

Mr. Hubert
TAC - OSBORNE - Tax Accountability Committee of ID.

TAC item 4. TERMINATION ESTABLISHED FOR URDS AND RAA. Reasoning for amending 50-2018, 50-2903 and 2904 to establish a termination date for an UR and RAA

To ensure that Idaho taxpayer dollars are efficiently used for the purposes intended within the "Plan" of an urban renewal, community development act or a competitively disadvantaged border area a "Scope of Work" is identified within amended 50-2004 new definition and 50-2018 (24). The "Scope of Work" is a description of the intent of the "plan" which includes the identity of each constituent of each segment of the composite qualifying alleged threat/s by location and physical condition to ensure the existing conditions comply with the required conditions of 50-2002. It is further described as, 50-2903 (17)

Scope of Work means a document describing the project goals, objectives, tasks, phases, sub phases, resources, cost per item delineated within a budget, schedules and time frame for completion of the project plan. The time for termination is identified as upon completion or the time for completion of the identified items of the plan instead of a 20 year period. This will cause efficiency and limit superfluous spending of tax dollars which is prevalent in existing urban renewal areas in Idaho.

50-2004.WORKABLE PROGRAM. A municipality for the purposes of this act may formulate for the municipality a workable program which shall include a "Scope of Work" report enumerating the identity of each constituent segment of the composite qualifying alleged threat/s by location and physical condition to ensure the existing conditions comply with the required conditions of 50-2002 and for utilizing to utilize appropriate private and public resources to eliminate, and prevent the development or spread of, slums and urban blight, to encourage needed urban rehabilitation, or to undertake such of the aforesaid activities or other feasible municipal activities as may be suitably employed to achieve the enumerated objectives of such workable program. Such workable program may include, without limitation, provision for: the prevention of the spread of blight into areas of the municipality which are free from blight through diligent enforcement of housing, zoning and occupancy controls and standards; the rehabilitation or conservation of slum and blighted areas or portions thereof by replanning, removing congestion, providing parks, playgrounds and other public improvements, by encouraging voluntary rehabilitation and by compelling the repair and rehabilitation of deteriorated or deteriorating structures; and to cooperate with an urban renewal agency for the clearance and redevelopment of deteriorated or deteriorating areas or portions thereof.

50-2018(24) Scope of Work shall mean a document describing the project goals, objectives, tasks, phases, sub phases, resources, "Project costs", schedules and time frame for completion of the project plan.

50-2002. FINDINGS AND DECLARATIONS OF NECESSITY. It is hereby found and declared that there may exist in municipalities of the state deteriorated and deteriorating areas (as herein defined) which constitute a serious and growing menace, injurious to the public health, safety, morals and welfare of the residents of the state; that the existence of such areas contributes substantially and increasingly to the spread of disease and crime, constitutes an economic and social liability imposing onerous municipal burdens which decrease the tax base and reduce tax revenues, substantially impairs or arrests the

sound growth of municipalities, retards the provision of housing accommodations, aggravates traffic problems and substantially impairs or arrests the elimination of traffic hazards and the improvement of traffic facilities; and that the prevention and elimination of these conditions is a matter of state policy and state concern in order that the state and its municipalities shall not continue to be endangered by areas which are focal centers of disease, promote juvenile delinquency, and consume an excessive proportion of its revenue because of the extra services required for police, fire, accident, hospitalization and other forms of public protection, services and facilities.

2903 Definitions (17) Scope of Work means a document describing the project goals, objectives, tasks, phases, sub phases, resources, budget, schedules and time frame for completion of the project plan.

Item 5: Auction required. Transfer of land to taxpaying entities. Highest and best use designation established.

Existing practice of land transfers by an urban renewal agency are broadly written allowing an agency to not act in the best interest of the citizens. The amendment of 50-2011(a) requires that all real estate, land or buildings, to be sold will be sold at auction to the highest bidder or exchanged as provided by law.

50-2011(e) is amended to prohibit transfers of real estate owned by an urban renewal agency to tax exempt entities, as the intent of urban renewal and community development is to increase the property tax base. Transfer of land to tax exempt entities results in increased property tax to the hosting municipality/s.

50-2011, 50-2018 added definitions (25), and 50-2903(22) are amended to require that real estate held by an urban renewal agency prior to transfer of title, the agency will establish the "highest and best use" to ensure the highest value is received.

50-2011.DISPOSAL OF PROPERTY IN URBAN RENEWAL AREA. (a) An urban renewal agency may sell, lease, or otherwise transfer real property or any interest therein acquired by it for an urban renewal project, and may enter into contracts with respect thereto, in an urban renewal area for residential, recreational, commercial, industrial, educational or other uses or for public use, or may retain such property or interest for public use, in accordance with the urban renewal plan, subject to such covenants, conditions and restrictions, including covenants running with the land, as it may deem to be necessary or desirable to assist in preventing the development or spread of future slums or blighted areas or to otherwise carry out the purposes of this act: Provided, that such sale, lease, other transfer, or retention, and any agreement relating thereto, may be made only after the approval of the urban renewal plan by the local governing body. The purchasers or lessees and their successors and assigns shall be obligated to devote such real property only to the uses specified in the urban renewal plan, and may shall be obligated to comply with such other requirements and schedules as the urban renewal agency may determine to be in the public interest, including the obligation to begin within a reasonable time any improvements on such real property required by. are required by the urban renewal plan's "Schedule of Work". Such real property or interest shall be sold at auction, leased, otherwise transferred, or retained at not less than its fair value for uses in accordance with the urban renewal plan except property disposed of by it to the community or any other public body which property must be disposed of pursuant to the provisions of subsection (f) of section 50-2015, Idaho Code, even though such fair value may be less than the cost of acquiring and preparing the property for redevelopment. In determining the fair value of real property for uses in accordance with the urban renewal plan, an urban renewal agency shall take into account and give consideration to the uses provided in such plan; the "highest and best use", give preference private ownership to expand the tax base, the restrictions upon, and the covenants, conditions and obligations assumed by the purchaser or lessee or by the urban renewal agency retaining the property; and the objectives of such plan for the prevention of the recurrence of slum or blighted areas. The urban renewal agency in any instrument of conveyance to a private purchaser or lessee may provide that such purchaser or lessee shall be without power to sell, lease or otherwise transfer the real property without the prior written consent of the urban renewal agency until ~~he has~~ they have completed the construction of any or all improvements which ~~he has~~ they have obligated ~~himself~~ their self to construct thereon. Real property acquired by an urban renewal agency which, in accordance with the provisions of the urban renewal plan, is to be transferred, shall be

transferred as rapidly as feasible in the public interest consistent with the carrying out of the provisions of the urban renewal plan. Any contract for such transfer and the urban renewal plan (or such part or parts of such contract or plan as the urban renewal agency may determine) may be recorded in the land records of the county in such manner as to afford actual or constructive notice thereof.

(b) An urban renewal agency shall establish the "highest and best use" for real property before disposing ~~may dispose~~ of real property in an urban renewal area to private persons only under such reasonable competitive bidding procedures as it shall prescribe or as hereinafter provided in this subsection. An urban renewal agency may, by public notice by publication in a newspaper having a general circulation in the community (thirty (30) days prior to the execution of any contract to sell, lease or otherwise transfer real property and prior to the delivery of any instrument of conveyance with respect thereto under the provisions of this section) invite proposals from and make available all pertinent information to private redevelopers or any persons interested in undertaking to redevelop or rehabilitate an urban renewal area, or any part thereof. Such notice shall identify the area, or portion thereof, and shall state that proposals shall be made by those interested within thirty (30) days after the date of publication of said notice, and that such further information as is available may be obtained at such office as shall be designated in said notice. The urban renewal agency shall consider all such redevelopment or rehabilitation proposals and establish the financial and legal ability of the persons making such proposals to ensure satisfactory completion of the proposal ~~carry them out, which may include a completion bond~~ and may negotiate with any persons for proposals for the purchase, lease or other transfer of any real property acquired by the agency in the urban renewal area. The urban renewal agency may accept such proposal as it deems to be in the public interest and in furtherance of the purposes of this act. The agency may execute such contract in accordance with the provisions of subsection (a) and deliver deeds, leases and other instruments and take all steps necessary to effectuate such contract.

(c) An urban renewal agency may temporarily operate and maintain real property acquired by it in an urban renewal area for or in connection with an urban renewal project pending the disposition of the property as authorized in this act, without regard to the provisions of subsection (a) above, for such uses and purposes as may be deemed desirable even though not in conformity with the urban renewal plan.

(d) Any real property acquired pursuant to section 50-2007(d) may be disposed of without regard to other provisions of this section if the local governing body has consented to the disposal.

(e) Notwithstanding any other provisions of this act, and notwithstanding subsection (b) of this section, land in an urban renewal project area designated under the urban renewal plan for industrial or commercial uses may be disposed of to any public body ~~or nonprofit corporation~~ for subsequent disposition as promptly as practicable by the public body or corporation for redevelopment in accordance with the urban renewal plan's "scope of work", and only the purchaser from or lessee of the public body or corporation, and their assignees, shall be required to assume the obligation of beginning the building of improvements within a reasonable time which shall be designated in the transfer of title and conform to the "Scope of Work" of the plan. ~~Any disposition of land to a nonprofit corporation under this subsection shall be made at its fair value for uses in accordance with the urban renewal plan.~~ Any disposition of land to a public body under this subsection shall be made pursuant to the provisions of subsection (f) of section 50-2015, Idaho Code.

(f) Property previously acquired or acquired by an agency for rehabilitation and resale shall be offered for disposition within three (3) years after completion of rehabilitation, or an annual report shall be published by the agency in a newspaper of general circulation published in the community listing any rehabilitated property held by the agency in excess of such three (3) year period, stating the reasons such property remains unsold and indicating plans for its disposition.

50-2018(25) "Highest and Best Use" shall mean, The reasonably probable and legal use of vacant land or improved property which is physically possible, appropriately supported, financially feasible, and that results in the highest value.

50-2903(25) "Highest and Best Use" shall mean, The reasonably probable and legal use of vacant land or improved property which is physically possible, appropriately supported, financially feasible, and that results in the highest value.

AGREEMENTS

I. §100 SUBJECT OF AGREEMENT

A. §101 Purpose of This Agreement

The purpose of this Agreement is to effectuate the Redevelopment Plan by memorializing the disposition of Agency owned property to Developer to facilitate the Private Project, for construction of commercial office and retail development within the Redevelopment Plan area (the "Plan Area" or "Project Area").

Based on the Reuse Appraisal, the Parties have negotiated the combined purchase price for the Retail Parcel and the Office Parcel (the "Purchase Price"). The Purchase Price shall be One Dollar and No/100 (\$1.00).

Developer, upon Closing, a standard coverage ALTA Owner's Policy of Title Insurance (Form B) or, at Developer's option, a title insurance binder for the issuance of an extended coverage ALTA Owner's Policy of Title Insurance (Form B) (including any endorsements reasonably required by Developer to delete any objectionable exceptions to title), in the full amount of \$ 425,000, insuring that marketable fee simple title to the Property is vested in Developer or Developer's designee, subject only to the Permitted Exceptions. Such title insurance policy is referred to herein as the "Policy."

GROUND LEASE

THIS GROUND LEASE ("Lease") is made as of the 22nd day of March, 2007 by and between THE CITY OF POCATELLO, a municipal corporation of Idaho ("Landlord"), and HOKU MATERIALS, INC., a Delaware corporation ("Tenant"), hereinafter "Party" or "Parties" as appropriate.

THE PARTIES HERETO HEREBY MUTUALLY COVENANT AND AGREE AS FOLLOWS:

I. PREMISES; LEASEHOLD IMPROVEMENTS; CONSENT TO FINANCING.

1.1 Premises.

Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, that certain vacant land consisting of approximately sixty-seven (67) acres located near S. Philbin Road, in the County of Bannock, State of Idaho, legally described in attached Exhibit "A" attached hereto, as hereinafter provided and depicted on the Map attached as Exhibit "B"

1.4 Landlord's Consent to Leasehold Improvement Financing.

Landlord hereby consents to Tenant's grant of a security interest in Tenant's leasehold interest under this Lease in connection with the senior secured credit facility ("*Leasehold Improvement Financing*") between Tenant as Borrower and any lender to Tenant ("*Lender*"), the proceeds of which will be used to fund a portion of the costs and expenses of the Project, and any modification or refinancing thereof. Landlord agrees to execute such further assurances in connection with such Leasehold Improvement Financing and any amendments or refinancing thereof as Lender, or any successive lender, may reasonably require.

2.1 Term.

This Lease shall be effective upon the date ("*Effective Date*") that the last Party hereto executes this document. The term of this Lease ("*Term*") shall expire on December 31, 2106, unless this Lease shall sooner terminate or be extended pursuant to the terms and conditions herein. Notwithstanding anything to the contrary herein, Tenant may terminate this lease and surrender the Premises upon written notice to Landlord, with no further liability to Landlord, at any time prior to Landlord obtaining and recording the Easement; provided, however that if Tenant has commenced Leasehold Improvements, Tenant shall comply with Section 5.4(b) in connection with such termination and surrender of the Premises. For purposes of this Lease, the term "Lease Year" shall mean each calendar year during the Lease Term commencing on the Effective Date.

P.2

4.1 Taxes and Assessments on Land and Leasehold Improvements.

Under no circumstances shall Tenant be responsible for paying real property taxes on the land described in Exhibit "A" (the "Land"). Landlord hereby confirms that the Land is tax exempt as a result of being owned by Landlord. In the event that Landlord were to transfer the fee title to the land to a third party and such transfer were to result in the Land losing its tax exempt status, the owner of fee title to the Land, and Landlord's successor in interest to the Landlord's interest under this Lease shall pay any and all real property taxes on such Land directly to the appropriate governmental authority prior to the delinquency date established by the applicable taxing authority. Tenant shall pay one hundred percent (100%) of the real property taxes assessed against the Leasehold Improvements (together with the personal property taxes required to be paid by Tenant pursuant to Sections 4.3 and 4.4 below, the "Taxes") directly to the appropriate governmental authority prior to the delinquency date established by the applicable taxing authority, subject to Tenant's right under the TIF Agreement to have a portion of the Taxes and assessments on the Leasehold Improvements reimbursed in the manner and amount set forth in the TIF Agreement. Tenant's liability to pay such Taxes shall be prorated on the basis of a three hundred sixty-five (365) day year to account for any fractional portion of any calendar year.

3.1 Base Rent.

Tenant's obligation to pay Base Rent for the Premises shall commence on the Effective Date ("Rent Commencement Date"). Beginning on the Rent Commencement Date and thereafter throughout the Term, Tenant shall pay to Landlord as annual base rent ("Base Rent") for the Premises the sum of One and 00/100 Dollars (\$1.00) per Lease Year, payable on each anniversary of the Effective Date, in advance, without any notice, abatement, set-off, demand or deduction whatsoever. Tenant may prepay the Base Rent for the remaining Term in whole or in part at any time. The Base Rent for the first partial Lease Year (since the Effective Date is not January 1) shall be paid upon execution of this Lease.

II. TERM

The initial term for this Kelly Lease shall commence contemporaneously with the assumption and assignment of the HOKU Lease from the TRUSTEE to JH KELLY (the "Commencement Date") and continuing therefrom for a period of three (3) years.

- A. Option to Extend Lease: In the event LESSEE desires an extended Kelly Lease of the Premises, LESSEE shall notify LESSOR in writing at least six (6) months prior to the expiration of this Kelly Lease term, whereupon the parties will negotiate an extended Kelly Lease upon such terms and conditions as the parties may agree.

Revised to
8/20/2009, 06/20/2012

City of Pocatello Expenses, Hoku Scientific Project

Date	Vendor	Amount	Description
3/6/2007	First American Title	\$912,517.82	67 acre site purchase for Hoku Scientific
4/27/2007	Bowman Appraisals	\$1,600.00	Appraisals for GW RoW options vic Kraft Rd
1/24/2008	Hoku Scientific	\$122,600.00	Reimburse for water line relocation
1/31/2008	C. R. Fence Company	\$24,000.00	Fence along GW Malting & Hoku Way
2/29/2008	C. R. Fence Company	\$963.15	Slats for fence, GW Malt & Hoku Way
5/27/2008	Bowman Appraisals	\$4,000.00	Appraisals for rail spur land options
11/30/2008	Bowman Appraisals	\$4,000.00	Appraisals for Highway 30 RoW
3/27/2009	Alliance Title & Escrow	\$11,365.14	Rail spur right of way purchase
4/14/2009	Premier Properties	\$1,000.00	Earnest \$, Highway 30 RoW
4/30/2009	First American Title	\$128,742.50	Highway 30 RoW, vic Hoku RR overpass site
4/30/2009	Premier Properties	\$3,900.00	Broker fees, Highway 30 RoW purchase
9/14/2009	WPC City of Pocatello	\$174,000.00	Purchase sewer credit for GW Malt RoW
Total		\$1,388,688.61	

State Department of Commerce Grants, Hoku Scientific Project

2/2/2008	Dept of Commerce	\$122,600.00	Reimburse for water line relocation Hoku
8/5/2008	Dept of Commerce	\$24,963.15	Reimburse for access road security fencing
6/2/2009	Dept of Commerce	\$55,614.85	Partial reimburse for Highway 30 RR overpass RoW
Total		\$203,178.00	

Net Cash Cost to City \$1,185,510.61

PDA: \$47,758 UP Rail temporary crossings

PDA: Tax increment cash \$ 328,742.23
most of which came from Hoku



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Twin Falls selling \$340,000 site for \$100, adding \$800,000 in work for milk processing company

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In June 2009, the Twin Falls Urban Renewal Agency (TFURA) bought the former Kruzer's building and the property underneath it for \$340,000.

This week, the agency is looking to sell it for \$100, but it's also adding \$800,000 in improvements, including parking, some green space, curbs, gutters and sidewalks.

The sale is part of a deal between TFURA and Uptown Developers, which plans to spend at least \$10 million in construction for a headquarters and an innovation center for Glanbia, the largest American-style cheese manufacturer in the United States. The headquarters is expected to be 35,000 square feet and the innovation center is projected to be 14,000 square feet.

When the center is completed in 2013, Glanbia's 100 workers will occupy the facility and the company plans to add 50 more in time.

One TFURA official admits this project, at a net cost of more than \$1 million for his agency, won't guarantee any new jobs to the city. "Mostly, it will be a transfer," said TFURA chairman Gary Gamund.

The focus of the project isn't necessarily new jobs, Gamund said, but rather downtown revitalization.

The property's sales price is unusual, but the developer says it fits the agency's method of operations. "It ties in with their whole concept of urban renewal," said Uptown Developers partner Kent Taylor.

Taylor wouldn't say if he thought the new building would bring permanent jobs to the community. "I don't know what their (Glanbia's) employment plans are," Taylor said. "I'm going to build a building."

The deal isn't yet finalized, but will likely be completed Friday in a ceremony featuring Gov. Butch Otter.

Twin Falls isn't new to giving public money to companies for new buildings. Last year, TFURA and the city teamed up to deliver more than \$24 million for land and specialized utility work to bring Greek yogurt manufacturer Chobani to town.

TFURA used debt to finance the improvements for Chobani.

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