

EXHIBIT "D"

This Agreement is subject to compliance with the provisions of the Administrative Rules of Montana 18.7.201 through 18.7.241 including but are not limited to the following conditions and requirements:

- 1) The State shall not be liable to the general public for any injury to or death of any person whomsoever belonging when such injury, death, loss or damage arises out of or results from the construction, maintenance, or repair of existing or future utility facilities located within the highway right-of-way, or the installation or operation of such utility facilities within the highway right-of-way, regardless of whether or not the Montana Department of Transportation (MDT) has expressed or implied approval of the construction, maintenance, repair, installation or operation of such facilities within the highway right-of-way.
- 2) If any work under this agreement interferes with the drainage of the area affected, the utility agrees to resolve the problem at its own expense.
- 3) Any Montana Department of Transportation (MDT) signs, etc., that are removed to allow the utility's installation shall be replaced on the same day as per MDT specifications.
- 4) All closures, markers or other identification are to be placed near the outer edge of the right-of-way or next to the right-of-way fence.
- 5) All areas that are excavated will be recompact, and disturbed areas will be restored to their original condition.
- 6) Requirements:

(A) Overhead Installations

- (1) Vertical clearance shall meet the standards of the National Electrical Safety Codes.
- (2) Location will be at or near right-of-way line. In urban areas, the facilities will be located as far as practicable from the edge of pavement. On curbed sections, the facilities shall be located at a maximum distance behind the face of curb.

In rural areas, the facility shall be 30' from the outer edge of the outside travel lane on paved sections or 42' from the centerline of the road on unpaved sections, or "CLEAR ZONE" as defined by the 1989 edition of the AASHTO publication "ROADSIDE DESIGN GUIDE," **whichever is greater.**

Where the safety of the motorist is provided by guard rails, other protective devices or structures, the facility may be located behind such guardrail or other protective device.

In timbered areas, the District Administrator/Engineer or his/her representative may waive the distance requirements to eliminate unwarranted timber cutting.

- (3) All downguys installed on new or added to existing structures not in parallel with the roadway **must** have the location called out on the permit. If the anchor is allowed within the 30' clear zone, it must be constructed, located, or protected such that it will not be a roadside hazard.

(B) Underground Pipeline Installations

- (1) Must conform to all applicable National and State Codes. Longitudinal location will be as close to the R/W line as practicable.
- (2) **Bored and Pushed Crossings:**
 - (a) Will be 30" below adjacent ditches or ground line (42" if reasonably possible).
 - (b) No push pits may be located closer than 10' from edge of asphalt.
- (3) **Open Trenching:** On existing highways, open trenching requires a special traffic control

plan. Open trenching will be considered only when pushing and boring fails.

(C) **Underground Cable**

- (1) **Vertical Depth:** Per N.E.S.C. - Minimum Electrical 30" - Communications 24" (30" if reasonably possible). All crossings shall be 42" below adjacent ditches or ground line if reasonably possible.
- (2) **Location:**
 - (a) First cable should be located within 5' of unoccupied R/W from the R/W line, if practicable.
 - (b) Any additional cable should be located 3' or less from existing cable, if practicable.
 - (c) All crossings will be as near as possible to right angles.
 - (d) No underground longitudinal occupancy under any pavement or surfacing courses will be permitted. However, installations in curbed sections or built-up areas, **may** be permitted at the discretion of the District Administrator/Engineer or his/her designee provided there are no border strips available for the installation.
 - (e) For hardship cases, refer to Administrative Rules of Montana 18.7.224.

(D) **Fiber Optic Cables:**

- (1) Fiber optic cables shall be buried a minimum of 42" below the ground line. The District Administrator/Engineer or his/her designee may approve a lesser depth caused by placement problems such as solid rock or other barriers.
 - (2) The cable shall have a metallic location tape placed above the cable.
 - (3) Above ground markings shall be located at 500' intervals.
- 7) Any approvals under the terms of this agreement are granted with the understanding the installation is made according to your plans as submitted. Field revisions may be only with approved modification of this agreement and the attached Exhibit "A". If the installation is not made as shown on the plans or approved amendment(s), the Montana Department of Transportation, at its discretion, may require the removal of the facility.