

RESOLUTION NO. 4033

A RESOLUTION APPROVING A MONTANA DEPARTMENT OF TRANSPORTATION UTILITY OCCUPANCY AND LOCATION AGREEMENT BETWEEN THE CITY OF MILES CITY AND THE MONTANA DEPARTMENT OF TRANSPORTATION.

WHEREAS, the City of Miles City (City) and the Montana Department of Transportation (MDT) wish to establish an agreement as to the location of certain City water and sewer lines which will run under state owned highway which is controlled by MDT;


AND WHEREAS, the terms of such agreement have been prepared by MDT and submitted to the City for its approval;

NOW THEREFORE, IT IS RESOLVED BY THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA AS FOLLOWS:

1. "Montana Department of Transportation Utility Occupancy and Location Agreement" between the City and MDT, attached hereto as Exhibit "A", and made a part hereof, is hereby approved and adopted by this Council.

2. The Public Utilities Director is hereby empowered and authorized to execute said amendment to that contract on behalf of the City of Miles City, and bind the City of Miles City thereto.

SAID RESOLUTION FINALLY PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA, AT A REGULAR MEETING THIS 14TH DAY OF FEBRUARY, 2017.



John Hollowell, Mayor

ATTEST:



Lorrie Pearce, City Clerk

**Montana Department of Transportation
 UTILITY OCCUPANCY
 AND LOCATION AGREEMENT**

Completed By Utility

Date Submitted: January 13, 2017
 Work Order Number: #16080801-04MC-02P2
 Applicant/Utility: City of Miles City
 Address: 17 South 8th St. P.O. Box 910
 Telephone: (406) 234-3493
 City: Miles City State MT ZIP: 59301
 Email: _____

Completed By Montana Department of Transportation

Route: US 12 / I94 Business Loop
 Date Received: 2-21-17 per email
 Maintenance No.: 4301
 Agreement No.: 17032401-04MC-01P2
 Project No.: STPP-STPHS 2-1(24)1
 Designation: Miles City - Area
 UPN.: _____

Facility Description:

- 1) Overhead Facilities: Size: _____ Type: _____
 2) Underground Facilities: Size: 6" Type: Watermain Extension
 3) Other: _____

Location: Route: U.S. Highway 12

- 1) Longitudinal: _____ feet from N S E W RW line
 from milepost (station) MP 1.58, STA 58+11 to milepost (station) MP 1.58, STA 58+14
 2) Centerline crossing at milepost (station): MP 1.58, STA 58+11
 3) Downguys not in parallel with the roadway at milepost(s): _____
 4) Section 5 Township 7 North Range 47 East County Custer

Submit this agreement in triplicate and attach:

- a. Construction Prints. (Highway prints preferred.) Distances from R/W line, centerline and existing utilities, to the proposed installation.
 b. Environmental Checklist (MDT-ENV-006) _____

The utility will notify _____ in _____ phone _____ at least 48 hours in advance of any work detailed in this Agreement, except for emergency situations. After completing the work, the applicant must submit a Form UTL 968 (attached) for approval.

This installation is subject to compliance with the Administrative Rules of Montana 18.7.201 through 18.7.232, the Utility Occupancy Guidelines, the Manual on Uniform Traffic Control Devices and the following requirements:

Additional Requirements work was originally permitted on Encroachment 8-8-16 for Miles Community College but transferred to occupancy permit after work was done and the City accepted ownership

This application will be considered complete when all impacts associated with the requested action have been reviewed and approved by all agencies affected by this action. The applicant is responsible for obtaining these necessary approvals.

This agreement is subject to the terms and conditions shown on Page 2.

Applicant/Utility City of Miles City By: Allen Kelm
 Print Name: Allen Kelm
 Title: City of Miles City Public Utilities Director

Montana Department of Transportation By: Troy Hefele Date Approved: 3-24-17
 Title: Utility Agent



Montana Department of Transportation UTILITY OCCUPANCY AND LOCATION AGREEMENT

Terms and Conditions:

The City of Miles City, hereinafter referred to as the "APPLICANT," and the Montana Department of Transportation, hereinafter referred to as the "STATE," hereby agree as follows:

1. **FEE.** The process fee for issuance of this agreement is 0.
2. **STATE SAVED HARMLESS FROM CLAIMS.** As a consideration of being issued this agreement, the APPLICANT, its successors or assigns, agrees to protect the STATE and save it harmless from all claims, actions or damage of every kind and description which may accrue to, or be suffered by, any person or persons, corporations or property by reason of the performance of any such work, character of materials used, or manner of installations, maintenance and operation, or by the improper occupancy of said highway right-of-way, and in case any suit or action is brought against the STATE and arising out of, or by reason of, any of the above causes, the APPLICANT, its successors or assigns, will, upon notice to them of the commencement of such action, defend the same at its sole cost and expense and satisfy any judgment which may be rendered against the STATE in any such suit or action.
3. **PROTECTION OF TRAFFIC.** The APPLICANT shall protect the work area with traffic control devices that comply with the Manual of Uniform Traffic Control Devices. The APPLICANT may be required to submit a traffic control plan to the District Utility Engineering Specialist for approval prior to starting work. During work, the District Utility Engineering Specialist or designee may require the APPLICANT to use additional traffic control devices to protect traffic or the work area. No road closure shall occur without prior approval from the District Administrator. All workers within the right-of-way of a Federal-aid highway who are exposed either to traffic (vehicles using the highway for purposes of travel) or to construction equipment shall wear high-visibility class 2 or 3 safety apparel. For nighttime activity, the flagger(s) shall wear class 3 safety apparel. APPLICANT shall provide flagger(s) who are currently certified by the Montana flagger training program; the ATSSA flagger program; or the Idaho, Oregon, or Washington state flagger training programs.
4. **HIGHWAY AND DRAINAGE.** If the work done under this agreement interferes in any way with the drainage of the STATE highway affected, APPLICANT shall, at the APPLICANT's expense, make such provisions as the STATE may direct to remedy the interference.
5. **RUBBISH AND DEBRIS.** Upon completion of work, all rubbish and debris shall be immediately removed and the roadway and roadside left in a neat and presentable condition satisfactory to the STATE.
6. **INSPECTION.** The installation shall be in compliance with the attached plan and the conditions of this agreement. The APPLICANT may be required to remove or revise the installation, at sole expense of APPLICANT, if the installation does not conform with the requirements of this agreement or the attached plan.
7. **REMOVAL OF INSTALLATIONS OR STRUCTURES.** Unless waived by the STATE, upon termination of this agreement, the APPLICANT shall remove the installations or structures installed under this agreement at no cost to the STATE and restore the premises to the prior existing condition, reasonable and ordinary wear and tear and damage by the elements, or by circumstances over which the APPLICANT has no control, excepted.
8. **MAINTENANCE AT EXPENSE OF APPLICANT.** APPLICANT shall maintain, at its sole expense, the installations and structures for which this agreement is granted, in a condition satisfactory to the STATE.
9. **STATE TO BE REIMBURSED FOR REPAIRING ROADWAY.** Upon being billed, APPLICANT agrees to promptly reimburse STATE for any expense incurred in repairing surface of roadway due to settlement at installation, or for any other damage to roadway as a result of the work performed under this agreement.
10. The APPLICANT shall not discharge or cause discharge of any hazardous or solid waste by the installation or operation of the facility of a STATE Right-of-Way.
11. The APPLICANT will control noxious weeds within the disturbed installation area for two (2) years.
12. In accordance with Mont. Code Ann. § 76-3-403(2), APPLICANT shall, at APPLICANT's expense, employ the services of a Montana Licensed Professional Land Surveyor to re-establish all existing survey monuments disturbed by work contemplated under this agreement.
13. The use of explosives is prohibited for the installation.
14. Any condition of this agreement shall not be waived without written approval of the appropriate District Administrator.

The average turnaround time for a completed application is 30 working days. If the proposed installation will result in significant, permanent, or long term impacts to the transportation network additional review time may be necessary.