

COUNCIL MEMBERS:

Suzanne Hawkins	Jim Munn	Shawn Barigar	Chris Talkington	Gregory Lanting	Don Hall	Rebecca Mills Sojka
Vice Mayor					Mayor	



AGENDA
 Meeting of the Twin Falls City Council
Monday, January 27, 2014
 City Council Chambers
 305 3rd Avenue East - Twin Falls, Idaho

5:00 P.M.

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

GENERAL PUBLIC INPUT

AGENDA ITEMS	Purpose	By:
I. CONSENT CALENDAR:	<u>Action</u>	
1. Consideration of a request to approve the January 21 – 27, 2014, Accounts Payable, total: \$699,435.35.		Staff Report Sharon Bryan
2. Consideration of a request to approve the January 6, 2014, City Council Minutes.		Leila Sanchez
II. ITEMS FOR CONSIDERATION:		
1. Consideration of a request to adopt a resolution revising the By-Laws of the Twin Falls Youth Advisory Council.	Action	Hannah Bello
2. Consideration of a request from the Twin Falls Urban Renewal Agency (TFURA) to acquire unused City owned property located on the 200 block of 2nd Avenue South for the purpose of redevelopment.	Action	Cindy Bond
3. Consideration of a request to adopt an ordinance amending Twin Falls City Code §10-7-6(a) by reducing the front yard setback for a portion of Bridgeview Boulevard from 62 feet to 52 feet.	Action	Mitchel Humble
4. Consideration of a request to approve Contract Amendment No. 13 from CH2M HILL for the operation and maintenance of the Waste Treatment Plant, industrial pre-treatment program and associated sewer lift stations.	Action	Jon Caton/ Shawn Moffitt
5. Discussion of draft four of the Agreement with Beckley Media to use Twin Falls City property in his effort to jump the Snake River Canyon. <i>This will not be an action item.</i>	Discussion	Council
6. General update on Canyon Jump process to include public safety and possible compensation.	Update	Travis Rothweiler Brian Pike
7. Public input and/or items from the City Manager and City Council.		
III. ADVISORY BOARD REPORTS/ANNOUNCEMENTS:		
IV. PUBLIC HEARINGS: 6:00		
1. A public hearing to consider the City's intent to dispose of a 770± square foot portion of a City owned lot located at 2617 Paintbrush Drive.	Public Hearing	Mitchel Humble
V. ADJOURNMENT:		

Any person(s) needing special accommodations to participate in the above noticed meeting could contact Leila Sanchez at (208) 735-7287 at least two working days before the meeting. Si desea esta información en español, llame Leila Sanchez (208)735-7287.

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:

Suzanne Hawkins	Jim Munn	Shawn Barigar	Chris Talkington	Gregory Lanting	Don Hall	Rebecca Mills Sojka
Vice Mayor					Mayor	



MINUTES
 Meeting of the Twin Falls City Council
Monday, January 6, 2014
 City Council Chambers
 305 3rd Avenue East -Twin Falls, Idaho

4:00 P.M.
 Tour of the City Communications Center (CCC)
 4:30 P.M. (APPROXIMATE TIME)
 Review the City's communications service and strategy by Lt. Craig Stotts
 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:
OLD BUSINESS:		
I. <u>CONSENT CALENDAR:</u>		
1. Consideration of a request to approve December 27, 2013, payroll total: \$51,158.23, and December 23, 2013, account payable total: \$375.00.	Action	Sharon Bryan
2. Consideration of a request to approve the December 02, 2013, December 9, 2013, December 16, 2013, City Council Minutes.	Action	Leila A. Sanchez
Reorganization of City Council		
Swear in new Council Members		
Select Mayor/Vice Mayor		
NEW BUSINESS:		
I. <u>CONSENT CALENDAR: None</u>		
1. Consideration of a request to approve an Alcohol License for Mia's Place LLC., located at 717 Main Avenue West.	Action	Sharon Bryan
I. <u>ITEMS FOR CONSIDERATION:</u>		
1. Consideration of a request by the Board of Trustees of the Twin Falls Public Library to appoint Chris Vaage to serve as a Library Trustee for a full term of office from January 2014 – December 2018.	Action	Susan L. Ash, Library Director
2. Consideration of a request to appoint Carleen Herring of Region IV Development Association as the Environmental Review Officer for the Clif Bar Idaho Community Development Block Grant (ICDBG) project	Action	Travis Rothweiler
3. Consideration of a request to adopt a resolution declaring the City's intent to dispose of real property and setting a date for a public hearing.	Action	Mitchel Humble
4. Consider and act on a request to adopt an ordinance amending City Code 3-18 regarding City issued permits for mobile food concessions.	Action	Mitchel Humble
5. Discussion of the first draft of the Agreement with Beckley Media to use Twin Falls City property in his effort to jump the Snake River Canyon. <i>This will not be an action item.</i>	Discussion	City Council
6. General update on Canyon Jump process to include public safety and possible compensation.	Update	Travis Rothweiler Brian Pike
7. Public input and/or items from the City Manager and City Council.		
III. <u>ADVISORY BOARD REPORTS/ANNOUNCEMENTS:</u>		
IV. <u>PUBLIC HEARINGS:</u> None.		
V. <u>ADJOURNMENT:</u>		

Any person(s) needing special accommodations to participate in the above noticed meeting could contact Leila Sanchez at (208) 735-7287 at least two working days before the meeting. Si desea esta información en español, llame Leila Sanchez (208)735-7287.

Present: Shawn Barigar, Don Hall, Suzanne Hawkins, Gregory Lanting, Rebecca Mills Sojka, Chris Talkington
Jim Munn from (5:00 p.m.)

Staff Present: City Manager Travis Rothweiler, City Attorney Fritz Wonderlich, Community Development Director Mitchel Humble,
Chief Brian Pike, Lt. Craig Stotts, Deputy City Clerk Sharon Bryan, Deputy City Clerk/Recording Secretary Leila A. Sanchez.

Mayor Lanting called the meeting was called to order at 4:00 p.m. and adjourned at 4:05 p.m. to tour the City Communications Center.
4:00 P.M.

Tour of the City Communications Center (CCC)

The meeting reconvened at 4:37 p.m.

4:30 P.M. (APPROXIMATE TIME)

Review the City's communications service and strategy by Lt. Craig Stotts

Lt. Craig Stotts explained the dispatcher's role and training, and the function of the City Communications Center.

Discussion followed.

- Standard response action time (Police)
- Gun range tower increase of coverage
- Dispatch positions

John Moore, SIRCOMM Director, discussed the completion of narrow banding.

Recess: 4:53 p.m.

Reconvened: 5:00 p.m.

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. A quorum is present. Mayor Lanting introduced staff.

CONSIDERATION OF THE AMENDMENTS TO THE AGENDA: None

Councilperson Talkington requested time to discuss electronic cigarettes.

PROCLAMATIONS: None

OLD BUSINESS:

I. CONSENT CALENDAR:

1. Consideration of a request to approve December 27, 2013, payroll total: \$51,158.23, and December 23, 2013, accounts payable total: \$375.00.
2. Consideration of a request to approve the December 02, 2013, December 9, 2013, December 16, 2013, City Council Minutes.

MOTION:

Councilperson Hawkins made the motion to approve the Consent Calendar. The motion was seconded by Vice Mayor Hall and roll call vote showed all members present voted in favor of the motion. Approved 7 to 0.

**Reorganization of City Council
Swear in new Council Members**

Deputy City Clerk Bryan swore in Don Hall, Suzanne Hawkins, and Gregory L. Lanting.

Select Mayor/Vice Mayor

Mayor Lanting discussed the following events that occurred during his term serving as Mayor.

- Completion of the Strategic Plan
- New industry to Twin Falls - Clif Bar
- Wastewater Treatment Plant Expansion
- Working with local cities on the local option tax
- Downtown revitalization

His advice for the new Mayor is to focus on the Strategic Plan's goals and objectives.

Mayor Lanting opened up the nominations for Mayor.

MOTION:

Councilperson Barigar nominated Vice Mayor Hall to serve as Mayor. The motion was seconded Councilperson Munn and roll call vote showed all members present voted in favor of the motion. Approved 7 to 0.

Mayor Hall stated it is an honor and a privilege to serve as Mayor and then introduced his family. He spoke on the City's form of government and explained that it is comparable to a Board of Directors with the Mayor being the Chairperson and running the meeting, the Board of Directors are the Council who have equal input and equal value on every issue that comes to the City and sets policies and direction for the City, and the CEO is the City Manager who runs the company, the City of Twin Falls.

Mayor Hall spoke on the following:

- The Governor of Idaho, in his State of the State address, referred to Twin Falls leading the way in economic development.
- The importance of working in partnership with SIEDO, The Chamber of Commerce, Southern Idaho Tourism and the citizens as a whole as well as with the business community.
- The City needs to explore new locations for business sites within the community.
- The City's philosophy should be supporting neighbors that would include Jerome, Burley, Wendell, etc.
- Focusing on the Strategic Plan, Old Towne Corridor as well as other areas within the City.
- Focusing on infrastructure (water, sewer, streets).

Mayor Hall made the selection to appoint Suzanne Hawkins as Vice Mayor.

MOTION:

Councilperson Lanting made the motion to appoint Suzanne Hawkins as Vice Mayor. Councilperson Barigar seconded the motion and roll call vote showed all members present voted in favor of the motion. Approved 7 to 0.

Councilperson Hawkins introduced her family. She stated that in the past year and a half she has learned a great deal about local City government. She stated that she has enjoyed working with the City's Youth Council and would like the citizens of Twin Falls know she is available for any comments or concerns they may have.

Councilperson Talkington reemphasized that in the City Council/Manager form of government the Mayor presides at meetings and performs other duties consistent with this office as the Council determines. His concern is on the Comprehensive Plan and getting through the Strategic Plan, but unless there are quarterly or monthly updates of particular goals, progress, obstacles he is afraid the City will drift. He wants to be assured that the plan meets city direction and infrastructure on the \$38,000,000 upgrade, \$10,000,000, in Urban Renewal Agency in downtown, and to use the fifth meeting of the month to discuss the storage water tank, Auger Falls Road and signal project, developing water rights, and a water line coming up the canyon.

NEW BUSINESS:

I. CONSENT CALENDAR: None

1. Consideration of a request to approve an Alcohol License for Mia's Place LLC., located at 717 Main Avenue West.

MOTION:

Councilperson Talkington made the motion to approve the Consent Calendar as presented. The motion was seconded by Councilperson Barigar and roll call vote showed all members present voted in favor of the motion. Approved 7 to 0.

II. ITEMS FOR CONSIDERATION:

1. Consideration of a request by the Board of Trustees of the Twin Falls Public Library to appoint Chris Vaage to serve as a Library Trustee for a full term of office from January 2014 – December 2018.

Susan Ash, Library Director, explained the request.

The Library Board of Trustees recommended the approval to appoint Chris Vaage to serve as a Library Trustee.

Chris Vaage stated her reasons she would like to serve as a Trustee.

MOTION:

Councilperson Talkington made the motion to appoint Chris Vaage to serve as a Library Trustee for a full term of office from January 2014 – December 2018. The motion was seconded by Councilperson Mills Sojka.

-Posting of position

Susan Ash explained applicants are required to reside in the City of Twin Falls. The position was posted at the Public Library, on the City's website, television and on the radio.

Roll call vote showed all members present voted in favor of the motion. Approved 7 to 0.

2. Consideration of a request to appoint Carleen Herring of Region IV Development Association as the Environmental Review Officer for the Clif Bar Idaho Community Development Block Grant (ICDBG) project.

City Manager Rothweiler explained the request.

The City will be applying for two ICDBG awards to finance public infrastructure improvements associated with the construction of the new Clif Bar plant in the Jayco Industrial Park. The ICDBG funds bring a number of federal requirements. One condition of this funding is the completion of an environmental assessment of the impact of the public improvements. To complete the environmental review process required for the Idaho Community Development Block Grant program, the City needs to appoint an environmental review officer to oversee the process. In October 2011, the City formally solicited for ICDBG certified grant administration services covering a three year period, anticipating that the City would be participating in a series of ICDBG projects and applications. At that time, Region IV Development Association was selected to provide grant writing and administrative services.

Discussion followed.

-Budget impact

City Manager Rothweiler explained that Region IV works on the City's behalf until there is a grant award. Once there is a grant award the City pays Region IV development out of the grant proceeds received. If the City is not successful in obtaining the grant, there is no outlaying of cash. If Region IV is successful in obtaining the grant, the City will pay no more than 10% of the total community block grant for the project.

MOTION:

Councilperson Barigar made the motion to approve Carleen Herring of Region IV Development Association as the Environmental Review Officer for the Clif Bar Idaho Community Development Block Grant (ICDBG) project. The motion was seconded by Councilperson Mills Sojka and roll call vote showed all members present voted in favor of the motion. Approved 7 to 0.

3. Consideration of a request to adopt a resolution declaring the City's intent to dispose of real property and setting a date for a public hearing.

Community Development Director Humble explained the request. The City Council on December 23, 2013, considered a request from Doris Ryall to acquire the easterly seven feet of Lot 1, Block 1, of the Twin Falls Wilstar Subdivision Amended. That lot contains a retention pond and is owned by the City. Ms. Ryall owns the adjacent lot, Lot 2. At the meeting the Council directed staff to initiate the process to dispose of excess City property. Adoption of the resolution will declare the City's intent to dispose of real property and set a date for a public hearing.

MOTION:

Councilperson Talkington made the motion to adopt Resolution 1916. The motion was seconded by Councilperson Mills Sojka and roll call vote showed all members present voted in favor of the motion. Approved 7 to 0.

4. Consider and act on a request to adopt an ordinance amending City Code 3-18 regarding City issued permits for mobile food concessions.

Community Development Director Humble explained the request. This topic was discussed by the Council at their December 16, 2013, City Council meeting. At that meeting, the Council directed staff to prepare an amendment to City Code 3-18 to allow the issuance of mobile food concession permits for operation on private property. An ordinance has been prepared and is attached for the Council's review and adoption. In preparing the attached ordinance, staff reviewed similar ordinances by various other jurisdictions as well as the South Central Public Health District's requirements for a health permit. Approval of this request will amend the City Code to allow the operation of mobile food concession units on private property with the regulations described. Staff recommends adoption of the ordinance as presented.

Discussion followed.

-Mobile food trucks permanently parked on vacant lots

-Storm water concerns

-Disposal of grease in the City's wastewater system

- South Central Health District "Steps to Opening a Mobile Food Establishment"
- Business owner required to meet City regulations
- Mobile food truck and property taxes
- Washing facilities on site

City Attorney Wonderlich requested direction from Council.

The consensus of the Council is as follows:

- o 3-18-3(A): changed the 20 day permit turn-around time to 10 business days
- o 3-18-4(A): struck the requirement for a food truck to be accessory to another use on the property
- o 3-18-4(B): split former paragraph B into several sections
- o New (B): a public health permit is required
- o New (C): a City food concessionaire permit is required
- o New (C), 1: annual permits
- o New (C), 2: 10 business day application turn-around
- o New (C), 3: permit fee of \$100
- o New (C), 4: application to include site plan and property owner permission, the detailed site plan with list of what to include and the access to restrooms have been removed
- o New (C), 5: application to include trash, wastewater, and grease disposal plan
- o 3-18-4(C): the former (C) dealing with locations of lots with existing permanent businesses has been removed
- o 3-18-4(D): the new (D) establishes setbacks for food trucks, was included in the former (B)
- o 3-18-4(E): the new (E) prohibits drive-through, was included in the former (B)
- o 3-18-4(F): the new (F) electrical connection approval, was included in the former (B)
- o 3-18-4(G): the remaining items in 3-18-4 from (G) to (M) have only changed in their numbering, they were the former (D) to (J)

Council directed staff to bring back to Council the proposed ordinance with changes on January 13, 2014.

Public input:

Rosalie Dingwall, Twin Falls, stated her concern requiring food trucks to be moved nightly.

Councilperson Barigar stated that the ordinance is referring to mobile food trucks only.

Justin Abramowski, owner of Big Fatty, asked if he would be allowed to set up three days of the week at the same location or different locations. He stated he pays the business owner for setting up his mobile food truck and believes he is paying indirectly for property taxes.

City Manager Rothweiler stated that Mr. Abramowski may apply for a permit that will allow him to set up his mobile food truck three days out of the week at listed locations.

Recess at 6:44 p.m.

Reconvened at 6:57 p.m.

5. Discussion of the first draft of the Agreement with Beckley Media to use Twin Falls City property in his effort to jump the Snake River Canyon. *This will not be an action item.*

City Manager Rothweiler stated that today he received a series of talking points to the agreement that he forwarded to the City Council. He and City Attorney Wonderlich have a meeting scheduled with Jim Walczak of Beckley Media on January 13, 2014.

-Performance deadlines

City Manager Rothweiler stated that a document that is in significant final form will be before the Council by January 27, 2014, and the final document will be before the Council no later than February 3, 2014. The document is to include a public safety concept plan, compensation, prosecution, jail and court costs that arise from the event. A meeting will be held with the courts on Friday, January 17, 2014.

Councilperson Talkington stated that consideration should be made to the document as an addendum item stating that modification of the jump ramp should require City Council approval. He also asked for clarification of who will be the jumper.

City Attorney Wonderlich stated that he previously discussed with the Council Section IV. 4. Sublease and Assignment. He suggested that the Council prohibit assignment or subleasing. The applicant will be required to bring a plan to Council that will specifically address the ramp.

-Discussion followed.

Councilpersons Lanting and Mills Sojka stated they did not have an issue allowing a jumper other than Ed Beckley with Council approval.

Councilperson Barigar stated that the ranking on the groups was based somewhat on the characters and personalities of those involved in the presentation and it changes the flavor of what was presented if the characters are changed. There have been a great deal of individual responses to the questions and comments made specifically by Mr. Beckley and if he is suddenly not part of the process the process is disrupted.

Councilpersons Talkington, Hawkins, Barigar, and Hall spoke in favor of prohibition of assignment in the lease agreement.

Councilperson Barigar stated that he would like to receive information from Beckley Media in the Council packet prior to the scheduled Council meeting. He also would like to have Beckley Media come before Council to discuss the potential offer on compensation.

City Manager Rothweiler stated that he will discuss with Beckley Media that information sent to Council for review should be sent to him no later than by noon, Thursday, for subsequent City Council meetings.

Mayor Hall stated that by a consensus of the Council, subleasing or assigning of the agreement will not be allowed.

6. General update on Canyon Jump process to include public safety and possible compensation.

City Manager Rothweiler stated that on January 13, 2014, a meeting has been scheduled to meet with Beckley Media and on January 17, 2014, a meeting has been scheduled to meet with the Twin Falls County Prosecutor's office, courts and the jail. Staff will report back to Council on January 21, 2014. The public may comment at the Council meetings and comments may be emailed to jump@tfd.org.

Chief Pike provided an update on Beckley Media's security plan. A meeting has been scheduled for January 9, 2014, with the City's public safety partners. Jim Walzak, Coordinator with Beckley Media, has been invited to meet with staff to discuss public safety.

Discussion followed.

-Crowd attendance

Chief Pike stated that he has working with Rod Woodruff with Buffalo Chip and Mr. Woodruff estimated a crowd attendance of 50,000 to 70,000 people.

Public input.

Mayor Hall asked County Commissioner Morley if a group, other than Beckley Media, is in the permitting process with Jerome County to jump the canyon and if so, how far are the applicants in the process...

Jerome County Commissioner Roger Morley answered in the affirmative. He stated that the Jerome County Commissioners are putting their cards right now on Beckley. The applicant has requested to jump down by the Hansen Bridge. The Jerome County Commissioners considered allowing the jump but understood it would place a stress on infrastructure with the Ed Beckley jump. He also stated that Ed Beckley will be in to talk to the Jerome County Commissioners the following week. The police and sheriffs have been accommodating and he thanked the Council.

Mayor Hall asked for clarification Jerome County Commissioner Morley if the group has permission to jump. Jerome County Commissioner Morley stated no.

Mayor Hall thanked Jerome Commissioner Morley for coming to the Council meetings and stated that if the Jerome Commissioners need a councilmember to attend their meetings to please let him know.

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

Tour of the Public Works Building has been scheduled for January 13, 2014, at 3:30 p.m.

Presentation on the use of Synthetic Turf to meet City landscape requirements on January 13, 2014.

Councilperson Talkington stated that he would like to have a discussion on the pros and cons of electronic cigarettes and possibly evaluating whether or not the City should prohibit e-cigarette smoking in public venues.

He read the following from a handout that he researched on e-cigarettes.

Electronic-cigarette smoking is the talk of the smoking industry. People from all walks of life are starting to smoke the e-cigarette. Some people smoke them due to the convenience of "smoking anywhere" and others prefer the many positive attributes of ecigs, such as: no second hand smoke, smell, no lingering odor, and no lighter necessary!

The electronic cigarette was introduced to the U.S. market in 2007 and offers the nicotine-addicted an alternative to smoking tobacco. Most "e-cigs" are similar enough in appearance to be mistaken for regular cigarettes, but one look inside and you'll see the main difference: E-cigarettes don't contain tobacco. Instead, there's a mechanism that heats up liquid nicotine, which turns into a vapor that smokers inhale and exhale. Manufacturers and satisfied customers say that this nicotine vapor offers many advantages over traditional cigarette smoke. But regulatory agencies and some health experts aren't sure. They're asking questions about the possible side effects of inhaling nicotine vapor, as well as other health risks e-cigarettes may pose -- both to users and to the public. Those calling for tight regulations on e-cigarettes claim that these devices should be deemed illegal until the proper research trials have been conducted to prove that they're safe.

Because they contain no tobacco, e-cigarettes aren't subject to U.S. a tobacco law, which means they can be purchased without proof of age, especially online. This raises concerns that e-cigs may be particularly appealing to kids and may encourage nicotine addiction among young people. And while manufacturers of the e-cigarette claim that it's the cigarette you can "smoke" anywhere, regulatory agencies around the world are taking a close look at these gadgets and instituting a range of restrictions on their use.

Proponents of the e-cigarette say they feel better using the device than they did when they were smoking tobacco cigarettes, and that because the e-cigarette is reusable, it saves them money.

Councilperson Lanting stated he researched electronic cigarettes and recommended other Councilmembers do likewise. He also stated that the American Cancer Society is taking a conscious approach and stated that the e-cigarettes are hopeful e-cigarettes will reduce the effects of smoking and he recommends Council also take the same approach and recommend

Councilperson Mills Sojka stated that she would like the Council to consider adopting a set of procedural rules. City Manager Rothweiler stated that staff can help the Council in their creation of rules.

Mayor Hall stated that he will take Councilperson Mills Sojka's request into his consideration.

No action taken.

III. ADVISORY BOARD REPORTS/ANNOUNCEMENTS:

Mayor Hall stated that he will be reviewing the Councilmember liaison list for 2014-2016.

IV. PUBLIC HEARINGS: None.

V. ADJOURNMENT: The meeting adjourned at 7:29 P.M.

Leila A. Sanchez
Deputy City Clerk/Recording Secretary



Date: January 27, 2014

To: Honorable Mayor and City Council

From: Hannah Bello, Twin Falls City Youth Council

Request:

Consideration of a request to adopt a resolution revising the By -Laws of the Twin Falls Youth Advisory Council.

Time: The staff presentation will take approximately 5 minutes

Background:

The Youth Council are requesting the following changes in the Youth Council's By-Laws: The first change is to adjust the membership age. The previous accepted grade was ninth grade but after some interest from younger people we are requesting to lower that grade requirement to eighth grade. The second change is the serving requirement. For a member to stay on the Council, they must participate in at least 70% of all volunteering, projects, and campaigns. The last change to the resolution is to allow students from Kimberly to join the Council.

Budget Impact: None

Regulatory Impact: None

Conclusion: The Youth Council recommends approval of the request.

Attachments: Resolution

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TWIN FALLS, IDAHO, SETTING FORTH THE REVISED BY-LAWS OF THE TWIN FALLS YOUTH ADVISORY COUNCIL.

BE IT RESOLVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF TWIN FALLS, IDAHO, THAT THE FOLLOWING BY-LAWS REVISED AS OF THIS DATE ARE HEREBY ADOPTED FOR THE CITY OF TWIN FALLS YOUTH COUNCIL:

Our Mission is to improve the lives of current and future generations in the Magic Valley through positive leadership and interaction while promoting youth involvement and supporting the mission of the City of Twin Falls.

BY-LAWS OF THE TWIN FALLS YOUTH ADVISORY COUNCIL
OF THE CITY OF TWIN FALLS, IDAHO

WHEREAS the youth of the City of Twin Falls, Idaho (hereinafter “the City”) constitute an underutilized resource of ideas, knowledge and experience with respect to the City and its affairs; and,

WHEREAS the Mayor and City Council of the City of Twin Falls (hereinafter “the Council”) desires and seeks input from the youth into the affairs and issues of the City through a Twin Falls Youth Advisory Council; and,

WHEREAS the high school students of Twin Falls are willing to devote their time and energy into improving the City and the community through a Twin Falls Youth Advisory Council;

NOW THEREFORE, the Mayor and the City Council of the City of Twin Falls hereby establish the Twin Falls Youth Advisory Council and adopt the following By-Laws.

ARTICLE I. INTENT

The intent in preparing and adopting these By-Laws is to provide a framework for organization of the Twin Falls Youth Advisory Council, its actions and agenda. It is not the intent of the City, or the officers and members hereinafter described, to create a legal entity of any sort including without limitation, a corporation, non-profit corporation, limited liability company, partnership, nor any other business, public or quasi-public entity.

ARTICLE II. OFFICES

The principal location of the Twin Falls Youth Advisory Council shall be the Office of the City Manager, 321 2nd Ave. E., P.O. Box 1907, Twin Falls, Idaho 83303-1907. The Twin Falls Youth Advisory Council may have such other offices as the Executive Council may

designate or as the business of the Twin Falls Youth Advisory Council may require from time to time.

ARTICLE III. MEMBERS

Section 1. General Membership Meetings. The Twin Falls Youth Advisory Council shall hold ten (10) General Membership meetings during the school year: One each in the months of September through June. The General Membership meetings shall be held at 4:00 immediately preceding the second City Council Meeting of the Month, generally Mondays unless otherwise noticed pursuant to these By-Laws. The May General Membership meeting shall include the annual election of the Executive Officers and general business. The September meeting shall include the introduction of prospective members, goals, annual report of prior year activities, and general business.

Section 2. Special Meetings. Special meetings of the members, for any purpose or purposes, may be called by the President or, a majority vote of the Executive Council.

Section 3. Place of Meeting. The Executive Council may designate any place as the place of meeting for any meeting called by the Executive Council. If no designation is made, or if a special meeting be otherwise called, the place of meeting shall be the principal location of the Twin Falls Youth Advisory Council.

Section 4. Notice of Meeting. Written or printed notice stating the place, day and hour of the meeting and, shall, unless otherwise prescribed by statute, be delivered not less than forty-eight (48) hours nor more than thirty (30) days before the date of the meeting, either personally, by e-mail, or by regular mail, by or at the direction of the President, or the Clerk, to each member of record entitled to vote at such meeting. The notice of a regular or special meeting of the Twin Falls Youth Advisory Council shall specify the purpose of the meeting, including amendment to these By-Laws, or business to be transacted at such meeting, and the Agenda to be considered.

Section 5. Quorum. At least 25% plus one (1) of the members shall constitute a quorum at a General Membership meeting. If less than a quorum of such members is represented at a meeting no general membership business may continue; however, if there is a quorum of the Executive Council, the Executive Council may continue with any business of the Executive Council. The members present at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough members to leave less than a quorum, but only if a quorum was present at the time the agenda has been approved and attendance of the members has been taken. If a quorum is present at the time the agenda has been approved and attendance of the members has been taken, a majority of the members comprising the quorum is required for the Twin Falls Youth Advisory Council to take action upon any item set forth in the approved agenda. Should the votes be evenly split, the City Council Representative shall cast a deciding vote.

Section 6. Proxies. Proxies shall not be allowed.

Section 7. Membership. Any full-time student, in good standing, or an accredited home school student, who is in the 8th grade or higher or who is 13 years of age or older, may apply for general membership. An applicant may qualify for membership by participating in meetings, fundraisers and/or other volunteer events. Admission to membership shall be by majority vote of the membership. A proposed member must be present at the meeting to consider the applicant's admission. Any member in good standing is entitled to vote on general membership issues.

Section 8. Termination of Membership. Any member of the Twin Falls Youth Advisory Council may resign at any time provided, however, that for courtesy and efficiency purposes, notice of resignation shall be in writing and copies given to the Youth Council President and the Mayor. Any member of the Twin Falls Youth Advisory Council shall be deemed to have voluntarily resigned his/her membership automatically upon the occurrence of any of the following: 1) failing to be present at any three (3) or more regular meetings over a five (5) month period, unless a reasonable excuse acceptable to both a majority of the Executive Council and the Mayor is provided; 2) failing to be enrolled at a qualified High School or Home School program; 3) failing to maintain good standing at the school in which such member is enrolled; and 4) failing to participate in 70% of all volunteering, projects and campaigns; provided, however, that a graduating senior may retain membership on the Twin Falls Youth Advisory Council through August following such senior's graduation, at which time they will become a Member Emeritus. A Member Emeritus is a non-voting past honored member in good standing.

ARTICLE IV. EXECUTIVE COUNCIL

Section 1. General Powers and Duties. The business and affairs of the Twin Falls Youth Advisory Council shall be managed by the Executive Council. The Executive Council shall be responsible for planning the agenda for the school year and for each of the General Membership and Executive Council meetings of the Twin Falls Youth Advisory Council, setting and proposing potential ad hoc committees, and discharging any other responsibilities assigned by the Executive Council or determined by majority vote of a quorum of the members of the Twin Falls Youth Advisory Council.

Section 2. Number, Tenure, and Qualifications. The number of members on the Executive Council shall be Five (5) members of the Twin Falls Youth Advisory Council. A member must be in the 9th grade or higher, or 14 years of age or older, in order to be eligible to serve on the Executive Council. Executive Council Members shall be elected by secret ballot at the June General Membership meeting, and the term of office of each member shall be one (1) year, commencing July 1, and continuing to June 30, of the following year, or until the first regular meeting of members of the following school year and the election and qualification of successors. The Executive Council shall consist of a President, a Vice-President, Clerk and two (2) Executive Council Directors, each of whom shall be elected by secret ballot of the voting members of the Twin Falls Youth Advisory Council.

Section 3. Regular Executive Council Meetings. A regular meeting of the Executive Council may be held without other notice than these by-laws, during or immediately following, and at the same place as each of the ten (10) regular meetings of the General Membership. The Executive Council shall provide, by Resolution, the time and place for the holding of two (2) additional Executive Council meetings during the months of June, July, or August immediately following the school year without other notice than such Resolution. Additional regular meetings shall be held at the principal office of the Twin Falls Youth Advisory Council in the absence of any designation in the Resolution.

Section 4. Special Meetings. Special meetings of the Executive Council may be called by or at the request of the President or other Executive Council member, and shall be held at the principal office of the Twin Falls Youth Advisory Council or at such other place as the Executive Council may determine.

Section 5. Notice. Notice of any additional or special meeting of the Executive Council shall be given as outlined above in Article III, Section 2 of these By-Laws. The notice shall specify the purpose of, or business to be transacted at, such a meeting and the Agenda thereof.

Section 6. Quorum. A majority of the number of Executives fixed by these By-Laws shall constitute a quorum for the transaction of business at any meeting of the Executive Council, but if less than such majority is present, the attending Executives may adjourn the meeting.

Section 7. Election and Term of Office. The Executives to be elected by the members shall be elected annually by the members at the May meeting. Nominations for Executive Council positions can only be made by voting members. Each member of the Executive Council shall hold office until resignation or termination in the manner herein provided.

Section 8. Vacancies. Any vacancy occurring on the Executive Council because of resignation, removal, disqualification, or otherwise, shall be filled by secret ballot of a majority of the remaining voting members of the Executive Council. A member so elected to fill a vacancy shall be elected for the unexpired term of the predecessor in office.

Section 9. Powers and Duties. The powers and duties of the Officers shall be as provided from time to time by Resolution or Directives of the members.

The President shall preside over and conduct all meetings of the Twin Falls Youth Advisory Council and of the Executive Council, determine agendas for the regular meetings of the Twin Falls Youth Advisory Council and the Executive Council, act as spokesperson for the Twin Falls Youth Advisory Council, act as signatory on all documents for which the Twin Falls Youth Advisory Council provides authorization to sign, delegate authority to any Executive or member of the Twin Falls Youth Advisory Council if circumstances so warrant, and act upon any other matters and in the manner authorized by the Twin Falls Youth Advisory Council.

The Vice-President shall act in the place of the President upon the President's absence or inability to act as authorized herein, and take action as delegated by the President. In the event a vacancy occurs in the position of the President, the Vice President shall ascend to the position of President and the Vice President's position shall be considered vacant and subject to election to fill the vacancy.

The Clerk shall act as the record keeper of all activities of the Twin Falls Youth Advisory Council, keep minutes, archives, and arrange for public notices of all meetings. The Clerk shall prepare the minutes of each meeting of the Twin Falls Youth Advisory Council and Executive Council prior to the next regular meeting, prepare and mail the notices of each meeting and prepare and enclose the agendas for each meeting with the notice of such meetings. The Clerk shall also act in the place of the President upon the President's and Vice-President's absence or inability to act as authorized herein, and take action as delegated by the President.

The two remaining Executive Council Directors shall be appointed by the President to chair the two standing committees: The Finance Committee and the Member Relations Committee. The Finance Committee Chair shall be responsible for all financial matters of the Twin Falls Youth Advisory Council including the budget, financial reports, vouchers, and the books or ledgers, in conjunction with the City of Twin Falls Finance Department. The Membership Relations Chair shall be responsible to prepare public relations notices and media releases to keep the membership and public aware of Youth Council Activities, as well as new membership growth and education.

A member of the Executive Council who fails or refuses to fulfill the duties associated with his/her position may be removed from the Executive Council by a two-thirds (2/3) majority vote of the voting members of the Youth Advisory Council.

Section 10. Agendas. Any member of the Twin Falls Youth Advisory Council may submit a request for placement of an item on the agenda to any member of the Executive Council for consideration at the next following regular meeting. Such request shall be placed on the agenda at the discretion of the President and, if placed upon the agenda, shall be considered at a regular meeting determined by the Executive Council, provided adequate and sufficient notice of the item for consideration has been given as set forth herein.

ARTICLE V. SUBCOMMITTEES

Section 1. Standing Committees. The following committees shall be standing committees, and their term shall be perpetual: the Executive Council, Finance Committee, and the Public Relations Committee.

Section 2. Ad hoc committees. Any other subcommittees the Twin Falls Youth Advisory Council determines are necessary shall be created for the limited term of the remainder of the school year and shall continue during such school year at the discretion of the Twin Falls Youth Advisory Council. Such subcommittees shall be created by a majority vote of a quorum of Executive Council members.

ARTICLE VI. AMENDMENTS

These By-Laws may be altered, amended, or repealed, and new By-Laws may be adopted by the Twin Falls Youth Executive Council with prior written notice to the members as provided herein; provided, however, that such alterations, amendments or repeals first be authorized by a two-thirds (2/3) vote of all voting /members of the Twin Falls Youth Advisory Council, and provided further that vote by proxy shall not be permitted.

ARTICLE VII. ADOPTION AND EFFECTIVE DATE

The foregoing Revised By-Laws were regularly adopted at the September 9, 2013, meeting of the Twin Falls Youth Advisory Council, and thereafter ratified at a meeting of the City Council of the City of Twin Falls.

PASSED BY THE CITY COUNCIL , 2014

SIGNED BY THE MAYOR , 2014

Mayor

ATTEST:

Deputy City Clerk – Leila A. Sanchez



MONDAY January 27, 2014
To: Honorable Mayor and City Council
From: Melinda Anderson, Economic Development Director

Request:

Consideration of a request from the Twin Falls Urban Renewal Agency (TFURA) to acquire unused City owned property located on the 200 block of 2nd Ave South (described as Twin Falls Townsite, Block 119, Lots 9 & 10) for the purpose of redevelopment.

Time Estimate:

TFURA Chairperson Cindy Bond will make the presentation, which will take approximately 5 minutes. Time will be needed for discussion and questions.

Background:

The City owns a vacant, undeveloped, 6,250± square-foot lot adjacent to TFURA owned building at 242 2nd Ave S. It may have been used as a BID parking lot at one time since there are parking curbs in place, but the lot is not part of the City's current downtown parking program.

The adjacent vacant 6,250± square-foot warehouse at 242 2nd Ave S. is owned by TFURA and is available for redevelopment. TFURA has been approached several times by developers seeking to acquire the warehouse to be redeveloped as office or retail space. Each time the developer has said that to make the acquisition work for them, the adjacent City lot would be needed for associated parking. For various reasons, none of the inquiries have moved further.

This is a great opportunity for the City and TFURA acting together to put into private ownership two publicly owned parcels that are not currently producing any economic benefit. In the near future both of these parcels are likely to become drains on both the City and TFURA as deferred maintenance costs will eat into public funds. The warehouse has been vacant since 2010 and does need a private owner to redevelop and extend its useful life.

Adding the vacant City-owned parcel to the warehouse site and marketing both together makes the sites more attractive to future owners/developers and more likely to be redeveloped.

At its January 13, 2014 meeting, the TFURA board authorized the Chairperson to ask the City Council to transfer the City's unused lot to the TFURA to be redeveloped with the TFURA's vacant building.

Process:

The State outlines the process a City must follow to dispose of excess public property to another tax supported government agency. The first step is for the Council to declare the property as excess to the City's needs and that they intend to dispose of the property. Following this declaration, a public hearing must be held to allow input on the disposition of the property. After the public hearing, the Council can then direct staff to dispose of the property. In this case, the property is requested to be transferred to TFURA. The Council can authorize the transfer of the property to another tax supported government agency by adopting an ordinance to that end.

Budget Impact:

There is no significant budget impact associated with the Council's approval of this request. There will be a small cost to notify the public hearing for which TFURA could reimburse the City.

Regulatory Impact:

Should the Council approve this request, staff will prepare a resolution for Council consideration at a future meeting declaring the property as excess and setting a public hearing date.

Conclusion:

The Twin Falls Urban Renewal Agency requests that the Council approve the request.

Attachments:

1. Location Map
2. Street View







Date: JANUARY 27, 2014

To: Honorable Mayor and City Council

From: Mitch Humble, Community Development Director

Request: To adopt an ordinance amending Twin Falls City Code §10-7-6(a) by reducing the front yard setback for a portion of Bridgeview Boulevard from 62 feet to 52 feet.

Time Estimate: Staff presentation to take less than five (5) minutes. This is not a public hearing item but there may be an additional five (5) minutes for questions by the City Council.

Background: On January 13, 2014 the City Council granted a request to amend Title 10; Chapter 7; Section 6(A) reducing the front building setback from 62' to 52' on Bridgeview Boulevard from Blue Lakes Blvd N to Pole Line Rd E.

Approval Process: To amend Title 10 of the Twin Falls City Code requires a public hearing before the Planning & Zoning Commission who shall make a recommendation on the request to the City Council. The City Council shall then hold at least one public hearing regarding the request. The City Council is tasked to either approve as presented, deny or remand back to the Commission with changes. Upon granting a request to amend Title 10 the council shall adopt an ordinance. The ordinance shall be published within 30 days of adoption. Upon publication the ordinance shall be codified into the code.

Budget Impact: none

Regulatory Impact: Twin Falls City Code 10-14-1 thru 7

Conclusion: On January 13, 2014 the City Council granted the request as presented and directed staff to present an ordinance. Staff recommends the City Council adopt the ordinance so it can be published and codified.

Attachments:

1. Ordinance
2. Exhibit

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TWIN FALLS, IDAHO, AMENDING TWIN FALLS CITY CODE §10-7-6(A) BY REDUCING THE FRONT YARD SETBACK FOR A PORTION OF BRIDGEVIEW BOULEVARD FROM 62 FEET TO 52 FEET.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF TWIN FALLS, IDAHO:

That Twin Falls City Code §10-7-6(A) is amended as follows:

“10-7-6: FRONT YARD SETBACKS: ...

(A) Arterials and Collectors: ...

Bridgeview Boulevard ~~Entire length~~ Blue Lakes Blvd. N. to Poleline Rd. E. ~~62~~ 52 feet ...

Bridgeview Boulevard Poleline Rd. E. to Locust St. N. 62 feet”

PASSED BY THE CITY COUNCIL,

2014.

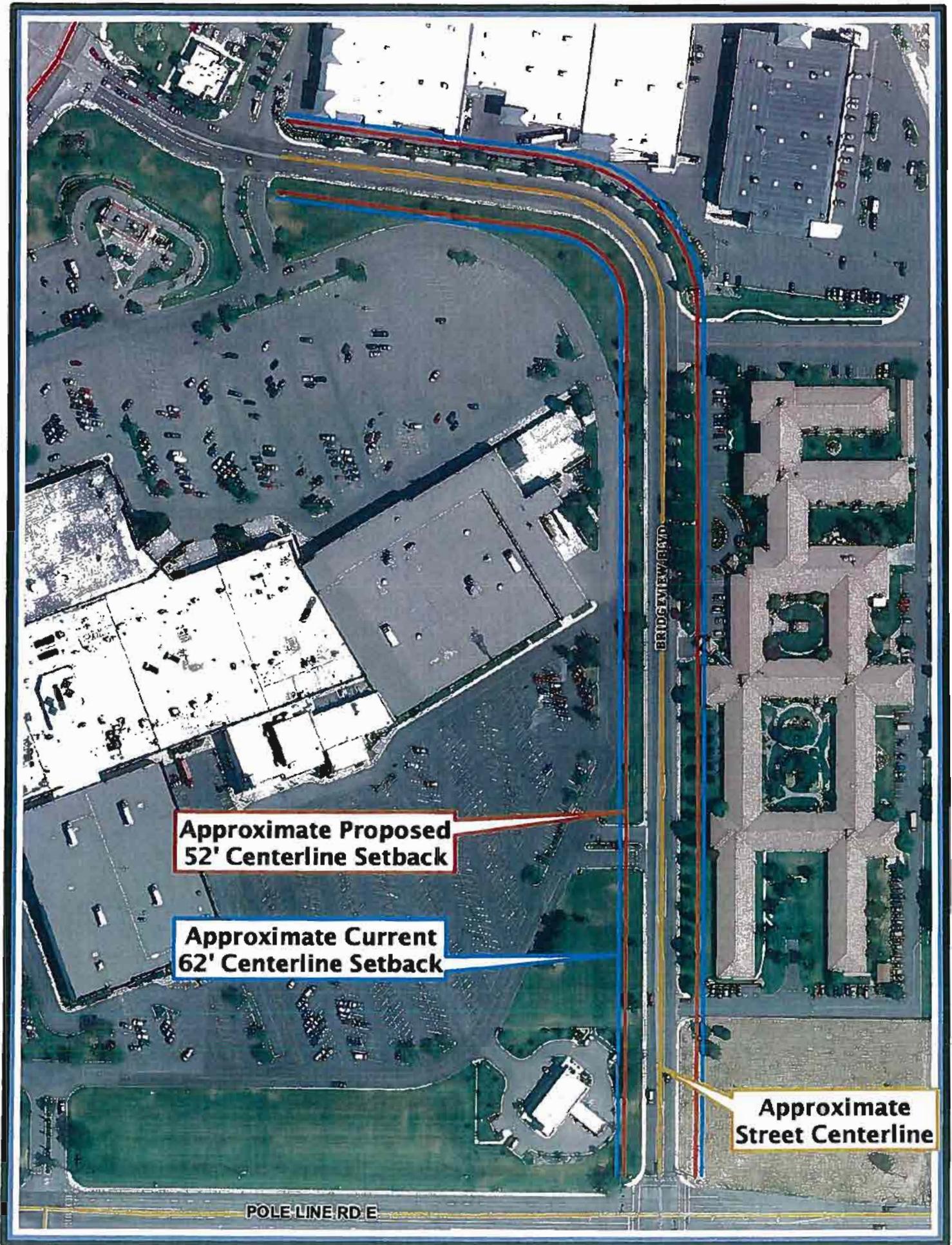
SIGNED BY THE MAYOR

, 2014.

MAYOR

ATTEST:

DEPUTY CITY CLERK



**Approximate Proposed
52' Centerline Setback**

**Approximate Current
62' Centerline Setback**

**Approximate
Street Centerline**

POLE LINE RD E

BRIDGEMVIEW RD



January 27, 2014, City Council Meeting

To: Honorable Mayor and City Council

From: Jon Caton, Public Works Director, Shawn Moffitt, CH2MHILL

Request:

Consider Contract Amendment No. 13 from CH2M HILL for the operation and maintenance of the Waste Treatment Plant, industrial pre-treatment program and associated sewer lift stations.

Time Estimate:

The staff presentation will take approximately 5 minutes.

CH2M HILL will have a short presentation that will take approximately 5-10 minutes.

Following the presentations, staff anticipates some time for questions and answers.

Background:

The City originally contracted with CH2M HILL in 1985. The contract was entered into in an effort to reverse a history of discharge violations and ongoing operating deficiencies. In the intervening 29 years, CH2M HILL has an excellent record of operating the facility within discharge standards. The most recent agreement with CH2M HILL was executed in 2001 and has been amended on an annual basis since that time to reflect changes in operating conditions and fees. The 2001 agreement was for a period of 10 years with a 120 day cancellation provision. Amendment No. 10, signed in February 2011, extended the 2001 agreement three years through September 30, 2014.

This year, CH2M HILL is presenting Amendment No.13. Mr. Shawn Moffitt, CH2M HILL's project manager, will be present during this year's amendment presentation to council. The proposed contract has a 4 % increase from FY 2012-2013. Section 2 (4.2) includes a change on the rebate structure. In the past, CH2M HILL would rebate 100% of the difference between the actual and estimated Total Direct Costs. CH2M HILL will now also rebate the management fee associated with that difference. Section 3 (4.5) changes what was billable if the Total Direct Cost is exceeded. Instead of only allowing changes based on electrical and natural gas rate increases, the City of Twin Falls will pay the difference and the management fee for expenses over the Total Direct Cost that are not due to gross negligence or willful misconduct.

The Fee:

Amendment #13 updates operating conditions for our treatment facilities. Section 8 of the amendment shows the projected operating characteristics for the facility. Section 8 estimates for BOD and TSS reflect an increase from FY13. The proposed base fee for the year is \$3,354,329.00 which is a 4 % increase over the fee for FY 2012-13. The Base Fee represents the total cost of service.

The base fee shown in Section 1 (4.1) is the total compensation paid to CH2M HILL for services rendered. Total Direct Cost is the projected cost of operating the city's treatment plants, maintaining lift stations and administering the industrial pretreatment program. Total Direct Costs is divided into

maintenance & operating expenses and repairs. M&O costs, including repair costs, are projected to be \$2,749,450.00. At the end of the year our contract requires CH2M HILL to rebate to the City 100% of the M&O costs that have not been spent (and the associated margin with those costs). The difference between the Base Fee and Total Direct Costs is overhead and profit.

Approval Process:

This amendment requires council approval and the Mayor's signature.

Budget Impact:

These costs have been budgeted for FY14.

Regulatory Impact:

NA

Conclusion:

Staff recommends that Council approve the amendment as presented.

Attachments:

1. Amendment No. 13
2. Twin Falls CY 25 Closeout Reconciliation

AMENDMENT NO. 13
to the
AGREEMENT FOR OPERATIONS
MAINTENANCE AND MANAGEMENT SERVICES
for the
CITY OF TWIN FALLS, IDAHO

This Amendment No. 13 (the "Amendment") is made and entered into this ___ day of _____, 2014 (the "Effective Date") between the City of Twin Falls, Idaho (hereinafter "Twin Falls") and Operations Management International, Inc. (hereinafter "CH2M HILL OMI") (each a "Party" and collectively, the "Parties").

WHEREAS, the Parties entered into the Agreement for Operations, Maintenance and Management Services for the City of Twin Falls, Idaho Wastewater Treatment Facility, Pump Stations and UASB, effective October 1, 2001;

WHEREAS, the Agreement for Operations, Maintenance and Management Services for the City of Twin Falls, Idaho Wastewater Treatment Facility, Pump Stations and UASB was amended by Amendment No. 1 on October 15, 2002, Amendment No. 2 on September 22, 2003, Amendment No. 3 on October 1, 2004, Amendment No. 4 on October 1, 2005, Amendment No. 5 on October 1, 2006, Amendment No. 6 on October 1, 2007; Amendment No. 7 on October 1, 2008; Amendment No. 8 on October 1, 2009; Amendment No. 9 on October 1, 2010; Amendment No. 10 on February 7, 2011; Amendment No. 11 on January 23, 2012; Amendment No. 12 on October 1, 2012 and the Agreement for Operations, Maintenance and Management Services for the City of Twin Falls, Idaho Wastewater Treatment Facility, Pump Stations and UASB, Amendments No. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 being collectively referred to as the "Agreement"; and

WHEREAS, the Parties now wish to further modify the Agreement as more fully set forth herein.

NOW THEREFORE, Twin Falls and CH2M HILL OMI agree to amend the Agreement as follows:

1. Article 2.12 is deleted in its entirety and replaced with the following:

2.12 Provide and document all repairs for the project.
2. Articles 2.13, 2.14 and 2.15 shall be deleted in their entirety.
3. Article 4.1 is deleted in its entirety and replaced by the following:

4.1 Twin Falls shall pay CH2M HILL OMI as compensation for services performed under this Agreement a Base Fee of Three Million Three Hundred Fifty Four Thousand Three Hundred and Twenty Nine Dollars (\$3,354,329) for the time period of October 1, 2013 through September 30, 2014 (the "Current Term"). Subsequent year's Base Fee shall be determined as specified in Article 4.4.
4. Article 4.2 is deleted in its entirety and replaced by the following:

4.2 The estimated Total Direct Cost for providing services during the time period of October 1, 2013 through September 30, 2014 is Two Million Seven Hundred Forty Nine Thousand Four Hundred Fifty Dollars (\$2,749,450). If the actual Total Direct Cost is less than the estimated Total Direct Cost for the Current Term, then CH2M HILL OMI will rebate Twin Falls One Hundred Percent (100%) of the difference between the actual and estimated Total Direct Costs plus the management fee associated with those costs.
5. The following sentence is added to Article 4.4: Upon each contract year renegotiation, CH2M HILL OMI shall continue to invoice Twin Falls at the previous amount until the new contract year Base Fee

is agreed upon. Upon written agreement between the parties as to the new contract year Base Fee, CH2M HILL OMI shall issue an invoice retroactively adjusting the previous contract year Base Fee amount.

6. Article 4.5 is deleted in its entirety and replaced by the following:

4.5 If the actual Total Direct Cost is greater than the estimated Total Direct Cost for the Current Term and the increase in Total Direct Cost is not due to the gross negligence or willful misconduct of CH2M HILL OMI, then Twin Falls will pay One Hundred Percent (100%) of the difference between the actual and estimated Total Direct Costs plus the management fee associated with those costs

7. Article 5.1 is deleted in its entirety and replaced by the following:

5.1 Twin Falls shall pay CH2M HILL OMI the Base Fee set forth in Article 4.1 as follows:

5.1.1 A monthly Base Fee in the amount of Two Hundred Seventy Nine Thousand Five Hundred Twenty Seven Dollars and Forty Two Cents (\$279,527.42).

5.1.2 The monthly Base Fee shall be due and payable on the 10th of the month in which the services are provided.

7. Appendix C, paragraph C.5 is deleted in its entirety and replaced by the following:

C.5 The estimated costs for service under this Agreement are based upon the following annual average characteristics:

Parameter	Municipal Facility	UASB	Measurement
Flow	6.96	0.642	MGD
BOD ₅	25,741	7,475	lbs/day
TSS	15,349	1,238	lbs/day

8. Appendix C, paragraph C.6 is deleted in its entirety and replaced by the following Article.

C.6 The industrial dischargers and their respective actual average flows, BOD₅, and SS loadings during the period August 2012 through July 2013 are identified below.

Industry	Flow, mgd	BOD ₅ , mg/L {lbs/day}	TSS, mg/L {lbs/day}
AP Gem Linen	0.111	134{145}	92{101}
Independent Meat	0.083	64{46}	66{47}
City of Kimberly	0.253	277{592}	297{637}
Longview Fibre	0.011	532{55}	95{10}
ConAgra D1	1.1295	1,094{11,130}	327{3,207}
ConAgra D2	0.642	1,187{7,475}	196{1,238}
Glanbia Inc.	0.541	502{2,251}	171{769}
Cummins Family Produce	0.021	135{27}	250{83}
Chobani	0.3035	1,303{3,778}	336{1,121}

Industry	Flow, mgd	BOD ₅ , mg/L {lbs/day}	TSS, mg/L {lbs/day}
(Chobani data only from Nov. 2012-July 2013)			

This Amendment constitutes the entire agreement between the Parties and supersedes all prior oral and written understandings with respect to the subject matter set forth herein. Unless specifically stated all other terms and conditions of the Agreement shall remain in full force and effect. Neither this Amendment nor the Agreement may be modified except in writing signed by an authorized representative of the Parties.

The Parties, intending to be legally bound, indicate their approval of the Amendment by their signatures below.

Authorized Signature:

**OPERATIONS MANAGEMENT
INTERNATIONAL, INC.**

Authorized Signature:

CITY OF TWIN FALLS, IDAHO

 Name:
 Title:
 Date:_____

 Name: Don Hall
 Title: Mayor
 Date:_____

HEA 1.17.2014

Project Number	351308
Project Name	Twin Falls
Top Task	25
Rollover Date	October-12
Thru	SEP-13

COST BUDGET & REBATE REVIEW

	Annual Budget	PJTD Budget	PJTD Actuals	PJTD Variance	Annual Variance	Percent Rebatable
Direct Costs	2,572,404	2,572,404	2,412,209	(160,195)	(160,195)	122%
Repairs	70,000	70,000	86,691	16,691	16,691	100%
Total	2,642,404	2,642,404	2,498,899	(143,505)	(143,505)	

Forecasted (Rebate)/Invoice (4,747.82)
Current Year End
(Rebate)/Invoice (4,747.82)
Discounted Invoice

57117	58,000.00
57291	58,000.00
57485	58,000.00



Date: Monday, January 27, 2014
To: Honorable Mayor and City Council
From: Travis Rothweiler, City Manager
Fritz Wonderlich, City Attorney

Request:

Discussion of draft four of the Agreement with Beckley Media to use Twin Falls City property in his effort to jump the Snake River Canyon. *This will not be an action item.*

Time Estimate:

The presentation will take approximately 10 minutes in addition to time needed for answering questions.

Background:

Attached you will find a copy of the updated draft of the Agreement with Beckley Media. This is not an action item; it will only be a discussion item.

The purpose of this agenda item is to introduce the Agreement to the City Council and solicit the Council's collective thoughts.

The changes to the Agreement are:

1. Proposed dates were provided where the "blanks" appeared previously. Those sections have been highlighted.
2. A paragraph to the Paragraph 2(C) Reclamation Plan, acknowledging that we plan to use the runway/road, parking area, etc., for future development of a trailhead. We added "except as otherwise provided herein" to a couple of reclamation provisions requiring return to natural state upon termination.
3. We are drafting language that we can use to place into the Agreement about "media partners," which should be ready to be included in Paragraph 6 to Attachment A.

The City Manager and City Attorney will be meeting with representatives with Beckley Media on Monday, January 27th at 11:00 a.m. Additional, slight changes/modifications to the Agreement are anticipated.

Approval Process:

This is only a discussion item and is not ready for Council consideration at this time. When the document is ready, approval of the Agreement requires a simple majority vote of the City Council members present.

Budget Impact:

There is no budget impact associated with this request.

Regulatory Impact:

There is no regulatory impact associated with this request.

Attachments

1. Draft Agreement

**EVEL KNIEVEL JUMP SITE
LEASE AGREEMENT**

Lessor: City of Twin Falls, Idaho
P.O. Box 1907
Twin Falls, ID 83303-1907

Lessee: Beckley Media, LLC
c/o Jon T. Simmons
P.O. Box 856
Boise, ID 83701-0856

Lease Term: Commencement Date: February 3, 2014
Expiration Date: September 30, 2014

Legal Description: Lessor, in consideration of the covenants, conditions and restrictions hereinafter set forth in the Lease (including all Attachments), does hereby lease and demise unto Lessee the real property described and shown in the attachments hereto, incorporated herein by this reference, for the uses specified herein.

Use of Premises: See Section 1 below, of the Lease Provisions.

Bond: Bond in the amount of One Million Dollars (\$1,000,000) and as specified in Sections 3 "Bond" and 11 "Security Generally" below, of the Lease Provisions.

Insurance: Insurance in the amount of Ten Million Dollars (\$10,000,000) and as specified in Section 10 "Insurance" below, of the Lease Provisions.

Attachments: Attachment A: Special Terms and Conditions
Attachment B: Legal Description
Attachment C: Aerial Map
Attachment D:

LEASE PROVISIONS

1. Use of Leased Premises.

A. The Leased Premises may be used by Lessee for any purpose reasonably associated with an event involving a proposed vehicular jump over the Snake River (hereinafter referred to as the “Event”), provided prior written approval for any such use is first obtained from Lessor for any such use, including, but not limited to, launch area, filming and parking for required personnel. Lessee shall provide Lessor with a specific list of any and all proposed uses of the Leased Premises.

B. Any new, additional or change of use of the Leased Premises shall require Lessor's prior written consent. Any new or additional use by Lessee without the authorization of Lessor is prohibited and is grounds for termination of the Lease.

C. Lessee agrees to not commit, nor permit any damage to or waste upon the Leased Premises or upon any of the improvements, nor permit any unlawful use of the Leased Premises, nor permit any use thereof except for the purposes identified by Lessee as provided herein.

D. Lessee shall acquire and maintain all necessary permits and comply with all applicable federal, state and local laws, rules, regulations, zoning and other matters in accordance with applicable law.

E. Special Event Permit. Approval and execution of this Lease Agreement by the Lessee shall constitute approval of any Special Event Permit required by the City of Twin Falls.

F. Technical Reports. When requested by the Lessor, the Lessee will furnish technical information concerning any proposed use and/or any equipment or personal property to be located on the Leased Premises.

2. Lease Phases.

This Lease shall proceed in three (3) phases: (1) a planning and permitting phase, (2) the event, and (3) reclamation. Each of the phases is set forth below.

A. Phase 1 – Planning and Permitting. During Phase 1 of this Lease, Lessee shall engage in all such activities required to plan and obtain approvals for the conduct of the Event and to reclaim the Leased Premises. All such activities shall be described in the Research, Development and Event Plan (the “Plan”) to be developed by Lessee and submitted to Lessor for acceptance and approval in writing before Lessee commences any Phase 2 activity. All such activities and requirements shall be conducted at Lessee’s sole cost and expense.

i. Lessor and Lessee acknowledge that the Event will have an impact on public services provided by both the City and County of Twin Falls. Lessor anticipates

that Twin Falls County will require a written agreement setting forth conditions for its approval of the Event. Lessee shall provide the Lessor with written approval of the Event by Twin Falls County (Commissioners, Prosecutor, Courts, Sheriff, Jail) by **April 1, 2014**.

ii. Lessee shall obtain all required Government Approvals for all activities for all phases of this Lease, and shall submit to Lessor an Opinion Letter addressed to Lessor signed by a law firm that includes attorneys admitted to practice and in good standing in the State of Idaho providing an opinion that all Government Approvals necessary for Lessee's commencement of construction and conduct of the Event are legally and validly issued, are held in the name of Lessee and, that Lessee is in substantial compliance with said Government Approvals as of the date of the Opinion Letter. Lessee shall provide copies of such Government Approvals to Lessor within.

iii. Lessee shall submit to Lessor the Plan by **April 1, 2014**. Lessee must submit the Plan to the Lessor before any construction or modification of the Leased Premises. The proposed development on the Leased Premises may not start until Lessor approves the Plan in writing. Such approval shall not be unreasonably withheld. The Plan shall describe all facilities and improvements to be constructed or placed on the Leased Premises and all activities associated with the Event that may be conducted on the Leased Premises. The Plan shall include, at a minimum, (1) all Government approvals required; (2) launch site development and modification; (3) existing and planned access, access controls, and lateral roads; (4) location of sanitary facilities and pickup schedules; (5) location of other supporting facilities; (6) other areas of potential surface disturbance; (7) traffic and public safety control measures including spectators located on the river, in the canyon, on any bridges from which spectators might use to view the Event; (8) emergency first responder locations and access requirements; (9) fire prevention and suppression plan; (10) identification and location of any and all hazardous material storage including materials used in the construction of the vehicle or used in the conduct of the Event; and (11) map or maps of sufficient scale to depict the information required for all phases, and shall include, at a minimum, the following components:

a. **Administrative Information.** The names, phone numbers, and mailing addresses of Lessee's primary Plan supervisors and operators; the names, phone numbers, and mailing addresses of any company providing project services to Lessee and the names of each company's contact person; and any other contract operators who will be involved in the operations on the Leased Premises.

b. **Facilities and Improvements.** Maps and other information sufficient to locate the proposed location and specifications of all facilities and improvements on the Leased Premises. Topographic maps should show

the approximate size of any surface area that may be disturbed with the placement of proposed facilities and improvements. Information concerning the construction of roads on the Leased Premises shall identify all gates and culverts and identify road construction materials, including those materials, if any, proposed to be acquired from the Leased Premises.

c. Areas of Exclusive Lessee Use. The portion(s) of the Leased Premises that Lessee proposes to hold for its exclusive use and to exclude the public and other lessees of Lessor from accessing, if any. Lessee shall describe the basis for excluding the public and other lessees of Lessor from such portions of the Leased Premises and the time frames for such required exclusive use. Dates of such exclusive use shall be identified in the Plan and on the master schedule.

d. Development Schedule. The schedule of construction and development on the Leased Premises (Development Schedule). If Lessor includes partial transitions of the Leased Premises to phases of this Lease, the Development Plan shall set forth the portions of the Leased Premises to be transitioned separately; the planned schedule for the partial transitions; and the contingencies and factors that determine the timing of each transition. Lessee shall further include a pictorial and numerical apportionment of the Leased Premises.

e. Government Approvals. A complete and accurate list of all Government Approvals that are known or reasonably believed to be necessary for the commencement of construction and for conduct of the Event, including the Opinion Letter required above. In the event that additional Government Approvals necessary for the commencement of construction or conduct of the Event come to the attention of either Party to this Lease, that Party shall immediately notify the other Party in writing and the Plan shall be amended accordingly and such additional Government Approvals shall be acquired prior to proceeding.

f. Vegetation and Soil Management. A description of the means whereby Lessee will maintain the natural vegetation, control erosion, and control noxious weeds on the Leased Premises. The description shall also include the means whereby Lessee will ensure that Lessee's activities on the Leased Premises do not adversely impact the waters on or adjoining the Leased Premises. The description shall also address the disposition of material excavated from the Leased Premises.

g. Pollution Prevention. A narrative statement describing the proposed measures to be taken for protection of the environment, including, but not limited to, the prevention or control of: (1) Fires; (2) Soil loss and erosion; (3) Pollution of surface and ground waters; (4) Damage to fish and

wildlife or other natural resources; (5) Air and noise pollution; and (6) Hazards to public health and safety during lease activities.

h. Security Requirements. An estimate prepared by an outside party of the dollar amounts reasonably required for: (1) all proposed construction activity, Construction Security; (2) projected traffic/security costs as described in the Plan, as Operating Security; and, (3) reclamation costs for reclamation.

B. Phase 2 – Staging or Performance of the Event. Phase 2 shall consist of the time frame required to construct or place any and all structures necessary for the Event on the Leased Premises and shall include the actual performance of the Event. Lessee shall specifically itemize each aspect of this Phase 2 in the Plan. During Phase 2, Lessee shall engage in construction of the facilities and related improvements on the Leased Premises and the implementation and satisfactory completion of all other activities identified in the Plan leading up to and including the conclusion of the Event. All costs and expenses of construction and development in Phase 2, and all subsequent additions and modifications to the facilities and related improvements shall be at the sole cost and expense of Lessee. If Lessor, in good faith, believes that Lessee has violated or failed to obtain any Governmental Approvals necessary for activities during Phase 2 of this Lease, then Lessor shall grant Lessee a **thirty (30)** day period and opportunity to seek the Governmental Approvals, and if such approval is deemed necessary for Lessee's activities and any such Governmental Approvals are not obtained, Lessor shall have the right, without limitation, to require Lessee to cease activities related to such violation until the violation has been remedied to the satisfaction of Lessor in its sole discretion.

C. Phase 3 – Reclamation Plan. The Reclamation Plan shall set forth the means whereby Lessee shall restore the Leased Premises to its natural contour and vegetative state following any construction or modification of the Leased Premises, and upon completion of the Event, or upon the expiration or any termination of this Lease. Lessee must reclaim all of the Leased Premises disturbed by Lessee's activities in accordance with applicable reclamation procedures. Lessee shall conserve, stockpile, and protect topsoil to enhance reclamation. Lessee shall take all necessary steps to avoid a threat to life or property or an unreasonable risk to subsurface, surface, or atmospheric resources. The Reclamation Plan shall address the decommissioning and reclamation of all planned construction of facilities and improvements by Lessee, including, but not limited to, the disposal of any known or unknown Hazardous Substance located on the Leased Premises at the termination of this Lease. Lessee shall also submit to Lessor a Hazardous Materials/Waste Management Plan in the event such materials will be used in the construction and/or operation of the vehicle or other activities associated with the Event. No construction of any facilities or improvements, and no alteration of the Leased Premises, nor any change in such construction or alteration, shall occur until Lessor has accepted, in writing, the Reclamation Plan and any Hazardous Materials/Waste Management Plan.

Notwithstanding the foregoing, the parties understand and agree that the “runway” between Cheney Drive North and the take-off ramp area will become the road leading to the future Canyon Rim Trail parking lot and trailhead. The reclamation plan shall not include removal of the runway/road, parking area, and such other improvements, as determined by Lessor as helpful to development of the parking lot/trailhead area.

D. Length of Phases.

ii. Phase 1 Completion Date. Unless extended by Lessor in writing, Phase 1 of this Lease shall be completed by **April 1, 2014.**

iii. Phase 2 Completion Date. Unless extended by Lessor in writing, Phase 2 of this Lease shall be completed by **September 8, 2014.**

iv. Phase 3 Completion. Phase 3 of this Lease shall commence upon confirmation that all Phase 2 Lease requirements have been fulfilled and the completion of the Event or upon earlier termination of this Lease for any reason. The Reclamation obligations shall survive the termination of this Lease. Phase 3 tasks will include all actions identified in the Reclamation Plan and any Hazardous Materials/Waste Management Plan, and shall conclude upon Lessor’s written confirmation that all Phase 3 Lease requirements have been fulfilled to Lessor’s satisfaction.

3. Bond.

Concurrent to the execution of this Lease by the Lessee, the Lessee shall furnish a good and sufficient bond in the amount specified in the Summary of Lease Provisions in favor of the Lessor to protect the Lessor and the public against loss due to violation of any provision of this Lease. The period of liability of any bond shall not be determined until all lease terms and conditions have been fulfilled and the bond is released in writing Lessor.

4. Sublease and Assignment.

As a result of receipt of numerous inquiries proposing a jump across the Snake River Canyon, Lessor conducted a formal RFQ process, evaluated responses, and ranked the proposals based upon a number of selection criteria to determine the best qualified team. Therefore, Lessee shall not be permitted to sublease or assign this Lease, nor to substitute any other team member for the following team members: Ed Beckley, Principal and pilot/jumper; Rod Woodruff, Traffic and Safety; Douglas Malewicki, Engineering; Kevin Pracon, Business and Technical Management; Clark Foster, Chief Mechanical Engineer; and Bob Kubinski, Mechanical and Automatic Systems Engineering Manager; and James Walczak, Public Safety Coordinator. In addition, Lessee will be allowed to substitute either Gene Sullivan or Bubba Blackwell as pilot/jumper in the event an unforeseen emergency circumstance renders Ed Beckley unable to safely fill that role; provided, however, that nothing contained herein shall limit or preclude Lessee from hiring or otherwise retaining the services of such additional individuals or entities that Lessee believes necessary fulfill its obligations hereunder or complete the work contemplated by the event.

5. Lessee's Compliance with Applicable Laws and Rules.

A. Full Compliance. Lessee's use of the Leased Premises and all improvements to be constructed or placed thereon, shall fully comply with all applicable federal, state and local governmental statutes, ordinances, rules, regulations and laws. Lessee shall comply with all applicable rules and regulations and standards currently in effect or hereafter adopted by Lessor.

B. No Waste or Nuisance. Lessee shall not use the Leased Premises in any manner that would constitute waste, nor shall the Lessee allow the same to be committed thereon. The Lessee shall not do anything or allow any action which will create a nuisance or a danger to any person or property not the immediate subject of the event.

6. Environmental, Safety, and Sanitary Requirements.

A. Sanitary Requirements. Lessee shall at all times keep the Leased Premises in a clean and sanitary condition, free of trash, noxious weeds, garbage and litter, so that the Leased Premises are maintained in as nearly natural state as possible. Lessee shall not dispose of sewage except in conformity with applicable federal, state, and local law, rules and regulations pertinent to Lessee's use. The Lessee shall store and dispose of all trash and garbage in conformity with all legal requirements. Lessee is responsible for all costs associated with sewage, garbage, cleanup, restoration and litter disposal.

B. Fire and Safety Regulations. Lessee shall comply with all applicable federal, state and local laws, rules, regulations and ordinances for fire protection and prevention of fire. Lessee shall keep the Leased Premises free from fire hazards. Lessee is prohibited from burning garbage or trash. The burning of wood or other debris shall require the prior written permission of Lessor and must comply with applicable federal, state, or local law, regulation, rule, and ordinance.

C. No Hazardous Materials Without Prior Notice. Lessee shall neither use nor permit upon the Leased Premises the use, placement, transport or disposal of any hazardous waste or any other substance that is, or is suspected to be, a hazardous substance or material without prior notice to Lessor and to the extent such use is in full and complete compliance with any applicable federal, state or local law, rule, regulation or ordinance. In the event any hazardous waste or substance is used by Lessee as provided in this Lease, and subject to prior notification to Lessor, Lessee shall, in addition to any other obligation or requirement herein, prepare and submit to Lessor for prior approval and consent, a "Hazardous Substance Plan", which shall include, but shall not be limited to, the express identification of each and every hazardous waste or substance to be used by Lessee, the need to use such waste or substance, detailed plans of how such hazardous wastes and substances will be managed upon and removed from the Leased Premises, and a detailed management and clean-up plan in the event of any release of any hazardous waste or substance, including, but not limited to, any leak or adverse environmental impact or contamination from any such hazardous waste or substance. . Lessee shall be

responsible, at its own expense, for removing or taking other appropriate remedial action regarding such wastes, substances, or materials which Lessee may cause or allow to be introduced upon the Leased Premises, in accordance with applicable federal, state, or local law, rule, regulation, or ordinance. In the event hazardous materials are used in the course of the Event that could be introduced onto the Leased Premises, Environmental Impairment/Pollution Insurance will be required in an amount determined by the Lessor.

7. No Warranty of Suitability.

A. No Warranty. Lessee acknowledges that neither the Lessor, nor any agent or designee of the Lessor, has made any representation or warranty with respect to the Leased Premises, or concerning the suitability of the Leased Premises for the uses intended by the Lessee. Lessee acknowledges that it has accepted the Leased Premises in an "AS IS CONDITION," and accepts liability for its condition.

B. Quiet Enjoyment. Lessor agrees that the Lessee, upon payment of the rent and performing the terms of this Lease, may quietly have, hold, and enjoy the Leased Premises during the term hereof.

8. Payment of Taxes and Assessments.

On or before any due dates, the Lessee agrees to pay any and all real or personal property taxes, assessment or fees that may be assessed or levied by any governmental authority asserting such authority over the Leased Premises, any improvement thereon, or Lessee's leasehold interest,. Lessee shall make such payment directly to the taxing authority and agrees to hold Lessor harmless from any claim or assessment.

9. Construction and Improvements.

A. Water Development. Lessee shall not drill any new or existing water well, use any existing water well, nor develop any use of any water source without first obtaining the prior written consent of the Lessor as well as any applicable governmental authorities responsible for adjudicating, developing or permitting water rights. Lessee agrees that all water rights shall be in the name of the Lessor.

B. Construction and Repair of Improvements. No construction of any improvement upon or over the Leased Premises is allowed without the prior consent of the Lessor.

C. Liens and Encumbrances. Lessee has no authority to, and shall not place any lien upon, or otherwise encumber the Leased Premises, Lessee's leasehold interest or Lessee-owned improvements upon the Leased Premises. The Lessee shall not place a lien upon or encumber the Lease, Lessee's leasehold interest or Lessee-owned improvements unless given prior written consent by the Lessor.

D. Treatment of Existing Improvements. Existing improvements, as of the date of execution of this Lease, if any, are attached hereto and incorporated herein in Attachment E. Upon Lease expiration without renewal; Lease termination; or upon default of the Lessee:

i. Lessor shall have the right to require Lessee to remove all Lessee-owned improvements and all other improvements placed or allowed upon the Leased Premises by Lessee, and to require Lessee to restore the Leased Premises, as nearly as is reasonably practical, to their natural or previous condition, all at Lessee's sole cost and expense, except as otherwise provided herein.

ii. Lessor has the right to enter the Leased Premises and remove any of the improvements, or otherwise dispose of such improvements, and to charge the cost of removal and/or disposal and/or restoration to Lessee. Lessee shall also be responsible for all collection costs, including reasonable attorney fees and interest incurred or accrued prior to, and following the filing of suit, including costs and fees incurred on appeal.

iii. Lessee shall quietly surrender the Leased Premises to Lessor.

iv. Lessor shall reserve the right to purchase existing improvements from Lessee at a reasonable market value, as defined herein, as of the date of expiration.

E. Treatment of Improvements Upon Abandonment. If such removal or purchase as described herein, has not occurred by the date that the Lease expires and has not been renewed, has been terminated, or at the date of Lessee default, all rights, title and interest of the Lessee to any of the improvements, shall upon thirty (30) days written notice to Lessee, or at a date determined at the sole discretion of the Lessor but not less than thirty (30) days, be deemed to revert to the Lessor, and shall be considered abandoned in place by the Lessee.

F. Market Value. Market value is defined in this Lease as: "The most probable price, as of a specified date, in cash, or in terms equivalent to cash, or in other precisely revealed terms for which the specified improvement(s) should sell after reasonable exposure in a competitive market under all conditions requisite to a fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self-interest and assuming that neither is under undue duress."

G. Treatment of Non-approved Improvements. Treatment of Non-approved Improvements at any time during the Lease and upon Lease expiration without renewal, termination, or default under the Lease.

i. Lessor shall have the right to require Lessee to remove all non-approved improvements placed, or caused to be placed upon the Leased Premises, and to require Lessee to restore the Leased Premises, as nearly as is reasonably practical,

to their natural or previous condition, all at Lessee's sole cost and expense. If removal as described above has not occurred by the date that the Lease expires, and the Lease has not been renewed, has been terminated, or as of the date of the Lessee default, all right, title and interest of the Lessee to any of the non-approved improvements shall, upon thirty (30) days written notice to the Lessee, or at a date determined at the sole discretion of the Lessor, but not less than thirty (30) days, be deemed to revert to the Lessor, and shall be considered abandoned in place by the Lessee.

ii. Any non-approved improvements not removed by the Lessee may be removed by the Lessor at the Lessee's sole cost and expense. Any attorney fees and collection costs incurred by the Lessor shall also be the Lessee's responsibility. Lessor has the right to enter the Leased Premises and remove any of the improvements, or otherwise dispose of such improvements, and to charge the cost of removal and/or disposal and restoration to the Lessee. Lessee shall also be responsible for all collection costs including, but not limited to, reasonable attorney fees and interest incurred or accrued prior to, and following the filing of suit, including costs and fees incurred on appeal.

10. Insurance.

Lessee shall purchase and keep in force all insurance required by this Lease. Any failure to comply with any of the terms of this section shall be a breach of this Lease. For the duration of this Lease and until all activity in accordance with this Lease is completed, Lessee shall have and maintain or cause to be maintained, at Lessee's expense, the types of insurance set forth below and shall comply with all limits, terms and conditions of such insurance, and shall require all of its contractors and subcontractors to maintain the same types of insurance and limits. By requiring the insurance herein, Lessor does not represent that coverage and limits will necessarily be adequate to protect Lessee, and such coverage and limits shall not be deemed as a limitation on Lessee's liability to Lessor or under any indemnities granted to Lessor in this Lease.

A. Commercial General and Umbrella Liability Insurance. Lessee shall maintain commercial general liability ("CGL") with a combined limit of not less than ten million dollars (\$10,000,000) each occurrence. If such CGL insurance, or any umbrella policy, contains a general aggregate limit, it shall apply separately to the Leased Premises, shall not be less than ten million dollars (\$10,000,000), and shall provide that defense costs shall be and remain outside policy limits. Lessee waives all rights against Lessor and any additional insured for recovery of damages to the extent these damages are covered by the CGL or commercial umbrella liability insurance maintained pursuant to this Lease. CGL insurance and any umbrella policy shall:

i. Be in a form and from an insurance company satisfactory to Lessor and shall cover liability for bodily injury, property damage, and personal injury arising from Lessee's use and/or occupation of the Leased Premises including, without limitation, operations, independent contractors, products, completed operations,

personal injury and advertising injury, and liability assumed under an insured contract including the tort liability of another assumed in a business contract; and

ii. Include the City of Twin Falls, and their officers, agents, and employees respectively as additional insured, and such status as an additional insured shall be evidenced by an endorsement acceptable to Lessor. This insurance shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded to, and non-contributory with, any additional insured.

B. Builders Risk/Installation Floater Insurance. During the course of any construction or alteration of any facilities or improvements, if any, on the Leased Premises by Lessee, Lessee shall maintain in force, at its own expense, Builders Risk/Installation Floater Insurance, including soft costs and any offsite locations, on an all risk of direct physical loss from, including earthquake and flood (if reasonably available), for an amount proportionate to the amount of the construction contracts performed on the Leased Premises. Any deductible amount shall not exceed two hundred fifty thousand dollars (\$250,000) for each loss, except earthquake and flood deductibles shall not exceed two percent (2%) of the value at risk at the time of each loss or two hundred fifty thousand dollars (\$250,000) for each loss, whichever is more. The policy shall include, as an additional insured, Lessor as its interests may appear and such status as an additional insured shall be evidenced by an endorsement acceptable to Lessor.

C. Property Insurance. Lessee shall throughout the term of this Lease, at its own expense, keep and maintain in full force and effect commercial property insurance covering the facilities and improvements, if any, located on the Leased Premises. Commercial property insurance shall, at a minimum, cover all perils insured under the ISO Special Causes of Loss Form. The amount insured shall equal the full estimated replacement cost of the property insured. Any coinsurance requirement in the policy shall be eliminated through the attachment of an agreed amount endorsement, the activation of an agreed value option, or as otherwise appropriate under the particular policy form. Lessor shall be included as a loss payee under the commercial property insurance, and such status as an additional insured shall be evidenced by an endorsement acceptable to Lessor. During Phase 2 of this Lease, Lessee shall purchase, as part of Lessee's property insurance, business income, business interruption, extra expense or similar coverage, for actual loss sustained. In no event shall Lessor be liable for any business interruption or other consequential loss sustained by Lessee, whether or not it is insured.

D. Workers Compensation and Umbrella Liability Insurance. Lessee and its subcontractors, if any, shall maintain all statutorily required Workers Compensation coverage. Coverage shall include Employer's Liability, at minimum limits of five hundred thousand dollars/five hundred thousand dollars/five hundred thousand dollars (\$500,000 / \$500,000 / \$500,000). Lessee must maintain coverage issued by a surety licensed to write workers' compensation insurance in the state of Idaho or from a surety issued an extraterritorial certificate approved by the Idaho Industrial Commission from a state that has a current reciprocity agreement with the Idaho Industrial Commission.

E. Environmental Impairment/Pollution Insurance. In the event hazardous materials are used in the course of the Event that could be introduced onto the Leased Premises, Environmental Impairment/Pollution Insurance will be required in an amount determined by the Lessor.

F. Lessee's Insurance Policy Requirements.

All insurance required under this Article shall be with companies licensed and admitted in Idaho and approved for this Lease by Lessor. Lessor's general requirements for such approval include a current A.M. Best's rating of A- or better. Prior to taking occupancy or commencing construction and at least annually thereafter, Lessee shall furnish Lessor with a certificate of insurance executed by a representative of each insurer duly authorized to bind coverage, and a copy of any applicable policy or policy endorsement showing compliance with all insurance requirements set forth herein. All policies required under this Article shall be written as primary policies and not contributing to or in excess of any coverage Lessor may choose to maintain. Lessee shall provide Lessor with certificates of insurance and policy endorsements as follows:

Coverage
CGL

Evidence of Coverage

Builders
Risk/Installation Floater
Insurance

Policy Endorsement and
copy of policy
evidencing each required
coverage

Property Insurance

Policy Endorsement and
copy of policy
evidencing each required
coverage

Automobile Liability

Policy Endorsement and
copy of policy
evidencing each required
coverage

Workers Compensation/
Employers Liability
Insurance

Certificate of Insurance
evidencing required
coverage
Certificate of Insurance
evidencing required
coverage

Should any of the polices described herein be cancelled or terminated prior to the expiration date thereof, the insurer affording coverage, and Lessee shall also provide Lessor thirty (30) days' written notice prior to any such cancellation or termination or, if such prior advanced written notice cannot reasonably be provided, then either the insurer or Lessee shall immediately notify Lessor of any such cancellation or termination as soon as either becomes aware of any such cancellation or termination. Any failure to comply

with the reporting provisions of this insurance, except for the potential exhaustion of aggregate limits of insurance exhausted by Lessor, shall not affect coverages provided to Lessor, the City of Twin Falls, its officers and employees. Failure of Lessor to demand such certificate or other evidence of full compliance with these insurance requirements or failure of Lessor to identify a deficiency from evidence that is provided shall not be construed as a waiver of Lessee's obligation to maintain such insurance. Lessee shall provide certified copies of all insurance policies required above within thirty (30) days of Lessor's written request for said copies. If Lessee's liability policies do not contain the standard ISO separation of insured provision, or a substantially similar clause, they will be endorsed to provide cross-liability coverage.

F. Proof of Insurance. Prior to taking occupancy or commencing operations or construction, and at least annually thereafter, Lessee shall furnish Lessor with a certificate of insurance on the form approved by Lessor executed by a representative of each insurer duly authorized to bind coverage, together with a copy of any applicable policy and policy endorsement showing compliance with all insurance requirements set forth herein, including evidencing Lessor as additional insured. Lessee shall provide certified copies of all insurance policies required above within fifteen (15) days of Lessor's written request for certified copies. Failure of Lessor to demand such certificate or other evidence of full compliance with these insurance requirements or failure of Lessor to identify a deficiency from evidence that is provided shall not be construed as a waiver of Lessee's obligation to maintain such insurance.

G. Payment of Premiums - Policy Renewals - Lessor's Right to Purchase. Lessee shall pay premiums and be responsible for all deductibles for all of the insurance policies it is required to carry under the terms of this Lease, and shall deliver to Lessor evidence of such payment before the payment of any premiums become in default. Lessee shall also cause renewals of expiring policies and shall furnish Lessor with certificates showing such renewed policies at least ten (10) days before the policy's expiration date. If Lessee fails to maintain the insurance as set forth herein, while such failure is a default under the terms of this Lease, Lessor shall have the right but not the obligation to purchase said insurance at Lessee's expense, in addition to any other remedy available at law or in equity.

H. No Limitation of Liability. By requiring insurance herein, Lessor does not represent that coverage and limits will necessarily be adequate to protect Lessee, and such coverage and limits shall not be deemed as a limitation on Lessee's liability pursuant to this Lease.

11. Security Generally.

A. Format and Renewal. All bonds, letters of credit, and either cash or certificates of deposits (which may be referred to throughout this Lease generically as "bonds") shall be in a form acceptable to Lessor, conditioned upon Lessee's good faith compliance with all laws and rules of the City of Twin Falls, all provisions of this Lease, and all terms and conditions imposed by the Lessor. All bonds shall be issued by an Idaho qualified U.S.

Bonding Corporation and all letters of credit, and cash or certificates of deposits shall be subject to Lessor's approval and shall provide for notice to Lessor prior to any cancellation or lapse thereof. Upon the failure of Lessee to maintain any required bond, letter of credit, or cash or certificate of deposit in full force and effect at all times during the life of this Lease, Lessor shall have the right to cancel this Lease or to declare a default and terminate this Lease. A substitute bond, a new letter of credit, or a new cash or certificate of deposit, or an extension of the expiration date of any existing bond, letter of credit, or cash or certificate of deposit, must be received by Lessor no later than thirty (30) days before the expiration, cancellation or other termination of the bond, letter of credit, or cash or certificate of deposit. Failure to provide such replacement thirty (30) days prior to the expiration, cancellation or other termination shall constitute a material breach of this Lease and shall be grounds for Lessor to terminate this Lease, pursue any other remedy at law or in equity, including, but not limited to, presenting any such letter of credit, or cash or certificate of deposit for payment, or to make demand under any such bond. Presentation of any such bond, letter of credit, or cash or certificate of deposit for payment, or the demand and payment under any such bond, letter of credit, or cash or certificate of deposit, shall in no way limit the liability or obligations of Lessee, or the rights and remedies of Lessor, under this Lease. The form of any bonds, letters of credit, and cash or certificates of deposit shall be presented to Lessor for acceptance prior to the issuance of such discretion, or shall be modified or amended as may be reasonably required by Lessor.

B. Lessor Determined Bond. The amount of bond or other security to be obtained by Lessee for the aspect of Lessee's operation described in this Lease shall be determined by Lessor.

C. Adjustment of Security Amount. At intervals of not less than three (3) months after approval of the Plan and the Reclamation Plan, as applicable, Lessor may, in Lessor's reasonable discretion, following consultation with Lessee, revise the estimate of the cost of development or reclamation in accordance with the approved plan to reflect then current costs and prices for the work and materials necessary for work under the plan. Within thirty (30) days of receipt of such revised estimate, Lessee shall then cause the existing security to be adjusted to reflect the amount of the revised estimate.

D. Construction Security. Prior to the commencement of construction of any facilities or improvements on the Leased Premises, Lessee shall furnish good and sufficient payment and performance bonds, letters of credit, cash or certificate of deposit, all subject to approval by Lessor in Lessor's discretion. Any such bonds, letters of credit, cash or certificates of deposit shall be in an amount prorated for that portion of the contracted construction activity to take place in or upon the Leased Premises and shall be one-hundred twenty five percent (125%) of the full contract amount required for all such construction activities of facilities and improvements on the Leased Premises; said security shall be in favor of Lessor to protect Lessor against any and all loss due to Lessee's failure to complete such construction in accordance with the Plan or Lessee's failure to pay contractors, subcontractors or others who may provide goods and services

to Lessee. Any bond, letter of credit, cash or certificate of deposit accepted by Lessor pursuant to this Lease shall be made payable to Lessor upon demand or presentment for payment. The period of liability to maintain the security shall not be terminated until the completion of construction of all facilities and improvements to be constructed on the Leased Premises under the applicable contract for construction as determined by Lessor; the expiration of the timeframe under applicable law for filing of lien claims with respect to such construction has expired; and upon the prior written notice by Lessee to Lessor certifying the satisfaction of such events, and the written consent of Lessor to release such security, which consent shall not be unreasonably withheld.

E. Reclamation Security. Upon approval of the Reclamation Plan, Lessee shall furnish a good and sufficient letter of credit, bond, cash or certificate of deposit in the amount equal to one-hundred twenty five percent (125%) of Lessor's reasonable estimate of the cost of reclamation in accordance with the approved Reclamation Plan. The period of liability of the letter of credit, bond, cash or certificate of deposit shall not be terminated until all terms and conditions of the approved Reclamation Plan have been completed, and the security is released in writing by the City Manager.

12. Indemnification & Release of Liability.

A. Indemnification. Lessee shall indemnify, defend, and hold harmless the Lessor, the City of Twin Falls, and its officers, agents, and employees from and against any liability, claims, damages, losses, debts, obligations, judgments, expenses or actions, including, but not limited to, reasonable attorney fees, caused by or arising out of any act or omission of Lessee, or Lessee's agents, employees or invitees, or any act or omission arising out of or connected with the use or occupation of the Leased Premises, including the Event, or arising from the Lessee or Lessee's agents, or employees' failure to comply with any applicable law. If it becomes necessary for the Lessor to defend any action seeking to impose any such liability, the Lessee will pay the Lessor all costs of court and attorney fees incurred by the Lessor in effecting any such defense or response in addition to all other sums that the Lessor may be called upon to pay by reason of the entry of any judgment against it in any litigation in which such claim is asserted. This indemnification shall survive the termination or expiration of this Lease.

B. Release of Liability. Lessee and the person the subject of the Event (the "Jumper") does hereby release, and shall sign a release of liability (the "Release"), in a form acceptable to Lessor, on behalf of itself and anyone claiming by, through, or under Lessee and/or the Jumper, releasing Lessor, the City of Twin Falls, its officers, agents, and employees, from any and all liability of any kind related to the Event, including, but not limited to, the personal injury or death of the Jumper.

C. Ancillary Special Events. Lessor and Lessee have discussed the fact that Lessor has received numerous applications for special use permits for events related to the event contemplated by this agreement, and that Lessor may receive many more such applications in the future. To the extent any permits for such related or ancillary special uses are granted by Lessor, Lessor shall add a condition of approval for each such permit will be that the applicant agree to indemnify and hold

Beckley Media, LLC harmless for any and all claims that may arise from the conduct of such ancillary event. Lessor also represents that a condition of approval for each such permit will be that the applicant make an affirmative showing, to the satisfaction of the Twin Falls City Chief of Police, that the conduct of the proposed special use will not conflict, in any way, with the comprehensive Public Safety Plan being developed hereunder.

13. Inspection Rights.

Inspection by Lessor. Lessee shall permit Lessor or Lessor's authorized agent or designee to inspect and enter the Leased Premises and any improvement at any reasonable time.

14. Reservations by Lessor.

The Lessor expressly reserves and excepts the right of ingress and egress over and across the Leased Premises for itself and its assigns on existing roads or suitable alternative roads provided by the Lessee.

15. Confidential Information.

Insofar as Lessee seeks to maintain the confidentiality of its confidential or proprietary information, Lessee must clearly identify in writing the information it claims to be confidential or proprietary. Lessee acknowledges that Lessor is subject to the Idaho Public Records Law (Idaho Code §§ 9-337 through 9-350). Lessor shall maintain the confidentiality of the identified information insofar as it is consistent with applicable laws or regulations. In the event Lessor receives a request for the information identified by Lessee as confidential, Lessor shall notify Lessee and specify the date Lessor will be releasing the requested information. Any effort to prohibit or enjoin the release of the information shall be Lessee's sole responsibility and at Lessee's expense. If Lessee fails to obtain a court order enjoining the disclosure, Lessor shall release the information on the date specified in Lessor's notice to Lessee without any liability to Lessee.

16. Lessee's Default.

A. Lessee's breach of any of the terms of this Lease shall constitute a default and shall be a basis for termination of the Lease. Lessor shall provide Lessee written notice of the breach or violation and, if applicable, the corrective action required of Lessee. The notice shall specify the reasonable time to make a correction or cure the violation or breach if a correction or cure is possible. If the corrective action or cure is not taken within the specified time or does not occur, then the Lessor may cancel the Lease effective on the date specified for the corrective action or cure to have taken place.

B. Lessee agrees to relinquish possession of the Leased Premises immediately upon any termination or expiration of the Lease and to immediately remove any and all improvements placed upon the Leased Premises and to restore the Leased Premises as set

forth above. In addition to the rights and remedies specifically granted to Lessor under this Lease, Lessor shall have such other rights and remedies as against Lessee as may be available at law or in equity, and Lessor's pursuit of any particular remedy for breach or default shall not, in and of itself, constitute a waiver or relinquishment of any other available remedy, claim or cause of action by Lessor against Lessee.

17. Termination.

A. Termination by Lessee.

- i. During Phase 1 of this Lease, Lessee may terminate this Lease by giving Lessor **thirty (30)** days' prior written notice of termination. If this Lease is terminated during Phase 1, Lessee shall restore the Leased Premises to its natural contour and vegetative state, except as otherwise provided herein.
- ii. During Phase 2 of this Lease, Lessee may terminate this Lease by giving Lessor **thirty (30)** days' prior written notice of termination and completing all Lessee's obligations under the Reclamation Plan accepted by Lessor. If this Lease is terminated during Phase 2, Lessee shall restore the Leased Premises to its natural contour and vegetative state, except as otherwise provided herein.
- iii. Upon termination during Phase 1 or Phase 2, Lessee's actions on the Leased Premises shall be limited to those necessary for completion of its obligations under the Reclamation Plan.
- iv. If different Phases are occurring simultaneously, then the Termination provisions applicable to the most advanced Phase shall apply.

B. Termination by Lessor for Lessee's Default.

- i. Lessee shall be in default hereunder if any one or more of the following occurs:
 - a. Lessee fails to pay when due any sum due hereunder;
 - b. Lessee fails to observe or perform any other of the terms, covenants, agreements, conditions or undertakings herein contained to be kept, observed and performed by Lessee under this Lease when the same become due;
 - c. Lessee becomes insolvent or proceedings in bankruptcy or for liquidation, reorganization or rearrangement of Lessee's affairs are instituted by or against Lessee;
 - d. A receiver or trustee is appointed for all or substantially all of Lessee's business or assets;

- e. A trustee is appointed for Lessee after a petition has been filed for Lessee's reorganization under the United States Bankruptcy Code, or if this lease be rejected under § 365 of the United States Bankruptcy Code;
 - f. Lessee shall make an assignment for the benefit of its creditors;
 - g. Lessee makes a transfer, novation, assignment, or sublease not approved by Lessor;
 - h. Lessee's failure to complete the requirements of any phase;
 - i. Lessee's failure to complete a phase prior to the conclusion of its maximum period without the prior written approval of Lessor;
 - j. Lessee allows a lien to be filed or continued in existence without Lessor's express prior written consent ; or
 - k. Any other event or condition defined as a default in this Lease.
- ii. The following cure periods shall apply to Lessee's default under this Lease.
- a. As to any failure referred to in Subsection B.i.a, B.i.g, B.i.h, B.i.i or B.i.k, above, Lessee shall be allowed fifteen (15) days from the date of notice thereof to effect a cure by payment in full of such Rent or other sum due hereunder, or curing any other event of default.
 - b. As to any failure or default referred to in this Lease, Lessee shall be allowed the period specified in this Lease for cure, or if no cure period is specified, Lessee shall be allowed thirty (30) days from the date of notice thereof to effect a cure, provided however, in the case of any curable failure referred to in Subsection 19.B.i.b, above, which cannot with diligence be cured within the applicable cure period, if Lessee shall commence to cure within the applicable cure period and thereafter to prosecute continuously to complete the curing of such failure with diligence, the time within which to cure the same shall be extended for such period as may be reasonably necessary to complete the curing of the same with diligence.
 - c. As to an occurrence of any event described in Subsections B.i.c through B.i.f, and B.i.j, above, but only if such is the result of action brought against Lessee and without Lessee's concurrence, Lessee shall be allowed a period of thirty (30) days from the commencement of proceedings to have the same dismissed and any receiver or trustee appointed thereunder discharged.

d. All default and grace periods shall be deemed to run concurrently and not consecutively.

iii. In the event of any default by Lessee, if not cured within the applicable cure period, if any, Lessor, at its election, may enforce, by judicial action or otherwise, any one, or any combination, of any and all remedies available at law or in equity, or without limitation of any such remedies, any one, or any combination, of the following:

a. Lessor may terminate this Lease, re-enter upon all or any part of the Leased Premises, either with or without process of law, Lessee hereby waiving any demand for possession, and remove Lessee and any persons or property from the Leased Premises, and Rent shall become due thereupon and be paid up to the time of such re-entry, dispossession or termination;

b. Lessor may re-let the Leased Premises or any part or parts thereof, either in the name of Lessor or otherwise, for a term or terms, which may at Lessor's option be less than or exceed the period which would otherwise have constituted the balance of the term of this Lease and may grant concessions or free rent or charge a higher rental than that in this Lease; and

c. Lessor may collect from Lessee damages incurred by or resulting to Lessor for the failure of Lessee to observe and perform any term, condition, covenant, duty or obligation of this Lease.

d. Lessor may allow the Lease to remain in full force and effect and enforce all of Lessor's rights and remedies hereunder.

e. Remove Lessee's property and store the same at Lessee's expense, or require Lessee to remove the same.

iv. The failure of Lessor to re-let the Leased Premises or any part or parts thereof shall not release or affect Lessee's liability for damages. In computing such damages there shall be added to the said deficiency such expenses as Lessor may incur in connection with re-letting, such as legal expenses, reasonable attorney fees, brokerage, advertising and for keeping the Leased Premises in good order or for preparing the same for re-letting. Any such damages shall be paid in installments by Lessee on the Rent day specified in this Lease and any suit brought to collect the amount of the deficiency for any period shall not prejudice in any way the rights of Lessor to collect the deficiency for any subsequent period by a similar proceeding. Lessor, in putting the Leased Premises in good order or preparing the same for re-

C. Surrender by Lessee Upon Expiration of Lease Term or Upon Termination. Upon expiration of the Lease term or if sooner terminated, Lessee shall immediately and peaceably surrender and deliver up the Leased Premises to Lessor, subject to any additional reclamation work to be performed on the Leased Premises as contemplated by the Reclamation Plan accepted by Lessor.

D. Reclamation of Leased Premises. Prior to or upon expiration or termination of this Lease, Lessee shall complete reclamation of the Leased Premises in accordance with the Reclamation Plan accepted by Lessor.

18. Notices.

A. All notice(s) including, but not limited to, a change in address, given in connection with the Lease shall be in writing and shall be delivered either by hand or by regular United States Mail, return receipt requested, to Lessor at the address listed in the Summary of Lease Provisions, and to Lessee at the address listed in Summary of Lease Provisions.

B. Any notice or correspondence mailed to Lessee at the last identified address shall be deemed effective delivery. It is the Lessee's duty to notify Lessor, in writing, of any change in Lessee's mailing address.

19. Waiver.

The waiver by the Lessor of any breach of any term, covenant, or condition of this Lease shall not be deemed to be a waiver of any past, present, or future breach of the same or any other term, covenant, or condition of this Lease. The acceptance of rent by the Lessor hereunder shall not be construed to be a waiver of any term, covenant or condition of this Lease. No payment by the Lessee of any amount less than that due and owing, according to the terms of this Lease, shall be deemed or construed to be other than a partial payment on account of the most recent rent due, nor shall any endorsement or statement on any check or letter accompanying any payment be deemed to create an accord and satisfaction. Any payment shall be applied first to late charges, accrued interest and costs incurred by the Lessor as a result of the Lessor's breach of any term, covenant or condition of this Lease, then to the principal balance owing by the Lessee to the Lessor hereunder.

20. Attorney Fees and Costs.

In the event either party to this Lease shall institute a lawsuit of any kind under this Lease or any action is taken by either party to obtain performance of any obligation due under this Lease, then the unsuccessful party to such litigation shall pay to the prevailing party all costs and expenses, including reasonable attorney fees, accountant fees and appraiser fees and fees of other experts, reasonably incurred therein by the prevailing party, including all such costs and expenses

incurred with respect to an appeal and such may be included in the judgment entered in such action.

21. Officials, Agents and Employees Not Personally Liable.

In no event shall any official, officer, employee or agent of the State be in any way personally liable or responsible for any covenant or obligation contained in this Lease, express or implied, nor for any statement, representation or warranty made in connection herewith.

22. Miscellaneous.

A. Modification. The terms and conditions of this Lease may be modified only by the prior written consent of the authorized representatives of the Lessor and Lessee.

B. Complete Statement of Terms. No other understanding, whether oral or written, whether made prior to or contemporaneously with this Lease, shall be deemed to enlarge, limit, or otherwise affect the operation of this Lease.

C. Lessee's Non-Discrimination. Lessee shall not discriminate against any person because of race, creed, religion, color, sex, national origin or disability.

D. Paragraph Headings. The paragraph headings, titles, and captions used in this Lease are not to be construed as interpretations, but are inserted for convenience and reference only.

E. Entire Agreement. This Lease (including the Summary of Lease Provisions, Lease Provisions, Signature Pages and all Attachments) contain the entire agreement between the parties as of the Commencement Date concerning the subject matter hereof, and supersedes all prior or contemporaneous agreements, whether written or oral.

F. Governing Law and Forum. This Lease shall be construed in accordance with, and governed by, the laws of the State of Idaho; and, the parties consent to the jurisdiction of Idaho State Courts located in Twin Falls County in the event of any dispute with respect to this Lease.

G. Binding on Heirs and Successors. It is understood and agreed that all terms, covenants, and conditions hereof shall be binding upon the approved subleases, approved assignees, and upon Lessee's heirs or successors-in-interest.

H. Severability. In the event any provision of this Lease shall be held invalid or unenforceable by a court of appropriate jurisdiction, for any reason whatsoever, then the validity, legality and enforceability of the remaining provisions shall not in any way be adversely affected or impaired.

I. Licenses, Permits and Authorizations. Lessee shall be responsible for obtaining and paying any and all costs or fees for any license, permit or authorization that may be required from any applicable entity or governmental body which may be required by any applicable federal, state or local governmental law, rule, regulation or ordinance, or as required in the course of doing business or as related to the use and purpose of this Lease.

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ATTACHMENT A – SPECIAL TERMS AND CONDITIONS

The following terms and conditions are applicable to any and all activities of Lessee on the Leased Premises.

1. Use of the leased premises shall be restricted to the Lessee, its contractors and members of the production and media crew(s), or other persons affiliated with the Event. The Lessee shall not sell tickets for admission onto the leased premises, or otherwise permit the public on the leased premises, for any reason whatsoever, including viewing the Event. In addition, Lessee shall not permit either the possession or consumption of alcohol on the leased premises.
2. In promoting the event contemplated in this Lease, Lessee agrees that Lessor is neither participating in nor sponsoring the event. Lessee shall never represent to the public or otherwise that the Lessee is participating in or sponsoring the event, nor use the Lessee's logo in any advertising or promotion; provided, however, that Lessee may represent that Lessor has approved the event as a special use of the Leased Premises and has granted Lessee the permission to conduct the event upon said premises. Lessee may also represent that it has coordinated its activities with personnel from the City of Twin Falls, including personnel from the City's Police Department.
3. Lessee will cause portable toilets and trash cans to remain on site during the event and, if necessary, during the periods of site preparation and reclamation contemplated by this agreement. Such portable sanitation facilities will meet all state and federal requirements to accommodate the members of event staff and media staff on site during such activities.
4. Lessee shall reimburse the Lessor for staff time expended in the preparation and administration of this Lease Agreement. The term "staff time" means the fully burdened cost to the Lessee, including all benefits, taxes, etc. Lessee agrees to bill Lessor for this staff time on a regular basis. Lessee agrees to pay each bill within thirty (30) days of the billing date.
5. Upon approval of the Lessee's plan as provided for in Phase 1, Lessee shall prepare a good faith estimate of the additional law enforcement costs to be incurred by Lessee as a result of the Event. Lessee shall deposit with Lessor the full amount of this estimate within thirty (30) days of receipt of said good faith estimate. Lessor shall document all actual costs of additional law enforcement related to the Event. If Lessor's actual additional law enforcement costs are less than the estimated costs, Lessor shall return the difference between the deposit and the actual cost, within thirty (30) days of making a final accounting. If the Lessor's actual additional law enforcement costs are more than the estimated costs, Lessee shall pay Lessee the

- difference between the estimated costs and the actual costs within thirty (30) days of receipt billing from Lessor.
6. Lessee agrees to work with Lessor Lessee's media partners on the promotion education of local region, etc.
 7. (Other special terms and conditions to be negotiated by the parties).

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ATTACHMENT B – LEGAL DESCRIPTION

EXHIBIT A

LEGAL DESCRIPTION (North Portion) [#1]

A parcel of land located in Government Lots 8 and 9 of Section 35, Township 9 South, Range 17 East, Boise Meridian, Twin Falls County, Idaho, and more particularly described as follows:

Commencing at a found brass cap monumenting the Southeast Corner of said Section 35 from which a brass cap monumenting a Meander Corner common to Sections 35 and 36 bears North 00°00'28" East, 2498.84 feet;

THENCE North 89°52'20" West along the south boundary of said Government Lot 9 for a distance of 329.11 feet;

THENCE North 05°25'12" West (Deed Bearing - North 05°25'00" West) for a distance of 180.78 feet to the POINT OF BEGINNING;

THENCE North 05°25'12" West (Deed Bearing - North 05°25'00" West) for a distance of 1,515.01 feet to a found 1/2 inch rebar & cap (LS-889);

THENCE North 24°25'07" West (Deed Bearing - North 24°28'30" West) for a distance of 400.01 feet (Deed Distance - 400.16 feet) to a point on the southerly rim of the Snake River Canyon;

THENCE along the southerly rim of the Snake River Canyon on the following courses:

North 69°34'21" East for a distance of 49.16 feet;

South 80°30'23" East for a distance of 88.97 feet;

South 78°40'51" East for a distance of 186.33 feet;

North 70°32'10" East for a distance of 70.90 feet;

North 83°31'21" East for a distance of 89.67 feet;

North 85°14'10" East for a distance of 47.14 feet;

North 82°38'18" East for a distance of 52.05 feet;

North 88°06'30" East for a distance of 68.42 feet;

South 55°32'00" East (Deed Bearing - South 55°57'42" East) for a distance of 18.76 feet (Deed Distance - 18.98 feet) to a found 5/8 rebar;

THENCE South 00°00'28" West (Deed Bearing - South 00°00'55" West) leaving the southerly rim of the Snake River Canyon and along the easterly boundary of said Section 35 for a distance of 49.31 feet;

THENCE North 88°56'21" West for a distance of 131.74 feet;

THENCE South 82°17'21" West for a distance of 100.43 feet;

THENCE South 76°18'42" West for a distance of 150.14 feet;
THENCE South 08°30'09" West for a distance of 212.68 feet;
THENCE South 13°39'08" West for a distance of 111.05 feet;
THENCE South 05°25'12" East for a distance of 108.18 feet;
THENCE North 82°43'22" East for a distance of 132.00 feet;
THENCE South 00°00'00" East for a distance of 371.43 feet;
THENCE South 83°07'10" West for a distance of 96.88 feet;
THENCE South 05°25'12" East for a distance of 990.74 feet;
THENCE North 89°53'01" West for a distance of 50.23 feet to the POINT
OF BEGINNING.

Said parcel contains 4.68 acres, more or less.

Record bearings and distances reference Instrument Numbers 2007-019907
and 2007-19908 Twin Falls County Records.

EXHIBIT B

LEGAL DESCRIPTION (South Portion) [#2]

A parcel of land located in part of Government Lot 9 of Section 35, Township 9 South, Range 17 East and part of Government Lot 1 and the Southeast Quarter of the Northeast Quarter of Section 2, Township 10 South, Range 17 East, Boise Meridian, Twin Falls County, Idaho, and more particularly described as follows:

Commencing at a found 5/8 inch rebar monumenting the East Quarter Corner of said Section 2 from which a brass cap monumenting the Northeast corner of said Section 2, bears North 00°10'40" East, 2671.65 feet;

THENCE North 00°10'40" East along the easterly boundary of said Section 2 for a distance of 1,301.68 feet;

THENCE North 89°49'20" West for a distance of 25.00 feet to a point on the westerly prescriptive easement line of Hankins Road and being the POINT OF BEGINNING;

THENCE North 89°49'20" West for a distance of 14.00 feet to a point on a nontangential curve left;

THENCE northwesterly 47.43 feet along a curve to the left having a radius of 30.00 feet, delta angle of 90°34'51", and a long chord bearing North 45°06'46" West for a distance of 42.64 feet;

THENCE South 89°35'49" West for a distance of 111.46 feet;

THENCE North 12°29'43" West (Deed Bearing - North 12°27'14" West) for a distance of 136.86 feet to a found 1/2 inch rebar and cap (LS-889);

THENCE North 05°25'12" West (Deed Bearing - North 05°25'00" West) for a distance of 1,393.85 feet;

THENCE South 89°53'01" East for a distance of 50.23 feet;

THENCE South 05°25'12" East for a distance of 1,385.92 feet;

THENCE South 12°29'43" East for a distance of 64.71 feet;

THENCE North 89°35'49" East for a distance of 122.13 feet to a point on the westerly prescriptive easement line of Hankins Road;

THENCE South 00°10'40" West along the westerly prescriptive easement line of Hankins Road for a distance of 108.45 feet to the POINT OF BEGINNING.

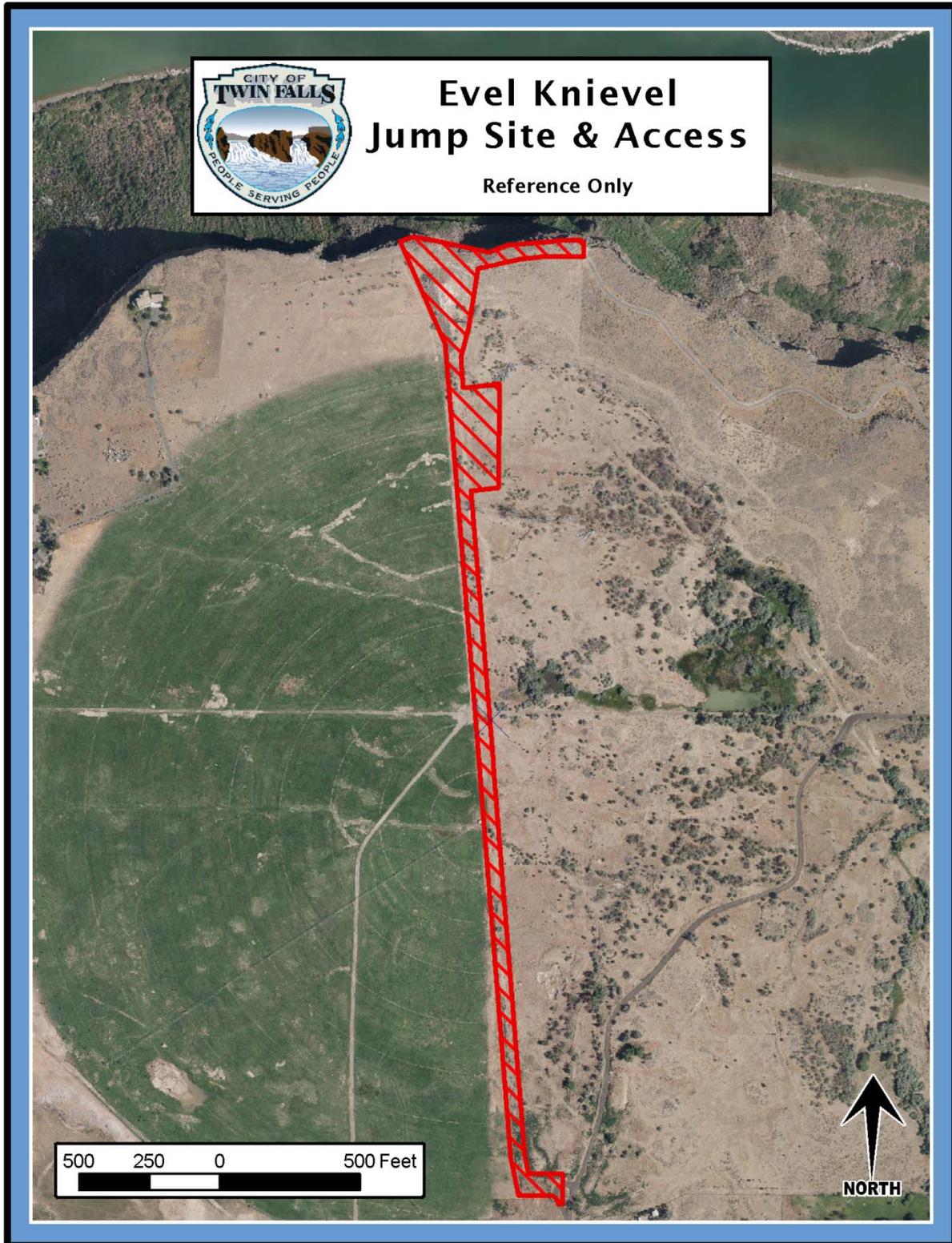
Said parcel contains 1.97 acres, more or less.

Record bearings and distances reference Instrument Number 2007-019907 Twin Falls County Records.

Page 1 of 1
7/30/2009



ATTACHEMENT C – AERIAL MAP



ATTACHMENT D -

DRAFT



MONDAY January 27, 2014
To: Honorable Mayor and City Council
From: Mitchel Humble, Community Development Director

Request:

A public hearing to consider the City's intent to dispose of a 770± square foot portion of a City owned lot located at 2617 Paintbrush Drive.

Time Estimate:

The staff presentation will take approximately 5 minutes. Time will be needed for public input and for discussion and questions.

Background:

At their January 6, 2014 meeting, the Council initiated a process to dispose of underutilized City owned property located at 2617 Paintbrush Drive. The City received a request from Doris Ryall to acquire the easterly seven feet of Lot 1, Block 1, of the Twin Falls Wilstar Subdivision Amended. That lot contains a retention pond and is owned by the City. Ms. Ryall owns the adjacent lot, Lot 2. The previous owner of Ms. Ryall's lot constructed paving and fencing improvements that encroach seven feet onto the City's lot, but do not impact the retention pond on the lot.

In response to the request, the Council adopted a resolution declaring the City's intent to dispose of real property and setting a date for a public hearing regarding the proposed disposition of property. The purpose of this public hearing is for the Council to receive input regarding the proposed disposition of City property. Following the public hearing, the Council can direct Staff to dispose of the property.

Process:

A simple majority vote of the Council is needed to provide direction regarding the sale of the property. The City must first attempt to sell the property by auction. The property must be sold to the highest bidder. If there are no bids, then the City can proceed to enter negotiations with any interested party.

Budget Impact:

Approval of this item will result in the sale of real property. As the process involves an auction, we do not have an estimate of the potential revenue from the sale.

Regulatory Impact:

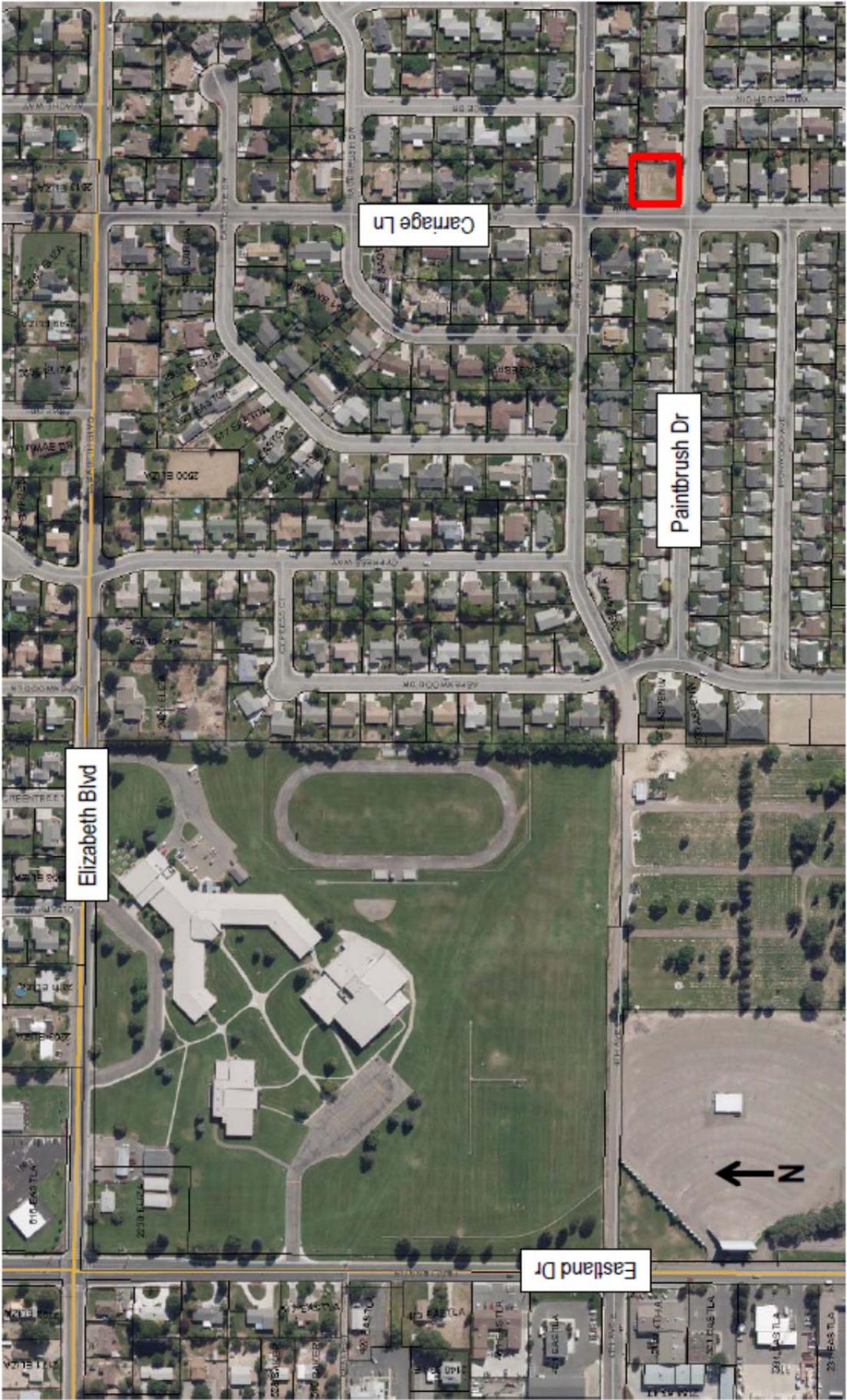
Approval of this request will allow staff to proceed to auction the property as described above.

Conclusion:

Staff recommends that the Council open a public hearing and then provide Staff direction regarding the sale of City owned property located at 2617 Paintbrush Drive.

Attachments:

1. Property Location Map
2. Aerial Photo of Property



Elizabeth Blvd

Eastland Dr

Carriage Ln

Paintbrush Dr

