as shall be mutually agreed to by the parties in writing.

II. SCOPE OF PROFESSIONAL SERVICES

- A. Management and operation of the entire golf course, including supervision of manpower to operate the equipment necessary to water, mow, seed, spray, trim, clean and in all respects care for the facility as well as to regulate, control and supervise all play on the municipal golf course is hereby reposed in Professional during the entire term of this Agreement. The Professional agrees to follow all formal and informal City policies pertaining to personnel and the procurement of goods and services for this portion of the Agreement (not including operation of the Club House, Pro Shop, Snack Bar, Driving Range and Golf Course Play). Professional agrees to maintain the golf course in as good or better condition as now exists and not to let the same deteriorate below existing conditions, as determined by the City Manager, or his designee. Professional shall marshal the course as necessary to provide efficient play.
- B. Professional shall remit to the City all revenue from green fees, season passes, corporate memberships, lockers, cart storage, haul on carts, and \$5.00 from each player and/or rounds played each on the twelve exclusive use rounds for specific tournament play. If the City Council elects to waive fees for specific tournaments, the \$5 per round will not assessed. Professional shall submit the list of the twelve days reserved for exclusive tournament play each year to the Golf Advisory Commission for their recommendation, for acceptance and approval by the City Council. The list shall include the name of the tournament, the date(s), starting and ending times, and estimated number of players.

PROFESSIONAL SERVICES AGREEMENT: 1.

C-4046

- C. City of Twin Falls will reimburse PGA Professional for all credit and debit cards fees for all revenues collected and remitted to the City pursuant to Section R. B. of this Agreement. All revenues will be submitted to the City's Chief Financial Officer once per week at a date and time to be determined by the Chief Financial Officer. Professional shall be responsible for daily collection of green fees, pass fees, locker fees and cart storage rental fees, and weekly remission of said fees to the City Chief Financial Officer along with an accounting for said fees. Professional shall maintain a record of daily play by category of green fee and season pass, to be submitted weekly to the City Chief Financial Officer. Professional shall maintain a reconciliation of daily play record to daily receipts and provide said reconciliation along with a cash register/spread sheet record of reconciliation to the City Chief Financial Officer on a weekly basis. Professional shall also provide the City an annual report, on a calendar year basis, of gross and net revenues and expenses by category as describe in Paragraph XV of this Agreement.
- D. It is agreed that Professional shall be responsible for the management and the operation of the entire municipal golf course, as aforesaid, and shall report directly to the City Manager, or his designee. It is also agreed that Professional shall present requests for labor and equipment, and tournament play schedules to the City Manager, or his designee, sufficiently in advance for review, acceptance and approval. Professional agrees to serve as and shall be an ex-officio member of the Golf Advisory Commission and shall attend the meetings of said Commission upon request.
- E. Professional shall be responsible for hiring, directing, and paying of staff required to operate the Club House, Pro Shop, Snack Bar, Driving Range and Golf Course play.
- F. Beginning in 2012, the City of Twin Falls and the Professional shall examine the feasibility of a full lease of the Twin Falls Municipal Golf Course on an annual basis. The terms and conditions of a full lease option will be negotiated. In the interim, Professional will work with the City in identifying areas to cut cost and to improve the financial conditions of the golf course fund.

### III. CONSIDERATION FOR PROFESSIONAL SERVICES

The City agrees to pay Professional for the professional services provided as described herein a monthly fee of \$3,333.33 (calculated from an annual payment of \$40,000.00/year).

Except as otherwise set forth above, income from the following described functions or activities are hereby reserved to Professional during the term of this Agreement:

- 1. Twelve days of exclusive tournament play per year.
- 2. Golf cart rentals.
- 3. Vending machines.
- 4. SnackBar/Restaurant.

**PROFESSIONAL SERVICES AGREEMENT: 2.**

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C-4340

C-4046

- 5. Pro Shop.
- 6. Driving range.

It is understood by and between the parties hereto that all equipment and merchandise for sale or rental in regard to the above named functions of this paragraph shall be owned by Professional and the City assumes no responsibility for any loss or damage to said equipment or merchandise from any cause whatsoever.

IV. CITY RESPONSIBILITIES

City of Twin Falls shall employ a full time course superintendent, and to hire up to three temporary employees to assist the superintendent: one each for eight, nine and ten month terms. Any other temporary employees will be hired seasonally as needed and in consultation with the City Manager, or his designee. The City's course superintendent will work with the Professional in the hiring of temporary employees.

Under the supervision of Professional, the City will perform all maintenance for the golf course, including mowing, watering, fertilizing, etc., and will maintain all city equipment at the City Shop. The City will also pay all costs associated with operation of the pressure irrigation system.

V. PUBLIC PLAY

The general public shall be allowed to play at all times during the golf season as established by the Parks and Recreation Department except for the exclusive tournament play on twelve days hereinabove referred to. Professional agrees to reopen the course to public play at the conclusion of each day of tournament play. At all times open for public play, the Professional shall provide a starter on an as-needed basis to properly regulate and control starting times and alleviate course congestion.

VI. CLUB HOUSE AND EQUIPMENT MAINTENANCE

With the exception of equipment located in the "common areas" of the Club House, Professional agrees to cover all costs associated with the repair, maintain and replacement the equipment and property belonging to the City and/or Professional that is located within the Club House, including the restaurant equipment. The "common areas" are defined as areas within the club house open to the general public, such as the bathroom, dining room. The "common area" shall also include the physical structure of the clubhouse including all plumbing, mechanical, electrical and HVAC systems. "Common areas" shall not include the Professional's office, the kitchen, the area "behind the counter" of the kitchen, or the pro shop. Any property or equipment damaged due to the negligence of Professional or his employees, Professional shall repair and replace the same at his own expense. Professional agrees to repair and replace cooking utensils, dishes, silverware and glassware to a like condition, quality and quantity as now exists. Professional agrees that any additional property, equipment, restaurant equipment, cooking utensils, dishes, silverware and glassware desired by Professional or his sub-lessee shall be purchased and owned by Professional, and the City shall have no responsibility therefor.

PROFESSIONAL SERVICES AGREEMENT: 3.

C-4046

VII. CLUB HOUSE UTILITIES, GOLF CART EXPENSES

Professional agrees to pay all Club House utilities during the months of operation, including heat, power and telephone in said premises and agrees to maintain the upkeep and repair of said Club House in a like condition as now exists. City further agrees to provide Professional with water and sewage facilities, at no charge to Professional.

Professional agrees that he shall be responsible for all expenses relating to golf cart rentals, including gas, maintenance, repair, etc.

Professional shall provide his own fueling facilities and comply with all regulatory requirements applicable to the fuel facilities used.

VIII. JANITORIAL SERVICES

Professional agrees to pay and furnish janitorial services and equipment in order that said Club House facility may be maintained in a clean and satisfactory condition at all times. City agrees to purchase paper supplies for the Club House restrooms and clean the Club House carpet annually.

IX. INSURANCE

Professional agrees to hold harmless the City from any damage, injury or liability which may occur to the City by reason of the operation of said premises and Professional agrees to purchase liability insurance from a reputable insurance company to protect Professional and the City from any loss, damage, or injury or liability therefor. Said insurance is to be in a minimum sum of \$500,000.00. The City shall be named as an additional insured on this policy.

X. HOLD HARMLESS

Professional agrees to maintain and hold harmless City for the upkeep and maintenance of said buildings and any equipment therein owned by the City from any act of negligence by Professional, his agents or lawful assigns, his employees or any permitted sub-lessee.

XI. LIENS

Professional agrees to hold harmless the City against any lien or encumbrance upon said buildings, facilities and equipment owned by the City, and Professional further agrees never to encumber or allow the same to become encumbered by any lien of any nature whatsoever.

XII. COMPLIANCE WITH ALL LAWS

Professional agrees not to conduct or to permit to be conducted upon said premises any unlawful act and agrees to comply in all respects with all municipal ordinances and laws of the State of Idaho, United States of America, including laws relating to the operation and sale of food and

**PROFESSIONAL SERVICES AGREEMENT: 4.**

drinks within said premises, and Professional further agrees not to allow any person with his knowledge to conduct any of said unlawful acts.

XIII. NON-ASSIGNMENT

This Agreement may not be assigned by Professional. Professional may, however, hire such persons as he determines in his discretion to provide the services required hereunder, and he may, in his discretion, sublease the Snack Bar operation subject to written approval of said sublease by the City.

XIV. FIRE INSURANCE

City shall maintain fire insurance upon the building and structures at the municipal golf course and shall be the owner and loss payee of said policy. City shall have the option to reconstruct the facilities damaged or lost, and the further option to maintain any temporary facility pending said termination and/or repairs.

XV. FINANCIAL STATEMENT

Professional agrees to provide the City each year with an annual financial statement that includes a balance sheet, income statement and a statement of cash flows, with a compilation report prepared by his accountant, that shows the results of all of the Professional's financial operations resulting from his activities at and use of the Twin Falls Municipal Golf Course. These financial statements shall identify and report Professional's revenues by the six categories listed in Paragraph III of this Agreement and shall be delivered to the City on or before the 15<sup>th</sup> day of March in each following year.

XVI. DEFAULT & TERMINATION

In the event that Professional shall neglect, fail or refuse to perform any of the agreements or rentals herein contained, City shall notice Professional with a notice detailing the breach of contract, outline corrective actions to be taken by Professional. Professional shall have forty-five (45) days to correct the breach. If the breach is not cured to the satisfaction of the City, it shall be at the City sole discretion to declare this Agreement terminated for cause.

In the event of termination for cause at the request of the City, the City shall require as a term of the employment of a new golf professional at the Golf Course, that the new golf professional must purchase from Professional all merchandise in-stock of all golf-related equipment owned by Professional. The purchase price for such merchandise and equipment shall be its fair-market value, which will be paid to Professional thirty (30) days after the selection of a new golf professional by City.

**PROFESSIONAL SERVICES AGREEMENT: 5.**

"Fair market value" of merchandise shall be determined as follows:

Merchandise Age -	Zero to One Year	100% of invoice
	One Year + 1 day to Two Years	75% of invoice
	Two Years + 1 day to Three Years	50% of invoice
	Three Years + 1 day to Four Years	25% of invoice
	Four Year + 1 day and older	0% of invoice

If Agreement is terminated for cause, the Professional shall deliver possession of said Club House and all equipment, facilities and utensils therein owned by the City back to the City, and all rights of Professional hereunder shall immediately terminate. In such event, City is hereby given the right to immediately re-enter and take possession of, and to begin operation of the golf course and all facilities; Professional's right to compensation shall terminate and City may retain a new golf professional.

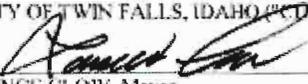
The parties hereto fully understand the terms and conditions herein contained. By the signing of this document, the parties assert their satisfaction with this Agreement and their ability to conform to the terms and conditions herein contained.

#### XVII. NO OTHER AGREEMENTS

It is agreed that this Agreement covers all of the agreements by the parties hereto and there are no written or verbal agreements which add to or change any part hereof. It is further agreed that this Agreement shall bind the parties hereto, their heirs, personal representatives and assigns.

DATED this 20th day of October, 2009.

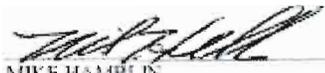
CITY OF TWIN FALLS, IDAHO ("CITY")

By   
LANCE CLOW, Mayor

ATTEST:

  
CITY CLERK, attest

"PROFESSIONAL"

  
MIKE HAMBLIN

PROFESSIONAL SERVICES AGREEMENT; 6.

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C-4341

**EXHIBIT "B"**

**INVENTORY OF CITY OWNED FACILITIES**

The City of Twin Falls is the owner of all of the existing buildings, including all the fixed equipment. Fixed equipment includes but is not limited to HVAC equipment, bathroom/plumbing fixtures, counters, grill hood and fire suppression equipment, etc.

In addition to the above named items, the City of Twin Falls owns the following equipment in the food concession areas:

(To be determined)

The City also owns the current ball washers at both golf courses.

The City also owns all the golf course maintenance equipment.

The City also owns all current tee signs and tee benches.





Date: Monday, February 11, 2013

To: Honorable Mayor and City Council

From: Lorie Race, CFO

---

**Request:**

A presentation on the finances of the City of Twin Falls for the 1<sup>st</sup> quarter of fiscal year 2012-2013. This presentation will be an overview of the tax-supported funds and the three major enterprise funds, Water, Wastewater and Sanitation.

**Time Estimate:**

I will give a presentation, followed by any questions Council may have. I would estimate this item taking approximately 20-30 minutes.

**Background:**

Last year, I began formally presenting quarterly financial updates to the City Council. The information I will be presenting includes a look at budget to actual information for revenues and expenditures in the tax supported funds, and in the three major enterprise funds. I will be sharing what I am seeing and projecting for these funds.

**Budget Impact:**

There is no budget impact.

**Regulatory Impact:**

There is no regulatory impact.

**Conclusion:**

There is no action required by the City Council.

**Attachments:**

- Summary of revenues and expenditures for all tax supported funds for the first three months of fiscal year 12-13.
- Summary of Water Fund revenues and expenditures for the first three months of fiscal year 12-13.
- Summary of Wastewater Fund revenues and expenditures for the first three months of fiscal year 12-13.
- Summary of Sanitation Fund revenues and expenditures for the first three months of fiscal year 12-13.

**City of Twin Falls**  
**Summary of Tax-Supported Funds**  
**December 31, 2012**

		3 of 12 months	25.00%
			% Received
	<u>Budgeted Rev</u>	<u>Actual Rev</u>	<u>to Date</u>
Property Taxes	\$ 16,600,941	\$ 1,144,096	6.9%
Franchise Taxes	\$ 1,548,300	\$ 358,882	23.2%
Permits	\$ 610,250	\$ 142,364	23.3%
Revenue Sharing-County, State	\$ 2,935,000	\$ 842,309	28.7%
State Liquor Apportionment	\$ 485,000	\$ 100,986	20.8%
Street Fund-Highway Monies	\$ 2,191,000	\$ 421,481	19.2%
Court Revenues	\$ 260,000	\$ 37,208	14.3%
Street Sweeping	\$ 247,000	\$ 62,230	25.2%
Contributions	\$ -	\$ 688	100.0%
Grants	\$ 43,200	\$ 23,330	54.0%
Misc	\$ 296,494	\$ 148,471	50.1%
E-911	\$ 454,000	\$ 119,797	26.4%
Recreation Fees	\$ 175,500	\$ 43,243	24.6%
Airport Revenues	\$ 824,895	\$ 217,017	26.3%
Investment Interest	\$ 342,200	\$ 28,571	8.3%
Fire District	\$ 395,552	\$ 157,149	39.7%
Transfers	\$ 1,985,168	\$ 3,396,291	171.1%
Surplus Reserves	\$ 747,000	\$ -	
Revenue Totals	\$ 30,141,500	\$ 7,244,114	24.0%
	<u>Budgeted Exp</u>	<u>Actual Exp</u>	
Personnel	\$ 17,385,029	\$ 3,866,193	22.2%
Supplies	\$ 589,928	\$ 54,677	9.3%
M & O	\$ 5,572,889	\$ 1,223,951	22.0%
Capital	\$ 5,687,823	\$ 1,749,274	30.8%
Transfers	\$ 905,831	\$ 226,458	25.0%
Expenditure Totals	\$ 30,141,500	\$ 7,120,553	23.6%
Excess/<Deficit>	\$ -	\$ 123,561	

**City of Twin Falls**  
**Water Fund**  
**Fiscal Year 2012-2013**

	3 of 12 months	25.00%			
		<b>2012-2013</b>	<b>2012-2013</b>		
		<b><u>Budget</u></b>	<b><u>Actuals</u></b>	<b><u>Difference</u></b>	
<b>Revenues</b>					
	Water revenue	\$ 6,020,075	\$ 1,306,424	\$ 4,713,651	21.7%
	Flat rate-Arsenic compliance	\$ 2,052,000	\$ 521,568	\$ 1,530,432	25.4%
	Tap fees	\$ 26,262	\$ 21,638	\$ 4,624	82.4%
	Irrigation revenue	\$ 491,495	\$ 118,376	\$ 373,119	24.1%
	Investment income	\$ 94,172	\$ 17,350	\$ 76,822	18.4%
	Other	\$ 150,011	\$ 34,792	\$ 115,219	23.2%
	Transfers	\$ 267,208	\$ 66,802	\$ 200,406	25.0%
	Reserves	\$ -	\$ -	\$ -	
		<u>\$ 9,101,223</u>	<u>\$ 2,086,951</u>		22.9%
<b>Expenditures</b>					
	Personnel	\$ 1,739,161	\$ 348,003	\$ 1,391,158	20.0%
	M&O	\$ 2,183,426	\$ 417,417	\$ 1,766,009	19.1%
	Capital	\$ 1,253,000	\$ 59,074	\$ 1,193,926	4.7%
	Debt	\$ 2,997,854	\$ 3,889,757	\$ (891,903)	129.8%
	Transfers	\$ 927,782	\$ 231,946	\$ 695,836	25.0%
		<u>\$ 9,101,223</u>	<u>\$ 4,946,195</u>		54.3%
		\$ -	\$ (2,859,245)		

**City of Twin Falls**  
**Wastewater Fund**  
**Fiscal Year 2012-2013**

	3 of 12 months	25.00%			
		<b>2012-2013</b>	<b>2012-2013</b>		
		<b>Budget</b>	<b>Actuals</b>		<b>Difference</b>
<b>Revenues</b>					
	Residential & commercial	\$ 4,440,023	\$ 1,096,306	24.7%	\$ 3,343,717
	Industrial	\$ 2,417,373	\$ 479,190	19.8%	\$ 1,938,183
	Municipal	\$ 141,393	\$ 31,993	22.6%	\$ 109,400
	Capacity fees	\$ 115,000	\$ 32,026	27.8%	\$ 82,974
	Investment income	\$ 21,637	\$ 17,971	83.1%	\$ 3,666
	Other	\$ 39,166	\$ 23,465	59.9%	\$ 15,701
	DAF Portion of payment	\$ 155,900		0.0%	\$ 155,900
	Grants	\$ -	\$ 19,395		\$ (19,395)
	Transfer-General Fund	\$ -	\$ -		\$ -
		<u>\$ 7,330,492</u>	<u>\$ 1,700,347</u>	23.2%	<u>\$ 5,630,145</u>
<b>Expenditures</b>					
	Personnel	\$ 518,466	\$ 127,748	24.6%	\$ 390,718
	M&O	\$ 3,678,260	\$ 490,563	13.3%	\$ 3,187,697
	Capital	\$ 1,338,000	\$ 523,021	39.1%	\$ 814,979
	Debt	\$ 1,219,874	\$ 5,120,651	419.8%	\$ (3,900,777)
	Transfers	\$ 575,892	\$ 3,043,973	528.6%	\$ (2,468,081)
		<u>\$ 7,330,492</u>	<u>\$ 9,305,956</u>	126.9%	<u>\$ (1,975,464)</u>
		\$ -	\$ (7,605,609)		\$ 7,605,609

**City of Twin Falls**  
**Sanitation Fund**  
**Fiscal Year 2012-2013**

	3 of 12 months	25.00%			
		<b>2012-2013</b>	<b>2012-2013</b>		
		<b>Budget</b>	<b>Actuals</b>		<b>Difference</b>
<b>Revenues</b>					
	Garbage & Refuse Collection	\$ 1,758,092	\$ 472,209	26.9%	\$ 1,285,883
	Refuse & Weed Removal	\$ 8,000	\$ 5,396	67.4%	\$ 2,604
	Landfill Fees	\$ 630,360	\$ 154,430	24.5%	\$ 475,930
	Recycle Revenue	\$ 20,000	\$ -	0.0%	\$ 20,000
	Code Violations	\$ -	\$ 295		\$ (295)
	Penalties & Interest	\$ -	\$ 424		\$ (424)
	Interest Income	\$ 8,000	\$ 1,201	15.0%	\$ 6,799
	Admin	\$ 405,900	\$ -		\$ 405,900
	Surplus Reserves	\$ -	\$ -		\$ -
		<u>\$ 2,830,352</u>	<u>\$ 633,955</u>	22.4%	\$ 2,196,397
					\$ -
<b>Expenditures</b>					
	Personnel	\$ 208,210	\$ 52,614	25.3%	\$ 155,596
	M&O	\$ 2,456,793	\$ 389,435	15.9%	\$ 2,067,358
	Capital	\$ -	\$ -		\$ -
	Debt	\$ -	\$ -		\$ -
	Transfers	\$ 165,349	\$ 41,337	25.0%	\$ 124,012
		<u>\$ 2,830,352</u>	<u>\$ 483,386</u>	17.1%	\$ 2,346,966
					\$ -
		\$ -	\$ 150,569		\$ (150,569)



**Date:** Monday, February 11, 2013  
**To:** Mayor and City Council  
**From:** Travis Rothweiler, City Manager

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### **Request**

Consideration of a request to approve the first amendment to the Development Agreement between Chobani, the City of Twin Falls, and the Urban Renewal Agency of the City of Twin Falls.

### **Time Estimate**

City Manager will present the Development Agreement. The estimated amount of time this item will take is 5 minutes.

### **Background**

On November 3, 2011, the City of Twin Falls entered into a three-way Development Agreement that included Chobani, the City of Twin Falls and the Urban Renewal Agency of the City of Twin Falls. As the project moved forward, several minor modifications to the original agreement have been made.

This is the first amendment to the Development Agreement and was developed at the same time the long-term financing project was developed. The amendment modifies the language in paragraph 18. This paragraph was expanded to include language on the process that would be used if, in the unlikely event, Chobani's property payments are not enough to cover the Twin Falls Urban Renewal Agency's debt service on the TIF bonds associated with this project.

The amendment does not directly impact the City of Twin Falls; however, since the City is a party to the Development Agreement, all three entities are required to take action on the proposed amendment. Both the Twin Falls Urban Renewal Agency and Chobani have agreed and executed the amendment.

### **Approval Process:**

Approval of the proposed Development Agreement – First Amendment requires a simple majority vote of the City Council members present.

### **Budget Impact:**

There are no budgetary or financial impacts to the City of Twin Falls.

### **Regulatory Impact:**

By approving the Development Agreement – First Amendment, the City of Twin Falls is obligated to perform in accordance with the provisions outlined; however, this amendment impacts only the Urban Renewal Agency of the City of Twin Falls and Chobani. There are no regulatory impacts from other sources or entities associated with the approval of the amendment.

### **Conclusion**

The Development Agreement – First Amendment has been reviewed for content and approved to form by Bond Counsel Rick Skinner and Twin Falls City Attorney Fritz Wonderlich. It has been approved by both the Urban Renewal Agency of the City of Twin Falls and Chobani. The City's staff recommends the City of Twin Falls approve the amendment as presented.

### **Attachments**

1. Development Agreement – First Amendment between Chobani, the City of Twin Falls, and the Urban Renewal Agency of the City of Twin Falls.

## DEVELOPMENT AGREEMENT – FIRST AMENDMENT

This Development Agreement – First Amendment (“First Amendment”) is entered into by and between the City of Twin Falls, an Idaho municipal corporation (hereafter “City”), the Urban Renewal Agency of the City of Twin Falls, an independent public body corporate and politic of the State of Idaho (hereafter “URA”), and Chobani Idaho, Inc., formerly known as Agro-Farma Idaho, Inc, an Idaho Corporation (hereafter “Chobani”).

### Recitals and Background Information

The parties entered into that certain Development Agreement dated November 3, 2011 (“Original Agreement”). The parties desire to update and amend paragraph 18 of the Original Agreement in order to accommodate certain bond financings being obtained by the City and URA.

These Recitals and Background Information are an integral part of this Agreement and incorporated into this Agreement.

NOW, THEREFORE, the parties hereto agree as set forth in the Recitals and Background above and as follows:

Paragraph 18 of the Original Agreement is amended to read as follows:

18. Chobani acknowledges that URA anticipates receiving revenue allocations from taxes paid by Chobani on the A-F Plant as shown on the “Estimated URA Financing and Required Revenue Allocation” attached hereto as Exhibit B. In connection with the URA Financing, URA requires receipt of the “Required Revenue Allocation” as shown on Exhibit B. In the event that the assessed value of the Chobani Plant shall in any year fail to result in distributions to URA of the Required Revenue Allocations for the URA Financing, Chobani (or the then owner of the Chobani Plant) shall pay URA an amount equal to the difference between the Required Revenue

Allocation for such year and the amount of revenue allocation actually distributed to URA for such year. Chobani agrees to pay property taxes as and when due, at its option, (i) 50% of taxes due on December 20<sup>th</sup> and the remaining 50% on the following June 20<sup>th</sup>; or (ii) 100% on December 20<sup>th</sup>. If the assessed value of the Chobani Plant is not sufficient such that the URA has not received the Required Revenue Allocation by January 27 in any year and there are not sufficient funds in the Revenue Allocation Fund held by the Trustee for the URA bond financing to cover the difference, the URA shall so notify Chobani, the City, Zion's First National Bank as the Trustee for the URA Financing and Zions First National Bank as purchaser of the URA bonds in the URA financing, and shall indicate the amount needed (the "Differential") to equal the Required Revenue Allocation. Chobani agrees to pay the Differential to the said Trustee within ten (10) business days of the said notice given by the URA. The City, URA, Zion's First National Bank and Chobani have agreed on the URA Financing described on Exhibit B.

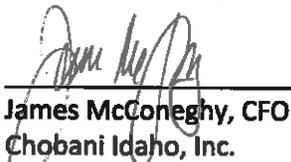
DATED, this \_\_ day of January, 2013.

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Greg Lanting, Mayor  
City of Twin Falls



Gary Garland, Chair  
Urban Renewal Agency



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James McConeghy, CFO  
Chobani Idaho, Inc.

EXHIBIT B: ESTIMATED URA FINANCING AND REQUIRED REVENUE ALLOCATION

## EXHIBIT B

### ESTIMATED URA FINANCING AND REQUIRED REVENUE ALLOCATION

#### URA Tax Increment Financing

Series A Bonds \$32,509,000

Series B Bonds \$ 2,024,000

Total \$34,533,000

#### Debt Service and Required Revenue Allocation

<u>Due Date</u>	<u>URA Series 2013A</u>	<u>URA Series 2013B</u>	<u>Required Revenue Allocation</u>
4/1/2014	\$ 2,704,055.56	\$ 168,444.44	\$ 2,872,500.00
4/1/2015	2,703,550.00	168,400.00	2,871,950.00
4/1/2016	2,704,400.00	167,900.00	2,872,300.00
4/1/2017	2,704,400.00	168,250.00	2,872,650.00
4/1/2018	2,704,450.00	168,400.00	2,872,850.00
4/1/2019	2,704,400.00	168,350.00	2,872,750.00
4/1/2020	2,704,100.00	168,100.00	2,872,200.00
4/1/2021	2,704,400.00	168,650.00	2,873,050.00
4/1/2022	2,704,100.00	167,950.00	2,872,050.00
4/1/2023	2,704,050.00	168,050.00	2,872,100.00
4/1/2024	2,704,050.00	168,900.00	2,872,950.00
4/1/2025	2,703,900.00	168,450.00	2,872,350.00
4/1/2026	2,704,400.00	168,750.00	2,873,150.00
4/1/2027	2,704,300.00	168,750.00	2,873,050.00
4/1/2028	2,704,400.00	168,450.00	2,872,850.00
4/1/2029	2,704,450.00	168,850.00	2,873,300.00
4/1/2030	2,704,200.00	167,900.00	2,872,100.00
4/1/2031	2,704,400.00	168,650.00	2,873,050.00
4/1/2032	2,703,750.00	168,000.00	2,871,750.00
<b>Total</b>	<b>\$ 51,379,755.56</b>	<b>\$ 3,199,194.44</b>	<b>\$ 54,578,950.00</b>