

City of Ketchum

CITY COUNCIL MEETING AGENDA MEMO

Meeting Date:	April 15, 2024	Staff Member/Dept:	Sherri Newland/Public Works	
Agenda Item:	Recommendation to Approve Right-of-Way Encroachment Agreement 24907 for the installation of underground power transmission lines and duct bank in the public right-of-way on Second Street.			

Recommended Motion:

I move to authorize the Mayor to sign Right-of-Way Encroachment Agreement 24907 between the City and Idaho Power.

Reasons for Recommendation:

- The improvements will not impact the use or operation of Second Street.
- The improvements will not impact drainage or snow removal within the public right-of-way.
- The project complies with standards for Right-of-Way Encroachment Permit issuance specified in Ketchum Municipal Code §12.12.060.

Policy Analysis and Background (non-consent items only):

The purpose of this project is to provide a redundant underground power source for future growth and community demand. Engineering, Streets, Water and Sewer, departments have reviewed the layout of the proposed utilities. No new above grade facilities are proposed within the City's ROW.

Pursuant to Ketchum Municipal Code §12.12.040.C, a Right-of-Way Encroachment Permit is required for any permanent encroachment of the public right-of-way were a permanent fixture to the ground or a building will occur. The associated Right-of-Way Encroachment Agreement is intended to help protect the City in the event the proposed encroachment was to ever pose an issue requiring repair, relocation, or removal of the encroachment.

Sustainability Impact:

None OR state impact here: Reduce visual impacts within the ROW promoting walkability and vehicular traffic reducing carbon emissions.

Financial Impact:

None OR Adequate funds exist in account:	None
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Attachments:

1.	Right-of-Way Encroachment Agreement 24907
2.	Exhibit "A"
3.	Exhibit "B"

WHEN RECORDED, PLEASE RETURN TO:

OFFICE OF THE CITY CLERK CITY OF KETCHUM POST OFFICE BOX 2315 KETCHUM, IDAHO 83340

RIGHT-OF-WAY ENCROACHMENT AGREEMENT 24907

THIS AGREEMENT, made and entered into this _____day of ____, 2024, by and between the CITY OF KETCHUM, IDAHO, a municipal corporation ("Ketchum"), whose address is Post Office Box 2315, Ketchum, Idaho and ______, representing IDAHO POWER COMPANY, (collectively referred to as "Owner"), whose address is 1221 West Idaho St., Boise, ID 83702.

RECITALS

WHEREAS, Owner wishes to permit placement of an underground transmission line in the right-of-way of Second Street. These improvements are shown in Exhibit "A" attached hereto and incorporated herein (collectively referred to as the "Improvements"); and,

WHEREAS, Ketchum finds that said Improvements will not impede the use of said public right-of-way at this time subject to the terms and provisions of this Agreement;

WHEREAS, the Owner will restore the sidewalk, street, curb and gutter and any landscaping back to the original condition acceptable to the Streets and Facilities Director;

NOW, THEREFORE, in contemplation of the above stated facts and objectives, it is hereby agreed as follows:

TERMS AND CONDITIONS

1. Ketchum shall permit Owner to install underground power infrastructure identified in Exhibit "A" within the public right-of-way, until notified by Ketchum to remove the infrastructure at which time Owner shall remove infrastructure at Owner's expense.

2. Owner shall be responsible for the maintenance of said Improvements and shall repair said improvements within 48 hours upon notice from Ketchum that repairs are needed.

3. Owner shall be responsible for restoring the sidewalk, curb and gutter and landscaping that is altered due to the construction and installation of the vault, to the satisfaction of the Director of Streets and Facilities.

4. In consideration of Ketchum allowing Owner to maintain the Improvements in the public right-of-way, Owner agrees to indemnify and hold harmless Ketchum from and against any and all claims of liability for any injury or damage to any person or property arising from the Improvements constructed, installed and maintained in the public right-of-way. Owner shall further indemnify and hold Ketchum harmless from and against any and all claims arising from any breach or default in the performance of any obligation on Owner's part to be performed under this Agreement, or arising from any negligence of Owner or Owner's agents, contractors or employees and from and against all costs, attorney's fees, expenses and liabilities incurred in the defense of any such action or proceeding brought thereon. In the event any action or

proceeding is brought against Ketchum by reason of such claim, Owner, upon notice from Ketchum, shall defend Ketchum at Owner's expense by counsel satisfactory to Ketchum. Owner, as a material part of the consideration to Ketchum, hereby assumes all risk of damages to property or injury to persons in, upon or about the Improvements constructed, installed and maintained in the public right-of-way arising from the construction, installation and maintenance of said Improvements and Owner hereby waives all claims in respect thereof against Ketchum.

5. Ketchum shall not be liable for injury to Owner's business or loss of income therefrom or for damage which may be sustained by the person, goods, wares, merchandise or property of Owner, its tenants, employees, invitees, customers, agents or contractors or any other person in or about the Subject Property caused by or resulting from the Improvements constructed, installed, removed or maintained in the public right-of-way.

6. Owner understands and agrees that by maintaining the Improvements in the public right-of-way pursuant to this Agreement, Owner obtains no claim or interest in said public right-of-way which is adverse to that of Ketchum and that Owner obtains no exclusive right to said public right-of-way nor any other right to use the public right-of-way not specifically described herein.

7. In the event either party hereto retains an attorney to enforce any of the rights, duties and obligations arising out of this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party reasonable attorney's fees at the trial and appellate levels and, whether or not litigation is actually instituted.

8. This Agreement shall be governed by, construed, and enforced in accordance with the laws and decisions of the State of Idaho. Venue shall be in the District Court of the fifth Judicial District of the State of Idaho.

9. Subject to Section 13 below, this Agreement sets forth the entire understanding of the parties hereto and shall not be changed or terminated orally. It is understood and agreed by the parties hereto that there are no verbal promises or implied promises, agreements, stipulations or other representations of any kind or character pertaining to the Improvements maintained in the public right-of-way other than as set forth in this Agreement.

10. No presumption shall exist in favor of or against any party to this Agreement as the result of the drafting and preparation of this document.

11. This Agreement shall be recorded with the Blaine County Recorder by Ketchum.

12. The parties fully understand all the provisions of this Agreement, and believe them to be fair, just, adequate and reasonable, and accordingly accept the provisions of this Agreement freely and voluntarily.

13. Notwithstanding any other provision of this Agreement, this Agreement shall be subject in all respects to the terms of the Franchise Agreement between Owner and Ketchum set forth in Ketchum Ordinance No. 1092 adopted by Ketchum on May 7, 2012, as such Franchise Agreement may be amended, extended or replaced by a new franchise agreement in the future ("Franchise Agreement"), and in the event of any conflict or uncertainty between eh terms of this Agreement and the Franchise Agreement, the Franchise Agreement shall control.

OWNER:

CITY OF KETCHUM:

Ву:	-	By: _	
		lts:	Neil Bradshaw Mayor
STATE OF,)) County of)	SS.		

On this _____ day of _____, 2024, before me, the undersigned Notary Public in and for said State, personally appeared _____, known to me to be the person who executed the foregoing instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

Notary Public for _	
Residing at	
Commission expire	es

STATE OF IDAHO)) ss. County of Blaine)

On this ____ day of _____, 2024, before me, the undersigned Notary Public in and for said State, personally appeared NEIL BRADSHAW, known or identified to me to be the Mayor of the CITY OF KETCHUM, IDAHO, and the person who executed the foregoing instrument on behalf of said municipal corporation and acknowledged to me that said municipal corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year in this certificate first above written.

Notary Public for	
Residing at	
Commission expires	

EXHIBIT "A"

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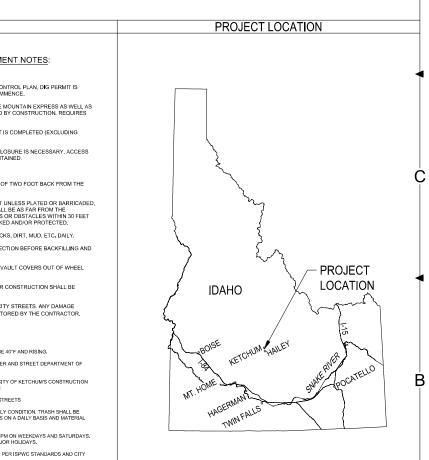
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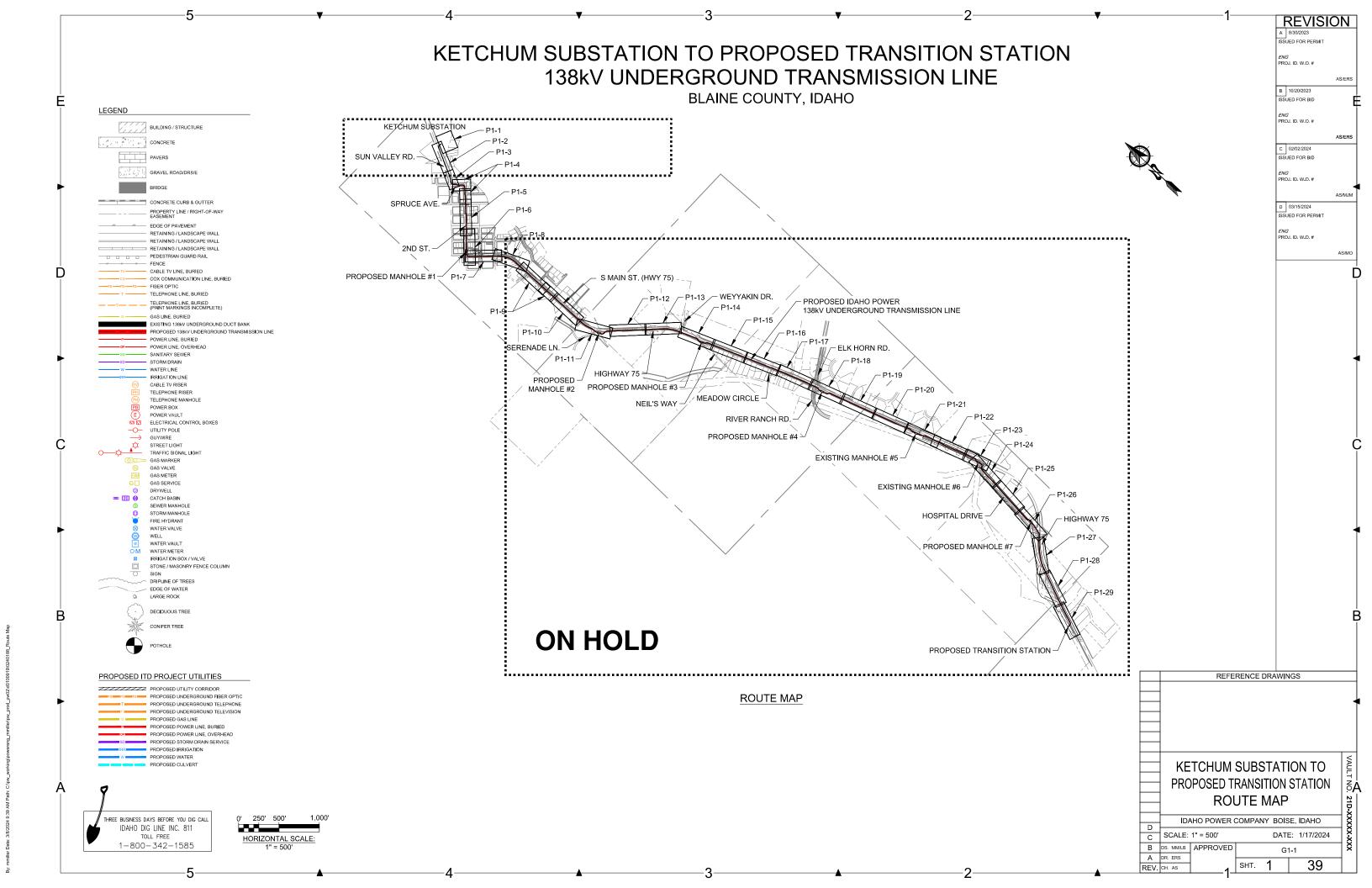
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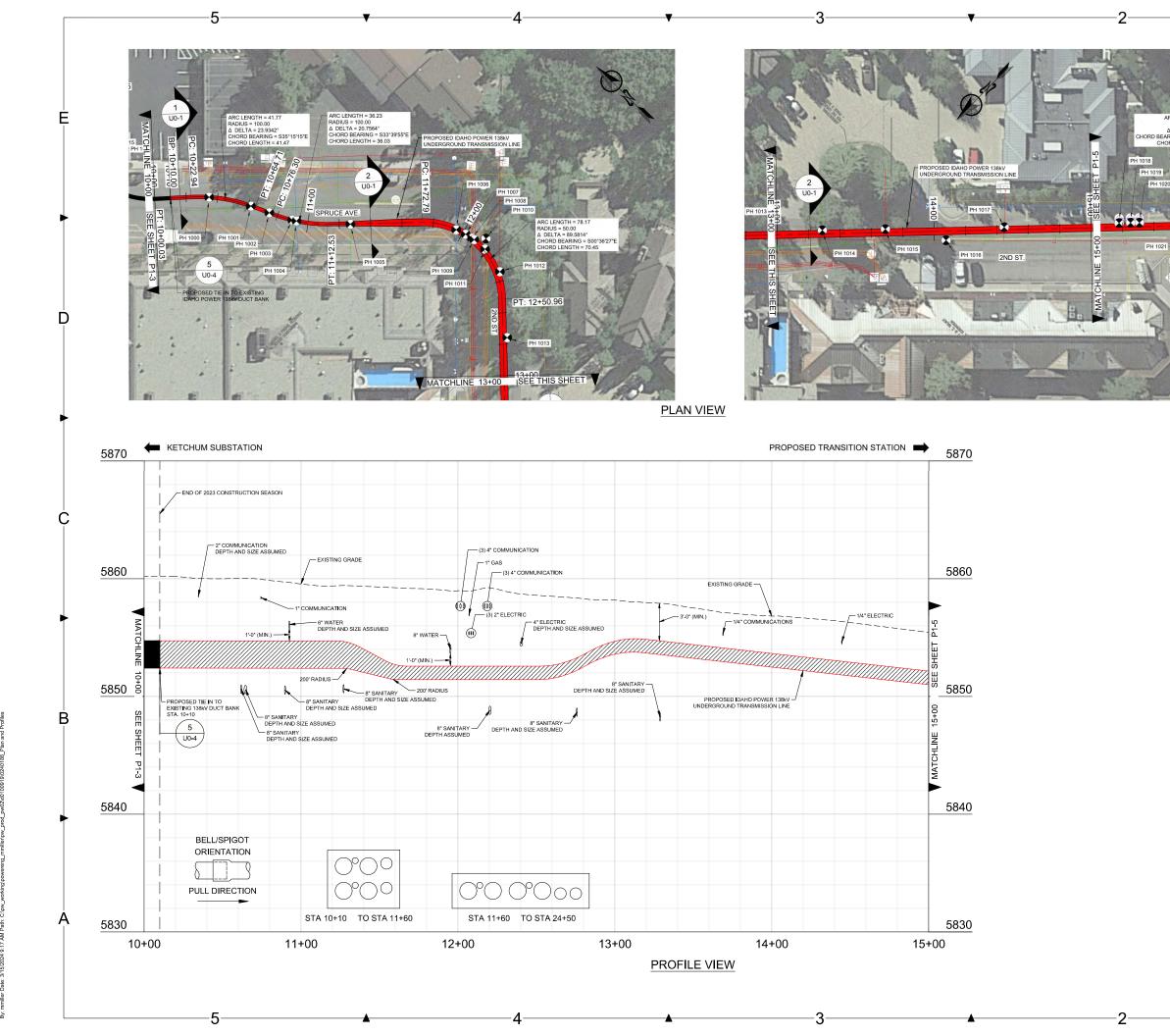


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ELEV. ~5850' SUN VALLEY, ID 83338

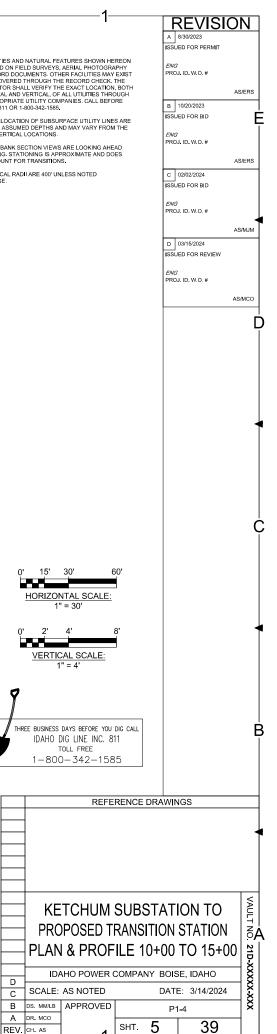


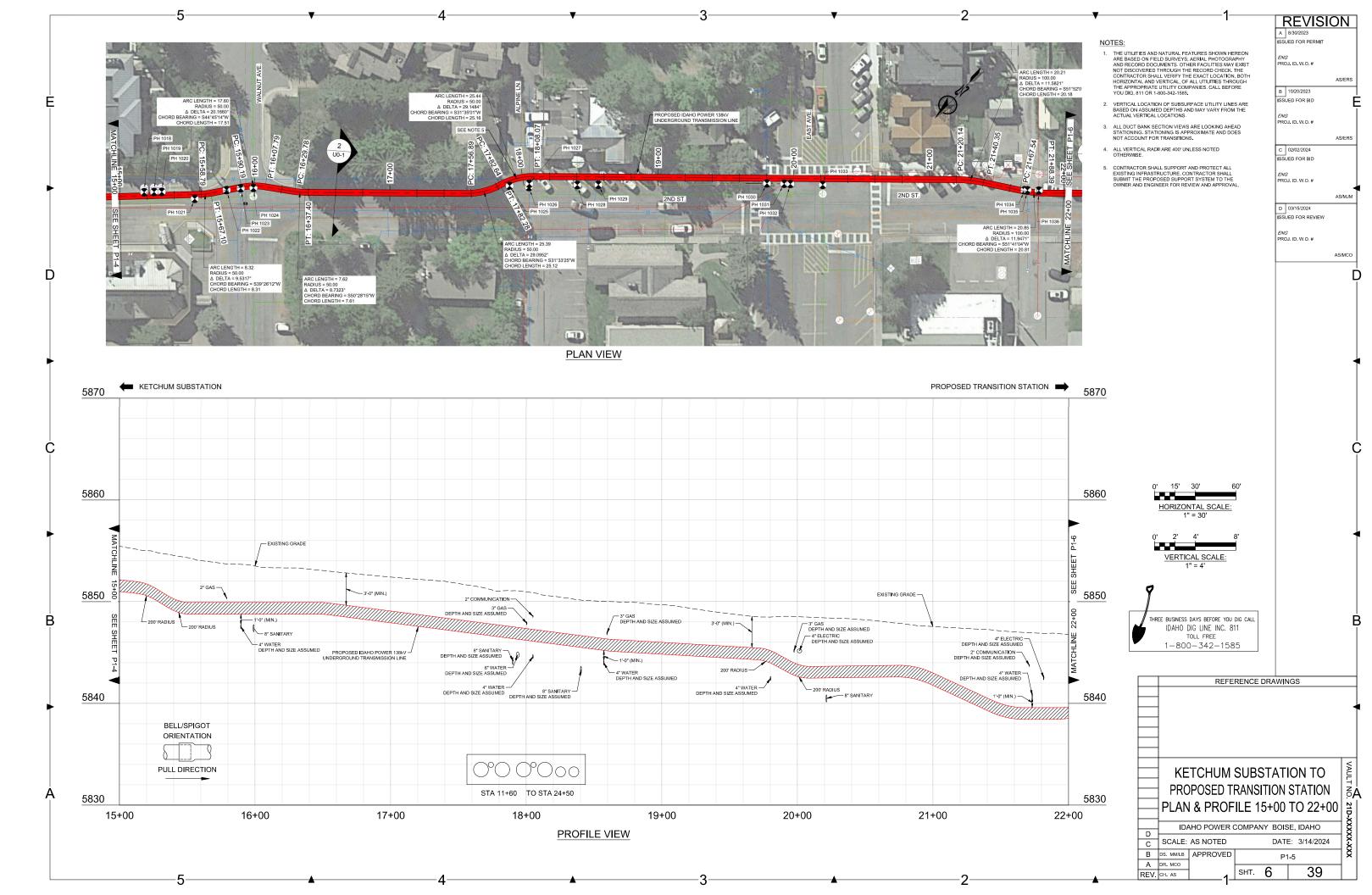




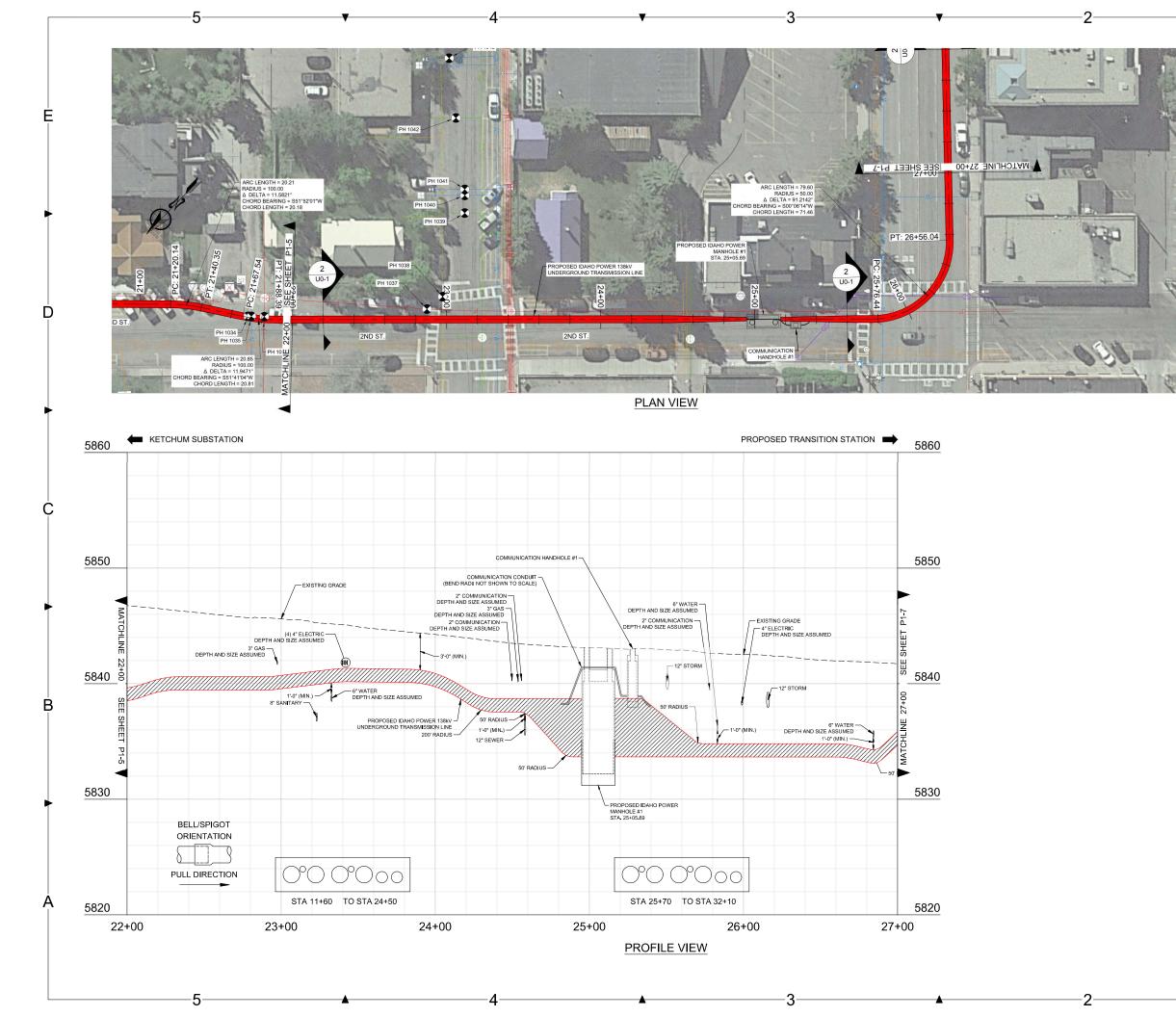
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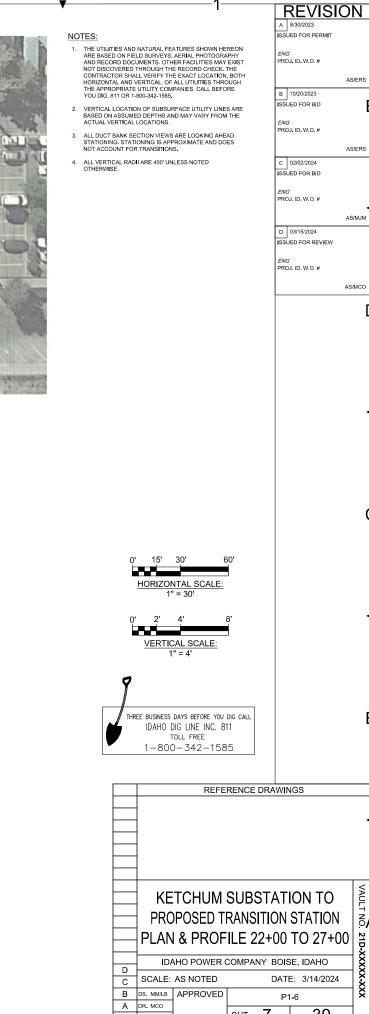
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- VERTICAL LOCATION OF SUBSURFACE UTILITY LINES ARE BASED ON ASSUMED DEPTHS AND MAY VARY FROM THE ACTUAL VERTICAL LOCATIONS.
- 3. ALL DUCT BANK SECTION VIEWS ARE LOOKING AHEAD STATIONING. STATIONING IS APPROXIMATE AND DOES NOT ACCOUNT FOR TRANSITIONS.
- 4. ALL VERTICAL RADII ARE 400' UNLESS NOTED





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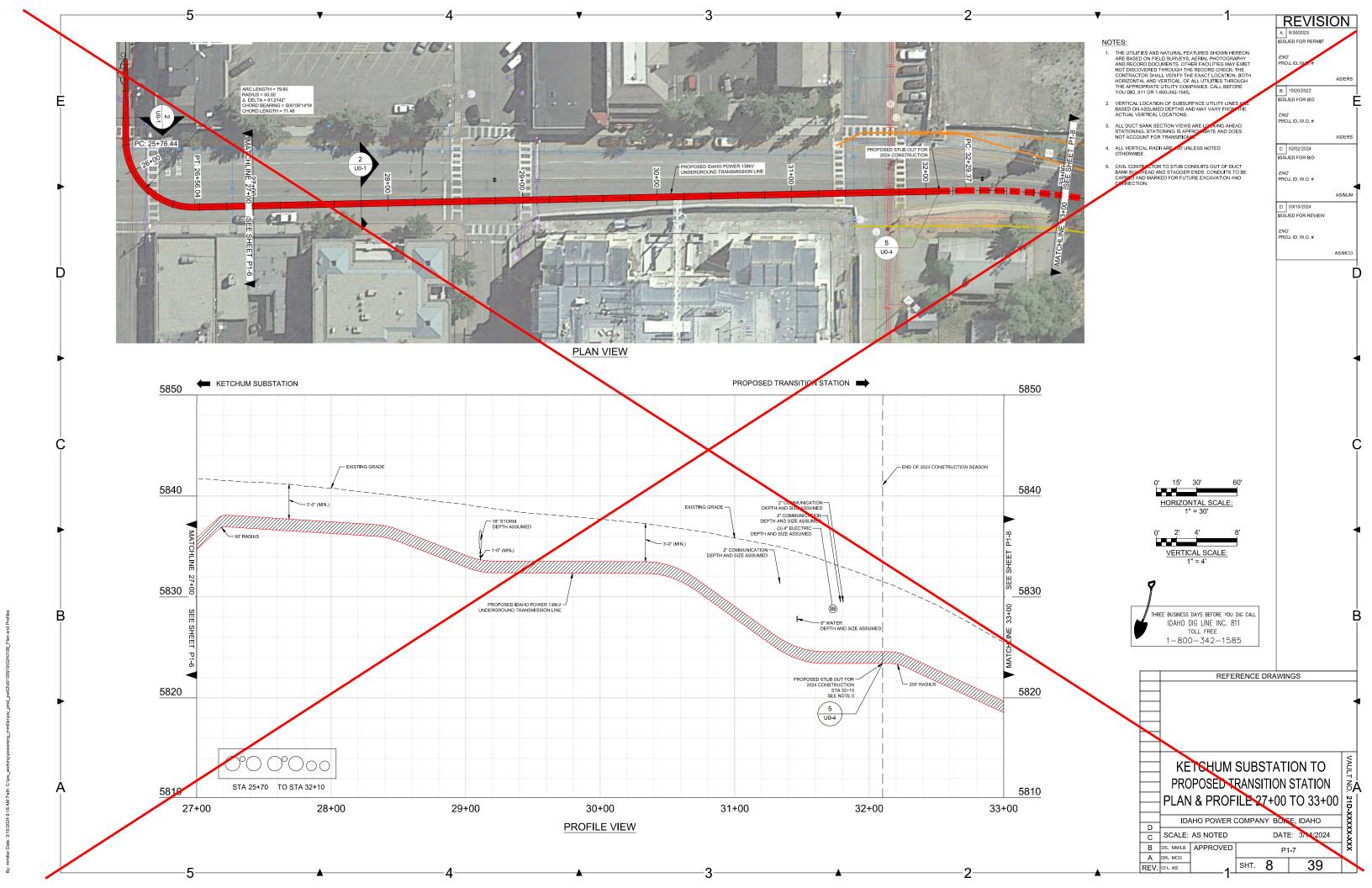
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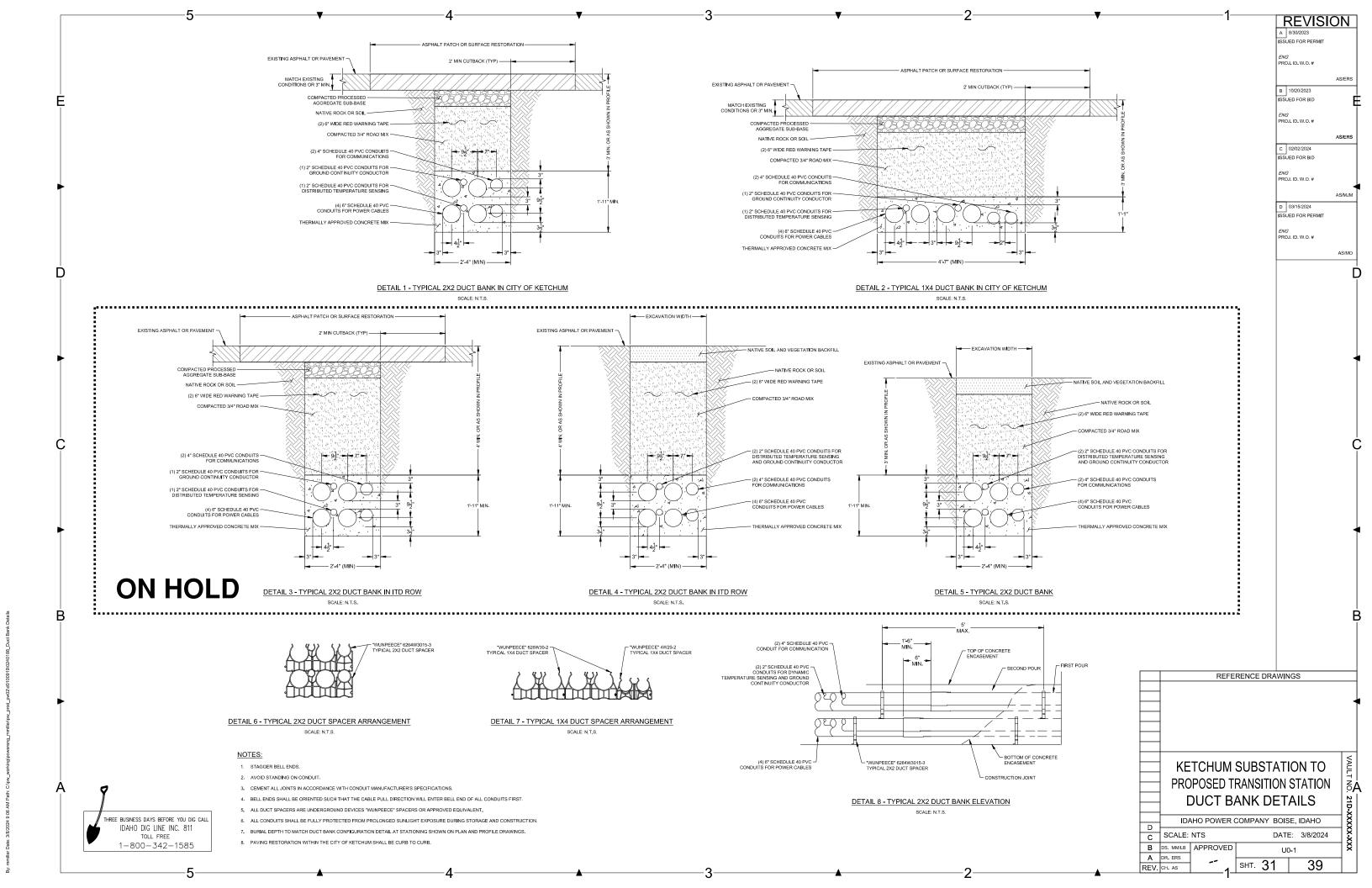
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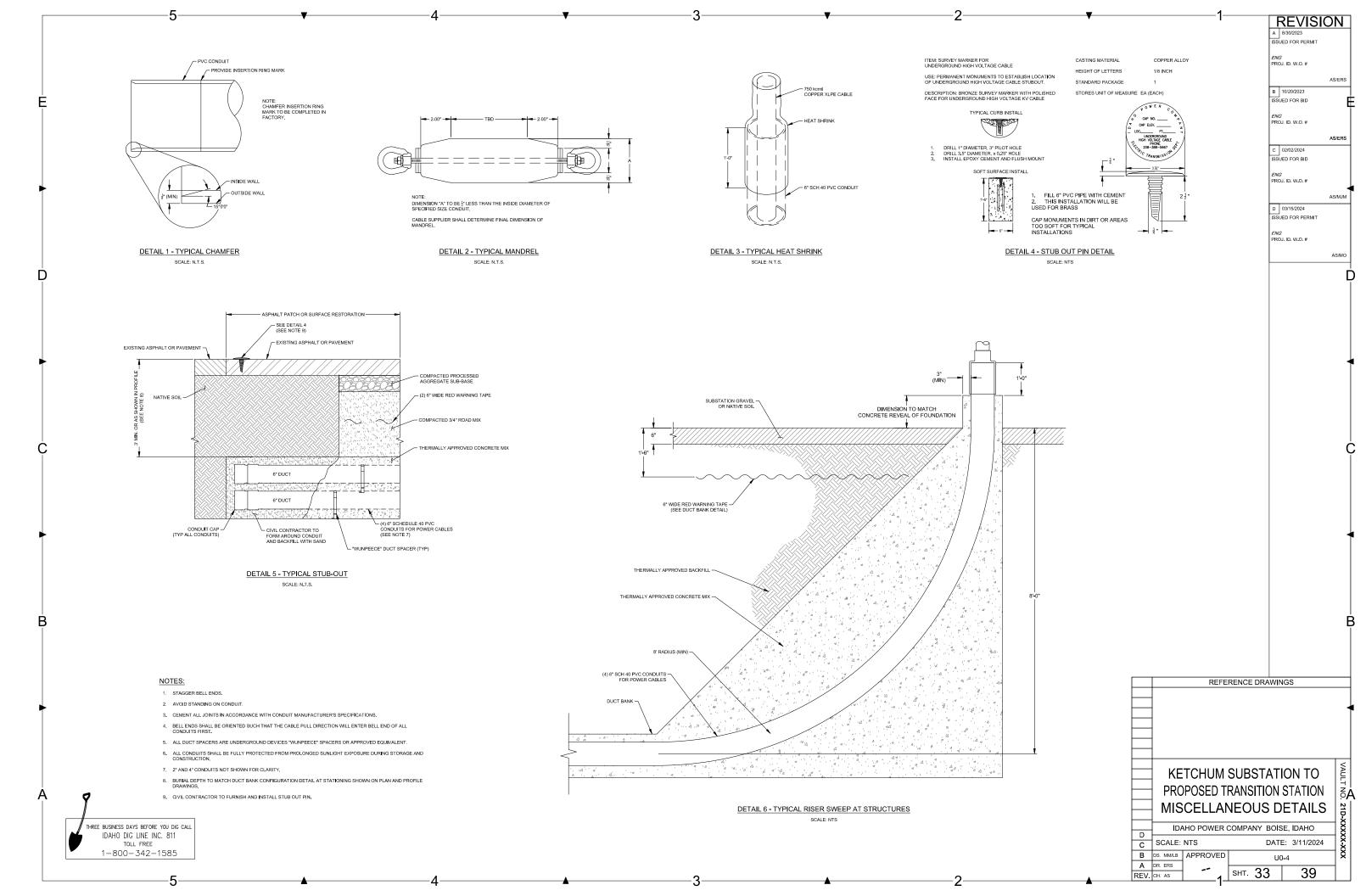
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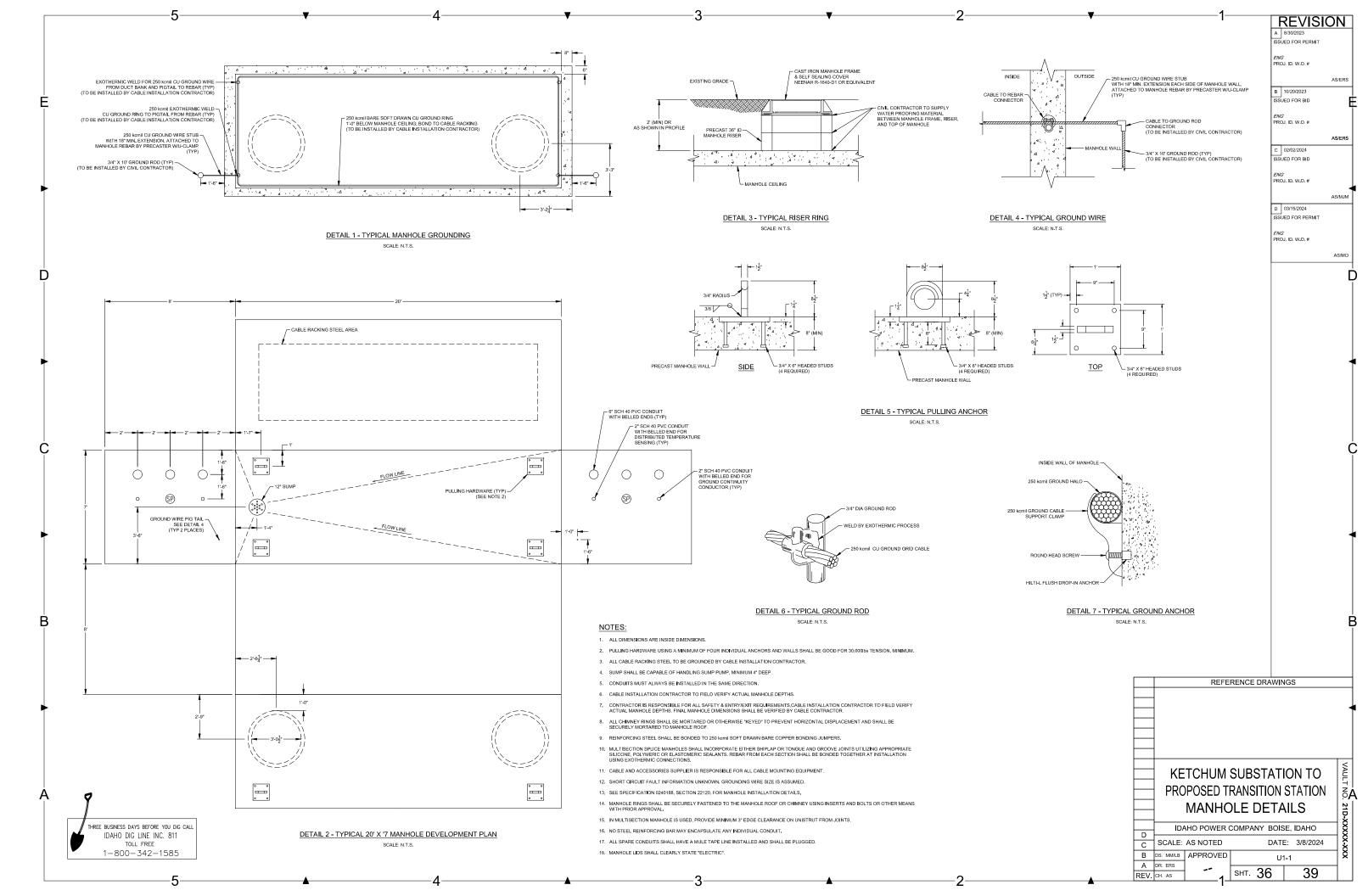




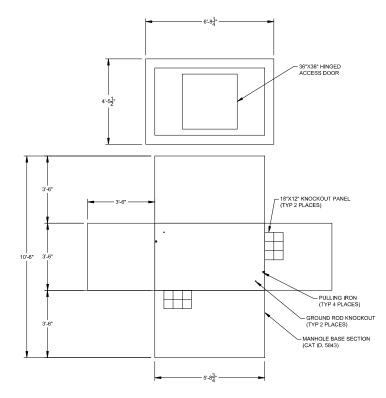


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THREE BUSINESS DAYS BEFORE YOU DIG CALL

IDAHO DIG LINE INC. 811 TOLL FREE 1-800-342-1585

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DETAIL 1 - TYP 575 MANHOLE DEVELOPMENT PLAN SCALE: N.T.S.

NOTES:

- 1. ALL DIMENSIONS ARE INSIDE DIMENSIONS.
- 2. PULLING HARDWARE USING A MINIMUM OF FOUR INDIVIDUAL ANCHORS AND WALLS SHALL BE GOOD FOR 15,000lbs TENSION, MINIMUM.

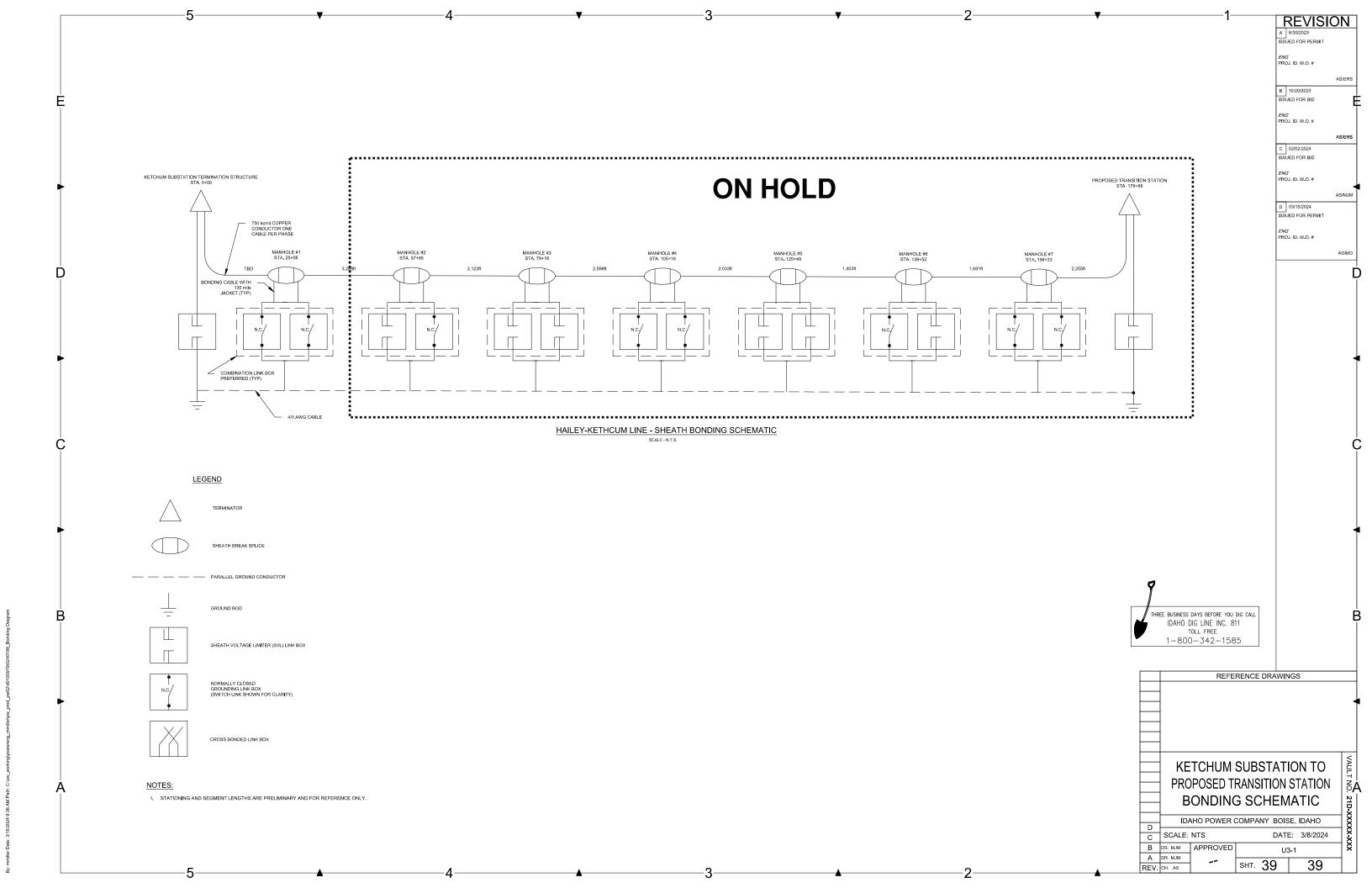
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- 3. ALL CABLE MOUNTING EQUIPMENT TO BE GROUNDED BY CONTRACTOR.
- 4. SUMP SHALL BE CAPABLE OF HANDLING SUMP PUMP, MINIMUM 4" DEEP.
- 5. CONDUITS MUST ALWAYS BE INSTALLED IN THE SAME DIRECTION.
- 6. CABLE & ACCESSORIES CONTRACTOR TO FIELD VERIFY ACTUAL MANHOLE DEPTHS.
- 7. CONTRACTOR IS RESPONSIBLE FOR ALL SAFETY & ENTRY/EXIT REQUIREMENTS.
- 8. ALL CHIMNEY RINGS SHALL BE MORTARED OR OTHERWISE "KEYED" TO PREVENT HORIZONTAL
- DISPLACEMENT AND SHALL BE SECURELY MORTARED TO MANHOLE ROOF.
- 9. REINFORCING STEEL SHALL BE BONDED TO TBD kcmil SOFT DRAWN BARE COPPER BONDING JUMPERS.
- 10. MULTISECTION SPLICE VAULTS SHALL INCORPORATE EITHER SHIPLAP OR TONGUE AND GROOVE JOINTS
- UTILIZING APPROPRIATE SILICONE, POLYMERIC OR ELASTOMERIC SEALANTS. REBAR FROM EACH SECTION SHALL BE BONDED TOGETHER AT INSTALLATION USING EXOTHERMIC CONNECTIONS.
- 11. CABLE AND ACCESSORIES CONTRACTOR IS RESPONSIBLE FOR ALL CABLE MOUNTING EQUIPMENT.
- 12. SHORT CIRCUIT FAULT INFORMATION UNKNOWN, GROUNDING WIRE SIZE IS TO BE DETERMINED.

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CONDITIONS OF APPROVAL

- 1. Potholing performed on Gem Street, Leadville, and First Street for utility locates have settled and require repair.
- 2. Idaho Power to provide As-built drawings upon completion of work.
- 3. Asphalt cut joints are required to be out of wheel path.
- 4. Roadway rehabilitation required as agreed to by Idaho Power and City.
- 5. Any stripping or pavement markings damaged or removed during work require restriping per city standards.
- 6. City services requiring relocation are at the project expense.