

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
MINDOKA 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*

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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 1

**RECOMMENDATION FINDING THE NORTHWEST HEYBURN
INDUSTRIAL URBAN RENEWAL PROJECT URBAN RENEWAL PLAN IN
CONFORMITY WITH COMPREHENSIVE PLAN**



CITY OF HEYBURN

941 18th Street

P.O. Box 147

Heyburn, Idaho 83336

October 17, 2011

Mayor George A. Anderson

CITY OF HEYBURN

941 18th Street

Heyburn, Idaho, 83336

RE: Proposed Heyburn Urban Renewal Agency
Northwest Heyburn Industrial Urban Renewal Project Urban Renewal Plan

Dear Mayor Anderson:

The Heyburn Urban Renewal Agency (hereinafter "Agency"), has submitted a proposed Urban Renewal Plan entitled "Northwest Heyburn Industrial Urban Renewal Project Urban Renewal Plan" (the "Plan") to the city of Heyburn ("City"), and the City Council, and the City has referred the Plan to the Heyburn Planning and Zoning Commission for review and recommendations concerning the conformity of said Plan with the Comprehensive Land Use Plan for the city of Heyburn, as amended.

The Heyburn Planning and Zoning Commission met on October 17, 2011, to consider the Plan and have reviewed said Plan in regard to the Comprehensive Land Use Plan for the city of Heyburn, as amended. The review included comments from Planning and Zoning Commission staff. The Heyburn Planning and Zoning Commission has determined that the Plan is in all respects in conformity with the Comprehensive Land Use Plan for the city of Heyburn, as amended.

Thank you for your cooperation in this matter. If you have any questions please do not hesitate to contact me.

Very truly yours,

PLANNING & ZONING COMMISSION


Norma Morrison, Chairman

cc: Ryan P. Armbruster

Exhibit 2

NOTICE PUBLISHED IN THE *TIMES NEWS*

NOTICE OF REGULAR MEETING AND PUBLIC HEARING BY THE
CITY COUNCIL OF THE CITY OF HEYBURN
TO CONSIDER THE
NORTHWEST HEYBURN INDUSTRIAL URBAN RENEWAL PROJECT
URBAN RENEWAL PLAN
OF THE HEYBURN URBAN RENEWAL AGENCY
OF THE CITY OF HEYBURN

NOTICE IS HEREBY GIVEN that the City Council of the City of Heyburn will hold during its regular meeting, a public hearing at the Heyburn City Hall, 941 18th Street Heyburn, Idaho, 83336 on Wednesday, October 26, 2011, at 7:00 o'clock p.m., to consider the Northwest Heyburn Industrial Urban Renewal Project Urban Renewal Plan ("Plan") of the Heyburn Urban Renewal Agency ("Agency"). The boundaries of the Plan Area are hereinafter described. The boundaries include both urban renewal and revenue allocation areas. The Plan proposes that the Agency undertake urban renewal projects pursuant to the Idaho Urban Renewal Law of 1985 as amended. The Plan proposes to create an urban renewal area commonly referred to as the Northwest Heyburn Industrial Urban Renewal Project Area. The Plan being considered for adoption 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 increase in equalized assessed valuation in excess of the equalized assessed valuation as shown on the base assessment roll as of January 1, 2011, to be allocated to the Agency for urban renewal purposes. The boundaries of the revenue allocation area are co-terminus with the urban renewal area. The Agency has adopted and recommended approval of the Plan. The City Council will also be considering a final reading of an Ordinance to adopt the Plan.

The general scope and objectives of the Plan are:

1. The elimination of environmental deficiencies in the Project Area, including, among others, deteriorated and inadequate public improvements including certain street 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;
2. The assembly of land into parcels suitable for modern, integrated development with improved pedestrian and vehicular circulation in the Project Area;
3. 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;
4. 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;
5. The provision of adequate land for street rights-of-way;
6. 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;
7. 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;
8. 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;
9. 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 benefitting the various taxing districts in which the urban renewal area is located; and
10. 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 for the city of Heyburn, 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 849.61 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 NW¼ NE¼;

THENCE ALONG THE WEST LINE THEREOF SOUTH 00°30'45" EAST 1323.08 FEET TO THE SOUTHWEST CORNER THEREOF;

THENCE ALONG THE SOUTH LINE OF THE NW¼NE¼ AND CONTINUING ALONG THE SOUTH LINE OF THE NE¼NE¼ 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 918.28 FEET, A RADIUS OF 2814.79 FEET, A CENTRAL ANGLE OF 18°41'28", 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 1/2" 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.

PROJECT AREA & REVENUE ALLOCATION BOUNDARY MAP

NORTHWEST HEYBURN INDUSTRIAL URBAN RENEWAL PROJECT

TOWNSHIP 10 SOUTH, RANGE 23 EAST, BOISE MERIDIAN,

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

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

NORTHWEST CORNER
NE 1/4, NE 1/4
SEC. 8:
FOUND 5/8" REBAR
PER R-3 & C.P. REC.
MARCH 18, 1988
INST. No. 434255, M.C.R.

NORTHEAST CORNER
SECTION 8:
FOUND 5/8" REBAR
PER R-2 & C.P. REC.
JUNE 4, 1980
INST. No. 304050, M.C.R.



MAGIC VALLEY

BUSINESS PARK

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

SOUTHEAST CORNER
NE 1/4, NE 1/4
SEC. 8:
FOUND 1/2" REBAR
PER R-2 & C.P. REC.
APRIL 28, 1986
INST. No. 363332, M.C.R.



SCALE: 1"=300'

MOON & ASSOCIATES, INC.
ENGINEERING & LAND SURVEYING
825 F. STREET RUPERT, IDAHO 83350
PHONE (208) 488-3714

DATE: 22AUG11
JOB NO.: 11081
DRAWING: RA/Allocation

Copies of the proposed Plan are on file for public inspection and copying for the cost of duplication at the office of the City Clerk, Heyburn City Hall, 941 18th St Heyburn, Idaho, 83336, between the hours of 9:00 o'clock a.m. and 5:00 o'clock p.m., Monday through Friday, exclusive of holidays. The hearing will be held in a handicapped accessible facility. All information presented in the hearing shall also be available upon advance request in a form usable persons with hearing or visual impairments, individuals with other disabilities may receive assistance by contacting the City 24 hours prior to the hearing. At the time and place noted above, all persons interested in the above matters may appear and be heard. Written comments will also be accepted. Comments should be directed to the Heyburn City Clerk. Written comments should be submitted prior to the hearing date.

DATED this 20th day of September, 2011.

Deborah F. Hopkins, City Clerk

PUBLISH: September 23, 2011 and October 7, 2011.

Exhibit 3

**NORTHWEST HEYBURN
INDUSTRIAL URBAN RENEWAL PROJECT
URBAN RENEWAL PLAN**

**URBAN RENEWAL PLAN FOR THE
NORTHWEST HEYBURN INDUSTRIAL URBAN RENEWAL PROJECT**

**HEYBURN URBAN RENEWAL AGENCY
CITY OF HEYBURN, IDAHO**

Ordinance No. - 541

Adopted October 26, 2011

Effective November 10, 2011

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**URBAN RENEWAL PLAN FOR THE
NORTHWEST HEYBURN INDUSTRIAL URBAN RENEWAL PROJECT
HEYBURN URBAN RENEWAL AGENCY
CITY OF HEYBURN IDAHO**

100 INTRODUCTION

This is the Urban Renewal Plan (the “Plan”) for the Northwest Heyburn Industrial Urban Renewal Project (the “Project”) in the city of Heyburn (the “City”), state of Idaho, and consists of the text contained herein and the following attachments:

Map of the Urban Renewal Project Area and Revenue Allocation Area Map
(Attachment 1),

The Description of the Urban Renewal Project Area Boundaries and Revenue
Allocation Area (Attachment 2),

Private Properties Which May be Acquired by Agency (Limited to Public
Improvements and Facilities) (Attachment 3),

Map Depicting Expected Land Uses and Current Zoning within Project Area
(Attachment 4),

Statement of Proposed Public Improvements, Costs, Revenues, Tax Impacts and
Financing Methods (Attachment 5),

Net Estimated Taxable Value of New Private Development in Northwest Heyburn
Industrial Urban Renewal Project (Attachment 5A),

Estimated Annual Tax Revenue Allocation in Northwest Heyburn Industrial
Urban Renewal Project (Attachment 5B), and

Estimated Annual Revenues and Costs in Northwest Heyburn Industrial Urban
Renewal Project (Attachment 5C).

The term “Project” is used herein to describe the overall activities defined in this Plan and conforms with the statutory definition of an urban renewal project. Reference is specifically made to Idaho Code Section 50-2018(10) for the various activities contemplated by the term “Project.” Such activities include both private and public development of property within the urban renewal area. The term “Project” is not meant to refer to a specific activity or development scheme. The Northwest Heyburn Industrial Project Area is also referred to as the Project Area.

This Plan was prepared by the Board of Commissioners, consultants, and staff of the Heyburn Urban Renewal Agency (the "Agency") and reviewed and recommended by the Agency pursuant to the Idaho Urban Renewal Law of 1965, Chapter 20, Title 50, Idaho Code, as amended (the "Law"), the Local Economic Development Act, Chapter 29, Title 50, Idaho Code, as amended (the "Act"), and all applicable local laws and ordinances.

The proposed redevelopment of the Project Area as described in this Plan conforms to the Comprehensive Land Use Plan for the city of Heyburn, as amended (the "Comprehensive Plan"), adopted by the City Council (the "City Council").

The Agency may create several planning documents that generally describe the overall Project and identify certain specific public and private capital improvement projects. Because of the changing nature of the Project, these documents, by necessity, must be dynamic and flexible. The Agency anticipates that these documents will be modified as circumstances warrant. Any modification, however, shall not be deemed as an amendment of this Plan. No modification will be deemed effective if it is in conflict with this Plan. The planning documents are purposely flexible and do not constitute specific portions of the Plan. Provided, however, prior to the adoption of any planning document or proposed modification to any planning document, the Agency shall notify the City and publish a public notice of such proposed modification at least thirty (30) days prior to the consideration of such proposed modification, thus providing the City and any other interested person or entity an opportunity to comment on said proposed modification. The Board of Commissioners of the Agency (the "Board") shall consider any such comments and determine whether to adopt the modification. The planning documents apply to redevelopment activity within the Project Area as described herein. In the event of any conflict between this Plan and the appended documents, the provisions of this Plan shall control. The Agency intends to rely heavily on any applicable City design standards which may cover all or part of the Project Area.

This Plan provides the Agency with powers, duties, and obligations to implement and further the program generally formulated in this Plan for the redevelopment, rehabilitation, and revitalization of the area within the boundaries of the Project Area. The Agency retains all powers allowed by the Law and Act. Because of the long-term nature of this Plan, and the need to retain in the Agency flexibility to respond to market and economic conditions, property owner and developer interests, and opportunities from time to time presented for redevelopment, this Plan does not present a precise plan or establish specific projects for the redevelopment, rehabilitation, and revitalization of any area within the Project Area, nor does this Plan present specific proposals in an attempt to solve or alleviate the concerns and problems of the community relating to the Project Area. Instead, this Plan presents a process and a basic framework within which specific plans will be presented, specific projects will be established, and specific solutions will be proposed, and by which tools are provided to the Agency to fashion, develop, and proceed with such specific plans, projects, and solutions.

Implementation of this Plan will require public co-investment to help stimulate desired private development. Typically, the public will fund enhanced public improvements like

utilities, streets, and sidewalks which, in turn, create an attractive setting for adjacent private investment for industrial, office, and commercial facilities.

The particular projects or redevelopment projects by private entities described herein are not intended to be an exclusive or exhaustive list of potential redevelopment activity. Allowed projects are those activities which comply with the Law and the Act and meet the overall objectives of this Plan. The public-private relationship is crucial in the successful redevelopment of the Project Area.

The purpose of the Urban Renewal Law will be attained through, and the major goals of this 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.

101 General Procedures of the Agency

The Agency is a public body, corporate and politic, as defined and described under the Law and the Act. The Agency is also governed by its bylaws as authorized by the Law and adopted by the Agency. Under the Law, the Agency is governed by the Idaho open meeting law, the Public Records Act, the Ethics in Government Act, financial reporting requirements, and the competitive bidding requirements under Chapter 28, Title 67, Idaho Code.

Generally, the Agency shall conduct all meetings in open session and allow meaningful public input as mandated by the issue considered or by any statutory or regulatory provision. Whenever in this Plan it is stated that the Agency may modify, change, or adopt certain policy statements or contents of this Plan not requiring a formal amendment to the Plan as required by the Law or the Act, it shall be deemed to mean a consideration by the Board of such policy or procedure, duly noticed upon the Agency meeting agenda and considered by the Agency at an open public meeting and adopted by a majority of the Board members present, constituting a quorum, unless any bylaw, provision of law, or provision herein provides otherwise.

102 Provisions Necessary to Meet State and Local Requirements

102.1 Conformance with the Idaho Urban Renewal Law of 1965, as Amended

- a. The laws of the state of Idaho require that an urban renewal plan be prepared by the Agency for an area certified as an urban renewal area by the City Council. The Project Area was certified by the City Council by Resolution No.2011-3 on February 23, 2011.
- b. With the adoption of Resolution No. 2011-3, the City Council found the Project Area a deteriorated and deteriorating area existing in the City as defined by the Law and Act, and authorized the preparation of an urban renewal plan.
- c. In accordance with the Law, this Plan was submitted to the Planning and Zoning Commission of the City. After consideration of the Plan, the

Commission reported to the City Council stating that this Plan is in conformity with the Comprehensive Plan, city of Heyburn.

- d. Pursuant to the Law, and Act, the City Council having published due notice thereof, a public hearing was held on this Plan. Notice of the hearing was duly published in a newspaper having general circulation. The City Council adopted this Plan on October 26, 2011, by Ordinance No. 541.

103 History and Current Conditions of the Area

The Plan will include the development of industrial property and adjacent land. The property is underdeveloped and is not being used to its highest and best use due to inadequate utility infrastructure needed for a larger development.

The preparation and approval of an urban renewal plan, including a revenue allocation financing provision, gives the City additional resources to solve the public infrastructure problems in this area. Revenue allocation financing should help to improve the situation. In effect, property taxes generated by new developments within the area may be used by the City's urban renewal agency to finance a variety of needed public improvements and facilities. Finally, some of the new developments may also generate new jobs in the community that would, in turn, benefit area residents.

104 Purpose of Activities

The description of activities, public improvements, and the estimated costs of those items are intended to create an outside limit of the Agency's activity. The Agency reserves the right to change amounts from one category to another, as long as the overall total amount estimated is not substantially exceeded. The items and amounts are not intended to relate to any one particular development, developer, or owner. Rather, the Agency intends to discuss and negotiate with any owner or developer who seeks Agency assistance. During such negotiation, the Agency will determine, on an individual basis, the eligibility of the activities sought for Agency funding, the amount the Agency may fund by way of percentage or other criteria including the need for such assistance. The Agency will also take into account the amount of revenue allocation proceeds estimated to be generated from the developer's activities. The Agency also reserves the right to establish by way of policy, its funding percentage or participation, which would apply to all developers and owners.

Throughout this Plan, there are references to Agency activities, Agency funding, and the acquisition, development, and contribution of public improvements. Such references do not necessarily constitute a full, final, and formal commitment by the Agency but, rather, grant to the Agency the discretion to participate as stated subject to achieving the objectives of this Plan and provided such activity is deemed eligible under the Law and the Act. In some respects the activities listed in Attachment 5 are concepts which will be determined or prioritized as the overall Project Area develops, and may be more limiting than the narrative contained herein,

which describes the more broad based activities allowed by the Law and Act. Specific activity will be further refined by agreements with developers or property owners and by the annual budgets adopted by the Agency.

The Agency reserves the right to prioritize the projects described in this Plan. The Agency also reserves the right to retain its flexibility in funding the various activities. The Agency also reserves its discretion and flexibility in deciding which improvements should be funded and what level, whether using its own funds or funds generated by other sources.

The activities listed in Attachment 5 are also prioritized by way of importance to the Agency by the amounts funded, and by year of funding, with earlier years reflecting the more important activities, achievement of higher objectives, long term goals, and commitments. As required by the Law and Act, the Agency will adopt more specific budgets annually.

105 Open Land Criteria

Such open land areas may be acquired by the Agency and developed for nonresidential uses if such acquisition is needed to solve various problems, associated with the land or the public infrastructure, that have retarded its development. These problems include defective or unusual conditions of title, diversity of ownership, tax delinquency, improper subdivisions, outmoded street patterns, deterioration of site, and faulty lot layout, all of which are included in one form or another in the Section 50-2903(8)(b) definition of deteriorated area. The problems that are listed only in Section 50-2008(d)(4)(2) (the open land section) include economic disuse, unsuitable topography, and "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."

Such areas qualify if any of the standard 50-2018(9) and 50-2903(8)(b) characteristics apply. Such areas also qualify if any of the problems listed only in 50-2008(d)(4)(2) apply. Clearly, lack of water and sewer facilities, a nonexistent street system, and lack of fire protection and electrical distribution facilities are all conditions which retard development of the area.

106 Agricultural Land Consent

In 2006, the Idaho Legislature approved amendments to certain definitions of the Law to not allow the inclusion of property within the definition of a deteriorating area, which has been used for agricultural operation within the past three years, without the consent of the owner of the agricultural operation. If such property is not within a deteriorating area, then by definition the property would not be included within an urban renewal area. The Agency has obtained the consent of the property owner concerning the property within the Project Area that has been used for an agricultural operation within the last three years.

200 DESCRIPTION OF PROJECT AREA

The boundaries of the Project Area and the Revenue Allocation Area are shown on the Project Area and Revenue Allocation Boundary Map, attached hereto as Attachment 1 and incorporated herein by reference, and are described in the Description of the Project Area and Revenue Allocation Area, attached hereto as Attachment 2 and incorporated herein by reference. For purposes of boundary descriptions and use of proceeds for payment of improvements, the boundary shall be deemed to extend to the outer boundary of rights-of-way or other natural boundary unless otherwise stated.

300 PROPOSED REDEVELOPMENT ACTIONS

301 General

The Agency proposes to eliminate and prevent the spread of deteriorating or deteriorated conditions in the Project Area by:

- a. The acquisition of certain real property (if needed);
- b. The demolition or removal of certain buildings and improvements for public rights-of-way for streets, utilities, walkways, and other improvements, for public facility building sites, to eliminate unhealthful, unsanitary, or unsafe conditions, enhance density, eliminate obsolete or other uses detrimental to the public welfare or otherwise to remove or to prevent the spread of deteriorating or deteriorated conditions;
- c. The provision for participation by the property owner within the Project Area to achieve the objectives of this Plan;
- d. The management of any property acquired by and under the ownership and control of the Agency;
- e. The provision for relocation assistance to displaced Project occupants, as required by law;
- f. The installation, construction, or reconstruction of streets, utilities, including electrical distribution and transmission lines in underground configuration, if needed to encourage new developments, fiber optic or other communication systems, and other public improvements, including, but not limited to, irrigation and drainage laterals and ditches, canal crossings, storm drain systems, water and sewer improvements, fire protection systems, and other public improvements;
- g. The disposition of property for uses in accordance with this Plan;

- h. The redevelopment of land by private enterprise or public agencies for uses in accordance with this Plan;
- i. The rehabilitation of structures and improvements by present owners, their successors, and the Agency;
- j. The preparation and assembly of adequate sites for the development and construction of facilities for industrial, commercial, retail, and governmental use;
- k. To the extent allowed by law, lend or invest federal funds to facilitate redevelopment; and
- l. The construction of foundations, platforms, and other like structural forms necessary for the provision or utilization of air rights, sites for buildings to be used for residential, commercial, industrial, and other uses contemplated by the Plan, and to provide utilities to the development site.

In the accomplishment of these purposes and activities and in the implementation and furtherance of this Plan, the Agency is authorized to use all the powers provided in this Plan and all the powers now or hereafter permitted by law.

302 Urban Renewal Plan Objectives

Urban renewal action is necessary in the Project Area to combat problems of physical deterioration or deteriorating conditions.

The Project Area and Revenue Allocation Area consist of six large parcels in the 8.52- to 9.63-acre range and three smaller parcels in the 3.20- 3.45-acre range totaling 69.073 acres. The area is 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.

The area has a history of a slow-growing tax base primarily attributed to undeveloped areas, lack of modern public improvements, and lack of infrastructure.

This environment contrasts sharply with the growing economic and cultural strength of the City and the Minidoka County region. The construction of new utility services and street improvements will aid, assist, and enhance the overall development of said property.

Hence, the Plan for the Project Area is a proposal for street and utility improvements to provide an improved environment for new industrial facilities, eliminate unsafe conditions, and to otherwise prevent the extension of deterioration and reverse the deteriorating action of the area.

Air rights and subterranean rights may be disposed of for any permitted use within the Project Area boundaries.

Less than fee acquisition may be utilized by the Agency when and if necessary to promote redevelopment in accordance with the objectives of the Plan.

Temporary project improvements shall be provided to facilitate adequate vehicular and pedestrian circulation.

Agency participation in the cost of removal of extraordinary site conditions such as topographical land variance and lava rock removal.

A further objective of the Plan is to provide for the acquisition and clearance of property to be used for other public facilities.

The provisions of this Plan are applicable to all public and private property in the Project Area. The provisions of the Plan shall be interpreted and applied as objectives and goals, recognizing the need for flexibility in interpretation and implementation, while at the same time not in any way abdicating the rights and privileges of the property owners which are vested in the present and future zoning classifications of the properties. All development under an owner participation agreement shall conform to those standards specified in Section 303.1 of this Plan.

This Plan must be practical in order to succeed. Particular attention has been paid to how it can be implemented, given the changing nature of market conditions. Transforming the Project Area into a vital, thriving part of the community requires an assertive strategy. The following list represents the key elements of that effort:

- a. Initiate simultaneous projects designed to revitalize the Project Area. From street and utility improvements to significant new development, the Agency plans a key role in creating the necessary momentum to get and keep things going.
- b. Develop new industrial facilities opportunities.

Without direct public intervention, much of the Project Area could conceivably remain unchanged for the next several years. It is anticipated success will come through at least one public-private partnership. The Plan creates the necessary flexible framework for the Project Area to support the City's growing industrial economy through expansion of one of its major industries.

303 Participation Opportunities and Agreement

303.1 Participation Agreements

The Agency shall enter into an owner participation agreement with any existing or future owner of property, in the event the property owner seeks and/or receives assistance from the

Agency in the redevelopment of the property. In that event, the Agency may allow for an existing or future owner of property to remove his property and/or structure from future Agency acquisition subject to entering into an owner participation agreement.

Each structure and building in the Project Area to be rehabilitated or to be constructed as a condition of the owner participation agreement between the Agency and the owner pursuant to this Plan will be considered to be satisfactorily rehabilitated and constructed, and the Agency will so certify, if the rehabilitated or new structure meets the following standards through an executed owner participation agreement to meet conditions described below:

- a. Any such property within the Project shall be required to conform to all applicable provisions, requirements, and regulations of this Plan. The owner participation agreement may require as a condition of financial participation by the Agency a commitment by the property owner to meet the greater objectives of the land use elements identified in the Comprehensive Plan, and applicable zoning ordinances. Upon completion of any rehabilitation each structure must be safe and sound in all physical respects and be refurbished and altered to bring the property to an upgraded marketable condition that will continue throughout an estimated useful life for a minimum of twenty (20) years.
- b. All such buildings or portions of buildings which are to remain within the Project Area shall be rehabilitated in conformity with all applicable codes and ordinances of the City.
- c. Any new construction shall also conform to all applicable provisions, requirements, and regulations of this Plan.
- d. Any new construction shall also conform to all applicable codes and ordinances of the City.

All such agreements will address phasing issues, justification and eligibility of project costs, and achievement of the objectives of the Plan. Agency shall retain its discretion in the funding level of its participation.

In such participation agreements, participants who retain real property shall be required to join in the recordation of such documents as may be necessary to make the provisions of this Plan applicable to their properties. Whether or not a participant enters into a participation agreement with the Agency, the provisions of this Plan are applicable to all public and private property in the Project Area.

In the event a participant fails or refuses to rehabilitate, develop, use, and maintain its real property pursuant to this Plan and a participation agreement, the real property or any interest therein may be acquired by the Agency in accordance with Section 305.1 of this Plan and sold or leased for rehabilitation or development in accordance with this Plan.

Owner participation agreements may be used to implement the following objectives:

- a. Encouraging established businesses to revitalize deteriorating areas of their parcels to accelerate the enhancement of the street environment in the Plan area.
- b. Subject to the limitations of the Law and the Act, providing incentives to existing business owners to encourage continued utilization and expansion of existing permitted uses to prevent properties from falling into disuse, a proliferation of vacant and deteriorated parcels and a reduction in area employment.
- c. Allowing existing nonconforming uses to continue in accordance with City regulations and to accommodate improvements and expansions allowed by City regulations.
- d. Subject to the limitations of the Act, providing incentives to improve nonconforming properties so they implement the design guidelines contained in this Plan to the extent possible and to encourage an orderly transition from nonconforming to conforming uses over the next twenty (20) years.

304 Cooperation with Public Bodies

Certain public bodies are authorized by state law to aid and cooperate, with or without consideration, in the planning, undertaking, construction, or operation of this Project. The Agency shall seek the aid and cooperation of such public bodies and shall attempt to coordinate this Plan with the activities of such public bodies in order to accomplish the purposes of redevelopment and the highest public good.

The Agency, by law, is not authorized to acquire real property owned by public bodies without the consent of such public bodies. The Agency will seek the cooperation of all public bodies which own or intend to acquire property in the Project Area. All plans for development of property in the Project Area by a public body shall be subject to Agency approval, in the event the Agency is providing any financial assistance.

Subject to applicable authority, the Agency may impose on all public bodies the planning and design controls contained in this Plan to insure that present uses and any future development by public bodies will conform to the requirements of this Plan. The Agency is authorized to financially (and otherwise) assist any public entity in the cost of public land, buildings, facilities, structures, or other improvements of the Project Area.

The Agency specifically intends to cooperate to the extent allowable with the City for the construction of street and utility improvements. The Agency shall also cooperate with the City on various relocation, screening, or underground projects, the providing of fiber optic capability, and the funding of water and sewer improvements. To the extent any public entity, including the City, has funded certain improvements such as water and sewer facilities, the Agency may reimburse those entities for those expenses. The Agency shall also cooperate with the public

bodies responsible for water and sewer improvements. The Agency also intends to cooperate and seek available assistance from state and federal sources for economic development.

In the event the Agency is participating in the public development by way of financial incentive or otherwise, the public body shall enter into a participation agreement with the Agency and then shall be bound by the Plan and other land use elements and shall conform to those standards specified in Section 303.1 of this Plan.

305 Property Acquisition

305.1 Real Property

Only as specifically authorized herein, the Agency may acquire, through the voluntary measures described below, but is not required to acquire, any real property located in the Project Area where it is determined that the property is needed for construction of public improvements, required to eliminate or mitigate the deteriorated or deteriorating conditions, and as otherwise allowed by law. The acquisition shall be by any means authorized by law, including, but not limited to, the Law, the Act, and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, but shall not include the right to invoke eminent domain authority except as authorized herein. The Agency is authorized to acquire either the entire fee or any other interest in real property less than a fee, including structures and fixtures upon the real property, without acquiring the land upon which those structures and fixtures are located.

The Agency shall not acquire real property to be retained by an owner pursuant to a participation agreement if the owner fully performed under the agreement.

The Agency intends to acquire any real property through voluntary or consensual gift, devise, exchange, or purchase. Such acquisition of property may be for the development of the public improvements identified in this Plan or for the assembly of properties for the redevelopment of those properties to achieve the objectives of this Plan. Such properties may include properties owned by private parties or public entities. This Plan does not anticipate the Agency's widespread use of its resources for property acquisition, except for the construction of public improvements and any ability to engage in certain demonstration projects and other major objectives outlined in this Plan and to assemble certain critical or strategic parcels to dispose to the private sector to assist in the redevelopment of the Project Area.

In the event the Agency identifies certain property which should be acquired to develop certain public improvements intended to be constructed under the provisions of this Plan, the Agency shall coordinate such property acquisition with any other public entity (e.g., without limitation, the City, the state of Idaho, or any of its authorized agencies), including the assistance of the Agency of funds to acquire said property either through a voluntary acquisition or the public entity's invoking of its eminent domain authority.

The Agency is authorized by this Plan to acquire the properties identified in Attachment 3 hereto. Otherwise, Agency acquisition of any other real property shall be accomplished only following a formal amendment to this Plan that will include an exhibit identifying the property to be acquired.

It is in the public interest and is necessary, in order to eliminate the conditions requiring redevelopment and in order to execute this Plan, for the power of eminent domain to be employed by the Agency to acquire real property in the Project Area, which cannot be acquired by gift, devise, exchange, purchase, or any other lawful method.

Under the provisions of the Act, the urban renewal plan "shall be sufficiently complete to indicate such land acquisition, demolition, and removal of structures, redevelopment, improvements, and rehabilitation as may be proposed to be carried out in the urban renewal area." Idaho Code § 50-2018(12). The Agency has not identified any particular parcel for acquisition for the construction of public improvements. These activities are generally described in Attachment 3. The Agency may also acquire property for the purpose of developing public parking facilities, providing public open space, providing public utilities, and enhancing the opportunity for other uses. At the present time, the Agency cannot specifically identify which parcels may be necessary for acquisition. The Agency reserves the right to determine which properties, if any, should be acquired. Generally, the Agency will invoke its acquisition authority only for the elimination or mitigation of deteriorated or deteriorating buildings, structures, or properties in order to enhance public open space in the Project Area or to assist or participate in site reclamation, remediation, or elimination of blighted or deteriorated areas, and then only by voluntary means. However, the Agency's authority to invoke eminent domain to acquire real property for disposition to private parties for economic development is limited by Idaho Code § 7-701A.

305.2 Personal Property

Generally, personal property shall not be acquired. However, where necessary in the execution of this Plan, the Agency is authorized to acquire personal property in the Project Area by any lawful means, including eminent domain. For purposes of this Plan, acquisition of certain permanent fixtures or improvements upon real property shall be governed by this section. The Agency retains the right to purchase those fixtures or improvements (including buildings) for the purpose of eliminating certain deteriorated or deteriorated structures to facilitate the redevelopment the real property upon which the buildings and structures are located. Such acquisition shall be based upon appraised value of the structures and negotiation with the owner of the structures. The Agency shall take into account, before committing to such acquisition, any environmental or other liability present or potentially present in such structures. In the event, the Agency determines to acquire such property; it shall do so upon the successful negotiation of an owner participation agreement in compliance with the terms of Section 303.1 of this Plan. In addition, such owner shall commit to the redevelopment of the real property and to maintain the real property in a safe and clean manner. The Agency shall acquire such property by way of any acceptable conveyance.

306 Property Management

During such time such property, if any, in the Project Area is owned by the Agency, such property shall be under the management and control of the Agency. Such property may be rented or leased by the Agency pending its disposition for redevelopment, and such rental or lease shall be pursuant to such policies as the Agency may adopt.

307 Relocation of Persons (Including Individuals and Families), Business Concerns, and Others Displaced by the Project

If the Agency receives federal funds for real estate acquisition and relocation, the Agency shall comply with 24 C.F.R. Part 42, implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended. The Agency may also undertake relocation activities for those not entitled to benefit under federal law, as the Agency may deem appropriate for which funds are available. The Agency's activities should not result in the displacement of families within the area. In the event the Agency's activities result in displacement, the Agency shall compensate such residents by providing reasonable moving expenses into decent, safe, and sanitary dwelling accommodations within their means and without undue hardship to such families. The Agency will not participate in any private redevelopment activity which will result in displacement of families unless a method exists for the relocation of displaced families in decent, safe, and sanitary dwelling accommodations within their means and without undue hardship to such families. For any other activity, the Agency will comply with the provisions of the Law regarding relocation.

The Agency reserves the right to extend benefits for relocation to those not otherwise entitled to relocation benefits as a matter of state law under the Act or the Law. The Agency may determine to use as a reference the relocation benefits and guidelines promulgated by the federal government, the state government, or local government, including the State Department of Transportation. The intent of this section is to allow the Agency sufficient flexibility to award relocation benefits on some rational basis, or by payment of some lump sum per case basis. The Agency may also consider the analysis of replacement value for the compensation awarded to either owner occupants or businesses displaced by the Agency to achieve the objectives of this Plan. The Agency may adopt relocation guidelines which would define the extent of relocation assistance in non-federally-assisted projects and which relocation assistance to the greatest extent feasible would be uniform. The Agency shall also coordinate with the various local, state, or federal agencies concerning relocation assistance.

For displacement of families, the Agency shall comply with, at a minimum, the standards set forth in the Law. The Agency shall also comply with all applicable state laws concerning relocation benefits. If such a program is considered, it shall be adopted by resolution of the Agency Board.

308 Demolition, Clearance, and Building and Site Preparation

308.1 Demolition and Clearance

The Agency is authorized (but not required) to demolish and clear buildings, structures, and other improvements from any real property in the Project Area as necessary to carry out the purposes of this Plan.

308.2 Preparation of Building Sites

The Agency is authorized (but not required) to prepare, or cause to be prepared, as building sites any real property in the Project Area owned by the Agency. In connection therewith, the Agency may cause, provide for, or undertake the installation or construction of streets, utilities, and other public improvements necessary to carry out this Plan. The Agency is also authorized (but not required) to construct foundations, platforms, and other structural forms necessary for the provision or utilization of air rights sites for buildings to be used for industrial, commercial, private, public, and other uses provided in this Plan. To the extent allowed by the Law and Act, the Agency may assist in the preparation of building sites by way of reclamation, remediation, or elimination of deteriorated conditions. The Agency is also authorized (but not required) to purchase certain site or building improvements for purpose of site preparation and development.

309 Property Disposition and Development

309.1 Real Property Disposition and Development

309.1.1 General

For the purposes of this Plan, the Agency is authorized to sell, lease, exchange, subdivide, transfer, assign, pledge, encumber by mortgage or deed of trust, or otherwise dispose of any interest in real property under the reuse provisions set forth in Idaho Code Section 50-2011. To the extent permitted by law, the Agency is authorized to dispose of real property by negotiated lease, sale, or transfer without public bidding.

Real property acquired by the Agency may be conveyed by the Agency and, where beneficial to the Project Area, without charge to any public body as allowed by law. All real property acquired by the Agency in the Project Area shall be sold or leased to public or private persons or entities for development for the uses permitted in this Plan.

All purchasers or lessees of property acquired from the Agency shall be obligated to use the property for the purposes designated in this Plan, to begin and complete development of the property within a period of time which the Agency fixes as reasonable, and to comply with other conditions which the Agency deems necessary to carry out the purposes of this Plan.

309.1.2

Disposition and Development Documents

To provide adequate safeguards to ensure that the provisions of this Plan will be carried out and to prevent the recurrence of deteriorating conditions, all real property sold, leased, or conveyed by the Agency, as well as all property subject to participation agreements, is subject to the provisions of this Plan.

The Agency shall reserve such powers and controls in the disposition and development documents as may be necessary to prevent transfer, retention, or use of property for speculative purposes and to ensure that development is carried out pursuant to this Plan.

Leases, deeds, contracts, agreements, and declarations of restrictions of the Agency may contain restrictions, covenants, covenants running with the land, rights of reverter, conditions subsequent, equitable servitudes, or any other provisions necessary to carry out this Plan. Where appropriate, as determined by the Agency, such documents, or portions thereof, shall be recorded in the office of the Recorder of Minidoka County.

All property in the Project Area is hereby subject to the restriction that there shall be no discrimination or segregation based upon race, color, creed, religion, sex, age, national origin, or ancestry in the sale, lease, sublease, transfer, use, occupancy, disability/handicap, tenure, or enjoyment of property in the Project Area. All property sold, leased, conveyed, or subject to a participation agreement shall be expressly subject by appropriate documents to the restriction that all deeds, leases, or contracts for the sale, lease, sublease, or other transfer of land in the Project Area shall contain such nondiscrimination and nonsegregation clauses as required by law.

The land and/or air rights and subterranean rights acquired by the Agency will be disposed of subject to an agreement between the Agency and the Developers. The Developers (including owner/participants) will be required by the contractual agreement to observe the Land Use and Building Requirements provision of this Plan and to submit a Redevelopment Schedule satisfactory to the Agency. Schedule revisions will be made only at the option of the Agency.

As required by law or as determined in the Agency's discretion to be in the best interest of the Agency and the public, the following requirements and obligations shall be included in the agreement.

That the Developers, their successors, and assigns agree:

- a. That a plan and time schedule for the proposed development shall be submitted to the Agency.
- b. That the purchase or lease of the land and/or subterranean rights and/or air rights is for the purpose of redevelopment and not for speculation.

- c. That the building of improvements will be commenced and completed as jointly scheduled and determined by the Agency and the Developer(s).
- d. That there will be no discrimination against any person or group of persons because of disability/handicap, age, race, sex, creed, color, national origin, disability, or ancestry, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises or any improvements erected or to be erected thereon, therein conveyed; nor will the Developer himself or any person claiming under or through him establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy of tenants, lessees, sublessees, or vendees in the premises or any improvements erected, or to be erected thereon, therein conveyed. The above provision will be perpetual and will be appended to the land disposed of within the Project Area by the Agency.
- e. That the site and construction plans will be submitted to the Agency for review as to conformity with the provisions and purposes of this Plan.
- f. All new construction shall have a minimum estimated life of no less than twenty (20) years.
- g. That rehabilitation of any existing structure must assure that the structure is safe and sound in all physical respects and be refurbished and altered to bring the property to an upgraded marketable condition which will continue throughout an estimated useful life for a minimum of twenty (20) years.
- h. That the Agency receives adequate assurance acceptable to the Agency to ensure performance under the contract for sale.
- i. All such buildings or portions of the buildings which are to remain within the Project Area shall be reconstructed in conformity with all applicable codes and ordinances of the City.
- j. All disposition and development documents shall be governed by the provisions of Section 408 and 412 of this Plan.

The Agency also reserves the right to determine the extent of its participation based upon the achievements of the objectives of this Plan

309.1.3 Development by the Agency

To the extent now or hereafter permitted by law, the Agency is authorized to pay for, develop, or construct any publicly-owned building, facility, structure, or other improvement within the Project Area for itself or for any public body or entity, which buildings, facilities, structures, or other improvements are or would be of benefit to the Project Area. Specifically,

the Agency may pay for, install, or construct the buildings, facilities, structures, and other improvements identified in Attachment 5, attached hereto and incorporated herein by reference, and may acquire or pay for the land required therefore.

The Agency may also prepare properties for development by renovation or other means as allowed by law. The Agency may also, as allowed by law, assist in the development of private projects.

In addition to the public improvements authorized under Idaho Code Section 50-2007, 50-2018, and 50-2903(9), (13), and (14), the Agency is authorized to install and construct, or to cause to be installed and constructed, within the Project Area for itself or for any public body or entity, public improvements and public facilities, including, but not limited to, the following: (1) utilities; (2) telecommunications (including fiber-optic) facilities; (3) parks, plazas, and pedestrian paths; (4) landscaped areas; (5) street improvements; (6) sanitary sewers; (7) flood control facilities and storm drains; (8) water mains; (9) canal crossings; (10) fire prevention; and (11) other public infrastructure.

Any public facility ultimately owned by the Agency shall be operated and managed in such a manner to preserve the public purpose nature of the facility. Any lease agreement with a private entity or management contract agreement shall include all necessary provisions sufficient to protect the public interest and public purpose.

The Agency may enter into contracts, leases, and agreements with the City or other public body or private entity pursuant to this section, and the obligation of the Agency under such contract, lease, or agreement shall constitute an indebtedness of the Agency as described in Idaho Code Section 50-2909 which may be made payable out of the taxes levied in the Project Area and allocated to the Agency under subdivision (2)(b) of Section 50-2908 of the Act and Section 504 to this Plan or out of any other available funds.

309.1.4 Development Plans

All development plans (whether public or private) prepared, pursuant to disposition and development or owner participation agreements, shall be submitted to the Agency for approval and architectural review. All development in the Project Area must conform to those standards specified in Sections 408 and 412, *infra*.

310 Personal Property Disposition

For the purposes of this Plan, the Agency is authorized to lease, sell, exchange, transfer, assign, pledge, encumber, or otherwise dispose of personal property which is acquired by the Agency.

311 Rehabilitation and Conservation

The Agency is authorized to rehabilitate, renovate, and conserve, or to cause to be rehabilitated, renovated, and conserved, any building or structure in the Project Area owned by the Agency for preparation of redevelopment and disposition. The Agency is also authorized and directed to advise, encourage, and assist in the rehabilitation and conservation of property in the Project Area not owned by the Agency.

As necessary in carrying out this Plan, the Agency is authorized to move, or to cause to be moved, any substandard structure or building or any structure or building which can be rehabilitated to a location within or outside the Project Area.

312 Participation with Private Development or Public Development

Under the Law the Agency has the authority to lend or invest funds obtained from the federal government for the purposes of the Law if allowable under federal laws or regulations. The federal funds that may be available to the Agency are governed by regulations promulgated by the Department of Housing and Urban Development for the Idaho Community Development Block Grant Program ("ICDBG"), the Economic Development Administration, the Small Business Administration, or other federal agencies. The Feasibility Study, Attachment 5C, shows as one alternative the successful award of an ICDBG grant. In order to enhance such grant, the Agency's use of revenue allocation funds is critical. In the alternative, the feasibility study Attachment 5C, shows funding without the ICDBG grant with the private developer funding those improvements.

Under those regulations the Agency may participate with the private sector in the development and financing of those private projects that will attain certain federal objectives.

The Agency may, therefore, use the federal funds for the provision of assistance to private for-profit business, including, but not limited to, grants, loans, loan guarantees, interest supplements, technical assistance, and other forms to support, for any other activity necessary or appropriate to carry out an economic development project.

As allowed by law, the Agency may also use funds from any other sources for any purpose set forth under the Law or Act.

The Agency may enter into contracts, leases, and agreements with the City, or other public body or private entity, pursuant to this section, and the obligation of the Agency under such contract, lease, or agreement shall constitute an indebtedness of the Agency as described in Idaho Code Section 50-2909 which may be made payable out of the taxes levied in the Project Area and allocated to the Agency under subdivision 2(b) of Section 50-2908 of the Act and Section 504 to this Plan or out of any other available funds.

313 Conforming Owners

The Agency may, at the Agency's sole and absolute discretion, determine that certain real property within the Project Area presently meets the requirements of this Plan, and the owner of such property will be permitted to remain as a conforming owner without a participation agreement with the Agency, provided such owner continues to operate, use, and maintain the real property within the requirements of this Plan.

400 USES PERMITTED IN THE PROJECT AREA

401 Redevelopment Plan Map and Development Strategy

The Urban Renewal Project Area Map, the Revenue Allocation Map, and the Description of the Urban Renewal Project Area Boundaries, attached hereto as Attachments 1 and 2, incorporated by reference, describe the proposed land uses to be permitted in the Project Area for all land—public and private. The proposed land uses and permitted land uses are described in Attachment 4.

402 Designated Land Uses

The Agency intends to rely upon the overall land use designations and zoning classifications of the City, as depicted on Attachment 4 and as set forth in the City Comprehensive Plan, including the future land use map and zoning classifications. For the most part, the Project Area is proposed as industrial and commercial development. Provided, however, nothing herein within this Plan shall be deemed to be granting any particular right to zoning classification or use.

403 Other Land Uses

[Reserved]

404 Public Rights-of-Way

The major public streets within the Project Area are 300 South Road and Highway 27 with a proposed additional street to be developed.

Additional improvements to existing streets and easements may be created, improved, or extended in the Project Area as needed for development. Existing streets, easements, and irrigation or drainage laterals or ditches may be abandoned, closed, or modified as necessary for proper development of the Project, in conjunction with any applicable policies and standards of the City regarding changes to dedicated rights-of-way, and appropriate irrigation or drainage districts regarding changes to laterals or ditches.

Any changes in the existing interior or exterior street layout shall be in accordance with the objectives of this Plan and the City's design standards; shall be effectuated in the manner prescribed by State and local law; and shall be guided by the following criteria:

- a. A balancing of the needs of proposed and potential new developments for adequate vehicular access, vehicular parking, and delivery loading docks with the similar needs of any existing developments permitted to remain. Such balancing shall take into consideration the rights of existing owners and tenants under the rules for owner and tenant participation adopted by the Agency for the Project and any participation agreements executed thereunder;
- b. The requirements imposed by such factors as topography, traffic safety, and aesthetics; and
- c. The potential need to serve not only the Project Area and new or existing developments, but to also serve areas outside the Project by providing convenient and efficient vehicular access and movement.

The public rights-of-way may be used for vehicular and/or pedestrian traffic, as well as for public improvements, public and private utilities, and activities typically found in public rights-of-way.

405 Other Public, Semi-Public, Institutional, and Nonprofit Uses

The Agency is also authorized to permit the maintenance, establishment, or enlargement of public, semi-public, institutional, or nonprofit uses, including park and recreational facilities; educational, fraternal, employee, philanthropic and charitable institutions; utilities; governmental facilities; railroad rights-of-way and equipment; and facilities of other similar associations or organizations. All such uses shall, to the extent possible, conform to the provisions of this Plan applicable to the uses in the specific area involved. The Agency may impose such other reasonable requirements and/or restrictions as may be necessary to protect the development and use of the Project Area.

406 Interim Uses

Pending the ultimate development of land by developers and participants, the Agency is authorized to use or permit the use of any land in the Project Area for interim uses that are not in conformity with the uses permitted in this Plan. However, any interim use must comply with applicable City Code.

407 General Controls and Limitations

All real property in the Project Area, under the provisions of either a disposition and development agreement or owner participation agreement, is made subject to the controls and requirements of this Plan. No such real property shall be developed, rehabilitated, or otherwise

changed after the date of the adoption of this Plan, except in conformance with the provisions of this Plan.

407.1 Construction

All construction in the Project Area shall comply with all applicable state and local laws and codes in effect from time to time. In addition to applicable codes, ordinances, or other requirements governing development in the Project Area, additional specific performance and development standards may be adopted by the Agency to control and direct redevelopment activities in the Project Area in the event of a disposition and development agreement or owner participation agreement.

407.2 Rehabilitation and Retention of Properties

Any existing structure within the Project Area, subject to either a disposition and development agreement or owner participation agreement, approved by the Agency for retention and rehabilitation, shall be repaired, altered, reconstructed, or rehabilitated in such a manner that it will be safe and sound in all physical respects and be attractive in appearance and not detrimental to the surrounding uses.

407.3 Limitation on Type, Size, and Height of Buildings

Except as set forth in other sections of this Plan, the type, size, and height of buildings shall be as limited by applicable federal, state, and local statutes, ordinances, and regulations.

407.4 Open Spaces, Landscaping, Light, Air, and Privacy

The issues of open space, landscaping, light, air, and privacy shall be governed by applicable federal, state, and local laws and ordinances.

407.5 Signs

All signs shall conform to City sign ordinances as they now exist or are hereafter amended.

407.6 Utilities

The Agency shall require that all utilities be placed underground whenever physically and economically feasible.

407.7 Incompatible Uses

No use or structure which by reason of appearance, traffic, smoke, glare, noise, odor, or similar factors which would be incompatible with the surrounding areas or structures shall be permitted in any part of the Project Area.

407.8 Nondiscrimination and Nonsegregation

There shall be no discrimination or segregation based upon race, color, creed, religion, sex, age, marital status, disability/handicap, national origin, or ancestry permitted in the sale, lease sublease, transfer, use, occupancy, tenure, or enjoyment of property in the Project Area.

407.9 Subdivision of Parcels

Any parcel in the Project Area shall be subdivided only in compliance with the City subdivision ordinance.

407.10 Minor Variations

Under exceptional circumstances, the Agency is authorized to permit a variation from the limits, restrictions, and controls established by this Plan. In order to permit such variation, the Agency must determine that:

- a. The application of certain provisions of this Plan would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of this Plan;
- b. There are exceptional circumstances or conditions applicable to the property or to the intended development of the property which do not apply generally to other properties having the same standards, restrictions, and controls;
- c. Permitting a variation will not be materially detrimental to the public welfare or injurious to property or improvements in the area; and
- d. Permitting a variation will not be contrary to the objectives of this Plan.

No variation shall be granted which changes a basic land use or which permits other than a minor departure from the provisions of this Plan. In permitting any such variation, the Agency shall impose such conditions as are necessary to protect the public peace, health, safety, or welfare and to assure compliance with the purposes of this Plan. Any variation permitted by the Agency hereunder shall not supersede any other approval required under City codes and ordinances.

408 Design for Development

Within the limits, restrictions, and controls established in this Plan, the Agency is authorized to establish heights of buildings, land coverage, setback requirements, design criteria, traffic circulation, traffic access, and other development and design controls necessary for proper development of both private and public areas within the Project Area. Any development must also comply with the City's zoning ordinance regarding heights, setbacks, and other like standards.

In the case of property which is the subject of a disposition and development or participation agreement with the Agency, no new improvement shall be constructed, and no existing improvement shall be substantially modified, altered, repaired, or rehabilitated, except in accordance with this Plan. Under those agreements the architectural, landscape, and site plans shall be submitted to the Agency and approved in writing by the Agency. One of the objectives of this Plan is to create an attractive and pleasant environment in the Project Area. Therefore, such plans shall give consideration to good design, open space, and other amenities to enhance the aesthetic quality of the Project Area. The Agency shall not approve any plans that do not comply with this Plan. The Agency reserves the right to impose such design standards on an ad hoc, case by case basis through the approval process of the owner participation agreement or disposition and development agreement. Any change to such approved design must be consented to by the Agency and such consent may be conditioned upon reduction of Agency's financial participation towards the Project.

In the event the Agency adopts design standards or controls, those provisions will thereafter apply to each site or portion thereof in the Project Area. Those controls and standards will be implemented through the provisions of any disposition and development agreement or owner participation agreement or by appropriate covenants appended to the land and instruments of conveyance executed pursuant thereto. These controls are in addition to any standards and provisions of any applicable City building or zoning ordinances; provided, however, each and every development shall comply with all applicable City zoning and building ordinance.

409 Off-Street Loading

Any development and improvements shall provide for off-street loading as required by the City ordinances as they now exist or are hereafter amended.

410 Off-Street Parking

All new construction in the area shall provide off-street parking as required by the City ordinances as they now exist or are hereafter amended.

411 Nonconforming Uses

The Agency may permit an existing use to remain in an existing building and site usage in good condition, which use does not conform to the provisions of this Plan, provided that such use is generally compatible with existing and proposed developments and uses in the Project Area. The owner of such a property must be willing to enter into a participation agreement and agree to the imposition of such reasonable restrictions as may be necessary to protect the development and use of the Project Area.

The Agency may authorize additions, alterations, repairs, or other improvements in the Project Area for uses which do not conform to the provisions of this Plan where such

improvements are within a portion of the Project where, in the determination of the Agency, such improvements would be compatible with surrounding Project uses and development.

All nonconforming uses shall also comply with the City ordinances.

412 Design Guidelines for Development under a Disposition and Development Agreement or Owner Participation Agreement

Under an owner participation agreement or a disposition and development agreement the design guidelines and land use elements of the Plan shall be achieved to the greatest extent feasible, though the Agency retains the authority to grant minor variations under Section 407.10 of this Plan and subject to a negotiated agreement between the Agency and the developer or property owner.

Under those agreements, the architectural, landscape, and site plans shall be submitted to the Agency and approved in writing by the Agency. In such agreements, the Agency may impose additional design controls. One of the objectives of this Plan is to create an attractive pedestrian environment in the Project Area. Therefore, such plans shall give consideration to good design and amenities to enhance the aesthetic quality of the Project Area. These additional design standards or controls will be implemented through the provisions of any disposition and development agreement or owner participation agreement or by appropriate covenants appended to the land and instruments of conveyance executed pursuant thereto. These controls are in addition to any standard and provisions of any applicable City building or zoning ordinances; provided, however, each and every development shall comply with all applicable City zoning and building ordinances.

500 METHODS OF FINANCING THE PROJECT

501 General Description of the Proposed Financing Method

The Agency is authorized to finance this Project with financial assistance from the City, state of Idaho, federal government, interest income, Agency bonds, donations, loans from private financial institutions, the lease or sale of Agency-owned property, or any other available source, public or private, including assistance from any taxing district or any public entity.

The Agency is also authorized to obtain advances, borrow funds, and create indebtedness in carrying out this Plan. The principal and interest on such advances, funds, and indebtedness may be paid from any funds available to the Agency. The City, as it is able, may also supply additional assistance through City loans and grants for various public facilities.

The City or any other public agency may expend money to assist the Agency in carrying out this Project.

502 Revenue Bond Funds

As allowed by law and subject to restrictions as are imposed by law, the Agency is authorized to issue bonds from time to time, if it deems appropriate to do so, in order to finance all or any part of the Project. Neither the members of the Agency nor any persons executing the bonds are liable personally on the bonds by reason of their issuance.

503 Other Loans and Grants

Any other loans, grants, guarantees, or financial assistance from the United States, the state of Idaho, including ICDBG funds, or any other public or private source will be utilized if available. The Agency may consider funding sources through Local Improvement Districts as authorized by state law. Neither the members of the Agency nor any persons executing such loans or grants shall be liable on the loans or grants by reason of their issuance. One alternative of the Feasibility Study, Attachment 5C, has assumed the successful award of an ICDBG grant. The other alternative shown in the Feasibility Study, Attachment 5C, has assumed funding by the developer of the industrial project.

The Agency also intends to seek appropriate private contributions, where applicable, to assist in the funding of the activities described herein.

504 Revenue Allocation Financing Provisions

The Agency hereby adopts revenue allocation financing provisions as authorized by the Act, effective retroactively to January 1, 2011. These revenue allocation provisions shall apply to all taxing districts which are located in or overlap the Revenue Allocation Area described on Attachments 1 and 2 to this Plan. The Agency shall take all actions necessary or convenient to implement these revenue allocation financing provisions. The Agency specifically finds that the equalized assessed valuation of property within the Revenue Allocation Area is likely to increase as a result of the initiation of the Project.

The Agency, acting by one or more resolutions adopted by its Board, is hereby authorized to apply all or any portion of the revenues allocated to the Agency pursuant to the Act to pay as costs are incurred or to pledge all or any portion of such revenues to the repayment of any moneys borrowed, indebtedness incurred, or bonds issued by the Agency to finance or to refinance the Project Costs (as defined in Idaho Code Section 50-2903(14)) of one or more urban renewal projects.

Upon enactment of an ordinance by the governing body of the City finally adopting these revenue allocation financing provisions and defining the Revenue Allocation Area described herein as part of the Plan, there shall hereby be created a special fund of the Agency into which the County Treasurer shall deposit allocated revenues as provided in Idaho Code Section 50-2908. The Agency shall use such funds solely in accordance with Idaho Code Section 50-2909 and solely for the purpose of providing funds to pay the Project Costs, including any incidental

costs, of such urban renewal projects as the Agency may determine by resolution or resolutions of its Board.

A statement listing proposed public improvements and facilities, an economic feasibility study, estimated project costs, fiscal impact upon other taxing districts, and methods of financing project costs required by Idaho Code Section 50-2905 is included in Attachment 5 to this Plan. This statement necessarily incorporates estimates and projections based on the Agency's present knowledge and expectations. The Agency is hereby authorized to modify the presently anticipated urban renewal projects and use of revenue allocation financing of the related Project Costs if the Board deems such modification necessary or convenient to effectuate the general objectives of the Plan.

The Agency may also appropriate funds consisting of revenue allocation proceeds on an annual basis without the issuance of bonds. The Agency has also provided for obtaining advances or loans from the City or private entity in order to immediately commence construction of certain of the public improvements. Revenues will continue to be allocated to the Agency until the improvements identified in Attachment 5 are completely constructed or until any obligation to the City or other public entity or private entity are fulfilled. Attachment 5 incorporates estimates and projections based on the Agency's present knowledge and expectations concerning the length of time to complete the improvements. The activity may take longer depending on the significance and timeliness of development. Alternatively the activity may be completed earlier if revenue allocation proceeds are greater or the Agency obtains additional funds.

The revenue allocation proceeds are hereby irrevocably pledged for the payment of the principal and interest on the advance of monies or making of loans or the incurring of any indebtedness such as bonds, notes, and other obligations (whether funded, refunded, assumed, or otherwise) by the Agency to finance or refinance the Project in whole or in part.

The Agency is authorized to make such pledges as to specific advances, loans, and indebtedness as appropriate in carrying out the Project.

The Agency reserves the right to either pay for Project Costs from available revenue (pay as you go basis) or borrow funds by incurring debt through notes or other obligations.

Revenue allocation proceeds are deemed to be only a part of the proposed funding sources for the payment of public improvements and other project improvements. Additionally, project funding is proposed to be phased for the improvements, allowing various sources of funds to be accumulated for use.

504.1 Economic Feasibility Study

Attachments 5, 5A, 5B, and 5C constitute the Economic Feasibility Study ("Study") for the urban renewal area prepared by Harlan W. Mann, Community Development Consultant. The Study constitutes the financial analysis required by the Act and is based upon existing

information from the Agency and City. Projections are based upon input from the Agency, property owners, developers, and others.

504.2 Assumptions and Conditions/Economic Feasibility Statement

The information contained in Attachment 5 assumes certain completed and projected actions. Under the provisions of the Act, the revenue allocation shall continue until the debt or other obligations or other project activity is completed or satisfied. All debt is projected to be repaid no later than the duration period of the Plan. The total amount of bonded indebtedness (and all other loans or indebtedness) and the amount of revenue generated by revenue allocation are dependent upon the extent and timing of private development. Should all of the development take place as projected, the project indebtedness could be extinguished earlier, dependent upon the bond sale documents or other legal obligations. Should private development take longer to materialize or should the private development be substantially less than projected, then the amount of revenue generated will be substantially reduced and debt may continue for its full term.

The Plan and attachments incorporate estimates and projections based on the Agency's present knowledge and expectations. The Agency may modify the project if the Board deems such modifications necessary to effectuate the Plan. The Plan proposes certain public improvements, including utility and street improvements, which will facilitate development in the Revenue Allocation Area.

The assumptions set forth in the Study are based upon the best information available to the Agency through public sources or discussions with property owners, developers, and others. The information has been analyzed by the Agency and its consultants in order to provide an analysis that meets the requirements set forth under the Law and Act. At the point in time when the Agency may seek a loan from lenders or others, a more detailed and then-current financial pro forma will be presented to those lenders or underwriters for analysis to determine the borrowing capacity of the Agency. As set forth herein, the Agency reserves the right to fund the Project on a "pay as you go" basis. The Agency Board will prioritize the activities set forth in this Plan and determine what funds are available and what activities can be funded. The Agency will establish those priorities through its mandated annual budgetary process.

The assumptions concerning revenue allocation proceeds are based upon certain assessed value increases and assumed tax levy rates.

House Bill 1 adopted by the 58th Idaho Legislature convening in Special Session in August 2006 (codified at Idaho Code Section 33-802) repealed the operation and maintenance property tax levy imposed by school districts. House Bill 1 also repealed Idaho Code Section 50-2908(2)(a)(iii) which required certain revenue allocation funds to be disbursed to school districts. The financial analysis set forth in Attachment 5B has taken into account the provisions of Idaho Code § 33-802.

504.3 Ten Percent Limitation

Under the Act, the base assessed valuation for all revenue allocation areas cannot exceed gross/net ten percent (10%) of the current assessed valuation for the entire City. The base assessment roll for the Project Area as of January 1, 2010, is \$62,164. The total assessed value for the City as of January 1, 2010, less homeowner's exemptions, is \$116,439,409. Therefore, the 10% limit is \$11,643,941. The base assessment roll for the Revenue Allocation Area does not exceed ten percent (10%) of the assessed value for the City. As a result of the adoption by the Idaho Legislature of House Bill 95, as amended in the House and as further amended in the Senate, the base assessed value of a revenue allocation project area shall be adjusted by any increase in valuation caused by the removal of the agricultural tax exemption from undeveloped agricultural land. The increase in value shall be added to the base assessment roll (Idaho Code Section 50-2903(4)). The projections set forth in Attachments 5A and 5B have taken this increase into account.

504.4 Financial Limitation

The Study identifies several capital improvement projects. Use of any particular financing source for any particular purpose is not assured or identified. Use of the funding source shall be conditioned on any limiting authority. If revenue allocation funds are unavailable, then the Agency will need to use a different funding source for that improvement.

The amount of funds available to the Agency from revenue allocation financing is directly related to the assessed value of new improvements within the Revenue Allocation Area. Under the Act, the Agency is allowed the revenue allocation generated from inflationary increases and New Development Value. Increases have been assumed based upon the projected value of new development as that development occurs along with possible land reassessment based on a construction start.

The Study, with the various estimates and projections, constitutes an economic feasibility study. Costs and revenues are analyzed, and the analysis shows the need for public capital funds during the project. Multiple financing sources including proposed revenue allocation notes and bonds, annual revenue allocations, developer contributions, city contributions, and other funds are shown. This Study identifies the kind, number, and location of all proposed public works or improvements, a detailed list of estimated project costs, a description of the methods of financing illustrating project costs, and the time when relate costs or monetary obligations are to be incurred. See Idaho Code § 50-2905. Based on these funding sources, the conclusion is that the project is feasible.

The information contained in the Study assumes certain projected actions. First, the Agency has projected several note issues through a City advance from City water and sewer funds or other City resources in addition to a developer note or advance. Under the provisions of the Act, the revenue allocation may continue until the end of the Plan term. Second, the total amount of indebtedness and the amount of revenue generated by revenue allocation is dependent upon the extent and timing of private development. Should the development take place as

projected, indebtedness would be extinguished earlier, dependent upon the note documents and legal obligations therein. Should private development take longer to materialize or should the private development be substantially less than projected, then the amount of revenue generated will be substantially reduced and bonds may continue for their full term.

The proposed timing for the public improvements may very well have to be modified depending upon the availability of some of the funds and the Agency's ability to sell an initial issue of notes or bonds.

Attachment 5C lists those public improvements which Agency intends to construct through the term of the Plan. Attachment 5C also shows certain improvements to be constructed by private developers or private owners in conjunction with the public improvements through developer contributions. The costs of improvements are estimates only. Final costs will be determined by way of construction contract public bidding or by an agreement between the developer/owner and Agency.

The listing of public improvements does not commit the Agency to any particular improvement, any particular cost, or any particular order of construction. The Agency reserves its discretion and flexibility in deciding which improvements are more critical for redevelopment, and the Agency intends to coordinate its public improvements with associated development by private developers/owners. The Agency also intends to coordinate its participation in the public improvements with the receipt of certain grants or loans which may require the Agency's participation in some combination with the grant and loan funding.

Generally, the Agency expects to develop those improvements identified in Attachment 5C first, in conjunction with industrial private development generating the increment as identified in Attachment 5A.

The Plan has shown that the equalized valuation of the Revenue Allocation Area as defined in the Plan is likely to increase as a result of the initiation and completion of urban renewal projects pursuant to the Plan.

504.5 Rebate of Revenue Allocation Funds

In any year during which the Agency receives revenue allocation proceeds, the Agency, as allowed by law, is authorized (but not required) to return or rebate to the other taxing entities identified in Attachment 5 of this Plan any revenue allocation funds not previously pledged or committed for the purposes identified in the Plan. Under the Act, the Agency must first apply all such revenues for the payment of the projected costs of the urban renewal project identified and repayment of principal and interest on any moneys borrowed, indebtedness incurred, or bonds issued by the Agency and maintain any required reserve for payments of such obligation or indebtedness. Only to the extent revenues of the Agency exceed these obligations shall the Agency consider any rebate or return of revenue allocation funds to the other taxing entities. The Agency shall rebate such funds in a manner that corresponds to each taxing entity's relative share of the revenue allocation proceeds or on the basis of extraordinary service requirements

generated by the Project or particular circumstances which the Agency may determine. All other taxing entities shall first receive any such rebate before such rebate shall be disbursed to the City.

Attachment 5 describes the Agency's financing plan for the Project. The Project will be financed, in part, through tax increment financing, using revenue allocation funds as allowed by the Act. The Agency anticipates that on an annual basis, tax increment, and other funds may be sufficient to satisfy the obligations incurred by the Agency, even though the entire amount of revenue allocation funds must be pledged for the term of any bonds or other debts incurred by the Agency. Therefore, on an annual basis, the Agency will consider the rebate of funds, which funds may not be revenue allocation funds, but other funds available to the Agency.

504.6 Participation with Local Improvement Districts

Under the Idaho Local Improvement District Code, Chapter 17, Title 50, Idaho Code, the City has the authority to establish local improvement districts for various public facilities, including, but not limited to, streets, curbs, gutters, sidewalks, storm drains, landscaping, and other like facilities. To the extent allowed by the Law and the Act, the Agency reserves the authority to participate in the funding of local improvement district facilities. This participation may include either direct funding to reduce the overall cost of the LID or to participate as an assessed entity to finance the LID project.

504.7 Issuance of Debt and Debt Limitation

Any debt incurred by the Agency as allowed by the Law and Act shall be secured by revenues identified in the debt resolution or revenue allocation funds as allowed by the Act. All such debt shall be repaid within the duration of this Plan.

504.8 Impact on Other Taxing Districts and Levy Rate

A specific delineation of tax dollars generated by revenue allocation upon each taxing district has not been prepared. The overall impact of the revenue allocation project is shown in the Study. Pursuant to Idaho Code Section 63-802, taxing entities are constrained in establishing levy rates by a function of the amount each budget of each taxing district can increase on an annual basis. The amounts set forth in the Study would constitute the amounts distributed to other taxing entities from the Revenue Allocation Area if there were no urban renewal project. Each individual district's share of that amount would be determined by its particular levy rate as compared to the other districts in any given year. Therefore, the impact of revenue allocation is more of a product of the imposition of Section 63-802. In addition, without the revenue allocation district and its ability to pay for public improvements and public facilities, fewer substantial improvements within the Revenue Allocation Area would be expected in the next five to ten years, hence there would be lower increases in assessed valuation to be used by the taxing entities.

If the overall levy rate is less than assumed, the Agency will receive fewer funds from revenue allocation. The assessed value for each property in a revenue allocation area consists of a base value and an increment value. The base value is the assessed value as of January 1 of the year in which a revenue allocation area is approved by a municipality, with periodic adjustments allowed by Idaho state code. The increment value is the difference between the base assessed value and current assessed value in any given year while the property is in a revenue allocation area. Under Section § 63-802, Idaho Code, taxing entities are constrained in establishing levy rates by the amount each budget of each taxing district can increase on an annual basis. Taxing entities submit proposed budgets to the County Board of Commissioners, which budgets are required to comply with the limitations set forth in Section 63-802, Idaho Code.

The County Board of Commissioners calculates the levy rate required to produce the proposed budget amount for each taxing entity using the assessed values which are subject to each taxing entity's levy rate. Assessed values in urban renewal districts which are subject to revenue allocation (incremental values) are not included in this calculation. The combined levy rate for the taxing entities is applied to the incremental property values in a revenue allocation area to determine the amount of property tax revenue which is allocated to an urban renewal agency. The property taxes generated by the property values in the urban renewal districts that are not subject to revenue allocation and by properties outside revenue allocation areas are distributed to the other taxing entities. Properties in revenue allocation areas are subject to the same levy rate as they would be outside a revenue allocation area. The difference is how the revenue is distributed.

In addition, without the Revenue Allocation Area and its ability to pay for public improvements and public facilities, fewer substantial improvements within the Revenue Allocation Area would be expected in the next five to ten years; hence, there would be lower increases in assessed valuation to be used by the other taxing entities. If the overall levy rate is less than as assumed, the Agency shall receive fewer funds from revenue allocation.

One result of Section 63-802, Idaho Code, and Section 63-301A, Idaho Code, is the likely reduction of the levy rate as assessed values increase for property within each taxing entity's jurisdiction. If the overall levy rate is less than as assumed, the Agency shall receive fewer funds from revenue allocation. Likewise, as assessed values decrease, levy rates may increase. Section 63-301A, Idaho Code, prohibits taxing entities from including, as part of the new construction roll, the increased value related to new construction within a revenue allocation area until the revenue allocation authority is terminated. Any new construction within the Project Area will no longer be available for inclusion by the taxing entities to increase their budgets. Less tax revenue will be available to those taxing entities. Upon termination of this Plan, the taxing entities will be able to include the accumulated new construction roll value in setting the following year's budget. Generally, the impact on the taxing entities would be to determine the Agency's projected revenue and disburse those funds in the same ratio as the respective levy rates in the Revenue Allocation Area of each taxing district. For Tax Year 2010, those districts and rates are as follows:

Taxing Districts Levies:

Minidoka County	0.004155450
City of Heyburn	0.005578034
School District No. 331	0.000008020 ¹
West End Fire Protection District	0.001075726
Heyburn Cemetery District No. 3	0.000127849
Minidoka Highway District	0.001141291
TOTAL LEVY	0.012086370

As noted above, a result of Section 63-802, Idaho Code, is the likely increase of the levy rate as assessed values decrease for property within each taxing entity's jurisdiction. The Study has made certain assumptions concerning the levy rate, by estimating the tax levy rate to increase 2% per year from 2010, for 2011 and 2012, to increase 1% per year in 2013 and 2014, to stay level for 2015, and to decrease 1% per year, starting in 2016 assuming an upward trend in assessed values. If the overall levy rate is less than projected, the Agency shall receive fewer funds from revenue allocation.

The 2008 Idaho Legislature passed and Governor Otter signed House Bill 470 as amended in the Idaho Senate, which bill became effective retroactive to January 1, 2008 (Session Laws, Chapter 253). The bill amended Idaho Code Sections 50-2908, 63-803, and 63-811. In brief, the bill provided that an urban renewal agency shall not be entitled to revenue allocation proceeds from certain levy increases which are allowed by either specific statutory authorization or approved by an election of the qualified electors of the particular taxing district. Therefore, for any levy election held after January 1, 2008, the Agency will not receive revenue allocation funds which would have been generated by imposing that levy on the assessed valuation within the Project Area. Additionally, as this Plan has been adopted after January 1, 2008, any voter approved levy adopted prior to January 1, 2008, will not be available for use by the Agency. The Study which is attached as Attachment 5B has taken this new statute into account.

505 Phasing and Other Fund Sources

The Agency anticipates funding only a portion of the entire cost of the public improvements shown on Attachment 5. Other sources of funds shall include developer contributions, City participation, and potential grants. Agency participation shall be determined by the amount of revenue allocation funds generated.

506 Lease Revenue, Parking Revenue, and Bonds

Under the Law, the Agency is authorized to issue revenue bonds to finance certain public improvements identified in the Plan. Under that type of financing, the public entity would pay the Agency a lease payment annually which provides certain funds to the Agency to retire the bond debt. Another variation of this type of financing is sometimes referred to as conduit financing, which provides a mechanism where the Agency uses its bonding authority for the Project, with the end user making payments to the Agency to retire the bond debt. These sources

¹ Net levy rate after deductions required by House Bill 470.

of revenues are not related to revenue allocation funds and may not be particularly noted in the Study, because of the "pass through" aspects of the financing. Under the Act, the economic feasibility study focuses on the revenue allocation aspects of the Agency's financial model.

These financing models typically are for a longer period of time than the 20-year period set forth in the Act. However, these financing models do not involve revenue allocation funds, but rather funds from the end users which provide a funding source for the Agency to continue to own and operate the facility beyond the term of the Plan as allowed by Idaho Code Section 50-2905(7) as those resources involve funds not related to revenue allocation funds.

600 ACTIONS BY THE CITY

The City shall aid and cooperate with the Agency in carrying out this Plan and shall take all actions necessary to ensure the continued fulfillment of the purposes of this Plan and to prevent the recurrence or spread in the area of conditions causing blight. Actions by the City shall include, but not be limited to, the following:

- a. Institution and completion of proceedings necessary for changes and improvements in private and publicly owned public utilities within or affecting the Project Area.
- b. Revision of zoning (if necessary) within the Project Area to permit the land uses and development authorized by this Plan.
- c. Imposition wherever necessary (by conditional use permits or other means) of appropriate controls within the limits of this Plan upon parcels in the Project Area to ensure their proper development and use.
- d. Provision for administrative enforcement of this Plan by the City after development. The City and the Agency may develop and provide for enforcement of a program for continued maintenance by owners of all real property, both public and private, within the Project Area throughout the duration of this Plan.
- e. Building Code enforcement.
- f. Performance of the above actions and of all other functions and services relating to public peace, health, safety, and physical development normally rendered in accordance with a schedule which will permit the redevelopment of the Project Area to be commenced and carried to completion without unnecessary delays.
- g. Institutional and completion of proceedings necessary for the establishment of a local improvement district under Chapter 17, Title 50, Idaho Code.

- h. The undertaking and completing of any other proceedings necessary to carry out the Project.
- i. Administration of Idaho Community Development Block Grant funds that may be made available for this Project.
- j. Appropriate agreements with the Agency for administration, supporting services, funding sources, and the like.
- k. Imposition, whenever necessary (by conditional use permits or other means as appropriate), of controls within the limits of this Plan upon parcels in the Project Area to ensure their proper development and use.
- l. The waiver of any hookup or installation fee for sewer, water, or other utility services for any facility owned by any public agency, including any Agency facility.
- m. Joint funding of certain public improvements, including but not limited to improvements to sewer treatment facilities.
- n. Use of public entity labor, services, and materials for construction of the public improvements listed in this Plan.

The foregoing actions to be taken by the City do not constitute any commitment for financial outlays by the City.

601 Maintenance of Public Improvements

The Agency has not identified any commitment or obligation for long-term maintenance of the public improvements identified. The Agency will need to address this issue with the appropriate entity, public or private, who has benefited from or is involved in the ongoing preservation of the public improvement.

700 ENFORCEMENT

The administration and enforcement of this Plan, including the preparation and execution of any documents implementing this Plan, shall be performed by the Agency and/or the City.

The provisions of this Plan or other documents entered into pursuant to this Plan may also be enforced by court litigation instituted by either the Agency or the City. Such remedies may include, but are not limited to, specific performance, damages, reentry, injunctions, or any other remedies appropriate to the purposes of this Plan. In addition, any recorded provisions which are expressly for the benefit of owners of property in the Project Area may be enforced by such owners.

800 DURATION OF THIS PLAN, TERMINATION, AND ASSET REVIEW

Except for the nondiscrimination and nonsegregation provisions which shall run in perpetuity, the provisions of this Plan shall be effective, and the provisions of other documents formulated pursuant to this Plan shall be effective for twenty (20) years from the date of adoption of the Plan by the City Council in 2011, which period shall expire on December 31, 2031, except for any revenue allocation proceeds received in calendar year 2032.

This Plan shall terminate no later than December 31, 2031, except for revenues which may be received in 2032. Either on January 1, 2031, or if the Agency determines an earlier termination date:

- a. When the Revenue Allocation Area plan budget estimates that all financial obligations have been provided for, the principal of and interest on such moneys, indebtedness, and bonds have been paid in full or when deposits in the special fund or funds created under this chapter are sufficient to pay such principal and interest as they come due, and to fund reserves, if any, or any other obligations of the Agency funded through revenue allocation proceeds shall be satisfied and the Agency has determined no additional project costs need be funded through revenue allocation financing, the allocation of revenues under Section 50-2908, Idaho Code, shall thereupon cease; any moneys in such fund or funds in excess of the amount necessary to pay such principal and interest shall be distributed to the affected taxing districts in which the Revenue Allocation Area is located in the same manner and proportion as the most recent distribution to the affected taxing districts of the taxes on the taxable property located within the Revenue Allocation Area; and the powers granted to the urban renewal agency under Section 50-2909, Idaho Code, shall thereupon terminate.
- b. In determining the termination date, the Plan shall recognize that the Agency shall receive allocation of revenues in the calendar year following the last year of the revenue allocation provision described in the Plan.
- c. For the fiscal year that immediately predates the terminate date, the Agency shall adopt and publish a budget specifically for the projected revenues and expenses of the Plan and make a determination as to whether the Revenue Allocation Area can be terminated before January 1 of the termination year pursuant to the terms of Section 50-2909(4), Idaho Code. In the event that the Agency determines that current tax year revenues are sufficient to cover all estimated expenses for the current year and all future years, by September 1, the Agency shall adopt a resolution advising and notifying the local governing body, the county auditor, and the State Tax Commission, recommending the adoption of an ordinance for termination of the Revenue Allocation Area by December 31 of the current year, and declaring a surplus to be distributed as described in Section 50-2909, Idaho Code, should a surplus be determined to exist. The Agency shall cause the

ordinance to be filed with the office of the county recorder and the Idaho State Tax Commission as provided in Section 63-215, Idaho Code.

Upon termination of the revenue allocation authority of the Plan to the extent the Agency owns or possesses any assets, the Agency shall dispose of any remaining assets by granting or conveying or dedicating such assets to the City.

As allowed by Idaho Code Section 50-2905(7), the Agency may retain assets or revenues generated from such assets as loans; the Agency shall have resources other than revenue allocation funds to operate and manage such assets. The Agency may retain ownership of any parking facilities which may be constructed in the Project Area, as parking revenues may be sufficient to provide the resources necessary for the Agency to retain those assets. Similarly, facilities which provide a least income stream to the Agency for full retirement of the facility debt will allow the Agency to meet debt services obligations and provide for the continued operation and management of the facility.

For those assets which do not provide such resources or revenues, the Agency will likely convey such assets to the City, depending on the nature of the asset.

Upon termination of the revenue allocation authority of the Plan, to the extent the Agency owns or possesses any assets, the Agency shall dispose of any remaining assets by granting or conveying or dedicating such assets to the City.

900 PROCEDURE FOR AMENDMENT

The Plan may be further modified at any time by the Agency provided that, if modified after disposition of real property in the Project Area, the modifications must be consented to by the Developer or Developers or his successor or successors of such real property whose interest is substantially affected by the proposed modification. Where the proposed modification will substantially change the Plan, the modifications must be approved by the City Council in the same manner as the original Plan. Substantial changes for City Council approval purposes shall be regarded as revisions in project boundaries, land uses permitted, land acquisition, and other changes which will violate the objectives of this Plan. As a result of the adoption by the Idaho Legislature of House Bill 95, as amended in the House and as further amended in the Senate, certain amendments to an urban renewal plan are prohibited for plans adopted after July 1, 2011. Amendments proposing to add any geographical area are now limited to less than 10% of the existing revenue allocation area. Additionally, the added area must be contiguous to the existing revenue allocation area, and contiguity cannot be established solely by a shoestring or strip of land which comprises a railroad or public right of way. Any plan amendment will comply with these provisions now codified in Idaho Code Section 50-2033.

1000 SEVERABILITY

If any one or more of the provisions contained in this Plan to be performed on the part of the Agency shall be declared by any court of competent jurisdiction to be contrary to law, then

such provision or provisions shall be null and void and shall be deemed separable from the remaining provisions in this Plan and shall in no way affect the validity of the other provisions of this Plan.

1100 ANNUAL REPORT

Under the Law, the Agency is required to file with the City, on or before March 31 of each year, a report of the Agency's activities for the preceding calendar year, which report shall include a complete financial statement setting forth its assets, liabilities, income, and operating expenses as of the end of such calendar year. As a result of the adoption by the Idaho Legislature of House Bill 95, as amended in the House and further amended in the Senate, beginning with annual reports, reporting activity for 2011, which must be submitted by March 31, 2012, the agency shall be required to hold a public meeting to report the findings that constitute the annual report and to take comments from the public. (Idaho Code Section 50-2006(c)).

1101 APPENDICES, ATTACHMENTS, EXHIBITS, TABLES

All attachments and tables referenced in this Plan are attached and incorporated herein by their reference. All other documents referenced in this Plan but not attached are incorporated by their reference as if set forth fully.

Attachment 1

Project Area and Revenue Allocation Area Boundary Map

ATTACHMENT 2

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 SOUTHWEST CORNER OF THE NW ¼, NE ¼ AND CONTINUING ALONG
THE SOUTHWEST CORNER 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°41'20", 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 ¼" 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.

Attachment 3

Private Properties Which May Be Acquired by Agency

- 1. Property is intended to be acquired that is necessary for the extension or expansion of certain rights-of-way. No other particular properties have been identified for acquisition by the Agency. The Agency does not intend to purchase property for future development by private persons.**
- 2. The Agency reserves the right to acquire any additional right-of-way or access routes near or around existing or planned rights-of-way.**
- 3. The Agency reserves the right to acquire property needed for the development of public improvements and public facilities.**

Attachment 4

**Map Depicting Expected Land Uses and Current Zoning
Within Revenue Allocation Area and Project Area**

PROJECT AREA & REVENUE ALLOCATION BOUNDARY MAP

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.

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

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
SECTION 8:
SET 5/8" REBAR

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



SCALE: 1"=300'

MOON & ASSOCIATES, INC.
ENGINEERING & LAND SURVEYING
525 F. STREET, SUITE 100, BOISE, IDAHO 83725
PHONE (208) 436-3744

DATE: 22AUG11
JOB NO.: 11061
DRAWING: R/Allocation

SOUTHEAST CORNER
NE 1/4, SECTION 8:
FOUND 1/2" REBAR
PER R-2 & C.P. REC.
APRIL 28, 1986
INST. No. 363332, M.C.R.

300 SOUTH

MAGIC VALLEY

SILVER CREEK
BUSINESS PARK

AVENUE

RADIAL BEARING
N63°16'06"W

HWY. 27

500°12'32"E
450.00'

500°21'41"E
450.00'

1321.02'
871.02'

1322.03'

N89°43'12"E

1317.65'

1317.47'

LANDS OF
CBDS INVESTMENT, LLC
INST. No. 448663, M.C.R.

N89°45'50"E
570.34'

L=829.17'
R=2814.79'
Ch=16°52'41"
Ch=826.17'

Attachment 5

Statement of Proposed Public Improvements, Costs, Revenue, Tax Impacts, and Financing Methods

Introduction

Expenditure of funds for projects is anticipated through 2017 if an ICDBG grant is obtained or 2019 should a grant application not be successful.

Anticipated costs of the urban renewal project, revenue sources, estimated revenue allocations, and the amount of indebtedness required to complete the project are shown in Attachment 5. Attachment 5 necessarily incorporates estimates and projections based on the Agency's completed activities, present knowledge, and expectations. The Agency may modify the presently anticipated urban renewal projects and use of revenue allocation financing or the related project costs if the Board deems such modification necessary or convenient to effectuate the general objectives of the Plan. Any future modification will affect the estimate.

Attachment 5A also depicts estimated tax assessments through 2018 and anticipated tax assessments through the development process.

Attachment 5 also demonstrates the overall estimated impact of revenue allocation financing on all taxing districts in which the revenue allocation area is located. The impact on individual taxing districts would be determined by those districts' then-current levies and the projected addition of private investment within the Revenue Allocation Area.

The information contained in Attachment 5 assumes certain completed and projected actions. Under the provisions of the Act, the revenue allocation shall continue until any obligation is satisfied. All debt is projected to be repaid no later than the duration period of the Plan. Second, the total amount of bonded indebtedness and the amount of revenue generated by revenue allocation is dependent upon the extent and timing of private development. Attachment 5C projects expenditures from 2011 through 2017 or 2019 depending on receiving an ICDBG grant. Should all of the development take place as projected, bonded or other indebtedness could be extinguished earlier, dependent upon the bond sale documents or other legal obligations. Should private development take longer to materialize, or should the private development be substantially less than projected, then the amount of revenue generated will be substantially reduced and bonds may continue for their full term.

The Plan and attachments incorporate estimates and projections based on the Agency's present knowledge and expectations. The Agency may modify the project if the Board deems such modifications necessary to effectuate the Plan. The Plan proposes certain public improvements, including utility improvements, streetscapes, street improvements, and other infrastructure cost, which will facilitate development in the Revenue Allocation Area.

Economic Feasibility Statement

The attachments, with their various estimates and projections, constitute an economic feasibility study. Costs and revenues are analyzed, and the analysis shows the need from public capital funds during the project. Multiple financing sources including proposed revenue allocation notes and bonds, annual revenue allocations, developer contributions, grant funds, in-kind services, and other funds are shown. This attachment identifies the kind, number, and location of all proposed public works or improvements, a detailed list of estimated project costs, a description of the methods of financing illustrating project costs, and the time when related costs or monetary obligations are to be incurred (see Idaho Code § 50-2905). Based on these funding sources, the conclusion is that the project is feasible.

The proposed timing for the public improvements may very well have to be modified depending upon the availability of some of the funds and the Agency's ability to sell an initial issue of notes or bonds, including a developer note.

Attachment 5A, Estimated Net Taxable Value of New Private Development, lists estimated increases in tax assessments resulting from new development in the Revenue Allocation Area beginning in 2011.

Attachment 5B, Estimated Annual Tax Revenue Allocations, illustrates how the project's new development would generate net revenue to the Agency.

Attachment 5C, Estimated Annual Revenues and Costs, shows the estimated sources and uses of funds through 2017 with ICDBG grant or 2019 if a grant is not issued.

The analysis has assumed certain changes in the levy rates as a result of current statutory provisions and projections.

Description of Public Financing Sources

Revenue Allocation—Revenue allocation financing (sometimes referred to as tax increment financing) applies the increase in property taxes within a defined area to public infrastructure improvements. The improvements are designed to enhance the private development potential, thus creating the additional assessed valuation. The process is initiated upon action of a municipality, whereupon the county assessor will establish the assessed valuation within the Revenue Allocation Area for a base year. The incremental revenue may be applied directly as it is received by the authorized redevelopment agency or, more commonly, applied as a long-term revenue stream for the issuance of bonds or other debt obligations. Once the Plan has been fully implemented and/or the bonds or debt obligations have been retired, the incremental revenue flows back to the appropriate taxing districts in the same proportion as the base revenue. Revenue Allocation has been available in Idaho since 1988 and is anticipated to be the major, and thus most essential, component for Plan financing.

Loans and Notes—Problematic with Revenue Allocation financing is the time delay from initiation of Plan implementation and establishment of the base assessment roll. Several years may elapse before the incremental tax revenue stream can adequately demonstrate the strength necessary to issue bonds. Short-term notes or loans issued by local lenders or others are a means of providing the bridge financing necessary to begin development work. Bond proceeds can then be used to “take out” the notes. The Agency may borrow other funds from other sources as needed and authorized under the Plan.

Local Improvement Districts (LIDs)—This financing mechanism is used to fund capital improvements and distribute the cost among a number of property owners. Counties and highway districts often use LIDs for local street and sewer projects. A series of ordinances are adopted to create the district, approve the assessment roll, and issue construction warrants and long-term bonds. The tax-exempt bonds are issued through bid or negotiated sale with revenue collection tied to the property tax system. Bond terms are usually ten years.

SBA 504 Program—This program uses the public sale of reduced interest debentures to write-down commercial loans for commercial and limited industrial projects.

Community Reinvestment—Local lenders are making funds available at below-market interest rates in order to meet their Community Reinvestment Act obligations.

Community Development Block Grant (CDBG)—In order to achieve the objectives set forth in this Plan, the City may submit an application from time to time for Idaho Community Development Block Grant funding. Such application must meet certain eligibility objectives. The grant is constrained to a specific list of eligible activities. However, Community Development Block Grant funding may be of some assistance in portions of the Agency's funding objectives.

Developer Advances—Given the delayed flow of revenue under tax increment financing, developer advances may be a desirable approach to initiate development projects. The terms of the advance would be negotiable on a project-by-project basis, but possible uses could be master planning, project administrations, necessary legal work, and even preliminary public infrastructure work.

City or Agency Advances—City may provide advances or contributions for certain public improvements.

Conduit Financing—The Agency reserves the right to participate as a conduit financing vehicle for those projects described in this Plan, using lease or revenue proceeds, rather than revenue allocation proceeds.

Financing Conclusion

The Plan has shown that the equalized valuation of the Revenue Allocation Area as defined in the Plan is likely to increase as a result of the initiation and completion of urban renewal projects pursuant to the Plan.

Attachment 5A
Estimated Net Taxable Value¹ of New Private Development
Northwest Heyburn Industrial Urban Renewal Project
(03-08-11)

Year	Industrial/Commercial	Year Total²	Cumulative Total
2011-2012	5,000,000 ^{3,4}	5,000,000	5,000,000
2012-2013	4,000,000 ⁵	4,000,000	9,000,000
2013-2014	4,900,000 ⁶	4,900,000	13,900,000
2014-2015	9,000,000 ⁷	9,000,000	22,900,000
2015-2016	5,000,000 ⁸	5,000,000	27,900,000
2016-2017			27,900,000
2017-2018			27,900,000
2018-2019			27,900,000
2019-2020			27,900,000

¹ Cumulative estimated increases of assess value for land, improvements, personal property, and utilities above the base value in 2011.

² Generally reflects value of construction completed in the first year indicated and assessed in the following year but can include occupancy roll (buildings) and subsequent/missed roll (personal property) values for buildings completed in the following year.

³ Reflects a planned light industrial building with estimated completion by 12/31/11 and 100% personal property.

⁴ Does not include land value increases to show the effect of House Bill 95a, pending legislation. The bill would require such land value increases to be added to the base value when agricultural land is developed.

⁵ Includes two possible developments on Lots 5 and 3.

⁶ Includes valuation increases for projected developments, \$900,000 for a restaurant on Lot 1 and a \$4,000,000 light industrial building on Lot 6.

⁷ Includes valuation increases for a projected \$3,000,000 light industrial building on Lot 2 and a \$6,000,000 hotel development on Lot 9.

⁸ Includes a valuation increase for a projected \$5,000,000 light industrial building on Lot 7.

Attachment 5B
Estimated Annual Revenue Allocations
Northwest Heyburn Industrial Urban Renewal Project
(10-19-11)

Year Assessed	Year Taxes Received	Estimated Valuation¹	Tax Levy Rate²	Agency Revenue
2013	2014	4,534,000	0.012700404	57,584
2014	2015	9,711,000	0.012827408	124,567
2015	2016	15,007,000	0.012827408	192,501
2016	2017	18,238,000	0.012699133	231,607
2017	2018	24,859,000	0.012572141	312,531
2018	2019	30,072,000	0.012446419	375,289
2019	2020	30,072,000	0.012321954	370,546
2020	2021	30,072,000	0.012198734	366,840
2021	2022		0.012007646	
2022	2023		0.011955978	
2023	2024		0.011830418	
Total				2,031,465

¹ Estimated valuation to nearest (000) is based on cumulative net values from Attachment 5A, rounded.

² The tax levy rate is estimated to increase two percent per year from 2010, for 2011 and 2012, increase one percent per year in 2013 and 2014, stay level for 2015, and decrease one percent per year, starting in 2016.

Attachment 5C
Estimated Annual Revenues and Costs (Figures Shown in 000)
Financing Alternative with CDBG Funds
Northwest Heyburn Industrial Urban Renewal Project
(10-19-11)

	2011 ¹	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	Totals
Beginning Balance		5	5	5	6	11	16							
Sources of Funds														
Revenue Allocation²				58	125	193	232							608
City Advance	30	15	10											55
Developer Contribution³		171												171
City Water and Sewer Funds⁴		238												238
Community Development Block Grant		500												500
Total Sources of Funds	30	924	10	58	125	193	232							1572
Total Funds Available	30	929	15	63	131	204	248							
Uses of Funds:														
Street and Utility Improvements⁵		671												671
Utility Improvements⁶		238												238
Repay Developer Contribution at 5% int.				17	50	70	60							197
Repay City Water and Sewer Funds				15	44	93	118							270
Repay City Advance				15	16	15	9							55
Admin./Prof. Services	25	15	10	10	10	10	10							90
Total Uses of Funds	25	924	10	57	120	188	197							1521
END BALANCE⁷	5	5	5	6	11	16	51							

¹ Fiscal Year ending September 30 of year indicated.

² Revenue Allocations: See Attachment 5B, rounded to the nearest thousand.

³ Developer contribution used to pay for street and utility improvements as described in footnote 5 and repaid by Agency. Other utility improvements for power, communication, gas, etc. to be paid for by developer without reimbursement by Agency.

⁴ City utility funds to be repaid by Agency at 3% interest.

⁵ Street, water, and irrigation improvements for interior streets.

⁶ Utility improvements by City—all sewer in interior streets (\$138,000) and water in 300 South (\$100,000).

⁷ Any remaining funds at closeout will be returned to the taxing districts.

Attachment 5C
Estimated Annual Revenues and Costs (Figures Shown in 000)
Financing Alternative without CDBG Funds
Northwest Heyburn Industrial Urban Renewal Project
(10-19-11)

	2011 ¹	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	Totals
Beginning Balance		5	5	5	5	5	9	5	12					
Sources of Funds														
Revenue Allocation ²				58	125	193	232	313	375					1296
City Advance	30	15	10											55
Developer Contribution ³		671												671
City Water and Sewer Funds ⁴		238												238
Community Development Block Grant		0												0
Total Sources of Funds	30	924	10	58	125	193	232	313	375					2260
Total Funds Available	30	929	15	63	130	202	241	318	387					
Uses of Funds:														
Street Improvement ⁵		671												671
Utility Improvements ⁶		238												238
Repay Developer Contribution at 5% Int.				33	58	111	150	187	295					834
Repay City Water and Sewer Funds				15	37	61	55	106						274
Repay City Advance					16	11	21	3	4					55
Admin./Prof. Services	25	15	10	10	10	10	10	10	10					110
Total Uses of Funds	25	924	10	58	121	193	236	306	309					2182
END BALANCE ⁷	5	5	5	5	9	9	5	12	78					

¹ Fiscal Year ending September 30 of year indicated.

² Revenue Allocations: See Attachment 5B, rounded to the nearest thousand.

³ Developer contribution used to pay for street and utility improvements as described in footnote 5 and repaid by Agency. Other utility improvements for power, communication, gas, etc. to be paid for by developer without reimbursement by Agency.

⁴ City utility funds to be repaid by Agency at 3% interest.

⁵ Street, water, and irrigation improvements for interior streets.

⁶ Utility improvements by City—all sewer in interior streets (\$138,000) and water in 300 South (\$100,000).

⁷ Any remaining funds at closeout will be returned to the taxing districts.

Exhibit 4

**CHANGE SHEET FOR
NORTHWEST HEYBURN
INDUSTRIAL URBAN RENEWAL PROJECT
URBAN RENEWAL PLAN**

1. Page 33, Section 504.8, Impact on Other Taxing Districts and Levy Rate

School District No. 331 levy rate changed from 0.001489089 to 0.000008020 and
Total Levy changed from 0.013413369 to 0.012086370.

2. Attachment Number 5B, Estimated Annual Revenue Allocations

School District No. 331 levy rates changed, which changed Estimated Valuation
and Agency Revenue numbers.

**3. Attachment Number 5C, Estimated Annual Revenues and Costs, Financing Alternative
without CDBG Funds.**

Revenue numbers have changed and footnotes revised.

**4. Attachment Number 5C, Estimated Annual Revenues and Costs, Financing Alternative
with CDBG Funds.**

Revenue numbers have changed.

The changed sections are attached.

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

ORDINANCE SUMMARY - 2

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 2279.39 FEET TO THE
INTERSECTION THEREOF WITH THE WEST LINE OF THE HIGHWAY 27 RIGHT OF
WAY;

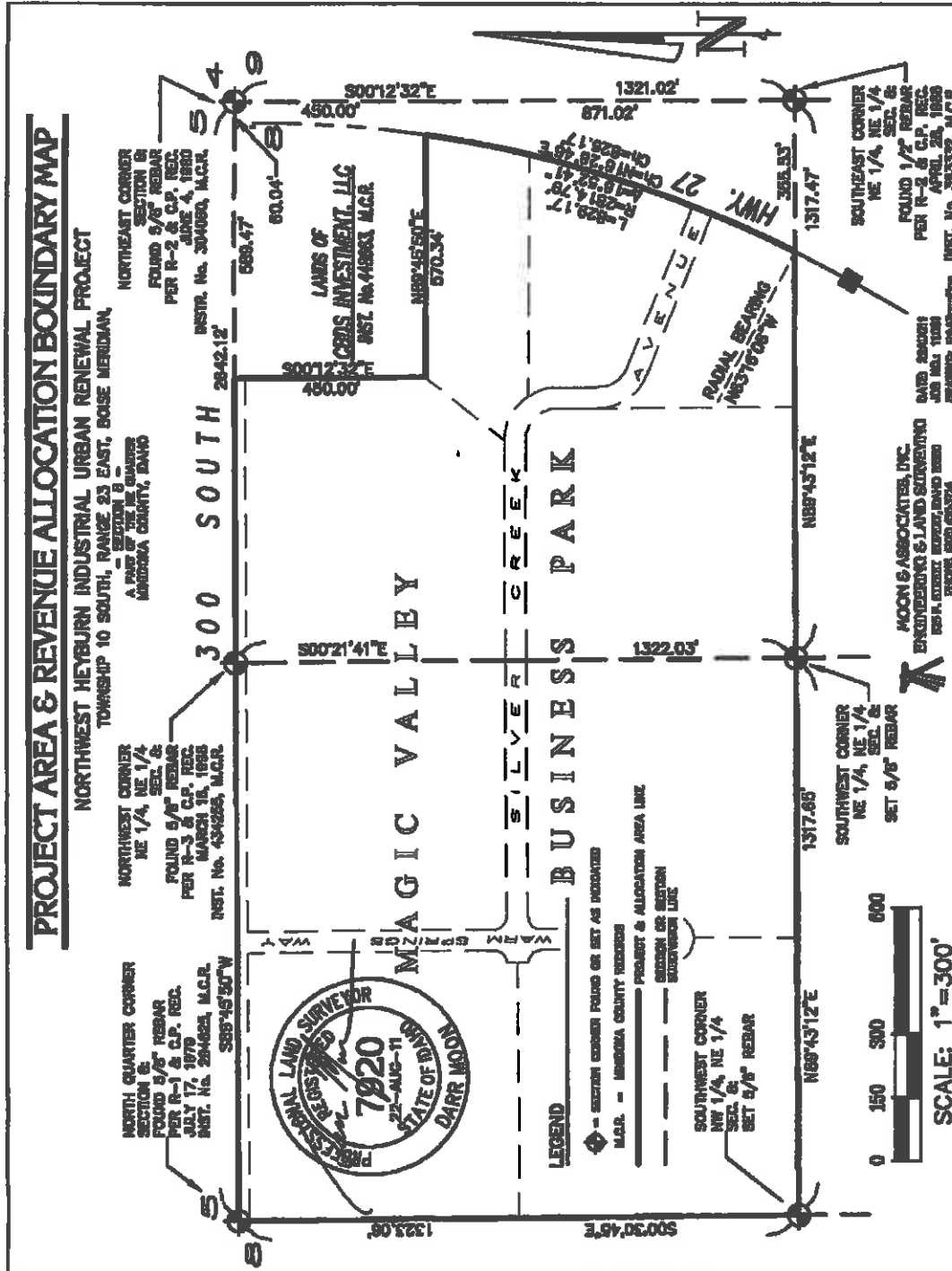
THENCE ALONG SAID WEST RIGHT OF WAY LINE ALONG A NON-TANGENT CURVE
TO THE LEFT HAVING A RADIAL BEARING TO THE CENTER OF NORTH 63°16'06"
WEST, A LENGTH OF 918.26 FEET, A RADIUS OF 2814.79 FEET, A CENTRAL ANGLE
OF 18°41'29", A CHORD BEARING OF NORTH 17°23'1" EAST, AND A CHORD LENGTH
OF 914.19 FEET TO THE 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.



ORDINANCE SUMMARY - 7

C:\Documents and Settings\linda\Desktop\Urban Renewal\Ordinance Summary w change 10-21-2011.doc

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

Instrument # 515218

MINIDOKA COUNTY, RUPERT, IDAHO

12-29-2011 09:25:07 No. of Pages: 4

Recorded for : CITY OF HEYBURN

PATTY TEMPLE

Fee: 0.00

Ex-Officio Recorder Deputy

R. Watson

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

Attest:

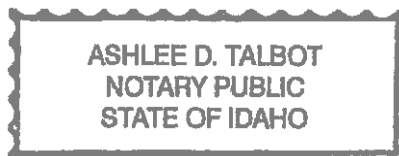

Deborah F. Hopkins, Clerk

STATE OF IDAHO)
) ss.
County of Minidoka)

On this 28th 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)





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

EXHIBIT "A"

PROJECT AREA & REVENUE ALLOCATION BOUNDARY MAP

NORTHWEST HEYBURN INDUSTRIAL URBAN RENEWAL PROJECT

TOWNSHIP 10 SOUTH, RANGE 23 EAST, BOISE MERIDIAN,

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

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.

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

NORTHEAST CORNER
SECTION 8:
FOUND 5/8" REBAR
PER R-2 & C.P. REC.
JUNE 4, 1980
INST. No. 304080, M.C.R.



LEGEND

● = SECTION CORNER FOUND OR SET AS INDICATED

M.C.R. = MINIDOKA COUNTY RECORDS

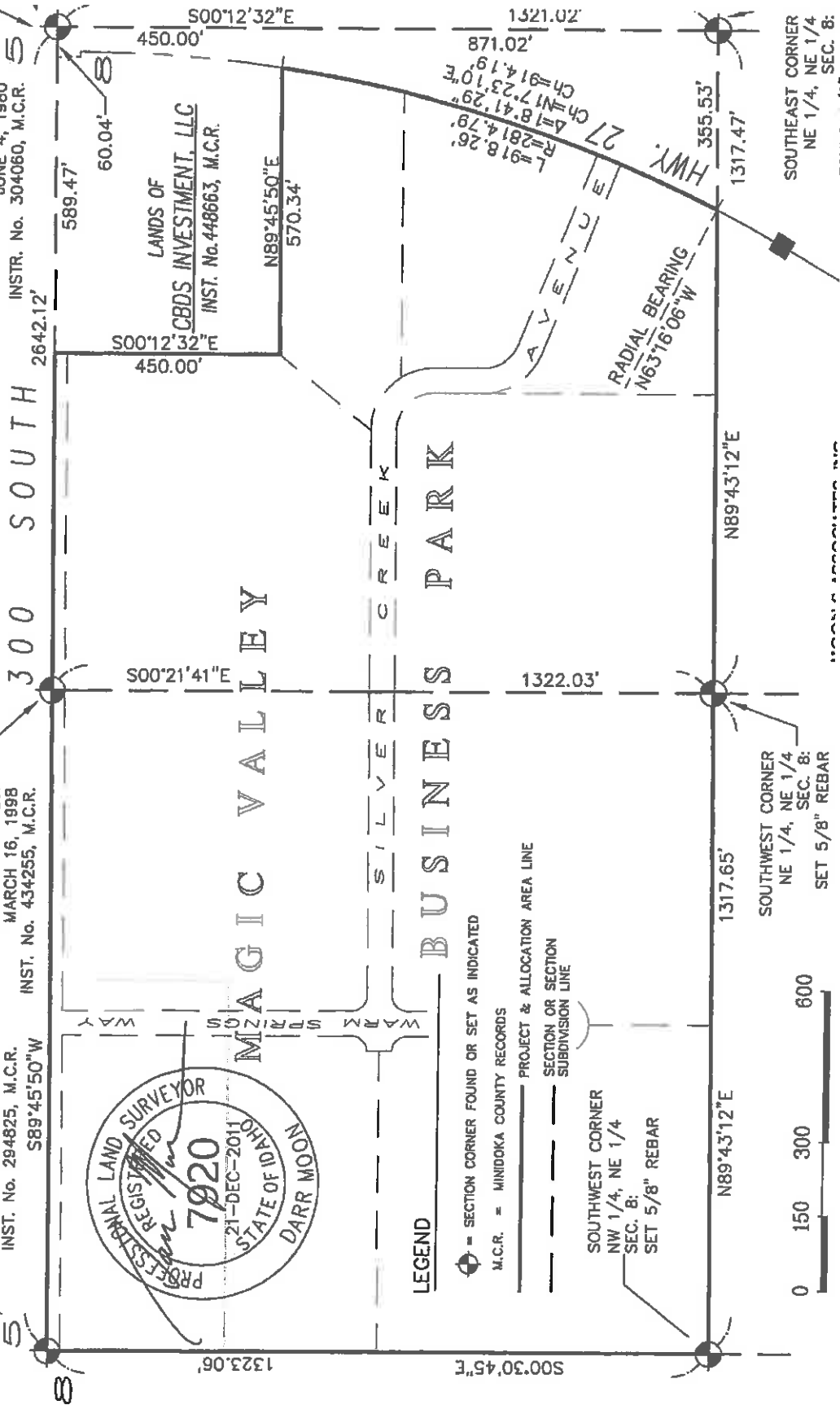
— PROJECT & ALLOCATION AREA LINE

--- 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

0 150 300 600



Instrument # 515218

MINIDOKA COUNTY, RUPERT, IDAHO

12-29-2011 09:25:07 No. of Pages: 4

Recorded for : CITY OF HEYBURN

PATTY TEMPLE

Fee: 0.00

Ex-Officio Recorder Deputy

R. Watson

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

Attest:

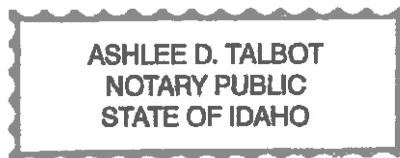

Deborah F. Hopkins, Clerk

STATE OF IDAHO)
) ss.
County of Minidoka)

On this 28th 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)



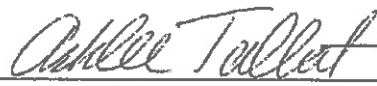

Notary Public for Idaho
Residing at: Heyburn, Idaho
Commission Expires: 12-7-2014

EXHIBIT "A"

PROJECT AREA & REVENUE ALLOCATION BOUNDARY MAP

NORTHWEST HEYBURN INDUSTRIAL URBAN RENEWAL PROJECT

TOWNSHIP 10 SOUTH, RANGE 23 EAST, BOISE MERIDIAN,

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

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.

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

NORTHEAST CORNER
SECTION B:
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

SOUTHEAST CORNER
NE 1/4, NE 1/4, SEC. 8:

