

# NOTICE OF MEETING

The Audit Committee Meeting of the Incline Village General Improvement District will be held starting at **3:00 p.m.** on **Wednesday, September 30, 2020** at the Boardroom, 893 Southwood Boulevard, Incline Village, Nevada.

In compliance with State of Nevada Executive Department, Declaration of Emergency Directive 006, 016, 018, and 021, this meeting is closed to the public and attendance is limited to members of the Board of Trustees and essential staff. Public comment is allowed and the public is welcome to make their public comment either via e-mail (please send your comments to [info@ivgid.org](mailto:info@ivgid.org) by 1:30 p.m. on Wednesday, September 30, 2020) or via telephone (the telephone number will be posted to our website on the day of the meeting).

- A. ROLL CALL OF THE AUDIT COMMITTEE MEMBERS\*  
Derrek Aaron (At-Large Member), Matthew Dent (Trustee, Chair), Cliff Dobler (At-Large Member), Sara Schmitz (Trustee), and Raymond Tulloch (At-Large Member)
- B. PUBLIC COMMENTS\* - Conducted in accordance with Nevada Revised Statutes Chapter 241.020 and limited to a maximum of three (3) minutes in duration.
- C. APPROVAL OF AGENDA (*for possible action*)  
  
*The Audit Committee may make a motion for a flexible agenda which is defined as taking items on the agenda out of order; combining agenda items with other agenda items; removing items from the agenda; moving agenda items to an agenda of another meeting, or voting on items in a block.*  

**-OR-**

*The Audit Committee may make a motion to accept and follow the agenda as submitted/posted.*
- D. DISTRICT STAFF UPDATE (*for possible action*)
  - 1. District's 2019/2020 Independent Financial Audit: Verbal update by the Director of Finance Paul Navazio on the District's 2019/2020 Independent Financial Audit being conducted by Eide Bailly (Requesting Staff Member: Director of Finance Paul Navazio) – **pages 3 - 5**
- E. GENERAL BUSINESS ITEM (*for possible action*)
  - 1. Timeline and Request for Qualifications for external auditing services for Fiscal Year 2020/2021 – discussion only item **[NO ACTION]** (Requesting Staff Member: Director of Finance Paul Navazio) – **pages 6 - 21**
  - 2. Review, discuss and possibly approve a Whistleblower procedure for financial matters (Requesting Staff Member: District General Manager Indra Winquest) – **pages 22 - 24**
  - 3. Legal Opinion for community correspondence regarding Dillon's Rule (Requesting Staff Member: District General Counsel Joshua Nelson) – **pages 25 - 32**
- F. APPROVAL OF MEETING MINUTES (for possible action)

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**Incline Village General Improvement District**

*Incline Village General Improvement District is a fiscally responsible community partner which provides superior utility services and community oriented recreation programs and facilities with passion for the quality of life and our environment while investing in the Tahoe basin.*

893 Southwood Boulevard, Incline Village, Nevada 89451 • (775) 832-1100 • FAX (775) 832-1122

[www.yourtahoeplace.com](http://www.yourtahoeplace.com)

# NOTICE OF MEETING

Agenda for the Audit Committee Meeting of September 30, 2020 - Page 2

1. Audit Committee Meeting Minutes of September 1, 2020 – **pages 33 - 51**
- G. REVIEW OF LONG RANGE CALENDAR (for possible action) – **page 52**
- H. PUBLIC COMMENTS\* - Conducted in accordance with Nevada Revised Statutes Chapter 241.020 and limited to a maximum of three (3) minutes in duration.
- I. ADJOURNMENT (*for possible action*)

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### CERTIFICATION OF POSTING OF THIS AGENDA

I hereby certify that on or before Friday, September 25, 2020, at 9:00 a.m., a copy of this agenda (Audit Committee Session of September 30, 2020) was delivered to the post office addressed to the people who have requested to receive copies of IVGID's agendas; copies were either faxed or e-mailed to those people who have requested, and a copy was posted at the following six locations within Incline Village/Crystal Bay in accordance with NRS 241.020.

1. IVGID Anne
2. Incline Village Post
3. Crystal Bay Post
4. Raley's Shopping
5. Incline Village
6. IVGID's Recreation

**SUSPENDED – STATE OF NEVADA  
EXECUTIVE DEPARTMENT,  
DECLARATION OF EMERGENCY,  
DIRECTIVE 006 (SECTION 3), 016,  
018 and 021**

Vorderbruggen Building (Administrative Offices)  
Office  
Office  
Center  
Branch of Washoe County Library  
Center

/s/ Susan A. Herron, CMC

Susan A. Herron, CMC

Clerk to the Board of Trustees (e-mail: sah@ivgid.org/phone # 775-832-1207)

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**Audit Committee Members:** Derrek Aaron (At-Large Member), Matthew Dent (Trustee, Chair), Cliff Dobler (At-Large Member), Sara Schmitz (Trustee), and Raymond Tulloch (At-Large Member)

**Notes:** Items on the agenda may be taken out of order; combined with other items; removed from the agenda; moved to the agenda of another meeting; moved to or from the Consent Calendar section; or may be voted on in a block. Items with a specific time designation will not be heard prior to the stated time, but may be heard later. Those items followed by an asterisk (\*) are items on the agenda upon which the Board of Trustees will take no action. Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to call IVGID at 832-1100 at least 24 hours prior to the meeting. Copies of the packets containing background information on agenda items are available for public inspection at the Incline Village Library.

**IVGID'S agenda packets are now available at IVGID's web site, [www.yourtahoeplace.com](http://www.yourtahoeplace.com); go to "Board Meetings and Agendas". A hard copy of the complete agenda packet is also available at IVGID's Administrative Offices located at 893 Southwood Boulevard, Incline Village, Nevada, 89451.**

## MEMORANDUM

**TO:** Audit Committee

**THROUGH:** Matthew Dent  
Audit Committee Chairman

**FROM:** Paul Navazio  
Director of Finance

**SUBJECT:** District's FY2019/2020 Independent Financial Audit: Verbal update by the Director of Finance Paul Navazio on the District's 2019/2020 Independent Financial Audit being conducted by Eide Bailly

### **STRATEGIC**

**PLAN REFERENCE(S):** Long Range Principles #2

**DATE:** September 23, 2020

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### **I. RECOMMENDATION**

That the Audit Committee receive a verbal status update regarding the District's Independent External Audit for the fiscal year ending June 30, 2020.

### **II. BACKGROUND**

The District's Independent External Auditor, Eide Bailly is currently conducting its audit of the District's financial activities for the fiscal year ending June 30, 2020. This agenda item has been prepared to provide the Audit Committee with a status report on audit activities and timeline for presentation of audit reports to the Audit Committee and Board of Trustees.

Eide Bailly commenced this year's audit work in early June with the execution of the Engagement Letter for the FY2019/20 Audit. The attached outline provides a summary of the field work, testing and review of related internal controls currently under review by the Eide Bailly audit team. Included are selected areas currently under review related to the outstanding questions related to the District's prior fiscal year financial statements (for the year ended June 30, 2019).

Additional updates related to audit activities and draft audit reports are expected to be presented for review by the Audit Committee in late October or early November.

### **III. STRATEGIC PLAN REFERENCE(S)**

Long Range Principle #2

The District will ensure fiscal responsibility and sustainability of service capacities by maintaining effective financial policies for operating budgets, fund balances, capital improvement and debt management.

### **Summary of Audit Activities through 9/30/20**

*(Due to COVID-19 Pandemic ALL Audit Activities are being performed remotely)*

#### Audit Kick-off

#### Physical Inventory Counts

- Golf Merchandise
- Fuel Supplies

#### Field Testing (Review of Sample Transactions)

- Revenue Collection
  - Tax Settlement Payments (Washoe County)
  - Facility Fees
  - Charges for Service
  - Utility Billings
  - Lease Revenues
  - Deferred Revenue / Pre-paid Accounts
  - Intergovernmental Revenues
  - Internal Service Fund Charge-back
- Point of Sale System(s) Testing
  - Vermont System (Golf Operations, Special Events)
  - RTP System (Ski Passes and (selected) Recreation Sales)
  - Beach Revenues / visits
- Payroll sample testing
- Accrued Personnel Costs
- Accounts Payable
- Capitalization and Fixed Assets
- Treasury Activities
  - Cash and Cash Equivalents
  - Bank account reconciliation(s)
  - Market-value of investment portfolio
  - Allocation of investment earnings

#### General Ledger and Financial Statements

- General Ledger Trial Balances (provided 9/3/20)
- Preliminary Draft Basic Financial Statements (9/9/20)
- Audit Adjustments (General Ledger entries AFTER Trial Balances)
  - Tax Settlement Payment #13
  - Vermont Credit Balances
  - Beach Deferred Revenues
  - Gift Card Liability Accounts
  - Investment (Year-end Interest Reconciliation and Mark-to-Market)
  - Expense Adjustment - Capital Work in Process

### Open Issues / Under Review

- *ALL Fieldwork / Sample Testing topics still under review – may result in additional sample testing, and/or documentation*
- *Other topics currently under review:*
  - *Capitalization of fixed assets*
  - *Capital Work In Process*
  - *Gift Cards – Deferred Revenues*
  - *Ski – Restricted Ticket Promo*
  - *Golf Passes*
  - *Assignment / Reservation of Fund Balances*
  - *Budget Amendment (6/30/20) – Resolution 1838*

### Timeline for Completion of Independent Audit

- Field Testing / Sample Transactions ..... Ongoing
- Completion of Field Testing..... Est. September 30, 2020
- Draft to Auditor
  - Financial Statements / Notes ..... Early/Mid October
  - Statistical Information ..... Early/Mid October
  - Draft Transmittal Letter / MD&A..... Early November
- Draft CAFR/Final Audit Report ..... Mid November
  - Review with Audit Committee
- Final CAFR Issued ..... *\*No Later Than*  
November 30, 2020
- Final CAFR/Audit Report to Board of Trustees\* ..... *No later than*  
December 2020
- Filing of CAFR/Audit Report to State of Nevada\* ..... By December 31, 2020

*\* Denotes dates established by NRS 354.624(6)*

## MEMORANDUM

**TO:** Audit Committee

**THROUGH:** Matthew Dent  
Audit Committee Chairman

**FROM:** Paul Navazio  
Director of Finance

**SUBJECT:** Consideration of Timeline/Process for Solicitation and Selection of Firm to serve as the District's Independent External Auditor for fiscal year ending June 30, 2021.

**STRATEGIC  
PLAN REFERENCE(S):** Long Range Principles #2

**DATE:** September 23, 2020

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### **I. RECOMMENDATION**

That the Audit Committee review and provide feedback on the process and timeline for selecting a firm to serve as the District's Independent External Auditor, for the fiscal year ending June 30, 2021.

### **II. BACKGROUND**

Eide Bailly is currently in the fifth and final year of its contract to provide Independent External Audit services for the District. A solicitation and selection process is required, issuance of a formal Request For Proposal (RFP) process to select a firm to provide external audit services beginning with the fiscal year ending June 30, 2021.

It is anticipated that the solicitation process will commence in the coming weeks in order to solicit proposals from a pool of qualified firms, and subsequent evaluation and selection process in order meet the State of Nevada's requirement that the Board of Trustees report its selected external audit firm to the State no later than March 30, 2021 (per NRS 354.624).

Board Policy 15.10 establishes that the procurement process for selecting the District's Independent Auditor falls within the purview of the Board-appointed Audit Committee, whose recommendation is to be presented to the Board of Trustees for final approval.

This agenda item has been prepared to review with the Audit Committee the process undertaken the last time the District issued a formal RFP for Independent Audit Services, and suggested timeline for this year's procurement process.

<b>Audit Committee Calendar Request For Proposal</b>	
Audit Committee to Review RFQ and outline process	September 30, 2020
Send out Request for Proposal	October 1-15, 2020
RFP Responses Due	November 15-30, 2020
Evaluate RFP Responses w/Audit Committee Interview of Finalists (if necessary)	December
Audit Committee Recommendation	By December 30, 2020
Board of Trustees Approval	January 2020

Staff is seeking input and feedback from the Committee before finalizing an updated RFP document and initiating the procurement process leading to selection of the District's next Independent Auditor.

Attachment:  
Copy of (2010) Request for Proposal

Request for Proposal (RFP)

AUDITING SERVICES  
Incline Village General Improvement District



The Incline Village General Improvement District (IVGID) is hereby requesting proposals from qualified professional firms to provide auditing services pertaining to the financial records of the District.

Qualified firms or individuals should submit five copies of a sealed proposal or email meeting the terms of this RFP, no later than:

Wednesday, October 27, 2010  
4:00 PM

To Ramona B. Cruz  
Director of Finance, Accounting, and Information Technology  
IVGID  
893 Southwood Boulevard  
Incline Village, NV 89451

Email: [AuditServicesProposal@ivgid.org](mailto:AuditServicesProposal@ivgid.org).

Proposals should be clearly marked on the outside:

**"Audit Services Proposal"**

Submittal of responses before Wednesday, October 27, 2010 at 4:00 PM is encouraged. Questions pertaining to this RFP should be directed to Director of Finance, Accounting, and Information Technology Cruz at (775) 832-1169; e-mail [rbc@ivgid.org](mailto:rbc@ivgid.org)

This selection will be made without regard to race, religion, creed, color, sex, sexual orientation, or national origin.

John Bohn  
Incline Village General Improvement District  
Trustee and Chair Audit Committee  
September 08, 2010

This RFP contains 14 pages.



Request for Proposal (RFP)

AUDITING SERVICES  
Incline Village General Improvement District



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## Request for Proposal (RFP)

### AUDITING SERVICES Incline Village General Improvement District



#### I. The Organization

The Incline Village General Improvement District (IVGID) is a local public agency, chartered in 1961 under Chapter 318 of Nevada law to provide utility and recreation services to the residents and visitors of Incline Village. Incline Village is a planned recreational community located on the northeastern shore of Lake Tahoe. In 1995, the Crystal Bay General Improvement District (CBGID) was merged with IVGID. The merger came about as a need arose for CBGID to have their water system revamped. Incline Village and Crystal Bay have a permanent population of about 9,300 and peak summer and winter populations of up to 20,000+. IVGID directly operates a water system and sewer system; a downhill ski area with six chairlifts; two golf courses; a 37,000 square foot recreation center; three beaches; an outdoor swimming pool; a tennis complex and a variety of parks, athletic fields, and support facilities. A trash system is operated under private contract. IVGID's most recent partnership is with the Hyatt Regency Lake Tahoe running their sports shop.

District operating activities are physically dispersed (18 locations) across the 14 square miles of the Incline Village/Crystal Bay community. The District adheres to a decentralized management philosophy, generally, organizing these activities into four operating and four administrative and technical support entities accounting, payroll, purchasing, human resources, and information systems activities are centrally provided services while most financial management is decentralized to the operating units.

IVGID is governed by a five-member Board of Trustees, locally elected to four-year overlapping terms. The Board hires a General Manager, who in turn hires and supervises the staff; the General Manager serves as the organization's chief executive officer.

IVGID has total assets of about \$126 million and net equity of \$100 million. It has a 2010-2011 \$31.3 million annual operating budget in addition to \$18.3 million in annual planned capital improvements and \$3 million in debt service expenditures. It has 110 full-time year-round employees and up to 350 seasonal employees at one time or full time equivalents of 242. Total sources of revenues are derived primarily from charges for services, Recreation and Beach Facility Fees, and capital grants. The Utility operations generate about 30% of the total sources revenue while our recreational operations (Community Services and Beach Enterprise Fund) generate about 60%. The main revenues from our recreational areas are Golf (18%), Facilities (6%), Ski (25%), Parks and Recreation (19%), Beach (3%) and recreation and beach facility fee (29%) which are annual charges assessed to each property within IVGID each year. About 5 % of total sources of revenues are derived from state and local taxes. More detailed information on the IVGID Annual Budget Fiscal Year 2010-2011 can be found on IVGID's web site [www.ivgid.org](http://www.ivgid.org) under Resources/Financial Reporting.

IVGID annually processes approximately 7,200 accounts payable checks, 9,800 payroll checks and auto deposits, issues 930+ W-2s, and 100+ 1099s.

## Request for Proposal (RFP)

### AUDITING SERVICES Incline Village General Improvement District



IVGID just recently installed a new information system called MSGovern. There are two major components to the new information system which are FMS (Financial Management System) and HRMS (Human Resources Management System). IVGID has the following modules installed: General Ledger, Payroll, Accounts Payable, Fixed Assets, Project and Work Order Cost, Inventory, Purchasing, Cash Receipts and Misc. Accounts Receivable and Human Resources. IVGID also uses a time collection system to capture hours worked by our hourly, part-time, and seasonal workforce.

IVGID has six interfaces built from network-based point-of-sale systems to MSGovern (Utility, Golf, Food and Beverage, Ski, Parks and Recreation, Hyatt Sport Shop). The transfer of data from the IVGID systems is through a standard formatted XML file to a MSGovern developed web-service, which accepts and processes the file. If no errors are detected in the file, a batch is created for posting to FMS.

#### II. The Incline Village General Improvement District Audit Committee

The Government Finance Officer's Association (GFOA) recommended practices suggest the establishment of an audit committee which has direct oversight of the work of any independent accountants engaged for the purpose of preparing or issuing an independent audit report, review, or attest services. Likewise, the audit committee should be established in such a manner that all accountants thus engaged report directly to the audit committee. IVGID's Audit Committee Policy 15.1.0 established the IVGID Audit Committee in January 2009. The successful bidder will work directly with the IVGID Audit Committee.

The responsibility of the Audit Committee is to provide independent review and oversight of the District's financial reporting processes, internal control and independent auditors. This is accomplished by a review of the proposed scope of the annual audit with the independent auditors. The Audit Committee will also review and approve the independent auditors' management report on the organization's financial statement at the conclusion of the audit and as well as management's responses. The management report is the auditor's communication of findings during their audit.

Another primary function of the Audit Committee is to make a recommendation to the Board of Trustees as to the appointment of the independent auditors. As required by Nevada Revised Statutes (NRS) 354.624, the Board of Trustees selects the auditors to conduct the District's annual audit on or before March of the fiscal year under audit.

#### III. The Plan

IVGID is currently requesting written proposals to conduct its annual financial audit for fiscal year ending June 30, 2011. Proposals submitted will be evaluated by the three-member IVGID Audit Committee, the Director of Finance, Accounting, and Information

## Request for Proposal (RFP)

### AUDITING SERVICES Incline Village General Improvement District



Technology, and the Controller. During the evaluation process, the Audit Committee and IVGID reserve the right, where it may serve IVGID's best interest, to request additional information or clarifications from proposers. At the discretion of the IVGID Audit Committee, firms submitting proposals may be requested to make oral presentations as part of the evaluation process.

IVGID submits its Comprehensive Annual Financial Report to the GFOA of the United States and Canada for review in their Certificate of Achievement for Excellence in Financial Reporting program. IVGID has received this award the last consecutive eight years.

Responses to this proposal must be on the Proposer's letterhead stationery and submitted with five copies.

Responses must be received in the general offices of IVGID on or before Wednesday, October 27, 2010 at 4:00 PM, and at that time will be formally opened and acknowledged. Proposals not received at or before the time indicated will be deemed non-responsive and shall not be considered in the subsequent evaluation proceedings.

Because of the need for constant communication between IVGID and the successful Proposer, it is desirable that the successful Proposer be located within the Lake Tahoe-Reno-Carson City general area.

#### IV. The Project

This Request for Proposals is for the purpose of obtaining qualified proposals to perform a district wide financial audit of IVGID, covering individual fund and account groups, combining financial statements, and combined financial statements for the fiscal year ending June 30, 2011.

The audit is to be performed in accordance with generally accepted auditing standards, the standards set forth for financial audits in the General Accounting Office's (GAO) Government Auditing Standards (1994), the provisions of the federal Single Audit Act of 1984 (as amended in 1996) and U.S. Office of Management and Budget (OMB) Circular A-133, Audits of States and Local Governments, as well as examination for compliance with procedures established by Charter, Ordinance, Policy, Practice or where applicable, State and Federal laws or regulations. The audit shall be performed in accordance with the applicable provisions and auditing standards of NRS 354.624.

IVGID reserves the right to exercise an option to renew an audit agreement resulting from this RFP, in single fiscal year increments. Renewals shall be solely at the discretion of the IVGID Board of Trustees. Renewals shall be available for five years after the initial award.

Request for Proposal (RFP)

AUDITING SERVICES  
Incline Village General Improvement District



Five copies of a draft audit report, including required financial statements and supplementary sections, will be delivered to the Audit Committee on or before September 30, 2011. Traditionally, District Staff has prepared the draft audit report for the auditors. IVGID reserves the right to request the audit firm to prepare the draft audit report.

The final audit report, including required financial statements and supplementary sections, will be completed and presented to the IVGID Audit Committee on or before October 31, 2011. Traditionally, District Staff has prepared the final audit report for the auditor's final approval before presented to the IVGID Audit Committee. IVGID reserves the right to request the audit firm to prepare.

Request for Proposal (RFP)

AUDITING SERVICES  
Incline Village General Improvement District



A. Scope of Work

The audit shall include sufficient tests of individual funds, account groups, and combining and combined financial statements, as necessary to render an opinion on the Comprehensive Annual Financial Report. IVGID may meet the requirements for an audit under the Single Audit Act.

The audit shall also include an examination of our system of internal controls, financial transactions and accounts, financial statements, and federal and state compliance, all to ascertain and determine the following:

The existence of effective control over and accounting for revenues, expenditures, assets, and liabilities;

That reports to state and federal agencies contain accurate and reliable information;

That financial statements are fairly presented in accordance with generally accepted accounting principles;

And that IVGID has met state and federal compliance requirements.

The auditor's report shall:

Include the combined financial statements, the combining statements, and individual funds and account groups;

Include supplementary information consistent with prior years audit reports;

Identify the statements examined and the period of time involved;

State for identification purposes the various programs under which IVGID has received state and federal grant funds, and the amounts received;

Verify that the audit was conducted and completed in accordance with generally accepted auditing standards as established by the American Institute of Certified Public Accountants; and

Provide a report on the fair presentation of the financial statements as well as the fair presentation of the financial statements of individual funds and account groups in relation to the general-purpose financial statements taken as a whole in conformity with generally accepted accounting principles (GAAP).

Request for Proposal (RFP)

AUDITING SERVICES  
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The auditor's comments concerning compliance and internal control shall:

Include discussion of any weakness constituting or contributing to non-compliance with system(s) of internal control, with separate identification of material weakness;

Identify by nature and impact any material instances in which non-compliance of terms and conditions of the agreements with provisions of state law shall possibly materially affect financial statements and reports;

Include comments as to how accurate and complete are financial reports and claims for advanced or reimbursed funds to state or federal agencies;

Comment as to the disposition and implementation of the recommendations of the audit of the prior year;

The auditors shall also:

Provide a management letter which details areas of concern or items which do not comply with existing policies, procedures, or legal requirements that are not required to be presented within the audit report.

If any irregularities and illegal acts are discovered the auditors shall be required to make an immediate, written report of all irregularities and illegal acts or indications of illegal acts of which they become aware directly to the Audit Committee.

The Project Manager shall be present at an exit conference session to discuss the draft audit report with the Audit Committee and be available for when the final audit report is presented to the full Board of Trustees at the first Board meeting in November 2011.

The auditors shall be wholly responsible for all personnel, supplies, and equipment.

Request for Proposal (RFP)

AUDITING SERVICES  
Incline Village General Improvement District



B. Proposal Requirements

The Proposal Format contained herein shall be considered a guide for response by Proposers, and should, insofar as possible, be followed in form so as to permit accurate point-by-point comparisons of each proposal with that of other responders.

All Proposals shall include the following information:

1. Cover Sheet
2. Table of Contents
3. Technical Information
  - a. State in as succinct a manner as possible, in your own words, your understanding of the objectives of the audit.
  - b. Qualifications Statement
    - 1) Name, address, and phone number of principal office. List years at its present location, and number of full time professionals employed, by type. If the firm has multiple offices, identify the office out of which IVGID will be serviced. Indicate whether the Proposer is an individual, partnership, or corporation. If a corporation, give the name of the state of incorporation.  
  
Indicate the name, title, address and telephone number of the person in the Proposer's organization who shall be responsible for the content of the proposal and to whom any questions should be addressed.
    - 2) Name, resume and responsibility of each professional member of the project team. Identify which member of the project team will be primarily responsible for performing each task in the Scope of Work. Structure of the project team, including definition of the legal status of any joint venture (where more than one firm shares in project authority). Resumes should include training and experience in performing audits.
    - 3) List of recent projects which are similar to the proposed work with IVGID indicating the year completed, and listing the proposed project team members working on those projects. Selectively list past projects which are major or relevant. Include all work pertaining to public agencies within Nevada, and all work pertaining



Request for Proposal (RFP)

AUDITING SERVICES  
Incline Village General Improvement District



to general improvement districts, utility operations, and recreation operations. Please indicate which projects have been submitted for the GFOA Certificate of Achievement for Excellence in Financial Reporting program.

- 4) List of at least five client references, including contact persons and telephone numbers, pertaining to projects referenced under paragraph 3, above. At least two references should pertain to projects in Nevada. Indicate which members of the project team worked on the referenced projects and in what capacity.
  - 5) Submit copies of at least two Financial Statements and Auditor's Reports from the listed past projects, which are comparable to the project at hand.
  - 6) Describe the methodology proposed for use in conducting the audit, including a completion timetable.
  - 7) Discuss the rationale for the approach.
- c. Project Approach
- Statement of approach to project. Identify any alterations or additions to the Scope of Work, as identified in this RFP, which are necessary or recommended to accomplish the objectives identified herein. Identify what technical services are available, and how they would be used in the proposed project. Identify any alternative analysis to be conducted. Estimate approximate number of hours that IVGID staff is expected to work on the audit in preparing schedules, worksheets, or developing information for the Project Team.
- d. Project Schedule
- Provide a step-by-step project schedule and task description from start to completion.
- e. Proposal Format
- Proposal responses shall be clear, concise, prepared as briefly and economically as possible, and must provide definitive response to all the information required in this RFP.

Failure to respond in the manner provided may result in disqualification of the Proposer's response.

Request for Proposal (RFP)

AUDITING SERVICES  
Incline Village General Improvement District



4. Fee Schedule

Provide a guaranteed fee schedule for the project. The fee schedule must include the performance of all tasks outlined in this RFP and the proposal including separately identifying the Single Audit fee. The guaranteed fee will also cover all subsequent reports/letters issued associated with opinion on financial statements audited by the auditors

State under what circumstances, if any, the maximum fee could be exceeded.

Identify any and all expenses which IVGID would bear directly to accomplish the objectives identified herein, and include a budget for same.

The proposer should offer the opportunity to give alternative fees based on IVGID staff performing tasks. Also, in the event IVGID chooses to have the proposer prepare both the draft and final audit report those fees should be separately indentified as well. A copy of IVGID's June 30, 2009 CAFR can be found on IVGID's web site [www.ivgid.org](http://www.ivgid.org) under Resources/Financial Reporting.

5. Out-of-Pocket Costs

Describe each category of reimbursable costs and estimate the total cost for each category. For example, list telephone, travel, meals, etc., for which you expect IVGID to reimburse your firm, if any. Calculate the total cost for all categories combined.

6. Other Information

Supply any other information you feel pertinent in defining your attributes as they relate to the project at hand.

## Request for Proposal (RFP)

### AUDITING SERVICES Incline Village General Improvement District



#### C. Terms

##### 1. Management

The project will be managed by IVGID's Controller with oversight by the Audit Committee. The Audit Committee will coordinate the auditor's activities with those of the IVGID Staff, Board of Trustees, and others. During the course of the audit, the Controller shall provide:

Prior years audit reports; analysis of requested asset, liability, revenue, and expenditure accounts as required in the Project Approach; a year-end working trial balance; and access to all accounting system records.

##### 2. Preparation of Proposal

If requested by the Audit Committee, the proposers must attend a scheduled pre-proposal conference and become aware of all facets of the project.

Irregularities or lack of clarity in this RFP should be brought to the attention of the Director of Finance, Accounting, and Information Technology for clarification or correction.

All copies of the response to the RFP shall be signed by a person authorized to submit proposals in the name of the firm.

All changes in the response shall be initialed, in ink, by the person signing the response.

##### 3. Submission of Proposal

Proposals and attachments thereto, shall be submitted in one sealed envelope addressed to the Incline Village General Improvement District, 893 Southwood Boulevard, Incline Village, NV 89451, Attention of Ramona B. Cruz, Director of Finance, Accounting, and Information Technology with the sealed envelope clearly marked on the outside "Auditing Services Proposal"

If submittal is by email then the proposal and attachments must be in PDF format. All email proposals must be received prior to or at the specified receiving time at the following email address [AuditServicesProposal@ivgid.org](mailto:AuditServicesProposal@ivgid.org). Should you elect to submit your proposal via email, please be sure to confirm receipt of your emailed proposal.

Envelopes and emails containing the responses to the RFP shall clearly indicate the name and address of the Proposer.

Proposals received after the specified time shall be rejected.

Request for Proposal (RFP)

AUDITING SERVICES  
Incline Village General Improvement District



4. Selection Process

Proposals will be reviewed by the IVGID Audit Committee, Director of Finance Accounting and Information Technology, and the Controller with a recommendation submitted to the Board of Trustees for award. Selection will be based upon the qualifications of the firm and subconsultants, if any; qualifications of the project team; project references; proposed project approach and scope of services; proposed schedule; project team's current and anticipated commitments to other projects; related project experience; and fees, among other factors.

The selection process will be based on a point system for certain qualifications and issues as determined by review team.

5. Acceptance or Rejection

IVGID reserves the right to accept or reject any and all proposals submitted, in part or in whole, and to extend the deadline for submission, without advance notice.

6. Schedule

The following tentative schedule has been established for the project:

Request for Proposals sent out	September 08, 2010
Pre Proposal Conference	September 22, 2010
Proposals due back to IVGID	October 27, 2010 at 4:00 PM
Award Contract	January 26, 2011
Audit Ski Area Operations	As soon as possible after award
Audit Parks and Recreation Operations	Before May 2011
Audit Golf Operations	June 2011
Audit Beach operations	June 2011
Field Work	August 15, 2011 through September 16, 2011
Submit Draft Audit Report	September 30, 2011
Exit Conference	October 12 2011
Submit Final Audit Report	October 31, 2011 to Audit Committee

7. Professional Services Agreement

This Request for Proposals outlines the more significant terms and conditions of the professional services agreement. Other terms and conditions will be specified prior to

Request for Proposal (RFP)

AUDITING SERVICES  
Incline Village General Improvement District



execution of this agreement. Failure to reach agreement on all terms and conditions may cause rejection of the proposal.

8. Billing and Payment

Billing shall be monthly in the form of progress payments, accompanied by progress reports. Payment shall be made within 30 days of billing, with 10% retained by IVGID until such time as the final audit report has been presented and accepted by the IVGID Board of Trustees.

9. Assignment

The agreement for professional services, or any portion thereof or work there under, shall not be assigned without the prior written consent of IVGID. No changes shall be made in the composition or assignments of the project team, without the prior written consent of IVGID.

10. Adjustment of Scope of Services

IVGID reserves the right to modify the scope of services, prior to execution of the professional services agreement, without advance notice. IVGID also reserves the right to negotiate changes in other aspects of any proposal, including fees, prior to execution of the professional services agreement, whether before or after award. Failure to reach agreement on all terms and conditions may cause rejection of the proposal.

IVGID further reserves the right to make adjustments to the scope of services, after execution of the professional services agreement. Such adjustments shall be made through mutual agreement of the parties, based upon the actual increase or decrease in hours of services required and stated fees, including discounts, if any.

## MEMORANDUM

**TO:** Audit Committee

**FROM:** Indra S. Winqest  
District General Manager

Josh Nelson  
Legal Counsel

**SUBJECT:** Review, discuss and possibly approve a Whistleblower procedure for financial matters

**DATE:** September 30, 2020

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### **I. RECOMMENDATION**

The Audit Committee receive, review, potentially revise, and consider adopting the enclosed Whistleblower Procedure.

### **II. BACKGROUND**

Enclosed please find a straw proposal for the development of a whistleblower complaint procedure for employees and the public. The Audit Committee was delegated the authority to review and refine financial whistleblower procedures under Policy 15.1.0(2.8). This procedure refines the existing practice.

The proposed process generally involves the receipt, investigation, and disposition of complaints. Complaints by employees can be made to supervisors, the General Manager, or the Audit Committee Chair. Complaints by others may be made to the General Manager or the Audit Committee Chair unless either is involved in which case complaints will be forwarded to the Chair of the Board of Trustees. Upon receipt, complaints will be investigated in good faith in coordination with Human Resources and legal counsel as appropriate.

One important topic of consideration is confidentiality. The procedure clarifies that complaints and investigations will be confidential to the extent permitted by law. In addition, and again to the extent permitted by law, employee complaints may be submitted anonymously.

### **III. ALTERNATIVES**

Do not move forward with the proposed procedure.

### **IV. BUSINESS IMPACT**

This item is not a "rule" within the meaning of Nevada Revised Statutes, Chapter 237, and does not require a Business Impact Statement.

# **INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT WHISTLEBLOWER PROCEDURE – FINANCIAL MATTERS**

## **General**

The Incline Village General Improvement District (IVGID) expects its Trustees, officers, employees, and other representatives to observe high standards of business and personal ethics in the conduct of their duties and responsibilities. As employees and representatives of IVGID, we must practice honesty and integrity in fulfilling our responsibilities and comply with all applicable laws and regulations. This procedure implements Board of Trustees Policy 15.1.0(2.8.).

## **Reporting Responsibility**

It is the responsibility of all Trustees, officers, and employees to report Financial Misconduct in accordance with this Whistleblower Procedure.

## **Financial Misconduct**

“Financial Misconduct” means: violations of federal, state, local laws, Board and/or employee policy related to financial matters, theft, accepting bribes, fraudulent financial reporting and fraudulent recordkeeping.

## **No Retaliation**

IVGID prohibits retaliation against any Trustee, officer, or employee who reasonably believes that Financial Misconduct is occurring and reports it to a regulatory agency or a law enforcement agency, to a person with authority over the individual making the report, or to another employee with authority to investigate, discover, or correct the Financial Misconduct. IVGID also prohibits retaliation against any Trustee, officer, or employee because that individual may make or threatens to make such a disclosure. Retaliation includes harassment or adverse employment actions, such as unwarranted discipline or termination. Any Trustee, officer, or employee who retaliates in violation of this procedure is subject to discipline up to and including termination of employment, as applicable. This procedure is intended to encourage and enable employees and others to raise serious concerns within IVGID prior to seeking resolution outside IVGID.

IVGID also prohibits retaliation against any Trustee, officer, or employee who refuses to participate in any conduct that would result in a violation of local, state, or federal law or regulation related to any Financial Misconduct.

## **Reporting Financial Misconduct**

To retain confidentiality and to the extent permitted by applicable law, the District will provide a method for anonymous whistleblower submissions. The General Manager shall ensure all employees are aware of these procedures.

## **INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT WHISTLEBLOWER PROCEDURE – FINANCIAL MATTERS**

In addition, IVGID encourages its Trustees, officers, and employees to share their questions, concerns, suggestions, or complaints with their supervisor, Venue Manager, General Manager, or the Audit Committee Chair. Any Trustee, officer, employee, or member of the public may report Financial Misconduct to the General Manager and the Chair of the Audit Committee. If the Financial Misconduct implicates one or both of the General Manager or the Chair of the Audit Committee, the issue may be reported to the Chair of the Board of Trustees or any other Trustee if the Chair is implicated as well. Upon receipt an allegation of Financial Misconduct, the receiving party shall take appropriate action which shall include investigating the allegation if it appears to have reasonable cause and to be made in good faith. Investigations shall include the Human Resources department and legal counsel as applicable.

It is the responsibility of the General Manager to take immediate action to investigate and determine if corrective action needs to be taken. To ignore a report may result in disciplinary action up to and including termination for inaction.

### **Acting in Good Faith**

Anyone raising concerns of Financial Misconduct must be acting in good faith and have reasonable cause for believing the information disclosed indicates Financial Misconduct. Any allegations that prove to be made maliciously or knowingly false will be viewed as a serious disciplinary offense. For employees this may result in termination and for community members, it may result in suspension of their Recreation Privileges.

### **Confidentiality**

To the extent permitted by applicable law, reports of Financial Misconduct or suspected Financial Misconduct will be kept confidential on a "need-to-know" basis, consistent with the need to conduct an adequate investigation.

### **Information Technology Process**

The process will be to utilize a third party online form that is posted or linked to from yourtahoeplace.com that would then send an email directly to the Audit Committee Chairperson's IVGID email account. This process should be straight forward to implement and Staff believe it will take no more than a 6 to 8 business days from start to completion. There will be a nominal (*for 2020 it is \$60/year*) charge to host this form. Should a change be made to either this procedure or technology, the Director of Information Technology will consult with the District General Manager to ensure compliance.



## MEMORANDUM

**TO:** Audit Committee

**FROM:** Josh Nelson  
Interim General Counsel

**REVIEWED BY:** Indra S. Winqest  
General Manager

**SUBJECT:** Legal Opinion for Community Correspondence  
Regarding Dillon's Rule

**DATE:** September 30, 2020

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### **I. OVERVIEW**

This memorandum provides a follow up to the presentations provided to the Audit Committee at its June 30, 2020 and September 1, 2020 meetings regarding Dillon's Rule and its application to IVGID. Specifically, this memorandum summarizes the issues discussed during the presentations and provides follow up regarding some of the specific subject areas that members of the public had questioned (*i.e.*, employee benefits and non-profit/community partnerships) in prior correspondence.

As explained below, NRS 318 provides authority to IVGID in three ways: (1) express substantive powers, (2) administrative powers, and (3) necessary and incidental powers. These powers clearly include the ability to provide recreational facilities and related services and programming. They also include the ability to provide various employee expense reimbursement and retention/recognition programs. Lastly, these powers include the ability to provide non-profit/community partnerships and support in furtherance of recreation or other express power.

### **II. GENERAL RULE**

#### **A. Overview of Local Authority**

As a number of community members have noted, IVGID and other local governments may only act as permitted by statute. (See *State v. Swift*, 11 Nev. 128, 140 (1876) ["Hence, a municipal corporation, in this state, is but the creature of the legislature, and derives all its powers, rights and franchises from legislative enactment or statutory implication."]; see generally *State ex rel. Harvey v. Second Judicial Dist. Court*, 117 Nev. 754, 773 (2001).) This is commonly known as

“Dillon’s Rule.”<sup>1</sup> While the Legislature has provided greater “home rule” authority to cities and counties, it has not done so for general improvement districts.

The courts have provided guidelines to help determine if a local government has the authority to act and where it may lack the ability to do so. For example, general principles of statutory interpretation apply. As such, “[i]t is well settled in Nevada that words in a statute should be given their plain meaning unless this violates the spirit of the act.” (*McKay v. Bd. of Supervisors*, 102 Nev. 644, 648, (1986). [citations omitted].) “Where the language of a statute is plain and unambiguous ... there is no room for construction, and the courts are not permitted to search for its meaning beyond the statute itself.” (*Charlie Brown Constr. Co. v. Boulder City*, 106 Nev. 497, 503 (1990), *overruled on other grounds by Calloway v. City of Reno*, 116 Nev. 250, 993 P.2d 1259 (2000) [internal citations omitted].) Lastly, “where a statute is susceptible to more than one interpretation it should be construed in line with what reason and public policy would indicate the legislature intended.” (*State, Dep’t of Mtr. Vehicles v. Lovett*, 110 Nev. 473, 477 [internal citations omitted].)

In addition, authorized powers must be interpreted consistently with other state law. If local action is expressly preempted by the state, the local government cannot act. (See *Lamb v. Mirin*, 90 Nev. 329 (1974).) Similarly, if the Legislature regulates an area, local action may not be permitted, even if it is not directly in conflict. (See *Falcke v. Douglas County*, 116 Nev. 583 (2000) [Legislature’s adoption of supermajority voting requirements in some areas prohibits locally adopted supermajority voting requirements in other areas].) The express authority to provide some types of services indicates an intent not to allow the agency to provide other types of services that are not listed. (2013 Nev. Op. Atty. Gen. No. 07, \*6)

Despite this, general grants of authority are interpreted broadly. In *Flores v. Las Vegas-Clark County Library District* (2018) 134 Nev. 827, 833, the Nevada Supreme Court held that the general authority for a library district to “[d]o all acts necessary for the orderly and efficient management and control of the library, see NRS 379.025(2)(f), and [e]stablish[ing] bylaws and regulations for the management of the library, see NRS 379.025(1)(h).” included the ability to ban firearms at libraries. This was true even though the Legislature expressly preempted towns, cities, and counties from regulating firearms. As library districts were not included within the express ban on local regulation, their general authority to operate libraries included the ability to ban firearms. Importantly, the Supreme

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<sup>1</sup> This memorandum uses this term given its use in the community. However, Dillon’s Rule may be more accurately applied to general purpose local governments like counties or cities. Special districts like IVGID are inherently limited to providing those services and otherwise acting as permitted by statute. (See NRS 318.116.)

Court recognized that other local governments had similar authority, including GIDs.

B. Powers Granted to IVGID in NRS 318

IVGID's powers are generally set forth in NRS 318. (See generally Leg. Counsel Bureau, Background Paper 83-4, General Improvement Districts.) NRS 318 identifies three different types of powers that GIDs possess: (1) express substantive powers, (2) administrative powers, and (3) necessary and incidental powers.

For the first, NRS 318.116 identifies a number of services that GIDs may provide. Not all GIDs may provide all services identified in this section. Rather, GIDs must be authorized to provide each type of service. Under these rules, IVGID has been authorized to provide water, sewer, solid waste, and recreational services. Importantly, while NRS 318.116 generally refers to "furnishing" facilities, other portions of NRS 318 clarify that this includes operating these facilities and providing related services. (NRS 318.100(2) ["The district may also furnish services pertaining to any such basic power which the district may exercise."]; NRS 318.145 [operation of facilities].)

For the second, NRS 318 identifies administrative powers that GIDs may utilize when conducting business. For the third, NRS 318.210 recognizes that NRS 318 cannot exhaustively state all things that a GID may need to do and it grants GIDs all necessary and implied powers required to exercise their express powers. Specifically, it states that GIDs "...shall have and exercise all rights and powers necessary or incidental to or implied from the specific powers granted in [NRS 318]. Such specific powers shall not be considered as a limitation upon any power necessary or appropriate to carry out the purposes and intent of this chapter." Similarly, NRS 318.205 empowers GIDs to adopt bylaws "[f]or carrying on the business, objects and affairs of the board and of the district [and] [r]egulating the use or right of use of any project or improvement." In this regard, it is important to note other portions of NRS 318 which evidence a legislative intent to grant broad powers to GIDs. (NRS 318.015(1) ["For the accomplishment of these purposes the provisions of this chapter shall be broadly construed."]; 318.040 ["This chapter being necessary to secure the public health, safety, convenience and welfare, it shall be liberally construed to effect its purposes."].)

Based on the above, any question regarding whether IVGID has the ability to do something requires first asking which express power it falls under (either substantive or administrative). If the action does not fit squarely within an express power, one must ask whether it is "close enough" to an express power to fall under IVGID's incidental powers. As an example, IVGID could not operate a police

department as NRS 318 does not authorize GIDs to operate public safety departments. In addition, this is so far removed from any express power in NRS 318 to qualify as an incidental power. (See 2013 Nev. Op. Atty. Gen. No. 07, \*6.) By contrast, suppose the question was whether IVGID could install a security camera at its water facilities to deter vandalism. In this case, while "installing a security camera" is not specifically identified in NRS 318, it is part of the water system and would be permissible (either as part of the express authority to provide water service or incidental to this express power). (NRS 318.144, 318.205, 318.210; *Las Vegas-Clark County Library District*, 134 Nev. at 833.)

### III. **EMPLOYEE BENEFITS AND COMMUNITY PARTNERSHIPS**

When this matter was referred to our office for consideration, a list of eight specific questions were included. These questions identified a number of different situations for evaluation. These situations generally split into two categories: (1) employee benefit-related expenditures and (2) community/non-profit partnerships.

Applying the discussion above to these categories, one must first determine if they fall within an express power and if not, determine if they are permitted through IVGID's incidental powers. For employee benefit-related expenditures, IVGID's administrative powers grant broad authority to hire and compensate employees and contractors. (NRS 318.180, 185.) The power to compensate necessarily includes the ability to reimburse an employee for business expenses or operate an employee recognition program. Even if one argued that this was not within the express powers in NRS 318.180 and 318.185, it would be an incidental power or otherwise part of the general grant of authority to compensate employees. (See *Las Vegas-Clark County Library District*, 134 Nev. at 833.) Of course, all employee recognition and retention programs should be reasonable (as determined by the Board and General Manager) to ensure they serve a public purpose and are not substitutes for basic salary and other traditional compensation.

For community/non-profit partnerships, the NRS does not include an express power to make general *in kind* or monetary donations to non-profits or community groups. In this respect, it is important to distinguish IVGID from cities and counties. These entities do have express authority to make these donations. (See NRS 244.1505, 268.028.<sup>2</sup>) Based on this, IVGID must look to its other powers for this authority.

Importantly, not all monetary or *in kind* support provided to local non-profits and community groups qualifies as a "donation." For example, IVGID contracts with the Diamond Peak Ski Education Foundation to provide ski team and ski race

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<sup>2</sup> This legislative authority is cited in the Attorney General Opinion included in the community correspondence. (See 2005 Nev. Op. Atty. Gen. No. 01 *overruled by* 2005 Nev. Op. Atty. Gen. No. 07.)

programs. This contract includes having IVGID provide ski passes and tickets to coaches and participants. These passes and tickets are not “donations” but consideration provided to the Foundation in exchange for it providing recreational services. Functionally, this would be the same as hiring a contractor to provide a recreational program. (See NRS 318.143, 318.100.) Similarly, IVGID may lease office space to a non-profit at below market rent. This is likely permitted under NRS 318.160 which grants broad authority to lease property. Lastly, IVGID provides qualifying non-profits with venue space at no cost or reduced rates under Policy and Procedure Resolution No. 132/Resolution No. 1701. While this is permissible even if considered a “donation” as explained below, it also likely falls under the Board’s ability to charge fees and rates for the use of IVGID facilities. (NRS 318.197.)

That being said, any actual donations are most likely permitted under IVGID’s implied or incidental powers provided that they are in furtherance of some express IVGID power.<sup>3</sup> To that end, the Board of Trustees has adopted policies to this effect. In addition to Policy and Procedure Resolution No. 132/Resolution No. 1701, the Board adopted Policy and Procedure Resolution No. 110/Resolution No. 1493 which authorizes IVGID staff, with advance notice to the Board of Trustees, to make reasonable (*i.e.*, generally less than \$1,000) monetary expenditures to support community groups provided that the support is “...related to a purpose authorized by NRS Chapter 318, and delegated to IVGID thereunder.” Importantly, this must in furtherance of some express power. General grants of funds are most likely impermissible absent express statutory authority. (See 2000 Nev. Op. Atty. Gen. No. 10.)

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<sup>3</sup> While not directly related to Dillon’s Rule, donations are permitted by the Nevada Constitution and general laws. (Nev. Const., art. 8, §§ 9-10; see also 2013 Nev. Op. Atty. Gen. No. 07.)

<b>Issue</b>	<b>Authorization</b>	<b>Discussion</b>
Providing stale recreational merchandise to local charities.	NRS 318.143, 318.160, 318.205, 318.210	<p>-Based on our investigations, this has occasionally occurred when recreational staff has donated stale, unsold recreational merchandise to non-profits for fundraisers.</p> <p>-This would most likely be authorized as incidental to operating recreational programs as this stale merchandise has nominal market value. However, if viewed as a "donation," this would be incidental to the Board's authority to dispose of unused, unsold IVGID property.</p> <p>-However, there is not an explicit Board policy on this, and the Board of Trustees may wish to provide guidance.</p>
Providing below market rate rent to non-profit tenants.	NRS 318.160, 318.205, 318.210	<p>-This is permissible under IVGID's power to lease property.</p> <p>-Even if considered a "donation," it would be authorized as incidental to this express power.</p> <p>-Moreover, the lease at issue was approved by Board action.</p>
Providing venue cards to employees.	NRS 318.180, 318.185, 318.210	<p>-This is permissible and a common way to show appreciation for employees.</p> <p>-It is set forth in Personnel Policies 6.10, and this benefit is expressly "subject to change by the Board of Trustees and may be revoked if the privilege is abused by an employee and/or their qualified dependents."</p>
Sending employees on business trips and reimbursing business expenses, providing per	NRS 318.180, 318.185, 318.210	<p>-Employees commonly receive reimbursements for expenses associated with business travel. Reimbursements may be based on actual expenses or a per diem. IVGID's current policy complies with the requirements. (See Personnel Policies 7.) This policy requires receipts for actual reimbursement and an expense report for all travel cases. Employees must receive prior authorization for overnight travel from their supervisor.</p>

<p>diem reimbursement.</p>		
<p>Employee celebration expenses, including the use of purchase cards.</p>	<p>NRS 318.180, 318.185, 318.210</p>	<p>-Similar to rewards, this is a common way to show appreciation for employees. Celebration expenses should be reasonable cost (<i>i.e.</i>, pizza parties). -IVGID has adopted a policy regarding the use of procurement cards. (See Personnel Policies 8.) This policy does not expressly discuss employee celebration expenses. However, “[a]ll purchases made with a District Procurement Card must be for the use and benefit of the District. No personal purchases are allowed.” In addition, the Board of Trustees assigns funds each year for this purpose. The Board of Trustees could adopt a specific policy if it wished.</p>
<p>Employee birthday parties and related gift certificates.</p>	<p>NRS 318.180, 318.185, 318.210</p>	<p>-Similar to rewards, this is a common way to show appreciation for employees. Celebration expenses should be reasonable (<i>i.e.</i>, a nominal gift card for coffee). -In discussions with staff, the bulk of employee celebrations are funded by participating employees. Any IVGID funds are drawn from the funds assigned by the Board for employee recognition. Similar to the above, the Board of Trustees could adopt a specific policy if it wished.</p>
<p>Contractor meals while meeting with staff</p>	<p>NRS 318.180, 318.185, 318.210</p>	<p>-This is not explicitly covered by the existing employee reimbursement policy and has been traditionally authorized under the purchasing policy. -It would be permissible under Dillon’s Rule as compensation to a contractor or reimbursement to an employee of necessary business expenses. However, the Board of Trustees may wish to clarify this in an explicit policy. Note that there is a comment about this in the Board of Trustees’ handbook for business lunches.</p>

Employee rewards through IVGID "bucks"	NRS 318.180, 318.185, 318.210	<p>-This is permissible and a common way to show appreciation for employees.</p> <p>-This is part of IVGID's P.E.R.K. program for seasonal employee recognition and retention. This program has been brought to the Board of Trustees in the past, including in February 2007.</p>
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## MINUTES

### **AUDIT COMMITTEE MEETING OF SEPTEMBER 1, 2020 Incline Village General Improvement District**

The Audit Committee meeting of the Incline Village General Improvement District was called to order by Audit Committee Chairman Matthew Dent on Wednesday, September 1, 2020 at 5:06 p.m. at the Boardroom located at 893 Southwood Boulevard, Incline Village, Nevada. This meeting was conducted virtually via Zoom.

Director of Information Technology Mike Gove said that the team is working through some challenges with Zoom toll free numbers and gave the public a non-toll free number to call.

#### **A. ROLL CALL OF THE AUDIT COMMITTEE MEMBERS\***

On roll call, present were Matthew Dent (Trustee, Chair), Cliff Dobler (At-Large Member), Sara Schmitz (Trustee), Raymond Tulloch (At-Large Member) and Derrek Aaron (At-Large Member).

Also present was Staff member Director of Finance Paul Navazio.

There were no members of the public present (State of Nevada, Executive Directive 006, 016 and 018 and 021).

#### **B. PUBLIC COMMENTS\***

Aaron Katz said that the system is screwed up as he doesn't know what the problem is. Dillon's Rule – local government exists only for prescribed powers and IVGID's are NRS 318. When District General Counsel cites to code sections, he should be looking for express powers and they better be there. Mr. Katz then recited several paragraphs of the Nevada Revised Statutes and then said that employee business travel, rewards, celebration expenses, monetary or non-monetary charities or non-profits were not addressed anywhere and that he should simply respond that there is substantial doubt. This should be resolved against IVGID Staff as they are instructing but he won't do that. Rather than speak the truth, he is appeasing Staff because he wants to be IVGID's fixer which was the same problem we had with the previous attorney. The Board wants an attorney that criticizes the Staff when they are inappropriate so you better have a talk with District General Counsel to be sure that is done; Mr. Katz then said that he would be submitting a written statement.

Margaret Martini said that she greatly appreciates the Audit Committee's professional approach to prioritizing the independent evaluation of the District's

## Minutes

Audit Committee Meeting of September 1, 2020

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most contentious accounting and reporting practices. After more than six years, our citizens have documented inappropriate and unlawful practices that have materially distorted the District's financial statements. This has created a cascade of overstating revenues and understating operating expenses as well as concealing non-compliance with Board policies to create a false picture of the District's actual operations and financial health. Over those years, the previous Audit Committee, whose members also constituted the previous Board majority, has been silent, while management, without any Board investigation or oversight, has continued those practices. She supports this Committee's engagement of an independent expert accounting team to analyze these matters and she applauds Trustee member Schmitz for leading this effort. As our Board Treasurer and the newest addition to our Board, she believes that she will bring a fresh perspective and will work effectively with Moss Adams, this Committee, Staff and members of our community to substantively review these accounting policies and take the necessary corrective measures. This is a major step forward in ensuring that our District's financial statements are prepared in compliance with all relevant Nevada laws, regulations and Government Accounting Standard Board Statements. As a property owner, she looks forward to an accurate accounting of exactly how her taxes, rates and fees are being spent and how well all of the District's activities are being managed.

Diane Becker said she is a resident of Incline Village and that she has reviewed District General Counsel's presentation which hasn't addressed her key points. Two things that he needs to do is to give real advice and review the specific policies that he raises in NRS 318. The Board can delegate and the policies should be reviewed to ensure they are in compliance. Review the type of expenditures as we have heard, from Ms. Gumz, about some expenditures in 2019, specifically on April 15 and April 22, 2019, that were three expenditures that added together were food for ski employees. These expenditures need to be reviewed and then advise the employees what they can and cannot spend on. Also, we need case law references. She is concerned that the NRS allows counties to make these expenditures but not GIDs. She is not against employee expenses or charity donations but that they can only be done in compliance with the NRS so that the Board is insulated. She looks forward to hearing more from District General Counsel as she doesn't think he has done enough to alleviate concerns on this issue.

Frank Wright said that he is a candidate for the Board and that he was going to comment on something totally different but after listening to the Dillon's Rule conversation he wants to say that we had bad legal advice; bad advice and opinions. If it is not stated, then IVGID shouldn't be doing it. If we are spending

money where it is breaking the law or in a real funny zone, we need a real clear interpretation of what we can or can't do. He ran across a statement by our previous attorney that said we must follow our own laws. Now, we have a new attorney that too wants to get around things. If it isn't stated, then we can't do it. We need to make sure our Legal Counsel understands Nevada law. Also, he just received an opinion from the Nevada Attorney General that IVGID didn't violate the Open Meeting Law but that if they continue, they will. He filed his complaint in 2018 and 2 years and 4 months later, he got this rendition from the Attorney General which is another problem that is frustrating. Thank you.

Linda Newman said she supports the Committee's unanimous decision to engage an independent accounting firm to evaluate the propriety of Management's failure to use Enterprise funds to account and report the activities of Community Services and the Beaches, the treatment of Punch Card utilization, as well as the capitalizing of consulting services and repairs. She also encourages the inclusion of analyzing the treatment of the \$2 million of revenues collected annually for the future replacement of 6 miles of failing effluent pipeline as current, rather than deferred revenues as well as considering the sums collected as part of the unrestricted net position of the Utility Fund. She strongly encourages this Committee recommend securing the opinion of the Attorney General on the concrete powers of our General Improvement District as it relates to the use of our taxes, fees and charges for services to make cash and non-cash contributions to non-profits. Although there is a provision in NRS 244 for Counties on charitable donations, NRS 318 does not explicitly grant these powers to General Improvement Districts. Interpretations of NRS 318 from our current legal counsel lack the gravity of an opinion from the Office of the Attorney General. In her view, this is the best way to resolve this matter. As the District's 2020 financial statements are currently under audit, she highly recommends that you undertake the review of the annual internal control audit plans and review management's annual assessment of their internal controls for the prior year's audit plan – as stated in Policy 15.1.0. In light of the mounting correspondence raising critical issues, along with the absence of a comprehensive framework of internal controls, and the discovery daily of other pressing matters under this Committee's purview, she encourages this committee to secure additional resources to assist you. As also stated in Policy 15.1 –the engagement of an independent financial advisor might be best undertaken sooner rather than later.

**C. APPROVAL OF AGENDA (for possible action)**

Audit Committee Chairman Dent asked for any changes; none were received; the agenda is approved as submitted.

**D. GENERAL BUSINESS ITEM (for possible action)**

**D.1. Review with Audit Committee, long range calendar (Requesting Trustee: Audit Committee Chairman Matthew Dent)**

Audit Committee Chairman Dent said that the next Audit Committee Meeting is September 30 and that there will be a CAFR update. Staff is a little bit delayed in getting our items to them and they were sent to Eide Bailly this week and they are moving forward. Eide Bailly has a couple of items that they want to see before the CAFR is finalized. Director of Finance Navazio said that there needs to be some discussion about a policy, that needs to come before the Audit Committee, as they are being updated and that one thought is to have a standing item for an internal controls update; we can talk about how to engage with the Audit Committee and give them a better sense of progress. Audit Committee Chairman Dent said that we also may want to look at the scope for the auditor in order to look at an RFQ as we want to do that sometime in October so he would like to look at that process taking place. At-Large Member Cliff Dobler said that he is not clear and asked if this item was about asking us what we want on the agenda? Audit Committee Chairman Dent said that you can e-mail anything you want on the agenda to him and that he will get that on there and that he is asking Staff to plug in dates or we can meet more often as he is just putting in placeholders so you can request now or you can send an e-mail. At-Large Member Dobler said he would like to request a couple of things now – review of the welcome, transmittal, and management discussion and analysis (MD&A) which are produced by management. In 2019, it consisted of 18 pages of data and as he went through it, there were 3 components and so many errors that he would like to see them and review them. Audit Committee Chairman Dent said then let's have them on the September 30 meeting. Director of Finance Navazio said that typically the MD&A is the last thing prepared because it draws from the audited statements and that it might be possible to have a draft ready for September 30, however his thought would be that it should be on the October meeting agenda and that he needs to check as he doesn't know how far along the audit will be thus he would like to put that on the October 28 meeting agenda. Audit Committee Chairman Dent asked if the Director of Finance could send that material to the Audit Committee members prior so that we can have a discussion. At-Large

Member Dobler said that his thought process is that no one will read them because they will fall asleep. They need to go on a big diet as we don't need to be disclosing things that we don't need to. His goal is to work with the Director of Finance and the Audit Committee to trim them down to something that matters. At-Large Member Derrek Aaron said that he concurs and that per the milestone schedule that he thinks was presented that we need to see those deliverables including the kickoff meeting minutes for the whole audit. It is his understanding that there was people that were left off and that is pretty significant of being left out. He would like to see that presentation and then anything we are handing off to Eide Bailly. The content in the whole audit package may be boiler plate stuff. At-Large Member Dobler said yes, let's see the boiler plate items. Audit Committee Member Schmitz said that in Policy 15.1.0, and specifically 2.4.1., it is her understanding and feeling that when materials are being delivered to the auditor that materials should also be shared with the Audit Committee so that we have the opportunity to understand what is being shared so we are involved in the information process so we aren't waiting for the cake in the oven to be finished. The materials should be shared with the Audit Committee at the same time. Director of Finance Navazio said that for the MD&A and the cover, he has no problem with providing that concurrent with it going to the auditors. He has had discussions with the Audit Committee members that there is room for improvement and that he can provide a narrative to explain the financial results to someone who may not be a CPA or who doesn't want to comb through all the schedules. The approach he has always taken is to communicate, in an accessible way, in the summary of the document. He is not using IVGID's old template and that if someone wants to see a draft or examples, he is happy to share that information and get feedback. At-Large Member Dobler said that it doesn't matter what your philosophy is, he wants to see it. District General Counsel Joshua Nelson said that the Audit Committee is discussing details of future agenda items and that he is recommending that you keep it to the agenda items. Audit Committee Member Schmitz said that she received an e-mail from District General Manager Winquest that said he is going to present the whistleblower procedure and the other thing is, before we start the budget process, and this is one of the things that she has discussed with the Director of Finance and the District General Manager, is budgeting for things that are available to the general public. We have had some discussion about those types of costs and activities, which is budgeted under the General Fund as

opposed to Community Services, that aren't restricted to only parcel owners because we are doing things for the general public so it is something that we should discuss. At-Large Member Dobler said that the odd thing about it is that if you take a look at the resolution for facilities and beaches, parks aren't mentioned which is kind of ironic. Audit Committee Chairman Dent said he would agree and asked if a 3 p.m. start time works for everyone; all members agreed to the proposed time of 3 p.m. for September 30. Audit Committee Chairman Dent said that the deadlines for the agenda items is September 18 and that is to him and then the deadline for back up materials is September 22.

**D.2. Review, discuss and possibly make a recommendation to the Board of Trustees to allocate funding and approve a proposal for the analysis and recommendations related to Enterprise (proprietary) vs. Special Revenue (governmental) fund accounting, Central Services cost allocations, punch card accounting for the Community Services and Beach Funds, and the capitalization of consulting and repairs for all of the District's Governmental and Proprietary Funds (Requesting Trustee: Audit Committee Member Sara Schmitz)**

Audit Committee Chairman Dent said back in March, at a Board of Trustees meeting, the Board of Trustees voted to authorize this to happen and allow the Audit Committee Chair to engage the consultant so there is no action necessary tonight and that he wanted to make sure we are all on the same page and that this will go onto the Consent Calendar next Wednesday just to do a modification of the District's budget. Audit Committee Member Schmitz said that at the March 11 meeting, the Board of Trustees did authorize the Audit Committee Chair to engage and that authorization was given so does this need to go back to the Board of Trustees; she thought that District General Counsel Nelson informed her that it is up to the Chair? District General Counsel Nelson said that this is a budget clean up item and that it doesn't affect the issuance of the contract but it is something that we want to clean up. At-Large Member Dobler said that he is a bit confused as how could you put it on the Consent Calendar if you have no budget for it. It was authorized in the last fiscal year and now you are turning around and saying we don't have the funds? Now you are coming back and saying put it on the Consent Calendar because we don't have budget money? Director of Finance Navazio said he

wanted to clarify; there are two issues – the authority provided by the Board of Trustees was to proceed with a contract and that the Audit Committee can take that action. This authority was given last March and if the committee had taken action, and in hindsight, they should have either included it or taken action. Money was added for internal controls and utilities but money was not put in the budget so the only thing that is being suggested is increasing the budget to provide the funding for the study or, alternatively, the Board of Trustees could re-direct from some other purpose. Basically, it is a budget clean up item which is a companion item to put the appropriation in place. At-Large Member Raymond Tulloch asked why wasn't it accrued and carried forward into this budget. Audit Committee Member Schmitz said that she didn't want to put words into the Director of Finance's mouth but what has been discovered here is that potentially this happened at a meeting before the current Director of Finance was an employee of the District so it got missed and fell through the cracks. It was overlooked and we have to deal with it. Director of Finance Navazio said he thinks that is accurate and we solve it by bringing it forward. Audit Committee Member Schmitz gave an overview of the submitted materials and stated that only one response was received and that the other firm was unable to provide a response due to their capacity. There is no conflict in using Moss Adams because it is a completely different discipline from the contract review. At-Large Member Dobler said so we have a proposal here and that his biggest concern is, since he is the sponsor of the errors, that he wants to make sure that we are delivering all of his memorandums to assist them in making their decisions as he doesn't want this to be a one-sided review as he has worked on this for 5 years as well as the memorandums. Audit Committee Member Schmitz said she would feel remiss that she didn't include the information that was shared and that yes, your memorandums were shared as well as the document that the Director of Finance put together on punch cards. She will be delivering the same items again and she will take this on as an action item. There may be other items that would come out in the kickoff meeting and you would be there to be interviewed as well as the Director of Finance. This approach is going to be open, transparent and inclusive so everyone will be willing to accept the outcome of this engagement. At-Large Member Tulloch said that the proposal looks pretty good and it should be sponsored by the Audit Committee so the vendor understands who is the client. His only remark is total cost proposed and there is a cost for different levels so is there a breakdown for

different levels? Also he has never seen an IT charge before? At-Large Member Aaron said that there is one identified firm, Moss Adams, and asked if there was another firm that hasn't been disclosed that we are still considering and are we still waiting on this firm to share something with us? Audit Committee Chairman Dent said that he reached out to HintonBurdick and that they can't meet our needs at this time so the only proposal is from Moss Adams. At-Large Member Aaron said we should take the time to find another firm as he would really like to consider two firms as we need to make sure we have interviewed a couple of firms and make our case. He doesn't know if he would give his approval without another firm to consider. At-Large Member Tulloch said that he takes At-Large Member Aaron's point and he is always one for competitive bidding. Given that the total amount is \$28,000, he doesn't think it is justified to delay this given its importance. At-Large Member Dobler said that he thinks that the impact, if these errors are proven to be errors and that they are requiring restatement, will be a major impact on delivering a final audit and that will require some major misstatement so delaying any longer is shooting ourselves in the foot; let's approve it tonight and get it started. Audit Committee Member Schmitz asked Staff if in working with Moss Adams, as it relates to working with the firm, would you be comfortable engaging them in another project such as this? Director of Finance Navazio said that every project is a little different and this is a different group so no, he doesn't see any real issues or concerns with the experience to date and that he is anticipating this one getting off to a quicker start as it is a little more finite and if we are familiar with their internal process, this one will go smoother. He did do some due diligence on Moss Adams with reference checks, etc. and all had very positive feedback so he has no concern with the Audit Committee proceeding and that eyes wide open is all that we ask. District General Manager Winquest said he agrees as the District hasn't been working with Moss Adams as long but that they seem to be very solid. He does give merit to what At-Large Member Aaron said as the District has been accused of sole sourcing and he has had several conversations with At-Large Member Dobler but that Audit Committee Member Schmitz did do a good job of explaining and providing an understanding that there is a reason. She did try to solicit two bids and one firm said that they couldn't meet our expectations. It was explained on the record so the community doesn't think we are hiring our favored collaborators. Audit Committee Chairman Dent said we wanted to go with a different firm so it didn't look like we were stacking



the deck but given that we have two months to bring this across the finish line, we do need to move forward with this item. If not for the timing, he would agree that we should be getting more bids. Finally, we need to take out the District and put in the Audit Committee. Audit Committee Member Schmitz said that they did a good job considering the timing and that when she read the meeting minutes, At-Large Member Dobler had been bringing up a particular concern which she misinterpreted and that was the question about the Utility Fund and how it has been representing collecting the \$2 million from ratepayers. She also knows that it is an item for the potential CAFR because we did restrict \$9.6 million and that she thinks that At-Large Member Dobler's other issue will be handled in this year's audit. She wanted to acknowledge that he mentioned it and that she didn't get it into the scope of work. Audit Committee Chair Dent said, in his discussions with Eide Bailly, he is going to be sending over a couple of follow up items that were discussed. At-Large Member Aaron said that he does understand the serious nature of getting these points reviewed and that he does appreciate the oversight. Given the nature of this item, he probably is not going to support it. He is sure that Moss Adams is a capable firm and that he will express his opinion at the appropriate time. Audit Committee Chair Dent said that there will be no vote at this time and that we will get clarity and provide feedback. At-Large Member Dobler said he doesn't understand the action. District General Counsel Nelson said that it gets to the discussion at the beginning of the item and that is after review, we have determined that the authority for the Audit Committee Chair was already provided at the March Board of Trustees meeting so there is no sending this back as the Audit Committee Chair already has the authority to execute the contract.

**D.3. Review, discuss, and possibly take action related to the following communications that have been received and are included:**

- 3.D.a. April 2, 2020 e-mail communication regarding Dillon's Rule from Ms. Diane Heirshberg and May 2, 2020 e-mail communication from Attorney General Opinion (dated 2005) from Joy Gumz (13 pages)**
- i. Update/Response (Requesting Member: District Legal Counsel Joshua Nelson)**

District General Counsel Nelson said that he did really appreciate the public comments that we got; he will provide an overview of Dillon's Rule, will then go over the 8 items, and then talk about the next steps which might include, if agreeable to the Audit Committee, a written public opinion that can be posted on the District's website. District General Counsel Nelson then gave a verbal overview of the submitted materials and Dillon's Rule. Audit Committee Member Schmitz said that one of the things that we have discussed at a prior meeting is how restrictive Washoe County is. She did some fact finding and Washoe County is very limiting and that they only allow expenses for meals during meetings which requires the approval of the Washoe County Commissioners even for those items. Did you learn any reasoning behind that and why? District General Counsel Nelson said that he did do some research and that it was a policy determination and not a legal restriction. In going back to Dillon's Rule and the amount of compensation it is a policy question for those entities. At-Large Member Dobler said he would like to take a few minutes because he did a lot of research and he looked at your presentation. He would like to address the support to non-profit groups and he is talking about expressed powers and you used incidental powers and there is nothing in there. NRS 318.116 is basic power that is granted and there are 21 items in there and it doesn't talk about services but rather about furnishing facilities. 14 is recreational in NRS 318.143; At-Large Member Dobler read part of this section, and that this basic power is only limited to providing the facilities. In our resolutions, we are saying that we are making the facilities available for use. There is nothing in the statutes that says programs are to be subsidized or educational programs or Easter egg hunts. If you go to NRS 318.210, trying to say it is implied powers - he read an excerpt. Specific powers are to furnish facilities and if you take those two statutes and constructing the idea that we can do community programs at losses has no bearing at all. As NRS 318 in total, make facilities available, offer it in a safe manner, it is facilities only and do nothing else. Nothing to provide support to non-profits. Express powers must be in the statutes. To do this under implied power, it started back in the Constitution. It is only implied to what your powers are and the only way to get this solved is to go to the Attorney General and get an opinion. His problem is providing a lot of facilities. A work around is Resolution 1701 and then we charge them something that is tremendously below market rate which gets us to yield management; it is substance over form. We are providing something at tremendously lower rates so we can provide the facilities

to them. We did the same thing with others such as Parasol, etc. It is being constructed around it through policies and policies that don't trump statutes. If statutes are giving express power, why would we ever believe we have implied power to do this and it is never expressed anywhere? This is papering around what the statutes actually say. District General Counsel Nelson said that this is the exact conversation that he wanted to have because the written opinion answers this question and he can make sure that providing programs is fleshed out and that he used the same statute on implied powers. At-Large Member Dobler said that incidental and implied are two different things. District General Counsel Nelson made reference to NRS 318.210. At-Large Member Tulloch said that he has some issues with your interpretations as it was about corruption and then look at the Attorney General opinion and if the power is not expressly allowed, it is disallowed. You can't lessen the statute by writing policies and you can't reduce that power. As one reads through the presentation, you ask were you trying to finesse your way through this? He doesn't think that anyone is philosophically opposed to some of this but with the credit card receipts, a blank one from Lupita's, the public should be concerned with that. District General Counsel Nelson said that he absolutely agrees that IVGID couldn't adopt a policy without the powers granted in NRS 318 and that when we get into the 8 items, hire and compensate employees, these things have been included in there. At-Large Member Tulloch said he will take some disagreement as we have to determine if we are public or private as we are trying to have it both ways. We subsidize venues and then we want to take the perks so we need to decide which direction we are going in. At-Large Member Aaron said that he concurs with District General Counsel as NRS 318.218 uses the words implied or incidental. Audit Committee Member Schmitz said that the phrase in NRS 318.210 that hit home are the very last few words. When we look at things, we need to be appropriate and carry out the intent of this chapter. They are the guiding words relative to Dillon's Rule. At-Large Member Dobler said that he has to agree with Audit Committee Member Schmitz and it is a guiding sentence. Look at the specific powers – they are to just furnish facilities and to say we can provide a whole bunch of services; he doesn't see it. Audit Committee Member Schmitz said we have facilities and recreation is an element of how does it come into recreation? At-Large Member Dobler said it is recreational facilities and build something that would be breakeven. He remembers when Gene Brockman was on the Board and that it

had to be breakeven because we didn't have that power. We issue privileges to whomever we want because we have decided to provide something beyond those powers. Most of this stuff was leased out to third parties who paid rent; they didn't care one way or the other. In reading this statute, we are inserting things that aren't there to make it work. Audit Committee Member Schmitz said just pull up NRS 318 as it talks about facilities for swimming pools and you are right, that is what it says. At-Large Member Dobler said with the resolution, we make facilities available for use, and where is the authority for programs? How much was it for the Recreation Center; \$400,000? We never got it at the golf courses, Diamond Peak, Tennis Center or the beaches. He doesn't know how we got from point A to point B. District General Counsel Nelson said that he really appreciates the feedback and discussion and that he will prepare his written opinion and give that to the Audit Committee and then we will have the opportunity to ask the Attorney General for an opinion. Audit Committee Chair Dent so that will come back to us on September 30; District General Counsel Nelson said yes. At-Large Member Aaron asked if the PowerPoint presentation was an all-inclusive list as it relates to NRS 318? Some of the discussions were outside these points. How do we make sure that we cover all the points that are related to NRS 318? Do you need a more comprehensive list? Or can you work one out on your own? District General Counsel Nelson said that those 8 items are the ones that were in Ms. Heirshberg's e-mail and then what At-Large Member Dobler brought up. If there are other things, he is happy to look at them. At-Large Member Aaron said so it is not all-inclusive and there is opportunity for other input.

**3.D.b. August 7, 2020 e-mail communication asking Is IVGID Improperly Using the District's Ad Valorem Taxes? from Aaron Katz (2 pages)**

Audit Committee Chair Dent said that he spoke with the Director of Finance and District General Counsel; he then asked Director of Finance Navazio if he wanted to address this item. District General Counsel Nelson said that he did do due diligence and there is no provision in the NRS that doesn't prevent us from using the taxes. He did contact Indian Hills and NRS 354.512 specifies when an agency creates a fund, they need to indicate the source of the funds. When Indian Hills did was they restricted its fund and it is coming from the Utility Fund. Director of Finance Navazio also did some due diligence

and that he believes that the context is only the General Fund therefore ad valorem is the recovery of the central services allocation plan. The e-mail suggests that a certain Nevada public agency is stating that they are using it. We can continue to chase that agency and there are a number of agencies that recover similar to what we do. Compared with our research, he confirmed that the Department of Taxation that this is allowed. He is willing to work with District General Counsel if the Audit Committee wants a written response. At-Large Member Dobler said after the submittal of the 14 points, he supplemented it with 7 more points and that this correspondence has gone into limbo. Audit Committee Chair Dent said that it hasn't gone into limbo and that there were a couple of items on the last agenda that will be carried forward to the next meeting; he told Staff to leave it off the agenda.

**E. APPROVAL OF MEETING MINUTES (for possible action)**

**E.1. Audit Committee Meeting Minutes of August 19, 2020**

Audit Committee Chair Dent asked for changes, none were received, the minutes were approved as submitted.

**F. PUBLIC COMMENTS\* - Conducted in accordance with Nevada Revised Statutes Chapter 241.020 and limited to a maximum of three (3) minutes in duration.**

Linda Newman said thank you all for a very lively and comprehensive discussion. She greatly appreciates everyone's preparation for the agenda items and the variety of well thought-out points of view.

**G. ADJOURNMENT (for possible action)**

The meeting was adjourned at 6:57 p.m.

Respectfully submitted,

Susan A. Herron  
District Clerk

Attachments\*:

\*In accordance with NRS 241.035.1(d), the following attachments are included but have neither been fact checked or verified by the District and are solely the thoughts, opinions, statements, etc. of the author as identified below.

Submitted by Aaron Katz: Written statement to be included in the written minutes of this September 1, 2020 IVGID Audit Committee meeting – Agenda item D(3) – Review, discuss and possibly take action re: Staff’s actions in light of *Dillon’s Rule*

**WRITTEN STATEMENT TO BE INCLUDED IN THE WRITTEN MINUTES OF  
THIS SEPTEMBER 1, 2020 IVGID AUDIT COMMITTEE MEETING – AGENDA  
ITEM D(3) – REVIEW, DISCUSS AND POSSIBLY TAKE ACTION RE: STAFF'S  
ACTIONS IN LIGHT OF *DILLON'S RULE***

**Introduction:** Here local resident Diane Heirshberg Becker asks our Audit Committee “to investigate whether IVGID has the (legal) authority to make...donat(ions)...to local charities (and the Visitor’s Bureau... giv(e) IVGID venue cards to employees to use at no cost...send...employees on business trips and reimbursing business expenses, including travel...(using procurement) cards (to pay for)...’pizza for employees working non-stop,’ ‘Gung Ho meeting at Brewforia,’ ‘birthdays at MOFOS,’ ‘lunch after a tough week,’ ‘food for a going away party’ ...hav(ing) parties for birthdays and celebrations and bring(ing) in food for employees or giv(ing) gift certificates...tak(ing) people out to dinner as business entertainment...reward(ing)...employees with ‘IVGID bucks’ ...under *Dillon’s Rule*?”<sup>1</sup> In response our attorneys (Best, Best & Krieger) have provided a history of *Dillon’s Rule*<sup>2</sup>, and presumably approved of all of these activities based upon NRS 318.180, 318.185, 318.116 and 318.210<sup>3</sup>. I disagree. And that’s the purpose of this written statement.

***Dillon’s Rule:*** instructs, and we’ve been through this many, many times, local governments exist to *only* exercise those expressly enumerated powers in the initiating [see NRS 318.055(4)(b)] or supplemental (see NRS 318.077) ordinances as long as “one or more of those authorized in NRS 318.116, as supplemented by the sections of this chapter designated therein,” *and none other* [see A.G.O. 63-61, p.102, p. 103 (August 12, 1963)]. And should there be “any fair, reasonable (or) substantial doubt concerning the existence (or lack of the existence) of power (it) is (to be) resolved... *against* the (municipal) corporation...(and) all acts beyond the scope of...powers granted are void” [*Ronnow v. City of Las Vegas* (1937) 57 Nev. 332, 343, 65 P.2d 133]. So with that said,

**Employee Business Travel:** Mr. Nelson tells us the alleged “express” enumerated authority for this expenditure is NRS 318.180, 318.185, 318.210<sup>4</sup>. Yet *none* of these statutes has anything to do with the propriety of general improvement district (“GID”) expenditures for public employee business travel, let alone “express” propriety. NRS 318.180 says nothing more that “the board shall have the power to hire and retain agents, employees, servants, engineers and attorneys, and any other persons necessary or desirable to effect the purposes of this chapter.” NRS 318.185 says nothing more than “the board shall have the power to prescribe the duties of officers, agents, employees and

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<sup>1</sup> See pages 111-113 of the packet of materials prepared by staff in anticipation of this September 1, 2020 Audit Committee meeting [“the 9/1/2020 Committee packet” ([https://www.yourtahoeplace.com/uploads/pdf-ivgid/0901\\_-\\_Audit\\_-\\_Searchable-1.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/0901_-_Audit_-_Searchable-1.pdf))].

<sup>2</sup> See pages 123-129 of the 9/1/2020 Audit Committee packet.

<sup>3</sup> See pages 130-131 of the 9/1/2020 Audit Committee packet.

<sup>4</sup> See page 130 of the 9/1/2020 Audit Committee packet.

servants<sup>5</sup>, and (to) fix their compensation.” NRS 318.210<sup>6</sup> says nothing more than that “the board shall have and exercise all rights and powers necessary or incidental to or implied from the specific powers granted in this chapter.”<sup>7</sup> So why doesn’t Mr. Nelson simply say that because there is “fair, reasonable (or) substantial doubt concerning the existence of (this) power(, it must be) resolved... *against* IVGID staff?

**Employee Rewards:** Mr. Nelson tells us the alleged “express” enumerated authority for this expenditure is NRS 318.180, 318.185, 318.210<sup>4</sup>. Yet again, *none* of these statutes has anything to do with the propriety of GID expenditures for public employee rewards, let alone “express” propriety. So why doesn’t Mr. Nelson simply say that because there is “fair, reasonable (or) substantial doubt concerning the existence of (this) power(, it must be) resolved...*against* IVGID staff?

**Employee Celebration Expenses:** Mr. Nelson tells us the alleged “express” enumerated authority for this expenditure is NRS 318.180, 318.185, 318.210<sup>4</sup>. Yet again, *none* of these statutes has anything to do with the propriety of GID expenditures for public employee celebrations, let alone “express” propriety. So why doesn’t Mr. Nelson simply say that because there is “fair, reasonable (or) substantial doubt concerning the existence of (this) power(, it must be) resolved...*against* IVGID staff?

**Non-Monetary Donations to Local Charities and Non-Profits:** Mr. Nelson tells us the alleged “express” enumerated authority for this expenditure is NRS 318.116<sup>8</sup>, 318.210<sup>9</sup>. Yet again, *neither* of these statutes has anything to do with the propriety of GID non-monetary donations to local charities and non-profits, let alone “express” propriety. So why doesn’t Mr. Nelson simply say that because there is “fair, reasonable (or) substantial doubt concerning the existence of (this) power(, it must be)... resolved...*against* IVGID staff?

**Monetary Donations to Local Charities and Non-Profits:** Mr. Nelson tells us the alleged “express” enumerated authority for this expenditure is NRS 318.116, 318.210<sup>9</sup>. Yet *again*, *neither* of these statutes has anything to do with the propriety of GID monetary donations to local charities and non-profits, let alone “express” propriety. So why doesn’t Mr. Nelson simply say that because there is “fair, reasonable (or) substantial doubt concerning the existence of (this) power(, it must be)...resolved ...*against* IVGID staff?

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<sup>5</sup> Has the IVGID Board “weighed in” on what constitutes business travel, and what represents a legitimate business expense?

<sup>6</sup> See page 129 of the 9/1/2020 Audit Committee packet.

<sup>7</sup> Has the IVGID Board “weighed in” on what business expenses are necessary or incidental to or implied from the legitimate duties of a particular public employee?

<sup>8</sup> See page 128 of the 9/1/2020 Audit Committee packet. Moreover, nowhere does NRS 318.116 recognize that a GID may exercise the basic power to donate away the public’s money or other property.

<sup>9</sup> See page 131 of the 9/1/2020 Audit Committee packet.



**Notwithstanding *None* of These NRS Expressly Address the Issues Presented, Mr. Nelson Refuses to Suggest Application of Dillon’s Rule’s Mandate That Should There be “Any Fair, Reasonable (or) Substantial Doubt Concerning the Existence of Power (That Doubt Should be) Resolved... *Against*” IVGID:** And why exactly is this?

**Because Rather Than Speaking the Truth, Mr. Nelson is Trying to Share a Narrative Which Pleases His Client:** so staff can continue to do what it shouldn’t be doing.

**But the IVGID Board and the Committee Require a Different Attorney – One Who Criticizes the Board and Staff When as Here, They Are Acting Improperly:**

**And What’s Improper?** The waste of public funds and assets<sup>20</sup>! And since the RFF/BFF subsidize these expenditures, the waste of our Recreation (“RFF”) and Beach (“BFF”) Facility Fees!

**Conclusion:** I’m sorry. Our RFF/BFF do not exist so they can be used to “share the wealth” with favored special interest groups and our 1,012<sup>10</sup> largely overpaid and over benefited employees. Staff will respond that these expenditures have been expressly authorized by the Board pointing to Resolutions 1480<sup>11</sup>, 1492<sup>12</sup>, 1493<sup>13</sup>, 1619<sup>14</sup> and 1701<sup>15</sup>:

**Resolution 1480:** Abdicates the IVGID Board’s duty under NRS 318.175(1) “to manage, control and supervise all the business and affairs of the district” in favor of un-elected staff. Thus our GM is empowered to exercise “day-to-day supervision over all District employees” which “includes the power to...set (compensation levels)...each employee,” as well as some of the questionable expenditures identified in Ms. Becker’s e-mail request.

**Resolution 1492:** Allows unelected staff to “waive fees for use of District-owned facilities (for) ...1. a fundraising benefit for an Incline resident, provided...all proceeds go toward a major medical expense for a specific person, and not a group or organization; or 2. a meeting of a governmental agency.”

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<sup>10</sup> Go to <https://transparentnevada.com/salaries/2019/incline-village-general-improvement-district/>.

<sup>11</sup> See pages 12-17 at [https://www.yourtahoeplace.com/uploads/pdf-ivgid/IVGID\\_Policy\\_and\\_Procedure\\_Resolutions.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/IVGID_Policy_and_Procedure_Resolutions.pdf).

<sup>12</sup> This resolution appears at page 278 of the packet of materials prepared by staff in anticipation of the Board’s July 22, 2020 meeting [“the 7/22/2020 Board packet” ([https://www.yourtahoeplace.com/uploads/pdf-ivgid/0722\\_-\\_Regular\\_-\\_Searchable.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/0722_-_Regular_-_Searchable.pdf))].

<sup>13</sup> See pages 18-19 at [https://www.yourtahoeplace.com/uploads/pdf-ivgid/IVGID\\_Policy\\_and\\_Procedure\\_Resolutions.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/IVGID_Policy_and_Procedure_Resolutions.pdf).

<sup>14</sup> See pages 38-41 at [https://www.yourtahoeplace.com/uploads/pdf-ivgid/IVGID\\_Policy\\_and\\_Procedure\\_Resolutions.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/IVGID_Policy_and_Procedure_Resolutions.pdf).

<sup>15</sup> See pages 53-58 at [https://www.yourtahoeplace.com/uploads/pdf-ivgid/IVGID\\_Policy\\_and\\_Procedure\\_Resolutions.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/IVGID_Policy_and_Procedure_Resolutions.pdf).

**Resolution 1493:** Allows unelected staff to make cash donations from public funds to local non-profits for unspecified “community programs and events.”

**Resolution 1619:** Allows unelected staff to donate complimentary recreation privileges at the public’s recreational facilities for third party fund raising, professional courtesy, trade-out, promotion, or dignitary purposes.

**Resolution 1701:** Allows unelected staff to donate complimentary recreation privileges at the public’s recreational facilities to local non-profit, volunteer organization, national organization with a local chapter, or promoter of an activity based in or benefitting Incline Village/Crystal Bay, North Tahoe Region, government agency, or a local school” (whether or not public).

For these reasons, at the Board’s May 19, 2020 meeting I submitted a written statement<sup>16</sup> in which I urged the Board to repeal Resolutions 1619 (complimentary recreation privileges) and 1701 (free or severely discounted use of IVGID facilities by qualified non-profit, volunteer organizations or promoters of activities based in or benefitting the North Lake Tahoe region, government agencies, and local school districts) because: they sanction giveaways of public recreational facilities at local parcel owners’ expense; they cost local parcel/dwelling unit owners hundreds of thousands if not millions of dollars annually; general improvement districts (“GIDs”) are not empowered to engage in such activities under NRS 318.116<sup>17</sup>; even if they were, IVGID has never been granted this power by the Washoe County Board of Commissioners<sup>18</sup> (“County Board”); *Dillon’s Rule* instructs that since this power has not been expressly granted by the County Board, it cannot be assumed by implication<sup>19</sup>; and, these giveaways are examples of improper *government waste*<sup>20</sup>.

Then at the Board’s June 23, 2020 meeting I submitted another written statement<sup>21</sup> in which I

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<sup>16</sup> See pages 591-592 of the packet of materials prepared by staff in anticipation of the Board’s June 23, 2020 meeting [“the 6/23/2020 Board packet” ([https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT\\_Packet\\_Regular\\_Part2\\_06\\_23\\_2020.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/BOT_Packet_Regular_Part2_06_23_2020.pdf))].

<sup>17</sup> Go to <https://www.leg.state.nv.us/nrs/NRS-318.html#NRS318Sec116>.

<sup>18</sup> The only basic powers a GID may exercise are those expressly granted in its initiating [NRS 318.055(4)(b)] and supplemental (NRS 318.077) ordinance(s) as long as “one or more of those authorized in NRS 318.116, as supplemented by the sections of this chapter designated therein.”

<sup>19</sup> See the *Dillon’s Rule* discussion, *infra*.

<sup>20</sup> NRS 281.611(1) defines “improper governmental action” as “any action taken by a...local governmental officer or employee in the performance of the officer’s or employee’s official duties...which is: (a) in violation of any state law or regulation...(c) an abuse of authority...or (e) a gross waste of public money.”

<sup>21</sup> See pages 272-278 of the packet of materials prepared by staff in anticipation of the Board’s July 22, 2020 meeting [“the 7/22/2020 Board packet” ([https://www.yourtahoeplace.com/uploads/pdf-ivgid/0722\\_-\\_Regular\\_-\\_Searchable.pdf](https://www.yourtahoeplace.com/uploads/pdf-ivgid/0722_-_Regular_-_Searchable.pdf))].

urged the Board to repeal Resolution 1492 which gives “the General Manager...the administrative prerogative to waive fees for use of District-owned facilities under (certain medical expense and fellow government use) circumstances,” for similar reasons.

Now I add Resolution 1493 (cash donations to local non-profits) to the list for repeal, for similar reasons.

And to those asking why our RFF/BFF are as high as they are, and never seem to go down, now you have another example of some of the reasons why.

Respectfully, Aaron Katz (Your Community Watchdog), Because Only Now Are Others Beginning to Watch!



DATE	DAY OF THE WEEK	TIME	LOCATION	TYPE OF MEETING - 2020	COMPLETED MEMORANDUMS WITH ALL BACK UP MATERIALS FOR AGENDA ITEMS FROM BOARD MEMBERS DUE DATES	ITEMS SLATED FOR CONSIDERATION
10/14	Wednesday	6 p.m.	Southwood – VIRTUAL	Regular Board Meeting	10/05/2020 8 a.m.	POSSIBLE CLOSED SESSION FOR UNION NEGOTIATIONS – Determination to be made by Director of Human Resources Dee Carey (5:00 p.m. to 5:45 p.m.) GM Report to include update on the Ordinance 7 GM Advisory Committee Review, discuss, and move forward with the selected preferred alternative for the Ski Way and Diamond Peak Parking Lot Reconstruction Project
10/27	Tuesday	6 p.m.	Southwood – VIRTUAL	Regular Board Meeting	10/19/2020 8 a.m.	<b>Budget Calendar (FY2021/22)</b> HR/Payroll and Financial System (Carey, Gove and Navazio) Finalize allocation of the fund balances to specific projects (from 08/12/2020) POSSIBLE CLOSED SESSION FOR UNION NEGOTIATIONS – Determination to be made by Director of Human Resources Dee Carey (5:00 p.m. to 5:45 p.m.)
10/28	Wednesday	TBD	Southwood – VIRTUAL	Audit Committee Meeting	10/19/2020 8 a.m.	Staff Updates: Internal Controls and 2019/2020 Audit RFQ for new auditor CAFR Transmittal Letter Management Discussion and Analysis (MD&A) Capitalization Correspondence received
11/18	Wednesday	6 p.m.	Southwood – VIRTUAL	Regular Board Meeting	11/09/2020 8 a.m.	GM Report to include update on the Ordinance 7 GM Advisory Committee <b>FY2020/21 1st Qtr Budget Update</b> Review of the Watermain Project (see award made on 06/23/2020) Present Schematic Design of Burnt Cedar Swimming Pool Improvement Project Season end report for Golf Season end report for Baches
11/18	Wednesday	TBD	Southwood – VIRTUAL	Audit Committee Meeting	11/09/2020 8 a.m.	CAFR Review Q1 Financials RFQ for new auditor Correspondence received
12/09	Wednesday	6 p.m.	Southwood – VIRTUAL	Regular Board Meeting	11/30/2020 8 a.m.	GM Report to include update on the Ordinance 7 GM Advisory Committee Review of the Washpad Project (see award made on 06/23/2020) Export Project Manager <b>Budget Workshop #1 (December - Date TBD)</b>
12/30	Wednesday	6 p.m.	Southwood – VIRTUAL	Regular Board Meeting	12/21/2020 8 a.m.	<i>Typically cancelled</i>

DATE	DAY OF THE WEEK	TIME	LOCATION	TYPE OF MEETING - 2021	COMPLETED MEMORANDUMS WITH ALL BACK UP MATERIALS FOR AGENDA ITEMS FROM BOARD MEMBERS DUE DATES	ITEMS SLATED FOR CONSIDERATION
01/13	Wednesday	6 p.m.		Regular Board Meeting		<b>Budget Workshop #2 (January - Date TBD)</b>
01/27	Wednesday	6 p.m.		Regular Board Meeting		
01/27	Wednesday	TBD		Audit Committee Meeting		Chair
02/10	Wednesday	6 p.m.		Regular Board Meeting		<b>FY2020/21 Mid-Year Budget Update</b>
02/24	Wednesday	6 p.m.		Regular Board Meeting		<b>Budget Workshop #3 (February - Date TBD)</b>
03/10	Wednesday	6 p.m.		Regular Board Meeting		
03/24	Wednesday	6 p.m.		Regular Board Meeting		
04/14	Wednesday	6 p.m.		Regular Board Meeting		
04/28	Wednesday	6 p.m.		Regular Board Meeting		
05/12	Wednesday	6 p.m.		Regular Board Meeting		<b>Approval of FY2021/22 Tentative Budget</b>
05/26	Wednesday	6 p.m.		Regular Board Meeting		<b>Adoption FY2021/22 Budget (incl. Public Hearing)</b> <b>Approval of Rec Roll – FY2021/22 (incl. Public Hearing)</b>

<i>Items sitting in the parking lot (to be discussed but (a) not yet scheduled for a specific Regular Board Meeting) or (b) a future Board not on this calendar</i>
RFID Picture Passes – Item for next Strategic Plan or three years from now – software not available nor is infrastructure/hardware
TRPA EIS Contract at Diamond Peak
Split Ordinance 7 (allow 45 days ahead of action)
Enterprise vs special revenue accounting
Trustee handbook
General Manager's job description clean up
Utility Rate adjustments (fee schedules) – pushed out from the April 14, 2020 meeting
Contract Award for Human Resources, Payroll and Financial Software
Board Policy 7.1.0 and Board Practice 7.2.0 (Trustee Dent) (Navazio)
Pricing policy

\*Budget approval is required after the third Monday however whatever date is selected, a 10-day notice must be given. Must accomplished no later than June 1, 2021.