

Draft #2.1 (8.9.22)

UTILITY ACCOMMODATION POLICY

IDAHO TRANSPORTATION DEPARTMENT
202~~2~~³ Edition

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SECTION 1 GENERAL INFORMATION

1.1 PURPOSE AND APPLICATION

This document supersedes the Department's 2003~~22~~ Edition of the Utility Accommodation Policy" and all prior editions. These provisions concern the location and manner in which utility installations are to be made within the rights-of-way of the state highway system of Idaho and highway projects for local roads using Federal-aid.

This policy of the Idaho Transportation Department (ITD) shall adhere with Idaho code and accommodate utility facilities installations on federal aid and non-federal aid state highway rights-of-way, to the extent that such facilities may be accommodated without compromising the safety or integrity of the highway and without interference to the normal operation and maintenance activities as required.

This policy applies to maintenance of existing public and non-public utilities, new utility installations, and existing utility installations to be retained or adjusted as a result of highway construction or reconstruction, and the relocation of utility facilities that are found to constitute a hazard to the traveling public on all rights-of-way under the jurisdiction of the ITD. The standards set forth in this policy will also apply where encroachment by private utility facilities is permitted.

ITD will enter into agreements with local highway authorities to regulate the use and occupancy of the right-of-way of local federal-aid highways by utility facilities in accordance with the Federal Highway Administration's regulations found in Title 23, Code of Federal Regulations, Part 645, Subpart B, Accommodation of Utilities coupled with any other reference cited therein and any amendments or supplements which are in effect prior to execution of the agreement.

Exceptions to any provisions contained in this policy may be authorized by ITD or the Idaho Transportation Board in any instance where there is evidence showing that unusual hardship and/or unusual conditions provide justification and where alternate measures can be prescribed in keeping with the intent of the policy. All requests for such exceptions shall be documented with design data, cost comparison, and other information that may be pertinent.

~~ITD's Guide for Utility Management (GUM) current edition in accordance with this policy outlines the procedures established by ITD regarding coordination and administration of utility facility installations, relocations and adjustments within the right of way of the State Highway System and for utility facility relocations on local highway improvement projects using Federal Aid funds. The GUM is available for public inspection and copying at the Idaho Transportation Department central office, 3311 West State, Boise, Idaho 83707 or the Idaho Transportation Department website: <https://apps.itd.idaho.gov/Apps/manuals/ManualsOnline.html>~~

1.2 AUTHORITY

The provisions of this manual are authorized by the following sections of the Idaho Administrative Procedures Act:

- *Administrative Rule (IDAPA) 39.03.42* “Rules Governing Highway Right-of-Way Encroachments on State Right-of-Ways”; references the rule establishing standards and guidelines for encroachments on state highway rights-of-way; including but not limited to: definitions, safety, maintenance, applications, permits, access spacing, design standards, turnouts and unauthorized/nonstandard encroachments.
- *Administrative Rule (IDAPA) 39.03.43* “Rules Governing Utilities on State Highway Right-of-Way”; references this policy for utilities occupying the highway right-of-way of the State Highway System.

The authority of utilities to use and occupy the right-of-way of highways is cited as follows:

- *Idaho Code §§ 62-701, 62-705, and 62-1101* provides that telephone and telegraph companies, electric power companies, oil and gas pipeline companies, etc., may use the public right-of-way for their transmission lines.
- *Idaho Code § 42-3212(k)* permits sewer and water districts to construct and maintain facilities across or along any public street or highway and to use the public right-of-way for their transmission lines.
- *Idaho Code § 40-2308* provides for use of public highways and city streets by gas and water.
- *Idaho Code § 40-515 provides for the use of highway rights-of-way for cost-efficient, orderly, and coordinated installation of broadband infrastructure during roadway construction.*

The state's authority to regulate the use of the right-of-way of state highways is cited as follows:

- *Idaho Code § 40-312(1)* authorizes the Idaho Transportation Board to prescribe rules and regulations affecting state highways and to enforce compliance with such rules and regulations.
- *Idaho Code § 40-312(3)* provides additional rule-making powers by the Idaho Transportation Board for the regulation of public right-of-way usage by utilities.

1.3 DEFINITION OF TERMS

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| ACCESS | The ability to enter or leave a public highway or highway right-of-way from an abutting private property or other public highway. |
| BACKFILL | Approved material used to replace excavated material. |
| BEDDING | Soil or other suitable material to support a pipe, conduit, casing, or gallery. |
| BORING | Rotary drilling into the earth to insert a conduit or casing in the bore. |
| <u>BROADBAND</u> | <u>Wide bandwidth communication transmissions allowing high speed internet access with an ability to simultaneously transport multiple signals and traffic types at a minimum transmission speed of one hundred (100) megabits per second for downloads and twenty (20) megabits per second for uploads.</u> |
| <u>BROADBAND INFRASTRUCTURE</u> | <u>Networks of deployed telecommunications equipment, conduit, and technologies necessary to provide broadband and other advanced telecommunications services to wholesalers or end users, including but not limited to private homes, businesses, commercial establishments, schools, or public institutions.</u> |
| <u>BROADBAND PROVIDER</u> | <u>Any entity that:</u> <u>(a) Provides broadband services, including but limited to a telecommunications provider, cable service provider, broadband provider, cellular provider, political subdivision that provides broadband services, electric cooperative that provides broadband services, electric utility that provides broadband services, state government entity that provides broadband services, tribal government that provides broadband services, or internet service provider; or</u> <u>(b) Builds broadband infrastructure, including but not limited to a port, nonprofit organization, or private-public partnership established for the purpose of expanding broadband in the state.</u> |
| CARRIER | Pipe directly enclosing a transmitted fluid (liquid or gas). |
| CASING | A larger pipe generally under the roadway, through pier(s), or abutment(s) of highway structures that enclose one or more utility conduits or carriers. |
| CLEAR ZONE | An area outside the traveled way, auxiliary lanes and shoulders that is constructed and maintained as free from physical obstruction as practical, for use as a recovery area by errant vehicles. |
| COATING | Material applied to or wrapped around a pipe. |
| CONDUIT or DUCT | An enclosed casing for protecting wires or cables. |
| CONTROLLED ACCESS | Any highway or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the highway except at such points only or in such manner as may be determined by the public authority having jurisdiction over the highway. |
| DEPTH OF COVER | Depth of material from top of underground utility facility to the finish grade of a roadway or the natural ground or the bottom of a stream channel. |
| <u>DIG-ONCE POLICY</u> | <u>A policy or practice that minimizes the number and scale of excavations or construction and costs when installing utility infrastructure in highway right-of-way.</u> |
| DISTRICT | An administrative and maintenance subdivision of the Idaho Transportation Department encompassing a particular geographical region of the State of Idaho. |

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| DRIVING | A mechanical means to forcibly install a casing without the means of drilling or boring. |
| EASEMENT | An interest in real property that conveys use, but not ownership, of a portion of an owner's property. |
| ENCASEMENT | A larger structural element around an underground utility facility. Includes casing or utility tunnel. |
| ENCROACHMENT | Any authorized or unauthorized use of highway right-of-way or the air space above the highway right-of-way. |
| FORESLOPE | The area from the edge of pavement to ditch line. |
| FRONTAGE ROAD | A road auxiliary to and located to the side of the highway for service to the abutting properties and adjacent areas, for the purpose of controlling access to the highway. |
| GRADE SEPARATION | A structure separating the elevations of two or more intersecting roads above or below a highway. |
| HIGHWAY(S) | The entire width between the boundary lines of every main traveled way publicly maintained when any part is open to use by the public for vehicular travel, with jurisdiction extending to the adjacent property line, including sidewalks, shoulders, berms, and rights-of-way not intended for motorized traffic. The term "street" is interchangeable with highway. Also, roads, streets, alleys, and bridges laid out or established for the public or dedicated or abandoned to the public. Highways shall include necessary culverts, sluices, drains, ditches, waterways, embankments, retaining walls, bridges, tunnels, grade separation structures, roadside improvements, adjacent lands, or interests lawfully acquired, pedestrian facilities, and any other structures, works, or fixtures incidental to the preservation or improvement of the highways. Roads laid out and recorded as highways, by order of a board of commissioners, and all roads used as such for a period of five (5) years, provided they shall have been worked and kept up at the expense of the public, or located and recorded by order of a board of commissioners, are highways. |
| HIGHWAY RIGHT-OF-WAY | Property rights to land generally designated for transportation purposes, open to the public, and under the jurisdiction of a Public Highway Agency. |
| IDAHO TRANSPORTATION BOARD | Is vested with authority, control, supervision and administration of the Idaho Transportation Department established by Title 40, Chapter 3, of the Idaho Code. |
| INTERSECTION | The general area where two or more highways join or cross at-grade. |
| INTERSTATE HIGHWAY | As identified by U.S. Code, a part of the National System of Interstate and Defense Highway System with a fully controlled access and having medians, grade separations at cross roads, and ramp connections for entrance to and exit from the traveled way. |
| JACKING | A method to place underground pipe without trenching by cutting an opening ahead of the pipe and forcing the pipe into the opening by means of horizontal jacks. |
| <u>LONGITUDINAL ACCESS</u> | <u>Access to or use of any part of right-of-way of a highway that extends generally parallel to the right-of-way for a total of one hundred (100) or more linear feet.</u> |

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| MAINTENANCE | The continuous work or in kind replacement that is required to keep any encroachment within the highway right-of-way from deterioration due to wear and tear, and to preserve the general character of the original improvement without alteration of any of its component factors. |
| MEDIAN | The portion of a divided highway or approach that separates opposing traveled ways. Medians may be raised, flush, or depressed relative to the roadway surface, and may be landscaped or paved. |
| PERFORMANCE BOND | A statutory bond, issued by a surety company authorized to do business in the state of Idaho that guarantees performance of work in accordance with permit requirements. |
| REST AREA | A roadside area with parking and other facilities, separated from the roadway that provides travelers an opportunity to stop and rest. |
| RIGHTS-OF-WAY | A general term denoting land, property, or interest therein and under the jurisdiction of specified entity. |
| ROADSIDE | A general term denoting the area adjoining the outer edge of the roadway with-in the right-of-way. |
| ROADWAY | The portion of a highway, including shoulders, for vehicular use. |
| SHOULDER | The paved or unpaved portion of the roadway contiguous with the traveled way for accommodation of stopped vehicles, for emergency use, and for lateral support of base and surface courses. |
| SMALL WIRELESS FACILITY | <p>(1) The facilities—</p> <ul style="list-style-type: none"> (i) are mounted on structures 50 feet or less in height including their antennas as defined in 47 C.F.R. 1.1320 (d), or (ii) are mounted on structures no more than 10 percent taller than other adjacent structures, or (iii) do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater; <p>(2) Each antenna associated with the deployment, excluding associated antenna equipment (as defined in the definition of antenna in 47 C.F.R. §1.1320(d)), is no more than three cubic feet in volume;</p> <p>(3) All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume;</p> <p>(4) The facilities do not require antenna structure registration under 47 C.F.R. § 17.4;</p> <p>(5) The facilities are not located on Tribal lands, as defined under 36 CFR 800.16(x); and</p> <p>(6) The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in 47 C.F.R §1.1307(b).</p> |
| STATE HIGHWAY SYSTEM | The principal highway arteries in the state, including connecting arteries and extensions through cities, and includes roads to every county seat in the state. |
| SUBBASE | A layer or layers of specified or selected material of designed thickness placed on a subgrade to support a base course. |
| SUBGRADE | The surface of the roadbed or that surface noted as “Subgrade” on the highway plans. |

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| TRAVELED WAY | The portion of the roadway for the movement of vehicles exclusive of shoulders and auxiliary lanes. |
| UTILITY | An entity comprised of any person, private company, public agency or cooperative owning and/or operating utility facilities. |
| UTILITY FACILITY | All privately, publicly or cooperatively owned lines, facilities, and systems for producing, transmitting or distributing communications, cable television, electricity, light, heat, gas, oil, petroleum products, ore, water, slurry, steam, sewage, waste or storm water not connected with highway drainage, and other similar commodities. |
| UTILITY TUNNEL | An underground structure capable of containing several pipes, cables and conduits for utility facilities. |
| VIEW AREA | A roadside area provided for motorists to pull off the traveled way and view the scenery in safety. |

SECTION 2 RIGHT-OF-WAY & PERMIT

2.1 USE

ITD acquires rights-of-way adequate for the construction of the highway facility, and for its safe operation and maintenance. ITD recognizes Idaho law allowing utilities to jointly-use highway right-of-way when it does not impair or interfere with the free and safe flow of traffic and highway maintenance. The opportunity for joint use avoids the additional cost of acquiring separate rights-of-way for the exclusive accommodation of utilities. ITD is not obligated to acquire extra right-of-way needed to allow utilities within highway right-of-way.

2.2 PRE-EXISTING

ITD recognizes that pre-existing property interests within public rights-of-way exist. Proof of a pre-existing property interest within a highway right-of-way shall be accepted in the form of a duly executed deed, grant or other document establishing the same, or at least two affidavits sufficient to establish prior right or title of the utility.

In the absence of such proof, it shall be assumed that the utility occupies the highway right-of-way as a permittee (i.e. by permission), and enjoys no vested interest.

2.3 PERMITTED

An ITD [Right-of-Way Encroachment Application and Permit for Utilities Utility Encroachment Permit](#) (form # ITD-2110), or ITD [Right-of-Way Encroachment Application and Permit Encroachment Permit](#) for Small Wireless Facilities (form # ITD-2118) are the documents that specify the requirements and conditions under which installing and maintaining utility facilities on the highway right-of-way shall be performed. Plan sheets showing the location for utility facilities within the highway right-of-way are to be attached and made a part of the Utility Encroachment Permit. The District issuing the Utility Encroachment Permit will include all additional requirements called “Special Provisions”.

Each new utility facility installation that is to occupy state highway right-of-way shall require the owner of the facility to secure an ITD Utility Encroachment Permit. Any addition to or change in location or components of existing facilities other than for routine maintenance and emergency repairs, shall require issuance of a new Utility Encroachment Permit prior to the initiation of such work or change.

Existing utility facilities that are to be relocated or adjusted to a position within the highway right-of-way due to a construction project shall be issued a Board Order to relocate and a no cost Utility Encroachment Permit by ITD. Before issuance of the Board Order, the Utility shall be afforded the opportunity of a Hearing before the Idaho Transportation Board.

Utility facilities not adjusted and already covered by a permit will not require a new permit.

No permitted interest or rights-of-way shall be transferred to another utility or person except by written consent of ITD.

Utility facilities wishing to locate on or across highways for which all deeded rights have not been obtained (such as through National Forest System lands, U.S. Bureau of Land Management lands, lands owned or managed by a Tribe or within the boundaries of a Tribal Reservation, Railroad property, etc.) shall acquire approval to use the rights-of-way for non-highway purposes from the appropriate entity having administration of the property prior to issuance of an ITD Encroachment Permit.

Because it is impossible to anticipate all future highway needs or proposals, the ITD reserves the right to deny any request for a permit.

~~The ITD GUM outlines the process to be followed for requesting, approving and implementing Utility Encroachment Permits on the highway right-of-way and the Hearing process and issuance of a Board Order.~~

2.4 ADMINISTRATIVE APPEAL

If the applicant for a Utility Encroachment Permit is denied a permit by the District, the applicant may appeal as follows:

1. **Commencement.** Applicants may appeal denied permits, or permits granted with conditions that the applicant believes to be unreasonable, in writing to the Department's District Engineer within thirty (30) days of receipt of written notification of the denial or grant of the permit. The appeal process commences on the date the Department's District office receives written notification of appeal from the applicant.
2. **Process Hold.** If at any time during the appeal process it is determined that insufficient documentation was submitted with the appeal, all parties shall be notified that the appeal process is placed on hold until the necessary documentation is supplied.
3. **Appeal Process.** The District will have thirty (30) working days to review the appeal. If the District Engineer does not rule on the appeal within the thirty (30) day period, the denial of the permit shall be deemed overturned and the permit shall be issued, or the contested permit conditions stricken. Notice of the decision of the District Engineer shall be issued by certified mail within seven (7) days of the ruling. Otherwise, if the District Engineer does not overturn the original denial or strike the contested provisions from the permit, upon receipt of a written request from the applicant within twenty-one (21) days of the date of the denial of the appeal, it shall be forwarded to the Department's legal section to initiate an appeal to the Idaho Transportation Board. The appeal will be processed in accordance with the Idaho Administrative Procedure Act and IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General."

2.5 REQUIREMENTS OF PERMITTEE

Because it is impossible to anticipate all future highway needs or proposals, ITD may require relocation of permitted utilities if needed. The utility shall waive reimbursement for any future relocation expenses as a condition of obtaining a permit to install new or upgrade existing facilities within the highway right-of-way.

The permittee shall conduct their operation so as to cause a minimum of interference to the highway users and the operation and maintenance of the highway. The utility shall provide a traffic control plan in conformance with the latest edition adopted by Idaho of the Federal Highway Administration's *"Manual on Uniform Traffic Control Devices"* as adopted by ITD (MUTCD) and all other ITD standards concerning the construction operations of the utility facility. Traffic control plans showing detours and signing operations for all lanes must have ITD approval prior to any work beginning. No lane closure shall be made without prior ITD approval. Peak hour lane closures may be prohibited.

Any noncompliance of the permit requirements will result in termination of the utility company's permit and the utility facilities covered by the permit must be removed.

If the utility fails to construct, repair or remove said utility in accordance with the terms of the permit to the satisfaction of ITD or fails to pay ITD any sum of money for the inspection, reconstruction, repair or maintenance of said utility, ITD retains the right to cancel the permit, remove said utility and restore the highway at the sole expense of the utility. Before canceling the permit, ITD shall notify the utility in writing, setting forth the violations and give the utility reasonable time to fully correct the violations.

Any utility work done through a contract issued by the permittee shall be subject to the same requirements of the permit.

2.6 EMERGENCY REPAIR AND MAINTENANCE

An emergency repair or adjustment of utility facilities may be made without prior permit if there is an extreme emergency. An extreme emergency would exist if the utility facility were damaged such that it presented imminent danger, or loss of life, or severe damage to property, or loss of vital utility services.

The utility company shall notify ITD as soon as possible in advance of any maintenance or emergency repair work to utility facilities within highway right-of-way. Notification shall be given to the appropriate ITD District office or state communications ~~per the~~ [GUM](#).

None of the provisions of this policy are waived for maintenance or emergency repairs except for the requirement to secure a permit prior to work. In all cases the permittee shall comply with the State Law requiring notification of all utility owners prior to any excavation. Highway right-of-way access will only be granted for the actual time when repairs are being made and the extreme emergency exists. Every precaution shall be taken during such periods to safeguard the highway user.

Violation of the above-listed regulations governing maintenance and emergency access to the highway right-of-way shall result in immediate cancellation of the Utility Encroachment Permit for that facility.

2.7 PERMIT FEE

Utility Encroachment Permit shall not be processed until all applicable permit fees are received. Fees for permits are not refundable. Utility Encroachment Permit fees shall be as follows:

- Non-Interstate: new, modify or relocated, fifty dollars (\$50).
- Interstate: new, modify or relocated, fees will be addressed at the time of application.
- Interstate & Non-Interstate: maintenance or emergency repair without change in location, No Charge.
- Interstate & Non-Interstate: ITD highway project requires modify or relocation, No Charge.
- Small Wireless Facility (SWF): permit fees are based on IDAPA 39.03.43 – Rules Governing Utilities on State Right-of-Way and Master License Non-Exclusive Installation and Occupancy Agreement terms including rates per facility, and annual attachment and right of way access fees.

2.8 INSPECTION

To ensure compliance with the terms and conditions of Utility Encroachment Permit, ITD reserves the right to inspect the work of the utility or their contractor during such periods as deemed necessary to check compliance and to require correction of deviations from the terms and conditions of the permit. ITD may assign at the time of permit issuance, an inspector to inspect the work and the expense of said inspector shall be borne by the permittee. Such inspection by ITD shall in no way relieve the permittee of any duty or responsibility to the general public, nor shall such inspection relieve the permittee from any liability for loss, damage, or injury to persons or property as provided in this policy.

2.9 PERFORMANCE BOND

ITD reserves the right to require a performance bond in any amount it deems appropriate, in order to guarantee satisfactory completion and cleanup of the utility work being permitted. The bond amount designated at the time of permit issuance shall be large enough to cover costs to repair, replace and/or correct damage that might be caused by the Permittee. The bond shall be executed by a surety company in good standing and authorized to conduct business in Idaho and in full force prior to commencing of permitted work.

SECTION 3 INDEMNIFICATION

3.1 MAINTENANCE BY UTILITIES

The utility facility shall at all times be maintained, repaired, renewed and operated by and at the expense of the utility. The utility shall maintain at its sole expense their facilities occupying the highway right-of-way in a condition satisfactory to ITD.

3.2 NOTICE OF DAMAGE

Notification of damage to any utility facility by ITD or by another utility shall be made to the affected utility company.

3.3 UTILITY INDEMNIFICATION

ITD's Utility Encroachment Permit shall include the following language as a provision of the permit:

“By signing this permit, the permittee, his designated representative or successors, agree to indemnify, save harmless and defend regardless of outcome, the State from the expense of and against all suits or claims, including costs, expenses and attorney fees that may be incurred by reason of any act or omission, neglect, or misconduct of the permittee or its contractors in the design, construction, maintenance or use of the facility covered by the permit.”

SECTION 4 DESIGN

4.1 RESPONSIBILITY

When a utility requests to locate or adjust its utility facility within the highway right-of-way, or attach to a highway structure, the utility is responsible for the design and installation of the facility. ITD is responsible for review and approval of the utility's proposed design with respect to the location of the utility facilities to be installed or relocated and the manner of placement. This includes the measures to be taken to preserve the safe and free flow of traffic, structural integrity of the roadway or highway structure, ease of highway maintenance, appearance of the highway and existing landscape and the integrity of the utility facility.

When a highway construction project requires the relocation or adjustment of utility facilities, ITD must coordinate the design with the utility ~~in accordance with the GUM~~.

4.2 RELOCATING COST

When highway improvements require the relocation of utility facilities that have been permitted on highway right-of-way, they shall be moved at the owner's sole expense unless ITD agrees in advance, and at its sole discretion to pay or share in the cost of relocation.

On highway construction where a utility facility originally occupied and/or occupies a portion of the rights-of-way in which the utility has a prior right to the location, the following provisions shall apply:

- ITD will enter into an agreement to reimburse the utility for all costs incurred in designing, removing, adjusting, or relocating the specified utility facility now and if required at any future time by ITD.
- The utility shall release and relinquish to ITD all its rights, title, and interest in its easements located within the right-of-way in exchange for necessary ITD permits to accommodate utility facilities that are relocated, adjusted, or remain in place. These permits may not be canceled except by mutual agreement between the utility and ITD.

In all cases, the utility shall be liable for any cost incurred upon ITD due to the action or the failure to act during relocation or alteration of the utility's facilities within the highway right-of-way or the boundaries of a highway project.

4.3 MINIMUM REQUIREMENTS

All utility installations on, over, or under highway right-of-way and attachments to highway structures should be of durable materials designed for long service life expectancy and relatively free from routine servicing and maintenance. Utility installations, at a minimum, shall meet the following requirements:

- Electric Power and Communication Facilities shall conform to the currently applicable National Electrical Safety Code.
- Water Lines shall conform to the currently applicable specifications of the American

Water Works Association.

- Pressure Pipelines shall conform to the current applicable sections of the Standard Code for Pressure Piping of the American National Standards Institute, Title 49, Code of Federal Regulations, Parts 192 and 195, and applicable industry codes.
- Liquid Petroleum Pipelines shall conform to the current applicable recommended practice of the American Petroleum Institute for pipeline crossings under railroads and highways.
- Corrugated Metal Pipe or Reinforced Concrete Pipe, Conduit, casing pipe, or gravity carrier pipe shall conform to the current issue of the Standard Specifications for Highway Construction, published by the Idaho Transportation Department and the American Society of Testing and Materials.

Utility facilities shall conform to or surpass the requirements of federal, state, and local regulations if such regulations are more restrictive than the standards referred to above.

On new installations or adjustments of existing utility lines, provisions should be made for known or planned expansion of the utility facilities, particularly those located underground or attached to structures. They should be planned to minimize hazards and interference with highway traffic when additional overhead or underground lines are installed at some future date.

SECTION 5 LOCATION

5.1 GENERAL

Utility facilities shall be located in such a manner so as to:

- Not adversely affect highway operation or traffic safety;
- Avoid interference with highway maintenance and signing;
- Eliminate or at least minimize the need for later adjustment of the facility to accommodate future highway improvements;
- Permit access to the facilities for servicing with a minimum interference to highway traffic.
- Preserve or minimize disturbance to natural landscape.

A decision regarding the accommodation of a utility at a particular location should be made consistent with sound engineering practices. The right-of-way shall be left in as good a condition or better than it was prior to any work.

5.2 EXISTING FACILITIES

Existing facilities within the limits of, and not in conflict with, a highway construction project may remain in place provided the conditions of this policy have been met.

Existing facilities on highway right-of-way that, after comprehensive accident history or safety studies are declared by ITD to be a hazard to highway users shall be relocated or shielded.

Existing underground facilities that fall in the path of a highway construction project and are too weak to support the highway loads and the equipment operation for the highway construction shall be relocated or protected in a manner acceptable to both ITD and the utility.

If existing utilities are allowed to be left in a location that would be under the roadway, the utility will not be allowed to cut the pavement for repair of that facility damaged by an accident or a natural disaster unless first approved by ITD. Approval by ITD will only be granted if the utility can show the repair is an emergency condition that can only be achieved by cutting the pavement. If repairs are done by pavement cuts, the utility company will replace the highway subbase, base and pavement to the requirements and satisfaction of ITD.

5.3 UNDERGROUND FACILITIES

Underground utilities shall be installed to preclude any necessity for disturbing the highway to perform maintenance or expansion operations.

Minimum depth of cover below the roadway surface and within 20 feet of edge of roadway shall be at least 4 feet except for Interstate highways the minimum depth shall be 5 feet. Everywhere else depth of cover shall be at least 3 feet, except for pipe siphons that shall be installed in accordance with ITD Standards.

ITD may approve location for underground facilities with less than minimum depth of cover provided the top of the facility does not project above the highway subgrade, and protection in a manner acceptable to ITD is included.

5.4 ABOVE GROUND FACILITIES

Above ground utility facilities including pedestals or service poles installed as part of a buried installation, shall be located outside the clear zone of the highway as near as possible to the rights-of-way. Where highway right-of-way is not sufficient to allow installation beyond the clear zone, the facilities will be placed in the best possible location that affords adequate protection to ITD satisfaction for an out-of-control vehicle, such as behind guardrail. Particular care shall be exercised when such facilities are to be located on the outside of a horizontal curve.

Above ground, utility facilities shall not be closer to the traveled way than other roadside appurtenances and fixtures unless approved by ITD.

Minimum conductor vertical clearance for overhead utility lines crossing highways shall be approved by ITD, but in no case shall be less than the clearance required by the National Electrical Safety Code.

5.5 LONGITUDINAL

Longitudinal utility facility installations shall be located outside the normal maintenance operating area (beyond ditch or curb line) and as near to the right-of-way line as terrain and other existing utilities will reasonably allow.

Where frontage roads are provided, utility facilities shall be located so they can be serviced from the frontage road or other access outside highway rights-of-way.

ITD may approve longitudinal installations to locate within the foreslope limits only if the following conditions are shown to exist to ITD satisfaction:

1. The utility facilities are not a detriment to the highway system.
2. The highway traverses a scenic area where an aerial installation would detract from the view or the terrain.

Installations approved to be located within the foreslope limits shall be placed a uniform distance from the pavement edge as near as practicable to the inside edge of the ditch.

Open canals or irrigation ditches shall not parallel highways within the rights-of-way.

5.6 CROSSING

Facilities crossing the highway should be placed as near to a right angle to the highway alignment as practical and preferably under the highway.

Crossings by water canals and irrigation ditches shall be made through culverts or bridges as appropriate to the size of the canal, topographic conditions, and highway safety aspects. Irrigation line and pipe siphon crossings shall be buried from right-of-way line to right-of-way line.

Underground utility crossings in deep cuts, near footings of structures, at cross drains, at grade intersections or ramp terminals and in wet or rocky terrain shall be avoided if possible.

5.7 WITHIN CONTROLLED ACCESS HIGHWAYS

Access for constructing and servicing a utility facility along or across an Interstate shall be limited to access via:

- Frontage roads where provided;
- Intersecting or adjacent public highways, roads and streets, or;
- Special cases which must be evaluated and approved by ITD and FHWA.

Where a utility facility already exists within the proposed rights-of-way of an Interstate and it can be serviced, maintained, and operated without access from the through-traffic lanes, shoulders or ramps, it may remain provided it does not adversely affect the safety, design, construction, operation, maintenance, or stability of the Interstate.

Manholes and other points of access to underground utilities will only be permitted within the rights-of-way of an Interstate where they can be constructed and serviced without access from the through-traffic lanes, shoulders or ramps.

Access to utility facilities from through-traffic lanes, shoulders or ramps will only be permitted if an extreme emergency exists and repairs are needed for the immediate protection of property and persons or prevention of injury. Refer to Section 2.6. In these emergency cases when direct access to the authorized facilities from ramps or main traveled ways is required, no vehicular traffic movements shall be tolerated that would cross traffic or be contrary to standard traffic movement.

5.7.1 ALONG CONTROLLED ACCESS HIGHWAYS

New utility facilities shall not be permitted to install longitudinally within the rights-of-way of any Interstate, except in special cases under strictly controlled conditions established by ITD and FHWA for each specific case.

Where such longitudinal installations are requested, the utility must in each case show to ITD satisfaction:

1. There are no frontage roads or adjacent public roads/streets established at locations where accommodation of the utility facilities is feasible.

2. That the accommodations will not adversely affect the design, construction, operations, safety, maintenance, or stability of the interstate and that it will not interfere with or impair the present use or future expansion of the interstate.
3. The location of the utility outside of the right-of-way would result in the loss of productive agricultural land, or loss of productivity of agricultural land, if any. In this case, the utility must provide information on the direct and indirect environmental and economic effects, which will be evaluated and considered pursuant to Title 23 U.S. Code Section 109(1).

Where a longitudinal utility installation is permitted, service connections to adjacent properties will not be permitted from the Interstate Right-of-Way.

Where longitudinal utility installations must traverse interchange areas, they shall be located and treated in the same manner as utility crossings within interchange areas.

Installation of utilities shall not be allowed longitudinally within the median area.

5.7.2 CROSSING CONTROLLED ACCESS HIGHWAYS

Installations of new utility facilities and adjustments or relocations of existing utility facilities may be permitted to cross an Interstate.

Utility facilities should cross over or under the Interstate within the permitted easement or rights-of-way of the existing or relocated crossroad, provided installation and servicing thereof can be accomplished without access from the Interstate traffic lanes, shoulders or ramps. Where the utilities prefer to locate outside the permitted easement or rights-of-way of the crossroad, they shall be located and treated in the same manner as utility facilities crossing the Interstate at points removed from grade separation structures.

Overhead utility lines crossing an Interstate at points removed from grade separation structures or those crossing near a grade separation but not within the rights-of-way of the crossroad, shall be adjusted so that supporting structures are located outside the control of access lines. Where right-of-way lines and control of access lines are not one and the same, as where frontage roads are provided, supporting poles may be located in the area between them. In extraordinary cases where such spanning of the roadways is not feasible, consideration should be given to conversion to an underground facility to cross the Interstate.

At interchange areas, support for overhead utilities should be permitted only where all of the following conditions are met:

1. The appropriate clear zone from the edge of ramps and Interstate through-traffic lanes are provided.
2. Essential sight distance is not impaired.

Except for necessary crossings, water canals and irrigation ditches shall be excluded from the Interstate right-of-way. Crossings may be made by an underground siphon

or through culverts or bridges as appropriate to the size of the canal, topographic conditions, highway safety aspects and ITD standards. All access for servicing or patrolling such facilities shall be from outside the control of access lines.

5.8 INSTALLATIONS ON HIGHWAY STRUCTURES

Attachment to highway structures will be allowed only where ITD approves location and the method of attachment to the highway structures. Attachments to highway structures shall not be approved by ITD if doing so will negatively affect the structure for safe traffic operation, efficiency of maintenance, and appearance.

ITD Bridge section shall review plans and design calculations to ensure that the structure is adequate to support the additional load and accommodate the utility attachment. Utilities shall not be allowed to attach to a highway structures until approved by ITD.

Utility facility mountings shall be of a type which limit rattle due to vibrations caused by traffic. Attachments shall be made below the deck but the utility facility and mountings shall not extend below the superstructure. Bolting through the bridge floor will not be allowed. The design of the attachment device shall be reviewed and approved by ITD.

Attachment details shall be shown on the existing bridge plan sheets that can be obtained from the ITD Bridge Section. Design for utilities attached to existing structures shall follow the same requirement as utilities installed with new construction. Any existing utilities on the same side of the structure as the proposed utility should be shown on the plans. The utility company shall be responsible for calculating design stresses in the utility and design of the support system. All calculations shall be on 8½"x11" paper and stamped by an engineer licensed in Idaho. Plans shall be either 11"x17" or 22"x34" sheets and stamped by an engineer licensed in Idaho.

Upon leaving the bridge, the utility should be aligned outside the roadway in as short a distance as is operationally practicable.

The utility shall be required to make satisfactory provisions approved by ITD for the lineal expansion and contraction of its facility due to temperature variations.

Shut-off valves, either manual or automatic, shall be provided at or near ends of structures to provide a means of control in case of an emergency.

Communication and electric power line attachments shall be suitably insulated, grounded, and carried in protective conduit or pipe from the point of exit from the ground to re-entry. Some structures may have existing hangers or conduits available for use with permission from ITD and the company owning the hanger or conduit.

5.9 AESTHETIC CONTROLS

Aerial and underground facilities shall be designed to minimize any adverse visual impact. Locations should be planned to preserve attractive landscapes and minimize disturbance of natural landscape.

New utility installations shall not be permitted within highway right-of-way passing through or adjacent to scenic strips, view areas, overlooks, rest areas, recreation areas, public parks and historic sites except under the following conditions:

- New underground utility installations may be permitted where they do not require extensive removal or alteration of vegetation visible to the highway user or impair the visual quality of the area.
- New aerial installations are to be avoided at such locations unless there is no feasible and prudent alternative and if it can be established to ITD satisfaction that:
 1. Other utility locations are not available or are less desirable from the standpoint of visual quality.
 2. Underground installations are not technically feasible or are more detrimental to the visual quality of the area.
 3. The proposed installation will be made at a location and in a manner that will not significantly detract from the visual qualities of the area being traversed and will employ suitable designs and materials that give the greatest weight to aesthetic values.

These provisions shall also apply to utility installations that are needed for highway purposes, such as for highway lighting or to serve a weigh station, rest area, or recreational area.

SECTION 6 CONSTRUCTION

6.1 GENERAL

All work in connection with utility facilities shall be done in a continuous, efficient and skillful manner to the satisfaction of ITD. The details of construction of the facility shall at a minimum conform to the provisions of this policy, the “*Standard Specifications for Highway Construction*” current issue by ITD, the MUTCD and all other established federal, state and industry standards currently in effect. ITD may require more stringent provisions covered by the Utility permit to accommodate any project or site specific conditions or need.

The size of a disturbed area shall be kept to a minimum. Any highway features or facilities such as paint stripes, signs, culverts, traffic signal, luminaires, Right-of-way markers, delineators, etc., disturbed or damaged as a result of the utility work shall be properly restored at the permittee's expense, to the satisfaction of ITD.

Upon completion of the work all equipment, barricades, unearthed boulders and other debris shall be removed from within the limits of the highway, including mud tracks on paved roads. The disturbed surface shall be carefully graded to the lines and grades established. Seeding shall be required to restore vegetation damaged or destroyed.

6.2 PROTECTION OF PUBLIC

The Utility Company permit shall include a traffic control plan that will not allow or at the least limit the contractor's equipment/vehicle parking and materials storage within the roadway and the clear zone. Work zone access during construction shall be described as well as the type of protection for the public from any open excavation or other hazards. The traffic control plan and all flagging, signing, and traffic control devices used shall be in conformance with the MUTCD and ITD standards and requirements.

Construction operations shall be conducted so that a minimum amount of interference or interruption of highway traffic results. Inconvenience to residents and businesses shall be minimized. Safe and proper connections with all intersecting public or private roads or driveways shall be maintained in passable condition at all times, except when authorization is obtained from the State, County, City or Highway District having jurisdiction over the roadway. Delay to traffic including access to and from residents and businesses, shall not exceed 15 minutes unless approved by ITD.

The contractor shall provide, erect, and maintain all the required traffic control devices and provide certified flaggers necessary for the protection of the workers and the safety of the public in accordance with an approved traffic control plan. Highways, roads or driveways closed to traffic shall be protected by effective barricades. Suitable warning signs, illuminated at night, or other approved means shall be provided to mark the places where surfacing ends or is not compacted, or where there are other obstructions. All lights for this purpose shall be illuminated from sunset to sunrise. Signs not required during non-work periods shall be removed from view.

Except in cases of extreme emergency, full road closures of state highways shall not be permitted unless authorized in advance by ITD. Emergency services (e.g., police, fire and ambulance) shall be advised of the closure and proposed detour routes as soon as possible.

Flaggers shall wear approved retro reflective vests and hard hats, and shall provide stop/slow paddles of the size and color required by the MUTCD. All flagging and traffic control for the work zone shall conform to the requirements of the MUTCD and ITD.

6.3 PRESERVATION AND RESTORATION

Utility shall be responsible to provide appropriate erosion control devices approved by ITD, before and during all facility installation and relocation activities. The surface area disturbed by utility installation and relocation shall be kept to a minimum.

Removal or disturbance of the existing landscape and vegetation, including tree trimming or removal, shall have prior approval by ITD. Restoration of landscape and vegetation shall be completed immediately following completion of the work and to ITD satisfaction.

6.4 TRENCHING

Utilities on highways shall not be placed under the roadway by cutting through the pavement unless approved by ITD and showing that installation by jacking, driving, or boring is impractical. ITD will consider pavement cutting only where gravel or boulders prevented jacking, driving or boring on at least three attempts made at different locations and overhead installation is not possible.

Pavement cuts for installation of utilities under Controlled Access Highways shall not be allowed except for special cases approved by ITD and FHWA.

When special permission is granted to cut the highway pavement in order to do trenching for installation of the utility facility, the following shall apply:

- Trenches shall be cut to have vertical faces, where soil and depth conditions permit, with a maximum width of outside diameter of pipe plus 2 feet.
- The trench edges in paved areas shall be sawed or cut to neat lines parallel to and 4 feet wider on each side than the trench excavation limits, to a depth sufficient to permit removal of pavement without damage to remaining pavement. Removed pavement and other unsuitable excess excavated material shall be disposed of outside the highway right-of-way.
- No more than one-half of the traveled way shall be excavated at one time. The excavated one-half shall be completely backfilled and compacted before excavating the other one-half.
- Bedding shall be provided to the depths per ITD standards and consist of granular material that is free of lumps, clods, stones, and frozen materials and should be graded to a firm but yielding surface without abrupt change in bearing value. Unstable soils and rock ledges should be sub-excavated from the bedding zone and replaced by suitable material. The bottom of the trench should be prepared to provide the pipe with uniform bedding throughout the length of the installation.

- Immediately after placement of the bedding and pipelines, conduits, or carrier pipes, the trench shall be backfilled. ITD approved backfill material shall be placed and compacted in accordance with ITD standards to an elevation that will allow placing of the appropriate base and roadway surface. Lean concrete backfill may be required.
- Everything removed in the performance of trenching shall be restored in kind by the contractor in accordance with ITD standards.
- Trenches excavated through gravel surfaced areas such as gravel roads and gravel shoulders, unpaved driveways, etc., shall have the gravel surface restored and maintained, except that the gravel shall be a minimum of 1 inch more than the thickness of the existing gravel.

All material specification, placement and compaction requirements for all approved trenching location within the highway right-of-way shall conform to the current Standard Specifications for Highway Construction, published by the Idaho Transportation Department.

6.5 JACKING, DRIVING, OR BORING

Installation by jacking, driving, or boring shall be in accordance with the following provisions:

- Trenching in connection with any of these methods shall be conducted no nearer than 5 feet from the subgrade edge if bulkheaded and not less than the vertical difference in elevation between the subgrade edge and the facility if not bulkheaded.
- Jacking, driving, or boring shall be by approved means that will hold disturbances of surrounding material to a minimum. Sluicing or jetting will not be allowed. Sand or cement grout packed in place shall be required where the hole is greater than 5 percent oversize in diameter for pipelines larger than 12 inch diameter.

6.6 DIRECT BURIAL

Underground electrical power and communication cable placed by the plowing method shall be subject to the following:

- Longitudinal installations shall be limited to areas outside the ditch line.
- ITD may permit, in hardship cases such as solid rock, steep cliffs, swampy areas, etc. (if ample justification is shown), the placement of the cable within the roadway foreslope. In such cases, the location shall be as specified in [Section 5.5](#).
- Rocks brought to the surface by plowing shall be removed from the highway right-of-way. The ground surface shall be graded to conform to that of the surrounding terrain and restored to ITD satisfaction.

6.7 ENCASEMENT

Casings or utility tunnels should be considered for the following conditions:

- As an expediency in the insertion, removal, replacement, or maintenance of carrier pipe crossing under highways in order to avoid open trenched construction.
- As protection for carrier pipe from external loads or shock, either during or after construction of the highway.
- As a means of conveying leaking fluids or gases away from the area directly beneath the traveled way to a point of venting at or near the right-of-way line or to a point of

- drainage in the highway ditch or a natural drainage way.
- Jacked or bored installations of coated carrier pipes should be encased except where assurance can be provided against damage to the protective coating.
 - Pipelines with less than minimum cover, near footings of bridges or other highway structures, or near other areas where there may be a hazard.

Casing should be used, except where the utility company advises against it because the use of a casing would be a detriment to the utilities facility or the roadway. Uncased crossings of welded steel pipelines carrying transmittants that are flammable, corrosive, expansive, energized, or unstable, particularly if carried at high pressure, will be permitted only when the utility company shows they have provided additional protective measures. Examples are as follows:

- Higher factor of safety in design.
- Thicker wall pipe.
- Radiograph testing of welds.
- Hydrostatic testing.
- Adequate coating and wrapping.
- Cathodic protection.

Casings and utility tunnels shall be designed to support the load of the highway and all superimposed loads thereon. Casings and utility tunnels shall be composed of materials of satisfactory durability for the conditions of loading and soil characteristics.

Casings shall extend a minimum of 5 feet beyond the outer edge of the subgrade. On curbed sections, the casing shall extend outside the back of curb. For Controlled Access Highways, casings and utility tunnel shall extend to the access control lines or to the outside of frontage roads.

Casing pipe shall be sealed at the ends with a flexible material to prevent flowing water and debris from entering the annular space between the casing and the carrier.

Pipelines located in casings or utility tunnels shall be designed to withstand expected internal pressure and to resist internal and external corrosion.

6.8 APPURTENANCES

Vents, drains, markers, manholes, shut-offs and utility poles are appurtenances to utility facilities. Controls for such appurtenances are as follows:

- Vents are appurtenances by which fluids or gases between carrier and casing may be inspected, sampled, exhausted, or evacuated. Vents shall be located at the high end of casings under 150 feet in length and at both ends of casings over 150 feet in length. Vent standpipes shall be located and constructed not to interfere with the safe operation and maintenance of the highway, preferably at the right-of-way line. Vents shall not be placed in a location that will be hazardous to the public.
- Drains are appurtenances by which liquids or heavy gases may be evacuated or exhausted. Drains shall be provided for casings, tunnels, or galleries enclosing

carriers of liquid, liquefied gas, or heavy gas. Drains may be allowed to outfall into roadside ditches or natural water courses at locations approved by ITD. Natural drainages and roadside ditches will not be used for draining materials that may be hazardous to the public.

- Markers/warning signs shall describe the type of underground utility; provide the company name and a phone number to contact for emergencies. The utility company shall be required to place markers/warning signs at the right-of-way line where underground utilities cross highways. Underground utilities installed longitudinal shall be identified by placing markers/warning signs at appropriate intervals and shall be offset as near to the right-of-way line as practical.
- Marking tape for underground facilities shall be installed in accordance with industry standards.
- Manholes are access openings in an underground system which may be entered for the purpose of making installations, repairs or maintenance. Manholes shall not be located in the pavement or shoulders of major highways. Existing manholes may be allowed to remain in place upon reconstruction provided they do not constitute a hazard. Location and design of manholes shall minimize interference to other utilities and future highway expansion. Adjustment of manholes to fit new or reconstructed highway paving, grading or slope flattening shall be done to ITD standards by ITD or its contractor unless the facility owner does the work at the utilities own expense.
- Shut-off valves shall be installed in lines at or near the ends of structures and near unusual hazards. The type of valve (manual or automatic) shall be governed by the conditions within the area.
- Overhead utility lines on the highway right-of-way should be limited to a single pole type of construction in accordance with industry standards. Joint-use single pole construction is encouraged at locations where more than one utility or type of facility is involved. Guy wires to ground anchors and stub poles should not be placed between a pole and the traveled way where they encroach upon the clear zone area. Guy wires within the right of way may require delineation.

No item shall be attached to a utility facility without written permission of the appropriate utility company and ITD.

SECTION 7 BROADBAND INFRASTRUCTURE

7.1 GENERAL

To expand stable, reliable broadband infrastructure for Idaho communities to attract business and enhance quality of life for Idahoans, the Idaho Transportation Department will provide information on future highway reconstruction, realignment, widening, expansion, and bridge replacement projects that provide an opportunity to coordinate with broadband providers to accommodate future expansion of broadband infrastructure during the project development and construction phases.

To minimize repeated Right-of-Way excavations involving broadband infrastructure installation, ITD supports a Dig Once policy and practices that minimize the number and scale of excavations or construction and costs when installing utility infrastructure in highway right-of-way.

ITD in consultation with the Idaho Broadband Advisory Board and the Idaho Department of Commerce will coordinate initiatives carried out under this section with other statewide telecommunication and broadband plans and State and local transportation and land use plans, including strategies to minimize repeated excavations that involve the installation of broadband infrastructure in a right-of-way.

7.2 BROADBAND PROVIDER REGISTRY

ITD has established a process for registering broadband infrastructure entities interested in coordinating with the Department on applicable Federal-aid highway projects. Broadband providers must register with the Department in order to receive annual notification of projects that may be eligible for the placement of broadband infrastructure.

Broadband providers can register to receive notifications of major ground disturbance and bridge restoration projects at: itd.idaho.gov/broadband/

7.3 PROCEDURES FOR PROCESSING AND REVIEWING STATEMENTS OF INTEREST

Following the approval of the seven four year Idaho State Transportation Investment Improvement Program (ITIP) (STIP) by the Federal Highways Administration, the Division of Highways Development will issue an annual notification letter to registered providers with information on how to contact ITD to express interest in coordinating with the Department on the placement of broadband infrastructure on eligible Federal-aid projects.

- Broadband providers can review potential major ground disturbance and bridge replacement projects using ITD's DIG ONCE web mapping application.
- The provider will prepare a Letter of Interest addressed to the appropriate ITD District Planning and Scoping section point of contact noting the Project Name, Project Key Number, Route and Milepoint extents, a description of the proposed broadband infrastructure with an associated map showing the location of the proposed facilities to be placed in coordination with the project.

- The District Planning & Scoping section will review the Letter of Interest and supporting documentation, and will coordinate the broadband provider's request with the project manager.
- The Department shall make the final determination of the suitability of a project to include installation of broadband infrastructure and may prescribe any conditions, requirements, restrictions, or other provisions.
- Conditions, requirements, restrictions, or provisions prescribed pursuant to this subsection may include but need not be limited to liability provisions, requirements related to the financial responsibilities for future relocation of broadband infrastructure if relocation is necessary, and indemnification provisions.
- The Department may deny the installation of broadband infrastructure if the installation hinders or obstructs highway construction, maintenance, or operational safety, is contrary to statute or rule, or unduly delays or interferes with construction, maintenance, joint trenching projects, or the repair or construction of water, wastewater, electrical, or gas line other underground facilities in the right-of-way.
- The Department may not grant any longitudinal access that results in a significant compromise of the safe, efficient, and convenient use of a highway for the traveling public.

7.4 NON-EXCLUSIVE INSTALLATION AND OCCUPANCY AGREEMENTS

In accordance with Idaho Code 40-520(2) ITD and a broadband provider shall enter into a Non-Exclusive Installation and Occupancy Agreement which detail the terms and conditions of the agreement between ITD and the Provider prior to issuance of utility encroachment permits. The Provider's use of the Permitted Area is described in each separate permit issued by ITD for the purpose of installing, placing, mounting, operating, modifying, maintaining, upgrading, replacing, and removing broadband infrastructure. The Provider shall strictly comply with this Agreement and Permits while performing work in the Permitted Area. This Agreement does not convey title, equitable or legal, in the highway right-of-way. The non-exclusive license is only for the limited purposes and time periods stated in the Agreement.

7.5 SHARED RESOURCE AGREEMENTS

It is ITD's intent to utilize Shared Resources Agreements in lieu of fees or other financial transactions with broadband providers. District Engineers and Division Administrators shall enter into Shared Resources Agreements with broadband providers who are requesting access to ITD Right of Way, conduits and vaults for longitudinal builds along the State Highway System.

7.6 SPECULATIVE PRACTICES THAT MAY IMPACT AND COMPROMISE STATE RIGHT-OF-WAY

Each broadband infrastructure project will be constructed and operational for use by the broadband provider within 180 365 days after ITD issues a Permit. The broadband provider shall provide ITD documentation of the completed construction and operational

use within 30 days after each broadband facility is operational. Failure to meet requirements in this area are grounds for Permit and Agreement termination. Any broadband infrastructure installed and operated in any Permitted Area shall meet the requirements of all applicable laws and regulations for the operation of such facilities.

Where additional conduit capacity is installed by ITD one half of the additional capacity may be made available to public use by governments, non-profits, education, and healthcare providers for the public benefit. The other half of additional capacity may be made available to other entities, public or private held networks, to enhance network models and investments to expand broadband to unserved or underserved markets. Additional capacity shall not be allocated to any one provider.

SECTION 8 WIRELESS COMMUNICATIONS

8.1 SMALL WIRELESS FACILITIES

Pursuant to Federal Communications Commission (FCC) Declaratory Ruling and Third Report and Order, FCC 18-133, released on September 27, 2018 wireless service providers and wireless infrastructure providers are permitted to locate Small Wireless Facilities (as defined in the FCC Order) in public Right-of-Way (ROW) in accordance with the FCC Order. Right-of-Way Encroachment and Permit for Small Wireless Facilities applicants must comply with the following terms and conditions for each Small Wireless Facility permit issued by ITD.

The applicant is responsible for the following functions:

- Installations in ITD's ROW must adhere to local City and County Zoning Ordinances. Applicant must apply for and obtain applicable local municipality building permit for the installation of "above" ground structures prior to requesting a Small Wireless Facility Permit from ITD. This may include but not limited to setbacks, zoning, and separation distances.
- Apply for and obtain the applicable ITD Right-of-Way Encroachment and Permit for Small Wireless Facilities (ITD form# 2118) and comply with all applicable provisions, terms, and conditions.
- Be in compliance with ITD's Small Wireless Facilities in Public Right-of-Way Design Guidelines, as amended from time to time.
- Pay applicable initial and recurring fees. Payments shall be made via credit card, or may be made by providing a check or money order made payable to Idaho Transportation Department at the appropriate District office.

The Idaho Transportation Department is responsible for the following functions:

- Upon receipt of payment and all other necessary information/documentation, issue the applicable ITD Right-of-Way Encroachment Application and Permit for Small Wireless Facilities according to the FCC Shot Clock requirements as established by the FCC Order after receiving applicant's properly completed and compliant application.

8.2 SMALL WIRELESS FACILITIES PERMIT APPLICATION REVIEW

ITD will review Permit applications for collocation installations within 60 days of receiving an application. ITD will review Permit applications for new, modified or replacement structures within 90 days of receiving an application. ITD will determine if an application is complete within 10 days of receipt of the original application package. If the application is incomplete, ITD shall notify the Company and specify what

information is needed to complete the application. ITD shall have 60 days from the

receipt of the revised application for collocation and 90 days for new, modified or replacement structures, to review the completed application. Within 10 days of receipt of the revised application, ITD will notify the Company of any requested information that has not been provided.

If the Company fails to respond to any request for required information to provide a complete application within 30 days of notice, the application shall expire. If the Company fails to provide a complete application addressing the deficiencies identified by ITD with the second resubmittal, the application shall expire.

ITD has the right to request supplemental information throughout the review process. However, if missing information is identified after the initial 10 day notification period, the review clock will pause pending supplemental information, and the review clock will resume, not restart, once a revised permit has been received.

- 8.3 NON-EXCLUSIVE INSTALLATION AND OCCUPANCY AGREEMENTS**
- ITD and a Wireless Provider shall enter into a Non-Exclusive Installation and Occupancy Agreement which detail the terms and conditions of the agreement between ITD and the Wireless Provider prior to issuance of ITD Right-of-Way Encroachment and Permit for Small Wireless Facility. The Provider's use of the Permitted Area is described in each separate permit issued by ITD for the purpose of installing, placing, mounting, modifying, maintaining, upgrading, replacing, and removing wireless infrastructure. The Wireless Provider shall strictly comply with this Agreement, Permits, and ITD's Small Wireless Facilities in Public Right-of-Way Design Guidelines while performing work in the Permitted Area. This Agreement does not convey title, equitable or legal, in the highway right-of-way. The non-exclusive license is only for the limited purposes and time periods stated in the Agreement.

SECTION 9 **REFERENCES**

- ***Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD)***, latest edition, as adopted by the Idaho Transportation Department, issued by Federal Highway Administration
- ***Standard Specifications for Highway Construction*** current edition issued by Idaho Transportation Department
- ***Guide for Utility Management*** current edition issued by Idaho Transportation Department
- ***A Policy on Geometric Design of Highways and Streets*** current edition issued by American Association of State Highway and Transportation Officials
- ***Code of Federal Regulations Title 23 Part 645 – Utilities*** coupled with any other reference cited therein; ***Title 49 Part 192 & 195 – Transportation of Natural and Other Gas by Pipeline*** published by the Office of the Federal Register National Archives and Records Administration and any amendments or supplements which are in effect prior to execution of the agreement.
- ***National Electrical Safety Code*** current edition for sale by the Institute of Electrical and Electronic Engineers.
- ***Recommended Practice for Liquid Petroleum Pipeline Crossing Under Railroads and Highways*** current edition by American Petroleum Institute
- ***American Water Works Association Standards and Specifications*** current edition.
- ***Federal Communications Commission (FCC) 18-133 Declaratory Ruling and Third Report and Order. Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment WT Docket No. 17-79; Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment WC Docket No. 17-84. 26 September 2018.***