




PO Box 1749
Halifax, Nova Scotia
B3J 3A5, Canada

Item No. 10.1.3
Halifax Regional Council
October 12, 2010

TO: Mayor Kelly and Members of Halifax Regional Council

Original Signed by 

SUBMITTED BY: _____
Mike Labrecque, Acting Chief Administrative Officer

DATE: September 17, 2010

SUBJECT: Encroachment Agreement - Dalhousie University, South Street

ORIGIN

Application by Dalhousie University (Dalhousie).

RECOMMENDATION

It is recommended that Halifax Regional Council **approve** the attached Encroachment Agreement to allow Dalhousie to install an underground electrical conduit structure on South Street to service the new Dalplex Sign.

BACKGROUND

Dalhousie is proposing to install an underground electrical ductbank that will run under the sidewalk from a pole on the south side of South Street to a new sign on Dalhousie lands at the entrance to Dalplex. The location of the ductbank under an HRM sidewalk requires the prior approval of an Encroachment Agreement by Regional Council.

DISCUSSION

The proposed underground ductbank will run under approximately four metres of sidewalk and will occupy approximately four square metres. In accordance with Bylaw E-200, the pipe crossing would be subject to an annual encroachment fee of \$40.00 (\$10.00 per square metre).

The attached draft encroachment agreement also includes the following:

- Construction and maintenance of the ductbank must comply with Streets Bylaw S-300.
- If requested by HRM, the ductbank would be relocated by Dalhousie at their expense.
- Performance security and the on site supervision and certification of the works by a Professional Engineer will be required.
- Record information to be provided in paper and electronic format.

BUDGET IMPLICATIONS

The annual fee of \$40.00 will be a new revenue source for HRM.

FINANCIAL MANAGEMENT POLICIES/BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Project and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Project and Operating reserves, as well as any relevant legislation.

COMMUNITY ENGAGEMENT

This was not deemed necessary in this case as the underground conduit will not impact the public.

ALTERNATIVES

Council could choose not to approve the encroachment agreement. Staff does not recommend this alternative

ATTACHMENTS

Draft Encroachment Agreement

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Phil Francis, P.Eng., Manager, Right of Way Services, 490-6219

Report Approved by: _____
Taso Koutroulakis, P.Eng., Acting Manager, Traffic and Right of Way, 490-4816

Financial Approval by: _____
Paul Fleming for Cathie O'Toole, CGA, Director of Finance, 490-6308

Report Approved by: _____
Ken Reashor, P.Eng., Director, Transportation and Public Works, 490-4855

This **Encroachment License Agreement** made this day of , 2010

BETWEEN:

HALIFAX REGIONAL MUNICIPALITY

Of the One Part

APPROVED
AS TO FORM

Municipal Solicitor

- and -

DALHOUSIE UNIVERSITY

Of the Other Part

WHEREAS Dalhousie University wishes to install an underground electrical ductbank under the sidewalk on the south side of South St. to a sign located on Dalhousie property;

AND WHEREAS by resolution of the Halifax Regional Municipal Council on _____, 2010, the Halifax Regional Municipality agreed to give Dalhousie University an encroachment license in accordance with the terms and conditions set out in Halifax Regional Municipality By-law E-200, being the Encroachment By-law, and as contained in this license agreement.

1. **Definitions**

In this agreement, unless the context otherwise requires:

- (a) "HRM" means the Halifax Regional Municipality;
- (b) "Engineer" means the Engineer as defined by the Halifax Regional Municipality Charter; and
- (c) "Dalhousie" means Dalhousie University.

2. **License**

Subject to the terms of this encroachment license agreement, HRM hereby grants to Dalhousie the non-exclusive right by its officers, servants, agents and contractors at all times to enter on, over and under that portion South St., Halifax identified on Schedule "A" to install and maintain an underground electrical ductbank shown on drawing number _____.

3. Relocation

If necessary for municipal purposes, the underground electrical ductbank must be relocated within the street if requested by HRM, which relocation will be at the expense of Dalhousie. Should Dalhousie wish to relocate the underground electrical ductbank, such shall be done only upon receipt of the written consent of HRM, which consent shall not be unreasonably withheld and said relocation shall be at the expense of Dalhousie.

4. Permits

- (a) Dalhousie agrees to comply with all municipal by-laws including the Streets By-law, S-300, as amended from time to time, for the original construction of the works and all subsequent work which involves the excavation of the street.
- (b) The application for a Streets & Services permit shall include an engineering plan and profile stamped by a professional engineer of the proposed underground electrical ductbank.
- (c) The final location of the underground electrical ductbank shall be subject to the approval of the Engineer.
- (d) For the purposes of the construction of the original works, Dalhousie agrees to engage the services of a professional engineer, licensed to practice in the Province of Nova Scotia, and to file with the Engineer a written undertaking stating that the professional engineer had been engaged by Dalhousie to supervise and set out the work, that the work will be done in accordance with the approved plans, and that the project shall be subject to full time inspection and approval by the professional engineer or his representative.
- (e) For the purposes of the construction of the original works, Dalhousie agrees to arrange a pre-construction meeting with HRM staff.
- (f) In addition to meeting the requirements of Streets By-law S-300, for the purposes of the construction of the original works, Dalhousie agrees to deposit with HRM performance security, acceptable to the Engineer, in the estimated amount of the cost of restoring the municipal infrastructure affected by the project, or in the minimum amount of \$1000.00, to be valid for a period of two years from the date of the acceptance of said works.
- (g) For the purposes of the construction of the original works Dalhousie shall provide HRM with a certificate from a professional engineer certifying that all works are completed according to the approved drawings, any applicable municipal services specifications, standard drawings and approved changes.

5. Record Drawings

Dalhousie shall provide a copy of the record drawings immediately upon completion of said project, and immediately upon completion of any relocation, both in hard copy and electronic format compatible with the HRM Geographic Information System (GIS).

6. Indemnity

Dalhousie agrees to indemnify and save HRM harmless from all claims, liabilities and expenses of any kind in any way related to or connected with the grants of the rights set forth in this license agreement or from the existence or operation of the underground electrical ductbank however caused, except to the extent that the loss arises out of the gross negligence of HRM.

7. Fees

Dalhousie shall pay the fees set out in Encroachment By-law E-200, and for the purpose of the calculation of said fees, it is agreed that the space occupied by the ductbank is 4 square metres.

8. Occupational Health & Safety Act

Dalhousie agrees to comply with the requirements of the *Occupational Health & Safety Act* and all regulations enacted pursuant thereto. Specifically, Dalhousie agrees to exercise the due diligence required by the Act in ensuring that to the extent possible the requirements of the *Occupational Health & Safety Act* and its regulations are followed by its contractors or agents.

9. Termination

- (a) Either party may terminate this license agreement at any time.
- (b) Upon termination of the license agreement, Dalhousie shall at HRM's option either:
 - i. remove the underground electrical ductbank and restore the surface of South St.; or
 - ii. abandon all claim to title in the underground electrical ductbank to HRM.

10. Notices

Any written notice or communication relating to the administration of this agreement to be given or delivered by one party to the other shall be deemed to be duly given if delivered by hand, by fax or by courier to the following addresses or such other address that may subsequently be provided:

Halifax Regional Municipality
Director of Transportation & Public Works
21 Mount Hope Avenue
Halifax, NS B3J 3A5

and

Dalhousie University
Director, Facilities Management
1236 Henry Street
Halifax, NS B3H 3J5

11. Legal notices in respect of HRM must given in compliance with the Halifax Regional Municipality Charter.
12. This agreement shall enure to the benefit of and be binding upon the parties hereto, their respective successors and permitted assigns.

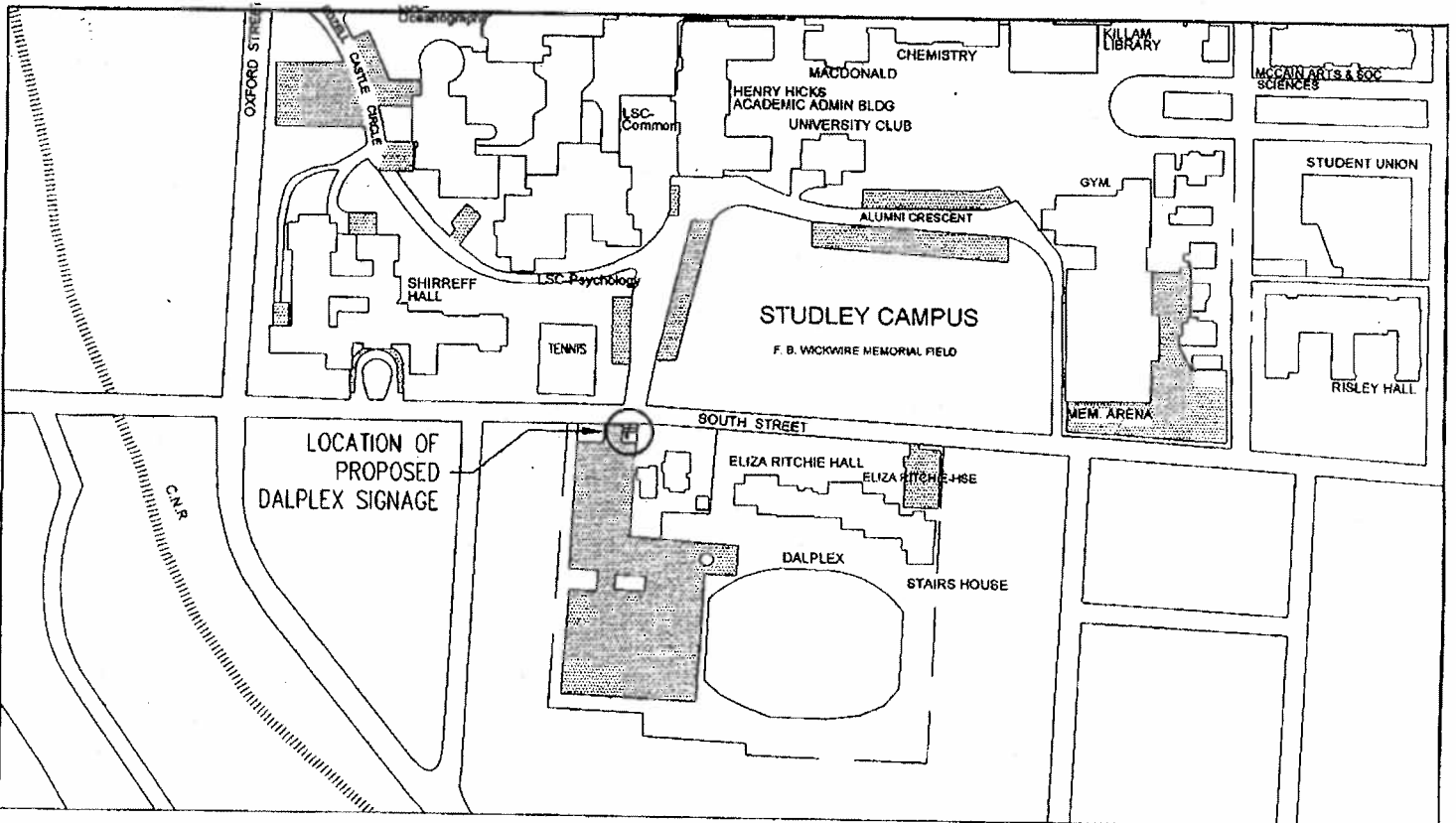
IN WITNESS WHEREOF the parties hereto have executed this License agreement as of the day and year first above-written.

HALIFAX REGIONAL MUNICIPALITY

Mayor Peter Kelly

Cathy Mellett - Municipal Clerk

DALHOUSIE UNIVERSITY



LOCATION OF PROPOSED DALPLEX SIGNAGE

STUDLEY CAMPUS
F. B. WICKWIRE MEMORIAL FIELD

SOUTH STREET

ELIZA RITCHIE HALL
ELIZA RITCHIE HOUSE
DALPLEX
STAIRS HOUSE

ENTRANCE TO DALPLEX PARKING LOT

APPROXIMATE LOCATION OF EXISTING SIDEWALK

MUNICIPAL ELECTRICAL POLE. PROPOSED TIE-IN POINT FOR SIGN ELECTRICAL SERVICE. POWER CABLES TO RUN UNDER SIDEWALK

ductbank

APPROXIMATE SIGN LOCATION

NOTES:

Schedule 'A'

PROJECT:
DALPLEX
SOUTH STREET
SIGNAGE

DRAWING:
PROPOSED SIGN LOCATION
MUNICIPAL POWER POLE
POWER CABLE PATH

C.P. #

PROJECT LEAD: JULIO ORTIZ

SCALE: NTS

DRAWN BY: AQ

FILE:

DATE: JULY 30 2010



DALHOUSE
UNIVERSITY
Halifax, NS

ASK-1