Permit No._____

WAYNE COUNTY
HIGHWAY DEPARTMENT

7227 Route 31
Lyons, New York 14489
315-946-5600
315-946-5610 (fax)

PERMIT UNDER SECTION 136 HIGHWAY LAW

WHEREAS, Section 136 of the Highway Law Provides: No street surface or other railroad shall be constructed upon any portion of a road constructed or improved on a county road system, nor shall any person, firm, corporation or municipality enter upon or construct any works in or upon any such load, or construct any overhead or underground crossing thereof, or lay or maintain therein drainage, sewer or water pipes underground, except under such conditions and regulations as may be prescribed by the county superintendent, notwithstanding any consent or franchise granted by any town or by the municipal authorities of any village or town. Any municipal corporation may enter upon any road constructed or improved on a county road system for the purpose of widening the pavement or constructing sidewalks or for any other purpose authorized by this section, but only after securing a permit as provided herein. Notwithstanding the limitations in any general or special law, every municipal corporation shall have and is hereby given authority to deposit with the county superintendent such a sum of money as may be required by the county superintendent as a condition precedent to the granting of the permit provided in this section. Any person, firm or corporation violating this section shall be liable to a fine of not less than one hundred dollars nor more than one thousand dollars for each day of such violation, to be recovered by the county superintendent and paid in to the county treasury to the credit of the county road fund created under article six of this chapter for the construction, reconstruction and maintenance of county roads on the county road system in accordance with the provisions of said article six, and may also be removed therefrom as a trespasser by the county superintendent upon petition to the county court of the county or to the supreme court of the state.

TO: SUPERINTENDENT OF HIGHWAYS of the County of Wayne

Application is hereby made by the undersigned _____
_____
whose principal place of business is at _____
_____Telephone (___)_____
to (describe work)_____
_____
_____
_____
on or across a County Highway situated in the Town of _____
known as _____Route No._____
which has been improved and is on the Wayne County road system.

In accordance with the map and plan hereto attached, and pursuant to the CONDITIONS and REGULATIONS, whether general or special, which are hereinafter set forth: all forming a part hereof. The applicant will obtain any and all other consents and permits that may be necessary to accomplish the purposes set forth herein, as it is understood that in granting such permit, this Department merely expresses its assent insofar as it is authorized.

The undersigned applicant has provided an Insurance Certificate as required on this permit, in accordance with Schedule 'A', attached hereto and made part of this permit application.

PERMIT

To complete the work indicated above.

PERMISSION IS HERBY GRANTED

To the above applicant (hereinafter referred to as "Permittee"), to proceed as set forth and represented in the above application and the attached plans and map and pursuant to the conditions and regulations, whether general or special, which are hereinafter set forth; all forming a part hereof, to wit:

CONDITIONS AND REGULATIONS

1. The privilege granted by this permit does not authorize any infringement of Federal, State or Local laws or regulations, and is limited to the extent of the authority of this department in the premises. Such permit shall not be assigned or transferred without the written consent of the Superintendent of Highways of the County of Wayne, or his representative.

2. If any work authorized by this permit is not performed to the satisfaction of the County Highway Superintendent, or his representative, or is not fully completed or is otherwise defective, the said applicant hereby agrees that the County Superintendent of Highways may satisfactorily complete said work or correct any defect therein after the discovery of such unsatisfactory or defective work. The cost or expense thereof shall be paid by said applicant immediately upon receipt of a statement of such cost or expense from the County Superintendent of Highways or may be deducted by the Treasurer of Wayne County out of any funds deposited with him as security for the satisfactory completion of said work.

3. The Superintendent of Highways of the County of Wayne, or his representative, shall be given forty eight (48) hours notice by said Permittee of the day when it intends to begin the work authorized by this permit and prompt notice of its completion.

4. The Permit Holder and its successors in interest hereby agrees (a) that except for the amount, if any, of damage contributed to, caused by or resulting from the negligence of the County, the Permittee and its successors in interest shall indemnify and hold harmless the County, its officers, employees and agents from and against any and all liability, damage, claims, demands, costs, judgments, fees, attorney's fees or loss arising directly or indirectly out of the acts or omissions hereunder by the Permittee and its successors in interest or third parties under the direction or control of the Permittee and its successors in interest; and (b) to provide defense for and defend, at its sole expense, any and all claims, demands, or causes of action directly *or* indirectly arising out of this Permit and to bear all other costs and expenses related thereto.

5. Unless expressly waived, in writing by the Wayne County Board of Supervisors, the Permittee shall furnish with the application filed in order to obtain this permit, a Insurance Certificate in accordance with Schedule 'A' issued to and covering the County of Wayne, with respect to all operations under this permit by the Permittee or by anyone acting by, through or for the Permittee including omissions and supervisory acts of the County of Wayne.

6. The applicant certifies all persons concerned with the actual work under this permit are duly covered by Workman's Compensation Insurance and the State, County, and Town shall be held harmless on account thereof.

7. The Enumeration in this permit of the kind and amount of insurance shall not abridge, diminish or affect the Permittee's legal responsibility for the consequences of accidents arising out of or resulting from the operations of the Permittee under this permit.

8. Any cashiers, bank or certified check, or money order deposited with the Superintendent of Highways of the County of Wayne before or at the time of the issuance of this permit, shall be deemed to include and be used as security so that the highway or any part thereof, will be restored to its original condition where disturbed at the expense of the Permittee, and as soon as the work has been completed and the said Superintendent of Highways or his representative is hereby authorized to expend all or as much of such deposit as may be necessary for that purpose should the said Permittee neglect or refuse to perform the work.

9. It shall be deemed the responsibility of the Permittee for the payment of any and all claims and damages arising out of operations by this permit which may result because of any dangerous conditions created by the existence of any debris or obstruction left on the pavement or roadside during the progress of the work which may be either within the highway, right of way or on adjacent property. Should the Superintendent of Highways or his representative, discover any hazardous condition so created, he may issue verbal instructions or written notice to the Permittee to eliminate the cause. In the event the Permittee fails to take immediate action to remove such hazardous condition, the Highway Department of the County of Wayne reserves the right to take such action as it may deem necessary to safeguard the public. All cost resulting therefrom shall be paid by the Permittee and shall be deducted from any deposit on file given by the Permittee. In the event the expenses exceed the amount of said deposit, the Permittee shall promptly pay the balance due.

10. The Superintendent of Highways of the County of Wayne, or his duly authorized representative, reserve the right to revoke or annul this permit at any time without the necessity of a hearing or showing cause.

11. The Permittee agrees to pay all necessary expenses incident to any supervision and inspection by reason of the granting of such permit as may be certified by the Superintendent of Highways of the County of Wayne, and such payment will be made within ten days of the rendering of the account.

12. Work authorized by this permit shall be commenced within thirty (30) days from the date of permit and shall be performed in a workmanlike and expeditious manner without unreasonable delay or interference with public travel. The Permittee shall provide all necessary and suitable safeguards so as to reduce to an absolute minimum any dangerous condition hazardous to life, limb or property.

13. The Permittee shall submit with the application filed in order to obtain a permit to said Superintendent of Highways of the County of Wayne, or his representative, a detailed

plan of any proposed work to be built with a description of the proposed method of construction before any work hereunder is started.

14. Traffic shall be maintained and flagmen provided by the Permittee during the period of time the work is in progress and until its final completion. The Permittee assumes full responsibility for all traffic control and are required to place adequate warning signs and traffic channelization devises in accordance with the NYS Traffic Manual.

15. The Permittee expressly agrees that the rights of abutting property owners in fee to the centerline of the highway shall not be encroached upon, and that any drainage, sewer or water pipes or appurtenances which are laid under this permit shall be placed at least four (4) feet below, and in such a manner as in no way to interfere with the pavement, shoulders or drainage ditches of the highway, and to the complete satisfaction or the Superintendent of Highways of the County of Wayne.

16. If the road upon which this permit is issued is at any time repaired, improved or reconstructed by the State, County or any other municipality, the applicant, Permittee or any successor in interest to said applicant and Permittee shall, upon the written request of the Superintendent of Highways of the County of Wayne, before its improvement, at the applicant and Permittee's own expense, remove any drainage, sewer or water pipe or appurtenances which may have been placed under this permit and will relay the same in conformity with the directions of the Engineer-In-Charge of such improvement and in accordance with any rules and regulations as may be laid down at the time of said improvement.

17. Pursuant to Chapter 731 of the Laws of 1953, as amended, it is mandatory that before discharging explosives in the ground or excavating where gas lines may be located, that the Permittee must notify at least 72 hours in advance, the person or municipality distributing gas in that area.

18. Pursuant to Chapter 278 of the Laws of 2023, If the permittee is a Utility Company, the Utility and its contractors must follow all provisions in the Roadway Excavation Quality Assurance Act which amends section 224-F of the Labor Law. The provisions include having a contract in place to pay prevailing wages and maintaining certified payrolls during the period of work.

19. This permit shall not be transferred.

20. The person in charge of the work covered by this permit shall have the permit and the approved plans and sketches in his possession on the job at all times.

21. A fee will be assessed as outlined in the County of Wayne Highway Department Permit Fee Worksheet, a copy of which is attached hereto and identified as Schedule ‘B’.

METHOD OF PERFORMING WORK

1. All pipes and mains crossing highway pavements shall, wherever possible, be bored and jacked beneath the roadway without disturbance to the pavement section. The point of driving shall not be less than ten (10) feet from the edge of the asphalt pavement. Such cross over pipes shall, whenever possible, be enclosed in casing pipes so that future repairs or replacements may be made without disturbing the pavement section.

2. Approvals of open cuts will be made by the Superintendent of Highways, or his representative. Backfill of open cuts shall conform to the typical trench detail attached to this permit and made a part of.

3. Excavations within the shoulder area parallel to the road (ie. new waterline construction) shall conform to the shoulder backfill detail attached to this permit and made a part of.

4. The Permitee shall keep the highway clean at all times, power brooms may be required. The Permitee shall also restore, repair, and/or replace in-kind the following: traffic signs, drainage systems, ditches, driveways, lawn and grass areas, and mailboxes as the work progresses.

5. The Permitee must notify the Underground Facilities Protective Organization (UFPO) at 800-962-7962 and any non-member agencies forty eight (48) hours prior to the start of work.

DRIVEWAY CULVERT PIPE INSTALLATION

1. The Superintendent of Highways or his representative shall at the request of the property Owner, determine if a driveway culvert is needed at the new installation, will determine the culvert size (diameter), type of pipe, and schedule installation by Wayne County Highway crews. The Highway crew will contact UFPO, excavate for and install the pipe to correct line and grade, and will provide the Owner with a maximum of two (2) six wheel dump truck loads of gravel. The Owner will order, purchase the pipe, and have the pipe delivered to the driveway location for the highway crew. Upon installation the Permitee/Owner conveys ownership to the County of Wayne, who will maintain the culvert.

ADDITIONAL CONDITIONS & RESTRICTIONS

_____
_____
_____
_____

In consideration of the granting of the within permit, the Undersigned hereby accepts the same subject to the restrictions and regulations therein described.

_____

Signature of Applicant Date

_____

Superintendent of Highways Date

REV 10/2023

Schedule 'A'

STANDARD INSURANCE PROVISIONS (PERMITTEE)

Prior to commencing work, the Permittee shall obtain at its own cost and expense the required insurance from insurance companies licensed in the state of New York.

A. The Permittee, at its own cost and expense, shall procure and maintain the following insurance coverages with limits of liability not less than the limits specified:

Commercial General Liability

Premises/Operations
Products/Completed Operations
Contractual Liability
Independent Contractors
Personal Injury
Broad Form Property Damage

Bodily Injury and Property Damage Limit	$1,000,000 each occurrence
Products/Completed Operations Limit	$1,000,000 aggregate
Personal Injury and Advertising Injury Limit	$1,000,000 each person or organization
General Aggregate Limit	$2,000,000

The County of Wayne and its officers, employees, and agents shall be named as Additional Insureds on a direct primary basis under the policy issued for these coverages by the use of Endorsement CG2026, Additional Insured Designated Person or Organization.

Automobile Liability

Owned, Hired and Non-Owned Autos
Combined Single Limit for Bodily Injury
and Property damage $1,000,000 each accident

Workers' Compensation and Employers' Liability
Statutory coverage complying with New York Workers' Compensation Law

B. It is expressly understood and agreed by the Permittee that the insurance requirements specified above, except for Professional Liability, contemplate the use of

occurrence liability forms. If claims-made coverage is evidenced to satisfy any of the specified requirements, the Permittee shall comply with the following requirements:

1. If the claims-made coverage terms designate a specific retroactive date, the Permittee shall maintain a retroactive date which is not later than the earlier of (a) the date of the commencement of the term of this agreement, or (b) the original coverage retroactive date for the Permittee's first claims-made policy for each and every coverage provided on a claim-made basis;

2. For the duration of this agreement or any subsequent renewals, if the retroactive date is advanced or if the policy is materially changed, cancelled or not renewed, the Permittee shall purchase, at its own expense, an Extended Reporting Endorsement. This endorsement must provide an Extended Reporting Period ("Tail" coverage) in compliance with the minimum standards prescribed by the Insurance Department of the State of New York in Regulation No. 121 (11 NYCRR 73) or its subsequent amendments or revisions;

3. Upon termination of the services provided to the County by the Permittee, the Permittee shall maintain such claims-made coverage without interruption for a period of time equal to the length of any Extended Reporting Period requirement as specified above. If the retroactive date is advanced or if the policy is materially changed, cancelled, or not renewed during this period of time, the Permittee shall purchase, at its own expense, an Extended Reporting Endorsement that is in compliance with the minimum insurance standards prescribed by the Insurance Department of the State of New York in Regulation No. 121 (11 NYCRR 73) or its subsequent amendments or revisions.

C. The insurance carriers providing the above coverages shall be licensed to do so in New York State and shall also be rated no lower than "B+" by the most recent Best's Key Rating Guide or Best's Agent's Guide or must be otherwise acceptable to the County Board of Supervisors.

D. Upon execution of this Agreement, the Permittee shall furnish the County with original Certificates of Insurance evidencing that policies of insurance are maintained which conform to the insurance requirements set out above.

All insurance policies required herein shall be specifically endorsed to provide that in the event of cancellation, non-renewal or material change on the part of the insurer, 30 days prior written notice shall be provided to the County of Wayne, Office of the County Attorney, County Courthouse, 26 Church Street, Lyons, New York 14489, and the inclusion of such an endorsement shall be confirmed on the Certificate of Insurance required herein.

The Permittee shall use the Wayne County Standard Insurance Certificate Form furnished by the County, a copy of which is attached hereto and marked ***"Exhibit 1",*** except that an ACORD form Certificate of Insurance may be used provided the acknowledgment set forth in Section VI on the County Standard Insurance Certificate is added verbatim to the form and the ACORD Certificate provides for thirty (30) days notice

of cancellation, non-renewal or material change to Wayne County, in the event of cancellation by the insurer, in accordance with the requirements above.

Insert insurance form