

PERMIT

This Permit issued this 8th day of April, 2010, by the Board of County Commissioners of Cuyahoga County, Ohio, hereinafter called the COUNTY, to the City of Cleveland, Division of Water, hereinafter called the CITY

WITNESSETH:

WHEREAS, the CITY has requested permission of the COUNTY to construct and maintain a 24-inch diameter galvanized steel water main in a 42-inch diameter steel casing, supports and appurtenances under the north sidewalk of the Triskett Road Bridge No. 195 crossing over the GCRTA and Norfolk Southern Railroad in the City of Cleveland, Ohio; and

WHEREAS, said water main, casing, supports and appurtenances have been installed and constructed in conjunction with the recent rehabilitation of the aforesaid COUNTY-owned bridge, in accordance with the detailed plans prepared by GPD Associates, dated December 31, 2002. Said plans are on file in the office of the County Engineer and for reference thereto are incorporated herein in their entirety and made a part of this Permit the same as if said plans were fully redrafted and appended hereto; and

WHEREAS, said plans have been reviewed and duly approved by the County Engineer; and the COUNTY, in consequence of the approval and recommendation of the County Engineer, has agreed to permit the installation and operation of said water main, casing, supports and appurtenances on the Triskett Road Bridge No. 195, which is located in the City of Cleveland, Ohio, as set forth above and shown and detailed on said plans, on certain terms and conditions and providing that the CITY complies with the requirements as hereinafter set forth.

NOW THEREFORE KNOW ALL MEN BY THESE PRESENTS, that said permission is hereby granted to the CITY to install and operate the water main, casing, supports and appurtenances aforesaid upon the following terms and conditions:

1. That the CITY has inspected the installation of the water main, casing, supports and appurtenances and concurs with the COUNTY that the same have been constructed in accordance with the approved plans or as subsequently agreed upon by both the COUNTY and the CITY.
2. That if the County Engineer determines that any reconstruction, maintenance or repair operations on the bridge may affect the water main, casing, supports and appurtenances and/or the facilities incident thereto, the CITY agrees that it shall, within five (5) working days after its receipt of written notification to that effect from the COUNTY, or sooner in the event of an emergency, take whatever actions are deemed appropriate by the County Engineer, to wit:
  - (A) The CITY shall provide, at its own expense, such protective measures to its facilities, as it deems necessary during periods of reconstruction, maintenance or repair work by the COUNTY on the aforesaid bridge. The COUNTY reserves the right, however, to review such protective measures for sufficiency prior to installation.

- (B) The CITY shall temporarily alter, relocate or remove the water main, casing, supports and appurtenances at its own expense, if such alteration, relocation or removal is deemed necessary by the County Engineer in order to perform any necessary reconstruction, repair or maintenance to the aforesaid bridge. Any temporary or permanent alteration, relocation, reconstruction or removal of the water main, casing, supports and appurtenances shall be performed in accordance with plans first approved, in writing, by the County Engineer.
- (C) The COUNTY and the CITY each agree to be liable for its negligent acts or negligent omissions by or through itself, its employees, agents, and subcontractors. Each party further agrees to defend itself and themselves and pay any judgments and costs arising out of such negligent acts or omissions, and nothing in this Permit shall impute or transfer any such liability from one to the other.
3. That the CITY, in further consideration of the permission granted by the COUNTY to construct, maintain and operate the aforesaid water main, casing, supports and appurtenances, further covenants and agrees with the COUNTY that in the event that said water main, casing, supports and appurtenances shall require repair, relocation, replacement or reconstruction, that the CITY shall be required to first notify the County Engineer of said proposed repair, relocation, replacement or reconstruction and submit a plan thereof to the County Engineer for written approval at least five (5) working days in advance of the work to be conducted, except in the case of emergency; and said proposed relocation, repair, replacement or reconstruction shall be undertaken and/or completed only after written approval thereon by the County Engineer; and all said work of repair, relocation, replacement or reconstruction of said water main, casing, supports and appurtenances, and the facilities incident thereto, shall be performed subject to the inspection of and to the satisfaction of the County Engineer, at the sole cost and expense of the CITY.
4. That the CITY, for and in consideration of permission by the COUNTY to construct and maintain the aforesaid water main, casing, supports and appurtenances on the aforesaid COUNTY-owned bridge, hereby covenants and agrees that it will conform to the terms and conditions as herein set forth above, and said terms and conditions are hereby accepted and approved.
5. This permit may be terminated for necessity by the COUNTY upon one year notice to the CITY, whereupon the CITY shall cease all operations and uses existing by virtue of this permit and will be required at no cost to the COUNTY, to remove installations made under this permit.

6. If any provision of this Permit, or any paragraph, sentence, clause, phrase, or word, or the application thereof, in any circumstances, is adjudicated by a court of competent jurisdiction to be invalid, the validity of the remainder of this Permit shall be construed as if such invalid part were never included therein.

IN WITNESS WHEREOF, the COUNTY and the City of Cleveland, Division of Water, have caused signatures to be affixed by its duly authorized officers and representatives, the day and year first mentioned above.

BOARD OF COUNTY COMMISSIONERS  
OF CUYAHOGA COUNTY, OHIO

WITNESSES:

*John M. Schmitz*  
*Barbara Wilson*

*Peter Lawson Jones*

PETER LAWSON JONES, PRESIDENT  
BOARD OF COUNTY COMMISSIONERS

WITNESSES:

*Jedie Bussler*

City of Cleveland  
Division of Water

*[Signature]*

The legal form and correctness of the within instrument is hereby approved:

ROBERT J. TRIOZZI  
City of Cleveland, Director of Law

*Anita M. Davis*  
By:

WILLIAM D. MASON  
Prosecuting Attorney

*James M. Oodrell*  
By: