April 3, 2020

Honorable City Council:

RE: Petition No. 722 by Giffels-Webster, request for a series of vacations and encroachments into the rights-of-way within various streets for the streetscape improvements for the Pistons Performance Facility Project.

Petition No. 722 by Giffels –Webster on behalf of Pistons Performance LLC request for encroachments with streetscape elements on the west side of Second Boulevard, 150 feet wide, between Amsterdam Street, 50 feet wide, and Baltimore, 60 feet wide. The request also is for a pedestrian easement to be granted to the City of Detroit along the north side of Amsterdam Street, from Second Boulevard eastward for 334 feet along the project property.

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

The request is being made to create a special non-standard streetscape for the Pistons Performance center. The streetscape will include monuments, medallions, steps, ramps, landscaping and pedestrian walkways.

The request was approved by the Solid Waste Division – DPW, and City Engineering Division – DPW. The request was approved by DPW – Traffic Engineering Division (TED) provided certain conditions are met. The TED conditions are a part of the resolution.

Detroit Water and Sewerage Department (DWSD) has not responded to the petition. The standard DWSD provisions for encroachments have been made a part of the resolution*.* DTE –Electric reports involvement and the DTE conditions are a part of the resolution.

All other involved City Departments and 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

/JK

Cc: Ron Brundidge, Director, DPW

 Mayor’s Office – City Council Liaison

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

**RESOLVED**, that the Department of Public Works, City Engineering Division is hereby authorized and directed to issue permits to PistonsPerformanceLLC or their assigns to install and maintain encroachments consisting of with streetscape elements including non-standard paving, monuments, medallions, steps, ramps, landscaping, tree wells, etcetera into the west side of Second Boulevard, 150 feet wide, between Amsterdam Street, 50 feet wide, and Baltimore, 60 feet wide. Location of the encroachments described as follows: land in the City of Detroit, Wayne County, Michigan being the southerly 172.10 feet of the westerly 21.7 feet of Second Boulevard, 150 feet wide, lying easterly of and adjoining the easterly line of Lot 10, Block 13 “Cass Farm Co. Limited Subdivision of Blocks 111, 112, 113, 114, 115, 116, 118, & 119 and part of Block 17 Cass Farm” as recorded in Liber 19, Page 35 of Plats, Wayne County Records. The encroachments further described as follows:

1. An area for landscape elements (non-standard paving, monuments, medallions, steps, ramps, landscaping, tree wells, etcetera etcetera) lying easterly of and adjoining the easterly line of the south 172.1 feet of said Lot 10 and extending 21.7 feet into Second Boulevard.

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, that access is maintained to all fire department connections, and be it further

PROVIDED, that the petitioner maintains an unobstructed 6 feet clear sidewalk that is ADA compliant at all times, and further

PROVIDED, that the owner assumes full responsibility for the removal and installation of any streetscape elements in conflict with DTE Energy excavating equipment; and DTE Energy shall not be responsible for any damages, and further

PROVIDED, that 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, Pistons Performance LLC 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 Pistons Performance LLC 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 Pistons Performance LLC or their assigns. Should damages to utilities occur Pistons Performance LLC 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 Pistons Performance LLC or their assigns 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 of Pistons Performance LLC or their assigns of the terms thereof. Further, Pistons Performance LLC or their assigns 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 filing of said indemnity agreement and construction of the encroachments shall be construed as acceptance of this Resolution by the “permitee”; and further

PROVIDED, that all cost for the construction, maintenance, permits and use of the encroachments shall be borne by Pistons Performance LLC, or their assigns; and further

PROVIDED, this resolution is revocable at the will, whim or caprice of the City Council, and Pistons Performance LLC 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 be it 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

**WHEREAS,** PistonsPerformance LLC has requested that the City of Detroit accept an easement for pedestrian travel on their property along Amsterdam Street; and

**WHEREAS,** the City of Detroit, Department of Public Works concurs with the placement of a sidewalk for pedestrians on the private property along with the acceptance of an easement for this area on Amsterdam Street, because an additional lane for automobile traffic will be designed and installed; therefore, be it

**RESOLVED,** that a pedestrian easement described as: an 8-foot-wide strip of land in the City of Detroit, Wayne County, Michigan being part of Lots 5, 6, 7, 8, 9, and 10, plus part of an alley between Lots 9 and 10 all in Block 13 “Cass Farm Co. Limited Subdivision of Blocks 111, 112, 113, 114, 115, 116, 118, & 119 and part of Block 17 Cass Farm” as recorded in Liber 19, Page 35 of Plats, Wayne County Records, more particularly described as follows: Commencing at the southeast corner of said Lot 10 also being the intersection of the northerly line of Amsterdam Street with the westerly line of Second Boulevard; thence N22º31’09”W along the westerly line of Second Boulevard 2.70 feet to the Point of Beginning; thence N22º31’09”W continuing along the westerly line of Second Boulevard a distance of 8.00 feet; thence S66º55’42”W a distance of 334.00 feet; thence S22º31’09”E a distance of 2.70 feet; thence N66º55’42”E along a line parallel to the northerly line of Amsterdam Street a distance of 334.00 feet to the Point of Beginning.

Be and the same is hereby granted to and accepted by the City of Detroit as an Easement for Public Access and Use, subject to the following provisions:

Provided, Pistons Performance Center enter into a maintenance agreement to include the Easement for Public Access and Use; and further,

Provided, that the Agreement granting the Easement for Public Access and Use is approved by the City of Detroit Law Department; 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.