

**FCO 2022-36**

**FLOYD COUNTY BOARD OF COMMISSIONERS**

**ORDINANCE GRANTING PERMISSION AND AUTHORITY TO INDIANA  
AMERICAN WATER COMPANY, INC. TO CONSTRUCT, MAINTAIN, AND  
OPERATE A WATER LINE UNDER A PORTION OF SPICKERT KNOB ROAD**

WHEREAS, Kent Wingham (hereinafter referred to as the “Developer”), as third-party installer for Indiana American Water Company, Inc. (“IAWC”), on the \_\_\_\_ day of November 2022 filed a Petition (the “Petition”) with the Floyd County Board of Commissioners (the “Board”) for permission and authority to construct, maintain, and operate a water line under a portion of the paved area of Spickert Knob Road in Floyd County, Indiana pursuant to the provisions of Ind. Code § 8-1-2-101;

WHEREAS, IAWC is a public utility as defined by Ind. Code § 8-1-2-1(a);

WHEREAS, the Board is the executive body of Floyd County Government pursuant to the provisions of Ind. Code § 36-1-2-9;

WHEREAS, pursuant to Ind. Code § 8-20-1-15 and relevant case law, Spickert Knob Road is a public road;

WHEREAS, Ind. Code § 8-20-1-28 authorizes public utilities to construct, operate, and maintain their facilities, appliances and fixtures under any of the public roads outside of municipalities as long as they do not interfere with the ordinary and normal public use of the roadway, provided that the public utility reviews its plans with the county executive before locating the facility, appliance or fixture;

WHEREAS, pursuant to Ind. Code § 8-1-2-101, the Board has the power and authority to determine by ordinance the provisions upon which a public utility occupies the areas under the streets, highways, or other public property within Floyd County;

WHEREAS, this Ordinance shall be recorded in the office of the Recorder of Floyd County, Indiana to establish the rights and responsibilities of the Developer and IAWC; and

WHEREAS, the Board has determined that the Petition should be granted to provide water service to residents along Spickert Knob Road, all has hereinafter provided.

NOW THEREFORE, BE IT ORDAINED by the Floyd County Board of Commissioners as follows:

**1. Easement.** The Floyd County Board of Commissioners (“Grantor”) does hereby give, grant and convey unto Indiana American Water Company, Inc., a corporation organized and existing under the laws of the State of Indiana (“Grantee”), its successors assigns, forever, a non-exclusive easement under a portion of Spickert Knob Road, situated in Floyd County, Indiana,

more particularly described on Exhibit A and as shown on the sketch, Exhibit B, both attached hereto and made a part hereof, for the purpose of installing, laying, operating, maintaining, inspecting, removing, repairing, replacing, relaying and adding to from time to time water pipe or pipes, together with all necessary fittings, valves, hydrants, meters, appurtenances and attached facilities, including service lines of its customers, service pipes and laterals and connections for the transmission and distribution of water.

Together with the right to the Grantee, its successors and assigns, to use reasonable additional space adjacent to the above described easement as may be required during the periods of construction and maintenance to (i) enter in and upon the real estate described above with men and machinery, vehicles and material at any and all times for the purpose of installing, maintaining, repairing, renewing or adding to the aforesaid water pipe lines and attached facilities, (ii) remove trees, bushes, undergrowth and other obstructions interfering with the activities authorized herein, and (iii) for doing anything necessary, useful or convenient for the enjoyment of the easement herein granted.

The right of the public to freely use and enjoy its interest in the real estate is reserved to the public, insofar as the exercise thereof does not endanger or interfere with the construction, operation, and maintenance of Grantee's water pipe lines and attached facilities. Grantor and Grantee agree to coordinate regarding the placement of any other public utilities within the easement area.

TO HAVE AND TO HOLD the above granted easement unto the same Grantee, its successors and assigns forever.

The Grantee agrees, by the acceptance of this easement that, upon any opening made in connection with any of the purposes of this easement, said opening shall be backfilled and resurfaced to as nearly as possible the same condition as existed when said opening was made and in accordance with the laws and standards of Floyd County, provided that Grantee shall not be obligated to restore landscaping, other than reseeding any grass which was removed upon entry, all such work to be done at the expense of the Grantee.

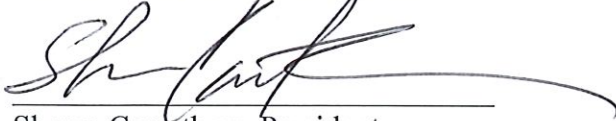
2. **Recordation.** A copy of this Ordinance shall be filed with the Floyd County Recorder.

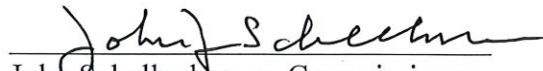
3. **Effective Date.** This Ordinance shall be in full force and effect upon its adoption.

*[The remainder of this page intentionally left blank. Signature page follows.]*

SO ORDAINED this 1 day of November, 2022, by the Floyd County Board of Commissioners.

BOARD OF COMMISSIONERS  
OF THE COUNTY OF FLOYD

  
Shawn Carruthers, President

  
John Schellenberger, Commissioner

  
Tim Kamer, Commissioner

ATTEST:

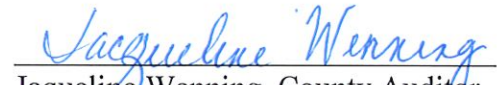
  
Jaqueline Wenning, County Auditor

EXHIBIT A

**DESCRIPTION OF PROPOSED  
INDIANA-AMERICAN WATER LINE EASEMENT  
ALONG SPICKERT KNOB ROAD**

October 24, 2022

This description was prepared by Bill Saegesser, Indiana Professional Land Surveyor, license number 80040527, not based on a survey, Job No. 2001.01, of Saegesser Engineering records. Being a part of the northeast quarter of the northeast quarter of Section 21, Township-2-South, Range-6-East, Floyd County, Indiana, and being further described as follows:

Beginning at a stone on the northeast corner of said Section 21; Thence S  $1^{\circ}28'$  W - 879.82 feet, along the line dividing said Section 21 and Section 22, to an iron pipe in the center of Spickert Knob Road, the TRUE PLACE OF BEGINNING:

Thence S  $2^{\circ}$  E - 10 feet to the south edge of pavement;  
Thence N  $69^{\circ}$  W - 103 feet to along the south edge of said pavement;  
Thence N  $20^{\circ}$  E - 10 feet to the center of said road;  
Thence S  $69^{\circ}$  E - 98 feet along the center of said road to the TRUE PLACE OF BEGINNING.

Containing 222 square feet and being subject to all legal highways and easements of record.



SEC 16  
T 2 S, R 6 E

SEC 15  
T 2 S, R 6 E

SECTION  
LINE

Apparent  
Road  
Centerline

NE QTR SEC 21  
T 2 S, R 6 E

NW QTR SEC 22  
T 2 S, R 6 E

SPICKERT KNOB ROAD

Apparent  
Right of  
Way

PROPOSED 10'±  
IAWC WATER  
MAIN EASEMENT

JONES FAMILY  
REVOCABLE TRUST  
INSTR. NO. 201117903

HEAZLITT  
INSTR. NO.  
200830044

SWANNER  
INSTR. NO. 202120308

20' INGRESS  
EGRESS EASEMENT

Note: This easement is a part of the  
northeast quarter of Section 21, Twp 2  
South, Rng 6 East, in Floyd County, Indiana.



EXHIBIT 'B'

Note: This drawing does not represent a  
survey. Information depicted is from deeds  
indicated hereon.

SPICKERT KNOB ROAD  
WATER EASEMENT  
FLOYD COUNTY COMMISSIONERS

Drawn By: WLS	File
Checked By: WAS	Name: 2001base-esmt
Drawing Scale: 1"=100'	Date: 09-08-22
	Sheet No.:

SAEGESSER ENGINEERING, INC.  
88 West McClain Ave. Scottsburg, Indiana 47170  
Phone: (812)752-8123 Fax: (812)752-7271