



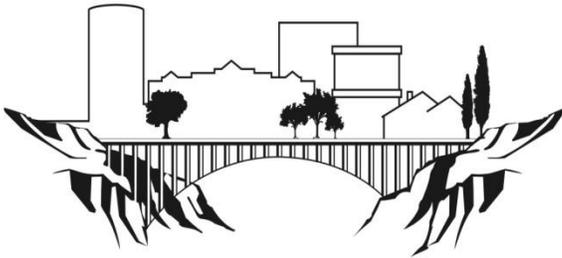
AGENDA
Special Meeting of the City of Twin Falls
Urban Renewal Agency Board
305 3rd Avenue East, Twin Falls, Idaho
City Council Chambers
Wednesday, March 18, 2015 at 4:00 pm.

URBAN RENEWAL AGENCY BOARD MEMBERS:

Leon Smith Dan Brizee Dexter Ball Neil Christensen Perri Gardner Bob Richards
Chairman Vice-Chairman Secretary

1. Call meeting to order.
 2. Consideration of a request to approve First Amendment to the Clif Bar Development Agreement (see staff report) – Melinda Anderson
 3. Consideration of a request to approve the 2nd Amendment to the Clif Bar Line of Credit and new Promissory Note (see staff report) - Melinda Anderson
 4. Adjourn. Next regular meeting: **Monday, April 13, 2015 @ 12:00 pm**
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**Any person(s) needing special accommodations to participate in the above noticed meeting should contact Lorrie Bauer at (208) 735-7313 at least two days before the meeting. Si desea esta información en español, llame Leila Sanchez al (208)735-7287.*



THE URBAN RENEWAL AGENCY
OF THE CITY OF TWIN FALLS

Date: March 18, 2015

To: Urban Renewal Agency of the City of Twin Falls

From: Melinda Anderson, Executive Director

Request: Consideration of a request to approve First Amendment to the Clif Bar Development Agreement.

Background:

On October 17, 2013 TFURA board along with the Twin Falls City Council approved a development agreement with Clif Bar & Co to build a new bakery in Twin Falls. The development agreement included a timeline and a deal sheet. The deal sheet showed estimated costs for infrastructure, land acquisition, and site development work to be paid for through various local and state funds. Clif estimated it would spend \$90 million in the first phase of their development and up to \$168 million over the next few years and would employ up to 450 employees at full build out.

Fast forward to March 2015. Clif Bar has just held their groundbreaking ceremony and will begin construction in early April. They expect to open April 2016 with more than 200 employees. Over the life of the RAA district Clif Bar expects to invest up to \$225 million and hire up to 500 employees at full build out.

Infrastructure and site development costs have been refined to provide more accurate costs and timelines have been changed to reflect reality as well. The TIF financing has increased from \$18.9 million to just under \$22 million.

As Clif Bar would like to have tax exempt financing for the long-term debt (pay off the Line of Credit) Sect 2.5 has been changed to show that TFURA will be limited to paying the annual bond debt only to the amount of property tax income it receives from RAA 4-4.

Approval Process: Approval by a majority of the board in open meeting.

Budget Impact:

The project will be increasing the RAA 4-4 TIF financing from \$18.9 to ~\$21.3 million. The projected investment by Clif Bar is expected to be able to cover the bond debt annually for the next 20 years.

Conclusion:

Staff recommends the board approve the First Amendment and authorize the Vice-Chairman to sign it.

Attachments:

1. First Amendment to Development Agreement

FIRST AMENDMENT TO DEVELOPMENT AGREEMENT

THIS FIRST AMENDMENT TO DEVELOPMENT AGREEMENT (“First Amendment”) is made effective as of the ____ day of March 2015 (“Effective Date”), by and between the City of Twin Falls, an Idaho municipal corporation (“City”); the Urban Renewal Agency of the City of Twin Falls, an independent public body corporate and politic of the State of Idaho (“URA”); and Clif Bar and Company, a California corporation (“Clif Bar”); collectively, the “parties”.

Recitals

A. City, URA, and Clif Bar entered into that certain Development Agreement dated October 17, 2013 (“Development Agreement”). The Development Agreement sets forth certain Project costs that are to be paid with TIF and other public funds, and otherwise sets forth the parties’ rights and obligations with respect to the Project and the Site. The parties have updated Project cost estimates and completion dates, and the parties have identified additional Project improvements that are eligible to be paid with TIF.

B. The parties desire to amend the Development Agreement to reflect the updated and additional Projects costs, to align with anticipated financing, and to provide for utility access easements.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual covenants hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Project Improvements.

(a) Section 5.1 of the Development Agreement is hereby amended, in relevant part, by deleting Section 5.1.5 and replacing it with the following:

5.1.5 Site Improvements. URA shall remove a portion, or all, of the existing improvements on the Site, perform site grading, and install site improvements necessary for soil retention, erosion control, dust abatement, and storm water retention, as directed by Clif Bar and in accordance with the Timeline.

(b) Section 5.1 of the Development Agreement is hereby amended in relevant part by adding the following new sections:

5.1.8 Storm Water. URA shall clear, grub, and excavate a storm water retention pond at the Site and shall excavate, trench, and install underground piping and above ground swales to direct storm water to the storm water retention pond as directed by Clif Bar in accordance with the Timeline.

5.1.9 Sanitary Sewer. URA shall connect the Project, no further than five (5) feet from the building, with City's sanitary sewer system located at the northwest corner of the Site as directed by Clif Bar and in accordance with the Timeline.

(c) Section 5.2 of the Development Agreement is hereby amended, in relevant part, by deleting from the first sentence: "Upon completion of all of the site preparation activities indentified in the preceding section" and replacing it with: "Upon the approval of the Twin Falls City Council and in accordance with the Timeline".

(d) Section 6.2 of the Development Agreement is hereby amended in relevant part by adding at the end of the first sentence of Section 6.2.1: ", including without limitation water lines for process water, domestic water and fire suppression."

(e) Section 6.2 of the Development Agreement is hereby amended in relevant part by adding the following new section:

6.2.4 Mechanical Equipment Yard. URA shall install a masonry screen wall to enclose mechanical equipment in the location shown on the Site Plan, in Exhibit E attached hereto, as directed by Clif Bar and in accordance with the Timeline. This improvement will be funded with URA Financing in accordance with the Deal Sheet.

(f) Exhibit B (Timeline) to the Development Agreement is hereby deleted in its entirety and replaced with the new Exhibit B attached hereto as Attachment 2.

(g) Exhibit C (Deal Sheet) to the Development Agreement is hereby deleted in its entirety and replaced with the new Exhibit C attached hereto as Attachment 3.

(h) The new Exhibit E (Site Plan), attached hereto as Attachment 4, is hereby added to the Development Agreement.

2. Financing. Section 2 of the Development Agreement is hereby amended in relevant part by deleting Section 2.5 and Section 2.6 and replacing it with the following:

2.5 Urban Renewal Bonds and Transfers. In the event that URA issues urban renewal bonds to finance a portion of the Project and there is no guarantee by Clif Bar for payment of its ad valorem taxes in the amount needed to make all payments when due on such bonds, the bond documents shall clearly and unequivocally reflect that URA's obligation to pay the bonds is expressly limited to the tax increment that URA is legally entitled to receive from the Project and that URA shall not be in default under the bonds if URA is using all such tax increment for payment of the bonds and for other purposes as set forth in the bond documents. If Clif Bar or its owners initially acquire the bonds and subsequently desire to transfer such bonds and such transfer requires reissuance of the bonds, then URA shall cooperate with Clif Bar to cause the issuance of bonds to refinance the original bonds at no cost to URA. No bonds shall be issued or transferred to Clif Bar, its owners or others unless such purchasers sign a private placement letter as qualified investors.

3. Easements. Section 6 of the Development Agreement is hereby amended in relevant part by adding the following new section:

6.7 Easements. Upon completion of the Plant, Clif Bar shall convey to City and URA such easements as are necessary to provide City and URA access to on-site utilities.

4. Miscellaneous. The recitals to this First Amendment, and all Attachments referred to herein and attached hereto, are incorporated herein by such reference and made a part of this First Amendment. All capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Development Agreement. In the event of any conflict between the provisions of the Development Agreement and those of this First Amendment, the provisions of this First Amendment shall control. No other terms and conditions of the Development Agreement are hereby changed by this First Amendment. The Development Agreement shall remain in full force and effect modified only by the terms and conditions of this First Amendment.

SIGNED and DATED EFFECTIVE on the date first set forth above.

Don Hall, Mayor
City of Twin Falls

Daniel B. Brizee, Vice-Chairman
Urban Renewal Agency of the City of Twin Falls

Kevin Cleary, Chief Executive Officer
Clif Bar & Company, a California Corporation

ATTACHMENTS:

- Attachment 1: Redline showing changes to Development Agreement by First Amendment
- Attachment 2: Exhibit B (Timeline)
- Attachment 3: Exhibit C (Deal Sheet)
- Attachment 4: Exhibit E (Site Plan for Mechanical Equipment Yard)

Attachment 1 to First Amendment

**REDLINE SHOWING CHANGES TO DEVELOPMENT AGREEMENT TEXT BY FIRST AMENDMENT
(WITHOUT SIGNATURE PAGES OR EXHIBITS)**

DEVELOPMENT AGREEMENT

This Development Agreement is entered into this 17th day of October 2013, by and among the City of Twin Falls, an Idaho municipal corporation (“City”); the Urban Renewal Agency of the City of Twin Falls, an independent public body corporate and politic of the State of Idaho (“URA”); and Clif Bar & Company, a California corporation (“Clif Bar”); collectively, the “parties”.

Recitals

A. Subject to the terms and conditions set forth herein and the full and timely performance by City and URA of their duties and obligations herein, Clif Bar desires to construct and operate a food production, packaging and distribution facility and related improvements in Twin Falls, Idaho (“Plant”).

B. Clif Bar is in the preliminary stages of design and cost estimations for construction of the Plant. Clif Bar estimates the construction costs of the Plant (including equipment) will be approximately NINETY MILLION DOLLARS (\$90,000,000) in the initial phase, and potentially as much as ONE HUNDRED SIXTY MILLION DOLLARS (\$160,000,000), depending on the ultimate design, size, scope and full build-out of the Plant.

C. Clif Bar currently estimates it will employ approximately two hundred fifty (250) full-time employees with benefits at the Plant in the initial phase (two manufacturing lines), and assuming market, operation and economic conditions support full build-out of the Plant (six manufacturing lines), Clif Bar estimates it will employ approximately four hundred fifty (450) full-time employees with benefits at the Plant. The parties understand these are only good faith estimates.

D. City’s public wastewater collection systems, water systems, and roadways, as well as certain utility services, will require upgrades and improvements in order to serve the Plant.

E. URA has the legal authority to establish a revenue allocation area, also known as a “tax increment financing district” or a “TIF district,” in association with an urban renewal project and to collect taxes on the increment value (the difference between the current equalized value of all taxable properties within a TIF district and the base assessment value on the base assessment roll). Further, URA has the authority to use those funds to construct public infrastructure, to acquire real property and prepare it for development, and other matters related to the Plant all as authorized by law (“Project”). The Plant will generate revenue allocation proceeds upon the creation by URA of a TIF district that includes property where the Plant will be located.

F. The location of the Plant will require the acquisition of real property and development of public and private infrastructure to support the construction, operation, and possible expansion of the Plant. URA has located parcels of real property within an urban renewal area that are large enough to serve the stated needs of Clif Bar but that will require some site development and additional public infrastructure in order to serve the Plant. The property identified for the Plant contains approximately eighty-nine and 43/100 (89.43) acres, which are graphically shown and legally described on Exhibit A ("Site").

NOW, THEREFORE, the parties agree as set forth in the Recitals above and as follows.

1. Urban Renewal Project TIF District Formation

1.1 URA shall approve a new urban renewal project, the Project, and recommend a new TIF district that includes the Site ("TIF District") in accordance with URA's Urban Renewal Plan to allow for collection of tax increment funds to be used for costs and expenses in support of the Plant as described herein. URA shall form the TIF District in accordance with Exhibit B ("Timeline").

2. Tax Increment and Tax Increment Financing

2.1 URA shall provide all of the tax increment funds generated within the TIF District for costs and expenses in support of the Plant. These funds shall be expended on eligible improvements and expenditures as are allowed by applicable law, designated by Clif Bar and with concurrence of URA and City, including site acquisition, site preparation and other eligible Project costs needed to support the Plant in accordance with Exhibit C ("Deal Sheet"). To the extent tax increment funds generated within the TIF District exceed the amounts required to cover the actual costs of the URA-TIF funded improvements identified on the Deal Sheet, URA shall contribute any additional tax increment funds toward eligible Project costs as designated and prioritized by Clif Bar with concurrence of URA and City. URA shall not prematurely terminate the twenty-year TIF District without the consent of Clif Bar.

2.2 Immediately following approval of the new urban renewal Project and TIF District and in accordance with the Timeline, URA shall seek to borrow sufficient money to, at a minimum, pay for the URA-TIF funded improvements identified on the Deal Sheet, and to fund other eligible Project costs, for the maximum amount possible based on the anticipated tax increment funds from the Plant and Site, as determined by the parties in cooperation with each other and with the financing entity ("URA Financing"). At Clif Bar's option, such URA Financing may consist of a market rate bond, which URA shall seek from a national bank or other financing entity, and/or other financing provided or arranged by Clif Bar. As needed, URA shall petition, as soon as reasonably practical, for judicial confirmation of the URA Financing.

2.3 City's and URA's commitments to complete infrastructure improvements described herein are dependent, in part, upon funding from URA Financing or from other sources. To the extent sufficient funding is not received from URA Financing or other sources (but not excusing City's obligation to provide funding committed for water tank) to cover City's and URA's obligations in the Deal Sheet, they shall be relieved of the duty to complete those infrastructure improvements for which funding is not available, and the parties shall cooperate to

modify the scope of the infrastructure improvements shown on the Deal Sheet, as designated and prioritized by Clif Bar, after consulting the City and URA, to coincide with available funding.

2.4 To the extent URA Financing or other funding is not secured in an amount sufficient to cover the cost of site acquisition, site preparation, and other Project costs as set forth in the Deal Sheet, Clif Bar shall be relieved of all obligations herein. The parties shall cooperate and work with each other diligently and in good faith to secure the URA Financing and other necessary funding.

~~2.5 The parties understand that in order to obtain optimal market rate financing the URA Financing may be structured consistent with the recent URA financing obtained in connection with the Chobani project, including a Local Improvement District (LID) overlay district.~~

~~2.6.5 URA anticipates receiving revenue allocations from taxes paid by Clif Bar on the Plant. Clif Bar agrees to pay property taxes as and when due, at its option, (i) 50% of taxes due on December 20th and the remaining 50% on the following June 20th; or (ii) 100% on December 20th. If the assessed value of the Plant is not sufficient such that by January 27 in any year there are not sufficient funds in the Revenue Allocation Fund (consisting of previously collected tax increment funds and other reserves, if any, created in connection with the URA Financing) held by the Trustee for the URA Financing to make the minimum payment due on the URA Financing, then URA shall notify Clif Bar, the City, and other interested parties of the amount needed (the "Differential"), and Clif Bar (or the then owner of the Plant) shall pay the Differential to the Trustee within ten (10) business days of such notice. In the event that URA issues urban renewal bonds to finance a portion of the Project and there is no guarantee by Clif Bar for payment of its ad valorem taxes in the amount needed to make all payments when due on such bonds, the bond documents shall clearly and unequivocally reflect that URA's obligation to pay the bonds is expressly limited to the tax increment that URA is legally entitled to receive from the Project and that URA shall not be in default under the bonds if URA is using all such tax increment for payment of the bonds and for other purposes as set forth in the bond documents. If Clif Bar or its owners initially acquire the bonds and subsequently desire to transfer such bonds and such transfer requires reissuance of the bonds, then URA shall cooperate with Clif Bar to cause the issuance of bonds to refinance the original bonds at no cost to URA. No bonds shall be issued or transferred to Clif Bar, its owners or others unless such purchasers sign a private placement letter as qualified investors.~~

3. Interim Financing - Loan

3.1 Clif Bar understands that URA will not have tax increment funds from the Project until the Plant is constructed and taxes are paid and distributed to URA and that, prior to that time, URA will need funds for site acquisition, site preparation and other Project costs shown on the Deal Sheet. Clif Bar agrees, subject to URA and Clif Bar mutually agreeing on amount, re-payment terms, security (including a security interest in the Site and pledges and/or a security interest in the tax increment revenues generated from the Site), and other specific terms and conditions, to provide interim financing to URA as needed to comply with the Timeline, which loan shall be repaid in full to Clif Bar, together with a market rate of interest, upon URA's receipt of the URA Financing ("Interim Financing"). If, for any reason, no URA Financing is

obtained, the Interim Financing shall be paid by the URA from tax increment funds generated with the TIF District. Clif Bar understands and agrees that, absent Interim Financing, the Timeline might not be met, and City and URA will be relieved of compliance with the Timeline to the extent of delay in obtaining financing.

3.2 If Clif Bar elects to not construct the initial phase of the Plant as described in Section 6.5 of this Agreement, then URA and City will not have an obligation to reimburse Clif Bar for Interim Financing that has already expended on Deal Sheet improvements except to the extent and at such time as tax increment is generated from the TIF District by anyone during the twenty-year term of the TIF District, provided that URA must still convey the Site to Clif Bar in accordance with Section 5.2 of this Agreement.

4. State of Idaho Incentives

4.1 Idaho Community Development Block Grants. City shall apply for Idaho Community Development Block Grants ("ICDBG"), in accordance with the Timeline, to contribute toward the cost of public infrastructure needed to serve the Plant as set forth on the Deal Sheet. City shall submit all required applications to secure two (2) Idaho Community Development Block Grants ("ICDBG") of FIVE HUNDRED THOUSAND DOLLARS (\$500,000) each, totaling ONE MILLION DOLLARS (\$1,000,000) for public infrastructure to serve the Plant. City will diligently pursue approval of such grants. Clif Bar agrees to work and cooperate with the City through the application process.

4.2 Idaho Department of Commerce Grant. In a letter attached as Exhibit D ("Commerce Commitment Letter"), the Idaho Department of Commerce has committed to provide from the Director's Opportunity Grant Fund EIGHT HUNDRED THOUSAND DOLLARS (\$800,000) toward the cost of public infrastructure needed to serve the Plant as set forth on the Deal Sheet. City shall diligently pursue obtaining these funds in accordance with the Timeline.

5. Site Acquisition and Preparation

5.1 Site Acquisition and Preparation. URA shall acquire the Site and complete the site preparation activities set forth below in accordance with the Timeline. City and URA shall take whatever action is needed to authorize such acquisition prior to the formation of the TIF District. The Site acquisition and preparation costs will be funded (or reimbursed) with Interim Financing and/or URA Financing and grant funds from the State of Idaho, in accordance with the Deal Sheet.

5.1.1 Survey. URA shall obtain and deliver to Clif Bar an ALTA survey of the Site that is certified to Clif Bar in accordance with the Timeline.

5.1.2 Environmental Site Assessments. URA shall have a Phase I Environmental Site Assessment completed for the Site that is certified to Clif Bar, and such further environmental assessments, tests and studies if suggested by the Phase I Environmental Site Assessment, in accordance with the Timeline.

5.1.3 Land Use Approvals. URA shall obtain all land use approvals, including permits, variances and exceptions, required to construct and operate the Plant, including but not limited to vacating existing plat(s) on the Site and any height exception required for the Plant, in accordance with the Timeline. The City acknowledges and agrees that Clif Bar may include electric solar panels on the Site as an accessory use, subject only to building permit review.

5.1.4 Site Access. URA shall obtain all permits and approvals required from the City of Twin Falls or other jurisdictions for access, approaches, and driveways to the Site and shall construct such accesses in accordance with the Timeline.

~~5.1.5 Removal of Improvements and Site Grading. URA shall remove a portion, or all, of the existing improvements on the site and perform site grading as directed by Clif Bar in accordance with the Timeline.~~ Site Improvements. URA shall remove a portion, or all, of the existing improvements on the Site, perform site grading, and install site improvements necessary for soil retention, erosion control, dust abatement, and storm water retention, as directed by Clif Bar and in accordance with the Timeline.

5.1.6 Utility and Street Relocations. URA shall obtain all permits and approvals required to relocate the on-site water line, sewer lines, gas utilities, electrical utilities, telecommunication utilities, and the like and shall relocate such facilities as directed by Clif Bar in accordance with the Timeline.

5.1.7 Canal Lateral Relocation. URA and the City shall obtain all permits and approvals required to relocate the on-site irrigation canal lateral and shall relocate such facilities as designated by Clif Bar and with concurrence with the City Clif Bar in accordance with the Timeline.

~~5.1.8 Storm Water. URA and/or City shall clear, grub, and excavate a storm water retention pond at the Site and shall excavate, trench, and install underground piping and above ground swales to direct storm water to the storm water retention pond as directed by Clif Bar in accordance with the Timeline.~~

~~5.1.9 Sanitary Sewer. URA and/or City shall connect the Project, no further than five (5) feet from the building, with City's sanitary sewer system located at the northwest corner of the Site as directed by Clif Bar and in accordance with the Timeline.~~

5.2 Conveyance of Site to Clif Bar. ~~Upon the approval of the Twin Falls City Council and in accordance with the Timeline~~ Upon completion of all of the site preparation activities identified in the preceding section and subject to the Site not containing any hazardous material or other contamination and otherwise being suitable, in Clif Bar's reasonable judgment, for the Plant, URA shall convey the Site to Clif Bar at no cost to Clif Bar. URA shall convey the Site to Clif Bar by warranty deed free and clear of all monetary liens, claims and encumbrances and free of all other liens, claims and encumbrances other than those approved by Clif Bar in its reasonable discretion, which would not interfere with the financing, construction or operation of the Plant. URA shall provide Clif Bar with an ALTA Extended coverage policy in the amount of the purchase price of the Site paid by URA.

6. **Infrastructure Improvements, Services, and Allocated Responsibilities**

6.1 Waste Water System

6.1.1 Lift Station and Line Improvements. City shall improve its wastewater collection system, in accordance with the Timeline, by installing a lift station and completing sewer line improvements to support wastewater flow requirements from the Plant of 87,000 AADF GPD; 159,000 Max. Day GPD; and 785 Peak Hour GPM; and by installing a pretreatment wastewater treatment facility on the Site to accommodate process flows from the Plant in compliance with the Discharge Permit. City and Clif Bar will jointly determine what type of pretreatment facility is appropriate. These improvements will be funded with URA Financing and grant funds from the State of Idaho, in accordance with the Deal Sheet.

6.1.2 Services and Rate. City shall provide wastewater services to Clif Bar and the Plant pursuant to the City's standard Industrial Wastewater Discharge Agreement ("Discharge Permit"). The rate charged by City to Clif Bar for collecting and treating wastewater flows from the Site shall be in accordance with City's Utility Rate Resolution for Significant Industrial Users.

6.1.3 Capacity Guarantee. City shall reserve and at all times have available, at no additional cost to Clif Bar except as may occur due to standard rate increases, sufficient capacity in its wastewater treatment plant and collection system to accommodate up to 159,000 gallons per day (GPD) with peak flows of up to 785 gallons per minute (GPM), all in compliance with the Discharge Permit and in compliance with all state and federal regulatory requirements. City shall charge the Plant a one-time wastewater system capacity and connection fee of One Hundred Seventy-Three Thousand, One Hundred Forty-Six Dollars (\$173,146). This fee will be funded with URA Financing in accordance with the Deal Sheet.

6.2 Water

6.2.1 Improvements. City shall improve its public water system, in accordance with the Timeline, by constructing a five million gallon water tank to support domestic and process water requirements at the Plant of 107,000 AADF GPD; 381,000 Max. Day GPD, and 825 Peak Hour GPM; and up to 1.44 MG storage for fire protection; and by installing all meters and other City-owned improvements required to deliver water to the Plant, including without limitation water lines for process water, domestic water and fire suppression. These improvements will be funded with URA Financing, City reserve funds and other sources of funds that City is responsible to provide, in accordance with the Deal Sheet. City shall also make available to Clif Bar, in accordance with the Timeline, the following water flows to test Plant operations: 10,000 AADF GPD; 100,000 Max. Day GPD; and 500 Peak Hour GPM.

6.2.2 Services and Rate. City shall provide water services to the Plant and Clif Bar shall be responsible to pay the standard water rates in effect at the time of billing.

6.2.3 Capacity Guarantee. City shall reserve and at all times have available for the Plant at no additional cost to Clif Bar, 1.8 MG storage in the new 5 MG water tank. City shall reserve and at all times have available for the Plant, at no additional cost to Clif Bar except as may occur due to standard rate increases, sufficient capacity in its public water

supply system to accommodate 107,000 AADF GPD; 381,000 Max. Day GPD, and 825 Peak Hour GPM, all in compliance with state and federal regulatory requirements. City represents that water distribution pumping is currently between 60 and 70 psi and City will endeavor to retain that capacity. If Clif Bar determines the Plant requires a higher pressure or minimum threshold of pressure, the parties will explore needed improvements to the system such as a new pump station, which the parties agree would be a TIF-eligible expense.

6.2.4. Mechanical Equipment Yard. URA shall install a masonry screen wall to enclose mechanical equipment in the location shown on the Site Plan, in Exhibit E attached hereto, as directed by Clif Bar and in accordance with the Timeline. This improvement will be funded with URA Financing in accordance with the Deal Sheet.

6.3 Streets and Transportation

6.3.1 Roads. City shall improve and widen 3300 East (commonly known as Champlin Road) between 3700 North (commonly known as Kimberly Road) and 3800 North (commonly known as Orchard Road) to industrial standard specifications sufficient to accommodate Plant operations in accordance with the Timeline. These improvements will be funded with URA Financing, in accordance with the Deal Sheet. To the extent sufficient TIF funds are not available for these improvements and Clif Bar incurs the costs for such improvements, then City shall allow latecomer's fees to be collected for such roadway and paid to Clif Bar in accordance with a latecomer's fee agreement.

6.3.2 Rail Crossing Signalization and Improvements. City shall obtain necessary approvals and install rail crossing signalization, as warranted, on 3300 East in accordance with the Timeline. These improvements will be funded with URA Financing, in accordance with the Deal Sheet. If requested by Clif Bar, City shall also seek necessary approvals and install a rail spur from the main line adjacent to the Site into the Site. These improvements will be funded with URA Financing or excess TIF funds, to the extent available.

6.4 Utilities

6.4.1 City and URA represent that high-speed internet and telecommunications and natural gas are currently available to serve the Plant in the public right-of-way adjacent to the Site.

6.4.2 City and URA shall cooperate with and assist Clif Bar with an agreement and approvals necessary to provide sufficient electricity to the Site for the Plant. Clif Bar's ability and obligation to proceed with the Plant is contingent upon timely obtaining an acceptable agreement with Idaho Power Company, approved by the Idaho Public Utilities Commission as required, to construct an electric power substation, and if desired to amortize costs for such substation, at terms and conditions acceptable to Clif Bar. These improvements will be funded (or reimbursed) with URA Financing and grant funds from the State of Idaho, in accordance with the Deal Sheet.

6.4.3 City and URA shall cooperate with and assist Clif Bar with the negotiations of any necessary or appropriate services agreements and other agreements with utility providers.

6.5 Plant. Subject to the availability of URA Financing and the full and timely performance by City and URA to complete the tasks set forth in Sections 5 and 6 of this Agreement and to provide the required improvements in accordance with the Deal Sheet and the Timeline, Clif Bar estimates that construction of the initial phase of the Plant will commence in Spring 2015. Clif Bar estimates the construction costs of the Plant (including equipment) will be approximately NINETY MILLION DOLLARS (\$90,000,000) in the initial phase, and potentially as much as ONE HUNDRED SIXTY MILLION DOLLARS (\$160,000,000), depending on the ultimate design, size, scope and full build-out of the Plant.

6.6 Employment. Clif Bar currently estimates it will employ approximately two hundred fifty (250) full-time employees with benefits at the Plant in the initial phase (two manufacturing lines), and assuming market, operation and economic conditions support full build-out of the Plant (six manufacturing lines), Clif Bar estimates it will employ approximately four hundred fifty (450) full-time employees with benefits at the Plant. The parties understand these are only good faith estimates.

6.7 Easements. Upon completion of the Plant, Clif Bar shall convey to City and URA such easements as are necessary to provide City and URA access to on-site utilities.

7. Entitlements Processes, Permits, Fees and Assessments

7.1 Permitting and Construction Coordination. City agrees to cooperate with and involve Clif Bar in the development and review of the plans and specifications, as well as bid packages and contractor selections, for all public infrastructure improvements to be constructed by City or URA as contemplated herein or as otherwise to be paid for with the URA Financing and/or excess TIF from the Project. To the extent the actual costs, or any revised estimated costs (e.g., due to new knowledge or revised plans), of the improvements identified on the Deal Sheet do or are expected to exceed the estimated costs shown on the Deal Sheet, then City and URA will obtain Clif Bar's written consent before incurring further costs on that improvement. To the extent permitted by law, Clif Bar may opt to manage the contracting and construction of Project improvements. City shall cooperate with and assist URA and/or Clif Bar in applying for and obtaining all permits and approvals required for the construction and operation of the Plant and public improvements needed to support the Plant, as set forth in the Deal Sheet as well as any new improvements utilizing URA Financing or excess TIF. City shall, to the extent permitted by law, expedite and fast track all such permits, inspections, and approvals, including but not limited to, issuing building permits in segments and phases, giving Plant permit approvals and inspections queue priority, expedited plan reviews and approvals, single point of contact via City's Development Director, and coordination services between City departments and between City and other regulatory agencies. City shall assist Clif Bar in obtaining and expediting any and all approvals and inspections required by the State of Idaho and Twin Falls County for the construction and operation of the Plant.

7.2 Building, Impact and Similar Fees. City shall waive any and all application and building permit fees and similar fees and charges. URA shall pay all impact fees and other fees needed in connection with the approval, construction, inspection, occupancy and operation of the Plant, including but not limited to fees associated with water and sewer taps, lateral relocation approvals, industrial user permits, and sign permits.

7.3 Public Meetings. Clif Bar understands that City and URA are political subdivisions of the State of Idaho, and are subject to all state laws governing their activities, including the Public Meeting Law, which requires all final decisions to be approved at public meetings, with notice and agenda posting requirements. Authorization for the Mayor of City and Chairman of URA to execute this agreement shall be obtained at a public meeting. City and URA will schedule a joint special meeting as quickly as is legally permissible in order to authorize execution of this Agreement.

8. **Miscellaneous Provisions**

8.1 Approval of Agreement. City and URA are political subdivisions of the State of Idaho, and are subject to all state laws governing their activities, including the Public Meeting Law, which requires all final decisions to be approved at public meetings, with notice and agenda posting requirements. Authorization for the Mayor of City and Chairman of URA to execute this Agreement shall be obtained at a public meeting. City and URA will schedule a joint special meeting as quickly as is legally permissible in order to authorize execution of this Agreement.

8.2 Amendments, Waivers and Termination. No amendment or modification to any terms or provisions of this Agreement; waiver of any covenant, obligation, breach or default under this Agreement; or termination of this Agreement (other than as expressly provided herein), shall be valid unless in writing and executed and delivered by each of the parties.

8.3 Confidentiality. All information used or developed by Clif Bar or its consultants relating to the design or operation of the Plant, even if supplied to City or URA, shall remain the sole and confidential property of Clif Bar, shall be protected from disclosure as a trade secret in accordance with the Idaho Public Records Act, and shall not be shared with any other person or made part of a public record, at any time, unless instructed by the Courts.

8.4 Entire Agreement. This Agreement sets forth the entire understanding and agreement of the parties for the subject matter herein.

8.5 Incorporation of Recitals and Exhibits. The recitals to this Agreement, and all exhibits referred to in this Agreement, are incorporated herein by such reference and made a part of this Agreement.

8.6 Severability. If any term or provision of this Agreement is held to be or rendered invalid or unenforceable at any time in any jurisdiction, such term or provision shall not affect the validity or enforceability of any other terms or provisions of this Agreement, or the validity or enforceability of such affected term or provision at any other time or in any other jurisdiction.

8.7 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties, and their respective successors and permitted assigns.

8.8 Third Party Beneficiaries. This Agreement shall not confer any rights or remedies on any person other than the parties and their respective successors and permitted assigns.

8.9 Governing Law. This Agreement shall be governed by the laws by the State of Idaho.

8.10 Authority and Binding Obligation. (i) The parties hereto have full power and authority to execute and deliver this Agreement and to perform all of their respective obligations arising under this Agreement, and (ii) the execution and delivery by the signers hereto of this Agreement on behalf of the parties hereto has been duly and validly authorized by all necessary action by each party.

8.11 Dispute Resolution and Remedies. In the event that a dispute arises between the parties regarding the application or interpretation of any provision of this Agreement, the aggrieved party shall provide written notice of such dispute to the other parties to this Agreement. The parties shall in good faith use commercially reasonable efforts to resolve such dispute. If the parties shall have failed to resolve the dispute to the satisfaction of all parties within ten (10) days after delivery of such notice, the parties agree to first endeavor to settle the dispute in an amicable manner by mediation or other process of structured negotiation under the auspices of a nationally or regionally recognized organization providing such services in the Idaho, or otherwise as the parties may mutually agree before resorting to litigation. Parties shall each bear their own attorneys' fees and costs for mediation and shall share equally the cost of mediation. Should the parties be unable to resolve the dispute to their mutual satisfaction within thirty (30) days after such completion of mediation or other process of structured negotiation, then each party shall have the right to pursue any rights or remedies it may have at law or in equity.

8.12 Notices. Formal notices, demands, and communications between the parties shall be sufficiently given if dispatched by registered or certified mail, postage prepaid, return receipt requested, or faxed (with a confirming telephone call) to the principal offices of the parties as set forth below. Such written notices, demands, and communications may be sent in the same manner to such other names and addresses as either party may from time to time designate in writing.

If to City:	Travis Rothweiler, City Manager City of Twin Falls PO Box 1907 321 2nd Avenue East Twin Falls, Idaho 83303-1907 Facsimile No.: (208) 736-2296
With a copy to:	Fritz Wonderlich, City Attorney Wonderlich & Wakefield PO Box 1812 321 2nd Avenue East Twin Falls, Idaho 83303-1812 Facsimile No.: (888) 789-0935
If to URA:	Melinda Anderson, Executive Director Urban Renewal Agency of the City of Twin Falls

PO Box 1907
321 2nd Avenue East
Twin Falls, Idaho 83303-1907
Facsimile No.: (208) 736-2296

If to Clif Bar: Richard Boragno, Chief Financial Officer
Clif Bar & Company
1451 66th Street
Emeryville, California 94608
Facsimile No.: (510) 295-2552

With a copy to: Bruce Lymburn, General Counsel and Secretary
Clif Bar & Company
1451 66th Street
Emeryville, California 94608
Facsimile No.: (510) 295-2682

Deborah Nelson
Givens Pursley LLP
PO Box 2720
601 W. Bannock Street
Boise, Idaho 83702
Facsimile No.: (208) 388-1300

8.13 Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

8.14 Further Acts. The parties hereto agree to take such further acts and execute such further documents and instruments as may be reasonably required to consummate the transactions set forth herein.

8.15 Attorneys' Fees. Except as otherwise provided herein, should any party employ an attorney or attorneys to enforce any of the provisions hereof or to protect its interest in any manner arising under this Agreement, or to recover damages for the breach of this Agreement, the non-prevailing party shall pay to the prevailing party all reasonable costs, damages and expenses, including attorneys' fees, expended or incurred in connection therewith.

SIGNED and DATED EFFECTIVE on the date first set forth above.

Greg Lanting, Mayor
City of Twin Falls

Cindy Bond, Chair
Urban Renewal Agency of the City of Twin Falls

Gary J. Erickson, Co-Chief Visionary Officer
Clif Bar & Company, a California Corporation

Kathleen F. Crawford, Co-Chief Visionary Officer
Clif Bar & Company, a California Corporation

Kevin Cleary, Chief Executive Officer
Clif Bar & Company, a California Corporation

EXHIBITS:

Exhibit A Legal Description and Map of Site
Exhibit B Timeline
Exhibit C Deal Sheet
Exhibit D Commerce Commitment Letter
Exhibit E Site Plan for Mechanical Yard

Attachment 2 to First Amendment

**EXHIBIT B
TIMELINE**

Task	Completion Deadline
URA and Clif Bar will negotiate and agree to Interim Financing as set forth in Section 3	December 6, 2013
URA shall acquire the Site as set forth in Section 5.	December 16, 2013
City shall submit all required applications to secure two Idaho Community Development Block Grants of FIVE HUNDRED THOUSAND DOLLARS (\$500,000) each and use best efforts to obtain final approval of the grants as set forth in Section 4.1.	December 31, 2014
City shall obtain the \$800,000 committed by the Department of Commerce from the Director's Opportunity Grant Fund as set forth in Section 4.2.	December 31, 2014
URA shall obtain URA Financing as set forth in Section 2.2, including judicial confirmation.	Within 180 days of new TIF district formation, or, if tax exempt bonds are desired, then no sooner than in 2016.
URA shall complete all of the site acquisition and preparation activities set forth in Section 5.1, except in subsections 5.1.5, 5.1.8 and 5.1.9.	February 13, 2015
URA shall complete all road improvements to 3300 East and have the road fully functioning as set forth in Section 6.3.1.	December 31, 2015
URA shall complete and have operational the rail crossing signalization as set forth in Section 6.3.2, as warranted.	December 31, 2015
URA shall convey the Site to Clif Bar as set forth in Section 5.2.	April 1, 2015
City and URA shall approve a new urban renewal Project and recommend a new TIF District that includes the Site as set forth in Section 1.1.	May 1, 2015
URA shall complete the storm water improvements as set forth in Section 5.1.8.	May 1, 2015
URA shall complete the sanitary sewer improvements as set forth in Section 5.1.9.	June 1, 2015
City shall have sufficient water flows available for Clif Bar to test Plant operations as set forth in Section 6.2.1.	October 1, 2015
City shall complete and have operational the water system as set forth in Section 6.2.	October 1, 2015
City shall complete and have operational the wastewater system improvements as set forth in Section 6.1, except for the sanitary sewer and MBBR wastewater pretreatment facility.	November 9, 2015
URA shall complete construction of the Mechanical Equipment Yard as set forth in Section 6.2.4.	July 1, 2016

**EXHIBIT C
DEAL SHEET**

<u>ELIGIBLE IMPROVEMENTS</u>	<u>ESTIM COSTS</u>	<u>FUNDING SOURCES</u>			
		City (reserves)	URA (TIF)	URA (other sources)	State
<u>Land Acquisition and Preparation</u>					
Approx. 89.43 acres +/-	\$ 3,903,931	\$ -	\$ 3,903,931	\$ -	\$ -
Infrastruct. Removal/Site Improve.	\$ 2,150,000	\$ -	\$ 1,950,000	\$ -	\$ 200,000
Storm water	\$ 1,317,000		\$ 1,317,000		
Sanitary Sewer	\$ 583,000		\$ 583,000		
Total	\$ 7,953,931	\$ -	\$ 7,753,931	\$ -	\$ 200,000
<u>Water</u>					
5 MGD Water Storage Tank	\$ 5,636,000	\$ 2,705,280	\$ 2,028,960	\$ 901,760	\$ -
On-Site Line Relocation	\$ 250,000	\$ -	\$ 250,000	\$ -	\$ -
Connection Fee	\$ 7,873	\$ -	\$ 7,873	\$ -	\$ -
Domestic/Fire Lines	\$ 537,000		\$ 537,000		
Total	\$ 6,430,873	\$ 2,705,280	\$ 2,823,833	\$ 901,760	\$ -
<u>Wastewater</u>					
Lift Station	\$ 500,000	\$ -	\$ -		\$ 500,000
Line Improvements	\$ 250,000	\$ -	\$ 250,000	\$ -	\$ -
Pretreatment	\$ 6,000,000		\$ 6,000,000		
Capacity Fee	\$ 102,865	\$ -	\$ 102,865	\$ -	\$ -
Total	\$ 6,852,865	\$ -	\$ 6,352,865	\$ -	\$ 500,000
<u>Streets and Transportation</u>					
	\$ 1,500,000	\$ -	\$ 1,500,000		\$ -
Improved and Signaled Rail Crossing	\$ 400,000	\$ -	\$ 400,000		\$ -
Total	\$ 1,900,000	\$ -	\$ 1,900,000	\$ -	\$ -
<u>Utility Improvements</u>					
20 MW Substation	\$ 2,600,000	\$ -	\$ 2,100,000		\$ 500,000
Mechanical Equipment Yard	\$ 75,000		\$ 75,000		
Total	\$ 2,675,000	\$ -	\$ 2,175,000	\$ -	\$ 500,000
<u>Canal Improvements</u>					
Relocation of the Canal Lateral	\$ 600,000	\$ -			\$ 600,000
Total	\$ 600,000	\$ -	\$ -	\$ -	\$ 600,000
<u>Impact Fees</u>					
Total Assessed Impact Fees	\$ 218,960	\$ -	\$ 218,960	\$ -	\$ -
Other fees per 7.2	\$ 50,000		\$ 50,000		
Total	\$ 268,960	\$ -	\$ 268,960	\$ -	\$ -
TOTALS	\$ 26,681,629	\$ 2,705,280	\$ 21,274,589	\$ 901,760	\$ 1,800,000

Total Funding Sources \$ 26,681,629

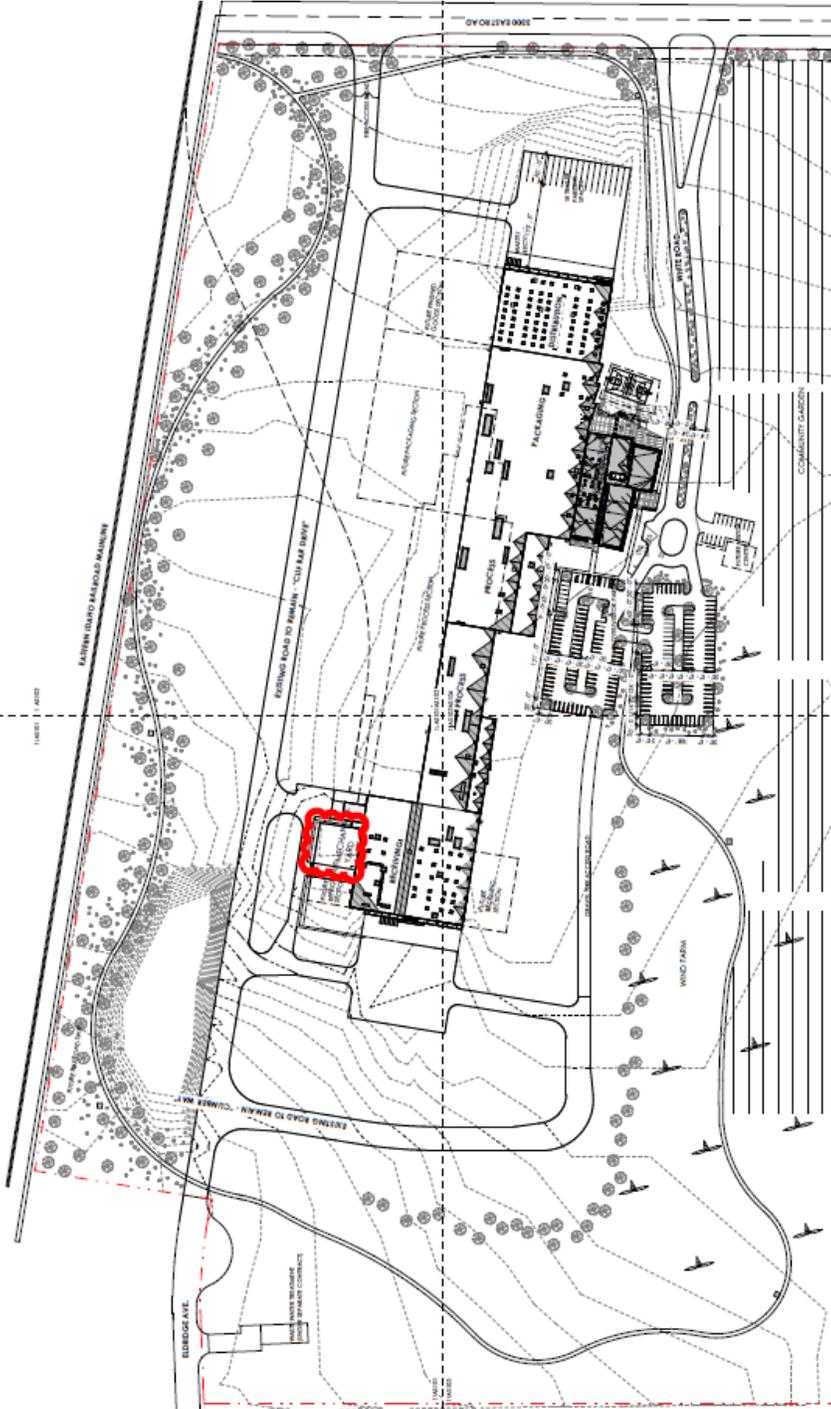
* Infrastructure improvement costs are estimates. TIF reimbursement will be based on actual expenditures and adequate TIF revenues.

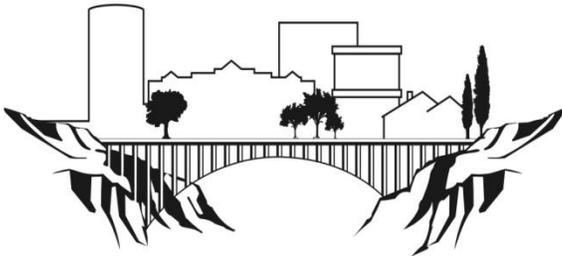
Attachment 4 to First Amendment

**EXHIBIT E
SITE PLAN**

THIS IS THE GENERAL AREA OF THE MECHANICAL & ELECTRICAL YARD

PLEASE PRESERVE THE GENERAL FORM OF THE MECHANICAL & ELECTRICAL YARD SCREEN WALL





**THE URBAN RENEWAL AGENCY
OF THE CITY OF TWIN FALLS**

Date: March 18, 2015

To: Urban Renewal Agency of the City of Twin Falls

From: Melinda Anderson, Executive Director

Request: Consideration of a request to approve Second Amendment to the Clif Bar Line of Credit Agreement and a new Promissory Note.

Background:

On November 12, 2013 TFURA board approved a Line of Credit (LOC) agreement and Promissory Note with Clif Bar & Co in order to have the funds to acquire and develop property, and to install needed infrastructure as outlined in the Development Agreement. The original LOC was for \$19 million and was expected to be paid off by June 15, 2015. This 2nd amendment increases the LOC to \$22 million and extends the maturity date to June 15, 2016.

On April 24, 2014, the TFURA board approved a 1st amendment to the LOC to correct the interest rate which was stated incorrectly in the original LOC. The interest rate is calculated by determining the Wall Street Prime Rate (from time to time) and adding 2% to that. For the past year the rate has been calculated at 5.25%.

Approval Process: Approval by a majority of the board in open meeting.

Budget Impact:

This approval increases TFURA indebtedness to Clif Bar by \$3 million. The projected investment by Clif Bar is expected to be able to cover the bond debt over the next 20 years.

Conclusion:

Staff recommends the board approve the 2nd Amendment and new Promissory Note, and authorize the Vice-Chairman to sign it.

Attachments:

1. 2nd Amendment to Line of Credit Agreement
2. Promissory Note

SECOND AMENDMENT TO LINE OF CREDIT AGREEMENT

THIS SECOND AMENDMENT TO LINE OF CREDIT AGREEMENT (“**Second Amendment**”) is made and entered into as of the _____ day of _____ 2015, by and between URBAN RENEWAL AGENCY OF THE CITY OF TWIN FALLS, IDAHO, an independent public body, corporate and politic, authorized under the authority of the Idaho Urban Renewal Law of 1965, as amended, Chapter 20, Title 50, Idaho Code, a duly created and functioning urban renewal agency (“**Agency**”), and CLIF BAR & COMPANY, a California corporation (“**Clif Bar**”). Agency and Clif Bar may be referred to hereinafter individually as a “**Party**” or collectively as the “**Parties**” as appropriate under the circumstances.

RECITALS

- A. The Parties entered into that certain Line of Credit Agreement, dated effective November 12, 2013, as amended by the First Amendment to the Line of Credit Agreement (collectively “**LOC Agreement**”);
- B. The Parties desire to modify the LOC Agreement to extend the Maturity Date and increase the Line of Credit Amount.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, hereby incorporated, the mutual covenants hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. **Definitions.** The LOC Agreement is hereby amended by deleting the definitions of “Maturity Date” and “Line of Credit Amount” in Section 1.1 Definitions, in their entirety and replacing such definitions with the following:
 - “Maturity Date” means the earlier of (i) the closing of the URA Financing or (ii) June 15, 2016.
 - “Line of Credit Amount” means a principal amount not to exceed Twenty-Two Million Dollars (\$22,000,000.00).
2. **Incorporation by Reference.** All capitalized terms referenced herein shall have the meanings set forth in the LOC Agreement unless expressly changed herein.
3. **Miscellaneous.** In the event of a conflict between the provisions of the LOC Agreement and the Second Amendment, the provisions of this Second Amendment shall control. No other terms and/or conditions of the LOC Agreement are hereby changed by this Second Amendment. The LOC Agreement shall remain in full force and effect modified only by the terms and conditions of this Second Amendment. This Second Amendment may be executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

[end of text; signatures follow]

IN WITNESS WHEREOF, the Parties have executed this Second Amendment as of the date first entered above.

AGENCY:

URBAN RENEWAL AGENCY OF THE CITY OF
TWIN FALLS, IDAHO

By: _____
Name: Daniel B. Brizee
Its: Vice-Chairman

CLIF BAR:

CLIF BAR & COMPANY, a California corporation

By: _____
Name: Kevin Cleary
Its: Chief Executive Officer

**URBAN RENEWAL AGENCY OF CITY OF TWIN FALLS
PROMISSORY NOTE**

\$22,000,000

Effective Date: November 12, 2013

Maturity Date: June 15, 2016

For value received, the URBAN RENEWAL AGENCY OF THE CITY OF TWIN FALLS, IDAHO, an independent body politic and corporate constituting a public instrumentality of the State of Idaho (the "Agency"), hereby promises unconditionally and without offset of any kind, to pay, from sources hereinafter described, to Clif Bar & Company, a California corporation ("Clif Bar"), or registered assigns or then holder, the principal sum of TWENTY-TWO MILLION AND 00/100 DOLLARS (\$22,000,000.00), or so much thereof as may be outstanding from time to time in lawful money of the United States of America, with interest payable on the outstanding principal balance from time to time at the Wall Street Journal Prime Rate (as adjusted from time to time), as published on the first Business Day of each and every month, plus two percent (2%). All principal and interest payable under this Note shall be due on the earlier of (i) the closing of the URA Financing, as described in that certain Line of Credit Agreement, dated November 12, 2013 between the Agency and Clif Bar, as amended (with amendments: "Line of Credit Agreement") or (ii) June 15, 2016.

This Note is issued to evidence the obligation of the Agency to Clif Bar under the Line of Credit Agreement, which is incorporated herein and made a part hereof, to repay all Advances and interest accrued thereon pursuant to the Line of Credit Agreement, which terms are incorporated herein by reference. The Agency and Clif Bar are entitled to benefits of each, and subject to the obligations stated in, the Line of Credit Agreement. All capitalized terms herein shall have the same meaning as set forth in the Line of Credit Agreement.

The Line of Credit Interest Rate shall be computed on an actual 360-day basis.

Prior to the Maturity Date, the Agency may prepay this Note, in whole, or in part, by payment of an amount equal to the principal amount to be prepaid plus accrued interest thereon and costs and expenses as set forth in the Line of Credit Agreement.

If an Event of Default, as defined in the Line of Credit Agreement, shall occur, the holder of this Note shall have such remedies as provided therein, including without limitation, the right to increase the applicable Interest Rate in the event of nonpayment. If placed with an attorney for collection, or if suit be instituted upon this Note, the Agency agrees to pay to said holder, in addition to all collection costs, reasonable attorneys' fees. All payments hereunder shall be from Available Agency Revenues as provided in the Line of Credit Agreement.

This Note is executed to finance the Line of Credit Purposes.

It is hereby certified, recited and declared on behalf of the Agency that all conditions, acts and things required by the Constitution of the State of Idaho, statutes of the State of Idaho, the Law, the Resolution and the Line of Credit Agreement to exist, to have happened or to have been performed precedent to or in the issuance of this Note exist, have happened and have been performed, and that the issuance of this Note, together with all other indebtedness of the Agency, is within every debt and other limit prescribed by said Constitution, statutes, and the Law. This Note shall be governed and construed in accordance with the laws of the State of Idaho.

IN WITNESS WHEREOF, THE URBAN RENEWAL AGENCY OF THE CITY OF TWIN FALLS, IDAHO has caused this Note to be signed in its name and on its behalf by the manual signature of its Chair as of the Effective Date first above written.

URBAN RENEWAL AGENCY OF THE CITY OF
TWIN FALLS, IDAHO

By _____
Daniel B. Brizee, Vice-Chairman