



Meeting Agenda: Thursday, March 7, 2019, 7:00 a.m.

City of Moscow Council Chambers • 206 E 3rd Street • Moscow, ID 83843
(A) = Board Action Item

1. **Consent Agenda (A)**- Any item will be removed from the consent agenda at the request of any member of the Board and that item will be considered separately later.
A. Minutes from February 21, 2019

ACTION: Approve the consent agenda or take such other action deemed appropriate.

2. **Public Comment for items *not on agenda*:** Three minute limit

3. **Exclusive Negotiation Agreement with Roderick Olps for Sixth and Jackson Property (A) – Bill Belknap**
On September 8, 2018, the Agency published a request for proposals for the disposition and development of the portions of the Sixth and Jackson property that would remain after the development of Hello Walk. Three proposals were received by the submission deadline of December 21, 2018 and one was withdrawn thereafter. The Board received presentations of the two remaining proposals, asked questions of the respondents, and accepted public comment at the Board's on February 7, 2019 meeting. At the Board's February 21 meeting, the Board selected the proposal from Roderick Olps and directed staff to prepare the Exclusive Negotiation Agreement (ENA) between Mr. Olps and the Agency. The ENA is now before the Board for review and approval.

ACTION: Approve the proposed Exclusive Negotiation Agreement with Roderick Olps, or take other action as deemed appropriate.

4. **103 N. Almon Street Development Participation Agreement (A) – Bill Belknap**
Noel Blum recently purchased the prior Dumas Seed Warehouse property with the intent of developing the site. The remaining brick powerhouse building was separated from the main property and sold to Mr. Garrett Thompson with the intent of preserving and repurposing the existing building. Mr. Blum will begin development of his property this spring. There are several public improvements surrounding the site that Staff is proposing the Agency partner with Mr. Blum, Mr. Thompson, and the City. These improvements include the construction of a pedestrian pathway, participation in frontage improvements for the Thompson frontage, and reconstruction of Almon Street from 3rd Street to A Street, and First Street from Almon to Jackson. Two of these public improvements (Almon Street and the pathway) are already contained within the Agency's five-year capital improvement plan. Staff is seeking Board approval of the development participation agreement with Mr. Blum to document the Agency's financial participation.

ACTION: Approve the proposed development participation agreement, or take other action as deemed appropriate.

NOTICE: Individuals attending the meeting who require special assistance to accommodate physical, hearing, or other impairments, please contact the City Clerk, at (208) 883-7015 or TIDD 883-7019, as soon as possible so that arrangements may be made.

5. FY2020 MURA Budget Hearing Date Determination – Bill Belknap

In accordance with state law, the Agency must notify the County Clerk's office of the date of the Agency's public hearing upon the Agency's FY2020 budget by no later than April 30th. Staff is proposing that the Agency set the hearing date for Thursday, August 15, 2019, which will allow adequate time for the budget development and review process. Staff is seeking Board approval to set the hearing for 7:00 AM on Thursday, August 15, 2019.

ACTION: Set the FY2020 Budget hearing for August 1, 2019, or take such other action deemed appropriate.

6. General Agency Updates – Bill Belknap

- Legacy Crossing District
- Alturas District
- General Agency Business



Meeting Minutes: February 21, 2019, 7:00 a.m.

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Commissioners Present	Commissioners Absent	Also in Attendance
Steve McGeehan, Chair	Art Bettge	Bill Belknap, Executive Director
Trent Bice		Anne Peterson, Clerk
Steve Drown		Brittany Gunderson, Treasurer
Dave McGraw		
Ron Smith		
Brandy Sullivan		

McGeehan called the meeting to order at 7:00 a.m.

- Consent Agenda** - Any item will be removed from the consent agenda at the request of any member of the Board and that item will be considered separately later.

A. Minutes from February 7, 2019

B. January 2019 Payables

C. January 2019 Financials

Smith moved approval, seconded by Drown. Motion carried.

- Public Comment for items *not on agenda*:** Three minute limit.
None.

3. **Deliberation of Sixth and Jackson Proposals (A) – Bill Belknap**

On September 8, 2018, the Agency published a request for proposals for the disposition and development of the portions of the Sixth and Jackson property that would remain after the development of Hello Walk. Three proposals were received by the submission deadline of December 21, 2018 and one was withdrawn thereafter. The Board received presentations of the two remaining proposals, asked questions of the respondents, and accepted public comment at the Board's on February 7, 2019 meeting. The Board members were then provided evaluation scoring sheets to individually evaluate the proposals. These evaluations have been compiled for the Board's review and continued deliberation. The Board may choose to accept a proposal, reject all proposals, or take other action as deemed appropriate.

ACTION: *Upon continued review and deliberation, accept a proposal and direct staff to prepare the associated Exclusive Negotiation Agreement; reject all proposals; or, take other action as deemed appropriate.*

Belknap explained the scoring instrument was based on the following four general criteria from the RFP:

- How the proposed development meets the MURA's goals and objectives for the Legacy Crossing area as outlined in the Legacy Crossing Plan.
- Compliance of the proposed development with the Urban Mixed Commercial zoning regulations, Legacy Crossing Overlay District, Legacy Crossing Overlay District Design Guidelines and the Legacy Crossing Plan.

- Probability of the proposed development's success based upon the stability of the developer, market analysis, business plan, and timeline.
- Developer's expectations of the MURA for the project's success.

Each criteria was further divided into subcategories, and scores were weighted to determine an overall composite score for each proposal. The Olps/Storm proposal came in at 6.79 and Big Sky CG/GM at 6.61. Five Board members ranked the Olps/Storm proposal as number one, and two ranked the Big Sky proposal as their top choice.

Sullivan stated both proposals met the desired criteria and the close scores would make it a challenging decision. Bice said two aspects of the Olps proposal that stood out to him were the option for additional parking and that they already have an anchor tenant. Smith liked both proposals, but thought Big Sky's proposal did a better job of drawing University people downtown, although the Olps project was directed at young professionals which would support downtown very well. He thought either one could be successful. McGeehan said both applicants appeared to understand the expectations, had development experience in the community, and understood the University/Downtown relationship. Sullivan noted that both proposed buildings were significantly taller and more imposing than anything else downtown. Bice agreed, but thought the silos next door complemented the height. Belknap said the design standards limit structures to 60 feet or five stories, with an option to go higher with a Conditional Use Permit. He also pointed out the McConnell Building and Moscow Hotel are four stories tall and almost 5 if you consider the parapet wall heights. Drown liked the brick façade of Big Sky's proposal better and thought the Olps proposal would have benefitted from engaging an architect. McGraw recalled that the Sangria Group determined the additional stories of apartments were needed to make the project financially feasible. He added that both proposals were significantly different than what was envisioned ten years ago. Belknap said the early student concepts included four- to five-story mixed-use buildings plus a parking structure. Sullivan said the vision for the parcel was to provide a connection between downtown and campus, so she was concerned that a very tall building would block that connection. McGeehan said both proposals offered imposing structures but he thought that Hello Walk and a landscaped parking lot would provide sufficient open space. Drown understood the University's portion of Hello Walk would be a meandering path so he wondered if the piece on the 6th & Jackson lot could be something other than the straight line dissecting the parcel. Belknap said he had sketched up the lot many times and believes it is simply too small to change the location of Hello Walk and still leave space for parking. Belknap reminded the Board they were currently tasked with selecting a concept, and various adjustments could be negotiated during the ENA process.

McGeehan noted that neither proposal mentioned need for Agency assistance. Sullivan asked if the MURA could partner on an underground parking structure and Belknap replied the Agency could only partner on public parking, and on this site shallow groundwater levels and sand layers on the site would preclude underground use. Based solely on parking, Sullivan said the Olps proposal came closer to providing the required number of spaces. Bice reiterated that Olps' suggestion for nearby parking was very attractive. Discussion of the parking issues within Moscow culminated in Board members agreeing that much of the problem stems from "long-term storage" of vehicles rather than short-term use.

With regard to the desire for after-5 activity, Sullivan said neither proposal offers a restaurant/bar type activity, but she thought potential tenants for the Big Sky project might offer more evening activity than the Olps project. She said the evening activity at her One World coffee shop is mostly driven by special music events. Drown thought for the vitality of the community it was very important for the Agency to consider which project provided the best opportunity for creating gathering spaces, and to remember the new generation is viewing Moscow in new and unique ways. Sullivan thought the Big Sky project provided more open, shared public space. Drown noted that the EMSI expansion downtown resulted

from their employees' desire for an urban-type workspace in a small town. McGeehan noted the Alturas Park concept is no longer popular.

McGeehan asked for a motion to accept a proposal or reject both. Sullivan thought the Olps project provided better parking options but Big Sky provided greater opportunities for mixed use and evening activity. Drown appreciated that Olps already has an anchor tenant but he thought the character of the Big Sky building was more interesting. Belknap reminded the Board that the proposals were scored against published RFP criteria, so to not choose the highest-ranked proposal would be unusual. Sullivan didn't think the scores were significantly different, although she acknowledged that five of the seven Board members ranked Olps' proposal higher. McGeehan said each proposal has its strong points, and through all the comments and scoring, each Board member has indicated which proposal is their favorite.

Drown moved acceptance of the Olps proposal and directed staff to prepare the ENA. Bice seconded the motion. Sullivan asked Belknap to remind them of the negotiation timeframe. Belknap explained the process and said the Agreement could be ready for the next meeting but the negotiations, fair use appraisal, development documents, etc. would take about six months to complete. Motion to accept the Olps/Storm proposal and direct staff to prepare the associated Exclusive Negotiation Agreement carried unanimously, and McGeehan thanked everyone for participating in this tough, important discussion.

4. Dumas Seed Warehouse Redevelopment Project Review (A) – Bill Belknap

Noel Blum recently purchased the prior Dumas Seed Warehouse property with the intent of developing the site. The remaining brick powerhouse building was separated from the main property and sold to Mr. Garrett Thompson with the intent of preserving and repurposing the existing building. Mr. Blum will begin development of his property this spring. There are several public improvements surrounding the site that Staff is proposing the Agency partner with Mr. Blum, Mr. Thompson, and the City within FY2019 and FY2020. These improvements include the construction of a pedestrian pathway, participation in frontage improvements for the Thompson frontage, and reconstruction of Almon Street from 3rd Street to A Street and First Street from Almon to Jackson. Two of these public improvements (Almon Street and the pathway) are already contained within the Agency's five year capital improvement plan. Staff is seeking Board authorization to prepare participation agreements with the relevant parties to document the Agency's financial participation.

ACTION: *Approve the proposed financial participation and authorize staff to prepare and execute the associated participation agreement; or take such other on deemed appropriate.*

Belknap showed the proposed project elevations and site plan, and described the City's long-time desire to create a pedestrian route from north and east of this property into the downtown core, somewhat following the old railroad bed. The City and Blum have already entered into an MOA to provide public access into Otness Park. In addition, the City is purchasing additional right-of-way on A Street to allow for construction of a turn lane on east-bound A Street to north-bound Almon Street. The desire is to provide continuous sidewalk and frontage improvements around the entire block, as well as roadway reconstruction between A and Third Streets. Garrett Thompson owns the northeast corner of the block, and although he is not required to do frontage improvements on that corner, he has agreed to contribute 50% of the cost. Belknap suggested the Agency could also participate the pedestrian pathway on the south side of the project and the pedestrian pathway lighting improvements. Lastly, he recommended \$150,000 toward reconstruction of Almon Street between Third and A Streets, and First Street between Almon and Jackson Streets. With the Board's approval, Belknap said he would proceed with creating Participation Agreements with the developers. Agency members concurred.

5. Public Records Custodian Designation Resolution (A) – Bill Belknap

During the 2018 legislative session, the legislature modified Idaho Code Section 74-119 requiring every public entity to adopt guidelines concerning public records including where records are located, the primary custodian of the records, and an alternate custodian for "contingencies." Staff has prepared the required resolution for the Board's review and approval which designates the Board Clerk as the primary custodian and the Executive Director as the alternate custodian.

ACTION: *Approve the proposed public records custodian resolution, or take other action as deemed appropriate.*

Smith moved approval of the Resolution as written, seconded by Sullivan. Motion carried.

6. General Agency Updates – Bill Belknap

None.

The meeting adjourned at 8:19 AM.

Steve McGeehan, Agency Chair

Date



EXCLUSIVE NEGOTIATION AGREEMENT

between

Moscow Urban Renewal Agency

and

Roderick D. Olps,

For the development of:

Property Located at the Southwest Corner of the Intersection of 6th and
Jackson Streets in the City of Moscow, Idaho

March 7, 2019

EXCLUSIVE NEGOTIATION AGREEMENT

This EXCLUSIVE NEGOTIATION AGREEMENT (hereinafter “Agreement” or “ENA”) is entered into this 7th day of March, 2019, by and between the MOSCOW URBAN RENEWAL AGENCY of the City of Moscow, Idaho, a 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 Local Economic Development Act of 1988 as amended (hereinafter the “Act”), and Roderick D. Olps or his assigns (hereinafter “Developer”), 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; and

WHEREAS, the City of Moscow, Idaho adopted its Ordinance No. 2008-10 on June 2, 2008, approving the Legacy Crossing Urban Renewal District Redevelopment Plan (hereinafter the “Plan”), which includes the plan for improvement, development and redevelopment of properties within the boundaries of said district within the City of Moscow, Latah County, Idaho (hereinafter the “Project Area”); and

WHEREAS, Agency currently owns a two parcels of land located at the Southwest corner of the Intersection of Sixth and Jackson Streets, (hereinafter the “Property”) which is within the Project Area; and

WHEREAS, Agency seeks to encourage development in conformance with the Plan through disposition and development of the Property; and

WHEREAS, Agency has published a Request for Proposals for Redevelopment of the Property in conformance with the Law and the Act (hereinafter the “Request for Proposals”); and

WHEREAS, Developer has submitted a complete and timely response to Agency’s Request for Proposals for Redevelopment of the Property;

NOW, THEREFORE, Agency and Developer hereby agree as follows:

AGREEMENT

1. NEGOTIATIONS.

1.1 GOOD-FAITH NEGOTIATIONS. Agency and Developer agree for the Negotiation Period set forth below to negotiate diligently and in good faith to prepare a Disposition and Development Agreement (“DDA”) to be considered for execution between Agency and

Developer, in the manner set forth herein, with respect to the development of the Property. The Property more particularly described in Exhibit "A" attached hereto. Agency agrees for the period set forth below not to negotiate with any other person or any other entity regarding the development or redevelopment of the Property.

1.2 NEGOTIATION PERIOD. The duration of this Agreement (the "Negotiation Period") shall continue from the execution of this Agreement by Agency until 5:00 PM local time on November 7th, 2019. If, upon expiration of the Negotiation Period Developer has not signed and submitted a DDA to the Agency (unless a written extension is granted by the Agency), then this Agreement shall automatically terminate. If a DDA is so signed and submitted by Developer to Agency on or before expiration of the Negotiation Period, then this Agreement and the Negotiation Period herein shall be extended without further action by Agency for a period not to exceed the earlier to occur of the expiration of sixty (60) days from the date of such submittal, during which time Agency shall take all steps legally necessary to: (1) consider the terms and conditions of the proposed DDA; (2) if appropriate, take the actions necessary to authorize Agency to enter into the DDA; and (3) execute the DDA. If Agency has not timely executed the DDA within the before mentioned time periods from the date such DDA is submitted (unless written extension is granted by the Developer), then this Agreement shall automatically terminate.

The Parties agree to consider reasonable requests for extensions of time of the Negotiation Period and of the approval period for action and approval by Agency; provided, however, Agency may, at its discretion, require Developer to pay an extension fee for any such extension requested by Developer. If the negotiations do not result in an executed DDA, Developer shall submit to Agency a summary of its findings and determinations regarding the proposed development. If this Agreement is terminated per this section, Developer shall not seek reimbursement for costs and expenses from Agency.

1.3 DEPOSIT. Developer agrees to provide a deposit in the amount of Five Thousand and no one/hundredths dollars (\$5,000.00) to enter into an agreement to negotiate exclusively with Agency with regards to the Property. The deposit shall then be applied against the purchase price for the Property as determined by the DDA.

1.4 TERMINATION. In the event Developer has not continued to negotiate diligently and in good faith, Agency shall give written notice thereof to Developer, who shall then have five (5) working days to commence negotiating in good faith. Following the receipt of such notice and the failure of Developer to thereafter commence negotiating in good faith within such five (5) working days, this Agreement may be terminated by Agency. In the event of such termination by the Agency, Agency shall retain the deposit, and neither Party shall have any further rights against or liability to the other under this Agreement, save and except the right of Developer to contest such action by Agency. In the event Agency has not continued to negotiate diligently and in good faith, Developer shall give written notice thereof to Agency, which shall then have five (5) working days to commence negotiating in good faith. Following the receipt of such notice and the failure of Agency to thereafter commence negotiating in good faith within such five (5) working days, this Agreement may be terminated by Developer. In the event of such termination by Developer, Agency shall

immediately return the entire deposit to Developer, and neither Party shall have any further rights against or liability to the other under this Agreement. Upon automatic termination of this Agreement at the expiration of the Negotiation Period or any extension thereof or other termination, then concurrently therewith, the deposit shall be paid by Agency to Developer, and neither Party shall have any further rights against or liability to the other under this Agreement. If a DDA has been executed by the Agency and Developer, the DDA shall thereafter govern the rights and obligations of the Parties with respect to the development of the Property.

2. DEVELOPMENT CONCEPT.

2.1 SCOPE OF DEVELOPMENT. Within the time set forth in Exhibit B, Schedule of Performance, Developer shall submit to Agency Developer's specific proposed scope of development regarding the use of the Property (hereinafter referred to as the "Project"). Upon Agency's execution of this Agreement, Developer shall begin immediately the process of preparing a development plan for the Property ("Development Plan"). The Development Plan shall include design and construction drawings for the Project and an implementation program including project development schedule. Specific parts of the Development Plan will include, but not be limited to, site plan, floor plans, landscape plans, building elevations/sections, and other drawings, documents and reports necessary to obtain a construction permit from the agency having jurisdiction. The Development Plan shall also include a project schedule detailing any project bid advertisements, openings and awards, along with the anticipated commencement and completion of construction activities upon the Property. Submittal of the Development Plan initiates a two-phase review process outlined as follows:

Phase 1: Conditional approval of the initial plan submittal acknowledges Agency's endorsement of the Development Plan for the described Project. Developer is encouraged to refine and supplement the Development Plan submittals and to work with Agency toward successful completion of the second review, if required, which will culminate in compliance with the provisions of the Moscow City Zoning Ordinance and related local government requirements.

Phase 2: Within the times set forth in the Schedule of Performance, Agency shall either approve or disapprove the Development Plan. In the event the Development Plan and submittal are initially disapproved, Agency shall set forth the reasons for disapproval. Developer shall then have thirty (30) days to resubmit information to satisfy the reasons for disapproval; provided, however, in the event the Development Plan is again disapproved, this Agreement shall be terminated.

In the event at any time during the Negotiation Period the Developer determines that it is not feasible to proceed with development of the Property, this Agreement shall be terminated upon ten (10) days' written notice to Agency. Likewise, in the event at any time during the Negotiation Period the Agency determines that it is not feasible to proceed to the development of the Property, this Agreement shall be terminated upon ten (10) days' written notice to Developer. In the event of such termination, Agency shall return the deposit to

Developer, and neither Party shall have any further rights against or liability to the other under this Agreement. Developer acknowledges and consents that in the event this Agreement is terminated for nonperformance by Developer, or Developer's conclusion that the Project is not feasible, or the Project is terminated for any reason hereunder, Agency has the right and authority to enter into an exclusive right to negotiate agreement with any other interested developer.

2.2 CONSISTENT PLANS. Developer's Development Plan shall recognize and be consistent with Agency's Plan, subject to the provisions defined in this Agreement.

2.3 COORDINATION WITH ADJACENT DEVELOPMENT. During the Negotiation Period, Developer shall use its best efforts to coordinate its Development Plan and design with the adjacent development.

2.4 PROGRESS REPORTS. Upon reasonable notice, as from time to time reasonably requested by Agency, Developer agrees to make progress reports advising Agency on all matters and all studies being made by Developer.

3. PURCHASE PRICE. The purchase price to be paid by Developer under the DDA will be established by Agency after preliminary negotiations with Developer. Such purchase price shall be established by Agency during the Negotiation Period. Based on the Development Plan, Agency will prepare and provide Developer with a reuse appraisal. Such purchase price will be based upon such factors as market conditions, density of development, costs of development, risks of Agency, risks of Developer, Developer participation in the funding of public facilities and amenities, and estimated or actual Developer profit. Developer recognizes that under the Law, the purchase price cannot be less than the fair value for uses in accordance with the Plan. The purchase price and DDA shall be subject to approval by Agency. During the Negotiation Period, Agency and Developer will negotiate the schedule for the disposition and development of the Property.

4. DEVELOPER'S RESPONSIBILITIES.

4.1 NATURE OF THE DEVELOPER. Developer is Roderick D. Olps, or his assigns. Notwithstanding any other provision of this Agreement, Developer reserves the right, at Developer's discretion and without prior written consent of Agency, to join and associate with other entities for the purpose of acquiring and developing the Property, provided that Developer maintains operating control of such entities and remains fully responsible to Agency as provided in this Agreement with respect to the Property. Wherever the term "Developer" is used herein, such term shall include any permitted nominee or assignee as herein provided.

4.2 PRINCIPAL OFFICE OF THE DEVELOPER. The mailing address of Developer is 931 Harold Street, Moscow ID 83843.

4.3 DEVELOPER'S DEVELOPMENT TEAM. "Development Team" is defined as the Developer together with all contracted professionals and principal associates identified pursuant to this Section. The Developer's architect, attorney, project manager and other

members of the development team will be identified at a later date and will be incorporated into the DDA.

4.4 DEVELOPER'S LEGAL COMPLIANCE. Developer recognizes it will be required to comply with all applicable laws, including, but not limited to: all applicable federal and state labor standards; antidiscrimination standards; affirmative action standards; nondiscrimination and non-segregation standards; laws; pre-existing legal, use, and all development and zoning regulations, and any applicable covenants and restrictions; and regulations in development, rental, sale, or lease of the Property.

4.5 DEVELOPER'S FINANCIAL CAPACITY. Developer acknowledges that the DDA will require that Developer submit to Agency satisfactory evidence of Developer's plan for financing the Project sufficient to permit Agency to determine Developer's ability to finance and complete the Project. The timing of submittal and forms of such evidence of financing shall be addressed in the DDA. The evidence of financing may include evidence of the approval for construction financing for the Developer's portions of the development of and long-term financing for the Property.

5. AGENCY'S RESPONSIBILITIES.

5.1 AGENCY ASSISTANCE AND COOPERATION. Agency shall cooperate fully in providing Developer with appropriate information and assistance.

5.2 REAL ESTATE COMMISSIONS. Agency shall not be liable for any real estate commission or brokerage fees which may arise from the disposition and development of the Property. Agency agrees to hold Developer harmless from any claim by any broker, agent, or finder retained by Agency. Developer has not retained any real estate broker to assist in this transaction and Developer agrees to hold Agency harmless from any claim by any broker, agent, or finder retained by Developer.

5.3 LIMITATIONS AND CONDITIONS OF THIS AGREEMENT. By its execution of this Agreement, Agency is not committing itself to or agreeing to undertake: (a) disposition of land to Developer; or (b) any other acts or activities requiring the subsequent independent exercise of discretion by Agency, the City, or any agency or department thereof; or (c) any other acts or activities requiring the subsequent independent exercise of discretion by any federal or state agency, including, but not limited to, environmental clearance and historic preservation approval. This Agreement does not constitute a disposition of property or exercise of control over property by Agency or City of Moscow, Idaho.

6. GENERAL PROVISIONS.

6.1 REMEDIES AND DAMAGES. Notwithstanding anything to the contrary contained in this Agreement, Developer's obligations hereunder are nonrecourse, and Agency's only recourse and security for those obligations shall be the recovery of possession of the Property, the recovery of attorney fees and costs incurred in the recovery of the Property,

and termination of this Agreement. Nothing stated in this section shall be deemed to have effected a release or impairment of Agency's fee title to the Property. If a dispute arises out of or relates to this Agreement or the breach thereof and if said dispute cannot be settled through direct discussions, the Parties agree to first endeavor to settle the dispute in an amicable manner by mediation or other process of structured negotiation under the auspices of a nationally or regionally recognized organization providing such services in the northwestern states or otherwise, as the Parties may mutually agree before resorting to litigation or to arbitration. In the event of any action or proceeding described in this section between any of the Parties to this Agreement to enforce any provision of this Agreement or to protect or establish any right or remedy of any Party hereunder, the unsuccessful Party to such proceeding shall pay the prevailing Party all costs and expenses, including reasonable attorney fees incurred therein by such prevailing Party (including such costs and fees incurred on appeal), and if such prevailing Party shall recover judgment in any such action or proceeding, such costs, expenses, and attorney fees shall be included in and as a part of such judgment.

6.2 NO RECORDATION. In no event shall any Party record this Agreement or any memorandum hereof or otherwise encumber the Property by reason of the selection process, this Agreement, or the negotiations contemplated hereby.

6.3 FORCE MAJEURE. Time periods provided for performance of the obligations set forth in this Agreement shall be extended for a period or periods of time equal to any period or periods of delay caused by strikes, lockouts, fire, or other casualty, litigation by third parties, the elements or acts of God, or other causes, other than financial, which are beyond the reasonable control of the Party having the relevant obligation.

6.4 SUCCESSORS AND ASSIGNS. Except for the permitted assignment by Developer as specifically authorized in this agreement in Section 4.1 above, no Party may assign or delegate its obligations under this Agreement without the consent of each other Party hereto, which consent may be withheld in the discretion of that Party. Except as otherwise set forth in this Agreement, the terms, covenants, conditions, and agreements contained herein shall be binding upon and inure to the benefit of the heirs, personal representatives, successors, and assigns of the Parties hereto.

6.5 NUMBER AND GENDER. In constructing the provisions of this Agreement and whenever the context so requires, the use of a gender shall include all other genders, the use of the singular shall include the plural, and the use of the plural shall include the singular.

6.6 NO THIRD-PARTY BENEFICIARY. This Agreement is not intended to create, does not create, nor shall it be in any way interpreted or construed to create, any third-party beneficiary rights in any person not a Party hereto unless otherwise expressly provided herein.

6.7 COUNTERPARTS. This Agreement may be executed in counterparts, and each counterpart shall then be deemed for all purposes to be an original, executed agreement with respect to the Parties whose signatures appear thereon.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date set opposite their signatures. The effective date of this Agreement shall be the date this Agreement is signed by Agency.

Dated this 7th day of March, 2019.

AGENCY:

MOSCOW URBAN RENEWAL AGENCY
MOSCOW, IDAHO

By _____
Steve McGeehan, Chair

ACKNOWLEDGMENT

STATE OF IDAHO)
) ss.
COUNTY OF LATAH)

On this _____ day of _____, 2019, before me, a Notary Public in and for said State, appeared Steve McGeehan, known to me to be the person named above and acknowledged that he executed the foregoing document as the duly authorized representative for The Urban Renewal Agency of Moscow, Idaho.

Notary Public for the State of Idaho
Residing at _____
My commission expires _____

Dated this ____ day of _____, 2019.

DEVELOPER:

By _____

Roderick D. Olps, Developer

ACKNOWLEDGMENT

STATE OF IDAHO)
) ss.
COUNTY OF LATAH)

On this _____ day of _____, 2019, before me, a Notary Public in and for said State, appeared Roderick D. Olps, known to me to be the person named above and acknowledged that he executed the foregoing document.

Notary Public for the State of Idaho
Residing at _____
My commission expires _____

EXHIBIT A PROPERTY MAP

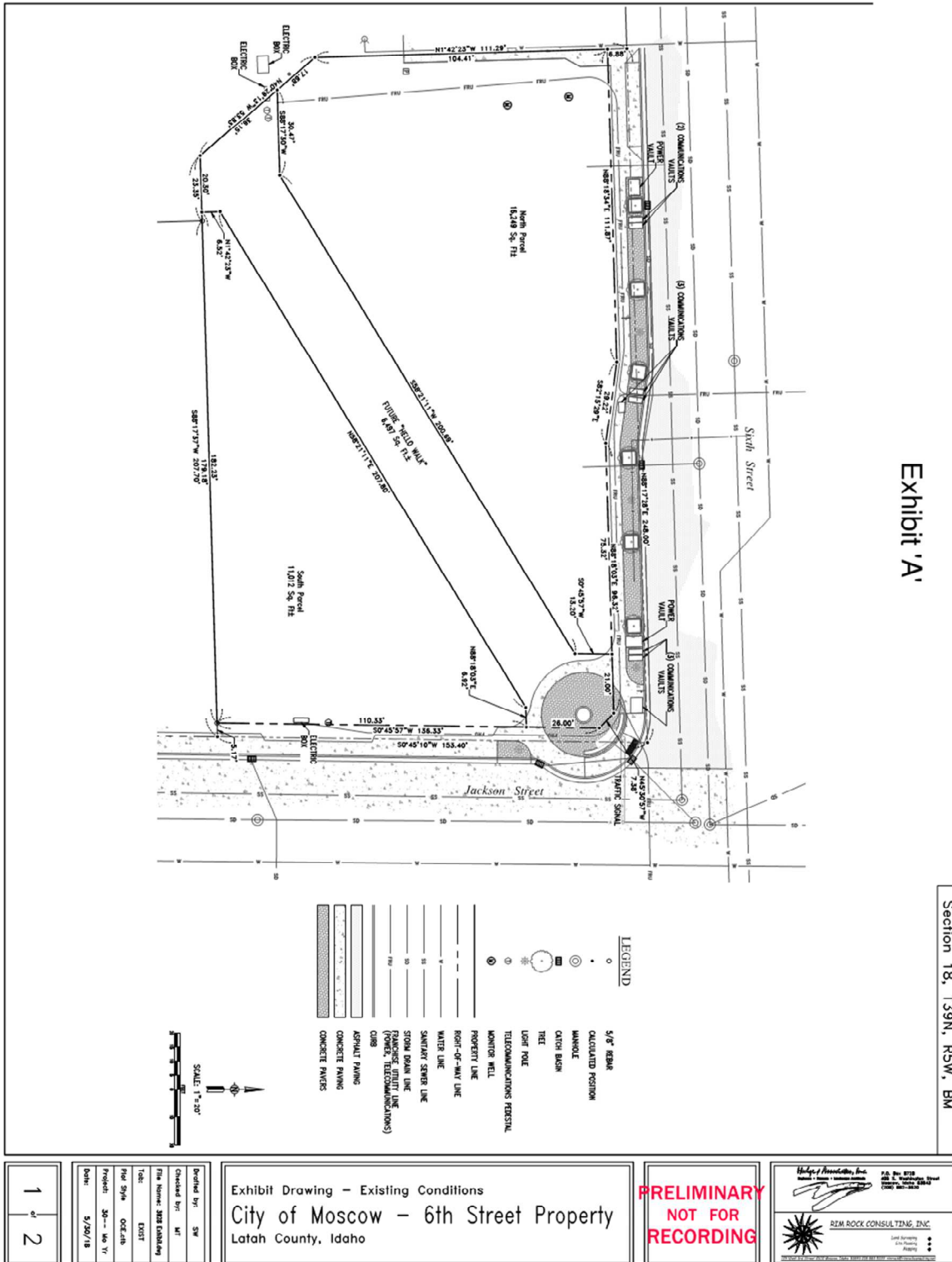


EXHIBIT B

SCHEDULE OF PERFORMANCE

ACTION	DATE
1. <u>Deposit</u> . The Developer shall deliver the Deposit to the Agency.	No later than March 14, 2019.
2. <u>Submission of Phase I Development Plan</u> . The Developer shall submit Development Plans to Agency for approval.	No later than May 17, 2019.
3. <u>Agency Approval or Disapproval of Phase I Development Plans</u> . Agency shall provide approval or disapproval of Developer's Phase I development plans	No later than June 14, 2019.
2. <u>Submission of Phase II Development Plan</u> . The Developer shall submit Development Plans to Agency for approval.	No later than August 16, 2019.
3. <u>Agency approval or disapproval of Phase II Development Plans</u> . Agency shall provide approval or disapproval of Developer's development plans	No later than September 13, 2019.
3. <u>Submittal of Draft Disposition and Development Agreement (DDA)</u> . The Agency staff and Developer shall have completed a draft DDA in a sufficiently final form to permit review by the Agency Board and to proceed through the required approval process.	No later than October 7, 2019.
4. <u>DDA Consideration</u> . The Agency Board shall consider and approve if appropriate the DDA.	No later than November 7, 2019.

**MOSCOW URBAN RENEWAL AGENCY
RESOLUTION NO. 2019-02**

A RESOLUTION OF THE MOSCOW URBAN RENEWAL AGENCY, AUTHORIZING THE APPROVAL AND ACCEPTANCE OF AN OWNER PARTICIPATION AGREEMENT BY AND BETWEEN THE MOSCOW URBAN RENEWAL AGENCY AND BLUM CONSTRUCTION LLC FOR PUBLIC STREET AND PEDESTRIAN PATHWAY IMPROVEMENTS TO 103 N. ALMON STREET, MOSCOW, IDAHO; AND PROVIDING THAT THIS RESOLUTION BE EFFECTIVE UPON ITS PASSAGE AND APPROVAL.

THIS RESOLUTION, made on the date hereinafter set forth by the Moscow Urban Renewal Agency, an independent public body, corporate and politic, authorized under the authority of the Idaho Urban Renewal Law of 1965, as amended, Chapter 20, Title 50, Idaho Code, a duly created and functioning urban renewal agency for Moscow, Idaho, (hereinafter referred to as the “Agency”):

WHEREAS, the Moscow City Council adopted its Ordinance No. 2008-10 on June 2, 2008, approving the Legacy Crossing Urban Renewal District Redevelopment Plan, and Ordinance 2018-13 approving the Amended and Restated Legacy Crossing Urban Renewal District Redevelopment Plan (hereinafter the “Urban Renewal Plan”); and

WHEREAS, Blum Construction LLC (hereinafter “Participant”) owns the real property located at 103 N. Almon Street, Moscow, Idaho, Assessor’s Parcel Number RPM0530005001B, upon which Participant is constructing improvements and investing significant resources in developing its property; and

WHEREAS, in order to complement the newly constructed building improvements on the property, Agency desires to make improvements to the adjacent public infrastructure, including street reconstruction, improvements to sidewalks, curbs, gutters, and pedestrian pathway improvements (hereinafter referred to as the “Project” as defined below); and

WHEREAS, Participant has worked with the City of Moscow to develop a design for the Project and to secure the City’s approval of the Project; and

WHEREAS, Section 504 of the Urban Renewal Plan authorizes Agency to use revenue allocation financing to fund specific projects and improvements to implement the Urban Renewal Plan;

WHEREAS, said Project implements several objectives outlined in Section 302 of the Urban Renewal Plan;

WHEREAS, Section 303 of the Urban Renewal Plan authorizes Agency to enter into Owner Participation Agreements to implement the Urban Renewal Plan;

WHEREAS, as a result of Participant’s commitment to proceed with the Project and to construct public improvements in the public right-of-way which will enhance public access, safety, aesthetics, and environmental and economic well-being, 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 an Owner Participation Agreement to define their respective obligations;

WHEREAS, by entering into this Agreement and complying with its terms, Agency finds that Participant has complied with the provisions and requirements of the Urban Renewal Plan;

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE MOSCOW URBAN RENEWAL AGENCY AS FOLLOWS:

Section 1. The Chair of the Moscow Urban Renewal Agency is hereby authorized to enter into an Owner Participation Agreement with Blum Construction LLC in order to complete the public improvements to the right-of-way or public pedestrian easements adjacent to or across 103 N. Almon Street, Moscow, Idaho.

Section 2. The Owner Participation Agreement will provide reimbursement of up to FIFTY FIVE THOUSAND SIX HUNDRED AND FORTY SIX DOLLARS (\$55,646) in certified costs expended for the construction of the Project.

Section 3. The Agency reimbursement to Blum Construction LLC shall be determined by actual costs and shall not exceed FIFTY FIVE THOUSAND SIX HUNDRED AND FORTY SIX DOLLARS (\$55,646).

Section 4. That this Resolution shall be in full force and effect immediately upon its adoption and approval.

PASSED by the Moscow Urban Renewal Agency, this 7th day of March, 2019.

Steve McGeehan, Chair

ATTEST:

Brittany Gunderson, Treasurer



OWNER PARTICIPATION AGREEMENT

BY AND BETWEEN

THE MOSCOW URBAN RENEWAL AGENCY

AND

BLUM CONSTRUCTION, LLC

FOR

103 N. ALMON STREET PROJECT

March 7, 2017

OWNER PARTICIPATION AGREEMENT

THIS OWNER PARTICIPATION AGREEMENT (hereinafter “Agreement”) is entered into this _____ day of _____, 2019, by and between the MOSCOW URBAN RENEWAL AGENCY, a 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 Local Economic Development Act, Title 50, Chapter 29 Idaho Code as amended (hereinafter the “Act”), and Blum Construction, LLC, an Idaho Limited Liability Company or its assigns (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; and

WHEREAS, the Moscow City Council adopted its Ordinance No. 2008-10 on June 2, 2008, approving the Legacy Crossing Urban Renewal District Redevelopment Plan, and Ordinance 2018-13 approving the Amended and Restated Legacy Crossing Urban Renewal District Redevelopment Plan (hereinafter the “Urban Renewal Plan”); and

WHEREAS, Participant owns the real property located at 103 N. Almon Street, Moscow, Idaho, Assessor’s Parcel Number RPM0530005001B, upon which Participant is constructing improvements and investing significant resources in developing its property; and

WHEREAS, in order to complement the newly constructed building improvements on the property, Agency desires to make improvements to the adjacent public infrastructure, including street reconstruction, improvements to sidewalks, curbs, gutters, and pedestrian pathway improvements (hereinafter referred to as the “Project” as defined below); and

WHEREAS, Participant has worked with the City of Moscow to develop a design for the Project and to secure the City’s approval of the Project; and

WHEREAS, Section 504 of the Urban Renewal Plan authorizes Agency to use revenue allocation financing to fund specific projects and improvements to implement the Urban Renewal Plan;

WHEREAS, said Project implements several objectives outlined in Section 302 of the Urban Renewal Plan;

WHEREAS, Section 303 of the Urban Renewal Plan authorizes Agency to enter into Owner Participation Agreements to implement the Urban Renewal Plan;

WHEREAS, as a result of Participant’s commitment to proceed with the Project and to construct public improvements in the public right-of-way which will enhance public access, safety, aesthetics, and environmental and economic well-being, 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;

WHEREAS, by entering into this Agreement and complying with its terms, Agency finds that Participant has complied with the provisions and requirements of the Urban Renewal Plan;

WHEREAS, the Agency Board, at its March 7, 2019 Board meeting, approved the Project Term Sheet, a copy of which is attached hereto as Attachment 1 (Term Sheet);

WHEREAS, the Agency Board, at its March 7, 2019 Board meeting, adopted Resolution No. 2018-02 authorizing the Chair of the Agency Board to execute this Agreement on behalf of the Agency.

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 the completion of all obligations of each Party, subject to the following: To be eligible for reimbursement under this Agreement, Participant must complete construction of the Project within eighteen (18) months from the Effective Date. Provided if Participant is diligently constructing the Project, upon written request by Participant, Agency shall grant one extension for a period not to exceed twelve (12) months which consent shall not be unreasonably withheld, conditioned, or delayed.

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 intended to constitute a grant of Agency funds and not be deemed a gift or donation of public funds.

The purpose of this Agreement is to effectuate the Urban Renewal Plan and a portion of the Legacy Crossing Urban Renewal District by providing necessary improvements to the public infrastructure within the Legacy Crossing Urban Renewal District.

The Project improvements to the public infrastructure 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 Legacy Crossing Urban Renewal District Redevelopment Plan as adopted by the Moscow City Council through its Ordinance No. 2008-10 on June 2, 2008, and Ordinance 2018-13 on October 1, 2018 approving the Amended and Restated Legacy Crossing Urban Renewal District Redevelopment Plan.

C. The Project Area

The Urban Renewal Project Area (Project Area) is located in the City of Moscow, and the exact boundaries of the Project Area are more specifically described in the Urban Renewal Plan.

D. The Project

The Project shall mean the development within the Project Area undertaken by Participant or its successors or assigns upon the private property and public right-of-way adjacent to 103 N. Almon Street. The Project consists of private and public improvements contained and contemplated in the "Project Design Diagram" attached to this Agreement as Attachment 2 which is incorporated herein by reference, and as more particularly described in the "Project Description," attached hereto as Attachment 3 which is incorporated herein by reference, including, but not limited to: street, sidewalk and curb demolition and reconstruction and construction of a new pedestrian pathway across the subject property. The Project shall comply with all the provisions of the Urban Renewal Plan and all applicable City building and zoning ordinances.

E. The City

The term City as used herein shall be the City of Moscow, Idaho.

F. 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 the Project is as set forth herein.

G. 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 Law and the Act. The office of the Agency is located at 221 East Second Street, Moscow, Idaho. "Agency," as used in this Agreement, includes the Moscow Urban Renewal Agency and any assignee of or successor to its rights, powers, and responsibilities.

2. Participant

The Participant is Blum Construction, LLC, an Idaho Limited Liability Company. The principal address of the Participant is 3831 Highway 8, Troy, Idaho 83871. Whenever the term "Participant" is used herein, such term shall include any permitted nominee, assignee, or successor in interest as herein provided. The Participant qualifies as an "owner participant" as that term is used in the Urban Renewal Plan.

H. City Agreements and Approvals

City Agreements shall mean those certain agreements between Participant and City concerning, among other things, financial participation by the City in the Project, any required demolition permits or building permits, official review and approval by City for development of the Project.

Any default by Participant not cured within any cure period set forth in the agreements or approvals described above, shall constitute a default under this Agreement, with the Agency reserving any of its rights and remedies under this Agreement concerning default.

I. Funding of Project Improvements

In consideration of the terms of this Agreement, Agency agrees that certain of the Project costs may be eligible for reimbursement by the Agency in conformance with this Agreement. Such improvements are described in Attachments 1, 2, 3 and 4 of this Agreement and as further defined below.

- Actual costs incurred by Participant for Project construction, which costs are not funded by the City, any grants or other governmental financial sources. Such costs shall not exceed FIFTY FIVE THOUSAND SIX HUNDRED AND FORTY SIX DOLLARS (\$55,646).

The Agency expects that the Participant will provide funds, together with certain contributed funds, if any, which will be sufficient to pay in full the costs of construction for the Project. The Agency does reserve the right to certify all Project costs prior to issuance of any Agency funds per this Agreement, to assure the reasonableness of such costs, to verify the costs incurred, and to assure such expenditures by the Agency achieve the Agency's objectives and compliance with the Law and any other applicable statutory provisions. The Agency may rely upon a schedule of values or other similar construction

or engineering references to determine the reasonableness of the costs incurred. The Agency acknowledges it approves the design and specifications of the Project.

The Agency shall commence to reimburse Participant upon receipt of acceptance of the Project by the City of Moscow and any other state or local agencies having jurisdiction, and delivery of an itemized statement by Participant to the Agency setting forth in detail the total amount of the costs for which the Agency is responsible. Such reimbursement shall be subject to the availability of funds as contained herein.

The participation of Agency in the funding of the Project will be based on the verification of the costs of such improvements as set forth in Section III (I). Agency must be satisfied that the cost of such improvements is reasonable given the market conditions and usual and customary costs for the Project improvements. Such costs must be reasonable in light of the costs normally encountered for such development.

III. PROJECT IMPROVEMENT AND AGENCY'S PARTICIPATION

A. Project Improvements by Participant.

Participant represents that the Project will fully comply with the Urban Renewal Plan, the "Project Design Diagram" attached to this Agreement as Attachment 2, the "Project Description" attached to this Agreement as Attachment 3, and with requirements of City.

B. Cost of Construction

The cost of the Project improvements shall be borne by the Participant. Certain of the Project costs may be eligible for reimbursement by the Agency in conformance with this Agreement.

C. Agency, City, and Other Governmental Agency Permits

Participant 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 Project construction.

D. Improvements by the Agency

As a result of the proposed Project, there will be improved infrastructure, which will consist of public improvements contained and contemplated in the "Project Design Diagram" (Attachment 2) and the "Project Description," (Attachment 3), including, but not limited to: The project includes roadway widening and installation of new curbing and sidewalks along the A Street frontage, demolition of existing deteriorated curbing and sidewalks and installation of new curbing, sidewalks along the Almon Street frontage adjacent to the subject property, and the construction of a new pedestrian walkway extended between Almon and Asbury Streets across the southern portion of the subject property.

Agency specifically finds and determines that the improvements are directly related to public facilities and when constructed will provide a higher quality of development that should assist Agency in achieving redevelopment of adjacent properties in the Project Area, and meeting the objectives of the Urban Renewal Plan. Because of Participant's improvements to the real property located at 103 N. Almon Street, Moscow, Idaho, which achieves several of the objectives contained within the Urban Renewal Plan, Agency finds that a portion of the Project improvements may be funded by the Agency. Agency finds that the Project is in the best public interest and provides for enhanced development of adjacent properties within the Project Area.

E. Indemnification

Participant shall indemnify and hold Agency, City, and their respective officers, agents, and employees harmless from and against all liabilities, obligations, damages, penalties, claims, costs, charges, and expenses, including reasonable architect and attorney fees (collectively referred to in this Section as "Claim"), which may be imposed upon or incurred by or asserted against Agency, City, or their respective officers, agents, and employees by reason of any of the following occurrences during the term of this Agreement including, but not limited to:

1. Relating to the construction or design of the Project;
2. Any negligence on the part of Participant or any of its agents, contractors, servants, employees, subtenants, operators, licensees, or invitees; or
3. Any accident, injury, or damage to any person or property occurring in, on, or about the Project or any part thereof; or
4. 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.

Notwithstanding the foregoing, Participant shall have no obligation to indemnify and hold Agency or City, respectively, and their respective officers, agents, and employees harmless from and against any matter to the extent it arises from the active negligence or willful act of Agency or City, respectively, or their respective officers, agents, or employees.

In case any claim, action or proceeding is brought against Agency, City, or their respective officers, agents, and employees by reason of any such claim, Participant, upon written notice from Agency or City, shall, at Participant's expense, resist or defend such claim, action or proceeding.

F. Antidiscrimination during Construction

The Participant, for itself and its successors and assigns, agrees that in pursuit and construction of the Project provided for in this Agreement, the Participant will not discriminate against any employee or applicant for employment because of race, age, color, creed, religion, sex, marital status, ancestry, or national origin.

G. Approvals

Participant shall be responsible for obtaining any required approvals of the City or any other state or local agency having jurisdiction, for the installation and construction of the Project. Participant shall keep Agency advised of the status of the approval process and shall advise Agency immediately if any such approvals shall effect the scope and purpose of this Agreement. The Project shall be designed, constructed, and installed in keeping with all applicable City standards.

H. Proof of Agency Financing

The Participant, in order to enhance its development, has agreed to undertake the Project. In consideration of this activity by the Participant, Agency agrees to reimburse the Participant for eligible Project costs as set forth in this Agreement.

Participant has agreed to fund the Project through its independent resources and/or financing. Agency's funding mechanism for its financial participation in Project shall be by way of advance of funds by Participant and the Agency agrees to reimburse and repay the Participant for such advance payable in two parts as described below.

Within sixty (60) days of acceptance of the Project improvements by the City, and any other state or local agency having jurisdiction, and upon the Agency's issuance of the Verification of Costs Statement, or upon resolution of any dispute regarding the Certification of Costs pursuant to Section III.(I), the Agency shall pay to Participant a one-time payment of 100 percent (100%) of the eligible Project costs confirmed and verified pursuant to Section III(I) in an amount not to exceed FIFTY FIVE THOUSAND SIX HUNDRED AND FORTY SIX DOLLARS (\$55,646).

I. Cost Certification, Agency Verification, and Agency Participation

1. Cost Certification

When the Project improvements have been accepted by the City of Moscow and any other state or local agency having jurisdiction, the Participant shall then submit to Agency an itemized list of Project costs Participant seeks Agency to reimburse. Such reimbursement request shall be made in the form of a Certification of Costs which shall require the Participant to certify actual costs. Agency shall review the Certification of Costs and issue a written Verification of Costs Statement to the Participant. If Agency disputes the Certification of Costs, Agency shall be responsible for the costs of submitting its response and corrected Certification of Costs to the Participant. If the Participant and Agency cannot thereafter agree upon

the Certification of Costs, they shall invoke the dispute resolution process set forth in this Agreement.

2. Warranty

Participant warrants that the materials and workmanship employed in the construction of the Project shall be of good quality and shall conform to generally accepted standards within the construction industry. Such warranty shall extend for a period of eighteen (18) months after completion of the Project and shall be independent of any other warranties required by the City of Moscow or any other state or local agency having jurisdiction.

3. Payment of Verified Costs

Agency shall pay only for those costs which are confirmed and verified by the Verification of Costs Statement as set forth in Subsection 1 above.

4. Amount of Participation by Agency

The exact amount of the participation by Agency shall be determined by the Verification of Costs Statement issued by Agency, provided that the total amount of participation by Agency shall not exceed FIFTY FIVE THOUSAND SIX HUNDRED AND FORTY SIX DOLLARS (\$55,646).

J. Maintenance

The Participant recognizes Agency has no specific authority to accept maintenance responsibility of the Project improvements and that no agreement has been reached with Agency or City to accept any maintenance obligations for the Project improvements. Once the Project improvements have been completed, Participant shall have no obligation to maintain the Project Improvements.

IV. USE AND MAINTENANCE OF THE PROJECT SITE AND ADJACENT AREA

A. Agreement to Comply with Plan

Subject to its entitlements and permits obtained to develop the Project, Participant agrees and covenants to comply with all other provisions and conditions of the Urban Renewal Plan for the period of time such plan is in force and effect.

B. Insurance Requirements.

Participant shall, or through its contractor, agents, representatives, employees or subcontractors shall, at its sole cost, obtain and maintain in force for the duration of the construction of the improvements to the property as part of the Project, insurance of the

following types, with limits not less than those set forth below and in a form reasonably acceptable to Agency, against claims for injuries to persons or damages to property which may arise from, or in connection with, the construction of the Project by Participant, its agents, representatives, employees or subcontractors:

1. Commercial General Liability Insurance (“Occurrence Form”) with a minimum combined single limit liability of \$1,000,000 per 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, 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. 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, 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 and not as the result of the active negligence or willful act of Agency or City or its respective officers, agents, or employees.
5. Prior to the commencement of the construction of the Project, Certificates of insurance satisfactory in form to Agency (ACORD form or equivalent) shall be supplied to Agency evidencing that the insurance required above is in force, that, to the extent commercially reasonable, not less than thirty (30) days written notice will be given to Agency prior to any cancellation or restrictive modification of the policies, and that the waivers of subrogation are in force. At such time, 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 within a reasonable time of such request.

6. The foregoing insurance coverage shall be primary and noncontributing with respect to any other insurance or self-insurance that may be maintained by Agency. 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.

C. Obligation to Refrain From Discrimination

Participant covenants and agrees for itself, its successors and assigns, that there shall be no discrimination against or segregation of any person or group of persons on account of race, age, color, creed, religion, sex, marital status, handicap, ancestry, or national origin in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the improvements located at 103 N. Almon Street, Moscow, Idaho, nor shall the Participant or any person claiming under or through the Participant establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy of tenants, lessees, subtenants, sublessees, or vendees of the improvements located at 103 N. Almon Street, Moscow, Idaho. The foregoing covenants shall run with the land and shall remain in effect in perpetuity.

D. Local, State and Federal Laws

Participant shall carry out the construction of the Project improvements in conformity with all applicable laws, including all applicable federal and state labor standards.

E. Taxes

1. Taxes Generally

Participant shall pay when due all real estate and personal property taxes and assessments assessed and levied on Participant's ownership of the site.

2. Delinquent Taxes

Participant recognizes the 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 also recognizes the ability of Agency to reimburse Participant for the Participant Advance is dependent on the ad valorem assessment and collection process.

V. DEFAULTS, 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. 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 and, in addition, recover all damages incurred by the nondefaulting Party. The Parties declare it to be their intent that this Agreement 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. Notwithstanding the above and stated in this Agreement, in no event shall either Party be entitled to consequential damages.
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, seek reimbursement of the grant funds.

B. 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. Venue for such legal actions is the District Court of the County of Latah, State of Idaho. The nondefaulting party may also, at its option, cure the default and sue to collect the attorney's fees and costs incurred by virtue of curing or correcting the Party's breach.

1. Applicable Law

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

2. Acceptance of Service of Process

In the event any legal action is commenced by Participant against Agency, service of process on Agency shall be made by personal service upon the Executive Director of Agency or in such other manner as may be provided by law.

In the event any legal action is commenced by Agency against Participant, service of process on Participant shall be made by personal service upon Participant or in such other manner as may be provided by law and shall be valid whether made within or without the State of Idaho.

C. 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.

D. Damages

If Agency or Participant defaults with regard to any of the provisions of this Agreement, the nondefaulting party shall serve written notice as contained herein. If the default is not cured or commenced to be cured by the defaulting party within forty-five (45) days after service of the notice of default, the defaulting party shall be liable to the other party for any damages caused by such default.

E. Specific Performance

If Agency or Participant defaults under any of the provisions of this Agreement, the nondefaulting Party shall serve written notice of such default upon the defaulting Party. If the default is not commenced to be cured by the defaulting party within sixty (60) days of service of the notice of default, the nondefaulting Party, at the non-defaulting Party's option, may institute an action for specific performance of the terms of this Agreement or for other equitable relief.

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. 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 or other process of structured negotiation under the auspices of a nationally or regionally recognized organization providing such services in Idaho or the surrounding region or otherwise, 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.

J. 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.

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 constitute 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.

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.

DATED this _____ day of _____, 2019.

Moscow Urban Renewal Agency (“Agency”)

By _____
Steve McGeehan, Chair
Sangria Downtown LLC (“Participant”)

By _____
Noel Blum, Managing Member

ACKNOWLEDGMENTS

STATE OF IDAHO)
) ss.
County of Latah)

On this ____ day of _____, 2019, before me, _____, the undersigned notary public in and for said county and state, personally appeared Steve McGeehan, known or identified to me to be the Chairman of the Moscow Urban Renewal Agency, 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 the governing board of such Agency authorized 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.

Residing at _____
Commission Expires _____

STATE OF IDAHO)
) ss.
County of Latah)

On this ____ day of _____, 2019, before me, _____, the undersigned notary public in and for said county and state, personally appeared Noel Blum, known or identified to me to be Managing Member of Blum Construction, LLC, and the person who signed the within instrument, and acknowledged to me that he/she has authority to execute and executed the foregoing instrument for the purposes therein 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.

Residing at _____
Commission Expires _____

Attachment 1

Project
Term Sheet

103 N. Almon Project Cost Term Sheet				
Item	Units	Quantity	Item Cost	Total Cost
Rock base	SY	200	\$ 12.50	\$ 2,500.00
Paving	SY	167	\$ 22.80	\$ 3,807.60
Curbing	LF	123.5	\$ 18.40	\$ 2,272.40
5' Concrete Sidewalk	SY	713.5	\$ 7.10	\$ 5,065.85
ADA Pedestrian Ramps	EA	1	\$ 1,155.00	\$ 1,155.00
8' Pedestrina Pathway and Retaining Wall	LS	1	\$ 29,616.75	\$ 29,616.75
Pedestrian Pathway Fencing	LF	580	\$ 19.36	\$ 11,229.00
Total Agency Participation				\$ 55,646.60

Project Design Diagram



Attachment 3

Project Description

The purpose of the project is to improve motor vehicle and pedestrian facilities, enhance ADA compliance, provide a continuous sidewalk across adjacent properties and improve the general condition and appearance of all pedestrian walkway and sidewalk infrastructure in the area surrounding 103 N. Almon Street.

The project includes roadway widening and installation of new curbing and sidewalks along the A Street frontage, demolition of existing deteriorated curbing and sidewalks and installation of new curbing, sidewalks along the Almon Street frontage adjacent to the subject property, and the construction of a new pedestrian walkway extended between Almon and Asbury Streets across the southern portion of the subject property as shown in Attachment 2 Project Design Diagram and detailed in Attachment 1, Project Term Sheet.

Attachment 4

Agency Reimbursement of Project Improvement Costs

Generally, the objective of the funding of a portion of the Project improvements is to fund those activities, which comply with the eligibility criteria set forth in the Idaho Urban Renewal Law of 1965, Title 50, Chapter 20, Idaho Code, as amended (the “Law”), the Idaho Economic Development Act, Title 50, Chapter 29, Idaho Code, as amended (the “Act”), and the objectives of the Urban Renewal Plan. The extent and amount of such activities and funding by the Agency shall be determined as the Project is constructed. Such determination will be based upon the eligibility of those activities under the statutes and Urban Renewal Plan described above and the reasonable expenses for such activity. Agency and Participant shall review such activities prior to their construction and provide a written record of the determination. The specific activities identified for potential funding through this Owner Participation Agreement are described and shown in Attachments 1, 2, and 3.

Agency’s commitment shall be limited to eligible activities authorized by the Law, the Act, and the Urban Renewal Plan, as well as the reasonable costs of such activity as more particularly described above. The amount of funding by Agency for such activities and improvements set forth above shall not exceed the total of FIFTY FIVE THOUSAND SIX HUNDRED AND FORTY SIX DOLLARS (\$55,646) reimbursed as follows and as more specifically set forth in the Owner Participation Agreement:

Within sixty (60) days of acceptance of the Project improvements by the City, and any other state or local agency having jurisdiction, and upon the Agency’s issuance of the Verification of Costs Statement, or upon resolution of any dispute regarding the Certification of Costs pursuant to Section III.(I) of the Owner Participation Agreement, the Agency shall pay to Participant a one-time payment of one hundred percent (100%) of the eligible Project costs confirmed and verified pursuant to Section III(I) in an amount not to exceed FIFTY FIVE THOUSAND SIX HUNDRED AND FORTY SIX DOLLARS (\$55,646).