

**EXECUTIVE SUMMARY**  
**CENTER STREET RAILROAD BRIDGE UNDERPASS REHAB PROJECT**  
**CHANGE ORDER #6**

To: Mayor Mark Dahlquist and City Council Members

From: Mariela Mejia, Project Manager

Date: Meeting Date – August 6, 2026

Re: Center Street Railroad Bridge Underpass Rehab Project Construction Contract Award

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**REQUEST**

Staff requests City Council to approve the Change Order #6 associated for additional work performed outside the original contract for the Center Street Railroad Bridge Underpass Rehab project between Idaho Transportation Department (ITD), Civil Science, and the City of Pocatello and authorize the Mayor's signature on all pertinent documents, subject to Legal Department review. Under the project's funding agreement, the cost of the Change Order #6 will be paid from the project funding source. As a result, no additional payment is required from the City at this time.

**BACKGROUND**

In 2010, the City initiated the Center Street Railroad Bridge Underpass Project (No. A022 (411)). The project scope includes replacing the retaining walls on both sides of the railroad, reconstructing the adjacent sidewalks, upgrading the storm drainage system, improving the lighting system, rehabilitating the pavement, and enhancing the landscaping in the parks adjacent to Center Street.

During construction, additional work and contract line items were identified as necessary to keep the project moving forward. These items are included in Change Order No. 6, totaling \$708,808.00. The change order provides for additional shoring design services, shoring materials, and soil nails required to meet Union Pacific Railroad's construction and safety requirements. The cost of this change order will be paid from existing project funds that were allocated at the outset of the project and will not require any additional project funding.

**STAFF RECOMMENDATION**

Staff recommends that City Council accept and authorize the Mayor to approve the Change Order #6 between Idaho Transportation Department (ITD), Civil Science, and the City of Pocatello associated for additional work performed for the Center Street Railroad Bridge Underpass Rehab project.

To: City Council and Mayor  
From: Matt Kerbs, Deputy City Attorney  
Date: July 29, 2026   
Re: Change Order #6 to State/Local Agreement (Center Street Railroad Bridge Underpass Rehab)

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Having reviewed the above referenced Change Order related to the Center Street Railroad Bridge Rehab, I have no legal concerns with the Council approving and authorizing the Mayor to sign.



# Change Order

## Idaho Transportation Department

ITD 0400 (Rev.05-14)  
itd.idaho.gov

Paying Through: ☐ WinCaps ☒ AASHTOWare

See Contract Administration Manual Section 104.02

|                                      |                                                     |                                              |
|--------------------------------------|-----------------------------------------------------|----------------------------------------------|
| Key Number<br>12098                  | Project Number<br>A012(098)                         | Contract Number<br>8891                      |
| Program Number<br>T115830            | Location<br>Center Street Railroad Bridge Underpass |                                              |
| Contractor's Name<br>Cannon Builders | Change Order Number<br>06                           | Date of Contractor Authorization<br>01/06/26 |

You are ordered to perform the work described or incorporated below in accordance with the Contract or as amended by this change order. The cost to perform this work includes all labor, equipment, materials, overhead, and all other incidental costs associated with completing the work.

### Change in Plans & Specification

- Description:** Revised and unknown Union Pacific (UP) Railroad requirements including assumed design track loading, out of service/closed tracks, minimum no-excavation track limits, and track fouling protocol have affected the project's critical path construction including the shoring design and installation. In order to continue working within the UP right-of-way, UP requirements must be met. This change order adds contract pay items S904-05A HLE SHORING DESIGN (c06), S904-05B ADDITIONAL SHORING MATERIALS (c06), and S900-50A SOIL NAILS (c06), S900-50B TEMP SHORING CONTINGENCY to the contract and compensates the Contractor for the additional costs associated with meeting UP requirements and allowing project construction to proceed.
  - S904-05A HLE SHORING DESIGN (c06)** – This contract pay item compensates the contractor for the HLE shoring design performed under the original understanding of the as-bid contract. This design did not meet the new UP requirements for loading and therefore was not used. The revised approved shoring plan based on current UP guidelines was significantly more complicated and was performed by Gerhart Cole.
  - S904-05B ADDITIONAL SHORING MATERIALS (c06)** – The more comprehensive approved shoring plan requires additional materials and labor to install than was originally planned. Additional materials included eight additional piles and 12 plates for cribbing, along with the associated crane, welding, and installation efforts necessary to construct the revised temporary shoring system. This contract pay item will compensate the contractor for the additional labor and materials required to install the approved shoring plan.
  - S900-50A SOIL NAILS (c06)** – The approved shoring plan requires the addition of soil nails to meet Union Pacific requirements. Given that the cost of soil nail installation is highly dependent on subsurface conditions, this work will be tracked and compensated on a Force Account Basis in accordance with ITD Standard specification 109.03.
- Materials Requirements:** Provide shoring materials meeting the requirements of the Approved Temporary Shoring Plan, the project contract documents, and Union Pacific Railroad. Acceptance will be through ITD-854.
- Construction Requirements:** Construct in accordance with the approved Temporary Shoring Plan, the project contract documents, and Union Pacific requirements.
- Method of Measurement:** The Engineer will measure acceptably completed work for HLE Temporary Shoring Design for walls 1 & 2 including Prime and Overhead & Profit by the Lump Sum. Extra Shoring Material will be measured by the Lump Sum (LS). The Engineer will measure acceptably completed work for Soil Nails and Temp Shoring Contingency by Contingency Amount (CA).

**Change Order**  
**Idaho Transportation Department**

ITD 0400 (Rev.05-14)  
itd.idaho.gov

|                                      |                                                     |                                              |
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| Contractor's Name<br>Cannon Builders | Change Order Number<br>06                           | Date of Contractor Authorization<br>01/06/26 |

5. **Basis of Payment:** The Department will pay for accepted quantities as follows:

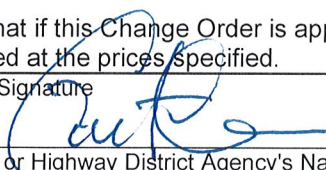
| ESTIMATED INCREASE IN EXTRA WORK AT AGREED PRICES |                               |  |        |    |   |                        |                |
|---------------------------------------------------|-------------------------------|--|--------|----|---|------------------------|----------------|
| S904-05A                                          | HLE TEMP SHORING DESIGN (c06) |  | 1      | LS | @ | \$33,808.00            | = \$33,808.00  |
| S904-05B                                          | EXTRA SHORING MATERIAL (c06)  |  | 1      | LS | @ | \$75,000.00            | = \$75,000.00  |
| S900-50A                                          | SOIL NAILS (c06)              |  | 600000 | CA | @ | \$1.00                 | = \$600,000.00 |
|                                                   |                               |  |        |    |   |                        |                |
|                                                   |                               |  |        |    |   | Estimated Increase     | = \$708,808.00 |
|                                                   |                               |  |        |    |   |                        |                |
|                                                   |                               |  |        |    |   | Net Estimated Increase | = \$708,808.00 |

6. **Time Accounting:** No change in contract time.

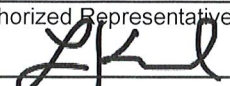
By reason of this change, contract time will be adjusted by/

None (0)    ☒ Working Days    ☐ Calendar Days

We agree that if this Change Order is approved, we will perform the work described or incorporated as shown above and be compensated at the prices specified.

|                                                                                                               |                              |                    |
|---------------------------------------------------------------------------------------------------------------|------------------------------|--------------------|
| Contractor's Signature<br> | Date<br>6/26/26              |                    |
| City, County, or Highway District Agency's Name<br>City of Pocatello                                          |                              |                    |
| Authorized Representative's Signature                                                                         | Title<br>LHTAC Administrator | Date<br>06/24/2026 |

Approved for State of Idaho

|                                                                                                                              |                              |                    |
|------------------------------------------------------------------------------------------------------------------------------|------------------------------|--------------------|
| Authorized Representative's Signature<br> | Title<br>LHTAC Administrator | Date<br>06/24/2026 |
|------------------------------------------------------------------------------------------------------------------------------|------------------------------|--------------------|

STATE/LOCAL AGREEMENT  
(PROJECT DEVELOPMENT)  
PROJECT NO. A012(098)  
CENTER ST RR BRIDGE U'PASS, POCA TELLO  
BANNOCK COUNTY  
KEY NO. 12098

**PARTIES**

THIS AGREEMENT is made and entered into this 16<sup>th</sup> day of August, 2010, by and between the **IDAHO TRANSPORTATION DEPARTMENT**, hereafter called the **STATE**, and the **CITY OF POCA TELLO**, acting by and through its Mayor and Council, hereafter called the **SPONSOR**.

**PURPOSE**

The **SPONSOR** has requested the **STATE** to program for development and construction Federal-Aid Project A012(098), described as Center Street RR Bridge U'Pass, the project development for which is to be performed by **SPONSOR'S** staff/Consultant Engineers. The purpose of this Agreement is to set out the terms and conditions to accomplish the project development phase of this project.

**NOTE:** Securing the services of a consultant for project development services must follow the process outlined in the Idaho Transportation Department Guidelines for Local Public Agency Projects.

Since certain functions under this Agreement are to be performed by the **STATE**, requiring the expenditure of funds, and since the **STATE** can only pay for work associated with the State Highway System, the **SPONSOR** is fully responsible for all costs incurred by the **STATE** related to the project.

Authority for this Agreement is established by Section 40-317 of the Idaho Code.

The Parties agree as follows:

## SECTION I. GENERAL

1. It is necessary to develop construction plans and specifications in order that federal participation may be obtained in the construction costs of the project. Federal-aid for project development is available on this project.
2. Federal participation in the project is at the rate of 92.66%; local participation is 7.34%. Scheduled funding for this project is listed on the Idaho Transportation Department approved Capital Investment Program, and subsequent revisions. Current estimated funding is as follows:
  - a. Project Development (State, Consultant, Local) - \$150,000
  - b. Right-of-Way - \$-0-
  - c. Utilities - \$-0-
  - d. Construction Engineering - \$-0-
  - e. Construction - \$1,400,000
  - f. Total Estimated Project Costs - \$1,550,000
3. The **SPONSOR'S** match for this project will be provided in cash in the amount of 7.34 percent of the entire project (currently \$113,770)
4. This project shall be designed to State Standards as defined in the current version of the Idaho Transportation Department's Design Manual, or as subsequently revised. The current version of the Design Manual can be viewed at the following web site: <http://itd.idaho.gov/manuals/ManualsOnline.htm> .
5. All information, regulatory and warning signs, pavement or other markings, and traffic signals required and warranted will be developed as a part of the plans, regardless of whether the work is done as a portion of the contract or by the **SPONSOR'S** forces.
6. If the project is terminated prior to completion, the **SPONSOR** shall repay to the **STATE** all federal funds received for the project, and shall be liable to the **STATE** for any un-reimbursed incidental expenses as provided for in Section II, Paragraph 1 of this Agreement.

7. Sufficient Appropriation. It is understood and agreed that the **STATE** is a governmental agency, and this Agreement shall in no way be construed so as to bind or obligate the **STATE** beyond the term of any particular appropriation of funds by the Federal Government or the State Legislature as may exist from time to time. The **STATE** reserves the right to terminate this Agreement if, in its sole judgment, the Federal Government or the legislature of the State of Idaho fails, neglects or refuses to appropriate sufficient funds as may be required for the **STATE** to continue payments. Any such termination shall take effect immediately upon notice and be otherwise effective as provided in this Agreement.

**SECTION II.** That the **STATE** shall:

1. Provide the following services incidental to the project development:
  - a. Assist **SPONSOR** in the selection of a Consulting Engineer and negotiations as needed, and furnish the Agreement for Engineering Services and any supplements thereto, to be used between the **SPONSOR** and Consultant Engineers on this project.
  - b. Review Preliminary Environmental Evaluation and recommend other appropriate environmental documentation.
  - c. Furnish to the Engineers copies of materials test reports and other data applying to the project and available to the **STATE**.
  - d. Advertise for required formal public hearings and provide a hearing officer to conduct the hearings.
  - e. Review rights-of-way appraisals and assign personnel to determine relocation entitlements and assistance which might be required by the project.

- f. File with the Federal Highway Administration applications for exceptions to AASHTO Standards when appropriate and for government land withdrawals for rights-of-way and airport clearance.
  - g. Assist in negotiations with public carriers and utilities for agreements on behalf of the **SPONSOR**. If requested by a utility company, hold utility hearings before the Idaho Transportation Board or issue IT Board Orders to the utilities on behalf of the **SPONSOR**. During development, the latest edition of the **STATE's Guide for Utility Management** will be followed in all matters relating to utilities.
  - h. Review the designing engineers' plans, estimates, reports and environmental studies, and issue notice of approval to the **SPONSOR** and the Engineer following the Concept, Preliminary and Final Design Reviews and the Design Study Report.
  - i. Supply roadway summary sheets and such standard drawings as may be required to supplement the plans.
  - j. Unless otherwise included in the scope of work for the Consultant agreement, prepare the title sheet.
  - k. Print and assemble plans, special provisions, specifications and contract.
  - l. Advertise for bids and let the construction contract. Prior to construction, the parties will enter into a separate agreement covering responsibilities of the parties relating to construction.
2. Upon receipt of invoices from the design consultant, review for eligibility and pay said invoices.



3. Bill the **SPONSOR** for costs incurred by the **STATE** under this Agreement for project development, if those costs exceed the amount set out in Section III, Paragraph 1.
4. Bill the **SPONSOR** for any federal funds to be repaid by the **SPONSOR** if the project is terminated prior to completion, and the **SPONSOR** has been reimbursed with federal funds for preliminary engineering and/or right-of-way acquisition.

**SECTION III.** That the **SPONSOR** shall:

1. Pay to the **STATE**, before the **STATE** begins the incidental services referred to in Section II, Paragraph 1, the sum of **TEN THOUSAND DOLLARS (\$10,000)**, estimated to be the total expense to the **STATE**. In addition, pay to the **STATE** the cost of all incidental services provided by the **STATE** upon receipt of the billing provided for in Section II, Para. 3. Checks shall be made payable to the "Idaho Transportation Department", and mailed to the District Five Office at PO Box 4700, Pocatello, ID 83205-4700.
2. **SPONSOR** warrants that it will repay any federal reimbursements on this project if the project is terminated prior to completion.
3. With the assistance of the **STATE**, hire a consultant for development of the project.
4. Prior to the consultant contract being signed, pay to the **STATE** the **SPONSOR'S** share of the consultant contract to be utilized by the **STATE** in paying consultant invoices.
5. Acquire with the **STATE'S** assistance as noted in Section II, all rights-of-way and easements needed to provide for construction and maintenance of the project.
6. Furnish all appraisals required for the project to the **STATE** for review.
7. Review the appraisal reviewer's statement of the estimated fair market value and approve an amount to be just compensation for each parcel to be acquired.

8. Complete a monthly right-of-way status report, ITD-2161, and forward it to the Local Project Coordinator.
9. Before initiating negotiations for any real property required for right-of-way, establish an amount considered to be just compensation, under Idaho law, and make a prompt offer to acquire the property for the full amount established.
10. Make a good faith effort to acquire the real property by negotiation.
11. Inform the property owner, in those cases where he indicates a willingness to donate a portion of his real property for rights-of-way, of all the facts including his right to full compensation in money for land and damages, if any, in accordance with Idaho Code.
12. Provide relocation assistance and payments for any displaced person, business, farm operation, or nonprofit organization in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; 49 CFR 24; 23 CFR 710; the Idaho Real Property Acquisition Act of 1971; Title 40, Chapter 20; and Title 58, Chapter 11; Idaho Code, as amended, and regulations promulgated thereunder. No individual or family shall be displaced until decent, safe and sanitary replacement housing is available to the relocatees for immediate occupancy. In addition, advise the **STATE** of any relocations required by the project and authorize the **STATE** to negotiate in its behalf for all relocation assistance and payments, the cost of which will be assumed by the **SPONSOR** at the time of negotiation.
13. To the greatest extent practicable, no person lawfully occupying the real property shall be required to move from his home, farm or business without at least ninety (90) days written notice prior to advertisement of the project.
14. Before advertisement for bids, provide a certification that all rights-of-way, easements, permits, materials sources and agreements necessary for the construction of the project have been acquired in accordance with

the provisions of this Section. Provide a value of any right-of-way donations obtained, which may be credited as a matching share.

15. Evaluate the impact the project might have on the quality of the human environment and prepare and furnish to the **STATE** an environmental evaluation, which includes cultural resources, and any other documents required by the National Environmental Policy Act.
16. At all required public hearings, furnish all necessary exhibits and provide for a representative of the **SPONSOR** to describe the project; present information about the location and design, including alternates; discuss the tentative schedules for rights-of-way acquisitions and construction; discuss the **SPONSOR'S** relocation assistance program; discuss the economic, sociological, and environmental effects of the project; and answer all questions concerning the project.
17. Comply with Appendix A, Title 49 CFR, Part 21, attached hereto and made a part hereof. By this agreement **SPONSOR** agrees to comply with and be bound to the Civil Rights provisions of Title VI of the Federal Code and to generally insert those provisions in all contracts that it enters into that are federally funded on this project. If property acquired for this project with Federal financial assistance is transferred, the recipient of the property will be subject to Appendix A if the property is used for the same purpose it was originally acquired or for another purpose involving similar services or benefits to the general public. **SPONSOR** should contact the **STATE** prior to disposing of any property acquired under this agreement.
18. Maintain all project records, including source documentation for all expenditures and in-kind contributions, for a period of three (3) years from the date of final acceptance. If any litigation, claim, negotiation, or audit has been started before expiration of the three-year period, the records shall be retained until completion of the action and resolution of all issues that arise from it.

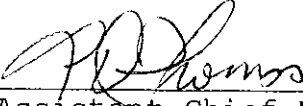
19. Comply with all other applicable State and Federal regulations.

**EXECUTION**

This Agreement is executed for the **STATE** by its Assistant Chief Engineer (Development), and executed for the **SPONSOR** by the Mayor, attested to by the City Clerk, with the imprinted Corporate Seal of the City of Pocatello.

**IDAHO TRANSPORTATION DEPARTMENT**

APPROVED BY:

  
Assistant Chief Engineer (Development)

Approved as to form  
Steven M. Parry  
Deputy Attorney General  
6-13-08

RECOMMENDED BY:

  
Roadway Design Engineer

**ATTEST:**

**CITY OF POCA TELLO**

  
City Clerk

  
Mayor

(SEAL)

By regular special meeting  
on August 5, 2010.

RESOLUTION NO. 2010- 07

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF POCA TELLO, A MUNICIPAL CORPORATION OF IDAHO, AUTHORIZING THE EXECUTION OF A STATE/LOCAL AGREEMENT (PROJECT DEVELOPMENT) BETWEEN THE STATE OF IDAHO TRANSPORTATION DEPARTMENT AND THE CITY OF POCA TELLO SETTING OUT TERMS AND CONDITIONS FOR THE DEVELOPMENT OF CONSTRUCTION PLANS AND SPECIFICATIONS FOR THE REHABILITATION AND IMPROVEMENT OF THE CENTER STREET RAILROAD BRIDGE UNDERPASS; PROVIDING THAT A COPY OF THIS RESOLUTION SHALL BE ATTACHED TO THE SAID AGREEMENT; PROVIDING THAT AN EXECUTED COPY OF THIS AGREEMENT AND RESOLUTION SHALL BE FURNISHED TO THE IDAHO TRANSPORTATION DEPARTMENT.

WHEREAS, the Idaho Transportation Department, hereinafter called the "State," has submitted an Agreement stating obligations of the State and the City of Pocatello, hereafter called the "City," for the project development of the rehabilitation/improvement of the Center Street Railroad Bridge Underpass; and

WHEREAS, the State is responsible for obtaining compliance with laws, standards, and procedural policies in the development, construction, and maintenance of improvements made to the Federal-aid Highway System when there is federal participation in the costs; and

WHEREAS, certain functions to be performed by the State involve the expenditure of funds as set forth in the Agreement; and

WHEREAS, the State can only pay for work associated with the State Highway System; and

WHEREAS, the City is fully responsible for its share of project costs;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF POCA TELLO AS FOLLOWS:

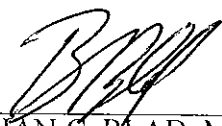
1. That the City Council hereby approves the execution of the State/Local Agreement (Project Development) for Federal Aid Project No. A012 (098).

2. That the City Clerk is hereby directed to verify that the Agreement is fully executed by the City of Pocatello and to ensure that the originals are returned to the Idaho Transportation Department.

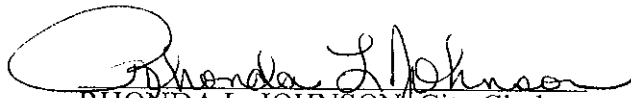
3. That this Resolution be attached to the above-named Agreement and made a part thereof.

RESOLVED this 5<sup>th</sup> day of August, 2010.

CITY OF POCA TELLO, a municipal  
corporation of Idaho

  
\_\_\_\_\_  
BRIAN C. BLAD, Mayor

ATTEST:

  
\_\_\_\_\_  
RHONDA L. JOHNSON, City Clerk

**Appendix A**  
**Non-Discrimination Agreement for Local Public Agencies**

**Title VI Program**

**Organization and Staffing**

Pursuant to 23 CFR 200, the City of Pocatello has designated a Title VI Coordinator who is responsible for monitoring practices, procedures, policies, and documents for compliance with Title VI. This individual is the designated liaison for Title VI program activities and for coordinating compliance monitoring with the Idaho Transportation Department Equal Employment Opportunity Office.

**Assurances**

**49 CFR Part 21.7**

The Sponsor hereby gives assurances:

1. That no person shall on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity conducted by the Sponsor regardless of whether those programs and activities are Federally funded or not. The Federal-aid Highway Transportation Act of 1973 added sex to the list of prohibitive factors. Disability was added through Section 504 of the Rehabilitation Act of 1973. Age was subsequently added in 1975 under the Age Discrimination Act. Minority populations and low-income populations were added by Presidential Executive Order 12898. Limited English proficient persons were added by Presidential Executive Order 13166. Activities and programs which the Sponsor hereby agrees to carry out in compliance with Title VI and these related statutes include, but are not limited to:
  - List all major Transportation programs and activities of the Sponsor and Title VI responsibilities for each one of them (label Attachment 2).
2. That it will promptly take any measures necessary to effectuate this agreement.
3. That each Transportation program, activity, and facility (i.e. lands change to roadways, park and ride lots etc.) as defined at 49 CFR 21.23(b) and (e), and the Civil Rights Restoration Act of 1987 will be (with regard to a program or activity) conducted, or will be (with regard to a facility) operated in compliance with the nondiscriminatory requirements imposed by, or pursuant to, this agreement.
4. That these assurances are given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date hereof to the Sponsor by the Idaho Transportation Department (ITD) under the Federally-Funded Program and is binding on it, other recipients, subgrantees, contractors, sub-contractors, transferees, successors in interest and other participants. The person or persons whose signatures appear below are authorized to sign these assurances on behalf of the Sponsor.
5. That the Sponsor shall insert the following notification in all solicitations for bids for work or material subject to the Regulations and made in connection with all Federally-Funded programs and, in adapted form all proposals for negotiated agreements: *The (Sponsor), in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises as defined at 49 CFR Part 23 will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin, or sex in consideration for an award.*
6. That the Sponsor shall insert the clauses of Attachment 1 of this Agreement in every contract subject to the Act and the Regulations.

7. That the Sponsor shall insert the clauses of Attachment 2 of this Agreement, as a covenant running with the land, in any deed from the United States effecting a transfer of real property, structures, or improvements thereon, or interest therein.
8. The Sponsor agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Act, the Regulations, and this agreement.

#### Implementation Procedures

This agreement shall serve as the Sponsor's Title VI plan pursuant to 23 CFR 200 and 49 CFR 21.

For the purpose of this agreement, "Federal Assistance" shall include:

1. grants and loans of Federal funds,
2. the grant or donation of Federal property and interest in property,
3. the detail of Federal personnel,
4. the sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the Sponsor, or in recognition of the public interest to be served by such sale or lease to the Sponsor, and
5. any Federal agreement, arrangement, or other contract which has as one of its purposes, the provision of assistance.

The Sponsor shall:

1. Issue a policy statement, signed by the Sponsor's authorized representative, which expresses its commitment to the nondiscrimination provisions of Title VI. The policy statement shall be circulated throughout the Sponsor's organization and to the general public. Such information shall be published where appropriate in languages other than English.
2. Take affirmative action to correct any deficiencies found by ITD or the United States Department of Transportation (USDOT) within a reasonable time period, not to exceed 90 days, in order to implement Title VI compliance in accordance with this agreement. The Sponsor's authorized representative shall be held responsible for implementing Title VI requirements.
3. Designate a Title VI Coordinator who has a responsible position in the organization and easy access to the Sponsor's authorized representative. The Title VI Coordinator shall be responsible for initiating and monitoring Title VI activities and preparing required reports.
4. The Title VI Coordinator shall adequately implement the civil rights requirements.
5. Process complaints of discrimination consistent with the provisions contained in this agreement. Investigations shall be conducted by civil rights personnel trained in discrimination complaint investigation. Identify each complainant by race, color, national origin or sex, the nature of the complaint, the date the complaint was filed, the date the investigation was completed, the disposition, the date of the disposition, and other pertinent information. A copy of the complaint, together with a copy of the Sponsor's report of investigation, will be forwarded to ITD's EEO Office – External Programs within 10 days of the date the complaint was received by the Sponsor.
6. Collect statistical data (race, color, national origin, sex) of participants in, and beneficiaries of the Transportation programs and activities conducted by the Sponsor.



7. Conduct Title VI reviews of the Sponsor and sub-recipient contractor/consultant program areas and activities. Revise where applicable, policies, procedures and directives to include Title VI requirements.
8. Attend training programs on Title VI and related statutes conducted by ITD's EEO Office.
9. Prepare a yearly report of Title VI accomplishments for the last year and goals for the next year. This report is due one year from the date of approval of the Non-Discrimination Agreement and then annually on the same date.

a) Annual Work Plan

Outline Title VI monitoring and review activities planned for the coming year; state by which each activity will be accomplished and target date for completion.

b) Accomplishment Report

List major accomplishments made regarding Title VI activities. Include instances where Title VI issues were identified and discrimination was prevented. Indicate activities and efforts the Title VI Coordinator and program area personnel have undertaken in monitoring Title VI. Include a description of the scope and conclusions of any special reviews (internal or external) conducted by the Title VI Coordinator. List any major problem(s) identified and corrective action taken. Include a summary and status report on any Title VI complaints filed with the Sponsor.

#### **Discrimination Complaint Procedure**

Any person who believes that he or she, individually, as a member of any specific class, or in connection with any disadvantaged business enterprise, has been subjected to discrimination prohibited by Title VI of the Civil Rights Act of 1964, the American with Disabilities Act of 1990, Section 504 of the Vocational Rehabilitation Act of 1973 and the Civil Rights Restoration Act of 1987, as amended, may file a complaint with the Sponsor. A complaint may also be filed by a representative on behalf of such a person. All complaints will be referred to the Sponsor's Title VI Coordinator for review and action.

In order to have the complaint consideration under this procedure, the complainant must file the complaint no later than 180 days after:

- a) The date of alleged act of discrimination; or
- b) Where there has been a continuing course of conduct, the date on which that conduct was discontinued.

In either case, the Sponsor or his/her designee may extend the time for filing or waive the time limit in the interest of justice, specifying in writing the reason for so doing.

Complaints shall be in writing and shall be signed by the complainant and/or the complainant's representative. Complaints shall set forth as fully as possible the facts and circumstances surrounding the claimed discrimination. In the event that a person makes a verbal complaint of discrimination to an officer or employee of the Sponsor, the person shall be interviewed by the Title VI Coordinator. If necessary, the Title VI Coordinator will assist the person in reducing the complaint to writing and submit the written version of the complaint to the person for signature. The complaint shall then be handled according to the Sponsor's investigative procedures.

Within 10 days, the Title VI Coordinator will acknowledge receipt of the allegation, inform the complainant of action taken or proposed action to process the allegation, and advise the complainant of other avenues of redress available, such as ITD and USDOT.

The Sponsor will advise ITD within 10 days of receipt of the allegations. Generally, the following information will be included in every notification to ITD:

- a) Name, address, and phone number of the complainant.
- b) Name(s) and address(es) of alleged discriminating official(s).
- c) Basis of complaint (i.e., race, color, national origin or sex)
- d) Date of alleged discriminatory act(s).
- e) Date of complaint received by the Sponsor.
- f) A statement of the complaint.
- g) Other agencies (state, local or Federal) where the complaint has been filed.
- h) An explanation of the actions the Sponsor has taken or proposed to resolve the issue raised in the complaint.

Within 60 days, the Title VI Coordinator will conduct an investigation of the allegation and based on the information obtained, will render a recommendation for action in a report of findings to the Sponsor's authorized representative. The complaint should be resolved by informal means whenever possible. Such informal attempts and their results will be summarized in the report of findings.

Within 90 days of receipt of the complaint, the Sponsor's authorized representative will notify the complainant in writing of the final decision reached, including the proposed disposition of the matter. The notification will advise the complainant of his/her appeal rights with ITD, or USDOT, if they are dissatisfied with the final decision rendered by the Sponsor. The Title VI Coordinator will also provide ITD with a copy of this decision and summary of findings upon completion of the investigation.

Contacts for the different Title VI administrative jurisdictions are as follows:

Idaho Transportation Department  
Equal Employment Opportunity Office – External Programs  
Karen Sparkman, EEO Manager  
PO Box 7149  
Boise, ID 83707-1129  
208-334-8852

Federal Highway Administration  
Idaho Division Office  
3050 Lakeharbor Lane, Suite 126  
Boise, ID 83703  
208-334-9180

### **Sanctions**

In the event the Sponsor fails or refuses to comply with the terms of this agreement, the ITD may take any or all of the following actions:

1. Cancel, terminate, or suspend this agreement in whole or in part;

2. Refrain from extending any further assistance to the Sponsor under the program from which the failure or refusal occurred until satisfactory assurance of future compliance has been received from the Sponsor.
3. Take such other action that may be deemed appropriate under the circumstances, until compliance or remedial action has been accomplished by the Sponsor.;
4. Refer the case to the Department of Justice for appropriate legal proceedings.

Distribution: EEO Office

## Attachment 1

This Attachment is to be inserted in every contract subject to Title VI of the Civil Rights Act of 1964 and associated Regulations.

During the performance of this contract, the contractor/consultant, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

**1. Compliance with Regulations**

The contractor shall comply with the Regulations relative to non-discrimination in federally assisted programs of United States Department of Transportation (USDOT), Title 49, Code of Federal Regulations, part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

**2. Non-discrimination**

The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of sub-contractors, including procurement of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

**3. Solicitations for Sub-contracts, Including Procurement of Materials and Equipment**

In all solicitations either by competitive bidding or negotiations made by the contractor for work to be performed under a sub-contract, including procurement of materials or leases of equipment, each potential sub-contractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to non-discrimination on the grounds of race, color, sex, or national origin.

**4. Information and Reports**

The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the contracting agency or the appropriate federal agency to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to ITD or the USDOT as appropriate, and shall set forth what efforts it has made to obtain the information.

**5. Sanctions for Non-compliance**

In the event of the contractor's non-compliance with the non-discrimination provisions of this contract, the contracting agency shall impose such contract sanctions as it or the USDOT may determine to be appropriate, including, but not limited to:

- Withholding of payments to the contractor under the contract until the contractor complies, and/or;
- Cancellation, termination, or suspension of the contract, in whole or in part

**Incorporation of Provisions**

The contractor shall include the provisions of paragraphs (1) through (5) in every sub-contract, including procurement of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any sub-contractor or procurement as the contracting agency or USDOT may direct as a means of enforcing such provisions including sanctions for non-compliance.

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a sub-contractor or supplier as a result of such direction, the contractor may request ITD enter into such litigation to protect the interests of the state and, in addition, the contractor may request the USDOT enter into such litigation to protect the interests of the United States.

## Attachment 2

The following clauses shall be included in any and all deeds affecting or recording the transfer of real property, structures or improvements thereon, or interest therein from the United States.

### GRANTING CLAUSE

NOW THEREFORE, Department of Transportation, as authorized by law, and upon the condition that the state of Idaho will accept title to the lands and maintain the project constructed thereon, in accordance with Title 23, United States Code, the Regulations for the Administration of Federal Aid for Highways and the policies and procedures prescribed by the United States Department of Transportation and, also in accordance with and in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in federally assisted programs of the Department of Transportation ITD (hereinafter referred to as the Regulations) pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252: 42 USC 2000d to 2000d - 4) does hereby remise, release, quitclaim, and convey unto the state of Idaho all the right, title, and interest of the Department of Transportation in and to said land described in Exhibit A attached hereto and made a part thereof.

### HABENDUM CLAUSE

TO HAVE AND TO HOLD said lands and interests therein unto the state of Idaho, and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which the federal financial assistance is extended or for another purpose involving the provisions of similar services or benefits and shall be binding on the state of Idaho, its successors, and assigns.

The state of Idaho, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person shall on the grounds of race, color, sex or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subject to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed (,)(and)\* (2) that the state of Idaho, shall use the lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, part 21, Non-discrimination of federally assisted programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended (,) and (3) that in the event of breach of any of the above mentioned non-discrimination conditions, the department shall have a right to reenter said lands and facilities on said land, and the above described land and facilities shall thereon revert to and vest in and become the absolute property of the Department of Transportation and its assigns as such interest existed prior to this instruction.<sup>1</sup>

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<sup>1</sup> Reverter Clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purpose of Title VI of the Civil Rights Act of 1964.