

City of Detroit
OFFICE OF THE CITY CLERK

Vivian A. Hudson
Deputy City Clerk

Janice M. Winfrey
City Clerk

DEPARTMENTAL REFERENCE COMMUNICATION

Friday, September 14, 2012

To: *The Department or Commission Listed Below*

From: *Janice M. Winfrey, Detroit City Clerk*

The following petition is herewith referred to you for report and recommendation to the City Council.

In accordance with that body's directive, kindly return the same with your report in duplicate within four (4) weeks.

PLANNING AND DEVELOPMENT DEPARTMENT PUBLIC WORKS DEPARTMENT

2555 *Charles Roy, requesting permanent encroachment in front of property located at 4620 Cass Avenue a/k/a Cass Café in order to install a rail and curb, etc. Related to Petition No. 2286.*

2555

Charles Roy
Cass Café
4620 Cass Ave.
Detroit, MI 48201
(313) 244-4056

9/5/12

Honorable City Clerk
Janice M. Winfrey
2 Woodward Ave.
Detroit, MI 48226

Honorable City Clerk Winfrey,

Please accept this letter as an amendment request regarding my petition #2286. This petition mentions approval of outdoor seating on City of Detroit property in front of my restaurant, the Cass Café. I would like to amend the prior petition request to include a request of encroachment in front of my property so that I can install a more permanent railing and curbing to level the uneven grade and enable year round use.

Thanks for your time and attention,



Charles Roy

5 SEP 12 3:05

--CITY CLERK--

RECEIVED . OCT 02 2012

DEPARTMENTAL REFERENCE COMMUNICATION

Friday, September 28, 2012

To: *The Department or Commission Listed Below*

From: *Janice M. Winfrey, Detroit City Clerk*

The following petition is herewith referred to you for report and recommendation to the City Council.

In accordance with that body's directive, kindly return the same with your report in duplicate within four (4) weeks.

PLANNING AND DEVELOPMENT DEPARTMENT PUBLIC WORKS DEPARTMENT

2572 *Charles Roy, requesting permanent encroachment in front of property located at 4620 Cass Avenue a/k/a Cass Café in order to install a rail and curb, etc. (CORRECTED) Related to Petition No. 2286.*

TED/CES

Charles Roy
Cass Café
4620 Cass Ave.
Detroit, MI 48201
(313) 244-4056

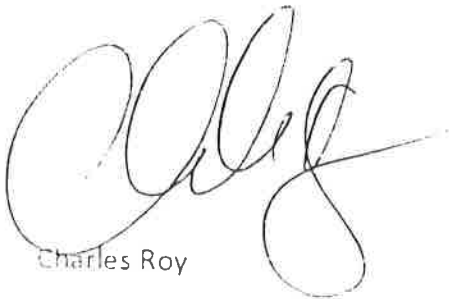
9/5/12

Honorable City Clerk
Janice M. Winfrey
2 Woodward Ave.
Detroit, MI 48226

Honorable City Clerk Winfrey,

Please accept this letter as an amendment request regarding my petition #2286. This petition mentions approval of outdoor seating on City of Detroit property in front of my restaurant, the Cass Café. I would like to amend the prior petition request to include a request of encroachment in front of my property so that I can install a more permanent railing and curbing to level the uneven grade and enable year round use.

Thanks for your time and attention,



Charles Roy

60 21 485 9
SEP 12 3 05

-- PHOTO AUTO --



October 3, 2012

Honorable City Council:

RE: Petition No. 2555 & 2572– Charles Roy, request for outdoor café seating at Cass Café located at 4620 Cass Avenue, Detroit, Michigan.

Petition No. 2555 & 2572 of “Charles Roy” whose address is 4620 Cass Avenue, request to install and maintain an encroachment of an outdoor café seating area. The petitioner request to maintain encroachments into Cass Avenue, 60 feet wide, 8.00 feet by 30.22 feet with railing, concrete curb, and brick pavers between Forest Avenue, 70 feet wide, and Canfield Avenue, 60 feet wide. This encroachment is to address the permanent changes to the right-of-way to accommodate the outdoor café seating.

The request was approved by the Solid Waste Division – DPW, and the Traffic Engineering Division with conditions. The petition was referred to the City Engineering Division – DPW part of investigation (utility clearance and review) and report. This is our report.

The Traffic Engineering Division – DPW (TED) report involvement, but have no objection to the petitioner’s request for the encroachment into 8.00 feet into Cass Avenue as shown on the proposed plan submitted to TED, provided that a minimum of 6.00 feet wide clear sidewalk shall be maintained from any and all obstructions present at all times through the property located at 4620 Cass Avenue.

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

The Public Lighting Department (PLD) reports no structure or barricades can be built over PLD installations or on existing utility easement areas. As per PLD requirements, any structure propose to be built shall maintain 10 feet horizontal clearance from the overhead PLD lines and installations, also any structure proposed to be built shall maintain a minimum of 3.00 feet horizontal clearance and 12 feet vertical clearance from PLD manholes and conduit banks. The contractor will be liable for and damages to any PLD underground Facilities. PLD requires unrestricted easement rights with 24 hours heavy vehicles access to the requested area of encroachment.



All other involved City departments and privately owned utility companies request the petitioner(s) make use of "Miss Dig" facilities before the construction of the railing, concrete curb, and brick pavers.

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

I am recommending adoption of the attached resolution.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Richard Doherty". The signature is fluid and cursive, with a long, sweeping tail that extends to the right.

Richard Doherty P.E., City Engineer
City Engineering Division – DPW

NRP/

Cc: Ron Brundidge, Director, DPW
Mayor's Office – City Council Liaison

Whereas, Petition No. 2555 & 2572 of "Charles Roy" whose address is 4620 Cass Avenue, requesting for an encroachment of an outdoor café seating area. The petitioner request to maintain encroachments into Cass Avenue, 60 feet wide, 8.00 feet by 30.22 feet with railing, concrete curb, and brick pavers between Forest Avenue, 70 feet wide, and Canfield Avenue, 60 feet wide. This encroachment is to address the permanent changes to the right-of-way to accommodate the outdoor café seating; and be it further

RESOVLED, The City Engineering Division – DPW is hereby authorized and directed to issue permits to "Charles Roy and/or his assign", to install and maintain encroachments into Cass Avenue with railing, concrete curb, and brick pavers all encroachments lying within the East 8.00 feet by 30.22 feet of Cass Avenue, 60 feet wide between Forest Avenue, 70 feet wide, and Canfield Avenue, 60 feet wide, adjacent to the following described property:

Lying within Cass Avenue, 60 feet wide, between Forest Avenue, 70 feet wide, and Canfield Avenue, 60 feet wide, adjacent to Lot 17 in the "Stimson's Subdivision of Park Lots 55, 56, 57, and 58" J.F. Munro August 23, 1869 as recorded in Liber 1, page 246, Plats, Wayne County Records;

WHEREAS, Approval of this petition/resolution only gives permission for the encroachment of the railings, concrete curb, brick pavers, chairs, tables, and use. Any other procedures or approvals from other Governmental Agencies (such as Health Department, Liquor Commission, Historic Commission and etc...) to conduct full use of said encroachment area for the sidewalk café must be followed and is not part of this petition/resolution; and be it further

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 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 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, That a minimum of 6.00 feet wide of sidewalk is clear at all time from any obstruction within said area (such as poles, fire hydrants, and parking meters); and be it further

PROVIDED, That any structure propose to be built shall maintain 10 feet horizontal clearance from the overhead PLD lines and installations, also any structure proposed to be built shall maintain a minimum of 3.00 feet horizontal clearance and 12 feet vertical clearance from PLD manholes and conduit banks. The contractor will be liable for and damages to any PLD underground Facilities. PLD requires unrestricted easement rights with 24 hours heavy vehicles access to the requested area of encroachment; and be it further

PROVIDED, The petitioner, "Charles Roy and/or assign" shall make application to the Building and Safety Engineering Department for a building permit (if necessary). The project (railings, concrete curb, brick pavers, chairs, tables, and use) 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 or attach to this resolution in a 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 rights-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 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 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, 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 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

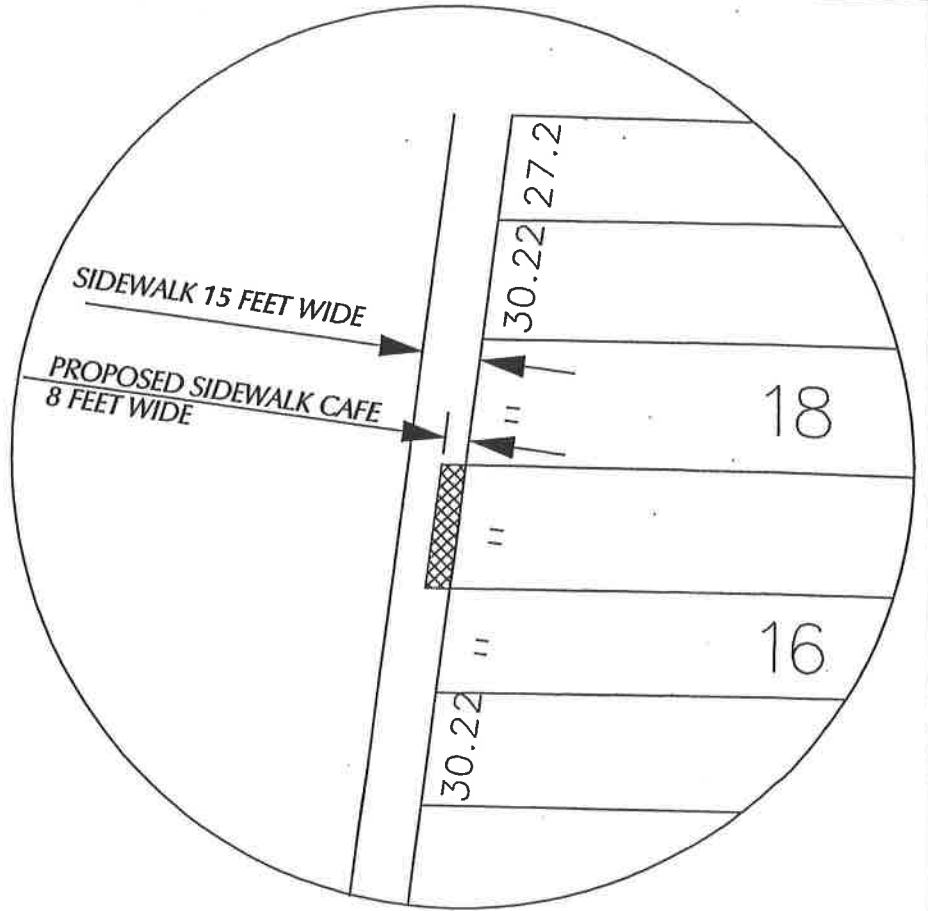
PROVIDED, This resolution is revocable at the will, whim or caprice of the City Council, and permittee hereby waives any right to claim damages or compensation for removal of encroachment(s), and further, that the permittee acquires no implied or other privileges hereunder not expressly stated herein;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

PROVIDED, The installation and maintenance of encroachments [that is, the project with railings, concrete curb, brick pavers, chairs, tables, and use] referred to herein shall be construed as acceptance of this resolution by "Charles Roy and/or assign"; and further

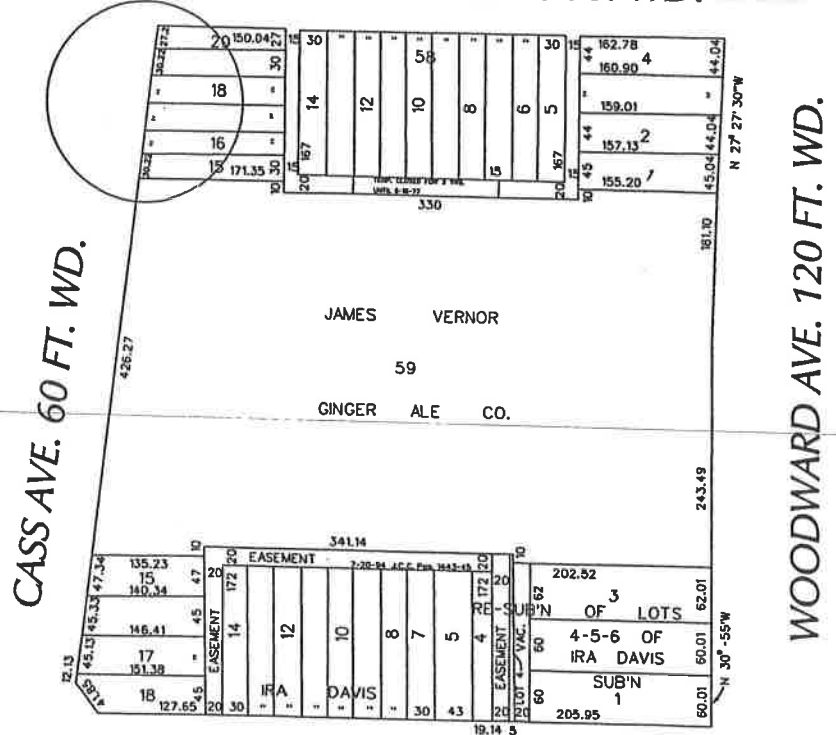
PROVIDED, That the project encroachment(s) permit shall not be assigned or transferred without the written approval of the City Council; and further

PROVIDED, That the City Clerk shall within 30 days record a certified copy of this resolution and indemnity agreement (if attached) with the Wayne County Register of Deeds

PETITION NO. 2286
 CHARLES ROY
 (Cass Cafe)
 4620 CASS AVE.
 DETROIT, MICHIGAN 48201
 PHONE NO. 313 244 4056



FOREST AVE. 70 FT. WD.



- AREA OF ENCROACHMENT

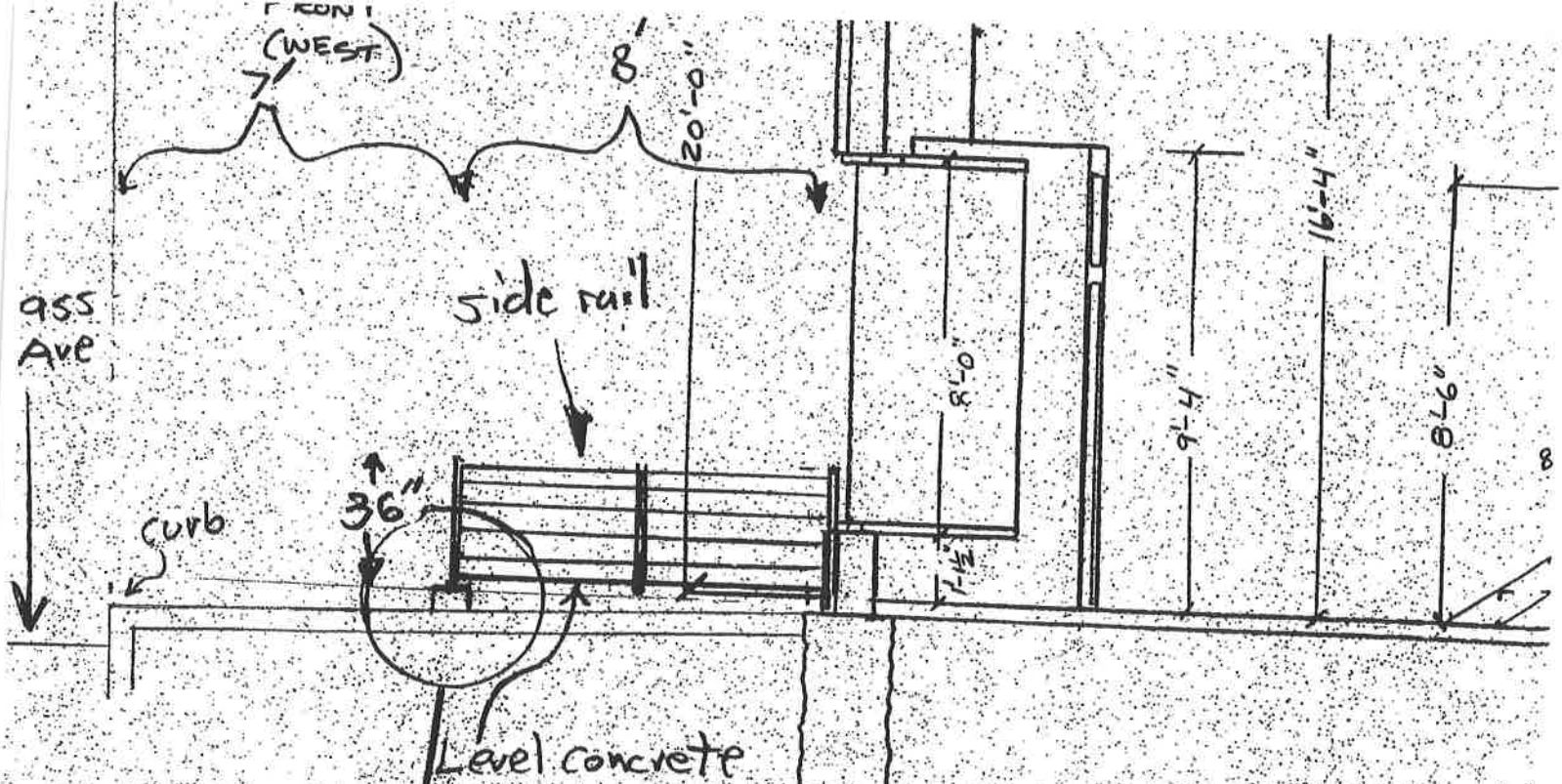
CANFIELD AVE. 60 FT. WD.

CARTO 30 E

B					
A					
DESCRIPTION		DRWN	CHKD	APPD	DATE
REVISIONS					
DRAWN BY	CHECKED				
KSM	[Signature]				

(FOR OFFICE USE ONLY)
**REQUEST TO ENCROACH
 INTO CASS AVE.
 8 FT. WITH SIDEWALK CAFE**

**CITY OF DETROIT
 CITY ENGINEERING DEPARTMENT
 SURVEY BUREAU**
 JOB NO. 01-01



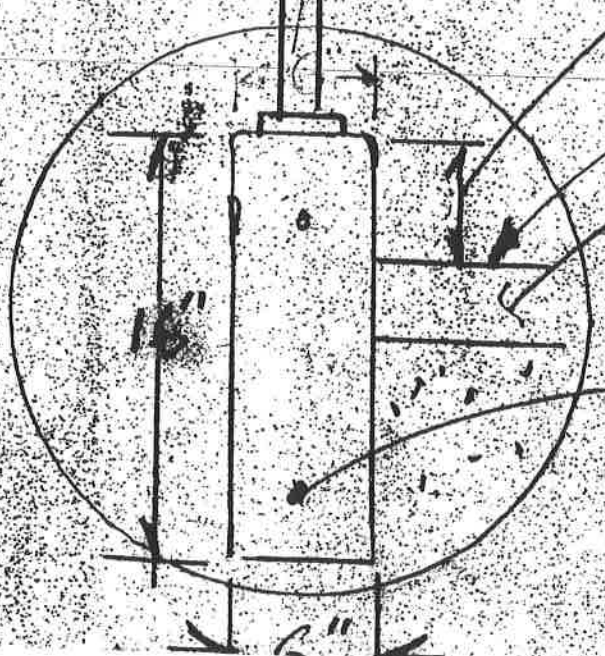
Railing - Painted steel

Railing

6" Curb Finished grade

Pavers

Re-rod as needed top + bottom



**WRITTEN ACCEPTANCE OF THE TERMS AND CONDITIONS
OF DETROIT CITY COUNCIL
RESOLUTION PETITION NUMBER 2286
ADOPTED _____**

Cass Café Inc. ("Permittee") with an address of 4620 Cass Avenue, Detroit, Michigan 48201, does hereby accept the terms and conditions of the City Council Resolution granting Petition Number 2286, and agrees to comply with its requirements; and further, that pursuant to the said Resolution, Permittee does hereby agree to defend and 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 the Permittee of the terms of the permit(s) hereof, or that may rise out of the maintenance of the above described encroachment by Permittee's personnel, agents, and employees: and further, that in accordance with said Resolution, a certified copy of the aforementioned City Council resolution will be recorded in the Office of the Register of Deeds of Wayne County by the City Clerk.

Page 1 of 3

Wherefore, we have hereunto set our hands on the 24 day of ^{July} ~~June~~ 2012. ^{CR}

Permittee:

Cass Cafe

By:

[Handwritten Signature]

Title:

President

Date

7/24/12

APPROVED AS TO
FORM & EXECUTION

[Handwritten Signature]
Assistant Corporation Counsel

8/2/12

Page 2 of 3

STATE OF MICHIGAN)

) **ss.**

COUNTY OF WAYNE)

On this 24th day of ^{July} ~~June~~, 2012, before me, a Notary Public in and for said County, appeared Charles Roy to me known personally, who being duly sworn, did say that he is the President of Cass Café Incorporated and that the Written Acceptance of the Terms and Conditions of the City Council Resolution Petition No. 2286 was signed on behalf of said limited liability company by authority of its Board of Managers.


Notary Public

WENONAH M ANDERSON
Notary Public, State of Michigan
County of Wayne
My Commission Expires Oct. 07, 2013
Acting in the County of Wayne