

## SCHEDULE A: ROAD OCCUPANCY PERMIT GENERAL TERM AND CONDITIONS

### GENERAL ACKNOWLEDGEMENTS

The Permit Holder acknowledges each of the following:

1. That it has read and understands the Permit, its terms and conditions and that upon issuance of the Permit by the City of Greater Sudbury , is obligated to comply at all times with the Permit and its terms and conditions or as described in By-law 2011-218, a By-law of the City of Greater Sudbury to Regulate Road Occupancy including Road Cuts, Temporary Closures and Sidewalk Cafes (the "Road Occupancy By-law"), as amended or replaced.
2. All policies, protocols, standards, specifications of the City of Greater Sudbury, including without limitation, the City's General Supplemental Standards and Specifications and By-laws, as amended from time to time, which are referenced in this Permit can be found on the City's website at <https://www.greatersudbury.ca>.
3. Any notices required to be provided by the Permit Holder to the City of Greater Sudbury, pursuant to this Permit shall be provided to the Permit Issuer or their designate.

### **PART 1 -TERMS AND CONDITIONS OF GENERAL APPLICATION TO ALL PERMITS**

The following conditions form part of this Permit as issued by the City of Greater Sudbury ("the City"). All schedules referenced in and attached to this Permit, and all appendices are incorporated into and form part of this Permit.

#### General Conditions:

1. This Permit authorizes the Permit Holder to perform the Authorized Activities in the Permitted Area from the Road Occupancy Start Date to Road Occupancy End Date subject to the terms and conditions hereof and in accordance with the specified Traffic Management Plan, and where applicable, the Approved Plans. No further activities shall be conducted except in accordance with this Permit as amended in writing or another Permit issued by the City to authorize such activities or unless such activities are necessitated for the proper repair of the road and infrastructure. All Authorized Activities are to be solely at the risk, cost and expense of the Permit Holder.
2. Neither the execution of this Permit nor the review, approval of, or consent to any Approved Plan Traffic Management Plan or any other matter by the City, its employees or agents shall derogate from or diminish the Permit Holder's obligations under this Permit or any liability hereunder.
3. The City reserves the right to revoke this Permit in writing without advance notice in whole or in part in the event of an emergency, as determined by the City or any non-compliance with the terms and conditions of this Permit.
4. The Permit Holder must notify the City as soon as possible in the event that it abandons the Authorized Activity or will not be engaging in the Authorized Activities during the Road Occupancy Period or if the Permit Holder becomes aware of actual or possible delays or inability to complete the Authorized Activities in a timely manner or at all.
5. The Permit Holder may retain appropriately qualified contractors and consultants to perform the Authorized Activities on its behalf. The Permit Holder will be responsible for the actions and omissions of its contractors, sub-contractors and consultants. The Permit Holder will provide a copy of this Permit to its contractors, sub-contractors and consultants and shall contractually require them to comply with the requirements set out herein and enforce compliance. Without limiting the generality of the foregoing, the Permit Holder shall ensure that the contractors, sub-contractors and consultants be subject to the indemnity and insurance requirements stated herein for the Permit Holder. The City reserves the right, in its sole and absolute discretion,

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to refuse the performance of any work pursuant to this Permit by any contractor, sub-contractors, sub-contractors or consultant which, in the City's opinion, is not sufficiently qualified to perform Authorized Activities on City property.

6. The Permit Holder is responsible to ensure that their Traffic Management Plan is consistent with Book 7 of the "Ontario Traffic Manual", the work being undertaken and the road conditions at the time of Road Occupancy. The Permit Holder shall also ensure that their Traffic Management Plan is understood by all persons it authorizes or permits to enter onto the Permitted Area, prior to their entry onto the Permitted Area and that the Traffic Management Plan is implemented and complied with at all times.
7. The Permit Holder shall ensure that a competent person, within the meaning of the term under the *Occupational Health and Safety Act*, as amended is present while the Authorized Activities are being conducted. A competent person on site must possess a copy of this Permit, an Ontario Traffic Manual Book 7, as well as the Traffic Management Plan, in detail appropriate to the complexity of the work project.
8. The Permit Holder shall be the constructor under the *Occupational Health and Safety Act* and must comply with all provisions of the said Act.
9. The Permit Holder's obligations under this Permit shall survive its termination or expiry of this Permit and shall continue in full force until and unless they are satisfied or by their nature expire.
10. The Permit Holder acknowledges that the Permit Holder is engaging in the Authorized Activities for its own benefit and at its own request. This Permit is in no way to be deemed or construed to be a contract of employment or a contract for purchase of services. Nothing in this Permit shall be read or construed as conferring upon the Permit Holder, its officers, directors, employees or members the status of employee, or agent of, or partner or joint venture with the City.
11. Nothing herein releases the Permit Holder from compliance with the reduced load requirements imposed by the City pursuant to the Highway Traffic Act.5.

### Insurance (for Authorized Activities with no excavation or Heavy Equipment)

12. Where the Authorized Activities do not involve excavation or use of Heavy Equipment (as defined in Part 2, the Permit Holder, at its expense, shall maintain, during the effective period of this Permit and any extensions thereto, a policy of commercial general liability insurance containing standard industry coverages with an insurer licensed in Ontario with limits of not less \$5,000,000 per occurrence for bodily injury, death and damage to property including loss of use. The policy shall name the City of Greater Sudbury as an additional insured as its interests appear and shall contain an endorsement to provide the City with thirty days prior written notice of any policy cancellation. The Permit Holder shall provide the City with a Certificate of Insurance from its insurer(s) evidencing the coverage herein prior to the Start Date of this Permit and where applicable, on or before each policy renewal. No review or approval of any such insurance certificate by the City shall derogate from or diminish the City's rights or the Permit Holder's obligation contained in this Permit. Provided however, In the case of a Permit where the Authorized Activities include excavation within the Permitted Area or use of Heavy Equipment, as defined in Part 2, the insurance provisions in Part 2 shall apply instead.

### Liability

13. The Permit Holder hereby agrees to indemnify, defend and save harmless the City, its elected and non-elected officials, agents, employees and contractors from all causes of action, liens, losses, costs or damages arising from the execution, non-execution, imperfect execution of any work or activity authorized by this Permit or conducted under the authority of this Permit, and any work or activity conducted or undertaken which is

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unauthorized by this Permit whether with or without negligence on the part of the Permit Holder or the officers, agents, employees or contractors of the Permit Holder. This obligation shall survive the expiry or termination of this Permit.

14. The Permit Holder is responsible for the cost and replacement of any utilities or infrastructure damaged as a result of entry onto or work within the Permitted Area or resulting from the Authorized Activities.
15. The Permit Holder is responsible for the cost of any repairs required due to faulty work, incomplete work or settlement of the area excavated pursuant to this Permit for a one-year period from the date of completion of the Authorized Activities. The City's determination of the date of completion is final.
16. The Permit Holder is responsible at its cost for all site cleanup and restoration resulting from its use or occupation of the Permitted Area or surrounding area, to be completed, as soon as the Authorized Activities are completed and before traffic is allowed to use the area.

### Conduct of Authorized Activities

17. If a "Loading Zone", as that term is used in the City's Traffic and Parking By-law 2010-1 as amended, is eliminated or reduced to a non-practical length due to the closure, then during the term of this Permit or any extension, the Permit Holder is to reserve additional space to accommodate another suitable location, which shall be of the same length on the same side of the street in proximity to the existing location. A plan showing proposed changes to the loading zone must be submitted to the Permit Issuer.
18. Where existing pedestrian routes are blocked during the conduct of the Authorized Activities, the Permit Holder is required to establish a pedestrian route. The pedestrian route must have a minimum width of 1.5 metres of hard surface and must allow for pedestrians to cross a street where regulated pedestrian crossings are available.
19. Private property must not be used to accommodate public vehicle or pedestrian traffic.
20. No overhead lifting may take place over vehicular or pedestrian traffic, and no Authorized Activities may take place over vehicular or pedestrian traffic unless such areas are properly protected in accordance with all applicable statutory and regulatory requirements, including those under the *Occupational Health and Safety Act*, addressing requirements for public ways, as that term is defined in the regulation and best practices.
21. All Authorized Activities shall be conducted and completed in accordance with all applicable federal, provincial and statutes, including without limitation the *Occupational Health and Safety Act*, *Occupiers' Liability Act*, *Environmental Protection Act*, all codes, regulations, municipal bylaws, City Standards, and this Permit, all as amended or replaced from time to time.
22. No Approved Plan may be amended without the consent in writing of the City. The Permit Holder shall provide such additional information and documentation as the City may require to assess any proposed amendment.
23. In the event that the Authorized Work will restrict access to or otherwise materially affect private property or other developed areas adjacent to the Permitted Area, the Permit Holder shall provide such notices as required by and in the manner required by the Road Occupancy By-law, to affected property owners and upon request, provide evidence of same to the City.
24. The City reserves the right for its employees' representatives and agents to observe the Authorized Activities.

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### **PART 2 - ADDITIONAL CONDITIONS SPECIFIC TO PERMITS WHICH AUTHORIZE ROAD CLOSURES AND ROAD OCCUPANCIES WITH EXCAVATION OR HEAVY EQUIPMENT USE:**

For the purposes of this Part 2, the term Heavy Equipment shall have the same meaning as Road-Building Machines as in O. Reg. 398/16 made under the *Highway Traffic Act*.

Where the Authorized Work includes excavation within the Permitted Area, or the use of Heavy Equipment or both, the following terms and conditions apply in addition to the General Application Terms and Conditions in Part 1

#### Insurance

- 1.(1) Despite part 1, section 11, the Permit Holder, at its expense, shall maintain during the effective period of this Permit and any extensions thereto a policy of insurance which names the City of Greater Sudbury as an additional insured as its interests appear and contains an endorsement to provide the City with thirty days prior written notice of any policy cancellation. The Permit Holder shall provide the City with a Certificate of Insurance from its insurer(s) evidencing the coverage required herein prior to the Start Date of this Permit and thereafter on or before each policy renewal date). If there is an umbrella or excess liability policy, the Permit Holder shall ensure that the certificate of insurance submitted to the City clearly identifies which underlying liability policy is affected by the umbrella or excess limits. No review or approval of any such insurance certificate by the City shall derogate from or diminish the City's rights or the Permit Holder's obligation contained in this Permit
- (2) The policy of insurance shall include (except at the city discretion, works pertaining to exploratory geotechnical drilling, private entrances, residential service laterals, boulevards and sidewalks, where insurance shall be provided as per Part 1, section 12)
  - a) Commercial general liability insurance on an occurrence basis for an amount not less than ten million dollars (\$10,000,000). Any aggregate limit shall be equal to or greater than the amount of minimum requirements stated above, for the commercial general liability policy. Such policy shall include coverages and standard clauses relating to non-owned automobile liability, liability for unlicensed equipment, personal injury including death, broad form property damage or loss (direct or indirect and including loss of use thereof), blanket contractual liability, owners and contractor's' protective liability, products and completed operations, contingent employer's liability, cross liability and severability of interest; name the City of Greater Sudbury as an additional insured; and
  - b) Environmental Impairment Liability or alternatively Sudden and Accidental Pollution insurance covering the Lands, and all operations of the Permit Holder as described in this Agreement including coverage for loss or claims arising from contamination to third party property or bodily injury during transit. Such policy shall provide coverage in the amount of at least Two Million (\$2,000,000) per claim and shall remain in force throughout the term of this Agreement; and
  - c) Automobile liability insurance including all vehicles and commercial trailers owned or leased by the Permit Holder for an amount not less than five million dollars (\$5,000,000) on forms meeting statutory requirements covering all vehicles used in any manner in connection with the performance of the requirements of this Agreement; and
  - d) All such other insurances, policy limits, requirements, terms, conditions, and stipulations that is usual to insure this form of construction and related insurable risk, as determined by the Permit Holder and their insurance and/or legal representative; and

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- e) The Permit Holder shall cause to be placed by each professional engineer or other professional consultant it retains in connection with the performance of this Agreement, Professional Liability Insurance in an amount of not less than Two Million (\$2,000,000) dollars per claim and no aggregate or a minimum aggregate of \$4,000,000; and
  - f) When applicable, The Commercial General Liability policy must be endorsed to include the hot tarring services or commonly known as hot works coverage for work involving electric or gas welding, cutting, brazing, or similar flame or spark-producing operations. Confirmation of this extension of coverage will be accepted in a form of written confirmation from the successful bidder's insurance representative; and
  - g) When applicable, such policy shall include an "XCU" endorsement providing coverage for property damage and injury related to construction works such as excavation, pile driving, blasting, shoring, underpinning, raising or demolition of any building or structure, collapse of any structure or subsidence of any structure or land from any cause.
  - h) When working around or on railway property or any property not under the city's ownership the insurance policies must also meet the requirements of the other owners.
- (3) The Permit Holder covenants to provide or cause to be provided to the City a certificate of insurance on or before the Start Date of this Permit and thereafter on or before each policy renewal date from its insurer (or insurers) which shows that the policy (or policies) placed and maintained by it complies with the requirements of this Permit, and that the certificate of insurance provided extends the general liability policy to include the City of Greater Sudbury as an additional insured.

### Underground Infrastructure

- 2. Prior to any saw cutting or excavation taking place, the Permit Holder shall obtain locates in relation to all buried utilities and infrastructure including but not limited to hydro, gas, cable, water and sewer. Locates can be obtained by the Permit Holder by calling Ontario One Call at 1-800-400-2255.
- 3. The following shall apply to any Authorized Activities which may impact a trunk watermain:
  - a) Prior to completing any construction activity within 10m of a trunk watermain greater than 350mm diameter, the Owner will contact the Permit Issuer to obtain a full list of requirements (i.e., contingency plan, communication plan, etc.). At a minimum, requirements can be expected to include, but may not be limited to:
  - b) In the event of any excavation work within 6 metres of the trunk watermain, the Permit Holder must schedule attendance by a City D&C Operator-in-Charge (OIC) by contacting 311 and may not proceed with work unless such OIC is on-site to witness the work.
  - c) Excavation within 6 metres of the trunk watermain must be done during daylight hours and using hydro-excavation equipment. Use of other mechanical excavation means will be permitted only at the approval of the City's D&C Supervisor and only after sufficient daylighting/exposure of the critical infrastructure.
  - d) The Permit Holder shall ensure all excavation equipment will pull "sideways" or "away" from the trunk watermain, not towards it. Any tracking of excavation equipment above the trunk watermain shall be kept to a minimum and shall only be permitted when adequate cover is maintained above the pipe.
  - e) the Permit Holder shall not permit any rock excavation by any means (e.g. blasting, hydraulic ram, etc.) to occur within the Permitted Area adjacent to the trunk watermain without first securing approval from the City and providing detailed study/plan (i.e. Vibration Study, Blast Design, etc.) and Monitoring Plan detailing how work will be completed without any potential impact to the Trunk Watermain.

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### Restoration

4. The Permit Holder will ensure that all pavement and sidewalk cuts, and all excavations meet City Standards.
5. The Permit Holder has 7 calendar days to complete patches containing concrete work and 4 calendar days to complete patches containing asphalt work. The City shall repair or reinstate any asphalt or concrete work not completed or not properly completed by the Permit Holder within the allotted time. The cost of work done by the City shall be debt owing to the City by the Permit Holder and payable immediately upon demand and if unpaid subject to interest at the rate set out in the City's User Fee By-law from the date of demand until payment in full and enforceable by any means available to the City at law.
6. Private Work - Where the Authorized Work is not being completed by or for a utility company the Permit Holder will place granular materials to pre-existing depth and quality. Compaction shall be in accordance with City Standards. Granular materials shall be maintained free of washboard and potholes prior to reinstatement of temporary asphalt. The Permit Holder will temporarily replace the asphalt road surface with HL8 asphalt in the following compacted thickness (each lift of asphalt must not exceed 50mm): Collector and local roads 90 mm; arterial roads 140 mm or match to existing thickness. Sidewalk will be temporarily replaced with 50mm of HL8 asphalt, to be flush with the existing surfaces. The City will complete the final restoration work, using the funds collected as part of this Permit, unless stated otherwise in an applicable Site Plan or Off-Site Servicing Agreement.
7. Utility Work - Where the Authorized Work is being completed for a utility company the Permit Holder will place granular materials to pre-existing depth and quality. Compaction shall be in accordance with the City Standards. Granular materials shall be maintained free of washboard and potholes prior to reinstatement of concrete or asphalt. The Permit Holder will permanently replace the asphalt, boulevard, sidewalk and curb to City Standards and to the satisfaction of the City. The Permit Holder is responsible for the removal of temporary materials and shall remain responsible for any damages or settlement that may arise. Once the Authorized Works is complete, the Permit Holder shall arrange for an inspection of asphalt patches and boulevard restoration by calling 311.

### **PART 3 - CONDITIONS SPECIFIC TO ROAD CLOSURES:**

Where the Authorized Work includes Road Closures, the following terms and conditions apply in addition to the Part 1 - General Application Terms and Conditions and where applicable, in addition to the supplemental Part 2 terms and conditions applicable to road closures and road occupancies with excavation of heavy equipment.

1. The Permit Holder must post a Restriction Notification Sign as per Book 7 of the Ontario Traffic Manual advertising the road closure authorized by the Permit for at least a week in advance of the first day of the closure.
2. Prior to commencing the Permitted Activities, the Permit Holder must deliver to the owner of each property impacted by the closure, a letter pre-approved by the City and containing all pertinent information regarding the closure and providing an area for the property owner to indicate whether they agree or set out the nature of their disagreement, to the proposed road closure. The response must be signed by the Property owner showing their names printed next to their signatures as well as their effected address. This letter, signed by the property owner, is then to be resubmitted to the Permit Issuer 2 weeks prior to the Road Occupancy Start date.