

Special Town Board Meeting  
September 25, 2020  
2:30 p.m.

Present: Supervisor Gerald L. Deming, Council Members: Lynn Parnell and Frank Rose Jr.

Absent: Amos Smith and Norman Gates

Others: None

Supervisor Deming stated that the Special meeting was called for approval of the New York State Department of Transportation permit (PERM 1). This permit allows work to be conducted in the State right of way and unless terminated, will be in place for twenty (20) years. We recently were made aware that the previous permit had expired, so before any work can continue for Anderson Road or any other projects on the State highway, the Town must take the following action:

Supervisor Deming read aloud the following:

**UNDERTAKING**

For the benefit of

**The New York State Department of Transportation**

In connection with work affecting state highways  
(For use by New York municipalities and federal Agencies)

WHEREAS, the undersigned Town of York (hereinafter referred to as "Permittee") from time to time receives permits from the New York State Department of Transportation (hereinafter referred to as the "NYSDOT") and otherwise conducts activities and operations upon highways and/or within right-of-way controlled by the State of New York for such purposes as the obstruction, installation, construction, maintenance and/or operation of facilities; and

WHEREAS, Permittee's access and operation upon state right-of-way is conditioned upon compliance with Highway Law Sections 52, 103, 203 and/or 234, including the conditions that Permittee assume all responsibility for (a) the temporary control of all modes of traffic

(including motorized and non-motorized travel) affected by Permittee's operations, (b) complete restoration of state facilities to their condition prior to permitted use or activity, and (c) all claims, damages, losses and expenses,

NOW, THEREFORE, in relation to all operations and/or actions undertaken within state right-of-way, Permittee hereby agrees to the following terms and conditions:

**1. Permit Applications.** Excepting only activities undertaken to protect public safety because of emergency conditions or incidents, Permittee shall provide timely written notice to NYSDOT of operations or activities affecting state right-of-way. Under normal circumstances, a minimum of five business days notice shall be provided. Notification of emergency activities shall be provided to NYSDOT as soon as practicable after the activity. The Permittee shall apply for project-specific permits for activities not allowed under any existing annual permit. Such application shall identify proposed project locations, desired dates/hours, proposed work/activities, traffic control, and site restoration

**2. Applicable Rules, Regulations & Conditions.** Permittee shall comply with all of the laws, rules and regulations applicable to construction, maintenance activities and operations and shall further comply with such terms and conditions that may be imposed by NYSDOT in connection with permitted activity or operations. Temporary Traffic Control, highway safety appurtenances, and restoration of state facilities shall be completed in accordance with NYSDOT regulations and standards.

**3. Site Restoration.** Permittee shall, at its own expense, promptly complete the work allowed under each permit and, within a reasonable time, restore State property damaged by its work/activities to substantially the same or equivalent condition as existed before such work was begun as determined by the Commissioner or his/her designee. In the event that the Permittee fails to so restore damaged State property within what the Commissioner deems to be a reasonable time, the Commissioner, after giving written notice to the Permittee, may restore the property to substantially the same or equivalent condition as existed before the Permittee's work/activities, in which case, Permittee agrees to reimburse the reasonable expenses in connection therewith.

**4. Payment & Release of Liens.** Permittee shall be responsible for the payment of all costs and materials relating to its work in the public right-of-way, and agrees to defend and save harmless NYSDOT against any and all lien claims made by persons supplying services or materials to Permittee in connection with Permittee's work.

**5. Indemnity.** In addition to the protection afforded to NYSDOT under any available insurance, NYSDOT shall not be liable for any damage or injury to the Permittee, its agents, employees, or to any other person, or to any property, occurring on the site or in any way associated with Permittee's activities or operations, whether undertaken by Permittee's own forces or by contractors or other agents working on Permittee's behalf. To the fullest extent permitted by law, the Permittee agrees to

defend, indemnify and hold harmless the State of New York, NYSDOT, and their agents from and against all claims, damages, losses and expenses, including but not limited to, claims for personal injuries, property damage, wrongful death, and/or environmental claims and attorney fees arising out of any such claim, that are in any way associated with the Permittee's, activities or operations under any and all permits issued using this Undertaking.

FURTHERMORE, Permittee hereby warrants that the obligations of this Undertaking are backed by the full faith and credit of Permittee. Permittee may insure or bond any of the obligations set forth herein, or may rely upon self-insurance, budgeted funds, or funds for general operations.

This Undertaking shall be applicable to all permitted activities and operations undertaken after the date of execution and work initiated while this Undertaking is in effect. This Undertaking may be revoked by the Permittee or rejected by NYSDOT upon thirty days written notice but will continue to apply to all permitted activities/operations that were permitted by virtue of this Undertaking. Unless terminated for the purpose of future activities/operations, this Undertaking shall have a term of twenty (20) years and shall be kept on file to facilitate the issuance of future permits to which it will apply.

**RESOLUTION** offered by Mrs. Parnell and seconded by Mr. Rose to accept the Undertaking of PERM 1 with NYSDOT and also authorizing Town Supervisor, Gerald L. Deming, to execute the PERM 1 with NYSDOT.

Voted on and approved, Yes-3, No-0.

Gerald L. Deming	Aye
Lynn Parnell	Aye
Frank Rose Jr.	Aye
Amos Smith	Absent
Norman Gates	Absent

Witness my hand and the seal of said Town of York, New York on the 25<sup>th</sup> day of September, 2020.

*Christine M. Harris*  
York Town Clerk

### **ADJOURNMENT**

**RESOLUTION** offered by Mrs. Parnell and seconded by Mr. Rose to adjourn the Special Town Board Meeting. Voted on and approved, Yes-3, No-0, absent-2.

Special Town Board Meeting closed at 2:43 p.m.

Respectfully Submitted,  
*Christine M. Harris*  
Christine M. Harris, Clerk