

RECEIVED

DEC 30 2011

TECHNICAL SUPPORT

Instrument # 515218

MINIDOKA COUNTY, RUPERT, IDAHO

12-29-2011 09:26:07 No. of Pages: 4

Recorded for : CITY OF HEYBURN

PATTY TEMPLE Fee: 0.00

Ex-Officio Recorder Deputy

*K. Watson*

161

**AMENDED ORDINANCE NO. 541**

AN ORDINANCE OF THE CITY OF HEYBURN IDAHO, AMENDING ORDINANCE 541 TO CORRECT THE LEGAL DESCRIPTION OF THE NORTHWEST HEYBURN INDUSTRIAL URBAN RENEWAL PROJECT PLAN AND PROVIDING FOR ADOPTION WITH ONLY ONE READING; AND PROVIDING FOR EFFECTIVE DATE.

WHEREAS, the Mayor and City Council of the City of Heyburn passed and adopted Ordinance No. 541 on October 26, 2011; and, among other things, the ordinance provided a legal description of the boundaries of the Northwest Heyburn Industrial Urban Renewal Project ("Project"); and

WHEREAS, the Project and the map, as both were set forth in Ordinance 541 as originally passed and adopted on October 26, 2011, contained an error in the legal description of the Project; and

WHEREAS, Ordinance 541, Section 4, provides that technical corrections can be made to the Plan and ordinance; and the Mayor and City Council now desire to correct the legal description of the boundaries of the Project.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF HEYBURN AS FOLLOWS:

Section 1: The correct description of the land encompassing the Project is:

TOWNSHIP 10 SOUTH, RANGE 23 EAST, BOISE MERIDIAN, MINIDOKA COUNTY, IDAHO. SECTION 8: A PORTION OF THE NORTHEAST QUARTER, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SECTION 8, MARKED BY A 5/8" REBAR AND ALUMINUM CAP, THENCE ALONG THE NORTH LINE THEREOF SOUTH 89°45'50" WEST 649.51 FEET TO THE NORTHWEST CORNER OF THAT REAL PROPERTY CONVEYED TO CBDS INVESTMENTS, L.C. BY THE WARRANTY DEED RECORDED JULY 13, 2000 AS INSTRUMENT No. 448663, MINIDOKA COUNTY RECORDS AND THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG THE NORTH LINE OF SECTION 8 SOUTH 89°45'50" WEST 1992.61 FEET TO A 5/8" REBAR AT THE NORTHWEST CORNER OF THE NW ¼, NE ¼; THENCE ALONG THE WEST LINE THEREOF SOUTH 00°30'45" EAST 1323.06 FEET TO THE SOUTHWEST CORNER THEREOF; THENCE ALONG THE SOUTH LINE OF THE NW ¼, NE ¼ AND CONTINUING ALONG THE SOUTH LINE OF THE NE ¼, NE ¼ NORTH 89°43'12" EAST 2279.59 FEET TO THE INTERSECTION

THEREOF WITH THE WEST LINE OF THE HIGHWAY 27 RIGHT OF WAY; THENCE ALONG SAID WEST RIGHT OF WAY LINE ALONG A NON-TANGENT CURVE TO THE LEFT HAVING A RADIAL BEARING TO THE CENTER OF NORTH 63°16'06" WEST, A LENGTH OF 918.26 FEET, A RADIUS OF 2814.79 FEET, A CENTRAL ANGLE OF 18°41'29", A CHORD BEARING OF NORTH 17°23'10" EAST, AND A CHORD LENGTH OF 914.19 FEET TO THE SOUTHEAST CORNER OF THE AFORESAID LANDS OF CBDS INVESTMENTS, L.C., A ½" REBAR BEARS NORTH 74°49'51" EAST 0.31 FEET; THENCE ALONG THE SOUTH LINE OF SAID LANDS OF CBDS INVESTMENTS, L.C. SOUTH 89°45'50" WEST 570.34 FEET TO THE SOUTHWEST CORNER THEREOF; THENCE ALONG THE WEST LINE OF THE LANDS OF CBDS INVESTMENTS, L.C. NORTH 00°12'32" WEST 450.00 FEET TO THE TRUE POINT OF BEGINNING.

THE ABOVE DESCRIBE REAL PROPERTY CONTAINS 69.55 ACRES, MORE OR LESS.

Section 2: Exhibit "3" to Ordinance 541 is the Northwest Heyburn Industrial Urban Renewal Project Urban Renewal Plan ("Plan"). The Map of the Project area in the Plan, (originally attached as Attachment 1 to Exhibit "3" of Ordinance 541) is hereby amended to depict the Project as set forth on Exhibit "A", attached to this Revised Ordinance 541.

Section 3: The legal description of the Project, as set forth above in Section 1 of this Revised Ordinance 541, shall be substituted for the description set forth in the Plan, as set forth in Attachment 2 to Exhibit "3" of Ordinance 541.

Section 4. The City Council having by authorizing motion and vote waived the rule of requiring three separate readings of this Ordinance, by title and in full, therefore this ordinance shall be in full force and effect from and after its first and only reading, passage, approval and publication.

PASSED this 28th day of December, 2011, by the City Council of the City of Heyburn.

APPROVED this 28th day of December, 2011, by the Mayor of the City of Heyburn.

THE CITY OF HEYBURN

  
George A. Anderson, Mayor

RECEIVED

DEC 30 2011

TECHNICAL SUPPORT

Attest:

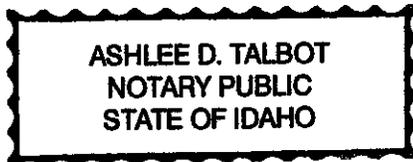
*Deborah F. Hopkins*  
Deborah F. Hopkins, Clerk

STATE OF IDAHO            )  
  ) ss.  
County of Minidoka        )  
  ) *vs*

On this 28 day of December, 2011, before me the undersigned, a Notary Public in and for said state, personally appeared George A. Anderson, known to me to be the Mayor of the City Heyburn, Idaho and Deborah F. Hopkins, the Clerk of said City, and the persons whose names are subscribed to the foregoing instrument and acknowledged to me that they executed and attested the same on behalf of and as authorized by said city as the authorized representatives.

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

(SEAL)



*Ashlee Talbot*  
Notary Public for Idaho  
Residing at: Heyburn, Idaho  
Commission Expires: 12-7-2014

RECEIVED  
DEC 30 2011  
TECHNICAL SUPPORT

DESCRIPTION: PROJECT AREA AND REVENUE ALLOCATION AREA  
BOUNDARY LEGAL DESCRIPTION.

TOWNSHIP 10 SOUTH, RANGE 23 EAST, BOISE MERIDIAN, MINIDOKA COUNTY,  
IDAHO.

SECTION 8: A PORTION OF THE NORTHEAST QUARTER, MORE  
PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SECTION 8, MARKED BY A 5/8" REBAR AND ALUMINUM CAP, THENCE ALONG THE NORTH LINE THEREOF SOUTH 89°45'50" WEST 649.51 FEET TO THE NORTHWEST CORNER OF THAT REAL PROPERTY CONVEYED TO CBDS INVESTMENTS, L.C. BY THE WARRANTY DEED RECORDED JULY 13, 2000 AS INSTRUMENT No. 448663, MINIDOKA COUNTY RECORDS AND THE TRUE POINT OF BEGINNING;

THENCE CONTINUING ALONG THE NORTH LINE OF SECTION 8 SOUTH 89°45'50" WEST 1992.61 FEET TO A 5/8" REBAR AT THE NORTHWEST CORNER OF THE NW ¼, NE ¼;

THENCE ALONG THE WEST LINE THEREOF SOUTH 00°30'45" EAST 1323.06 FEET TO THE SOUTHWEST CORNER THEREOF;

THENCE ALONG THE SOUTH LINE OF THE NW ¼, NE ¼ AND CONTINUING ALONG THE SOUTH LINE OF THE NE ¼, NE ¼ NORTH 89°43'12" EAST 2279.59 FEET TO THE INTERSECTION THEREOF WITH THE WEST LINE OF THE HIGHWAY 27 RIGHT OF WAY;

THENCE ALONG SAID WEST RIGHT OF WAY LINE ALONG A NON-TANGENT CURVE TO THE LEFT HAVING A RADIAL BEARING TO THE CENTER OF NORTH 63°16'06" WEST, A LENGTH OF 918.26 FEET, A RADIUS OF 2814.79 FEET, A CENTRAL ANGLE OF 18°41'29", A CHORD BEARING OF NORTH 17°23'10" EAST, AND A CHORD LENGTH OF 914.19 FEET TO THE SOUTHEAST CORNER OF THE AFORESAID LANDS OF CBDS INVESTMENTS, L.C., A ½" REBAR BEARS NORTH 74°49'51" EAST 0.31 FEET;

THENCE ALONG THE SOUTH LINE OF SAID LANDS OF CBDS INVESTMENTS, L.C. SOUTH 89°45'50" WEST 570.34 FEET TO THE SOUTHWEST CORNER THEREOF;

THENCE ALONG THE WEST LINE OF THE LANDS OF CBDS INVESTMENTS, L.C. NORTH 00°12'32" WEST 450.00 FEET TO THE TRUE POINT OF BEGINNING.

THE ABOVE DESCRIBE REAL PROPERTY CONTAINS 69.55 ACRES, MORE OR LESS.

RECEIVED

DEC 30 2011

RECEIVED

DEC 30 2011

# PROJECT AREA & REVENUE ALLOCATION BOUNDARY MAP

## TECHNICAL SUPPORT

## NORTHWEST HEYBURN INDUSTRIAL URBAN RENEWAL PROJECT

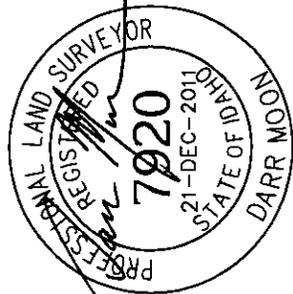
TOWNSHIP 10 SOUTH, RANGE 23 EAST, BOISE MERIDIAN,

NORTH QUARTER CORNER  
SECTION 8:  
FOUND 5/8" REBAR  
PER R-1 & C.P. REC.  
JULY 17, 1979  
INST. No. 294825, M.C.R.  
S89°45'50"W

NORTHWEST CORNER  
NE 1/4, NE 1/4  
SEC. 8:  
FOUND 5/8" REBAR  
PER R-3 & C.P. REC.  
MARCH 16, 1998  
INST. No. 434255, M.C.R.

SECTION 8 -  
A PART OF THE NE QUARTER  
MINIDOKA COUNTY, IDAHO

NORTHEAST CORNER  
SECTION 8:  
FOUND 5/8" REBAR  
PER R-2 & C.P. REC.  
JUNE 4, 1980  
INST. No. 304060, M.C.R.



### LEGEND

● = SECTION CORNER FOUND OR SET AS INDICATED

M.C.R. = MINIDOKA COUNTY RECORDS

— PROJECT & ALLOCATION AREA LINE

--- SECTION OR SECTION SUBDIVISION LINE

SOUTHWEST CORNER  
NW 1/4, NE 1/4  
SEC. 8:  
SET 5/8" REBAR

SOUTHWEST CORNER  
NE 1/4, NE 1/4  
SEC. 8:  
SET 5/8" REBAR



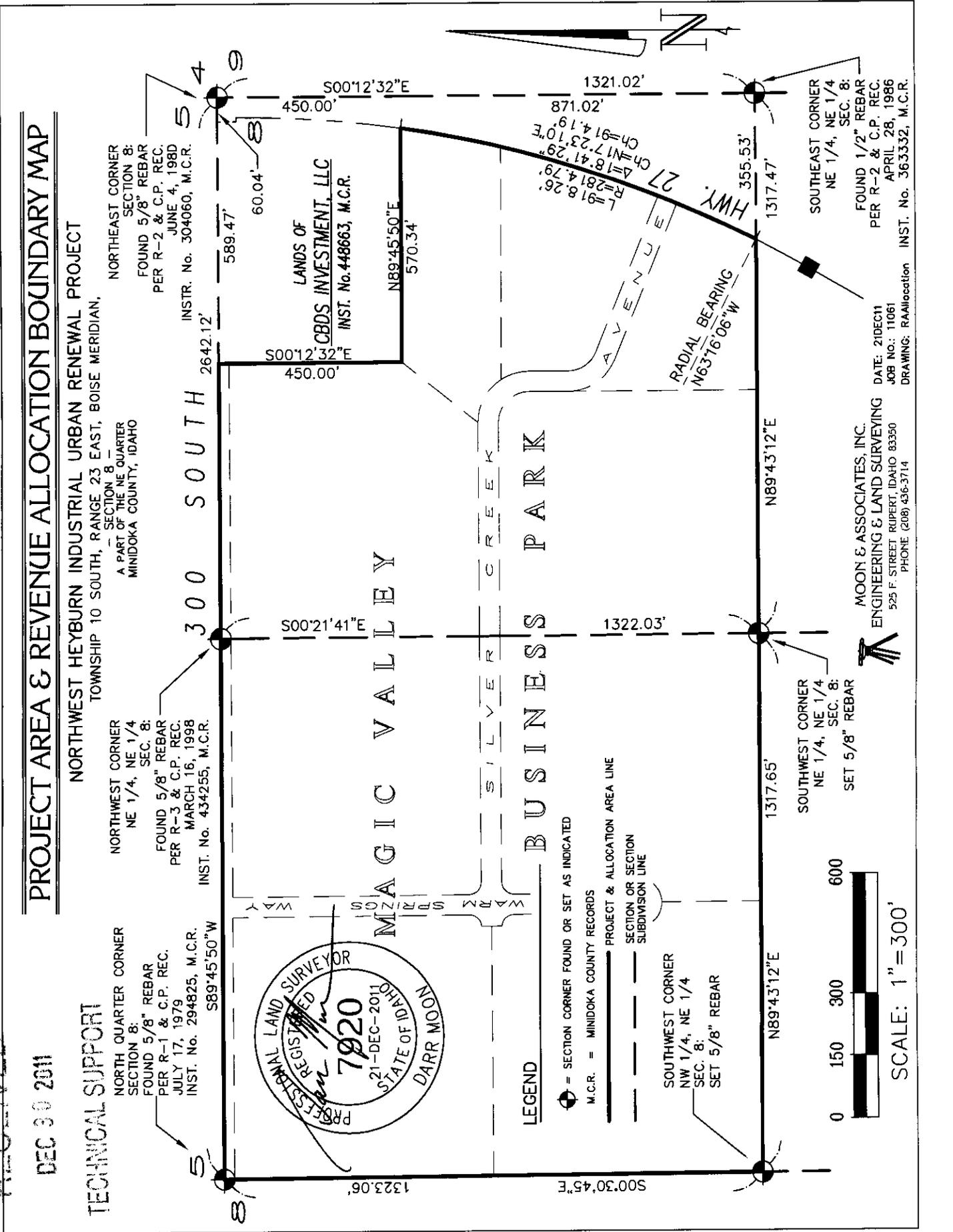
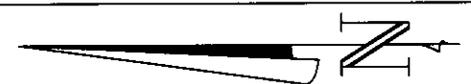
SCALE: 1" = 300'

MOON & ASSOCIATES, INC.  
ENGINEERING & LAND SURVEYING  
525 F. STREET RUPERT, IDAHO 83350  
PHONE (208) 436-3714

DATE: 2/DEC/11  
JOB No.: 11061  
DRAWING: RAAllocation

INST. No. 363332, M.C.R.

SOUTHEAST CORNER  
NE 1/4, NE 1/4  
SEC. 8:  
FOUND 1/2" REBAR  
PER R-2 & C.P. REC.  
APRIL 28, 1986



1161

**ORDINANCE NO. 541**

**BY THE COUNCIL:**

**BAKER, GALLEGOS,  
JUSTESEN, SMITH**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HEYBURN, IDAHO, APPROVING THE NORTHWEST HEYBURN INDUSTRIAL URBAN RENEWAL PROJECT URBAN RENEWAL PLAN, WHICH PLAN INCLUDES REVENUE ALLOCATION FINANCING PROVISIONS; AUTHORIZING THE CITY CLERK TO TRANSMIT A COPY OF THIS ORDINANCE AND OTHER REQUIRED INFORMATION TO COUNTY AND STATE OFFICIALS; WAIVING THE READING RULES; APPROVING THE SUMMARY OF THE ORDINANCE; AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, the Mayor and Council of Heyburn, Idaho ("City"), respectively, on or about July 14, 2010, adopted and approved Resolution No. 2010-6 creating the Heyburn Urban Renewal Agency (the "Agency"), authorizing it to transact business and exercise the powers granted by the Idaho Urban Renewal Law of 1965, as amended, Chapter 20, Title 50, Idaho Code as amended (hereinafter the "Law"), and the Local Economic Development Act, Chapter 29, Title 50, as amended (hereinafter the "Act") upon making the findings of necessity required for creating said Agency;

WHEREAS, pursuant to Idaho Code Section 50-2008, an urban renewal project may not be planned or initiated unless the local governing body has, by resolution, determined such area to be a deteriorated area or deteriorating area, or combination thereof, and designated such area as appropriate for an urban renewal project;

WHEREAS, Idaho Code Section 50-2906, also requires that in order to adopt an urban renewal plan containing a revenue allocation financing provision, the local governing body must make a finding or determination that the area included in such plan is a deteriorated area or deteriorating area;

WHEREAS, the city of Heyburn ("City") authorized the preparation of an eligibility report by Harlan W. Mann ("Consultant"), to consider an area bounded generally by 300 South Road on the north, Highway 27 on the east, and on the south and west by the eastern and southern boundaries of the planned Magic Valley Business Park subdivision;

WHEREAS, the *Northwest Heyburn Industrial Area Urban Renewal Eligibility Report*, dated January 28, 2011 (the "Report"), examined the designated urban renewal area for the purpose of determining whether such area is a deteriorating or deteriorated area as defined by Idaho Code, Sections 50-2018(9) and 50-2903(8)(b);

**Instrument # 514713**  
MINIDOKA COUNTY, RUPERT, IDAHO  
11-17-2011 03:48:38 No. of Pages: 81  
Recorded for : CITY OF HEYBURN  
PATTY TEMPLE Fee:0.00  
Ex-Officio Recorder Deputy *K. Jackson*

WHEREAS, the City, on February 23, 2011, adopted Resolution No. 2011-3 accepting the Report;

WHEREAS, the Mayor and Council considered the steps set forth by the Act and Law, accepting the Report finding the area set forth in the Report to be “deteriorated” or “deteriorating” areas as defined by Idaho Code Sections 50-2018(9), and 50-2903(8)(b) declaring each area as an urban renewal area, making additional findings regarding the characteristics of the areas, making the necessary findings as required by Idaho Code Section 50-2008(a) and authorizing the Agency to prepare an urban renewal plan;

WHEREAS, the Legislature of the state of Idaho has enacted the Act, authorizing certain urban renewal agencies, including the Urban Renewal Agency of Heyburn, to adopt revenue allocation financing provisions as part of their urban renewal plans;

WHEREAS, in order to implement the provisions of the Act and the Law, either the Agency may prepare a plan or any person, public or private, may submit such plan to the Agency;

WHEREAS, Agency and its consultants have undertaken the planning process during 2011;

WHEREAS, the Agency has prepared a proposed Northwest Heyburn Industrial Urban Renewal Project Urban Renewal Plan (the “Plan”) and the urban renewal area referred to as the Northwest Heyburn Industrial Project Area (“Project Area”) for the areas designated as eligible for urban renewal planning;

WHEREAS, such proposed Plan also contains provisions of revenue allocation financing as allowed by the Act;

WHEREAS, the Board considered all comment and information submitted to the Agency during several Board meetings and the Board meeting held on August 22, 2011;

WHEREAS, on August 22, 2011, the Agency Board passed Resolution No. 2011-4 proposing and recommending the approval of the Plan (referenced to as the Initial Northwest Heyburn Industrial Plan);

WHEREAS, it came to light that the taxing entity referenced as Minidoka County Fire District on page 33 of the Initial Northwest Heyburn Industrial Plan is in fact the West End Fire Protection District;

WHEREAS, the levy rate originally stated for the Minidoka County Fire District was not the correct levy rate for the West End Fire Protection District;

WHEREAS, once the levy rate was corrected, it was necessary to correct Attachments 5B, and 5C;

WHEREAS, the revised content of the Plan was considered by the Agency at its September 6, 2011, special Board meeting, and the Agency Board passed Resolution No. 2011-5 proposing and recommending the approval of the revised Plan, which is further referred to as the Plan;

WHEREAS, the Agency has, by letter of transmittal dated September 21, 2011, submitted the Plan to the Mayor and City Council of Heyburn;

WHEREAS, the Mayor and City Clerk have taken the necessary action to process the Plan;

WHEREAS, at a special meeting held October 17, 2011, the Heyburn Planning and Zoning Commission and members of the Agency considered the Plan, and the Planning and Zoning Commission found that the Plan is in all respects in conformity with the Comprehensive Land Use Plan for the city of Heyburn, as amended; a copy of the letter to the Mayor from the Planning and Zoning Commission and excerpt of minutes setting forth the Planning and Zoning Commission's findings are attached hereto as Exhibit 1;

WHEREAS, notice of the public hearing of the Plan was caused to be published by the Heyburn City Clerk of Heyburn, Idaho, in the *Times News* on September 23, and October 7, 2011, a copy of said notice being attached hereto as Exhibit 2;

WHEREAS, as of September 26, 2011, the Plan was submitted to the affected taxing entities, available to the public, and under consideration by the City Council;

WHEREAS, the City Council of the city of Heyburn conducted a work session on October 12, 2011, to review and discuss the Plan;

WHEREAS, since the Plan was submitted to the Mayor and City Council on September 21, 2011, and distributed to the several taxing entities on September 26, 2011, it has come to light that the levy rate originally stated for School District No. 331 on page 33 of the Plan was not the correct levy rate;

WHEREAS, once the levy rate was corrected, it was necessary to correct Attachments 5B, and 5C;

WHEREAS, Agency Consultant has prepared and attached hereto as Exhibit 4, a Change Sheet indicating the changes made to the originally proposed Plan;

WHEREAS, the City Council during its regular meeting of October 26, 2011, held such public hearing;

WHEREAS, as required by Idaho Code Sections 50-2905 and 50-2906, the Plan contains the following information which was made available to the general public and all taxing districts at least thirty (30) days prior to the October 26, 2011, regular meeting of the City Council:  
(1) the kind, number, and location of all proposed public works or improvements within the

revenue allocation area; (2) an economic feasibility study; (3) a detailed list of estimated project costs; (4) a fiscal impact statement showing the impact of the revenue allocation area, both until and after the bonds are repaid, upon all taxing districts levying taxes upon property in the revenue allocation area; and (5) a description of the methods of financing all estimated project costs and the time when related costs or monetary obligations are to be incurred;

WHEREAS, the Plan authorizes certain projects to be financed by revenue allocation bonds and proceeds from revenue allocation;

WHEREAS, appropriate notice of the Plan and revenue allocation provision contained therein has been given to the taxing districts and to the public as required by Idaho Code Section 50-2906;

WHEREAS, it is necessary and in the best interest of the citizens of Heyburn, Idaho, to adopt the Plan, including revenue allocation financing provisions since revenue allocation will help finance urban renewal projects to be completed in accordance with the Plan (as now or hereafter amended), in order to: encourage private development in the urban renewal area; prevent and arrest decay of Heyburn, Idaho, due to the inability of existing financing methods to provide needed public improvements; encourage taxing districts to cooperate in the allocation of future tax revenues arising in the urban renewal area in order to facilitate the long-term growth of their common tax base; encourage private investment within Heyburn, Idaho; and to further the public purposes of the Agency;

WHEREAS, the City Council finds that the equalized assessed valuation of the taxable property in the revenue allocation area described in Attachments 1 and 2 of the Plan is likely to increase as a result of initiation of urban renewal projects in accordance with the Plan;

WHEREAS, under the Law and Act any such Plan should provide for (1) a feasible method for the location of families who will be displaced from the urban renewal area in decent, safe, and sanitary dwelling accommodations within their means and without undue hardship to such families; (2) the urban renewal plan should conform to the general plan of the municipality as a whole; (3) the urban renewal plan should give due consideration to the provision of adequate park and recreational areas and facilities that may be desirable for neighborhood improvement, with special consideration for the health, safety, and welfare of the children residing in the general vicinity of the site covered by the plan; and (4) the urban renewal plan should afford maximum opportunity, consistent with the sound needs of the municipality as a whole, for the rehabilitation or redevelopment of the urban renewal area by private enterprise;

WHEREAS, if the urban renewal area consists of an area of open land to be acquired by the urban renewal agency, such area shall not be so acquired unless (1) if it is to be developed for residential uses, the local governing body shall determine that a shortage of housing of sound standards and design which is decent, safe, and sanitary exists in the municipality; that the need for housing accommodations has been or will be increased as a result of the clearance of slums in other areas; that the conditions of blight in the area and the shortage of decent, safe, and sanitary housing cause or contribute to an increase in and spread of disease and crime and constitute a menace to the public health, safety, morals, or welfare; and that the acquisition of the area for

residential uses is an integral part of and essential to the program of the municipality; or (2) if it is to be developed for nonresidential uses, the local governing body shall determine that such nonresidential uses are necessary and appropriate to facilitate the proper growth and development of the community in accordance with sound planning standards and local community objectives, which acquisition may require the exercise of governmental action, as provided in the Law, because of defective or unusual conditions of title, diversity of ownership tax delinquency, improper subdivisions, outmoded street patterns, deterioration of site, economic disuse, unsuitable topography or faulty lot layouts, the need for the correlation of the area with other areas of a municipality by streets and modern traffic requirements, or any combination of such factors or other conditions which retard development of the area;

WHEREAS, the overall base assessment roll for the revenue allocation area cannot exceed ten percent (10%) of the Base Assessment Value of the City;

WHEREAS, the proposed Project Area has been used for agricultural operations within the last three (3) years;

WHEREAS, the Agency has contacted the property owner and obtained the written consent to include this property within the proposed Project Area;

WHEREAS, the City at its regular meeting held on October 26, 2011, considered the Plan as proposed and made certain comprehensive findings.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF HEYBURN:

SECTION 1: It is hereby found and determined that:

(a) The Project Area as defined in the Plan is a deteriorated or a deteriorating area as defined in the Law and the Act and qualifies as an eligible urban renewal area under the Law and Act.

(b) The rehabilitation, conservation, and redevelopment of the urban renewal area pursuant to the Plan are necessary in the interests of public health, safety, and welfare of the residents of the City.

(c) There continues to be a need for the Agency to function in the City.

(d) The Plan conforms to the Comprehensive Land Use Plan for the city of Heyburn, as amended.

(e) The Plan gives due consideration to the provision of adequate park and recreation areas and facilities that may be desirable for neighborhood improvement (recognizing the mixed use components of the Plan and the need for overall public improvements), and shows consideration for the health, safety, and welfare of any residents or businesses in the general vicinity of the urban renewal area covered by the Plan.

(f) The Plan affords maximum opportunity consistent with the sound needs of the City as a whole for the rehabilitation and redevelopment of the urban renewal area by private enterprises.

(g) The Plan provides a feasible method for relocation of any displaced families residing within the urban renewal area.

(h) The Project Area and Revenue Allocation Area may contain certain open land, but the Agency does not intend to acquire any open land on any widespread basis, and that the Project Area is planned to be redeveloped in a manner that will include both residential and non-residential uses. Provided, however, that if portions of the Project Area and Revenue Allocation Area are deemed "open land" the criteria set forth in the Law and Act have been met.

(i) The Project Area which is identified for nonresidential uses is necessary and appropriate to facilitate the proper growth and development standards in accordance with the objectives of the Comprehensive Land Use Plan for the city of Heyburn, as amended to overcome economic disuse, the need for improved traffic patterns and the need for the correlation of this area with other areas of the City.

(j) The base assessment roll of the Project Area does not exceed ten percent (10%) of the assessed value of the City.

(k) The urban renewal area, which includes the deteriorating area, as defined in Idaho Code Section 50-2018(9), includes agricultural operations which have been used within the past three (3) consecutive years, provided, however, Agency has contacted the property owner and obtained the written consent to include this property within the proposed project area.

SECTION 2: The City Council finds that the Project Area and Revenue Allocation Area may consist of predominantly open land, that the Agency does not intend to acquire any open land on any widespread basis, and that the Project Area is planned to be redeveloped in a manner that will include nonresidential uses. Provided, however, the City Council finds that if portions of the Project Area and Revenue Allocation Area are deemed "open land," the criteria set forth in the Law and Act has been met.

SECTION 3: The City Council finds that the Plan meets the sound needs of the City and will provide opportunities in an area that does not now contain such opportunities, and nonresidential uses are necessary and appropriate to facilitate the proper growth and development standards in accordance with the objectives of the Comprehensive Land Use Plan for the city of Heyburn, as amended to overcome economic disuse, the need for improved traffic patterns, and the need for the correlation of this area with other areas of the City.

SECTION 4: The Plan, a copy of which is attached hereto and marked as Exhibit 3 and made a part hereof by attachment, be, and the same hereby is, approved, along with the changes reflected on the Change Sheet, attached hereto as Exhibit 4. As directed by the City Council, the City Clerk and/or the Agency may make certain technical corrections or revisions in keeping

with the information and testimony presented at the October 26, 2011, hearing, and incorporate changes or modifications, if any.

SECTION 5: No direct or collateral action challenging the Plan shall be brought prior to the effective date of this Ordinance or after the elapse of thirty (30) days from and after the effective date of this Ordinance adopting the Plan.

SECTION 6: Upon the effective date of this Ordinance, the City Clerk is authorized and directed to transmit to the County Auditor and Tax Assessor of Minidoka County and to the appropriate officials of the city of Heyburn, School District No. 331, West End Fire Protection District, Heyburn Cemetery District No. 3, Minidoka Highway District, and the State Tax Commission a copy of this Ordinance, a copy of the legal description of the boundaries of the Revenue Allocation Area, and a map or plat indicating the boundaries of the Revenue Allocation Area.

SECTION 7: The City Council hereby finds and declares that the Revenue Allocation Area as defined in the Plan (defined as the Project Area in the Plan), the equalized assessed valuation of which the Council hereby determines is in and is part of the Plan is likely to increase as a result of the initiation and completion of urban renewal projects pursuant to the Plan.

SECTION 8: The City Council hereby approves and adopts the following statement policy relating to the appointment of City Council members as members of the Agency's Board of Commissioners: If any City Council members are appointed to the Board, they are not acting in an ex officio capacity but, rather, as private citizens who, although they are also members of the City Council, are exercising their independent judgment as private citizens when they sit on the Board. Except for the powers to appoint and terminate Board members and to adopt the Plan, the City Council recognizes that it has no power to control the powers or operations of the Agency.

SECTION 9: So long as any Agency bonds are outstanding, the City Council shall not exercise its power under Idaho Code Section 50-2006 to designate itself as the Agency Board.

SECTION 10: This Ordinance shall be in full force and effect immediately upon its passage, approval, and publication and shall be retroactive to January 1, 2011, to the extent permitted by the Act.

SECTION 11: The provisions of this Ordinance are severable, and if any provision of this Ordinance or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of remaining portions of this Ordinance.

SECTION 12: One-half, plus one of the City Council members finding good cause, the City Council hereby dispenses with the rule that this Ordinance be read on three different days, and have hereby adopted this Ordinance, having considered it at one reading.

SECTION 13: The Summary of this Ordinance, a copy of which is attached hereto as

Exhibit 5, is hereby approved.

**SECTION 14:** All ordinances, resolutions, orders or parts thereof in conflict herewith are hereby repealed, rescinded and annulled.

**SECTION 15: SAVINGS CLAUSE:** This ordinance does not affect an action or proceeding commenced or right accrued before this ordinance takes effect.

PASSED by the City Council of the city of Heyburn, Idaho, on this 26th day of October 2011.

APPROVED by the Mayor of the city of Heyburn, Idaho, on this 26th day of October  
2011.



  
\_\_\_\_\_  
Mayor George A. Anderson

ATTEST:

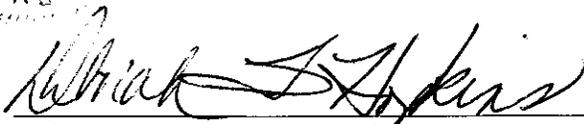
  
\_\_\_\_\_  
Deborah F. Hopkins, City Clerk

Exhibit 5  
CITY OF HEYBURN

SUMMARY OF ORDINANCE NO. 541

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HEYBURN, IDAHO, APPROVING THE NORTHWEST HEYBURN INDUSTRIAL URBAN RENEWAL PROJECT URBAN RENEWAL PLAN, WHICH PLAN INCLUDES REVENUE ALLOCATION FINANCING PROVISIONS; AUTHORIZING THE CITY CLERK TO TRANSMIT A COPY OF THIS ORDINANCE AND OTHER REQUIRED INFORMATION TO COUNTY AND STATE OFFICIALS; WAIVING THE READING RULES; APPROVING THE SUMMARY OF THE ORDINANCE; AND PROVIDING AN EFFECTIVE DATE.**

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF HEYBURN:

SECTION 1: It is hereby found and determined that:

(a) The Project Area as defined in the Plan is a deteriorated or a deteriorating area as defined in the Law and the Act and qualifies as an eligible urban renewal area under the Law and Act.

(b) The rehabilitation, conservation, and redevelopment of the urban renewal area pursuant to the Plan are necessary in the interests of public health, safety, and welfare of the residents of the City.

(c) There continues to be a need for the Agency to function in the City.

(d) The Plan conforms to the Comprehensive Land Use Plan for the city of Heyburn, as amended.

(e) The Plan gives due consideration to the provision of adequate park and recreation areas and facilities that may be desirable for neighborhood improvement (recognizing the mixed use components of the Plan and the need for overall public improvements), and shows consideration for the health, safety, and welfare of any residents or businesses in the general vicinity of the urban renewal area covered by the Plan.

(f) The Plan affords maximum opportunity consistent with the sound needs of the City as a whole for the rehabilitation and redevelopment of the urban renewal area by private enterprises.

(g) The Plan provides a feasible method for relocation of any displaced families residing within the urban renewal area.

(h) The Project Area and Revenue Allocation Area may contain certain open land, but the Agency does not intend to acquire any open land on any widespread basis, and that the Project Area is planned to be redeveloped in a manner that will include both residential and non-residential uses. Provided, however, that if portions of the Project Area and Revenue Allocation Area are deemed "open land" the criteria set forth in the Law and Act have been met.

(i) The Project Area which is identified for nonresidential uses is necessary and appropriate to facilitate the proper growth and development standards in accordance with the objectives of the Comprehensive Land Use Plan for the city of Heyburn, as amended to overcome economic disuse, the need for improved traffic patterns and the need for the correlation of this area with other areas of the City.

(j) The base assessment roll of the Project Area does not exceed ten percent (10%) of the assessed value of the City.

(k) The urban renewal area, which includes the deteriorating area, as defined in Idaho Code Section 50-2018(9), includes agricultural operations which have been used within the past three (3) consecutive years, provided, however, Agency has contacted the property owner and obtained the written consent to include this property within the proposed project area.

SECTION 2: The City Council finds that the Project Area and Revenue Allocation Area may consist of predominantly open land, that the Agency does not intend to acquire any open land on any widespread basis, and that the Project Area is planned to be redeveloped in a manner that will include nonresidential uses. Provided, however, the City Council finds that if portions of the Project Area and Revenue Allocation Area are deemed "open land," the criteria set forth in the Law and Act has been met.

SECTION 3: The City Council finds that the Plan meets the sound needs of the City and will provide opportunities in an area that does not now contain such opportunities, and nonresidential uses are necessary and appropriate to facilitate the proper growth and development standards in accordance with the objectives of the Comprehensive Land Use Plan for the city of Heyburn, as amended to overcome economic disuse, the need for improved traffic patterns, and the need for the correlation of this area with other areas of the City.

SECTION 4: The Plan, a copy of which is attached hereto and marked as Exhibit 3 and made a part hereof by attachment, be, and the same hereby is, approved, along with the changes reflected on the Change Sheet, attached hereto as Exhibit 4. As directed by the City Council, the City Clerk and/or the Agency may make certain technical corrections or revisions in keeping with the information and testimony presented at the October 26, 2011, hearing, and incorporate changes or modifications, if any.

SECTION 5: No direct or collateral action challenging the Plan shall be brought prior to the effective date of this Ordinance or after the elapse of thirty (30) days from and after the effective date of this Ordinance adopting the Plan.

SECTION 6: Upon the effective date of this Ordinance, the City Clerk is authorized and directed to transmit to the County Auditor and Tax Assessor of Minidoka County and to the appropriate officials of the city of Heyburn, School District No. 331, West End Fire Protection

District, Heyburn Cemetery District No. 3, Minidoka Highway District, and the State Tax Commission a copy of this Ordinance, a copy of the legal description of the boundaries of the Revenue Allocation Area, and a map or plat indicating the boundaries of the Revenue Allocation Area.

SECTION 7: The City Council hereby finds and declares that the Revenue Allocation Area as defined in the Plan (defined as the Project Area in the Plan), the equalized assessed valuation of which the Council hereby determines is in and is part of the Plan is likely to increase as a result of the initiation and completion of urban renewal projects pursuant to the Plan.

SECTION 8: The City Council hereby approves and adopts the following statement policy relating to the appointment of City Council members as members of the Agency's Board of Commissioners: If any City Council members are appointed to the Board, they are not acting in an ex officio capacity but, rather, as private citizens who, although they are also members of the City Council, are exercising their independent judgment as private citizens when they sit on the Board. Except for the powers to appoint and terminate Board members and to adopt the Plan, the City Council recognizes that it has no power to control the powers or operations of the Agency.

SECTION 9: So long as any Agency bonds are outstanding, the City Council shall not exercise its power under Idaho Code Section 50-2006 to designate itself as the Agency Board.

SECTION 10: This Ordinance shall be in full force and effect immediately upon its passage, approval, and publication and shall be retroactive to January 1, 2011, to the extent permitted by the Act.

SECTION 11: The provisions of this Ordinance are severable, and if any provision of this Ordinance or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of remaining portions of this Ordinance.

SECTION 12: One-half, plus one of the City Council members finding good cause, the City Council hereby dispenses with the rule that this Ordinance be read on three different days, and have hereby adopted this Ordinance, having considered it at one reading.

SECTION 13: The Summary of this Ordinance, a copy of which is attached hereto as Exhibit 4, is hereby approved.

SECTION 14: All ordinances, resolutions, orders or parts thereof in conflict herewith are hereby repealed, rescinded and annulled.

SECTION 15: SAVINGS CLAUSE: This ordinance does not affect an action or proceeding commenced or right accrued before this ordinance takes effect.

PASSED by the City Council of the city of Heyburn, Idaho, on this 26th day of October 2011.

APPROVED by the Mayor of the city of Heyburn, Idaho, on this 26th day of October 2011.

### **EXHIBITS TO THE ORDINANCE**

- Exhibit 1 Recommendation Finding the Northwest Heyburn Industrial Urban Renewal Project Urban Renewal Plan In Conformity With Comprehensive Plan
- Exhibit 2 Notice Published in the *Times-News*
- Exhibit 3 Northwest Heyburn Industrial Urban Renewal Project Urban Renewal Plan
- Exhibit 4 Change Sheet for Northwest Industrial Urban Renewal Project Urban Renewal Plan
- Exhibit 5 Ordinance Summary

### **SUMMARY OF PLAN**

The Northwest Heyburn Industrial Urban Renewal Project Urban Renewal Plan (“Plan”) was prepared by the urban renewal agency of the city of Heyburn, the Heyburn Urban Renewal Agency (“Agency”) pursuant to the state of Idaho Urban Renewal Law, the Local Economic Development Act, the Idaho Constitution, and all applicable laws and ordinances and was approved by the Agency. The Plan provides for the Agency to undertake urban renewal projects pursuant to the Idaho Urban Renewal Law of 1965 as amended. The Plan contains a revenue allocation financing provision pursuant to the Local Economic Development Act, Chapter 29, Title 50, Idaho Code, that will cause property taxes resulting from any increases in equalized assessed valuation in excess of the equalized assessed valuation as shown on the original base assessment roll as of January 1, 2011, to be allocated to the Agency for the urban renewal purposes.

The general scope and objectives of the Plan are:

- a. The elimination of environmental deficiencies in the Project Area, including, among others, deteriorated and inadequate public improvements including certain streets and improvements; improvements to public utilities including water and sewer improvements, fire protection systems; other public improvements; removal, burying, or relocation of overhead utilities; extension of electrical distribution lines and transformers; and improvement of irrigation and drainage ditches and laterals;
- b. The assembly of land into parcels suitable for modern, integrated development with improved pedestrian and vehicular circulation in the Project Area;
- c. The replanning, redesign, and development of undeveloped or underdeveloped areas which are stagnant or improperly utilized because of excessive rock, limited traffic access, underserved utilities, and other site conditions;

- d. The strengthening of the economic base of the Project Area and the community by the installation of needed site improvements to stimulate new private development providing, employment, and economic growth;
- e. The provision of adequate land for street rights-of-way;
- f. The reconstruction and improvement of a major street corridor to allow traffic flows to move through the development along with the accompanying utility connections, through the Project Area;
- g. The provision of public service utilities such as water system improvements, main sewer system improvements (which may be located outside the Project Area), and certain pretreatment improvements within the Project Area;
- h. The establishment and implementation of performance criteria to assure high site design standards and environmental quality and other design elements which provide unity and integrity to the entire Project, including commitment of funds for planning studies, achieving high standards of development, and leveraging such development to achieve public objectives and efficient use of scarce resources;
- i. The strengthening of the tax base by encouraging private development, thus increasing the assessed valuation of properties within the Revenue Allocation Area and the Project Area as a whole and benefiting the various taxing districts in which the urban renewal area is located; and
- j. The funding of necessary public infrastructure to accommodate both public and private development.

Any such land uses as described in the Plan will be in conformance with zoning for the city of Heyburn and the Comprehensive Land Use Plan, as amended as adopted by the City Council. Land made available will be developed by private enterprises or public agencies as authorized by law. The Plan identifies various public and private improvements which may be made within the Urban Renewal Area.

The Urban Renewal Project Area and Revenue Allocation Area herein referred to is located generally as follows:

An area consisting of approximately 69 acres generally bounded by 300 South Road on the north, Highway 27 on the east, and on the south and west by the eastern and southern boundaries of the planned Magic Valley Business Park subdivision, and as more particularly described as follows:

DESCRIPTION: PROJECT AREA AND REVENUE ALLOCATION AREA  
BOUNDARY LEGAL DESCRIPTION.

TOWNSHIP 10 SOUTH, RANGE 23 EAST, BOISE MERIDIAN, MINIDOKA COUNTY,  
IDAHO.

SECTION 8: A PORTION OF THE NORTHEAST QUARTER, MORE  
PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SECTION 8, MARKED BY A 5/8"  
REBAR AND ALUMINUM CAP, THENCE ALONG THE NORTH LINE THEREOF SOUTH  
89°45'50" WEST 649.51 FEET TO THE NORTHWEST CORNER OF THAT REAL  
PROPERTY CONVEYED TO CBDS INVESTMENTS, L.C. BY THE WARRANTY DEED  
RECORDED JULY 13, 2000 AS INSTRUMENT No. 448663, MINIDOKA COUNTY  
RECORDS AND THE TRUE POINT OF BEGINNING;

THENCE CONTINUING ALONG THE NORTH LINE OF SECTION 8 SOUTH 89°45'50"  
WEST 1992.61 FEET TO A 5/8" REBAR AT THE NORTHWEST CORNER OF THE NW ¼,  
NE ¼;

THENCE ALONG THE WEST LINE THEREOF SOUTH 00°30'45" EAST 1323.06 FEET TO  
THE SOUTHWEST CORNER THEREOF;

THENCE ALONG THE SOUTH LINE OF THE NW ¼, NE ¼ AND CONTINUING ALONG  
THE SOUTH LINE OF THE NE ¼, NE ¼ NORTH 89°43'12" EAST 2279.59 FEET TO THE  
INTERSECTION THEREOF WITH THE WEST LINE OF THE HIGHWAY 27 RIGHT OF  
WAY;

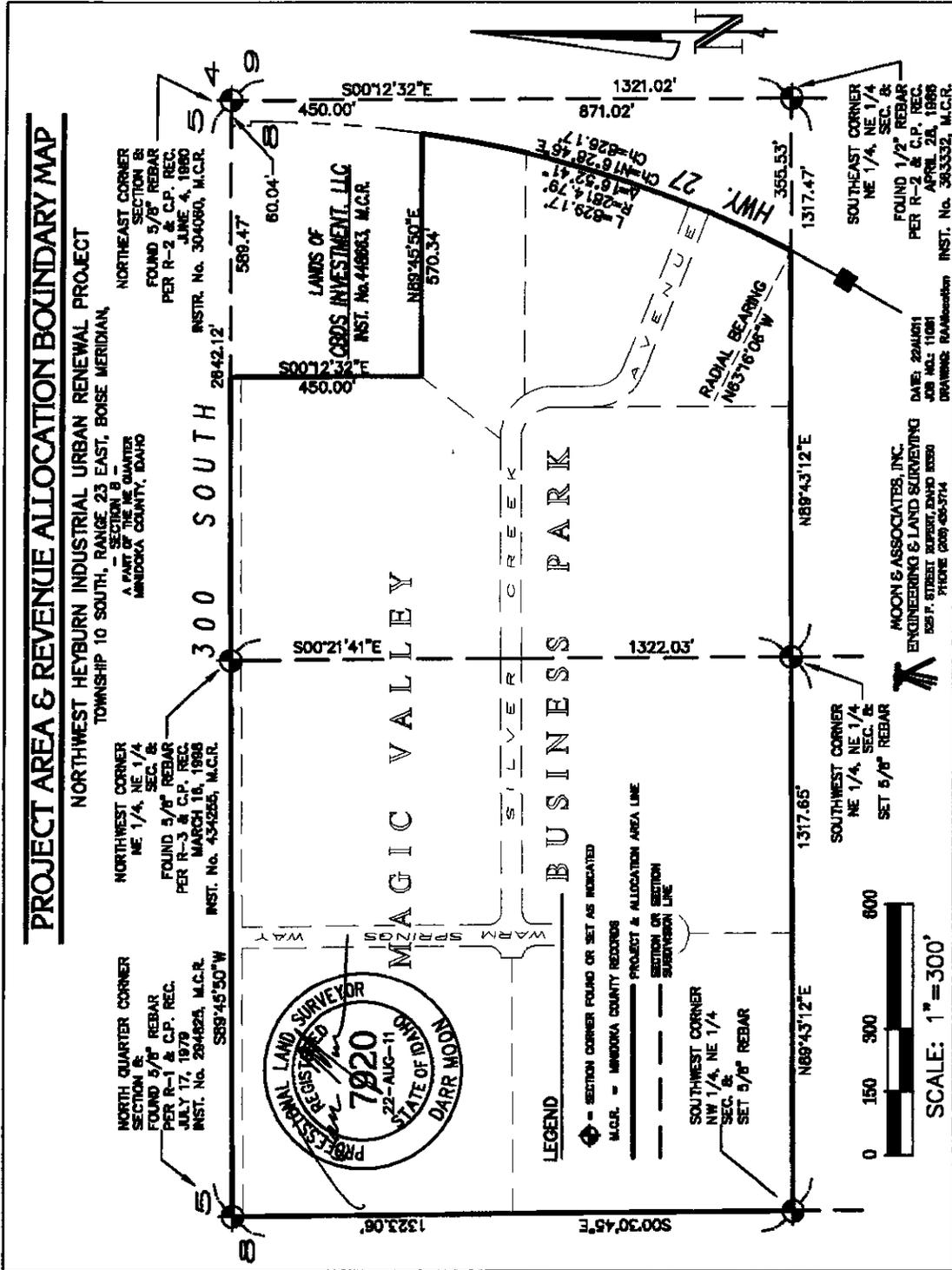
THENCE ALONG SAID WEST RIGHT OF WAY LINE ALONG A NON-TANGENT CURVE  
TO THE LEFT HAVING A RADIAL BEARING TO THE CENTER OF NORTH 63°16'06"  
WEST, A LENGTH OF 918.26 FEET, A RADIUS OF 2814.79 FEET, A CENTRAL ANGLE  
OF 18°41'29", A CHORD BEARING OF NORTH 17°23'1" EAST, AND A CHORD LENGTH  
OF 914.19 FEET TO THE SOUTHEAST CORNER OF THE AFORESAID LANDS OF CBDS  
INVESTMENTS, L.C., A ½" REBAR BEARS NORTH 74°49'51" EAST 0.31 FEET;

THENCE ALONG THE SOUTH LINE OF SAID LANDS OF CBDS INVESTMENTS, L.C.  
SOUTH 89°45'50" WEST 570.34 FEET TO THE SOUTHWEST CORNER THEREOF;

THENCE ALONG THE WEST LINE OF THE LANDS OF CBDS INVESTMENTS, L.C.  
NORTH 00°12'32" WEST 450.00 FEET TO THE TRUE POINT OF BEGINNING.

THE ABOVE DESCRIBE REAL PROPERTY CONTAINS 69.55 ACRES, MORE OR LESS.

The project area is also depicted in the map below.



Sections 300 through 323 discuss the proposed redevelopment actions, participation opportunities and agreements, cooperation with public bodies, property acquisition standards and requirements, relocation, demolition, and property disposition.

Sections 402 through 404 discuss the type of land uses authorized in the Project Area and list other controls by referencing the applicable County ordinances.

Section 405 describes design guidelines for development.

The Plan also contains a major section on financing. Among other sources, the Plan will utilize revenue allocation financing, authorized by Chapter 20, Title 50, Idaho Code. This statute was approved in 1988 by the Idaho Legislature. Section 504 and Attachment 5 discuss revenue allocation financing and show how such financing has worked and would work in the Project Area in the future if certain new private developments occur as estimated.

Increases in assessed valuation of real and personal property in the Project Area that occur after January 1, 2011, will generate revenue for the Agency to pay project costs. Project costs include street improvements, parking facilities, and other public improvement costs. The assessed valuation of real and personal property on the base assessment roll is still available for use by the other taxing districts, Minidoka County, city of Heyburn, School District No. 331, West End Fire Protection District, Heyburn Cemetery District No. 3, and Minidoka Highway District to finance their operations. The Plan authorizes the Agency to sell revenue bonds to finance project costs and to use annual revenue allocations to pay the debt service.

The program outlined in the Plan emphasizes the installation of needed public improvements, street improvements, utility work, and other costs to encourage private development.

Attachment 5 describes in detail the cost and financing methods for complete repayment of the debt incurred used to finance the Project and to also fund the additional described activities.

No change in the land use designation or the potential uses in the area have been proposed. The Plan follows the underlying zoning classifications of the city of Heyburn. Proposals for certain zone changes are made in the Plan.

Sections 600 and 700 describe cooperative activities by the Agency with the City.

The duration of the Plan is for twenty (20) years. A termination process is described in Section 800 of the Plan. The Agency is required to prepare an annual report each year describing its activities during the previous year.

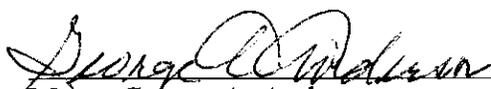
### **ATTACHMENTS TO THE PLAN**

- |              |   |
|--------------|---|
| Attachment 1 | Map of Urban Renewal Project Area and Revenue Allocation Area         |
| Attachment 2 | Description of Urban Renewal Project Area and Revenue Allocation Area |

- Attachment 3 Private Properties Which May be Acquired by the Agency (Limited to Public Improvements and Facilities)
- Attachment 4 Map Depicting Expected Land Use and Current Zoning Map of the Project Area
- Attachment 5 Statement of Proposed Public Improvements, Costs, Revenue, Tax Impacts, and Financing Methods
- Attachment 5A Estimated Net Taxable Value of New Private Development in Northwest Heyburn Industrial Urban Renewal Project
- Attachment 5B Estimated Annual Tax Revenue Allocation in Northwest Heyburn Industrial Urban Renewal Project
- Attachment 5C Estimated Annual Revenues and Costs in Northwest Heyburn Industrial Urban Renewal Project

The full text of Ordinance 541 is available at the offices of the City Clerk, Heyburn City Hall, 941 18th Street, Heyburn, Idaho, 83336.

This summary is approved by the Heyburn City Council at its meeting of October 26, 2011.

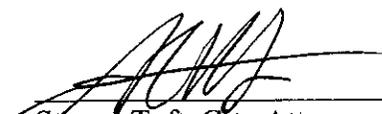
  
 \_\_\_\_\_  
 Mayor George A. Anderson

ATTEST:

  
 \_\_\_\_\_  
 Deborah F. Hopkins, City Clerk

I, Steven Tuft, City Attorney for the city of Heyburn, Idaho, hereby declare and certify that in my capacity as City Attorney of the city of Heyburn, pursuant to Idaho Code Section 50-901A(3) of the Idaho Code as amended, I have reviewed a copy of the above Summary of Ordinance, have found the same to be true and complete, and said Summary of Ordinance provides adequate notice to the public of the contents, including the exhibits, of Ordinance No. 541.

DATED this 26th day of October 2011.

  
 \_\_\_\_\_  
 Steven Tuft, City Attorney, Heyburn, Idaho