

ROAD IMPACT AGREEMENT

Permit Number: _____
Date: _____

April 24, 2009 v1

The Board of Commissioners of the County of Elkhart, Indiana ("Commissioners") and "Contractor", as defined below, agrees as follows:

1. Installation. The Commissioners agree that Contractor may construct the following improvements or take the following action within a public road of Elkhart County, Indiana ("Installation") (check appropriate Installation below).

- A. Residential Driveway. _____ Commercial/Industrial Driveway. _____
- B. Utility Installation. _____ Other Use. _____

Further Information or Criteria (where applicable):

- A. CURB & GUTTER: _____ YES _____ NO _____ N/A
- B. NEW DRIVE: _____ ASPHALT _____ CONCRETE _____ OTHER _____ N/A
- C. ROAD SURFACE: _____ ASPHALT _____ CONCRETE _____ OTHER _____ N/A
- D. PIPE REQUIRED: _____ YES _____ NO _____ N/A
- E. SWALE TO BE MAINTAINED/CREATED: _____ YES _____ NO _____ N/A
- F. PASSING LANE REQUIRED: _____ YES _____ NO _____ N/A
- G. ACCEL/DECEL LANE(S) REQUIRED: _____ YES _____ NO _____ N/A
- H. FOR SPECIAL INSTRUCTIONS SEE SECTION 13 BELOW: _____ YES _____ NO _____ N/A

2. Location. The Installation described in section 1 is to be located at: _____ feet, N S E W of _____ (Street or Road) in Section _____ of _____ Township, Elkhart County, Indiana; if the Installation is limited to or located on a single side of the road/street, the side that is applicable is the N S E W side. Other location information:

SITE ADDRESS (if applicable): _____

SUBDIVISION (if applicable): _____ Lot # (if applicable) _____

3. Compliance: Timing. The Installation described in section 1 shall be constructed or undertaken in compliance with the Elkhart County Roads Guidelines and Standards for Design and Public Improvement ("Street Standards"), effective September 2, 2008, Elkhart County Ordinance Number 08-316, and any other applicable Elkhart County Ordinance, application form, approval, or authorization permit, or other agreement required by or pertinent to the Installation. The Installation described in section 1 shall be commenced on or about _____, and shall be fully completed, in conformity with this Road Impact Agreement, by no later than _____.

4. Damages. The Contractor shall be responsible for any damage it causes to any roadway, drainage structure, or other Public Improvement located within a Right-of-Way during the construction of the Installation described in section 1. Contractor shall be responsible for and indemnify and hold the Commissioners harmless from any claim for damages of any nature, resulting from Contractor's Installation described in section 1, or any actions or undertakings associated therewith, including the payment of attorneys' fees and other expenses incurred in the defense of any claim against the Commissioners.

5. Safety. During the Installation described in section 1, Contractor shall use all reasonable efforts to protect the public from any danger associated with the construction of said improvement or action. Contractor shall be solely responsible for any such damage caused to the public, to include indemnifying and holding harmless Commissioners per section 4 above.

6. Surety. Contractor shall complete any application, obtain any permit, and pay all fees required by the Street Standards and Contractor shall provide any performance and/or maintenance surety, or other financial security, required for the Installation described in section 1.

7. Remedies. If the Contractor fails to follow the terms of this Agreement or the requirements found in the "Street Standards," Contractor shall be liable for any damage it causes as a result of the violation of this Agreement or the Street Standards, including attorneys' fees incurred by the Commissioners and all other reasonable costs and expenses incurred in enforcing said standards. Additionally, if Contractor fails to construct, maintain, or undertake the Installation as agreed and in violation of the Street Standards, or if Contractor shall in any fashion breach the terms and conditions of this Road Impact Agreement, or if Contractor shall otherwise fail or refuse to comply with the Zoning and/or Subdivision Ordinance of Elkhart County, Indiana, the Commissioners may seek and pursue all other remedies available at law or in equity, to include the remedy of specific performance or injunctive relief, and in addition thereto, the Commissioners may directly, or through their authorized representatives or departments, cancel, rescind, or terminate any permits or authorization heretofore granted to Contractor, and may withhold any construction, building, occupancy, or other permits sought by Contractor, at the location set forth in section 2 AND at any other locations in Elkhart County, until all such failures, breaches, or violations of Contractor shall be cured to the satisfaction of the Commissioners.

8. Contractor. "Contractor" as used within this Agreement, and in any application, permit, surety, performance bond, or maintenance bond applicable to the improvements, shall be and mean the company or entity set forth below, or the individual or individuals set forth below. Each person signing this Road Impact Agreement for and on behalf of a company or entity certifies that he or she is duly authorized and empowered on behalf of such company or entity to execute and deliver the same for and on behalf thereof. Any person signing below as "Contractor" in an individual, non-representative capacity, shall be personally responsible and accountable for the terms and conditions of this Road Impact Agreement.

9. Contact Person. The contact person for Contractor, and applicable address and phone number therefore, for all purposes under this Agreement, are as follows: _____.

10. Utility Permits (Only). If Contractor is a utility company, be such public or private, the following additional standards shall apply:

- A. Such utility shall be duly authorized and licensed to conduct business in Elkhart County, Indiana.
- B. The Installments described in section 1 to be installed, retained, adjusted, or relocated by Contractor on, over, along, or under the county highway/public road aforescribed, within the right-of-way limits thereof, shall be so placed, located, or accommodated by Contractor so that such will not impair in any fashion the planned or existing roadway, or any bridge or other support structure thereof; will not impede the construction or maintenance of such roadway or other structure; and will not interfere in any fashion with the safe use and operation thereof. Contractor further agrees to comply with the rules, regulations, and rulings of the Commissioners in servicing, maintaining, replacing, and removing the above described improvements or taking the above described actions, and to obtain the appropriate permit before performing any of such functions on any utility facilities, or otherwise addressing such improvements or taking such actions, to the extent located within the highway or bridge right-of-way at issue.

C. Contractor agrees to assume all responsibility and liability for making any adjustments to the utility facilities, as may from time to time be requested by the Commissioners, and further agrees to assume the costs thereof, except where Contractor has a compensable property right therein or where reimbursement of such costs is prohibited by law.

D. Contractor specifically acknowledges the provisions of Section XI of the Street Standards which are incorporated herein by reference; thus any Installation is subject to removal, relocation, or other alteration at the expense of Contractor per such Street Standards, and fines or other remedies set forth within said Section XI shall specifically apply to the Installation contemplated by this Road Impact Agreement.

11. Agents and Representatives. The duties of Contractor to indemnify and hold Commissioners free and harmless per the terms of this Road Impact Agreement, or the Street Standards, shall apply to Commissioners, Elkhart County Government Generally, and to the officers, agents, elected officials, employees, and representatives thereof.

12. Special or Additional Standards.

13. Binding Effect. This Agreement shall apply to and be binding upon Contractor, and the successors, assigns, heirs, and beneficiaries of the same.

CONTRACTOR:

Date: _____

SIGNATURE OF AUTHORIZED AGENT

PRINTED NAME

TITLE

NAME OF CONTRACTOR

COMMISSIONERS:

Date: _____

SIGNATURE OF AUTHORIZED AGENT

PRINTED NAME

TITLE

FINAL INSPECTION AND CERTIFICATION

The undersigned hereby certifies and confirms that he/she has undertaken the final inspection on the Installation contemplated by the above referenced Road Impact Agreement, and the undersigned herewith confirms that the Installation was completed by Contractor as of _____ (date), and that such Installation was constructed consistent with the terms and conditions of such Road Impact Agreement.

SIGNATURE

PRINTED NAME

TITLE

DATE