



ADMINISTRATIVE REPORT

Report Date: September 22, 2011
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Meeting Date: October 6, 2011

TO: Standing Committee on City Services and Budgets
FROM: General Manager of Engineering Services and the
Director of Legal Services
SUBJECT: Proposed Street Utilities By-law

RECOMMENDATION

- A. THAT Council approve the implementation of a by-law and a permit system to regulate access to city streets and city support structures by utility companies installing, repairing or operating utility equipment.
- B. THAT the Director of Legal Services be directed to prepare and bring forward to Council a proposed Street Utilities By-law generally in accordance with Appendix A of this report.

GENERAL MANAGER'S COMMENTS

The General Manager of Engineering Services and the Director of Legal Services RECOMMEND approval of Recommendations A and B.

CITY MANAGER'S COMMENTS

The City Manager RECOMMENDS approval of Recommendations A and B.

COUNCIL POLICY

Section 290 of the *Vancouver Charter* provides that no person may excavate in or damage a street except under terms and conditions imposed by Council. To date, Council has regulated the activities of utility companies accessing city streets to install or operate equipment by establishing terms and conditions in Municipal Access Agreements (MAAs) that are approved on a case by case basis.

An encroachment onto City streets by an adjacent property owner is addressed by the Encroachment By-law and is not covered by the proposed Street Utilities By-law.

PURPOSE

The proposed Street Utilities By-law sets out the standard terms and conditions to be met before any utility company may access a street to install or operate its equipment. The by-law approach would streamline the access and approval process, reduce both Council and staff work load, reduce industry costs associated with negotiating unique agreements and deal with those installing equipment in City streets in a consistent and therefore equitable manner.

BACKGROUND

The City has entered into access agreements for utility installations in streets since the early 1900's. Over the years, access agreements have been required for all persons (other than adjacent property owners) seeking access to streets (including lanes) for the installation and operation of utility equipment. The City has entered into agreements with Telus, Fortis BC (formerly Terasen Gas and BC Gas), Central Heat Distribution Limited and BC Hydro, among others. Many of these agreements remain in effect, but because they have been signed at various times, there are many inconsistencies in the provisions of these agreements.

These access agreements generally specify:

- the conditions of access to the streets;
- the technical specifications to be followed in installing utility equipment;
- provisions to facilitate the restoration of the street; and
- provisions to reimburse the City for some of its costs.

Some of these agreements, particularly those signed with telecommunications companies in the late 1990's, included the payment to the City of various fees for the City granting access to streets. Older agreements with Telus, BC Hydro and Fortis BC do not provide for this.

Over the past ten years, the Federation of Canadian Municipalities and municipalities across Canada have been involved in Canadian Radio-television and Telecommunications Commission (CRTC) adjudications and litigation with various telecommunications companies concerning the terms of their access to municipal streets. The proposed bylaw has been drafted to take into account relevant CRTC decisions, including the most recent CRTC decision related to MTS Allstream concerning access to Vancouver's streets, as well as the earlier decision of the Federal Court of Appeal in the Ledcor case.

In September 2006, after the decision in the Ledcor case but before the CRTC decision in the MTS Allstream application, Council approved the circulation of a draft Street Utilities By-Law to the utility companies for their review and comment. Now that the CRTC has concluded the MTS Allstream application in a way which staff consider balances taxpayer and industry interests, staff have revised the draft by-law accordingly and can now bring it to Council for review.

Given that there are a large number of existing agreements and differing legislation governing Metro Vancouver, Translink, BC Hydro, FortisBC, etc., a full transition to the broad application of the by-law will take time. We have been in discussion with all the key partners, reviewing the status of our shared agreements and making plans with each one on the way forward in regard to the by-law.

There are in many cases existing agreements that supersede all or part of the by-law and these arrangements will remain in affect. Over time, as agreements expire, agencies will have the opportunity to fall under the by-law or negotiate new agreements that parallel the key aspects of the by-law. The City is taking a flexible approach with each partner to ensure the transition is seamless.

DISCUSSION

It is in the public interest that utility companies, including telecommunications companies, have access to City streets to install equipment required to provide service to their customers, however the access terms should protect the public interests. In reviewing the options for regulating utilities in City streets, staff has determined that a by-law of general application with terms that apply equally to all utilities is preferable to negotiating with each company resulting in MAAs with differing terms and conditions.

The proposed Street Utilities By-law would exempt any utility that has a valid MAA with the City, but only with respect to the issues dealt with in that MAA (BC Hydro, Fortis BC, Central Steam Heat Distribution and MTS Allstream). Ultimately, it is our intention to have all utility companies covered by the by-law or through agreements with similar terms.

The proposed by-law provides for the following:

1. City to manage streets

The City manages the installation, replacement, repair, removal, and operation of equipment in its streets including determining the routing of installations, their location within the street, technical specifications, construction scheduling, traffic control, as well as requiring that record drawings be provided to the City upon project completion.

The by-law provides that all powers exercisable by Council under the by-law are delegated to a "Street Utilities Committee" including the General Manager of Engineering Services.

2. Recovery of municipal costs

Currently the City recovers the following:

- Lost parking meter revenue as provided in the Parking Meter By-law;
- Traffic management costs (signage and hooding meters) as provided in the Street and Traffic By-law; and
- Some pavement restoration costs as provided in various municipal access agreements between the City and utility companies.

Cost recovery as proposed in the by-law is limited to only costs incurred by the City that are directly attributable to the installation or operation of the utility. If the proposed Street Utilities By-law is enacted, the costs noted above will continue to be collected and at the

same time additional costs will be recovered. This approach is consistent with the Ledcor and MTS Allstream decisions and will result in consistency in the treatment of all the utility companies.

Additional current costs to be recovered include:

- The costs incurred by the City as a result of staff reviewing utility plans, assisting the utility service provider or other user with route planning, and maintaining the database of locations of all equipment within City streets;
- The costs incurred by the City as a result of staff inspecting equipment installed in the streets;
- The estimated cost to the City of pavement degradation caused by the utility installation (the cost associated with the decrease in lifespan plus future maintenance costs when pavement is cut for a utility, even when properly repaired); and
- The estimated cost of lost productivity on a case by case basis (the cost associated with the extra work incurred by City crews constructing City utilities and having to work around the utilities owned by others).

3. Other provisions

As a result of utility equipment in our streets, the City is exposed to increased claims liability, which should be assumed by those receiving the benefits of using City streets. For this reason, the permit application form, which is provided for in the proposed by-law, contains provisions whereby the utility company agrees, in consideration for the issuance of the permit, to indemnify the City and release the City from liability which might arise in relation to installation or maintenance of equipment in a City street.

Infrequently, the City may need to relocate some equipment placed in City streets by a utility company if that location is required for a municipal purpose. The proposed by-law provides the City with that capability and sets out a cost sharing formula between the City and the utility company. This general approach was endorsed in the MTS Allstream Case and would improve consistency in the treatment of all utility companies.

FINANCIAL IMPLICATIONS

While the City is currently being reimbursed for some of the costs it incurs in allowing access to City streets, there is not complete cost recovery. The new fees included in the proposed by-law are:

1. Plan Review and Administration Fee
2. Inspection Fee
3. Pavement Degradation Cost
4. Lost productivity reimbursement

The first two fees have been set at a level expected to recover the cost of providing that service if all utility companies were required to pay. It is expected that these fees will recover approximately \$200,000 per year in current City expenditures.

The objective of the third fee proposed in the by-law is to recover the additional long term maintenance costs associated with the upkeep of the pavement repair for any related utility

cuts. This is a new principle, albeit one that was supported in the Ledcor decision for the telecommunications industry. Of particular note, City utilities (Sewer and Water) are already paying the pavement degradation costs, on the principle that the City must treat all utility providers equally.

The lost productivity reimbursement is intended to compensate the City for the additional costs incurred while installing its own infrastructure where the additional cost is attributable to the presence of other equipment in the street. In addition to an invoice, the utility companies will receive an explanation of the costs including a description of the methodology and data sources used by the city to determine the cost elements included in calculating lost productivity costs. It should be noted that these costs will only be recovered where they are documented on a case by case basis, which is only practical in the more extreme situations.

COMMUNICATIONS PLAN

Because regulation by by-law is a new approach to the use of City streets by utility companies, it was important there be consultation with the utilities that would be affected. The first round of consultation took place in 2006 as per previous Council direction. Changes to the draft by-law had been made to reflect comments received from utility companies and the most recent CRTC decision in the MTS Allstream case.

In September 2010, staff resubmitted the draft by-law to 18 utility companies for their review and comment since there had been additional changes and a significant amount of time since the last consultation period. At the time the utility companies were advised that the intent was to have the by-law enacted before the end of 2010.

Since that time City staff has worked closely with some companies to discuss their concerns and many of their comments were incorporated as changes into the proposed by-law. The general themes of the comments were:

- Permit process and fees - concern around paying inspection fee and overhead, questions around initial fee and cost estimates required at time of application, desire to have invoice time extended and notification time reduced;
- Insurance and Letters of Credit - requests for blanket letters of credit, concern around naming the City on insurance;
- Pavement Degradation Cost and restoration - questions about how the pavement age will be determined, believe some restoration measures are excessive, would like an 'approved contractor list';
- Contract vs. By-Law language - questions regarding lack of language around acting reasonably or in good faith and dispute resolution.

Staff will continue to work with the stakeholders after enactment of the by-law to monitor implementation.

CONCLUSION

The *Vancouver Charter* provides that no person may excavate in or damage a street except, under terms and conditions imposed by Council. Staff recommends that utility work in City

streets now be regulated by a by-law of general application, with terms which would apply equally to all utility companies.

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VANCOUVER BRITISH COLUMBIA



STREET UTILITIES BY-LAW NO. _____

STREET UTILITIES BY-LAW

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BY-LAW NO. _____

A By-law to regulate, and to impose terms
and conditions on, utilities which occupy streets

THE COUNCIL OF THE CITY OF VANCOUVER, in public meeting, enacts as follows:

SECTION 1
INTERPRETATION

Name of By-law

1.1 The name of this By-law, for citation, is the "Street Utilities By-law".

Definitions

1.2 In this By-law:

"applicant" means a person who is eligible, under section 3.1, to apply for a permit;

"approved alignment" means a location in a street or on a city support structure, approved by the street utilities committee, in which a permit holder may do work under a permit or carry on a use;

"approved work area" means a location in a street or on a city support structure, adjacent to an approved alignment and approved by the street utilities committee, which a permit holder may occupy to do work in an approved alignment under a permit;

"city standards" mean those terms and conditions, described as the "Utility Design and Construction Standards" and the "Street Restoration Manual", that:

- (a) Council has approved concurrently with enactment of this By-law,
- (b) the street utilities committee amends from time to time, and
- (c) are posted on the city's website,

to regulate any work or use or the conduct of any work or use, and that, at the time of application for a permit, are current;

"city support structure" means a support structure that the city owns or controls;

“claims” mean direct losses, including costs on a solicitor-client basis, common law or statutory penalties or fines, demands, suits, actions, orders, judgments, or proceedings, at law or at equity;

“equipment” includes:

- (a) systems, structures, utilities, and facilities including telecommunication facilities defined in the Telecommunications Act (Canada),
- (b) poles, cables, wires, governors, regulators, pipes, ducts, conduits, pedestals, vaults, braces, anchors, anchor rods, amplifiers, connection panels, transformers, valves, fittings, and other equipment whether or not any of them form part of or are accessory to the systems, structures, utilities, or facilities referred to in subsection (a), and
- (c) wireless facilities, located under the street, that provide for the transmission, emission, or reception of voice, data, video, and other signals by electromagnetic waves propagated in space;

“in a street” means in, on, over, or under a street;

“lost parking meter revenue” means a calculation of lost parking meter revenue for parking meters removed from service as a result of the work, based on the following formula:

Number of meter hours removed from service X Applicable hourly meter rate in the Parking Meter By-law X Occupancy rate of 0.605,

but does not include an overhead charge or similar loading factor;

“pavement degradation” means the diminished lifespan or the increased need for maintenance of the pavement structure of a street resulting from the conduct of work in that street;

“permanent restoration” means restoration of the surface of a street to a condition as near as possible to or better than that which existed before a permit holder has excavated, broken up, or otherwise disturbed the street during the course of doing work, including:

- (a) the repair or replacement of curbs, sidewalks, poles, conduits, or other facilities,
- (b) testing, backfilling, permanent patching, and line painting,

- (c) if repaving or overlaying of the pavement has occurred during the five year period immediately prior to the date of issuance of the permit for such work, grinding and overlaying or repaving the full lane width of pavement, and
- (d) if repaving or overlaying of the pavement has occurred during the two year period immediately prior to the date of issuance of the permit for such work, grinding and overlaying or repaving the full width of the pavement from curb to curb;

“permit” means a permit, issued by the street utilities committee under section 3.8, to do work or to carry on a use;

“permit holder” means an applicant to whom the street utilities committee issues a permit under section 3.8;

“person” means an individual, partnership, corporation, trustee, government, government agency, board or commission, or other legal entity capable of suing or being sued, but does not mean a regional district which is party to a binding and enforceable agreement with the city whereby the city carries out work on behalf of the regional district;

“re-locate” or “re-location” means a change in the alignment of equipment by either or both line and elevation;

“security” means any letter of credit or other security referred to in Section 5;

“street utilities committee” means a committee comprised of the city’s General Manager of Engineering Services and an Assistant City Engineer;

“support structure” means a terrestrial or non-terrestrial infrastructure in a street including a bridge, viaduct, and utility pole;

“use” as a noun, means to occupy, or to operate equipment in, an approved alignment; and

“work” means to:

- (a) excavate, or to place, erect, install, construct, repair, maintain, alter, extend, replace or re-locate equipment, in a street or on a city support structure, or to remove equipment from a street or city support structure; and
- (b) do all things ancillary to the work described in subsection (a), as required by this By-law, including temporary restoration, permanent restoration which the permit holder, under section 3.3(i), has elected to undertake, and removal from the approved work area and approved

alignment of all abandoned equipment and all surplus sand, rubbish, and other materials resulting from the work;

but does not include:

- (c) installation, construction, repair, maintenance, alteration, extension or removal of equipment above the surface of a street, where no part of the equipment is on or under the surface of the street;
- (d) routine maintenance of equipment under a street; or
- (e) installation of equipment in existing ducts under a street,

that does not involve excavation of a street or, in the opinion of the street utilities committee, cause undue disruption to a street or city support structure or to users of a street or city support structure.

Calculation of costs

1.3 Calculation of the city's costs of doing anything under this By-law using its own work force or engaging an independent contractor is to include, without duplication, those costs plus an amount equal to 20% of those costs to cover the city's overhead and administrative expenses.

Table of contents

1.4 The table of contents for this By-law is for convenient reference only, and is not for assistance in interpreting or enforcing this By-law.

Schedules

1.5 The schedules attached to this By-law form part of this By-law.

Severability

1.6 A decision by a court that any part of this By-law is illegal, void, or unenforceable severs that part from this By-law, and is not to affect the balance of this By-law.

SECTION 2 APPLICATION OF BY-LAW

Application of By-law

2.1 A person must not do work or carry on a use unless that person complies with:

- (a) the provisions of this By-law;

- (b) the terms and conditions of any permit that applies to the work or use; and
- (c) all other by-laws of the city that apply to the work or use, unless such compliance would result in the inability of the person to comply with this By-law.

Agreements for work or use

2.2 Despite section 2.1, if a person who intends to do work or carry on a use is a party to a binding and enforceable agreement with the city that deals with such work and use, then only those provisions of this By-law which are not the subject of a term or condition of the agreement will apply to that work or use.

Work or use and adjacent property

2.3 Despite section 2.1, if a person who intends to do work or carry on a use owns an interest in real property adjacent to the street where the person is to do the work or carry on the use, the work and use is to benefit that real property, and the Encroachment By-law deals with such work and use, then this By-law does not apply.

SECTION 3 PERMIT PROCESS

Applicant for permit

3.1 The person named in an application for a permit as the applicant must be the owner of the equipment that is the subject of the work or use, and not an employee, agent, contractor, or consultant of the owner.

Application for permit generally

3.2 An applicant for a permit must submit to the street utilities committee an application, in the form prescribed in Schedule C, signed by the applicant or by an individual who has legal authority to bind the applicant.

Application for permit to do work

3.3 If the application is for a permit to do work, the applicant must submit, with the application:

- (a) proposed plans and specifications, in a format which complies with city standards, detailing the:
 - (i) work,
 - (ii) alignment of the work including area, elevation, and distance,

- (iii) work area,
 - (iv) construction methods and materials,
 - (v) equipment including the configuration, number and size of pipes, ducts, chambers, and manholes,
 - (vi) aesthetic and safety considerations for work above ground, and
 - (vii) existing equipment and support structures in or about the proposed alignment that the work may affect;
- (b) a proposed traffic management plan, that complies with city standards, for the vehicular, bicycle and pedestrian traffic the work may impact;
 - (c) a proposed schedule of timing for doing the work;
 - (d) the plan review and administration fee calculated on the basis set out in Part 1 of Schedule A to this By-law;
 - (e) the inspection fee calculated on the basis set out in Part 2 of Schedule A to this By-law;
 - (f) an estimate of the cost to the city of permanent restoration after completion of the work, based upon the quantities of restoration necessary, the unit costs of such work, calculated on the basis set out in Part 3 of Schedule A, and the applicable city standards;
 - (g) an estimate of the cost to the city of pavement degradation, based upon the age of the surface of the pavement as determined by the street utilities committee and the cost for each square metre of excavation, calculated on the basis set out in Part 4 of Schedule A, and the applicable city standards;
 - (h) such other information regarding the work as the street utilities committee may require in connection with its decision whether or not to issue the permit; and
 - (i) an election as to whether or not, after completion of the work, the applicant wishes to undertake permanent restoration.

Application for permit for use

3.4 If the application is for a permit to transfer an existing permit, as required by section 4.4, the applicant must submit, with the application, such other information as the street utilities committee may require.

Refusal to issue permit for work

- 3.5 If:
- (a) the applicant is in breach of any term or condition of:
 - (i) this By-law,
 - (ii) any other city by-law that applies to the proposed work or use, or
 - (iii) any existing permit related to equipment that the proposed work may affect;
 - (b) the proposed plans and specifications for the work:
 - (i) are incomplete or inaccurate, or
 - (ii) do not meet city standards;
 - (c) the proposed alignment or proposed work area conflicts with other existing or planned work;
 - (d) proposed work that is on or over the street does not meet city standards regarding aesthetics or safety;
 - (e) the proposed work on a city support structure does not meet city standards regarding aesthetics or safety;
 - (f) the proposed traffic management plan does not meet the city standards;
 - (g) the proposed schedule of timing for doing the work is not acceptable to the street utilities committee;
 - (h) the estimate of the cost of permanent restoration is not in accordance with this by-law and city standards;
 - (i) the estimate of the cost of pavement degradation is not in accordance with this by-law and city standards;
 - (j) the applicant has not paid the fees under section 3.3(d) or (e);
 - (k) the street utilities committee refers the application to Council, and Council decides that the proposed work or use is not in the public interest or will unduly interfere with public use and enjoyment of the street; or
 - (l) the applicant fails to submit the information required under section 3.3(h) or (i) within the time stipulated by the street utilities committee;

then the street utilities committee must refuse to issue a permit.

Refusal to issue permit for use

3.6 If:

- (a) the permit holder referred to in section 4.4 is in breach of any term or condition of:
 - (i) this By-law,
 - (ii) any other city by-law that applies to the work that is the subject of the use referred to in the application, or
 - (iii) any existing permit related to equipment that is the subject of the use referred to in the application; or
- (b) the applicant fails to submit the information required by the street utilities committee under section 3.4 or such information does not meet city standards;

then the street utilities committee must refuse to issue the permit.

Refund of fees in case of refusal

3.7 If the street utilities committee refuses to issue a permit under section 3.5, the street utilities committee must refund to the applicant the fee referred to in section 3.3(e) but the plan review and administration fee referred to in section 3.3(d) is non-refundable.

Issuance of permit

3.8 If no ground of refusal set out in section 3.5 or 3.6 applies, the street utilities committee must issue a permit in the form prescribed by the street utilities committee.

Terms and conditions of permit

3.9 The street utilities committee may attach to the permit one or more terms and conditions that are to apply to the work or use including:

- (a) any requirements that are to apply to work on, or use of, a city support structure;
- (b) a date or dates by which the work must be completed;
- (c) a date or dates during which the work must be temporarily suspended;
- (d) any requirements in regards to work schedules or equipment location that are necessary to accommodate other street users and other municipal public purposes; and

- (e) a description of any city works that:
 - (i) are proposed or contemplated in a street or on a city support structure,
 - (ii) are not works solely for the beautification of the city or for aesthetic purposes, and
 - (iii) will require the future relocation of the work to another approved alignment.

SECTION 4 EFFECT OF PERMIT

Non-exclusive licence

4.1 Subject to the terms and conditions of this By-law and the permit, issuance of a permit gives the permit holder the non-exclusive license to:

- (a) enter the approved work area to do work in the approved alignment; and
- (b) carry on the use in the approved alignment.

Limits on scope of permit

4.2 Issuance of a permit does not:

- (a) confer any exclusive rights or privileges on the permit holder;
- (b) restrict the grant of similar or concurrent rights or privileges to other persons whether or not the grant of such rights or privileges would enable another person to carry on a use competitive with the permit holder's use;
- (c) give the permit holder priority over the existing rights of any other person who does work or carries on a use in or about the approved alignment;
- (d) give any interest in land to the permit holder;
- (e) entitle the permit holder to register or file in any government office any instrument, claim, or notice with respect to the work that is the subject of the permit, the approved alignment, or the use;
- (f) constitute consent for the permit holder to do work on a support structure unless the permit expressly sets out such consent and conditions that are to apply to such work;
- (g) make the equipment that is the subject of the work the property of the city;

- (h) constitute approval, or waiver of approval, of the work under any other city by-law or under any laws of other competent authorities; or
- (i) constitute permission to interfere in any manner with any existing equipment or support structures.

Non-disposition of permit

4.3 A permit holder must not dispose of the permit, or any of the permit holder's rights or obligations under the permit, to another person.

Disposition of ownership of equipment

4.4 If a permit holder disposes of ownership of the equipment in an approved alignment to another person then, at least 30 days before the effective date of the disposition:

- (a) the permit holder must deliver notice to the street utilities committee of such effective date; and
- (b) the person who is to acquire ownership of that equipment must apply for a permit under section 3.4.

Exceptions to disposition requirements

4.5 Section 4.4 does not apply to:

- (a) a change in the effective voting control of the permit holder;
- (b) a consolidation, merger, or amalgamation of the permit holder with another person; or
- (c) utilization of space within ducts, conduits, or similar equipment under section 4.6.

Utilization of space by another person

4.6 Despite section 4.3, a permit holder may allow another person to utilize space within the permit holder's ducts, conduits, or similar equipment in an approved alignment but, in connection with the utilization of such space, the permit holder:

- (a) despite section 3.1, must be the applicant for any permit; and
- (b) must be responsible for compliance with the terms and conditions of this By-law and of any permit referred to in section 4.6(a).

SECTION 5 SECURITY

Letters of credit or other security

5.1 Before work is commenced under a permit, the street utilities committee may require that the permit holder provide a letter of credit that meets the terms and conditions set out in Schedule B to this By-law in an amount equal to the estimated:

- (a) permanent restoration cost referred to in section 3.3(f); and
- (b) pavement degradation cost referred to in section 3.3(g);

or, instead of such letters of credit, standing letters of credit, cash or other security acceptable to the street utilities committee.

No interest

5.2 The permit holder is not entitled to any interest from the city on the amount of the security.

SECTION 6 PROOF OF INSURANCE

Insurance

6.1 Before work is commenced under a permit, the street utilities committee may require that the permit holder obtain and maintain comprehensive/commercial general liability insurance:

- (a) in an amount of at least \$5,000,000.00 inclusive per occurrence;
- (b) that names the city as an additional named insured for all claims arising out of the work;
- (c) that contains an endorsement to give the street utilities committee at least 60 days prior notice by registered mail of cancellation, lapse, or material change;
- (d) that remains in effect until any release and indemnity granted by the permit holder to the city expires; and
- (e) that is otherwise satisfactory to the city's director of risk management in accordance with the city's standard requirements for similar insurance.

Certificate of Insurance

6.3 Before work is commenced under a permit, the street utilities committee may require that the permit holder deliver to the street utilities committee a certificate issued by

the insurer, in a form satisfactory to the city's director of risk management, evidencing such insurance.

SECTION 7 CONDUCT OF WORK

Supervision of work

7.1 The permit holder must:

- (a) retain a competent individual to supervise the work, and cause such individual to be present at the approved alignment at all times during the course of the work; and
- (b) if such individual is not an employee of the permit holder, ensure that a representative of the permit holder is available by telephone at all times during the course of the work.

Revisions to schedule for work

7.2 The street utilities committee may deliver notice to the permit holder from time to time that the street utilities committee:

- (a) requires revisions to the schedule for any remaining work, for municipal or public purposes; or
- (b) approves revisions to the schedule for any remaining work requested by the permit holder;

and the permit holder, from and after the date of receipt of such notice, must comply with such revisions.

Conduct of work

7.3 The permit holder must do the work:

- (a) in the approved work area and approved alignment;
- (b) in compliance with the plans and specifications for the work approved by the street utilities committee;
- (c) in compliance with the traffic management plan for the work approved by the street utilities committee;
- (d) in compliance with all terms and conditions attached to the permit;
- (e) in compliance with city standards;

- (f) in compliance with the schedule or revised schedule of work approved from time to time by the street utilities committee;
- (g) in a good and workmanlike manner;
- (h) in a manner that safeguards all support structures or equipment in or about the approved alignment or approved work area; and
- (i) in a manner that does not interfere unduly with public use and enjoyment of the street in which the permit holder is doing the work.

Inspection of work

7.4 The permit holder must:

- (a) notify the street utilities committee when the work is ready for inspection as required by the permit; and
- (b) allow city inspectors to inspect the work at any time.

Stop work order

7.5 If:

- (a) the permit holder, in doing the work, fails to comply with the requirements of this By-law;
- (b) a city inspector advises that the approved alignment, approved work area, or surrounding street is unsafe; or
- (c) the work, or manner of doing the work, interferes unduly with public use and enjoyment of the street in which the permit holder is doing the work;

then:

- (d) the city inspector may give the permit holder's supervisor or representative written or verbal notice to stop work immediately by reason of a default or problem under subsection 7.5 (a), (b), or (c);
- (e) the permit holder must comply immediately with any written or verbal notice from the city inspector to make the approved alignment, approved work area, or surrounding street safe, and otherwise comply with the directives of the city inspector; and
- (f) except as set out in section 7.5(e), work must not proceed until the permit holder has satisfied the street utilities committee that the permit holder has rectified such default or problem.

Removal of abandoned equipment and surplus material

7.6 During the course of the work, as appropriate, and before completion of the work, the permit holder, at its cost, must remove from the approved work area and approved alignment all abandoned equipment which conflicts with the approved alignment and all surplus sand, rubbish, and other materials resulting from the work.

SECTION 8 COMPLETION OF WORK

Submission of record drawings

8.1 Within 30 days after completing the work, the permit holder must submit record drawings to the street utilities committee.

Requirements for record drawings

8.2 Record drawings must:

- (a) be sufficient, in the opinion of the street utilities committee, to accurately establish the exact location, elevation and distance of the work, including duct sizes and configurations, relative to property lines; and
- (b) comply with city standards.

Deficiencies in record drawings

8.3 If the street utilities committee delivers notice to the permit holder that the record drawings referred to in section 8.1 do not comply with the requirements in section 8.2, and specifies the deficiencies, the permit holder must correct the record drawings until they are in compliance with the requirements in section 8.2.

Corrections to work

8.4 If, after completion of any work, the street utilities committee decides that the permit holder has not done the work in compliance with the terms and conditions of this By-law, the permit for the work, and city standards:

- (a) the street utilities committee may deliver to the permit holder notice to rectify such defect, fault, or breach;
- (b) the permit holder must rectify such defect, fault, or breach within the lesser of:
 - (i) 15 days after receipt of the notice referred to in section 8.4(a),

- (ii) the number of days specified by the street utilities committee in such notice, and
- (iii) immediately in case of emergency;
- (c) if the permit holder refuses or fails to rectify as required by section 8.4(b), the city may do so; and
- (d) if the city does work under section 8.4(c), the permit holder must pay the city its costs of doing the work within 30 days after receipt of an invoice for such costs from the street utilities committee.

SECTION 9 RESTORATION

Temporary restoration

9.1 As part of completing the work, the permit holder, at its cost, must temporarily restore the surface of the street in compliance with city standards and the permit for the work.

Inspection of temporary restoration

- 9.2 The permit holder must inspect the temporary restoration once a month, except that:
- (a) in the case of permanent restoration done by the city, there must be an inspection by the permit holder during the period that is the lesser of 30 days after completion of the temporary restoration and completion of permanent restoration; and
 - (b) in the case of permanent restoration done by the permit holder, there must be monthly inspections until the completion of permanent restoration;

and if the permit holder discovers a deficiency, the permit holder must give immediate notice to the street utilities committee.

Responsibility for temporary restoration

- 9.3 If, within the relevant period set out in section 9.2, a deficiency in the temporary restoration occurs:
- (a) after discovering a deficiency during an inspection under section 9.2 or on receipt of notice from the street utilities committee, the permit holder must correct the deficiency;
 - (b) the permit holder must correct the deficiency within the lesser of:

- (i) 15 days after discovery of the deficiency or receipt of the notice under section 9.3(a), and
- (ii) immediately in case of emergency;
- (c) if the permit holder refuses or fails to rectify as required by section 9.3(b), the city may do so; and
- (d) if the city does work under section 9.3(c), the permit holder must pay the city its costs of doing the work within 30 days after receipt of an invoice for such costs from the street utilities committee.

Responsibility for temporary restoration of several works

9.4 If temporary restoration is required as the result of works performed by several permit holders, sections 9.1, 9.2 and 9.3 will apply and those permit holders must, at their cost, temporarily restore the surface of the street in compliance with city standards and the permits for the work, and the responsibility and costs will be apportioned among the permit holders based on the area of the work.

Permanent restoration by permit holder

9.5 If the permit holder, under section 3.3(i), elects to undertake permanent restoration, the permit holder, at its cost, must:

- (a) submit proposed plans and specifications for the permanent restoration that are in accordance with city standards and are satisfactory to the street utilities committee;
- (b) undertake and complete the permanent restoration in accordance with the approved plans and specifications, city standards, the permit for the work, and specifications set out by the street utilities committee from time to time;
- (c) use only materials and mix design which comply with city standards;
- (d) submit test results for materials used; and
- (e) submit a certification, signed by a professional engineer or other materials testing professional approved by the street utilities committee, that the work of the permanent restoration complies with the requirements of this section 9.5.

Responsibility for permanent restoration by permit holder

9.6 If, within one year after completion of the permanent restoration referred to in section 9.5, a deficiency in the restoration occurs:

- (a) the street utilities committee may deliver notice of such deficiency to the permit holder; and
- (b) after receiving such notice, the permit holder must correct the deficiency to city standards;

except that such one year limitation does not apply to any backfilling deficiency.

Cost of permanent restoration by city

9.7 If:

- (a) the permit holder, under section 3.3(i), elected not to undertake permanent restoration; or
- (b) the permit holder fails to commence or complete permanent restoration under section 9.5;

and the city undertakes and completes such permanent restoration:

- (c) the street utilities committee is to invoice the permit holder for the cost to the city of permanent restoration after completion of the work, based upon the quantities of restoration necessary, the unit costs of such work, as set out in Part 3 of Schedule A, and the applicable city standards; and
- (d) within 30 days after receipt of such invoice, the permit holder must pay the city such cost.

Realization on permanent restoration security

9.8 If the permit holder fails to pay the city, when due, the permanent restoration cost, the city:

- (a) without notice to the permit holder, may realize on the security for the permanent restoration cost to satisfy such amount;
- (b) may collect from the permit holder on demand any deficiency between the permanent restoration cost and the amount realized under such security; and
- (c) must return to the permit holder any balance remaining under such security.

Responsibility for permanent restoration of several works

9.9 If permanent restoration is required as the result of works performed by several permit holders, sections 9.5, 9.6, 9.7 and 9.8 will apply and those permit holders must, at their cost, permanently restore the surface of the street in compliance with city standards and the permits for the work, and the responsibility and costs will be apportioned among the permit holders based on the area of the work.

SECTION 10 PAVEMENT DEGRADATION

Calculation of pavement degradation cost

- 10.1 After completion of any work, and if applicable, the street utilities committee is to:
- (a) calculate the pavement degradation cost resulting from the work, based upon the age of the surface of the pavement as determined by the street utilities committee and the cost for each square metre of excavation, as set out in Part 4 of Schedule A; and
 - (b) invoice the permit holder for such cost.

Payment of pavement degradation cost

- 10.2 Within 30 days after the receipt of such invoice, the permit holder must pay the city such cost.

Realization of pavement degradation security

- 10.3 If the permit holder fails to pay the city the pavement degradation cost when due, the city:
- (a) without notice to the permit holder, may realize on the security for the pavement degradation cost to satisfy such amount;
 - (b) may collect from the permit holder on demand any deficiency between the pavement degradation cost and the amount realized under such security; and
 - (c) must return to the permit holder any balance remaining under such security.

No pavement degradation cost

- 10.4 Despite section 10.1, a permit holder who is required by the city to grind and overlay the pavement is not responsible for pavement degradation cost.

SECTION 11 LOCATION OF WORK AND USE

Assistance regarding equipment location

- 11.1 Within five days after receiving a request from the street utilities committee, a permit holder must give the city the locations and elevations of equipment, at no cost to the city, and if a permit holder fails to provide such information to the city within the required time, the city may invoice the permit holder for any costs incurred by the city in determining the locations and elevations of equipment.

Plans of approved alignments

- 11.2 Within two weeks after receiving a request from the street utilities committee, a permit holder must give the city detailed plans and specifications, current to that date, showing all approved alignments in which the permit holder has equipment.

SECTION 12 CITY COSTS

Lost productivity costs

12.1 If the city, in undertaking repair, maintenance, or replacement of any part of a street or of city property in a street, incurs additional costs attributable to the presence of equipment in an approved alignment, the owner of such equipment must pay to the city an amount equal to such additional costs, within 45 days after receipt from the street utilities committee of:

- (a) an invoice that sets out such costs as determined by the street utilities committee;
- (b) a description of the city's undertaking;
- (c) an explanation of the nature of the interference caused by the presence of such equipment in the approved alignment;
- (d) an itemized breakdown of the city's additional costs including labour, supplies, equipment, and loading factors;
- (e) a description of the methodology and data sources used by the city to determine the cost elements included in calculating lost productivity costs; and
- (f) a description of the methodology and data sources used by the city to determine the amount of lost productivity costs, including all necessary procedures, data collection systems, time reporting systems and time and motion studies.

Lost parking meter revenues

12.2 The permit holder must reimburse the city for lost parking meter revenues.

Meter service costs

12.3 The permit holder must pay the city's costs of discontinuing or reinstating parking meter service as a result of the work, plus an amount equal to 20% of those costs to cover the city's overhead and administrative expenses.

SECTION 13 EMERGENCIES

Emergency contacts

13.1 On or before December 31st in each year, a permit holder must give the street utilities committee a list of emergency contact personnel authorized by the permit holder to receive notices, orders, and other communications from the city on behalf of the permit holder.

Emergency assistance regarding equipment location

13.2 In the case of an emergency, a permit holder must give the city the locations and elevations of equipment within 24 hours after receiving such request from the street utilities committee, at no cost to the city, and if a permit holder fails to provide such information to the city within the required time, the city may invoice the permit holder for any costs incurred by the city in determining the locations and elevations of equipment.

Emergency work

13.3 Despite anything to the contrary in this By-law, a person who owns equipment in a street may do work with respect to such equipment without first obtaining a permit or delivering notice to the street utilities committee, if:

- (a) the work requires immediate completion to avoid endangerment to health, safety, or to provide an essential service;
- (b) obtaining a permit or consent from the street utilities committee before doing the work is not practicable;
- (c) the person does only such work as is necessary to end the emergency;
- (d) the person notifies the street utilities committee of the work as soon as possible;
- (e) the person provides to the street utilities committee such information concerning the work as the street utilities committee may reasonably require; and
- (f) after the emergency, the person complies with the requirements of this By-law to the extent it is still possible to do so.

SECTION 14 RE-LOCATION OF EQUIPMENT

Notice to re-locate equipment

14.1 If the city requires the removal of equipment from an approved alignment for a municipal or public purpose, the street utilities committee may deliver notice to the permit

holder to re-locate the equipment in accordance with the terms and conditions of section 14.2.

Re-location process

14.2 The permit holder, at its cost, must:

- (a) within 90 days after receipt of the notice referred to in section 14.1, apply for a permit to do the work necessary to re-locate the equipment to a new alignment; and
- (b) after receipt of such permit, do the work of re-locating the equipment in compliance with the terms and conditions of this By-law and the permit.

Failure to re-locate

14.3 If the permit holder fails to remove the equipment referred to in section 14.1 in accordance with the terms and conditions of this By-law, the city may do so and may invoice the permit holder for the city's cost of doing so, and, within 30 days after receipt of such invoice, the permit holder must pay the city such cost.

Contribution to cost of re-location

14.4 Despite sections 14.2 and 14.3:

- (a) if the permit holder has given the street utilities committee evidence of payment of the cost to relocate pursuant to section 14.2 or if the permit holder has paid the cost referred to in section 14.3; and
- (b) if the date of the notice referred to in section 14.1 is prior to the end of the tenth year after the date of the permit for the work of installing the equipment referred to in section 14.1;

the city will refund to the permit holder a portion of such costs of relocation on a straight line declining basis from such date to and including the end of the tenth year following such date as follows:

Year 1	--	100% of costs of relocation
Year 2	--	100% of costs of relocation
Year 3	--	100% of costs of relocation
Year 4	--	90% of costs of relocation
Year 5	--	80% of costs of relocation
Year 6	--	65% of costs of relocation
Year 7	--	50% of costs of relocation
Year 8	--	35% of costs of relocation
Year 9	--	20% of costs of relocation
Year 10	--	10% of costs of relocation

Re-location after tenth year

14.5 Despite section 14.4, if the date of the notice referred to in section 14.1 is after the end of the tenth year after the date of the permit for the work of installing the equipment referred to in section 14.1, the permit holder must comply with the provisions of section 14.2 at its cost.

Relocation for city works

14.6 Despite section 14.4, if the notice referred to in section 14.1 is in regards to removal of equipment from an approved alignment for proposed city works noted on the permit in accordance with section 3.9, the permit holder must comply with the provisions of section 14.2 at its cost.

**SECTION 15
REMOVAL OF EQUIPMENT
FROM SUPPORT STRUCTURE**

Notice to remove equipment

15.1 Despite sections 14.1 and 14.2, if the city requires the removal of equipment from a city support structure:

- (a) because the city intends to maintain, repair, replace or demolish the city support structure;
- (b) for a municipal or public purpose; or
- (c) because the city support structure is nearing the end of its economic life;

the street utilities committee may deliver notice to the permit holder to remove the equipment from the approved alignment on the city support structure in accordance with the terms and conditions of section 15.2.

Removal process

15.2 The permit holder, at its cost, must:

- (a) within 90 days after receipt of the notice referred to in section 15.1, apply for a permit to do the work necessary to remove the equipment from the city support structure; and
- (b) after receipt of such permit, do the work of removing the equipment in compliance with the terms and conditions of this By-law.

Failure to remove

15.3 If the permit holder fails to remove the equipment referred to in section 15.1 from the support structure in accordance with the terms and conditions of this By-law, the city may do so and may invoice the permit holder for the city's cost of doing so, and, within 30 days after receipt of such invoice, the permit holder must pay the city such cost.

SECTION 16 TERMINATION OF PERMIT CESSATION OF USE

Termination of permit

16.1 If the permit holder does not complete the work authorized by the permit, in compliance with this By-law, within the later of:

- (a) the date stipulated on the permit for completion of the work; or
- (b) expiry of any extension of time granted by the street utilities committee on request by the permit holder;

the permit is to expire and have no further force or effect except to the extent that this By-law or the permit provides for the survival of any terms or conditions set out in this By-law or in the permit.

Cessation of use

16.2 A permit holder who:

- (a) ceases to carry on the use authorized under the permit; and
- (b) does not obtain a permit to remove the equipment from the approved alignment;

must deliver notice to the street utilities committee of cessation of use of the equipment in the approved alignment.

Removal of unused equipment

16.3 A permit holder who delivers notice to the street utilities committee in accordance with section 16.2 must, within 60 days after delivery of the notice of cessation of use, apply for a permit to remove the unused equipment from the approved alignment and must remove the equipment in accordance with the permit.

Notice of abandonment

16.4 If a permit holder does not:

- (a) deliver notice in accordance with section 16.2 and remove the equipment in accordance with section 16.3; or

- (b) carry on a use in an approved alignment for a three year period,

the street utilities committee may deliver written notice to the permit holder that any equipment in the approved alignment is considered to be abandoned.

Presumption of abandonment

16.5 If, within 60 days of the date of issuance of a notice in accordance with section 16.4, a permit holder:

- (a) advises the streets utilities committee that the equipment is not abandoned, the equipment will not be considered to be abandoned; or
- (b) does not respond to the streets utilities committee, the equipment will be presumed to be abandoned.

Notice to remove unused or abandoned equipment

16.6 If:

- (a) a permit holder has not removed equipment in accordance with section 16.3, or there has been a presumption of abandonment in accordance with section 16.5(b); and
- (b) the unused or abandoned equipment interferes with:
 - (i) construction, maintenance or operation of installations of the city or other person in the approved alignment,
 - (ii) preservation of the street in which such approved alignment is situate,
 - (iii) safety,
 - (iv) a concern related to the environment, or
 - (v) any other municipal purpose;

the street utilities committee may deliver notice to the permit holder that if the permit holder does not obtain a permit to remove the unused or abandoned equipment from the approved alignment and remove the equipment, within a specified period no less than 90 days after the date of issuance of the notice, the city intends to do so.

Failure to remove unused or abandoned equipment

16.7 If the permit holder fails to remove the equipment referred to in section 16.6 in accordance with the terms and conditions of this By-law, the city may, at its option:

- (a) remove the equipment and invoice the permit holder for the city's cost of doing so, and, in such case, the permit holder must pay the city within 30 days of the date of issuance of such invoice; or
- (b) presume the equipment to be abandoned and, in such case, title to the equipment will vest in the city.

SECTION 17 ENFORCEMENT

Notice of non-compliance

17.1 An inspector or official of the city, or a by-law enforcement officer, may give notice to any person ordering or directing that person to discontinue or refrain from proceeding with any work or doing anything that contravenes this By-law within the time specified in such notice.

Offences under By-law

17.2 A person who:

- (a) violates any provision of this By-law, or does any act or thing which violates any provision of this By-law, or suffers or allows any other person to do any act or thing which violates any provision of this By-law;
- (b) neglects to do or refrains from doing anything required to be done by any provision of this By-law; or
- (c) fails to comply with an order, direction, or notice given under any provision of this By-law, or suffers or allows any other person to fail to comply with an order, direction, or notice given under any provision of this By-law;

is guilty of an offence against this By-law, and liable to the penalties imposed under this Section 17.

Fine for offence

17.3 Every person who commits an offence against this By-law is punishable on conviction by a fine of not less than \$500.00 and not more than \$10,000.00 for each offence.

Fine for continuing offence

17.4 Every person who commits an offence of a continuing nature against this By-law is liable to a fine not exceeding \$500.00 for each day such offence continues.

SECTION 18
ENACTMENT OF BY-LAW

Force and effect

18. This By-law is to come into force and take effect on the date of its enactment.

ENACTED by Council this day of , 2011

_____ Mayor

_____ City Clerk

SCHEDULE A

SCHEDULE OF FEES AND COSTS

Part 1 - Plan review and administration fee

The applicant must pay to the city, in respect of a proposed alignment that is 20 meters or:

- (a) shorter, a plan review and administration fee of \$500.00;
- (b) longer, a plan review and administration fee of \$1,500.00;

together with a fee of \$10.00 per metre of the total length of the proposed alignment.

Part 2 - Inspection fee

The permit holder must pay to the city, to cover the cost of inspection of the proposed work, \$65.00 per street block of the total length of the proposed alignment for each day from commencement to completion of the work and for one day of any pre-construction organizing meeting.

Part 3 - Permanent restoration cost

The permit holder must pay to the city the cost to the city of permanent restoration after completion of the work, based upon the quantities of restoration necessary, the unit costs of such work, as follows, and the applicable city standards:

Repair Type	Description	Fee Per Square Metre or Per Lineal Metre as applicable
Concrete Pavement	Less than 10 m ²	\$210.00
Concrete Pavement	10 m ² to less than 50 m ²	\$155.00
Concrete Pavement	50 m ² or more	\$120.00
Pavement Membrane Overlay Concrete Road	Less than 100 m ²	\$ 85.00
Pavement Membrane Overlay Concrete Road	More than 100 m ²	\$ 70.00
Light Asphalt Pavement	Less than 3 m ²	\$183.00
Light Asphalt Pavement	3 m ² to less than 10 m ²	\$ 92.00
Light Asphalt Pavement	10 m ² to less than 100 m ²	\$ 60.00
Light Asphalt Pavement	100 m ² to 300 m ²	\$ 53.00
Light Asphalt Pavement	More than 300 m ²	\$ 46.00
Heavy Asphalt Pavement	Less than 3 m ²	\$250.00
Heavy Asphalt Pavement	3 m ² to less than 10 m ²	\$148.00

APPENDIX A

Heavy Asphalt Pavement	10 m ² to less than 100 m ²	\$ 100.00
Heavy Asphalt Pavement	100 m ² to 300 m ²	\$ 71.00
Heavy Asphalt	More than 300 m ²	\$ 65.00
Grading and Asphalt Aprons	Quotes by street utilities committee only	
Concrete Sidewalk	Less than 10 m ²	\$180.00
Concrete Sidewalk	10 m ² to 25 m ²	\$160.00
Concrete Sidewalk	25 m ² to 50 m ²	\$140.00
Concrete Sidewalk	50 m ² or more	\$ 96.00
Exposed Agg Sidewalk	All	\$268.00
Concrete Crossing	All	\$200.00
Curb & Gutter	Less than 10 lm	\$270.00
Curb & Gutter	10 lm or more	\$210.00
Boulevards Top Soil & Seed	Less than 50 m ²	\$ 36.00
Boulevards Top Soil & Seed	50 m ² or more	\$ 20.00
Brick or Paver Sidewalks	All	\$350.00
Stamped Concrete	Quotes by street utilities committee only	
Unusual Damages/ At-Cost Repairs	Quotes / Actual Cost + Overhead	
Concrete Bus Slab - 12" Thick with Integral Curb & Slab		\$275.00
Concrete Thickened Sidewalk - 6"	All	\$200.00
Concrete Thickened Sidewalk - 10"	All	\$250.00
Asphalt/Concrete Pavement	0 m ² to less than 3 m ²	\$248.00
Asphalt/Concrete Pavement	3 m ² to less than 10 m ²	\$242.00
Asphalt/Concrete Pavement	10 m ² to 50 m ²	\$200.00
Asphalt/Concrete Pavement	50 m ² or more	\$167.00
Asphalt/Concrete Pavement - follow behind (Install of 5" Asphalt when concrete + cutback is done by Utility Group)		\$ 55.00
Brick / Paver / Stone Pavements	Quotes by street utilities committee only	
Asphalt/Concrete Pavement ERF 302 all prior to June 9/08	Less than 10 m ²	\$170.00
Heavy Asphalt Pavement ERF 106 all prior to Aug.1/06	100 m ² or more	\$ 62.00
Heavy Asphalt Pavement ERF 105 all prior to April 15/07	0 m ² to 100 m ²	\$ 75.00

Light Asphalt Pavement ERF 104 all prior to Dec.31/05	More than 100 m ²	\$ 46.00
Heavy Asphalt Pavement ERF 113 all prior to June 9/08	3 m ² to 100 m ²	\$ 81.00

Part 4 - Pavement degradation cost

The permit holder must pay to the city, as a contribution to the cost of pavement degradation based on the total area of pavement excavated, the estimated cost of pavement degradation, as set out in the permit, calculated in accordance with the following table:

Age of street in years since last re-surfaced as determined by the street utilities committee	Fee per square metre of excavation
0 - 5 years	\$50.00
6 - 10 years	\$40.00
11 - 15 years	\$30.00
16 - 20 years	\$20.00
21 years or greater	\$10.00

SCHEDULE B

LETTER OF CREDIT TERMS AND CONDITIONS

The letter of credit must:

1. be drawn on a Canadian Schedule A chartered bank or other financial institution acceptable to the city and situate in the city, and bear an identifying number;
2. be issued to the city as beneficiary, and identify the city by name and address;
3. be in an amount equal to the estimated permanent restoration costs and the estimated pavement degradation costs;
4. state the issue date and expiry date, and be for a term of at least one year from the issue date;
5. identify the applicant for the letter of credit, who must be the permit holder, by name and address;
6. identify this By-law;
7. secure the obligations of the permit holder to the city under the By-law;
8. be clean, irrevocable, and payable at sight at an identified branch of the issuer;
9. state that the issuer will not enquire as to whether or not the beneficiary has a right to make demand on the letter of credit, that the city may make partial drawings, and that the issuer engages with the city that drafts drawn in conformity with the letter of credit will be duly honoured if presented to the issuer on or before the expiry date of the letter of credit;
10. not include any expression or implication that the letter of credit is a guarantee;
11. state that except as the letter of credit may otherwise expressly provide, the letter of credit is subject to the Uniform Customs and Practice for Documentary Credits most recently published by the International Chamber of Commerce;
12. be signed by an authorized signatory of the issuer; and
13. otherwise be in form and substance acceptable to the city's director of legal services.

The letter of credit may provide for automatic renewal for successive terms of at least one year each, unless the issuer delivers to the city and to the permit holder, at least 60 days prior written notice that the issuer declines to renew the letter of credit. The first renewal term must begin on the first annual anniversary of the original issue date, and each following renewal term must begin on the first annual anniversary of the issue date for the preceding renewal term.

If the letter of credit does not provide for automatic renewal, or if the issuer delivers such notice declining to renew, the permit holder, at least 50 days before the expiry date of the then current letter of credit term, will deliver to the city a renewal or replacement of the letter of credit on the terms set out in this section, and with an issue date that is the first annual anniversary of the issue date for the then current term.

If the letter of credit secures an ascertainable financial obligation of the permit holder to the city, and if the permit holder reduces the amount of that obligation from time to time by payment to the city according to the terms and conditions of the By-law, the permit holder may request the city's consent to replacing the letter of credit with one for a lesser amount, equal to the amount of the permit holder's then outstanding financial obligation to the city. The city will not unreasonably withhold its consent if the replacement letter of credit meets the requirements of the By-law, with respect to the original letter of credit, except for the reduced amount.

Schedule C



FOR OFFICE USE ONLY
Date Received

STREET UTILITIES PERMIT APPLICATION

Complete this application form, attaching all required documents and submitting it to the City of Vancouver Utilities Management Branch. You must submit all documents or the application will be deemed incomplete and will not be accepted. In this application, "applicant" means applicant as defined in section 1.2 of the Street Utilities By-law.

SECTION 1 - UTILITY OWNER INFORMATION

Utility Owner: _____
Address: _____
City: _____ Postal Code: _____ Tel No: _____ Ext: _____ Fax No: _____

SECTION 2 - CONTRACTOR INFORMATION

Contractor: _____
Address: _____
City: _____ Postal Code: _____ Tel No: _____ Ext: _____ Fax No: _____
Site Supervisor: _____ Site Supervisor Tel No: _____ Ext: _____
Utility Company Inspector: _____ Utility Inspector Tel No: _____ Ext: _____

SECTION 3 - PLANS AND SPECIFICATIONS

(i) Work: _____

(ii) Alignment of work including area, elevation and distance: _____

(iii) Work area: _____

(iv) Construction methods and materials: _____

(v) Equipment including configuration, number and size of pipes, ducts, etc.: _____

(vi) Aesthetics and safety considerations: _____

(vii) Existing equipment and support structures in or about the proposed alignment that the work may affect: _____

(viii) Additional information: _____

SECTION 4 - PROPOSED TRAFFIC MANAGEMENT PLAN

- Proposed Traffic Management Plan attached in Appendix B.
- Proposed Traffic Management Plan not attached. Why? _____

SECTION 5 - PROPOSED SCHEDULE OF TIMING

- Attached in Appendix C. Construction Start Date: _____ Construction End Date: _____
- Not Attached If not attached, why? _____

SECTION 6 - PLAN REVIEW AND ADMINISTRATION FEE

The applicant agrees and must pay to the city a plan review and administration fee, as outlined in Part 1 of Appendix A of the Street Utilities By-law. The plan review and administration fee is non-refundable and due upon request by the Utilities Management Branch. Please include proposed drawing as an attachment in Appendix A.

SECTION 7 - INSPECTION FEE

The applicant agrees and must pay to the City the cost of inspection, as outlined in Part 2 of Appendix A of the Street Utilities By-law.

SECTION 8 - PERMANENT RESTORATION

The applicant must submit an estimate of the cost of permanent restoration after completion of the work, based upon the quantities of restoration of such work, as set out in Part 3 of Schedule A of the Street Utilities By-law.

COMPLETION OF PERMANENT RESTORATION

- Applicant wishes to undertake permanent restoration Applicant elects to have the city undertake permanent restoration

SECTION 9 - PAVEMENT DEGRADATION

The applicant must submit with this application, an estimate of the cost to the city of pavement degradation, based upon the age of the surface of the pavement as determined by the Street Utilities Committee and the cost for each square metre of excavation, as set out in Part 4 of Schedule A of the Street Utilities By-law.

SECTION 10 - INDEMNITY AND RELEASE

By signing this application form and in consideration of the issuance of the permit pursuant to the Street Utilities By-law, the applicant agrees, from and after the date the application is submitted to the city:

- a) to indemnify and save harmless the city from and against any and all injury, loss or damage incurred by the city in connection with, arising from, or in any way related to this application if such injury, loss or damage is directly caused by or as a result of:
 - (i) the wilful misconduct or negligence of the applicant and/or the applicant's employees, officers, contractors or agents; or
 - (ii) the actions or inaction of the applicant and/or the applicant's employees, officers, contractors or agents in the course of the "work" as defined in the Street Utilities By-law; or
 - (iii) the actions or inaction of the applicant and/or the applicant's employees, officers, contractors or agents in the course of bringing any products or goods which are hazardous substances in, on, under, along, across or around a street; and

- b) to remise, release and forever discharge the city from any and all past, present or future actions, causes of action, claims, suits, debts, contracts, demands, damages, interest , costs, expenses and compensation of any kind which the applicant and/or the applicant's successors, assigns, employees, officers, contractors or agents now have or at any time hereafter can, shall or may have in respect of loss of life, personal injury, loss or damage to property or economic loss arising from or out of or in any way connected with any occurrence in, on , under, along, across or around a street or the "work" as defined in the Street Utilities By-law, including by way of example only and without limiting the generality of the foregoing section in any way:
 - (i) damage to equipment caused directly or indirectly by work undertaken by the city;
 - (ii) damage caused by lack of repair or collapse of the street or "city support structure" as defined in the Street Utilities By-law;
 - (iii) damage caused by water, gas leaks or explosions, sewer leaks or explosions, steam leaks or explosions, electricity, or electromagnetic or other radiation waves or signals;
 - (iv) damage caused by hazardous materials on streets or "city support structure" as defined in the Street Utilities By-law;
 - (v) loss or damage caused by theft or misappropriation; and
 - (vi) loss or damage to property stored or kept on the street or "city support structure" as defined in the Street Utilities By-law.

SECTION 11 - ACKNOWLEDGEMENTS

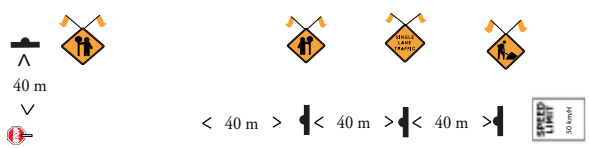
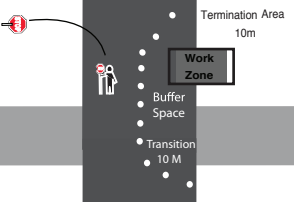
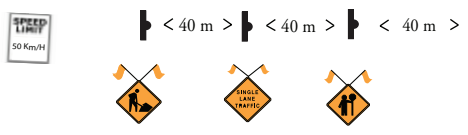
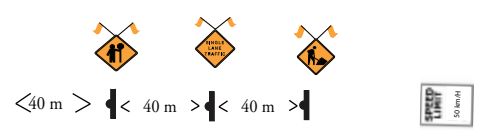
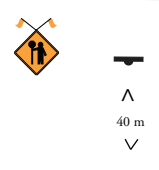
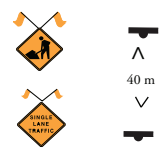
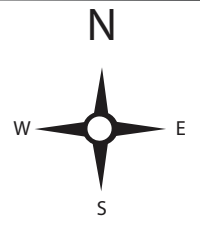
I/We hereby certify that I/we have read and agree to abide by all conditions on this Application.

Applicant Name (Print): _____ Date: _____ | _____ | _____
Year Month Day

Applicant Signature: _____

APPENDIX A
UTILITY DRAWING

APPENDIX B
PROPOSED TRAFFIC MANAGEMENT PLAN



34 Th AVE

Mc Donald Street

TCM COMPANY:		22 - 42
TCM PROJECT MANAGER:		
TCM DRAWING BY:	SHEZAAD	SCALE: 1:1 SHEET: 1 of 1
COMMENTS:		
Site Location, City:		
Utilities Contractor :	Telus	
Construction Contractor Manager:	Trylon TSF	
Dates of Site Work:		
Vancouver permit number#	CITY CONTACT:	

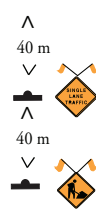
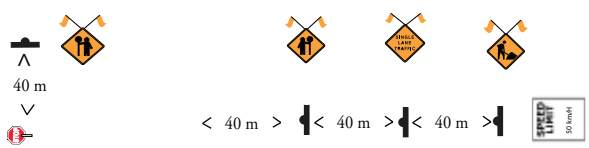
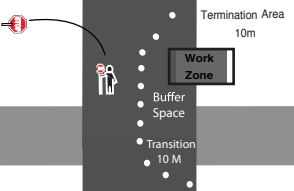
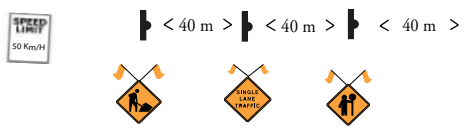
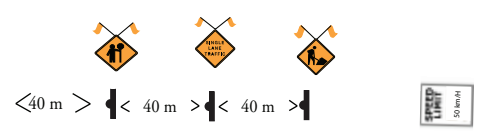
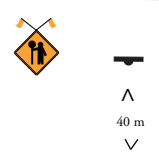
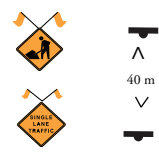
Description of Work

This is a Traffic Plan for a proposed connection cellphone utilities

The job should be done within one or 2 days depending upon weather. Job set up to start approximately at 7am

Priority will be given to all south bound traffic on Mc Donald Street

One TCP is needed because of the lower volume of traffic



TCM COMPANY:		22 - 42
TCM PROJECT MANAGER:		
TCM DRAWING BY:	SHEZAAD	SCALE: _____ SHEET: 1 of 1
COMMENTS:		
Site Location, City:		
Utilities Contractor :	Telus	
Construction Contractor Manager:	Trylon TSF	
Dates of Site Work:		
Vancouver permit number#	CITY CONTACT:	

Description of Work

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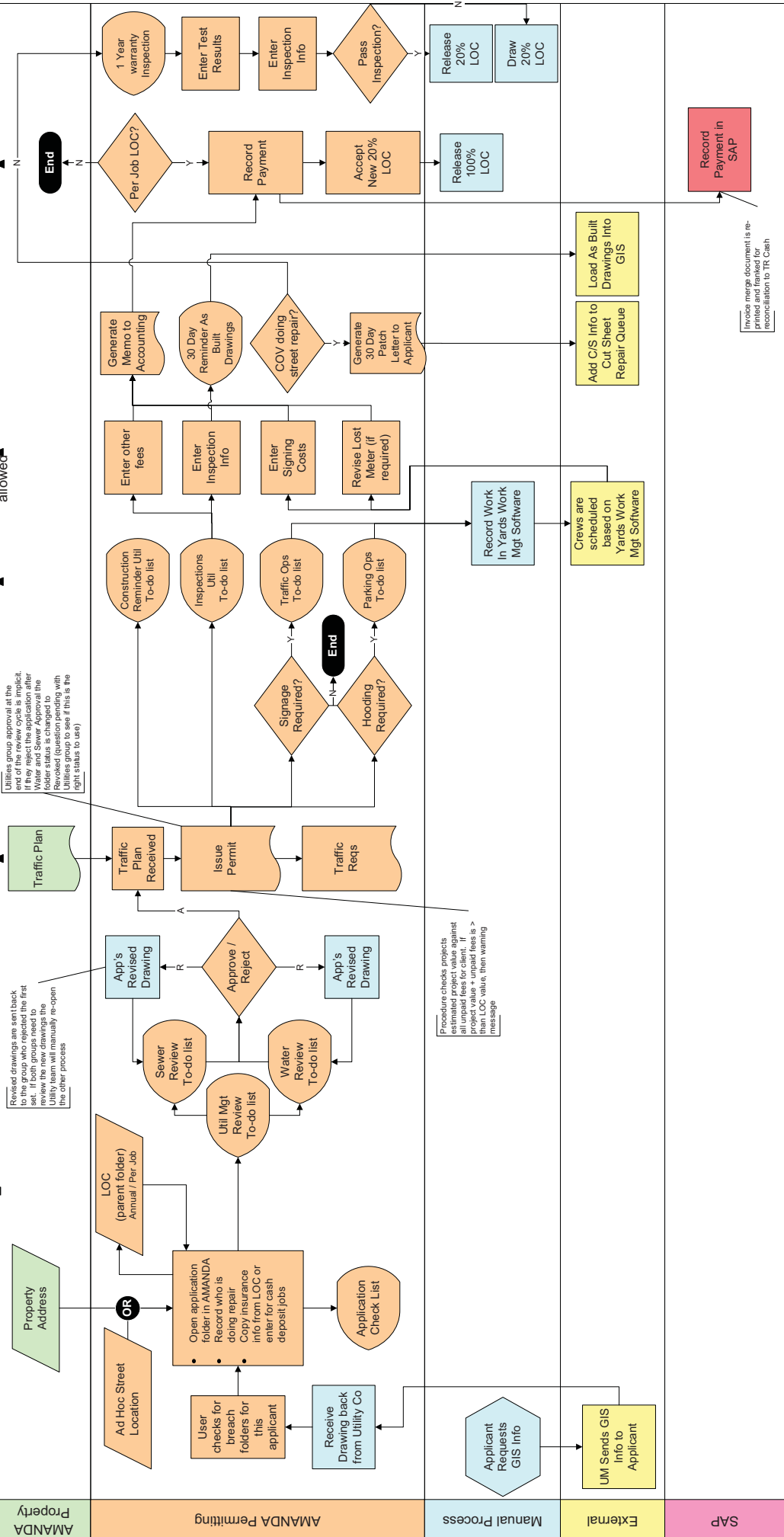
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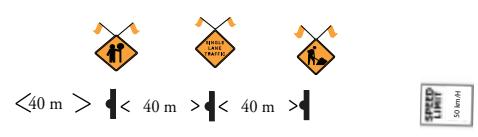
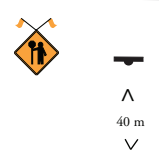
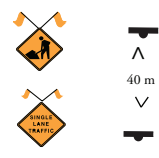
APPENDIX C
PROPOSED SCHEDULE OF TIMING

Engineering Utility Permit Amanda (proposed)

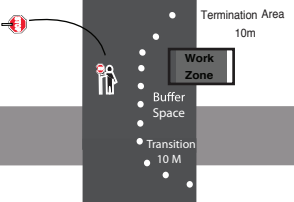
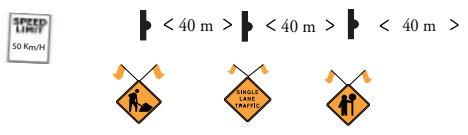
Revised: Aug 16, 2010

Status: (A)pplication - (V) allowed, (R)evise - (V) allowed, (T)raffic - (S, k, v, W) allowed, (P)ending - (S, k, v, W) allowed, (C)ompleted, (S)uspended, (R)evoked, (V)oid, (W)ithdrawn

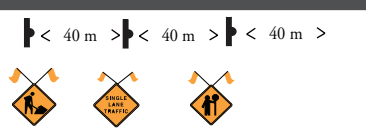
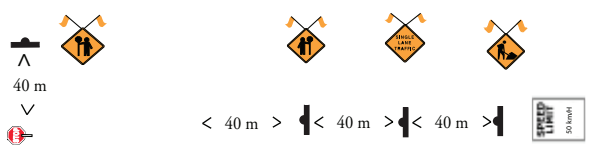




33RD AVE



Mc Donald Street



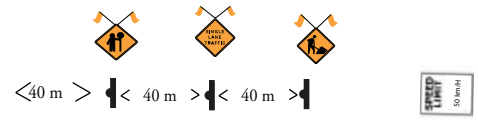
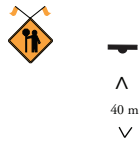
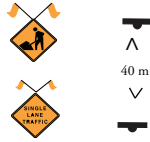
TCM COMPANY:	APPLE TRAFFIC MANAGEMENT 604-507-9577
TCM PROJECT MANAGER:	STEVE HARVESTER 604-306-8326
TCM DRAWING BY:	SCALE N.T.S. SHEET
COMMENTS:	
Site Location, City:	Mc Donald & 33rd Ave Vancouver
Utilities Contractor :	
Construction Contractor Manager:	
Dates of Site Work:	In Sep 2011. As soon as possible.
Vancouver permit number#	CITY CONTACT:

Apple DWG Reference #:

Apple
Traffic Control Management Services
604.507.9577

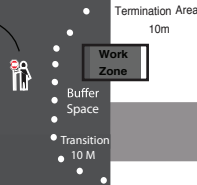
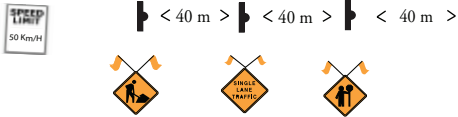
Description of Work

32nd Ave

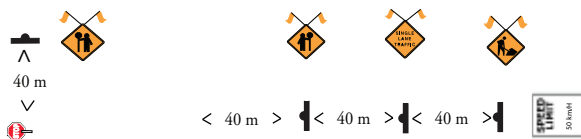


Mc Donald Street

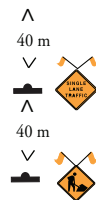
33RD AVE



Mc Donald Street



34 Th AVE



TCM COMPANY:	APPLE TRAFFIC MANAGEMENT 604-507-9577
TCM PROJECT MANAGER:	STEVE HARVESTER 604-306-8326
TCM DRAWING BY:	SHEHZAAD SCALE N.T.S. SHEET 1 of 1
COMMENTS:	
Site Location, City:	Mc Donald & 33rd Ave Vancouver
Utilities Contractor :	Telus
Construction Contractor Manager:	Trylon TSF
Dates of Site Work:	In Sep 2011. As soon as possible.
Vancouver permit number#	CITY CONTACT:

Apple DWG Reference #: **22 - 42**

Apple
Traffic Control Management Services
604.507.9577



Description of Work

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