

**MEMORANDUM OF AGREEMENT
BETWEEN CITY OF MOSCOW, IDAHO AND
MOSCOW URBAN RENEWAL AGENCY
REGARDING SIXTH AND JACKSON INTERSECTION
TURN LANE IMPROVEMENT PROJECT**

THIS MEMORANDUM OF AGREEMENT BETWEEN CITY OF MOSCOW, IDAHO AND THE MOSCOW URBAN RENEWAL AGENCY (hereinafter collectively, the "PARTIES") REGARDING THE SIXTH AND JACKSON INTERSECTION TURN LANE IMPROVEMENT PROJECT (hereinafter "MOA") is entered into the 2nd day of March, 2017 by and between City of Moscow, Idaho, a municipal corporation of the State of Idaho, 206 East Third Street, Moscow, Idaho, 83843 (hereinafter "CITY"), and the Moscow Urban Renewal Agency, a public body, corporate and politic (hereinafter "AGENCY"), organized pursuant to the Idaho Urban Renewal Law of 1965, Title 50, Chapter 20, Idaho Code, and the Local Economic Development Act, Title 50, Chapter 29, Idaho Code.

WHEREAS, CITY desires to make improvements to the Sixth and Jackson Streets intersection that includes realignment of the western side of the intersection with the eastern side of the intersection to improve travel lane alignment to enhance intersection safety and functionality; and

WHEREAS, AGENCY currently owns the adjacent property located at the southwest corner of the Sixth and Jackson Streets intersection and currently addressed as 201 West Sixth Street (hereinafter "AGENCY PARCEL"); and

WHEREAS, In order to construct the proposed improvements, additional public right-of-way with an area of three thousand and twenty three (3,023) square feet is required from the AGENCY PARCEL (hereinafter "DEDICATION PARCEL"); and

WHEREAS, AGENCY desires to improve the AGENCY PARCEL frontage on Sixth and Jackson Streets to include the undergrounding of the existing overhead utilities, ten foot (10') sidewalks, street trees, and decorative street light fixtures; and

WHEREAS, AGENCY and CITY wish to work cooperatively in the public's interest to jointly improve the safety of the Sixth and Jackson Streets intersection and the condition of the AGENCY PARCEL street frontages; and

WHEREAS, AGENCY desires to dedicate the DEDICATION PARCEL in exchange for the construction of certain frontage improvements detailed herein;

NOW, THEREFORE, CITY and AGENCY hereby agree as follows:

SECTION 1: PROJECT Description. The PROJECT includes the demolition of the curb and sidewalk along the AGENCY PARCEL frontages on Sixth and Jackson Streets, the construction

of new curbing, storm drainage, underground power and communication utilities, a ten foot (10') wide sidewalk, installation of nine (9) street trees and attendant tree grates, five (5) decorative street light fixtures, and required asphalt paving as shown in Exhibit 'A' attached hereto.

SECTION 2: CITY agrees to do the following: CITY agrees to design, bid, and construct the PROJECT to current CITY street standards, in accordance with the approved design as illustrated in Exhibit 'A'. CITY agrees to complete construction of the PROJECT by no later than December 31, 2017, unless otherwise mutually agreed upon by CITY and AGENCY.

SECTION 3: AGENCY agrees to do the following: AGENCY agrees to dedicate the DEDICATION PARCEL, shown in Exhibit 'B' attached hereto, to CITY at no cost to CITY; to pay for any additional utility undergrounding expenses beyond the installation of underground conduits and vaults as shown in the underground utility plan attached hereto as Exhibit 'C'; and to pay for the frontage improvements to the AGENCY PARCEL's Jackson Street frontage beginning from the southern Sixth and Jackson corner curb point of tangency and continuing south to the AGENCY's southern property boundary.

SECTION 4: Design and Construction Process: CITY shall lead the design and construction process with the assistance and input of AGENCY. CITY shall manage the PROJECT bid and construction process, provide final direction to the construction contractor, and shall be responsible for the PROJECT until completion and acceptance of improvements by CITY.

SECTION 5: General Provisions

A. Records Custody, Maintenance, and Ownership

CITY shall be custodian of records in its possession or control pursuant to Idaho law. AGENCY shall be custodian of its own records, pursuant to Idaho law.

AGENCY shall make available to CITY all technical data of record in AGENCY's possession, including maps, surveys, water quality data and other information necessary to support the PROJECT.

Documents relating to the services provided for the PROJECT shall be the property of CITY, and CITY shall have the exclusive and unrestricted authority to release, publish, or otherwise use them, in whole or in part. All such documents developed under this MOA shall not be subject to copyright or patent in the United States or in any other country without the prior written approval and express authorization of CITY.

B. Compliance with Applicable State or Federal Laws

This MOA is entered into by the PARTIES in Moscow, Latah County, Idaho, and is subject to all applicable Federal and State laws, statutes, codes, any and all applicable permits, ordinances, rules, orders, and regulations of any Federal, State, or local government authority having or asserting jurisdiction.

C. Term of MOA

Term of this MOA shall be from the date of the last signature hereto until completion and acceptance of the street frontage improvements to the AGENCY PARCEL.

D. Force Majeure

Time periods provided for performance of the obligations set forth in this MOA shall be extended for a period or periods of time equal to any period or periods of delay caused by strikes, lockouts, fire, or other casualty, litigation by third parties, the elements or acts of God, or other causes, other than financial, which are beyond the reasonable control of the PARTY having the relevant obligation.

E. Notice and Communications, PROJECT Representatives

CITY and AGENCY hereby designate their authorized representatives to act on their behalf with respect to the services and responsibilities under this MOA. The following designated representatives are authorized to receive notices, transmit information and make decisions regarding the PROJECT on behalf of their respective PARTY, except as expressly limited herein. These representatives are not authorized to alter or modify the terms and conditions of this MOA, except as provided in this MOA.

For CITY:

Name:	Les MacDonald	Work Telephone:	(208) 883-7028
Address:	P O Box 9203	Fax Telephone:	(208) 883-7033
	Moscow, ID 83843		
E-mail Address:	<u>lmacdonald@ci.moscow.id.us</u>		

For AGENCY:

Name:	Bill Belknap	Work Telephone:	(208) 883-7011
Address:	P O Box 9203	Fax Telephone:	(208) 883-7033
	Moscow, ID 83843		
E-mail Address:	<u>bbelknap@ci.moscow.id.us</u>		

In the event any changes are made to the authorized representatives or other information listed above, CITY and AGENCY agree to furnish each other timely, written notice of such changes.

F. No Joint Venture and No Joint Powers Agreement

Nothing contained in this MOA shall be construed as creating a joint venture partnership or agency relationship between the PARTIES other than as provided in this MOA. The PARTIES herein specifically intend not to create a joint powers agreement as authorized by Idaho Code Sections 67-2326 through 67-2333.

G. Successors and Assigns

The work on the PROJECT to be provided under this MOA, and any claim arising hereunder, is not assignable or delegable by either PARTY in whole or in part, without the express prior written consent of the other PARTY.

H. Severability

The illegality, invalidity or unenforceability of any term, condition, or provision of this MOA shall in no way impair or invalidate any other term, condition, or provision of this MOA. All such other terms, conditions, and provisions shall remain in full force and effect.

I. Jurisdiction and Venue

It is agreed that this MOA shall be construed under and governed by the laws of the State of Idaho. In the event of litigation concerning it, it is agreed that proper venue shall be the District Court of the Second Judicial District of the State of Idaho, in and for the County of Latah.

J. Indemnification

1. CITY waives any and all claims and recourse against AGENCY, including the right of contribution for loss and damage to persons or property arising from, growing out of, or in any way connected with or incident to AGENCY's performance of this MOA, except for liability arising out of the sole negligence of AGENCY or its officers, agents, or employees. Further, subject to the limits of liability specified in Idaho Code Sections 6-901 through 6-929, known as the Idaho Tort Claims Act, AGENCY shall indemnify, hold harmless, and defend CITY against any and all claims, demands, damages, costs, expenses, or liability arising out of CITY's performance of this MOA, except for liability arising out of the sole negligence of CITY or its officers, agents, or employees.

If CITY is determined to be solely negligent by a final decision in a court of law and such sole negligence by CITY directly results in judgment(s), costs, and/or expenses to AGENCY, then CITY shall reimburse AGENCY for the portion of such judgment(s), costs and/or expenses attributed to CITY as a result of such determination of CITY's sole negligence.

2. AGENCY waives any and all claims and recourse against CITY, including the right of contribution for loss and damage to persons or property arising from, growing out of, or in any way connected with or incident to CITY's performance of this MOA, except for liability arising out of the sole negligence of CITY or its officers, agents, or employees. Further, subject to the limits of liability specified in Idaho Code Sections 6-901 through 6-929, known as the Idaho Tort Claims Act, CITY shall indemnify, hold harmless, and defend AGENCY against any and all claims, demands, damages, costs, expenses, or liability arising out of AGENCY's performance of this MOA, except for liability arising out of the sole negligence of AGENCY or its officers, agents, or employees.

If AGENCY is determined to be solely negligent by a final decision in a court of law and such sole negligence by AGENCY directly results in judgment(s), costs, and/or expenses to CITY, then AGENCY shall reimburse CITY for the portion of such judgment(s), costs and/or expenses attributed to AGENCY as a result of such determination of AGENCY's sole negligence.

K. Insurance and Notice of Claims

CITY's and AGENCY's liability coverage is provided through the Idaho Counties Risk Management Program (ICRMP). Limits of liability, and of AGENCY and CITY's indemnification under this MOA, with respect to claims covered by the Idaho Tort Claims Act, are five hundred thousand dollars (\$500,000) Combined Single Limits, which amount is CITY's and AGENCY's limit of liability under the Idaho Tort Claims Act.

Notification. CITY and AGENCY shall promptly notify the other PARTY of any claim arising under, or otherwise related to, the provisions of this MOA. CITY and AGENCY shall cooperate with the other PARTY in defense of such claims, as provided in this MOA.

Following completion of the PROJECT, notice of claim or incident shall be given to City Clerk, P O Box 9203, Moscow, Idaho, 83843.

L. Remedies and Disputes.

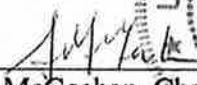
Any and all claims, disputes or controversies arising under, out of, or in connection with this MOA, which the PARTIES hereto are unable to resolve within sixty (60) days, shall be mediated in good faith by the PARTIES.

Nothing in this MOA shall be construed to limit the PARTIES' choice of a mutually acceptable dispute resolution method in addition to the dispute resolution procedure outlined above, or to limit the PARTIES' rights to any remedy at law or in equity for breach of the terms of this MOA and the right to receive reasonable attorney's fees and costs incurred in enforcing the terms of this MOA.

IN WITNESS WHEREOF, the PARTIES have executed this MOA to be effective the date first above written.

AGENCY

Moscow Urban Renewal Agency

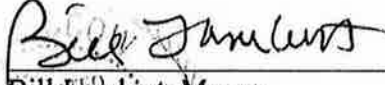

Steve McGeehan, Chair

Date: 3-2-17



CITY

City of Moscow, Idaho


Bill Lambert, Mayor



ATTEST:



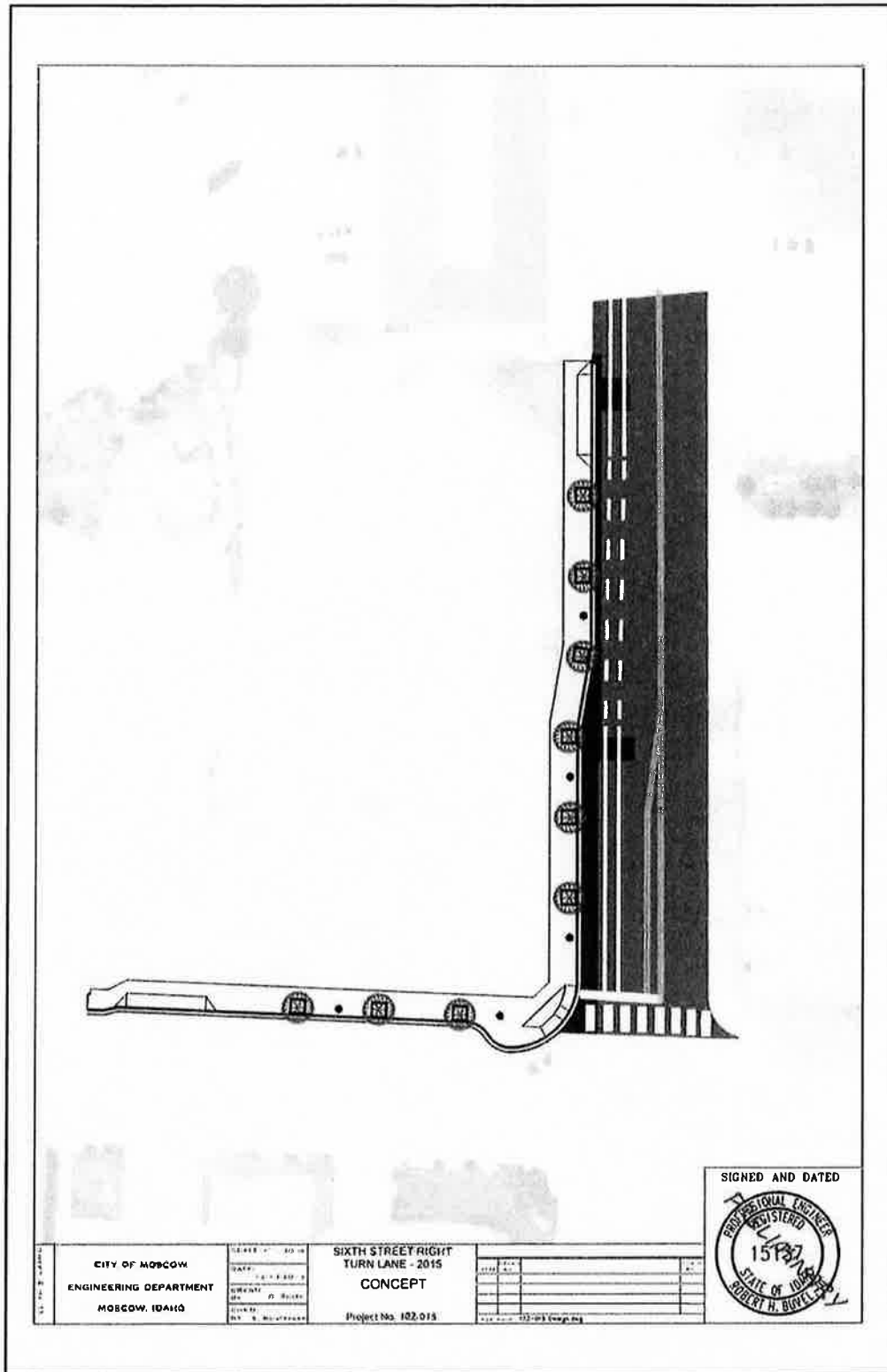
Bill Belknap, Executive Director

ATTEST:



Laurie M. Hopkins, City Clerk

EXHIBIT 'A'



CITY OF MOSCOW ENGINEERING DEPARTMENT MOSCOW, IDAHO	SHEET NO. 102-015-01	SIXTH STREET RIGHT TURN LANE - 2015 CONCEPT Project No. 102-015	DATE:	CITY:
	DRAWN BY:		STATE:	
	CHECKED BY:		COUNTY:	
	DESIGNED BY:		PROJECT NO.:	

SIGNED AND DATED

PROFESSIONAL ENGINEER
 REGISTERED
 15/13/15
 STATE OF IDAHO
 ROBERT H. BOVEL

EXHIBIT 'B'

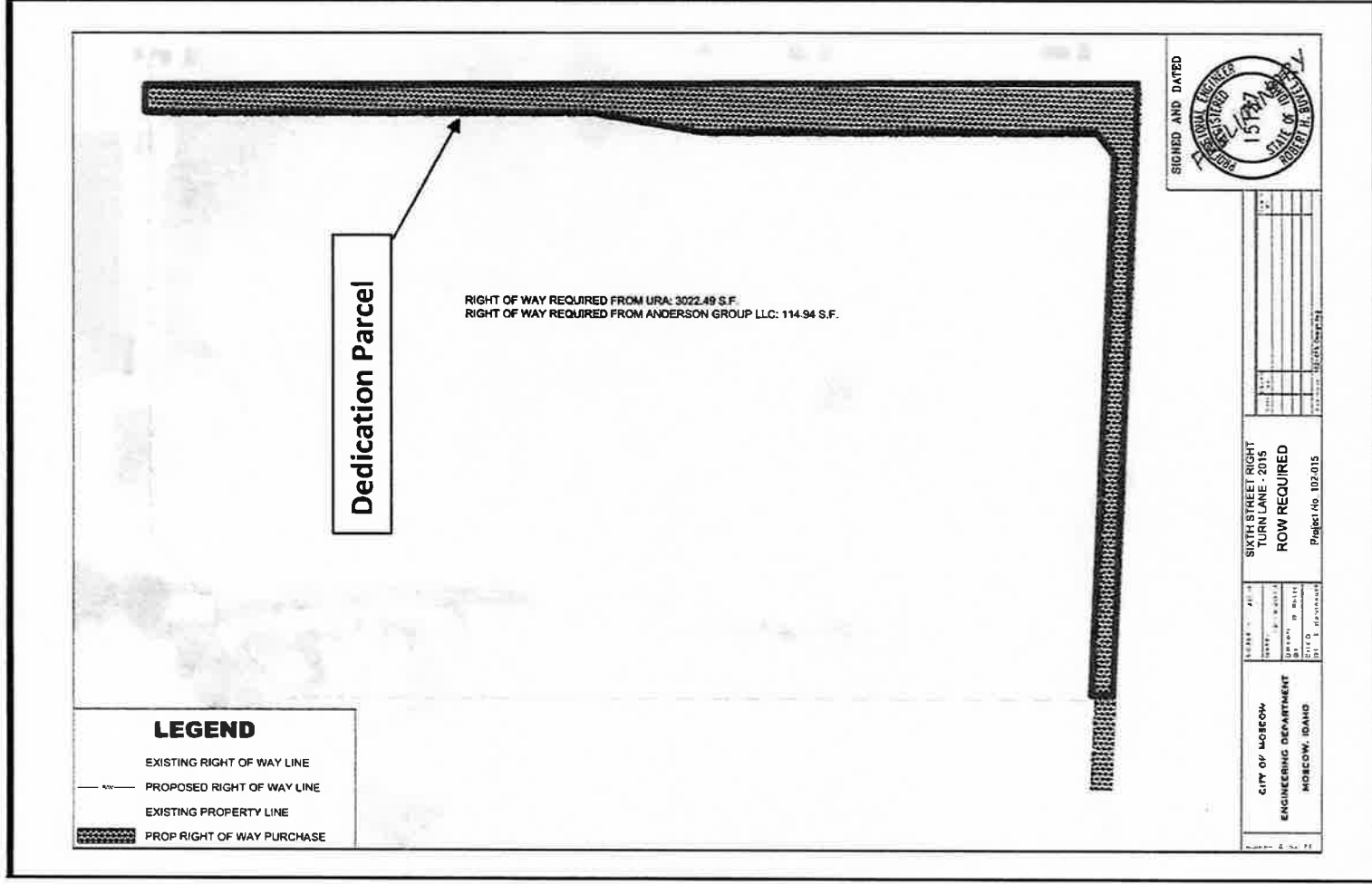
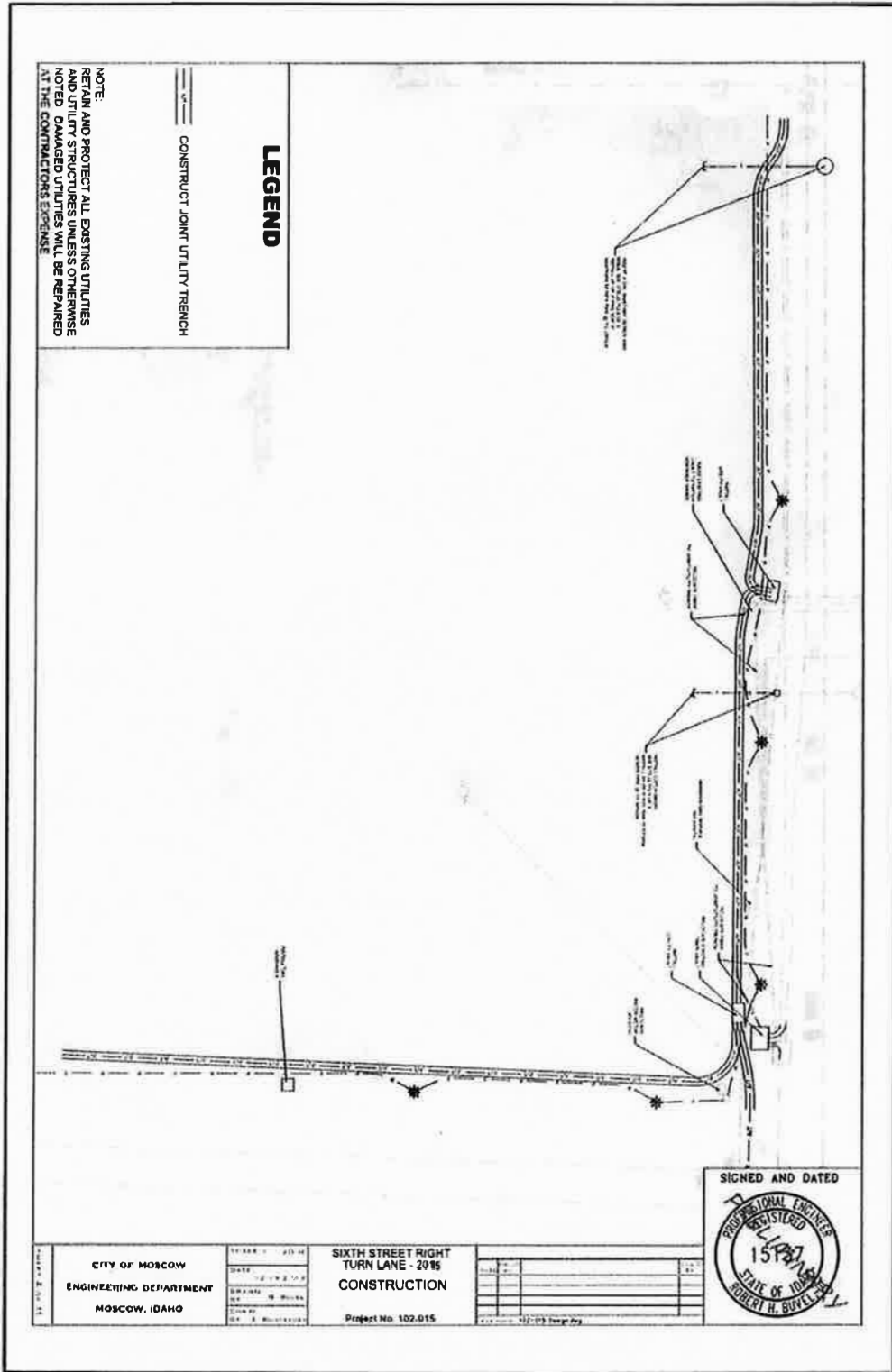


EXHIBIT 'C'



LEGEND

CONSTRUCT JOINT UTILITY TRENCH

NOTE:
RETAIN AND PROTECT ALL EXISTING UTILITIES AND UTILITY STRUCTURES UNLESS OTHERWISE NOTED. DAMAGED UTILITIES WILL BE REPAIRED AT THE CONTRACTOR'S EXPENSE.

CITY OF MOSCOW
ENGINEERING DEPARTMENT
MOSCOW, IDAHO

SIXTH STREET RIGHT
TURN LANE - 2015
CONSTRUCTION

DATE	BY	CHKD	APP'D

Project No. 102.015

SIGNED AND DATED

PROFESSIONAL ENGINEER
REGISTERED
1578
STATE OF IDAHO
ROBERT H. BOVILL