

RESOLUTION NO. 20 23-15

BY THE BOARD OF COMMISSIONERS OF THE URBAN RENEWAL AGENCY OF IDAHO FALLS, IDAHO:

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE URBAN RENEWAL AGENCY OF IDAHO FALLS, IDAHO, ALSO KNOWN AS THE IDAHO FALLS REDEVELOPMENT AGENCY, AUTHORIZING AGENCY TO ENTER INTO AN OWNER PARTICIPATION AGREEMENT WITH TAILWATER BF4 VENTURE LP; AUTHORIZING THE CHAIR OR VICE-CHAIR AND THE SECRETARY OF AGENCY TO EXECUTE AND ATTEST SAID AGREEMENT AND ANY NECESSARY DOCUMENTS, SUBJECT TO CERTAIN CONDITIONS; AUTHORIZING THE CHAIR, VICE-CHAIR, OR ADMINISTRATOR TO TAKE APPROPRIATE ACTION TO IMPLEMENT THE AGREEMENT AND MAKE ANY NECESSARY TECHNICAL CORRECTIONS TO THE AGREEMENT SUBJECT TO CERTAIN CONDITIONS; AUTHORIZING THE APPROPRIATION OF FUNDS PURSUANT TO THE AGREEMENT; AND PROVIDING FOR THIS RESOLUTION TO BE EFFECTIVE UPON ITS PASSAGE AND APPROVAL.

THIS RESOLUTION, made on the date hereinafter set forth by the Urban Renewal Agency of Idaho Falls, Idaho, also known as the Idaho Falls Redevelopment Agency, an independent public body, corporate and politic, created by and existing under the authority of and pursuant to the Idaho Urban Renewal Law of 1965, Idaho Code, Title 50, Chapter 20, as amended and supplemented (the "Law") and the Local Economic Development Act, Idaho Code, Title 50, Chapter 29, as amended and supplemented (the "Act"), a duly created and functioning urban renewal agency for Idaho Falls, Idaho, hereinafter referred to as the "Agency."

WHEREAS, following a duly noticed public hearing, the City Council of the city of Idaho Falls, Idaho adopted Ordinance No. 3508 on March 31, 2023, approving the Urban Renewal Plan for the Anderson Bush Urban Renewal Project (hereinafter the "Urban Renewal Plan") and establishing the Anderson Bush revenue allocation area (the "Project Area"). The termination date of the Urban Renewal Plan and Project Area is December 31, 2043;

WHEREAS, Tailwater BF4 Venture LP (the "Participant") acquired approximately seven (7) acres north of and adjacent to West Anderson Street and west of A.H. Bush Elementary School, located within the city of Idaho Falls (the "City") and within the Project Area. The acreage is divided into two lots, with Lot 1 including approximately two (2) acres and Lot 2 including approximately five (5) acres. The anticipated Owner Participation Agreement (the "OPA"), attached hereto as Exhibit A, is related to development activities on Lot 2 only (the "Site");

WHEREAS, Participant intends to make significant improvements to the Site, including the development of one-hundred twenty-six (126) units of affordable housing

(the “Private Development”) with public improvements to publicly owned infrastructure. The Private Development and the Agency Funded Public Improvements (defined below) may collectively be referred to as the “Project”;

WHEREAS, Participant and Agency entered into a Memorandum of Understanding, dated June 16, 2022 (the “MOU”), wherein Participant agreed to advance fund certain costs related to the planning and establishment of the Urban Renewal Plan and Project Area, which costs are reimbursable expenses under the OPA. Pursuant to the MOU, Participant agreed to advance fund Thirty-Eight Thousand and 00/100 Dollars (\$38,000.00) related to the planning costs. A formal accounting will be conducted following the Effective Date of the OPA to determine the actual amount of planning costs incurred by the Participant (the “Planning Costs”);

WHEREAS, as part of the Project, Participant intends to undertake certain eligible improvement costs, including rock excavation and structural fill, utility trenching for public utilities, installation of public utilities (sewer and water), roadway improvements on site, and Anderson Street improvements (the “Agency Funded Public Improvements”);

WHEREAS, the Urban Renewal Plan authorizes Agency to use revenue allocation financing to fund specific projects and improvements to implement the Urban Renewal Plan, including those proposed by the Participant;

WHEREAS, Agency and Participant have negotiated the major terms of Agency’s participation in the funding of the Agency Funded Public Improvements and Planning Costs;

WHEREAS, the Agency Funded Public Improvements implement several objectives outlined in the Urban Renewal Plan;

WHEREAS, Participant has represented the Private Development would not be possible but for the Agency’s reimbursement of the Agency Funded Public Improvements;

WHEREAS, as a result of Participant’s agreement to construct the Project, Participant’s commitment to comply with the terms of the Urban Renewal Plan and Agency’s commitment to reimburse Participant for the Agency Funded Public Improvements, in compliance with the Urban Renewal Plan, the Parties deem it necessary to enter into an OPA to define their respective obligations;

WHEREAS, the Board of Commissioners finds it in the best public interest to approve the OPA, attached hereto as **Exhibit A**, and to authorize the Chair or Vice-Chair to execute and the Secretary to attest the OPA, subject to certain conditions, and to execute all necessary documents to implement the transaction, subject to the conditions set forth below.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE BOARD OF COMMISSIONERS OF THE IDAHO FALLS REDEVELOPMENT AGENCY OF IDAHO FALLS, IDAHO, AS FOLLOWS:

Section 1: That the above statements are true and correct.

Section 2: That the OPA, attached hereto as Exhibit A, is hereby incorporated herein and made a part hereof by reference and is hereby approved and accepted, recognizing technical changes or corrections which may be required prior to execution of the OPA.

Section 3. That the Chair or Vice-Chair and Secretary of the Agency are hereby authorized to sign and enter into and attest the OPA and to execute all necessary documents required to implement the actions contemplated by the OPA, subject to representations by Agency staff and Agency legal counsel that all conditions precedent to such actions have been met; and further, any necessary technical changes to the OPA or other documents are acceptable, upon advice from Agency's legal counsel that said changes are consistent with the provisions of the OPA and the comments and discussions received at the August 17, 2023, Agency Board meeting; Agency is further authorized to appropriate any and all funds contemplated by the OPA and to perform any and all other duties required pursuant to said OPA.

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

PASSED by the Urban Renewal Agency of Idaho Falls, Idaho, on August 17, 2023. Signed by the Chair of the Board of Commissioners and attested by the Secretary to the Board of Commissioners, on August 17, 2023.

APPROVED:

By: _____
Lee Radford, Chair

ATTEST:

By _____
Terri Gazdik, Secretary

EXHIBIT A

Owner Participation Agreement
Tailwater BF4 Venture LP

4895-6779-6084, v. 1