



July 14, 2017

Honorable City Council:

**RE: Petition No. 1402 – Jones Lang LaSalle, request to obtain an encroachment permit to assist in managing the placement of a temporary market space constructed of storage containers within the Dequindre Cut, south of Wilkins Street and north of Division Street.**

Petition No. 1402 – Jones Lang LaSalle on behalf of Detroit Riverfront Conservancy (DRFC) request to install and maintain an encroachment consisting of temporary market space constructed of storage containers within the Dequindre Cut in the area of Division Street, 50 feet wide, Wilkins Street, 50 feet wide, Orleans Street, 40 feet wide and St Aubin Street, 50 feet wide.

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

The request is being made to provide a place for activities in the Dequindre Cut including entertainment and retail with food and beverages.

The Dequindre Cut Greenway was established as a public right-of-way under the jurisdiction of the Department of Public Works (DPW), and was approved by your Honorable Body on November 17, 2006, J.C.C. pages 3414-3424. A maintenance and use agreement with the DRFC was approved by your Honorable Body on December, 11, 2006, J.C.C. pages 3553-3571. The northerly extension of the Dequindre Cut from Gratiot Avenue to Mack Avenue was authorized by your Honorable Body on September 18, 2012, J.C.C. pages 1737-1740.

The request was approved by the Solid Waste Division – DPW, and the Traffic Engineering Division – DPW (TED). TED approves of the request provided that certain provisions are met. The TED provisions are included in the resolution.

Detroit Water and Sewerage Department (DWSD) reports being involved, but they have no objection provided the DWSD encroachment provisions are followed. The DWSD provisions have been made a part of the resolution.

Public Lighting Department (PLD) reports involvement with underground facilities. PLD comments that due caution should be used during construction so as not to disturb the existing facilities. The area above PLD facilities is subject to future maintenance activities. Provisions for PLD have been made a part of the resolution.



All other involved City Departments, including the Public Lighting Authority; also privately owned utility companies have reported no objections to the encroachment. Provisions protecting all 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

JMK/

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

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

**RESOLVED**, That the Department of Public Works, City Engineering Division is hereby authorized and directed to issue permits to Detroit Riverfront Conservancy or their assigns to install and maintain encroachments consisting of temporary market space constructed of storage containers within the Dequindre Cut in the area of Division Street, 50 feet wide, Wilkins Street, 50 feet wide, Orleans Street, 40 feet wide and St. Aubin Street, 50 feet wide. The encroachments located on land in the City of Detroit, Wayne County, Michigan and further described as part of northerly extension of the Dequindre Cut Greenway as established and described in the City of Detroit Journal of City Council on September 18, 2012, J.C.C. pages 1737-1740; and said encroachments in five (5) locations in the Dequindre Cut being more particularly described as follows:

- 1) Beginning at the southwest corner of Lot 17 "Subdivision of Lots 14 and 15 on the Witherell Farm, North of the Gratiot Turnpike" as recorded in Liber 41, Page 450 of Deeds, Wayne County Records; thence  $N63^{\circ}52'47''E$  along the southerly line of said Lot 17 a distance of 11.33 feet; thence  $S26^{\circ}07'13''E$  24.00 feet; thence  $S63^{\circ}52'47''W$  40.00 feet; thence  $N26^{\circ}07'13''W$  24.00 feet; thence  $N63^{\circ}52'47''E$  28.67 feet to the southwest corner of said Lot 17 and the Point of Beginning.
- 2) Commencing at the southwest corner of Lot 17 "Subdivision of Lots 14 and 15 on the Witherell Farm, North of the Gratiot Turnpike" as recorded in Liber 41, Page 450 of Deeds, Wayne County Records; thence  $N26^{\circ}07'13''W$  along the easterly line of the Dequindre Cut 121.42 feet to the Point of Beginning; thence  $S63^{\circ}52'47''W$  18.75 feet; thence  $N26^{\circ}07'13''W$  8.00 feet;  $N63^{\circ}52'47''E$  20.00 feet;  $S26^{\circ}07'13''E$  8.00 feet; thence  $S63^{\circ}52'47''W$  1.25 feet to the Point of Beginning.
- 3) Commencing at the southwest corner of Lot 17 "Subdivision of Lots 14 and 15 on the Witherell Farm, North of the Gratiot Turnpike" as recorded in Liber 41, Page 450 of Deeds, Wayne County Records; thence  $N26^{\circ}07'13''W$  along the easterly line of the Dequindre Cut 149.42 feet to the Point of Beginning; thence  $S63^{\circ}52'47''W$  18.75 feet; thence  $N26^{\circ}07'13''W$  8.00 feet;  $N63^{\circ}52'47''E$  20.00 feet;  $S26^{\circ}07'13''E$  8.00 feet; thence  $S63^{\circ}52'47''W$  1.25 feet to the Point of Beginning.
- 4) Commencing at the southwest corner of Lot 17 "Subdivision of Lots 14 and 15 on the Witherell Farm, North of the Gratiot Turnpike" as recorded in Liber 41, Page 450 of Deeds, Wayne County Records; thence  $N26^{\circ}07'13''W$  along the easterly line of the Dequindre Cut 177.42 feet to the Point of Beginning; thence  $S63^{\circ}52'47''W$  18.75 feet; thence  $N26^{\circ}07'13''W$  8.00 feet;  $N63^{\circ}52'47''E$  20.00 feet;  $S26^{\circ}07'13''E$  8.00 feet; thence  $S63^{\circ}52'47''W$  1.25 feet to the Point of Beginning.
- 5) Commencing at the southwest corner of Lot 17 "Subdivision of Lots 14 and 15 on the Witherell Farm, North of the Gratiot Turnpike" as recorded in Liber 41, Page 450 of Deeds, Wayne County Records; thence  $N26^{\circ}07'13''W$  along the easterly line of the Dequindre Cut 205.42 feet to the Point of Beginning; thence  $S63^{\circ}52'47''W$  18.75 feet; thence  $N26^{\circ}07'13''W$  8.00 feet;  $N63^{\circ}52'47''E$  20.00 feet;  $S26^{\circ}07'13''E$  8.00 feet; thence  $S63^{\circ}52'47''W$  1.25 feet to the Point of Beginning.

**PROVIDED**, that the permission to encroach given herein is for that part of the storage containers that are within the Dequindre Cut, and not any portion on private property; and be it further

PROVIDED, that if there is any cost for the removing and/or rerouting of any utility facilities, it shall be done at the expense of the petitioner and/or property owner; and be it further

PROVIDED, By approval of this petition 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 times, 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 DWSD's facilities for maintenance, repairing, alteration, servicing or inspection caused by the encroachment 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 right-of-way, 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 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 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 during construction the Public Lighting Department (PLD) facilities must not be disturbed or damaged; and all areas above PLD facilities are subject to future maintenance activity by PLD; and be it further

PROVIDED, that the area requested for encroachment shall be in the City's right-of-way (not under the Railroad right-of-way); and be it further

PROVIDED, that the petitioner shall seek approval from City Engineering Division of DPW for pavement/access route to be used by all service vehicles/equipment such as construction vehicles, food trucks, etc. to ascertain that the pavement is capable of supporting them; and be it further

PROVIDED, that any damage caused to the pavement or other infrastructure resulting from construction, loading/unloading activities shall be the responsibility of the petitioner and shall be repaired by the petitioner at no cost to the City; and be it further

PROVIDED, that Detroit Riverfront Conservancy or their assigns shall apply to the Buildings and Safety Engineering Department for a building permit prior to any construction. Also, if it becomes necessary to open cut public streets, bore, jack, occupy or barricade city rights-of-way for maintenance of encroachments such work shall be according to detail permit application drawings submitted to the City Engineering Division – DPW prior to any public right-of-way construction; and further

PROVIDED, that the necessary permits shall be obtained from the City Engineering Division – DPW and the Buildings and Safety Engineering Department. The encroachments shall be constructed and maintained under their rules and regulations; and further

PROVIDED, that all cost for the construction, maintenance, permits and use of the encroachments shall be borne by Detroit Riverfront Conservancy or their assigns; and further

PROVIDED, that all costs incurred by privately owned utility companies and/or city departments to alter, adjust, and/or relocate their existing utility facilities located in close proximity to the encroachments shall be borne by Detroit Riverfront Conservancy or their assigns. Should damages to utilities occur Detroit Riverfront Conservancy or their assigns shall be liable for all incidental repair costs and waives all claims for damages to the encroaching installations; and further

PROVIDED, that no other rights in the public streets, alleys or other public place shall be considered waived by this permission which is granted expressly on the condition that said encroachments 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 Detroit Riverfront Conservancy shall file with the Department of Public Works – City Engineering Division an indemnity agreement in 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 the faithful or unfaithful performance by Detroit Riverfront Conservancy of the terms thereof. Further, Detroit Riverfront Conservancy shall agree to pay all claims, damages or expenses that may arise out of the use, repair and maintenance of the proposed Encroachments; and further

PROVIDED, that construction of the encroachments shall constitute acceptance of the terms and conditions as set forth in this resolution; and be it further

PROVIDED, this resolution is revocable at the will, whim or caprice of the City Council, and Detroit Riverfront Conservancy acquires no implied or other privileges hereunder not expressly stated herein; and further

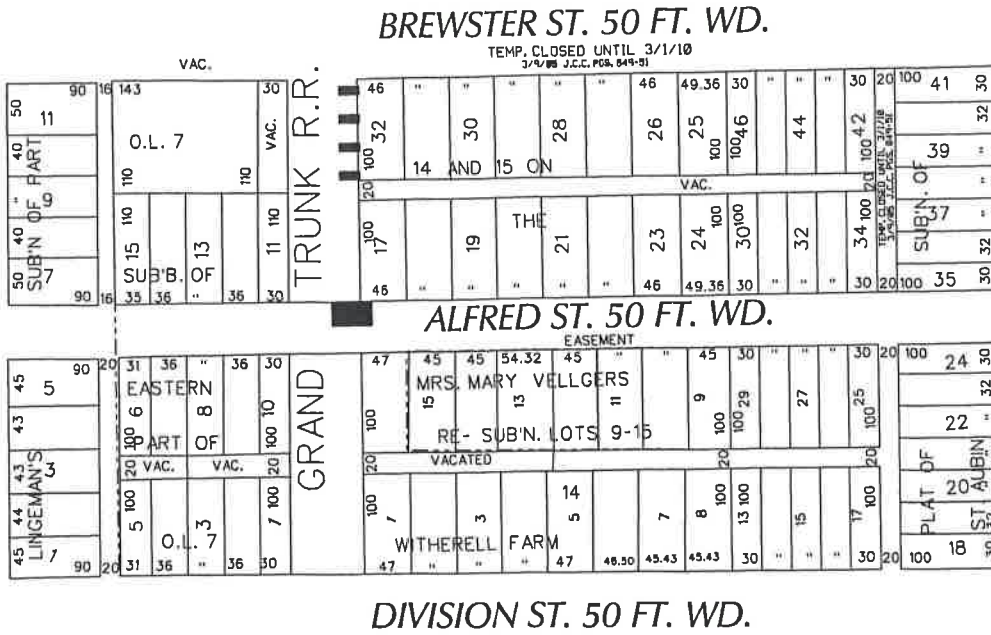
PROVIDED, that the encroachment permits shall not be assigned or transferred without the written approval of the City Council; and further

PROVIDED, that the City Clerk shall within 30 days record a certified copy of this resolution with the Wayne County Register of Deeds.

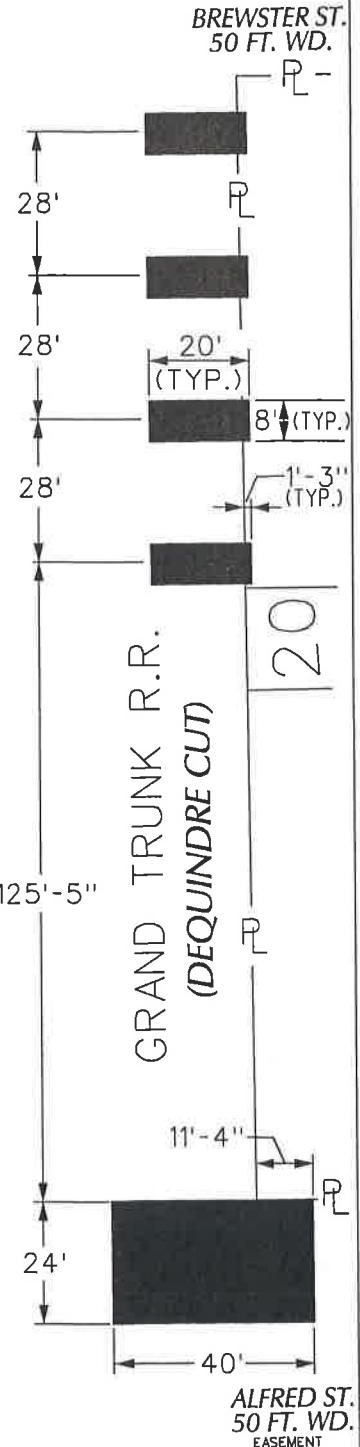
PÉTITION NO. 1402  
 JONES LANG LASALLE  
 226 EAST HUDSON SUITE 200  
 ROYAL OAK, MICHIGAN 48067  
 C/O RHONDA COLLINS  
 PHONE NO. 313 570-1476



ORLEANS ST. 40 FT. WD.



ST. AUBIN AVE. 50 FT. WD.



CARTO 39 E

- REQUEST ENCROACHMENT  
 (With Temporary Storage Containers)

(FOR OFFICE USE ONLY)

<b>B</b>					
<b>A</b>					
DESCRIPTION		DRWN	CHKD	APPD	DATE
REVISIONS					
DRAWN BY		CHECKED			
DATE		APPROVED			
06-16-17					

**REQUEST ENCROACHMENT**  
 A PORTION OF DEQUINDRE CUT  
 VARIOUS WIDTHS IN THE AREA BOUND BY  
 DIVISION, ORLEANS, BREWSTER ST.  
 AND ST. AUBIN AVE.  
 (With Temporary Storage Containers)

**CITY OF DETROIT**  
 CITY ENGINEERING DEPARTMENT  
 SURVEY BUREAU  
 JOB NO. 01-01  
 DRWG. NO. X 1402