

Adopted as follows:

Yeas — Council Members Brown, Cockrel, Jr., Jenkins, Jones, Kenyatta, Spivey, Watson, and President Pugh — 8.
Nays — None.

**Department of Public Works
City Engineering Division**

July 19, 2012

Honorable City Council:

Re: Petition No. 2414 — Detroit Athletic Club, permission to install three bronze sculptures in the Madison median between Randolph and John R.

Petition No. 2414 of "The Detroit Athletic Club (DAC)" request permission to encroach into Madison Avenue, 200 feet wide, between Randolph Street, variable width, and John R. Street, 60 feet wide, with three bronze sculptures and lighting with each occupying a 16 feet radius area. This request will assist the DAC to celebrate the 100th Anniversary of the DAC's Clubhouse by creating a public park of inspirational bronze sculptures.

The encroachment petition was referred to the City Engineering Division — DPW for investigation and report. This is our report.

Necessary permits/permission will have to be obtained from City Engineering Division — DPW Permit Bureau for any street or alley construction, backfill, or occupancy of the City rights-of-way to install non-standard materials and/or Recreation Department (if necessary) for the work in the boulevard.

AT&T Telecommunication reports having facilities in the requested area (underground), if relocation is required cost will be involved. Please contact AT&T customer work order group for project engineer to review at 1-888-901-2779.

Traffic Engineering Division — DPW reports no objections to the request provided that each of the three proposed sculptures shall be at least 10 feet inside the curb face. Also prior to installing the sculptures, petitioner shall submit to Traffic Engineering Division — DPW all final plans showing the exact dimensions, layout, and set backs from curb for review and approval. The sculptures shall be installed with adequate set back from curb in order to prevent any potential visibility issues for the motorists/pedestrians.

Public Lighting Department (PLD) reports no objections provided that no structures or barricades can be built over PLD installations or on existing utility easements areas. As per PLD requirements, any structure proposed to be built shall maintain a minimum of 10 feet horizontal clearance for the overhead PLD lines and installation and shall maintain a minimum of 3 feet horizontal clearance and 12 inch vertical clearance from the

PLD conduit bank and manholes. The contractor should take necessary precautions not to damage PLD's utilities, if they plan to use heavy earth moving equipment. The contractor will be liable for any damages to any PLD underground or overhead facilities. PLD will need unrestricted easement rights with 24 hour heavy vehicle access to the area requested for encroachment.

Detroit Water and Sewerage Department (DWSD) report no objections to the encroachment provided that DWSD's provision for encroachment is strictly followed.

All other city departments and privately-owned utility companies have requested that the petitioner make use of the "MISS DIG" facilities before any construction, backfill, or occupancy of the City rights-of-way to install non-standard materials in the public (street or alley) rights-of-way. Should damage to the utilities occur the petitioner shall be liable for all claims and damages related to the encroachment installation.

An appropriate resolution, granting the encroachments, is attached for consideration by your Honorable Body.

Respectfully submitted,
RICHARD DOHERTY
City Engineer

City Engineering Division — DPW
By Council Member Brown:

Resolved, The City Engineering Division — DPW is hereby authorized and directed to issue permits to "The Detroit Athletic Club (DAC) and assigns", to install and/or maintain encroachments of a 16.00 feet radius area containing three bronze sculptures with a 3.00 feet by 3.00 feet pedestral square, a 6.00 feet high and 3.50 feet deep foundation, with the sculptures being approximately 9.00 feet above the 6.00 feet pedestral depending on the pose of the bronze sculpture, lighting directed on the sculptures, and crushed granite. All in approximately the center of Madison Avenue (Boulevard), 200 feet wide, between Randolph Street, variable width, and John R. Street, 60 feet wide; said public rights-of-way being nearby or adjoining property described as follows:

Lying within approximately the center of Madison Avenue, 200 feet wide, between Randolph Street, variable width, and John R. Street, 60 feet wide adjacent to Southerly line of the South line of Lots 28 through 30, both inclusive, in the "Plat of the City of Detroit as laid out by the Governor and Judges recorded in Liber 34, Page 545, Deeds, the Governor and Judges Journal — Wayne County;

Encroachment(s) to consist of "permanently" (meaning more than thirty days, or other long-term duration) installed and/or existing within public rights-of-way, nearby or adjacent to the above-described property;

Provided, That nothing in this resolution shall be construed as giving any authority, permission or grant to the permittee for any part of the 16.00 feet radius area containing three bronze sculptures with a 3.00 feet by 3.00 feet pedestal square, a 6.00 feet high and 3.50 feet deep foundation, with the sculptures being approximately 9.00 feet above the 6.00 feet pedestal depending on the pose of the bronze sculpture, lighting directed on the sculptures and crushed granite. All in approximately the center of Madison Avenue, 200 feet wide, between Randolph Street, variable width, and John R. Street, 60 feet wide placed above the surface or underground rights of privately-owned property. Enforcement of violations of fire safety regulations and buildings code is the responsibility of the Fire Marshall and Buildings and Safety Engineering Department. The petitioner shall apply to the Buildings and Safety Department for approval and permits (if necessary) and Recreation Department (if necessary) for the construction within the boulevard for the 16.00 feet radius area containing three bronze sculptures with a 3.00 feet by 3.00 feet pedestal square, a 6.00 feet high and 3.50 feet deep foundation, with the sculptures being approximately 9.00 feet above the 6.00 feet pedestal depending on the pose of the bronze sculpture, lighting directed on the sculptures and crushed granite. All in approximately the center of Madison Avenue, 200 feet wide, between Randolph Street, variable width, and John R. Street, 60 feet wide encroachments **(if necessary)**; and further

Provided, It is the intention of this resolution to authorize the City Engineering Division — DPW (prior to the issuance of "encroachment" permits) to act on behalf of the city to require the permit applicant to perform any reasonable task to protect public property interests including, but not limited to, the submission of engineering plans and/or surveys (containing construction details and distances from property lines) of the 16.00 feet radius area containing three bronze sculptures with a 3.00 feet by 3.00 feet pedestal square, a 6.00 feet high and 3.50 feet deep foundation, with the sculptures being approximately 9.00 feet above the 6.00 feet pedestal depending on the pose of the bronze sculpture, lighting directed on the sculptures and crushed granite. All in approximately the center of Madison Avenue, 200 feet wide, between Randolph Street, variable width, and John R. Street, 60 feet wide. Also, the City Engineering Division — DPW may require the permit applicant to secure approval(s) of said encroachments from Wayne County, the State of Michigan, any city departments (including city commissions,

authorities, corporations, councils, boards, contractors, and agencies whenever applicable) and/or utility companies are specifically enumerated in this resolution or not; and further

Provided, That The Detroit Athletic Club (DAC)/petitioner maintain the condition of the requested encroachment area and encroachments such as and not limited to the bronze statues, pedestals, lighting, crushed granite and any other items associated with the encroachment area to a satisfactory condition to the City of Detroit and/or City Engineering Division — DPW; and further

Provided, That a 24-hrs. vehicle access to this site to perform circuit maintenance is maintain. No structure can be built over PLD installations. As per PLD requirements, any structure proposed to be built shall maintain a minimum of 10 feet horizontal clearance for the overhead PLD lines and installations and shall maintain a minimum of 3 feet horizontal clearance and 12 inch vertical clearance from the PLD conduit bank and manholes. The contractor will be liable for any damages to any PLD underground or overhead facilities; and further

Provided, That if there is a cost for removing and/or rerouting of said utility installations in said requested area the petitioner and its assigns/heirs will pay all cost, and further

Provided, That by approval of this petition the Detroit Water and Sewerage Department (DWSD) does not waive any of its rights to its facilities located in the streets or alleys, and at all times, DWSD, its agents or employees, shall have the right to enter upon the streets or alley to maintain, repair, alter service, inspect, or install its facilities. All cost incident to the damaging, dismantling, demolish, removal and replacement of structures or other improvements herein permitted and including in gaining access to DWSD shall be born by the petitioner. All cost associated with gaining access to DWSD facilities which could normally be expected had the petitioner not encroached into the streets or alley shall be born by DWSD; and further

Provided, That all construction performed, if any, under this petition shall not be commenced until after (5) five days written notice to DWSD. Seventy-two (72) hours notice shall also be provided in accordance with P.A. 53 1974, as amended, utilizing the MISS DIG one call system; and further

Provided, That any such Construction under this petition is subject to inspection and approval by DWSD forces. The cost of such inspection shall, at the discretion of DWSD, be borne by the petitioner; and further

Provided, That if DWSD facilities locat-

ed within the streets or alley shall break or be damaged as the result of any action on the part of the petitioner, then in such event the petitioner agrees to be liable for all cost incident to the repair, replacement or relocation of such broken or damaged DWSD facilities; and be it further

Provided, That the petitioner shall hold DWSD harmless for any damage to the encroaching device constructed or installed under this petition which may be caused by the failure of DWSD facilities; and be it further

Provided, That at any time in the future or present the petitioner shall request removal and/or relocation of DWSD facilities in the street being encroached upon the petitioner agrees to pay all cost for such removal/relocation; and be it further

Provided, That the petitioner has, concurrently herewith, filed with the City Engineering Division — DPW 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 faithful or unfaithful performance by the petitioner of the terms thereof. Further, the petitioner shall agree to pay all claims, damages, or expenses that may arise out of the maintenance of the proposed encroachments; and further

Provided, That said permittee shall be subject to any tax under the provision of the General Property Tax act, which may be levied against it pursuant to law; and further

Provided, That no other rights in the public streets, alley or other public places shall be consider waived by this permission which is granted expressly on the condition that said encroachments shall be removed at the expense of the permittee at any time when so directed by the City Council, and the public property affected shall be restored to a condition satisfactory to City Engineering Division — DPW at the permittee sole cost and expense; and further

Provided, That, if not already a member, the petitioner shall apply to become a participating member of the "MISS DIG" organization; and further

Provided, That said permits issued by the City Engineering Division — DPW, the Buildings and Safety Engineering Department(s) (if necessary) and/or Recreation Department (if necessary) are granted with the distinct understanding that in the event the City Charter, or Detroit Code(s), or ordinance(s), or resolution(s), or city policies (governing the placement of encroachments in the public rights-of-ways) are amended to provide for levying thereafter, of fee, charge or rental, to be hereafter determined upon, for the occupancy of public streets, alleys or other

public places, that the permittee will pay said fee, charge or rental provided for in said Charter, or Code(s), or ordinance(s), or resolution(s), or policies; also said permittee does hereby bind itself thereunto, and accept said permits on the conditions hereby imposed, and in the event said permittee shall contest the validity of said Charter, or Code(s), or ordinance(s), or resolution, or policies of said fee, charge or rental, or upon refusal to pay same, these permits shall immediately become void; and further

Provided, This resolution is revocable at the will, whim or caprice of the City Council, and permittee hereby waives any right to claim damages or compensation for removal of encroachment(s), and further, that the permittee acquires no implied or other privileges hereunder not expressly stated herein; and further

Provided, That installation and maintenance of the encroachments referred to herein shall be construed as acceptance by this resolution by the permittee; and further

Provided, That this encroachment permits shall not be assigned or transferred by the permittee without the written approval of the City Council; and further

Provided, That all necessary permits for the encroachments (Bronze sculptures, foundations, pedestals, lighting and crushed granite) are obtained;

Provided, That the City reserves the right to for the petitioner/DAC to enter into a maintenance agreement for the complete care of the island/boulevard (such as bushes, trees, grass and etc..) within Madison Avenue, 200 feet wide, between John R. Street and Randolph Avenue; and further

Provided, That, all requirements required herein having been met by petitioner, the City Clerk shall within 30 days of City Council's approval of this encroachment, record a certified copy of this resolution with the Wayne County Register of Deeds.

Adopted as follows:

Yeas — Council Members Brown, Cockrel, Jr., Jenkins, Jones, Kenyatta, Spivey, and President Pugh — 7.

Nays — Council Member Watson — 1.

**Finance Department
Purchasing Division**

July 31, 2012

Honorable City Council:

CITY COUNCIL

86249 — 100% City Funding — To Provide a Legislative Assistant to Council Member James Tate — Amber Elliott, 19387 Dale Street, Detroit, MI 48219 — Contract Period: August 13, 2012 through June 30, 2013 — \$26.92 per hour — Contract Amount Not to Exceed: \$49,532.80.