

701 Briarheath

REVOCABLE RIGHT-OF-WAY PERMIT
City Code Chapter 919

Permit No. P-17-0185

Definition. Public right-of-way means the surface and space above and below any real property in which the City has an interest in law or in equity, whether held in fee, or other estate or interest, or as trustee for the public, including, but not limited to, all public streets and public easements, as those terms are defined herein, sidewalks, trees, lawns and other property, but only to the extent of the City's right, title, interest or authority to grant a construction permit. (§919.01)

Indemnification. Permit holder expressly undertakes to defend, indemnify and hold the City and its elected and appointed officers, officials, employees, volunteers, agents, representatives and subcontractors harmless from and against any and all damages, losses and expenses, including reasonable attorney's fees and costs of suit or defense, arising out of, resulting from or alleged to arise out of or result from the negligent, careless or wrongful acts, omissions, failures to act or misconduct of the applicant or its affiliates, officers, employees, agents, contractors or subcontractors in proposed construction in the public right-of-way, whether such acts or omissions are authorized, allowed or prohibited by Chapter 919 of the Codified Ordinances of the City of Napoleon, Ohio. This provision survives termination of the permit.

Construction Schedule and OUPS. The permit holder shall submit a written construction schedule to the City ten (10) working days before commencing any construction work in or about the public right-of-ways. The permit holder shall further notify the City and the Ohio Utility Protection Service (OUPS) not less than forty-eight (48) hours in advance of any excavation in the public right-of-ways. The permit holder shall promptly complete all construction activities so as to minimize disruption of the public right-of-ways and other public or private property.

Duty to Install in Compliance. The permit holder shall construct, install, repair, operate and maintain its facilities in the public right-of-ways in accordance with all applicable federal, state and local codes, rules and regulations.

Inspection. All work performed in the public right-of-way during construction shall be subject to the inspection by the Inspector. If so ordered by the Inspector, all work that does not comply with the permit, the approved plans and specifications for the work, or the requirements of this chapter, shall immediately cease and shall be immediately corrected and/or removed by the permit holder.

Protection of Site. At all times during construction, the permit holder or other person acting on its behalf shall use suitable barricades, flags, flagmen, lights, flares and other measures as necessary and in accordance with applicable state and local requirements, including the Ohio Department of Transportations Uniform Manual of Traffic Control Devices, for the safety of all members of the general public and to prevent injury or damage to any person, vehicle or property by reason of such work in or affecting such public right-of-way or property. The Inspector may issue any additional orders he or she deems appropriate pursuant to this section, and the permit holder shall promptly comply with all such orders. At all times the work shall be done so as to cause the least inconvenience to property owners and the general public.

Least Disruption Technology. All construction work performed in the public right-of-way shall be performed in the manner resulting in the least amount of damage and disruption of the public right-of-way. (a) **Underground facilities.** (1) Whenever any existing electric utilities, cable facilities, telecommunications facilities or other similar Facilities are located underground in the public right-of-way of the City, the permit holder must, when practical, as determined by jointly by the City Engineer, also locate its facilities underground, permit holder utilizing best efforts to do so. (2) Unless otherwise authorized by the Inspector for good cause, construction of underground facilities shall utilize trenchless technology, including, but not limited to, horizontal drilling, directional boring, and microtunneling, if technically and/or technology feasible. In addition, all cable, wire or fiber optic cable facilities to be installed underground shall be installed in conduit, without using direct bury techniques. (b) **Overhead Facilities.** In the event underground location of its facilities is not practical, the permit holder shall install its facilities only on existing utility poles. In the event it is not practical to do so, as determined by the City Engineer after consultation with the City Electrical Superintendent, permit holder utilizing best efforts to do so, then new utility poles may be erected and used with the City's permission. Nothing in this provision shall be construed as eliminating any requirement of permit holder's to obtain facility attachment agreements with public or private owners of poles and/or infrastructure and pay any fees associated therewith. (c) **Excess Capacity.** To reduce excavation in the public right-of-way, it is the City's goal to encourage permit holders to share occupancy of underground conduit as well as to construct, whenever possible, excess conduit capacity for occupancy of future facilities in the public right-of-way. Therefore, if a permit holder is constructing underground conduit in the public right-of-way for its own facilities, and the City reasonably determines such construction is in an area in which other providers would likely construct facilities in the future, the City may require the permit holder to construct extra conduit capacity in the public right-of-way, provided the permit holder shall be reimbursed for the use of the excess capacity by any other permit holder that uses the excess capacity. The permit holder may charge a reasonable market lease rate for occupancy of the additional conduit space as reimbursement. (d) **City Owned Conduit.** If the City owns or leases conduit in the path of a permit holders proposed construction of facilities, and provided it is technologically feasible for the permit holders facilities to occupy the conduit owned or lease by the City, the permit holder shall be required to occupy the conduit owned or leased by the City in order to reduce the necessity to excavate the public right-of-way. The permit holder shall pay to the City a reasonable fee for such occupancy. The City and the permit holder may agree to amortize the fee through annual payments to the City.

Restoration in General. (a) The permit holder shall, after the construction work is completed and at its own expense, promptly remove any obstructions from, and restore the public right-of-ways or other City or private property, and provide property improvements, fixtures, structures and facilities damaged during the course of construction within ten (10) days, or longer at the City's discretion, to as good a condition as existed before the work was undertaken, unless otherwise directed by the City. (b) If weather or other conditions do not permit the complete restoration required by this Section, the permit holder shall temporarily restore the affected public right-of-ways or property. Such temporary restoration shall be at the permit holders sole expense and the permit holder shall promptly undertake and complete the required permanent restoration when the weather or other conditions no longer prevent such permanent restoration.

Landscape Restoration. (a) Subject to paragraph (b) below, all authorized trees, landscaping and grounds removed, damaged or disturbed as a result of the Construction must be replaced or restored as nearly as may be practicable, to the condition existing prior to performance of work. (b) All restoration work within the public right-of-ways shall be done in accordance with landscape plans as provided by the permit holder and as approved by the City Engineer.

Relocation and Removal Facilities. Within thirty (30) days following written notice from the City, the permit holder shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any of its facilities in the public right-of-ways whenever the City shall have determined that such removal, relocation, change or alteration is reasonably necessary for: (a) The Construction, reconstruction, repair, maintenance or installation of any City or other public improvement in or upon the public right-of-ways. (b) The operations of the City or other governmental entity in or upon the public right-of-way. (c) Whenever any existing electric utilities, cable facilities, telecommunications facilities or other similar facilities are located or relocated underground in the public right-of-ways of the City, the permit holder shall relocate its facilities underground within a reasonable period of time as determined by the City. Absent extraordinary circumstances or undue hardship, as determined by the City, such relocation shall be made concurrently to minimize the disruption of the public right-of-ways.

Assignments and Transfers of Permit. Ownership or working or ultimate control of this Permit may not be, directly or indirectly, transferred, assigned or disposed of by sale, lease, merger, consolidation or other act of the permit holder, by operation of law or otherwise, without consent of the City. Consent of the City shall not be required if ownership or control of the permit is transferred to any entity controlling, controlled by or under common control with the permit holder; provided that: (a) The City is notified of the proposed transfer on or before the date of transfer; and, (b) At the time of such notification, the permit holder and the transferee shall certify to the City that the transferee; (1) is licensed to do business in Ohio; and, (2) Shall comply with the conditions of the permit including the insurance and construction and performance bond requirements.

Curb Cutting, Inspection Fees. No person shall cut any curb on any of the streets or highways within the City without first having secured a permit to do so. The permit will be issued by the City Engineering Department upon the condition that permit holder cut or reinstall said curb at permit holder's expense, whichever is applicable as determined by the City Engineer, to City specifications. In addition to any other fees, an inspection of one dollar (\$1.00) per lineal foot shall be charged for the cutting of any curbs.

Appeals. (a) Any permit holder or applicant for a permit under this chapter has thirty (30) days of receipt of any decision rendered by the City Engineer or Inspector with respect to this chapter to appeal such decision. Such appeal shall be timely filed with the City Manager for review and final determination. The City Manager shall review the appeal and shall issue its determination no later than ten (10) days after receipt of the appeal. Such appeal shall be limited in scope as to whether or not the City Engineer or Inspector abused his or her discretion or was arbitrary or capricious in his or her decision. Such hearing shall be recorded with sworn testimony. (b) The decision of the City Engineer or Inspector shall stand pending the decision of the City Manager; further, the appeal process does not bar the City Engineer or Inspector to cause to be removed any obstruction from the right-of-way pending the decision of the City Manager when such action is deemed immediately necessary by such City Engineer or Inspector to preserve the health, safety or welfare of the public. (c) The appeal process as provided for in this chapter does not bar the filing of criminal charges under this chapter, nor is it applicable thereto.

Penalty. A violation of any of the provisions of Chapter 919 of the Codified Code of Napoleon, Ohio shall constitute a misdemeanor of the minor degree. Each day a violation continues shall be considered a separate offense.

Duration: This permit expires when the reason for the issuance of the permit is satisfied; or, on the date of SEPTEMBER 30 2017; or, when otherwise revoked by the City

in writing, whichever comes first.

(Application dated 2017-05-19 incorporated into this permit by reference thereto).

Accept Terms and Conditions:

By:

By: City Engineer



Permit Acceptance

Permit Issued To: ENBELKE CONSTRUCTION SOLUTIONS

On this 22 day of MAY, 20 17.



CERTIFICATE OF LIABILITY INSURANCE

ENGEL-1 OP ID: GY

DATE (MM/DD/YYYY)
05/08/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Fitzgibbons Arnold & Company P.O. Box 45520 Cleveland, OH 44145-0520 Christopher J. Arnold	CONTACT NAME: Jackie Ross PHONE (A/C, No, Ext): 800-837-3640 E-MAIL ADDRESS: Jross@fitzarn.com	FAX (A/C, No): 440-892-3630
	INSURER(S) AFFORDING COVERAGE	
INSURED Engelke Construction Solutions LLC 150 Pearl Road Brunswick, OH 44212-1116	INSURER A: Valley Forge Insurance Company	NAIC # 20508
	INSURER B: Continental Casualty Company	20443
	INSURER C: Continental Insurance Co	35289
	INSURER D:	
	INSURER E:	
	INSURER F:	


COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
B	<input checked="" type="checkbox"/> GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR	X	PMT 6042875335	07/22/2016	07/22/2017	EACH OCCURRENCE \$ 1,000,000
	GENL AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC					DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ 15,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
A	<input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS		BUA 6042875352	07/22/2016	07/22/2017	<input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS
	<input type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTIONS 10,000					COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (PER ACCIDENT) \$
C	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTIONS 10,000		CUE 6042875349	07/22/2016	07/22/2017	EACH OCCURRENCE \$ 5,000,000
	<input type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY <input type="checkbox"/> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below					AGGREGATE \$ 5,000,000
B	Installation Leased & Rented		PMT 6042875335	07/22/2016	07/22/2017	<input type="checkbox"/> WC STATUTORY LIMITS <input checked="" type="checkbox"/> OTHER
						OHIO EMPLOYERS LIABILITY
B	Installation		PMT 6042875335	07/22/2016	07/22/2017	(Install) 50,000
B	Leased & Rented		PMT 6042875335	07/22/2016	07/22/2017	L&R 30,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
 The City of Napoleon is included as an additional insured as required by written contract to the extent of form CNA75079. 30 day notice of cancellation applies.

CERTIFICATE HOLDER**CANCELLATION**

CITYNA1 The City of Napoleon 255 W. Riverview Avenue Napoleon, OH 43545	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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Ohio

**Bureau of Workers'
Compensation**

30 W. Spring St.
Columbus, OH 43215

Certificate of Ohio Workers' Compensation

This certifies that the employer listed below participates in the Ohio State Insurance Fund as required by law. Therefore, the employer is entitled to the rights and benefits of the fund for the period specified. This certificate is only valid if premiums and assessments, including installments, are paid by the applicable due date. To verify coverage, visit www.bwc.ohio.gov, or call 1-800-644-6292.

This certificate must be conspicuously posted.

Policy number and employer

1535620

ENGELKE CONSTRUCTION SC
150 PEARL ROAD
BRUNSWICK, OH 44212

www.bwc.ohio.gov
Issued by:



Period specified below
07/01/2016 through
06/30/2017

Samuel J. ...
Administrator/CEO

You can reproduce this certificate as needed.

Ohio Bureau of Workers' Compensation

Required Posting

Effective Oct. 13, 2004, Section 4123.54 of the Ohio Revised Code requires notice of rebuttable presumption. Rebuttable presumption means an employee may dispute or prove untrue the presumption (or belief) that alcohol or a controlled substance not prescribed by the employee's physician is the proximate cause (main reason) of the work-related injury.

The burden of proof is on the employee to prove the presence of alcohol or a controlled substance was not the proximate cause of the work-related injury. An employee who tests positive or refuses to submit to chemical testing may be disqualified for compensation and benefits under the Workers' Compensation Act.

Ohio

**Bureau of Workers'
Compensation**

You must post this language with the Certificate of Ohio Workers' Compensation

Attached Not Attached: The location of all known overhead and underground public utility, utility, telecommunications, cable, water, sanitary sewer, storm water drainage and other existing facilities in the public right-of-way along the route of the applicants proposed construction, sufficient to show any impact of the applicant's facilities on other existing facilities.

Attached Not Attached: If the applicant is proposing to construct or locate facilities above ground: (a) Evidence that surplus space is available for locating its facilities on existing utility poles along the proposed route; and, (b) The location and route of all facilities to be located or installed on existing utility poles.

Attached Not Attached: If the applicant is proposing an underground installation of new facilities in existing ducts, pipes or conduits in the public rights-of-way, information in sufficient detail to identify: (a) The excess capacity currently available in such ducts or conduits before the installation of the applicants facilities; and, (b) The excess capacity, if any, that will exist in such ducts or conduits after installation of the applicants facilities.

Attached Not Attached: If the applicant is proposing an underground installation of new facilities in new ducts or conduits to be constructed in the public right-of-way: (a) The location and depth proposed for the new ducts or conduits; and, (b) The excess capacity that will exist in such ducts or conduits after installation of the applicants facilities.

Attached Not Attached: The construction methods to be employed for protection of existing structures, fixtures and facilities in or adjacent to the public right-of-ways.

Attached Not Attached: The structures, improvements, facilities and obstructions, if any, that the applicant proposes to temporarily or permanently remove or relocate.

Attached Not Attached: The impact of construction on trees in or adjacent to the public right-of-ways along the route proposed by the applicant, together with a landscape plan for protecting, trimming, removing, replacing and restoring any trees or areas disturbed during construction.

Attached Not Attached: Certificate of Insurance demonstrating compliance with the insurance provisions. Applicant shall maintain and file with the City a certificate evidencing a commercial, general and liability insurance policy, issued by a company authorized to write insurance in the State and designating the City as an additional insured, in the following amounts (or such other amounts determined to be adequate by the City Engineer):

- (1) One million dollars (\$1,000,000.00) for any and all claims for bodily injury or death for each person;
- (2) Three million dollars (\$3,000,000.00) for any and all claims for bodily injury or death for each accident;
- (3) Five hundred thousand dollars (\$500,000.00) for all other types of liability; and,
- (4) Ten million dollars (\$10,000,000.00) excess liability or umbrella coverage for each accident arising out of the work to be performed pursuant to the construction permit or the prosecution of the work for which the construction permit is obtained or in any manner arising or growing out of the work necessary or incident to the issuance of the construction permit or that may be occasioned by reason of any work or anything else done pursuant to the construction permit. The insurance coverage shall be on an occurrence coverage basis so that the insurance required by this section shall provide coverage through the end of the period established by the applicable statute of limitations for all items insured. Such insurance policy shall require written notification to the City thirty (30) days prior to any expiration or cancellation.

The Applicant shall show to the reasonable satisfaction of the City that the applicant has workers compensation insurance in effect at all times covering its obligations under the workers compensation statute.

No waiver of insurance shall be granted by the City Engineer unless, the nature of the construction work poses little or no risk to the public, as determined in writing by the City Engineer. Waived Not Waived

\$ _____ Fee: Paid Waived: Fee shall be waived by the City Engineer when the item being placed into or near the right-of-way is a mailbox or other permissible material that will require no inspection, as determined by the City Engineer.

Performance Bond Approved

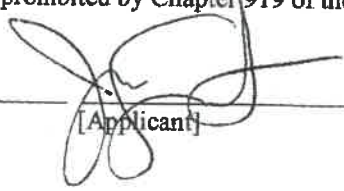
Performance Bond Waived

[This blacked portion to be completed by authorized City official ONLY]

CAUTION:

By signing this application, you are agreeing on behalf of the person and/or entity you are representing to all the terms, conditions, rules and regulations as required by Chapter 919 of the Codified Ordinances of the City of Napoleon, Ohio as now in effect or as may be later amended. Applicant warrants that he/she has the authority to make such application to the City of Napoleon, Ohio. Finally, applicant hereby expressly undertakes to defend, indemnify and hold the City and its elected and appointed officers, officials, employees, volunteers, agents, representatives and subcontractors harmless from and against any and all damages, losses and expenses, including reasonable attorneys fees and costs of suit or defense, arising out of, resulting from or alleged to arise out of or result from the negligent, careless or wrongful acts, omissions, failures to act or misconduct of the applicant or its affiliates, officers, employees, agents, contractors or subcontractors in proposed construction in the public right-of-way, whether such acts or omissions are authorized, allowed or prohibited by Chapter 919 of the Codified Ordinance of the City of Napoleon, Ohio.

05/09/17
[Date]



Jason Scharton

[Applicant]

Project Manager

[Title]