



EXECUTIVE COMMITTEE MEETING JULY 21, 2009 2:00-3:30 PM COMPASS CONFERENCE ROOM

** AGENDA **

I. AGENDA ADDITIONS/CHANGES

II. OPEN DISCUSSION/ANNOUNCEMENTS

III. SPECIAL ITEM

Page 2 * A. **Receive White Paper on Annexation**

Brian Ballard of Hawley Troxell will present a White Paper on Annexation that he prepared at the request of City of Star Mayor Nate Mitchell and the Executive Committee.

IV. CONSENT AGENDA

Page 22 * A. **Approve June 16, 2009, Executive Committee Meeting Minutes**

A copy of the draft June 16, 2009, Executive Committee meeting minutes is attached.

Page 27 * B. **Approve July 6, 2009, Special Executive Committee Meeting Minutes**

A copy of the draft July 6, 2009, Special Executive Committee meeting minutes is attached.

V. ACTION ITEMS

Page 30 * A. **Establish August 17, 2009, COMPASS Board Agenda**

Staff proposed agenda items for the regularly scheduled August 17, 2009, Board meeting are attached.

VI. INFORMATION/DISCUSSION ITEMS

Page 37 * A. **Status Report – Project Delivery Deadlines**

Staff will provide an update regarding ITD's new project delivery deadlines.

VII. OTHER

VIII. ADJOURNMENT

*Enclosures **Agenda is subject to change.**

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TO: Matt Stoll, Executive Director, COMPASS
FROM: Brian Ballard
DATE: March 13, 2009
RE: WHITE PAPER
RE: ANNEXATION

FACT PATTERN

A certain parcel of undeveloped land (the “**Subject Property**”) is located in the county. The Subject Property is contiguous to a city, and within the city’s area of city impact. It is anticipated that the Subject Property will be annexed into the city in the relatively near future, as the owner thereof has indicated in conversations with city officials that he/she will either apply for annexation himself/herself or sell the Subject Property to a developer with plans for annexation.

The Subject Property is currently zoned in the county, under county ordinances, for agricultural use. The annexation will include a request for a more intensive zoning designation under city zoning ordinances. It is likely that the annexation will be granted. It is likely that the requested zoning will be granted. For purposes of this White Paper, it is assumed that that the annexation and the zoning requested in conjunction with the annexation will increase the overall value of the Subject Property.

(At this point, it must be noted that zoning of the Subject Property in conjunction with an annexation is not, technically, a “rezoning,” although it is frequently referred to as such. When a property is annexed, it must also be zoned by the city under city ordinances, as the county zone ceases to apply when the annexation occurs. *Highlands Development Corporation v. City of Boise*, 145 Idaho 958, 188 P.3d 900 (Idaho 2008), citing *Reardon v. Magic Valley Sand and Gravel, Inc.*, 140 Idaho 115, 90 P.3d 340 (2004) and *Ben Lomond, Inc. v. City of Idaho Falls*, 92 Idaho 595, 599, 448 P.2d 209, 213 (1968). Thus, in Idaho, zoning in conjunction with annexation is more properly referred to as “initial zoning,” not “rezoning.” *Highlands*, at 961, 8 P.3d at 903, n. 3. Nonetheless, in caselaw, statutes and ordinances, especially from other jurisdictions, the distinction is often blurred, and the initial zoning in conjunction with an annexation is most often simply referred to as “rezoning.” Accordingly, unless otherwise specifically provided otherwise, reference hereinafter to “rezoning,” as meaning and context require, also refers to and means the initial zoning in conjunction with an annexation. The distinction may be important to be drawn in a discussion of whether a zoning is an “initial zoning” which might be legislative in nature, and not judicially

reviewable, or a “rezoning” which might be quasi-judicial in nature, and therefore judicially reviewable. See *Highlands*. But such a discussion is beyond the scope of this White Paper, and not germane to the issues at hand. Similarly, where a property is annexed, but the matter of initial zoning is not specifically addressed (see *Ben Lomond*), a discussion of the status of the property as “unzoned” is also beyond the scope of this White Paper.)

There are no statutes, ordinances or intergovernmental agreements in place that would either (i) prohibit outright the development of the Subject Property in the county (subject to normal development requirements) or (ii) prohibit outright future development of the Subject Property *unless* it were first annexed into the city. There are no extraordinary agreements or understandings, formal or informal, between the city and any state, county or local highway district (collectively hereinafter referred to as the “**Highway Department**”) regarding annexation that would affect the timing of the annexation or that would cause atypical requirements to be imposed as conditions to the annexation. There is no future acquisitions map, as contemplated under Idaho Code Section 67-6517, designating land within the Subject Property as proposed for acquisition by any public agency.

The Highway Department plans to expand and/or relocate the right-of-way of its highway as it runs through the county (the “**Highway Project**”). The Highway Project will be funded through state and/or federal sources, not directly related to the annexation or development of the Subject Property. The highway either currently runs through the Subject Property or, as expanded and/or relocated, will then run through the Subject Property. The plans of the Highway Department have been made public and are generally known.

The Highway Project as it affects the Subject Property will necessitate the taking or acquisition of land from the Subject Property for use by the Highway Department for additional right-of-way. The land that will need to be taken or acquired from the Subject Property is hereinafter referred to as the “**Road Strip.**”

The Highway Project and the contemplated annexation and rezoning of the Subject Property are not related with respect to what might be typically required in the context of an annexation and rezoning. That is, the city would not typically require dedication of the Road Strip for the Highway Project as part of the city’s annexation process. Whereas it can be anticipated that the city would require roadway dedications related to the development of the Subject Property and the impact caused by such development, it would be unlikely that the city would require a dedication of the Road Strip, for the reasons that the Highway Project has been independently planned; is not specifically related to or necessitated by the development of the Subject Property; and is not directly dependent upon annexation or development of the Subject Property for funding. In fact, the Highway Project will require the Road Strip regardless of whether the Subject Property remains in the county or whether it is annexed into the city.

The cost of taking or acquiring the Road Strip is important to the Highway Department. In an indirect way, it is also important to the city. The less that needs to be spent on the Road Strip, the more that will remain available to the Highway Department for completion of the Highway Project and/or for the taking or acquisition of other needed right-of-way. As regards the city, the completion of the Highway Project will create better traffic flows and possibly lead to other expansion opportunities for the city. Balanced against the benefits that will accrue to the Highway Department and the city, however, is the constitutional entitlement of the owner of the Subject Property to receive just compensation for the taking of the Road Strip for a public use.

Assuming, for the purposes of this White Paper, that regardless of whether the Road Strip is acquired through a negotiated acquisition or through a condemnation proceeding, it is the value of the Road Strip that is the focus, and that a determination of its value is largely driven by how the same is calculated in the context of a condemnation under applicable statutory authority and caselaw. Thus framed, the question becomes one of identifying the issues that may arise with respect to establishing the value of the Road Strip and how Idaho courts have applied (or may likely apply) the condemnation statutes and previous caselaw in dealing with those issues under the fact pattern set forth above. A particular issue that will be identified and discussed is whether there need be concern regarding governmental entities (e.g., the city and the Highway Department) acting in concert, either formally or informally, to establish, influence or otherwise affect valuation and, ultimately, the compensation amount to be paid to the owner of the Subject Property.

This White Paper is therefore organized to first set forth the applicable statutory authority and relevant caselaw whereby the principles, standards and rules regarding valuation (and compensation) in the context of condemnation are identified; and then to discuss the application of same under applicable caselaw (in particular Idaho caselaw, if any, and, if not, then the caselaw of other jurisdictions); and, finally, to set forth a conclusion.

STATUTES AND CASELAW

1. General Compensation Principles

Under the Idaho Constitution, Article 1, § 14, private property may be taken for public use, but not until a just compensation is paid to the property owner. The Idaho legislature provided a statutory method for determining just compensation by enacting § 7-711 of the Idaho Code. Accordingly, a defendant in a condemnation suit is entitled to be paid for the value of the property taken and for damages which will accrue to the part not taken because of its severance. *State ex rel. Rich v. Dunclick, Inc.*, 77 Idaho 45, 286 P.2d 1112 (Idaho 1955). In condemnation cases, the issue of determining the value of the property sought to be taken is for the jury to decide. *State ex rel. Flandro v. Seddon*, 94 Idaho 940, 943, 500 P.2d 841, 844 (Idaho 1972). The compensation which must be paid to the owner of property taken by eminent domain is the fair market value

of the property at the time of the taking. *U.S. v. 3969.59 Acres of Land*, 56 F. Supp. 831 (D. Idaho 1944). Fair market value is the amount of cash for which the property could be sold by an owner willing, but not obligated to sell, to a purchaser who desires, but is not obligated to buy, on the date of the taking. *Id.* Accordingly, it is proper to consider all factors indicative of the property's value that are likely to be significant to a willing buyer and willing seller, if the property were offered in a free market exchange; and any evidence bearing on what willing buyers and sellers are likely to take into account is appropriate evidence of value. Generally, however, a "comparable sales" analysis (wherein the appraiser finds data for sales of similar property, and makes upward or downward adjustments based on differences in the subject property) is often the preferred method of establishing a property's fair market value.

Where only part of a tract or parcel is taken, the compensation to be awarded is the fair market value of the part taken. The measure of damages is generally the difference between the fair market value of the entire tract immediately prior to the taking and the fair market value of the remainder immediately after the taking. *Mabe v. State ex rel. Rich*, 86 Idaho 254, 260, 385 P.2d 401, 405 (Idaho 1963). Under Idaho statutory law, the measure of damages also includes damages to the remaining property caused by its severance from the property taken. I.C. § 7-711(2)(a). Additionally, in determining just compensation, special benefits to the remaining property are considered, but can only be deducted from the amount of severance damages. The special benefits cannot be offset against the fair market value of the property taken. *State ex rel. Symms v. Collier*, 93 Idaho 19, 24-25, 454 P.2d 56, 61-62 (Idaho 1969); I.C. § 7-711(3).

2. Highest and Best Use

a. Consideration of a Prospective Use

Valuation requires an assessment of both the property's present use **and** the highest and best use to which the property may be put (its "prospective use"). *Eagle Sewer District v. Hormaechea*, 109 Idaho 418, 420, 707 P.2d 1057, 1059 (Idaho Ct. App. 1985). "The compensation which must be paid for property taken by eminent domain does not necessarily depend upon the uses to which it is devoted at the time of the taking; rather, all the uses for which the property is suitable should be considered in determining market value." *State ex rel. Symms v. City of Mountain Home*, 94 Idaho 528, 530, 493 P.2d 387, 389 (Idaho 1972).

In order for a prospective use to be considered in determining fair market value, the future use must be sufficiently likely, and not all evidence of a prospective use will be considered. As stated by the U.S. District Court of Idaho, "To warrant admission of testimony as to the value of land for purposes other than that to which it is being put at the time of the taking, it must first be shown (1) that the property is adaptable to the other use; (2) that the other use is reasonably probable within the immediate future, or a reasonable time; (3) and that the market value of the land has

been enhanced thereby.” *U.S. v. 3969.59 Acres of Land*, 56 F.Supp. at 837. Therefore, the highest and best use for which the property is adaptable and needed or likely to be needed in the reasonably near future is to be considered. *City of Mountain Home*, 493 P.2d at 390. Generally, evidence of potential future acts by governments, such as a change in zoning, can be admitted, as long as the evidence is not too remote or speculative. Another jurisdiction’s court explained it thusly: “[w]here due to zoning restrictions the condemned property is not presently available for use to which it is otherwise geographically and economically adaptable, the condemnee is entitled to show a reasonable probability of a zoning change in the near future and thus establish such use as the highest and best use of the property.” *Metro. Water Dist. of Southern California v. Campus Crusade For Christ, Inc.*, 161 P.3d 1175, 1181-82 (Cal. 2007) (quoting *City of Los Angeles v. Decker*, 558 P.2d 545, 549 (Cal. 1977)).

The foregoing paragraph sets forth the general rules. As applied by Idaho courts, the standard for considering the prospective use of a property in determining value is whether the “use for which the property is claimed to be adaptable is **reasonably probable**.” *City of Mountain Home*, 493 P.2d at 390 (emphasis added). The determinative issue is defining “reasonable probability.” *Ada County Highway Dist. v. Magwire*, 104 Idaho 656, 658, 662 P.2d 237, 239 (Idaho 1983). In doing so, the Idaho Supreme Court concurred with other courts in that the major focus is whether the possibility of a future use (through a change in zoning) influences the present fair market value. See, e.g., *Moschetti v. City of Tucson*, 449 P.2d 945, 949 (Ariz. Ct. App. 1969); *Wolff v. Commonwealth of Puerto Rico*, 341 F.2d 945 (1st Cir. 1965); *Nashville Housing Authority v. Cohen*, 541 S.W.2d 947 (Tenn. 1976)). Thus, the property owner may show any uses, present or future, that are sufficiently practicable and probable as to be likely to influence the price which a present purchaser would pay for the property. Such evidence must show that the possibility of the future use (e.g., through change in zoning) will affect the present day value of the property. *Magwire*, 662 P.2d at 239-40. “It is the effect, if any, upon the fair market value on the date of taking which makes relevant the evidence of a possible rezoning of the property.” *Id.* (quoting *Nashville Housing Authority v. Cohen*, 541 S.W.2d 947 (Tenn. 1976)).

b. Calculating Fair Market Value Based on Prospective Use

An important concept, as articulated in Idaho, is that the highest and best use is considered, not necessarily as a measure of value, but to the full extent that the prospect of demand for such use affects the market value of the property. *City of Mountain Home*, 493 P.2d at 390. Thus, the fair market value is calculated as of the time of the taking, modified by the possibility of the future event or changed use.

As summarized in 26 Am. Jur. 2d *Eminent Domain* § 292 (2004), a landowner is entitled **not** to an award based on the estimated future market value, but only to an award reflecting the extent to which present-day buyers would pay a premium for the property, in the expectation that the future contingency might occur. Thus, a calculation

of the effect of a future change on present market values may be done by calculating a premium in addition to present fair market value to account for the likelihood of the change, and when there is a **reasonable probability** of a change in zoning, some adjustment must be made to the value of the property as zoned. An increment should be added to this amount if there is a reasonable probability of rezoning to a less restrictive category.

c. Annexation/Area of City Impact

Idaho Code Section 50-222 governs annexation by cities and sets forth the procedures required for annexation. The statute mandates that the property annexed must be “contiguous or adjacent” to the municipality. I.C. § 50-222. (There are some differing requirements if the property to be annexed is inside or outside of a city’s area of impact. The Subject Property is within the area of city impact and this White Paper generally limits itself to that circumstance.)

The fact that property is located in the area of city impact would seem significant in determining the likelihood that the property will be annexed in the future. Pursuant to Idaho Code Section 67-6526, the governing board of each county and city is required to adopt, by ordinance, a map identifying an area of city impact within the unincorporated area of the county. I.C. § 67-6526(a). Subsection (b) of Idaho Code Section § 67-6526 states, “[i]n defining an area of city impact, the following factors shall be considered: (1) trade area; (2) geographic factors; and (3) areas that can **reasonably be expected to be annexed** to the city in the future. I.C. § 67-6526(b) (emphasis added). Accordingly, the object of the requirement to define an area of city impact is “to delineate areas of future contiguous growth in order to assure their orderly development and thereby reconcile potentially competing designs for boundary expansion with accepted land use planning principals.” *City of Garden City v. City of Boise*, 104 Idaho 512, 514, 660 P.2d 1355, 1357 (Idaho 1983).

Based on the foregoing, if the possibility of annexation allowing for a future use of the property is “reasonably probable,” the same may be considered in determining the property’s fair market value. The Oregon Court of Appeals applied a reasonable probability standard which is instructive on when a court should allow a jury to consider prospective annexation and zone changes in determining the present value of the condemned property. See *Unified Sewerage Agency of Washington County v. Duyck*, 576 P.2d 816 (Or. Ct. App. 1978). As was confirmed on appeal, the trial court permitted a witness, qualified as an expert appraiser, to give his opinion that there was a reasonable probability that the property would be annexed and rezoned in the near future. The witness’s opinion was based upon several factors indicative of probable annexation, including (1) proximity of the property to the city limits, (2) the availability of utilities and other municipal services, (3) conversations with members of the City Planning Commission, and (4) the witness’s prior experience in the appraisal business. *Duyck*, 576 P.2d at 820. The Appellate Court of Illinois faced a similar issue in deciding

the amount of compensation a landowner was entitled to when the county forest preserve district condemned an undeveloped tract of land. *Lake County Forest Preserve District v. Bank & Trust Co. of Arlington Heights*, 436 N.E.2d 237 (Ill. App. Ct. 1982). The court decided that, although a landowner has the right to base valuation on a use permitted by a future rezone or annexation, the future development must be shown to be “reasonably probable, rather than merely a desirable possibility.” *Id.* at 242. Based on the evidence, the court decided that the annexation of the tract of land in question was less than probable at the time of condemnation due to the high cost of extending water and sewer facilities to the property, and because the nearest city had previously only annexed a small portion of land from that county. *Id.* In deciding there was not sufficient evidence of the reasonable probability of rezoning, the court explained that the future use development allowed under the rezoning must be “reasonably proximate in time and not based merely on the trend of future development.” *Id.*

The Idaho Supreme Court has also given guidance regarding the issue of determining the likelihood of future zoning. *Magwire*, 662 P.2d 237 (generally). According to the court, “[n]ormally, a change in zoning will occur if there has been sufficient change in the surrounding neighborhood.” *Id.* at 240. The property owner argued that the rezoning was reasonably probable considering the character of the neighborhood. At the time of the taking, the property was zoned residential, but the evidence established that properties in the vicinity consisted of a large number of office-type buildings. Therefore, the court held that the evidence was sufficient to sustain the trial court’s compensation award based upon the likelihood of the rezoning.

Accordingly, based on the Idaho Code and the caselaw discussed above, the applicable factors in determining whether a prospective use as would be allowed by an annexation and/or rezone is “reasonably probable” are: (1) whether the property is located in the city’s area of impact; (2) the proximity of the property to the city limits; (3) the availability/economic feasibility of providing utilities and other municipal services to the property; (4) previous annexations by the city of similarly situated land; and (5) a sufficient change in the surrounding neighborhood.

d. Reasonable Probability of a Condition to Annexation

It must be remembered that municipalities have significant discretion in imposing conditions on a property owner seeking annexation. Such conditions may be set forth either separately as conditions of approval or included within an annexation agreement.

Courts have viewed the process of annexation and the imposition of conditions, in particular as set forth in a negotiated annexation agreement, as being more contractual in nature, based on traditional rules of contract negotiation and interpretation. In Colorado, for example, the Colorado Court of Appeals, in deciding whether a property owner had consented to the condemnation of its property as a

condition to annexation, evaluated the issue according to “well-settled principles of contract interpretation.” *E-470 Pub. Highway Auth. v. Jagow*, 30 P.3d 798, 804 (Colo. App. Ct. 2001). Therefore, when a city and a property owner enter into an agreement regarding conditions to the annexation, the relationship between them is contractual in nature, and the only obligation the city has regarding its annexation decision is to comply with its contractual obligations. Where the conditions are not spelled out in an annexation agreement, but nonetheless set forth in specified conditions to approval, the contractual based analysis would still seem apropos – if the conditions are met, the city, in a contractual sense, would be obligated to grant the zoning to which the conditions were tied.

Frequently, as a condition to annexation, a city will require dedication of portions of the property for right-of-way and/or other city services. Where there is a reasonable probability that as a condition to a future annexation, the landowner would be required to dedicate a portion of its land to the city, the property taken should be valued based on the use that could be made of the property in its undeveloped state. See *City of Brighton v. Palizzi*, 2008 WL 4742074 (Colo. App. Ct. 2008). In *Palizzi*, the city brought an eminent domain action to determine the amount of money the city owed to the landowners for land it condemned. The land at issue had not been annexed. However, it was probable that it would be annexed in the future, and it was **undisputed** that the landowners would be required to dedicate a portion of land to the city as a condition of annexation. The Colorado Court of Appeals reasoned that “[a] willing, knowledgeable buyer would not ignore the fact that it would have to dedicate the strip as a condition of annexation and rezoning.” *Palizzi*, 2008 WL 4742074 at 6. Therefore, when rezoning is probable and it is appropriate to value the condemned property according to its highest and best use as rezoned, the court held that the consequences of rezoning must be taken into account. *Id.* In effect, for the strip taken, the court refused to apply a premium value despite a reasonable probability of rezoning because the land would be dedicated as part of the permitting process. The ruling in *Palizzi* is consistent with California law, in that if condemned land would have to be dedicated as a condition of development, it must be valued based on uses to which the property could be put in the absence of rezoning or development approval. *E.g., Contra Costa County Flood Control & Water Conservation Dist. v. Lone Tree Invs.*, 9 Cal. Rptr. 2d 326 (Ct. App. 1992). In *Lone Tree Investments*, the public agency sought to condemn a portion of an undeveloped parcel of land for a flood control project. The public agency generally acquired land by a dedication of the land as a condition of development. The court concluded that “where there is a reasonable probability that dedication of the condemned parcel would be required, the condemned parcel is not of the same value as the remainder of the property.” *Id.* at 330; *But see City of North Las Vegas v. Robinson*, 134 P.3d 705, 709 (Nev. 2006) (holding that the jury should not have been instructed to determine condemned land's value based solely on undeveloped uses even though dedication of the land would have been required as condition of development).

In light of the foregoing, the valuation process requires consideration of the highest and best use of the property based on future annexation, as well as the consequences of any future annexation. The property owner is entitled to compensation for the fair market value of the land to be taken, plus damages resulting from its severance from the other parcel of land. The proper method of valuing the take would be to determine the fair market value of the parcel to be taken, taking into account its highest and best use, as discussed previously. This would entail including a premium to account for a future change in use if annexation/rezone is reasonably probable. In Colorado and California, however, this premium does not apply to any portion of the land taken that must be dedicated to the city as a condition of annexation/rezoning because that portion would not realize the benefits of its highest and best use. Thus, the premium that would have been applied without the dedication is disregarded in determining the fair market value of the take portion that would likely be dedicated during annexation or rezoning. In Nevada, per the *Robinson* case, the likelihood and effect of a dedication would be disregarded.

3. Value as Affected by Pre-Condemnation Interference

The foregoing sections in this White Paper generally set forth how valuation is calculated, and how a prospective change, such as annexation with a change in zoning, if it is reasonably probable, is to be taken into consideration in establishing fair market value, at its highest and best use. What remains for consideration under the fact pattern established for this White Paper is whether there might be need for concern regarding the activities of governmental agencies in taking certain actions intended to affect that calculation of value, and whether such actions might have unintended consequences.

It appears that this is a matter largely of first impression in Idaho, although the existence of a potential cause of action for a governmental agency's interference with a condemnee's use of property prior to the initiation of condemnation proceedings has been discussed. For example, in *City of Lewiston v. Lindsey*, 123 Idaho 851, 853 P.2d 596 (Idaho Ct. App. 1993), the taking of property by inverse condemnation was recognized as an action "instituted by a property owner who asserts that his property, or some interest therein, has been invaded or appropriated to the extent of a taking, but without due process of law, without payment of just compensation." *Id.* at 857, 853 P.2d at 602 (quoting *Rueth v. State*, 100 Idaho 203, 217, 596 P.2d 75, 89 (1978), and citing *First Lutheran Church*, 482 U.S. at 316, 107 S.Ct. at 2386). See also *KMST, LLC v. County of Ada and Ada County Highway District*, 138 Idaho 577, 67 P.3d 56 (Idaho 2003) and *McQuillen v. City of Ammon*, 113 Idaho 719, 747 P.2d 741 (Idaho 1987).

In *Lindsey*, the landowner sought compensation for the City of Lewiston's alleged interference with her property rights prior to the initiation of the City's condemnation action. The landowner's right to bring an action for loss of property through a taking by inverse condemnation was recognized, but the lower court's conclusion that such a

taking had not occurred was not disturbed on appeal because the facts as properly found by the lower court from the substantial, although conflicting, evidence presented supported that conclusion. What might be gleaned from the *Lindsey* decision is that if the landowner had presented substantial evidence that outweighed the conflicting evidence presented by the City of Lewiston, the lower court could have concluded, as a matter of fact, that a taking by inverse condemnation had occurred.

In California, the courts have identified two legal theories under which a landowner might be able to establish a right of compensation for pre-condemnation interference by a governmental agency. Such theories, depending upon the level of the governmental interference and the varying degree of culpability on the part of the governmental entity, have been found to support a claim for compensation. *People ex rel. Dept. of Transportation v. Diversified Properties Co. III*, 17 Cal. Rptr. 2d 676, 683 (Ct. App. 1993). These two different legal theories are generally identified as (i) a “de facto taking” (which essentially mirrors the taking by inverse condemnation as recognized in *Lindsey, supra*) and (ii) unreasonable pre-condemnation conduct by a public entity not amounting to an actual taking, but nonetheless compensable through an award of damages (which theory was not explored in *Lindsey, supra*, or the other cases mentioned therewith).

a. “De Facto” Taking

Particularly oppressive acts by a public entity, involving physical invasion or direct legal restraint on the use of property constitute a “de facto taking.” *Klopping v. City of Whittier*, 500 P.2d 1345 (Cal. 1972). Under this theory, because of the oppressive acts by the condemner, the taking is considered to have occurred earlier than the date set by statute, and all decline in value after this earlier date is chargeable to the condemner. *Id.* at 1351. An example of a “legal restraint” constituting a de facto taking is a harsh zoning regulation designed to decrease the future condemnation award. See *Kissinger v. City of Los Angeles*, 327 P.2d 10 (Ct. App. 1958). The property owners in *Kissinger* sought a declaration of rights regarding an ordinance which rezoned their property from multiple dwellings to single family residential. The court determined that the ordinance was invalid because it constituted a taking of the plaintiffs’ property without compensation and the purpose of it was to depress the value of the property so that it could be acquired at a depressed value. The city council was advised that the property was within an area that would be condemned for expansion of an airport owned by the city. Shortly thereafter, the city council adopted an emergency ordinance to change the zoning of the property to be condemned, drastically reducing the market value (from \$114,000 to \$48,000). *Id.* at 13-14. The court concluded that the ordinance was arbitrary and discriminatory because the true purpose of the ordinance was to prevent the improvement of the property so that it could be acquired at a lower price. *Id.* at 15-16.

In a “de facto taking” case, the governmental regulation must deny an owner of economically viable use of his/her land. *People, supra*, at 680. However, what constitutes oppression, or substantial impairment of property rights is a question of fact, to be determined on a case-by-case basis. *Id.* In *People*, an informal agreement between the city and state constituted a direct interference with the property owner’s right to develop its property, and was held a de facto taking. The property owner received approval of its development plan from the city, but the property could not be developed until the state, the condemning agency, initiated proceedings to acquire its right of way. *Id.* at 678-80. Although the state was aware that the property would be left undeveloped pending the state’s condemnation for freeway purposes, the state declined to present an acquisition offer for over a year. *Id.* This inaction by the state prevented the property owner from realizing any economic value from the property. In holding that the state had accomplished a “de facto taking”, the court stated that “the State merely ‘sat back’ and allowed the City, by way of its development restrictions, to ‘bank’ the subject property for the State-presumably so that the State could, at a later date, condemn the subject property in an undeveloped (and, consequently, less costly) condition. *Id.* at 682.

b. Unreasonable pre-condemnation conduct

In *Klopping*, the California Supreme Court concluded that a condemner could be held liable for proximately caused damages for the adverse economic impact to private property resulting from pre-condemnation delay and/or unreasonable conduct. The court explained its reasoning as follows:

“[W]hen the condemner acts unreasonably in issuing pre-condemnation statements, either by excessively delaying eminent domain action or by other oppressive conduct, our constitutional concern over property rights requires that the owner be compensated. This requirement applies even though the activities which give rise to such damages may be significantly less than those which would constitute a de facto taking of the property....”

Id. at 1355.

The plaintiffs in *Klopping* instituted an inverse condemnation action, claiming damages allegedly caused by activities of the city prior to condemning their property. The city’s pre-condemnation actions were allegedly unreasonable and for the purpose of depressing the fair market value. *Id.* at 1357. The city initially adopted a resolution to form a parking district, and then initiated condemnation proceedings against the plaintiffs’ property. Then, eight months later, the city dismissed the pending condemnation suit, but declared the city’s intention to reinstitute the proceedings at a later date. *Id.* at 1348. The plaintiffs claimed this pre-condemnation publicity caused the fair market value of their property to decline because due to the “condemnation

cloud hovering over their lands”, they could not fully use the property, resulting in a loss of rental income. The court concluded that if the pre-condemnation publicity is unreasonable, the property owner must be compensated for loss of rental income the publicity caused.

In a case subsequent to *Klopping*, the court noted, without deciding the issue, “the express language of *Klopping*’s holding does not appear to require an announcement of intent to condemn property, if liability is based on unreasonable conduct other than post-announcement delay.” *Border Business Park, Inc. v. City of San Diego*, 49 Cal. Rptr. 3d 259, 267 (Ct. App. 2006). For example, in a California case, the city allegedly acted unreasonably in not hooking up the property owners’ property to utilities because the city knew it wanted to condemn the property in order to take it for an interchange project. *City of Ripon v. Sweetin*, 122 Cal. Rptr. 2d 802, 806 (Ct. App. 2002). The city’s actions allegedly prevented the property from being used as commercial property, thus depressing the value of the property prior to the condemnation proceeding. *Id.* at 809. The court explained that this conduct by the city is the type of conduct that gives rise to a claim for *Klopping* damages and stated that the claim “was a classic *Klopping* claim.” *Id.* However, in this case, the property owner was not awarded *Klopping* damages because it withdrew its *Klopping* damages claim and, furthermore, the court of appeal determined that the evidence to support the claim was erroneously admitted before the jury because the court had not first determined the liability of the city. *Id.* at 810-13.

Thus, a property owner must be compensated if, prior to the taking, a condemner acts unreasonably, either by excessively delaying an announced eminent domain action or by other oppressive conduct. The *Klopping* court reasoned that “it would be manifestly unfair and violate the constitutional requirement of just compensation to allow a condemning agency to depress land values in a general geographical area prior to making its decision to take a particular parcel located in that area.” *Klopping*, at 1349 n. 1.

Under *Klopping*, a condemnee must have an opportunity to demonstrate entitlement to damages by showing that “(1) the public authority acted improperly either by unreasonably delaying eminent domain action following an announcement of intent to condemn or by other unreasonable conduct prior to condemnation; and (2) as a result of such action the property in question suffered a diminution in market value.” *Id.* at 1355. Recovery under this theory requires a showing that the public entity’s conduct significantly negatively affected the use or enjoyment of the property, lowering its value, physically burdening it, and/or decreasing the income it produced. *Id.* Furthermore, in order to prevail on a claim of inverse condemnation under *Klopping*, the landowner’s property must be “directly and specially” affected, rather than impacted by mere general planning of the public entity. *Border Business Park, Inc.*, 49 Cal. Rptr. 3d at 267. Under this theory, a successful property owner is entitled to include in his/her eminent domain damages the decline in value attributable to the unreasonable pre-condemnation action

by the public entity. *Id.* A public entity is only liable for a diminution of market value caused by its pre-condemnation conduct where it has acted improperly and unreasonably, and this is a question of fact. *Id.*

DISCUSSION

In light of the foregoing, the following conclusions may be drawn:

1. In Idaho, if land is to be taken, the landowner is entitled to just compensation.
2. Just compensation is determined by fair market value.
3. Fair market value is based upon highest and best use.
4. Highest and best use is based upon an assessment of both present use and the highest and best use to which the land may be put (“prospective use”).
5. Prospective use is based upon reasonable probability: the more likely a prospective use, the more of an impact it will have on fair market value; the more remote a prospective use, the less of an impact it will have on fair market value.
6. It is proper to consider all factors indicative of the property’s value that are likely to be significant to a willing buyer and willing seller, if the land were offered in a free market exchange, and evidence bearing on what willing buyers and sellers are likely to take into account is appropriate evidence of value; provided, however, to warrant admission of testimony as to the value of land for purposes other than that to which is being put at the time of the taking, it must first be shown (1) that the property is adaptable to the other use; (2) that the other use is reasonably probable within the immediate future, or a reasonable time; (3) and that the market value of the land has been enhanced thereby.

Assuming, for the purposes of this White Paper, that the Road Strip is adaptable to the other use, and that its fair market value would be increased by the annexation and a change in zoning, the question becomes whether the other use of the Road Strip (changed by the annexation and zoning) is reasonably probable. Based upon the review of the circumstances, it would appear that there is some degree of the required reasonable probability.

First, the Road Strip, being a part of the Subject Property, is within the city’s area of city impact. For property in Idaho to be within the area of city impact would seem, by statutory definition, to create a *de facto* reasonable probability that it will be annexed. After all, areas of city impact are those areas specifically recognized as areas “that can reasonably be expected to be annexed to the city in the future” and the very object of requiring an area of city impact is to “delineate areas of future contiguous growth.” I.C.

§ 67-6526; *City of Garden City*, 660 P.2d at 1357. It would appear then, as applied to the Road Strip, that the only question of reasonable probability is one of degree: How soon?

Second, the owner of the Subject Property has indicated that he/she (or a developer buyer) intends to apply for annexation and rezone, and there is nothing out of the ordinary that would indicate that such will not be granted. There is nothing apparent that would indicate that the annexation and rezone have no degree of likely success.

As has already been assumed under the fact pattern for this White Paper, the annexation and change in zoning will increase the value of the Subject Property. It would appear that there is some degree of reasonable probability as regards the annexation and the change in zoning. The degree of reasonable probability (which, from the facts assumed, seems high) is an evidentiary matter. How much the evidence will cause an adjustment to the present fair market value of the Road Strip will be determined by the weight of the evidence presented.

Thus, the issue then becomes whether the Road Strip, considered alone, has a value not the same as the rest of the Subject Property. That is, because of the fact that the Road Strip is already targeted for acquisition by the Highway Department for use in the Highway Project, does it have a value that would not be recognized in the anticipated annexation and, therefore, is not a value that need be recognized in condemnation? The theory behind this is that if, in the annexation, the Road Strip is land that would be required to be dedicated (gratuitously) as a condition to the governmental agency's annexation and rezoning approval, why should this land, in a condemnation occurring prior to the annexation, be valued at a post-annexation price? Arguably, a willing buyer is not going to offer to pay full price for a part of the land that will have to be dedicated away in the development of the rest of the land, and that the present fair market value is thus affected, meaning, simply stated, that the per square foot value of the Road Strip will be less than the per square foot value for the rest of the Subject Property.

Although not fully addressed by Idaho courts, it would appear that the issue will again turn on principles of reasonable probability. If it is reasonably probable that the Subject Property will be annexed and rezoned, and if it is reasonably probable that the Road Strip will have to be dedicated as a condition to the annexation and rezone, then it must follow that it is also reasonably probable that the value of the Road Strip, in a free market exercise, will be less than the value of the rest of the Subject Property. Differently stated, if it is appropriate to value condemned property according to its highest and best use as annexed and rezoned, then it should also be appropriate that the consequences of the annexation and rezoning be taken into account, with the value adjusted appropriately to reflect such consequences.

As set forth above, the courts in California and Colorado would apply a rule that says the consequences of the annexation and rezone would have to be taken into

account. Other courts, such as in the *Robinson Nevada* case, would not apply this rule. It does not appear that Idaho courts have yet addressed which rule Idaho will follow. However, given the importance imparted by Idaho courts upon “fair market value” as established between a willing seller and a willing buyer, and that all reasonably probable elements affecting value are worthy of consideration, it would seem that there is some basis for application of the Colorado/California rule.

However, even in California and Colorado, it would appear that the consequences must be reasonably probable before any rule may be applied. That is, the more it is probable that the landowner will be required to dedicate a portion of the land as a condition to the annexation and rezone, the more likely it is that the land to be taken will be valued based on uses to which it could be put in the absence of the annexation and rezoning approval. For example, as discussed in *Palizzi*, if it is reasonably probable (in fact, in *Palizzi* it was found by the courts to be “undisputed”) that the frontage would have to be gratuitously dedicated to the city in order to secure the zoning changes needed to develop the remainder of the landowner’s property to its highest and best use, then it makes sense in an application of the fair market value rule that the frontage will not have the same value as the remainder of the property. The value of the frontage will thus have a value based upon the highest and best uses permitted by the existing zoning, because, essentially, the frontage can never be used for any other purpose.

In the instant case, under the fact pattern assumed for this White Paper, it is difficult to see where it would be reasonably probable, ordinary or typical (let alone undisputed) that the city, as a condition to its approval of the annexation and rezoning, would require that the Road Strip be dedicated to the Highway Department. The Road Strip, again under the fact pattern assumed, does not appear to have any direct relationship to the development of the Subject Property. Whereas requiring dedication of frontage or local roads serving the new development might be foreseeable and reasonably probable as a direct consequence of the annexation and rezone, such is not the same circumstance with respect to the Road Strip’s contemplated use in the unrelated Highway Project.

It must also be noted, generally, that the current state of the law under *Dolan v. City of Tigard*, 512 U.S. 374, 114 S.Ct. 2309 (1994) and *Nollan v. California Coastal Commission*, 483 U.S. 825, 107 S.Ct. 3141 (1987), is that there must be a *nexus* between a legitimate state interest and the condition imposed (*Nollan*) and there must be a *rough proportionality* between the condition imposed and the projected impact of the proposed development (*Dolan*). For the city to sustain the imposition of a condition to the annexation as requiring the dedication of the Road Strip to the Highway Department, the city would have to show some connection between such a condition and the projected impact caused by the projected annexation. Such a connection does not appear to exist. There is simply nothing to suggest that it would be reasonably probable that the city would require the dedication of the Road Strip as a quid pro quo

contract negotiation in the annexation and rezoning process and that in so doing there also could be demonstrated a nexus and/or a rough proportionality.

Further, regardless of the applicability of the California/Colorado rule, the reasonable probability of a dedication of the Road Strip as a condition of the annexation and rezone of the Subject Property being remote, it would seem that the rule would not apply in any case, and the annexation premium should apply to the Road Strip. As the Idaho courts have long noted, remote possibilities (in this case, dedication to the city) are not worthy of consideration as evidence of value. *U.S. v. 3969.59 Acres of Land*, 56 F.Supp. at 834.

Therefore, this leaves only the final issue of whether some activity by the city, either acting alone or in concert with or at the behest of another governmental agency, might rise to the level where a landowner might claim either a “de facto taking” or proximately caused damages. In the *Klopping* case mentioned above, the city acted unreasonably in issuing pre-condemnation statements for the purpose of depressing the fair market value so that the condemning agency would be able to acquire it at a lower cost. In the *People* case mentioned above, the city had an informal agreement with the state, pursuant to which the land was essentially reserved for condemnation by the state, with development approval denied based solely on the desire to *bank* the land at its lower value for the condemnation to come. Both were determined by the courts to be unreasonable and oppressive actions in violation of the constitutional requirement of just compensation.

Nevada has also recognized that a landowner may bring an action for pre-condemnation damages (independent of any damages for the taking of the property) as caused by the improper actions of a municipality in announcing its intent to condemn and then delaying the condemnation or otherwise acting in an oppressive manner so as to result in a decrease in the market value of the property. *Buzz Stew, LLC v. City of North Las Vegas*, 181 P.2d 670 (Nev. 2008). *Buzz Stew* expanded *State, Dep’t of Transp. v. Barsy*, 113 Nev. 712, 941 P.2d 971 (1997), which recognized the assertion of pre-condemnation damages in addition to damages resulting from the taking. *Barsy* itself said this:

At issue in the case before us is whether the precondemnation activities of the State entitle Barsy to damages in addition to those resulting from the taking of his property. In resolving this issue, we elect to follow the leading case on the rights of property owners who sustain damages as a result of precondemnation activities by the condemning authority. In the case of *Klopping v. City of Whittier*, 8 Cal 3d 39, 104 Cal. Rptr. 1, 500 P.2d 1345 (1972), the California Supreme Court, basing its decision on constitutional grounds, held that where a condemnor “acts unreasonably in issuing precondemnation statements, either by excessively delaying

eminent domain action or other oppressive conduct, our constitutional concerns over property rights requires that the owner be compensated.”

Id. at 719, 941 P.2d at 976.

In the instant case, the pre-condemnation action contemplated (no annexation until after the property is condemned or acquired at a lower price) would not be in the nature of a general announcement of long range planning regarding some unspecified portions of a larger area of land, as a matter within the discretion of the city. Rather, the action would be directly aimed at specific areas of needed right-of-way within specific larger parcels of land, as already generally identified in the plans for the Highway Project. This seems to be something past the “planning stage” and more in the “acquiring stage,” a distinction recognized as determinative in *Buzz Stew, supra*. As such, any defense of the action as being either legislative in nature or something simply in the nature of a discretionary planning or policy activity would seem difficult to make.

In particular, if the annexation and rezoning of the Subject Property were delayed or denied in spite of the fact that the Highway Department’s intent to pursue the Highway Project (together with the required taking of additional land needed for re-location and/or expansion) has been previously announced, and if the theories espoused by the California courts in *Klopping* and *People* and the Nevada courts in *Buzz Stew* and *Barsy* are recognized in Idaho, it would seem that an allegation could be made that there has been artificial manipulation of the entire process with the sole purpose being to keep the land at its pre-annexation lower value, and that such is unreasonable and oppressive activity for which either a “de facto taking” of the entire Road Strip might be asserted, or, in the alternative, that proximately caused damages should be awarded. The sentiment expressed in *Klopping* is compelling: “...it would be manifestly unfair and violate the constitutional requirement of just compensation to allow a condemning agency to depress land values in a general geographical area prior to making its decision to take a particular parcel located in that area.” *Klopping*, at 1349, n. 1.

CONCLUSION

Given that the Highway Project has already been announced; given that the annexation and change in zoning of the Subject Property are reasonably probable; given that it is a remote possibility that the Road Strip would be required as a condition of the annexation; and given that all relevant evidence affecting value will show up eventually in the condemnation process anyway (wherein a forum will be presented for a proper consideration of value, including, without limitation, the effect that annexation and rezoning might have on value), the issue then becomes whether the city might, without legal consequences, forestall the annexation process, intending thereby to retain a lower value of the Subject Property so that the Road Strip might be acquired by the Highway Department at a lesser cost.

That any significant action could be taken by the city without some legal consequence would seem illogical in light of Idaho law, especially if any of *Klopping, People, Buzz Stew* or *Barsy* might be applied. Furthermore, even if the city did delay annexation, under Idaho law the reasonable probability of the eventual annexation of the Subject Property would undoubtedly arise as evidence in the condemnation process, regardless of the city's delay, making the city action futile. And if it were shown that all that occurred by the delay in annexation was to artificially affect the timing thereof, so as to manipulate price, how would that be viewed by an Idaho court as other than unwarranted interference?

Posited differently (and setting aside the issue of possible differing valuations of the Road Strip and the rest of the Subject Property), if it is already reasonably probable that the Subject Property will be annexed and its zoning changed, based upon existing circumstances, how might a contrary decision by the city to delay annexation (and zoning) be viewed other than as an impermissible interference with a landowner's constitutional right to just compensation?

Under the fact pattern assumed for this White Paper, applying Idaho statutes and the Idaho caselaw available, and looking to the caselaw in other jurisdictions with a similar importance placed on constitutionally required just compensation and fair market value as influenced by reasonably probable circumstances, it would seem that where it has already been announced that a highway project (which has no direct connection to the annexation, the change in zoning or the ultimate impact of development) will be pursued by another governmental agency, it would seem that for the city to delay the annexation, for no reason other than to try to retain a pre-annexation lower value (if that is even possible, given that it is already reasonably probable that the annexation and change in zoning *will* occur, making a higher value almost inevitable), there is the risk that such action might be viewed as an unreasonable interference with a landowner's constitutional right to just compensation. Whether an Idaho court will consider the delay as legally actionable, based on constitutional or other concerns, appears to be an issue of first impression. Assuming, however, that there is at least a possibility that the Idaho courts would follow the lead of California and Nevada in allowing a claim to be made for pre-condemnation interference, it would seem imprudent for the city to delay the annexation and to take that risk, especially where the reasonable probability of annexation already exists (if for no reason other than because the property to be condemned lies within the area of city impact). To artificially ignore the reasonable probability of the annexation and the prospective use of the Road Strip by pursuing a delaying tactic intended only to manipulate a lower value for condemnation to the primary benefit of an unrelated governmental agency would seem the very kind of action that *Klopping, People, Buzz Stew* and *Barsy* found unreasonable, oppressive and actionable, and should at least cause a careful consideration of whether the delay is worth the risk.



TO: Matt Stoll, Executive Director, COMPASS
FROM: Brian Ballard
DATE: April 21, 2009
RE: WHITE PAPER RE: ANNEXATION (ADDENDUM)

This is to augment our White Paper, dated March 13, 2009, as previously sent to you.

Since the time we sent you our White Paper, the Idaho Supreme Court released *Black Labrador Investing, LLC v. Kuna City Council, No. 42* (Idaho filed April 2, 2009). Although this case does not alter the conclusions set forth in our White Paper, we think a brief discussion of the case is appropriate.

Black Labrador examines the issue of whether a city's denial of an annexation application is subject to judicial review. In keeping with previous observations of Idaho's Supreme Court, that annexation decisions by cities are generally "legislative" in nature and therefore not subject to judicial review, the *Black Labrador* Court concluded that the City of Kuna's denial of an application for annexation was not reviewable by a court, and the applicant was essentially without recourse. The rationale for this was that for a party to have a right to judicial review, there must be a statute explicitly granting such a right, as judicial review is limited remedy conferred only by statute. Based on its examination of several Idaho statutes, the Court found there to be no such statute. Whereas the Court did find such a right for a denial of a *permit*, the Court made the distinction that an application for *annexation* was not the same as an application for a *permit*. The property owner, therefore, was without legal recourse.

Lest it be concluded, however, that the *Black Labrador* decision means that a decision of annexation denial is unassailable in all circumstances, a distinction must be drawn. As we see it, the decision in *Black Labrador* only impacts a property owner's ability to seek statutory judicial review of the denial of an annexation application in normal circumstances, where other overriding concerns are not present. Where the denial decision is actually intended to affect property rights and property values in a future condemnation, however, it would seem to us that question is not simply whether there is a right to statutory judicial review. The real question becomes whether there is a separate and distinct right to pursue a civil action raising constitutional concerns regarding property rights. That is, it would not be the annexation that would be the issue. If it were, there would be no statutory judicial review of a denial. Rather, what would be the issue would be property rights in the context of a condemnation. We think that a violation of those constitutionally protected rights would not be automatically shielded from a legal challenge under the holding of *Black Labrador*.

The analysis set forth in the White Paper concerns governmental entities taking actions prior to a condemnation proceeding, which actions are intended to affect the future calculation of property value. Therefore, a legal action challenging conduct by a city done for the purpose of depressing the fair market value prior to a condemnation, even if that conduct would otherwise not be subject to judicial review, is not a challenge to the “legislative” annexation decision. Rather, it is claim based on the property owner’s constitutional right to just compensation for the taking of private property. Accordingly, we think that *Black Labrador*, while generally disallowing judicial review of denials of annexation applications, cannot be read to automatically disallow a civil action challenging pre-condemnation conduct by a governmental entity, where the goal of such conduct is not to deny the annexation, but is actually intended to artificially manipulate property values.

**EXECUTIVE COMMITTEE MEETING
JUNE 16, 2009
COMPASS CONFERENCE ROOM**



****MINUTES****

ATTENDEES: Dave Bieter, Mayor, City of Boise, **Chair Elect (via telephone)**
 Tammy de Weerd, Mayor, City of Meridian
 David Ferdinand, Commissioner, Canyon County, **Vice-Chair**
 Sally Goodell for Carol McKee, Commissioner, Ada County Highway District, **Secretary/Treasurer**
 Garret Nancolas, Mayor, City of Caldwell, **Chair**
 Matt Stoll, Executive Director, Community Planning Association, Ex officio

MEMBERS ABSENT: Phil Bandy, Mayor, City of Eagle
 Tom Dale, Mayor, City of Nampa
 Vicki Thurber, Mayor, City of Middleton
 Fred Tilman, Commissioner, Ada County

OTHERS PRESENT: Nancy Brecks, Community Planning Association
 Kelli Fairless, Valley Regional Transit
 Amy Luft, Community Planning Association
 Carl Miller, Community Planning Association
 Charles Trainor, Community Planning Association
 Jeanne Urlezaga, Community Planning Association

CALL TO ORDER:

Chair Nancolas called the meeting to order at 2:15 p.m.

AGENDA ADDITIONS/CHANGES

Matt Stoll requested adding the following Items to the Agenda:

- Action Item F – Approve TIP update schedule
- Action Item G – Establish *Communities in Motion* Elected Officials Implementation Team
- Action Item H – Approve City of Nampa Request to move the Karcher Road and Middleton Road Intersection project into the TIP.
- Action Item I – Discuss COMPASS participation on Federal Policy Issues relating to reauthorization and how Matt is to get Board input.

David Ferdinand moved and Tammy de Weerd seconded amending the Agenda to include Items F-I. Motion passed unanimously.

OPEN DISCUSSION/ANNOUNCEMENTS

None.

CONSENT AGENDA

A. Approve May 19, 2009, Executive Committee Meeting Minutes

Tammy de Weerd moved and David Ferdinand seconded approval of the Consent Agenda as presented. Motion passed unanimously.

ACTION ITEMS

A. Establish July 21, 2009, COMPASS Board Agenda

Matt Stoll presented staff proposed Agenda Items 1-24 for the July 20, 2009, COMPASS Board meeting. Matt noted that Item 17 will be moved to August 2009.

Matt requested direction on whether the Committee wants to stay with the current process of having staff present Agenda Items as Information/Discussion items one month before requesting action.

Tammy de Weerd discussed the merit of Board members meeting with staff before the Board meetings to ask their individual questions and address concerns regarding Agenda Items, so that the time allotted to the meetings is used more efficiently.

Tammy de Weerd discussed her desire for staff to look further out than the 25 years that is currently required for growth projections. Matt replied that staff can do that, but will still have to do the constrained plan. Matt noted that staff asked to do just that in 2003 and the Board said no. Matt stated that staff will bring this to the Board for discussion at a future Board meeting.

After discussion, **Tammy de Weerd moved and David Ferdinand seconded approval of Agenda Items 1-16 and 18-24 as presented. Motion passed unanimously.**

B. Consider Development Review Protocol

Carl Miller reviewed the Development Review Protocol as recommended by the Regional Technical Advisory Committee with a 12-4 vote. Carl reviewed the dissenting members' concerns.

After discussion, **Dave Bieter moved and Tammy de Weerd seconded recommending Board approval of the Development Review Protocol as presented. Motion passed unanimously.**

C. Recommend Approval of Immediate Past Chair Position

Matt Stoll presented the necessary modifications to the Bylaws to create an immediate Past Chair position on the Executive Committee.

After discussion, **Tammy de Weerd moved and David Ferdinand seconded recommending approval by the COMPASS Board to create an immediate Past Chair position on the Executive Committee. Motion passed unanimously.**

D. Recommend Next Steps Following Joint COMPASS/VRT Workshop on May 18, 2009

Matt Stoll reviewed the workshop notes from the Joint May 18, 2009, COMPASS/VRT Workshop. Matt stated that there was no consistent message from the group whether to merge the organizations or not.

Matt outlined three options for consideration by the Executive Committee:

1. Recommend that an analysis be done for moving forward with the merger.
2. Cease any further action on the merger at this time.
3. Do not move forward with the merger, but look at continuing to identify efficiencies.

Matt said staff's recommendation is Option 3. He noted the Board had previously given the direction to look into co-locating the two organizations.

Garret Nancolas commented that after discussion at the last VRT Board meeting, he did not see any reason for spending any more time on the discussion of a merger, but there was interest in looking for efficiencies, sharing of resources, and possibly co-locating the two entities.

After further discussion, **Tammy de Weerd moved and David Ferdinand seconded directing Matt Stoll to amend the July 2009 Agenda to bring the merger discussion back to the COMPASS Board as an Information/Discussion Item instead of an Action Item. Staff is to provide background information with a high level summary of the elements that have been previously presented. Motion passed unanimously.**

E. Recommend Approval of Priorities for TIGER Funding Under ARRA

Matt Stoll reviewed projects that a subcommittee of the Regional Technical Advisory Committee has identified for TIGER Funding under ARRA. Matt noted that if the Idaho Transportation Department does not concur with the list of projects on the state system, they will not be submitted.

A Special Executive Committee meeting will need to be held July 6 or 7, 2009, for review of the project list and to recommend Board approval at the July 20, 2009, meeting.

After discussion, **Tammy de Weerd moved and David Ferdinand seconded approval of a Special Executive Committee meeting on July 6, 2009, from 11:30 am – 1:00 pm. Motion passed unanimously.**

F. Transportation Improvement Program (TIP) Update Schedule

Matt Stoll reviewed the proposed TIP Update Schedule, which is two months behind schedule, and speaks to the issue of how much review is needed. Currently, the Board reviews items one month and then takes action at the next month's meeting, which adds an extra month to the process.

Staff recommends an accelerated schedule to get the update through the process by having the Board approve submittal of the draft TIP for public comment, without reviewing the document the month before.

Matt recommended that either RTAC be asked to respond via email to any public comments after the public comment period is closed, or that the Executive Committee approves the elimination of the public comment review by RTAC. Matt noted that RTAC's biggest input is in the development of the list before it is submitted for public comment.

Staff will bring the public comments and the request for approval of the Final TIP to the Board on September 21, 2009, without further review. Thus eliminating the need for the October 2009 Board meeting, as there are no other items on the Agenda.

After discussion, **Tammy de Weerd moved and David Ferdinand seconded to cancel the October 19, 2009, COMPASS Board meeting. Move forward with the TIP Update Schedule as recommended by Matt Stoll with the elimination of the review of public comment by RTAC. Motion passed unanimously.**

G. Establish *Communities in Motion* Elected Officials Implementation Team

Matt Stoll requested, as follow up to the *Communities in Motion* discussion at the June 2009 Board meeting, direction for him to send an email soliciting local elected officials, who are not on the COMPASS Executive Committee, to sit on a small committee (5 to 8 people), to look at the best practices and bring back to the COMPASS Board what has been successfully implemented in *Communities in Motion*.

After discussion, **Tammy de Weerd moved and David Ferdinand seconded direction for Matt to email local elected officials, who are not on the COMPASS Executive Committee, to form a *Communities in Motion* Elected Officials Implementation Team. Motion passed unanimously.**

Matt requested direction on how to get quick, active participation from Board members on policy level issues. Matt recommends using Survey Monkey.

Matt also requested direction on how to get Board involvement on the national groups that COMPASS belongs to, particularly by joining the Board of Directors of the National Association of Regional Councils in June 2010.

After discussion, **Chair Nancolas asked for any objection to staff using Survey Monkey for action on policy issues, and for Matt to solicit interest from Board members regarding participation on the national groups. Hearing none, Chair Nancolas so ordered.**

H. Karcher /Middleton Intersection

Matt Stoll reviewed the City of Nampa's request to replace the Airport Road construction project on the Urban Balancing list with the Karcher/Middleton Road Intersection project.

After discussion, **Dave Bieter moved and David Ferdinand seconded recommending approval of the City of Nampa's request to replace the Airport Road construction project with the Karcher/Middleton Road Intersection project as presented. Motion passed unanimously.**

I. Discuss COMPASS Participation on Federal Policy Issues Relating to Reauthorization and how Matt is to get Board Input

This item was addressed under Action Item G.

INFORMATION/DISCUSSION ITEMS

A. Status Report – Project Prioritization Process

Matt Stoll reviewed a revised project prioritization process and requested approval to present it to the Board at the July 2009 meeting.

Sally asked for clarification of wording under the Go/No Go heading.

After discussion, **it was agreed to change the wording in No. 3 to read, "Is the project consistent with Communities Choices land use scenarios?"** The wording in No. 2 will be edited to address funded or illustrative corridors.

After discussion, **Chair Nancolas asked for any objection to staff presenting the edited project prioritization process to the Board at the July 20, 2009, meeting.** Hearing none, Chair Nancolas so ordered.

ADJOURNMENT

David Ferdinand moved and Tammy de Weerd seconded adjournment at 3:35 pm. Motion passed unanimously.

Dated this 21st day of July 2009.

APPROVED:

**By: _____
Garret Nancolas, Chair
Community Planning Association**

ATTEST:

**By: _____
Matthew J. Stoll, Executive Director
Community Planning Association**

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**SPECIAL EXECUTIVE COMMITTEE MEETING
JULY 6, 2009
COMPASS CONFERENCE ROOM**



****MINUTES****

- ATTENDEES:** Dave Bieter, Mayor, City of Boise, **Chair Elect**
Tom Dale, Mayor, City of Nampa
Tammy de Weerd, Mayor, City of Meridian
David Ferdinand, Commissioner, Canyon County,
Vice-Chair (via telephone)
Carol McKee, Commissioner, Ada County Highway
District, **Secretary/Treasurer**
Garret Nancolas, Mayor, City of Caldwell, **Chair**
(via telephone)
Matt Stoll, Executive Director, Community
Planning Association, Ex officio
Vicki Thurber, Mayor, City of Middleton
- MEMBERS ABSENT:** Phil Bandy, Mayor, City of Eagle
Fred Tilman, Commissioner, Ada County
- OTHERS PRESENT:** Mary Barker, Valley Regional Transit
Ken Burgess, Veritas Advisors
Nancy Brecks, Community Planning Association
Karen Doherty, HDR
Sally Goodell, Ada County Highway District
Caleb Hood, City of Meridian
Toni Tisdale, Community Planning Association
Charles Trainor, Community Planning Association

CALL TO ORDER:

Chair Elect Bieter called the meeting to order at 11:35 a.m.

AGENDA ADDITIONS/CHANGES

None.

OPEN DISCUSSION/ANNOUNCEMENTS

None.

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ACTION ITEMS

A. Recommend Proposed Stimulus TIGER Projects for Application

Toni Tisdale presented projects recommended by the Regional Technical Advisory Committee for Transportation Investment Generating Economic Recovery (TIGER) funds. The applications are due September 15, 2009, awards will be made on or before February 17, 2010.

Matt Stoll stated that staff recommends Board approval for staff to submit the following local system projects for TIGER applications to the U.S. Department of Transportation. These projects are not in priority order:

Local System Projects		Total Cost	Grant Size
Public Transportation Group Project		\$28,370,000	\$25,685,000
a.	Park and Ride System		
b.	West Ada and Canyon Transit Facilities		
c.	Ustick Road Service		
d.	Garden City Long Route		
e.	New Bus for Expanded Service – 4		
f.	Replacement Nampa Buses – 19		
g.	Replacement Boise Buses – 8		
h.	Upgrade Boise Fueling Facility		
i.	Operations and Maintenance Facilities		
j.	High Capacity Transit Network Alternatives Analysis		
Downtown Boise Circulator		\$45,000,000 to \$65,000,000	\$25,000,000
Franklin Rd, Five Mile Rd to Touchmark Way		\$14,100,000	\$13,100,000

Staff recommends that letters of support are submitted to the Idaho Transportation Department for the following state system projects. These are in priority order:

State System Projects	Total Cost	Grant Size	Priority Order
Meridian Road Interchange Rebuild	\$35,000,000	\$35,000,000	1
Eagle Road (SH 55) Improvements	\$75,000,000	\$65,000,000	2
I-84, Franklin Boulevard to Karcher Road Additional Lanes and Overpass Rebuilds	\$100,000,000	\$100,000,000	3
Interagency Regional Operations Center	\$35,000,000	\$35,000,000	4

After discussion, **Tom Dale moved and Carol McKee seconded recommending Board approval for staff to submit local system project applications to the U.S. Department of Transportation for TIGER funds as presented, and forward the state system projects as presented in priority order to the Idaho Transportation Department for their consideration in project selection for the TIGER program. Motion passed unanimously.**

OTHER

Tammy de Weerd asked if the same method used to preserve ROW on Highway 16 could be used for U.S. 20/26?

Matt Stoll replied that GARVEE funds were used for Highway 16. Matt stated he will talk with Dave Jones regarding the options available.

ADJOURNMENT

Carol McKee moved and Tammy de Weerd seconded adjournment at 12:20 pm. Motion passed unanimously.

Dated this 21st day of July 2009.

APPROVED:

**By: _____
Garret Nancolas, Chair
Community Planning Association**

ATTEST:

**By: _____
Matthew J. Stoll, Executive Director
Community Planning Association**

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EXECUTIVE COMMITTEE WORKSHEET FOR COMPASS BOARD AGENDA

ITEM V-A

Item #	Title/Description	Mandatory¹	Policy Implications/Requirements	Agenda Type²	Time	Presenter	Proposed Agenda	RTAC Agenda	Program No.
1.	Approve Minutes from most recent Board Meeting	Yes	Meets Idaho Code and various grant requirements.	Consent Agenda	N/A	N/A	Monthly	N/A	820
2.	Receive Minutes from most recent Executive Committee Meeting	Yes	Meets Idaho Code and various grant requirements.	Consent Agenda	N/A	N/A	Monthly	N/A	820
3.	Receive Minutes from most recent Finance Committee Meeting	Yes	Required by the Board's mission statement for the Committee.	Consent Agenda	N/A	N/A	As Appropriate	N/A	820
4.	Status Report – Finance Committee Update	No	The Finance Committee Chair will provide an oral status report.	Information/ Discussion	10	Chair	As Appropriate	N/A	820
5.	Status Report – Legislative Issues	No	Legislative consultant team will provide a monthly report on federal and state legislative issues identified as priorities by the Board.	Ex. Dir. Report	N/A	Ken Burgess	Monthly	N/A	760
6.	Status Report – Corridor Studies	No	Don Matson will provide a monthly report on the status of the Corridor Studies.	Ex. Dir. Report	N/A	N/A	Monthly	N/A	610, 611
7.	Status Report – Current Air Quality Issues	No	Mary Ann Waldinger will provide a monthly report of current air quality issues.	Ex. Dir. Report	N/A	N/A	Monthly	N/A	801
8.	Status Report – Current Transportation Project Information	No	Toni Tisdale will provide a monthly report of current transportation issues and projects.	Ex. Dir. Report	N/A	N/A	Monthly	Monthly	685
9.	Status Report – Standing Committees' Attendance	No	Per Board request of May 17, 2004.	Ex. Dir. Report	N/A	N/A	Monthly	N/A	820
10.	Status Report – Treasure Valley High Capacity Transit Study	No	Charles Trainor will provide a monthly report on the status of the study.	Ex. Dir. Report	N/A	N/A	Monthly	N/A	631

¹ No, Yes, N/A (Not Applicable)

² Action; Consent Agenda; Executive Director's Report; Information; Special Item; Committee Reports; Open Discussion/Announcements

Item #	Title/Description	Mandatory¹	Policy Implications/Requirements	Agenda Type²	Time	Presenter	Proposed Agenda	RTAC Agenda	Program No.
11.	Status Report - <i>Communities in Motion</i>	Yes	Charles Trainor will provide a monthly report on the status of the update.	Ex. Dir. Report	N/A	N/A	Monthly	N/A	661
12.	Status Report – 2010 Census Preparation	No	Carl Miller will provide a report on the status of the COMPASS preparations for the 2010 Census.	Ex. Dir. Report	N/A	N/A	As Appropriate	N/A	620
13.	Receive Administrative Modifications to the Transportation Improvement Programs	Yes	Toni Tisdale will provide memorandums of approval for Administrative Modifications.	Ex. Dir. Report	N/A	N/A	As Appropriate	N/A	685
14.	Status Report – Reauthorization /Appropriations	No	Matt Stoll will provide a report on the status of Reauthorization/Appropriations	Special Item	N/A	N/A	As Appropriate	NA	685
15.	Status Report – Stimulus Funds	No	Toni Tisdale will provide a report on the status of Stimulus funds	Special Items	N/A	N/A	As Appropriate	N/A	685
CURRENT AGENDA ITEMS									
16.	Approve Amending COMPASS Bylaws to Establish an Immediate Past Chair Position	Yes	The Executive Committee recommends amending the COMPASS Bylaws to establish an Immediate Past Chair position on the Executive Committee.	Consent Agenda	N/A	Matt Stoll	August	N/A	991
17.	Approve the Draft FY2010-2014 Transportation Improvement Program Project List for Public Involvement	Yes	Staff requests approval to release the Draft FY2010-2014 Transportation Improvement Program for public review and input.	Action	10	Toni Tisdale	August	August	685
18.	Adopt Resolution Approving the FY2010 UPWP and Budget– Final	Yes	Staff requests adoption of Resolution xx-2009 approving FY2010 UPWP - Final	Action	15	Matt Stoll	August	May	601
19.	Adopt COMPASS Complete Streets Policy	No	Staff requests adoption of the COMPASS Complete Streets Policy.	Action	15	Carl Miller	August	May	705

Item #	Title/Description	Mandatory¹	Policy Implications/Requirements	Agenda Type²	Time	Presenter	Proposed Agenda	RTAC Agenda	Program No.
20.	Review Results of <i>Communities in Motion</i> Focus Group Workshops	Yes	Staff will review preliminary results from July 2009 workshops.	Information/Discussion	10	Charles Trainor	August	August	661
21.	Review COMPASS Development Review Protocol	No	Staff requests adoption of the COMPASS Development Review protocol to standardize how development applications will be reviewed by COMPASS staff.	Information/Discussion	15	Carl Miller	August	May	705
22.	Review Prioritization Process for Regional Transportation Improvement Program	No	The Regional Technical Advisory Committee recommends major revisions to the prioritization process.	Information/Discussion	15	Toni Tisdale	August	July	685
23.	Status Report - Mobility Management Strategies	No	Staff will present update of mobility management projects.	Information/Discussion	15	Liisa Itkonen	August	August	671
UPCOMING AGENDA ITEMS									
24.	Adopt COMPASS Development Review Protocol	No	Staff requests review of the COMPASS Development Review protocol which will standardize how development applications will be reviewed by COMPASS staff.	Action	15	Carl Miller	September	May	705
25.	Review Priority Corridor recommendations from the Treasure Valley High Capacity Transit Study	No	Staff/consultant will present alignment and modal options within the Priority Corridor between Ada and Canyon Counties	Action	20	Charles Trainor	September	August	631
26.	Adopt Resolution XX-2009 Approving the FY2010-2014 Transportation Improvement Program and Air Quality Conformity	Yes	Staff requests adoption of Resolution XX-2009 approving the FY2010-2014 TIP and air quality conformity.	Action	10	Toni Tisdale	September	August	685
27.	Approve Prioritization Process for Regional Transportation Improvement Program	No	The Regional Technical Advisory Committee recommends major revisions to the prioritization process.	Action	15	Toni Tisdale	September	August	685

Item #	Title/Description	Mandatory¹	Policy Implications/Requirements	Agenda Type²	Time	Presenter	Proposed Agenda	RTAC Agenda	Program No.
28.	Review Information for Public Meeting on <i>Communities in Motion</i> Update	Yes	Staff will present draft information for the October public open house on CIM update	Information/Discussion	30	Charles Trainor	September	August	661
29.	Review Western Canyon County Economic Development Scenarios	No	Staff will review the study, including scenarios and possible impacts to infrastructure.	Information/Discussion	10	Don Matson/Amy Twileger (SAGE)	September	August	767
30.	October Board Meeting Canceled						October		
31.	TENTATIVE: Pre-Meeting Workshop (12 – 1:30; lunch served) Transit Corridor Development workshop	No	Representatives with success and experience in the Bellevue-Redmond (WA) corridor project will facilitate a workshop on transit corridors	Special Item	60	Invited speaker (Amy Luft/Kelli Fairless/Don Matson)	November	N/A	701
32.	Adopt updated Public Involvement Policy	Yes	Staff will present and seek adoption of updated Public Involvement Policy	Action	10	Amy Luft	November	August (PPC)	653
33.	Consider Recommended Transportation System for <i>Communities in Motion</i>	No	Staff will present the proposed transportation system for CIM	Information/Discussion	30	Charles Trainor	November	October	661
34.	Review Findings and Recommendations of US 20/26 Corridor Preservation Study	No	Staff will present recommendations from study (Environmental Assessment, etc.).	Information/Discussion	15	Don Matson	November	CPC October	611
35.	Review Recommendations of SH 44 Access Management Plan	No	Staff will present draft Access Management Plan, a part of the ongoing Corridor Preservation Study for SH 44	Information/Discussion	15	Don Matson	November	CPC October	611
36.	Holiday Luncheon	No	COMPASS/VRT Holiday Luncheon 12:00-1:30 pm Nampa Civic Center	Special Item	90	N/A	December	N/A	

Item #	Title/Description	Mandatory¹	Policy Implications/Requirements	Agenda Type²	Time	Presenter	Proposed Agenda	RTAC Agenda	Program No.
37.	Establish 2010 COMPASS Board and Executive Committee Meeting Dates and Location and Provide 30 Day Notice of January 25, 2010 Annual COMPASS Board Meeting	Yes	Per COMPASS Bylaws	Action	10	Matt Stoll	December	N/A	
38.	Approve recommendations of SH 44 Access Management Plan	No	Staff will seek approval of Access Management Plan for SH 44.	Consent Agenda	N/A	Don Matson	December	N/A	611
39.	Approve Mirroring Changes to the FY2010-2014 Regional Transportation Improvement Program	Yes	Staff requests approval of the mirroring changes to the FY2010-2014 TIP.	Action or Consent	10	Toni Tisdale	December	November	685
40.	Approve Recommended Transportation System for Inclusion into <i>Communities in Motion</i>	No	Staff will present and seek approval of the proposed transportation system for CIM	Action	30	Charles Trainor	December	November	661
41.	Accept Recommendations of US 20/26 Corridor Preservation Study	No	Staff will seek acceptance of documents (Environmental Assessment, etc.) prepared for FHWA.	Consent Agenda	N/A	Don Matson	December	N/A	611
42.	Accept Land Use Allocation Report	No	Staff will seek Board acceptance of the report.	Action	20	Carl Miller	December	DAC November	647
43.	Present Leadership in Motion Awards	No	Recognize member agencies, businesses, and individuals for leadership in supporting Communities in Motion goals.	Information/ Discussion	15	TBD (Coordinate d by Amy Luft)	December	N/A	653
44.	Review Findings and Recommendations of SH 44 Corridor Preservation Study Draft Environmental Impact Statement (DEIS) and other documents	No	Staff will present findings and recommendations from study.	Information/ Discussion	15	Don Matson	January 2010	CPC December 2009	610

Item #	Title/Description	Mandatory¹	Policy Implications/Requirements	Agenda Type²	Time	Presenter	Proposed Agenda	RTAC Agenda	Program No.
45.	Receive update on Findings and Recommendations of SH 44 Corridor Preservation Study Environmental Impact Statement (EIS) and other documents	No	Staff will present an update of findings and recommendations in EIS, other documents.	Information/ Discussion	5	Don Matson	April 2010	CPC Mar 2010	610
46.	Accept Recommendations of SH 44 Corridor Preservation Study	No	Staff will present and seek acceptance of EIS and other study documents prepared for FHWA.	Consent Agenda	N/A	Don Matson	May 2010	N/A	610
47.	Workshop – Air Quality Conformity Process	No	COMPASS and DEQ staff will facilitate a discussion regarding air quality conformity and the transportation system.	Workshop	60	TBD	TBD	N/A	N/A
48.	Workshop- High Capacity Transit Projects and Land Use	No	Consultant facilitated Board Workshop on high capacity transit projects and related land use issues.	Workshop	60	TBD	TBD	N/A	N/A
49.	Status Report – Transportation Project Coordination	No	Staff will report on progress in coordinating transportation projects and construction related delays	Information/ Discussion	15	Charles Trainor	TBD	TBD	701

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Item #	Title/Description	Mandatory¹	Policy Implications/Requirements	Agenda Type²	Time	Presenter	Proposed Agenda	RTAC Agenda	Program No.
45.	Receive update on Findings and Recommendations of SH 44 Corridor Preservation Study Environmental Impact Statement (EIS) and other documents	No	Staff will present an update of findings and recommendations in EIS, other documents.	Information/ Discussion	5	Don Matson	April 2010	CPC Mar 2010	610
46.	Accept Recommendations of SH 44 Corridor Preservation Study	No	Staff will present and seek acceptance of EIS and other study documents prepared for FHWA.	Consent Agenda	N/A	Don Matson	May 2010	N/A	610
47.	Workshop – Air Quality Conformity Process	No	COMPASS and DEQ staff will facilitate a discussion regarding air quality conformity and the transportation system.	Workshop	60	TBD	TBD	N/A	N/A
48.	Workshop- High Capacity Transit Projects and Land Use	No	Consultant facilitated Board Workshop on high capacity transit projects and related land use issues.	Workshop	60	TBD	TBD	N/A	N/A
49.	Status Report – Transportation Project Coordination	No	Staff will report on progress in coordinating transportation projects and construction related delays	Information/ Discussion	15	Charles Trainor	TBD	TBD	701

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MEMORANDUM

To: COMPASS Executive Committee

FROM: Toni Tisdale, Principal Planner

DATE: July 9, 2009

RE: **Status Report – Project Delivery Deadlines**

ACTION REQUESTED:

None. Information only.

BACKGROUND:

ITD established a Project Delivery Team (Team) in September 2008 to review the project delivery process, identify potential efficiencies, determine the day to day philosophy for on-time/on-budget project delivery priorities, and recommend solutions or methods to better establish budgets and scopes. One of the tools the Project Delivery Team recommended is a more aggressive deadline for project delivery, i.e. projects going out for bid at the beginning of the fiscal year.

STATUS:

The Team recommended a phase-in period in which to meet obligations by the beginning of the fiscal year. The Team anticipated making the change to obligate early in the fiscal year is not possible because of the following reasons:

- The scopes of work will change on some projects.
- Budgets will continue to change.
- Projected delivery dates of some projects may not be realistic.

The Team provided a graphic showing the phase-in period over three years (Attachment 1). This approach refigures the baseline of each project's scope so funds are obligated at the beginning of the fiscal year for all state projects. Therefore, construction can be scheduled throughout the year in the most efficient way.

COMPASS staff recommends a similar approach for local projects.

Attachment (1)

pc: 685

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Attachment 1
Statewide Transportation Improvement Program Phase-In Period

