

Connecting Idaho-GARVEE Bond Program

SEP-15 Application

January 29, 2007

Multiple Experimental Features

including

- **Program Manager as Agent and Assignment of Approval Authority**
- **Accelerated Start-up of Final Design**
- **Right-of-Way: Early Corridor Preservation Opportunities**

A. Brief Program/Projects Description

In April 2005, Idaho's Governor Kempthorne signed S. 1183 into law as the "Connecting Idaho-GARVEE Bonding Funding Package." Included in this major program initiative was funding authorization for an anticipated \$1.149 billion GARVEE bonding program to advance 260 miles of multilane or high performance roadways throughout the state of Idaho over the next six to ten years. The thirteen Corridors throughout the state, as identified in the original legislation, included the Connecting Idaho Program as listed below.

- US 95, SH 1 to the Canadian Border (G1)
- US 95, Garwood to Sagle (G2)
- US 95, Worley to Setters (G3)
- US 95, Thorn Creek to Moscow (G4)
- US 95, Smoky Boulder to Hazard Creek (G5)
- SH 16, Emmett to Mesa (G6)
- SH 16, I-84 to Emmett (G7)
- I-84, Caldwell to Meridian (G8)
- I-84, Orchard to Isaac's Canyon (G9)
- US 93, Twin Falls Alternate Route and New Snake River Crossing (G10)
- SH 75, Timmerman to Ketchum (G11)
- US 20, St. Anthony to Ashton (G12)
- US 30, McCammon to Soda Springs (G13)

In 2006, the Idaho Legislature approved legislation to permit the sale of Idaho's first GARVEE bonds to fund the first phase of the Connecting Idaho Program. The legislation authorizing this sale, H. 854, permitted the State of Idaho to issue up to \$200 million in GARVEE bonds for work on six of the thirteen eligible "Connecting Idaho" corridors as Phase 1 of the Program. The six eligible corridors are:

US-95, Garwood to Sagle,
US-95, Worley to Setters,
SH-16, Junction I-84 to South Emmett,
I-84, Caldwell to Meridian,
I-84, Orchard to Isaacs Canyon, and
US-30, McCammon to Soda Springs.

On May 23, 2006, the Idaho Housing and Finance Association, the agency responsible for selling Idaho's GARVEE Bonds, sold its first series of GARVEE bonds. These bonds were extremely popular and sold-out in two days. After the sale, nearly \$200 million in bond proceeds was available for work on the six corridors.

On October 17, the Idaho Transportation Board approved a plan to invest a total of \$998 million for projects to improve seven Connecting Idaho highway corridors. The US 93, Twin Falls Alternate Route was added to the six corridors previously funded. The plan includes four additional annual bond funded phases, ranging from \$264 million for Phase 2 to \$145 million for Phase 5. The Legislature will consider the sale of additional GARVEE bonds to fund Phase 2 of the Program in the 2007 Session beginning in January, with bond sales expected to occur in mid 2007.

The Connecting Idaho-GARVEE Program is the single largest public works investment initiative ever proposed in the state's history, and one of the largest GARVEE Programs in the nation. As the Idaho Transportation Department (ITD) moves forward with the delivery of the Program, ITD will continue to engage private industry partners in delivering the Program.

The Connecting Idaho-GARVEE Program has generated a great deal of interest within the citizenry of Idaho. Public involvement on the development of projects within each of the corridors will be critical to the Program's success.

Connecting Idaho Partners (CIP), a Joint Venture of Washington Group International and CH2M HILL has been contracted by ITD to provide Program Management Services for the successful implementation of the Connecting Idaho-GARVEE Program. ITD has established a dedicated GARVEE Program Unit to administer and provide ITD oversight of the Program.

Application Format

This is an application seeking approval for a Special Experimental Project-15 (SEP-15) proposal for the Connecting Idaho-GARVEE program. It includes multiple experimental features covering the areas of:

- Program Manager as Agent and Assignment of Approval Authority
- Accelerated Start-up of Final Design
- Accelerated Right-of-Way Processes

This application follows the 4-step guidance format of:

- A. Brief Program/Projects Description
- B. Concise Description of the Experimental Feature
- C. Purpose, Need, and Benefit of the Experimental Feature
- D. Deviation from Title 23 and FHWA regulations, policy, and practice

The brief description of the connecting Idaho GARVEE Program is covered under Section A above. Each experimental feature will be addressed fully – Sections B, C, and D, before moving on to the subsequent feature.

The application is relatively brief by design. Once the proposal is accepted for administration under the SEP-15 program, an Early Development Agreement (EDA) will be developed jointly between ITD and FHWA. The EDA will describe the parameters for the implementation of the experimental features. For each feature there will be specific roles identified for all parties, procedures defined, timeframes established, and other attributes described that will set forth the manner in which the project will be administered under SEP-15. During this process, FHWA will address concerns regarding program or operations aspects of the proposal. The EDA will also identify performance measures that will be used to evaluate the success of the project.

Experimental Feature #1

Program Manager as Agent and Assignment of Approval Authority

B-1. Concise Description of the Experimental Feature

Connecting Idaho Partners (CIP), as Program Manager, to act as Agent for ITD and have approval authority for certain functions in delivery of the Connecting Idaho-GARVEE Bond Program as described in the "Program Management Services Agreement between ITD and CIP for the ITD GARVEE Program" (Agreement), dated August 3, 2006 (Attachment A-1) and the "ITD-FHWA-CIP Functional Matrix for GARVEE Program" dated January 11, 2007 (Attachment A-2).

Experimental Feature #1 - Part 1

Specifically, ITD requests FHWA approval to assign CIP as ITD's Agent to procure, sign, hold, and administer contracts for:

1. Final Design
2. Construction

and for procurement of:

3. Real property, right-of-way, or other interests in real property required for specific projects

This is in accordance with the following excerpts from Article 1 and Article 5 of the Agreement:

1.01 *Scope*

- E. The Services will include the procurement, coordination and administration of contracts with Designers and Contractors, but the work of such Designers and Contractors shall in no event be considered Services.
- F. The Services will include the procurement of real property, right-of-way, or other interests in real property required for Specific Projects. Such procurement shall be on behalf of and as agent for Owner. Title and all other rights of ownership therein shall never vest in Program Manager but shall transfer directly from the transferee to Owner. All contracts issued by Program Manager for transfer of real property interests hereunder shall be subject to Owner's prior written approval.

5.03 *Standards of Performance*

- B. Parties. Contracts with Designers and Contractors (as defined in Article 6 of the Agreement) procured by Program Manager shall be directly between the Designer or Contractor and Program Manager as agent for and on behalf of Owner. Certain contracts with Designers and Contractors have been or will be entered into directly by Owner as provided for in paragraph 1.01.G.

- C. Form of Contract. All contracts between Program Manager as agent for Owner, on the one hand, and Designers or Contractors, on the other hand, including any general or supplementary conditions, change orders or amendments thereto, shall be subject to Owner's prior written approval. Owner shall consider any input provided by Program Manager. In addition, Program Manager shall ensure that each such contract:
 - 1. provides that Program Manager is in all cases acting solely on behalf of and as the agent for Owner in soliciting, awarding and administering the contract;

Experimental Feature #1 – Part 2

Further, ITD requests FHWA approval for ITD to assign CIP to take approval actions, and deal directly with FHWA, with oversight by ITD, in the process of project program management (as outlined in the Agreement and the Stewardship Matrix). Specifically, ITD requests approval from FHWA for ITD to assign approval authority to CIP for the following GARVEE Program actions and activities as presented in the “ITD-FHWA-CIP Functional Matrix for GARVEE Program” dated January 11, 2007 (Attachment A-2):

1. Professional Services Agreements & Amendments for subconsultants
2. Concept Reports
3. Geotechnical Reports
4. Preliminary Plans
5. Design Approval
6. Final Plans
7. Plans, Specifications, and Estimates

8. Bidding/Contract Award
9. Bid Tabulations
10. Utility Agreements
11. Value Engineering (<\$25M)
12. Life Cycle Cost Analysis & Pavement Design
13. Materials Report
14. Phase Reports
15. Materials Certifications
16. Bridge Concept Studies
17. TS&L Plans
18. Pre-Final Bridge Plans
19. Final Bridge Plans
20. Right-of-Way Plans
21. Hardship and Protective Buying
22. Right-of-Way Certification
23. Conditional Right-of-Way Certification
24. Construction Change Orders
25. Quantity Variance Requests
26. Final Estimate (Construction)
27. DBE Good Faith Efforts
28. Contract Compliance review Reports

Under the framework of the Agreement, ITD retains overall oversight responsibility for the delivery of the GARVEE Program and its Projects. ITD has created the GARVEE Program Unit with the responsibility to oversee and monitor CIP performance.

ITD's oversight responsibilities under the Program Management Agreement include review and approval of real property transfers (Section 1.01F), personnel issues (Section 1.02A, 1.05B), CIP submittals (Section 2.01A(6)), Cost Loaded Schedules (Section 3.02A), CIP contracts (Section 5.01E, 5.03C, Exhibit A Section 3.6 (d)(3)), and procurement procedures (Section 5.03A, Exhibit A Section 2.6). Additional oversight

responsibilities maintained by ITD include input into design standards and criteria (Exhibit A Section 2.2(b)), as well as the review and approval of CIP work packages (Exhibit A Section 2.2 (c), (d)), cost loaded schedules (Exhibit A Section 2.2 (c)), SEP-15 submittals (Exhibit A Section 2.2(h)), and changes in work (Exhibit D Section J(3)). The above list is not intended to be exclusive, but merely to illustrate the extent of ITD's oversight responsibilities for the GARVEE Program

C-1. Purpose, Need, and Benefit of the Experimental Feature

The Idaho Transportation Department (ITD) has worked with the Connecting Idaho Partners (CIP) to develop a unique framework within the executed Program Management Services Agreement (Agreement) to facilitate efficient delivery of the Connecting Idaho GARVEE Program (GARVEE Program). As part of the implementation for the GARVEE Program, ITD has tasked the CIP team with delivering the overall program under an accelerated process, as well as implementing long term process improvements for both the GARVEE Program and for ITD.

As such, ITD, FHWA, and CIP met on August 15, 2006, to discuss an approach that would provide FHWA, ITD, and CIP with the assurance that the services contracted for in the Agreement can be provided in the most efficient way possible for the success of the GARVEE Program. It was agreed that direct communication between CIP and FHWA is not only desirable, but necessary for the efficient delivery of the GARVEE Program.

The Connecting Idaho GARVEE Program is over and above the standard ITD highway program that current ITD resources typically deliver. Rather than adding resources, ITD elected to hire a Program Manager for delivery of the GARVEE program. To avoid over-taxing ITD resources, avoid redundant efforts, reviews, and approvals, and take advantage of the Program Manager's capacity and expertise, it is essential, and much more efficient, that ITD be allowed to assign some of its typical authority to the Program Manager.

Experimental Feature #1 - Part 1 - Benefits

- Final Design – More efficient procurement and administration of final design contracts under accelerated schedules required by the GARVEE Program; and reduced demand on ITD staff resources in the Consultant Administration Unit (CAU), Bridge Section, and Roadway Design Section.
- Construction - More efficient procurement and administration of construction contracts under accelerated schedules required by the GARVEE Program; and

reduced demand on ITD staff resources in the Construction Section, District Residency, and Materials Section.

- Right-of-Way - More efficient procurement and administration of right-of-way delivery services and procurement of real property, right-of-way, and other interests in real property as agent for ITD under accelerated schedules required by the GARVEE Program; and reduced demand on ITD staff resources in the CAU and the Right-of-Way Section.

Experimental Feature #1 – Part 2 – Benefits

The benefits to be derived from CIP working directly with FHWA, with oversight by ITD, include more efficient review and approval of environmental, design, right-of-way, and construction project elements, for accelerated delivery as required by the GARVEE Program; and reduced demand on ITD staff in the CAU, Right-of-Way Section, Materials Section, Roadway Design Section, Bridge Section, and Construction Section.

D-1. Deviation from Title 23 and FHWA regulations, policy, and practice

Though no specific reference has been found in Title 23 USC or Title 23 CFR that would prohibit a State Transportation Department (ITD) from assigning Agent status or approval authority to a program manager (CIP) for specific project development and construction activities, concerns have been raised that, at a minimum, it is not according to current FHWA policy and practice. The validity of CIP to perform the list of activities under section C above has been questioned. Further, if performed by other than the State Transportation Department, Federal-Aid funding would be jeopardized.

Title 23 CFR 1.3 requires that a State highway department be authorized to make final decisions for the State.

“ Section 1.3 Federal-State cooperation; authority of State highway department.

The Administrator shall cooperate with the States, through their respective State highway departments, in the construction of Federal-aid highways. Each State highway department, maintained in conformity with 23 USC 302, shall be authorized, by the laws of the State, to make final decisions for the State in all matters relating to, and to enter into, on behalf of the State, all contracts and agreements for projects and to take such other actions on behalf of the State as may be necessary to comply with the federal laws and the regulations in this part.”

Section 302 below may provide some flexibility in allowing FHWA to deal with private consultants, though it has not been interpreted that way in the past. This may be the key question. Would FHWA allow an interpretation favorable to this request in the spirit of a SEP-15 experiment that may offer more effective approaches to the development process for transportation projects? The SEP-15 Program is aimed specifically at increased project management flexibility, more innovation, improved efficiency, and timely project implementation. That is exactly what ITD has attempted to do in structuring their Program Management approach to delivery of the Connecting Idaho–GARVEE Program, and in requesting acceptance of this SEP-15 experimental feature.

Title 23, USC Section 302 states:

“ Sec. 302. State transportation department

(a) Any State desiring to avail itself of the provisions of this title shall have a State transportation department which shall have adequate powers, and be suitably equipped and organized to discharge to the satisfaction of the Secretary the duties required by this title. In meeting the provisions of this subsection, a State may engage, to the extent necessary or desirable, the services of private engineering firms.

(b) Effect of Compliance. – Compliance with subsection (a) shall have no effect on the eligibility of costs.”

Experimental Feature #2

Accelerated Start-up of Final Design

B-2. Concise Description of the Experimental Feature

General Description

Accelerate start-up of final design on Connecting Idaho projects by procuring final design services, and, in certain cases, advancing final design activities, prior to final NEPA approval. This would include soliciting, selecting, scoping, negotiating, contracting, and issuing a Notice to Proceed (NTP) for final design activities, and, in certain cases that will not influence the NEPA decision, advance final design activities. An example case would be a project or section of a project where the NEPA process has evolved to the point that there is only one "Build" alternative under consideration. See Figure 1.

The requested experimental feature will be described at two levels, with different risk and benefit potentials.

Level 1 – Procurement of final design services through contracting (both parties having signed the contract), but short of issuing a Notice to Proceed.

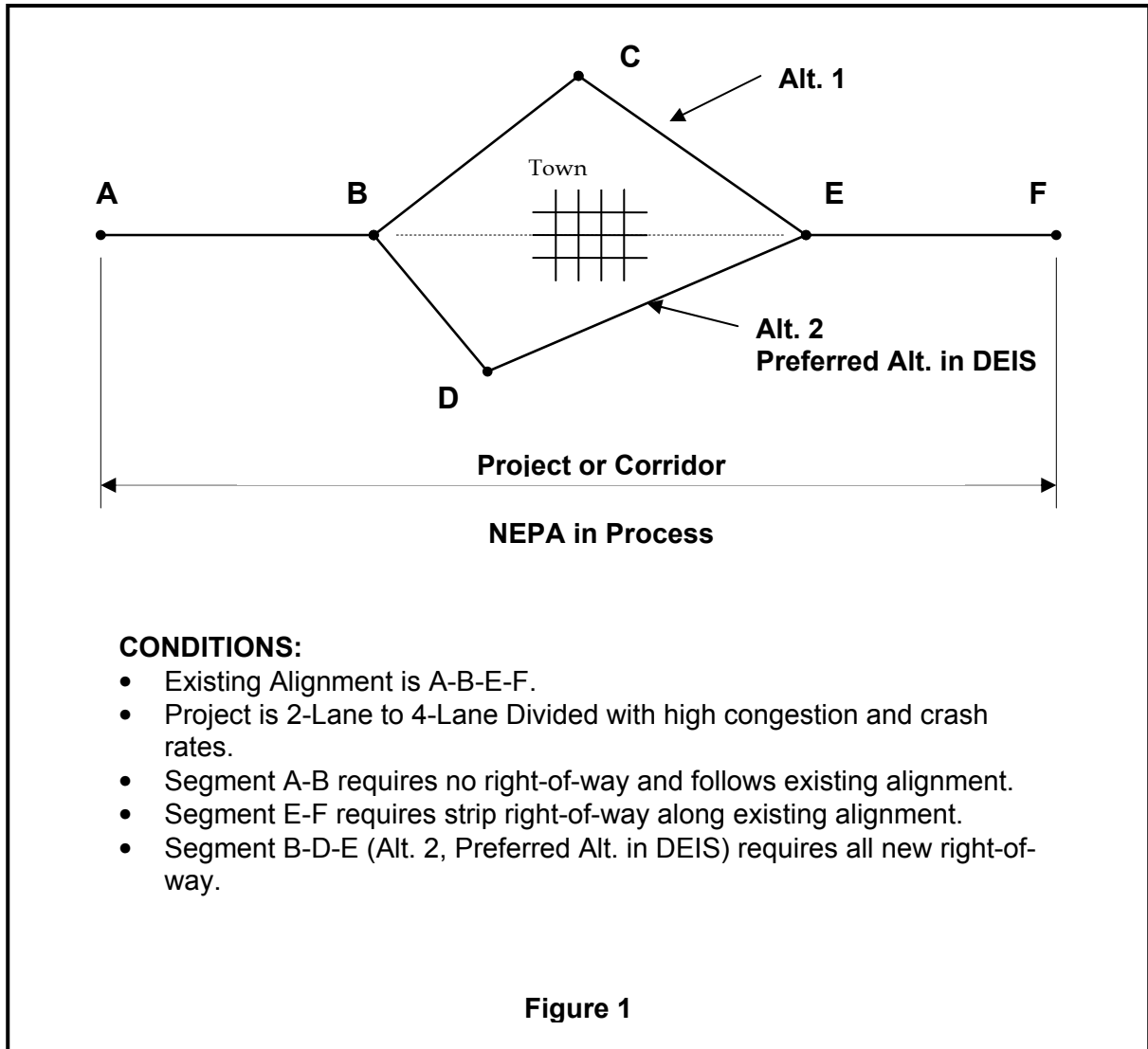
- Risk – No risk with respect to influencing the NEPA decision, and very low risk with respect to incurring costs that could be lost if the project did not proceed.
- Benefit – Gain of approximately 3 months (estimated time from initiating procurement to signed contract) in start-up of final design activities.

Level 1 may be allowable under current regulations, however it is important to be able to advance contracting up to, but not including, NTP. At a minimum, confirmation is needed from FHWA.

Level 2 – Issuing the NTP and advancing final design activities, only in cases where it will not influence the final NEPA decision.

- Risk – No risk with respect to influencing the NEPA decision. Though costs for final design activities would be incurred, they would not be substantial (estimated to be less than 1% of the project cost) and there is very low risk that the project would not proceed.
- Benefit – In addition to the 3 month gain achieved with Level 1, an estimated 3 to 6 month gain due to early advancement of final design activities.

The total benefit achieved by incorporating this experimental feature is estimated to be 6 to 9 months for completion of final design, which translates to having the improved and safer facility open to the traveling public 6 to 9 months sooner.



Under the conditions depicted in Figure 1, this proposal would allow final design to proceed as follows:

1. Segment A-B: Final designer can be contracted, issued a NTP, and commence final design activities prior to the NEPA decision, once a determination has been made by ITD that the project will proceed to construction as soon as possible after the approved NEPA decision to proceed.

2. Segment E-F: Same as Segment A-B, plus proceed to final right-of-way plans.
3. Segment B-D-E: Final design consultant can be procured and negotiations completed up to, but not including, the NTP once a determination has been made by ITD that this segment will proceed to construction as soon as possible after the NEPA decision document is issued. The final design can commence after the public hearing and formal comment period have been completed, as long as ITD is satisfied, based on input received during that period, that the Preferred Alternative will be selected for implementation.

Examples

Two examples from the Connecting Idaho GARVEE Program corridors are cited to further characterize the application of this experimental feature.

Example 1 – I-84, Garrity Interchange to Meridian Interchange

- The project is to add a third lane in the median in each direction for approximately 6 miles and will be accomplished within the existing right-of-way – one “Build” alternative. This segment of I-84 currently operates at a level of service (LOS) F and has 12 documented High Accident Locations.
- The project is in the early stages of development with an Environmental Evaluation in process that is expected to lead to a documented Categorical Exclusion, based on the findings of the 2001 “I-84 Corridor Study” that was a cooperative planning effort by COMPASS and ITD. Preliminary design and the Concept Report are also in process.
- Adoption of this experimental feature will allow the procurement of a final design consultant and initiation of final design activities, such that the PS&E can be completed within 6-months of the approved Categorical Exclusion, instead of the typical 12 month final design duration.

Example 2 – U.S. 95, Garwood to Sagle (Chilco and Athol Stages)

- The project is to construct 6.7 miles of four-lane divided highway in the Chilco area with a Preferred Alternative primarily following the existing 2 lane highway alignment; and construct six miles of four-lane divided highway in the Athol area with a Preferred Alternative comprised of a mix of “on-alignment” and “off-alignment” segments.
- The purpose of the project is to increase capacity and improve safety. The existing 2 lane roadway, with many at grade access points, has current traffic

volumes that exceed acceptable operating capacity. The crash statistics show that this section of US-95 has a crash severity rate and a fatality rate higher than the statewide average for similar type highways.

- The project is in the environmental phase with the Draft Environmental Impact Statement (DEIS) completed and available for public review, and the Public Hearing was held January 23 and 24, 2007. A Preferred Alternative is identified in the DEIS.
- A substantial number of right-of-way parcels are required. Right-of-way acquisition is on the critical path for getting to construction. Early detailed design will allow earlier and higher quality right-of-way plans that will facilitate more efficient and timely acquisition.
- Implementation of this experimental feature, particularly for the Chilco stage, will allow the procurement of a final design consultant and initiation of final design activities, such that the right-of-way acquisition and PS&E development can be completed approximately 9 months earlier than under typical processes.
- Procurement of the final design consultant would begin once the Public Hearing and DEIS comment period were complete, and selection of the Preferred Alternative has been substantially confirmed. Final design activities would commence before the Record of Decision. There would be no influence on the NEPA decision and minimal risk that the project would not proceed.

C-2. Purpose, Need, and Benefit of the Experimental Feature

Current FHWA procedures require that the initiation of the final design services process cannot begin until after the final NEPA approval for the project has been received from FHWA. By adopting the proposed process, final design can begin immediately upon issuance of the final NEPA approval or, prior to final NEPA approval under certain conditions as described above. This will improve efficiency and provide the means for more timely project implementation, which will lead to advancing the design, and therefore the follow-on right-of-way acquisition, construction, and operational start-up of the facility by 6 to 9 months, without jeopardizing NEPA compliance.

The following early program construction projects would benefit immediately from adoption of this proposal:

- I-84, Garrity Interchange to Meridian Interchange
- I-84, Orchard Interchange to Vista Interchange
- I-84, Gowan Interchange to Eisenman Interchange (Isaacs Canyon)

- I-84, Cole Interchange to Broadway Interchange Soundwalls
- I-84, Cole Interchange to Orchard Interchange
- I-84, Vista Interchange to Broadway Interchange
- U.S. 95, Garwood to Sagle (Chilco Stage)
- U.S. 95, Garwood to Sagle (Athol Stage)

D-2. Deviation from Title 23 and FHWA regulations, policy, and practice

The proposed procedure deviates from 23 CFR 771.113(a) wherein “final design activities.....shall not proceed until the following have been completed:

- (1)(i) The action has been classified as a categorical exclusion (CE), or
- (ii) A FONSI has been approved, or
- (iii) A final EIS has been approved and available for the prescribed period of time and a record of decision has been signed;”

The proposed procedure essentially clarifies the definition of “final design activities” as being those services and activities that occur after formal notification of beginning actual final design engineering tasks applied specifically to the selected and approved project alternative. The procurement process for final design is excluded from the definition of “final design activities”.

The proposed procedure also provides for advancing final design activities prior to final NEPA approval, where those activities do not jeopardize NEPA compliance.

Experimental Feature #3

Right-of-Way: Early Corridor Preservation Opportunities

B-3. Concise Description of the Experimental Feature

This proposal explores early highway Early Corridor Preservation Opportunities within three specific Connecting Idaho Program Corridors prior to final NEPA approval. The outcome of this proposal is FHWA concurrence and participation in Connecting Idaho spending GARVEE bond funds to process and acquire real property and negotiate relocation reimbursements within project corridors influenced by the prospect of substantial encroachment of residential and commercial development. The three proposed corridors are SH-16, I-84 to Emmett; I-84, Ten Mile Interchange; and US 95, Garwood to Sagle.

This proposal expands existing regulations for Protective Buying to include the opportunity to pursue right-of-way acquisition on predominantly rural corridors with limited residential, commercial, and industrial development. A key element of this proposal includes the early acquisition of right-of-way, on a corridor-wide basis, in order to take advantage of every available opportunity to acquire right-of-way in a timely and efficient manner. As a guideline, this proposal contemplates the fulfillment of several conditions prior to negotiating a closing with the landowner:

1. Early Corridor Preservation Opportunities are limited to entire corridors undergoing an Environmental Impact Statement or Environmental Assessment where the public hearings are complete but the final environmental clearance is still in process.
2. All parcels designated in an Early Corridor Preservation Opportunity must be included in a Categorical Exclusion covering the right-of-way acquisition action, supported by findings in the Draft Environmental Impact Statement, prior to extending an "offer" to acquire.
3. Acquisition of parcels affected by 16 U.S.C. 470(f); National Historic Preservation are not included in this proposal.
4. Utility Relocations are not included in this proposal.

The changes requested in this proposal will adhere to State Law and Federal Statutes including, but not limited, to the following:

- 49 CFR Part 24, Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs
- 42 U.S.C. 4651; Uniform policy on real property acquisition practices
- 42 U.S.C. 4652; Buildings, structures, and improvements

- 49 U.S.C. 303; Policy on lands, wildlife and waterfowl refuges, and historic sites
- 23 CFR 1.23, Rights of Way
- 23 CFR 645, Subpart A & B, Utility Relocations, Adjustments, and Reimbursements
- 23 CFR 710.203, Funding and Reimbursement
- 23 CFR 710 Subpart F - Federal Assistance Programs
- Title VI of the Civil Rights Act, Nondiscrimination in Federally Assisted Programs

C-3. Purpose, Need, and Benefit of the Experimental Feature

Current FHWA procedures require that FHWA participation in early right of way acquisition for corridor preservation be limited to a particular parcel or limited number of parcels. In order to preserve right of way in a timely and decisive manner, the Connecting Idaho GARVEE Program proposes FHWA authorization and participation in the early acquisition of right of way designated by specific Connecting Idaho highway corridors. This proposal would allow ITD and CIP to respond quickly and efficiently to affected landowners in addressing the preservation of right of way within entire corridors and realize a significant cost savings in acquiring real property located in areas of highly accelerated land development.

U.S. 95, Garwood to Sagle Corridor -

The Garwood to Sagle Corridor is located north of Coeur d' Alene, Idaho in Kootenai County. In literature provided by GMAC Mortgage in Coeur d' Alene, "Information for Investors, Appreciation and Growth", Kootenai County is one of the fastest growing sections of Idaho with a population increase of 51.1% since 1993. This growth has fueled a tremendous housing market and associated subdivision and commercial development. Kootenai County is experiencing an annual real estate appreciation rate of 8.99% with a total appreciation of 55.27% over the last five years. Affected landowners and State Legislators have already expressed a keen interest in resolving early right of way and corridor preservation issues along this corridor prior to the NEPA decision scheduled for September of 2007.

SH-16, I-84 to South Emmett and I-84, Ten Mile Interchange -

These two Connecting Idaho corridors are located in Ada County, west of Boise, Idaho, and Eastern Canyon County. These corridors are also located within the planning jurisdiction of the Cities of Meridian and Nampa, Idaho. According to U.S. Department of Housing and Urban Development, Economic Research, in an “Analysis of the Boise, Idaho Housing Market”, dated July, 2004; Ada County is experiencing record population increases as high as 6% per annum in the Boise area and 4.6% in Canyon County. In general, this area is regarded as the fifth fastest growing area in the United States. Real property values show a corresponding appreciation rate of 16% in Ada County and 9% in Canyon County during the last 12-month period

The proposed highway corridors are being pressured from the continued increase in population with a corresponding decrease in available real estate. One important aspect of corridor preservation in these areas is the potential market for the sale of available vacant land for subdivision at escalated prices and the inclusion of vacant, undeveloped land in already platted subdivisions.

This proposal is intended to allow CIP and ITD to respond quickly and efficiently to real estate market conditions and the impacts of a proposed corridor on affected landowners, including the opportunity to acquire properties that become available for sale in the corridor to minimize impacts to both sellers and potential buyers.

To reduce the financial risk of acquiring right of way prior to the final NEPA approval, ITD and CIP propose that early corridor preservation activities be limited to the early acquisition of right of way after the public hearing (40 CFR 1506.6 and 23 CFR 450.212, Public involvement) and after the selection of a preferred alignment, or in certain cases, if all remaining alternative alignments pass through the affected parcels. This proposal includes the maintenance and management of acquired parcels to maximize the return on investment if the parcel ultimately falls outside the right of way acquired prior to the approval of the final NEPA document.

This SEP-15 application does request as an element of this experimental feature, that costs of acquiring and managing parcels be considered eligible for Federal-aid participation, even in the event that a parcel(s) is not ultimately needed for the project.

D-3. Deviation from Title 23 and FHWA regulations, policy, and practice

The proposed procedure deviates from the following provisions of Code of Federal Regulations, Title 23:

- 23 CFR 710.503(a) General Conditions. The proposal requests approval from FHWA to address Protective Buying as Corridor Preservation Opportunities on a

corridor-wide basis for the acquisition of parcels affected by the imminent development of residential subdivisions or commercial enterprises. Imminent development is defined as a potential right-of-way encroachment indicated by the official recording of plats, records of survey, and/or other legal documents as public record. Additional Corridor Preservation Opportunities include negotiation with landowners ready and willing to sell property within the corridor based on fair market value.

- 23 CFR 710.503(b) Protective buying. FHWA concurs with Protective Buying as Corridor Preservation Opportunities on a corridor-wide basis for the acquisition of parcels within the entire extents of the US 95, Garwood to Sagle; I-84, Ten Mile Interchange; and SH-16, I-84 to South Emmett Corridors.