

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 69

BY BUSINESS COMMITTEE

AN ACT

RELATING TO ENGINEERS AND LAND SURVEYORS; AMENDING SECTION 40-117, IDAHO CODE, TO DEFINE TERMS; AMENDING SECTION 40-119, IDAHO CODE, TO DEFINE A TERM AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 40-120, IDAHO CODE, TO DEFINE A TERM; AMENDING CHAPTER 1, TITLE 40, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 40-124, IDAHO CODE, TO DEFINE A TERM; AMENDING SECTION 40-209, IDAHO CODE, TO REVISE PROVISIONS RELATING TO HIGHWAY RIGHT-OF-WAY PLATS; AMENDING SECTION 50-1301, IDAHO CODE, TO DEFINE A TERM, TO REVISE A DEFINITION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 50-1302, IDAHO CODE, TO REVISE THE DUTIES OF AN OWNER CREATING A SUBDIVISION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 50-1303, IDAHO CODE, TO REVISE PROVISIONS RELATING TO SURVEYS AND MONUMENTS AND TO REVISE TERMINOLOGY; AMENDING SECTION 50-1332, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 54-1202, IDAHO CODE, TO DEFINE TERMS AND TO REVISE A DEFINITION; AMENDING SECTION 54-1227, IDAHO CODE, TO REVISE THE AUTHORITY AND DUTIES OF PROFESSIONAL LAND SURVEYORS AND PROFESSIONAL ENGINEERS IN CONNECTION WITH LAND SURVEYS; AMENDING SECTION 54-1234, IDAHO CODE, TO PROVIDE ADDITIONAL PROVISIONS RELATING TO LIABILITY FOR DEFACING CERTAIN OBJECTS AND TO INCREASE THE PENALTY AMOUNT FOR EACH SUCH OFFENSE; AMENDING SECTION 55-1603, IDAHO CODE, TO DEFINE TERMS AND TO REVISE DEFINITIONS; AMENDING SECTION 55-1605, IDAHO CODE, TO REMOVE REFERENCE TO PROPERTY CORNER AND REFERENCE MONUMENT IN CONNECTION WITH FILINGS AND RECORDINGS; AMENDING SECTION 55-1608, IDAHO CODE, TO PROVIDE ADDITIONAL REQUIREMENTS RELATING TO THE RECONSTRUCTION AND REHABILITATION OF MONUMENTS; AMENDING SECTION 55-1613, IDAHO CODE, TO REVISE THE PROCEDURES AND REQUIREMENTS RELATING TO MONUMENTS DISTURBED BY CONSTRUCTION OR RELATED ACTIVITIES; AMENDING SECTION 55-1902, IDAHO CODE, TO DEFINE TERMS, TO REVISE A DEFINITION AND TO REMOVE A TERM; AMENDING SECTION 55-1904, IDAHO CODE, TO CLARIFY TERMINOLOGY, TO PROVIDE AN ADDITIONAL BASIS FOR WHICH A RECORD OF SURVEY SHALL BE FILED WITHIN A CERTAIN TIME FRAME AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 55-1908, IDAHO CODE, TO PROVIDE AN ADDITIONAL BASIS FOR WHICH A RECORD OF SURVEY IS NOT REQUIRED; AND AMENDING SECTION 55-1911, IDAHO CODE, TO REVISE PROVISIONS RELATING TO AN ERROR OF CLOSURE AND TO MAKE A TECHNICAL CORRECTION.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 40-117, Idaho Code, be, and the same is hereby amended to read as follows:

40-117. DEFINITIONS -- P. (1) "Person" includes every natural person, firm, fiduciary, copartnership, association, corporation, trustee, receiver or assignee for the benefit of creditors.

(2) "Place." (See "Maintain," section 40-114, Idaho Code)

(3) "Preliminary design," as used in section 40-904, Idaho Code, means the general project location and design concepts. It includes, but is not limited to, preliminary engineering and other activities and analyses, such as environmental assessments, topographic surveys, metes and bounds surveys, geotechnical investigations, hydrologic analyses, hydraulic analyses, utility engineering, traffic studies, financial plans, revenue estimates, hazardous materials assessments, general estimates of the types and quantities of materials and other work needed to establish parameters for the final design.

(4) "Price proposal" means the price submitted by a design-build firm to provide the required design and construction services described in the request for proposals or the price submitted by a construction manager/general contractor firm to provide the required construction services described in the request for proposal.

(5) "Primary system" or "primary highway" means any portion of the highways of the state, as officially designated, or as may hereafter be so designated, by the Idaho transportation board, and approved by the secretary of transportation, pursuant to the provisions of title 23, U.S. Code, "Highways."

(6) "Public highway agency" means the state transportation department, any city, county, highway district or other political subdivision of the state with jurisdiction over public highway systems and public rights-of-way.

(7) "Public highways" means all highways open to public use in the state, whether maintained by the state or by any county, highway district, city, or other political subdivision. (Also see "Highways," section 40-109, Idaho Code)

(8) "Public land survey corner" means any point actually established and monumented in an original survey or resurvey that determines the boundaries of remaining public lands, or public lands patented, represented on an official plat and in the field notes thereof, accepted and approved under authority delegated by congress to the United States general land office and the United States department of interior, bureau of land management.

(9) "Public right-of-way" means a right-of-way open to the public and under the jurisdiction of a public highway agency, where the public highway agency has no obligation to construct or maintain, but may expend funds for the maintenance of, said public right-of-way or post traffic signs for vehicular traffic on said public right-of-way. In addition, a public right-of-way includes a right-of-way which was originally intended for development as a highway and was accepted on behalf of the public by deed of purchase, fee simple title, authorized easement, eminent domain, by plat, prescriptive use, or abandonment of a highway pursuant to section 40-203, Idaho Code, but shall not include federal land rights-of-way, as provided in section 40-204A, Idaho Code, that resulted from the creation of a facility for the transmission of water. Public rights-of-way shall not be considered improved highways for the apportionment of funds from the highway distribution account.

(10) "Public street" means a road, thoroughfare, alley, highway or bridge under the jurisdiction of a public highway agency.

(911) "Public transportation services" means, but is not limited to, fixed transit routes, scheduled or unscheduled transit services provided by motor vehicle, bus, rail, van, aerial tramway and other modes of public conveyance; paratransit service for the elderly and disabled; shuttle and commuter service between cities, counties, health care facilities, employment centers, educational institutions or park-and-ride locations; subscription van and car pooling services; transportation services unique to social service programs; and the management and administration thereof.

SECTION 2. That Section 40-119, Idaho Code, be, and the same is hereby amended to read as follows:

40-119. DEFINITIONS -- R. (1) "Reference point" means a special monumented point that does not occupy the same geographical position as the corner itself, and where the spatial relationship to the corner is known and recorded, and that serves to locate the corner.

(2) "Request for proposals (RFP)" means a document used to solicit proposals from design-build firms to design and construct a highway project or to solicit proposals from construction manager/general contractor firms to provide services prior to final design and then construct a highway project.

(23) "Request for qualifications (RFQ)" means a document issued by the department in the first step of a two-step selection process that describes the project in enough detail to let potential design-build firms determine if they wish to compete and forms the basis for developing a short-list of the most qualified design-build firms.

(34) "Responsive proposals" means proposals submitted by responsive proposers that comply with the request for proposals and all prescribed procurement procedures and requirements.

SECTION 3. That Section 40-120, Idaho Code, be, and the same is hereby amended to read as follows:

40-120. DEFINITIONS -- S. (1) "Safety rest area" means an area or site established and maintained within or adjacent to the right-of-way by or under public supervision or control, for convenience of the traveling public.

(2) "Short-listing" means the narrowing of the field of potential design-build firms through the selection of the most qualified design-build firms who have responded to a request for qualifications.

(3) "Sign." (See "Advertising structure," section 40-102, Idaho Code)

(4) "Single countywide highway district" means all public highways within the county, including those within all cities of the county, but excepting those within the state highway system and those under federal control.

(5) "State highway system" means the principal highway arteries in the state, including connecting arteries and extensions through cities, and includes roads to every county seat in the state.

(6) "State law" means a provision of the constitution or statutes of this state, or an ordinance, rule or regulation enacted or adopted by an agency or political subdivision of this state pursuant to the constitution or statutes.

(7) "Stipend" means a monetary amount that may be paid to unsuccessful design-build firms who have submitted responsive proposals in response to an RFP. The purpose of a stipend is to encourage competition by offering to compensate responsive but unsuccessful design-build firms for a portion of the proposal development costs.

(8) "Street" means a thoroughfare, alley, highway or a right-of-way that may be open for public use but is not part of a public highway system nor under the jurisdiction of a public highway agency.

(9) "Structure." (See "Advertising structure," section 40-102, Idaho Code)

(10) "System, city." (See "City system," section 40-104, Idaho Code)

SECTION 4. That Chapter 1, Title 40, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 40-124, Idaho Code, and to read as follows:

40-124. DEFINITIONS -- W. "Witness corner" means a monumented point on a lot line or boundary line of a survey, near a corner and established in situations where it is impracticable to occupy or monument the corner.

SECTION 5. That Section 40-209, Idaho Code, be, and the same is hereby amended to read as follows:

40-209. HIGHWAY RIGHT-OF-WAY PLATS. (1) A public highway agency may file in the office of the county recorder a highway right-of-way plat. The highway right-of-way plat shall show by outline and identify by parcel number, ~~tracts or~~ parcels of land to be acquired and shall be prepared in conformance with ~~chapter 19, title 55~~ sections 55-1905 through 55-1907, Idaho Code. The recording of a highway right-of-way plat as provided in this section shall not excuse a county or highway district from the requirements of abandonment or validation of a public highway or public right-of-way as provided in sections 40-203 and 40-203A, Idaho Code. The highway right-of-way plat shall contain the following:

(a) Project name and number;

(b) ~~Monuments found, set, reset, replaced or removed describing their kind, size and location and giving other data relating thereto~~ The location and monumentation of the points where the right-of-way changes direction by angle point or curvature and its intersection with any public highway, street or trail right-of-way and all witness corners and reference points. All points shall be marked with magnetically detectable monuments conforming to the provisions of section 54-1227, Idaho Code, unless special circumstances preclude use of such monument. Monuments shall be marked such that measurements between them may be made to the nearest one-tenth (0.1) foot;

(c) ~~Bearings, basis of bearings, length of lines, scale of map and north arrow~~ An outline showing the boundary of each parcel of land to be acquired based on ownership records and the right-of-way location survey;

(d) ~~Section, or part of section, township, range and reference to adjoining plats or surveys of record; and ties to at least two (2) public land survey corners, or in lieu of public land survey corners, to two (2) monuments recognized by the city engineer or surveyor, or county engi-~~

~~neer or surveyor~~ An identifying parcel number and the area for each parcel of land to be acquired;

~~(e) Outline of all parcels of land to be acquired, identifying them with parcel identification numbers;~~

~~(f)~~ Acknowledgement of authorized agent of the public highway agency filing said plat;

~~(g)~~ Certificate of land surveyor under whose responsible charge the plat is prepared.

(2) The highway right-of-way plat filed with the county recorder of any county shall be assigned an instrument number and shall be bound or filed with other plats of like character in a book on file designated "Highway Right-of-Way Plats."

(3) Any amendments, alterations, rescissions or changes in a highway right-of-way plat shall comply with subsection (1) of this section and shall be filed in a like manner. The recorder may make suitable notations on the appropriate highway right-of-way plat affected by the amendment, alteration, rescission or change to direct the attention of anyone examining the record to the proper plat.

(4) Highway right-of-way plats filed under this section shall not operate to transfer title to the real property described therein but such plat shall be used for delineation purposes. Acquisition of real property for highway right-of-way by conveyance or judicial decree may refer to said highway right-of-way plat, project number and parcel identification number, together with delineation of the parcel as a valid description of the real property for all purposes.

(5) The agency making the initial filing in a county shall reimburse the county recorder the actual cost of the plat book required in subsection (2) of this section.

SECTION 6. That Section 50-1301, Idaho Code, be, and the same is hereby amended to read as follows:

50-1301. DEFINITIONS. The following definitions shall apply to terms used in this section and sections 50-1302 through 50-1334, Idaho Code.

(1) Basis of bearing: The bearing in degrees, minutes and seconds, or equivalent, of a line between two (2) monuments or corners that serves as the reference bearing for all other lines on the survey;

(2) Easement: A right of use, falling short of ownership, and usually for a certain stated purpose;

(3) Functioning street department: A city department responsible for the maintenance, construction, repair, snow removal, sanding and traffic control of a public highway or public street system which qualifies such department to receive funds from the highway distribution account to local units of government pursuant to section 40-709, Idaho Code;

(4) Idaho coordinate system: That system of coordinates established and designated by chapter 17, title 55, Idaho Code;

(5) Land survey: Measuring the field location of corners that:

(a) Determine the boundary or boundaries common to two (2) or more ownerships;

(b) Retrace or establish land boundaries;

1       (c) Retrace or establish boundary lines of public roads, streets, al-  
 2       leys or trails; or

3       (d) Plat lands and subdivisions thereof.

4       (6) Monument: A physical structure or object that occupies the posi-  
 5       tion of a corner;

6       (67) Owner: The proprietor of the land (having legal title);

7       (78) Plat: The drawing, map or plan of a subdivision, cemetery, town-  
 8       site or other tract of land, or a replatting of such, including certifica-  
 9       tions, descriptions and approvals;

10       (89) Private road: A road within a subdivision plat that is not dedi-  
 11       cated to the public and not a part of a public highway system;

12       (910) Public highway agency: The state transportation department, any  
 13       city, county, highway district or other public agency with jurisdiction over  
 14       public highway systems and public rights-of-way;

15       (101) Public land survey corner: Any point actually established and  
 16       monumented in an original survey or resurvey that determines the boundaries  
 17       of remaining public lands, or public lands patented, represented on an  
 18       official plat and in the field notes thereof, accepted and approved under  
 19       authority delegated by congress to the U.S. general land office and the U.S.  
 20       department of interior, bureau of land management;

21       (112) Public right-of-way: Any land dedicated and open to the public  
 22       and under the jurisdiction of a public highway agency, where the public high-  
 23       way agency has no obligation to construct or maintain said right-of-way for  
 24       vehicular traffic;

25       (123) Public street: A road, thoroughfare, alley, highway or bridge un-  
 26       der the jurisdiction of a public highway agency;

27       (134) Reference monument point: A special monumented point that does  
 28       not occupy the same geographical position as the corner itself, ~~but whose and~~  
 29       ~~where the~~ spatial relationship to the corner is known and recorded and ~~which~~  
 30       that serves to witness locate the corner;

31       (145) Sanitary restriction: The requirement that no building or shel-  
 32       ter which will require a water supply facility or a sewage disposal facility  
 33       for people using the premises where such building or shelter is located shall  
 34       be erected until written approval is first obtained from the state board of  
 35       health and welfare by its administrator or his delegate approving plans and  
 36       specifications either for public water and/or sewage facilities, or indi-  
 37       vidual parcel water and/or sewage facilities;

38       (156) Street: A road, thoroughfare, alley, highway or a right-of-way  
 39       which may be open for public use but is not part of a public highway system nor  
 40       under the jurisdiction of a public highway agency;

41       (167) Subdivision: A tract of land divided into five (5) or more lots,  
 42       parcels, or sites for the purpose of sale or building development, whether  
 43       immediate or future; provided that this definition shall not include a bona  
 44       fide division or partition of agricultural land for agricultural purposes.  
 45       A bona fide division or partition of agricultural land for agricultural pur-  
 46       poses shall mean the division of land into lots, all of which are five (5)  
 47       acres or larger, and maintained as agricultural lands. Cities or counties  
 48       may adopt their own definition of subdivision in lieu of ~~the above~~ this defi-  
 49       nition;

(178) Witness corner: A monumented point ~~usually~~ on a lot line or boundary line of a survey, near a corner and established in situations where it is impracticable to occupy or monument the corner.

SECTION 7. That Section 50-1302, Idaho Code, be, and the same is hereby amended to read as follows:

50-1302. DUTY TO FILE. Every owner creating a subdivision, as defined ~~above in section 50-1301, Idaho Code,~~ shall cause ~~the same to be a land surveyed~~ and a plat ~~made~~ thereof to be made which shall particularly and accurately describe and set forth all the streets, easements, public grounds, blocks, lots, and other essential information, and shall record said plat. This section is not intended to prevent the filing of other survey maps or plats. Description of lots or parcels of land, according to the number and designation on such recorded plat, in conveyances or for the purposes of taxation, shall be deemed good and valid for all intents and purposes.

SECTION 8. That Section 50-1303, Idaho Code, be, and the same is hereby amended to read as follows:

50-1303. SURVEY -- ~~STAKES AND~~ MONUMENTS -- ACCURACY. The centerline intersections and points where the centerline changes direction on all streets, avenues, and public highways, and all points, witness corners and reference ~~monuments~~ points on the exterior boundary where the boundary line changes direction shall be marked with magnetically detectable monuments the minimum size of which shall be five-eighths (5/8) of an inch in least dimension and two (2) feet long iron or steel rod unless special circumstances preclude use of such monument and all lot and block corners, witness corners and reference ~~monuments~~ points for lot and block corners shall be marked with monuments conforming to the provisions of section 54-1227, Idaho Code. Monuments shall be ~~plainly and permanently~~ marked so such that measurements between them may be ~~taken made~~ to the marks within nearest one-tenth (1/10.1) ~~of a foot~~. All lot corners of a burial lot within a platted cemetery need not be marked with a monument, but the block corners shall be monumented in order to permit the accurate identification of each burial lot within the cemetery. The monuments shall conform to the provisions of section 54-1227, Idaho Code. The locations and descriptions of all monuments within a platted cemetery shall be recorded upon the plat, and the courses and distances of all boundary lines shall be shown, but may be shown by legend. The survey for any plat shall be conducted in such a manner as to produce an unadjusted mathematical error of closure of each area bounded by property lines within the survey of not less more than one (1) part in five thousand (5,000).

SECTION 9. That Section 50-1332, Idaho Code, be, and the same is hereby amended to read as follows:

50-1332. SETTING INTERIOR MONUMENTS AFTER RECORDING OF PLAT -- BOND OR CASH DEPOSIT REQUIRED -- RELEASE OF BOND -- RETURN OF CASH DEPOSIT -- PAYMENT FOR SURVEY WORK -- COUNTY SURVEYOR PERFORMING SURVEY WORK. (1) If the interior monuments for a subdivision are to be set on or before a specified date after the recording of the plat of the subdivision, the person subdividing

the land described in the plat shall furnish, prior to recording the plat, to the governing body of the city or county which approved the plat, either a bond or cash deposit, at the option of the governing body, in an amount equal to one hundred twenty percent (120%) of the estimated cost of performing the work for the interior monumentation. The estimated cost of performing such work will be determined by the surveyor signing the plat.

(2) If the person subdividing the land described in subsection (1) of this section pays the surveyor for performing the interior monumentation work and notifies the governing body of such payment, the governing body, within two (2) months after such notice, shall release the bond or return the cash deposit upon a finding that such payment has been made. Upon written request from the person subdividing the land, the governing body may pay the surveyor from moneys within a cash deposit or bond held by it for such purpose and return the excess amount of the cash deposit, if any, to such person.

(3) In the event of the death, disability, or retirement from practice of the surveyor charged with the responsibility for setting interior monuments for a subdivision or upon the failure of such professional land surveyor to set such monuments, the governing body may direct the county surveyor in his official capacity or contract with a professional land surveyor in private practice to set such monuments and reference such monuments for recording as provided in section 50-1333, Idaho Code. Payment of the fees of a county surveyor or professional land surveyor in private practice performing such work shall be made as otherwise provided in this section.

(4) In the event any interior monument cannot be placed at the location shown on the plat, the professional land surveyor shall place a witness corner or reference ~~monument~~ point and he shall file a record of survey as provided in chapter 19, title 55, Idaho Code, to show the location of any witness corner or reference ~~monument~~ point in relation to the platted location of the corner.

SECTION 10. That Section 54-1202, Idaho Code, be, and the same is hereby amended to read as follows:

54-1202. DEFINITIONS. As used in this chapter, unless the context or subject matter requires otherwise:

(1) "Benchmark" means a material object, natural or artificial, whose elevation is referenced to an adopted datum.

(2) "Board" means the Idaho board of licensure of professional engineers and professional land surveyors, hereinafter provided by this chapter.

(23) "Business entity" means a corporation, professional corporation, limited liability company, professional limited liability company, general partnership, limited partnership, limited liability partnership, professional limited liability partnership or any other form of business except a sole proprietorship.

(34) "Consulting engineer" means a professional engineer whose principal occupation is the independent practice of professional engineering; whose livelihood is obtained by offering engineering services to the public; who is devoid of public, commercial and product affiliation that might tend to infer a conflict of interest; and who is cognizant of his public and legal responsibilities, and is capable of discharging them.



(45) "Engineer" means a person who is qualified to practice engineering by reason of his special knowledge and use of mathematical, physical and engineering sciences, and the principles and methods of engineering analysis and design, acquired by professional education and engineering experience.

(56) "Engineer intern" means a person who has qualified for, taken and passed an examination in the fundamentals of engineering subjects as provided in this chapter.

(7) "Land survey" means measuring the field location of corners that:

(a) Determine the boundary or boundaries common to two (2) or more ownerships;

(b) Retrace or establish land boundaries;

(c) Retrace or establish boundary lines of public roads, streets, alleys or trails; or

(d) Plat lands and subdivisions thereof.

(68) "Land surveyor intern" means a person who has qualified for, taken and passed an examination in the fundamentals of surveying subjects as provided in this chapter.

(79) "Professional engineer" means a person who has been duly licensed as a professional engineer by the board under this chapter.

(810) "Professional engineering" and "practice of professional engineering" mean any service or creative work offered to or performed for the public for any project physically located in this state, such as consultation, investigation, evaluation, planning, designing, teaching upper division engineering design subjects, and responsible charge of observation of construction in connection with any public or private utilities, structures, buildings, machines, equipment, processes, works, or projects, wherein the public welfare or the safeguarding of life, health, or property is concerned or involved, when such service requires the application of engineering principles and data. A person shall be construed to practice or offer to practice professional engineering within the meaning and intent of this chapter who practices or offers to practice any of the branches of the profession of engineering for the public for any project physically located in this state or who, by verbal claim, sign, advertisement, letterhead, card, or in any other way represents himself to be a professional engineer or through the use of some other title implies that he is a professional engineer or that he is licensed under this chapter, or holds himself out as able to perform or who does perform for the public for any project physically located in this state, any engineering service or work or any other service designated by the practitioner which is the practice of professional engineering.

(911) "Professional land surveying" and "practice of professional land surveying" mean responsible charge of land surveying ~~of land~~ to determine the correct boundary description, ~~to convey~~, to establish or reestablish land boundaries, or to plat lands and subdivisions thereof. Any person shall be construed to practice or offer to practice professional land surveying who engages in professional land surveying, or who, by verbal claim, sign, advertisement, letterhead, card, or in any other way represents himself to be a professional land surveyor, or who represents himself as able to perform or who does perform any professional land surveying service or work or

1 any other service designated by the practitioner which is professional land  
2 surveying.

3 (102) "Professional land surveyor" means a person who is qualified by  
4 reason of his knowledge of the principles of land surveying acquired by ed-  
5 ucation and practical experience to engage in the practice of professional  
6 land surveying and who has been duly licensed as a professional land surveyor  
7 by the board under this chapter.

8 (113) "Public" means any person, firm, corporation, partnership, com-  
9 pany, government agency, institution or any other entity recognized by law.

10 (124) "Responsible charge" means the control and direction of engineer-  
11 ing work, or the control and direction of land surveying work, requiring ini-  
12 tiative, professional skill, independent judgment and professional knowl-  
13 edge of the content of relevant documents during their preparation. Except  
14 as allowed under section 54-1223, Idaho Code, reviewing, or reviewing and  
15 correcting, documents after they have been prepared by others does not con-  
16 stitute the exercise of responsible charge.

17 (135) "Rules of professional responsibility" means those rules, if any,  
18 promulgated by the board, as authorized by the Idaho Code.

19 (146) "Signature" means either: an original handwritten message iden-  
20 tification containing the name of the person who applied it; or a digital  
21 signature which is an electronic authentication process attached to or logi-  
22 cally associated with an electronic document. The digital signature must be  
23 unique to the person using it; must be capable of verification; must be un-  
24 der the sole control of the person using it; and must be linked to a document  
25 in such a manner that the digital signature is invalidated if any data in the  
26 document is changed.

27 (157) "Standard design plan" means a building, structure, equipment or  
28 facility which is intended to be constructed or sited at multiple locations  
29 and for which some or all of the plans must be prepared by a professional en-  
30 gineer.

31 SECTION 11. That Section 54-1227, Idaho Code, be, and the same is hereby  
32 amended to read as follows:

33 54-1227. SURVEYS -- AUTHORITY AND DUTIES OF PROFESSIONAL LAND SURVEY-  
34 ORS AND PROFESSIONAL ENGINEERS. Every licensed professional land surveyor  
35 is hereby authorized to make land surveys ~~relating to the sale or subdivi-~~  
36 ~~sion of lands, the retracing or establishing of property or boundary lines,~~  
37 ~~public roads, streets, alleys, or trails;~~ and it shall be the duty of each li-  
38 censed professional land surveyor, whenever making any such land survey, to  
39 set permanent and reliable magnetically detectable monuments at all unmon-  
40 umented corners field located, the minimum size of which shall be one-half  
41 (1/2) inch in least dimension and two (2) feet long iron or steel rod unless  
42 special circumstances preclude use of such monument; and such monuments must  
43 be permanently marked with the license number of the professional land sur-  
44 veyor responsible for placing the monument. Professional engineers quali-  
45 fied and duly licensed pursuant to this chapter may also perform those non-  
46 boundary surveys necessary and incidental to the work customarily performed  
47 by them.

SECTION 12. That Section 54-1234, Idaho Code, be, and the same is hereby amended to read as follows:

54-1234. MONUMENTATION -- PENALTY AND LIABILITY FOR DEFACING. If any person shall willfully deface, injure or remove any signal, monument or other object set as a permanent boundary survey marker, benchmark or point set in control surveys by agencies of the United States government or the state of Idaho by a professional land surveyor or an agent of the United States government or the state of Idaho, he shall forfeit a sum not exceeding one thousand five hundred dollars (\$1,500) for each offense, and shall be liable for damages sustained by the affected parties in consequence of such defacing, injury or removal, to be recovered in a civil action in any court of competent jurisdiction.

SECTION 13. That Section 55-1603, Idaho Code, be, and the same is hereby amended to read as follows:

55-1603. DEFINITIONS. Except where the context indicates a different meaning, terms used in this chapter shall be defined as follows:

(1) "Accessory to a corner" means any exclusively identifiable physical object whose spatial relationship to the corner is recorded. Accessories may be bearing trees, bearing objects, monuments, reference ~~monuments~~ points, line trees, pits, mounds, charcoal-filled bottles, steel or wooden stakes, or other objects.

(2) "Benchmark" means a material object, natural or artificial, whose elevation is referenced to an adopted datum.

(3) "Board" means the board of licensure of professional engineers and professional land surveyors.

(4) "Control survey" means a survey that provides horizontal or vertical position data for the support or control of subordinate surveys or for mapping.

~~(35)~~ "Corner," unless otherwise defined, means a property corner, or a property controlling corner, or a public land survey corner, or any combination of these.

(46) "Establish" means to determine the position of a corner either physically or mathematically.

~~(57)~~ "Monument" means a physical structure that occupies the exact position of a corner.

~~(68)~~ "Professional land surveyor" means any person who is authorized by the laws of this state to practice land surveying.

~~(79)~~ "Property controlling corner" for a property means a public land survey corner, ~~or any property corner, which does not lie on a property line of the property in question, but which~~ reference point or witness corner that controls the location of one (1) or more of the property corners of the property in question.

~~(810)~~ "Property corner" means a geographic point on the surface of the earth, and is on, a part of, and controls a property line.

~~(911)~~ "Public land survey corner" means any point actually established and monumented in an original survey or resurvey that determines the boundaries of remaining public lands, or public lands patented, represented on an official plat and in the field notes thereof, accepted and approved under au-

thority delegated by congress to the U.S. general land office and the U.S. department of interior, bureau of land management.

(102) "Reference ~~monument~~ point" means a special monumented point that does not occupy the same geographical position as the corner itself, ~~but whose~~ and where the spatial relationship to the corner is recorded, and which serves to ~~witness~~ locate the corner.

(13) "Witness corner" means a monumented point on a lot line or boundary line of a survey, near a corner, and established in situations where it is impracticable to occupy or monument the corner.

SECTION 14. That Section 55-1605, Idaho Code, be, and the same is hereby amended to read as follows:

55-1605. FILING OR RECORDING. A professional land surveyor may file or record any corner record as to any ~~property corner~~, property controlling corner, ~~reference monument~~ or accessory to a corner.

SECTION 15. That Section 55-1608, Idaho Code, be, and the same is hereby amended to read as follows:

55-1608. PROFESSIONAL LAND SURVEYOR TO RECONSTRUCT MONUMENTS. (1) In every case where a corner record of a survey corner is required to be filed or recorded under the provisions of this chapter, the professional land surveyor must reconstruct or rehabilitate the monument of such corner, and accessories to such corner.

(2) Any monument set shall conform to the provisions of section 54-1227, Idaho Code, and shall be surmounted with a cap of such material and size that can be permanently and legibly marked as prescribed by the manual of surveying instructions issued by the United States department of the interior, bureau of land management, including the license number of the professional land surveyor responsible for placing the monument. Monuments shall be marked such that measurements between them may be made to the nearest one-tenth (0.1) foot. If the monument is set by a public officer, it shall be marked by an appropriate official designation.

(3) When nonmetallic corner monuments were set in a survey conducted by an agency of the United States government, the corner location shall be remonumented with a monument conforming to the provisions of section 54-1227, Idaho Code, and shall be surmounted with a cap of such material and size that can be permanently and legibly marked as prescribed by the manual of surveying instructions issued by the United States department of the interior, bureau of land management, including the license number of the professional land surveyor responsible for placing the monument. Monuments shall be marked such that measurements between them may be made to the nearest one-tenth (0.1) foot.

SECTION 16. That Section 55-1613, Idaho Code, be, and the same is hereby amended to read as follows:

55-1613. MONUMENTS DISTURBED BY CONSTRUCTION ACTIVITIES -- PROCEDURE -- REQUIREMENTS. ~~When professional engineers prepare construction documents for projects which may disturb land survey monuments, a field search~~

~~shall be conducted by, or under the direction of, a professional land surveyor to determine whether monuments, reference monuments or accessories to corners physically exist at the location of, or referencing the location of, public land survey corners, property controlling corners or property corners. Such monuments, reference monuments or accessories to corners shall be located and referenced by or under the direction of a professional land surveyor prior to the time when construction or other activities may disturb them. Such monuments, reference monuments or accessories to corners shall be reestablished and remonumented by, or under the direction of, a professional land surveyor at the expense of the agency or person causing such loss or disturbance. Professional engineers who prepare construction documents which do not indicate the existence of corners, monuments, reference monuments and accessories to corners shall be deemed to be within the purview of section 54-1220, Idaho Code, and shall be subject to disciplinary action as provided in said section. Any person shall be subject to the penalties prescribed in section 54-1234, Idaho Code, if they prepare construction documents for the construction of any facility which do not indicate the existence of monuments, reference monuments and accessories to corners and construction of that facility results in the defacing, injury or removal of monuments, reference monuments or accessories to corners~~ The physical existence and location of the monuments of property controlling corners and accessories to corners, as well as benchmarks established and points set in control surveys by agencies of the United States government or the state of Idaho, shall be determined by a field search and location survey conducted by or under the direction of a professional land surveyor prior to the time when project construction or related activities may disturb them. Construction documents or plans prepared by professional engineers shall show the existence and location of all such monuments, accessories to corners, benchmarks and points set in control surveys. All monuments, accessories to corners, benchmarks and points set in control surveys that are lost or disturbed by construction shall be reestablished and remonumented, at the expense of the agency or person causing their loss or disturbance, at their original location or by the setting of a witness corner or reference point or a replacement benchmark or control point, by or under the direction of a professional land surveyor. Professional engineers who prepare construction documents or plans that do not indicate the existence and location of all such monuments, accessories to corners and benchmarks and points set in control surveys by agencies of the United States government or the state of Idaho shall be deemed to be within the purview of and subject to disciplinary action as provided in section 54-1220, Idaho Code.

SECTION 17. That Section 55-1902, Idaho Code, be, and the same is hereby amended to read as follows:

55-1902. DEFINITIONS. As used in this chapter:

(1) "Basis of bearing" means the bearing in degrees, minutes and seconds, or equivalent, of a line between two (2) monuments or corners which serves as the reference bearing for all other lines on the survey.

(2) "Corner" unless otherwise defined, means a property corner, or a property controlling corner, or a public land survey corner, or any combination of these.

(3) "GPS" is the abbreviation for global positioning system which is satellite surveying based on observations of the electromagnetic signals broadcast from the U.S. department of defense's NAVSTAR GPS system.

(4) "Idaho coordinate system" shall mean that system of plane coordinates as established and designated by chapter 17, title 55, Idaho Code.

(5) "Land survey" means measuring the field location of corners that:

(a) Determine the boundary or boundaries common to two (2) or more ownerships;

(b) Retrace or establish land boundaries;

(c) Retrace or establish boundary lines of public roads, streets, alleys or trails; or

(d) Plat lands and subdivisions thereof.

(6) "Monument" is a physical structure or object that occupies the exact position of a corner.

(7) "Property controlling corner" for a property is a public land survey corner, or any property corner, which does not lie on a property line of the property in question, but which reference point or witness corner that controls the location of one (1) or more of the property corners of the property in question.

(8) "Property corner" is a geographic point on the surface of the earth, and is on, a part of, and controls a property.

(9) "Public land survey corner" is any point actually established and monumented in an original survey or resurvey that determines the boundaries of remaining public lands, or public lands patented, represented on an official plat and in the field notes thereof, accepted and approved under authority delegated by congress to the U.S. general land office and the U.S. department of interior, bureau of land management.

~~(9) "Survey" shall mean the locating and monumenting of points of lines which define the exterior boundary or boundaries common to two (2) or more ownerships, except those boundaries defining ownership in established and ongoing mineral extraction operations; or which reestablish or restore public land survey corners in accordance with established principles of land surveying by or under the supervision of a surveyor.~~

(10) "Reference point" means a special monumented point that does not occupy the same geographical position as the corner itself, and where the spatial relationship to the corner is known and recorded, and that serves to locate the corner.

~~(101)~~ "Surveyor" shall mean every person authorized by the state of Idaho to practice the profession of land surveying.

SECTION 18. That Section 55-1904, Idaho Code, be, and the same is hereby amended to read as follows:

55-1904. RECORDS OF SURVEY -- WHEN FILING REQUIRED. After making a land survey in conformity with established principles of land surveying, a surveyor shall file a record of survey with the county recorder in the county or counties wherein the lands surveyed are situated. A record of survey shall be filed within ninety (90) days after completing any survey which:

(1) Discloses a material discrepancy with previous surveys of record;

(2) Establishes boundary lines and/or corners not previously existing or of record;

1 (3) Results in the setting of monuments at corners of record which were  
2 not previously monumented; ~~or~~

3 (4) Produces evidence or information which varies from, or is not con-  
4 tained in, surveys of record relating to the public land survey, lost public  
5 land corners or obliterated land survey corners; or

6 (5) Results in the setting of monuments that conform to the require-  
7 ments of section 54-1227, Idaho Code, at the corners of an easement or lease  
8 area.

9 SECTION 19. That Section 55-1908, Idaho Code, be, and the same is hereby  
10 amended to read as follows:

11 55-1908. WHEN RECORD OF SURVEY NOT REQUIRED. A record of survey is not  
12 required of any survey when:

13 (1) It is of a preliminary nature; ~~;~~

14 (2) A map is in preparation for recording or has been recorded under  
15 any other section of the Idaho Code, or pursuant to the laws of the United  
16 States; ~~;~~

17 (3) A survey is performed for a mineral claim location, amendment or re-  
18 location; or

19 (4) None of the conditions contained in section 55-1904, Idaho Code,  
20 exist and the principal purpose of the survey is to depict information other  
21 than the points of lines that define boundaries including, but not limited  
22 to, topographic surveys and construction surveys, staking and layout.

23 SECTION 20. That Section 55-1911, Idaho Code, be, and the same is hereby  
24 amended to read as follows:

25 55-1911. ERROR OF CLOSURE. Any survey of land involving property  
26 boundaries, including, but not limited to, public land survey lines, shall  
27 be conducted in such a manner as to produce an unadjusted mathematical error  
28 of closure of each area bounded by property lines within the survey of not  
29 less more than one (1) part in five thousand (5,000).