



500 West Big Beaver
Troy, MI 48084
troymi.gov



CITY COUNCIL AGENDA ITEM

Date: September 7, 2021

To: Mark F. Miller, City Manager

From: Robert J. Bruner, Assistant City Manager
Kurt Bovensiepe, Public Works Director
William J. Huotari, City Engineer

Subject: 2022 Annual Permit for Work on State Trunk Line Right of Way and Performance Resolution for Municipalities

History:

The Michigan Department of Transportation (MDOT) recommends that an Annual Permit be applied for every year. The last application by Troy was in 2021. We have routinely applied for individual permits when we have projects within or encroaching on MDOT right of way.

The Annual Permit allows for emergency operations, maintenance activities, etc. to be completed without the need for an individual permit. Advance notice through the MDOT electronic Construction Permit System (CPS) is still required to notify MDOT that an agency will have activity in their right of way.

An individual permit is project specific and typically related to planned construction in MDOT right-of-way, such as a water main or sewer crossing.

Secondarily, the attached Performance Resolution for Municipalities (Form 2207B) was revised in May 2021 so an updated Resolution is required for 2022. The Resolution serves as the bond and insurance for a municipality so that we do not have to provide these items separately if and when a permit is needed.

Financial:

There is no cost to file the Annual Permit. Approval of the Performance Resolution for Municipalities will save time and potentially money as we would not be required to provide the required bonds and insurance as the Resolution is used in their place.

Recommendation:

Staff recommends that City Council approve the attached Performance Resolution for Municipalities.

Furthermore, staff recommends that the City Manager, Public Works Director and City Engineer be authorized to apply annually to MDOT for the necessary permit to work within State Highway Right of Way on behalf of the City.



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF TRANSPORTATION
OAKLAND TRANSPORTATION SERVICE CENTER

PAUL AJEGBA
DIRECTOR

September 1, 2021

2022 ANNUAL PERMIT FOR WORK ON STATE TRUNKLINE RIGHT OF WAY

The MDOT Oakland TSC is now accepting 2022 Annual Permit applications. All permit applications are to be submitted via the MDOT electronic Construction Permit System (CPS). The 2022 Annual Permit will be effective January 1, 2022. Your current 2021 Annual Permit shall continue to be used for any work occurring between now and December 31, 2021.

The Performance Resolution for Governmental Agencies (Form 2207B) was revised in May 2021, therefore, if you haven't done so already, an updated Resolution will be required for 2022. The form shall include the name or title of the designated person(s) authorized to sign permits and shall be uploaded into CPS with your Annual Permit application. I have attached a copy of the form and it can also be found on the internet at www.michigan.gov/mdot.

Each time you perform work under your Annual Permit you will need to submit an electronic Advance Notice via the MDOT electronic CPS system. No work shall be performed until the Advance Notice is approved by MDOT.

An Individual Permit is required for all proposed operations in the MDOT right of way not covered under the Annual Permit.

Municipalities, when working within their municipal limits, are exempt from permit fees.

Thank you for your cooperation. If you have any additional questions, feel free to contact me at 248-895-2558 or MDOT Permit Agent Fred Roeder at 248-208-5894.

Sincerely,

Stacey Gough
Oakland TSC Utility/Permit Engineer
goughs@michigan.gov

cc: File

PERFORMANCE RESOLUTION FOR MUNICIPALITIES

This Performance Resolution (Resolution) is required by the Michigan Department of Transportation for purposes of issuing to a Municipality an "Individual Permit for Use of State Highway Right of Way", and/or an "Annual Application and Permit for Miscellaneous Operations within State Highway Right of Way".

RESOLVED WHEREAS, the _____ City of Troy
(County, City, Village, Township, etc.)

hereinafter referred to as the "MUNICIPALITY," periodically applies to the Michigan Department of Transportation, hereinafter referred to as the "DEPARTMENT," for permits, referred to as "PERMIT," to construct, operate, use and/or maintain utilities or other facilities, or to conduct other activities, on, over, and under State Highway Right of Way at various locations within and adjacent to its corporate limits;

NOW THEREFORE, in consideration of the DEPARTMENT granting such PERMIT, the MUNICIPALITY agrees that:

1. Each party to this *Resolution* shall remain responsible for any claims arising out of their own acts and/or omissions during the performance of this *Resolution*, as provided by law. This *Resolution* is not intended to increase either party's liability for, or immunity from, tort claims, nor shall it be interpreted, as giving either party hereto a right of indemnification, either by Agreement or at law, for claims arising out of the performance of this Agreement.
2. If any of the work performed for the MUNICIPALITY is performed by a contractor, the MUNICIPALITY shall require its contractor to hold harmless, indemnify and defend in litigation, the State of Michigan, the DEPARTMENT and their agents and employee's, against any claims for damages to public or private property and for injuries to person arising out of the performance of the work, except for claims that result from the sole negligence or willful acts of the DEPARTMENT, until the contractor achieves final acceptance of the MUNICIPALITY Failure of the MUNICIPALITY to require its contractor to indemnify the DEPARTMENT, as set forth above, shall be considered a breach of its duties to the DEPARTMENT.
3. Any work performed for the MUNICIPALITY by a contractor or subcontractor will be solely as a contractor for the MUNICIPALITY and not as a contractor or agent of the DEPARTMENT. The DEPARTMENT shall not be subject to any obligations or liabilities by vendors and contractors of the MUNICIPALITY, or their subcontractors or any other person not a party to the PERMIT without the DEPARTMENT'S specific prior written consent and notwithstanding the issuance of the PERMIT. Any claims by any contractor or subcontractor will be the sole responsibility of the MUNICIPALITY.
4. The MUNICIPALITY shall take no unlawful action or conduct, which arises either directly or indirectly out of its obligations, responsibilities, and duties under the PERMIT which results in claims being asserted against or judgment being imposed against the State of Michigan, the Michigan Transportation Commission, the DEPARTMENT, and all officers, agents and employees thereof and those contracting governmental bodies performing permit activities for the DEPARTMENT and all officers, agents, and employees thereof, pursuant to a maintenance contract. In the event that the same occurs, for the purposes of the PERMIT, it will be considered as a breach of the PERMIT thereby giving the State of Michigan, the DEPARTMENT, and/or the Michigan Transportation Commission a right to seek and obtain any necessary relief or remedy, including, but not by way of limitation, a judgment for money damages.
5. The MUNICIPALITY will, by its own volition and/or request by the DEPARTMENT, promptly restore and/or correct physical or operating damages to any State Highway Right of Way resulting from the installation construction, operation and/or maintenance of the MUNICIPALITY'S facilities according to a PERMIT issued by the DEPARTMENT.

6. With respect to any activities authorized by a PERMIT, when the MUNICIPALITY requires insurance on its own or its contractor's behalf it shall also require that such policy include as named insured the State of Michigan, the Transportation Commission, the DEPARTMENT, and all officers, agents, and employees thereof and those governmental bodies performing permit activities for the DEPARTMENT and all officers, agents, and employees thereof, pursuant to a maintenance contract.
7. The incorporation by the DEPARTMENT of this *Resolution* as part of a PERMIT does not prevent the DEPARTMENT from requiring additional performance security or insurance before issuance of a PERMIT.
8. This *Resolution* shall continue in force from this date until cancelled by the MUNICIPALITY or the DEPARTMENT with no less than thirty (30) days prior written notice provided to the other party. It will not be cancelled or otherwise terminated by the MUNICIPALITY with regard to any PERMIT which has already been issued or activity which has already been undertaken.

BE IT FURTHER RESOLVED that the following position(s) are authorized to apply to the DEPARTMENT for the necessary permit to work within State Highway Right of Way on behalf of the MUNICIPALITY.

Title and/or Name:

City Manager, Public Works Director and City Engineer

I HEREBY CERTIFY that the foregoing is a true copy of a resolution adopted by

the _____ City Council
(Name of Board, etc.)
of the _____ City of Troy _____ of _____ Oakland County
(Name of MUNICIPALITY) (County)
at a _____ Regular _____ meeting held on the _____ 13th _____ day
of _____ September _____ A.D. _____ 2021 _____.

Signed

Title

Print Signed Name