THE URBAN RENEWAL AGENCY
OF THE CITY OF TWIN FALLS

Urban Renewal Agency
Agenda

Monday, September 16, 2024, 12:00 PM

Council Chambers
203 Main Avenue East, Twin Falls, Idaho

Commissioners: Rudy Ashenbrener, Dan Brizee, Jan Rogers, JJ McBride, Dave McAlindin, Eric Smallwood, Jennifer Colvin

1) Confirmation of Quorum/Call Meeting to Order
2) Conflict of Interest Declaration
3) Consent Calendar
   a) **ACTION ITEM:** Request to approve 1) Minutes for the August 19, 2024, meeting; 2) August 2024 Financial Report, and 3) September 2024 Accounts Payable.
   By: Lorrie Bauer, Administrative Assistant
4) Reports/Updates
   a) Executive Director's Report
   By: Shawn Barigar, URA Executive Director
5) Items of Consideration
   a) **ACTION ITEM:** Consider approval of a First Amendment to the Lease for tenants of Agency-owned property located at 139 3rd Avenue South.
   By: Shawn Barigar, Executive Director
   b) **ACTION ITEM:** Consideration of a request to amend the FY2024 budget by the amount of $226,000.00 and authorize publication of a public hearing notice.
   By: Parker Scherer, Assistant Finance Director
   c) **DISCUSSION:** Discussion of guidelines and potential policy points for a Development Assistance Participation Program.
   By: Shawn Barigar, Executive Director
6) Public Input and Announcements
7) Upcoming Meeting(s)
   a) October 14, 2024, @ 12:00pm.
8) Adjournment

Any person(s) needing special accommodations to participate in the above-noticed meeting could contact Lorrie Bauer (208) 735-7313 at least two working days before the meeting. Si desea esta información en Español, por favor llame a Josh Palmer al teléfono (208) 735-7312.

THE URBAN RENEWAL AGENCY OF THE CITY OF TWIN FALLS

Urban Renewal Agency
Minutes

Monday, August 19, 2024, 12:00 PM

Council Chambers
203 Main Avenue East, Twin Falls, Idaho

Commissioners: Rudy Ashenbrener, Dan Brizee, Jan Rogers, JJ McBride, Dave McAlindin, Eric Smallwood, Jennifer Colvin

1) **Confirmation of Quorum/Call Meeting to Order**

Present:	Dave McAlindin, Jennifer Colvin, JJ McBride, Rudy Ashenbrener, Eric Smallwood, Jan Rogers
Absent:	Dan Brizee
Staff Present:	Shawn Barigar, Executive Director; Lorrie Bauer, Administrative Assistant; Parker Scherer, Assistant Finance Director; Jesse Schuerman, Staff Engineer; Ruth Pierce, City Council Liaison; Breanna Howard, Finance Director; Travis Rothweiler, City Manager; Mitch Humble, Deputy City Manager.

Chair Ashenbrener called the meeting to order at 12:00 p.m. A quorum was present.

2) **Conflict of Interest Declaration**
None.

3) **Consent Calendar**

a) Request to approve 1) Minutes for the July 15, 2024, meeting; 2) July 2024 Financial Report, and 3) August 2024 Accounts Payable.
MOTION: Eric Smallwood moved to approve the consent calendar as presented. Dave McAlindin seconded the motion. Roll call vote showed all members present voted in favor of the motion.

4) **Reports/Updates**

a) Executive Director's Report
Executive Director, Shawn Barigar, voiced his report as included in the agenda packet.

5) **Items of Consideration**

a) Public Hearing for the proposed FY2025 Budget.
Assistant Finance Director, Parker Scherer, shared no changes have been made since the previous meeting presentation. The public hearing was open. Fran Florence asked to see the budget. No comments were received. The public hearing was closed.

b) Consider Resolution No. 2024-04 adopting the FY2025 budget.
Executive Director, Shawn Barigar, shared the budget was published twice in the Times-News and no comments were received during the public hearing.
MOTION: Dave McAlindin moved to approve Resolution No. 2024-04 adopting the FY2025 budget. Jan Rogers seconded the motion. Roll call vote showed all members present voted, approved 6 to 0.

c) Public Hearing for the proposed Termination Budget for the Washington Street South Revenue Allocation Area for FY2023-24.
The public hearing was open. No comments were received. The public hearing was closed.

d) Consider Resolution No. 2024-05 adopting the Termination Budget for the Washington Street South Revenue Allocation Area.
MOTION: JJ McBride moved to approve Resolution No. 2024-05 adopting the termination budget for the Washington Street South revenue allocation area. Jan Rogers seconded the motion. Roll call vote showed all members present voted. Approved 6 to 0.

e) Presentation of the Eligibility Report for the Proposed Southwest Revenue Allocation Area and Consider Resolution 2024-06 Accepting the Report and Advancing it to the Twin Falls City Council.
Executive Director, Shawn Barigar, presented the Eligibility Report as attached in the packet. Discussion ensued.
MOTION: Dave McAlindin moved to approve Resolution 2024-06 accepting the report and advancing it to the Twin Falls City Council. Eric Smallwood seconded the motion. Roll call vote showed all members present voted in favor of the motion.

f) Request to approve an Agreement with Garcia Land Surveying in the amount not to exceed $12,000 to create and provide the Agency with a legal description and map for the Southwest Revenue Allocation Area (proposed).
Executive Director, Shawn Barigar, introduced the request as included in the agenda packet.
MOTION: Eric Smallwood moved to approve the agreement with Garcia Land Surveying in an amount not to exceed $12,000 to create and provide the Agency with a legal description and map for the Southwest Revenue Allocation Area. Jan Rogers seconded the motion. Roll call vote showed all members present voted. Approved 6 to 0.

6) Public Input and Announcements
None.

7) Upcoming Meeting(s)

a) September 16, 2024, @ 12:00 p.m.

8) Executive Session

a) Idaho Code 74-206(1)(c) to acquire an interest in real property not owned by a public agency.
(The meeting will not return to open session.)
MOTION: JJ McBride moved to enter executive session, per Idaho Code 74-206(1)(c), to acquire an interest in real property not owned by a public agency. Eric Smallwood seconded the motion. Roll call vote showed all members present voted in favor of the motion. The public portion of the meeting ended at 12:23 p.m.

9) Adjournment
The meeting adjourned at 12:43 p.m. No action or decision was taken during the executive session.

Lorrie Bauer, Administrative Assistant

Urban Renewal Agency of the City of Twin Falls, ID
Profit & Loss
August 2024

	Aug 24
Ordinary Income/Expense	
Income	
Investment Income	17,743.48
Property Taxes	384,015.84
Rental Income	3,408.33
Total Income	405,167.65
Gross Profit	405,167.65
Expense	
Bond Trustee Fees	2,000.00
Legal Expense	7,029.00
Meeting Expense	364.50
Prof. Dev.\Training	315.00
Utilities - Other	48.44
Total Expense	9,756.94
Net Ordinary Income	395,410.71
Net Income	**395,410.71**

Urban Renewal Agency of the City of Twin Falls, ID
P&L Over (Under) Budget - YTD
October 2023 through August 2024

	Oct '23 - Aug 24	Budget	$ Over Budget	% of Budget
Ordinary Income/Expense				
Income				
Contributions	0.00	221,588.00	-221,588.00	0.0%
Investment Income	271,173.12	45,900.00	225,273.12	590.8%
Other Income	8,149.00	150,000.00	-141,851.00	5.4%
Property Taxes	5,048,729.22	4,704,352.00	344,377.22	107.3%
Rental Income	44,041.63	53,800.00	-9,758.37	81.9%
Total Income	5,372,092.97	5,175,640.00	196,452.97	103.8%
Gross Profit	5,372,092.97	5,175,640.00	196,452.97	103.8%
Expense				
Bond Trustee Fees	5,000.00	5,000.00	0.00	100.0%
Community Relations & Website	0.00	5,000.00	-5,000.00	0.0%
Debt Payments - Interest	263,312.50	516,588.00	-253,275.50	51.0%
Debt Payments - Principal	365,000.00	725,000.00	-360,000.00	50.3%
Dues and Subscriptions	4,600.00	4,600.00	0.00	100.0%
General Development Projects	-25,000.00	500,000.00	-525,000.00	-5.0%
Insurance Expense	1,086.00	2,172.00	-1,086.00	50.0%
Legal Expense	30,726.94	20,000.00	10,726.94	153.6%
Management Fee	208,000.00	208,000.00	0.00	100.0%
Meeting Expense	1,690.54	5,000.00	-3,309.46	33.8%
Miscellaneous	10,787.27	500.00	10,287.27	2,157.5%
Office Expense	36.75	500.00	-463.25	7.4%
Prof. Dev.\Training	2,178.88			
Professional Fees	30,275.00	10,000.00	20,275.00	302.8%
Property Maintenance	5,297.00			
Property Tax Expense	3,027.74	0.00	3,027.74	100.0%
RAA 4-3 (Chobani)				
Debt Pay. (Chobani) Interest	1,487,302.25	1,487,302.00	0.25	100.0%
Debt Pay. (Chobani) Principal	1,969,000.00	2,193,000.00	-224,000.00	89.8%
RAA 4-3 (Chobani) - Other	50.00			
Total RAA 4-3 (Chobani)	3,456,352.25	3,680,302.00	-223,949.75	93.9%
Real Estate Purchase	0.00	0.00	0.00	0.0%
Utilities - Other	48.44			
Total Expense	4,362,419.31	5,682,662.00	-1,320,242.69	76.8%
Net Ordinary Income	1,009,673.66	-507,022.00	1,516,695.66	-199.1%
Other Income/Expense				
Other Income				
Transfers In	0.00	4,455,390.00	-4,455,390.00	0.0%
Transfers Out	0.00	-4,455,390.00	4,455,390.00	0.0%
Total Other Income	0.00	0.00	0.00	0.0%
Net Other Income	0.00	0.00	0.00	0.0%
Net Income	**1,009,673.66**	**-507,022.00**	**1,516,695.66**	**-199.1%**

September 2024 Accounts Payable

Check #	Date	Name	Amount	Account	Memo	Class/Fund
4817	8/22/2024	Daisy's Twin Falls	172.64	Meeting Expense	20240819 Meeting Lunch	General
4818	8/22/2024	Zions First National Bank	119,153.60	Excess Funds	Clif Bar Bond Payment Difference	RAA 4-4 (Clif)
4819	9/12/2024	Column Software PBC	157.99	Legal Expense	Times-News Publication City Ord O-2024-014	RAA Wash St S
4820	9/12/2024	Elam & Burke	1,200.00	Legal Expense	Prof Fees for August-02 / #210275	General
4820	9/12/2024	Elam & Burke	2,160.00	Legal Expense	Prof Fees for August-04 / #210276	RAA Wash St S
4820	9/12/2024	Elam & Burke	150.00	Legal Expense	Prof Fees for August-06 / #210277	RAA Orchard Dr E
4821	9/12/2024	Gaslamp, LLC	20,430.89	Gen Dev Project	Impact Fee Reimbursement	RAA Old Towne-2
4822	9/12/2024	GGLO LLC	77.50	Professional Fees	OT2 Master Plan-Marketing - Aug 2024037.01-4	RAA Old Towne-2
4823	9/12/2024	ICRMP	4,522.00	Insurance Expense	Insurance Policy 18018-2025-1 (pymt 1 of 2)	RAA Old Towne-2
4824	9/12/2024	Idaho Power	19.31	Utility Expense	Power for 222 4th Ave S - 2224040226 (final)	RAA Old Towne-2
4825	9/12/2024	Lorrie Bauer	260.90	Prof Dev/Training	AIC-ICCTFOA Conference Travel Costs	General
4826	9/12/2024	Times-News	425.08	Legal Expense	FY2025 Budget Publication #152611	General
4826	9/12/2024	Times-News	330.80	Legal Expense	Termination Budget Publication	RAA Wash St S
4827	9/12/2024	Zions First National Bank	4,315.21	Property Tax Expense	Chobani Property Taxes	RAA 4-3 (Chobani)

THE URBAN RENEWAL AGENCY
OF THE CITY OF TWIN FALLS

Date: Monday, September 16, 2024

To: Urban Renewal Agency of the City of Twin Falls

From: Shawn Barigar

Executive Director's Report

1. At the August 26, 2024, City Council meeting, the Council adopted the ordinance terminating the Urban Renewal Plan for the Washington Street South Urban Renewal Project and the Washington Street South Revenue Allocation Area. The ordinance has been published and communication to the overlapping taxing districts and the Idaho State Tax Commission has occurred as required by Idaho Code. The anticipated final expenses associated with this area are included in the payables. Following the allocation of the management fee paid by the Agency to the City for services of $25,000, a non-obligated surplus of $48,522.36 remains. This amount will be paid to the County Treasurer for pro rata distribution to the overlapping taxing districts.

2. Also at the August 26, 2024, City Council meeting, the Council approved a resolution accepting the Eligibility Report for the proposed Southwest Revenue Allocation Area and directed the Urban Renewal Agency to proceed with the preparation of an urban renewal plan for the area. Staff has been working with legal counsel and Kushlan Associates to draft an economic feasibility study, develop ag consents which will need to be secured from some property owners within the area, finalize mapping and legal description for the area, and assisting two property owners with annexation by the City in order to be included in the new area. All is on track for a draft to be completed by the first part of October. The plan will be before you for consideration at your October board meeting.

3. Region IV Development has shared information that the Seattle office of the Environmental Protection Agency may have a program available to assist with funding environmental assessments for eligible brownfield development. The property that the Agency owns at 222 4th Ave. S. (the former Globe Seed & Feed property) could meet the eligibility requirements for consideration. I intend to submit the appropriate paperwork to determine the eligibility and, should it qualify, would bring that back to you for consideration in the future. Having environmental assessments of this property would be beneficial to any future request for proposal process that the board may consider for redevelopment.

Attachments**:**

None

THE URBAN RENEWAL AGENCY
OF THE CITY OF TWIN FALLS

Date: Monday, September 16, 2024

To: Urban Renewal Agency of the City of Twin Falls

From: Shawn Barigar, Executive Director

ACTION ITEM

Request:

Consider approval of a First Amendment to the Lease for tenants of Agency-owned property located at 139 3rd Avenue South.

Background:

The Agency currently leases property it owns at 139 3rd Avenue South to Dave Hansen Inc. and DK Flooring Inc. The current lease has an expiration date of September 30, 2024, following the two 3-month extensions that were exercised earlier this year. The tenants wish to continue to lease this property and the Agency has no current plans for immediate redevelopment of this property.

Agency staff has communicated with the tenants to discuss a renewal of this lease for another 12 months through September 30, 2025, with the option of two 3-month extensions. All are in agreement with those terms. An amendment to the original lease addressing the extension term is included with this report, along with the original lease for reference. The balance of the terms of the agreement remains the same as the original lease.

Approval Process:

Majority vote of a quorum of the Agency Commissioners present at the meeting.

Budget Impact:

Renewal of the lease will generate a monthly income of $950 per month until the lease is terminated.

Regulatory Impact:

N/A

Conclusion:

Agency staff recommends approval of the first amendment to the lease with Dave Hansen Inc. and DK Flooring Inc. for agency-owned property located at 139 3rd Ave. South and to authorize the Chair to sign the amendment document.

Attachments:

1. 139 3rd Av S Lease First Amendment
2. 139 3rd Ave S - 2023 Lease

FIRST AMENDMENT TO COMMERCIAL LEASE
(139 3rd Avenue, Twin Falls, Idaho 83301)

THIS FIRST AMENDMENT TO COMMERCIAL LEASE (the "**First Amendment**"), is made effective the 1st day of October 2024, by and between The Urban Renewal Agency of the City of Twin Falls, an independent public body corporate and politic, organized under the laws of the state of Idaho (the "**Landlord**") and Dave Hansen Incorporated, an Idaho corporation ("Hansen") and DK Flooring Inc., an Idaho corporation ("DK Flooring") (collectively, Hansen and DK Flooring are referred to as the "**Tenant**"). Landlord and Tenant may be referred to herein as the "Parties" or a "Party" as the case may be. All capitalized terms used and not defined in this First Amendment shall have the same meaning as set forth in the Lease (as defined below).

RECITALS

A. Landlord and Tenant entered into that certain Commercial Lease Agreement (the "**Lease**") with a commencement date of April 1, 2023 (the "**Commencement Date**"), for certain premises known as 139 3rd Avenue South, Twin Falls, Idaho 83301, as more particularly described in the Lease (the "**Premises**").

B. The initial term of the Lease was twelve (12) months commencing on the Commencement Date (the "**Initial Term**"). The Lease provided the Tenant with the option to extend the Initial Term of the Lease for two (2) periods of three (3) months each (each an "**Extension Term**" and collectively, the "**Extension Terms**"). The Tenant exercised the Extension Terms pursuant to the Lease.

C. The Lease expires on September 30, 2024. The Parties desire to further extend the Lease.

D. The Parties now wish to enter into this First Amendment to extend the Lease and to add a termination provision.

NOW THEREFORE, for valuable consideration, the sufficiency of which is agreed and acknowledged, the Parties agree the foregoing recitals are not mere recitations but are covenants of the Parties, binding upon them as may be appropriate and a portion of the consideration for the agreements contained herein, and hereby further agree as follows:

AGREEMENT

1. **Lease Extension.** The Lease expires on September 30, 2024. The Parties agree to extend the Lease Term for the Premises for a period of twelve (12) months, beginning October 1, 2024, and running through and including September 30, 2025. Tenant will have the option to extend this Lease for two (2) periods of three (3) months each (each an "**Additional Extension Term**" and collectively, the "**Additional Extension Terms**").

2. **Base Rent**. The Base Rent shall be Nine Hundred Fifty Dollars ($950.00) per month, beginning on October 1, 2024, paid on the first day of each and every month thereafter for the remainder of the Term (which includes any Additional Extension Terms).

3. **Termination**. The Lease may be terminated for any reason, without penalty or further liability, by either party on sixty (60) days' prior written notice.

4. **Ratification**. Except as expressly provided for herein, the Lease shall remain unmodified and in full force and effect, and the Parties hereby ratify and affirm each of the terms and conditions contained in the Lease.

5. **Captions and Headings**. The captions and headings in this First Amendment are for reference only and shall not be deemed to define or limit the scope or intent of any provision of this First Amendment.

6. **Conflict**. In the event of any conflict between Lease and this First Amendment, this First Amendment shall be deemed to supersede the conflicting term in the Lease and this First Amendment shall control and govern.

7. **Entire Agreement, Other Terms Not Modified.** The Lease, as amended by this First Amendment, constitutes the entire agreement of the Parties relating to the subject matter hereof. The Lease is in full force and effect and remains unaltered, except to the specific extent amended herein. This First Amendment shall be considered part of the Lease.

8. **Representations**. Each Party represents to the other that it has full power and authority to execute this First Amendment. Each Party represents to the other that it has not made any assignment, sublease, transfer, conveyance, or other disposition of the Lease or any interest in the Lease or the Premises and has no knowledge of any existing or threatened claim, demand, obligation, liability, action, or cause of action arising from or in any manner connected with the Lease or the Premises by any other Party.

9. **Counterparts/Electronic Signatures**. Signatures transmitted by counterpart via electronic mail shall be deemed original for purposes of creating a valid and binding agreement.

[signature page to follow]

IN WITNESS WHEREOF, the Parties have hereunto set their hands.

Landlord: The Urban Renewal Agency of the City of Twin Falls

By: ______________________________________
Rudy Ashenbrener
Chair

Date: ______________________________________

Tenant: Dave Hansen Inc.

By: ______________________________________
Dave Hasen, CEO

Date: ______________________________________

DK Flooring Inc.

By: ______________________________________
Dan Koyle, Owner

Date: ______________________________________

v.1 20240813 8:42
4862-4311-4210, v. 3

COMMERCIAL LEASE AGREEMENT

This Commercial Lease Agreement ("**Lease**") is made and entered into by and between The Urban Renewal Agency of the City of Twin Falls, an independent public body corporate and politic, organized under the laws of Idaho ("**Landlord**") and Dave Hansen Inc., an Idaho business corporation and DK Flooring Inc., an Idaho business corporation ("**Tenant**"). Landlord and Tenant may each be referred to herein as a "**party**" or the "**parties,**" as the case may be. The "**Effective Date**" of this Lease is the date last signed by both parties below.

1. SUMMARY OF BASIC TERMS

This Section 1 is a summary of certain basic terms of this Lease for reference purposes.

1.1	**Property**	The real property and all improvements described on Exhibit A.
1.2	**Building**	The approximate 12,500 square foot building located on the Property generally shown on Exhibit B.
1.3	**Premises**	The approximately 12,500 square foot Building combined with the parking and open space generally shown on Exhibit C (the "**Premises**").
1.4	**Parking**	The vehicle parking stalls associated with the Building as depicted on Exhibit D.
1.5	**Address of Premises**	139 3rd Avenue, Twin Falls, Idaho 83301 Parcel Nos. RPT0001118022A and RPT0001118025B
1.6	**Permitted Use**	General Retail Trade, Construction Trade Office (See Section 7.1)
1.7	**Commencement Date**	The "**Commencement Date**" will be April 1, 2023.
1.8	**Initial Term**	12 months commencing on the Commencement Date.
1.9	**Extension Terms**	Tenant will have the option to extend the Initial Term of this Lease for 2 periods of 3 months each (each an "**Extension Term**" and collectively, the "**Extension Terms**"). (See Section 3.3)
1.10	**Term**	The Initial Term and any exercised Extension Terms. (See Article 3)

1.11 Base Rent

Months	Monthly Base Rent	Annual Base Rent
1 - 12	$ 950.00	$ 11,400.00

Base Rent during the Extension Term will be determined as mutually agreed to in writing by Tenant and Landlord.

1.12 Security Deposit $800.00 which has been previously paid by Tenant and will be held for the Term of this Lease. (See Article 5)

1.13 Addresses Landlord: 203 Main Avenue East, Twin Falls, Idaho 83301

Tenant DK Flooring Inc.
Attn: Dan Koyle
139 3rd Avenue South
Twin Falls, ID 83301

Dave Hansen Inc.
Attn: Dave Hansen, Inc.
480 Highway 74
Twin Falls, Idaho 83301

EXHIBITS:

EXHIBIT A Property
EXHIBIT B Building
EXHIBIT C Premises
EXHIBIT D Parking

2. PREMISES AND DELIVERY

2.1 Premises. In consideration of Tenant's payment of Base Rent and Tenant's performance of the other agreements in this Lease, Landlord leases to Tenant and Tenant leases from Landlord, the Premises for the Term, subject to the terms and conditions of this Lease. Landlord hereby reserves the use of the following as they relate to the Premises: the exterior thereof, all space above any suspended ceiling, all space beneath the floor, and the right to install, maintain, use, repair, relocate and replace stacks, pipes, ducts, conduits, wires, and utilities leading through the Premises in locations which do not materially interfere with Tenant's use of the Premises. Tenant will have access to the Premises twenty-four (24) hours per day, subject to closures for emergencies, repairs, similar matters, and matters outside Landlord's reasonable control. Tenant will comply with any conditions, covenants, restrictions, and easements affecting the Property which now exist, and, also, which may hereafter be entered into by Landlord, including any amendments thereof, so long as such amendments do not affect Tenant's ability to use the Premises as contemplated herein. As used in this Lease, **"Applicable Law"** means all applicable federal, state, and local laws, statutes, rules, regulations, and ordinances, including, without limitation, building, zoning, subdivision, health and safety, and other land use laws, including, without limitation, the Americans with Disabilities Act of 1990, Public Law No. 101-336, 42 USC 12101, et. seq. and Environmental Laws (as defined in Section 8.7.1). Applicable Law shall also mean the Idaho Urban Renewal Law, Title 50, Chapter 20, Idaho Code, as amended (the "**Urban Renewal Law**") and the Local Economic Development Act, Title 50, Chapter 29, Idaho Code, as amended (the "**Act**").

2.2 Delivery and Acceptance of Premises. Tenant acknowledges and agrees to the following: (a) Tenant will be responsible for investigating and establishing the suitability of the Premises for Tenant's intended use thereof, and (b) Tenant is leasing the Premises in "AS IS" condition based on its own inspection and investigation and not in reliance on any statement, representation, inducement, or agreement of Landlord or any agent of Landlord.

2.3 Common Areas. References in this Lease to "**Common Areas**" will mean the following areas provided from time to time for the general non-exclusive use of Landlord, Tenant, and other area individuals and entities, and their respective employees, suppliers, shippers, customers, contractors, and invitees: (i) all areas and facilities, including, without limitation, loading and unloading areas, trash areas, lighting facilities, fences and gates, sidewalks, walkways, signs, and landscaped areas and (ii) any other areas generally identified as available for tenant use. Landlord hereby grants to Tenant for the benefit of Tenant and its employees, suppliers, shippers, customers, contractors, and invitees, during the Term of this Lease, the nonexclusive right to use, in common with others entitled to such use, the Common Areas as they exist from time to time, subject to any restrictions identified by the Landlord and any rights, powers, and privileges reserved by Landlord under the terms of this Lease, including without limitation the terms of Section 10.4.

2.4 Parking. As part of the Premises during the Term of this Lease, Tenant shall have the non-exclusive use in common with Landlord and others, their guests and invitees, of the non-reserved common vehicle parking areas, driveways, footways, as depicted in Exhibit D ("Parking"), subject to the rules and regulations for the use thereof as prescribed from time to time by Landlord. Tenant shall be responsible for maintaining the Parking, including ensuring it is kept weed free and all ice and snow are removed. Storage of non-running vehicles will not be permitted.

2.5 Rules and Regulations. Tenant will comply with the rules and regulations established from time to time for the Premises by the Landlord. Landlord shall provide Tenant with a written list of rules and regulations, should such rules and regulations apply.

2.6 No Smoking. Tenant acknowledges that the Premises has been designated by Landlord as a "**No Smoking**" area, which No Smoking area includes areas around entrances and exits as may apply. Tenant agrees to timely enforce such restriction with respect to its employees, contractors, agents, invitees, and licensees who occupy the Premises, including enforcing such restriction with respect to those areas located immediately adjacent to or in front of the Building entrances.

3. LEASE TERM

3.1 Enforceability. Notwithstanding that the Commencement Date and Tenant's right to occupy the Premises will occur after the Effective Date, the Parties agree that this is a fully binding and enforceable agreement from and after the Effective Date.

3.2 Initial Term. The Initial Term of this Lease and Tenant's right to use and occupy the Premises will commence on the Commencement Date.

3.3 Extension Terms

3.3.1 Exercise. Tenant and Landlord will have the option (the "**Extension Option**") to extend the Initial Term of this Lease for each of the Extension Terms. The Extension Option will be exercised, if at all, upon Tenant's satisfaction of the following conditions:

(a) Tenant will deliver to Landlord a written notice (the "**Extension Notice**") irrevocably exercising the Extension at least thirty (30) days before the last day of the Initial Term or then-applicable Extension Term;

(b) The Lease must be in full force and effect at the time the Extension Notice is delivered to Landlord and continuously thereafter until the last day of the Initial Term or then-applicable Extension Term;

(c) Tenant will not be in default under any provision of the Lease beyond any applicable cure period at the time Tenant delivers the Extension Notice or continuously thereafter until the last day of the Initial Term or then-applicable Extension Term; and

(d) Tenant will not have been given notice of default of Tenant's Lease obligations more than two (2) times during the Term of the Lease.

Tenant's election to exercise an Extension Option is solely within the discretion of Landlord, and Landlord has no obligation to extend the Lease for any Extension Option beyond the Initial Term. Provided that Tenant has exercised the Extension Option and Landlord has approved such Extension Option, in accordance with the terms of this Section 3.3, then the applicable Extension Term will commence on the expiration of the Initial Term or then-applicable Extension Term, and will be subject to all the terms, covenants, conditions, and provisions of the Lease. The failure of Tenant to exercise the Extension Option in accordance with the terms of this Section 3.3 will terminate the rights of Tenant with respect to the then-current and all future Extension Terms. Rent for the Extension Term will be determined as mutually agreed to in writing by Landlord and Tenant.

4. BASE RENT.

Commencing on the Commencement Date and continuing on the first day of each month thereafter for the remainder of the Term, Tenant will pay to Landlord the Base Rent identified in Section 1.11 in advance, without offset, set off, abate, deduction, or demand. The Base Rent will be paid to Landlord at the address identified in Section 1.13, or at such other address as Landlord may specify from time to time by notice to Tenant. All charges payable by Tenant, other than Base Rent, and directly to a third party, are referred to in this Lease as "**Additional Rent**," whether or not so denominated. Unless this Lease provides otherwise, Tenant will pay all Additional Rent then due with the next monthly installment of Base Rent. The term "**rent**" or "**Rent**" means Base Rent and Additional Rent. Rent for any partial month will be prorated, and the Base Rent for the first full calendar month will be paid on execution of this Lease by Tenant and applicable to the first installment of Base Rent due hereunder. Landlord will have all of the same remedies for Tenant's failure to pay Additional Rent as for failure to pay Base Rent.

Pursuant to Idaho Code § 50-2011, the Base Rent amount exceeds the fair value for the uses for which the Premises is intended in accordance with the Landlord's urban renewal planning documents and associated uses. The Base Rent represents the fair market value of the Premises.

5. SECURITY DEPOSIT

Tenant has already deposited with Landlord a Security Deposit in the amount specified in Article 1 (**"Security Deposit"**) for the faithful performance by Tenant of all of Tenant's obligations under this Lease. If Tenant defaults under this Lease, Landlord may (but shall not be required to) apply or retain the Security Deposit to the payment of the amounts in default or to compensate Landlord for any other loss or damage which Landlord may suffer by reason of Tenant's default, including, but not limited to, Tenant's future rent. Additionally, Landlord has the right to increase the Security Deposit if the Permitted Use is amended to accommodate a material change in the business of Tenant or to accommodate a sublessee or assignee to the extent necessary, in Landlord's reasonable business judgment, to account for any increased wear and tear that the Premises may suffer as a result. If any portion of the Security Deposit is so used, applied, or increased, Tenant shall, within ten (10) days after written demand therefor, deposit with Landlord such amounts as are required to restore the Security Deposit to its original amount. Tenant's failure to do so shall be a material breach of this Lease. Landlord shall not be required to keep this Security Deposit separate from its general funds, and Tenant shall not be entitled to interest on the Security Deposit unless required by applicable law. If Tenant shall fully and faithfully perform all of its obligations under this Lease, the Security Deposit held by Landlord shall be returned to Tenant within thirty (30) days of the later to occur between the expiration of the Lease term and the date Tenant vacates the Premises. If Landlord assigns its interest in this Lease and transfers the Security Deposit to Landlord's successor in interest, Landlord shall be released from all liability for the return of the Security Deposit. THE SECURITY DEPOSIT WILL NOT BE USED BY TENANT IN LIEU OF PAYMENT OF RENT AND TENANT WAIVES ANY STATUTE REGARDING THE APPLICATION OF THE SECURITY DEPOSIT TO FUTURE RENTS TO THE FULL EXTENT IT MAY BE WAIVED.

6. OPERATING EXPENSES

6.1 "Real Property Taxes" will mean all current and future real property taxes, governmental charges, and assessments (including LIDs, ULIDs, CRIDs, etc.) levied on the Property and the improvements thereto; any taxes in addition to or in lieu of, in whole or in part, such taxes; any tax upon leasing or rents of the Property; any other governmental charge such as payments for transit or environmental facilities; and all costs and expenses incurred by Landlord in connection with the attempt to reduce any of the foregoing, whether by negotiation or contest. "Real Property Taxes" will not include any inheritance, single business, transfer, capital, franchise, or state income tax, estate tax, or other similar tax and will not include any late payment penalties, surcharges, or interest if Tenant has paid the amounts due under Section 1 as and when due.

6.2 Utilities. Tenant will pay, directly to the appropriate supplier, the cost of any of the following services which are separately metered or submetered: water, sewer, natural gas, solid waste/garbage, power, and other utilities. To the extent Tenant desires telephone, cable, internet, or other utilities or services in the Premises, then Tenant will contract directly with the providers thereof, and will be solely responsible for the payment thereof. Tenant will provide adequate trash containers and regularly scheduled trash disposal consistent with other first-class mixed-use projects. Tenant will use best efforts to dispose of trash in a manner that minimizes odors, stains, and other objectionable nuisances. In addition, Landlord may impose rules from time to time to reduce any adverse impact of Tenant's trash containers and/or disposal.

6.3 Net Lease. This Lease and the Rent payable hereunder are intended to be fully net of expenses incurred by Landlord in connection with the Building and Premises.

7. USE AND EXCLUSIVES

7.1 Permitted Use. Tenant may use the Premises only for the Permitted Use identified in Section 1 and for no other use whatsoever without Landlord's prior written consent, which consent will be in Landlord's sole discretion. Tenant agrees that any failure to conduct its business in the Premises pursuant to the Permitted Use would result in irreparable damage to Landlord and that Landlord will have the right immediately to obtain an injunction ordering Tenant to operate the Premises consistent with the Permitted Use.

7.2 Use Restrictions. Tenant agrees that neither it nor any successor, assign, concessionaire, sublessee, or assignee will use the Premises conflicting with or prohibited by the recorded conditions, covenants, and restrictions and/or other governing documents identified in this Lease, if any, attached hereto and incorporated herein. Landlord will have the right to supplement, modify, or amend the Permitted Use by notice to Tenant from time to time, provided that such modifications do not prevent Tenant from engaging in the Permitted Use at the Premises.

7.3 Actions that Injure the Building or the Premises. Tenant will not cause or permit the Premises to be used in any way which (a) violates Applicable Law, including City of Twin Falls codes and regulations, (b) which in the reasonable judgment of Landlord would constitute a nuisance, or would materially disturb or endanger persons within or adjacent to the Property, or unreasonably interfere with their use of their respective premises; or (c) adversely impacts Landlord's Insurance. A Tenant breach will be any violation of the Lease or as otherwise reasonably determined by Landlord in its sole discretion.

7.4 Non-Discrimination. Notwithstanding anything to the contrary in the Lease, neither Landlord nor Tenant shall discriminate against or segregate any persons on account of race, color, national origin, ancestry, creed, religion, gender, gender identity, gender expression, sexual orientation, genetic information, marital status, familial status, age, source of income, immigration status, citizenship, primary language, handicap, disability, or any other protected classification under Applicable Law with respect to (i) anyone entering the Property or the Premises, as applicable, (ii) any sublessees or assignees of Tenant's interest in this Lease or transferees of Landlord's interest in this Lease, or (iii) any vendor providing services to Landlord or Tenant, respectively.

8. TENANT'S OPERATIONS

8.1 Contract Services. Tenant will cause all contractors and service providers engaged to perform maintenance and repair services to the Premises to maintain insurance coverage reasonably acceptable to Landlord, which insurance will name Tenant and Landlord as insureds, and all such contractors and service providers will be licensed and subject to Landlord's reasonable approval. If reasonably requested by Landlord, Tenant will utilize the same contractors as selected by Landlord for similar services to other portions of the Property.

8.2 Pest Control. At Landlord's request, Tenant will hire a certified pest control contractor to service the Premises. Tenant will provide Landlord with a copy of such pest control contract, which contract will list all chemicals being used and indicate what the chemicals are intended to treat. Such pest control contract will be subject to Landlord's reasonable approval. Tenant will provide Landlord with copies of all pest control service reports within ten (10) days after the Premises are treated by the pest control contractor. If Landlord reasonably determines that the Premises, areas adjacent to the Premises, or its trash container(s) are being affected by insects, rodents, vermin, or other pests as a result of Tenant's failure to exterminate such pests, Tenant will, upon Landlord's request, cause its pest control contractor to treat such adjacent areas to eliminate such pests. Notwithstanding the foregoing, Landlord may have its own contractors perform pest control and will have the right to allocate such charges to Tenant as Additional Rent.

8.3 Access to Roof. Tenant will not permit any employee, contractor, or guest onto the roof of the Building or into any other non-public areas of the Property or Building.

8.4 Building Penetrations. Tenant will not make any penetrations to the structural portions of the Building (such as roof, walls, foundations, etc.) without Landlord's prior written consent. If Tenant is permitted to penetrate the structural portions of the Building, the consent will be subject to Landlord's conditions, including (a) approval of plans and specifications for the penetration and the contractor to perform it, (b) arrangements to ensure that the penetration does not adversely affect any warranty, (c) Tenant's agreement to reimburse for costs incurred in connection with any later problems which develop with the penetrated area, and (d) Tenant's agreement to remove the equipment before the end of the Lease and completely seal the penetration to Landlord's satisfaction and in compliance with any applicable warranty. In the event Tenant makes any penetration of non-structural portions of the Building, the provisions of subsections (b) through (d) will apply. Any such work will be performed by contractors designated by Landlord. In addition, depending on the seriousness of the penetration, Landlord may require Tenant to post a deposit to guarantee Tenant's performance. If Tenant penetrates the structural portions of the Building without Landlord's written consent or violates the terms hereof, Tenant will pay immediately and completely seal the penetration to Landlord's satisfaction, and Tenant will pay any and all costs necessary to reinstate the roof warranty if the penetration caused a void in the existing roof warranty.

8.5 Hazardous Substances.

8.5.1 Definitions. For purposes of this Section 8.5, the term "**Hazardous Substances**" will mean any hazardous or toxic chemical, waste, byproduct, pollutant, contaminant, compound, product, or substance, including without limitation, asbestos, polychlorinated biphenyl, petroleum (including crude oil or any fraction or by-product thereof), underground storage tanks, and any material the exposure to or manufacture, possession, presence, use, generation, storage, transportation, treatment, release, remediation, or handling of which is prohibited, controlled, or regulated by any Environmental Law (except for normal quantities of standard cleaning or office supplies); and the term "**Environmental Laws**" will mean any federal, state, regional, county, or local governmental statute, law, regulation, ordinance, order or code, or any consent decree, judgment, permit, license, code, or other requirement presently in effect or hereafter created, issued, or adopted pertaining to protection of the environment, health or safety of persons, natural resources, conservation, wildlife, waste management, and pollution (including, without limitation, regulation of releases and disposals to air, land, water, and groundwater).

8.5.2 Tenant Covenants. Tenant covenants and agrees that Tenant will: (a) not cause or permit any Hazardous Substances to be generated, produced, brought upon, used, stored, treated, released, discharged, or disposed of in or about the Premises or the Common Area by Tenant in violation of Environmental Laws; (b) comply with all Environmental Laws; (c) promptly notify Landlord, in writing, if Tenant has or acquires notice or knowledge that any Hazardous Substances has been or is threatened to be released, discharged, disposed of, transported, or stored on, in, under, or from the Premises; and (d) if any Hazardous Substances are discharged, released, or disposed of by Tenant, Tenant immediately take such action as is necessary to detain the spread of, remove, and dispose of such Hazardous Substances to the complete satisfaction of Landlord and in compliance with all Environmental Laws at Tenant's own cost and expense.

8.5.3 Tenant Indemnity. Tenant agrees to indemnify, defend, and hold Landlord free and harmless from and against all losses, liabilities, obligations, penalties, claims, litigation, demands, defenses, costs, judgments, suits, proceedings, damages (excluding consequential damages), disbursements or expenses of any kind (including reasonable attorneys' fees and costs incurred in investigating, defending, or prosecuting any litigation, claim, or proceeding) that may at any time be imposed upon, incurred by, or asserted or awarded against Landlord or any of them in connection with or arising from or out of any Hazardous Substances released, discharged, or disposed of by Tenant on, in, under, or affecting all or any portion of the Premises, or any claim or action arising from a breach of Tenant's covenants. The provisions of this Section will be in addition to any and all obligations and liabilities Tenant may have to Landlord under other terms of this Lease and at common law and will survive the expiration of the Term or earlier termination of this Lease.

8.6 Telecommunications Services. Tenant, at its expense, will arrange for all telecommunications services desired by Tenant at the Premises. Landlord has no responsibility for the maintenance of Tenant's telecommunications equipment and/or wiring (collectively, "**Tenant's Telecom Equipment**") or for any infrastructure to which it is connected. Landlord shall have no liability for any costs or damages in connection with, and Landlord does not warrant that Tenant's use of Tenant's Telecom Equipment be free from the following (collectively, "**Line Problems**"): (a) any shortages, failures, variations, interruption, disconnection, loss or damage caused by (i) the installation, maintenance, replacement, use, or removal of telecommunications equipment and/or wiring by or for other tenants or occupants at the Building; (ii) any failure of environmental conditions or the power supply for the Building to conform to any requirements for Tenant's Telecom Equipment, or (iii) any other problems associated with any of Tenant's Telecom Equipment by any other cause; (b) any failure of any Tenant's Telecom Equipment to satisfy Tenant's requirements; or (c) any eavesdropping or wire-tapping by unauthorized parties. The occurrence of any Line Problems will not be considered an actual or constructive eviction of Tenant or relieve Tenant from performance of Tenant's obligations under this Lease. If Tenant's Telecom Equipment in, on, or about the Premises or the Building create an electromagnetic field exceeding radiation limits permitted by FCC regulations, as now or hereafter amended ("**FCC Regs**"), Landlord may require Tenant to take any and all steps necessary to reduce radiation to levels permitted by the FCC Regs, including removal of equipment. Tenant will indemnify and hold Landlord harmless from all liability, costs, and damages arising out of Tenant's electromagnetic emissions, including any failure of Landlord to take any action in connection with such emissions.

8.7 Compliance/Permits. Tenant, at its own expense, will obtain and pay for all permits related to its business and/or its specific use of the Premises. At its expense, Tenant will comply with Applicable Law and with any lawful direction made pursuant to Applicable Law of any public officer with respect to the Premises or the use thereof, including any obligation to make alterations in the Premises required as a condition of Tenant's occupancy.

8.8 Life Safety Systems. Tenant will install, store, and place all items within the Premises in a manner which will not interfere with the operation of the fire suppression and other life safety systems in the Building.

8.9 Tenant's Taxes. Tenant will pay, prior to delinquency, all personal property taxes on Tenant's personal property located within or used in connection with the Premises.

8.10 Storage, Stock and Deliveries. Tenant will (a) warehouse, store, or stock in the Premises only such goods, wares, and merchandise as Tenant intends to offer for sale at retail in or from the Premises; (b) use for office or non-selling purposes only such space as is reasonably required for Tenant's business; (c) store all trash and refuse in the place and manner specified by Landlord; (d) receive and deliver goods and merchandise only at the times and in the manner and areas designated by Landlord; and (e) conduct its business in a first class manner.

9. MAINTENANCE

9.1 Tenant's Obligations. Tenant will keep and maintain all portions of the Premises in good order, condition, and repair, including storefront, interior and exterior doors and windows and window coverings, floors, lighting, and all fixtures and equipment in the Premises, all portions of the systems that exclusively serve the Premises, as well as the trash dumpsters and enclosures which Tenant uses for its refuse. "**Systems**" will mean electrical, mechanical, telecommunications, plumbing, and HVAC systems, as applicable to the Premises. Tenant's repair and maintenance responsibility will include repair of damage by vandalism or casualty (unless such damage is covered by insurance that Landlord is required to maintain under this Lease) and replacement of equipment and other portions of the Premises which can no longer be brought into good operating condition. If any part of the Property is damaged by any act or omission of Tenant, its agents, employees or invitees, Tenant will pay the cost of repairing or replacing the damage. It is the intention of Landlord and Tenant that at all times Tenant will maintain the portions of the Premises which Tenant is obligated to maintain in an attractive, first-class, and fully operative condition, this includes general cleaning and upkeep. Notwithstanding the foregoing, Landlord may elect to assume portions of Tenant's above repair and maintenance obligations, and the costs thereof will otherwise be billed to Tenant and will be payable within thirty (30) days after receipt of the invoice. Tenant will at all times carry an HVAC maintenance contract with a company and on terms acceptable to Landlord providing for regular (not less than twice per calendar year) maintenance of the HVAC system in the Premises. Tenant will reimburse Landlord for any extra cleaning which Landlord undertakes to keep the dumpsters and trash enclosures used by Tenant clean and odor free to the extent reasonable in the circumstances.

9.2 Landlord's Right to Cure. Whether Tenant has satisfied its repair, maintenance, and replacement obligations will be determined by Landlord using its commercially reasonable judgment. If Tenant fails to maintain, repair, or replace the Premises as required by this Section, Landlord may, upon ten (10) days' prior notice to Tenant (except no notice is required in an emergency), enter the Premises and perform Tenant's obligations on behalf of Tenant, and Tenant will reimburse Landlord for all costs incurred within ten (10) days after receipt of an invoice from Landlord therefor.

9.3 Interruption of Service. Landlord does not warrant that any utilities or services will be free from interruption, including by reason of accident, repairs, alterations, computer programming weaknesses, or other causes. No utility interruption will be deemed an eviction or disturbance of Tenant, or render Landlord liable to Tenant for damages, or relieve Tenant from the full and complete performance of all of Tenant's obligations under this Lease, other than such matters as are solely and directly the result of Landlord's gross negligence or willful misconduct, not covered by insurance, which Tenant is required to carry hereunder, and result in Tenant being unable to operate from the Premises for a period of forty-eight (48) consecutive hours or more, in which event Base Rent will abate for the period Tenant is unable to operate as Tenant's sole and exclusive remedy.

10. ALTERATIONS

10.1 Alterations Procedures. Tenant will not make any alterations, additions, or improvements to the Premises (collectively, "**Alterations**") without Landlord's prior written consent, which consent will not be unreasonably withheld, conditioned, or delayed so long as the Alterations do not affect the Building structure, the exterior appearance of the Building, or the systems, whether or not the systems at issue exclusively serve the Premises. Landlord may condition its consent on various matters, including Tenant agreeing to remove the Alterations and repair any resulting damage on Lease termination at Tenant's cost, Tenant posting security for the estimated removal/repair cost and Landlord's approval of the plans and specifications for the work. All Alterations which Landlord does not require Tenant to remove will become Landlord's property and will be surrendered to Landlord on termination of the Lease, except that Tenant may remove any of Tenant's machinery or equipment which can be removed without material damage to the Premises. Tenant will repair, at Tenant's expense, any damage to the Premises caused by the removal of any such machinery or equipment. Landlord may require Tenant to provide payment and performance bonds for the alterations and/or lien waivers. All Alterations will be done in a good and workmanlike manner, in conformity with Applicable Law, and by a contractor approved by Landlord. Upon completion of any such work, Tenant will provide Landlord with "as built" plans; copies of all construction permits, contracts and approvals; and proof of payment for all labor and materials.

10.2 Liens. Tenant will have no express or implied authority to place any lien or encumbrance upon, or bind, Landlord's interest in the Premises or to burden the Rent for any claim in favor of any person dealing with Tenant, including those who furnish materials or perform labor for any construction or repairs, and each such claim will attach, if at all, only to Tenant's leasehold interest. Tenant will cause to be paid when due all sums owed for any labor performed or materials furnished in connection with any work performed on the Premises for Tenant. Tenant agrees to and will indemnify and save Landlord free and harmless against liability, loss, damage, costs, attorneys' fees, and all other expenses on account of claims of lien of laborers or materialmen or others for work performed or materials or supplies furnished to Tenant or persons claiming under Tenant. In the event that as a result of any work of improvement undertaken by Tenant, including, without limitation, any Alternations, any mechanics' lien or other lien is filed against the Premises, and Tenant fails to discharge, bond over, or otherwise cause the release of any lien or claim within fifteen (15) days after the filing or recordation thereof, Landlord will have the right (but not the obligation), in addition to any other rights or remedies of Landlord, to cause such lien or claim to be rescinded, discharged, compromised, dismissed, bonded over, or removed in which event any sums paid by Landlord, including attorneys' fees, will be immediately due and payable to Landlord by Tenant. Tenant will immediately provide written notice to Landlord of any lien or claim against the Property or any action affecting title to the Property. Landlord may require Tenant to post a notice of Landlord's non-responsibility with respect to the work.

10.3 Condition Upon Surrender. Upon the expiration or earlier termination of the Lease, Tenant will remove all of its personal property and surrender the Premises to Landlord, broom clean and in the same condition as received or, if improved, in the improved condition and with all maintenance obligations complete except for ordinary wear and tear, which Tenant was not otherwise obligated to remedy under this Lease, including with all electrical, plumbing, and other mechanical systems in the same condition as received or, if improved, in their improved condition. Notwithstanding anything in this Section to the contrary, Tenant will not remove any fixtures or equipment considered a part of the real property without Landlord's prior written consent or unless required by Landlord. Such items will include: any wiring; lighting or lighting fixtures; wall coverings; drapes, blinds, or other window coverings; and/or floor coverings. Telecommunications and data cabling installed by Tenant will not be considered part of the real estate and Landlord may elect either to require Tenant to remove it or leave it in place. Any property left on the Premises after the expiration or termination of the Term will be deemed to have been abandoned and to have become the property of Landlord to dispose of as Landlord deems expedient. Tenant will be liable for all costs associated with the disposal of such property. Tenant hereby waives all claims for damages that may be caused by Landlord's reentering and taking possession of the Premises or removing and disposing of Tenant's property as herein provided, and Tenant will indemnify and hold Landlord harmless therefrom. No such reentry will be considered or construed to be a forcible entry. Tenant will indemnify Landlord against any loss or liability resulting from delay by Tenant in so surrendering the Premises, including, without limitation, any claims made by a succeeding tenant founded on such delay.

10.4 Changes to the Property. Landlord will have the right and privilege at all times of determining the nature and extent of the Property, Building, Premises, Common Areas, and/or related improvements and of making such changes, rearrangements, additions, and reductions therein from time-to-time as deemed desirable, including, without limitation, the location, relocation, enlargement, reduction, addition, and/or elimination of driveways, malls, entrances and exits, automobile parking spaces, employee and customer parking areas, buildings and other structures, the direction and flow of traffic, establishment of protected areas, landscaped areas, and any and all other facilities of the Common Areas, the right at any time to locate on the Common Areas permanent and/or temporary building(s) and/or other improvements of any type and the right at any time to enclose or un-enclose any portions of the Common Areas. Landlord reserves the right to utilize portions of the Common Areas, from time-to-time, for shows, rides, entertainments, displays, advertising, educational purposes, demonstrations, civic and charitable functions, and other uses which, in Landlord's judgment, may attract the public or create good, community interest or other beneficial interest with respect to the Property. Landlord will have the right to convert Common Areas to leaseable space (provided that Tenant's Share will be adjusted accordingly) and to convert leasable space to Common Areas, from time-to-time. Landlord will have the right (a) to close, if necessary, all or any portion of the Common Areas to such extent as may be reasonably necessary to prevent a dedication thereof or the accrual of any rights of any person or of the public therein, (b) to close temporarily all or any portion of the Common Areas to discourage non-customer use, (c) to use portions of the Common Areas while engaged in making additional improvements, repairs, or alterations to the Property, (d) to transfer, in whole or in part, any of Landlord's rights and/or obligations to any person or entity as Landlord may from time-to-time determine, provided that Landlord remain liable under this Lease, except as otherwise provided hereunder, and (e) to do and perform such other acts in, to, and with respect to the Common Areas as Landlord will determine, in its business judgment, to be appropriate for the Property. Notwithstanding any contrary provision contained in this Lease, services and facilities may be discontinued, and access to the Property (but not the Premises) is restricted, in whole or in part, during such times as the Property is not open for business and any other times as are necessary for temporary purposes such as repairs, alterations, strikes, and other reasonable purposes. Landlord has no obligation to, and has made no representations that it will alter, remodel, improve, renovate, decorate, demolish, and/or add improvements to the Building or the Property, or any part thereof.

11. INSURANCE/INDEMNITY

11.1 Tenant's Insurance. Tenant, at its cost, will maintain the following insurance on the Premises at all times from and after the Commencement Date:

11.1.1 CGL. Commercial general liability insurance policy (**"Tenant's CGL"**) (or equivalent ISO form in use from time to time in the State in which the Property is located), providing coverage against any and all claims for bodily injury and property damage occurring in or on the Premises and/or arising out of or in any way related to the use and occupancy of the Premises by Tenant and including broad form blanket contractual coverage covering Tenant's obligations under this Lease. Tenant's CGL will have a limit of not less than $2,000,000 per occurrence with a general aggregate limit of not less than $3,000,000. Such insurance will be primary with regard to the Premises (not contributory with Landlord's coverage). Landlord (and upon request, Landlord's property manager and/or Landlord's mortgagees) will be named as an additional insured on the Tenant's CGL and all other liability coverage.

11.1.2 Worker's Compensation. Worker's compensation insurance as required by the laws of the State in which the Property is located.

11.1.3 Property. Property insurance insuring against loss or damage resulting from perils covered by the causes of loss – special form (**"Tenant's Property Insurance"**) (or the equivalent ISO form in use from time to time in the State in which the Property is located) related to Tenant's personal property. Tenant's Property Insurance will be written for the full replacement value of all furniture, fixtures, equipment, and Alterations located in the Premises, together with such business interruption coverage as Tenant desires and does not wish to assume the risk for. Landlord (and upon request, Landlord's property manager and/or Landlord's mortgagees) will be named as a loss payee on Tenant's Property Insurance as their interests may appear.

11.1.4 General. All insurance required to be maintained by Tenant will (a) be on an occurrence basis; (b) provide primary coverage and not contributory with Landlord's insurance coverage; (c) require thirty (30) days prior written notice to the named insured or loss payees of any cancellation or reduction in coverage; (d) be written by responsible insurance companies licensed to do business in the State in which the Property is located; and (e) contain a waiver of subrogation with regard to Landlord and any additional insureds. Such insurance may be provided by a blanket policy covering additional locations. Tenant will provide Landlord with evidence of the required insurance as well as a copy of the additional insureds' endorsement on or before the Commencement Date and thereafter as reasonably requested by Landlord from time to time.

11.1.5 Adjustments. Landlord, upon thirty (30) days prior written notice to Tenant, may change the limits and requirements of the insurance required to be maintained by Tenant to reflect changes in insurance standards and customary requirements for similar mixed use real estate developments. If Tenant fails to provide the insurance required by this Section 11.1 within ten (10) days after the date of receipt of written notice from Landlord, in addition to any other remedies available for such default, Landlord may obtain such insurance and keep the same in force and effect, and Tenant will pay Landlord, as Additional Rent, upon demand for the cost thereof plus Default Interest from the date of Landlord's payment to the date of Tenant's reimbursement.

11.2 Landlord's Insurance. Landlord will maintain the following insurance at all times:

11.2.1 Property. Property insurance insuring the Building and improvements thereon (excluding Alterations unless Landlord in its discretion decides otherwise) against loss or damage resulting from perils covered by the causes of loss – special form (or the equivalent ISO form in use from time to time in the State in which the Property is located), on a replacement cost basis in the full insurable replacement value of the Building and such improvements.

11.2.2 CGL. Commercial general liability insurance (or the equivalent ISO form in use from time to time in the State in which the Property is located) covering the activities of Landlord at the Property in a combined single limit of not less than $1,000,000 per occurrence and not less than $2,000,000 in the aggregate.

11.2.3 Rent Loss. Loss of rents coverage in a form and amount determined by Landlord, in its sole discretion.

11.2.4 Other. Such other insurance as Landlord deems necessary and prudent or as may be required by any lienholder holding a mortgage or security interest in the Property (or any portion thereof).

11.2.5 General. All insurance required to be maintained by Landlord will (a) be on an occurrence basis; and (b) as to the Premises or acts or omissions of Tenant, be excess, secondary, and non-contributory; and (c) contain a waiver of subrogation with regard to Tenant and any additional insureds. Such insurance may be provided by a blanket policy covering additional locations.

11.3 Indemnity. Subject to Landlord's release in Section 11.4.2, Tenant will indemnify and defend (using legal counsel acceptable to Landlord) Landlord from any claims, costs (including attorneys' fees and other litigation costs), or damages arising in connection with (a) the occupancy or use of the Premises by Tenant and customers, including any work undertaken or contracted for by Tenant; (b) Tenant's breach of this Lease, (c) any negligent or wrongful act or omission of Tenant or customers; and (d) any accident, injury, occurrence, or damage in or about the Premises. Subject to Tenant's release in Section 11.4.1, Landlord will indemnify and defend (using legal counsel acceptable to Tenant) Tenant (defined below) from any claims, costs (including attorneys' fees and other litigation costs), or damages arising in connection with (a) any work undertaken or contracted for by Landlord; (b) Landlord's breach of this Lease; and (c) any negligent or wrongful act or omission of Landlord Parties, except in each event caused by the negligent or wrongful or omission of Tenant or customers. This indemnity is not contingent upon insurance coverage, is limited to the amount of any insurance proceeds, and operates independently of the insurance provisions of this Lease. "**Landlord**" will mean Landlord, any mortgagees, the property manager, and Landlord's respective officers, directors, shareholders, members, managers, partners, or other owners and affiliates, subsidiaries, successors, and assigns. "**Tenant**" means Tenant, Tenant's shareholders, members, managers, partners, or other owners, Tenant's affiliates and subsidiaries, and any directors, officers, employees, sublessees, licensees, invitees, agents, contractors, and successors and/or assigns of such persons or entities.

11.4 Waivers.

11.4.1 Tenant Waiver. Tenant hereby releases, waives, and discharges Landlord from any and all claims Tenant might otherwise now or hereafter possess associated with any loss covered by insurance (or which would have been covered by the insurance Tenant is required to carry hereunder), including the deductible portion thereof, maintained and/or required to be maintained by Tenant pursuant to this Lease.

11.4.2 Landlord Waiver. Landlord hereby releases, waives, and discharges Tenant from any and all claims Landlord might otherwise now or hereafter possess associated with any loss covered by insurance (or which would have been covered by the insurance Landlord is required to carry hereunder), including the deductible portion thereof, maintained and/or required to be maintained by Landlord pursuant to this Lease.

11.4.3 Acknowledgment. Because this Section precludes the assignment of any claim mentioned in it by way of subrogation or otherwise to an insurance company or any other person, each Party to this Lease agrees immediately to give to each insurance company which has issued to it policies of insurance covering all risk of direct physical loss written notice of the terms of the mutual waivers contained in this Section, and to have the insurance policies properly endorsed, if necessary, to prevent the invalidation of the insurance coverages by reason of the mutual waiver contained in this Section. Landlord and Tenant acknowledge that the waivers and releases set forth in this Section are intended to result in any loss or damage which is covered or coverable by insurance being borne by the insurance carrier of Landlord or Tenant, as the case may be, or by the Party having the insurable interest if such loss is not covered by insurance and this Lease required such Party to maintain insurance to cover such loss. Landlord and Tenant agree that such waivers and releases were freely bargained for and willingly and voluntarily agreed to by Landlord and Tenant and do not constitute a violation of public policy.

11.5 Survival. The provisions of this Section 11 will survive expiration or termination of this Lease.

12. ASSIGNMENT AND SUBLETTING

12.1 Assignment or Sublease. Tenant will not assign this Lease or sublet the whole or any part of the Premises (each a "**Transfer**" and any assignee or sublessee a "**Transferee**") without Landlord's prior written consent, which will not be unreasonably withheld or delayed. To assist Landlord in determining whether to consent to a Transfer, Tenant will submit the following to Landlord as well as any other information reasonably requested by Landlord (a) the name and legal entity of the Transferee; (b) a description of the proposed use of the Premises by the Transferee; (c) the terms of the proposed Transfer; (d) current financial statements; (e) a current credit check for the Transferee in date and form approved by Landlord or consent for Landlord to perform a credit check, in Landlord's discretion; (f) the most recent filed federal income tax return of the proposed Transferee; and (g) the proposed Transfer documents. No Transfer will release Tenant from its obligations under this Lease. Consent to any Transfer will not operate as a waiver of the necessity of a consent to any subsequent Transfer. The cumulative transfer of an aggregate of fifty percent (50%) or more of the voting or equitable interests in a Tenant entity, including by creation or issuance of new ownership interests, will be deemed a Transfer of this Lease; and any transfer of this Lease by merger, consolidation, or liquidation of Tenant will be deemed a Transfer of this Lease. Any Transfer in violation of this Section 12 is void and constitutes an Event of Default.

12.2 Transferee Obligation. Any Transferee will be required to assume, in writing for the specific benefit of Landlord, all obligations of Tenant and will be primarily, jointly, and severally liable with Tenant for the payment of Base Rent and Additional Rent and the performance of all of Tenant's obligations under this Lease. Tenant will provide Landlord fully executed copies of all instruments of assignment, sublease, or assumption. Any sublessee shall be required to assume all obligations of Tenant to the extent they relate to the subleased premises. If the Transferee defaults, Landlord may, without affecting any other rights of Landlord, proceed against Tenant or any Transferee or any other person liable for Tenant's obligations hereunder. Tenant will provide the notice address for any Transferee to Landlord prior to the effective date of the Transfer, and if it is not provided, the applicable notice address for the Transferee will be deemed to be the Premises.

12.3 Fees. Any request for consent to a Transfer will be accompanied by payment of a non-refundable fee of $1,000 to compensate Landlord for the administrative burden of processing the request. In addition, Tenant will reimburse Landlord for any out-of-pocket costs incurred by Landlord in connection with the request which will not exceed $1,000. Tenant's payment of a fee and reimbursement of Landlord's costs is independent of, and does not represent or guarantee, Landlord's approval of a Transfer.

13. DAMAGE OR DESTRUCTION

13.1 Notice of Damage. Tenant will notify Landlord in writing immediately upon the occurrence of any material damage to the Premises. Subject to Section 13.2, if the insurance proceeds available to Landlord are sufficient to pay for the necessary repairs, this Lease will remain in effect and Landlord will repair the damage to the Building as soon as is reasonably practicable, and Tenant will repair/replace any damage to Alterations and to Tenant's inventory, equipment, trade fixtures, furnishings, and other personal property.

13.2 Decision. If (a) the insurance proceeds received by Landlord are not sufficient to pay the entire cost of repair or if the cause of the damage is not covered by Landlord's insurance or (b) if Landlord considers the damage to be significant, then Landlord may elect either to (1) repair the damage to the Building as soon as reasonably practicable, in which case this Lease will remain in full force and effect or (2) terminate this Lease. Landlord will notify Tenant of Landlord's decision within thirty (30) days after the date of damage. If the damage affects more than thirty-five percent (35%) of the Premises, Tenant will have the option to terminate this Lease upon written notice given to Landlord within fifteen (15) days after the date of damage. If Landlord elects to repair the damage, then rent owed by Tenant will be equitably abated in proportion to the reduction in the usability of the Premises.

14. CONDEMNATION

14.1 Entire Taking. If all of the Premises or the Building, or such portions of the Building as may be required for the reasonable use of the Premises, are taken by eminent domain or conveyance in lieu thereof (a "**Taking**"), this Lease will automatically terminate as of the date title vests in the condemning authority, and all Rent will be prorated to that date. A sale by Landlord under a threat of condemnation, or while condemnation proceedings are pending, will be deemed a Taking.

14.2 Partial Taking. In the event of a Taking of a part of the Premises or Building, and if Landlord determines that the Premises or Building should be restored in such a way as to alter the Premises so as to reduce the floor area of the Premises by more than twenty percent (20%) of such floor area immediately prior to the Taking, Landlord or Tenant may terminate this Lease by notifying the other Party of such termination within thirty (30) days following the date of such Taking. Upon notification, this Lease will terminate on the date specified in the notice, but no sooner than thirty (30) days from the date of such notice, and the Rent hereunder will be prorated as of such date. Subject to the foregoing provisions of this Section 14.2, in case of a Taking of a portion of the Building not required for the reasonable use of the Premises, then this Lease will continue in full force and effect and there will be no abatement of Rent.

14.3 Awards and Damages. Landlord reserves all rights to damages to the Premises and the Building for any Taking, and Tenant will make no claim against Landlord or the condemning authority for damages for termination of the leasehold interest. Tenant will have the right, however, to claim and recover from the condemning authority compensation for any loss to which Tenant may be entitled for Tenant's moving expenses, business interruption, or Taking of property of Tenant (not including Tenant's leasehold interest) to the extent that such loss is awarded separately in the eminent domain proceeding and not out of or as part of the damages recoverable by Landlord.

15. DEFAULT

15.1 Events of Default. Each of the following will be deemed a material default by Tenant and a material breach of this Lease (each an "**Event of Default**"):

15.1.1 Payment. Failure by Tenant to pay when due any Rent hereunder if such failure will continue for a period of five (5) days after written notice thereof has been given to Tenant; provided, however, Tenant is not entitled to more than two (2) written notices for monetary defaults during any twelve (12) month period; or

15.1.2 Misrepresentation. Any misrepresentation or material omission of information made by Tenant orally to Landlord or in any documents or other materials provided by Tenant to Landlord in connection with this Lease; or

15.1.3 Abandonment. Any prolonged absence by Tenant from the Premises, or an absence from the Premises of five (5) days or more when any Rent is due and unpaid, regardless of whether there is an Event of Default under Section 15.1.1; or

15.1.4 Execution. This Lease, any part of the Premises, or any property of Tenant's are taken upon execution or by other process of law directed against Tenant, or are taken upon or subject to any attachment by any creditor of Tenant or claimant against Tenant, and said attachment is not discharged or disposed of within fifteen (15) days after its levy; or

15.1.5 Voluntary Bankruptcy. Tenant files a petition in bankruptcy or insolvency or for reorganization or arrangement under the bankruptcy laws of the United States or under any insolvency act of any state, or admits the material allegations of any such petition by answer or otherwise, or is dissolved, or makes an assignment for the benefit of creditors; or

15.1.6 Involuntary Bankruptcy. Involuntary proceedings under any such bankruptcy law or insolvency act or for the dissolution of Tenant are instituted against Tenant or a receiver or trustee is appointed for all or substantially all of the property of Tenant and such proceeding is not dismissed or such receivership or trusteeship vacated within thirty (30) days after such institution or appointment; or

15.1.7 Liens. The doing or permitting to be done by Tenant of any act which creates a mechanic's or other lien or claim against the land or Building of which the Premises are a part and the same is not released or otherwise provided for by indemnification satisfactory to Landlord within fifteen (15) days thereafter; or

15.1.8 Insurance. If a Tenant fails to maintain the insurance it is required to carry under Section 11.1, and such failure continues for a period of five (5) days after the date the failure first occurs; or

15.1.9 Estoppel and Subordination. If Tenant fails to provide the required estoppel certificate (Section 16.3) or subordination agreement (Section 16.1) within the time period required, and such failure continues for a period of three (3) days after receipt of a second request from Landlord; or

15.1.10 Other. Tenant's failure to observe or perform any of the covenants, conditions, or provisions of this Lease to be observed or performed by Tenant and not subject to Section 15.1.1 through Section 15.1.9, where such failure will continue for a period of thirty (30) days after written notice thereof from Landlord to Tenant or such additional period of time thereafter as may be reasonably necessary under the circumstances to cure such failure on the condition that Tenant commences to cure such failure within said thirty (30) period and thereafter diligently proceeds to cure such default; provided, however if Tenant fails to observe or perform any of the covenants, conditions, or provisions of this Lease to be observed or performed by Tenant more than three (3) times in any 12 month period (although Tenant will have cured any such previous breaches after notice from Landlord, and within the applicable cure period), then any fourth failure in such 12 month period will constitute an Event of Default without further notice.

15.2 Remedies. Upon an Event of Default, Landlord may at any time thereafter, without limiting Landlord in the exercise of any right or remedy at law or in equity, take any or all of the following actions:

15.2.1 Maintain Lease. Maintain this Lease in full force and effect and recover the Rent as it becomes due (or alternatively, if Landlord exercises the right to accelerate the Rent as set forth below, recover all Rent due as a result of acceleration) without terminating Tenant's right to possession irrespective of whether Tenant has abandoned the Premises. In the event Landlord elects to maintain this Lease in full force and effect as aforesaid, Landlord will nevertheless have the right to attempt to re-let the Premises at such rent, terms, and conditions as Landlord determines and do all things Landlord deems necessary to maintain or preserve the Premises, including removal of all persons from the Premises and removal of all property from the Premises to a public warehouse or storage facility at the cost of and for the account of Tenant; and if Tenant fails to pay for storage, then the contents of the storage facility may be sold at public auction and the proceeds of such sale applied first to payment of such storage fees, second to the expenses of such sale, third to amounts due Landlord, and the balance, if any, to Tenant. In the event of any re-letting, Tenant's right to possession of the Premises and this Lease will automatically terminate upon the new tenant taking possession of the Premises, provided, that Tenant's liability for damages as set forth in Section 15.2.6 will survive such termination. Notwithstanding that Landlord may have elected to maintain the Lease under this Section 15.2.1, Landlord reserves the right to thereafter terminate the Lease by written notice in accordance with Section 15.2.2.

15.2.2 Terminate Lease. Terminate this Lease by written notice to Tenant, in which case Tenant's right to possession of the Premises ceases and this Lease be terminated, except as to Tenant's liability under this Lease, which will survive such termination.

15.2.3 Re-entry. Without further demand or notice, re-enter and take possession of the Premises or any part of the Premises, repossess the same, expel Tenant and those claiming through or under Tenant, and remove the effects of both or either, using such force for such purposes as may be necessary, without being liable for prosecution, damage, or otherwise and without being deemed guilty of any manner of trespass or breach of the peace. No such re-entry by Landlord will be construed as an election on Landlord's part to terminate this Lease unless a written notice of such intention is given to Tenant. In the event of a re-entry without termination, Landlord will nevertheless have the right to attempt to re-let the Premises at such rent, terms, and conditions as Landlord determines and do all things Landlord deems necessary to maintain or preserve the Premises, including removal of all persons from the Premises and removal of all property from the Premises to a public warehouse or storage facility at the cost of and for the account of Tenant, and if Tenant fails to pay for storage, then the contents of the storage facility may be sold at public auction and the proceeds of such sale applied first to payment of such storage fees, second to the expenses of such sale, third to amounts due Landlord, and the balance, if any, to Tenant. In the event of any re-letting, Tenant's right to possession of the Premises and this Lease will automatically terminate upon the new tenant taking possession of the Premises, provided, that Tenant's liability for damages as set forth in Section 15.2.6 will survive such termination. Notwithstanding that Landlord may have elected to re-enter the Premises without termination, Landlord reserves the right to thereafter terminate the Lease by written notice in accordance with Section 15.2.2.

15.2.4 Cure. Without further demand or notice, cure any Event of Default, and charge Tenant as Additional Rent the cost of effecting such cure, including, without limitation, reasonable attorneys' fees and interest on the amount so advanced at the lesser of eighteen percent (18%) per annum or the maximum interest rate allowed by Applicable Law, provided that Landlord has no obligation to cure any such Event of Default.

15.2.5 Acceleration of Rent. Accelerate the payment of all Rent payable by Tenant for the balance of the Term by notice to Tenant, discounted to present value using a discount factor equal to the Federal Reserve Re-discount Rate as established from time to time by the 12th Federal Reserve District. Such amount will be immediately due and payable in full. In the event that Landlord terminates this Lease as provided in this Section 15.2.5 or as otherwise permitted by law, all Rent payable by Tenant for the balance of the Term will be deemed accelerated and discounted in accordance with this Section as of the date of termination.

15.2.6 Damages. Recover from Tenant any and all other amounts necessary to compensate Landlord for all the detriment proximately caused by Tenant's default or which in the ordinary course of events would be likely to result therefrom, including, without limitation: (a) all Rent due and unpaid; (b) all Rent payable by Tenant for the balance of the Term as provided in Section 15.2.5; (c) the costs and expenses of repairing, remodeling, and otherwise making the Premises ready for a new tenant; (d) administrative costs and expenses of Landlord as a result of the Event of Default; and (e) leasing commissions for any leasing agent engaged to re-let the Premises; (d) attorneys' fees; (e) the unamortized balance of the tenant allowance, if any; and (f) late charges and interest as provided in Sections 15.3 and 15.4, respectively.

15.2.7 Other Remedies. Exercise any other right or remedy at law or in equity.

15.3 Late Charges. Tenant acknowledges that late payment of Rent will cause Landlord to incur costs not contemplated by this Lease, the exact amount of which are now and would be extremely difficult to ascertain. Accordingly, if any Rent is not received by Landlord within five (5) days after such Rent is due, Tenant will pay to Landlord a late charge of $75.00. The Parties hereby agree that such late charge represents a fair and reasonable estimate of the costs Landlord will incur by reason of late payment by Tenant. Acceptance of such late charge by Landlord will not constitute a waiver of Tenant's default with respect to such overdue amount nor prevent Landlord from exercising any of the other rights and remedies granted hereunder.

15.4 Interest. All Rent not paid within five (5) days after such Rent is due will bear interest from the date due at the lesser of eighteen percent (18%) per annum or the maximum interest rate allowed by Applicable Law (the "**Default Rate**").

15.5 Default by Landlord. Landlord will not be in default under this Lease unless Landlord fails to cure such breach within thirty (30) days after written notice from Tenant of such breach specifying in detail the matters for which breach is claimed; provided that if the default cannot reasonably be cured within that time period, Landlord will have such additional time as is reasonably necessary to cure the default so long as Landlord is diligently pursuing the cure to completion. If Landlord fails to cure the default within such time period, Tenant will have all rights and remedies available at law and in equity, other than the right to terminate the Lease or any offsets against Rent; provided, however, that if Landlord fails or refuses to effect a cure as provided and if Tenant may reasonably effectuate a cure of such default, then Tenant will undertake to cure such default, and Landlord, upon demand, will repay to Tenant any amounts so expended within ten (10) days after Tenant's demand therefor. Such payment will not be in lieu of any damages that may apply to Landlord's default. Tenant will give written notice of any failure by Landlord to perform any of its obligations under this Lease to Landlord and to any ground lessor, mortgagee, or beneficiary under any deed of trust encumbering the Premises whose name and address has been furnished to Tenant in writing, and such parties will have the right but no obligation to cure the default on Landlord's behalf within the same timeframe provided to Landlord; provided that such time frame will not begin until Tenant provides notice to such person that Landlord has not commenced the cure within the thirty (30) days period first identified above.

15.6 Holding Over. If Tenant fails to surrender possession of the Premises upon termination or expiration of this Lease, and if Tenant obtains Landlord's written consent to Tenant's continued occupancy, then Tenant's occupancy will be deemed to be a month to month periodic tenancy, with Base Rent due at a rate one and one half times the Base Rent payable by Tenant hereunder during the calendar month immediately preceding such termination or expiration (the "**Latest Rate**"), and either Party may terminate such tenancy upon thirty (30) days' written notice to the other Party. If Tenant fails to surrender possession of the Premises upon termination or expiration of this Lease and if Tenant does not obtain Landlord's written consent to Tenant's continued occupancy, then Tenant will be deemed a trespasser and will be liable to Landlord for all damages sustained by Landlord as a result thereof, together with Base Rate at a rate double the latest Rate. Tenant will indemnify Landlord against any loss or liability resulting from delay by Tenant in so surrendering the Premises, including, without limitation, any claims made by a succeeding tenant founded on such delay.

15.7 Statutory Requirements. To the extent that any remedies or actions above require statutory notice or are limited or modified by the statues of the State in which the Property is located, Landlord and Tenant will follow the statutory requirements of such State, and the Lease is deemed to include such requirements and amend any terms which conflict with such statutes.

16. PROTECTION OF LENDERS; ESTOPPEL

16.1 Subordination. This Lease will be subordinate to any financing now existing or hereafter placed upon the Property by Landlord and to any and all advances to be made thereunder and to interest thereon and all modifications thereof (each a "**Mortgage**"). This provision will be self-operative. Tenant will execute and deliver, within fifteen (15) days after Landlord's request therefor, any reasonable subordination agreement required by the holder of a Mortgage, but only if any such subordination agreement provides that so long as Tenant is not in default under this Lease beyond any applicable cure period, Tenant will have the continued enjoyment of the Premises free from any disturbance or interruption by any holder of a Mortgage or any purchaser at a foreclosure or private sale of the Property.

16.2 Attornment. If Landlord's interest in the Premises is acquired by any ground lessor, holder of a Mortgage, or purchaser at a foreclosure sale, or transferee thereof, Tenant will attorn to the transferee of or successor to Landlord's interest in the Premises and recognize such transferee or successor as Landlord under this Lease. Tenant waives the protection of any statute or rule of law which gives or purports to give Tenant any right to terminate this Lease or surrender possession of the Premises upon the transfer of Landlord's interest.

16.3 Estoppel Certificates. Tenant will, within ten (10) days after Landlord's request therefor, execute and deliver to Landlord a written statement certifying: (a) the commencement and the expiration date of the Term; (b) the amount of Base Rent and the date to which it has been paid; (c) that this Lease is in full force and effect and has not been assigned or amended in any way (or specifying the date and terms of each agreement so affecting this Lease) and that no part of the Premises has been sublet (or to the extent such is not the case, a copy of any sublease); (d) that to Tenant's knowledge, Landlord is not in default under this Lease (or if such is not the case, the extent and nature of such default); (e) on the date of such certification, to Tenant's knowledge, there are no existing defenses or claims which Tenant has against Landlord (or if such is not the case, the extent and nature of such defenses or claims); and (f) any other information that Landlord or a mortgagee or purchaser may reasonably request. It is intended that any such statement will be binding upon Tenant and may be relied upon by Landlord and prospective purchasers or mortgagees. If Tenant fails to provide the requested estoppel within fifteen (15) days after receipt of the request, in addition to the provisions of <u>Section 15.2</u>, Tenant will be deemed to have given a certificate as above provided, without modification, and will be conclusively deemed to have admitted the accuracy of any information supplied by landlord to a prospective purchaser or mortgagee contained in any statement provided to Tenant for verification as above provided. The estoppel certificate will run to the benefit of all those Landlord specifies as addressees in the estoppel certificate.

17. LIABILITY

17.1 Landlord's Liability. The liability of Landlord to Tenant will be limited to the interest of Landlord in the Property (and the proceeds thereof). Tenant agrees to look solely to Landlord's interest in the Property for the recovery of any judgment against Landlord, and Landlord and its owners will not be personally liable for any such judgment or deficiency after execution thereon or matters related to this Lease. If Landlord sells or otherwise transfers the Property to a new owner, the transferring Landlord will not thereafter be named or sought after in any matter related to the Property relating to the time period after the transfer and responsibility for those matters will automatically transfer to the new owner.

17.2 Tenant's Business Loss or Interruption. Notwithstanding any other provision of this Lease, and to the fullest extent permitted by law, Tenant hereby agrees that Landlord will not be liable for injury to Tenant's personal property or its business or any loss of income therefrom, whether such injury or loss results from conditions arising upon the Premises or the Property, or from other sources or places including any interruption of services and utilities or any casualty, condemnation, whether the cause of such injury or loss of the means of repairing the same is inaccessible to Landlord or Tenant, and that it therefore assumes the risk of or insures such risks of loss as it determines in its discretion.

18. MISCELLANEOUS

18.1 No Right to Relocation. Upon expiration of the Term or any Extension Option, or upon termination based on Event of Default or pursuant to any other provisions contained in this Lease, Tenant shall have no right to relocation assistance by the Landlord. Tenant will be solely responsible for ensuring its relocation from the Premises.

18.2 Notices. All notices required or permitted to be given under this Lease will be in writing and will be given by: (a) hand delivery, in which event such notice will be deemed received upon the delivery or refusal to accept delivery thereof; (b) U.S. Certified Mail, return receipt requested, with postage prepaid, in which event such notice will be deemed received upon the earlier of the date of actual receipt, the date of delivery as shown on the return receipt, or the third day after deposit in the mail; or (c) a nationally-recognized overnight delivery service (e.g., FedEx), in which event such notice will be deemed received upon the earlier of the actual date of receipt or the second day after deposit with the nationally-recognized overnight delivery service. All such notices will be addressed to Landlord and the Tenant at the addresses identified above or at such other address as a Party may specify from time to time by notice to the other Party. Notwithstanding the foregoing, actual notice, however given and from whomever received, will always be effective, and any notice given by a Party's attorneys will, for all purposes, be deemed to have been given by such Party.

18.3 Non-Waiver/Accord. Failure of Landlord or Tenant to insist, in any one or more instances, upon strict performance of any term of this Lease or to exercise any election herein contained will not be construed as a waiver or a relinquishment, but the same will continue and remain in full force and effect. Neither Party will be deemed to have waived any provision of this Lease unless expressed in writing and signed by such Party. Tenant specifically acknowledges that where Tenant has received a notice of default (whether Rent or non-rent), no acceptance by Landlord of Rent will be deemed a waiver of such notice and, including no acceptance by Landlord of partial Rent, will be deemed to waive or cure any Rent default. Landlord may, in its discretion, after receipt of partial payment of Rent, refund the same and continue any pending action to collect the full amount due or may modify its demand to the unpaid portion. In either event, the default will be deemed uncured until the full amount is paid in good funds. Payment by Tenant or receipt by Landlord of a lesser amount than the Rent and other charges stipulated herein will be deemed to be on account of the earliest stipulated Rent. No endorsement or statement on any check or any letter accompanying any payment will be deemed an accord and satisfaction, and Landlord's acceptance of such check or payment will be without prejudice to Landlord's right to recover the balance of the amount due or pursue any other remedy to which it is entitled.

18.4 Brokers. The Parties represent and warrant to each other that neither has worked with or consulted any broker, agent, or finder to act in its behalf in connection with this Lease. Each Party agrees to indemnify, defend, and hold harmless the other from and against any and all liability, claims, costs, damages, judgments, and proceedings of any kind arising from any claim for brokerage commissions, finder's commissions, or other such compensation by any broker or other person based upon a claimed obligation or liability (whether valid or not) of the indemnifying Party.

18.5 Integration. This Lease is the complete, entire, final, and exclusive agreement among the Parties hereto and supersedes all prior and contemporaneous negotiations, agreements, and understandings between the Parties, whether written, oral, implied, course of conduct, or any combination thereof, with respect to the subject matter contained herein. It is expressly warranted by the Parties that no promise or inducement has been offered except as set forth herein and that this Lease is executed without reliance upon any promise, inducement, or representation not set forth herein. This Lease is fully integrated, and the terms hereof will not be amended, added to, subtracted from, changed, or modified by evidence of any prior or contemporaneous agreement.

18.6 Amendment. This Lease may not be amended or modified in any way except by an instrument in writing executed by all Parties hereto.

18.7 Remeasurement. Landlord reserves the right, from time to time, to remeasure and adjust the rentable or useable square footage of the Building, Premises, Common Area, or other applicable portion of the Property, provided such remeasurement and adjustment is made in accordance with industry standards uniformly applied. If a remeasurement and adjustment is made, Tenant's Base Rent will be automatically adjusted based on the remeasurement and adjustment, provided in no event will any remeasurement and adjustment be applied retroactively.

18.8 Construction. The captions and headings of this Lease are for reference only and will not be deemed to define or limit the scope or intent of any of the terms or provisions of this Lease. Whenever the context so requires, the singular will include the plural, the plural will include the singular, and the use of gender will include all other genders. When used in this Lease, the phrase "including" (or a word of similar import) will mean "including, but not limited to," and words such as "herein," "hereinafter," "hereof," "hereto," and "hereunder" refer to this Lease as a whole, unless the context otherwise requires. The Parties acknowledge that each Party and, if they should so choose, their attorneys, have reviewed and revised this Lease and agree that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting Party will not be employed in the interpretation and enforcement of this Lease.

18.9 Incorporation by Reference. All Exhibits and Addendums to this Lease are true, correct, material, and are hereby incorporated by reference as if set forth herein. However, in the event of a conflict between such Exhibits and the text of this Lease, the Exhibits will control.

18.10 Force Majeure. No Party will be liable or responsible to the other Party, nor be deemed to have defaulted under or breached this Lease, for any failure or delay in fulfilling or performing any term of this Lease (except for Tenant's obligation to pay Rent hereunder, which is not excused by a Force Majeure Event) when and to the extent such Party's (the "**Impacted Party**") failure or delay is not caused by the Impacted Party and instead is caused by or results from the following events that affect the Impacted Party: (a) acts of God; (b) floods, fires, earthquakes, or explosions; (c) declarations of pandemic or epidemic by a governmental or quasi-governmental agency (e.g. the World Health Organization); (d) governmentally-declared quarantines, self-isolation orders, or stay-at-home orders; (e) wars, invasions, terrorist threats or acts, riots, or other civil unrest; (d) government orders, laws, or actions; or (e) inability to obtain labor or materials or reasonable substitutes thereof (each a "**Force Majeure Event**"). The Impacted Party will give notice to the other Party of the Force Majeure Event as soon as reasonably practicable after the occurrence thereof, stating the period of time the occurrence is expected to continue (which will not be binding on the Impacted Party). The Impacted Party will use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized. The Impacted Party will resume the performance of its obligations as soon as reasonably practicable after the occurrence of the Force Majeure Event ceases.

18.11 Successors. Subject to the restrictions on Tenant's ability to Transfer as set forth in Section 12, this Agreement will be binding upon and inure to the benefit of the Parties and their respective successors and assigns.

18.12 Authority. The individual executing this Lease on behalf of each Party represents and warrants to the other Party that such individual is duly authorized to execute and deliver this Lease on behalf of the signing Party and that this Lease is binding upon the signing Party in accordance with its terms.

18.13 Governing Law. This Lease will be interpreted and enforced in accordance with the laws of the State in which the Property is located without giving effect to any choice or conflict of law provision or rule (whether in the State in which the Property is located or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State in which the Property is located.

18.14 Landlord's Access. Landlord or its agents may enter the Premises to show the Premises to potential lenders, tenants, or other parties; to make repairs, alterations, or improvements, to inspect and conduct tests in order to monitor Tenant's compliance with this Lease and Applicable Law; or for any other purpose Landlord deems necessary, provided that Landlord will use commercially reasonable efforts to minimize interference to Tenant's use of the Premises. Landlord will give Tenant twenty-four (24) hours' prior notice of such entry, except in the case of emergency, in which event no prior notice is required. Landlord may place customary "For Sale" or "For Lease" signs in and about the Property and in and about the Premises within the last month of the Term or after a default and failure to cure as provided for under Section 15.

18.15 Landlord Acting Through Agent. Any action permitted or required of Landlord under this Lease may, at Landlord's election, be performed by Landlord's property manager or other agent on Landlord's behalf.

18.16 Quiet Enjoyment. If Tenant pays the Rent and complies with all other terms of this Lease, Tenant may occupy the Premises for the Term against any person claiming by, through, or under Landlord but not, otherwise, subject to the provisions of this Lease.

18.17 No Recordation. Tenant will not record this Lease without prior written consent from Landlord. However, Landlord may require that a memorandum of this Lease executed by both Parties be recorded.

18.18 Survival. The obligations of each Party applicable to time periods prior to the termination or expiration of this Lease will survive termination or expiration of this Lease, including Landlord's right to indemnification and defense from claims arising from matters occurring prior to termination even though the claim is asserted against Landlord after termination and payment of amounts not finally calculated by the expiration/termination date.

18.19 Relationship Among the Parties. No agency, employment agreement or relationship, joint venture, or partnership is created between the Parties by this Lease and neither Party will be deemed to be an agent of the other nor either Party have the right or power of authority to act for the other in any manner or to create any obligations, contracts, or debts binding upon the other Party.

18.20 Severability. This Lease will be enforced to the fullest extent permitted by Applicable Law. If for any reason any provision of this Lease is held to be invalid or unenforceable to any extent, then: (a) such provision will be interpreted, construed, or reformed to the extent reasonably required to render the same valid, enforceable, and consistent with the original intent underlying such provision and (b) such invalidity or unenforceability will not affect any other provision of this Lease.

18.21 Time. All time periods in this Lease will be deemed to refer to calendar days. If the last date on which to perform any act, give any notice, or be deemed to have received any notice under this Agreement will fall on a Saturday, Sunday, or holiday observed by the state courts sitting in the county where the Property is located, such act or notice will be deemed timely if performed or given, or notice will be deemed received, on the next succeeding day that is not a Saturday, Sunday, or holiday observed by the state courts sitting in the county in which the Property is located. Time is of the essence with respect to each and every covenant and obligation under this Lease.

18.22 Waiver of Jury Trial. TO THE EXTENT PERMITTED BY APPLICABLE LAW, TENANT AND LANDLORD HEREBY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVE ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION, SUIT, PROCEEDING, OR COUNTERCLAIM CONCERNING ANY RIGHTS UNDER THIS LEASE, ANY RELATED DOCUMENT, OR UNDER ANY OTHER DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION HEREWITH, OR ARISING FROM ANY RELATIONSHIP EXISTING IN CONNECTION WITH THIS LEASE, AND AGREE THAT ANY SUCH ACTION, SUIT, PROCEEDING, OR COUNTERCLAIM SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY; THIS PROVISION IS A MATERIAL INDUCEMENT FOR TENANT AND LANDLORD ENTERING INTO THIS LEASE.

18.23 Attorneys' Fees. In the event of any controversy, claim, or action being filed or instituted between the Parties to interpret or enforce the terms of this Lease, or arising from the breach of any provision hereof, the prevailing Party will be entitled to receive from the non-prevailing Party all costs, damages, and expenses, including, without limitation, reasonable attorneys' fees incurred by the prevailing Party (whether incurred prior to trial, at trial, on appeal, and/or during any post-judgment collection activities).

18.24 Counterparts. This Lease may be executed in counterparts, each of which is deemed an original but all of which constitute one and the same document. The signature pages may be detached from each counterpart and combined into one document. This Lease may be signed electronically and delivered by facsimile or via email in PDF or other similar format, each of which will be effective as an original.

[*Remainder of page intentionally left blank; signature page follows.*]

EXECUTED EFFECTIVE by Landlord and Tenant as of the Effective Date.

LANDLORD:

The Urban Renewal Agency of the City of Twin Falls

By: Rudy Ashenbrener
Name: Rudy Ashenbrener
Its: Chair

TENANT:

Dave Hansen Inc.

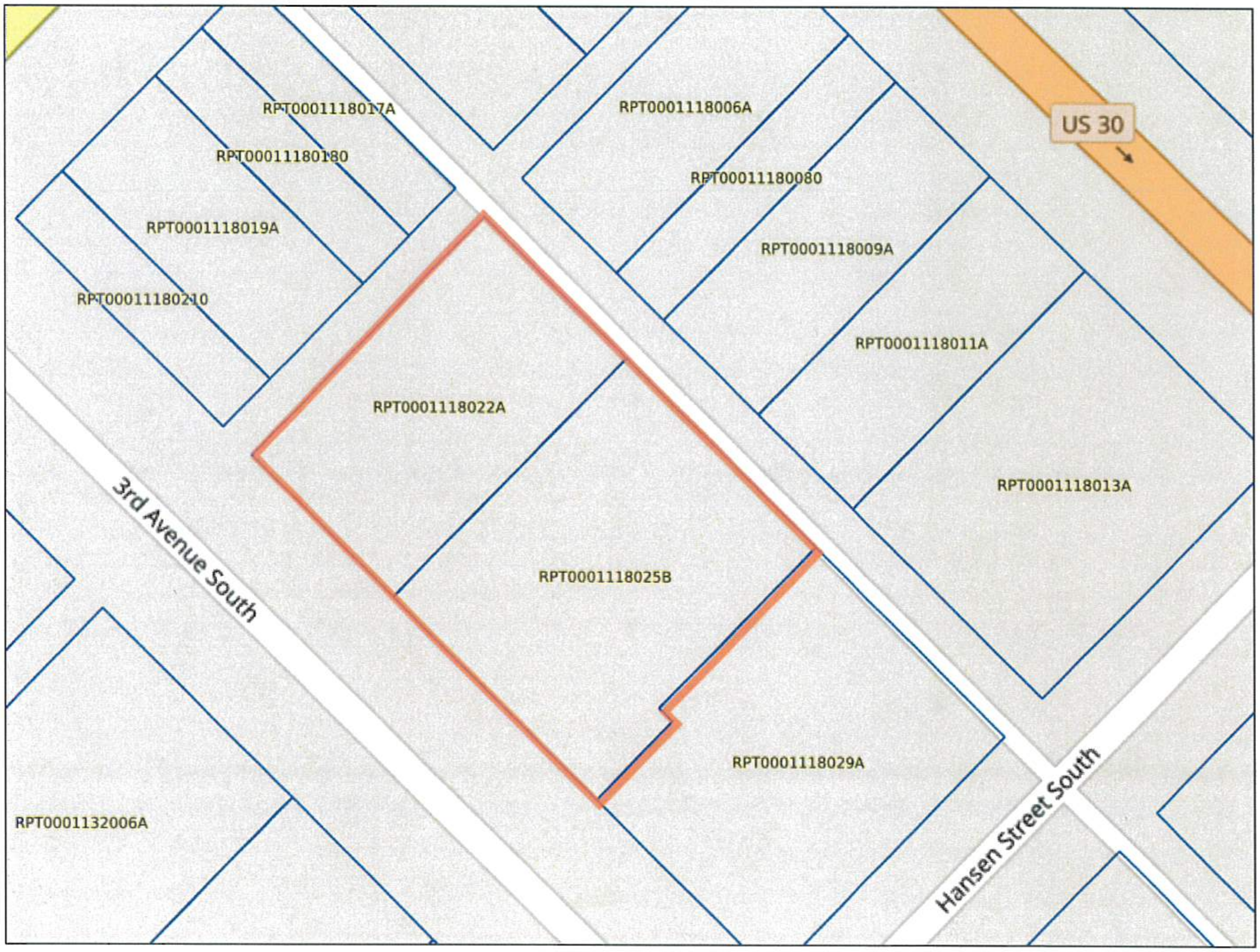
By: ____________________
Name: Dave Hansen
Title: CEO
Date: 3-23-23

DK Flooring Inc.
By: ____________________
Name: Dan Koyle
Title: owner

Date: 3/23/23

EXHIBIT A

PROPERTY



<u>EXHIBIT B</u>

BUILDING

222
223
wntown Twin
s Farmers Market
porarily closed
236
Shoshone St S
Wells Fargo ATM
Apricot Home
Furniture store
215
RV Park Map
148
Heart of Ida
Rottweil
Red Public Parking Lot
3rd Ave W
Indian Foods Market
2nd Ave S
Shoshone St S
259
Five Fish Press
Print shop
3rd Ave W
110
Brady's
Hot tub store
DK Flooring Inc
Flooring store
Float Magic
Hansen St S
305
134
3rd Ave W
139
302
210
Cloverleaf Creamery
Ice Cream
M & M Electric
2nd South Market
Hansen St S
212
210
134
3rd Ave W
tionals
Strength Equipment

<u>EXHIBIT C</u>

PREMISES


RV Park Map
Red Public Parking Lot
2nd Ave S
Wells Fargo ATM
Apricot Home
Furniture store
Indian Foods Market
Five Fish Press
Print shop
Shoshone St S
3rd Ave W
DK Flooring Inc
Flooring store
Float Magic
Hansen St S
Cloverleaf Creamery
Ice Cream
2nd South Market
M & M Electric
Brady's
Hot tub store
Strength Equipment
215
259
139
110
305
302
134
210
212
222
228
236
148

EXHIBIT D
PARKING

222
228
236
Shoshone St S
3rd Ave W
Wells Fargo ATM
215
Apricot Home
Furniture store
Indian Foods Market
2nd Ave S
RV Park Map
Red Public Parking Lot
259
Five Fish Press
Print shop
DK Flooring Inc
Flooring store
110
Brady's
Hot tub store
305
302
134
139
Float Magic
Hansen St S
Cloverleaf Creamery
Ice Cream
210
2nd South Market
212
M & M Electric
Strength Equipment

THE URBAN RENEWAL AGENCY OF THE CITY OF TWIN FALLS

Date: Monday, September 16, 2024

To: Urban Renewal Agency of the City of Twin Falls

From: Parker Scherer, Assistant Finance Director

ACTION ITEM

Request:

Consideration of a request to amend the FY2024 budget by the amount of $226,000.00 and authorize publication of a public hearing notice.

Background:

Earlier this year, the Agency had an additional early call on the Revenue Allocation Bonds, Series 2013A, in the amount of $226,000. These are the bonds associated with Revenue Allocation Area 4-3, the Chobani project. The early call was triggered by a failure to meet the bond covenant of 1.25x property tax revenues compared to the bond payments due in the current year. This early call was unexpected, and was not included in the FY2024 budget. Because the payment was made, an amendment to the adopted budget is needed to appropriately itemize this expense as well as the revenue source used for payment. State Code requires publication of the amended budget in the newspaper and scheduling of a public hearing for public input. In order to accomplish this prior to the end of the fiscal year, a special meeting will be needed on September 30 to hold the public hearing.

Approval Process:

Staff will publish the amended budget after making any additional modifications requested by the board and let the public know when they can provide input, prior to its adoption. The Agency will hold a public hearing during a special meeting on September 30, 2024, and consider a request to adopt the amended budget after that hearing.

Budget Impact:

Preliminary approval of the amended budget and the scheduling of a public meeting begins the process of changing the previously adopted FY2024 budget for the agency.

Regulatory Impact:

N/A

Conclusion:

We ask the board to adopt the preliminary amended budget amount of $226,000.00 and have staff schedule a public hearing prior to adopting the FY2024 amended budget at a special meeting to be scheduled on September 30, 2024.

Attachments:

1. 2023-24 URA Budget Amendment V1.1

PUBLIC HEARING NOTICE

Notice is hereby given that the Board of Commissioners of the Urban Renewal Agency of the City of Twin Falls, Idaho will hold a public hearing for consideration of an amendment to the 2023-2024 fiscal year budget by reallocating monies already received. Said hearing to be held at City Hall Council Chambers, 203 Main Ave. East, at 11:00 A.M. on September 30, 2024.

Proposed Expenditures

	Original FY 2023-2024 Budget	Proposed Changes	Amended FY 2023-2024 Budget
Bond Fund			
Principal Payments	$ 2,468,000	$ 226,000	$ 2,694,000
Interest Payments	2,003,890	-	2,003,890
Other Debt Service Expense	3,000	-	3,000
Total Bond Fund	4,474,890	226,000	4,700,890
Redevelopment Fund			
Principal Payments	450,000	(226,000)	224,000
Total Redevelopment Fund	450,000	(226,000)	224,000
Total Proposed Expenditures	$ 4,924,890	$ -	$ 4,924,890

Dated this 16th Day of September, 2024

Parker Scherer
Assistant Finance Director

Publish: September 19th and 26th, 2024

The Urban Renewal Agency of the City of Twin Falls

Date: Monday, September 16, 2024

To: Urban Renewal Agency of the City of Twin Falls

From: Shawn Barigar, Executive Director

DISCUSSION

Request:

Discussion of guidelines and potential policy points for a Development Assistance Participation Program.

Background:

Throughout its existence, the Urban Renewal Agency has provided assistance to a variety of projects within urban renewal project areas. These forms of assistance have taken a number of forms, from one-time assistance for smaller projects (such as power upgrades or sidewalk improvements) to larger public improvements supporting multi-million dollar projects (such as Chobani and Clif Bar).

The Board has asked staff to work toward outlining a more formalized set of guidelines or policies related to Agency participation to support private development. This discussion will review information that staff has learned from research of best practices with other Urban Renewal Agencies in Idaho, discussions with internal City staff, members of the Twin Falls County Assessors office, and legal counsel.

Today's discussion will allow the Board to provide input on the drafted process and to provide further direction on the types of assistance the Board would like to consider in future requests.

Approval Process:

N/A

Budget Impact:

N/A

Regulatory Impact:

N/A

Conclusion:

The Board should provide input and direction related to guidelines and policies related to the Development Assistance Participation Program. Staff will take this input and bring back a final document for your consideration in the future.

Attachments:

1. Development Assistance Participation Program

Urban Renewal Agency of the City of Twin Falls
Development Assistance Participation Program

Overview & Goals

The Development Assistance Participation Program of the Urban Renewal Agency is designed to support public-private partnership in the Old Towne-2 Urban Renewal Area in Downtown Twin Falls. Through a variety of assistance activities, the Agency strives to encourage private investment in the area, increase valuation of properties, and support employment opportunities within the community.

The primary goal of the Program is to optimize the use of the Agency's financial resources to drive economic development, create suitable public infrastructure, and enhance placemaking within the core of the community.

All activities of the Urban Renewal Agency are governed by Idaho Code in two specific sections:

Idaho Code 50-2002 URBAN RENEWAL LAW: (INCLUDE SUMMARY)

Idaho Code 50-2902 ECONOMIC DEVELOPMENT ACT: (INCLUDE SUMMARY)

Any activities associated with the Development Assistance Participation Program shall comply with Idaho Code.

Best Practices

"But For…" – discussion

Capped participation – discussion: Best practice is within and typically below anticipated income collections of tax increment generated by the project. Could be set by a specific amount based upon investment ranges or a percentage of capital investment? Or – a set amount could be budgeted annually for the program and available on a first-come, first-served basis.

All assistance eligibility is at the sole discretion of the Urban Renewal Agency of the City of Twin Falls and its Board of Commissioners. Any funding assistance will require execution of a participation agreement and contract which has been approved by the Board of Commissioners in a public meeting.

Assistance Opportunities

The Urban Renewal Agency may offer assistance through these key approaches:

1. *Technical assistance:* Agency staff serve as a single point of contact to discuss projects and connect property developers with appropriate City staff and other agencies for infrastructure, entitlement, and permitting planning

2. *Capital projects:* Agency-led public improvements designed to meet the goals of the urban renewal plan and benefit the public at large and not one single project
3. *Disposition of Agency owned property:* Competitive Request for Proposal process which provides conditions and requirements for development
4. *Development Assistance Participation Program:* Agency assists private development by reimbursing eligible costs to build and improve public infrastructure

<u>Eligible Expenses</u>

The Development Assistance Participation Program may assist private and public development projects with improvements that benefit the public or are in a public right of way.

These Eligible Expenses generally include:

- Sidewalks, ADA pedestrian facilities, street lights, sidewalk furnishings
- Streets, curb, and gutter
- Landscaping and streetscaping in the public right of way (street trees, irrigation, planting beds, planters, pavers)
- Utility main lines and distribution facilities (water, wastewater, pressurized irrigation, electricity, natural gas, telecommunications)

Others to consider:

- Twin Falls Canal Company irrigation infrastructure
- Public plazas or parks
- Public art
- Façade restoration with perpetual building façade easement
- Public parking
- Impact fees

<u>Ineligible Expenses</u>

Expenses that encompass costs which are outside of the <u>public</u> improvements are ineligible. These Ineligible Expenses generally include design and engineering, permitting, mobilization, land costs, and developer's profit/overhead.

<u>Process</u>

Developers or property owners interested in eligibility for the Development Assistance Participation Program should contact the Urban Renewal Agency staff as early in the development process as possible and ideally before design has been finalized. Applications must be submitted prior to the issuance of building permits.

1. Contact Urban Renewal Staff to discuss project. Staff will guide developer on which participation program type best fits the project and funding availability as well as connection to City staff and other jurisdictions as may be needed to understand permitting and entitlement.
2. Developer submits application to Agency (form being drafted to include detail on the property, project overview, how the project meets the goals of the urban renewal project area, requested assistance, etc.)
3. Staff presents project to the Board for designation as eligible for participation. Board may provide feedback or revisions to the request.
4. Staff informs developer of eligibility and any conditions requested by the Board.
5. Staff and developer draft formal participation agreement and contract.
6. Agreement is presented to the Board for consideration for approval.
7. Developer completes project and associated public improvements.
8. Developer notifies Agency of completion of project, submits cost documentation and sign-off of appropriate jurisdictions (building occupancy, acceptance of public improvements by City/Idaho Power/others) – THESE CONDITIONS WOULD ALL BE OUTLINED IN THE AGREEMENT/CONTRACT
9. Staff verifies cost documentation for eligible expenses and issues confirmation letter.
10. Agency reimburses for eligible expenses.