



## AGENDA BILL

<b>Agenda Subject:</b> Resolution #1634 – Approving 9605 S. Eisenman – Boise Gateway 1 – Type 2 Participation Agreement with Boise Gateway 1, L.C.		<b>Date:</b> April 13, 2020
<b>Staff Contact:</b> Matt Edmond	<b>Attachments:</b> 1) Resolution #1634 2) Type 2 Agreement	
<b>Action Requested:</b> Adopt Resolution #1634 approving the Type 2 General Assistance Participation Agreement with Boise Gateway 1, L.C. and authorizing the Executive Director to execute the agreement		

### Background:

9605 S. Eisenman is a proposed 168,000 square foot industrial building with related site improvements located at the southwest corner of Eisenman Road and Freight Street in the Gateway East District. Total development costs are estimated to be just under \$13 Million. Upon completion, the majority of the building will be leased by Verde Fulfillment, a third party logistics and e-retailer fulfillment center with clients from around the world. Building activities include material shipping, warehousing and packing. 9605 S. Eisenman was approved by Design Review on August 14, 2019. The developer broke ground on October 23, 2019 and expects project completion and certificate of occupancy in July of 2020.

The site of 9605 S. Eisenman is part of the 140-acre Boise Gateway Industrial Park, on land owned by the City of Boise and ground leased to the Boyer Company for development. The Boyer Company is a 50 year old full service real estate development firm based in Salt Lake City, Utah. The Boyer Company serves as the Master Developer of the Boise Gateway Industrial Park through a Development Agreement with the City of Boise. Individual projects will be developed on the City property through Ground Lease mechanisms with the City.

Boise Gateway 1, L.C. has requested designation for CCDC's Type 2 Participation Program. Under the Gateway East Participation Program, no scorecard is used and projects are eligible for reimbursement at 80% of tax increment generated for up to six years, subject to Board approval. The public improvements that are eligible for CCDC funding include extending natural gas, power and telecommunications lines, completing the Freight Street frontage with sidewalks, landscaping, and street lights, and installing sidewalks and street lights, as well as water and sewer main line extensions along Eisenman Road. Much of this infrastructure will serve future development within Gateway East.

In July 2019, the CCDC Board approved the Gateway East Participation Program which includes a Type 2 General Assistance Reimbursement. This project meets the requirements of the Type 2 Program and also promotes CCDC and City objectives to diversify Boise’s economy by promoting industrial development. To the knowledge of Agency staff, the project owner has not applied for any incentive programs that are incompatible with Type 2 tax increment reimbursement assistance.

Project Summary and Timeline:

- Located at southwest corner of Eisenman and Freight (south of Winco distribution center)
- 168,000 square feet industrial
- 107 surface parking stalls
- \$12,770,500 Total Development Costs
- \$426,144 Estimated Eligible Expenses
- 100 construction jobs estimated
- 60 permanent jobs estimated
- August 14, 2019 – Design Review Approval
- October 2019 – Construction began
- November 2019 – CCDC Board designated project for Type 2 General Assistance
- April 2020 – Type 2 Agreement Finalize/Execute
- July 2020 – Construction complete
- Summer 2020 – Developer submits costs for reimbursement
- 2020 – Occupancy Year, prorated tax assessment
- December 2021 – Project is on tax rolls and pays property taxes
- 2022 - 2026 - T2 reimbursement based on actual expenses and taxes paid

**Fiscal Notes:**

CCDC can reimburse the project for public improvements. The project has estimated Eligible Expenses of approximately \$426,144; which serve as the not-to-exceed amount in the Type 2 Agreement. The reimbursement will be based on actual expenses incurred, but will not exceed this amount. The reimbursement payment will be based on actual tax increment revenue generated by the project and is estimated to be 100% of the eligible expenses.

Assuming the project is complete per its schedule in June of 2020, the development will receive reimbursements from CCDC beginning in 2022. The increment generated is anticipated to repay 100% of the public improvement expenses within 5 years.

Estimated Reimbursement Payments	
1) September 2022	\$ 94,808
2) September 2023	\$ 94,808
3) September 2024	\$ 94,808
4) September 2025	\$ 94,808
5) September 2026	\$ 46,912
<b>Total</b>	<b>\$ 426,144</b>

Upon approval of an Agreement, staff will include the project in the upcoming Five-Year Capital Improvements Plan amendment for the Gateway East District.

**Staff Recommendation:**

Adopt Resolution #1634.

**Suggested Motion:**

I move to adopt Resolution #1634 approving the Type 2 General Assistance Participation Agreement with Boise Gateway 1, L.C. and authorizing the Executive Director to execute the agreement.

**RESOLUTION NO. 1634**

BY THE BOARD OF COMMISSIONERS OF THE URBAN RENEWAL AGENCY OF BOISE CITY, IDAHO:

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE URBAN RENEWAL AGENCY OF BOISE CITY, IDAHO, APPROVING A TYPE 2 GENERAL ASSISTANCE PARTICIPATION PROGRAM AGREEMENT BETWEEN THE AGENCY AND BOISE GATEWAY 1, LC, A FOREIGN LIMITED LIABILITY COMPANY, FOR PUBLIC IMPROVEMENTS RELATED TO THE CONSTRUCTION OF BOISE GATEWAY 1 WAREHOUSE PROJECT; AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE THE AGREEMENT AND ANY NECESSARY DOCUMENTS OR AGREEMENTS, SUBJECT TO CERTAIN CONTINGENCIES; AUTHORIZING ANY TECHNICAL CORRECTIONS TO THE AGREEMENTS; AND PROVIDING AN EFFECTIVE DATE.

THIS RESOLUTION is made on the date hereinafter set forth by the Urban Renewal Agency of Boise City, Idaho, an independent public body, corporate and politic, authorized under the authority of the Idaho Urban Renewal Law of 1965, as amended, Chapter 20, Title 50, Idaho Code, and the Local Economic Development Act, as amended and supplemented, Chapter 29, Title 50, Idaho Code (collectively, the "Act"), as a duly created and functioning urban renewal agency for Boise City, Idaho (hereinafter referred to as the "Agency").

WHEREAS, the City Council of the City of Boise City, Idaho (the "City"), after notice duly published, conducted a public hearing on the Urban Renewal Plan for the Gateway East Economic Development District Project Area (the "Gateway East District Plan"), and following said public hearing the City adopted its Ordinance No. 58-18 on December 18, 2018, approving the Gateway East District Plan and making certain findings; and,

WHEREAS, Boise Gateway 1, L.C. owns or controls certain real property that it plans to develop into a warehouse building and site improvements (the "Project"), including certain right-of-way public improvements, all of which is located in the Gateway East Economic Development District as created by the Gateway East District Plan; and,

WHEREAS, the Agency has in place a Participation Program which includes the Type 2 General Assistance Program under which the Agency provides reimbursement for public improvements associated with private development projects; and,

WHEREAS, the Agency has determined that it is in the public interest to enter into a Type 2 Participation Program Agreement with Boise Gateway 1, L.C., whereby Boise Gateway 1, L.C., will construct the Project and the Agency will reimburse Boise Gateway 1, L.C., for constructing public improvements as specified in the Agreement; and,

WHEREAS, attached hereto as Exhibit A and incorporated herein as if set forth in full is the Type 2 Participation Agreement with Boise Gateway 1, L.C.; and,

WHEREAS, the Agency Board finds it in the best public interest to approve the Agreement and to authorize the Executive Director to execute same.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE BOARD OF COMMISSIONERS OF THE URBAN RENEWAL AGENCY OF BOISE CITY, IDAHO, AS FOLLOWS:

Section 1: That the above statements are true and correct.

Section 2: That the Type 2 Participation Program Agreement, a copy of which is attached hereto as Exhibit A and incorporated herein by reference, be and the same is hereby approved.

Section 3: That the Executive Director of the Agency is hereby authorized sign and enter into the Agreement and to execute all necessary documents required to implement the actions contemplated by the Agreement, subject to representations by the Agency staff and the Agency legal counsel that all conditions precedent to such actions have been met; and further, any necessary technical changes to the Agreement or other documents are acceptable, upon advice from the Agency's legal counsel that said changes are consistent with the provisions of the Agreement and the comments and discussions received at the April 13, 2020, Agency Board meeting; the Agency is further authorized to appropriate any and all funds contemplated by the Agreement and to perform any and all other duties required pursuant to said Agreement.

Section 4: That this Resolution shall be in full force and effect immediately upon its adoption and approval.

PASSED AND ADOPTED by the Urban Renewal Agency of Boise City, Idaho, on April 13, 2020. Signed by the Chair of the Agency Board of Commissioners and attested by the Secretary to the Agency Board of Commissioners on April 13, 2020.

URBAN RENEWAL AGENCY OF BOISE CITY

BY: \_\_\_\_\_  
Dana Zuckerman, Chair

ATTEST:

BY: \_\_\_\_\_  
Lauren McLean, Secretary



## TYPE 2 GENERAL ASSISTANCE PARTICIPATION AGREEMENT

BY AND BETWEEN

CAPITAL CITY DEVELOPMENT CORPORATION

AND

BOISE GATEWAY 1, LC

## TYPE 2 GENERAL ASSISTANCE PARTICIPATION AGREEMENT

THIS TYPE 2 GENERAL ASSISTANCE PARTICIPATION AGREEMENT (“Agreement”) is entered into by and between the Urban Renewal Agency of the City of Boise, also known as CAPITAL CITY DEVELOPMENT CORPORATION (“CCDC”), an independent public body, corporate and politic, organized and existing under the laws of the State of Idaho, and Boise Gateway 1, LC, a Foreign Limited Liability Company (“Participant”), collectively referred to as the “Parties” and each individually as “Party.”

### RECITALS

- A. CCDC is an urban renewal agency created by and existing pursuant to the Idaho Urban Renewal Law of 1965, being Idaho Code, Title 50, Chapter 20, and the Local Economic Project Act, being Idaho Code, Title 50, Chapter 29, as amended and supplemented (collectively the "Act").
- B. Participant owns or controls certain real property addressed as 9605 S. Eisenman Road, Boise, Idaho (the “Project Site”), which is more accurately described and depicted on attached **Exhibit A**.
- C. Participant plans to construct on the Project Site 168,000 square foot industrial building with related infrastructure and site improvements. The Project is depicted on attached **Exhibit B**.
- D. The CCDC Board of Commissioners has adopted the CCDC Gateway East Participation Program Policy wherein CCDC can assist private and public development projects by funding improvements that benefit the public and are located in the public rights-of-way or a permanent public easement area (the “Eligible Expenses”).
- E. As part of the Project, Participant intends to: extend natural gas, power and telecommunications lines, complete the Freight Street frontage with sidewalks, landscaping, and streetlights, and construct sidewalks and streetlights, as well as

water and sewer main line extensions along Eisenman Road (the “Eligible Expenses”). The Eligible Expenses are depicted on the Public Improvement Plans on attached **Exhibit C**.

- F. The Project is located in the Gateway East Economic Development District (“Gateway East District”) as defined by Urban Renewal Plan for the Gateway East Economic Development District Project Area (the “Plan”). The Project will contribute to enhancing and revitalizing the Gateway East District.
- G. After deeming it appropriate and in the best interest of the public to assist the development of the Project to achieve the objectives set forth in the Plan, CCDC has negotiated the terms and conditions of participation in the Project as governed by the Participation Program and the Act.
- H. Subject to the terms and conditions as set forth in this Agreement, CCDC agrees to reimburse Participant for the construction of Eligible Expenses, the cost estimates for which are attached on **Exhibit D**.

## **AGREEMENT**

NOW, THEREFORE, in consideration of the above recitals, the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

### **I. EFFECTIVE DATE AND TERM**

The “Effective Date” of this Agreement shall be the date when this Agreement has been signed by the Parties (last date signed). This Agreement shall commence on the Effective Date and shall continue until all obligations of each Party are complete. Participant must reach Completion of the Project and the Public Improvements by June 30, 2021. If Completion has not been reached by that date, CCDC may, in its sole discretion, deem Participant to be in default and, subject to Section V below, terminate this Agreement without penalty. A single one hundred eighty (180) day extension to the June 30, 2021, construction completion deadline may be granted upon written approval by CCDC.

“Completion” shall mean that Participant has received a final Certificate of Occupancy from the City of Boise.

### **II. SUBJECT OF AGREEMENT**

#### **A. Recitals, Purpose of This Agreement**

The Parties agree that the foregoing recitals are not mere recitations but are covenants of the Parties, binding upon them and forming a portion of the consideration for the agreements contained herein. CCDC’s commitment herein is designed to comply with CCDC’s authority under the Act and the Plan and is intended to constitute an expenditure of CCDC funds for a public purpose and not be deemed a gift or donation of public funds.

B. Parties to This Agreement

1. CCDC

CCDC is an independent public body, corporate and politic, exercising governmental functions and powers and organized and existing under the Act. The office of CCDC is located at 121 N. 9th Street, Suite 501, Boise, Idaho 83702. "CCDC," as used herein, includes the Capital City Development Corporation and its successors and assigns.

2. Participant

Participant is Boise Gateway 1, LC, a Limited Liability Company formed in Utah and registered with the Idaho Secretary of State as a Foreign Limited Liability Company. The principal address of Participant is 101 South 200 East, Suite 200, Salt Lake City, Utah 84111-3112.

The Registered Agent for Participant is CT Corporation System, 921 S. Orchard Street, Suite G, Boise, Idaho 83705.

"Participant," as used herein, includes Boise Gateway 1, LC and any permitted nominee, assignee, or successor in interest as herein provided. Participant qualifies as an "owner participant" or "participant" as those terms are used in the Plan.

C. The Project

The term "Project" as used herein shall mean the project constructed by Participant upon the Site, as depicted in Exhibit B.

The current total assessed value of the Site, as determined by the Ada County Assessor, is Zero Dollars (\$0) for tax year 2019.

For purposes of this Agreement, Participant estimates the total value of the Project upon completion will be Twelve Million Seven Hundred Seventy Thousand Five Hundred Dollars (\$12,770,500) (the "Estimated Value").

The Project and any construction of additional structures upon any portion of the Site shall comply with all the provisions of the Plan and all applicable building and zoning ordinances.

D. Participation Program

Based on the Gateway East Participation Program, the Participant is eligible to receive 80% of the tax increment the project generates as reimbursement for Eligible Expenses over a period up to six (6) years until the Actual Eligible Expenses have been repaid, limited to the not to exceed amount indicated in Section III E.

If Participant materially changes the Project contemplated in the application submitted to CCDC on October 17, 2019 (the "Application"), CCDC reserves the right to re-evaluate



the Project. Depending on the changes made by Participant to the Project, CCDC may find the Project is no longer eligible for assistance under the Participation Program.

### III. IMPROVEMENT OF THE SITE AND CCDC'S PARTICIPATION

#### A. Cost of Construction

The cost of the Project and the Public Improvements, defined below, shall be borne by Participant, except as otherwise set forth herein.

#### B. CCDC, City, and Other Governmental Entity Permits

Participant shall, at Participant's own expense, secure all permits and approvals for the Project (including the Public Improvements) which may be required by CCDC, City, or any other governmental entity ("Approving Entities") relative to Project construction and operation. The Public Improvements shall be designed, constructed, and installed in compliance with the requirements of all the Approving Entities.

Participant shall keep CCDC advised of the approval process for all permits and approvals and advise CCDC immediately if any action or inaction by the Approving Entities will affect the scope and purpose of this Agreement.

Any failure by Participant to secure required permits and approvals, including but not limited to compliance with all applicable City ordinances, not cured within applicable cure periods shall constitute a default under this Agreement, with CCDC reserving any of its rights and remedies under this Agreement concerning default.

#### C. Public Improvements

"Public Improvements" shall mean those improvements eligible and agreed to for funding by CCDC. The Public Improvements are set forth in **Exhibit C**.

The Public Improvements are directly related to public facilities and are: (a) critical to the redevelopment of the Site; (b) are in the best interest of the public; (c) provide for enhanced development of the Site; and (d) provide a higher quality of development that should assist CCDC in achieving redevelopment of other properties adjacent to the Site and meeting the objectives of the Plan.

#### D. Construction of Public Improvements

Upon CCDC's request, CCDC shall have the right and the opportunity to review Participant's construction plans, budgets, and bids for the Public Improvements (collectively the "Public Improvement Construction Documents"). Participant will utilize commercially reasonable contracting, budgeting, and bidding practices to ensure that the Public Improvements are constructed consistent with the Public Improvement Construction Documents and are undertaken in a reasonable manner. Participant shall be presumed to have utilized commercially reasonable contracting, budgeting, and bidding practices if its general contractor solicits or solicited at least three (3) competitive bids for the Public Improvements and such work is not performed by an affiliate or subsidiary of Participant. Upon request, Participant shall provide CCDC copies of any bids received.

Participant warrants that the materials and workmanship employed in the construction of the Public Improvements shall be good and sound and shall conform to generally accepted standards within the construction industry in Boise, Idaho.

E. Estimated Eligible Expenses

Participant has estimated the cost of the Public Improvements to be Four Hundred Twenty-Five Thousand Two Hundred Forty-Four Dollars (\$426,144) (the "Estimated Eligible Expenses"). Attached hereto as **Exhibit D** is a schedule of Estimated Eligible Expenses. This Estimate of Eligible Expenses shall serve as the Not-to-Exceed amount for CCDC's reimbursement obligation.

F. Determining Actual Costs / Eligible Expenses / Reimbursement Amount

Upon Completion of the construction of the Public Improvements on the Site and City's acceptance of such improvements (as applicable), Participant will dedicate all constructed public infrastructure and utility infrastructure to City.

Participant shall provide appropriate documentation ("Cost Documentation") to CCDC that Participant has expended funds for Eligible Expenses in order to receive payment under the terms of this Agreement. Any Cost Documentation shall be submitted within thirty (30) days of Participant's notification to CCDC that construction of the Project is complete and shall include:

1. Evidence of Completion such as a certificate of occupancy for the Project or other notice from City acknowledging the construction of the Project and Public Improvements are complete.
2. Recorded easements with appropriate governing body for public improvements constructed outside of the right of way, if needed.
3. Schedule of values that includes line items for the Public Improvements approved by CCDC for reimbursement so they are identifiable and separate from other line items ("Schedule of Values").
4. Invoices from Participant's general contractor, subcontractor(s), and material suppliers for each type of Eligible Expense item (e.g. concrete, asphalt, streetlights). Invoices shall specify quantities and unit costs of installed materials and a percentage estimate of how much installed material was used for the Public Improvements relative to the amount used for the Project.
5. Explanation of any significant deviation between the initial cost estimates in **Exhibit C** and the actual costs in the Cost Documentation as requested by CCDC.
6. A signed and notarized letter from Participant attesting that all materials used for the construction of the Public Improvements have been paid for, that contractors and subcontractors have been paid, that no liens exist on the work performed, and that the Cost Documentation is complete

whereupon payment by CCDC shall constitute full accord and satisfaction of all the Agreement obligations.

7. Participant must waive any vested interest rights granted by public utilities that would be paid by subsequent development, and provide documentation that the interest has been waived.
8. Additional documentation or clarifications may be required and requested by CCDC.
9. The Participant attests that all requested reimbursement expenses are for eligible public improvements within the public right-of-way or easement area.

CCDC shall have thirty (30) days to review the Cost Documentation supplied by Participant and confirm Participant's performance of its obligations under this Agreement. During this 30-day period, CCDC shall review the Cost Documentation in order to: (1) verify the costs were incurred in constructing the Public Improvements; (2) verify the costs incurred are commercially reasonable; and (3) verify Participant has paid all contractors, subcontractors, and material suppliers that constructed or provided materials for the Public Improvements.

If CCDC disputes any portion of the Cost Documentation, CCDC shall reimburse Participant for the undisputed amount in the manner set forth below and the Parties shall amicably and in good faith work together to resolve any dispute over the Cost Documentation. Disputes shall be resolved pursuant to the procedures set forth in Section V.

Following CCDC's verification of the Cost Documentation and determination of the actual costs to construct the Public Improvements (the "Actual Costs"); CCDC shall notify Participant of the amount CCDC will reimburse Participant for the Public Improvements (the "CCDC Reimbursement"). **The CCDC Reimbursement shall be the lesser of the Actual Costs or the Estimated Eligible Expenses.**

G. Reimbursement Schedule

Upon determining the CCDC Reimbursement, CCDC shall finalize and execute the "Confirmation of Final Reimbursement Amount and Payment Schedule." A draft of Payment Schedule is attached hereto as **Exhibit E**.

The CCDC Reimbursement is paid using actual tax increment revenue generated by the Project and received by CCDC. The Reimbursement shall be paid upon completion of the Project.

CCDC has no authority or control of the Ada County Assessor's property tax assessments. In general, though exceptions exist for periodic adjustments to the property tax rolls, the value of new construction activity occurring during a given calendar year that is completed by December 31 of that year will be added to the property tax rolls as of January 1 of the subsequent year. Tax assessments on that value will be paid by Participant and collected

during the following fiscal year for Ada County.<sup>1</sup> This circumstance reflects a full-year value on the Primary Roll. Property tax payments are due in December and June for the Primary Roll.

The reimbursement shall be issued no later than September 30 of the year in which CCDC receives tax increment for the first year on the Primary Roll.

The anticipated timeline for this project is as follows:

Reimbursement	Project Completion	Assessment Type	Assessment	Taxes Due	Reimbursement Paid
#1	June 2020	Primary Roll	January 2021	Dec. 2021 & June 2022	September 2022
#2	NA	Primary Roll	January 2022	Dec. 2022 & June 2023	September 2023
#3	NA	Primary Roll	January 2023	Dec. 2023 & June 2024	September 2024
#4	NA	Primary Roll	January 2024	Dec. 2024 & June 2025	September 2025
#5	NA	Primary Roll	January 2025	Dec. 2025 & June 2026	September 2026

The annual reimbursement payment will be determined by the actual tax increment the Project generates. For illustration purposes *only*, the Annual Payment Schedule is estimated below. This is an estimate and is in no way guaranteed.

Estimated Assessed <b>Full</b> Value*	\$ 10,216,400
2019 Assessed Value	(\$ 0)
Subtotal	\$ 10,216,400
X Levy Rate (0.0116)	\$ 118,510
X 80% (Level A Reimbursement Rate)	\$ 94,808

Estimated Reimbursement Payments

1) September 2022	\$ 94,808
2) September 2023	\$ 94,808
3) September 2024	\$ 94,808
4) September 2025	\$ 94,808
5) September 2026	\$ 46,912
<b>Total</b>	<b>\$ 426,144</b>

\* The Estimated Assessed Value is slightly lower than the "Estimate Value" in Section II. C. to account for potential differences in the assessment.

<sup>1</sup> CCDC and Ada County both operate on a fiscal year beginning on October 1 and ending September 30.

Participant anticipates that redevelopment of the Site shall result in sufficient increases to its assessed value to allow CCDC to reimburse Participant during the Reimbursement Period. **If the CCDC Reimbursement is not fully reimbursed by up to six annual payments, CCDC will not be obligated to make any additional payments.**

It is the specific intent of the Parties that the CCDC Reimbursement shall be paid from the tax increment monies, if any, which are paid to CCDC as a direct result of the Project constructed on the Site. CCDC's payment obligations hereunder shall not constitute a general obligation or debt of CCDC, the State of Idaho, or any of its political subdivisions or give rise to a charge against their general credit or taxing powers to be payable out of any funds or properties other than the 80% of the tax increment generated by the Project during the Reimbursement Period.

Notwithstanding the above, CCDC reserves the right, in its sole discretion, to pay off the CCDC Reimbursement at any time.

H. CCDC Reimbursement Assignable

CCDC shall reimburse Participant by paying the CCDC Reimbursement to Participant or to Participant's assignee or designee. Participant shall have the right to assign its right to reimbursement to its lender, its successor, or other entity designated by Participant. CCDC and Participant agree that CCDC's obligations run only to Participant or its assignee or designee.

I. Subordination of Reimbursement Obligations

The Parties agree this Agreement does not provide Participant with a security interest in any CCDC revenues for the District or any other urban renewal plan area, including but not limited to revenue from any "Revenue Allocation Area" (as defined in Title 50, Chapter 29 of the Idaho Code) or any revenue from CCDC's parking garages. Notwithstanding anything to the contrary in this Agreement, the obligation of CCDC to make the payments as specified in this Agreement shall be subordinate to all CCDC obligations that have committed or in the future commit available CCDC revenues, including but not limited to revenue from any Revenue Allocation Area or any revenue from CCDC's parking garages, and may be subject to consent and approval by CCDC lenders.

J. Indemnification

Participant shall indemnify and hold CCDC and its officers, agents, and employees harmless from and against all liabilities, obligations, damages, penalties, claims, costs, charges, and expenses, including reasonable architect and attorney fees (collectively referred to in this Section as "Claim"), which may be imposed upon or incurred by or asserted against CCDC or its officers, agents, and employees relating to the construction or design of the Public Improvements or otherwise arising out of Participant's negligent or tortious actions or inactions.

In the event an action or proceeding is brought against CCDC or its respective officers, agents, and employees by reason of any such Claim, Participant, upon written notice from CCDC shall, at Participant's expense, resist or defend such action or proceeding. Notwithstanding the foregoing, Participant shall have no obligation to

indemnify, defend, or hold CCDC and its respective officers, agents, and employees harmless from and against any matter to the extent it arises from the active negligence or willful act of CCDC or its respective officers, agents, or employees.

The indemnification provisions set forth herein are intended to, and shall, survive the termination or completion of this Agreement.

K. Insurance

Participant shall, or shall through its contractor, agents, representatives, employees, or subcontractors, at no cost to CCDC, obtain and maintain in force for the duration of the construction of the Public Improvements and the Project insurance of the following types, with limits not less than those set forth below and in a form acceptable to CCDC, against claims for injuries to persons or damages to property which may arise from, or in connection with, the performance of the services hereunder by Participant, its agents, representatives, employees, or subcontractors:

1. Commercial General Liability Insurance (“Occurrence Form”) with a minimum combined single limit liability of \$1,000,000 each occurrence for bodily injury and property damage; with a minimum limit of liability of \$1,000,000 each person for personal and advertising injury liability. Such policy shall have a general aggregate limit of not less than \$2,000,000, which general aggregate limit will be provided on a per project basis. The policy shall be endorsed to name CCDC as additional insured.
2. Workers’ Compensation Insurance, including occupational illness or disease coverage, in accordance with the laws of the nation, state, territory, or province having jurisdiction over Participant’s employees, and Employer’s Liability Insurance. Participant shall **not** utilize occupational accident or health insurance policies, or the equivalent, in lieu of mandatory Workers’ Compensation Insurance or otherwise attempt to opt out of the statutory Workers’ Compensation system.
3. Automobile Liability Insurance covering use of all owned, non-owned, and hired automobiles with a minimum combined single limit of liability for bodily injury and property damage of \$1,000,000 per occurrence. This policy shall be endorsed to name CCDC, including its respective affiliates, directors, and employees, as additional insureds.
4. Certificates of insurance satisfactory in form to CCDC (ACORD form or equivalent) shall be supplied to CCDC evidencing that the insurance required above is in force, that, to the extent commercially reasonable, not less than thirty (30) days’ written notice will be given to CCDC prior to any cancellation or restrictive modification of the policies, and that the waivers of subrogation are in force. Participant shall also provide, with its certificate of insurance, executed copies of the additional insured endorsements and dedicated limits endorsements required in this Agreement. At CCDC’s request, Participant shall provide a certified copy of each insurance policy required under this Agreement.

L. Antidiscrimination During Construction

Participant, for itself and its successors and assigns, agrees that in the construction of improvements on the Site provided for in this Agreement, Participant at its agents will not discriminate against any person on the basis of race, color, religion, sex, sexual orientation, gender identity/expression, national origin or ancestry, age, or handicap. Violation of this section shall constitute a material breach of this Agreement and be deemed grounds for cancellation, termination, or suspension of the Agreement by CCDC, in whole or in part.

M. Maintenance

Participant recognizes CCDC has no specific authority to accept maintenance responsibility of the Public Improvements and that no agreement has been reached with CCDC, City, or other governmental entity to accept any maintenance obligations for the Public Improvements in the right of way or an easement area.

**IV. USE OF THE SITE, COMPLIANCE WITH LAW, PAYMENT OF TAXES**

A. Use of the Site

Participant agrees and covenants to comply with all other provisions and conditions of the Plan for the period of time the Plan is in force and effect, which for purposes of this Agreement is deemed effective through December 31, 2039.

B. Local, State and Federal Laws

Participant covenants that it carried out the construction of the improvements in conformity with all applicable laws, including all applicable federal and state labor standards.

C. Taxes

Participant recognizes CCDC has no authority or involvement in the assessment, tax, or collection process for ad valorem taxes, including real property and personal property taxes. Participant also recognizes the ability of CCDC to reimburse Participant for the CCDC Reimbursement is dependent on the ad valorem assessment and timing of collection process as is the CCDC's ability to successfully meet long term financing and payment obligations and to continue doing business.

1. Taxes Generally

Participant shall pay when due all real estate and personal property taxes and assessments assessed and levied on Participant's ownership interest of the Site. This provision or covenant shall run with the land and be binding upon Participant's successors.

2. Tax Appeals/ Exemptions

Participant shall not appeal any assessed value or request for property tax exemption for any of the parcels within the site for an assessment of less than the Estimated Value, as described in Section 2.c. Any appeal of the assessed value or request for any property tax exemption for any of the parcels within the site for an assessment in excess of the Estimated Value, shall require CCDC's written

authorization. The foregoing shall include but is not limited to an exemption or reduction under Idaho Code § 63-602NN or Idaho Code Section 63-606A, for property taxes assessed for any property tax year up to and including property tax year 2028. The property tax year runs from January 1st to December 31st.

3. Delinquent or Reduced Taxes

Participant expressly acknowledges and understands that the CCDC Reimbursement is linked to the tax increment revenue *actually* generated from the Site, and in the event insufficient taxes are received by CCDC for any reason, including a reduction of the tax levy rate or assessed values less than assumed by CCDC and Participant or in the event of any tax delinquency by any owner of parcels within the Site or by any tenant related to personal property, the actual tax increment received by CCDC will be reduced, which in turn will result in lower Annual Payments by CCDC to Participant.

**V. DEFAULTS, REMEDIES, AND TERMINATION**

A. Defaults in General

In the event that a dispute arises between CCDC and Participant regarding application or interpretation of any provision of this Agreement, the aggrieved Party shall promptly notify the other Party to this Agreement of the dispute within ten (10) days after such dispute arises. If the Parties shall have failed to resolve the dispute within forty-five (45) days after delivery of such notice, the Parties may first endeavor to settle the dispute in an amicable manner by mediation. If the Parties elect to mediate their dispute, the Parties will select a mediator by mutual agreement and agree to each pay half of the mediator's costs and fees. The mediation will take place in Boise, Idaho, unless otherwise agreed by the Parties in writing. Should the Parties be unable to resolve the dispute to their mutual satisfaction within forty-five (45) days after such completion of mediation, each Party shall have the right to pursue any rights or remedies it may have at law or in equity. If the Parties do not mutually agree to mediate the dispute, either Party may pursue any rights or remedies it may have at law.

B. Legal Actions

In addition to any other rights or remedies, any Party may institute legal action to cure, correct, or remedy any default; to recover damages for any default; or to obtain any other remedy consistent with the purpose of this Agreement. The nondefaulting Party may also, at its option, cure the default and sue to collect reasonable attorney's fees and costs incurred by virtue of curing or correcting the Party's breach.

The laws of the State of Idaho shall govern the interpretation and enforcement of this Agreement.

C. Rights and Remedies Are Cumulative

Except as otherwise expressly stated in this Agreement, the rights and remedies of the Parties are cumulative, and the exercise by any Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same time or different times, of any other rights or remedies for the same default or any other default by the other Party.



CCDC reserves the right to withhold reimbursement to Participant for any Participant default.

## VI. GENERAL PROVISIONS

### A. Notices, Demands, and Communications Between the Parties

Formal notices, demands, and communications between CCDC and Participant shall be sufficiently given if dispatched by registered or certified mail, postage prepaid, return receipt requested, to the principal offices of CCDC and Participant as set forth in this Agreement. Such written notices, demands, and communications may be sent in the same manner to such other addresses as either party may from time to time designate by mail.

### B. Conflicts of Interest

No member, official, or employee of CCDC shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official, or employee participate in any decision relating to this Agreement which affects his/her personal interests or the interests of any corporation, partnership, or association in which he/she is directly or indirectly interested.

Participant warrants that it has not paid or given, and will not pay or give, any third party any money or other consideration for obtaining this Agreement.

### C. Non-Liability of CCDC Officials and Employees

No member, official, or employee of CCDC shall be personally liable to Participant in the event of any default or breach by CCDC or for any amount which may become due to Participant or on any obligations under the terms of this Agreement.

### D. Successors and Assigns

This Agreement shall, except as otherwise provided herein, be binding upon and inure to the benefit of the successors and assigns of the Parties hereto.

### E. Attorney Fees and Costs

In the event that either Party to this Agreement shall enforce any of the provisions hereof in any action at law or in equity, the unsuccessful Party to such litigation agrees to pay to the prevailing Party all costs and expenses, including reasonable attorney fees incurred therein by the prevailing Party, and such may be included to the judgment entered in such action.

### F. Severability

If any provisions of this Agreement shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provisions of this Agreement, and this Agreement shall be construed and enforced as if such illegal or invalid provisions had not been contained herein.

G. Headings

The section headings contained herein are for convenience and reference and are not intended to define or limit the scope of any provision of this Agreement.

H. Counterparts

This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

I. Forced Delay; Extension of Times of Performance

In addition to the specific provisions of this Agreement, performance by any Party hereunder shall not be deemed to be in default where delays or defaults are due to war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; epidemics; quarantine restrictions; freight embargoes; lack of transportation; lack of materials or labor at commercially reasonable prices or in commercially reasonable quantities; governmental restrictions or priority; litigation; unusually severe weather; acts of another party; environmental analysis, or removal of hazardous or toxic substances; acts or the failure to act of any public or governmental agency or entity (except that acts or the failure to act by CCDC shall not excuse performance by CCDC); or any other causes beyond the control or without the fault of the Party claiming an extension of time to perform. An extension of time for any such cause shall only be for the period of the forced delay, which period shall commence to run from the time of the commencement of the cause, if notice is delivered by the Party claiming such extension no later than forty-five (45) days after the commencement of the cause. If, however, notice by the Party claiming such extension is sent to the other Party more than forty-five (45) days after the commencement of the cause, the period shall commence to run only forty-five (45) days prior to the giving of such notice. Times of performance under this Agreement may also be extended in writing by CCDC and Participant.

J. Inspection of Books and Records

CCDC has the right, upon not less than seventy-two (72) hours' notice, at all reasonable times, to inspect the books and records of Participant pertaining to the Public Improvements.

No inspection by CCDC shall, however, cause any document, information, or record of Participant to become a public record subject to public disclosure pursuant to Title 74, Chapter 1 of the Idaho Code, unless such document, information, or record is actually delivered to CCDC by Participant.

Except as set forth in this Agreement or other agreement executed by the Parties, recorded by the Parties, or made part of the records of CCDC, the Parties acknowledge that Participant's documents, records, plans, and information in any form related to the Project shall be confidential unless and until such documents are provided to CCDC, and then CCDC shall take such action as is permissible under Title 74, Chapter 1 of the Idaho Code to protect the confidentiality of documents provided by Participant that have been clearly marked as confidential with reference to the applicable section of Idaho Code under which the documents are deemed not subject to public disclosure.

K. Promotion of Project

Participant agrees CCDC may promote the Public Improvements and CCDC's involvement with the Public Improvements. Such promotion includes reasonable signage at the Site notifying the public of CCDC's involvement with the Public Improvements.

**VII. AMENDMENTS TO THIS AGREEMENT; WAIVERS**

CCDC and Participant agree to mutually consider reasonable requests for amendments to this Agreement and any attachments hereto which may be made by any of the Parties hereto, lending institutions, bond counsel, financial consultants, or underwriters to CCDC, provided said requests are consistent with this Agreement and would not alter the basic business purposes included herein or therein. All amendments to and waivers of the provisions of this Agreement shall be in writing and signed by the appropriate authorities of CCDC and Participant.

**VIII. ENTIRE AGREEMENT**

This Agreement, including the following listed **Exhibits A through E**, inclusive and incorporated herein by reference, constitutes the entire understanding and agreement of the Parties.

- Exhibit A – Legal Description
- Exhibit B – Project Depiction and Renderings
- Exhibit C – Public Improvement Plans
- Exhibit D – Schedule of Eligible Expenses Estimate
- Exhibit E – Confirmation of Reimbursement (Draft)

This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto and supersedes all negotiations or previous agreements between the Parties with respect to all or any part of the subject matter thereof.

End of Agreement | *Signatures appear on the following page.*

IN WITNESS WHEREOF, the Parties have signed this Agreement the day and year below written to be effective as first indicated above.

**Capital City Development Corporation (“CCDC”)**

\_\_\_\_\_  
Date

\_\_\_\_\_  
John Brunelle, Executive Director

**Boise Gateway 1, LC** (“Participant”)  
a Utah limited liability company, by its manager  
The Boyer Company, a Utah limited liability company

\_\_\_\_\_  
Date

\_\_\_\_\_  
Brian Gochnour  
Its Manager

**Exhibit A**

Legal Description

**LEGAL DESCRIPTION**

Exhibit "A"

July 24, 2019  
Project No.: 118054

**PARCEL "B"**  
**CITY of BOISE**

A parcel of land located in a portion of Gov't Lot 1 of Section 18, T. 2 N., R. 3 E. and a portion of Gov't Lot 4 of Section 7, T. 2 N., R. 3 E., Boise Meridian, City of Boise, Ada County, Idaho, being more particularly described as follows:

**COMMENCING** at the Northwest Corner of said Section 18, marked by an aluminum cap monument; Thence on the north line of said of Gov't Lot 1 of Section 18, North 89° 43' 11" East, 25.01 feet to the **POINT OF BEGINNING**;

Thence North 00° 14' 00" East, 47.73 feet, to a point on the southerly right-of-way line of Freight Street;

Thence on said southerly right-of-way line, North 88° 53' 41" East, 39.74 feet to a point of curvature;

Thence 297.54 feet on the arc of a curve to the right, having a radius of 1056.00 feet, a central angle of 16° 08' 38", and whose long chord bears South 83° 04' 16" East, 296.56 feet;

Thence South 74° 59' 57" East, 102.26 feet to a point of curvature;

Thence 84.50 feet on the arc of a curve to the left, having a radius of 317.00 feet, a central angle of 15° 16' 22", and whose long chord bears South 82° 38' 09" East, 84.25 feet;

Thence North 89° 43' 38" East, 9.30 feet;

Thence South 40° 32' 11" East, 30.13 feet, to a point common with the westerly right-of-way line of South Eisenman Road;

Thence on said westerly right-of-way line, South 01° 02' 32" West, 697.02 feet, to a point common with the northerly future public right-of-way line, as shown on record of survey number 9819, as same is recorded as instrument number 114037985, Ada County records;

Thence on said future public right-of-way line, South 25° 14' 15" West, 7.19 feet;

Thence leaving said future public right-of-way line, North 88° 57' 28" West, 547.06 feet;

Thence on a line parallel to and 25.00 feet east of the west section of said Section 18, North 01° 19' 44" East, 741.06 feet to the **POINT OF BEGINNING**.

The above described parcel contains 9.62 acres, more or less.

PREPARED BY:

**The Land Group, Inc.**

Michael Femenia, PLS

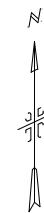


07/24/2019

**Exhibit A (continued)**

Depiction of Project Site

**Record of Survey / Property Line Adjustment  
for  
City of Boise**  
Sited in a portion of the NE 1/4 of Section 13, T. 2 N., R. 2 E., a portion of Gov't Lots 1 & 2 of Section 18, T. 2 N., R. 3 E. AND a portion of Gov't Lot 4 of Section 7, T. 2 N., R. 3 E.,  
Boise Meridian,  
City of Boise, Ada County, Idaho  
2019



**Legend**

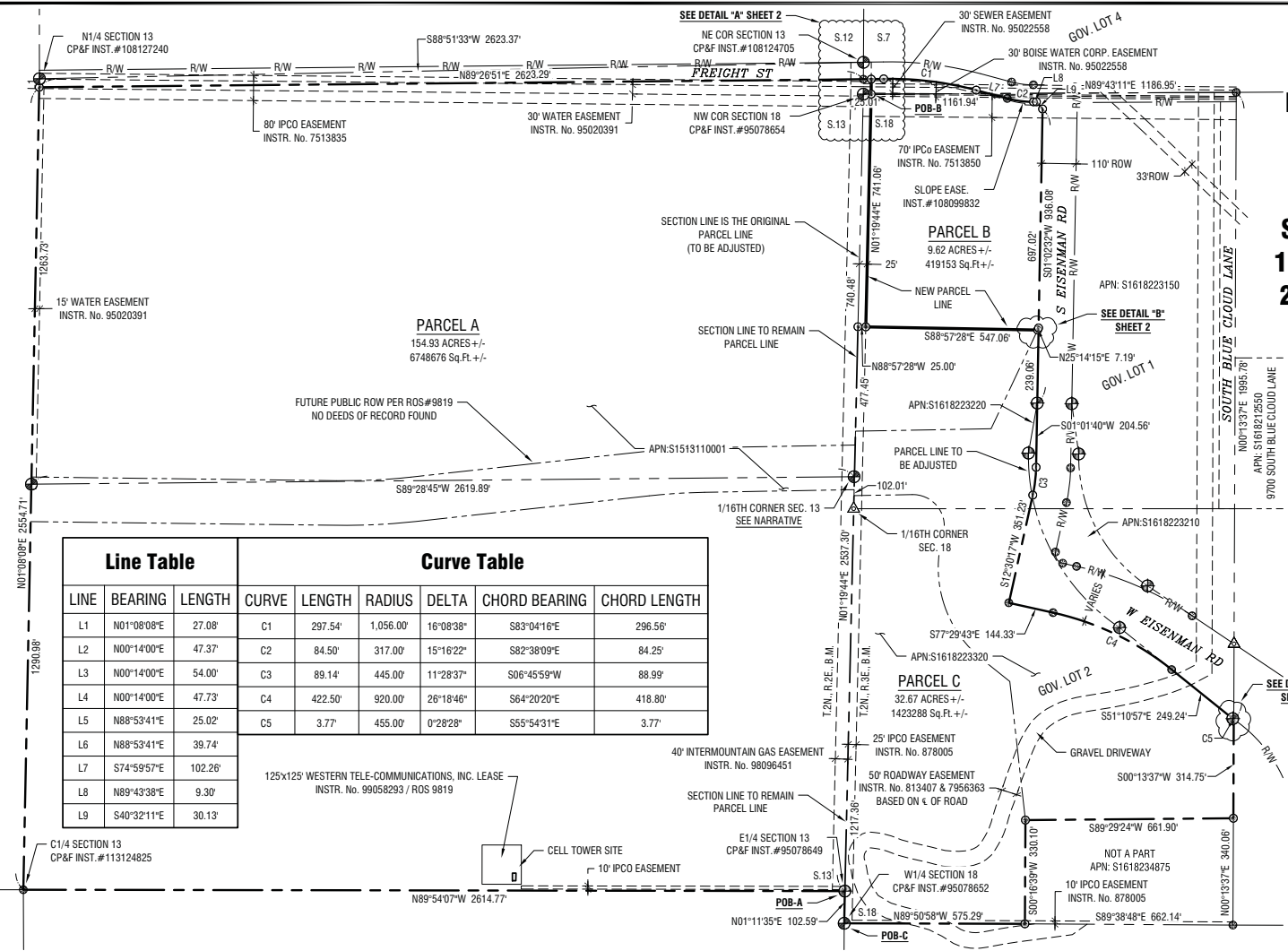
- ⊕ FOUND BRASS CAP MONUMENT
- ⊙ FOUND ALUMINUM CAP MONUMENT
- FOUND 5/8" REBAR, PLS 12459, UNLESS NOTED
- FOUND 1/2" REBAR, PLS 8247, UNLESS NOTED
- SET 5/8" X 24" REBAR W/CAP "MSF 13550"
- △ CALCULATED POINT, NOTHING FOUND OR SET
- OVERALL PARCEL BOUNDARY LINE
- - - NEW PARCEL BOUNDARY LINE
- - - PARCEL LINE TO BE ADJUSTED
- - - ADJACENT PARCEL LINE
- - - PARCEL LINE FROM ROS#9819, INST. #114037985
- - - SECTION LINE
- - - RIGHT OF WAY LINE
- - - EASEMENT LINE

**Survey Notes:**

1. THIS RECORD OF SURVEY HAS BEEN APPROVED BY BOISE CITY UNDER APPLICATION ROS 19-xxxxx
2. THIS RECORD OF SURVEY ESTABLISHES PARCELS THAT MEET THE APPLICABLE REQUIREMENTS OF SECTION 11-09-02.1.B.
3. THIS PROPERTY IS CURRENTLY ZONED M-2D.
4. SEE SHEET 2 FOR CERTIFICATIONS.
5. THESE PARCELS MAY NOT BE DIVIDED UNLESS APPROVED BY THE CITY OF BOISE. THE ORIGINAL PARCELS ARE NO LONGER BUILDABLE PARCELS PURSUANT TO THIS RECORD OF SURVEY.



07 / 25 / 2019



Line Table			Curve Table					
LINE	BEARING	LENGTH	CURVE	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD LENGTH
L1	N01°08'08"E	27.08'	C1	297.54'	1,056.00'	16°08'38"	S83°04'16"E	296.56'
L2	N00°14'00"E	47.37'	C2	84.50'	317.00'	15°16'22"	S82°38'09"E	84.25'
L3	N00°14'00"E	54.00'	C3	89.14'	445.00'	11°28'37"	S06°45'59"W	88.99'
L4	N00°14'00"E	47.73'	C4	422.50'	920.00'	26°18'46"	S64°20'20"E	418.80'
L5	N88°53'41"E	25.02'	C5	3.77'	455.00'	0°28'28"	S55°54'31"E	3.77'
L6	N88°53'41"E	39.74'						
L7	S74°59'57"E	102.26'						
L8	N89°43'38"E	9.30'						
L9	S40°32'11"E	30.13'						

125x125' WESTERN TELE-COMMUNICATIONS, INC. LEASE INSTR. No. 99058293 / ROS 9819

CELL TOWER SITE  
10' IPCO EASEMENT

**Certificate of Ada County Recorder**

STATE OF IDAHO ss  
COUNTY OF ADA)  
INSTRUMENT NUMBER \_\_\_\_\_

I HEREBY CERTIFY THAT THIS PLAT WAS FILED AT THE REQUEST OF \_\_\_\_\_  
AT \_\_\_\_\_ MINUTES PAST \_\_\_\_\_ O'CLOCK \_\_\_\_\_ M. THIS  
DAY OF \_\_\_\_\_ A.D. 2019, IN MY OFFICE AND WAS DULY RECORDED.

DEPUTY \_\_\_\_\_ EX-OFFICIO RECORDER \_\_\_\_\_

FEE: \_\_\_\_\_

**Narrative**

THIS SURVEY IS BEING PERFORMED TO ESTABLISH PARCEL 'B' FOR COMMERCIAL DEVELOPMENT. THE FOUND SECTION MONUMENTS HAVE BEEN HELD TO ESTABLISH RECORD SECTIONAL BOUNDARY LINES. RIGHT-OF-WAY FOR FREIGHT STREET ESTABLISHED FROM ROS #9819, ROS #8275 AND ROW DEED INST.#108042095. RIGHT-OF-WAY FOR SOUTH EISENMAN ROAD ESTABLISHED FROM ROS #3695 (ISAAC'S CANYON INTERCHANGE) ROS #8792 AND FOUND MONUMENTS.  
THE SIXTEENTH CORNER FOR SECTION 13, FALLS 1.12' WEST OF THE SECTION LINE BETWEEN SECTIONS 13 & 18. MY DETERMINATION IS THAT WHEN THE CORNER WAS SET PER ROS #2849 THE SURVEYOR HELD THE EAST QUARTER CORNER OF SECTION 13 AND THE NORTHEAST SECTION CORNER OF SECTION 13, DISREGARDING THE NORTHWEST SECTION CORNER OF SECTION 13. THERE IS A SIGNIFICANT BEARING BREAK AT SAID CORNER. SUBSEQUENTLY, THE SURVEYOR OF ROS #9819 PERPETUATED THE ERROR AND SET AN ALUMINUM CAP ON THE PREVIOUSLY SET SIXTEENTH CORNER.

**Referenced Survey Table:**

- R1. RECORD OF SURVEY No. 9819, INSTRUMENT #114037985, RECORDS OF ADA COUNTY.
- R2. RECORD OF SURVEY No. 8792, INSTRUMENT #11004923, RECORDS OF ADA COUNTY.
- R3. RECORD OF SURVEY No. 2849, INSTRUMENT #94041346, RECORDS OF ADA COUNTY.
- R4. RECORD OF SURVEY No. 3695, INSTRUMENT #96087661, RECORDS OF ADA COUNTY.
- R5. RECORD OF SURVEY No. 8275, INSTRUMENT #108044794, RECORDS OF ADA COUNTY.



462 East Shore Drive, Suite 100 Eagle, ID 83616

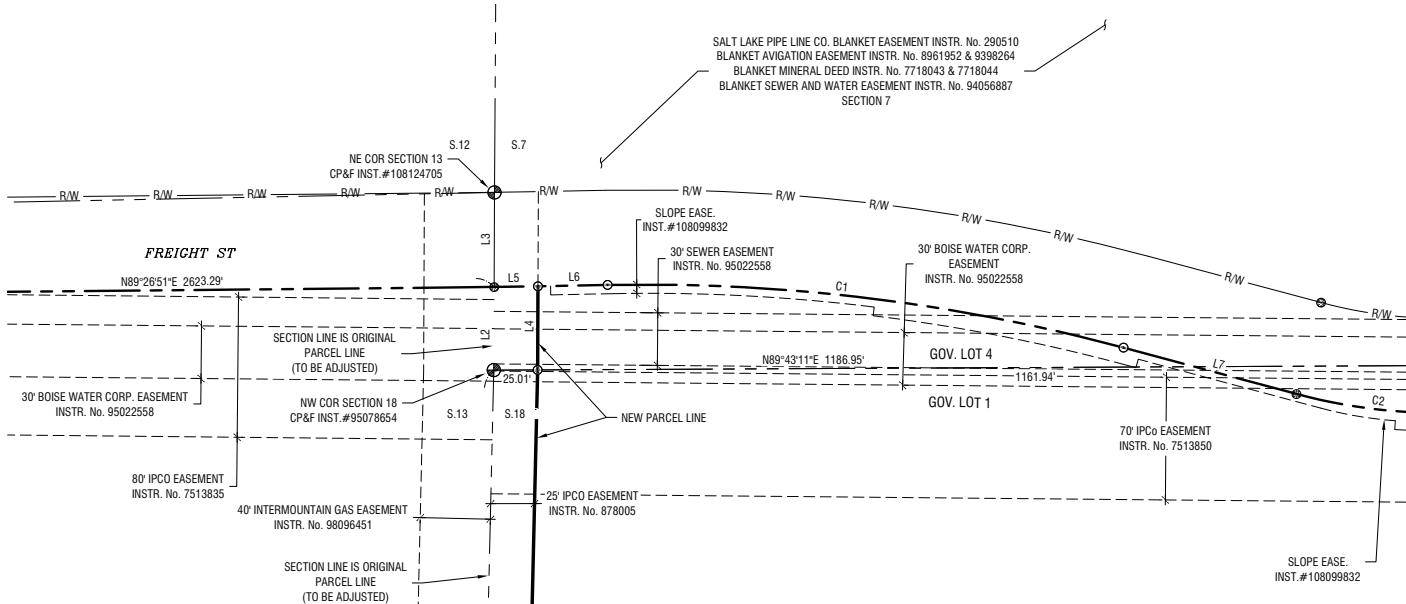
INDEX No.:221-13-1-0-0-000-000  
INDEX No.:231-18-4-0-0-000-000  
INDEX No.:221-07-3-0-0-000-000



Record of Survey / Property Line Adjustment  
for

**City of Boise**

Situated in a portion of the NE 1/4 of  
Section 13, T. 2 N., R. 2 E., a portion of  
Gov't Lots 1 & 2 of Section 18, T. 2 N., R. 3  
E. AND a portion of Gov't Lot 4 of Section 7,  
T. 2 N., R. 3 E.  
Boise Meridian,  
City of Boise, Ada County, Idaho  
2019



**DETAIL "A"**  
SCALE: 1" = 50'

**Certificate of Owner**

THIS IS TO CERTIFY THAT THE CITY OF BOISE CITY, AN IDAHO MUNICIPAL CORPORATION, IS THE OWNER OF THE PROPERTY DEPICTED ON THIS SURVEY AND THAT IT IS THEIR INTENTION TO INCLUDE SAID LAND IN THIS PROPERTY LINE ADJUSTMENT.

CITY OF BOISE CITY

BY: \_\_\_\_\_, MANAGER

**Acknowledgment**

STATE OF IDAHO ss  
 COUNTY OF ADA  
 ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019, BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR SAID STATE, PERSONALLY APPEARED \_\_\_\_\_, KNOWN OR IDENTIFIED TO ME TO BE THE AUTHORIZED SIGNATORY OF THAT EXECUTED THE WITHIN INSTRUMENT ON BEHALF OF SAID, AND ACKNOWLEDGED TO ME THAT SAID LIMITED PARTNERSHIP EXECUTED THE SAME.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED MY OFFICIAL SEAL THE DAY AND YEAR IN THIS CERTIFICATE FIRST ABOVE WRITTEN.

NOTARY PUBLIC FOR STATE OF \_\_\_\_\_ RESIDING AT \_\_\_\_\_  
 MY COMMISSION EXPIRES \_\_\_\_\_

**Certificate of Boise City Planning Director**

I HEREBY CERTIFY THAT I AM THE BOISE CITY PLANNING DIRECTOR AND THAT THE NEW BUILDABLE PARCEL IDENTIFIED ABOVE HAS BEEN ESTABLISHED IN ACCORDANCE WITH BOISE CITY CODE SECTION 11-09-02.1.B.

CODY RIDDLE, DEPUTY DIRECTOR CURRENT PLANNING

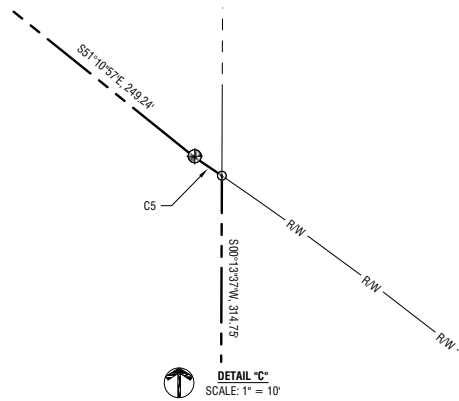
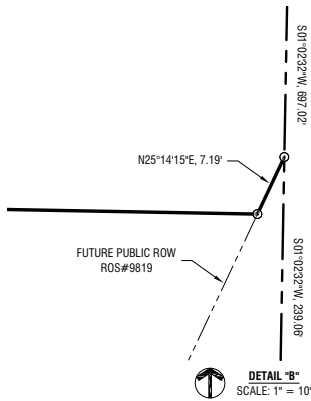
DATE \_\_\_\_\_

**Certificate of Surveyor**

I, MICHAEL S. FEMENIA, DO HEREBY CERTIFY THAT I AM A PROFESSIONAL LAND SURVEYOR, LICENSED BY THE STATE OF IDAHO, AND THAT THIS MAP HAS BEEN PREPARED FROM AN ACTUAL SURVEY MADE ON THE GROUND UNDER MY SUPERVISION, AND THAT THIS MAP IS AN ACCURATE REPRESENTATION OF SAID SURVEY.



07 / 25 / 2019



462 East Shore Drive, Suite 100 Eagle, ID 83616

INDEX No.: 221-13-1-0-0-000-000  
 INDEX No.: 231-18-4-0-0-000-000  
 INDEX No.: 221-07-3-0-0-000-000

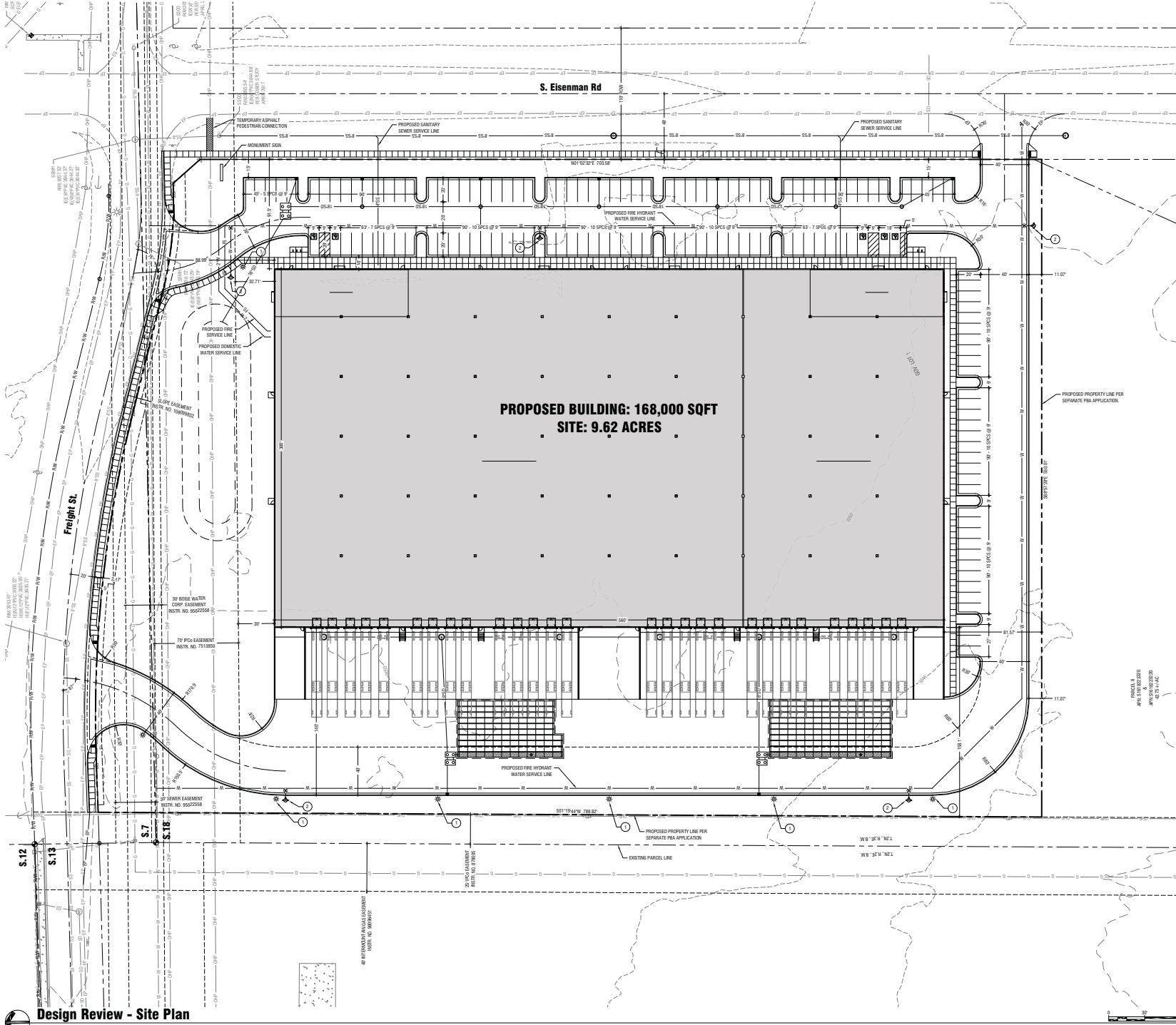
## **Exhibit B**

Project Depiction and Renderings

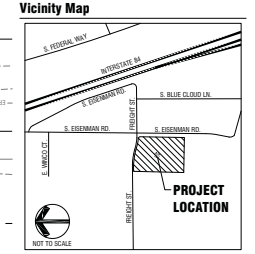
Exhibit B 9605 Eisenman Project Depiction and Renderings



# Exhibit B 9605 Eisenman Project Depiction and Renderings



**PROPOSED BUILDING: 168,000 SQFT**  
**SITE: 9.62 ACRES**



**Project Contacts**

**DEVELOPER**  
**THE BOYER COMPANY**  
 101 SOUTH CHURCH, SUITE 200  
 SALT LAKE CITY, UTAH 84111  
 801.386.8003  
 C/O DAVID WARD      dward@boyercompany.com

**CIVIL ENGINEER & LANDSCAPE ARCHITECT**  
**THE LAND GROUP, INC.**  
 402 EAST CHURCH DRIVE, SUITE 100  
 EAGLE, IDAHO 83616  
 208.339.4041  
 C/O JASON SCHMIDT, PE      jschmidt@landgroupinc.com  
 C/O BOB SCHAFER, PLA      bob@landgroupinc.com

**ARCHITECT**  
**GRUB**  
 325 WEST 200 SOUTH  
 SALT LAKE CITY, UTAH 84101  
 801.521.5000  
 C/O D. SCOTT HENRIKSEN      shenriksen@grubarchitects.com

**Project Calculations**

PROPERTY SIZE: ± 9.62 AC  
 PROPOSED BUILDING SIZE: 168,000 SF  
 CURRENT ZONING: M-20  
 PROPOSED ZONING: M-20 (NO CHANGE)

DIMENSIONAL STANDARDS	REQUIRED	PROPOSED
BUILDING SETBACKS:		
FRONT:	20 FT	81.5 FT ±
REAR:	0 FT	155 FT ±
SIDE: 15 FT	87 FT ±	
PARKING SETBACKS:		
FRONT:	7 FT	15 FT
REAR:	0 FT	14.8 FT ±
SIDE: 7 FT	VARIES	
MAXIMUM BUILDING HEIGHT:	55 FT	
PARKING CALCULATIONS:		
PARKING STALLS:	84 EA	152 EA
ACCESSIBLE PARKING STALLS:	5 EA	5 EA
BOULEVARD PARKING SPACES:	5 EA	10 EA

- Keynotes**
1. PROPOSED SITE LUMINAIRE: EATON MCGRAW EDISON GALLEON AREA AND ROADWAY LUMINAIRE.
  2. PROPOSED FIRE HYDRANT.

**Boise Gateway - Building 1**  
**Boyer Company**  
 8605 S. EISENMAN RD.  
 BOISE, IDAHO 83716



Project No.: 124291  
 Date of Revision: 1/24/2019  
 Project Name: BOISE GATEWAY

**DESIGN REVIEW**  
**SITE PLAN**

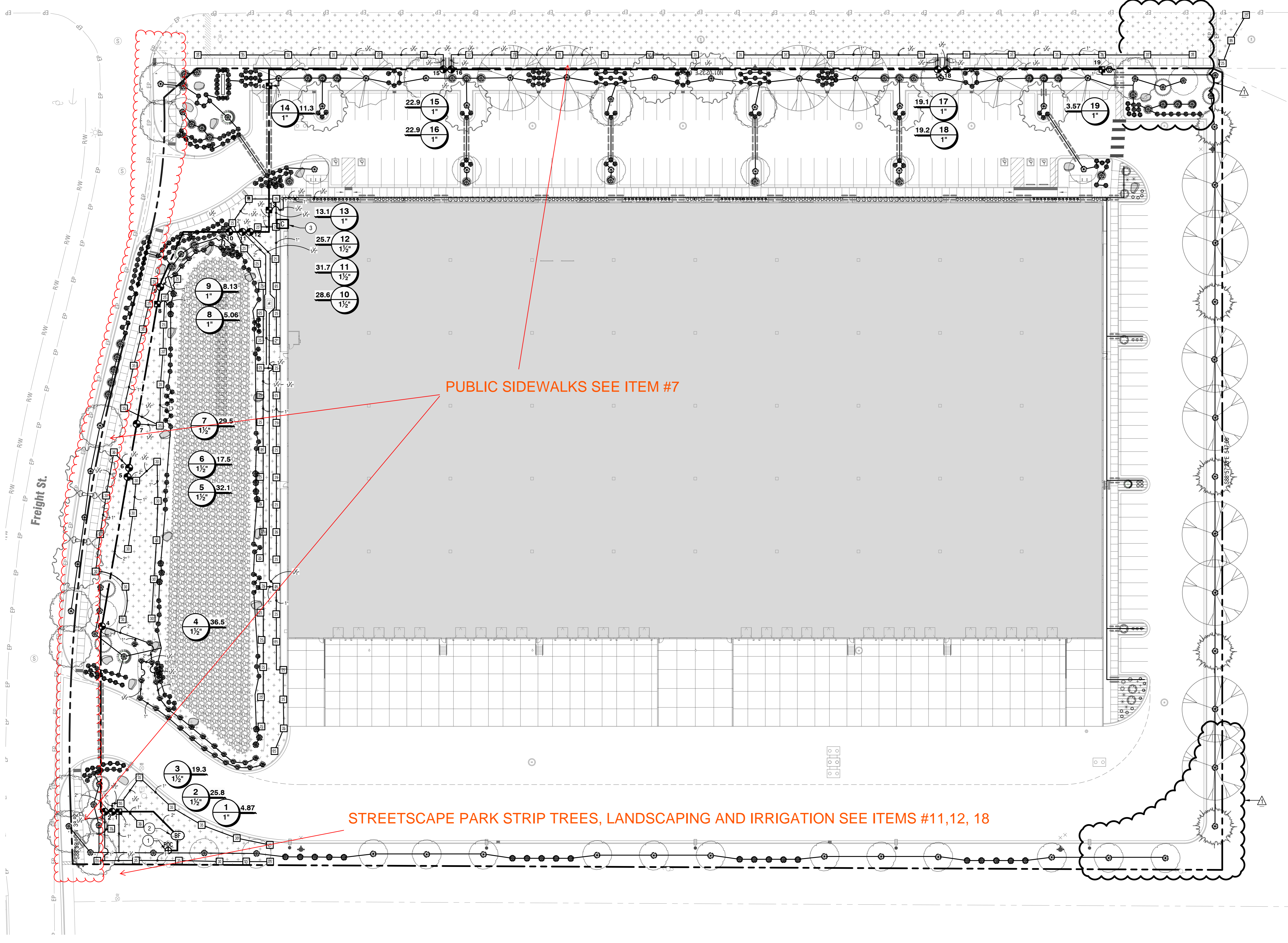
**SP100**

**Design Review - Site Plan**

Horizontal Scale: 1" = 30'

## **Exhibit C**

Public Improvement Plans and Renderings



Freight St.

- 14 11.3  
1" 1"
- 22.9 15  
1" 1"
- 22.9 16  
1" 1"
- 13.1 13  
1" 1"
- 25.7 12  
1 1/2" 1 1/2"
- 31.7 11  
1 1/2" 1 1/2"
- 28.6 10  
1 1/2" 1 1/2"

- 19.1 17  
1" 1"
- 19.2 18  
1" 1"
- 3.57 19  
1" 1"

- 9 8.13  
1" 1"
- 8 5.06  
1" 1"

- 7 29.5  
1 1/2" 1 1/2"
- 6 17.5  
1 1/2" 1 1/2"
- 5 32.1  
1 1/2" 1 1/2"

- 4 36.5  
1 1/2" 1 1/2"

- 3 19.3  
1 1/2" 1 1/2"
- 2 25.8  
1 1/2" 1 1/2"
- 1 4.87  
1" 1"

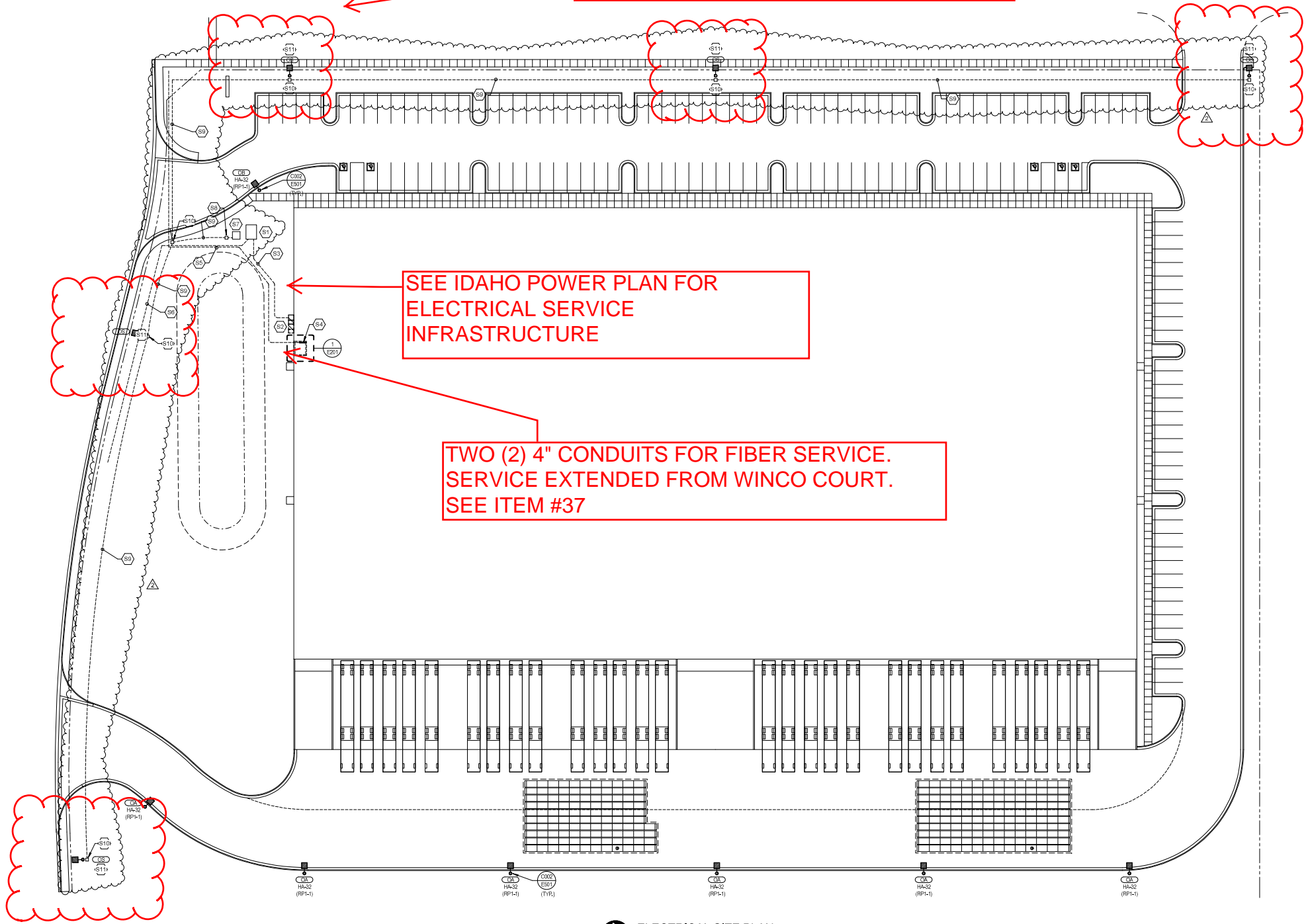
PUBLIC SIDEWALKS SEE ITEM #7

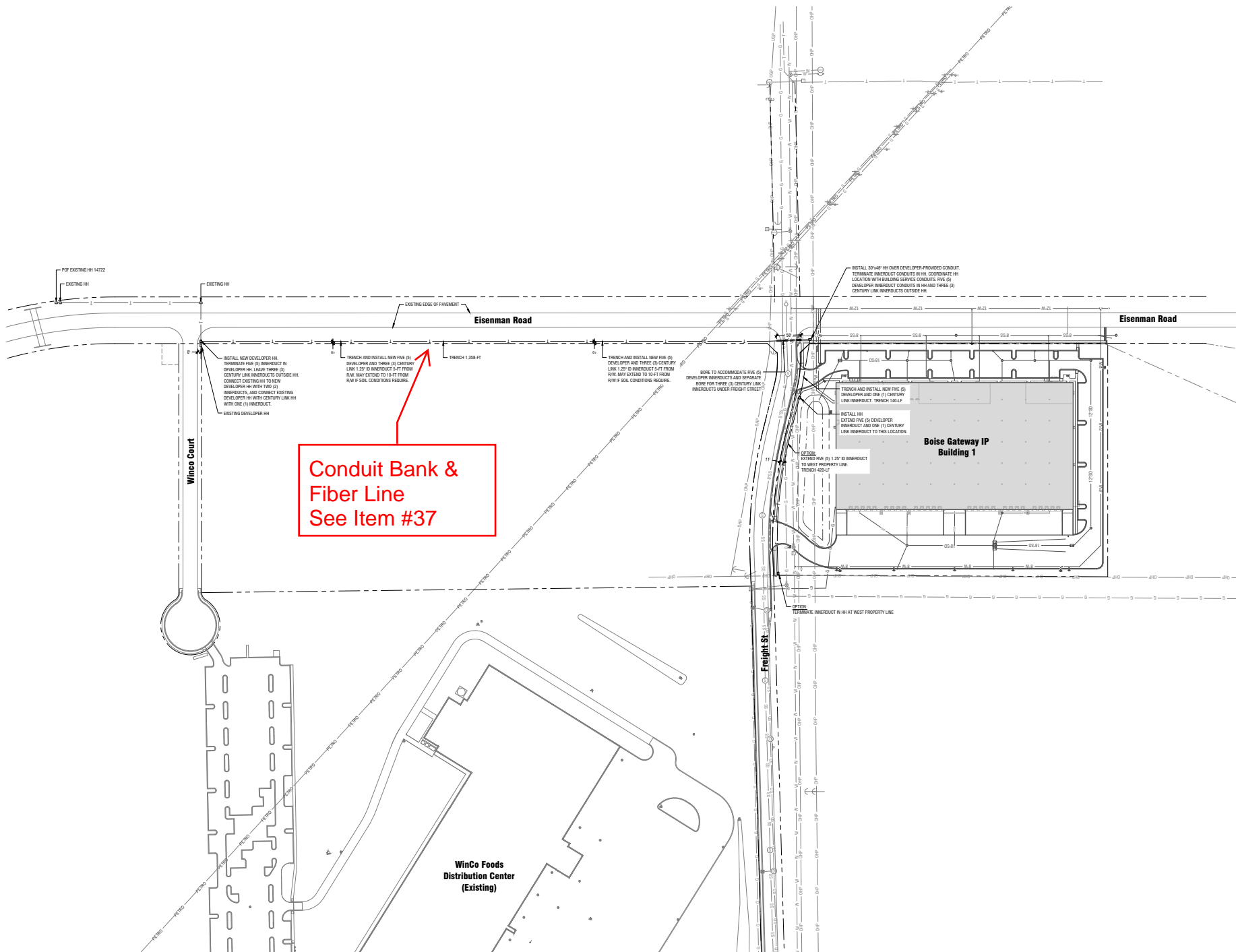
STREETSCAPE PARK STRIP TREES, LANDSCAPING AND IRRIGATION SEE ITEMS #11,12, 18

STREET LIGHTS AND RELATED INFRASTRUCTURE. SEE ITEM #21

SEE IDAHO POWER PLAN FOR ELECTRICAL SERVICE INFRASTRUCTURE

TWO (2) 4" CONDUITS FOR FIBER SERVICE. SERVICE EXTENDED FROM WINCO COURT. SEE ITEM #37





NO.	DATE	DESCRIPTION
1	08-30-2019	ARCHITECT'S REPORT
2	09-01-2019	BOISE CITY COMMENTS
3	09-17-2019	BOISE CITY COMMENTS
4	10-14-2019	ARCHITECT'S REPORT
5	12-16-2019	ARCHITECT'S REPORT
6	12-20-2019	RFI 0102
7	01-23-2020	RFI 0102

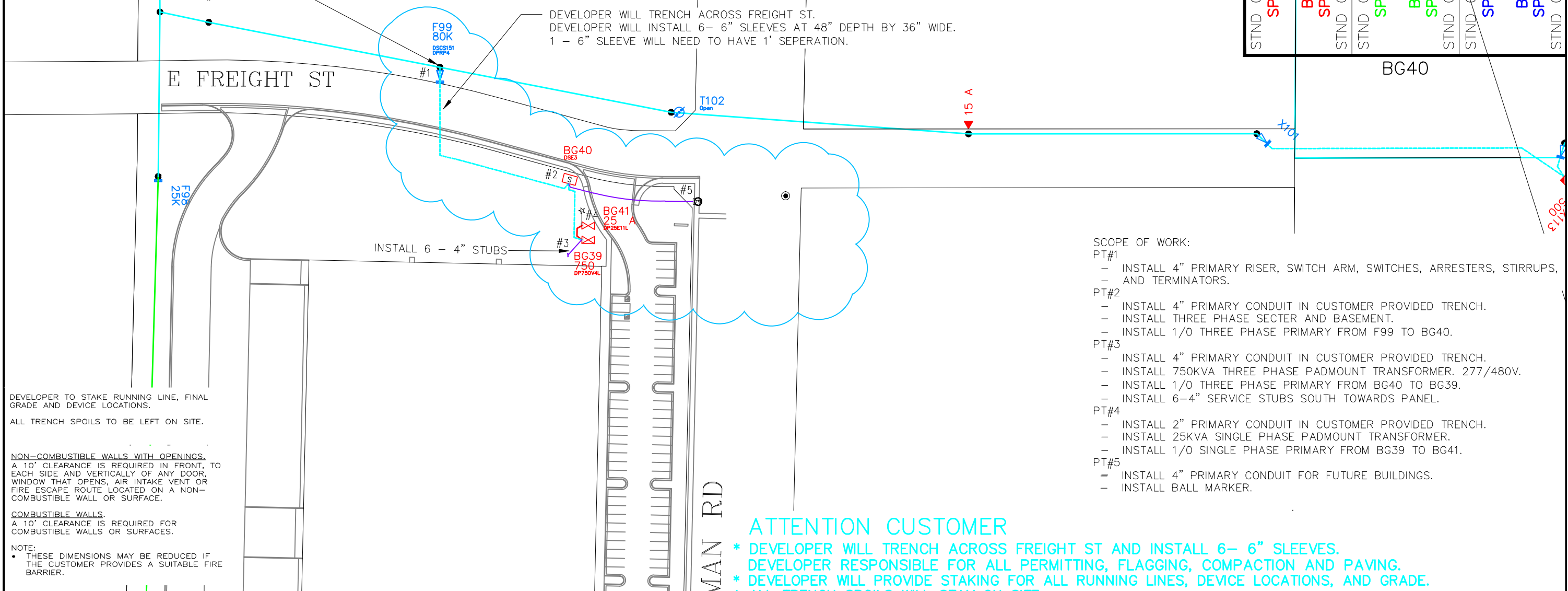
Conduit Bank & Fiber Line  
See Item #37



PART OF THE NW¼ OF THE NW¼ OF SECTION 18, T. 2N., R. 3E., B.M.,  
CITY OF BOISE, ADA COUNTY, IDAHO

Lat: 43.516904  
Lon: -116.152560  
GISO# 6427438

STND OFF	SPARE F99	SPARE BG39	STND OFF	STND OFF	SPARE F99	SPARE BG39	STND OFF	STND OFF	SPARE F99	SPARE BG39	STND OFF



DEVELOPER TO STAKE RUNNING LINE, FINAL GRADE AND DEVICE LOCATIONS.  
ALL TRENCH SPOILS TO BE LEFT ON SITE.

NON-COMBUSTIBLE WALLS WITH OPENINGS.  
A 10' CLEARANCE IS REQUIRED IN FRONT, TO EACH SIDE AND VERTICALLY OF ANY DOOR, WINDOW THAT OPENS, AIR INTAKE VENT OR FIRE ESCAPE ROUTE LOCATED ON A NON-COMBUSTIBLE WALL OR SURFACE.

COMBUSTIBLE WALLS.  
A 10' CLEARANCE IS REQUIRED FOR COMBUSTIBLE WALLS OR SURFACES.

NOTE:  
• THESE DIMENSIONS MAY BE REDUCED IF THE CUSTOMER PROVIDES A SUITABLE FIRE BARRIER.

UNDERGROUND CABLE NOTES

POINT NUMBER	FROM	TO	CONDUCTOR CU	CABLE SIZE	CABLE LENGTH	TRENCH LENGTH	CONDUIT CU	CONDUIT SIZE	CONDUIT LENGTH	COMPACTION LENGTH
2	F99	BG40	DCP10	1/0-3	271	149	DDB4	4	149	80
3	BG39	STUB				5	DDB4S	4	30	-
3	BG39	BG40	DCP10	1/0-3	82	68	DDB4	4	68	-
4	BG39	BG41	DCP10	1/0 A	27	0	DDB2	2	20	-
5	BG40	MARKER				132	DDB4	4	132	60

S EISENMAN RD

**ATTENTION CUSTOMER**

- \* DEVELOPER WILL TRENCH ACROSS FREIGHT ST AND INSTALL 6- 6" SLEEVES.
- \* DEVELOPER RESPONSIBLE FOR ALL PERMITTING, FLAGGING, COMPACTION AND PAVING.
- \* DEVELOPER WILL PROVIDE STAKING FOR ALL RUNNING LINES, DEVICE LOCATIONS, AND GRADE.
- \* ALL TRENCH SPOILS WILL STAY ON SITE.
- \* DEVELOPER IS RESPONSIBLE FOR DIGGING SERVICE TRENCH/INSTALLING 6- 4" CONDUIT FROM PANEL TO XFMR.
- \* SERVICE LENGTH CANNOT EXCEED 125' OR MORE THAT 135 DEGREES OF HORIZONTAL CONDUIT BENDS.

Inspected By: \_\_\_\_\_ Date: \_\_\_\_\_



CONTACTS  
IPCO- JUSTIN LUDWIG 208-388-6489  
PROJECT MGR- DAVE WARD 801-521-4781

T02NR03E18

SWPP: Pending

Job Title: **BOYER PROJECT COMPANY LC**

Additional Description: **BOISE GATEWAY - PRIMARY LINE EXTENSION**

Additional Description: **3 PHASE 277/480 2000AMP PANEL.**

Feeder Map File Name: **GOWN4302**

Qua: 1, TwN: 02N, Rng: 03E, Sec: 18, BM: BM

State: ID, County: Ada

Surveyed or GPS: NONE  
Joint Use Attachment: NO  
Pre-Built Date: 10/21/2019  
Built as Designed: ----  
Construction Date: ----  
Operating Voltage: 12.5 kV

Customer: \_\_\_\_\_ Date: \_\_\_\_\_

FDR By: ----  
Date: ----  
ArcFM By: ----  
Date: ----

Designer: **JLL1192**  
Design No: **0000139263**  
Work Order No: **27538534**

Eisenman Road

SEE SHEET C450 FOR SEWER MAIN EXTENSION PLAN AND PROFILE

New 8" Water Main  
See Item #32

New 8" Sanitary Sewer  
See Item #33

FIRE SERVICE COORDINATE WITH SUEZ WATER, BUILDING MECHANICAL AND FIRE SPRINKLER DESIGN FOR SIZE AND LOCATION

2-IN WATER SERVICE COORDINATE WITH SUEZ WATER, BUILDING MECHANICAL FOR CONTINUATION

IDAHO POWER TRANSFORMER, COORDINATE WITH POC AND BUILDING ELECTRICAL

KEY IN PIPE OUTFALL WITH POND COBBLES AT OUTFALL OR PROVIDE 3-CY ANGULAR RIP RAP

**2**  
C410

CONSTRUCT 100-FT X 8-FT RAPID INFILTRATION WINDOW. SEE NOTES AND DETAIL 2/C410 FOR REQUIREMENTS.

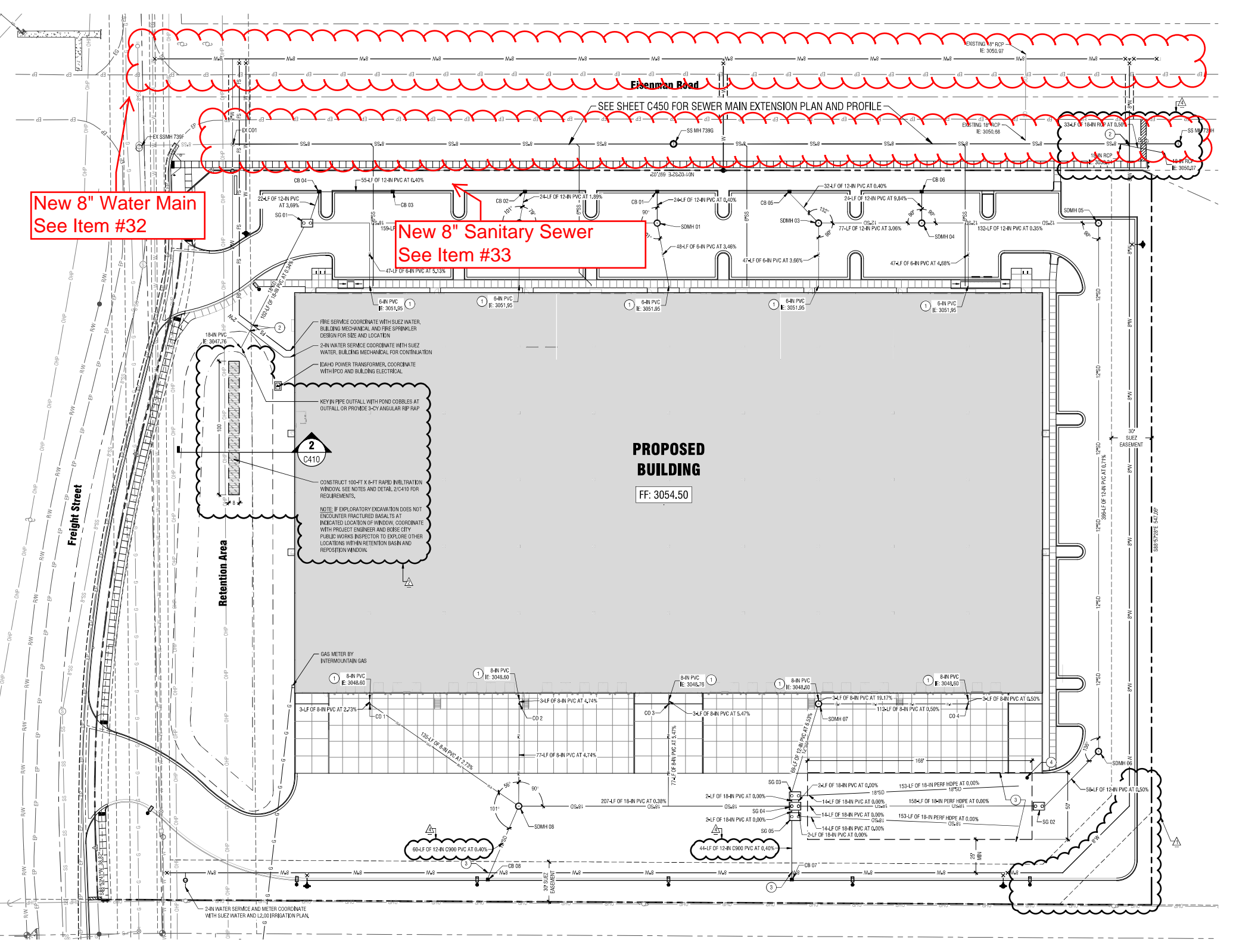
NOTE: IF EXPLORATORY EXCAVATION DOES NOT ENCOUNTER FRACTURED BASALTS AT INDICATED LOCATION OF WINDOW, COORDINATE WITH PROJECT ENGINEER AND BOISE CITY PUBLIC WORKS INSPECTOR TO EXPLORE OTHER LOCATIONS WITHIN RETENTION BASIN AND REPOSITION WINDOW.

**PROPOSED BUILDING**

FF: 3054.50

Retention Area

Freight Street



**Exhibit D**  
Schedule of Eligible Expenses Estimate

Exhibit D: 9605 Eisenman Schedule of Eligible Expenses

**CCDC Participation Program**  
**Type 2 Eligible Expenses Application Form**  
 Actual Eligible Costs To Be Determined by CCDC

*Project Name:*  
 Boise Gateway Building #1

*Plan Date:*  
 27 March 2020

*By:*  
 D. Ward

**STREETSCAPE: (In right-of-way)**

#	ITEM DESCRIPTION	UNIT	UNIT PRICE	QUANTITY	TOTAL COST
<b>SITE PREPARATION:</b>					
1	Surface demolition (Clear, grub & haul off)	SF	\$ 0.35	35,335	\$ 12,367.25
2	Asphalt demolition (Removal & haul off)	SF	\$ 1.38	1,605	\$ 2,214.90
3	Curb and gutter demolition	LF		0	\$ -
4	Saw cut asphalt	LF	\$ 1.90	650	\$ 1,235.00
5	Replace subbase (Removal & Pitrun place & prep)	TN	\$ 20.23	800	\$ 16,184.00
6	Stand alone tree removal	EA		0	\$ -
<b>SIDEWALK WORK:</b>					
7	Scored concrete sidewalk	SF	\$ 1.44	6,715	\$ 9,669.60
9	Pedestrian ramp	SF	\$ 1.44	410	\$ 590.40
10	Truncated dome	SF		0	\$ -
11	Lawn parkway	LS	\$ 7,504.00	1	\$ 7,504.00
12	Irrigation	LS	\$ 3,200.00	1	\$ 3,200.00
<b>OTHER:</b>					
13	Asphalt repair (3/4" base & asphalt paving)	SF	\$ 6.58	1,950	\$ 12,831.00
14	Concrete curb cut	EA		0	\$ -
15	Vertical curb and gutter (6") (3/4" place & prep)	LF	\$ 2.01	750	\$ 1,507.50
16	Myers cabinet	EA		0	\$ -
17	Water meter	EA	\$ 600.00	4	\$ 2,400.00
<b>SITUATIONAL FURNISHINGS:</b>					
18	Street trees	EA	\$ 420.00	7	\$ 2,940.00
21	Street Lights	EA	\$ 5,200.00	5	\$ 26,000.00
<b>OTHER:</b>					
26	TBD	0	\$ -	0	\$ -
27	TBD	0	\$ -	0	\$ -
<b>Total Streetscape Costs:</b>					<b>\$ 98,643.65</b>

Exhibit D: 9605 Eisenman Schedule of Eligible Expenses

<b>CCDC Participation Program</b> <b>Eligible Costs Application Form</b> Actual Eligible Costs To Be Determined by CCDC				
<b>INFRASTRUCTURE &amp; UTILITIES: (In right-of-way)</b>				
	UNIT	UNIT PRICE	QUANTITY	TOTAL COST
<b>STORM WATER MITIGATION:</b>				
28	Surface demo	LS	\$ 2,500.00	1 \$ 2,500.00
29	Surface prep	LS	\$ 11,000.00	1 \$ 11,000.00
30	Finish materials (permeable pavers, etc.)	0	\$ -	0 \$ -
<b>UTILITIES:</b>				
31	Power line (new/relocation/extension)	LS	\$ 70,000.00	1 \$ 70,000.00
32	Water line (new/relocation/extension)	LS	\$ 90,000.00	1 \$ 90,000.00
33	Sewer line	LS	\$ 75,000.00	1 \$ 75,000.00
35	Natural gas line (new/relocation/extension)	LS	\$ 20,000.00	1 \$ 20,000.00
36	Phone line (new/relocation/extension)	LS	\$ -	0 \$ -
37	Fiber line (new/relocation/extension)	LS	\$ 50,000.00	1 \$ 50,000.00
38	ACHD power box relocation	EA	\$ -	0 \$ -
<b>STREET:</b>				
39	Asphalt demolition	SF	\$ -	0 \$ -
40	Road sub-base and prep	0	\$ -	0 \$ -
41	Asphalt paving	LS	\$ 9,000.00	1 \$ 9,000.00
<b>PATH:</b>				
42	Surface demolition	SF	\$ -	0 \$ -
43	Surface prep	SF	\$ -	0 \$ -
44	Paving material	SF	\$ 600.00	0 \$ -
<b>OTHER:</b>				
51	TBD	0	\$ -	0 \$ -
52	TBD	0	\$ -	0 \$ -
<b>Total Infrastructure &amp; Utilities Costs:</b>				<b>\$ 327,500.00</b>

Exhibit D: 9605 Eisenman Schedule of Eligible Expenses

<b>CCDC Participation Program</b> <b>Eligible Costs Application Form</b> Actual Eligible Costs To Be Determined by CCDC					
<b>SITE:</b>					
53	Brownfield Environmental Assessment	0	\$ -	0 \$	-
54	Brownfield Environmental Remediation	0	\$ -	0 \$	-
55	Clearing	SF	\$ 0.35	415,425 \$	-
56	Grading	SF	\$ 1.99	244,140 \$	-
<b>OTHER:</b>					
57	TBD	0	\$ -	0 \$	-
58	TBD	0	\$ -	0 \$	-
<b>Total Site Costs:</b>				\$ -	-
<b>TOTAL ELIGIBLE COSTS:</b>					\$426,143.65
<b>Important Note:</b> Each program where eligible costs are identified will only pay for those approved expenses not otherwise paid for by another public entity.					

## Exhibit E

Confirmation of Reimbursement (Draft)

### CONFIRMATION OF CCDC REIMBURSEMENT AND PAYMENT SCHEDULE

This CONFIRMATION OF CCDC REIMBURSEMENT AND PAYMENT SCHEDULE (“Payment Schedule”) is entered into between the CAPITAL CITY DEVELOPMENT CORPORATION, a public body, corporate and politic, organized and existing under the Idaho Urban Renewal Law of 1965, as amended, Chapter 20, Title 50, Idaho Code, and the Local Economic Development Act of 1988 as amended, Chapter 29, Title 50, Idaho Code (“CCDC”), and Boise Gateway 1, LC, a Foreign Limited Liability Company (“Participant”).

#### WITNESSETH:

#### 1. CCDC Contribution

CCDC has, pursuant to the procedures set forth in the Type 2 General Assistance Participation Agreement by and between the Capital City Development Corporation and Participant with an effective date of \_\_\_\_\_ (the “Participation Agreement”), determined the CCDC Reimbursement for the Development, as those terms are defined in the Participation Agreement, shall be \_\_\_\_\_ and \_\_\_\_/100 dollars (\$\_\_\_\_\_) (the “CCDC Reimbursement”).

#### 2. Payment Schedule

CCDC agrees to reimburse Participant for the amount of the CCDC Reimbursement, or less as set forth and explained below, without interest from the Effective Date of this Payment Schedule as follows:

CCDC shall make a total of up to six (6) “Annual Payments”. The amounts of the Annual Payments shall be determined based on the tax increment proceeds paid by Participant and received by CCDC from the value added to the Site over and above the 2019 tax year assessed value of the Site upon Final Completion of the project and starting at Occupancy valuation year. The 2019 tax year assessed value of the Site, as determined by the Ada County Assessor is \$\_\_\_\_\_.

**First Annual Payment** – Due on or before September 30, \_\_\_\_\_

CCDC shall pay Participant eighty percent (80%) of the increased tax increment generated from the Development on the Site actually received by CCDC as of September 30 of \_\_\_\_\_ [insert year]

**Second Annual Payment** – Due on or before September 30, \_\_\_\_\_

CCDC shall pay Participant the lesser of the remaining unpaid CCDC Reimbursement (after crediting any prior payments) OR eighty percent (80%) of the increased tax increment generated from the Development on the Site actually received by CCDC as of September 30 of \_\_\_\_\_ [insert year]

**Third Annual Payment** – Due on or before September 30, \_\_\_\_\_

CCDC shall pay Participant the lesser of the remaining unpaid CCDC Reimbursement (after crediting any prior payments) OR eighty percent (80%) of the increased tax increment generated from the Development on the Site actually received by CCDC as of September 30 of [insert year]

**Fourth Annual Payment** – Due on or before September 30, [insert year]  
CCDC shall pay Participant the lesser of the remaining unpaid CCDC Reimbursement (after crediting any prior payments) OR eighty percent (80%) of the increased tax increment generated from the Development on the Site actually received by CCDC as of September 30 of [insert year]

**Fifth Annual Payment** – Due on or before September 30, [insert year]  
CCDC shall pay Participant the lesser of the remaining unpaid CCDC Reimbursement (after crediting any prior payments) OR eighty percent (80%) of the increased tax increment generated from the Development on the Site actually received by CCDC as of September 30 of [insert year]

**Sixth Annual Payment** – Due on or before September 30, [insert year]  
CCDC shall pay Participant the lesser of the remaining unpaid CCDC Reimbursement (after crediting any prior payments) OR eighty percent (80%) of the increased tax increment generated from the Development on the Site actually received by CCDC as of September 30 of [insert year]

CCDC may redeem, at any time, in whole or in part, without penalty, the then principal amount outstanding.

**Participant acknowledges that the sum of the four Annual Payments may be less than the CCDC Reimbursement if the tax increment generated by the Development during the Reimbursement Period is less than the CCDC Reimbursement.**

**If the CCDC Reimbursement is not fully reimbursed by the four Annual Payments or by the Termination Date of the Plan, CCDC will not be obligated to make any additional payments.**

### **3. Limitation on Making Payments**

It is the intention of the parties that Participant shall only be paid from the Incremental Tax Revenues, if any, which are paid or are payable to CCDC as a direct result of the Private Development constructed by the Participant on the Site. If, for any reason, the Incremental Tax Revenues anticipated to be received by CCDC as a direct result of the Private Development on the Site are reduced, curtailed, or limited in any way by enactments, initiative referendum, or judicial decree, CCDC shall have no obligation to pay the tax increment obligation to Participant as described in this Agreement from other sources or monies which CCDC has or might hereinafter receive.

4. Except as expressly modified above, the terms and conditions of the Participation Agreement are still binding on CCDC and Participant as set forth in such Participation Agreement.

Signatures on Following Page



IN WITNESS WHEREOF, this Payment Schedule has been entered into as of the date and year first above written.

AGENCY:  
CAPITAL CITY DEVELOPMENT CORPORATION

By: \_\_\_\_\_  
John Brunelle, Executive Director

\_\_\_\_\_  
Date

PARTICIPANT:  
BOISE GATEWAY 1, LC

\_\_\_\_\_  
By: \_\_\_\_\_

Its: \_\_\_\_\_

\_\_\_\_\_  
Date