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6000 PERMITS AND INSPECTION

6001 DEFINITIONS

Words and phrases as used in this section are defined as follows:

“ACHD” means the Ada County Highway District.

“ACHD Code” means all ACHD ordinances, policies, rules, and regulations codified as the Ada County Highway District Code in Ordinance 201, adopted by the ACHD Board of Commissioners April 12, 2006, and all subsequent amendments thereto.

“ACHD Engineer” or “Engineer” means the Manager of the Engineering Department or his/her authorized representative.

“Activity” shall mean actions taken pursuant to a Permit

“Annual Permit” shall mean a Permit issued for routine inspection, repair, replacement, or maintenance activities that will impede motorist, transit, pedestrian or bicycle traffic, but will not result in damage to a Highway.

“Applicant” means the Person who files the application requesting a Permit and who is responsible for complying with the terms and conditions of the Permit, if issued.

“Approved Fee Schedule” shall be the most current schedule of administrative, inspection, permissive use, and penal charges as approved by the board of ACHD Commissioners. These fees listed on the approved schedule will be identified with the appropriate policy section by subsection number included on the fee schedule.

“Arterials or Collectors” mean the Highway system within the jurisdiction of ACHD designated with the functional classification of arterials or collectors by ACHD.

“Bicycle” means every vehicle propelled exclusively by human power upon which any person may ride, having two (two) tandem wheels, and except scooters and similar devices.

“Bicyclist” means a person operating a bicycle.

“BMP” means best management practices and refers to operational activities, physical controls or educational measures that are applied to reduce the discharge of pollutants and minimize potential impacts upon receiving waters.

“Business Days” means a calendar day on which ACHD’s administrative offices are normally staffed and conducting scheduled business of ACHD.

“Commission” means the Board of Ada County Highway District Commissioners.

“Critical Infrastructure” means the disclosure of information concerning which, it is believed, is reasonably likely to jeopardize the safety of persons, property or the public safety.

“Depth” means the measurement from the street surface to the bottom of the excavation.

“Deputy Director” means the ACHD Deputy Director of Engineering or his/her designee; i.e. Manager of Development Services, Manager of Engineering, or other ACHD employee as appropriate.

“Dewatering” means the discharge of surplus water from a Land Disturbing Activity, Construction Activity, utility vault, or domestic water facility into ACHD storm drain system or MS4, ditches, or drains.

“Dewatering Permit” means a permit issued for the discharge of surplus water from a Land Disturbing Activity, Construction Activity, utility vault, or domestic water facilities into ACHD storm drain system or MS4, ditches, or drains.

“Dewatering Plan” shall mean a plan required under this section for a specific location(s) wherein dewatering is to take place.

“Emergency” shall mean an unexpected, unanticipated situation or circumstance requiring immediate action to avoid damage or injury to person, property or environment.

“Emergency (Utility)” shall mean immediate repairs are necessary to restore utility service to a customer.

“Encroach” or “Encroachment” means the placement in, on, under, or over an opened or unopened Highway or Public right-of-way with equipment, gates, fences, buildings, structures, materials, or otherwise which is owned by a person, or any other activity on or occupancy of a Highway or Public right-of-way by a person or entity creating a trespass, for a definable and continuous, but temporary period of time. Encroachments can be “authorized” or “unauthorized”. An encroachment is “authorized” if ACHD has issued a license agreement or permit allowing it to remain, at the sole and complete discretion of ACHD, subject to certain requirements, specifications and conditions established by ACHD. An encroachment is “unauthorized” if ACHD has not issued a license agreement or permit allowing it and it is subject to enforcement and removal under *Idaho Code* section 40-2319.

“Facility” or “Facilities” means any structure to be placed in, on or under a Highway or Public right-of-way, including but not limited to water pipelines, geothermal pipelines, natural gas pipelines, petroleum product pipelines, street lights, sanitary sewer lift stations, monitoring stations, sanitary sewer pipelines; telephone, telegraph, electric, cable television or other telecommunications lines and cables; pressure irrigation, gravity flow irrigation or storm drainage structures and systems.

“General Contractor” means the lead contractor in charge of managing the Work and coordinating subcontractors and all associated activities.

“Highways” or “Highway” shall have the meaning as set forth in *Idaho Code* section 40-109(5) and *Idaho Code* section 40-2312 together with all associated and adjacent Public rights-of-way as defined in *Idaho Code* section 40-117(6), as those code sections may be amended from time to time, which highways are under the jurisdiction of ACHD, and as are now existing and as the same may be laid out, widened, relocated, acquired and vacated or otherwise transferred in the future.

“Illicit Discharge” means any discharge to a municipal separate storm sewer that is not entirely composed of storm water, except discharges authorized under an NPDES permit (other than

the NPDES Permit for discharges from the MS4) and discharges resulting from firefighting activities.

“ITD” means the Idaho Transportation Department or its successor agency.

“Improved Highway” shall have the meaning set forth in *Idaho Code* section 40-110(1), and shall include curbs, gutters and sidewalks together with all associated and adjacent Public rights-of-way as defined in *Idaho Code* section 40-117(6) as those code sections may be amended from time to time, which improved highways are under the jurisdiction of ACHD, and as are now existing and as the same may be laid out, maintained, widened, relocated, acquired and vacated or otherwise transferred in the future.

“Inspection” means an examination through observation or physical testing of work completed or in progress to determine its compliance with specified requirements.

“Inspector” means the person who determines compliance with specified requirements by observation and physical testing of the in progress or completed work.

“ISPWC” means the Idaho Specifications for Public Works Construction as currently certified by a professional engineer and adopted by ACHD and as may be certified by a professional engineer and adopted by ACHD in the future from time to time.

“Joint Trench Work” means trench work involving more than one (1) utility.

“Local Public Utility” means an organization that maintains infrastructure for a public service, including sewer districts and irrigation districts.

“Motor Vehicle” means every vehicle which is self-propelled except for vehicles solely by human power, electric personal assistive mobility devices and motorized wheelchairs.

“Motorist” means any person operating a motor vehicle.

“MS4” means municipal separate storm sewer system.

“Peak hours” mean, in general, the hours from 7:00 AM to 9:00 AM and 4:00 PM to 6:00 PM, Monday through Friday, on Arterials or Collectors with more than 4000 ADT. Peak hours may also include lunch hours from Noon to 1:00 PM, or be extended as a result of civic events, seasonal activities or similar activities that substantially impede the flow of vehicular traffic on Arterials or Collectors or specified on a Permit.

“Pedestrian” means any person afoot and any person operating a wheelchair or a motorized wheelchair or an electric personal assistive mobility device.

“Permit” means a Temporary Highway Use Permit or an Annual Permit, and shall include all attachments thereto.

“Permittee” means an Applicant to whom a Temporary Highway Use Permit or Annual Permit is issued.

“Person” shall have the meaning set forth in *Idaho Code* Section 40-117(1).

“Public Right-of-Way” shall have the meaning set forth in *Idaho Code* section 40-117(6) and in

Idaho Code section 40-2312, as such code sections may be amended from time to time, which Public rights-of-way are under the jurisdiction of ACHD, and as are now existing and as the same may be laid out, widened, relocated, acquired and vacated or otherwise transferred in the future.

“PUC” means the Idaho Public Utilities Commission or its successor agency.

“Responsible Person” means a trained and certified person having day-to-day control over construction site activities, and the person in charge of administering the erosion and sediment control plan.

“Site Specific Erosion and Sediment Control Plan” means a plan approved by ACHD under the Construction Site Discharge Control Program Section 8300.

“Testing Technician” means the authorized ACHD and/or Contractor representative performing the required QA/QC Inspections. Said person shall have current certifications for tests to be performed under the WAQTC (Western Alliance for Quality Transportation Construction).

“Transit” means regular, continuing shared-ride surface transportation services that are open to the general public or open to a segment of the general public.

“Work” or “Permitted Work” means any construction activity proposed or to be performed in, on, under or over a Highway or Public right-of-way, including, but not limited to: the construction, installation, repair, replacement, and maintenance or creating an Encroachment to a Highway, Public right-of-way, or Facility; any tie-ins to the existing edge of the improved Highway, and all curb, gutter, sidewalk, paving or other Highway improvements.

“Working Days” means a calendar day on which weather will permit construction operations to proceed for at least four (4) hours, exclusive of days which ACHD orders that no work be performed.

6002 SCOPE AND RESPONSIBILITY

ACHD monitors all construction and maintenance activities in the Highways under ACHD jurisdiction and in subdivision developments through a comprehensive construction contract administration process. This process includes Permit issuance, progressive and final quality assurance field inspections, and a materials testing program. This determines compliance with minimum Standard Specification requirements, general conditions, and drawings for street and roadway construction. ACHD also provides monitoring, regulation and enforcement of authorized and unauthorized Encroachments in the Highways and Public rights-of-way. Citizen complaints about encroachments, transportation impacts, traffic, public safety, clean air or clean water impact, pedestrian hazards, and other nuisances are investigated. ACHD conducts maintenance bridge inspections complying with Federal Highway Administration guidelines necessary to develop load capacities and identify safety deficiencies.

6003 STANDARDS AND SPECIFICATIONS

6003.1 ACHD Material and Performance Specifications

ISPWC Standards and current ACHD supplemental specifications are the approved ACHD material and performance specifications. These specifications cover work being conducted and material placed in Highways, and in subdivisions and

developments, unless otherwise noted.

6003.2 Idaho Transportation Department (ITD) Standard Specifications for Highway Construction

ITD Standard Specifications and current supplemental specifications are used for ACHD sponsored construction projects using federal funds. They are also used for ACHD bridge construction, unless otherwise noted.

6003.3 ACHD Quality Assurance and Quality Control (QA/QC) Procedure

The ACHD Quality Assurance and Quality Control Procedure outlines the minimum testing and sampling frequencies when working on projects within the ACHD right-of-way or proposed ACHD right-of-way. Test methods, procedures, responsibilities, and exceptions are described and outlined in the current version of the ACHD Supplemental Specifications to the ISPWC.

6003.4 Manual on Uniform Traffic Control Devices (MUTCD)

“MUTCD” is the current Manual of Uniform Traffic Control Devices adopted by the Idaho Department of Transportation; as per Title 23 of U.S. Code, Section 109(d) and Title 23, Code of Federal Regulations, Part 655.603. (Copies are available at Local Highway Technical Assistance Council, 3330 Grace Street, Boise, Idaho 83703.)

6003.5 Applicable Federal Standards and Specifications for Accessibility

28 CFR part 35.151 (c). Uniform Federal Accessibility Standards (UFAS) (appendix A to 41 101-19.6) or the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities (ADAAG) (appendix A to 28 CFR part 36) as currently existing and as may be amended, supplemented or replaced from time to time.

6004 PERMIT AND SUBDIVISION INSPECTION

6004.1 General

Construction Permit inspection shall include any permitted construction activity within the existing or proposed Highways or Public rights-of-way. Inspection includes permit inspection, subdivision inspection, and inspection of work performed by ACHD forces or contractors hired by ACHD.

6004.2 Inspector Responsibilities

Inspectors shall conduct progressive and final reviews of all construction and Encroachment activities in the Highways or Public rights-of-way for compliance with construction plans, Standard Specifications, general conditions, traffic plans, motorist, transit, bicycle, and pedestrian obstruction, Best Management Practice (BMPs) for Site Specific Sediment and Erosion Control Plan, accessibility standards and specifications, motorist and pedestrian safety, safety requirements and quality assurance. Comprehensive records of the activities shall be kept and reports provided to the Engineer. The inspector shall be ACHD’s representative to the contractor, utilities, public, or other agencies and entities. Quality Assurance testing will be performed at the intervals specified in the Minimum Testing Frequency table

contained in the ACHD QA/QC Procedure.

6004.3 Testing Technician Responsibilities

Testing technicians shall perform laboratory and field testing of materials according to established guidelines to determine compliance with minimum specification requirements.

6004.4 Uniformity of Inspection

ACHD personnel and consultants representing ACHD shall uniformly enforce compliance with ACHD standards and policy.

6004.5 Frequency of Testing

Materials and Inspection testing frequencies shall be performed as identified in the ISPWC. ACHD shall be responsible for Quality Assurance Testing. Contractors/Developers shall be responsible for Quality Control Testing through a qualified Testing Technician.

6004.6 Final Inspections and Approvals

Final inspections of Subdivisions and Permits shall be performed at the request of the Permittee or the Developer.

1. Subdivisions and Permits under ACHD administration and inspection shall be final once all ACHD requirements of the development and/or Permit have been completed, and shall be effective when the permit is signed off by the ACHD Inspector; this shall commence the warranty period. For subdivisions with new public streets, final acceptance is effective and the warranty shall commence when the acceptance for maintenance letter is issued.

6005 SIDEWALK

6005.1 Preamble - Construction, Repair or Removal

Prioritization of the construction, repair or removal of sidewalks by ACHD is a discretionary function. Operating within financial limitations pursuant to Section 40-1311, Idaho Code, and as authorized by Chapter 13, Title 40 and Chapter 14, Title 40, Idaho Code, ACHD does not actively identify dangerous or hazardous sidewalks and therefore, does not know all sidewalk locations within its jurisdiction which may be dangerous or hazardous. Whenever ACHD becomes aware of and determines a sidewalk to have a dangerous or hazardous defect pursuant to the criteria set forth in Section 6005.2, ACHD shall undertake reasonable efforts to warn the public of the dangerous or hazardous sidewalk and consistent with the provisions of this Section, ACHD shall cause the repair of any sidewalk determined to be dangerous or unsafe for public use in accordance with ACHD Ordinances, guidelines and standards. Any sidewalk defect that does not meet the criteria for a dangerous or hazardous defect as set forth in Section 6005.2 is presumed to be an insubstantial defect and the sidewalk is presumed to be reasonably safe and convenient for public travel.

6005.2 Criteria for Determining Dangerous or Hazardous Sidewalk

Dangerous or hazardous defects shall include, but are not limited to:

1. 0.75 inch ($\frac{3}{4}$ ") vertical misalignment;
2. Missing sections or voids exceeding 0.75 inch ($\frac{3}{4}$ ") in horizontal alignment;
3. Spalled or irregular surfaces, 0.75 inch ($\frac{3}{4}$ ") or deeper.

6005.3 Criteria for Determining Additional Adjacent Sidewalk Repairs

Federal Accessibility Standards:

1. Greater than 0.25 inch ($\frac{1}{4}$ ") vertical misalignment or greater than 0.50 inch ($\frac{1}{2}$ ") vertical misalignment that has a 0.25 inch ($\frac{1}{4}$ ") beveled ramp on a 1:2 slope
2. 0.50 inch ($\frac{1}{2}$ ") wide openings

6005.4 Responsibility for Sidewalk Repair

ACHD is responsible to repair most sidewalks in the public rights-of-way except as provided herein:

1. Property owners are responsible to repair carriage walks (i.e. the private sidewalk between the back of curb and the public sidewalk or the private sidewalk from the back of the public sidewalk leading to the house), driveway approaches, and any decorative concrete items within the public rights-of-way at their expense.
2. Sidewalks damaged by private property trees are the responsibility of the property owner.
3. Property owners are responsible for sidewalk damage caused by their activities.
4. Damage caused by third parties, including but not limited to, sprinkler systems or vehicles driving on curbs or sidewalks shall be the responsibility of the guilty party, if determined.

6005.5 Sidewalk Repair by Mutual Consent

Sidewalks with vertical misalignment in a range from 0.25 inch ($\frac{1}{4}$ ") to 0.75 inch ($\frac{3}{4}$ ") may be repaired through mutual consent between ACHD and the property owner.

1. Repair costs to be the responsibility of the property owner and ACHD.
2. Repairs shall be completed in a manner that complies with federal accessibility standards to include repairing the entire sidewalk adjacent to the affected property if necessary.
3. ACHD's participation in Mutual Consent repairs shall be fifty percent (50%) of the cost and shall be limited by available resources. Mutual Consent repairs shall be

lower priority than repairs for sidewalks with a designated hazardous defect.

6005.6 Financial Hardship Waiver

Financial hardship appeals will be considered by ACHD when a property owner is responsible for the repairs. The Deputy Director of Maintenance and/or the Director have the authority to waive, in whole or in part, a property owner's responsibility to repair a sidewalk determined to be dangerous, unsafe, or unable to meet Federal Accessibility Standards when such repair would be an undue financial hardship for the property owner. An application for a financial hardship waiver must be in writing and it must be submitted to the Deputy Director of Maintenance. The application for a financial hardship waiver must specifically describe the undue financial hardship and it must be supported by adequate documentation demonstrating the property owner's current financial situation.

6006 FIVE YEAR MORATORIUM POLICY

6006.1 Five Year Moratorium

Where a newly constructed or repaved Highway surface has been in service for less than five (5) years, such Highway shall be termed a "Moratorium Highway". No cutting or excavation of a Moratorium Highway shall be permitted except with the written approval of the ACHD Pavement Cut Committee, or as provided herein.

6006.1.1 Exceptions.

Exceptions to this policy are as follows:

1. Emergencies due to utility failure that endanger life or property.
2. Interruption of essential utility services.
3. Work that is required by a City, the County or the State or mandated by City, County, State or Federal law or regulations.
4. Alleys- except those designated by ACHD.
5. Seal coat projects.

6006.1.2 Waiver Required

To cut or excavate in a Moratorium Highway, a waiver must be obtained from ACHD. To request a waiver, the applicant must submit a written request to the Deputy Director of Engineering or his/her designee. The request must include the following:

1. The location of the cutting or excavation.
2. Description of the work to be performed.
3. The reason(s) the work was not performed before the Highway was constructed or repaved.
4. The reason(s) the work cannot be deferred until after the moratorium period.

5. The reason(s) the work cannot be performed at another location.
6. The reason(s) it is justified to cut or excavate the Moratorium Highway.

6006.1.3 Approval of Waiver – Written Findings and Decision

The ACHD Pavement Cut Committee may, upon due consideration of the information provided by an applicant, approve a requested waiver and allow the cutting or excavation of a Moratorium Highway upon a finding that:

1. Service for buildings/structures is necessary; and
2. No other reasonable means of providing service exists.

The ACHD Pavement Cut Committee shall issue its written findings and decision approving or denying the waiver request upon due consideration of the information provided by the applicant. If the ACHD Pavement Cut Committee approves the waiver request, it may impose conditions upon the approval, in addition to those provided in Section 6006.1.5.

6006.1.4 Appeal

An applicant may appeal a decision of the ACHD Pavement Cut Committee concerning a moratorium cut or excavation waiver request by filing a written appeal with the ACHD Director within seven (7) days of the issuance of the decision by the ACHD Pavement Cut Committee. The written appeal must set forth the basis for the appeal, and it must include a statement of the relief sought by the applicant. The ACHD Director shall review the appeal, the written findings and decision of the ACHD Pavement Cut Committee, and upon due consideration, issue his/her decision on the appeal. The ACHD Director may uphold or modify the decision of the ACHD Pavement Cut committee, or he/she may return the matter to the ACHD Pavement Cut Committee with directions. The decision of the Director shall be final.

6006.1.5 Conditions of Pavement Cuts – Less than Five (5) Years Old

When cuts or excavations are allowed by the ACHD Pavement Cut Committee or the ACHD Director, or for exceptions under Section 6001.1.1, they shall be constructed to ISPWC standards and:

1. Pavement cuts or excavations shall be coordinated with the work of other utilities and entities, as applicable; and
2. A minimum twenty foot (20') wide asphalt patch back shall be required unless otherwise approved by the ACHD Pavement Cut Committee or the Director; and
3. Shall require a longitudinal trench cut of a full lane pavement restoration, or a half roadway pavement restoration, or a full width pavement restoration, as approved by the ACHD Pavement Cut Committee; and
4. If permanent asphalt is not available at the time of the pavement cut, the trench will be temporarily patched until permanent paving is possible. The Applicant or its contractor shall check the temporary patch weekly

and repair it as necessary, and the temporary patch shall be replaced with permanent asphalt within thirty (30) days of the date that permanent asphalt first becomes available; and

5. The pavement patches will be checked for smoothness after six (6) months and every six (6) months thereafter for a period of two (2) years from the date of the original pavement patch. Any irregularities or defects that are found to vary more than 0.02 of a foot in ten (10) feet will be corrected. The appropriate correction method must be approved by ACHD; and
6. All applicable standards, conditions, and specifications within ACHD Policy shall apply.

6006.2 Responsibility for Maintenance of Pavement Cuts – Two (2) Years Warranty or Five (5) Year Cash Deposit, as Applicable

Permit holders shall be responsible for maintenance of pavement cuts or excavations allowed by ACHD under a waiver or accepted under Section 6006.1.1 for two (2) years following the date of Acceptance of Permitted Work by ACHD's Inspector. Provided, however, if an applicant is denied a request for a waiver to cut or excavate in a Moratorium Highway either by the ACHD Pavement Cut committee or by the ACHD Director in an appeal, but elects to proceed with such cut or excavation, the applicant shall be granted a permit, the applicant's work shall be subject to the conditions set forth in Section 6006.1.5, and all maintenance requirements shall therein be extended from two (2) years to five (5) years. The applicant shall deposit cash in the amount of five hundred percent (500%) of the value of the trench work with ACHD, as determined by the ACHD Director or his/her designee, and ACHD shall retain such funds for a period of five (5) years following the date of Acceptance of Permitted Work by ACHD's Inspector. ACHD may draw for repair of the trench and roadway in the event of a failure of the trench from such funds. Failure of the applicant to comply with the conditions set forth in Subsection 6006.1.5 shall be deemed a surrender of the cash deposit.

6006.3 ACHD Pavement Cut Committee Membership

Membership of the ACHD Pavement Cut Committee shall consist of the following: The Manager of Engineering, who shall serve as the Chair of the Committee, the ACHD Utility Coordinator, the ACHD Pavement Management Engineer, and one (1) person from the ACHD Engineering Department, as determined by the respective Deputy Director having departmental oversight authority.

6006.4 Advance Notice of Construction or Repavement of Highways

In an effort to minimize the potential for cutting and/or excavation of Moratorium Highways, ACHD will attempt to provide advance notice of the construction or repavement of Highways, as follows:

1. Capital Projects (Construction and Overlay Projects). Notification of utilities shall be in accordance with Idaho Code Section 40-210. Initial written notification to adjacent property owners shall be by letter or similar informational document six (6) months prior to the planned start of the project with a follow-up letter or

informational document and “door hangers” provided seven (7) days prior to the actual start of the project.

2. Maintenance Projects (Construction, Overlay and Seal Coat Projects). Notification of utilities shall be in accordance with Idaho Code Section 40-210, if applicable. Initial written notification to adjacent property owners shall be by letter or similar informational document three (3) months prior to the planned start of the project with a follow-up letter or similar informational document and “door hangers” prior to the actual start of the project.

6007 TEMPORARY HIGHWAY AND PUBLIC RIGHT-OF-WAY USE PERMITS

6007.1 Permits

6007.1.1 Permits Required

1. Any Person who desires to perform any work on a Highway or Public right-of-way or encroaches on a Highway or Public right-of-way (including use for the convenience of the Permittee) shall first apply for and obtain a Permit in the manner as set forth unless herein provided to the contrary.
2. No Permit shall be required for Work undertaken by ACHD crews.
3. A Permit will be required by contractors or agents who are performing Work for or on behalf of ACHD or any other local public agency in Ada County.
4. Any municipality or Local Public Utility in Ada County undertaking Work either with its own crews or with subcontractors shall obtain a Permit in its own name (even if it must become bonded to do so) and the Permit shall identify the General Contractor and all subcontractors performing the Work. Subcontractors shall not be allowed to obtain the Permit. The municipality or local public agency shall assign a qualified representative who must be an employee of the municipality or local public agency, and who shall act as the primary point of contact and be listed as such on the Permit. If the municipality or local public agency has executed a reciprocal “Fee Waiver” agreement with ACHD, then there shall be no standard fee for the Permit; provided however, that any additional fees that may be imposed by ACHD under certain circumstances, as well as any penalties that may be imposed by ACHD, shall be exempt from the “Fee Waiver” agreement and shall be charged to the municipality or local public agency as applicable.
5. Any General Contractor in Ada County undertaking ACHD required Work either with its own crews or with subcontractors shall obtain a Permit in its own name (even if it must become bonded to do so) and the Permit shall list the General Contractor and all subcontractors performing the Work. Subcontractors shall not be allowed to obtain Permits for the Work. The General Contractor shall assign a job superintendent who must be an employee of the company, and who shall act as the primary point of contact and be listed as such on the Permit.
6. An Annual Permit may be obtained by utilities that perform short-term

work in Highways or the Public rights-of-way. Annual Permits are issued for routine inspection, repair, replacement, or maintenance activities that will impede motorist, transit, pedestrian or bicycle traffic. Work performed under Annual Permits shall be non-destructive in nature, and shall not result in damage to a Highway. Work performed under an Annual Permit shall be four (4) hours or less in duration for each job or location, including alleys.

Activities limited to surveying and utility markings do not require a permit except when temporary traffic control is required. Such other similar activities as approved by the Deputy Director are excluded from the Permit requirement. However, a Permit will be required anytime temporary traffic control is needed to direct roadway users or to ensure worker safety.

7. Municipalities may be excluded from the Annual Permit requirement if they have entered into a separate agreement with ACHD.
8. Subcontractors performing work for the Permittee shall have written authorization to act as agent for the Permittee to satisfy the requirements of Section 6007.8 Indemnification and shall, in their own right, meet the requirements of Section 6007.6 Liability Insurance.

6007.1.2 Emergencies

Nothing in this section shall be construed to prevent any person maintaining any pipe, conduit, cable, or duct on, in or under any Highway or Public right-of-way, by virtue of any statute, ordinance, or a Permit, from making such excavation or highway encroachment as may be necessary when an Emergency exists, provided that the person making the excavation or obstruction or Encroachment shall notify ACHD within one (1) business day following the commencement of the Emergency and obtain a Permit. Failure to notify within one (1) business day will void the status under this provision and Section 6007.4.3, Additional Fees for Failure to Obtain a Permit, shall apply.

6007.2 Application for Temporary Highway and Public Right-of-Way Use Permits

6007.2.1 Filing of Application

Upon filing a completed application, together with the required supporting information, the Deputy Director shall evaluate the application for conformance with the provisions of the ACHD Code and all other applicable ordinances, resolutions, specifications, standards and policies of ACHD, and, within five (5) working days thereafter, shall either approve the application and issue a Permit or disapprove the application or request a conference with the Applicant. If the application is disapproved, the Deputy Director shall provide the Applicant with a written statement of such disapproval, setting forth the reasons therefore.

6007.2.2 Supporting Information

Supporting information shall include, but is not limited to:

1. Temporary Traffic Control Plan, including a plan for accessible pedestrian routes during construction, where applicable

2. Contractors Information Sheet
3. Certificate of Insurance
4. Surety Bond
5. Warranty Documents
6. Certified Responsible Person
7. Proof of ownership of current ISPWC with supplements
8. Site Specific Sediment and Erosion Control Plan & Dewatering Plan, if Applicable
9. Master Fiber Optic Facility Permit holders shall submit a map or detailed plan showing their proposed route marked "Exhibit" and note if this will be considered "Critical Infrastructure"
10. A detailed, scalable plan showing the location of centerline and the proposed location of the facility as it is intended to be constructed within the right-of-way.
11. If utilities are to be located outside their corridor as described in Section 6007.12.3, a written statement of concurrence from each utility within the target corridor must be submitted.

6007.3 Pre-Construction Conference

In the event ACHD determines it is advisable, the Applicant or a representative shall meet with ACHD staff to discuss any issues arising out of the application needing explanation, clarification, or further review. ACHD may require the Applicant to provide further information regarding any or all of the following items: schedules, phasing, traffic control, notifications, or other criteria.

After the permit has been approved, picked up, and paid for, the activity will not start until the next business day, unless approved by ACHD at the Preconstruction Conference.

6007.4 Combination Fee Schedule and Matrix

Permit fees shall be administered in accordance with the Combination Fee Schedule and Matrix (Fee Schedule) in effect at the time the permit application is submitted and shall be collected when the Permit is issued.

6007.4.1 Temporary Highway and Public Right-of-Way Use Permits

1. Permit fees will be assessed for: new or replaced curb, gutter, and sidewalk; street surfacing; the installation, maintenance, repair, or replacement of water, telephone, telecommunications, power, natural gas, petroleum, geothermal, sanitary sewer, storm drains, cables,

conduits, or service connections thereto in trenches and holes within the Highway or Public right-of-way and are based on the total number of project days impacting the Highway or Public right-of-way.

- When a joint utility trench for electric power cables, natural gas pipelines, and communication cables is utilized, each participating entity must secure a Permit before it may begin work in the joint utility trench.
- The Permit fees will provide for administrative support, minimum frequency of inspection and testing for activity being performed, and a follow-up inspection review at two (2) years.
- ACHD will attempt to notify the designated representatives of the involved party before additional inspections are made and inspection fees billed. ACHD will use discretion and make allowances for inclement weather before making such additional inspections.

2. Short Term Encroachments:

For Encroachments for a period of less than three (3) weeks as designated in the Fee Schedule.

3. Long-Term Encroachment

For Encroachments for a period of three (3) weeks or more:

- Encroachments of the motorist or transit travel lane shall be calculated upon 0.833% of Ada County Assessor's most recent assessed square foot value of the adjacent bare land.
- Encroachments of the bicycle or pedestrian travel area shall be calculated upon 0.417% of Ada County Assessor's most recent assessed square foot value of the adjacent bare land.
- Encroachments within the right-of-way that do not affect either motorist, transit, bicycle or pedestrian travel shall be calculated upon 0.208% of Ada County Assessor's most recent assessed square foot value of the adjacent bare land.

If more than one type of encroachment is necessary, the fee for each type of area shall be calculated separately and then aggregated to determine the total fee required. This amount shall be multiplied by the square footage of right-of-way being occupied by the Permittee on a monthly basis, or as designated in the Fee Schedule, whichever is greater.

4. Annual Dewatering Permit (if applicable, see Section 6007.12.7)

6007.4.2 Exemptions from or Reduction in Base Permit Fees

No fee shall be required for the issuance of a Permit required for:

1. The relocation of existing Facilities in conjunction with an ACHD construction contract.
2. Work in any development being constructed pursuant to an ACHD Subdivision Inspection Agreement, as provided for in Section 6007.19.

6007.4.3 Additional Fees for Failure to Obtain a Permit

Except in the case of emergencies, an additional fee shall be charged for any Work or Occupancy for which a Permit is required under the ACHD Code that is commenced prior to the issuance of a Permit.

6007.4.4 Additional Fees for Failure to Implement Temporary Traffic Control

When a Permittee commences work without temporary traffic control (TTC) devices in place, complete, per the approved traffic control plan, the Permittee shall be assessed an additional fee. In addition, the Work shall be suspended and all encroachments shall be removed until the devices are in place in accordance with the TTC plan.

6007.5 Permit Time Extension and Charges

1. A fee may be levied for each Permit time extension that exceeds the completion date stated in the Permit.
2. No additional fees will be charged for changes to the starting date for the Activity authorized by the Permit, provided that at least one (1) business day advance notice is given to ACHD prior to the starting date and time shown in the Permit. The completion date will be modified accordingly and a time extension may not be required.
3. If the Work does not commence within seventy-two (72) hours of the time designated on the Permit and no request for extension has been received, the Permit may be revoked and the Permit fee forfeited. This section does not apply to an Annual Permit. A new Permit with corresponding fees may be issued if and when the Permittee reschedules the Work.
4. Violation of Peak Hour Prohibitions. An additional fee shall be charged for every fifteen (15) minutes or increment thereof during which time the Permittee violates a Peak Hour prohibition in the Permit.
5. An increased daily fee may be charged at the discretion of the Deputy Director for extended use of Local, Collector, or Arterial roads when the Permittee's use exceeds the Estimated Maximum Permit Time. The fees shall be as set forth in the Fee Schedule.
6. Due to the limited number of concrete streets and intersections in Ada County, requirements for trenching in concrete streets shall be specific to the location and shall be negotiated. The most important criteria will be to find alternatives to trenching.
7. With regards to Permit extensions, the timeframe calculation shall be applied unless extenuating circumstances warrant adjustment and are negotiated prior to construction. In the event that unforeseen circumstances are encountered during construction, the contractor is responsible to notify ACHD as soon as the circumstances and their potential schedule impacts are known. In determining whether to extend the timeframe, the Deputy Director will welcome input from the applicable city or agency. Such input shall only come from a person designated in advance by the city or agency such as the assigned inspector. Applicants disagreeing with the decision of the Deputy Director may obtain review of the matter by the ACHD Director by filing a written request with the Deputy Director

within five (5) business days of the decision. Applicants disagreeing with the decision of the ACHD Director may obtain review of the matter by the ACHD Commission by filing a written request with the ACHD Director within five (5) business days of the ACHD Director's decision. The ACHD Commission's review shall occur at a regularly scheduled meeting and its decision on the matter shall be final.

6007.6 Liability Insurance

6007.6.1 Insurance Required

No Permit shall be issued unless and until the Applicant has submitted a Certificate of Insurance or its equivalent from a company authorized to do business in the State of Idaho and licensed by the Idaho Department of Insurance evidencing that the Applicant has or will have in force and effect public liability insurance covering death, bodily or personal injury and property damage that may occur during the performance Activity, with a minimum limits of liability of not less than \$500,000 for any one occurrence or accident, regardless of the number of persons injured or the number of claimants. ACHD shall be named as a co-insured in such policy, and, if so, the insurance shall not be canceled or reduced in coverage until at least ten (10) calendar days after written notice of such cancellation or reduction in coverage. ACHD shall respond in writing to acknowledge each request it receives.

6007.6.2 Master Policy of Liability Insurance Allowed

Permittee may satisfy this requirement by obtaining appropriate endorsement to any master policy of liability insurance Permittee may maintain.

6007.7 Surety Bond

6007.7.1 Condition of Permit

No Permit shall be issued unless and until the Applicant therefore has submitted to ACHD a Surety Bond or other instrument acceptable to ACHD, with a penal sum of not less than \$25,000 or as determined (see Section 6007.7.3). The surety bond will name ACHD as obligee.

The surety bond, in an amount required by ACHD, written by a surety company listed on the current Department of the Treasury Circular 570, and authorized to do business in Idaho shall guarantee the terms of the permit which shall include completion of construction, including the restoration of surfacing, slopes, slope treatment, top soil, landscape treatment, drainage facilities and cleanup of right-of-way. The surety bond shall also provide security for the Permittee's warranty of the permitted work to be free of defects in workmanship or materials for a period ending two (2) years after date of acceptance as provided in Section 6007.17. As provided in Section 6007.22.2, the surety bond shall also provide security for the payment of any or more days past due, any penalty fee amounts owed to ACHD by the Permittee that are sixty (60) or more days past due, or civil penalties imposed upon the Permittee by ACHD and owed to ACHD by the Permittee that are sixty (60) or more days past due.

A blanket surety bond or other instrument acceptable by ACHD may be maintained covering multiple franchises or permits in lieu of individual bonds at ACHD's discretion. A blanket surety bond or other instrument acceptable to ACHD shall be in an amount as determined by ACHD but with a penal sum not less than \$25,000.

6007.7.2 Release of Surety

At the end of the time period of the surety bond, said surety bond shall be released to the Permittee. Multiple permits covered by a blanket surety, shall be released one permit at a time two years after the work under each permit is accepted. Such release of a surety bond does not remove any obligation on the part of the Permittee to restore or remedy any deficiencies in the completed work during the warranty period.

If the Permittee cancels or terminates a surety bond, the obligations under the surety bond shall continue for two years after the date of the termination as to all work or projects completed or underway on the date the bond is cancelled or terminated.

6007.7.3 Bond Amount Determination

In situations where the value of the work described under a permit substantially exceeds \$25,000, the Deputy Director may determine a reasonable amount to be additionally required for the surety bond. The Deputy Director will consider any showing of good cause made by the Applicant, including but not limited to, the scope of the proposed work, the value of the proposed work or contract amount and such other factors. The Deputy Director's determination of the reasonable amount required for the surety bond shall be sufficient to ensure (1) the timely and diligent performance and payment of the proposed work; (2) the payment of all persons supplying labor and materials associated with the proposed work; and (3) to cover payment of all warranties and other guarantees against defective workmanship or materials. The surety bond required shall be on a form designated by ACHD and will include references to Sections 6000 and 8300.

6007.7.4 Bond Exemption

Off-site utility construction work that is being done under a general development permit that has already required an adequate surety bond or other instrument acceptable to ACHD, will require a separate permit, but may not require additional surety provided the existing surety covers off-site work.

6007.8 Indemnification

As a condition of the Permit, Permittee shall indemnify, save and hold ACHD harmless from and against all claims, demands, actions or judgments, for damages, injury or death, mechanics and other liens, arising out of the failure or neglect of Permittee, Permittee's employees, contractors and agents, to properly and reasonably perform Activity, or that otherwise results from the use and occupation of the Highway by the Permittee, including any attorney fees and costs that may be incurred by ACHD in defense of such claims.

6007.9 Compliance with Law; Hazardous Materials

In the performance of Activity, Permittee will comply in all respects with any and all federal, state and local statutes, ordinances, policies, rules and regulations, obtain any and all Permits and approvals required in connection with its use of the Highway, including, without limitation, those relating to motorist, transit, bicycle and pedestrian safety, the Clean Air or Clean Water Act and/or relating to hazardous materials (defined as any substance or material defined or designated as hazardous or toxic waste, material or substance, or other similar term, by any federal, state or local environmental statute, regulation or occurrence presently in effect or that may be

promulgated in the future).

6007.10 Construction and Occupancy Standards and Qualifications

6007.10.1 Construction Requirements

All Activity undertaken pursuant to a Permit shall conform to ACHD's standard specifications and drawings set forth in the Idaho Standards for Public Works Construction, MUTCD, and ACHD code, which are in effect at the time of the issuance of the Permit, and according to the plans, specifications and construction details approved by the ACHD Engineer, and any other conditions or requirements set forth in the Permit, and shall further conform to the following:

6007.10.2 Qualifications for Work Permit

The Permittee shall at all times employ sufficient and qualified personnel and use equipment of sufficient size and in such mechanical condition as is required to properly complete all permitted Work within the time frame specified in the Permit.

6007.10.3 Diligence in Prosecution of Work

Unless otherwise specified in the Permit, all permitted Work shall be diligently prosecuted to completion and, at a minimum, all trenches shall be worked continuously for eight (8) hours each working day until backfilled. The maximum length of open trench in the Highway permissible at any time shall be 400-feet except within the confines of a total road closure in which case the maximum shall be 800-feet. Open trench will only be allowed through one intersection at a time, which may reduce the length of open trench allowed. Also see Section 6007.12.6 Highway Cuts.

6007.11 Traffic Control Requirements

6007.11.1 Temporary Traffic Control Requirements for Permitted Work

1. The Permittee shall submit a Temporary Traffic Control (TTC) Plan with the Permit application. The TTC Plan shall identify existing street conditions, such as number and direction of motor vehicle lanes, bicycle lanes, transit lanes, and parking lanes, raised islands, cross streets, driveways, sidewalks, pathways; and permanent traffic control devices, such as signs, signals, and pavement markings. The TTC Plan shall show all temporary traffic control devices needed to control motorist, transit, bicycle and pedestrian traffic in accordance with Part 6 of the Manual on Uniform Traffic Control Devices (MUTCD). All taper and buffer lengths and device spacing shall be clearly labeled. The ACHD Standard Traffic Control Templates may be used by Permittees to assist in development of TTC Plans.

The Permittee is solely responsible for the accuracy of the TTC Plan and its suitability for use in the Permit area. When changes to the TTC Plan are necessary due to the changes in site conditions or progress of the Work, the Permittee shall submit a revised TTC Plan for ACHD's review and approval prior to implementing the TTC Plan change.

2. During the course of all permitted Work, the Permittee shall be responsible to provide, erect, and maintain all temporary traffic control devices, including but not limited to signs, temporary striping, barricades,

arrow boards, and lighting, in conformance with the latest edition of the MUTCD, ACHD Standard Traffic Control Templates, ACHD supplemental specifications, and as necessary to provide for the safety of the public and for the protection of private property, as may be required by the Deputy Director. The Permittee shall not pre-stage traffic control devices in excess of 24 hours prior to Work commencing and shall remove all traffic control devices within 24 hours of the Work being completed. Signs used for temporary traffic control shall not impede motorist, transit, bicycle or pedestrian traffic or block sidewalks. If signs mounted on temporary stands cannot be placed beside the traveled way, without impeding motorist, transit, bicycle or pedestrian travel ways they shall be mounted on permanent posts or as approved by ACHD. During the course of the permitted work, signs shall be covered, turned or removed, when not in use. If signs are to be covered or turned the portion of the sign facing traffic must be retroreflective per ACHD specifications. Additional signage may be required for signs placed within the bicycle lane. An administrative fee may be charged to the permit holder by ACHD for each site visit that requires an ACHD Inspector to notify the contractor of unacceptable traffic control device setup or maintenance. The frequency of these charges shall not exceed two per day, but ACHD may revoke the Permit for failure to promptly correct deficiencies.

3. "Peak hours" mean, in general, the hours from 7:00 AM to 9:00 AM and 4:00 PM to 6:00 PM, Monday through Friday, on Arterials or Collectors with more than 4000 ADT, and any Arterial or Collector road with a posted speed limit of 35 MPH or higher regardless of daily traffic volume. If time periods other than those listed above are specified on the approved Traffic Control Plan, those hours specified shall be considered the "Peak Hours". The time frame a permit holder is allowed to impede traffic may be modified at ACHD's discretion as a result of civic events, seasonal activities or other circumstances that substantially affect the use of Arterial or Collector roads.

6007.11.2 Highway Closures

No highway shall be closed to public use by reason of any permitted Activity except by the express written authorization of the Deputy Director. All justifications for the requested Highway closures must be contained in the application for a Permit, or if such a closure was not reasonably anticipated at the time the application for a Permit was made, at least seven (7) calendar days in advance of the proposed closure.

During the period of any authorized closure, the Permittee shall be responsible for providing such access as is necessary for the passage of any emergency vehicle, equipment or personnel. Prior to initiating any such closure, or commencing any work which may hinder or delay any emergency vehicle, equipment or personnel, the Permittee shall advise all applicable emergency organizations of the location and nature of such closure or Work and make any modifications to the proposed closure or Work as may be deemed necessary by the emergency organization or ACHD after review by the ACHD Traffic Engineering Department. Reasonable access shall be maintained for all residences and commercial buildings in the area. Except when closures have been authorized pursuant to the provisions of this subsection, the Permittee shall be responsible for keeping the Highway clear and maintained for public travel. Signs that are planned to remain in place over 3 days shall be mounted

on permanent posts.

6007.11.3 Informational Signs

Any road closure on an Arterial or Collector shall have a 4' x 8' informational sign in place seven (7) days in advance of the closure. Any Local or Residential road closure shall have a 3' x 4' informational sign in place seven (7) days in advance of the closure. The signs are to meet the requirements set forth in the current version of the ISPWC as well as ACHD supplemental specifications. Furthermore:

1. Signs must be black lettering on an orange board;
2. The information posted on the sign shall include: the name of the entity doing the work and the type of work being done, the projected start date and a general completion date, and reference to the detour route.
3. Minimum size of lettering must be 6 inches (6") where the speed is less than forty-five (45) miles per hour. For areas where the posted speed is forty-five (45) miles per hour or more, the minimum size of the lettering shall be 8 inches (8").

6007.12 Coordination of Highway Construction

6007.12.1 Coordination Notice

Prior to submitting a Permit application for significant Work that is contemplated (excepting Bell Holes; Bores, Trenching length less than 400 lineal feet; minor concrete curb, sidewalk, and pavement repair; and Annual Permits), the Applicant shall request in writing from all utilities and similar entities any plans they may have for construction in, on, under, or over same Highway. Any such utility company or similar entity may, within seven (7) calendar days of such notification, make a written request to ACHD that the commencement of such proposed Work be delayed for the purpose of coordinating Highway construction with the Applicant. In the event ACHD determines that coordination of any such Work will reduce the inconvenience to or otherwise be in the best interests of the public, ACHD may order the commencement date for the Applicant's Work to be delayed for up to ninety (90) calendar days, except in the case of an Emergency.

6007.12.2 Coordination with ACHD Street Improvement and Maintenance Program

ACHD shall coordinate any Permitted Work with ACHD's street improvement and maintenance programs and may delay the commencement date for such permitted work for up to ninety (90) calendar days in order to allow for coordination, except in the case of an Emergency.

6007.12.3 Delegation of Construction Periods

In any case where it is determined by ACHD to be in the best interests of the public to coordinate any Activity in a Highway, ACHD may establish schedules for the Activity by the involved Permittee in order to provide for the orderly and efficient completion of such Activity and to protect against public inconvenience, nuisance or hazard, except in the case of an Emergency.

6007.12.4 Alignment of Facilities

All Facilities placed in the Highway shall be laid in a straight line either parallel to or

perpendicular to the Highway centerline, to the extent reasonably possible, in order to minimize the risk of damage to any such Facility from future work in the Highway. The location and depth standards outlined below shall be for all installations in Ada County and shall be adhered to as closely as economically possible for the placement of new Facilities and the replacement or reinstallation of existing Facilities. Facilities may be located outside of their designated corridor only upon submission of written statements of concurrence by each facility owner within the target corridor and only upon the granting of a variance by the Deputy Director in its sole and complete discretion.

1. Sanitary and storm sewers shall be located within a fifteen foot (15') wide zone lying ten feet (10') to the south and west of, and five feet (5') to the north and east from the Highway centerline. The sanitary sewer is to be on the south and west side of centerline and opposite from the water main. The minimum depth shall be four feet (4').
2. Water mains shall be located on the north and east sides of, and a minimum of twelve feet (12') from the Highway centerline, or four feet (4') off lip of gutter. The minimum depth shall be four feet (4') in rural roads and three feet (3') in urban roads.
3. Natural gas mains shall be located on the north and east sides of, and a minimum of fifteen feet (15') from the Highway centerline. Although not a requirement, the natural gas mains are recommended to be in back of the curbing and beyond the surfaced area of the Improved Highway. The minimum depth shall be four feet (4') in rural roads and three feet (3') in urban roads.
4. Electric power, data and communications cable shall be located on the south and west sides of, and a minimum of ten feet (10') from the Highway centerline. Although not a requirement, the electric power and communication cables are recommended to be in back of the curbing and beyond the surfaced area of the Improved Highway. The minimum depth shall be two and a half (2.5') feet except that a lesser depth may be approved where supplemental protection is provided, at the discretion of the District Engineer.
5. Street lighting power activity will also comply with the location and depth requirements stated herein, except in situations where the power supply source is more reasonably available on the north and east sides of the highway.
6. Pressure irrigation is not authorized for installation in the Highway unless approved by the Deputy Director. When authorized for existing Roadways, transverse pressure irrigation pipelines must be Class C-900 water pipe and be installed inside a corrugated aluminized steel pipe sleeve, Type II, with a minimum gauge thickness of 16 or a Class C-900 water pipe sleeve having adequate inside diameter to allow removal and replacement of the pressure irrigation without excavation of the Highway surface. All crossings shall require a shut off valve, or valves, on both sides, outside of the Right-of-Way to provide the ability to isolate the pipeline in the Highway from pressure. Both longitudinal and transverse

pressure irrigation pipelines may require a License Agreement with ACHD at the discretion of the ACHD Development Services Manager. The minimum depth shall be four feet (4') in rural roads and three feet (3') in urban roads.

7. Geothermal pipelines shall be located on the south and west sides of, and a minimum of ten feet (10') from the Highway centerline. Although not a requirement, the geothermal pipelines are recommended to be in back of the curbing and beyond the surfaced area of the Improved Highway. The minimum depth shall be four feet (4') in rural roads and three feet (3') in urban roads.
8. Joint utility trenches for electric power cables, natural gas pipelines, and communication cables shall be located on the south and west sides of the Highway centerline. The minimum depth for each Facility is as specified above.

6007.12.5 Clean Up and Restoration

No refuse, rubbish, excess earth, rock, mud, unused materials or other debris shall be flushed into storm drains or placed or maintained on a Highway during the performance of any permitted Activity in such a manner as to constitute a hazard to the motorists, transit, bicyclists, pedestrians, or ACHD. Any such refuse, rubbish, excess dirt, rock, mud, unused materials or other debris shall immediately be removed upon the order of the ACHD Inspector. Failure of the Permittee to perform necessary clean up and restoration work will result in ACHD contracting or performing such necessary work and the cost may be recovered by making claim against Permittee's surety bond. It is the responsibility of the Permit holder to provide adequate monitoring of site conditions. An administrative fee may be charged to the contractor by ACHD for each site visit that precipitates an ACHD Inspector to notify the permit holder of unacceptable debris or materials on the construction site within the right-of-way. Fees will be as per Fee Schedule.

6007.12.6 Avoidance of Nuisance

1. General
All Activity shall be conducted and carried out in such manner as to avoid unnecessary inconvenience, annoyance or nuisance to the general public and occupants of neighboring property. Appropriate measures shall be taken to reduce noise, dust, mud and unsightly debris. No tool, appliance, or equipment producing noise of sufficient volume to disturb the peace or repose of occupants of neighboring property shall be used in the performance of any activity between the hours of 9:00 PM and 8:00 AM, except with the express written permission of ACHD or in the case of an Emergency.
2. Inactivity
Travel lanes are to be open and traffic devices removed from the Highway when not in use or when periods of inactivity exceed thirty (30) minutes, notwithstanding meal breaks. Vehicles delivering or loading freight are required to be removed from the travel lane immediately following the completion of such activity.

6007.12.7 Highway Cuts

Any pavement, curb, sidewalk or other structure on a Highway which is removed or damaged during the course of any Activity shall be restored to its original condition or better. Any such cut or trench shall, after the backfilling thereof, be restored to a condition suitable for the passage of motorists, transit, bicycles and pedestrians or other public uses in such a manner that it will not pose a hazard or cause damage thereto, provided the location and existence of such surface conditions shall be posted with signs in accordance with the provisions of the MUTCD or as otherwise required by the Deputy Director. The following conditions shall further apply:

1. In the event an existing Highway is cut and trenched in the performance of such work, the trench and cut shall be back filled and provided with either a permanent or a temporary surface repair provided before the Permittee leaves the work site at the end of the work day, unless otherwise authorized by ACHD's Inspector. The Deputy Director may waive the nightly pave back requirements, if it can be shown by the Permittee that alternative methods, such as working during the weekends, at nights, or longer working hours, will result in less impact to the public, less cost to the public and/or higher construction quality. It shall be acceptable for a minor length, ten feet (10') or less, of trench to be left open at the end of the work day to facilitate a quick start up the next day subject to that trench being adequately signed and protected. Exception to this rule is if the work area is within the limits of a controlled traffic control zone (i.e. within a closed Highway or closed lane).
2. If a temporary patch has been placed, permanent surface repairs shall be provided within thirty (30) calendar days following the installation of the temporary patch, unless otherwise authorized by the Deputy Director. Adequate traffic control is required as per Section 6007.11.
3. During the winter months or during periods of weather conditions which prevent making permanent surface repairs to street cut areas, the Deputy Director will require that temporary patches or surface repairs be placed as necessary to restore the traveled way until such time as permanent repairs can be made.
4. The Permittee, or his/her paving subcontractor, shall maintain all temporary patches until a permanent patch can be placed. It shall be the responsibility of the Permit Holder to perform this maintenance on a regular basis or as directed by the ACHD Inspector. It is the responsibility of the Permit holder to provide adequate monitoring of temporary patch conditions. An administrative fee may be charged to the permit holder by ACHD for each site visit that precipitates an ACHD Inspector to notify the contractor of unacceptable surface conditions. The frequency of these charges shall not exceed two per day and shall be as per Approved Fee Schedule. Temporary patches shall be replaced with permanent repairs within thirty (30) calendar days of hot mix asphalt plants opening for the season.
5. Approved materials for temporary patches or surface repairs shall be made by use of hot mix (cold mix if no commercial hot mix plants in the area are operating), steel plates or other materials approved by the

District that does not become unstable as a result of the common use of the particular area, provides a surface smoothness consistent with posted vehicle speed, and does not constitute a hazard to the public. Steel plates must have a beveled edge of at least 45 degrees. Steel plates used on roadways with a speed limit of 35 MPH or greater shall have asphalt placed around all four sides.

6. Notwithstanding anything contained herein to the contrary, a paving machine must perform the paving for any permanent repairs to a Highway cut parallel to the centerline of a Highway.
7. All trenches that occur in the Highway prism shall be backfilled with material approved by ACHD Personnel. They shall include:
 - a. Provide in place a minimum of eight compacted inches (8") of 0.75 inch ($\frac{3}{4}$ ") minus crushed aggregate on a local road or twelve compacted inches (12") of 0.75 inch ($\frac{3}{4}$ ") minus crushed aggregate on an arterial or collector road. If the existing base gravel consisting of pit run and 0.75 inch ($\frac{3}{4}$ ") minus crushed aggregate exceeds the requirements above, the Permittee shall be required to match the existing.
 - b. For any asphalt surface greater than three inches (3") in thickness, multiple lifts shall be required with tack coat materials placed between lifts; with each lift not to exceed three inches (3") placed and compacted.
 - c. Imported material such as pit run gravel or lean concrete (flowable fill) may be required by the ACHD Inspector when the native trench material is unsuitable for reaching adequate compaction or stability within established time constraints. Imported material shall meet specifications in the ISPWC and shall be used at no cost to ACHD.
 - d. Pavement requirements:
 - Pavement mix designs shall meet the current ACHD approved ISPWC and ACHD Supplement to the ISPWC.
 - Principal Arterial Roadways minimum thickness shall be as specified by the District.
 - Minor Arterial Roadways minimum thickness shall be as specified by the District.
 - Collector, Local Commercial, and Local Industrial Roadways shall be three inches (3") thick, as a minimum
 - Local Residential Roadways and alleys shall be two and a half inches (2.5") thick, as a minimum
8. All concrete pavement repairs within the Highway prism shall meet the following requirements:
 - All concrete panels shall be replaced in full sections; partial panel replacement will not be allowed.
 - Care shall be taken not to spall or otherwise damage panels adjacent to the panel being replaced. If damage occurs, additional panels may be subject to replacement.
 - A concrete mix design along with a plan showing the proposed dowel and tie bar layout and intended joint construction shall be

submitted for review and approval by ACHD prior to commencement of the work.

- Provide a minimum of six compacted inches (6") of 0.75 inch ($\frac{3}{4}$ ") minus crushed aggregate, unless otherwise specified by ACHD.
 - Imported material such as lean concrete (flowable fill) may be required by the ACHD Inspector when the native trench material is unsuitable for reaching adequate compaction or stability within established time constraints. Imported material shall meet the specifications in the ISPWC and shall be used at no cost to ACHD.
 - Concrete depth shall match the existing concrete thickness unless otherwise specified by ACHD.
9. All Permeable Paver repair shall be constructed to ISPWC standards and according to the Interlocking Concrete Paver Institute (ICPI) standards. The work shall be performed by an ICPI Certified Installer.
 10. If the trench is longitudinal, the actual amount of the travel lane to be replaced shall be adequate to ensure that the asphalt seam does not fall within the wheel path for traffic. If the trench straddles the centerline of the road or travel lanes, then the match line shall fall in the center of the adjacent lanes or at the edge of the travel lane. All broken or irregular edges shall be cut parallel or perpendicular to the Highway centerline.
 11. The exact amount of asphalt surface to be replaced shall include any area that has been damaged by the Permit Holder or any of the subcontractors in the performance of their work. If the cumulative damaged area exceeds fifty percent (50%) intervals of one block or 350 feet (whichever is less) of the surface of the Highway, then the Permit Holder shall be required to replace the entire Highway surface.
 12. All asphalt repairs on ACHD highways shall meet the standards adopted by ITD for surface smoothness and rideability per Idaho T-87. Surface smoothness shall not exceed 0.25 inch ($\frac{1}{4}$ ") in ten feet (10') vertical deviation when measured with a ten foot straight edge.

Measurement for compliance on arterial or collector roadways may be performed by use of a profilograph at the discretion of the Inspection Coordinator. Rideability shall not exceed an accumulation of ten inches (10") vertical deviations in one tenth (0.1) of a mile when measured with a profilograph. The total accumulated vertical deviations allowed for repairs less than one tenth (0.1) of a mile in length shall not exceed the length in feet times 0.019 inches. Surface grinding shall have a finished tolerance of three tenths (0.3) of an inch in twenty-five feet (25').
 13. If the Highway to be cut is under ACHD's Five Year Moratorium, written approval is required before cutting a Highway refer to Section 6006.
 14. ACHD may participate in full width pavement restorations with Municipalities subject to the negotiated provisions of a separate Agreement.

6007.12.8 Drainage Requirements

Provisions shall be made prior to commencing excavation, utility vault maintenance, domestic water facility maintenance or other activity for the prompt and proper collection and removal of all surplus water, muck, silt, slurry or other runoff pumped from excavations or resulting from sluicing, utility vault maintenance, domestic water facility maintenance or other Activity.

1. Dewatering Permit
 - a. All surplus water discharged to the ACHD storm drain system shall be permitted under a Dewatering Permit. An ACHD approved Dewatering Plan is required for Dewatering Permit issuance.
 - b. Dewatering Plans shall consist of the following:
2. General Project Information
 - a. General written description of dewatering work to be performed including, type/source of water e.g. well point, pit, and open trench; Note: vault and cooling water are dealt with differently than construction dewatering and should be described accordingly.
 - b. Proposed location for disposal-off site, sewer, storm drain, adjacent waterway
 - c. Name of the receiving water
 - d. Start and end date of dewatering
 - e. Estimated volume
 - f. Frequency and duration of dewatering (Continuous or Batch)
 - g. Written Permission from owners/operators, e.g. sewer, irrigation, and landowner.
3. Detailed Site Plan
 - a. Map of site showing location of dewatering activity(s)
 - Location of storm drain facilities in the vicinity of dewatering activities
 - Location of proposed BMP's
 - b. Equipment used for dewatering
 - Pump size or weir tank size, if applicable
 - c. Written description of proposed Best Management Practices (Site Specific)
 - Pretreatment (if water contains sediment-filtration/settling)
 - Erosion Control (specific to dewatering activities)
 - d. Copy of Short Term Activity Exemption (STAE)-DEQ for work associated with waters of the US(if applicable)
4. Gutter Maintenance

All gutters shall be maintained free and unobstructed for the full depth of the adjacent curb and for at least one foot (1') away from the face of such curb at the gutter line. Where a gutter crosses an intersecting improved Highway, an adequate waterway shall be provided and at all times maintained. When no gutter exists, the flow line for natural drainage at the Highway edge shall be maintained during construction and at the completion thereof, restored to its original condition. Best Management practices (BMP's) for an Approved Site Plan shall be employed at all times.

6007.12.9 Other Requirements

The Deputy Director may impose such different or additional requirements on any Activity as may be reasonable under the circumstances. In the performance of any Activity, Permittee shall comply with all applicable laws, ordinances and regulations of any governmental agency with jurisdiction thereof.

6007.12.10 Documentation of Actual Location

Within thirty (30) days of the conclusion of the permitted work, and within thirty (30) days of any modifications or relocations of the permitted improvements, Permittee shall provide ACHD with information acceptable to ACHD showing the actual location of the permitted improvements in the Public right-of-way during the term of the Permit. The acceptable method for providing such information is: AutoCAD drawing using Ada County Coordinate system, including all relevant section corners, and Resource Grade GPS equipment to properly locate the permitted improvements. The permitted improvements should be easily identifiable in a distinct layer or line type. Attribute information for the permitted improvement's depth should be included in the annotation or within the polyline. Permittee shall clearly mark or otherwise clearly identify the improvements that it believes to be "critical infrastructure"; the disclosure of information concerning which, it is believed, is reasonably likely to jeopardize the safety of persons, property or the public safety.

Failure to timely provide the required actual location information by the method described in this Section shall result in immediate termination and revocation the Permit relating to the permitted work, and ACHD shall not grant any other permits to Permittee in the future and until such time that the Permittee has remedied the failure by providing the required information. Permittee shall be a member of DigLine, Inc.

6007.13 Relocation and Protection of Existing Facilities and Structures

6007.13.1 Location of Existing Facilities and Structures

Prior to commencing any Permitted Work, the Permittee shall attempt to notify the owner of any structure or property which may be located in the Highway in which such work is to be performed, including but not limited to, utility companies and similar entities, and the Deputy Director in order to determine the location of any conflicting Facilities, structures, properties or signalization equipment so as to avoid any damage thereto during the course of performing the work. The Permittee is required to notify the local one-call utility agency (Dig Line) and request the marking of the underground Facilities two (2) working days prior to the commencement of the Work.

6007.13.2 Protection of Existing Facilities and Structures

All existing Facilities and structures, including but not limited to pipes, conduits, poles, wires or other apparatus which may in any way be affected by any Permitted Work shall be protected against damage by support or other necessary means as the owner thereof may reasonably require. In the event any unidentified Facilities or other structures are encountered, or Facilities or other structures are damaged during the course of performing the work, the Permittee shall promptly notify the owner thereof and provide the owner reasonable opportunity to inspect the same and set out the reasonable requirements or methods for the support, protection, and repair, if necessary.

6007.13.3 Relocation of Existing Facilities

No existing Facility or other structure, including but not limited to pipes, conduits, poles, wires or other apparatus, whether owned by ACHD or any other entity, shall be interfered with or relocated without the express written consent of the owner thereof and the Deputy Director.

6007.13.4 Cost: Liability

All costs incurred in the support, protection and relocation of any existing Facilities or other structures shall be borne by the Permittee. Permittee shall be liable for any and all damage or injury arising out of or resulting from any and all acts or omissions under or pursuant to this section unless excused from liability pursuant to statute.

6007.13.5 Relocation Costs for Existing Facilities and Structures

1. Utility relocation costs for facilities and structures in the Highway required by a project funded by another entity other than ACHD, shall be the responsibility of the entity funding the project unless otherwise agreed.
2. For sewer, utility, irrigation, drainage or other entity with either legislative or contractual authority to be in the Highway, if ACHD requires that such sewer, utility, irrigation, drainage or other entity to relocate its facilities or structures within the Highway, the relocation costs shall be the responsibility of the sewer, utility, irrigation, drainage or other entity with such authority unless otherwise agreed by ACHD.
3. For a sewer, utility, irrigation, drainage or other entity, which has facilities or structures located in a private easement adjacent to the Highway, if ACHD requires that such sewer, utility, irrigation, drainage or other entity relocate its facilities or structures, the relocation costs shall be the responsibility of ACHD unless otherwise agreed.

6007.14 Protection of Adjoining Property

6007.14.1 Requirement to Protect from Damage

All property adjoining a Highway in which Activity is to be performed shall be protected from injury and damage by such measures suitable and necessary for the purpose, including but not limited to the provisions of proper foundations. All buildings, walls, fences, or other property likely to be damaged in the course of any Activity shall be protected by shoring or other such measures suitable and necessary for the purpose. Where, in the protection of such property, it is necessary to enter upon private property for the purpose of taking appropriate protective measures, the Permittee shall obtain the prior written permission of the owner. Any and all costs and expenses of such protective measures shall be borne by the Permittee.

6007.14.2 Repair and Restoration of Adjoining Property

Any property adjoining a Highway in which Activity is to be performed which shall be damaged as a result of any Activity shall be repaired and restored to its original condition or better unless the Permittee is also the adjacent property owner. All Activity shall be performed in a manner calculated to leave the adjoining property clean of refuse, rubbish, excess earth, rock, mud and other debris, and in a condition as nearly as possible to that which existed prior to the commencement of the Activity. No trees, shrubs or other landscaping feature or structures shall be removed, even

temporarily, without obtaining the prior written consent of the owner. All costs and expenses incurred in the repair or restoration of adjoining property shall be borne by the Permittee.

6007.15 Preservation of Monuments and Property Markers

All monuments or property markers set for the purpose of locating or preserving the lines of any Highway or property adjoining a Highway, all precise survey reference points, survey benchmarks, elevation markers, or other similar monuments, points or markers, whether temporary or permanent, shall be protected from damage during the performance of any Activity. No such monument or marker may be removed, disturbed or destroyed, or caused to be removed, disturbed or destroyed without first obtaining the written permission of the Deputy Director. This prohibition does not apply to construction stakes belonging to the utility or agency doing the work. Permission to remove, disturb or destroy any such monuments or markers shall be made upon such conditions as shall be reasonably required by the Deputy Director, including but not limited to conditions pertaining to the payment of the expenses incidental to the proper replacement of the marker or monument and the method by which such markers or monuments shall be replaced. Monuments that are disturbed shall be reset by a Professional Land Surveyor as set forth in Idaho Code 55-1613 at the expense of the Permittee.

6007.16 Repair of Damage to Highway

6007.16.1 Damage Repaired by Permittee

Any damage done during the performance of any Activity to any Highway, bridge, storm drain, signalization or any other device or structure owned or administered by ACHD shall be repaired by the Permittee within the permit time allocated or extension thereof granted by the Deputy Director, if any. Failure to make timely repairs shall constitute justification to levy additional fees per the Fee Schedule. In the event the existence of any such damage shall, in the opinion of the Deputy Director, constitute a public hazard in the nature of an Emergency, the Deputy Director may require the Permittee to take immediate remedial action as may be necessary in order to protect the public health and safety.

6007.16.2 Damage Repaired by ACHD

In the event the Permittee fails or refuses to repair any damage done during the performance of any Activity or fails or refuses to undertake any remedial action ordered by the Deputy Director, as set forth in Section 6007.16.1, ACHD may undertake or cause to be undertaken the necessary repair or remedial work and charge the cost to the Permittee. The cost shall include administrative, inspection and testing expenses. The cost of any such repair or remedial work may be recovered by ACHD by making claim against the Permittee's Surety Bond posted in accordance with the provisions of Section 6007.7.

6007.17 Warranty

6007.17.1 All Work Warranted for Two (2) Years

Work performed by a utility company or any other entity shall be warranted to be free from defects in workmanship or materials for a period of two (2) years from the date the work is accepted.

1. Any settlement of the surface and any drainage facility constructed or installed that fails to function as designed or fails to provide the full design capacity within the warranty period shall be deemed conclusive evidence of defective work.
2. The Permittee shall be responsible for any necessary maintenance or repair of any such work during the warranty period.
3. The warranty required by this section shall be effective notwithstanding that ACHD shall have undertaken to inspect the work during the course of its performance and accepted the work upon its completion.
4. This provision is secured under the Surety bond requirements of Section 6007.7.

6007.18 Inspection, Testing and Stoppage for Temporary Highway Use Permit

6007.18.1 Right to Inspect and Test

All materials and each part or detail of any permitted work shall be subject to inspection and testing by the ACHD Inspector in order to determine that such Activity is performed in accordance with the approved plans and specifications for the Activity, the requirements of the Permit, ACHD's standard specifications and drawings, and the provisions of the policy. The number, timing, and nature of all inspections and testing shall be per the QA/QC Procedure.

Failure to timely notify the ACHD Inspector of the need for appropriate inspection shall be cause for rejection and any costs incurred for replacement of rejected work shall be the responsibility of the Permittee. Costs incurred by ACHD for additional sampling and testing to verify compliance with approved plans and specifications shall be levied on the Permittee.

6007.18.2 Access to Site

ACHD Personnel shall be provided safe access to all parts of the site and shall be furnished with all such information and assistance by the Permittee as is required to make such inspections and conduct such testing as may be required pursuant to Section 6007.18.1.

6007.18.3 Work Stoppage for Temporary Highway Use Permit

The Deputy Director shall be entitled to order any Permitted Work or activity to be stopped in the interest of public safety or in the event any inspection or testing reveals that the Permitted Work is not being performed in accordance with: the approved plans and specifications, any requirements of the Permit, ACHD's standard specifications and drawings, and the provisions of this policy, or in the event the Permittee fails or refuses to provide ACHD Personnel with access to the work site or such information as the Deputy Director shall reasonably require. Any such work stoppage shall remain in effect until such time as arrangements satisfactory to the Deputy Director are made to bring the Permitted Work into compliance with the requirements of this policy.

Failure to stop work as directed by the Deputy Director constitutes justification for a daily fee per Fee Schedule to provide funds for compliance investigations and subsequent contract management that may be necessary to correct deficient work.

This fee, in total, may be recovered by ACHD by making claim against the Permittee's Surety Bond posted in accordance with the provisions of Section 6007.7. Compliance investigation and management fees shall be in addition to fees claimed against a surety bond to correct or complete unacceptable work.

6007.18.4 Permit Time Extensions as a Result of an Ordered Stoppage

The Deputy Director will review all relevant stop work orders during consideration of an application for a permit time extension. Periods of inactivity shall also be considered. Review for consideration does not ensure a time extension will be granted.

6007.19 Subdivisions

6007.19.1 Subdivision Agreements

Any person desiring to develop and construct a new subdivision which will have a Highway to be dedicated to ACHD shall, prior to commencing work thereon, be required to enter into a Subdivision Inspection Agreement and a Subdivision Improvement Agreement pursuant to Section 7103.

6007.19.2 Permit

In addition to the agreement provided for in Section 6007.19.1 the contractor performing the work shall be required to obtain a Permit pursuant to the provisions of this policy. Permits issued for the new subdivision phase shall cover all new work, inspection costs for this work will be charged against the Inspection Deposit as stated in the Subdivision Inspection Agreement.

For work that impacts existing ACHD facilities, a separate Temporary Highway Use Permit must be obtained, the standard fees shall be applied per the approved fee schedule. Standard duration and time restrictions shall apply.

6007.20 License Agreements

Any Person desiring to encroach upon a Highway or Public right-of-way for any purpose which is not otherwise authorized by a Permit under this section, or by statutory right to occupy ACHD's Highways and Public rights-of-way, shall be required to enter into a License Agreement with ACHD on such terms and conditions as may be required by ACHD. Any such agreement will be obtained from the Right-of-Way Section of ACHD following the provisions of Section 4000 of ACHD Policy. A Licensee will be required to secure a Permit for the installation of the Encroachment.

6007.21 Modification or Revocation of Permit

6007.21.1 Modification of Permit

Any Permit issued pursuant to the provisions of this policy may be modified by order of the Deputy Director in the event the circumstances under which the Permit was originally issued shall have changed such that it would be in the best interests of the public, ACHD, or a licensee that the Permit be so modified; provided, however, that prior to such modification, the notice and hearing provisions set forth in Section 6007.21.3 hereof shall first be complied with.

6007.21.2 Revocation of Permit

Any Permit issued pursuant to the provisions of this policy may be revoked by order of the Deputy Director for the following reasons:

1. Any false information is given in connection with the application for a Permit;
2. The failure of the Permittee to maintain in force liability insurance and a surety bond, if required, in accordance with the provisions of this policy;
3. The failure of the Permittee to comply with any terms or conditions imposed by ACHD on a Permit or a Site Specific Construction Site Discharge Control Plan;
4. The failure of the Permittee to comply with any other provisions of this policy;
5. The failure of the Permittee to comply with any lawful order or other requirement of the Deputy Director; and
6. For any other reason which in the discretion of the Deputy Director shall constitute sufficient grounds for revocation of a Permit.
7. When egregious conduct is demonstrated by a Permittee that is holding an Annual Permit, or when continuous violations of the conditions of the Annual Permit are committed, a written warning identifying the infraction(s) shall be issued to the Permittee. Should three (3) written warnings be issued during a twelve (12) month period beginning on the date of the first warning, ACHD shall be entitled to revoke the Annual Permit.
8. Notwithstanding Provision 7 above, ACHD may revoke an Annual Permit without the three (3) written warnings when the Deputy Director finds that violation of a condition endangers the public.

6007.21.3 Notice and Hearing

The Deputy Director shall provide at least five (5) calendar days written notice to the Permittee of his/her intention to conduct a hearing on the proposed modification or revocation of a Permit issued pursuant to this policy, at which hearing ACHD Engineer shall act as the presiding officer.

6007.21.4 Emergency Order

In the event of an Emergency, the Deputy Director may issue a preliminary order revoking or modifying a Permit which will be immediately effective and shall give such notice to the Permittee as is reasonable under the circumstances.

6007.22 Additional Remedies

6007.22.1 Civil Penalties

If Permittee refuses to restore or repair damage done while under Permit or fails to pay additional fees assessed by ACHD after demand has been made by ACHD, or

fails to repair or replace defective public improvements to the full and complete satisfaction of ACHD during the warranty period, in addition to any remedy herein set forth, ACHD may impose civil penalties upon the Permittee equal to the greater of \$300 or one percent (1%) of the amount bonded under Section 6007.7.3. Civil penalties for noncompliance shall begin to accrue on the 5th calendar day following written notice of noncompliance by ACHD and each day of noncompliance shall be subject to a separate and additional civil penalty with such civil penalties continuing to accrue on a daily basis until the Permittee achieves compliance and may be collected by initiation of civil action.

6007.22.2 Probationary Status

If Permittee fails to pay any permit fees that are sixty (60) or more days past due, or fails to pay penalty fee amounts that are sixty (60) or more days past due, or fails to pay any civil penalties imposed upon the Permittee by ACHD that are sixty (60) or more days past due, or fails to repair or replace defective public improvements to the full and complete satisfaction of ACHD during the required warranty period, the Permittee shall be placed on probationary status as a result of such nonpayment and/or noncompliance and ACHD shall not accept another application for a Permit from the Permittee as provided in Section 6007.2 until the Permittee has repaired or replaced any defective public improvements to the full and complete satisfaction of ACHD and/or until Permittee has paid all permit fees that are sixty (60) or more days past due and any penalty fees owed that are sixty (60) or more days past due and any civil penalties imposed by ACHD that are sixty (60) or more days past due. ACHD may also elect to perform the work required and subsequently seek reimbursement under the surety bond equal to the costs expended by ACHD and ACHD may also seek reimbursement under the surety bond equal to any permit fees that are sixty (60) or more days past due, all penalty fees owed that are sixty (60) or more days past due, and any civil penalties imposed by ACHD that are sixty (60) or more days past due and ACHD may also require a deposit or payment by the former Permittee for any costs expended by ACHD that are not reimbursed under the surety bond, and any permit fees that are sixty (60) or more days past due and penalty fees owed that are sixty (60) or more days past due, and any civil penalties imposed by ACHD that are sixty (60) or more days past due and that are not reimbursed under the surety bond, before ACHD will accept another application for a Permit from the Permittee as provided in Section 6007.2.

6007.23 Appeal to Director

6007.23.1 Right to Appeal

Any Person who is aggrieved by a decision of the Deputy Director to issue, fail to issue, impose conditions upon, modify or revoke a Permit may take an appeal to the Director by filing written notice with the Director within twenty (20) calendar days of the date of the decision from which appeal is taken.

6007.23.2 Notice of Hearing

The Director's consideration and decision shall be based upon the information provided in the record and any written argument submitted by ACHD staff or Permittee/Person. Oral presentation will not be allowed unless expressly granted.

6007.24 Appeal to Commission

Any person who is aggrieved by a decision of the Director, pursuant to the provisions of Section 6007.23, may take an appeal thereof to the Commission by filing written notice thereof with the Commission within twenty (20) calendar days of the date of the decision from which appeal is taken. Notice shall be given, a hearing shall be held, and a decision rendered on the appeal.

6007.25 Enforcement

Whenever it appears that any Person has engaged or is about to engage in any act or practice violating any provision of this policy or any permit or order issued hereunder, the Commission may cause ACHD to institute a civil action in District Court of Ada County to enforce compliance with this policy or any such permit or order, seeking a permanent or temporary injunction, restraining order, or such other relief as the Commission considers appropriate. In the event any such violation arises out of the refusal or failure or neglect to obtain a required permit or to enter into a license, easement or other agreement required by this policy, then, in addition to the foregoing relief, ACHD shall be entitled to assess an administrative fee in the amount set forth in Section 6007.4.3. In addition to the foregoing, ACHD shall be entitled to take any other action and seek any other remedy as may be permitted by law or in equity.

6008 PERMIT FOR PLACEMENT OF FIBER OPTIC FACILITIES

6008.1 Statement of Policy

Notwithstanding any other provision of the ACHD Code or any Resolution of the Commission, it shall be the policy of the ACHD to grant non-exclusive permits, on a competitively neutral and non-discriminatory basis, allowing the installation of underground fiber optic cable lines and related facilities in, upon or under any Highway or Public right-of-way under the jurisdiction and control of ACHD as provided by Idaho law and subject to this Section of the ACHD Code.

6008.2 Permit Required

Any Person who desires to place, install, operate or maintain any fiber optic cables and all related property including, but not limited to, conduit, innerduct, carrier pipe, cable fibers, repeaters, power sources and other attachments and appurtenances necessary for fiber optic communication or data transmission (hereinafter referred to as "Fiber Optic Facilities") in, upon or under any Highway or Public right-of-way under the jurisdiction and control of ACHD shall first apply for and obtain a Fiber Optic Facilities Permit in the manner as set forth unless herein provided to the contrary.

6008.3 Applicability and Authority

Pursuant to Section 40-1310, *Idaho Code*, and ACHD's exclusive supervisory jurisdiction over all highways and public rights-of-way within its highway system with full power to establish use standards, the requirements of this Section shall apply to any fiber optic equipment, facilities or system for fiber optic communication services, any interstate services or other communication, conduction, or transmission facilities excluded from the definitions of telephone corporation or telecommunications services as defined in Section 61-121, *Idaho Code*, and in accordance with Section

62-701A(2), *Idaho Code*, and pursuant to the Telecommunications Act of 1996, (47 U.S.C. § 253(c)) the requirements of this Section shall apply to any fiber optic equipment, facilities or system for fiber optic communication services of a telecommunications provider that is subject to the Federal Communications Act of 1934, (47 U.S.C. § 151, et seq.). Pursuant to Section 40-1310, *Idaho Code*, and Section 50-3006, *Idaho Code*, the requirements of this Section shall also apply to any fiber optic equipment, facilities or system for fiber optic transmission of video services by a holder of a certificate of franchise authority for video services pursuant to Title 30, Chapter 30, *Idaho Code*. The requirement of this Section shall not apply to or restrict those fiber optic facilities owned by ACHD that ACHD may elect to share with another entity under a separate shared use license agreement.

6008.4 Use of Highway or Public Right-of-Way

6008.4.1 Sole and Limited Purpose/Non-Exclusive Use

Permittee is allowed to encroach upon a portion of the Highway or Public right-of-way in Ada County, for the sole and limited purpose of the installation, construction, operation, repair and maintenance of the Fiber Optic Facilities identified, described and depicted in its Permit. The Permit shall not be an exclusive right to use the Highway or Public right-of-way; shall not preclude access to adjacent and abutting properties; and shall be subject to any existing easements of record or in use.

6008.4.2 Acknowledgement and Waiver of Claim to Ownership of Highway or Public right-of-way

Permittees shall acknowledge that the Fiber Optic Facilities are installed, constructed, operated, repaired and maintained in a Highway or Public right-of-way and the Permittee shall waive any claim to ownership of the right-of-way whether in fee, adverse possession or any other right, title or interest therein, other than established pursuant to the terms of the Permit. The Permit shall not extend to the Permittee the right to use the right-of-way to the exclusion of ACHD for any use within its jurisdiction, authority and discretion or of others to the extent authorized by law to use Public right-of-way. If the Public right-of-way has been opened as a Highway (as used in this Section the term "Highway" is as defined in Section 40-109(5) *Idaho Code*) the Permittee's authorized use shall be subject to the rights of the public to use the Public right-of-way for Highway purposes. The Permittee's authorized use shall also subject to the rights of holders of easements of record or obvious on inspection of the right-of-way and statutory rights of utilities to use the Public right-of-way. The issuance of a Permit to a Permittee it is not intended to, and shall not, preclude or impede the ability of ACHD to issue other similar Permits in the future allowing third parties to also use its public rights-of-way, or the ability of ACHD to redesign, reconstruct, relocate, maintain and improve its public rights-of-way and highways as authorized by law and as it determines, in its sole discretion, is appropriate.

6008.4.3 Acknowledgement of Permissive Use

Permittees shall expressly acknowledge and agree that the Permit is temporary and merely a permissive use of ACHD right-of-way pursuant to the terms of the Permit subject to termination. Permittees shall assume the risk that the permit granted herein may be terminated before the Permittee has realized the economic benefit of the cost of installing, constructing, operating, repairing, or maintaining the Fiber Optic Facilities, and by signing and accepting the Permit, the Permittee shall waive and estop itself from asserting any claim, including damages or reimbursement, that the Permit is in

any way irrevocable because the Permittee has expended funds on the Fiber Optic Facilities and the Permit has not been in effect for a period sufficient for Permittee to realize the economic benefit from such expenditures.

6008.5 Application for Fiber Optic Facilities Permit

6008.5.1 Application and Fee

A person desiring a Fiber Optic Facilities Permit shall file an application with the Deputy Director, in the form prescribed by the Deputy Director, together with the non-refundable application processing fee in the amount of \$250.00 to cover all costs incurred by ACHD to review and process the application. At the discretion of the Deputy Director, an application for a Fiber Optic Facilities Permit may be processed simultaneously with the same applicant's application for a Temporary Highway Use Permit as required in Section 6007; provided that a Temporary Highway Use Permit shall not be issued until a Fiber Optic Facilities Permit has been issued pursuant to this Section. If the person applying for a Fiber Optic Facilities Permit is a municipality or local public agency that has executed a reciprocal "Fee Reduction" agreement with ACHD, then there shall be no fee for the Fiber Optic Facilities Permit.

6008.5.2 Single Project Permit

Persons planning to undertake a separate or distinct Fiber Optic Project may apply for a Single Project Fiber Optic Permit.

6008.5.3 Master Permit

Persons with existing Fiber Optics Facilities located within Highways or Public right-of-way and intending to undertake multiple Fiber Optics Projects in the future may apply for a Master Fiber Optic Permit which shall identify, describe and depict the Permittee's existing Fiber Optics Facilities and which shall be updated from time to time to reflect each of Permittee's Fiber Optics Projects that are permitted by ACHD under its required permitting processes in Section 6007 beginning on and after the date of the Master Fiber Optic Permit.

6008.6 Location of Fiber Optic Facilities

6008.6.1 Designated Corridor and Depth of Cover

The approved Fiber Optic Facilities shall be located within their designated corridor in the approximate planned location depicted on exhibits to the Permit and in compliance with applicable ACHD policies, standards and specifications. For any Fiber Optic Project occurring after the date of this Ordinance, Fiber Optic Facilities where placed underground, shall have a depth of cover of between thirty inches (30") and thirty-six inches (36") unless otherwise directed and/or approved by ACHD.

6008.6.2 Variance

Fiber Optic Facilities may be located outside of their designated corridor only upon submission of written statements of concurrence by each utility within the target corridor and only upon the granting of a variance by ACHD, in its sole and complete discretion.

6008.6.3 Information Showing Actual Location

Within thirty (30) days of the conclusion of a Fiber Optic Project occurring after the issuance date of a Permit, and within thirty (30) days of any modifications or

relocations of the permitted Fiber Optic Facilities, Permittee shall provide ACHD with information acceptable to the ACHD showing the actual, new location of the approved Fiber Optic Facilities in the Public right-of-way during the term of the Permit. The acceptable method for providing such information is: AutoCAD drawing using Ada County Coordinate system, including all relevant section corners, and Resource Grade GPS equipment to properly locate the conduit. The conduit should be easily identifiable in a distinct layer or line type. Attribute information for conduit depth should be included in the annotation or within the polyline. The Permittee shall clearly mark or otherwise identify the Fiber Optic Facilities that it believes to be “critical infrastructure”; the disclosure of information concerning which, it believes, is reasonably likely to jeopardize the safety of persons, property or the public safety. Failure to timely provide the required actual location information by the method described herein shall result in immediate termination and revocation of the Permit and the ACHD shall not grant any other permits to Permittee in the future and until such time that the Permittee has remedied the failure by providing the required information. Permittee shall be a member of Digline, Inc. or its successor organization.

6008.7 Design of Fiber Optic Facilities

6008.7.1 Permittee Responsible for Plans/Design

The Permittee shall be responsible for preparing and obtaining the plans/designs for any Fiber Optic Facilities projects as requested by the Permittee and as permitted by ACHD permitting processes.

6008.7.2 Additional Requirements

All designs/plans prepared and obtained by the Permittee will comply with (i) established engineering standards, including the Idaho Standards for Public Works Construction (“ISPWC”) including ACHD’s supplements to the ISPWC; (ii) the American Association of State Highway and Transportation Officials (“AASHTO”); (iii) all adopted ACHD rules, regulations, and policies; and (iv) all state and federal laws. ACHD assumes no responsibility for any deficiencies or inadequacies in the design or construction of the Fiber Optic Facilities.

6008.7.3 Design Costs

Permittee shall be solely responsible for all design costs for the Fiber Optic Facilities.

6008.8 Construction of Fiber Optic Facilities

6008.8.1 Construction and Inspection Costs

Permittees shall be solely responsible for their own construction and inspection costs for the installation of the Fiber Optic Facilities described and referred to in the Permit.

6008.8.2 Coordination with and Relocation of Utilities

Permittees shall be solely responsible for the coordination with and the relocation of any utilities required in connection with the placement, incorporation, or construction of the Fiber Optic Facilities.

6008.8.3 Additional conditions of Construction

(1) The Permittee will not allow any liens to attach to any right-of-way, improvements, or other property of ACHD as a result of any labor performed or materials supplied in connection with the construction of the Fiber Optic Facilities. (2) The Permittee shall

be responsible for obtaining all permits required by ACHD in connection with any construction of the Fiber Optic Facilities. (3) All Construction of the Fiber Optic Facilities shall be in accordance with the designs or plans approved by ACHD. (4) All construction by the Permittee shall comply with (i) established engineering standards, including the Idaho Standards for Public Works Construction (“ISPWC”) including ACHD’s supplements to the ISPWC; (ii) the American Association of State Highway and Transportation Officials (“AASHTO”); (iii) all adopted ACHD rules, regulations, and policies; and (iv) all state and federal laws.

6008.9 Maintenance of Fiber Optic Facilities

6008.9.1 Maintenance by Permittee

At its sole cost and expense, Permittee shall maintain the Fiber Optic Facilities in good condition and repair and as required to satisfy applicable laws, and all rules, policies and regulations adopted by ACHD and sound engineering practices. Permittee shall have access over, across and under the Highway or Public right-of-way for the purposes of accomplishing such repair and maintenance.

6008.9.2 Damage to Highway or Public Right-of-Way

If the Highway on and/or adjacent to the Public right-of-way is damaged as a result of:

- (1) the performance by Permittee of the maintenance required by this Section, or the failure or neglect to perform such maintenance; and/or
- (2) the Permittee’s design, installation or use of the Fiber Optic Facilities, regardless of cause;

at its sole cost and expense Permittee shall forthwith correct such deficiency and restore the Highway and the surface of the Public right-of-way to the same condition it was in prior thereto, and if Permittee shall fail or neglect to commence such correction and restoration within thirty days (30) of notification thereof, ACHD may proceed to do so, in which event Permittee shall reimburse ACHD for the actual costs and expenses thereof, including, without limitation, reasonable compensation for the use of staff and equipment of ACHD.

6008.9.3 Emergency Repairs with Prior Notice

Notwithstanding the provisions of the preceding Subsection 6008.9.2, should an emergency exist related to the Permittee’s use of the Permit which threatens the stability or function of the Highway on or adjacent to the Right-of-Way or the safety of the public use thereof, ACHD shall provide notice to Permittee of such emergency as soon as reasonably practicable and have the right to immediately perform, on behalf of, and at the cost of Permittee necessary emergency repairs.

6008.9.4 ACHD Remedies for Permittee’s Failure

In the event the Permittee fails to replace, repair, maintain, and care for the Fiber Optic Facilities in a manner that causes harm to the Highway or Public right-of-way, ACHD shall, in addition to the foregoing and in addition to any other recovery in law or in equity, have the following remedies, provided that ACHD first gives the Permittee thirty (30) days written notice and the Permittee fails to remedy such failure: (i) ACHD may revoke the Permit; (ii) ACHD may replace, maintain, remove, and/or care for the Fiber Optic Facilities, and the Permittee shall reimburse ACHD fully for all associated

costs; and (iii) ACHD may refuse to issue any further Fiber Optic Facilities Permits or any other permits to Permittee until the Permittee complies with the conditions of the Permit.

6008.9.5 Emergency Repairs without Prior Notice

In the event of an emergency that is reasonably likely to jeopardize the safety of persons, property or the public safety, caused by the Permittee's failure to perform required maintenance, ACHD may immediately perform any and all emergency repairs or take other measures in connection with an emergency, and the Permittee shall reimburse ACHD in full for all associated costs.

6008.10 Term of Permit

6008.10.1 Perpetual Term

Fiber Optic Facilities Permits issued under this Section shall be perpetual in term until terminated or revoked pursuant to the provisions of this Section.

6008.10.2 Remove or Abandonment Upon Termination or Revocation of Permit

Upon the termination or revocation of a Fiber Optic Facilities Permit, the Permittee will be allowed at its option to remove its Fiber Optic Facilities or abandon its Fiber Optic Facilities in place. However, in the event a Permittee does not remove the Fiber Optic Facilities in the Highway or Public right-of-way at the termination or revocation of a Permit, the Permittee thereby abandons and disclaims any interest or title to the Fiber Optic Facilities left in the Highway or Public right-of-way and all such Fiber Optic Facilities will pass to the ACHD at no cost to the ACHD.

6008.10.3 Termination/Revocation of Permit

The Permit shall be revocable and/or terminable by ACHD by providing written notice to the Permittee upon the occurrence of any of the following: (i) a determination by the ACHD that any of the information submitted by the Permittee is false or inaccurate in any manner; (ii) a determination by the ACHD that the Permittee has failed to comply with any term or provision of the Permit; (iii) a determination by the ACHD that the Permittee has failed to replace, maintain, and/or care for the Fiber Optic Facilities, as required by the terms of the Permit. Except in an emergency situation which the ACHD believes threatens the stability or function of the Highway or the adjacent Public right-of-way or the safety of the public's use thereof, the ACHD shall provide the Permittee with thirty (30) days' notice of the issue and an opportunity to comply prior to terminating or revoking the Permit.

6008.11 Duty to Relocate

At all times ACHD has the right to relocate, reconstruct, remove, or redesign any Highway or Public right-of-way, and all ACHD improvements within any Highway or Public right-of-way, that the permitted Fiber Optic Facilities may be located within or upon. To the extent that a Permittee is a "utility" and the Fiber Optic Facilities are "utility facilities" as such terms are defined in Section 40-210(4), *Idaho Code*, ACHD shall comply with the requirements of Section 40-210(2) in terms of advance notice of projects that may require relocation of permitted Fiber Optic Facilities and opportunity for plan review and discussion of recommendations and coordination. For all other Permittees, ACHD will use its best efforts to provide at least ninety (90) days advance written notice to Permittee of any anticipated actions within the Highway or Public

right-of-way that would be likely to cause a relocation, modification, or other adaptation of any of the Fiber Optic Facilities, and to the extent reasonably possible, the ACHD and the Permittee shall agree to a priority schedule regarding the same and shall attempt to cooperate with respect to planning and coordination as related to any such relocation, modification, or other adaptation of any of the Fiber Optic Facilities. In any case however, if ACHD ultimately determines that any part of the Highway or Public right-of-way must be relocated, reconstructed, removed, or redesigned, then Permittee, at its sole cost and expense, shall be responsible for relocating, reconstructing, removing, or redesigning the Fiber Optic Facilities, as ordered by ACHD, which shall be accomplished by Permittee according to designs, plans, and specifications approved by ACHD in writing prior to any such work. A Permittee may also elect to remove all or a part of the Fiber Optic Facilities in lieu of any relocation, modification, or adaptation. Permittees shall assume any and all costs of itself and ACHD relating to any future relocation of the Fiber Optic Facilities. Permittee shall be responsible to ACHD for any delay costs suffered by ACHD that result from a Permittee's failure to timely relocate, reconstruct, remove, or redesign the Fiber Optic Facilities, as ordered by ACHD.

6008.12 Indemnification

The Permittee shall agree to protect, defend, indemnify, and hold the ACHD and its officers, directors, employees, members, and agents harmless from and against any and all liability, suits, losses, damages, claims, actions, costs, and expenses of any nature, including court costs and attorney fees, arising from or out of any acts or omissions of the Permittee, its agents, or contractors related to or in connection with the Fiber Optic Facilities and the exercise of any privileges or performance of any obligations by the Permittee pursuant to the terms of the Permit. The Permittee's obligations in this Section shall survive the expiration, revocation, and/or termination of the Permit for any reason.

6008.13 Severability/Conflict with Other Laws and/or ACHD Policies or Ordinances

The provisions of this Ordinance are hereby declared to be severable, and if any provision of this Ordinance or the application of the same to any Person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of the Ordinance. In the event of any conflict between this Ordinance and any state or federal law, the applicable state or federal law shall control. In the event of any conflict between this Ordinance and any other ACHD policy or ordinance, this Ordinance shall control.