



\_\_\_\_\_ **DRAIN**

**PERMIT TO CROSS OR PARALLEL A COUNTY DRAIN**

**WHEREAS**, the \_\_\_\_\_ Drain (“Drain”) is an established county drain, under the jurisdiction of the Calhoun County Water Resources Commissioner (“CCWRC”), 315 West Green Street, Marshall, MI 49068; and,

**WHEREAS**, the Drain traverses property within Sections \_\_\_\_\_, \_\_\_\_\_ Township/City/Village, Calhoun County, Michigan; and,

**WHEREAS**, the \_\_\_\_\_ Drain Drainage District (“Drainage District”) was granted easements that are on file with the Office of the Calhoun County Water Resources Commissioner and said easements are for the operation, maintenance, and improvement of the Drain across a portion Section \_\_\_\_\_, \_\_\_\_\_ Township/City/Village with said easement being \_\_\_\_\_-feet total width (\_\_\_\_\_ -feet either side of drain measured from center line of the drain) (“Drain Easement”); and,

**WHEREAS**, \_\_\_\_\_ (“Permittee”), is a \_\_\_\_\_ corporation with its principal place of business located at \_\_\_\_\_; and,

**WHEREAS**, Permittee has submitted an application to the CCWRC to install \_\_\_\_\_ along \_\_\_\_\_, \_\_\_\_\_ Township/City/Village, Calhoun County, part of which is proposed to be located within the legally established Drain Easement (the “\_\_\_\_\_”); and,

**WHEREAS**, Permittee is requesting a Permit to install the \_\_\_\_\_ that crosses and/or parallels a portion of the Drain Easement for \_\_\_\_\_; and,

**WHEREAS**, the Permittee has submitted to the Office of the CCWRC, a permit application and drawings showing the location, of the \_\_\_\_\_ crossing and occupying a portion of the Drain Easement. The application dated \_\_\_\_\_, 20\_\_\_\_ is attached hereto as **Exhibit A**; and,

**WHEREAS**, the CCWRC’s engineer has reviewed the permit application and drawings and has recommended the issuance of a Permit to Cross or Parallel a County Drain and permission to occupy a portion of the Drain Easement as requested on certain terms and conditions pursuant to the Rules of the CCWRC and subject to the Engineer’s review and recommendations; and,

**NOW THEREFORE** the CCWRC, acting on behalf of the Drainage District, pursuant to the Rules of the CCWRC, does hereby grant to the Permittee a Permit to encroach and cross, or parallel the Drain, and permission to occupy a portion of the Drain Easement which hereinafter shall be known as Permit to Cross or Parallel a County Drain (“Permit”), on the following terms and conditions:

1. The Permittee shall not alter the Drain connection nor occupy a portion of the Drain Easement in a location and manner except as set forth in **Exhibit A**.
2. Except as otherwise stated herein, this Permit shall be deemed to include and require Permittee to comply with all provisions and requirements of the Application for Permit, Permit Requirements to Cross or Parallel a County Drain, including CCWRC’s engineer’s review and recommendations dated \_\_\_\_\_, 20\_\_\_\_ (**Exhibit B**), and the Rules of the CCWRC, as amended.
3. Permittee certifies that the \_\_\_\_\_, as set forth in **Exhibit A**, has or will be installed a minimum of four (4) feet below the established drain bottom when crossing or paralleling the Drain or Drain Easement. [If applicable].
4. All utilities and/or facilities must be a minimum of four (4) feet below the established drain bottom when crossing or paralleling the Drain or Drain Easement.
5. Any structures removed such as headwalls, wingwalls, concrete slabs, rip rap, erosion protection, tiling, culverts-metal or concrete, must be replaced with new materials and reconstructed to original condition or better.
6. All ditch banks, when disturbed, must be reshaped to original slope, compacted, top-soiled and seeded, fertilized and mulched or hydro-seeded. Permittee shall use mulch blankets on ditch banks.
7. Permittee agrees that installation of the \_\_\_\_\_, has or will be accomplished without disruption to the Drain. Permittee shall not obstruct the flow of water in the Drain as defined by Sections 421 and 422 of the Drain Code, as amended (MCL 280.421 and 280.422), unless specifically authorized in writing by the CCWRC.

Permittee is responsible for maintaining all storm drainage during time of construction, whether be use of pumping equipment or construction of a bypass system. Permittee shall not store equipment and materials in any way so as to cause blockage of the Drain.

8. Inspection. Permittee agrees that the CCWRC's inspector, or an inspector as approved by the CCWRC, must be on site during the installation of the \_\_\_\_\_ within and/or across the Drain, to inspect the \_\_\_\_\_, installation within the Drain Easement. Permittee shall notify Eng. not less than three (3) business days prior to any construction within the Drain and/or Drain Easement. Every attempt to accommodate the Permittee's schedule will be made when notified of the need for an inspector. Permittee shall be directly responsible for all costs and expenses, including all professional fees (engineer, inspector, surveyor, and attorney) arising out of this Permit.
9. Application Fees and Deposit. Permittee shall be responsible for application fees (\$250.00), together with any and all costs incurred by the Drainage District arising from this Permit, including, but not limited to, engineering, inspection, enforcement, administrative, attorney fees, court costs, witness fees, and/or costs of litigation arising out of this Permit, and any services rendered attendant thereto. ~~Permittee may also be required to deposit \$#,####.00 with the CCWRC for inspection fees and other costs upon execution of this Permit.~~ Any portion of the deposit not used will be refunded to Permittee. Any amount incurred by the CCWRC in excess of the deposit will be billed to Permittee. The CCWRC will provide an itemized invoice of all costs within thirty (30) days of installation and completion of the \_\_\_\_\_. Payment shall be due thirty (30) days after mailing of the invoice.
10. The Permittee acknowledges that this Permit does not authorize any work in the Drain Easement other than that which is identified in this Permit and the exhibits attached hereto. Should work be required that is not otherwise authorized by this Permit on any encroachment or crossing of the Drain or within the Drain Easement, including but not limited to the \_\_\_\_\_, Permittee agrees to submit the necessary permit application(s).
11. Within thirty (30) days of completion of construction of the encroachment, crossing and/or parallel of the Drain Easement, as authorized herein, Permittee shall provide the CCWRC with one (1) copy of as-built drawings of the encroachment and crossing sealed by a Michigan licensed professional surveyor. The as-built drawing shall show the Drain Easement and the location of the \_\_\_\_\_. The as-built drawing shall be submitted as a digital (.pdf) file. If Permittee fails to timely provide the as-built drawings, Permittee agrees to be responsible for all costs incurred by the Drainage District and/or CCWRC, including but not limited to the costs incurred to survey and prepare the required as-built drawings, and any related attorney fees.
12. At Permittee's expense, any structures removed or damaged by Permittee such as headwalls, wing walls, concrete slabs, rip rap, erosion protection, tiles or culverts – metal

or concrete, must be replaced with new material and reconstructed to original condition or better as directed and approved by the CCWRC. Permittee must present a plan for permanent repairs within seven (7) days of written notice by the CCWRC. Permanent repairs must be completed by Permittee within a reasonable time as determined by the CCWRC.

13. **Insurance.** Not less than thirty (30) days prior to construction of the encroachment and crossing of the Drain Easement, Permittee shall provide to the CCWRC proof of Contractor's or Commercial General Liability Insurance, in an amount not less than \$1,000,000 per occurrence, with an endorsement naming the Drainage District, CCWRC, and its officers, official, employees and contractors, as additional insured under said policy.
14. **Indemnification.** Permittee agrees to hold harmless, indemnify and pay all costs to defend the Drainage District, CCWRC, CCWRC Office, and their agents, employees and/or contractors from any and all claims, damages, losses, demands, or actions, including but not limited to claims for damages to person or property, administrative sanctions and/or penalties arising out of or in any manner related to the privileges granted pursuant to this Permit, and/or any activity of Permittee within or affecting the Drain or Drain Easement, including but not limited to construction, maintenance, use and/or existence of the \_\_\_\_\_, and/or any other facility crossing, occupying and/or encroaching upon the Drain Easement. This provision shall not apply in the event an act of gross negligence and/or intentional misconduct of the Drainage District, CCWRC or their agents, employees and/or contractors, and such conduct is a proximate cause of the claim or damage. Notwithstanding the foregoing, nothing contained in this Permit shall constitute a waiver of any privileges and immunities as provided by law.
15. Permittee agrees to pay all increased costs incurred by the Drainage District to maintain or improve the Drain resulting from the approved Drain crossing, occupation and/or encroachment upon the Drain Easement. The issuance of this Permit does not relieve Permittee of any future expense for relocation of said \_\_\_\_\_, to accommodate for future drain improvements. Permittee does hereby acknowledge and agree that in the event the area within the Drain Easement for which this permit is granted is necessary for future operation and maintenance of the Drain, Permittee, shall: (a) Pay any increased cost to the Drainage District due to its occupying said Drain or Drain Easement, said cost to be determined as a separate bid item during construction or reconstruction, or (b) Relocate the \_\_\_\_\_, at its own cost, including any utility poles or other appurtenant structures, whether temporarily or permanently as determine necessary by the CCWRC. All expenses pertaining to said relocations shall be paid for by Permittee. Relocation shall be completed by a date determined necessary by the CCWRC, no less than 6 months from receipt of written request by the CCWRC. Additional time may be granted at the discretion of the CCWRC.
16. Permittee shall notify the CCWRC, of any subsequent repairs to the \_\_\_\_\_, that are herein authorized to occupy the Drain Easement or cross the Drain. Notice shall be conveyed to the CCWRC calling 269-781-0790 during

regular office hours, and after regular office hours, by calling the emergency number left on the recorded message at (269) 781-0911.

17. The authority to conduct the activity as authorized by this Permit is granted to the Permittee by the CCWRC, pursuant to Michigan law, including Public Act 40 of 1956, as amended. Approval herein does not convey, provide, or otherwise imply approval of any other governing body or authority vested in any other body by any act, ordinance, or regulation, nor does it waive the Permittee's obligation to acquire any other approvals or authorizations necessary to conduct the permitted activity or activities shown on the approved plans. The issuance of this permit does not relieve or waive Permittee's obligation to obtain all other required federal, state, and/or local permits.
18. This Permit is binding on the Permittee, its heirs, assigns, and successors in interest. Except for assignments to wholly owned subsidiaries or divisions of Permittee, this Permit is not assignable without the written consent of the CCWRC. Consent shall not be unreasonably withheld.
19. This Permit shall not affect nor alter the current liability that such lands subject to this Permit may have for special assessment levied for the purposes of the operation and maintenance of the Drain.
20. Violation of any of these specified terms and conditions shall constitute a breach of this Permit for which the Drainage District may revoke this Permit and order the removal of the facilities installed by Permittee or direct the operation or reconstruction of the encroachment or crossing to comply with the terms of this Permit, with all costs, including but not limited to construction, engineering, inspection, enforcement, and legal, to be paid by the Permittee.
21. This Permit shall be construed under Michigan law, and if any part, term or provision of this permit shall be determined by a court of competent jurisdiction to be unlawful or unenforceable, such determination shall not affect the validity and enforceability of the remaining parts, terms and provisions of this permit.

**[SIGNATURES ON FOLLOWING PAGES]**

ISSUED BY:

\_\_\_\_\_ DRAIN DRAINAGE DISTRICT,  
a Michigan public body corporate,

\_\_\_\_\_  
BY: Fred Heaton  
Calhoun County Water Resources Commissioner

STATE OF MICHIGAN            )  
                                          )ss.  
COUNTY OF CALHOUN        )

Acknowledged before me, a Notary Public, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by  
Fred Heaton, Calhoun County Water Resources Commissioner.

\_\_\_\_\_  
\_\_\_\_\_, Notary Public  
State of Michigan, County of \_\_\_\_\_  
My Comm. Expires: \_\_\_\_\_  
Acting in the County of \_\_\_\_\_

The foregoing terms and conditions set forth in this Permit have been reviewed and are accepted by the undersigned who represents that he/she is duly authorized to sign as the Permittee and to legally bind the Permittee to the specified terms and conditions herein.

[PERMITTEE] \_\_\_\_\_,

\_\_\_\_\_  
BY:  
ITS:

STATE OF \_\_\_\_\_ )  
 )ss.  
COUNTY OF \_\_\_\_\_ )

Acknowledged before me, a Notary Public, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by  
\_\_\_\_\_, a duly Authorized Agent of  
\_\_\_\_\_, a \_\_\_\_\_ Corporation.

\_\_\_\_\_  
\_\_\_\_\_, Notary Public  
State of \_\_\_\_\_, County of \_\_\_\_\_  
My Comm. Expires: \_\_\_\_\_  
Acting in the County of \_\_\_\_\_

**DRAFTED BY AND RETURN TO:**  
Fred Heaton  
Calhoun County Water Resources Commissioner  
315 W. Green Street  
Marshall, MI 49068  
(269) 781-0790