

**Memorandum of Understanding 04-01
Operation and Financing of the Metropolitan Planning Organization
in the Boise and Nampa Urbanized Areas**

This Memorandum of Understanding (MOU) is entered into by the State of Idaho Transportation Department, hereinafter referred to as "ITD", and the Community Planning Association of Southwest Idaho, a joint powers entity, hereinafter referred to as "COMPASS", in accordance with Section 1203 of the Transportation Equity Act for the 21st Century, Title 23 of the United States Code (23 USC 134), and Section 450.310 (a) of the Code of Federal Regulation (23 CFR 450).

The purpose of this MOU is to identify and define the process by which COMPASS and ITD will implement the requirements of the referenced Federal regulations for a comprehensive transportation planning process in COMPASS' area and the financing of metropolitan planning activities. This MOU serves as a statement of the transportation planning, programming and fiscal relationship between ITD and COMPASS. As such, it supersedes and replaces any existing memorandums of understanding, except for elements that may be incorporated by explicit reference elsewhere in this MOU.

**Chapter 1
Basis for Organization and Boundaries**

1.1 Basis for Organization

COMPASS, a joint powers entity, is the single Metropolitan Planning Organization (MPO) designated by the Governor of Idaho for the Boise and Nampa Urbanized Areas encompassing northern Ada County and the expanded urbanized area in Canyon County, including the Cities of Nampa, Caldwell and Middleton. COMPASS is designated as a Transportation Management Area (TMA) for the Metropolitan Planning Boundary. COMPASS also serves the City of Parma, the Highway Districts in each county, ValleyRide as the regional public transportation authority, and the Idaho Transportation Department. COMPASS' separate legal status is as a joint powers entity in accordance with title 67, chapter 23, Idaho Code.

1.2 Ability to Contract and Receive Grants

COMPASS under the authority of title 67, chapter 23, Idaho Code and the Second Restated and Amended Joint Powers Agreement and Articles of Reformation and Organization of the Community Planning Association of Southwest Idaho, a Nonprofit Association, dated November 15, 1999, is empowered to make and enter into contracts in its own name and to accept grants, gifts, donations and other monies to carry out its purpose and functions.

1.3 Federal Metropolitan Planning Area Boundaries

COMPASS' Metropolitan Planning Area Boundary, for purposes of 23 USC Section 134 and 23

CFR Part 450.308, shall consist of the area defined in Exhibit "A", and includes all of Northern Ada County and the area of impact boundaries for the cities of Nampa, Caldwell and Middleton in Canyon County.

Chapter 2 **Metropolitan Planning**

2.1 Long Range Transportation Plan

COMPASS will prepare a Long Range Transportation Plan (LRTP) in accordance with 23 USC 134(g), 23 CFR 450 and 49CFR 5303(f). The LRTP will be directed at achieving a coordinated and balanced metropolitan and regional intermodal transportation system. The LRTP will be developed with full cooperation and participation of all affected or interested agencies, including ITD, public transportation service providers, member agencies, air quality agencies, the public and the private sector. The LRTP must be financially constrained, have at least a 20-year planning horizon, meet the federally required schedule for updating, and meet air-quality conformity determinations.

To achieve these ends, COMPASS and ITD will each inform and invite participation by the other in their various planning activities. ITD will participate in the development of the LRTP and will coordinate its state LRTP process with that of COMPASS.

2.2 Unified Planning Work Program/Budget (UPWP)

COMPASS will prepare an annual Unified Planning Work Program/Budget (UPWP) in cooperation with ITD and ValleyRide, the regional public transportation agency. The purpose of the UPWP is to serve as a work plan to identify, guide, and manage transportation planning activities and to identify planning priorities facing the metropolitan planning area. The UPWP will document planning activities to be performed with funds provided under Title 23, U.S.C. and the Federal Transit Act and describe transportation and transportation related air quality planning studies regardless of funding source or agency conducting activities.

COMPASS may, from time to time, submit amendments to the UPWP to ITD to reflect changes in local priorities, add/delete funds and planning activities or adjust costs. The UPWP, as amended, shall be the official COMPASS budget for the fiscal year. Additions in funding, changes in planning activities, or cumulative transfers in the budget that exceed \$100,000 or 10% of the UPWP budget are not effective until the submitted change is forwarded to ITD and approved in writing by FHWA.

2.3 Congestion Management System Plan (CMS)

A Congestion Management System (CMS) is a systematic approach to managing existing and future traffic congestion. A CMS includes (a) identification of transportation facilities that are experiencing or projected to experience congestion; (b) devising strategies to minimize congestion; development of a realistic implementation plan, and (c) monitoring regularly the

performance of the transportation system to evaluate the effectiveness of implemented strategies.

Federal transportation regulations require that the Metropolitan Planning Process in TMAs include a CMS. Furthermore, “in federally-designated air quality non attainment TMAs”, any proposed project that would result in a significant increase in capacity for single occupancy vehicles (SOVs), such as adding general purpose lanes to an existing highway or constructing a new highway, must be analyzed to assure that travel demand reduction and operational management strategies cannot fully satisfy the need for additional capacity.”

COMPASS will develop and maintain a CMS in accordance with 23 CFR Parts 450, 500 and 626, Vol. 61, No. 245, pages 67155 to 67175.

Chapter 3 **Programming**

3.1 Metropolitan Transportation Improvement Program

COMPASS, in cooperation with ITD and affected public transportation service providers, will develop a Metropolitan Transportation Improvement Program (MTIP) for both the Boise and Nampa urbanized areas in accordance with 23 USC 134(h) and 49 USC 5304. The MTIPs will be consistent with the metropolitan area transportation plan and meet air quality conformity requirements in Ada County. Once adopted, the MTIPs will be updated at least once every two years. The preparation of the MTIPs will involve community interest groups and will include reasonable opportunity for public comment.

ITD and COMPASS will jointly develop a schedule and format for preparation and coordination of the MTIP with the Statewide Transportation Improvement Program (STIP).

ITD will provide COMPASS with pertinent data and information regarding programming policies and procedures. ITD will provide COMPASS with estimates of available federal and state funds, planned projects and cost estimates to be used in developing financially constrained MTIPs. COMPASS and ITD will work cooperatively through the respective Surface Transportation Program (STP) balancing committee process to prioritize the funding and programming of STP state and local funded projects within the metropolitan planning area.

COMPASS will submit for approval draft” and “final” MTIPs and amendments when required, to ITD (as the Governor’s representative for approving MTIPs). ITD will incorporate without modification, directly or by reference, the “final” approved MTIPs into the STIP. ITD will notify COMPASS and appropriate federal agencies when the MTIPs including projects under the jurisdiction of these agencies has been included in the STIP.

Chapter 4

Partnership/Coordination

4.1 Formal Public Participation

COMPASS agrees to adopt and implement a proactive public involvement process in accordance with 23 USC 134 and 23 CFR 450.316(b). ITD agrees to participate in this program for purposes of STIP adoption and amendment.

4.2 Public Transportation Providers' Role in UPWP

COMPASS will develop a separate Memorandum of Understanding with ValleyRide, the regional public transportation authority for Ada and Canyon Counties.

4.3 State Role and Responsibilities

ITD will provide its transportation plans, program information and funding estimates to COMPASS. ITD will cooperate and coordinate with COMPASS in the state long-range transportation planning process, corridor planning, the STIP and other statewide and regional transportation planning and environmental processes. ITD will participate in development of COMPASS' transportation plans and programs in accordance with 23 CFR 450.210 and respond to COMPASS in a timely manner.

Chapter 5

Financing

The United States Department of Transportation (USDOT), under Title 23 USC and Title 49 USC, provides funds for transportation planning activities within metropolitan planning areas. Whereas COMPASS is the designated MPO to accomplish these activities, it is recognized that COMPASS is eligible for such funds.

5.1 Consolidated Planning Grant

The Federal Transit Administration (FTA), through ITD as the designated state agency responsible for the administration of Consolidated Planning Grant (CPG) funds, will make available Metropolitan Planning funding from FHWA PL funds and FTA Section 5303 funds for transportation planning and programming tasks, administrative tasks and products as outlined in an approved UPWP for the given year. ITD will apportion the funds to COMPASS and the other Idaho MPOs on an urbanized area population basis or other future formula as agreed by ITD and the MPOs within Idaho, or funds may be apportioned based on demonstrated special needs as approved by the MPOs within Idaho. COMPASS will receive the apportionment for both the Nampa and Boise Urbanized Areas, and said apportionments will be separately identified in COMPASS' UPWP.

The CPG funds are governed by a separate agreement that will annually be entered into between ITD and COMPASS. The agreement will identify the amount of CPG funds to be made available to COMPASS subject to compliance with the provisions and requirements contained within the agreement including the applicable Certifications and Assurances for FTA Assistance Programs.

The parties understand that:

- a) COMPASS is eligible for its share of PL funds under Title 23 USC 104 (f) and FTA 5303 funds under Title 49 USC Section 5303.
- b) These funds must be apportioned by FHWA and FTA to the states.
- c) The transportation planning and programming services and products must be included in the UPWP approved by ITD and FHWA before work may commence.

Annually, during the preparation of the draft UPWP, ValleyRide and other potential sub-recipients of CPG funds will be invited by COMPASS to submit requests to it and participate in identifying planning activities proposed for the UPWP for that year.

5.2 Surface Transportation Program Funds

Title 23 USC Section 133 allows STP funds to be used for planning programs. COMPASS can program STP funds in the MTIP for its planning program. These funds must be included in the UPWP and separated from PL funds. STP funds will be tracked separately for the Boise TMA and the Nampa Urbanized Area in the accounting systems, and will be billed according to the provisions of Section 5.5 below. STP funds will be administered by ITD as any other PL or Section 5303 funds.

5.3 Fiscal

COMPASS will accomplish the metropolitan transportation planning process and related services of 23 USC Section 134 for the Boise and Nampa Urbanized Areas according to the following provisions:

5.3.1 The work to be performed shall be as specified in the annually approved federal fiscal year Unified Planning Work Program (UPWP).

5.3.2 ITD or other agencies of the government shall be held harmless from all claims and liabilities due to COMPASS' negligent acts or the negligent acts of its subcontractors, agents, or employees.

5.3.3 Subcontracts initiated by COMPASS to accomplish approved UPWP activities which exceed \$25,000 in cost shall be subject to the provisions of Office of Management and Budget, 49 CFR Part 18 (Common Rule), Section 36.

5.3.4 ITD, COMPASS member agencies, FHWA and FTA are authorized to review and inspect study activities. Reviews and inspections by FHWA or FTA shall be arranged as needed by ITD.

5.3.5 COMPASS and its subcontractors shall maintain all books, documents, papers, accounting records, and other evidence pertaining to costs incurred, and shall make such materials available at their respective offices at all reasonable times during the contract period and for at least three years from the date of final payment for the contract. Such materials shall be available for audit by authorized representatives of the State of Idaho or the United States and copies thereof shall be furnished if requested.

5.3.6 Procurement and management of property acquired for the program, including the disposition of property if the program is discontinued, will be in accordance with the property management standards set forth in the Common Rule.

5.3.7 COMPASS shall be free to copyright material developed under this contract using federal funds with the provisions that ITD, FHWA and FTA reserve a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, the work for government purposes.

5.3.8 COMPASS shall document the results of all U.S. Department of Transportation sponsored work to the satisfaction of ITD and the U.S. Department of Transportation. This will include, as appropriate, the preparation of progress and final reports covering task elements of the approved UPWP, plans, specifications and estimates, or similar evidence of attainment of contract objectives.

5.3.9 All required reports published by COMPASS shall contain a credit reference to ITD and the U.S. Department of Transportation such as 'prepared in cooperation with the Idaho Transportation Department and U.S. Department of Transportation.' However, the following disclaimer shall be placed in the report for the U.S. Department of Transportation and any other parties not desiring to subscribe to the findings of conclusions: "The opinions, findings, and conclusions expressed in this publication are those of the authors and not necessarily those of the (excluded party [ies]) and the U.S. Department of Transportation."

5.3.10 COMPASS' administrative procedures shall meet the requirements of the Common Rule, and will follow policies and procedures for administration of activities undertaken by States and their subrecipients, including MPOs, with FHWA and FTA metropolitan planning funds relating to the activities and studies funded as part of a recipient's or subrecipient's UPWP or as separate Federal-aid projects not included in a UPWP, and also applies to the approval and authorization of research, development, and technology transfer (RD&T) work programs. The requirements in 23 CFR Part 420 supplement those in the Common Rule that are applicable to administration of these funds. Events having significant impact on the UPWP(s) (i.e., problems, delays, or adverse conditions that will materially affect the ability to attain program objectives) are to be reported as soon as they become known.

5.3.11 In consideration of the terms and obligations of this MOU, ITD hereby agrees to compensate COMPASS for the work performed in accordance with the approved UPWP. Costs applicable to this MOU shall be determined according to the principles and standards given in Office of Management and Budget Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments (A-87). For purposes of this MOU, the following descriptions of allowable costs are paraphrased from A-87:

- a) Payroll Costs - The services of staff personnel shall be compensated on the basis of actual salaries paid in direct labor during the course of this work. Reasonable salary increases, normal pay raises, etc. shall also be allowed. This item shall also include fringe benefits allocable to such salaries. The amount of fringe benefits shall be based on the actual amount contributed by the employer.
- b) General and Administrative Costs - These costs are applicable to the direct labor described in Paragraph (a) above, Payroll Costs. Such costs can include, but are not limited to: administrative, clerical and unallocated labor; employee bonuses and incentive awards; depreciation; dues and subscriptions; equipment rental; freight; general business insurance; accident and life insurance; legal and accounting; office, drafting room and laboratory supplies; professional fees and contract labor; recruiting; rent; building and equipment repairs and maintenance; taxes and licenses; telephone; general travel and employee relocation; utilities and janitorial services; and office miscellaneous expenses. Specifically excluded are bad debts, interest on borrowed capital, and State and Federal income taxes.
- c) Out-of-Pocket Costs - Out-of-pocket expenses directly related to the UPWP shall be reimbursed at cost. They shall include allowable travel and subsistence, copying costs, computer equipment, and any unusual costs associated with a UPWP project. It shall also include the cost of an outside audit, the scope of such to be determined by ITD. Costs of insurance required to carry out the program are also allowable. Out-of-Pocket Costs shall not include regular office expense such as rent, lights, normal equipment and similar expenses. Compensation for travel and subsistence is allowed and shall be at the current allowed rate for meals, lodging, incidental expense and transportation established by COMPASS, but shall not exceed rates used by ITD as established by the Idaho State Board of Examiners.
- d) Indirect Costs - Indirect costs are those: (a) incurred for a common or joint purpose benefiting more than one cost objective, and (b) not readily assignable to the cost objectives specifically benefited, without effort disproportionate to the results achieved. Any indirect costs will be based on an indirect cost rate supported by an ITD-accepted indirect cost allocation plan. The ITD Office of Internal Review shall review each indirect cost allocation plan proposed by COMPASS prior to its acceptance. ITD will reimburse only those indirect costs that are covered by the approved indirect cost allocation plan. Requirements for development and submission of the cost allocation plan and indirect cost rate proposal are contained in Attachment E of Circular A-87. The indirect cost rate

proposal and related documentation must be retained for audit in accordance with the records retention requirements contained in the Common Rule, Circular A-87 and Office of Management and Budget Circular A-133 Audits of States, Local Governments, and Non-Profit Organizations (A-133).

5. 3.13 Payment for Services - Payments shall be made for the services performed as the work under this MOU progresses; such payments to be made monthly or quarterly and based on the itemized statement, invoices or other evidences of performance furnished by COMPASS and approved by ITD. All claims for payment will be submitted in a form compatible with current practices and acceptable to the Financial Services Section of ITD. Payments will include payroll costs, general and administrative costs, out-of-pocket costs and indirect costs as detailed in Section 5.3.1.2 of this MOU.

- a) Payment will be made at the current rate established by federal guidelines. COMPASS will follow administration and/or management of funds as referenced in the Common Rule, which details the requirements and responsibilities of ITD and its subgrantees for accounting, administrative practice and procedure, grant programs, grants administration, insurance, reporting and record keeping requirements. Grant funds may only be used for allowable costs. State and local government grantees and their subgrantees are responsible for obtaining audits in accordance with A-133 and the Single Audit Act Amendments of 1996. Grantees and sub grantee may re-budget within the approved direct cost budget to meet unanticipated requirements and may make limited program changes to the approved budget. Grantees and sub grantees shall obtain prior, written approval of the awarding agency when any of the following changes is anticipated:
 - i. Need for additional funding
 - ii. Cumulative transfers expected to exceed \$100,000 or 10%
 - iii. Revision to the scope or objectives
 - iv. Changes in key persons where specified
- b) Title to equipment acquired under a grant/subgrant vests with the grantee or sub grantee. States and their subgrantees will use, manage and dispose of equipment in accordance with State laws and procedures. Title to supplies acquired under a grant vests with the grantee or sub grantee. Non-expendable items acquired to perform work must be identified in the UPWP as direct costs and approved as part of the UPWP. For direct purchase of equipment with CPG funds, equipment must be identified in the UPWP. Property management of equipment should be in accordance with the Common Rule. For depreciation methods of billing when CPG funds are not involved in the direct purchase of equipment, charges should be made using cost principles for State and local governments, in accordance with A-87.
- c) COMPASS shall be responsible for the remaining local share of the actual allowable costs. ITD shall make full payment of the value of such documented services as verified on the quarterly statement. Payments may be made at closer intervals if mutually agreed

by ITD and COMPASS. If, at any time, ITD determine(s) that work is not progressing as scheduled or satisfactorily, ITD may refuse to make full progress payments, and may withhold any progress payment or payments, such sums as are considered necessary.

5.3.14 Bills - All bills shall be supported by payrolls, time record invoices and vouchers, evidencing the nature of the charges and their eligibility for payment under A-87.

5.3.15 Accounting and Audits - COMPASS shall establish and maintain, within its accounting system, a separate account for each work element in the UPWP. All accounting records shall provide a current breakdown of costs charged to each element and, together with supporting documents, shall be kept separate from other documents and records. COMPASS understands that in work performed by COMPASS under the UPWP, which is to be partially or fully paid for by Federal funds, regardless of the granting agency, that COMPASS shall maintain an accounting system, records and reports in accordance with uniform standards established by the Idaho State Controller, ITD and the Common Rule. All fiscal and accounting records and other supporting papers shall be maintained for a minimum of three years following the close of the fiscal year's final billing statement submitted to ITD. Further audits may be conducted by Federal, State, or local agencies if deemed necessary. All records, reports and documents are to be made available at COMPASS' business office and its subcontractors' business offices for audit and inspection as needed by State and Federal agencies.

Chapter 6

Standard Requirements

The parties understand that in performing work under the UPWP that is paid for by Federal funds, regardless of the granting agency, the following additional considerations apply:

6.1 Civil Rights

During the performance of work covered by the MOU, COMPASS for itself, its assignees and successors in interest, agrees as follows:

6.1.1 Compliance with Regulations. COMPASS shall comply with all regulations relative to nondiscrimination in federally-assisted programs of the Department of Transportation, Title 49, CFR 21, as they may be amended from time to time, which are herein incorporated by reference and made a part of this MOU.

6.1.2 Nondiscrimination. COMPASS, with regard to work performed by COMPASS during the term of this MOU, shall not discriminate against any employee or applicant for employment; subcontractor or solicitations for subcontract including procurement of materials and equipment; or any other individual or firm providing or proposing services based on race, color, sex, national origin, age or non job-related disability.

6.1.3 Solicitations for Subcontracts, Including Procurement of Materials and Equipment. In all solicitations, either by bidding or negotiation, made by COMPASS for work or services

performed under subcontract, including procurement of materials and equipment, each potential subcontractor or supplier shall be made aware by COMPASS of the obligations of this MOU and regulations relative to nondiscrimination based on the grounds of race, color, sex, national origin, age or non job-related disability.

6.1.4 Information and Reports. COMPASS shall provide all information and reports required by regulations and/or directives issued pursuant thereto and shall permit access to all its sources of information and its facilities as may be determined by ITD or the Federal Highway Administration to be pertinent to ascertain compliance with such regulations or directives. COMPASS will be required to retain all records for a period of three (3) years after the final payment is made under the agreement.

6.1.5 Sanctions for Noncompliance. In the event COMPASS is in noncompliance with the nondiscrimination provisions of this MOU, ITD shall impose such sanctions as it or the Federal Highway Agency may determine to be appropriate, including, but not limited to:

- a. Withhold progress payments until it is determined that COMPASS is found in compliance;
- b. Suspend the MOU, in whole or in part, until COMPASS is found to be in compliance with no progress payments being made during this time and no time extension made;
- c. Cancel or terminate the MOU for cause in accordance with section 108.08 of the Contract Specifications;
- d. Assess against COMPASS' final payment or any progress payments on current or future Idaho federal-aid projects an administrative remedy by reducing the final payment or future progress payment in an amount equal to 10% of the contract or \$7,700, whichever is less.

6.1.6 Incorporation of Provisions. COMPASS shall include the provision of paragraphs 6.1.1 through 6.1.5 in every subcontract of \$25,000 or more, including the procurement of materials and leases of equipment, unless exempt by the regulations, or directives issued pursuant thereto. COMPASS shall take such action with respect to any subcontract or procurement as ITD or the Federal Highway Agency may direct as a means of enforcing such provisions, including sanctions for noncompliance, provided, however, that in the event COMPASS becomes involved in, or is threatened with litigation with a subcontractor or supplier as a result of such direction, COMPASS may request ITD to enter into such litigation to protect the interests of the State, and in addition, COMPASS may request the Department of Transportation to enter into such litigation to protect the interests of the United States.

6.2 Disadvantaged Business Enterprise.

COMPASS will meet the requirement of 49 CFR Part 26, dealing with Disadvantaged Business Enterprises and will follow the procedures for COMPASS set forth in any ITD program to implement it.

6.3 Restrictions on Lobbying.

By signing this document, COMPASS certifies to the best of their knowledge and belief that:

- a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.
- b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
- (c) COMPASS agrees that the language of this certification shall be included in all lower tier subcontracts, which exceed \$100,000, and that all such sub-recipients shall certify and disclose accordingly.

6.4 Drug-Free Workplace Requirements

- a) COMPASS will develop a Drug Free Workplace policy to carry out the Drug-Free Workplace Act of 1988. COMPASS and all sub-recipients agree to abide by the stated policy.
- b) COMPASS certifies that it will provide a drug-free workplace.

6.5 Environmental Protection and Energy Efficiency

COMPASS agrees to comply with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act (42 USC 1857[h]); Section 508 of the Clean Water Act (33 USC 1368); Executive Order 11738 and Environmental Protection Agency Resolutions (40 CFR, part 15); and, Transportation Conformity under the Idaho Administrative Procedures Act 58-0101 (563-574). COMPASS further agrees to report violations to ITD. All such documents, photographs, calculations, programs and other data prepared or used under this MOU shall be used by ITD without restriction or limitation of further use.

Chapter 7 **Certification**

In urbanized areas with a population less than 200,000, the MPO annually provides a self-certification of its metropolitan transportation planning process to the state department of transportation. The state department of transportation then certifies to FHWA and FTA that the MPO's metropolitan transportation planning process satisfactorily meets all applicable federal requirements. The certification process in TMAs, however, includes an additional review process called the Triennial Review.

According to federal regulations [23 USC 134 (I)(5) and 23 CFR 450.334], FHWA and FTA must, at least every three years, jointly certify that the transportation planning process in TMAs is carried out in accordance with federal law. The Triennial Review consists of the following steps:

1. Federal agencies review COMPASS' transportation planning documents;
2. A federal team arrives in the area to meet with COMPASS officials and to discuss compliance with the requirements of the metropolitan transportation planning process;
3. COMPASS holds a public meeting to solicit comments on its transportation planning activities, preferably during the time that the federal team is in the town.
4. The federal agencies develop a report on COMPASS' compliance for presentation to the COMPASS Board of Directors;
5. The federal agencies close out the process by declaring one of the following scenarios:
 - a. COMPASS meets all or substantially meets applicable federal requirements.
 - b. COMPASS substantially meets the requirements, if it takes some suggested steps (a conditional approval).
 - c. COMPASS does not meet requirements and, therefore, 20% of all federal dollars will be withheld until such time that it is in full compliance.

COMPASS will comply with and participate in this Triennial Review process and will coordinate the process with the federal agencies and ITD.

Chapter 8 **General Provisions**

8.1 Amendment

This MOU is valid until terminated or changed. Either party can propose changes at any time. Any changes to one or more of the terms and conditions of this MOU shall not be valid unless made in writing and agreed to by all parties prior to change implementation. Additional agreement may be incorporated as amendments or addenda as may be jointly determined by ITD and COMPASS, provided such agreements are consistent with the purpose of this MOU and agreed to in writing with an effective date.

8.2 Termination

The parties understand that the purpose of this MOU is to establish, on a part of both parties and the members of local government members of COMPASS, a single transportation planning process to serve the interests of all government agencies with responsibilities in the region. Either party may terminate this understanding by providing written notice at least thirty (30) days prior to the effective date of termination and specifying the effective date of termination.

8.3 Remedies

Action inconsistent with the terms and conditions of this MOU shall be grounds for termination of the MOU by the other party upon serving appropriate notice to that effect.

8.4 Limitations

Nothing in this MOU shall be construed as limiting or expanding the statutory or regulatory responsibilities of any involved individual in performing functions granted to them by law; or as requiring either entity to expend any sum in excess of its respective appropriation. Each and every provision of this memorandum is subject to the laws and regulations of the State of Idaho and the United States.

Nothing in this MOU shall be construed as expanding the liability of either party. In the event of a liability claim, each party shall defend their own interests. Neither party shall be required to provide indemnification of the other party except as herein stated.

IN WITNESS WHEREOF, the parties hereto have caused this MOU to be executed by their respective officers, duly authorized:

For the Idaho Transportation Department

4-9-04
Date

cccr. RT
CHARLES M. ROUNTREE,
Transportation Planning Administrator

Ronald K. Ken
Attest

Approved as to form:

Patricia W. Fanning
Deputy Attorney General

For the Community Planning Association of Southwest Idaho

March 15, 2004
Date

Judy M. Peavey-Derr
JUDY PEAVEY-DERR, Chair,
COMPASS Board of Directors

Clair M. Beaman
Attest

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