



CITY OF DETROIT
DEPARTMENT OF PUBLIC WORKS
CITY ENGINEERING DIVISION

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September 3rd, 2020

Honorable City Council:

RE: Petition No. 1264 – 5725 Walnut LLC, request to encroach into the public alley right-of-way bounded by Congress Street, Shelby Street, Larned Street, and Griswold Street.

Petition No. 1264 – 5725 Walnut LLC, request an encroachment with underground emergency power conduits from the Buhl Parking Garage, located at 525 Griswold Street, to the Buhl Building, located at 535 Griswold Street. The encroachments are in the public alley, 20 feet wide, in the block bounded by Congress Street, 60 ft. wide, Shelby Street, 60 ft. wide, Larned Street, 60 ft. wide, and Griswold Street, 90 ft. 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 place an emergency generator in the Buhl Parking Garage to support the Buhl Building.

The request was approved by the Solid Waste Division – DPW, and City Engineering Division – DPW. The request was approved by the Traffic Engineering Division – DPW.

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. DTE has reported involvement and provisions protecting DTE have been made a part of the resolution.

All other involved City Departments, including the Public Lighting Authority and Public Lighting Department; 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/SW

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 5725 Walnut LLC or their assigns to install and maintain encroachments with underground power conduits. The encroachments are in the public alley, 20 feet wide, in the block bounded by Congress Street, 60 ft. wide, Shelby Street, 60 ft. wide, Larned Street, 60 ft. wide, and Griswold Street, 90 ft. wide. Encroachments are further described as follows: land in the City of Detroit, Wayne County, Michigan being part of public alley, 20 feet wide, lying northerly of and adjoining the easterly 5 feet of Lot 18, lying north and adjacent to Larned Street, and lying southerly of and adjoining the southerly line of Lot 17, lying south and adjacent to Congress Street, of "Military Reserve" as recorded in Liber 5, Page 218 of Plats, Wayne County Records. The encroaching power conduits are to be 6 - 4" in diameter conduits, with 3" of concrete cover between and around the conduits, with a total dimension of encasement to be 17" x 24". Said encroachment will be below grade ranging up to 10 ft. deep and will be 5 feet wide, beginning at 155.4 feet west of the Griswold Street right-of-way, and span the full length of the alley, 20 feet wide.

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 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 the underground conduits are encased in concrete to protect them from inadvertent damage, and permanent monuments be installed at the intersection of the property line and the centerline of the installed conduits, and further

PROVIDED, that the 5725 Walnut LLC or their assigns provide as-built drawings of their installation and the relationship to other utility infrastructure to the Department of Public Works – City Engineering Division, and further

PROVIDED, 5725 Walnut 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 5725 Walnut 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 5725 Walnut LLC or their assigns. Should damages to utilities occur 5725 Walnut 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 5725 Walnut 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 5725 Walnut LLC or their assigns of the terms thereof. Further, 5725 Walnut 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 shall be construed as acceptance of this Resolution by the “permittee”; and further

PROVIDED, that all cost for the construction, maintenance, permits and use of the encroachments shall be borne by 5725 Walnut LLC, or their assigns; and further

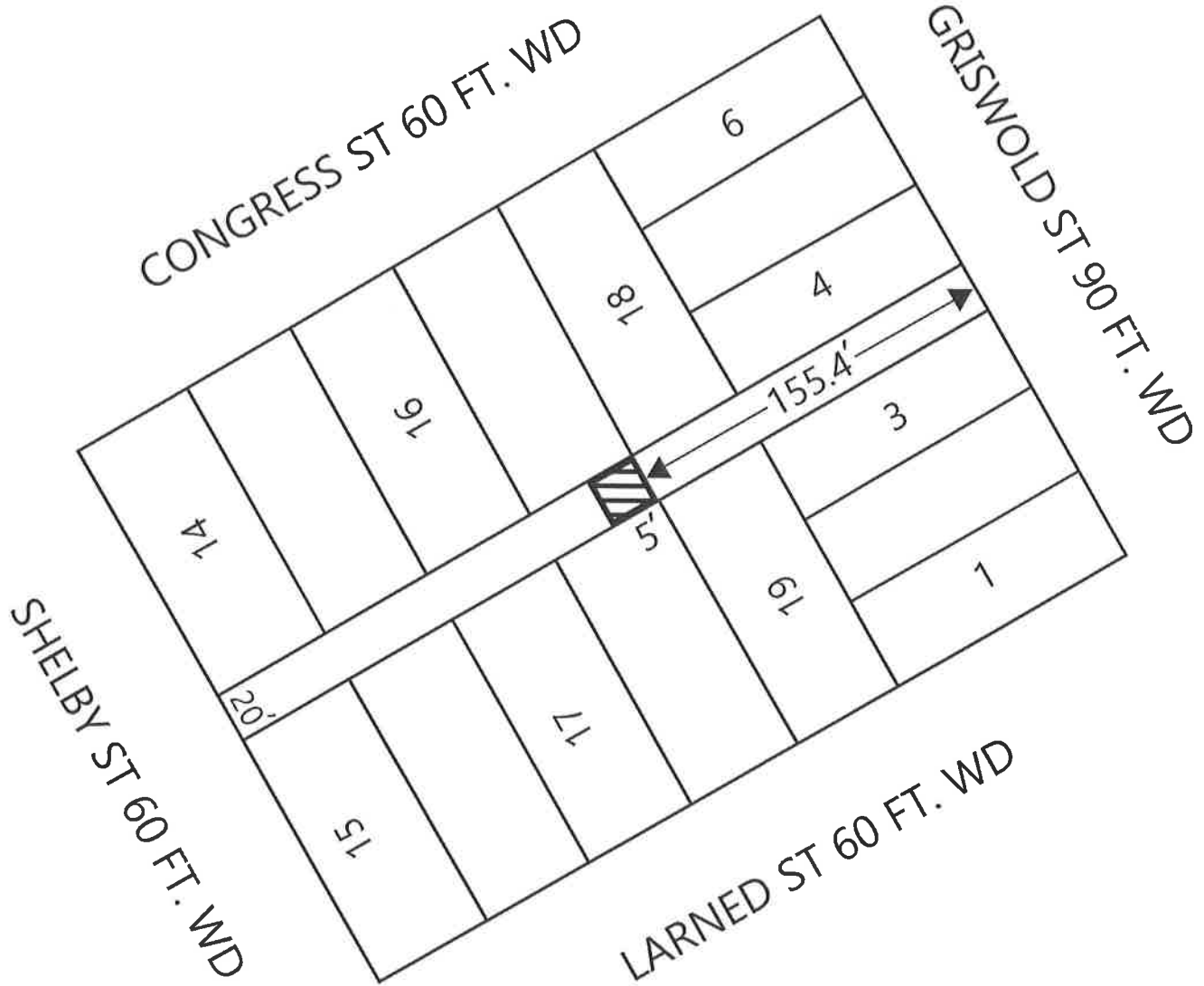
PROVIDED, that construction of the encroachments shall constitute acceptance of the terms and conditions as set forth in this resolution; and be it further

PROVIDED, this resolution or part thereof is revocable at the will, whim or caprice of the City Council, and 5725 Walnut 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.

Petition No. 1264
 5725 Walnut LLC represented by Giffels Webster, Michael Marks
 28 W. Adams, Suite 1200, Detroit, MI 48226
 (313) 962-4442



- BELOW GRADE ENCROCHMENT (10 FT. BELOW GRADE)

(FOR OFFICE USE ONLY)

CARTO 28

B					
A					
DESCRIPTION	DRWN	CHKD	APPD	DATE	
REVISIONS					
DRAWN BY	KJ		CHECKED	KSM	
DATE	03-29-20		APPROVED BY	JD	

10 FT. BELOW GRADE ENCROCHMENT IN
 THE EAST/WEST PUBLIC ALLEY, 20 FT. WD.
 IN THE BLOCK BOUND BY
 CONGRESS ST., GRISWOLD AVE., LARNED ST,
 AND SHELBY ST.

CITY OF DETROIT	
CITY ENGINEERING DIVISION	
SURVEY BUREAU	
JOB NO.	01-01
DRWG. NO.	X 1264