

POCATELLO DEVELOPMENT AUTHORITY
Board of Directors Meeting

City Hall, Council Chambers
911 North 7th Avenue

November 9, 1993
11:00 a.m. to 12:00 p.m.

Call to Order and Introduction - John Carlson, Chairman
Acknowledge Guests of the Board, if any
Disclose Conflicts of Interest, if any
Minutes - Motion to Approve and/or Amend
Agenda - Add or Delete Action or Discussion Items

Action Items

Review Income and Expenses for October 1993, and Monthly Estimates
for the Year 1993

Consider a Proposal of Shepherd Engineering to Cease Certain Work in Newtown
District, Phase II, During Cold Weather

Consider Payment of Certain Bills for Construction Work and Engineering Services

Consider a Draft Proposal to have Old Town Pocatello Assume Certain Management
and Administration of the Old Town Urban Renewal Area

Update Items

Progress on Proposed Development of Land at Main & Bonneville

Progress Report on New PDA Projects

Discussion Items

Gateway West Industrial District (Dal-Tile Corp.)
Old Kraft Road District (Domsea/Aqua Sea)
Downtown Development District (Kress Building)
New Proposals, if Any

Executive Session, if Requested

TO: PDA Board of Commissioners
FROM: T. A. Arnold
DATE: November 5, 1993
SUBJECT: Board Meeting November 9

This is to remind you of PDA's Board Meeting next Tuesday, November 9 at 11 AM in Council Chambers, City Hall.

In anticipation of Tuesday's meeting, I'm enclosing for your review:

1. Agenda, November 9 meeting
2. Minutes of PDA October 14 meeting
3. Draft of a Proposed Contract between PDA and OTP

OTP's proposal will serve as basis for discussion of an arrangement whereby OTP would assume certain management and administration of the Old Town Urban Renewal Area and its revenue allocation financing provision. If the Board endorses the concept and intent of the agreement, Jay Schlinsog and I could further define and clarify the scope of services, responsibilities, compensation, etc., leading to a final version for consideration at PDA's December meeting.

DRAFT
11-1-93; Version #1

PROFESSIONAL SERVICES AGREEMENT

This Agreement is entered into this 1st day of January, 1994, by and between the Pocatello Development Authority of 1651 Alvin Ricken Drive, Pocatello, Idaho, 83201, an independent public body, corporate and public, authorized under the authority of the Idaho Urban Renewal Law of 1965, as amended, Chapter 20, Title 50, Idaho Code, a duly created and functioning urban renewal agency for Pocatello, Idaho, hereinafter referred to as the "Authority," and Old Town Pocatello, Inc., of 326 West Center Street, Pocatello, Idaho, 83204, an Idaho non-profit corporation, hereinafter referred to as the "Contractor."

WHEREAS, the Authority desires to develop and implement the recommendations, projects and activities set forth in the Old Town Urban Renewal Plan within the designated boundaries of the Old Town Urban Renewal Area; and

WHEREAS, the Authority desires to contract the services of a professional development, management and administrative organization familiar with urban renewal activities, developments, projects and programs as they apply to the Old Town Urban Renewal Area to assist the Authority in the management, administration and implementation of projects in the Old Town Urban Renewal Area as is authorized by the Local Economic Development Act, Chapter 29, Title 50 of the Idaho Code, and as further defined in Idaho Code Section 50-2903 (11)(d); and

WHEREAS, the Contractor has demonstrated its experience and qualifications to provide such assistance in professional management, administration, development and implementation, including its services provided to complete the Old Town Urban Renewal Plan, establish the Old

Town Urban Renewal Area, and produce the supplementary Old Town Revitalization Plan; and

WHEREAS, the Pocatello City Council did adopt City Ordinance No. _____ on the _____ day of _____, 1993, which effectively adopted the Old Town Urban Renewal Plan with a revenue allocation provision and established the boundaries of the Old Town Urban Renewal Area; and

WHEREAS, the Contractor has demonstrated its knowledge and expertise to develop and implement projects consistent with the authority of the Idaho Urban Renewal Law of 1965, as amended, Chapter 20, Title 50, Idaho Code; and

NOW, THEREFORE, the parties hereto do mutually agree as follows:

1. EFFECTIVE DATE AND TERM OF AGREEMENT. This Agreement takes effect on January 1, 1994. The initial term of this Agreement shall be for twelve (12) months, or until earlier terminated as provided herein.

2. SCOPE OF SERVICES. Subject at all times to the approval and direction of the Authority and its determination that such services are consistent with the projects, goals and objectives defined in the Old Town Urban Renewal Plan and supplementary Old Town Revitalization Plan, the Contractor shall perform the services defined in Exhibit "A" to this Agreement, which by this reference is made a part hereof.

The Authority shall furnish, as such may be available, the Contractor with all data and information reasonably necessary to perform the services specified in Exhibit "A."

3. PAYMENT FOR SERVICES. For the satisfactory completion of the services to be provided under this Agreement, the Authority agrees to

compensate the Contractor the sum of \$200.00 per month during the term of this agreement, which the Authority agrees to pay as set forth on the attached Exhibit "B", which by this reference is made a part hereof.

The Authority agrees to reimburse the Contractor as set forth in Exhibit "B" for other authorized reasonable expenses incurred by the Contractor during the course of performing the services set forth in this Agreement.

4. INDEPENDENT CONTRACTOR. It is understood by the parties hereto that the Contractor is an independent contractor and as such neither it nor its employees, if any, are employees of the Authority for the purposes of tax, retirement system, or social security (FICA) withholding. It is further understood that the Contractor has obtained, and will maintain at its expense for the duration of this Contract, statutory workers' compensation coverage, employer's liability and comprehensive general liability insurance coverage for its principals and employees for the services to be performed hereunder.

5. LIAISON. The Authority's designated liaison with the Contractor is Tom Arnold, 1651 Alvin Ricken Drive, Pocatello, ID, 83201. The Contractor's designated liaison with the Authority is Jay Schlinsog, 326 West Center Street, P.O. Box 222, Pocatello, ID, 83204. The liaisons may be changed by the parties hereto upon written notice.

6. MODIFICATION AND ASSIGNABILITY OF AGREEMENT. This Agreement contains the entire agreement between the parties, and no statements, promises or inducements made by either party, or agents of either party, which are not contained in the written Agreement are valid or binding. This Agreement may not be enlarged, modified or altered

except upon written agreement signed by both parties hereto. The Contractor may not subcontract or assign its rights (including the right to compensation) or duties arising hereunder without prior written consent of the Authority. Any authorized subcontractor or assignee will be bound by all of the terms and conditions of this Agreement.

7. TERMINATION OF CONTRACT. This Agreement may be terminated as follows:

A. Termination due to insufficient available funds or for convenience. This Agreement may be terminated, in whole or in part, by the Authority at its discretion in the event that the Authority does not receive sufficient available funds to permit the Authority to pay Contractor. In this event, the Authority will give the Contractor at least thirty (30) days advance written notice which sets forth the effective date of the termination and explain that the termination is due to lack of sufficient available funds. In any event, either party may terminate this Agreement at any time for convenience upon sixty (60) days advance written notice.

B. Termination for cause. If the Authority determines with "reasonable cause" that the Contractor has failed to comply with the terms and conditions of the Agreement, it may terminate this Agreement in whole or in part at any time before the date of completion. "Reasonable cause" for the purpose of this agreement shall exist if:

(i) The Authority gives written notice to the Contractor of any or all deficiencies claimed; and

(ii) If all defaults disclosed in the notice set forth hereinafter are not cured and corrected within thirty (30) days or a reasonable period to

be specified in the notice.

C. Payment Post Termination. The Contractor will, in the event of termination, be entitled to receive payment only for those services reasonably performed to the date of termination less the amount of reasonable damages, if any, suffered by the Authority by reason of the Contractor's failure to comply with this Agreement.

9. OWNERSHIP AND PUBLICATION OF MATERIALS. All reports, information, data and other materials prepared by or for the Contractor pursuant to this Agreement are to be the sole property of the Authority. The Authority has the exclusive and unrestricted authority to release, publish or otherwise use said materials. The Contractor's use, except for the purposes noted herein, of said materials must be with prior written approval of the Authority.

11. ACCESS TO RECORDS. It is expressly understood that all records pertaining to the Authority and relating to this Agreement will be available during normal business hours for inspection by the Authority.

12. CONSTRUCTION AND VENUE. This Agreement will be construed under and governed by the laws of the State of Idaho. In the event of litigation concerning it, venue is the Sixth Judicial District in and for the County of Bannock, State of Idaho.

13. LIABILITY AND INDEMNIFICATION. Each party hereby waives any and all claims and recourse against the other party, including the rights of contribution for loss or damage to persons or property arising from, growing out of, or in any way connected with or incident to the parties' performance of this Agreement, except for liability arising out of a breach of this Agreement by the other party or arising out of the sole

negligence or misconduct of the other party (or such other party's officers, agents, or employees acting within the scope of their respective duties to such other party). Further, each party agrees that it will indemnify, hold harmless and defend the other party against any and all claims, demands, damages, costs, expenses or liability arising out of the indemnifying party's performance of this Agreement, except for claims, demands, damages, costs, expenses or liability arising out of the sole negligence or misconduct of the indemnified party or the indemnified party's officers, agents or employees acting within the scope of their respective duties to the indemnified party.

14. LEGAL FEES. In the event either party incurs legal expenses to enforce the terms and conditions of this Agreement, the prevailing party is entitled to recover reasonable attorney's fees and other costs and expenses. IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date mentioned above.

POCATELLO DEVELOPMENT AUTHORITY

John Carlson, Chairman,
Board of Directors,
Pocatello Development Authority

Date: _____

ATTEST:

, Secretary,
Board of Directors,
Pocatello Development Authority

Date: _____

OLD TOWN POCATELLO, INC.

Tim Whiteus, President,
Board of Directors, Old Town
Pocatello, Inc.

Date:_____

ATTEST:

Kelly Mann, Secretary,
Board of Directors,
Old Town Pocatello, Inc.

Date:_____

STATE OF IDAHO)
 : ss
County of Bannock)

On this____day of _____, 1994, before me, the undersigned, a Notary Public in and for the State, personally appeared John Carlson and *****, known to me to be the Chairman and Secretary, respectively, of the Pocatello Development Authority of Pocatello, Idaho, a public body, corporate and politic, authorized under the authority of the Idaho Urban Renewal Law of 1965, as amended, Chapter 20, Title 50, Idaho Code, a duly created and functioning urban renewal agency for Pocatello, Idaho, who executed the foregoing instrument on behalf of said agency, and acknowledged to me that such agency executed the same.

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

NOTARY PUBLIC FOR IDAHO
Residing in Pocatello, Idaho.
My commission expires:_____

STATE OF IDAHO)
 : ss
County of Bannock)

On this____day of _____, 1993, before me, the undersigned, a Notary Public in and for the State, personally

appeared Tim Whiteus and Kelly Mann, known to me to be the President and Secretary, respectively, of Old Town Pocatello, Inc., a corporation licensed to do business in the State of Idaho, who executed the foregoing instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

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

NOTARY PUBLIC FOR IDAHO
Residing in Pocatello, Idaho.
My commission expires:_____

EXHIBIT "A"

SCOPE OF SERVICES

Subject at all times to the direction and expressed authorization of the Authority, the Contractor shall perform the services provided herein.

1. Administration.

1.1 Record keeping as required by the Authority and all applicable federal, state and local laws relative to the operations, projects and activities of the Contractor in managing and administering the Old Town Urban Renewal Area and Revenue Allocation Area, including the tracking of those funds derived from the Revenue Allocation Area.

1.2 Assistance in performing accounting functions for the Old Town Urban Renewal Area and its revenue allocation financing provision consistent with requirements of the Local Economic Development Act and as could include processing of monthly financial statements and an annual report to be integrated and consistent with the Authority's accounting systems.

1.3 Development of projects, including, financing timetables and budgets, for those activities and projects proposed for implementation and so authorized for implementation by the Authority, funding for which may be wholly or in part consisting of revenues from the Old Town Urban Renewal Area and its revenue allocation provision.

1.4 Assistance to facilitate the means of arresting conditions of slum and blight and increasing private investment in the Old Town Urban Renewal Area, to include communications and correspondence with property owners, private investors and appropriate public entities, and utilizing those methods and activities defined and authorized by the Local

Economic Development Act, Chapter 29, Title 50 of the Idaho Code. Contractor shall provide reports of such correspondence and activities to the Authority at the Authority's regular monthly meetings.

1.5 Financial accounting and reports for all expenses incurred of and by the Contractor to include all expenses associated with the performance of services set forth in this Agreement, including expenses incurred for: long distance telephone service; photocopying supplies; postage; dues/subscriptions; printing; and other such office supplies as are necessary and required.

2. Management

2.1 Community communications and correspondence, as authorized by the Authority, to include news releases, publicity campaigns and other various communications and correspondence as may be authorized by the Authority.

2.2 Maintenance of computer files to include ownership listings, mailing lists, and other such data files as are required for the efficient tracking and operations of the Old Town Urban Renewal Area.

2.3 Contractor shall be represented at all meetings of the Authority's Board of Directors for the purpose of providing reports relative to projects, and progress thereof, being undertaken within the Old Town Urban Renewal Area.

2.4 Assistance in monitoring projects authorized by the Authority and being undertaken within the Old Town Urban Renewal Area, including project management activities such as the procurement and supervision of contractors' services for design, engineering, construction, and other

such services as may be required and authorized by the Authority.

2.5 Provide at a cost as scheduled in Exhibit "B" for use of photocopiers, facsimile service, and other such equipment as is normally available in the Contractor's office and at the rates set forth in Exhibit "B" to this Agreement.

2.7 Assistance in drafting and developing formal management policies and procedures for the efficient operations of the Old Town Urban Renewal Area.

3. Additional Revenue Procurement

3.1 Assistance in identifying additional sources of funding for projects and activities identified for implementation in the Old Town Urban Renewal Plan and Old Town Revitalization Plan, to include grants, contributions, gifts, endowments and other such funding sources as may be appropriate and available from public and private sources.

3.2 Coordination of financing with other public and private entities implementing projects and activities in the Old Town Urban Renewal Area.

EXHIBIT "B"

METHOD OF COMPENSATION

A. PAYMENT FOR PROFESSIONAL SERVICES

For the satisfactory performance of the services to be provided under this agreement, the Authority will pay the Contractor the sum of \$200.00 per month during the term of this agreement, which the Authority agrees to pay as set forth herein.

It is expressly understood that the total compensation to be paid to the Contractor for professional services shall not exceed \$2,400.00 per annum during the term of this agreement, unless authorized in advance and in writing. The first \$200.00 monthly installment will be paid by January 5, 1994 and, thereafter, installments in the sum of \$200.00 will be paid by the 5th day of each month for the term of this agreement.

B. PAYMENT OF REIMBURSABLE EXPENSES

The Authority agrees to reimburse the Contractor for all expenses as have been generally identified and authorized in advance by the Authority and are associated with normal operations, management and administration of the Old Town Urban Renewal Area, to include: long distance telephone service expenses; postage; dues and subscriptions; printing; and other such office supplies as are required.

The Contractor shall provide for the use of equipment, at the following costs, to be reimbursed by the Authority:

- a) Photocopier Service. Photocopier service shall be furnished at the rate of four (4) cents per copy for one sided copies and six (6) cents per copy for two-sided copies. These rates are determined to include the costs of paper, supplies and maintenance.

b) Facsimile Service. Facsimile service shall be furnished at a rate of ten (10) cents per page for incoming transmissions. Local outgoing transmissions will be furnished at a rate of fifty (50) cents for each transmission. Long distance transmissions will be furnished based on the cost of the long distance telephone charges plus ten (10) percent.

Expenditures for supplies and equipment other than those listed herein shall require the prior approval of the Authority. Any single reimbursable expenditure of \$50.00 or more will require the prior approval of the Authority. Expenses associated with the above shall not total more than \$100 in any single month.

The Contractor will submit an invoice with supporting documentation for all authorized reimbursable expenses no more than once a month and the Authority will pay said invoices within ten (10) days of the Authority's approval at its regular monthly meeting.