

Department of Public Works
City Engineering Division

July 30, 1999

Honorable City Council:

Re: Petition No. 1380, Detroit Wayne County Stadium Authority, New Tiger Stadium Project — Comerica Ballpark. Requesting numerous public street encroachments, tunnel, statue system, canopies, bridge system and brick pavers area bounded by Witherell, Brush, Adams and Montcalm.

Petition No. 1380 of Detroit Wayne County Stadium Authority agents, assigns, heirs, licensees, etc. ("DWCSA") requests permission to install and maintain several encroachments within the public street rights-of-way of Witherell and Brush Streets, Adams Avenue, and Montcalm Street.

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

In a series of attachments to the "DWCSA" petition these are the proposed encroachments:

Public Street Encroachments

Tunnel under Montcalm

Canopies over Witherell

Main entrance to Comerica Ballpark

Tiger statue on Witherell

Canopies over Montcalm — two at home plate

Comerica Ballpark entrance — East & West

Bridge and canopy system over Montcalm

Bridge location at parking deck over Montcalm

Brick Pavers — (min.) Seven walk areas to curb line Witherell, Brush, Adams and Montcalm

DWCSA Petition Attachments

Attachments 1-3; 10' wide by 9' high connector tunnel between parking garage & stadium about 12' below street grade;

Attachments 5-9; 31' wide entrance canopy extending 7.50' into E margin about 11' to 12' above R/W sidewalk grade;

Attachments 10-12; Tiger statue system extending about 6' into E margin R/W sidewalk grade;

Attachments 13-18; 2 entrance canopies extending 4.50' into S margin about 17' above R/W sidewalk grade;

Attachments 19-25; Arch span bridge 29' wide connecting parking garage & stadium above street grade about 21' at center & about 19' at each curb line; also 30' wide entrance canopy positioned below connector bridge extending 8.50' into S margin about 11' above R/W sidewalk grade

Attachments 26-32; Brick pavers, non-standard R/W margin side-walk installations, minimum 7 locations within Witherell, Brush, Adams and Montcalm to curb;

City Engineering Division — DPW obtained a separate set of drawings, containing 'sufficient engineering details', from "SHG Incorporated". Both the detailed drawings and "DWCSA" attachments were distributed to city departments and privately owned utility companies for review.

Our engineering report for this petition considers some (but not all) other stadium site public right-of-way adjustments. For example, Witherell Street, 60 feet wide, between Adams Avenue and Montcalm Street will be modified, and the east public sidewalk margin widened to 18 feet. City Engineering Division — DPW, informed city departments and privately owned utility companies of the plan. City construction permits will be required for roadwork that revises the layout of Witherell, Brush, Adams and Montcalm. This roadwork is currently under city department review for the stadium site.

In this encroachment petition we consulted with Traffic Engineering Division — DPW. 'Traffic Engineering' reports: "The revised layout of Witherell, Brush, Adams and Montcalm streets are currently under review. Approval of this petition as marked should not be construed to include approval of land configurations, roadway widths and geometry of the streets in the general vicinity of the stadium." Included in the attached resolution are other stipulations of 'Traffic Engineering'.

"DWCSA" must obtain permits from City Engineering Division — DPW (and the Michigan Department of Transportation, if necessary) for any street openings, backfill, surface restoration, barricade, or occupancy of city rights-of-way to install and/or maintain the encroachments.

Ameritech Company (A/MBT Co.), Comcast Cablevision Company (CATV), and Detroit Edison Company ("Edison") report facilities in Witherell, Brush, Adams and Montcalm. A/MBT Co., CATV, and Edison require access over the full width of public street rights-of-way to inspect, service and maintain their equipment.

Michigan Consolidated Gas Company (MCG Co.) reports a high-pressure gas main in Adams. The proposed brick pavers will be over the existing gas main. This distribution main supplies gas to a large number of homes and industries in Detroit and vicinity. MCG Co. requests contractors for "DWCSA" take every precaution so as not to endanger this gas main use during or following excavations and/or brick paver installations. The contractors for DWCSA can arrange for a "pre-construction meeting" with MCG Co. If damages to MCG Co. utilities should occur, then "DWCSA" and/or assigns shall be liable for all incidental repairs and waives all claims for damages to the encroaching installations.

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Public Lighting Department (PLD) must maintain suitable street right-of-way space for its extensive downtown high voltage power, lighting, and traffic signal facilities. PLD reports high voltage feeders (24,000 volts) in concrete encased conduits within Montcalm Street (50 feet wide; east of John R) at the proposed underground tunnel location. PLD estimates the cost of removal and re-routing the cables and manholes from Montcalm Street is \$350,000. An agreement between PLD and the "DWCSA" is pending.

Near the proposed "DWCSA" encroachments, Water and Sewerage Department (DWSD) reports one hydrant, and numerous water main and sewer facilities. DWSD reports no objections to the encroachments, subject to the following conditions:

- DWSD does not waive any rights to its facilities under and in close proximity to the proposed encroachments.
- Petitioner is responsible for any damage to DWSD facilities due to proposed encroachments.
- DWSD is not responsible for any damage to the proposed encroachments caused by a failure of DWSD facilities.
- The tunnel under Montcalm is to be bridged over the existing sewer, and the sewer is to be lined prior to the construction of the tunnel in accordance with plans approved by DWSD.
- The bridge over Montcalm is to have a minimum height above the surface of 21 feet at the centerline and 19 feet at the curb in accordance with plans approved by DWSD.
- The proposed encroachments are subject to DWSD inspection and permit.
- The petitioner is responsible for all costs to protect DWSD facilities during construction including any cost incurred by DWSD.

The resolution contains provisions designed to protect the equipment of DWSD.

In general, city departments and privately owned utility companies reported the need for "precaution" to open-cut a public street, bore, jack, occupy or barricade city rights-of-way for construction or brick paver(s) placement. They request contractors for "DWCSA" make use of "Miss Dig" facilities before the placement of any encroachment(s), and then become a participating member of that organization. This will minimize the chance of damage to the underground tunnel beneath Montcalm Street.

Public sidewalk space(s) at seven locations will be replaced with brick pavers. This is a non-standard public sidewalk installation. However, City Engineer Division — DPW, must review and approve the "DWCSA" plan for sidewalk alignment and grades prior to any paver installation(s) in accord with Detroit Code Section 50, Article 4, Division 2. The construction, placement, and maintenance of the replacement public sidewalk should be subject to city permits, inspection and specifications. "DWCSA" will pay all costs to construct and maintain the replacement public sidewalk. Additionally, "DWCSA" will be responsible for all claims, damages, or expenses resulting from the maintenance of the proposed brick pavers within the public street rights-of-way.

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

I am recommending adoption of the attached resolution.

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

By Council Member S. Cockrel:

Whereas, City Council approved "Phase One" of Petition No. 3681 of "Detroit Wayne County Stadium Authority" on April 23, 1998 (J.C.C. pages 939-43). The previously approved resolution vacated certain public streets, alleys, and utility easements in the area bounded by Woodward Avenue, Brush Street, Adams Avenue, and the Fisher Freeway Service Drive; vicinity of the new "Tigers" stadium site, including related planning/construction activities; and

Whereas, Petition No. 1380 of Detroit Wayne County Stadium Authority agents, assigns, heirs, licensees, etc. ("DWCSA") requests permission to install and maintain various encroachments within the public street rights-of-way of Witherell and Brush Streets, Adams Avenue, and Montcalm Street; and

Whereas, Detroit Code Sec. 55-2-8 assigns the investigation of petitions relating to streets and traffic problems to the Traffic Engineering Division — DPW. City Engineering Division — DPW received a report (dated July 9, 1999) from "Traffic Engineering" which says: "Involved; have no objection to the requested encroachments, provided that the following conditions are strictly complied:

- **Tunnel under Montcalm:** Traffic Engineering Division (TED) has no objection to the location of the requested tunnel as shown in SHG drawings A2-0, AH2-1.1 & A4.2a 11. The contractor should be advised to obtain all necessary permits before construction.
- **Canopies over Witherell Main Entrance:** TED has no objection to the requested encroachment of the canopies as shown in drawings A2-1, AE2-1.1 and A4-7.4 subject to the condition that a minimum vertical clearance of 8.5 feet free from all obstructions shall be available at all sections of the canopy encroaching into the ROW.
- **Tiger Statue on Witherell:** As shown in drawing RGA2-1.EF and RGA4-1.3C.1, the Tiger statue is encroaching into the ROW of Witherell. TED has no objection to the requested 6-foot encroachment of the statue into the public ROW, leaving a 12' wide sidewalk. Also, a minimum vertical clearance of 8.5' feet above sidewalk level, from all obstructions should be available for aerial encroachments. In this instance, this applies to the left paw of the Tiger statue.

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- **Canopies over Montcalm (East and West Canopies):** (Refer to SHG drawing A2.1, AH2-1.1, A4-7.6, and A4-7.7) A minimum horizontal clearance of 6 feet from the back of the curb to the outer edge of the building structure (including the gates in open position) shall be maintained free from all obstructions. All overhanging structures encroaching into the ROW should maintain a vertical clearance of 8.5 feet from sidewalk level.

- **Bridge and Canopy System over Montcalm:** TED has no objection to the requested aerial easement over Montcalm to locate the pedestrian bridge between the stadium and the parking structure as shown in the drawing PA2-3. The minimum vertical clearance of 19 feet from the pavement level as shown is acceptable to TED. For the canopy under the bridge, a minimum vertical clearance of 8.5 feet from sidewalk level on walkway shall be maintained.

- **Brick Pavers:** TED is not involved.

- **Roadway Layout:** The revised layout of Witherell, Brush, Adams and Montcalm streets are currently under review. Approval of this petition as marked should not be construed to include approval of lane configurations, roadway widths and geometry of the streets in the general vicinity of the stadium."

Whereas, The reasonable stipulations of Traffic Engineering Division — DPW are part of the resolution of Petition No. 1380; therefore be it

Resolved, The City Engineering Division — DPW is hereby authorized and directed to issue permits to the "DWCSA" to install and maintain several Comerica Ballpark enhancements, encroaching within perimeter city rights-of-way, adjoining the "Comerica Ballpark" parcel site described as follows:

Lots 11 through 31, 35, 36, 37 through 39, 56 through 70, 98 through 140, and 167 through 188 of the "Plat of Williams Park Lots 1, 2, 3 and 4" as made and adopted by the commissioners for the partition of the Estate of John R Williams referred to in their partition in their report duly filed in the City of Detroit, Wayne County, Michigan (1857) as recorded in Liber 1, Pages 39 and 65, Plats, Wayne County Records; and Lots 1 through 4 of "F.J.B. Crane's Subdivision of Lots 32, 33 and 34 William's Subdivision of Park Lots", City of Detroit, Wayne County, Michigan as recorded in Liber 53, Page 348, Deeds, Wayne County Records; and Lots 1 through 4 of "Rathbone's Subdivision of Lot 12 of Park Lot 5 and part of the Brush Farm," City of Detroit, Wayne County, Michigan as recorded in Liber 1, Page 171, Plats, Wayne County Records; and Lots 1 through 6, 9 through 14, 17 through 22, 25 through 30, and 33 through 38 of the "Map of Houghton's Section of the Brush Farm as Subdivided into lots by J. Almy (June 1835)," City of Detroit, Wayne County, Michigan as recorded in Liber 7, Page 174, City Records; and Lots 7 and 12 of Plat of "Brush Subdivision of Park Lot 5, and a part of Brush Farm, east of and adjoining Park Lots 5 and 4" as recorded in Liber 45 of Deeds, Page 121, Wayne County Records; and the reversionary interest in all that part of vacated John R Street (60 feet wide) lying between the northerly line of Adams Avenue (60 feet wide) and the southerly line of Montcalm Street (50 feet wide); and the reversionary interest in all that part of vacated Columbia Street (50 feet wide) lying between the easterly line of Witherell Street (60 feet wide) and the westerly line of Brush Street (50 feet wide); and the reversionary interest in all that part of vacated Elizabeth Street (60 feet wide) lying between the easterly line of Witherell Street (60 feet wide) and the westerly line of Brush Street (50 feet wide); and the reversionary interest in all of the vacated east-west public alley, 20 feet wide, in the block bounded by Witherell and John R Streets, Adams Avenue, and Elizabeth Street; and the reversionary interest in all of the vacated east-west public alley, 20 feet wide, in the block bounded by Witherell, John R, Elizabeth and Columbia Streets; and the reversionary interest in all of the vacated east-west public alley, 20 feet wide, in the block bounded by John R and Brush Streets, Adams Avenue, and Elizabeth Street; and the reversionary interest in all of the vacated east-west public alley, 20 feet wide, in the block bounded by John R, Brush, Elizabeth and Columbia Streets; and the reversionary interest in all of the vacated east-west public alley, 20 feet wide, in the block bounded by John R, Brush, Columbia and Montcalm Streets; [All of said public streets, alleys, and/or converted utility easements having been (outright) vacated in the City Council resolution adopted on April 23, 1998 — J.C.C. pages 939-43]; commonly known as "Comerica Ballpark" site (a/k/a the New Tiger Stadium);

The encroachments are shown on drawings (dated: December 18, 1998 to March 3, 1999), submitted by "SHG Incorporated, 500 Griswold Street, Suite 200, Detroit, MI 48226 — Project No. SHG #16888.04; and HOK Sport, 323 West 8th Street, Suite 700, Kansas City, MO 64105 — Project No. HOK #97-379-00" for the petitioner(s), "DWCSA". Below is a table of reference drawings for the proposed encroachments; originating from the above-described parcel ("Comerica Ballpark" site):

SHG Reference Drawings	Public Street Encroachments	DWCSA Petition Attachments
A2-0, AH2-1.1, A4-2.a11	Tunnell under Montcalm	Attachments 1-3; 10' wide by 9' high connector tunnel between parking garage & stadium about 12' below street grade;
A2-1, AE2-1.1, A4-7.4	Canopies over Witherell — Main entrance to Comerica Ballpark	Attachments 5-9; 31' wide entrance canopy extending 7.50' into E margin about 11' to 12' above R/W sidewalk grade;

A2-1, PAV-1,, Tiger statue on Witherell
PAV-2, RG A2-1.EF,
RG A4-1.3c.1, RG
A4-3EF.1
A2.1, A4-7.6, Canopies over Montcalm —
AH2-1.1, Two at home plate
AG2-1.1 Comerica Ballpark entrance—
East & West
A2-2, AH2-1.1, Bridge and canopy system
A4-7.5, A4-7.7 over Montcalm

PA2-3 Bridge location at parking deck
over Montcalm

A2-1, PAV-1, Brick Pavers — (min.) Seven walk
PAV-2 areas to curb line Witherell,
Brush, Adams and
Montcalm

Attachments 10-12' Tiger statue
system extending about 6' into E
margin R/W sidewalk grade;

Attachments 13-18; 2 entrance
canopies extending 4.50' into S
margin about 17' above R/W side-
walk grade;
Attachments 19-25; Arch span
bridge 29' wide connecting parking
garage & stadium above street grade
about 21' at center & about 19' at
each curb line; also 30' wide entrance
canopy positioned below connector
bridge extending 8.50' into S margin
about 11' above R/W sidewalk grade;
Attachments 26-32; Brick pavers,
non-standard R/W margin sidewalk
installations, minimum 7 locations
within Witherell, Brush, Adams and
Montcalm to curb;

Provided, Whenever it becomes necessary to open-cut a public street, bore, jack, occu-
py or barricade city rights-of-way for construction or brick paver(s) placement, such work
shall be according to detailed permit application drawings (to be submitted by the peti-
tioner, subject to city department review and stamp approvals; including approval from the
Michigan Department of Transportation, if necessary) prior to any public right-of-way
roadwork; and further

Provided, It is the responsibility of "DWCSA" and their contractors to properly notify all
other abutting property owners before starting any (permitted) open cut, bore, jack, occu-
pancy or barricade operations within city public rights-of-way and/or easements of record;
and further

Provided, Any city rights-of-way encroachment(s) that require electrical power shall be
installed to conform to the National Electrical Code as adopted by the Michigan Public
Service Commission; and further

Provided, The Public Lighting Department (PLD) is hereby authorized and directed to
draft (or cause to be drafted) and execute (for and on behalf of the City of Detroit) a "PLD
Facilities Relocation Agreement" with the "DWCSA" to remove and reroute its high volt-
age feeders (24,000 volts) to other suitable public street rights-of-way. The existing high
voltage feeders are encased conduits in Montcalm Street (at the proposed underground
tunnel location). "DWCSA" shall assist PLD in finding suitable alternate routes for its
extensive downtown high voltage power, lighting, and traffic signal facilities before the
installation of encroaching "DWCSA" structures (such as the underground tunnel,
canopies, and connector bridge assemblage) within Montcalm Street, 50 feet wide. The
costs to engineer and construct new rerouted high voltage feeders shall be reimbursed to
PLD by "DWCSA". The City Engineering Division — DPW shall be unable to sign building
plans to build near PLD equipment, unless said plans are first reviewed and approved by
PLD; and further

Provided, The Law Department shall approve the "PLD Facilities Relocation
Agreement" as to form and execution, after which said "PLD Facilities Relocation
Agreement" shall be considered confirmed. The Public Lighting Department shall record
(or cause to be recorded) the executed document referenced above as "PLD Facilities
Relocation Agreement" with the Wayne County Register of Deeds; and further

Provided, That before any encroaching "DWCSA" structure (such as the underground
tunnel, statue system, canopies, connector bridge assemblage and/or brick pavers) shall
be permitted within city public rights-of-way, "DWCSA" shall apply to the Buildings and
Safety Engineering Department for a building permit. Simultaneously, "DWCSA" shall sub-
mit said building plans to the Water and Sewerage Department (DWSD) for review and
approval. The "DWCSA" shall pay all costs for plan review associated with the placement
of encroaching structure(s) near DWSD equipment — including, but not limited to — other
requisite construction, inspection, survey, engineering, and permits. The City Engineering
Division — DPW shall be unable to sign building plans to build near sewer(s) and water
mains that must remain public, unless said plans are first reviewed and approved by
DWSD; and further

Provided, Due to the extent of DWSD equipment at the site, the "DWCSA" shall procure
an independent Encroachment Permit from DWSD before any encroaching "DWCSA"
structure (such as the underground tunnel, statue system, canopies, connector bridge
assemblage and/or brick pavers) shall be allowed within city public rights-of-way. Said
"Encroachment Permit" from DWSD shall be subject to the following stipulations (fixed in
a report attachment from DWSD dated July 19, 1999 — signed by Bharat Doshi, P.E.
Head Engineer of Water Systems — contact Daljit Singh at 313-224-4744):

- That a specific condition and limitation of this permit is that if DWSD deems it nec-
essary at any time to construct, reconstruct, maintain, repair, or operate its facilities or
perform any other DWSD function that may necessitate, either permanently or temporar-
ily, the raising or lowering, moving, changing, or removing and replacing the construction
or installation herein permitted within the Right-of-way, PETITIONER, its successors and

assigns, perform such labor with reasonable dispatch, as its own expense, upon notice from DWSD (It being intended hereby that the right of DWSD to use and occupancy of the Right-of-way shall be paramount in all respects to Petitioner, its successors or assigns). If the applicant cannot perform such labor with reasonable dispatch, then DWSD shall have right to perform such labor, all at the cost and expense of PETITIONER, also

- That by approval of this petition, DWSD does not waive any of its rights to its facilities located in the Right-of-way, and at all time, DWSD, its agents or employees, shall have the right to enter upon the Right-of-way to 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 the DWSD's facilities for maintenance, repairing, alteration, servicing, or inspection by DWSD shall be borne by PETITIONER. All costs associated with gaining access to the DWSD's facilities which would normally be expected had applicant not encroached into the right-of-way, shall be borne by DWSD, also

- That all construction performed under this petition shall not be commenced until after five (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, also

- 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, also

- That, this petition applies only to the easement interest of DWSD and PETITIONER is hereby put on notice that other grants and/or permits may be required, also

- That if the DWSD facilities located within the Right-of-way shall break or be damaged as the result of any action on the part of PETITIONER, then in such event PETITIONER agrees to be liable for all costs incident to the repair, replacement or relocation of such broken or damaged DWSD facilities, also

- That the PETITIONER shall hold DWSD harmless for any damage to the encroaching device constructed or installed under this permit which may be caused by the failure of DWSD's facilities, also

- That, if any time in future PETITIONER shall request removal and/or relocation of the DWSD's facilities in the Right-of-way being encroached upon, PETITIONER agrees to pay all costs for such removal and/or relocation, also

- That drawings of the Tunnel under Montcalm and Bridge over Montcalm are to be submitted to DWSD for review and approval. The Sewer under the proposed tunnel, under Montcalm has to be lined in accordance with the DWSD approval before construction of the tunnel. The sewer is to be lined a minimum distance of 25 feet on either side of the

centerline of the tunnel. Footings for the tunnel are to be built on either side of the sewer from a depth of one foot above the bottom of the 3'-4" x 5'-6" sewer. Center to center distance of the proposed footings and the existing sewer is to be 10 feet on both sides of the sewer, also

- That, the surface of the Right-of-way shall be restored to the same condition that existed prior to the construction or installation herein permitted insofar as is practical, also

- That the cost of Resurfacing/Replacing of special surface treatments like brick paving shown in the drawings, as necessitated by future DWSD facilities maintenance in the Right-of-way is not to be borne by DWSD. The PETITIONER will be responsible to resurface/replace any special surface treatments disturbed by DWSD. The PETITIONER has to maintain a sufficient stock of special surfacing material in case DWSD is requested to restore the special surface treatment. All cost incurred by DWSD to restore the surface are to be borne by the PETITIONER, also

- That the PETITIONER shall hold harmless DWSD, its officers, employees and agents, from any and all liability, claims, suits, actions or causes of action for damages for injuries or otherwise and shall assume the defense and bear all costs and expense of such actions which may be brought against DWSD, its officers, employees or agents by reason of the permission herein granted; provided, however, that nothing herein may be construed as rendering PETITIONER Liable for acts of negligence of DWSD, its officers, employees or agents; and further

Provided, The installation and maintenance of the proposed statue system and/or brick pavers (a non-standard installation within right-of-way sidewalk space — meaning the space between the lot line of the property and the public street curb line) shall comply with the rules and regulations of the Department of Public Works (DPW). City Engineering Division — DPW, shall review and approve the "DWCSA" plan for sidewalk alignment and grades prior to any paver installation(s) in accord with Detroit Code Section 50, Article 4, Division 2. The construction, placement, and maintenance of the replacement public sidewalk shall be subject to city permits, inspection and specifications. All public rights-of-way shall be maintained safe and convenient for public travel. The petitioner, "DWCSA", shall be responsible for all claims, demands, costs, damages, expenses, and causes of action of every kind and character arising in favor of any person, or other legal entity on account of personal injuries or death or damage to property caused by or claimed or alleged to have arisen out of failure to properly install and maintain the proposed statue system and/or brick pavers; and further

Provided, All costs for the construction, maintenance, permits and use of said encroachment(s) shall be borne by "DWCSA". [NOTES: Michigan Consolidated Gas Company (MCG Co.) reports a high-pressure gas main in Adams. The proposed brick pavers will be over the existing gas main. This distribution main supplies gas to a large number of homes and industries in Detroit and vicinity. MCG Co. requests contractors for "DWCSA" take every precaution so as not to endanger this gas main use during or fol-

lowing excavations and/or brick paver installations. City Engineering Division — DPW advises contractors for DWCSA to arrange for a "pre-construction meeting" with MCG Co.] If damages to utilities occur, then "DWCSA" and/or their contractors shall be responsible for all incidental repairs and waives all claims for damages to the encroaching installation(s); and further

Provided, The use and/or operation of said city rights-of-way encroachment(s) shall be subject to proper zoning or regulated use (Board of Zoning Appeals Grant); and further

Provided, If it becomes necessary to repair or replace the utilities located or to be located in city rights-of-way, by the acceptance of this permission the 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 and/or alteration, if their removal and/or alteration becomes necessary, and to restore the city right-of-way affected to a condition satisfactory to the City Engineering Division — DPW at "DWCSA", the encroachment(s) owners', expense; and further

Provided, The petitioner, "DWCSA", 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 maintenance of said encroachments; and further

Provided, The petitioner "DWCSA" shall be required by the Law Department in conjunction with the Finance Department — Risk Management Division to present proof of financial capability (bonds and insurance; the City of Detroit shall be named as coinsured therein) to pay any claims, damages or expenses that may arise as a result of the installation, maintenance or use of non-standard public sidewalk installations [the proposed statue system within Witherell and/or brick pavers at a minimum of seven locations within Witherell, Brush, Adams and Montcalm to curb] within public streets rights-of-way. To protect the city in the event of petitioner ("DWCSA") default, a surety bond in a penal sum sufficient to pay the City of Detroit's cost to remove or alter the non-standard public [right-of-way] sidewalk installations including brick pavers (if such removal or alteration becomes necessary) shall be maintained by "DWCSA". Also, "DWCSA" shall maintain said surety bond in perpetuity (with no expiration date). The petitioner shall be unable to obtain a release from said surety bond as long as the non-standard public [right-of-way] sidewalk installations including brick pavers exist within the public rights-of-way of Witherell Street (60 feet wide), Brush Street (50 feet wide), Adams Avenue (60 feet wide), and Montcalm Street (50 feet wide). The "City Engineering Division — Street Design Bureau" in conjunction with the Traffic Engineering Division — DPW (if necessary) shall be responsible for determining the amount of said surety bond, and then to transmit the information to the Finance Department; and further

Provided, That no rights in the public streets or other public places shall be considered waived by this permission which is granted expressly on the condition that said encroachments shall be removed at the expense of "DWCSA" 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 at "DWCSA" expense; and further

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

Provided, That "DWCSA" shall apply to and become a participating member of the "Miss Dig" organization; and further

Provided, That the encroachment permit(s) 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 with the Wayne County Register of Deeds; and be it further

Resolved, "DWCSA" and/or their contractor(s), shall submit two copies of "as built" drawing(s) sealed by a professional engineer registered in the State of Michigan to the City Engineering Division — DPW within 30 days after installing the public right-of-way encroachments; subject to city specifications, permits and inspections. Said "as built" drawing(s) shall furnish a complete means of identifying and ascertaining the precise position of every part of the "encroachments" with courses, distances, and depth throughout (containing City of Detroit datum), so that it may be determined with certainty where any portion of the "encroachment" has been built. Copies of the certified "as built" map(s) and survey(s) shall be an "appendix" to this City Council resolution. City Engineering Division — DPW shall record (or cause to be recorded) one copy of the "appendix" in the Wayne County Register of Deeds.

Adopted as follows:

Yeas — Council Members Cleveland, K. Cockrel, Jr., S. Cockrel, Everett, Hood, Mahaffey, Scott, Tinsley-Talabi, and President Hill — 9.

Nays — None.

DATE AUGUST 4, 1999

J.C.C. PAGE(S) 2421-2427