



PERMISSION TO CONSTRUCT, USE, AND MAINTAIN ACCESS
TO A PROVINCIAL HIGHWAY

Received

X PERMIT PURSUANT TO *TRANSPORTATION ACT*

JUN 23 2008

AND/OR

CERTIFICATE PURSUANT TO SECTION 5 OF *INDUSTRIAL ROADS ACT*

102 Industrial Place
Penticton, BC V2A 7C8

BETWEEN:

The Minister of Transportation

Penticton Area Office

102 Industrial Place

Penticton BC V2A 7C8

("The Minister")

AND:

City of Penticton

171 Main Street

Penticton BC Canada V2A 5A9

("The Permittee")

WHEREAS:

A. The Minister has the authority to grant permits for the auxiliary use of highway right of way, which authority is pursuant to both the *Transportation Act* and the *Industrial Roads Act*;

B. The Permittee has requested the Minister to issue a permit pursuant to this authority for the following purpose:

One nine meter wide, right in / right out only, gated, access to be used for emergency purposes and to assist in relieving parking lot congestion after major events to serve Lot 1, District Lot 2, Group 7, Similkameen Div of Yale District, Plan KAP58604. Access is to be constructed with a Ministry of Transportation standard drop curb as per drawing #D08 revision 3 dated March 24, 2008 prepared by Urban Systems. Copy of drawing is attached and forms part of this permit.

C. The Minister is prepared to issue a permit on certain terms and conditions;

ACCORDINGLY, the Minister hereby grants to the Permittee a permit for the Use (as hereinafter defined) of highway right of way on the following terms and conditions:

1. The particulars of the permission granted herein are as follows:

A. LOCATION

On the north side of Penticton Arterial S0795R (Eckhardt Ave) between the new Alberni Street intersection and Railway Street.

B. CONSTRUCTION AND INSTALLATIONS

Access is to be restricted to right turns only and gated. Access is to be constructed with a Ministry of Transportation standard drop curb as per drawing #D08 revision 3 dated March 24, 2008 prepared by Urban Systems. Copy of drawing is attached and forms part of this permit.

C. AUTHORIZED ACTIVITIES

Access is to be used for emergency purposes only and to relieve parking lot congestion after major events. Gates are to remain closed at all other times.

D. OPERATION AND MAINTENANCE

The City of Penticton must ensure gates remain closed at all times other than for emergency purposes and congestion relief. Gates are to be kept in good working order.

all of which together are hereinafter referred to as "the Use".

2. The Use shall be carried out according to the following drawings and specifications, which are attached and shall be considered to be a part of this permit:

Access is to be constructed with a Ministry of Transportation standard drop curb as per drawing #D08 revision 3 dated March 24, 2008 prepared by Urban Systems. Copy of drawing is attached and forms part of this permit.

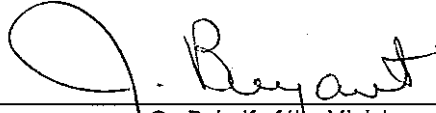
3. (a) The rights granted under this permit shall not be exercised before 2008/05/21
- (b) The Construction and Installations must be completed on or before 2008/09/21

Exceptions: No exceptions

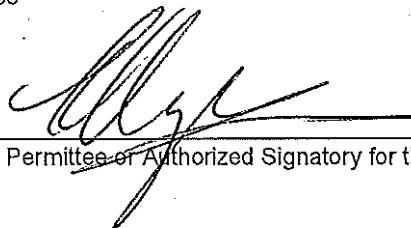
4. The Minister shall designate an official ("the Designated Ministry Official") who shall act as the Minister's agent in the administration of this permit in the manner hereinafter set out.
5. The Use shall be carried out according to the reasonable satisfaction of the Designated Ministry Official.
6. The Permittee will at all times indemnify and save harmless Her Majesty the Queen in Right of the Province of British Columbia, as represented by the Minister of Transportation, and the employees, servants, and agents of the Minister from and against all claims, demands, losses, damages, costs, liabilities, expenses, fines, fees, penalties, assessments and levies, made against or incurred, suffered or sustained by any of them, at any time or times (whether before or after the expiration or termination of this permit) where the same or any of them are sustained in any way as a result of the Use, which indemnity will survive the expiration or sooner termination of this permit.

7. The Permittee shall make diligent attempts to determine if there are other users of the right of way in the vicinity of the Permittee's location whose use may be affected. It shall be the responsibility of the Permittee to contact any such users before exercising any of the rights granted hereunder and to attempt to reach an accommodation.
8. The Minister shall take reasonable care to do as little damage or interference, as possible, to any Use authorized by this permit in the carrying out of the construction, extension, alteration improvement, repair, maintenance or operation of any work adjacent thereto, but the Minister shall not be responsible for any damage regardless.
9. The Minister at the absolute discretion of the Minister may, at any time, cancel this permit for any reason upon giving reasonable notice; provided, however, that in the case of default by the Permittee or in the case of an emergency no notice shall be necessary. The Minister shall not be liable for any loss incurred as a result of permit cancellation.
10. Placing of speed arresters on the access (or accesses) or in the Permittee's property without the prior consent in writing of the Designated Ministry Official shall render the permit void.
11. This permit cancels and replaces n/a.
12. The Permittee shall be responsible for replacing any survey monuments that may be disturbed or destroyed by the Use. Replacement must be by a British Columbia land surveyor at the Permittee's expense.
13. The Permittee shall remove any mud, soil, debris, or other foreign material tracked onto the highway from the access authorized herein. Such removal shall be at the Permittee's expense and shall be done at any time the material unduly inconveniences traffic and, in any event, daily.
14. The Permittee acknowledges that the issuance of this permit by the Minister is not a representation by the Minister that this permit is the only authority needed to carry out the Use. The Permittee shall give deference to any prior permission given for use of the right of way in the vicinity of the permit area, shall obtain any other permission required by law, and shall comply with all applicable laws regardless of their legislative origin.
15. At the end of the term of this permit, or when the permit is cancelled or abandoned, the Permittee shall, if so requested by the Minister, remove all installations and shall leave the site as near as reasonably possible in the condition it was in before this permit was issued or such other condition as shall reasonably be required by the Designated Ministry Official. If the Permittee refuses to comply with these obligations, the Minister may perform them as required and the Permittee shall be liable to the Minister for the costs of doing so.
16. The rights granted to the Permittee in this permit are not assignable without the consent of the Minister.
17. The rights granted to the Permittee in this permit are to be exercised only for the purpose as defined in Recital B on Page 1.

Dated at Penticton, British Columbia, this 21 day of May, 2008


On Behalf of the Minister

Dated at Penticton, B.C., this 19 day of July, 2008
City Province

 Ian Chapman.
Permittee or Authorized Signatory for the Permittee