

# FRANKLIN COUNTY, INDIANA UTILITY PERMIT AGREEMENT

The Board of County Commissioners of Franklin County, Indiana hereinafter referred to as Franklin County and \_\_\_\_\_ hereinafter referred to as the Permittee, hereby agree that utility facilities work consisting of:

**Located at the following described sites:** (Description of work)

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are hereby granted a permit to be located within or adjacent to the highway public way (outboard of highway ditches and or highway culverts or bridges) in accordance with the attached drawings. The terms of this agreement shall be primary over any other agreement signed for this specific installation. Terms of the most recent County Ordinance for Utility Policies shall apply to this permit and shall govern in the event of a conflict. In consideration thereof, the Permittee hereby agrees to abide by and conform to the following terms and conditions:

1. DESIGN AND CONSTRUCTION - The Permittee shall be completely responsible for the design of the utility to be installed within the dedicated highway public way.
  - a. Plans for construction of the utility shall be submitted to the Franklin County Highway Department with a copy of this Utility Permit Agreement.
  - b. No construction shall be started by the Permittee in county public way or within 15 feet of the traveled portion of roadway until approval is given by the Franklin County Highway Department.
  - c. The Permittee shall provide reasonable reimbursement to Franklin County for an employee's time for the inspection of the work to verify that construction is completed in accordance with the accepted plans.
2. LOCATION - The above-described utility facilities to be retained, installed, adjusted or relocated on, over along or under the highway within the public right of way limits will be located and accommodated in a manner that will not impair the planned highway, or its construction, or maintenance or interfere with its safe operation.

- a. A utility will generally not be permitted to be placed under, over or through a bridge, culvert, retaining wall or other highway structure, or within the highway zone needed for traffic signs.
- b. Unsuitable or undesirable locations shall be avoided. These locations shall include: deep cuts; near footings of bridges or other highway structures; or where drainage or stream water would be obstructed. Underground utilities shall be placed a minimum of 15 feet parallel to highway structures, if adequate right of way is available.
- c. Junction boxes shall be located a minimum of 5 feet off the edge of paved or gravel roadways to avoid interference with highway equipment operations.
- d. As a general rule, the horizontal and vertical location of overhead power and communication lines relative to a highway bridge or other structures shall provide adequate clearance for construction and maintenance activities wherever practicable.
- e. The attachment of utility lines to highway bridges and other structures will not be permitted unless such installations are completely justified to the satisfaction of Franklin County. To be permitted to make such attachments, the Permittee must demonstrate that the completed installation will not materially affect the durability and load capacity of the structure, the safe operation of traffic, the ease of maintenance or the structure's overall appearance.
- f. Longitudinal underground utility lines may be placed by plowing or open trench method and shall be located on uniform alignment as near as practicable to the right-of-way line (for right-of-way conveyed to the county) or buried to sufficient depth and sufficient distance away from the traveled portion of roadway to provide space for possible future highway construction and placing of traffic signs and devices. The location will depend upon the terrain involved and obstructions such as trees and other existing underground utility lines.

3. DEPTH OF COVER -- All underground utility lines shall be installed to have minimum cover of **48 inches**, measured from the top of the utility to the elevation at the edge of berm or toe of slope whichever is the greatest depth. Such depth of cover requirement may be lessened with the approval of the Franklin County Highway Engineer, but in no case may be less than 24 inches.

4. PAVEMENT CUTS – Open cutting of existing pavement to install utility facilities is strongly discouraged. The structural integrity of the roadway is adversely affected by open cutting.

- a. When it is not possible to install a facility without disturbing the pavement, written documentation and justification for a pavement cut shall be made by the Permittee.
- b. The Permittee shall place a sufficiently large conduit in the open trench excavation to accommodate future additional service without re-

excavating the roadway. Encasement conduit may be metallic or nonmetallic designed to be secure against deformation likely to cause leakage. It shall be designed to support the load of the highway and superimposed loads thereon, including construction equipment. The encasement conduit shall meet or exceed the structural requirements for drainage culverts and shall be composed of materials to withstand all conditions to which it is subjected.

c. It is essential that Permittee re-establish the structural integrity of the entrenched roadway subgrade and surface to allow for the smooth flow of traffic. Reconstruction of the roadway shall ensure that the trench does not become a drainage channel or that future consolidation cause a traffic bump.

d. For open cuts in gravel or stone surface roadway, backfill must be compacted in 8-inch lifts full depth using # 53 limestone.

e. Pavement cuts in asphalt surfaced roadways shall be backfilled with Flowable Mortar in accordance with Section 213, Type 5 (or approved equal) Indiana Department of Transportation Standard Specifications, latest edition. A minimum of 4 inches of hot asphalt (3 inches of base and 1 inch of surface) shall be used to reconstruct the pavement to equal or better than original condition.

5. PRESERVATION, RESTORATION, CLEANUP AND MAINTENANCE -- The Permittee shall keep to a minimum the area disturbed during utility installations and relocations.

a. All work areas shall be restored to prior condition by the Permittee to the satisfaction of Franklin County and adjacent property owners.

b. If the Permittee causes damages to county structures, bridges, culverts, shoulders or roadways due to installation, maintenance or repair of the Permittee's utility facilities, the Permittee shall reimburse Franklin County for the actual cost of labor, materials and equipment to restore the site to its' prior condition.

c. It shall be the Permittee's responsibility to maintain areas where utility markers, junction boxes, pedestals or other structures are placed within county right-of-way. Such areas shall be maintained and kept clean so that all utility facilities can be readily distinguished by county highway workers (or contractors working for the county) while mowing or performing other roadside maintenance.

d. The Permittee shall keep all utility facilities in good state of repair both structurally and aesthetically.

6. SAFETY, CONVENIENCE AND EMERGENCIES -- Traffic controls for utility construction and maintenance operations shall conform to the Indiana (or Federal where applicable) Manual on Uniform Traffic Control Devices for Street and Highways. The Permittee agrees to comply with applicable requirements

included in the Manual, in particular, Part VI Traffic Controls for Street and Highway Construction and Maintenance Operations.

- a. All construction and maintenance operations by the Permittee must be planned with full regard to safety; traffic interference must be kept to an absolute minimum. Traffic shall be maintained at all times unless otherwise indicated with this Utility Permit Agreement and approval given by Franklin County's Authorized Representative.
- b. Construction operations which would interfere with traffic on heavily traveled highways are not permitted during peak traffic flow periods.
- c. The Permittee shall provide traffic control and flaggers as may be reasonably required for safety and convenience of the public and shall furnish all barricades, signs, lights and other traffic control devices necessary to protect the public.
- d. During emergencies it is the responsibility of the Permittee/Utility Contractor to advise Communications (Brookville Police) and the Franklin County Highway Department when a road will be closed and provide the estimated time when the road will be reopened to traffic.
- e. Also, during emergencies - as determined at the discretion of the Franklin County Board of Commissioners or Highway Department - the Permittee shall provide a utility employee to immediately locate and make final exposure of buried utility lines as requested by the Highway Department. During non-emergencies location shall be provided within a minimum of 48 hours.
- f. Prior to the start of installation, the Permittee shall provide a list of contact personnel for the Permittee, its agents and installation site manager. The list shall include the estimated start and finish dates of field work. This list shall be provided to Franklin County and become an integral part of this permit. All onsite Contractors shall have copies of this list available for distribution to local inquirers. Vehicles used by the Contractor shall have clear markings to indicate the name of the Contractor.

7. RECORDS -- the Permittee shall maintain records that describe the utility usage, size, configuration, material location, height or depth and any special features such as encasement, manholes, and valves.

- a. These records shall include all service lines which enter or cross the highway right-of-way or within 15 feet of traveled portion of roadway.

b. This information shall be in reproducible form and made available to Franklin County and other utilities.

c. "As Built Drawings" accurately providing the above information shall be provided to Franklin County by the Permittee upon completion of the utility work included in the Utility Permit Agreement.

8. UTILITY MARKERS -- The Permittee shall place a readily identifiable and suitable marker immediately above any underground utility line where it crosses the right-of-way or within 15 feet of traveled portion of roadway.

a. Utility Markers shall also be placed on each side of underground utility stream crossing, on each side of highway structures and other locations likely to be in need of future highway maintenance.

b. Utility Markers shall be placed over underground utility installations with a maximum spacing so that markers are readily visible from marker to the next. This is necessary so utility alignment adjacent to the roadway can be quickly and accurately be determined.

c. Utility lines installed of non-metallic materials without metallic casings, shall be installed concurrently with a durable metal wire to provide a means of detection.

9. HIGHWAY INFRASTRUCTURE -- Franklin County does not represent or warrant that the final location of the construction of utility facilities as approved by the county is wholly within the county right-of-way. Approval of plans and specifications and location by the county of any utility facility is solely for the safety and convenience of the county and users of the traveled portion of the highway and does not grant to the utility an easement over or upon the land that is not within the county right-of-way. The county shall not defend the utility in any dispute or litigation between the utility and property owner over the right of the utility to construct its facility upon the lands alleged to be owned by a property owner.

10. HOLD HARMLESS AND INDEMNIFY - The Permittee agrees to hold harmless and indemnify Franklin County from any claim for damages of any nature whatsoever arising out of Permittee's negligence in connection with any work done pursuant to this Utility Permit Agreement.

a. Also, the Permittee agrees to assume liability for and save harmless and indemnify Franklin County from any claim for damages of any nature whatsoever from any party asserting any encroachment, trespass or damage to their property outside of Franklin County right-of-way.

b. Franklin County in no manner authorizes or grants permission to the Permittee to act or perform operations to install, adjust, retain or maintain any facilities beyond Franklin County right-of-way. Franklin County reserves the right and the utility grants to the county the right to assume that the utility has acquired all appropriate easements outside the county right-of-way.

c. The Permittee must notify any property owners along the construction area prior to actual beginning of work

d. The Permittee agrees to hold harmless and indemnify Franklin County, its departments and employees from any liability for any damage to the Permittee's utility facilities - presently or previously placed within Franklin County right-of-way, easements or areas licensed to the county for its highway infrastructure - which are not in full compliance with the conditions stated herein. Franklin County right-of-way shall include right-of-way obtained by deed or use and/or as defined by the Indiana Department of Transportation.

11. FIBER OPTIC INSTALLATIONS -- It is the policy of Franklin County that due to the extreme importance of fiber optic communication systems in providing critical community services, that these utility lines be located in specially acquired space outside the highway right-of-way. Appropriate Utility Markers shall be used to readily identify these installations to help ensure their protection during work operations which could threaten fiber opticlines.

12. FUTURE IMPROVEMENTS -The Permittee agree to assume all costs and liability for making any necessary utility adjustments when future traffic conditions and/or road improvements necessitate and request is made by Franklin County.

a. An exception to the above will be granted when the Permittee has a compensable property right therein or when reimbursement of such costs is provided by law.

b. The Permittee agrees to comply with the rules and regulations of Franklin County in servicing, maintaining, replacing, relocating and removing the utility facilities described herein.

c. A new permit will be obtained before performing any of the above-described functions on facilities located within the highway right-of-way or within 15 feet of traveled portion of roadway.

*Franklin County usually does not have any ownership of property where roads and highway structures are built. Franklin County has dedicated non transferrable rights for a public way for transportation only (not for utilities).*

*The follow additional agreed upon requirements are added to this permit: (to be amended per permit)*

1. *Permittee shall notify all land owners of property where utility will be located or where installation will disrupt land owners (road closures, etc.)*
2. *All fiber optic conduit shall be installed a minimum of 48" below grade.*
3. *"As built" drawings and Indiana State Plane Coordinates (for Horizontal Control) and elevations (or depth of cover) shall be fumed over to the Franklin County Surveyor at the completion of the installation of the underground portion of work.*
4. *A \$7,500 bond per road cut or bore shall be posted with Franklin County being the recipient in event that damages are not restored to preexisting conditions or other requirement of this permit are not fulfilled.*

PERMITTEE

**FRANKLIN COUNTY, INDIANA**  
Franklin County Highway Department or  
Franklin County Commissioners

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\_\_\_\_\_

Authorized Representative

District Foreman or Engineer

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Agreement Rev. 2/8/2022