

CITY OF DETROIT  
CITY ENGINEERING DIVISION  
DEPARTMENT OF PUBLIC WORKS

COLEMAN A YOUNG MUNICIPAL CENTER  
SUITE 601  
TWO WOODWARD AVENUE  
DETROIT, MICHIGAN 48226-3473  
PHONE 313 • 224 • 3949  
FAX 313 • 224 • 3471

February 23, 2015

Honorable City Council:

**RE: Petition No. 330, Giffels Webster, request to encroach overhead into John R with a proposed canopy at 28 W. Adams**

Petition No. 330 – Giffels Webster on behalf of Midtown Projects L.L.C. whose address is 2000 Town Center # 2379, Southfield, MI, 48076, request to install and maintain certain encroachments on the west side of John R. Street north of Mack Avenue and south of East Alexandrine Avenue. This encroachment is for the installation of a canopy above the sidewalk. The architectural canopy is a minor projection attached to and supported by the building to provide protection from the weather.

The petition was referred to the City Engineering Division – DPW for investigation (utility clearance and review) and report. This is our report.

The request was approved by the Solid Waste Division – DPW. The Traffic Engineering Division – DPW reports involvement, but there is no objection provided that a minimum vertical clearance of 11 feet 3 inches shall be maintained above the sidewalk at all times.

Detroit Water and Sewerage Department reports no objection to the encroachment provided that the provisions for encroachments are strictly followed.

All other City Departments including Public Lighting Department 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,

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

JK/

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

**Michael Duggan. MAYOR**

BY COUNCIL MEMBER \_\_\_\_\_

RESOVLED, The City Engineering Division – DPW is hereby authorized and directed to issue permits to Midtown Projects L.L.C. whose address is 2000 Town Center # 2379, Southfield, MI, 48076 and/or their assigns, to install and maintain encroachments extending 5 feet into John R. Street, 84 feet wide, with a canopy above the sidewalk, 110 feet in length and with a vertical clearance of 11 feet and 3 inches. The location of the encroachment being described as adjoining land in the City of Detroit, Wayne County, Michigan being Lot 3 “Medical Center Urban Renewal Plat No. 1 part of Park Lots 20 to 24 & 26 and P.C.’s 1, 2 and 5” as recorded in Liber 58, page 74 of Plats, Wayne County Records; beginning 60 feet northerly as measured along the westerly line of John R. Street, 60 feet wide, from the southeasterly corner of said Lot 3 and extending northerly 110 feet as measured along the westerly line of John R. Street.

Provided, That by approval of this petition/request the Detroit Water and Sewerage Department (DWSD) does not waive any of its rights to its facilities located in the right-of-way, and at all time, DWSD its agent or employees, shall have the right to enter upon the right-of-way to maintain, repair, alter, service, inspect, or install its facilities. All cost 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 caused by the encroachment shall be borne by the petitioner. All cost associated with gaining access to DWSD’s facilities, which could normally be expected had the petitioner not encroached into the right-of-way shall be borne by DWSD; and further

Provided, That the necessary permits shall be obtained from the City Engineering Division-DPW and the Building and Safety Engineering and Environmental Department. The encroachments shall be constructed and maintained under their rules and regulations; also in accord with plans submitted to and approved by the Traffic Engineering Division-DPW (if necessary); and further

Provided, That all construction performed under this petition shall not be commence until after (5) days written notice to DWSD. Seventy-two hours notice shall also be provided in accordance with P.A. 53 1974, as amended, utilizing the MISS DIG one call system; and 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 further

Provided, That if DWSD facilities located within the right-of-way shall break or be damaged as the result of any action on the part of the petitioner, then in such event the petitioner agrees to be liable for all cost incident to the repair, replacement, or relocation of such broken or damage DWSD facilities; and further

petitioner agrees to be liable for all cost incident to the repair, replacement, or relocation of such broken or damage DWSD facilities; and further

Provided, That the petition shall hold DWSD harmless for any damage to the encroaching device constructed or installed under this petition, which may be caused by the failure of DWSD's facilities; and further

Provided, That a minimum of 11 feet and 3 inches vertical clearance above the sidewalk shall be maintained at all times as required by Traffic Engineering Division of DPW; and further

Provided, That Midtown Projects L.L.C. shall file with the Finance Department and/or City Engineering Division – DPW an indemnity agreement 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 Midtown Projects L.L.C. shall agree to pay all claims, damages, or expenses that may arise out of the maintenance of the proposed encroachments; and further

Provided, That all costs for the construction, maintenance, permits, and use of the project encroachment(s) within the said public right-of-way 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 canopy 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; 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 the encroachment with a canopy lying within said area referred to herein shall be construed as acceptance of this resolution by “Wayne State University (WSU) Physician Group and/or their assigns”; 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.

## INDEMNIFICATION AGREEMENT

THIS AGREEMENT is given this 31 day of Oct, 2014, by "Midtown Projects L.L.C.", 2000 Town Center, Ste. 2379, Southfield, Michigan 48076, as ("Permittee") to the City of Detroit, a Municipality, as ("the City").

The "Permittee", does hereby accept the terms and conditions of the Detroit City Council Resolution(s) granting "Petition No. 330", and agrees to comply with its requirements; and further, that pursuant to said Resolution, "Permittee" does hereby agree to defend, indemnify, and hold harmless "the City", its officers and employees against and with respect to any and all liabilities, obligations, penalties, losses, damages or injuries (including without limitation any and all actions, suits, proceedings, claims, demands, judgments, costs, and expenses incident thereto) which may be imposed upon, incurred by or asserted against "the City" by reason of issuance of permits, or the sole performance or non-performance by the "Permittee" of the terms of the permit hereof, or that may arise out of the maintenance of the below described "Encroachment" by "Permittees" personnel, agents, and employees or assigns; and further, that in accordance with said Resolution, a certified copy of the aforementioned Detroit City Council resolution(s) with a executed Indemnification Agreement will be recorded in the office of the Wayne County Register of Deeds. Said "Encroachment" upon public rights-of-way, within the City of Detroit, County of Wayne, State of Michigan described as being:

### **Detroit City Council Petition No. 330:**

Located within the westerly right-of-way of John R Street, 84 feet wide, between Mack Avenue, 120 feet wide and E. Alexandrine Avenue, 100 feet wide, being more particularly described as a area 110.00ft x 5ft, located 60.00 feet North of the South line of Lot 3, of the "Medical Center Urban Renewal Plat No.1", part of Park Lots 20 to 24 & 26 and P.C's 1, 2 and 5, City of Detroit, Wayne County, Michigan, as recorded in Liber 88, Pages 74, 75 and 76, Plats, Wayne County Records

Commonly known as: 3750 Woodward Avenue  
Tax Parcel: 01004190-8

Which "Encroachment" is more particularly described as follows:

Being an overhead cantilevered Canopy, penetrating the John R. Street right-of-way 5.0 feet, 11.3 feet above the sidewalk space, while allowing 15.00 feet free and clear, encroaching into said above described public space. The proposed Canopy encroachment will not impede pedestrian and vehicular access, nor will it interfere with the maintenance of the public rights-of-way including utility company and Fire Department access.

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Subject to the Provisions of the "Encroachment" as defined in the Resolution granting "Petition Number 330", when adopted by Detroit City Council.

IN WITNESS WHEREOF, the "Permittee" has executed and delivered this Agreement.

PERMITTEE:

Witness By:

"Midtown Projects L.L.C."

A Michigan Limited Liability Corporation

Laura Yanke  
LAURA YANKE

GARY W NOVARA  
By: GARY W NOVARA

Tami Harsha  
TAMI HARSHA

It's: MANAGING MEMBER

STATE OF MICHIGAN }  
                                  }S  
COUNTY OF OAKLAND

Subscribed and sworn to before me on October 31, 2014 personally appeared, GARY W. NOVARA of "Midtown Projects L.L.C." a Michigan Limited Liability Corporation, who executed same on behalf of the entity and acknowledged same to be the free act and deed of the entity.

Lorraine Mates  
LORRAINE MATES, Notary Public

My Commission Expires: 03/03/2015

OAKLAND, ACTING IN County, Michigan  
OAKLAND

Approved by City of Detroit Law Department:

[Signature]  
Corporation Counsel

2/14/15  
Date

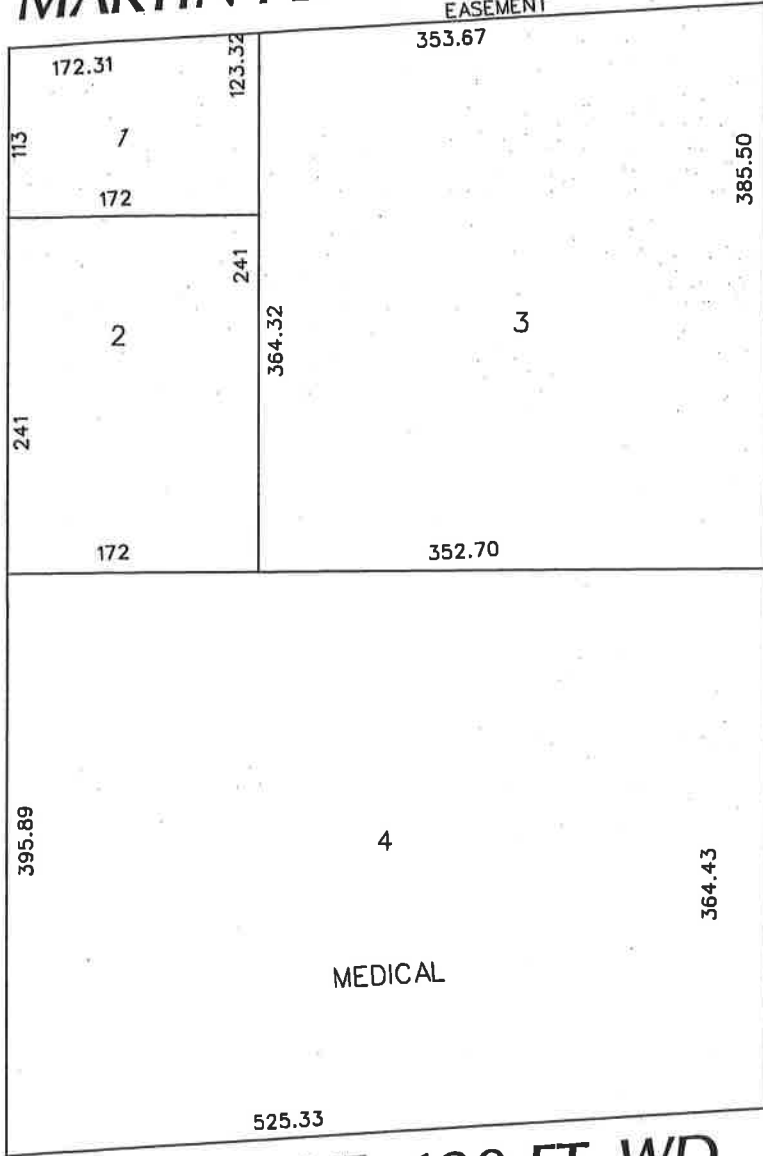
RECEIVED FEB 17 2015

PETITION NO. 330  
 GIFFELS WEBSTER  
 28 W. ADAMS, SUITE 1200  
 DETROIT, MICHIGAN 48226  
 C/O JAMES FOSTER  
 PHONE NO. 313 962-4442



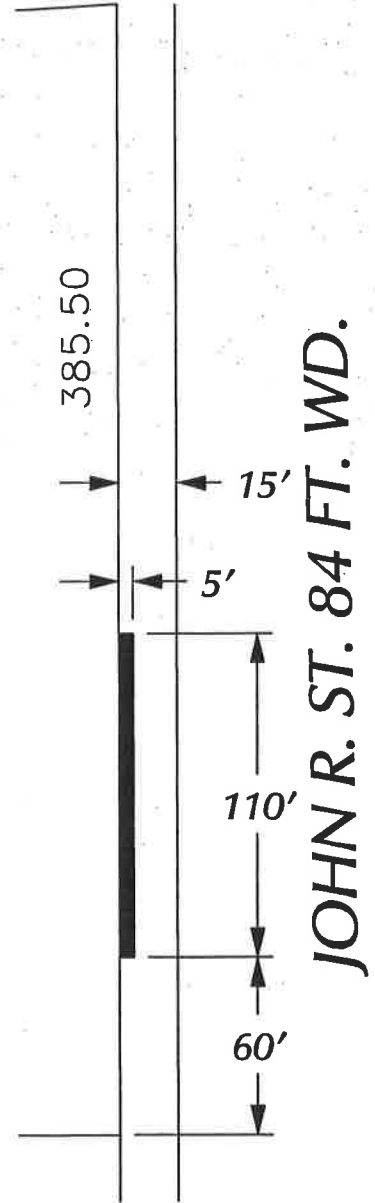
MARTIN PLACE 100 FT. WD.  
 EASEMENT

WOODWARD AVE. 120 FT. WD.



MACK AVE. 120 FT. WD.

JOHN R. ST. 84 FT. WD.



JOHN R. ST. 84 FT. WD.

- REQUEST ENCROACHMENT  
 (Overhead Canopy)

(FOR OFFICE USE ONLY)

CARTO 29 A

B					
A					
DESCRIPTION		DRWN	CHKD	APPD	DATE
REVISIONS					
DRAWN BY	WLW	CHECKED			
DATE	07-17-14	APPROVED			

REQUEST ENCROACHMENT  
 OVER JOHN R. ST.  
 IN THE BLOCK BOUND BY  
 MACK AND WOODWARD AVE.  
 MARTIN PLACE  
 AND JOHN R. ST.

CITY OF DETROIT CITY ENGINEERING DEPARTMENT SURVEY BUREAU	
JOB NO.	01-01
DRWG. NO.	X 330