

The regular meeting of the Incline Village General Improvement District Board of Trustees will be held starting at 6:00 PM on November 8, 2023 in the Boardroom, 893 Southwood Boulevard, Incline Village, Nevada.

Public comment is allowed and the public is welcome to make their public comment via telephone at (877) 853-5247 (the webinar ID will be posted on our website on the day of the meeting). The meeting will be available for viewing at https://livestream.com/accounts/3411104.

- A. PLEDGE OF ALLEGIANCE*
- B. ROLL CALL OF TRUSTEES*
- C. INITIAL PUBLIC COMMENTS Remarks by speakers during any public comment period shall be limited to three (3) minutes each. The Board Chair reserves the right to reduce the time allowed for public comment so long as such reduction is clearly communicated prior to the commencement of the comment period. Each individual's right to comment is subject to reasonable time, place, and manner restrictions as set forth in Board policy and this agenda statement. Public comments must be addressed to the Board Chair only, and not to staff or other attendees. No person may allocate their unused public comment time to any other person. The Chair may prohibit a person from continuing to make a public comment if it becomes clear that the content of the comment is a topic that is not relevant to or within the authority of the Board, or if the content of the comment is willfully disruptive of the meeting by being repetitious or interfering with the rights of other speakers. Any restriction on public comment for these reasons must be viewpoint neutral. The Board of Trustees may address matters brought up during public comment at the conclusion of the comment period but may not deliberate on any non-agendized item.
- D. APPROVAL OF AGENDA (for possible action)

The Board of Trustees 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 Board of Trustees may make a motion to accept and follow the agenda as submitted/posted.

- E. REPORTS TO THE BOARD Reports are intended to inform the Board and/or the public.
 - 1. **SUBJECT:** Receive a verbal report and update on Parks and Recreation Operations (Presented by Director of Parks and Recreation Sheila Leijon)
 - 2. SUBJECT: Interim General Manager's Monthly Status Report pages 6 46
- F. CONSENT CALENDAR (for possible action)
 - 1. **SUBJECT:** Approval of the Meeting Minutes for October 11, 2023 pages 47 133
 - 2. **SUBJECT:** Review, discuss and possibly authorize the District's General Manager to extend the lease agreement between the Hyatt Corporation and the Incline Village General Improvement District as per the Sixth Amendment document.(Requesting Staff Member: Diamond Peak Ski General Manager and Interim District General Manager Mike Bandelin) *pages 134 177*



Agenda for the Board Meeting of November 8, 2023 - Page 2

Recommendation for Action: That the Board of Trustees makes a motion to:

1. Authorize the District's Interim General Manger to extend the lease agreement between the Hyatt Corporation and the Incline Village General Improvement District as per the Sixth Amendment document for a term extending through May 31, 2024 at a lease payment structure of 10% of gross sales each calendar month throughout the term of the lease.

G. GENERAL BUSINESS (for possible action)

- 1. **SUBJECT:** Review, discuss, and potentially answer the remaining community questions received at the October 11, 2023 Townhall (Requesting Trustee: Chairman Matthew Dent) *pages 178 191*
- 2. **SUBJECT:** Review, discuss and possibly direct the Interim General Manager and District Counsel to negotiate an amendment of the Site License Agreement with NV Energy, for the License Agreement to seek an alternate location for Helicopter Operations. (Requesting Staff Member: Interim General Manager Mike Bandelin) *pages 192 198*

Recommendation for Action: That the Board of Trustees makes a motion to:

Direct the Interim General Manager and District Counsel to negotiate an amendment of the Site License Agreement to provide for an alternate location for the Helicopter Operations not at Diamond Peak.

3. **SUBJECT:** Review, discuss and possibly approve a Contract between IVGID and RubinBrown, LLP for Forensic Due Diligence Auditing Services as a result of a Request for Proposal (RFP) Process. (Requesting Staff Member: Interim Director of Finance Bobby Magee) – *pages 199 - 201*

Recommendation for Action: That the Board of Trustees make a motion to:

- 1. Approve the award of a contract with RubinBrown, LLP for Forensic Due Diligence Auditing Services; and.
- 2. Direct Interim General Manager and Interim Director of Finance to work with the IVGID Treasurer and the Chair of the Audit Committee to develop the final scope of work for the contract; and.
- 3. Authorize the IVGID Treasurer to negotiate final terms and conditions, with related contract pricing; and,
- 4. Authorize the IVGID Interim General Manager to sign the contract upon completion of the contract as outlined in Recommendation #2 and #3.
- 4. **SUBJECT:** Review, discuss, and possibly accept Staff's recommendation to accept the proposal from Active Networks for the Response for Proposal Point of Sale System Phase 1 that was received in response to the Point of Sale RFP that was posted on August, 25 2023 **and** provide authorization for staff to work with District Legal Counsel to prepare an agreement with Active Networks that will come back to the Board for approval prior to the end of calendar year. (Requesting Staff Member: Director of Information Technology Mike Gove) **pages 202 294**



Agenda for the Board Meeting of November 8, 2023 - Page 3

Recommendation for Action: That the Board of Trustees make a motion to:

- 1. Accept Staff's recommendation to accept the proposal from Active Networks LLC for the Response for Proposal Point of Sale System Phase 1 that was received in response to the Point of Sale RFP that was posted on August 25, 2023
- 2. Authorize staff to work with District Legal Counsel to prepare an agreement with Active Networks LLC for Phase 1 of the 2 phased Point of Sale Project that will come back to the Board for approval prior to the end of the calendar year.
- 5. **SUBJECT:** Review, discuss and possibly adopt revised Board Policy 23.1.0 A Policy regarding access to Confidential and Non-Public information. (Requesting Staff Member: District General Counsel) *pages 295 302*

Recommendation for Action: Review, discuss and possibly adopt revised Board Policy 23.1.0 - A Policy regarding access to Confidential and Non-Public information

6. **SUBJECT:** Review, discuss and possibly approve an increase to the estimated project cost to support additional scope and project quantities for Mt. Golf Cart Path Restoration Phase II - 2023/2024 Capital Improvement Project; Fund: Community Services; Division: Golf; Project #3241LI1903; Vendor: SNC Construction in the amount of \$160,000. (Requesting Staff Member: Interim Public Works Director Kate Nelson) – *pages 303 - 307*

Recommendation for Action: The Board of Trustees make a motion to:

- 1. Approve an increase to the estimated project costs to support additional scope and increase quantities in the amount of \$160,000.
- 7. **SUBJECT:** Review, discuss and possibly approve an Equipment Purchase Agreement for the procurement of a 14-Passenger Shuttle Van 2022/2023 Capital Project: Fund: Community Services; Division: Ski; Project # 3469HE1740; Project Type; Rolling Stock; Vendor: Creative Bus Sales in the amount of \$141,767. in accordance with NRS 332.115.1.(o) (Requesting Staff Member: Diamond Peak Ski Resort General Manager and Interim District General Manager Mike Bandelin) *pages 308 317*

Recommendation for Action: That the Board of Trustees makes a motion to:

1. Authorize and award an equipment purchase agreement between the District and Creative Bus Sales in the amount of \$141,767 in accordance with NRS 332.115.1.(o)) [NRS 332.115.1.(o)



Agenda for the Board Meeting of November 8, 2023 - Page 4

Supplies, materials, equipment or services that are available pursuant to an agreement with a vendor that has entered into an agreement with the General Services Administration or another federal governmental agency located within or outside this State.]

- 2. Authorize the Interim General Manager to execute the equipment purchase agreement in substantially the form presented.
- 8. **SUBJECT:** Review, discuss, and possibly approve: (1) Acceptance of a seasonal Ice Skating Rink, at zero cost to IVGID, on behalf of the Incline Village/Crystal Bay communities from the Incline Ice Foundation; (2) Direct staff and District Counsel to negotiate a right of entry agreement between IVGID and Ice-America for delivery and setup of a seasonal Ice Skating Rink on Preston Field at zero cost to IVGID; and (3) Establishing a 5-month pilot program, starting on approximately December 9, 2023 and ending on approximately April 14, 2024, for a seasonal Ice Skating Rink operation at Preston Field with all services being performed by existing IVGID Staff and which is anticipated to be a break-even program. (Requesting Staff Member: Director of Parks & Recreation Shelia Leijon) *pages 318 327*

Recommendation for Action: That the Board of Trustees makes a motion to:

- 1. Accept the seasonal Ice Skating Rink, at zero cost to IVGID, on behalf of the Incline Village/Crystal Bay communities from the Incline Ice Foundation;
- 2. Direct staff and District Counsel to negotiate a right-of-entry agreement between IVGID and Ice-America for delivery and setup of a seasonal Ice Skating Rink on Preston Field at zero cost to IVGID; and
- 3. Establish a 5-month pilot program, starting on approximately December 9, 2023 and ending on approximately April 14, 2024, for a seasonal Ice Skating Rink operation at Preston Field with all services being performed by existing IVGID Staff and which is anticipated to be a breakeven program.
- H. REDACTIONS FOR PENDING PUBLIC RECORDS REQUESTS (for possible action)
 - 1. **SUBJECT:** Redactions for Public Records *pages 328 330*
- I. LONG RANGE CALENDAR pages 331 333
- J. BOARD OF TRUSTEES UPDATE
- K. FINAL PUBLIC COMMENTS Limited to a maximum of three (3) minutes in duration.
- L. ADJOURNMENT (for possible action)



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CERTIFICATION OF POSTING OF THIS AGENDA

I hereby certify that on or before 9:00 a.m. on Friday, November 3, 2023, a copy of this agenda (IVGID Board of Trustees Session of November 8, 2023) was delivered to the post office addressed to the people who have requested to receive copies of IVGID's agendas; copies were e-mailed to those people who have requested; and a copy was posted, physically or electronically, at the following locations in accordance with Assembly Bill 253:

- 1. IVGID Anne Vorderbruggen Building (893 Southwood Boulevard, Incline Village, Nevada; Administrative Offices)
- 2. IVGID's website (www.yourtahoeplace.com/ivgid/board-of-trustees/meetings-and-agendas)
- 3. State of Nevada public noticing website (https://notice.nv.gov/)
- 4. IVGID's Recreation Center (980 Incline Way, Incline Village, Nevada)

/s/ Heidi H. White

Heidi White

District Clerk (e-mail: hhw@ivgid.org/phone # 775-832-1268)

IVGID Board of Trustees: Matthew Dent - Chairman, Sara Schmitz, Michaela Tonking, Raymond Tulloch and David Noble

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. IVGID'S agenda packets are available at IVGID's website, www.yourtahoeplace.com; go to "Board Meetings and Agendas".

MEMORANDUM

TO: Board of Trustees

FROM: Mike Bandelin

Interim District General Manager

SUBJECT: General Manager's Status Report

Prepared for the meeting of November 8, 2023

DATE: November 2, 2023

Contract Review Update

The Washoe County School District Joint Use Agreement has a requirement for an annual review which has been conducted. It has been agreed that no changes be made at this time and that 2024 or 2025 might be a good time to review it in its entirety due to the construction occurring at the Incline High School and the uncertainty with the Incline Middle School.

The Parasol Tahoe Community Foundation storage space agreement will be renewed upon presentation and this is executed by Staff without Board review as it is simply an agreement for the use of storage space at the building. Presently, the storage there is for Community Services program such as the Incliners, etc.

Venue Status Reports

Venue status reports are attached for both September and October.

Policy 22.1.0 - External Entity Involvement

The quarterly reports for July 1 to September 30, 2023 are attached to this report.

Public Records Log – July 1, 2023 to October 31, 2023

07/06/2023	Katz, Aaron	Project Manager Job Description	07/12/2023	Complete
07/31/2023	Homan, Mick	Correspondence re Ord 7 and Beach legal	09/29/2023	Complete
		opinions		·
08/04/2023	Paul, Gwen	Emails: Trustees & Mr. Dobler; Trustees and AC		
	,	Chair Nolet starting 1/1/2023 to present (date		
		filled)		
08/08/2023	Ashton, Don	Reports from Moss Adams	08/23/2023	Complete
08/14/2023	Abel, Mike	Files on he and his wife	08/14/2023	Complete
08/14/2023	Abel, Mike	Kaye Shackford and Mattford Group	08/18/2023	Complete
08/22/2023	Wells, Kristie	Emails: Carey, etc and re: Dobler	09/08/2023	Complete (withdrawn)
08/22/2023	Wells, Kristie	Emails: GSG etc. 8/1/2016 to 8/22/2023	09/08/2023	Complete (withdrawn)
08/23/2023	Krolick, Gail	Emails: Carey and Dobler re suspension	09/08/2023	Complete (withdrawn)
08/24/2023	Solt, Jasen	S&W easement documents – Cal Neva	09/05/2023	Complete
08/28/2023	Riner, Dr.	Mick Homan's recent resignation letter	08/28/2023	Complete
	Myles			
09/08/2023	Dobler, Cliff	Emails: Kahrs to BOT re ltr from Dee Carey	09/13/2023	Complete
09/11/2023	Katz, Aaron	NVEnergy replacement – helicopter charges	09/12/2023	Complete

General Manager's Status Report -2-Prepared for the meeting of November 8, 2023

09/11/2023	Barth, Megan	Banking information, reconciliations, salaries and benefits, general ledger, notary	09/12/2023	Partial response
09/11/2023	Hicks, Joshua	Golf Genius emails	10/24/2023	Awaiting response from Mr. Hicks
09/19/2023	Becker, Mary	Employment Contracts for Dobler, Schmitz, Dent and Tulloch	09/19/2023	Complete
09/20/2023	Dobler, Cliff	3 invoices: Granite Construction	09/21/2023	Complete
09/21/2023	Johnson, John	Vote Tally – Golf Advisory Committee	09/21/2023	Complete
09/22/2023	Wright, Frank	Submittal by Trish McKowen read at the 09/19/2023 BOT meeting	09/27/2023	Complete
09/25/2023	Dobler, Cliff	Invoices from Silver State Law	10/04/2023	Complete
09/26/2023	Riner, Dr. Myles	Emails: Schmitz and Winquest during 09/1/2022 to 09/14/2022	09/26/2023	Complete
09/26/2023	Dobler, Cliff	Correspondence between Granite and Silver State Law from 9/1/2022 to today related to CMAR contract only		
09/27/2023	Katz, Aaron	Travel to Natl's Recreation and Parks Ass'n Convention in Dallas, TX in October 2023	10/02/2023	Complete
10/02/2023	Usinger, Carolyn	Complaint Documentation from 7/12/2023 BOT Meeting		
10/02/2023	Usinger, Carolyn	Pricing Practice – Older Versions	10/02/2023	Complete
10/05/2023	Usinger, Carolyn	Personnel/HR Policies to include whistleblower, anti-discrimination and anti-bullying	10/09/2023	Complete
10/09/2023	Dobler, Cliff	Emails from Carey to Dobler between 8/1/2020 to 1/31/21	10/09/2023	Complete
10/09/2023	Dobler, Cliff	Estimates – Engineering Department	10/26/2023	Complete
10/12/2023	Katz, Aaron	Senior Transportation		
10/16/2023	Wells, Kristie	Emails – Schmitz to Golf Advisory Committee	10/23/2023	Complete
10/20/2023	Katz, Aaron	TCF – Rockfest	11/01/2023	Complete
10/24/2023	Becker, Mary	Emails – Schmitz and Krasner	10/25/2023	Complete
10/24/2023	Courtney, Cindy	Agreement between IVGID and NVEnergy	10/24/2023	Complete
10/26/2023	Katz, Aaron	Lawn Mower service hours and service/maintenance records	10/26/2023	Complete
10/27/2023	Homan, Mick	Emails on a variety of topics from 5/1/2023 to 8/1/2023		
10/27/2023	Dobler, Cliff	Listing of Kitchen Equipment from 8/9 Packet		
10/28/2023	Katz, Aaron	P-Card: 1/1/2019 to present: Allen, Riley and Rau		
10/27/2023	Dobler, Cliff	Brycon Contract and Amendment along with McCuen Construction bid		
10/31/2023	Dobler, Cliff	Maintenance records for Championship Golf course equipment from 6/1/2019 to present		

Venue Status Reports September and October 2023

<u>M E M O R A N D U M</u>

TO: Mike Bandelin

Interim General Manager

FROM: Bobby Magee

Interim Director of Finance

SUBJECT: Status Report for September 2023 – Finance/Accounting

DATE: October 4, 2023

Finance and Accounting

Audit for the Year Ended June 30, 2023 In September, consultants from Baker Tilly have continued to work on catching up the various bank reconciliation statements. The work will continue into early-to-mid October. Consultant Pam Day has worked diligently on the "Prepared by Client" list of documents that have been requested by the Auditors; the list is nearing completion at this time. The Auditors were initially scheduled to begin their audit fieldwork on October 2nd; due to the delays noted above that start date was canceled and will be rescheduled in the near future. Finance will continue to work with Davis Farr on the impacts of the timing of completion of the Audit, based on known delays and any potential impacts related to the completion of a Forensic Audit.

Tyler Munis Implementation Project The Finance team has been working with Tyler Technologies on finishing any remaining items on the implementation punch list. Independently, multiple people completed a full reconciliation of the general ledger at the time of transition from the Innoprise to Tyler ERP conversion. Both teams came to identical conclusions, and an accounting adjustment was made to Tyler in order to reconcile the starting balances. As identified during previous Board meetings, this item was priority #1 for both the Board and the Finance team. The 'beginning balance' item has now been completed and the Finance Department has moved on to other Tyler implementation activities which will be reported on later.

Standardized Journal Entry Documentation

The Finance team has been developing standard procedures for documenting auditable trails for all transactions within the Tyler Munis ERP system. In the new system, Journal Entries (JE) are now entered with a standardized documentation sheet of 'why' the entry is being made, along with additional backup documents to support the transaction. This new process will create a clear audit trail for future review of any JE's for years to come.

Money Market Sweep Account

With a new Revenue Manager on board, the Department began to work on a review of the organizations active cash management activities. It was discovered that all of the pooled cash sitting in the IVGID main checking account was idle. In September the Finance team worked with Treasurer Tulloch on the concept, and also with Wells Fargo to set up an overnight money market sweep account. The new account is in full compliance with the IVGID Investment Management Policy (Board Policy 11.1.0) The sweep account is expected to begin earning interest on idle funds in October 2023.

Transparent Nevada Data Project

On September 29th, the Finance Department sent a new file to Transparent Nevada detailing the information previously requested by their agency, in the format they needed to upload the information to their website. While previously the data sent to them was in full compliance with the Freedom of Information Act, Transparent Nevada further requested that the data be sorted and categorized into a format that was easy for upload to their site. Finance worked actively with the Human Resources department to complete the activities, and according to Transparent Nevada the public should see the 2022 data on their website immenently.

Forensic Audit RFP

In accordance with the Board's Direction to issue a Forensic Audit RFP, on September 29th the solicitation document was release to the public. It was posted to the IVGID Planet Bids portal, on the District website, and also sent individually to known interested firms who are qualified to perform the work.

<u>MEMORANDUM</u>

TO: Mike Bandelin

Interim General Manager

FROM: Bobby Magee

Interim Director of Finance

SUBJECT: Status Report for October 2023 – Finance/Accounting

DATE: November 8, 2023

Finance and Accounting

Audit for the Year Ended June 30, 2023 In October, the team continued to work with Baker Tilly on completing bank reconciliations as far back as July 2022. The Baker Tilly team has created a "Development and Proofing" concept where the initial June 2022 results are heavily scrutinized and tested for any financial errors, and proofing of the comparative functions. Once the concept has been verified to be accurate, the methodology will be applied to each subsequent month. This process includes going line by line for each transaction, and then tracing each individual transaction back to the two financial systems that are being used to understand how they relate to the general ledger and the cash accounts. A number of transactions were flagged and sent to Finance staff for further research, analysis, and corrections if needed. Once this process is completed, Baker Tilly will complete a secondary reconciliation to verify that the month is correctly balanced. The process, while slow and cumbersome for the first month, will be refined, with lessons learned to be applied to the remainder of the unreconciled months. To date, the process is being applied in various stages to six months worth of reconciliations.

<u>Tyler Munis Implementation Project</u> The Finance team attended multiple virtual trainings in October related to the capabilities and best practices of the Munis system. Beginning in November, Finance will be holding frequent meetings with the IT Department and Tyler Technologies to complete a revew and assessment of each current process and workflow within the Munis system.

Team Building – National Breast Cancer Awareness Month

In October, the entire Finance team chose to engage in a team building and community support effort. Each Wednesday throughout the month, all Finance staff wore pink shirts in honor of National Breast Cancer Awareness Month. Finance wishes to express our support for everyone in the Incline Village community who has been affected by this terrible disease.



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MEMORANDUM

TO: Mike Bandelin

Interim General Manager

FROM: Darren Howard

Director of Golf & Community Services

SUBJECT: Status Report through September 2023 - Golf Season

DATE: October 25, 2023

Championship Course

Course Closure and Fall Maintenance

The Championship course is on schedule to close after the last day of play on October 17. Jeff Clouthier and his staff are currently finishing fall maintenance work such as Aerate fairways, Tree work, Weed control, preparing bunker edges, nursery prep, patch greens, soil samples, irrigation projects, top-dress fairways, weed-eat native areas, aerate and top-dress greens (once course is closed) and much more. Jeff Clouthier and his crew do an amazing job prepping the course for the winter and ultimately making sure the course is good coming out of the winter due to the Fall Maintenance program!

Mountain Course

Course Closure and Fall Maintenance

Last day of play at the Mountain course will be October 15. The same routine goes on at the Mountain course for closure as it does at the Championship course. Some items of note that are a little different are: Patching greens from previous winter affects, edge cart paths, fairway bunker renovations on #5 and #18, prepping #15 tee for winter, tree work, cleaning up areas around new cart path project and aerate greens the day after closing.

Mountain Course Cart Path Project

Cart Path Work has been completed for the fall on the Mountain course and when the weather gets better in the spring, the entire cart path will then be slurry sealed, along with re-building the wall on #13 tee. This work will not interfere with opening the golf course or interrupt any play. For the first time in five seasons, the Mountain course will open and have play all season with no interruptions, unless it is weather related.

Play and Revenue through September

Championship Course	Gre	en Fees					Rer	ntals				Ran	ge				
2023	Act	ual	Bu	dget	Differ	ence	Act	:ual	Budget	Differ	ence	Actı	ual	Bud	dget	Diff	erence
June	\$	440,870.85	\$	350,300.00	\$ 90	,570.85	\$	9,195.00	\$11,680.00	\$ (2,4	185.00)	\$	34,938.00	\$	41,310.00	\$	(6,372.00)
July	\$	635,541.31	\$	648,242.00	\$ (12	,700.69)	\$	14,466.00	\$20,000.00	\$ (5,5	34.00)	\$	45,066.00	\$	45,150.00	\$	(84.00)
Aug	\$	610,777.45	\$	648,443.00	\$ (37	,665.55)	\$	12,260.00	\$12,000.00	\$ 2	260.00	\$	32,018.00	\$	33,495.00	\$	(1,477.00)
Sept	\$	467,601.24	\$	507,929.00	\$ (40	,327.76)	\$	6,829.00	\$ 8,000.00	\$ (1,1	71.00)	\$	18,441.00	\$	18,925.00	\$	(484.00)
Season total	\$	2,154,790.85	\$:	2,154,914.00	\$	(123.15)	\$ -	42,750.00	\$51,680.00	\$ (8,9	30.00)	\$	130,463.00	\$	138,880.00	\$	(8,417.00)
Total revenue	\$	2,328,003.85	\$:	2,345,474.00	\$ (17	,470.15)											
														Tot	al behind	\$	(17,470.15)
					_												
	_	_		_			-		_								
Mountain Course		en Fees	_		D:((ntals	D 1 1	D:((Ran	<u> </u>			D: ((,
2023			_	dget	Differ		Act		Budget	Differ		Actı	ual	Bu	dget	Diff	erence
June	\$	121,123.00	\$. ,		,745.00)	\$		\$ 7,000.00		75.00)						
July	\$	242,198.00	\$	223,829.00		,369.00	_	8,980.00	\$11,500.00		20.00)						
Aug	\$	212,220.00	\$	209,962.00	_	,258.00		10,340.00	\$10,000.00		340.00						
Sept	\$	111,599.56	\$	168,622.00		,022.44)	\$	5,280.00	\$ 6,500.00		220.00)						
Season total	\$	687,140.56	\$	734,281.00	\$ (47	,140.44)	Ş .	30,425.00	\$35,000.00	\$ (4,5	75.00)						
Tatal rawanus	\$	717 FCF FC	۲	700 201 00	Ċ /F1	715 44\											
Total revenue	Ş	717,565.56	\$	769,281.00	\$ (21	,715.44)										ċ	(51,715.44)
																Ų	(31,713.44)
							\$1	69 185 59)	Total revenu	ie vs hi	ıdaet						
							7(05,105.55)	Total Tevella	1C V3 D0	uget						
Championship Course							Мо	untain Co	urse								
Season Rounds		2022		2023	% C	hange		2022	2023	% Ch	ange						
Picture Pass Holder		5282		6876		30%		6125	6243		2%						
Non-PPH		4271		4390		3%		3797	3942		4%						
Guest		1833		1740		-5%		1782	2179		22%						
Play Pass		6561		5708		-13%		3038	1855		-39%						
Other		674		1096		63%		480	684		43%						
Rounds through Septeml		18621		19810		6%		15222	14903		-2%						
							15 I	Days of tot	al closure								

Play Pass Sales –	<u>2022</u>	<u>2023</u>
Championship Course	\$555,267	\$513,013
Mountain Course	\$91,448	\$75,834

Overview

Play is a little ahead of last season, but not quite what we had budgeted. The biggest improvement is the increase in daily Picture Pass Holder rounds, which has attributes to a higher per round average and ultimately more income. The late start for the Mountain course, along with multiple days of no play either due to weather or cart path project work, has put the Mountain course behind budgeted revenue. Hopefully having the Mountain course fully operational for 15 days in October will help the revenue there. September was the worst month for revenue at both courses and most of that can be attributed to

weather and course closure at the Mountain Course due to Cart Path Project. The good news is, expenses are projected to be much lower than budget and most of that is not being able to be fully staffed at all venues as well as deferring some expenses that were not totally needed. The bottom-line for both courses should be very good once all expenses have been realized.

<u>M E M O R A N D U M</u>

TO: Mike Bandelin, Interim General Manager

FROM: Erin Feore, Director of Human Resources

SUBJECT: Monthly Venue Manager Status Report

DATE: October 24, 2023

The Human Resources team continues with recruitment efforts for ongoing seasonal staffing and our full-time/year-round staffing needs. Currently, the HR Department has ten full-time/year round positions posted. In the months of August and September, the following positions have been filled:

Filled

Meter Technician I
Controller
Accounts Payable Technician
Lift Operations Manager (internal promotion)
Buildings Maintenance II – Recreation Center
Water/Wastewater Operator in Training
Pending start date: Assistant Director of Finance

Opened

Electrician/Instrumentation Technician
General Manager
HR/Recruitment Assistant
Safety Specialist
Senior Accountant
Collection/Distribution Operator in Training
Management Analyst
Public Works Technician

Our Talent Acquisition Specialist, Lisa Hoopes, continues to seek out and attend regional job fairs to promote the District as preferred employer in Incline Village. Lisa and the Marketing and Management teams at Diamond Peak held a job fair on October 13th; this yielded 60+ attendants. As we continue the hiring processes for the Diamond Peak Winter 23/24 season, I will report back with how many of the participants were ultimately hired for IVGID positions. Further, I am developing a recruitment report that will identify stats on application-to-hire information that will help us target best recruitment sites for advertising; further, it will help us identify responsiveness and timely communication from hiring managers.

As approved by the Board of Trustees on August 30, 2023, IVGID has entered into an agreement for professional services with Bob Hall and Associates (BHA) for the recruitment of the General Manager position. In September, we finalized the advertising brochure and their team began the outreach to candidates. On October 30, 2023, the HR team will be meeting with Bob Hall to review candidate information and discuss next steps. It is our goal to have candidate information to the Trustees soon thereafter.

The September Attrition Report is as follows:

	Start Ttl #	Ttl Term	End Ttl # of		
<u>Month</u>	of EE's	EE's	EE's	Avg # of EE's	Attrition Rate
January, 2022	343	24	319	331	6.997
February, 2022	329	22	307	318	6.687
March, 2022	321	48	273	297	14.953
April, 2022	278	47	231	254.5	16.906
May, 2022	273	7	266	269.5	2.564
June, 2022	308	17	291	299.5	5.519
July, 2022	292	18	274	283	6.164
August, 2022	308	32	276	292	10.390
September, 2022	288	16	272	280	5.556
October, 2022	287	25	262	274.5	8.711
November, 2022	379	4	375	377	1.055
December, 2022	459	9	450	454.5	1.961
January, 2023	496	12	484	490	2.419
February, 2023	470	27	443	456.5	5.745
March, 2023	479	59	420	449.5	12.317
April, 2023	448	129	319	383.5	28.795
May, 2023	422	51	371	396.5	12.085
June, 2023	459	12	447	453	2.614
July, 2023	467	17	450	458.5	3.640
August, 2023	462	64	398	430	13.853
September, 2023	408	46	362	385	11.275

Finally, the HR team is collaborating with the Senior Leadership Team to develop and send our 1st quarter (Fiscal Year 2023-2024) Employee Survey. It is our intention to focus on employee satisfaction with leadership, training, and compensation.

MEMORANDUM

TO: Mike Bandelin

Interim General Manager

FROM: Shelia Leijon

Director of Parks and Recreation

SUBJECT: Status Report for September 2023 – Parks and Recreation

DATE: October 25, 2023

REC CENTER

Recreation Buildings Maintenance II

Human Resources and Parks & Rec successfully recruited and hired a qualified Recreation Building Maintenance II candidate. As previously reported, this position will provide building maintenance services with a focus on the year-round projects at the Rec Center, seasonal projects at Tennis and Beach venues, and districtwide maintenance projects, as time permits.

Completed September maintenance projects at the Rec Center include:

- Interior and exterior Window Cleaning
- · Replacement of HVAC filters
- Gym floor resealing

Look for the return of the popular Winter Sports Conditioning Class on Wednesday, Saturday and Sunday from 9am – 10am, October 18 through December 17.

AQUATICS

Burnt Cedar Pool

Summer operations at Burnt Cedar Pool ended on October 1, 2023. The
winterization process has been completed. The new Sister Bay pool
deck furniture was assembled and is being stored at Burnt Cedar, in
anticipation of the opening of the 2024 summer season.

Rec Center Pool

- The Rec Center Pool closed at noon on September, 10, 11, 23 and 24 due to staffing shortages
- Fall indoor swim lessons have resumed at the Rec Center

 Research for the reinstallation of the Rec Center pool diving board is in progress for the 2024 2025 FY. The board was removed in 2023 due to safety concerns.

PARKS

IVGID Parks & Open Spaces accommodated:

- Fall soccer returns with the fields lined and goals in place at Preston Field, Village Green and Ridgeline Park. These venues accommodate AYSO weekly practices and games
- Community events and field rentals in the month of September included: the 5th Annual Lake Tahoe School and Incline Middle School Track meet throughout Incline Park on September 1; the Rotary Duck Drop at Lower Village Green on September 4; the Village Pet Foundation fundraiser at Preston on September 16; X-TERRA triathlon at the Village Green on September 16; the WC Sheriff's Picnic at Ridgeline Park on September 16; and three ballfield tournaments at Ridgeline and Preston throughout the month of September
- Parks conducted a Goose Patrol orientation September 19

Village Green Dog Park

After a brief hiatus, the Dog Park Committee will resume meeting on October 17. The October 17 agenda includes TRPA updates, reviewing and refining survey questions and discussing three potential design options for Village Green.

TENNIS PICKLEBALL CENTER

The 2023 Season Ends October 22.

Tennis:

 Black Eagle Consulting completed court inspections in September. The report regarding court condition is expected mid-October. The Tennis Committee is scheduled to meet on October 23 to review and discuss the report.

Pickleball:

- A dedicated Pickleball AED was delivered in September. The AED will be installed in spring 2024. The Pickleball committee is researching the best option for CPR AED instruction for the Pickleball community
- Three Paddle Saddles were purchased and installed improving the rotations at Pickleball
- Research on a spring 2024 Pickleball machine purchase is in process
- Staff is working on an improved Pickleball bench option, including an inhouse modification of existing benches

 The Pet Network hosted a fundraiser at the Pickleball Center, piloting a new revenue stream for the Tennis Pickleball. The sold-out event featured food & beverage prepared and served by the IVGID Catering Department.

BEACHES

Summer operations at the IVGID beaches comes to a close on October 15 with the Puppy Plunge Dog Days of Summer event kicking off access for local dogs and their humans on Ski Beach. Winter Beach operations will begin on October 16 at all three beaches.

Beach Staffing Fall/Winter - Spring/Summer 2023 2024

Timeframe	Gates Open	Gates Close	Ambassador	Beach Hosts	Boat Ramp
Sunday October 15 - Sunday November 10	6:00am	7:00pm - 8:00pm	7:00am - 8:30pm	NONE	Reservation Only
Monday November 11 - Sunday March 9th	6:00am	6:00pm - 7:00pm	7:00am - 8:30pm	NONE	Reservation Only
Monday March 10 - Sunday April 14	6:00am	7:00pm - 8:00pm	7:00am - 8:30pm	NONE	Reservation Only
Monday April 15 - Sunday June 16	6:00am	8:00pm - 9:30pm	7:00am - 10:00pm	9:00am - 6:00pm	9:00am - 6:00pm
Monday June 17 - Monday September 2	6:00am	9:30pm - 10:00pm	7:00am - 10:00pm	7:00am - 8:00pm	7:00am - 8:00pm
Tuesday September 3 - Sunday October 20	6:00am	8:00pm - 9:30pm	7:00am - 10:00pm	9:00am - 6:00pm	9:00am - 6:00pm

NOTE: Schedule is dependant on staff availability, weather and is subject to change based on District AQI and Lightning Policy

Progress on the RFID gate for Burnt Cedar Beach continues. The gate and panel have been fabricated. Tholl Fencing will be on site the week of October 23 to measure duct placement.

Preliminary 2023 Beach Numbers

- a. Guest totals (Punch and Credit Card Access)
 - i. Totals

Adults: 47,030
 Youth: 12,795

b. Recreation Card totals (Picture Pass)

i. Total: 155,867

c. Daily boat launch totals

i. One-way: 602ii. Round-Trip: 2571

d. Boat Launch Season passes sold

i. Purchased: 226ii. Scanned: 3153e. Goose Patrol dogs

i. Scanned: 4412

^{*}Daylights savings time begins

^{*}Daylight savings end 11/03

Beach Signage Project

The final three No Public Beach Access signs will be installed in strategic locations along Lakeshore Blvd. during October, staffing and weather permitting. Thank you to the PW staff for helping to complete this project.

<u>MEMORANDUM</u>

TO: Mike Bandelin

Interim General Manager

FROM: Kate Nelson

Interim Director of Public Works

SUBJECT: Public Works September Monthly Report

DATE: October 9, 2023

Engineering Summary of Projects:

Note the Engineering Department only has 2 full time employees to manage all FY23/24 Capital Improvement and Capital Expense Projects (Effluent Pipeline & Storage Tank PM remains with HK) – as a result projects have been evaluated for priority and schedules have been adjusted.

- <u>Capital Investment Committee</u> Snowflake Lodge Needs Assessment
- Hold for Funding/Permitting/Contract Bike Park, Effluent Storage Tank
- <u>RFP/RFQ</u> Skate Park Enhancement, SPS#5 Wetwell & Manhole Coating, Incline Beach House, Rec Center HVAC Evaluation
- <u>Planning</u> Boat Ramp Evaluation, Fire Hydrant Replacement, Ski Way Pavement Rehabilitation
- <u>Design</u> Alder Ave Waterline Replacement, Reservoir 3-1 WPS 4-2/5-1 Pavement & Slope Stabilization, Burnt Cedar Emergency Fuel Tank Replacement, DP Electrical Service Entrance/Grease Interceptor/Fuel Tank/Upper Parking Lot Pavement, Burnt Cedar RFID Ped Gate Access
- Bidding SPS #1(9/28/23)
- <u>Construction</u> Effluent Export Pipeline, DP Kitchen, Reservoir Coating R5-3A R5-3B (early summer 2024), Mountain Golf Cart Path Phase II & III, Utility Adjustment in NDOT ROW, Wetlands Improvements, Meter Register & Transponder Installation (meters on order), Snowmaking/Pump Station Improvements
- <u>Construction Complete</u> Crystal Peak Waterline Replacement, Fall Pavement Maintenance

Water/Wastewater Treatment: Crew worked with Granite to perform tie over #2 of the effluent export line 10/5

 Water Production – Parity Meter is installed but need to get Oct readings before accurate information can be shared

- Wastewater Processed 25.268 MG, 0.842 MGD Daily Avg., 1.075 MGD Daily Max
- Total Call Outs 46

Pipeline:

- Water Leak Repairs 6
- After Hour Service Calls 9 (20 hr OT)
- Change out 46 meter transponders
- Water Sample Stations Installed 3
- *Pipeline crew continues to cover the meter reader duties impacting preventative maintenance work.

Compliance:

- Backflow tests 170
- Plan Checking 25

Waste Not:

- HHW & E-Waste 67
- Green Waste Recycling Curbside Collection Project October 2 October 27
- Hosted the Great Sierra River and Beach CleanUp 9/23/2023, 28
 Community volunteers collected 60 pounds of trash and 5 pounds of recyclable materials from SEZ within Incline Village/Crystal Bay
- EPA Pollution Prevention Specialist Thomas Vinton performed an onsite review of the HHW operations

Fleet:

- Preventative Maintenance Hours 422
- Corrective Maintenance Hours 233.4
- CIP Projects Hours 23.1

Laboratory:

- Potable Water Testing
 - System Samples Taken 15
 - Total Coliform (#CFU/100mL) 0
 - Avg. Total Res CL2 (mg/L) 0.88
 - Outside Samples Taken − 2
 - WasteNot Water Quality Samples Taken 2
- Wastewater Testing
 - Bacteriological Samples (Spooner Pump Station) 4
 - Monthly Avg. Total Res CL2 (Spooner Pump Station) 3.16 mg/L

- Total Monthly TSS Analysis 4
- Total Monthly BOD Analysis 4
- Total Phosphorus Analysis 1

Major Capital Improvement Project Status

- Effluent Pipeline Replacement Project
 - Granite has installed 2,043 LF of new pipe in the month of September
- Effluent Storage Tank Project
 - USACE continues to work on the environmental assessment. It is anticipated that the final determination will be completed by USACE by the end of November.
 - Following USACE's environmental clearance, Granite will be able to advertise for subcontractors to develop the GMP.
- Incline Beach House
 - Staff is working on preparing package for design build RFP documents to be advertised
 - RFP documents will be reviewed by CIC prior to advertisement
- Skate Park Enhancement
 - Staff is working on preparing package for design build RFP documents to be advertised
 - RFP documents will be reviewed by CIC prior to advertisement

<u>MEMORANDUM</u>

TO: Mike Bandelin

FROM: Kate Nelson

SUBJECT: Public Works August Monthly Report

DATE: November 2, 2023

Engineering Summary of Projects:

Note the Engineering Department only has 2 full time employees to manage all FY23/24 Capital Improvement and Capital Expense Projects (Effluent Pipeline & Storage Tank PM remains with HK) – as a result projects have been evaluated for priority and schedules have been adjusted

- Capital Investment Committee Snowflake Lodge Needs Assessment
- Hold for Funding/Permitting/Contract Bike Park, Effluent Storage Tank
- RFP/RFQ Skate Park Enhancement, Incline Beach House, Rec Center HVAC Evaluation
- <u>Planning</u> Boat Ramp Evaluation, Fire Hydrant Replacement, Ski Way Pavement Rehabilitation
- <u>Design</u> Alder Ave Waterline Replacement, Reservoir 3-1 WPS 4-2/5-1 Pavement & Slope Stabilization, Burnt Cedar Emergency Fuel Tank Replacement, DP Electrical Service Entrance/Grease Interceptor/Fuel Tank/Upper Parking Lot Pavement, Burnt Cedar RFID Ped Gate Access
- Bidding SPS#5 Wetwell & Manhole Coating, SPS #1(open 11/2/23)
- <u>Construction</u> –DP Kitchen (11/17/23), Reservoir Coating R5-3A R5-3B (early summer 2024), Mountain Golf Cart Path Phase II & III (fall work complete), Meter Register & Transponder Installation (meters on order), Snowmaking/Pump Station Improvements
- <u>Construction Complete</u> Crystal Peak Waterline Replacement, Fall Pavement Maintenance, Effluent Export Pipeline (GMP 1), Utility Adjustment in NDOT ROW, Wetlands Improvements (11/3/23)

Water/Wastewater Treatment:

- Water Production Total 57.439 MG, Daily Avg 1.853 MGD, Daily Max 3.029 MGD
- Wastewater Processed 21.312 MG, 0.687 MGD Daily Avg., 0.939 MGD Daily Max
- Total Call Outs 30

Pipeline:

- Water Leak Repairs 4
- After Hour Service Calls 10 (24 hr OT)
- Change out 33 meter transponders
- Water Sample Stations Installed 1 (task completed)
- *Pipeline crew continues to cover the meter reader duties impacting preventative maintenance work.
- *Pipeline crew installed 3 road signs on Lakeshore Blvd for Parks/Rec Dept.

Compliance:

• Unavailable (not received prior to posting deadline)

Waste Not:

• Unavailable (not received prior to posting deadline)

Fleet:

• Unavailable (not received prior to posting deadline)

Laboratory:

• Unavailable (not received prior to posting deadline)

Major Capital Improvement Project Status

- Effluent Pipeline Replacement Project
 - o Granite has completed GMP 1 and is finalizing punch list items
- Effluent Storage Tank Project
 - USACE continues to work on the environmental assessment. It is anticipated that the final determination will be completed by USACE by the end of November.
 - Following USACE's environmental clearance, Granite will be able to advertise for subcontractors to develop the GMP.
- Incline Beach House
 - Staff is working on preparing package for design build RFP documents to be advertised
 - RFP documents will be reviewed by CIC prior to advertisement (11/8/23)
- Skate Park Enhancement
 - Staff is working on preparing package for design build RFP documents to be advertised
 - o RFP documents will be reviewed by CIC prior to advertisement (11/8/23)

<u>MEMORANDUM</u>

TO: Mike Bandelin

Interim General Manager

FROM: Mike Bandelin

Diamond Peak General Manager

SUBJECT: Venue Status Report – Ski – October 2023

DATE: November 1, 2023

Staff Recruitment

The Ski Venue hiring managers have busy with their annual fall duties of recruiting staff for the winter season including attending career fairs, calling potential applicants, interviews, hiring and onboarding tasks.

The consensus is that the recruitment efforts thus far have been good and we are hopeful that the ongoing efforts will continue to be strong.

Off Season Maintenance of Infrastructure

The maintenance work performed on ski lifts, snowmaking facilities, buildings, slopes and the vehicles during the summer months has nearly concluded.

<u>Currently</u>

Staff has scheduled the annual ski lift maintenance and condition assessment to be performed by Safe Hold which is the Districts general liability insurance company for the ski venue. The two day inspection will take place beginning on November 6, 2023.

Snowmaking operations began for the 2023/24 winter ski season on October 29th and operations were successful for the first initial run of the system for the season. Warming temperatures followed.

The District Board of Trustees approved a capital improvement project to take place this summer which included a reconfiguration of the kitchen as well as replacing the walk-in cooler and freezer unit. The project is on schedule for completion by the end of November. Staff will plan on providing a project conclusion report to our board of Trustees.

The Board of Trustees also approved a planned project of painting the exterior of the base facility buildings. To date, the exterior painting has been completed at the main lodge and crews are working on the painting the skier services building.

The Special Use Permit application with USFS has been submitted to the Regional Office for review including a check in with the LTBMU Forest Supervisor for review prior to final approval.

The ski venue plans to open for the season on Thursday December 7, 2023 conditions permitting.

The ski venue guest services office is open and staffed Monday through Friday for in person related questions

Policy 22.1.0 Reports

07-01-2023 to 9-30-2023



POLICY. The Incline Village General Improvement District emphasizes transparency and understands that state law creates minimum standards. In some instances it may be appropriate to impose stricter requirements than those set forth in the Nevada Revised Statutes (NRS). While IVGID encourages Trustees and employees to be involved in local community groups, this involvement may result in real or perceived conflicts of interest. Various provisions of the NRS, including NRS 281A, prohibit IVGID officials from participating in decisions affecting their "commitments in a private capacity" and otherwise impose disclosure or recusal requirements on decisions impacting officials' organizations.

While these requirements impose important minimum standards that avoid actual conflicts of interest, they do not provide transparency regarding potential conflicts of interest or otherwise ensure that officials are proactively disclosing potential conflicts of interest.

As defined in this Policy, "Qualifying Groups" shall be for profit, not-for-profit, and non-profit corporations, limited liability companies, partnerships, sole proprietorships and community liaison that are located in, operating or intending to operate in, or own or lease property within the Nevada counties of Douglas and Washoe, Carson City, or the California counties of El Dorado, Nevada, Placer, and Sierra.

To provide additional transparency beyond state minimum requirements, IVGID Trustees, Audit Committee Members, and senior management employees shall report on a quarterly basis any Qualifying Groups to which they are an owner, employee, or officer. Senior employees shall include the General Manager, department heads, and any supervisors with signature authority under Policies 20.1.0 or 21.1.0 as identified by the General Manager.

Reports shall be made quarterly due by January 15th, April 15th, July 15th, and October 15th. The report required to be filed for July 15, 2023 shall be due July 31, 2023.

RESPONSIBILITY. The District Clerk shall be responsible for developing reporting forms, notifying officials of their obligation to file reports, and maintaining such reports. All forms shall be public records.

The General Manager shall adopt and enforce personnel policies to ensure compliance with this Policy. The Board of Trustees shall enforce this Policy against Trustees, Audit Committee Members, and the General Manager.

Reporting Form

This reporting form is to be completed by IVGID Trustees, Audit Committee Members, and Senior Management employees and shall be done on a quarterly basis (see the reporting schedule below). Senior employees shall include the General Manager, Department Heads, and any supervisors with signature authority under Policies 20.1.0 or 21.1.0 as identified by the General Manager. As defined in this Policy, "Qualifying Groups" shall be for profit, not-for-profit, and non-profit corporations, limited liability companies, partnerships, sole proprietorships and community liaison that are located in, operating or intending to operate in, or own or lease property within the Nevada counties of Douglas and Washoe, Carson City, or the California counties of El Dorado, Nevada, Placer, and Sierra. Member of a Qualifying Group does not include simply listing a part affiliation as part of a voter registration or being a parishioner or regular attendee of a church, synagogue, mosque, or other religious group.

Employee Name: Richard Allen
Reporting Period: <u>07/01/2023 – 09/30/2023</u>
Name of External Entity, Group or Organization:
None.

Reporting Schedule

Reporting Form

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Employee Name: Mike Bandelin
Reporting Period: <u>07/01/2023 – 09/30/2023</u>
Name of External Entity, Group or Organization:
Acting on behalf of the District and Diamond Peak Ski Resort as a member of Ski California

Reporting Schedule

Reporting Form

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Employee Name:	Matthew Dent	
Reporting Period:	4/1 to 6/30 & 7/1 - to 9/30	
	Intity, Group or Organization:	
P and P consulting	ng, Dent organization, Dent capital, Academic freedom	

Reporting Schedule

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Employee Name: Erin Feore
Reporting Period: <u>07/01/2023 – 09/30/2023</u>
Name of External Entity, Group or Organization:
Society of Human Resources (SHRM), 9/2022-9/2023 Northern Nevada Human Resources Association (ongoing) American Payroll Association (ongoing) Various retail programs: Raley's, Costco, etc. Receive coupons for purchases

Reporting Schedule

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Employee Name: Mike Gove
Reporting Period: <u>07/01/2023 – 09/30/2023</u>
Name of External Entity, Group or Organization:
None.

Reporting Schedule

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Employee Name: Susan A. Herron
Reporting Period: <u>07/01/2023 – 09/30/2023</u>
Name of External Entity, Group or Organization:
North Lake Tahoe Fire Protection District, Director

Reporting Schedule

Reporting Form

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Employee Name: <u>Darren Howard</u>
Reporting Period: <u>07/01/2023 – 09/30/2023</u>
Name of External Entity, Group or Organization:
Rotary of Incline.

Reporting Schedule

Reporting Form

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Employee Name: Shelia Leijon

Reporting Period: 07/01/2023 – 09/30/2023

Name of External Entity, Group or Organization:

ITF – Founder, ex-officio, non-voting liaison for IVGID projects, emeritus President

Rotary Club of Tahoe Incline – member, past president

IVCBA – Founder, Human Resources and Community Representative

Porsche Club of America – member

Reporting Schedule

Period from 7-1 to 9-30; due to District Clerk or designee by 10-15 Period from 10-1 to 12-31; due to District Clerk or designee by 1-15 Period 1-1 to 3-31; due to District Clerk or designee by 4-15 Period 4-1 to 6-30; due to District Clerk or designee by 7-15

07122023

Reporting Form

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Employee Name: Bobby Magee
Reporting Period: <u>07/01/2023 – 09/30/2023</u>
Name of External Entity, Group or Organization:
None.

Reporting Schedule

Reporting Form

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Employee Name: <u>Kate S. Nelson</u>
Reporting Period: <u>07/01/2023 – 09/30/2023</u>
Name of External Entity, Group or Organization:
Washoe County Planning Commission – District 2
Truckee Meadow Regional Planning Agency Commissioner – Washoe County

Reporting Schedule

Reporting Form

This reporting form is to be completed by IVGID Trustees, Audit Committee Members, and Senior Management employees and shall be done on a quarterly basis (see the reporting schedule below). Senior employees shall include the General Manager, Department Heads, and any supervisors with signature authority under Policies 20.1.0 or 21.1.0 as identified by the General Manager. As defined in this Policy, "Qualifying Groups" shall be for profit, not-for-profit, and non-profit corporations, limited liability companies, partnerships, sole proprietorships and community liaison that are located in, operating or intending to operate in, or own or lease property within the Nevada counties of Douglas and Washoe, Carson City, or the California counties of El Dorado, Nevada, Placer, and Sierra. Member of a Qualifying Group does not include simply listing a part affiliation as part of a voter registration or being a parishioner or regular attendee of a church, synagogue, mosque, or other religious group.

Employee Name: DAVID NOBLE
Reporting Period: $7-1$ 70 $9-30$ (2023)
Name of External Entity, Group or Organization:
DATIO SCOT MIBLE DIBIA DEN CONSULTINE
SKIPROCK PARTHONS, LIC

Reporting Schedule

Period from 7-1 to 9-30; due to District Clerk or designee by 10-15 Period from 10-1 to 12-31; due to District Clerk or designee by 1-15 Period 1-1 to 3-31; due to District Clerk or designee by 4-15 Period 4-1 to 6-30; due to District Clerk or designee by 7-15

07122023

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Trustee Name: Sara Schmitz
Reporting Period: <u>07-01-2023</u> to <u>09-30-2023</u>
Name of External Entity, Group or Organization:
Incline Village Crystal Bay Community 1st – 501C(3) non-profit – President – unpaid volunteer

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Trustee Name: Michaela Tonking
Reporting Period: <u>07-01-2023 to 09-30-2023</u>
Name of External Entity, Group or Organization:
APA Consulting, MHT LLC

Reporting Schedule

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Trustee Name: Raymond Tulloch
Reporting Period: <u>07-01-2023 to 09-30-2023</u>
Name of External Entity, Group or Organization:
Munro Tulloch, Inc. President & CEO
Mt. Rose Ski Tahoe – Ski Team Head Coach
Far West Masters Ski Racing – Past President, Volunteer position

Reporting Schedule

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Emp	oloyee Name: <u>Jim Youngblood</u>
Rep	orting Period: <u>07/01/2023 – 09/30/2023</u>
Nam	ne of External Entity, Group or Organization:
	<u>AWWA</u>
	Capital Village HOA

Reporting Schedule

		Item F.1.
		2
1 INCLINE VILLAGE		1 APPEARANCES
2 GENERAL IMPROVEMENT		2
3 BOARD OF TRUSTER	ES	3 BOARD MEMBERS PRESENT
4		4 MATTHEW DENT, CHAIR
5		5 SARA SCHMITZ, VICE CHAIR
6		6 RAY TULLOCH, TREASURER 7
7 8 TRANSCRIPT OF HEAR	INC	8 ALSO PRESENT
9 PUBLIC MEETING - TOWN		9 JOSH NELSON, LEGAL COUNSEL
10 Live and Via Zoom	VID CE	10 HEIDI WHITE, DISTRICT CLERK
11		11
12 Held at The Chateau at Incline Vill	age	12 -000-
13 955 Fairway Boulevard	3	13
14 Incline Village, Nevada		14
15		15
16 Wednesday, October 11, 20	23	16
17		17
18		18
19		19
20		20
21		21
22		22
23		23
24 Reported by: Brandi Ann Vianney Smith		24
25 Job Number: IVGID 8		25
1 INDEX	3	4 1 Incline Village, Nevada - 10/11/2023 - 6:00 P.M.
2	PAGE	2 -000-
3 A. PLEDGE OF ALLEGIANCE	4	3
4 B. ROLL CALL OF TRUSTEES	4	4
5 C. INITIAL PUBLIC COMMENTS	5	5 CHAIR DENT: All right. Folks, we're
6 D. GENERAL BUSINESS		6 going to go ahead and get started, so take your
7 0 00000 00 00000000000000000000000000	19	7 seats.
E. BOARD OF TRUSTEES UPDATE	109	8 All right. I'd like to to call the town
9 F. FINAL PUBLIC COMMENTS 9 G. ADJOURNMENT	110 116	9 hall forum of Incline Village General Improvement
10	110	10 District Trustees Board of Trustees to order. It's
11 -000-		11 6:00 P.M. The time of this meeting will end at
12		12 8:30. Today is October 11th, 2023. We are located
13		13 in the Chateau, at 955 Fairway Boulevard, Incline
14		14 Village, Nevada.
15		15 Item A is the Pledge of Allegiance.
16 17		16 A. PLEDGE OF ALLEGIANCE 17 (Pledge of Allegiance.)
17		17 (Pledge of Allegiance.) 18 B. ROLL CALL OF TRUSTEES
19		19 CHAIR DENT: Trustee Schmitz?
20		20 TRUSTEE SCHMITZ: Here.
21		21 CHAIR DENT: Trustee Tulloch?
		Z C A \DENI: Husice fullocit!
22 23		
22		22 TRUSTEE TULLOCH: Here.
22 23		22 TRUSTEE TULLOCH: Here. 23 CHAIR DENT: Trustee Noble?
22 23 24		22 TRUSTEE TULLOCH: Here. 23 CHAIR DENT: Trustee Noble? 24 TRUSTEE NOBLE: Here.

_		6
Tonking let us know she would not be able to make it	1 Thank you very much.	6
2 this evening. That will close out item B. Moving	2 MS. CARS: Good evening. I am here on	
3 on to Item C.	3 behalf of Gail Krolick. She asked me to let the	
4 C. INITIAL PUBLIC COMMENT	4 community know that of her 33 years of this	
5 CHAIR DENT: We do have seven public	5 community that she will not not run for an	
6 comments we have received. Is there anyone else	6 open seat or wish to be appointed to any vacancy on	
7 that wants to make a public comment this evening?	7 the Board. Although she believes she could step	
8 Four. Okay.	8 right in and help IVGID, it is time to put community	
-		
10 public comment because this is a meeting has a	10 the community to heal and became what it should be.	
11 time limit to end. You will have the full two	11 We are blessed to live in a god's	
12 minutes at the end of meeting to make your public	12 creation.	
13 comments.	13 So Gail will not be running, and all	
14 MS. MORRIS: Hi. From the perspective of	14 community citizens, if that was a concern, there's	
15 someone who was retired from about 20 years of work	15 some much better people who will be up there and	
16 in municipal government, I would like to commend	16 will be incredible for the community.	
17 Trustees Dent and Schmitz for identifying many of	17 Thank you.	
18 the long-standing problems that IVGID had had, and,	18 MR. PRICE: This meeting demonstrates an	
19 in effect, causing IVGID management and staff to	19 ongoing attempt to transfer our community into a	
20 finally begin wrestling with these problems with the	20 structure that, in my opinion, violates the original	
21 view of solving them.	21 intent of our founder: A community with first-class	
22 And this we are trying to confront and	22 recreations facilities and a governing board that	
23 solve these problems only because Trustees Schmitz	23 would protect them.	
24 and Dent were elected to the Board, and I would like	Now we have a board that has decided that	
25 to commend them.	25 we do not need to abide by that principle. Without	
7 1 those first-class facilities, we are just another 2 Tahoe community. We need to have a board that knows	comment before the agenda item is opened? The current format has for many interested parties	8
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1	9 Board had no choice but to remove employee beach	1 boards have not done in the past is follow the	10
2	access, that nothing was ever written or documented	2 directive of the master plan.	
3	granting them access. False. I have Board	3 I really regard that picking up of this by	
4	Resolution 15.68 from 1988 that granted beach access	4 a gentleman a fascism. I have given this as a	
5	to employees. The specific wording of that wording	5 (Expiration of one minute.)	
6	was approved by legal counsel.	6 MR. KATZ: Good evening. My name is Aaron	
7	Per Trustee Schmitz, Nevada statutes	7 Katz. I have a written statement to be submitted to	
8	forced the Board to sharply reduce rec fees. False.	8 the minutes of the meeting.	
9	The State informed us they're unaware of any statue	9 Most people have no idea what a GID is,	
10	preventing collection, even if we have excess funds.	10 nor how it differs from other forms of local	
	But we don't. Current balances only cover about	11 government, nor the limited power it may permissibly	
12	half of the five-year capital plan.	12 exercise, nor the remedies available should a GID	
13		13 threaten to exercise or actually exercise any such	
14	Cardinale.	14 property.	
15	I would like to commend the Board for	15 So where do you go to get to answers to	
16	looking at the master plan and making residents	16 these questions? And if you don't know the answers,	
17	first within the community. Everything they have	17 how do you know what IVGID can legitimately do?	
	done has been to reduce STR crowding and to give	18 I have raised these question in the hope	
19	residents a voice in this community. Which is long	19 they will be shared with the public and	
20	lost and kicked down the road by the past boards.	20 substantively and accurately answered at this	
21	I really believe that this is a preemptive	21 meeting. Questions like: What are GIDs? What	
22	endeavor to do this at this time. That this is	22 powers are GIDs authorized to exercise? How do the	
23	could have waited for a campaign run. We are in a	23 powers of GIDs differ from those of counties and	
24	state of affairs here where we are being owned by	24 cities? What powers have been granted to IVGID? Is	
25	Washoe County. This Board has done what other	25 IVGID exceeding those powers? What remedies are	
	11		12
1	available?	documented information before spreading unfounded	12
1 2	available? MS. KNAAK: Yolanda Knaak, Martis Peak,	2 rumors that are mostly untrue when you read some of	12
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2 MS. McKOWEN: Trish McKowen.	2 and trust in the workplace and excessive focus on
3 I will be directing my comments to Trustee	3 details.
4 Schmitz. As a long-time resident, dating back to	4 MS. WELLS: Hi. Christy Wells.
5 1968, I find it exasperating that you cannot fully	5 For over the last six months, we've heard
6 understand how your micromanagement has adversely	6 there are red flags in the IVGID finance department
7 affected IVGID staff. Having reached out personally	7 that could be signs of fraud. However, over the
8 to many current staff members, as well as those who	8 past two months, the interim Director of Finance,
9 have left, many have shared negative interactions	9 Trustee Tulloch, and the Audit Committee chair have
10 with you, overstepping your role as board member is	10 said no evidence of fraud has been found. Yet here
11 at the heart of the toxic work environment that they	11 we are looking to do a forensic audit that I
12 deal with every day, which has lead to the lowest	12 guarantee will cost a lot more than any recall
13 employee morale in the history of the District.	13 committee or campaign election (inaudible) will ever
14 You often refer to it as "oversight," but	14 do.
15 it truly is micromanagement. I should know, as I	15 We have an internal auditor, the Audit
16 recently spoke during public comment at the Audit	16 Committee, and Trustee Schmitz, as I understand, has
17 Committee meeting last week, and the next day, I	17 oversight over any expenditure of 5,000 or more.
18 received an email from Trustee Schmitz attempting to	18 Why do we need a forensic audit? It seems like an
19 micromanage my public comments from the night	19 unnecessary expenditure that's going to cost this
20 before.	20 community more money than any recall campaign would
21 Micromanagement is a counterproductive	21 ever do.
22 management style, characterized by such behaviors of	This forensic audit seems to be been
23 obsessive focus on observing controlling	23 championed by Cliff Dobler, their benefactor. The
24 subordinates and obsession with detail.25 Micromanagement is generally considered to have a	24 interim Director of Fiance has said he recommended25 it because the community demanded it. I don't know
25 Micromanagement is generally considered to have a	23 it because the community demanded it. I don't know
	15
	10
1 anybody in this community who has demanded a	15 16 1 Thank you.
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17 1 The absence of Trustee Tonking could have	18 department, all the recreation facilities should
2 been prevented, as you all knew that she was not	2 work as whole, not trying to say, well, we're going
3 going to be available on this date. It makes me	3 to make golf this profit and ski this profit and
4 wonder what are the other arrangements or plans to	4 beach this profit. Some years skiing is great, some
5 limit or guide responses.	5 years it's not. Some years golf is great, some
6 Second, hopefully today will understand	6 years it's not. If we look at it as a whole instead
7 why we all need to pay for a forensic audit,	7 of individual pieces, it makes a lot more sense.
8 although there's no indication of any illegal	8 And I believe that we have enough problems
9 activity. Yet IVGID plans to spend hundreds of	9 with workforce here, and when a lot of the people
10 thousands to replace the GM and numerous other	10 are being taken away because they aren't elite
11 positions which have resigned or otherwise been	11 enough to live in this town and taken away because
12 encouraged to leave due to an unwelcoming work	12 they're not allowed to use the facilities, they're
13 environment.	13 going to go work somewhere near home.
14 And third, the Board should be very	14 CHAIR DENT: And that is our final public
15 concerned about low employee morale and how IVGID	15 comment period for our initial public comment
16 will address the retention issue. We hope to hear	16 period. That will close out item C.
17 more about this tonight.	17 I just wanted to ask our intake desk over
18 MS. MASTERS: Sherry Masters. I live at	18 there, how are we doing with gathering up all the
19 699 Hogan Court.	19 questions that came preprinted on the colorful
20 I feel like the IVGID Board is working for	20 cards?
21 the loud and not the majority. They do not want to	21 MR. LYONS: The good news is, we've got a
22 hear from the majority. They don't want us to speak	22 ton of questions.
23 on anything that they have on their agendas, and	23 CHAIR DENT: We got one more public
24 they set up the agenda with their own twist.	24 comment.
25 From what I believe, our recreation	25 MR. ROBINSON: So I get one minute. Okay.
40	00
19 1 Matt, really? Seriously, you guys have been the	1 I assume there will be a break at some
1 Matt, really? Seriously, you guys have been the	1 I assume there will be a break at some
1 Matt, really? Seriously, you guys have been the2 shame of Incline Village. The shame.	1 I assume there will be a break at some 2 point. If you're concerned about you question not
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1 three of my colleagues sitting up here when	25 26 t comes 1 trustees, we do not discuss anything behind closed
2 to this rumor about the Mountain Course. The	
Mountain Course is the only golf course I pla	
4 town. My wife goes and plays it often, and so	
5 our four year old.	5 So, it's unfortunate that things are being
6 I don't think there is a plan at all.	3
7 think that's nothing more than just a rumor.	7 and we have never discussed the Mountain Course
8 MS. MILLER: All right. Thank ye	
9 much.	9 I encourage people to attend meetings,
10 Is it true that some or any of the n	
11 of the Board of Trustees have discussed elin	
12 of organized golf clubs that currently use the	
13 Incline Village golf courses. If so, why?	13 not discussed this or had any intention of
14 TRUSTEE NOBLE: I haven't dis	
15 elimination of any organized golf clubs. I fee	
16 that, as part of the IVGID Board, as a govern	
17 agency, we should not be getting people's bu	
18 on how they want to organize, and they can t	
19 use our golf courses.	19 separate entities.
20 And I have no interest in getting in	·
21 their bylaws or membership or anything like t	hat, as 21 be a member of any club that invited me.
22 long as they follow the rules established for	22 But the golf clubs are completely
23 playing golf at our facilities.	23 separate, standalone entities. They're not IVGID
24 TRUSTEE SCHMITZ: So some	hing that I 24 entities.
25 just it's a global question here, is that as	25 MS. MILLER: Will there be some revisiting
	27 28
1 and possibly changes to some of the extensi	ve 27 28 1 was offered this year or any recommendations for
 and possibly changes to some of the extensi changes to our All You Can Play Passes for 	ve 1 was offered this year or any recommendations for
	ve 1 was offered this year or any recommendations for
2 changes to our All You Can Play Passes for	ve 1 was offered this year or any recommendations for the golf 2 next year, whether we keep it the same, go back to
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- investors or private operators? If so, why, when,
- and in what context. 2
- 3 CHAIR DENT: I'll just say no, it's not
- 4 true.
- 5 TRUSTEE NOBLE: Because that question asks
- have any members, I have not had any of those 6
- 7 conversations with any members, and I would not
- 8 entertain any discussion with that.
- 9 I have no interest in selling any of our
- 10 venues to any private investors or private op- --
- 11 when it comes to operators, there are opportunities
- 12 to contract with vendors to run, such as food and
- 13 beverage down at the beaches, that is different from
- 14 selling recreational facilities. I want to make
- 15 that distinction.
- 16 TRUSTEE TULLOCH: I think -- agree with my
- 17 colleagues. There's been absolutely no discussions
- 18 or no proposals. There's absolutely no intentions
- anywhere to do that. I would see no reason for 19
- 20 that.
- 21 It's a popular rumor that's being spread
- 22 around, but there's absolutely no truth to it
- 23 whatsoever.
- 24 TRUSTEE SCHMITZ: Isn't that part of why
- 25 we all live here, our fabulous recreational venues?

- Whether you like to golf, you like to ski, there's
- something for everyone here. That is what makes our
- community different than any other community in the
- basin.

5

- So, there's has never been a discussion
- 6 about this. And we actually did a FAQ and this was
- one of the questions that we answered on the FAQ.
- It's what makes our community. It's what holds our
- property values. These venues are vital. We need
- to maintain them, we need to improve them, and we
- need to enjoy them.
- 12 MS. MILLER: All right. Going in to
- 13 general improvement district law, IVGID, obviously.
- 14 What exactly is a general improvement
- 15 district, a GID? Not the verbiage, like in layman's
- 16 terms.
- 17 TRUSTEE TULLOCH: I'll defer to general
- 18 counsel to describe the legal terms. What GID is
- not, it's not an HOA, it's not -- I've heard public
- comment stated earlier, this isn't what the founding
- 21 fathers envisioned.
- 22 I'm pretty sure the founding fathers
- probably didn't envision a GID. It's back beyond my
- 24 residency here, which is relatively long compared to
- 25 some. The -- we are a --

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- What's the correct term. Josh? Is it 1
- 2 quasi-municipal organization? I'll pass that to
- 3 you.
- 4 But, yes, we have limited powers. We're
- 5 not an HOA. It's not just done by popular vote.
- There's only certain things the GID can do. 6
- 7 I'll pass it to Josh.
- 8 MR. NELSON: Yeah. And as kind of noted
- 9 on the slide, there are -- I mean, technically a GID
- 10 is a quasi-municipal corporation or like a city.
- 11 Stated simply, a GID is a type of local government
- 12 which is formed to provide specific services in a
- 13 local community.
- 14 CHAIR DENT: Thank you, Josh.
- 15 And for those who don't know, Josh Nelson
- 16 is our general counsel.
- 17 TRUSTEE SCHMITZ: So from my perspective,
- 18 in layman's terms, as it relates to what Josh just
- 19 said is that we have only the authority that the
- 20 legislature has allowed us to have.
- In the GID 318, there are lots of 21
- 22 different categories like street lights and
- 23 electricity. We don't have that power. We are
- 24 limited to water, sewer, trash, and recreation. The
- 25 only exception to that is senior transportation,

- 1 which Washoe County has the authority to delegate to
 - us, and they did do that. So that's the only thing 2
 - that is beyond what is set forth by the Legislature.
 - MS. MILLER: How exactly do GIDs differ
 - 5 from other governmental subdivisions in the State of
 - 6 Nevada?

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- 7 CHAIR DENT: Mr. Lyons, do you want to
- 8 answer that for us?
- 9 MR. LYONS: Sure. Yeah, just to what Josh
- 10 said.
- 11 So there's a general jurisdiction local
- 12 government, which we're familiar with, like a city
- or county. And so they have kind of and open ended
- set of things they can do. And GID is like special
- districts in California and other states around the
- U.S. are given very specific tasks and specific
- geographies over which to do those tasks, which may
- or may not overlap at all with cities and counties.
- 19 And those are the two big ways that they
- 20 differ in what they do and where they do it.
- 21 MS. MILLER: All right. Then what powers
- 22 do GIDs possess, and how are they limited by
- 23 Dillon's Rule?
- 24 Maybe explain what Dillon's Rule is.
- 25 CHAIR DENT: We -- I think the Audit

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1	Committee took this up at one point a couple years.	1 how do those powers differ from those exercised by	•
2	I'll pass it to legal counsel.	2 other general governments?	
3	MR. NELSON: So Dillon's Rule is actually	3 MR. LYONS: I think that's been covered	
4	a legal sort of presumption that comes from a case,	4 now.	
5	I think in Iowa initially, but has been adopted by	5 MS. MILLER: Yeah.	
6	almost every state.	6 Where does one go to get answers to these	
7	And the basic idea is that if a state	7 questions, other than reading the whole NRS for him	
8	follows Dillon's Rule in its local governments which	8 or himself?	
9	Dillon's Rule applies can only do those things that	9 MS. NELSON: So I have one, who is looking	
10	are specifically identified by statute.	10 for something to help put them asleep, but does a	
11	Nevada is a Dillon's Rule state, so under	11 really good job of kind laying out the issues, the	
	Dillon's Rule, IVGID and other GIDs can only do	12 Nevada Legislature actually did a background paper	
	what's permitted by NRS 318 and other laws	13 on GIDs from 1983. I know it's a little dated now,	
	specifically. And as the Chair mentioned, we did do	14 but it still is a very good overview of the issues.	
	a pretty deep dive into this at the Audit Committee,	15 If you just Google general improvement	
	and then ultimately at the Board.	16 district's background paper, '83-'84, it'll pop up.	
17	For interested members of community,	17 MS. MILLER: All right. Checks and	
	there's more references available on the Audit	18 balances.	
	Committee agendas from 2020, including a	19 Is IVGID exceeding its permissible powers?	
	November 2020 memo, which kind of lays out Dillon's	20 If so, what remedies exist to address IVGID's	
	Rule and how it applies to IVGID. And then we did a	21 exercise of excess permissible powers? 22 CHAIR DENT: I would say IVGID is not	
	series of workshops with the Board in 2021, which looked at Dillon's Rule and how it addressed some	23 exceeding its permissible powers. However, I think	
	issues we were looking at at that time.	24 it's something that we just always need to be aware	
25		25 of and something we need to be constantly checking	
20	We. WILLET. Turnik data loco oco,	20 of and comouning we need to be constantly choosing	
		+	
	00	40	
1	39 on.	1 flush. All our venues are still operating.	1
1 2	on.	1 flush. All our venues are still operating.	1
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2	on. TRUSTEE TULLOCH: As Chair Dent said,	 flush. All our venues are still operating. It's important that we get the right 	1
3	on. TRUSTEE TULLOCH: As Chair Dent said, sometimes we walk a fine line, and sometimes we get	 flush. All our venues are still operating. It's important that we get the right candidate. The Board is being updated as and when 	1
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		40		50
1	Now, the question asked was: If the	49	1 previous work with the Utilities Commission. I was	50
2	recall moves forward, who pays for the election?		2 the chief staff, lead staff attorney on NV Energy's	
3	And it was answered.		3 Natural Diaster Protection Plan application. And	
4	CHAIR DENT: Yes. The District will be		4 then after retiring from that, a year and a half	
5	paying for the costs of the election.		5 ago, in the last months or so, I now am doing	
6	MS. MILLER: With the current turmoil		6 contract work with NV Energy, not on the NVPP, but	
7	created by the recall process hopefully concluding,		7 on other stuff. So I won't be answering this	
8	what are the next steps? And if the vote is		8 question.	
9	unfortunately for recall, what are the selection		9 TRUSTEE SCHMITZ: I'll answer, but I'll	
10	process for new board members?		10 look to my fellow trustees to keep me honest here.	
11	CHAIR DENT: Having appointed two board		11 I don't believe there was ever an	
12	members or been through that process, I would say		12 environmental impact study or even a noise study.	
	the process is very similar to what you've seen when		13 And a constituent brought this to my attention	
	we appoint to a committee.		14 today, asking about the noise regulating. And TRPA	
15	There will be candidates that are		15 does have noise guidelines.	
16	requested to put their name forward, there will be		16 The work is done. The helicopters are not	
	public interview, and then Board members will decide		17 flying anymore this season, and I have requested the	
	who they believe would be the next trustee.		18 Board Chair and Mr. Bandelin actually put this	
19	MS. MILLER: Moving on to the NV Energy		19 contract and have a representative from NV Energy	
20	project. We've all seen the helicopters around.		20 come to our board meeting so that we can discuss	
21	What environmental impact study was		21 this because I, as one trustee, did not understand,	
22	submitted by NV Energy or conducted by IVGID prior		22 and I looked at the postcards, it did not have this	
	to approving the project?		23 extensive amount of time.	
24	TRUSTEE NOBLE: On this one, I have to		24 So I don't know what happened and why	
25	abstain and recuse myself from it based on my		25 these helicopters were flying for as long as they	
1	were, but I have requested it come before the Board	51	1 The one bright point about it, and I know	52
1 2	were, but I have requested it come before the Board so that we can review this contract and determine if	51	The one bright point about it, and I know it's no consolation to people that are actually	52
_	so that we can review this contract and determine if	51		52
2	•	51	2 it's no consolation to people that are actually3 indirectly affected, but NV Energy has been doing a	52
2	so that we can review this contract and determine if it is going to remain, get modified, or be	51	2 it's no consolation to people that are actually3 indirectly affected, but NV Energy has been doing a	52
2 3 4	so that we can review this contract and determine if it is going to remain, get modified, or be terminated. So that will be coming up shortly.	51	 2 it's no consolation to people that are actually 3 indirectly affected, but NV Energy has been doing a 4 lot of vegetation control. They have been taking 	52
2 3 4 5	so that we can review this contract and determine if it is going to remain, get modified, or be terminated. So that will be coming up shortly. CHAIR DENT: I will add to that. There is	51	 2 it's no consolation to people that are actually 3 indirectly affected, but NV Energy has been doing a 4 lot of vegetation control. They have been taking 5 out a lot of timber under the mainline there, 	52
2 3 4 5 6	so that we can review this contract and determine if it is going to remain, get modified, or be terminated. So that will be coming up shortly. CHAIR DENT: I will add to that. There is a 90-day termination clause, I believe, in there.	51	 2 it's no consolation to people that are actually 3 indirectly affected, but NV Energy has been doing a 4 lot of vegetation control. They have been taking 5 out a lot of timber under the mainline there, 6 hopefully improve the reliability of the service, 	52
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1 answer to that question?	53	1 comment before an agenda item is raised?	54
2 MR. BANDELIN: Maybe I can just help		Now we're moving on to, like, the other	
3 conclude some of these questions.		3 section of questions submitted before the meeting	
4 When staff brought to the Board a		4 tonight.	
5 recommendation to review, discuss, and possibly		5 CHAIR DENT: I want to say, like	
6 approve the agreement with NV Energy related to the		6 eight years ago when I was on the board, I think for	
7 Natural Disaster Preparedness Plan or prevention		7 a little while we had that originally where you had	
8 plan, through NV Energy of ensuring that the power		8 public comment at each agenda item. And because of	
9 lines within the District and all over across Nevada		9 how we had people that would be coming to a	
10 are treated with groves or new poles or new		10 meeting, and if you had ten items, they would be	
11 equipment and new lines on the poles, that when we		11 speaking for 30 minutes.	
12 brought that recommendation to the Board, we did not		So, the change was made back then to move	
13 bring all the environmental impact studies, we did		13 to this format where you have public comment at the	
14 not bring all the TRPA permits and regulations.		14 beginning and the end of the meeting, and that's	
15 NV Energy went through I'm going to		15 what we have been doing.	
16 tell you the correct process of any sort of		16 And I want to say, Sara, since you've been	
17 flight patterns, flight safety, noise analysis,		17 on the Board it's been that way. And I think it's	
18 otherwise, the site wouldn't have been deemed		18 been like that for over eight years.	
19 usable.		19 TRUSTEE SCHMITZ: I do remember speaking	
20 So, the Board did not have all that		20 with then-chair Callicrate about this issue. And it	
21 information. I just specifically brought the		21 was to deal with the length of the meetings.	
22 agreement to the Board.		22 But I believe that Chair Dent has been	
23 MS. MILLER: Has the Board and its counsel		23 open and said if there are agenda items that people	
24 evaluated how the current agenda format limits		24 want to speak to during the meeting, I believe that	
25 public participation by virtue of having public		25 you have expressed some openness and flexibility in	
	55		56
1 doing so.	55	1 anonymously.	56
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	57 I Board Chair. So there's different ways at which	1 significant investment into our facilities, we	58
	employees are given the escalation process.	2 should look seriously at bonding. And the reason	
	B But when a whistleblower complaint comes	3 for that, I look back at my experience with the	
4		4 Utilities Commission. When Utility would be	
į	5 go directly to the Audit Committee chair with legal	5 investing a billion dollars in a generation	
(counsel so that those they can decide how best to	6 facility, Ray Pears (phonetic) didn't pay that	
	7 handle the issues, whether it goes back to	7 billion dollars right then and there. They would	
8	3 management to deal with or whether there needs to be	8 pay for that over the life of the asset. That way,	
,	outside resources to investigate, they have the	9 you don't have existing customers paying for	
	0 authority to make those decisions and take action as	10 something that's going to be used and useful 30,	
	1 necessary.	11 40 years down the road.	
1	2 MS. MILLER: How do you decide what	12 And so for any major investment into our	
1	3 investments should be bonded versus paying cash?	13 facilities, I think we should seriously look at	
	4 CHAIR DENT: It's a good question. In the	14 bonding because I certainly don't want to spend \$10	
1	5 past, we would just pay as we would go. And I would	15 million on a beach house, and all the residents pay	
1	6 say over the last couple of years, the Board has	16 for that up front right now, and then everybody for	
	7 shifted to being open to bonding some of the	17 the next 40 years, rides the coat tails of everybody	
	8 recreational improvements.	18 that paid for that.	
1	•	19 If we were habitually investing \$5 million	
2	0 \$80 million effluent pipeline project, obviously,	20 every year, year in/year out, I could see paying,	
	1 that's something that needs to be bonded, and it	21 because everybody then has skin in the game. But	
	2 will be around for 50, 75, 100 years, some aspects	22 these projects, for lack of better word, are chunky,	
	3 of it. So it doesn't make sense for us to pay as we	23 and they have these long, useful lives.	
	4 go.	24 And so if they're going to be used for 25,	
	5 TRUSTEE NOBLE: I think that any	25 30, 40 years, it makes sense to look at bonding as a	
	50		60
	59 way to spread those costs out over the life of the	1 rec fee. We've assured the public these bonds that	60
		 rec fee. We've assured the public these bonds that have been issued would be removed from the rec fee 	60
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1	and also in our utilities. But a few years go, it	1	restrictions on moving funds to or from an	62
2	was changed to governmental. I don't really know	2	enterprise fund, but any movement has to be very	
3	why, the reason why they changed it.	3	explicit and public and transparent, of course.	
4	At the recommendation of Moss Adams back	4	CHAIR DENT: So what Sara's saying is we	
5	in early January 2021, they recommended, because we	5	have four funds. We have three excuse me one	
6	are running these as business, that they recommended	6	general fund and three enterprise funds.	
7	that we go back to the enterprise fund accounting.	7	MS. MILLER: Okay. Go ahead.	
8	MS. MILLER: You want to chime in, Kevin?	8	CHAIR DENT: Do you guys want to keep	
9	MR. LYONS: The real simple difference	9	going? Do you guys want to take a five-minute	
10			break? Okay. Keep going. In five minutes? Okay.	
11	fund is designed to do accounting for a		We're going to go for five more minutes, and then	
12	business-like service. So think of a service that		we'll take a five-minute break.	
13	has fees associated with it, paid by individual	13	MS. MILLER: When trustees are	
	users, that's operated by a government.	14	overstepping their boundaries, and there are	
15	And a general fund is designed to be		boundaries within the Board of Trustees, what	
16	usually paid by taxes or general charges to		actions are taken to remedy the situation?	
	everyone.	17	Does the Board police itself, basically.	
18	TRUSTEE TULLOCH: Kevin, keep me correct,	18	How does the Board police itself within the	
19	the money is also ring fenced within the enterprise		boundaries?	
	fund. You can't move money out of the enterprise	20	CHAIR DENT: So, the Board does now have a	
	funds into, say, the general fund.	21	code of conduct. I believe that was approved	
22	MR. LYONS: So, yes. It is a separate	22	last year. And with that, it lays out rules that	
23	fund, separate collection. Funds are supposed to go		the Board members should follow.	
24	to do that. The rules vary by state.	24	And I would say we could probably do a	
25	But any movement there's generally	25	better job as to the consequences or steps for when	
	63			64
1	you aren't following the code of conduct. I mean,	1	were noticed when they were going to involve a	64
1 2		1 2	were noticed when they were going to involve a discussion of items that could come before a future	64
_	you aren't following the code of conduct. I mean,	1 2 3		64
2	you aren't following the code of conduct. I mean, really, the real option that's in there, I would		discussion of items that could come before a future	64
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2 3 4	you aren't following the code of conduct. I mean, really, the real option that's in there, I would say, other than a discussion by the Board members or one-on-one, maybe the Chair and that individual	3 4	discussion of items that could come before a future board meeting. I believe some of the trainings which	64
2 3 4 5	you aren't following the code of conduct. I mean, really, the real option that's in there, I would say, other than a discussion by the Board members or one-on-one, maybe the Chair and that individual Board member, that is pretty much the only thing	3 4 5	discussion of items that could come before a future board meeting. I believe some of the trainings which dealt with general government practices were not	64
2 3 4 5 6	you aren't following the code of conduct. I mean, really, the real option that's in there, I would say, other than a discussion by the Board members or one-on-one, maybe the Chair and that individual Board member, that is pretty much the only thing that can happen behind the scenes. And then if	3 4 5 6	discussion of items that could come before a future board meeting. I believe some of the trainings which dealt with general government practices were not agendized because they didn't qualify as meetings	64
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	65 1 our venues.	1 as a vacation resort; I moved here as a it is a	66
	2 This term of "the model," none of us have	2 village. I don't run STRs. I don't support STRs.	
	3 ever I don't know what people are referring to	3 I think the STRs have unfortunately STRs and the	
	4 about changing the model. There's been no model	4 influx of people during the COVID crisis have	
	5 changing. We still look at our venues as a basket	5 certainly changed some things in the village.	
	of of venues. They're underneath the community	6 But we're not geared up here to be a	
	7 services fund. They're all under one umbrella. And	7 vacation village or a destination resort. We're not	
	3 we look at the venues yes, we manage budgets and	8 South Lake Tahoe.	
	things individually, but as whole, we have a basket	9 CHAIR DENT: This was a, I would say, hot	
	0 of community services venues for our residents.	10 topic back in 2015 when we approved the Diamond Peak	
	1 I don't think any of us have talked about	11 master plan. There were aspects of the Diamond Peak	
	putting tourists first or minimizing our residents.	12 master plan, I think it was Phase 1A and 1B that had	
	3 I think all time when we're talking about things,	13 to do with having the mountain coaster and a few	
	4 we're looking at it from a resident's perspective.	14 other things, as it relates to being a tourist	
	5 We live here, we interact with people, and we use	15 destination.	
	6 these venues too.	16 And the one thing we heard from the	
	7 So, I don't know if that's what if	17 community was that they did not want that, so no	
	8 that's a valid answer to the question, but I tried.	18 board that I've been a part of over the last	
	9 MS. MILLER: I think it's a big question.	19 eight-plus years has been interested in turning this	
2	TRUSTEE TULLOCH: Yes, I'm happy to chime	20 into a tourist destination.	
2	1 in.	21 MS. MILLER: What does supporting staff	
2	2 Incline was never built as a vacation	22 look like to you?	
2	3 resort. We're not geared up to be a vacation	23 TRUSTEE NOBLE: So for me, I'll start with	
2	4 resort. I believe any of us support that. I've	24 meetings, when we get staff memos, and so I'm	
2	5 lived here full time since 2007. I didn't move here	25 reading through those. If I've got questions, I	
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	67 1 will send my questions I don't do it on the	1 going to be personal, and it's not going to be	68
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		69		70
1	staff are responsible for running the operations of	09	1 construction season.	70
2	the District in line with the policies agreed by the		2 Yes, I mean, it's I think it's very	
3	Board.		3 clear. Staff are there to run the operations, the	
4	For all those that's been sending the		4 Board sets policy, and we support staff in doing	
5	Board emails about you should promote so and so, you		5 that.	
6	should replace this diving board, or whatever, the		6 TRUSTEE SCHMITZ: I think there's	
7	Board doesn't make these decisions. These decisions		7 different perspectives. And I think, as a trustee,	
8	are made by the venue managers and staff.		8 our only employee is the general manager. That's	
9	And as far as possible, staff should be		9 it. Every other employee is an employee of the	
10	left to get on with that. As Trustee Noble says,		10 general manager and his staff. So, you know, we	
11	when we see the Board packet, if we have questions,		11 have no authority. We do not give any direction.	
12	we typically speak to whoever is putting the paper		12 I think that it is important, as trustees,	
13	forward and find out that it's more important		13 when we are conducting meetings and I'm grateful	
14	that we find out beforehand.		14 for Chair Dent because we had this recent training,	
15	Similarly, some of the committees we've		15 and one of the things that were we talking about is	
16	set up, like with the Investment Committee, part of		16 how to do Board memorandums more effectively so that	
17	the driver behind that is to be able to streamline		17 us, as a board, can more quickly reach a decision,	
18	the process for making investment decisions. That		18 that we have all of the information in front of us.	
19	can be soul destroying for staff to spend a couple		19 So I think that was a great training session. And I	
	of months working a proposal, bring it to the Board,		20 think it will bring positive, not only for staff,	
21	and find that something's been missed out.		21 but for the Board and for the length of our	
22	One of the drivers for the Investment		22 meetings.	
	Committee is to try and make sure that we can iron		23 I also think in support of staff, are our	
	these things out beforehand so it doesn't get		24 policies. Our policies are there to give staff a	
25	bounced back and forth and then we lose a		25 backdrop, a safety net. They have something to lean	
		74		72
1	on. So by us putting in place policies, it actually	71	1 respect and making some changes even in how we do	12
1 2	on. So by us putting in place policies, it actually is there to protect staff.	71	respect and making some changes even in how we do our board memos and board meetings, I think all of	,,
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1	senior positions change over all the time.	73	1 criticize my fellow trustees. That's a violation of	74
2	I think what I would like to do, though,		2 our code of conduct.	
3	is give a shout-out to our staff that have stepped		3 When senior managers leave, such as our	
4	up to step into these roles. It has given some of		4 general manager, even in corporate America, it is	
5	our younger staff a terrific opportunity to		5 typical to have others depart because they have a	
6	demonstrate what they can do in a non-threatening		6 working relationship, what have you.	
7	environment. If they're in an interim role, it		7 We have I agree with Trustee Tulloch,	
8	gives them a huge opportunity to demonstrate their		8 we have great staff who has stepped in and is doing	
9	capabilities. I think so far they've all done a		9 a stellar job, and we should be grateful for that.	
10	tremendous job.		10 And we people make decisions for	
11	I mentioned interim General Manager		11 different reasons, whether it's retirement or	
12	Bandelin earlier, I think everything's kept going.		12 whether it's a job closer to family, or what have	
13	All our facilities still run. Public works still		13 you. But change does happen. And it's an	
14	runs. The effluent pipeline is on schedule. I		14 opportunity for others in our organization, and we	
15	think it's we're doing a disservice to some of		15 have great people who have stepped up to the plate.	
16	the staff that have taken over these roles in not		16 MS. MILLER: If a staff member has a	
17	recognizing their performance.		17 complaint about a trustee, what happens?	
18	TRUSTEE NOBLE: Me, personally, I think		18 They go to Facebook.	
19	that senior staff's interactions with the Board has		19 CHAIR DENT: If there is a complaint, it	
20	been less than ideal, and so they found places where		20 goes to HR. HR would look into it. Legal counsel	
21	they were more appreciated than this current board.		21 would look into it. And if it I would say, once	
22	And we've lost a tremendous amount of institutional		22 that those steps happen, the Chair of the Board	
23	knowledge, which will be very difficult for this		23 would be brought into it. And as an investigation	
24	community to ever replicate.		24 is underway, there's weekly meetings between the	
25	TRUSTEE SCHMITZ: I won't sit up here and		25 general manager, myself, and legal counsel, and so	
		75		76
1	at some point, that becomes a legal issue.	75	Sometimes you also need an external view.	76
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1	the lines of: Thank you for your email. The	1	those emails that are going around the community	02
2	trustees will individually respond if they choose.	2	soliciting uproar over incorrect information.	
3	Or something like that. And we decided to	3	So, please, we are here, we are here to	
4	pivot and do something like that, do something a	4	serve you, we are here to serve you and provide you	
5	little differently, because in years past, there	5	with factual information. So I would encourage you	
6	would be just sometimes silence from maybe a	6	to reach out.	
7	majority of the trustees. And sometimes not one	7	MS. MILLER: What changes can you make to	
8	trustee would reply to someone's email.	8	the whistleblower policy to ensure IVGID employees	
9	So at the very least, we're saying, hey,	ç	can submit complaints without fear of retaliation?	
10	you've been heard, and the individual trustees will	1	Another whistleblower question.	
11	decide how they're going to respond.	1	1 CHAIR DENT: I think that's already	
12	TRUSTEE SCHMITZ: On that note, I would	1:	2 accounted for in the whistleblower policy. I don't	
13	like to thank Trustee Noble for doing that, because		3 think we need to go there.	
14	there's instances where I don't receive the email,	1.	-	
15	and it happened again today. And when Trustee Noble	1:	Why were there no lifeguards at the	
16	responds, I think he's correcting email addresses to	10	beaches in 2023? Did IVGID's insurance rates for	
	ensure that we're all receiving it. So it's	1	7 the beaches increase?	
	actually serving a fantastic purpose. And working	1	CHAIR DENT: It's been very difficult to	
	with our IT director to see if there's a way that we	1	9 find people that want to be lifeguards at the	
	can ensure that we receive all of our emails.		beaches the last several years. And this year, I	
21	And I think from I can speak from all		1 believe it was the general manager's recommendation	
22	of us, I think, that we would prefer be asked		2 at the time that we wouldn't be staffing the beaches	
	questions. We would prefer to get phone calls. We		3 with lifeguards. And we had a heck of a time in the	
	would prefer to get emails, as opposed to and		last two years doing that.	
	answer question with facts, as opposed to all of	2	-	
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1	attempting to staff, and so we are very similar to	83	But you're right. It does speak to	84
1 2	attempting to staff, and so we are very similar to all the beaches around Lake Tahoe now, with the	1	, ,	84
2	all the beaches around Lake Tahoe now, with the	1	staffing. And, yeah, you saw me a lot out there	84
_	all the beaches around Lake Tahoe now, with the exception of a few.	1	staffing. And, yeah, you saw me a lot out there this summer at the pools.	84
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1	the senior Director of Finance, Bobby Magee, we did	85	1 day-to-day operations.	86
2			2 I'm sure we'd hear loud cries of	
3	controller, to allow the controller to work		3 micromanagement if we were doing that. The Board is	
4	remotely, and that was just to open it up and try		4 there to provide independent oversight. We don't	
5	and compete.		5 provide day-to-day oversight. We rely on the	
6	Besides what Trustee Tulloch mentioned		6 reporting coming from staff.	
7	earlier, we did raise the wage, but to compete with		7 MS. MILLER: Back to financials.	
8	others, we needed to change that job description of		8 Are the IVGID bank accounts now reconciled	
9	the controller to work remote.		9 through September 30th of this year? If not, what	
10	TRUSTEE SCHMITZ: As Board members, we		10 month are they reconciled through, and are there any	
11	don't make those decisions. Those decisions are up		11 outages?	
12	to the general manager.		12 TRUSTEE SCHMITZ: At the Audit Committee	
13	So if decisions were in the past or		13 meeting last week, interim Director of Finance said	
14	different than what's here today, those decisions,		14 they have finally balanced at year-end of last year,	
15	we're not making those at the Board level.		15 and that they successfully closed one month, meaning	
16	MS. MILLER: Thank you very much.		16 that it was July 31st of last year. So that's where	
17	•		17 they currently are in the process.	
	the oversight over the District's financial reports		And he believes that once they get a	
	and the systems internal controls. When do you hold		19 better understand of what their issues have been, he	
	yourself accountable for the issues happening within		20 feels that they will be able to close	
	IVGID?		21 subsequent months quicker, but it's taken them an	
22	· · · · · · · · · · · · · · · · · · ·		22 extensive amount of time to reconcile the year-end	
	incorrect. The responsibility for internal controls		23 closing and the first month of this fiscal year.So, no, we have not closed.	
	lies with the director of finance and the general manager. The Board does not get involved in		So, no, we have not closed.MS. MILLER: There have been issues	
23	manager. The board does not get involved in		20 INO. IVIILLEIX. THEIR HAVE DEET ISSUES	
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1	delineating between the Board's role and what	87	 When a contract is brought to the Board, 	88
1 2		87	 When a contract is brought to the Board, the contract needs to be accurate, it needs to 	88
_	management team's roles and responsibilities are.	87		88
2	management team's roles and responsibilities are.	87	2 the contract needs to be accurate, it needs to	88
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1	2009. And our legal counsel has created various	89	1 been a very worthwhile practice.	90
2			2 CHAIR DENT: Just add to that too, kind of	
3	•		3 pivoting or moving this question a little bit. As	
4			4 far as the liaison to all the departments, we all	
5			5 took I think we had training in December or	
6			6 January of this year, and it was a good governance	
7	we're not getting things cleaned up as quickly as		7 training through Pool Pack. That was one of the	
8			8 suggestions from Pool Pack. It's what good	
9			9 governance did.	
10	-		10 And they had specific trustees assigned to	
	together. We're working with staff. We're working		11 different departments, so then you don't have three	
	with legal counsel. And our contracts have		12 or four trustees all asking the same question. You	
	improved. We have made improvements. We just need		13 have one trustees that's kind of in charge or in a	
	to get over that finish line.		14 way is that filter and can be that knowledge, along	
15	_		15 with the director for that program.	
	important thing to add is that this Board has		16 So I feel like, so far, that's been very	
	appointed each Board member is a liaison to		17 helpful. And it's been a change from the way the	
	3 different venues, different departments to provide a		18 Board has handled things in the past.	
	soundingboard for that department. I was late to		19 TRUSTEE SCHMITZ: The liaisons, it's been,	
	the party, so all the fun ones, like golf and ski		20 I think, a very positive and productive change that	
	were taken before I could put my hand up.		21 we made.	
22			22 And the other thing is that it gives	
	B part. It gives staff much more direct access to		23 people like Trustee Dent has a background in	
	bounce things off a particular board member before		24 construction, so he's the liaison for construction	
	putting things out in the public, and I think that's		25 projects. And I think it not only helps the staff	
		91	Q	2
1	in knowing sort of what to bring to the Board and	91	1 to address that, then I believe that's when it	92
1 2		91	-	92
_	that sort of thing, but it's leveraging the skill	91	1 to address that, then I believe that's when it	92
2	that sort of thing, but it's leveraging the skill	91	 to address that, then I believe that's when it becomes an issue for us to decide. 	92
3	that sort of thing, but it's leveraging the skill set that he has. I have a background in IT consulting, and	91	 to address that, then I believe that's when it becomes an issue for us to decide. But at that level, it's the general 	92
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- 1 MS. MILLER: Do any of you guys play 2 pickleball? Just out of curiosity. You do. Okay.
- 3 Good. All right. Good to know.
- 4 Please provide us any examples where
- 5 public input has affected a board decision during
- 6 2023.
- 7 TRUSTEE TULLOCH: I think we need to be
- 8 careful how we define public input. Public input,
- 9 20 people reading the same script at a board meeting
- 10 is not necessarily public input. I think we need to
- 11 be very careful we don't just listen to the loudest
- 12 voices. We do what's right for the community as a
- 13 whole.
- 14 CHAIR DENT: I would say there's where --
- 15 bring you back to the FlashVote surveys that the
- 16 District have had in the past, and asking the
- 17 community and quickly polling 800 people within a
- 18 couple days and getting a response with a scientific
- 19 survey. I think that is us asking the community
- 20 what we should do. We've done that a few times this
- 21 year, and we plan to do a few others.
- 22 TRUSTEE SCHMITZ: In May, the Board made a
- 23 couple of decisions, I'm going to call it "on the
- 24 fly," and it had to do with the golf cancellation
- 25 policy. And the concern -- the reason why it was on

- 1 the fly is because we were eliminating a
- 2 reservation. But the Board shouldn't be making
- 3 on-the-fly decisions. We should express our concern
- 4 and then ask for staff to do their analysis.
- 5 So we actually listened to community input
- 6 feedback on that, and we made a change. We reverted
- 7 back to the prior cancellation policy.
- 8 The other thing that we did on the fly was
- 9 also these All You Can Play Passes. And we had
- 10 heard, loud and clear, early on that there was issue
- 11 and a concern. I had suggested that it come back to
- 12 the Board and be revisited, and the Director of Golf
- 13 preferred to wait until the season-end and evaluate
- 14 the situation and go forward.
- 15 So we do listen, and we do recognize that
- 16 those cases, we sort of took a little bit of a
- 17 misstep. We don't always do everything right, but
- 18 we're trying our best. We do listen and we do
- 19 appreciate the input.
- 20 We really appreciate the attendance here
- 21 tonight. Thank you.
- 22 TRUSTEE NOBLE: I'll just say with regards
- 23 to community contact with me, email is always the
- 24 best. And I actually read them all, and then I -- a
- 25 lot of times, as the one designated to respond, I
- 95
- 1 need to decide, on occasion, they're not actually
- 2 talking to us, we just get cc'd, but it's not in our
- 3 jurisdiction. And so I'm always reading through, is
- 4 this in our jurisdiction even? Is this something
- 5 appropriate to respond to? Or are they -- there are
- 6 some uniques ones also that just -- I make the
- 7 independent decision just not to respond on those,
- 8 and those get deleted.
- 9 But with regards to the vast majority, I'd
- 10 say 98, 99 percent of the emails that come in, I'm
- 11 reading those. Those are becoming, then, part of my
- 12 thought process that that information that I'm
- 13 using.
- 14 And whether that moves the needle on my
- 15 position on stuff, I don't have anyone that comes to
- 16 mind at the moment, but they're always in my mind as
- 17 I'm going through it, because that's another
- 18 perspective that may not align with me, but it's
- 19 something that I take into consideration as I'm
- 20 analyzing the issue.
- 21 MS. MILLER: All right. Thank you very
- 22 much.
- 23 Rationale behind locking down the beaches
- 24 using gates when this doesn't seem to be a problem.
- 25 Isn't signage enough with our beaches?

- 1 CHAIR DENT: That's a good question. The
 - 2 intent of previous boards was to have the restricted
 - 3 access beaches year around. And I want to say when
 - 4 I first got on the Board, we had three months where
 - 5 we had the restricted access beaches.
 - 6 Now we're starting as early as April and
 - 7 out into October. That's changed a lot over the
 - 8 last eight years.
 - 9 The -- as it relates to the restricted
 - 10 access beaches, what we're trying to this winter is
 - 11 testing out the RFID chip, and -- which soon will
 - 12 become your Picture Pass Cards or your punch cards.
 - 13 It's a way for us to try out the technology at the
 - 14 beaches and see if that works or not. And we won't
 - 15 know until we actually try it.
 - 16 MS. MILLER: Are RFID, are those gates
 - 17 you're going to try -- are those going to be --
 - 18 like, right now, I'm picturing how it works at, say,
 - 19 a ski resort. But there's still a lift key there
 - 20 making sure that that pass correlates -- the picture
 - 21 correlates with kid with the helmet and the goggles.
 - 22 You can't tell anyways, but there's someone there?

CHAIR DENT: Yeah. The idea is to do this

- 24 in the off season. And we are looking forward to
- 25 having our director of rec come back and present to

25

CHAIR DENT: The Village Green has been

25 NV Energy, that's done -- I did that in consultation

101 102 with Mr. Nelson. reports, and they have to submit what beach, how 2 CHAIR DENT: I don't -- I'll address this much time, and they put effort into this. And I 3 too because I don't think I formally -- I don't think that they are all rather proud of it. 4 think I did anything formally with the Ethics 4 So I just want to say thank you to all of 5 Commission when I have reached out to them a few 5 the goose patrol dogs, including my 6 times. 6 less-than-great-vision dog. 7 7 I think it's a process. There's a form MS. MILLER: Can you speak to plans to you have to fill out, and it takes a little bit of address the gaps, opportunities, and recommendations 9 time to do that. 9 outlined in the Moss Adams report? 10 MS. MILLER: Okay. Thank you. TRUSTEE TULLOCH: We're currently -- as 11 Do you think a blind goose patrol dog can you're probably aware, the Board approved the Moss 12 be effective? If so, why? 12 Adams report at the last board meeting, and asked TRUSTEE SCHMITZ: My dog, he's not blind. 13 staff to move forward with it. As a board, we're 14 He just doesn't have great vision. And -- but what looking at the various parts of it. There's a bunch of recommendations in it. 15 the geese see is his bright orange vest. And the 16 We talked earlier about the strategic 16 bright orange vest is what scares the geese away 17 because the other Labradors and what have you chase plan, and updating the strategic plan. That's very 18 them into water. I could walk around in an orange high up the priority list. 19 vest and it would probably do the same effect. 19 Moss Adams also made some very good 20 TRUSTEE TULLOCH: It's our duty as a board observations on our policies and procedures. A lot 21 and this community to make sure we look after -of them are contradictory. A lot of them are 22 take that account of disable access as well. completely out of date and have never been revised 23 TRUSTEE SCHMITZ: I would like to say for umpteen years. I'm old, but I think some of 24 thank you to all of the goose patrol dog owners. them are even older than me in terms of that. 25 25 Most of you don't realize, they have to do time But, yeah, we are moving forward on them. 103 104 1 And had a request from the audience earlier that mean, it's -- I would say that is our job. That is 2 they'd like to see more discussion of what we're --2 our role. When we disagree on something, we the actions we're taking on them at a future board disagree at the Board level over a decision, and 3 meeting. We're going to add that to the agenda so after that, we move forward with whatever that 5 we do look at that. decision is. You could have been on the two side of 6 There is a lot of meat in the report. I it or the three side of it or the one and four side think it's been a very worthwhile piece of work. of it, it doesn't matter. And we are moving forward with many of the 8 What that decision is that the Board 9 recommendations. 9 makes, regardless if you agree or disagree, the 10 CHAIR DENT: A final question? Board spoke, and that is really what you should do 11 MS. MILLER: It's 8:29 and five seconds. 11 moving forward is follow the Board's direction. 12 TRUSTEE SCHMITZ: Additionally, I think 12 You want to keep going? Okay. 13 TRUSTEE SCHMITZ: The gaps that were that it's important that we recognize that we each 14 identified in the Moss Adams' report were partially have differences, and we respect those differences. what drove us to say we need to do the forensic due 15 We also need to respect the fact that if 16 diligence audit because we had high risk, we don't like the person, it really doesn't matter, 17 significant high gaps in areas of -- I'm we were elected to serve together, and that means we 18 remembering -- payroll, cash management. These were need to work together. 19 really important categories. 19 And so I think it's very important that 20 So I think that Bobby Magee has taken you set things aside and act as a professional. And 21 those reports and those gaps seriously, and he's we collaborate, make decisions, and support each 22 other and support the decisions that the Board makes 22 working to identify and close those gaps. 23 as a whole. 23 MS. MILLER: Final question of evening: 24 When will board members start supporting each other? 24 CHAIR DENT: I'll just add to this too, 25 CHAIR DENT: That's a good question. I 25 one thing that the community may know, but this is

1 the first heard the been a part of where welve		106	
1 the first board I've been a part of where we've2 actually gone out to dinner. So, we have gone out	1 go to an open board meeting.2 We're all very much bound by the Open		
2 actually gone out to dinner. So, we have gone out 3 to dinner outside of a board meeting, it's happened	3 Meeting Laws, and we all observe them. It makes it		
4 twice, we're trying to build that collaboration	4 much more difficult because sometimes some things,		
5 outside of a board meeting.	5 you can sort out issues, concerns of the Board		
6 A lot of folks think that there is all	6 members beforehand with quiet conversations. You		
7 these meetings and discussion that happen outside of	7 can't do that. It makes it much more difficult. It		
	8 does mean the public's business is conducted in		
8 a board meeting, we don't talk outside of the board9 meeting. We can't get together and have a	9 public.		
10 discussion, other than something that is noticed,	•		
_	10 MS. MILLER: All right. I think one of 11 the big things this evening was that you are all		
11 something that has an agenda. 12 And so a couple times to try and to build			
12 And so a couple times to try and to build 13 collaboration, separate from what prior boards have	12 accessible. That was a big question. You have		
14 done, we try to get together, have dinner, talk	13 questions for your board members, their emails, cell14 phone numbers are online. And I think it's		
15 about stuff that doesn't relate to IVGID.	15 important to ask questions directly.		
16 TRUSTEE TULLOCH: Yes, I think that's a	16 I want to thank all of you for coming		
17 key point. There's some impression at times that	17 tonight. I really appreciate your interest in being		
18 somehow we get together as a cabal. Different19 cabals get together and we agree on things.	18 involved. We're going to try to get to these19 Go ahead, Kevin.		
	,		
20 It's actually one of the most frustrating21 things as a Board member. We can't discuss ideas	20 MR. LYONS: Thanks for all the questions.21 We do have all the questions, and we will be		
22 with more than one other Board member. It's all	22 submitting them to the clerk. They're accessible		
23 my other board experiences, you can take some24 soundings from the rest of your board members so you	23 I think every trustee got insulted here a lot of		
25 have an idea where people stand before you actually	24 times with some questions, maybe they'll answer25 those, actually.		
23 Have all lidea where people stand before you actually	25 those, actually.		
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	400	40
1 cases, yeah, in which you can stop someone. If	109 1 Seeing none, we're closing out item E and	10
2 they're off topic, if they're actually making a	2 moving on to final public comment, item F.	
3 physical threat, there's about seven different	3 F. FINAL PUBLIC COMMENTS	
4 things. And we will be going through that,	4 MR. HOMAN: Thanks. Just a couple things	
5 actually, because it's surprising.	5 I wanted to follow up on from things that were said	
6 Like, I've been through this training with	6 tonight.	
7 professional government communicators, as a trainee	7 First is with respect to the forensic	
8 and as a trainer, and it's shocking, the things you	8 audit. I counseled against that when I was on the	
9 can say and you just have to do it because the	9 Audit Committee. As you know, that's something	
10 government is not allowed to shut down citizen	10 typically done when you have evidence or strong	
11 speech.	11 suspicion that fraud exists. And while we have	
12 MS. MILLER: Keep your eye our for that.	12 plenty of issues, there was no evidence of fraud.	
13 It sounds like a great thing.	13 We also just don't have the resources. This is	
14 I want to thank you guys for coming. We	14 going to divert resources away from critical tasks.	
15 are going to open this back up to public comment.	15 Being short staffed and close to year-end, I just	
16 Thank you all for being here very much. Thank you.	16 thought this was the wrong priority.	
17 And, staff, thank you for being here as	17 Having said that, I do agree with what the	
18 well. We do have IT here. We have General Manager	18 trustees did say tonight, which is now that we've	
19 Bandelin here. And it did take several staff	19 started it, we have no choice to complete it to put	
20 members to put this on as well.	20 it behind us. And I think that will be good.	
21 CHAIR DENT: All right. That's going to	21 Unfortunately, it is going to have a	
22 close out item D 1. We're moving on to item E.	22 significant impact on the annual audit. I did	
23 E. BOARD OF TRUSTEES UPDATE	23 listen to the Audit Committee meeting from last	
24 CHAIR DENT: Are there any Board of	24 week. What was discussed in that meeting and the	
25 Trustee updates?	25 tone of that meeting was not a due diligence audit.	
		12
The terminology that was used was clearly forensic	1 been discussions and plans. Be interesting to find	12
2 audit. And I think that had an impact on the	1 been discussions and plans. Be interesting to find2 that out.	12
2 audit. And I think that had an impact on the3 external auditor. I was very concerned, but not	 been discussions and plans. Be interesting to find that out. MR. DELFER: Hi. I'm obviously Frank 	12
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	We are adjourned. It's 8:50. Thank you. (Meeting ended at 8:50 P.M.)	117	1 STATE OF NEVADA 2 COUNTY OF WASHOE 3 SS. 2 COUNTY OF WASHOE 3 SS. 4 I, BRANDI ANN VIANNEY SMITH, do hereby 5 certify: 6 That I was present on October 11, 2023, at 7 the Public Meeting - Town Hall, via Zoom, and took 8 stenotype notes of the proceedings entitled herein, 9 and thereafter transcribed the same into typewriting 10 as herein appears. 11 That the foregoing transcript is a full, 12 true, and correct transcription of my stenotype 13 notes of said proceedings consisting of 118 pages, 14 inclusive. 15 DATED: At Reno, Nevada, this 18th day of 16 October, 2023. 17 /s/ Brandi Ann Vianney Smith 19 ERANDI ANN VIANNEY SMITH 21 22 23 24 25	118

INVOICE

BAVS SM-LLC brandiavsmith@gmail.com United States

BILL TO

Incline Village General Improvement

District

Susan Herron

775-832-1218 AP@ivgid.org Invoice Number: IVGID 8

Invoice Date: October 18, 2023

Payment Due: November 11, 2023

Amount Due (USD): \$1,058.00

Items	Quantity	Price	Amount
Appearance fee October 11, 2023 BOT meeting	1	\$350.00	\$350.00
Per page fee October 11, 2023 BOT meeting	118	\$6.00	\$708.00
		Subtotal:	\$1,058.00
		Total:	\$1,058.00
		Amount Due (USD):	\$1,058.00

Charge to 100-11-100-6030 S. Herron 10/19/2023

IVGID Townhall Questions

*SUBMITTED VIA EMAIL PRIOR TO THE TOWNHALL/ FORUM

1) Question for Trustee Schmitz

Trustee Schmitz, why did you propose a 100 cost recovery target for the Champ Course when many residents besides golfers use the course, especially in the off-season, for dog walking, cross country skiing, snowshoeing, sledding, and level-ground hiking; and when every property owner in IV/CB benefits in terms of maintaining their property values by having this course in our community?

GreenPlay, the inventors of the Cost Recovery Pyramid, would suggest that when a venue benefits such a wide swath of the community, and has a short operational window for revenue generation, the cost recovery target should be significantly less than 100%.

- 2) What exactly is a general improvement district ("GID")? Not the verbiage contained in NRS 318.075 (a "body corporate and politic and a quasi-municipal corporation") which few understand but rather, what exactly is it?
- 3) How exactly do GIDs differ from other "governmental subdivision(s) of the State of Nevada?"
- 4) What powers do GIDs possess, and how are they limited by Dillon's Rule, if at all?
- 5) How do those powers differ from those permissibly exercised by other general governments?
- 6) Where does one go to get answers to these questions other than reading the NRS for him/herself?
- 7) Is IVGID exceeding its permissible powers?
- 8) If so, what remedies exist to address IVGID's exercise of excess permissible powers?
- 9) What is the status of the search for the IVGID General Manager and what is the targeted date for onboarding the successful candidate? It would be helpful for the Board to periodically update the community as the process continues.

- 10)What is the status of the preparation of the District Strategic Plan for the period of 2023/2024 through 2024/2025 and is it intended to be completed prior to the appointment of a new General Manager or subsequent to his/her onboarding?
- 11)Has the Board defined expected revenue for each of the recreational facilities so that performance against objectives (Performance against Plan) can be evaluated? Without expected metrics, how can performance be accurately and fairly defined?
- 12) Has the Board and its counsel evaluated how the current agenda format limits public participation by virtue of having public comment before an agenda item is raised. The current format has, for many interested parties, significantly limited public participation because reports from Board and Staff have been embargoed until the agenda topic is opened. An obvious example is the April meeting of the BOT where the report outlining golf operations and possible changes was not released to interested parties despite having it ready at the sign-in table?
- 13) Is it true that some or any of the members of the Board of Trustees have discussed the elimination of the organized golf clubs that currently use the Incline Village golf courses? If so, why?
- 14) Is it true that some or any of the members of the Board of Trustees or their Staff have discussed the possibility of selling any of the IVGID recreational venues to private investors or private operators? If so, why, when and in what context?
- 15) There have been rumors regarding the closer of the Mountain Course. What are the current views of the Trustee' regarding the Mountain Course?
- 16)I understand that there are a couple of financial audits either being conducted or contemplated based on details provided by the Acting Director of Finance regarding the state of IVGID finances.
 - What are the status and any interim findings of these efforts?
- 17) With the current turmoil created by the recall hopefully concluding, what are the next steps, and if the vote is unfortunately for recall, what are the selection process for new board members?
- 18) Will Washoe County charge us for the cost of the recall special election?
- 19) What is the status of the Recreation Center, remodel, or expansion?
- 20) Is the Château undergoing a process of remodel or expansion?

- 21)Will there be some revisiting and possibly changes to the some of the extensive changes to our all-you-can play passes for the golf course?
 - Particularly the unreasonable increase in couples pass costs and very limited play on weekends for all-you-can-play passes.
- 22) Will there be some revisiting and possibly changes to the some of the extensive changes to our all-you-can play passes for the golf course?
 - Particularly the unreasonable increase in couples pass costs and very limited play on weekends for all-you-can-play passes.
- 23)"Given that members of the BOT, members of the Audit Committee, and the surviving IVGID finance people see no evidence of fraud, theft, embezzlement or malfeasance in IVGID's conduct, why in the world is the Board authorizing spending \$30,000 to \$150,000 for a forensic audit?"

I quote from investopedia.com

During a forensic audit, an auditor seeks to derive evidence that could potentially be used in court.

A forensic audit is used to uncover criminal behavior such as fraud or embezzlement.

- 24)There seems to be some statements made around golf club members getting special golf play pricing that is better than Picture pass holders. I believe this is not true. Please clear this up by either supporting or denying the above statement?
- 25)Please state the open management positions that have not yet been filled with a full time employee. Please list the dates that each position became open. Please give us (residents) an update on the current status of applicants in process for each of these open positions.
- 26)What Environmental Impact study was submitted by NV Energy or conducted by IVGID prior to approving this project?
- 27)Since noise limitations within Incline Village are governed by TRPA Code of Ordinances Chapter 28, what noise impact report was submitted by NV Energy to IVGID?

- 28) Specifically, what noise levels were projected?
- 29) What noise monitoring equipment is currently operational to ensure that TRPA limitations are met?
- 30)Was IVGID provided with a Safety Risk Analysis by NV Energy? (Such a study is standard within the aviation industry in order to identify operational risks and plan mitigations)
- 31)What was so compelling about the Diamond Peak site that led the IVGID Trustees to discount the adverse impact on adjacent homeowners in favor of a commercial agreement in favor of NV Energy?

*SUBMITTED AT THE TOWNHALL/ FORUM

- 1) Trustee Noble is your service on this Board what you thought it would be when you were elected? If yes, how so. If no, please elaborate
- 2) Trustee Tulloch your sense of humor has been found to be offensive what are you doing to correct this behavior?
- 3) At least 7 senior manager jobs have been vacated in a year. Why are we investigating fraud, when the apparent reason is micromanagement by Trustee Schmitz and Tulloch?
- 4) Trustee Schmitz is it true that you authorized the purchase of pickle-ball ball tossing machine that wasn't in the budget for this year?
- 5) How can Ms. Schmitz tout her fiscal responsibility when she loses a 25.9 million dollar grant, she's looking to spend half a million dollars in hiring a new GM, and she's complaining that the recall may cost the District \$100,000.00? Resign already!
- 6) Trustee Schmitz please tell us about your plans for the Recreation Center expansion and how you plan on putting together a funding source?
- 7) /why did Vice-Chair Schmitz unilaterally shut down the months of work by the Dog Park Committee and choose the Village Green for the preferred sight for the Park which was in direct conflict with a large majority of the Community?
- 8) Why does Vice-Chair Schmitz continue to engage in the daily operational activities at the Beaches and various other venues of the District when her job as Trustee is to provide input to the General Manager through the Board deliberative process? No Trustee has the authority to demand reports, dictate operations or interfere in the day-to-day activities of the District.
- 9) In recent audit meeting, Trustee Schmitz acknowledged that board involvement in staff work was not allowed. Yet she continually does it. What is the remedy?

- 10) **Question for Sara Schmitz:** Why do you think there has been a mass exodus of senior IVGID management during the past 12 months under your tenure as a board member?
- 11) Question for Sara Schmitz: You are known for "Micromanaging IVGID Staff". Have you had the opportunity to reflect on how your actions have adversely affected IVGID staff? Do you take responsibility for your actions and how your excessive micromanagement has contributed to the lowest employee morale and the emergence of a toxic work environment for IVGID employees?
- 12) **Question for Sara Schmitz**: You continually say that you don't know that you had to vote Yes on both initiatives regarding the David Duffield Foundation Grant. Why do you continue to deflect this? In the last Channel 4 News report it was clear that GM Winquest spoke to every trustee reiterating that the donation required unanimous support. Will you ever take responsibility for the loss of the \$26 million dollar grant?
- 13) **Question for Sara Schmitz:** Trustee Schmitz, you alone are responsible for the loss of the \$26 million dollar grant from the Duffield Foundation. You and Trustees Dent and Tulloch spearheaded a campaign to remove GM Winquest. Which is costing the district \$250,000 to pay out his remaining contract. If we make it to a special election the cot to the district will likely be \$100,000. Have you thought about resigning to save the district the additional expense?
- 14)How did the Board handle the complaint by staff that Trustee Schmitz had inappropriately interfered with staff handling her neighbor's beach pass privileges?
- 15) Why Does Vice-Chair Schmitz continue to lie regarding the Duffield Foundation Grant when she, herself, admitted in hindsight, that she made a mistake when questioned by Channel 4?
- 16) Sara, how did you come up with the girls' only gym? Totally wrong for the Duffield Donation.
- 17)Sara Why are you claiming the Duffield Donation was for a girl's only addition Total fabrication of the generous offer you solely rejected?
- 18) Have you used the skate park? If so, when?
- 19) Chair Dent, please explain why you did not think it was appropriate to recuse yourself from voting for Mr. Dobler's appointment to the Capital Committee.
- 20) Why would Board Chair Dent refer to the recall as "fun and games" when questioned by the media? There is nothing fun or gam-like when addressing a recall of 2 Trustees!
- 21) Question for Matthew Dent: Did you know ahead of time that Trustee Schmitz was going to vote no on the design of the Duffield project? If you did, why didn't you call for a recess, speak to the GM who in turn could have spoken to Trustee Schmitz to possibly save the \$26 million dollar donation from the Duffield Foundation.
- 22) **Question for Matthew Dent:** When you were interviewed by Ben Margiott from Channel 4, can you tell me why you said, "It's nothing new, it's just the fun we

- like to have in Incline Village." Do you think it was fun when IVGID employees lost access to the beaches? Was it fun when the long term employees who must endure a toxic work environment and micromanagement?
- 23) Question for Matthew Dent: What are 3 objectives that you want to accomplish when you took office, and please share what exactly you have accomplished on each of them?
- 24)Trustee Dent Where is the documentation from the Ethics Commission that you said you would submit to be included with the meeting minutes?
- 25) Trustee Dent What is the status of your \$800,000 loan with the Doblers?
- 26)This Board said a survey wasn't required for the dog park and now you have changed your direction and say it is. Is this going to be different from the community wide survey OR standalone?
- 27)You have put a time certain adjournment on this agenda and did so at the last minute why? What was your Fear? And why 8:30 p.m. when typical Board meetings go to 10 or 11 p.m.
- 28) Are you on the District's health insurance plan? If yes, how does that work?
- 29)Your Leadership, Chairman Dent, at meetings is deplorable as you never stop degrading comments towards Staff Why?
- 30)Trustee Schmitz you have a rather colorful history with the Blackhawk community in Northern California would you like to take this opportunity to enlighten us? Give us your side of the story?
- 31)Why did Chair Dent refuse to honor the request of two of his fellow Trustees to delay the first Town Hall until five of the Trustees could be present? "Meeting dates are set on Wednesdays" is not an adequate answer as set dates have been changed by this Chair several times during his tenure.
- 32)Mr. Dent, do you have any respect or regard for your fellow trustees? What you have done scheduling this meeting is quite bothersome. We know this was Trustee Tonking's idea that you stole to use for your political wellbeing which is a joke. Do you think it may have been more advantageous if you waited until the entire BOT was available, not only out of respect for your co-trustees but for your community members who you've been elected to SERVE? Do you think it was wrong to form by vote a golf advisory committee without trustee Noble there?
- 33) Why would Board Chair Dent allow this meeting to take place when one of the Trustees, Tonking, was unavailable and had given prior notice over a month ago? And Trustee Tonking was a staunch advocate to hold Townhalls as evidence in her campaign literature.
- 34) Why are you holding this forum when Trustee Tonking is out of town and this was her item? Isn't that rude and disrespectful?
- 35) Is resigning even a possibility?
- 36) This question is for Sara: How can you be so disrespectful of staff that have faithfully and proudly worked for IVGID longer than you've even lived here?
- 37) Same question for Matthew and Ray. Why are you so disrespectful of staff?
- 38) Why are you so intent on fixing a community that isn't broken?

- 39) Why do you continuously ignore most of the community members who are against what you are doing?
- 40)Do you thrive on power so much that you ignore how you hurt so many others?
- 41)The Board is implementing line-by-line online financial disclosure, which will enable a small group of citizens to micromanage and question every IVGID expense, no matter how trivial. The goal of some who do this is to dismantle IVGID. How are you going to protect IVGID staff and the larger parcel holding community from this massive interference?
- 42)Why does Vice Chair Schmitz continue producing her biased newsletter through her 501-(c)3 Community First Foundation and solicit for folks to remove themselves from the petitions which is in direct conflict with the rules of a non-profit engaging in political activities?
- 43) Why are District employees expected to take abuse, suffer slander and liable by certain community and board members without recourse while Trustees are allowed to take valuable taxpayer time and dollars to defend themselves for the same type of abuse on the record at Board meetings?
- 44)How did public outcry over ending the employee beach policy affect the Board's thinking and future actions?
- 45)How will the public outcry over putting Dobler on the long Term Assets Board affect your practices in the future?
- 46)Micromanagement seems to be a term that this Board doesn't understand why not?
- 47)Where does community benefits fall in Board decisions since many of the benefits IVGID used to provide discounts to non-profits, access to the beach for water safety purposes, access to the golf courses for the high school golf team, ect. Have all been discontinued; who changed IVGID from community based to penny-pinching money and rules based? I don't think that was in any of the Board's campaign goals.
- 48)Social Media is an important communication tool do you agree or disagree, and how do you use it? Please be specific as to the platforms you are or are not on/ using.
- 49)How do you think the community will react if you have to increase the recreation fee to pay for all the capital investments that need to be made?
- 50)Is it true that both Trustee Schmitz and legal Counsel are now reviewing every single purchase/ contract, no matter how small or menial? Is this not micromanagement? And what about the added fees being billed by legal counsel is that reasonable?
- 51) Why does Trustee Schmitz approve all Purchase Orders, when she is not supposed to be involved in the daily operations of IVGID?
- 52)The Mountain Niners are currently being "punished" due to what you conceive as a political statement, when it was intended to educate our members of the threat to golf and clubs in general. Where can we read where it says we can't inform our members about possible threats to the golf course and/ or golf groups?

- 53)Please explain the seasoning behind your decision to temporarily suspend the ability of one of the clubs to communicate with its membership. Was this a measure and rational means of displaying your disapproval or was it punitive and vindictive? Do you feel this is a good way to gain the support of a community that seems to have lost all respect for you?
- 54)How were the Golf Advisory Committee members selected by the Board of Trustees, specifically, what was the criteria of each person?
- 55)There are at least 200 woman golfers in golf clubs in Incline Village, how is it that not one woman was selected to the golf advisory board?
- 56)Who is protecting staff from retaliation and how if they signed the 2023 recall petitions, since Trustee Schmitz has the list?
- 57)It appears to the public that Trustee Schmitz has personal vendettas against certain employees would you care to comment?
- 58)Trustee Schmitz how many times, on average, do you communicate with the Interim General Manager Bandelin?
- 59)Trustee Tulloch how many times, on average, do you communicate with the Interim General Manager Bandelin?
- 60)If the wealthy on Lakeshore Drive can invite groups as guests on their property without sacrificing their property rights, why can't IVGID invite their employees?
- 61)Why was a \$50,000 contract to give legal opinion on employee beach access signed over a month after the policy was announced to employees? And why would one legal opinion cost \$50,000?
- 62)Regarding the beach deed what EXACT question was posed to special legal counsel that resulted in this new and different determination?
- 63) What is this Board ding about replacing beach access that you took away from employees? And why did you do away with a terrific recruiting tool?
- 64)What was the intention of the Board to overturn the previous legal decision made to grant non-resident IVGID employee's beach access when it was already determined it did not violate the beach deed?
- 65)In California, businesses with high value property that is sometimes used by the public, take one day a year to close off their property to protect their private property rights. Why can't IVGID simplify the beach deed problem and do the same thing? Were any discussions of alternative methods, other than banning employees from the beaches, made?
- 66) Have you researched Kevin Lyons background in Governance before hiring his firm?
- 67) When the Community speaks, do you listen?
- 68) Why is Trustee Tonking's request for an investigation into the high IVGID turnover rate being ignored?
- 69) What is your knowledge of the 2018 Master Plan? Why would you need a survey regarding the community service's needs, when you already have this through the master plan?

- 70)The Moss Adams report recommended that the GM Job be split into 2 positions. Trustees from the 2022 GM evaluation continually mentioned that the GM had too little staff and too much to do. In 2022, only Sara Schmitz gave the GM and evaluation under 7. Coincidentally, Sara Schmitz was embarrassed because she caused the loss of the \$25 million Duffield Grant in the fall of 2022. How did we go from these facts to pushing out the GM, paying for an extra year's salary for him, paying a recruitment company \$50,000 and approving an Assistant for the GM? Why did the Board Allow Sara to retaliate against the GM at these huge costs to IVGID community?
- 71)Why is the majority of this Board willing to spend close to \$500,000 in search and hire of a new GM, who will have zero knowledge of the District, when we had a very capable and well liked GM already in the position?
- 72)We have a community member who is verbally abusing staff. The Board is aware of it, so when is this Board going to address it, or are they just going to continue to ignore it and hope it goes away?
- 73)The Board had a General Business item to appoint liaisons to the venues and then without a General Business item you "fire" Trustee Tonking and appoint Trustee Schmitz I don't think that was legal would you care to comment?
- 74) Has any Trustee filed a Voter Integrity Complaint in the last 6 months? If yes, was it more than one and what was the subject matter?
- 75)After the issues with the application and selection of the Capital Improvement Committee, why would the Board suggest any future committee could self-appoint and not follow the vetting process that the Board has previously approved?
- 76)How did the Board handle the resignation of Mr. Homan from the audit committee, where he cited ethical problems and interference by Trustee Schmitz?
- 77)Who decided to change 50 years of practice and not have the GM at the Board meeting with the Trustees and when was it decided since it was implemented before the new Board was installed and elected officers?
- 78)Since in 2021 & 2022 Trustees Tulloch, Schmitz, and Dent were all either Trustees, on the Audit Committee, why suddenly in 2023, is there a big problem with the Finance Department and the concern about fraud?
- 79)How was the GM protected from retaliation by Trustee Schmitz for protecting employees from her ongoing interference?
- 80)Some vocal parcel holders want to dismantle IVGID completely. Given the numerous management vacancies, continual micromanagement, and inability for staff to get things done, it seems like the Board is bringing this parcel holders wish to fruition. How do you respond to this concern?
- 81)What do you think the Public should think when Cliff Dobler boasts, "I own the Board"?
- 82)How did public outcry over the departure of the GM affect your actions in this event? How did you encourage him to stay?

- 83)Why do we need a forensic audit with a current budgeted cost of \$150,000, plus a new position for Internal Auditor plus the regular annual audit plus an Assistant Finance Manager when there is no indication of any fraud and only evidence that a new computer system, too many special projects, and too little staff have caused the current financial backlog? This is wasting at least \$150,000 which could be used to fix the Tennis Courts, provide Spanish language services to the community survey tool, or any of the many projects that could actually benefit IVGID parcel holders.
- 84) Why was Dobler, who admitted to contributing to some of the Trustees' campaigns, put on the Long Term Capital committee when his behavior on the Audit Committee the prior year caused problems within the Committee and the Staff?
- 85)Bobbie McGee, the Interim Finance Consultant, has reported that in his opinion, IVGID's financial backlog issues are connected to implementing the new Tyler system and managing too many special requests, without enough staff. How does doing a forensic audit at the cost of \$150,000 to \$1 Million fix either of these?
- 86)The Board is Responsible for providing a Safe working environment for employees and Board members are not allowed to interfere or involve themselves with the staff but only interact with the GM. Why is it that employees continue to complain about inappropriate behavior by parcel holders and interference by certain board members and seemingly nothing is done?
- 87)How is this Agenda item Clear and Complete, which is required by NRS? You are in direct OML violation by continuing.
- 88)Why doesn't the Board talk about the ongoing IVGID management vacancies but authorizes layer after layer of audits and consultants?
- 89)While the board has not discussed venue privatization and contracting out venues, people financially supporting your campaigns have. Board decisions also seem to have been made prior to any board meeting, indicating some back-door discussions are happening. How can the public be guaranteed that privatization or contracting out venues will not be done?
- 90) Why are we ignoring actual recreational needs, such as fixing the tennis courts and instead, spending so much money on audits, when there is no evidence of any problems except lack of staff?
- 91)If it is true that you want to eliminate the golf clubs please explain why. If that is not true then explain why you think keeping the golf clubs is in the community's best interest.
- 92)Are you going to dismantle the golf clubs? If so, how and when are you going to do it?
- 93)Do you think you are treating all of our golf clubs equally? If not, in what way or ways are they not being treated equally? And if they aren't being treated the same can you explain why?
- 94) What is it that you have against the golf clubs?

- 95)Do you believe this community's golf groups are a good revenue source?
- 96)Will eliminating golf clubs that guarantee substantial revenue be a positive or negative?
- 97) What do you, Sara, know about golf and how clubs operate?
- 98)If the gymnastics structure were built in the future, what are the estimated costs for maintenance and upkeep?
- 99)How can you possibly say you are transparent when you do things that are so under the rug and secretive, only disclosing after the fact?
- 100) Why did the Board of Trustees think they had a right to infringe on the 14th Amendment of the US Constitution by questioning LLC's as a legal of title? Isn't this discrimination and way outside of the Trustees purview and jurisdiction?
- 101) Why do members of this Board keep inferring, through the Audit Committee, that fraud MAY have been committed with absolutely zero proof from the County or the State?
- 102) When a Trustee is overstepping their boundaries and there are boundaries, what actions are taken to remedy the situation?
- 103) The volunteer dog geese patrol has been a great success. How is it that a dog member of that patrol, owned by a Board trustee, is blind, must remain on a leash, and walks the beach during non-patrol hours... while other parcel holders cannot walk their dogs on the beach?
- 104) The Chair should ensure the Board effectively governs IVGID and that trustees work well together. How does he think this is going?
- 105) The Board had a General Business item to appoint the venues and then without a General Business item, you "fire" Trustee Tonking and appoint Trustee Schmitz I don't think that was legal Would you like to comment?
- 106) Why is the Board focus always on finances not recreational benefits? For example, the Board recently bemoaned that the beach goers only spent \$2.50... as if the goal was for Beach goers to spend \$25. Isn't the purpose to let parcel holders use the beach, not for IVGID to extract the most money it can from us. Do any of the Board members actually use the facilities or do you just see potential profit centers everywhere? What do you think the public should think when Cliff Dobler Boasts, "I own the Board"?
- 107) Who decided to ignore the longstanding, pyramid policy for cost reimbursement, where pricing is based on 0, 25%, 50%, and 75% of cost based on community versus personal benefits? The practice has been that the basic \$650 annual recreation fee pays for most of the package of recreational venues, with additional charges added based on a pyramid approach. This approach is how Incline properties have been marked=ted and sold since the early 1970's. Who decided to flip the pricing so the individual fees are first, with the basic annual fee optional?
- 108) What is the rationale behind locking down the beaches using gates when this doesn't seem to be a problem? Isn't signage enough?
- 109) Why are you not allowing the IVGID employees access to the beaches?

- 110) Why are there no women on the Golf advisory committee?
- 111) Why did the Board of Trustees select the Village Green as the location for a dedicated dog park without consulting the community?
- 112) Has any trustee, in the past 6 months, requested a formal Advisory Opinion from the Nevada Commission of Ethics?
- 113) Do you think a blind Goose Patrol Dog can be effective? If so, why?
- 114) Can you speak to your plans to address the gaps, opportunities, and recommendations outlined in the Moss Adams report?
- 115) When will board members start supporting each other?
- 116) Question for Mathew Dent: why do you allow members of the angry 8 to continually be disrespectful, assaulting, slanderous, and unprofessional? This does not represent our community in any way. Why do you allow this and is there no decorum for public comments?
- 117) It seems that in addition to making repetitive, generally negative comments at each board meeting, some parcel holders also submit endless public request documents, endless emails, make phone calls, have meetings with Board members, and finance campaign costs to push their point of view. This is happening while people who come and make statement at the public meeting seem to be ignored. How should this problem be resolved?
- 118) Will each question submitted at this Townhall be responded to?
- 119) Are you or someone else prescreening the submitted questions and if yes, why?
- 120) You have been accused of wanting to change this community into a vacation destination without regard to the model that Incline was successfully built on. Do you deny it? Have you received community support of such an action?
- 121) Was your latest training session with Governance Sciences posted? And why wasn't the public invited?
- 122) What practices from your training have you put to use?
- 123) Why do whistleblower complaints get submitted to the Audit Committee?
- 124) How do you decide what investments should be bonded versus paying cash?
- 125) Do you treat all staff members with respect?
- 126) What is an Enterprise fund? Please be as detailed as possible.
- 127) What does supporting staff look like to you?
- 128) When a Trustee is overstepping their boundaries what actions are taken to remedy the situation?
- 129) Please provide us any examples where public input has affected a board decision during 2023.
- 130) What has been done in 2023 to fix the tennis and pickle-ball courts?
- 131) Why has this board refused to collect data instead of dismissing the pressing issue of staff morale?
- 132) There have been issues delineating between the boards role and what the management team's roles and responsibilities are. What do you feel this boards role should be?

- 133) Are the IVGID Bank accounts now reconciled through 09/30/2023? If not, what month are they recoiled through, and are there any outages?
- 134) The Board of Trustees is responsible for the oversight if the Districts financial reports and the systems of internal controls. When do you hold yourself accountable for the issues happening within IVGID?
- 135) Why were there no lifeguards at the beaches in 2023? Did IVGID's insurance rates for the beaches increase?
- 136) What Changes can you make to the whistleblower policy to ensure that IVGID employees can submit complaints without fear of retaliation?
- 137) What makes a Trustee a good Trustee? Details please.
- 138) You have hired a number of consultants shat has been the benefit that the community has reaped from the spending of these dollars?
- 139) Why are so many of our Sr. Leaders departing?
- 140) There has been discussion to allow new senior managers to work remotely in order to fill vacancies. What are the tangible costs of having remote executives? Why were no efforts made to retain existing executives?
- 141) If a staff member has a complaint about a trustee, what happens? Please be detailed.

WRITTEN STATEMENT TO BE INCLUDED IN THE WRITTEN MINUTES OF THIS OCTOBER 11, 2023 TOWN HALL/FORUM – AGENDA D(1) – SHARED TOPICS OF COMMUNITY INTEREST

Introduction: Here the Board has announced a community town hall/forum. The purpose allegedly being to discuss shared topics of community interest. Since the notice of this event strongly encourages participants to "submit...questions in writing before, at and during the meeting," I did exactly that. And the discussion of my proposed topics is the purpose of this written statement.

My E-Mail of October 3, 2023: On October 3, 2023 I sent the Board Clerk an e-mail identifying 7 related questions on a topic I asked be addressed and answered¹. So let's break down those questions/one's responses.

What Are General Improvement Districts ("GIDs")? See Exhibit "B" attached to this written statement.

What Powers Are GIDs Authorized to Exercise? See Exhibit "C" attached to this written statement.

How The Powers GIDs Are Authorized to Exercise Differ From Those of Counties and Incorporated Cities: See Exhibit "D" attached to this written statement.

What Powers Have Been Granted to The Incline Village General Improvement District ("IVGID")? See Exhibit "E" attached to this written statement.

Is IVGID Exceeding The Powers it May Permissibly/Should Necessarily be Exercising? See Exhibit "F" attached to this written statement.

What Remedies Are Available to a GID Where There Are Questions as to Whether They Are Exceeding or Plan to Exceed Their Permissible Powers? See Exhibit "G" attached to this written statement.

What Remedies Are Available to The General Public Where There Are Questions as to Whether Their GID is Exceeding or Plan to Exceed Its Permissible Powers? See Exhibit "H" attached to this written statement.

 $^{^{1}}$ That e-mail and the Board Clerk's acknowledgment are attached as Exhibit "A" to this written statement.

Conclusion: Attached to this written statements are one or more members of the public's answers to the questions I have raised. What will the Board's answers be assuming *arguendo* members are willing to take on the fundamental issues identified?

And to those reading this written statement and wondering why your Recreation ("RFF") and/or Beach ("BFF") Facility Fee(s) which pay for/subsidize the activities the District furnishes which are beyond its permissible powers, I've now provided more evidence.

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

EXHIBIT "A"

10/9/23, 11:30 AM EarthLink Mail

RE: Proposed October 11, 2023 Town Hall Forum Questions re Topics of Community Interest

From:

Heidi White <hhw@ivgid.org>

To:

s4s@ix.netcom.com <s4s@ix.netcom.com>

Subject:

RE: Proposed October 11, 2023 Town Hall Forum Questions re Topics of Community Interest

Date:

Oct 9, 2023 10:06 AM

Thank you for you for your Town Hall submittal!

Your questions have been received and will be submitted to the moderator on the day of the event.

Respectfully,

Heidi H. White District Clerk

Incline Village General Improvement District 893 Southwood Blvd., Incline Village, NV 89451 Cell: 775-558-9500 hhw@ivgid.org



Email: <u>hhw@ivgid.org</u> Office: (775)832-1268 Cell: (775)558-9500

From: s4s@ix.netcom.com <s4s@ix.netcom.com>

Sent: Tuesday, October 3, 2023 12:22 AM

To: Heidi White < hhw@ivgid.org>

Subject: Proposed October 11, 2023 Town Hall Forum Questions re Topics of Community Interest

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Hi Heidi -

Here are my proposed questions for the aforesaid Town Hall. They're really all related to the basic subject matter:

- 1. What exactly is a general improvement district ("GID")? Not the verbage contained in NRS 318.075 (a "body corporate and politic and a quasi-municipal corporation") which few understand but rather, what exactly is it?
- 2. How exactly do GIDs differ from other "governmental subdivision(s) of the State of Nevada?"
- 3. What powers do GIDs possess, and how are they limited by Dillon's Rule, if at all?
- 4. How do those powers differ from those permissibly exercised by other general governments?
- 5. Where does one go to get answers to these questions other than reading the NRS for him/herself?
- 6. Is IVGID exceeding its permissible powers?





IVGID 101 IVGID PAST AND PRESENT ■ EVENTS

What Are General Improvement Districts ("GIDs")?

Most people, even law makers, have no real idea what GIDs really are. Sure they know they are some form of local government. And yes they may know that the acronym stands for "general improvement district." But what do the words really mean? What type of local government are we talking about? What powers do GIDs have? How do those powers differ from those of a county or city? Where does the money come from to financially support their operations? And where does one go to learn the answers to these and other similar questions?

As elsewhere stated, in Nevada¹ GIDs are *limited purpose*² special districts³. Special districts exist to provide specific services along the lines of vector control (mosquitos), library, fire, water, sewer and cemeteries, as opposed to general municipal police powers⁴. And insofar as GIDs are concerned, these types of "special district" exist primarily to provide specific services to real property⁵ their county of formation (for IVGID it was Washoe County) is unable or unwilling to furnish⁶.

So now you know!

^{1.} See NRS 318.010. ←

^{2.} See A.G.O. No. 63-61, p. 102, at p. 103 (August 12, 1963).

^{3.} See NRS 308.020(2) which defines the term "special district" to include "any...general improvement district, or... other quasi-municipal corporation organized under the local improvement and service district laws of this State." But what does this mean? "The subcommittee also learned that there is some confusion over the legal definition of a general improvement district. "The definition in NRS 308.020 (really) provides no assistance" (see page 28 at LCB Bulletin 77-11).

- 4. Those incredibly broad powers related generally to "[p]ublic safety, public health, morality, peace and quiet, (and) law and order" [see Berman v. Parker, 348 U.S. 26, 32, 75 S.Ct. 98 (1954)].
- 5. Take a look at NRS 318.116. This is the statute which expressly declares the basic powers a GID may exercise. To make the case GIDs furnish services "required by the owners of ... real property" [see NRS 318.258(9)], consider the following basic powers they may furnish: electric light and power [NRS 318.116(1)]; streets [NRS 318.116(7)], curbs, gutters and sidewalks [NRS 318.116(8)]; street lighting [NRS 318.116(12)]; storm drainage and flood control [NRS 318.116(10)]; energy for space heating [NRS 318.116(18)]; water [NRS 318.116(15)]; sewerage [NRS 318.116(11)]; the collection and disposal of garbage and refuse [NRS 318.116(13)]; fencing [NRS 318.116(16)]; fire protection [NRS 318.116(17)]; the control of noxious weeds [NRS 318.116(20)]; and, the extermination and abatement of mosquitoes, flies, other insects, rats, and liver fluke or Fasciola hepatica [NRS 318.116(2)].

Moreover, consider the District Board's recognition that "each parcel assessed [the Beach ('BFF') and/or Recreation ('RFF') Facility Fee]...is specifically benefited" by the District's recreation facilities for which it is assessed [see 94 at page 229 of the packet of materials prepared by staff in anticipation of the Board's May 26, 2022 meeting ("the 5/26/2022 Board packet"). As well as 94(c) at page 230 of the the 5/26/2022 Board packet which recites that "the availability of the use of IVGID's (recreation facilities is a)...benefit...which inure(s) to said real properties"]. The fact real property is benefited means that those basic power(s) granted accrue to real property.

Moreover, consider that "all rates, tolls (and) charges (adopted for these services) constitute a perpetual lien on and against the (real) propert(ies) served" [see NRS 318.197(2)]. And, "the amount of...charges (elected to be collected on the tax roll)...constitute a lien against (each) lot or parcel of land against which the charge has been imposed" [see NRS 318.201(10)]. Therefore, "where a dwelling unit (on a)...parcel of real property upon which the unit referenced...exists...is not currently being charged for services provided...the board...of trustees...may adopt a resolution...to charge the owner...for the services provided" (see NRS 318.203).

Moreover, "all owners of *inhabited property* in the district (are compelled) to use (and pay for) the district's system for the collection and disposal of sewage, garbage and other refuse" [see NRS 318.170(1)(b)]. And, when a "board which has adopted rates pursuant to this chapter...elect(s) to have such charges...collected on the tax roll...it...cause(s) a written report to be prepared...which... contain(s) a description of *each parcel of real property receiving such services and facilities* and the amount of the charge *for each parcel* for such year" [see NRS 318.201(1)].

Take a look at the Incline Village General Improvement District's ("IVGID's") trash Ordinance No. 1, sewer Ordinance No. 2, and water Ordinance No. 4. Who does IVGID ultimately look to for payment of the services it provides or contracts with a third party collector to provide *to real property*? According to 95.9 of Ordinance No. 1, 914.05 of Ordinance No. 2, and 99.06 of Ordinance

No. 4, "all charges, fees and amounts due and payable shall be billed to the owner of the premises, whether or not the owner is also the occupant." What about IVGID's recreation Ordinance No. 7? Who does IVGID ultimately look to for payment for the mere availability to access and use the recreational facilities and services it provides? According to 928 of Ordinance No. 7, parcels of real property rather than the persons who are the ones eligible to access and use the District's recreation privileges. Accordingly, that access and use are pre-conditioned upon a real property's payment of "all property taxes, special assessments and recreation fees...for the current and prior years."

What about the beach facilities and services IVGID provides to those with beach access? Again, access is pre-conditioned upon payment of the BFF local property/dwelling unit owners are obligated to pay. What about the defensible space services IVGID provides? 50% of the cost is included in the water rates, tolls and charges local property owners are obligated to pay, and the other 50% is included in the RFF local property/dwelling unit owners are obligated to pay. What about when the assets of a GID are proposed to be merged into an incorporated city? It is the vote (i.e., "protest") of local parcel owners within the district which shall determine whether to complete dissolution, merger or consolidation [see NRS 318.495(2)]. What about voting for/against Board trustees [see NRS 318.0951(1)] or general obligation bonds [see NRS 350.020(1)]? At least up until 1977 (when the Legislature was under the mistaken belief it was unconstitutional for nonresident parcel owners to vote in elections notwithstanding their primary interest), local parcel owners (aka "taxpaying electors") were qualified to vote [see former NRS 318.09525]. In all of these examples, it is or was the owner of real property who is or was ultimately charged and ultimately protests or protested all the services and facilities IVGID provides or provided to real property. 6. See III at page 8 of Legislative Commission of the Legislative Counsel Bureau, State of Nevada ("LCB"), Bulletin No. 77-11, Creation, Financing and Governance of General Improvement Districts, September 1976 ("LCB Bulletin 77-

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IVGID 101 IVGID PAST AND PRESENT W EVENTS

What Powers Are General Improvement Districts ("GIDs") Authorized to Exercise?

🛅 February 26, 2023

Many residents, even law makers, are of the opinion that since the Incline Village General Improvement District ("IVGID") is a "local government," it is authorized to function just like and to exercise *all* powers every other form of local government can exercise. They argue IVGID "mirrors an official town...yet...(simply without a) Mayor." Moreover because GIDs are "body corporate(s) and politic(s) and...quasi-municipal corporation(s)," proponents argue IVGID can engage in all sorts of activities few if any other non-quasi municipal forms of local government(s) can exercise That's the very narrative IVGID staff advance to the world. And unsurprisingly, that's exactly what the world regurgitates. Just look at Washoe County's and Tahoe Regional Planning Agency's ("TRPA's") Tahoe Area Plan On the dozens of other third parties who routinely re-publicize this falsehood. Or the Incline Village/Crystal Bay Community and Business Association ("IVCBA") which describes IVGID as only a "quasi-municipality." When one reads stuff like this coming from what one thinks are reputable public agencies/other resources, why would the lay resident think anything different? But these views are misguided and as you the reader will learn, they are *not* really the case. So with that said ...

Prelude: Across the country local governments are primarily empowered with two (2) types of possible rule making power: *Home Rule* and *Dillon's Rule*. The question over which "Rule" applies "often arises when a county or municipality attempts to exercise a power, and... courts (are asked to)...determine whether authority exists under state law." So let's examine both, and their applicability to Nevada local governments and GIDs in particular.

Dillon's Rule⁹: declares that "local government powers are...limited and only extend to those...which are: 1) granted in *express words*; 2) necessarily implied or...incident to...powers expressly granted; and, 3) absolutely essential to the declared objects and purposes of the (municipal) corporation – not simply convenient, but *indispensable*." The rule also states that any reasonable doubt...as to whether a power has been granted will be ruled *against* the local government." In other words, in *Dillon's Rule* states "municipalities run by municipal codes (state laws) can only act where *specifically authorized by state law*." ¹²

"Home Rule: is an authority of a constituent part of a U.S. state to exercise powers of governance delegated to it by its state government." It "allows municipalities and counties to determine the structure and authority of...local government... (And it) transfers authority over municipal matters from state law...to a local charter that's drafted, adopted, and amended by voters in the municipality... (Basically, it allows) a county or municipality (to) do anything that's not specifically denied by the state constitution, the General Assembly, or (its) charter... Bottom line Home Rule provides local control. It gives the municipal government the ability to craft ordinances and make decisions based on local needs, rather than having to follow a one-size-fits-all state code that's decided by state legislators." 13

Nevada is One of Thirty-One (31) "Dillon's Rule" States 14: The Nevada League of Cities identifies thirty-one "31...Dillon's Rule states, (ten) 10 states operate under Home Rule, and (nine) 9 states have Dillon's Rule only for certain types of municipalities." That is, except where expressly otherwise exempted 16. The Rule is applied to county, city and other types of local government(s) 17 across the state 18. In other words, IVGID! In fact to cement the case Dillon's Rule is the mainstay in Nevada, one need only recognize the fact it has been formally embodied into the NRS 19.

Application of Dillon's Rule: Since by its express words the Legislature has created the GID law²⁰, and the Incline Village General Improvement District ("IVGID") is a GID²¹, the District's powers are recognized/restricted by NRS 318.

Therefore The Need For Explicit Statutory Authority: "Against this backdrop, generations of Nevada lawyers have advised their local government clients to proceed with caution when it comes to the powers a governmental agency may exercise, relying upon explicit

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statutory language." So let's examine that explicit statutory language insofar as GIDs are concerned.

Those Powers Recited in The GID's Initiating Ordinance: "for which the district (wa)s proposed to be created [for instance, (and) by way of illustration...'paving, curb and gutters, sidewalks, storm drainage and sanitary sewer improvements within the district']"²² with the *proviso* they "must be one or more of those (basic powers) authorized in NRS 318.116."²³

"All Rights And Powers Necessary or Incidental to or Implied From The Specific Powers Granted in This Chapter" (NRS 318):

Those Powers "As Supplemented by The Sections of This Chapter (NRS 318) Designated Therein: "22 Such as the power to: "levy and collect (ad valorem) taxes; "25 "borrow money and issue...(a) short-term notes, warrants and interim debentures, (b) general obligation bonds, (c) revenue bonds, [and] (d) special assessment bonds; "26 "defray...by special assessment...improvement(s) and...other lands; "27 and, "eminent domain...to take any property necessary to the exercise of th(os)e powers granted." 28

Those Powers in "Other Provisions Supplemental Thereto in This Chapter:"²⁹ such as a GID's "implied powers" to "have and exercise all rights and powers necessary or incidental to or implied from the specific powers granted in this chapter" NRS 318²⁴. Or its "power to operate, maintain and repair...improvements acquired by the district."³⁰

Those Powers "Otherwise Provided by (*Another*) *Statute*:"³¹ *other than* NRS 318 such as the power: of "two or more political subdivisions of this State, (expressly) including...special districts³² (like IVGID, to) enter into...cooperative agreement(s) for the performance of any governmental function;"³³ to perform contracts³⁴ and make expenditures with and without³⁵ going out to public bid.

And If "There Be Any Fair or Reasonable Doubt: concerning the existence (or exercise) of a power," since Nevada is *strictly* a *Dillon's Rule* state¹⁵, it "is (to be) resolved *against* the (local government) and the power...denied."¹¹

Moreover, Lest Not The Reader Forget That These Powers Must Be "Strictly Construed And Limited:" because GIDs are public agencies endowed with only such attributes of a municipality as may be deemed necessary for the performance of their limited objectives.

Conclusion: So there you have it! As a special purpose district³², IVGID's basic powers are expressly *limited*¹⁰ as we have identified. And if there is any doubt as to the extent of those powers, it must be construed *against* the District and the power *denied*¹¹! Therefore as you the reader examine the powers the District actually exercises/has in the past actually exercised, we ask you hold it accountable insofar as the limits and restrictions discussed above are concerned.

And now you know.

- 1. NRS 354.474(1)(a) defines local governments as: "every political subdivision or other entity which has the right to levy or receive money from *ad valorem* or other taxes...and includes, without limitation...districts organized pursuant to chapter...318." IVGID fits this description.
- 2. See page 4 at https://e.issuu.com/embed.html?d=lwpnl_spr21&u=justimagine.
- 3. See NRS 318.075(1). ←
- 4. But this assertion represents the *improper* application of the term "quasi-public" to the nature of a GID's existence. Rather, the term refers to the "quasi" or limited powers GIDs are authorized to exercise for the performance of their *limited objectives* compared to a county or city³⁶. Thus just like there can be nothing "quasi" about being pregnant, there can be nothing "quasi" about being a form of "government;" you either are or are not.
- 5. Consider the District's "WATER QUALITY CONSUMER CONFIDENCE REPORT(s)" which accompany IVGID utility customers' billing. Under "About IVGID" the public is schooled that the District "is a quasi-public agency established under Nevada Revised Statute, Chapter 318." Or the District's Linkedin page: "The Incline Village General Improvement District, commonly referred to as IVGID, is a quasi-public agency established under Nevada Revised Statute, Chapter 318."
- 6. See page 20 of the Plan where it describes IVGID as "quasi-public" insofar as its ownership of "publicly owned land within the planning area" is concerned; page 105 where it describes IVGID as the public entity which furnishes facilities and services within the planning area is concerned; and, page 106 insofar where it describes IVGID as a public utility.
- 7. Take a look at pinterest.com: "The Incline Village General Improvement District, commonly referred to as IVGID, is a quasi-public agency chartered to provide water, sewer, trash and recreation services for the communities of Incline Village and Crystal Bay, Nevada." Or crunchbase.com: "IVGID is a quasi-public agency, chartered to provide water, sewer, trash and recreation services for the communities."
- 8. See https://ballotpedia.org/Home_rule#cite_note-nmml-1. ←

- 9. Judge John Forrest Dillon served on the Iowa Supreme Court from 1863 to 1869 before being appointed to the Federal Eighth Judicial Circuit. He was also a noted legal scholar, publishing extensively on municipal law. In two opinions for the Iowa Supreme Court he laid out a rule of law which was subsequently adopted by other state supreme courts and eventually...the U.S. Supreme Court." 12
- 10. Go to https://www.nvbar.org/wp-content/uploads/NevLawyer_June_2013_Dillon's_Rule.pdf. Also, see NRS 244.137(3).
- 11. See NRS 244.137(4). ←
- 12. Go to https://en.wikipedia.org/wiki/Home_rule_in_the_United_States.
- 13. Go to https://whyy.org/articles/what-is-home-rule/. ←
- 14. In Nevada's jurisprudence, the Nevada Supreme Court has adopted Dillon's Rule [see Tucker v. Mayor and Bd. of Alderman, 4 Nev. 20, 26 (1868); State ex rel. Rosenstock v. Swift, 11 Nev. 128 (1876)]. ←
- 15. See page 5 of A Discussion of Home Rule in Nevada, Committee to Study Powers Delegated to Local Governments (February 18, 2010).
- 16. See NRS 244.137(6) and NRS 268.001(6) which both declare that to provide the governing bodies of counties and incorporated cities with the appropriate authority to address matters of local concern for the effective operation of government, *Dillon's Rule* is modified "so that if there is any fair or reasonable doubt concerning the existence of a power...it must be presumed...the governing body has the power unless the presumption is rebutted by evidence of a contrary intent by the Legislature." ←
- 17. See Waltz v. Ormsby County, 1 Nev. 370, 376-377 (1865).
- 19. See NRS 244.137(2) and 268.001(2) which both state that "in Nevada's jurisprudence, the Nevada Supreme Court has adopted and applied *Dillon's Rule* to county, city and other local governments.
- 20. See NRS 318.010. ←
- 21. NRS 318.015(1) instructs that "each district organized pursuant to the provisions of this chapter shall be a body corporate and politic...quasi-municipal corporation" and general improvement district.
- 22. See NRS 318.055(4)(b). ←
- 23. NRS 318.116 instructs that "any one, all or any combination of the following basic powers may be granted to a district in proceedings for its organization, or...reorganization pursuant to NRS 318.077, and all provisions in this chapter [that is, "1. Furnishing electric light and power...2. Extermination and abatement of mosquitoes, flies, other insects, rats, and liver fluke or *Fasciola hepatica*...3. Furnishing facilities or services for public cemeteries...4. Furnishing facilities for swimming pools...5. Furnishing facilities for television...6. Furnishing facilities for FM radio...7. Furnishing streets and alleys...8. Furnishing curbs, gutters and sidewalks...9. Furnishing sidewalks...10. Furnishing facilities for storm drainage or flood control...11. Furnishing sanitary facilities for sewerage...12. Furnishing facilities for lighting streets...13. Furnishing facilities for water...16. Furnishing fencing...17. Furnishing facilities for protection from fire...18. Furnishing energy for space heating...19. Furnishing emergency

https://ivgid101.com/powers/

medical services...20. Control of noxious weeds...(and,) 21. Establishing, controlling, managing and operating an area or zone for the preservation of one or more species or subspecies of wildlife that has been declared endangered or threatened pursuant to the federal Endangered Species Act of 1973, 16 U.S.C. §§1531, et seq.] supplemental thereto.

- 24. See NRS 318.210. ←
- 25. See NRS 318.230(1). ←
- 26. See NRS 318.275(1). ←
- 27. See NRS 318.350(1). ←

- 30. See NRS 318.145. ←
- 31. NRS 318.100(1) states that "the board shall have each of the basic powers enumerated in this chapter and...other provisions...otherwise authorized by law.
- 33. See NRS 277.045(1). ←
- 34. See NRS 332.063, et seq. ←
- 35. NRS 332.112, et seq. ←
- 36. "To those expressly provided by the Legislature and *no others*" [see A.G.O. No. 63-61, p. 102, at p. 103 (August 12, 1963)].

 ✓
- 37. GIDs are not true municipalities. Rather, they are "quasi-municipal" corporations. Hence their characterization as "quasi-municipal."
- 38. See City of Aurora v. Aurora Sanitation Dist., 112 Colo. 406, 411, 149 P.2d 662, 664 (1944); Goodwin v. Thieman, 74 P.3d 526, 528 (Colo. App. 2003). ←

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EXHIBIT "D"





IVGID PAST AND PRESENT ▼ EVENTS **IVGID 101**

How The Powers General Improvement Districts ("GIDs") Are Authorized to Exercise Differ From Those of **Counties And Incorporated Cities**

E February 26, 2023

In a word (or series of words), the exercise of municipal police powers and the relaxation of limitations imposed by Dillon's Rule. What are municipal police powers? Let us respond with what they're not. They do "not specifically refer to the right of state and local governments to create police forces. (Rather, they refer to) ... the authority... (of) states under the Tenth (10th) Amendment to the Constitution...to regulate local matters concerning (the) health, safety, and morality of state residents...(In other words,) the basic right of governments to make laws and regulations for the benefit of their communities." Or stated differently, those laws and regulations providing general governmental services²/exercising generalpurpose powers³.

Counties Have Been Granted The Power to Furnish General Governmental Services: NRS 244.137(6)(a) instructs that "to provide a board of county commissioners with the appropriate authority to address matters of local concern⁴ for the effective operation of county government, the provisions of NRS 244.137 to 244.146, inclusive...(it is) expressly grant(ed)...all powers necessary or proper...so that the board may adopt county ordinances and implement and carry out county programs and functions for the effective operation of county government."

Moreover, Counties Have Been Granted Powers Well in Excess of The Limitations of **Dillon's Rule**: NRS 244.137(6)(b) instructs that "to provide a board of county commissioners" with the appropriate authority to address (those) matters...Dillon's Rule (is expressly)...

modif(ied)...so that if there is any fair or reasonable doubt concerning the existence of a power of the board...it must be presumed that the board has the power unless th(at) presumption is rebutted by evidence of a contrary intent by the Legislature."

Similarly, Incorporated Cities Have Been Granted The Power to Furnish General Governmental Services: NRS 268.001(6)(a) instructs that "to provide the governing body of an incorporated city with the appropriate authority to address matters of local concernefn_note] "Matter(s) of local concern mean...any matter(s) that (a) primarily affect... or impact,,,, areas located in the incorporated city, or persons who reside, work, visit or are otherwise present in areas located in the city, and does not have a significant effect or impact on areas located in other cities or counties,,, The term (expressly) includes...public health, safety and welfare in the city" (see NRS 268.003).[/efn_note] for the effective operation of city government...the governing body of an incorporated city (is)...expressly grant(ed)...all powers necessary or proper...so that the governing body may adopt city ordinances and implement and carry out city programs and functions for the effective operation of city government."

Moreover, Incorporated Cities Have Been Granted Powers Well in Excess of The Limitations of Dillon's Rule: NRS 268.001(6)(b) instructs that "to provide the governing body of an incorporated city with the appropriate authority to address (those) matters... Dillon's Rule as applied to the governing body of an incorporated city (is)...modif(ied)...so that if there is any fair or reasonable doubt concerning the existence of a power of the governing body to address a matter of local concern, it must be presumed that the governing body has the power unless the presumption is rebutted by evidence of a contrary intent by the Legislature."

In Contrast GIDs Have Not Been Granted The Power to Furnish General Governmental Services: As elsewhere discussed, GIDs are *limited purpose* special districts along the lines of vector control (mosquitos), library, fire, water, sewer and cemetery districts. They are creatures of statute, and in Nevada those statutes are set forth at Title 25 of Chapter NRS 318⁵. Take a long hard look at NRS 318. Do you the reader see any language which authorizes GIDs to provide for the health, safety or general welfare of its inhabitants? Legal maxims are "established principle(s) or proposition(s) of law, and a species of aphorism and

general maxim." The legal maxim Expressio Unius Est Exclusio Alterius instructs that "the special mention of one thing operates as the exclusion of things differing from it." As applied here, the fact NRS 318 fails to provide for the health, safety or general welfare of its inhabitants means it cannot exist by implication.

Nor Have They Been Granted Powers in Excess of The Limitations of Dillon's Rule: Across the country local governments are primarily empowered with two (2) types of possible rule making powers: Home Rule and Dillon's Rule. The question over which "Rule" applies "often arises when a county or municipality attempts to exercise a power, and...courts (are asked to)...determine whether authority exists under state law." 7. Given the Nevada Supreme Court has adopted Dillon's Rule [see Tucker v. Mayor and Bd. of Alderman, 4 Nev. 20, 26 (1868); State ex rel. Rosenstock v. Swift, 11 Nev. 128 (1876); NRS 244.137(2)].[/efn_note], GIDs are subject to Dillon's Rule insofar as their rule making powers are concerned. The reader may recall that Dillon's Rule instructs that "local government powers are...limited and only extend to those: 1) granted in express words; 2) necessarily implied or...incident to...powers expressly granted; and, 3) absolutely essential to the declared objects and purposes of the (municipal) corporation – not simply convenient, but indispensable."

Again, take a long hard look at NRS 318. Do you the reader see similar language which runs contra to the express language in Dillon's Rule? No you don't! And that's because there are no modifications insofar as GIDs are concerned⁸. Which means that if there is any fair or reasonable doubt concerning the existence of a GID's exercise of power it must be presumed the Board has none⁹.

Conclusion: So there you have it. *Unlike* true municipalities, the powers IVGID can exercise are expressly limited, far less than those of a county or incorporated city, and expressly do not extend to providing for the health, safety and general welfare of its inhabitants. Therefore as you the reader examine the powers IVGID actually exercises/has in the past exercised, we hope you will hold it accountable for the limits, restrictions and consequences discussed above. And remember the consequences should there be any doubt...

^{1.} See https://municipal.ushttps://municipal.uslegal.com/police-powers/legal.com/police-powers/.

- 2. See https://www.census.gov/newsroom/cspan/govts/20120301_cspan_govts_def_3.pdf.
- 3. See http://www.ca-ilg.org/sites/main/files/file-attachments/local_agency_powers_and_limitations.pdf.
- 4. The term "matter(s) of local concern means (matters affecting)...public health, safety and welfare" [see NRS 244.143(2)]. ←
- 5. See Public Organizations for Community Service.
- 6. See https://en.wikipedia.org/wiki/Legal_maxim. ←
- 7. See https://ballotpedia.org/Home_rule#cite_note-nmml-1.
- 8. See NRS 244.137(7)(a) and NRS 268.001(7)(a) which both declare that "the provisions of [NRS 244.137(7) and NRS 268.001(7)]...must not be interpreted to modify Dillon's Rule with regard to: any local governing body other than a board of county commissioners (or)...incorporated city." In other words, the Incline Village General Improvement District ("IVGID"). Therefore insofar as GIDs are concerned, the restrictions of Dillon's Rule continue.
- 9. Go to https://www.nvbar.org/wp-content/uploads/NevLawyer_June_2013_Dillon's_Rule.pdf. ←

2023 - IVGID 101

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EXHIBIT "E"





IVGID 101 IVGID PAST AND PRESENT EVENTS

What Powers Have Been Granted to The Incline Village General Improvement District ("IVGID")?

iii February 26, 2023

As elsewhere discussed, GIDs are *limited purpose* special districts along the lines of vector control (mosquitos), library, fire, water, sewer and cemetery districts. They are creatures of statute, and in Nevada those statutes are set forth at Title 25 of Chapter NRS 318¹. By statute², those "basic power(s)...for which the district was proposed to be created (for instance, by way of illustration, 'paving, curb and gutters, sidewalks, storm drainage and sanitary sewer improvements within the district')" are set forth in their initiating ordinance(s) with the *proviso* "the(y)...must be one or more of those authorized in NRS 318.116, as supplemented by the sections of this chapter³ designated therein."²

So in addition to those powers: "as supplemented by the sections of this Chapter (NRS 318) designated therein;" in "other provisions supplemental thereto in this Chapter" (NRS 318); "otherwise provided by (another) statute;" and, "necessary or incidental to or implied from the specific powers granted in this Chapter" (NRS 318); what basic powers have been granted to IVGID by the Washoe County Board? The furnishing of facilities for: water⁵, sewer disposal⁶, streets and highways⁷, curbs, gutters and sidewalks⁸, storm drainage and flood control⁹, street lighting¹⁰, the collection and disposal of garbage and refuse¹¹, electric light and power¹², and public¹³ recreation¹⁴. That's it¹⁵!

So now you know.

^{1.} See Public Organizations for Community Service. $\ \ \ \ \, \ \ \, \ \ \,$

^{2.} See NRS 318.055(4)(b). ←

- 3. See NRS 318.077 which states that "the board may elect to add basic powers not provided in its formation, in which event (it)...shall cause proceedings to be had by the Washoe County Board of Commissioners ("County Board") similar, as nearly as may be, to those provided for the formation of the district, and with like effect."
- 4. See our What Powers Are All GIDs Authorized to Exercise discussion.
- 5. See NRS 318.116(15). The District was granted the predecessor to this basic power by the Washoe County Board on May 20, 1961 via County Ordinance No. 97, Bill No. 57.
- 6. See NRS 318.116(11). The District was granted the predecessor to this basic power by the County Board on May 20, 1961 via County Ordinance No. 97. Bill No. 57.
- 7. See NRS 318.116(7). The District was granted the predecessor to this basic power by the County Board on May 20, 1961 via County Ordinance No. 97, Bill No. 57.
- 8. See NRS 318.116(8). The District was granted the predecessor to this basic power by the County Board on May 20, 1961 via County Ordinance No. 97, Bill No. 57.
- 9. See NRS 318.116(10). The District was granted the predecessor to this basic power by the County Board on May 20, 1961 via County Ordinance No. 97, Bill No. 57.
- 10. See NRS 318.116(12). The District was granted the predecessor to this basic power by the County Board on March 5, 1964 via County Ordinance No. 97, Bill No. 102. ←
- 11. See NRS 318.116(13). The District was granted the predecessor to this basic power by the County Board on March 5, 1964 via County Ordinance No. 97, Bill No. 102.
- 12. See NRS 318.116(1). The District was granted the predecessor to this basic power by the County Board on May 5, 1969 via County Ordinance No. 97, Bill No. 227. ←
- 13. Note that initially the District was not granted the basic power to furnish facilities for *recreation*, but rather, to furnish facilities for *public* recreation (see sec. 21.5 of Chapter 413, SB 297, 1965 Statutes of Nevada, at page 1088).
- 14. See NRS 318.116(14). The District was granted the predecessor to this basic power by the County Board on November 15, 1965 via County Ordinance No. 97, Bill No. 132.
- 15. See A.G.O. No. 63-61, p. 102, at p. 103 (August 12, 1963).

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EXHIBIT "F"





IVGID 101 IVGID PAST AND PRESENT ♥ EVENTS

Is The Incline Village General Improvement District ("IVGID") Exceeding The Powers it May Permissibly/Should Necessarily Be Exercising?

May 18, 2023

But for a judicial confirmation petition which "pray(s for)...judicial examination and determination of the validity of any power conferred or of any instrument, act or project of the municipality, whether or not such power has been exercised, such instrument has been executed or otherwise made or such act or project has been taken," and can be reduced to a "judgment and decree thereon," how does anyone really know what powers a GID may permissibly exercise? Or what programs it can offer? Does the State publish a manual whereby it provides answers to these questions?

As elsewhere discussed, the District's powers are severely *limited* compared to those of a true municipality (like a county, city or unincorporated association) with general powers. Yet IVGID staff and their collaborators/supporters do not prescribe to these limitations. Rather, they wrongly take the position that since IVGID "is a legally separate government," it is: "fiscally independent of...(and) not financially accountable (to) any other... governmental...entity," and, "empowered to determine what facilities and services it should offer that will preserve or enhance the general health, safety and welfare of the community." But because GIDs "do not have the adequate size nor tax base to (financially) support the services" or facilities they typically furnish, hopefully the reader can see the conflict which has plagued this District from day one. And plagues it today!

And notwithstanding: the Nevada Department of Taxation ("NDOT") was created, in part, to "exercise general supervision and control over the entire revenue system of the State"⁷

[presumably to "protect (the) public health...safety" and general welfare of Nevada's citizens⁸]; it is "a state agency⁹...subject to the Nevada Administrative Procedure Act"¹⁰); and given this jurisdiction is to be broadly construed to allow the NDOT "to exercise...any necessary and proper power(s)" whether or not expressly enumerated¹¹; NDOT regurgitates the narrative advanced by District staff and their proponents¹². And similarly, Washoe County takes the same position¹³.

Therefore is it any surprise IVGID staff take the position that the District "is a legally separate government...fiscally independent of any other governmental entity...(and) not financially accountable (to) any other entity?" And based upon this narrative, staff have created a Trustee's Handbook which instructs trustees from staff's point of view, who runs the show in Incline Village/Crystal Bay. But as demonstrated elsewhere, this narrative is not warranted.

Nevada Constitution: We begin this discussion by examining the Nevada Constitution. Article 8, §8. It is the Legislature which shall provide for/restrict the powers of all general purpose governments. And since the Legislature has provided for general improvement districts ("GIDs") at NRS 318.010, their powers are similarly restricted. Moreover, as a *limited* purpose special district, a GID's powers are to be *strictly construed* and...*limited*¹⁴ to those: provided by the Legislature¹⁵ and nothing more¹⁶, with the *proviso* those powers are expressly conferred by its County Board of Commissioners ("County Board") in the GID's initiating ordinance¹⁷, as supplemented if at all by those "additional basic power(s expressly) granted," "sections of this chapter (NRS 318) designated (t) herein," *and*, *none other*11. So what basic powers has the Washoe County Board expressly granted to IVGID in its initiating and supplemental ordinances? As demonstrated elsewhere,

IVGID's Initiating Ordinance: 'granted the District the following basic powers: furnishing facilities for streets, alleys and public highways²⁰; curbs and gutters²¹; sidewalks²²; storm drainage and flood control²³; sanitary sewerage²⁴; as well as water²⁵.

IVGID's Limited Supplemental Ordinances: On March 5, 1964 the Washoe County Board supplemented these basic powers¹⁴ in the following particulars: it allowed IVGID to furnish

facilities for lighting public streets, ways and places²⁶; and, collect and dispose of garbage and refuse²⁷.

Then on November 15, 1965 the Washoe County Board again supplemented these basic powers¹⁴ in the following particulars: it allowed IVGID to furnish facilities for public²⁸ recreation²⁹.

And on May 5, 1969 the Washoe County Board further supplemented these basic powers¹⁴ in the following particulars: it allowed IVGID to furnish facilities for electric light and power³⁰.

The Limited Supplemental Powers All GIDs May Exercise: again assuming they are actually granted by their individual GID's County Board(s). And they appear at NRS 318.116: "1. Furnishing electric light and power, as provided in NRS 318.117; 2. Extermination and abatement of mosquitoes, flies, other insects, rats, and liver fluke or Fasciola hepatica, as provided in NRS 318.118; 3. Furnishing facilities or services for public cemeteries, as provided in NRS 318.119; 4. Furnishing facilities for swimming pools, as provided in NRS 318.1191; 5. Furnishing facilities for television, as provided in NRS 318.1192; 6. Furnishing facilities for FM radio, as provided in NRS 318.1187; 7. Furnishing streets and alleys, as provided in NRS 318.120; 8. Furnishing curbs, gutters and sidewalks, as provided in NRS 318.125; 9. Furnishing sidewalks, as provided in NRS 318.130; 10. Furnishing facilities for storm drainage or flood control, as provided in NRS 318.135; 11. Furnishing sanitary facilities for sewerage, as provided in NRS 318.140; 12. Furnishing facilities for lighting streets, as provided in NRS 318.141; 13. Furnishing facilities for the collection and disposal of garbage and refuse, as provided in NRS 318.142; 14. Furnishing recreational facilities, as provided in NRS 318.143; 15. Furnishing facilities for water, as provided in NRS 318.144; 16. Furnishing fencing, as provided in NRS 318.1195; 17. Furnishing facilities for protection from fire, as provided in NRS 318.1181; 18. Furnishing energy for space heating, as provided in NRS 318.1175; 19. Furnishing emergency medical services, as provided in NRS 318.1185; 20. Control of noxious weeds, as provided in chapter 555 of NRS; and 21. Establishing, controlling, managing and operating an area or zone for the preservation of one or more species or subspecies of wildlife that has been declared endangered or threatened pursuant to the federal Endangered Species Act of 1973, 16 U.S.C. §§1531, et seq."

Dillon's Rule: These are the extent of the powers IVGID may legitimately exercise. And should there be any fair, reasonable, substantial doubt concerning the existence of any other powers, according to *Dillon's Rule*³²; to furnish "services pertaining to any such basic power which the district may exercise;" and, to exercise "all rights and powers necessary or incidental to or implied from the specific powers granted in this chapter." ³⁴

Legislative Counsel Bureau Bulletin No. 77-11: Because "there had never been a study of any kind...by the Legislature...of special districts...(the) much publicized fiscal difficulties of New York City...the potential for financial over extension or default among Nevada local governments (and)...problem areas in chapter 318 of NRS," in 1975 "the State Legislature directed a study...by the legislative commission...of the methods for creating, governing and financing GIDs in Nevada." As a result, a commission subcommittee prepared a report which included its findings and recommendations insofar as future legislation were concerned. And one of those findings was "that there (had been)...a number of districts created that...(we) re performing services that should be provided by counties," or not provided at all. According to the subcommittee one of the reasons why this phenomena was occurring was that "when approached by citizens requesting a service from the county, (commissioners) often suggest(ed) that a general improvement district...(wa)s the only way to provide the requested service (notwithstanding) such districts often d(id) not have the adequate size (n) or tax base to support (such) services...(Although) this practice was not found to be widespread in the State...it happen(ed) often enough to be of great concern." 39

But nearly fifty (50) years later, the concerns of the subcommittee represent the reality of IVGID today. Consider the following activities IVGID engages in, many in our community believe are well beyond the District's *limited* permissible powers⁴⁰. As the reader considers each of the powers and services which follow, ask yourself; does it represent:

- 1. A power expressly recognized by the Nevada Constitution⁴¹?
- 2. A basic power expressly enumerated in³³ Chapter NRS 318⁴² and if so, has that power been expressly granted to IVGID by the Washoe County Board^{10,11}?
- 3. A "power...necessarily or fairly implied ('not merely convenient but indispensable') in or incident to (other)...powers expressly granted?" 43

- 4. A "power...essential to the accomplishment of (a) declared object...and purpose?" 35
- 5. A power which "provide(s) a method for financing the costs of developing private property?" 44
- 6. An activity permitted by "sections of chapter (NRS) 318 (expressly) designated therein?" 10
- 7. An activity which primarily benefits "the inhabitants...of (Incline Village, Crystal Bay) and of the State of Nevada?" ⁴⁵
- 8. A "service...pertaining to a...basic power which the district (is expressly permitted to)... exercise?" ²⁵
- 9. A public utility charge which is "just and reasonable?" 46
- 10. An alleged standby service charge for "the (mere) availability of...(public recreational) facilities?" ⁴⁷
- 11. An alleged standby or service charge levied against a "parcel of real property" for services or facilities furnished to those parcels which are assessed rather than the occupants of those parcels?⁴⁸
- 12. And "if there (be) any fair or reasonable doubt concerning the existence (or nonexistence) of (that) power, (has) that doubt...(been) resolved against the (IVGID) board... and the power denied."²⁷

With that said (click on the links below to learn more insofar as the following activities the District engages in are concerned),

Lobbying Law Makers/Regulators to Advocate For/Against State of Nevada Legislation:

Lobbying Members of Congress/Regulators to Advocate For/Against Federal Legislation:

Membership in the Nevada League of Cities:

EXHIBIT "G"





IVGID 101 IVGID PAST AND PRESENT EVENTS

Remedies [Available to a General Improvement District ("GID")] Where There Are Questions as to Whether it is Exceeding or Plans to Exceed its Permissible Powers

May 18, 2023

What remedies are available to a GID assuming one or more members of the public allege the former is exceeding its limited powers¹? The answer appears at NRS 43.100(1) which instructs that:

"The governing body...(of a)...municipality²...may file or cause to be filed a petition...in the district court in and for any county in which (it)...is located or any act or project is (to be) undertaken, wholly or in part, praying (for) a judicial examination and determination of the validity of any power conferred or of any instrument, act or project of the municipality, whether or not such power has been exercised, such instrument has been executed or otherwise made or such act or project has been taken."

So there you go! Easy-peasy! But does anyone really think the IVGID Board would ever file such a petition? If so we have some bridges in Incline Village you might be interested in purchasing.

- 1. Remember that as elsewhere discussed, GIDs are *limited purpose* special districts along the lines of vector control (mosquitos), library, fire, water, sewer and cemetery districts. ←
- 2. For purposes of NRS 43.100, GIDs are municipalities [the term "municipality means...any...general improvement district...or any other body corporate and politic of the State of Nevada" (see NRS 43.080)]. ←

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EXHIBIT "H"





IVGID 101 IVGID PAST AND PRESENT ■ EVENTS

Remedies (Available to The General Public) Where There Are Questions as to Whether a General Improvement District ("GID") is Exceeding or Plans to Exceed its Permissible Powers

May 17, 2023

What remedies are available to members of the general assuming one or more allege the District is exceeding its limited powers? The answer is simple. There are none! Some years ago a member of the public brought suit against the Incline Village General Improvement District ("IVGID") challenging the propriety of a number of powers the latter had exercised. Listen to what former Judge Flanigan had to say about the member of the public's right to sue:

"The relief (plaintiff) requests is unavailable under... NRS Chapter 318."

Notwithstanding the law is clear that whenever "there is a wrong, there is a remedy," when it comes to IVGID apparently there is no remedy. So now you know!

- 1. See that judgment on the pleadings/dismissal granted in IVGID's favor on August 22, 2012 in Nevada Second District Court Action No. CV11 01380. This judgment was affirmed on appeal to the Nevada Supreme Court.
- 2. "Th(is) maxim states that if any wrong has been committed, the law provides a remedy. In simple terms, the law specifies a remedy for every wrong...When a person's right is denied, the law affords the remedy of an action for its enforcement. Thus, this right to a remedy includes a right of action. The maxim also states that the person whose right has been infringed has the right to enforce the infringed right through any action before the court" (see the maxim Ubi Jus Ibi Remedium).

@2023 - IVGID 101

Heidi White

From:

Mark & Peggy Meadows <mpmeadows@sbcglobal.net>

Sent:

Wednesday, October 11, 2023 3:15 PM

To:

Heidi White

Subject:

Comments for Tonight's Meeting

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

To the District Clerk: Will you please share my comments/suggestions under agenda item D 1.? I might not be available to participate by phone tonight.

- 1.) Punchcard Credit- We feel that up to \$100 per punchcard should be able to rollover for the following year's recreation charges. Use-it-or-lose-it is not community-oriented, and some summers don't end up getting as many visitors as expected (like when the smoke is bad from fires and activities are limited);
- 2.) Beach Chairs and Loungers- These helped attract us to living here. We often ride our bikes to the beach and it's unsafe for us to try and carry folding chairs on our backs while riding amongst walkers and vehicles. Maybe you don't need to supply as many as before, but at least half of what was there should be returned for our use;
- 3.) Tennis and Pickleball Fees- Looking at the proposed fees for 2024, I have come up with my own suggested schedule and adds a category for guest accompanied by an IVGID Picture Pass Holder:

Tennis		General Public	Guest Pass	IVGID PPH					
	a.m.	\$15	\$12	\$10					
	p.m.	10	7	5					
	Season Pass (Includes P-ball)								
	Family			800					
	Junior	300		200					
	18-59	500		400					
	60-79	450		350					
	month	200		100					
Pickleball									
	a.m.	15	12	10					
	p.m.	10	7	5					
	Season Pass								
	Junior	250		150					
	18-59	400		300					
	60-79	300		200					
	month	150		75					

Note: While allowing public use of our facilities, we feel there should be more of a benefit to IVGID taxpayers, in comparison to those who do not foot the annual tax bill and are less likely to volunteer to help keep these activities vibrant.

Thank you for considering these suggestions...,

Peggy Meadows, Juanita Drive, Incline Village, 775-298-2775

Mick Homan

Since I doubt this meeting will facilitate truth, I want to dispell a few likely untruths in advance.

- 1. Sara made public comments stating that she and the board don't micromanaged staff that only the board, acting as a board, can direct the GM. Why doesn't she comply?
 Some examples she directed rec staff to stop issuing punch cards to LLC's and directed beach staff to remove the recall table from the beach.
 Now we've heard she actually lied to beach staff, telling them general counsel informed her the recall table should be removed.
 Is it a coincidence he gave his resignation notice shortly after learning this?
- Chair Dent stated on local TV that the board had no choice but to remove employee beach access - that nothing was ever written or documented granting them access. <u>False.</u>
 Here's Board resolution 1568 from 1988 that granted Beach Access to employees. <u>The specific wording was approved by legal counsel.</u>
- 3. Per Trustee Schmitz, Nevada statutes forced the board to sharply reduce rec fees. <u>False.</u> The State informed us they're unaware of any statute preventing collection, <u>even if we have excess funds</u>. But we don't.
 Current cash balances only cover about half the 5-year capital plan.

So please stop lying and deflecting. Take responsibility for your actions.

Resolution No. 1568

PERSONNEL POLICIES Incline Village General Improvement District

WHEREAS, the Board of Trustees has adopted Resolution No. 1505 (being Policy Resolution No. 112), establishing personnel policies for the District; and

WHEREAS, the Board of Trustees wishes to make changes in the personnel policies;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT, that it hereby amends Section 5.4 of the policies to read as follows:

5.4 **RECREATION PRIVILEGES.** All IVGID employees shall receive recreation privileges during the term of their employment. Seasonal management and multi-seasonal employees shall receive recreation privileges, year-round. Recreation privileges include:

Beach. As guests of IVGID as a property owner, [Free] access to beaches; [Free] use of boat ramp.

Alpine Skiing. Free skiing. Free equipment rental, except during peak periods and subject to availability. 50% discount on ski repair and tuning.

Nordic Skiing. Free track use. Free on-site equipment rental, subject to availability.

<u>Tennis</u>. Free court use. 20% discount on tennis lessons.

Other. 20% discount on most programs offered by IVGID's Parks and Recreation Department.

Hunting. Free facility use, subject to availability.

The following privileges shall be available to spouses and dependent children (under 18 years old) of IVGID employees:

Beach. Same as employee.

Alpine Skiing. For employees with less than five full years of service to IVGID, 25% discount on season pass rates. For employees with five or more full years of service to IVGID, 50% discount on season pass rates. Property owner rates for daily use.

Nordic Skiing. Same as employee.

Tennis. For employees with less than five full years of service to IVGID, 25% discount on season pass rates. For employees with five or more full years of service to IVGID, 50% discount on season pass rates. Property owner rates for daily use.

Other. Same rates as employees for programs offered by IVGID's Parks and Recreation Department.

Hunting. For employees with less than five full years of service to IVGID, 25% discount on season pass rates. For employees with five or more full years of service to IVGID, 50% discount on season pass rates. Property owner rates for daily use.

Additional privileges, limited to one or more programs within a specific department, may be offered to employees of the department only, at the discretion of the General Manager. Golf privileges will be offered to the extent they are available through agreement between IVGID and IVGID's golf course operator. The use of privileges may be restricted during peak usage periods.

BE IT FURTHER RESOLVED that Title 5 of the personnel policies be amended by adding a new Section 5.5, to read as follows:

Dpon termination in good standing, IVGID employees having at least ten years of service with IVGID shall receive the following recreation privileges:

<u>Silver Card</u>. If the employee has at least ten, but less then twenty, years of service with IVGID at the time of termination, then the employee shall receive a silver card, entitling the employee to the following privileges after leaving IVGID, for life:

<u>Beach</u>. As guests of IVGID as a property owner, access to beaches; use of boat 'ramp.

Alpine Skiing. 50% discount off the resident rate for a season pass. 50% discount off the full (non-resident) price of a daily lift ticket. 50% off equipment rental, except during peak periods and subject to availability.

Nordic Skiing. 50% discount off the resident rate for a season pass. 50% discount off the full (non-resident) price of the daily fee for track use. 50% off on-site equipment rental, except during peak periods and subject to availability.

Tennis. 50% discount off the resident rate for a season pass. 50% discount off the full (non-resident) price of the hourly and daily fee for court use.

Hunting. 50% discount off the resident rate for a season pass. 50% off the full (non-resident) price for daily use, subject to availability.

<u>Gold Card</u>. If the employee has at least twenty years of service at the time of termination, then the employee shall receive a gold card, entitling the employee to the following privileges after leaving IVGID, for life:

<u>Beach</u>. As guests of IVGID as a property owner, access to beaches; use of boat ramp.

Alpine Skiing. Free skiing. Free equipment rental, except during peak periods and subject to availability.

Nordic Skiing. Free skiing. Free on-site equipment rental, except during peak periods and subject to availability.

Tennis. Free court use.

<u>Hunting</u>. Free facility use, subject to availability.

Silver and Gold Card benefits may be changed at any time, without advance notice. Golf privileges will be offered to the extent they are available through agreement between IVGID and IVGID's golf course operator. The General Manager may distribute Silver and Gold Cards while employees are still employed, subject to the restriction that the employee shall

forfeit the card upon termination, if the employee is not in good standing at termination.

BE IT **FURTHER** RESOLVED that this resolution should take immediate effect.

* * * * * * * *

I hereby certify that the foregoing is a full, true and correct copy of a resolution duly passed and adopted at a regularly held meeting of the Board of Trustees of the Incline Village General Improvement District on the 10th day of November, 1988, by the following vote:

AYES, and in favor thereof, Trustees: Bobbie Gang, Jane Maxfield, Greg McKay, Pam Wight

NOES, Trustees: None

ABSENT, Trustees: John Lillie

MINUTES OF REGULAR MEETING OF THE BOARD OF TRUSTEES OF THE INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT

November 10, 1988

The regular meeting of the Board of Trustees of the Incline Village General Improvement District was called to order by Chairman Maxfield at the meeting place of the District at 893 Southwood Boulevard, Incline Village, Nevada, at 7:00 p.m. on Thursday, November 10, 1988.

A. ROLL CALL

On roll call, present were Trustees Bobbie Gang, Jane Maxfield, Greg McKay, and Pam Wight. Trustee John Lillie was absent. Also present were General Manager Rob Hunt, General Counsel Geno Menchetti, Director of Parks and Recreation Doug Doolittle, Marketing Director Lee Weber, Marketing Representative Vince Scott, Finance Director Roger Chandler, Recreation Secretary Judy Crocket, Ski Resort Manager Jim Bradshaw, Executive Secretary Anne Vorderbruggen, Risk Manager Mike Pennacchio, Mike Sommers of William Crandall Chartered, Marguerite Maxfield, Tom O'Connor, George Ricketts, Trustees-elect Bob Wolf, Joe Marson, and John Bevel, and others.

B. APPROVAL OF MINUTES

General Counsel Menchetti stated that the copy of Resolution No. 1567 included with the minutes of the meeting of October 27 does not accomplish the intent of the Board, which was to authorize the refunding of both the 1976 and 1983 bonds, either together or

separately at different times when the interest rates would meet the criteria to allow the refunding. Mr. Menchetti stated that the minutes could be approved as submitted, and that the Board allow changes to be made in Resolution No. 1567, subject to the approval of IVGID's bond counsel and general counsel.

On motion by Trustee McKay, seconded by Trustee Gang and unanimously carried, the minutes of the meetings of October 27 and October 28, 1988, were approved as submitted, and the appropriate changes to Resolution No. 1567 were authorized, subject to the approval of IVGID's bond counsel and general counsel.

C. APPROVAL OF AGENDA

There were no changes to the agenda and it was approved as published.

D. EMPLOYEE OF THE MONTH

Recreation Secretary Judy Crocket was presented with a plaque in recognition of being named employee of the month for November.

E.1 BURNT CEDAR POOL BUILDING - PRELIMINARY REPORT

Parks and Recreation Director Doug Doolittle noted that during the budget process the Board had approved the remodeling of the Burnt Cedar pool building, which was budgeted at \$125,000. Mr. Doolittle stated that Lundahl and Associates is preparing the plans, and has provided cost estimates amounting to \$159,030. Mr. Doolittle reviewed the options for the remodeling.

The Board requested that they be provided with more information on alternatives which might reduce the project cost, for consideration at their next meeting.

E.2 1988-89 SKI INCLINE MARKETING PROGRAM

Marketing Director Lee Weber reviewed Ski Incline's marketing program for 1988-89.

E.3 1987-88 IVGID AUDIT

Mike Sommers of William Crandall, Chartered presented IVGID's audit for fiscal year 1987-88. Mr. Sommers read the auditor's report letter, which stated that IVGID's financial statements conform to generally accepted accounting principles.

Mr. Sommers reviewed the schedules contained in the audit, noting that total assets have increased \$2,800,000, of which cash and

investments increased approximately \$780,000; the average annual yield on IVGID's investments of \$13,900,000 was 9%; total assets indicate a four to one ratio of assets to liabilities; and working capital increased from \$7.5 million to \$10 million during fiscal year 1987-88.

Mr. Sommers noted that there is a reserve of \$600,000 in the General Fund that was set up for the 1974-R special assessment. He stated that the reserve is now higher than the assets and obligations of the special assessment, and the Board may want to consider releasing some of the reserve. Mr. Sommers noted there is also a small reserve in the Washoe Sewer District No. 1 funds that the Board may want to consider releasing.

Mr. Sommers read the auditors report on compliance with the statutes and bond resolutions, which stated that IVGID is in compliance with the bond resolutions and that there were no violations of the statutes.

Trustee Wight moved that the auditor's report be accepted as presented. The motion was seconded by Trustee Gang and unanimously carried.

E.4 AMENDMENT TO RESOLUTION NO 1552 - GOLF COURSE IMPROVEMENT COMMITTEE

General Manager Hunt noted that under Resolution No. 1552, which established the Golf Course Improvement Committee, the terms of the present committee will end in December, and it has been suggested that the terms be increased and staggered. Mr. Hunt noted that a proposed amendment to the policy statement regarding the Golf Course Improvement Committee is included in the agenda packet.

Trustees Wight and Gang stated that they would like to see a more balanced representation on the GCIC. After discussion, it was the consensus of the Board that two members of the present GCIC should be replaced, and that the appointments to those positions should include a Teester, and someone who is not a member of the Polo Club or Men's Golf Club. The Board directed that staff immediately solicit for applicants for the GCIC, with the announced intention that at least one of the appointments will be a Teester, and that the appointments be made at the meeting of December 8.

Trustee Wight moved that Section 3.3 of the policy statement regarding the Golf Course Improvement Committee be amended as stated on page 23 of the agenda packet, to read as follows:

3.3 The initial terms of two GCIC members shall expire December 31, 1989. The initial terms of three GCIC members shall expire December 31, 1990. The initial terms of two

GCIC members shall expire December 31, 1991. After the initial terms, the term of each GCIC member shall be for three years, expiring on December 31 of each year.

The motion was seconded by Trustee Gang and unanimously carried.

E.5 MICROCOMPUTER HARDWARE - BID AWARD

Finance Director Roger Chandler reported that bids for micro-computers were opened on November 3, and the following minimum bids were received:

Computer House, Sparks, Nevada	\$13,164.00
WS Associates, Incline Village	\$19,068.00
Futronics, Inc., Sparks, Nevada	\$12,175.00
Certified Software Distributors, Inc.	
Incline Village	\$11,050.00
Community Computer Center, Inc.	\$11,335.59

Mr. Chandler reported that Computer Consultant Earl Davis has reviewed the bids, and all the bids meet IVGID's bid specifications. Mr. Chandler recommended that the contract be awarded to the low bidder, Certified Software Distributors, Inc.

On motion by Trustee Gang, seconded by Trustee McKay and unanimously carried, the contract for microcomputer hardware was awarded to the low bidder, Certified Software Distributors, Inc., in the amount of \$11,050.

E.6 SEWAGE PUMP STATION MODIFICATIONS - BID AWARD

Director of Utilities/District Engineer Joe Borgerding stated that bids were opened on October 4 for new pumps and variable frequency drives for sewage pump stations 1 and 8, and the results were reported to the Board in a memo dated October 4. Mr. Borgerding noted that only one bid was received for the pumps and three bids were received for the variable frequency drives. Since the pump bid contained many exceptions and was higher than anticipated, Mr. Borgerding recommended it be rejected. Mr. Borgerding stated the variable frequency drives and the pumps must work well together, and he therefore recommended that the variable frequency drive bids be rejected so that a decision on the drives could be postponed until a decision on the pumps is made. Mr. Borgerding stated that the specifications will be redesigned to allow the suppliers an option to bid on a dual stage system, instead of single stage as originally anticipated.

On motion by Trustee Wight, seconded by Trustee Gang and unanimously carried, the bids for the pumps and variable frequency drives for sewage pump stations 1 and 8 were rejected, as recommended by staff.

B.7 RESOLUTION NO. 1568 - PERSONNEL POLICIES AMENDMENT

General Manager Hunt stated that Resolution No. 1568 would amend IVGID's Personnel Policies to include the portion of IVGID's new longevity program regarding recreation privileges for long-term employees after retirement, and update the recreation privilege provisions for current employees by adding references to nordic ski rental and the hunting program.

General Counsel Menchetti questioned whether the deed restrictions on the beaches would be violated by giving free access to non-property owners, and suggested that the wording of paragraphs 5.4 and 5.5 pertaining to the beaches should state that employees and silver and gold card holders would have access as guests of IVGID as a property owner.

Trustee Wight moved that Resolution No. 1568 be adopted, amending paragraphs 5.4 and 5.5 under "Beach" to read as follows:

Beach. As guests of IVGID as a property owner, access to beaches; use of boat ramp.

The motion was seconded by Trustee Gang and unanimously carried.

F.1 GENERAL MANAGER'S REPORT

General Manager Hunt reviewed the General Manager's report as contained in the agenda packet.

Lobbyist Contract. The draft contract with Kay Lee Nicholas for lobbyist services was discussed, and it was the consensus of the Board that the party named in the contract should be Nicholas and Nicholas, and that the contract should require that Nicholas and Nicholas report to IVGID the names of all clients handled by them either as a partnership or individually.

F.3 JANE MAXFIELD, INCLINE VILLAGE-CRYSTAL BAY ADVISORY BOARD

Chairman Maxfield reported that there were two variance requests at the last meeting of the Advisory Board, and there was a lengthy discussion regarding skateboarding. Chairman Maxfield reported that the Community Plan Committee has now met three times.

G. APPROVAL OF BILLS

On motion by Trustee Gang, seconded by Trustee Wight and unanimously carried, the bills in the total amount of \$410,132.63, of which \$365,440.66 was in checks exceeding \$2,500, were approved for payment.

2844

H. ADJOURNMENT

The meeting was adjourned at 10:18 p.m.

MEMORANDUM

TO: Board of Trustees

THROUGH: Mike Bandelin, Interim General Manager

FROM: Mike Bandelin, Interim General Manager

SUBJECT: Review, discuss and possibly authorize the District's Interim General

Manager to extend the lease agreement between the Hyatt

Corporation and the Incline Village General Improvement District as per the Sixth Amendment document (Requesting Staff Member:

Diamond Peak Ski General Manager Mike Bandelin)

RELATED STRATEGIC PLAN BUDGET INITIATIVE(S):

Long Range Principle #1 – Service – The District will provide superior quality service through responsible stewardship of District resources and assets with an emphasis on the

parcel owner and customer experience.

DATE: November 8, 2023

I. <u>RECOMMENDATION</u>

That the Board of Trustees makes a motion to authorize the District's Interim General Manger to extend the lease agreement between the Hyatt Corporation and the Incline Village General Improvement District as per the Sixth Amendment document for a term extending through May 31, 2024 at a lease payment structure of 10% of gross sales each calendar month throughout the term of the lease.

II. <u>BACKGROUND</u>

The District has been operating the Sport Shop located in the Hyatt Regency Lake Tahoe through a lease agreement beginning in September of 2010. The lease agreement, including amendments have been approved by the District's Board of Trustees at regularly scheduled Board of Trustees meetings during the following dates: September 2010, May 2012, May 2016 and May 22, 2019. The terms of the agreements have been agreed upon and executed through additional amendments for a period of three-year terms throughout the tenure of the relationship. The Sport Shop provides services and sales, including ski lift tickets, equipment rental and ski/snowboard lesson products. Staff will note that all products sold at the location are rack rate and there are no discounts afforded or applied to guests of the Hyatt Regency Lake Tahoe.

The Incline Village Board of Trustees approved the fifth amendment to the lease

agreement for a one (1) term at your meeting on December 14, 2022.

In accordance with Board Policy 3.1.0., 0.15 Consent Calendar, this item is included on the Consent Calendar as it is routine business of the District and within the currently approved District Budget.

DISCUSSION

Hyatt Staff has expressed that the reduced term of the agreement from three years to one winter season is primarily due to an undetermined space allocation as the Hyatt continues to work through remodeling concepts and phases that may or may not include Sport Shop retail space in the future.

Staff will also note that the Fourth Amendment to the Agreement (included in the attachments) was agreed too and executed to revise the terms as the District intended to no longer operate the Sport Shop during the summer months.

- 1. The District's ski venue will operate the space at the Hyatt from November through the end of April.
- 2. The District shall provide a monthly payment to Hyatt as rent for the space is equal to 10% of gross sales of the location.
- 3. Per the Agreement, the District shall provide four (4) Diamond Peak season passes to the Hyatt General Manager.

III. BID RESULTS

Not Applicable

IV. FINANCIAL IMPACT AND BUDGET

The operation of the Sport Shop is included in the 340 Ski Fund Fiscal Year 2023/24 approved operating budget. The Hyatt Shop budget includes all revenues and expenses related to the operation, including the funding for rental and lease to the Hyatt at 10% of gross sales on a monthly basis per the agreement.

V. ALTERNATIVES

Not Applicable

VI. COMMENTS

Not Applicable

VII. <u>BUSINESS IMPACT/BENEFIT</u>

See Attachment A

VIII. ATTACHMENTS

Attachement A - 2023 FISCAL YEAR BUDGET COMPARISON AND 2024

FY BUDGET

- 2. Attachment B Hyatt Lease Agreement and Amendments
- 3. Sixth Amendment to IVGID lease Hyatt

IX. <u>DECISION POINTS NEEDED FROM THE BOARD OF TRUSTEES</u>

Not Applicable

INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT STATEMENT OF OPERATING SOURCES AND USES

HYATT SPORTS SHOP - SKI

2023 FISCAL YEAR BUDGET COMPARISON AND 2024 FY BUDGET

	2023 FY Budget	2023 FY Actual	2023 FY Budget Variance	2024 FY Budget
Operating Sources				
Sales and Fees	342,290	415,410	73,120	342,848
TOTAL OPERATING SOURCES	342,290	415,410	73,120	342,848
Operating Uses				
•				
Wages	65,642	44,614	21,028	66,366
Benefits	11,584	6,155	5,429	11,717
Total Personnel Cost	77,226	50,769	26,457	78,083
Compiese and Complies	C F1F	C27	F 070	4 240
Services and Supplies	6,515	637	5,878	4,218
Rental and Lease	22,830	39,648	(16,818)	25,000
Utilities	805	1,775	(970)	900
TOTAL OPERATING USES	107,376	92,829	14,547	108,201
OPERATING SOURCES(USES)	234,914	322,581	87,667	234,647

LEASE

THIS LFASE made and entered into this _____ day of August, 2010, but effective as of June 1, 2010, by and between Hyatt Corporation, as agent of Hyatt Equities, L.L.C., a Delaware limited liability company, d/b/a Hyatt Regency Lake Tahoe, Resort & Spa (hereinafter called "Lessor") and Incline Village General Improvement District, a political subdivision of the state of Nevada d/b/a Diamond Peak Ski Resort (hereinafter called "Lessee"):

WITNESSETH

WHEREAS, Lessor operates a hotel (herein called the "Hotel"), known as the Hyatt Regency Lake Tahoe, Resort & Spa, located at 1111 Country Club Drive, Incline Village, Nevada 89451.

WHEREAS, Lessee has an address of 893 Southwood Blvd., Incline Village 89451, and;

WHEREAS, Lessor desires to lease, and Lessee desires to hire, space in the Hotel for the operation of a first-class sport shop for the term and upon the terms herein provided;

NOW, THEREFORE, Lessor hereby leases to Lessee, and Lessee hereby hires from Lessor, those premises within the Hotel comprising 1040 square feet, more or less, located as shown in Exhibit A hereto, which premises, together with any improvements heretofore or hereafter made thereon and thereto and any appurtenances thereunto belonging, are herein referred to as the "Premises." The roof and perimeter walls of the Premises and the area above, outside and between the same are not demised hereunder and the use thereof, together with the right to install, maintain, use, repair and replace pipes, ducts, conduits, wires and structural elements leading through the Premises are hereby reserved unto Lessor.

TO HAVE AND TO HOLD the Premises for the term, at the rentals and upon the terms, covenants and conditions hereinafter set forth:

1. Exhibits.

There is attached hereto and hereby made a part hereof a Plot Plan, marked Exhibit A, Showing the location of the Premises.

Term.

2. Term.

- (a) The original term of this Lease shall commence on June 1, 2010 (the "Commencement Date") and shall terminate on May 31, 2013 (the "Original Expiration Date").
- (b) The term "lease year" refers to any twelve (12) month period within the term hereof, commencing on June 1, 2010 and ending on May 31, 2013 (the "Term") provided, that, in the event of an early termination of this Lease, the last lease year shall end on the date of such termination and commence on the immediately preceding May 31, 2013.
- (c) Provided that Lessee is not then, or has not been, in default under the terms of this Lease, Lessee shall have the right and option (the "Renewal Option"), by a notice given to Lessor not later than sixty (60) prior to the end of the then current term to extend the term of this Lease for a period three (3) years ending May 31, 2016 (the "Renewal Term") at a rental set forth in a rental agreement executed between the parties not later than sixty (60) days (which date is herein referred to as the "Upset Date") and otherwise upon the terms, covenants and conditions herein contained. In the event that the parties shall have failed by the Upset Date to execute and deliver a rental agreement setting forth the rental payable during the Renewal Term, then the Renewal Option shall forthwith expire and the term hereof shall terminate on the Original Expiration Date with the same force and effect as if such Renewal Option had not been exercised (Renewal Term together with Term referred to as "Term").

3. <u>Use of Premises.</u>

(a) The Premises shall be used for the purpose of operating a first-class sport shop and for no other purpose. Included in the allowed use is advertising, promoting and selling Diamond Peak ski tickets, packages, other related ski services, soft goods, recreation center services, tennis, golf, and, related soft goods and mountain bike rentals (collectively, the "Services") to Lessor's guests and clients, and Lessee accepts and agrees to provide such Services. Lessee shall not be permitted to sell any food or beverages throughout the Term.

- (b) Lessee shall not use the Premises or permit the use thereof for any illegal purpose or in a manner conflicting with any applicable law, ordinance, rule or regulation of any governmental authority having jurisdiction, or in any manner which would vitiate the insurance or increase the rate of insurance on the Premises or the Hotel; nor commit or suffer to be committed any waste or nuisance upon the Premises; nor shall Lessee use the Premises, or permit the use thereof, in violation of Lessor's reasonable rules and regulations as such may exist from time to time. Lessee shall conduct business in the Premises in a dignified and orderly manner and shall maintain sufficient staff and high quality of service. In this connection, Lessee agrees that it will not keep in its employ at, in or about the Premises any employee who shall, upon reasonable non-discriminatory grounds, be objected to by Lessor, and to cause its employees to conform to the reasonable rules and regulations of Lessor established from time to time by Lessor for the conduct of, and in relation to, the employees of the tenants of the Hotel.
- (c) Prices charged for services rendered on the Premises shall be competitive with prices charged by other first-class sport shops in the area.
- (d) Lessee shall permit Hotel guests to charge purchases from the Premises to such guests' Hotel accounts providing the following steps shall have taken place:
 - (i) Lessee shall examine the guests' Hotel passport.
- (ii) Lessee shall receive telephone verification of the guests' registration at the Hotel and authorization from the Front Office Cashier for such guests to charge purchases from the Premises to the guests' Hotel accounts.
- (iii) After proper verification and authorization as hereinabove provided, Lessee shall record sales transactions on the Premises' standard sales checks and shall submit copies of such sales checks to the Hotel Front Desk on a same-day basis as such sales transactions take place. Lessee's standard sales checks shall include the name and room number of the Hotel guest and the total amount of all purchases.

- (iv) Once a month during the term of the Lease, Lessee shall submit to Lessor a statement describing all purchases made by Lessor's guests which are charged to such guests' Hotel accounts for the preceding month.
- (v) It is understood and agreed between the parties that any amounts disputed by the Hotel guest or amounts deemed by the Hotel Controller to be uncollectible shall be deducted by Lessor from the payment to Lessee for the following month or months. Lessor agrees to pursue the collection of all unpaid amounts (except disputed amounts) in accordance with the Hotel's usual and normal collection procedures and any amounts thus collected shall be applied to Lessor and Lessee's outstanding balances on a prorated basis.
- (e) If any governmental license or permit including, without limitation, any use permit and/or certificate of occupancy for Lessee's lease of the Premises, shall be required for the proper and lawful conduct of Lessee's business or other activity carried on in the Premises or if a failure to procure such a license or permit might or would in any way affect the operations of the Hotel, then Lessee, at its expense, shall duly procure and thereafter maintain such license or permit and submit the same to inspection by Lessor. Lessee, at its sole cost and expense, shall at all times comply with the requirements of each such license or permit.

4. <u>Condition of Premises.</u>

Lessee's taking possession of the Premises shall be conclusive evidence of Lessee's acceptance thereof in good order and satisfactory condition. Lessee agrees that no representations respecting the condition of the Premises, and that no promises to decorate, alter, repair or improve the Premises, either before or after the execution hereof, have been made by Lessor or its agent to Lessee unless the same are contained herein and made a part hereof.

5. Rent.

(a) In respect of each month during the term hereof, Lessee agrees to pay to Lessor, without demand and without deduction or set-off of any amount for any reason whatsoever, at the times and in the manner hereinafter provided, rent for the Premises as follows: Lessee shall pay in advance, on or before the first day of each calendar month included in the term hereof, a guaranteed minimum rental per month in the "applicable amount" hereinafter in this subparagraph (a) provided. If this Lease shall commence on a day other than the first day of the month or terminate on a day other than the last day of the month, as appropriate, then the guaranteed minimum rental for the first or last partial month, if any, as applicable, shall be equitably prorated. The "applicable amount" shall be equal to ten percent (10%) of Lessee's gross sales (the "Base Amount") for each calendar month throughout the Term.

The following provisions shall apply in respect of such annual percentage rental and the payment thereof:

(1) The term "gross sales" for any period as used herein shall (subject to the exclusions hereinafter set forth) mean the gross amount, determined on the accrual method of accounting, derived by Lessee during such period in respect of all sales made and all services rendered in, upon or from the Premises or in, upon or from the Hotel (including delivery of goods to the Hotel or Hotel guests from outside the Hotel) and, in case of sales made or services rendered on credit, whether or not payment be actually made therefor; the gross amount derived by Lessee during such period from sales made or services rendered pursuant to orders received in the Premises, though filled elsewhere; and the gross amount of any and all other sources of income derived during such period from business conducted upon the Premises, including the gross sales, as herein defined, of sublessees, licensees and concessionaires pursuant to permitted subleases and concessions. The amounts of all sales and excise taxes and any other taxes measured by Lessee's gross sales or gross business receipts which are required to be accounted for and paid by Lessee to any governmental authorities are excluded from Lessee's gross sales (as said term is used herein).

For the purpose of accounting to Lessor there shall be deducted from Lessee's gross sales the following items (but only to the extent the same have been included in such gross sales): (i) the amount of any actual refunds or credits made by Lessee for returned merchandise, the amount whereof had theretofore been included by Lessee in Lessee's gross sales; (ii) the selling price of merchandise returned for an equal amount of merchandise in exchange. No deduction shall be allowed for disputed, uncollected or uncollectible credit accounts.

(2) If Lessee shall at any time cause an audit of its business conducted on the Premises to be made by a public accountant or certified public accountant, it shall furnish Lessor with a copy of such audit without any cost or expense to Lessor. With respect to any lease year or lease years as to which Lessor is entitled to question the sufficiency of any rental payment relating thereto under the provisions of subdivision (5), Lessor may, if it so desires, cause an audit of the business of Lessee conducted on the Premises to be made by a certified public accountant of its own selection, and shall furnish Lessee a copy of such audit. If such audit shall disclose an overpayment or underpayment of the guaranteed minimum rental for such lease year or lease years, proper adjustment shall forthwith be made between Lessor and Lessee to correct any such overpayment or underpayment. Moreover, if, as a result of such audit, the statements of gross sales and receipts for any such lease year previously submitted by Lessee to Lessor shall be found to be less by two percent (2%) or more than the amount of Lessee's gross sales and receipts shown by such audit, Lessee shall pay the cost of such audit; otherwise, the cost of such audit shall be paid by Lessor.

(3) Lessee shall cause to be kept and maintained upon the Premises or elsewhere in the City of Incline Village, Nevada full and complete and proper books, records and accounts (including sales checks and other original sales records, and cash register tapes and reports) of Lessee's gross sales (as defined in subdivision (1) of this subparagraph), both for cash and on credit, and full and complete records and accounts of all authorized exceptions and deductions therefrom. Such books, records and accounts, including any sales tax and excise tax reports which Lessee is required to furnish to any

government or governmental agency, shall, upon reasonable notice to Lessee, be made available during all business hours for inspection in Incline Village by Lessor's duly authorized agents and auditors, at no cost or expense to Lessor, and such books, records and accounts shall be made, kept and maintained in accordance with good accounting practices.

- Premises as shown by any statement furnished by Lessee shall not be an admission of the accuracy of such statement or the sufficiency of such rental payment, and Lessor shall be entitled at any time within one (1) year after the receipt of any such rental payment to question the sufficiency of the amount thereof and/or the accuracy of the statement or statements furnished by Lessee to justify the same. For the purpose of enabling Lessor to check the accuracy of any such statement or statements and the sufficiency of any rental payments made in accordance therewith Lessee shall, for such period of one (1) year, keep safe and intact all of its books, records, accounts and other data (including sales checks and other original sales records and cash register tapes and reports) which in any manner bear upon, or are required to establish in detail, its gross sales and any authorized exceptions and deductions therefrom, and, upon request, shall make the same available to Lessor, its auditors, representatives or agents, for examination at any time during such one (1) year period.
- (b) Each payment of or on account of rent to be paid under this Section, as well as any other sums to be paid by Lessee to Lessor hereunder, shall be paid to Lessor at its address then in effect for the receipt of notices hereunder by Lessor, or at such other place as Lessor may from time to time designate in a notice to Lessee.
- (c) Rent shall be defined in this Lease as guaranteed minimum rental, which sums shall be payable in the manner provided in this Lease. All other sums of money or charges required to be paid by Lessee under this Lease shall be due and payable ten (10) days after demand, without any deductions or set off whatsoever. Lessee's failure to pay any such amounts or charges when due shall carry

with it the same consequences under Section 22 hereof as Lessee's failure to pay rent. All such amounts or charges shall be payable to Lessor at the place where the guaranteed minimum rental is payable.

(d) If Lessee shall fail to pay, when the same is due and payable, any guaranteed minimum rental or any annual percentage rental or other amounts or charges to be paid to Lessor by Lessee, as provided in this Lease, such unpaid amount shall bear interest from the due date thereof to the date of payment at the rate of eighteen percent (18%) per annum, with respect to corporate or limited partnership Lessees, and at the highest contract rate permitted by law with respect to Lessees who are natural persons.

6. <u>Lessor's Obligations.</u>

- (a) Lessor agrees to advertise and promote Diamond Peak in its Stay and Ski Packages or similar packages as well as in its marketing and advertising materials, in connection with Lessor's ski advertising and its regular resort marketing efforts.
- (b) Lessor agrees to advertise and promote Championship and Mountain Golf Courses and the Tennis Center in its Stay and Play packages or similar packages as well as in its marketing and advertising materials, in connection with Lessor's seasonal advertising and its regular resort marketing efforts.
- (c) Lessor agrees to have Diamond Pete, the Diamond Peak mascot, visit and participate in the Camp Hyatt on select weekends and holidays during the Term, as determined by Lessor.
- (d) Hyatt agrees that the Diamond Peak shuttle from the Hotel to Diamond Peak runs every half hour beginning at 8:30 a.m. until 1:00 p.m. Return shuttles from Diamond Peak to the Hotel begin at 2:00 p.m. and continue every half hour thereafter until 5:00 p.m.
- (e) Lessor will provide Lessee with an end of the season report on the Stay & Ski packages and Stay and Play packages at the end of each season.

7. Hours of Operation and No Abandonment.

Lessee agrees not to abandon or vacate the Premises during the term hereof, and, except when and to the extent that the Premises are untenantable by reason of damage by fire or other casualty, Lessee shall use and continuously operate for retail sales purposes all of the Premises other than such minor portions thereof as are reasonably required for storage and office purposes; to use such storage and office space only in connection with the business conducted by Lessee in the Premises; to furnish and install all trade fixtures which shall at all times be suitable and proper for carrying on Lessee's business; to carry a full and complete stock of seasonable merchandise offered for sale at competitive prices; to maintain adequate trained personnel for efficient service to customers; to open for business and remain open during the entire Lease Term at times mutually agreed upon by Lessor and Lessee and shall be in accordance with the season, i.e. ski, golf, recreation, etc. Keys to the leased premises shall be maintained by representatives authorized by Lessee and Lessor respectively.

8. Common Areas and Facilities.

- (a) Lessor shall make available from time to time such areas and facilities of common benefit ("Common Areas") to the tenants and occupants of the Hotel as Lessor shall deem appropriate. Lessor shall operate, manage, equip, light, insure, secure, repair and maintain the Common Areas for their intended purposes in such manner as Lessor shall in its sole discretion determine, and may from time to time change the size, location and nature of any Common Areas and may make installations therein and move and remove such installations.
- (b) Lessee and its permitted sublessees, licensees and concessionaires, officers, employees, agents, customers and invitees shall have the nonexclusive right, in common with Lessor and all others to whom Lessor has or may hereafter grant rights, to use the Common Areas as designated from time to time by Lessor to the extent necessary and related to the lease of the Premises, subject to such reasonable regulations as Lessor may from time to time impose including the designation of specific areas in which cars owned by Lessee, its permitted sublessees, licensees and concessionaires, officers, employees, agents,

customers and invitees must be parked. Lessee agrees to abide by such regulations and to use its best efforts to cause its permitted sublessees, licensees and concessionaires, officers, employees, agents, customers and invitees to conform thereto. Lessor may at any time close temporarily any Common Area to make repairs or changes to prevent the acquisition of public rights in such area or to discourage noncustomer parking; and may do such other acts in and to the Common Areas as in its judgment may be desirable to improve the convenience thereof. Lessee shall upon request furnish to Lessor the license numbers and description of the vehicles operated by Lessee and its permitted sublessees, licensees and concessionaires, officers, agents and employees. Lessee shall not at any time interfere with the rights of Lessor and other tenants, its and their permitted sublessees, licensees and concessionaires, officers, employees, agents, customers and invitees, to use any part of the parking areas and other Common Areas.

9. <u>Utilities.</u>

Lessor shall furnish without cost to Lessee the levels of heat, air conditioning and electricity for the Premises as provided to the Common Areas of the Hotel. Lessee shall pay for all water, if any, and all janitorial, scavenger and other services supplied to or for the benefit of the Premises, provided that Lessor may, at its option, supply any such services to Lessee and other tenants of the Hotel, in which case Lessee shall pay its prorata share of the cost of the services so supplied by Lessor. Lessor shall not be liable for any stoppage or interruption in the supply of the aforementioned utilities to the Premises in the event and whenever the same is due to fire or other casualty, strikes, lockouts, riots, breakdown in service, necessary repairs or any other cause beyond the reasonable control of Lessor. Lessor shall at all times maintain such level of heat to the Premises as may be necessary to keep the Premises at a proper temperature, if applicable.

10. Repair.

Lessee, at its sole cost and expense and free from mechanics liens, shall keep and maintain the Premises (including plate glass) and all appurtenances thereto installed by Lessee for the use or use in connection with the Premises, in good sanitary order, condition and repair, ordinary wear and tear, damage by fire, acts of God, or by the elements excepted, Lessee hereby waiving all right to make repairs at the expense of Lessor as provided in any applicable statute now or hereafter in force. Lessee agrees, at its sole cost and expense, and free of mechanics liens, to make any and all improvements, alterations, repairs and changes in, to and upon the Premises required by any and all laws, ordinances, rules or regulations of all governmental authorities and officials having jurisdiction thereof when, and if, required due to the use made of the Premises by Lessee. Lessee further agrees, at all times during the term hereof, to keep and maintain in clean condition and good order and repair all furniture, furnishings, fixtures and equipment (herein collectively called the "Fixtures and Equipment") then required for the operation of the Premises as a first-class sport shop and to make such replacements as shall be required from time to time, such replacements to be of at least equal quality as the items replaced. Lessee agrees to surrender the Premises to Lessor at the expiration or sooner termination of the term hereof in as good condition and repair as when first received, ordinary wear and tear, damage by storm, fire, lightning, earthquake or other casualty alone excepted.

11. <u>Lessee's Improvements; Interior Design, etc.</u>

(a) Lessee shall construct all leasehold improvements and install all furniture, fixtures and equipment, including interior decoration, in the Premises which may be required for the operation of Lessee's business. Lessee shall bear the cost of such construction of leasehold improvements and the installation of furniture, fixtures and equipment, including the interior decoration. All construction and installation of furniture, fixtures and equipment are hereinafter referred to as "Lessee's work." Lessee shall, at its sole cost and expense, promptly prepare, or cause to be prepared by an architect or designer approved by Lessor, and submit to Lessor for its approval, Drawings and Final Drawings and Specifications for

Lessee's work, which Drawings and Final Drawings and Specifications shall conform to Lessor's design criteria for the entire Hotel. Lessor agrees not to withhold unreasonably its approval of Lessee's architect or designer. Lessor, however, reserves the right to withhold its approval of such Drawings and Final Drawings and Specifications submitted by Lessee if, in Lessor's sole opinion, such Drawings and Final Drawings and Specifications do not conform to the design criteria and style of the Hotel as determined by reference to the design, drawings, specifications, construction and decor of the Hotel. Lessee, at its sole cost and expense, shall obtain all permits required for the performance of Lessee's work and shall perform, or cause to be performed, such work in a first-class manner, in accordance with such Final Drawings and Specifications approved by Lessor prior to the commencement of such work; in compliance with Lessor's customary and usual insurance and other requirements therefor; and free from any liens imposed upon the Hotel or any part thereof, and in such manner as to cause no interference with the operations of the Hotel. The Lessee's work shall be completed and the Premises shall be opened for business to the public not later than nincty (90) days from the date when the Premises shall be available to Lessee for the performance of Lessee's work.

Lessee shall have the right to enter the Premises prior to the commencement of the term for the purpose of fixturing and otherwise preparing the Premises for the conduct of Lessee's business therein. Such entry by Lessee on the Premises shall be subject to all the terms, covenants and conditions of this Lease, except, however, the covenants relating to payment of rent and other charges and must be coordinated with Lessor's contractors and agents, and all work done by Lessee on the Premises must be done in such a manner as not to unreasonably interfere with Lessor's use of and work on the Hotel.

(b) Any changes or alterations of the interior design, decor, furnishings, trade fixtures, and other decorating of or for the Premises must be first submitted to Lessor for approval, which approval shall not be unreasonably withheld, before installation thereof by Lessee, and such installation shall be at Lessee's expense and shall be completed free of any liens. On written request by Lessor, all parts of the interior of the Premises shall be painted, varnished, or otherwise redecorated at Lessee's own expense at least once during the term hereof.

(c) In the event that during the term of this Lease, a renovation of the Hotel is scheduled, or other similar business reason should occur, the Lessor shall have the right to relocate Lessee to a substantially similar area of the Hotel.

12. Advertising Signs; Solicitation of Business.

All signs are subject to the approval of Lessor, which approval shall not be unreasonably withheld, and Lessee must obtain such approval in writing prior to installation. Lessee shall remove Lessee's signs from the Premises at the expiration or sooner termination of the term hereof. All expenses of installing and removing such signs shall be the sole responsibility of Lessee.

Lessee further agrees not to issue or circulate any advertising matter in the Hotel or transact or solicit business in any part of the Hotel without the prior written consent of Lessor, which consent shall be at Lessor's sole discretion.

13. Removal of Trash.

Lessee, at its expense, shall keep the Premises clean, both inside and outside, and remove all trash, garbage and other refuse from the Premises. Lessee agrees to keep all accumulated rubbish in covered containers and to have the same removed regularly. In the event Lessee fails to keep the Premises in proper condition, Lessor may cause the same to be done for Lessee; and Lessee hereby agrees to pay the expense hereof as additional rent on demand.

14. No Obstruction.

Lessee shall neither encumber nor obstruct the area adjoining the Premises (including the adjoining sidewalks or arcades) nor allow the same to be obstructed or encumbered in any manner, and shall keep said area or any part thereof free of ice, snow, rubbish and dirt. Lessee shall not place, or cause to be placed, any merchandise, vending machines or anything else on said area or said sidewalks, if any, or the exterior of the Premises, without the written consent of the Lessor first obtained.

15. Destruction of Premises.

If, as a result of a casualty, the Premises are totally destroyed or the Hotel shall be damaged or destroyed to the extent of twenty-five percent (25%) of the replacement cost thereof, then this Lease, at the option of Lessor, shall terminate as of the date of such destruction, and rental shall be accounted for as between Lessor and Lessee as of that date. If the Premises are damaged but not wholly destroyed by any such casualty or the Hotel shall be damaged or destroyed to an extent less than that indicated in the preceding sentence, then the guaranteed minimum rental (but not the annual percentage rental, or any installment thereof) shall abate in such proportion as the use of the Premises has been made impossible and Lessor shall, at its option, to the extent practicable and to the extent sufficient insurance proceeds are available, restore the Premises to substantially the same condition as before such damage, whereupon full rental shall resume; further, in such event, Lessee shall, at its expense, and in a timely manner, restore or replace the Fixtures and Equipment and any additions thereto or replacements thereof made prior to such casualty.

16. Indemnification.

Lessee agrees to defend, indemnify and to hold Hyatt Corporation and Hyatt Equities, L.L.C., a Delaware limited liability company and its members and their employees and agents harmless at all times during the term hereof from and against any and all liability, loss, cost, damage or expense (including attorneys' fees) for, or which may arise out of, Lessee's leasing, use, maintenance and operation of the Premises, including, without limitation, (i) any damage to or destruction of any goods, wares, merchandise or personal property of any and all kinds and character in or upon the Premises, however caused or occasioned, excepting the gross negligence or willful misconduct of Lessor, its agents or employees, (ii) any bodily injuries to or the death of any person or persons upon the Premises and Lessee's employees working at the Premises and occupancy of all portions of the Hotel to which such employees are permitted access while in the course of their employment, however caused or occasioned, excepting the gross negligence or willful misconduct of Lessor, its agents or employees, and (iii) any violation by Lessee

or its agents or assigns of any term or provision of this Lease. This Section shall survive the termination or expiration of the Lease.

17. <u>Insurance.</u>

Lessee agrees to maintain during the term hereof, at Lessee's sole expense, with financially responsible insurance carriers authorized to do business in the State of Nevada and approved by Lessor (such approval not to be unreasonably withheld) the following insurance coverages in the respective minimum amounts indicated:

- (a) Fire and extended coverage insurance on all Fixtures and Equipment used in connection with the operation of the Premises, Betterments and Improvements and other Personal Property of Lessee including merchandise and stock for the full insurable value thereof existing from time to time.
- (b) Comprehensive general and automotive liability insurance against damages and liability (including attorneys' fees) on account of its leasing or use of the Premises, or any property damage, or any injuries to or the death of any persons however occasioned in or about the Premises (and as respects Lessee's employees working at the Premises and occupants of all portions of the Hotel to which said employees are permitted access) in the minimum amount of five million dollars (\$5,000,000.00) for injuries to or the death of any one or more persons in any one accident and/or for damage to property. Such comprehensive general liability and automobile insurance shall be endorsed to include every aspect of Lessee's business operation, including liquor liability, and shall insure the performance by Lessee of the indemnity agreement set forth in Section 15 of this Lease and shall include hazards of premises, operations, independent contractors, contractual liability, products liability and personal injury.
- (c) Workers' compensation in statutory amounts and employer's liability or similar insurance as required by law.
- (d) Lessee shall observe and comply with the requirements of all policies of insurance of Lessor and Lessee at any time in force with respect to the Premises or any part thereof. All policies required to be carried hereunder (except Workers' Compensation insurance) shall name «insured» and any

other parties as requested by Lessor as additional insureds; such insurance shall be primary and not contributory with Lessor's insurance. All such policies of insurance, to the extent obtainable, shall provide that the same shall not be cancelled or changed without prior written notice thereof to Lessor at least thirty (30) days prior to the effective date of such cancellation or change. Prior to the commencement of the term hereunder, and from time to time during the term hereof, Lessee shall furnish to Lessor certificates of insurance evidencing continuously current compliance with the provisions of this paragraph.

Lessee shall pay all costs, expenses, claims, fines, penalties and damages (including reasonable attorneys' fees) that may in any manner arise out of or be imposed because of the failure of Lessee to comply with the provisions of this Section 16, and in any event agrees to indemnify Lessor against all such liability. Lessee shall promptly give notice to Lessor of any notice of violation received by Lessee.

(e) This Section shall survive the termination or expiration of the Lease.

18. Compliance with Laws.

Lessee understands and agrees that Lessee's performance of any and all services performed pursuant to this agreement shall, at Lessee's expense, fully comply with all federal, state and/or local laws, rules, regulations and ordinances which may govern or regulate such services. Lessee further agrees, at Lessee's own expense, to be solely responsible for compliance with all federal, state, and local laws, rules, regulations, and ordinances that apply to Lessee's employment status or Lessee's employment relationship with others.

19. <u>Condemnation.</u>

If the whole of the Premises, or such portion thereof as shall make the Premises unusable for the purposes herein rented, be condemned by any legally constituted authority for any public use or purpose, then and in either event, the term hereof shall cease from the time when possession thereof is taken by such authority; and rental shall be accounted for as between Lessor and Lessee as of that date. Such termination, however, shall be without prejudice to the rights of either Lessor or Lessee to recover compensation and damage caused by condemnation from the condemnor. It is further understood and

agreed that neither Lessee nor Lessor shall have any rights in any award made to the other by any condemnation authority.

20. Assignment and Subletting.

- (a) Lessee shall not, without the prior written consent of Lessor, assign this Lease or any interest therein or sublet the Premises, or any part thereof, or permit the use of the Premises by any party other than Lessee, and in the case of any such assignment or subletting to which Lessor shall have consented, a copy of the instrument of assignment or subletting shall be delivered to Lessor promptly upon the making of such assignment or upon such subletting. The sale, issuance or transfer, at any time, of any voting capital stock of Lessee (if Lessee is then a corporation) which results in a change in the voting control of Lessee shall be deemed to be an assignment of this Lease within the meaning of this Section 19. Consent to any assignment, subrent or sublease shall not be deemed to be a consent to any subsequent assignment, subrent or sublease; and all subsequent assignments, subrentals or subleases shall be made likewise only on the prior written consent of Lessor. If Lessor shall consent to an assignment, the assignee of Lessee shall, in writing, assume the obligations of Lessee hereunder, so as to become directly liable to Lessor for all such obligations. Such assumption shall be incorporated in the instrument of assignment, a copy of which shall be delivered to Lessor. No sublease, subrental or assignment by Lessee shall relieve Lessee of any liability hereunder. In the event that Lessor approves Lessee's assignment or subletting of the Lease, Lessee shall pay to Lessor a fee of five hundred dollars (\$500.00) for the processing by Lessor of the necessary documents.
- (b) Without limiting the other instances in which it may be reasonable for Lessor to withhold its consent, Lessor and Lessee acknowledge that it shall be reasonable for Lessor to withhold its consent in the following instances: (i) if, at the time consent is requested or at any time prior to the granting of consent, Lessee is in default under this Lease or would be in default under this Lease but for the pendency of any grace or cure period under Section 21 below; (ii) if, in Lessor's reasonable judgment, the quality or character of the business to be conducted in the Premises is or may be adversely affected during

the term of this Lease as a result of the transaction for which consent is requested; (iii) if, in Lessor's reasonable judgment, the financial worth of a proposed assignee or sublessee does not meet the credit standards applied by Lessor for other tenants under leases with comparable terms, or the experience of the proposed transferee, assignee, sublessee, licensee or concessionaire in the type of business conducted in the Premises is not at least equal to that of Lessee, or its reputation for business integrity and quality of operations is not excellent; and (iv) in the case of a subletting, if the subletting is of less than the entire Premises.

(c) Lessor, at any time, and from time to time, may make an assignment of its interest in this Lease, and, in the event of such assignment and the assumption by the assignee of the covenants and agreements to be performed by Lessor herein, Lessor and its successors and assigns (other than the assignee of this Lease) shall be released from any and all liability hereunder.

21. Removal of Trade Fixtures.

Upon the expiration or sooner termination of the term hereof, Lessee may (if not in default hereunder), and upon written request of Lessor shall, remove all easily removable Fixtures and Equipment and supplies owned by Lessee which Lessee has placed in the Premises, provided Lessee shall restore the Premises to the same condition as when first received, ordinary wear and tear, damage by fire, acts of God, or by the elements excepted. Any personal property of Lessee not removed within five (5) days following such expiration or termination shall, at Lessor's option, become the property of Lessor.

22. Default.

It is mutually agreed that (i) in the event Lessee shall default in the payment of rent herein reserved, when due, and shall fail to cure such default within ten (10) days after written notice thereof from Lessor, or (ii) if Lessee shall be in default in any of the terms or provisions of this Lease, other than the provisions requiring the payment of rent, and shall fail to cure such default within thirty (30) days after the date of receipt of written notice of default from Lessor, or (iii) if Lessee is adjudicated bankrupt, or (iv) if a permanent receiver is appointed for Lessee's property and such receiver is not removed within sixty (60)

days after written notice from Lessor to Lessee to obtain such removal, or (v) if, whether voluntarily or involuntarily, Lessee takes advantage of any debtor relief proceedings under any present or future law. whereby the rent or any part thereof is, or is proposed to be, reduced or payment thereof deferred, or (vi) if Lessee makes an assignment for the benefit of creditors, or (vii) if Lessee's effects should be levied upon or attached under process against Lessee, and such levy or attachment is not satisfied or dissolved within thirty (30) days after written notice from Lessor to Lessee to satisfy or dissolve the same, then, in any of said events, Lessor (in addition to any and all other rights or remedies of Lessor hereunder or provided by law, all of which shall be cumulative, and no one of which shall be exclusive of any other right or remedy) shall have the immediate right of re-entry, without liability for trespass or forcible entry or detainer, and may remove all persons and property from the Premises; such property may be removed and stored in a public warehouse or elsewhere at the cost of, and for the account of, Lessee. Should Lessor elect to re-enter, as herein provided, or should it take possession pursuant to legal proceedings or pursuant to any notice provided for by law, Lessor may either terminate this Lease or may, from time to time, without terminating this Lease, re-let the Premises or any part thereof for such term or terms (which may be for a term extending beyond the term of this Lease) and at such rent and upon such other terms and conditions as Lessor, in Lessor's discretion, may deem advisable; upon each such re-letting Lessee shall be liable to pay to Lessor, in addition to any indebtedness other than rent due hereunder, the amount, if any, by which the minimum annual rentals reserved in this Lease for the period of such re-letting (up to, but not beyond, the term of this Lease) shall exceed the amount agreed to be paid as rent pursuant to such re-letting for the period thereof, which rents received by Lessor from such re-letting shall be applied: first, to the payment of any indebtedness, other than rent due hereunder from Lessee to Lessor; and second, to the payment of rent due and unpaid hereunder, and the residue, if any, shall be held by Lessor and be applied in payment of future rent as the same may become due and payable hereunder. If Lessee has been credited with any rent to be received by such re-letting hereinabove and such rent shall not be promptly paid to Lessor by the new lessee, or if such rents received from such re-letting during any month be less than that to be paid during

such month by Lessee hereunder, Lessee shall pay any such deficiency to Lessor. Such deficiency shall be calculated and paid monthly. No such re-entry or taking possession of the Premises by Lessor shall be construed as an election on its part to terminate this Lease unless a written notice of such intention be given to Lessee or unless the termination thereof be decreed by a court of competent jurisdiction. Notwithstanding any such re-letting without termination, Lessor may at any time thereafter elect to terminate this Lease for such previous breach. Should Lessor at any time terminate this Lease following an Event of Default hereunder, in addition to any other remedy Lessor may have, Lessor may recover from Lessee the amount of the rent and charges equivalent to the rent reserved in this Lease for a period of sixty (60) days following such termination over the amount of rental derived from the operation of the Premises whether Lessor shall or shall not re-let the Premises during such sixty (60) day period.

23. <u>Lessor's Right of Entry.</u>

Lessor may post on the Premises "For Rent" signs on any date preceding the expiration of the term hereof by ninety (90) days or less. Lessor may enter the Premises at reasonable hours to exhibit the same to prospective tenants and to make repairs required of or permitted to be made by Lessor under the terms hereof or to make repairs to the Hotel, or to inspect the Premises for the purpose of determining if Lessee is complying with the requirements of this Lease.

24. Lessor's Right to Collect Rent.

The termination of this Lease at or prior to the expiration of the term hereof, by lapse of time or otherwise, shall not affect Lessor's right to collect rent for the period prior to such termination.

25. Subordination.

Lessee's rights hereunder shall be subject to any bona fide mortgage or deed of trust to secure a debt which now affects or which may subsequently affect the Hotel and shall be subject to the terms and conditions of any lease of the Hotel or portion thereof through which Lessor has derived possessory rights to the Premises and of any other leases or other matters affecting title to which any such lease is subject.

Lessee shall execute and deliver whatever instruments may be required for such purposes, and in the event Lessee fails to do so within ten (10) days after demand in writing by Lessor, Lessee does hereby make, constitute and irrevocably appoint Lessor as its attorney-in-fact and in its name, place and stead so to do. Further, if any financing institution requires any modifications of the terms and provisions of this Lease as a condition to such financing as Lessor may desire, then Lessee shall execute and deliver such modification as may be required for such purposes, and in the event Lessee fails to do so within ten (10) days after demand in writing by Lessor, Lessee does hereby make, constitute and irrevocably appoint Lessor as its attorney-in-fact and in its name, place and stead so to do. Such modification or modifications shall not affect any of the provisions of the Lease relating to the amount of guaranteed minimum rental and percentage rental, if any, reserved, reducing the purposes for which the Premises may be used, the size and/or location of the Premises, the duration and/or Commencement Date of the terms, or reducing the improvements to be made by Lessor to the Premises prior to delivery of possession.

26. No Levy, etc.

This Lease shall create the relationship of lessor and lessee between Lessor and Lessee; no estate shall pass out of Lessor; Lessee's interest in the Premises shall not be subject to levy, sale or other involuntary assignment.

27. Hold Over.

If Lessee remains in possession of the Premises after the expiration of the term hereof without any express agreement of the parties, Lessee shall be a tenant at will at twice the guaranteed minimum rental, and there shall be no renewal of this Lease by operation of law.

28. Attorneys' Fees.

In case suit shall be brought for an unlawful detainer of the Premises, for the recovery of any rent due under the provisions of this Lease, or because of the breach of any other covenant herein contained on the part of Lessor or Lessee to be kept or performed, the party prevailing in such suit shall be entitled to reasonable attorneys' fees to be paid by the unsuccessful party, which fees shall be fixed by the court.

29. Cumulative Remedies.

All rights, powers and privileges conferred hereunder upon the parties hereto shall be cumulative and shall be in addition to every other right, power, privilege and remedy existing in law or at equity.

30. Mechanic's Lien.

Lessee shall not suffer any mechanic's lien to be filed against the Premises or the Hotel by reason of any work, labor, services or materials performed at or furnished to the Premises, to Lessee, or to anyone holding the Premises through or under the Lessee. If any such mechanic's lien shall at anytime be filed, Lessee shall forthwith cause the same to be discharged of record by payment, bond, order of a court of competent jurisdiction or otherwise, but Lessee shall have the right to contest any and all such liens, provided security satisfactory to Lessor is deposited with it. If Lessee shall fail to cause such a lien to be discharged within thirty (30) days after being notified of the filing thereof and before judgment or sale thereunder, then, in addition to any other right or remedy of Lessor, Lessor may, but shall not be obligated to, discharge the same by paying the amount claimed to be due or by bonding or other proceeding deemed appropriate by Lessor, and the amount so paid by Lessor and/or all costs and expenses, including reasonable attorneys' fees, incurred by Lessor in procuring the discharge of such lien, shall be deemed to be additional rent together with interest thereon as provided in Section 5(d) and shall be due and payable by Lessee to Lessor on the first day of the next following month.

31. Notice.

All notices, demands, requests or other communications required or permitted hereunder shall be in writing and shall be deemed to have been duly given if either (i) personally served, or (ii) sent by regular mail, three (3) days after being deposited at the Post Office or sent registered or certified mail, postage prepaid, in any event addressed to the party intended at its address set forth below (or such other address as such party may designate by notice given to the other party in the manner provided in this Section): If to Lessor, at Lessor's office at the Hotel, Attention: General Manager; and if to Lessee, at the Premises, attention: General Manager, 893 Southwood Blvd., Incline Village, NV, 89451.

32. No Waiver.

No failure of Lessor to exercise any power given to Lessor hereunder, or to insist upon strict compliance by Lessee with Lessee's obligations hereunder, and no custom or practice of the parties at variance with the terms hereof shall constitute a waiver of Lessor's right to demand exact compliance with the terms hereof.

33. <u>Time of Essence.</u>

Time is of the essence of this Lease.

34. <u>Lessor's Right to Rearrange Hotel.</u>

Lessor shall have the right, from time to time, to make changes, alterations or improvements (including rearrangements of space) in the Hotel or any part thereof, including the Hotel lobby and the Hotel shop area so long as the Premises or the entrances thereto and exits therefrom are not materially and adversely affected thereby. Lessor reserves the right to impose reasonable restrictions as to the loading and unloading of merchandise, supplies or equipment by Lessee.

35. <u>Definitions.</u>

"Lessor," as used in this Lease, shall include the original lessor and its assigns or other successors in interest with respect to the Premises. "Lessee," as used in this Lease, shall include the original lessee, and, if the original lessee's interest in this Lease shall be validly assigned, shall include also lessee's assignees.

36. Entire Agreement.

This Lease contains the entire agreement of the parties hereto; and no representations, inducements, promises or agreements, oral or other, between the parties not embodied herein, shall be of any force or effect except as embodied herein or otherwise set forth in writing and executed by the parties hereto. All terms in this Lease are deemed to be material.

37. Trade Name.

Lessee acknowledges that the names "Hyatt", "Regency", "Park", "Grand" and "Andaz" and the Hyatt crest are the exclusive property of Lessor. Lessee agrees not to use the name "Hyatt", "Regency", "Park", "Grand" or "Andaz" or any name which includes the word "Hyatt", "Regency", "Park" "Grand" or "Andaz" or the Hyatt crest or any logo or design which includes the Hyatt crest without the prior consent, in writing, of Lessor. If Lessor shall have given its consent to the use by Lessee of any such name or any such crest, logo or design, then upon the termination of this Lease, whether by lapse of time or any other reason whatsoever, Lessee shall cease to use, and shall thereafter refrain from using, any such name, crest or design. The provisions of this Section shall survive the expiration or earlier termination of the term hereof.

38. Lessee's Covenants.

Lessee represents, warrants and covenants that (i) it is duly licensed to do business in the State of Nevada, (ii) it has full power and authority to enter into this Lease, and (iii) it has no knowledge of any threatened, pending or ongoing claims or litigation which may materially and adversely affect its ability to perform its obligations under the Lease.

Lessee further covenants, warrants and represents that by executing this Lease and by the operation of the Premises under this Lease, it is not violating, has not violated and will not be violating any restrictive covenant or agreement contained in any other lease or contract affecting the Lessee or any affiliate, associate or any other person or entity with whom or with which Lessee is related or connected financially or otherwise. Lessee hereby covenants and agrees to indemnify and save harmless Lessor, any future owner of the fee or any part thereof, and any mortgagee thereof against and from all liabilities, obligations, damages, penalties, claims, costs and expenses, including attorneys' fees, paid, suffered or incurred by them or any of them as a result of any breach of the foregoing covenant. Lessee's liability under this covenant extends to the acts and omissions of any subtenant, and any agent, servant, employee or licensee of any subtenant of Lessee.

39. Verification.

At any time during the term of this Lease, Lessee shall, at the request of Lessor, acknowledge and deliver to Lessor without charge, a duly executed recordable certificate prepared by Lessor, certifying that this Lease is valid and subsisting and in full force and effect and that Lessor, at the time, is not in default under any of the terms or provisions of this Lease.

40. Brokers.

Lessee covenants, represents and warrants that no realtor, broker or agent was involved in the negotiations leading to the execution of this Lease or brought it about either directly or indirectly except Hyatt Corporation. Lessee agrees to indemnify, defend and hold Hyatt Corporation and Hyatt Equities, L.L.C., a Delaware limited liability company and its member harmless from and against any and all expenses or costs (including, without limitation, attorneys' fees) caused by any broker claiming to have dealt with Lessee.

41. Governing Laws.

The rights and obligations of the parties under this Lease shall be governed by the laws of the State of Nevada.

42. Headings.

The Headings used in this Lease are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Lease nor the intent of any provision thereof.

43. Meals.

Lessee's employees may use Lessor's cafeteria located in the Hotel for meals, provided that Lessee purchases from Lessor one (1) meal ticket in the amount of five and 00/100 dollars (\$5.00), for every meal provided for each of the Lessee's employees. Lessor maintains the complete discretion as to the food offerings provided in the cafeteria or whether to offer meals at all; furthermore, the cost of the ticket shall be determined solely by Lessor in its reasonable discretion. Lessee and its agents and employees may not otherwise access the Hotel cafeteria without a ticket for each meal served.

44. Discounts.

- (a) Lessee shall provide Lessor with four (4) Diamond Peak transferable season passes for use by Lessor's employees and/or Lessor's guest for Term of the Lease. Upon termination of this Lease, Lessor will return the four (4) passes to Diamond Peak.
- (b) Lessee agrees that Lessor's employees can ski or snowboard as Diamond Peak for Ten and 00/100 Dollars (\$10.00) Monday through Friday, and Twenty and 00/100 Dollars (\$20.00) Saturday and Sunday with the exception of specified holiday or blackout periods as determined by Lessee. Such employees must be currently employed by Lessor to receive this discount and may only use the discount for themselves. Lessor employees must present a "Hyatt" ID and current pay stub (within 14 days) to receive this discount. This discount doe not apply to guests, friends or family of the Lessor employee and each employee is limited to one (1) lift ticker per day. Upon termination of this agreement, Lessor employees will no longer receive this discount.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals as of the day and year first hereinabove set forth.

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Hyatt Corporation, as agent of Hyatt Equities, L.L.C., a Delaware limited liability company, d/b/a Hyatt Regency Lake Tahoe, Resort & Spa

By: 9/7/10
Its: General Manager

Reviewed and approved

as to form:

William B. Horn IVGID General Manager

Ed Youmans

Diamond Peak Ski Resort Manager

T. Scott Brooke

IVGID General Counsel

LESSEE

Incline Village General Improvement District

INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT

Gene Brockman

Chairman, Board of Trustees

Charles Weinberger

Secretary, Board of Trustees



June 14, 2012

Hyatt Regency Lake Tahoe Country Club Drive Incline Village, Nevada 89451

Attention of Mr. Fred Findlen

Subject:

Contract Change Approved by the Incline Village General

Improvement District Board of Trustees on May 30, 2012

Dear Fred:

Pursuant to the approval made by the Incline Village General Improvement District Board of Trustees, on May 30, 2012, at a regularly scheduled Board of Trustees meeting, I am extending the lease with the Hyatt Equities LLC for a period of three years (extending through May 31, 2016) as prescribed in paragraph 2. Term, subparagraph (c).

If you would kindly execute one copy of this letter, in the space shown below, and return it to my attention, it would be most appreciated.

Thank you very much for your continued support of the Incline Village General Improvement District and we are looking forward to our continued successful partnership.

Sincerely,

William B. Horn General Manager

Accepted on behalf of Hyatt Equities, LLC

General Managero Hyatt Regency Lake Jahoo Levard · Incline village, NV 89451 PH: (775) 832-1100 FX: (775) 832-1122 · WWW.YOURTAHOEPLACE.COM

6/27/12

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FIRST AMENDMENT TO AGREEMENT

THIS FIRST AMENDMENT TO AGREEMENT is made as of the 18th day of May, 2016 by and between Hyatt Corporation, as agent of Hyatt Equities, L.L.C., a Delaware limited liability company d/b/a Hyatt Regency Lake Tahoe Resort, Spa and Casino (hereinafter called "Hyatt") and Incline Village General Improvement District, a political subdivision of the state of Nevada d/b/a Diamond Peak Ski Resort (hereinafter called "Lessee").

WITNESSETH:

WHEREAS, Hyatt and Lessee entered into that certain Agreement, effective as of June 1, 2010 (the "Lease"), which provides for Lessee to Lease space in the Hotel for the operation of a first class sport shop ("Lease") at the Hyatt Regency Lake Tahoe Resort, Spa and Casino (the "Hotel"); and.

NOW, THEREFORE, the parties hereto amend the Agreement by this instrument as follows:

- 1. <u>Term.</u> The term of the Lease will be extended to May 31, 2019. Provided that Lessee is not then, or has not been, in default under the terms of this Lease, Lessee shall have the right and option (the "Renewal Option"), by a notice given to Lessor not later than sixty (60) prior to the end of the then current term to extend the term of this Lease for a period three (3) years ending May 31, 2012 (the "Renewal Term").
- 2. Discounts. Section 44 (b) will be deleted in its entirety.
- 3. Room Charges. Section 3(d)(ii) will be replaced in its entirety with the following: A list of in-house guests will be provided to the Lessee by the Lessor to verify the guests' hotel registration. A list of guests that do not have room charging privileges will also be provided on a daily basis.

Except as herein expressly modified, the Lease shall remain in full force and effect, subject to all terms and conditions contained therein.

IN WITNESS WHEREOF, this First Amendment has been executed by Hyatt and Lessee as of the day and year first hereinabove set forth.

Hyatt Corporation, as agent of Hyatt	Incline Village General Improvement		
Equities, L.L.C., a Delaware limited liability	District, a political subdivision of the		
company d/b/a Hyatt Regency Lake Tahoe	state of Nevada A/b/a Diamond Peak Ski		
Resort, Spa and Casino	Resort		
By: frague	Ву:		
Name: Fred Findlen	Name: Steven J. Pinkerton		
Title: General Manager	Title: General Manager		

SECOND AMENDMENT TO LEASE AGREEMENT

THIS SECOND AMENDMENT TO AGREEMENT is made as of the 30th day of 1019 by and between Hyatt Corporation, as agent of Hyatt Equities, L.L.C, a Delaware limited liability company d/b/a Hyatt Regency Lake Tahoe Resort, Spa and Casino (hereinafter called "Hyatt") and Incline Village General Improvement district, a political subdivision of the state of Nevada d/b/a Diamond Peak Ski Resort (hereinafter called "Lessee").

WITNESSETH:

WHEREAS Hyatt and Lessee entered into a certain Agreement, effective as of June 1, 2010 (the "Lease"), which provides for the Lessee to Lease space in the Hotel for the operation of a first class sport shop ("Lease") at the Hyatt Regency Lake Tahoe Resort, Spa and Casino (the "Hotel"); and.

NOW, THEREFORE, the parties hereto amend the Agreement by this instrument as follows:

1. Term. The term of the Lease will extend to May 31, 2022.

Except as herein expressly modified, the Lease shall remain in full force and effect, subject to all terms and conditions contained therein.

IN WITNESS WHEREOF, this Second Amendment has been executed by Hyatt and Lessee as of the day and year first hereinabove set forth.

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Hyatt Corporation, as an agent of Hyatt

Incline Village General Improvement District, a political subdivision of the state of Nevada d/b/a Diamond Peak Resort

By:

Name: Steven J. Pinkerton

IVGID District General Manager

THIRD AMENDMENT

SECOND AMENDMENT TO AGREEMENT

THIS SECOND AMENDMENT TO AGREEMENT (the "2nd Amendment") is made as of the 17

day of June 2020, by and between Hyatt Corporation, as agent of Hyatt Equities, L.L.C., a Delaware limited

liability company d/b/a Hyatt Regency Lake Tahoe Resort. Spa and Casino (hereinafter called "Hyatt") and

Incline Village Improvement District, a political division of the state of Nevada, d/b/a Diamond Peak Ski Resort

(hereinafter called "Lessee").

WITNESSETH:

WHEREAS, Hyatt and Lessee entered into that certain Agreement, effective as of June 1, 2010, [First

Amendment, dated May 18, 2016; as amended] (the "Agreement"), which provides for Lessee to lease space

in the Hotel for the operation of a first class sport shop ("Lease") at the Hyatt Regency Lake Tahoe Resort,

Spa and Casino (the "Hotel"); and

WHEREAS, the parties desire to amend the Agreement to revise the term.

NOW, THEREFORE, the parties hereto amend the Agreement by this instrument as follows:

Term: Operations will be suspended for the Summer and Fall 2020 season and lessee will vacate the premise.

Lessee shall re-occupy the agreed upon lease location for the Winter 2020/2021 season, no earlier than October

1, 2020 and no later than November 22, 2020.

Except as herein expressly modified, the Agreement shall remain in full force and effect, subject to all

terms and conditions contained therein.

IN WITNESS WHEREOF, this Second Amendment has been executed by Hyatt and Lessee as of the

day and year first hereinabove set forth.

Hyatt Corporation, as agent of Hyatt

Equities, L.L.C., a Delaware limited liability

company d/b/a Hyatt Regency Lake Tahoe

Resort, Spa and Casino

Name: Michae

Title: General Manager

Incline Village Improvement District, a political division of the state of Neyada,

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d/b/a Diamond Peak Ski Resort

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page 1 of i

FOURTH AMENDMENT TO AGREEMENT

THIS FOURTH AMENDMENT TO AGREEMENT (the "Fourth Amendment") is made as of the 16 day of September 2020, by and between Hyatt Corporation, as agent of Hyatt Equities, L.L.C., a Delaware limited liability company d/b/a Hyatt Regency Lake Tahoe Resort, Spa and Casino (hereinafter called "Hyatt") and Incline Village Improvement District, a political division of the state of Nevada, d/b/a Diamond Peak Ski Resort (hereinafter called "Lessee").

WITNESSETH:

WHEREAS, Hyatt and Lessee entered into that certain Agreement, effective as of June 1, 2010, (the "Agreement"), as amended by that certain First Amendment, dated May 18, 2016 (the "First Amendment"), that certain Second Amendment, dated May 30, 2019 (the "Second Amendment"), that certain Third Amendment, dated June 17, 2020 (noted in error as "Second Amendment") which provides for Lessee to lease space in the Hotel for the operation of a first class sport shop ("Lease") at the Hyatt Regency Lake Tahoe Resort, Spa and Casino (the "Hotel"); and

WHEREAS, the parties desire to amend the Agreement to revise the term.

NOW, THEREFORE, the parties hereto amend Section 2(b) of the Agreement by this instrument as follows:

"(b) During each calendar year of the Term, Lessee's operations will exist for the winter season, November 1st through April 30th. Lessee will temporarily vacate the Premises May 1st through October 31st of each calendar year throughout the Term. Lessee shall ensure that the Premises is returned to its prior condition by April 30th of each year. Failure to do so shall be a breach of this Lease and subject to all applicable provisions of this Lease, including Section 27."

Except as herein expressly modified, the Agreement shall remain in full force and effect, subject to all terms and conditions contained therein.

IN WITNESS WHEREOF, this Fourth Amendment has been executed by Hyatt and Lessee as of the day and year first hereinabove set forth.

Hyatt Corporation, as agent of Hyatt Equities, L.L.C., a Delaware limited liability company d/b/a Hyatt Regency Lake Tahoe Resort, Spa and Casino

21

Incline Village Improvement District, a political division of the state of Nevada, d/b/a Diamond Peak Ski Resort

Ву:

Name: Michael Murphy

Title: General Manager

By: 11/12/20

Name: Under WinQuest

Title: Ceneral Manager

FIFTH AMENDMENT TO LEASE

THIS FIFTH AMENDMENT TO LEASE AGREEMENT (this "Agreement") is dated December 15, 2022 but deemed effective as of June 1, 2022 (the "Effective Date") by and between Incline Village General Improvement District, a political subdivision of the state of Nevada d/b/a Diamond Peak Ski Resort ("Lessee"), and HYATT CORPORATION, as agent of Incline Hotel, LLC, a Delaware limited liability company (or its predecessors-in-interest), d/b/a/ Hyatt Regency Lake Tahoe Resort, Spa & Casino ("Lessor").

WITNESSETH:

WHEREAS, Lessor and Lessee are parties to that certain Agreement, effective as of June 1, 2010, (the "Agreement"), as amended by that certain First Amendment, dated May 18, 2016 (the "First Amendment"), that certain Second Amendment, dated May 30, 2019 (the "Second Amendment"), that certain Third Amendment, dated June 17, 2020 (noted in error as "Second Amendment"), and that certain Fourth Amendment, dated September 16, 2020 (the "Fourth Amendment") which provides for Lessee to lease space in the Hotel for the operation of a first class sport shop (the "Lease") at the Hyatt Regency Lake Tahoe Resort, Spa and Casino (the "Hotel"); and

WHEREAS, the parties desire to amend the Agreement and extend the term.

AGREEMENTS:

NOW, THEREFORE, the parties hereto amend the Agreement by this instrument as follows:

- 1. Term. The term of the Lease will be extended through and including May 31, 2023.
- 2. <u>Use of Premises.</u> The parties hereto amend Section 3(a) of the Agreement by this instrument as follows:
 - (a) The Premises shall be used for the purpose of operating a first-class sport shop and for no other purpose. Included in the allowed use is advertising, promoting and selling Diamond Peak ski tickets, packages, other related ski services, and soft goods (collectively, the "Services") to Lessor's guests and clients, and Lessee accepts and agrees to provide such Services. Lessee shall not be permitted to sell any food or beverages throughout the Term.
- 3. Effect of this Agreement. Except as specifically amended by the provisions of this Agreement, all of the terms and provisions in the Lease are ratified and shall continue to govern the rights and obligations of the parties thereunder, and all provisions and covenants of the Lease shall remain in full force and effect as stated therein. This Agreement and the Lease shall be construed as one instrument. In the event of any conflict between this Agreement and the Lease, the terms and provisions of this Agreement shall control and shall be paramount, and the Lease shall be construed accordingly. The terms, provisions and covenants of this Agreement shall

Fifth Amendment to Lease Agreement

inure to the benefit of and be binding upon the parties to this Agreement and their respective successors in interest and assigns. The terms and conditions of this Agreement may not be modified, amended, altered or otherwise affected except by instrument in writing executed by Lessee and Lessor. THIS AGREEMENT REPRESENTS THE FINAL AGREEMENT BETWEEN LESSEE AND LESSORWITH RESPECT TO THE TERMS AND CONDITIONS OF THIS INSTRUMENT, AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS BETWEEN OR AMONG LESSEE AND LESSORTHERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN OR AMONG LESSEE AND LESSOR.

4. Miscellaneous.

- (a) This Agreement shall be construed according to the laws of the State of Nevada.
- (b) Each of Lessee and Lessor represents, warrants and agrees that all recitals set forth above in this Agreement are true and correct, and all such recitals are ratified, adopted and restated as part of the instrument which is evidenced by and effected by this Agreement.
- (c) Each of Lessee and Lessor warrants to the other that all consents and/or approvals required (including from all of its members, to the extent applicable) for its execution, delivery and performance of this Agreement have been obtained and that it has the right and authority to enter into and perform its covenants contained in this Agreement and in the Lease.
- (d) If any term or provision of this Agreement, or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby. Each provision of this Agreement shall be valid and shall be enforceable to the extent permitted by law.
- (e) This Agreement may be executed in multiple counterparts, each of which for all purposes is deemed an original, and all of which constitute collectively but one instrument.

[SIGNATURES APPEAR ON FOLLOWING PAGE(S)]

IN WITNESS WHEREOF, Lessee and Lessor have executed this Agreement effective as of the date first set forth above.

LESSEE:

Incline Village General Improvement District, a political subdivision of the state of Nevada d/b/a Diamond Peak Ski Resort

By: Maria Winglest Indias. Winglest Indias. (e) inglesst.
Its: 12/23/2022

LESSOR:

HYATT CORPORATION, as agent of Incline Hotel, LLC, a Delaware limited liability company, d/b/a/ Hyatt Regency Lake Tahoe Resort, Spa & Casino

Name:

12/22/22

SIXTH AMENDMENT TO LEASE

THIS SIXTH AMENDMENT TO LEASE AGREEMENT (this "<u>Agreement</u>") is dated November 8, 2023 but deemed effective as of June 1, 2023 (the "<u>Effective Date</u>") by and between Incline Village General Improvement District, a political subdivision of the state of Nevada d/b/a Diamond Peak Ski Resort ("<u>Lessee</u>"), and HYATT CORPORATION, as agent of Incline Hotel, LLC, a Delaware limited liability company (or its predecessors-in-interest), d/b/a/ Hyatt Regency Lake Tahoe Resort, Spa & Casino ("<u>Lessor</u>").

WITNESSETH:

WHEREAS, Lessor and Lessee are parties to that certain Agreement, effective as of June 1, 2010, (the "Agreement"), as amended by that certain First Amendment, dated May 18, 2016 (the "First Amendment"), that certain Second Amendment, dated May 30, 2019 (the "Second Amendment"), that certain Third Amendment, dated June 17, 2020 (noted in error as "Second Amendment"), that certain Fourth Amendment, dated September 16, 2020 (the "Fourth Amendment"), and that certain Fifth Amendment, dated December 15, 2022 (the "Fifth Amendment"), which provides for Lessee to lease space in the Hotel for the operation of a first class sport shop (the "Lease") at the Hyatt Regency Lake Tahoe Resort, Spa and Casino (the "Hotel"); and

WHEREAS, the parties desire to amend the Agreement and extend the term.

AGREEMENTS:

NOW, THEREFORE, the parties hereto amend the Agreement by this instrument as follows:

- 1. Term. The term of the Lease will be extended through and including May 31, 2024.
- 2. Effect of this Agreement. Except as specifically amended by the provisions of this Agreement, all of the terms and provisions in the Lease are ratified and shall continue to govern the rights and obligations of the parties thereunder, and all provisions and covenants of the Lease shall remain in full force and effect as stated therein. This Agreement and the Lease shall be construed as one instrument. In the event of any conflict between this Agreement and the Lease, the terms and provisions of this Agreement shall control and shall be paramount, and the Lease shall be construed accordingly. The terms, provisions and covenants of this Agreement shall inure to the benefit of and be binding upon the parties to this Agreement and their respective successors in interest and assigns. The terms and conditions of this Agreement may not be modified, amended, altered or otherwise affected except by instrument in writing executed by Lessee and Lessor. THIS AGREEMENT REPRESENTS THE FINAL AGREEMENT BETWEEN LESSEE AND LESSOR WITH RESPECT TO THE TERMS AND CONDITIONS OF THIS INSTRUMENT, AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS BETWEEN OR AMONG LESSEE AND LESSOR. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN OR AMONG LESSEE AND LESSOR.

3. Miscellaneous.

- (a) This Agreement shall be construed according to the laws of the State of Nevada.
- (b) Each of Lessee and Lessor represents, warrants and agrees that all recitals set forth above in this Agreement are true and correct, and all such recitals are ratified, adopted and restated as part of the instrument which is evidenced by and effected by this Agreement.
- (c) Each of Lessee and Lessor warrants to the other that all consents and/or approvals required (including from all of its members, to the extent applicable) for its execution, delivery and performance of this Agreement have been obtained and that it has the right and authority to enter into and perform its covenants contained in this Agreement and in the Lease.
- (d) If any term or provision of this Agreement, or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby. Each provision of this Agreement shall be valid and shall be enforceable to the extent permitted by law.
- (e) This Agreement may be executed in multiple counterparts, each of which for all purposes is deemed an original, and all of which constitute collectively but one instrument.

[SIGNATURES APPEAR ON FOLLOWING PAGE(S)]

IN WITNESS WHEREOF, Lessee and Lessor have executed this Agreement effective as of the date first set forth above.

LESSEE:	LESSOR:
Incline Village General Improvement District, a political subdivision of the state of Nevada d/b/a Diamond Peak Ski Resort	HYATT CORPORATION, as agent of Incline Hotel, LLC, a Delaware limited liability company, d/b/a/ Hyatt Regency Lake Tahoe Resort, Spa & Casino
By:	
Name:	By:
Its:	Name:
	Its:

MEMORANDUM

TO: Board of Trustees

FROM: Matthew Dent, Chair

SUBJECT: Review, discuss, and potentially answer the remaining

community question received at the October 11, 2023

Townhall.

RELATED STRATEGIC

PLAN INITIATIVES: Long Range Principle #6 – Communication

DATE: October 25, 2023

I. RECOMMENDATION

That the Board of Trustees review, discuss, and potentially answer the remaining community questions received at the October 11, 2023 Townhall.

II. BACKGROUND

The District held a Townhall on October 11, 2023. During the meeting, the Board of Trustees answered questions from the audience on various matters. Given time constraints, the Board did not get through all of the questions. This item would be an opportunity to answer some or all of the remaining questions.

III. FINANCIAL IMPACT AND BUDGET

None.

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.

V. ATTACHMENTS

1. Remaining questions

IVGID Townhall Questions

* The questions below were submitted on or before October 11, 2023, the night of the Townhall the questions that have a line through them were selected and addressed during the Townhall/ Forum

** All questions that have been addressed at the Board of Trustees meeting of 11/25/2023 are noted.

*Submitted via email

1) Question for Trustee Schmitz

Trustee Schmitz, why did you propose a 100 cost recovery target for the Champ Course when many residents besides golfers use the course, especially in the off-season, for dog walking, cross country skiing, snowshoeing, sledding, and level-ground hiking; and when every property owner in IV/CB benefits in terms of maintaining their property values by having this course in our community?

GreenPlay, the inventors of the Cost Recovery Pyramid, would suggest that when a venue benefits such a wide swath of the community, and has a short operational window for revenue generation, the cost recovery target should be significantly less than 100%.

- 2) What exactly is a general improvement district ("GID")? Not the verbiage contained in NRS 318.075 (a "body corporate and politic and a quasi-municipal corporation") which few understand but rather, what exactly is it?
- 3) How exactly do GIDs differ from other "governmental subdivision(s) of the State of Nevada?"
- 4) What powers do GIDs possess, and how are they limited by Dillon's Rule, if at all?
- 5) How do those powers differ from those permissibly exercised by other general governments?
- 6) Where does one go to get answers to these questions other than reading the NRS for him/herself?
- 7) Is IVGID exceeding its permissible powers?

- 8) If so, what remedies exist to address IVGID's exercise of excess permissible powers?
- 9) What is the status of the search for the IVGID General Manager and what is the targeted date for onboarding the successful candidate? It would be helpful for the Board to periodically update the community as the process continues.
- 10)What is the status of the preparation of the District Strategic Plan for the period of 2023/2024 through 2024/2025 and is it intended to be completed prior to the appointment of a new General Manager or subsequent to his/her onboarding?
- 11)Has the Board defined expected revenue for each of the recreational facilities so that performance against objectives (Performance against Plan) can be evaluated? Without expected metrics, how can performance be accurately and fairly defined?
- 12)Has the Board and its counsel evaluated how the current agenda format limits public participation by virtue of having public comment before an agenda item is raised. The current format has, for many interested parties, significantly limited public participation because reports from Board and Staff have been embargoed until the agenda topic is opened. An obvious example is the April meeting of the BOT where the report outlining golf operations and possible changes was not released to interested parties despite having it ready at the sign-in table?
- 13)Is it true that some or any of the members of the Board of Trustees have discussed the elimination of the organized golf clubs that currently use the Incline Village golf courses? If so, why?
- 14)Is it true that some or any of the members of the Board of Trustees or their Staff have discussed the possibility of selling any of the IVGID recreational venues to private investors or private operators? If so, why, when and in what context?
- 15)There have been rumors regarding the closer of the Mountain Course. What are the current views of the Trustee' regarding the Mountain Course?
- 16)I understand that there are a couple of financial audits either being conducted or contemplated based on details provided by the Acting Director of Finance regarding the state of IVGID finances.

What are the status and any interim findings of these efforts?

- 17) With the current turmoil created by the recall hopefully concluding, what are the next steps, and if the vote is unfortunately for recall, what are the selection process for new board members?
- 18) Will Washoe County charge us for the cost of the recall special election?
- 19) What is the status of the Recreation Center, remodel, or expansion?
- 20) Is the Château undergoing a process of remodel or expansion?
- 21)Will there be some revisiting and possibly changes to the some of the extensive changes to our all-you-can play passes for the golf course?
 - Particularly the unreasonable increase in couples pass costs and very limited play on weekends for all-you-can-play passes.
- 22)"Given that members of the BOT, members of the Audit Committee, and the surviving IVGID finance people see no evidence of fraud, theft, embezzlement or malfeasance in IVGID's conduct, why in the world is the Board authorizing spending \$30,000 to \$150,000 for a forensic audit?"

I quote from investopedia.com

During a forensic audit, an auditor seeks to derive evidence that could potentially be used in court.

A forensic audit is used to uncover criminal behavior such as fraud or embezzlement.

- 23)There seems to be some statements made around golf club members getting special golf play pricing that is better than Picture pass holders. I believe this is not true. Please clear this up by either supporting or denying the above statement? 11-25 meeting
- 24)Please state the open management positions that have not yet been filled with a full time employee. Please list the dates that each position became open. Please give us (residents) an update on the current status of applicants in process for each of these open positions.
- 25)What Environmental Impact study was submitted by NV Energy or conducted by IVGID prior to approving this project?

- 26)Since noise limitations within Incline Village are governed by TRPA Code of Ordinances Chapter 28, what noise impact report was submitted by NV Energy to IVGID?
- 27)Specifically, what noise levels were projected?
- 28)What noise monitoring equipment is currently operational to ensure that TRPA limitations are met?
- 29)Was IVGID provided with a Safety Risk Analysis by NV Energy? (Such a study is standard within the aviation industry in order to identify operational risks and plan mitigations)
- 30)What was so compelling about the Diamond Peak site that led the IVGID Trustees to discount the adverse impact on adjacent homeowners in favor of a commercial agreement in favor of NV Energy?

*SUBMITTED AT THE TOWNHALL/ FORUM

- 1) Trustee Noble is your service on this Board what you thought it would be when you were elected? If yes, how so. If no, please elaborate
- 2) Trustee Tulloch your sense of humor has been found to be offensive what are you doing to correct this behavior?
- 3) At least 7 senior manager jobs have been vacated in a year. Why are we investigating fraud, when the apparent reason is micromanagement by Trustee Schmitz and Tulloch?
- 4) Trustee Schmitz is it true that you authorized the purchase of pickle-ball ball tossing machine that wasn't in the budget for this year?
- 5) How can Ms. Schmitz tout her fiscal responsibility when she loses a 25.9 million dollar grant, she's looking to spend half a million dollars in hiring a new GM, and she's complaining that the recall may cost the District \$100,000.00? Resign already!
- 6) Trustee Schmitz please tell us about your plans for the Recreation Center expansion and how you plan on putting together a funding source?
- 7) /why did Vice-Chair Schmitz unilaterally shut down the months of work by the Dog Park Committee and choose the Village Green for the preferred sight for the Park which was in direct conflict with a large majority of the Community?
- 8) Why does Vice-Chair Schmitz continue to engage in the daily operational activities at the Beaches and various other venues of the District when her job as Trustee is to provide input to the General Manager through the Board deliberative process? No Trustee has the authority to demand reports, dictate operations or interfere in the day-to-day activities of the District.

- 9) In recent audit meeting, Trustee Schmitz acknowledged that board involvement in staff work was not allowed. Yet she continually does it. What is the remedy?
- 10) **Question for Sara Schmitz:** Why do you think there has been a mass exodus of senior IVGID management during the past 12 months under your tenure as a board member?
- 11) Question for Sara Schmitz: You are known for "Micromanaging IVGID Staff". Have you had the opportunity to reflect on how your actions have adversely affected IVGID staff? Do you take responsibility for your actions and how your excessive micromanagement has contributed to the lowest employee morale and the emergence of a toxic work environment for IVGID employees?
- 12) **Question for Sara Schmitz:** You continually say that you don't know that you had to vote yes on both initiatives regarding the David Duffield Foundation Grant. Why do you continue to deflect this? In the last Channel 4 News report it was clear that GM Winquest spoke to every trustee reiterating that the donation required unanimous support. Will you ever take responsibility for the loss of the \$26 million dollar grant?
- 13) Question for Sara Schmitz: Trustee Schmitz, you alone are responsible for the loss of the \$26 million dollar grant from the Duffield Foundation. You and Trustees Dent and Tulloch spearheaded a campaign to remove GM Winquest. Which is costing the district \$250,000 to pay out his remaining contract. If we make it to a special election the cot to the district will likely be \$100,000. Have you thought about resigning to save the district the additional expense?
- 14) How did the Board handle the complaint by staff that Trustee Schmitz had inappropriately interfered with staff handling her neighbor's beach pass privileges?
- 15) Why Does Vice-Chair Schmitz continue to lie regarding the Duffield Foundation Grant when she, herself, admitted in hindsight, that she made a mistake when questioned by Channel 4?
- 16) Sara, how did you come up with the girls' only gym? Totally wrong for the Duffield Donation.
- 17)Sara Why are you claiming the Duffield Donation was for a girl's only addition Total fabrication of the generous offer you solely rejected?
- 18) Have you used the skate park? If so, when? 11-25 meeting
- 19) Chair Dent, please explain why you did not think it was appropriate to recuse yourself from voting for Mr. Dobler's appointment to the Capital Committee.
- 20) Why would Board Chair Dent refer to the recall as "fun and games" when questioned by the media? There is nothing fun or gam-like when addressing a recall of 2 Trustees!
- 21) Question for Matthew Dent: Did you know ahead of time that Trustee Schmitz was going to vote no on the design of the Duffield project? If you did, why didn't you call for a recess, speak to the GM who in turn could have spoken to Trustee Schmitz to possibly save the \$26 million dollar donation from the Duffield Foundation.

- 22) Question for Matthew Dent: When you were interviewed by Ben Margiott from Channel 4, can you tell me why you said, "It's nothing new, it's just the fun we like to have in Incline Village." Do you think it was fun when IVGID employees lost access to the beaches? Was it fun when the long term employees who must endure a toxic work environment and micromanagement?
- 23) Question for Matthew Dent: What are 3 objectives that you want to accomplish when you took office, and please share what exactly you have accomplished on each of them?
- 24)Trustee Dent Where is the documentation from the Ethics Commission that you said you would submit to be included with the meeting minutes?
- 25) Trustee Dent What is the status of your \$800,000 loan with the Doblers?
- 26)This Board said a survey wasn't required for the dog park and now you have changed your direction and say it is. Is this going to be different from the community wide survey OR standalone? 11-25 meeting
- 27)You have put a time certain adjournment on this agenda and did so at the last minute why? What was your Fear? And why 8:30 p.m. when typical Board meetings go to 10 or 11 p.m.
- 28)Are you on the District's health insurance plan? If yes, how does that work?
 11-25 meeting
- 29)Your Leadership, Chairman Dent, at meetings is deplorable as you never stop degrading comments towards Staff Why?
- 30)Trustee Schmitz you have a rather colorful history with the Blackhawk community in Northern California would you like to take this opportunity to enlighten us? Give us your side of the story?
- 31)Why did Chair Dent refuse to honor the request of two of his fellow Trustees to delay the first Town Hall until five of the Trustees could be present? "Meeting dates are set on Wednesdays" is not an adequate answer as set dates have been changed by this Chair several times during his tenure.
- 32)Mr. Dent, do you have any respect or regard for your fellow trustees? What you have done scheduling this meeting is quite bothersome. We know this was Trustee Tonking's idea that you stole to use for your political wellbeing which is a joke. Do you think it may have been more advantageous if you waited until the entire BOT was available, not only out of respect for your co-trustees but for your community members who you've been elected to SERVE? Do you think it was wrong to form by vote a golf advisory committee without trustee Noble there?
- 33) Why would Board Chair Dent allow this meeting to take place when one of the Trustees, Tonking, was unavailable and had given prior notice over a month ago? And Trustee Tonking was a staunch advocate to hold Townhalls as evidence in her campaign literature.
- 34) Why are you holding this forum when Trustee Tonking is out of town and this was her item? Isn't that rude and disrespectful?
- 35) Is resigning even a possibility?

- 36) This question is for Sara: How can you be so disrespectful of staff that have faithfully and proudly worked for IVGID longer than you've even lived here?
- 37) Same question for Matthew and Ray. Why are you so disrespectful of staff?
- 38) Why are you so intent on fixing a community that isn't broken?
- 39) Why do you continuously ignore most of the community members who are against what you are doing?
- 40)Do you thrive on power so much that you ignore how you hurt so many others?
- 41)The Board is implementing line-by-line online financial disclosure, which will enable a small group of citizens to micromanage and question every IVGID expense, no matter how trivial. The goal of some who do this is to dismantle IVGID. How are you going to protect IVGID staff and the larger parcel holding community from this massive interference? 11-25 meeting
- 42) Why does Vice Chair Schmitz continue producing her biased newsletter through her 501-(c)3 Community First Foundation and solicit for folks to remove themselves from the petitions which is in direct conflict with the rules of a non-profit engaging in political activities?
- 43) Why are District employees expected to take abuse, suffer slander and liable by certain community and board members without recourse while Trustees are allowed to take valuable taxpayer time and dollars to defend themselves for the same type of abuse on the record at Board meetings? 11-25 meeting
- 44)How did public outcry over ending the employee beach policy affect the Board's thinking and future actions?
- 45)How will the public outcry over putting Dobler on the long Term Assets Board affect your practices in the future?
- 46)Micromanagement seems to be a term that this Board doesn't understand why not?
- 47)Where does community benefits fall in Board decisions since many of the benefits IVGID used to provide discounts to non-profits, access to the beach for water safety purposes, access to the golf courses for the high school golf team, ect. Have all been discontinued; who changed IVGID from community based to penny-pinching money and rules based? I don't think that was in any of the Board's campaign goals.
- 48)Social Media is an important communication tool do you agree or disagree, and how do you use it? Please be specific as to the platforms you are or are not on/ using. 11-25 meeting
- 49) How do you think the community will react if you have to increase the recreation fee to pay for all the capital investments that need to be made? 11-25 meeting
- 50)Is it true that both Trustee Schmitz and legal Counsel are now reviewing every single purchase/ contract, no matter how small or menial? Is this not micromanagement? And what about the added fees being billed by legal counsel is that reasonable? 11-25 meeting
- 51) Why does Trustee Schmitz approve all Purchase Orders, when she is not supposed to be involved in the daily operations of IVGID? 11-25 meeting

- 52) The Mountain Niners are currently being "punished" due to what you conceive as a political statement, when it was intended to educate our members of the threat to golf and clubs in general. Where can we read where it says we can't inform our members about possible threats to the golf course and/ or golf groups?
- 53)Please explain the seasoning behind your decision to temporarily suspend the ability of one of the clubs to communicate with its membership. Was this a measure and rational means of displaying your disapproval or was it punitive and vindictive? Do you feel this is a good way to gain the support of a community that seems to have lost all respect for you?
- 54) How were the Golf Advisory Committee members selected by the Board of Trustees, specifically, what was the criteria of each person?
- 55)There are at least 200 woman golfers in golf clubs in Incline Village, how is it that not one woman was selected to the golf advisory board?
- 56) Who is protecting staff from retaliation and how if they signed the 2023 recall petitions, since Trustee Schmitz has the list?
- 57)It appears to the public that Trustee Schmitz has personal vendettas against certain employees would you care to comment?
- 58)Trustee Schmitz how many times, on average, do you communicate with the Interim General Manager Bandelin?
- 59)Trustee Tulloch how many times, on average, do you communicate with the Interim General Manager Bandelin?
- 60)If the wealthy on Lakeshore Drive can invite groups as guests on their property without sacrificing their property rights, why can't IVGID invite their employees?
- 61)Why was a \$50,000 contract to give legal opinion on employee beach access signed over a month after the policy was announced to employees? And why would one legal opinion cost \$50,000?
- 62)Regarding the beach deed what EXACT question was posed to special legal counsel that resulted in this new and different determination?
- 63) What is this Board doing about replacing beach access that you took away from employees? And why did you do away with a terrific recruiting tool?
- 64)What was the intention of the Board to overturn the previous legal decision made to grant non-resident IVGID employee's beach access when it was already determined it did not violate the beach deed?
- 65)In California, businesses with high value property that is sometimes used by the public, take one day a year to close off their property to protect their private property rights. Why can't IVGID simplify the beach deed problem and do the same thing? Were any discussions of alternative methods, other than banning employees from the beaches, made?
- 66) Have you researched Kevin Lyons background in Governance before hiring his firm?
- 67) When the Community speaks, do you listen?
- 68) Why is Trustee Tonking's request for an investigation into the high IVGID turnover rate being ignored?

- 69) What is your knowledge of the 2018 Master Plan? Why would you need a survey regarding the community service's needs, when you already have this through the master plan?
- 70) The Moss Adams report recommended that the GM Job be split into 2 positions. Trustees from the 2022 GM evaluation continually mentioned that the GM had too little staff and too much to do. In 2022, only Sara Schmitz gave the GM and evaluation under 7. Coincidentally, Sara Schmitz was embarrassed because she caused the loss of the \$25 million Duffield Grant in the fall of 2022. How did we go from these facts to pushing out the GM, paying for an extra year's salary for him, paying a recruitment company \$50,000 and approving an Assistant for the GM? Why did the Board Allow Sara to retaliate against the GM at these huge costs to IVGID community?
- 71)Why is the majority of this Board willing to spend close to \$500,000 in search and hire of a new GM, who will have zero knowledge of the District, when we had a very capable and well liked GM already in the position?
- 72)We have a community member who is verbally abusing staff. The Board is aware of it, so when is this Board going to address it, or are they just going to continue to ignore it and hope it goes away?
- 73)The Board had a General Business item to appoint liaisons to the venues and then without a General Business item you "fire" Trustee Tonking and appoint Trustee Schmitz I don't think that was legal would you care to comment?
- 74) Has any Trustee filed a Voter Integrity Complaint in the last 6 months? If yes, was it more than one and what was the subject matter?
- 75)After the issues with the application and selection of the Capital Improvement Committee, why would the Board suggest any future committee could self-appoint and not follow the vetting process that the Board has previously approved?
- 76)How did the Board handle the resignation of Mr. Homan from the audit committee, where he cited ethical problems and interference by Trustee Schmitz?
- 77)Who decided to change 50 years of practice and not have the GM at the Board meeting with the Trustees and when was it decided since it was implemented before the new Board was installed and elected officers?
- 78)Since in 2021 & 2022 Trustees Tulloch, Schmitz, and Dent were all either Trustees, on the Audit Committee, why suddenly in 2023, is there a big problem with the Finance Department and the concern about fraud?
- 79) How was the GM protected from retaliation by Trustee Schmitz for protecting employees from her ongoing interference?
- 80)Some vocal parcel holders want to dismantle IVGID completely. Given the numerous management vacancies, continual micromanagement, and inability for staff to get things done, it seems like the Board is bringing this parcel holders wish to fruition. How do you respond to this concern?

- 81)What do you think the Public should think when Cliff Dobler boasts, "I own the Board"?
- 82)How did public outcry over the departure of the GM affect your actions in this event? How did you encourage him to stay?
- 83)Why do we need a forensic audit with a current budgeted cost of \$150,000, plus a new position for Internal Auditor plus the regular annual audit plus an Assistant Finance Manager when there is no indication of any fraud and only evidence that a new computer system, too many special projects, and too little staff have caused the current financial backlog? This is wasting at least \$150,000 which could be used to fix the Tennis Courts, provide Spanish language services to the community survey tool, or any of the many projects that could actually benefit IVGID parcel holders.
- 84) Why was Dobler, who admitted to contributing to some of the Trustees' campaigns, put on the Long Term Capital committee when his behavior on the Audit Committee the prior year caused problems within the Committee and the Staff?
- 85)Bobbie McGee, the Interim Finance Consultant, has reported that in his opinion, IVGID's financial backlog issues are connected to implementing the new Tyler system and managing too many special requests, without enough staff. How does doing a forensic audit at the cost of \$150,000 to \$1 Million fix either of these?
- 86)The Board is Responsible for providing a Safe working environment for employees and Board members are not allowed to interfere or involve themselves with the staff but only interact with the GM. Why is it that employees continue to complain about inappropriate behavior by parcel holders and interference by certain board members and seemingly nothing is done?
- 87)How is this Agenda item Clear and Complete, which is required by NRS? You are in direct OML violation by continuing.
- 88) Why doesn't the Board talk about the ongoing IVGID management vacancies but authorizes layer after layer of audits and consultants?
- 89)While the board has not discussed venue privatization and contracting out venues, people financially supporting your campaigns have. Board decisions also seem to have been made prior to any board meeting, indicating some back-door discussions are happening. How can the public be guaranteed that privatization or contracting out venues will not be done?
- 90)Why are we ignoring actual recreational needs, such as fixing the tennis courts and instead, spending so much money on audits, when there is no evidence of any problems except lack of staff?
- 91)If it is true that you want to eliminate the golf clubs please explain why. If that is not true then explain why you think keeping the golf clubs is in the community's best interest.
- 92)Are you going to dismantle the golf clubs? If so, how and when are you going to do it?

- 93)Do you think you are treating all of our golf clubs equally? If not, in what way or ways are they not being treated equally? And if they aren't being treated the same can you explain why?
- 94)What is it that you have against the golf clubs?
- 95)Do you believe this community's golf groups are a good revenue source?
- 96)Will eliminating golf clubs that guarantee substantial revenue be a positive or negative?
- 97)What do you, Sara, know about golf and how clubs operate?
- 98)If the gymnastics structure were built in the future, what are the estimated costs for maintenance and upkeep?
- 99)How can you possibly say you are transparent when you do things that are so under the rug and secretive, only disclosing after the fact?
- 100) Why did the Board of Trustees think they had a right to infringe on the 14th Amendment of the US Constitution by questioning LLC's as a legal of title? Isn't this discrimination and way outside of the Trustees purview and jurisdiction?
- 101) Why do members of this Board keep inferring, through the Audit Committee, that fraud MAY have been committed with absolutely zero proof from the County or the State?
- 102) When a Trustee is overstepping their boundaries and there are boundaries, what actions are taken to remedy the situation?
- 103) The volunteer dog geese patrol has been a great success. How is it that a dog member of that patrol, owned by a Board trustee, is blind, must remain on a leash, and walks the beach during non-patrol hours... while other parcel holders cannot walk their dogs on the beach?
- 104) The Chair should ensure the Board effectively governs IVGID and that trustees work well together. How does he think this is going?
- 105) The Board had a General Business item to appoint the venues and then without a General Business item, you "fire" Trustee Tonking and appoint Trustee Schmitz I don't think that was legal Would you like to comment?
- 106) Why is the Board focus always on finances not recreational benefits? For example, the Board recently bemoaned that the beach goers only spent \$2.50... as if the goal was for Beach goers to spend \$25. Isn't the purpose to let parcel holders use the beach, not for IVGID to extract the most money it can from us. Do any of the Board members actually use the facilities or do you just see potential profit centers everywhere? What do you think the public should think when Cliff Dobler Boasts, "I own the Board"?
- 107) Who decided to ignore the longstanding, pyramid policy for cost reimbursement, where pricing is based on 0, 25%, 50%, and 75% of cost based on community versus personal benefits? The practice has been that the basic \$650 annual recreation fee pays for most of the package of recreational venues, with additional charges added based on a pyramid approach. This approach is how Incline properties have been marked=ted and sold since the early 1970's.

- Who decided to flip the pricing so the individual fees are first, with the basic annual fee optional?
- 108) What is the rationale behind locking down the beaches using gates when this doesn't seem to be a problem? Isn't signage enough?
- 109) Why are you not allowing the IVGID employees access to the beaches?
- 110) Why are there no women on the Golf advisory committee?
- 111) Why did the Board of Trustees select the Village Green as the location for a dedicated dog park without consulting the community?
- 112) Has any trustee, in the past 6 months, requested a formal Advisory Opinion from the Nevada Commission of Ethics?
- 113) Do you think a blind Goose Patrol Dog can be effective? If so, why?
- 114) Can you speak to your plans to address the gaps, opportunities, and recommendations outlined in the Moss Adams report?
- 115) When will board members start supporting each other?
- 116) Question for Mathew Dent: why do you allow members of the angry 8 to continually be disrespectful, assaulting, slanderous, and unprofessional? This does not represent our community in any way. Why do you allow this and is there no decorum for public comments?
- 117) It seems that in addition to making repetitive, generally negative comments at each board meeting, some parcel holders also submit endless public request documents, endless emails, make phone calls, have meetings with Board members, and finance campaign costs to push their point of view. This is happening while people who come and make statement at the public meeting seem to be ignored. How should this problem be resolved?
- 118) Will each question submitted at this Townhall be responded to?
- 119) Are you or someone else prescreening the submitted questions and if yes, why?
- 120) You have been accused of wanting to change this community into a vacation destination without regard to the model that Incline was successfully built on. Do you deny it? Have you received community support of such an action?
- 121) Was your latest training session with Governance Sciences posted? And why wasn't the public invited?
- 122) What practices from your training have you put to use?
- 123) Why do whistleblower complaints get submitted to the Audit Committee?
- 124) How do you decide what investments should be bonded versus paying cash?
- 125) Do you treat all staff members with respect?
- 126) What is an Enterprise fund? Please be as detailed as possible.
- 127) What does supporting staff look like to you?
- 128) When a Trustee is overstepping their boundaries what actions are taken to remedy the situation?
- 129) Please provide us any examples where public input has affected a board decision during 2023.
- 130) What has been done in 2023 to fix the tennis and pickle-ball courts?

- 131) Why has this board refused to collect data instead of dismissing the pressing issue of staff morale?
- 132) There have been issues delineating between the boards role and what the management team's roles and responsibilities are. What do you feel this boards role should be?
- 133) Are the IVGID Bank accounts now reconciled through 09/30/2023? If not, what month are they recoiled through, and are there any outages?
- 134) The Board of Trustees is responsible for the oversight if the Districts financial reports and the systems of internal controls. When do you hold yourself accountable for the issues happening within IVGID?
- 135) Why were there no lifeguards at the beaches in 2023? Did IVGID's insurance rates for the beaches increase?
- 136) What Changes can you make to the whistleblower policy to ensure that IVGID employees can submit complaints without fear of retaliation?
- 137) What makes a Trustee a good Trustee? Details please.
- 138) You have hired a number of consultants shat has been the benefit that the community has reaped from the spending of these dollars?
- 139) Why are so many of our Sr. Leaders departing?
- 140) There has been discussion to allow new senior managers to work remotely in order to fill vacancies. What are the tangible costs of having remote executives? Why were no efforts made to retain existing executives?
- 141) If a staff member has a complaint about a trustee, what happens? Please be detailed. 11-25 meeting

MEMORANDUM

TO: Board of Trustees

FROM: Mike Bandelin

Interim District General Manager

SUBJECT: Review, discuss and possibly direct the Interim General Manager and

District Counsel to negotiate an amendment of the Site License Agreement with NV Energy, for the License Agreement to seek an alternate location for

Helicopter Operations

DATE: November 8, 2023

I. RECOMMENDATION

That the Board of Trustees makes a motion to direct the Interim General Manager and District Counsel to negotiate an amendment of the Site License Agreement with NV Energy to provide for an alternate location for the Helicopter Operations not at Diamond Peak

II. BACKGROUND

Incline Village General Improvement District entered into a License Agreement with NV Energy on June 16, 2023. The site license agreement includes NV Energy contractors using ground space for staging of trucks and equipment at Diamond Peak. The site agreement also allows the use of the school yard ski trail for helicopter operations including landing timber fuels removed from the vicinity of power lines. Helicopter operations also included transporting of NV Energy replacement power line equipment.

District Staff (Interim General Manager) has been communicating and responding to concerns of the helicopter operations from the ski area neighbors of the Bitterbrush homeowners association as well as concerned residents of the complex. The Bitterbrush residences are located adjacent to and in very close proximity to the School yard ski trail where helicopter operations were conducted.

Staff brings this Item before the Board of Trustees to receive formal direction to engage and negotiate with NV Energy an amendment to the Site License Agreement between the District and NV Energy.

III. 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.

IV. ATTACHMENT

Site License Agreement with NV Energy and IVGID

INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT SITE USE LICENSE AGREEMENT WITH NV ENERGY

1. PARTIES AND DATE.

This Parking License Agreement ("Agreement") is entered into as of June 20, 2023 by and between the Incline Village General Improvement District ("IVGID") and Sierra Pacific Power, a Nevada corporation d/b/a NV Energy, Inc., a Nevada corporation ("Licensee"). All parties are at times referred to collectively as "Parties" and individually as "Party" herein.

2. RECITALS.

- 2.1 IVGID owns certain real property commonly known as the Diamond Peak Ski Resort generally located at 1210 Ski Way, Incline Village, NV ("Diamond Peak"). Diamond Peak includes a certain area adjacent to the Diamond Peak parking lot which is depicted in Exhibit A, attached hereto and incorporated by this reference ("License Area").
- 2.2 Licensee wishes to utilize the License Area for employee and contractor parking and materials storage, refueling trucks, helicopter use including landing zone, refueling and material transport. IVGID is willing to grant to Licensee the right to use the License Area, under the terms and conditions set forth herein.

3. TERMS.

- 3.1 <u>Recitals.</u> The above recitals are hereby incorporated into the Agreement by reference.
- 3.2 <u>License</u>. IVGID hereby grants to Licensee a license in, on, across, and over the License Area, for the purpose of permitting employee and contractor parking and construction materials storage and staging by Licensee's employees and contractors. Licensee may not store or use any hazardous materials as defined by applicable law in the License Area.

3.3 Term & Termination.

- 3.3.1 <u>Term.</u> This Agreement shall remain in effect from June 20, 2023 through October 14, 2027 (the "Term"). Licensee may only use the License Area from May 1 through October 14 of each year of the Term.
- 3.3.2 <u>Termination of License</u>. Either Party may terminate this Agreement with ninety (90) days written notice to the other Party. Upon termination of the Agreement, Licensee shall surrender the License Area in substantially the same condition as when received, including removing any dust or debris from its use of the License Area.

- 3.4 <u>License Fee.</u> In exchange for the license and other rights granted by this Agreement, Licensee shall pay IVGID \$1,000.00 per week ("License Fee") during the months of actual use during the Term, which shall run from May 1 through October 14. The License Fee shall be prorated for any partial use. The License Fee shall be paid on or by the first of each month or first day of use during each partial month during this Agreement.
- 3.5 Pavement Degradation Fee. IVGID shall, at its own expense, provide Licensee with a pavement assessment prior to Licensee occupying the site ("First Pavement Assessment"). Within 15 days of the end of each construction season, for the duration of this Agreement, IVGID shall, at its own expense, provide Licensee with an updated pavement assessment ("Subsequent Pavement Assessment") that determines the level of pavement degradation that occurred during the Term, ordinary wear and tear excepted, and the reasonable estimate associated with repair of the pavement to the original quality, ordinary wear and tear excepted, as established by the First Pavement Assessment. Within 45 days of receipt of each Subsequent Pavement Assessment, Licensee shall pay to IVGID an amount totaling 50% of the estimated pavement restoration cost set forth in said Subsequent Pavement Assessment for the area which is generally depicted in **Exhibit B**, attached hereto and incorporated by this reference.
- 3.6 <u>Public Notification.</u> Licensee shall follow all applicable laws pertaining to public notification. Licensee shall specifically provide written notice of its anticipated activities each year to residents in the following residential areas: Bitterbrush I (Tahoe Chaparral), Bitterbrush II, Tyrolian Village (Upper), and Tyrolian Village (Lower). Licensee shall be responsible for responding to any and all public inquiries that result from their activities as set forth in this Agreement.
- 3.7 <u>Notification of Helicopter Flight Schedule.</u> Prior to occupying the License Area each year, Licensee shall provide to IVGID and the residential areas named in 3.6 a Helicopter Flight Schedule for that construction season or when the schedule becomes available.
- 3.8 <u>Indemnification</u>. To the full extent permitted by law, Licensee shall indemnify, defend (with counsel acceptable to IVGID) and hold IVGID, its officials, officers, employees, contractors, volunteers and agents free and harmless from and against any and all losses, claims, damages, or injuries to the License Area caused by or arising out of Licensee's use of the Parking Area or this Agreement, expressly including, but not limited to, any storage or use of hazardous materials. Licensee shall be responsible for conducting, at its own expense, any clean-up and associated remediation that results from a release, escape, seepage, leakage, discharge, or migration, at or from the License Area, of any hazardous materials, whether or not such condition was known or unknown to Licensee. At the conclusion of the Term of this Agreement, Licensee shall be responsible for removing any stored materials, hazardous or otherwise, from the License Area, and returning the License Area to its original condition as of the commencement date of the Agreement. Notwithstanding anything to the contrary contained in this Section 3.8,

Licensee shall have no obligation to indemnify IVGID to the extent of any losses, claims, damages or injuries that may arise out of the gross negligence or willful misconduct of IVGID.

- Insurance. Licensee shall maintain in full force and effect during its use of the License Area during the effective months of the Term: (a) commercial general liability insurance in the amount of \$3,000,000 per occurrence; and (b) property damage insurance in the amount of \$3,000,000. Licensee may satisfy these requirements partially or wholly through self-insurance and will provide IVGID with a letter to that effect. Such insurance shall name IVGID as an additional insured, shall be primary with respect to any insurance or self-insurance programs maintained by IVGID, and shall not be materially changed, terminated or allowed to expire except on thirty (30) days' prior written notice to IVGID. Proof of IVGID being named as an additional insured must be included as part of the submission of proof of insurance, which may include providing a statement to that effect in any letter of self-insurance. Licensee shall not commence use of the License Area until it has provided evidence satisfactory to IVGID that it has secured all insurance required under this section.
- 3.10 Entire Agreement. This Agreement contains the entire agreement of the Parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements. The terms and conditions of this Agreement may be altered, changed or amended only by written agreement of the Parties hereto. Section headings contained in this Agreement are for convenience only and shall not have an effect in the construction or interpretation of any provision.
- 3.11 <u>Governing Law.</u> This Agreement shall be governed by the laws of the State of Nevada.
- 3.12 <u>Successors and Assigns</u>. This Agreement shall be binding on the successors and assigns of the Parties.
- 3.13 <u>Notices</u>. All notices permitted or required under this Agreement shall be given to the respective Parties at the following address or at such other address as the respective Parties may provide in writing for this purpose:

IVGID:

Incline Village General Improvement District

Attn: District Clerk

893 Southwood Boulevard Incline Village, Nevada 89451

LICENSEE: NV Energy

Land Resources
Attn: Manager

6100 Neil Rd., MS S4B20

Reno, NV 89511

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the Party at the applicable address.

3.14 Jury Trial Waiver. TO THE FULLEST EXTENT PERMITTED BY LAW, EACH OF THE PARTIES HERETO WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT. EACH PARTY FURTHER WAIVES ANY RIGHT TO CONSOLIDATE ANY ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED.

IN WITNESS WHEREOF, this Agreement has been executed by the Parties on the day and year first above written.

SIERRA PACIFIC POWER COMPANY, a Nevada corporation d/b/a NV Energy	INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT	
(Signature)	Brad B. Underwood (Signature)	Digitally signed by Brad B. Underwood Date: 2023.06.20 16:12:26 -07'00
William Kruger Manager, Land Resources	Brad B. Underwood Director of Public Works	
061923 Date	Date	
Reviewed as to Form:		
Joshua Nelson District General Counsel		

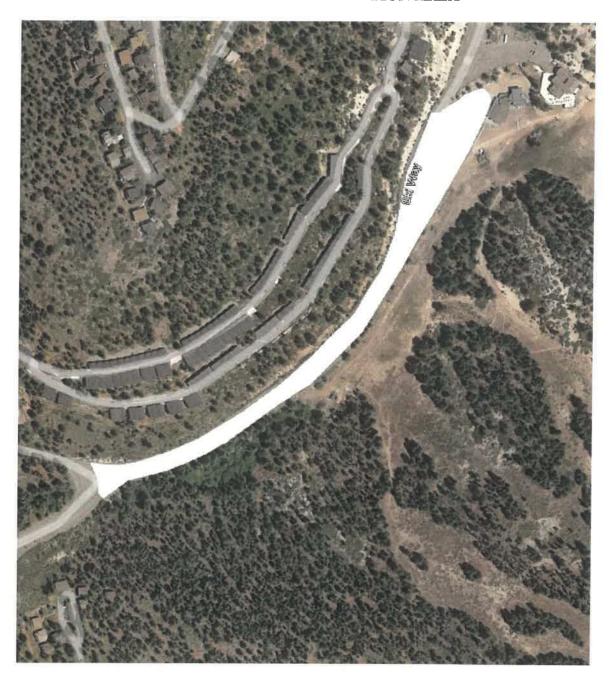
EXHIBIT "A"

APPROXIMATE GRAPHICAL DEPICTION OF THE LICENSE AREA



EXHIBIT "B"

APPROXIMATE GRAPHICAL DEPICTION OF THE PAVEMENT DEGREDATION AREA



MEMORANDUM

TO: Board of Trustees

THROUGH: Mike Bandelin

Interim General Manager

FROM: Bobby Magee

Interim Director of Finance

SUBJECT: Approval of a Contract with RubinBrown, LLP for Forensic Due

Diligence Auditing Services as a Result of a Request for Proposal

(RFP) Process

DATE: November 8, 2023

I. <u>RECOMMENDATIONS</u>

That the Board of Trustees make a motion to:

- 1. Approve the award of a contract with RubinBrown, LLP for Forensic Due Diligence Auditing Services; and,
- 2. Direct staff to work with the IVGID Treasurer and the Chair of the Audit Committee to develop the final scope of work for the contract; and,
- 3. Authorize the IVGID Treasurer to negotiate final terms and conditions, with related contract pricing; and,
- 4. Authorize the IVGID Interim General Manager to sign the contract upon completion of the contract as outlined in Recommendation #2 and #3; and,

II. <u>DISTRICT STRATEGIC PLAN</u>

This action supports Long Range Principle #2, Finance; "The District will ensure fiscal responsibility and sustainability of service capacities by maintaining effective financial polices for operating budgets, fund balances, capital improvement and debt management."

- Comply with State and Federal regulations.
- Develop and maintain a long term plan to sustain financial resources.

III. BACKGROUND

Overview

On August 24, 2023 the Board of Trustees (Board) directed staff to develop an RFP for Forensic Auditing Services. (Item C.3) On September 27, 2023 the Board approved the Draft RFP and directed staff to finalize the document, with minor modifications, for release to the vendor community. (Item G.2) The RFP document that was released was used to communicate to interested and qualified firms the background and needs of IVGID with respect to the Forensic Due Diligence Audit, and related reports based on any findings or recommendations.

The RFP outlined the process for which the highest rated firm would be recommended to the Board. In Phase I, the written responses received from interested Firms were scored using the following criteria:

- a. Qualifications (35%)
- b. Experience (Projects of similar size and scope) (20%)
- c. Technical Approach and Methodology (35%)
- d. Pricing (10%)

The scoring of the proposals received was conducted by three evaluators – one member of the Board, one member of the Audit Committee, and one member of the IVGID Executive Team. The evaluators were not allowed to discuss the proposals with anyone, and were required to evaluate each proposal on its own merits without comparison to any other proposal. In addition, the evaluators were not shown the price proposals until after their Phase I scoring was completed. Upon completion of the Phase I scoring, the evaluators determined the following:

Phase I – Written Proposal Scores

	Score Totals	
RubinBrown	249	
Baker Tilly	234	
Moss Adams	229	
Grassi	199	

The evaluators later met as a group to discuss the results of the scoring, and determined that RubinBrown, Baker Tilly, and Moss Adams each remained within the competitive chance of still winning the contract. As such, the evaluation panel invited each of these three Firms back for Phase II, which consisted of an interview each Firm. The Firms were allowed to give a short presentation, with follow-up questions from the evaluators. Pursuant to the requirements of the RFP, the Phase I scoring was then discarded, and Phase II scoring was determined to be the only factor upon which the recommendation for award of contract was to be decided. The Phase II scoring is listed below:

PHASE II – Interview Scores

	Score Totals
RubinBrown	276
Moss Adams	226
Baker Tilly	217

As RubinBrown was the highest rated Firm upon completion of Phase II – Interview Scores, the evaluators wrapped up their work and recommended to the Finance Department that RubinBrown, LLP be further recommended for contract award to the full Board. During the interview process, the committee discussed making a final recommendation to the Board for a three-to-five year lookback by the selected firm, with the actual timeframe to be determined during final scoping and contract negotiations.

VI. FINANCIAL IMPACT AND BUDGET

The RubinBrown price proposal, based only on their understanding of IVGID's needs, was a total fixed price of \$110,000 for three fiscal years' review. The total fixed price for five fiscal years' review is proposed to be \$160,000. While these figures are a starting point for contract negotiations, final pricing will be dependent upon successful completion of the finalized contract. The budget contains sufficient funds for the proposed agreement amount.

V. <u>ALTERNATIVES</u>

The impact of rejecting the recommendation for contract award would be to continue with current operations, absent any type of independent risk assessment for potential of fraudulent activities.

<u>MEMORANDUM</u>

TO: Board of Trustees

FROM: Mike Gove, Director of Information Technology

Trustee Sara Schmitz.

SUBJECT: Review, discuss, and possibly accept Staff's recommendation to

accept the proposal from Active Networks, Point of Sale System, Phase 1 that was received in response to the Request for Proposal Point of Sale that was posted on August, 25th 2023 <u>and</u> provide authorization for staff to work with District Legal Counsel to prepare

an agreement with Active Networks

STRATEGIC

PLAN REFERENCE(S): Not Applicable

DATE: October 30, 2023

I. <u>RECOMMENDATION</u>

That the Board of Trustee's makes a motion to accept Staff's recommendation to accept the proposal from Active Networks, Point of Sale System, Phase 1 **and** provide authorization for staff to work with District Legal Counsel to prepare an agreement with Active Networks:

II. BACKGROUND

Staff and the Board of Trustees have had many discussions about the need to update the District's Point of Sale Systems and the need to bring them up to today's standards for security, operational efficiencies, resident and guest experience, and consolidation of the backend resident/customer data. The result of these discussions was that this project be brought forth as a priority that would be supported on an accelerated timeline.

On August 9, 2023 the Board of Trustees authorized Staff to work with Trustee Schmitz to prepare and solicit formal proposals for a Point of Sale System Assessment and Restructure. Staff and Trustee Schmitz prepared a Request for Proposal for a two phased project. The first phase would be an assessment of the current Point of Sale systems, with the ultimate goals being security improvements, consolidation and improved customer flows for both resident and non-resident guests, with the ultimate goal to have a budget and development

Review, discuss, and possibly accept Staff's recommendation to -2accept the proposal from Active Networks, Point of Sale System,
Phase 1 that was received in response to the Request for Proposal
Point of Sale that was posted on August, 25th 2023 <u>and</u> provide authorization
for staff to work with District Legal Counsel to prepare an agreement with Active Networks

roadmap being provided. Phase two of this project will be the implementation and delivery of phase one including any needed software implementations, integrations, custom development, and project management and oversight.

On August 25, 2023, the Point of Sale System RFP was posted to the District website and planetbids.com with the deadline for submittals being October 4, 2023. The District received 3 proposals, of which 3 interviews were performed with Trustee Schmitz and key Staff from both the venues and the Information Technology Department. From those interviews, it was determined that the proposal from Active Networks was the selected vendor to move forward to the Board for their approval.

Active Networks has an established working relationship with the District that goes back to 2015 when RTP, an Active Networks product, was selected to be the Diamond Peak and Food & Beverage Department's Point of Sale System. In addition to their working knowledge of Diamond Peak and Food & Beverage, Active Networks has also been more recently involved with District operations in 2021 when they implemented a new Web Store and connection to the District's Parcel Master Software "Capstone", this project allowed them to be directly involved with some of the District's resident guest's operations such as punch cards and resident pricing at the Venues.

Active Networks Proposal has addressed all of the required areas of the Request for Proposal and their responses to the District's interview questions proved they are capable of delivering a consolidated, secure, up to date customer experience for the District's resident and non-resident guests. This coupled with their vast experience working in the resort lifestyle Point of Sale Software Industry makes them the best fit for the District's needs.

Staff is now seeking Board authorization for the engagement of District Legal Counsel so that they may work with Active Networks and Staff to provide the District with an executable agreement for phase one of this project. In conjunction with the foregoing, Staff will be working on recommendations for the funding appropriations needed for this unfunded project.

III. <u>BID RESULTS</u>

Although this item is not subject to competitive bidding within the meaning of Nevada Revised Statutes 332.115 as described in subsection (b),(h)

- (b) Professional services
- (h) Software for Computers

Review, discuss, and possibly accept Staff's recommendation to -3accept the proposal from Active Networks, Point of Sale System,
Phase 1 that was received in response to the Request for Proposal
Point of Sale that was posted on August, 25th 2023 <u>and</u> provide authorization
for staff to work with District Legal Counsel to prepare an agreement with Active Networks

Included as attachments to this memo are the three (3) proposals. Outlined in the following table are their associated expected timelines and costs by vendor:

Firm	Estimated Time Frame	Expected Cost
Active Networks	18 Weeks	\$272,500
Moss Adams	5 to 7 Months	\$85,000 to \$105,000 *plus expenses
Luxoft	8 Weeks	\$413,546

IV. FINANCIAL IMPACT AND BUDGET

At this time, there is no financial impact on this item. Staff will be bringing the item back at the December 13, 2023 Board of Trustees meeting to review and approve an agreement and at that time Staff will be making their recommendations for funding of this unfunded project.

V. <u>ALTERNATIVES</u>

This project could be placed on hold until FY23/24 when staff would be able to budget the project and return to the Board of Trustees for approval in the FY23/24 operating budget.

VI. <u>COMMENTS</u>

None at this time.

VII. STRATEGIC PLAN REFERENCE(S)

Not applicable.

VIII. 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.

REQUEST FOR PROPOSAL POINT OF SALE SYSTEM

August 25, 2023

To: All Prospective Proposers

Subject: Request for Proposals: Point of Sale System

Date Issued: August 25, 2023

Responses Due: October 4, 2023. 5:00 p.m. (PST)

<u>Owner</u>

Incline Village General Improvement District (IVGID or District) 893 Southwood Boulevard Incline Village, Nevada 89451

IVGID RFP Contact: Heidi White, District Clerk

hhw@ivgid.org or 775-832-1268

About the District

The District is a General Improvement District, established under Nevada Revised Statutes (NRS) Chapter 318 and chartered to provide water, sewer, trash and recreation services for over 9,000 residents in the communities of Incline Village and Crystal Bay, Washoe County, Nevada. Within the limits of the NRS, IVGID is empowered to determine what facilities and services it should offer that will preserve or enhance the general health, safety and welfare of the community. For more information about the District, please visit: https://www.yourtahoeplace.com/ivgid.

Project Identification

Project Name: Point of Sale System

The purpose of this Request for Proposal is to select a qualified firm to provide the outlined Scope of Work (Exhibit A) services.

Delivery of Proposals

Proposal packages from all interested parties will be submitted in PDF electronic format to the District Clerk at hhw@ivgid.org, and will be subject to the terms, conditions and scope of services herein stipulated and/or attached hereto.

Deadline for receipt of proposals is 5:00 p.m. (PST), October 4, 2023.

Confidentiality: All documents and other information submitted in response to this Request for Proposal are confidential and will not be disclosed until notice of intent to award the contract is issued.

A. PROJECT DESCRIPTION

The Incline Village General Improvement District is seeking a consulting firm to possibly embark on a two-phased project. Each bidder is required to submit a proposal for the first phase "Assessment" and have the proven capability to deliver on the second phase, "Implementation".

The first phase of the project "Assessment" is to assess the current technical environment, including all point of sale and financial software, gather the requirements of each point-of-sale software and formulate a written recommended transition plan for moving from the current state to the desired state. The final deliverable of the "Assessment" is a written recommended "Implementation" plan. The "Implementation" plan must include costs for project management, oversight, and implementation of the recommendations. It should also include timeline of deliverables, staff training and product documentation, bi-weekly status reports to the District's implementation team, access to any proprietarily written source programming code, and any required travel expenses along with any costs to procure, host and or implement the recommendations, including any on-going licensing and or hardware costs as well as estimated required staff time.

B. PROJECT SCHEDULE

All proposals are to include anticipated project start and target completion dates.

C. PERSONNEL

The firm's personnel shall be qualified and trained to accomplish the work in a professional manner and in compliance with all applicable federal, state and local requirements. This includes, but is not limited to:

- Demonstrated experience reviewing and analyzing foundational public agency documents
- Understanding of applicable state and local laws, regulations, and policies
- Demonstrated experience reviewing and identifying potential concerns with financial and software systems

D. EQUIPMENT

The firm shall provide all materials and equipment necessary to accomplish the Work.

E. INSURANCE REQUIREMENTS

<u>Commercial Insurance:</u> Contractor shall procure and maintain for the duration of the contract, insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the work hereunder by the Contractor, his/her agents, representatives, employees, or subcontractors. Contractor shall purchase General Liability, Professional Liability, Workers' Compensation, and Professional Liability Insurance.

General Liability: Contractor shall purchase General Liability coverage with a minimum of \$2,000,000 combined single limit per occurrence, \$4,000,000 aggregate for bodily injury, personal injury and property damage. Contractor shall have a Certificate of Insurance issued

to the INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT naming it as additional insured, and indicating coverage types, amounts and duration of the policy.

Professional Liability/Errors and Omissions: Consultant shall procure and maintain, and require its sub-consultants to procure and maintain, for a period of five (5) years following completion of the Services, professional liability/errors and omissions liability insurance appropriate to their profession. Such insurance shall be in an amount not less than \$2,000,000 per claim, and shall be endorsed to include contractual liability. "Covered Professional Services" as designated in the Professional Liability/Errors and Omissions policy must specifically include work performed under this Agreement.

<u>Workman's Compensation:</u> It is understood and agreed that there shall be no Industrial Insurance coverage provided for the Contractor or any Subcontractor by the District; and in view of NRS 616.280 and 617.210 requiring that Contractor comply with the provisions of Chapters 616 and 617 of NRS, Contractor shall, before commencing work under the provisions of this Agreement, furnish to the District a Certificate of Insurance from an admitted insurance company in the State of Nevada.

Notice of Change/Non-Renewal: All certificates of insurance required under this section E. shall provide for a minimum written notice of thirty (30) days to be provided to District in the event of material change, termination or non-renewal by either Contractor or carrier.

F. LICENSES

Consultant shall have a Washoe County business license, if applicable, and all appropriate Contractor's licenses and certifications for the services to be performed.

G. STAFFING PLAN AND STAFF QUALIFICATIONS

The firm shall provide a staffing plan identifying total number of consultants and the number of each category of consultants who will be assigned to complete the Work; names of key individuals, number of years' experience and specific responsibilities; and job descriptions for each category of each person who will be performing the work.

H. SIMILAR ENGAGEMENTS

Submitted proposals must include examples of similar engagements and the results delivered.

ARTICLE 2 PROPOSAL SUBMITTAL REQUIREMENTS

Please submit an electronic (PDF) written proposal to hhw@ivgid.org, with the subject line "RFP – Point of Sale System," by the Proposal Submission Deadline, that addresses the following matters. Proposers must provide the following information in the order listed below. Please respond to each section on a separate page, in the order listed. Use this Article 2 as a checklist to be sure all information is included. **PROPOSALS NOT RECEIVED IN THIS FORMAT MAY BE CONSIDERED NON-RESPONSIVE.**

Submission of a Proposal shall be deemed a representation that the proposer:

- 1. Has carefully read and fully understands the information provided by IVGID as part of this RFP, including Exhibits A, B and C;
- 2. Represents that all information submitted is true and correct;
- 3. Did not, in any way, collude, conspire to agree, directly or indirectly, with any person, firm, corporation or other firm regarding the amount, terms or conditions of its Proposal; and

4. Acknowledges that IVGID has the right to make any inquiry it deems appropriate to substantiate or supplement information as necessary.

□ A – COVER LETTER

Include a cover letter with a summary of the firm's experience and capability in management and software consulting and service delivery related to the Scope of Work identified. Include the founding date of your organization, parent/subsidiary/affiliation relationship with other firms, types of services provided and the number of years your firm has been in business. Detail any exclusions to the Scope of Work.

□ B – COMPANY BACKGROUND AND ORGANIZATION

Include your firm's complete:

- 1. Name
- Address
- 3. Contact person
- 4. Phone number
- 5. Email
- 6. Website address
- 7. Provide company's mission statement, values, and ethical standards
- 8. Describe your company's major lines of business
- 9. What differentiates your services/company from other companies offering similar services?
- 10. Identify any litigation pending or threatened against your company as of the submission date

□ C - EXPERIENCE

- 1. Number of years in management and software consulting and implementation
- 2. Referrals List of similar Project-related clients, including:
 - a. Service provided
 - b. Client organization
 - c. Scale of project (e.g. project \$ amount, location, size, duration)
 - d. Contact name and number
- 3. Special Considerations
- 4. Describe any attribute of your firm that would enhance this proposal

□ D – STAFFING PLAN

- 1. Number of staff assigned to the work, by category
- 2. Job descriptions of staff, by category
- 3. Staff qualifications
 - a. Education/relevant experience (type and number of years) of key employees
 - b. Training of each employee or category of employee
 - i. Scope, frequency, employees covered, training, organization
- 4. Proposed staffing and project schedule

☐ E – FINANCIAL DATA

Provide a copy of your most recent audited Financial Statement.

☐ F - PROJECT COST AND SCHEDULE

The proposal must contain the cost estimate the Scope of Work and the estimated timeline for completion of the required analysis, recommendations and formulation of the cost and timeline estimate for the potential implementation of the recommendations.

ARTICLE 3 EVALUATION AND AWARD

- A. **Proposal Evaluation**: Per NRS 332 and IVGID's Purchasing Policy for Goods and Services, IVGID is not required to select the lowest priced offer, but may look at all factors concerning an offer, including, but not limited to, whether the proposal has:
 - 1. the appropriate financial, materials, equipment, facility, personnel resources and expertise available, or the ability to obtain these as necessary to indicate the capability to meet all contractual requirements;
 - 2. demonstrated a thorough and accurate response to each requested item;
 - 3. a satisfactory record of performance, including a demonstrated history of successfully completing projects of a similar type, meeting delivery deadlines, and experience with similar work;
 - any requested exceptions to IVGID's standard professional services agreement (Exhibit C);
 - 5. a satisfactory record of customer service;
 - 6. a satisfactory record of integrity;
 - 7. the legal authority to contract with IVGID; and
 - 8. any other factors IVGID deems relevant.
- B. IVGID reserves the right not to contract with any person submitting a bid in response to this RFP. If IVGID decides to contract, it will do so with the proposer whose responses best meet its needs, consistent with the selection process set forth herein. This RFP shall not be binding on IVGID until such time as a formal written contract and related documents have been approved by IVGID and fully executed by the parties.
- C. IVGID shall evaluate, interview via Zoom, and select the firm(s) it determines to be best suited for this engagement. Evaluation of a response does not constitute a commitment by IVGID to acquire such services from any source. IVGID is not obligated in any way to proceed with this RFP or consider or enter into any agreement or undertake any liability to any firm in connection with this RFP, and any and all responses, whether qualified or not, may be rejected without any liability whatsoever to any firm on the part of IVGID. IVGID shall not be responsible for any costs incurred by a firm to prepare, submit, negotiate, contract or otherwise participate in this RFP process.
- D. IVGID further reserves the right to:
 - 1. Make a selection based on its sole discretion;
 - 2. Reject any and all proposals;
 - 3. Issue subsequent solicitations;
 - 4. Postpone any of the time periods set forth in this RFP, for its own convenience;
 - 5. Remedy technical errors in the RFP;
 - 6. Approve or disapprove the use of particular subconsultants;
 - 7. Negotiate with any, all, multiple or none of the Proposers that respond;
 - 8. Negotiate a final project scope that includes all, just a portion, or related additional items relative to the proposed Scope of Work set forth in this RFP;

- 9. Waive informalities and irregularities in this RFP:
- 10. Utilize others to perform or supply work of the type contemplated by this RFP;
- 11. Request proposals from others with or without requesting proposals from contractors for the work of the type contemplated by this RFP; and/or
- 12. Enter into an agreement with another firm or re-solicit this project in the event the originally selected firm defaults or fails to execute an agreement with IVGID.

ARTICLE 4 FIRM SELECTION SCHEDULE; QUESTIONS REGARDING RFP; ADDENDA

The following dates are tentative and subject to revision by the District:

RFP for Services Advertised on District's Website and	Planetbids.comAugust 25, 2023
RFP - Last Day for Questions	September 22, 2023, 5:00 p.m. (PST)
All Questions Answered	September 27, 2023, 5:00 p.m. (PST)
Proposals Due	October 4, 2023, 5:00 (PST)
Interviews via Zoom	October 9-13, 2023
Award of Project – IVGID Board of Trustees Meeting.	October 25, 2023 6;00 p.m. (PST)

All questions regarding this RFP, please contact: Heidi White at hhw@ivgid.org, with the subject line clearly marked "RFP – Point of Sale System" Questions will not be accepted through any other channels. Questions must be received no later than the deadline set forth above. IVGID does not guarantee that it will provide answers to questions submitted after that deadline, but will make reasonable efforts to do so. A listing of all questions submitted and all responses will be made available to responders.

In the event it becomes necessary to revise any part of this RFP, IVGID will issue written addenda. Any amendment to this RFP is only valid if it is in writing and issued by IVGID. No oral interpretations or answers will bind IVGID. All addenda issued by IVGID will become part of this RFP.

No proposals will be accepted after the proposal due date listed above.

ARTICLE 5 SELECTION PROCESS, EVALUATION AND SELECTION CRITERIA

The firm(s) selection process will be conducted in accordance with all requirements stipulated in NRS Chapter 332 and IVGID Board Policy 20.1.0, Purchasing Policy for Goods and Services. All responsive Proposals received will be reviewed and evaluated by IVGID.

A short-list of firms will be determined based on qualifications and the completeness of the Proposal. IVGID may elect to conduct interviews via Zoom prior to the final selection of a firm or firms. By submitting a Proposal, the proposer acknowledges that the IVGID has sole and absolute discretion in the evaluation and the selection of one or more firms for this project.

ARTICLE 6 WITHDRAWAL OF PROPOSAL

The firm's authorized representative may, prior to the date and time set as the deadline for receipt of the Proposals, modify or withdraw a response by contacting the District's contact shown above via email and phone. A modification or withdrawal received prior to the deadline for proposal receipt shall be considered timely.

ARTICLE 7 DISQUALIFICATION OF PROPOSALS

Firms may be disqualified and Proposals may be rejected for any of, but not limited to, the following causes:

- 1. Lack of signature by an authorized representative on the Proposal
- 2. Failure to properly and/or accurately complete the Proposal
- 3. Evidence of collusion
- 4. Any questions addressed to; approaches to; or discussions with IVGID employees, associated agents or Trustee other than through the process identified in Article 4 will be subject to Automatic Disqualification.

IVGID reserves the right to waive any minor informality or irregularity, or to request clarification of such minor informalities or irregularities from any or all firms.

ARTICLE 8 CONFLICT OF INTEREST

No employee, officer, or agent of IVGID shall participate in the selection, or in the award or administration, of the Agreement if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when one of the following has a financial or other interest in any firm proposing on or selected for the award:

- 1. The employee, or an officer or agent of the employee
- 2. Any member of the employee's immediate family
- 3. The employee's business partner
- 4. An organization which employs, or is about to employ, any of the above

IVGID's officers, employees, and agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from prospective firms. Prior to entering into the Consulting Services Agreement, the firm is required to inform IVGID of any real or apparent organizational conflict of interest.

RFP EXHIBITS

Exhibit A – Scope of Work

Exhibit B - IVGID Point of Sale Software Structure dated March 14, 2023

Exhibit C – Standard IVGID Services Agreement Example

EXHIBIT A – Scope of Work

The Incline Village General Improvement District is seeking a consulting firm to possibly embark on a two-phased project. Each bidder is required to submit a proposal on for the first phase "Assessment" and have the proven capability to deliver on the second phase "Implementation"

The first phase of the project "Assessment" is to assess the current technical environment, including all point of sale and financial software, gather the requirements of each point-of-sale software and formulate a written recommended transition plan for moving from the current state to the desired state. The final deliverable of the "Assessment" is a written recommended "Implementation" plan. The "Implementation" plan must include costs for project management, oversight, and implementation of the recommendations. It should also include timeline of deliverables, staff training and product documentation, bi-weekly status reports to the District's implementation team, access to any proprietarily written source programming code, and any required travel expenses along with any costs to host and or implement the recommendations, including any on-going licensing and or hardware costs as well as estimated required staff time.

Point of Sale System(s) - Each recreation venue currently utilizes its own stand-alone Point of Sale (POS) Software with proprietary in-house written software that maintains and controls the database of parcel owner data as well as recreation cards. All of these POS software upload their financial information to a single ERP financial system used District-wide.

Each parcel owner is eligible for cards that identify them and provide them access and discounts to these venues. Not all owners have access to the deed restricted beaches or all of the venue access discounts, there are many layers to the rules that make up how access is controlled and how products are discounted.

The desired state for IVGID is to have access media tied to the user's various venue passes (ski pass, recreation center membership pass, golf pass, etc.), their personal credit card for purchases at the venues and for RFID access control at the venues. Diamond Peak uses Axess RFID passes and gates for its uphill access - this concept is currently being considered for beach gate access. The Golf venues need a function-built industry standard Golf POS.

Some of the high-level requirements that would deem a successful desired state are:

- Integration with the core financial system (Tyler Munis) for real-time BI tracking purposes as well as cash/revenue management.
- Consolidation and integration of the master records across all POS One central profile and Access Media for all venues.
- PCI compliance, stored payment, EMV, NFC, as few payment processors as possible.
- Little, if any, loss in operational functionality from the current POS.
- A consolidated e-commerce platform that addresses all or as many of the retail venues (Golf, Tennis, Ski, Rec Center) needs for product sales, program management, and member profile management.
- A restricted access e-commerce platform that addresses all or as many of the non-retail (owners & residents only) venues needs including parcel management, the potential for integration with Washoe County's Parcel Database, punch card management and picture uploading for passes.
- Customer relationship management across all retail POS platforms.
- Documentation and Staff training on newly proposed systems.

EXHIBIT B – "Current State" Point of Sale Software Structure

Capstone – District proprietarily written software – Built on Current Ordinance 7 functionality - SQL Database – Owned and hosted by IVGID

- Resident/Parcel Master
 - Maintains Owner Information
 - Name, address, contact info
 - Maintains Parcel Information
 - Units on Parcel, Chargeable Units, Rec Fee amount, Beach Fee amount, fees paid (y/n)
 - Cards Issued to Parcel
 - Picture Passes, Punch Cards, Additional Punch Cards
- Punch Card Master Record
 - o Maintains Punch Card issuance history, usage history, current balance

Vermont Systems - RecTrac, GolfTrac, Webtrac - Progress Database - Hosted by IVGID

- RecTrac
 - o Point of Sale used by Recreation Center, Tennis Center, Beaches
 - Manages programming for venue specific items including access, activities and rentals
 - Manages merchandise inventory
 - Manages venue specific memberships
 - Issues IVGID ID cards based on Capstone status
 - Staff conducts a manual check of Capstone status prior to issuing Resident Picture Passes from Vermont
 - Custom connection to Capstone allows Punch Card usage and inquiry
 - Maintains Customer information including Contact information, purchase history, membership information and access usage
 - Reporting
- GolfTrac
 - Point of Sale used by Golf
 - Manages programming for venue specific items including access, activities and rentals.
 - Manages merchandise inventory
 - Manages venue specific memberships
 - Custom connection to Capstone allows Punch Card usage and inquiry
 - Maintains Customer information including Contact information, purchase history, membership information and access usage
 - Reporting
- WebTrac
 - On-line store for RecTrac access, programming and activities
 - Hosted locally at IVGID

Golf Now – 3rd Party Golf Tee Sheet

- Public Golf Tee Time Reservation Website
 - Sells available golf tee times by proxy

EXHIBIT B – "Current State" Point of Sale Software Structure

Active Networks - RTP|One - SQL Database - Hosted by IVGID

- RTP|One
 - Ski / Food & Beverage (F&B) POS used by Ski and F&B outlets
 - Manages programming for venue specific items including access, activities and rentals.
 - Manages merchandise and rental equipment inventory
 - Maintains Customer information including Contact information, purchase history, membership information and access usage
 - Tracks/Supports/Sells access products, rentals, lessons
 - Food and Beverage module used by all F&B Outlets year round
 - Custom Connection to Capstone for Punch Card Usage and Resident Active/Non Active Status
 - Reporting
- RTP|OneStore
 - o On-line store for access, rentals and lesson products
 - Hosted at Active Networks
 - o Communicates via RTP API Layer

Square - Square POS - SaaS

- Mobile Point of Sale used for off-network transactions
 - Examples include golf course F&B sales, off-site program registrations and Veteran's club events

TPP - Total Party Planner POS - SaaS

- Used by facilities for Events/Weddings Management, Sales and Bookings
- Generates BEO's (Banquet Event Orders)

Tyler Munis – SQL Database - SaaS

- Financial System / General Ledger Master Record
- Reporting

OpenGov - SaaS

Public facing portal for Financial Transparency

All POS software have the ability to have their GL accounting uploaded/input in to Tyler for financial accounting/reporting purposes.

EXHIBIT C

STANDARD SERVICES AGREEMENT EXAMPLE

INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT PROFESSIONAL SERVICES AGREEMENT

1. PARTIES AND DATE.

This Agreement is made and entered into this ____ day of _____, 202__, by and between the Incline Village General Improvement District, a Nevada general improvement district ("District") and Consultant's name, a INSERT TYPE OF ENTITY - CORPORATION, PARTNERSHIP, SOLE PROPRIETORSHIP OR OTHER LEGAL ENTITY with its principal place of business at address ("Consultant"). The District and Consultant are sometimes individually referred to as "Party" and collectively as "Parties."

2. RECITALS.

- 2.1 <u>District</u>. District is a general improvement district organized under the laws of the State of Nevada, with power to contract for services necessary to achieve its purpose.
- 2.2 <u>Consultant</u>. Consultant desires to perform and assume responsibility for the provision of certain professional services required by the District on the terms and conditions set forth in this Agreement. Consultant represents that it is experienced in providing type of services to public clients, is licensed in the State of Nevada, and is familiar with the plans of District.
- 2.3 <u>Project</u>. District desires to engage Consultant to render professional services for the name of project ("Project").
- 3. TERMS.
- 3.1 Scope of Services and Term.
- 3.1.1 <u>General Scope of Services</u>. Consultant promises and agrees to furnish to the District, all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately supply insert a brief description of services to be performed necessary for the Project ("Services"). The types of services to be provided are more particularly described in Exhibit A attached hereto and incorporated herein by reference. All Services shall be subject to, and performed in accordance with this Agreement, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules and regulations. As described in Section 3.3, the District shall pay for such services in accordance with the Schedule of Charges set forth in Exhibit B.
- 3.1.2 <u>Term.</u> The term of this Agreement shall be from [INSERT START DATE] to [INSERT ENDING DATE], unless earlier terminated as provided herein. The Parties may, by mutual, written consent, extend the term of this Agreement if necessary to complete the Project.

3.2 Responsibilities of Consultant.

- 3.2.1 Control and Payment of Subordinates; Independent Contractor. The Services shall be performed by Consultant or under its supervision. Consultant will determine the means, methods and details of performing the Services subject to the requirements of this Agreement and such directions and amendments from District as herein provided. The District retains Consultant on an independent contractor basis and not as an employee. No employee or agent of Consultant shall become an employee of District. Any additional personnel performing the Services under this Agreement on behalf of Consultant shall also not be employees of the District and shall at all times be under Consultant's exclusive direction and control. Consultant shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Consultant shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.
- 3.2.2 <u>Schedule of Services</u>. Consultant shall perform its services in a prompt and timely manner within the term of this Agreement and shall commence performance upon receipt of written notice from the District to proceed ("Notice to Proceed"). [If the District has specific milestones or timelines for performance, please input those requirements in the "Activity Schedule" attached as Exhibit C, otherwise delete Exhibit C.] The Notice to Proceed shall set forth the date of commencement of work.

[If engaging the Consultant to perform a discrete task with a specified deadline, use the following provision]

Consultant shall perform its services in a prompt and timely manner and shall commence performance upon receipt of written notice from the District to proceed ("Notice to Proceed"). Consultant shall complete the services required hereunder within [Insert number of calendar days for performance of the services – if more detail is required attach "Activity Schedule" as Exhibit C, otherwise delete Exhibit C.] The Notice to Proceed shall set forth the date of commencement of work.

- 3.2.3 <u>Conformance to Applicable Requirements</u>. All work prepared by Consultant shall be subject to the District's approval.
- 3.2.4 <u>Substitution of Key Personnel</u>. Consultant has represented to the District that certain key personnel will perform and coordinate the Services under this Agreement. Should one or more of such personnel become unavailable, Consultant may substitute other personnel of at least equal competence subject to the District's written approval. In the event that the District and Consultant cannot agree as to the substitution of key personnel, the District shall be entitled to terminate this Agreement for cause. As discussed below, any personnel who fail or refuse to perform the Services in a manner acceptable to the District, or who are determined by the District to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project or a threat to the safety of persons or property, shall be promptly removed from the Project by the Consultant at the request of the District. The key personnel for performance of this Agreement are as follows: [INSERT NAME OF KEY PERSONNEL].
- 3.2.5 <u>District's Representative</u>. The District hereby designates [INSERT NAME OR TITLE], or his or her designee, to act as its representative for the performance of this Agreement

- ("District's Representative"). The District's Representative shall have the power to act on behalf of the District for all purposes under this Contract. Consultant shall not accept direction or orders from any person other than the District's Representative or his or her designee.
- 3.2.6 <u>Consultant's Representative</u>. Consultant hereby designates [INSERT NAME], or his or her designee, to act as its representative for the performance of this Agreement ("Consultant's Representative"). Consultant's Representative shall have full authority to represent and act on behalf of the Consultant for all purposes under this Agreement. The Consultant's Representative shall supervise and direct the Services, using his best skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Services under this Agreement.
- 3.2.7 <u>Coordination of Services</u>. Consultant agrees to work closely with the District staff in the performance of Services and shall be available to the District's staff, consultants and other staff at all reasonable times.
- 3.2.8 Standard of Care; Performance of Employees. Consultant shall perform all Services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of Nevada. Consultant represents and maintains that it is skilled in the professional calling necessary to perform the Services. Consultant warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Services assigned to them. Finally, Consultant represents that it, its employees and subcontractors have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, including a Washoe County Business License, and that such licenses and approvals shall be maintained throughout the term of this Agreement. As provided for in the indemnification provisions of this Agreement, Consultant shall perform, at its own cost and expense and without reimbursement from the District, any services necessary to correct errors or omissions which are caused by the Consultant's failure to comply with the standard of care provided for herein. Any employee of the Consultant or its sub-consultants who is determined by the District to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to the District, shall be promptly removed from the Project by the Consultant and shall not be re-employed to perform any of the Services or to work on the Project.
- 3.2.9 <u>Laws and Regulations</u>. Consultant shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, and shall give all notices required by law. If required, Consultant shall assist District, as requested, in obtaining and maintaining all permits required of Consultant by federal, state and local regulatory agencies. Consultant shall be liable for all violations of local, state and federal laws, rules and regulations in connection with the Project and the Services. If the Consultant performs any work knowing it to be contrary to such laws, rules and regulations and without giving written notice to the District, Consultant shall be solely responsible for all costs arising therefrom. Consultant shall defend, indemnify and hold the District, its officials, directors, officers, employees and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.

- 3.2.10 Insurance.
- 3.2.10.1 <u>Time for Compliance</u>. Consultant shall not commence the Services under this Agreement until it has provided evidence satisfactory to the District that it has secured all insurance required under this section. In addition, Consultant shall not allow any subcontractor to commence work on any subcontract until it has provided evidence satisfactory to the District that the subcontractor has secured all insurance required under this section.
- 3.2.10.2 Minimum Requirements. Consultant shall, at its expense, procure and maintain for the duration of the Agreement insurance meeting the requirements set forth herein. Consultant shall also require all of its subcontractors to procure and maintain the same insurance for the duration of the Agreement. Such insurance shall meet at least the following minimum levels of coverage:
 - (A) Minimum Limits of Insurance. Consultant shall maintain limits no less than: (1) General Liability: A minimum of \$2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with general aggregate limit is used, either the general aggregate limit shall apply separately to this Agreement/location or the general aggregate limit shall be twice the required occurrence limit; (2) Automobile Liability: A minimum of \$1,000,000 combined single limit (each accident) for bodily injury and property damage; and (3) Industrial Insurance: Workers' Compensation limits as required by the Labor Code of the State of Nevada. Employer's Liability limits of \$1,000,000 per accident for bodily injury or disease; and (4) Professional Liability/Errors and Omissions: Consultant shall procure and maintain, and require its sub-consultants to procure and maintain, for a period of five (5) years following completion of the Services, professional liability/errors and omissions liability insurance appropriate to their profession. Such insurance shall be in an amount not less than \$1,000,000 per claim, and shall be endorsed to include contractual "Covered Professional Services" as designated in the Professional Liability/Errors and Omissions policy must specifically include work performed under this Agreement.

Requirements of specific coverage or limits contained in this section are not intended as a limitation on coverage, limits, or other requirement, or a waiver of any coverage normally provided by any insurance. Any available coverage shall be provided to the parties required to be named as additional insured pursuant to this Agreement. Defense costs shall be payable in addition to the limits.

- 3.2.10.3 <u>Insurance Endorsements</u>. The insurance policies shall contain the following provisions, or Consultant shall provide endorsements on forms supplied or approved by the District to add the following provisions to the insurance policies:
 - (A) Commercial General Liability. The commercial general liability policy shall be endorsed to provide the following: (1) the District, its directors, officials, officers, employees, agents and volunteers shall be covered as additional insureds; (2) the insurance coverage shall be primary insurance as respects the District, its directors, officials, officers, employees, agents and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Consultant's scheduled underlying coverage. Any insurance or self-insurance maintained by the District, its directors, officials, officers, employees, agents and volunteers shall be excess

- of the Consultant's insurance and shall not be called upon to contribute with it in any way; and (3) the insurance coverage shall contain or be endorsed to provide waiver of subrogation in favor of the District, its directors, officials, officers, employees, agents and volunteers or shall specifically allow Consultant to waive its right of recovery prior to a loss. Consultant hereby waives its own right of recovery against District, and shall require similar written express waivers and insurance clauses from each of its subconsultants.
- (B) Automobile Liability. The automobile liability policy shall be endorsed to provide the following: (1) the District, its directors, officials, officers, employees, agents and volunteers shall be covered as additional insureds with respect to the ownership. operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Consultant or for which the Consultant is responsible; (2) the insurance coverage shall be primary insurance as respects the District, its directors, officials, officers, employees, agents and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Consultant's scheduled underlying coverage. Any insurance or self-insurance maintained by the District, its directors, officials, officers, employees, agents and volunteers shall be excess of the Consultant's insurance and shall not be called upon to contribute with it in any way; and (3) the insurance coverage shall contain or be endorsed to provide waiver of subrogation in favor of the District, its directors, officials, officers, employees, agents and volunteers or shall specifically allow Consultant to waive its right of recovery prior to a loss. Consultant hereby waives its own right of recovery against District, and shall require similar written express waivers and insurance clauses from each of its subconsultants.
- (C) <u>Industrial (Workers' Compensation and Employers Liability) Insurance</u>. The insurer shall agree to waive all rights of subrogation against the District, its directors, officials, officers, employees, agents and volunteers for losses paid under the terms of the insurance policy which arise from work performed by the Consultant.
- (D) All Coverages. Each insurance policy required by this Agreement shall be endorsed to state that: (A) coverage shall not be suspended, voided, reduced or canceled except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the District; and (B) any failure to comply with reporting or other provisions of the policies, including breaches of warranties, shall not affect coverage provided to the District, its directors, officials, officers, employees, agents and volunteers.
- 3.2.10.4 <u>Separation of Insureds; No Special Limitations</u>. All insurance required by this Section shall contain standard separation of insureds provisions. In addition, such insurance shall not contain any special limitations on the scope of protection afforded to the District, its directors, officials, officers, employees, agents and volunteers.
- 3.2.10.5 <u>Deductibles and Self-Insurance Retentions</u>. Any deductibles or self-insured retentions must be declared to and approved by the District. Consultant shall guarantee that, at the option of the District, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the District, its directors, officials, officers, employees, agents and volunteers; or (2) the Consultant shall procure a bond guaranteeing payment of losses and related investigation costs, claims and administrative and defense expenses.

- 3.2.10.6 <u>Acceptability of Insurers</u>. Insurance is to be placed with insurers duly licensed or authorized to do business in the state of Nevada and with an "A.M. Best" rating of not less than A-VII. The District in no way warrants that the above-required minimum insurer rating is sufficient to protect the Consultant from potential insurer insolvency.
- 3.2.10.7 Verification of Coverage. Consultant shall furnish the District with original certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to the District. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be on forms provided by the District if requested. All certificates and endorsements must be received and approved by the District before work commences. The District reserves the right to require complete, certified copies of all required insurance policies, at any time.
- 3.2.10.8 <u>Subconsultants</u>. Consultant shall not allow any subcontractors or subconsultants to commence work on any subcontract until they have provided evidence satisfactory to the District that they have secured all insurance required under this section. Policies of commercial general liability insurance provided by such subcontractors or subconsultants shall be endorsed to name the District as an additional insured using ISO form CG 20 38 04 13 or an endorsement providing the exact same coverage. If requested by Consultant, District may approve different scopes or minimum limits of insurance for particular subcontractors or subconsultants.
- 3.2.10.9 Compliance with Coverage Requirements. If at any time during the life of the Agreement, any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, District has the right but not the duty to obtain the insurance it deems necessary and any premium paid by District will be promptly reimbursed by Consultant or District will withhold amounts sufficient to pay premium from Consultant payments. In the alternative, District may terminate this Agreement for cause.
- 3.2.11 <u>Safety</u>. Consultant shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Consultant shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed.

3.3 Fees and Payments.

- 3.3.1 Compensation. Consultant shall receive compensation, including authorized reimbursements, for all Services rendered under this Agreement in accordance with the Schedule of Charges set forth in Exhibit B, attached hereto and incorporated herein by reference. The total compensation to be provided under this Agreement shall not exceed dollar amount in writing (\$X.00) without written approval of District's [___INSERT_TITLE___]. Extra Work may be authorized, as described below; and if authorized, said Extra Work will be compensated at the rates and manner set forth in this Agreement.
- 3.3.2 <u>Payment of Compensation</u>. Consultant shall submit to District a monthly itemized invoice which indicates original contract amount, amount previously invoiced and current remaining balance on contract, work completed and hours of Services rendered by Consultant. The invoice shall also describe the amount of Services and supplies provided since the initial commencement date of Services under this Agreement, and since the start of the subsequent billing periods, through the date of the invoice. Invoices shall be sent

- to <u>invoices@ivgid.org</u>, with a copy to <u>rlr@ivgid.org</u>. District shall, within thirty (30) days of receiving such invoice, review the invoice and pay all approved charges thereon.
- 3.3.3 <u>Reimbursement for Expenses</u>. Consultant shall not be reimbursed for any expenses unless authorized under Exhibit B, or otherwise in writing by the District.
- 3.3.4 Extra Work. At any time during the term of this Agreement, the District may request that Consultant perform Extra Work. As used herein, "Extra Work" means any work which is determined by the District to be necessary for the proper completion of the Project, but which the Parties did not reasonably anticipate would be necessary at the execution of this Agreement. Consultant shall not perform, nor be compensated for, Extra Work without written authorization from the District's Representative. Where Extra Work is deemed merited by the District, an amendment to the Agreement shall be prepared by the District and executed by both Parties before performance of such Extra Work, or the District will not be required to pay for the changes in the scope of work. Such amendment shall include the change in fee and/or time schedule associated with the Extra Work. Amendments for Extra Work shall not render ineffective or invalidate unaffected portions of this Agreement.

3.4 Accounting Records.

3.4.1 <u>Maintenance and Inspection</u>. Consultant shall maintain accurate and complete books, documents, accounting records and other records pertaining to the Services for six (6) years (or longer as required by applicable law) from the date of final payment under this Agreement. Consultant shall make such records available to the District for inspection, audit, examination, reproduction, and copying at Consultant's offices at all reasonable times. However, if requested, Consultant shall furnish copies of said records at its expense to the District, within seven (7) business days of the request.

3.5 General Provisions.

- 3.5.1 <u>Termination of Agreement</u>.
- 3.5.1.1 Grounds for Termination. The District may, by written notice to Consultant, terminate the whole or any part of this Agreement at any time and without cause by giving written notice to Consultant of such termination, and specifying the effective date thereof, at least seven (7) days before the effective date of such termination. Upon termination, Consultant shall be compensated only for those services which have been adequately rendered to the District and for reasonable expenses actually incurred prior to termination, subject to submittal of invoices reflecting such costs to the District to support the claim for expenses, and Consultant shall be entitled to no further compensation. Consultant may not terminate this Agreement except for cause. Consultant shall not be entitled to payment for unperformed Services, and shall not be entitled to damages or compensation for termination of this Agreement by District except for the amounts authorized herein.
- 3.5.1.2 Effect of Termination. If this Agreement is terminated as provided herein, the District may require Consultant to provide all finished or unfinished Documents and Data (defined below) and other information of any kind prepared by Consultant in connection with the performance of Services under this Agreement. Consultant shall be required to provide such documents and other information within fifteen (15) days of the request.

- 3.5.1.3 <u>Additional Services</u>. In the event this Agreement is terminated in whole or in part as provided herein, the District may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated.
- 3.5.2 <u>Delivery of Notices</u>. All notices permitted or required under this Agreement shall be given to the respective Parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

<u>District</u> <u>Consultant</u>

Incline Village General Improvement District 893 Southwood Blvd. Incline Village, NV 89451

Attn: Name

Attn: Name

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the Party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

- 3.5.3 Ownership of Materials and Confidentiality.
- 3.5.3.1 <u>Documents & Data</u>. All source code, reports, programs, manuals, disks, tapes, and any other material prepared by or worked upon by Consultant for the Services shall be the exclusive property of the District, and the District shall have the right to obtain from Consultant and to hold in District's name copyrights, trademark registrations, patents, or whatever protection Consultant may appropriate to the subject matter. Consultant shall provide District with all assistance reasonably required to perfect the rights in this subsection.
- 3.5.3.2 Confidentiality. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other Documents and Data either created by or provided to Consultant in connection with the performance of this Agreement shall be held confidential by Consultant. Such materials shall not, without the prior written consent of the District, be used by Consultant for any purposes other than the performance of the Services. Nor shall such materials be disclosed to any person or entity not connected with the performance of the Services or the Project unless disclosure is compelled due to law or court order. Nothing furnished to Consultant which is otherwise known to Consultant or is generally known, or has become known, to the related industry shall be deemed confidential. Consultant shall not use the District's name or insignia, photographs of the Project, or any publicity pertaining to the Services or the Project in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of the District.
- 3.5.4 <u>Cooperation; Further Acts.</u> The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be necessary, appropriate or convenient to attain the purposes of this Agreement.
- 3.5.5 <u>Attorney's Fees</u>. If either Party commences an action against the other Party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the

- prevailing party in such litigation shall be entitled to have and recover from the losing party reasonable attorney's fees and all other costs of such action.
- Indemnification. To the fullest extent permitted by law, Consultant shall defend, indemnify 3.5.6 and hold the District, its officials, officers, employees, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or relating to any negligence or willful misconduct of Consultant, its officials, officers, employees, agents, consultants, and contractors arising out of or in connection with the performance of the Services, the Project, or this Agreement, including without limitation the payment of all consequential damages, expert witness fees, and attorney's fees and other related costs and expenses. Consultant shall defend, at Consultant's own cost, expense and risk, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against District, its directors, officials, officers, employees, agents, or volunteers. Consultant shall pay and satisfy any judgment, award or decree that may be rendered against District or its directors, officials, officers, employees, agents, or volunteers, in any such suit, action or other legal proceeding. Consultant shall reimburse District and its directors, officials, officers, employees, agents, and/or volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided, including correction of errors and omissions. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the District, its directors, officials, officers, employees, agents or volunteers. Notwithstanding the foregoing, neither party will be liable to the other for indirect, consequential or special damages, including, without limitation, loss of profit, loss of product or loss of use, whether the liability is based on agreement, negligence, tort or otherwise.
- 3.5.6.1 <u>Design Professional</u>. To the extent required by NRS 338.155, Consultant's obligation to defend, indemnify, and hold District, its officials, officers, employees, volunteers, and agents free and harmless shall not include any liability, damage, loss, claim, action or proceeding caused by the negligence, errors, omissions, recklessness or intentional misconduct of the employees, officers or agents of the District. Moreover, Consultant's obligation to defend, indemnify, and hold District, its officials, officers, employees, volunteers, and agents free and harmless from any liability, damage, loss, claim, action or proceeding caused by the negligence, errors, omissions, recklessness or intentional misconduct of the Consultant or the employees or agents of the Consultant which are based upon or arising out of the professional services of the Consultant. If the Consultant is adjudicated to be liable by a trier of fact, the trier of fact shall award reasonable attorney's fees and costs to be paid to the District, as reimbursement for the attorney's fees and costs incurred by the District in defending the action, by the Consultant in an amount which is proportionate to the liability of the Consultant. This Section shall only apply to the extent required by NRS 338.155 and shall not otherwise limit Consultant's obligation to defend, indemnify and hold the District harmless as required under Section 3.5.6.
- 3.5.7 <u>Entire Agreement</u>. This Agreement contains the entire Agreement of the Parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements. This Agreement may only be modified by a writing signed by both Parties.
- 3.5.8 <u>Governing Law</u>. This Agreement shall be governed by the laws of the State of Nevada. Venue shall be in Washoe County.

- 3.5.9 <u>Time of Essence</u>. Time is of the essence for each and every provision of this Agreement.
- 3.5.10 <u>District's Right to Employ Other Consultants</u>. The District reserves right to employ other consultants in connection with this Project.
- 3.5.11 <u>Successors and Assigns</u>. This Agreement shall be binding on and shall inure to the benefit of the successors in interest, executors, administrators and assigns of each Party.
- 3.5.12 <u>Assignment or Transfer</u>. Consultant shall not assign, hypothecate, or transfer, either directly or by operation of law, this Agreement or any interest herein without the prior written consent of the District. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer.
- 3.5.13 <u>Subcontracting</u>. Consultant shall not subcontract any portion of the work required by this Agreement, except as expressly stated herein, without prior written approval of District. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.
- 3.5.14 Construction; References; Captions. Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days or period for performance shall be deemed calendar days and not work days. All references to Consultant include all personnel, employees, agents, and subcontractors of Consultant, except as otherwise specified in this Agreement. All references to the District include its officials, officers, employees, agents, and volunteers except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.
- 3.5.15 <u>Amendment; Modification</u>. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.
- 3.5.16 <u>Waiver</u>. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.
- 3.5.17 No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.
- 3.5.18 <u>Invalidity; Severability</u>. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.
- 3.5.22 <u>Authority to Enter Agreement.</u> Consultant has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party.
- 3.5.23 <u>Counterparts</u>. This Agreement may be signed in counterparts, each of which shall constitute an original.

- 3.5.24 <u>Limitation of Liability</u>. The District does not and will not waive and expressly reserves all available defenses and limitations contained in Chapter 41 of the Nevada Revised Statutes. Contract liability of both parties shall not be subject to punitive damages.
- 3.5.25 <u>Non-Appropriations</u>. The District may terminate this Agreement, effective immediately upon receipt of written notice on any date specified if for any reason the District's funding source is not appropriated or is withdrawn, limited, or impaired.
- 3.5.26 <u>Compliance with Laws</u>. Consultant shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services. Consultant shall not discriminate against any person on the grounds of race, color, creed, religion, sex, sexual orientation, gender identity or gender expression, age, disability, national origin or any other status protected under any applicable law. Consultant is not currently engaged in, and during the duration of the Agreement shall not engage in, a Boycott of Israel. The term "Boycott of Israel" has the meaning ascribed to that term in NRS 332.065. Consultant shall be responsible for all fines, penalties, and repayment of any State of Nevada or federal funds (including those that the District pays, becomes liable to pay, or becomes liable to repay) that may arise as a direct result of the Consultant's non-compliance with this subsection.
- 3.5.27 Prohibited Interests. Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, District shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of District, during the term of his or her service with District, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

SIGNATURE BLOCK ON FOLLOWING PAGE

OWNER: INCLINE VILLAGE G. I. D. Agreed to:	CONTRACTOR:	
	Agreed to:	
	Ву:	
Matthew Dent, Chairman	Signature of Authorized Agent	
Date	Print or Type Name and Title	
David Noble, Secretary	Date	
Date	If CONTRACTOR is a Corporation, attach evidence of authority to sign.	
Reviewed as to Form:		
Joshua Nelson District Legal Counsel		

Date



Point of Sale System for IVGID

Luxoft Proposal

October 2023

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2 Our Approach
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Our Understanding

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Our Understanding of Your Requirements

Overall Project Goal

The Incline Village General Improvement District (IVGID) wishes to evolve and consolidate its Point of Sale (POS) and Financial Software. A two-phase approach has been defined: Assessment and Implementation.

We recommend adding a third phase: Production Rollout to follow the acceptance testing sign off of the implementation.

This Proposal

This proposal is for the Assessment phase which includes:

- Assessing the current POS and Financial Software technical environment
- Gathering and consolidating requirements from each current software implementation
- Formulating a written recommended transition plan for moving from the current state to the desired state. In other words, creating the Implementation Plan. This implementation plan should include:
 - Costs for project management, oversight, and implementation of the recommendations
 - Recurring costs for hosting, hardware and product licensing
 - A timeline of deliverables
 - Access to proprietary source code
 - Staff training
 - Product documentation
 - Bi-weekly status reports to the District's implementation team
 - Estimated required staff time



Our Understanding of Your Requirements Scope

Desired State

These requirements are key to the success of the project:

- Integration with the core financial system (Tyler Munis)
- Consolidation and integration of the master records across all POS
- PCI compliance, stored payment, EMV, NFC, as few payment processors as possible
- Little, if any, loss in operational functionality from the current POS
- A consolidated e-commerce platform that addresses all or as many of the retail venues (Golf, Tennis, Ski, Rec Center) needs
- A restricted access platform that addresses all or as many of the non-retail (owners & residents only)
- Customer relationship management across all retail POS platforms
- Documentation and Staff training on newly proposed systems

Expected Outcomes

- To have access media tied to the user's various venue passes (ski pass, recreation center membership pass, golf pass, etc.)
- User's personal credit card on record for purchases at the venues
- Venue appropriate RFID access control at the various venues



Proposal Highlights

- The RFP does a good job of setting the goals for the project. Based on that, we have included a smaller than usual one-person strategy team to gather user goals and current pain points, refine the project goals, drive consensus, and to define metrics for the system.
- The technical team will use a combination of documentation review and interviews to drive the assessment. They will also bring industry, technology best practices and relevant experience from past projects to drive their findings.
- Luxoft will conduct a series of workshops to drive rapid decision making, set common goals, and build consensus across the organization.
- Based on the need for close collaboration, we have proposed a United States based team.

Out of Scope (exclusions)

 We will deliver a high-level implementation plan to drive the next phase of the project. That plan will include EPICs/Features, and identify milestones, and not all backlog items which are early Implementation activities.

Options

- On-premise system vs a native cloud solution
- Data Analytics built in the target state system vs a Tyler Munis BI capabilities





Our Approach

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Project Phases & Deliverables

Phase 1 Assessment

Phase 2 Implementation

TBD

Phase 3
Rollout

8 weeks

Prerequisites

- Executive alignment
- Service Agreement in place for Discovery phase
- Access to systems and information is provided to us

Main Activities

- Partners selection
- Workshops and interviews
- Integration points identification
- Gathering technical and business requirements

Major Deliverables

- · Customer journeys & work streams clarified
- Current state, performance & availability metrics, limitations documented
- High-level Solution Architecture created
- Program plan in place for MVP with timelines, costs and governance model
- HW partners identified

Prerequisites

- HW partner(s) contracted
- HW equipment delivered
- MVP program plan and milestones defined
- Team setup, budget & governance agreed

Main Activities

- Ongoing Product Backlog Refinement to breakdown feature into user stories
- Features Implementation & Deployment to test environment
- Equipment setup
- Acceptance testing planning and execution

Major Deliverables

- Deliverables are accepted and signed off
- Production Rollout plan prepared and signed off

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Solution field tested in one or more venues

TBD

Prerequisites

- MVP deployed and piloted in one store
- Roadmap for next stores deployment identified

Main Activities

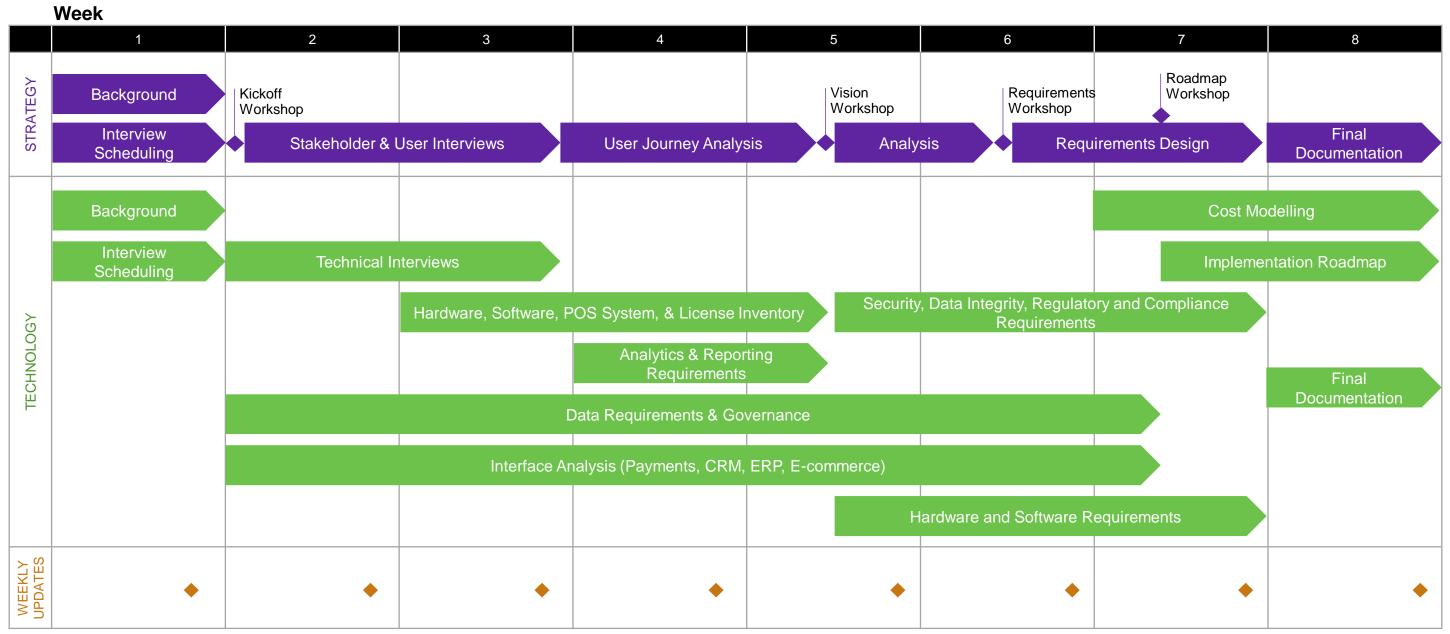
- Rollout plan execution
- Fixing the issues & Rollout Plan Update
- Training Operation and Maintenance staff
- Transition to Operations
- Monitoring set up
- Backup/Restore, Disaster Recovery plans created and tests conducted

Major Deliverables

- Implementation team hand-off
- Advisory during warranty period



High Level Assessment Plan



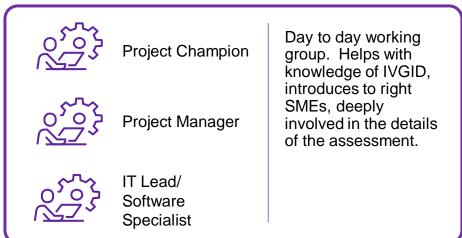


Resource allocation (Assessment Phase)

Proposed Team Structure

IVGID Team

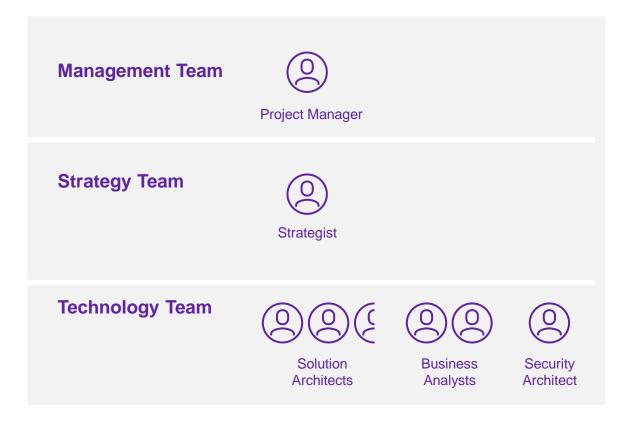
Working Team



Stakeholder/Executive Team



Luxoft Team





Budget Allocation

Fixed Assessment Cost

\$413,546 USD

Pricing includes all travel expenses.

This is a fixed price cost for an 8-week delivery of the Assessment Phase.

Proposed Staffing Plan:

Solution Architect	2.5
Security Architect	0.1
Business Analyst	2
Project/Delivery Manager	0.5
Strategist	1



Roles Description

Role	Profile	Responsibilities
Solution Architect	Overall responsibility for the solution architecture, including all software and appropriate hardware elements	 Leads and coordinates technical activities and documenting throughout the project Establishes the overall structure for each architectural view: the decomposition of the view, the grouping of elements, and the interfaces between these major groups Develops all system design deliverables including the database and system design specifications, and technology infrastructure Reviews development deliverables Maintains coherence of the deliverables produced by all development groups
Business Analyst	Responsible for overall Customer's business processes analysis and modeling, business requirements development	 End-users' business requirements analysis and high-level business requirements development System requirements detailed analysis to prepare functional specifications Requirements change management Rough estimating of the development efforts using appropriate technologies, tools, and methods Design high quality business systems solutions by identifying and evaluating options Facilitates and occasionally leads or champions the effort to document system requirements with signoff by business stakeholders
Project Manager	Overall responsibility for management and success of project –allocate resources, set priorities, coordinate interactions with the Client and keep the project team focused on the right goal	 Plans, organizes, directs and manages the day-to-day activities of a project Communicates with the project stakeholders, reaches and maintains commitments Controls project scope, when necessary, involving change management procedures to handle change requests Provides Project Status Reports on the regular basis Develops and updates all system design deliverables Creates and updates project, design and requirements documentation
Strategist	Plays a pivotal role in bridging the gap between technology and business goals. It is responsible for crafting and executing strategies that drive innovation, improve efficiency, and ultimately contribute to the success of the project	 Thinks strategically and align technology initiatives with the organization's long-term goals and objectives. Analyzes current systems, identify strengths and weaknesses, and devises strategies to improve efficiency, effectiveness, and competitiveness. Assess and mitigate risks associated with technology projects and strategies is part of the job. Identify potential threats to the organization's data, systems, and operations. Collaborate with target users to understand their technology needs and ensure alignment with IT strategies. Manage and lead a team of IT professionals responsible for implementing IT strategies and projects.
Security Architect	Responsible for designing and implementing comprehensive security solutions to protect an organization's digital assets, information, and technology infrastructure from cyber threats, attacks, and vulnerabilities	 Possesses in-depth knowledge of cybersecurity principles, practices, technologies, industries standards and regulations. Identifies and assesses security risks, vulnerabilities, and threats to the organization's information systems. Develops strategies and plans to mitigate security risks effectively. Evaluates and selects security technologies and tools, such as firewalls, intrusion detection systems, encryption protocols, and access control mechanisms. Integrates these solutions into the organization's IT infrastructure. Establishes and manages IAM strategies, including user authentication, authorization, and access controls.



About Luxoft



Luxoft Facts & Credentials

- 22+ years in Software Development and Product Engineering services with long-term client partnerships (10+ years).
- Our reputation is based on our tangible impact through highperforming teams and a culture of ownership that seamlessly integrates with our clients' teams.
- We bring end-to-end product engineering from low level hardware integration to high level domain applications.
- A long track record of ownership, quality and predictability with modern development technologies and agile methodologies.
- A global network of delivery centers connected to high talent engineering pools, providing flexibility for onshore, nearshore and offshore project delivery.
- A strong engineering culture of ownership, responsibility, transformation and innovation striving to "Exceed Client expectations".



17,610+
employees with
deep digital skills



YoY 8.8% FY23 revenue growth



425+ global clients



74Fortune 500 client companies



58 in **29** Cities Countries



64%Talent with advanced degrees (Master +)



23+
years of
delivering for
our clients



79%Talent with 5+ years of experience



Deep Industry and Functional Expertise

We understand our clients' industries and critical business processes, using multiple insights to determine what makes their organizations unique. We apply our industry-specific best practices, strong domain knowledge and proven capabilities to create solutions and deliver measurable outcomes.

Our Core Industry Verticals Banking & Technology, media **Automotive Capital Markets** and Telecoms (BCM) **A Energy, Utilities &** Healthcare and Consumer and Retail **Manufacturing** Life Sciences **Public** Travel Insurance Sector **Transportation &** Hospitality

Digital solutions that drive business change

Define Business Value

- New revenue channels
- Improved business models
- Long-term cost savings
- o Operational efficiencies

Build Digital Roadmaps

- Blueprints and joint PoCs
- Reference platforms for disruptive products
- o Enhanced customer experience

Deliver Engineering at Scale -

- Providing the premier engineering talent
- Developing and integrating custom software for our clients

Industry Expertise













































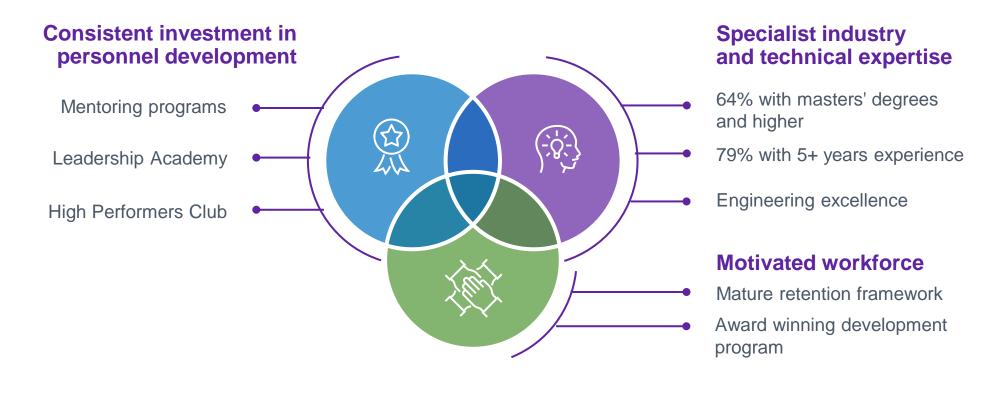




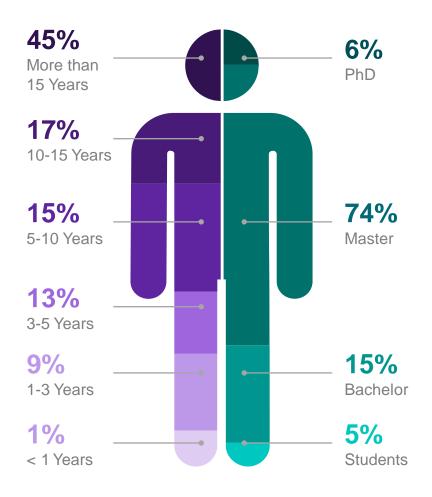




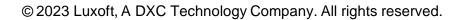
Luxoft Workforce Profile



Seniority Profile







High Performers

Why Luxoft



Senior teams of premier strategy, design and software engineering talent, 64% with advanced degrees



Delivery excellence

Decades of impeccable delivery track record on time, on budget and on target



Superior customer experiences

Leveraging Motivational UX™ to create superb customer experiences that drive consistent business value



Results oriented and assertive delivery culture. Focus on creativity and problem-solving at speed and scale



End-to-end digital solutions

End-to-end digital solutions on a global scale backed by industry expertise



ecosystem

World-class organizations in software applications, infrastructure and culture to strengthen our unique portfolio





Contacts Information

Sales Lead

Julie McGill

Sales Director

julie.mcgill@dxc.com

646-797-9993



Solution Lead

Barry Bassin

Global Head of Design

barryjay.bassin@dxc.com

917-856-1293



Delivery Lead

Alex Burnashev

Delivery Lead/Program Manager

alexey.burnashev@dxc.com

832-297-1060





Relevant Case Studies and References



Single Assets API for a Global Retail Giant



TECHNOLOGIES

Java, Microservices, Micronaut, PostreSQL, Redis



CHALLENGE

Our client is a British multinational grocery and general merchandise retailer with more than 345,000 employees and over 5,000 stores globally and it was crucial to the company to have real-time information about the status of all point-of-sale (POS) terminals and devices in their stores. This would include knowing their current state, hardware and software versions, and planning software updates and resource allocation across thousands of devices globally.

Initially, this information was managed by multiple platforms and data sources built on outdated technology, resulting in issues with scalability, reliability, and maintenance. Round-the-clock support was required to handle production incidents, which added additional complexity. The absence of a single source of truth (SSOT) for managing hardware and software of POS devices led to delays in replacing malfunctioning devices and updating software, resulting in data synchronization errors and increased efforts to resolve synchronization issues. Additionally, suboptimal allocation of virtual resources such as RAM and CPU incurred significant costs for the client across their vast store network.

SOLUTION

- A new Assets API was created to serve as a centralized and reliable source of information. The new API would apply to the mapping of POS devices (assets) to stores, the current state of each asset (hardware type, version), software versions installed on assets and allocation of virtual resources (RAM, CPU, etc.) for each asset.
- Luxoft joined the development of the Assets API during the audit phase of the existing platform. During the audit, various issues were identified, and corrective actions were proposed.
- Poor code quality and significant technical debt were addressed by a suggested refactoring of the existing codebase.
- Luxoft proposed a transition from a monolithic architecture to a microservice architecture to enhance scalability and accommodate future growth expectations.
- The team identified a need to increase unit/automation test coverage to improve the quality and reliability of the system.
- Luxoft also recommended a revised data modeling approach to leverage data storages as the primary source of input data for the Assets API, with Redis cache serving as a secondary tool for caching purposes, resolving persistence and durability issues.

RESULTS

- Decreased number of production defects in the API.
- Scalability was addressed, enabling more downstream systems to transition from the old data sources to the new Assets API.
- Trust and utilization of the newly created Assets API by downstream systems increased. This in turn paved the way for decommissioning the old systems and simplifying the management of POS terminals.
- The ability to efficiently redistribute virtual resources between terminals provided our client with cost reductions in infrastructure.

Data Synchronization Between Cloud and POS Terminals



TECHNOLOGIES

REST API, Microservices, Java, Spring, PostgreSQL, Kubernetes, Jenkins, Microsoft Azure, Redis, Splunk, Terraform, Grafana

CHALLENGE

Our client is a British multinational grocery and general merchandise retailer with more than 345,000 employees and over 5,000 stores globally. An important task was to regularly synchronize pricing and promotions information from a single source of truth (SSOT) in the cloud to all POS terminals across their stores. The task involves maintaining the hierarchy of POS devices, scheduling updates for each device, monitoring update statuses and ensuring round-the-clock functionality and availability of POS terminals with up-to-date information in every store. The task requires transferring a significant amount of data (up to 3 Gb per till during full bootstrap), so optimizing algorithms and ensuring system scalability are additional challenges. Due to the critical nature of this functionality, follow-the-sun support on L2 level is required.

SOLUTION

- The Luxoft team worked as an integral part of the core development team, actively contributing to architecture design, selecting appropriate solution technologies, and ensuring that applications adhered to the client's policies and security standards.
- The team's developers also provided high-level support and resolved production issues and continue to provide a continuous support schedule for the system.
- As the system was initially developed using in-house frameworks, including a custom update queue, scalability and reliability issues arose. The Luxoft team identified and documented the technical debt and proposed a plan for system redesign and refactoring. This plan is currently being executed alongside the active development of new functionality.

RESULTS

- A significant increase in software maintainability, leading to a reduction in production incidents and overtime work.
- Data consistency between the cloud and POS terminals has been successfully achieved.
- The Luxoft team is recognized as a core expertise team for both new product development and existing modernization efforts.



Legacy Modernization and Support of Software



TECHNOLOGIES

Java, Microservices, Azure Lambda, AWS, Spring Security

CHALLENGE

Our client is a British multinational grocery and general merchandise retailer with more than 345,000 employees and over 5,000 stores globally. As part of their digital modernization efforts, they are updating their business application landscape and implementing a microservices architecture. They have chosen Azure Cloud as the target platform for migrating their extensive set of business applications.

Meanwhile, their existing tills platform, which was initially built on AWS Cloud, needs to be decommissioned within a couple of years. However, during the transition period, this platform remains mission-critical and requires ongoing maintenance and upgrades. Luxoft developers have been actively involved in the maintenance and upgrade team, ensuring the smooth operation and development of the existing tills platform.

SOLUTION

- Luxoft have actively contributed to architecture design, solution technology selection, and ensuring that applications align
 with the client's policies and security standards.
- While working on the existing tills platform, Luxoft identified a significant technical debt that needed to be addressed in order to support the system for the next two years and facilitate a smooth migration of business processes to the newly developed system.
- To achieve this, the team migrated both the server and client components of the system from AWS Cloud to Azure Lambda and re-implemented the authentication system to meet the company's current security standards.
- Luxoft established a high-level, round-the-clock support process with defined service level agreements (SLAs) to promptly resolve production issues and ensure the system maintains high availability.

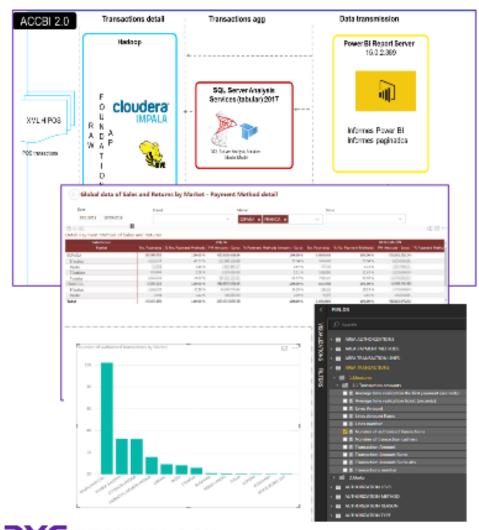
RESULTS

- The system was migrated from AWS to the target Azure Cloud platform.
- System security was improved and aligned with company standards.
- System operation in production is ensured, and system availability and scalability KPIs were met.



Data Analytics to enable loss detection in Retail POS for European Fashion Company

Case Study



CHALLENGE

- The Loss Prevention team needs to analyze Data/ Information in the Retail POS systems, to enable these
 - Data analysis focused on loss detection
 - 1 year of historical information in detail
 - 2 years of aggregate information
 - NRT data provisioning

- KPI generation by means of business rules
- Predefined reports
- Self-service
- Proactive alerts
- Application of advanced analytical techniques

SOLUTION

- Data Pipeline Definition From NRT to visualization without loss of information
- XML HiPOS Parser High complexity XML that changes through time
- Model definition Business Relationship and Knowledge Management
- Visualization Architecture BI + Big Data

- Pre-defined reports PBI, RPS reports
- Self Service Access to Self-service Data Model
- User Profiles Profile configuration for personalized access to information
- Alerts Users are alerted by mail proactively
- Video Reports integrated with video recording

RESULTS

- · Metrics and measures of POS transactions with business relevant information
- Anomaly Detection Algorithms
 - Detection of anomalous POS usage patterns
 - Anticipating the normalization of POS misuse
 - Exposing misuse and loss

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Field Technicians Dispatch Optimization

Business Challenge

- Our client, one of the world's biggest communications companies had a network field workforce who were
 experiencing a significant increase in ticket error rates to install and maintenance teams which was causing
 increased operational costs.
- · Contractors' dispatch routes were not being optimized which caused reduced productivity.
- There was a need to predict the volume of pending point of sale (POS) orders and forecast the field force resources so that they could be properly staffed and thus reduce overtime costs.

Luxoft's Delivered Solution

- We had to determine the trends and also predict ticket success rates based on specific customer-provided criteria and then optimize the schedule for all POS product lines to leverage the incumbent field force.
- The solution focused on two key deliverables:
- Predictive Analytics and Optimizing Performance. The team implemented a repeatable model to extract, transform and load (ETL) data from multiple data sources which:
- Optimized routes to reduce costs (i.e. one truck could perform 4 tasks on an optimized route instead of 2 trucks doing 2 each)
- Operations that required one truck (with a Helper) were also added.
- Predicted volume to ramp up contractors.
- Forecast ticket fall out based on volume analysis and data quality to predict the volume of pending point of sale (PoS) orders and forecast the field force resources so that they could be properly staffed and thus reduce overtime costs.

Client Benefits

- Establishment of success-rate thresholds which improved ticket success rates and reduced rework in the field on install and maintenance dispatch tickets (ratio of tickets to contractors).
- The customer was able to move from a reactive to a proactive model by predicting the number of installation contracts required to maintain success-rate ratio thresholds.
- The error rate within installation and maintenance tickets was reduced from 60% to less than 20%, cost savings were between \$100-200 million.



Project Highlights

Team size: Initial 4-man team which grew to 10.

Duration: Duration 2017-current day

Cost savings based on optimizing technicians routes, teams and predictive POS installation tickets error rates.

Technologies

Big Data: Python and R Data

Data Visualization: Tableau









5850 Granite Parkway – 12th Floor Plano, TX 75024 T (469) 294-7300

www.ACTIVEnetwork.com

COVER LETTER

October 02, 2023

Incline Village General Improvement District Heldi White, District Clerk 893 Southwood Boulevard Incline Village, Nevada 89451

Re: RFP: Point of Sale System

Dear Selection Committee:

At Active Network, our mission is to connect people with the things they love, want, and need to do. We've been creating cutting edge registration technologies for 20 years and entrenched in the ski industry since 2011.

ACTIVE understands that Incline Village requires a solution that empowers its users and connects them with the recreation offerings. We believe given our background in program registration, along with our consulting resources and IT knowledge, that we are well positioned to meet and exceed the requirements of this proposal.

Our experience as the market leader in registration, endurance, and ski activity platforms has enabled ACTIVE's line of solutions, such as ACTIVE Net, ACTIVEWorks, and RTPIONE to set the bar as the most widely used systems in their respective sectors. It is this expertise that will serve as the foundation for understanding the needs of your participants.

With proven technological capabilities, quality strategic approach, and continued commitment to innovation, ACTIVE is well positioned to assist incline Village in improving their customer engagement. Should the evaluation committee have any questions please reach out to your ACTIVE representative, Andy Vanica at 720.757.7825 or via email at Andy.Vanica@ACTIVENetwork.com.

DocuSigned by:

Kevia Farmer

Kevin Farmer

Vide-President of Sales

WHAT'S YOUR ACTIVE?

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COMPANY BACKGROUND AND ORGANIZATION

Founded in 1999, ACTIVE Network [®] (ACTIVE), a Global Payments subsidiary, is a limited liability corporation (LLC), incorporated in the State of Delaware (US), headquartered in Plano, Texas, with offices throughout North America, Europe, Asia, and Australia. Our representatives are based throughout North America.

Include your firm's complete:

1. Name: Active Network LLC

2. Address: 5850 Granite Parkway Suite 1200 Plano, TX 75024

3. Contact person: Andy Vanica

4. **Phone number**: (720) 757-7825

5. **Email**: andy.vanica@activenetwork.com

6. Website address: www.activenetwork.com

7. Provide company's mission statement, values, and ethical standards.

Our Mission

ACTIVE Network is on a mission to make the world a more active place.

We are the premier global marketplace for activities and events, connecting organizers with participants, and we have become a leading provider of data insights and business intelligence for our markets.

Operating Principles

We are:

- **Committed to our Customers' Success**. We believe in the value our customers provide in making the world a more active place.
- Fueled by Challenge. We are solutions-oriented and thrive on solving challenges.
- Collaborative and Focused on Team Success. We believe in fostering a collaborative, team- based environment in which our employees can succeed.
- **Focused on Results**. We set goals, hold ourselves accountable, measure results, and continuously improve.

Core Values

- Excellence
- Commitment
- Drive
- Team

- 8. **Describe your company's major lines of business.** Active Network, LLC provides software solutions. The Company designs and develops software as a service technology platform which offers intelligent and intuitive registration, secure payment processing, insightful data and services to help organizers drive increased participation and revenue while streamlining administration. Active Network serves customers worldwide.
- 9. What differentiates your services/company from other companies offering similar services? With a broad and diverse team with decades of experience, Active will be able to provide specific skill sets with both the technical and business knowledge to be able to provide a complete assessment and provide IVGID scalable and potentially phased solution recommendations. Coupled with this, our experience in solution delivery will then be able to work with the IVGID team to execute the implementation and ensure a smooth transition to operations.
- 10. **Identify any litigation pending or threatened against your company as of the submission date.** Active is unable to comment on past and pending disputes as this information is confidential. However, the parties completing this response on behalf of Active not presently aware of any matters we believe would negatively affect our performance under the proposed agreement and/or RFP.

EXPERIENCE

- 1. Number of years in management and software consulting and implementation.
- 2. Referrals List of similar Project-related clients, including:
 - a. Service provided
 - b. Client organization
 - c. Scale of project (e.g. project \$ amount, location, size, duration)
 - d. Contact name and number
- 3. Special Considerations
- 4. Describe any attribute of your firm that would enhance this

ACTIVE

ACTIVE Network is the leading provider of activity and participant management solutions.
With 15+ years of experience as a market leader, ACTIVE is not only a business software
solution, but a key component in helping you achieve your mission and serve your
community. We pride ourselves on long term success and understand that this is a key
step in maintaining a long successful partnership.

Our Professional Services methodology is built on the following principles:

- Understanding your business
- Developing and fostering positive relationships with all your project stakeholders
- Configuring your system to drive operational efficiency
- Empowering your system users to grow business
- Increasing your consumer participation through ease of access
- Alleviating your implementation workload by leveraging ACTIVE resources to reduce meeting lengths and minimize efforts in data conversion and data entry
- Ensuring timely execution of your project tasks

STAFFING PLAN

- 1. Number of staff assigned to the work, by category
- 2. Job descriptions of staff, by category
- 3. Staff qualifications
- a. Education/relevant experience (type and number of years) of key employees
- b. Training of each employee or category of employee
 - i. Scope, frequency, employees covered, training, organization
- 4. Proposed staffing and project schedule

ACTIVE

- 1. Quantity of staff: Two staff assigned
 - one consultant, and
 - one project manager.
- 2. Job Description: Project Manager

Project management services provide organizations with a dedicated representative responsible for overseeing the successful delivery of all implementation services. Utilizing project management services presents many benefits, including a single point of contact to:

- Track progress of all key implementation tasks through to a successful go-live
- Formal oversight over all key implementation phases performed with your implementation consultant
- Formal oversight over all data migration activities performed with your technical consultant
- Assessment and tracking of project risks, including development of mitigation strategies

In addition to the above benefits, a dedicated project manager will allow the organization to engage in routine status update meetings to ensure that ACTIVE and the customer are working in tandem for a successful rollout.

3. **Sample resume (qualifications)** for Project Manager:

DAVID REY

Phone: (214) 996-7233

Email: David.Rey@activenetwork.com Organization Role: Project Manager

Education: Bachelor of Business Administration, Management from The University of

Texas at El Paso

<u>Experience</u>: David is a seasoned Project Manager, holding a key position within the Professional Services team at ACTIVE. With a diverse portfolio encompassing various

markets, including Parks and Recreation, YMCA's, Resorts & Attractions, and specialty organizations, David has honed his expertise in delivering exceptional results through strategic project planning, cross-functional collaboration, and effective risk management. His track record includes the successful management of multiple premium and enterprise projects with leading organizations across North America including:

- City of Toronto
- Atlantis Paradise Island Bahamas
- Sea to Sky Gondola
- YMCA Oakville

GEORDAN REID

Phone: (604)317-3511

Email: geordan.reid@flaik.com

Organization Role: Enterprise Architect/Delivery Manager

Experience: Geordan brings 25+ years of experience working with Enterprise class clients in various leadership and delivery roles for software vendors, enterprise operators as well as consulting services providers. Focused on business outcome, Geordan leverages his ability to create and lead diverse teams from discovery to delivery leveraging specified experts to design complete solutions. Although primarily focused within the Hospitality sector, he has been involved with Point Of Sale, E-commerce/omni-channel, HRIS, ERP, CRM and Data initiatives across Application, Infrastructure and Security architectures.

- Alterra Mtn Corporation/Ikon Pass
- Powdr Resorts
- Nature's Path Foods

NICK MARVIN

Organization Role: Solution Architect

Experience: Nick is a seasoned Enterprise IT leader within the Resort industry. Nick has led many successful projects from business opportunity identification, through solution design, vendor selection, implementation and operational support. Within these experiences, Nick has been heavily involved with Access Control, Lodging, Golf, Retail, F&B, HRIS/Payroll, Credit Processing and Data initiatives. Additionally, Nick has in-depth knowledge and experience within ITSec and Infrastructure.

KARL LANGDALE-HUNT/PAM EVANS/TERRY PHILLIPS

<u>Project Roles</u>: Business/Systems Analysts

<u>Experience</u>: Karl, Pam and Terry each bring decades of analytical experience within the Hospitality sector, working closely with multiple business partners to map technical solutions to business problems. With a diverse range of knowledge across various lines

of business, they are all seasoned at being able to uncover and document core business requirements from all levels of an organization.

Resumes to be provided upon shortlisting

PROJECT DELIVERY APPROACH

1. Assessment Initiation

<u>Purpose</u>: Clarify and define strategies and objectives, ensure executive sponsors clarity on project goals and measurements.

- Key Stakeholder interviews
- Secondary/Point of Sale owner interviews, including Finance, IT
- Establishment and agreement on project goals/objectives from executive team
- Establish and clarify Assessment Team Roles and Responsibilities (combination of Active and IVGID resources)
- Review Organizational Change Management capabilities and commitment
- Establish/confirm timeline and budget expectations, determining depth and breadth of assessment, along with capabilities of system and process change across IVGID.

<u>Staffing Plan</u>: Utilizing Enterprise/Solution architects via on site sessions, combined with Project Manager to create a detailed Assessment plan and timeline.

2. Assessment Execution

<u>Purpose</u>: Focused on project goals, perform functional and system analysis of current Point Of Sales and integrations, affected business departments and stakeholders.

- Formal review of Ordinance 7 with appropriate IVGID resource(s)
- Perform on site walkthroughs of business process for in scope Point of Sale and integrated systems
- Review and confirm any current functional or technical design documents including key integrations
- Document any key areas not currently captured within existing IVGID documentation as relevant to future modelling
- Capture, document and clarify current state to end state functional requirements along with any roadmap functional requirements.
- Capture and document any potential future needs, as input to solution design scalability and capabilities.
- Identify and document infrastructure and technical requirements/limitations
- Review current operational capabilities of IVGID to ensure solution design is operationally manageable or future operational model is considered within Execution planning
- Presentation of findings to Executive Sponsorship to clarify direction and scope of solution architecture, along with potential prioritization.

<u>Staffing Plan</u>: Aligning to Solution Architect/Business/System Analyst skill sets, perform a mixture of on site and remote sessions. These sessions will vary dependent on areas of focus as outlined in the Assessment Initiation. Oversight and reviews provided ongoing by the Enterprise Architect.

3. Solution Architecture

<u>Purpose</u>: Create and vet solution design options with the IVGID stakeholders, presenting options for a scaled, phased approach to solution implementation.

- Establish key areas of focus and document system and functional design requirements for solution design
- Work with potential vendors to solicit solution design
- Evaluate vendor options and short list based on gathered assessed artifacts
- Work with vendors to create solution options and proposal reviews
- Provide final solution option and recommendations to IVGID stakeholders

<u>Staffing Plan</u>: Solution and Enterprise Architect work with vendors and where applicable technical experts to create target architecture options and phased options with budget and timeline overviews.

4. Implementation Plan and Proposal

<u>Purpose</u>: Provide an Implementation plan for the IVGID stakeholders, providing budget & timeline inclusive of project management, oversight, deliverable milestones, travel, and both project execution and operational costs for software, hardware and support.

- Create project approach and recommended project framework
- Establish project team structure and roles and responsibilities, inclusive of all vendors, contractors, and IVGID resources focused both on project execution and operational model
- Ensure commitment of IVGID Executive Sponsors and Organizational Change Management team
- Create project budget and execution plan broken down by execution phase.
- Presentation and refinement with IVDIG stakeholders

<u>Staffing Plan</u>: Solution and Enterprise Architect work with vendors and where applicable technical experts to create target architecture options and phased options with budget and timeline overviews.

FINANCIAL DATA

ACTIVE Network is a subsidiary of Global Payments Inc. (NYSE: GPN). Global Payments is a leading worldwide provider of payment technology services that deliver innovative solutions driven by customer needs globally. As a member of the S&P 500, Global Payments does business with merchants and partners in 30 counties throughout North America, Europe, the Asia-Pacific region and Brazil. As a public traded organization, Global Payments do not include the financial statements of subsidiaries, however, we are authorized to provide the link to Global Payments' 10-k, as filed with the SEC:

Refer to the Investor Relations section on Global Payments website

https://investors.globalpaymentsinc.com/overview/default.aspx

PROJECT COST AND SCHEDULE

The proposal must contain the cost estimate the Scope of Work and the estimated timeline for completion of the required analysis, recommendations and formulation of the cost and timeline estimate for the potential implementation of the recommendations.

The following represents the project approach as represented in the Project Delivery Approach. As part of the delivery there will be multiple on site visits coupled with remote project delivery. Duration proposals will be dependent on availability of IVGID resources.

Project Phase	Duration	Cost
Assessment Initiation	3 weeks	\$39,000
Assessment Execution	6 weeks	\$69,000
Solution Architecture	6 weeks	\$76,500
Implementation Plan and Proposal	3 weeks	\$40,500
Project Management	Ongoing	\$22,500
Projected Travel Costs		\$25,000
Project Total		\$272,500

APPENDICES

Terms and Conditions

Please see the following pages for a sample of ACTIVE's standard terms and conditions.

IT PROFESSIONAL SERVICES AGREEMENT

CLIENT INFORMATION			
ORGANIZATION FULL LEGAL NAME:		Address:	
CONTACT NAME:		TELEPHONE:	
EMAIL:			

NOTE: If Client is tax exempt, certificate must be provided along with signed contract.

In consideration of the mutual promises and covenants contained in this Agreement, Client and Active hereby agree to be bound by this Agreement. By signing below, Client acknowledges and confirms that it has read this Agreement.

CLIENT	ACTIVE NETWORK, LLC	
Signature:	Signature:	
Name:	Name:	
Title:	Title:	
Date:	Date:	

Active Network, LLC 5850 Granite Parkway, Suite 1200, Plano, TX 75024 Telephone: (469) 291-0300

IT Professional Services Agreement

Your professional services relationship with Active, and Active's provision of Professional Services as specified in an applicable Statement of Work ("SOW"), are subject to the terms and conditions set forth herein and are between you and Active. Capitalized terms are defined in Section 7 below, unless otherwise defined within the body of this Agreement, the applicable SOW. In order for Active to provide you (referred to herein as "Client") with Professional Services, you must first agree to this Agreement. You represent and warrant that you have the necessary and full right, power, authority, and capability to accept this Agreement, to bind your organization, and to perform your obligations hereunder. You can accept this Agreement by: (a) clicking to accept or agree to this Agreement, where this option is made available to you by Active; (b) where a link to this Agreement appears in an order form, SOW, or other document provided to you by Active, by signing such document; (c) by signing this Agreement, if there is a designated area to sign; or (d) by actually utilizing the features or functionality of any Professional Services provided by Active to you. In the case of (d), you understand and agree that Active will treat your use of any Products containing said Professional Services, or the Professional Services, or the Professional Services themselves, as applicable, as acceptance of this Agreement from that point onwards. You may not use the Products containing said Professional Services, or the Professional Services under the laws of the United States or other countries, including the country in which you are a resident or from which you use the Products and/or Professional Services. You may not use the Products containing said Professional Services if you do not accept this Agreement. By accepting this Agreement, you agree as follows:

1. AGREEMENT STRUCTURE AND SCOPE.

- 1.1. This Agreement. This Agreement establishes the terms and conditions to which the parties have agreed to in order to facilitate the providing of Professional Services by Active to Client. Additional Product-specific terms and conditions may be set forth in one or more documents referenced in an applicable Product Attachment and/or any corresponding General Terms. All references to the "Agreement" mean this document, inclusive of any SOWs.
- 1.2. Incorporation of SOWs. The parties may enter into new SOWs from time to time. Each SOW incorporates the terms of this Agreement.
- 1.3. Incorporation of EULAs. Client's use of any Third Party Products hereunder may be subject to, and Client will comply with, this Agreement and any applicable Third Party EULA(s).
- 1.4. Affiliates. Client's Affiliates may order Professional Services from Active (or one of Active's Affiliates) by entering into a SOW. In the event that a Client Affiliate enters into an SOW with Active (or an Affiliate of Active), reference in this Agreement to "Client" and "Active" will mean the respective entity that accepts (as described in the Preamble) the applicable SOW. Each such SOW will be deemed to be a separate agreement.

2. FINANCIAL TERMS.

- 2.1. Fees; Payment Terms; Currency. Fees, currency, and payment terms are specified in the applicable SOW. Unless otherwise specified in a SOW, all amounts owed by Client that are not directly collected by Active are due from Client within 30 days from the date of the applicable invoice. Past due fees will accrue interest at the lesser of the annual rate of 10% per annum or the maximum amount permitted by applicable law. In the event of any non-payment or delay in paying a fee, Client agrees to reimburse Active for any fees and expenses incurred in its collection efforts. Payment of fees is under no circumstances subject to or conditioned upon the delivery of future Professional Services or functionality.
- 2.2. Taxes. The prices in this Agreement do not include Taxes. Client is responsible for and agrees to pay any and all Taxes. If Client is tax-exempt, Client will send Active a copy of its valid tax-exempt certificate (or, as applicable, its reseller's certificate) prior to execution of any SOW. Client is solely responsible for determining which, if any, Taxes apply to Client's use of the Professional Services and for collecting, remitting, and reporting the correct amounts of all such Taxes to the applicable governmental authorities, even if Active provides Client with tools that assist Client in doing so. In the event that a governmental authority requires Active to pay any Taxes attributable to Client's use of the Professional Services, Client agrees to defend, indemnify, and hold Active harmless from all such Taxes and all costs and expenses related thereto.

3. LIMITED RIGHTS AND OWNERSHIP; CLIENT ACKNOWLEDGEMENTS; INDEMNIFICATION.

- 3.1. Reservation of Rights. All rights not expressly granted in this Agreement are reserved by Active and its licensors. Client acknowledges that: (a) only Professional Services will be provided under this Agreement and are licensed to Client, and not sold to Client, (b) Client acquires only the right to utilize the Professional Services in accordance with this Agreement, and Active and/or its licensors or subcontractors will retain sole and exclusive ownership of and all rights, title, and interests in the Professional Services, including the following: (i) all Intellectual Property embodied or associated with the Professional Services, (ii) all deliverables and work product associated with the Professional Services, including the source and object codes, logic, and structure, contain and constitute valuable trade secrets of Active and its licensors.
- 3.2. Restrictions. Unless otherwise set forth in a EULA or SOW, Client will not itself, or through any Affiliate, employee, consultant, contractor, agent, or other third party: (a) sell, resell, distribute, host, lease, rent, license, or sublicense, in whole or in part, the Professional Services; (b) decipher, decompile, disassemble, reverse assemble, modify, translate, reverse engineer, or otherwise attempt to derive source code, algorithms, tags, specifications, architecture, structure, or other elements of the Professional Services in whole or in part, for competitive purposes or otherwise; (c) allow access to, provide, divulge, or make available the Professional Services to any user other than those who are licensed to have such access; (d) write or develop any derivative works based upon the Professional Services; (e) modify, adapt, translate, or otherwise make any changes to the Professional Services or any part thereof; (f) use the Professional Services to provide processing services to third parties, or otherwise use the same on a service bureau basis; (g) disclose or publish, without Active's prior written consent, (i) performance or capacity statistics, or the results of any benchmark test performed on the Professional Services, or (ii) the terms (but not the existence) of this Agreement or other valuable trade secrets of Active or its licensors; (h) without Active's prior written consent, perform or disclose or cause to be performed or disclosed any information related to any security penetration or similar tests; (i) disclose or otherwise use or copy the Professional Services except as expressly permitted herein; (j) remove from any Professional Services identification, patent, copyright, trademark, or other notices or circumvent or disable any security devices' functionality or features; (k) contest or do or aid others in contesting or doing anything which impairs the validity of any proprietary or Intellectual Property rights, title, or interests of Active in and to any Products; (l) use the Profe

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circumvent any use restrictions; or (n) except as expressly permitted by this Agreement, use the Professional Services for hosting purposes. Further, Client will: (a) not use the Professional Services to transmit, publish, or distribute any material or information: (i) for which Client does not have all necessary rights and licenses, including any material or information that infringes, violates, or misappropriates the intellectual property rights of any third party; (ii) that contains a computer virus or other code, files, or programs designed to disrupt or interfere with the functioning of the Professional Services; (iii) that is inaccurate or misleading; (iv) that is or that may reasonably be perceived as being harmful, threatening, offensive, obscene, or otherwise objectionable; (v) that contains a virus or malicious code; or (vi) that includes the private information of another without express permission, including but not limited to contact information, social security numbers, credit card numbers or other information which a reasonable person would consider private in nature; (b) not attempt to gain access to any systems or networks that connect to the Professional Services so the intended use; (c) not engage in any activity that interferes with or disrupts the Professional Services; (d) not use the Professional Services S in violation of the CAN-SPAM Act, Canadian Anti-Spam Legislation, or any other applicable laws pertaining to unsolicited email, SMS, text messaging or other electronic communications. Client hereby grants to Active a limited license to use information provided by Client relating to Client's organization and/or events operated by Client, which may include content regarding the event, Client's organization's name, trademarks, service marks, and logo, in connection with the promotion of Client's organization or events and the Professional Services that Active provides. Client acknowledges and agrees that some or all of the Professional Services may be completed by Active or Active's affil

- 3.3. Indemnification. Client will indemnify, defend, and hold harmless Active from and against all liabilities, damages, and costs (including settlement costs and reasonable attorneys' fees) arising out of: (i) a claim that Client brand features or Client intellectual property of any type infringes or misappropriates any patent, copyright, trade secret or trademark of a third-party; (ii) any deficiency (including penalties and interest) relating to Taxes that are the responsibility of Client, (iii) a claim alleging facts that would constitute a breach by Client, or Client's subcontractors, of this Agreement; (iv) injury or death to a person or damage to property resulting from the negligence or any act or omission by Client in connection with the Professional Services; (v) any violation of the Law by Client or Client's affiliates, agents, or other personnel; or (vi) Active's use of any Client content, data, or information, or Active's use of directions, instructions, plans, or suggestions of Client, provided that such use complies with the requirements of this Agreement.
- 3.4. Enforcement. Client will (a) ensure that all users of Professional Services comply with the terms and conditions of this Agreement; (b) promptly notify Active of any actual or suspected violation thereof; and (c) cooperate with Active with respect to any investigation and enforcement of this Agreement.

4. DISCLAIMERS AND LIMITATION OF LIABILITY.

4.1 EXCEPT AS OTHERWISE SET FORTH HEREIN AND TO THE EXTENT PERMITTED BY APPLICABLE LAW, YOU ACKNOWLEDGE AND AGREE THAT THE PROFESSIONAL SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. THE WARRANTIES, IF ANY, SET FORTH HEREIN ARE LIMITED TO THEIR EXPRESS TERMS AND ARE IN LIEU OF, AND ACTIVE, ITS LICENSORS, AND SUPPLIERS EXPRESSLY DISCLAIM TO THE MAXIMUM EXTENT PERMITTED BY LAW, ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, ORAL OR WRITTEN, INCLUDING ANY (a) WARRANTY THAT THE PROFESSIONAL SERVICES ARE ERROR-FREE OR "BUG"-FREE, ACCURATE, SECURE, OR RELIABLE; (b) WARRANTY THAT THE PROFESSIONAL SERVICES WILL OPERATE WITHOUT INTERRUPTION; (c) WARRANTY THAT ALL ERRORS WILL BE CORRECTED OR THAT THE PROFESSIONAL SERVICES WILL COMPLY WITH ANY LAW, RULE, OR REGULATION; (d) IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, OR NON-INFRINGEMENT; (e) IMPLIED WARRANTIES ARISING FROM STATUTE, COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE OF TRADE; AND (f) WARRANTY THAT THE PROFESSIONAL SERVICES WILL MEET CLIENT'S REQUIREMENTS. ACTIVE WILL NOT BE LIABLE FOR INDIRECT DAMAGES OR LOSSES (IN CONTRACT, STATUTE, TORT, OR OTHERWISE), INCLUDING DAMAGES FOR LOST PROFITS, LOST SAVINGS, COST OF REPLACEMENT SERVICES, LOST DATA, LOSS OF USE OF INFORMATION OR SERVICES, OR ANY INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE, OR SPECIAL DAMAGES, WHETHER OR NOT ACTIVE HAS PREVIOUSLY BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. HOWEVER, SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, SO THE ABOVE LIMITATION ONLY APPLIES WHERE ALLOWED. TO THE EXTENT PERMITTED BY APPLICABLE LAW, ACTIVE'S TOTAL AGGREGATE LIABILITY FOR ALL MATTERS ARISING FROM OR RELATED TO THIS AGREEMENT IS LIMITED TO (I)THE AMOUNT OF FEES ACTUALLY PAID BY CLIENT AS CONSIDERATION FOR THE PROFESSIONAL SERVICES UNDER THE APPLICABLE SOW GIVING RISE TO SUCH CLAIMS DURING THE 12 MONTH PERIOD PRECEDING THE DATE ON WHICH THE FIRST CAUSE OF ACTION AROSE, OR (II) IF NO SUCH PAYMENTS HAVE BEEN MADE OR SUCH AMOUNTS CANNOT BE CALCULATED, \$10,000 U.S. DOLLARS (OR THE EQUIVALENT THERETO AS DETERMINED BY THE APPLICABLE COUNTRY'S CURRENCY), AS APPLICABLE, NOTWITHSTANDING THE ABOVE, IF YOU RESIDE OUTSIDE OF THE U.S., THIS DOES NOT AFFECT ACTIVE'S LIABILITY FOR DEATH OR PERSONAL INJURY ARISING FROM ITS NEGLIGENCE, NOR FOR FRAUDULENT MISREPRESENTATION, MISREPRESENTATION AS TO A FUNDAMENTAL MATTER, OR ANY OTHER LIABILITY WHICH CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW. EXCEPT AS MAY OTHERWISE BE AGREED BY THE PARTIES IN WRITING, NEITHER PARTY GUARANTEES THE OTHER PARTY, OR SHALL BE HELD LIABLE FOR, ANY REVENUE, LEVEL OF EXPOSURE, DOWNLOADS, SALES, END USER OR LICENSEE SATISFACTION, SUCCESSFUL IMPLEMENTATIONS, OR INSTALLATIONS WITH RESPECT TO ANY PROFESSIONAL SERVICES UNDER THIS AGREEMENT, OR ANY SOW HEREUNDER.

4.2 TO THE EXTENT THIS AGREEMENT IS GOVERNED BY ENGLISH LAW, THE FOLLOWING APPLIES: ACTIVE IS LIABLE UNDER APPLICABLE STATUTORY PROVISIONS FOR INTENT AND GROSS NEGLIGENCE. THE SAME APPLIES TO ASSUMPTIONS OF GUARANTEES, STRICT LIABILITY, OR INJURY TO LIFE, LIMB, OR HEALTH. ACTIVE IS LIABLE FOR ANY NEGLIGENT BREACHES OF ESSENTIAL CONTRACTUAL OBLIGATIONS BY ACTIVE BUT THE AMOUNT SHALL BE LIMITED TO THE TYPICALLY OCCURRING FORESEEABLE DAMAGE. ANY ADDITIONAL LIABILITY OF ACTIVE IS EXCLUDED.

4.3 TO THE EXTENT THIS AGREEMENT IS GOVERNED BY AUSTRALIAN LAW, THE FOLLOWING APPLIES: EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT AND EXCEPT FOR ANY CONDITION OR WARRANTY THE EXCLUSION OF WHICH COULD BE VOID OR OTHERWISE CONTRAVENE THE TRADE PRACTICES ACT 1974 (CTH) OR ANY OTHER APPLICABLE LAW ("NON EXCLUDABLE CONDITION"), ALL SOFTWARE AND SERVICES OF ACTIVE ARE PROVIDED TO YOU ON AN "AS-IS" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. EXCEPT FOR ANY NON-EXCLUDABLE CONDITION OR OTHERWISE AS CONTAINED IN THIS AGREEMENT, ACTIVE EXPRESSLY DISCLAIMS ANY WARRANTY THAT THE USE OF ITS SOFTWARE OR SERVICES WILL BE UNINTERRUPTED OR ERROR FREE OR THAT THE SPECIFICATIONS WILL MEET YOUR REQUIREMENTS. WHERE LEGISLATION IMPLIES INTO THIS AGREEMENT ANY NON-EXCLUDABLE CONDITION, ACTIVE'S LIABILITY FOR ANY BREACH OF SUCH NON-EXCLUDABLE CONDITION WILL BE LIMITED AT ACTIVE'S SOLE DISCRETION TO ONE OR MORE OF THE FOLLOWING: (I) IN THE CASE OF GOODS, ANY ONE OR MORE OF THE FOLLOWING: (I) THE REPLACEMENT OF THE GOODS OR OF ACQUIRING EQUIVALENT GOODS; (II) THE REPAIR OF THE GOODS; (III) THE PAYMENT OF THE COST OF REPLACING THE GOODS OR OF ACQUIRING EQUIVALENT GOODS; (IV) THE PAYMENT OF THE COST OF HAVING THE GOODS REPAIRED; (2) IN THE CASE OF SERVICES: (I) THE SUPPLYING OF THE SERVICES AGAIN; OR (IV) THE PAYMENT OF THE COST OF HAVING THE SERVICES SUPPLIED AGAIN.

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Contract #	

(B) ACTIVE SHALL NOT BE LIABLE FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR SPECIAL OR PUNITIVE DAMAGES INCLUDING WITHOUT LIMITATION DAMAGES FOR LOST PROFIT, LOSS OF GOODWILL, WORK STOPPAGE, DATA LOSS, ANTICIPATED SAVINGS OR COMPUTER FAILURE WHETHER IN AN ACTION IN CONTRACT OR TORT, EVEN IF ACTIVE OR ANY OTHER PERSON HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF SUCH LOSS OUGHT REASONABLY TO HAVE BEEN IN THE CONTREPLATION OF THE PARTIES AT THE AGREEMENT DATE. DESPITE ANY OTHER PROVISION CONTAINED IN THIS AGREEMENT, ACTIVE'S TOTAL AGGREGATE LIABILITY FOR ALL MATTERS ARISING FROM OR RELATED TO THIS AGREEMENT IS LIMITED TO THE AMOUNT OF FEES ACTUALLY PAID BY YOU AS CONSIDERATION FOR THE SOFTWARE AND SERVICES GIVING RISE TO SUCH CLAIM DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE DATE ON WHICH THE CAUSE OF ACTION AROSE.

4.4 FOR THE PURPOSES OF THIS <u>SECTION 4</u> AND ANY INDEMNIFICATION PROTECTING ACTIVE UNDER THIS AGREEMENT, REFERENCE TO ACTIVE WILL ALSO INCLUDE ITS SUPPLIERS, SUBCONTRACTORS AND LICENSORS.

5. TERM AND TERMINATION.

- 5.1. Term. The term of this Agreement will be set forth in the applicable SOW.
- 5.2. Termination. Either party may terminate this Agreement, including any or all SOWs executed hereunder, immediately upon written notice: (a) in the event that the other party commits a non-remediable material breach of this Agreement and/or the applicable SOW, or if the other party fails to cure any remediable material breach or provide a written plan of cure acceptable to the non-breaching party within 30 days of being notified in writing of such breach, except for breach of Section 2 of this Agreement which will have a 10 day cure period; or (b) in the event of institution of bankruptcy, receivership, insolvency, reorganization, or other similar proceedings by or against either party under any section or chapter of the United States Bankruptcy Code, as amended, or under any similar laws or statutes of the United States or any state thereof, if such proceedings have not been dismissed or discharged within 30 days after they are instituted; or the insolvency or making of an assignment for the benefit of creditors or the admittance by either party of any involuntary debts as they mature or the institution of any reorganization arrangement or other readjustment of debt plan of either party not involving the United States Bankruptcy Code. Following termination of this Agreement or SOW (for whatever reason), if requested by Active, Client will certify that it has returned or destroyed all copies of the applicable Professional Services and acknowledges that its rights to use the same are relinquished. Termination for any reason will not excuse Client's obligation to pay in full any and all amounts due, nor will termination by Active result in a refund of fees paid.

6. GENERAL PROVISIONS.

- 6.1. U.S. Government Restricted Rights. The Professional Services and all features and functionality therein are provided with restricted rights. Use, duplication, or disclosure by the U.S. Government is subject to restrictions as set forth in subparagraph (c) of The Rights in Technical Data and Computer Software clause at DFARS 252.227-7013, or subparagraphs (b)(1) and (2) of the Commercial Computer Software Restricted Rights at 48 CFR 52.227-19, as applicable. The Manufacturer is Active Network, LLC or one of its Affiliates or subsidiaries.
- 6.2. Suspension. Active will be entitled to suspend any or all Professional Services, including suspending its performance hereunder, upon 10 days' written notice to Client in the event Active reasonably believes that Client is in breach of this Agreement.
- 6.3. Force Majeure. Neither party will incur any liability to the other party on account of any loss, claim, damage, or liability to the extent resulting from any delay or failure to perform all or any part of this Agreement, if and to the extent such delay or failure is caused, in whole or in part, by events, occurrences, or causes beyond the reasonable control and without any negligence on the part of the party seeking protection under this subsection, including internet service provider or third party payment delays or failures, acts of God, strikes, lockouts, riots, acts of war, terrorism, earthquake, fire, or explosions. Dates by which performance obligations under any SOW are to be met will be extended for a time equal to the time lost due to the delay so caused.
- 6.4. Assignment. Active may assign this Agreement and any or all of its rights and obligations herein without Client's approval. Client may not assign or transfer this Agreement without the prior written consent of Active.
- 6.5. Export; Anti-Bribery. The Professional Services may include encryption software or other encryption technologies that may be controlled for import, transfer, export, or other purposes under Export Laws. Client may not export, re-export, transfer, or re-transfer or assist or facilitate in any manner the export, re-export, transfer, or re-transfer or assist or facilitate in any manner the export, re-export, transfer, or re-transfer or assist or facilitate in any manner the export, re-export, transfer, or re-transfer or assist or facilitate in any manner the export, re-export, transfer, or re-transfer or assist or facilitate in any manner the export, re-export, transfer, or re-transfer or assist or facilitate in any manner the export, re-export, transfer, or locality in a country on Canada's Area Control List; (b) to any country subject to U.N. Security Council embargo or action; (c) contrary to Canada's Export Control List Item 5505; (d) to countries subject to U.S. economic sanctions and embargoes; and (e) to persons or entities prohibited from receiving U.S. exports or U.S.-origin items, including, to any person or entity appearing on the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List; the Bureau of Industry and Security's Denied Persons List; Entity List, or Unverified List; or the Department of State Debarred List. Client hereby represents and covenants that: (i) Client is eligible to access the Professional Services under Export laws and all other applicable laws; and (ii) Client will import, export, re-export, transfer, or re-transfer the Professional Services to, or use or access the Professional Services in any country or territory only in accordance with Export Laws and all other applicable laws. Furthermore, Client hereby represents and covenants that, in connection with its respective activities conducted under this Agreement, it will comply with the U.S. Foreign Corrupt Practices Act of 1977, as amended, the U.K. Bribery Act of 2010, as amended, and the
- 6.6. Notices. Any notices required to be given under this Agreement will be in writing sent to the address on file with Active for Client or, in the case of Active, to the address set forth in Section 7 of this Agreement to the attention of Legal Department. Notices will be deemed received the next day if sent via overnight mail or courier with confirmation of receipt, or 3 days after deposited in the mail sent certified or registered.
- 6.7. Relationship. This Agreement is not intended to create a partnership, franchise, joint venture, agency, or a fiduciary or employment relationship. Neither party may bind the other party or act in a manner which expresses or implies a relationship other than that of independent contractor.

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Contract	#		

- 6.8. Severability. If any part or provision of this Agreement is held to be unenforceable, illegal, or invalid by a court of competent jurisdiction for any reason whatsoever, (a) the validity, legality, and enforceability of the remaining provisions of this Agreement (including all portions of any provisions containing any such unenforceable provision that are not themselves unenforceable, will not in any way be affected or impaired thereby, and (b) to the fullest extent possible, the unenforceable, illegal, or invalid provision will be deemed modified and replaced by a provision that approximates the intent and economic effect of the unenforceable, illegal, or invalid provision and this Agreement will be deemed amended accordingly.
- 6.9. Survival. The following provisions will survive any termination, cancellation, or expiration of this Agreement: Sections 2, 3, 4, 5, 6.6, 6.8, 6.9, 6.11, 6.13, 6.14, 6.15, 6.17 of this Agreement, and such other provisions that should reasonably survive termination, cancellation, or expiration hereof.
- 6.10. Amendments; No Waiver. No amendment or waiver of any provision of this Agreement will be effective unless it is in writing and signed by the party against which it is sought to be enforced.
- 6.11. Entire Agreement. This Agreement constitutes the parties' entire agreement relating to its subject matter. It cancels and supersedes all prior or contemporaneous oral or written communications, agreements, requests for proposals, proposals, conditions, representations, and warranties, or other communication between the parties relating to its subject matter as well as any prior contractual agreements between the parties. No modification to this Agreement will be binding unless it is in writing and includes a signature by an authorized representative of each party. All pre-printed terms of any Client purchase order, business processing document, or on-line terms will have no effect. There have been no material representations or statements by any person or party to this Agreement as an inducement for a party hereto to accept this Agreement other than what is expressly set forth in writing herein.
- 6.12. No Third Party Beneficiaries. This Agreement is for the benefit of the parties and their successors and permitted assigns, and does not confer any rights or benefits on any third party, including any employee of a party, any client of a party, or any employee of a client of a party. Notwithstanding the above, the parties acknowledge that all rights and benefits afforded to Active under this Agreement will apply equally to its licensors, subcontractors and suppliers, and the owner of the Third Party Products with respect to the Third Party Products, and such third parties are intended third party beneficiaries of this Agreement, with respect to the Third Party Products as applicable.
- 6.13 Governing Law and Venue. Except as set forth below, this Agreement will be governed by the laws of the State of Texas, without giving effect to the conflict of law provisions thereof. The parties irrevocably agree that any legal action or proceeding relating to this Agreement will be instituted only in any state or federal court in Dallas County, Texas. Neither the United Nations Convention of Contracts for the International Sale of Goods nor the Uniform Computer Information Transactions Act will apply to this Agreement. THE PARTIES HERETO IRREVOCABLY WAIVE ANY AND ALL RIGHTS TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT. Notwithstanding the above, for purposes of this Agreement, certain of the terms and conditions will vary depending on the location of the Client. If a country or term is not specified below, then the Governing Law and Venue set forth above shall apply.

If your principal place of business is in:	The governing law is:	The courts having exclusive jurisdiction are:
Canada	Province of British Columbia	Province of British Columbia
United Kingdom, Ireland, Germany, France, or Austria	England	England
Singapore	Singapore	Singapore
New Zealand	England	England
Hong Kong	Hong Kong	Hong Kong
Australia	New South Wales	Sydney, New South Wales
Switzerland	England	England
Denmark	England	England
Netherlands	England	England
Spain	England	England
Sweden	England	England

- 6.14 Order of Precedence. To the extent any terms and conditions of this Agreement conflict with the terms and conditions of any SOW, the provisions of this Agreement will control as it relates to Professional Services. To the extent any provision of this Agreement conflict with the provisions of a Third Party EULA as it relates specifically to any such Third Party Products, the Third Party EULA will control.
- 6.15 Interpretation. Any reference to a statutory provision includes a reference to any modification or re-enactment of it from time to time. The headings and pronouns contained herein are for convenience and ease of reference only and will not affect the construction or interpretation of this Agreement. The word 'including' in this Agreement means 'including, without limitation." All references to days means calendar days. This Agreement will not be construed in favor of or against a party based on the author of the document.
- 6.16 Counterparts. This Agreement and each SOW, and any exhibits thereto may be executed in one or more counterparts, each of which will constitute an enforceable original of this Agreement, and the parties agree that electronic or digital signatures, as well as pdf scanned copies of signatures, will be as effective and binding as original signatures.
- 6.17 Remedies Cumulative; Injunctive Relief. All rights and remedies provided in this Agreement are cumulative and not exclusive of any other rights or remedies that may be available to the parties, whether provided by law, equity, statute, in any other agreement between the parties or otherwise. Furthermore, in the event of a breach or threatened breach of the intellectual property obligations in this Agreement, Active, in addition to any and all other rights (at law or in equity) which may be available, will have the right of injunctive relief and other appropriate equitable remedies to restrain any such breach or threatened breach, without the requirement of posting a bond.
- 7. DEFINITIONS.

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Contract # ____

"Active" means Active Network, LLC, or, if your principal place of business is in Canada, The Active Network, Ltd., together with their Affiliates with a principal place of business at 5850 Granite Parkway, Suite 1200, Plano, TX 75024.

"Affiliates" of a designated corporation, company, partnership, or other entity means all entities which control, are controlled by, or are under common control with the named entity, whether directly or through one or more intermediaries. For purposes of this definition "controlled" and "control" mean ownership of more than 50% of the voting capital stock or other interest having voting rights with respect to the election of the board of directors or similar governing authority.

"Agreement" means this Agreement, together with all SOWs accepted and entered into by the parties (as described in the Preamble).

"Client" means the individual who accepts this Agreement (as described in the Preamble) and any business entity on behalf of which such individual accepts this Agreement.

Desktop Software" means each Active-developed and/or Active-owned software product in machine readable object code (not source code) that is installed on desktop(s) or server(s) controlled by Client, the Documentation for such product, and any Updates and Upgrades thereto.

"Documentation" means the user instructions, release notes, manuals, or on-line help files in the form generally made available by Active, regarding the use of the applicable Software or Services, as updated by Active from time to time.

"Effective Date" means the date that Client accepts this Agreement (as described in the Preamble).

"Export Laws" means export control laws and regulations of the countries and/or territories in which Active operates or in which the Professional Services are used, accessed, or from which the Professional Services are provided.

"Hardware" means computer hardware, equipment, and/or utilities supplied by Active pursuant to an SOW.

"Intellectual Property" means any and all intellectual property and proprietary rights (in whole or in part) recognized in any country or jurisdiction in the world, now or hereafter existing, and whether or not perfected, filed, or recorded, including inventions, technology, patent rights (including patent applications, divisions, and disclosures), copyrights and all works of authorship (whether or not copyrightable), moral rights, trade secrets, trademarks and other indicators of source (and the goodwill associated therewith), service marks, trade dress, logos, methodologies, procedures, processes, know-how, tools, utilities, techniques, protocols, various concepts, ideas, methods, models, templates, software, source code, algorithms, tools, utilities, the generalized features of the structure, sequence and organization of software, user interfaces and screen designs, layouts, general purpose consulting and software tools, utilities and routines, and logic, coherence and methods of operation of systems, training methodology and materials, which Active has created, acquired, or otherwise has rights in, and may, in connection with the performance of Professional Services hereunder, create, employ, provide, modify, create, acquire, or otherwise obtain rights in, and in each case includes any derivative works, alterations, and other modifications using, incorporating, based on, or derived from the foregoing.

"Maintenance Services" means the provision of Updates and Upgrades related to the Software all as more particularly set out in the applicable Product Attachment and/or SOW.

"Preamble" means the first paragraph of this Agreement.

"Products" means, collectively, SaaS, Desktop Software, Services, Hardware, and all other services, products, or materials provided by Active to Client under the terms of a General Terms or Product Attachment document.

"Professional Services" means the implementation, site planning, configuration, integration, and deployment of the Software or SaaS, training, project management, and other consulting services.

"SaaS" means (a) the software as a service which is hosted by Active or its hosting providers and which is accessed by Client and its users via the internet; (b) Active's web sites; and (c) associated services, as more fully described in an applicable Product Attachment. SaaS functionality is subject to change from time to time at Active's sole discretion.

"SOW" means the Statement of Work, quote, pricing form, web page, order form, or similar document and the terms and conditions contained therein "accepted" (as described in the Preamble) by the parties that describes order-specific information, such as a description of Professional Services ordered, features, options, license details and fees

"Software" means the SaaS and the Desktop Software, collectively.

"Support Services" means the provision of technical assistance for Software or Hardware as further described in an applicable Product Attachment and/or SOW.

"Taxes" means any and all applicable taxes, including sales, use, excise, withholding, assessments, stamp, transfer, value-added, duties, tariffs, export charges, import charges, and other taxes or assessments (however designated) imposed by any foreign, federal, provincial, state, or local governmental authority upon or applicable to Products arising out of this Agreement, other than those based on Active's net income.

"Third Party EULA" means the end user license agreement, if any, that accompanies the Third Party Products, which governs the use of or access by Client to the applicable Third Party Products.

"Third Party Products" means those hardware, firmware and/or software products, including updates and enhancements thereto, if any, owned by third parties, together with all user manuals and other documents accompanying the delivery of the Third Party Products.

"Updates" means bug fixes, patches, error corrections, minor releases, or modifications or revisions that enhance existing performance of the Software that are provided as part of Maintenance Services. Updates exclude Upgrades.

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Contract #		

"Upgrades" means a new Software release that contains major functionality enhancements or improvements; and which is designated by an incremental increase in the release number to the left of the decimal point (by way of example only, release 5.0 designates an Upgrade from release 4.x). Upgrades exclude new products, modules or functionality for which Active generally charges a separate fee.

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RFP Exceptions

Active Network, LLC ("Active" or "Proponent") is in general agreement with the concepts contained in the terms and conditions of the Solicitation RFP Point of Sale System dated August 25, 2023 for the Incline Village General Improvement District (the "RFP") and submits this proposal based on the understanding and condition that the Incline Village General Improvement District (the "Client") and Active will work together in a spirit of cooperation to discuss, clarify, and agree upon the specific scope of services, deliverables, pricing, schedules, responsibilities between the parties, assumptions, and contract terms (including legal terms and conditions, as well as insurance coverage amounts) applicable to the services described in this Response to the RFP prior to finalizing the arrangement between the parties. Please note that Active requests that Active's standard terms and conditions, a sample copy of which is attached to this proposal, form the base of the arrangement.

Active seeks to work with the Client to better understand, clarify, include and/or modify in any resulting contract several issues, including but not limited to the issues cited below. We are confident that through these discussions we can reach agreement on these issues in a timely and efficient manner as we have done previously in similar contracts with other similarly situated customers.

Active takes exception to the following terms, conditions and/or concepts in the RFP:

1. Section E of the RFP "Insurance Requirement", Exhibit C "Standard Services Agreement Example": The Proponent respectfully takes exception to the section/s and/or attachments listed and seeks to delete it in its entirety and replace with Active's standard terms and conditions (attached). The Proponent's offering is based upon utilizing the Proponent's template as a starting point since the Proponent's offering is nuanced and the Proponent's template reflects such. The Proponent is confident that the parties can work to find mutually acceptable terms and conditions based upon this approach. The proposed change will have no impact on the anticipated services.

Proponent hereby takes exception to any term or condition of the RFP which is in direct conflict with, or in addition to, Active's standard terms and conditions attached to Active's submission.

Active hereby reserves the right to take additional exceptions to the terms, conditions or concepts in the RFP, if necessary, at a future date.



OPPORTUNITY RISING

POINT OF SALE SYSTEM PROPOSAL FOR

INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT

Michael Parker, Partner

Moss Adams LLP 999 Third Avenue, Suite 2800 Seattle, WA 98104 (206) 302-6500

A – Cover Letter



Dear Heidi:

Thank you for the opportunity to discuss how Moss Adams LLP (Moss Adams) can assist Incline Village General Improvement District (District) with a point-of-sale system. Our team understands your needs, and we are excited about this opportunity to serve you. We're known for completing projects on schedule, on budget, and to specification.

Every business, managed well, has the potential for tremendous growth and durability. We know because it's our story too.

Moss Adams LLP has its origins in 1913, with its current formation as a Washington limited liability partnership in 1996. Our firm's history began the year President Woodrow Wilson signed the federal income tax into law. That same year, John G. McIntosh, CPA, set up a small Seattle practice to serve a booming Pacific Northwest timber industry. Through good times and bad, through two world wars and 19 US presidents, that practice steadily extended its reach—first regionally, then nationally—to serve the businesses and industries that built this country.

Today, that practice is Moss Adams, one of the largest accounting, consulting, and wealth management firms in the nation, dedicated to assisting clients with growing, managing, and protecting prosperity. But our principles remain the same as they were when we opened our doors more than a century ago: Consistently hire talented people, work hard to make a difference in our communities, and empower our clients to discover and claim success.

Our extremely high success rate for projects can be attributed to several key factors, including our:

- Ability to grasp and follow management's vision and organizational goals. We
 have deep expertise and offer a wide breadth of options. As a result, we have both
 the know-how and the flexibility to select and adapt the best solution to meet
 your needs.
- Commitment to establishing a thorough understanding of your needs through discovery and design discussions.
- Comprehensive and consistent approach to requirements gathering, assessments, strategic planning, project management, and change management.
- Firm-wide dedication to delivering value and ensuring customer satisfaction.

October 4, 2023

Heidi WhiteDistrict Clerk

Incline Village General Improvement District 893 Southwood Boulevard Incline Village, Nevada 89451 October 4, 2023

Heidi White District Clerk

Incline Village General Improvement District 893 Southwood Boulevard Incline Village, Nevada 89451 **RFP Exceptions.** This Proposal is contingent upon completion of the Moss Adams new client acceptance process and execution of a mutually agreeable contract.

With regard to the Professional Services Agreement, Moss Adams suggests: (i) providing for representation in lieu of warranties (§§3.2.8, 3.5.27); (ii) clarifying compliance with applicable laws (§§3.2.9; 3.5.26); (iii) focusing and clarifying any indemnification provisions and obligations (§§3.2.9, 3.5.6); (iv) clarifying insurance requirements to comport with existing policies, including providing for confidentiality of insurance structure (including deductibles, retention levels, and declaration pages), non-ownership of vehicles, additional insureds are added via blanket endorsement, limits are those specified by written contract, and notification only goes to primary insured (§3.2.10; RFP Project Overview §E); (v) records inspection focused on information pertaining to fees and expenses charged and access to records shall not include facilities or systems housing confidential information of Moss Adams or Moss Adams' other clients (§3.4); (vi) clarifying IVGID ownership of final deliverables and Moss Adams' ownership (and retention) of intellectual property, working papers, works in progress, and general skills and know-how (§3.5.3);); (vii) confirming any changes and further agreements will be made by mutual agreement of the parties (§3.5.4) (viii) following the American rule on attorneys' fees (§3.5.5); (ix) providing mutual limitation on liability (§3.5.24); and (x) deleting inapplicable provisions (such as §3.5.6.1 regarding design professionals).

We have successfully signed services agreements with thousands of clients and we commit to working in good faith to successfully negotiate a mutually agreeable contract on a timely basis should we be awarded this work.

Moss Adams is uniquely qualified to provide these services, and we firmly believe we offer the kind of special dedication, continuity, and commitment that inspires mutual trust and confidence in projects of this type.

Sincerely,

Michael Parker

Mill 8 PL -

Partner

(303) 965-7915

michael.parker@mossadams.com

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B – Company Background and Organization



At Moss Adams, we believe in the power of possible. As a business and personal advisory firm with 4,400 professionals across more than 30 locations, we work with clients to meet the rising challenges and opportunities of tomorrow. Through a full spectrum of accounting, consulting, and wealth management services, we bring the deep industry specialization and unconventional thinking our clients seek.

Since we put down roots in the Pacific Northwest more than 100 years ago, we've steadily expanded to serve clients across the nation and globally. Our full range of services includes accounting (assurance and tax), consulting (IT, strategy & operations, transactions, and specialty), as well as individual and institutional wealth management.

Moss Adams is one of the 15 largest US accounting and consulting firms and a founding member of Praxity, a global alliance of independent accounting firms providing clients with local expertise in the major markets of North America, South America, Europe, and Asia.

Full-Service Capabilities

We offer a full range of services and specializations that span accounting, consulting, and wealth management to suit your specific needs.

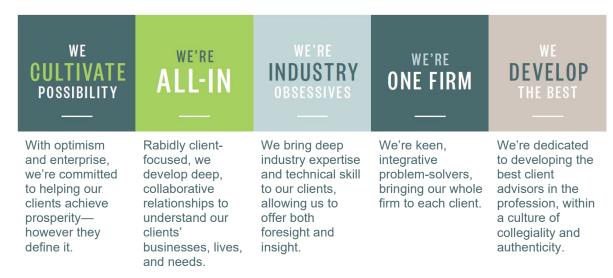


CONTACT INFORMATION

Name	Moss Adams LLP
Address	500 Dallas Street, Houston TX 77008
Contact Person	Michael Parker
Phone Number	(303) 965-7915
Email	michael.parker@mossadams.com
Website Address	www.mossadams.com

THE MOSS ADAMS MISSION

Our core values guide us in all we do at Moss Adams. They represent the qualities we look for in the people we hire, our beliefs about how we should conduct our business, and our aspiration to do our very best work. We hold ourselves accountable through our commitment to social responsibility.



Pillar and the Four Cornerstones

OUR VALUES

Our operating philosophies that guide our conduct. Our core values guide us in all we do at Moss Adams. They represent the qualities we look for in the people we hire, our beliefs about how we should conduct our business, and our aspiration to do our very best work.

We hold ourselves accountable through our commitment to social responsibility. This correlates to exceptional client service, which is reflected in the success and growth of both our firm as a whole and our enterprise system consulting group.

PILLAR is an acronym for:

Passion for excellence. Set high goals and standards; dedicate ourselves to high-quality work.

Integrity. The bedrock of trust; it's fundamental to our role as client service professionals and to serving the public interest.

Lifetime learning. Seek opportunities for professional and personal growth; continually develop our knowledge.

Leading by example. Act as mentors for others; respond to requests in a timely manner; honor our commitments.

Accountability. Accountable for performance standards and having a balanced life.

Respect. Respect others' time and avoid last-minute requests; act professionally and responsibly during stressful situations.

The Four Cornerstones are:



People. Employee retention; hire and train the best professionals and provide leadership development.

Clients. Passion to provide outstanding client service; a large part of our success and growth is based on the retention of invaluable clients.

Safety. The background of our safety initiative is integrity.

Growth. Growth provides opportunities for our employees, which in turn provides resources for our clients.

What Constitutes Success for Moss Adams

All of our firm's strategies are driven by our four cornerstones: people, clients, safety, and growth. Our success is measured by our ability to achieve the goals we set forth in each of these key areas.

People

Our business is only as good as our people, so we strive to attract and retain the right people by making Moss Adams a great place to work. Our high employee retention rate and the increasing rate at which we are admitting new partners each year are evidence that the many programs we've put in place—like skills training, leadership development, and succession planning—are working well.

Clients

Moss Adams is continually striving to maintain our high standard of client service. As our mission states, our standard is to achieve exceptional status in your view, based on our performance. Providing accurate and timely service, knowing your business and your industry, having the appropriate resources to meet your needs—these all play into our focus on serving clients. Our exceptional client retention rate and the positive results we receive from our annual client survey process are key indicators that we're meeting our client goals.

Safety

Safety is paramount at Moss Adams. We believe that an integral part of a great business is having professionals who know how to operate in a socially responsible manner that helps protect their careers, our clients, the community, and the firm. As a result, we have many programs in place to evaluate and maintain our safety standards.

In addition to the peer review process, we conduct annual internal quality assessments in which partners and senior managers from one office go to another office to review engagements for compliance with firm policies and generally accepted auditing standards. The results of these inspections are summarized and presented to our offices' leaders at an internal conference of our assurance service professionals. This conference helps all firm leaders learn about current trends and areas needing improvement.

We've established firm committees for both business assurance and tax, and these committees rigorously uphold the quality assurance measures set forth by the firm. These committees are responsible for staying abreast of all relevant regulatory changes and training for all firm professionals.

Growth

We must grow to add opportunities for our partners and employees and to meet our clients' everchanging needs. Through hiring and retaining the right people, keeping clients satisfied, and operating in a safe manner, we're successfully achieving our growth goals.

MAJOR LINES OF BUSINESS

Our Consulting Practice

Our full-service consulting team identifies and meets the needs of small- and middle-market organizations across all industries. With a focus on both strategy and effective implementation, our consulting services address a range of business transition challenges, including start-up, fast growth, turnaround, mergers, and generational transitions. By serving as both management consultants and technical advisors, we're able to navigate our clients through change processes that increase performance results and organizational capacity.

Through effective listening and counseling skills, we identify, clarify, and facilitate solutions that provide immediate results. In particular, we're recognized as advisory leaders in IT; strategic and business planning; business owner succession; organizational development and improvement; leadership development training and education; management consulting, coaching, and mentoring; valuation and appraisal; and change management.

MOSS ADAMS DIFFERENCE

The Moss Adams Service Philosophy

At Moss Adams, we're all in, personally engaging with clients to help them anticipate, prepare for, and embrace the future. We take the time to understand your business or individual situation, anticipate needs, and identify gaps before they become obstacles, so you can grow, manage, and protect your prosperity with confidence.

One of the ways we foster closer relationships with our clients is through a high level of partner involvement with each engagement. You get personal attention from our most experienced professionals,

who lend their proven technical skills, thoughtful guidance, and steady hand to your most complex business challenges.

And thanks to a staff-to-partner ratio that averages around ten to one, we've created an environment of intense professional development. This means our partners—and also our senior managers, managers, and other personnel—can provide the District with well-trained, seasoned, tested expertise.

From our clients, we expect total honesty. In return, we promise to be proactive, candid, accessible, and knowledgeable—always ready to share our expertise, but seeking first to listen to make sure we understand your business, its unique needs, and how we can help. Our professional skills are the foundation upon which we build a successful client relationship. It's the innovative way we apply those skills to your unique circumstances that sets Moss Adams apart.

Clear Benefits for Your Organization

The Benefit	How It Happens
More Efficiency and Effectiveness	We'll design an engagement plan that's unique to your organization and based on areas deemed to have the highest risk. During the audit, the focus is on assessing and testing these areas. This approach focuses efforts on what's most important to you and the users of your financial statements and audit reports.
More Senior-Level Attention	Our approach relies on greater partner and manager involvement. Senior-level professionals monitor and supervise the engagement, and partners conduct their reviews in real time.
More Flexibility	We build reasonable flexibility into the engagement timing to fit your schedule and needs.
More Relevant Analysis	We take the necessary time to analyze your operational issues, which allows us to provide valuable and practical insight from a third-party perspective.
More Timeliness and Efficiency	Our engagement teams use proven technology to provide an efficient and effective engagement.

PENDING LITIGATION

As with any large firm, Moss Adams is occasionally involved in addressing legal and regulatory issues. However, no action, suit, proceeding, inquiry, or investigation before or by any court or federal, state, municipal, or other government authority is pending, or to our knowledge is threatened against Moss Adams, related to or which would have a material effect upon the services contemplated herein.

C – Experience

For the last 20 years, IT services represent a core component of the Moss Adams consulting practice. Our consultants have extensive business and technology backgrounds, complemented by their systems expertise. We understand the benefits of automation and technology, as well as the risks.

Our IT professionals assist clients with planning system needs, selecting hardware and software, managing third-party vendor installations of hardware and software, and acting as an ongoing resource for your internal IT specialists. We're capable and available to handle entire projects or to provide occasional consultation services. To support our efforts, we bring technology and business consultants to the team who've successfully participated in the following:

- Alternatives analysis
- Complex technology assessments
- Dashboard development
- Data governance and strategy
- Data pipeline implementation
- **Implementations**
- Independent system acquisitions

- Network design and administration
- Organizational assessments
- Policy and procedure assessment
- Process improvement
- Security reviews
- Strategic planning
- System needs analysis
- Workflow re-engineering

Our team is comfortable with the unique requirements of the District's operating environment, and you can rest assured in the level of quality of the services you'll receive. Our team has earned recognition for similar engagements and has an established reputation for our services based on our discriminating analysis and track record of successful implementations.

Our consulting group has a reputation for value, objective analysis, and focused insight. Our extensive experience enables us to guide organizations efficiently and effectively through security assessments and procedural reviews to make realistic recommendations that clients can implement. As a result, we're often asked to address the most challenging issues facing management and operational teams.

Below is a sample of the range of services our group can provide:

	Enterprise Systems Consulting				
•	Workflow and business process reengineering Systems assessments	• Custo	ems integration om software opment	•	Management and operational reviews Vendor management
•	Systems evaluation, selection, and implementation	mana	orate performance gement and business gence		
•	Project management and quality assurance		bility studies and atives analysis		

	IT Consulting				
•	Cost-benefit analysis Technology assessments IT risk assessments IT governance	Performance auditsOrganizational developmentProfit leakage solutions	 SDLC and change management analysis E-commerce and mobile computing reviews 		
		Information Security			
•	Data classification Disaster recovery and business continuity planning Social engineering Intrusion detection reviews	 Network security design Penetration testing HIPAA security assessments Cloud security alliance audits IT security assessments 	 Security policy and procedure development and review Technology audits Compliance assessments (FISMA, NIST, COBIT, ITL, and ISO) 		
		IT Infrastructure			
•	Network architecture and design Infrastructure assessments IT strategic plans, steering committee planning, and participation	 Infrastructure architecture, design, and validation for business continuity planning and disaster recovery requirements Outsourced chief information officer or information security officer 	 On-site and remote network deployment services Server virtualization, storage, and recovery Desktop and application delivery Staff augmentation 		
IT Compliance					
•	Internal controls review IT internal audit Microsoft vendor DPR attestations	 PCI DSS QSA and ASV services Sarbanes-Oxley services SOC 1, SOC 2, and SOC 3 audits 	 SysTrust® and WebTrust® Agreed-upon procedures 		

System Selection Services

Our team of accomplished consultants combines extensive knowledge of business processes with an outstanding track record of providing support from system selection through implementation. Our project approach is guided by standard methodologies that, while tailored to each client's unique circumstances, have proven successful in hundreds of engagements.

APPROACH AND METHODOLOGY

We provide system selection services to organizations experiencing challenges with their legacy systems and considering more robust system options capable of supporting their business processes and future growth.

Our team of accomplished consultants combines extensive knowledge of business processes with an outstanding track record of providing system selection services. Our project approach is guided by a comprehensive framework that, while tailored to each client's unique circumstances, has proven successful in hundreds of engagements. This approach will structure the system selection and acquisition process in a way that delivers the critical decision support you need at each stage to make a rational, strategy driven, operationally minded, and risk aware decision.

Our System Selection Process

	Project Initiation	Internal Diligence	Provider Evaluation	Provider Engagement
Key Activities	 Stakeholder Team Creation Scope Confirmation Project Kickoff Meeting 	 Strategic Alignment Business Process Reviews Requirements Gathering Gap Analysis 	 RFP Development Requirements Confirmation Solution Option Identification RFP Distribution RFP Response Analysis 	 Demo Script Development Discovery Sessions Scored Demonstrations Reference Checking Selection and Negotiation
Decision Support	 Project Charter Project Steering Committee Project Team Confirmed Scope Project Plan 	 Strategic Objectives Prioritized Requirements Process Flow Objectives Day in the Life Scenario 	 Solution Provider Profiles Scored Requirements Requirement Risk Profile Initial Cost Estimates 	 Demo Score Analysis Requirement Risk Analysis Final Cost Estimates Reference Feedback

System Selection Best Practices

To maximize value for our clients, our team follows the best-practice guidelines listed below during our system selection engagements:

Tie business objectives to technology objectives

Focus on present and future business processes and associated technical requirements.

Determine universal clarity, understanding, and agreement on what's working well or can or should be improved.

Identify gaps and plan to close them.

Prioritize solutions (e.g., impact and timing: pre-implementation, during implementation, post-implementation) for any sources of pain or inefficiency and avoid automating inefficiency.

Leverage a cross-functional team, including senior management.

Provide strong project management.

Develop an approach that's vendor agnostic, yet vendor aware.

Deliver adequate change management through planning, communication, and knowledge transfer.

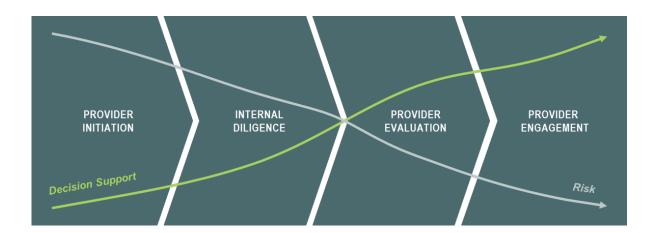
Achieve timely results with thoroughness, accuracy, and objectivity.

STRUCTURE SELECTION ADVANTAGES

We manage the entire selection process leveraging our structured selection methodology illustrated above, which allows your team to focus on strategic plan alignment and domain expertise contribution.

The structured process includes gates driven by decision support at each phase to ensure we are prepared to enter the next stage. This ensures a comprehensive inward analysis prior to provider evaluation and engagement to maximize the value of the time that your team invests with viable vendors.

Throughout the structured process, decision support elements are produced that may also be leveraged for implementation planning and execution particularly for areas with greater complexity and risk.



REFERRALS

Hear for yourself the unique experience our clients have in working with our firm. We're confident they'll share stories of how we make their lives easier, help them identify and take advantage of rising opportunities, and guide them to increased prosperity.

MT. HOOD MEADOWS RESORT	Derek Gibbs, CFO	(503) 337-2222 Ext1409
SAN MANUEL BAND OF MISSION INDIANS	Grace Wu, Director, Finance and Accounting	(909) 864-8933 Ext 652209

SPECIAL CONSIDERATIONS AND ENHANCING ATTRIBUTES

We pride ourselves on not only leveraging best practices, but also serving as a source of best practices in our engagements. We conduct these engagements in accordance with industry standards. Our firm has internal controls in place to make sure we deliver high quality, defensible products for all strategy and operations consulting engagements, including the following:

INDEPENDENCE	We accept engagements carefully and assign teams with equal care so that no external, personal, or organizational impairments exist in our work.
PROFESSIONAL JUDGMENT	We use careful planning to determine the type of assignment to be performed and the standards that apply to the work. This includes defining the scope of work, selecting a specific methodology, determining the type and amount of information to be gathered, and choosing appropriate benchmarks. We also maintain an attitude of professional skepticism, which includes a questioning mind and a critical assessment of evidence. Our standards of professional judgment demonstrate experience and integrity in the performance of all our engagements.
COMPETENCE	The proposed staff for your engagement are certified data management professionals who extensively work with the Data Management Body of Knowledge (DMBoK). Further, they are well qualified to serve technology entities. Our firm has a rigorous continuing professional education program so that all staff meet specified requirements for education. In addition to rigorous continuing professional education, our proposed staff members work in a supervised environment that fosters the development of experience and professionalism.
QUALITY CONTROL & ASSURANCE	We have a comprehensive process of internal quality control and supervision. All engagements are assigned to a qualified engagement manager. All deliverables, including workpapers, findings, recommendations, and final reports are processed through a critical quality control review process. In addition to these regular quality control and assurance controls, our firm participates in a regular external peer review process.

Our project methodology encompasses project planning, fieldwork, interviews, documentation of evidence to support our findings, commendations, recommendations for achieving improvements, and a project report that delivers high-impact analysis and an action plan.

D – Staffing Plan

Working with the right team of professionals makes all the difference to your engagement. The team members we've thoughtfully selected to meet your specific needs have years of relevant experience. But more than that, you'll find they bring an optimistic perspective focused on helping you explore and embrace emerging opportunity. Your Moss Adams team will personally engage with your team and bring a new level of energy and enterprise to your engagement.

We take great pride in the experienced professionals we assign to engagements. Both our new and longterm clients regularly compliment our staff on their industry knowledge and practical approach. Due to our low turnover average, we commit to returning staff on engagements whenever possible.

The District will be served by some of our firm's best client service partners and technical practitioners including:

Chuck Andrews, Director, Project Lead Michael Parker, Engagement Partner Mike Dorisio, Manager, Project Manager

Chuck Andrews, Director



Professional Experience

Chuck has over 20 years of experience delivering complex consulting projects, with extensive experience evaluating and implementing enterprise software systems across industries. He's highly experienced in enterprise system implementations, including ERP, CRM, learning management, and field service management. Chuck previously held senior-level positions responsible for needs analyses, system selection/implementation, and professional services management, among others. He was introduced to NetSuite in 2006 during a system selection for a national energy drink company. In addition to leading several NetSuite implementations since then, Chuck has run multiple businesses using NetSuite.

Education

BS, secondary education and biology, Florida Institute of Technology Bottom Line Project Management Executive Program

Michael Parker, Consulting Partner



Professional Experience

Michael has worked in the technology consulting industry for more than 25 years. He leads the Enterprise Systems Consulting group at Moss Adams where he provides consulting services related to enterprise resource planning, human capital management, client relationship management, and enterprise software to clients on a global and national basis.

Prior to joining Moss Adams, Michael was a leader in the cloud solutions practice of a Big Four firm, where his responsibilities included customer success, practice management, and revenue attainment. He's also held executive-level positions at CA Technologies, Newmerix, and PeopleSoft, where he focused on consulting management, customer success, and sales.

Michael is a Certified Employee Benefits Specialist (CEBS). He's been published in *Contact Professional Magazine* and spoken at events for PeopleSoft, SAP, Workday, Gartner, and Oracle.

Professional Affiliations

NetSuite SuiteSuccess Certified

Education

BS, computer science, University of Georgia

Mike Dorisio, Manager



Professional Experience

Mike is a manager with the Enterprise Systems Consulting group at Moss Adams. He has a track record of successfully advising clients and delivering improvements for business operations, with a focus on increasing efficiency through design of innovative process improvements and technical solution integrations. Mike is technically minded, resourceful, and skilled at bridging gaps between functional and technical resources while effectively engaging cross functional stakeholders.

Prior to joining Moss Adams, Mike served in various director and managerial roles with Verdant Services; DeWolf, Boberg & Associates; Capgemini; and Accenture. He is also the founder of Dorisio Innovations.

Professional Affiliations

Capgemini Engagement Manager
Institute of Industrial and Systems Engineers
Oracle Fusion Financials Cloud General Ledger
Oracle Fusion Financials Cloud Receivables

Education

BS, industrial and management systems engineering, West Virginia University

E – Financial Data

Our Firm's Financial Stability

Moss Adams is in a solid financial position with sufficient working capital to meet its existing and future liabilities. Our firm's executive committee and partners have a long track record of sound financial management and are dedicated to ensuring the financial integrity of the business. We have over 4,400 personnel, including more than 400 partners, and annual revenues in 2022 were \$1.1 billion. As a private partnership, we don't disclose detailed financial data. However, if you would like to check our creditworthiness with Dun & Bradstreet, our DUNS number is 07-573-4889.

F – Project Cost and Schedule

PROJECT TIMELINE

Moss Adams is prepared to commence this project in November 2023, based on the projected award date of October 25, 2023. Assuming Client personnel are readily available to meet and work with our team members, an elapsed time of approximately five (5) to seven (7) months is expected to complete the work. This is considered an accelerated schedule designed to meet your needs in this situation. Factors that could influence the overall schedule include staff availability, availability of documentation, extent of supplemental analysis, desired level of documentation, holidays, and employee leave time.

Point of Sale Assessment and Selection

The Moss Adams

The work plan that follows provides a list of tasks to assist IVGID in the system assessment, determining requirements, and conducting a selection process for the point-of-sale system.

Point of Sales System Assessment and Selection Work Plan									
Phase 1 - Project Initiation and Ongoing Management									
Task 1.1	Task 1.1 Establish project, confirm objectives, and finalize work plan and schedule								
Task 1.2	Schedule group sessions, interviews, and other tasks								
Task 1.3	Project management, quality assurance, oversight, and weekly status reporting								
Phase 2	- Fact Finding and Business Process Analysis								
Task 2.1	Obtain and review existing documentation								
Task 2.2 Conduct walkthrough of existing technology environment and systems									
Task 2.3	Conduct on-site/virtual process and requirements discovery work sessions including a work session to confirm the strategic goals of the business								
Task 2.4	Establish technology standards and integration requirements								
Task 2.5 Identify an initial set of solution vendors based on high-level requirements an scope									
Prequa	Deliverables: • Prequalified list of vendors • Draft functional requirements listing/definition								
Phase 3	- Requirements Analysis and Definition								
Task 3.1	Document functional requirements								
Task 3.2	Review requirements and provide feedback								

	Point of Sales System Assessment and Selection Work Plan						
Task 3.3	sk 3.3 Co-develop request for proposal (RFP) (Moss Adams will provide the template and requirements sections, and IVGID will provide all corporate and project related information)						
Task 3.4	Finalize vendor participation list						
Task 3.5	Review RFP with project team. Publish RFP and coordinate vendor responses						
Function	oles: ed Vendor List onal Requirements Listing / Definition o be sent to Vendor Participation List						
Phase 4	- System Evaluation and Vendor Selection						
Task 4.1	Establish selection criteria and develop scoring model						
Task 4.2	Respond to vendor questions						
Task 4.3	Receive, review, and evaluate RFP responses from vendors						
Task 4.4	Assist project team in evaluating responses and select software vendors to participate in software demonstrations						
Task 4.5	Co-develop software demonstration script(s) with IVGID and complete scoring model using Moss Adams template						
Task 4.5 Coordinate, facilitate and attend vendor demonstrations (assume no more than vendors)							
Task 4.6	Resolve open items with vendors not covered during vendor demonstrations						
Task 4.7	Apply scoring model and consult on final vendor selection						
Task 4.8	Contract negotiations* – IVGID will own this task with Moss Adams providing advisory services if requested through an addendum.						

Deliverables:

- Scoring model
- Demonstration scripts
- Analysis of demonstration scorecards and revised proposal response decision support *Moss Adams can review vendor agreement(s) and provide consulting on best practices for contract structure and terms if desired.

Point of Sale Implementation Governance

Moss Adams proposes that we provide project governance for the implementation of the point-of-sale system selected. Based on our role in the assessment and selection, our team can provide continuity throughout the implementation leveraging the work product of the assessment and selection process to drive the implementation plan and execution. We find this approach, combined with a proven vendor implementation methodology provides effective risk management for the implementation process particularly in areas where integration and customization are required to address IVGID's business goals.

The point-of-sale implementation governance scope will vary based on the solution selected by IVGID. However, an initiation phase to is common to governance engagements to establish the project team,

project plan, communication plan, and awareness session with key stake holders. Our estimate fees for this phase may be revised based on the scope and timing of the solution selected and scope of the implementation effort.

PROJECT FEE PROPOSAL

For our clients, it's about more than the dollars you pay at the end of the day; it's about value. Consider both the tangible and intangible benefits of working with us. You'll get solid and timely deliverables. But more than that, the experience you'll have working with forward-thinking, industry-specialized professionals who work side by side with you to explore new possibilities is where you'll see the value. Invest in your future prosperity and experience a different style of service with us.

Our fees are based upon the hourly rates of individuals assigned to the project, plus expenses. Fees will be billed monthly as incurred on a time and materials basis. The professional fees for the project are expected to range from \$85,000 to \$105,000, plus expenses.

Service Description	Amount
Point of Sale Assessment and Selection	\$55,000 - \$65,000
Point of Sale Implementation Governance Estimate	\$30,000 - \$40,000
	-

Billing Rates Table

Staff Level	Hourly Rate
Partner	\$435
Director	\$420
Senior Manager	\$330
Manager	\$295
Senior	\$265
Staff	\$220

We can jointly manage the budget for this engagement at project initiation through discussions regarding project scope, resource availability, assignment of duties between Client and Moss Adams team members, the anticipated level of effort, and overall project timing. If our time is less than anticipated, we will bill the lesser amount. If our time is more than anticipated, we will discuss this with you before proceeding further.

In addition to fees, we will charge you for expenses. Our invoices include a flat expense charge, calculated as five percent (5%) of fees, to cover expenses such as copying costs, postage, administrative billable time, report processing fees, filing fees, and technology expenses. Travel expenses and client meals/entertainment expenses will be billed separately and are not included in the 5% charge.

We're All In

At Moss Adams, we're all in, personally engaging with clients to help them anticipate, prepare for, and embrace the future. We're committed to doing everything in our power to meet and exceed your expectations.

Our goal—to serve you for the long term so you can focus on your business.

Let us show you what Moss Adams can do for you.



MEMORANDUM

TO: Board of Trustees

FROM: Matthew Dent

Chair

Josh Nelson General Counsel

SUBJECT: Review, discuss, and potentially adopt Board

Policy 23.1.0 regarding access to confidential and

non-public information

RELATED STRATEGIC PLAN INITIATIVES:

Long Range Principle #6 Communication
Long Range Principle #7 Governance

DATE: November 8, 2023

I. RECOMMENDATION

That the Board of Trustees review, discuss, and potentially adopt Board Policy 23.1.0 regarding access to confidential and non-public information.

II. BACKGROUND

The District has a strong commitment to transparency. However, there is some information that must or should be kept private. Trustees must have access to this private information while still ensuring that it does not become public. The District has considered different approaches to balancing this tension. Historically, the District provided very limited information to Trustees upon request and treated most requests as public records requests. More recently, the District has provided this information upon request to Trustees. However, there is no formal policy on this matter.

At a recent Board of Trustees meeting, Chair Dent requested that the General Counsel prepare a policy to provide greater clarity around the requirements for providing private information to Trustees.

Staff previously provided an overview of the draft policy at the September 19, 2023 Board meeting. The Board requested several clarifying updates, which are reflected in the redline version attached hereto, and which are summarized below:

- "Draft documents" are now included in the definition of confidential information
- Relocation of the requirement that individual trustees may not access employee or personnel files for staff that report to the General Manager
- Clarification that names, addresses, phone numbers, or identifying information that is used to make reservations at a recreational facility or enroll in an instructional or recreational activity or event provided by IVGID qualify as non-public information.
- Sets a requirement that individual trustees may not disclose confidential or non-public information, as defined, unless the Board authorizes such disclosure at a public meeting.
- Inclusion of a requirement for the General Manager to adopt and implement policies and procedures to ensure non-public and confidential documents are handled appropriately.

III. FINANCIAL IMPACT AND BUDGET

No direct impact by adoption of the policy.

IV. <u>ALTERNATIVES</u>

Below are alternatives to the recommended action:

- 1. Adopt the proposed policy.
- 2. Decline to move forward at this time with this proposed amendment.
- Suggest changes to the proposed policy and bring it back for discussion at the next meeting.

V. 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.

VI. <u>ATTACHMENT</u>

Draft Policy 23.1.0 (redline) Draft Policy 23.1.0 (clean)



0.1 PURPOSE. The Incline Village General Improvement District is governed by a five-member Board of Trustees. The Board of Trustees has elected to manage IVGID under the "Board-manager" form of government. Under this form of government, the Board hires a General Manager who hires, disciplines, and otherwise manages IVGID personnel subject to Board oversight and District policies. The only other staff member that reports directly to the Board of Trustees is the General Counsel.

Board of Trustees deliberations and the maintenance of IVGID records are subject to the general rule that they are "the public's business" and subject to a general obligation of transparency. However, the Board and IVGID staff also have a superior duty not to disclose some information, including, but not limited to attorney-client confidences and work product, matters of employment, and other recognized exceptions as set forth in this Policy. To ensure Trustees are informed and can effectively govern the District, they may receive Confidential and Non-Public Information that members of the public would not receive in response to a request for public records. This Policy outlines the terms and conditions applicable to Trustee and employee access of Confidential and Non-Public Information.

- **0.2 CONFIDENTIAL AND NON-PUBLIC INFORMATION.** The following terms shall have the definitions below in this Policy:
 - a. <u>Confidential Information</u>. Information and documents that are related to IVGID that are not disclosable publicly without the concurrence of a majority of the Board of Directors. This is information protected by the attorney-client communication or work product privileges, pending labor negotiations, matters discussed in a closed session, draft documents, and other legally recognized protected or privileged information.
 - b. Notwithstanding the foregoing, individual Trustees may not access documents held in employment or personnel files for staff reporting to the General Manager.
 - c. Non-Public Information. Documents that are related to IVGID that are not Confidential Information and are not a public record under NRS 239. The facts and circumstances underlying Non-Public Information may not be discussed publicly to the extent it is relevant to IVGID business but personally identifying information should not be disclosed to the extent possible. Non-Public Information shall not be provided to any third party. Examples of Non-Public Information include documents regarding



recreational privileges or fees for individuals or parcels, and draft documents, and names/addresses/phone numbers or other identifying information used to make reservations at a recreational facility or enroll in an instructional/recreational activity/event provided by IVGID.

- **0.3 INFORMATION TO BOARD.** Confidential and Non-Public Information shall be provided by staff or legal counsel as necessary to inform the Board's discussion, deliberation, or general oversight of IVGID matters. Staff shall ensure the Board understands the Confidential or Non-Public status of the information.
- 0.4 INFORMATION UPON REQUEST. Trustees may request access to Confidential or Non-Public Information by contacting the General Manager with a copy to General Counsel. Requests shall be based on a legitimate IVGID-related purpose and not for political, financial, or other personal reasons. Requests will be received and reviewed by the General Manager and General Counsel. The Director of Human Resources will be consulted regarding any requests for documents that are maintained by the Department of Human Resources. If the requested document is available for review, it will be provided in a read only electronic format or in hard copy for viewing only. Appropriate staff or legal counsel will be present for document viewing, and no photos of documents are allowed. After viewing, staff is responsible for shredding of the materials reviewed. Staff shall ensure that Trustees understand if a document is Confidential or Non-Public Information. The entire Board of Trustees will be promptly notified of any request under this subsection and provided an opportunity to review the provided document.

0.5 LIMITATIONS ON ACCESS.

Notwithstanding the foregoing, individual Trustees may not access confidential documents held in employment or personnel files for staff reporting to the General Manager.

0.6 DUTY NOT TO DISCLOSE.

Trustees must not disclose any Confidential or Non-Public Information or documents unless permitted to do so by a majority of the Board as declared in a public meeting. Trustees may not disclose photos, copies or excerpts of any Confidential or Non-Public Information but may be entitled to discuss the underlying facts and circumstances. Trustees shall confer with the General Manager and General Counsel prior to discussing any underlying facts and circumstances of Non-Public Information with non-IVGID third parties.



0.7 EMPLOYEE ACCESS TO INFORMATION

The General Manager shall adopt and implement personnel policies and procedures to ensure Confidential and Non-Public Documents and Information are protected and handled appropriately by staff and the Trustees that implement this Policy and outline when and how employees may access Confidential and Non-Public Information.

0.8 RIGHT TO DISCLOSE UNDER APPLICABLE LAW

This Policy shall not be interpreted or applied in a manner that prevents a Trustee from complying with or exercising his or her rights under applicable law to disclose information, including, but not limited to, whistleblower laws and policies. Disclosures shall be as limited as possible to ensure the compliance with or exercise of such legal rights.

0.9 REMEDIES FOR VIOLATIONS

Violations of this Policy by Trustees shall be subject to discipline as set forth in the Code of Conduct. The Board may also enforce this Policy through other legally available remedies.



O.1 PURPOSE. The Incline Village General Improvement District is governed by a five-member Board of Trustees. The Board of Trustees has elected to manage IVGID under the "Board-manager" form of government. Under this form of government, the Board hires a General Manager who hires, disciplines, and otherwise manages IVGID personnel subject to Board oversight and District policies. The only other staff member that reports directly to the Board of Trustees is the General Counsel.

Board of Trustees deliberations and the maintenance of IVGID records are subject to the general rule that they are "the public's business" and subject to a general obligation of transparency. However, the Board and IVGID staff also have a superior duty not to disclose some information, including, but not limited to attorney-client confidences and work product, matters of employment, and other recognized exceptions as set forth in this Policy. To ensure Trustees are informed and can effectively govern the District, they may receive Confidential and Non-Public Information that members of the public would not receive in response to a request for public records. This Policy outlines the terms and conditions applicable to Trustee and employee access of Confidential and Non-Public Information.

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 - b. Notwithstanding the foregoing, individual Trustees may not access documents held in employment or personnel files for staff reporting to the General Manager.
 - c. Non-Public Information. Documents that are related to IVGID that are not Confidential Information and are not a public record under NRS 239. The facts and circumstances underlying Non-Public Information may not be discussed publicly. Examples of Non-Public Information include documents regarding fees for individuals or parcels, draft documents, and names/addresses/phone numbers or other identifying information



used to make reservations at a recreational facility or enroll in an instructional/recreational activity/event provided by IVGID.

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Trustees must not disclose any Confidential or Non-Public Information or documents unless permitted to do so by a majority of the Board as declared in a public meeting. Trustees may not disclose photos, copies or excerpts of any Confidential or Non-Public Information.

0.6 EMPLOYEE ACCESS TO INFORMATION

The General Manager shall adopt and implement personnel policies and procedures to ensure Confidential and Non-Public Documents and Information are protected and handled appropriately by staff and the Trustees.

0.8 RIGHT TO DISCLOSE UNDER APPLICABLE LAW

This Policy shall not be interpreted or applied in a manner that prevents a Trustee from complying with or exercising his or her rights under applicable law to disclose



information, including, but not limited to, whistleblower laws and policies. Disclosures shall be as limited as possible to ensure the compliance with or exercise of such legal rights.

0.9 REMEDIES FOR VIOLATIONS

Violations of this Policy by Trustees shall be subject to discipline as set forth in the Code of Conduct. The Board may also enforce this Policy through other legally available remedies.

<u>M E M O R A N D U M</u>

TO: **Board of Trustees**

THROUGH: Kate Nelson, Interim Public Works Director

FROM: Hudson Klein, Principal Engineer

SUBJECT: Review, discuss and possibly approve an increase to the estimated

project cost to support additional scope and project quantities for Mt.

Golf Cart Path Restoration Phase II - 2023/2024 Capital

Improvement Project; Fund: Community Services; Division: Golf; Project #3241LI1903; Vendor: SNC Construction in the amount of \$160,000. (Requesting Staff Member: Interim Public Works Director

Kate Nelson).

PLAN BUDGET INITIATIVE(S):

RELATED STRATEGIC LONG RANGE PRINCIPLE #5 - ASSETS AND

INFRASTRUCTURE

The District will practice perpetual asset renewal, replacement and improvement to provide safe and superior long term utility services and recreation venues, facilities, and

services.

RELATED DISTRICT **RESOLUTIONS OR ORDINANCES**

Capital Planning Multi-Year Capital Planning **POLICIES, PRACTICES, Policy 12.1.0; Capital Planing Capital Project** Budgeting Policy 13.1.0; Capital Planning Capital Expenditures Practice 13.2.0:

Purchasing Policy for Public Works Contracts

Policy 21.1.0.

DATE: November 8, 2023

I. RECOMMENDATION

The Board of Trustees make a motion to:

1. Approve an increase to the estimated project costs to support additional scope and increase quantities in the amount of \$160,000.

II. **BACKGROUND**

The original project approach for Phase II of the Mountain Course Cart Path Restoration Project (Project) proposed a continuation of the Phase I methodology to remove and replace all remaining cart path not re-constructed in Phase I (construction completed 2021); this was to include approximately 82,000 square feet (SF) of cart path replacement with an estimated construction cost of \$1,800,000 (total Project budget of approximately \$2.25M). At the August 31, 2022 Board meeting, staff recommended that Phase II of the Project scope be reduced to include removal and replacement of failing sections of cart path only and to crack fill and slurry seal the entire length of the path with an estimated construction cost of \$293,300. The Board authorized this modification to the scope of the Project. The Phase II budget estimates - total remove/replacement and targeted replacement area alternatives - each proposed additional administrative, inspection, and contingency costs added to direct construction costs.

The Phase II bid documents were based on existing conditions and site measurements completed in September 2022 to support a March 2023 public bid. Sierra Nevada Construction (SNC) was the successful bidder and the project was awarded at the May 10, 2023 Board meeting for a value of \$187,000. This contract included removal/replacement of 4,705 SF of cart path with the start of construction planned for September 2023.

Inspection of existing conditions shortly before start of construction revealed a substantial increase in observed failed pavement areas. Further, many sections of cart path failed during construction as a result of construction activities and also required replacement. Therefore, Staff marked additional pavement areas to be replaced and approximately 15,100 SF of additional pavement were nominated for replacement. This has increased forecast construction costs by approximately \$252,000. The Project budget includes an \$18,700 contingency for Phase II and a \$60,000 'Owners Allowance' specifically intended to cover scope increases due to unknown/changed conditions from September 2022 project scoping to September 2023 construction.

As a result of the increased path replacement scope with the golf course staying open during construction, the Phase II scope was unable to be completed in the 2023 construction season and SNC is slated to return in spring 2024.

The total Phase II funding readily available is \$265,000, inclusive of the Phase II construction contingency (\$18.7k) and Owner allowance (\$60k). The current billing for Phase II construction is approximately \$213,000 for work completed to date; however, there is an estimated \$268,000 required to complete the work scope currently identified for the 2024 construction season inclusive of additional owners allowance and inspection/management costs (\$237k construction, \$23k Owner allowance, \$8k inspection).

Within the CIP Project Budget, Phase III Recirculation Improvements design amendment field orders reduced earthwork quantities and approximately \$18,000 in savings was realized in addition to \$21,600 of construction contingency that

was unused; if allocated to the remaining Phase II budget, this totals approximately \$305,000 in project funds currently available for Phase II.

Therefore, Staff are requesting an increase of \$160,000 to finish the Phase II path replacements.

III. BID RESULTS

There has been no additional bidding for the proposed scope addition; the awarded contract rates have been used to prepare the cost estimate for the remaining scope items.

IV. FINANCIAL IMPACT AND BUDGET

The Mt. Golf Cart Path Restoration - Phase II (CIP #3241LI2001) is included in the FY 23 CIP Budget in the amount of \$1,100,000 following approval of the carry-forward budget at the October 25, 2023 Board meeting.

The Board approved a total project cost of \$629,382 which included Phase II replacements and the Phase III Circulation Improvements as shown in the following table:

Task	Cost
Phase II - Removal Replacement, Surface sealing	\$187,007
Phase II Contingency	\$18,700
Materials Testing Phase II	\$5,500
Phase III Circulation Improvements	\$216,000
Phase II Contingency	\$21,600
Materials Testing Phase III	\$3,900
Materials Testing Contingency	\$1,000
Construction Management and Inspection	\$60,705
Tree Removal	\$55,000
Owners Allowance	\$60,000
Total	\$629,382

The revised forecast Project cost is approximately \$789,000 as summarized below. This amount is available the current CIP budget of \$1.1M.

Task	Cost
Phase II Original Contract Cost	187,007

Phase II Change Orders	\$252,000	(incl 2024 season)
Material Testing Phase II	\$3,500	(incl 2024 season)
Phase III Construction Cost	\$197,744	(final cost)
Materials Testing Phase III	\$1,578	(final cost)
Construction Management and Inspection	\$68,311	(incl. 2024 season)
Tree Removal	\$55,000	(final cost)
Owners Allowance	\$23,000	(incl. 2024 season)
TOTAL FORECAST COST	\$789,140	

Staff is requesting an increase to the estimated Project total cost in the amount of \$160,000.

V. ALTERNATIVES

The Board does not approve an increase to the estimated Project costs to support additional scope and increase quantities in the amount of \$160,000. The failed pavement sections will remain and Staff request a smaller increase sufficient to cover the crack filling and slurry seal of the entire Phase II length as per the original scope. This request will be for a \$35,000 increase.

VI. COMMENTS

Staff openly acknowledge quantity measurement errors in the project development. The lessons learned include a failure of leadership and project management exhibited by the lack of project quantity verification by senior engineering Staff relative to the existing conditions observed following the large winter season. This should have been completed prior start of construction with sufficient time to confirm the issue and to address the Board before contractor mobilization.

Staff maintain that the revised Project approach was the best option and value for the District with regard to the alternative of full removal and replacement. The proposed scope replaces the failed sections, representing approximately 25% of the total Phase II cart path length; the cost is forecast at \$789,000 and represents 35% of the total removal/replacement project cost estimate of \$2.25M. All asphalt roads/paths require ongoing maintenance and the current approach and increased cost proposal provides more than \$1.4M in cost reduction relative to the original total remove/replace proposal; these funds could be allocated for future/ongoing cart path maintenance.

VII. <u>BUSINESS IMPACT/BENEFIT</u>

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

VIII. <u>ATTACHMENTS</u>

None

IX. <u>DECISION POINTS NEEDED FROM THE BOARD OF TRUSTEES</u>

The decision needed from the Board of Trustee's shall be that of approving the staff recommendation as presented.

<u>M E M O R A N D U M</u>

TO: **Board of Trustees**

THROUGH: Mike Bandelin, Interim General Manager

FROM: Mike Bandelin, Interim General Manager

SUBJECT: Review, discuss and possibly approve an Equipment Purchase

Agreement for the procurement of a 14-Passenger Shuttle Van – 2022/2023 Capital Project: Fund: Community Services; Division: Ski;

Project # 3469HE1740; Project Type; Rolling Stock; Vendor:

Creative Bus Sales in the amount of \$141,767. in accordance with NRS 332.115.1.(o) (Requesting Staff Member: Diamond Peak Ski Resort General Manager and Interim District General Manager Mike

Bandelin)

RELATED STRATEGIC

PLAN BUDGET INITIATIVE(S):

LONG RANGE PRINCIPLE #5 – ASSETS AND

INFRASTRUCTURE

The District will practice perpetual asset renewal, replacement and improvement to provide safe and superior long term utility services and recreation venues, facilities, and

services.

RELATED DISTRICT **RESOLUTIONS OR** ORDINANCES

Capital Planning Multi-Year Capital Planning POLICIES, PRACTICES, Policy 12.1.0; Capital Planning Capital Project Budgeting Policy 13.1.0; Capital Planning Capital Expenditures Practice 13.2.0;

Purchasing Policy for Goods and Services

Policy 20.1.0

DATE: November 8, 2023

RECOMMENDATION

That the Board of Trustees makes a motion to:

- 1. Make the following finding: IVGID's purchase of a 14-passenger shuttle van from Creative Bus Sales is in compliance with IVGID's competitive solicitation process for the following reasons: IVGID Purchasing Policy 20.1.0 (C) Competitive Solicitation and NRS 332.115.1.(o).
- 2. Authorize and award an equipment purchase agreement between The

- District and Creative Bus Sales in the amount of \$141,767.
- 3. Authorize the Interim General Manager to execute the contract in substantially the form presented.

II. BACKGROUND

The recommendation before you for the proposed procurement of the 14-passenger shuttle van is included and approved within the Districts FY 2022-2023 Capital Improvement Plan within the Ski Division 340 Fund.

The proposed vehicle purchase project is described as an additional shuttle van to the current inventory of customer transportation vehicles at the ski venue, which includes two 36-passenger shuttle busses and two parking lot passenger trams towed by two 4wd trucks.

The justification of the proposed purchase allows Diamond Peak staff to accommodate the pickup and return of customers via the daily Village shuttle routes with a smaller shuttle vehicle versus the large capacity shuttle busses during mid-week periods. Additionally, the 14-passenger shuttle van does not require the recruitment of personnel that currently hold a valid Nevada Commercial Driver's License to operate the vehicle. Staff will note that recruiting CDL drivers, which is a requirement to operate the District's 36-passenger shuttle busses, has become a very large task as the candidate pool is low and staff have not been very successful in obtaining qualified personnel.

III. BID RESULTS

The proposed purchase agreement is in compliance with the Districts Purchasing Policy for Goods and Services, Policy 20.1.0 (C) and NRS 332.115(o). This contracting opportunity was competitively procured by the State of Nevada. District policy allows staff to procure goods and services using acceptable methods in compliance with NRS Chapter 332. NRS 332.115(o) permits the District to acquire equipment that is available pursuant to an agreement with the vendor that has entered into an agreement with the General Service Administration. Staff verified the State solicitation 80DOT-S1970 Notice of Award to Creative Bus Sales with a contract start date of 08/01/2022 and an end date of 07/31/2024. As a result of the State actions and allowance of a piggybackable contract, the District is eligible to make a purchase utilizing the same terms, conditions, and pricing as the contract between the State and Creative Bus Sales.

IV. FINANCIAL IMPACT AND BUDGET

The Districts Capital Improvement Program Budget for the (340 Ski Fund) in FY 2022/2023 includes funding of \$125,000 for the purchase of the 14-passenger shuttle van within Project # 3469HE1740. The proposed purchase at \$141,767 is \$16,767 over the allocated funding for the project. The table below identifies the (340 ski fund) projects related to ski area customer transportation replacement

projects, with a plan amount of \$495,400.

Project	Budget Year	Amount
Replace 2010 30-Passenger Shuttle	2024/2025	\$175,000
Replace 2010 36-Passenger Shuttle	2024/2025	\$175,000
Replace 2007 4WD Tram Truck	2025/2026	\$50,000
Replace 2007 4WD Tram Truck	2025/2026	\$50,000
Replace 1991 Passenger Tram	2025/2026	\$22,700
Replace 1993 Passenger Tram	2025/2026	\$22,700
Five Year Capital Plan Total		\$495,400

V. ALTERNATIVES

The District Board of Trustees may defer or delay the proposed 14-passenger shuttle van purchase project.

VI. <u>COMMENTS</u>

In conclusion:

- 1. The 14-passenger shuttle van is an addition to the customer transportation fleet at the ski venue.
- 2. The 14-passenger shuttle van project is funded through the FY 2023/2024 Capital Improvement Project; Fund: Community Services; Division; Ski; Project #3469HE1740; Amount: \$125,000.
- 3. The proposed equipment purchase through Creative Bus Sales is in the amount of \$141,767.
- 4. The proposed purchase exceeds the planned, budgeted and funded amount by \$16,767.
- 5. The District will be utilizing the Capital Bus Sales purchase agreement with additions provided by the District legal counsel.
- 6. The purchase agreement between the District and Creative Bus Sales has

VII. BUSINESS IMPACT/BENEFIT

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

VIII. ATTACHMENTS

- 1. Agreement Creative Bus Sales
- 2. Ski Datasheet 14 passanger Van
- 3. Picture of proposed shuttle van -starcraft-ford-e-450-

IX. <u>DECISION POINTS NEEDED FROM THE BOARD OF TRUSTEES</u>

The decision needed from the Board of Trustees shall be that of approving the staff recommendation as presented.

Attachment 1



Creative Bus Sales 3615 S 28th St Phoenix, AZ 85040 Phone: 602.437.2255 Fax: 602.437.2758 www.creativebussales.com

Buyer's Order Contract

Date:	May 17, 2023	Unit #(s):	TBD	
Customer Name:	Incline Village General Improvement Distric			
Contact:	Rich Allen	Phone:	775-832-1345	
Address:	893 Southwood Blvd	Fax:		
City, State, Zip:	Incline Village , NV 89451	E-Mail:	richard_allen@ivgid.org	
Customer ID:	<u> </u>	Salesperson:	Jeff Pilon	
Ship To Address:	Attn: Rich Allen - Incline Village General Im	-	ood Blvd	
Ship To Address Cont'd:	Incline Village , NV 89451	-		
Ship To Phone:	775-832-1345	Ship To Email:	richard_allen@ivgid.org	
Finance Source:		Contact:		
Address:		Phone:		
City, State, Zip:		County:		
Description of Vehicle:	2023 Starcraft Allstar 22 Ford E-450 7.3L 1		•	
VIN #:	TBD			
Engine Type:	Gas	FOB Terms:	Shipping	
Number of Passengers:	14	Wheelchair Positions:		
Estimated Delivery Date:	November 15, 2023	Payment Terms:	Net 30	
		Unit Price	\$ 141,536.00	
		Delivery	\$ -	
Possession State:	NV	Incentive (Non-Taxable)	\$ -	
		Rebates (Taxable)	\$ -	
		Doc Prep Fee (Taxable)	\$ 150.00	
		Base Selling Price	\$ 141,686.00	
		Total Taxable Amount	\$ 141,686.00	
		Sales Tax* (Estimated)	\$ -	
0.000%	NVExempt-US Gov't		\$ -	
Notes:	arranment are based on the second-time and its time		\$ -	
	agreement are based on the regulations applicable at he actual amounts due will be based on the		\$ -	
regulations applicable at the time ti	tle for each vehicle transfer.	DMV Fees* (Estimated)	\$ 75.00	
Sales tax estimate is calculated based vehicle.	d on the location in which the customer registers the	DMV Electronic Filing Fee	\$ -	
All rebates and incentives will be s		Tire Fee	\$ 6.00	
California State Tire Fee of \$1.75 pe	er tire applies to all new vehicle purchase or leases.	Fees Sub-Total	\$ 81.00	
		Total Price Per Unit	\$ 141,767.00	
		Quantity	1	
		Contract Total	\$ 141,767.00	
		0.00		
		Customer Net Trade	\$ -	
		Customer Deposit	\$ -	
			\$ -	
		Balance Due	\$ 141,767.00	

Remit To: 9365 Counselors Row, Suite 112, Indianapolis, IN 46240

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Terms and Conditions:

- 1. <u>DEPOSIT</u>. If indicated above, Customer Deposit is due at the time of signing this order contract. The balance due indicated above is due before vehicle(s) will be released to the Buyer. If the vehicle(s) is not accepted by the Buyer, the vehicle will be available for sale to other buyers. The vehicle(s) will not be titled to the Buyer until the contract total indicated above plus any interest charges indicated herein are paid in full. There is no "cooling off" or other cancellation period for vehicle sales. Therefore, you cannot later cancel this contract without the agreement of the Dealership, or for legal cause.
- 2. <u>DEALER NOT AGENT OF MANUFACTURER</u>. Dealer is not the agent of the manufacturer. Dealer is not responsible for changes by the manufacturer in the price, available rebate, design or accessories of specially ordered vehicles. If Dealer's price increases on a specially ordered vehicle, or if a rebate to be received by Dealer is reduced or eliminated, the Buyer's price will be increased by a like amount. If Buyer is dissatisfied with the increase, Buyer may cancel this order and Buyer's deposit and trade-in or the actual cash value of the trade-in, if sold, minus any loan, will be refunded. Buyer understands that manufacturer may, from time to time, change the model, design, or other elements, including the parts and accessories, in the vehicle and at any time a manufacturer makes such changes, neither Dealer nor manufacturer are obligated to make the same changes to Buyer's vehicle, even if such changes are made prior to delivery of the vehicle.
- 3. <u>DELAYS</u>. Buyer will not hold Dealer liable for any delay caused by the vehicle or any component part manufacturer, accidents, strikes, fires, Acts of God, or any other cause beyond Dealer's control.
- 4. <u>BUYER'S INSPECTION AND ACCEPTANCE OF VEHICLE</u>. Buyer understands that damage may have occurred to the vehicle at the manufacturer(s)' factory, during transport to Dealer, or while in Dealer's possession, on Dealer's premises, or at a show or promotional event. Buyer acknowledges that such damage to the vehicle, if any occurred, is typically corrected by the factory or repaired by the Dealer prior to delivery. Upon taking delivery of the vehicle, Buyer acknowledges: (i) having received ample opportunity for, and actually inspecting the vehicle as fully as Buyer desires and (ii) utilizing and relying solely upon Buyer's own judgment to inspect and determine that the vehicle is of adequate quality, merchantable, and otherwise fit for the purposes intended by Buyer such that Buyer accepts the vehicle in its condition as of the date Buyer signs the front page of this Agreement. Buyer further acknowledges that Buyer did not make Dealer aware, and that Dealer was unaware, implicitly or expressly, of any particular purpose intended by Buyer for the Bus. Consequently, Buyer has not relied upon Dealer's skill or judgment in the selection or delivery of the vehicle. Buyer acknowledges that Dealer has not made any representation regarding the vehicle's condition, history, status, prior usage, quality of or regularity of care or servicing, nor the existence of prior damage and/or repair of damage except as required by law.
- 5. IF NOT A CASH TRANSACTION. IF YOU ARE FINANCING THIS VEHICLE, PLEASE READ THIS NOTICE: YOU ARE PROPOSING TO ENTER INTO A RETAIL INSTALLMENT SALES CONTRACT WITH THE DEALER. PART OF YOUR CONTRACT INVOLVES FINANCING THE PURCHASE OF YOUR VEHICLE. IF YOU ARE FINANCING THIS VEHICLE AND THE DEALER INTENDS TO TRANSFER YOUR FINANCING TO A FINANCE PROVIDER SUCH AS A BANK, CREDIT UNION OR OTHER LENDER, YOUR VEHICLE PURCHASE DEPENDS ON THE FINANCE PROVIDER'S APPROVAL OF YOUR PROPOSED RETAIL INSTALLMENT SALES CONTRACT. IF YOUR RETAIL INSTALLMENT SALES CONTRACT IS APPROVED WITHOUT A CHANGE THAT INCREASES THE COST OR RISK TO YOU OR THE DEALER, YOUR PURCHASE CANNOT BE CANCELLED. IF YOUR RETAIL INSTALLMENT SALES CONTRACT IS NOT APPROVED, THE DEALER WILL NOTIFY YOU VERBALLY OR IN WRITING. YOU CAN THEN DECIDE TO PAY FOR THE VEHICLE IN SOME OTHER WAY OR YOU OR THE DEALER CAN CANCEL YOUR PURCHASE. IF THE SALE IS CANCELLED, YOU NEED TO RETURN THE VEHICLE TO THE DEALER WITHIN 24 HOURS OF VERBAL OR WRITTEN NOTICE IN THE SAME CONDITION IT WAS GIVEN TO YOU, EXCEPT FOR NORMAL WEAR AND TEAR. ANY DOWN PAYMENT OR TRADE-IN YOU GAVE THE DEALER WILL BE RETURNED TO YOU. IF YOU DO NOT RETURN THE VEHICLE WITHIN 24 HOURS OF VERBAL OR WRITTEN NOTICE OF CANCELLATION, THE DEALER MAY LOCATE THE VEHICLE AND TAKE IT BACK WITHOUT FURTHER NOTICE TO YOU AS LONG AS THE DEALER FOLLOWS THE LAW AND DOES NOT CAUSE A BREACH OF THE PEACE WHEN TAKING THE VEHICLE BACK.
- **6.** <u>TITLE</u>; <u>ODOMETER</u> <u>STATEMENT</u>. Title to the Bus will remain with Dealer until the agreed upon purchase price is paid in full in cash or Buyer has signed a retail installment contract and it has been accepted by a bank or finance company, at which time title shall pass to Buyer even though the actual delivery of the Bus may be made at a later date. Buyer agrees that no statement has been made as to the number of miles on any new, used, or demo vehicles, except as set forth in the odometer mileage statement as provided by the Federal Odometer Law and on the face of this Agreement as required under state law which does not constitute a warranty, express or implied, or a contractual term of this Agreement as required under state law which does not constitute a warranty, express or implied, or a contractual team of this Agreement. Buyer acknowledges receipt of such Federal Odometer Statement.
- 7. TRADE-IN. If Buyer is trading in a vehicle, Buyer will give Dealer the original bill of sale or the title to the trade-in. Buyer promises that any trade-in which Buyer gives in this purchase transaction is owned by Buyer free of any lien or other claim except as noted on the other side of this Agreement. Buyer promises that all taxes of every kind levied against the trade-in have been fully paid. If any government agency makes a levy or claims a tax lien or demand against the trade-in, Dealer may, at Dealer's option, either pay it and Buyer will reimburse Dealer on demand, or Dealer may add that amount to this Agreement as if it had been originally included. Any trade-in delivered by Buyer to Dealer in connection with this Agreement shall be accompanied by documents sufficient to enable the Dealer to obtain a title to the trade-in in accordance with applicable state law. Buyer warrants that the trade-in is or will be properly titled to Buyer and/or Buyer has the right to sell or otherwise convey the trade-in and the trade-in has never been a salvaged, reconditioned or rebuilt, flooded or a lemon buyback, and the trade-in is free and clear of all liens or encumbrances except as may be noted on the front of this Agreement.
- 8. <u>REAPPRAISAL OF TRADE-IN</u>. If Buyer's initial trade-in value is determined by anything other than a physical appraisal by Dealer, Dealer may later reappraise and amend the value of the trade-in allowance at such time Dealer has the opportunity to perform a physical appraisal of the trade-in. This physical appraisal will then determine the actual trade-in allowance provided on the front side of this Agreement.

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- 9. FAILURE TO COMPLETE PURCHASE. Buyer agrees to pay the balance owed on the terms and accept delivery of the Bus within forty-eight (48) hours after being notified that the Bus is ready for delivery. Failure to timely accept delivery by Buyer shall give Dealer the right to dispose of any trade-in, trading any cash consideration received as a deposit and retaining the same, and at Dealer's option, the right to retain any deposit and pursue any other remedy available under the law to adequately compensate Dealer's incidental and consequential damages and all other damages, costs, expenses, or losses incurred by Dealer because Buyer failed to complete this purchase. If Dealer paid any negative equity balance on the trade-in, Buyer shall pay to Dealer the amount paid on Buyer's behalf. If Dealer brings an action or involves an attorney to enforce the terms of this section, Buyer agrees to pay Dealer's reasonable attorneys' fees, court costs, and other expenses incurred in pursuing such action.
- 10. EXCLUSION OF INCIDENTAL AND CONSEQUENTIAL DAMAGES. Incidental and consequential damages arising out of the sale, use, servicing and/or quality of this Bus, including, but not limited to, any loss of use, loss of time, inconvenience, aggravation, loss of wages/earnings/income, fuel/transportation expenses, hotel/motel costs, insurance, storage, rental or replacement, altered or cancelled trips/vacations, the cost of any food/meals and any other incidental and consequential damages are specifically excluded and Dealer specifically disclaims liability for any such incidental and/or consequential damages. Buyer acknowledges that Buyer shall not seek or recover such incidental or consequential damages from Dealer. Buyer acknowledges this disclaimer of incidental and consequential damages is independent of and shall survive any failure of the essential purpose of any warranty or remedy.
- 11. NON-DEALER WARRANTY(S) (IF APPLICABLE). Buyer understands and agrees that manufacturer(s)' written warranties, if any are applicable to this Bus, were fully and conspicuously disclosed in writing by Dealer, by Dealer disclosing and providing any such written instruments to Buyer prior to Buyer signing the front side of this Agreement and Buyer acknowledges having physically received such written instruments. Buyer acknowledges that Dealer is not an agent of the manufacturer and that Dealer has not represented or misrepresented the terms of any applicable manufacturer(s)' written warranties because either (i) Buyer has read to Buyer's satisfaction the actual terms of any such written instruments, which expressly state the coverage, application period, conditions, and exclusions or (ii) Buyer has voluntarily chosen not to read such warranties.
- 12. TAXES, INSURANCE. Buyer shall be liable for all sales, use, or other taxes of a similar nature applicable to the transaction unless such payment is otherwise prohibited by law. Buyer assumes responsibility to cover the Bus described on the front of this Agreement with necessary and proper insurance coverage and assumes all legal liability arising from the operation of the Bus from the time of delivery. Buyer understands that Buyer is not covered by insurance on the Bus until Buyer's insurance company accepts coverage on the Bus. Buyer agrees to hold Dealer harmless from any and all claims due to loss or damage prior to Buyer's insurance company accepting coverage on the Bus.
- 13. CHOICE OF LAW AND VENUE, FEES. This Agreement shall be governed by the laws of the State of Nevada. Venue shall be in the state and county in which Dealer is located or the applicable federal court. In the event of any dispute or controversy between the parties concerning the enforcement or interpretation of this Agreement, the rights, duties or obligations of the parties under this Agreement, or otherwise relating to or arising out of this Agreement, the prevailing party in such dispute or controversy shall be entitled to recover reasonable costs and expenses incurred, including attorney's fees, in addition to any other remedies to which they may be entitled at law or in equity.
- **14.** A. In no event shall this Agreement be interpreted to waive the limitations of liability applicable to the District set forth in NRS Chapter 41 or other applicable law."
- **15.** <u>WAIVER OF JURY TRIAL; CLASS ACTIONS.</u> Buyer agrees that any controversy, dispute or claim arising out of or relating to this Agreement or breach thereof will be decided by a judge, rather than a jury. Buyer further agrees in connection with this purchase to waive Buyer's right to participate as a class member in any class action lawsuit that might be brought against Dealer.
- **16.** <u>SEVERABILITY</u>. Buyer and Dealer agree that each portion of this Agreement is such that if any term, provision or paragraph is found to be invalid, voidable, or unenforceable for any reason, such provision or paragraph may be severed and all other portions of this Agreement shall remain valid and enforceable.
- 17. ENTIRE AGREEMENT/NO RELIANCE. The written terms on the front and reverse side of this Contract comprise the entire agreement between Buyer and Dealer, and Buyer has read and understands the front and reverse side of this Agreement. No verbal, unwritten, electronic or other communication of any nature not contained in this Agreement was relied upon by Buyer, became part of the basis of Buyer's bargain, or is enforceable by Buyer against Dealer even if alleged or determined to constitute fraud, fraudulent inducement, or fraudulent misrepresentation and no such verbal, unwritten, electronic, or other communication shall invalidate this Agreement or any written provision herein, or serve as grounds for Buyer's rejection, rescission, or revocation of acceptance of this Agreement or this Vehicle, such that Buyer cannot seek or obtain any statutory, legal, equitable or other relief against Dealer as a result thereof. Buyer acknowledges and agrees that all discussions, negotiations, advertisements, representations, and affirmations of fact in any format, whether verbal, written, electronic or otherwise, which are not written in this Agreement, were not relied upon by Buyer, are not included in this Agreement, and are not enforceable against Dealer.
- **18.** No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege or service voluntarily given or performed by a party shall give the other party any contractual rights by custom, estoppel, or otherwise. **19.** There are no intended third-party beneficiaries of any right or obligation assumed by the parties.
- 20. Each party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective party.
- 21. This Agreement may be signed in counterparts, each of which shall constitute an original.

SIGNATURES ON FOLLOWING PAGE

OWNER: INCLINE VILLAGE G. I. D. Agreed to:	CONTRACTOR: CREATIVE BUS SALES Agreed to:
Matthew Dent, Chairman	By: Signature of Authorized Agent Jeff Pilon, Public Sector Sales West
Date	Print or Type Name and Title 8/21/23
David Noble, Secretary	Date
	If CONTRACTOR is a Corporation, attach evidence of authority to sign.
Reviewed as to Form:	
Joshua Nelson District Legal Counsel	

Date



Project Summary

Project Number: 3469HE1740

Title: 14-passenger Van

Project Type: F - Rolling Stock

Division: 69 - Property, Parking & Transportation

Budget Year: 202

Finance Options:

Asset Type: HE - Heavy Duty Service Equipment

Active: Yes

Project Description

This project identifies the procurement of a 14 passenger shuttle van to support the existing two 36 passenger shuttle busses used to transport guests to and from the Districts ski venue.

Project Internal Staff

Fleet Maintenance Staff will manage this project

Project Justification

The 14 passenger shuttle van allows the District's ski venue to service the existing community ski shuttle route with an appropriately sized vehicle and would not require the driving personnel to hold a Nevada Commercial Drivers as required to operate the 36 passenger busses.

This van can also be used during the off season for youth programs and special events during the summer months

THIS VAIL CALL AISO	be used a	uning the on sea	son for youth program	ris ariu speciai eve	its during the summer months.	
Forecast						
Budget Year		Total Expense	Total Revenue	Difference		
2023						
14-passenger Van	_	125,000	0	125,000		
	Year Total	125,000	0	125,000		
		125,000	0	125,000		
Year Identified	Sta	rt Date	Est. Complet	ion Date	Manager	Project Partne
2021	Jul	1, 2022	Jun 30, 2	2023	Fleet Superintendent	



<u>M E M O R A N D U M</u>

TO: **Board of Trustees**

THROUGH: Mike Bandelin, Interim General Manager

FROM: Shelia Leijon, Director of Parks & Recreation

SUBJECT: Review, discuss, and possibly approve: (1) Acceptance of a seasonal Ice Skating Rink, at zero cost to IVGID, on behalf of the Incline Village/Crystal Bay communities from the Incline Ice Foundation; (2) Direct staff and District Counsel to negotiate a right of entry agreement between IVGID and Ice-America for delivery and setup of a seasonal Ice Skating Rink on Preston Field at zero cost to IVGID; and (3) Establishing a 5-month pilot program, starting on approximately December 9, 2023 and ending on approximately April 14, 2024, for a seasonal Ice Skating Rink operation at Preston Field with all services being performed by existing IVGID Staff and which is anticipated to be a break-even program. (Requesting Staff

Member: Director of Parks & Recreation Shelia Leijon)

RELATED STRATEGIC PLAN BUDGET INITIATIVE(S):

Principle #1 - Service - Execute the short and long-term strategy as they relate to various district venue and facility master plans and studies as the roadmap for the future.

RELATED DISTRICT POLICIES, PRACTICES, 2019 Community Services Master Plan ORDINANCES

DATE: November 8, 2023

I. RECOMMENDATION

That the Board of Trustees makes a motion to:

- 1. Accept the seasonal Ice Skating Rink, at zero cost to IVGID, on behalf of the Incline Village/Crystal Bay communities from the Incline Ice Foundation:
- 2. Direct staff and District Counsel to negotiate a right-of-entry agreement between IVGID and Ice-America for delivery and setup of a seasonal Ice Skating Rink on Preston Field at zero cost to IVGID; and
- 3. Establish a 5-month pilot program, starting on approximately December 9,

2023 and ending on approximately April 14, 2024, for a seasonal Ice Skating Rink operation at Preston Field with all services being performed by existing IVGID Staff and which is anticipated to be a break-even program.

II. BACKGROUND

In December of 1994, a passionate group of Incline Village/Crystal Bay residents formed the Incline Ice Foundation (IIF) whose mission was to raise funds through donations and provide the community with a regulation-sized indoor ice skating facility. The group endeavored diligently, but failed to see their vision become a reality. The funds raised for the ice skating rink are currently held by IIF.

Recently, the IIF representative discussed this project with IVGID Staff who revisited the 2019 Community Services Master Plan; a discussion about providing the community with a seasonal ice skating rink began. Staff and IIF had discussions with the goal of resurrecting IIF's vision of collaborating on a seasonal ice skating rink operation at Preston Field. IIF agreed to purchase a 4,100 square foot ice skating rink package from Ice-America with their donated funds that were designated for this purpose. After purchase, IIF would then gift the rink to the Incline Village/Crystal Bay communities and gift the remaining funds to IVGID Community Services for ice skating rink operations. Exhibit A is the proposal from Ice-America for the IIF purchase.

Preston Field, located at 700 Tahoe Boulevard, Incline Village, NV 89451, APN 124-032-33, includes a flat softball/baseball/football field available to both residents and non-residents and is the ideal site for a seasonal ice skating rink for our communities. Preston Field is secured with fencing, has existing storage facilities, spectator seating, restrooms, parking and lighting; map is located at Exhibit B.

The District possesses the skills and knowledge to work with Ice-America's technicians in the set-up of the ice skating rink and to perform the tasks required to support a community ice skating rink, such as WiFi, power, storage during off-season, snow removal, and staffing. The District's responsibility, once the purchase is made by IIF will be to accept ownership of the portable ice skating rink and a transfer of warranty will take place from IIF and Ice-America to the District. There are several other considerations that will come with the ownership of this portable ice skating rink and they are as follows:

Utilities: The District shall be responsible for payment of all field utilities; see Exhibit C for Tahoe City Public Utility District (TCPUD) power rates for a similar operation.

Staffing: The District shall be responsible for staffing and collection of entrance fees/skate rental fees. See Exhibit D – Programs, Pricing, Hours and Dates of Services and Exhibit E – Staffing

Installation Oversight: Upon acceptance of the ice skating rink from IIF, a right-of-entry agreement will be required for Ice-America to enter the District's Preston Field/Park for setup and installation. District Staff will prepare the agreement under the guidance of BB&K and it will undergo the appropriate review process. At a minimum, the District will require proof of Workers Compensation Insurance and Proof of Liability Insurance that names the District as additionally Insured for \$1mil/\$2mil aggregate. Once the agreement is approved and the certificate(s) of insurance are received, District staff will work with Ice-America's technicians to ensure Preston Field is prepared adequately for the set-up of the ice skating rink.

Coordination and Communication: The District shall provide the Director of Parks & Recreation or her designee to serve as the primary contact for coordination and direction of the District's obligations. All references in this agreement to coordination and communication with the District shall be directed to the Director of Parks & Recreation or her designee.

Applications and permits for events which constitute Special Events, as defined by the District, will be handled through the District's Special Event permitting process. This includes but is not limited to any and all permits with North Lake Tahoe Fire Protection District and Washoe County.

Event Fees: The District shall set the fees for entrance to the ice skating rink for individuals, parties, club events, etc. The fee structure will include resident and non-resident rates, along with the applicability of punch card discounts for entrance. Final approval of the fees shall be the sole responsibility of the District. See Exhibit D which discusses pricing structure, hours of operation and dates of service.

Ice Skating Rink Hours: The District will determine the opening/closing hours for the ice skating rink which will best serve the community. The ice rink will be closed to the public, at the discretion of the District representative, for unscheduled events including, but not limited to, inclement weather, unscheduled maintenance needs, safety or access issues.

Dates of Service: The District will determine the dates of operation for the ice rink, based on weather, scheduled uses for Preston Field (baseball, football, etc.), and any other circumstances which would impact the operation of the ice rink; see Exhibit D.

Storage: The District shall be responsible for the storage of the portable ice skating rink during off-season months.

The District shall be responsible for operation and maintenance of its own property with respect to the following:

Parking lot maintenance

Park Trash/Recyclables Removal Snow removal Installation of WiFi Point of Sale system Restroom maintenance

Recognition of the IIF: The District will ensure that IIF receives recognition for its generous donation to the community; what that recognition is to be is yet to be determined and it will be approved by the Director of Parks & Recreation or her designee in coordination with the Interim District General Manager.

III. BID RESULTS

There are no bid results related to this project. The purchase agreement between Ice-America and IIF is included as Exhibit A.

IV. FINANCIAL IMPACT AND BUDGET

See Exhibits D and E

V. ALTERNATIVES

The Board of Trustees chooses not to accept the gift of an ice skating rink from IIF on behalf of the IV/CB communities.

VI. COMMENTS

DISTRICT IMPROVEMENT, COST REDUCTION, RETURN ON INVESTMENT OR PRODUCTIVITY ENHANCEMENT

Receiving the gift of a 4,100 square foot ice skating rink provides the District with a valuable recreation asset at no cost. Additionally, it provides the communities with an outdoor winter recreation activity as described in the 2019 Community Services Master Plan and it maximizes the use of an otherwise "closed" summer venue during the winter months.

VII. BUSINESS IMPACT/BENEFIT

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

VIII. ATTACHMENTS

- 1. Exhibit A Ice America Proposal
- Exhibit B Preston Field Map
- 3. Exhibit C TCPUD Power Expense
- 4. Exhibit D Pricing Structure, hours of operation and dates of service
- 5. Exhibit E Staffing

IX. DECISION POINTS NEEDED FROM THE BOARD OF TRUSTEES

That the Board of Trustees:

1. Accept the seasonal ice skating rink, at zero cost to IVGID, on behalf of the

- Incline Village/Crystal Bay communities from IIF;
- 2. Direct staff and District Counsel to negotiate a right-of-entry agreement between IVGID and Ice-America for delivery and setup of a seasonal ice skating rink on Preston Field at zero cost to IVGID; and
- 3. Establishing a 5-month pilot program, starting on approximately December 9, 2023 and ending on approximately April 14, 2024, for a seasonal ice skating rink operation at Preston Field with all services being performed by existing IVGID Staff and which is anticipated to be a break-even program.

EXHIBIT A

Ice America Proposal



807 Sprucelate Drive Harbor City, CA 90710 329,778,9423 Price List Holiday Rink Purchase 2023.1c

							2023
		DO TO	LITET	/ 0	PARICE	ON BUDGET	2023
		PRICE	шэг	<i>/ </i>	KODUCII	ON BUDGET	
Consequent to the first to the second							CATEGORY SUMMARY
	Price L	st 2023.	.1d	Pn			Product: Ice Rink Purchase
							Purpose: recreational ice rink installation
						10/10	
TBD					-		
CONTESTON Durchase of a				·		001 000	deble in del. 8 andless anderset
						x 82 x 50) po	readie ice mili, o anchary equipment
						iller purchase	
Rental Skates	, Rolli	ng Rade	s, Bobb	des,	Tricycles &	Base for ice rin	nk
NOTES: Also available	: open	ations, n	nainter	nano	œ		
SUMPTIONS: Budget is bas	ed on	approxi	nately	82'	x 50' loe su	rface	
							cket office, tent
tax, permits,	electri	ity, wat	er, lev	el sa	urface, resu	rfacer ramp, k	bor, forklift, crane (if req), items below in blue highlight
	Unit	Price	No.	To	tal Price		
				\$	257.559		
Portable Ice Floor Purchase	\$	28.46	4100			approx 82' x 5	0' loe surface = 4,100 sq.ft
Aluminum profiles	\$	72.85					ner profiles 16' x 2.75"
Glycol	\$	31.05					ol mix for system including anti corrosives
							foamular 250 insulation @ 25psi - 4'x8'
							er tank with 4" fittings refrigeration hose/fittings package for the chiller to rink flo
Uner	š	0.32					
Header Covers	š	150					_
Draining pump	\$	13,450	1	\$	13,450	specialized pu	mp to fill & drain system, glycol and ice area
Ice-America Resurfacer	\$	57,347	1	\$	57,347	electric resurfa	icer DF-B
				\$	46,800		
PE Transparent	\$	156	300	\$	46,800	recreational co	stom radius clear skating boards & doors
oment				•	43,345		
Rosa Skates	\$	90	250	š		Rosa slates w	/buckles - detailed pricing on separate sheet
Slate Rack	\$	1,395	5	\$	6,975	portable skate	rads - collapsing with wheels
Skate Rack Shelves	\$	750	1	\$			ves for in between portable rads
	\$						ble machine w/starter package
	*	395	25	7		excusive pate	nted skating aid "sear" & "reindeer"
							on supervisors (2-in/2-out), labor provided by host
		34,995	- 1	3	34,995		raining, supervisor travel, prod coordination ed by client (approx. 30 room nights total)
	Ś	9,500	3	š	28,500		king/shipping ice rink equipment delivery
	*	.,					
Operations consulting					10,875	first year teler	shone & online support included with package
				š			hone & online support included with package
	Ś	7.25	1500	š	10,875		ot - 4'x6' at 3/8" rubber mats
	•						
CE RINK PURCHASE PACK	AGE			\$	437,074	includes items	listed in totals above only
	Unit	Price	No	Te	erm		
Ciller metal analysis			100		2.00		2 month model of differ some body
	1						3-month rental of chiller, pump, tank estimated 10K forklift, install, removal
- III III parey	•	,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	-		-	,	
LER RENTAL PACKAGE				\$	452,229		includes purchasing all equip except chiller / chiller rental
ted services and include signs	ature t	elow.	Prices v	ald	for 30 day	s only.	
	g.						
				_			
				City.	manization:		
				David	ha-		
Signature:					KE ALL	HECKS DAY	ARLE TO:
RIES TO:			MAKE ALL CHECKS PAYABLE TO: Seaside Ice, LLC - dba Ice-America				
RIES TO:				Se	aside Ice	LLC - dbalk	ne-America
RIES TO:							ce-America
				Att	aside Ice, tn: Scott V 7 Sprucel	/illiams	ce-America
	Indine Wilage Ice Rink TBD 2023 TBD - Indine Village, NV TBD - Indine V	Indine Village Ice Rink TBD 2023 TBD - Indine Village, NV TBD - Indine	Seasonal Ice Rink Purchase Price List 2023. Indine Village Ice Rink TBO 2023 TBD - Indine Village, NV TBD - Indine, NV TBD - Indine, NV TBD - Indine, NV TBD - Indine Village, NV TBD - Indine, NV Talinage, NV Tali	Seasonal Ice Rink Purchase Price List 2023.1d Indine Wilage Ice Rink TBO 2023 TBD - Indine Wilage, NV TBD Indine Wilage, NV TBD Indine Wilage, NV TBD Installation, training, estimated de Optional Production elements: Ice Rental States, Rolling Racks, Bobb NOTES: Also available: operations, mainter	Seasonal Ice Rink Purchase Price List 2023.1d Principe Village Ice Rink TBD 2023 TBD - Indine Village, NV TbD - Indine Vi	Seasonal Ice Rink Purchase Price List 2023.1d Indine Village Ice Rink Date: TBD 2023 Revised: TBD - Indine Village, NV Revised: TBD - Indine Village, NV Revised: Actual: TBD - Indine Vil	Indine Village Ioo Rink TBD 2023 Revised: 10/10 Actual: TBD 2023 Revised: 10/10 Actual: TBD - Indine Village, NV

EXHIBIT B

Preston Field and Park

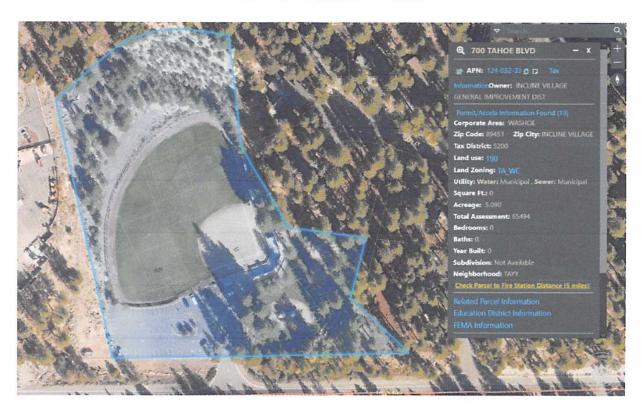


EXHIBIT C

TCPUD Power Expense 4100 sq. ft. ice surface

Tahoe City Ice Rink Power Costs	January	February	March	November	December	Total
2023 Ice Rink	\$2,999.75	\$3,650.50	\$3,000.00			\$9,650.25
2022 Ice Rink	\$3,196.06	\$3,969.05	\$2,026.49	\$2,594.10	\$2,970.25	\$14,755.95
2021 Ice Rink	\$2,506.73	\$3,266.70	\$1,794.27	\$3,183.29	\$3,301.95	\$14,052.94
2020 Ice Rink	\$1,556.84	\$1,979.32	\$1,680.78	\$2,020.65	\$2,391.58	\$9,629.17
2019 Ice Rink	\$1,641.14	\$1,880.22	\$1,792.22	\$1,544.68	\$1,628.40	\$8,486.66
2018 Ice Rink	\$2,556.46	\$2,739.10	\$1,701.21	\$1,641.14	\$1,857.30	\$10,495.21

EXHIBIT D

PROGRAMS, PRICING, HOURS, DATES OF SERVICE

Dates of Service: Saturday December 9, 2023 to Sunday, April 14, 2024

Hours of Operation

Monday – Thursday: 4:00 pm – 9:00 pm Friday & Saturday: 11:00 am – 9:00 pm

Sunday: 12:00 noon – 8:00 pm

Programs Hours of Operation

Youth Hockey League: \$125 per player: Includes 3 days a week: 4:00 pm - 5:30 pm

Learn to skate clinics: 2 weekdays 4:00 pm – 5:00 pm, Saturdays from 11:00 am – 12:00

noon

Adult Curling League: 2 nights a week from 7:3 0pm – 9:00 pm

Community Skate Hours of Operation

Monday - Friday: 5:30 pm - 7:30 pm; 5:30pm - 9:00 pm when no curling league

Saturday: 12:00 noon – 9:00 pm Sunday: 12:00 noon – 8:00 pm

Rates

Non-resident adult: \$20 Resident adult: \$10 Non-resident youth: \$20 Resident youth: \$8 Rental Skates: \$5

Facility rental:

Daily: \$500 IVGID: \$375 Hourly: \$125 IVGID: \$100

EXHIBIT E

STAFFING

Opening Day – Saturday December 9, 2023

Closing Day - Sunday, April 14, 2024

Staffing Hours

Monday – Thursday: 4:00 pm – 9:00 pm (20 hours) Friday & Saturday: 11:00 am – 9:00 pm (20 hours)

Sunday: 12:00 noon - 8:00 pm (8 hours)

Staff needed and Cost

Rec. Leader fully burdened \$19,293 Jr Rec. Leader fully burdened \$14,469

MEMORANDUM

TO: Board of Trustees

FROM: Matthew Dent

Chair

Josh Nelson

General Counsel

SUBJECT: Review, discuss, and provide direction on

redactions for pending public records requests

RELATED STRATEGIC

PLAN INITIATIVES: Long Range Principle #7 Governance

RELATED DISTRICT

POLICY: Policy and Procedure No. 137/Resolution No.

1801 (Policy for the Provision of Records and

Information to the Public)

DATE: October 25, 2023

I. <u>RECOMMENDATION</u>

That the Board of Trustees review, discuss, and provide direction on redactions for pending public records requests.

II. <u>BACKGROUND</u>

Attached is a list of the pending public records redactions since our last report.

III. FINANCIAL IMPACT AND BUDGET

No direct impact by this item.

IV. <u>ALTERNATIVES</u>

Below is an alternative to the recommended action:

1. Discontinue or modify the proposed reporting for public records.

V. <u>BUSINESS IMPACT</u>

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

VI. <u>ATTACHMENTS</u>

N/A

Date of Request	Requestor	Request	Dated Responded	Dated Records Provided	Exemption App Rationale	lied	and
09/24/2023	Cliff Dobler	Silver State Law Invoices	10/04/2023	10/04/2023	The invoices include attorney-client privinformation. Redawere applied narroconsistent with past direction.	ileged ctions wly	3

BOARD OF TRUSTEES LONG RANGE CALENDAR

Notes
Consent Items
Report Items
Agenda Items

DECEMBER 6						
SCHEDULE	1 st draft agenda to Board Chairman on 11/24; all memos materials due					
	in by 11/27; Packet out on 11/29; agenda posted no later than 8:45 a.m.					
	on 12/1					
	Possible Special Meeting for interview of potential General Manager					
	candidate(s)					

DECEMBER 13					
SCHEDULE	1st draft agenda to Board Chairman on 12/1; all memos materials due in				
	by 12/4; Packet out on 12/6; agenda posted no later than 8:45 a.m. on				
	12/8				
Reminder	Contract: Agreement Review – First Non Profit (Unemployment), USFS				
	(DP Special Use), and TRPA (watercraft inspection) - expires 12/2023				
Marketing	Report: IVGID Magazine – survey results				
BOT	Report: Golf Advisory Committee initial findings/recommendations				
	(without financials)				
PW	Agreement: Centrifuge Reconditioning Approval & Award				
PW	Agreement: Professional Services Reservoir 3-1 WPS 4-2/5-1 Road -				
	Approve & Award				
PW	Agreement: Skate Park Design/Build Award with a stop at 30%, and				
	return to the BOT, to review the two options (spend \$250K or spend				
	\$500K)				
PW	Agreement: Incline Beach House Design/Build Award with a stop at 30%,				
	and return to the BOT to select the preferred design option				
PW	Approval of SRF Funding for GMP2 of the Effluent Export Line				
PW	Contract Award: GMP2 with Granite Construction for Effluent Export Line				
PW	Agreement: SPS #1 Construction Contract Approval & Award				
IT	Contract Award: Point-of-Sale System				
GM	Pricing Pyramid and Policy				
BOT	Agreement: Flashvote				
BOT	Election of Officers for 2024				

BOARD OF TRUSTEES LONG RANGE CALENDAR

Notes
Consent Items
Report Items
Agenda Items

JANUARY 10 AND 31, 2024					
PW	Procurement: Lab Equipment				
PW	Agreement: Diamond Peak Electrical Entrance Construction Contract				
	Approval and Award				
PW	Agreement: Professional Services for Rec Center HVAC Replacement				
PW	Agreement: SPS #5 Construction Contract Approval and Award				
PW	Waste Management				
PW	Utility Master Plan Update				
<mark>GM</mark>	Strategic Plan and 5-CIP Discussion				
P&R	Ordinance 7 modifications/recommendations (may include a discussion				
	about the family tree, punch card recommendations, and Policy 16.1.0)				

	FEBRUARY 14 AND 28, 2024
PW	Easement: SPS #5 Easement
Finance	Augmentation for the budget including a public hearing

	MARCH 13 AND 27, 2024
Finance	Augmentation for the budget including a public hearing

BOARD OF TRUSTEES LONG RANGE CALENDAR

Notes
Consent Items
Report Items
Agenda Items

PARKING LOT ITEMS

Date of Request	Item	Requester	Status/Notes	Date Completed
1/18/21	Possible discussion on IVGID needs as it relates to potential land use agreement with DPSEF	Trustee Schmitz	DPSEF continues to have discussion amongst themselves about this item	
Unknown	Next step on Diamond Peak parking lot/Ski Way – Staff added reminder	GM DPSR Bandelin		
Unknown	Liaisons with Washoe County	Trustee Schmitz		
2/8/23	Capitalization Policy	Trustee Schmitz		
2/8/23	Update on Snowflake Lodge	Trustee Noble		
2/8/23	Workforce Housing for Seasonal Employees	Trustee Noble	Staff to share with Trustee Noble the current situation.	
5/25/23	Two (2) Policy 20.1.0 on the website	Trustee Schmitz	This is correct and it will be corrected when one of these policies comes before the Board	
06/28/23	Review and Possible Approval of Revisions to Policy 2.1.0	GM Bandelin		
06/28/23	Review CIP Roles & Responsibilities (Policies 12.1, 13.1 & Practice 13.2	GM Bandelin		
06/28/23	Chairman Dent to propose 2 days for a Trustee Forum	Chairman Dent		
06/28/23	Redactions – needs a legal non-meeting as a Trustee requested that the PE's be made public	Chairman Dent		
07/12/23	Writing a letter to schools regarding programs	Chairman Dent		
07/26/23	Update on Food and Beverage (from 7/26/2023 meeting)	GM Bandelin	To be determined	
08/09/23	UNR and Washoe County BOT's Additional Training	Trustee Tonking	Date to be determined after 2 nd training is rescheduled	
08/09/23	Revise State Budget Forms (if needed)	GM Bandelin/Interim Director of Finance Magee	Will be agendized at the appropriate time	