

COUNTY UTILITY AGREEMENT

The Board of Commissioners of Lake County, hereinafter referred to as the Board,

and

Hereinafter referred to as the Permittee, hereby agree that utility facilities consisting of

Located at:

Is hereby granted permission to be located within the highway right-of-way in accordance with the attached drawings or if no drawings are attached, all utility lines will be placed underground unless a waiver is granted by the Lake County Board of Commissioners (Resolution No. 17-05). In consideration thereof, the Permittee hereby agrees to abide by and conform to the following terms and conditions:

1. The above described utility facilities to be retained, installed, adjusted or relocated on, over, along or under the highway within the 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.
2. The Permittee hereby agrees to assume liability for making any necessary utility adjustments should future traffic conditions or road improvements necessitate when so requested by the Board and assume the cost thereof, except where Permittee has a compensable property right therein or where reimbursement of such costs is provided for by law.

The Permittee further agrees to comply with the rules and regulations of the Board in servicing, maintaining, replacing and removing the above described facilities, and to obtain a permit before performing any of these functions on such facilities located within the highway right-of-way.

3. The Permittee shall save harmless and indemnify the Board from any claim or damages of any nature whatsoever arising out of Permittee's negligence or intentional conduct in connection with any work done pursuant to this agreement.
4. During the progress of any construction undertaken within the limits of the said highway in pursuance hereof, the Permittee shall provide watchmen and flagmen as may be reasonably required by the Board for safety and convenience of the public and shall finish all barricades, signs and lights reasonably necessary to protect the public. Traffic shall be maintained at all times unless otherwise indicated hereon by special endorsement of the Board's duly authorized representative.

5. All damage to drainage structures, roadbeds, pavements and other highway appurtenances arising from the installation, maintenance or repair of Permittee's utility facilities shall be repaired at expense of Permittee. No portion of the pavement of any highway shall be disturbed without prior written permission of the Board. Upon completion of any work within limits of the highway all disturbed portions shall be replaced as nearly as practicable in as good a condition as they were when work was begun.
6. It is understood and agreed by the Board and the utility that the utilities shall comply with the current "State of Indiana, Indiana Department of Transportation Policies Covering the Use and Occupancy of Public Highway Rights-of-way by Utilities.
7. The filing of a Bond or a certificate of Insurance acceptable and approved by the Lake County Board of Commissioners for the amount of 1,000,000.00.

Disclaimer: Lake County is not responsible for damages to utilities placed in violation or variation of the permit.

***Lake County Highway Department is to be notified at (219) 663-0525 3 business days prior to digging to verify the location of county maintained facilities. Any damage done to properly located Lake County facilities will be repaired at the sole cost of Nipsco and their contractors. Properly located facilities shall be consistent per IC 8-1-26-2 Approximate Location of (2) feet on either side of the outer limits of the physical plant.**

Applicant or Authorized Representative

***BOARD OF COMMISSIONERS OF
LAKE COUNTY, INDIANA***

DATE

Recommended for Approval by:

Member

Lake County Highway Department

Member

Lake County Highway Department

Member

ATTEST:
Lake County Auditor

RESOLUTION NO. 17-05
RESOLUTION CONCERNING ALL RIGHTS-OF-WAY
IN UNINCORPORATED LAKE COUNTY

- WHEREAS,** The Lake County Board of Commissioners control the uses within all existing or proposed rights-of-way throughout the Unincorporated Lake County area; and
- WHEREAS,** The Unincorporated Lake County Subdivision Control Ordinance, Section 4.8(3) requires that "In instances where a subdivision proposed density is .5 units per acre or greater, underground utilities shall be required unless there is a verification from the utility company servicing the proposed subdivision that it cannot provide said service; also, except in the case of a subdivision of five (5) lots or less not involving any interior street."; and
- WHEREAS,** The Lake County Board of Commissioners, by and through the Lake County Highway Department, currently use a County Utility Agreement which dictates the requirements concerning utilities to be provided through the Unincorporated Lake County rights-of-way; and
- WHEREAS,** It is desirous by the Lake County Board of Commissioners to amend that County Utility Agreement to reflect and be consistent with the provisions of this Resolution; and
- WHEREAS,** The requirement for underground placement of all utility lines in subdivisions and rights-of-way in Unincorporated Lake County, without exception, has proven to be practicable; and
- WHEREAS,** The Lake County Board of Commissioners has determined that the above-ground placement of new utility poles, small cell tower facilities, or similar structures within the existing public rights-of-way, as well as proposed subdivisions as reflected by the Lake County Unincorporated Subdivision Control Ordinance, would conspicuously and detrimentally impact the area's character and aesthetic quality; and
- WHEREAS,** The Lake County Board of Commissioners therefore consider all existing public rights-of-way and proposed rights-of-way located within the unincorporated area of

Lake County to be designated strictly for underground or buried utilities unless not practicable to do so and unless waived as provided herein; and

WHEREAS, The Lake County Board of Commissioners hereby desire to grant to themselves, upon recommendation by the Lake County Highway Department, the ability to grant waivers to the requirements of this Resolution for any existing unincorporated rights-of-way upon showing of good cause, which good cause is solely within the discretion of the Lake County Board of Commissioners and in addition, grant the Lake County Plan Commission Director the ability to grant waivers to the requirements of this Resolution for any proposed subdivision and/or right-of-way in accordance with its Subdivision Control Ordinance mentioned above, upon showing of good cause, which good cause is solely in the discretion of the Lake County Plan Commission Director.

NOW THEREFORE BE IT RESOLVED by the Board of Commissioners and the County of Lake as follows:

1. That all existing rights-of-way located in Unincorporated Lake County, Indiana are hereby declared to be areas designated strictly for underground or buried utilities.
2. That proposed rights-of-way that are controlled by the Unincorporated Lake County Subdivision Control Ordinance, are hereby declared to be areas designated strictly for underground or buried utilities as reflected by that Ordinance.
3. That waivers to the requirements of this Resolution and these provisions shall be allowed as follows:
 - a. That for existing rights-of-way in unincorporated Lake County, the Lake County Board of Commissioners, upon recommendation by the Lake County Highway Department, will have the ability to grant waivers to a request contrary to the requirements of this Resolution for any existing unincorporated rights-of-way upon showing of good cause, which good cause is solely within the discretion of the Lake County Board of Commissioners.

- b. For any proposed subdivision and/or right-of-way, the Board of Commissioners grants to the Lake County Plan Commission Director the ability to grant waivers to a request contrary to the requirements of this Resolution, upon showing of good cause, which good cause is solely in the discretion of the Lake County Plan Commission Director.
4. That there shall be no new utility pole, small cell tower facility, wireless support structure or similar above-ground structure placed within any public right-of-way, without waiver as all rights-of-way are now declared to be strictly for underground or buried utilities. This prohibition shall not preclude co-location of small cell tower facilities on existing utility poles and wireless support structures within the area, and shall not preclude replacement of existing utility poles and wireless support structures within the area.
5. That this policy shall be applied fairly and equally to all and shall be applied in a non-discriminatory manner.
5. That the current County Utility Agreement being used by the Lake County Highway Department shall be amended to reflect and be consistent with the provisions of this Resolution.

So Resolved, Passed and adopted this 28th day of April, 2017 by the Lake County Board of Commissioners, Lake County, Indiana.

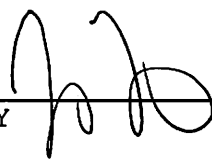
LAKE COUNTY BOARD OF COMMISSIONERS

ATTEST:


MICHAEL REPAY


JOHN PETZLAS
LAKE COUNTY AUDITOR

KYLE ALLEN


JERRY TIPPY

DECLARATION OF LAKE COUNTY INDIANA'S COUNCIL SUPPORTING
THE LAKE COUNTY BOARD OF COMMISSIONERS' RESOLUTION NO.17-05
A RESOLUTION CONCERNING ALL RIGHTS-OF-WAY
IN UNINCORPORATED LAKE COUNTY, INDIANA

WHEREAS, The Lake County Board of Commissioners passed Resolution No. 17-05 on April 28, 2017; and

WHEREAS, Resolution No. 17-05 which is attached hereto, is a Resolution which declares that all rights-of-way in unincorporated Lake County, Indiana shall hereinafter require underground placement of all utility lines unless a waiver is granted in accordance with said Resolution; and

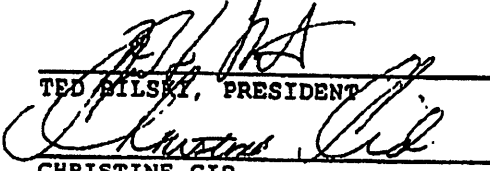
WHEREAS, The Lake County Council makes this Declaration in support and in agreement with that Resolution and the declarations contained therein.

NOW THEREFORE BE IT DECLARED by the Lake County Council and the County of Lake as follows:

1. That the Lake County Council hereby makes this declaration in support of the Lake County Commissioners' Resolution No. 17-05, a resolution concerning all rights-of-way in unincorporated Lake County.
2. That the Lake County Council hereby agrees that all rights-of-way throughout the unincorporated Lake County, Indiana area are hereinafter required to have all proposed utility lines located in these rights-of-way to be placed underground unless waived pursuant to said Resolution.

So Declared this 28th day of April, 2017 by the Lake County Council, Lake County, Indiana.

LAKE COUNTY COUNCIL


TED BILSKY, PRESIDENT

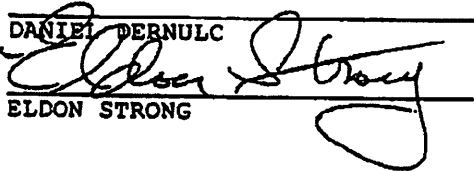

CHRISTINE CID


DAVID HAMM


JAMAL WASHINGTON

ELSIE BROWN-FRANKLIN


DANIEL DERNULC


ELDON STRONG