

THE UNIVERSITY OF MICHIGAN
REGENTS COMMUNICATION

ACTION REQUEST

Subject: Use of State Trunkline Rights of Way

Action

Requested: Approval of Performance Resolution for Work Performed by the University of Michigan within State Trunkline Rights of Way

Background and Summary:

Periodically, the university adds or modifies utilities or utility-related structures that pass through or are located within the State of Michigan trunkline rights of way. The Michigan Department of Transportation requires that the Regents of the University of Michigan pass the attached performance resolution for work the university wishes to perform within state trunkline rights of way. In summary, in consideration of the Department of Transportation granting the University of Michigan permits to perform work within the rights of way, the university agrees that:

- The University of Michigan and the Department of Transportation shall remain responsible for any claims arising out of their own acts and/or omissions during the performance of the agreement.
- Any work performed for the University of Michigan will be solely for the University of Michigan and not as a contractor or agent for the Department of Transportation, and the Department of Transportation shall not be subject to any obligations or liabilities by any university contractor or vendor.
- The university will restore the state trunkline rights of way disturbed by the work performed.
- Any insurance required for work performed within the rights of way shall include the State of Michigan, Transportation Commission, Department of Transportation, and all specified employees as named insured.
- The performance resolution does not prevent the Department of Transportation from requiring additional performance security or insurance before issuance of a permit.
- The resolution shall continue in force until cancelled in writing with no less than 30 days prior written notice by either the university or the Department of Transportation.
- The university positions specified are authorized to apply to the Department of Transportation for permits to work within the state trunkline rights of way.

We recommend that the Board of Regents approve the attached resolution specifying the performance requirements for the University of Michigan to construct, operate, use, and/or maintain utility or other facilities on, over, and under state trunkline rights of way within and adjacent to the university.

Respectfully submitted,



Kevin P. Hegarty
Executive Vice President and
Chief Financial Officer

A RESOLUTION OF THE REGENTS OF THE UNIVERSITY OF MICHIGAN
AGREEING TO CERTAIN PERFORMANCE REQUIREMENTS OF THE MICHIGAN
DEPARTMENT OF TRANSPORTATION FOR UNIVERSITY PROJECTS CONDUCTED WITHIN
THE STATE TRUNKLINE RIGHTS OF WAY

RESOLVED,

WHEREAS the Regents of the University of Michigan, hereinafter referred to as the "UNIVERSITY," periodically applies to the Michigan Department of Transportation, hereinafter referred to as the "DEPARTMENT," for permits, referred to as "PERMIT," to construct, operate, use and/or maintain utility or other facilities, or to conduct other activities, on, over, and under state trunkline right of way at various locations, within and adjacent to its UNIVERSITY properties:

NOW THEREFORE, in consideration of the DEPARTMENT granting such PERMIT, the UNIVERSITY agrees that:

1. Each party to this Agreement shall remain responsible for any claims arising out of their own acts and/or omissions during the performance of this Agreement, as provided by law. This Agreement is not intended to increase either party's liability for, or immunity from, tort claims, nor shall it be interpreted, as giving either party hereto a right of indemnification, either by Agreement or at law, for claims arising out of the performance of this Agreement.
2. Any work performed for the UNIVERSITY will be solely as for the UNIVERSITY and not as a contractor or agent of the DEPARTMENT. The DEPARTMENT shall not be subject to any obligations or liabilities by vendors and contractors of the UNIVERSITY, or their subcontractors or any other person not a party to the PERMIT without its specific prior written consent and notwithstanding the issuance of the PERMIT. Any claims against the State of Michigan, the Transportation Commission, the DEPARTMENT, and all officers, agents, and employees thereof will be the sole responsibility of the UNIVERSITY. Certificate of insurance shall be provided to the DEPARTMENT by the contractors. The liability policies shall meet the requirements of the DEPARTMENT's PERMIT.
3. The UNIVERSITY will, by its own volition and/or request by the DEPARTMENT, promptly restore and/or correct physical or operating damages to any State trunkline right of way resulting from the installation, construction, operation and/or maintenance of the UNIVERSITY facilities according to a PERMIT issued by the DEPARTMENT.
4. With respect to any activities authorized by PERMIT, when the UNIVERSITY requires insurance on its own or its contractor's behalf, it shall also require that such policy include as named insured: the State of Michigan, the Transportation Commission, the DEPARTMENT, and all officers, agents, and employees thereof and those governmental bodies performing permit activities for the DEPARTMENT and all officers, agents, and employees thereof, pursuant to a maintenance contract.
5. The incorporation by the DEPARTMENT of this resolution as part of a PERMIT does not prevent the DEPARTMENT from requiring additional performance security or insurance before issuance of a PERMIT.
6. This resolution shall continue in force from this date until cancelled by the UNIVERSITY or the DEPARTMENT with no less than thirty (30) days prior written notice to the other party. It will not be cancelled or otherwise terminated by the UNIVERSITY with regard to any PERMIT which has already been issued or activity which has already been undertaken.

BE IT FURTHER RESOLVED, that the following position(s) are authorized to apply to the Michigan Department of Transportation for the necessary permit to work within state trunkline right of way on behalf of the UNIVERSITY.

- Architecture, Engineering and Construction
 - Executive Director
 - Associate Director for Construction
 - Associate Director for Architecture and Engineering
- Utilities
 - Director
 - Utility Services Manager