

**POCATELLO DEVELOPMENT AUTHORITY
Board of Commissioners Meeting
Special Meeting
June 02, 2020 – 11:00 a.m.
Council Chambers – Pocatello City Hall**

**DUE to the COVID-19 pandemic guidelines,
no on-site public access is permitted for this meeting.**

**The special Pocatello Development Authority Meeting will be live-streamed at:
<http://streaming.pocatello.us/> or on Sparklight Cable, channel 56**

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, DISCLOSURE OF CONFLICT OF INTEREST, AND ACKNOWLEDGMENT OF GUESTS.**
- 2. ACTION ITEM – North Portneuf TIF District.** The Board may wish to receive a report regarding a reimbursement request from Portneuf Capital, LLC for infrastructure improvements under the North Portneuf Urban Renewal Improvement Plan, which reimbursement request was previously approved contingent upon review by the Board's legal counsel. The Board may wish to approve or take further action regarding the report.
- 3. ADJOURN.**

AGENDA ITEM

NO. 2

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AGENDA ITEM
NO. 2

TIF REVISED REQUEST

		TABLE 1 CATEGORY	Amended
transformer admin	65,000.00	Power	65,000.00
transformer Control	65,000.00		65,000.00
stepdown transformer	47,000.00		47,000.00
wire and termination admin building	13,000.00	Power	13,000.00
hvac admin building	65,000.00	REMOVED	
disconnect switch admin building	9,000.00	Power	9,000.00
fire suppression admin includes alarm	16,000.00	REMOVED	
concrete apron	27,000.00	Property Access/Roadway	27,000.00
disconnect switch control building	8,500.00	Power	8,500.00
wire and termination control building	16,000.00	Power	16,000.00
hvac control building	17,000.00	REMOVED	
fire suppression control building includes alarm	14,000.00	REMOVED	
concrete apron	15,000.00	Property Access/Roadway	15,000.00
transformer warehouse building	40,000.00	Power	40,000.00
disconnect switch warehouse building	26,000.00	Power	26,000.00
wire and termination warehouse	24,000.00	Power	24,000.00
hvac warehouse	172,000.00	REMOVED	
fire suppression warehouse includes alarm	97,000.00	REMOVED	
lighting warehouse	69,000.00	REMOVED	
concrete apron	18,000.00	Property Access/Roadway	18,000.00
paving yellow area	111,764.00	Property Access/Roadway	111,765.00
paving green area	90,861.00	Property Access/Roadway	90,861.00
paving orange area	66,524.00	Property Access/Roadway	66,524.00
paving pink	410,000.00	REMOVED	0.00
storm water site prep	143,000.00	Site Preparation	143,000.00
fiber optic includes RR permit	85,000.00	Site Preparation	85,000.00
natural gas extension	20,000.00	Natural Gas	20,000.00
parking lot lighting	32,000.00	Site Work	32,000.00
site clean up	22,000.00	Site Work	22,000.00
elevator maintenance	13,000.00	REMOVED	
insulation warehouse	22,000.00	REMOVED	
ORIGINAL REQUEST	1,839,649.00		
REVISED REQUEST	1,354,649.00	New Request 5-22-20	944,650.00

Blue highlight is the Idaho Power changes
 Red highlight is additional items removed



Request for Reimbursement by Portneuf Capital LLC under North Portneuf TIF District Plan

Portneuf Capital LLC is the current owner of real property (“Project Area”) located in the North Portneuf Urban Renewal Area and Revenue Allocation District (“District”). This Project Area is the subject of the District’s Improvement Plan adopted by Pocatello City Council Ordinance No. 2814 on May 3, 2007 (“Plan”). As stated in the Plan, the Project Area suffers and continues to suffer from underdevelopment which has detracted from the economic viability of the area, from inadequate transportation access points and infrastructure limiting development of the site, and from other factors that have reduced the feasibility of full development of this area.

The Plan for the Project Area identified Project Costs, which included the following:

PROJECT EXPENSE ITEM	COST
Power	\$8,500,000
Natural Gas	\$1,000,000
Cable/Fiber Optics	\$1,000,000
Property Access (Acquisition and Construction)	\$3,215,000
Environmental Remediation and Site Preparation	\$250,000

The Plan presented the Plan Description as including “*any necessary and eligible costs* related to infrastructure enhancement, construction of facilities, upgrades of utilities, site preparation work, and other associated work to facilitate development.” (Italics added). The Plan further stated that reimbursement would be for the actual costs of “infrastructure, access, and site work.” The Plan concludes by stating: “Implementation of the plan will provide the capacity necessary to foster sound growth of the municipality, increase the tax base and tax revenues, encourage economic stability of the community, increase job creation, and improve the health, safety, and welfare of the community.

When this Plan was adopted by the City of Pocatello, it was anticipated that the Project Area would be developed for a polysilicon plant operated by Hoku Scientific. The developer completed only some of the infrastructure, access, and site work before Hoku Scientific filed for bankruptcy and abandoned the Project Area. This left the Project Area in an unfinished and underdeveloped state to the detriment of the City and its residents.

Currently, the North Portneuf TIF District has \$1,416,777.01 in unused funds to further the Plan for the Project Area.

In December 2019, Portneuf Capital LLC purchased the Project Area and stepped into the shoes of the original developer for the Project Area. Portneuf Capital LLC has contracted with certain business to relocate to the Project Area for the betterment of the Project Area and the City. However, these contracts are contingent upon further completion of infrastructure, access, and site work within the Project Area.

Further development of the Project Area to accommodate and encourage continued growth and development requires the completion of certain the infrastructure, access, and site work anticipated buy the plan, including the following. Portneuf Capital LLC as the current developer of the Project Area is requesting reimbursement under the Plan and from currently available funds of the following items of infrastructure, access, and site work. Any items not listed here have been withdrawn by the Developer.

Public Utility – Power – Idaho Power

Idaho Power’s current public utility electrical infrastructure stops short of the Project Area. Therefore, Idaho Power is requiring that its electrical infrastructure be extended to and within the Project Area with the placement of 3 transformer stations and a stepdown transformer station within the Project Area. These transformer stations will be constructed separate and apart from the current buildings, will become part of Idaho Power’s electrical infrastructure, and will be owned and operated by Idaho Power. These transformer stations will be available to the current buildings as well as future development in the Project Area. The cost to extend Idaho Power’s public utility electrical infrastructure is anticipated to cost as follows:

3 transformer stations, 1 stepdown transformer station, disconnect switches inside of each transformer station, and wire from current electrical infrastructure to each transformer station	\$313,500
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Public Utility – Natural Gas – Intermountain Gas Co.

Intermountain Gas Co.’s current public utility natural gas infrastructure currently includes a main gas pipe that runs along west boundary of the property providing service to a regulator control box at the north end of the Project Area. There are currently no other natural gas regulator control boxes in the Project Area. There is a need for natural gas to the southeast end of the Project Area where current buildings are located. To provide natural gas to that location of the Project Area, Intermountain Gas Co. is requiring the extension of its natural gas to a new regulator control box in the south end of the Project Area and sufficient pipe to get natural gas from the main to the new regulator control box. This new regulator control box will be constructed separate and apart from the current buildings, will become part of Intermountain Gas Co.’s natural gas infrastructure, and will be owned and operated by Intermountain Gas Co. This new regulator control box will be available to the current buildings as well as any future development in the Project Area. The cost to extend Intermountain Gas Co’s natural gas infrastructure is anticipated to cost as follows:

1 regulator control box with sufficient pipe from main	\$20,000
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Public Utility – Fiber Optics – Direct Communications

Direct Communications current public fiber optic infrastructure currently does not extend to the Project Area. There is currently no fiber optic infrastructure in the Project Area. To provide fiber optic services to the Project Area, Direct Communications is requiring that its fiber optic infrastructure be extended the Project Area. This will require running fiber optic cable from its current fiber optic infrastructure to the Project Area, which will require a permit from the railroad company to pass the fiber optic cable under an existing railroad track. This extension will become part of Direct Communications fiber optic infrastructure and will be owned and operated by Direct Communications. The extension of this fiber optic infrastructure will be available to the current buildings, future development in the project area,

and private residents along the path of the extension. The cost to extend Direct Communication's fiber optic infrastructure is anticipated to cost as follows:

Fiber optic infrastructure extension including railroad permit to run cable under tracks	\$85,000
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Public Utility – Public Access to Project Area – Public

Currently the only access to the Project Area is a graveled dirt roadway from south end of the Project Area. Current development and use of the Project Area require that this roadway be paved. The Developer has proposed paving this roadway. This public roadway will be used by both users of the Project Area. The cost to pave and improve this roadway as required by the City of Pocatello is anticipated to cost as follows:

Paving and improvement of public roadway (<u>yellow and orange</u> area on map)	\$178,289
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Paving Parking Lots

Currently, there are no paved parking lots around the existing buildings. The Developer has proposed paving the parking areas around certain existing buildings and installing lights around those parking lots. The cost to do so is anticipated to cost as follows:

<i>Green</i> Paving parking areas and installing lights (<u>green</u> area on map)	\$122,861
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Other Site Prep Reimbursements

The Developer is also requesting additional reimbursements for site prep improvements including the installation of concrete aprons around each of the 3 existing buildings, storm water site prep, and site cleanup. The cost for these site prep improvements is anticipated to cost as follows:

Concrete aprons around 3 buildings	\$60,000
Storm water site prep	\$143,000
Site clean up	\$22,000

Total Amount of Requested Reimbursement

The total reimbursement requested by the Developer as set forth above is \$945,150.

ELAM & BURKE
ATTORNEYS AT LAW

251 East Front Street, Suite 300
Post Office Box 1539
Boise, Idaho 83701
Telephone 208 343-5454
Fax 208 384-5844

Tax Id No. 82-0451327

Pocatello Development Authority
Attn: Carl Anderson
City of Pocatello
P.O. Box 4169
Pocatello, ID 83205

MAY 31, 2020

Invoice # 185770

Billing Atty - MSC

RE: Special Counsel General

CLIENT/MATTER: 09212-00003
MAY 31, 2020
Invoice # 185770

*** INVOICE SUMMARY PAGE ***

PROFESSIONAL FEES	6,385.50
COSTS ADVANCED	.00
TOTAL INVOICE	6,385.50

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MAY 31, 2020

Invoice # 185770

Billing Atty - MSC

FOR PROFESSIONAL SERVICES RENDERED
From MAY 1, 2020 Through MAY 31, 2020

RE: Special Counsel General

CLIENT/MATTER: 09212-00003

5/01/20	MSC	.20	Continue to review and assess options re use of revenue allocation funds in preparation for call with Board chair to discuss the same.	43.00
5/01/20	RPA	.30	Address potential support through agency funds to guarantee PPP loan for private developer. Analyze legal issues and limitations.	64.50
5/04/20	MSC	.50	Review email communications concerning use of revenue allocation funds to assist ATCO and participate in call with Scott Smith and Carl Anderson re same. Note follow up tasks.	107.50
5/04/20	RPA	.80	Review and comment on email concerning request for funding, limitation under the plan provisions, statutory provisions and constitutional limitations.	172.00
5/05/20	MSC	.50	Follow up on email communications from Carl Anderson re use of revenue allocation funds and information concerning a public records request.	107.50
5/06/20	MSC	.20	Review communications from Carl Anderson concerning public records request and additional direction re attorney Parks. Review draft letter to Mr. Holmes invoking the 10 day response period.	43.00

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CLIENT/MATTER: 09212-00003
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5/08/20	MSC	4.20	Work on analysis related to the Portneuf Capital funding request.	903.00
5/09/20	MSC	3.60	Work on analyzing Portneuf Capital's funding request and related issues. Consider best method of relaying information and follow up with Board chair re same.	774.00
5/09/20	RPA	.20	Review status of funding request by developer and eligible expense analysis.	43.00
5/11/20	MSC	.90	Continue to analyze Portneuf Capital's funding request. Follow up Scott Smith re same.	193.50
5/11/20	RPA	1.50	Review and comment on issues concerning the eligibility of requested payment or reimbursement to the developer. Address statutory, constitutional, and plan provisions concerns and exposure.	322.50
5/12/20	MSC	.60	Prepare for call with Scott Smith to discuss funding request. Attend and participate in call. Follow up internally re same noting additional issues to consider.	129.00
5/12/20	RPA	.30	Consider analysis focusing on statutory and plan provisions, avoid constitutional issues.	64.50
5/14/20	MSC	.10	Review public records request for additional minutes.	21.50
5/15/20	MSC	2.80	Review and assess chapters 20 and 29, title 50, Idaho code, regarding Idaho Code 50-2027 and 50-2911. Review case law re standing and applicable statutes of limitations for actions against the agency. Call with Carl Anderson re agenda language. Research executive sessions re 74-206(1)(d) and follow up re same.	602.00
5/17/20	RPA	.20	Follow up on appropriate notice provisions for executive session and actions of the board post-executive session.	43.00
5/19/20	MSC	1.60	Work on preparing for agency meeting. Work on	344.00

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			revising analysis concerning funding request and follow up re same.	
5/20/20	MSC	3.80	Review materials in preparation for participating in the agency board meeting. Prepare comments for the board meeting discussion re Portneuf Capital Funding. Attend and participate in the discussion.	817.00
5/20/20	RPA	1.00	Review and analyze issues re funding. Address concerns over compliance issues. Determine options for the board and exposure. Coordinate with Meghan Conrad on response and results of the board meeting.	215.00
5/21/20	MSC	1.60	Prepare for and participate in meeting with Scott Smith, Carl Anderson, Merrill Qualye and developers to review list of improvements for eligibility and seeking additional information from the development team concerning the public improvements, including the location of same.	344.00
5/22/20	MSC	.80	Review and follow up on email communications from Carl Anderson concerning responses to public records requests. Review and assess information concerning potentially reimbursable/eligible projects within Portneuf District.	172.00
5/22/20	RPA	.30	Review complaint from media on release of records and information concerning board meeting. Consider agency response.	64.50
5/26/20	MSC	1.70	Review updated list of projects eligible for reimbursement from the developer. Participate in call with board chair and Carl Anderson to discuss the same. Continue to review and assess the ability to fund projects under the existing terms of the plan.	365.50
5/26/20	RPA	.30	Address issues concerning eligible reimbursable expenses, legality of reimbursement and	64.50

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			disbursement process.	
5/27/20	MSC	.20	Continue to address best use of revenue allocation proceeds and best practices.	43.00
5/27/20	RPA	.30	Address protocol for developer reimbursement and whether contractor should be noted as co-payee or other process to avoid claims by contractor. Prepare response.	64.50
5/28/20	MSC	.30	Review and follow up on email communication to Mr. Anderson concerning processing payments pursuant to a reimbursement/owner participation agreement.	64.50
5/29/20	RPA	.20	Follow up on reimbursement policy and payment to developer or contractor.	43.00
5/30/20	MSC	.70	Review email communications from Carl Anderson responding to document request from Portneuf Development re city_hoku ground lease and amendment thereto. Review and follow up on reimbursement process re Frigitek OPA.	150.50

ATTORNEY	RATE	HOURS	AMOUNT	NON-CHARGEABLE	
				HOURS	AMOUNT
Armbruster, Ryan P. Shareholder	215.00	5.40	1,161.00	.00	.00
Conrad, Meghan S. Shareholder	215.00	24.30	5,224.50	.00	.00
		29.70	6,385.50	.00	.00

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COSTS ADVANCED

TOTAL COSTS ADVANCED	.00
INVOICE TOTAL	6,385.50
BALANCE FORWARD	3,977.50
BALANCE DUE	10,363.00

Invoice	Matter	Matter Description	Type	Date	Billed
184351	3	Special Counsel General	Invoice	02/29/2020	107.50
184861	1	Northgate Plan	Invoice	03/31/2020	5,760.00
184863	3	Special Counsel General	Invoice	03/31/2020	838.50
185410	3	Special Counsel General	Invoice	04/30/2020	3,031.50

ELAM & BURKE
ATTORNEYS AT LAW

Kim Kline

Legal Assistant

Elam & Burke, P.A.

251 E. Front St., Ste. 300

P.O. Box 1539

Boise, ID 83701

(208) 343-5454

(208) 384-5844 (fax)

[email](#) [website](#)

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