

**ADA COUNTY HIGHWAY DISTRICT
MASTER FIBER OPTIC FACILITIES PERMIT**

	1301 N. Orchard St. Suite 200 Boise, Idaho 83706 Phone (208) 387-6280	ACHD Contact Person: Fiber Inspection Coordinator – Development Review Name: Robert Warner 1301 N. Orchard St. Suite 200 Boise, Idaho 83706 Phone:(208) 387-6215
Date of Permit:		Permit No. FOC24-0004
I. PERMITTEE INFORMATION		
This permit is granted to: City of Meridian		Permittee Contact Person: Dave Tiede Phone: 208-489-0496 Email: dtiede@meridiancity.org
II. FIBER OPTIC PROJECT AND APPROVED FIBER OPTIC FACILITIES		
Location of Permittee’s Fiber Optics: Permittee’s existing Fiber Optics Facilities are identified, described and depicted in Exhibit “A” which shall be updated from time to time to reflect each of Permittee’s Fiber Optics Projects that are permitted by ACHD under its permitting processes beginning on and after the date of this Permit and which is, and subsequent updates thereto shall be, attached hereto and incorporated herein by reference.		
Approved Fiber Optic Facilities: Facilities and Improvements, Planned Location, Variance, Actual Location The approved Fiber Optic Facilities are those facilities and improvements identified and described in Exhibit “A” which shall be updated from time to time to reflect each of Permittee’s		

Fiber Optics Projects that are permitted by ACHD under its permitting processes beginning on and after the date of this Permit and which is, and all subsequent updates thereto shall be, attached hereto and incorporated herein by reference.

The approved Fiber Optic Facilities shall be located within their designated corridor in the approximate planned location depicted on Exhibit “A” and in compliance with applicable ACHD policies, standards and specifications and where placed underground, shall have a depth of cover of between thirty inches (30”) and thirty-six inches (36”) unless otherwise directed by ACHD.

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.

Within thirty (30) days of the conclusion of a Fiber Optic Project occurring after the date of this Permit, and within thirty (30) days of any modifications or relocations of the Fiber Optic Facilities, Permittee shall provide ACHD with information acceptable to ACHD showing the actual, new location of the approved Fiber Optic Facilities in the public right-of-way during the term of this Permit, including the beginning, end and angle points of the fiber optic facilities and the Permittee shall detail the location and size of vaults, splice boxes and other facilities installed as a part of the Fiber Optic Facilities. At a minimum, the depth shall be provided at the beginning and end of the installation and at each vault or splice box installed as a part of the Fiber Optic Facilities. The acceptable format is as a shapefile with attributes for aerial vs buried, or a separate shapefile for each type. Make sure to include the Fiber Permit Number for the project or the Job/Permit ID if it doesn't have one. 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 this Permit 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.

III. USE OF RIGHT-OF-WAY

Permittee is allowed to encroach upon a portion of the 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 Exhibit “A”. Permittee understands and agrees that it may be required to remove and/or relocate the Fiber Optic Facilities if a need for this portion of the public right-of-way is required for a public use. Costs associated with the removal and relocation of the Fiber Optic Facilities will be borne by Permittee at no cost to ACHD. This Permit is not an exclusive right to use the public right-of-way; is not intended to preclude access to adjacent and abutting properties; and is subject to any existing easements of record or in use.

Permittee acknowledges that the subject real property is a public right-of-way and Permittee waives 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 this Permit. This Permit does not extend to 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 right-of-way has been opened as a public Highway (as used in this Permit the term “Highway” is as defined in *Idaho Code* § 40-109(5)) Permittee’s authorized use is subject to the rights of the public to use the right-of-way for Highway purposes. Permittee’s authorized use is 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. This Agreement it is not intended to, and shall not, preclude or impede the ability of ACHD to enter into other similar agreements 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.

Permittee expressly acknowledges and agrees that the permit granted herein is temporary and merely a permissive use of the ACHD right-of-way pursuant to the terms of this Permit. Permittee assumes the risk that the permit granted herein may be terminated before 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 this Permit, Permittee hereby waives and estops itself from asserting any claim, including damages or reimbursement, that the permit is in any way irrevocable because 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.

Permittee agrees and acknowledges that ACHD may pass an ordinance or resolution that modifies the terms and conditions of this Permit and that imposes additional rules and regulations regarding the Fiber Optic Facilities. Upon passage of such ordinance or resolution, Permittee may terminate this Permit and the use allowed hereunder upon 90 days notice to ACHD.

IV. DESIGN OF FIBER OPTIC FACILITIES

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

Additional conditions: 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.

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

V. CONSTRUCTION OF FIBER OPTIC FACILITIES

Permittee is solely responsible for the construction and inspection costs of the installation of the Fiber Optic Facilities, as described and referred to in this Permit.

The Permittee will 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.

Additional conditions: (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.

VI. MAINTENANCE OF FIBER OPTIC FACILITIES

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, the policies of ACHD and sound engineering practices. Permittee shall have access over, across and under the Right-of-Way for the purposes of accomplishing such repair and maintenance.

If the Highway on and/or adjacent to the Right-of-Way is damaged as a result of:

- (i) the performance by Permittee of the maintenance required by this Section VI, or the failure or neglect to perform such maintenance; and/or
- (ii) 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 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 agrees to reimburse ACHD for the actual costs and expenses thereof, including, without limitation, reasonable compensation for the use of staff and equipment of ACHD.

Notwithstanding the provisions of the preceding paragraph, should an emergency exist related to the Permittee's use of this 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 have the right to immediately perform, on behalf of, and at the cost of Permittee necessary emergency repairs.

It is agreed that upon the termination of this Permit, Permittee will be allowed to abandon its Fiber Optic Facilities in place.

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 ACHD 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 notice and the Permittee fails to remedy such failure: (i) ACHD may revoke this Permit; (ii) ACHD may replace, maintain, and/or care for the Fiber Optic Facilities, and the Permittee shall reimburse ACHD fully for all associated costs; (iii) ACHD may remove the Fiber Optic Facilities, and the Permittee shall reimburse ACHD fully for all associated costs; and (iv) 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.

In addition, in the event of an emergency 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.

VII. TERM

This Permit shall be perpetual, until terminated or revoked pursuant to the provisions of this Permit.

Permittee agrees at the termination or revocation of this Permit, and upon the request of ACHD, Permittee will abandon its Fiber Optic Facilities in place.

Permittee agrees that should Permittee not remove the Fiber Optic Facilities in the public right-of-way at the termination of this Permit, that Permittee hereby disclaims any interest or title to the Fiber Optic Facilities left on the property after the expiration of the term of this Permit, and all Fiber Optic Facilities left on the property after the termination of this Permit will pass to ACHD at no cost to ACHD.

VIII. GENERAL CONDITIONS OF PERMIT

1. This Permit is issued conditioned on the Permittee's compliance with the terms and conditions of this Permit and all applicable ACHD policies, standards and specifications and all certifications made by the Permittee pursuant to this Permit.
2. This Permit is subject to the provisions of state and federal law and all ACHD Ordinances in effect as of the date of issuance of this Permit and those that may be adopted after the issuance of this Permit (the "Applicable Law"). In the event of any conflict between this Permit and Applicable Law, Applicable Law shall govern. In the event that any part of the obligations of the Permittee or of ACHD in connection with this Permit are determined to be illegal or unenforceable by a court of competent jurisdiction, the remaining obligations of the Permittee set forth in this Permit shall still be applicable.
3. If any portion of the ACHD right-of-way (including without limitation any portion of the right-of-way and ACHD personal property therein) is damaged as a result of Permittee's action or inaction with regard to the construction, operation, and/or maintenance of the Fiber Optic Facilities or the failure or neglect to construct, operate, and/or maintain the Fiber Optic Facilities, then the Permittee shall, at its sole cost and expense, correct such deficiency and restore the area to the same condition it was in prior thereto, and if Permittee or its successors or assigns shall fail or neglect to commence such correction and restoration within twenty-four (24) hours of notification thereof, ACHD may proceed to do so, in which event Permittee shall reimburse ACHD for the costs and expenses thereof, including, without limitation, reasonable compensation for the use of staff and equipment of ACHD.
4. The Permittee shall be liable to ACHD for any and all damages, fines, fees, obligations to third parties, costs, expenses, attorney fees, or any other liabilities whatsoever directly resulting from the Permittee's failure to comply with any provision of this Permit. The obligations in this Section shall survive the expiration, revocation, and/or cancellation of this Permit for any reason.
5. Permittee may delegate any of its responsibilities hereunder to any third party so long as it gives prior written notice to ACHD that specifies in detail what responsibilities are being delegated and identifies the third party. Notwithstanding any delegation to a third party, the Permittee shall remain and shall be ultimately responsible for the third party's compliance with the terms of this Permit, and no delegation shall absolve Permittee of any duties or obligations of this Permit in any way.

6. The Permittee will protect, defend, indemnify, and hold 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 this Permit. The Permittee's obligations in this Section shall survive the expiration, revocation, and/or cancellation of this Permit for any reason.
7. In the event of a Permittee's failure to comply with the terms and certifications of this Permit and/or the Applicable Law, the Permittee shall be solely responsible for all costs, damages, expenses, including without limitation all attorney fees, incurred by ACHD. The Permittee's obligations in this Section shall survive the expiration, revocation, and/or cancellation of this Permit for any reason.
8. In the event the Fiber Optic Facilities will or may necessitate future maintenance, repair, relocation, or replacement that is not the subject of this Permit, ACHD shall in its discretion issue the Permittee an amended or an additional Permit to perform such work.
9. ACHD shall at all times have the right to relocate, reconstruct, remove, or redesign any and all improvements that are part of the Fiber Optic Facilities. ACHD will use its best efforts to provide at least ninety (90) days advance 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 the parties, to the extent reasonably possible, 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. 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 required by ACHD, which shall be accomplished by Permittee according to designs, plans, and specifications approved by ACHD in writing prior to any such work. Permittee may also elect to remove all or a part of the Fiber Optic Facilities in lieu of any relocation, modification, or adaptation. Permittee assumes any and all costs of itself and ACHD relating to any future relocation of the Fiber Optic Facilities.
10. ACHD shall at all times have the right to revoke this and any other Permit granted to the Permittee to access the Highway or public right-of-way. In addition, ACHD may immediately perform any and all emergency repairs or take other measures in connection with an emergency, in which case the Permittee shall reimburse ACHD fully for all associated costs.
11. This Permit shall be revocable and/or cancelable by ACHD by providing written notice to the Permittee upon the occurrence of any of the following: (i) a determination by ACHD that any of the information submitted by the Permittee is false or inaccurate in any manner; (ii) a

determination by ACHD that the Permittee has failed to comply with any term or provision of this Permit; (iii) a determination by ACHD that the Permittee has failed to replace, maintain, and/or care for the Fiber Optic Facilities, as required by the terms of this Permit. Except in an emergency situation, ACHD shall provide the Permittee with thirty (30) days notice of the issue and an opportunity to comply prior to exercising such rights.

12. All exhibits and any addenda to this Permit are incorporated herein.

13. Permittee may delegate any of its responsibilities hereunder to any third party, provided, however, that Permittee shall remain and shall be ultimately responsible for the third party's compliance with the terms of this Permit. Such delegation shall not, in any way, abrogate ACHD's rights under the terms of this Permit and/or Applicable Law.

14. CERTIFICATION OF ANTI-BOYCOTT AGAINST ISRAEL. Permittee certifies in compliance with Idaho Code § 67-2346, the "Anti-Boycott Against Israel Act" (the "Act"), that it is a "company" not currently engaged in, and will not for the duration of this Permit, engage in a "boycott" of goods or services from the "state of Israel" or "territories under its control" as those terms are defined in the Act. This provision does not apply to the following Permits: 1. Those with a total potential dollar value of less than \$100,000; or 2. Those with any Permittee having less than 10 employees at the time of execution of this Permit.

15. GOVERNMENT OF CHINA PROHIBITION CERTIFICATION. Permittee certifies in compliance with Idaho Code § 67-2359, prohibiting public entities in Idaho from entering into contracts with companies owned or operated by the "government of China", that it is a "company" not currently owned or operated by the "government of China" and that it will not for the duration of this AGREEMENT, be owned or operated by the "government of China" as those terms are defined in Idaho Code § 67-2359.

16. SPECIFIED INDIVIDUAL OR COMPANY BOYCOTT PROHIBITION CERTIFICATION. Permittee certifies in compliance with Idaho Code § 67-2347A, that it is a "company" not currently engaged in and will not for the duration of this Permit engage in, a "boycott", as those terms are defined in Idaho Code § 67-2347A, of those certain individuals or companies described in Idaho Code § 67-2347A. This provision does not apply to the following Permits: Those with any Permittee having less than 10 employees at the time of execution of this Permit and where the agreement has a dollar value of less than \$100,000.

17. This Permit is conditioned upon the signature of ACHD and the Permittee below.

IX. PROJECT SCHEDULING AND RESTORATION

The Permittee shall, within 2 weeks from disturbance, restore all landscape areas within ACHD right of way to an as good or better condition before continuing unless otherwise directed by ACHD.

The Permittee shall, within 3 weeks from the time of disturbance restore all hard surface areas within ACHD right of way in accordance with the most recent approved version of the ISPWC and all applicable ACHD standards before continuing unless otherwise directed by ACHD.

The Permittee shall, ensure that cleanup and restoration is ongoing to provide the orderly and efficient completion of the activity and to protect against public inconvenience, nuisance, and hazard.

The Permittee shall notify all effected residents and businesses at least 48 business hours before starting work.

Permittee shall place a sandwich board or other ACHD approved signage at both ends of the project location or at the entrances of neighborhoods whichever fits the circumstances stating the fiber company name and contact information. The contact must be a representative employed with the fiber company or a designated public relations firm under contract with the fiber company.

X. SUSPENSION

In the event that Permittee's construction, installation, operation, maintenance, and control of Permittee's Fiber Optic Facilities installed in or on the public right-of-way fails to comply with all applicable federal, State, and District technical specifications and requirements and all applicable State, District and local codes or this Permit related to the construction, installation, operation, maintenance, and control of Permittee's Fiber Optic Facilities installed in or on the public right-of-way, ACHD may, in its sole discretion, and upon five (5) days written notice, suspend approval of any additional permits and such suspension shall remain in effect until District is satisfied that the non-compliance described in the written notice has been corrected to ACHD's full and complete satisfaction.

SIGNATURES

This Fiber Optic Facilities Permit is issued by the Ada County Highway District on the date set forth above:

Ada County Highway District:

The person signing below represents that he or she has the authority on behalf of ACHD to issue this Permit and bind ACHD to the terms set forth herein.

By: Christy Little
Its: Deputy Director – Development and Technical Services

Acceptance/certification by Permittee:

The person signing below represents that he or she has the authority on behalf of the Permittee to accept and agree to the terms of this Permit and bind the Permittee to the terms set forth herein.

By: Robert E. Simison
Its: Mayor

ATTEST:

Chris Johnson, City Clerk

EXHIBIT A
FACILITIES IN THE RIGHT-OF-WAY

Map of Fiber Conduit

