

COUNTY OR COUNTIES OF

STATE OF NORTH CAROLINA

DEPARTMENT OF TRANSPORTATION
AND

BLANKET ENCROACHMENT AGREEMENT
TELECOMMUNICATIONS CABLE INSTALLED BY
TRENCHING ON PRIMARY AND SECONDARY ROAD
SYSTEM

THIS AGREEMENT, made and entered into this the _____ day of _____, 20____, by and between the Department of Transportation, party of the first part; and _____ Party of the second part,

WITNESSETH:

THAT WHEREAS, the party of the second part desires to install underground cables and other facilities and equipment on the right of way of certain public roads on the State Primary and/or Secondary Road System in the above County or Counties, North Carolina; and

WHEREAS, it is to the material advantage of the party of the second part to effect this encroachment, and the party of the first part, in the exercise of authority conferred upon it by statute, is willing to permit the encroachment within the limits of the right of way as indicated, subject to the conditions of this agreement;

NOW, THEREFORE, IT IS AGREED that the party of the first part hereby grants to the party of the second part the right and privilege to encroach and construct facilities in the County or counties mentioned above, subject to strict compliance to the following 30 numbered special provisions;

1. Installations shall be in strict compliance with the party of the first part's latest Policies and Procedures for Accommodating Utilities on Highway Rights of Way manual and any such revisions and amendments thereto.
2. This Agreement applies only to telecommunications cable installed by the trenching method and is limited to trenches 12 inches and less in width.
3. This agreement applies to roads on the Primary and Secondary System of State roads which are not classified as Freeways.
4. This agreement does not apply to Freeways including Freeway interchange ramps.
5. Any work to be done under this agreement must be reported to the party of the first part's Division Engineer in writing with attached map or sketch showing location and extent of work, and a letter of concurrence be received from him before commencing the work.
6. Any work to be done under this agreement shall be covered by a current Continuing Indemnity Bond on file with the Department of Transportation.
7. That the said party of the second part binds and obligates himself to install and maintain the encroaching facility in such safe and proper condition that it will not interfere with or endanger travel upon said highway, nor obstruct nor interfere with the proper maintenance thereof, to reimburse the party of the first part for the cost incurred for any repairs or maintenance to its roadways and structures necessary due to the installation and existence of the facilities of the party of the second part, and if at any time the party of the first part shall require the removal of or changes in the location of the said facilities, that the said party of the second part binds himself, his successors and assigns, to promptly remove or alter the said facilities, in order to conform to the said requirement, without any cost to the party of the first part.
8. The party of the second part hereby agrees to indemnify and save harmless the party of the first part for all damages and claims for damage that may arise by reason of the installation and maintenance of this encroachment.
9. The cable shall be placed a minimum depth of 24 inches below the surface of the shoulder except in passing over obstructions. Service taps and laterals should be placed a minimum of 24 inches below the bottom of side ditches.
10. Installations shall be made as close to the right of way line as practical. In no case shall installations be allowed within the theoretical 1:1 slope from the existing edge of pavement to the bottom of the nearest excavation wall. Shoulders stabilized with bituminous material and/or compacted crushed stone will be considered as pavement.
11. All splice boxes and/or handholes and other appurtenances shall be located as close to the right

of way line as practical. All splice boxes and/or handholes shall be of a design pre-approved by the Department of Transportation.

12. Trench backfill shall be made of approved material free from rocks in 6" loose layers, or other approved methods, and shall be compacted to at least 95% density in accordance with AASHTO METHOD T-99 as modified by the Department of Transportation.
13. Marking tape shall be buried in the trench approximately 1 foot below the surface of the ground. Where conduit is installed in the right of way and is not of ferrous material, locating tape or detection wire shall be installed with the conduit.
14. All trenches shall be closed at the end of each work day.
15. Excavation material shall not be stored on the pavement if it can be reasonably handled otherwise; in cases where storing of excavated material on pavement is absolutely necessary, same shall be removed and the pavement shall be thoroughly cleaned at the end of each work day.
16. Excavation within 500 feet of a signalized intersection will require notification by the party of the second part to the Division Traffic Engineer. All traffic signal or detection cables must be located prior to excavation.
17. Traffic signal or detection cables or parts of or utility lines to any other NCDOT equipment that are inadvertently damaged must be reported immediately to the Division Traffic Engineer. The cost to repair any damage to NCDOT signs, signals or other equipment and/or associated utilities shall be the responsibility of the party of the second part.
18. Excavation in the immediate vicinity of drainage structures shall be made with special care so as not to damage or interfere with the use of the existing drainage facilities.
19. Highway drainage pipes and culverts are not to be disturbed. Drainage facilities that are inadvertently damaged must be repaired immediately.
20. Cable is to be placed as far as practicable from the centerline of unpaved roads.
21. The pavement of intersecting roads shall not be cut except in unusual situations approved by the party of the first part's Division Engineer.
22. The cutting of pavement for service taps across the road will not be permitted., and the cutting of pavement for additional terminals where existing cables have been paved over shall be done only upon approval of the party of the first part's Division Engineer. Crossing by the methods of driving, jacking or boring holes up to 6 inches in diameter are acceptable subject to the approval of the party of the first part's Division Engineer.
23. In situations where an unpaved road is paved over an existing cable or where an existing pavement is widened over a cable, permission will not be granted to cut the pavement for the purpose of restoring or repairing the cable except in cases of emergency involving services. In these cases, the party of the first part's Division Engineer may authorize the cutting of pavement for emergency restoration of service.
24. Equipment used shall be of such types as not to cause damage to pavement.
25. The party of the second part shall provide during construction and any subsequent maintenance proper signs, signal lights, flagmen and other warning devices for the protection of traffic in conformance with the latest Manual on Uniform Traffic Control Devices for Streets and Highways and amendments or supplements thereto. Information as to the above rules and regulations may be obtained from the Division Engineer of the party of the first part.
26. That the party of the second part agrees to restore all areas disturbed during installation and maintenance to the satisfaction of the Division Engineer of the party of the first part. The party of the second part agrees to exercise every reasonable precaution during construction and maintenance to prevent eroding of soil; silting or pollution of rivers, streams, lakes, reservoirs, other water impoundments, ground surfaces or other property; or pollution of the air. There shall be compliance with applicable rules and regulations of the North Carolina Department of Environment and Natural Resources, and with ordinances and regulations of various counties, municipalities and other official agencies relating to pollution prevention and control. When any installation or maintenance operation disturbs the ground surface and the existing ground cover, the party of the second part agrees to remove and replace the ground cover or otherwise reestablish permanent vegetative cover to meet the satisfaction of the Division Engineer of the party of the first part. When surface area in excess of one acre will be disturbed, the party of the second part shall submit documentation that a Sediment and Erosion Control Plan has been approved by the appropriate regulatory agency or authority prior to beginning work on the right of way. Failure to provide this information shall be grounds for suspension of operations.
27. The party of the second part agrees to assume the actual cost of any inspection of the work considered to be necessary by the Division Engineer of the party of the first part.
28. All work is to be completed promptly with a minimum of delay.
29. The party of the second part agrees to have available at the construction site, at all times during construction, a copy of the letter of authorization and sketches from the Division Engineer (see Item #5 above) showing evidence of approval by the party of the first part. The party of the first part reserves the right to stop all work unless evidence approval can be shown.
30. That in the case of noncompliance with the terms of this agreement by the party of the second part, the party of the first part reserves the right to stop all work until the facility has been brought into compliance or removed from the right of way at no cost to the party of the first part.

During the performance of this contract, the second party, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor"), agrees as follows:

- a. Compliance with Regulations: The contractor shall comply with the Regulations relative to nondiscrimination in Federally-assisted programs of the U. S. Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- b. Nondiscrimination: The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- c. Solicitations for Subcontracts, including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
- d. Information and Reports: The contractor shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Department of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the Department of Transportation, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.
- e. Sanctions for Noncompliance: In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to,
 - (1) withholding of payments to the contractor under the contract until the contractor complies, and/or
 - (2) cancellation, termination or suspension of the contract, in whole or in part.
- f. Incorporation of Provisions: The contractor shall include the provisions of paragraphs "a" through "f" in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the Department of Transportation to enter into such litigation to protect the interests of the State, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

IN WITNESS WHEREOF, each of the parties to this agreement has caused the same to be executed the day and year first above written.

DEPARTMENT OF TRANSPORTATION

BY: _____
ASSISTANT MANAGER OF RIGHT OF WAY

ATTEST OR WITNESS:

(COMPANY)

(TYPE NAME AND TITLE)