



**ORDINANCE NO. 996**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF REXBURG, IDAHO, APPROVING THE UNIVERSITY BOULEVARD-SOUTH 12TH WEST URBAN RENEWAL PLAN WHICH PLAN INCLUDES REVENUE ALLOCATION FINANCING PROVISIONS; AUTHORIZING THE CITY CLERK TO TRANSMIT A COPY OF THIS ORDINANCE AND OTHER REQUIRED INFORMATION TO COUNTY OFFICIALS, STATE OFFICIALS AND OTHER TAXING ENTITIES; APPROVING THE SUMMARY OF THE ORDINANCE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, by Resolution dated November 6, 1991, the City of Rexburg created an urban renewal agency authorizing it to transact business and exercise the powers granted by the Idaho Urban Renewal Law of 1965 being Idaho Code, Title 50, Ch. 20, as amended (the “Law”) as the local Economic Development Act, the same being Idaho Code, Title 50, Ch. 29, as amended (the “Act”), finding one or more areas within the City of Rexburg to be “deteriorated” or “deteriorating” as defined by Idaho Code Sections 50-2018(9) and 50-2903(8), finding one such area to include the North Highway, Second Street East, making additional findings regarding the characteristics of the area, making the necessary findings as required by Idaho Code Section 50-2008(a) and authorizing the Mayor to appoint five Commissioners for the Agency;

**WHEREAS**, the City Council of the City of Rexburg, Idaho (the “City”), after notice duly published, conducted a public hearing on the North Highway Urban Renewal Project pursuant to the North Highway Urban Renewal Plan (the “North Highway Urban Renewal Plan”) to redevelop a portion of the City, pursuant to the Law and the Act;

**WHEREAS**, following said public hearing, the city council adopted its Ordinance No. 728 on December 27, 1991, approving the North Highway Urban Renewal Plan and making certain findings;

**WHEREAS**, the Rexburg City Council, after notice duly published, conducted a public hearing on the North Highway Amended and Restated Urban Renewal Plan (the “North Highway Amended and Restated Plan”) which added a certain geographic area adjacent to the original urban renewal and revenue allocation area;

**WHEREAS**, following said public hearing, the City Council adopted its Ordinance No. 815 on December 30, 1998, approving the North Highway Amended and Restated Plan and making certain findings;

**WHEREAS**, the Rexburg City Council, after notice duly published, conducted a public hearing on April 9, 1997, and passed Resolution No. 97.01, finding the Washington School Site Area as “deteriorated” or “deteriorating area” as defined by Idaho Code Section 50-2018(h), (i) (now 50-2018 (8) and (9)) and 50-2903(8)(b) declaring such area as an urban renewal area, making the necessary findings as required by Idaho Code Section 50-2008(a) and authorizing the Agency to prepare an urban renewal plan;

**WHEREAS**, the Rexburg City Council, after notice duly published, conducted a public hearing on the Washington School Urban Renewal Plan (the “Washington School Urban Renewal Plan”);

**WHEREAS**, following said public hearing, the City Council adopted its Ordinance No. 794 on June 3, 1997, approving the Washington School Urban Renewal Plan, and making certain findings;

**WHEREAS**, the Rexburg City Council, after notice duly published, conducted a public hearing on the Downtown District Redevelopment Plan (the “Downtown Plan”);

**WHEREAS**, following said public hearing, the City Council adopted its Ordinance 910, on December 17, 2003, approving the Downtown District Redevelopment Plan, and making certain findings;

**WHEREAS**, the Rexburg City Council, after notice duly published, conducted a public hearing on the Second Amended and Restated Urban Renewal Plan, North Highway Urban Renewal Project, Including South Addition (the “Second Amended and Restated North Highway Plan”);

**WHEREAS**, following said public hearing, the City Council adopted its Ordinance No. 950 on December 21, 2005, approving the Second Amended and Restated North Highway Plan, and making certain findings;

**WHEREAS**, it has become apparent that additional property within the City (the “Site”) may be deteriorating or deteriorated and should be examined as to whether such an area would be eligible for urban renewal planning purposes;

**WHEREAS**, in July 2006, the Agency authorized Harlan W. Mann, Real Estate Consultant (the “Consultant”) to commence the study and preparation of an eligibility report of the Site and surrounding properties;

**WHEREAS**, the South Arterial Urban Renewal Eligibility Report (the “South Arterial Report”), dated September 28, 2007, was submitted to the Agency Board for their consideration and approval at the Agency’s meeting of October 3, 2007;

**WHEREAS**, the Agency accepted the South Arterial Report by way of Resolution No. 2007-1 at the October 3, 2007 meeting of the Agency Board;

**WHEREAS**, at its October 3, 2007, meeting the Rexburg City Council considered the South Arterial Report for designation of an urban renewal area;

**WHEREAS**, by approval of City Council Resolution No. 2007-11, the Rexburg City Council directed the Agency to commence preparation of an urban renewal plan for the area designated;

**WHEREAS**, pursuant to Idaho Code Section 50-2008, an urban renewal project may not be planned or initiated unless the local governing body has, by resolution, determined such area to be a deteriorated area or deteriorating area, or combination thereof, and designated such area as appropriate for an urban renewal project;

**WHEREAS**, Idaho Code Section 50-2906, also requires that in order to adopt an urban renewal plan containing a revenue allocation financing provision, the local governing body must make a finding or determination that the area included in such plan is a deteriorated area or deteriorating area;

**WHEREAS**, the Mayor and Council considered the steps set forth by the Act and Law, accepting the Report finding the area set forth therein to be “deteriorated” or “deteriorating” areas as defined by Idaho Code Sections 50-2018(9), and 50-2903(8)(b) declaring such area as an urban renewal area, making additional findings regarding the characteristics of the area, making the necessary findings as required by Idaho Code Section 50-2008(a) and authorizing the Agency to prepare an urban renewal plan;

**WHEREAS**, the legislature of the State of Idaho has enacted the Act, authorizing certain urban renewal agencies (including the Agency), to adopt revenue allocation financing provisions as part of their urban renewal plans;

**WHEREAS**, in order to implement the provisions of the Act and the Law either the Agency may prepare a plan, or any person, public or private, may submit such plan to the Agency;

**WHEREAS**, the Agency prepared a proposed University Boulevard-South 12th West Urban Renewal Plan (hereinafter referred to as the “University Boulevard Plan”) for the area previously designated as eligible for urban renewal planning and the area proposed to be eligible;

**WHEREAS**, such proposed University Boulevard Plan also contains provisions of revenue allocation financing as allowed by the Act;

**WHEREAS**, the University Boulevard Plan was presented to the Agency Board at its November 13, 2007, meeting;

**WHEREAS**, as required by the Act, the Agency reviewed the information within the University Boulevard Plan concerning use of revenue allocation funds and approved such information;

**WHEREAS**, at the regular meeting of the Agency Board on November 13, 2007, the Board adopted Resolution No. 2007-3 which recommended the adoption of the University Boulevard Plan;

**WHEREAS**, the Agency has, by letters of transmittal dated November 13, 2007, submitted the University Boulevard Plan to the Mayor and City Council of Rexburg requesting the City schedule the necessary meetings and public hearing for consideration of the University Boulevard Plan in compliance with the Law and the Act;

**WHEREAS**, the Mayor and City Clerk have taken the necessary action to process the University Boulevard Plan;

**WHEREAS**, pursuant to the Law, the City of Rexburg Planning and Zoning Commission considered the University Boulevard Plan and its compliance with the Comprehensive Plan of the City of Rexburg on December 6, 2007, and forwarded its findings to the City Council, a copy of which is attached hereto as Exhibit 1;

**WHEREAS**, as of November 13, 2007, the University Boulevard Plan was submitted to the affected taxing entities, available to the public, and under consideration by the City Council;

**WHEREAS**, notice of the public hearing of the University Boulevard Plan was caused to be published by the City Clerk of Rexburg Idaho, in the *Standard Journal*, on November 16, 2007, again on November 17, 2007, to correct the map inserted by the *Standard Journal*, and again on November 30, 2007, a copy of said notice being attached hereto as Exhibit 2;

**WHEREAS**, as required by Idaho Code Sections 50-2905 and 50-2906, the University Boulevard Plan contains the following information which was made available to the general public and all taxing districts at least thirty (30) days prior to the December 19, 2007 regular meeting of the City Council: (1) the kind, number and location of all proposed public works or improvements within the revenue allocation area; (2) an economic feasibility study; (3) a detailed list of estimated project costs; (4) a fiscal impact statement showing the impact of the revenue allocation area, both until and after the bonds are repaid, upon all taxing districts levying taxes upon property in the revenue allocation area; and (5) a description of the methods of financing all estimated project costs and the time when related costs or monetary obligations are to be incurred;

**WHEREAS**, the University Boulevard Plan authorizes certain projects to be financed by revenue allocation bonds and proceeds from revenue allocation;

**WHEREAS**, appropriate notice of the University Boulevard Plan and revenue allocation provision contained therein has been given to the taxing districts and to the public as required by Idaho Code Section 50-2906;

**WHEREAS**, the City Council of the City Rexburg and the Agency Board conducted a joint work session on December 5, 2007, to review and discuss the University Boulevard Plan;

**WHEREAS**, the City Council of the City of Rexburg during its regular meeting of December 19, 2007, held a public hearing and did consider the University Boulevard Plan as proposed;

**WHEREAS**, it is necessary and in the best interest of the citizens of the City of Rexburg, Idaho to recommend approval of the University Boulevard Plan, and adopt the University Boulevard Plan, including revenue allocation financing provisions since revenue allocation will help finance urban renewal projects to be completed in accordance with the University Boulevard Plan (as now or hereafter amended), in order: (1) to encourage private development in the urban renewal area; (2) to prevent and arrest decay of the City of Rexburg due to the inability of existing financing methods to provide needed public improvements; (3) to encourage taxing districts to cooperate in the allocation of future tax revenues arising in the urban renewal area in order to facilitate the long-term growth of their common tax base; (4) to encourage the long-term growth of their common tax base; (5) to encourage private investment within the City of Rexburg and (6) to further the public purposes of the Agency;

**WHEREAS**, the Board of Commissioners of the Agency has found, and the City Council hereby finds that the equalized assessed valuation of the taxable property in the revenue allocation

area described in Attachments 1 and 2 of the University Boulevard Plan is likely to increase as a result of initiation of urban renewal projects in accordance with the University Boulevard Plan;

**WHEREAS**, under the Law and Act, any such urban renewal plan should provide for (1) a feasible method for the location of families who will be displaced from the urban renewal area in decent, safe and sanitary dwelling accommodations within their means and without undue hardship to such families; (2) the urban renewal plan should conform to the general plan of the municipality as a whole; (3) the urban renewal plan should give due consideration to the provision of adequate park and recreational areas and facilities that may be desirable for neighborhood improvement, with special consideration for the health, safety and welfare of the children residing in the general vicinity of the site covered by the plan; and (4) the urban renewal plan should afford maximum opportunity, consistent with the sound needs of the municipality as a whole, for the rehabilitation or redevelopment of the urban renewal area by private enterprise;

**WHEREAS**, under the Act and the Law certain additional findings must be made concerning predominantly open land to be included within the urban renewal area or revenue allocation area;

**WHEREAS**, if the urban renewal area consists of an area of open land to be acquired by the urban renewal agency, such area shall not be so acquired unless (1) if it is to be developed for residential uses, the local governing body shall determine that a shortage of housing of sound standards and design which is decent, safe and sanitary exists in the municipality; that the need for housing accommodations has been or will be increased as a result of the clearance of slums in other areas; that the conditions of blight in the area and the shortage of decent, safe and sanitary housing cause or contribute to an increase in and spread of disease and crime and constitute a menace to the public health, safety, morals, or welfare; and that the acquisition of the area for residential uses is an integral part of and essential to the program of the municipality, or (2) if it is to be developed for nonresidential uses, the local governing body shall determine that such nonresidential uses are necessary and appropriate to facilitate the proper growth and development of the community in accordance with sound planning standards and local community objectives, which acquisition may require the exercise of governmental action, as provided in the Law, because of defective or unusual conditions of title, diversity of ownership, tax delinquency, improper subdivisions, outmoded street patterns, deterioration of site, economic disuse, unsuitable topography or faulty lot layouts, the need for the correlation of the area with other areas of a municipality by streets and modern traffic requirements, or any combination of such factors or other conditions which retard development of the area;

**WHEREAS**, under the Act a deteriorated area includes any area which is predominantly open and which, because of obsolete platting, diversity of ownership, deterioration of structures or improvements, or otherwise, results in economic underdevelopment of the area, or substantially impairs or arrests the sound growth of a municipality;

**WHEREAS**, under the Law, specifically Section 50-2018(9), a deteriorating area may not include an agricultural operation as defined in Idaho Code Section 22-4502(1) absent the consent of the owner of the agricultural operation except for an agricultural operation that has not been used for three (3) consecutive years;

**WHEREAS**, the Agency has received written consents concerning certain property within the urban renewal area, which may have been deemed an agricultural operation as stated above, a copy of such consent is attached hereto as Exhibit 3 and incorporated herein by reference;

**WHEREAS**, the collective overall base assessment roll for the University Boulevard Plan Area, along with the collective base assessment rolls of the Washington School Plan Area, the Downtown Plan Area, and the North Highway Urban Renewal Area cannot exceed ten percent (10%) of the Base Assessment Value of the City of Rexburg;

**WHEREAS**, the City at its regular meeting held on December 19, 2007, did consider the University Boulevard Plan as proposed, conducted the public hearing, and made certain comprehensive findings;

**WHEREAS**, the Agency has prepared and attached hereto as Exhibit 4 a Change Sheet indicating the changes made to the originally proposed University Boulevard Plan since transmittal of the University Boulevard plan to the taxing districts.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF REXBURG, IDAHO:

**SECTION I:** It is hereby found and determined that:

(a) The Project Area as defined in the University Boulevard Plan is a deteriorated or a deteriorating area as defined in the Law and the Act and qualifies as an eligible urban renewal area under the Law and Act, including under the Act a deteriorated or deteriorating area consisting of open land.

(b) The rehabilitation, conservation, and redevelopment of the Project Area pursuant to the University Boulevard Plan are necessary in the interest of public health, safety, and welfare of the residents of the City of Rexburg.

(c) There continues to be a need for the Agency to function in the City of Rexburg.

(d) The University Boulevard Plan conforms to the Comprehensive Plan of the City of Rexburg.

(e) The University Boulevard Plan gives due consideration to the provision of adequate park and recreation areas and facilities that may be desirable for neighborhood improvement (recognizing the mixed use components of the University Boulevard Plan, the need for overall public improvements and the proposed public open space recreation and community facilities opportunity), and shows consideration for the health, safety, and welfare of any residents or businesses in the general vicinity of the Project Area as defined by the University Boulevard Plan.

(f) The University Boulevard Plan affords maximum opportunity consistent with the sound needs of the City as a whole for the rehabilitation and redevelopment of the Project Area by private enterprises.

(g) The University Boulevard Plan provides a feasible method for relocation of any displaced families residing within the Project Area.

(h) The Project Area and Revenue Allocation Area contains certain open land, that the Agency does not intend to acquire any open land on any widespread basis, and that the Project Area is planned to be redeveloped in a manner that will include both residential and non-residential uses. Provided, however, that if portions of the Project Area and Revenue Allocation Area are deemed “open land” the criteria set forth in the Law and Act have been met.

(i) That portion of the Project Area which is identified for non-residential uses is necessary and appropriate to facilitate the proper growth and development standards in accordance with the objectives of the Comprehensive Plan to overcome economic disuse, the need for improved traffic patterns and the need for the correlation of this area with other areas of the City.

(j) The collective base assessment roll of the University Boulevard Plan, along with the collective base assessment rolls of the Washington School Plan, the Downtown Plan Area, and the North Highway Urban Renewal Area does not exceed ten percent (10%) of the assessed value of the City of Rexburg.

(k) The urban renewal area, which includes the deteriorating area, as defined in Idaho Code Section 50-2018(9), does not include any agricultural operation for which the Agency has not received a written consent, or has not been used for agricultural purposes for three (3) consecutive years.

**SECTION II:** That the City Council finds that the Agency does not intend to acquire any open land on any widespread basis, and that the Project Area is planned to be redeveloped in a manner that will include both residential and non-residential uses. Provided, however, the City Council finds that if portions of the Project Area and Revenue Allocation Area are deemed “open land,” the criteria set forth in the Law and Act have been met.

**SECTION III:** The City Council finds that one of the Plan objectives to increase the mixed use development opportunity to include housing does meet the sound needs of the City and will provide residential opportunities in an area that does not now contain such residential opportunities, and the portion of the Project Area which is identified for non-residential uses is necessary and appropriate to facilitate the proper growth and development standards in accordance with the objectives of the Rexburg Comprehensive Plan to overcome economic disuse, the need for improved traffic patterns, and the need for the correlation of this area with other areas of the City.

**SECTION IV:** The University Boulevard Plan, a copy of which is attached hereto and marked as Exhibit 5 and made a part hereof by attachment, be and the same hereby is approved, along with the changes reflected on the Change Sheet attached hereto as Exhibit 4 as directed by the City Council. At the direction of the City Council, the City Clerk and/or the Agency may make certain technical corrections or revisions in keeping with the information and testimony presented at the December 19, 2007 hearing.

**SECTION V:** No direct or collateral action attacking the University Boulevard Plan shall be brought prior to the effective date of this Ordinance or after the elapse of thirty (30) days from and after the effective date of the Ordinance adopting the University Boulevard Plan.

**SECTION VI:** Upon the effective date of this Ordinance, the City Clerk is authorized and directed to transmit to the Madison County Recorder, Madison County Auditor and Tax Assessor of Madison County, and to the appropriate officials of the Madison County Board of County Commissioners, Rexburg Cemetery District, Madison County Library District, Madison School District #321 Board of Trustees, Madison County Ambulance District, Madison County Mosquito Abatement District, the City of Rexburg, and to the State Tax Commission, a copy of this Ordinance, a copy of the legal description of the boundaries of the Urban Renewal Revenue Allocation Area, and a map or plan indicating the boundaries of the Urban Renewal Revenue Allocation Area.

**SECTION VII:** The City Council hereby finds and declares that the Urban Renewal Revenue Allocation Area as defined in the University Boulevard Plan includes that portion of the Urban Renewal Project Area, the equalized assessed valuation of which the Council hereby determines is in and is part of the University Boulevard Plan is likely to increase as a result of the initiation and completion of urban renewal projects pursuant to the University Boulevard Plan.

**SECTION VIII:** The City Council hereby approves and adopts the following statement of policy relating to the appointment of City Council members as members of the Agency's Board of Commissioners: If any City Council members are appointed to the Board, they are not acting in an ex officio capacity but rather as private citizens who, although they are also members of the City Council, are exercising their independent judgment as private citizens when they sit on the Board. Except for the powers to appoint and terminate Board members and to adopt the University Boulevard Plan the City Council recognizes that it has no power to control the powers or operations of the Agency.

**SECTION IX:** So long as any Agency bonds are outstanding, the City Council will not exercise its power under Idaho Code Section 50-2006 to designate itself as the Agency Board.

**SECTION X:** This Ordinance shall be in full force and effect immediately upon its passage, approval and publication, and shall be retroactive to January 1, 2007, to the extent permitted by the Act.

**SECTION XI:** The provisions of this Ordinance are severable and if any provision of this Ordinance or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of remaining portions of this Ordinance.

**SECTION XII:** One-half, plus one, of the City Council members finding good cause, the City Council hereby dispenses with the rule that this Ordinance be read on three different days; two readings of which shall be in full, and have hereby adopted this Ordinance, having considered the Ordinance at one reading.

**SECTION XIII:** The Summary of this Ordinance, a copy of which is attached hereto as Exhibit 6, is hereby approved.

**SECTION XIV:** All ordinances, resolutions, orders or parts thereof in conflict herewith are hereby repealed, rescinded and annulled.

**SECTION XV: SAVINGS CLAUSE:** This Ordinance does not affect an action or proceeding commenced or right accrued before this Ordinance takes effect.

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR this 19th day of December, 2007.



EXHIBIT 1

PLANNING & ZONING COMMISSION FINDINGS

EXHIBIT 2

NOTICE PUBLISHED IN THE *STANDARD JOURNAL*  
November 16, 17, and 30, 2007

EXHIBIT 3

CONSENT

EXHIBIT 4  
CHANGE SHEET

EXHIBIT 5

UNIVERSITY BOULEVARD-SOUTH 12<sup>TH</sup> WEST  
URBAN RENEWAL PLAN

EXHIBIT 6

SUMMARY OF ORDINANCE NO. 996