



February 11, 2015

Honorable City Council:

**Re: Petition No. 399 – EnviroSolutions, request for installation of permanent Monitoring wells, recovery wells and underground piping in the ROW for Berg Road, Cherokee Street and alley east of Berg Road, South of property located at 22645 W. Eight Mile Road, Detroit, MI.**

Petition No. 399 of “EnviroSolutions, Inc.” whose address is 38115 Abruzzi Drive, Westland, MI, 48185 Franklin Road, Suite 2000, request permission to install and maintain Seven (7) monitoring wells, Two (2) soil gas implants, Four (4) permanent recovery wells and underground piping to connect the new recovery wells to the existing remediation system. The encroachments will be in Berg Road, 66 feet wide, Cherokee Drive, 50 feet wide, and the east-west alley first south of Eight Mile Road between Berg Road and Redfern Avenue. The purpose of the bored well is to monitor the existence or extent of soil contamination from leaking underground fuel storage tanks (a.k.a. “L.U.S.T.”). The recovery wells and piping are for remediation purposes.

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

The Division of Environmental Affairs Of the Buildings, Safety Engineering and Environmental Department (BSEED) 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 BSEED will review the petitioner’s environmental activities prior to the issuance of city permits. A Right-of-Entry is required by BSEED prior to contractor field activity.

Soil borings and monitoring well installations are equivalent to an "open cut" in a public street or alley. Necessary permits have to be obtained for any street or alley opening, backfill, surface restoration, barricade, or occupancy of city rights-of-way to install monitoring wells. The City Engineering Division - DPW will require the permit applicant to secure a right-of-entry approval from the Division of Environmental Affairs of BSEED.

It is the responsibility of "EnviroSolutions" to give reasonable and proper notice to any abutting property owner(s) before commencing any open cut or boring operations within public rights-of-way.

The enforcement of fire safety regulations and building codes is the responsibility of the Fire Marshal and BSEED. Generally, the Fire Marshal and BSEED report no objections

**Michael Duggan. MAYOR**



to the placement and maintenance of permanent L.U.S.T. monitoring well encroachments within public rights-of-way.

DTE Energy – MichCon Gas Company reports involvement but no objections provided that the installer contact MISS DIG at 1 800 482-7171; and provided that any removal or relocation of gas facilities be done at project expense.

The Public Lighting Department (PLD) and Public Lighting Authority (PLA) report no involvement.

Traffic Engineering Division – DPW reports involvement, but no objections provided that the grade shall be maintained in original condition with flush covers on the monitoring wells.

The Water and Sewerage Department (DWSD) reports involvement, but no objections to the proposed encroachments for monitoring well installation provided that the petitioner follow DWSD provisions for encroachments. The DWSD encroachment provisions are a part of the attached resolution.

All other involved City departments and privately owned utility companies request the petitioner(s) make use of "Miss Dig" facilities before any soil borings or permanent monitoring wells, recovery wells and piping are installed in public (street or alley) rights-of-way.

Finally, the City Engineering Division - DPW requires "EnviroSolutions" to submit certified "as built" drawings, a map and survey, showing the exact location of the petitioner's completed permanent L.U.S.T. monitoring well installations within public rights-of-way.

In accord with Detroit Code (Sec. 50-1-9), there is an appropriate resolution, granting the encroachment petition, attached for consideration by your Honorable Body.

Respectfully submitted,

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

JMK/

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

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

*Whereas*, The Environmental Affairs Division of Building, Safety Engineering and Environmental Department (BSEED) 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 BSEED 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 "EnviroSolutions" and/or their assigns at the site of 22645 W. Eight Mile Road, Detroit, Michigan to install and maintain seven (7) monitoring wells, two (2) soil gas implants and four (4) permanent recovery wells with pipelines encroaching within the public rights-of-way for the purpose of detecting and providing remediation 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 part of Cherokee Drive, 50 feet wide, and part of Berg Road, 66 feet wide, and lying southerly of the south line of Lot 6 (Cherokee Drive) also lying easterly of the east line of Lot 6 (Berg Road) "Riverford Heights, a subdivision of part of the N 1/2 of Section 4, T1S, R10E Redford Township, Wayne County, Michigan" as recorded in Liber 40, Page 44 of Plats, Wayne County Records; also being part of Berg Road, 66 feet wide, lying westerly of the west line of Lots 688 and 689 "Harry Slatkin's Subdivision No. 4 of part of the N.E ¼ of Section 4 T1S, R10E, City of Detroit, Wayne County, Michigan" as recorded in Liber 81, Pages 47 and 48 of Plats, Wayne County Records; also being part of the public alley, 26 feet wide, first south of W. Eight Mile Road and east of Berg Road and west of Redfern Avenue, lying northerly of the north line of Lot 686 "Harry Slatkin's Subdivision No. 4 of part of the N.E ¼ of Section 4 T1S, R10E, City of Detroit, Wayne County, Michigan" as recorded in Liber 81, Pages 47 and 48 of Plats, Wayne County Records.

One (1) –Monitoring well in the northerly portion of Cherokee Drive, 50 feet wide, West of Berg Road, 66 feet wide.

Two (2) – Monitoring wells in the westerly part of Berg Road, 66 feet wide, South of West Eight Mile Road and North of Cherokee Drive.

Two (2) - Monitoring wells in the easterly part of Berg Road, 66 feet wide, South of West Eight Mile Road and North of Trojan Avenue.

Two (2) - Monitoring wells in the southerly part of Public Alley, 26 feet wide, First South of West Eight Mile Road and East of Berg Road and West of Redfern Avenue.

Two (2) – Recovery wells and underground pipeline in the westerly part of Berg Road, 66 feet wide, South of West Eight Mile Road and North of Cherokee Drive.

Two (2) - Recovery wells and underground pipeline in the southerly part of Public Alley, 26 feet wide, First South of West Eight Mile Road and East of Berg Road and West of Redfern Avenue.

Two (2) – Soil Gas Implants in the southerly part of Public Alley, 26 feet wide, First South of West Eight Mile Road and East of Berg Road and West of Redfern Avenue.

**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, Safety Engineering and Environmental Department (BSEED). The petitioner shall apply to the BSEED 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 "EnviroSolutions" and/or their assigns 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**, 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 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

**PROVIDED**, 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**, 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, Safety Engineering and Environmental 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**, That all construction in the public right-of-way be conducted under permit from DPW City Engineering Division; 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.

