



COOPERATIVE AGREEMENT FOR CONSTRUCTION OF STATE HIGHWAYS

Purpose

The purpose of this policy is to establish guidelines to prepare and finalize construction cooperative agreements between the Department and other entities on state highway projects.

Authority

- Idaho Code 40-310 (5) (6) and (8), 311, 312, (2) (3) and (5), 317 (1) (2) and (3)
- Board Policy 4029, COOPERATIVE AGREEMENT FOR CONSTRUCTION OF STATE HIGHWAYS

General

The District Engineer is authorized to prepare and finalize construction agreements between the Department and utilities, cities, and highway districts on state highway projects. The following should be considered when preparing the agreement:

- Underground utilities shall have a projected working life of at least 25 years or shall be replaced. Adjustment of utilities (sewers, water lines, conduits, power systems, etc.) shall be done prior to construction or if mutually agreed, by the contractor. Utility replacement or upgrading costs for owner sponsored projects shall be paid by the owner.
- If proposed storm sewers serve both the local jurisdiction's streets and state highways, storm sewers may be connected to state facilities, with the cost apportioned between the local jurisdiction and the Department.
- When a the local jurisdiction requests improvements that exceed those intended by the Department, the additional cost shall be borne by the local jurisdiction. A maintenance and/or project agreement with the local jurisdiction covering these additional improvements shall be signed prior to construction.
- Unusual hardship and/or unusual conditions shall require written justification. Exceptions shall be documented with design data, cost comparison, and other information that may be pertinent. For local utilities to qualify for an exception under this section, the local jurisdiction must explain and document why it cannot obtain funding either by means of bonds or the judicial confirmation process set forth in Idaho Code, title 7, chapter 13.
- Compensation for right of way shall not include payment for existing sidewalks, curbs and gutters, etc., that are to be replaced or will remain in place. Where the Department assumes an obligation of the property owner to construct sidewalks, curbs and gutters, etc., the construction costs shall be deducted from right of way payments.

If exceptions are needed they will be documented by way of a Public Interest Findings (PIF).

The PIF request shall document the reasonableness of the minimum needs and the best method to meet these needs consistent with the requirement for the broadest practical competition. The

supporting material may include engineering and economic considerations, product availability and compatibility, logistical concerns, and other unique considerations.

Depending on the facts and circumstances present, one or more of the following factors may need to be evaluated in a PIF request:

- A description of how the proprietary product requirement will benefit the public;
- An evaluation of the pool of other equally acceptable products;
- An estimate of additional costs incurred as a result of this proprietary product requirement;
- Description of need, including limitations and conditions (types of roadways, traffic volumes, and other critical factors);
- Engineering / economic analysis supporting the requested action;
- Duration of approval

Guidance and Questions/Answers regarding the PIF's and the process can be found at <http://www.fhwa.dot.gov/programadmin/contracts/011106qa.cfm>

- When the taking of right of way property renders the remaining property nonconforming with respect to setbacks, parking or other features, the local jurisdiction shall provide an ordinance, if appropriate, that no penalties, either civil or criminal, shall be assessed for non-conformance. This shall be done even if the property was nonconforming and under "grandfather" rights prior to taking the property.
- Prior to contract advertising of State Highway System projects (except for minor maintenance projects), a written agreement between the local jurisdiction and the Department shall set forth the responsibilities of each party. The construction agreement shall include provisions for final inspection and acceptance by the local jurisdiction of traffic signals or other city-maintained facilities.
- Project street lighting and traffic control devices are subject to provisions of Administrative policy 5016, Traffic Regulation.

Signed

Brian W. Ness
Director

Date October 09, 2013