

POCATELLO DEVELOPMENT AUTHORITY
Board of Commissioners Meeting
September 18, 2020 – 11:00 a.m.
Council Chambers – Pocatello City Hall

In-person attendance is allowed, but due to COVID-19 guidelines, strict social distancing measures are in place. Attendance is limited. Face coverings are required.

City Hall is accessible to persons with disabilities. Program access accommodations may be provided with three days' advance notice by contacting Skyler Beebe at sbeebe@pocatello.us, 208.234.6248, or 5815 South 5th Avenue, Pocatello, Idaho.

In the event this meeting is still in progress at 12:00 p.m., a ten-minute recess may be called.

1. **CALL TO ORDER, DISCLOSURE OF CONFLICT OF INTEREST, AND ACKNOWLEDGMENT OF GUESTS.**
2. **ACTION ITEM – Minutes.** The Board may wish to waive the oral reading of the minutes and approve the minutes from the Board of Commissioners Regular Meeting held August 19, 2020. *See attached document.*
3. **ACTION ITEM – Financial Report.** A financial report for the PDA will be provided by PDA Treasurer. The Board may wish to approve the financial report. *To be supplemented.*
4. **ACTION ITEM – Expense Payments & Reimbursements.** The Board may wish to approve the payment or reimbursement of the following PDA expenses:
 - a. \$494.50 from General Fund to Elam & Burke for legal fees for the month of August re: Special Counsel General
 - b. \$6,702.00 from General Fund to ICRMP for FY2021 premium.
 - c. \$329.50 from General Fund to Idaho State Publishing for legal noticing of budget.
5. **ACTION ITEM – North Portneuf TIF District.** The Board may wish to review and approve the following requested disbursements of funds under the previously approved reimbursement by the Board, and authorize the Chair's signature on the Confirmation of Agency Reimbursement.
 - a. **North Portneuf TIF District** - Portneuf Capital, LLC, is requesting disbursement of \$420,000 under the owner participation agreement as approved by the Board on June 17, 2020 and authorized on June 02, 2020. The request is for the installation of utilities including, power, natural gas and fiber optics. *See attached document.*
6. **ACTION ITEM - EXECUTIVE SESSION - Potential Economic Development Opportunity.** The Board may approve participation in an executive session as outlined in Idaho Code §74-206(1) (e) to consider preliminary negotiations involving matters of trade or commerce in which the PDA may be in competition with other jurisdictions.
7. **CALENDAR REVIEW** – The Board may wish to take this opportunity to inform other Board members of upcoming meetings and events that should be called to their attention.
8. **ADJOURN.**

ATTACHMENT ITEM

No. 2

**POCATELLO DEVELOPMENT AUTHORITY
MEETING MINUTES
August 19, 2020**

Members present: Heidi Adamson, Mayor Brian Blad, Chad Carr, Rob Lion, Scott Smith, Scott Turner, Terrel Tovey, David Villareal

Members absent/excused: Mayor Brian Blad, Thomas Ottaway

Others present: Carl Anderson, Pocatello Senior Planner; Ashley Linton-Welsh, Treasurer; Jared Johnson, Pocatello City Attorney; Jim Johnston, Bannock Development Corporation; Tanner Hernandez, Prime Time Auctions; Chris Stevens, Pocatello City Council Member, and other members of the public

Agenda Item No. 1: Call to Order and Disclosure of Conflicts of Interest. Chair **Scott Smith** called the meeting to order at approximately 11:04 a.m. No conflicts were disclosed.

Agenda Item No. 2: Minutes. The minutes from the Board of Commissioners Regular Meeting held July 20, 2020, were considered. It was then **MSC (T. Tovey, C. Carr)** to approve the minutes as presented.

Agenda Item No. 3: Financial Report A. Linton-Welsh presented the June financial report. At the end of the reporting period, the Authority had cash on hand of \$3,818,726.46, with checking account balance of \$3,818,701.46 and savings account was \$25.00. The Authority recognized financial activity as follows: net revenue totaled \$-97,968.78, of which \$33,715.55 was interest earnings, property taxes. Expenses totaled \$131,684.33 with \$168.83 in administrative expenses \$20.00 in bank fees, \$16,595.50 in professional serves and \$114,900 in capital construction. **A. Linton-Welsh** also presented the **July** financial report. At the end of the reporting period, the Authority had cash on hand of \$4,380,242.74, with checking account balance of \$4,380,217.74 and savings account was \$25.00. The Authority recognized financial activity as follows: net revenue totaled \$561,516.28, of which \$55,687.08 was interest earnings on cash invested and \$505,829.20 from personal and property tax. With no further discussion it was then **MSC (C. Carr, R. Lion)** to approve the June and July financial report.

Agenda Item No. 4: Expense Payments & Reimbursements. The following invoices were considered for payment:

- a. \$516.83 from General Fund to Elam & Burke for legal fees for the month of July re: Special Counsel General
- b. \$60.74 from the North Portneuf fund to Carl Anderson for Portneuf Capital, LLC, Owner Participation Agreement recording fee.
- c. \$81.31 from the General Fund to Ashley Linton-Welsh for the July 20, 2020, meeting lunch cost.

C. Anderson reviewed the payment requests, stating the invoices accurately reflect work performed for services provided, and are appropriate for payment. It was then **MSC (T. Tovey, D. Villareal)** to approve the payment requests.

Agenda Item/Public Hearing No. 5: FY2021 Budget. **S. Smith** stated that the budget for FY2021 is to be considered by the Board. He then opened the public hearing. **A. Linton-Welsh** briefly described and summarized the budget development process. The FY 2021 potential expenses are included in the contingency amount for the open districts and general fund. That creates sufficient authority for needed spending, but still requires authorization by the PDA for all expenses. It was clarified that this is only an allocation and not an appropriation. It was also stated that the Board currently has a moratorium for new request for projects funded from the general fund.

The public hearing was opened to the public to provide comment. **Heather Disselkoen** presented comment opposed to the FY2021 budget. **H. Disselkoen** indicated that she is opposed to funding projects from the general fund outside of TIF districts and that the general fund should be tied to specific TIF districts. Additionally, **H. Disselkoen** also stated that the

she believes the Board should be more transparent. **S. Smith** commented that the work session in September will address the general fund expenditures. With no further public comment, the public hearing was closed.

T. Tovey indicated that he would like a full legal opinion from Elam & Burke regarding projects funded from the general fund. The Board ensued in discussion and it was stated that staff would reach out to E & B for a legal opinion. Following discussion among Board members, it was then **MSC (T. Tovey, R. Lion)** to adopt the FY2021 budget as proposed.

Agenda Item No. 6: Reimbursement of staff services: **C. Anderson** reviewed the request for payment to the City reimbursing the cost of City staff support to the Board. Under the Board's agreement with the City of Pocatello, the Board may wish to authorize payment to the City of Pocatello for staff services. The estimated fiscal year amount was \$25,000 for staff services. The amount to be reimbursed is \$5,698.26 for the 3rd quarter, bringing the total to-date to \$16,400.22 with one quarter remaining. With no further discussion, it was **MSC (H. Adamson, D. Villareal)** to approve payment to the City in the amount of \$5,698.26 for staff support.

Agenda Item No. 7: Airport TIF District: **C. Anderson** introduced the request from Frigitek, LLC for reimbursement of work completed under the previously approved authorization from the Board at the September 18, 2019 meeting. **M. Quayle** provided an update on the infrastructure work that has been done and discussed the timeline of the project. **T. Tovey** clarified that funds are from the Airport District and that the request is part of an approved project.

Anderson reviewed the payment requests, stating the invoices accurately reflect work performed or goods and services provided, and are appropriate for payment. Staff clarified that the lease agreement between the City of Pocatello and Frigitek Industrial Parks has been signed and returned to the City. It was then **MSC (T. Tovey, S. Turner)** to approve the reimbursement requests of \$55,897.30 and authorize the Chair to sign the confirmation of reimbursement.

Agenda Item No. 8: Potential TIF District: **C. Anderson** provided an update stating that at the Board's regular meeting on June 17th, the Board voted to initiate the eligibility and subsequent feasibility study for a potential TIF in the South 5th Area of Pocatello. Since that time staff has solicited for Professional Services to complete the necessary studies. The proposals are in your agenda packet for review and representatives from Kushlan & Associates / and Outwest Policy Advisors are present to discuss their proposals and answer any questions that the Board may have. At the Board's meeting on July 20th, the Board continued the item to today's meeting to allow for additional time to review the proposals. **C. Anderson** stated that the first step in the process will be determining the eligibility of the area to be included in a potential TIF. Should the area be found to be eligible, the next step will be the feasibility study. The Board may wish to authorize the eligibility study, with the feasibility analysis contingent upon a finding of eligibility. **H. Adamson** clarified that the discussion was whether the Board was considering whether they wanted to move forward with the necessary studies to establish a new district.

The board ensued in discussion on the status of ITD's requirement of a new traffic signal to be installed at the existing interchange. It was stated that ITD is allowing Maverick to move forward without a new light at this time. **J. Mansfield** stated that, based on conversations with ITD, they are looking at a new interchange design in the location. **M. Quayle** provided an update on the City's plans for improvements along the South 5th corridor. **T. Tovey** suggested that the Board consider tabling the discussion until it is clear what ITD's future plans are. **T. Hernandez** stated that he believes that the statement that a light is not needed is incorrect. The Board discussed future actions that may be taken. With no further discussion, it was **MSC (H. Adamson, C. Carr)** the Board not proceed with an eligibility & feasibility study at this time.

Agenda Item No. 9: Triangle Development Project: **C. Anderson** provided a brief history of the project and summary of the request from Jesse Ward of Red Cedar Wealth Advisors. He stated that the subject request covers lots 3-13 Block 1 of the Triangle Subdivision, currently owned by JT Investments, LLC. Jesse Ward of Red Cedar Wealth Advisors is here to provide additional information on the request. The applicant is desirous of developing an office building consistent with the architectural standards of the Triangle Project. To date all improvements have been installed and the only remaining work are the designated live work units on the subject lots, as well as the development of Lot 2, not included in the

request. The development of the aforementioned lots is part of the 4th phase of the development as outlined in the redevelopment grant agreement. C. Anderson stated that the applicant attend the City of Pocatello site plan review meeting on August 11, 2020, and intends to remove the note on the Triangle subdivision plat for live-work units. It was noted that under the zoning code of the subject property, upper level housing may be constructed at any time provided parking requirements are met.

Following discussion, it was **MSC (T. Tovey, D. Villareal)** to authorize the Chair to sign the release of the deed of trust for the properties finding he Triangle project is in full performance of the agreement.

Agenda Item No. 10: Calendar Review: C. Anderson provided an update on the status of a work session in the second week in September. No additional calendar updates were provide.

Agenda Item No.11: Adjourn: There being no further business, the meeting adjourned at approximately 12:21 p.m.

By: _____
Carl Anderson
Interim Executive Director

ATTACHMENT ITEM

No. 5

Pocatello Development Authority

City of Pocatello
911 North 7th Avenue
Pocatello, Idaho 83201

An urban renewal agency for the City of Pocatello, Idaho

TO: Pocatello Development Authority, Board of Commissioners

FROM: Carl Anderson, Interim Executive Director

DATE: September 18, 2020

SUBJECT: Portneuf Capital, LLC – Issuance of Funds

BACKGROUND: As part of the Owner Participation Agreement with Portneuf Capital LLC, the Board approved the TIF reimbursement request of \$420,000 from existing district. Eligible costs include improvements outlined in the plan and approved OPA (Attachment 3 to OPA attached), associated with the development of the site within the Airport TIF District.

Reimbursement Request Summary	
Invoice	Total
Union Pacific Railroad Company & Fiber Broadband LLC Total	\$19,520
Bear River Electric	\$152,253.53
Direct Communication	\$20,000.00
Bortek Utilities	\$49,088.00
Idaho Power	\$180,353.00
Invoice Total:	\$421,214.53
Reimbursement Request Total:	\$420,000.00

SUMMARY: The invoices included as part of the request have been paid by Portneuf Capital, LLC, and final inspection of the completed work will take place prior to the September 18, 2020, regular meeting for staff acceptance.

The applicable Agency Funded Public Improvements on the following page.

Upon approval, payment should be made to **Portneuf Capital, LLC**.

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Attachment 3

Agency Funded Public Improvements

The Agency Funded Public Improvements include utility work within the public utility easement and does not include improvements from the easement to the private buildings.

Item	Description	Estimated Cost
Public Utility – Power – Idaho Power	Within easements as may be provided to Idaho Power Company, 3 transformer stations, 1 stepdown transformer station, disconnect switches inside of each transformer station, and wire from current electrical infrastructure to each transformer station	\$315,000
Public Utility – Natural Gas – Intermountain Gas Co.	Within the easement as may be provided to Intermountain Gas company, 1 regulator control box with sufficient pipe from main	\$20,000
Public Utility – Fiber Optics – Direct Communications	Within the easement, fiber optic infrastructure extension including railroad permit to run cable under tracks	\$85,000
TOTAL		\$420,000.00

36-35

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CONFIRMATION OF AGENCY REIMBURSEMENT NO. _____

This Confirmation of Agency Reimbursement (“Confirmation”) is entered into between the Pocatello Urban Renewal Agency, commonly known as the Pocatello Development Authority, an independent public body, corporate and politic (hereinafter “Agency”), organized pursuant to the Idaho Urban Renewal Law of 1965, Title 50, Chapter 20, Idaho Code, as amended (hereinafter the “Law”), and undertaking projects under the authority of the Local Economic Development Act, Title 50, Chapter 29, Idaho Code, as amended (hereinafter the “Act”), and Portneuf Development, LLC, an Idaho limited liability company authorized to do business in the State of Idaho (hereinafter “Participant”). The Effective Date of this Confirmation is the date last signed by the parties.

WITNESSETH:

1. Agency Contribution

Agency has, pursuant to the procedures set forth in the Owner Participation Agreement by and between the Agency and Participant with an effective date of _____ (the “OPA”), determined the Actual Eligible Costs for those certain Agency Funded Public Improvements as those terms are defined in the OPA and as specifically identified below, shall be _____ and ___/100 dollars (\$_____) (the “Agency Reimbursement”) for the [identify Agency Funded Public Improvements subject to reimbursement in this Confirmation].

2. Payment Terms.

Agency agrees to reimburse Participant for the amount of the Agency Reimbursement, without interest from the Effective Date of this Confirmation pursuant to the Reimbursement Procedure set forth in the OPA.

Participant acknowledges that the Agency Reimbursement may not be paid in full if the revenue allocation proceeds available for reimbursement under the Urban Renewal Plan and pursuant to the OPA, are less than the Agency Reimbursement.

If the Agency Reimbursement is not fully reimbursed by December 31, 2030, or the date upon with the Urban Renewal Plan and Project Area terminates, whichever is earlier, the Agency will not be obligated to make any additional payments.

To the extent there is more than one Confirmation of Agency Reimbursement between the parties and pursuant to the OPA, then payment will be applied to the Confirmation with the earliest Effective Date first, until paid in full, or until December 31, 2030, or upon termination of the Urban Renewal Plan, whichever occurs first.

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3. **Limitation on Making Payments**

It is the intention of the parties that Participant shall only be paid from the existing revenue allocation proceeds. If, for any reason, the revenue allocation proceeds are reduced, curtailed or limited in any way legislative enactments, initiative referendum, judicial decree, or other, the Agency shall have no obligation to pay the Agency Reimbursement to Participant as described in this Confirmation from other sources or monies which Agency has or might hereinafter received.

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

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

**AGENCY
POCATELLO URBAN RENEWAL AGENCY, A/K/A
THE POCATELLO DEVELOPMENT AUTHORITY**

By: _____

_____, Chair

Date: _____

ATTEST:

By: _____

_____,

Secretary

**PARTICIPANT
PORTNEUF DEVELOPMENT LLC**

By: _____

Date: _____

WIRELINE CROSSING AGREEMENT

Mile Post: 217.67, Nampa Subdivision
Location: Pocatello, Bannock County, Idaho

THIS AGREEMENT ("Agreement") is made and entered into as of July 14, 2020, ("Effective Date") by and between **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation, ("Licensor") and **FIBER BROADBAND LLC**, be addressed at 620 Pheasant Ridge Drive, Pocatello, Idaho 83202 ("Licensee").

IT IS MUTUALLY AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:

Article 1. LICENSOR GRANTS RIGHT.

A. In consideration of the license fee to be paid by Licensee set forth below and in further consideration of the covenants and agreements to be performed by Licensee, Licensor hereby grants to Licensee the right to construct and thereafter, during the term hereof, maintain and operate one (1) underground fiber optic wireline crossing encased in a 2 inch HDPE conduit only, including any appurtenances required for the operation of said wireline (collectively, "Licensee's Facilities") across Licensor's real property, trackage, or other facilities located in Pocatello, Bannock County, State of Idaho ("Railroad Property"). The specific specifications and limited purpose for Licensee's Facilities on, along, across and under Railroad Property are described in and shown on the Print and Specifications, dated July 09, 2020, attached hereto as Exhibit A and made a part hereof.

B. Licensee represents and warrants that Licensee's Facilities will (i) only be used for one (1) underground fiber optic wireline crossing encased in a 2 inch HDPE conduit, and (ii) not be used for any other purpose, whether such use is currently technologically possible, or whether such use may come into existence during the life of this Agreement.

C. Licensee acknowledges that if it or its contractor provides Licensor with digital imagery depicting Licensee's Facilities ("Digital Imagery"), Licensee authorizes Licensor to use the Digital Imagery in preparing Exhibit A. Licensee represents and warrants that through a license or otherwise, it has the right to use the Digital Imagery and to permit Licensor to use the Digital Imagery in said manner.

Article 2. LICENSE FEE.

Upon execution of this Agreement, the Licensee shall pay to the Licensor a one-time License Fee of **Three Thousand Dollars (\$3,000.00)**.

Article 3. TERM.

This Agreement shall take effect as of the Effective Date first herein written and shall continue in full force and effect until terminated as provided in the "TERMINATION; REMOVAL OF LICENSEE'S FACILITIES" Section of **Exhibit B**.

Article 4. LICENSEE'S COMPLIANCE WITH GENERAL TERMS.

Licensee represents and warrants that all work on Licensee's Facilities performed by Licensee or its contractors will strictly comply with all terms and conditions set forth herein, including the General Terms and Conditions, attached hereto as Exhibit B and made a part hereof.

Article 5. INSURANCE.

A. During the term of this Agreement, Licensee shall fully comply or cause its contractor(s) to fully comply with the insurance requirements described in **Exhibit C**, attached hereto and made a part hereof. Upon request only, Licensee shall send copies of all insurance documentation (e.g., certificates, endorsements, etc.) to Licensor at the address listed in the "NOTICES" Section of this Agreement.

B. If Licensee is subject to statute(s) limiting its insurance liability and/or limiting its ability to obtain insurance in compliance with **Exhibit C** of this Agreement, those statutes shall apply.

Article 6. DEFINITION OF LICENSEE.

For purposes of this Agreement, all references in this Agreement to Licensee will include Licensee's contractors, subcontractors, officers, agents and employees, and others acting under its or their authority (collectively, a "Contractor"). If a Contractor is hired by Licensee to perform any work on Licensee's Facilities (including initial construction and subsequent relocation, maintenance, and/or repair work), then Licensee shall provide a copy of this Agreement to its Contractor(s) and require its Contractor(s) to comply with all terms and conditions of this Agreement, including the indemnification requirements set forth in the "INDEMNITY" Section of **Exhibit B**. Licensee shall require any Contractor to release, defend, and indemnify Licensor to the same extent and under the same terms and conditions as Licensee is required to release, defend, and indemnify Licensor herein.

Article 7. ATTORNEYS' FEES, EXPENSES, AND COSTS.

If litigation or other court action or similar adjudicatory proceeding is undertaken by Licensee or Licensor to enforce its rights under this Agreement, all fees, costs, and expenses, including, without limitation, reasonable attorneys' fees and court costs, of the prevailing Party in such action, suit, or proceeding shall be reimbursed or paid by the Party against whose interest the judgment or decision is rendered. The provisions of this Article shall survive the termination of this Agreement.

Article 8. WAIVER OF BREACH.

The waiver by Licensor of the breach of any condition, covenant or agreement herein contained to be kept, observed and performed by Licensee shall in no way impair the right of Licensor to avail itself of any remedy for any subsequent breach thereof.

Article 9. ASSIGNMENT.

A. Licensee shall not assign this Agreement, in whole or in part, or any rights herein granted, without the written consent of Licensor, which must be requested in writing by Licensee. Any assignment or attempted transfer of this Agreement or any of the rights herein granted, whether voluntary, by operation of law, or otherwise, without Licensor's written consent, will be absolutely void and may result in Licensor's termination of this Agreement pursuant to the "TERMINATION; REMOVAL OF LICENSEE'S FACILITIES" Section of **Exhibit B**.

B. Upon Licensor's written consent to any assignment, this Agreement will be binding upon and inure to the benefit of the parties thereto, successors, heirs, and assigns, executors, and administrators.

Article 10. SEVERABILITY.

Any provision of this Agreement which is determined by a court of competent jurisdiction to be invalid or unenforceable shall be invalid or unenforceable only to the extent of such determination, which shall not invalidate or otherwise render ineffective any other provision of this Agreement.

Article 11. NOTICES.

Except Licensee's commencement of work notice(s) required under Exhibit B, all other notices required by this Agreement must be in writing, and (i) personally served upon the business address listed below ("Notice Address"), (ii) sent overnight via express delivery by a nationally recognized overnight delivery service such as Federal Express Corporation or United Parcel Service to the Notice Address, or (iii) by certified mail, return receipt requested to the Notice Address. Overnight express delivery notices will be deemed to be given upon receipt. Certified mail notices will be deemed to be given three (3) days after deposit with the United States Postal Service.

If to Licensor: Union Pacific Railroad Company
Attn: Analyst – Real Estate Utilities (03215-57)
1400 Douglas Street, MS 1690
Omaha, Nebraska 68179

If to Licensee: FIBER BROADBAND LLC
620 Pheasant Ridge Drive
Pocatello, Idaho, 83202

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first herein written.

UNION PACIFIC RAILROAD COMPANY

FIBER BROADBAND LLC

By: 

By: 

Valerie Harrill
Mgr II Real Estate Contracts

Name Printed: Darren Miller

Title: Member

Article 3a

Additional Crossing Fees

Engineering of Submitted Plans	accepted	collected	2540.00
Easement / Survey	accepted	collected	1530.00
Track Safety	accepted	collected	3500.00
Track Insurance	accepted	collected	1900.00
Inspection	accepted	collected	1250.00
FRA Reporting / Inspection	accepted	collected	2900.00
Flagging	accepted	collected	1800.00
Final Inspection	accepted	collected	1100.00

PLACE ARROW INDICATING NORTH
DIRECTION RELATIVE TO CROSSING

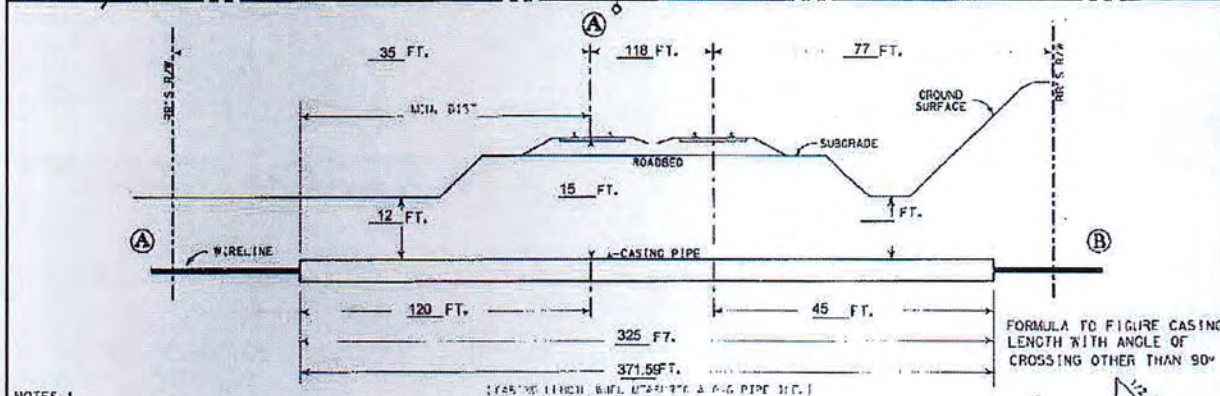
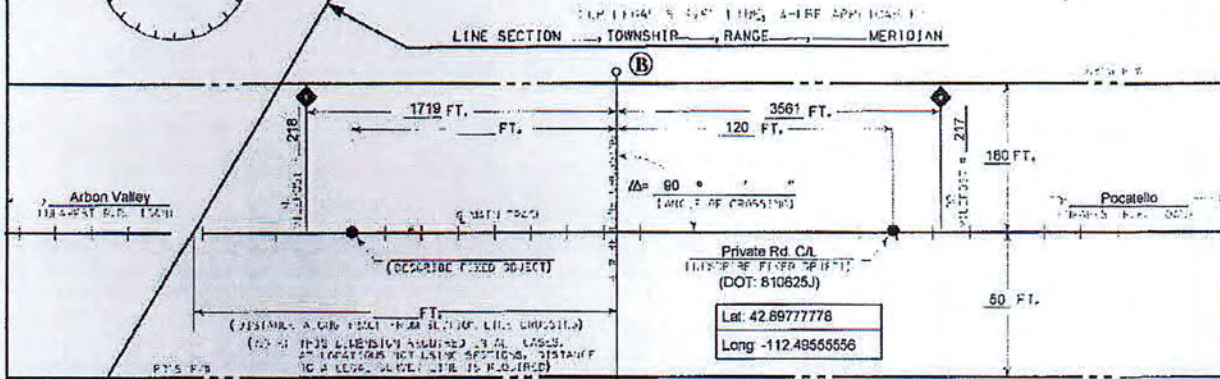


UNDERGROUND WIRELINE CROSSING

750 VOLTS OR LESS

NOTE: ALL AVAILABLE DIMENSIONS MUST BE
LISTED IN CROSSING PERMITS.

REV 10-26-2007
www.uprr.com
NO SCALE



NOTES:

- A) TYPE WIRELINE CROSSING: FIBER OPTIC
- B) VOLTAGE TO BE CARRIED UNDER TRACK 0 NO. OF WIRES 1
- C) CASING TYPE TO BE INSTALLED 2" HDPE SDR-11
- D) METHOD OF INSTALLING CASING PIPE UNDER TRACK(S):
(WEI BORE NOT PERMITTED); DIRECTIONAL BORE
- E) DISTANCE FROM CENTER LINE OF TRACK TO NEAR FACE OF BORING AND JACKING PITS WHEN MEASURED AT RIGHT ANGLES TO TRACK 45
- F) DISTANCE TO NEAREST ROAD CROSSING WITH SIGNAL LIGHTS OR GATES (IF LESS THAN ONE MILE) 8757
- G) APPLICANT HAS CONTACTED 1-800-336-9193, U. P. COMMUNICATION DEPARTMENT, AND HAS DETERMINED FIBER OPTIC CABLE EXIST IN VICINITY OF WORK TO BE PERFORMED. TICKET NO. _____

EXHIBIT "A"

FOR RAILROAD USE ONLY - 09/01/07 (REV. 12/10/2004)

UNION PACIFIC RAILROAD CO.

Nampa Sub.

M. P. 217.67 E. S. 11494+06 ±

UNDERGROUND WIRELINE CROSSING

POCATELLO BANNOCK ID

FOR FIBER BROADBAND LLC

RR FILE NO. 0321557 DATE 7/9/2020

WARNING

IN ALL OCCASIONS, U. P. COMMUNICATIONS DEPARTMENT MUST BE CONTACTED IN ADVANCE OF ANY WORK TO DETERMINE EXISTENCE AND LOCATION OF FIBER OPTIC CABLE.
PHONE: 1-800-336-9193

EXHIBIT B

GENERAL TERMS AND CONDITIONS

Section 1. LIMITATION AND SUBORDINATION OF RIGHTS GRANTED.

A. The foregoing grant is subject and subordinate to the prior and continuing right and obligation of Licensor to use and maintain its entire property including the right and power of Licensor to construct, maintain, repair, renew, use, operate, change, modify or relocate railroad tracks, signal, communication, fiber optics, or other wirelines, pipelines and other facilities upon, along or across any or all parts of its property, all or any of which may be freely done at any time or times by Licensor without liability to Licensee or to any other party for compensation or damages.

B. The foregoing grant is also subject to all outstanding superior rights (including those in favor of licensees and lessees of Railroad Property) and the right of Licensor to renew and extend the same, and is made without covenant of title or for quiet enjoyment. It shall be Licensee's sole obligation to obtain such additional permission, license and grants necessary on account of any such existing rights.

Section 2. ENGINEERING REQUIREMENTS; PERMITS.

A. Licensee's Facilities will be designed, constructed, operated, maintained, repaired, renewed, modified, reconstructed, removed, or abandoned in place on Railroad Property by Licensee or its contractor to Licensor's satisfaction and in strict conformity with: (i) Licensor's current engineering standards and specifications, including those for aerial marker balls, shoring and cribbing to protect Licensor's railroad operations and facilities ("UP Specifications"), except for variances approved in advance in writing by Licensor's Assistant Vice President Engineering - Design or its authorized representative ("UP Engineering Representative"); (ii) such other additional safety standards as Licensor, in its sole discretion, elects to require, including, without limitation, American Railway Engineering and Maintenance-of-Way Association ("AREMA") standards and guidelines (collectively, "UP Additional Requirements"); and (iii) all applicable laws, rules, and regulations, including any applicable Federal Railroad Administration, Federal Energy Regulatory Commission, and Federal Aviation Administration regulations and enactments (collectively, "Laws"). If there is any conflict between UP Specifications, UP Additional Requirements, and Laws, the most restrictive will apply.

B. If Licensee's Facilities will be located underground, Licensee shall keep the soil over Licensee's Facilities thoroughly compacted, and maintain the grade over and around Licensee's Facilities even with the surface of the adjacent ground.

C. Licensee shall not transmit electric current from Licensee's Facilities at a difference of potential in excess of the voltage indicated on **Exhibit A**. If the voltage indicated is in excess of seven hundred fifty volts (750V), and Licensee's Facilities will be buried at any location outside of track ballast or roadbed on Railroad Property, Licensee shall install metallic conduit, or non-metallic conduit encased in a minimum of three inches (3") of concrete with a minimum of four feet (4') of ground cover the entire length of Licensee's Facilities. Any of Licensee's Facilities buried by removal of soil shall have, at a depth of one foot (1') beneath the surface of the ground directly above Licensee's Facilities, with a six inch (6") wide warning tape labeled "Danger-High Voltage" or equivalent wording. Any of Licensee's Facilities

encased in conduit, jacked, or bored under Railroad Property must be identified with warning signs ("Warning Signs") at each edge of Railroad Property, to be installed and properly maintained at Licensee's cost and expense. Licensee shall not utilize Warning Signs in lieu of the warning tape where portions of the casing are installed by direct burial.

D. If needed, Licensee shall secure, at Licensee's sole cost and expense, any and all necessary permits required to perform any work on Licensee's Facilities.

Section 3. NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES.

A. Licensee and its contractors are strictly prohibited from commencing any work associated with Licensee's Facilities without Licensor's written approval that the work will be in strict compliance with the "ENGINEERING REQUIREMENTS; PERMITS" Section of this **Exhibit B**. Upon Licensor's approval, Licensee shall contact both of Licensor's field representatives ("Licensor's Field Representatives") at least ten (10) days before commencement of any work on Licensee's Facilities.

B. Licensee shall not commence any work until: (1) Licensor has determined whether flagging or other special protective or safety measures ("Safety Measures") are required for performance of the work pursuant to the "FLAGGING" Section of this **Exhibit B** and provided Licensee written authorization to commence work; and (2) Licensee has complied with the "PROTECTION OF FIBER OPTIC CABLE SYSTEMS" Section of this **Exhibit B**.

C. If, at any time, an emergency arises involving Licensee's Facilities, Licensee or its contractor shall immediately contact Licensor's Response Management Communications Center at (888) 877-7267.

Section 4. FLAGGING.

A. Following Licensee's notice to Licensor's Field Representatives required under the "NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES" Section of this **Exhibit B**, Licensor shall inform Licensee if Safety Measures are required for performance of the work by Licensee or its contractor on Railroad Property. If Safety Measures are required, no work of any kind may be performed by Licensee or its contractor(s) until arrangements for the Safety Measures have been made and scheduled. If no Safety Measures are required, Licensor will give Licensee written authorization to commence work.

B. If any Safety Measures are performed or provided by Licensor, including but not limited to flagging, Licensor shall bill Licensee for such expenses incurred by Licensor, unless Licensor and a federal, state, or local governmental entity have agreed that Licensor is to bill such expenses to the federal, state, or local governmental entity. Additional information regarding the submission of such expenses by Licensor and payment thereof by Licensee can be found in the "LICENSEE'S PAYMENT OF EXPENSES" Section of this **Exhibit B**. If Licensor performs any Safety Measures, Licensee agrees that Licensee is not relieved of any of responsibilities or liabilities set forth in this Agreement.

C. For flagging, the rate of pay per hour for each flagger will be the prevailing hourly rate in effect for an eight-hour day for the class of flagmen used during regularly assigned hours and overtime in accordance with Labor Agreements and Schedules in effect at the time the work is performed. In addition to the cost of such labor, a composite charge for vacation, holiday, health and welfare, supplemental sickness, Railroad Retirement and unemployment compensation, supplemental pension, Employees Liability and Property Damage, and Administration will be included, computed on actual payroll. The composite charge will be the prevailing composite charge in effect at the time the work is performed. One

and one-half times the current hourly rate is paid for overtime, Saturdays and Sundays, and two and one-half times current hourly rate for holidays. Wage rates are subject to change, at any time, by law or by agreement between Licensor and its employees, and may be retroactive as a result of negotiations or a ruling of an authorized governmental agency. Additional charges on labor are also subject to change. If the wage rate or additional charges are changed, Licensee (or the governmental entity, as applicable) shall pay on the basis of the new rates and charges.

D. Reimbursement to Licensor will be required covering the full eight-hour day during which any flagger is furnished, unless the flagger can be assigned to other railroad work during a portion of such day, in which event reimbursement will not be required for the portion of the day during which the flagger is engaged in other railroad work. Reimbursement will also be required for any day not actually worked by the flaggers following the flaggers' assignment to work on the project for which Licensor is required to pay the flaggers and which could not reasonably be avoided by Licensor by assignment of such flaggers to other work, even though Licensee may not be working during such time. When it becomes necessary for Licensor to bulletin and assign an employee to a flagging position in compliance with union collective bargaining agreements, Licensee must provide Licensor a minimum of five (5) days notice prior to the cessation of the need for a flagger. If five (5) days notice of cessation is not given, Licensee will still be required to pay flagging charges for the days the flagger was scheduled, even though flagging is no longer required for that period. An additional ten (10) days notice must then be given to Licensor if flagging services are needed again after such five day cessation notice has been given to Licensor.

Section 5. SAFETY.

A. Safety of personnel, property, rail operations and the public is of paramount importance in the prosecution of any work on Railroad Property performed by Licensee or its contractor, and takes precedence over any work on Licensee's Facilities to be performed by Licensee or its contractors. Licensee shall be responsible for initiating, maintaining and supervising all safety operations and programs in connection with any work on Licensee's Facilities. Licensor and its contractor shall, at a minimum comply, with Licensor's then current safety standards located at the below web address ("Licensor's Safety Standards") to ensure uniformity with the safety standards followed by Licensor's own forces. As a part of Licensee's safety responsibilities, Licensee shall notify Licensor if it determines that any of Licensor's Safety Standards are contrary to good safety practices. Licensee and its contractor shall furnish copies of Licensor's Safety Standards to each of its employees before they enter Railroad Property found at the link below.

[Union Pacific Current Safety Requirements](#)

B. Licensee shall keep the job site on Railroad Property free from safety and health hazards and ensure that their employees are competent and adequately trained in all safety and health aspects of the work.

C. Licensee represents and warrants that all parts of Licensee's Facilities within and outside of the limits of Railroad Property will not interfere whatsoever with the constant, continuous, and uninterrupted use of the tracks, property, and facilities of Licensor, and nothing shall be done or suffered to be done by Licensee at any time that would in any manner impair the safety thereof. Licensee shall take all suitable precaution to prevent interference (by induction, leakage of electricity, or otherwise) with the operation of the signal, communication lines or other installations or facilities of Licensor or of its tenants. If, at any time, the operation or maintenance of Licensee's Facilities results in any electrostatic effects which Licensor deems undesirable or harmful, or causes interference with the operation of the signal, communication lines or other installations or facilities, as now existing or which may hereafter be

provided by Licensor and/or its tenants, Licensee shall, at the sole cost and expense of Licensee, immediately modify or take action as may be necessary to eliminate such interference.

D. Licensor's operations and work performed by Licensor's personnel may cause delays in Licensee's or its contractor's work on Licensee's Facilities. Licensee accepts this risk and agrees that Licensor shall have no liability to Licensee or any other person or entity for any such delays. Licensee must coordinate any work on Railroad Property by Licensee or any third party with Licensor's Field Representatives in strict compliance with the "NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES" Section of this **Exhibit B**.

E. Licensor shall have the right, if it so elects, to provide any support it deems necessary for the safety of Licensor's operations and trackage during Licensee's or its contractor's construction, maintenance, repair, renewal, modification, relocation, reconstruction, or removal of Licensee's Facilities. In the event Licensor provides such support, Licensor shall invoice Licensee, and Licensee shall pay Licensor as set forth in the "LICENSEE'S PAYMENT OF EXPENSES" Section of this **Exhibit B**.

F. Licensee may use unmanned aircraft systems ("UAS") to inspect Licensee's Facilities only upon the prior authorization from and under the direction of Licensor's Field Representatives. Licensee represents and warrants that its use of UAS on Railroad Property will comply with Licensor's then-current Unmanned Aerial Systems Policy and all applicable laws, rules and regulations, including any applicable Federal Aviation Administration regulations and enactments pertaining to UAS.

Section 6. PROTECTION OF FIBER OPTIC CABLE SYSTEMS.

Fiber optic cable systems may be buried on Railroad Property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. In addition to the notifications required under the "NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES" Section of this **Exhibit B**, Licensee shall telephone Licensor during normal business hours (7:00 a.m. to 9:00 p.m. Central Time, Monday through Friday, except for holidays) at 1-800-336-9193 (also a 24-hour, 7-day number for emergency calls) to determine if fiber optic cable is buried anywhere on Railroad Property to be used by Licensee. If it is, Licensee shall telephone the telecommunications company(ies) involved, and arrange for a cable locator, make arrangements for relocation or other protection of the fiber optic cable, all at Licensee's expense, and will not commence any work on Railroad Property until all such protection or relocation has been completed.

Section 7. LICENSEE'S PAYMENT OF EXPENSES.

A. Licensee shall bear the entire cost and expense of the design, construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities.

B. Licensee shall fully pay for all materials joined, affixed to and labor performed on Railroad Property in connection with the construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities, and shall not permit or suffer any mechanic's or materialman's lien of any kind or nature to be enforced against the property for any work done or materials furnished thereon at the instance or request or on behalf of Licensee. Licensee shall promptly pay or discharge all taxes, charges, and assessments levied upon, in respect to, or on account of Licensee's Facilities, to prevent the same from becoming a charge or lien upon any property of Licensor, and so that the taxes, charges, and assessments levied upon or in respect to such property shall not be increased because of the location, construction, or maintenance of Licensee's Facilities or any improvement, appliance, or fixture connected therewith placed upon such property, or on account of

Licensee's interest therein. Where such tax, charge, or assessment may not be separately made or assessed to Licensee but shall be included in the assessment of the property of Licensor, then Licensee shall pay to Licensor an equitable proportion of such taxes determined by the value of Licensee's property upon property of Licensor as compared with the entire value of such property.

C. As set forth in the "FLAGGING" Section of this **Exhibit B**, Licensor shall have the right, if it so elects, to provide any Safety Measures Licensor deems necessary for the safety of Licensor's operations and trackage during Licensee's or its contractor's construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities, including, but not limited to supervision, inspection, and flagging services. In the event Licensor provides such Safety Measures, Licensor shall submit an itemized invoice to Licensee's notice recipient listed in the "NOTICES" Article of this Agreement. Licensee shall pay to Licensor the total amount listed on such invoice within thirty (30) days of Licensee's receipt of such invoice.

Section 8. MODIFICATIONS TO LICENSEE'S FACILITIES.

A. This grant is subject to Licensor's safe and efficient operation of its railroad, and continued use and improvement of Railroad Property (collectively, "Railroad's Use"). Accordingly, Licensee shall, at its sole cost and expense, modify, reconstruct, repair, renew, revise, relocate, or remove (individually, "Modification", or collectively, "Modifications") all or any portion of Licensee's Facilities as Licensor may designate or identify, in its sole discretion, (i) in the furtherance of Railroad's Use, or (ii) as is necessary to ensure safe and reliable maintenance and operation of the facilities of Licensor and/or its tenants because of interference from Licensee's Facilities.

B. Upon any Modification of all or any portion of Licensee's Facilities to another location on Railroad Property, Licensor and Licensee shall execute a Supplemental Agreement to this Wireline Agreement to document the Modification(s) to Licensee's Facilities on Railroad Property. If the Modifications result in Licensee's Facilities moving off of Railroad Property, this Agreement will terminate upon Licensee's completion of such Modification(s) and all requirements contained within the "TERMINATION; REMOVAL OF LICENSEE'S FACILITIES" Section of this **Exhibit B**. Any such Modification(s) off of Railroad Property will not release Licensee from any liability or other obligation of Licensee arising prior to and upon completion of any such Modifications to the Licensee's Facilities.

Section 9. RESTORATION OF RAILROAD PROPERTY.

In the event Licensee, in any manner moves or disturbs any property of Licensor in connection with the construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities, then, Licensee shall, as soon as possible and at Licensee's sole cost and expense, restore Licensor's property to the same condition as the same were before such property was moved or disturbed.

Section 10. INDEMNITY.

A. Definitions. As used in this Section:

1. "Licensor" includes Licensor, its affiliates, its and their officers, directors, agents and employees, and other railroad companies using Railroad Property at or near the location of Licensee's installation and their officers, directors, agents, and employees.
2. "Licensee" includes Licensee and its agents, contractors, subcontractors,

sub-subcontractors, employees, officers, and directors, or any other person or entity acting on its behalf or under its control.

3. "Loss" includes claims, suits, taxes, loss, damages (including punitive damages, statutory damages, and exemplary damages), costs, charges, assessments, judgments, settlements, liens, demands, actions, causes of action, fines, penalties, interest, and expenses of any nature, including court costs, reasonable attorneys' fees and expenses, investigation costs, and appeal expenses.

B. Licensee shall release, defend, indemnify, and hold harmless Licensor from and against any and all Loss, even if groundless, fraudulent, or false, that directly or indirectly arises out of or is related to Licensee's construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, removal, presence, use, or operation of Licensee's Facilities, including, but not limited to, any actual or alleged:

1. Bodily harm or personal injury (including any emotional injury or disease) to, or the death of, any person(s), including, but not limited to, Licensee, Licensor, any telecommunications company, or the agents, contractors, subcontractors, sub-subcontractors, or employees of the foregoing;
2. Damage to or the disturbance, loss, movement, or destruction of Railroad Property, including loss of use and diminution in value, including, but not limited to, any telecommunications system(s) or fiber optic cable(s) on or near Railroad Property, any property of Licensee or Licensor, or any property in the care, custody, or control of Licensee or Licensor;
3. Removal of person(s) from Railroad Property;
4. Any delays or interference with track or Railroad's Use caused by Licensee's activity(ies) on Railroad Property, including without limitation the construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities or any part thereof, any activities, labor, materials, equipment, or machinery in conjunction therewith ;
5. Right(s) or interest(s) granted pursuant to this Agreement;
6. Electrical interference or other types of interference created or caused by or escaping from Licensee's Facilities;
7. Licensee's breach of this Agreement or failure to comply with its provisions, including, but not limited to, any violation or breach by Licensee of any representations and warranties Licensee has made in this Agreement; and
8. Violation by Licensee of any law, statute, ordinance, governmental administrative order, rule, or regulation, including without limitation all applicable Federal Railroad Administration regulations.

C. THE FOREGOING OBLIGATIONS SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW FOR THE BENEFIT OF LICENSOR TO LOSSES CAUSED BY, ARISING FROM, RELATING TO, OR RESULTING FROM, IN WHOLE OR IN PART, THE NEGLIGENCE OF LICENSOR, AND SUCH NEGLIGENCE OF LICENSOR SHALL NOT LIMIT, DIMINISH, OR

PRECLUDE LICENSEE'S OBLIGATIONS TO LICENSOR IN ANY RESPECT. NOTWITHSTANDING THE FOREGOING, SUCH OBLIGATION TO INDEMNIFY LICENSOR SHALL NOT APPLY TO THE EXTENT THE LOSS IS CAUSED BY THE SOLE, ACTIVE AND DIRECT NEGLIGENCE, GROSS NEGLIGENCE, OR WILLFUL MISCONDUCT OF LICENSOR AS DETERMINED IN A FINAL JUDGMENT BY A COURT OF COMPETENT JURISDICTION.

Section 11. TERMINATION; REMOVAL OF LICENSEE'S FACILITIES.

A. If Licensee does not use the right herein granted on Licensee's Facilities for one (1) year, or if Licensee continues in default in the performance of any provision of this Agreement for a period of thirty (30) days after written notice from Licensor to Licensee specifying such default, Licensor may, at its sole discretion, terminate this Agreement by written notice to Licensee at the address listed in the "NOTICES" Article of this Agreement. This Agreement will not terminate until Licensee complies with Paragraphs "C" and "D" of this Section found below.

B. In addition to the provisions of Paragraph "A" above, this Agreement may be terminated by written notice given by either party, without cause, upon thirty (30) days written notice to the non-terminating party at the address listed in the "NOTICES" Article of this Agreement. This Agreement will not terminate until Licensee complies with Paragraphs "C" and "D" of this Section found below.

C. Prior to the effective date of any termination described in this Section, Licensee shall submit an application to Licensor's online at [this link](#), for Licensee's removal, or if applicable, abandonment in place of Licensee's Facilities located underground on Railroad Property ("Removal/Abandonment Work"). Upon the UP Engineering Representative's approval of Licensee's application for the Removal/Abandonment Work, Licensor and Licensee shall execute a separate consent document that will govern Licensee's performance of the Removal/Abandonment Work from those portions of Railroad Property not occupied by roadbed and/or trackage ("Consent Document"). Licensee shall then restore the impacted Railroad Property to the same or reasonably similar condition as it was prior to Licensee's installation of Licensee's Facilities.

For purposes of this Section, Licensee's (i) performance of the Removal/Abandonment Work, and (ii) restoration work will hereinafter be collectively referred to as the "Restoration Work".

D. Following Licensee's completion of the Restoration Work, Licensee shall provide a written certification letter to Licensor at the address listed in the "NOTICES" Article of this Agreement which certifies that the Restoration Work has been completed in accordance with the Consent Document. Licensee shall report to governmental authorities, as required by law, and notify Licensor immediately if any environmental contamination is discovered during Licensee's performance of the Restoration Work. Upon discovery, the Licensee shall initiate any and all removal, remedial and restoration actions that are necessary to restore the property to its original, uncontaminated condition. Licensee shall provide written certification to Licensor at the address listed in the "NOTICES" Article of this Agreement that environmental contamination has been remediated and the property has been restored in accordance with Licensor's requirements. Upon Licensor's receipt of Licensee's restoration completion certifications, this Agreement will terminate.

E. In the event that Licensee fails to complete any of the Restoration Work, Licensor may, but is not obligated, to perform the Restoration Work. Any such work actually performed by Licensor will be at the cost and expense of Licensee. In the event that Licensor performs any of the Restoration Work, Licensee shall release Licensor from any and all Loss (defined in the "INDEMNITY" Section of this **Exhibit B**) arising out of or related to Licensor's performance of the Restoration Work.

F. Termination of this Agreement for any reason will not affect any of rights or obligations

of the parties which may have accrued, or liabilities or Loss (defined in the "INDEMNITY" Section of this Exhibit B), accrued or otherwise, which may have arisen prior to such termination.

Approved: Insurance Group
Created: 5/19/18
Last Modified: 05/19/18
Form Approved, AVP-Law

EXHIBIT C

INSURANCE REQUIREMENTS

In accordance with Article 5 of this Agreement, Licensee shall (1) procure and maintain at its sole cost and expense, or (2) require its Contractor(s) to procure and maintain, at their sole cost and expense, the following insurance coverage:

A. **Commercial General Liability Insurance.** Commercial general liability (CGL) with a limit of not less than \$2,000,000 each occurrence and an aggregate limit of not less than \$4,000,000. CGL insurance must be written on ISO occurrence form CG 00 01 12 04 (or a substitute form providing equivalent coverage).

The policy must also contain the following endorsement, WHICH MUST BE STATED ON THE CERTIFICATE OF INSURANCE:

- "Contractual Liability Railroads" ISO form CG 24 17 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Railroad Company Property" as the Designated Job Site.

B. **Business Automobile Coverage Insurance.** Business auto coverage written on ISO form CA 00 01 10 01 (or a substitute form providing equivalent liability coverage) with a limit of not less \$2,000,000 for each accident, and coverage must include liability arising out of any auto (including owned, hired, and non-owned autos).

The policy must contain the following endorsements, WHICH MUST BE STATED ON THE CERTIFICATE OF INSURANCE:

- "Coverage For Certain Operations In Connection With Railroads" ISO form CA 20 70 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Property" as the Designated Job Site.

C. **Workers' Compensation and Employers' Liability Insurance.** Coverage must include but not be limited to:

- Licensee's statutory liability under the workers' compensation laws of the state(s) affected by this Agreement.
- Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 disease policy limit \$500,000 each employee.

If Licensee is self-insured, evidence of state approval and excess workers' compensation coverage must be provided. Coverage must include liability arising out of the U. S. Longshoremens and Harbor

Workers' Act, the Jones Act, and the Outer Continental Shelf Land Act, if applicable.

D. Railroad Protective Liability Insurance. Licensee must maintain for the duration of work "Railroad Protective Liability" insurance written on ISO occurrence form CG 00 35 12 04 (or a substitute form providing equivalent coverage) on behalf of Licensor only as named insured, with a limit of not less than \$2,000,000 per occurrence and an aggregate of \$6,000,000. The definition of "JOB LOCATION" and "WORK" on the declaration page of the policy shall refer to this Agreement and shall describe all WORK or OPERATIONS performed under this Agreement. Notwithstanding the foregoing, Licensee does not need Railroad Protective Liability Insurance after its initial construction work is complete and all excess materials have been removed from Licensor's property; PROVIDED, however, that Licensee shall procure such coverage for any subsequent maintenance, repair, renewal, modification, reconstruction, or removal work on Licensee's Facilities.

The definition of "JOB LOCATION" and "WORK" on the declaration page of the policy shall refer to this Agreement and shall describe all WORK or OPERATIONS performed under this Agreement.

E. Umbrella or Excess Insurance. If Licensee utilizes umbrella or excess policies, and these policies must "follow form" and afford no less coverage than the primary policy.

Other Requirements

F. All policy(ies) required above (except worker's compensation and employers' liability) must include Licensor as "Additional Insured" using ISO Additional Insured Endorsements CG 20 26, and CA 20 48 (or substitute forms providing equivalent coverage). The coverage provided to Licensor as additional insured shall, to the extent provided under ISO Additional Insured Endorsement CG 20 26, and CA 20 48 provide coverage for Licensor's negligence whether sole or partial, active or passive, and shall not be limited by Licensee's liability under the indemnity provisions of this Agreement.

G. Punitive damages exclusion, if any, must be deleted (and the deletion indicated on the certificate of insurance), unless (a) insurance coverage may not lawfully be obtained for any punitive damages that may arise under this Agreement, or (b) all punitive damages are prohibited by all states in which this Agreement will be performed.

H. Licensee waives all rights of recovery, and its insurers also waive all rights of subrogation of damages against Licensor and its agents, officers, directors and employees for damages covered by the workers' compensation and employers' liability or commercial umbrella or excess liability obtained by Licensee required in this Agreement, where permitted by law. This waiver must be stated on the certificate of insurance.

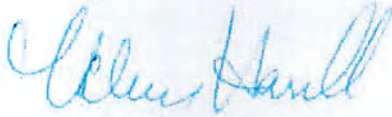
I. All insurance policies must be written by a reputable insurance company acceptable to Railroad or with a current Best's Insurance Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the work is to be performed.

J. The fact that insurance is obtained by Licensee or by Licensor on behalf of Licensee will not be deemed to release or diminish the liability of Licensee, including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by Licensor from Licensee or any third party will not be limited by the amount of the required insurance coverage.

All future insurance notices should be forwarded to my attention per the address below with the Folder number identified:

Real Estate Department
Folder No: 03215-57
Union Pacific Railroad Company
1400 Douglas Street STOP 1690
Omaha, NE 68179-1690

Sincerely,



Valerie Harrill
Mgr II Real Estate Contracts - Real Estate
Email : VAHARRILL@up.com
Phone : (402) 544-8801



591 W Highway 30
Soda Springs, ID 83276

Invoice

Date	Invoice #
9/2/2020	11155

Bill To
Portneuf Capital

P.O. No.	Vendor #

Office Number : 208-547-4205

Item	Hours	Description	Rate	Amount
Labor	147	Labor for electrical work on the Hoku Control building Through 8/26/20	70.00	10,290.00
Materials		Cost of the materials used	8,358.17	8,358.17
Subcontractor		Pro Builders to remove footing and excavate 6" power conduit	1,436.60	1,436.60
Materials		Cost of the materials used, concrete and dye	564.60	564.60
rental		Mini Excavator rental	274.16	274.16
Electrical Permit		Electrical Permit	200.00	200.00
			Balance Due	\$21,123.53

Full payment is due upon receipt of invoice. All accounts past 30 days will be turned over to collections. A 3.5% processing fee will be assessed to all credit card payments. A finance charge of 18% APR will be charged on all past due accounts.

Bear River Electric

Industrial → Commercial → Residential → Agricultural

Quote

To: Portneuf Capital
1 Hoku Way
Pocatello ID 83201

Phone:
Cell: (208) 251-6878
Fax:
E-Mail LDB@portneufcapital.com

Attention: LD Bartleme
Reference: Facilities
Date: March 25, 2020

Facility Electrical

1 Admin Excavation	\$ 13,750.00
2 Warehouse Excavation	\$ 15,700.00
3 Control Building Transformer to Disconnect	\$ 26,600.00
4 Admin Building Disconnect	\$ 14,500.00
5 Warehouse Primary	\$ 19,300.00
6 Warehouse Disconnect with multi-meter base	\$ 35,300.00
7 Warehouse Interior Panels (Using Onsite Panels & Xfmr)	\$ 5,980.00
Total Project	\$ 131,130.00

Description of Line Items...

- 1 Excavation from the main power transformer to the Admin Building for IDPCo
- 2 Excavation from the main Sector to the Warehouse Building for IDPCo
- 3 Control Building Power from the IDPCo Transformer to the Main Building Disconnect. Includes Disconnect and installing grounding conductor to MDP.
- 4 Admin Building Installation of Disconnect in the Main Electrical Room.
- 5 Warehouse Building Power from the IDPCo Transformer to the Main Building Disconnect.
- 6 Warehouse Interior Panels. Installation of 1- 480v Panel, 1- 45 kva XFMR, and 1- 120/208v Panel on the wall adjacent to the Main Service Disconnect. Interior Convenience outlets are not included in this pricing.
- 7

Total Cost
\$131,130

1. This proposal is firm for 30 days.
2. City and or State Electrical Permit is included in price.
3. If you have any questions and/or comments please feel free to reach me at the number listed below.

Thank You,

Forrest Lusk
(208)-251-3484
FLuskBRE@Gmail.com
Bear River Electric, LLC

price without extending term at any time during initial term.

Description of Service	One-time Capital/ Installation Cost *	Monthly Price	QTY	Monthly Subtotal
<input checked="" type="checkbox"/> 1,500 x 1,500 Mbps Dedicated Internet Access 60 month agreement	\$0	\$1,545.00	1	\$1,545.00
<input type="checkbox"/> 2,000 x 2,000 Mbps Dedicated Internet Access 60 Month agreement	\$0	\$1,745.00	1	\$1,745.00
<input checked="" type="checkbox"/> Public Static IP Address Qty 5 (/29) Public Static IP Address - Quantity of 5 usable Traditional Statics- NOT PPPOE		\$50.00	1	\$50.00
Option to reduce monthly rate with up-front capital (please select if this option is desired)				
<input checked="" type="checkbox"/> Up-front capital of \$20,000 Selecting this option will reduce monthly payment by \$150.00	\$20,000.00	-\$150.00	1	-\$150.00
Total Monthly amount				\$1,595.00

* Capital cost is primarily an opportunity for Subscriber to assist with construction costs so as to reduce monthly charges depending on term of agreement, or one-time charges for equipment. The indicated amount will be invoiced on first billing cycle invoice.

** PLEASE NOTE ** TERMS of this agreement are included below. By accepting this proposal, Subscriber acknowledges that these TERMS have been read and are acceptable with this proposal. Internet service term selected determines the length of term for all monthly services.

Applicable taxes (if any) for equipment or service not included in this proposal.

As is typical for telecommunication services, services are billed a month in advance. As such, the first invoice will likely contain a partial month billing, and depending on the date service begins, may have up to two months of service included in the first bill. Subsequent bills will have only one month of service. Please contact above noted Account Representative if questions.

AGREED TO AND ACCEPTED (authorized representative):

Darren Miller

06/30/2020

RECEIVED
7-1-20

Signature Certificate

Document Ref.: 47CVJ-ZOKFO-4IPSP-DTVZG

Document signed by:

	<p>Darren Miller Verified E-mail: dmiller@mytrufiber.com</p>	<p><i>Darren Miller</i></p>
<p>65.121.131.130</p>	<p>30 Jun 2020 19:27:33 UTC</p>	
	<p>Drew Izatt Verified E-mail: drew@directcom.com</p>	<p><i>D.I.</i></p>
<p>104.129.214.91</p>	<p>30 Jun 2020 20:42:14 UTC</p>	

Document completed by all parties on:

30 Jun 2020 20:42:14 UTC

Page 1 of 1



Signed with PandaDoc.com

PandaDoc is the document platform that boosts your company's revenue by accelerating the way it transacts.





Invoice Date 9-3-2020
Invoice # 1258

Customer Bear River Electric
Contact Forrest
Hoku Facility

Description	Units	Cost	total
horizontal drill UPRR Philbin crossing w/ Casing	1	21000.00	21000.00
HDPE 1 1/4" x2	1354	2	2708.00
Locates	1	3200.00	3200.00
extra bedding material	1	3000.00	3000.00
vaults / installed	3	1120	3360.00
trenching	1340	3	4020.00
rock clause	1	700.00	700.00
UPRR coordination	1	500.00	500.00
material haul off	1	2500.00	2500.00
splicing	1	3800.00	3800.00
UPRR license / UPRR Insurance	1	4300.00	4300.00
Total			49,088.00

Rec 7-3-20

DC # 1421



LG_1120200623203747_d4e51-000000138

Questions? Contact your Customer Care team:
208-388-2323 or 1-800-488-6151 • M-F: 7:30 a.m.-6:30 p.m.
P.O. Box 70 • Boise, ID • 83707
Hablamos español.
For more information and/or self-help options,
visit idahopower.com.

JUNE 23, 2020
PORTNEUF CAPITAL
1 HOKU WAY
POCATELLO ID 83204-5079

Account Number: 2270697630

PAYMENT RECEIPT

Dear PORTNEUF CAPITAL,

Thank you for your payment of \$16973.00. We received your check #163 on 06/23/2020 for the following construction project(s):

Description/Work Order #	Payment Amount	Balance Owning
1 HOKU WAY Work Order: 27550633 WORK ORDER: 275506	\$16,973.00	\$0.00

We appreciate the opportunity to serve you. If you have any questions regarding this receipt, please contact Idaho Power at 208-388-2323 or 1-800-488-6151.

Thank you.



An IDACORP Company
P.O. BOX 70, BOISE, ID 83707
208-388-2323

000026 000000338
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PORTNEUF CAPITAL
1 HOKU WAY
POCATELLO ID 83204-5079





ID 312010062320347 06-23-2020/138

Questions? Contact your Customer Care team:
208-388-2323 or 1-800-488-6151 • M-F: 7:30 a.m.-6:30 p.m.
P.O. Box 70 • Boise, ID • 83707
Hablamos español.
For more information and/or self-help options,
visit idahopower.com.

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JUNE 23, 2020

PORTNEUF CAPITAL
1 HOKU WAY
POCATELLO ID 83204-5079

Account Number: 2270697622

PAYMENT RECEIPT

Dear PORTNEUF CAPITAL,

Thank you for your payment of \$130654.00. We received your check #161 on 06/23/2020 for the following construction project(s):

Description/Work Order #	Payment Amount	Balance Owing
1 HOKU WAY Work Order: 27550632 WORK ORDER: 275506	\$130,654.00	\$0.00

We appreciate the opportunity to serve you. If you have any questions regarding this receipt, please contact Idaho Power at 208-388-2323 or 1-800-488-6151.

Thank you.



An IDACORP Company

P.O. BOX 70, BOISE, ID 83707
208-388-2323

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PORTNEUF CAPITAL
1 HOKU WAY
POCATELLO ID 83204-5079





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JUNE 23, 2020

PORTNEUF CAPITAL
1 HOKU WAY
POCATELLO ID 83204-5079

Account Number: 2270697648

PAYMENT RECEIPT

Dear PORTNEUF CAPITAL,

Thank you for your payment of \$32726.00. We received your check #162 on 06/23/2020 for the following construction project(s):

Description/Work Order #	Payment Amount	Balance Owing
1 HOKU WAY Work Order: 27550634 WORK ORDER: 275506	\$32,726.00	\$0.00

We appreciate the opportunity to serve you. If you have any questions regarding this receipt, please contact Idaho Power at 208-388-2323 or 1-800-488-6151.

Thank you.



An IDACORP Company

P.O. BOX 70, BOISE, ID 83707
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PORTNEUF CAPITAL
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