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July 22, 2014

Via Hand Delivery

Mayor David H. Bieter
Boise City Hall
P.O. Box 500
Boise, Idaho 83701

Re: Vehicle Detection System Sensors

Dear Mayor Bieter:

The Ada County Highway District (ACHD) Commissioners reviewed your July 11, 2014 letter as well as the proposed changes to the Master License Agreement and must say we are extremely disappointed by the attempt to usurp ACHD's legal authority.

As you know well, this issue concerning the vehicle detection sensors has been ongoing for ten months. During this time, ACHD has repeatedly proposed terms of a license agreement to allow the City to install and maintain a reasonable number of sensors in downtown right-of-way. For months, the City has refused to negotiate on the draft agreement, wrongfully asserting that the City controls right-of-way reserved to ACHD by Idaho law.

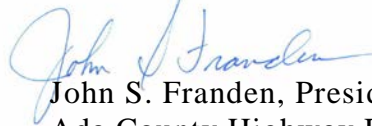
The City's new proposal comes close to providing full regulatory and political control to the City over downtown Boise right-of-way. The draft allows the City to place an unlimited number of sensors in the public right-of-way; it expands the City's rights to landscape beyond sidewalks and into the entire right-of-way; it permits to the City to place any facilities and structures it desires in any part of the right-of-way; and it allows the City to take any actions it desires in the right-of-way without obtaining standard ACHD permits for the work.

Parts of the draft would shift control and authority over the public right-of-way to the City, something clearly prohibited by Idaho law. As you know, ACHD has statutory jurisdiction over all public rights-of-way in Ada County. Idaho Code §67-2326 allows bodies such as ACHD and the City to take joint actions, but Idaho Code §67-2332 limits those undertakings to actions that each party is "authorized by law to perform." The City's changes to the draft agreement go too far in delegating actions and rights to the City that are reserved to ACHD pursuant to its sole and exclusive jurisdiction over public rights-of-way.

In short, the City's proposal indicates a complete lack of a good faith effort by the City to find a compromise with ACHD. Prior to receiving your July 11, 2014 letter, ACHD remained committed to finding a compromise to allow the City to proceed with the installation and maintenance of the sensors it already purchased. Upon reviewing the changes, however, the Commission can only conclude that further negotiations with the City over the terms of the Master License Agreement would be futile.

The Commission is providing the City with ten days from the date of this letter to remove the sensors or accept ACHD's most recent proposal for the Master License Agreement, provided on July 2, 2014. If the City is unwilling to accept ACHD's latest proposal, then ACHD will have no choice but to require removal of the existing sensors, which were placed within the right-of-way without permission or notification. The sensors referenced in the October 2013 Notice of Encroachments must be removed within 10 days of the date of this letter, and the City shall assume all risks and liabilities associated with extrication. If the City fails to act, ACHD will exercise all legal rights pursuant to the Notice of Encroachments and applicable law.

Respectfully,



John S. Franden, President

Ada County Highway District