

RUSH RIVER WATER RESOURCE DISTRICT
UTILITY PERMIT

_____, with a post office address of _____ (“Applicant”), applies for this Permit to install _____ across, over, through, under, or over _____ (the “Drain”) on right of way or facilities owned or controlled by the Rush River Water Resource District (the “District”), as depicted in the plans attached as **Exhibit A** (“Applicant’s Utilities”).

Applicant may install Applicant’s Utilities across, over, through, under, or over the Drain as specifically depicted on **Exhibit A**. Installation, operation, and maintenance of Applicant’s Utilities on the District’s right of way will conform to the following provisions:

1. Applicant will complete construction and maintenance at Applicant’s sole expense.
2. Applicant will place Applicant’s Utilities at the designated depth below the original design grade as set forth in the plans attached as **Exhibit A**.
3. Within 30 days after construction, maintenance, relocation, or removal of Applicant’s Utilities, Applicant will remove any right of way scars; Applicant will restore any disturbed areas to original condition; and Applicant will re-seed the vicinity disturbed by Applicant’s activities. Applicant will maintain any disturbed areas for a period of one year from the date of completion.
4. Applicant will install marker posts at all the Drain crossings on the right of way line, or at any other point as designated by the District.
5. Applicant will complete installation, maintenance, relocation, and/or removal of Applicant’s Utilities on the District’s right of way in a manner that does not impact or damage the Drain.
6. The District will not be liable for any damages to Applicant’s Utilities resulting from reconstruction, modifications, or maintenance of the Drain or any of the District’s facilities or right of way. The District will not be liable or responsible for any damages or injuries to Applicant or any of Applicant’s employees, officers, contractors, subcontractors, consultants, agents, representatives, licensees, and invitees resulting from or in any way arising out of any entry upon or use of the District’s right of way.

7. Applicant will release, defend, indemnify, and hold harmless the District, and all of the District's employees, officers, agents, consultants, and representatives, from and against any and all claims, demands, causes of action, or demands for relief, including costs, expenses, and attorneys' fees, that may arise out of or result from any acts or omissions of Applicant or any of Applicant's employees, officers, contractors, subcontractors, consultants, agents, representatives, licensees, and invitees regarding this Permit, Applicant's Utilities, or any accident, injury, or damage to any person, property, or equipment as a result of any entry upon or use of the District's right of way or property. Applicant's indemnity obligations under this Permit will survive any termination.
8. Applicant, at Applicant's sole cost, will repair or replace the District's structures, facilities, right of way, or any other property owned by the District damaged as a result of Applicant's installation, operation, and maintenance of Applicant's Utilities on the District's right of way, or otherwise as a result of Applicant's entry upon or use of the District's right of way.
9. Applicant will promptly remove Applicant's Utilities from the District's right of way, or will relocate or adjust Applicant's Utilities, all at Applicant's sole cost and expense upon notice from the District, as reasonably necessary for purposes of constructing, cleaning, inspecting, reconstructing, modifying, operating, maintaining, repairing, or improving the Drain.
10. Applicant will be solely responsible for promptly complying with all present and future laws, ordinances, rules, and regulations of any other federal, state, county, or local governments or governmental entities which may be applicable regarding Applicant's Utilities or Applicant's activities. Further, Applicant will be solely responsible for obtaining all applicable licenses, permits, or other approvals necessary, if any, regarding Applicant's Utilities or Applicant's activities under this Permit.
11. Applicant will be solely responsible for all costs and expenses associated with complying with Applicant's obligations under this Permit.
12. Applicant will not transfer or assign this Permit, nor any of Applicant's rights or obligations under this Permit, without the express written consent of the District.
13. Applicant will provide reasonable notice to the District in advance of Applicant's commencement of installation of Applicant's Utilities.
14. Applicant will complete construction within one year from the date of the District's approval or this Permit is void.

15. Upon Applicant's completion of installation of Applicant's Utilities, Applicant will promptly notify the District. Within 60 days of Applicant's completion, Applicant will provide the District with as-built drawings of Applicant's Utilities. The District, in its discretion, may require an inspection of Applicant's Utilities to ensure compliance with this Permit. Applicant will be responsible for the District's costs associated with the inspection; following an inspection, the District will provide Applicant with notice of costs incurred and Applicant will reimburse the District within 60 days.
16. If Applicant fails to perform any of Applicant's obligations under this Permit within a reasonable time following request or demand from the District, the District may perform Applicant's obligations and may recover its costs incurred by assessing the costs against any property owned by Applicant in Cass County, North Dakota, including any attorneys' fees incurred in attempting to collect the amounts due, or by other legal means of collection.
17. The failure or delay of the District to insist on the timely performance of any of the terms of this Permit, or the waiver of any particular breach of any of the terms of this Permit, at any time, will not be construed as a continuing waiver of those terms or any subsequent breach, and all terms will continue and remain in full force and effect as if no forbearance or waiver had occurred. Upon the occurrence of any default by Applicant, if Applicant fails to correct any default or violation within a reasonable time following request or demand from the District, the District may declare this Permit void and may otherwise enforce the provisions of this Permit and take any and all other actions necessary, in law or in equity, to collect all amounts due under this Permit or to enforce any of Applicant's other obligations under this Permit. The remedies provided for in this Permit are cumulative and not exclusive and are in addition to any and all other remedies available to the District under North Dakota law. Applicant will be responsible for all of the District's costs and expenses, including reasonable attorneys' fees, incurred in enforcing, collecting, or attempting to collect under this Permit, or incurred in litigating the terms or validity of this Permit.
18. The District does not warrant fee simple ownership of its Drain right of way. Applicant is solely responsible for obtaining any additional consents that may be necessary from any adjacent or underlying landowners.
19. Applicant is solely responsible and liable for all acts and omissions of its employees, officers, contractors, subcontractors, consultants, agents, representatives, licensees, and invitees.
20. Special Conditions: See conditions attached as **Exhibit B**.

Applicant agrees to the above terms and conditions. This application will become effective as a Permit upon execution by both Applicant and the District.

APPLICANT:

By: _____

Its: _____

Contact Information for Applicant:

Mailing Address:

Phone Number:

Email Address:

RUSH RIVER WATER
RESOURCE DISTRICT

Melissa Hinkemeyer
Secretary

Date Approved: _____

Contact Information for the District:

Melissa Hinkemeyer
Secretary
Cass County Water Resource Districts
1201 Main Avenue West
West Fargo, ND 58078-1301
Phone: 701-298-2381
HinkemeyerM@casscountynd.gov

EXHIBIT A
Applicant's Plans

EXHIBIT B
Special Conditions