

**TOWN OF COTTAGE GROVE**  
**Resolution 2015- 07**

**APPROVAL OF RIGHT-OF-WAY PERMIT TO VILLAGE OF COTTAGE GROVE WATER UTILITY  
FOR INSTALLATION OF WATER MAIN IN GASTON ROAD ROW  
(Terms and Conditions of ROW Permit)**

**WHEREAS**, the Village of Cottage Grove Water Utility (“Village” or “Applicant”), by its engineers, Mike Maloney and Travis McDermott of MSA Professionals (“Village Engineer”), has submitted to the Town of Cottage Grove (“Town”) a request for a Right-of-Way (“ROW”) permit for the installation of a water main extension (the “Facility”) in the public right-of-way of Gaston Road; and

**WHEREAS**, the Village, through the application and memorandum dated November 30, 2015 (together, the “Application”) has indicated that the Facility will be installed with an open cut and that construction will occur between June 2016 and August 2016 (the “Project”); and

**WHEREAS**, the Town is willing to issue the permit, subject to certain terms and conditions that are deemed by the Town Board to be necessary for the public health, safety and welfare of Town residents and others using Gaston Road, all as set forth herein.

**NOW, THEREFORE**, the Town Board does hereby resolve as follows:

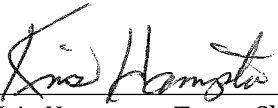
1. The Permit to Construct a Facility within the Gaston Road Right-of-Way (the “ROW Permit”) shall be issued to the Village of Cottage Grove Water Utility (“Village” or “Applicant”) subject to all standard requirements as well as the following special terms and conditions:
  - a. The Village shall submit the required review fee.
  - b. The representations set forth in the Application (including the Petition to Install and Maintain Water Utilities prepared by the Village Engineer on November 30, 2015) are hereby incorporated as terms and conditions of the ROW Permit, except as expressly amended in writing herein or by change order presented and approved by the parties hereto, in writing. Email consenting to the change order shall be a sufficient writing for these purposes.
  - c. Authorized Representatives for the purposes of binding the Town as to this Project are the Town Engineer, Warren Myers and Town & Country Engineering, Inc., and the Town Chairperson, Kris Hampton.
  - d. Authorized Representatives for the purposes of binding the Village as to this Project are the Village Engineer, the Chairperson of the Village Water Utility Commission and the Village President.
  - e. A performance bond shall be issued to the Town of Cottage Grove as required by law and in an amount reasonably determined by the Town Engineer following consideration of the Village Engineer’s opinion as to probable cost.
  - f. The portion of the Gaston Road where construction will occur shall be televised at the Village’s expense and copies of the televised areas shall be provided to the Town prior to commencement of construction.
  - g. The Town’s Superintendent of Public Works and/or the Town Engineer and/or the Town Chairperson shall be notified of and allowed to attend the preconstruction meeting and the ongoing construction meetings by and between the Village and the Village’s contractors as those meeting relate to this Project.

- h. Commencement, construction and completion of the Project shall be scheduled and coordinated with the Town's Superintendent of Public Works, Jeff Smith, following consultation with the Town Engineer.
- i. Specifications for the Project as to trench backfill and pavement restoration shall require approval by the Town Engineer and the Town Superintendent of Public Works.
- j. The water main burial shall be adjusted to allow future roadway improvements to bring the stopping sight distances and passing sight distances into conformance with currently accepted standards while still maintaining the desired cover over the water main. Specifications for the Project as to water main burial shall require approval by the Town Engineer and the Town Superintendent of Public Works.
- k. The Village shall take all reasonable precautions and do everything reasonably possible to avoid differential frost heave between the north half where the trench will be and the water main laid, and the undisturbed south half of Gaston Road.
- l. If Gaston Road is later found to be damaged because of frost heave or other consequences related to the Village's decision to construct only half of the road for this Project, the Village shall be responsible for prompt repair of the damage to standards and specifications approved by the Town Engineer. This provision shall survive completion of the Project and shall remain binding on the Village.
- m. The Village, at its sole cost, shall mill 2 ½" of asphalt from the southern half of Gaston Road so that the asphalt for the northern half and southern half can be, and are, laid at the same time. Costs associated with the milling and paving of the south side of Gaston Road shall be paid by the Village.
- n. Ditches along the north side of Gaston Road shall be cleaned and restored in a manner that facilitates proper drainage and stormwater conveyance. All work and restoration shall be consistent with the Town's MS-4 Permit Requirements and such other drainage and stormwater requirements imposed by law. Costs of restoration shall be paid by the Village.
- o. Notwithstanding the above, cost allocations determined by the Town Engineer and Village Engineer shall be subject to approval by the Town Board and Village Board prior to payment, but only where costs exceed that which the respective Board deems to be the limit of its engineer's authority.
- p. Flushing of hydrants shall be completed by the Village in a manner that does not adversely impact the property adjacent to the hydrants. Any damages and associated costs for repair and restoration caused by flushing of hydrants shall be the Village's responsibility. This provision shall survive completion of the Project and shall remain binding on the Village.
- q. The Village shall pay all costs incurred by the Town for professional services related to the Project, including legal and engineering fees.
- r. The Town and Village shall enter an agreement regarding connection of public water to Town residents that is consistent with the terms of the agreement presented to the Town Board on December 21, 2015, and the agreement shall be fully executed prior to commencement of construction.
- s. The Village shall re-stripe the road following completion of the project, at Village's sole cost.
- t. All work shall be completed in accordance with the law, and industry construction standards, including necessary and prudent erosion and stormwater controls.

2. The Village shall acknowledge and agree to the terms and conditions set forth above in writing prior to commencement of construction. If acknowledgment is by the Village Engineer, then the Village Engineer warrants and represents that it is acting as the authorized representative of the Village and is therefore authorized to bind the Village on the Application and as to the Village's compliance with the terms and conditions of the ROW Permit.
3. Time is of the essence as to performance of the terms and conditions set forth of this ROW Permit.
4. The Town Superintendent of Public Works is hereby authorized to issue the ROW Permit, provided that each and every term and condition set forth above is incorporated in the ROW Permit.

Approved by the Town Board of the Town of Cottage Grove at a duly noticed meeting held on December 21, 2015.

**TOWN OF COTTAGE GROVE**

  
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Kris Hampton, Town Chairperson

Attested by:  
  
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Kim Banigan, Town Clerk

Incorporated by Reference:

1. Application signed by Village Engineer and dated November 30, 2015
2. Petition to Install and Maintain Water Utilities prepared by the Village Engineer on November 30, 2015
3. Proposed Agreement Regarding Connections and Related Documents provided by Village Engineer to Town Clerk via email dated December 17, 2015