



May 14, 2010

Honorable City Council:

RE: Petition No. 1679 – Groundwater and Environmental Services Inc. (GES)/Shell Oil, request permission to encroach with thirteen (13) monitoring wells within Evergreen and Puritan Avenues at 19855 West Grand River and between Vaughan and Plainview.

Petition No. 1679 of “Groundwater and Environmental Services Inc. (GES)/Shell Oil” requests permission to install and maintain thirteen (13) monitoring wells within Evergreen Avenue, 76 feet wide, and Puritan Avenue, 66 feet wide, south of West Grand River, 100 feet wide, and between Vaughan Avenue, 50 feet wide, and Plainview Avenue, 50 feet wide was granted by your Honorable Body on October 28, 2008.

However, the resolution has an incomplete legal, wrong Liber and Page number (**all corrections in bold print and underlined**).

An appropriate resolution, correcting the legal description language, is attached for consideration by your Honorable Body.

Respectfully submitted,

Manilal Patel, Interim City Engineer  
City Engineering Division – DPW

NRP\

Cc: Alfred Jordan, Director – DPW  
Mayor’s Office - City Council Liaison

*Whereas*, The Department of Environmental Affairs (DEA) is responsible for developing and implementing a coordinated and comprehensive environmental policy for the City of Detroit, including soil remediation from leaking underground fuel storage tanks. To ensure public safety DEA will review the petitioner's environmental activities prior to the issuance of city permits; also

*Whereas*, The State of Michigan requires that all underground storage tanks be registered and inspected for leaks. Also, the "State" has mandated the replacement of leaking tanks including removal (and proper disposal) of contaminated soil; also

*Whereas*, Any L.U.S.T. can contaminate soil and diminish the value of surrounding properties, including public rights-of-way. The taxpayers of Detroit invested substantial capital in the acquisition, site preparation, insurance, and maintenance of public rights-of-way. Finally, it is in the interests of public health, safety, and welfare to detect the presence of hazardous materials and/or soil contamination from L.U.S.T.(s); therefore be it

**RESOLVED**, The City Engineering Division - DPW is hereby authorized and directed to issue permits to " Groundwater and Environmental Services Inc. (GES)/Shell Oil " at the site of 19855 West Grand River to install and maintain thirteen monitoring wells encroaching within public rights-of-way for the purpose of detecting the presence of hazardous materials and/or soil contamination from any leaking underground storage tank (L.U.S.T.); said public right-of-way being nearby or adjoining property described as follows:

Land in the City of Detroit, Wayne County, Michigan being Lots 53 through 57, both inclusive, of "Houghton Manor Subdivision" of part of East ½ of Northeast ¼ of Section 15 T.1S., R.10E. City of Detroit, Wayne County, Michigan as recorded in Liber 59 Page 82, Plats, Wayne County Records;

Land in the City of Detroit, Wayne County, Michigan being Lots 55 through 59, both inclusive, of "Estate Park" being a Subdivision of Part of Lot C of Plat of Survey of West ½ of Southwest ¼ of Section 14, Also North ½ of East ½ of Southeast ¼ of Section 15 and North ½ of East ½ of East ½ of Northeast ¼ Section 15, T.1S., R.10E., Redford Township (now City of Detroit) Wayne County, Michigan as recorded in Liber 49, Page 79, Plats, Wayne County Records;

**Land in the City of Detroit, Wayne County, Michigan being all that part of the Northwest ¼ of Section 14, T.1S.,R.10E., lying Southwest and abutting the South line of West Grand River Avenue, 100 feet wide; Also, lying 33 feet East of and parallel to the North – South ¼ Section line, and also, 43 feet North of and parallel to the East – West ¼ Section line of said Section 14;**

Encroachment to consist of Thirteen (13) “permanently (meaning more than thirty days, or other long-term duration)” installed L.U.S.T. monitoring wells; being nearby or adjoining the above described property, within the following public rights-of-way:

- 5 wells – West side of Evergreen Avenue, 76 feet wide;
- 2 wells – East side of Evergreen Avenue, 76 feet wide;
- 3 wells – North side of Puritan Avenue, 66 feet wide;
- 2 wells – South side of Puritan Avenue, 66 feet wide;

**PROVIDED**, That nothing in this resolution shall be construed as giving any authority, permission or grant to the permittee for any part of the encroaching L.U.S.T. monitoring wells to be placed upon the surface or underground rights of privately owned property. Enforcement of violations of fire safety regulations and building codes is the responsibility of the Fire Marshal and the Buildings and Safety Engineering Department. The petitioner shall apply to the Buildings and Safety Engineering Department for approval and permits to place any monitoring wells on privately owned property (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 require the permit applicant to perform any reasonable task to protect public property interests including, but not limited to, the submission of engineering plans (containing construction details and distances from property lines) of the proposed encroaching L.U.S.T. monitoring wells. The City Engineering Division - DPW shall require the permit applicant to secure approval(s) of said plans from the Department of Environmental Affairs. Also, the City Engineering Division - DPW may require the permit applicant to secure approval(s) of said plans from Wayne County, the State of Michigan, other city departments (including commissions, authorities, corporations, councils, boards, contractors, and agencies whenever applicable) and/or utility companies; whether Wayne County, the State of Michigan, other city departments and/or utility companies are specifically enumerated in this resolution or not; and further

**PROVIDED**, Said L.U.S.T. monitoring well encroachments shall be maintained under the rules and regulations of the City Engineering Division - DPW, the department of Buildings and Safety Engineering, and the Fire Marshal in accord with Detroit Code Section 50-1-9 and 10; and further

**PROVIDED**, Whenever it becomes necessary to open-cut, drill, bore, jack, occupy or barricade public rights-of-way for additional test holes or maintenance of the monitoring well installation(s), such work shall be according to detailed permit application drawings (to be submitted by the petitioner or their assigns, subject to city department review and stamp approvals) prior to any public right-of-way construction (including, if necessary, adjustments or removals); and further

**PROVIDED**, It is the responsibility of "Groundwater and Environmental Services Inc. (GES)/Shell Oil" to give reasonable and proper notice to any abutting property owner before commencing any (permitted) open cut or boring operations within public rights-of-way; and further

**PROVIDED**, Said encroaching L.U.S.T. monitoring well installations shall be according to the specifications of the Public Lighting Department (PLD). Monitoring wells drilling equipment shall use "care and caution" to clear PLD overhead power lines; PLD requires the installer to maintain a minimum ten feet horizontal clearance at all times. The proposed permanent monitoring wells are not allowed to be built over PLD facilities (maintain a minimum of 3.00 feet horizontal clearance from any underground PLD facilities and/or manholes). The fixed encroachments shall not hinder movement of PLD maintenance equipment; and further

**PROVIDED**, Said encroaching L.U.S.T. monitoring well installations shall be according to the specifications of the Water and Sewerage Department (DWSD). DWSD requires free and easy access to water main and/or sewer facilities at all times to permit proper operation, maintenance, alteration or repair of DWSD sewers, drains, water mains, fire hydrants, catch basins, sewer and water manholes (and any other DWSD facilities). The proposed permanent monitoring wells are not allowed to be built over DWSD facilities or hinder movement of DWSD maintenance equipment; and further

**PROVIDED**, All costs for the construction, maintenance, permits and use of the encroaching L.U.S.T. monitoring wells shall be borne by the petitioner. Should damages to utilities occur the petitioner 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 in the public rights-of-way, by the acceptance of this permission, the petitioner(s) for themselves, their heirs or assigns, waive claims for any damages to the encroaching installations and agree to pay the costs incurred in the removal, if the removal becomes necessary, and to restore the property affected to a condition satisfactory to the City Engineering Division - DPW at the petitioner's expense; and further

**PROVIDED**, That the encroaching L.U.S.T. monitoring wells shall be installed and maintained with a secure frame and cover, so as to fit flush within the public sidewalk, berm, or pavement grade. All public rights-of-way shall be maintained safe and convenient for public travel. The petitioner shall be liable 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 any encroaching L.U.S.T. monitoring well. The installation and maintenance of said encroachments shall comply with the rules and regulations of the City Engineering Division - DPW and Traffic Engineering Division - DPW; and further

**PROVIDED**, The petitioner shall file with the Finance Department and/or City Engineering an indemnity agreement approved by the Law Department, saving and protecting the City of Detroit from any and all claims that may arise there from. Also, the petitioner shall be required by the Law Department in conjunction with the Finance Department - Risk Management Division to present proof of financial capability (bonds or insurance) to pay any claims, damages or expenses that may arise as a result of L.U.S.T. monitoring well(s) placement, installation or maintenance in public rights-of-way; 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 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 the City Engineering Division - DPW at the permittee's sole cost and expense; 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 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, issued permits shall immediately become void; and further

**PROVIDED**, That the grade shall be maintained in original condition after installation of the wells with flush covers for the holes; 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 petitioner shall apply to and become a participating member of "Miss Dig" to comply with Michigan Public Act 53 of 1974, "Protection of Underground Facilities (460.701 - 460.718)"; and further

**PROVIDED,** The filing of the indemnity agreement and the securing of the necessary permit(s) referred to herein shall be construed as acceptance of this resolution by the permittee; and further

**PROVIDED,** That the encroachment 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 with the Wayne County Register of Deeds; and be it further

**RESOLVED,** The petitioner, " Groundwater and Environmental Services Inc. (GES)/Shell Oil", shall submit "as built" drawing(s) sealed by a professional engineer or surveyor registered in the State of Michigan to the City Engineering Division - DPW within 30 days after obtaining the necessary "encroachment" permit to install thirteen proposed monitoring wells. Said "as built" drawing(s) shall furnish a complete means of identifying and ascertaining the precise position of every part of the "encroachment(s)" 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(s)" has been built. Copies of the certified "as built" map(s) and survey(s) shall be an "appendix" to this City Council resolution. Said "appendix" shall be recorded by the City Engineering Division - DPW in the Wayne County Register of Deeds.