

Department of Public Works,
City Engineering Division
February 2, 1998

Honorable City Council:

Re: Petition No. 3428, Detroit Lime Company, Alliance Telecommunications, Inc. Requesting permission to install and maintain a privately owned telecommunications cable system (attached to Detroit Edison Company utility poles) encroaching overhead along Powell Avenue between 303 Rouge and 310 Fordson.

Petition No. 3428 of "Detroit Lime Company" requests permission to install and maintain a privately owned telecommunications cable system (attached to Detroit Edison Company utility poles) encroaching overhead along the public street right-of-way of Powell Avenue, 60 feet wide, southeasterly of South Dix Avenue; between two buildings addressed as 303 Rouge Avenue and 310 Fordson Avenue. [NOTE: This is not a "common carrier" telecommunications cable system installation. The Cable Communications Commission has reviewed the petition, and reported no objections to the proposed cable system encroachment.]

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

"Detroit Lime Co." must obtain permission from Detroit Edison Company (DE Co.) to make any privately owned cable system attachments to DE Co. utility poles.

The attachment of overhead wires to utility poles requires minimum grade clearance(s). The clearances, including height above public street grade, will have to separate "Detroit Lime Co." installations from other overhead utilities. If there is a need for adjustments in the utility services of others (to maintain minimum clearances), then "Detroit Lime Co." will pay all costs. The petitioner must obtain any other additional permits (or pay the expenses) to adjust the overhead utility facilities of Detroit Edison, Bell Telephone, Detroit Edison, and/or the Public Lighting Department. Also, "Detroit Lime Co." installations must conform to the current National Electrical Code as adopted by the Michigan Public Service Commission. Detroit Code Section 42 assigns the inspection of poles and overhead wire attachments to the Public Lighting Department (PLD). PLD submitted a report to City Engineering Division—DPW, which states: "The Public Lighting Department has no objection to the proposed attachments on certain poles shown on sketch attached, with the understanding that all such attachments will be subject to the terms of Public Lighting Department foreign attachments permit. Please note that Detroit Lime Company contractor has permission to raise duplex to proper height. If you have any questions regarding above petition contact me at (313) 267-7319."—reply by Walter Jackson, Inspector Overhead Line.

All overhead wire crossings require PLD inspection and permits in conjunction with the Finance Director (\$25,000.00 bond). — Detroit Code Section 42; Article

All other involved city departments and privately owned utility companies reported no objections to the proposed overhead cable system encroachment.

I am recommending adoption of the attached resolution.

Respectfully submitted,
SUNDAY JAIYESIMI,
City Engineer
City Engineering Division—DPW

By Council Member Scott:

Whereas, Petition No. 3428 of "Detroit Lime Company" requests permission to install and maintain a privately owned telecommunications cable system (attached to Detroit Edison Company utility poles) encroaching overhead along the public street right-of-way of Powell Avenue, 60 feet wide, southeasterly of South Dix Avenue; between two buildings addressed as 303 Rouge Avenue and 310 Fordson Avenue. [NOTE: This is not a "common carrier" telecommunications cable system installation. The Cable Communications Commission has reviewed the petition, and reported no objections to the proposed cable system encroachment]; and

Whereas, Detroit Code Section 42 assigns the inspection of poles and overhead wire attachments to Public Lighting Department (PLD). PLD submitted a report to City Engineering Division—DPW, which states: "The Public Lighting Department has no objection to the proposed attachments on certain poles shown on sketch attached, with the understanding that all such attachments shall be subject to the terms of Public Lighting Department foreign attachments permit. Please note that Detroit Lime Company contractor has permission to raise duplex to proper height. If you have any questions regarding above petition contact me at (313) 267-7319."—reply by Walter Jackson, Inspector Overhead Line;

Resolved, City Engineering Division—DPW is hereby authorized and directed to

encroachment of Powell Avenue, 60 feet wide, southeasterly of South Dix Avenue, between two parcels described as follows:

(1) Lot 389 and the reversionary interests in vacated Powell Avenue (60 feet wide; southeasterly of Rouge Avenue; having been vacated by City Council on March 2, 1965 — J.C.C. page 387) as platted in "G. W. Zangers Oakwood Subdivision of Part of Private Claims 37 and 667 of Village of Oakwood," City of Detroit, Wayne County, Michigan as recorded in Liber 59, Page 27, Plats, Wayne County Records; (also known as 303 Rouge Avenue, a "Detroit Lime Company" site);

(2) Lots 216 through 221 as platted in "G. W. Zangers Oakwood Subdivision of Part of Private Claims 37 and 667 of Village of Oakwood," City of Detroit, Wayne County, Michigan as recorded in Liber 59, Page 27, Plats, Wayne County Records; (also known as 310 Fordson Avenue, a "Detroit Lime Company" site);

Encroachment to consist of installing and maintaining privately owned overhead telecommunication cable system (attached to Detroit Edison Company utility poles) between buildings addressed as 303 Rouge Avenue and 310 Fordson Avenue, the above described sites;

Provided, Said overhead telephone cable encroachment shall be installed to conform to the current National Electrical Code as adopted by the Michigan Public Service Commission; and further

Provided, The installation and maintenance of said overhead telephone wire(s) shall be according to the routes, permits, specifications, and inspection of the Public Lighting Department in conjunction with the Finance Director (\$25,000.00 bond) as required by Detroit Code Section 42; and further

Provided, That in order to separate overhead utility wires, the following minimum clearances shall be maintained by "Detroit Lime Company":

(a) Eighteen feet minimum clearance must be maintained above the public street grade(s).

(b) 3.33 feet minimum (four feet preferred) clearance must be maintained below the lowest Detroit Edison overhead facilities.

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(c) If necessary, one foot minimum clearance must be maintained above Ameritech/Michigan Bell Telephone and/or Comcast Cablevision, overhead facilities.

(d) If necessary, four feet minimum clearance must be maintained from Public Lighting overhead facilities; also, one foot minimum clearance must be maintained from Public Lighting communication facilities.

tenance of said encroachments; and further

Provided, It is the responsibility of "Detroit Lime Company" and their contractors to give reasonable and proper notice to the Detroit Edison Company ("Edison"), and the Public Lighting Department (if necessary) before commencing and/or changing any (permitted) privately owned attachments to Edison utility poles; and further

Provided, Whenever it becomes necessary to occupy or barricade city rights-of-way for overhead cable system placement and/or maintenance, such work shall require a permit from City Engineering Division — DPW; subject to traffic specifications from Traffic Engineering Division — DPW; and further

Provided, All costs for the construction, maintenance, permits, insurance, and use of the proposed overhead cable system encroachment shall be borne by "Detroit Lime Company". The use and/or operation of said telecommunication cable system shall comply with the rules and regulations of the Detroit Cable Communications Commission and Public Lighting Department; 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 overhead cable system encroachment 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 by the permittee, at the permittee's expense; and further

Provided, That said permits issued by City Engineering Division — DPW, and Public Lighting Department are granted with the distinct understanding that in the event the City Charter, or Detroit Code(s), or ordinances(s), or resolution(s), or City policies (governing the placement of cable system encroachments within public rights-of-way) are amended to provide for the levying thereafter, of 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 thereunto, and to 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, That the encroachment permit shall not be assigned or transferred without the written approval of the City Council; and further

Provided, The installation and maintenance of encroachments (that is, said privately owned overhead telecommunication cable system, attached to Detroit Edison Company utility poles, along Powell Avenue (60 feet wide) between the above described properties; said installations require the filing of an indemnity agreement, bonds and insurance, and the securing of permit(s)) referred to herein shall be construed as acceptance of this resolution by "Detroit Lime Company" and further

However, any standard can be modified by the Public Lighting Department (with the exception that no less than eighteen feet clearance must remain above the public street grade) to meet field site conditions. Whenever overhead utility facility adjustments are required (to maintain minimum clearances), all expenses shall be paid by the petitioner; and further

Provided, The petitioner shall obtain any other additional permits (and/or pay the costs) to adjust the overhead utility facilities of Comcast Cablevision (if necessary).

Detroit Edison, Ameritech/Michigan Bell Telephone (if necessary), and the Public Lighting Department (if necessary); and further

Provided, The petitioner shall file with the Finance Department an indemnity agreement approved by the Law Department, saving and protecting the City of Detroit from any and all claims, damages, or expenses that may arise by reason of the issuance of said permits and the faithful or unfaithful performance by the permittee of the terms thereof, and in addition to pay all claims, damages or expenses that may arise out of the main-

any such shall within 30 days, record a certified copy of this resolution with the Wayne County Register of Deeds; and be it further

Resolved, This resolution does not permit any use or operation of a privately owned cable system that would conflict with Detroit Code Section 9.5., and/or previously issued franchises for cable communication system(s) and/or cable television system.

Adopted as follows:

Yeas — Council Members Cleveland, K. Cockrel, Jr., S. Cockrel, Everett, Mahaffey, Scott, Tinsley-Williams, and President Hill — 8.

Nays — None.

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Feb. 11, 1998
JCC ppg. 317-319