

AGENDA ITEM SUMMARY

DATE: 06/04/2012 DEPARTMENT: Public Works

DEPT. HEAD SIGNATURE: *MP*

SUBJECT: Ratification of Interpretive Center Change Orders

AUTHORITY: ID Code _____ IAR _____ City Ordinance/Code _____
(IF APPLICABLE)

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

Two change orders were administratively approved due to the small cost increase and schedule impacts associated with both changes. The changes are as follows: 1) \$335.23 cost increase to provide two extra conduits for future security and camera needs within the multi-use arena and 2) \$1,843.38 to furnish extra backfill material for under the floor slab.

The reasons for the change orders are as follows: 1) the security needs and equipment had not been determined prior to the bid for the project being created; therefore, provisions were not included in the Interpretive Center bid documents and 2) it was determined after the contract was approved and work begun that a greater amount of fill was needed than originally anticipated. The amount of fill available on-site was never specified in the bid documents. This item was discussed with the mayor prior to giving consent for the change order.

These change orders have been accounted for in Pay Application No.1 to Sawtooth Construction, which is included in this claim for expenses listed at the end of the Consent Agenda.

FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS:

ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS: (IF APPLICABLE)

- | | | |
|---|---|---|
| <input type="checkbox"/> City Administrator | <input type="checkbox"/> Library | <input type="checkbox"/> Benefits Committee |
| <input type="checkbox"/> City Attorney | <input type="checkbox"/> Mayor | <input type="checkbox"/> Streets |
| <input type="checkbox"/> City Clerk | <input type="checkbox"/> Planning | <input type="checkbox"/> Treasurer |
| <input type="checkbox"/> Building | <input type="checkbox"/> Police | _____ |
| <input type="checkbox"/> Engineer | <input checked="" type="checkbox"/> Public Works, Parks | _____ |
| <input type="checkbox"/> Fire Dept. | <input type="checkbox"/> P & Z Commission | _____ |

RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:

Ratify the change orders and allow payment to Sawtooth Construction for the amount specified in the claim for expenses.

ACTION OF THE CITY COUNCIL:

Date : _____

City Clerk _____

FOLLOW-UP:

*Ord./Res./Agrmt./Order Originals: Record
Copies (all info.): _____
Instrument # _____

*Additional/Exceptional Originals to: _____
Copies (AIS only)

Sawtooth Construction
PO Box 41
10th St. Center Suite B12
Ketchum ID 83340
208-726-9070
License: RCE-442

Change Order
Order #: 002
Order Date: 5/21/12

To: Micahel Bulls
Ruscitto/Latham/Blanton

Project: Interpretive Center
Hailey Rodeo Grounds

The contractor agrees to perform and the owner agrees to pay for the following changes to this contract.

**Furnish Extra Conduit for Future Security and Camera Locations –
Per Tom Hellen**

Ordered By: Tom Hellen

Received By: Greg Strong

Buffalo Electric Proposal CO #1	\$335.23
---------------------------------	----------

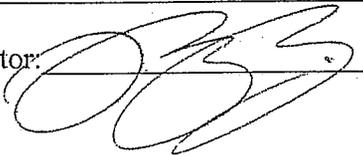
Sawtooth Construction 5% markup per contract	\$16.76
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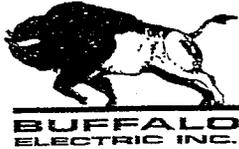
Description of Work

Install 2" Spare conduits at NE corner of the building

Total Requested amount of Change: \$351.99

Owner: _____ Date: _____

Contractor:  _____ Date: 5/21/2012



40 Aero Lane
 Hailey, ID 83333
 208.788.9659
 Fax 208.788.0145

PROPOSAL

Date: May 17, 2012

Project: Interpretive Center
 Contractor: Sawtooth Construction
 Attn: Greg Strong

Price to include materials and labor to install 2 ea. Spare 2" PVC conduits at North East corner of the building.

100 feet	2"PVC schedule 40	\$ 0.78	\$	78.00
2 ea.	2" PVC 90	\$ 5.02	\$	10.04
2 ea.	2" PVC sweeps	\$ 13.56	\$	27.12
1 ea.	Glue	\$ 7.15	\$	7.15
2 feet	PVC coupling	\$ 0.87	\$	1.74
				\$ 124.05
Total Material				\$ 12.41
10% profit and O/H				\$ 136.46
Total Material				\$ 136.46
2 hours	Journeyman			
	Labor cost	\$		109.20
	10% Profit	\$		10.92
				\$ 120.12
Total Journeyman labor				\$ 120.12
2 hours	Apprentice			
	Labor cost	\$		71.50
	10% Profit	\$		7.15
				\$ 78.65
Total Apprentice labor				\$ 78.65
				\$ 335.23
Total				\$ 335.23

Sawtooth Construction
PO Box 41
10th St. Center Suite B12
Ketchum ID 83340
208-726-9070
License: RCE-442

Change Order
Order #: 001-ammended
Order Date: 5/11/12

To: Micahel Bulls
Ruscitto/Latham/Blanton

Project: Interpretive Center
Hailey Rodeo Grounds

The contractor agrees to perform and the owner agrees to pay for the following changes to this contract.

Furnish Extra material for Under Slab.

Ordered By:

Received By:

Burks Excavation change Order: 2417 attached

\$1,755.60

Sawtooth Construction 5% markup per contract

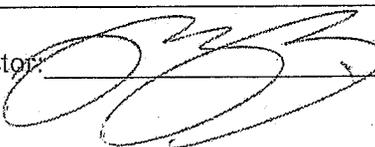
\$87.78

Description of Work

Total Requested amount of Change: \$1,843.38

Owner: _____

Date: _____

Contractor:  _____

Date: 5/17/2012

BURKS EXCAVATION, L.L.C.

P.O. BOX 188
HAILEY, ID 83333

Change Order

Date	Estimate #
5/8/2012	2417

Name / Address
Sawtooth Construction P.O. Box 41 Ketchum, ID 83340

Project
Interpretive Cener

Description	Qty	Rate	Unit	Total
Furnish 1" crushed gravel over 3/4" minus road mix under proposed slab	114	134	7.00 cubic yard	938.00 798.00
1" Fractured cost per cubic yard				
trucking cost per yard, delivered to job	114	134	5.00 cubic yard	670.00 570.00
truck driver cost per yard	114	134	2.00 cubic yard	268.00 228.00
overhead and profit: 10%	114	134	1.40 cubic yard	187.60 159.60
<p>Quantity is an estimate of 1" crushed rock that will be needed to get to bottom of sand elevation. in the prebid meeting, it was mentioned that there is approximately 16" of gravel that could be scraped stockpiled and reused under the slab. as we scraped the road mix, there was only 4"-6" of road mix, approximately 36 cubic yards.</p> <p>36</p> <p>$71' \times 23' = 1,633 \text{ ft}^2 \times 2'-2'' = 3,538 \text{ ft}^3$ $= 131 \text{ yd}^3$</p> <p>$131 \text{ yd}^3 - 36 \text{ yd}^3 \text{ (stockpile)} = 95 \text{ yd}^3$</p> <p>$95 \text{ yd}^3 \times 20\% \text{ swell} = 114 \text{ yd}^3 \text{ required}$</p>				
Thank you for your business.	Total			\$2,063.60 \$1,755.60

AGENDA ITEM SUMMARY

DATE: 05/21/2012 DEPARTMENT: Finance DEPT. HEAD SIGNATURE: MHC

SUBJECT:

Motion to authorize Mayor to sign "Property Damage Release" from Acuity Insurance Company for repair to damaged fire hydrant by their insured.

AUTHORITY: ID Code _____ IAR _____ City Ordinance/Code _____
(IF APPLICABLE)

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

Acuity Insurance Company's insured damaged and repaired a fire hydrant. See below excerpt from the Hailey Fire Department regarding the hydrant:

From: Brian Ernst
Sent: Wednesday, May 09, 2012 1:01 PM
To: Heather Dawson
Cc: Mike Chapman
Subject: SV auto club hydrant

Hi Heather,

As requested, a follow up was conducted on the fire hydrant located at the NE corner of the Sun Valley Auto Club that was damaged by vehicle impact a few weeks prior. I verified with the water department that the hydrant is both repaired and functional, as well as did a site visit and flowed the hydrant. As of now, the hydrant appears to be 100% functional and all equipment is in its original place. For the insurance purposes, this should serve as "final check-off" by the fire department. If you need any further information please don't hesitate to contact me. Thanks.

Eng. Brian Ernst
Fire Inspector
Hailey Fire Department

ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS: (IF APPLICABLE)

- | | | |
|--|--|---|
| <input checked="" type="checkbox"/> City Administrator | <input type="checkbox"/> Library | <input type="checkbox"/> Benefits Committee |
| <input type="checkbox"/> City Attorney | <input type="checkbox"/> Mayor | <input type="checkbox"/> Streets |
| <input checked="" type="checkbox"/> City Clerk | <input type="checkbox"/> Planning | <input type="checkbox"/> Treasurer |
| <input type="checkbox"/> Building | <input type="checkbox"/> Police | _____ |
| <input type="checkbox"/> Engineer | <input type="checkbox"/> Public Works, Parks | _____ |
| <input checked="" type="checkbox"/> Fire Dept. | <input type="checkbox"/> P & Z Commission | _____ |

RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:

Motion to authorize Mayor to sign release to Acuity Insurance Company for repair to damaged fire hydrant by their insured.

ACTION OF THE CITY COUNCIL:

Date : _____

City Clerk _____



2800 South Taylor Drive
Sheboygan, WI 53081

PROPERTY DAMAGE RELEASE

Claim Number: MW5644

Claim Adjuster: Cyndy Macco

IN CONSIDERATION of the sum of One Hundred Forty-One and 72/100 (\$141.72) Dollars, receipt and sufficiency of which is hereby acknowledged, I/we release, acquit and forever discharge Mitch & Toni Marcroft and Lukus Sisiam and **ACUITY, A Mutual Insurance Company, Sheboygan, Wisconsin**, their heirs, representatives, agents, employees, successors and assigns, and all other persons, firms or corporations who are or might be liable, of and from all claims, demands, actions, damages, costs, loss of use and/or value, of whatever kind or nature, which may now or hereafter exist, arising out of, or in consequence of **DAMAGE OR DESTRUCTION TO PROPERTY**, personal or real, specifically described as fire hydrant and arising from an accident occurring on or about 4/23/2012.

The undersigned, as further consideration for this compromise and settlement, states, represents, warrants and agrees:

(1) That this settlement is a compromise of a doubtful and disputed claim; that the payment is not to be construed as an admission of liability; and, that liability is expressly denied by the party or parties released.

(2) That the acceptance of the above-mentioned sum shall not prejudice, foreclose or bar any claim that I/we may have for personal injuries, medical expenses, compensation or damages other than to my/our property not specifically released herein, which claims and causes of action are specifically reserved.

(3) The undersigned further warrants and represents that there are no known persons, firms, corporations, insurance companies or other third-parties who have rights against the parties released herein based upon subrogation, derivation or assignment originating from the claims of the undersigned arising out of the accident described above or any other basis. In the event that any person, firm, corporation or insurance company does indeed have rights based upon subrogation, derivation or assignment, or any other basis against the parties released herein for claims arising out of the accident described above, the undersigned agrees to defend and hold harmless the parties released herein from any such claims.

(4) This release contains the entire agreement between the parties hereto. The terms of this release are contractual and not a mere recital. The undersigned has/have carefully read and understood the contents of this release.

I/WE FURTHER STATE THAT I/WE HAVE CAREFULLY READ THE FOREGOING RELEASE AND KNOW THE CONTENTS THEREOF, AND I/WE SIGN THE SAME AS MY/OUR OWN FREE ACT.

Witness my/our hand(s) and seal(s) this _____ day of _____,

at _____

WITNESSED BY:

CAUTION! READ BEFORE SIGNING

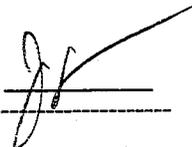
X _____ (SEAL)
Representative for the City of Hailey

_____ (SEAL)

Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties.

Also Applicable in Colorado: Any insurance company or agent of an insurance company who knowingly provides false, incomplete, or misleading facts or information to a policyholder or claimant for the purpose of defrauding or attempting to defraud the policyholder or claimant with regard to a settlement or award payable from insurance proceeds shall be reported to the Colorado Division of Insurance within the Department of Regulatory Agencies.

AGENDA ITEM SUMMARY

DATE: 05/15/2012 DEPARTMENT: Public Works DEPT. HEAD SIGNATURE: 

SUBJECT: Northridge Subdivision Right of Way Water Rights Transfer to city.

AUTHORITY: ID Code _____ IAR _____ City Ordinance/Code
(IF APPLICABLE)

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

Overview
The application presented here is to transfer the water rights associated with the Right of Way dedicated to the city as part of the Northridge subdivision. The city will own the water rights once the transfer is complete. Four individual transfers are applied for at the fee of \$100.00 per transfer.

FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS: Caselle# _____
Budget Line Item # _____ YTD Line Item Balance \$ _____
Estimated Hours Spent to Date: _____ Estimated Completion Date: _____
Staff Contact: Jim Zarubica Phone # 788-9830 ext. 17
Comments:

ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS: (IF APPLICABLE)
 City Attorney Clerk / Finance Director Engineer Building
 Library Planning Fire Dept.
 Safety Committee P & Z Commission Police Streets
 Public Works Parks Mayor

RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD: Motion to approve application, authorize \$400 fee payment, and authorize mayor to sign.

ADMINISTRATIVE COMMENTS/APPROVAL:

City Administrator _____ Dept. Head Attend Meeting (circle one) Yes No

ACTION OF THE CITY COUNCIL:
Date _____

City Clerk _____

FOLLOW-UP:
*Ord./Res./Agmt./Order Originals: Record *Additional/Exceptional Originals to: _____
Copies (all info.): _____ Copies (AIS only)
Instrument # _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Notice of Change in Water Right Ownership

1. List the numbers of all water rights and/or adjudication claim records to be changed. If you only acquired a portion of the water right or adjudication claim, check "Yes" in the "Split?" column.

Water Right/Claim No.	Split?	Water Right/Claim No.	Split?	Water Right/Claim No.	Split?
37-21811	Yes <input checked="" type="checkbox"/>		Yes <input type="checkbox"/>		Yes <input type="checkbox"/>
37-21813	Yes <input checked="" type="checkbox"/>		Yes <input type="checkbox"/>		Yes <input type="checkbox"/>
37-21815	Yes <input checked="" type="checkbox"/>		Yes <input type="checkbox"/>		Yes <input type="checkbox"/>
37-21817	Yes <input checked="" type="checkbox"/>		Yes <input type="checkbox"/>		Yes <input type="checkbox"/>
	Yes <input type="checkbox"/>		Yes <input type="checkbox"/>		Yes <input type="checkbox"/>

2. Previous Owner's Name: EMB-Hailey LP
Name of current water right holder/claimant

3. New Owner(s)/Claimant(s): City of Hailey
Name of each new owner as listed on the conveyance document

New owner continued Name connector and or and/or

115 S. Main St. #H

Mailing address

Hailey ID 83333
City State ZIP

(208) 788-4221 _____
Telephone Email

4. If the water rights and/or adjudication claims were split, how did the division occur?
- The water rights or claims were divided as specifically identified in a deed, contract, or other conveyance document.
- The water rights or claims were divided proportionately based on the portion of their place(s) of use acquired by the new owner.

5. Date you acquired the water rights and/or claims listed above: _____

6. This form must be signed and submitted with the following **REQUIRED** items:
- A copy of the conveyance document – warranty deed, quitclaim deed, court decree, contract of sale, etc. The conveyance document must include a legal description of the property or description of the water right(s) if no land is conveyed.
 - Plat map, survey map or aerial photograph which clearly shows the place of use and point of diversion for each water right and/or claim listed above (if necessary to clarify division of water rights or complex property descriptions).
 - Filing fee (see instructions for further explanation):
 - \$25 per *undivided* water right.
 - \$100 per *split* water right.
 - No fee is required for pending adjudication claims.

7. Signature: _____ Mayor, City of Hailey _____
Signature of new owner/claimant Title, if applicable Date

Signature: _____ _____ _____
Signature of new owner/claimant Title, if applicable Date

For IDWR Office Use Only:

Received by _____ Date _____ Receipt No. _____ Receipt Amt. _____
Approved by _____ Processed by _____ Date _____

AGENDA ITEM SUMMARY

DATE: 6/4/12 **DEPARTMENT:** PW - Capital **DEPT. HEAD SIGNATURE:** 

SUBJECT: Work Order with Idaho Power for service to traffic signal at Woodside & Hwy 75

AUTHORITY: ID Code _____ IAR _____ City Ordinance/Code _____
(IF APPLICABLE)

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:
Idaho Power has submitted a Work Order for the installation of electric service and necessary facilities for the traffic signal and lighting at Woodside Blvd and Hwy 75. The cost for this service extension is \$7,707. This is a part of the Woodside Blvd construction project.

FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS: Caselle # _____
Budget Line Item # _____ YTD Line Item Balance \$ _____
Estimated Hours Spent to Date: _____ Estimated Completion Date: _____
Staff Contact: _____ Phone # _____
Comments: _____

ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS: (IF APPLICABLE)

<input type="checkbox"/> City Administrator	<input type="checkbox"/> Library	<input type="checkbox"/> Benefits Committee
<input type="checkbox"/> City Attorney	<input type="checkbox"/> Mayor	<input type="checkbox"/> Streets
<input type="checkbox"/> City Clerk	<input type="checkbox"/> Planning	<input type="checkbox"/> Treasurer
<input type="checkbox"/> Building	<input type="checkbox"/> Police	_____
<input type="checkbox"/> Engineer	<input type="checkbox"/> Public Works, Parks	_____
<input type="checkbox"/> Fire Dept.	<input type="checkbox"/> P & Z Commission	_____

RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:
Approve the Public Works Director's signature and authorize the payment of \$7,707 to Idaho Power.

ADMINISTRATIVE COMMENTS/APPROVAL:

City Administrator _____ Dept. Head Attend Meeting (circle one) Yes No

ACTION OF THE CITY COUNCIL:
Date _____

City Clerk _____

FOLLOW-UP:
*Ord./Res./Agrmt./Order Originals: Record *Additional/Exceptional Originals to: _____
Copies (all info.): _____ Copies (AIS only) _____
Instrument # _____

CITY OF HAILEY
RESOLUTION NO. 2012-34

**RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF HAILEY
AUTHORIZING THE EXECUTION OF CONTRACT FOR SERVICES WITH IDAHO
POWER, FOR INSTALLATION OF FACILITIES NEEDED TO SERVE NEW
TRAFFIC SIGNAL AND CUSTOMER OWNED STREET LIGHTING**

WHEREAS, the City of Hailey desires to enter into an agreement with Idaho Power under which Idaho Power will perform and be responsible for Installation Of Facilities Needed To Serve New Traffic Signal And Customer Owned Street Lighting For \$7,707.00 for the City of Hailey.

WHEREAS, the City of Hailey and Idaho Power have agreed to the terms and conditions of the Agreement for Professional Services, a copy of which is attached hereto.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HAILEY, IDAHO, that the City of Hailey approves the Service Request Work Order between the City of Hailey and Idaho Power and that the Mayor is authorized to execute the attached Agreement,

Passed this 4th day of JUNE, 2012.

City of Hailey

Fritz X. Haemmerle, Mayor

ATTEST:

Mary Cone, City Clerk



In Account With

City of Hailey
Attn: Tom Hellen
115 Main Street
Hailey, Idaho 83333

RECEIVED
MAY 21 2012

Work Order #

27366457

Date May 17, 2012

In accordance with your request:

Install facilities needed to serve new traffic control signal and customer owned street lighting.

Line Location:

Woodside Blvd and Highway 75, Hailey, ID

Line Installation Costs (Line 1)	\$ <u>5,869.00</u>
Line Installation Credits (Betterment, Salvage, Customer Trench)(Lines 2-4)	
Terminal Facilities (Line 6)	\$ <u>1,838.00</u>
Customer Allowance (Line 7)	
Unusual Conditions (Line 9)	
Other Charges (Eng Fees, Right of Way, Misc Charges) (Lines 14-23)	

Amount to be paid and received prior to job being scheduled.

\$ 7,707.00

- Please remit payment.
- Please return signed and dated Service Request and Customer Cost document (attached).
- Please return signed and dated Work Order Map.
- Other

Comments:

Work order will not be released for scheduling for construction until payment and/or requested documents are signed and returned.

PLEASE RETURN SIGNED DOCUMENTS TO:

IDAHO POWER COMPANY
Attn: Cyndi Bradshaw
PO Box 3909 OR 11831 Highway 75
Hailey, ID 83333

If you have any questions, please telephone:
Cyndi @ (208) 788-8002

Service Request Number: 00324986

CITY OF HAILEY-WOODSIDE & HWY 75/HAI TRAFFIC SIGNAL & ST LIGHTS

Work Order Number:	27366457	Eng Hours:	
Request Type:	CS	Eng Fee Amount(Att98):	0.00
Rate Sch.:	47 & 41M	Eng Fee Amount(Att16):	
Reply By:		Eng Fee Service Agreement No:	
		Eng Fee Service Agreement Date:	
		Customer No:	8127757562
Feeder:	HALY11B		
Service Location:	WOODSIDE & HWY 75 HAILEY, ID 83333		
Required in Service Date:	5/15/2012		
Planning Center/Team:	HAILEY		

Contact Detail:

252R	CITY OF HAILEY 115 S Main St, , HAILEY ID 83333	788-9830 X14
CUST	TOM HELLEN ,,	309-1270
IPCO	CYNDI BRADSHAW DISTRIBUTION DESIGNER, ,	208-788-8002

Attribute Information
RES/COM

Service Voltage	120/240	No. Of Meters	
Number of Phases	SINGLE	Meter Location	
KW Motor Load:		Ct Loc	
Largest Motor		Primary OH/UG	OH
1 Phase KW Demand		Service OH/UG	UG
3 Phase KW Demand		Srv Owner	IPCO
Connected KW Load		Panel Amp Size	200AMPS
Commercial Deposit Amount			

Notes

INSTALL POLE IN LINE, TRANSFORMER AND 2" SERVICE RISER WHERE STAKED, IN-LINE AND ON NORTH OF WOODSIDE ROAD AT HIGHWAY 75 FOR NEW TRAFFICE SIGNAL AND STREET LIGHT LUMINAIRES.
PERMANENT UNDERGROUND SERVICE WILL BE BORED FROM POLE TO DUAL METER PEDESTAL.

I understand that the information provided above is accurate to the best of my knowledge. Changes to load; voltage; location; etc. may result in additional engineering charges.

Client Signature	Date	Idaho Power Representative Signature	Date
		<i>Cyndi Bradshaw</i>	<i>5/17/12</i>





CUSTOMER COST QUOTE IDAHO

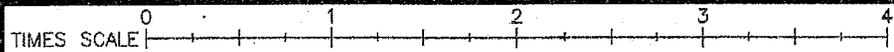
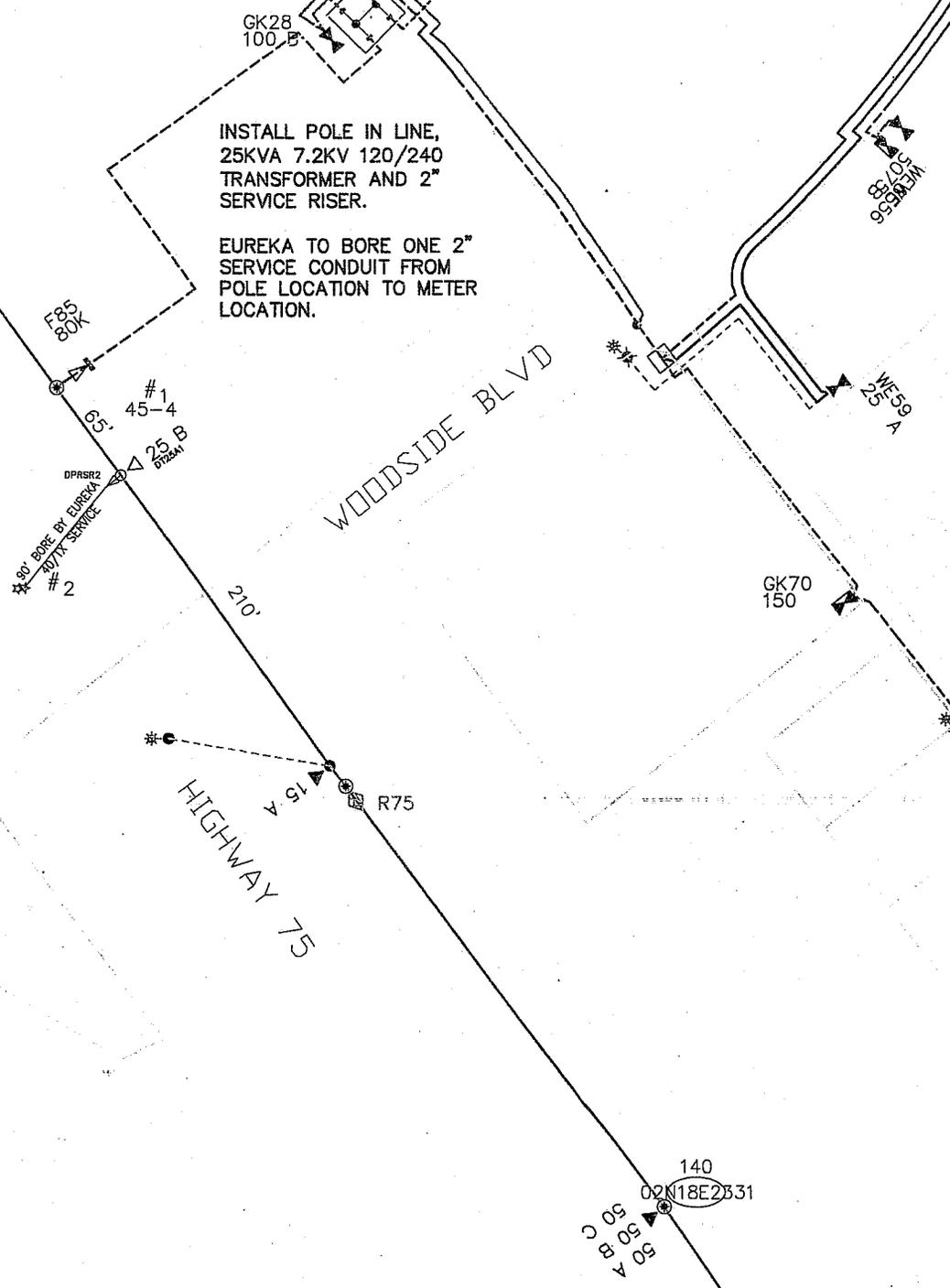
Customer or Project Name: CITY OF HAILEY-WOODSIDE & HWY 75/HAI TRAFFIC SIGN	Design Number: 0000092650	Work Order #: 27366457
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	Prepaid Fees	Debit	Credit	Totals
Line Installation Cost				
1. Line Installation/Upgrade Costs		5,869		
2. Company Betterment / Other Credits			0	
3. Salvage Taxable - Credit			0	
4. Customer Provided Trench			0	
5. Net Line Installation Cost				5,869
Terminal Facilities				
6. Terminal Facilities		1,838		
7. Customer Allowance			0	
8. Net Terminal Facilities				1,838
9. Unusual Conditions		0		
10. Bank Letter of Credit <i>(Only for Unusual Conditions over \$10,000)</i>			0	
11. Net Construction Cost				7,707
12. Net Vested OR Refundable Construction Cost <i>(Limited to 5 years or 4 additional applicants)</i>				0
13. Construction Cost Not Available for Vesting or Refund				7,707
Other Charges				
14. Vested Interest Work Order #		0		
15. Billable Right of Way Permits		0		
16. Prepaid Right of Way Permits	\$ 0			
17. Billable Engineering Charges		0		
18. Prepaid Engineering Fees	\$ 0			
19. Underground Service Attachment Charge		0		
20. Relocation or removal with new capacity		0		
21. Relocation or removal with NO new capacity		0		
22. Salvage Credit on Relocation or Removal			0	
23. Miscellaneous Charges/Adjustments		0		
24. Net Other Charges				0
25. Total Work Order Charges		\$ 7,707		
26. Idaho Power Co. Contribution & Other Credits			\$ 0	
27. Total Customer Payment Due (Line 11 + Line 24)				\$ 7,707

Notes: _____

Notice: This written quotation shall be binding on the Company for a period of sixty (60) days from the date below indicated, subject to changes in information provided by the Customer or changes in the Company's ability to obtain satisfactory rights-of-way or to comply with governmental regulations, including but not limited to the rules, regulations, and tariffs of the Idaho Public Utilities Commission. The Customer must make payment of the quote amount not less than thirty (30) days prior to the start of construction, but the Company does not represent that construction will commence within 30 days of receipt of payment. The start of construction will be subject to the Company's ability to obtain the necessary labor, materials and equipment.

Customer Signature <u>X</u> _____	Date <u>X</u> _____
<u>X NA</u> (Customer Initials) Charges for installation of underground electrical service are not included in this Cost Quote and will be billed to the customer after work has completed	
<u>X NA</u> (Customer Initials) The customer acknowledges receipt of the reduced charge option brochure/packet, also available at idahopower.com	
IPCo Representative <u>Cyndi Bradshaw</u>	Quotation Date <u>5/18/12</u>



Customer: _____ Date: _____

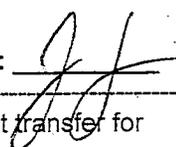
Job Title:
CITY OF HAILEY-WOODSIDE & HWY 75/HAI TRAFFIC SIGNAL & ST LIGHTS
 Additional Description:
 Additional Description:



Feeder Map file Name: HALY11					Surveyed or GPS: GPS	Fdr By: _____	Designer: CDC0468
Joint Use Attachments: NO					Pre-Built Date: _____	Date: _____	Design No: 0000092650
Qua 1	Twn 02N	Rng 18E	Sec 23	Mer BM	Built as Designed: _____	ArcFM By: _____	Work Order No: 27366457
State ID	County BLAINE				Construction Date: _____	Date: _____	
Operating Voltage: 12.5							

IDAHO POWER CO. WORK ORDER MAP SCALE: 1" = 100 Sheet 1 Of 1

AGENDA ITEM SUMMARY

DATE: 06/04/2012 DEPARTMENT: Public Works DEPT. HEAD SIGNATURE: 

SUBJECT: Engineering services agreement for Irrigation river intake design and water right transfer for Lions and Hop Porter Park

AUTHORITY: ID Code _____ IAR _____ City Ordinance/Code
(IF APPLICABLE)

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

Overview

The proposed scope of work from SPF Water Engineering is presented here for the transfer of City water rights from the Hiawatha Canal to the Big Wood River and for the design of a diversion to allow irrigation of Hop Porter and Lions Parks with surface water.

FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS: Caselle# _____
Budget Line Item # _____ YTD Line Item Balance \$ _____
Estimated Hours Spent to Date: _____ Estimated Completion Date: _____
Staff Contact: Jim Zarubica Phone # 788-9830 ext. 17
Comments:

ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS: (IF APPLICABLE)

<input type="checkbox"/> City Attorney	<input type="checkbox"/> Clerk / Finance Director	<input type="checkbox"/> Engineer	<input type="checkbox"/> Building
<input type="checkbox"/> Library	<input type="checkbox"/> Planning	<input type="checkbox"/> Fire Dept.	
<input type="checkbox"/> Safety Committee	<input type="checkbox"/> P & Z Commission	<input type="checkbox"/> Police	<input type="checkbox"/> Streets
<input checked="" type="checkbox"/> Public Works	<input type="checkbox"/> Parks	<input type="checkbox"/> Mayor	

RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD: Approve contract and sign.

ADMINISTRATIVE COMMENTS/APPROVAL:

City Administrator _____ Dept. Head Attend Meeting (circle one) Yes No

ACTION OF THE CITY COUNCIL:

Date _____

City Clerk _____

FOLLOW-UP:
*Ord./Res./Agmt./Order Originals: Record *Additional/Exceptional Originals to: _____
Copies (all info.): _____ Copies (AIS only)
Instrument # _____ Draft 12-30-03

**CITY OF HAILEY
RESOLUTION NO. 2012-35**

**RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF HAILEY
AUTHORIZING THE EXECUTION OF CONTRACT FOR SERVICES WITH SPF
WATER ENGINEERING, FOR ENGINEERING SERVICES FOR IRRIGATION RIVER
INTAKE DESIGN AND WATER RIGHT TRANSFER FOR LIONS AND HOP PORTER
PARKS**

WHEREAS, the City of Hailey desires to enter into an agreement with SPF Water Engineering under which SPF Water Engineering will perform and be responsible for Engineering Services For Irrigation River Intake Design And Water Right Transfer For Lions And Hop Porter Parks - Not To Exceed \$15,000 for the City of Hailey.

WHEREAS, the City of Hailey and SPF Water Engineering have agreed to the terms and conditions of the Agreement for Professional Services, a copy of which is attached hereto.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HAILEY, IDAHO, that the City of Hailey approves the Agreement between the City of Hailey and SPF Water Engineering and that the Mayor is authorized to execute the attached Agreement,

Passed this 4th day of JUNE, 2012.

City of Hailey

Fritz X. Haemmerle, Mayor

ATTEST:

Mary Cone, City Clerk



May 18, 2012

Tom Hellen, P.E., Public Works Director
City of Hailey
115 Main Street South, Suite H
Hailey, ID 83333

Jim Zarubica – via email

Subject: River Intake Site Selection and Design – Lions Park

Dear Tom:

As a follow up to our meeting with Jim Zarubica on May 2, 2012, this letter describes a proposed scope of work for developing a new irrigation water supply for Lions Park and Hop Porter Park; both parks are owned and operated by the City of Hailey.

We understand the following:

- The parks are currently irrigated using potable water delivered through the City's municipal water supply system.
- A water supply from the Big Wood River is desired for approximately 6 acres of turf and landscape irrigation (roughly 3 acres in each park).
- The City currently owns water rights that are delivered in the Hiawatha Canal. The City has been in contact with the canal company to discuss the park projects, and will continue to work with Hiawatha Canal to facilitate transfer of the City's water rights to a new point of diversion in Lions Park.
- A shallow well with a direct hydraulic connection to the Big Wood River is the preferred option for this diversion facility.
- Peak hour irrigation demand for the parks is estimated to be approximately 90 gallons per minute. This estimated demand will be confirmed by City staff.

SCOPE OF WORK

SPF is available to provide services related to site selection, permitting, design, and construction oversight for the new Big Wood River diversion facilities:

Task 1. Site Selection SPF conducted a field visit on May 2, 2012 and met with City staff to select a possible diversion location near the Big Wood River in Lions Park. SPF will provide a memo to the City confirming the location of the selected site and the area of the parks to be irrigated.

RECEIVED
MAY 21 2012

Task 2. Hydrogeologic Analysis. The anticipated diversion structure is a shallow well constructed adjacent to, and in direct hydraulic connection with, the Big Wood River. This approach is expected to greatly simplify and reduce costs for permitting, design, operation and maintenance of the diversion structure. SPF will review well construction information in the vicinity of the proposed diversion location and prepare a hydrogeologic analysis with a depletion rate determination. IDWR requires that the shallow well diversion be in direct hydraulic connection with the Big Wood River with a *50% (or greater) in 24-hours* depletion rate. Provided this analysis demonstrates a sufficient hydraulic connection, SPF will proceed with the remaining tasks. If the hydraulic connection is insufficient, other options will be discussed with the City and this scope of work may be amended at that time.

Task 3. Permitting. SPF will prepare a transfer application to be filed with the Idaho Department of Water Resources (IDWR) that will request authorization to change the point of diversion for a portion of the City's water rights from the head of the Hiawatha Canal to the location of the new diversion facility. SPF will also work with county, state and federal agencies to obtain any additional permits required for installing the chosen facility at the selected site. In order to lessen the likelihood of protests, we recommend that the City coordinate with Hiawatha Canal managers on the proposed changes prior to submitting the transfer application, and if possible, secure a statement from Hiawatha Canal agreeing to the transfer. IDWR will likely seek input from Hiawatha prior to advertising the transfer application.

Task 4. Well Design. SPF will prepare technical specifications and bid schedule for well drilling. The plans will likely contemplate a nominal 50-foot deep well, constructed with 8-inch well casing and well screen. We currently anticipate that the well will be drilled using the cable-tool or air-rotary method. The 8-inch well casing will be adequate to fit submersible pumps capable of producing up to approximately 400 gpm. We assume that the City will provide general conditions and bidding instructions.

The City will solicit bids for the work. SPF does not anticipate attending a pre-bid meeting, but will be available to answer questions by telephone or email. SPF will review the bids with the City and make a recommendation for bid award.

Task 5. Well Construction Administration. Following selection of a drilling contractor, SPF will prepare and submit an *Application for Drilling Permit* to the Idaho Department of Water Resources. We anticipate submitting this application immediately after the protest period has expired for the pending water right transfer application. The *Application for Drilling Permit* will include a request for a waiver of the 38-foot surface seal requirement. A surface seal of approximately 20 feet will likely be requested to allow placement of well screen and filter pack within the shallow water-bearing zone that is in hydraulic connection with the River.

Once the City has entered into an agreement with the successful contractor, SPF will work with the selected contractor during the well construction project. We anticipate that this work will consist of telephone consultation with the driller, and will include a recommendation for final well design (casing and screen depths, filter pack selection, screen slot size selection, etc.). One site visit is anticipated during drilling or test pumping.

Well construction will be documented in a brief well completion report. The report will include an as-built diagram of the well, well driller's report, test pumping data, and permits. A recommendation will be provided for pump sizing and setting depth.

Task 6. Pump System Design. SPF will prepare technical specifications, plans, and bid schedule for the pump system. We currently anticipate that the pump will be a 10-hp, 6-inch diameter submersible pump sized to meet a 100-gpm at 85 psi peak demand for the sprinkler irrigation system. The pump will be controlled using a UL-listed outdoor rated variable speed control panel manufactured by Precision Pumping Systems (or equal). In the event that the City anticipates low flow demands of 20 gpm or less, a small jockey pump may also be required.

SPF plans and specification will include the pump, motor, motor controls, discharge piping, and valves. We currently assume that the motor controls will be located outdoors. The well will be located outdoors, with a pitless discharge. Valves, flow meter, or other appurtenances can be located in valve boxes or a shallow vault. The pump panel can function as a lockable control works for purposes of water right administration.

We understand that the City plans to extend irrigation mains to the pump site. These irrigation mains include a connection to existing irrigation mainline located in Lions Park within approximately 650 feet of the proposed pump site, and a second to a pipeline which will be constructed under the Bullion Street bridge to supply Hop Porter Park. SPF's drawings will show a 4-inch diameter pipe stubbed within 50 feet of the proposed intake well. Depending on construction timing, the City will either (1) stub the new mainlines at this point prior to the pump system construction, or (2) connect their mainlines to a pipe stubbed by the irrigation pump contractor. Alternatively, SPF can modify our scope to include installation of the irrigation mainlines.

As with the well, we assume that the City will provide general conditions and bidding instructions, and that the City will solicit bids for the work. SPF will be available to answer questions from potential bidders by telephone or email.

Task 7. Pump System Bidding and Construction Administration. The pump work can be bid out as a separate project, or as part of the well construction project. In either event, SPF will review contractor submittals, provide final inspection of pump installation, and verify that the installed components meet the performance requirements listed in specifications. Upon completion, SPF will provide as-built construction documents, including pump curve and equipment manuals.

We anticipate that City staff can provide day-to-day construction inspection. SPF will conduct one trip to the project site to provide a final inspection at the time of pump start up.

SCOPE OF WORK - NOT INCLUDED IN PROPOSAL

- Environmental assessment or environmental permitting
- Surveying
- Structural design (i.e., well house)
- Irrigation system design
- Irrigation distribution or transmission piping design
- Electrical (except pump motor control)
- Land use permitting
- Water right protest resolution

The services listed above can be provided under a separate authorization, if requested. However, we anticipate that they are not necessary for this project or will be provided by others under separate contracts.

ESTIMATED COSTS

SPF proposes to perform this work on a time and materials basis. A current hourly rate schedule is provided as Table 1. Direct costs (travel, photocopy, postage, etc.) are billed at actual cost plus 15%. Subcontract and laboratory costs can be billed directly where appropriate. Hourly rates are adjusted on an annual basis to reflect salary increases.

Our proposed budget is based on time and materials pricing with a not to exceed maximum of \$15,000. The suggested cost for each task is shown in the table below.

Task No.	Task Description	Estimated Cost
1	Site Selection	\$200
2	Hydrogeologic Analysis	\$1,000
3	Permitting	\$1,800
4	Well Design	\$2,500
5	Well Bidding and Construction Administration	\$3,500
6	Pump System Design	\$3,000
7	Pump System Bidding and Construction Administration	\$3,000

AGREEMENT

If this proposal meets with your approval, it may serve as the basis for agreement, in conjunction with the attached schedule of fees and conditions, by affixing a signature in the space provided below. This signature will be considered as a notice to proceed with a budget upper limit of \$15,000. We will let you know when we are approaching the budget limit, and then if additional tasks are required, the City can authorize additional budget.

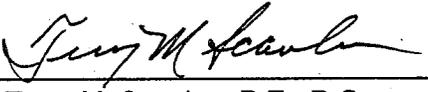
Please return one signed original to my office. We look forward to working with you on this project.

Respectfully submitted,

Accepted By:

SPF WATER ENGINEERING, LLC

CITY OF HAILEY

By 
Terry M. Scanlan, P.E., P.G.
Manager

By _____

Title _____

Date _____

By 
Roxanne Brown
Water Rights Specialist

**TABLE 1 - SPF WATER ENGINEERING, LLC
SCHEDULE OF HOURLY BILLING RATES**

Personnel	Title	2012 Billing Rate
Terry Scanlan, P.E., P.G.	Principal Engineer/Hydrogeologist	\$150
Christian Petrich, Ph.D., P.E., P.G.	Principal Engineer/Hydrologist	\$145
Cathy Cooper, P.E.	Principal Engineer	\$135
Bob Hardgrove, P.E.	Principal Engineer	\$135
Scott King, P.E.	Supervising Engineer	\$133
Stuart Hurley, P.E.	Supervising Engineer	\$133
Eric Landsberg, P.E.	Project Manager	\$133
Brian Wilkinson, P.E.	Senior Project Engineer	\$116
Roxanne Brown	Senior Water Right Specialist	\$100
Jason Thompson, P.E.	Project Engineer	\$97
Jesse Herndon, P.E.	Project Engineer	\$97
Tofor Snider, P.E.	Project Engineer	\$97
Lori Graves	Water Right Specialist	\$88
Marci Pape, P.E.	Project Engineer	\$88
Steve Bennett	Designer I	\$85
Crane Drafting	Designer II	\$85
Erik Boe, EIT	Associate Engineer	\$75
Kurt Norrell, EIT	Associate Engineer	\$75
Julie Romano	Bookkeeping	\$65
Crystal Jensen	Administrative Support	\$60

Note: Hourly billing rates will be adjusted on January 1st each year.

SCHEDULE OF FEES AND CONDITIONS

A. SPF WATER ENGINEERING, LLC (SPF)

FEES AND PAYMENT

1. The fee for services will be based on SPF's standard hourly rates (including labor cost, overhead, and profit). Non-salary expenses directly attributable to the project, such as: (1) living and traveling expenses of employees when away from the home office on business connected with the project; (2) identifiable reproduction costs applicable to the work; and (3) outside services will be charged at actual cost plus 10% service charge to cover overhead and administration. Hourly rates are adjusted on an annual basis.
2. Payment shall be due within 30 days after date of monthly invoice describing the work performed and expenses incurred during the preceding month.
3. OWNER agrees that timely payment is a material term of this Agreement and that failure to make timely payment as agreed constitutes a breach hereof. In the event payment for services rendered has not been made within 60 days from the date of invoice, SPF may, after giving 7 days written notice to OWNER, and without penalty or liability of any nature, and without waiving any claim against OWNER, suspend all work on all authorized services as set forth herein. Upon receipt of payment in full for services rendered, plus interest charges, SPF will continue with all services not inconsistent with Article C.4 herein. Payment of all compensation due SPF pursuant to this Agreement shall be a condition precedent to OWNER using any of SPF's professional services work products furnished under this Agreement.
4. In order to defray carrying charges resulting from delayed payments, simple interest at the rate of 18% per annum (but not exceeding the maximum rate allowed by law) will be added to the unpaid balance of each invoice. The interest period shall commence 30 days after date of original invoice, and shall terminate upon date of payment. Payments will be first credited to interest and then to principal. No interest charge will be added during the initial 30-day period following date of invoice.

- B. COMMENCEMENT OF WORK.** The work will be commenced immediately upon receipt of written notice to proceed. If after commencement of work the project is delayed for any reason beyond the control of SPF for more than 60 days, the price and schedule for services under this Agreement are subject to revision. Subsequent modifications shall be in writing and signed by the parties to this Agreement.

C. MISCELLANEOUS PROVISIONS

1. INSURANCE/INDEMNIFICATION/LIMITATION OF LIABILITY

- (a) SPF will maintain statutory limits of insurance coverage for Workers' Compensation and Employer's Liability Insurance as well as Professional Liability, General Liability and Automobile Liability Insurance and will name Owner as an additional insured on the Professional Liability, General Liability and Automobile Liability Insurance policies if specifically requested in writing.
- (b) SPF asserts that it is skilled in the professional calling necessary to the services and duties proposed to be performed, and that it shall perform such services and duties in conformance to and consistent with the standards generally recognized as being employed by professionals of SPF's caliber in the same locality, and to that end SPF agrees to indemnify and hold harmless Owner, its officers, and employees from and against claims, suits, loss, damages, costs, and expenses arising out of or resulting from the negligent acts, errors, or omissions of SPF, its officers, employees or agents in the performance of its services and duties hereunder, but not from the negligence or willful misconduct of Owner, its officers, and employees. However in no event shall SPF be liable for any special, indirect, or consequential damages as a result of its

performance of the services hereunder. The total aggregate of SPF's liability to all parties related to this Agreement shall not exceed \$50,000, or the amount of SPF's fee, whichever is less.

- (c) Owner hereby understands and agrees that SPF has not created nor contributed to the creation or existence of any or all types of hazardous or toxic wastes, materials, chemical compounds, or substances, or any other type of environmental hazard or pollution, whether latent or patent, at Owner's premises, or in connection with or related to this project with respect to which SPF has been retained to provide professional engineering services. The compensation to be paid SPF for said professional engineering services is in no way commensurate with, and has not been calculated with reference to, the potential risk of injury or loss which may be caused by the exposure of persons or property to such substances or conditions. Therefore, to the fullest extent permitted by law, Owner agrees to defend, indemnify, and hold SPF, its officers, directors, employees, and consultants, harmless from and against any and all claims, damages, and expenses, whether direct, indirect, or consequential, including but not limited to, attorney's fees and court costs, arising out of, or resulting from the discharge, escape, release, or saturation of smoke, vapors, soot, fumes, acid, alkalis, toxic chemicals, liquids, gases, or any other materials, irritants, contaminants, or pollutants in or into the atmosphere, or on, onto, upon, in, or into the surface or subsurface of soil, water, or watercourses, objects, or any tangible or intangible matter, whether sudden or not.
- (d) Nothing contained within this Agreement shall be construed or interpreted as requiring SPF to assume the status of a generator, storer, transporter, treater, or disposal facility as those terms appear within the Resource Conservation and Recovery Act, 42 USCA, §6901 et seq., as amended, or within any state statute governing the generation, treatment, storage, and disposal of waste. Further, the contents of this Agreement shall not be construed or interpreted as requiring SPF to arrange for the transportation, treatment, or disposal of hazardous substances, as described in the Comprehensive Environmental Response, Compensation, and Liability Act, 42 USCA §9601, et seq., as amended.
- (e) Notwithstanding any provisions in this Agreement to the contrary, if this project involves construction, as that term is generally understood, and SPF does not provide engineering services during construction, including but not limited to, on-site monitoring, site visits, shop drawing review, and design clarifications, Owner agrees to defend, indemnify, and hold SPF, its consultants, agents, and employees harmless from any and all liability arising out of the construction.
- (f) SPF shall not be liable for damages arising out of or resulting from the actions or inaction of governmental agencies, including but not limited to, permit processing, environmental impact reports, dedications, general plans and amendments thereto, zoning matters, annexations or consolidations, use or conditional use permits, and building permits. Owner agrees to defend, indemnify, and hold SPF, its consultants, agents, and employees harmless from any and all liability, other than that caused by the negligent acts, errors, or omissions of SPF, arising out of or resulting from the same.
- (g) Notwithstanding other terms of this Agreement to the contrary, SPF makes no warranty, whether express or implied, as to the actual capacity or drawdown of any proposed water well(s), or the quality or temperature of ground water, if any, which may be produced by any water well(s) to be drilled and developed pursuant to this Agreement. Owner understands and agrees that SPF's responsibility under this Agreement is to apply its hydrogeology expertise, and to exercise the usual standard of care in the engineering profession to develop what ground water may reasonably exist, and may be economically feasible to use, beneath the proposed site(s).

2. DOCUMENTS

- (a) All tracings, survey notes, and other original documents, as instruments of service, are and shall remain the property of SPF, except where by law or precedent these documents become public property. Owner agrees to hold harmless, indemnify, and defend SPF, its consultants, agents, and employees against all damages, claims, expenses, and losses arising out of any reuse of the plans and specifications without the written authorization of SPF.
 - (b) All computer programs, software, and other like data developed during the course of the project, unless specifically developed for Owner, are and shall remain the sole property of SPF.
 - (c) SPF's liability to Owner for any computer programs, software products, or related data furnished hereunder is limited solely to the correction of residual errors, minor maintenance, or update(s) as agreed. SPF makes no warranties of any kind, including any implied warranty of merchantability or of fitness for any particular purpose, or against infringement, with respect to computer programs, software products, related data, technical information, or technical assistance provided by SPF under this Agreement. In no event shall SPF, its officers, agents, or employees be liable under or in connection with this Agreement under any theory of tort, contract, strict liability, negligence, or other legal or equitable theory for incidental or consequential damages relating to any computer programs, software products, or related data furnished hereunder.
 - (d) Environmental Audit/Site Assessment report(s) are prepared for Owner's sole use. Owner agrees to defend, indemnify, and hold SPF, its consultants, agents, and employees harmless against all damages, claims, expenses, and losses arising out of or resulting from any reuse of the Environmental Audit/Site Assessment report(s) without the written authorization of SPF.
3. **TERMINATION OR ABANDONMENT.** If any portion of the work is terminated or abandoned by Owner, the provisions of this Schedule of Fees and Conditions in regard to compensation and payment shall apply insofar as possible to that portion of the work not terminated or abandoned. If said termination occurs prior to completion of any phase of the project, the fee for services performed during such phase shall be based on SPF's reasonable estimate of the portion of such phase completed prior to said termination, plus a reasonable amount to reimburse SPF for termination costs.
 4. **WAIVER.** SPF's waiver of any term, condition, or covenant or breach of any term, condition, or covenant, shall not constitute a waiver of any other term, condition, or covenant, or the breach thereof.
 5. **ENTIRE AGREEMENT.** This Agreement, and its attachments, contains the entire understanding between Owner and SPF relating to professional engineering services. Any prior or contemporaneous agreements, promises, negotiations, or representations not expressly set forth herein are of no effect. Subsequent modifications or amendments to this Agreement shall be in writing and signed by the parties to this Agreement.
 6. **SUCCESSORS AND ASSIGNS.** All of the terms, conditions, and provisions hereof shall inure to the benefit of and be binding upon the parties hereto, and their respective successors and assigns, provided, however, that no assignment of this Agreement shall be made without written consent of the parties to this Agreement.
 7. **CONSTRUCTION ESTIMATES.** Estimates of cost for the facilities considered and designed under this Agreement are prepared by SPF through exercise of its experience and judgement in applying presently available cost data, but it is recognized that SPF has no control over costs of labor and materials, or over the construction contractor's methods of determining prices, or over competitive bidding procedures, market conditions, and unknown field conditions so that SPF cannot and does not guarantee that proposals, bids, or the project construction costs will not vary from SPF's cost estimates.
 8. **INJURY TO WORKERS.** It is understood and agreed that SPF's fee is based on SPF being named as an Additional Insured on construction contractor's insurance policy for Comprehensive General Liability and Builders All Risk Liability, and Owner agrees to insert into all contracts for construction between

Owner and construction contractor(s) arising out of this design a provision requiring the construction contractor(s) to defend, indemnify, and hold harmless both Owner and SPF from any and all actions arising out of the construction project, including but not limited to, injury to or death of any worker on the job site, not caused by the sole negligence of Owner or SPF.

9. **SITE VISITS.** Visits to the construction site and observations made by SPF as part of services during construction under this Agreement shall not make SPF responsible for, nor relieve the construction contractor(s) of the obligation to conduct comprehensive monitoring of the work sufficient to ensure conformance with the intent of the Contract Documents, and shall not make SPF responsible for, nor relieve the construction contractor(s) of the full responsibility for all construction means, methods, techniques, sequences, and procedures necessary for coordinating and completing all portions of the work under the construction contract(s), and for all safety precautions incidental thereto. Such visits by SPF are not to be construed as part of the monitoring duties of the on-site monitoring personnel defined below.
10. **ON-SITE MONITORING.** When SPF provides on-site monitoring personnel as part of services during construction under this Agreement, the on-site monitoring personnel will make reasonable efforts to guard Owner against defects and deficiencies in the work of the contractor(s), and to help determine if the provisions of the Contract Documents are being fulfilled. Their day-to-day monitoring will not, however, cause SPF to be responsible for those duties and responsibilities which belong to the construction contractor(s), including but not limited to, full responsibility for the means, methods, techniques, sequences, and progress of construction, and the safety precautions incidental thereto, and for performing the construction work in accordance with the Contract Documents.
11. **SEVERABILITY.** If any provision of this Agreement is declared invalid, illegal, or incapable of being enforced by any court of competent jurisdiction, all of the remaining provisions of this Agreement shall nevertheless continue in full force and effect, and no provision shall be deemed dependent upon any other provision unless so expressed herein.

AGENDA ITEM SUMMARY

DATE: 6/4/12 **DEPARTMENT:** PW - Parks **DEPT. HEAD SIGNATURE:** 

SUBJECT: Order a precast concrete Ozark 1 restroom for the skatepark from CXT Precast Concrete Products for \$30,940.

AUTHORITY: ID Code _____ IAR _____ City Ordinance/Code _____
(IF APPLICABLE)

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

With the restrooms for the skatepark that were planned as a part of the Hailey Ice building being delayed a more permanent solution for restrooms at the skatepark is needed. Presently we use porta-potties for the summer months. The recommended restroom will also include a drinking fountain for the skaters.

CXT Precast Concrete Products has previously supplied the restrooms at Keefer and McKercher parks and have been shown to be of quality construction. The attached quote shows \$30,515 but it is my recommendation to add the skylight to this order for better lighting of the restroom. PW Department personnel will prepare the site for the restroom and a plumber will be needed for the final hook-ups.

FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS: Caselle # _____
Budget Line Item # _____ YTD Line Item Balance \$ _____
Estimated Hours Spent to Date: _____ Estimated Completion Date: _____
Staff Contact: _____ Phone # _____
Comments: _____

ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS: (IF APPLICABLE)

- | | | |
|---|--|---|
| <input type="checkbox"/> City Administrator | <input type="checkbox"/> Library | <input type="checkbox"/> Benefits Committee |
| <input type="checkbox"/> City Attorney | <input type="checkbox"/> Mayor | <input type="checkbox"/> Streets |
| <input type="checkbox"/> City Clerk | <input type="checkbox"/> Planning | <input type="checkbox"/> Treasurer |
| <input type="checkbox"/> Building | <input type="checkbox"/> Police | _____ |
| <input type="checkbox"/> Engineer | <input type="checkbox"/> Public Works, Parks | _____ |
| <input type="checkbox"/> Fire Dept. | <input type="checkbox"/> P & Z Commission | _____ |

RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:

Approve the ordering of the Ozark 1 precast concrete restroom from CXT Precast Concrete Products for the price of \$30,940.

ADMINISTRATIVE COMMENTS/APPROVAL:

City Administrator _____ Dept. Head Attend Meeting (circle one) Yes No

ACTION OF THE CITY COUNCIL:

Date _____

City Clerk _____

FOLLOW-UP:

*Ord./Res./Agrmt./Order Originals: Record
Copies (all info.): _____
Instrument # _____

*Additional/Exceptional Originals to: _____
Copies (AIS only)

**CITY OF HAILEY
RESOLUTION NO. 2012-36**

**RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF HAILEY
AUTHORIZING PURCHAS OF RESTROOM FROM OZARK 1, FOR THE
SKATEPARK**

WHEREAS, the City of Hailey desires to enter purchase a precast concrete restroom from Ozark 1 for \$30,940. Ozark 1 will then provide this precast restroom to the City of Hailey.

WHEREAS, the City of Hailey and Ozark 1 have agreed to the terms and conditions of the purchase, a copy of which is attached hereto.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HAILEY, IDAHO, that the City of Hailey approves the purchase from Ozark 1 and that the Mayor is authorized to execute the attached price quote,

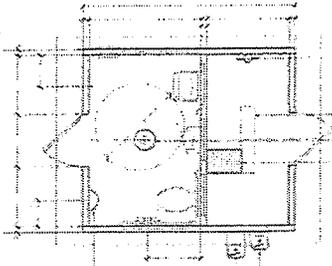
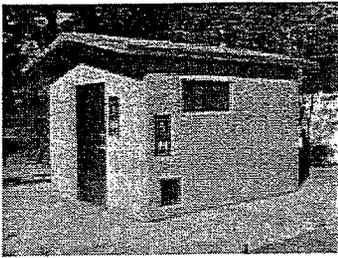
Passed this 4th day of JUNE, 2012.

City of Hailey

Fritz X. Haemmerle, Mayor

ATTEST:

Mary Cone, City Clerk



Ozark I with chase restroom building. Standard features include simulated barnwood texture walls, simulated cedar shake textured roof, vitreous china fixtures, interior and exterior lights, off loaded and set up at site.

Base Price	Price per unit	Click to select	
Ozark I	\$ 22,250.00		22,250.00
Added Cost Options:			
Final connection to utilities	\$ 2,000.00	<input type="checkbox"/>	0.00
Optional Wall Texture -choose one <input type="checkbox"/> Split Face Block <input type="checkbox"/> Struck Trowel <input type="checkbox"/> Exposed Aggregate	\$ 1,200.00		0.00
Optional Roof Texture -choose one <input type="checkbox"/> Delta Rib <input type="checkbox"/> Exposed Aggregate	\$ 900.00		0.00
Two-Tone Color Scheme	\$ 250.00	<input type="checkbox"/>	0.00
Stainless Steel Plumbing Fixtures	\$ 850.00	<input checked="" type="checkbox"/>	850.00
Vitreous China Urinal (each) Qty: 1	\$ 695.00	<input type="checkbox"/>	0.00
Stainless Steel Urinal (each) Qty: 1	\$ 1,100.00	<input type="checkbox"/>	0.00
Electric Hand Dryers	\$ 1,050.00	<input type="checkbox"/>	0.00
Electronic Flush Valves -Building without Urinals	\$ 475.00	<input type="checkbox"/>	0.00
Electronic Flush Valves for Optional Urinal (price per urinal) Qty: 1	\$ 475.00	<input type="checkbox"/>	0.00
Electronic Lavatory Faucets	\$ 475.00	<input type="checkbox"/>	0.00
Exterior Mounted ADA Drinking Fountain	\$ 2,700.00	<input checked="" type="checkbox"/>	2,700.00
Insta-Hot Hot Water Heater	\$ 575.00	<input type="checkbox"/>	0.00
Skylight in Restroom (each) <i>ADD</i> Qty: 1	\$ 425.00	<input type="checkbox"/>	0.00
Marine Grade Skylight in Restroom (each) Qty: 1	\$ 1,400.00	<input type="checkbox"/>	0.00
Marine Package for Extra Corrosion Resistance	\$ 2,750.00	<input type="checkbox"/>	0.00
Tile Floor in Restroom	\$ 1,750.00	<input type="checkbox"/>	0.00
Fiberglass Entry and Chase Doors and Frames	\$ 2,300.00	<input type="checkbox"/>	0.00
Vandguard Ten	\$ 2,500.00	<input type="checkbox"/>	0.00
Magnetic Door Lock System (does not include chase door)	\$ 2,200.00	<input type="checkbox"/>	0.00
Exterior Frostproof Hose Bib with Box	\$ 385.00	<input type="checkbox"/>	0.00
Paper Towel Dispenser	\$ 85.00	<input type="checkbox"/>	0.00
Toilet Seat Cover Dispenser	\$ 75.00	<input type="checkbox"/>	0.00
Sanitary Napkin Disposal	\$ 48.00	<input type="checkbox"/>	0.00
CXT Wastebasket	\$ 38.00	<input type="checkbox"/>	0.00
Paint Touch up Kit - Single Color	\$ 40.00	<input type="checkbox"/>	0.00
Paint Touch up Kit - Two Tone Color	\$ 50.00	<input type="checkbox"/>	0.00
Total Cost of Selected Accessories from Accessories Price List:			\$ 3,550.00 <i>3,975</i>
Estimated One-Way Transportation Costs to Site (quote):			\$ 3,465.00
Custom Options: Idaho State design review, inspection, and tags			\$ 1,250.00
Total Cost per Unit Placed at Job Site: <i>(excludes all taxes)</i>			\$ 30,515.00 <i>30,940</i>

This price quote is good for 60 days from date below, and is accurate and complete.

Eric Kuester

Digitally signed by Eric Kuester
DN: cn=Eric Kuester, o=CXT,
ou=CXT,
email=ekuester@cxinc.com, c=US
Date: 2012.04.27 14:45:48 -0700

CXT Sales Representative

Date

I accept this quote. Please process this order.

Company Name

Customer

Date



Concrete Buildings

CXT Precast Concrete Products manufactures restroom, shower and concession buildings in multiple designs, textures and colors. The roof and walls are fabricated with high strength precast concrete to meet all local building codes and textured to match local architectural details. All CXT buildings are designed to meet A.D.A. and to withstand heavy snow, high wind and category E seismic loads. All concrete construction also makes the buildings easy to maintain and withstand the rigors of vandalism. The buildings are prefabricated and delivered complete and ready-to-use, including plumbing and electrical where applicable. With thousands of satisfied customers nationwide, CXT is the leader in prefabricated concrete restrooms.

1. ORDERING ADDRESS(ES): CXT Precast Products, Inc., 3808 N. Sullivan Road, Building 7, Spokane, WA 99216
2. ORDERING PROCEDURES: Fax 509-928-8270
3. PAYMENT ADDRESS(ES): CXT Precast Products, Inc., 3808 N. Sullivan Road, Building 7, Spokane, WA 99216
4. WARRANTY PROVISIONS: CXT provides a warranty against defects in material or workmanship for a period of twenty (20) years on all concrete components. The warranty is valid only when concrete is used within the specified loadings. Furthermore, said warranty includes only the related material necessary for the construction and fabrication of said concrete components. All other non-concrete components will carry a one (1) year warranty. CXT warrants that all goods sold pursuant hereto will, when delivered, conform to specifications set forth above. Goods shall be deemed accepted and meeting specifications unless notice identifying the nature of any non-conformity is provided to CXT in writing within the specified warranty. CXT, at its option, will repair or replace the goods or issue credit for the customer provided CXT is first given the opportunity to inspect such goods. It is specifically understood that CXT's obligation hereunder is for credit, repair or replacement only, F.O.B. CXT's manufacturing plants, and does not include shipping, handling, installation or other incidental or consequential costs unless otherwise agreed to in writing by CXT.

This warranty shall not apply to:

1. Any goods which have been repaired or altered without CXT's express written consent, in such a way as in the reasonable judgment of CXT, to adversely affect the stability or reliability thereof;
 2. To any goods which have been subject to misuse, negligence, acts of God or accidents or
 3. To any goods which have not been installed to manufacturer's specifications and guidelines, improperly maintained, or used outside of the specifications for which such goods were designed.
5. TERMS AND CONDITIONS OF INSTALLATION (IF APPLICABLE): All prices subject to the "Conditions of Sale" listed on the CXT quotation form.

Customers are responsible for marking exact location building is to be set; Providing clear and level site, free of overhead and/or underground obstructions; and Providing site accessible to normal highway trucks and sufficient area for the crane to install and other equipment to perform the contract requirements. Customer shall provide notice in writing of low bridges, roadway width or grade,

unimproved roads or any other possible obstacles to access. CXT reserves the right to charge the customer for additional costs incurred for special equipment required to perform delivery and installation. Customers will negotiate installation on a project-by-project basis, which shall be priced as separate line items. For more information regarding installation and truck turning radius guidelines please see our website at www.cxtinc.com.

In the event delivery of the building/s ordered is/are not completed within 30 days of the agreed to schedule through no fault of CXT, an invoice for the full contract value (excluding shipping and installation costs) will be submitted for payment. Delivery and installation charges will be invoiced at the time of delivery and installation.

Should the delivery and installation costs increase due to changes in the delivery period, this increase will be added to the price originally quoted, and will be subject to the contract payment terms.

In the event that the delivery is delayed more than 90 days after the agreed to schedule and through no fault of CXT, then in addition to the remedies above, a storage fee of ½% of contract price per month or any part of any month will be charged.

**Customer is responsible for all local permits and fees

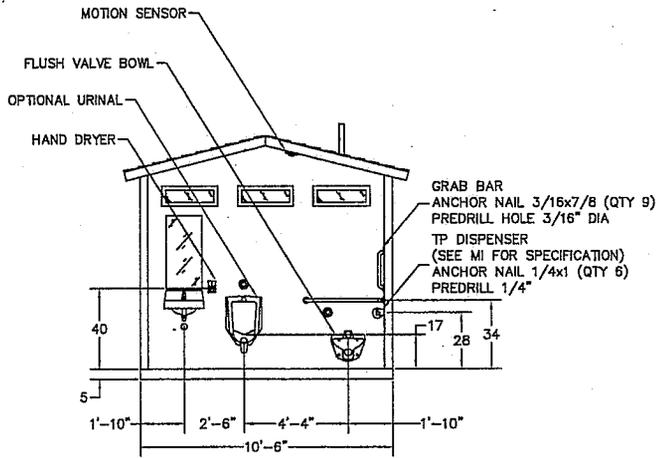
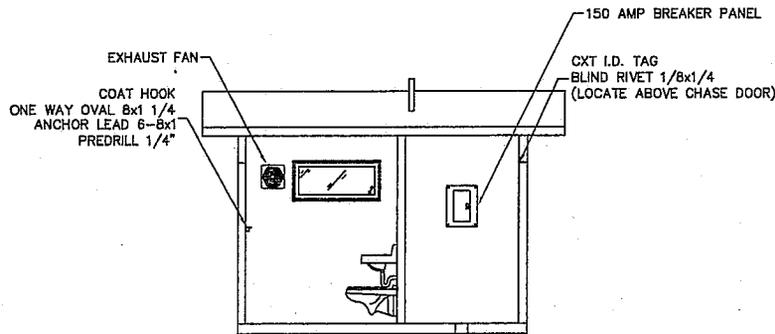
6. DELIVERY CHARGE: All prices F.O.B. Origin prepaid and added to invoice. CXT operates two (2) manufacturing plants in the United States and will deliver from the closest location on our carriers.
7. PAYMENT TERMS: Payment to CXT by the purchaser shall be made net 30 days after submission of the invoice to the purchaser on approved credit. Interest at a rate equal to the lower of (i) the highest rate permitted by law; or (ii) 1.5% per month will be charged monthly on all unpaid invoices beginning with the 35th day (includes 5 day grace period) for the date of the invoice. Under no circumstance can retention be taken. If CXT initiates legal proceeding to collect any unpaid amount, purchaser shall be liable for all of CXT's costs expenses and attorneys' fees and costs of any appeal.

DELIVERY INFORMATION:

All prices F.O.B. Origin prepaid and added to invoice. CXT operates two (2) manufacturing plants in the United States and will deliver from the closest location on our carriers. Use the following chart to determine the origin:

- F.O.B. 3808 N. Sullivan Road, Building 7, Spokane, WA 99216 applies to: AK, CA, HI, ID, MT, ND, NV, OR, SD, UT, WA, WY.
- F.O.B. 901 North Highway 77, Hillsboro, TX 76645 applies to AL, AR, AZ, CO, CT, DE, FL, GA, IA, IL, IN, KS, KY, LA, MA, MD, ME, MI, MN, MO, MS, NC, NE, NH, NJ, NM, NY, OH, OK, PA, PR, RI, SC, TN, TX, VA, VT, WI, WV.
- Prices exclude all Federal/State/Local taxes. Tax will be charged where applicable if customer is unable to provide proof of exemption.
- Pricing is subject to change without notice;
- Engineered stamped drawings may incur additional charges.

For more information visit us at www.cxtinc.com or call (800) 696-5766.



DIMENSIONED MATERIALS			
FIN	QTY	FIN	QTY
GRAB BAR	1	ONE WAY OVAL 6x1 1/4	2
TP DISPENSER	1	ANCHOR LEAD 6-8x1	2
TOILET PAPER ROLL	2-3	BLIND RIVET 1/8x1/4	2
COAT HOOK	1		
DOOR STOP	1		
CXT I.D. TAG	1		
ANCHOR NAIL 1/4x1	6		
ANCHOR NAIL 1/4x3/4	12		
ANCHOR NAIL 3/16x7/8	9		
GL. FT. CONC.	SG. FT. U.S.P.	APPROXIMATE WEIGHT	

CXT
 Precast Products

PROJECT TITLE
OZARK 1
 CXT STANDARD BUILDING

NOTICE
 The information contained herein is proprietary and the exclusive property of CXT Incorporated. The information may only be used by the original recipient for the purpose intended. Reproduction or distribution of this information is strictly prohibited without the prior written consent of CXT Incorporated. By allowing use of this information, CXT Incorporated grants no warranty, express or implied, including a warranty of merchantability or of fitness for a particular purpose.

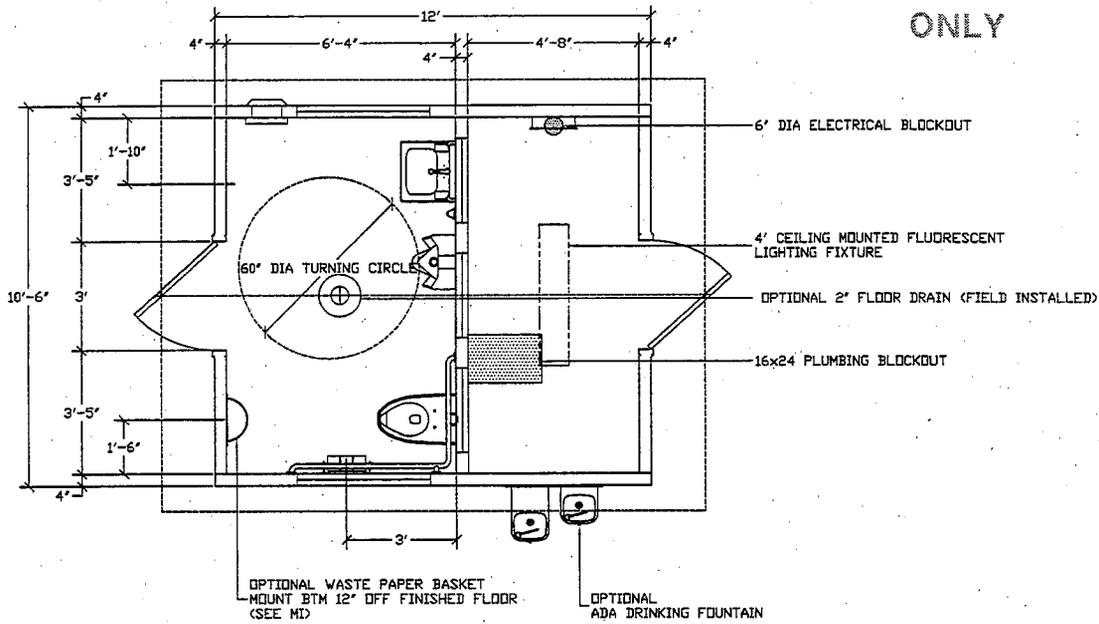
CXT Incorporated

REV.	DESCRIPTION	APPROVAL	DATE
SCALE	1/4" = 1'-0"	DATE	03-28-08
DRAWN	FILE NO.	PD-02103	
CHECKED	PLOT	48	

INTERIOR ELEVATIONS

DWG NO. **OZ 1-03** SHEET REV.

FOR
REFERENCE
ONLY



PROJECT TITLE
OZARK 1
CXT STANDARD BUILDING

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CXT Incorporated

REV.	DESCRIPTION	APPROVAL	DATE
SCALE	3/8"=1'-0"	DATE	03-28-05
DRAWN	FILE NO.	PD-02104	
CHECKED	PLDT	32	

FLOOR PLAN

DWG NO.	SHEET	REV.
OZ 1-04		

AGENDA ITEM SUMMARY

DATE: 6/04/12 **DEPARTMENT:** Administration **DEPT. HEAD SIGNATURE:** Heather Dawson

SUBJECT

Use Agreement with Scottish Festival for Arena use for their DARE-PAL fundraising event on June 16, 2012

AUTHORITY: ID Code IAR _____ City Ordinance No. 840

BACKGROUND:

Scottish Festival has previously held its small but growing event at the Nelson Field. They would like to hold it in the Arena this year on Saturday, June 16, 2012. The attached Use Agreement has been structured to fit their needs – we have established a flat fee of \$500 for this day use, which will cover our costs for cleaning the Family Restroom, the only one which needs to be opened up for this small event.

In addition to covering clean-up, we expect an approximate \$200 profit toward our depreciation needs at the Arena.

FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS:

<u>Budget Line Item #</u>	<u>Annual Line Item Amount</u>
---------------------------	--------------------------------

The city council expressed, in their Arena Management Policy, that use of the arena should pay for itself in sufficient amount to also pay for maintenance and depreciation of the arena.

ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS:

___ City Attorney	___ Clerk / Finance Director	___ Engineer	___ Mayor
___ P & Z Commission	___ Parks & Lands Board	___ Public Works	___ Other

RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:

Discuss and adopt the Use agreement.

FOLLOW UP NOTES:

**CITY OF HAILEY
RESOLUTION NO. 2012-37**

**RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF HAILEY
AUTHORIZING THE USE AGREEMENT WITH BLAINE COUNTY SCOTTISH
FESTIVAL AND HIGHLAND GAMES, FOR USE OF THE OUTDOOR MULTI-USE
ARENA**

WHEREAS, the City of Hailey desires to enter into an agreement with Blaine County Scottish Festival And Highland Games under which Blaine County Scottish Festival And Highland Games will use the outdoor multi-use arena in the City of Hailey.

WHEREAS, the City of Hailey and Blaine County Scottish Festival and Highland Games have agreed to the terms and conditions of the Use Agreement, a copy of which is attached hereto.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HAILEY, IDAHO, that the City of Hailey approves the Use Agreement between the City of Hailey and Blaine County Scottish Festival and Highland Games and that the Mayor is authorized to execute the attached Use Agreement quote,

Passed this 4th day of JUNE, 2012.

City of Hailey

Fritz X. Haemmerle, Mayor

ATTEST:

Mary Cone, City Clerk



ARENA RESERVATION FORM - large group

Anticipated Fees Internal use only	
A/R Account #:	_____
Per Day Use Fee:	\$ _____
Concession:	\$ _____
Ticket Sales:	\$ _____
Sales Tax:	\$ _____
Antic. Total	\$ _____

Event Name: Blaine County Scottish Festival and Highland Games _____
Type of Event: Fundraiser for the Blaine County P.A.L. program
Event Dates: June 16, 2012 _____ **Time:** From 9:00 am _____ To 5:00 pm _____
Set-up/Clean-up Dates: June 16, 2012 _____ **Time:** From 7:30 am _____ To 8:45 am _____
of anticipated attendees for event: **Total:** ~250 _____ **Per Day:** ~250 _____

Applicant Information

Organization Information (if applicable)

Name: Daniel Turner _____

Name: SAAA-Northern Rockies _____

Email: dturner@co.blaine.id.us _____

Email: Ron.Campell@SAAA-National.org/

Eric.Ettesvold@SAAA-National.org

Mailing Address: PO Box 4771 _____

Mailing Address: 1705 Fillmore Street _____

Hailey, ID 83333 _____

Caldwell, ID 83605 _____

Phone #: 205-789-9808 _____

Phone #: (Ron) 208-249-5316/(Eric) 208-490-6470 _____

Overview of Fees:

- \$500 per day for use of Arena and bleachers, fee charged for set-up and clean-up days also.
- \$250 per day of use for the concession area
- \$1.00 per tickets priced up to \$20. Additional fee of 5% on tickets priced over \$20
- 6% State Sales Tax on use fees (not on Security Deposit)

Arena Use Agreement will be prepared with city staff and approved by City Council –Final use payment due at the time of council approval. Partial refunding of fees for cancellations will be defined in executed Arena Use Agreement.

Refundable Security Deposit \$500.00 \$ 500⁰⁰ paid
 ½ of use fees due at time of reservation [# of days _____] (½) \$500.00/day \$ 500⁰⁰ paid.

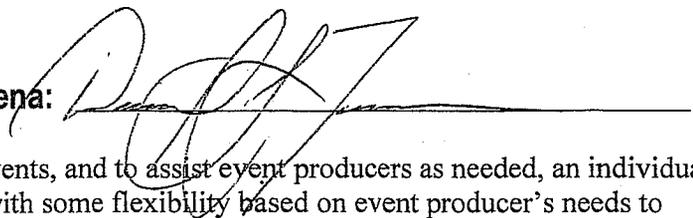
Check this box if you will be using the Concession Area –

Total Due to Reserve Arena: _____

I hereby certify the above statements to be true, complete and correct to the best of my knowledge.

CITY OF HAILEY ■ 115 MAIN ST. S., SUITE H HAILEY, IDAHO 83333 ■ 208-788-4221

Signature of Person Reserving Arena:



In an effort to invite a variety of weekend events, and to assist event producers as needed, an individual agreement for each event will be required, with some flexibility based on event producer's needs to elements outlined below.

1. The event shall not cause a public safety hazard to the remainder of the city by interrupting emergency response by police, fire and ambulance.
2. The set-up and removal of the facilities needed for the event and operation of the event shall be conducted, designed, constructed, operated and maintained to be harmonious and appropriate with the Arena facility.
3. The event shall not substantially interrupt the safe and orderly movement of traffic contiguous and near its venue. A parking and shuttle plan shall be required as part of an event agreement.
4. The event shall not be reasonably likely to cause injury to persons or property, to result in disorderly conduct or to create a disturbance.
5. Adequate steps shall be provided for protection of persons and property, which may include proof of general liability insurance coverage in the minimum amount of one million dollars naming the city as an additional named insured.
6. Adequate trash receptacles and/or dumpsters, portable toilets, recycling containers and crowd control measures shall be provided. The city will evaluate each event and be allowed broad discretion on the number of trash receptacles and/or dumpsters and portable toilets required. For high impact events, such as concerts, the applicant shall provide, at a minimum, one six yard dumpster per 500 people, one permanent or portable bathroom per 100 people, unless the applicant can demonstrate that modification of the requirements is justified. In addition, the applicant shall be responsible for providing all traffic and pedestrian control devices, such as cones, barricades, flags, signs and ropes.
7. If required, a security plan shall be approved by the Hailey chief of police, an emergency medical care and ambulance support plan shall be approved by the Hailey fire chief, a traffic, parking and busing plan for the event shall be approved by the Hailey fire chief and police chief, and/or a lighting plan for the special event shall be approved the Hailey lighting administrator.
8. The applicant shall agree to indemnify, defend and hold harmless the city and its officers and employees from any and all demands, claims or liability of any nature, caused by or arising out of, or connected with the special event.
9. The applicant has made no false statements or misrepresentations upon any present or former application for an event agreement.
10. The applicant has not substantially violated any provision of city, state or federal laws, in conducting any previous event.
11. The event is subject to other applicable city, state, federal or other governmental rules, regulations or laws, including but not limited to regulations pertaining to glass containers, signage, lighting, and noise.

CITY OF HAILEY ■ 115 MAIN ST. S., SUITE H HAILEY, IDAHO 83333 ■ 208-788-4221

USE AGREEMENT

This Use Agreement ("Agreement") is made this _____ day of _____, 2012, by and between **CITY OF HAILEY**, a municipal corporation ("City") and **Blaine County Scottish Festival and Highland Games**, an Idaho non-profit corporation ("USER").

RECITALS

- A. The City is a municipal corporation and political subdivision of the State of Idaho. Fritz X. Haemmerle is the duly elected and acting mayor of the City of Hailey.
- B. USER is a duly organized and operating non-profit corporation in the State of Idaho. Ron Campell is the duly elected and acting president of USER. By resolution, the president of USER is authorized to execute this Agreement.
- C. City owns real property located at 791 Main Street So., Hailey Idaho, a portion of which is an outdoor multi-use arena, as depicted on attached **Exhibit "A"** ("Arena").
- D. Subject to the terms and conditions set forth herein, City is willing and agrees to allow USER to use the Arena and USER is willing and agrees to use the Arena.

AGREEMENT

NOW, THEREFORE, based upon the foregoing recitals which are incorporated in this Agreement below as though set forth in full, the parties agree as follows:

- 1. Agreement Term.** USER shall have the exclusive right to use the Arena on June 16, 2012 ("Event"). USER shall also have the right to inspect and use the Arena before the Event, including on June 15, 2012 for set up of equipment for the event.
- 2. Rent.** USER shall pay to City as minimum rent for the Arena of Five Hundred and no/100's Dollars (\$500.00), receipt of which is hereby acknowledged.
- 3. Use of Arena.** The Arena may be used and occupied by USER only as a public facility as a sporting event facility, as a concession area and as parking, and for no other purpose or purposes without City's prior written consent. During periods of non-use of the Arena during the Event, USER shall lock and secure all bathrooms, concession areas and security gates within the Arena, to keep members of the general public out of all secured areas. USER shall be responsible for the watering of the internal dirt portion of the Arena during the Event. USER shall not do or permit anything to be done in or about the Arena or bring or keep anything in the Arena that will in any way increase the rate of fire insurance upon the building in which the Arena is situated. USER shall not perform any acts or carry on any practices that may injure the Arena or the building of which the Arena form a part, which are not normally associated with an

equestrian event. USER agrees to comply with (and cause its agents, contractors, employee and invitees to comply with) any rules and regulations with reasonable modification hereof which City may from time to time make and deliver to USER in writing, provided the City provides USER with thirty (30) days advance notice of a hearing to consider the proposed rules and regulations and provided any adopted rules and regulations are effective sixty (60) days before the beginning of any Event.

4. **Security Deposit.** USER shall pay as a security deposit the sum of Five Hundred and No/100 Dollars (\$500.00), receipt of which is hereby acknowledged, to be held by City as a Security Deposit for the faithful performance by USER of all the terms, covenants and conditions of this Agreement to be kept and performed by USER during the term of this Agreement. This deposit does not limit City's rights or USER's obligations. USER understands that all or a portion of the deposit may be retained by City upon termination of the tenancy and that a refund of any portion of the deposit to the USER is conditioned on the following:

- a) USER shall clean and restore the Arena to its condition at the commencement of each Event, less normal wear and tear associated with an equestrian event.
- b) USER shall have remedied or repaired any damage to the Arena to City's satisfaction.
- c) USER shall have complied with all of the provisions of this Agreement and with such other rules and regulations as the City may deem necessary.

If USER defaults with respect to any provision of this Agreement, including but not limited to the provisions relating to the payment of the monetary sums due herewith, City may (but shall not be required to) use, apply or retain all or any part of the Security Deposit for the payment of any other amount which City may spend by reason of USER's default or to compensate City for any other loss or damage which City may suffer by reason of USER's default.

5. **Utilities.**

A. City shall pay for all charges for electricity, water, sewer, trash, and cleaning services, rendered or supplied upon or in connection with the Arena during the Events. In the event the expenses for each annual event exceeds \$500, USER shall pay City the difference between the expenses for each annual event and \$500 within thirty (30) days of the date of billing for the excess charges. In the event the expenses for each annual event are less than \$500, the City is not required to reimburse USER for any difference and shall be entitled to retain the difference.

B. USER shall pay or reimburse the City for all services requested by USER or which are reasonably required by USER, such as street sweeping and police security and traffic control. The charges incurred in accordance with this paragraph 5(B) shall be paid to the City

within thirty (30) days of the date of billing for such charges.

6. **Insurance.** During the Events, USER shall, at its own expense, maintain in full force, comprehensive liability insurance, including public liability, property damage and contractual liabilities of USER, written by a responsible insurance company licensed to do business in Idaho, and insuring USER and City (and such other persons, firms, or corporations designated by City) as additional named insureds against liability for claims of damage because of injury to persons and property and for death of any person or persons occurring in or about the Arena. The liability covered by such insurance shall be not less than a combined single limit of One Million Dollars (\$1,000,000). At City's reasonable discretion, USER shall increase the coverage to such amount as City and USER agree is commercially reasonable. The insurance shall be primary insurance such that the insurer shall be liable for the full amount of the loss without the right of contribution from any other insurance coverage held by City.

No party shall have the right or claim against the City for any losses, damages or injury, including losses, damages or injury to property or persons, including death, and for any business interruption, occurring on the Arena or the adjoining property, (whether caused by the negligence or other fault of the City or the USER or their respective agents, employees, subtenants, licensees or assignees or whether caused by negligence or the conditions of the Arena or any part thereof) by way of subrogation or assignment. The USER hereby waives and relinquishes any such right. The USER shall request USER's insurance carrier to endorse all applicable policies waiving the carrier's right of recovery under subrogation or otherwise in favor of the City and provide a certificate of insurance verifying this waiver.

All insurance required by this Section shall be in a form and with companies satisfactory to City and shall provide that it shall not be subject to cancellation or change except after at least thirty (30) days' prior written notice to City. The policy or policies, or duly executed certificates for them, shall be deposited with City each year within fifteen (15) days before each Event.

7. **Exemption from Liability.** City shall not be liable to USER or to any other person whomsoever for any injury or damage to person or property occurring within or about the Arena, unless caused by or resulting from the wilful and intentional acts of the City or any of the City's agents, servants or employees in the operation or maintenance of the Arena. City shall not be liable in damages or otherwise for failure to furnish, or any interruption of service of any water, gas, electricity, telephone, or other utility caused by fire, accident, riot, strike, labor disputes, acts of God, the making of any repairs or improvements, or causes beyond the control of City, or for any loss, damage or theft of property of USER, its agents, servants or employees.

Any prevention, delay, or stoppage, due to strikes, lockouts, labor disputes, acts of God, inability to obtain labor or materials or reasonable substitutes therefor, governmental restrictions, governmental regulations, governmental controls, enemy or hostile governmental action, civil commotion, fire or other casualty, and other causes beyond the reasonable control for the party

obligated to perform shall excuse performance by such party for a equal to any such prevention, delay or stoppage, except as otherwise provided in this Agreement.

8. Indemnification and Hold Harmless. USER agrees to indemnify and hold City harmless from and against any and all claims, including mechanic's and materialman's liens, by or on behalf of any person or person, firm(s) or corporation(s), arising from the conduct or management of the activities conducted by the USER during the Events, or arising out of any act or omission or negligence of USER, its contractors, licensees, agents, servants or employees during the Events, or arising from any accident, injury, or damage whatsoever caused by any person or property occurring in or about the Arena or any part thereof, and the walkways adjoining the Arena during the Events, and from and against all costs, expenses, liabilities and attorney's fees incurred in connection with any such claim or proceeding brought thereon.

9. Maintenance and Repairs. Except as otherwise provided herein, USER shall, at its sole cost and expense, keep and maintain the interior and exterior of the Arena (including, without limitation, all fixtures, plumbing and sewage facilities, heating, ventilation and air conditioning equipment, ice making equipment, interior and exterior walls, doors and windows) in good order, condition and repair during the Events, remove all rubbish and refuse therefrom, keep all landscaping in good condition, and replace or repair all electrical fixtures and mechanical, heating and plumbing fixtures and equipment that may be damaged or broken. In the event any portion of the Arena is damaged by vandalism or similar intentional misconduct during the Events, USER is not obligated to repair any such damage. USER shall, at its sole cost and expense, remove all manure from the Arena before the end of each Event or store the manure on site allowing it to decompose but only if allowed by City staff. If City deems it necessary for USER to make any repairs, City may demand that USER make them immediately, and if USER refuses or neglects to commence such repairs and to complete them with reasonable dispatch, City may make or cause such repairs to be made and USER shall immediately pay City for the costs of such repairs upon receipt of the costs. USER shall, at its cost and expense, promptly and properly observe, comply with, and execute, but not to the extent of making structural improvements, all present and future orders, regulations, directions, rules, laws, ordinances and requirements of all governmental authorities (including, but not limited to, state, municipal, county and federal governments and their departments, bureaus, boards and officials), and any other board or organization exercising similar functions, arising from the use or occupancy of, or applicable to the Arena.

10. Alterations and Improvements. USER shall not have the right to make changes, alterations or additions to the Arena without the prior written consent of the City, which may be withheld in the City's sole and absolute discretion.

11. Damage or Destruction. If the Arena is partially or totally destroyed or damaged by fire or other casualty so as to become partially or totally untenable, the City is not required to rebuild the Arena, in which event either the City or USER may terminate this Agreement by providing written notice of intent to terminate. Upon termination, USER waives any and all claims for damages based on termination of this Agreement and any loss of use.

12. **Defaults.** In the event USER shall breach USER's obligations pursuant to this Agreement, then City shall notify USER of such breach in writing by certified mail, return receipt requested, or hand delivery, and USER shall correct any failure to pay rent within three (3) days of receipt of such notification, and USER shall cure any other breach within thirty (30) days of the date of such notification. In the event of a default which cannot, with due diligence, be cured within a period of thirty (30) days, USER shall have such additional time to cure the same as may be reasonably necessary, providing proceeds promptly and with due diligence to cure such default after receipt of said notice. In the event USER fails to pay any sums due pursuant to this Agreement, or cure any other breach, after notice as aforesaid, then City shall have the option of electing to either (i) cancel and terminate this Agreement, or (ii) terminate USER's right to possession only without terminating the Agreement or (iii) pursue any other remedy available at law or in equity.

13. **Entry by City.** In the event of any entry in, or taking possession of, the Arena, City shall have the right, but not the obligation, to remove from the Arena all personal property of USER located therein and may store the same in any place selected by City, including but not limited to a public warehouse, at the expense and risk of the owners thereof, with the right to sell such stored property, after it has been stored for a period of thirty (30) days or more, the proceeds of such sale to be applied first to the cost of such sale, second to the payment of the charges for storage, if any, and third to the payment of any other sums of money which may then be due from USER to City under any of the terms hereof, and the balance, if any, shall be paid to USER.

14. **Liens.** USER shall keep the Arena and the property on which the Arena is situated free from any liens arising out of any work performed, materials furnished or obligations incurred by USER.

15. **Assignment and Subletting.** Except as provided herein, USER shall not assign or sublet this Agreement or any or all of USER's interest in the Arena without first procuring the written consent of City, which may be made in the City's sole and absolute discretion. USER is allowed to sublet or allow the use of concession areas within the Arena during the Event without the consent of City; however, USER shall remain primarily liable for the obligations arising from this Use Agreement.

16. **Waiver.** The failure of either party hereto to insist upon strict performance of any of the covenants and agreements of this Agreement, or to exercise any election herein conferred in any one or more instances, shall not be construed to be a waiver or relinquishment of any such, or any other covenants or agreements, and the same shall be and remain in full force and effect. A particular waiver by either party of any said covenants or agreements to be performed by the other party shall not be construed as a waiver of any succeeding breach of the same or other covenants or agreements of this Agreement

17. **Annual Review.** Within six (6) weeks following the end of each Event, USER

shall submit a written report to the Hailey Mayor and City Council . The report shall provide i) attendance records during the Event, ii) a detailed accounting of all revenue generated during the Event from all sources including ticket sales, advertisements, donations, concessions, etc., iii) a detailed accounting of all expenses incurred during the Event, iv) a description of advertising for the Event, v) a description of any problems with the Event, vi) a description of both written and oral complaints about the operations of the Event, and vii) any suggestions to improve future events at the Arena.

18. Miscellaneous Provisions.

a. **Final Agreement.** This Agreement represents the final agreement between the parties and merges and supersedes all prior negotiations, whether written or oral, with respect thereto.

b. **Modification.** This Agreement cannot be modified, changed, discharged, or terminated, except by writing signed by both the City and USER.

c. **Time is of the Essence.** Time and timely performance is of the essence of this Agreement.

d. **Applicable Law.** This Agreement shall be construed and enforced under the laws of the State of Idaho.

e. **Benefit.** This Agreement shall be binding upon and insure to the benefit of the parties hereto, their legal representatives, heirs, successors and assigns.

f. **Attorney's Fees.** In the event of any dispute with regard to the interpretation or enforcement of this Agreement, the prevailing party shall be entitled to recover their reasonable costs and attorney's fees incurred therein, whether or not a lawsuit is actually filed, and on any appeals.

g. **Presumption.** This Agreement or any section thereof shall not be construed against any party due to the fact that said Agreement or any section thereof was drafted by either party.

h. **Notice.** Unless otherwise specifically provided for herein, notices given pursuant to the terms of this Agreement shall be deemed received on the date sent and shall be sent to the parties at their addresses first above given or such address as may be later specified by the party in writing.

i. **Further Action.** The parties hereto shall execute and deliver all documents, provide all information and take or forbear from all such action as may be necessary or appropriate to achieve the purposes of this Agreement.

j. **Authority.** Each signatory has full authority and consent to sign this Agreement. USER represents and warrants to City that it is a corporation organized, existing and in good standing under the laws of the State of Idaho, and it is authorized, by appropriate corporate resolution, to enter into and execute this Agreement and any and all documents related thereto.

k. **Severability.** The invalidity or illegality of any provision shall not affect the remainder of this Agreement.

IN WITNESS WHEREOF, the parties, having been duly authorized, have hereunto caused this Agreement to be executed, on the day and year first above written, the same being done after public hearing, notice and statutory requirements having been fulfilled.

Dated this _____ day of May, 2011.

CITY:

CITY OF HAILEY, an Idaho municipal corporation

ATTEST:

By: _____
Mary Cone, City Clerk

By: _____
Fritz X. Haemmerle, Mayor

USER:

BLAINE COUNTY SCOTTISH FESTIVAL
and HIGHLAND GAMES, an Idaho non-profit corporation

Ron Campell, its President

AGENDA ITEM SUMMARY

DATE: 6/04/12 **DEPARTMENT:** Administration **DEPT. HEAD SIGNATURE:** Heather Dawson

SUBJECT

Use Agreement with Blaine County Fair Board for Arena use for their Blaine County Fair horse show on Saturday August 4, 2012/

AUTHORITY: ID Code IAR _____ City Ordinance No. 840

BACKGROUND:

The Blaine County Fair Board would like to hold the horse show event associated with the Blaine County Fair in Hailey's Arena this year on Saturday, August 4, 2012. The attached Use Agreement has been structured to fit their needs – we have established a flat fee of \$200 for this day use, which will generate an approximate \$200 profit toward our depreciation needs at the Arena. The BCFB has sufficient volunteers to clean the entire sight without any costs being covered by the City of Hailey, including cleaning of the restrooms.

FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS:

<u>Budget Line Item #</u>	<u>Annual Line Item Amount</u>
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The city council expressed, in their Arena Management Policy, that use of the arena should pay for itself in sufficient amount to also pay for maintenance and depreciation of the arena.

ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS:

___ City Attorney	___ Clerk / Finance Director	___ Engineer	___ Mayor
___ P & Z Commission	___ Parks & Lands Board	___ Public Works	___ Other

RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:

Discuss and adopt the Use agreement.

FOLLOW UP NOTES:

**CITY OF HAILEY
RESOLUTION NO. 2012-38**

**RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF HAILEY
AUTHORIZING THE USE AGREEMENT WITH BLAINE COUNTY FAIR BOARD,
FOR USE OF THE OUTDOOR MULTI-USE ARENA**

WHEREAS, the City of Hailey desires to enter into an agreement with Blaine County Fair Board under which Blaine County Fair Board will use the outdoor multi-use arena in the City of Hailey.

WHEREAS, the City of Hailey and Blaine County Fair Board have agreed to the terms and conditions of the Use Agreement, a copy of which is attached hereto.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HAILEY, IDAHO, that the City of Hailey approves the Use Agreement between the City of Hailey and Blaine County Fair Board and that the Mayor is authorized to execute the attached Use Agreement quote;

Passed this 4th day of JUNE, 2012.

City of Hailey

Fritz X. Haemmerle, Mayor

ATTEST:

Mary Cone, City Clerk

USE AGREEMENT

This Use Agreement ("Agreement") is made this _____ day of _____, 2012, by and between **CITY OF HAILEY**, a municipal corporation ("City") and **Blaine County Fair Board**, an Idaho non-profit corporation ("BCFB").

RECITALS

- A. The City is a municipal corporation and political subdivision of the State of Idaho. Fritz X. Haemmerle is the duly elected and acting mayor of the City of Hailey.
- B. BCFB is a duly organized and operating non-profit corporation in the State of Idaho. Kyle Green is the duly elected and acting president of Fair Board. By resolution, the president of BCFB is authorized to execute this Agreement.
- C. City owns real property located at 791 Main Street So., Hailey Idaho, a portion of which is an outdoor multi-use arena, as depicted on attached **Exhibit "A"** ("Arena").
- D. Under the Equine Activities Immunity Act (*Idaho Code §§ 6-1801 et seq.*), the City and BCFB are entitled to certain immunity for activities within the Arena. The parties acknowledge that the City will not provide equipment or tack during the Events, as defined hereinafter, and is not responsible to determine whether a horse-show participant is able to safely engage in activities or safely manage animals during the Events or whether the animals are able to behave safely with the participants during the Events.
- E. Subject to the terms and conditions set forth herein, City is willing and agrees to allow BCFB to use the Arena and BCFB is willing and agrees to use the Arena.

AGREEMENT

NOW, THEREFORE, based upon the foregoing recitals which are incorporated in this Agreement below as though set forth in full, the parties agree as follows:

- 1. Agreement Term.** BCFB shall have the exclusive right to use the Arena on the Saturday preceding the Blaine County Fair, August 4, 2012 ("Event"). BCFB shall also have the right to inspect and use the Arena before the Event.
- 2. Rent.** BCFB shall pay to City as minimum rent for the Arena of Two Hundred and no/100's Dollars (\$200.00). The \$200 for each annual event shall be paid to the City before August 1 of each year of this Agreement.
- 3. Use of Arena.** The Arena may be used and occupied by BCFB only as a public facility as an equestrian facility, as a concession area and as parking, and for no other purpose or

purposes without City's prior written consent. During periods of non-use of the Arena during the Event, BCFB shall lock and secure all bathrooms, concession areas and security gates within the Arena, to keep members of the general public out of all secured areas. BCFB shall be responsible for the watering of the internal dirt portion of the Arena during the Event. BCFB shall not do or permit anything to be done in or about the Arena or bring or keep anything in the Arena that will in any way increase the rate of fire insurance upon the building in which the Arena is situated. BCFB shall not perform any acts or carry on any practices that may injure the Arena or the building of which the Arena form a part, which are not normally associated with an equestrian event. BCFB agrees to comply with (and cause its agents, contractors, employee and invitees to comply with) any rules and regulations with reasonable modification hereof which City may from time to time make and deliver to BCFB in writing, provided the City provides BCFB with thirty (30) days advance notice of a hearing to consider the proposed rules and regulations and provided any adopted rules and regulations are effective sixty (60) days before the beginning of any Event.

4. **Security Deposit.** BCFB shall pay as a security deposit the sum of Five Hundred and No/100 Dollars (\$500.00), receipt of which is hereby acknowledged, to be held by City as a Security Deposit for the faithful performance by BCFB of all the terms, covenants and conditions of this Agreement to be kept and performed by BCFB during the term of this Agreement. This deposit does not limit City's rights or BCFB's obligations. BCFB understands that all or a portion of the deposit may be retained by City upon termination of the tenancy and that a refund of any portion of the deposit to the BCFB is conditioned on the following:

- a) BCFB shall clean and restore the Arena to its condition at the commencement of each Event, less normal wear and tear associated with an equestrian event.
- b) BCFB shall have remedied or repaired any damage to the Arena to City's satisfaction.
- c) BCFB shall have complied with all of the provisions of this Agreement and with such other rules and regulations as the City may deem necessary.

If BCFB defaults with respect to any provision of this Agreement, including but not limited to the provisions relating to the payment of the monetary sums due herewith, City may (but shall not be required to) use, apply or retain all or any part of the Security Deposit for the payment of any other amount which City may spend by reason of BCFB's default or to compensate City for any other loss or damage which City may suffer by reason of BCFB's default.

5. **Utilities.**

A. City shall pay for all charges for electricity, water, sewer, trash, and cleaning services, rendered or supplied upon or in connection with the Arena during the Events. In the event the expenses for each annual event exceeds \$200, BCFB shall pay City the difference

between the expenses for each annual event and \$200 within thirty (30) days of the date of billing for the excess charges. In the event the expenses for each annual event are less than \$200, the City is not required to reimburse BCFB for any difference and shall be entitled to retain the difference.

B. BCFB shall pay or reimburse the City for all services requested by BCFB or which are reasonably required by BCFB, such as street sweeping and police security and traffic control. The charges incurred in accordance with this paragraph 5(B) shall be paid to the City within thirty (30) days of the date of billing for such charges.

6. **Insurance.** During the Events, BCFB shall, at its own expense, maintain in full force, comprehensive liability insurance, including public liability, property damage and contractual liabilities of BCFB, written by a responsible insurance company licensed to do business in Idaho, and insuring BCFB and City (and such other persons, firms, or corporations designated by City) as additional named insureds against liability for claims of damage because of injury to persons and property and for death of any person or persons occurring in or about the Arena. The liability covered by such insurance shall be not less than a combined single limit of One Million Dollars (\$1,000,000). At City's reasonable discretion, BCFB shall increase the coverage to such amount as City and BCFB agree is commercially reasonable. The insurance shall be primary insurance such that the insurer shall be liable for the full amount of the loss without the right of contribution from any other insurance coverage held by City.

No party shall have the right or claim against the City for any losses, damages or injury, including losses, damages or injury to property or persons, including death, and for any business interruption, occurring on the Arena or the adjoining property, (whether caused by the negligence or other fault of the City or the BCFB or their respective agents, employees, subtenants, licensees or assignees or whether caused by negligence or the conditions of the Arena or any part thereof) by way of subrogation or assignment. The BCFB hereby waives and relinquishes any such right. The BCFB shall request BCFB's insurance carrier to endorse all applicable policies waiving the carrier's right of recovery under subrogation or otherwise in favor of the City and provide a certificate of insurance verifying this waiver.

All insurance required by this Section shall be in a form and with companies satisfactory to City and shall provide that it shall not be subject to cancellation or change except after at least thirty (30) days' prior written notice to City. The policy or policies, or duly executed certificates for them, shall be deposited with City each year within fifteen (15) days before each Event.

7. **Exemption from Liability.** City shall not be liable to BCFB or to any other person whomsoever for any injury or damage to person or property occurring within or about the Arena, unless caused by or resulting from the wilful and intentional acts of the City or any of the City's agents, servants or employees in the operation or maintenance of the Arena. City shall not be liable in damages or otherwise for failure to furnish, or any interruption of service of any water, gas, electricity, telephone, or other utility caused by fire, accident, riot, strike, labor

disputes, acts of God, the making of any repairs or improvements, or causes beyond the control of City, or for any loss, damage or theft of property of BCFB, its agents, servants or employees.

Any prevention, delay, or stoppage, due to strikes, lockouts, labor disputes, acts of God, inability to obtain labor or materials or reasonable substitutes therefor, governmental restrictions, governmental regulations, governmental controls, enemy or hostile governmental action, civil commotion, fire or other casualty, and other causes beyond the reasonable control for the party obligated to perform shall excuse performance by such party for a equal to any such prevention, delay or stoppage, except as otherwise provided in this Agreement.

8. Indemnification and Hold Harmless. BCFB agrees to indemnify and hold City harmless from and against any and all claims, including mechanic's and materialman's liens, by or on behalf of any person or person, firm(s) or corporation(s), arising from the conduct or management of the activities conducted by the BCFB during the Events, or arising out of any act or omission or negligence of BCFB, its contractors, licensees, agents, servants or employees during the Events, or arising from any accident, injury, or damage whatsoever caused by any person or property occurring in or about the Arena or any part thereof, and the walkways adjoining the Arena during the Events, and from and against all costs, expenses, liabilities and attorney's fees incurred in connection with any such claim or proceeding brought thereon.

9. Maintenance and Repairs. Except as otherwise provided herein, BCFB shall, at its sole cost and expense, keep and maintain the interior and exterior of the Arena (including, without limitation, all fixtures, plumbing and sewage facilities, heating, ventilation and air conditioning equipment, ice making equipment, interior and exterior walls, doors and windows) in good order, condition and repair during the Events, remove all rubbish and refuse therefrom, keep all landscaping in good condition, and replace or repair all electrical fixtures and mechanical, heating and plumbing fixtures and equipment that may be damaged or broken. In the event any portion of the Arena is damaged by vandalism or similar intentional misconduct during the Events, BCFB is not obligated to repair any such damage. BCFB shall, at its sole cost and expense, remove all manure from the Arena before the end of each Event or store the manure on site allowing it to decompose but only if allowed by City staff. If City deems it necessary for BCFB to make any repairs, City may demand that BCFB make them immediately, and if BCFB refuses or neglects to commence such repairs and to complete them with reasonable dispatch, City may make or cause such repairs to be made and BCFB shall immediately pay City for the costs of such repairs upon receipt of the costs. BCFB shall, at its cost and expense, promptly and properly observe, comply with, and execute, but not to the extent of making structural improvements, all present and future orders, regulations, directions, rules, laws, ordinances and requirements of all governmental authorities (including, but not limited to, state, municipal, county and federal governments and their departments, bureaus, boards and officials), and any other board or organization exercising similar functions, arising from the use or occupancy of, or applicable to the Arena.

10. **Alterations and Improvements.** BCFB shall not have the right to make changes, alterations or additions to the Arena without the prior written consent of the City, which may be withheld in the City's sole and absolute discretion.

11. **Damage or Destruction.** If the Arena is partially or totally destroyed or damaged by fire or other casualty so as to become partially or totally untenable, the City is not required to rebuild the Arena, in which event either the City or BCFB may terminate this Agreement by providing written notice of intent to terminate. Upon termination, BCFB waives any and all claims for damages based on termination of this Agreement and any loss of use.

12. **Defaults.** In the event BCFB shall breach BCFB's obligations pursuant to this Agreement, then City shall notify BCFB of such breach in writing by certified mail, return receipt requested, or hand delivery, and BCFB shall correct any failure to pay rent within three (3) days of receipt of such notification, and BCFB shall cure any other breach within thirty (30) days of the date of such notification. In the event of a default which cannot, with due diligence, be cured within a period of thirty (30) days, BCFB shall have such additional time to cure the same as may be reasonably necessary, providing proceeds promptly and with due diligence to cure such default after receipt of said notice. In the event BCFB fails to pay any sums due pursuant to this Agreement, or cure any other breach, after notice as aforesaid, then City shall have the option of electing to either (i) cancel and terminate this Agreement, or (ii) terminate BCFB's right to possession only without terminating the Agreement or (iii) pursue any other remedy available at law or in equity.

13. **Entry by City.** In the event of any entry in, or taking possession of, the Arena, City shall have the right, but not the obligation, to remove from the Arena all personal property of BCFB located therein and may store the same in any place selected by City, including but not limited to a public warehouse, at the expense and risk of the owners thereof, with the right to sell such stored property, after it has been stored for a period of thirty (30) days or more, the proceeds of such sale to be applied first to the cost of such sale, second to the payment of the charges for storage, if any, and third to the payment of any other sums of money which may then be due from BCFB to City under any of the terms hereof, and the balance, if any, shall be paid to BCFB.

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Dated this _____ day of May, 2011.

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CITY OF HAILEY, an Idaho municipal corporation

ATTEST:

By: _____
Mary Cone, City Clerk

By: _____
Fritz X. Haemmerle, Mayor

BCFB:

BLAINE COUNTY FAIR BOARD, an Idaho non-profit corporation

Kyle Green, its President

