

**COUNCIL MEMBERS:**Suzanne  
HawkinsJim  
MunnShawn  
BarigarChris  
TalkingtonGregory  
LantingDon  
HallRebecca  
Mills Sojka

Vice Mayor

Mayor

**AGENDA**

Meeting of the Twin Falls City Council  
Monday, April 13, 2015

City Council Chambers - 305 3<sup>rd</sup> Avenue East -Twin Falls, Idaho

5:00 P.M.

**PLEDGE OF ALLEGIANCE TO THE FLAG****CONFIRMATION OF QUORUM****CONSIDERATION OF THE AMENDMENTS TO THE AGENDA****PROCLAMATION:**

**National Volunteer Week April 12-18, 2015. Request made by Jeanette Roe, Twin Falls Senior Center**

**Telecommunicators Week April 12-18, 2015. Request made by Lieut. Craig Stotts, TFPD**

**GENERAL PUBLIC INPUT****AGENDA ITEMS****I. CONSENT CALENDAR:**

1. Consideration of a request to approve the Accounts Payable for April 7, 2015 - April 13, 2015, total: \$341,782.13 and Payroll, April 10, 2015, total: \$133, 721.18.
2. Consideration of a request to approve a Trust Agreement for Sackett Farm Subdivision No. 2, placing Lot 2, Block 1 and Lot 1, Block 2, in trust.

**Purpose:**

Action

**By:**

Sharon Bryan

Action

Troy Vitek

**II. ITEMS FOR CONSIDERATION:**

1. Consideration of a request to authorize the Mayor to sign a Cooperative Agreement with ITD for Americans with Disabilities Act (ADA) Curb Ramp Program Award and to adopt a resolution confirming the commitment.
2. Consideration of a request to readopt Ordinance 3090 to vacate undeveloped property within a portion of Northern Passage Subdivisions #3 and #4 on property located at the northeast corner of Federation Road (extended) and Grandview Drive North for Northern Passage, Inc.
3. Consideration of a request to adopt a resolution declaring a sole source supplier for the purchase of law enforcement computer software to aid in dispatching, map update, mobile computing, evidence and records management.
4. Consideration of a request to accept a section of property from Jayco Inc. and authorize the Mayor to sign the agreement for donation of real property.
5. Consideration of a request to reject all bids for the Jayco Lift Station Improvement Project.
6. Consideration of a request to award a contract between the City of Twin Falls and Hummel Architects for design and construction management services for the development of the Public Safety Complex and new City Hall.
7. Public input and/or items from the City Manager and City Council.

**Purpose**

Action

**By:**

Mandi Thompson

Action

Rene'e V. Carraway-Johnson

Action

Anthony Barnhart

Action

Jason Brown

Action

Jason Brown

Action

Travis Rothweiler

**III. ADVISORY BOARD REPORTS/ANNOUNCEMENTS:****IV. PUBLIC HEARINGS: 6:00 P.M. - None****V. ADJOURNMENT:**

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

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

1. Prior to opening the first Public Hearing of the session, the Mayor shall review the public hearing procedures.
  2. Individuals wishing to testify or speak before the City Council shall wait to be recognized by the Mayor, approach the microphone/podium, state their name and address, then proceed with their comments. Following their statements, they shall write their name and address on the record sheet(s) provided by the City Clerk. The City Clerk shall make an audio recording of the Public Hearing.
  3. The Applicant, or the spokesperson for the Applicant, will make a presentation on the application/request (request). No changes to the request may be made by the applicant after the publication of the Notice of Public Hearing. The presentation should include the following:
    - A complete explanation and description of the request.
    - Why the request is being made.
    - Location of the Property.
    - Impacts on the surrounding properties and efforts to mitigate those impacts.

Applicant is limited to 15 minutes, unless a written request for additional time is received, at least 72 hours prior to the hearing, and granted by the Mayor.
  4. A City Staff Report shall summarize the application and history of the request.
    - The City Council may ask questions of staff or the applicant pertaining to the request.
  5. The general public will then be given the opportunity to provide their testimony regarding the request. The Mayor may limit public testimony to no less than two minutes per person.
    - Five or more individuals, having received personal public notice of the application under consideration, may select by written petition, a spokesperson. The written petition must be received at least 72 hours prior to the hearing and must be granted by the mayor. The spokesperson shall be limited to 15 minutes.
    - Written comments, including e-mail, shall be either read into the record or displayed to the public on the overhead projector.
    - Following the Public Testimony, the applicant is permitted five (5) minutes to respond to Public Testimony.
  6. Following the Public Testimony and Applicant's response, the hearing shall continue. The City Council, as recognized by the Mayor, shall be allowed to question the Applicant, Staff or anyone who has testified. The Mayor may again establish time limits.
  7. The Mayor shall close the Public Hearing. The City Council shall deliberate on the request. Deliberations and decisions shall be based upon the information and testimony provided during the Public Hearing. Once the Public Hearing is closed, additional testimony from the staff, applicant or public is not allowed. Legal or procedural questions may be directed to the City Attorney.
- \* Any person not conforming to the above rules may be prohibited from speaking. Persons refusing to comply with such prohibitions may be asked to leave the hearing and, thereafter removed from the room by order of the Mayor.

*Office of the Mayor*  
*City of Twin Falls, Idaho*

# Proclamation



## **OPEN YOUR HEART- DO YOUR PART – VOLUNTEER, SHARE & CARE**

Through countless acts of kindness, generosity, and service, residents of Twin Falls recognize that we are all bound together -- that we move this community forward by giving of ourselves to others and caring for those around us. Every day, the citizens of Twin Falls carry forward the tradition of service embedded in our character as a people. As we celebrate National Volunteer Week, we embrace our shared responsibility to one another and recommit to the task of building a better community.

**WHEREAS**, the City Twin Falls accomplishes so much more for their citizens because of the large number of volunteers who truly care about their neighbors and their city; and

**WHEREAS**, volunteers are one of our cities greatest assets in that they are dedicated to helping others and unselfishly give their personal time to make a difference; and

**WHEREAS**, individuals and our community is at the center of social change, discovering their power to make a difference; and

**WHEREAS**, during this week all over the nation, service projects will be performed and volunteers recognized for their commitment to service; and

**WHEREAS**, the giving of oneself in service to another empowers the giver and the recipient; and

**WHEREAS**, the health and well-being of seniors is in the interest of all and further adds to the health and well-being of the community; and

**WHEREAS**, volunteers are vital to our future as a caring and productive city; and

**NOW, THEREFORE**, I, Mayor Don Hall, Mayor of the City of Twin Falls, proclaims the week of April 12 - 18, 2015,

## **National Volunteer Week**

in Twin Falls, Idaho and urge my fellow citizens to volunteer in their respective communities. By volunteering and recognizing those who serve, we can come together to make a difference.

*In witness whereof I have hereunto set my hand and caused this seal to be affixed.*

---

Mayor Don Hall

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Attest: Deputy City Clerk Leila A. Sanchez

Date: April 6, 2015



**Date:** Monday, April 13, 2015, City Council Meeting  
**To:** Honorable Mayor and City Council  
**From:** Lieutenant Craig Stotts, Twin Falls Police Department

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**Request:**

Consideration of a request for the Council to approve April 12-18, 2015, as National Public Safety Telecommunicators Week.

**Time:**

Approximately five (5) minutes

**Background:**

Across the nation in times of intense personal crisis and community-wide disasters, the first access point for those seeking all classes of emergency services information is 9-1-1. The local and county public safety communications centers that receive these calls have emerged as the first and single point of contact for persons seeking immediate relief during an emergency.

The City of Twin Falls is celebrating the second full week of April (April 12-18, 2015) as National Public Safety Telecommunicators Week. This week, sponsored by the Association of Public-Safety Communications Officials (APCO) International and celebrated annually, honors the thousands of men and women who respond to emergency calls, dispatch emergency professionals and equipment, and render lifesaving assistance to the citizens of the United States. We are enlisting your support in the form of a Proclamation to honor these men and women in our area for the work that they do every day to protect the citizens of Twin Falls.

The importance of recognizing and celebrating the hard work of these dedicated professionals at every level is immeasurable. We are confident you will stand behind the commitment and devotion these men and women provide to ensure the safety and security of Twin Falls citizens.

**Budget Impact:**

None

**Regulatory Impact:**

N/A

**Conclusion:**

Thank you for your attention to this matter. I have enclosed a proposed Proclamation message for your signature.

**Attachments:**

Proposed Proclamation

CS:aed

*Office of the Mayor  
City of Twin Falls, Idaho*

# Proclamation

## Telecommunicators Week

April 12- 18, 2015

*Whereas, emergencies can occur at any time that require police or fire services; and*

*Whereas, when an emergency occurs, the prompt response of police officers and firefighters is critical to the protection of life and preservation of property; and*

*Whereas, the safety of our police officers and firefighters is dependent upon the quality and accuracy of information obtained from citizens who telephone the City Communications Center; and*

*Whereas, public safety telecommunicators/dispatchers are the first and most critical contact our citizens have with emergency services; and*

*Whereas, public safety telecommunicators/dispatchers are the single vital link for our police officers and firefighters by monitoring their activities by radio, providing them information and insuring their safety; and*

*Whereas, public safety telecommunicators/dispatchers of the City of Twin Falls have contributed substantially to the apprehension of criminals, suppression of fires and treatment of the injured; and*

*Whereas, each telecommunicator/dispatcher has exhibited compassion, understanding and professionalism in the performance of their job in the past year;*

**NOW, THEREFORE,** I, Don Hall, Mayor of the City of Twin Falls, do hereby proclaim Telecommunicators Week in Twin Falls, Idaho, and urge all City of Twin Falls citizens to join in this observance.

In witness whereof I have hereunto set my  
hand and caused this seal to be affixed.

---

Mayor Don Hall

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Deputy City Clerk Leila A. Sanchez

April 13, 2015



**Date:** Monday, April 13, 2015  
**To:** Honorable Mayor and City Council  
**From:** Troy Vitek, Asst. City Engineer

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**Request:**

Consideration of a request to approve a trust agreement for **Sackett Farm Subdivision No. 2**, placing Lot 2, Block 1 and Lot 1, Block 2 into trust.

**Background:**

The Sackett Farm Subdivision No. 2 is a re-subdivision of the Sackett Farm Subdivision Conveyance Plat. It is physically located on the east side of Hankins Road North, between Filer Avenue East and Falls Avenue East. The final plat was approved on March 30, 2015 by the Council. This subdivision is owned by the Twin Falls School District. Lot 1, Block 1 is the location for the new Pillar Falls Elementary School. The school district wishes to place the remaining lots in trust.

This subdivision encompasses 53.61 acres.

**Budget Impact:**

None

**Conclusion:**

Staff recommends that the Council accept the agreement and authorize the Mayor to sign.

**Attachments:**

1. Trust Agreement with Phase Control Notice
2. Location Map/Plat
3. Final Plat

TitleFact, Inc.  
163 Fourth Avenue North  
P.O. Box 486  
Twin Falls, Idaho 83303

\*\*\*\* SPACE ABOVE FOR RECORDER \*\*\*\*

RECEIVED

MAR 18 2015

CITY OF TWIN FALLS  
BUILDING DEPT

## WARRANTY DEED

FOR VALUE RECEIVED TWIN FALLS SCHOOL DISTRICT #411, hereinafter called the grantor, hereby grants, bargains, sells and conveys unto **TITLEFACT, INC., an Idaho corporation, as Trustee for the benefit of Twin Falls School District #411,**

hereinafter called grantee, whose address is: 201 Main Ave., West, Twin Falls, Idaho 83301, the following described premises, in **Twin Falls County, Idaho**, to-wit:

Lots 1 and 2, Block 1 and Lot 1, Block 2, **SACKETT FARM SUBDIVISION NO. 2**, Twin Falls County, Idaho, according to the official plat thereof recorded in Book \_\_\_\_\_ of Plats, page \_\_\_\_\_, records of Twin Falls County, Idaho.

**TO HAVE AND TO HOLD** the said premises, with their appurtenances unto the said Grantee and the Grantee's heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that the Grantor is the owner in fee simple of said premises; that are free from all encumbrances except as described above and that Grantor will warrant and defend the same from all lawful claims whatsoever.

Dated: March 16, 2015

**TWIN FALLS SCHOOL DISTRICT 411, Twin Falls County, Idaho**

BY: Bernard Jansen  
Bernard Jansen - Twin Falls School District Chairman

\* \* \* \* \*

STATE OF IDAHO  
County of Twin Falls

On this 17<sup>th</sup> day of March 2015, before me, a Notary Public in and for said State, personally appeared Bernard Jansen, known or identified to me to be the School Board Chairman of Twin Falls County School District No. 411, Twin Falls County, State of Idaho and known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same on behalf of said School District No. 411, Twin Falls County, State of Idaho.

IN WITNESS HEREOF I have hereunto set my hand and official seal the day and year first above written.

Michelle L. Lucas  
Notary Public for Idaho  
Residing at: Twin Falls  
Commission expires: 8-13-2018

MICHELLE L. LUCAS  
NOTARY PUBLIC  
STATE OF IDAHO

# SACKETT FARM SUBDIVISION NO. 2

A Re-Subdivision and Re-Numbering of Lot 1 and Lot 2  
Conveyance Plat Sackett Farms Subdivision

Located In a Portion of

S<sup>2</sup> NW<sup>4</sup> NW<sup>4</sup> and a Portion of SW<sup>4</sup> NW<sup>4</sup> of

Section 12

Township 10 South, Range 17 East Boise Meridian

Twin Falls County, Idaho

2015

## Legend

|     |                                    |
|-----|------------------------------------|
| —   | SUBDIVISION BOUNDARY LINE          |
| --- | SECTION LINE                       |
| --- | QUARTER SECTION LINE               |
| --- | EASEMENT LINE (SEE EASEMENT TABLE) |
| --- | ADJACENT PROPERTY LINE             |
| --- | CENTERLINE OF STREET               |
| --- | LOT LINE                           |

① CALCULATED POINT (NOT SET)

② FOUND BRASS CAP

③ FOUND 3/8" REBAR & CAP,  
LS 8077 OR AS NOTED

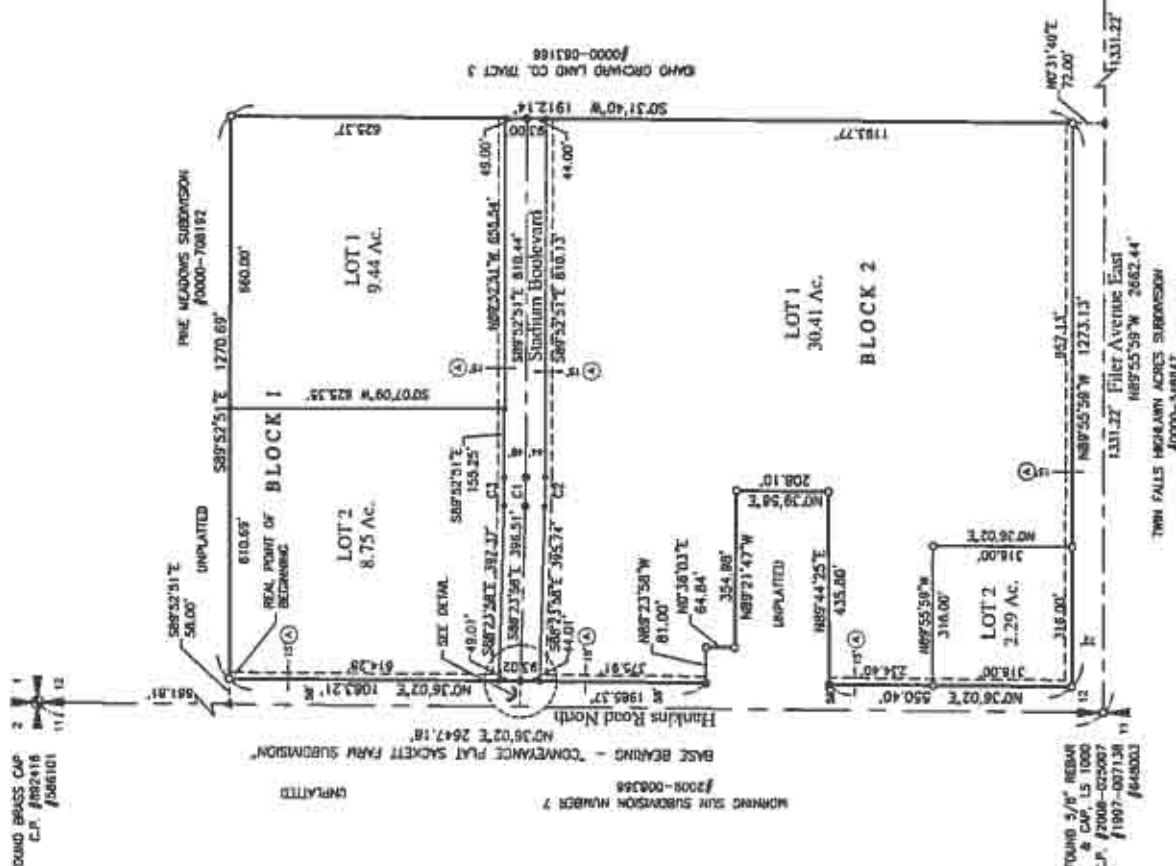
④ SET 5/8" & 3/4" REBAR  
& CAP - LS 10110

⑤ SET 1/2" & 3/4" REBAR  
& CAP - LS 10110

## Easement

⑥ 15' WIDE LANDSCAPE, UTILITY, ACCESS, SIDEWALK AND DRAINAGE

## Table



## Curve Table

| CURVE # | DELTA   | RADIUS   | ARC    | CHORD  | TANGENT   | CHORD BRG |
|---------|---------|----------|--------|--------|-----------|-----------|
| C1      | 178°53' | 2500.00' | 84.84' | 32.32' | 58°06'25" |           |
| C2      | 178°53' | 2544.00' | 65.78' | 32.89' | 58°06'25" |           |
| C3      | 178°53' | 2451.00' | 63.37' | 31.69' | 58°06'25" |           |

## Survey References

#2008-014153  
#2008-076425

## Health Certificate

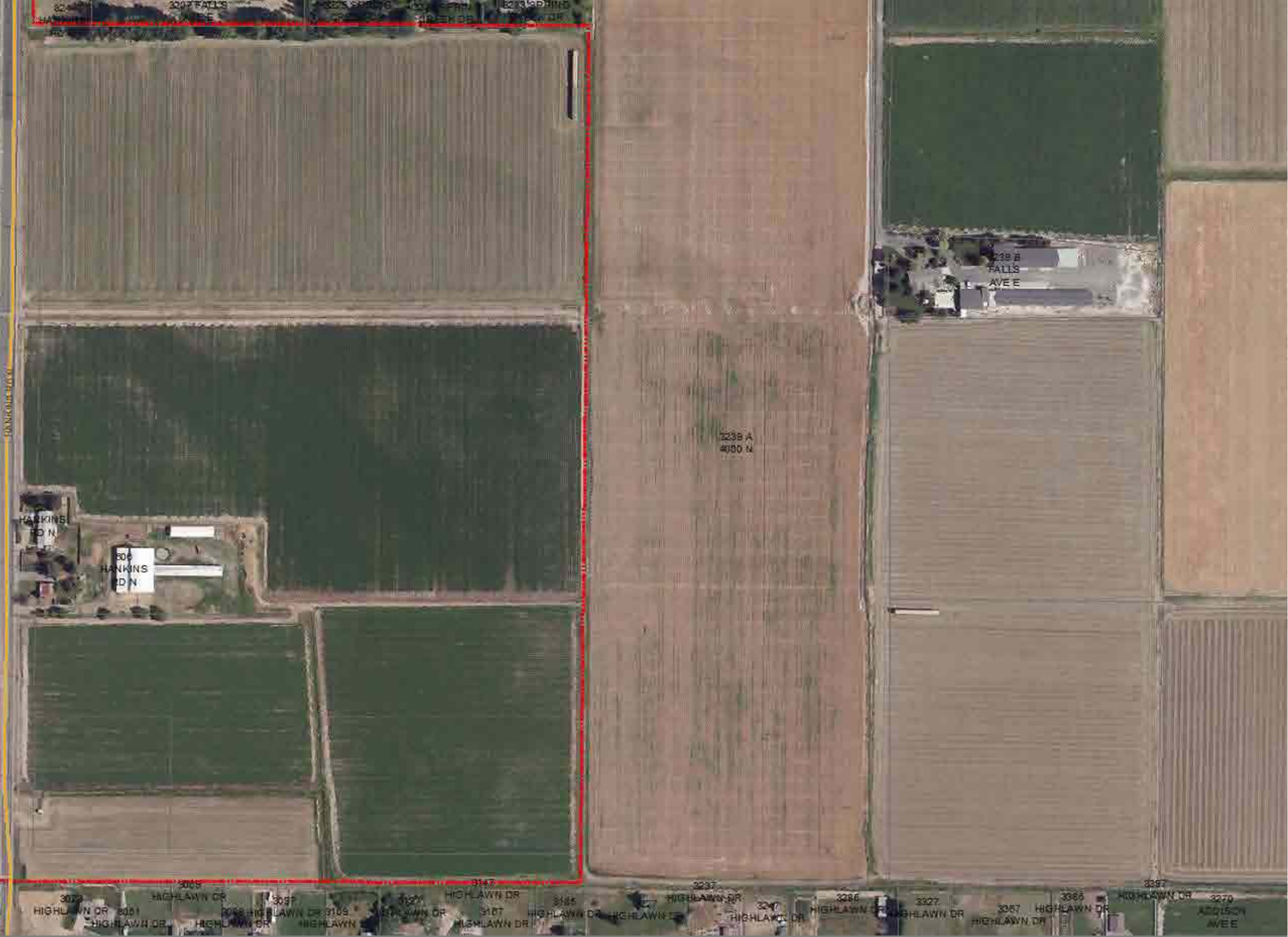
"SANITARY RESTRICTIONS AS REQUIRED BY IDAHO CODE TITLE 50, CHAPTER 12, HAVE BEEN SATISFIED BASED ON THE STATE OF IDAHO, DEPARTMENT OF ENVIRONMENTAL QUALITY (DEQ) APPROVAL OF THE DESIGN PLANS AND SPECIFICATIONS AND THE CONDITIONS IMPOSED ON THE DEVELOPER FOR CONTINUED SATISFACTION OF SANITARY RESTRICTIONS BUTLER IS CAUTIONED AT THE TIME OF THIS APPROVAL NO DRAINING WATER OR SEWER/SEPTIC FACILITIES WERE CONSTRUCTED OR IF THE DEVELOPER IS SIMULTANEOUSLY CONSTRUCTING THOSE FACILITIES, IF THE DEVELOPER FAILS TO CONSTRUCT FACILITIES OR MEET OTHER CONDITIONS OF DEQ, THEN SANITARY RESTRICTIONS MAY BE RE-APPLIED, IN ACCORDANCE WITH SECTION 50-1329, IDAHO CODE. BY THE ISSUANCE OF A CERTIFICATE OF DISAPPROVAL, AND NO CONSTRUCTION OF ANY BUILDING OR SHEDDING REQUIRING DRAINING WATER OR SEWER/SEPTIC FACILITIES SHALL BE ALLOWED."

DISTRICT HEALTH DEPARTMENT, DHS

DATE:

EHM Engineers, Inc.





RECEIVED

MAR 18 2015

CITY OF TWIN FALLS  
BUILDING DEPT

## TRUST AGREEMENT

This Trust Agreement (the "Agreement") is made and entered into this \_\_\_\_ day of March, 2015, by and between **TWIN FALLS SCHOOL DISTRICT #411**, (hereinafter "Trustor"); **TITLEFACT, INC.**, (hereinafter "Trustee"); and the **CITY OF TWIN FALLS, IDAHO** (hereinafter "Beneficiary"), and is made with respect to the following facts and objectives:

### WITNESSETH:

WHEREAS, Trustor is the owner of the real property described below (the "Property"); and

WHEREAS, it is the desire and intent of Trustor to arrange, by and through this Agreement, for the orderly development and sale of the Property, in a manner that is conducive to achieving full compliance with applicable rules and regulations of Twin Falls County, Idaho, and the City of Twin Falls, Idaho, in effect on the date of approval of the subdivision of the property.

NOW THEREFORE, it is agreed between the parties hereto as follows:

1. That upon the execution of this Agreement by both parties, the Trustor agrees to execute and deliver to the Trustee a Warranty Deed, conveying to the Trustee, in Trust, to be held solely for the benefit of the Beneficiary, the Property, to-wit:

Lots 1 and 2, Block 1 and Lot 1, Block 2, **SACKETT FARM SUBDIVISION NO. 2**, Twin Falls County, Idaho, according to the official plat thereof recorded in Book \_\_\_\_\_ of Plats, page \_\_\_\_\_, records of Twin Falls County, Idaho.

2. The Trustor and the Trustee agree that the Trustee shall hold said title to the Property in trust, solely for the benefit of the Beneficiary under the terms hereof, and that title to the Property shall be and remain good and marketable and free from any defects, liens, conditions or encumbrances of any kind or nature, other than those appearing of record in the office of the Twin Falls County Recorder, and conditions of the Phase Control Development Notice for lots in **SACKETT FARM SUBDIVISION NO. 2**, a copy of which is attached hereto as Exhibit "A," or those which are placed on the Property with the prior written consent of the Trustee. The Trustee shall not convey, transfer or encumber all or any interest in the Property, save and except to the extent as directed by the Trustor by written instrument delivered to the Trustee.
3. It is understood and agreed that the purpose of this Agreement is to provide Trustor with a convenient means of, subdividing, developing and selling the Property. It shall be the entire responsibility of the Trustor to effect such developing, subdividing and selling of the Property and to provide whatever subdivision plat it may desire and to pay all costs and expenses of said developing, subdividing and selling, and Trustee shall have no liability for any costs or expenses therefore or for any claim, damage, loss or liability sustained to the Property or Trustor or to any other person or persons in connection with said matter, save and except to the extent caused by Trustee's failure or refusal to comply with the terms and conditions of this Agreement.

4. The Trustor may, as it desires from time to time, sell all or any portion of the Property in its sole and complete discretion. The Trustee agrees that, when it is so instructed in writing by Trustor, Trustee shall execute and deliver to the person or persons designated by Trustor, a fiduciary deed conveying good and marketable title to the Property or any part thereof as designated, and at said time the Trustor agrees to pay to Trustee any reasonable costs and expenses incurred by the Trustee hereunder and to pay the normal and customary fee for the cost of an owner's title insurance policy to be issued by *TITLEFACT, INC.*
5. It is agreed that Trustee shall not be liable or responsible for the condition of title to the Property, except as may be provided in any title insurance policy issued by the Trustee, and Trustee shall have no liability concerning possession or survey or any taxes, costs or expenses in connection with the Property, other than as herein provided.
6. It is agreed that the term of this Agreement shall expire when all of the above described Lots have been conveyed by the Trustee pursuant to Trustor's written instructions.
7. It is agreed that this Trust Agreement may not be revoked or amended without the prior written approval of the Beneficiary. If Trustee is presented with written notice of Termination by both Trustor and Beneficiary, and Trustee receives Trustor's payment of all reasonable out-of-pocket costs and expenses incurred by Trustee in connection with this Agreement, if any, the Trustee shall immediately reconvey to Trustor the remaining part of the Property; and thereafter no party hereto shall have any further liability to the others in connection with the Property or under the terms of this Agreement.
8. Trustor agrees to indemnify and save harmless Trustee from any claims, demands, judgments, costs and expenses including reasonable attorney's fees and any other obligation or liability of any kind or nature that the Trustee may for any reason suffer, incur or expend by reason of this Trust Agreement or in the administration thereof, other than for or as a result of Trustee's misconduct, breach of this Agreement, or willful neglect.
9. This Agreement shall bind the parties hereto, their heirs, representatives, successors and assigns.

Date: \_\_\_\_\_

TRUSTOR:

TWIN FALLS SCHOOL DISTRICT #411

BY: Bernard Jansen

Bernard Jansen - Twin Falls School District Chairman

Date: 3/18/15

TRUSTEE:

*TITLEFACT, INC.*

BY: Richard B. Stivers

Richard B. Stivers, President

Date: \_\_\_\_\_

BENEFICIARY:  
CITY OF TWIN FALLS, IDAHO

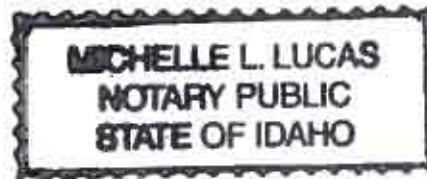
BY: \_\_\_\_\_  
Don Hall, Mayor

STATE OF IDAHO  
County of Twin Falls

On this 17<sup>th</sup> day of March, 2015, before me, the undersigned, Notary Public in and for said State, personally appeared **BERNARD JANSEN**, known to me to be the School Board Chairman of **TWIN FALLS SCHOOL DISTRICT #411** that executed this instrument, or the person who executed the instrument on behalf of said **TWIN FALLS SCHOOL DISTRICT #411**, and acknowledged to me that the **TWIN FALLS SCHOOL DISTRICT #411** executed the same.

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

Michelle L. Lucas  
Notary Public for Idaho  
Residing at: Twin Falls  
My Commission expires: 8-18-2018



STATE OF IDAHO  
County of Twin Falls

On this 18<sup>th</sup> day of March, 2015, before me, the undersigned, Notary Public in and for said State, personally appeared **RICHARD B. STIVERS**, known or identified to me to be the President of the said corporation that executed this instrument, or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

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

Lucero Cruz  
Notary Public for Idaho  
Residing at: Jerome Idaho  
My Commission expires: August 28, 2020



STATE OF IDAHO  
County of Twin Falls

On this \_\_\_\_ day of \_\_\_\_\_, 2015, before me, the undersigned, Notary Public in and for said State, personally appeared **DON HALL**, known or identified to me to be the Mayor for the City of Twin Falls, Idaho, and known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same on behalf of the City of Twin Falls, Idaho.

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

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Notary Public for Idaho  
Residing at:  
My Commission expires:

**"EXHIBIT A"**

**PHASE CONTROL DEVELOPMENT NOTICE**

THIS NOTICE prohibits the conveyance of any undeveloped lot **SACKETT FARM SUBDIVISION NO. 2**, in until such time as an Improvement Agreement for Developments between the City of Twin Falls and the Developer is recorded designating the lots and blocks in each phase which are approved for conveyance.

TITLEFACT, INC., will hold the deed to all undeveloped lots in Escrow with instructions to convey only those lots covered by the recorded Improvement Agreement for Developments.

The real property subject to this notice is Lots 1 and 2, Block 1 and Lot 1, Block 2, **SACKETT FARM SUBDIVISION NO. 2** as platted in the records of Twin Falls County, Idaho.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

**TWIN FALLS SCHOOL DISTRICT #411, Developer**

BY: \_\_\_\_\_

*Bernard Jansen*  
Bernard Jansen - Twin Falls School District Chairman

**TITLEFACT, INC.**

BY: \_\_\_\_\_

Richard B. Stivers, President



**Date:** Monday, April 13, 2015  
**To:** Honorable Mayor and City Council  
**From:** Mandi Thompson, Grant Manager and Josh Baird, Staff Engineer

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**Request:**

Consideration of a request to authorize the Mayor to sign a Cooperative Agreement with ITD for Americans with Disabilities Act (ADA) Curb Ramp Program Award; Project No: A019(044); Key No: 19044, and approve the resolution confirming this commitment.

**Time Estimate:**

The staff presentation will take approximately 5 minutes.

**Background:**

The ADA Curb Ramp Program is a state-administered program that provides funding for projects to address pedestrian curb ramps on the state highway system. The goal of the program is to provide safe and easily accessible facilities for pedestrians with disabilities while allowing local jurisdictions flexibility in meeting the required standards.

City staff reviewed eligible curb ramps locations and chose locations based on curb ramp priorities already assigned by ITD, location to government offices and facilities and other places of public accommodation, and ability to considerably improve a local ADA accessible network.

The City of Twin Falls applied for funds in April 2014 to construct 11 ramps on the state highway system. Letters of support from adjacent property owners were obtained as part of the application.

The City was notified in July 2014 they had been awarded \$60,000, the maximum amount offered per jurisdiction, to construct the 11 ramps. This is the second award for ADA Curb Ramps through this program. 11 curb ramps were completed this year. Additionally, City staff is currently preparing an application for the 2015 funding cycle for an additional \$60,000.

Funds are to only be used for construction purposes and will be available July 2015. Projects must be completed by June 2016.

Locations chosen and the corresponding local (300 feet radius) ADA accessible networks are shown in the attachments.

**Approval Process:**

ITD requires a cooperative agreement to delineate shared responsibilities on their projects. They also require a resolution to confirm the City's acceptance of the agreement.

The Council is asked to authorize the Mayor to sign the final agreement and is asked to adopt the resolution.

**Budget Impact:**

The construction of this project is anticipated to be paid for fully by ITD funds. However, should overages occur (above the allocated \$60,000), those will come out of the streets budget.

**Regulatory Impact:**

None.

**Conclusion:**

Staff recommends that the Council authorize the Mayor to sign the cooperative agreement and adopt the resolution.

**Attachments:**

1. Cooperative Agreement for Americans with Disabilities Act (ADA) Curb Ramp Program; Project No: A019(044); Key No: 19044
2. Resolution
3. Ramp Location Pictures & Maps

**COOPERATIVE AGREEMENT  
PROJECT NO. A019(044)  
11 ADA RAMPS, TWIN FALLS  
TWIN FALLS COUNTY  
KEY NO. 19044**

**PARTIES**

This Agreement is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between the **IDAHO TRANSPORTATION BOARD** by and through the **IDAHO TRANSPORTATION DEPARTMENT**, hereafter called the State, and the **CITY OF TWIN FALLS**, hereafter called the City.

**PURPOSE**

The City of Twin Falls wishes to upgrade the following curb ramps on US30 and US93 within the City limits.

| Ramp ID  | Route | Cross Street            | Corner/Side |
|----------|-------|-------------------------|-------------|
| D4_03145 | US93  | Idaho St. NW            | NW          |
| D4_03146 | US93  | Idaho St. SW            | SW          |
| D4_03149 | US93  | Jerome St. E NW         | NW          |
| D4_03150 | US93  | Jerome St. E SW         | SW          |
| D4_02596 | US30  | Ent 1135 Kimberly Rd. S | SW          |
| D4_02527 | US30  | Ash St. NW              | NW          |
| D4_02526 | US30  | Ash St. NE              | NE          |
| D4_02525 | US30  | Elm St. NW              | NW          |
| D4_02524 | US30  | Elm St. NE              | NE          |
| D4_02523 | US30  | Walnut St. NW           | NW          |
| D4_02522 | US30  | Walnut St. NE           | NE          |

The State has agreed to participate in the cost of this work. This Agreement will provide for the responsibilities of the parties in this project.

Authority for this Agreement is established by Section 40-317 of the Idaho Code.

It is mutually agreed and understood by the Parties that:

**SECTION I** That the State will:

1. Upon execution of this Agreement and receipt of a written request from the City, pay to the City the amount of Sixty Thousand Dollars (\$60,000) to be used for Americans with Disabilities Act (ADA) curb improvements as identified above. The amount paid under this agreement is a lump sum payment. No additional funds will be paid for this work.
2. At its discretion, perform an inspection of the work upon notification from the City of completion of the work.
3. At its discretion, audit the project records to ensure the funds paid to the City were utilized as intended by this Agreement.

**SECTION II** That the City will:

1. Provide for design and construction of the improvements as identified above.
2. Design and construct the project to State Standards as defined in the current version of the Idaho Transportation Department's Design Manual, or as subsequently revised. The current version of the Design Manual can be viewed at the following web site: <http://itd.idaho.gov/manuals/ManualsOnline.htm> .
3. Provide all funding necessary for the work over and above the funds paid by the State under Section I, Paragraph 1 above.
4. Upon completion of the work:
  - a. Notify the State and provide the opportunity for inspection of the completed project by the State; and
  - b. Complete and submit an ITD-0288 (ADA Ramp Inspection) form for each ramp constructed. The form(s) can be either mailed to the Division of Transportation Performance, PO Box 7129, Boise, ID 83707-1129, or sent to the following e-mail address: [gateam@itd.idaho.gov](mailto:gateam@itd.idaho.gov) .
5. Maintain all project records, including source documentation for all expenditures, for a period of three (3) years from the date of final acceptance. If any litigation, claim, negotiation, or audit has been started before expiration of the three-year period, the records shall be retained until completion of the action and resolution of all issues that arise from it.

6. Refund to the State the amount paid under this Agreement if the project is terminated prior to completion or if the project is not completed by December 31, 2016.
7. Indemnify, save harmless and defend regardless of outcome the State from expenses of and against suits, actions, claims, or losses of every kind, nature and description, including costs, expenses and attorney fees that may be incurred by reason of any negligent act or omission of the City in the construction and maintenance of the work.

**GENERAL:**

1. This Agreement shall become effective on the date the parties entered into this Agreement, and shall remain in full force and effect until amended or replaced upon the mutual written consent of both parties.

**EXECUTION**

This Agreement is executed for the State by its Engineering Services Division Administrator, and executed for the City by the Mayor, attested to by the City Clerk, with the imprinted corporate seal of the City of Twin Falls.

**IDAHO TRANSPORTATION DEPARTMENT**

\_\_\_\_\_  
Engineering Services Division Administrator

ATTEST:

**CITY OF TWIN FALLS**

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

By regular/special meeting held  
on \_\_\_\_\_

hm:19044 ADA Coop.docx

*Cooperative Agreement  
City of Twin Falls  
Key No. 19044*

RESOLUTION

**WHEREAS**, the Idaho Transportation Department, hereafter called the **STATE**, has submitted an Agreement stating obligations of the **STATE** and the **CITY OF TWIN FALLS** hereafter called the **CITY**, for ADA improvements on US30 and US93; and

**WHEREAS**, the **STATE** is responsible for obtaining compliance with laws, standards and procedural policies in the development, construction and maintenance of improvements made to the Federal-aid Highway System; and

**WHEREAS**, the **CITY** and the **STATE** are providing funds for this project; and

**NOW, THEREFORE, BE IT RESOLVED:**

1. That the Cooperative Agreement to construct ADA improvements on US30 and US93 within city limits is hereby approved.
2. That the Mayor and the City Clerk are hereby authorized to execute the Agreement on behalf of the **CITY**.
3. That duly certified copies of the Resolution shall be furnished to the Idaho Transportation Department.

CERTIFICATION

I hereby certify that the above is a true copy of a Resolution passed at a *regular, duly* called special (X-out non-applicable term) meeting of the City Council, City of Twin Falls, held on \_\_\_\_\_, \_\_\_\_\_.

(Seal)

\_\_\_\_\_  
City Clerk

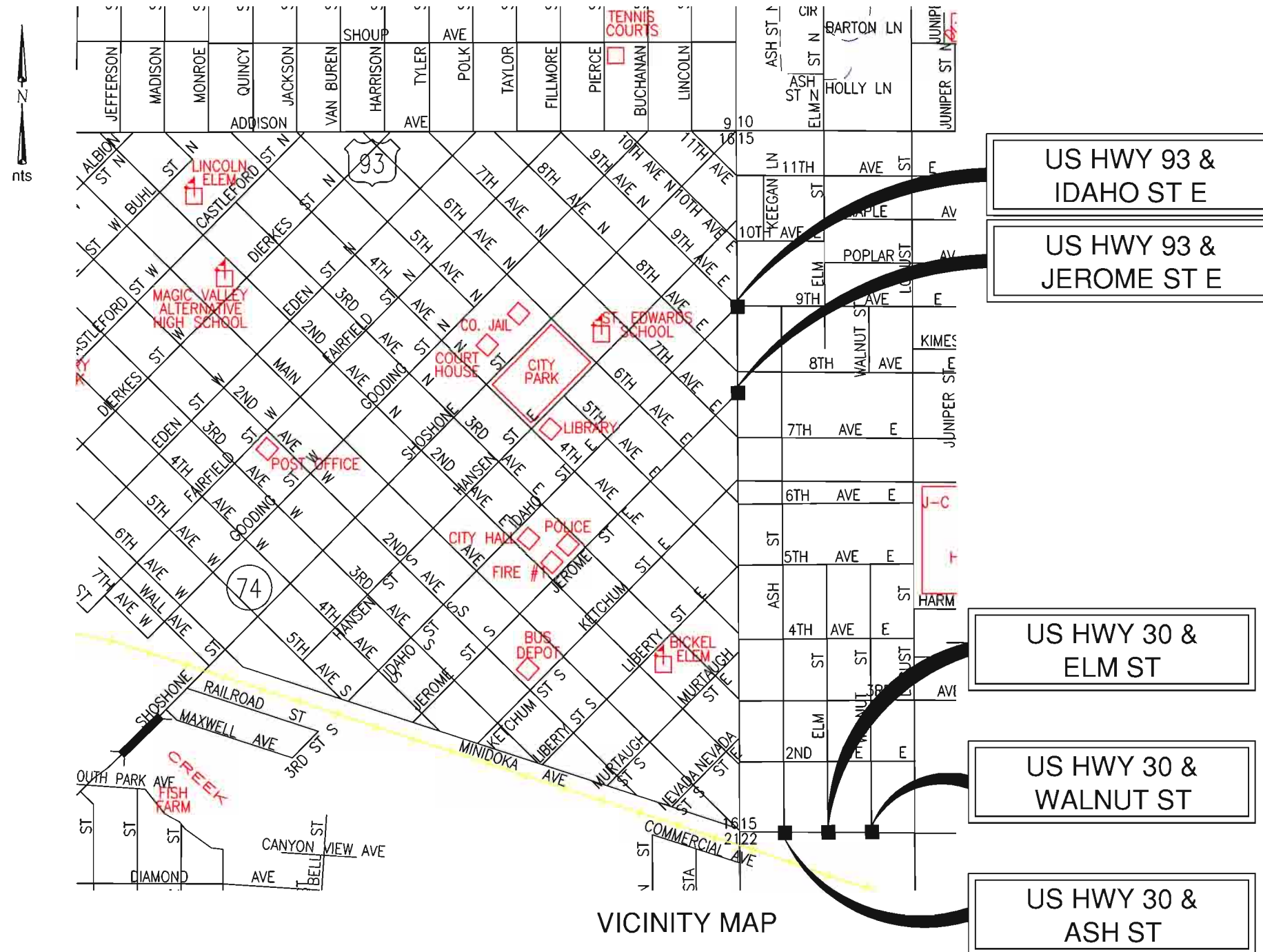


# PROPOSED ADA CURB RAMP PROJECT

APRIL 2014

## Sheet Index

|              |         |
|--------------|---------|
| VICINITY MAP | Sheet 1 |
| IDAHO ST E   | Sheet 2 |
| JEROME ST E  | Sheet 3 |
| ASH ST       | Sheet 4 |
| ELM ST       | Sheet 5 |
| WALNUT ST    | Sheet 6 |



VICINITY MAP



CITY OF TWIN FALLS  
321 SECOND AVENUE EAST  
TWIN FALLS, ID 83303-1907  
PH# (208) 735-7267  
FAX (208) 736-2293

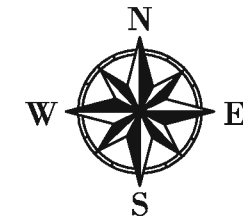
CITY OF TWIN FALLS  
ADA CURB RAMP PROGRAM

## REVISIONS

|                      |                   |
|----------------------|-------------------|
| DESIGNED<br>J. BAIRD | DRAWN<br>J. BAIRD |
| APPROVED             | DATE<br>APR 2014  |

SHEET

1 of 6



**ADA ACCESSIBILITY**

GOOD —

FAIR —

POOR —

INSTALL NEW  
ADA RAMP

INSTALL NEW  
ADA RAMP



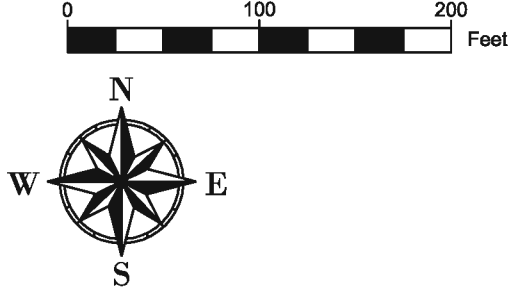
CITY OF TWIN FALLS  
321 SECOND AVENUE EAST  
TWIN FALLS, ID 83303-1907  
PH (208) 735-7267  
FAX (208) 736-2293

**CITY OF TWIN FALLS  
ADA CURB RAMP PROGRAM  
US HWY 93 & IDAHO ST E**

**REVISIONS**

|                      |                   |
|----------------------|-------------------|
| DESIGNED<br>J. BAIRD | DRAWN<br>J. BAIRD |
| APPROVED             | DATE<br>APR 2014  |

SHEET



- ADA ACCESSIBILITY**
- GOOD —
  - FAIR —
  - POOR —

INSTALL NEW  
ADA RAMP

INSTALL NEW  
ADA RAMP



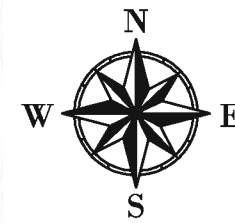
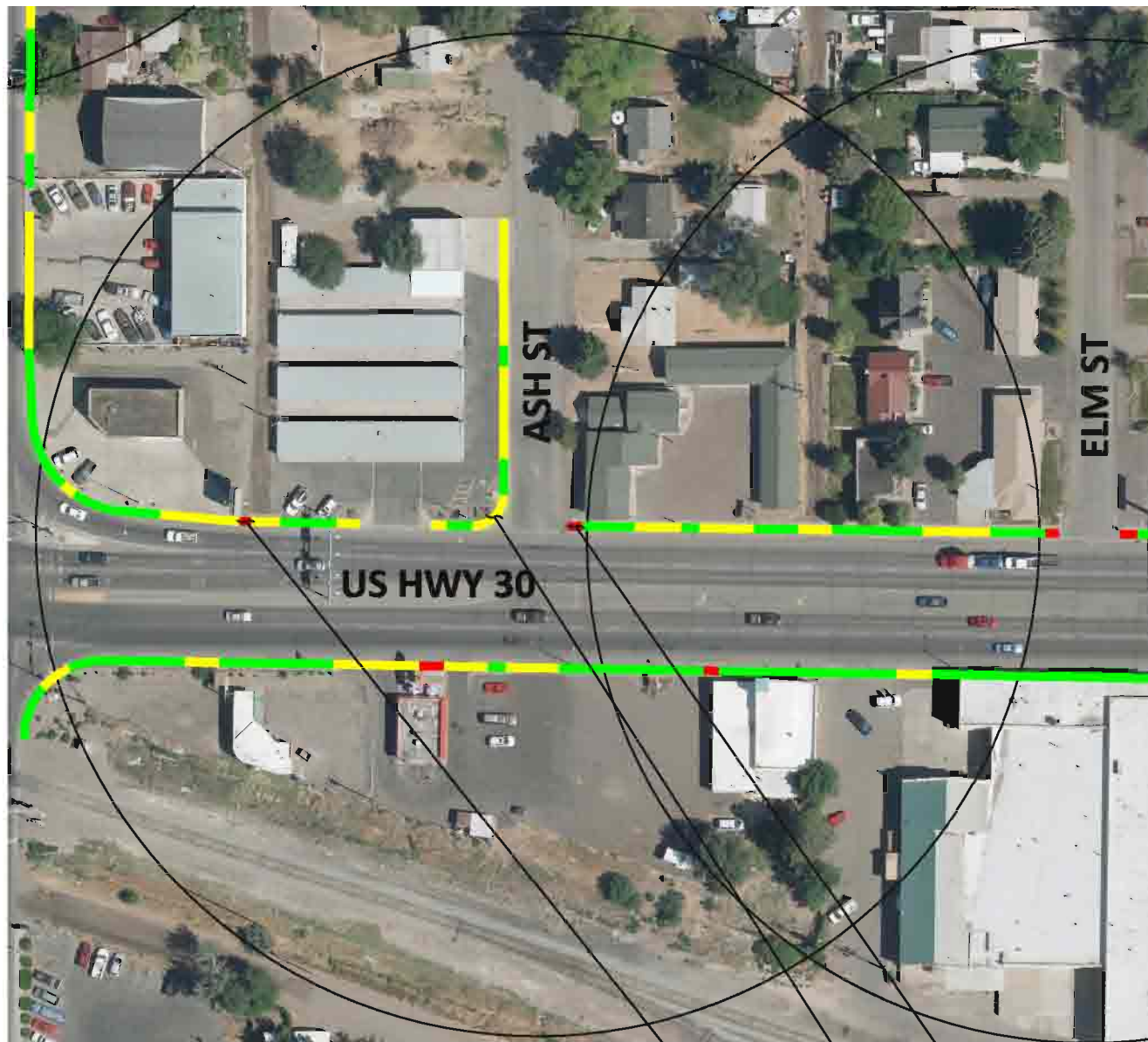
CITY OF TWIN FALLS  
321 SECOND AVENUE EAST  
TWIN FALLS, ID 83303-1907  
PH: (208) 735-7267  
FAX: (208) 736-2293

**CITY OF TWIN FALLS  
ADA CURB RAMP PROGRAM  
US HWY 93 & JEROME ST E**

REVISIONS

|  |  |
|--|--|
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|  |  |

|                      |                   |
|----------------------|-------------------|
| DESIGNED<br>J. BAIRD | DRAWN<br>J. BAIRD |
| APPROVED             | DATE<br>APR 2014  |



### ADA ACCESSIBILITY

GOOD —

FAIR —

POOR —



INSTALL NEW  
ADA RAMP



INSTALL NEW  
ADA RAMP

INSTALL NEW  
ADA RAMP



CITY OF TWIN FALLS  
321 SECOND AVENUE EAST  
TWIN FALLS, ID 83303-1907  
PH (208) 735-1267  
FAX (208) 736-2253

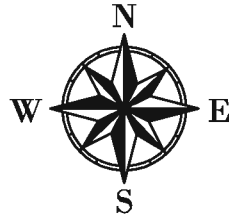
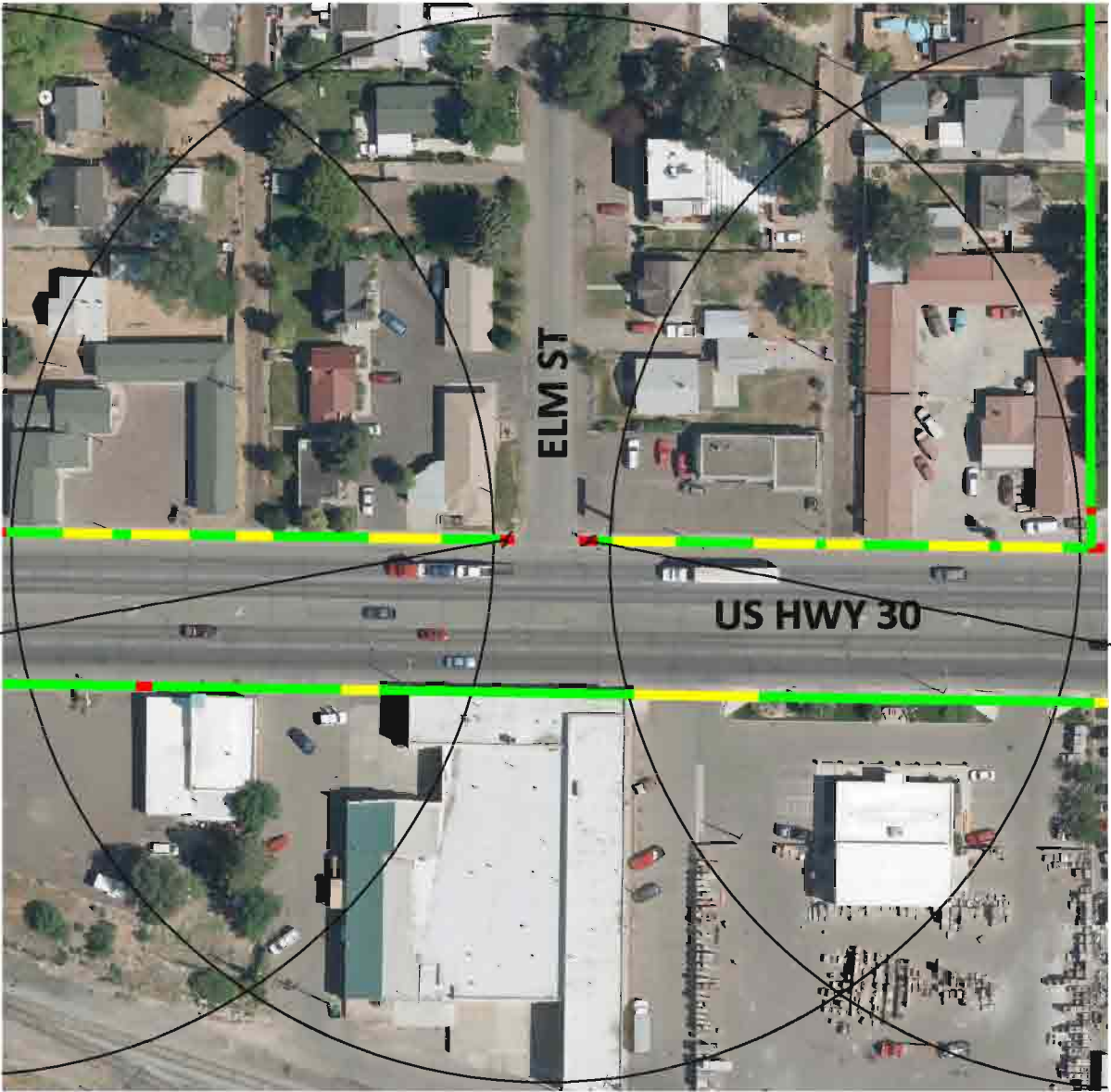
### CITY OF TWIN FALLS ADA CURB RAMP PROGRAM US HWY 30 & ASH ST

#### REVISIONS

|                      |                   |
|----------------------|-------------------|
| DESIGNED<br>J. BAIRD | DRAWN<br>J. BAIRD |
| APPROVED             | DATE<br>APR 2014  |

#### SHEET

4 of 6



**ADA ACCESSIBILITY**

- GOOD
- FAIR
- POOR

INSTALL NEW  
ADA RAMP

INSTALL NEW  
ADA RAMP

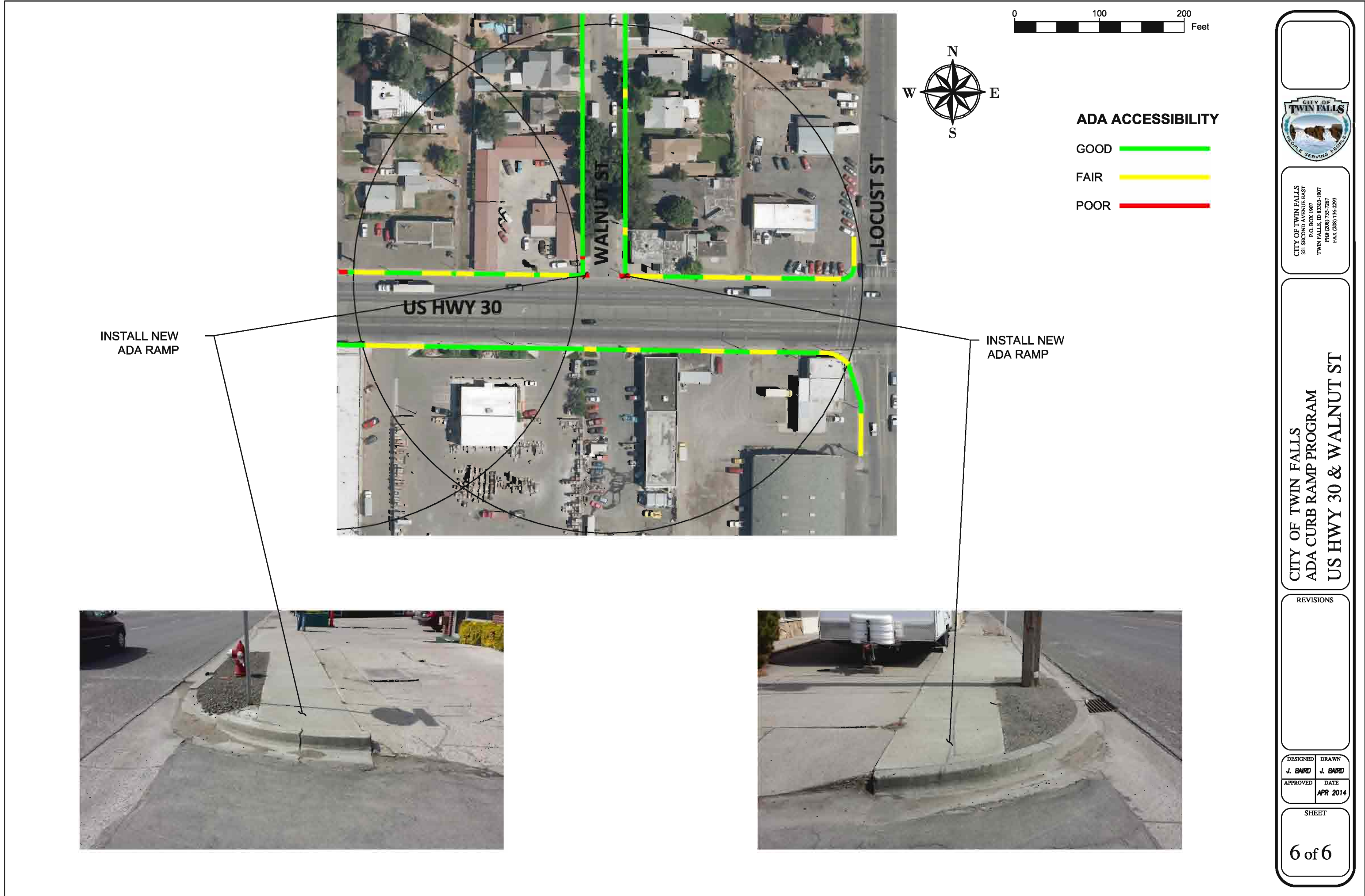


CITY OF TWIN FALLS  
321 SECOND AVENUE EAST  
P.O. BOX 1907  
TWIN FALLS, ID 83303-1907  
PH: (208) 735-7267  
FAX: (208) 736-2293

**CITY OF TWIN FALLS  
ADA CURB RAMP PROGRAM  
US HWY 30 & ELM ST**

| REVISIONS |  |
|-----------|--|
|           |  |

|                      |                   |
|----------------------|-------------------|
| DESIGNED<br>J. BAIRD | DRAWN<br>J. BAIRD |
| APPROVED             | DATE<br>APR 2014  |



**ADA ACCESSIBILITY**

- GOOD
- FAIR
- POOR



CITY OF TWIN FALLS  
321 SECOND AVENUE EAST  
TWIN FALLS, ID 83303-1907  
PHONE (208) 735-1267  
FAX (208) 736-2293

**CITY OF TWIN FALLS  
ADA CURB RAMP PROGRAM  
US HWY 30 & WALNUT ST**

**REVISIONS**

|                      |                   |
|----------------------|-------------------|
| DESIGNED<br>J. BAIRD | DRAWN<br>J. BAIRD |
| APPROVED             | DATE<br>APR 2014  |

**SHEET**



Public Meeting: **MONDAY APRIL 13, 2015**

To: Honorable Mayor Hall and City Council

From: Rene'e V. Carraway-Johnson, Zoning & Development Manager

## ITEM II-

**Request:** For The City Council's Consideration To Re-Adopt Ordinance #3090.

**Time Estimate:** Staff presentation may be five (5 +/-) minutes. This is not a public hearing item but there may be an additional five (5) minutes for questions by the City Council.

**Analysis of Request:** On February 23, 2015 the City Council adopted Ordinance #3090 which allowed for vacation of 13 (+/-) Acres Of Undeveloped Property Within A Portion Of Northern Passage Subdivisions #3 And #4. This is the future site of the new Rock Creek Elementary School at the northeast corner of Grandview Drive North and Federation Road (extended).

Idaho State Statute Title 50; Chapter 9; Section; 901 states within 1 month after an Ordinance is passed it shall be published. Once the Ordinance is published it may take effect -- Due to technical timelines the ordinance was not published within the 1 month window. The applicant is asking the City Council to re-adopt previously approved Ordinance #3090.

### **Conclusion:**

Staff Recommends The City Council Re-Adopt Ordinance #3090 So It Can Be Published And Codified.

### **Attachments:**

1. Ordinance & Attachments
2. Map of Vacated Area
3. February 23, 2015 staff report

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF TWIN FALLS, IDAHO, VACATING THE REAL PROPERTY DESCRIBED BELOW AND PROVIDING FOR VESTING OF TITLE TO THE PROPERTY SO VACATED.

WHEREAS, Northern Passage, Inc., c/o Tim Vawser has made application for vacation of property located within a portion of Northern Passage Subdivisions #3 and #4 in the City of Twin Falls; and,

WHEREAS, the City Planning and Zoning Commission for the City of Twin Falls, Idaho, held a Public Hearing as required by law on the 13<sup>th</sup> day of January, 2015, to consider the vacation of the real property below described; and,

WHEREAS, the City Planning and Zoning Commission has made recommendations to the City Council for the City of Twin Falls, Idaho; and,

WHEREAS, the City Council for the City of Twin Falls, Idaho, held a Public Hearing to consider the same matter on the 9th day of February, 2015.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TWIN FALLS, IDAHO:

SECTION 1. That the following described real property be and the same is hereby VACATED:

SEE ATTACHMENT "A"

SECTION 2. That title to the real property by this Ordinance vacated be divided among the adjoining property owners in the portions herebelow described to the persons named below:

NAME: Northern Passage, Inc.  
ADDRESS: P.O. Box 2138  
PROPERTY: McCall, ID 83638

SECTION 3. That the City Clerk immediately upon the passage and publication of this Ordinance as required by law certify a copy of the same and deliver said certified copy to the County Recorder's Office for indexing and recording, in the same manner as other instruments affecting the title to real property, as required by Idaho Code 50-1324(2).

PASSED BY THE CITY COUNCIL

, 2015

SIGNED BY THE MAYOR

, 2015

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Deputy City Clerk

PUBLISH: Thursday,

, 2015

# "Attachment A"

## **Land Description For Vacated Portions of "Northern Passage Subdivisions 3 and 4"**

A parcel of land located in the Southwest quarter of the Northwest quarter of Section 32, Township 9 South, Range 17 East, Boise Meridian, Twin Falls County, Idaho, being more particularly described as follows:

Commencing at the East quarter corner of said Section 32. Said point lies South  $89^{\circ}50'35''$  East, 5319.11 feet from the West quarter corner of said Section 32. Thence, North  $89^{\circ}50'35''$  West, 4631.47 feet along the South boundary of the North half of Section 32 to the Southwest corner of "Northern Passage Subdivision Number 3". Thence, North  $00^{\circ}01'09''$  West, 35.50 feet along the West boundary of "Northern Passage Subdivision Number 3" to a point on the North right of way of Federation Road being the REAL POINT OF BEGINNING.

Thence, North  $89^{\circ}50'35''$  West, 611.17 feet along said right of way.

Thence, North  $44^{\circ}57'21''$  West, 42.51 feet to a point on the East right of way of Grandview Drive North.

Thence, North  $00^{\circ}04'07''$  West, 891.51 feet along said right of way to the Southwest corner of Lot 10, Block 13 of "Northern Passage Subdivision Number 4".

Thence, South  $89^{\circ}50'35''$  East, 139.37 feet along the South boundary of Lot 10, Block 13 of "Northern Passage Subdivision Number 4" to the Southeast corner thereof.

Thence, South  $00^{\circ}01'09''$  East, 13.00 feet along the West right of way of Ahsahka Street.

Thence, South  $89^{\circ}50'35''$  East, 445.00 feet to the Southeast corner of Lot 21, Block 11 of "Northern Passage Subdivision Number 4".

Thence, South  $00^{\circ}01'09''$  East, 648.00 feet along the West boundary of "Northern Passage Subdivision Number 3" to the Southwest corner of Lot 10, Block 11 of "Northern Passage Subdivision Number 3".

Thence, South  $89^{\circ}50'35''$  East, 115.00 feet along the South boundary of Lot 10, Block 11 of "Northern Passage Subdivision Number 3" to the Southeast corner thereof and a point on the West right of way of Caribel Street.

Thence, South  $00^{\circ}01'09''$  East, 144.00 feet along the West right of way of Caribel Street extended to a point on the South right of way of Kamiah Road.

Thence, South  $89^{\circ}50'35''$  East, 104.60 feet along the South right of way of Kamiah Road to the Northwest corner of Lot 11, Block 9 of "Northern Passage Subdivision Number 3".

Thence, South 00°01'09" East, 116.50 feet along the West boundary of Lot 11, Block 9 of "Northern Passage Subdivision Number 4" to the Southwest corner thereof and a point on the North right of way of Federation Road.

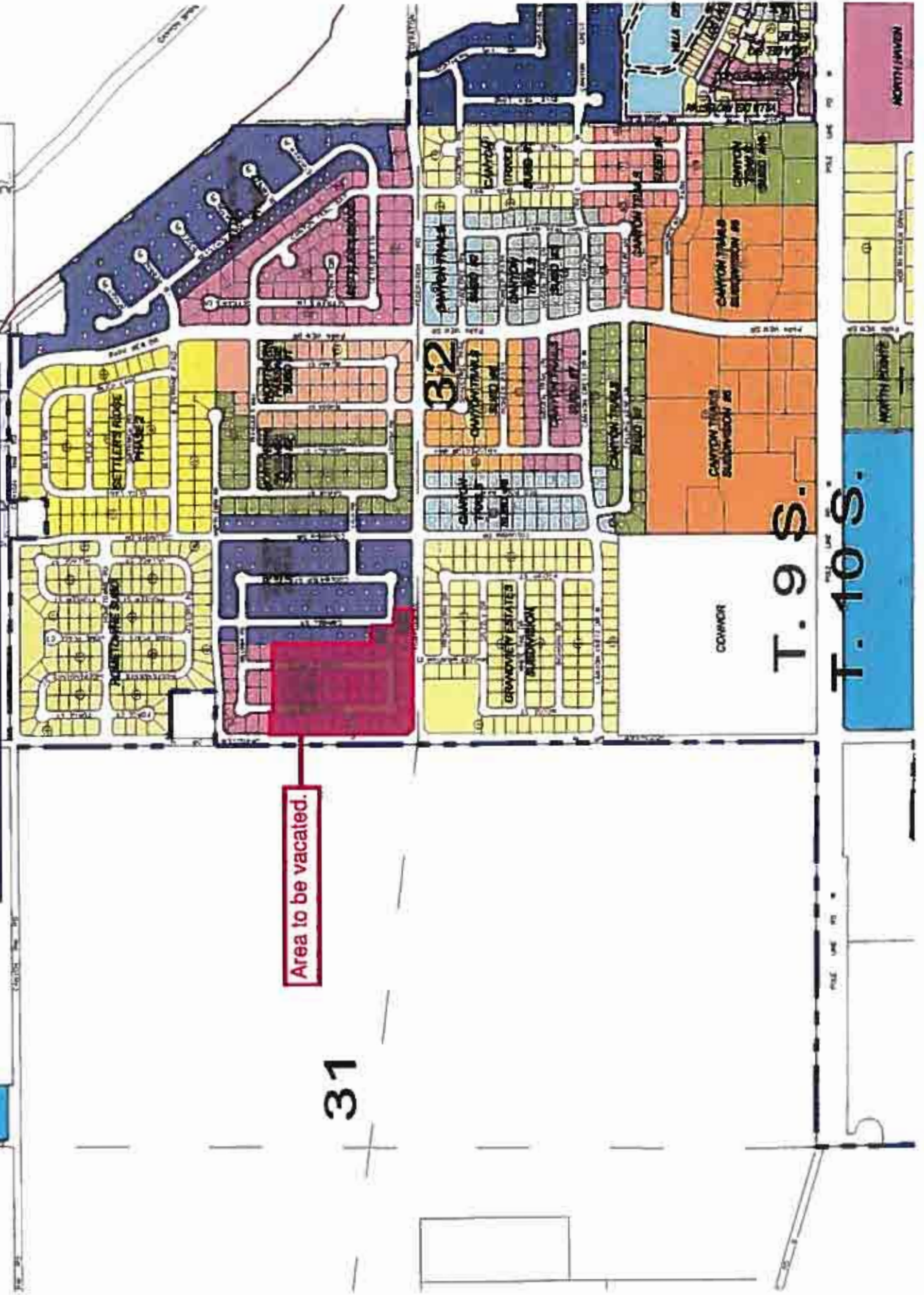
Thence, North 89°50'35" West, 162.00 feet along said right of way to the REAL POINT OF BEGINNING.

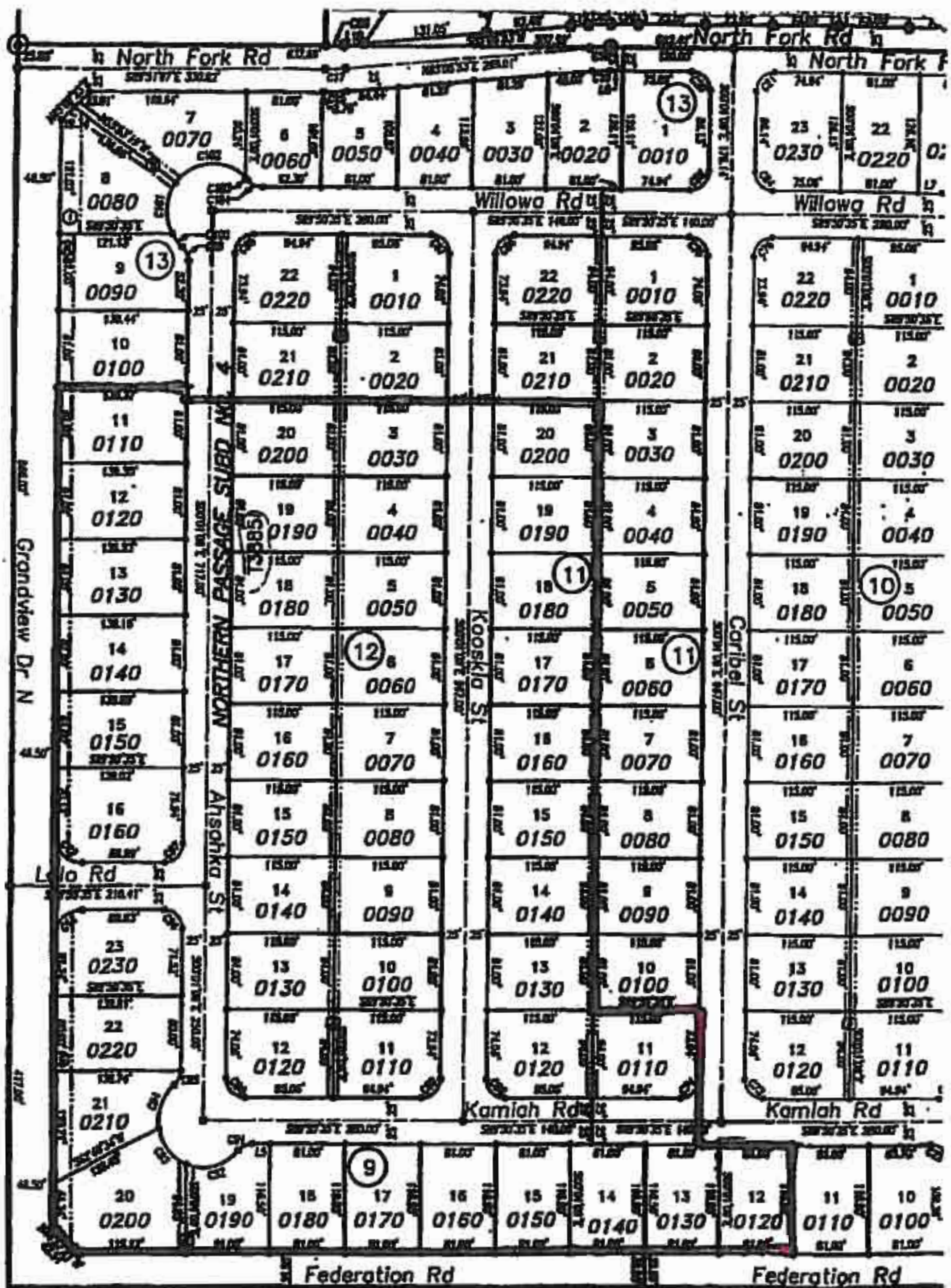
Containing approximately 13.178 acres.





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Public Hearing: **MONDAY FEBRUARY 23, 2015**

To: Honorable Mayor Hall and City Council

From: Rene'e V. Carraway-Johnson, Zoning & Development Manager

## ITEM II-

**Request:** For the City Council to consider adoption of an ordinance to Vacate 13 (+/-) acres of undeveloped property within a portion of Northern Passage Subdivisions #3 and #4, consisting of 46 single family lots and adjacent rights-of-way and easements to allow for replatting and development of a new elementary school on property located at the northeast corner of Federation Road (extended) and Grandview Drive North..

**Time Estimate:** Staff presentation may be five (5 +/-) minutes. This is not a public hearing item but there may be an additional five (5) minutes for questions by the City Council.

### Background:

On January 13, 2015 the Planning & Zoning Commission held a public hearing regarding vacation of a portion of Northern Passage Subdivision(s) No. 3 & No. 4, and certain elements therein.

Upon conclusion of the public hearing the Planning & Zoning Commission unanimously recommended approval of the partial vacation as presented and with staff recommendations.

On February 9, 2015 the City Council held a public hearing on this request. Upon conclusion of the public hearing and deliberation Councilmember Lanting moved approval for Vacation of 13 (+/-) acres of undeveloped property within a portion of Northern Passage Subdivisions #3 and #4, consisting of 46 single family lots and adjacent rights-of-way and easements to allow replatting and development of a new elementary school on property located at the northeast corner of Federation Road (extended) and Grandview Drive North., as presented and subject to the following conditions placed by the Planning and Zoning Commission.

1. *Subject to the site plan amendments as required by Building, Engineering, Fire, and Zoning Officials to ensure compliance with applicable City Code Requirements and Standards.*
2. *Subject to submittal of all utility letters and any conditions that may be required prior to adoption of the ordinance.*

Councilman Barigar seconded the motion. The motion was approved 6 for and 0 against.

### Conclusion:

All conditions placed on the vacation approval have been met. As directed by the Council, staff has prepared an ordinance for your consideration.

Staff recommends the City Council adopt the ordinance so it can be published and codified.

### Attachments:

1. Ordinance & Attachments
2. Map of Vacated Area



**Date:** Monday, April 13, 2015, Council Meeting

**To:** Honorable Mayor and City Council

**From:** Captain Anthony Barnhart, Twin Falls Police Department

---

**Request:**

To adopt a resolution declaring a sole source supplier for the purchase of law enforcement computer software to aid in dispatching, map updates, mobile computing, evidence and records management.

**Time Estimate:**

The staff presentation will take approximately seven (7) minutes. Following the presentation, staff anticipates some additional time may be needed to answer any questions the Council may have.

**Background:**

The Twin Falls Police Department was awarded two grants from the Idaho Emergency Communications Commission. The first grant was awarded in FY2014 in the amount of \$42,070.00 and related to the upgrade of our computer aided dispatching software. The second grant was awarded in FY2015 in the amount of \$28,765.00 to be used for updating our mapping software.

The Twin Falls Police Department's current computer software vendor, Executive Information Services (EIS), has provided services since 2001. In this fiscal year we were informed by EIS that they would no longer provide support to our current computer software, effective November 2015. As of that date, EIS would not provide technical service if something were to go wrong with our 14-year-old system due to their entirely new, robust, and redesigned records management system/computer automated dispatch platform.

The City contacted several vendors regarding our computer software needs and found that Executive Information Services (EIS) was the only vendor that could provide a compatible software upgrade to our current system. The other vendors would be able to provide an entirely new computer software system that would come at an extremely high cost and would require substantial training and personnel hours to totally change the way we conduct business.

Idaho Code §67-2808(2)(ii) permits sole source expenditures where there is only one source for the acquisition of personal property reasonably available and "where the compatibility of equipment, components, accessories, computer software, replacement parts or service is the paramount consideration."

**Approval Process:**

None

Agenda Item for April 13, 2015  
From Captain Anthony Barnhart  
Page Two

**Budget Impact:**

The grants will cover the entirety of the software upgrade. With the software upgrade there is a need, specifically with the evidence module, to purchase some hardware. This hardware would include a tablet, scanner, signature pad, barcode printer, and a desktop computer. The purchase of this hardware amounts to \$5,210.00. This purchase would streamline the evidence intake and release process. The new hardware will also make conducting evidence audits and taking inventory easier and more efficient. Staff has proposed that a budget amendment to the FY2014/2015 restitution fund be made so that this needed hardware can be acquired. The current budget year would be impacted due to the requested budget amendment.

**Regulatory Impact:**

None

**Conclusion:**

Staff recommends that Council approve the proposed resolution declaring Executive Information Services as the sole source supplier for the purchase of law enforcement computer software to aid in dispatching, map updates, mobile computing, and records and evidence management.

**Attachments:**

1. Proposed Resolution

AB:aed

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TWIN FALLS, IDAHO, DECLARING A SOLE SOURCE SUPPLIER FOR PURCHASE OF EMERGENCY DISPATCH SOFTWARE UPGRADES.

WHEREAS, Idaho Code §67-2808(2) permits sole source expenditures where there is only one source for the acquisition of personal property reasonably available; and;

WHEREAS, The City has investigated sources for upgrades to the City's Emergency Dispatch Services software, and has discovered that there is only one source for this software, and it is Executive Information Services (EIS).

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

Section 1: The Twin Falls City Council hereby declares that Executive Information Services shall be the sole source of Emergency Dispatch software upgrades.

Section 2: That notice of sole source procurement shall be published in the Times-News at least fourteen (14) calendar days prior to the award of the contract.

PASSED BY THE CITY COUNCIL  
SIGNED BY THE MAYOR

, 2015.  
, 2015.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
DEPUTY CITY CLERK





**Date:** Monday, April 13, 2015  
**To:** Honorable Mayor and City Council  
**From:** Jason Brown, Environmental Engineer

---

**Request:**

Consideration of a request to accept a section of property from Jayco Inc. and authorize the Mayor to sign the agreement for donation of real property.

**Time Estimate:**

The staff presentation will take approximately 5 minutes

**Background:**

This donation is in conjunction with the construction of the Jayco Lift Station improvement project. In order to expand the current Jayco Lift Station to service the industrial area that includes Clif Bar's Baking Facility, the City would require an additional portion of land around the Lift Station. After discussions with Jayco, they agreed to donate this addition portion to the City to accomplish this expansion.

**Approval Process:**

City Council approves the Mayor to execute the agreement.

**Budget Impact:**

None

**Regulatory Impact:**

None

**Conclusion:**

Staff recommends that the City Council accepts the donation of land.

**Attachments:**

1. Donation of Property by Owner
2. Appraisal Waiver Form for Donated Property (Signed by Jayco Inc.)

### **Donation of Property by Owner**

The City of Twin Falls has explained our rights and benefits as property owners under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; and we have received a copy of the Housing and Urban Development (HUD) pamphlet, When a Public Agency Acquires Your Property. We have read this pamphlet and understand it.

We have offered to donate a section of property that is 5'x75' around the current lift station located on Jayco Drive to the City of Twin Falls on February 23, 2015. We have discussed with a representative of the City of Twin Falls the compensation and other assistance required under the Act. We understand that we cannot be required to donate or sell the below easement located at the corner of Eldridge Ave. and Hankins Road, Twin Falls County, Twin Falls, Idaho, more particularly described as follows:

*PART OF LOT 1, BLOCK 1 OF JAYCO SUBDIVISION IN TWIN FALLS COUNTY, IDAHO, T.10S., R.17E., B.M.; BEING MORE SPECIFICALLY DESCRIBED AS FOLLOWS:*

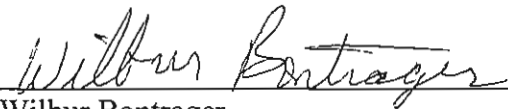
*COMMENCING AT THE INTERSECTION OF ELDRIDGE AVE AND HANKINS ROAD RUNNING THENCE S.89°48'25"E., 166.22 FEET ALONG THE CENTERLINE OF ELDRIDGE AVE; THENCE S.00°11'35"W., 48.29 FEET TO A POINT ON THE SOUTH LINE OF A UTILITY EASEMENT AS SHOWN ON SAID ADDITION AND THE TRUE POINT OF BEGINNING:*

*THENCE N.84°28'57"E., 13.00 FEET ALONG SAID EASEMENT LINE;  
THENCE S.89°48'25"E., 101.00 FEET ALONG SAID EASEMENT LINE;  
THENCE S.00°11'35"W., 20.00 FEET TO A POINT 5 FEET SOUTHERLY OF AN IRRIGATION EASEMENT AS SHOWN ON SAID ADDITION;  
THENCE N.89°48'25"W., 75.00 FEET AND 5 FEET PARALLEL TO SAID IRRIGATION EASEMENT;  
THENCE N.00°11'35"E., 5.00 FEET TO A POINT ON SAID IRRIGATION EASEMENT;  
THENCE N.89°48'25"W., 25.25 FEET ALONG SAID EASEMENT;  
THENCE S.84°48'57"W., 12.25 FEET ALONG SAID EASEMENT;  
THENCE N.05°31'03"W., 15.00 FEET TO A POINT ON SAID UTILITY EASEMENT AND THE TRUE POINT OF BEGINNING.*

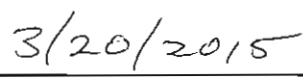
*THE AREA OF THE ABOVE DESCRIBED PERMANENT UTILITY EASEMENT IS 2073.77 SF.*

***BASIS OF BEARING:*** THE NORTH-SOUTH SECTION LINE OF SECTION 24, TOWNSHIP 10 SOUTH, RANGE 17 EAST, BOISE MERIDIAN FROM THE SOUTHWEST CORNER TO THE WEST QUARTER CORNER OF SAID SECTION 24 AND BEING N.00°06'28"W. PER INST. NO. 2007-023302

to the City of Twin Falls for less than the appraised Fair Market Value and without other assistance to which we may be entitled to under the Act.

  
\_\_\_\_\_  
Wilbur Bontrager  
Property Owner's Signature

\_\_\_\_\_  
Don Hall, Mayor  
Chief Elected Official

  
\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

### Appraisal Waiver Form for Donated Property

I, Wilbur Bontrager on behalf of Jayco, Inc., recognize we have a right to have our property appraised and hereby waive my right of appraisal for the property we own at the corner of Eldridge Ave. and Hankins Road, Twin Falls, Twin Falls County, Idaho – more particularly described as follows:

*PART OF LOT 1, BLOCK 1 OF JAYCO SUBDIVISION IN TWIN FALLS COUNTY, IDAHO, T.10S., R.17E., B.M.; BEING MORE SPECIFICALLY DESCRIBED AS FOLLOWS:*

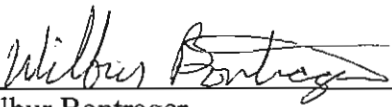
*COMMENCING AT THE INTERSECTION OF ELDRIDGE AVE AND HANKINS ROAD RUNNING THENCE S.89°48'25"E., 166.22 FEET ALONG THE CENTERLINE OF ELDRIDGE AVE; THENCE S.00°11'35"W., 48.29 FEET TO A POINT ON THE SOUTH LINE OF A UTILITY EASEMENT AS SHOWN ON SAID ADDITION AND THE TRUE POINT OF BEGINNING:*

*THENCE N.84°28'57"E., 13.00 FEET ALONG SAID EASEMENT LINE;  
THENCE S.89°48'25"E., 101.00 FEET ALONG SAID EASEMENT LINE;  
THENCE S.00°11'35"W., 20.00 FEET TO A POINT 5 FEET SOUTHERLY OF AN IRRIGATION EASEMENT AS SHOWN ON SAID ADDITION;  
THENCE N.89°48'25"W., 75.00 FEET AND 5 FEET PARALLEL TO SAID IRRIGATION EASEMENT;  
THENCE N.00°11'35"E., 5.00 FEET TO A POINT ON SAID IRRIGATION EASEMENT;  
THENCE N.89°48'25"W., 25.25 FEET ALONG SAID EASEMENT;  
THENCE S.84°48'57"W., 12.25 FEET ALONG SAID EASEMENT;  
THENCE N.05°31'03"W., 15.00 FEET TO A POINT ON SAID UTILITY EASEMENT AND THE TRUE POINT OF BEGINNING.*

*THE AREA OF THE ABOVE DESCRIBED PERMANENT UTILITY EASEMENT IS 2073.77 SF.*

***BASIS OF BEARING:*** THE NORTH-SOUTH SECTION LINE OF SECTION 24, TOWNSHIP 10 SOUTH, RANGE 17 EAST, BOISE MERIDIAN FROM THE SOUTHWEST CORNER TO THE WEST QUARTER CORNER OF SAID SECTION 24 AND BEING N.00°06'28"W. PER INST. NO. 2007-023302

This waiver permits us to sell, or donate, my property, or a portion of it, to the City of Twin Falls for the purpose of creating an easement for the City of Twin Falls to access the wastewater lift station located at the above-address, and releases the acquiring party's legal responsibility to have the property appraised for fair market value. This agreement does not constitute an agreement to buy or sell.

  
\_\_\_\_\_  
Wilbur Bontrager

3/20/2015  
\_\_\_\_\_  
Date

For - Jayco, Inc.



**Date:** Monday, April 13, 2015  
**To:** Honorable Mayor and City Council  
**From:** Jason Brown, Environmental Engineer

---

**Request:**

Consideration of a request to reject all bids for the Jayco Lift Station Improvement Project.

**Time Estimate:**

The staff presentation will take approximately 5 minutes

**Background:**

In accordance with the Development Agreement between Clif Bar/URA/City of Twin Falls. The City agreed to provide improve the Jayco Lift Station to serve the Clif Bar Baking Facility. The Jayco Lift Station Improvement Project was publicly bid and bids were opened on April 7, 2015. Only one bid was received which was from Star Construction LLC. in the amount of \$493,339.00 (with add alternates \$537,467.00). In accordance to Idaho Statute 67-2805 the City can either accept the lowest bid or reject all bids.

**Approval Process:**

City Council approval to reject all bids is required.

**Budget Impact:**

This is a planned expenditure through the Community Development Block Grant the City applied for and received \$500,000 for the improvement.

**Regulatory Impact:**

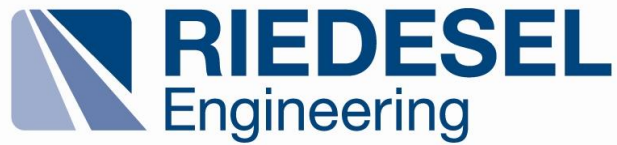
None

**Conclusion:**

Staff recommends that the City Council reject all bids and allow staff to investigate the opportunity to contract this project on the open market for less or re-bid the project.

**Attachments:**

1. Engineers Recommendation Letter
2. Bid Tab



April 8, 2015

Jason Brown  
City of Twin Falls, Idaho  
321 2<sup>nd</sup> Ave. East  
Twin Falls, ID 83301

**Re: Bid Results for the Construction Contract for “Jayco Lift Station Improvement Project.”**

Dear Mr. Brown:

Attached are the results of the April 7, 2015 bid opening for “Jayco Lift Station Improvements.” The project received a bid from one responsive bidder.

As is customary with all Recommendations of Award, Riedesel Engineering reviewed the bids for errors and completeness of contract items. It is our opinion that the lowest responsible bidder is Star Construction with a base bid of \$493,339, plus Add Alternate #1 of 40,728, and Add Alternate #2 of 3,400 for a total bid of \$537,467. The overall bid is well in excess of the construction budget. Attached is the complete bid abstract.

Therefore, Riedesel Engineering recommends that the Twin Falls City Council reject all bids for the construction of “Jayco Lift Station Improvements Project”.

Sincerely,

A handwritten signature in blue ink that reads "Andrew Kimmel".

Andrew Kimmel, P.E.  
Office Manager

Attachments: Bid Abstract

202 Falls Avenue  
Twin Falls, ID 83301  
208/733-2446  
Fax 208/734-2748

850 E Franklin Rd, Suite 402  
Meridian, ID 83642  
208/898-9165  
Fax 208/734-2748

77 Southway, Suite C  
Lewiston, ID 83501  
208/743-3818  
Fax 208/743-3819

800 N Eastmont  
Wenatchee, WA 98802  
509/888-0393  
Fax 509/888-0541

**Jayco Lift Station Improvements Project - BID ABSTRACT April 7, 2015**

| Engineer's Estimate |                        |                                                            |          |      |               |               | Star Construction |               |            |        |            |        |  |
|---------------------|------------------------|------------------------------------------------------------|----------|------|---------------|---------------|-------------------|---------------|------------|--------|------------|--------|--|
| No.                 | Meas. & Pmt. Reference | Item                                                       | Quantity | Unit | Unit Price    | Amount        | Unit Price        | Amount        | Unit Price | Amount | Unit Price | Amount |  |
| Lift Station        |                        |                                                            |          |      |               |               |                   |               |            |        |            |        |  |
| 1                   | ISPMC 2010.4.1.A.1     | Mobilization                                               | 1        | ls   | \$ 20,000.00  | \$ 20,000.00  | \$ 51,443.00      | \$ 51,443.00  |            |        |            |        |  |
| 2                   | ISPMC 505.4.1.B.3      | Sewer Force Main Pipe 10" HDPE SDR-17                      | 60       | lf   | \$ 40.00      | \$ 2,400.00   | \$ 160.00         | \$ 9,600.00   |            |        |            |        |  |
| 3                   | ISPMC 501.4.1.B.1      | Gravity Sewer Main 12" SDR 35                              | 170      | lf   | \$ 50.00      | \$ 8,500.00   | \$ 115.00         | \$ 19,550.00  |            |        |            |        |  |
| 4                   | ISPMC 502.4.1.A.1      | Sanitary Sewer Manhole - Type A                            | 1        | ea   | \$ 4,500.00   | \$ 4,500.00   | \$ 8,046.00       | \$ 8,046.00   |            |        |            |        |  |
| 5                   | ISPMC 502.4.1.D.1      | Sanitary Sewer Manhole - Drop Manhole                      | 1        | ea   | \$ 5,500.00   | \$ 5,500.00   | \$ 15,500.00      | \$ 15,500.00  |            |        |            |        |  |
| 6                   |                        | Sanitary Sewer Manhole - Diversion Manhole                 | 1        | ea   | \$ 8,000.00   | \$ 8,000.00   | \$ 29,000.00      | \$ 29,000.00  |            |        |            |        |  |
| 7                   | ISPMC 502.4.1.A.1      | Sanitary Sewer Manhole - Type A with Vent                  | 1        | ea   | \$ 5,000.00   | \$ 5,000.00   | \$ 6,000.00       | \$ 6,000.00   |            |        |            |        |  |
| 8                   | ISPMC 509.4.1.E.1      | Bypass Pumping                                             | 1        | ls   | \$ 3,000.00   | \$ 3,000.00   | \$ 14,500.00      | \$ 14,500.00  |            |        |            |        |  |
| 9                   | ISPMC 205.4.1.B.1      | Dewatering                                                 | 1        | ls   | \$ 3,000.00   | \$ 3,000.00   | \$ 9,400.00       | \$ 9,400.00   |            |        |            |        |  |
| 10                  | AD-500                 | Lift Station, Lift Station Equipment and all Appurtenances | 1        | ls   | \$ 180,000.00 | \$ 180,000.00 | \$ 212,000.00     | \$ 212,000.00 |            |        |            |        |  |
| 11                  | SP-200                 | Design and Construct Steel Building                        | 1        | ls   | \$ 43,000.00  | \$ 43,000.00  | \$ 66,000.00      | \$ 66,000.00  |            |        |            |        |  |
| 12                  | SP-300                 | Crane and Hoist                                            | 1        | ls   | \$ 5,000.00   | \$ 5,000.00   | \$ 51,800.00      | \$ 51,800.00  |            |        |            |        |  |
| 13                  |                        | Project Sign                                               | 1        | ls   | \$ 500.00     | \$ 500.00     | \$ 500.00         | \$ 500.00     |            |        |            |        |  |
| Add Alternate       |                        |                                                            |          |      |               |               |                   |               |            |        |            |        |  |
| 1                   | ISPMC 2010.4.1.A.1     | Mobilization                                               | 1        | ls   | \$ 2,500.00   | \$ 2,500.00   | \$ 3,800.00       | \$ 3,800.00   |            |        |            |        |  |
| 2                   | AD-600                 | Sealing Subterranean Concrete Structure- 12' wet well      | 1        | ls   | \$ 30,000.00  | \$ 30,000.00  | \$ 24,568.00      | \$ 24,568.00  |            |        |            |        |  |
| 3                   | AD-600                 | Sealing Subterranean Concrete Structure- 6' wet well       | 1        | ls   | \$ 18,000.00  | \$ 18,000.00  | \$ 6,750.00       | \$ 6,750.00   |            |        |            |        |  |
| 4                   | AD-600                 | Sealing Subterranean Concrete Structure- SSMH #3           | 1        | ls   | \$ 2,500.00   | \$ 2,500.00   | \$ 5,610.00       | \$ 5,610.00   |            |        |            |        |  |
| Fiber Optic         |                        |                                                            |          |      |               |               |                   |               |            |        |            |        |  |
| 1                   | ISPMC 2010.4.1.A.1     | Mobilization                                               | 1        | ls   | \$ 2,000.00   | \$ 2,000.00   | \$ 100.00         | \$ 100.00     |            |        |            |        |  |
| 2                   | SP-300.4.1.A.1         | 1 1/4" Conduit Installation                                | 400      | lf   | \$ 15.00      | \$ 6,000.00   | \$ 8.00           | \$ 3,200.00   |            |        |            |        |  |
| 3                   |                        | 1 1/4" Conduit Above ground Stub with Cap                  | 4        | ea   | \$ 400.00     | \$ 1,600.00   | \$ 25.00          | \$ 100.00     |            |        |            |        |  |
| Lift Station Total  |                        |                                                            |          |      |               |               | \$ 288,400.00     |               |            |        |            |        |  |
| Add Alternate Total |                        |                                                            |          |      |               |               | \$ 52,000.00      |               |            |        |            |        |  |
| Fiber Optic Total   |                        |                                                            |          |      |               |               | \$ 9,600.00       |               |            |        |            |        |  |
| TOTAL               |                        |                                                            |          |      |               |               | \$ 350,000.00     | \$ 537,467.00 | TOTAL      |        | TOTAL      |        |  |



I certify that this is a true and correct tabulation of the bids received for the City of Twin Falls: Jayco Lift Station Improvements Project.



**Date:** Monday, April 13, 2015  
**To:** Honorable Mayor and City Council  
**From:** Travis Rothweiler, City Manager

---

**Request:**

Approval and award of a contract between the City of Twin Falls and Hummel Architects for design and construction management services for the development of the Public Safety Complex and new City Hall.

**Time Estimate:**

This item will take approximately 15 minutes, plus any additional time needed to address questions presented by Council.

**Background:**

On January 8, 2015, the City of Twin Falls sent out a Request for Qualifications to provide comprehensive architectural services including remodeling and renovating an existing structure formerly used as a department store/furniture store in the Downtown Twin Falls (aka the Banner Furniture Building), the current City Hall and current Police Station, and possibly portions of Fire Station #1.

The City of Twin Falls sent out the request and received nineteen inquiries and six actual responses. A selection committee was formed to review the responses and determine which firm would represent the professional skill set necessary to construct and remodel city facilities we could all be proud of. The selection committee included City Manager Travis Rothweiler, Mayor Don Hall, Vice Mayor Suzanne Hawkins, Deputy City Manager Mitchel Humble, Deputy City Manager Brian Pike, and CFO Lorie Race.

In February, the selection committee heard presentations from Babcock Design Group, CSHQA and Hummel Architects. Following the presentations, each member of the selection committee asked predetermined questions of the firms and with the latitude to expand upon their responses or to deviate from the questions if needed. On March 9, 2015, the members recommended to the City Council that it begin negotiations with Hummel Architects for architectural and construction management services. The City Council voted 7-0 to accept Hummel Architects as the preferred firm for this project and instructed staff to begin contract negotiations.

Over the course of the past several weeks, representatives from the City of Twin Falls and Hummel Architects have negotiated the contract and possible delivery/construction methods. The City followed the process outlined in Idaho Code Section 67-2320 (See Regulations section of this agenda statement). The contract is attached for the City Council's review and consideration.

In the Agreement, the City and Hummel Architects discussed possible construction and delivery methods. Based on those conversations, it is the City Manager and staff's recommendation to construct the majority of the City Hall and Public Safety projects using the Construction Manager/General Contractor (CM/GC) delivery process.

CM/GC process is designed to provide public entities the benefits of having expert construction management services available during the planning and design phases of a project. In the more traditional process, CM services are selected by accepting the lowest, responsive bid.

The CM/GC process also allows a fixed price or guaranteed maximum price for construction of the project to be negotiated. It also allows us to select a team to be selected based on quality and cost, not based solely on the lowest cost.

The CM/GC process allows for a “team approach” to be created at the beginning of the project. The design and construction professionals, as well as all other critical parties, are able to become fully engaged from initial planning to completion of construction project. The team approach helps reduce field conflicts, the number of potential changes and claims, and streamlines project development which results in lower costs to the owner. The CM/GC also process blends the expertise of designer with the expertise of constructors to better meet the owner’s needs.

The process is outlined in the Idaho Code and appears to be fairly straight forward. In accordance 67-2320 of the Idaho Code, a public entity starts the process by issuing an RFQ for construction management services. The CM/GC is selected based on knowledge, skills and qualifications, which is similar to the process that we used to hire the architect. After being selected, the CM/GC will have the responsibility of bidding all of the construction trades, i.e. plumbing, electrical, mechanical, etc. This ensures the City is getting a competitive price and local firms have the opportunity to complete and participate in the construction of the project. It also allows us to ensure that quality contractors are being considered.

After the bidding of the construction trades has been completed, the City has a chance to review the bids and negotiates with the CM/GC for either a fixed price or a guaranteed maximum price for construction. This helps ensure that we are able to keep the project budget intact and reduces the number of change orders we can expect from the field.

We will, however, reserve the right to execute some or all of the projects using a Construction Manager Representative (CMR) approach as well. Under this approach, we would select a qualified construction manager from those who respond to the RFQ for the City Hall and Public Safety Complex projects.

Clint Sievers with Hummel Architects will make a brief presentation to the City Council that is intended to help further explain the contract, the CM/CQ process, and the tentative schedule.

The contract and the preferred CM/CQ construction method have been reviewed by Twin Falls City Attorney Fritz Wonderlich.

### **Approval Process:**

This is a discussion item. If a motion is made, approval is by simple majority vote (50%+1) of the City Council members present.

### **Budget Impact:**

Based on the best and current information, Clint Stivers with Hummel Architects has estimated the total cost of the recommended project to be \$6,811,948.67. This project will be paid for with cash reserves. Please see the attachment that was developed by Hummel Architects. This estimate was provided to the members of the committee on November 7, 2014, and was reviewed as a part of the contract negotiations.

The cost of the architectural services is estimated to be total of \$493,001, or 8% of the total cost of the construction of the Public Safety Complex (both buildings) and 9% for the conversion of the Banner Building to next City Hall for the City of Twin Falls.

The project will be funded with cash reserves in the General and Capital Improvement Funds. The City’s January 2015, Financial Dashboard illustrated the City has a total of \$21.261 million in Cash Reserves in these two funds of which \$12.674 million is considered “unrestricted” or “available” for one-time projects.

### **Regulatory Impact:**

There are some regulations that guide this process. Those regulations include:

Selection of Professional Engineering and Architectural Services: Idaho Code Section 67-2320 (PROFESSIONAL SERVICE CONTRACTS WITH DESIGN PROFESSIONALS, CONSTRUCTION MANAGERS AND PROFESSIONAL

LAND SURVEYORS), states that "...all public agencies and political subdivisions of the state of Idaho and their agents shall make selections for professional engineering, architectural, landscape architecture, construction management and professional land surveying services...on the basis of qualifications and demonstrated competence and shall negotiate contracts or agreements for such services on the basis of demonstrated competence and qualifications for the type of services required at fair and reasonable prices."

CM/CQ Process: Idaho Code Section 54-4511 describes how the construction manager/general contractor (CM/GC) service can be used by Idaho localities. This section states "...A licensed construction manager and the firm of which he is a principal or full-time employee may be awarded a contract to act as both construction manager and general contractor provided the construction manager/general contractor has a valid public works contractor license as a general contractor pursuant to section 54-1902, Idaho Code."

## **Attachments**

1. Negotiated Contract
2. Cost estimates developed by Hummel Architects about the cost of the proposed projects

**AIA®****Document B103™ – 2007****Standard Form of Agreement Between Owner and Architect for a Large or Complex Project**

**AGREEMENT** made as of the first day of April in the year two-thousand fifteen  
*(In words, indicate day, month and year.)*

**BETWEEN** the Architect's client identified as the Owner:  
*(Name, legal status, address and other information)*

City of Twin Falls  
 321 2<sup>nd</sup> Avenue East  
 PO Box 1907  
 Twin Falls, Idaho  
 83301

and the Architect:  
*(Name, legal status, address and other information)*

Hummel Architects, PLLC  
 2785 Bogus Basin Road  
 Boise, Idaho  
 83702

for the following Project:  
*(Name, location and detailed description)*

Twin Falls City Hall and Public Safety Campus

Twin Falls City Hall (Former Banner Furniture Building)  
 201 Main Avenue East

Public Safety Campus  
 321 Second Avenue East  
 345 Second Avenue East  
 356 Third Avenue East

*(Paragraph deleted)*

The project provides for the design and construction of a modern City Hall facility and the renovation of three existing City owned and occupied buildings into a Public Safety Campus.

The project will be executed in phases as determined during the program and design process.

One phase includes design and construction of a New City Hall facility located at the corner of Hansen Street and Main Avenue in Twin Falls. Currently an existing building occupies the project site, which used to serve as the Banner Furniture building. The existing facility will be demolished, except for the structural system and any other salvageable components. The new City Hall is slated to house the following departments: Information Services, Human Resources, Utility Billing, Finance, Economic Development, Planning & Zoning, Building Inspections, Engineering, and Administration. A program will be established to determine detailed spaces to fit within the new structure. The project target is to be LEED Certified or Net-Zero Energy to

**ADDITIONS AND DELETIONS:**

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

align with current sustainable commitments and goals of the City. Final sustainable criteria will be determined during the programming and design phases of the project.

Other phases involve the master plan and remodel of the Twin Falls Public Safety Campus located near downtown. The current campus consists of the existing City Hall, Police Station, Fire Station #1, and surrounding parking area. The three buildings on the public safety campus will be master planned for both short term use and long term growth. The exact extent and timing of the remodel work on the public safety campus will be determined during the programming and design phases of the project.

The Owner and Architect agree as follows

## TABLE OF ARTICLES

- 1 INITIAL INFORMATION
- 2 ARCHITECT'S RESPONSIBILITIES
- 3 SCOPE OF ARCHITECT'S BASIC SERVICES
- 4 ADDITIONAL SERVICES
- 5 OWNER'S RESPONSIBILITIES
- 6 COST OF THE WORK
- 7 COPYRIGHTS AND LICENSES
- 8 CLAIMS AND DISPUTES
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- 10 MISCELLANEOUS PROVISIONS
- 11 COMPENSATION
- 12 SPECIAL TERMS AND CONDITIONS
- 13 SCOPE OF THE AGREEMENT

## ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

*(Note the disposition for the following items by inserting the requested information or a statement such as "not applicable," "unknown at time of execution" or "to be determined later by mutual agreement.")*

§ 1.1.1 The Owner's program for the Project:

*(Identify documentation or state the manner in which the program will be developed.)*

The Architect and the Owner will jointly develop a detailed program for each functional space within the facilities along with required site elements.

§ 1.1.2 The Project's physical characteristics:

*(Identify or describe, if appropriate, size, location, dimensions, or other pertinent information, such as geotechnical reports; site, boundary and topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site; etc.)*

The New City Hall facility will be approximately 42,500 to 50,000 square feet in area and three stories in height above an existing basement. The Public Safety Campus will remain approximately the same square footage and size. The building's exterior envelope, MEP systems, and finishes will be determined during the design process.

§ 1.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6.1:  
(Provide total and, if known, a line item breakdown.)

The budget for the Cost of Work will be determined at completion of the schematic design phase after both parties have the mutual benefit of a final detailed program document, the schematic design deliverables as described in article 3.2, and a cost estimate prepared by the Architect's independent cost estimator. At that time, the Owner and Architect will execute an amendment to this agreement establishing the Cost of the Work.

§ 1.1.4 The Owner's anticipated design and construction schedule:

.1 Design phase milestone dates, if any:

Programming and design are intended to run from spring 2015 to fall 2015.

.2 Commencement of construction:

Construction start and completion dates are to be determined during the programming and design phases.

.3 Substantial Completion date or milestone dates:

to be determined.

(Paragraph deleted)

§ 1.1.5 The Owner intends the following procurement or delivery method for the Project:  
(Identify method such as competitive bid, negotiated contract or construction management.)

Construction Manager/General Contractor (CM/GC) with a Guaranteed Maximum Price.

§ 1.1.6 The Owner's requirements for accelerated or fast-track scheduling, multiple bid packages, or phased construction are set forth below:  
(List number and type of bid/procurement packages.)

Currently, construction is planned to involve multiple phases at the Public Safety Campus and one phase for the New City Hall.

§ 1.1.7 The Owner identifies the following representative in accordance with Section 5.4:  
(List name, address and other information.)

Travis Rothweiler  
City Manager  
City of Twin Falls  
321 Second Ave. E.  
Twin Falls, Idaho, 83301

§ 1.1.8 The Owner will retain the following consultants and contractors:  
(List name, legal status, address and other information.)

.1 Geotechnical Engineer:

Materials Testing and Inspection  
2283 Wright Avenue, Suite A  
Twin Falls, Idaho, 83301  
Phone (208) 733-5323  
=

.2 Other, if any:

*(List any other consultants or contractors retained by the Owner, such as a Project or Program Manager, construction contractor, or construction manager as constructor.)*

Environmental Testing (Hazardous Materials)  
Materials Testing and Inspection  
2283 Wright Avenue, Suite A  
Twin Falls, Idaho 83301  
Phone (208) 733-5323

§ 1.1.9 The Architect identifies the following representative in accordance with Section 2.3:  
*(List name, address and other information.)*

Clint Sievers  
Architect/Associate  
Hummel Architects, PLLC  
2785 Bogus Basin Road  
Boise, Idaho, 83702  
(208) 343-7523

§ 1.1.10 The Architect will retain the consultants identified in Sections 1.1.12.1 and 1.1.12.2:  
*(List name, legal status, address and other information.)*  
*(Paragraphs deleted)*

§ 1.1.11.1 Consultants retained under Basic Services:

.1 Structural Engineer:

DC Engineering  
440 E Corporate Drive, Suite 103  
Meridian, ID 83642  
Phone (208) 288-2181

.2 Mechanical Engineer:

DC Engineering  
440 E Corporate Drive, Suite 103  
Meridian, ID 83642  
Phone (208) 288-2181

.3 Electrical Engineer:

DC Engineering  
440 E Corporate Drive, Suite 103  
Meridian, ID 83642  
Phone (208) 288-2181

§ 1.1.11.2 Consultants retained under Additional Services:

Civil Engineering  
EHM Engineers, Inc.  
621 North College Road  
Twin Falls, Idaho, 83301  
(208) 734-4888

Landscape Architecture  
OTAK  
11241 Willows Road NE, STE 200  
Redmond, WA, 98052  
Phone (425) 882-4446

and

Breckon Land Design  
181 E 50<sup>th</sup> Street  
Garden City, ID 83714  
Phone (208) 376-5153

§ 1.1.11.3 Based on the sustainability criteria established for the projects as an outcome of programming and schematic design, the Architect may elect with Owner written consent to change or augment its consultants prior to the start of design development.

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the schedule, the Architect's services and the Architect's compensation.

## ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide the professional services as set forth in this Agreement.

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project.

§ 2.4 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 2.5 The Architect shall maintain the following insurance for the duration of this Agreement. If any of the requirements set forth below exceed the types and limits the Architect normally maintains, the Owner shall reimburse the Architect for any additional cost.

§ 2.5.1 Comprehensive General Liability with policy limits of not less than one-million dollars (\$ 1,000,000 ) for each occurrence and in the aggregate for bodily injury and property damage.

§ 2.5.2 Automobile Liability covering owned and rented vehicles operated by the Architect with policy limits of not less than one-million dollars (\$ 1,000,000 ) combined single limit and aggregate for bodily injury and property damage.

§ 2.5.3 The Architect may use umbrella or excess liability insurance to achieve the required coverage for Comprehensive General Liability and Automobile Liability, provided that such umbrella or excess insurance results in the same type of coverage as required for the individual policies.

§ 2.5.4 Workers' Compensation at statutory limits and Employers Liability with a policy limit of not less than five hundred thousand dollars (\$ 500,000 ).

§ 2.5.5 Professional Liability covering the Architect's negligent acts, errors and omissions in its performance of professional services with policy limits of not less than two-million dollars (\$ 2,000,000 ) per claim and in the aggregate.

§ 2.5.6 The Architect shall provide to the Owner certificates of insurance evidencing compliance with the requirements in this Section 2.5. The certificates will show the Owner as an additional insured on the Comprehensive General Liability, Automobile Liability, umbrella or excess policies.

### ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Additional Services.

§ 3.1.1 The Architect shall manage the Architect's services, consult with the Owner, research applicable design criteria, attend Project meetings, communicate with members of the Project team and report progress to the Owner.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on the accuracy and completeness of services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission or inconsistency in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit to the Owner a schedule of the Architect's services for inclusion in the Project schedule. The schedule of the Architect's services shall include design milestone dates, anticipated dates when cost estimates or design reviews may occur, and allowances for periods of time required (1) for the Owner's review (2) for the performance of the Owner's consultants, and (3) for approval of submissions by authorities having jurisdiction over the Project.

§ 3.1.4 Once the Owner and the Architect agree to the time limits established by the Project schedule, the Owner and the Architect shall not exceed them, except for reasonable cause.

§ 3.1.5 The Architect shall not be responsible for an Owner's directive or substitution made without the Architect's approval.

§ 3.1.6 The Architect shall, at appropriate times, contact the governmental authorities required to approve the Construction Documents and the entities providing utility services to the Project. In designing the Project, the Architect shall respond to applicable design requirements imposed by such governmental authorities and by such entities providing utility services.

§ 3.1.7 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

*(Paragraph deleted)*

### § 3.2 SCHEMATIC DESIGN PHASE SERVICES

§ 3.2.1 The Architect shall review the program with the Owner, and shall review laws, codes, and regulations applicable to the Architect's services.

§ 3.2.2 The Architect shall evaluate the Owner's program, schedule, budget for the Cost of the Work, Project site, and the proposed procurement or delivery method and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 3.2.3 The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.2.4 Based on the Project requirements agreed upon with the Owner, the Architect shall prepare and present for the Owner's approval a preliminary design illustrating the scale and relationship of the Project components.

§ 3.2.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital modeling. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 3.2.5.1 The Architect shall consider environmentally responsible design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work.

§ 3.2.5.2 The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics in developing a design for the Project that is consistent with the Owner's schedule and budget for the Cost of the Work.

§ 3.2.6 The Architect shall submit the Schematic Design Documents to the Owner and the CM/GC. The Architect shall meet with the CM/GC to review the Schematic Design Documents. After completion of an initial cost estimate, the Architect shall take action as required under Section 6.4, and request the Owner's approval of the Schematic Design Documents. If revisions to the Schematic Design Documents are required to comply with the Owner's budget for the Cost of the Work at the conclusion of the Schematic Design Phase, the Architect shall incorporate the required revisions in the Design Development Phase.

*(Paragraph deleted)*

### § 3.3 DESIGN DEVELOPMENT PHASE SERVICES

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work pursuant to Section 5.3, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and such other elements as may be appropriate. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish in general their quality levels.

§ 3.3.2 Prior to the conclusion of the Design Development Phase, the Architect shall submit the Design Development Documents to the Owner and the CM/GC. The Architect shall meet with the CM/GC to review the Design Development Documents.

§ 3.3.3 Upon receipt of the CM/GC's estimate at the conclusion of the Design Development Phase, the Architect shall take action as required under Sections 6.5 and 6.6 and request the Owner's approval of the Design Development Documents.

### § 3.4 CONSTRUCTION DOCUMENTS PHASE SERVICES

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that in order to construct the Work the Contractor

will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

**§ 3.4.2** The Architect shall incorporate into the Construction Documents the design requirements of governmental authorities having jurisdiction over the Project.

**§ 3.4.3** During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) the form of agreement between the Owner and Contractor; and (2) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications and may include bidding requirements and sample forms.

**§ 3.4.4** Prior to the conclusion of the Construction Documents Phase, the Architect shall submit the Construction Documents to the Owner and the CM/GC. The Architect shall meet with the CM/GC to review the Construction Documents.

**§ 3.4.5** Upon receipt of the CM/GC's estimate at the conclusion of the Construction Documents Phase, the Architect shall take action as required under Section 6.7 and request the Owner's approval of the Construction Documents.

## **§ 3.5 BIDDING OR NEGOTIATION PHASE SERVICES**

### **§ 3.5.1 GENERAL**

The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining competitive bids; (2) confirming responsiveness of bids or; (3) determining the successful bid; and, (4) awarding and preparing contracts for construction.

### **§ 3.5.2 COMPETITIVE BIDDING**

**§ 3.5.2.1** Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

**§ 3.5.2.2** The Architect shall assist the Owner in bidding the Project by

- .1 facilitating the reproduction of Bidding Documents for distribution to prospective bidders,
- .2 participating in a pre-bid conference for prospective bidders, and
- .3 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents in the form of addenda.

**§ 3.5.2.3** The Architect shall consider requests for substitutions, if the Bidding Documents permit substitutions, and shall prepare and distribute addenda identifying approved substitutions to all prospective bidders.

*(Paragraphs deleted)*

## **§ 3.6 CONSTRUCTION PHASE SERVICES**

### **§ 3.6.1 GENERAL**

**§ 3.6.1.1** The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™-2007, General Conditions of the Contract for Construction. If the Owner and Contractor modify AIA Document A201-2007, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

**§ 3.6.1.2** The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

§ 3.6.1.3 Subject to Section 4.3, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

### § 3.6.2 EVALUATIONS OF THE WORK

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.3.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule, and (2) defects and deficiencies observed in the Work.

§ 3.6.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the Work.

§ 3.6.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 3.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

§ 3.6.2.5 Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201-2007, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

### § 3.6.3 CERTIFICATES FOR PAYMENT TO CONTRACTOR

§ 3.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject (1) to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to correction of minor deviations from the Contract Documents prior to completion, and (4) to specific qualifications expressed by the Architect.

§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.6.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment.

#### § 3.6.4 SUBMITTALS

§ 3.6.4.1 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review.

§ 3.6.4.2 In accordance with the Architect-approved submittal schedule, the Architect shall review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review shop drawings and other submittals related to the Work designed or certified by the design professional retained by the Contractor that bear such professional's seal and signature when submitted to the Architect. The Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals.

§ 3.6.4.4 Subject to the provisions of Section 4.3, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth in the Contract Documents the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to requests for information.

§ 3.6.4.5 The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

#### § 3.6.5 CHANGES IN THE WORK

§ 3.6.5.1 The Architect may authorize minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to the provisions of Section 4.3, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work.

#### § 3.6.6 PROJECT COMPLETION

§ 3.6.6.1 The Architect shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion; receive from the Contractor and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and assembled by the Contractor; and issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents.

§ 3.6.6.2 The Architect's inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

§ 3.6.6.3 When the Work is found to be substantially complete, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.6.6.4 The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

§ 3.6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

#### ARTICLE 4 ADDITIONAL SERVICES

§ 4.1 Additional Services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Additional Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2.

*(Designate the Additional Services the Architect shall provide in the second column of the table below. In the third column indicate whether the service description is located in Section 4.2 or in an attached exhibit. If in an exhibit, identify the exhibit.)*

| Services                                                              | Responsibility<br>(Architect, Owner<br>or<br>Not Provided) | Location of Service Description<br>(Section 4.2 below or in an exhibit<br>attached to this document and<br>identified below) |
|-----------------------------------------------------------------------|------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------|
| § 4.1.1 Programming (B202™–2009)                                      | Architect                                                  | See 4.2.1                                                                                                                    |
| § 4.1.2 Multiple preliminary designs                                  | Architect                                                  |                                                                                                                              |
| § 4.1.3 Measured drawings                                             | Not Provided                                               |                                                                                                                              |
| § 4.1.4 Existing facilities surveys                                   | Architect                                                  | See 4.2.2                                                                                                                    |
| § 4.1.5 Site Evaluation and Planning (B203™–2007)                     | Not Provided                                               |                                                                                                                              |
| § 4.1.6 Building Information Modeling<br>(E202™–2008)                 | Architect                                                  | See 4.2.3                                                                                                                    |
| § 4.1.7 Civil engineering                                             | Architect                                                  | See 4.2.4                                                                                                                    |
| § 4.1.8 Landscape design                                              | Architect                                                  | See 4.2.5                                                                                                                    |
| § 4.1.9 Architectural Interior Design (B252™–2007)                    | Architect                                                  | See 4.2.6                                                                                                                    |
| § 4.1.10 Value Analysis (B204™–2007)                                  | CM/GC                                                      |                                                                                                                              |
| § 4.1.11 Detailed cost estimating                                     | CM/GC                                                      | See 4.2.7                                                                                                                    |
| § 4.1.12 On-site Project Representation (B207™–2008)                  | Not Provided                                               |                                                                                                                              |
| § 4.1.13 Conformed construction documents                             | Not Provided                                               |                                                                                                                              |
| § 4.1.14 As-Designed Record drawings                                  | Not Provided                                               |                                                                                                                              |
| § 4.1.15 As-Constructed Record drawings                               | Architect                                                  | In digital format                                                                                                            |
| § 4.1.16 Post occupancy evaluation                                    | Not Provided                                               |                                                                                                                              |
| § 4.1.17 Facility Support Services (B210™–2007)                       | Not Provided                                               |                                                                                                                              |
| § 4.1.18 Tenant-related services                                      | Not Provided                                               |                                                                                                                              |
| § 4.1.19 Coordination of Owner's consultants                          | Not Provided                                               |                                                                                                                              |
| § 4.1.20 Telecommunications/data design                               | Architect                                                  | See 4.2.8                                                                                                                    |
| § 4.1.21 Security Evaluation and Planning<br>(B206™–2007)             | Not Provided                                               | See 4.2.9                                                                                                                    |
| § 4.1.22 Commissioning (B211™–2007)                                   | Owner                                                      |                                                                                                                              |
| § 4.1.23 Extensive environmentally responsible design                 | Architect                                                  | See 4.2.10                                                                                                                   |
| § 4.1.24 LEED® Certification (B214™–2012)                             | Architect                                                  | See 4.2.10                                                                                                                   |
| § 4.1.25 Historic Preservation (B205™–2007)                           | Not Provided                                               |                                                                                                                              |
| § 4.1.26 Furniture, Furnishings, and Equipment Design<br>(B253™–2007) | Not Provided                                               |                                                                                                                              |

§ 4.2 Insert a description of each Additional Service designated in Section 4.1 as the Architect's responsibility, if not further described in an exhibit attached to this document.

§ 4.2.1 Basic Services shall include usual and customary programming services.

§ 4.2.2 Basic services shall include field measurement of all four facilities and structural analysis of the Banner Furniture building. Geo-technical services are a responsibility of the owner. Environmental services, such as hazardous material investigation, evaluation and remediation, are a responsibility of the owner.

§ 4.2.3 As a part of customary design development and construction document services, the architect shall prepare a 300 level Building Information Model. Higher levels of BIM are an additional service.

§ 4.2.4 Usual and customary on and off-site civil engineering services shall be an Additional Service and a direct expense through the Architect to the Owner.

§ 4.2.5 Usual and customary on and off-site landscape architectural services shall be an Additional Service and a direct expense through the Architect to the Owner.

§ 4.2.6 Basic services shall include interior finishes and material selection services. Additional services (such as FF&E design) can be provided as an additional service.

§ 4.2.7 An independent cost estimator engaged by the architect shall provide a schematic design cost estimate after completion of that phase of the architect's services. The cost of the estimate shall be an Additional Service and a direct expense through the Architect to the Owner. All subsequent cost estimating during the design development and construction document phases shall be the responsibility of the CM/GC.

§ 4.2.8 Basic services shall include telecommunications and data design excluding Owner provided equipment.

§ 4.2.9 The Architect shall work with the Owner to implement architectural and low voltage system solutions for the normal security needs of the departments. Extensive security systems design and measures, along with equipment specification and installation, is a responsibility of the Owner.

§ 4.2.10 During programming, planning workshops, conceptual design and early schematic design, the Architect and Owner will evaluate to what degree "extensive environmentally responsible design and LEED certification" are required on the projects. At a time mutually agreeable to both parties but prior to completion of the schematic design phase, the Owner and Architect shall by letter agreement or AIA Document B214 establish sustainable features and criteria for the projects along with required certification programs and levels. As part of the letter agreement or AIA Document B214, a lump sum fee will be established for sustainable design services required during the design development, construction document and construction administration phases of the Architect's work

§ 4.3 Additional Services may be provided after execution of this Agreement, without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.3 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

§ 4.3.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following services until the Architect receives the Owner's written authorization:

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including, but not limited to, size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method, or bid packages in addition to those listed in Section 1.1.6;
- .2 Changing or editing previously prepared Instruments of Service necessitated by the enactment or revision of codes, laws or regulations or official interpretations;
- .3 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .4 Preparing digital data for transmission to the Owner's consultants and contractors, or to other Owner authorized recipients;
- .5 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;

(Paragraph deleted)

- .6 Preparation for, and attendance at a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .7 Evaluation of the qualifications of bidders or persons providing proposals;
- .8 Consultation concerning replacement of Work resulting from fire or other cause during construction; or
- .9 Assistance to the Initial Decision Maker, if other than the Architect.

§ 4.3.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If the Owner subsequently determines that all or parts of those services are not required, the Owner shall give prompt written notice to the Architect, and the Owner shall have no further obligation to compensate the Architect for those services:

- .1 Reviewing a Contractor's submittal out of sequence from the submittal schedule agreed to by the Architect;
- .2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Preparing Change Orders, and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;
- .4 Evaluating an extensive number of Claims as the Initial Decision Maker;
- .5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom; or
- .6 To the extent the Architect's Basic Services are affected, providing Construction Phase Services 60 days after (1) the date of Substantial Completion of the Work or (2) the anticipated date of Substantial Completion identified in Initial Information, whichever is earlier.

§ 4.3.3 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:

- .1 Two ( 2 ) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor
- .2 Twenty ( 20 ) visits to the site by the Architect over the duration of the Project during construction
- .3 Six ( 6 ) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 Four ( 4 ) inspections for any portion of the Work to determine final completion

§ 4.3.4 If the services covered by this Agreement have not been completed within Forty-Eight ( 48 ) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

## ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program prepared with the assistance of the Architect which shall set forth the Owner's objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements

§ 5.2 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the budget for the Cost of the Work or in the Project's scope and quality.

§ 5.3 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

*(Paragraph deleted)*

§ 5.4 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 5.5 The Owner shall furnish services of geotechnical engineers, which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 5.6 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants maintain professional liability insurance and other liability insurance as appropriate to the services provided.

§ 5.7 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 5.8 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.9 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 5.10 Except as otherwise provided in this Agreement, or when direct communications have been specially authorized, the Owner shall endeavor to communicate with the Contractor and the Architect's consultants through the Architect about matters arising out of or relating to the Contract Documents. The Owner shall promptly notify the Architect of any direct communications that may affect the Architect's services.

§ 5.11 Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and CM/GC, including the General Conditions of the Contract for Construction.

§ 5.12 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

*(Paragraph deleted)*

## **ARTICLE 6 COST OF THE WORK**

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work does not include the compensation of the Architect, the costs of the land, rights-of-way, financing, contingencies for changes in the Work or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work will be determined at completion of the schematic design phase of the work (see Section 1.1.3), and may be adjusted throughout the Project as required under Sections 5.3 and 6.4. Evaluations of the Owner's budget for the Cost of the Work represent the Architect's judgment as a design professional.

§ 6.3 The Owner shall require the CM/GC to include appropriate contingencies for design, bidding or negotiating, price escalation, and market conditions in estimates of the Cost of the Work. The Architect shall be entitled to rely on the accuracy and completeness of estimates of the Cost of the Work the CM/GC prepares as the Architect progresses with its Basic Services. The Architect shall prepare, as an Additional Service, revisions to the Drawings, Specifications or other documents required due to the CM/GC's inaccuracies or incompleteness in preparing cost estimates. The Architect may review the CM/GC's estimates solely for the Architect's guidance in completion of its services, however, the Architect shall report to the Owner any material inaccuracies and inconsistencies noted during any such review.

§ 6.4 If, prior to the conclusion of the Design Development Phase, the CM/GC's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect, in consultation with the CM/GC, shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.5 If the estimate of the Cost of the Work at the conclusion of the Design Development Phase exceeds the Owner's budget for the Cost of the Work, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or
- .3 implement any other mutually acceptable alternative.

§ 6.6 If the Owner chooses to proceed under Section 6.5.2, the Architect, without additional compensation, shall incorporate the required modifications in the Construction Documents Phase as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Design Development Phase Services, or the budget as adjusted under Section 6.5.1. The Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility as a Basic Service under this Article 6.

§ 6.7 After incorporation of modifications under Section 6.6, the Architect shall, as an Additional Service, make any required revisions to the Drawings, Specifications or other documents necessitated by subsequent cost estimates that exceed the Owner's budget for the Cost of the Work, except when the excess is due to changes initiated by the Architect in scope, basic systems, or the kinds and quality of materials, finishes or equipment.

## ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project. If the Owner and Architect intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions.

§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 7.3 Upon execution of this Agreement, the Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under this Agreement. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising

from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

## **ARTICLE 8 CLAIMS AND DISPUTES**

### **§ 8.1 GENERAL**

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action, whether in contract, tort, or otherwise, against the other arising out of or related to this Agreement in accordance with the requirements of the method of binding dispute resolution selected in this Agreement within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201-2007, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents and employees of any of them similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect shall indemnify and hold the Owner and the Owner's officers and employees harmless from and against damages, losses and judgments arising from claims by third parties, including reasonable attorneys' fees and expenses recoverable under applicable law, but only to the extent they are caused by the negligent acts or omissions of the Architect, its employees and its consultants in the performance of professional services under this Agreement. The Architect's duty to indemnify the Owner under this provision shall be limited to the available proceeds of insurance coverage.

§ 8.1.4 The Architect and Owner waive consequential damages for claims, disputes or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.

### **§ 8.2 MEDIATION**

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

§ 8.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Agreement, and filed with the person or entity administering the mediation.

§ 8.2.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be non-binding.

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:

*(Check the appropriate box. If the Owner and Architect do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.)*

*(Paragraph deleted)*

☒ Litigation in a court of competent jurisdiction

*(Paragraphs deleted)*

## **ARTICLE 9 TERMINATION OR SUSPENSION**

**§ 9.1** If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Architect shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

**§ 9.2** If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

**§ 9.3** If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

**§ 9.4** Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

**§ 9.5** The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

**§ 9.6** In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due and all Termination Expenses as defined in Section 9.7.

**§ 9.7** Termination Expenses are in addition to compensation for the Architect's services and include expenses directly attributable to termination for which the Architect is not otherwise compensated, plus an amount for the Architect's anticipated profit on the value of the services not performed by the Architect.

**§ 9.8** The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 11.9.

## **ARTICLE 10 MISCELLANEOUS PROVISIONS**

**§ 10.1** This Agreement shall be governed by the law of the place where the Project is located.

**§ 10.2** Terms in this Agreement shall have the same meaning as those in AIA Document A201-2007, General Conditions of the Contract for Construction.

**§ 10.3** The Owner and Architect, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement.

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or Architect.

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project.

§ 10.8 If the Architect or Owner receives information specifically designated by the other party as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except to (1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential information.

§ 10.9 The Owner acknowledges that the renovation of an existing structure or the connecting of a new structure to an existing structure, necessarily requires the Architect to endeavor to evaluate or verify the location and condition of those elements of the existing structure that will be affected by the Project. Some elements of the existing structure can be adequately evaluated by non-intrusive observations. Other elements cannot be evaluated or verified without significant expense, disruption to activities in the existing structure and, at times, destroying otherwise adequate or serviceable portions of existing structure. In such events, the Architect must necessarily make professional assumptions about the location and condition of such elements. Such assumptions may be based on plans or other documents of the existing structure, construction techniques in use at the time the existing structure was built, and the opinions and memories of the Owner's current and former employees and contractors. Because construction techniques vary widely over time and by region, so some of the Architect's assumptions may necessarily be educated speculation. If actual conditions are discovered that vary from the Architect's assumptions, the Architect shall evaluate the changed conditions and prepare modifications to the Construction Documents, if any, needed to reflect the actual conditions as a Change in Service. The Owner recognizes that changes resulting from the discovery of actual conditions that vary from the Architect's assumptions may result an increase in the Cost of the Work or a delay in the construction schedule, or both. Because the risk of additional cost and delay for actual conditions that vary from the Architect's assumptions depends on the condition of the existing structure and the nature and extent of the renovation, the Owner shall consult with the Architect to ensure that the Owner's contingency fund and the Owner's float in construction schedule are sufficient to cover such costs and delays.

§ 10.10 If any required item or component is omitted from the Construction Documents due to any error or omission of the Architect or Architect's consultants, the Owner understands and agrees that the Owner would have been required to pay for such item or component if no error or omission occurred and, therefore, the Architect and Architect's consultants shall not be responsible for the cost of any such item or component. Further, the Owner understands and agrees that the Architect and Architect's consultants shall not be responsible for the cost of any change to the Project that results in an improvement, betterment, upgrade or enhancement of the Project.

## ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

*(Insert amount of, or basis for, compensation.)*

The fee for basic services is based on the owner's budget and will be a lump sum (stipulated sum) of four hundred ninety-three thousand dollars and no cents (\$493,000.00) to be billed as listed in Article 11.5.

**§ 11.2** For Additional Services designated in Section 4.1, the Owner shall compensate the Architect as follows:  
(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

The not to exceed fee for usual and customary on and off site civil engineering services for the Twin Falls City Hall project will be \$20,000. The not to exceed fee for the Public Safety Campus will be \$10,000.

The not to exceed fee for usual and customary on and off-site landscape architectural services for the Twin Falls City Hall project will be \$15,000. The not to exceed fee for the Public Safety Campus will be \$5,000.

The not to exceed fee for a schematic design cost estimate prepared by an independent cost estimator will be \$7500.

The not to exceed fee for extensive environmentally responsible design, LEED certification or Net-Zero Energy will be two percent (2%) of the Cost of the Work as determined at the completion of schematic design. The fee will be converted to a lump sum (stipulated sum) and proportioned per Section 11.5.

**§ 11.3** For Additional Services that may arise during the course of the Project, including those under Section 4.3, the Owner shall compensate the Architect as follows:  
(Insert amount of, or basis for, compensation.)

Hourly rates as listed in Article 11.6. If the Cost of the Work is increased by the owner, the Architect shall be compensated a 9% fee for the added Cost of the Work.

**§ 11.4** Compensation for Additional Services of the Architect's consultants when not included in Sections 11.2 or 11.3, shall be the amount invoiced to the Architect plus 1.1 percent ( 1.1 %), or as otherwise stated below:

**§ 11.5** Where compensation for Basic Services is based on a stipulated sum or percentage of the Cost of the Work, the compensation for each phase of services shall be as follows:

|                                    |             |           |     |    |
|------------------------------------|-------------|-----------|-----|----|
| Programming/Schematic Design Phase | Twenty      | percent ( | 20  | %) |
| Design Development Phase           | Twenty      | percent ( | 15  | %) |
| Construction Documents Phase       | Forty       | percent ( | 40  | %) |
| Bidding or Negotiation Phase       | Two         | percent ( | 2   | %) |
| Construction Phase                 | Eighteen    | percent ( | 23  | %) |
| Total Basic Compensation           | one hundred | percent ( | 100 | %) |

(Paragraph deleted)

**§ 11.6** The hourly billing rates for services of the Architect and the Architect's consultants, if any, are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices.

(If applicable, attach an exhibit of hourly billing rates or insert them below.)

| Employee or Category | Rate     |
|----------------------|----------|
| Principal            | \$160.00 |
| Associate Principal  | \$140.00 |
| Project Manager      | \$120.00 |
| Project Architect    | \$120.00 |
| Interior Designer    | \$90.00  |
| Intern/CADD          | \$85.00  |
| Clerical Support     | \$55.00  |

*(Table deleted)*

*(Paragraphs deleted)*

#### **§ 11.8 COMPENSATION FOR REIMBURSABLE EXPENSES**

**§ 11.8.1** Reimbursable Expenses are in addition to compensation for Basic and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project Web sites, and extranets;
- .3 Fees paid for securing approval of authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, standard form documents;
- .5 Postage, handling and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Architect's Consultant's expense of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits if the Owner requests such insurance in excess of that normally carried by the Architect's consultants;
- .8 All taxes levied on professional services and on reimbursable expenses;
- .9 Site office expenses; and
- .10 Other similar Project-related expenditures.

**§ 11.8.2** For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus 1.1 percent ( 1.1 %) of the expenses incurred.

**§ 11.8.3** A & E Reimbursable Budget: \$30,000.00

#### **§ 11.9**

*(Paragraphs deleted)*

#### **PAYMENTS TO THE ARCHITECT**

*(Paragraphs deleted)*

**§ 11.9.1** An initial payment of 0 (\$ 0.00) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

**§ 11.9.2** Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid thirty-one ( 31 ) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.  
*(Insert rate of monthly or annual interest agreed upon.)*

- 12% per annum

**§ 11.9.3** The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

**§ 11.9.4** Records of Reimbursable Expenses, expenses pertaining to Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

## ARTICLE 12 SPECIAL TERMS AND CONDITIONS

§ 12.1 Special terms and conditions that modify this Agreement are as follows:

In the event the Architect is required to retain the services of an Attorney to collect any sums due under the Agreement, the Architect shall be entitled to reasonable Attorney's fee for said Attorney's services in addition to other sums due under this Agreement.

§ 12.2 The Americans with Disabilities Act (ADA) provides that it is a violation of the ADA to design and construct a facility for first occupancy later than January 26, 1993, that does not meet the accessibility and usability requirements of the ADA except where an entity can demonstrate that it is structurally impractical to meet such requirements. Owner acknowledges that the requirements of the ADA will be subject to various and possibly contradictory interpretations. The Architects, therefore, will use its best professional efforts to interpret applicable ADA requirements and other federal, state, and local laws, rules, codes, ordinances and regulations as they apply to the Project. The Architect, however, cannot and does not warranty or guarantee that Owner's project will comply with all interpretations of the ADA requirements and/or the requirements of other federal, state, and local laws, rules, codes, ordinances, and regulations as they apply to the project.

## ARTICLE 13 SCOPE OF THE AGREEMENT

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

§ 13.2 This Agreement is comprised of the following documents listed below:

- .1 AIA Document B103™-2007, Standard Form Agreement Between Owner and Architect
- .2 AIA Document E201™-2007, Digital Data Protocol Exhibit, if completed, or the following:

*(Paragraphs deleted)*

This Agreement entered into as of the day and year first written above.

OWNER

ARCHITECT

\_\_\_\_\_  
*(Signature)*

\_\_\_\_\_  
*(Signature)*

\_\_\_\_\_  
*(Printed name and title)*

\_\_\_\_\_  
*(Printed name and title)*

**TWIN FALLS CITY FACILITY IMPROVEMENTS**  
**MASTER BUDGET / ESTIMATION OF PROBABLE COST**  
**7-Nov-14**

|                                                                                                                 |                 | Cost / Unit   |               | Estimated Cost         |
|-----------------------------------------------------------------------------------------------------------------|-----------------|---------------|---------------|------------------------|
| <b>BANNER BUILDING</b>                                                                                          |                 | Unit or SF    | Cost / SF     |                        |
| General Tenant Improvements                                                                                     | 29,500          | \$            | 75            | \$ 2,212,500.00        |
| Exterior Façade Improvements                                                                                    | 13,250          | \$            | 60            | \$ 795,000.00          |
| Streetscape and Entry Plazas                                                                                    | 1               | \$            | 250,000       | \$ 250,000.00          |
| Total - Construction Costs                                                                                      |                 |               | \$110.42      | \$ 3,257,500.00        |
| Construction and Design Contingency                                                                             | \$ 3,257,500.00 |               | 12%           | \$390,900.00           |
| Total - Construction Cost                                                                                       |                 | \$            | 123.67        | <b>\$ 3,648,400.00</b> |
| <b>Owner Related Costs</b>                                                                                      |                 | Unit or Basis | Cost / Unit   |                        |
| Legal - Insurance - License                                                                                     | 1               | \$            | 10,000        | \$ 10,000.00           |
| Testing & Inspection                                                                                            | 1               | \$            | 10,000        | \$ 10,000.00           |
| Utility Fee - Allowance                                                                                         | 1               | \$            | 5,000         | \$5,000.00             |
| Civil Topo / Survey                                                                                             | 1               | \$            | 2,500         | \$2,500.00             |
| Civil Engineering                                                                                               | 1               | \$            | 15,000        | \$15,000.00            |
| LEED                                                                                                            | \$3,648,400.00  |               | 2%            | \$72,968.00            |
| Building Permit                                                                                                 | \$ 3,257,500.00 |               | 0%            | \$ -                   |
| Land / Building Purchase                                                                                        | \$ 430,000.00   |               | 1             | \$ 430,000.00          |
| Total - Owner Related Costs                                                                                     |                 |               |               | <b>\$ 545,468.00</b>   |
| <b>Design Fees</b>                                                                                              |                 | Unit or Basis |               |                        |
| Architect, Interior Design, Landscape Architect and Engineers (Structural, Mechanical, Electrical, Low Voltage) | \$ 3,648,400.00 |               | 9%            | \$ 328,356.00          |
| Reimbursable Costs (Printing, Etc.)                                                                             | 1               | \$            | 20,000        | \$ 20,000.00           |
| Total - Design Fees and Costs                                                                                   |                 |               |               | <b>\$ 348,356.00</b>   |
| Total Cost for New City Hall Project*                                                                           | 29,500          | \$            | <b>153.97</b> | <b>\$ 4,542,224.00</b> |
|                                                                                                                 | 42,000          | \$            | 108.15        |                        |

\* Cost includes no inflation factor. Add 3% per annum for each year beyond a March 2015 construction start

**Notes**

- 1 Budget does not include demolition of nearby structures, parking improvements and FFE
- 2 Includes approximately 12,000-15,000 sf for future.
- 3 Budget assumes no building permit fees

|                                                                                                                 |                 | Cost / Unit   |              | Estimated Cost         |
|-----------------------------------------------------------------------------------------------------------------|-----------------|---------------|--------------|------------------------|
| <b>EXISTING POLICE STATION REMODEL</b>                                                                          |                 | Unit or SF    | Cost / SF    |                        |
| General Tenant Improvements                                                                                     | 15,976          | \$            | 70           | \$ 1,118,320.00        |
| Exterior Entrance Improvements                                                                                  | 1               | \$            | 50,000       | \$ 50,000.00           |
| Site Access Improvements                                                                                        | 1               | \$            | 40,000       | \$ 40,000.00           |
| Total - Construction Costs                                                                                      |                 |               | \$75.63      | \$ 1,208,320.00        |
| Construction and Design Contingency                                                                             | \$ 1,208,320.00 |               | 12%          | \$144,998.40           |
| Total - Construction Cost                                                                                       |                 | \$            | 84.71        | <b>\$ 1,353,318.40</b> |
| <b>Owner Related Costs</b>                                                                                      |                 | Unit or Basis | Cost / Unit  |                        |
| Legal - Insurance - License                                                                                     | 1               | \$            | 5,000        | \$ 5,000.00            |
| Testing & Inspection                                                                                            | 1               | \$            | 5,000        | \$ 5,000.00            |
| Utility Fee - Allowance                                                                                         | 0               | \$            | -            | \$0.00                 |
| Civil Topo / Survey                                                                                             | 1               | \$            | 1,000        | \$1,000.00             |
| Civil Engineering                                                                                               | 1               | \$            | 5,000        | \$5,000.00             |
| Land Acquisition / Building Purchase                                                                            | 1               |               | 0            | \$0.00                 |
| Building Permit                                                                                                 | \$ 1,208,320.00 |               | 0%           | \$ -                   |
| Total - Owner Related Costs                                                                                     |                 |               |              | <b>\$ 16,000.00</b>    |
| <b>Design Fees</b>                                                                                              |                 | Unit or Basis |              |                        |
| Architect, Interior Design, Landscape Architect and Engineers (Structural, Mechanical, Electrical, Low Voltage) | \$ 1,353,318.40 |               | 8%           | \$ 108,265.47          |
| Reimbursable Costs (Printing, Etc.)                                                                             | 1               | \$            | 7,500        | \$ 7,500.00            |
| Total - Design Fees and Costs                                                                                   |                 |               |              | <b>\$ 115,765.47</b>   |
| Total Cost for Police Station Project*                                                                          | 15,976          | \$            | <b>92.96</b> | <b>\$ 1,485,083.87</b> |

\* Cost includes no inflation factor. Add 3% per annum for each year beyond a March 2015 construction start

| EXISTING CITY HALL REMODEL (LAW ENFORCEMENT)                                                                    |               | Unit or SF    | Cost / Unit | Cost / SF | Estimated Cost |
|-----------------------------------------------------------------------------------------------------------------|---------------|---------------|-------------|-----------|----------------|
| General Tenant Improvements                                                                                     |               | 11,385        | \$          | 50        | \$ 569,250.00  |
| Exterior Entrance and Facade Improvements                                                                       |               | 1             | \$          | 50,000    | \$ 50,000.00   |
| Site Access Improvements                                                                                        |               | 1             | \$          | 10,000    | \$ 10,000.00   |
| Total - Construction Costs                                                                                      |               |               |             | \$55.27   | \$ 629,250.00  |
| Construction and Design Contingency                                                                             | \$ 629,250.00 |               |             | 12%       | \$75,510.00    |
| Total - Construction Cost                                                                                       |               |               | \$          | 61.90     | \$ 704,760.00  |
| Owner Related Costs                                                                                             |               | Unit or Basis | Cost / Unit |           |                |
| Legal - Insurance - License                                                                                     |               | 1             | \$          | 5,000     | \$ 5,000.00    |
| Testing & Inspection                                                                                            |               | 1             | \$          | 5,000     | \$ 5,000.00    |
| Utility Fee - Allowance                                                                                         |               | 0             | \$          | -         | \$0.00         |
| Civil Topo / Survey                                                                                             |               | 1             | \$          | 1,000     | \$1,000.00     |
| Civil Engineering                                                                                               |               | 1             | \$          | 5,000     | \$5,000.00     |
| Land Acquisition / Building Purchase                                                                            |               | 1             |             | 0         | \$0.00         |
| Building Permit                                                                                                 | \$ 629,250.00 |               |             | 0%        | \$ -           |
| Total - Owner Related Costs                                                                                     |               |               |             |           | \$ 16,000.00   |
| Design Fees                                                                                                     |               | Unit or Basis |             |           |                |
| Architect, Interior Design, Landscape Architect and Engineers (Structural, Mechanical, Electrical, Low Voltage) | \$ 704,760.00 |               |             | 8%        | \$ 56,380.80   |
| Reimbursable Costs (Printing, Etc.)                                                                             |               | 1             | \$          | 7,500     | \$ 7,500.00    |
| Total - Design Fees and Costs                                                                                   |               |               |             |           | \$ 63,880.80   |
| Total Cost for Existing City Hall Remodel*                                                                      | 11,385        | \$            | 68.92       |           | \$ 784,640.80  |

\* Cost includes no inflation factor. Add 3% per annum for each year beyond a March 2015 construction start

| <b>BUDGET SUMMARY OF ALL PROJECTS</b>        | Unit or SF    | Cost / SF        | Estimated Cost         |
|----------------------------------------------|---------------|------------------|------------------------|
| BANNER BUILDING                              | 29,500        | \$ 153.97        | \$ 4,542,224.00        |
| EXISTING POLICE STATION REMODEL              | 15,976        | \$ 92.96         | \$ 1,485,083.87        |
| EXISTING CITY HALL REMODEL (LAW ENFORCEMENT) | 11,385        | \$ 68.92         | \$ 784,640.80          |
| <b>TOTAL BUDGET ALL PROJECTS</b>             | <b>56,861</b> | <b>\$ 119.80</b> | <b>\$ 6,811,948.67</b> |

| <b>NEW CITY HALL (New Structure)</b>                                                                            |                 |             |    |                        |
|-----------------------------------------------------------------------------------------------------------------|-----------------|-------------|----|------------------------|
|                                                                                                                 | Unit or SF      | Cost / SF   |    | Estimated Cost         |
| Shell and Core                                                                                                  | 42,000          | \$ 110      | \$ | 4,620,000.00           |
| General Tenant Improvements                                                                                     | 29,500          | \$ 70       | \$ | 2,065,000.00           |
| Streetscape and Entry Plazas                                                                                    | 1               | \$ 250,000  | \$ | 250,000.00             |
| Total - Construction Costs                                                                                      |                 | \$165.12    |    | \$ 6,935,000.00        |
| Construction and Design Contingency                                                                             | \$ 6,935,000.00 | 12%         |    | \$832,200.00           |
| Total - Construction Cost                                                                                       |                 | \$ 184.93   |    | <b>\$ 7,767,200.00</b> |
| <b>Owner Related Costs</b>                                                                                      |                 |             |    |                        |
|                                                                                                                 | Unit or Basis   | Cost / Unit |    |                        |
| Legal - Insurance - License                                                                                     | 1               | \$ 10,000   | \$ | 10,000.00              |
| Testing & Inspection                                                                                            | 1               | \$ 10,000   | \$ | 10,000.00              |
| Utility Fee - Allowance                                                                                         | 1               | \$ 5,000    |    | \$5,000.00             |
| Civil Topo / Survey                                                                                             | 1               | \$ 2,500    |    | \$2,500.00             |
| Civil Engineering                                                                                               | 1               | \$ 20,000   |    | \$20,000.00            |
| LEED                                                                                                            | \$ 7,767,200.00 | 2%          |    | \$155,344.00           |
| Building Permit                                                                                                 | \$ 6,935,000.00 | 0%          | \$ | -                      |
| Land Purchase                                                                                                   | \$ 400,000.00   | 1           | \$ | 400,000.00             |
| Total - Owner Related Costs                                                                                     |                 |             |    | <b>\$ 602,844.00</b>   |
| <b>Design Fees</b>                                                                                              |                 |             |    |                        |
|                                                                                                                 | Unit or Basis   |             |    |                        |
| Architect, Interior Design, Landscape Architect and Engineers (Structural, Mechanical, Electrical, Low Voltage) | \$ 7,767,200.00 | 9%          | \$ | 699,048.00             |
| Reimbursable Costs (Printing, Etc.)                                                                             | 1               | \$ 15,000   | \$ | 15,000.00              |
| Total - Design Fees and Costs                                                                                   |                 |             |    | <b>\$ 714,048.00</b>   |
| Total Cost for New City Hall Project*                                                                           | 42,000          | \$ 216.29   |    | <b>\$ 9,084,092.00</b> |