

# MEMORANDUM

**TO:** Matt Stoll, Executive Director  
**FROM:** Toni Tisdale, Principal Planner  
**DATE:** June 7, 2011  
**RE:** **Request for Approval of Administrative Modification #6 for the FY2011-2015 Regional Transportation Improvement Program (TIP)**

## **ACTION REQUESTED:**

Request for approval of Administrative Modification #6 for the FY2011-2015 Regional Transportation Improvement Program (TIP).

## **BACKGROUND:**

On June 2, 2011, Ada County Highway District (ACHD) staff requested a change in the Three Cities River Crossing High Priority project. ITD received a letter on February 22, 2011 (Attachment 1) from the Federal Highway Administration providing options for a change in scope for the Three Cities River Crossing project. ACHD decided on a "no-build" scenario for the river crossing project, but elects to use available funding for operational improvements in the study corridor. The Three Cities River Crossing has already been removed from the air quality conformity demonstration, meaning no change is required to that document.

## **STATUS:**

The following changes are proposed to the FY2011-2015 Regional Transportation Improvement Program:

Per the ACHD request on June 2, 2011:

- **Three Cities River Crossing, US 20/26 to SH-55 Corridor Preservation (09189)** – Change the scope of the project. Decrease right-of-way in FY2011 by \$2,914,000. Increase preliminary engineering consulting in FY2011 by \$200,000. Increase construction engineering in FY2013 by \$247,000 and construction in FY2013 by \$2,467,000. There is no net monetary change to the project.

Details of the changes are provided in Attachment 2.

## **Approval:**

**All changes for Administrative Modification #6, as provided in this memorandum and detailed on Attachment 1, are approved as of June 7, 2011.**



**Matthew J. Stoll, Executive Director  
Community Planning Association**

Attachments (2)  
pc: 685.03

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U.S. Department  
of Transportation  
**Federal Highway  
Administration**

**Idaho Division**

3050 Lakeharbor Lane, Suite 126  
Boise, Idaho 83703-6217  
208-334-1843  
Idaho.FHWA@fhwa.dot.gov

February 22, 2011

Reply To: HFO-ID

Mr. Brian W. Ness, Director  
Idaho Transportation Department  
P.O. Box 7129  
Boise, ID 83707

Attention: Sue Sullivan

RE: Three Cities River Crossing (3CRX), STP-0003(157) KN 08821

Dear Mr. Ness:

This letter is in response to your letter of October 7, 2010 and ACHD's September 24, 2010 letter to ITD on this project. At a December 13, 2010 meeting with FHWA, ACHD, and ITD District 3, ACHD proposed to complete the National Environmental Policy Act (NEPA) process and implement operational improvements to existing State Highway facilities.

At the December 13, 2010 meeting, ACHD requested that FHWA answer several questions related to SAFETEA-LU high priority project eligibility and compliance with 23 CFR 771 (NEPA Procedures). ACHD also asked FHWA to share available options on how to proceed with the project. Since ACHD does not intend to withdraw the project from the Federal-aid program, all options will require completion of the NEPA process.

#### **Question 1**

Can ACHD and FHWA select a No Build with operational improvements worth up to \$3 million in earmark funds at multiple locations in the study area, rather than the 3CRX proposed action presented in the DEIS?

**Answer:** Yes. Because earmark funds are not strictly limited to ROW, they can be made available for completing the PE process and constructing operational improvements which meet the purpose and need for the project. In the December 13 meeting, ACHD proposed implementing operational improvements in the 3CRX Corridor study area in lieu of selecting the No Build as the preferred alternative. Four projects were presented for consideration of



possible earmark funding. FHWA determines that three meet the purpose and need established for the 3CRX project. These are:

- (1) Southbound right turn lane on Eagle Road at Chinden;
- (2) Median Island on Eagle Road from Chinden to SH-44; and
- (3) ITS enhancements

Note that any operational improvements done on the Eagle Road Corridor must be consistent with the previous (d) list Categorical Exclusion Environmental Approval Decision of May 10, 2007. This covered Eagle Road Infrastructure Improvements, North Phase, Central Phase etc; NH-3270(165), (167), (168), etc.

#### **Question 2**

Does the United States Army Corps of Engineers (USACE) have to look at a revised DEIS or FEIS if ACHD is allowed to move forward with operational improvements?

**Answer:** Yes. There should be communication with the USACE informing them of the changes in the project. However, the USACE may choose not to review and comment on a revised environmental document, especially if the proposed actions do not directly affect resources the USACE regulates.

#### **Question 3**

Does ACHD have to do a re-evaluation of the DEIS as noted in FHWA's October 30, 2010 letter?

**Answer:** It depends on how ACHD would like to move forward. If ACHD decides to pursue the No Build Option and nothing else, then yes a re-evaluated DEIS would be needed. If ACHD decides to pursue the Build Option as noted in the DEIS along with operational improvements, then yes a re-evaluated DEIS would be necessary. Two additional options noted below would require different paths to complete the NEPA process.

#### **Question 4**

If ACHD decides to pursue a No Build Option with operational improvements for the \$3 million in earmark funds, can the operational improvements be evaluated in the FEIS without evaluating them in a re-evaluated DEIS?

**Answer:** No. If ACHD decides to pursue a No Build Option with operational improvements, a Supplemental DEIS will need to be prepared to remove the Build Option currently identified in the DEIS and to add the proposed operational improvements. Under this option, a re-evaluated DEIS is not allowed and a FEIS and ROD would also need to be completed.

**Question 5**

If Congress rescinds unobligated earmark funds, will the \$3 million in unobligated funds for this project be lost?

**Answer:** Yes. FHWA has confirmed that if Congress rescinds the \$3 million in unobligated earmark funds they will be withdrawn from the project and lost from future use in Idaho. If the funds are obligated; however, they are not likely to be withdrawn. Our office encourages ACHD/ITD to obligate these funds in a timely manner to minimize possible loss to a congressional rescission.

**Question 6**

Can the approximate \$1.56 million in STP funds already expended for PE activities be reimbursed with SAFETEA-LU high priority earmark funds for this project?

**Answer:** No. Recent FHWA guidance explains that earmark funds must be obligated on the earmarked project if future project costs are sufficient to spend the entirety of the available funds once obligated, even if formula funds (STP, NHS, etc) have already been obligated and expended.

FHWA recommends that the \$3 million in earmark funds be obligated as soon as possible for future costs associated with the remaining PE activities and construction of operational improvements in the corridor. This may reduce the likelihood that earmark funds spending authority would be lost due to a congressional rescission. Under 23 CFR 630.110(a), a project agreement should not be modified to replace one Federal fund category with another unless specifically authorized by statute.

Therefore, the available options are:

**Option 1: No Build**

To eliminate the recommended preferred alternative presented in the DEIS and advance the No Build option, ACHD must re-evaluate the DEIS with emphasis on the changed circumstances and information developed since the DEIS was made available in December 2007. The FEIS and ROD would then need to be completed to finish the NEPA process.

**Option 2: No Build with Operational Improvements**

To eliminate the recommended preferred alternative presented in the DEIS and advance operational improvements, ACHD must prepare a Supplemental DEIS, with emphasis on the changed circumstances and information developed since the DEIS was made available for comment in December 2007. The proposed operational improvements would need to be evaluated in the Supplemental DEIS and circulated for comment prior to a FEIS and ROD.

Option 3: Build Alternative with Operational Improvements

To advance construction of the Three Cities River Crossing Bridge as noted in the December 2007 DEIS along with operational improvements, ACHD must re-evaluate the DEIS, with emphasis on the changed circumstances and information developed since the DEIS was made available for comment. Operational improvements (Phase 1) would need to be introduced in a re-evaluated DEIS and further evaluated in the FEIS. Construction of the 3CRX (Phase 2) would occur in the future should funding become available.

Option 4: Operational Improvements

To advance construction of operational improvements for the 3CRX Corridor study area, ACHD could rescind the Notice of Intent for the EIS negating the need to re-evaluate the DEIS. If ACHD decides to pursue this option, FHWA recommends that ACHD down scope to completing an EA/FONSI in order to move forward with completion of the NEPA process. Once the earmark funds are obligated, from that point forward, funding spent to complete PE activities and construction of operational improvements are eligible for reimbursement with earmark funds.

Please also note that regional air quality conformity may need to be addressed and re-modeled since the 3CRX was previously a “regionally significant” project in the Transportation Improvement Program.

We look forward to working with your staff and ACHD to make this process as expedient and fiscally prudent as possible, while ensuring a process with integrity that leads to a valid NEPA decision. Once you reach a decision on a future course of action, please let our office know and prepare a proposed schedule for moving forward. Should you have any questions please contact Ross Blanchard, Operations Engineer, at 208-334-9180 x112 or via e-mail at [ross.blanchard@dot.gov](mailto:ross.blanchard@dot.gov).

Sincerely,

(original signed by)

John A. Perry  
Field Operations Engineer

E-Mail cc: Hartman, Shanine, Inghram, Perry, Blanchard

ITD Vicki Jewell-Guerra, Wade Christiansen; ACHD Sally Goodell

Recommended Changes to the FY2011-2015 TIP  
Per the ACHD  
June 2, 2011

Key No	Project	Scheduled Costs (including Match) (costs in \$1,000)							SUM
		Phase	2011	2012	2013	2014	2015	PD	
09189	Three Cities River Crossing, US 20/26 to SH 55 Corridor Preservation	PE							0
		PC	0 200						0 200
	Funding Source: High Priority SAFETEA-LU	RW	2914 0						2914 0
	This project would cross the Boise River from the City of Boise northbound between Eagle and Garden City, and is currently shown on the 2030 Functional Classification map as a principal arterial. <u>The purpose and need of the project is to improve travel capacity, reduce congestion, and accommodate future demand on the river crossings in the area bounded by SH 44, SH 55 (Eagle Rd), SH 44 (Glenwood St), and US 20/26 (Chinden Blvd).</u>	UT							0
		CE			0 247				0 247
		CN			0 2467				0 2467
		<b>Sum</b>	2914 200	0	0 2714	0	0	0	0
	Change scope of project (FHWA approved). Remove \$2,914,000 in RW in FY2011. Move \$200,000 to PC in FY2011, \$247,000 in CE FY2013, and \$2,467,000 in CN in FY2013.								