

RESOLUTION 98-11

RESOLUTION OF THE CITY OF REXBURG PLANNING AND ZONING  
COMMISSION RELATING TO THE REXBURG URBAN RENEWAL PLAN  
FOR THE CITY OF REXBURG

WHEREAS, the Rexburg Redevelopment Agency (hereinafter "Agency"), has submitted the proposed Urban Renewal Plan entitled "North Highway Amended and Restated Urban Renewal Plan" (the "Plan") to the City of Rexburg and the City Council, through the Mayor, referred the Plan to the Rexburg Planning and Zoning Commission for review and recommendations concerning the conformity of said Plan with the Comprehensive Plan of the City of Rexburg; and

WHEREAS, the Rexburg Planning and Zoning Commission has reviewed said Plan and has determined that it is in conformity with the Comprehensive Plan; and

WHEREAS, the Rexburg Planning and Zoning Commission met on December 9, 1998, to consider the Plan; and

WHEREAS, the Rexburg Planning and Zoning Commission has reviewed said Plan in view of the Comprehensive Plan.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF REXBURG, IDAHO:

Section 1. That the Plan, submitted by the Rexburg Redevelopment Agency and referred to this Commission by the City Council for review, -is in conformity with the Comprehensive Plan.

Section 2. That the Chairman of the Planning and Zoning Commission by and hereby is authorized and directed to provide the Rexburg City Council with a certified copy of this Resolution relating to said Plan.

Section 3. That this Resolution shall be in full force and effect immediately upon its adoption and approval.

PASSED by the Planning and Zoning Commission of the City of Rexburg, Idaho,  
December 9, 1998.

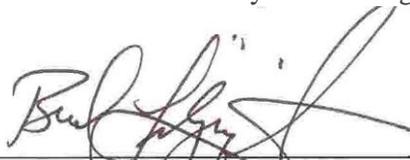
  
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Chairman, Planning and Zoning Commission

Exhibit 2.

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NORTH HIGHWAY AMENDED AND RESTATED URBAN RENEWAL PLAN  
REXBURG REDEVELOPMENT AGENCY  
CITY OF REXBURG

Ordinance No. 728  
Adopted 27 December, 1991  
Effective 31 December 1991, publication

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ATTACHMENTS

Attachment No. 1.1	Description of the Project Area and Revenue Allocation Area Boundaries
Attachment No. 2.1	Project Area-Revenue Allocation Area Boundary Map
Attachment No. 3.1	Private Properties which may be Acquired by Agency
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Attachment No. 5A.1	Net Value of Private Development in Revenue Allocation Area
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Attachment No. 5C.1	Impact of Revenue Allocation Financing on Madison County Property Taxing Entities
Attachment No. 6.1	Urban Renewal Agency Resolution No. 98-1 Proposing the Urban Renewal Plan, Approved 24 November 1998
Attachment No. 7.1	City Council Resolution 98.7 Determining the Rexburg Area to be a Deteriorated Area, Approved November 18, 1998
Attachment No. 8.1	Reserved for Planning and Zoning Commission Resolution Recommending that the Rexburg Renewal Plan Conforms to the Zoning Ordinance for the City of Rexburg
Attachment No. 9.1	Reserved for similar action City Council Ordinance No. 728 Approving the Rexburg Redevelopment Urban Renewal Plan and Authorizing the City Clerk to Transmit a copy of the Ordinance and Other Required Information to County and State Officials, Approved December 27, 1991, Publication, December 31, 1991

**AMENDED AND RESTATED URBAN RENEWAL PLAN FOR THE  
NORTH HIGHWAY AREA  
REXBURG REDEVELOPMENT AGENCY**

**SECTION 100      INTRODUCTION**

This is the Urban Renewal Plan (the "Plan") for the Rexburg Redevelopment Agency -- North Highway and Amended Project Area (the "Project") in the City of Rexburg, (the "City"), County of Madison, State of Idaho, and consists of the Text, the Description of the Project Area and Revenue Allocation Area Boundaries (Attachment No. 1.1), the Project Area-Revenue Allocation Area Boundary Map (Attachment No. 2.1), the Private Properties which may be Acquired by Agency (Attachment No. 3.1), the Map Depicting Current Zoning and Expected Land Uses Within Revenue Allocation Area and Project Area (Attachment No. 4.1), the Introduction to Attachment No. 5.1, the Statement of Proposed Public Improvements, Costs, Revenues, Tax Impacts and Financing methods (Attachment No. 5.1), Net Value of Private Development in Rexburg Revenue Allocation Area (Attachment 5A.1), Annual Tax Revenue Allocations (Attachment 5B.1), Impact of Revenue Allocation Financing on Madison County Property Taxing Entities Tax Code Area 1 (Attachment No. 5C.1).

The term "Project" is used herein to describe the overall activities defined in this Plan and conforms with the statutory definition of an urban renewal project. Reference is specifically made to Idaho Code Section 50-2018U) of the various activities contemplated in the term "Project." Such activities both private and public development of property within the Urban Renewal Area. The term "Project" is not meant to refer to a specific activity or development scheme.

This Plan was prepared by the Rexburg Redevelopment Agency (the "Agency") pursuant to the State of Idaho Urban Renewal Law (Chapter 20, Title 50, Idaho Code), the Local Economic Development Act (Chapter 29, Title 50, Idaho Code), the Idaho Constitution, and all applicable local laws and ordinances .

This Plan provides the Agency with powers, duties and obligations to implement and further the program generally formulated in this Plan for the redevelopment, rehabilitation, and revitalization of the area within the boundaries of the Project (the "Project Area"). The specification of Agency powers and duties in this Plan is intended to be explanatory, not limiting. The Agency retains all powers allowed by law, whether specified herein or not. Because of the long-term nature of this Plan, and the need to retain in the Agency flexibility to respond to market and economic conditions, property owner and developer interests, and opportunities from time to time presented for redevelopment, this Plan does not present a precise plan or establish specific projects for the redevelopment, rehabilitation, and revitalization of any area within the Project Area, nor does this Plan present specific proposals in an attempt to solve or alleviate the concerns and problems of the community

relating to the Project Area. Instead, this Plan presents a process and a basic framework within which specific plans will be presented, specific projects will be established, and specific solutions will be proposed, and by which tools are provided to the Agency to fashion, develop, and proceed with such specific plans, projects, and solutions.

The purpose of the Urban Renewal Law will be obtained through this plan. The major goals of this Plan are:

The elimination of environmental deficiencies in the Project Area, including, among others, obsolete and aged building types, and deteriorated and inadequate public improvements, including certain streets and alleys.

The assembly of land into parcels suitable for modern, integrated development with improved pedestrian and vehicular circulation in the Project Area.

The re-planning, redesign, and development of undeveloped areas which are stagnant or improperly utilized.

The strengthening of the economic base of the Project Area and the community by the installation of needed site improvements to stimulate new commercial expansion, employment, and economic growth.

The establishment and implementation of performance criteria to assure high site design standards and environmental quality and other design elements which provide unity and integrity to the entire Project.

The strengthening of the tax base by encouraging private development, thus increasing the assessed valuation of properties within the Revenue Allocation Area and the Project Area as a whole, and benefitting the various taxing districts in which the Urban Renewal Area is located.

## **SECTION 101 - Provisions Necessary to Meet Stat and Local Requirements**

### **SECTION 101.1 - Conformance with State of Idaho Urban Renewal Law of 1965, as Amended**

- a. The laws of the State of Idaho require that an Urban Renewal Plan be prepared by the Rexburg Redevelopment Agency for an area certified as an Urban Renewal Area by the Rexburg City Council. The Project Area was certified by the Council Resolution on 24 November 1998.

- b. In accordance with the Idaho Urban Renewal Law of 1965 this Plan was submitted to the Planning Commission of the City of Rexburg.

## **SECTION 200 - DESCRIPTION OF PROJECT AREA**

The boundaries of the Project Area and of the Revenue Allocation Area are described in Attachment No. 1.1, which is attached hereto and incorporated herein by reference, and are shown on the "Project Area and Revenue Allocation Area Boundary Map", attached hereto as Attachment No. 2.1 and incorporated herein by reference.

## **SECTION 300 - PROPOSED REDEVELOPMENT ACTIONS**

### **SECTION 301 - General**

The Agency proposes to eliminate and prevent the spread of blight and deterioration in the Project Area by:

- a. The acquisition of certain real property;
- b. The demolition or removal of certain buildings and improvements;
- c. The provision for participation by property owners within the Project Area;
- d. The management of any property acquired by and under the ownership and control of the Agency;
- e. The provision for relocation assistance to displaced Project occupants, as required by law;
- f. The installation, construction, or reconstruction of streets and utilities, landscaping, jogging path and other public improvements.
- g. The disposition of property for uses in accordance with this Plan;
- h. The redevelopment of land by private enterprise or public agencies for uses in accordance with this Plan;
- i. The rehabilitation of structures and improvements by present owners, their successors, and the Agency;
- j. The assembly of adequate sites for the development and construction of commercial facilities; and,

- k. To the extent allowed by law, the lending or investing of federal funds to facilitate redevelopment.

In the accomplishment of these purposes and activities and in the implementation and furtherance of this Plan, the Agency is authorized to use all the powers provided in this Plan and all the powers now or hereafter permitted by law.

### **SECTION 302 - Urban Renewal Plan Objectives**

Urban Renewal action is necessary in the Project Area to combat problems of physical blight and economic obsolescence.

The Project Area is amended to add land on the North Highway and E. 1000 North. The area has had good growth during recent years due to improvements by the Agency. This amendment is to capture tax revenue from new businesses that are benefitting from the prior Agency improvements. This amendment is also to address growth that is not occurring in the balance of the area due to: inadequate streets and alleys; poorly maintained properties; undeveloped properties; inconsistent and diverse property ownership; and other deteriorating factors.

Hence, the Urban Renewal Plan for the Project Area is a proposal for landscaping, jogging path, street, alley improvements, clearance and removal of deteriorated buildings, and utilities, including water and sanitary sewer lines, to provide an improved environment for new commercial facilities, to eliminate unsafe conditions, and to otherwise prevent the extension of blight and deterioration and reverse the deteriorating action of the area.

### **SECTION 303 - Participation Opportunities and Agreement**

#### **SECTION 303.1 - Participation Agreements**

The Agency may enter into an owner participation agreement with any existing or future owner of property, in the event the property owner seeks and/or receives assistance from the Agency in the redevelopment of the property. In that event, the Agency may allow for an existing or future owner of property to remove his property and/or structure from future Agency acquisition subject to entering into an owner participation agreement.

Each structure and building in the Project Area to be rehabilitated or to be constructed as a condition of the owner participation agreement between the Agency and the owner pursuant to this Plan will be considered to be satisfactorily rehabilitated and constructed, and the Agency will so certify, if the rehabilitated or new structure meets the following standards:

- a. Executed owner participation agreement to meet conditions described below.

- b. Any such property within the Project shall be required to conform to all applicable provisions, requirements, and regulations of this Plan. Upon completion of any rehabilitation each structure must be safe and sound in all physical respects and be refurbished and altered to bring the property to an upgraded marketable condition which will continue throughout an estimated useful life for a minimum of twenty (20) years.
- c. All such buildings or portions of buildings which are to remain within the Project Area shall be rehabilitated in conformity with all applicable codes and ordinances of the City of Rexburg.
- d. Any new construction shall also conform to all applicable provisions, requirements, and regulations of this Plan.
- e. Any new construction shall also conform to all applicable codes and ordinances of the City of Rexburg.

In such participation agreements, participants who retain real property shall be required to join in the recordation of such documents as may be necessary to make the provisions of this Plan applicable to their properties. Whether or not a participant enters into a participation agreement with the Agency, the provisions of this Plan are applicable to all public and private property in the Project Area. In the event a participant fails or refuses to rehabilitate, develop, use, and maintain its real property pursuant to this Plan and a participation agreement, the real property or any interest therein may be acquired by the Agency in accordance with Section 307 of this Plan and sold or leased for rehabilitation or development in accordance with this Plan.

#### **SECTION 304 - Cooperation With Public Bodies**

Certain public bodies are authorized by state law to aid and cooperate, with or without consideration, in the planning, undertaking, construction, or operation of this Project. The Agency shall seek the aid and cooperation of such public bodies and shall attempt to coordinate this Plan with the activities of such public bodies in order to accomplish the purposes of redevelopment and the highest public good.

The Agency may impose on all public bodies the planning and design controls contained in this Plan to insure that present uses and any future development by public bodies will conform to the requirements of this Plan. The Agency is authorized to financially (and otherwise) assist any public entity in the cost of public land, buildings, facilities, structures, or other improvements within the Project Area.

The Agency specifically intends to cooperate to the extent allowable by law with the City of Rexburg for the acquisition of property and the construction of public improvements.

## **SECTION 305 - Property Acquisition**

### **SECTION 305.1 - Real Property**

Only as specifically authorized herein, the Agency may acquire, but is not required to acquire, real property located in the Project Area where it is determined that the property is needed for construction of public improvements and as otherwise allowed by law. The acquisition shall be by any means authorized by law (including, but not limited to, the Idaho Urban Renewal Law, the Local Economic Development Law, and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970). The Agency is authorized to acquire either the entire fee or any other interest in real property less than a fee, including structures and fixtures upon the real property.

The Agency is authorized by this Plan to acquire the properties identified in Attachment No. 3.1 hereto. Otherwise, Agency acquisition of any other real property shall be accomplished only following a formal amendment to this Plan that will include an exhibit identifying the property to be acquired.

It is in the public interest and is necessary in order to eliminate the conditions requiring redevelopment and in order to execute this Plan for the power of eminent domain to be employed by the Agency to acquire real property in the Project Area which cannot be acquired by gift, devise, exchange, purchase, or any other lawful method.

### **SECTION 305.2 - Personal Property**

Generally, personal property shall not be acquired. However, where necessary in the execution of this Plan, and where allowed by law the Agency is authorized to acquire personal property in the Project Area by any lawful means, including eminent domain.

## **SECTION 306 - Property Management**

During such time as property, if any, in the Project Area is owned by the Agency, such property shall be under the management and control of the Agency. Such property may be rented or leased by the Agency pending its disposition for redevelopment, and such rental or lease shall be pursuant to such policies as the Agency may adopt.

## **SECTION 307 - Relocation of Persons (Including Individuals and Families), Business Concerns, and Others Displaced by the Project**

If the Agency receives federal funds for real estate acquisition and relocation, the Agency shall comply with 24 C.F.R. Part 42, implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended. The Agency

## **SECTION 309.1(b) - Disposition and Development Documents**

To provide adequate safeguards to ensure that the provisions of this Plan will be carried out and to prevent the recurrence of blight, all real property sold, leased, or conveyed by the Agency, as well as all property subject to participation agreements, is subject to the provisions of this Plan.

The Agency shall reserve such powers and controls in the disposition and development documents as may be necessary to prevent transfer, retention, or use of property for speculative purposes and to ensure that development is carried out pursuant to this Plan.

Leases, deeds, contracts, agreements, and declarations of restrictions of the Agency may contain restrictions, covenants, covenants running with the land, rights of reverter, conditions subsequent, equitable servitudes, or any other provisions necessary to carry out this Plan. Where appropriate, as determined by the Agency, such documents, or portions thereof, shall be recorded in the office of the Recorder of Madison County.

All property in the Project area is hereby subject to the restriction that there shall be no discrimination or segregation based upon race, color, creed, religion, sex, age, national origin, or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of property in the Project Area. All property sold, leased, conveyed or subject to a participation agreement shall be expressly subject by appropriate documents to the restriction that all deeds, leases, or contracts for the sale, lease, sublease, or other transfer of land in the Project Area shall contain such nondiscrimination and nonsegregation clauses as required by law.

In addition, the following requirements and obligations shall be included in the agreement:

That the Developers, their successors, and assigns agree:

- (1) That a plan and time schedule for the proposed development shall be submitted to the Rexburg Redevelopment Agency.
- (2) That the purchase or lease of the land and/or subterranean rights and/or air rights is for the purpose of redevelopment and not for speculation.
- (3) That the building of improvements will be commenced and completed as jointly scheduled and determined by the Rexburg Redevelopment Agency and the Developer(s).

- (4) That there will be no discrimination against any person or group of persons because of age, race, sex, creed, color, national origin or ancestry, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises or any improvements erected or to be erected thereon, therein conveyed nor will the Developer himself or any person claiming under or through him 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, subleases, or vendees in the premises or any improvements therein conveyed. The above provision will be perpetual and will be appended to the land disposed of within the Urban Renewal Project Area by the Rexburg Redevelopment Agency.
- (5) That the site and construction plans will be submitted to the Agency for review as to conformity with the provisions and purposes of this Urban Renewal Plan.
- (6) That at the discretion of the Agency a bond or other surety will be provided acceptable to the Agency to ensure performance under the contract of the sale.
- (7) That consideration will be given to the businesses in the Project Area for lease or purchase of appropriate facilities.
- (8) That rehabilitation of any existing structure must assure that the structure is safe and sound in all physical respects and be refurbished and altered to bring the property to an upgraded marketable condition which will continue throughout as estimated useful life for a minimum of twenty (20) years.

All such buildings or portions of the buildings which are to remain within the Project Area shall be reconstructed in conformity with all applicable codes and ordinances of the City of Rexburg.

#### **SECTION 309.1(c) - Development by the Agency**

To the extent now or hereafter permitted by law, the Agency is authorized to pay for, develop or construct any publicly owned building, facility, structure, or other improvement within the Project Area for itself or for any public body or entity.

The Agency may also prepare properties for development by renovation or other means as allowed by law. The Agency may also as allowed by law assist in the development of private projects.

In addition to the public improvements authorized under Idaho Code Section 50-2007, the Agency is authorized to install and construct, or to cause to be installed and constructed, within the Project Area for itself or for any public body or entity, public improvements and public utilities, including, but not limited to, the following: (1) utilities; (2) parks, plazas, and pedestrian paths; (3) parking facilities; (4) landscaped areas; (5) street and alley improvements; and (6) storm drains.

Any public facility ultimately owned by the Agency shall be operated and managed in such a manner to preserve the public purpose nature of the facility. Any lease agreement with a private entity or management contract agreement shall include all necessary provisions sufficient to protect the public interest and public purpose.

The Agency may enter into contracts, leases, and agreements with the City or other public body or private entity pursuant to this section, and the obligation of the Agency under such contract, lease, or agreement shall constitute an indebtedness of the Agency as described in Idaho Code Section 50-2909 which may be made payable out of the taxes levied in the Project Area and allocated to the Agency under subdivision (2)(b) of Section 50-2908 of the Local Economic Development Act and Section 504 to this Plan or out of any other available funds.

#### **SECTION 309.1(d) - Development Plans**

All development plans (whether public or private) prepared, pursuant to disposition and development or owner participation agreements, shall be submitted to the Agency for approval and architectural review. All development in the Project Area must conform to those standards specified in Section 404, *infra*.

#### **SECTION 310 - PERSONAL PROPERTY DISPOSITION**

For the purposes of this Plan, the Agency is authorized to lease, sell, exchange, transfer, assign, pledge, encumber, or otherwise dispose of personal property which is acquired by the Agency.

#### **SECTION 311 - REHABILITATION AND CONSERVATION**

The Agency is authorized to rehabilitate, renovate, and conserve, or to cause to be rehabilitated, renovated, and conserved, any building or structure in the Project Area owned by the Agency for preparation of redevelopment and disposition. The Agency is also authorized and directed to advise, encourage, and assist in the rehabilitation and

conservation of property in the Project Area not owned by the Agency. The Agency is also authorized to acquire, restore, rehabilitate, move, and conserve buildings of historic or architectural significance.

As necessary in carrying out this Plan, the Agency is authorized to move, or to cause to be moved, any substandard structure or building or any structure or building which can be rehabilitated to a location within or outside the Project Area.

## **SECTION 312 - PARTICIPATION WITH PRIVATE DEVELOPMENT**

Under the Idaho Urban Renewal Law the Agency has the authority to lend or invest funds obtained from the federal government for the purposes of the Urban Renewal law if allowable under federal laws or regulations. The federal funds that may be available to the Agency are governed by regulations promulgated by the Department of Housing and Urban Development for the Community Development Block Grant Program.

Under those regulations the agency may participate with the private sector in the development and financing of those private projects which will attain certain federal objectives.

The Agency may, therefore, use the federal funds for the provision of assistance to private for profit business, including, but not limited to, grants, loans, loan guarantees, interest supplements, technical assistance, and other forms of support, for any other activity necessary or appropriate to carry out an economic development project.

## **SECTION 400 - USES PERMITTED IN THE PROJECT AREA**

### **SECTION 401 - Redevelopment Plan Map and Development Strategy**

The Description of the Project Area and Revenue Allocation Area Boundary and Project Area-Revenue Allocation Area Boundary Map, attached hereto as Attachment Nos. 1.1 and 2.1 and incorporated by reference, describe the location of the Project Area Boundaries. The proposed land uses to be permitted in the Project Area for all land -- public and private -- are depicted in Attachment No. 4.1.

### **SECTION 402 - Designated Land Uses**

#### **SECTION 402.1 - Commercial Uses**

The areas designated in Attachment No. 4.1 for commercial uses shall be used for the commercial uses set forth and described in the Rexburg City Zoning Ordinance.

## **SECTION 403 - Other Land Uses**

### **SECTION 403.1 - Public Rights-of-Way**

The major public streets within and adjacent to the Project Area include North Highway (2nd East) and E. 1000 North.

Additional public streets, alleys, and easements may be created in the Project Area as need for proper development. Existing streets, alleys and easements may be abandoned, closed, expanded or modified as necessary for proper development of the Project, in conjunction with any applicable policies and standards of the City of Rexburg regarding changes to dedicated rights-of-way.

Any changes in the existing interior or exterior street layout shall be in accordance with the objectives of this Plan and the City's design standards; shall be effectuated in the manner prescribed by State and local law; and shall be guided by the following criteria:

- a. A balancing of the needs of proposed and potential new developments for adequate pedestrian and vehicular access, vehicular parking, and delivery loading docks with the similar needs of any existing developments permitted to remain. Such balancing shall take into consideration the rights of existing owners and tenants under the rules for owner and tenant participation adopted by the Agency for the Project and any participation agreements executed thereunder;
- b. The requirements imposed by such factors as topography, traffic safety, and aesthetics; and,
- c. The potential need to serve not only the Project Area and new or existing developments, but to also serve areas outside the Project by providing convenient and efficient vehicular access and movement.

The public rights-of-way may be used for vehicular and/or pedestrian traffic, as well as for public improvements, public and private utilities, and activities typically in public rights-of-way.

### **SECTION 403.2 - Other Public, Semi-Public, Institutional, and Nonprofit Uses**

The Agency is also authorized to permit the maintenance, establishment or enlargement of public, semi-public, institutional, or nonprofit uses, including park and recreational facilities. All such uses shall, to the extent possible, conform to the provisions of this Plan applicable to the uses in the specific area involved. The Agency may impose

such other reasonable requirements and/or restrictions as may be necessary to protect the development and use of the Project Area.

### **SECTION 403.3 - Interim Uses**

Pending the ultimate development of land by developers and participants, the Agency is authorized to use or permit the use of any land in the Project Area for interim uses that are not in conformity with the uses permitted in this Plan. However, any interim use must comply with applicable Rexburg City Code.

### **SECTION 404 - General Controls and Limitations**

All real property in the Project Area, under the provisions of either a disposition and development agreement or owner participation agreement is made subject to the controls and requirements of this Plan. No such real property shall be developed, rehabilitated, or otherwise changed after the date of the adoption of this Plan, except in conformance with the provisions of this Plan.

#### **SECTION 404.1 - Construction**

All construction in the Project Area shall comply with all applicable state and local laws and codes in effect from time to time. In addition to applicable codes, ordinances, or other requirements governing development in the Project Area additional specific performance and development standards may be adopted by the Agency to control and direct redevelopment activities in the Project Area in the event of a disposition and development agreement or owner participation agreement.

#### **SECTION 404.2 - Rehabilitation and Retention of Properties**

Any existing structure within the Project Area, subject to either a disposition and development agreement or owner participation agreement, approved by the Agency for retention and rehabilitation, shall be repaired, altered, reconstructed, or rehabilitated in such a manner that it will be safe and sound in all physical respects and be attractive in appearance and not detrimental to the surrounding uses.

#### **SECTION 404.3 - Limitation on Type, Size, Height of Buildings**

Except as set forth in other sections of this Plan, the type, size and height of buildings shall be as limited by applicable federal, state and local statutes, ordinances, and regulations.

#### **SECTION 404.4 - Open Spaces, Landscaping, Light, Air and Privacy**

The issues of open space, landscaping, light, air and privacy shall be governed by applicable federal, state and local ordinances.

#### **SECTION 404.5 - Signs**

All signs shall conform to City sign ordinances as they now exist or are hereafter amended.

#### **SECTION 404.6 - Utilities**

The Agency shall require that all utilities be placed underground whenever physically and economically feasible.

#### **SECTION 404.7 - Incompatible Uses**

No use or structure which by reason of appearance, traffic, smoke, glare, noise, odor, or similar factors which would be incompatible with surrounding areas or structures shall be permitted in any part of the Project Area.

#### **SECTION 404.8 - Nondiscrimination and Nonsegregation**

There shall be no discrimination or segregation based upon race, color, creed, religion, sex, marital status, national origin, or ancestry permitted in the sale, lease sublease, transfer, use, occupancy, tenure, or enjoyment of property in the Project Area.

#### **SECTION 404.9 - Subdivision of Parcels**

Any parcel in the Project Area shall be subdivided only in compliance with the City Subdivision Ordinance.

#### **SECTION 404.10 - Minor Variations**

Under exceptional circumstances, the Agency is authorized to permit a variation from the limits, restrictions, and controls established by this Plan. In order to permit such variation, the Agency must determine that:

- a. The application of certain provisions of this Plan would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of this Plan;

- b. There are exceptional circumstances or conditions applicable to the property or to the intended development of the property which do not apply generally to other properties having the same standards, restrictions, and controls;
- c. Permitting a variation will not be materially detrimental to the public welfare or injurious to property or improvements in the area; and
- d. Permitting a variation will not be contrary to the objectives of this Plan.

No variation shall be granted which changes a basic land use or which permits other than a minor departure from the provisions of this Plan, without amendment of this Plan. In permitting any such variation, the Agency shall impose such conditions as are necessary to protect this public peace, health, safety, or welfare and to assure compliance with the purposes of this Plan. Any variation permitted by the Agency hereunder shall not supersede any other approval required under City codes and ordinances.

#### **SECTION 404.11 - Off-Street Loading**

Any development and improvements shall provide for off-street loading as required by the city ordinances as they now exist or are hereafter amended.

#### **SECTION 404.12 - Off-Street Parking**

All new construction in the area shall provide off-street parking as required by the city ordinances as they now exist or are hereafter amended.

#### **SECTION 405 - Design for Development**

Within the limits, restrictions, and controls established in this Plan, and to the extent allowed by law, the Agency is authorized to establish heights of buildings, land coverage, setback requirements, design criteria, traffic circulation, traffic access, and other development and design controls necessary for proper development of both private and public areas within the Project Area. Any development must also comply with the City of Rexburg Zoning Ordinance regarding heights, setbacks, and other like standards.

In the case of property which is the subject of a disposition and development or participation agreement with the Agency, no new improvement shall be constructed, and no existing improvement shall be substantially modified, altered, repaired, or rehabilitated, except in accordance with this Plan. Under those agreements the architectural, landscape, and site plans shall be submitted to the Agency and approved in writing by the Agency. One of the objectives of this Plan is to create an attractive and pleasant environment in the Project Area. Therefore, such plans shall give consideration to good design, open space,

and other amenities to enhance the aesthetic quality of the Project Area . The Agency shall not approve any plans that do not comply with this Plan.

In the event the Agency adopts design standards or controls, those provisions will thereafter apply to each site or portion thereof in the Project Area. Those controls and standards will be implemented through the provisions of any disposition and development agreement or owner participation agreement or by appropriate covenants appended to the land and instruments of conveyance executed pursuant thereto. These controls are in addition to any standards and provisions of any applicable City Building or Zoning Ordinances; provided, however, each and every development shall comply with all applicable City Zoning and Building Ordinances. Absent the Agency developing and promulgating specific design standards or controls, the Agency shall review all projects by applying and/or deferring to the usual approval process imposed by the City of Rexburg.

## **SECTION 500 - METHODS OF FINANCING THE PROJECT**

### **SECTION 501 - General Description of the Proposed Financing Method**

The Agency is authorized to finance this Project with financial assistance from the City, State of Idaho, federal government, interest income, Agency bonds or notes, donations, loans from private financial institutions, the lease or sale of Agency-owned property, or any other available source, public or private, including assistance from any taxing district or any public entity.

The Agency is also authorized to obtain advances, borrow funds, and create indebtedness in carrying out this Plan. The principal and interest on such advances, funds, and indebtedness may be paid from any other funds available to the Agency. The City, as it is able, may also supply additional assistance through City loans and grants for various public facilities.

The City or any other public agency may expend money to assist the Agency in carrying out this Project.

### **SECTION 502 - Revenue Bond Funds**

As allowed by law and subject to such restrictions as are imposed by law, the Agency is authorized to issue bonds or notes from time to time, if it deems appropriate to do so, in order to finance all or any part of the Project. Neither the members of the Agency, nor any persons executing the bonds or notes shall be liable on the bonds or notes by reason of their issuance.

### **SECTION 503 - Other Loans and Grants**

Any other loans, grants, guarantees, or financial assistance from the United States, the State of Idaho, or any other public or private source will be utilized if available.

### **SECTION 504 - Revenue Allocation Financing Provisions**

The Agency hereby adopts revenue allocation financing provisions as authorized by Chapter 29, Title 50, Idaho Code (the "Act"), effective retroactively to January 1, 1997. These revenue allocation provisions shall apply to all taxing districts in which the Revenue Allocation Area is located and described on Attachment No. 1.1 and 2.1 to this Plan. The Agency shall take all actions necessary or convenient to implement these revenue allocation financing provisions. The Agency specifically finds that the equalized assessed valuation of property within the Revenue Allocation Area is likely to increase as a result of the initiation of the Urban Renewal Project.

The Agency, acting by one or more resolutions adopted by its Board of Directors, is hereby authorized to apply all or any portion of the revenues allocated to the Agency pursuant to the Act to pay such costs as are incurred or to pledge all or any portion of such revenues to the repayment of any moneys borrowed, indebtedness incurred, or bonds or notes issued by the Agency to finance or to refinance the Project Costs (as defined in Idaho Code Section 50-2903[11]) of one or more urban renewal projects.

Upon enactment of an ordinance by the governing body of the City of Rexburg, Idaho, finally adopting these revenue allocation financing provisions and defining the Revenue Allocation Area described herein as part of the Plan, there shall hereby be created a special fund of the Agency into which the Agency shall deposit allocated revenues as provided in Idaho Code Section 50-2908. The Agency shall use such funds solely in accordance with Idaho Code Section 50-2909 and solely for the purpose of providing funds to pay the Project Costs, including any incidental costs, of such urban renewal projects as the Agency may determine by resolution or resolutions of its Board of Directors.

A statement listing proposed public improvements and facilities, an economic feasibility study, estimated project costs, fiscal impact upon other taxing districts, and methods of financing project costs required by Idaho Code Section 50-2905 is included in Attachment No. 5.1 to this Plan. This statement necessarily incorporates estimates and projections based on the Agency's present knowledge and expectations. The Agency is hereby authorized to modify the presently anticipated urban renewal projects and use of revenue allocation financing of the related Project Costs if the Board of Directors of the Agency deems such modification necessary or convenient to effectuate the general objectives of the Plan.

The Agency has also provided for expenditure of revenue allocation proceeds on an annual basis without the issuance of bonds or notes. The Agency has also provided for obtaining advances or loans from the City of Rexburg or private entity in order to immediately commence construction of certain of the public improvements. Revenues will continue to be allocated to the Agency until the improvements identified in Attachment No. 5.1 are completely constructed or until any obligation to the City of Rexburg or other public entity or private entity are fulfilled. Attachment No. 5.1 incorporates estimates and projections based on the Agency's present knowledge and expectations concerning the length of time to complete the improvements. The activity may take longer depending on the significance and timeliness of development. Alternatively the activity may be completed earlier if revenue allocation proceeds are greater or the Agency obtains additional funds.

## **SECTION 600 - ACTIONS BY THE CITY**

The City shall aid and cooperate with the Agency in carrying out this Plan and shall take all actions necessary to ensure the continued fulfillment of the purposes of this Plan and to prevent the recurrence or spread in the area of conditions causing blight. Actions by the City shall include, but not be limited to, the following:

- a. Institution and completion of proceedings necessary for changes and improvements in private and publicly-owned public utilities within or affecting the Project Area.
- b. Revision of zoning (if necessary) within the Project Area to permit the land uses and development authorized by this Plan.
- c. Imposition wherever necessary (by conditional use permits or other means) of appropriate controls within the limits of this Plan upon parcels in the Project Area to ensure their proper development and use.
- d. Provision for administrative enforcement of this Plan by the City after development. The City and the Agency may develop and provide for enforcement of a program for continued maintenance by owners of all real property, both public and private, within the Project Area throughout the duration of this Plan.
- e. Performance of the above actions and of all other functions and services relating to public peace, health, safety, and physical development normally rendered in accordance with a schedule which will permit the redevelopment of the Project Area to be commenced and carried to completion without unnecessary delays.

- f. Institutional and completion of proceedings necessary for the establishment of a local improvement district under Chapter 17, Title 50, Idaho Code.
- g. The undertaking and completing of any other proceedings necessary to carry out the Project.
- h. Administration of Community Development Block Grant and other state and federal grant funds that may be made available for the Project.
- i. Appropriate agreements with the Agency for administration, supporting services, funding sources, and the like.

The foregoing actions to be taken by the City do not constitute any commitment for financial outlays by the City.

### **SECTION 700 - ENFORCEMENT**

The administration and enforcement of this Plan, including the preparation and execution of any documents implementing this Plan, shall be performed by the Agency and/or the City.

The provisions of this Plan or other documents entered into pursuant to this Plan may also be enforced by court litigation instituted by either the Agency or the City. Such remedies may include, but are not limited to, specific performance, damages, reentry, injunctions, or any other remedies appropriate to the purposes of this Plan. In addition, any recorded provisions which are expressly for the benefit of owners of property in the Project Area may be enforced by such owners.

### **SECTION 800 - DURATION OF THIS PLAN**

Except for the nondiscrimination and nonsegregation provisions which shall run in perpetuity, the provisions of this Plan shall be effective, and the provisions of other documents formulated pursuant to this Plan shall be effective for twenty (20) years from the date of adoption of this Plan by the City Council.

### **SECTION 900 - PROCEDURE FOR AMENDMENT**

The Urban Renewal Plan may be further modified at any time by the Rexburg Redevelopment Agency provided that, if modified after disposition of real property in the Project Area, the modifications must be consented to by the Developer or Developers or his successor or successors of such real property whose interest is substantially affected by the proposed modification. Where the proposed modification will substantially change the Plan, the modifications must be approved by the City Council in the same manner as

the original Plan. Substantial changes for City Council approval purposes shall be regarded as revisions in project boundaries, land uses permitted, land acquisition , and other changes which will violate the objectives of this Plan.

#### **SECTION 1000 - SEVERABILITY**

If any one or more of the provisions contained in this Plan to be performed on the part of the Agency shall be declared by any Court of competent jurisdiction to be contrary to law, then such provision or provisions shall be null and void and shall be deemed separable from the remaining provisions in this Plan and shall in no way affect the validity of the other provisions of this Plan.

Attachment No. 1.1

DESCRIPTION OF THE PROJECT AREA AND REVENUE ALLOCATION  
BOUNDARIES

The project area, including the revenue allocation area, is an area consisting of approximately 100.7 acres enclosed within the following boundaries:

Beginning at the intersection of the centerline of the South Fork of the Teton River and the easterly right-of-way line of the Eastern Idaho Railroad in Section 19, Township 6 North, Range 40 East; thence Easterly along the centerline of said river to the West right-of-way line of State Highway 33; thence South along said right-of-way to the North right-of-way of 350 North; thence Northeasterly to the intersection of the East right-of-way line of State Highway 33 and the North right-of-way line of Barney Dairy Road; thence North along the Highway right-of-way to the centerline of the Teton River; thence Easterly along the centerline of the river for approximately 860 feet; thence North 397.06 feet; thence North 89°32'12" East 110 feet; thence North 0°13'46" West 288.45 feet; thence North 89°27'7" East 330.00 feet; thence North 0°13'46" West 994.00 feet; thence South 89°27'7" West 343.14 feet; thence North 0°11'9" East 656.58 feet; thence South 89°27'7" West 772.75 feet; thence South 74°57'19" West 211.54 feet to the Easterly right-of-way line of the Eastern Idaho Railroad; thence Southwesterly along the Railroad right-of-way to the point of beginning at the centerline of the South Fork of the Teton River.

North a distance of 891 feet along the East right-of-way line of 1<sup>st</sup> West Street to the point of beginning.

Attachment No. 3.1

Private Properties Which May Be Acquired by Agency

- A. Public and private easements on rights-of-way within the Project Area which conflict with or are inconsistent with the Urban Renewal Plan may be acquired by the Agency. Properties which will enhance the flow of traffic in the Project Area.