

AGENDA
POCATELLO DEVELOPMENT AUTHORITY
MEETING
SEPTEMBER 18, 2024 – 11:00 AM
COUNCIL CHAMBERS | 911 N 7TH AVENUE

City Hall is accessible to persons with disabilities. Program access accommodations may be provided with two (2) days' advance notice by contacting Skyler Beebe at sbeebe@pocatello.us, 208.234.6248, or 5815 South 5th Avenue, Pocatello, Idaho.

In the event this meeting is still in progress at 12:00 p.m., a ten-minute recess may be called.

- 1. CALL TO ORDER, ROLL CALL, DISCLOSE CONFLICTS OF INTEREST AND ACKNOWLEDGMENT OF GUESTS.**
- 2. ACTION ITEM: MEETING MINUTES.** The Board may wish to waive the oral reading of the Board of Commissioners' regular and special meeting minutes held August 21, 2024, and approve the minutes as written. **(ACTION ITEM)**
- 3. MONTHLY FINANCIAL REPORT, EXPENSES AND REIMBURSEMENTS.** The Board may wish to approve the monthly financial report, expenses and reimbursements. **(ACTION ITEM)**
- 4. PORTNEUF CAPITAL LLC OPA 2 FOR RECLAMATION AND POWER.** The Board may wish to review and execute the Portneuf Capital LLC OPA 2 for reclamation and power. **(ACTION ITEM)**
- 5. CALENDAR REVIEW.** The Board may wish to take this opportunity to inform other Board members of upcoming meetings and events that should be called to their attention.
- 6. ADJOURN MEETING.**

Action Item 2

MINUTES
CITY OF POCATELLO
POCATELLO DEVELOPMENT AUTHORITY MEETING
AUGUST 21, 2024 – 11:00 AM
COUNCIL CHAMBERS | 911 NORTH 7TH AVENUE, POCATELLO

1. CALL TO ORDER AND DISCLOSURE OF CONFLICTS OF INTEREST.

Vice Chair Jeff Hough called the meeting to order at 11:00 AM. No conflicts were disclosed.

Members present: Mayor Brian Blad, Jeff Hough, Jim Johnston, Linda Leeuwrik, Fred Parrish, N. Richardson, and Ruby Walsh.

Members excused/unexcused: Kirk Lepchenske and David Villarreal.

Others present: Executive Director Brent McLane, Treasurer Thane Sparks, Secretary Aceline McCulla, City of Pocatello Development Engineer Merril Quayle, City of Pocatello Attorney Jared Johnson, City of Pocatello PW Director/City Engineer Jeff Mansfield, and other visitors.

2. EXECUTIVE SESSION.

The Board may wish to go into Executive Session to communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated. Idaho Code Section 74-206(1)(c).

With no further discussion, it was moved by **N. Richardson** and seconded by B. Blad to convene into Executive Session in accordance with Idaho Code Section 74-206(1)(c), to acquire an interest in real property, which is not owned by a public agency at approximately 11:24 AM. Those in favor: B. Blad, J. Hough, J. Johnston, L. Leeuwrik, F. Parrish, N. Richardson, and R. Walsh. Unanimous. Motion carried.

3. APPROVE THE MINUTES.

The Board may wish to waive the oral reading of the minutes and approve the minutes from the Board of Commissioners regular and executive session meetings held July 17, 2024.

It was moved by **B. Blad** and seconded by **J. Johnston** to approve the minutes as written from the regular and executive session meetings held July 17, 2024. Those in favor: B. Blad, J. Hough, J. Johnston, F. Parrish, N. Richardson, and R. Walsh. Unanimous. Motion carried.

4. MONTHLY FINANCIAL REPORT, EXPENSES AND REIMBURSEMENTS.

The Board may wish to approve the monthly financial report, expenses and reimbursements.

It was moved by **B. Blad** and seconded by **L. Leeuwrik** to approve the financial report, expenses and reimbursements as presented. Those in favor: B. Blad, J. Hough, J. Johnston, F. Parrish, N. Richardson, and R. Walsh. Unanimous. Motion carried.

5. DISCUSS, APPROVE, AND EXECUTE DEATON AND COMPANY AUDIT AND SCOPE OF WORK AGREEMENT FOR THE FISCAL YEAR 2024 AUDIT. The Board may wish to discuss, approve and executive Deaton and Company's Audit and Scope of Work agreement to complete the Fiscal 2024 Audit.

It was moved by **B. Blad** and seconded by **L. Leeuwrik** to approve and execute the FY2023 Annual Audit and Scope of Work Agreement by Deaton and Company as presented. Those in favor: B. Blad, J. Hough, J. Johnston, F. Parrish, N. Richardson, and R. Walsh. Unanimous. Motion carried.

6. APPOINT THANE SPARKS AS TREASURER FOR FISCAL YEAR 2025, AND THEN DISCUSS, APPROVE, AND EXECUTE THE CONSULTANT CONTRACT AND RESOLUTION 2024-1. The Board may wish to appoint Thane Sparks as Treasurer for Fiscal Year 2025, and then discuss, approve, and execute the Consultant Contract and Resolution 2024-1.

Thane Sparks stated he appreciates working with the Board and the opportunity provided him

It was moved by **B. Blad** and seconded by **R. Walsh** to appoint Thane Sparks as Treasurer, and approve and execute the Treasurer Consultant Contract and Resolution 2024-1 as presented. Those in favor: B. Blad, J. Hough, J. Johnston, F. Parrish, N. Richardson, and R. Walsh. Unanimous. Motion carried.

The Board agreed to a friendly amendment to include approving and executing the Treasturer Consultant Contract and Resolution 2024-1 with the appointment motion.

7. NORTH PORTNEUF DISTRICT RAILWAY OVERPASS. The Board may wish to discuss, approve and execute the proposed RFQ for creating a design for a new roadway and overpass.

Quayle presented the plan to accommodate traffic to enter the area with a straight roadway utilizing the proposed overpass by moving the roadway to the east a bit and softening the entry way on the property.

McLane noted that the property owner of a small essential parcel recently deceased, and research for the current property owner is in progress.

Quayle noted the TIF (URA) is closing soon, so we want to get this going and completed before that happens.

It was moved by **J. Johnston** and seconded by **L. Leeuwrik** to approve the North Portneuf District Railway Overpass RFQ as presented. Those in favor: B. Blad, J. Hough, J. Johnston, F. Parrish, N. Richardson, and R. Walsh. Unanimous. Motion carried.

8. CALENDAR REVIEW.

The Board may wish to take this opportunity to inform other Board members of upcoming meetings and events that should be called to their attention.

9. ADJOURN MEETING.

With no further business, **Hough** adjourned the regular meeting at 11:24 AM and the Board moved into executive session at 11:24 AM.

Submitted by:

Aceline McCulla, Secretary

Approved on:

MINUTES
POCATELLO DEVELOPMENT AUTHORITY
EXECUTIVE SESSION MEETING
AUGUST 21, 2024 – 11:04 AM
IWAMIZAWA CONFERENCE ROOM | 911 N 7TH AVENUE

Vice Chair Hough called the meeting to order at 11:30 AM.

1. ROLL CALL.

Members present: Mayor Brian Blad, Jeff Hough, Jim Johnston, Linda Leeuwrik, Fred Parrish, Nathan Richardson, and Ruby Walsh.

Members unexcused: Kirk Lepchenske and David Villarreal.

Others present: Executive Director Brent McLane, Secretary Aceline McCulla.

2. EXECUTIVE SESSION. The Board may wish to go into Executive Session to acquire an interest in real property, which is not owned by a public agency. Idaho Code Section 74-206(1)(c).

Board members discussed topics within the parameters of the above statute.

With no further discussion, it was moved by **L. Leeuwrik** and seconded by **R. Walsh** to adjourn the executive session pursuant to Idaho Code §74-206(1)(c) at 11:51 AM. Roll Call Vote: those in favor: B. Blad, J. Hough, J. Johnston, L. Leeuwrik, Fred Parrish, N. Richardson, and R. Walsh. Unanimous. Motion Carried.

By:

Aceline McCulla, Secretary

Approved on:

Action Item 3

**Pocatello Development Authority
 Monthly Finance Report
 September 18, 2024
 Fiscal Year 2024**

Expenditure Approvals:

Checks to be ratified:

<u>Vendor</u>	<u>Check #</u>	<u>Amount</u>
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Checks to be approved:

<u>Vendor</u>	<u>Check #</u>	<u>Amount</u>	<u>Board Approval</u>
ICCU VISA	dbt24-9	218.94	Red Roasters (lunch-\$145.26), Walmart (\$3.69), Microsoft Office 365 annual subscription (69.99)
Thane Sparks	2034	1,500.00	August Services
SB Friedman	2035	21,965.00	Invoice#3 - Pocatello-3 URA Feasibility Studies, South 5th
ICRMP	2036	5,949.50	6 month - insurance policy
Elam & Burke	2037	950.00	invoice 210306 - \$775, invoice 210307 - \$175
Aceline McCulla	2038	20.00	invoice 24-2, dessert

Cash Balances as of September 18, 2024

	General Fund		Naval Ordinance		North Portneuf		Airport		Northgate		Total	
	Budget	Actual	Budget	Actual	Budget	Actual	Budget	Actual	Budget	Actual	Budget	Actual
Cash	1,091,387.87		29,478.41		1,767,998.90		46,012.93		326,522.87		3,261,400.98	
Income												
Administrative fees	75,100										75,100	0.00
Property taxes	14,400	34,944.73	124,000	138,152.26	103,000	93,955.26	83,800	80,182.25	295,000	578,042.79	620,200	925,277.29
Note payments		1,839.89									-	1,839.89
Interest income	21,960	142,552.50	200		32,960		200		6,900		62,220	142,552.50
Other											-	0.00
Total Income	111,460	179,337.12	124,200	138,152.26	135,960	93,955.26	84,000	80,182.25	301,900	578,042.79	757,520	1,069,669.68
Expense												
Administrative expense			18,200		15,500		17,700		15,500		66,900	0.00
Luncheon costs	2,100	1,763.02									2,100	1,763.02
Office expenses	500	554.92									500	554.92
Dues and memberships											-	0.00
Insurance	8,500	14,448.50									8,500	14,448.50
Training and Travel												0.00
City admin charges	16,000	18,445.25									16,000	18,445.25
Professional services	130,000	149,924.98					15,000	86,333.26			145,000	236,258.24
Economic Development Grants												0.00
Non-capital Infrastructure	1,052,360		166,000	166,066.00	1,768,460		62,100		633,300	635,612.11	3,682,220	801,678.11
Total Expense	1,209,460	185,136.67	184,200	166,066.00	1,783,960	0.00	94,800	86,333.26	648,800	635,612.11	3,921,220	1,073,148.04

Red Hot Roasters

737 E CLARK ST

POCATELLO ID 83201

Phone: 208.233.0902 Contact: Karen, Email: huiekaren768@gmail.com

City of Pocatello Tax Exempt ID: 82-6000244

City of Pocatello PDA Meeting for **September 18, 2024**

Deliver by 10:30 AM to 911 N 7th Ave, City Hall Council Chambers, located across from the Utility Billing Windows, if you reach the restrooms, you have gone too far).

Call Aceline to confirm price, details, & take payment on my mobile 406.202.6444 by 4 p.m. on 4.10.2024

Name	Items	Qty	Each Cost	Totals
Aceline	Asian Chicken Salad	1	\$ 8.99	\$ 8.99
Brent	Asian Chicken Salad	1	\$ 8.99	\$ 8.99
Thane	The Squeak w/Greek pasta salad	1	\$ 9.49	\$ 9.49
Ruby	Campagnolo w/Greek pasta salad	1	\$ 9.49	\$ 9.49
Jeff H	Campagnolo w/Red Potato Salad	1	\$ 9.49	\$ 9.49
Fred	Meaty McCabe w w/Greek Pasta	1	\$ 10.49	\$ 10.49
Jim	Turkey Bacon Swiss w/Red potato-blue cheese salad	1	\$ 10.49	\$ 10.49
Brian	Turkey Bacon Swiss w/Greek Pasta salad	1	\$ 10.49	\$ 10.49
Linda	Turkey Bacon Swiss, no side	1	\$ 10.49	\$ 10.49
Kirk	Big Bubba (HOT) w/Red potato blue cheese salad	1	\$ 9.49	\$ 9.49
Merril	Big Bubba (COLD) Nacho Cheese Doritos chips	1	\$ 9.49	\$ 9.49
Nathan	The Italiano, no side	1	\$ 9.49	\$ 9.49
	TOTAL FOOD	12		\$ 116.88
	Gratuity 20% on food			\$ 23.38
	Delivery Charge			\$ 5.00
	TOTAL CREDIT CARD PAYMENT PAID			<u>\$ 145.26</u>

INSTRUCTIONS:

Will you please cut sandwiches in half, wrap and write the person's name on their sandwich.

Will you please put dressings in a side container.

Napkins 2-3 per person please and appropriate utensils

Thank you, your food and friendly services is greatly appreciated.

Give us feedback @ survey.walmart.com
Thank you! ID #:7TN3FHPL040



WM Supercenter
208-237-5000 Mgr TODD
4240 YELLOWSTONE AVE
CHUBBUCK ID 83202
ST# 01995 OP# 009003 TF# 03 TR# 01467

ITEMS SOLD 1
TC# 5380 4310 4681 0773 2627



CLR CUTLERY 078742116750 3.48 X

	SUBTOTAL	3.48
TAX1	6.0000 %	0.21
	TOTAL	3.69
	VISA TEND	3.69
	CHANGE DUE	0.00

VISA CREDIT- 0272 I 0 APPR#022309
3.69 TOTAL PURCHASE
REF # U760gL311373
TRANS ID - 384256735362344
VALIDATION - T6Z6
PAYMENT SERVICE - E
AID A000000031010
TERMINAL # 28322731
*No Signature Required
09/12/24 14:25:35



Get free delivery
from this store
with Walmart+

Scan for 30 day free trial.

Low prices You Can Trust. Every Day.
09/12/24 14:25:44

Will bill and invoice on September 14, 2024, no change from last year's invoice as shown below.

August 23, 2023 | Order number 6934477294



Microsoft 365 Personal
\$69.99 | Subscription

Completed

[Manage subscription](#)

Total \$69.99

Paid with Visa **0272

[Hide details](#) ^

Shipping details

911 N 7th Ave
Pocatello, id, 83201-7700
US

Billing details

Subtotal	\$69.99
Tax	\$0.00
Total	\$69.99
Paid with	Visa **0272

Related links: [Print order](#) [Order help](#)

[Feedback](#)

SB Friedman Development Advisors, LLC
70 W. Madison St., Suite 3700
Chicago, IL 60602
312/424-4250 fax 312/424-4262

September 5, 2024
Invoice No: 3

Brent McLane
Pocatello Development Authority
P.O. Box 4169
Pocatello, ID 83205-4169

Project 00112.23 Pocatello – 3 URA Feasibility Studies
South 5th

Professional Services Rendered Re: Start market analysis; create inventory maps and analyze market conditions, start coordinating key informant interviews, conduct internal and external coordination

June 8, 2024 to August 30, 2024

	Hours	Rate	Amount
G. Dickinson, Senior Vice President	5.25	\$300.00	\$1,575.00
E. Caminer, Project Manager	12.00	\$245.00	\$2,940.00
A. Daniel, Senior Associate (reflects 7/6/24 promotion)	77.00	\$205.00	\$15,785.00
A. Daniel, Associate	9.25	\$180.00	\$1,665.00
	<u>103.50</u>		<u>\$21,965.00</u>
Total Professional Fees			\$21,965.00
		Total this Invoice	\$21,965.00

Thank you. We appreciate the opportunity to work with you.

Invoices are payable within 30 days.

Member Billing Contact:

Brent McLane
 Pocatello Development Authority
 PO Box 4169
 Pocatello, ID 83205

Invoice Date: 9/1/2024
Invoice Number: 18045 - 2025 - 1
Policy Period: 10-1-24 to 9-30-25
Policy Number: 44A18045100124

Insurance Billing

DESCRIPTION
10/1/2024 - 9/30/2025 Policy Year Annual Premium: \$11,899.00 Minimum Due 10/15/2024: \$5,949.50 Balance Due 4/15/2025: \$5,949.50
For proper application, please do not combine other payments with your premium remittance.

Please Detach and Submit with Payment



Member Owned, Member Driven

Member:

Pocatello Development Authority
 PO Box 4169
 Pocatello, ID 83205

Make Checks Payable to:

ICRMP
 PO Box 15116
 Boise, ID 83715

Invoice Date:	9/1/2024
Invoice Number:	18045 - 2025 - 1
Due Date:	10/15/2024
Minimum Due:	\$5,949.50
Amount Paid:	

Write Amount Paid Here

Address Corrections? Please make changes on the back of this form and enclose with your payment.

**SUMMARY OF ICRMP PUBLIC ENTITY POLICY CHANGES
October 1, 2024 through September 30, 2025**

Please note that not every change may apply to you. Please refer to your own policy for specific changes.

Key

CLARIFY –When definitions or terms in the policy are altered or changed to further clarify intent or define terms.

BROADEN – When the change adds or expands coverage or adds or increases limits of insurance.

REDUCTION – When the change removes or lowers coverage or removes or lowers limits of insurance.

A. SECTION II, GENERAL DEFINITIONS

Item 1: A. (22.) *Pollutants* – CLARIFY

Added to the definition to include unhealthy or hazardous building materials, including asbestos and lead products. (Page 4)

B. SECTION III, GENERAL CONDITIONS

Item 1: A. (6.) *Deductibles* – CLARIFY

Amended language to explain loss payments will be paid after the applicable deductible amount is exceeded, and then up to the limit of insurance. Also further explained that when two or more deductibles apply to a loss, the higher of the applicable deductibles will be the deductible applied. (Page 9)

Item 2: A. (8. f.) *Duties* – CLARIFY

Added language to include a reporting deadline for first party property damage or loss, within one year of the date of loss. (Page 10)

C. SECTION IV, GENERAL EXCLUSIONS

Item 1: A. (25.) *Library Materials* – BROADEN

Leaving current exclusion; however, the exclusion will NOT apply to claims where members have complied with ALL provisions of Idaho Code 18-1517B. (Page 21)

D. SECTION V, PROPERTY INSURANCE

Item 1: *Vehicles & Mobile Equipment* - REDUCTION

New sublimit placed on vehicles and equipment, at \$1,500,000 when traveling over the road, and no more than \$10,000,000 for multiple items per occurrence while not in use or stationary. (D-2, 27)

Item 2: *Property Deductible* – CLARIFY

Updated the overall property deductible to vary for Automobile Physical Damage or Mobile Equipment damage (\$1,500), and damage to buildings, structures, contents or property in the open (\$10,000). (D-2)

Item 3: *Hail, and Pipes & Fittings Failure Deductibles* – REDUCTION

Increased to 10% of the loss. (D-2)

Item 4: Wind Deductible – BROADEN

Removed the 10% deductible for this peril. (D-2)

Item 5: Property Insurance - REDUCTION

Removed Terrorism as a covered peril throughout the property insurance. (Throughout)

Item 6: Property Insurance A. 1. (2) Debris Removal – REDUCTION

The sublimit for debris removal is now \$1,000,000 or 25% of the loss, whichever is lesser. (Page 24)

Item 7: Property Insurance A. 1. (3) Ordinance or Law – REDUCTION

Changed name of coverage to Ordinance or Law. The sublimit is also reduced to \$1,000,000 per occurrence. (Page 24-25)

Item 8: Property Insurance A. 1. (5) Operational Disruption Expense – REDUCTION

The overall sublimit is reduced to \$2,500,000 per occurrence, and each sublimit included within is lowered to \$250,000, except a new sublimit of \$500,000 for income loss. (Page 25-26)

Item 9: Property Insurance A. 1. (6) Property in the Course of Construction – REDUCTION

Amended language to only apply to new buildings or additions, as well as outlined when this coverage ends and when we will charge additional premium. Limit increased to \$2,500,000 (Page 27)

Item 10: Property Insurance A. 2. – Asbestos Cleanup and Removal - REDUCTION

Added coverage for extracting asbestos if resulting from a covered claim. Sublimit is \$100,000 for all covered expenses arising out of the loss. (Page 27-28)

Item 11: Property Insurance A. 9. Newly Acquired Property – BROADEN

The overall sublimit is increased to \$2,500,000 per occurrence. Also outlined when we will charge additional premium mid-term. (Page 28)

Item 12: Condition C. 4. – Deductibles - CLARIFY

Amended language to explain that when two or more deductibles apply to a loss, the higher of the applicable deductibles will be the deductible applied. (Page 31)

Item 13: Condition C. 4. g. – Pipes or Fittings Failure - REDUCTION

Added condition to explain how a deductible for Pipes or Fittings Failure applies. Deductible is 10% of the loss. Removed sublimit for this item. (Page 31 & D-2)

Item 14: Condition C. 5. a. – Earthquake- REDUCTION

Aggregate limit reduced to \$50,000,000 for all ICRMP Public Entity members combined. (Page 32 & D-2)

Item 15: Condition C. 6. a. – Flood- REDUCTION

Flood Type 2 Aggregate limit reduced to \$50,000,000 for all ICRMP Public Entity members combined. (Page 33 & D-2)

Item 16: Condition C. 8. e. – Valuation of Loss, Roofs or sections of roofs - REDUCTION

Added this condition to clarify that roofs or sections of roofs more than 20 years old are valued on an actual cash value basis. Included formula for calculating actual cash value. (Page 35)

Item 17: Condition C. 11. – Wind - BROADEN

Removed sublimit for the peril of wind. (Page 38 & D-2)

E. SECTION VI – CRIME INSURANCE

Item 1: Limit of Insurance. – CLARIFY

Changed limit of indemnification to limit of insurance. Also removed \$500,000 per occurrence from declarations page, as the limit varies by member. (Page D-4)

F. SECTION XV, ENDORSEMENTS

Item 1: #1 Pollutants Amendatory Endorsement. – REDUCTION

Expanded exclusion C. 1. to include any claim related to asbestos remediation or removal (Page 66)

Item 3: #2 Cyber Privacy or Security Event Endorsement. – CLARIFY

This endorsement has been wholly replaced, as we are partnering with a new cyber liability reinsurer. Limits and coverages remain generally the same, but wording has been changed to match with new reinsurer's form. (Pages 67-84)

Item 4: #5 Asbestos Remediation Amendatory Endorsement. – REDUCTION

Removed this endorsement altogether; however, asbestos cleanup and removal is now covered in the Property Insurance with a \$100,000 sublimit. (Page 87)

Item 5: #6 Equipment Breakdown Endorsement. – BROADEN

\$100,000,000 sublimit now applies to all Public Entity members collectively instead of all ICRMP program members. (Page 87-91 & D-6)

251 E. Front Street, Suite 300
Boise, Idaho 83702
Tax ID No. 82-0451327
Telephone 208-343-5454
Fax 208-384-5844



August 31, 2024

Pocatello Development Authority
Attn: Brent McLane
City of Pocatello
P.O. Box 4169
Pocatello, ID 83205

Invoice No. 210306
Client No. 9212
Matter No. 2
Billing Attorney: MSC

INVOICE SUMMARY

For Professional Services Rendered from August 22, 2024 through August 31, 2024.

RE: Hoku Property Disposition

Total Professional Services	\$ 775.00
Total Costs Advanced	<u> \$.00</u>
TOTAL THIS INVOICE	\$ 775.00

251 E. Front Street, Suite 300
Boise, Idaho 83702
Tax ID No. 82-0451327
Telephone 208-343-5454
Fax 208-384-5844



August 31, 2024

Pocatello Development Authority
Attn: Brent McLane
City of Pocatello
P.O. Box 4169
Pocatello, ID 83205

Invoice No. 210307
Client No. 9212
Matter No. 3
Billing Attorney: MSC

INVOICE SUMMARY

For Professional Services Rendered from August 12, 2024 through August 31, 2024.

RE: Special Counsel General

Total Professional Services	\$ 175.00
Total Costs Advanced	<u> \$.00</u>
TOTAL THIS INVOICE	\$ 175.00

Aceline McCulla
904F McKinley Ave
Pocatello, ID 83201
406.202.6444

Invoice Date: September 12, 2024

Invoice #: 24-2

City of Pocatello
Pocatello Development Authority
911 N 7th Ave
Pocatello, ID 83201
Tax Exempt: 82-6000244

Delivery Date: September 18, 2024

Delivery Time: 10:45 a.m.

Delivery Location: City Hall Council Chambers

Description	Qty	Cost
Pumpkin Roll Cake	2	\$20.00

Total Due Upon Receipt :

\$20.00

Action Item 4

**OWNER PARTICIPATION AGREEMENT
(GRANT AGREEMENT)**

By and Between

The Pocatello Development Authority

and

Portneuf Capital, LLC, an Idaho Limited Liability Company

for the

North Portneuf TIF District

**OWNER PARTICIPATION AGREEMENT
(GRANT AGREEMENT)**

THIS OWNER PARTICIPATION AGREEMENT (GRANT AGREEMENT) (hereinafter “Agreement”) is entered into by and between the Pocatello Urban Renewal Agency, commonly known as the Pocatello Development Authority, an independent public body, corporate and politic (hereinafter “Agency”), organized pursuant to the Idaho Urban Renewal Law, Title 50, Chapter 20, Idaho Code, as amended (hereinafter the “Law”), and undertaking projects under the authority of the Law and the Local Economic Development Act, Title 50, Chapter 29, Idaho Code, as amended (hereinafter the “Act”), and Portneuf Capital, LLC, an Idaho Limited Liability Company authorized to do business in the State of Idaho (hereinafter “Participant”), collectively referred to as the “Parties” and each individually as “Party,” on the terms and provisions set forth below.

RECITALS

WHEREAS, Agency, an independent public body, corporate and politic, is an urban renewal agency created by and existing under the authority of the Law and the Act;

WHEREAS, the Pocatello City Council adopted its Ordinance No. 2814 on May 3, 2007, approving the North Portneuf Urban Renewal Area and Revenue Allocation Area District Improvement Plan (hereinafter the “Urban Renewal Plan”) establishing the North Portneuf revenue allocation area (the “Project Area”), which is located within the City of Pocatello (the “City”) and in unincorporated Bannock County. The termination date of the Plan and Project Area is December 31, 2030;

WHEREAS, the Urban Renewal Plan and Project Area were originally established to incent the development of a polysilicon processing plant by funding certain public infrastructure improvements necessary to support development within the Project Area;

WHEREAS, while development occurred within the Project Area consistent with the Urban Renewal Plan, the polysilicon processing plant failed to become operational;

WHEREAS, following a competitive disposition process pursuant to Idaho Code Section 50-2011, Participant acquired real property located within a portion of the Project Area located within the City intending to develop the area into a commercial/industrial business park (the “Project”). In 2023, approximately 8.7 acres was subsequently conveyed by Participant to an adjacent property owner.

The remaining 57.91 acres owned by Participant constitutes the Project site (the “Site”);

WHEREAS, the Project is intended to remediate and mitigate the Site in phases, which Site continues to be a deteriorating area;

WHEREAS, consistent with the Urban Renewal Plan, Participant intends on constructing certain traditional public infrastructure improvements on the Site and within the Project Area which are necessary to the proper development of the Site, including: installation, extension, burying or relocation of electrical distribution lines, transformers and/or related electrical infrastructure on the Site (the “Power Improvements”). Additionally, extensive remediation and preparation of certain Site conditions are necessary to the development of the Project, including the removal, breaking up and disposal of over four hundred (400) concrete columns (the “Site Remediation”). The proposed Site Remediation would remove a significant impediment to development of the Site;

WHEREAS, the Urban Renewal Plan authorizes Agency to use revenue allocation financing to fund by reimbursement certain projects and improvements to implement the objectives of the Urban Renewal Plan;

WHEREAS, Agency and Participant have negotiated the major terms of Agency’s participation in the funding of the Power Improvements and the Site Remediation consistent with the Urban Renewal Plan (collectively the “Agency Funded Improvements”);

WHEREAS, the Agency Funded Improvements implement several overall objectives outlined in the Urban Renewal Plan;

WHEREAS, as a result of Participant’s agreement to perform and advance fund the Agency Funded Improvements, Participant’s commitment to comply with the terms of the Urban Renewal Plan, and Agency’s commitment to reimburse Participant in compliance with the Urban Renewal Plan, the Parties deem it necessary to enter into this Owner Participation Agreement to define their respective obligations;

NOW, THEREFORE, in consideration of the above recitals, which are incorporated into this Agreement, the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

I. EFFECTIVE DATE

The Effective Date of this Agreement shall be the date when this Agreement

has been signed by the Parties (last date signed) and shall continue until 1) all obligations of each Party are completed, or 2) this Agreement is terminated, or 3) December 31, 2030, whichever is earlier.

II. SUBJECT OF AGREEMENT

A. Recitals, Purpose of This Agreement, and Interest

The Parties agree that the foregoing recitals are not mere recitations but are covenants of the Parties, binding upon them as may be appropriate and a portion of the consideration for the agreements contained herein. The mutual consideration and covenants contained herein are intended to achieve the objectives and obligations of both Parties. The Agency's commitment herein is intended to comply with the Agency's authority under the Law, the Act, and the Urban Renewal Plan and is not a gift or donation of public funds.

The purpose of this Agreement is to effectuate the Urban Renewal Plan by providing for certain Site preparation that will remove certain Site impediments to development and the construction of certain power improvements, as generally identified in **Attachment 3**, on or adjacent to the Site. This Agreement provides for the construction and installation of certain Power Improvements which may be required by development occurring on the Site that cannot reasonably be located on the Site.

The Site Remediation and Power Improvements on the Site and the fulfillment, generally, of this Agreement are in the vital and best interests of the City and the health, safety, and welfare of its residents and are in accordance with the public purposes and provisions of applicable federal, state, and local laws and requirements. Implementation of this Agreement will further the goals and objectives of the Urban Renewal Plan.

B. The Plan

This Agreement is subject to the provisions of the Urban Renewal Plan.

C. The Project Area

The Urban Renewal Project Area ("Project Area") is located in the City and in unincorporated Bannock County, and the boundaries of the Site are within that portion of the Project Area within the City.

D. The Site

The Site is shown on the “Map of the Site,” attached to this Agreement as **Attachment 1** which is incorporated herein by reference, and as more particularly described in the “Legal Description” of the Site, attached hereto as **Attachment 2** which is incorporated herein by reference. The Site is fully within the boundaries of the City.

E. Agency Participation Policy

Generally, the Agency will agree to financially participate with a private developer when such participation achieves the objectives of the Urban Renewal Plan, is not duplicative of other public entity funding, and does not replace or substitute for the obligations imposed by other governmental agencies on the Participant. The specific participation by the Agency for this Site is as set forth herein.

F. Parties to This Agreement

1. Agency

The Agency is an independent public body, corporate and politic, exercising governmental functions and powers and organized and existing under the Law and the Act. The office of the Agency is located at City of Pocatello, 911 North 7th Avenue, Pocatello, Idaho 83201. “Agency,” as used in this Agreement, includes the Urban Renewal Agency and any assignee of or successor to its rights, powers, and responsibilities.

2. Participant

The Participant is Portneuf Capital, LLC, an Idaho limited liability company authorized to do business in the State of Idaho. The principal address of the Participant is 9950 Peppergrass, Pocatello, ID 83204.

Whenever the term “Participant” is used herein, such term shall include any assignee or successor in interest approved or consented to by the Agency, which consent should not be unreasonably withheld.

G. The Private Development and City Agreements

1. The Private Development

The Private Development, or Project, shall mean the development undertaken by Participant or the approved successors or assigns upon the Site. The Private Development consists of the development and/or redevelopment of the Site into a commercial/industrial business park. The Private Development and any

further development upon the Site or any portion of the Site shall comply with the applicable provisions of the Urban Renewal Plan and all applicable City codes and ordinances, and any other City Agreements and Approvals as defined in Section II.G(2).

2. City Agreements and Approvals

"City Agreements and Approvals" shall mean those certain agreements between Participant and City, concerning, among other things, any required building permits and other approvals by City for the development of the Private Development on the Site.

Any default by Participant of the City Agreements and Approvals, including but not limited to any and all applicable City ordinances, not cured within any applicable cure period shall constitute a default under this Agreement with the Agency reserving any of its rights and remedies under this Agreement concerning default.

III. IMPROVEMENT OF THE SITE AND AGENCY'S PARTICIPATION

A. Development Design

Participant agrees that the Private Development will be in full compliance with the applicable provisions of the Urban Renewal Plan and the City Agreements and Approvals.

B. Cost of Construction

The cost of the Private Development and the Agency Funded Improvements, defined below, shall be borne by the Participant except as otherwise set forth herein.

C. Agency, City, and Other Governmental Agency Permits

Participant has or shall, at Participant's own expense, secure or cause to be secured any and all permits or approvals which may be required by Agency, City, or any other governmental agency relative to construction and operation of the Private Development and the Agency Funded Improvements.

D. Agency Funded Improvements

The Agency Funded Improvements are: (a) critical to the development and/or redevelopment of the Site, and (b) will provide for a higher quality of development that should assist Agency in achieving redevelopment of the Site and other

properties adjacent to the Site, and meeting the objectives of the Urban Renewal Plan concerning the Agency Funded Improvements. Because of the Private Development, which achieves several of the broad objectives contained within the Urban Renewal Plan, Agency finds that a portion of the Agency Funded Improvements related to the Private Development of the Site may be reimbursed by the Agency. Agency finds that the Agency Funded Improvements are in the best public interest and provide for enhanced development of the Site within the Project Area.

In consideration of the terms of this Agreement and subject to certain conditions as contained in this Agreement, Agency agrees to pay the costs of certain approved Agency Funded Improvements, inclusive of design, project management and engineering costs, as verified by the Agency. Approved Agency Funded Improvements shall include those improvements listed on **Attachment 3**.

E. Agency Review of Construction Documents

Upon Agency's request, Agency shall have the right and the opportunity to review Participant's construction plans, budgets, and bids for the Agency Funded Improvements (collectively the "Agency Funded Public Improvement Construction Documents"). Participant will utilize commercially reasonable contracting, budgeting, and bidding practices to ensure that the Agency Funded Improvements are constructed consistent with the Agency Funded Public Improvement Construction Documents and are undertaken in a reasonable manner. For purposes of this Section and Section F, below, Participant shall be presumed to have utilized commercially reasonable contracting, budgeting and bidding practices if (1) Participant's general contractor solicits or solicited competitive bids for the Agency Funded Improvements pursuant to Title 67, Chapter 28, Idaho Code, as amended, (2) the work is performed by Idaho public works licensed contractors, (3) and such work is not performed by an affiliate or subsidiary of Participant.

F. Reimbursement Obligation

1. Amount of Reimbursement

In consideration of Participant's construction of the Agency Funded Improvements, Agency, subject to the terms of this Agreement, agrees to reimburse Participant an amount equal to the Actual Eligible Costs, as defined below, of the Agency Funded Improvements, **not to exceed** Four Hundred Fifty Thousand Six Hundred Forty and 00/100 dollars (\$450,640.00), with no interest accruing on the Reimbursement Obligation (defined below).

2. Notification, Inspection, Approval

Upon completion of construction of the Agency Funded Improvements and on not less than a quarterly basis during construction, Participant shall notify Agency in writing to request a meeting with the Agency to determine if the completed Agency Funded Improvements meet the requirements of this Agreement (the "Notification of Completion"). Agency shall provide Participant with written confirmation in a form generally consistent with the Confirmation of Agency Reimbursement form attached hereto as **Attachment 4** that the completed Agency Funded Improvements are eligible for reimbursement as follows:

- (a) With respect to each Notification of Completion, Participant is responsible for submitting detailed schedule of values, invoices and receipts for work performed as part of the Agency Funded Public Improvements, in a form deemed acceptable by the Agency (the "Cost Documentation") which will permit Agency to determine the Actual Eligible Costs, which shall be the actual costs to construct the Agency Funded Improvements, including costs incurred prior to the Effective Date of this Agreement, as approved by the Agency. Cost Documentation shall include the following:
 - i. An accounting of the costs associated with the completed Agency Funded Improvements and evidence of payment of such costs by Participant. Participant shall include a schedule of values that includes line items for the Agency Funded Improvements for reimbursement so they are identifiable separate from other line items related to the Private Development, invoices from Participant's design professionals, general contractor, subcontractor(s), and material suppliers for each type of eligible cost item, which shall specify quantities and unit costs of installed materials.
 - ii. Explanation of any significant deviation between the initial cost estimates in Attachment 3 and the actual costs in the Cost Documentation.
 - iii. Evidence the Agency Funded Improvements are located in a public utility easement.
 - iv. Additional documentation or clarification as requested by the Agency Administrator.
 - v. Certified statement, or similar, from Idaho Power Company reconciling any unusual conditions costs with Participant. Any amount to be refunded to Participant will be deducted from the amount of the Actual Eligible Costs.

(b) The Agency shall have the right to review the Cost Documentation, to inspect the completed Agency Funded Improvements, and to obtain independent verification that the quantities of work claimed and the costs associated therewith are accurate, commercially reasonable, and appropriate for the completed Agency Funded Improvements and consistent with the cost estimates provided by Participant to Agency prior to construction, and meet objectives of Title 67, Chapter 28, Idaho Code. The Agency's approval shall not be unreasonably delayed or withheld.

(c) Within thirty (30) days of Agency's receipt of the Cost Documentation, the Agency shall notify Participant in writing of Agency's acceptance or rejection of the Cost Documentation and Agency's determination of the Actual Eligible Costs to be reimbursed, memorialized in a confirmation form consistent with the Confirmation of Agency Reimbursement form set forth in **Attachment 4**, to be executed by the Participant and the Agency. Agency shall, in its discretion determine the Actual Eligible Costs following its review of the Cost Documentation, verification of the commercial reasonableness of the costs and expenses contained in such Cost Documentation, and comparison of the amounts in the Cost Documentation to the amounts in the Agency Funded Public Improvement Construction Documents. In no event shall the total for all Actual Eligible Costs exceed the amount allowed by Section II.F(1).

If Participant disagrees with Agency's calculation of the Actual Eligible Costs, Participant must respond to Agency in writing within three (3) business days explaining why Participant believes Agency's calculation was in error and providing any evidence to support any such contentions Participant wants Agency to consider. Agency shall respond to Participant within three (3) business days with a revised amount for the Actual Eligible Costs or notifying Participant Agency will not revise the initial amount calculated. At that point, the determination of the Actual Eligible Costs will be final.

Agency's determination of the Actual Eligible Costs is within its sole discretion.

(d) As the Agency Funded Improvements associated with the Project are necessary to support development and/or redevelopment, it is anticipated the Agency Funded Improvements will be completed in/or around the same time. While there may be more than one Notification of Completion, Participant and Agency will enter into one Confirmation of Agency Reimbursement concerning all Agency Funded Improvements in a form consistent with **Attachment 4**.

3. Allocation of Costs

Agency and Participant agree Participant shall be able to allocate expenses among the various items listed on Attachment 3 so long as the total amount of those items shall not exceed Four Hundred Fifty Thousand Six Hundred Forty and 00/100 Dollars (\$450,640.00). Participant shall notify Agency of the allocation of costs among the items listed on Attachment 3.

4. Reimbursement

Participant shall initially pay for all of the costs of construction for the Agency Funded Improvements associated with the Project. By approval of this Agreement by Agency's Board of Commissioners, Agency has authorized reimbursement for the Actual Eligible Costs of the Agency Funded Improvements (the "Reimbursement Obligation") as set forth in Section F, Section G and the other provisions of this Agreement.

G. Reimbursement Procedure

1. Agency's Reimbursement Obligation shall not commence until the acceptance of the Agency Funded Improvements by the appropriate utility and/or the City. For purposes of this Agreement, the Agency intends to reimburse Participant for the Actual Eligible Costs from existing, unpledged revenue allocation proceeds from the Project Area. Participant shall complete the Agency Funded Improvements on or before April 30, 2025. If Participant fails to complete the Agency Funded Improvements on or before April 30, 2025, the Agency will have the right to terminate this Agreement by providing Participant ten (10) days' written notice of termination.

2. Agency shall have no obligation to make payments to the Participant for taxes collected and paid to Agency beyond the term described herein and as may be limited by this Agreement.

3. All payment due hereunder shall be paid to the Participant, and future owners of units created on the Site as part of the Project shall have no claim or entitlement to such payments as a result of such ownership.

4. Non-general Obligation

As provided by Idaho Code Section 50-2910, the obligations of Agency hereunder shall not constitute a general obligation or debt of the Agency, the State of Idaho, or any of its political subdivisions, or give rise to a charge against their general credit or taxing powers to be payable out of any funds or properties other than the monies deposited in the special fund or funds provided for herein and

pledged hereby to the payment of principal and interest on this Reimbursement Obligation.

H. Taxes

Participant shall pay, when due, all real estate and personal property taxes and assessments assessed and levied on Participant's ownership interest of the Site. This provision or covenant shall run with the land and be binding upon Participant's successors. Except as set forth herein, nothing herein contained shall be deemed to prohibit Participant from contesting the validity or amounts of any tax, assessment, encumbrance, or lien or to limit the remedies available to Participant with respect thereto; provided, such contest does not subject the Site or any portion thereof to forfeiture or sale.

Participant recognizes Agency has no authority or involvement in the assessment, tax, or collection process for ad valorem taxes, including real property and personal property taxes.

Participant shall not apply for or otherwise request any exemption or reduction in property taxes on the Site pursuant to Idaho Code §§ 63-602NN, 63-4404, 63-602II, or Idaho Code §§ 63-606A or 63-602W, or similar exemptions, during the term of this Agreement and the Urban Renewal Plan.

I. Liens/Payment of General Contractor

Participant hereby certifies that as of the Effective Date no mechanic's or materialman's liens have been placed on the Site related to work performed on the Agency Funded Improvements and/or the Private Development, as defined above, and that the general contractor and all subcontractors have been or will be paid in full for all work performed on the Site and/or the Project Area. In the event any mechanic's or materialman's liens are placed on the Site and/or the Project Area, Participant agrees Agency may suspend any payments required under this Agreement until any liens or claims related to the Project and made by any contractor, subcontractor, or material supplier that performed work on the Agency Funded Improvements and/or the Private Development have been satisfied.

The Agency is not responsible for payment of any liens on the Site or related to the Private Development. The Agency is under no obligation to reimburse Participant for costs associated with any such liens.

J. Agency Contribution Assignable

Agency and Participant agree that Agency's obligations run only to Participant or its assignee and that Agency is under no obligation to grant any

additional consideration or greater participation than set forth herein. Participant shall have the absolute right to assign its right to receive any payments to its lender, its successor, or other entity designated by Participant.

K. Indemnification

Participant shall indemnify and hold Agency and its respective commissioners, officers, agents, consultants and employees (collectively referred to in this Section K as “Agency”) harmless from and against all liabilities, obligations, damages, penalties, claims, costs, charges, and expenses, including reasonable architect, design and attorney fees (collectively referred to in this Section K as “Claim”), which may be imposed upon or incurred by or asserted against Agency and for which Agency may be legally liable under applicable law (excluding any liability or obligation Agency assumes by contract) by reason of any of the following occurrences, provided Participant shall have no obligation to indemnify and hold Agency harmless from and against any Claim to the extent it arises from the negligence or willful act or omission of Agency or Agency’s contractors and associated subcontractors:

1. Any work done in, on, or about the Site or Project Area, including the Agency Funded Improvements, or work related to the Agency Funded Improvements; or
2. Any use, nonuse, possession, occupation, condition, operation, maintenance, or management of the Site or any part thereof, including the Project Area; or
3. Any negligent or intentional wrongful act or omission on the part of Participant or any of its agents, contractors, servants, employees, subtenants, operators, licensees, or invitees; or
4. Any accident, injury, or damage to any person or property occurring in, on, or about the Site, or Project Area, or any part thereof, during construction; or
5. Any failure on the part of Participant to perform or comply with any of the terms, provisions, covenants, and conditions contained in this Agreement to be performed or complied with on its part.
6. Funding, by Agency, of the Agency Funded Improvements.

In case any such Claim is brought against Agency, Participant, upon written notice from Agency, shall, at Participant’s expense, resist or defend such Claim.

Participant shall also indemnify and hold harmless and defend Agency and its commissioners, officers, agents, consultants and employees from and against any and all claims or causes of action asserted by entities or individuals that are not a party to this Agreement regarding the validity or legality of this Agreement and the reimbursement to Participant of the costs of the Agency Funded Public Improvements by Agency (collectively referred to in this Section as "legality claim"). Upon the final decision of a court of competent jurisdiction that is not appealed or not appealable regarding the legality claim determining that the reimbursement to Participant by Agency of the costs of the Agency Funded Improvements is unlawful or invalid, the Agency shall have no further obligation or liability to reimburse or make payments to Participant for the costs associated with the Agency Funded Public Improvements and Participant shall solely bear the responsibility for such costs. Upon the final decision of a court of competent jurisdiction that is not appealed or not appealable regarding the legality claim determining that the reimbursement to Participant by Agency of the costs of the Agency Funded Public Improvements is unlawful or invalid, then Participant, in Agency's sole discretion, may be required to return any funds paid by Agency to Participant for the Agency Funded Public Improvements within ninety (90) days of written request from Agency to Participant.

If a legality claim is made, then Agency and Participant shall jointly defend against said claim. Participant has the discretion to hire its own legal counsel with Participant reimbursing the Agency for its reasonable fees and costs, including without limitation, attorney and expert witness fees and costs.

If a claim, other than a legality claim, is brought against Agency or its respective commissioners, officers, agents, consultants and employees by reason of any such claim, Participant, upon written notice from Agency shall, at Participant's expense, bear the costs and expense of defending Agency against such action or proceedings by counsel selected by Agency.

L. Insurance

Participant shall, or through its contractor constructing the Agency Funded Improvements, shall, at Participant's sole cost, obtain and maintain in force for the duration of the Agreement (including the warranty period) insurance of the following types, with limits not less than those set forth below, and in a form acceptable to Agency:

1. Commercial General Liability Insurance ("Occurrence Form") with a minimum combined single limit liability of \$1,000,000 each occurrence for bodily injury and property damage, with a minimum limit of liability of \$1,000,000 each person for personal and advertising injury liability. Such policy shall have a general aggregate limit of not less than \$2,000,000, which

general aggregate limit will be provided on a per project basis. The policy shall be endorsed to name Agency, including its respective affiliates, and City as additional insureds.

2. Workers' Compensation Insurance, if Participant has employees, including occupational illness or disease coverage, in accordance with the laws of the nation, state, territory, or province having jurisdiction over Participant's employees, and Employer's Liability Insurance. If Participant has employees, Participant shall not utilize occupational accident or health insurance policies, or the equivalent, in lieu of mandatory Workers' Compensation Insurance or otherwise attempt to opt out of the statutory Workers' Compensation system.

3. Automobile Liability Insurance covering use of all owned, non-owned, and hired automobiles with a minimum combined single limit of liability for bodily injury and property damage of \$1,000,000 per occurrence. This policy shall be endorsed to name Agency, including its respective affiliates, directors, and employees, as additional insureds.

4. All insurance provided by Participant under this Agreement shall include a waiver of subrogation by the insurers in favor of Agency. Participant hereby releases Agency, including its respective affiliates, directors, and employees, for losses or claims for bodily injury or property damage covered by Participant's insurance or other insured claims arising out of Participant's performance under this Agreement or construction of the Project.

5. Certificates of insurance, reasonably satisfactory in form to Agency (ACORD form or equivalent), shall be supplied to Agency evidencing that the insurance required above is in force, and that notice will be given to Agency prior to any cancellation of the policies in accordance with the policies. Participant shall also provide, with its certificate of insurance, executed copies of the additional insured endorsements and dedicated limits endorsements required in this Agreement. At Agency's request, Participant shall provide a certified copy of each insurance policy required under this Agreement.

6. Except as otherwise stated above, the obligations set forth in this Section shall remain in effect only until the date City accepts the dedication of the Agency Funded Improvements.

7. All policies of insurance required by this Agreement shall be issued by insurance companies qualified to do business in the State of Idaho.

8. The foregoing insurance coverage shall be primary and noncontributing with respect to any other insurance or self-insurance that may be maintained by Agency. Participant's General and Automobile Liability Insurance policies shall contain a Cross-Liability or Severability of Interest clause. The fact that Participant has obtained the insurance required in this Section shall in no manner lessen or affect Participant's other obligations or liabilities set forth in the Agreement.

M. Warranty

Participant warrants that the materials and workmanship employed in the construction of the Agency Funded Improvements shall be good quality and shall conform to generally accepted standards within the construction industry and agrees to repair any non-conforming improvements during the warranty period upon receipt of notice from Agency of such non-conforming improvements. Such warranty and repair obligation shall extend for a period of one (1) year after acceptance of the Agency Funded Improvements by the City and/or other appropriate entity or utility. Provided, nothing herein shall limit the time within which Agency may bring an action against Participant on account of Participant's failure to otherwise construct such improvements in accordance with this Agreement.

N. Maintenance

Participant recognizes Agency has no specific authority to accept maintenance responsibility of the Agency Funded Improvements. Participant anticipates that the City and or various public utilities may accept ownership and maintenance obligations of some or all of the Agency Funded Improvements; however, such acceptance is not a condition precedent to the obligations of the Parties hereto.

IV. USE AND MAINTENANCE OF THE SITE AND ADJACENT AREA

A. Use of the Site

Participant agrees and covenants to comply with all other provisions and conditions of the Urban Renewal Plan for the period of time the Urban Renewal Plan is in force and effect.

B. Effect and Duration of Covenants

Covenants contained in this Agreement shall remain in effect until sooner of December 31, 2030, or the date on which the Urban Renewal Plan terminates, whichever is sooner. The covenants established in this Agreement shall, without

regard to technical classification and designation, be binding on the part of the Participant and any successors and assigns to the Site, or any part thereof, for the benefit of and in favor of Agency, its successors and assigns.

C. Local, State and Federal Laws

Participant covenants that it will carry out the construction of the Agency Funded Improvements in conformity with all applicable laws, including all applicable federal and state labor standards and anti-discrimination laws.

V. DEFAULTS, DISPUTE RESOLUTION, REMEDIES, AND TERMINATION

A. Defaults in General

Neither Party shall be deemed to be in default of this Agreement except upon the expiration of forty-five (45) days from receipt of written notice from the other Party specifying the particulars in which such Party has failed to perform its obligations under this Agreement unless such Party, prior to expiration of said forty-five (45) day period, has rectified the particulars specified in said notice of default, provided that in the case where rectifying the matters specified in the notice of default requires more than forty-five (45) days, such notified Party shall not be in default so long as they commence prior to the expiration of the forty-five (45) days and diligently pursue actions needed to rectify such matters. In the event of a default, the nondefaulting Party may do the following:

1. The nondefaulting Party may terminate this Agreement upon written notice to the defaulting Party and recover from the defaulting Party all direct damages incurred by the nondefaulting Party.
2. The nondefaulting Party may seek specific performance of this Agreement which can be specifically performed, and, in addition, recover all damages incurred by the nondefaulting Party. The Parties declare it to be their intent that this Agreement requiring certain actions be taken for which there are not adequate legal remedies may be specifically enforced.
3. The nondefaulting Party may perform or pay any obligation or encumbrance necessary to cure the default and offset the cost thereof from monies otherwise due the defaulting Party or recover said monies from the defaulting Party.
4. The nondefaulting Party may pursue all other remedies available at law, it being the intent of the Parties that remedies be cumulative and liberally enforced so as to adequately and completely compensate the nondefaulting Party.

5. In the event Participant defaults under this Agreement, Agency (the nondefaulting Party) shall have the right to suspend or terminate its payment under this Agreement, as more specifically defined in this Agreement, for so long as the default continues and if not cured, Agency's obligation for payment shall be deemed extinguished. In addition, if Agency funds shall have been paid, Agency may seek reimbursement of any amounts paid to Participant up to the amount of damages incurred by Agency for Participant's default.

Any default by Participant under the approved building permit or other City Agreements and Approvals shall be deemed a default under this Agreement.

B. Dispute Resolution

In the event that a dispute arises between Agency and Participant regarding the application or interpretation of any provision of this Agreement, the aggrieved party shall promptly notify the other party to this Agreement of the dispute within ten (10) days after such dispute arises. If the Parties shall have failed to resolve the dispute within thirty (30) days after delivery of such notice, the Parties agree to first endeavor to settle the dispute in an amicable manner by mediation, as the Parties may mutually agree before resorting to litigation. Should the Parties be unable to resolve the dispute to their mutual satisfaction within thirty (30) days after such completion of mediation or other process of structured negotiation, each Party shall have the right to pursue any rights or remedies it may have at law or in equity.

C. Legal Actions

In addition to any other rights or remedies, any Party may institute legal action to cure, correct, or remedy any default; to recover damages for any default; or to obtain any other remedy consistent with the purpose of this Agreement. The nondefaulting Party may also, at its option, cure the default and sue to collect reasonable attorney's fees and costs incurred by virtue of curing or correcting the Party's breach.

The laws of the State of Idaho shall govern the interpretation and enforcement of this Agreement.

D. Rights and Remedies Are Cumulative

Except as otherwise expressly stated in this Agreement, the rights and remedies of the Parties are cumulative, and the exercise by any Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same

time or different times, of any other rights or remedies for the same default or any other default by the other Party.

VI. GENERAL PROVISIONS

A. Notices, Demands, and Communications Between the Parties

Formal notices, demands, and communications between Agency and Participant shall be sufficiently given if dispatched by registered or certified mail, postage prepaid, return receipt requested, to the principal offices of Agency and Participant as set forth in this Agreement. Such written notices, demands, and communications may be sent in the same manner to such other addresses as either party may from time to time designate by mail.

B. Conflicts of Interest

No member, official, or employee of Agency shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official, or employee participate in any decision relating to this Agreement which affects his/her personal interests or the interests of any corporation, partnership, or association in which he/she is directly or indirectly interested.

Participant warrants that it has not paid or given, and will not pay or give, any third party any money or other consideration for obtaining this Agreement.

C. Non-liability of Agency Officials and Employees

No member, official, or employee of Agency shall be personally liable to Participant in the event of any default or breach by Agency or for any amount which may become due to Participant or on any obligations under the terms of this Agreement.

D. Successors and Assigns

This Agreement shall, except as otherwise provided herein, be binding upon and inure to the benefit of the successors and assigns of the parties hereto.

E. Attorney Fees and Costs

In the event that either party to this Agreement shall enforce any of the provisions hereof in any action at law or in equity, the unsuccessful party to such litigation agrees to pay to the prevailing party all costs and expenses, including reasonable attorney fees incurred therein by the prevailing party, and such may be included to the judgment entered in such action.

F. Severability

If any provisions of this Agreement shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provisions of this Agreement, and this Agreement shall be construed and enforced as if such illegal or invalid provisions had not been contained herein.

G. Headings

The section headings contained herein are for convenience and reference and are not intended to define or limit the scope of any provision of this Agreement.

H. Counterparts

This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

I. Forced Delay; Extension of Times of Performance

In addition to the specific provisions of this Agreement, performance by any Party hereunder shall not be deemed to be in default where delays or defaults are due to war, insurrection, strikes, lock-outs, riots, floods, earthquakes, fires, casualties, acts of God, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes, lack of transportation, governmental restrictions or priority, litigation, unusually severe weather, acts of another party, environmental analysis or removal of hazardous or toxic substances, acts or the failure to act of any public or governmental agency or entity (except that acts or the failure to act of Agency shall not excuse performance by Agency), or any other causes beyond the control or without the fault of the Party claiming an extension of time to perform. An extension of time for any such cause shall only be for the period of the forced delay, which period shall commence to run from the time of the commencement of the cause. Times of performance under this Agreement may also be extended in writing by Agency and Participant.

J. Inspection of Books and Records

Agency has the right, upon not less than seventy-two (72) hours' notice, at all reasonable times to inspect the books and records of Participant pertaining to the Agency Funded Improvements.

K. Attachments and Exhibits Made a Part

All attachments and exhibits which are attached to this Owner Participation Agreement are made a part hereof by this reference.

VII. AMENDMENTS TO THIS AGREEMENT

Agency and Participant agree to mutually consider reasonable requests for amendments to this Agreement and any attachments hereto which may be made by any of the Parties hereto, lending institutions, bond counsel, financial consultants, or underwriters to Agency, provided said requests are consistent with this Agreement and would not alter the basic business purposes included herein or therein. Any such amendments shall be in writing and agreed to by the Parties.

VIII. ENTIRE AGREEMENT, WAIVERS, AND AMENDMENTS

This Agreement, including Attachments 1 through 4, inclusive, incorporated herein by reference, constitutes the entire understanding and agreement of the Parties.

This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto and supersedes all negotiations or previous agreements between the Parties with respect to all or any part of the subject matter thereof.

All waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of Agency and Participant, and all amendments hereto must be in writing and signed by the appropriate authorities of Agency and Participant.

[signatures on following page]

IN WITNESS WHEREOF, the Parties hereto have signed this Agreement the day and year below written to be effective the day and year above written.

**URBAN RENEWAL AGENCY OF THE CITY OF POCATELLO, A/K/A
THE POCATELLO DEVELOPMENT AUTHORITY**

By: _____, David Villarreal Jr., Chair

Date: September 18, 2024

ATTEST:

By: _____, Aceline McCulla, Secretary

**PARTICIPANT
PORTNEUF CAPITAL, LLC**

By: _____, Lysle D. Barthlome, Co-Owner

Date: September 9, 2024

ACKNOWLEDGMENTS

STATE OF IDAHO)
) ss.
County of Bannock)

On this 18th day of September, 2024, before me, Aceline McCulla, the undersigned notary public in and for said county and state, personally appeared David Villarreal Jr., known or identified to me to be the Chair of the Urban Renewal Agency of the City of Pocatello, also known as Pocatello Development Authority, the public body corporate and politic, that executed the within instrument, and known to me to be the person that executed the within instrument on behalf of said Agency and acknowledged to me that such Agency executed the same for the purposes herein contained.

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

Aceline McCulla
Notary Public for Idaho
Commission Expires January 22, 2027

ACKNOWLEDGMENTS

STATE OF IDAHO)
) ss.
County of Bannock)

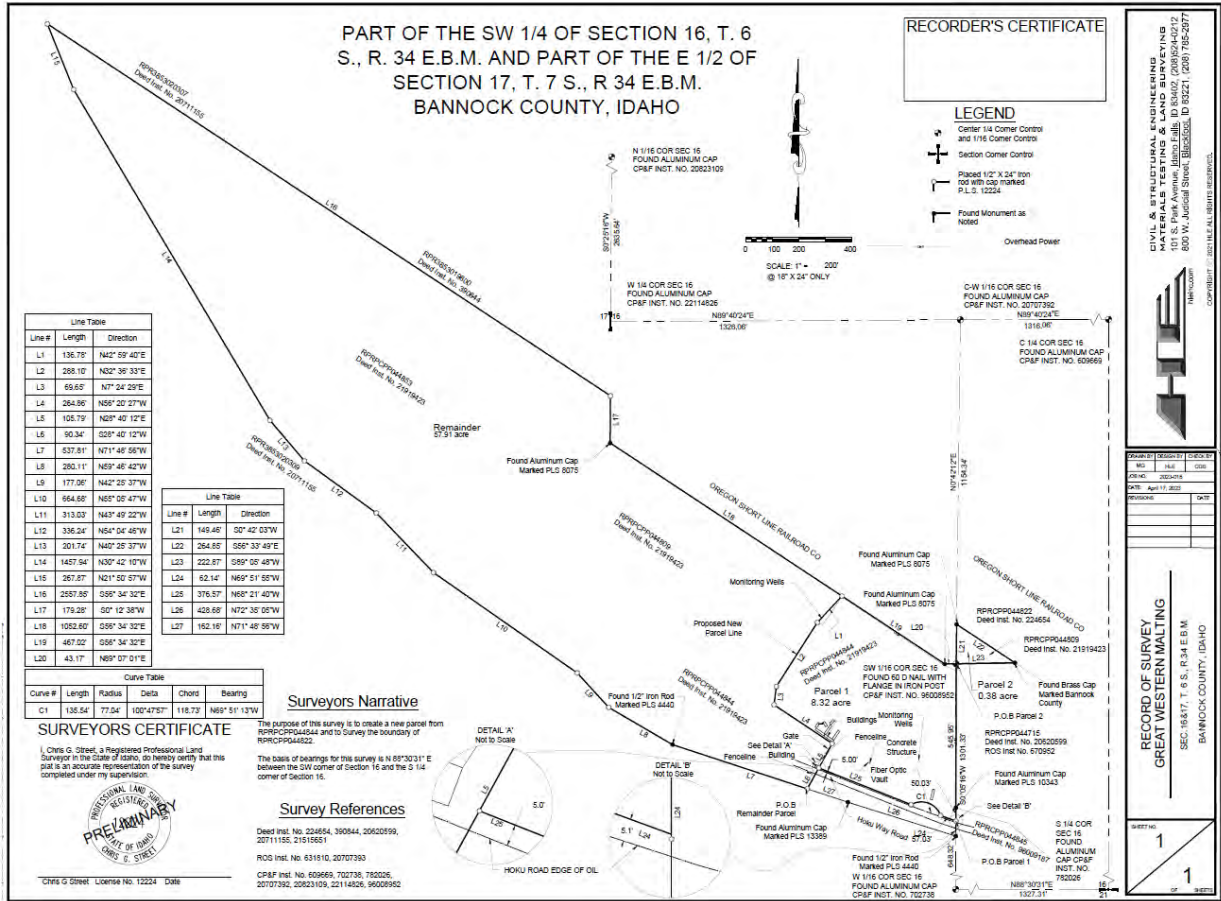
On this 9th day of September, 2024, before me, Aceline McCulla, the undersigned notary public in and for said county and state, personally appeared L.D. Barthlome, known or identified to me to be the Co-Owner of Portneuf Capital, LLC, an Idaho Limited Liability Company authorized to do business in the State of Idaho, and the person who signed the within instrument, and acknowledged to me that he has authority to execute and executed the foregoing instrument for the purposes therein contained on behalf of Portneuf Capital, LLC.

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

Aceline McCulla
Notary Public for Idaho
Commission Expires January 22, 2027

Attachment 1

Map of the Site



Attachment 2

Legal Description

Attachment 3

Agency Funded Improvements

The Agency Funded Improvements include utility work within the public utility easement and does not include improvements from the easement to the private buildings.

Item	Description	Estimated Cost	
Power Improvements	Within easements as may be provided to Idaho Power Company, installation of permanent power to buildings D and E. This scope consists of Idaho Power and electricians trenching from existing Idaho Power service lines to each building. Conduit and wire will be installed in the trenches, and a concrete pad will also be installed for the transformers to sit on. The disconnect switch will then be connected to the transformer for power distribution to the buildings.	Power Installation Building D	
		Engineering	\$12,000.00
		Idaho Power Transformer installation	\$85,000.00
		Idaho Power Transformer	\$22,000.00
		Idaho Power Disconnect Switch	\$13,000.00
		Power Installation Building E	
		Engineering	\$12,000.00
		Idaho Power Transformer installation	\$97,000.00
		Idaho Power Transformer	\$22,000.00
		Idaho Power Disconnect Switch	\$13,000.00
Site Remediation	The Site Remediation includes concrete removal consisting of digging over 400 concrete columns out of the ground, breaking them up with the concrete breaker attached to an excavator, and off-Site disposal.	Equipment rental Western States Caterpillar (excavator with concrete breaker)	\$85,280.00
		Equipment operators	\$41,600.00
		Fuel and maintenance	\$8,800.00
		Breaker bit replacement	\$12,960.00
		Disposal	\$26,000.00
TOTAL		\$450,640.00	

Attachment 4

Confirmation of Agency Reimbursement No.

CONFIRMATION OF AGENCY REIMBURSEMENT NO. ____

This Confirmation of Agency Reimbursement (“Confirmation”) is entered into between the Urban Renewal Agency of the City of Pocatello, Idaho, also known as Pocatello Development Authority, an independent public body, corporate and politic (hereinafter “Agency”), organized pursuant to the Idaho Urban Renewal Law of 1965, Title 50, Chapter 20, Idaho Code, as amended (hereinafter the “Law”), and undertaking projects under the authority of the Law and the Local Economic Development Act, Title 50, Chapter 29, Idaho Code, as amended (hereinafter the “Act”), and Portneuf Capital, LLC, an Idaho limited liability company authorized to do business in the State of Idaho (hereinafter “Participant”). The Effective Date of this Confirmation is the date last signed by the parties.

WITNESSETH:

1. Agency Contribution

Agency has, pursuant to the procedures set forth in the Owner Participation Agreement by and between the Agency and Participant with an effective date of September 18, 2024 (the “OPA”), determined the Actual Eligible Costs for those certain Agency Funded Improvements as those terms are defined in the OPA and as specifically identified below, shall be _____ and ___/100 dollars (\$000,000.00) (the “Agency Reimbursement”) for the [identify Agency Funded Public Improvements subject to reimbursement in this Confirmation].

2. Payment Terms.

Agency agrees to reimburse Participant for the amount of the Agency Reimbursement, without interest from the Effective Date of this Confirmation pursuant to the Reimbursement Procedure set forth in the OPA.

Participant acknowledges that the Agency Reimbursement may not be paid in full if the revenue allocation proceeds available for reimbursement under the Urban Renewal Plan and pursuant to the OPA, are less than the Agency Reimbursement.

If the OPA is terminated, or the Agency Reimbursement is not fully reimbursed by December 31, 2030, or the date upon with the Urban Renewal Plan and Project Area terminates, whichever is earlier, the Agency will not be obligated to make any additional payments.

3. Limitation on Making Payments

Pursuant to the OPA, it is the intention of the parties that Participant shall be paid from the existing revenue allocation proceeds. If, for any reason, the revenue allocation proceeds are reduced, curtailed or limited in any way by legislative enactments, initiative referendum, judicial decree, or other, the Agency shall have no obligation to pay the Agency Reimbursement to Participant as described in this Confirmation from other sources or monies which Agency has or might hereinafter receive.

4. Except as expressly modified above, the terms and conditions of the OPA are still binding on Agency and Participant as set forth in such OPA.

IN WITNESS WHEREOF, the Parties hereto have signed this Agreement the day and year below written to be effective the day and year above written.

AGENCY
URBAN RENEWAL AGENCY OF THE CITY OF POCA TELLO, A/K/A
THE POCA TELLO DEVELOPMENT AUTHORITY

By: _____, David Villarreal Jr., Chair

Date: _____

ATTEST:

By: _____, Aceline McCulla, Secretary

PARTICIPANT
PORTNEUF CAPITAL, LLC

By: _____, L.D. Barthlome, Co-Owner

Date: _____