

Exhibit _____ (JM-1)

STATE OF NEW YORK	
DEPT. OF PUBLIC SERVICE	
DATE	<u>1/24/07</u>
CASE NO.	<u>T-06-T-0710</u>
EX	<u>4</u> <u>mw</u>



STATE OF NEW YORK
DEPARTMENT OF TRANSPORTATION
ALBANY, NY 12232
www.dot.state.ny.us

THOMAS J. MADISON, JR.
COMMISSIONER

GEORGE E. PATAKI
GOVERNOR

December 14, 2006

Jeffrey L. Riback, Esq.
Consolidated Edison Company of New York Inc.
4 Irving Place Room 1820
New York, NY 10003

Re: Case 06-T-0710 Application of Consolidated Edison
Company of New York, Inc. for a Certificate of
Environmental Compatibility and Public Need
Under Article VII of the New York State Public
Service Law for the M29 Transmission Line Project

Dear Mr. Riback:

The New York State Department of Transportation (NYSDOT) submits this letter in response to the above referenced case to clarify its position on the project. NYSDOT supports the original proposed route that utilizes routes in the Cities of New York and Yonkers.

NYSDOT has recently learned that alternative routes have been proposed and are being investigated. These alternative routes involve the State-owned Sprain Brook Parkway, Saw Mill River Parkway, and Interstate 87 (Thruway), which are controlled access highways. NYSDOT has an agreement with, and an obligation to, the Federal Highway Administration (FHWA) on how utility facilities are accommodated on these and other controlled access highways throughout New York State regardless of ownership. This agreement is the "Accommodation Plan For Longitudinal Use of Freeway Right-of-Way By Utilities." NYSDOT's Accommodation Plan is based upon Title 23 Part 645 of the Code of Federal Regulations. This policy applies to any designated freeway. Currently, the only utilities which are permitted to longitudinally occupy New York State freeway rights-of-way (within the control of access) are communication utility facilities.

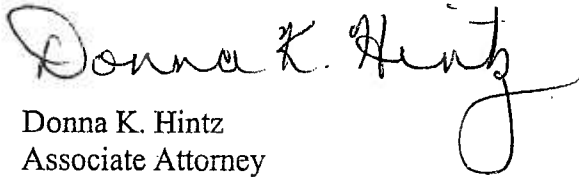
Any requests for a non-highway use of controlled access highways, such as the installation of an electric transmission line in the Sprain Brook and Saw Mill River Parkways or Interstate 87, are considered exceptions to the NYSDOT's Accommodation Plan and, therefore, require FHWA approval. NYSDOT has an established procedure for exception requests under which NYSDOT reviews any requests prior to submission to FHWA for consideration and approval or rejection. FHWA and NYSDOT require a SEQRA and FHWA regulations based NEPA review for each and every feasible alternative. All alternatives must be exhausted before FHWA approval of an exception can be granted. To date, only one project has been granted an

exception by FHWA. Enclosed please find the requirements and the procedure for requesting an exception that Con Ed would have to comply with in order to utilize the Sprain Brook and Saw Mill River Parkways and Interstate 87 for the installation of the transmission line.

As stewards of Federal Highway funds, NYSDOT and the NYSTA must ensure compliance with federal laws, regulations and requirements. Failure to comply will result in a sanction issued by FHWA, and could result in entire length of Sprain Brook Parkway, the Saw Mill River Parkway and the Thruway becoming ineligible for any federal-aid funding.

Please contact me at 518-457-2411 if you have any questions on the material provided.

Sincerely,


Donna K. Hintz
Associate Attorney

cc:

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Secretary
New York State Public Service Commission
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Albany, NY 12223-1350

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Active party list via email

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Accommodation of Non-Communication Utilities on New York State Freeway or Controlled Access Rights-of-Way

I. INTRODUCTION

The New York State Department of Transportation (NYSDOT) has an agreement with the Federal Highway Administration (FHWA) on how utility facilities are accommodated on freeways in New York State. This agreement is the "Accommodation Plan For Longitudinal Use of Freeway Right-of-Way By Utilities" which is available at www.dot.state.ny.us/cmb/consult/hdmfiles/hdm13/hdm13app_b.pdf

Currently, the only utilities which are allowed to longitudinally occupy New York State freeway rights-of-way or controlled access rights-of-way are communication utility facilities. A highway with full control of access is a highway on which entrances and exits are controlled or limited at designated interchanges; all other intersections or connections are prohibited. NYSDOT's Accommodation Plan is based upon Title 23 Part 645 of the Code of Federal Regulations (CFR) which permits states to establish their own policies, subject to FHWA approval, with regard to longitudinal accommodation of utilities on controlled access rights-of-ways. This policy applies to any designated freeway, regardless of ownership, i.e. freeways owned by NYS Office of Parks, Recreation and Historic Preservation are also included in this policy.

Any interest in a longitudinal occupancy of a controlled access right-of-way by a non-communications utility must be submitted as a request for an exception to the current approved Accommodation Plan. Pursuant to 23 CFR 1.23, when a State Highway Agency acquires property for a highway project, it must dedicate use of said property exclusively to highway purposes. Any request to use said property for non-highway purposes is considered a request for an exception. Both NYSDOT and FHWA must approve these requests. Since FHWA is involved and therefore, federal action is required, the National Environmental Policy Act (NEPA) applies and requires an extensive and detailed evaluation of all possible alternatives pursuant to 23 CFR 771. NYSDOT procedures to fulfill NEPA requirements are available at www.dot.state.ny.us/cmb/consult/dpm1/pdm_01_30_04.html. All exception requests must show that alternate locations are not feasible or cannot be implemented from a standpoint of providing efficient utility services in a manner conducive to safety, durability and economy of maintenance and operations. Additionally, the request must demonstrate that the accommodation will not adversely impact the design, construction, operation, maintenance, or stability of the highway and that it will not interfere with or impair future expansion of the highway. Any installation shall comply with 23 CFR 645.209 as noted below. If the utility request is a private utility as defined by Title 23 of the United States Code, Chapter 1, Section 111 will apply.

Specifically, under 23 CFR 645.209 (c)(2), any accommodation plan shall assure that installations satisfy the following criteria:

(i) The effects utility installations will have on highway and traffic safety will be ascertained, since in no case shall any use be permitted which would adversely affect safety.

(ii) The direct and indirect environmental and economic effects of any loss of productive agricultural land or any productivity of any agricultural land which would result from the disapproval of the use of such right-of-way for accommodation of such utility facility will be evaluated.

(iii) These environmental and economic effects together with any interference with or impairment of the use of the highway in such right-of-way which would result from the use of such right-of-way for the accommodation of such utility facility will be considered.

(v) A utility strip will be established along the outer edge of the right-of-way by locating a utility access control line between the proposed utility installation and the through roadway and ramps. Existing fences should be retained and, except along sections of controlled access rights-of-way having frontage roads, planned fences should be located at the controlled access right-of-way line. The State or political subdivision is to retain control of the utility strip right-of-way including its use by utility facilities. Service connections to adjacent properties shall not be permitted from within the utility strip.

In addition to the federal law and regulations, any accommodation would have to satisfy NYS Finance Law and Highway Law Requirements for use of State property. There will be a fee charged for use and occupancy of the controlled access right-of-way. Each accommodation will be reviewed on a case by case basis.

It is imperative that NYSDOT be contacted and included early in the planning process due to the complicated legal and operational issues that need to be considered when seeking longitudinal accommodation on a controlled access right-of-way.

Freeways or controlled access rights-of-ways are the State's most important and highest volume roadways. The NYSDOT plans and maintains right-of-way along these roadways to accommodate future changes to the highway and service demands. The flexibility to improve our freeways is critical. A sound transportation system is crucial to the State's economic viability.

II. 2006 LOBBYING LAW REQUIREMENTS AND COMPLIANCE

Pursuant to NYS Finance Law §§139-j and 139-k, a request to use NYSDOT freeways, controlled access highways or rights-of-ways imposes certain restrictions on communications between NYSDOT and the requesting party during the procurement process. The requesting party is restricted from making contacts during the procurement process through final award and approval of the procurement by NYSDOT and, if applicable, Office of the State Comptroller ("restricted period") to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in NYS Finance Law §139-j(3)(a). The restricted period is defined

as the period of time commencing with the earliest written notice or solicitation of a request for proposal or other method of soliciting a response from offerors intending to result in a procurement contract with a governmental agency. The term "contact" is defined by statute and refers to those oral, written or electronic communications that a reasonable person would infer are attempts to influence the governmental procurement. Designated staff shall be identified for each project. NYSDOT employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the requesting party pursuant to these two statutes. NYS Finance Law §139-k(4) obligates every governmental entity, such as NYSDOT, during the restricted period of a procurement contract to make a written record of any Contacts made. Procurement contract is defined as any contract or agreement for an article of procurement involving an expenditure in excess of fifteen thousand dollars. In addition to obtaining the required identifying information, the governmental entity must inquire and record whether the person or organization that made the contact was the offerer or was retained, employed or designated on behalf of the offerer to appear before or contact the governmental entity. An offerer would be a utility company seeking to use NYSDOT freeways or controlled access highways for the siting of its facility. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a 4 year period, the requesting party is debarred from obtaining governmental procurement contracts. Further information about these requirements and the required forms may be found at www.nysdot.gov/portal/page/portal/main/business-center/consultants.

The requesting party must file an Affirmation of Understanding and Agreement pursuant to NYS Finance Law §139-j(3) and §139-j(6)(b), Disclosure of Prior Non-Responsibility Determinations and Certification of Compliance with NYS Finance Law §139-k(5). A termination clause requiring compliance will be added to any contract, use and occupancy agreement, or highway work permits. The forms and the termination clause may be found at www.ogs.state.ny.us/aboutOgs/regulations/defaultAdvisoryCouncil.html.

III. TRANSPORTATION CORPORATION RIGHTS

A transportation corporation is a company organized under NYS Transportation Corporations Law. Transportation corporations are typically gas, electric, telephone, water and sewage companies. Such companies have certain legislated rights to occupy the State's highway rights-of-way (ROW) without payment of a use and occupancy fee, but this does not apply to controlled access rights-of-way.

IV. APPLICATION OR PROPOSAL CONTENT

Any request submitted to NYSDOT for longitudinal accommodation shall include, at a minimum, the following:

(a) Organizational Overview

Identify the overall project organization for the proposed project or action, include the firm(s) which will be involved and their respective relationships, roles and responsibilities and whether they are considered Transportation Corporations or incorporated under other laws. Provide proof of Transportation Corporation status.

Provide a description of the relevant corporate experience of all involved firms including examples of current/prior involvement in efforts of this type.

Identify the management team, including key personnel and their respective relationships, roles and responsibilities and specifically the individual(s) who will be responsible for communicating with NYSDOT on project matters.

(b) Project Development and Public Need

Provide a description of the overall public need. Identify any research and/or analysis performed which supports the planned facility, including any projected trends in how the market(s) may develop over time. Describe any involved statewide planning process and include any resulting plans or reports. Provide a copy of any certificates issued by New York State Public Service Commission (NYSPSC) or Federal Energy Regulatory Commission (FERC).

Provide an overall schedule for the proposed installation which indicates the best estimate of the time frame(s) associated with all major project activities.

Identify potential problems to successfully implement the proposed facility and a discussion, as applicable, of your approach to resolving such potential problems.

(c) Alternatives

Provide detailed description and evaluation that is in full compliance with NEPA and SEQRA requirements for all alternatives, including impacts to the transportation system. The alternatives analysis should include environmental, social, physical impacts and a cost analysis. Provide specific engineering deficiencies for each alternate route.

(d) Capacity and Availability

Provide description of the proposed facility's general capacity. Demonstrate how projected demand will be served by the project.

Provide description of the extent, if any, of the proposed facilities that will be made available for the use of others, including how such access will be provided. Outline the terms and conditions under which such facilities would be made available to others.

There is a presumption that it is in the public interest for the competing utilities to provide service within the available corridors. In order to protect and encourage such competition and ensure minimum future intrusion into the controlled access right-of-way and to avoid disturbance to traffic by installation of multiple facilities, the applicant is required to provide a description of the facilities, which will be available to others and how others will be provided access to the facilities proposed to be installed, if any. An outline of the terms and conditions under which the applicant would make such facilities available to other services shall be provided.

(e) Installation

Provide design and initial installation plans of the facility. Include a traffic control plan in conformance with the NYSDOT Manual of Uniform Traffic Control Devices (MUTCD). Indicate the extent to which the installation will affect traffic flow and safety, landscaping and protected resources, as well as the freeway's/corridor's appearance, its structural and controlled access integrity and its ability to be maintained, widened or otherwise modified. These plans should clearly delineate the proposed construction limits.

Include discussion of any planned or likely improvements and/or upgrades to the utility facilities and time frames.

(f) Constructability

Provide a feasibility study of access routes required to mobilize and transport specialized equipment and materials. Identify potential for work to be scheduled during time of reduced traffic volumes. Describe impacts on existing utilities in the project area.

(g) Access for Operations and Maintenance

Provide plan for access to the utility facilities for operation and maintenance, including traffic control plans in conformance with NYSDOT MUTCD, a description and frequency of routine maintenance work and emergency call procedures.

(h) Financial

Provide a pro-forma revenue and expense statement for the proposed project which identifies all assumptions underlying the statement.

Provide an explanation to assess the financial capacity of the entity, seeking this accommodation, to fulfill its commitments and responsibilities.

(i) Fair Consideration Proposal

Provide a description of the consideration (monetary and/or service) being offered to the State, if any. Identify the total dollar amount(s) and terms of payment and a description

of the type(s), level(s) and extent of any service(s) being offered. Include all assumptions.

V. CRITERIA FOR EVALUATION OF PROPOSAL

In addition to compliance with NEPA and SEQRA requirements, the proposal shall meet the following evaluation criteria:

(1) Project supports a strategic need within the project area and is in accordance with local and state planning efforts.

(2) Review the relative degree of disruption of the controlled access right-of-way during installation as shown in plans and schedules and the extent to which such disruption will affect traffic flow and safety, landscaping, and protected resources, as well as the freeway's appearance, structural and controlled access integrity and ability to be maintained, widened or otherwise modified in the future. To minimize the disruption of the controlled access right-of-way during installation, all proposals must be in accordance with the following guidelines:

(a) All elements of the facility are to be installed in a designated utility strip to be established by the NYSDOT. The utility strip shall be approximately 10 feet wide and be located along the edge of the right-of-way; the final location will be determined during the planning process pending FHWA approval. The NYSDOT and FHWA may authorize installation within the roadway in exceptional situations (e.g., to provide access to a bridge which is needed to carry the facilities over natural barriers). The location of the facilities shall be such as to minimize impact on highway use, safety, maintenance, aesthetics, and future highway improvements.

Being permitted to use controlled access rights-of-way does not automatically include permission to use bridges or other structures. Any proposed use of bridges must be evaluated and approved by the NYSDOT and FHWA as per Section 131.20 of Title 17 NYCRR (New York Codes, Rules and Regulations). Any request to install facilities on bridges or other structures must be stated in the initial application for any permit including all installation details the NYSDOT and FHWA indicate are necessary to evaluate the proposal.

(b) Except as provided elsewhere in this document, facilities shall generally be installed underground with no part of the facility visible from the roadway.

(c) The initial installation shall include all appurtenances necessary or incidental to the operation of the facility, and shall include manholes or other access points at appropriate intervals to permit operation and maintenance without further excavation. Any electrical service necessary to operate stations or similar appurtenances shall be placed in underground ducts or conduits running from crossroads or frontage roads adjacent to the required point of access or from

easements the utility owns. The utility shall furnish and pay for all materials, equipment, and labor required for the proposed installation and maintenance.

(d) Installations of any part of a facility within the controlled access right-of-way including an interchange ramp roadway shall be by a trenchless technology and shall be installed in a manner to preclude or minimize disturbing the roadways and their clear zones for installation, operation or maintenance. To the extent feasible and practicable, such crossings should be on a line generally perpendicular to the centerline of the roadway alignment.

(e) At bridge crossings or where unusual terrain, environmental, or other conditions warrant, the NYSDOT and FHWA may authorize installation of a portion of the facility above ground, if it is found that there is no practical alternative inside or outside the right-of-way and that the installation will not impair controlled access right-of-way safety or the aesthetic quality of the land traversed. However, no above ground facility that constitutes a fixed object will be allowed within the clear zone.

(f) Where a facility installation must cross a major valley or river, such installation may be carried on an existing controlled access right-of-way structure only where the NYSDOT and FHWA finds that such use of the structure will not interfere with the use or maintenance of the controlled access right-of-way and that denial of such use would result in significant harm to the environment. Similarly, such installation shall not be allowed to occupy vehicular tunnels without such a finding by the NYSDOT and FHWA.

(g) In designated scenic or park preservation areas, the NYSDOT may authorize installations only when they do not require extensive alterations of trees or terrain features visible to the highway user or impair the aesthetic quality of the land traversed.

(h) All methods of installation, as well as methods of erosion control and other details of installation of the facility, shall be subject to the review and approval of the NYSDOT.

(i) Upon completion of installation, all disturbed areas shall be returned to their original topography and all steps necessary to prevent future erosion shall be taken. Backfill shall be tamped and vegetation replaced. The NYSDOT may specify the type and location of replacement vegetation. The NYSDOT may require the completion of an approved mitigation plan for replacement of tree loss created by the construction of the facility. The survival of all replacement trees and vegetation shall be guaranteed by the utility for a period of two (2) years following planting.

(j) Longitudinal occupancy of controlled access rights-of-way shall be for transmission type facilities only. Service connections to adjacent properties shall not be permitted from the controlled access rights-of-way.

(k) The proposal shall take into account planned or likely improvements or alterations in the nature or configuration of the highway and the impact of planned or likely improvements in the nature or configuration of the utilities.

(l) Any occupancy or access that adversely affects safety will not be permitted as the safety of the traveling public and protection of the State rights-of-way for future use are of primary importance in allowing longitudinal occupancy by any utility or facility.

(3) Review measures taken to provide access to facilities from outside the controlled access right-of-way.

(a) Access to the facility for installation, operation or maintenance along or across a controlled access right-of-way should be limited to access via nearby frontage roads (where available), adjacent public roads and streets, or trails along or near but outside of the controlled access right-of-way line, connecting only to an intersecting road, from any one or all of which entry may be made to the outer portion of the controlled access right-of-way to the greatest extent possible.

(b) A locked gate along the controlled access right of way line (control-of-access) fence may be utilized to meet periodic access needs. Where a gate is allowed, the use and occupancy agreement shall include adequate safeguards against unauthorized use. FHWA approves all breaks in access. A break in access means any activity which enters onto highway right-of-way which has been designated as controlled, includes but not limited to vehicular, pedestrian, or utility occupancies at, above or below ground. This also includes any airspace occupancy of controlled access highway rights-of-way.

(c) The NYSDOT shall impose conditions for policing and other controls as are necessary to assure the safety of highway travelers and to avoid interference with controlled access use. During installation, operation and maintenance, barriers and/or signs and/or other warning devices conforming to the NYSDOT MUTCD shall be installed as required and approved by the NYSDOT to alert and protect highway travelers to utility activities within the controlled access right-of-way. Where signs conforming to the NYSDOT MUTCD are placed in the vicinity of the through roadway or clear recovery area, they shall be collapsible upon impact from a vehicle. Additional maintenance and protection provisions shall be as stated in the "general conditions" clauses of the required Highway Work Permit as discussed in Section VIII. The NYSDOT reserves the right to require more stringent measures when it deems it necessary, as provided by Sections 126, 128, and 129, of NYCRR Title 17.

(d) Lane closures on the mainline, service roads or ramps of the controlled access right-of-way will not generally be permitted during the installation, operation, or maintenance of facilities unless the utility will be within 12 feet of the edge of the shoulder or travel way. In accordance with NYSDOT Engineering Instruction (EI) 96-027 and any applicable Regional policies, NYSDOT may require the installation to be completed at night. All lane closures must be proposed to NYSDOT in writing

at least one month before the beginning of the work and must be approved in writing by the Region before the work can begin.

(e) Access to facilities for installation, operation and maintenance within a controlled access right-of-way will only be allowed in accordance with the provisions of a traffic control plan specified in the highway work permit and use and occupancy agreement as discussed in Sections VIII and X.

(4) The initial installation of a facility shall be of a character and capacity to preclude the programmed need for any additional disruption. Absent compelling circumstances, the NYSDOT and FHWA will not permit additional installations after initial construction. If future expansion will be needed, this should be noted in the initial request.

VI. TIME FRAME

Actions classified as Class I projects under NEPA requiring an Environmental Impact Statement typically take 2-4 years to reach a record of decision for NYSDOT Projects. Actions classified as a Class II project under NEPA requiring an Environmental Assessment typically take 1-3 years to reach a record of decision for NYSDOT Projects. Actions classified as a Class III project under NEPA which may be a Categorical Exclusion (Programmatic, Automatic or with documentation) typically take 1-2 years to reach a record of decision for NYSDOT Projects.

VII. NYSDOT ACTIONS AND SUBMISSION TO FHWA

The NYSDOT reviews, comments and determines if the exception request is adequate and appropriate for submission to FHWA. If NYSDOT determines that the application meets the minimum criteria and does not conflict with NYSDOT operations, NYSDOT makes the formal request for an exception and forwards the project documentation to FHWA. ***Please be advised that compliance with all submittal requirements does not guarantee final approval from NYSDOT or FHWA.***

The FHWA reviews and issues their recommendation. If the request is approved, all related Use and Occupancy agreements and breaks in access must also be approved by FHWA.

If FHWA denies the request, the utility must reevaluate its project on the basis of the response.

VIII. ACTIONS TO PROGRESS A UTILITY PROJECT AFTER AN EXCEPTION HAS BEEN GRANTED BY FHWA

Any utility permitted to occupy NYSDOT controlled access right-of-way (ROW) must comply with 17 NYCRR Part 131, which is available at www.dot.state.ny.us/cmb/consult/hdmfiles/hdm13/hdm13app_a.pdf.

Award of any agreements and use of NYSDOT property is subject to negotiations of acceptable terms and approval by NYSDOT Counsel, after consultation with the NYS Attorney General, and the Office of the NY State Comptroller. Permits or agreements may vary, but will generally include the following provisions:

- (1) The NYSDOT reserves the right to restrict the use of controlled access right-of-way. Such restrictions may include but not be limited to: number and types of facilities allowed; physical space occupied by the facilities or by equipment used for installation, operation and maintenance; time restrictions on installation, operation or maintenance; provisions of a traffic control plan for the maintenance and protection of traffic; system expansion, etc. The applicant may be required to make installations concurrent with others so as to limit such work to one installation operation. Applicants shall provide the NYSDOT with copies of all inspection reports.
- (2) Except where payment is required by Section 10; Subsection 24-b of the NYS Highway Law, any relocation of any facility allowed to be on the controlled access right-of-way, made necessary as a result of highway construction or maintenance operations, or changes in NYSDOT policy or design standards, shall be made promptly and at the sole expense of the utility applicant.
- (3) The use of the controlled access right-of-way shall be by a Use and Occupancy Agreement or other similar agreement obtained from the NYSDOT including a fee for the use of the property. Generally, this agreement must be executed prior to the issuance of a Highway Work Permit and will require that a Highway Work Permit be obtained prior to installation or construction. In addition, an Annual Maintenance Permit must be secured prior to the undertaking of any maintenance activity on the controlled access right-of-way. A NYSDOT approved traffic control plan for installation, operation and for future access for maintenance activities is a prerequisite to issuance of both permits. Application and general conditions for Highway Work Permits and Annual Maintenance Permits are explained in Title 17 Parts 125-129 NYCRR.
- (4) Violation of the Use and Occupancy Agreement, Highway Work Permit, Annual Maintenance Permit, or of any other law or rule at any time by the permit holder or its agent(s) in the installation, operation or maintenance of facilities within controlled access rights-of-way shall be the basis for denial of use, imposition of fines, or physical removal of the offending party and/or the permit holder's facilities as designated in such permit, or as otherwise provided by law.
- (5) The permit holder shall be responsible for obtaining all necessary permits, approvals, etc. required by any Federal, State or local agencies and shall furnish copies to the NYSDOT of such permits and approvals.
- (6) The applicant shall be required under the Highway Work Permit to provide the NYSDOT with a log of each entrance onto the controlled access rights-of-way with personnel and/or equipment to include date, time, duration, location of entrance and exit

from the controlled access rights-of-way, and the reasons for such entrance and exit, the equipment and personnel involved, etc.

(7) The applicant shall install along with any buried facilities a system of continuous plastic ribbon or marking tape. Such marker shall be installed at a level no less than 12 inches below the surface of the ground. The marker shall include a metal thread or other system capable of reliably emitting a signal readable by equipment operating on the surface. The applicant also shall install adequate permanent buried cable markers showing the approximate horizontal and vertical location of its underground facility. Such post markers shall not interfere with highway operations or maintenance and shall be offset from the actual location of the facility where necessary to avoid such interference. The applicant shall also maintain records that describe the facility, its location, depth, size, and other relevant data, which shall be available upon request to the NYSDOT and to other interested agencies. Within 120 days following the completion of the work authorized under a location permit, the applicant shall file with the NYSDOT one complete set of "as built" plans showing the locations of all parts of the facility stamped by a Professional Engineer. The applicant also shall file with the NYSDOT at that time one complete set of plans on microfiche or other form of information storage system as determined by the NYSDOT.

(8) Except where a use and occupancy permit calls for different procedures, the applicants shall comply with the construction standards, location standards, and special marking techniques established by the most recent publication of 23 CFR 645.

(9) The NYSDOT shall have authority to place inspectors on site to monitor and observe the applicant's activities, and/or to request the presence of state or local police to assure the safety of controlled access right-of-way travelers, at such times and for such periods as the NYSDOT deems appropriate. All inspector costs thereof shall be borne by the applicant.

(10) Upon issuance of a permit and from time to time during any installation, operation, or maintenance periods, the applicant shall pay to the NYSDOT those amounts representing all of the costs of processing the application and administering the permit, including without limitation any costs relating to the need to relocate the facility in connection with any other work performed by the NYSDOT including design review.

(11) Acceptance of a permit by the applicant shall constitute an agreement by the applicant, notwithstanding any other provision of law, to assume all liability for any loss, cost, damage, or harm arising out of or relating to the installation, operation or maintenance, of its facility and to the presence of its facility in the controlled access right-of-way. Further, acceptance of a use and occupancy agreement shall constitute an agreement by the applicant to indemnify and hold harmless the State of New York, its officers, agents, and employees from all loss, cost, damage, and harm, including attorney's fees, arising out of or relating to the foregoing. This permit shall not be effective unless accepted and approved in writing by the State.

IX. APPLICABLE FEDERAL AND STATE LAWS, REQUIREMENTS AND POLICIES

NYSDOT Engineering Instruction (EI) 96-027
www.dot.state.ny.us/cmb/consult/eib/files/ei96027.pdf

This EI is based on Chapter 361 of the Laws of 1995 amending the NYS Transportation Law by adding a new §20, "Nighttime work on major capital construction projects on highways, expressways and parkways".

23 CFR 645

23 CFR 771

Title 23, USC Chapter 1, Section 111

NYS Finance Law, Section 112

NYS Highway Law, Sections 10(24) and 10(24-b)

NYS Highway Law, Section 52

NYS Transportation Corporations Law

NYS Transportation Law, Sections 13 and 16

NYS General Obligations Law, Section 11-102

Title 17 Part 131 NYCRR

Title 17 Part 15 NYCRR

NYSDOT Manual of Uniform Traffic Control Devices (MUTCD)

X. NYSDOT RIGHTS-OF-WAY REQUIREMENTS

Pursuant NYS Transportation Law, Sections 13 and 16, NYSDOT has established rules and criteria to approve the use of rights-of-way under their jurisdiction. The instrument typically used to allow the use of NYSDOT rights-of-way is a Use and Occupancy Agreement. If the value of this property is in excess of \$15,000, the use must be approved by NYSDOT Executive Management, the Office of the NYS Comptroller and the NYS Attorney General.

The fee to be charged for use and occupancy of the controlled access right-of-way will be based on a market valuation and require two independent appraisals. The cost of the fee determination will be paid for by the utility requesting occupancy of NYSDOT property. The fee determination will be obtained by NYSDOT.

XI. HIGHWAY WORK PERMIT REQUIREMENTS

Any work, including installation, maintenance and upgrades of utility facilities, within a state highway right-of-way requires the issuance of a highway work permit pursuant to Highway Law Section 52. The forms and requirements are described as follows.

There are various options available to a municipality or public service corporation /public authority to provide insurance through an Undertaking Agreement.

Undertakings are described in Title 17 part 127.2:

"Any municipality may pay the insurance fee or may furnish one policy of protective liability insurance annually, and one policy or endorsement of completed operations liability insurance annually as may be required; and public service corporations may comply in like manner or they may furnish the usual form of undertaking that provides full indemnification for the State without specifying amount of coverage."

Self-insured entities may provide PERM 1, PERM 2 or PERM 6 in lieu of PERM 17.

The following forms are typically required for the types of requests discussed in previous sections of this document. Pertinent information about each form is included.

PERM 17 (11/05) – CERTIFICATE OF INSURANCE FOR SPECIAL HAULING, DIVISIBLE LOAD OVERWEIGHT, AND HIGHWAY WORK PERMIT INSURANCE REQUIREMENTS

- This is to be prepared by an insurance agency or insurance company.
- This PERM needs to be filed and kept current with the Permittee's information and submitted to:
NYS Department of Transportation
Central Permit Office
50 Wolf Road, 1st floor
Albany, NY 12232

PERM 32m (2/00) – HIGHWAY WORK PERMIT APPLICATION FOR UTILITY WORK AND ANNUAL MAINTENANCE PERMIT

- This form is to be prepared by the permittee for work to be performed. Applications should be submitted to the Permit Engineer in the appropriate Region.
- Authorized subcontractors, acting as agents of prime contractors, under the permit to the Prime Contractor, are bound by the agreements of the prime contractor. If, however, both parties are named as co-permittees, they have equal responsibility and NYSDOT requires a PERM 17 from BOTH parties.
- After construction is complete, the PERM 32m should be completed under the Maintenance/Annual type of operation to perform any maintenance of existing towers/utility poles. New construction/installations can not be performed under the annual permit; they require an individual permit for original installation.

PERM 36 (2/06) – ATTACHMENT TO HIGHWAY WORK PERMIT FOR MAJOR PROJECTS

- The NYSDOT requires the Permittee to provide a consultant to inspect the Permit work when the duration, of the work, is three or more days. The inspector

is intended to act as the NYSDOT's agent on the work site. When a consultant inspector is provided PERM 36 should be completed.

- PERM 36 is to be completed and signed by the Permittee and the consultant providing the inspector/s.

PERM 41-1d (4/88) – METHOD OF PERFORMING WORK WITH THE STATE RIGHT OF WAY

- Provides general conditions as well as design and construction method requirements for installation.

PERM 44e (8/01) - SURETY BOND (PERFORMANCE)

- The NYSDOT requires the Permittee to provide a bond or letter of credit to insure and guarantee the timely and workmanlike completion of work undertaken with a Highway Work Permit

PERM 51 (11/90) - PAYMENT AGREEMENT FOR HIGHWAY WORK PERMITS DESIGN REVIEW

- The permittee will be billed on a periodic basis for the costs incurred by the NYSDOT to process a highway work permit.

PERM 50e (9/93) –INSPECTION AND/OR SUPERVISION PAYMENT AGREEMENT FOR HIGHWAY WORK PERMITS

- The permittee will reimburse the NYSDOT for inspection and/or supervision of any permit work by NYSDOT employees which exceeds one hour of work on a highway work permit.

PERM 52b (9/93) - INSPECTION AND/OR SUPERVISION PAYMENT AGREEMENT FOR HIGHWAY WORK PERMITS FOR PUBLIC UTILITY COMPANIES

- The permittee will reimburse the NYSDOT for inspection and/or supervision of any permit work by NYSDOT employees which exceeds one hour of work on a highway work permit.

XII. SPECIAL HAULING PERMIT REQUIREMENTS

Many utility projects require equipment or materials to be delivered to project locations which require special hauling permits. For additional information, see the following website: www.nypermits.org/. A Complete Plan Submission for a Special Hauling Permit must include in detail the following:

- **PERM 17 (11/05) – CERTIFICATE OF INSURANCE FOR SPECIAL HAULING, DIVISIBLE LOAD OVERWEIGHT, AND HIGHWAY WORK PERMIT INSURANCE REQUIREMENTS**
- Delivery Plan
- Cable Pulling Plan
- Pick Plan
- Maintenance and Protection of Traffic Plans (M&PT)
 - detours schemes for night delivery
 - shoulder closure and temporary concrete barrier schemes that will remain in place until reels are emptied and pulling and cradles are removed.
- Site details for temporary staging area for each pit location(i.e.: limits of vegetation removal, details for cut and fill areas for level working pads, placement of Recycled Concrete Aggregate (RCA) bedding, erosion controls, etc.) necessary to safely support dispensing operation equipments in soft shoulder.

XIII. ATTACHMENTS

- 2006 Lobbying Laws
 - Offerer Disclosure of Prior Non-Responsibility Determinations
 - Offerer's Affirmation of Understanding of and Agreement pursuant to NYS Finance Law §139-j (3) and §139-j (6) (b)
- Use and Occupancy Agreement ROW 75n (10/06)
- Highway Work Permit Forms
 - PERM 17 (11/05)
 - PERM 32M (2/06)
 - PERM 36 (2/06)
 - PERM 41-1d (4/86)
 - PERM 44e (8/01)
 - PERM 50e (9/93)
 - PERM 51 (11/90)
 - PERM 52b (9/93)

12/14/06

Offerer Disclosure of Prior Non-Responsibility Determinations

Name of Individual or Entity Seeking to Enter into the Procurement Contract: _____

Address: _____

Name and Title of Person Submitting this Form: _____

Contract Procurement Number: _____

Date: _____

1. Has any Governmental Entity made a finding of non-responsibility regarding the individual or entity seeking to enter into the Procurement Contract in the previous four years? (Please circle): Yes No

If yes, please answer the next questions:

2. Was the basis for the finding of non-responsibility due to a violation of State Finance Law §139-j (Please circle): No Yes

3. Was the basis for the finding of non-responsibility due to the intentional provision of false or incomplete information to a Governmental Entity? (Please circle): Yes No

4. If you answered yes to any of the above questions, please provide details regarding the finding of non-responsibility below.

Governmental Entity: _____

Date of Finding of Non-responsibility: _____

Basis of Finding of Non-Responsibility: _____

(Add additional pages as necessary)

5. Has any Governmental Entity or other governmental agency terminated or withheld a Procurement Contract with the above-named individual or entity due to the intentional provision of false or incomplete information? (Please circle): No Yes

6. If yes, please provide details below.

Governmental Entity: _____

Date of Termination or Withholding of Contract: _____

Basis of Termination or Withholding: _____

(Add additional pages as necessary)

Offerer certifies that all information provided to the Governmental Entity with respect to State Finance Law §139-k is complete, true and accurate.

By: _____ Date: _____

Signature

Name: _____

Title: _____

**Offerer's Affirmation of Understanding of and Agreement pursuant to State Finance Law
§139-j (3) and §139-j (6) (b)**

Offerer affirms that it understands and agrees to comply with the procedures of the Government Entity relative to permissible Contacts as required by State Finance Law §139-j (3) and §139-j (6) (b).

By: _____ Date: _____
Signature

Name: _____

Title: _____

Contractor Name: _____

Contractor Address: _____

Original Owner _____
 Original Tenant _____
 Airspace Occupant _____
 Subsequent Occupant _____

**NEW YORK STATE DEPARTMENT OF TRANSPORTATION
 REAL ESTATE DIVISION
 PERMIT FOR USE OF STATE-OWNED PROPERTY**

P.I.N. _____ INVENTORY NO. _____ Permit Account No. _____

Property Location _____

Project _____

Map No.(s) _____ Parcel No.(s) _____ County _____

Town _____ City/Village _____

THIS PERMIT, made this ____ day of _____, 20____ between

hereinafter referred to as "Permittee", and the COMMISSIONER OF TRANSPORTATION FOR THE PEOPLE OF THE STATE OF NEW YORK, hereinafter referred to as "the State",

WITNESSETH:

WHEREAS the State is the owner of the above identified property, hereinafter referred to as "property" or "premises"; and

WHEREAS the Permittee wishes to use and occupy said property;

NOW, THEREFORE, the State hereby grants this permit to the Permittee, subject to the following covenants and conditions:

1. The property covered by this permit shall be used only for the purpose of:

and for no other purpose whatsoever.

2. The fee to be charged shall be: _____ per _____ beginning _____

3. Payment of fee is due on the first of the month unless otherwise stated. Fee must be paid by check, bank cashier's check or money order payable to "Department of Transportation" and mailed or delivered to:

New York State Department of Transportation
 Revenue Unit, POD 5-2
 50 Wolf Road
 Albany, New York 12232

4. The Permittee understands and agrees that if the full amount of the fee as stated herein is not paid within thirty days from the date billed as indicated on the billing invoice, interest penalties and collection fees will be imposed under the provisions of Chapter 55 of the Laws of 1992.

5. The Permittee understands and agrees that the fee charged by the State may periodically be updated to reflect fair market value and the Permittee will enter into a new permit for the new fee if the Permittee wishes to remain in occupancy. Failure to execute a new permit will require Permittee to immediately vacate the premises.

6. The Permittee acknowledges the State's right to collect a security deposit. This sum will be retained as security to ensure faithful performance of the permit and compliance with all terms by the Permittee. The State hereby acknowledges receipt of

_____ \$ _____

received on _____ by _____
(Dept. Rep.'s Signature)

7. This permit supersedes the permit number _____ issued to _____
_____ in the amount of _____

per _____ approved by the Director, Real Estate Division on _____

8. Permittee, at the Permittee's expense and for the term of the permit, shall furnish and show evidence of General Liability Insurance coverage issued by an insurance carrier licensed to do business in the State of New York for the protection of the State of New York and Permittee against any claims, suits, demands or judgments by reason of bodily injury, including death, and for any claims resulting in property damage occurring on or in proximity to the permit area.

Such General Liability Insurance shall be in the amount no less than \$ _____
(combined property damage and/or bodily injury, including death) single limit per occurrence, and shall name the People of the State of New York as an additional insured.

The Permittee will furnish the State with a certificate of insurance, with a (30) thirty day(s) prior written notice of any cancellation or major change in the policy conditions. The permit shall be voided if insurance is cancelled, modified or lapses.

Approval of this permit shall be contingent upon receipt, by the State, of a copy of a properly executed insurance certificate.

9. Permittee is responsible for any repairs, improvements or maintenance work of any kind on the property at Permittee's expense. The State may, at any time, periodically inspect the premises to determine whether same is in good repair and maintenance, structurally sound, and that no unsafe, hazardous, unsanitary, or defective conditions exist.

10. Permittee hereby agrees to admit State representatives and prospective purchasers or permittees to examine these premises during reasonable business hours.

11. Permittee shall not place or store, or allow others to place or store, any flammable, explosive hazardous, toxic or corrosive materials, debris of any description, garbage or any materials commonly referred to as "junk" within the permit area, except fuel kept in the fuel tanks of legally parked vehicles allowed under the terms of this permit. Failure to comply with this provision may result in a ten (10) days written notice of cancellation of the permit in accordance with Provision 16 of the permit. The permittee is responsible for the removal of these materials and/or all expenses incurred in their removal.

12. All arrangements of services for utilities, removal of garbage, rubbish, litter, snow and ice will be made by the Permittee at the Permittee's expense, unless hereafter specified. The State shall have no responsibility to provide any services not specifically set forth in writing herein. Permittee shall comply with all local and State building standards/codes in the installation or repair of any utilities including but not limited to electricity and plumbing. Permittee is responsible for keeping and maintaining the premises in a safe and clean condition, for the regular and prompt removal of garbage, rubbish, litter, snow and ice. Permittee shall be responsible for preventing damages to the plumbing system and premises caused by lack of heat or water damage from leaks.

13. Permittee is responsible to maintain the occupancy in compliance with any and all applicable local, State, and Federal laws, ordinances, codes, rules and regulations affecting the use of the property. Permittee shall not conduct or allow any use or activity on the premises inconsistent with law and shall not conduct or allow any use or activity on the premises which may require a permit or other approval by a government agency without having lawfully obtained such permit or approval.

14. The parties acknowledge that this instrument is not a lease but is merely a permit to occupy and use, and therefore a landlord-tenant relationship is not hereby created; and further, that since this is not a lease, Section 5-321 of the General Obligations Law does not apply to this permit to the extent permitted by law.

15. The State shall have no responsibility whatever for the loss or destruction of any improvements made by the Permittee or for personal property stored or being used on the premises.

16. This permit shall be renewed automatically for successive terms of one month each unless canceled by either party. Cancellation by the State requires thirty (30) days written notice, except for cause, in which event cancellation can be effected on ten (10) days written notice. Permittee may cancel this permit by giving thirty (30) days written notice.

17. Permittee shall not sublet the premises nor assign or transfer the permit to any other parties in part or in whole without the prior written consent of the State. Failure to comply with this provision may result in ten (10) days written notice of cancellation of the permit by the State, and the State may immediately take possession and terminate all rights of the Permittee as of such moment.

18. It is understood and agreed by and between the parties that the Permittee will () will not () be entitled to any relocation benefits provided under State and Federal law.

19. Permittee agrees and understands that the State is under no obligation to sell the property to the Permittee and that no commitment, express or implied, is made by the State to give the Permittee any preemptive right of purchase.

20. In accordance with Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Permittee will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, or marital status. Neither shall the Permittee discriminate in the use of the premises or any access thereto if such premises are used as a public accommodation or in connection with a public service.

21. Permittee hereby agrees to indemnify and save harmless the State from any claim or loss including legal expenses by reason of the use or misuse of the premises under this permit and/or from any claim or loss by reason of any accident or damage to any person or property being on said premises, caused by Permittee, its employees, agents or invitees.

22. If any of the provisions of this permit are held invalid, such invalidity shall not affect or impair other provisions herein which can be given effect without the invalid provisions, and to this end the provisions of this permit are severable.

23. This permit shall not be effective unless accepted and approved in writing by the State.

24. Additional provisions to permit: See Page 5

ACCEPTANCE:

In consideration of the granting of the permit, the undersigned accepts all of the above terms, conditions and provisions.

Soc. Sec. No. _____ Signed _____

Fed. I.D. No. _____

STATE OF NEW YORK)

COUNTY OF _____) SS:

On the _____ day of _____ in the year _____ before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

(Notary Public)

RECOMMENDED: _____ Date _____
Regional Real Estate Officer

ACCEPTED and APPROVED: Commissioner of Transportation for the People of The State of New York

By _____ Date _____
Director, Real Estate Division

PERM 17 (11/05)

NYS Department of Transportation
Central Permit Office
50 Wolf Road, 1st Floor
Albany, NY 12232
(518) 485-2999 or 1-888-783-1685



NYSDOT ACCOUNT NUMBER

**CERTIFICATE OF INSURANCE FOR SPECIAL HAULING, DIVISIBLE LOAD OVERWEIGHT,
AND HIGHWAY WORK PERMIT INSURANCE REQUIREMENTS**

TO BE PREPARED BY INSURANCE AGENCY OR INSURANCE COMPANY

THIS CERTIFICATE OF INSURANCE WILL SUPERSEDE ALL OTHER CERTIFICATES OF INSURANCE NOW ON FILE WITH THE NYSDOT CENTRAL PERMIT OFFICE AND MUST BE IN EFFECT FOR THE FULL TERM OF THE PERMIT. EXPIRATION OF, OR LACK OF, LIABILITY INSURANCE AUTOMATICALLY INVALIDATES THE PERMIT.

CHECK BOX(ES) FOR EACH TYPE(S) OF PERMIT(S) OBTAINED FROM THE NYS DEPARTMENT OF TRANSPORTATION

☐ Special Hauling Permits

(see reverse for permit definitions)

☐ Divisible Load Overweight Permits

☐ Highway Work Permits

☐ Restricted Vehicle Permits

1. NAME OF PERMIT APPLICANT

(The Legal Name of the Business Entity, i.e., Corporation, Partnership or individual, that owns/controls the motor carrier operation. Name on Insurance Certificate & Permit Application must be identical - one name only. The Applicant's motor vehicle registration operator's name must also match for Divisible Load Overweight Permits. NOTE: If DBA, also provide Name of Legal Entity and Copy of "Certificate of Conducting Business under an Assumed Name" that was filed in County Clerk's Office.)

2. PHYSICAL ADDRESS OF PERMIT APPLICANT

(Provide street address of principal place of business; may attach additional PERM 17 ATTACHMENT sheet listing physical addresses of branch offices if application for permits will be for those locations.)

☐ PLEASE CHECK HERE IF THIS IS A CHANGE OF ADDRESS

2a. MAILING ADDRESS OF PERMIT APPLICANT

(If different than above)

☐ PLEASE CHECK HERE IF THIS IS A CHANGE OF ADDRESS

3. TELEPHONE NUMBER OF PERMIT APPLICANT

4. NAME OF PERMIT APPLICANT CONTACT PERSON

5a. MOTOR VEHICLE LIABILITY POLICY NUMBER

(See Policy requirements in B on reverse)

Binders, and unassigned policy numbers are only valid for 30 days.

5b. EFFECTIVE DATE

EXPIRATION DATE

The wording "Continuous Until Cancelled" in place of expiration date is NOT acceptable. Maximum duration one calendar year.

6a. PROTECTIVE LIABILITY POLICY NUMBER

(See Policy requirements in A or C on reverse)

Binders, and unassigned policy numbers are only valid for 30 days.

6b. EFFECTIVE DATE

EXPIRATION DATE

The wording "Continuous Until Cancelled" in place of expiration date is NOT acceptable. Maximum duration one calendar year.

7. MOTOR CARRIER ID. All permit applicants must provide a USDOT number to obtain permits, with the exception of Federal & State Agencies and municipalities, and private individuals transporting personal property. (Check as appropriate - Commercial carriers must have a USDOT Number.

☐ USDOT Number

☐ Exempt - Federal & State Agency/Municipality

☐ Private Individual

USDOT numbers are issued by the Federal Motor Carrier Safety Administration (Form MCS-150) for interstate carriers or NYSDOT Passenger & Freight Safety Division (Form MCS-150 NY) for intrastate carriers. To obtain a USDOT number you can:

(1) use the internet at: <http://safer.fmcsa.dot.gov> to apply online;

(2) call toll-free 1-800-832-5660 or 518-431-4145 and press "0" for mail or fax information;

(3) call toll-free 1-866-881-2630 for mail or fax information

(Interstate carriers)

(Intrastate carriers)

(Intrastate carriers)

8. FEIN Number

(Federal Employee Identification Number is also known as the IRS Tax Identification Number and is required for All For Hire Carriers, agencies and municipalities.)

REVERSE SIDE MUST BE COMPLETED

PERM 17 (11/05)
REVERSE

In accordance with NYS Department of Transportation requirements (See NYCRR, Title 17, Part 154), the subscribing insurance company hereby certifies that a protective liability insurance policy (only option for Highway Work Permits) or, in the alternative, a motor vehicle insurance policy and endorsement has been issued to the Permit Applicant:

- A. if a protective liability insurance policy, for the protection of the people of the State of New York, all municipal subdivisions thereof, and the Commissioner and NYS Department of Transportation, the NYS Thruway Authority, the State Bridge Authority and their officials, officers, and employees as named insureds, (and no other co-insureds), for covering bodily injury (including death) with minimum limits of \$500,000 each occurrence and covering property damage with minimum limits of \$100,000 each accident and minimum aggregate annual limits of \$500,000, against actions resulting from use of a Highway Permit by the Permittee or by an person acting by, through or for the Permittee, including omissions and supervisory acts of any of the named insureds; or
- B. if a motor vehicle insurance policy and endorsement, with the People of the State of New York, all municipal subdivisions thereof, and the Commissioner and NYS Department of Transportation, the NYS Thruway Authority, the State Bridge Authority and their officials, officers, and employees as additional insureds under the policy, covering bodily injury (including death) with minimum limits of \$750,000 each occurrence and covering property damage with minimum limits of \$250,000 each occurrence or \$1 million combined single limit each occurrence; or
- C. if extended coverage, a protective liability insurance policy, for the protection of the people of the State of New York, all municipal subdivisions thereof, and the Commissioner and NYS Department of Transportation, the NYS Thruway Authority, the State Bridge Authority and their officials, officers, and employees as named insureds, (and no other co-insureds), for Major Commercial Highway Work Permits - covering bodily injury (including death) with minimum limits of \$1,000,000 each occurrence and covering property damage with minimum limits of \$200,000 each accident and minimum aggregate annual limits of \$1,000,000, against actions resulting from use of a Highway Permit by the Permittee or by an person acting by, through or for the Permittee, including omissions and supervisory acts of any of the named insureds.

Any subscribing insurance company providing insurance pursuant to A, B or C above, certifies and agrees that such insurance policy shall not be cancelled until thirty (30) days written cancellation notice has been given the NYS Department of Transportation, indicating the permit applicant's name, permit account number (obtain from permit applicant), address, and policy number. Notice of reinstatement must be made by a reinstatement notice or a completed Certificate of Insurance (PERM 17) and sent to the NYS Department of Transportation to the attention of the Central Permit Office. In addition, the subscribing insurance company issuing a protective liability insurance policy (pursuant to A above) or a motor vehicle insurance policy (pursuant to B above), further certifies and agrees that the insurance policy referred to herein shall not be changed or cancelled unless:

1. All trips authorized by the Permit have been made; or
2. The effective period of the Permit has expired; or
3. In the case of a Highway Work Permit, all work authorized has been completed and accepted by the NYS Department of Transportation.

This certificate is furnished in accordance with the rules and regulations of the NYS Department of Transportation pertaining to Highway Permits. No Monthly or Annual Permits will be issued if the effective date of the Permit is not covered by the Insurance Certificate.

A Certificate of Insurance (PERM 17) is the only acceptable proof of insurance. PLEASE DO NOT SEND ACCORD FORMS, INSURANCE CARDS, COPIES OF POLICIES, ETC. Altered certificates will NOT be accepted. Certificates must be sent to the Central Permit Office at the address noted on the front of the form. If you would like to fax the certificate, the number is 518-457-0367. Updates and changes may be made by submitting a new Certificate of Insurance (PERM 17), as the most recent form will supersede all previous Certificates of Insurance (PERM 17) on file with the NYS Department of Transportation.

SPECIAL HAULING PERMITS (Used for transporting over-dimension and/or overweight non-divisible items on highways, e.g. manufactured homes, heavy construction equipment, buildings, etc.) *Policy provided must be in accordance with A or B above.*

DIVISIBLE LOAD OVERWEIGHT PERMITS (Used for transporting overweight divisible loads on highways, e.g. sand, gravel, fuel oil, milk, etc.) *Policy provided must be in accordance with A or B above.*

HIGHWAY WORK PERMITS (Used for installing and/or maintaining facilities on State right-of-way - coverage in such case shall be written only as protective liability insurance policy and shall also include completed operations liability insurance with respect to liability imposed by law arising between the date of final cessation of the work pursuant to the Highway Work Permit and the date of final acceptance of such work by the State.) *Policy provided must be in accordance with A or C above.*

RESTRICTED VEHICLE PERMITS (Necessary for vehicles registered as commercial to travel legally on restricted Parkways, and are SOLELY for the purpose of work done on the Parkways or to access areas that are only accessible via the Parkways.)

Authorized Signature of Insurance Agent

Name of Insurance Company (please print)

Authorized Name of Insurance Agent (please print)

Address of Insurance Company (please print)

Address of Insurance Agent (please print)

Telephone No. of Insurance Company

Telephone No. of Insurance Agent

PERM 17 ATTACHMENT (11/05)
NYS Department of Transportation
Central Permit Office
50 Wolf Road, 1st Floor
Albany, NY 12232
(518) 485-2999 or 1-888-783-1685



**ATTACHMENT TO
CERTIFICATE OF INSURANCE FOR SPECIAL HAULING, DIVISIBLE LOAD OVERWEIGHT,
AND HIGHWAY WORK PERMIT INSURANCE REQUIREMENTS**

THIS FORM MUST BE SUBMITTED WITH THE APPROPRIATE CERTIFICATE OF INSURANCE (PERM 17)
TO BE PREPARED BY INSURANCE AGENCY OR INSURANCE COMPANY

1. NAME OF PERMIT APPLICANT _____

2. USDOT Number _____ 3. FEIN Number _____

4. Consider the Certificate of Insurance (PERM 17) as PAGE 1, this ATTACHMENT is PAGE _____ of _____ TOTAL PAGES

5. BRANCH OFFICES - Additional locations also listed and covered by the same insurance policy indicated on page one, the Certificate of Insurance (PERM 17), where the insured has a physical place of business and the vehicles are dispatched from while operating under a NYS Department of Transportation permit.

NAME OR DESIGNATION OF BRANCH OFFICE: _____

BRANCH OFFICE PHYSICAL ADDRESS: _____

BRANCH OFFICE MAILING ADDRESS: _____

TELEPHONE NUMBER OF BRANCH OFFICE: _____

CONTACT PERSON: _____

NAME OR DESIGNATION OF BRANCH OFFICE: _____

BRANCH OFFICE PHYSICAL ADDRESS: _____

BRANCH OFFICE MAILING ADDRESS: _____

TELEPHONE NUMBER OF BRANCH OFFICE: _____

CONTACT PERSON: _____

NAME OR DESIGNATION OF BRANCH OFFICE: _____

BRANCH OFFICE PHYSICAL ADDRESS: _____

BRANCH OFFICE MAILING ADDRESS: _____

TELEPHONE NUMBER OF BRANCH OFFICE: _____

CONTACT PERSON: _____

(Additional sheets may be attached if necessary)

STATE OF NEW YORK DEPARTMENT OF TRANSPORTATION
HIGHWAY WORK PERMIT APPLICATION FOR UTILITY WORK

PREPARE 3 COPIES

Application is hereby made for a highway work permit:

For Joint application, name and address of Second Applicant below:

Name _____

Name _____

Address _____

Address _____

City _____ State _____ Zip _____

City _____ State _____ Zip _____

Charge Account Code _____

Federal I.D. No. or Social Security No. _____

Project Identification No. _____

Applicant Telephone # _____

Highway Work Permit No. _____

Contact person in case of emergency _____

(include telephone number) _____

RETURN PERMIT TO: (if different from above)

RETURN OF DEPOSIT/BOND TO: (COMPLETE ONLY IF DIFFERENT FROM PERMITTEE)

Name _____

Name _____

Address _____

Address _____

City _____ State _____ Zip _____

City _____ State _____ Zip _____

- Estimated cost of work being performed in state highway right-of-way \$ _____
- Anticipated duration of work: From _____ 20 _____ thru _____ 20 _____, to apply to the operation(s) checked below:
- Protective Liability Insurance covered by Policy No. _____; expires on _____ 20 _____
- A \$20.00 fee will be charged for checks, returned by bank.

CHECK TYPE OF OPERATION	PERMIT FEE				TOTAL	INSURANCE Show PERM 17 or Undertaking on file	Indicate Account Number if Permit Fee Charged	Guarantee Deposit Check/Bond Amount	Check or Bond Number
	Base Fee	Indicate No. Feet/Poles	Times Unit Rate	Sub- Total					
1. <input type="checkbox"/> Original installation									
a. <input type="checkbox"/> Underground									
1. <input type="checkbox"/> Excavating, tunneling, boring installing, etc.	\$ 32		\$.32/ft.						
2. <input type="checkbox"/> Commercial service sub-surface connection	32		.32/ft.						
3. <input type="checkbox"/> Residential service sub-surface connection	32		.32/ft.						
b. <input type="checkbox"/> Overhead									
1. <input type="checkbox"/> Erecting poles, towers, etc.	63		2.50/Unit						
2. <input type="checkbox"/> Running new lines	63								
3. <input type="checkbox"/> Commercial service connections	19								
4. <input type="checkbox"/> Residential service connection	19								
c. <input type="checkbox"/> On Bridges and Culverts									
1. <input type="checkbox"/> Regular installation	63								
2. <input type="checkbox"/> Requiring structural changes	625								
d. <input type="checkbox"/> Telephone Booths									
1. <input type="checkbox"/> Along Interstate highways	63								
2. <input type="checkbox"/> Along State highways	63								
2. <input type="checkbox"/> Maintenance									
a. <input type="checkbox"/> Single job Repairing, making replacements, relocation, performing herbicide work, etc. (indicate footage or poles although no additional fee)	32								
b. <input type="checkbox"/> Annual Per Region Per County Includes tree work and other work permitted as single jobs. (Department must be notified each time work is to be performed)	2500 625								
c. <input type="checkbox"/> Repair of water or sewer lines	32								
d. <input type="checkbox"/> D.O.T. requested maintenance	N/C								
3. <input type="checkbox"/> After original construction									
a. <input type="checkbox"/> Annual - includes overhead connections Per Region Per County	2500 625								
b. <input type="checkbox"/> Relocation - D.O.T. requested	N/C								
c. <input type="checkbox"/> Commercial service sub-surface connection	32		.32/ft.						
d. <input type="checkbox"/> Commercial service overhead connection	19								
e. <input type="checkbox"/> Residential service sub-surface connection	32		.32/ft.						
f. <input type="checkbox"/> Residential service overhead connection	19								
4. <input type="checkbox"/> Miscellaneous	32								

PROPOSED WORK (BRIEF DESCRIPTION): _____

ATTACHED: Plans _____ Specifications _____ LOCATION: State Route _____ State Highway _____

between Reference Marker _____ and Reference Marker _____

Town of: _____ County of: _____

SEQR REQUIREMENTS: (Check appropriate box)

☐ Exempt ☐ Ministerial ☐ Type II ☐ EIS or DEIS Lead Agency _____

If project is identified to be ministerial, or TYPE II, no further action is required.

If project is determined to be other than ministerial, exempt, or TYPE II, refer to M.A.P.7.12-2, Appendix A SEQR REQUIREMENTS FOR HIGHWAY WORK PERMITS.

Acceptance of the requested permit subjects the permittee to the restrictions, regulations and obligations stated on this application and on the permit.

Applicant Signature _____ Date _____ 20 _____

Second Applicant Signature _____ Date _____ 20 _____

Approval recommended _____ 20 _____ By Resident Engineer _____ Residency No. _____

Approved _____ 20 _____ By Regional Traffic Engineer _____ Region No. _____

PERMIT IS ISSUED CONTINGENT UPON LOCAL REQUIREMENTS BEING SATISFIED.

RESPONSIBILITIES OF PERMITTEE

1. PROTECTIVE LIABILITY INSURANCE COVERAGE

Permittee must have protective liability insurance coverage in accordance with Department requirements. See Certificate of Insurance for Highway Permits Insurance Requirements (Form PERM 17, NYSDOT).

Expiration of, or lack of, liability insurance automatically terminates the permit. Insurance coverage may be provided by furnishing the Department with one of the following:

- a. A Certificate of Insurance for Highway Permits Insurance (Form PERM 17, NYSDOT).
- b. Undertakings are limited to Public Service Corporations and government units. They must be executed through an insurance/bonding company and are subject to approval by NYSDOT Office of Legal Affairs.

2. COMPENSATION INSURANCE AND DISABILITY COVERAGE

The applicant is required to have compensation insurance and disability coverage as noted in the provisions of the Worker's Compensation Law and Acts amendatory thereof for the entire period of the permit, or the permit is invalid.

3. FEDERAL IDENTIFICATION NUMBER OR SOCIAL SECURITY NUMBER

This number is required by Chapter 55 Laws of 1992. Failure to provide this number will result in rejection of Application for Highway Work Permit.

4. NOTIFICATION

- Notify Commissioner, through Regional Office, one week prior to commencing work. Emergency work performed by public service utilities should be reported the next work day.
- Notify area gas distributors 72 hours prior to any blasting.
- Notify utility companies with facilities in work areas before starting work, in accordance with Industrial Code 53 (permission from utility company must be obtained before commencing work affecting utilities' facilities)
- Notify Regional Signal Maintenance Shop 3 days prior to starting work.
- Notify Department of Transportation at conclusion of work and return original copy of permit to Resident Engineer.

Annual Maintenance Permit Notifications:

- Notify, by telephone, the Regional or Resident Engineer's office, one week in advance, each time regular maintenance work is to be performed. In emergencies, notification by telephone should be made the next work day.

5. SITE CARE AND RESTORATION

An Undertaking, a bond or a certified check in an amount designated by the Department of Transportation may be required by the Regional Office, before a permit is issued, to guarantee restoration of the site to its original condition. If the Department is obliged to restore the site to its original condition, the costs to the Department will be deducted from the amount of the permittee's guarantee deposit at the conclusion of the work. Costs in excess of the Bond/guarantee deposit on file will be billed directly to the permittee.

The permittee is responsible for traffic protection and maintenance including adequate use of signs and barriers during work and evening hours. Anyone working within the R.O.W. will wear high visibility apparel (orange/yellow) and hard hat.

No unnecessary obstruction is to be left on the pavement or the right-of-way or in such a position as to block warning signs during non-working hours.

No work shall be done to obstruct drainage or divert creeks, water courses or sluices onto the right-of-way.

All falsework must be removed and all excavations must be filled in and restored to the satisfaction of the Regional Maintenance Engineer.

6. COSTS INCURRED BY ISSUANCE OF THIS PERMIT

- All costs beyond the limits of the protective liability insurance, surety deposits, etc., are the responsibility of the permittee. The State shall be held free of any costs incurred by the issuance of this permit, direct or indirect.

7. SUBMITTING WORK PLANS

The applicant will submit work plans and/or a map as required by the Department. This shall include such details as measurements of driveways with relation to nearest property corner, positions of guys supporting poles and a schedule of the number of poles and feet of excavation necessary for completion of the work on the State right-of-way. A description of the proposed method of construction will be included.

Plan work with future adjustments in mind, as any relocation, replacement or removal of the installation authorized by this permit and made necessary by future highway maintenance, reconstruction or new construction, will be the responsibility of the permittee.

Driveway plans should be prepared in accordance with the POLICY AND STANDARDS FOR ENTRANCES TO STATE HIGHWAYS. The permittee must coordinate his work with any state construction being conducted.

8. TRAFFIC MAINTENANCE

A plan detailing how the permittee intends to maintain and protect traffic shall be submitted with work plans. Traffic shall be maintained on the highway in a safe manner during working and non-working hours until construction is completed. The permittee is responsible for traffic protection and maintenance, including adequate use of signs, barriers, and flag persons during working and non-working hours until construction is completed.

All sketches will be stamped with "MAINTENANCE OF TRAFFIC SHALL BE IN CONFORMANCE WITH THE NEW YORK STATE MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES."

9. COST OF INSPECTION AND SUPERVISION

Prior to issuance of the Highway Work Permit, the permittee may be required to sign an INSPECTION PAYMENT AGREEMENT FOR HIGHWAY WORK PERMITS (FORM PERM 50) agreeing to the payment of inspection charges and/or PAYMENT OF AGREEMENT FOR HIGHWAY WORK PERMITS DESIGN REVIEW (FORM PERM 51) for Department employees. Inspection charges will be based on number of work days. Design Review charges will be based on number of work hours.

10. SCOPE

a. Areas Covered

Permits issued are for highways, bridges and culverts over which the New York State Department of Transportation has jurisdiction. (Local governments issue permits for highways under their jurisdiction.)

b. Legal

The privilege granted by the permit does not authorize any infringement of federal, state or local laws or regulations, is limited to the extent of the authority of this Department in the premises and is transferable and assignable only with the written consent of the Commissioner of Transportation.

c. Commissioner's Reservation

The Commissioner of Transportation reserves the right to modify fees and to revoke or annul the permit at any time, at his discretion without a hearing or the necessity of showing cause.

d. Locations

Work locations must be approved by the Department.

e. Maintenance

Property owners having access to a state highway shall be fully responsible for the maintenance of their driveway in accordance with POLICY AND STANDARDS FOR ENTRANCES TO STATE HIGHWAYS.

f. Work Commencement

Work should start within 30 days from validation date of permit or said permit may be revoked.

11. COMPLETION OF PROJECT

Upon completion of the work within the state highway right-of-way authorized by the work permit, the person and his or its successors in interest, shall be responsible for the maintenance and repair of such work or portion of such work as set forth within the Terms and Conditions of the Highway Work Permit.

ATTACHMENT TO HIGHWAY WORK PERMIT

This is an attachment to Highway Work Permit No. _____ issued to _____ (Permittee) pursuant to Section 52 of the Highway Law for work on State Highway right-of-way. This attachment, the application submitted by the Permittee, and all plans and other documents submitted as part of the application or subsequently approved by the New York State Department of Transportation (Department) are a part of and are incorporated into the Permit described above. The Permittee agrees to the following conditions, requirements, and obligations which are in addition to, and not in lieu of, any requirements contained in Title 17 of the New York Code of Rules and Regulations (NYCRR), Parts 125-130 and/or any requirements stated in the application submitted by the Permittee.

1. All work on State Highway right-of-way shall be according to plans and specifications entitled _____ prepared by _____ and dated _____, which plans and specifications were approved by the Department on _____, and are attached to and are made part of this permit as Schedule A (Plans). No modifications will be made to the Plans without the express written permission of the Department.

It is understood that alterations to the plans may be necessary to meet unforeseen field conditions or to provide for inadvertent errors or omissions. These alterations will be made by the Permittee, with the approval of and to the satisfaction of the Department. The intent of this requirement is not to alter the scope of the work as approved by the Department, but to provide flexibility to make alterations, additions, and subtractions necessary to complete the work within the original intent and scope of the Plans.

2. The Permittee agrees to hold harmless, defend, and indemnify the State of New York, the Department, and all employees or officers of the State from any and all claims, actions, suits, proceedings, costs, expenses, judgments, damages, and liabilities, including attorney's fees, arising out of, or in connection with, or resulting from the actions of, the Permittee, its employees, agents, consultants, contractors, and subcontractors in connection with the work authorized by this Permit.

3. All authority granted by this Permit relates solely to that authority within the discretion of the Commissioner of Transportation. All other permits and approvals required for the project shall be the responsibility of the Permittee. There shall be no liability or obligation placed upon the Department with respect to such other requirements.

4. This Permit shall not be construed as conveying to the Permittee or to any other person, the right to enter upon or trespass upon the lands of parties not party to this agreement for any purpose, nor shall this Permit be construed as authorizing the impairment of any rights, title, or interest in real or personal property held or vested in a person not a party to this agreement.

5. In the event that the Permittee fails to comply with the terms of the Permit, the Department has the right to cancel this approval at any time. The Department may decide to continue, rescind, or modify this Permit in such a manner as it finds just and equitable.

6. The Permittee shall retain, at its own cost, the services of a reputable engineering firm ("Consultant"), to inspect and monitor the work performed under the Permit. The Consultant shall monitor the work of the Permittee and the Permittee's Contractors to ensure that the work performed under the permit is done in accordance with the plans, the Standard Specifications, and all other requirements of the permit. As necessary, the Consultant will inform, orally and in writing, the Permittee and the Department of deficiencies in workmanship, material quality, Maintenance and Protection of Traffic, Safety, etc. Failure of the Permittee to properly respond to a notice of deficiency shall be deemed a breach of the Permit and shall be grounds for denial of the Department's approval of the entire work or portions of the work under the permit. Inspection of the work by the Consultant shall not relieve the Permittee of responsibility for compliance with all of the conditions of the permit.

The engineering firm (Consultant) and its inspector(s) retained by the Permittee shall have the following qualifications:

- A. The firm shall be registered to practice professional engineering in New York State.
- B. The firm shall be experienced in inspection of highway, structural, utility, and traffic signal work.
- C. The firm shall be approved in writing by the Department.
- D. The primary inspector shall be certified at NICET Level II or above in Highway Construction, or be the equivalent, based on the person's knowledge and experience.

No work shall be performed under this permit before the Consultant and its inspector(s) have been approved by the Department, and has assigned sufficient staff to the project to carry out the necessary project duties as described below. If the Department determines that the personnel assigned to this work are insufficient, the Permittee shall promptly make arrangements to provide sufficient personnel. If the Permittee fails to make such arrangements within a reasonable time, the Department may order the project shut down until sufficient personnel are provided. The Department shall have the right to approve or reject the individual employees to be assigned to inspection of the work authorized by the Permit before their employment on the project.

7. The services to be performed by the Consultant shall include but shall not be limited to the following:

- A. Construction inspection in accordance with the standard practices of the Department. The Consultant is to certify that each item of work conforms to the Plans.
- B. Maintenance of records in accordance with the current New York State Department of Transportation Manual of Uniform Record Keeping on Highway Contracts with the following exceptions:
 - i. Sections 1.031 through 1.072 inclusive
 - ii. Sections 1.12 through 1.14 inclusive.
 - iii. Exhibits 1.02C, 1.03, 1.03A, 1.03C, 1.04, 1.04A, 1.04B, 1.04C, 1.26, 1.133, and 1.133A.
 - iv. Part 4 except as the distribution list applies to the forms required elsewhere.

All specified records shall be kept and stored as required by the Department. The Department shall have complete access to the

ATTACHMENT TO HIGHWAY WORK PERMIT

records at any time during normal business hours or while work is actually being performed. Upon acceptance of the work by the Department, all records shall become the property of the Department. The Permittee may make or retain copies of such records at their own expense. The purpose of these requirements is to document compliance by the Permittee (and all contractors or sub-contractors employed by the Permittee) with the quality and workmanship requirements shown in the Plans and required by the Standard Specifications.

C. Obtaining all necessary material samples and conducting all necessary material tests in accordance with the Department's Materials methods. If the Department determines that plant inspections for asphalt concrete and portland cement concrete will be required, the Permittee shall make arrangements with a reputable testing laboratory (which shall be approved by the Department) to perform such inspections according to the Department's Standards. The Permittee will be responsible for all costs associated with obtaining and testing of samples.

D. Conducting an inventory of all existing highway features including, but not limited to, signs, signals, structures, equipment, etc. in coordination with the Department's Engineer and the Permittee.

E. Preparation of all drawings, sketches, and plans necessary for changes to meet actual field conditions.

F. Providing three sets of Record (As-Built) Plans upon completion of the work.

G. Reviewing and inspecting compliance with all aspects of the Maintenance & Protection of Traffic provisions of the Plans, the Permit, NYCRR Title 17, Volume B (a.k.a. NYSMUTCD) and NYSDOT Standard Specifications and notifying the Department of any non-compliance issues.

H. The Consultant must notify the Department, Permittee and Contractor of a circumstance or condition of the work observed by and known to the Consultant per required training to be a violation of a Federal, State or local law, ordinance or regulation. The Consultant shall inform the Department of any violations in the performance of the work on this permit which are not immediately corrected. In the event the Consultant recognizes a Contractor's oversight or a Contractor's disregard of project safety requirements which poses an immediate risk of serious personal injury and/or property damage, the Consultant shall have the authority to notify the Contractor to stop work immediately; issuing a stop-work order, and then the Consultant shall promptly notify the Department and the Permittee of such stop-work order. Notification and/or issuance of a stop-work order by the Consultant shall not relieve the Contractor from sole responsibility for job site safety and compliance with all applicable Federal, State or local laws, ordinances and regulations.

The Department reserves the right to inspect the work for compliance with Federal, State or local laws, ordinances and regulations, but is under no obligation to perform such inspections and assumes no responsibility for lack of any compliance on the part of the Contractor. If the Department determines that there are serious or persistent violations of applicable Federal, State or local laws, ordinances and regulations in the work of this Permit, the Department may issue a stop-work order and all Permit work will cease immediately. In addition, the Permit may be revoked if the safety issues are not resolved to the Department's satisfaction.

The Consultant is responsible for monitoring the Contractor's efforts to maintain traffic and protect the public from damage to person or property in accordance with plans and specifications, within the limits of, and for the duration of, the permit work.

8. The Permittee shall reimburse the State for all reasonable Permit engineering review costs, and for any Department completed inspections which may be necessary due to negligence on the part of the Permittee, its Contractors, or the Consultant. These costs shall include, but not be limited to, salaries and fringe benefits for the Department's Engineers and for material inspectors, travel costs, etc. All work performed by the Permittee shall be at no cost to the State. If costs are incurred by the Department, the Department will bill the Permittee monthly, and the Permittee agrees to pay all such bills within 30 calendar days of the billing date. Failure to pay such bills promptly shall be deemed a breach of the Permit.

9. Prior to the intended commencement of work, the Permittee shall develop a schedule from the contractors' work programs for the accomplishment of all work authorized by the Permit and shall submit this schedule to the Consultant and the Department for informational purposes. The Permittee shall promptly notify the Consultant and the Department of any changes to the schedule.

10. The Permittee shall designate in writing to the Department the Contractor's on-site person who will be responsible for all construction activities covered by this Permit, and shall immediately notify the Consultant and the Department in writing if there is any change of the person so designated. The Permittee shall also designate one or more persons as emergency contacts and shall establish an emergency telephone list. This list shall be kept current by the Permittee and shall be provided to the Consultant, to the Department, and to local public safety agencies.

11. Prior to the commencement of work the Permittee shall arrange a pre-construction meeting with Department staff, the Consultant, the Permittee, and the Permittee's contractors. The purpose of this meeting is to ensure that there is a clear understanding, especially on the part of the Contractors and Consultant, of the requirements imposed by the terms and conditions of the Permit. The Permittee shall notify the Regional Permit Engineer a minimum of ten days prior to the meeting date.

Consultant Authorized Signature *

Permittee Signature

Title

Title

Corporation

* Consultant authorized signature must be by person who can legally commit the consulting firm to the requirements of this agreement.

**METHOD OF PERFORMING WORK
WITHIN THE STATE HIGHWAY RIGHT OF WAY**

I. GENERAL CONDITIONS

These conditions and regulations apply to Highway Work Permits authorizing work within the State highway right-of-way for water mains, gas mains, sewer lines and miscellaneous structures. General conditions apply to telephone and telegraph installations as well as specific conditions on the setting and resetting of poles. These conditions, and any special conditions which are added to this form, are enforceable by the Department of Transportation.

A. TIME

1. Work under the permit shall be commenced within thirty (30) days from the date of permit issuance unless a later starting date is approved by the Regional Traffic Engineer.

B. REQUIREMENTS

All the current requirements of the following shall apply: Occupational Safety and Health Administration, Federal Department of Labor, Safety and Health Standards (29 CFR 1926/1910); Part 131, Title 17, New York Code of Rules and Regulations, Accommodation of Utilities Within State Right-of-Way; New York State Department of Labor, Industrial Code Rule 23, Protection of Persons Employed in Construction and Demolition Work; Industrial Code Rule 53, Construction, Excavation and Demolition Operations At Or Near Underground Facilities.

Temporary soil erosion and water pollution controls shall be used as required. The final decision on the method of underground installation will be made by the Regional Director or his representative.

1. Work Within Pavement and Shoulder Areas

- a. Installations that cross the pavement and shoulder area. Wherever practical, all underground installations shall be placed beneath the pavement and shoulder areas without disturbance to these paved surfaces.

1) Boring, Jacking, and Tunneling Methods

DESIGN

- a) The location of all excavations (jacking pits, etc.) shall be shown in plan and profile.
- b) The soil profile and groundwater conditions shall be determined by adequate subsurface exploration.
- c) The location of all other existing utilities shall be shown.
- d) The construction equipment and procedures to be used shall be described in the permit application.
- e) The design of all excavations, including ground and surface water control where necessary, shall be made available for review by the Department.
- f) The underground installation shall be described in detail, i.e. size, length, depth, material, provisions for grouting, etc.
- g) Pipes shall generally be enclosed in sleeves or larger pipes. Small diameter services (2 inch I.D. or smaller) may be placed without sleeving at the discretion of N.Y.S.D.O.T.
- h) The limits of an open excavation shall not be closer than 10 feet to the edge of the pavement unless approved by the Department. Open excavations shall be protected with the required controls for safety and for the maintenance and protection of traffic in accordance with the New York State Department of Transportation, Manual of Uniform Traffic Control Devices.

CONSTRUCTION

- a) Grouting operations may be required if surface settlement, loss of soil or voids around the pipe develop. When grout is required, it shall consist of 1 part cement to 2 parts sand, by volume, and sufficient water, to produce a consistency suitable for placing the grout.
- b) Backfill of open excavations shall be as required under 2.) f) Open Excavation Method.

2) Open Excavation Method

DESIGN

- a) The location of all pavement crossing by the open excavation method shall be shown in plan and profile.
- b) The soil profile and groundwater conditions shall be determined by adequate subsurface exploration.
- c) The location of all other existing utilities shall be shown.
- d) The design of all excavations, including ground and surface water control where necessary, shall be made available for review by the Department.
- e) When requested, the construction equipment and procedures to be used shall be described in the permit application.
- f) Pipe installations shall be done according to the requirements of the appropriate New York State Department of Transportation's Standard Sheets. The required granular material shall meet the material requirements for Select Granular Fill in the current New York State Department of Transportation's Standard Specifications including addenda. Exceptions will only be allowed if prior approval is granted by the Regional Soils Engineer.
- g) Pavement shall be saw cut at termination points of pavement replacement.

CONSTRUCTION

- a) Pavement and shoulder removal shall be done in a manner that provides for proper restoration of the replacement section. Straight, vertical cuts of the pavement will be required. Pavement surfaces that become undermined shall be cut back and removed. Alternative repair methods may be used if prior approval is granted.
- b) The backfill material shall be placed and compacted according to the requirements for backfilling structures, culverts, pipes, conduits and direct burial cable described in Section 200, Earthwork, New York State Department of Transportation's Specifications, including addenda.
- c) Generally, cuts shall be filled at the end of each working day. With prior approval, steel cover plates may be used. Recessing of these plates may be required.
- d) Temporary pavements and shoulders shall be placed as soon as a crossover installation is completed.

- b. Installations that are longitudinal to the pavement.

1) Open Excavation Method

DESIGN

- a) The location of all open excavations shall be shown in plan and profile.
- b) The soil profile and groundwater conditions shall be determined by adequate subsurface exploration.
- c) The design of all excavations, including ground and surface water control where necessary, shall be made available for review by the Department.
- d) The location of all other existing utilities shall be shown.
- e) Pipe installations shall be done according to the requirements of the appropriate New York State Department of Transportation's Standard Sheets. The required granular material shall meet the material requirements for Select Granular Fill in the current New York State Department of Transportation's Standard Specifications, including addenda. Exceptions will only be allowed if prior approval is granted by the Regional Soils Engineer.

CONSTRUCTION

- a) Pavement and shoulder removal shall be done in a manner that provides for proper restoration of the replacement section. Straight, vertical cuts of the pavement will be required. Pavement surfaces that become undermined shall be cut back and removed. Alternative repair methods may be used if prior approval is granted.
- b) The backfill material shall be placed and compacted according to the requirements for backfilling structures, culverts, pipes, conduits and direct burial cable described in Section 200, Earthwork, New York State Department of Transportation's Specifications, including addenda.
- c) Generally, cuts shall be filled at the end of each working day. With prior approval, steel cover plates may be used. Recessing of these plates may be required.
- d) Permanent or temporary pavement shall be placed immediately as sections of the total installation are completed to subbase elevation. Gravel surfaces in shoulder areas may be used if prior approval is granted.

2) Boring, Jacking, and Tunneling Methods

DESIGN

- a) All the requirements of B.1. a. 1.) DESIGN a) through g) shall apply.

CONSTRUCTION

- a) All the requirements of B.1. a. 1.) CONSTRUCTION a) and b) shall apply.
- b) Open excavations shall be protected with the required controls for safety and for the maintenance and protection of traffic in accordance with the New York State Department of Transportation, Manual of Uniform Traffic Control Devices.
- c) The requirements of B.1. b. 1.) CONSTRUCTION d) shall apply.

2. Work Outside the Pavement and Shoulder Areas

a. Open Excavation Method

DESIGN

- a) All the requirements of B.1. b. 1.) DESIGN shall apply.
- b) Open excavations shall be protected with the required controls for safety and for the maintenance and protection of traffic in accordance with the New York State Department of Transportation, Manual of Uniform Traffic Control Devices.

CONSTRUCTION

- a) The backfill material shall be placed and compacted according to the requirements for backfilling structures, culverts, pipes, conduits and direct burial cable described in Section 200, Earthwork, New York State Department of Transportation's Specifications, including addenda.

REVERSE

b. Boring, Jacking, and Tunneling Methods

a) All the requirements of B.1. a. 1.) DESIGN a) through f) shall apply.

b) Open excavations shall be protected with the required controls for safety and for the maintenance and protection of traffic in accordance with the New York State Department of Transportation, Manual of Uniform Traffic Control Devices.

CONSTRUCTION

a) All the requirements of B. 1. a. 1.) CONSTRUCTION shall apply.

C. SUBBASE, PAVEMENT AND SHOULDER REQUIREMENTS (including manholes)

1. Subbase

a. The subbase course shall be a minimum of 12 inches thick unless otherwise approved. The material shall meet the requirements of current Department of Transportation subbase course item as specified by the Regional Soils Engineer.

b. Under the permit, construction which adversely affects the subsurface drainage of the pavement structure shall be corrected by the addition of surface or subsurface drains, as required.

2. Pavement and Shoulders

a. Permanent

The replaced pavement shall be similar to the existing pavement in composition and texture. The selection of the material type and composition shall be subject to the approval of the Regional Director or his representative. The limit of pavement replacement shall be such that the replaced pavement is supported by thoroughly compacted subbase material and the pavement is restored to the proper grade, cross-slope and smoothness.

When bituminous concrete mixtures are required for the pavement replacement, the layers shall consist of one or a combination of mixture types contained in Table 401-1, Composition of Bituminous Plant Mixtures in Section 401 of the New York State Department of Transportation's Specification, including addenda. The mixture shall be placed at the proper temperature, without segregation, and compacted thoroughly.

When portland cement concrete mixtures are required for pavement replacement, the mixtures shall consist of either Class C or Class F as contained in Table 501-3, Concrete Mixtures in Section 501 of the New York State Department of Transportation's Specifications, including addenda. Class F is a high early strength mixture and should be used when early opening to traffic is desired.

The concrete mixtures shall be placed without segregation, then consolidated, finished to the proper elevation, and textured. Curing the concrete pavement shall be in accordance with one of the methods permitted in Section 502 pertaining to curing.

Pavement shoulders, curbs, gutters and other incidental features shall be replaced in kind unless otherwise approved by the Regional Director or his representative.

b. Temporary

Pavement that is replaced temporarily may be paved with either a hot bituminous concrete mixture mentioned above or a cold bituminous patching mixture. When a cold patching mixture is used it shall consist of aggregate and bituminous material proportioned and mixed in a bituminous mixing plant or rotating paddle shaft pugmill. Regardless which patching mixture is used it shall be laid on a prepared foundation and thoroughly compacted. Since cold bituminous patching mixtures are subject to distortion by traffic, the temporary patch shall be maintained to provide a smooth surface until the pavement is permanently replaced.

3. Manholes

Manhole frames and covers shall have sufficient structural adequacy to support the roadway traffic. The type of manhole frame and cover shall be approved by the Regional Director or his representative. The manhole frame shall be set flush with the surface of the roadway unless otherwise permitted by the Regional Director or his representative.

D. MAINTENANCE AND PROTECTION OF TRAFFIC

1. Traffic is to be maintained at all times during the progress of this work and adequate signs, barricades and lights shall be provided in accordance with the provisions of Sub-chapter H of the N.Y.S. Department of Transportation's Manual of Uniform Traffic Control Devices. A maintenance and protection of traffic plan may be required. No lanes shall be closed without prior approval.

2. The applicant shall erect and maintain suitable barricades around all trenches while work is in progress for the protection of the public, and they shall be suitably lighted by yellow lights at night. The work shall be carried on in such manner that not more than 100 feet of trench in earth remains open at end of day's work.

3. No pavement cuts are to be left unfilled over night, except in emergencies, and in such cases, adequate precautions must be exercised to protect traffic. Prior approval must be obtained to use steel plating.

4. No construction materials or equipment shall be left on the shoulders or pavement after working hours, nor shall any construction equipment or material be placed in any manner or location that will obstruct highway or railroad warning signs.

5. All open trench in the highway right-of-way shall be barricaded. There shall be conspicuously displayed bright red flags no less than 24" x 24" attached to such barricades and illuminated at night with flashing yellow lights. If in the judgment of the representative of the Commissioner of Transportation, flagmen are necessary, they shall be employed by the permittee and on duty at all times during the progress of the work so as to direct traffic and maintain yellow flashing lights, etc.

6. Soft shoulder signs of adequate size, not less than 24" square, shall be erected and maintained on all backfill trenches within the shoulder area until the backfill is thoroughly settled. These signs shall be located at the beginning of each section of work at intersections and at a distance not greater than 1000 feet apart.

7. During winter conditions highway shoulders shall be maintained free of obstructions which would interfere with snow removal and ice control.

8. The permittee shall keep the traveled way free of foreign objects such as rocks, timber and other items that may fall from transporting vehicles. Spillage of material carried by or dropped from the under-carriage of any carrying vehicle resulting from the permittee's hauling operations along or across any public traveled way shall be removed immediately and such traveled way, both within and outside of the work limits, shall be kept free of such spillage by the permittee.

E. COMPLETION OF WORK

1. All work is to be performed in a manner approved by the Resident Engineer of the State Department of Transportation.

2. All disturbed areas shall be returned to their original condition in a manner satisfactory to the Commissioner of Transportation or his representative.

3. The permittee shall be required to restore shoulders and ditches and clean up the highway as his work progresses. All driveways shall be restored with material in kind and to their original conditions.

4. All surplus earth and rubbish shall be cleaned up and removed from the highway right-of-way upon completion of the work, and the highway left in a neat and orderly condition.

5. As built plans showing final grade of new installation and existing underground facilities encountered shall be provided to N.Y.S.D.O.T. if variation from approved design plans occurred during construction.

F. NECESSITATED FUTURE WORK

1. The applicant agrees, that any present or future injury to or disturbance of the highway, its slopes or gutters, caused by placing mains and service pipe shall be repaired by the applicant at his own expense and in accordance with the requirements of the State Department of Transportation.

2. If necessity arises in the future because of the work on the State Highway system and/or its structures, requiring the removal, relocation or replacement of the installation authorized by the permit, said work shall be done as directed by the Commissioner or his representative, and all cost and expense so incurred shall be the obligation of the said permittee or his successor in interest.

II. TELEPHONE - TELEGRAPH INSTALLATIONS

A. SETTING OF POLES

1. All poles shall be set outside the ditch lines so that the proper drainage of the highway will not be interfered with. In case it is impracticable to set poles so as not to interfere with the flow of water in the ditches, the shoulder, ditch and space around the poles shall be graded by the applicant to protect against wash.

2. There shall be no obstruction to private driveways, connecting highways or roads, paths or sidewalks.

3. In case it is found necessary to trim trees within the boundaries of the highway, the least possible amount shall be done, and in all cases the consent of the abutting property owner must be secured before the poles are set and trees trimmed.

4. Poles shall be of sufficient length to provide a clearance of not less than eighteen feet between the wire and the crown of the highway, under the worst conditions of temperature and loading. They shall be set in line and properly plumbed. They shall be well guyed. No guying to trees, unless by special permission of owner. Special precautions shall be taken on curves and where lines cross from one side of highway to the other. Poles shall be straight, sound, and the fittings shall be of sufficient strength to carry wires under the worst condition of loading (ice, wind, etc).

5. Where telegraph and telephone wires cross high tension power lines, electric light or trolley wires, special precaution shall be taken to maintain proper clearance under the worst condition of temperature and loading.

B. RESETTling POLES

1. If necessity arises in future, because of work on the highway, to relocate, replace or re-set poles, cables or conduits, said work shall be done at the expense of the applicant.

III. SPECIAL CONDITIONS

A. In addition to the aforementioned conditions, if it is found necessary by this Department to add to or otherwise modify the same, it is to be understood such changes shall form a part of the permit and be complied with immediately upon notice.

IV. ADDITIONAL SPECIAL CONDITIONS AND SKETCHES - See Attached Sheet.

SURETY BOND (PERFORMANCE)
(INSURANCE AND INDEMNITY COMPANY NAME)

BOND NO. _____ AMOUNT _____

KNOWN ALL BY THESE PRESENTS, That we, _____ (PRINCIPAL'S NAME)
having its principle place of business at _____, as Principal,
and _____ (INSURANCE AND INDEMNITY COMPANY), as Surety,
having an office and usual place of business at _____ are held and
firmly bound unto the DEPARTMENT OF TRANSPORTATION OF THE STATE OF NEW YORK, in the full and just sum of
_____ Dollars (\$ _____) to the payment of which, well and truly to be
made, we bind ourselves, our heirs, executors, administrators, successors and assigns, to jointly and severally, firmly by these presents.

WHEREAS, said Principal will submit and has submitted plans and specifications for work, within a State highway, deemed necessary by the Commissioner of Transportation, or his duly authorized delegate, and

WHEREAS, said Principal has received and will apply from time to time for permits for the purpose of constructing or maintaining drive entrances, sewer lines, water mains, gas mains, utility lines and poles, street intersections, curb, sidewalk, drainage and excavating for miscellaneous structures, etc., on or within the right of way of highways under the jurisdiction of the State of New York, Department of Transportation,

WHEREAS, this obligation is for the purpose of insuring and guaranteeing the timely and workmanlike completion of such work as reasonably determined by the Commissioner of Transportation or his duly authorized delegate,

IT IS AGREED and understood among the parties hereto that upon the reasonable determination that such work is not being timely performed or is not being or has not been performed in a workmanlike manner by said Principal, the Commissioner of Transportation or his duly authorized delegate may require said Surety to promptly complete said work in a timely and workmanlike manner; or the Commissioner of Transportation or his duly authorized delegate may direct completion of said work with forces chosen by the Commissioner, the costs of which work will be reimbursed by said Surety up the amount designated above, all of which determinations shall be within the sole and exclusive discretion of the Commissioner of Transportation or his duly authorized delegate.

IT IS FURTHER AGREED that said Principal and said Surety shall indemnify and save harmless the State of New York, Department of Transportation, from all liability, damages and expenses of every kind and nature, resulting directly or indirectly to persons or property and arising from and in consequence of any license or permit, and shall well, truly and faithfully perform the duties and privileges pertaining to any license or permit and shall restore such State highways to their original conditions.

IT IS FURTHER AGREED that said Principal and said Surety shall further indemnify, save harmless and pay the New York State Department of Transportation, any damages, loss, charges or expenses which shall, in any way, be sustained or incurred by it in relation to or in connection with any and all such claims, actions, suits or proceedings at law or in equity.

IN TESTIMONY WHEREOF, said Principal has hereunto set his hand and seal and said Surety has caused this instrument of writing to be executed. SIGNED, sealed and dated this _____ Day of _____ Year _____.

This Bond takes effect _____ and shall remain in full force until the work is satisfactorily completed and accepted.

PRINCIPAL

(NOTE: If DBA also provide Name of Legal Entity and Copy of "Certificate of Conducting Business under an assumed Name" that was filed in County Clerk's Office, e.g. John Jones dba Jones Trucking)

BY: _____

(Company Seal)

Address: _____

Telephone No.: _____

SURETY

BY: _____
Attorney-in-Fact

(Company Seal)

Address: _____

Telephone No.: _____

Note: Attach Power of Attorney, Financial Statement and acknowledgement by representative of the Surety showing his his powers to execute such instrument.

NEW YORK STATE
DEPARTMENT OF TRANSPORTATION
**PAYMENT AGREEMENT
FOR HIGHWAY WORK PERMITS
DESIGN REVIEW**

APPLICATION NO. _____

P.I.N. _____

As a condition of the permit application and in consideration of the issuance of the permit, _____ as permittee, hereby agrees as follows:
The permittee will reimburse the New York State Department of Transportation for engineering review and consultation regarding the permit work by Department employees.

The permittee agrees to reimburse the Department of Transportation for necessary costs above the minimum fee of \$2,000 which the Department incurs during the evaluation of designs and related project information. The Department of Transportation shall be the sole judge of whether such costs are necessary.

The permittee will be billed on a periodic basis and the permittee agrees to pay the charges as billed within thirty days of the date of billing. Failure to pay as billed within the specified time limit may result in the revocation of this permit. No permit will be accepted by the Department until all billing fees are paid by the permittee.

PERMITTEE SIGNATURE

If corporation or business, state name and position

Date

NEW YORK STATE DEPARTMENT OF TRANSPORTATION
INSPECTION AND/OR SUPERVISION PAYMENT AGREEMENT
FOR HIGHWAY WORK PERMITS
FOR PUBLIC UTILITY COMPANIES

As a condition of obtaining any permit and in consideration of the issuance of a permit, _____ as permittee, hereby agrees as follows: The permittee will reimburse the New York State Department of Transportation for inspection and/or supervision of any permit work by Department employees which exceeds one work hour.

If the Department determines that the proposed work on a specific permit project will exceed five (5) workdays of inspection, the permittee will be required to secure the services of a reputable consulting engineering firm. This firm, upon approval by the Department, will be responsible for all inspection and/or supervision of the permit work.

The cost per Work Day to be reimbursed, will be \$370.00. The permittee agrees to pay reimbursement for all reasonable expenses incurred by the Department of Transportation in necessary inspection and/or supervision of work performed pursuant to a permit. The Department of Transportation shall be the sole judge of whether such inspection and/or supervision is necessary.

The permittee will be billed on a monthly basis and the permittee agrees to pay the charges as billed within thirty days of the date of billing. Failure to pay as billed within the specified time limit may result in the revocation of all permits.

Signature of Authorized Representative

Date

NEW YORK STATE DEPARTMENT OF TRANSPORTATION
INSPECTION AND/OR SUPERVISION PAYMENT AGREEMENT
FOR HIGHWAY WORK PERMITS

Permit No. _____

As a condition of the attached permit and in consideration of the issuance of the attached permit, _____ as permittee, hereby agrees as follows: The permittee will reimburse the New York State Department of Transportation for inspection and/or supervision of the permit work by Department employees which exceeds one work hour.

If the Department determines that the proposed work on a specific permit project will exceed five (5) workdays of inspection, the permittee will be required to secure the services of a reputable consulting engineering firm. This firm, upon approval by the Department, will be responsible for all inspection and/or supervision of the permit work.

It is estimated that _____ Work Days of inspection time will be required and that the cost per Work Day to be reimbursed, will be \$370.00. These estimates are not intended to be final and the permittee agrees to pay reimbursement for all reasonable expenses incurred by the Department of Transportation in necessary inspection and/or supervision of work performed pursuant to this permit. The Department of Transportation shall be the sole judge of whether such inspection and/or supervision is necessary.

The permittee will be billed on a monthly basis and the permittee agrees to pay the charges as billed within thirty days of the date of billing. Failure to pay as billed within the specified time limit may result in the revocation of this permit.

PERMITTEE SIGNATURE

If corporation or business, state name and position

Date

