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(Phase One) resolution shall become effective at the time the petitioner, its heirs or assigns, possess the appropriate rights, title, and interest in the adjoining properties; and further

Provided, That the City Clerk shall within 30 days record a certified copy of this resolution with the Wayne County Register of Deeds.

Adopted as follows:

Yeas — Council Members Bates, K. Cockrel, Jr., S. Cockrel, Collins, Everett, McPhail, Tinsley-Talabi, Watson, and President Mahaffey — 9.

Nays — None.

**Department of Public Works
 City Engineering Division**

July 19, 2004

Honorable City Council:

Re: Petition No. 2384 — Angelo lafrate Construction Company, for encroachment into rights-of-way in the area of East Grand River and Broadway.

Petition No. 2384 of "Angelo lafrate Construction Company", 26400 Sherwood, Warren, Michigan 48091, on behalf of the Barton Malow Company, request to install and maintain encroachments consisting of a temporary earth retention system within Broadway Avenue 100 feet wide, between Grand River Avenue and John R. Street and Grand River Avenue, 60 feet wide, between Farmer Street and Broadway Avenue, in order to facilitate the construction of the new Downtown YMCA.

An earth retention wall system will be set in place within the southeast quadrant of the proposed YMCA site at the intersection of E. Grand River and Broadway. The encroachments will extend approximately 200-feet to the west paralleling E. Grand River and 200-feet to the north paralleling Broadway, consisting of 3/4-inch diameter retaining rods with approximately 1-foot square plates at the end, placed at 6 to 8-feet on center a minimum of 5-feet below the existing grade. The earth retention wall system will be used until a permanent concrete retaining wall can be cast in place. Although the encroachments are to be known as a temporary earth retention system, the rods will not be removed once the permanent wall is cast.

The petition was referred to the City Engineering Division — DPW for investigation (utility review) and report. This is our report:

The Detroit Water and Sewerage Department (DWSD) has no objection to the proposed encroachments provided that the petitioner abides by all of the terms and conditions of the attached resolution.

The Public Lighting Department (PLD) reports having duct banks for high voltage cables, communication, traffic signal, and

underground fed street lighting cables at E. Grand River and Broadway in the proposed encroachment area. Also, the PLD has traffic signal pedestals at the north-west corner of E. Grand River and Broadway. Any structure built shall maintain a 42-inch horizontal clearance from the PLD facilities. Also, the PLD will require 24-hr access for heavy vehicles for maintenance of its installations.

The Petitioner or its assigns must obtain permits from City Engineering Division — DPW for any street openings, backfill, surface restoration, barricade, or occupancy of city rights-of-way to install and/or maintain the encroachments. The Petitioner will be required to make use of "MISS DIG" facilities before the placement of any encroachment(s).

City Engineering Division — DPW also requires the Petitioner to submit certified "as built" drawings, a map and survey, showing the exact location of the completed encroachments.

All other involved City departments and privately owned utility companies have reported no objections to the proposed encroachments. Where appropriate, provisions protecting utility installations are part of the resolution.

I am recommending adoption of the attached resolution.

Respectfully submitted,

WILLIAM TALLEY

Head Engineer

City Engineering Division — DPW

By Council Member Watson:

Whereas, The City Engineering Division — DPW is hereby authorized and directed to issue permits to "The Angelo lafrate Construction Company", 26400 Sherwood, Warren, Michigan 48091, on behalf of the Barton Marlow Company to install and maintain the encroachments consisting of a temporary earth retention system within Broadway Avenue 100 feet wide, between Grand River Avenue and John R. Street and Grand River Avenue, 60 feet wide, between Farmer Street and Broadway Avenue, in order to facilitate the construction of the new Downtown YMCA, and

Whereas, The Public Lighting Department (PLD) reports having duct banks for high voltage cables, communication, traffic signal, and underground fed street lighting cables at E. Grand River and Broadway in the proposed encroachment area. Also, the PLD has traffic signal pedestals at the north-west corner of E. Grand River and Broadway, and

Whereas, An earth retention wall system will be set in place within the southeast quadrant of the proposed YMCA site at the intersection of E. Grand River and Broadway. The encroachments will extend approximately 200-feet to the west paralleling E. Grand River and 200-feet to the north paralleling Broadway, consisting

of 3/4-inch diameter retaining rods with approximately 1-foot square plates at the end, placed at 6 to 8-feet on center a minimum of 5-feet below the existing grade. The earth retention wall system will be used until a permanent concrete retaining wall can be cast in place. Although the encroachments are to be known as a temporary earth retention system, the rods will not be removed once the permanent wall is cast, adjacent to the following described property:

The Southwesterly 6 feet of Broadway Avenue, 100 feet wide, adjoining the Southwesterly line of said Broadway Avenue between John R. Street and the centerline of East Grand River Avenue, 60 feet wide, extending Northwesterly 212.00 feet and Southeasterly 6 feet from the intersection of the Southwesterly line of said Broadway Avenue with the Northwesterly line of said East Grand River Avenue, also the Northwesterly 6 feet of said East Grand River Avenue adjoining the Northwesterly line of said East Grand River Avenue extending Southwesterly 218.00 feet from the intersection of the Southwesterly line of said Broadway Avenue with the Northwesterly line of said East Grand River Avenue, abutting Lots 11, 12, 13, and a part of Lot(s) 14, and 63 of the "Governor and Judges Plan of Sections 1, 2, 3, 4, 5, 6, 7 and 8 of the City of Detroit, Wayne County, Michigan", as recorded in Liber 34 of Deeds on pages 543 to 550, Wayne County Records;

Provided, That any structure(s) built shall maintain a 42-inch horizontal clearance from the said Public Lighting Department (PLD) facilities. Also, the PLD will require 24-hr access for heavy vehicles for maintenance of its installations; and further

Provided, That the petitioner make satisfactory arrangements with the PLD for the relocation, abandonment or installation of any PLD facilities, and further

Provided, That the Detroit Water and Sewerage Department (DWSD) forces shall have free and easy access to the water main and/or sewer facilities at all times to permit proper operation, maintenance and if required, alteration or repair of the water main and/or sewer facilities; and further

Provided, Should the water main and/or sewer facilities be broken or damaged as a result of any action on the part of the petitioner or assigns, then in such event the petitioner or assigns shall be liable for all costs incident to the repair of such broken or damaged water main and appurtenances, and waives all claims for damages; and further

Provided, The "YMCA", the "Angelo lafrate Construction Company", the "Barton Malow Company" or its assigns shall apply to the Buildings and Safety

Engineering Department for a building permit prior to any construction. Also, if it becomes necessary to open cut public steets, bore, jack, occupy or barricade city rights-of-way for maintenance of encroachments such work shall be according to detailed permit application drawings submitted to the City Engineering Division — DPW prior to any public right-of-way construction; and further

Provided, That the necessary permits shall be obtained from the City Engineering Division — DPW and the Buildings and Safety Engineering Department. The encroachments shall be constructed and maintained under their rules and regulations; also in accord with plans submitted to and approved by these departments; including the Public Lighting Department (if necessary), the Water and Sewerage Department (if necessary), and the Traffic Engineering Division — DPW (if necessary); and further

Provided, That all costs for the construction, maintenance, permits and use of the encroachments shall be borne by The "YMCA", the "Angelo lafrate Construction Company", the "Barton Malow Company" or its assigns; and further

Provided, That all costs incurred by privately owned utility companies and/or city departments to alter, adjust, and/or relocate their existing utility facilities located in close proximity to the encroachments, shall be borne by The "YMCA", the "Angelo lafrate Construction Company", the "Barton Malow Company" or its assigns. Should damages to utilities occur The "YMCA", the "Angelo lafrate Construction Company", the "Barton Malow Company" or its assigns shall be liable for all incidental repair costs and waives all claims for damages to the encroaching installations; and further

Provided, If it becomes necessary to repair or replace the utilities located or to be located within the public rights-of-way, by acceptance of this permission, "The YMCA" (owners) for themselves, or their assigns, (by acceptance of permits for construction near underground utility lines, conduits, or mains) waives all claims for damages to the encroaching installations and agree to pay all costs incurred in their removal (or alteration), if removal (or alteration) becomes necessary; and further

Provided, That the "YMCA", the "Angelo lafrate Construction Company" or the "Barton Malow Construction" shall file with the Finance Department an indemnity agreement in form approved by the Law Department. The agreement shall save and protect the City of Detroit from any and all claims, damages or expenses that may arise by reason of the issuance of the permits and the faithful or unfaithful performance by The "YMCA", the "Angelo lafrate Construction Company", or the

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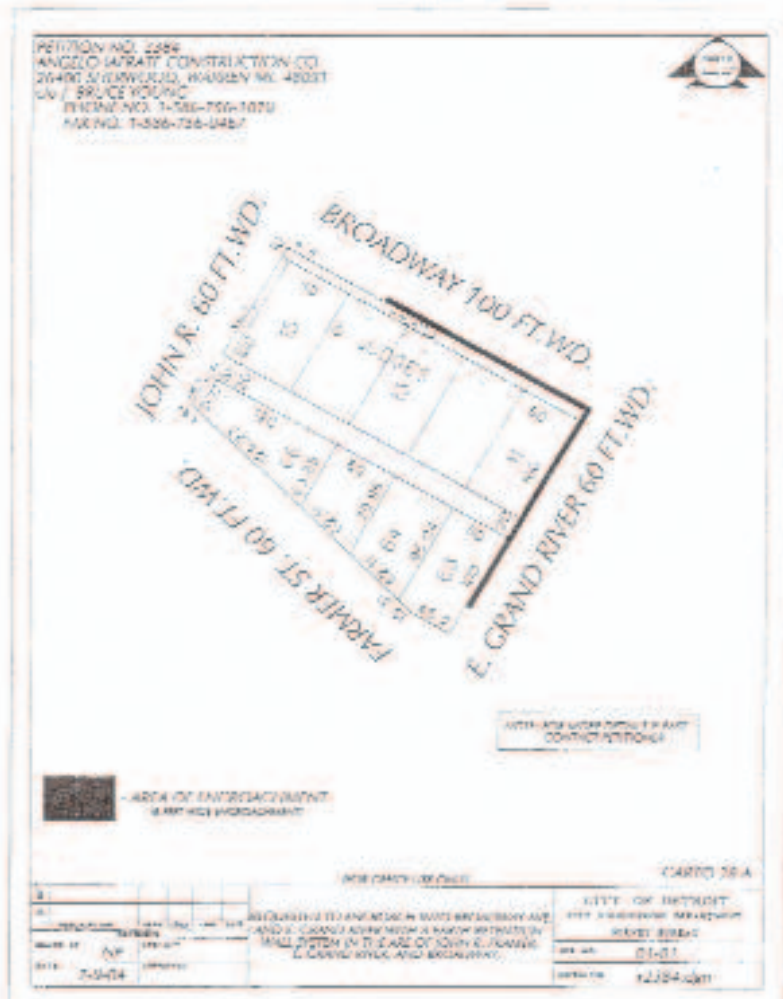
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"Barton Malow Company" of the terms thereof. Further, The "YMCA", the "Angelo lafrate Construction Company", or the "Barton Malow Company" shall agree to pay all claims, damages or expenses that may arise out of the maintenance of the proposed encroachments; and further

Provided, The property owned by The

"YMCA", or its assigns and the encroachment shall be subject to proper zoning or regulated use (Board of Zoning Appeals Grant); and further

Provided, That no other rights in the public streets, alleys or other public place shall be considered waived by this permission which is granted expressly on the



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