Twin Falls City Council
Agenda

Monday, November 2, 2020, 5:00 PM

City Council Chambers
203 Main Avenue East- Twin Falls, Idaho

Members: Suzanne Hawkins, Craig Hawkins, Nikki Boyd, Shawn Barigar, Gregory Lanting, Christopher Reid, Ruth Pierce

1) CALL MEETING TO ORDER/CONFIRMATION OF QUORUM
2) PLEDGE OF ALLEGIANCE
3) PROCLAMATIONS
   a) **PRESENTATION:** National American Indian Heritage Month - Requested by *Melinda Anderson and Helen Cutler, Twin Falls Chapter National Society Daughters of the American Revolution*
4) CONSENT CALENDAR
   a) **ACTION ITEM:** Request to approve the October 26, 2020, City Council Minutes.
      By: Amy Luna, Finance Administrative Assistant
   b) **ACTION ITEM:** Request to approve the Accounts Payable for October 22-28, 2020.
      By: Amy Luna, Finance Administrative Assistant
   c) **ACTION ITEM:** Request to approve Alcohol License for Rock Creek Celebration Center.
      By: Amy Luna, Finance Administrative Assistant
5) ITEMS OF CONSIDERATION
   a) **ACTION ITEM:** Consideration to Award a Bid for FAA Funded Airport Fire Truck Foam Testing Equipment.
      By: William Carberry, Airport Manager
   b) **INFORMATIONAL:** Presentation by Joshua W. Kern M.D., Vice President of Medical Affairs, St. Luke's Health System.
      By: Travis Rothweiler, City Manager
   c) **ACTION ITEM:** Consideration of a mandate for face coverings in the City of Twin Falls.
      By: Mitch Humble, Deputy City Manager, Travis Rothweiler, City Manager
6) GENERAL PUBLIC INPUT
7) ADVISORY BOARD REPORT/ANNOUNCEMENTS
8) PUBLIC HEARINGS
9) ADJOURNMENT
   a) **ACTION ITEM: Request to adjourn to Executive Session 74-206(1) (b)**To consider the evaluation, dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent, or public school student.

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

Public Input Procedures

1. Individuals wishing to provide public input regarding matters relevant to the City of Twin Falls shall:
- Wait to be recognized by the Mayor or Chairman
- Approach the microphone/podium
- State their name, and whether they are a resident or property owner in the City of Twin Falls, and proceed with their input.

2. The Mayor or Chairman may limit input to no less than two (2) minutes. Individuals are not permitted to give their time to other speakers.

Public Hearing Procedures for Zoning Requests

1. Prior to opening the first Public Hearing of the session, the Mayor or Chairman shall review the public hearing procedures.

2. Individuals wishing to testify or speak before the City Council or Planning & Zoning Commission shall wait to be recognized by the Mayor or Chairman, approach the microphone/podium, state their name, and then proceed with their comments. Following their statements, they shall write their name and address on the record sheet(s) provided by the staff. The staff shall make an audio recording of the Public Hearing.

3. A City Staff Report shall summarize the application and history of the request.

4. The Applicant, or the spokesperson for the Applicant, will make a presentation on the application/request (request). No changes to the request may be made by the applicant after the publication of the Notice of Public Hearing. The presentation should include the following:
- A complete explanation and description of the request.
- Why the request is being made.
- Location of the Property.
- Impacts on the surrounding properties and efforts to mitigate those impacts.

5. Applicant is limited to 15 minutes, unless a written request for additional time is received, at least 72 hours prior to the hearing, and granted by the Mayor or Chairman.

6. The City Council or Planning & Zoning Commission may ask questions of staff or the applicant pertaining to the request.

7. The general public will then be given the opportunity to provide their testimony regarding the request. The Mayor or Chairman may limit public testimony to no less than two (2) minutes per person.
- Individuals are not permitted to give their time to other speakers.
- However, five (5) or more individuals that received written notice of the public hearing may appoint, by written petition, a spokesperson. The written petition must be received at least 72 hours prior to the hearing and must be granted by the Mayor or Chairman. The spokesperson shall be limited to 15 minutes.
- Written comments, including e-mail, received by 12:00 p.m. on the date of the hearing shall be either read into the record or displayed to the public on the overhead projector.

8. Following the Public Testimony, the applicant is permitted five (5) minutes to respond to Public Testimony.

9. Following the Public Testimony and Applicant's response, Council or Commission members, as recognized by the Mayor or Chairman, shall be allowed to question the Applicant, Staff or anyone who has testified. Responses shall be limited to answering the questions asked. The Mayor or Chairman may limit the time permitted for the answer.

10. The Mayor or Chairman shall close the Public Hearing. The City Council or Planning & Zoning Commission shall deliberate on the request. Deliberations and decisions shall be based upon the information and testimony provided during the Public Hearing. Once the Public Hearing is closed, additional testimony from the staff, applicant or public is not allowed. Legal or procedural questions may be directed to the City Attorney.

* Any person not conforming to the above rules may be prohibited from speaking. Persons refusing to comply with such prohibitions may be asked to leave the hearing and, thereafter removed from the room by order of the Mayor or Chairman.

Office of the Mayor

City of Twin Falls, Idaho

Proclamation

National American Indian Heritage Month

WHEREAS, the history and culture of our great nation have been significantly influenced by American Indians and indigenous peoples; and

WHEREAS, the contributions of American Indians have enhanced the freedom, prosperity, and greatness of America today, and

WHEREAS, their customs and traditions are respected and celebrated as part of a rich legacy throughout the United States; and

WHEREAS, Native American Awareness Week began in 1976 and recognition was expanded by Congress and approved by President George Bush in August 1990, designating the month of November, as National American Indian Heritage Month; and

WHEREAS, in honor of National American Indian Heritage Month, community celebrations as well as numerous cultural, artistic, educational, and historical activities have been planned;

WHEREAS, the Twin Falls Chapter National Society Daughters of the American Revolution requested this proclamation; and

NOW THEREFORE, I Suzanne Hawkins, by virtue of the authority vested in me as Mayor of the City of Twin Falls, Idaho, do hereby proclaim November as the National American Indian Heritage Month, in Twin Falls, and urge all our citizens to observe this month with appropriate programs, ceremonies and activities.

IN WITNESS WHEREOF, I do hereby set my hand and cause the Seal of the City of Twin Falls to be affixed the 2nd day of November, the year of our Lord two thousand and twenty.

_____

Suzanne Hawkins
Mayor

_____

Attest: Leila A. Sanchez
Deputy City Clerk

Twin Falls City Council
Minutes

Monday, October 26, 2020, 4:00 PM

City Council Chambers
203 Main Avenue East- Twin Falls, Idaho

1) CALL MEETING TO ORDER/CONFIRMATION OF QUORUM

Present: Mayor Suzanne Hawkins, Vice Mayor Ruth Pierce, Council Member Shawn Barigar, Craig Hawkins, Greg Lanting, Christopher Reid & Nikki Boyd (by Phone).

Absent:

Staff Present: City Manager Travis Rothweiler, Deputy City Manager Mitch Humble, Assistant to the City Manager Mandi Thompson, City Attorney Shayne Nope, CFO Breanna Howard, Captain Matt Hicks, Fire Chief Les Kenworth, Jonathan Spendlove, City Engineer Mark Holzen, URA Engineer Jesse Schuerman, Help Desk Technician Kim Hafer, Finance Administrative Assistant Amy Luna.

Mayor Hawkins called the meeting to order at 5:00 PM. A quorum was present.

2) PLEDGE OF ALLEGIANCE

Mayor Hawkins invited all present, who wished, to recite the Pledge of Allegiance to the Flag.

3) PROCLAMATIONS: None

4) CONSENT CALENDAR

MOTION: Council Member Reid moved to approve the Consent Calendar as presented. **Vice Mayor Pierce** seconded the motion. Roll call vote showed all members present voted in favor of the motion. 6 to 0 with Council Member Hawkins abstaining.

a) Request to approve the Accounts Payable for October 15-21, 2020.
b) Request to approve the Wells Fargo Credit Commercial Card for September 2020
c) Request to approve October 19, 2020, City Council Minutes.
d) Request to approve the Findings of Fact and Conclusions of Law: Tim Mingo Vacation (PZ20- 0105)
e) Request to authorize the Mayor to sign the dedication of Public Right-of-Way to the City for the purpose of constructing a signal at Madrona and Falls intersection (Grantor Thomas D. Kershaw).
f) Request to authorize the Mayor to sign a dedication of a second piece of Public Right-Of-Way for the purpose of constructing a signal at the Madrona and Falls intersection (Grantor Jack Sherrill).

5) ITEMS OF CONSIDERATION

a) Presentation by Joshua W. Kern M.D., Vice President of Medical Affairs, St. Luke's Health System.

Mayor Hawkins introduced Dr. Kern, Vice President of Medical Affairs, St. Luke's Health System.

City Manager Rothweiler provided some information provided by Dr. Kern until Dr. Kern was able to call in.

Governor Little has rolled the state back to Stage #3.

Discussion ensued on the following:
Council Member Barigar: Spoke about the Public Health meeting held last week. Asked that the Council work with the City Manager's Office consider a mask mandate in the City of Twin Falls,
Council Member Lanting: Urged citizens to wear masks where possible.
Council Member Reid: Thanked the event coordinators who have canceled the events.
What are some things that we can do to protect those that are most vulnerable?

Council Member Barigar: Spoke about the distancing & sanitation request in the Governor's order.
Mayor Hawkins: Asked about a virtual meeting with other City Managers around the area.
Vice Mayor Pierce: Would it be possible to include the County Commissioners?

Mayor Hawkins thanked Dr. Kern for his presentation.

b) Request approval by City Council to offer a Small Business Assistance Grant with CARES Act Funds.

City Manager Assistant Thompson requested approval by City Council to offer a Small Business Assistance Grant with CARES Funds.

Discussion ensued on the following:
Council Member Reid: For those that have already received CARES Funds, can they apply for items that were not already covered?
Vice Mayor Pierce: Spoke about the number of businesses that could apply and there may be more applications than we realize.
Council Member Lanting: Spoke in favor of this use of funds. Asked for clarification on the $10,000 is the cap. In favor of upping the amount if needed. Would like to see the money stay within the City and not be returned.
Vice Mayor Pierce: Pointed out that this is only 50 applications.
Council Member Reid: For clarification, should you receive funds it will be listed online.
Council Member Boyd: Spoke in favor of this.

MOTION: Vice Mayor Pierce moved to approve the request to offer a Small Business Assistance Grant with CARES Fund's ss presented. **Council Member Hawkins** seconded the motion. Roll call vote showed all members present voted in favor of the motion. 7 to 0.

c) Request to accept an offer to purchase the City's half ownership share in the real property located at 303 4th Avenue East.

Deputy City Manager Humble requested to accept an offer to purchase the City's half ownership share in the real property located at 303 4th Avenue East.

The offer amount is $5,000.00

Discussion ensued on the following:
Council Member Boyd: Spoke in favor of moving forward with this sale.
Council Member Reid: Spoke in favor of this offer.

MOTION: Council Member Reid moved to accept the offer to purchase the City's half ownership share in the real property located at 303 4th Avenue East. **Council Member Boyd** seconded the motion. Roll call vote showed all members present voted. Approved 7 to 0.

6) GENERAL PUBLIC INPUT
Citizen Grayson Stone spoke on the Governor's mandate and asked for a mask mandate to be added to the agenda on November 2, 2020, at 6:00 p.m.

City Manager Rothweiler addressed the individuals who want to attend to remember the meeting rules of 50 or less.

Citizen Jaren Thompson spoke against the mask mandate.

7) ADVISORY BOARD REPORT/ANNOUNCEMENTS

Council Member Hawkins spoke about the Historic Preservation Conference that will be held virtually.

Council Member Reid: Library doors will be closed, offer limited appointments and curbside pickup.

Mayor Hawkins spoke to the citizens and asked them to work together during this pandemic.

8) PUBLIC HEARINGS

a) Request for an Amendment to the Latitude 42 PUD to modify allowed uses and remove restrictions on outdoor storage on property located at 1291 Latitude Circle c/o Gerald Martens. (PZ20-0100) On September 22, 2020, the Planning and Zoning Commission recommended approval to City Council by a vote of 6-0.

The applicant asked for a continuance until November 9, 2020, at 6:00 p.m.

MOTION: Council Member Reid moved to approve the request for a continuance on the Amendment to the Latitude 42 PUD to modify allowed uses and remove restrictions on outdoor storage on property located at 1291 Latitude Circle c/o Gerald Martens. (PZ20- 0100) **Vice Mayor Pierce** seconded the motion. Roll call vote showed all members present voted in favor of the motion. 7 to 0.

9) ADJOURNMENT

a) Request to adjourn to Executive Session 74-206(1)(c) to acquire an interest in real property not owned by a public agency.

MOTION: Council Member Lanting moved to adjourn to Executive Session 74-206(1)(c) to acquire an interest in real property not owned by a public agency. **Council Member Reid** seconded the motion. Roll call vote showed all members present voted in favor of the motion. 7 to 0.

The meeting adjourned at 06:13 PM

_____

Amy Luna, Finance Administrative Assistant

Date: Monday, November 2, 2020

To: Honorable Mayor and City Council

From: Bill Carberry, Airport Manager

Request: Consideration to Award a Bid for FAA Funded Airport Fire Truck Foam Testing Equipment.

Time Estimate: The staff presentation will take approximately 5 minutes, with possibly additional time for questions.

Background: The Airport is required by the FAA to test our Airport's fire truck operating systems to insure the proportion of AFFF (aqueous film forming foam) and water ratio is within tolerances. In the past this has been an "output based test" resulting in the water/foam being discharged on the ground or a large bucket. This procedure is both expensive due to the cost of the foam and has been found to be environmentally concerning. The "input based test" equipment now available allows for the closed loop containment and testing of the Foam/Water ratio, an eco-friendlier process.

Following the FAA's small procurement process, the Airport sought bids from the 3 companies that manufacture these devices. Two companies responded with a proposal, the third company, Oshkosh, only makes this equipment for the new fire trucks they manufacture. The Eco-Logic system from E-One quoted us $32,570.00 for their test cart while No-Foam Systems quoted us $45,385.53 for their C-574 mobile trailer system.

Approval Process: A majority vote of the Council is needed to approve the request.

Budget Impact: Due to scope limitations in the use of the new fire truck grant (AIP 40) utilized for the funding of this equipment, the FAA will not fund a second plumbing kit for our ready reserve ARFF truck, purchased in 1996 and still in use. The additional kit costs $3,010.00 and will be funded through an airport fund line item used for small equipment. Thus, the FAA will fund the remaining cost of the equipment contract, $29,560.00 at the typical grant level of 93.75%. The airport will utilize the PFC fund for the 6.25% match required ($1,847).

Regulatory Impact: The acquisition of this equipment is consistent with FAA requirements. This new equipment will help maintain a safer and efficient method for testing our firefighting foam.

Conclusion: Staff recommends that the City Council award the bid for the E-One Ecological Mobile Test System in the amount of $32,570, contingent upon legal review and FAA concurrence.

Attachments:

1. Bid Proposals
2. E-One Equipment contract

Ronald "RJ" Jones
Sales Manager
Mobile Phone: 352-266-2666
rjjones@e-one.com

September 30, 2020

Twin Falls Fire Department
Attn: Jesse Bowman

ECOLOGIC Mobile Foam Test System for ARFF Vehicle(s)

Thank you for the opportunity to provide this proposal. E-ONE, Inc. is a leading manufacturer of fire apparatus and mission critical vehicles for fire departments and municipalities around the world. We are excited at the prospect of providing the Twin Falls Fire Department with the ECOLOGIC foam test system.

ECOLOGIC OEM Mobile Test Cart Pricing Structure

- Complete ECOLOGIC Test Cart assembly w/ hoses and Storz fittings featuring 110v electrical and programming **$19,550.00 USD** per cart (Qty of 1)
- Truck modification components for plumbing to allow testing on ARFF vehicles **$3,010.00 USD** per vehicle **x 2 = $6,020.00 USD**
- Crates, packaging and shipping for the cart and all modification parts **$3,000.00 USD**
- Required vehicle modification, training, and initial setup of each vehicle for an estimated three-day period **$4,000.00 USD**

Grand Total $32,570.00 USD

Quote Expires: October 31, 2020 and can be extended by request, at the discretion of E-ONE, Inc.

Payment Terms: Net 30

FOB Destination

No state, local or federal sales tax has been included in this pricing

Delivery and completion shall be approximately 90 days after receipt of an approved purchase order

Best regards,

Ronald Jones

NoFoam Systems

ARFF Testing Without Foam = NoFoam System

NOFOAM SYSTEM COST ESTIMATE

1 NOFOAM COMMERCIAL TRAILER SYSTEM C-574
2 FITTINGS FOR ARFF VEHICLES

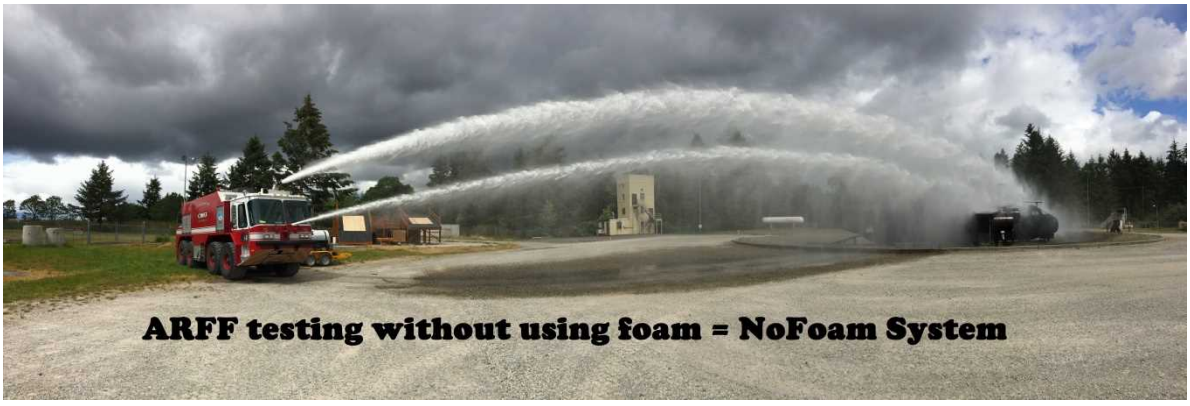
VERSION DATE: 9/30/2020

Submitted via email to: City of Twin Falls for Twin Falls Fire Department (TWF), ID

Point of Contact: Airport Operations, Jesse Bowman cc: Thomas Lemenager

Email: jbowman@tfid.org

Phone number: 208-731-4728



COST-BENEFIT ANALYSIS FOR
CITY OF TWIN FALLS , TWIN FALLS FIRE DEPT. (TWF), ID

SUMMARY: SAVINGS AND ENVIRONMENTAL IMPACT

Cost Benefit Analysis Summary:	**Model C**
Initial capital cost of NoFoam System	$ 45,386
Divided by: Capital savings per year	$ 9,134
Security Deposit	$ -
= Payback in years	**5.0**
Savings from foam concentrate per year	$ 9,134
- Yearly cost of operation (4 x test/yr)	$ -
= Savings per year less yearly cost of ops	$ 9,134
Expected life after payback (years)	15.0
Return on investment over 20 years *	**$ 137,302**
*) The 'ROI over 20 years' represents the total amount saved in addition to recovering the original investment	
Assumptions for Cost Benefit Analysis:	
Fleet size (# vehicles)	2
Test frequency (tests per year)	4
Flow time per test (seconds)	30
AFFF concentration setting	3%
Avoided cost of AFFF ($/Gallon)	22
Environmental and Financial Impact each year:	
AFFF concentrate saved (gallons each test)	104
Yearly AFFF replenishment avoided (dollars)	$ 9,134
Yearly pollution avoided (gallons, 3% AFFF)	13,840

ITEMIZED COST ESTIMATE FOR
CITY OF TWIN FALLS , TWIN FALLS FIRE DEPT. (TWF), ID

COST ESTIMATE

		Model C-500 Series		
Units	**of each**	**Description**	**Unit price**	**Sum**
1	of each	NoFoam Commercial Trailer Series 500	$26,724.00	$26,724.00
2	of each	Retrofit Kit #2 - for any ARFF	$6,813.76	$13,627.53
1	of each	Hydrant Meter	$1,734.00	$1,734.00
Total				$42,085.53
+ Delivery		Domestic door-to-door delivery	$3,300.00	$3,300.00
		Tax TBD - not included in this estimate		
= Total including domestic transport by truck				$45,385.53

OVERVIEW

The cost estimate requested is noted as follows, and is subject to a full and final quote:

- ✓ 1 NoFoam Commercial Trailer System C-574
- ✓ 2 Retro Fit Kits (2 ARFF Vehicles)
- ✓ No dye included, can be added to quote upon request
- ✓ 1 Fire Hydrant Meter
- ✓ Door-to-door delivery
- ✓ Optional cost of installation of Kits is included
- ✓ Partial delivery and partial invoicing (line item invoicing) allowed upon our request
- ✓ Expected payment terms are our standard payment terms (net 30 days)

THE SMALL PRINT

Notes and terms:

Disclaimer: All costs and savings listed are estimates only, subject to a final proposal. All prices are subject to change. Not liable for any errors or omissions.

Shipping and Delivery:

Cost is based on delivery to Twin Falls Fire Department, ID using ground transportation and standard packaging, excluding any taxes, duties, levies, or other assessed fees.

For the final quote, the delivery charges are not expected to deviate from this cost estimate for domestic deliveries within mainland US (CONUS). Deliveries outside mainland US may be based on an approximate estimate and may differ from the amount estimated in this cost estimate.

Domestic delivery time is usually 4-8 weeks, final delivery date based on long lead time items.

Package sized deliveries may be shipped by ground or by air, by any carrier, individually or in a combined shipment as determined by NoFoam Systems.

Payment:

Payment terms are our standard payment terms (net 30 days). Prices are quoted in US$. Sales tax and other local taxes may be added at any point in time, as necessary – they are not specified in this cost estimate.

Included/Excluded:

All major items are listed as line items. The system itself comes with a connection hose (between the testing unit and the ARFF vehicle), drain hose, 5-gallon collection containers for drainage and a funnel. The Retro Fit Kits come with all parts needed to perform the retrofit installation. Each kit also provides you with access to a PDF manual for the installation of the kit.

For on-going testing, you will have access to free PDF format user manuals, vehicle-specific test sheets and test report templates, as well as free online support (phone, text or email) on an as-available basis.

Installation of retrofit kit is included in the quote and is considered optional. The Installation can always be performed by your own mechanic on-site, or we can set you up with a third-party installer and provide installation supervision at most locations – this service is in any case optional based on your preference.

Options:

None listed.

NOFOAM SYSTEMS BACKGROUND AND POINT OF CONTACT INFORMATION

This cost estimate is issued by NoFoam Systems, a division of Emerging Growth Enterprise, which holds exclusive licensing rights to the Intellectual Property Rights to the system and the associated modification kits.

NoFoam Systems has won the Federal Labs Consortium's award for Technology Transfer. The technology is recognized as an acceptable method in the NFPA 412 standard. The system is approved by the FAA and listed in Part 139 CertAlert number 19-01.

The NoFoam System is installed and used on hundreds of ARFF vehicles all over the world. Our users include civil aviation as well as all branches of the US DoD (Navy, Marine, Air Force, and Army), and the Depart of Defense in Australia. NoFoam Systems are currently used in the US, Canada, Australia, Asia, Africa, and Europe (UK, Germany, Belgium, Italy, Spain, Portugal and Greece).



Lina Ramos, Principal, NoFoam Systems

NoFoam Systems
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La Jolla, CA 92037-4270
Tel: +1.619.886.4227 direct
Email: Lina@NoFoamSystem.com
Web: www.NoFoamSystem.com

- End of Cost Estimate -

CONTRACT FORM

THIS AGREEMENT, made the _____day of _____, 2020, by and between, E-ONE hereinafter called the "CONTRACTOR," and the City of Twin Falls, Idaho and Twin Falls County hereinafter called the "OWNER".

WITNESSETH: That the CONTRACTOR and the OWNER, for the consideration hereinafter named, agree as follows:

ARTICLE 1: SCOPE OF WORK: The CONTRACTOR shall furnish all labor, tools, materials, equipment and supplies required for the ECOLOGIC Mobile Cart Foam Test System for ARFF Vehicles(s) procurement in accordance with the Scope of Work attached with this document. The ECOLOGIC mobile cart foam test system is an input-based testing system that will be provided to the Twin Falls Fire Department to test the accuracy of their foam system without the expense or environmental impact of using foam to perform an output-based test. The procurement will include the compete ECOLOGIC test Cart assembly w/hoses and fittings featuring 110v electrical and programming in each cart. Scope will include all components necessary for plumbing into two existing ARFF vehicles including the Rosenbauer Class 4 ARFF truck. Procurement also includes all crates, packaging and shipping for the care and all of the modifications parts. The required vehicle modifications, training and initial setup of each vehicle will also be included as part of the Scope of Work.

ARTICLE 2: TIME OF COMPLETION: The work to be performed under this Contract shall be commenced on the date that the CONTRACTOR receives an approved purchase order from the Owner and will commence 90 Calendar Days thereafter. The CONTRACTOR agrees to pay, as liquidated damages, the following sums:

Two Hundred Dollars ($ 200.00)

for each consecutive Calendar day thereafter, the work remains uncompleted.

ARTICLE 3: THE CONTRACT SUM: The OWNER shall pay the CONTRACTOR for the performance of the Contract, as follows:

Thirty-Two Thousand Five Hundred and Seventy Dollars and no cents ($ 32,570.00)

ARTICLE 4: PAYMENT TERMS: The OWNER will make payment on account to the CONTRACTOR as provided therein, as follows:

Net 30.

ARTICLE 5: ACCEPTANCE AND FINAL PAYMENT: Upon due notice from the CONTRACTOR of presumptive completion of the entire project, the ENGINEER and OWNER will make an inspection. If all construction provided for and contemplated by the contract is found to be completed, such inspection shall constitute the final inspection. The ENGINEER shall notify the CONTRACTOR in writing of substantial completion as of the date of the final inspection.

Prior to Project Acceptance and preparation of necessary State Notices, the CONTRACTOR shall submit evidence, satisfactory to the ENGINEER, that all Intents and Affidavits, payrolls, material bills, taxes and other indebtedness connected with the work have been submitted, filed and/or paid.

ARTICLE 6: THE CONTRACT DOCUMENTS: The Federal Contract Clauses, the enclosed Scope of Work together with this Agreement, form the Contract, and they are as fully a part thereof and hereof as if hereto attached or herein repeated.

ARTICLE 7: FEDERAL CONTRACT CLAUSES: The CONTRACTOR agrees by signing this contract, to certify and comply with all Federal regulations, clauses and certifications stipulated within these contract documents.

49 CFR Part 26 provides that each contract the OWNER enters into with a CONTRACTOR (and each subcontract the contractor signs with a subcontractor) shall include the following assurance:

> "The CONTRACTOR and its subcontractors shall not discriminate on the basis of race color, national origin, or sex in the performance of this contract. The CONTRACTOR shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of Department of Transportation (DOT) assisted contracts. Failure by the CONTRACTOR to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate"

ARTICLE 8: WARRANTY:

The Contractor hereby guarantees that should any defect develop during the contract guarantee period, as hereinafter defined, due to improper materials, workmanship or arrangement, we will, upon written notice, replace or re-execute such defective work, together with any other work affected in making good such defects, at the convenience of, and without expense to the Owner. The contract guarantee period shall be a period of one year form final acceptance, except in the cases of manufacturer's or other required extended warranties that extend for periods greater than one year from final acceptance, whereby the contract guarantee shall extend to match for the items that are so warrantied.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

CONTRACTOR

_____

_____

_____

OWNER City of Twin Falls

_____

_____

_____

OWNER Twin Falls County

_____

_____

_____

Federal Clauses

ACCESS TO RECORDS AND REPORTS

The Contractor must maintain an acceptable cost accounting system. The Contractor agrees to provide the Owner, the Federal Aviation Administration and the Comptroller General of the United States or any of their duly authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The Contractor agrees to maintain all books, records and reports required under this contract for a period of not less than three years after final payment is made and all pending matters are closed.

BUY AMERICAN PREFERENCE

The Contractor agrees to comply with 49 USC § 50101, which provides that Federal funds may not be obligated unless all steel and manufactured goods used in AIP funded projects are produced in the United States, unless the Federal Aviation Administration has issued a waiver for the product; the product is listed as an Excepted Article, Material Or Supply in Federal Acquisition Regulation subpart 25.108; or is included in the FAA Nationwide Buy American Waivers Issued list.

A bidder or offeror must complete and submit the Buy America certification included herein with their bid or offer. The Owner will reject as nonresponsive any bid or offer that does not include a completed Certificate of Buy American Compliance.

CERTIFICATE OF BUY AMERICAN COMPLIANCE FOR TOTAL FACILITY

As a matter of bid responsiveness, the bidder or offeror must complete, sign, date, and submit this certification statement with its proposal. The bidder or offeror must indicate how it intends to comply with 49 USC § 50101 by selecting one of the following certification statements. These statements are mutually exclusive. Bidder must select one or the other (i.e. not both) by inserting a checkmark (✓) or the letter "X".

☐ Bidder or offeror hereby certifies that it will comply with 49 USC § 50101 by:

a) Only installing steel and manufactured products produced in the United States; or
b) Installing manufactured products for which the Federal Aviation Administration (FAA) has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued listing; or
c) Installing products listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation Subpart 25.108.

By selecting this certification statement, the bidder or offeror agrees:

- To provide to the Owner evidence that documents the source and origin of the steel and manufactured product.
- To faithfully comply with providing U.S. domestic products.

- To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

☐ The bidder or offeror hereby certifies it cannot comply with the 100 percent Buy American Preferences of 49 USC § 50101(a) but may qualify for either a Type 3 or Type 4 waiver under 49 USC § 50101(b). By selecting this certification statement, the apparent bidder or offeror with the apparent low bid agrees:

a) To the submit to the Owner within 15 calendar days of the bid opening, a formal waiver request and required documentation that supports the type of waiver being requested.
b) That failure to submit the required documentation within the specified timeframe is cause for a non-responsive determination that may result in rejection of the proposal.
c) To faithfully comply with providing U.S. domestic products at or above the approved U.S. domestic content percentage as approved by the FAA.
d) To furnish U.S. domestic product for any waiver request that the FAA rejects.
e) To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

Required Documentation

Type 3 Waiver – The cost of components and subcomponents produced in the United States is more than 60 percent of the cost of all components and subcomponents of the "facility". The required documentation for a Type 3 waiver is:

a) Listing of all manufactured products that are not comprised of 100 percent U.S. domestic content (excludes products listed on the FAA Nationwide Buy American Waivers Issued listing and products excluded by Federal Acquisition Regulation Subpart 25.108; products of unknown origin must be considered as non-domestic products in their entirety).
b) Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly and installation at project location.
c) Percentage of non-domestic component and subcomponent cost as compared to total "facility" component and subcomponent costs, excluding labor costs associated with final assembly and installation at project location.

Type 4 Waiver – Total cost of project using U.S. domestic source product exceeds the total project cost using non-domestic product by 25 percent. The required documentation for a Type 4 of waiver is:

a) Detailed cost information for total project using U.S. domestic product
b) Detailed cost information for total project using non-domestic product

False Statements: Per 49 USC § 47126, this certification concerns a matter within the jurisdiction of the Federal Aviation Administration and the making of a false, fictitious or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code.

Date	Signature
Company Name	Title

Certificate of Buy American Compliance for Manufactured Products

As a matter of bid responsiveness, the bidder or offeror must complete, sign, date, and submit this certification statement with their proposal. The bidder or offeror must indicate how they intend to comply with 49 USC § 50101 by selecting one on the following certification statements. These statements are mutually exclusive. Bidder must select one or the other (not both) by inserting a checkmark (✓) or the letter "X".

☐ Bidder or offeror hereby certifies that it will comply with 49 USC § 50101 by:

a) Only installing steel and manufactured products produced in the United States;
b) Installing manufactured products for which the Federal Aviation Administration (FAA) has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued listing; or
c) Installing products listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation Subpart 25.108.

By selecting this certification statement, the bidder or offeror agrees:

1. To provide to the Owner evidence that documents the source and origin of the steel and manufactured product.
2. To faithfully comply with providing U.S. domestic product.
3. To furnish U.S. domestic product for any waiver request that the FAA rejects
4. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

☐ The bidder or offeror hereby certifies it cannot comply with the 100 percent Buy American Preferences of 49 USC § 50101(a) but may qualify for either a Type 3 or Type 4 waiver under 49 USC § 50101(b). By selecting this certification statement, the apparent bidder or offeror with the apparent low bid agrees:

1. To the submit to the Owner within 15 calendar days of the bid opening, a formal waiver request and required documentation that supports the type of waiver being requested.
2. That failure to submit the required documentation within the specified timeframe is cause for a non-responsive determination may result in rejection of the proposal.
3. To faithfully comply with providing U.S. domestic products at or above the approved U.S. domestic content percentage as approved by the FAA.
4. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

Required Documentation

Type 3 Waiver – The cost of the item components and subcomponents produced in the United States is more that 60 percent of the cost of all components and subcomponents of the "item". The required documentation for a Type 3 waiver is:

a) Listing of all product components and subcomponents that are not comprised of 100 percent U.S. domestic content (Excludes products listed on the FAA Nationwide Buy American Waivers Issued listing and products excluded by Federal Acquisition

Regulation Subpart 25.108; products of unknown origin must be considered as non-domestic products in their entirety).

b) Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly at place of manufacture.
c) Percentage of non-domestic component and subcomponent cost as compared to total "item" component and subcomponent costs, excluding labor costs associated with final assembly at place of manufacture.

Type 4 Waiver – Total cost of project using U.S. domestic source product exceeds the total project cost using non-domestic product by 25 percent. The required documentation for a Type 4 of waiver is:

a) Detailed cost information for total project using U.S. domestic product
b) Detailed cost information for total project using non-domestic product

False Statements: Per 49 USC § 47126, this certification concerns a matter within the jurisdiction of the Federal Aviation Administration and the making of a false, fictitious or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code.

Date	Signature
Company Name	Title

GENERAL CIVIL RIGHTS PROVISIONS

The Contractor agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision binds the Contractor and subcontractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

Title VI Solicitation Notice:

The **City of Twin Falls, Idaho**, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 USC §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders or offerors that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

Compliance with Nondiscrimination Requirements:

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor"), agrees as follows:

1. **Compliance with Regulations:** The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they

may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

2. **Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
3. **Solicitations for Subcontracts, including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the contractor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
4. **Information and Reports:** The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a Contractor's noncompliance with the non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
    a. Withholding payments to the Contractor under the contract until the Contractor complies; and/or
    b. Cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

Title VI List of Pertinent Nondiscrimination Acts and Authorities

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq*., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq*.), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq*.) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC §§ 12131 – 12189) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration's Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC 1681 et seq).

CERTIFICATION OF OFFERER/BIDDER REGARDING DEBARMENT

By submitting a bid/proposal under this solicitation, the bidder or offeror certifies that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

CERTIFICATION OF LOWER TIER CONTRACTORS REGARDING DEBARMENT

The successful bidder, by administering each lower tier subcontract that exceeds $25,000 as a "covered transaction", must verify each lower tier participant of a "covered transaction" under the project is not presently debarred or otherwise disqualified from participation in this federally assisted project. The successful bidder will accomplish this by:

1. Checking the System for Award Management at website: http://www.sam.gov.
2. Collecting a certification statement similar to the Certification of Offerer /Bidder Regarding Debarment, above.
3. Inserting a clause or condition in the covered transaction with the lower tier contract.

If the Federal Aviation Administration later determines that a lower tier participant failed to disclose to a higher tier participant that it was excluded or disqualified at the time it entered the covered transaction, the FAA may pursue any available remedies, including suspension and debarment of the non-compliant participant.

DISADVANTAGED BUSINESS ENTERPRISES

Contract Assurance (§ 26.13) –

The Contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of Department of Transportation-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Owner deems appropriate, which may include, but is not limited to:

1) Withholding monthly progress payments;

2) Assessing sanctions;

3) Liquidated damages; and/or

4) Disqualifying the Contractor from future bidding as non-responsible.

Prompt Payment (§26.29) – The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 60 days from the receipt of each payment the prime contractor receives from the City of Twin Falls, Idaho. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the City of Twin Falls, Idaho. This clause applies to both DBE and non-DBE subcontractors.

TEXTING WHEN DRIVING

In accordance with Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving", (10/1/2009) and DOT Order 3902.10, "Text Messaging While Driving", (12/30/2009), the Federal Aviation Administration encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or subgrant.

In support of this initiative, the Owner encourages the Contractor to promote policies and initiatives for its employees and other work personnel that decrease crashes by distracted drivers, including policies that ban text messaging while driving motor vehicles while performing work activities associated with the project. The Contractor must include the substance of this clause in all sub-tier contracts exceeding $3,500 that involve driving a motor vehicle in performance of work activities associated with the project.

ENERGY CONSERVATION REQUIREMENTS

Contractor and Subcontractor agree to comply with mandatory standards and policies relating to energy efficiency as contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 USC 6201*et seq*).

FEDERAL FAIR LABOR STANDARDS ACT

All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part-time workers.

The Contractor has full responsibility to monitor compliance to the referenced statute or regulation. The Contractor must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

OCCUPATIONAL SAFETY AND HEALTH ACT

All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. The employer must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The employer retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). The employer must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

PROCUREMENT OF RECOVERED MATERIALS

Contractor and subcontractor agree to comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, and the regulatory provisions of 40 CFR Part 247. In the performance of this contract and to the extent practicable, the Contractor and subcontractors are to use products containing the highest percentage of recovered materials for items designated by the Environmental Protection Agency (EPA) under 40 CFR Part 247 whenever:

1) The contract requires procurement of $10,000 or more of a designated item during the fiscal year; or
2) The contractor has procured $10,000 or more of a designated item using Federal funding during the previous fiscal year.

The list of EPA-designated items is available at www.epa.gov/smm/comprehensive-procurement-guidelines-construction-products.

Section 6002(c) establishes exceptions to the preference for recovery of EPA-designated products if the contractor can demonstrate the item is:

a) Not reasonably available within a timeframe providing for compliance with the contract performance schedule;
b) Fails to meet reasonable contract performance requirements; or
c) Is only available at an unreasonable price.

CERTIFICATION OF OFFERER/BIDDER REGARDING TAX DELINQUENCY AND FELONY CONVICTIONS

The applicant must complete the following two certification statements. The applicant must indicate its current status as it relates to tax delinquency and felony conviction by inserting a checkmark (✓) in the space following the applicable response. The applicant agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification in all lower tier subcontracts.

Certifications

1) The applicant represents that it is ( ) is not ( ) a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.
2) The applicant represents that it is ( ) is not ( ) is not a corporation that was convicted of a criminal violation under any Federal law within the preceding 24 months.

Note

If an applicant responds in the affirmative to either of the above representations, the applicant is ineligible to receive an award unless the sponsor has received notification from the agency suspension and debarment official (SDO) that the SDO has considered suspension or debarment and determined that further action is not required to protect the Government's interests. The applicant therefore must provide information to the owner about its tax liability or conviction to the Owner, who will then notify the FAA Airports District Office, which will then notify the agency's SDO to facilitate completion of the required considerations before award decisions are made.

Term Definitions

Felony conviction: Felony conviction means a conviction within the preceding twenty-four
(24) months of a felony criminal violation under any Federal law and includes conviction of an offense defined in a section of the U.S. code that specifically classifies the offense as a felony and conviction of an offense that is classified as a felony under 18 U.S.C. § 3559.

Tax Delinquency: A tax delinquency is any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have

lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

TERMINATION FOR CONVENIENCE (CONSTRUCTION & EQUIPMENT CONTRACTS)

The Owner may terminate this contract in whole or in part at any time by providing written notice to the Contractor. Such action may be without cause and without prejudice to any other right or remedy of Owner. Upon receipt of a written notice of termination, except as explicitly directed by the Owner, the Contractor shall immediately proceed with the following obligations regardless of any delay in determining or adjusting amounts due under this clause:

1. Contractor must immediately discontinue work as specified in the written notice.
2. Terminate all subcontracts to the extent they relate to the work terminated under the notice.
3. Discontinue orders for materials and services except as directed by the written notice.
4. Deliver to the Owner all fabricated and partially fabricated parts, completed and partially completed work, supplies, equipment and materials acquired prior to termination of the work, and as directed in the written notice.
5. Complete performance of the work not terminated by the notice.
6. Take action as directed by the Owner to protect and preserve property and work related to this contract that Owner will take possession.

Owner agrees to pay Contractor for:

3) completed and acceptable work executed in accordance with the contract documents prior to the effective date of termination;

4) documented expenses sustained prior to the effective date of termination in performing work and furnishing labor, materials, or equipment as required by the contract documents in connection with uncompleted work;

5) reasonable and substantiated claims, costs, and damages incurred in settlement of terminated contracts with Subcontractors and Suppliers; and

6) reasonable and substantiated expenses to the Contractor directly attributable to Owner's termination action.

Owner will not pay Contractor for loss of anticipated profits or revenue or other economic loss arising out of or resulting from the Owner's termination action.

The rights and remedies this clause provides are in addition to any other rights and remedies provided by law or under this contract.

TERMINATION FOR DEFAULT (EQUIPMENT)

The Owner may, by written notice of default to the Contractor, terminate all or part of this Contract if the Contractor:

1. Fails to commence the Work under the Contract within the time specified in the Notice- to-Proceed;
2. Fails to make adequate progress as to endanger performance of this Contract in accordance with its terms;

3. Fails to make delivery of the equipment within the time specified in the Contract, including any Owner approved extensions;
4. Fails to comply with material provisions of the Contract;
5. Submits certifications made under the Contract and as part of their proposal that include false or fraudulent statements; or
6. Becomes insolvent or declares bankruptcy.

If one or more of the stated events occur, the Owner will give notice in writing to the Contractor and Surety of its intent to terminate the contract for cause. At the Owner's discretion, the notice may allow the Contractor and Surety an opportunity to cure the breach or default.

If within [10] days of the receipt of notice, the Contractor or Surety fails to remedy the breach or default to the satisfaction of the Owner, the Owner has authority to acquire equipment by other procurement action. The Contractor will be liable to the Owner for any excess costs the Owner incurs for acquiring such similar equipment.

Payment for completed equipment delivered to and accepted by the Owner shall be at the Contract price. The Owner may withhold from amounts otherwise due the Contractor for such completed equipment, such sum as the Owner determines to be necessary to protect the Owner against loss because of Contractor default.

Owner will not terminate the Contractor's right to proceed with the Work under this clause if the delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such acceptable causes include: acts of God, acts of the Owner, acts of another Contractor in the performance of a contract with the Owner, and severe weather events that substantially exceed normal conditions for the location.

If, after termination of the Contractor's right to proceed, the Owner determines that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the Owner issued the termination for the convenience the Owner.

The rights and remedies of the Owner in this clause are in addition to any other rights and remedies provided by law or under this contract.

TRADE RESTRICTION CERTIFICATION

By submission of an offer, the Offeror certifies that with respect to this solicitation and any resultant contract, the Offeror –

1) is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms as published by the Office of the United States Trade Representative (USTR);
2) has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country included on the list of countries that discriminate against U.S. firms as published by the USTR; and
3) has not entered into any subcontract for any product to be used on the Federal project that is produced in a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18 USC Section 1001.

The Offeror/Contractor must provide immediate written notice to the Owner if the Offeror/Contractor learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The Contractor must require subcontractors provide immediate written notice to the Contractor if at any time it learns that its certification was erroneous by reason of changed circumstances.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to an Offeror or subcontractor:

1) who is owned or controlled by one or more citizens or nationals of a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR or
2) whose subcontractors are owned or controlled by one or more citizens or nationals of a foreign country on such USTR list or
3) who incorporates in the public works project any product of a foreign country on such USTR list.

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

The Offeror agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in all lower tier subcontracts. The Contractor may rely on the certification of a prospective subcontractor that it is not a firm from a foreign country included on the list of countries that discriminate against U.S. firms as published by USTR, unless the Offeror has knowledge that the certification is erroneous.

This certification is a material representation of fact upon which reliance was placed when making an award. If it is later determined that the Contractor or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration (FAA) may direct through the Owner cancellation of the contract or subcontract for default at no cost to the Owner or the FAA.

VETERAN'S PREFERENCE

In the employment of labor (excluding executive, administrative, and supervisory positions), the Contractor and all sub-tier contractors must give preference to covered veterans as defined within Title 49 United States Code Section 47112. Covered veterans include Vietnam-era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns (as defined by 15 USC 632) owned and controlled by disabled veterans. This preference only applies when there are covered veterans readily available and qualified to perform the work to which the employment relates.

Date: Monday, November 2, 2020

To: Honorable Mayor and City Council

From: Mitch Humble, Deputy City Manager, Travis Rothweiler, City Manager , City Manager

ACTION ITEM

Request:

Consideration of a mandate for face coverings in the City of Twin Falls.

Time Estimate:

The staff presentation will take about 15 minutes. Significant time for discussion and deliberation should be expected.

Background:

At their October 26th meeting, the City Council requested to include on an upcoming agenda an opportunity to discuss the possibility of adopting a public face covering mandate for the City of Twin Falls. This item is that discussion. I do not have an ordinance for the Council to consider adopting tonight. Rather, tonight's action would be whether or not to direct the staff to prepare an ordinance and, if so, to provide direction on what to include in an ordinance. To help the Council with this discussion, staff researched what mandates have been adopted by other cities and counties in Idaho. I have attached three sample mandates for your review. I will also provide some summary information of those mandates in this report.

Before I provide the summaries, I wanted to first address the question of whether a city in Idaho can adopt a public face covering mandate. After the Council meeting on the 26th, the City Attorney reached out to the Idaho Attorney General's Office for an opinion on that very question. Brian Kane, from that office provided very clear direction that cities do have the authority to adopt a mandate. He specifically cited Article XII, Section 2 of the State Constitution, which says, "Any county or incorporated city or town may make and enforce, within its limits, all such local police, sanitary and other regulations as are not in conflict with its charter or with the general laws." Mr. Kane then cited Idaho Code Section 50-304, which says, "**Cities may** establish a board of health and prescribe its powers and duties; **pass all ordinances and make all regulations necessary to preserve the public health**; **prevent the introduction of contagious diseases into the city**; make quarantine laws for that purpose and enforce the same within five (5) miles of the city" (emphasis added). So, according to the Idaho Attorney General's Office, both the Constitution and Idaho Code permit a city to enact ordinances within its discretion to protect the public health and prevent the spread of contagious diseases. A city ordinance mandating the wearing of a face covering within city limits is legally defensible.

Now that I've established the legal authority to proceed, let me provide some information about how other Idaho cities and counties have addressed this question. I have information from one county and ten cities included here. All eleven require people to wear a face covering that completely covers the nose and mouth when in any indoor or outdoor public space. But, all of them include several exceptions. Exceptions common to the eleven include:

- children five and under
- those who cannot wear a mask due to a medical condition

- individuals that are hearing impaired, or those communicating with someone who is hearing impaired
- on duty persons when a face covering would create a risk or impairment to their work
- persons obtaining a service to the nose, mouth, face, or head when a face covering would be in the way
- eating or drinking when social distancing guidelines can be met
- outdoor public spaces when social distancing guidelines can be met
- recreating/exercising indoors when social distancing guidelines can be met (this exception was included in about half of the sample cities)

Following is some specific information for each of the eleven jurisdictions included in this research.

Bellevue:

- Mayoral order July 16, 2020
- Until rescinded or superseded
- An infraction with up to a $50 fine

Blaine County:

- County Commissioner ordinance on July 7, 2020
- Until repealed
- An infraction with up to a $100 fine

Boise:

- Mayoral order on July 2, 2020
- Until terminated or modified
- A misdemeanor punishable by fine, imprisonment, or both

Coeur d'Alene:

- City Council resolution on October 26, 2020
- For 30 days, unless terminated, modified, or extended
- An infraction with up to a $100 fine

Driggs:

- Mayoral order on July 2, 2020
- Required Council affirmation within 7 days, or it will expire
- Until rescinded, superseded, or amended
- An infraction with up to a $100 fine

Hailey:

- Mayoral order on July 1, 2020

- Until rescinded, superseded, or amended
- An infraction with up to a $100 fine

Kellogg:

- City Council resolution on July 29, 2020
- For 30 days, unless extended
- An infraction with up to a $100 fine

Ketchum:

- City Council order on July 6, 2020
- Until rescinded, superseded, or amended
- An infraction with up to a $100 fine

McCall:

- City Council resolution on July 1, 2020
- For 30 days, unless extended
- An infraction with up to a $100 fine

Moscow:

- Mayoral order on July 1, 2020
- Required Council affirmation within 7 days, or it will expire
- Until terminated or modified
- Includes additional exceptions others didn't:
    - When incarcerated
    - When necessary to confirm one's identity
- A misdemeanor punishable by up to $1,000 fine and up to six months in jail

Victor:

- City Council ordinance on July 8, 2020
- Until October 1, 2020
- Includes additional exceptions others didn't:
    - When participating in youth sports/activities
    - When a student is at school
    - When at work, if social distancing guidelines can be met
    - When swimming
- An infraction with up to a $250 fine

I have attached three of these mandates for the Council's review. I included Moscow and Victor since they were slightly different from the rest. The remaining nine were all very similar, so I only included one of them, McCall's resolution.

Approval Process:

There is no requirement to allow public comment. But, at the discretion of the Mayor, public comment can be accepted. There is no ordinance prepared for the Council to adopt tonight. Should the Council desire to adopt an ordinance, a simple majority vote from the Council would be needed to provide direction to staff to prepare an ordinance for consideration at a future meeting.

Budget Impact:

There is no significant budget impact associated with this item.

Regulatory Impact:

If the Council approves this request, staff will prepare an ordinance for consideration at an upcoming Council meeting.

History:

N/A

Analysis:

N/A

Conclusion:

Staff recommends that the council discuss the issue and provide staff direction regarding the preparation of an ordinance mandating the wearing of face coverings within the City of Twin Falls.

Attachments:

1. Moscow 7-1-20
2. Victor 7-8-20
3. McCall 7-1-20

NO. 606727
AT THE REQUEST OF
CITY OF MOSCOW
DATE & HOUR
7.1.2020 2:45 pm
HENRIANNE K. WESTBERG
LATAH COUNTY RECORDER
FEE $ 0 BY: E. Chapman dpty

THE CITY OF MOSCOW

AMENDED PUBLIC HEALTH EMERGENCY ORDER No. 20-03

FACE COVERINGS AND 6 FOOT SOCIAL/PHYSICAL DISTANCING

July 1, 2020

WHEREAS, the health and safety of all citizens of the city of Moscow is the greatest priority and is of the upmost importance of the Mayor and City Council; and

WHEREAS, the coronavirus (hereinafter, COVID-19), is a respiratory disease caused by the SARS-CoV-2 virus, which is a new strain of coronavirus that had not been previously identified in humans and can easily spread from person to person, which can result in serious illness or death thereby threatening widespread and/or severe damage to life or property thereby creating an "emergency" as defined by Idaho Code § 46-1002; and

WHEREAS, the Centers for Disease Control and Prevention (hereinafter "CDC") identifies the potential public health threat posed by COVID-19 both globally and in the United States as "high", and has advised that person-to-person spread of COVID-19 will continue to occur globally, including within the United States; and

WHEREAS, on January 30, 2020, the International Health Regulations Emergency Committee of the World Health Organization declared the outbreak a "public health emergency of international concern"; and

WHEREAS, on January 31, 2020, Health and Human Services Secretary Alex M. Azar II declared a public health emergency for the United States to aid the nation's healthcare community in responding to COVID-19; and

WHEREAS, on March 11, 2020, The World Health Organization (WHO) made the assessment that COVID-19 can be characterized as a pandemic; and

WHEREAS, on March 13, 2020, the Idaho Governor Brad Little, pursuant to Idaho Code § 46-1008, declared a state of emergency due to COVID-19, which is still in effect; and

WHEREAS, on March 13, 2020, the President of the United States issued an emergency declaration for the country in response to the increasing number of COVID-19 cases within the U.S., which is still in effect; and

WHEREAS, on March 13, 2020, Moscow Mayor Bill Lambert issued a Local Emergency Proclamation, declaring a local disaster emergency due to the occurrence and imminent threat to public health and safety arising from the effects of the 2019 novel coronavirus (COVID-19), pursuant to Idaho Code § 46-1011 and other relevant sections of Idaho Code; and

WHEREAS, on March 16, 2020, the Moscow City Council adopted Resolution 2020-05, authorizing continuation of Mayor Lambert's Local Emergency Proclamation until May 5, 2020; and

WHEREAS, on March 20, 2020, the Council for the city of Moscow adopted an ordinance enacting a new Chapter 11 to Title 1 of the Moscow City Code, setting forth the authority, purpose, and intent of emergency powers to address the threat of COVID-19; and

WHEREAS, on March 20, 2020, Mayor Lambert issued the first Public Health Emergency Order No. 20-01, instituting regulations regarding mass gatherings, restaurants and bars to help prevent the spread of COVID-19; and

WHEREAS, on March 20, 2020, the City Council extended such Public Health Emergency Order No. 20-01 to May 5, 2020, to provide for the ongoing threat to public life and property; and

WHEREAS, on March 24, 2020, Moscow Mayor Bill Lambert proclaimed and declared Public Health Emergency Order No. 20-02 prohibiting gatherings in groups of more than ten (10) persons within a facility, which also applied to educational institutions, expressive and associative activities, including assembly, and church and religious organization activities; and

WHEREAS, on March 25, 2020, Governor Brad Little issued a proclamation declaring that there existed an extreme emergency within the State of Idaho and through a press conference declared he was issuing a statewide stay-home order; and

WHEREAS, on March 25, 2020, pursuant to Idaho Code § 56-1003(7), Idaho Department of Health and Welfare Director, Dave Jeppesen, issued an Order to Self-Isolate for all individuals living in Idaho, at the direction of Governor Brad Little, to fight the community spread of COVID-19 that had been confirmed in Idaho. The Order was effective until April 15, 2020, subject to be extended, rescinded, superseded, or amended. The isolation order was issued based on advice and direction of state, federal and local public health experts; and

WHEREAS, on March 26, 2020, it was deemed necessary by the City Council to extend such Public Health Emergency Order No. 20-02 to May 5, 2020, to provide for the ongoing threat to public life and property, and the Council wished to continue to be proactive and help reduce the spread of COVID-19 and to encourage our community members and community businesses to do their part to prevent and limit the spreading of COVID-19; and

WHEREAS, on April 15, 2020, Idaho Department of Health and Welfare Director, Dave Jeppesen, amended the Order to Self-Isolate issued on March 25, 2020, providing

additional guidance regarding travel into Idaho, regarding certain businesses, and extending the Self-Isolation Order until April 30, 2020; and

WHEREAS, on April 22, 2020, Governor Little issued a proclamation declaring an extreme emergency within the State of Idaho and declaring the state of emergency proclamation issued on March 13, 2020 and extended on March 25 ,2020, continues to be in effect and is extended for a period of thirty (30) days unless terminated, modified or extended; and

WHEREAS, on April 30, 2020, Governor Little and Director Jeppesen of the Idaho Department of Health and Welfare, issued the "Stay Healthy Order" effective as of 12:00 a.m. May 1, 2020, implementing Stage 1 of the Governor's Idaho Rebound plan, and which can be found on the website: rebound.idaho.gov. Governor Little's plan is one of utilizing a four-staged approach to reopening Idaho and its economy, whereby specific criteria must be met before Idaho advances to the next stage of reopening. The Idaho Division of Public Health and the Governor's Coronavirus Working Group will review the criteria every two weeks to assess if criteria are met, or continue to be met, so Idaho can move to the next stage; and

WHEREAS, the Council and Mayor have supported the Governor's guidelines and plans for systematically assessing existing conditions and slowly lifting the current regulations in place through the Stay Healthy Order and the now Stay Healthy Guidelines, and to utilize the proposed staged approach for reopening Idaho; and

WHEREAS, the Council and Mayor permitted the Mayor's Proclamation of Local Disaster Emergency as modified by Resolution 2020-05, and the Public Health Emergency Orders 20-01 and 20-02 to terminate on May 1, 2020, to avoid any confusion in light of the Stay Health Order in effect for all of Idaho at that time; and

WHEREAS, on June 24, 2020, Washington Secretary of Health, John Wiesman, issued Order 20-03, an order for all of Washington state which requires all individuals to wear a face covering that covers their nose and mouth when in any indoor and outdoor public space when the 6-foot physical distancing is not possible, with limited exceptions; and

WHEREAS, on June 26, 2020, the District Board of Central District Health, State of Idaho, issued an emergency quarantine order pursuant to Idaho Code § 56-1003(7), IDAPA 16.02.10.065.09, Idaho Code § 39-415 and § 67-5247, for Ada County bars and nightclubs open to the public for on-site consumption of beverages, be placed under quarantine and must remain closed to on-site consumption; prohibits large venue gatherings; requires six foot physical distancing from non-household members, and makes any violation of said order a misdemeanor pursuant to Idaho Code § 56-1003(7)(c); and

WHEREAS, on June 29, 2020, Whitman County, which is located at the western Moscow City limits, reported it has 38 confirmed cases of COVID-19; and

WHEREAS, on June 29, 2020, Spokane County, which is located less than 79 miles from Moscow, reported it has 1,344 confirmed cases of COVID-19; and

WHEREAS, on June 30, 2020, the state of Idaho reported 6,117 confirmed and probable cases of COVID-19, 261 of which are located in Kootenai County and where Kootenai County has been identified as a "hotspot" by the Idaho Department of Health and Welfare, which is located less than 80 miles to the north of Moscow; and

WHEREAS, on June 30, 2020, Latah County has 16 confirmed cases and 5 probable cases of COVID-19; and

WHEREAS, on June 30, 2020, The Idaho North Central District, which includes Clearwater County, Idaho County, Latah County, Lewis County and Nez Perce County is reporting a total of 121 confirmed and probable cases of COVID-19l and

WHEREAS, the Department of Health and Human Services Centers for Disease Control ("CDC") is reporting that as of June 30, 2020, the United States has 2,581,229 confirmed cases of COVID-19, and 126,739 total deaths; and

WHEREAS, Idaho is currently in Stage 4 of Governor Little's Idaho Rebound Plan, which no longer has any mandatory requirements as the previous Stay Healthy Orders; and

WHEREAS, Governor Little has stated on numerous occasions due to Idaho's diverse and expansive state, and that not all counties have confirmed cases of COVID-19, he is not mandating statewide face coverings or physical distancing for non-household members and is trusting and encouraging local officials to take any measures they deem necessary and appropriate to protect their community; and

WHEREAS, both the CDC, the federal government, and the Idaho Department of Health and Welfare and the Idaho North Central Health District have recommended practices to prevent the rapid spread of COVID-19, including maintaining six (6) feet of physical distancing from non-household members and the wearing of face coverings when in public settings and the six feet of physical distancing from others cannot reliably be maintained. The policies, along with other information, are available on the CDC's official COVID-19 website. (https://www.cdc.gov/coronavirus/2019-ncov/index.html).; and

WHEREAS, the spread of COVID-19 continues to threaten the life and health of the public and public health is imperiled by the person-to-person spread of COVID-19, and the reduction of opportunities for the person-to-person transmission of COVID-19 is necessary to combat the spread of the disease; and

WHEREAS, the City, as a municipal corporation of the State of Idaho, has the authority to exercise all powers and perform all functions of local self-government in city affairs

that are not in conflict with the general laws or the constitution of the state of Idaho (I.C. § 50-301); and

WHEREAS, the City is empowered to make all such ordinances, bylaws, rules, regulations and resolutions not inconsistent with the laws of the state of Idaho as may be expedient, in addition to the special powers in this act granted, to maintain the peace, good government and welfare of the corporation and its trade, commerce and industry (I.C. § 50-302); and

WHEREAS, under Moscow City Code section 2-1-7 and Idaho Code § 50-304, the City may pass all ordinances and make all regulations necessary to preserve the public health; prevent the introduction of contagious diseases into the city; make quarantine laws for that purpose and enforce the same within five (5) miles of the city; and

WHEREAS, under Idaho Code § 50-606, the Mayor shall have such jurisdiction as may be vested in him/her by ordinance over all places within five (5) miles of the corporate limits of the city, for the enforcement of any health or quarantine ordinance and regulation thereof, and shall have jurisdiction in all matters vested in him/her by ordinance, except taxation, within one (1) mile of the corporate limits of said city and over such properties as may be owned by the city without corporate limits; and

WHEREAS, the city of Moscow has had 3 restaurants voluntarily close for self-quarantine due to a staff member having tested positive for COVID-19 and/or having been exposed to someone who tested positive for COVID-19; and

WHEREAS, the risk of community spread throughout the city of Moscow is a continued threat, especially due to our unique location in Idaho and our close proximity to states and locations where there is a large number of confirmed COVID-19 cases and evidence of community spread; and

WHEREAS, the rapid spread of COVID-19 to date requires a more aggressive proactive response in order to protect the public and resources to address the supply issues we as a city, state and nation currently face.

NOW, THEREFORE, I, Bill Lambert, Mayor of the City of Moscow, Idaho, by virtue of the authority vested in me by Moscow City Code Title 1-11-05(B), and the common law authority to protect the public in the event of an emergency, in order to encourage and enforce Social/Physical Distancing of non-household members and reduce the potential for spread of the COVID-19 virus, hereby order as follows:

1. Every person in the city of Moscow must wear a face covering that covers their nose and mouth when in any indoor or outdoor public setting where the 6-foot physical distancing is not able to be maintained with non-household members, except as follows:
    a. This Order does not apply to children under 5 years old, however, with the assistance and close supervision of an adult the City strongly recommends

children wear face coverings when in public spaces where the 6-foot physical distancing cannot be maintained;

b. This Order does not apply to persons with a medical condition, mental health condition, or disability that prevents wearing a face covering;
c. This Order does not apply to those who are incarcerated;
d. Individuals may remove their face covering when in a public setting under the following circumstances:
    i. While at a restaurant, at an establishment or location that allows or offers food or beverage service, while they are eating or drinking, provided that they are able to maintain a distance of at least 6-feet from other guests or other non-household members;
    ii. When any party to a communication is deaf or hard-of-hearing and not wearing a face covering is essential to communication;
    iii. While obtaining a health or personal service that requires temporary removal of the face covering;
    iv. When necessary to confirm a person's identity; and
    v. When local, state or federal law prohibits wearing a face covering or requires the removal of a face covering.

2. Every person in the city of Moscow, when in places that are open to the public, shall maintain 6-foot physical distancing from a non-household member, whenever possible.

3. Definitions.

    a. "Household Members" are defined as people who reside in the same residence regardless of familial relation and people who enter a residence to provide a caretaking function.
    b. "Public Setting" is defined as any place that is open to the public.

4. If this Order and any action of any other agency or official are in conflict, the more protective and most restrictive requirement must be followed, unless prohibited by a state or federal statute or rule.

5. **Exemptions.** Nothing in this order shall constrain the duties and powers of the City, the Mayor, or other governmental agencies.

6. **Penalty**. In accordance with Moscow City Code Section 1-11-10, any person who knowingly violates the provisions of this order may be charged with a misdemeanor. The maximum penalties for this offense are up to 6 months in the county jail and a $1,000 fine.

This Emergency Order shall take effect at 12:00 a.m. on July 2, 2020, and shall remain in full force and effect for seven (7) days, subject to be extended by City Council through Resolution unless it is terminated or modified at an earlier date.

IN WITNESS WHEREOF, I have hereunto set my hand on this 1ST day of July, 2020.

Bill Lambert, Mayor

CITY OF MOSCOW INCORPORATED JULY 12 1887 STATE OF IDAHO

ATTEST:

Laurie M. Hopkins, City Clerk

THE CITY OF VICTOR, IDAHO

EMERGENCY ORDINANCE 0568

AN EMERGENCY ORDINANCE OF THE CITY OF VICTOR, IDAHO, REQUIRING THE USE OF FACE COVERINGS IN PUBLIC PLACES; SETTING FORTH APPLICABLE JURISDICTIONAL AUTHORITY; PRESCRIBING PENALTIES FOR VIOLATIONS; PROVIDING THAT THE ORDINANCE IS ENACTED ON AN EMERGENCY BASIS AND ESTABLISHING EFFECTIVE AND SUNSET DATES.

WHEREAS, the City of Victor is empowered pursuant to Idaho Code §50-302, to pass all ordinances and rules and make regulations, not repugnant to law, necessary for the carrying into effect or discharging the powers and duties conferred by the laws of the state of Idaho, and such as are necessary or proper to provide for the safety, promote the health and prosperity, improve the peace and good order, comfort and convenience of the City of Victor and the inhabitants thereof, and for the protection of property therein; and

WHEREAS, Idaho Code Title 50, Chapter 3, Section 304 provides that cities may pass all ordinances and make all regulations necessary to preserve the public health; prevent the introduction of contagious diseases into the city; make quarantine laws for that purpose and enforce the same within the city; and

WHEREAS, on March 11, 2020, the World Health Organization declared the worldwide outbreak of COVID-19 (aka coronavirus) a pandemic, and on March 13, 2020, the President of the United States issued an emergency declaration for the country in response to the increasing number of COVID-19 cases within the U.S.; and

WHEREAS, the risk of increased community spread of the COVID-19 virus throughout Teton County, ID critically imperils the public health, safety and welfare; and

WHEREAS, The Covid-19 pandemic is the worst public-health crisis the United States has faced in a century. It has caused over 125,000 deaths in the United States and infected over 2.5 million people, though the actual numbers of infections are very likely higher. Many of those who survive Covid-19 will do so only after experiencing serious illness and lengthy hospitalization; and

WHEREAS, additional measures are immediately necessary to slow the spread of COVID-19 within Teton County to lessen the detrimental impact on local emergency services and healthcare facilities; and

WHEREAS, accordingly, in addition to social-distancing and sanitation measures, the Centers for Disease Control (CDC) "recommends wearing cloth face coverings in public settings where other social distancing measures are difficult to maintain especially in areas of significant community-based transmission."; and

WHEREAS, the City Council finds that these measures must be enacted on an emergency basis due to the imminent peril posed by the further spread of the COVID-19 virus.

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

SECTION 1: Definitions: For purposes of this Ordinance, the following definitions shall apply:

A. "Face Covering" means a covering made of cloth, fabric, or other soft or permeable material, without holes, that covers the nose and mouth and surrounding areas of the lower face. A Face Covering may be factory-made or may be handmade and improvised from ordinary household materials. Face Coverings need to cover the nose and mouth in compliance with the Center for Disease Control and Prevention's guidance on wearing Face Coverings.
B. "Public place" means any place, indoor or outdoor, that is open to the public and includes, but is not limited to, businesses or other establishments where people assemble or members of the general public may enter, offices, public buildings, and parks.
C. "School or School Districts" means any public, private, or charter school or institution that provides education ranging from daycare through grade 12.

SECTION 2: Face Coverings required. Every person must wear a Face Covering that completely covers the person's nose and mouth when the person is in a Public Place and cannot easily maintain a continuous distance of at least six feet from all other persons.

SECTION 3: Exempt persons. Section 2 of this Ordinance does not apply to:

A. Any individual who cannot wear a Face Covering because of a medical condition, mental health condition or developmental disability, and any individual who should not wear Face Coverings under the CDC guidance. A person is not required to provide documentation demonstrating that the person cannot medically tolerate wearing a Face Covering. Persons with disabilities who are unable to wear a mask must be provided reasonable accommodations per the Americans with Disabilities Act.
B. Children under the age of 5. Parents or guardians are responsible for ensuring that children between the ages of 5 and 17 wear appropriate Face Coverings when required under this Ordinance.
C. Persons participating in youth activities, sports, camps, and daycares in accordance with State Health Orders and Guidelines, as amended.
D. Persons actively exercising in a gym in accordance with State Health Orders and Guidelines, as amended.
E. School individuals (including students, administrators, and teachers) on or in School or School District facilities.
F. Persons in his or her work office and able to maintain a physical distance of at least 6 feet from all other persons.
G. Persons for whom wearing a Face Covering would create a risk to the person related to their work, as determined by local, state, or federal regulators or workplace safety guidelines.
H. Persons who are obtaining a service involving the nose, face, or head for which temporary removal of the Face Covering is necessary to perform the service.

I. Persons who are eating or drinking at a restaurant or other establishment that offers food or beverage service, so long as the person is able to maintain a distance of 6 feet away from persons who are not members of the same household or party as the person.
J. Any member of a group of persons who are in a public place together and live in the same household, so long as the group can easily maintain a continuous physical distance of at least 6 feet from all other persons not part of the household.
K. Persons who are swimming.

SECTION 4. Establishments.

A. Establishments that are open to the public must provide Face Coverings to their employees and require them to wear them unless exempted in Section 3 of this Ordinance.
B. Establishments that are open to the public must provide signage stating that Face Coverings are required to enter the establishment pursuant to Victor City Code or a copy of this Ordinance or its approved summary in a conspicuous place at all public entrances to their facilities.
C. Establishments that are open to the public and in which continuous physical distancing of at least six feet between persons cannot be easily maintained may refuse to allow a person who is not exempt under Section 3 and who is not wearing a Face Covering to enter the establishment and may request that a person inside the establishment leave if the person is not exempt under Section 3 and is not wearing a Face Covering.
D. Every provider of short-term lodging, including hotels, Airbnb/VRBO, or similar, shall notify incoming guests of this requirement prior to arrival and upon arrival, and advise them that Face Coverings are mandatory in this locale.

SECTION 5: PENALTIES

Any person who violates any provision of this Ordinance shall be guilty of an infraction with a fine of $250.00 (fixed penalty $193.50, court costs $56.50).

SECTION 6: EMERGENCY, EFFECTIVE DATE AND SUNSET DATE

The City Council of the City of Victor hereby finds that an impending danger exists due to the spread of a contagious disease, resulting in an emergency necessitating the immediate operation of this Ordinance upon its passage and posting in five public places pursuant to Idaho Code Section 50-901. This Ordinance shall remain in effect until 11:59 p.m. on October 1, 2020 unless sooner repealed.

SECTION 7: SEVERABILITY

If any section, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate distinct and independent provision and such holding shall not affect the validity of the remaining portions of the ordinance.

SECTION 8: WAIVER OF READINGS

The Council waives the requirement of any reading of this ordinance and adopts it by title only pursuant to Idaho Code 50-902.

PASSED BY THE COUNCIL OF THE CITY OF VICTOR, IDAHO, THIS 8TH DAY OF JULY, 2020.

APPROVED BY THE MAYOR OF THE CITY OF VICTOR, IDAHO, THIS 8TH DAY OF JULY, 2020.

CITY OF VICTOR

BY: _____
Will Frohlich, Mayor

ATTEST:

_____
Michelle Smith, City Clerk

CITY OF VICTOR SEAL TETON COUNTY, IDAHO

City of McCall

Resolution No. 20-12

A RESOLUTION MANDATING REQUIREMENT TO WEAR FACE COVERINGS IN PUBLIC PLACES

WHEREAS, COVID-19 was first detected in Wuhan, China in 2019, and since then has spread to over 216 countries including the United States; and

WHEREAS, there were 6,117 confirmed cases of COVID-19 in Idaho as of June 30, 2020, and 13 confirmed cases of COVID-19 in Valley County as of June 30, 2020, as well as the presence of community spread in Idaho and Valley County. It is expected that more cases will be diagnosed; and

WHEREAS, the World Health Organization declared COVID-19 a worldwide pandemic as of March 11, 2020; and

WHEREAS, on March 13, 2020, the President of the United States declared a national emergency concerning the coronavirus, specifically stating that, in "December 2019 a novel (new) coronavirus known as SARS-Co V-2 was first detected in Wuhan, Hubei Province, People's Republic of China, causing outbreaks of the coronavirus disease (COVID-19) that has now spread globally [...] The spread of COVID-19 within our Nation's communities threatens to strain our Nation's healthcare systems [...] Additional measures [...] are needed to successfully contain and combat the virus in the United States"; and

WHEREAS, on March 13, 2020, Idaho Governor Brad Little declared a State of Emergency and Public Health Emergency in the State of Idaho, stating that with no confirmed cases in Idaho at that time, Idaho was in the best position to be proactive and get ahead of the impact coronavirus could have in Idaho; and

WHEREAS, on March 16, 2020 the Valley County Commissioners of the State of Idaho Declared a State of Emergency Concerning the COVID-19 outbreak; and

WHEREAS, on March 16, 2020 the McCall City Council, Valley County, State of Idaho Declared a State of Emergency Concerning the COVID-19 outbreak; and

WHEREAS, a significant number of Idaho citizens are at risk of serious health complications, including death, from COVID-19. Although most individuals who contract COVID-19 do not become seriously ill, people with mild symptoms, and even asymptomatic persons with COVID-19, place other vulnerable members of the public at significant risk; and

WHEREAS, a large number of persons with serious infections can compromise the ability of the healthcare system in Valley County to deliver necessary healthcare to the public; and

WHEREAS, Valley County, Idaho is a tourist destination and other mountain resort communities in the Rocky Mountain region have been the nuclei of infection in their respective states (Vail, CO; Park City, UT and Sun Valley/Ketchum, ID); and

WHEREAS, as previous public health orders expire or are replaced with less restrictive orders, Valley County will likely see increasing numbers of visitors from outside the county who can potentially transmit COVID-19 and at the same time will be more likely to interact with each other and with local residents as businesses, tourist destinations such as National Parks, and other services reopen; and

WHEREAS, St. Luke's McCall routinely serves patients not only from within Valley County but also patients from Adams County, ID, Washington County, ID, Idaho County, ID, and tourists from all areas who will further stress its capacity, making it critical that City of McCall take steps to slow the spread of COVID-19 infection so as not to overwhelm the local healthcare system in such a way that would result in many preventable deaths; and

WHEREAS, there are vulnerable populations in the McCall area including but not limited to one long-term care facility in McCall with residents at high risk for exposure to COVID-19 and one Senior Community Center that serves vulnerable and at-risk senior citizens; and

WHEREAS, COVID-19 is a respiratory illness, transmitted through person-to-person contact or by contact with surfaces contaminated with the virus. Persons infected with COVID-19 may become symptomatic two to fourteen days after exposure; and

WHEREAS, asymptomatic (including pre-symptomatic) infected individuals are infectious and without mitigation, the current estimate is that 40%-80% of infections occur from individuals without symptoms. In a study carried out in an isolated village of approximately 3,000 people in northern Italy, it was shown that 50–75% of people with positive pharyngeal molecular tests were totally asymptomatic. This finding was confirmed by a more recent evaluation carried out in China, where to avoid a new outbreak of COVID-19, all the people arriving from overseas were rigorously tested. It was found that among patients with newly identified infections, 78% were asymptomatic. Universal screening of asymptomatic SARS-CoV-2 in women admitted for delivery in New York City shows that 13.7% were infected, and that asymptomatic women accounted for 88% of infected individuals in the study. Of individuals who do become symptomatic, viral loads are the highest in the pre-symptomatic and early symptomatic phase, decreasing thereafter; and

WHEREAS, respiratory droplets from infected individuals are a major mode of SARS-CoV-2 transmission. This understanding is the basis of the recommendations for physical distancing, and of the PPE guidance for healthcare workers. Droplets do not only come from coughing or sneezing: in a-/pre-symptomatic individuals, droplets are also generated via talking and breathing; and

WHEREAS, SARS-CoV-2, the virus that causes COVID-19, may be broadcast in respiratory droplets "from normal breathing," according to a letter from a committee of the National Academies of Sciences, Engineering, and Medicine. The letter, sent to the White House Office of Science and Technology Policy on April 1, cites numerous studies indicating the presence of coronavirus in aerosols. In one, air samples collected more than 6 feet from two patients in COVID-19 isolation rooms tested positive for SARS-CoV-2 RNA. Until some weeks ago, it was thought that the virus could be transmitted mainly by droplets that are coughed or sneezed out or by previously contaminated objects, with differences according to the initial load and surface characteristics. However, the results of some submitted but not yet peer-reviewed studies seem to indicate the opposite, i.e., the virus can be present in exhaled air produced by talking and breathing; and

WHEREAS, face coverings reduce droplet dispersal. Cloth-based coverings reduce emission of particles by variable amounts, for example one study showed that they are almost completely eliminated. Patients with seasonal coronaviruses (other than SARS-CoV-2) were randomized to exhale breath with or without surgical face masks on. Viral RNA was detected in 40% of aerosols and 30% of respiratory droplets collected from participants without a face mask — but in none collected from those wearing a mask. A second study showed that cloth coverings filtered viral particles during coughing at about 50 to 100% of the filtration efficiency of surgical masks, depending on fabric, with absolute filtration efficiencies of 50-70%. A third study showed 50% filtering efficiency for airborne particles; and

WHEREAS, evidence indicates that face covering wearing reduces the transmissibility per contact by reducing transmission of infected droplets in both laboratory and clinical contexts. Public face covering wearing is most effective at stopping the spread of the virus when compliance is high. This evidence supports the conclusion that more widespread face covering adoption can help to control the COVID-19 epidemic by reducing the shedding of droplets into the environment from asymptomatic individuals. This is also consistent with the experiences of other countries that have adopted this strategy. One ecological analysis found that, "In countries with cultural norms or government policies supporting public mask-wearing, per-capita coronavirus mortality increased on average by just 5.4% each week, as compared with 48% each week in countries that did not wear masks."; and

WHEREAS, in the most comprehensive, systematic review and meta-analysis of face coverings published to date, Chu et al. found that face masks could reduce risk of transmission of COVID-19 by an expected 85 percent; and

WHEREAS, guidelines published by the U.S. Centers for Disease Control (CDC) on April 3, 2020, recommend that all people wear cloth face coverings in public settings where other physical distancing measures may be difficult to maintain. CDC also advises the use of simple cloth face coverings to slow the spread of the virus and help people who may have the virus and do not know it from transmitting it to others; and

WHEREAS, orders requiring face coverings in total or in part are already in place statewide in many U.S. states and in many local areas in other U.S. states; and

WHEREAS, decreased transmissibility due to face covering use could substantially reduce the death toll and economic impact while the cost of the intervention is low; and

WHEREAS, pursuant to Ordinance 986, Sections 6 B. (6), 6 C. (3) and (5), and 6 D. (3) and (5), the City Council does declare and issue a Public Health Emergency Order.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MCCALL, VALLEY COUNTY, IDAHO, having duly met on July 1, 2020, at a Special City Council Meeting, which was properly noticed and open to the public, and having fully considered the matter at hand, that:

SECTION 1. FACE COVERINGS

Every person, shall, when in any indoor or outdoor public place, completely cover their nose and mouth, when members of the public are physically present for otherwise unprotected social interaction.

1. DEFINITIONS: For purposes of this Public Health Emergency Order "public place" shall mean any place open to all members of public without specific invitation, including but not necessarily limited to, retail business establishments, government offices, medical, educational, arts and recreational institutions, public transportation, including taxi cabs and ridesharing vehicles. "Members of the public" shall mean persons not therein employed, present without invitation.

2. EXEMPTIONS:
    a. Children under the age of 5.
    b. Persons who cannot medically tolerate wearing a face covering. A person is not required to provide documentation demonstrating that the person cannot medically tolerate wearing a face covering.
    c. Persons who are hearing impaired, or communicating with a person who is hearing impaired, where the ability to see the mouth is essential for communication.
    d. Persons, including on-duty law-enforcement officers, for whom wearing a face covering would create a risk to the person related to their work, as determined by local, state, or federal regulators or workplace safety guidelines.
    e. Persons who are obtaining a service involving the nose, face, or head for which temporary removal of the face covering is necessary to perform the service.
    f. Persons who are eating or drinking at a restaurant or other establishment that offers food or beverage service, so long as the person is able to maintain a distance of 6 feet away from persons who are not members of the same household or party as the person.
    g. Outdoor public places where a person can employ social distancing as recommended by CDC where the person is able to maintain a distance of 6 feet away from persons who are not members of the same household or party as the person.

h. Persons who are engaged in indoor exercise, so long as they engage in social distancing.

SECTION 2. PENALTIES

Any person who violates any provisions of this Order, shall be guilty of an infraction, punishable by a fine of $100.

SECTION 3. EFFECTIVE DATE AND SUNSET DATE

This Emergency Order shall take effect at 12:00 a.m., on July 2, 2020 and shall remain in effect until August 1, 2020 unless extended by the City Council.

PASSED and approved by the City Council of the City of McCall this 1 day of July 2020,

Signed: Robert S. Giles
Robert S. Giles, Mayor

ATTEST:
I certify that the above Resolution was duly adopted by the City Council of the City of McCall on July 1, 2020 by the following vote:

Ayes: 4
Nos: 1
Absent: 0

By Bessie Jo Wagner
BessieJo Wagner, City Clerk

CITY OF McCALL, IDAHO SEAL McCALL, IDAHO