

**Department of Public Works
City Engineering Division**

November 8, 2006

Honorable City Council:
Re: Petition No. 4122 — Pewabic Pottery request for the installation and maintenance of non-standard streetscape in the public right-of-way, at 10125 East Jefferson Avenue.

Petition No. 4122 of "Pewabic Pottery" whose address is 10125 East Jefferson Avenue, Detroit, Michigan 48214 request to maintain encroachments into East Jefferson Avenue, 120 feet wide, and Cadillac Boulevard, 100 feet wide with a iron fence, shrubs, signage, planters, exposed aggregate and granite sidewalks and foundations for concrete columns; also request the Honorable City Council accept an easement over the Pewabic Pottery/petitioner's land, a ten (10) feet wide strip of land, for landscaping purposes all in the area of East Jefferson Avenue, 120 feet wide, Huribut Avenue, 60 feet wide, and Cadillac Boulevard, 100 feet wide. This request is to enhance the landscape and beautification of East Jefferson.

The request was approved by the Solid Waste Division — DPW, and the Traffic Engineering Division. The petition was referred to the City Engineering Division

— DPW for investigation (utility clearance and review) and report. This is our report: All public right-of-way work, including maintenance, must be subject to city permits, inspection, and specifications.

"Pewabic Pottery" and/or their assigns must obtain permits from City Engineering

Division — DPW for any public right-of-way work together with building permits.

The Public Lighting Department (PLD) reports PLD has a 24 KV high voltage underground feeders, manholes, underground fed street lighting standards, and traffic signal feeds running in the requested area for encroachment and easement.

PLD strongly recommend that the contractor should call MISS DIG to verify PLD's underground facilities. No structure can be built over PLD installations. Any structure proposed to be built shall maintain a four and a half feet (4'6") horizontal clearance from the PLD conduit bank and manholes; also a ten (10) feet horizontal clearance for the overhead PLD lines and installations. The contractor should take necessary precautions not to damage PLD manholes and conduit banks, which carry high voltage feeders if they plan to use heavy earth moving equipments. The contractor will be liable for any damages to any PLD underground facilities. PLD need easement rights with 24-hour heavy vehicle access to the requested area for encroachment.

The Detroit Water and Sewerage Department reports involvement but no objection to the requested encroachment provided that minimum clearances are maintained and DWSD provisions are followed.

Detroit Edison Company (DTE) Gas Division reports that DTE has an 8-inch cast iron (10 psig), 8-inch cast iron (2 psig), and 12-inch cast iron (2 psig) gas mains located in the request area of encroachment. DTE — Gas division will only relocated at the petitions request and

a cost will be determined.

Detroit Edison Company (DTE) Electric Division reports DTE has Overhead lines, Underground lines, and system conduits along the alley north of East Jefferson and East of Cadillac Boulevard. DTE have no objection provided the Overhead and Underground lines are not disturbed. Foundation for the columns cannot disturb any Underground lines or conduits.

AT&T/SBC Telecommunication reports AT&T has facilities in the requested area of encroachment and can be re-located at the petitioner/requesters expense.

All other City Departments and privately owned utility companies reported no objections. Provisions protecting utility installations are part of the attached resolution.

Respectfully submitted,

NADIM HAIDAR
Acting Head Engineer
City Engineering Division—DPW

By Council Member S. Cookrel:

Whereas, Petition No. 4122 of "Pewabic Pottery" whose address is 10125 East Jefferson Avenue, Detroit, Michigan 48214 request to maintain encroachments into East Jefferson Avenue, 120 feet wide, and Cadillac Boulevard, 100 feet wide with a iron fence, shrubs, planters, exposed aggregate and granite sidewalks and foundations for concrete columns; also request the Honorable City Council accept an easement over the Pewabic Pottery/petitioner's land, a ten (10) feet wide strip of land, for landscaping purposes all in the area of East

STATE OF MICHIGAN)
CITY OF DETROIT)

SHORT FORM - TRUE COPY CERTIFICATE

ss.

I, Janice M. Winfrey

CITY CLERK of the City of Detroit, do

hereby certify that the annexed paper is a True Copy of a Resolution

adopted by the City Council on November 17, 2006

and approved by the Mayor on December 5, 2006

Detroit Legal News, dated December 19, 2006
as appears from the ~~XXXXX~~ of said City Council, on file in my office.

MAP ATTACHED

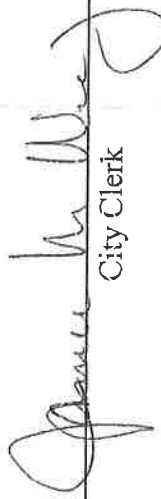
Li 47420

Pa 1288-1290

Rec'd 8-19-08

IN WITNESS WHEREOF, I have hereunto
Set my hand and affixed the Corporate
Seal of said City, at Detroit, on

March 14, 2007


City Clerk

Jefferson Avenue, 120 feet wide, Hurlbut Avenue, 60 feet wide, and Cadillac Boulevard, 100 feet wide. This request is to enhance the landscape and beautification of East Jefferson; and be it further

Resolved, That the City Engineering Division — DPW is hereby authorized and directed to issue permits to "Pewabic Pottery", to install and maintain encroachments into East Jefferson, with a iron fence, signage, shrubs, planters, exposed aggregate and granite sidewalks and foundations for concrete columns all encroachments lying within the North 30.00 feet of East Jefferson Avenue, 120 feet wide, (including the ten feet easement area to be granted to City of Detroit), the East 15.00 feet of Cadillac Boulevard, 100 feet wide, and the 36.00 feet x 30.00 feet section of the intersection of Cadillac Boulevard 100 feet wide and East Jefferson Avenue, 120 feet wide rights-of-way, adjacent to the following described property:

Lying within East Jefferson Avenue, 120 feet wide, between Hurlbut Avenue, 60 feet wide, and Cadillac Boulevard, 100 feet wide, adjacent to Lots E through G, both inclusive, and the West 30.00 feet of Lot D all in the "Walter Works Subdivision" of all that part of Private Claim 257 East of Cadillac Boulevard and between Mack Street and Jefferson Avenue, Hamtramck (now City of Detroit), Wayne County, Michigan as recorded in Liber 9, Page 91, Plats, Wayne County Records;

Lying within Cadillac Boulevard, 100 feet wide, East Jefferson Avenue, 120 feet wide, and Kercheval Avenue, 60 feet wide, adjacent to Lots G all in the "Walter Works Subdivision" of all that part of Private Claim 257 East of Cadillac Boulevard and between Mack Street and Jefferson Avenue, Hamtramck (now City of Detroit), Wayne County, Michigan as recorded in Liber 9, Page 91, Plats, Wayne County Records;

Whereas, Approval of this petition the Detroit Water and Sewerage Department (DWSD) does not waive any of its rights to its facilities located in the street, and at all time, DWSD, its agents, or employees, shall have the right to enter upon the street or maintain, repair, alter, service, inspect, or install its facilities. All costs incident to the damaging, dismantling, demolishing, removal and replacement of structures or other improvements herein permitted and incurred in gaining access to DWSD's facilities for maintenance, repairing, alteration, servicing or inspection by DWSD shall be borne by the petitioner. All costs associated with gaining access to DWSD's facilities, which could normally be expected had the petitioner not encroached into the street, shall be borne by DWSD, and be it further

Provided, That all construction performed under this petition shall not be commenced until after (5) 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 be it further

Provided, That 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 be it further

Provided, That if DWSD facilities located within the street shall break or be damaged as the result of any action on the part of the petitioner, then such event the petitioner agrees to be liable for all costs 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 damages to the encroaching device constructed or installed under this petition which may be caused by the failure of DWSD's facilities; and be it further

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

Provided, The petitioner, "Pewabic Pottery and/or their assign" shall make application to the Building and Safety Engineering Department for a building permit. The landscaping project (a iron fence, shrubs, signage, planters, exposed aggregate and granite sidewalks and foundations for concrete columns) encroachments shall be installed and maintained in accord with plans submitted

to and approved by Building and Safety Engineering Department and/or City Engineering Division. All cost for plan review, inspection, and building permits shall be paid by the petitioner; and further

Provided, That the petitioner shall file with the Finance Department and/or 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 such use of the public right-of-way shall be under the rules and regulations of the City Engineering Division in conjunction with the Building and Safety Engineering Department (if necessary). The City of Detroit retains all rights to establish, maintain, inspect, and service any utilities within or over said Public Street; and further

Provided, All costs for the construction, maintenance, permits, and use of the landscaping project encroachment(s) within the said public right-of-ways shall be borne by the petitioner. The installation and maintenance of said encroachment(s) shall comply with the rules and regulations of the City Engineering Division — DPW (in conjunction with Buildings and Safety Engineering Department, if necessary), and Traffic Engineering Division — DPW; and further

Provided, if it becomes necessary to repair or replace the utilities located or to be located in the public right-of-ways, by the acceptance of this permission, the landscaping project encroachment(s) owners for themselves, their heirs or assigns, waive claims for any damages to the encroaching installations and agree to pay the costs incurred in their removal, if their removal becomes necessary, and to restore the property affected to a condition satisfactory to the City Engineering Division — DPW (in conjunction with Buildings and Safety Engineering Department, if necessary) at the encroachment owner's expense; and further

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

Provided, That no rights in the public streets, alleys or other public places shall be considered waived by this permission which is granted expressly on the condition that said landscaping project encroachment(s) shall be removed at any time when so directed by the City Council, and the public property affected shall be restored to a condition satisfactory to the City Engineering Division — DPW; and further

Provided, That said permits issued by the City Engineering Division — DPW and/or the Buildings and Safety Engineering Department 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 public right-of-ways are amended to provide for the levying thereafter, or a 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 hereunto, 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(s), 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, The installation and maintenance of encroachments [that is, the land-

scaping project with a iron fence, shrubs, planters, exposed aggregate and granite sidewalks and foundations for concrete columns in the area of East Jefferson Avenue, 120 feet wide, Hurlbut Avenue, 60 feet wide, and Cadillac Boulevard, 100 feet wide; said landscaping project encroachments require the filing of an indemnity agreement and the securing of the necessary permit(s) referred to herein shall be construed as acceptance of this resolution by "Pewabic Pottery and/or their assign"; and further

Provided, That the landscaping project encroachment(s) permit shall not be assigned or transferred without the written approval of the City Council; and further

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

Resolved, That your Honorable Body authorize the acceptance of the following described easement over property owned by the petitioner, subject to the approval of the Traffic Engineering Division — DPW and any other public or privately owned utility company, if necessary:

Land in the City of Detroit, Wayne County, Michigan, being the Southeastern 10.00 feet of property described as Lots F and G, excepting the Northern part there-of measuring 67.00 feet on the West line of Lot G and 98.5 feet on the East line Lot F, also, Lot E and D except that part of said Lot D, described as: Commencing at the Southeastern corner of said Lot and running parallel to the Easterly line of said Lot to the Northernly line of said Lot; thence Easterly on the Southernly line of the alley in the rear of said Lot to the Northernly corner of said Lot and thence Southernly along the Easterly line of said lot to the place of beginning, as per Warranty Deed recorded in Liber 575, Page 63, Wayne County Records. Water Works Subdivision, of all that part of Private Claim 257 east of Cadillac Boulevard and between Mack and Jefferson Avenue, Wayne County, Michigan in Liber 9, Page 91, Wayne County Records.

CITY OF DETROIT INDemnITY AGREEMENT

THIS AGREEMENT is entered into as of the 29th day of August, 2006, by and between the City of Detroit, a Municipal Corporation of the State of Michigan, acting by and through its Finance Department ("City") and The Pewabic Society, Inc. ("Pewabic") 10125 E. Jefferson, Detroit, MI 48214.

WITNESSETH:

1) WHEREAS, Pewabic operates a non profit 501C3 organization and seeks to enter into an agreement with the City and Michigan Department of Transportation ("M-DOT") to complete a Streetscape Improvement Project; and

2) WHEREAS, This project is described as "The City of Detroit will streetscape one tenth of a mile of East Jefferson Street. The project is located adjacent to the Pewabic Pottery Campus and is part of the campus expansion program. The improvements include plain and exposed aggregate sidewalks, concrete planters, curbs, landscaping including shade trees, shrubs, ground covers and perennials, ornamental street lighting and accent lighting; and

3) WHEREAS, Pewabic petitioned City Council to issue a permit to complete stated work; and

4) WHEREAS, City Council granted Pewabic's request provided that it obtained and executed an indemnification and maintenance agreement satisfactory to the Law Department and filed the same with the Finance Department.

NOW, THEREFORE, Intending to be legally bound and as an inducement to the City to Grant the requested permits, Pewabic hereby enters into the following agreement:

1. DEFINITIONS

1.01 The following words and expressions or pronouns in their stead shall wherever they appear in this contract be construed as follows:

"Associates" shall mean in reference to the permittee, its personnel, employees, consultants, subcontractors, agents, parent company, or any entities associated, affiliated, or subsidiary to the permittee, now existing or hereinafter created, their agents and employees.

"City" shall mean the City of Detroit, a municipal corporation, acting through its Finance Department or any other department.

"Permit" means the document granted pursuant to the resolution of the Detroit City Council granting petition #4122 a copy of which petition together with a granting the petition is attached and made a part of this Indemnity Agreement.

"Permittee" shall mean the person(s) or entity(ies) permitted to the Streetscape Improvement Project pursuant to the resolution of the Detroit City Council granting petition #4122.

"Permitted Activities" means all activities allowed under any permit granted to Pewabic pursuant to the City Council's resolution granting petition #4122, including similar activities prior to the inception of the permit period and after its close.

2. INDEMNITY

The Pewabic Society, Inc. a nonprofit 501-C organization located at 10125 E. Jefferson, Detroit, MI 48214, ("Pewabic"), does hereby accept the terms and conditions of the City Council Resolution granting Petition #4122 of 2006, which authorizes the establishment of a Streetscape Improvement Project. Pewabic agrees to comply with its requirements; and further, pursuant to the said Resolution, Pewabic

does hereby agree to save harmless the City of Detroit ("the City") from any and all liabilities, obligations, penalties, costs, charges, losses, damages, or expenses (including without limitation, fees and expenses of attorneys, expert witnesses and other consultants) which may be imposed upon, incurred by or asserted against the City by reason of the issuance of said Permit(s), or the performance or non-performance by Pewabic of the terms of the Permit(s).

3. INSURANCE

3.01 Pewabic shall maintain, at a minimum and at its expense, during the term of the permit the following insurance:

- a) General Liability: \$1,000,000 each occurrence, \$2,000,000 aggregate.

The Commercial liability insurance policy shall name the "City of Detroit" as an additional insured and shall state that Pewabic's insurance is primary and not excess over any insurance already carried by the City of Detroit.

- b) if the commercial liability policy does not contain the standard ISO (Insurance Services Office) wording of "definition of insured" which reads essentially as follows: "The insurance afforded applies separately to each insured... except with respect to limits..." then, in the alternative, the public liability insurance policy shall contain the following cross liability endorsement:

"It is agreed that the inclusion of more than one (1) insured under this policy shall not affect the rights of any insured as respects any claim, suit or judgment made or brought by or for any other insured or by or for any employee of any other insured. This policy shall protect each insured in the same manner as though a separate policy had been issued to each, except nothing herein shall operate to increase the insurer's liability beyond the amount or amounts for which the insurer would have been liable had only one (1) been named."

3.03 If during the term of the Permit changed conditions or other pertinent factors should, in the reasonable judgment of the City, render inadequate the insurance limits, Pewabic will furnish on demand such additional coverage or types of coverage as may reasonably be required under the circumstances. All such insurance shall be effected at Pewabic's expense, under valid and enforceable policies, issued by insurers of recognized responsibility that are well-rated by national rating organizations and are acceptable to the City.

3.04 All insurance policies shall name Pewabic as the insured and provide a commitment from the insurer that such policies shall not be cancelled or reduced without at least thirty (30) days prior written notice to the City.

3.05 Pewabic shall be responsible for payment of all deductibles contained in the insurance required hereunder. The provisions requiring Pewabic to carry the insurance required under this Article shall not be construed in any manner as waiving or restricting the liability of Pewabic under this Agreement.

4. MAINTENANCE

4.01 Pewabic shall be responsible for all maintenance including snow removal and repair of aggregate, pavement and fencing. It is the responsibility of the Contractor to maintain landscaping for a

period of two (2) years following planting. At that time, Pewabic will take responsibility for all landscaping. All such maintenance must be performed in compliance with City ordinances and to the satisfaction of the City Engineer.

WITNESSES:

PERMITTEE:

The Pewabic Society, Inc.

BY:

Terese A. Ireland

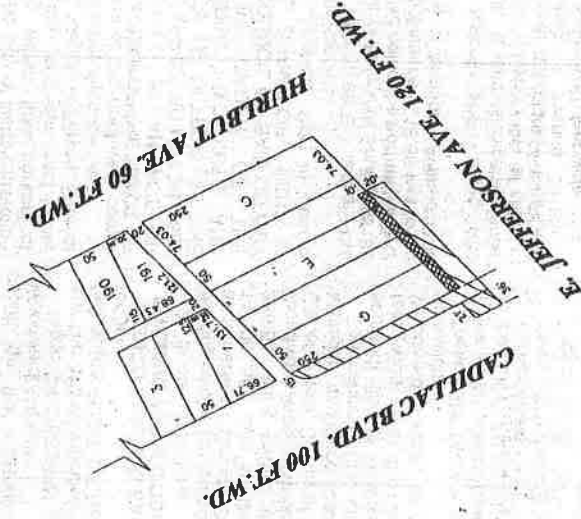
ITS: Executive Director

Adopted as follows:

Years — Council Members S. Cockrel, Collins, Conyers, Jones, Kenyatta, Reeves, Tinsley-Talabi, Watson, and President K. Cockrel, Jr. — 9.

Nays — None.

PETITION NO. 4122
PEWABIC POTTERY
10125 E. JEFFERSON AVE.
DETROIT, MI 48214
c/o TERESE A. IRELAND
PHONE NO. 313-822-0854



AREA OF ENCROACHMENT

DEDICATION OF EASEMENT (WITH ENCROACHMENT)

B	APPROVED	DATE	8/21/06
A	APPROVED	DATE	8/21/06
REQUEST TO ENCROACH INTO CADILLAC BLVD. IN FT. WID. AND JEFFERSON ST. IN FT. WID. FOR THE INSTALLATION OF PLANTERS AND FOUNTAIN FOR COMMUNITY PLANTERS AND FOUNTAIN FOR COMMUNITY PLANTERS. ALSO INDICATION OF ANY LAW FT. WID. ALLEGEDLY INTERFERABLE ENCROACHMENT.			
CARTO 549			
CITY OF DETROIT			
CITY ENGINEERING DEPARTMENT			
SURVEY BUREAU			
JOB NO. 10-01			
DRAW NO. X4122-06			