

ADA COUNTY, IDAHO

INTERLOCAL AGREEMENT
FOR
ADEQUATE TRANSPORTATION FACILITIES PLANNING

Consortium Review Draft

July 27, 2008

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**Ada County
Interlocal Agreement**

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Statutory Basis and Intent

This is an interlocal agreement for adequate Transportation Facilities planning in Ada County. This agreement is made and entered into this ___ day of _____, 2008, by and between the Ada County Highway District, an independent unit of local government in the State of Idaho (“ACHD”), and the County/City, a political subdivision of the State of Idaho (“County/City”).

WHEREAS, the County/City and the ACHD recognize their mutual obligation and responsibility for the responsible growth, adequate provision of transportation facilities, and general well-being of the residents of Ada County; and

WHEREAS, it is mutually beneficial for the County/City and the ACHD to support efforts that facilitate coordination of planning for the location and development of Transportation Facilities to serve the residents of Ada County and to ensure that the impacts of new development occur only in accordance with the ability of the County/City and the ACHD to maintain adequate levels of service; and

WHEREAS, Transportation Facilities should be available to meet demands from development; and

WHEREAS, the ACHD is responsible for planning for and providing essential transportation facilities; and

WHEREAS, the City/County is responsible for approving development that generates demands for Transportation Facilities; and

WHEREAS, ACHD and the County/City have mutually agreed that coordination of transportation facility planning and Development decisions is in the best interests of the citizens of Ada County; and

WHEREAS, the City/County and ACHD endorse the goals and policies of the Blueprint for Good Growth; and

WHEREAS, the City/County and the ACHD are permitted to enter into this Interlocal Agreement pursuant to Section 67-2328 of the Idaho Code; and

WHEREAS, the County/City and the ACHD, and the (other) municipalities within the County (and the County) have met and coordinated with respect to the statutory responsibilities for a county-wide, adequate transportation facilities program; and

WHEREAS, the County/City agrees to amend its land development regulations, as appropriate and necessary, to effectuate its obligations under this Agreement and state statute; and

WHEREAS, the County/City has the sole authority to undertake land use planning and to implement necessary land development regulations within its jurisdiction in regards to the Adequacy of Transportation Facilities; and

WHEREAS, this Agreement does not abrogate the subdivision authority of ACHD, neither is intended to nor does it delegate or transfer any **County/City** land use planning or regulatory authority to the ACHD.; and

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WHEREAS, The County/City and ACHD concur that this Interlocal Agreement is intended to promote efficient growth patterns and should be applied in a manner to encourage infill development supported by local comprehensive plans.

NOW THEREFORE, be it mutually agreed between the County/City and Ada County Highway District that the following requirements and procedures shall be utilized in coordinating land use and the provision of transportation facilities:

Section 1 Definitions.

The following definitions supplement the definitions in the Adequate Public Facility Ordinance. All definitions from the Adequate Public Facilities Ordinance are applicable to this Interlocal Agreement.

- (A) **ACHD Board.** The Board of Commissioners of the Ada County Highway District
- (B) **ACHD Transportation Impact Fee Ordinance.** The adopted ACHD impact fee requirements and any subsequent amendments.
- (C) **Adequate Public Facility Ordinance.** The ordinance adopted by the **County/City** implementing adequate public facility requirements for Transportation Facilities in accordance with this Agreement.
- (D) **Agent.** A representative authorized by a property owner to submit or support an Application.
- (E) **Agreement/Interlocal Agreement.** This interlocal agreement which helps to implement adequate public facility requirements for Transportation Facilities, including all attachments hereto.
- (F) **Board.** The Ada County Board of County Commissioners.
- (G) **Comprehensive Plan.** The adopted Comprehensive Plan for the **County/City**.
- (H) **Concept Plan.** A scaled drawing of proposed Development, Transportation Facilities and other information required by the **County/City**.
- (I) **Construction Cost Index.** The annual change in construction costs published by Engineering News Record.
- (J) **Council.** The City Council of the City of [insert city name].
- (K) **Developer.** A person who causes Development to occur.
- (L) **Mitigation Agreement Application.** An Application submitted to ACHD that proffers one or more contributions, restrictions or conditions to coordinate the timing and magnitude of Proposed Demands with Available Capacity.
- (M) **Pre-development Value.** The value of unimproved land at the time of contribution, based on similarly situated properties that have not been developed.

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Section 2 Coordination and Sharing of Information

Section 2.1 Joint Meetings

Staff of the County/City and the Ada County Highway District (Hereinafter "ACHD" or "District") shall meet at least quarterly to discuss issues regarding coordination of land use and Transportation Facilities planning, including such issues as: population and building permit projections, development trends, traffic impacts, infrastructure needs, growth trends, and the cumulative affect of de minimis developments approved without Traffic Impact Studies. Additionally, participants shall discuss opportunities to improve the effectiveness of implementing Transportation Facility Adequacy. ACHD staff shall be responsible for making meeting arrangements. COMPASS staff shall be invited to attend these meetings.

**Quarterly staff
coordination meetings**

Section 2.2 Oversight Process

The effectiveness with which the Interlocal Agreement is being implemented shall be considered at an annual joint workshop between the elected officials of the County, the cities of Ada County and the ACHD. The staff representatives of each local government and the ACHD shall provide technical review and recommendations regarding any need for change to the provisions of the Agreement. The workshop shall be publicly noticed and the agenda shall provide an opportunity for public input and comment. The representatives of each of the local governments and ACHD will report back to their respective bodies with recommendations for any needed changes to this Agreement.

**Annual APF review
meetings**

Section 2.3 Monitoring

(A) The County/City shall report monthly all Development Approvals and expired Development Approvals to COMPASS to facilitate monitoring of Committed Demands.

**Monthly development
approval summaries**

(B) The ACHD shall coordinate with COMPASS to monitor Existing Demands and refine traffic modeling reliability in projecting traffic demands.

(C) Annually, ACHD, in coordination with COMPASS staff, shall provide the County/City with a report on growth and development trends in both the County and each municipality. The County and each municipality shall provide the following information to the ACHD by [redacted] of each year:

**Annual summary of
development trends
and APF impacts**

- (1) An inventory of potential dwelling units that have received Preliminary Plat or Site Plan approval but have not yet received certificate of occupancy approval and a projection of the number of these units that are anticipated to receive certificate of occupancy approval in the next three years;

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- (2) An inventory of approved developments qualifying as de minimis, including total number of dwelling units and square footage of non-residential space;
 - (3) Information regarding Future Land Use Map Amendments which may have an impact on Transportation Facilities;
- (D)** The ACHD shall compile this data into a report, in tabular, graphic, and textual formats, providing the following information:
- (1) A breakdown of Committed Demands and Existing Demands for the County/City;
 - (2) An analysis of the collective impacts of Development Approvals not subject to this Agreement;
 - (3) An analysis of the impacts of Committed Demands on Programmed Transportation Facilities;
 - (4) An analysis of the projected traffic impacts and impact on Transportation Facilities of any Future Land Use Map Amendments reported by the County or a municipality; and
 - (5) A status report on efforts to refine traffic modeling capabilities.
- (E)** The County/City and the ACHD will use the information described in this Agreement to revise acceptable levels of service, as appropriate, to make the most efficient use of Transportation Facilities.

**Annual report used to
inform LOS changes**

Section 3 Work Plan and Comprehensive Plan Amendments

Section 3.1 Work Plan Amendments

Annually, the ACHD shall submit a draft tentative Work Plan to the County/City for review and comment forty-five (45) days prior to the public hearing for adoption. The notice shall include a description of proposed amendments to the Plan that may affect Projected Demands or Capacity, Levels of Service provided, or the Adequate provision of Transportation Facilities.

Section 3.2 Comprehensive Plan Transportation Element Development and Update

The County/City will coordinate with the ACHD and affected local governments to develop or update a Transportation Facilities Element as part of its Comprehensive Plan.

Section 4 Adequate Transportation Facilities Implementation

Section 4.1 Development Review Requirements.

- (A)** Applicable Developments
 - (1)** Applications for approval of Site Plan for Multi-family or Non-residential Developments; Preliminary Plats for single family or duplex lots; zoning map amendments; or future

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land use map amendments shall be subject to this Agreement if they exceed the traffic generation thresholds established in the ACHD Policy Manual.

(2) Phased Developments

- (i) Proposed developments may not be phased or subdivided in piecemeal fashion to avoid application of TIS or adequacy requirements. In determining applicability thresholds, Study Areas and LOS standards, all land at one location within the County under common ownership or control by a developer shall be included in a review of a zoning or future land use map amendment.
- (ii) If land is subdivided in phases, the TIS shall be based on a concept plan encompassing all contiguous land holdings under unified ownership. The need for subsequent TIS and adequacy findings shall be based on the consistency of subsequent phases of development with the original Concept Plan. If approval of development in subsequent phases is not sought at the time of application, a TIS shall be required when the cumulative demands from multiple phases reach thresholds established by ACHD. If the applicant does not wish to show planned development for a portion of the holdings, the Concept Plan shall designate these areas as vacant, which shall defer the analysis of future Development of these areas.
- (iii) Two or more developments represented to be separate developments shall be aggregated and treated as a single development under this Agreement if the **City/County** Planning Director determines them to be part of a unified plan of development and physically proximate to one another, based on the following factors:
- (a) The same person has retained or shared control of the developments;
 - (b) The same person has ownership or a significant legal or equitable interest in the developments; or
 - (c) There is common management of the developments controlling the form of physical development or disposition of parcels of the development.
 - (d) There is reasonable closeness in time between the completion of eighty (80) percent or less of one development and the submission of an Application for a subsequent development that is indicative of a common development effort.
 - (e) There is a common advertising scheme or promotional plan in effect for the developments.
 - (f) The voluntary sharing of infrastructure that is indicative of a common development effort or is designed specifically to accommodate the developments.

**The Planning Director
ensures that phasing is
not used to evade
APFO review**

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- (g) Any information provided by the Applicant that the project is being phased or subdivided to avoid the requirements of this Agreement.

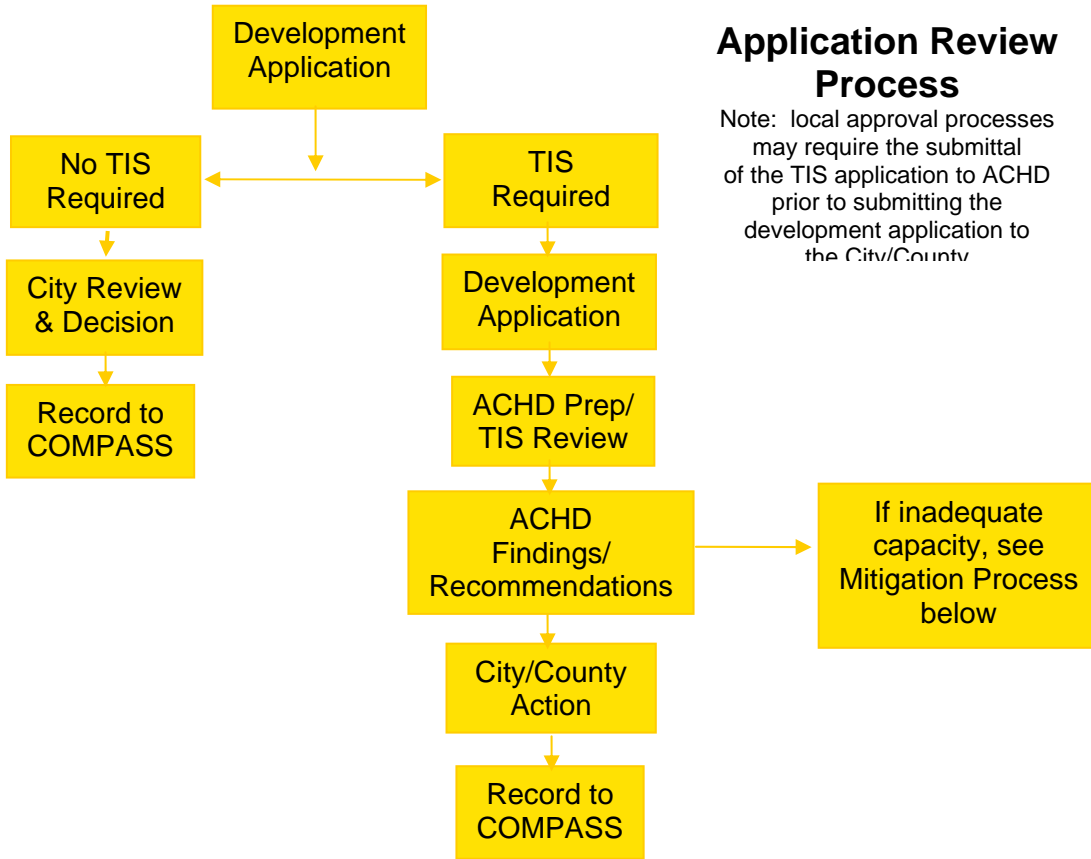
(B) Review Procedures

- (1) Nothing in this Agreement is intended to discourage Applicants from coordinating with ACHD and the City/County staff in advance of the timeframes established herein. ACHD and the City/County will encourage all Applicants to meet with staff prior to Application submittals. ACHD will review Traffic Impact Studies or Map Amendment Studies prior to submittal of an Application to the City/County. While Applicants may request and receive an advance finding of Adequacy and an allocation of Capacity, the Capacity shall not be allocated for more than three (3) years unless granted subject to a development agreement pursuant to state law or a Mitigation Agreement.
- (2) The City/County shall require Applicants subject to the thresholds established in this Agreement to submit a completed Traffic Impact Study or Map Amendment Study in accordance with the criteria established in the ACHD Policy Manual to ACHD **at least 45 days** prior to hearing a Development Application subject to this Agreement.
- (3) ACHD Review. ACHD will review the traffic impacts of the Application in accordance with the ACHD Policy Manual requirements and ACHD staff shall prepare written recommendations to the City/County within **thirty (30)** days of submittal of the applicable study unless the Applicant requests an extension to address Transportation Facility Deficiencies identified during the review process.
- (4) ACHD Recommendations on Application. Based on the results of the Map Amendment Study or TIS, and Mitigation Agreement, if applicable, **ACHD** shall:
 - (i) Certify that there is Available Capacity to serve the Proposed Demands from the approved Application at the adopted Level of Service established in **§4.2** of this Agreement;
 - (ii) Certify that there is Available Capacity to serve the Proposed Demands from the proposed Development at the adopted Level of Service established in **§4.2** of this Agreement subject to acceptance of the Applicant's Mitigation Agreement; or
 - (iii) Recommend denial of the Application for development for which the Traffic Impact Study is submitted based on the lack of Available Capacity after deducting Proposed Demands. If denial is recommended, the recommendation shall document the unresolved Transportation Facility Deficiency that would result from the Development.
- (5) If the Applicant chooses to Mitigate a Transportation Facility Deficiency, the Applicant's proposed Mitigation Agreement shall be reviewed in accordance with **§4.3** of this Agreement.
- (6) Effect of **City/County** Application Approval. Approval of an Application subject to a Traffic Impact Study shall exempt the subject development from a future assessment of Adequacy if:

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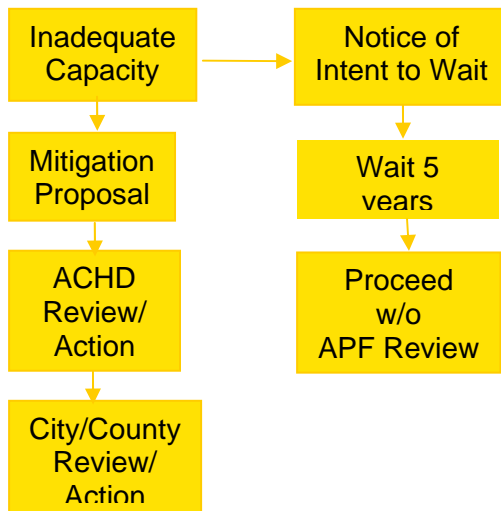
- (i) A final plat for an applicable Preliminary Plat or planned development is recorded within three (3) years of the action requiring a TIS, or a certificate of occupancy is granted for the applicable site plan within two (2) years of the site plan approval. If the area covered by a final plat is less than the area described in the Preliminary Plat, the Application may be exempt from future assessment of Adequacy if the Applicant enters into a Mitigation Agreement addressing the phasing of development and the timing of development of future phases; or
 - (ii) The Applicant is in compliance with the terms of an approved Mitigation Agreement addressing Transportation Facility Adequacy.
- (7) Consideration of ACHD Findings and Recommendations. An Applicant may request the **Board/Council** to consider actions that are inconsistent with ACHD findings and recommendations, made pursuant to the terms of this Agreement. The Applicant shall have the opportunity to present the reason for the requested action and evidence in support of the change. The **Board/Council** may take action that is not consistent with ACHD's findings and recommendations if it determines:
- (i) The public benefits of approving the Application exceed the detriment resulting from approval of the Application; and
 - (ii) The recommended mitigation will be detrimental to the public good; and
 - (iii) The findings and recommendations are inconsistent with the goals, objectives and policies of the Comprehensive Plan and the Blueprint for Good Growth; and
 - (iv) The findings and recommendations are inconsistent with the purposes of the City/County Adequate Public Facility Ordinance.

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Application Review Process

Note: local approval processes may require the submittal of the TIS application to ACHD prior to submitting the development application to the City/County



Mitigation Process

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Section 4.2 Level-of-Service Standards

LOS CRITERIA AND REQUIRED FINDINGS

- (A) The Level of Service standards in **Table 1-1 and Map 1**, shall be used when determining the adequacy of intersections and roadway segments within the Study Area except as provided in **Table 1-2**.

Table 1-1: Level of Service Standards

Planning Works is coordinating with TLIP process to identify appropriate level of service standards. Current discussions are focusing on defining LOS in terms of peak hour capacity and some secondary hour.

- (B) **Table 1-2** identifies roads for which Existing or Committed Demands exceed the Level of Service Standards established in **Table 1-1**. The City/County may accept alternative mitigation measures established in **§4.3 (B)** to accommodate demands from applications affecting these roads.

Table 1-2: Constrained Road Segments List

The TLIP process will identify roads that do not or are projected to fail to meet adopted LOS standards

- (C) For approval of Preliminary Plat and Site Plan applications, there must be Available Capacity to serve Proposed Demands and maintain adopted LOS standards unless approval is conditioned upon the approval of a Mitigation Agreement addressing Transportation Facility Deficiencies.
- (D) For Zoning Map Amendment and Future Land Use Map Amendment applications, there should be Adequate Planned Capacity to meet Projected Demands, including the Proposed Demands from the Application.
- (E) For an intersection to be found to meet the adopted LOS standards, each turning movement within the intersection must meet the adopted LOS.

Section 4.3 Mitigation

- (A) If Proposed Demand exceeds Available Capacity, the County/City shall defer action on the Application until the Applicant submits a Mitigation Agreement Application to ACHD and other applicable Transportation Facility providers that addresses the Transportation Facility Deficiency through one or more of the actions described in §4.8 of this Agreement or files a notice of intent to wait for Available Capacity pursuant to §4.5 of this Agreement. Other Transportation Facility providers' approval is required only if an improvement of a provider's Transportation Facilities as a condition of Mitigation approved by the County/City and ACHD.

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- (B) For Applications that would increase congestion on constrained Transportation Facilities identified in **Table 1-2**, the following alternative forms of Mitigation may be approved by ACHD and the City, even if there is insufficient Available Capacity to serve the proposed Development after Mitigation.
- (1) Redesign ingress and egress to the project to reduce traffic conflicts;
 - (2) Integrate multi-modal design components (e.g., pedestrian and bicycle paths or transit improvements) to reduce trip generation, or
 - (3) Implement other Transportation Facility improvements, operational improvements, access management strategies, demand management strategies approved by ACHD and other applicable Transportation Facility providers.

Section 4.4 Review and Approval of Developments Providing Mitigation

- (A) Proposed Mitigation shall initially be submitted by the Applicant for review by ACHD, which shall recommend approval of Mitigation measures only upon finding that the measures adequately Mitigate the transportation impacts of the Application.
- (B) The **Council/Board** shall review the proposed Mitigation measures after receiving the staff or Planning Commission recommendations as applicable. To approve the proposed Mitigation and enter into a binding Mitigation Agreement, the **Council / Board** must find that the proposed Mitigation ensures that Programmed and Available Capacity will not be exceeded by Proposed Demand, subject to the provisions of **§4.1(B)(7)** of this Agreement.
- (C) The **Council/Board** shall approve Mitigation Agreements that provide any Transportation Facility improvement that is part of the adopted Work Plan or Capital Improvements Plan. The **Council/Board** may approve Mitigation Agreements that provide other Transportation Facility improvements.
- (D) Proposed Mitigation shall be included as a condition of approval and documented in a binding Mitigation Agreement between the Applicant, the **City/County**, and ACHD or other Transportation Facility as appropriate. The Mitigation Agreement shall document the mitigation measures, ensuring that development demands are coordinated with the availability of adequate capacity.

Section 4.5 Alternative to Mitigation

As an alternative to mitigating an identified Transportation Facility Deficiency, an Applicant may submit a notice of intent to wait until there is Available Capacity to serve Proposed Demand pursuant to the Work Plan, but no longer than five (5) years from the date of submittal of a complete application. If the Applicant chooses to wait for available capacity, the submittal of an Application having no greater traffic impact than the one initially submitted shall become an Exempt Development for purposes of transportation adequacy after the end of the five (5) year waiting period. Neither ACHC nor the County/City shall require Mitigation to address off-site Transportation Facility Deficiencies as a condition of approval of an Exempt Development

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Application. An Application that is subject to a notice of intent to wait shall not be exempted from any other development regulations in effect at the time of the application is resubmitted.

Section 4.6 Capacity Improvements/Proportionate Fair-Share Provisions

- (A) The proportionate fair-share provisions shall apply to all Mitigation Agreements.
- (B) Minimum Requirements for Mitigation.
 - (1) An Applicant may choose to satisfy the Transportation Facility Level of Service requirements set forth in this Agreement by making a proportionate fair-share contribution, pursuant to the following requirements:
 - (i) The proposed development is consistent with the Comprehensive Plan and applicable land development regulations.
 - (ii) The Work Plan includes Transportation Facilities that upon completion, will adequately mitigate Proposed Demand.
 - (iii) If ACHD determines that the Available Capacity of the transportation improvements set forth in the Work Plan has already been consumed, or the Work Plan does not reflect the transportation improvement needed to satisfy adequacy, then the provisions of §4.6(B)(2) shall apply.
 - (2) The **City/County** may choose, but is not obligated, to allow an Applicant to satisfy Transportation Facility Adequacy by contributing to an improvement that, upon completion, will adequately Mitigate the additional traffic generated by the proposed Development as follows:
 - (i) The ACHD Board adopts, by resolution or ordinance, a commitment to add an applicable arterial street improvement to the Work Plan.
 - (ii) If the funds allocated for the Work Plan are insufficient to fund construction of a Transportation Facility required to meet Proposed Demands, the **City/County** may still enter into a binding Mitigation Agreement with the Applicant and ACHD. The Mitigation Agreement shall authorize construction of that amount of development on which the proportionate fair share is calculated if the funding provided by the Mitigation Agreement is sufficient to pay for one or more improvements which will, in the opinion ACHD, significantly benefit the impacted transportation system. Proposed Transportation Facility not included in the Work Plan may be allowed by the **City/County** as Mitigation subject to ACHD approval if they would significantly reduce access problems and increase mobility by addressing congestion or trips on a major transportation corridor. Mitigation may include but is not limited to new or improved roads, service roads, bicycle and pedestrian facilities, improved network development and connectivity, transit facilities and/or operations, ridesharing programs and trip reduction measures, or a combination thereof. Arterial street improvements funded by the Applicant must be added to the Work Plan at the next update on the timing established in the Mitigation Agreement.

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- (3) Any improvement project proposed to meet the Applicant's obligation must meet design standards of ACHD for locally maintained roadways and those of the Idaho Transportation Department (ITD) for improvements affecting the state highway system.
- (C) Mitigation Agreement Application Process.
- (1) Prior to submitting a Mitigation Agreement Application, a pre-application meeting shall be held to discuss eligibility, application submittal requirements, potential mitigation options, and related issues.
- (2) Eligible Applicants shall submit a Mitigation Agreement Application to the **City/County** that includes the following:
- (i) Name, address and phone number of owner(s), developer and agent;
 - (ii) Property location, including tax parcel identification numbers;
 - (iii) Legal description and survey of property;
 - (iv) Project description, including type, intensity and amount of Development;
 - (v) Phasing schedule, if applicable;
 - (vi) Description of requested proportionate fair-share mitigation methods;
 - (vii) Estimated value of proposed fair-share mitigation pursuant to this Agreement.
- (3) ACHD shall review the Mitigation Agreement Application and certify that the Application is sufficient and complete within thirty (30) calendar days. If an Application is determined to be insufficient, incomplete, or inconsistent with the general requirements of this Agreement, then the Applicant will be notified in writing of the reasons for such deficiencies within thirty (30) calendar days of submittal of the Application. If Mitigation Agreement Application deficiencies are not remedied by the Applicant within sixty (60) calendar days of receipt of the written notification, then the Mitigation Agreement Application will be deemed abandoned. ACHD may grant an extension of time if requested in writing from the Applicant not to exceed **sixty (60)** calendar days to cure such deficiencies, provided that the Applicant has shown good cause for the extension and has taken reasonable steps to effect a cure.
- (4) When an Application is deemed sufficient, complete, and eligible, the Applicant shall be advised in writing and a proposed Mitigation Agreement will be prepared by the Applicant with direction from ACHD and the **County/City** and delivered to the appropriate parties for review no later than thirty (30) calendar days from the date at which the Applicant received the notification of a sufficient.
- (5) The **City/County** shall notify the Applicant regarding the date of the **Council/Board** meeting when the Mitigation Agreement will be considered for final approval. No Mitigation Agreement will be effective until approved by the **Council/Board, the ACHD Board** and other applicable Transportation Facility provider.

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(D) Methodology for Determining Proportionate Fair-Share.

- (1)** Proportionate fair-share Mitigation for Transportation Facility Deficiencies may include, without limitation, separately or collectively, private funds, contributions of land, construction and contribution of facilities, and funding of transit or rideshare vehicles and/or operations in accordance with subsection (7) of this section, provided that the ACHD Board determines that the proposed Mitigation adequately addresses transportation demands generated by the proposed development by maintaining or achieving adopted Levels of Service for impacted Transportation Facilities. In the case of land contribution, the land value shall be based on Pre-development Value.
- (2)** A development's required proportionate fair-share shall be calculated pursuant to this Section. A development shall not be required to pay more than its proportionate fair share; however, to qualify under the provisions of §4.6(b)(2), an Applicant may agree to pay more than the proportionate fair-share amount calculated herein.
- (3)** The methodology used to calculate an Applicant's proportionate fair-share obligation shall be the cumulative number of trips from the proposed development expected to reach applicable roadways and intersections during peak hours from the complete build out of a stage or phase being approved, divided by the change in the Peak Hour Maximum Service Volume (MSV) of roadways and intersections resulting from construction of an improvement necessary to maintain the adopted Level of Service, multiplied by the construction cost of the improvement in the year the improvement cost is projected to occur.

OR

$$\text{Proportionate Fair Share} = \sum \left[\left[\frac{\text{Development Trips}_i}{\text{SV Increase}_i} \right] \times \text{Cost}_i \right]$$

Where:

Development Trips_i = Those trips from the stage or phase of development under review that are assigned to the Transportation Facility "i" and have triggered a Transportation Facility Deficiency;

SV Increase_i = Service volume increase provided by the eligible improvement to the Transportation Facility "i";

Cost_i = Adjusted cost of the Transportation Facility improvement "i". Cost shall include all improvements and associated costs, such as design, right-of-way acquisition, planning, engineering, inspection, and physical development costs directly associated with construction at the anticipated cost in the year it will be incurred.

Example:

Development trip generation = 1,000 peak hour trips

Service volume increase of improvement = 4,000 peak hour trips

Cost of Improvements = \$1,000,000

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Proportionate share = (1,000 trips/4,000 trips*\$1,000,000)
Proportionate share = \$250,000

- (4) For the purposes of determining proportionate fair-share obligations, ACHD or the applicable Transportation Facility provider shall determine improvement costs based upon the best estimate of actual cost of the improvement. The cost used for the proportionate fair-share calculation shall be today's cost estimate of tomorrow's cost. Where such information is not available, improvement cost shall be determined using the following method:

An analysis by ACHD of costs by cross-section type that incorporates data from recent projects and is updated annually and approved by the **ACHD Board**. To accommodate increases in construction material costs, projected improvement costs shall be adjusted by the average annual rate of increase in the Construction Cost Index over the three years preceding execution of the proportionate fair-share agreement as follows:

$$\text{Cost}_n = \text{Cost}_0 \times (1 + \text{Cost_growth}_{3\text{yr}})^n$$

Where:

Cost_n = The cost of the improvements in year n;
 Cost_0 = The cost of the improvement in the current year;
 $\text{Cost_growth}_{3\text{yr}}$ = The growth rate of costs over the last 3 years;
n = The number of years until the improvement is constructed.

The three-year growth rate is determined by the following formula:

$$\text{Cost_growth}_{3\text{yr}} = [\text{Cost_growth}_{.1} + \text{Cost_growth}_{.2} + \text{Cost_growth}_{.3}]/3$$

Where:

$\text{Cost_growth}_{3\text{yr}}$ = The growth rate of costs over the last 3 years;
 $\text{Cost_growth}_{.1}$ = The growth rate of costs in the previous year;
 $\text{Cost_growth}_{.2}$ = The growth rate of costs two years prior;
 $\text{Cost_growth}_{.3}$ = The growth rate of costs three years prior

Cost estimates for state road improvements not included in the adopted ITD Work Plan shall be determined using this method in coordination with the ITD District.

- (5) If ACHD has accepted an improvement proposed by the Applicant, then the value of the improvement shall be determined using one of the methods provided in this Section.
- (6) If ACHD has accepted right-of-way dedication for the proportionate fair-share payment, credit for the dedication of the off-site right-of-way shall be valued on the date of the dedication at the value to be agreed to by the Applicant and ACHD, or by fair market value established by an independent appraisal approved by ACHD and at no expense to ACHD. The Applicant shall supply a drawing and legal description of the land and a certificate of title or title search of the land to ACHD at no expense to ACHD and shall deliver at closing clear title by warranty deed to ACHD. If the estimated value of the right-of-way dedication proposed by the Applicant is less than ACHD estimated total proportionate fair-share obligation for that development, then the Applicant must also

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pay the difference. ACHD is authorized to accept forms of proportionate share Mitigation that exceed the actual values calculated above. Under no circumstances shall the **City/County** approve an Application that obligates ACHD or the **City/County** to compensate an Applicant for proportionate fair-share mitigation that exceeds the value calculated above.

- (7) At the discretion of ACHD, the development's overall trips may be reduced by up to twenty (20) percent, with a developer commitment to the implementation of trip reduction measures, to include: an agreed-on set of capital and/or operational contributions; record-keeping and annual reporting by implementers of operational programs; and penalties for failure to implement and maintain the measures for an agreed upon time period. Appropriate capital and operational contributions towards trip reduction will be identified and may include, but are not limited to, transit improvements, vanpool vehicles, preferential parking and other facilities for carpools and vanpools, covered and secure bicycle storage, shower & change facilities available to bicycle commuters, office work-stations available for use by teleworkers, and support for and active promotion of rideshare matching programs.
- (E) Impact Fee Credit for Proportionate Fair-Share Mitigation.
- (1) Proportionate fair-share contributions shall be applied as a credit against impact fees to the extent that all or a portion of the Mitigation is used to address a capital improvement contemplated by ACHD's Transportation Impact Fee Ordinance.
 - (2) Impact fee credits for the proportionate fair-share contribution will be applied for and determined as provided by ACHD. If the Applicant's proportionate fair-share obligation is less than the development's anticipated transportation impact fee for the specific stage or phase of development under review, then the Applicant or its successor must pay the remaining transportation impact fee amount to ACHD pursuant to the requirements of ACHD's transportation impact fee ordinance.
- (F) Appropriation of Revenues.
- (1) Revenues shall be placed in the appropriate project account for funding of scheduled improvements in the Work Plan, or as otherwise established in the terms of the Mitigation Agreement. At the discretion of ACHD, revenues may be used for operational improvements prior to construction of the capacity project from which the revenues were derived.
 - (2) In the event a scheduled facility improvement is removed from the Work Plan, then the revenues collected for its construction may be applied toward the construction of another improvement that ACHD determines would mitigate the impacts of development.
- (G) Reimbursement for Excess Contributions. The Mitigation Agreement may provide for reimbursement from available funding sources when an Applicant chooses to provide more than the proportionate fair-share cost of improvements. Available funding sources may include impact fees, extraordinary impact fees or other development generated revenues

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that would not divert funding from other projects included in the Work Plan or transportation system maintenance.

Section 4.7 Timing of Required Improvements

- (A) If required improvements are to be constructed by the developer, no certificate of occupancy shall be issued for the project until the improvements have been completed unless otherwise specified in the Mitigation Agreement. If there is a reasonable expectation for completion, required improvements may occur after certificate of occupancy if plans have received approval by the City/County and the improvements have been secured by a bond or other method meeting City/County requirements.
- (B) Notwithstanding the above, if a portion of a development project can be accommodated at the specified LOS for the Study Area prior to the need for the improvement based upon the TIS, certificates of occupancy may be issued for that portion of the development project prior to the requirements of (A) above.

Section 4.8 Mitigation Options

The Applicant may propose and ACHD staff may recommend approval of any combination of the following Mitigation measures that will adequately address a Transportation Facility Deficiency:

- (A) Reduce the size, scale, scope or density of the development to reduce traffic generation;
- (B) Divide the project into phases and with only one phase at a time being authorized until traffic capacity is adequate for the next phase of development;
- (C) Dedicate right-of-way for street improvements;
- (D) Construct or fund new street improvements;
- (E) Expand the capacity of existing streets and/or intersections;
- (F) Redesign ingress and egress to the project to reduce traffic conflicts;
- (G) Alter the use and type of development to reduce Peak Hour traffic;
- (H) Eliminate the potential for additional traffic generation from undeveloped properties in the Study Area;
- (I) Integrate multi-modal design components (e.g., pedestrian and bicycle paths or transit improvements) to reduce trip generation, or
- (J) Implement other transportation system improvements, operational improvements, access management strategies, or demand management strategies approved by ACHD to minimize transportation costs

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Section 5 Implementation and Amendments

It is understood that the ACHD Director and the County/City Administrator may, in the implementation and administration of this agreement, act on behalf of their respective Councils/Board in any manner that is customarily delegated. It is also understood that references to the ACHD Chairman or County/City Administrator shall include their duly appointed representatives.

This Agreement constitutes the entire agreement between the parties and no understanding or agreement, oral or otherwise, exists with respect to the subject matter of this Agreement except as expressly set out in this Agreement. This Agreement may be amended only by the written consent of both the County/City and the ACHD.

Section 6 Duration

This Agreement shall be valid until January 1, 2015 unless extended by mutual agreement.

Section 7 Termination

This Agreement is effective upon the date of its execution and shall continue in full force and effect; provided however, that the Agreement shall automatically be renewed for one (1) year periods unless the County/City or the ACHD signifies in writing to the other its intent to terminate the Agreement at least one hundred twenty (120) days prior to the renewal date. It is further provided that either of the two aforementioned parties may terminate this agreement by giving at least one hundred twenty (120) days written notice of its intent. Pursuant to Section 4 herein this Agreement shall be renewed annually.

Section 8 Resolution of Disputes

If the parties to this agreement are unable to resolve any issue(s) in which they may be in disagreement that are covered in this agreement, such dispute will be resolved through non-binding arbitration.

IN WITNESS WHEREOF, this Interlocal Agreement has been executed by and on behalf of the County/City by _____ and the seal of the County/City affixed hereto and attested by the _____ and the Ada County Highway District by its Chairman and its corporate seal affixed hereto and attested by the Executive Director on this _____ day of _____, 2008.