



CITY OF TWIN FALLS, IDAHO

MEETING NOTICE CITY COUNCIL

* * * *

The Twin Falls City Council will meet at the Council Chambers located at 305 Third Avenue East on Monday, February 3, 2014, at 4:00 p.m.

The schedule is as follows:

- 4:00 p.m. City Council to tour the Snake River Canyon Jump Site.
- 5:00 p.m. Executive Session 67-2345(f) To communicate with legal counsel for the public agency to discuss the legal ramifications and legal options for pending litigation or controversies not yet being litigated but imminently likely to be litigated. The mere presence of legal counsel at an executive session does not satisfy this requirement.
- 5:30 p.m. Regular meeting.
- 6:00 p.m. Consideration of an Agreement with Beckley Media to use Twin Falls City property in his effort to jump the Snake River Canyon

Leila A. Sanchez
Deputy City Clerk/Recording Secretary

COUNCIL MEMBERS:

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



**Second
AMENDED AGENDA**
Meeting of the Twin Falls City Council
Monday, February 3, 2014
City Council Chambers
305 3rd Avenue East -Twin Falls, Idaho

4:00 p.m.

City Council to tour the Snake River Canyon Jump Site.

5:00 p.m.

Executive Session 67-2345(f) To communicate with legal counsel for the public agency to discuss the legal ramifications and legal options for pending litigation or controversies not yet being litigated but imminently likely to be litigated. The mere presence of legal counsel at an executive session does not satisfy this requirement.

5:30 p.m.

PLEDGE OF ALLEGIANCE TO THE FLAG
CONFIRMATION OF QUORUM
CONSIDERATION OF THE AMENDMENTS TO THE AGENDA
PROCLAMATIONS

GENERAL PUBLIC INPUT

AGENDA ITEMS	Purpose	By:
I. <u>CONSENT CALENDAR:</u>		
1. Consideration of a request to approve the January 28–February 3, 2014, Accounts Payable, total: \$223,259.54; January 31, 2014, Fire Payroll, total: \$51,284.74; January 31, 2014, Payroll, total: \$21,725.30.	Action Action	Staff Report Sharon Bryan
2. Consideration of a request to approve a Liquor License for Buffalo Wild Wings Grill & Bar located at 1239 Poleline Road #303B.	Action	Sharon Bryan
3. Consideration of a request to approve a Beer and Wine License ownership transfer to Jeremy Sudik dba Scooter's located at 137 2nd Avenue East	Action	Sharon Bryan
4. Consideration of a request to approve Findings of Fact, Conclusions of Law, and Decision for Cederpark #10 Subdivision.	Action	Mitchel Humble
II. <u>ITEMS FOR CONSIDERATION:</u>		
1. 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	Melinda Anderson
2. Consideration of a request to approve the Airport Advisory Board's recommendation to renew on-airport car rental lease agreements.	Action	Bill Carberry
3. Consideration of a request to utilize a \$25,000 ITD State grant to purchase an Airport maintenance truck and flatbed.	Action	Bill Carberry
4. Public input and/or items from the City Manager and City Council.		
III. <u>ADVISORY BOARD REPORTS/ANNOUNCEMENTS:</u>		
IV. <u>PUBLIC HEARINGS:</u> 6:00		
1. Consideration of a request to approve the agreement with Beckley Media to use Twin Falls City property in his effort to jump the Snake River Canyon.	PH ACTION	City Council
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.

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.



Date: February 3, 2014, City Council Meeting

To: Honorable Mayor and City Council

From: Sharon Bryan, Deputy City Clerk

Request:

Approval of a Liquor License for Buffalo Wild Wings Grill & Bar at 1239 Poleline Road #303B.

Time: Consent Calendar

Background: Approval of Alcohol License.

Budget Impact: N/A

Regulatory Impact: City and State Code Compliance

Conclusion: Staff recommends approval of the application on the condition they get there State License.

Attachments: Alcohol License Application



ALCOHOL LICENSE APPLICATION

BUSINESS NAME Screamin' Hot Twin Falls LLC STATE LICENSE # _____
(Please attach a copy of your state license)
DOING BUSINESS AS Buffalo Wild Wings Grill & Bar
BUSINESS ADDRESS 1239 Pde Line Road #303B Twin Falls ID
LEGAL DESCRIPTION OF PLACE OF BUSINESS Magic Valley Mall
Lot _____ Block _____ Subdivision _____
MAILING ADDRESS 7068 N Sierra Glen Way Meridian ID 83646
CONTACT PERSON Doug Davie PHONE # (208) 914-1412

			(Check)
BEER:	Bottled for consumption off the premises only	(\$ 50.00)	_____
	Bottled for consumption on premise	(\$ 150.00)	_____
	Bottled & Draught for consumption on premises	(\$200.00)	_____
WINE:	Retail Sales for consumption off premises only	(\$200.00)	_____
	Wine by the Drink for consumption on premises only	(\$200.00)	_____
LIQUOR:	Liquor license & fees cover wine license & fees	(\$562.50)	<input checked="" type="checkbox"/>

As provided by the laws of the City of Twin Falls, Idaho for the term ending **June 30, 2010** tendered herewith is the license fee of \$ _____. (Ordinance #2708)

APPLICANT IS AN INDIVIDUAL () PARTNERSHIP () CORPORATION ()

IF A PARTNERSHIP, NAME ALL PARTNERS: (PLEASE PRINT)

NAME: Douglas Davie RESIDENCE: Idaho

NAME: Pat Katz RESIDENCE: Florida

NAME: Sony Beckley RESIDENCE: Kentucky

NAME: Kurtis Montgomery RESIDENCE: Arizona

IF A CORPORATION OR ASSOCIATION, NAME ALL OFFICERS:

NAME: _____ ADDRESS: _____

TITLE: _____

DATE OF INCORPORATION OR ORGANIZATION 2/11/2010

PLACE OF INCORPORATION OR ORGANIZATION Idaho

PRINCIPAL PLACE OF BUSINESS IN IDAHO 7068 N Sienna Glen Way Meridian ID 83646

OWNER OF PREMISES (Please Print) Woodbury Corporation

NAME OF PERSON WHO WILL MANAGE BUSINESS OF SELLING BEER AT RETAIL:
(Please Print) Rui Gomes General Manager

(IF A PARTNERSHIP, ALL PARTNERS NEED TO SIGN)

X SIGNATURE OF APPLICANT Douglas L. Davis

NAME (Please Print) Douglas L Davis BIRTHDATE: 08/03/1958

RESIDENCE OF APPLICANT 7068 N Sienna Glen Way Meridian ID 83646

LENGTH OF RESIDENCE IN IDAHO 5 1/2 years

SIGNATURE OF APPLICANT _____

NAME (Please Print) John Pat Katz BIRTHDATE: 06/04/1967

RESIDENCE OF APPLICANT 3744 Windber Blvd., Palm Harbor, Florida 34685

LENGTH OF RESIDENCE IN IDAHO 0

SIGNATURE OF APPLICANT _____

NAME (Please Print) Sony Beckley BIRTHDATE: 11/27/1954

RESIDENCE OF APPLICANT 3712 Park Ridge Lane, Lexington, KY

LENGTH OF RESIDENCE IN IDAHO 0

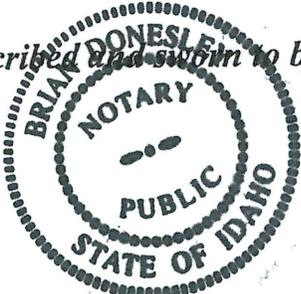
SIGNATURE OF APPLICANT _____

NAME (Please Print) Kurtis Montgomery BIRTHDATE: 08/02/1956

RESIDENCE OF APPLICANT 1838 E Cascade Dr., Gilbert, AZ. 85234

LENGTH OF RESIDENCE IN IDAHO 0

Subscribed and sworn to before me this _____ day of _____, 20____.



X Brian Donestay
Notary Public for Idaho
Residing at: Boise, ID
Notary Expiration Date: 4-30-17

CITY STAFF USE ONLY:

APPROVALS:

PLANNING AND ZONING: Yes No DATE: 1-31-14

COMMENTS: see attached

POLICE DEPT: Yes No DATE: 1/29/14

COMMENTS: [Signature]

CITY CLERK: Yes No DATE: 1/29/14

COMMENTS: _____

BRIAN DONESLEY
ATTORNEY AT LAW

BRIAN DONESLEY
Licensed in Idaho
and Washington

802 W. Bannock St.
Suite LP106
Post Office Box 419
Boise, Idaho 83701-0419
Telephone: (208) 343-3851
Facsimile: (208) 343-4188
bdonesley@bdlaw.com
Website: BrianDonesley.com

January 23, 2014

Office of the City Clerk
City of Twin Falls
Attn: Sharon Bryan
Deputy City Clerk
P.O. Box 1907
Twin Falls, ID 83303

Re: *Alcohol License Application for Screaming Hot Twin Falls, LLC*
dba Buffalo Wild Wings Grill and Bar
1239 Pole Line Road # 303D
Twin Falls, Idaho

Dear Ms. Bryan:

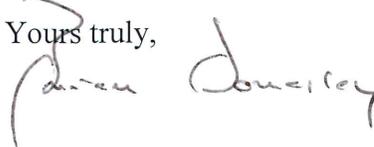
Thank you for your assistance in this matter.

Enclosed is a completed and signed Alcohol License Application from Screaming Hot Twin Falls, LLC. Also provided is a check #9196 payable to the City of Twin Falls in the amount \$562.50 for fees.

Requested is that this matter be set on the agenda for the City Council for Monday, February 3, 2014. A copy of the State license will be faxed at approximately 8:30 AM on February 3, 2014, and an original will be available at the City Council hearing that night. The State has agreed to make that license available on February 3, 2014, at the same time that it transfers the current license to Scooter's 1:11, LLC dba Scooter's. The intention is to avoid lost sales.

Please confirm that this a good plan.

If you have any questions or concerns, please call me. And, thank you again for your assistance in the matter.

Yours truly,


Brian Donesley

BD/ms

cc: Client

Sharon Bryan

From: Renee Carraway
Sent: Friday, January 24, 2014 7:08 AM
To: Sharon Bryan; Kelly Weeks; Jonathan Spendlove
Subject: RE: Scooters @ 137 2nd Ave E

No concerns with either business. Thank you Sharon.

From: Sharon Bryan
Sent: Thursday, January 23, 2014 4:47 PM
To: Renee Carraway; Kelly Weeks; Jonathan Spendlove
Subject: Scooters @ 137 2nd Ave E

Scooters has applied for a liquor license transfer. They have acquired Buffalo Wild Wings liquor license and Buffalo will be coming in for a new liquor license probably next week some time. Please let me know if you have any concerns. Thanks, Sharon



Date: November 25, 2013, City Council Meeting

To: Honorable Mayor and City Council

From: Sharon Bryan, Deputy City Clerk

Request:

Approval of a Beer and Wine License ownership transfer Jeremy Sudik dba Scooter's, 137 2nd Avenue East

Time: Consent Calendar

Background: Approval of Alcohol License

Budget Impact: N/A

Regulatory Impact: City and State Code Compliance

Conclusion: Staff recommends approval of the application.

Attachments: Alcohol License Application



ALCOHOL LICENSE APPLICATION

BUSINESS NAME SCOOTERS STATE LICENSE # 2118
 (Please attach a copy of your state license)
 DOING BUSINESS AS SCOOTERS "CHURCH & GREEN"
 BUSINESS ADDRESS 137 2nd Ave E.
 LEGAL DESCRIPTION OF PLACE OF BUSINESS RESTAURANT
 Lot 2627.28 Block 72 Subdivision _____
 MAILING ADDRESS 137 2nd Ave E.
 CONTACT PERSON JEREMY SUDJIC PHONE # _____

			(Check)
BEER:	Bottled for consumption off the premises only	(\$ 50.00)	_____
	Bottled for consumption on premise	(\$ 150.00)	_____
	Bottled & Draught for consumption on premises	(\$200.00)	_____
WINE:	Retail Sales for consumption off premises only	(\$200.00)	_____
	Wine by the Drink for consumption on premises only	(\$200.00)	_____
LIQUOR:	Liquor license & fees cover wine license & fees	(\$562.50)	<input checked="" type="checkbox"/> <u>transfer</u> <u>750.00</u>

As provided by the laws of the City of Twin Falls, Idaho for the term ending June 30, 2010 tendered herewith is the license fee of \$ 412.50 50.00 (Ordinance #2708)

APPLICANT IS AN INDIVIDUAL () PARTNERSHIP () CORPORATION ()

IF A PARTNERSHIP, NAME ALL PARTNERS: (PLEASE PRINT)

NAME: _____ RESIDENCE: _____
 NAME: _____ RESIDENCE: _____
 NAME: _____ RESIDENCE: _____

IF A CORPORATION OR ASSOCIATION, NAME ALL OFFICERS:

NAME: JEREMY SUDJIC ADDRESS: 3543 E 3131 N Kimberly Id 8334
 TITLE: OWNER
 NAME: _____ ADDRESS: _____
 TITLE: _____
 NAME: _____ ADDRESS: _____

TITLE: _____

NAME: _____ ADDRESS: _____

TITLE: _____

DATE OF INCORPORATION OR ORGANIZATION 11/13

PLACE OF INCORPORATION OR ORGANIZATION Scooters

PRINCIPAL PLACE OF BUSINESS IN IDAHO _____

OWNER OF PREMISES (Please Print) JEREMY SUDER

NAME OF PERSON WHO WILL MANAGE BUSINESS OF SELLING BEER AT RETAIL:
(Please Print) JEREMY SUDER

(IF A PARTNERSHIP, ALL PARTNERS NEED TO SIGN)

X SIGNATURE OF APPLICANT [Signature]

NAME (Please Print) JEREMY SUDER BIRTHDATE: 6/24/82

RESIDENCE OF APPLICANT _____

LENGTH OF RESIDENCE IN IDAHO 30

SIGNATURE OF APPLICANT _____

NAME (Please Print) _____ BIRTHDATE: _____

RESIDENCE OF APPLICANT _____

LENGTH OF RESIDENCE IN IDAHO _____

SIGNATURE OF APPLICANT _____

NAME (Please Print) _____ BIRTHDATE: _____

RESIDENCE OF APPLICANT _____

LENGTH OF RESIDENCE IN IDAHO _____

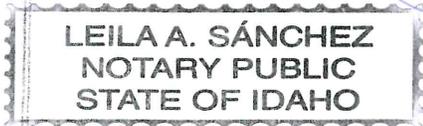
SIGNATURE OF APPLICANT _____

NAME (Please Print) _____ BIRTHDATE: _____

RESIDENCE OF APPLICANT _____

LENGTH OF RESIDENCE IN IDAHO _____

Subscribed and sworn to before me this 23RD day of January, 2014.



X [Signature]
Notary Public for Idaho
Residing at: Twin Falls
Notary Expiration Date: May 18, 2018

CITY CODE TITLE 3, CHAPTER 9 – LIQUOR LICENSE

1. Fill License application out completely.

2. LICENSE FEE:

Liquor	\$562.50
Transfer of ownership fees	\$ 50.00

3. Copy of current State License.

4. If a partnership all partners need to sign application.

5. All signatures need to be notarized.



Sharon M. Bryan
Deputy City Clerk

321 2nd Ave. E.
P.O. Box 1907
Twin Falls, ID 83303-1907

Bus: (208) 735-7245
Fax: (208) 732-0741
Email: sbryan@tffd.org

CITY STAFF USE ONLY:

APPROVALS:

PLANNING AND ZONING: Yes No DATE: 1/24/2014

COMMENTS: see attached

POLICE DEPT: Yes No DATE: 1/29/14

COMMENTS: Max JA

CITY CLERK: Yes No DATE: 1/29/14

COMMENTS: _____

Sharon Bryan

From: Renee Carraway
Sent: Friday, January 24, 2014 7:08 AM
To: Sharon Bryan; Kelly Weeks; Jonathan Spendlove
Subject: RE: Scooters @ 137 2nd Ave E

No concerns with either business. Thank you Sharon.

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BEFORE THE CITY COUNCIL OF THE CITY OF TWIN FALLS

In Re:)
))
Final Plat Application,) FINDINGS OF FACT,
))
Cedarpark #10 Subdivision) CONCLUSIONS OF LAW,
Applicant(s).))
)) AND DECISION

This matter having come before the City Council of the City of Twin Falls, Idaho on December 16, 2013 for consideration of the final plat of the Cedarpark #10 Subdivision, approximately 3.96 (+/-) acres consisting of seven (7) commercial lots on property located at the southwest corner of Carriage Lane North and Chuck Wagon Place , and the City Council having heard testimony from interested parties, having received written Findings from the Planning and Zoning Commission and being fully advised in the matter, now makes the following

FINDINGS OF FACT

1. Applicant has requested approval of the final plat of the Cedarpark #10 Subdivision, approximately 3.96 (+/-) acres consisting of seven (7) commercial lots on property located at the southwest corner of Carriage Lane North and Chuck Wagon Place.
2. The property in question is zoned C-1 PUD pursuant to the Zoning Ordinance of the City of Twin Falls. The property is designated as Commercial/Retail in the duly adopted Comprehensive Plan of the City of Twin Falls.
3. The existing neighboring land uses in the immediate area of this property are: to the north, Chuck Wagon Place/Carriage Lane North Apartments; to the south, Undeveloped Commercial Land; to the east, Carriage Lane North/Undeveloped Commercial Land; to the west, Undeveloped Commercial Land.

4. The City Engineering Office has reviewed the final plat and has approved the proposed street accesses and public utility extensions, subject to availability of such services at the time of development. The developer will pay all costs of public improvements, including but not limited to streets, curb gutter and sidewalks, sewer, water and pressurized irrigation systems. The proposed development includes dedication of additional right-of-way in compliance with the Master Street Plan.

Based on the foregoing Findings of Fact and the regulations and standards set forth below, the City Council hereby makes the following

CONCLUSIONS OF LAW

1. The final plat of the Cedarpark #10 Subdivision, approximately 3.96 (+/-) acres consisting of seven (7) commercial lots on property located at the southwest corner of Carriage Lane North and Chuck Wagon Place is in conformance with the objectives of the zoning ordinance and the policy for developments in Twin Falls City Code §10-1-4. Specifically, the land can be used safely for building purposes without danger to health or peril from fire, flood or other menace, proper provision has been made for drainage, water sewerage and capital improvements including schools, parks, recreation facilities, transportation facilities and improvements, all existing and proposed public improvements conform to the Comprehensive Plan.

2. The final plat is in conformance with the Comprehensive Plan as required by Twin Falls City Code §10-12-2.3(H)(2)(a).

3. Public services are currently available to accommodate the proposed development, as required by Twin Falls City Code §10-12-2.3(H) (2) (b). Public services may not be available at the time of development, depending upon the speed of development of this and other subdivisions and the ability of the City to obtain additional water and/or sewer capacity.

4. The development of streets, sewer, water, irrigation, dedication of park land and other public improvements at the cost of the developer will not adversely affect any capital improvement plan and will integrate with existing public facilities, as required by Twin Falls City Code §10-12-2.3(H)(2)(c).

5. There is sufficient public financial capability of supporting services for the proposed development, as required by Twin Falls City Code §10-12-2.3(H)(2)(d).

6. There are no other health, safety or environmental problems associated with the proposed development that were brought to the City Council's attention, per Twin Falls City Code §10-12- 2.3(H)(2)(e).

7. The final plat is in conformance with the Preliminary Plat. Based on the foregoing Conclusions of Law, the Twin Falls City Council hereby enters the following

DECISION

The request for approval of the final plat of the Cedarpark #10 Subdivision, approximately 3.96 (+/-) acres consisting of seven (7) commercial lots on property located at the southwest corner of Carriage Lane North and Chuck Wagon Place is hereby granted, subject to final technical review by the City Engineer's Office and subject to the conditions which are attached as "Exhibit No. A", and incorporated by reference as though fully set forth herein. The applicant shall comply with all applicable requirements of the Adopted Standard Drawings, the Zoning Ordinance, and the City Code of the City of Twin Falls.

MAYOR - TWIN FALLS CITY COUNCIL

DATE

"EXHIBIT NO. A"

1. Subject to final technical review and amendments as required by Building, Engineering, Fire & Zoning Officials to ensure compliance with all applicable City Code requirements and standards.
2. Subject to compliance with the Cedar Park PUD Agreement
3. Subject to landscaping Buffer Maintenance Agreement between Cedarpark #10, Lot 1, Block 1 and Cedarpark #1, Lot 37, Block 4, being executed and a copy given to the City prior to recordation of the final plat
4. Subject to an adequate sewer service plan agreement between the developer and the City Engineering Department prior to recordation of the final plat.



MONDAY February 3, 2014
To: Honorable Mayor and City Council
From: Melinda Anderson, Economic Development Director

Request:

Consider and act on a resolution declaring the City's intent to dispose of real property and setting a date for a public hearing.

Time Estimate:

Staff presentation will take approximately 2 minutes. Time will be needed for discussion.

Background:

At their January 27, 2014 meeting, the Council directed staff to initiate the process to dispose of excess public property. This is an undeveloped, vacant lot located on the 200 block of 2nd Avenue South (Lots 9 & 10, Block 119) adjacent to a TFURA-owned building at 242 2nd Avenue South. TFURA is interested in acquiring the City's vacant lot to combine with its site to offer as a package for redevelopment.

The first step in that process is to adopt 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 the property. The City Attorney has prepared a resolution that accomplishes those two purposes. The resolution sets the public hearing date for Monday, February 24, 2014 at 6:00 pm in the City Council Chambers located at 305 3rd Avenue East.

Process:

A simple majority vote of the Council is needed to adopt the attached resolution.

Budget Impact:

If the Council adopts the resolution there will be a small cost to notify the public hearing on 2/3/14 for which TFURA could reimburse the City.

Regulatory Impact:

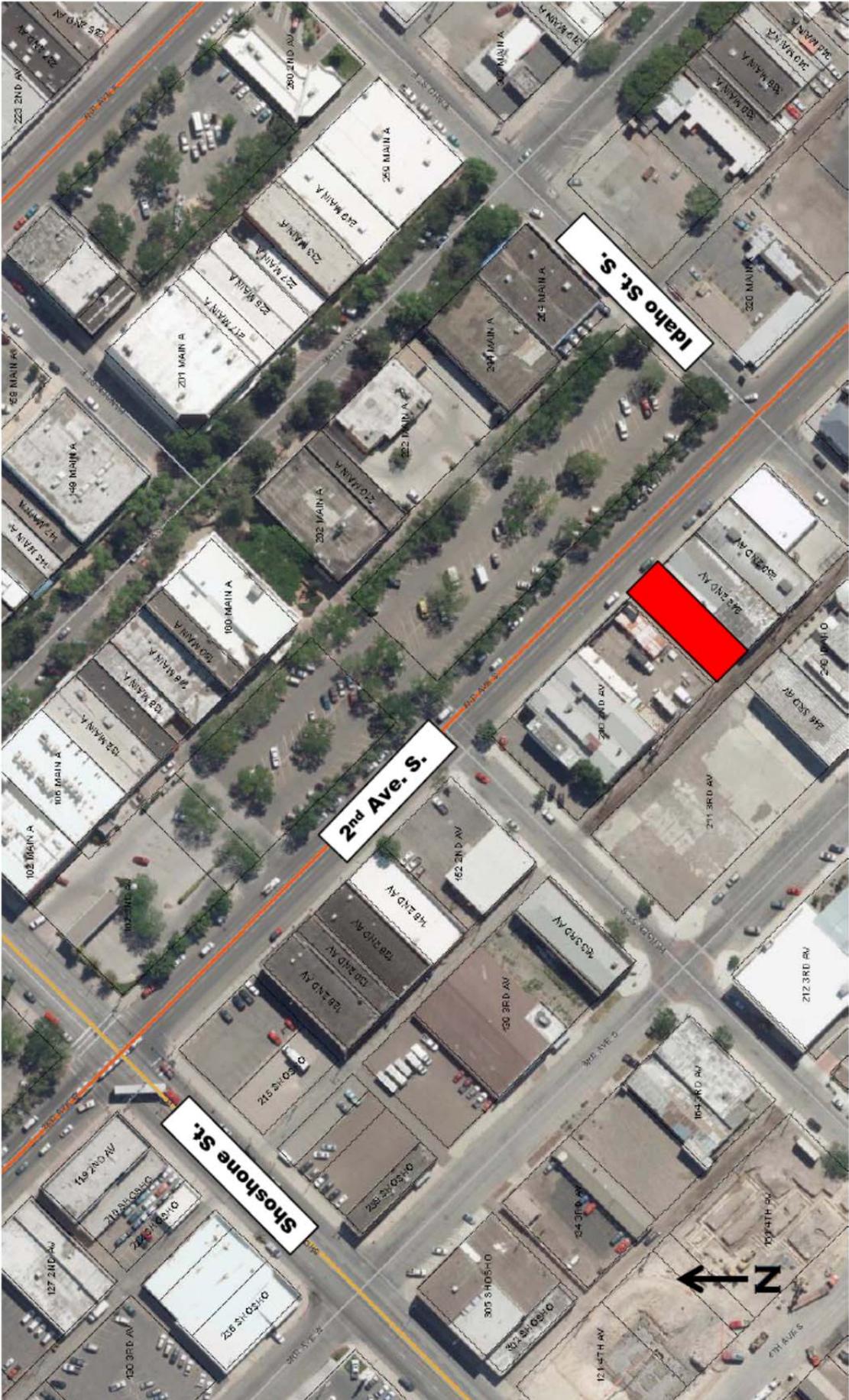
Should the Council approve this request, staff will prepare a resolution for Council consideration at a future meeting declaring the property as excess and setting a public hearing date.

Conclusion:

The resolution has been prepared as directed by the Council on 1/27/14 and is ready for adoption as presented.

Attachments:

1. Location Map
2. Street View
3. Resolution





RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TWIN FALLS, IDAHO, DECLARING THE INTENTION OF THE CITY TO DISPOSE OF REAL PROPERTY, AND SETTING A DATE FOR A PUBLIC HEARING.

WHEREAS, The City of Twin Falls owns Lots 9 and 10, Block 119, of the Twin Falls Townsite Subdivision, Twin Falls County, Idaho; and,

WHEREAS, The property is currently developed as a parking lot and is in disrepair; and,

WHEREAS, The adjoining property owner, the Urban Renewal Agency of the City of Twin Falls, wishes to acquire the subject property to aid its urban renewal efforts.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF TWIN FALLS, IDAHO:

Section 1: That the City of Twin Falls hereby declares its intention to dispose of Lots 9 and 10, Block 119, of the Twin Falls Townsite Subdivision, Twin Falls County, Idaho, to the Urban Renewal Agency of the City of Twin Falls.

Section 2: That the City Council will conduct a public hearing on the exchange on Monday, February 24, 2014, at 6:00 PM in Council Chambers, 305 3rd Avenue East, Twin Falls, Idaho.

Section 3: That this Resolution of Intention be published in the Times News at least 14 days before the public hearing date.

PASSED BY THE CITY COUNCIL
SIGNED BY THE MAYOR

, 2014.
, 2014.

Mayor Don Hall

ATTEST:

Deputy City Clerk

PUBLISH:



February 3, City Council Meeting

To: Honorable Mayor and City Council

From: Bill Carberry, Airport Manager

Request: Consideration of the Airport Advisory Board's Recommendation to Renew On-Airport Car Rental Lease Agreements

Time Estimate: 10 minutes with additional time for questions

Background:

The history...

The airport has 4 car rental counter locations and has renewed 5 year lease agreements for these counter positions for over a decade with Avis, Budget, National/Alamo, and Hertz car rental. The four current agreements expire this spring/early summer.

Enterprise Car Rental has historically been a company focused on the rental car auto body replacement market and not the on-airport car rental business. Enterprise, located on Blue Lakes Blvd, has held an off-airport car rental agreement with the airport for many years allowing them access to the airport terminal to pick up customers that have existing reservations with them. In 2011, Enterprise began voicing an interest in becoming an on-airport car rental company.

The research...

Understanding the complexity of the issue, this past fall, I worked with 3 volunteer airport board members in an attempt to gain a better understanding of the car rental market place. The group looked at informal survey information from similar airports in our region, reviewed historical car rental activity in our market, and discussed the level of performance and customer service from our current operators. The group examined the options for renewing with current operators or possibly bidding the counter locations through a request for proposal process which awards counter positions based on the highest minimum annual guarantees (MAG's). Ideas regarding consolidation of Avis & Budget to one counter location were also discussed.

As a means of being inclusive in their research, the 3 advisory board members invited all of the interested car rental companies to meet with them individually to discuss their point of view during two separate meetings October 18th and November 1st. Enterprise Car Rental discussed their desire to have the opportunity to bid on a counter location this spring. They discussed the company's history, customer service, fleet size and brand image.

The on-airport car rental managers from Avis/Budget, Hertz, and Nat'l/ Alamo and their regional representatives also met with the 3 advisory board members. All of the current on-airport operators voiced similarly held concerns to the board members. The operators have been serving the airport for many years- Avis/Budget manager, LeAnn Watkins 34 years; National/Alamo manager, Pam Ritter 30 years; and Hertz manager, Sara Nelson 12 years. All of them feel they have provided good customer service and represented the airport in a consistent and loyal way. In support of their operations, they've invested significantly in car wash service facilities at the airport. Further, the group also discussed their concern that the car rental market is not big enough to sustain more brand names at the airport and a market saturated with car rental companies has led to relatively low average rental rates and revenues. The existing on-airport companies would like to see their lease agreements renewed for another 5-year term.

The Airport Board's recommendation...

After cumulatively spending several hours researching the issue and interviewing the car rental companies affected, the 3 board members instructed me to bring the issue to the full Airport Board for their consideration at the January 7th meeting. The item was placed on the agenda with all the car rental companies invited to discuss their concerns. At the January Airport Board meeting, the full board listened to the ideas and concerns of off-airport operator, Enterprise, and all of the current on-airport operators.

Although the Board appreciated the interest of Enterprise Car Rental in gaining an on-airport counter position, the Board recognized several reasons for voting 6-0 to recommend to the City Council that the current agreements be renewed. The Board cited the long history of the operators at the airport and the high level of customer service they've provided. The investment in the car wash facilities by the current operators has been significant in enhancing their operation over the years. Further, they felt that the 4 counters and 5 car rental brands offered at the airport were more than at most airports our size. The Board also voiced their concern that over the years the market has remained relatively flat, and this, coupled with significant competition for market share, has kept downward pressure on rental rates and overall revenues.

Approval Process:

Approving the request requires a majority vote of the Council.

Budget Impact:

Both the airport's on-airport and off-airport agreements require a 10% payment to the airport of gross revenues derived from airport car rentals. Exception being, the on-airport car rental operators are required to pay \$4200 (under the current terms) as a minimum annual guarantee (MAG) or the 10% whichever is greater. Historically, the MAG has not been a factor and the airport has received the 10%. The arrangement of 10% or a MAG is typical in the airport car rental industry.

Approval of the Airport Board's recommendation to renew with the existing car rental companies will not affect the airport revenue budget as forecast.

Regulatory Impact:

As a non-aeronautical activity the FAA does not regulate the direction the City takes regarding decisions to offer/renew contracts or utilization of an RFP bidding process with car rentals.

Conclusion:

This is a difficult issue, and one the Airport Board took a slow and deliberate pace in exploring. Although the Board voted 6-0 to recommend renewing with the current on-airport operators, they expressed their understanding and appreciation for Enterprise Car Rental's interest.

If the City Council concurs with their recommendation, the Board welcomes Enterprise to continue as an off-airport car rental operator, maintaining an ability to access the airport market through advanced reservations.

Staff asks the City Council to consider the Airport Advisory Boards recommendation to renew on-airport car rental operator lease agreements.



Date: Monday, February 3rd, 2014
To: Honorable Mayor and City Council
From: Bill Carberry, Airport Manager

Request: Consideration to Utilize a \$25,000 ITD State Grant to Purchase an Airport Maintenance Truck and Flatbed.

Time Estimate: 5-10 minutes

Background: The Airport had been working with the State of Idaho to secure a grant award for over a year and anticipated an award in the summer of 2013. While waiting for the grant last fiscal year, and planning to make this request then, the Airport did not budget for this purchase in the 2014 airport budget. After some delay by the State, the \$25,000 grant was offered and accepted by the City Council in December 2013 with the understanding the funding would be used for an airport capital improvement.

The Airport would like to purchase a new 4x4 pickup truck and a new, separate flat bed. We would take the utility-box/bed from our existing 2004 pickup truck and install it on the new pickup and install the new flatbed & existing spray equipment onto the 2004 pickup truck. This would now equip the maintenance department with a new utility pickup truck and also convert the 2004 truck to an improved platform for a de-icing & weed control spraying. The airport currently has a very old and unreliable 1985 pickup utilized for spraying.

This project will enable the maintenance dept. to replace the heavily utilized 2004 utility pickup truck with a new vehicle and create a more reliable spray truck for de-icing and weed spraying.

Budget Impact:

Purchase Truck w/o Bed	\$ 22,680 (Middlekauff Ford)
Purchase Flat Bed	\$ 1,750 (Utility Truck Equipment-Boise)
Other Costs: N/A	
TOTAL COSTS:	\$ 24,430 (Grant Amount \$25,000)

Regulatory Impact: The grant was awarded to the City/County based on the local matching dollars spent on past FAA projects already completed. There are no additional restrictions/requirements tied to the utilization of the grant award.

Conclusion:

The airport maintenance department will be better able to conduct maintenance duties with a new 2014 utility truck and improve de-icing and weed spraying by utilizing the 2004 truck with a new flatbed. This purchase will improve two areas of need for the department.

I recommend we utilize the grant awarded by the State to improve the department's fleet as described. Utilizing the grant dollars for this capital improvement would be a needed and timely use of the funding.

Attachments: Pictures of existing 2004 & 1985 trucks

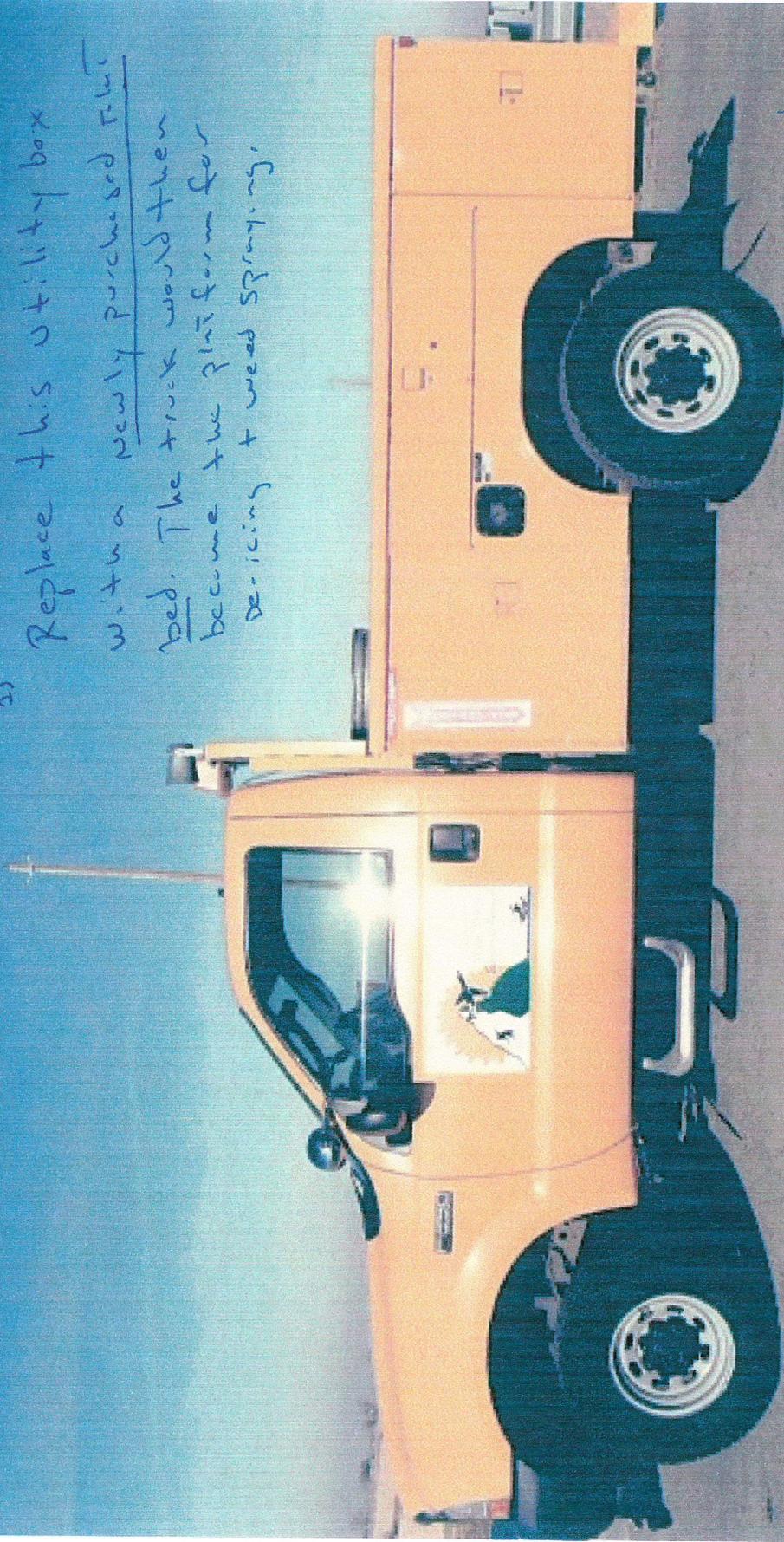
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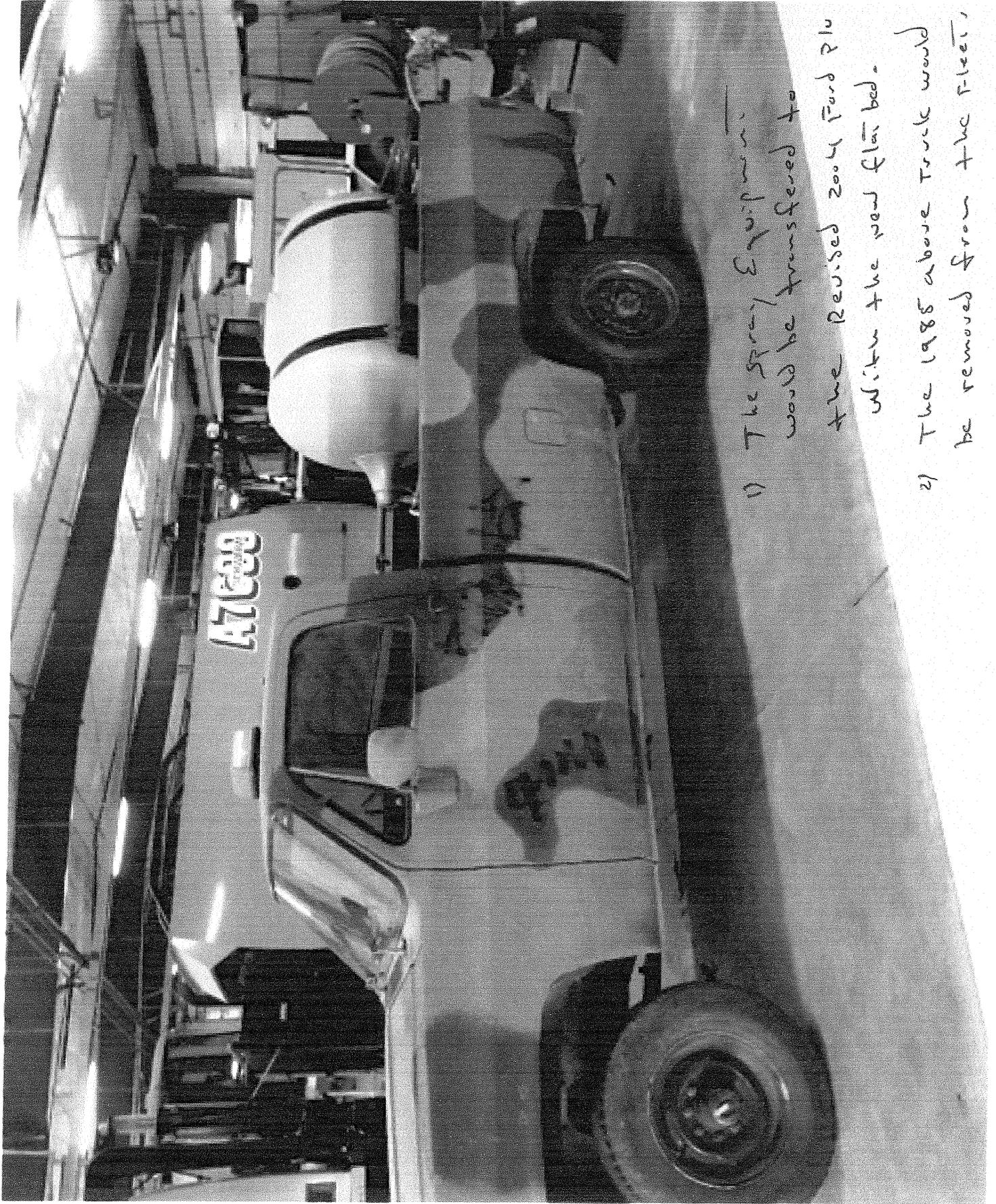
Replace this utility box

with a newly purchased Flint
bed. The truck would then
become the platform for
de-icing + weed spraying.

2) The utility box would

be transferred to the new
Ford F-250 pick-up truck.





1) The spray equipment would be transferred to

the revised 2004 Ford F150 with the new flat bed.

2) The 1985 above truck would be removed from the fleet.



Date: Monday, February 3, 2014
To: Honorable Mayor and City Council
From: Travis Rothweiler, City Manager
Fritz Wonderlich, City Attorney

Request:

Discussion of the Agreement with Beckley Media to use Twin Falls City property in his effort to jump the Snake River Canyon.

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.

Over the course of the last several weeks, members of the City staff and Beckley Media have been actively working to construct an agreement for the use of City property to complete a canyon jump. The agreement is attached for the Council's review and consideration. The City Council can, should it choose, could adopt the agreement or continue negotiating with Beckley Media.

The most updated changes in the Agreement have been highlighted. Specifically:

- The City added language in Paragraph 1 of Attachment A – “Special Terms and Conditions” to clarify that “commercial use” and “commercial activities” are not allowed at the site.
- Additionally, the City made the following changes to Paragraph 7 of the “Special Terms and Conditions” as they appear in “Attachment A” are as follows:
 - a. Special Events Permit Fee: Removal of the \$25,000 lease payment and retained only the \$10,000 special event permit, payable on or before August 1, 2014.
 - b. Roadway: The paved roadway beginning at the most southerly terminus and running north to the ramp shall be designed and developed, at a minimum, pursuant to the City's standard drawings required for rural roadways.
 - c. Parking Lot: Lessee shall design and develop a paved parking lot at the northerly end of the roadway described above, on the east side of the roadway, in conformance with the City's standard drawing required for the development of public parking lots. The size and configuration of the parking lot shall require the approval of the City Council.
 - d. Canyon Rim Trail: Lessee shall be responsible for the cost of development and construction of the extension of the Canyon Rim Trail, from its existing westerly terminus, located on the east boundary of the Leased Premises, along the canyon rim to the west boundary of the Leased Premises. The design and construction shall be in conformance with City requirements. Lessee shall pay to the Lessor the estimated Fifty One Thousand Dollars (\$51,000) cost to construct the trail to the Lessee, within one hundred eighty (180) days following the Event. Lessee shall maintain a bond to insure this payment, as provided for in Paragraphs 3 and 10 of the Lease Agreement.

The changes made by Beckley Media to the Agreement are:

- The timing of the insurance requirements to match what Beckley Media negotiated with the State. Since there is agreement that the City can be an additional named insured under the insurance obtained to satisfy the State requirements, it makes sense to me that the State timing requirements should be used.
- Moved the date for posting of the bond from April to May to ensure that bonding companies may have enough time to resolve those issues and, if necessary, further clarify the controlling document.
- Added force majeure language as Paragraph 22.J.

Approval Process:

The Council may choose to vote on this item. Passage of the agreement requires a simple majority of the 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

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. The Event date shall be September 8, 2014, unless another Event date is specifically agreed to in writing.

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 on the September 8, 2014, Event date provided for herein.

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.

On or before **May 1, 2014**, 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 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.

On or before the dates specified below, 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. **Prior to the commencement of any work at the lease site under Phase 2 of this agreement**, 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. Prior to the construction of any improvements on the Leased Premises, 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. Prior to the construction of any improvements on the Leased Premises, or alteration of any facilities or improvements, if any, on the Leased Premises by Lessee, Lessee shall, 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. Prior to the construction of any improvements on the Leased Premises, or alteration of any facilities or improvements, if any, on the Leased Premises by Lessee, 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

Builders
Risk/Installation Floater
Insurance

Property Insurance

Automobile Liability

Evidence of Coverage

Policy Endorsement and
copy of policy
evidencing each required
coverage

Policy Endorsement and
copy of policy
evidencing each required
coverage

Policy Endorsement and
copy of policy
evidencing each required
coverage

Certificate of Insurance
evidencing required
coverage

Workers Compensation/
Employers Liability
Insurance

Certificate of Insurance
evidencing required
coverage

Should any of the policies 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 initial amount of bond or other security to be obtained by Lessee for the aspect of Lessee's operation described in this Lease shall be in the minimum amount of One Million Dollars (\$1,000,000).

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 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;

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.

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.

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 City 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.

J. Events of *Force Majeure*. "*Force majeure*" or an "event of *force majeure*" means any cause beyond the control of the Lessor or Lessee which, despite the exercise of due diligence, such party is unable to prevent or overcome, including but not limited to an act of God, fire, flood, explosion, strike, sabotage, an act of the public enemy, civil or military authority, court orders, laws or regulations, insurrection or riot, or an act of the elements. If either party is rendered wholly or in part unable to perform its obligations

under this agreement because of an event of *force majeure*, both parties shall be excused from whatever performance is affected by the event of *force majeure*, provided that:

(1) The non-performing party shall, as soon as is reasonably possible after the occurrence of the event of *force majeure*, give the other party written notice describing the particulars of the occurrence.

(2) The suspension of performance shall be of no greater scope and of no longer in duration than is required by the event of *force majeure*.

(3) No obligations of either party which arose before the occurrence causing the suspension of performance and which could and should have been fully performed before such occurrence shall be excused as a result of such occurrence.

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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. Limitations on Use of Leased Premises: Lessee understands that the leased premises is subject to a “Restriction on Commercial Use”, providing that “Neither the East Parcel [east of the westerly property line of the Leased Premises] nor the West Parcel [west of the westerly property line of the Leased Premises] shall be used for commercial purposes related to the jump site.” Lessor is unaware of any financial arrangements supporting the Event, and makes no representations whether or not the Lessee’s proposed activities on the leased premises are a “commercial use” or “commercial purpose.” Lessee has used its own due diligence in determining whether the deed restriction will permit their intended use of the leased premises. Notwithstanding the foregoing, use of the leased premises shall be restricted to the Lessee, and those persons necessary to stage 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. No Partnership or Sponsorship Created: 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. Sanitation: 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. Staff Costs: 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. Law Enforcement Costs: 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. Regional Promotion Opportunities: Lessee understands that partial consideration for the granting of this Lease by Lessor is the opportunity to promote the positive aspects of the region, including but not limited to natural environment, quality of life, economic opportunities, etc, Lessee agrees to permit direct access and encourage cooperation between Lessor and Lessee's media partners to build and promote community and regional assets through Lessor, Southern Idaho Tourism, Twin Falls Chamber of Commerce and Southern Idaho Economic Development Organization. Lessee agrees to help in crafting promotional opportunities that create a positive impact on the region.
7. Consideration for Lease: Lessee has represented that it will require a paved runway starting from the most southerly terminus of the leased premises running north to the existing site of the ramp in order to launch the jump vehicle over the Snake River Canyon. Lessee will also require a parking area on-site for broadcasters and launch crew. Lessor plans to convert the leased premises into a public park/trailhead for the Canyon Rim Trail following rehabilitation of the leased premises after termination of this Lease. In addition to all other requirements of this Lease, and in consideration for the granting of this Lease, Lessee shall:
 - a. Special Events Permit Fee: \$10,000, payable on or before August 1, 2014.
 - b. Roadway: The paved roadway beginning at the most southerly terminus and running north to the ramp shall be designed and developed, at a minimum, pursuant to the City's standard drawings required for rural roadways.
 - c. Parking Lot: Lessee shall design and develop a paved parking lot at the northerly end of the roadway described above, on the east side of the roadway, in conformance with the City's standard drawing required for the development of public parking lots. The size and configuration of the parking lot shall require the approval of the City Council.
 - d. Canyon Rim Trail: Lessee shall be responsible for the cost of development and construction of the extension of the Canyon Rim Trail, from its existing

westerly terminus, located on the east boundary of the Leased Premises, along the canyon rim to the west boundary of the Leased Premises. The design and construction shall be in conformance with City requirements. Lessee shall pay to the Lessor the estimated Fifty One Thousand Dollars (\$51,000) cost to construct the trail to the Lessee, within one hundred eighty (180) days following the Event. Lessee shall maintain a bond to insure this payment, as provided for in Paragraphs 3 and 10 of the Lease Agreement.

- e. Fencing: Lessee shall construct fencing, as designated by the Lessor, along both the easterly and westerly boundaries of the leased premises, and along such portions of the canyon rim as designated by the Lessor.
 - f. Design and Construction: The design of the improvements described above must be submitted to the Lessor for approval in writing prior to construction. Lessor shall have the right to inspect and conduct testing during any/all phases of the development.
8. (Other special terms and conditions to be negotiated by the parties).

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.

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7/30/2009



ATTACHEMENT C – AERIAL MAP

