

## **Exhibit "C"**

### **TEMPORARY CONSTRUCTION EASEMENT**

The undersigned, as Grantors, convey and grant to the City of Franklin, Indiana (the "City"), by and through its Board of Public Works and Safety, as Grantee, and to its assigns, a temporary, exclusive construction easement over, under, in, along, across, and upon certain real property (the "Property") owned by the Grantors, as more specifically described in the attached Exhibit "A" – Property Description, for use in the initial construction and installation of the improvements and other construction purposes reasonably related to the initial construction of a new public right-of-way, together with the following rights granted to Grantee: (i) the right to stage and store vehicles, construction machinery, equipment, materials and supplies in, on, and over the Property, and (ii) the right of ingress and egress in, upon, over, and across the Property and portions of the Property as necessary. The rights granted to Grantee pursuant to the Temporary Construction Easement shall be exercised by Grantee at all times in a reasonable manner.

**RIGHTS RETAINED BY GRANTOR.** Grantor and those claiming through Grantor reserve the right of use of the Property for any legal purposes not inconsistent with this Agreement; however, Grantor and those claiming through Grantor shall not create, transfer or grant any indenture, easement, license or other property interest affecting the Property to a third party and shall not place or construct, or cause or allow any placement or construction of, any structure, obstruction, or other improvement on the Property, without written consent of Grantee in Grantee's sole and absolute discretion. Grantee shall have the right, privilege, and authority to remove from the Property, without liability to Grantee or any obligation to restore, any structures, obstructions, or other improvements which existed at the time of execution of this Agreement or which hereafter are placed or constructed, or caused or allowed to be placed or constructed, by Grantor, its successors, or assigns without the written consent of Grantee. The terms "structures" and "obstructions", as used herein, shall include, without limitation, fences, buildings, asphalt and/or concrete pavement, curbing or other similar items, trees, bushes, earthen or other materials, levees, walls, berms, or other structures.

**NATURE OF EASEMENT AND RIGHTS.** The Temporary Construction Easement and other rights created by this Agreement shall be temporary, terminating upon the delivery of written notice from Grantee to Grantor noting that Grantee no longer requires the Temporary Construction Easement. Upon termination of this Agreement, the parties shall execute a release of this Agreement and place it of record in the Johnson County Recorder's Office.

**LAST DEED OF RECORD.** In accordance with Ind. Code 32-23-2-5, the most recent deed of record by which Grantor holds title is Instrument No.: \_\_\_\_\_.

**GRANTOR'S REPRESENTATIONS AND COVENANTS.** Grantor makes the following representations and warranties for the purpose of inducing Grantee to accept the Temporary Construction Easement: a. Grantor is the owner in fee simple of the Property, is lawfully seized thereof and has a good right to grant and convey the Temporary Construction Easement pursuant to this Agreement, warrants the quiet enjoyment thereof, and will warrant and defend Grantee's

title and interest in said Temporary Construction Easement against all claims. b. There are not indentures, easements, or licenses of any kind or character on the Property that would materially and adversely affect the rights of Grantee pursuant to the Temporary Construction Easement. c. There are no other encumbrances, leases, liens, or options of any kind or character on the Property as granted that would materially and adversely affect the rights of Grantee pursuant to the Temporary Construction Easement.

**GRANTEE'S REPRESENTATIONS AND COVENANTS.** Grantee covenants that, subject to the rights, privileges, and authority hereunder, in the exercise of such rights, privileges and authority, Grantee shall restore, if applicable, that portion of the Grantors' adjoining property disturbed by Grantee. Said restoration shall be limited to the Grantee re-grading and seeding the portion of Grantors' adjoining property that is disturbed by Grantee.

**MISCELLANEOUS** a. Binding Agreement. This Agreement shall run with the Property, be a burden on the Property and shall be binding upon Grantor, Grantee and all successors and assigns. b. Governing Law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Indiana. Any lawsuit filed in connection with this Agreement shall be filed in Johnson County, Indiana. c. Litigation. Grantor and Grantee agree that any litigation associated with or arising from this Agreement shall be filed with a court of competent jurisdiction within Johnson County in the State of Indiana. d. Liens. Grantor covenants and represents that to the best of its knowledge the Property is not presently the subject of any federal, state or states, or local environmentally related lien, proceeding, claim, liability or action or the threat or likelihood thereof. e. Environmental Liability. Grantor agrees that between Grantor and Grantee, the acceptance of this Agreement by Grantee shall not increase the liability of Grantee for environmentally related claims arising from or related to conditions on the Grantor Parcel prior to the acceptance of the Agreement. f. Taxes, Assessments. Grantor agrees that this Agreement shall not transfer to Grantee any past, present, or future obligation(s) of Grantor to be responsible for, or to pay, any tax, assessment, or fee associated with or related to the Grantor Parcel. g. Modification, Release. The parties agree that this Agreement shall only be modified or released by the express, written agreement of both Grantor and Grantee. h. Authority. The undersigned represents and warrants that (he)(she) has full authority to convey the real estate interest described herein; that pursuant to resolution of the board of directors or shareholders of Grantor or by the by-laws of Grantor, (he)(she) has full authority to execute and deliver this instrument on its behalf and that said authority has not been revoked; that (he)(she) is therefore fully authorized and empowered to convey to Grantee the real estate of Grantor and that on the date of execution of this Agreement (he)(she) had full authority to so act; and that all necessary action for the making of this conveyance has been duly taken. i. Entire Agreement. Grantor and Grantee agree that this Agreement, and the documents incorporated herein, represent the entire understanding between Grantor and Grantee. The signing of this Agreement by Grantor and Grantee constitutes their mutual recognition that no other agreements or promises, oral or written, except as attached hereto and incorporated herein, exists between them, and that if such oral or written agreements or promises exist, such are hereby cancelled. Grantor and Grantee hereby represent to the other that Grantor and Grantee will not rely upon any agreement, promise or understanding not incorporated herein at the time of execution of this Agreement or not reduced to writing, incorporated in written amendments to this Agreement, and recorded. j. Severability. The invalidity or unenforceability of any covenant,

condition, term or provision in this Agreement shall not affect the validity or enforceability of any other covenant, condition, term or provision contained herein. k. Counterparts. This Agreement may be executed in counterparts, and by each of the parties on separate counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one in the same instrument.

NOTICE. All notices, requests, demands, consents and other communications required or permitted under this Agreement shall be in writing and shall be deemed to have been duly and properly given on the date of service if delivered personal, or, if mailed, on the second business day after such notice is deposited in a receptacle of the United States Postal Service, registered or certified mail, first class postage prepaid, return receipt requested, or on the first business day following deposit with a nationally recognized overnight courier service (e.g., FedEx), postage prepaid, in any event addressed appropriately as follows:

To The Linvilles:	Mr. and Mrs. Fred and Helen Linville 2504 North Graham Road Franklin IN 46131
To the RDC:	Franklin Redevelopment Commission 70 East Monroe Street Franklin, IN 46131
To the City:	City of Franklin, Indiana Attn: Mayor's Office 70 East Monroe Street Franklin IN 46131

Agreed this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Mr. and Mrs. Linville

By: \_\_\_\_\_  
Maurice Fred Linville

By: \_\_\_\_\_  
Helen A. Linville

Agreed this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

City of Franklin, Indiana - Board of Public Works and Safety

By: \_\_\_\_\_  
Steve Barnett, Mayor

By: \_\_\_\_\_  
Bob Swinehamer, Member

By: \_\_\_\_\_  
Lisa Jones, Member

Attest: \_\_\_\_\_  
Jayne W. Rhoades, Clerk-Treasurer

Prepared by:

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