


NOTICE OF RESCHEDULED MEETING
POCATELLO DEVELOPMENT AUTHORITY
November 16, 2011

The regular monthly meeting of the Pocatello Development Authority scheduled for Wednesday, November 16, 2011 at **11:00** o'clock a.m. has been cancelled and is rescheduled for Wednesday, November 16, 2011 at **2:00** o'clock p.m., in the Paradise Conference Room at City Hall, 911 North 7th, Pocatello, Idaho.

DATED this 9th day of November, 2011.



Darcy L. Taylor
Secretary

Pocatello Development Authority

**Board of Commissioners Meeting
November 16, 2011 – 2:00 p.m.
Paradise Conference Room**

City of Pocatello
911 North 7th Avenue
Pocatello, Idaho 83205

An urban renewal agency for the City of Pocatello, Idaho

2:00 p.m.

Call to order – Ryan Ward

Acknowledge guests of the Board

Disclosure of conflicts of interest

Agenda – add or delete action or discussion items

Action and Discussion Items:

Minutes of October 19, 2011 – Motion to approve and/or amend

Financial Report: October Income and Expenses

General Discussion:

Hoku Action Report

RAI Board Request for Support and Information

PDA Progress Report

Executive Session:

Items from staff:

Items from commission members:

Adjourn

Executive Session

Matters exist for discussion in an executive session as per I.C. 67-2345 (1) (e)

Motion: "I move that we enter into an executive session as per Idaho Code 67- 2345 (1) (e) to consider preliminary negotiations involving matters of trade or commerce in which the PDA may be in competition with other jurisdictions."

2:01 PM

11/16/11

Accrual Basis

Pocatello Development Authority
Balance Sheet
As of October 31, 2011

	<u>Oct 31, 11</u>
ASSETS	
Current Assets	
Checking/Savings	
Checking Wells Fargo	69,650.06
Restricted Cash Bond 16839700	1,613,280.57
Restricted Cash Bond 16839702	0.76
Restricted Cash Bond 16839703	681,900.00
Savings Wells Fargo	4,540,515.77
Total Checking/Savings	<u>6,905,347.16</u>
Accounts Receivable	
Accounts Receivable	1,846,867.85
Total Accounts Receivable	<u>1,846,867.85</u>
Other Current Assets	
Accrued interest Income	33.29
Property Tax Receivable	121,073.17
Total Other Current Assets	<u>121,106.46</u>
Total Current Assets	<u>8,873,321.47</u>
TOTAL ASSETS	<u><u>8,873,321.47</u></u>
LIABILITIES & EQUITY	
Liabilities	
Current Liabilities	
Accounts Payable	
Accounts Payable	0.30
Total Accounts Payable	<u>0.30</u>
Other Current Liabilities	
Accrued Interest Payable	70,510.14
Total Other Current Liabilities	<u>70,510.14</u>
Total Current Liabilities	<u>70,510.44</u>
Long Term Liabilities	
Deferred Notes Receivable Rev	1,846,867.85
Deferred Tax Revenues	109,693.67
Total Long Term Liabilities	<u>1,956,561.52</u>
Total Liabilities	<u>2,027,071.96</u>
Equity	
Fund Balance	7,016,553.49
Net Income	-170,303.98
Total Equity	<u>6,846,249.51</u>
TOTAL LIABILITIES & EQUITY	<u><u>8,873,321.47</u></u>

1:59 PM
11/16/11
Accrual Basis

Pocatello Development Authority
Profit & Loss
October 2011

	<u>Oct 11</u>
Income	
Interest Income	45.96
Property Taxes	<u>1,364.93</u>
Total Income	<u>1,410.89</u>
Gross Profit	1,410.89
Expense	
Administrative	104.87
Economic Loans	<u>171,610.00</u>
Total Expense	<u>171,714.87</u>
Net Income	<u><u>-170,303.98</u></u>

2:00 PM

11/16/11

Accrual Basis

Pocatello Development Authority
Profit & Loss by Class
October 2011

	<u>1-General Fund</u>	<u>2-Central Corridor</u>	<u>3-North Yellowstone</u>	<u>TOTAL</u>
Income				
Interest Income	0.87	26.22	18.87	45.96
Property Taxes	0.00	1,364.93	0.00	1,364.93
Total Income	<u>0.87</u>	<u>1,391.15</u>	<u>18.87</u>	<u>1,410.89</u>
Gross Profit	0.87	1,391.15	18.87	1,410.89
Expense				
Administrative	104.87	0.00	0.00	104.87
Economic Loans	0.00	171,610.00	0.00	171,610.00
Total Expense	<u>104.87</u>	<u>171,610.00</u>	<u>0.00</u>	<u>171,714.87</u>
Net Income	<u>-104.00</u>	<u>-170,218.85</u>	<u>18.87</u>	<u>-170,303.98</u>

1:26 PM
 11/28/11
 Accrual Basis

Pocatello Development Authority
Balance Sheet by Class
As of October 31, 2011

	1-General Fund	2-Central Corridor	3-North Yellowstone
SETS			
Current Assets			
Checking/Savings			
Checking Wells Fargo	289,421.47	-521,388.97	-21,924.77
Restricted Cash Bond 16839700	0.00	5.61	1,613,274.96
Restricted Cash Bond 16839702	0.00	0.00	0.76
Restricted Cash Bond 16839703	0.00	-5.61	681,905.61
Savings Wells Fargo	132,912.85	4,407,602.92	0.00
Total Checking/Savings	422,334.32	3,886,213.95	2,273,256.56
Accounts Receivable			
Accounts Receivable	50,000.00	1,796,867.85	0.00
Total Accounts Receivable	50,000.00	1,796,867.85	0.00
Other Current Assets			
Accrued Interest Income	1.09	22.68	9.52
Property Tax Receivable	0.00	95,489.30	21,941.34
Total Other Current Assets	1.09	95,511.98	21,950.86
Total Current Assets	472,335.41	5,778,593.78	2,295,207.42
TOTAL ASSETS	472,335.41	5,778,593.78	2,295,207.42
LIABILITIES & EQUITY			
Liabilities			
Current Liabilities			
Accounts Payable			
Accounts Payable	0.00	0.00	0.30
Total Accounts Payable	0.00	0.00	0.30
Other Current Liabilities			
Accrued Interest Payable	0.00	3,651.22	66,858.92
Total Other Current Liabilities	0.00	3,651.22	66,858.92
Total Current Liabilities	0.00	3,651.22	66,859.22
Long Term Liabilities			
Deferred Notes Receivable Rev	50,000.00	1,796,867.85	0.00
Deferred Tax Revenues	0.00	84,109.70	21,941.44
Total Long Term Liabilities	50,000.00	1,880,977.55	21,941.44
Total Liabilities	50,000.00	1,884,628.77	88,800.66
Equity			
Fund Balance	422,439.41	4,064,183.86	2,206,387.89
Net Income	-104.00	-170,218.85	18.87
Total Equity	422,335.41	3,893,965.01	2,206,406.76
TOTAL LIABILITIES & EQUITY	472,335.41	5,778,593.78	2,295,207.42

1:26 PM
 11/28/11
 Accrual Basis

Pocatello Development Authority
Balance Sheet by Class
 As of October 31, 2011

	4-Naval Ordinance	6-North Portneuf	TOTAL
SETS			
Current Assets			
Checking/Savings			
Checking Wells Fargo	226,891.29	96,651.04	69,650.06
Restricted Cash Bond 16839700	0.00	0.00	1,613,280.57
Restricted Cash Bond 16839702	0.00	0.00	0.76
Restricted Cash Bond 16839703	0.00	0.00	681,900.00
Savings Wells Fargo	0.00	0.00	4,540,515.77
Total Checking/Savings	226,891.29	96,651.04	6,905,347.16
Accounts Receivable			
Accounts Receivable	0.00	0.00	1,846,867.85
Total Accounts Receivable	0.00	0.00	1,846,867.85
Other Current Assets			
Accrued Interest Income	0.00	0.00	33.29
Property Tax Receivable	3,642.53	0.00	121,073.17
Total Other Current Assets	3,642.53	0.00	121,106.46
Total Current Assets	230,533.82	96,651.04	8,873,321.47
TOTAL ASSETS	<u>230,533.82</u>	<u>96,651.04</u>	<u>8,873,321.47</u>
LIABILITIES & EQUITY			
Liabilities			
Current Liabilities			
Accounts Payable			
Accounts Payable	0.00	0.00	0.30
Total Accounts Payable	0.00	0.00	0.30
Other Current Liabilities			
Accrued Interest Payable	0.00	0.00	70,510.14
Total Other Current Liabilities	0.00	0.00	70,510.14
Total Current Liabilities	0.00	0.00	70,510.44
Long Term Liabilities			
Deferred Notes Receivable Rev	0.00	0.00	1,846,867.85
Deferred Tax Revenues	3,642.53	0.00	109,693.67
Total Long Term Liabilities	3,642.53	0.00	1,956,561.52
Total Liabilities	3,642.53	0.00	2,027,071.96
Equity			
Fund Balance	226,891.29	96,651.04	7,016,553.49
Net Income	0.00	0.00	-170,303.98
Total Equity	226,891.29	96,651.04	6,846,249.51
TOTAL LIABILITIES & EQUITY	<u>230,533.82</u>	<u>96,651.04</u>	<u>8,873,321.47</u>

3:27 PM
 11/16/11
 Accrual Basis

Pocatello Development Authority
Balance Sheet by Class
 As of November 16, 2011

	1-General Fund	2-Central Corridor	3-North Yellowstone
SETS			
Current Assets			
Checking/Savings			
Checking Wells Fargo	289,421.47	-521,388.97	-21,924.77
Restricted Cash Bond 16839700	0.00	5.61	1,613,274.96
Restricted Cash Bond 16839702	0.00	0.00	0.76
Restricted Cash Bond 16839703	0.00	-5.61	681,905.61
Savings Wells Fargo	132,912.85	4,407,602.92	0.00
Total Checking/Savings	422,334.32	3,886,213.95	2,273,256.56
Accounts Receivable			
Accounts Receivable	50,000.00	1,796,867.85	0.00
Total Accounts Receivable	50,000.00	1,796,867.85	0.00
Other Current Assets			
Accrued Interest Income	1.09	22.68	9.52
Property Tax Receivable	0.00	95,489.30	21,941.34
Total Other Current Assets	1.09	95,511.98	21,950.86
Total Current Assets	472,335.41	5,778,593.78	2,295,207.42
TOTAL ASSETS	472,335.41	5,778,593.78	2,295,207.42
LIABILITIES & EQUITY			
Liabilities			
Current Liabilities			
Accounts Payable			
Accounts Payable	0.00	0.00	0.30
Total Accounts Payable	0.00	0.00	0.30
Other Current Liabilities			
Accrued Interest Payable	0.00	3,651.22	66,858.92
Total Other Current Liabilities	0.00	3,651.22	66,858.92
Total Current Liabilities	0.00	3,651.22	66,859.22
Long Term Liabilities			
Deferred Notes Receivable Rev	50,000.00	1,796,867.85	0.00
Deferred Tax Revenues	0.00	84,109.70	21,941.44
Total Long Term Liabilities	50,000.00	1,880,977.55	21,941.44
Total Liabilities	50,000.00	1,884,628.77	88,800.66
Equity			
Fund Balance	422,439.41	4,064,183.86	2,206,387.89
Net Income	-104.00	-170,218.85	18.87
Total Equity	422,335.41	3,893,965.01	2,206,406.76
TOTAL LIABILITIES & EQUITY	472,335.41	5,778,593.78	2,295,207.42

3:27 PM
 11/16/11
 Accrual Basis

Pocatello Development Authority
Balance Sheet by Class
 As of November 16, 2011

	4-Naval Ordinance	6-North Portneuf	TOTAL
SETS			
Current Assets			
Checking/Savings			
Checking Wells Fargo	226,891.29	96,651.04	69,650.06
Restricted Cash Bond 16839700	0.00	0.00	1,613,280.57
Restricted Cash Bond 16839702	0.00	0.00	0.76
Restricted Cash Bond 16839703	0.00	0.00	681,900.00
Savings Wells Fargo	0.00	0.00	4,540,515.77
Total Checking/Savings	226,891.29	96,651.04	6,905,347.16
Accounts Receivable			
Accounts Receivable	0.00	0.00	1,846,867.85
Total Accounts Receivable	0.00	0.00	1,846,867.85
Other Current Assets			
Accrued Interest Income	0.00	0.00	33.29
Property Tax Receivable	3,642.53	0.00	121,073.17
Total Other Current Assets	3,642.53	0.00	121,106.46
Total Current Assets	230,533.82	96,651.04	8,873,321.47
TOTAL ASSETS	230,533.82	96,651.04	8,873,321.47
LIABILITIES & EQUITY			
Liabilities			
Current Liabilities			
Accounts Payable			
Accounts Payable	0.00	0.00	0.30
Total Accounts Payable	0.00	0.00	0.30
Other Current Liabilities			
Accrued Interest Payable	0.00	0.00	70,510.14
Total Other Current Liabilities	0.00	0.00	70,510.14
Total Current Liabilities	0.00	0.00	70,510.44
Long Term Liabilities			
Deferred Notes Receivable Rev	0.00	0.00	1,846,867.85
Deferred Tax Revenues	3,642.53	0.00	109,693.67
Total Long Term Liabilities	3,642.53	0.00	1,956,561.52
Total Liabilities	3,642.53	0.00	2,027,071.96
Equity			
Fund Balance	226,891.29	96,651.04	7,016,553.49
Net Income	0.00	0.00	-170,303.98
Total Equity	226,891.29	96,651.04	6,846,249.51
TOTAL LIABILITIES & EQUITY	230,533.82	96,651.04	8,873,321.47

HOKU MATERIALS, INC.

REVISION OF HOKU ECONOMIC DEVELOPMENT AGREEMENT

- Hoku desires road and overpass to be private, not public.
- Private road and overpass status prohibits use of TIF dollars for construction
- Hoku will construct and pay for private road and overpass in order to meet deadline required by UPRR under Agreement for temporary at grade crossing at Philbin Road
- Current Economic Development Agreement provides for \$25,869,029 in infrastructure reimbursement to Hoku from TIF funds, less the cost of the public road and overpass
- Current Economic Development Agreement provides that all public road costs be paid prior to reimbursing Hoku for infrastructure
- Construction of private road and overpass allows earlier reimbursement to Hoku, and larger dollar amount of reimbursement to Hoku
- Public Road Agreement between Hoku, City, Great Western and PDA acknowledges PDA's obligation to use TIF funds for the road and overpass
- PDA will require release from Public Road Agreement obligation
- Additional land acquisition may be required for overpass, which may impact division of TIF funds between entities identified in the plan

ECONOMIC DEVELOPMENT AGREEMENT

This Agreement is made this 27th day of May, 2009 (the "Effective Date"), by and between the Pocatello Development Authority, an urban renewal agency formed under the laws of the State of Idaho, hereinafter referred to as "PDA," and Hoku Materials, Inc., a Delaware corporation registered to do business within the State of Idaho, hereinafter referred to as "Hoku".

1. Recitals

1.1 Hoku is engaged in the construction and development of approximately sixty-seven acres of previously undeveloped land located between the Union Pacific Railroad tracks which run parallel to Highway 30 and the Portneuf River, near Highway 30's intersection with Philbin Road, hereinafter the "Hoku Site". The development will consist of a manufacturing plant which will produce polysilicon, together with related support and maintenance buildings within the North Portneuf Urban Renewal Area that, when completed, will have an estimated value of not less than \$196,000,000, and an estimated adjusted value of not less than \$127,955,910 when depreciated over twenty years.

1.2 PDA is a public body created as an urban renewal agency pursuant to Idaho Code §50-2006, part of the Idaho Urban Renewal Law of 1965. As an urban renewal agency, PDA is charged with aiding and assisting economic development in Pocatello, Idaho (hereinafter at times "the community"), including assisting developments that will retain and increase available jobs in the community; and is further charged with encouraging such development by private enterprise; all as more specifically provided in Idaho Code §§50-2002 and 50-2003, being part of the Idaho Urban Renewal Law, and Idaho Code §50-2902, being part of the Local Economic Development Act (collectively, the "Idaho Urban Renewal Law").

1.3 Hoku and PDA agree that the installation of basic infrastructure was necessary for the commercial development of the Hoku Site, which infrastructure included, but was not limited to, water and sewer lines, roadways, access improvements, and development of an electric substation and related power lines.

1.4 PDA has determined that the establishment of a new manufacturing plant in the community will create new employment opportunities not currently available, and contribute to the overall economic health of the Community.

1.5 PDA has determined that the above-described development project represents the type of urban area development to which it may apply revenue allocation funds (tax increment financing) under the applicable statutes; and that the same will promote economic development of the area and creation of jobs and increased tax base consistent with the North Portneuf Urban Renewal Area and Revenue Allocation District Improvement Plan dated May 2007, and attached hereto as Exhibit A, and incorporated herein (the "Plan"). For that reason, as described in more detail in Section 2 hereof, "Provisions for PDA's Payment of Economic Development Funds", PDA has committed to provide to Hoku:

A. An amount that is equal to ninety-five percent (95%) of the RAD Revenue (as defined herein) , but not to exceed twenty-five million, eight hundred sixty-nine thousand and twenty-nine dollars (\$25,869,029), less the amount of the Bond Costs or, alternatively, the Road Costs (each as defined herein), as the case may be, for reimbursement of actual costs incurred and paid by Hoku (the "Infrastructure Reimbursement") that are, or are in a nature that is substantially similar to those items, set forth in Exhibit B, or similar such work as approved by the PDA Board of Directors and consistent with the Plan and Idaho Urban Renewal Law, and pursuant to the terms of this Agreement (the "Site Costs"); and

B. An additional amount that is equal to fifty percent (50%) of the RAD Revenue, but not to exceed seventeen million, four hundred twenty-three thousand, seven hundred twenty-eight dollars (\$17,423,728) (the "Employment Reimbursement") in employment reimbursement as an incentive for creating new jobs in the community.

For purposes of this Agreement, "RAD Revenue" shall mean the gross amount of tax increment funds collected on the North Portneuf Tax Increment Financing District with respect to the Hoku Site. For purposes of this Agreement, "Bond Costs" shall mean the aggregate cost, including payments of principal and interest and reasonably necessary fees, costs and expenses of any bond financing conducted for the benefit of the North Portneuf Urban Renewal Area, the proceeds of which are used to fund the construction of the public access road to the Hoku Site (the "Access Road"); in an amount not to exceed eleven million dollars (\$11,000,000). For purposes of this Agreement, "Road Costs" shall mean the actual cost to design, construct and acquire any real property as may be necessary to complete the Access Road, in an amount not to exceed eleven million dollars (\$11,000,000). These funds are being provided to ensure the project is feasible for Hoku from a budgetary standpoint and because of the resulting public benefits described above.

1.6 By this Agreement, PDA and Hoku wish to memorialize their mutual undertakings and commitments with respect to the project described herein.

NOW, THEREFORE, it is agreed by and between the parties hereto, as follows:

2. Provisions for PDA's Payment of Economic Development Funds

2.1 To further the proposed development, the increased tax base expected therefrom, and the accompanying employment opportunities, PDA agrees to pay to Hoku an amount not to exceed the Infrastructure Reimbursement as reimbursement for Site Costs.

2.2 The amount provided for in Paragraph 2.1, above, shall be paid through the special internal construction account ("Special Construction Account") into which PDA shall deposit the funds to be used to make payments of the Infrastructure Reimbursement. The Special Construction Account shall be an account held and maintained by PDA for the purpose of identifying and segregating the funds to be used to make payments of the Infrastructure Reimbursement to Hoku as reimbursement for Site Costs.

2.3 From the Special Construction Account, PDA shall make payments of the Infrastructure Reimbursement to Hoku in reimbursement of Hoku's Site Costs, which Site Costs shall be itemized on invoices including adequate detail of the charges represented thereby (each, a "Qualified Invoice"). No more than the amount of the Infrastructure Reimbursement set forth herein shall be paid by PDA to Hoku in reimbursement for Site Costs, as identified by Hoku in Qualified Invoices.

2.4 In addition to the Infrastructure Reimbursement provided for in Paragraph 2.1 above, up to the full Employment Reimbursement may be paid to Hoku by PDA as employment reimbursement, pursuant to the terms of this Agreement and the provisions of the Plan.

2.5 In order to qualify for Employment Reimbursement payments, Hoku shall submit to PDA verification that Hoku has achieved and maintained employment of a minimum of two hundred (200) (the "FTE Minimum") Full Time Equivalent ("FTE") positions at the Hoku Site during the most recent fifty-two (52) week period running concurrently with Hoku's fiscal year (the "FTE Period"). The Parties understand and agree that the number of FTEs for purposes of this Agreement shall be calculated pursuant to the methodology used by the United States Bureau of Labor Statistics, as it exists as of the date hereof, and that each full-time exempt employee shall be counted as one FTE.

2.6 Hoku agrees to submit verification that it has met the threshold of employing and maintaining the FTE Minimum during the applicable FTE Period with its request to PDA for any payment of the Employment Reimbursement. PDA reserves the right to conduct or cause to be conducted an independent verification study to be at the direction of PDA upon reasonable notice to Hoku. Hoku and PDA agree to cooperate in the exchange of information for said independent verification study which may be conducted no more than once every six months, and no less than once per calendar year.

2.7 Employment reimbursement payments shall be made by PDA to Hoku on an annual basis, based on Hoku's fiscal year and on the amount of RAD Revenue received. In the event the verification process reveals that Hoku did not maintain the FTE Minimum during a given FTE Period, then the applicable Employment Reimbursement payment made to Hoku with respect to such period shall be adjusted downward pro rata on a sliding scale, based on the number of qualified FTE positions which could be verified during that FTE Period.

2.8 No payments of either the Infrastructure Reimbursement or the Employment Reimbursement shall be made by PDA to Hoku until the repayment of the Bond Costs is complete, or in the event bonding is not accomplished, until sufficient RAD Revenues are received as are needed to fund Road Costs. Upon completion of repayment of any Bond Costs or, in the alternative, funding of the Road Costs, payments of the Infrastructure Reimbursement shall begin to be made to Hoku upon its submission of Qualified Invoices. Concurrently, five per cent (5%) of the RAD Revenues will be used to repay the City of Pocatello for capital reimbursement costs. Upon completion of the repayment of (a) the Infrastructure Reimbursement, and (b) two million dollars (\$2,000,000.00) to the City of Pocatello for capital reimbursement costs (the "City Reimbursement"), payment of the Employment Reimbursement shall begin as provided herein.

2.9 In the event PDA does not initiate a bonding action for the benefit of the North Portneuf Urban Renewal Area, or in the event PDA is unable to obtain said bonding due to economic factors, PDA shall collect and hold RAD Revenues for the benefit of said Urban Renewal Area.

2.10 The North Portneuf Urban Renewal Area and Revenue Allocation District is scheduled to close at the end of the tax year 2031, at which time the property within said District shall return to the Bannock County tax rolls. In the event that RAD Revenues are greater than expected, and the maximum payment amounts provided for in this Agreement are paid prior to the end of tax year 2031, it is the expectation and intent of PDA to close the North Portneuf Tax Increment Financing District upon completion of said payments, the City Reimbursement and the PDA Administrative Fee, as set forth in Table 6 of the Plan (the "PDA Administrative Fee"), any excess revenue shall be returned to the taxing entities, and the property within said District shall be returned to the Bannock County tax rolls.

3. Provisions for Hoku's Required Performance for Payment

3.1 Hoku shall provide to PDA such additional information respecting the work and payments as PDA may reasonably request in order to determine whether submitted invoices qualify for reimbursement under the terms of this Agreement. The Parties agree that any Qualified Invoice for reimbursement of a Site Cost, that conforms to the requirements provided herein, shall be presumed to qualify for reimbursement under the terms of this Agreement.

3.2 The annual payment by PDA to Hoku of the Employment Reimbursement from RAD Revenue shall be processed upon receipt of Hoku's annual verification that it has met the FTE Minimum during the applicable FTE Period at the Hoku Site.

3.3 Hoku understands and agrees that it is the intent of PDA to close the North Portneuf Tax Increment Financing District as soon as the Infrastructure Reimbursement, Employment Reimbursement, the City Reimbursement and PDA Administrative Fee have been paid in full.

Thereafter the District shall be closed and the availability of tax increment finance funds used to reimburse Hoku will cease.

3.4 If Hoku appeals any real property tax assessment by the Bannock County Assessor and/or Commissioners with respect to the Hoku Site that results in an assessed valuation of less than \$196,000,000 at a time when less than all of (a) the Bond Costs or, alternatively, the Road Costs, as the case may be, have been paid from RAD Revenue, and/or (b) the City Reimbursement has been paid from RAD Revenue, then Hoku shall be liable for payment of the remaining balance of (x) the Bond Costs or, alternatively, Road Costs, as the case may be, (y) the City Reimbursement and/or (z) the PDA Administrative Fee, such that the applicable cost, reimbursement or fee is paid in full.

4. Insurance

During the construction of the project Hoku shall maintain or cause the contractor(s) to maintain general liability insurance with PDA as an additional insured during the period of construction in the following minimum limits and conditions:

- A. General Aggregate \$2,000,000.00.
- B. Each occurrence (bodily injury and property damage) \$1,000,000.00.
- C. Bodily injury and property damage liability insurance must provide broad-form property damage coverage, including explosion, collapse, and underground coverages.
- D. Automobile liability coverage for owned, non-owned, rented, or hired vehicles and equipment in the minimum amount of \$1,000,000.00.
- E. Excess liability or umbrella insurance in the amount of \$2,000,000.00.

5. Effect of Agreement

5.1 It is further intended by the Parties to this Agreement that the Infrastructure Reimbursement payments and/or Employment Reimbursement Payments to be made by PDA

to Hoku hereunder are to assist Hoku in connection with the full development of the Hoku Site, and the Parties shall take all actions necessary to carry out that intent.

5.2 The parties acknowledge that the effect of the payments by PDA required hereunder will inure to the benefit of Hoku to a certain extent, while having the corresponding benefit to the public purposes of PDA described above.

6. Miscellaneous

6.1 The effective date of this Agreement shall be the Effective Date, as defined in the opening paragraph of this Agreement.

6.2 This Agreement shall be governed by, and construed under, the laws of the State of Idaho.

6.3 In any litigation arising out of this Agreement, the proper venue shall be the Sixth Judicial District Court of the State of Idaho, Bannock County, Idaho, and the prevailing law shall be the laws of the State of Idaho.

6.4 This Agreement shall be binding upon and inure to the benefit of the respective parties and their legal successors; but neither party may assign this Agreement without the express written consent of the other party, which consent may not be unreasonably withheld. It is expressly understood and agreed that any assignment of this Agreement that may be deemed to result from a change of control of either party or by operation of law shall not require the consent of the other party.

6.5 In any litigation arising out of this Agreement, the prevailing party shall be entitled to recover reasonable attorney fees and court costs from the non-prevailing party. Determination of the prevailing party in any such litigation shall be made on the basis of the factors enumerated in Rule 54(d)(1)(B), Idaho Rules of Civil Procedure, as the same now exists or may subsequently be amended.

6.6 Each party represents to the other that it has full legal authority to enter into and execute this Agreement, including obtaining any required resolution of its governing board.

6.7 Notices by either party to the other shall be made in writing and delivered by first class mail, postage prepaid, to the parties as follows:

HOKU: Hoku Materials, Inc.
Attn: Chairman
One Hoku Way
Pocatello, ID 83204

PDA: Pocatello Development Authority
Attn: Executive Director
911 North Seventh Ave.
Pocatello, ID 83201

6.8 This document constitutes the entire agreement of the parties.

[Signature page follows]


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

POCATELLO DEVELOPMENT AUTHORITY
An urban renewal agency under the law of the
State of Idaho

HOKU MATERIALS, INC., a Delaware
corporation authorized to do business in
the State of Idaho

By: 

Steve Brown, Chairman

By: 

Scott Paul, Chief Operating Officer

RAI

Board Request

RAI Members,

The Legislative Committee held our first meeting October 20th in Boise, at that time the group selected me as Chairman for the coming year.

We are beginning our preparations for the 2012 Legislative Session. At this time we do not know of specific legislation that is being planned for the session, however we want to be prepared for any legislation that may come forward. We do know the Idaho Freedom Foundation is working on their annual Pork Report which they send to all legislators. You may have already had public records requests from them. To combat misleading information published in the Pork Report and to promote our own positive impacts we are working to put together a report that highlights the accomplishments of urban renewal districts around the state. If your agency has an annual report or summary of activities please send that information back to me. We are specifically looking to compile number of jobs created, private investment, projects to address slum and blight and projects funded through debt service. This information will be compiled into a succinct comprehensive report for distribution to the legislature. **Please email your information to me by November 12th.**

We encourage all agencies to develop a dialog with your local legislators to educate them on how your agency operates and the benefits to your community. Please let us know how your conversations go with legislators. We will utilize your feedback to help address common questions.

If you have any additional ideas for where we should focus our limited resources please send that information to myself or your regional committee representative.

All RAI members are invited to participate in our legislative committee meetings. We will be meeting the hour prior to the RAI Board meetings in Boise at the offices of CCDC.

Beth

Beth Ineck

*Assistant Economic Development Director
City of Nampa & Nampa Development Corporation
411 3rd Street South
Nampa, ID 83651
Work - (208) 468-5488
Cell - (208) 899-0075
ineckb@cityofnampa.us*