



Central Services Facility

313-267-8000 • detroitmi.gov/DWSD

Date:

- ☐ Outright Vacation
- ☐ Conversion to Easement

- ☐ Dedication
- ☐ Encroachment

☐ Berm Use

☐ Temporary Closing

☐ Approved Subject to Attached Provisions

☐ Not Approved

☐ Revise and Resubmit

--

	Name	Title	Signature	Date
Reviewed by:			Mohammad Siddique	
Approved by:			Mohammad Siddique For Syed Ali	

PROVISIONS FOR ENCROACHMENT

1. 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 time, 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 by DWSD 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.
2. All construction performed under this petition shall not be commenced until after five (5) days written notice to DWSD. Seventy-two (72) hour notice shall also be provided in accordance with P.A. 53 1974, as amended, utilizing the MISS DIG one call system.
3. Construction under this petition is subject to inspection and approval by DWSD. The cost of such inspection shall, at the discretion of DWSD, be borne by the petitioner.
4. DWSD prohibits the use of heavy construction equipment or the storage of building material directly over or near DWSD facilities. DWSD also prohibits the use of cranes and balls or hydraulic rams for pavement removal where DWSD facilities are involved. If the water main or sewer facilities are broken or damaged as a result of any action on the part of the contractor, the contractor shall be liable for all costs incidental to the repair of such broken or damaged water main or sewer facilities. If DWSD facilities located within the street 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.
5. The petitioner 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.
6. If at any time in the future the petitioner shall request removal and / or relocation of DWSD's facilities in the street being encroached upon, the petitioner agrees to pay all costs for such removal and/or relocation.
7. Prior to construction, Easement Encroachment Permit (EEP) should be obtained and the insurance required by the EEP should not expire until after completion of the construction.
8. For any proposed work that involves DWSD water mains and/or sewers, an approval and a permit is required from DWSD before commencement of work.
9. It is DWSD's requirement that any proposed utility crossing DWSD water mains and/or sewers perpendicularly must maintain a minimum of 18 inches vertical clearance. Any proposed utility running adjacent to DWSD water mains and/or sewers must maintain a minimum of 10 feet lateral clearance including any conduit and/or manholes walls. No utility is allowed to run along the top of the water main or/or sewer.
10. It is DWSD's requirement that no encroachment has a vertical clearance of less than 16 feet from the ground surface over DWSD water mains and/or sewers.

May 29, 2025

City of Detroit Right of Way Management

RE: Kode Labs Renovation
210 Bethune Street
Detroit, Michigan 48202
ARCHITECT'S PROJECT NO. 1943

To Whom it May Concern,

We are submitting a Right of Way Petition to add parallel parking in the berm at 210 Bethune Street. The client is seeking to renovate the existing historic structure to create new office space as part of Building Permit application BLD2024-02457. As part of the renovation, the client is making site improvements including the provision of off-street parking. Due to the site constraints and the required number of parking spaces, the client seeks to add berm parking in the Bethune Right of Way. The encroachment of the proposed berm parking is approximately 25' deep x 165' wide. This application seeks the approval of this encroachment.

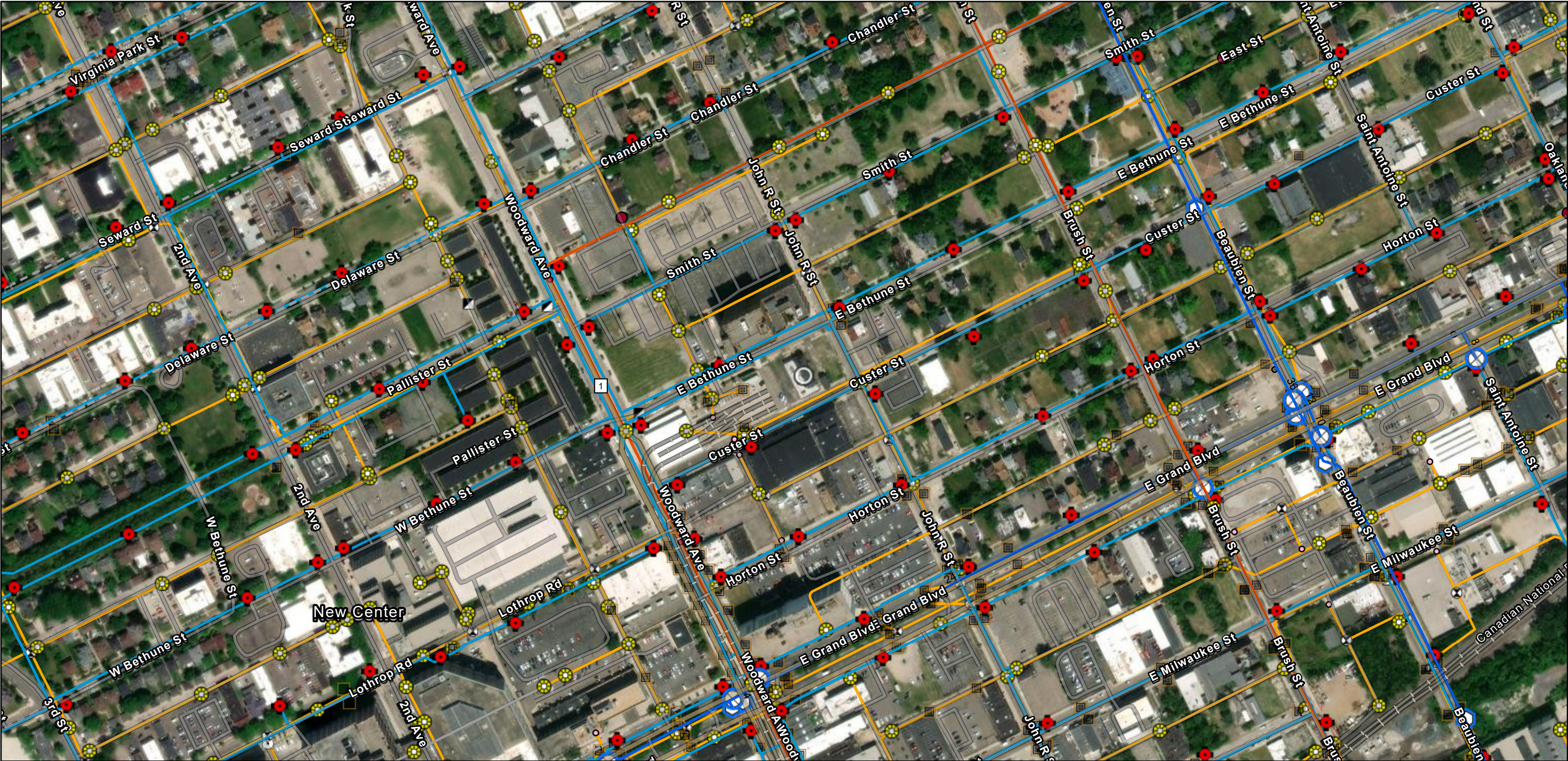
Please feel free to contact us if you require any additional information in relation to this request.

Sincerely,



Peter N. Pentescu
Studio Detroit
2040 Park Ave, Suite 200
Detroit, MI 48226
pete@studio-detroit.com
586.747.9717

210 E. Bethune Street



6/11/2025

Wastewater Structures - GLWA

- Bellmouth
- Manhole

Wastewater Mains - GLWA

- GLWA Gravity Main

Transmission System Mains - GLWA

- Active Water Main

Transmission System Valves - GLWA

- Blowoff
- Gate

Distribution System Main

- Tapping Sleeve
- Distribution System Hydrant
- Active
- Abandoned

Wastewater Catch Basin

- Wastewater Manhole
- Bend/Slope Change
- Blind Connection
- Bulkhead/Cap

Material/Size Change

- Crown/Main Point

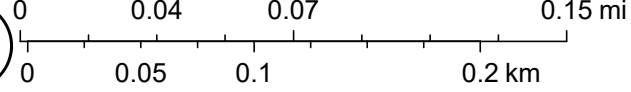
Wastewater Fitting

Wastewater GravityMain

- Wastewater Lamp Hole
- Active
- Abandoned/Inactive/Retired

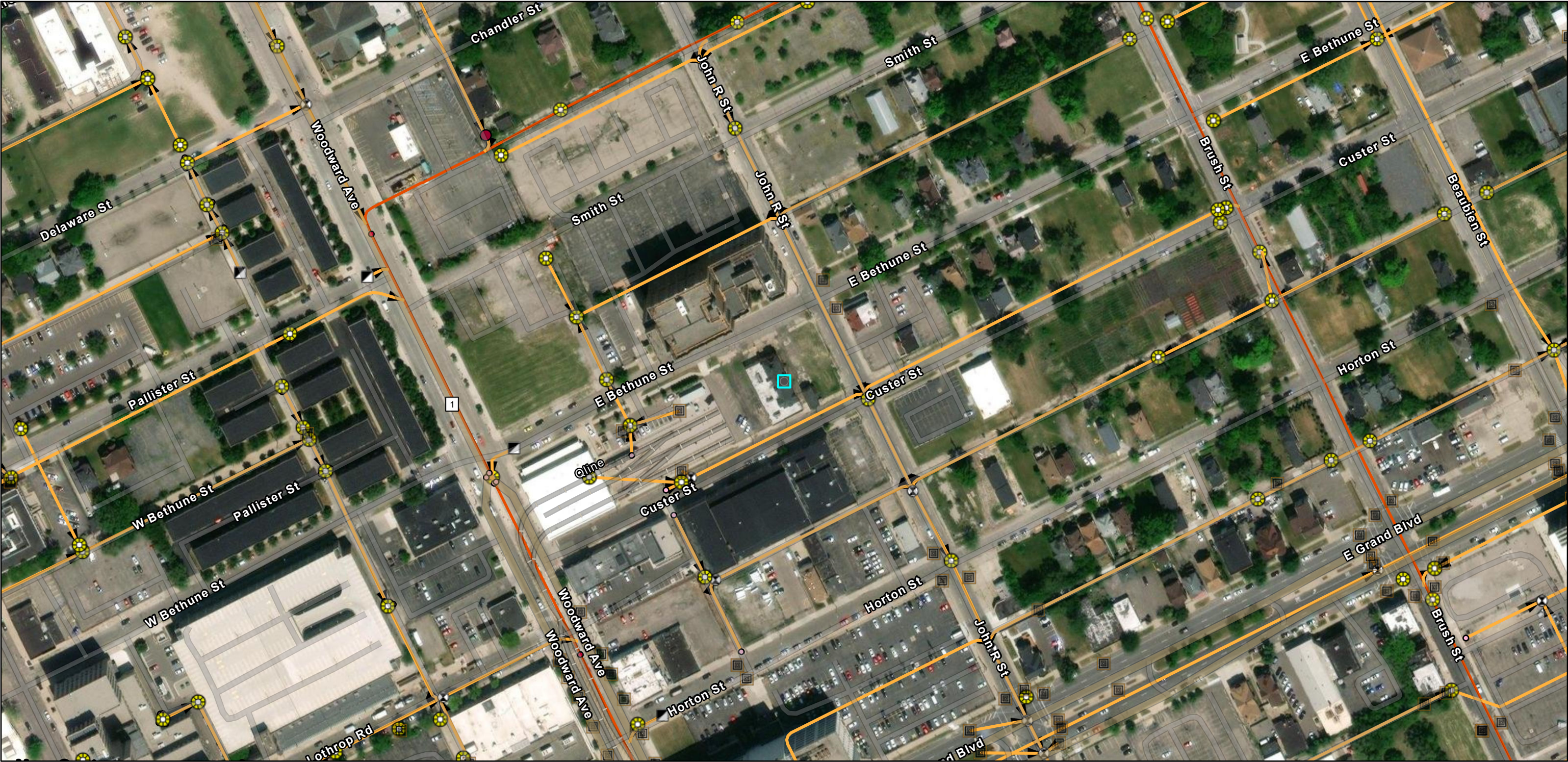
Wastewater Regulator

- World Imagery
- Low Resolution 15m Imagery
- High Resolution 60cm Imagery
- High Resolution 30cm Imagery
- Citations





DWSD, Sources: Esri, TomTom, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community, Maxar


210 E. Bethune Street





6/11/2025, 9:26:23 AM


 Wastewater Catch Basin (DWSD)


 Wastewater Lamp Hole (DWSD)


 Wastewater Manhole (DWSD)


 Blind Connection


 Bulkhead/Cap


 Crown/Main Point


 Wastewater Fitting (DWSD)


 Wastewater Gravity Main (DWSD)


 Wastewater Structures (GLWA)

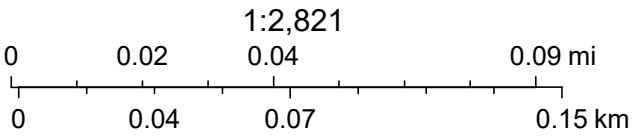
 Bellmouth

 Manhole

 Active

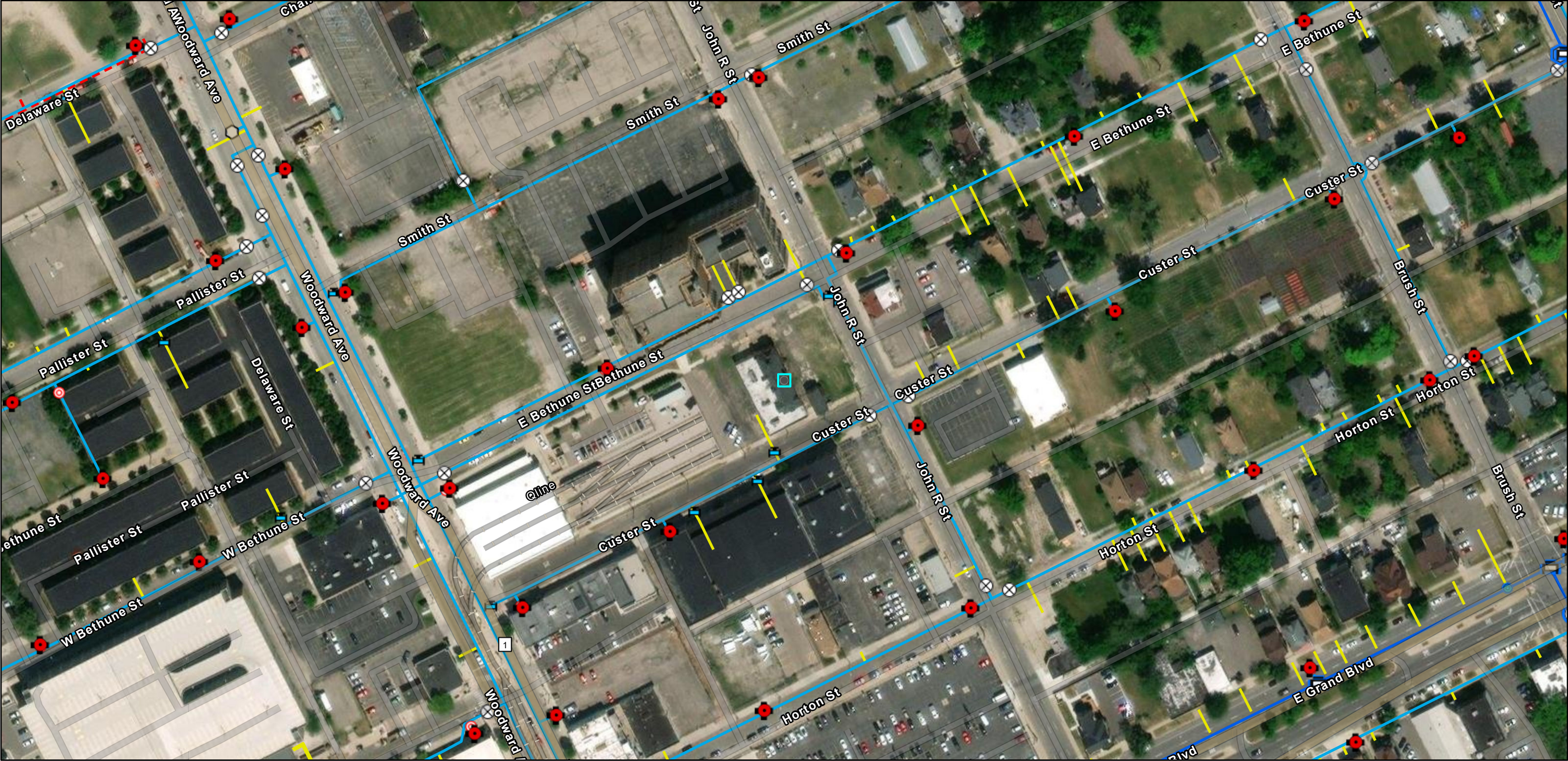
 GLWA Gravity Main

 DWSD Wastewater Flow Direction



Sources: Esri, TomTom, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community, Maxar

210 E. Bethune Street



6/11/2025, 9:11:35 AM

Transmission System Fittings (GLWA)



Tap



Tee

Transmission System Valves (GLWA)



Blowoff



Gate



Tapping Sleeve

Transmission System Mains (GLWA)



Active Water Main

Distribution System Hydrant



DWSD

Distribution System Valve



Gate



Blow Off



TSV

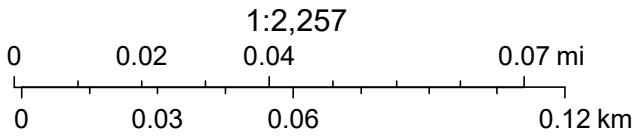
Hydrant

Distribution System Main

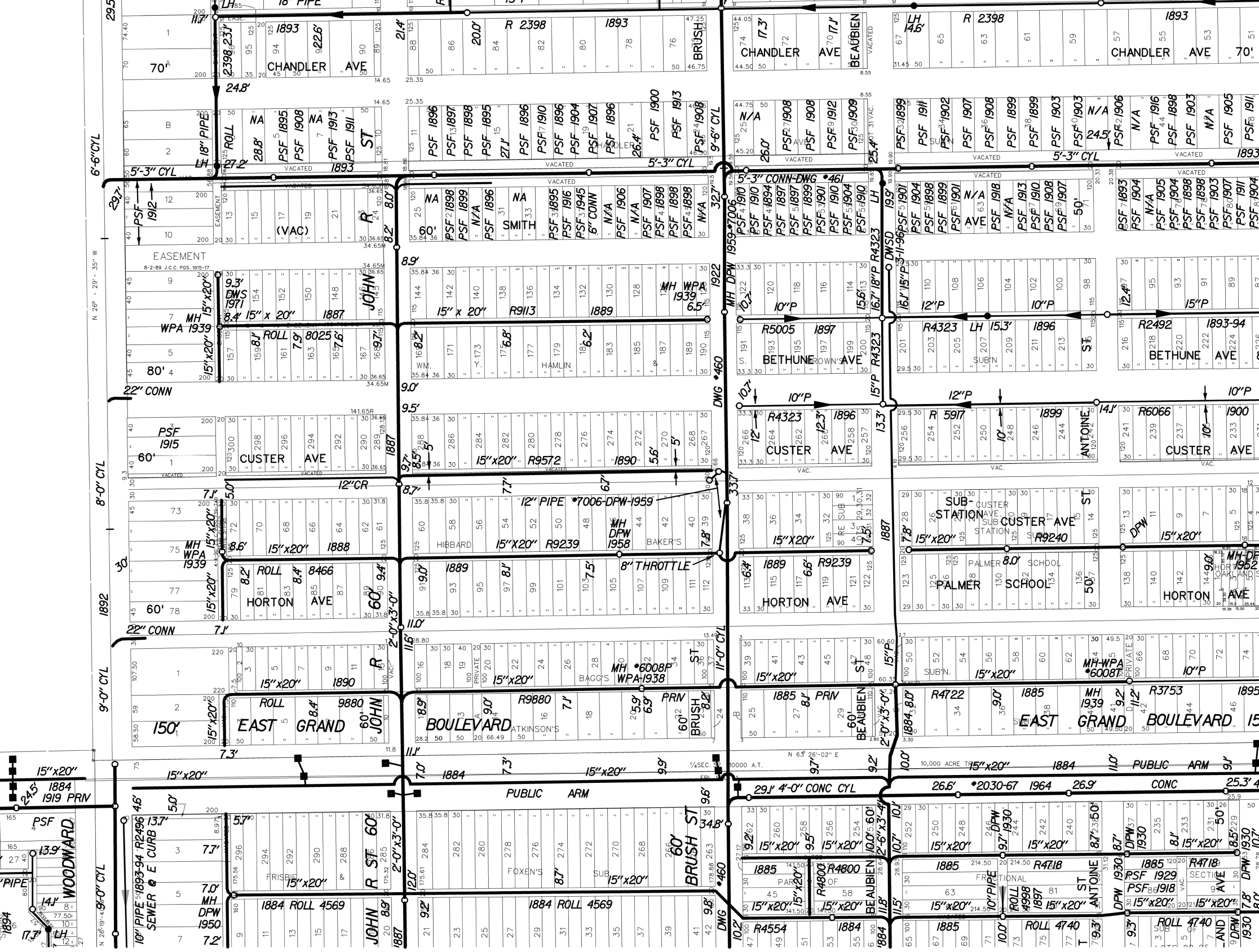
Active

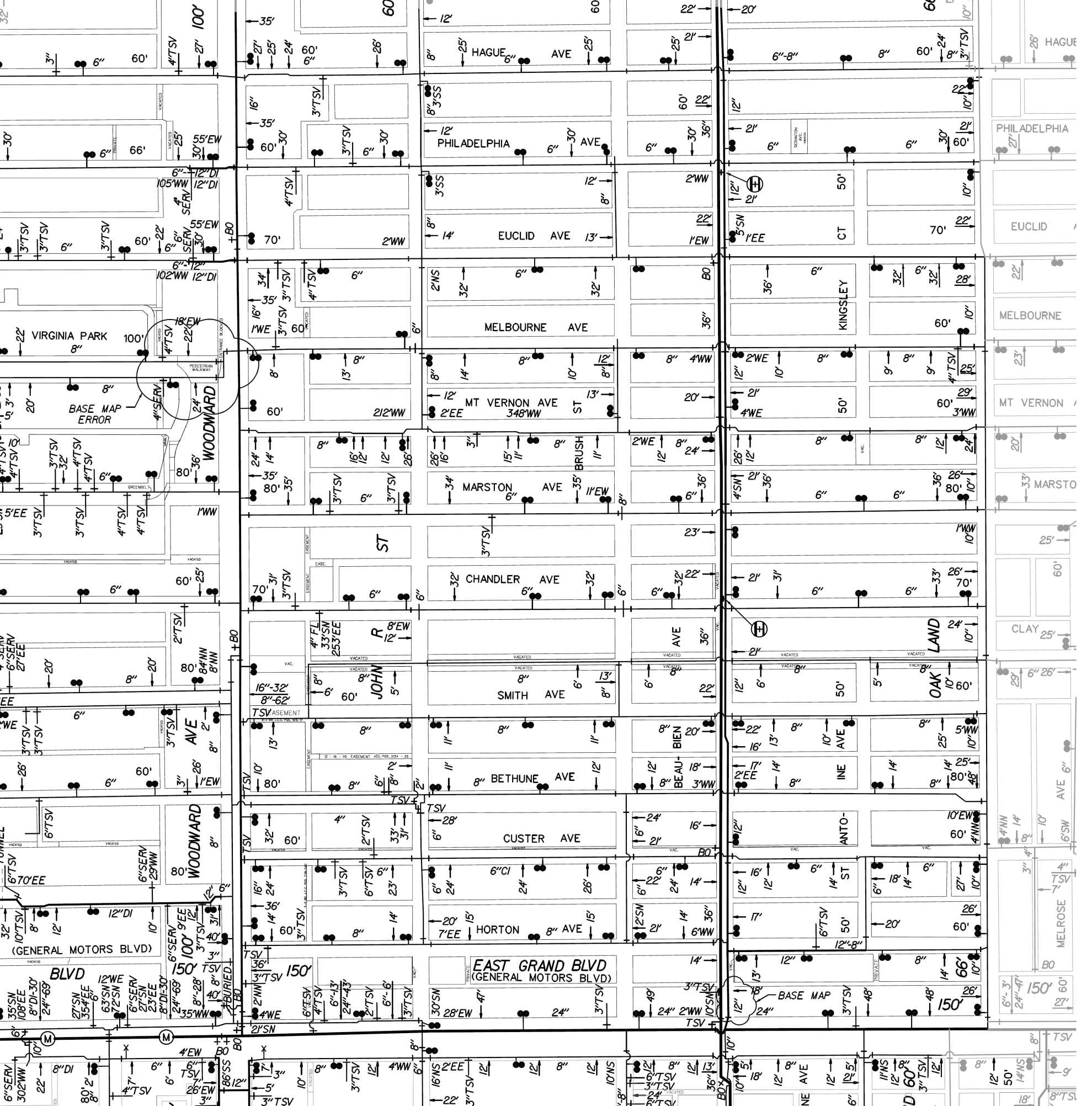
Abandoned

Distribution System Service Line



Sources: Esri, TomTom, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community, Maxar

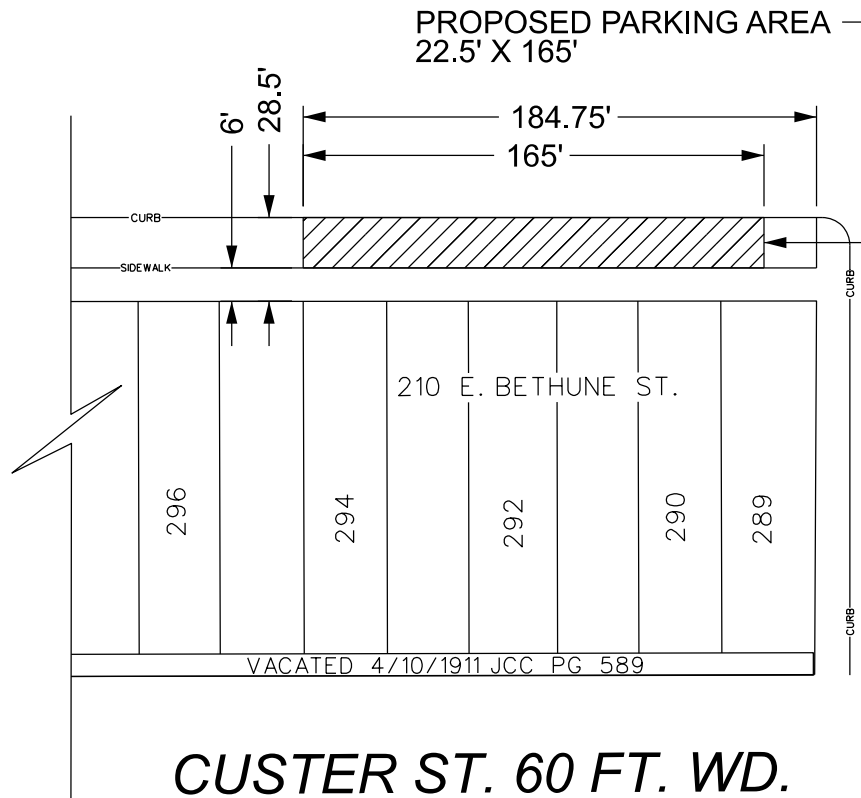




MAP-25-56



E. BETHUNE ST. 80 FT. WD.

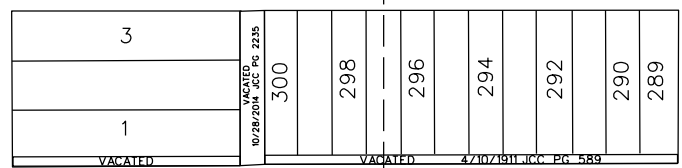


JOHN R. ST. 60 FT. WD.

CLUSTER ST. 60 FT. WD.

WOODWARD AVE. 120 FT. WD.

E. BETHUNE ST. 80 FT. WD.



CLUSTER ST. 60 FT. WD.

JOHN R. ST. 60 FT. WD.



- REQUEST ENCROACHMENT
(For Parking Area)

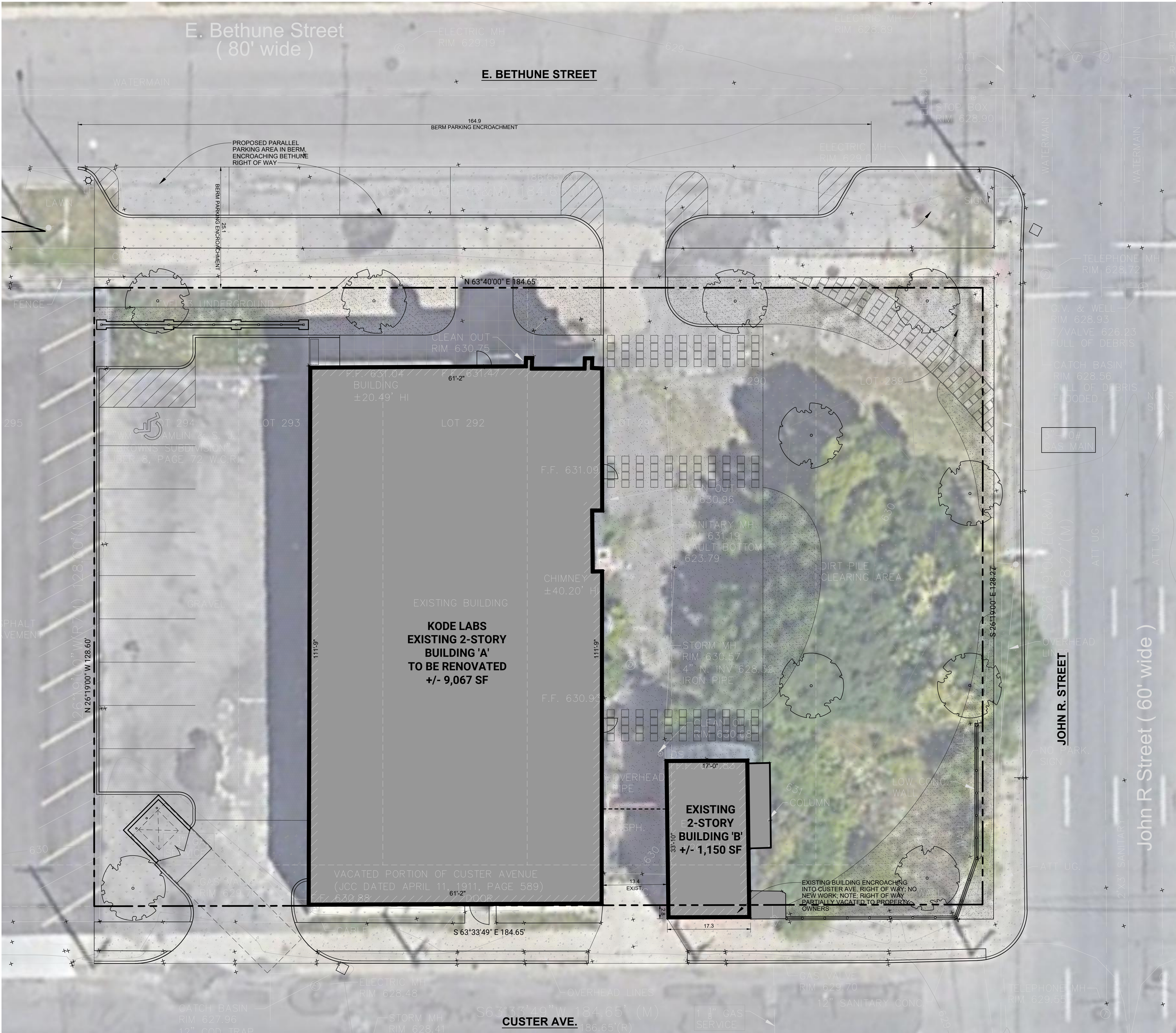
(FOR OFFICE USE ONLY)

CARTO 31 A

B					
A					
DESCRIPTION	DRWN	CHKD	APPD	DATE	
REVISIONS					
DRAWN BY	AP	CHECKED	LC / TS		
DATE	06-03-2025	APPROVED	GE		

**REQUEST ENCROACHMENT
INTO E. BETHUNE ST. 80 FT. WD.
AT 210 E. BETHUNE ST.**

CITY OF DETROIT	
CITY ENGINEERING DIVISION	
SURVEY BUREAU	
JOB NO.	25-56
DRWG. NO.	



SITE DATA SUMMARY TABLE	
DETROIT ZONING ORDINANCE 210 E BETHUNE ST. DETROIT, MI	
CURRENT ZONING	B-4, GENERAL BUSINESS DISTRICT
SEC. 50-9-106 BY RIGHT RETAIL, SERVICE, AND COMMERCIAL USES OFFICE / BUSINESS IS A BY-RIGHT USE IN THE B-4 DISTRICT	
B-4 MINIMUM LOT DIMENSIONS	NONE
TOTAL SITE AREA	23,680 SF
B-4 MINIMUM LOT WIDTH	NONE
EXISTING LOT WIDTH	185 FEET
PRIMARY STRUCTURE BUILDING 'A' AREA	
BASEMENT	465 SF
FIRST FLOOR	6,430 SF
SECOND FLOOR	2,172 SF
TOTAL	9,067 SF
ACCESSORY STRUCTURE BUILDING 'B' AREA	
FIRST FLOOR	475 SF
SECOND FLOOR	475 SF
TOTAL	950 SF
TOTAL BUILDING LOT COVERAGE	7,394 GSF
PRIMARY STRUCTURE	6,819 GSF
ACCESSORY STRUCTURE	575 GSF
PROPOSED TOTAL LOT COVERAGE	31.2%
MAX LOT COVERAGE (B4)	NONE
SEC. 50-13-45 B4 BUILDING SETBACKS (OFFICE/ COMMERCIAL IN B4 DISTRICT)	
FRONT	REQUIRED: NONE PROPOSED: 16 FT (EXISTING)
SIDE	REQUIRED: NONE PROPOSED: 43.9 FT (ONE SIDE EXISTING) PROPOSED: 79.7 FT (ONE SIDE EXISTING)
REAR	REQUIRED: NONE PROPOSED: 0.25 FEET (EXISTING)
BUILDING HEIGHT SEC. 50-13-45 (OFFICE/ COMMERCIAL IN B4 DISTRICT)	
MAX HEIGHT:	35 FT
PROPOSED HEIGHT (BUILDING 'A'):	32 FT (EXISTING)
PROPOSED HEIGHT (BUILDING 'B'):	22 FT (EXISTING)
SEC. 50-14-52 OFF STREET PARKING SCHEDULE (OFFICE USE) OFFICE BUSINESS OR PROFESSIONAL	
MINIMUM OFF STREET PARKING SPACES - 1 PER 400 SF	
MAXIMUM DISTANCE	100 FT
REQUIRED SPACES	17
50-14-49 OFF STREET PARKING SCHEDULE NOTE: RETAIL, SERVICE AND COMMERCIAL USES WHERE THE USE IS LOCATED WITHIN 0.50 MILES OF A HIGH FREQUENCY TRANSIT CORRIDOR REQUIRES 0.75 OF THE MINIMUM REQUIRED OFF-STREET SPACES SPECIFIED IN SEC. 50-14-52	
REQUIRED SPACES	13
PROPOSED	14 (INCLUDING 1 ADA)

HATCH LEGEND	
	CLOVER/ GRASS MIX LAWN AREA
	BUILDING FOOTPRINT
	CONCRETE
	DECORATIVE CONC. PAVING
	DECOMPOSED GRANITE
	ASPHALT PAVING
	NATIVE POLLINATOR GARDEN LANDSCAPE BEDS

**STUDIO
DETROIT
ARCHITECTS**

2040 PARK AVE. STE 200
DETROIT, MICHIGAN 48226
313.919.5886 • 313.909.3607
STUDIO-DETROIT.COM

DO NOT SCALE DRAWINGS

ISSUED	
10.5.22	REVIEW
05.29.25	RoW PETITIONS

DRAWN KJC
CHECKED KJC

SEAL

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CLIENT
KODE LABS

PROJECT 1943
210 E BETHUNE
DETROIT, MI 48202

SHEET

**ARCHITECTURAL
SITE PLAN**
SP1.1



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10.5.22	REVIEW
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DRAWN	KJC
CHECKED	KJC

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CLIENT
KODE LABS

PROJECT 1943
210 E BETHUNE
DETROIT, MI 48202

SHEET

accommodations, loans or other business transactions from the financial institution ("collateral benefits"). Indemnitor agrees that any and all such collateral benefits belong solely to First American and First American has no obligation to account to Indemnitor for the value of any such collateral benefits. If the funds are deposited into a special interest bearing account, all such interest will be added to and retained in the account as part of the security for First American. Any such interest earned will be attributed for tax purposes to the Indemnitor depositing same.

13. ESTOPPEL. NOTWITHSTANDING ANY POSSIBLE DIFFERENCE IN THE PARITY OF THE PARTIES HERETO, INDEMNITOR UNDERSTANDS THAT FIRST AMERICAN IS UNDERTAKING A RISK SIGNIFICANTLY GREATER THAN THAT UNDERTAKEN IN THE NORMAL COURSE OF PROVIDING TITLE INSURANCE POLICIES AND RELATED SERVICES BY ENTERING INTO THIS AGREEMENT AND ISSUING POLICIES OF TITLE INSURANCE IN RELIANCE ON THIS AGREEMENT AND EACH AND EVERY ONE OF THE COVENANTS, AGREEMENTS, REPRESENTATIONS, AND WARRANTIES OF INDEMNITOR CONTAINED HEREIN. THEREFORE, INDEMNITOR HEREBY DECLARES ITS WILLINGNESS TO ENTER INTO THIS AGREEMENT AND TO INDUCE FIRST AMERICAN TO ACCEPT THIS AGREEMENT, REALIZING THAT INDEMNITOR'S BEST INTEREST, IN THE OPINION OF INDEMNITOR, IS BEING SERVED THEREBY.

[signatures on following page]

File number: 1022830

NOTICE

THIS AGREEMENT CONTAINS PROVISIONS WHICH PERSONALLY OBLIGATE INDEMNITOR. IT IS STRONGLY RECOMMENDED THAT INDEMNITOR CONSULT LEGAL COUNSEL PRIOR TO EXECUTING THIS AGREEMENT.

Indemnitor:
General Contractor
Artisan Contracting LLC

By: Shane Overbey

Name: Shane Overbey

Title: Owner

Social Security or Tax I.D. No.

46-369-8452

Notice Address:

**535 Griswold, Suite 111-195
Detroit, MI 48226**

Social Security or Tax I.D. No.

Notice Address:

ADDRESS FOR NOTICE TO FIRST AMERICAN:

(If this information is not completed, please see Paragraph 10.)

Notice Address: 300 East Long Lake Road, Suite 300, Bloomfield Hills, MI 48304

EXHIBIT A

DESCRIPTION OF PROPERTY

File Number: 1022830

- **Street address: 210 E Bethune Detroit, MI 48202**
- **Legal description: Lots 289 through 294 and vacated Custer Avenue adjoining of WM Y. HAMLIN AND S.J. BROWN'S SUBDIVISION OF LOTS NO. 3 AND 4 QUARTER SECTION 57 10,000 ACRE TRACT, according to the plat thereof recorded in Liber 8 of Plats, Page 72 of Wayne County Records.**



City of Detroit
Department of Public Works
City Engineering Division

COLEMAN A. YOUNG MUNICIPAL CENTER
2 Woodward Ave. Suite 601
Detroit, Michigan 48226
Phone: (313) 224-3949 TTY: 711
www.detroitmi.gov

WRITTEN ACCEPTANCE OF THE TERMS AND CONDITIONS OF
DETROIT CITY COUNCIL RESOLUTION
PETITION NUMBER , ADOPTED

EBE Bethune LLC, whose address is

210 E. Bethune, Detroit, MI 48202 (hereinafter referred to as the "Permittee") do hereby accept the terms and conditions of the City Council Resolution granting Petition Number , and agrees to comply with its requirements; and further, that pursuant to the said Resolution, Permittee does hereby agree to defend, indemnify and save harmless the City of Detroit from any and all claims, liabilities, obligations, penalties, costs, charges, demands, losses, damages, or expenses (including without limitation, fees, and expenses of attorneys, expert witness and other consultants) that may be imposed upon, incurred by or asserted against the City of Detroit or its departments, officers, employees, or agents by reason of the issuance of said permit(s), or the performance or non-performance by the Permittee of the terms of the permit(s) hereof, or that may rise out of its activities described in said Resolution by Permittee and its personnel, agents, representatives and employees.

Permittee agrees to waive, release and discharge the City of Detroit or its departments, officers, employees, or agents from any and all liability, claims, demands, and causes of action whatsoever, legal and equitable, because of damages, losses, or injuries to Permittee or Permittee's property or both, arising from or related to Permittee's activities described in said Resolution. Permittee agrees and covenants not to sue the City of Detroit or its departments, officers, employees, or agents, and to refrain from instituting, continuing, presenting, subrogating, collecting or in any way aiding or proceeding upon any claims, judgments, debts, causes of action, suits and proceedings of any kind at law or in equity arising from or related to Permittee's activities described in said Resolution.

Date: **June 10, 2025**

Permittee Signature:

A handwritten signature in black ink, consisting of a series of loops and curves, positioned above a horizontal line.

Reference Information:

Accepting Office / Agent: **First American Title Insurance Company**

Property Address / Project Reference: **210 E Bethune, Detroit, MI 48202**

File Number: **1022830**

General Description of Project:

**INDEMNITY AGREEMENT VII
(General Contractor "Pay-if-Paid")**

INTRODUCTION

THIS INDEMNITY AGREEMENT VII (this "Agreement") is made and entered into as of this 1/31/25 by **Artisan Contracting LLC** (such named Persons, along with any other Person who executes this Agreement, individually and collectively, the "Indemnitor") in favor of FIRST AMERICAN TITLE INSURANCE COMPANY, a Nebraska corporation, its affiliates, subsidiaries, and agents (collectively "First American").

RECITALS:

- A.** Indemnitor is the general contractor in regard to the Project.
- B.** In connection with the Project, Construction of certain improvements has commenced or will commence on the Property.
- C.** In connection with a contemplated transaction involving the Property, First American has been requested to issue one or more Title Policies in respect to the Property insuring against loss or damage by reason of Mechanics' Liens.
- D.** In connection with future transactions, First American may issue one or more Title Policies insuring against loss or damage by reason of Mechanics' Liens. If First American, in its discretion, elects to issue a Title Policy for the Property, it will do so in material reliance on each of the covenants, agreements, representations, and warranties of Indemnitor set forth in this Agreement, and First American would not have issued a Title Policy but for such covenants, agreements, representations, and warranties of Indemnitor.

NOW, THEREFORE, the parties hereto agree as follows:

AGREEMENT:

- 1. DEFINITIONS.** As used herein, the following terms shall have the following meanings:

Construction:	Any and all work, labor, services, construction, alteration, maintenance, repair, and/or placement or segregation of materials which may give rise to the right for liens to be filed against the Property under the applicable statutes and/or equitable principles of the State.
Construction Costs:	All costs, fees, expenses, and/or obligations for or in connection with the Construction.
Effective Date:	The date this Agreement becomes effective in accordance with Paragraph 3 below.
General Contract:	The agreement(s) pursuant to which the Property Owner has engaged Indemnitor to build the Project, as may be amended from time to time.
Indemnity Obligations:	As set forth in Paragraph 5.1 of this Agreement.
Mechanics' Liens:	All liens or rights to lien against the Property which attach or are claimed against the Property due to Construction.
Person:	A natural person, or an artificial person (including, without limitation, a corporation, partnership, limited liability company, trust, or other artificial person), as the context may require.
Policy Date:	The "Date of Policy" as indicated on Schedule A of a Title Policy.
Project:	The work or works of improvement generally described in the "General Description of Project" line of the Reference Information.
Property:	That certain real property as described on Exhibit A attached hereto and incorporated herein by reference.
Property Owner:	The Person or Persons that own(s) the Property.
Reference Information:	The informational items indicated on the header of page one of this Agreement.
State:	The state, commonwealth, territory, or similar political subdivision in which the

	Property is located.
Subcontracts:	Any agreement(s) pursuant to which Indemnitor engages subcontractors or suppliers in furtherance of the Project, as may be amended from time to time.
Subcontractors:	Any Person(s) who may be owed Construction Costs under any Subcontract(s).
Title Policy(ies):	Policy or policies of title insurance issued by First American with respect to the Property.

2. REPRESENTATIONS AND WARRANTIES. As of the Effective Date, Indemnitor represents and warrants to First American as follows: (a) except as otherwise previously disclosed in writing to First American, all Construction Costs currently due to Indemnitor have been timely paid; (b) except as otherwise previously disclosed in writing to First American, all Construction Costs currently due to Subcontractors have been timely paid by Indemnitor; (c) except as otherwise previously disclosed in writing to First American, there are no Mechanics' Liens filed against the Property; (d) Indemnitor has no knowledge of any potential Mechanics' Liens that may be filed against the Property due to untimely payments of or disputes regarding Construction Costs; (e) Indemnitor and Property Owner are not affiliates, and there are no Person(s) who have a direct or indirect ownership interest in Indemnitor who also have a direct or indirect ownership interest in Property Owner; (f) the General Contract is the sole agreement between Indemnitor and Property Owner as to Indemnitor's compensation for building the Project, and the General Contract was negotiated between Indemnitor and Property Owner at arm's length and in the ordinary course of business.

3. EFFECTIVE DATE AND TERM.

3.1. Effective Date. The Effective Date of this Agreement shall be the earlier of the date First American issues or becomes contractually obligated to issue its Title Policy in connection with the Property. Where First American issues more than one Title Policy in connection with the Property, the Effective Date shall be the earliest Policy Date of the respective Title Policies. Indemnitor acknowledges and agrees that delivery of this Agreement by Indemnitor to First American shall not be deemed a commitment to issue a Title Policy for the Property. First American has no obligation or duty to Indemnitor, Property Owner, or any other person to accept this Agreement or, in the future, to issue a Title Policy for the Property solely by reason of this Agreement.

3.2. Term. Upon acceptance of this Agreement by First American as evidenced by the issuance of a Title Policy, this Agreement shall remain in effect until terminated by written agreement signed by each of Indemnitor and First American. Indemnitor acknowledges and agrees that First American may rely on this Agreement to issue a Title Policy at any time without notice to or further approval of Indemnitor.

4. MULTIPLE INDEMNITORS.

4.1. Joint and Several. If there is more than one Indemnitor under this Agreement, then all of the obligations contained in this Agreement shall be the joint and several obligations of each and every Indemnitor. Each Indemnitor shall be fully liable to First American even if another Indemnitor is not liable for any reason, including the failure of such Indemnitor to execute this Agreement.

4.2. Waiver and Release. First American has the right, in its discretion and without notice to or consent by Indemnitor, to (a) waive any provision of this Agreement as it relates to any Indemnitor, at any time or from time to time, without providing the same or similar waiver for the benefit of any other Indemnitor, and/or (b) release any Indemnitor from any or all obligations under this Agreement at any time or from time to time, without releasing any other Indemnitor.

5. INDEMNIFICATION OBLIGATIONS AND RELATED COVENANTS.

5.1. Payment of Construction Costs. Indemnitor covenants and agrees that, to the extent that Indemnitor receives payment for Construction Costs, Indemnitor shall cause all Construction Costs that are due under Subcontracts to be paid promptly and in full to any Subcontractors prior to the time for such Subcontractors' filing any Mechanics' Liens. Any Mechanics' Liens which arise in connection with Construction Costs for which Indemnitor receives payment (both for itself and as payor to Subcontractors under Subcontracts), are the "**Indemnity Obligations.**"

5.2. Indemnity. In addition to any other rights or remedies available to First American at law or in equity, Indemnitor agrees to pay, protect, defend, indemnify, hold and save harmless First American from and against any and all liabilities, claims, obligations, losses, costs, charges, expenses, causes of action, suits, demands,

judgments, and damages of any kind or character whatsoever, including, but not limited to, actual attorneys' fees and costs (including appellate fees and costs) incurred or sustained by First American, and actual attorneys' fees awarded against First American, directly or indirectly, by reason of, relating to, or arising under any Title Policy and relating to Indemnity Obligations, or in any other action at law or in equity under any theory of recovery as a result of the Indemnity Obligations. For the avoidance of doubt, it is the intent of the parties that all loss, cost, or expense relating to the Indemnity Obligations will be borne by Indemnitor, and not by First American.

5.3. Duty to Notify First American. Indemnitor shall notify First American in writing if Indemnitor is in any manner notified or becomes aware: (a) of a claim or dispute which relates to Mechanics' Liens; (b) of the filing or commencement of any action at law or in equity or any judicial or non-judicial proceeding (including mediation or arbitration) relating to Mechanics' Liens; (c) that the Property Owner no longer has committed funds sufficient to complete the Project; and/or (d) of any untimely payments of or disputes regarding Construction Costs that may give rise to any Mechanics' Lien. Indemnitor agrees to notify First American in writing of any such matter as soon as practicable, but in no event later than seven (7) days from Indemnitor's being notified or becoming aware of such matter.

5.4. Rights and Obligations. Indemnitor acknowledges and agrees that First American has a duty of good faith to its insured under any Title Policy. Therefore, upon the filing of any action at law or in equity or the assertion of any claim, cause of action, or judicial or non-judicial proceeding relating to the Indemnity Obligations, or at any other time which First American deems it necessary to protect itself or its insured under a Title Policy in light of First American's duties, First American shall have the right, but not the obligation, (1) to take such action as First American deems necessary to protect its interests and those of its insured under any Title Policy, and/or (2) to require that Indemnitor, at Indemnitor's sole cost and expense, promptly do one or more of the following:

- (a) Cause a valid release of any Mechanics' Lien that is an Indemnity Obligation to be filed of record in the proper governmental office.
- (b) Cause to be recorded with respect to any Mechanics' Lien that is an Indemnity Obligation a bond releasing the Property from the effect of such Mechanics' Lien, should such bond be available and effective in removing the effect of such Mechanics' Lien from the Property as a matter of law.
- (c) In situations where affirmative legal action or proceedings at law or in equity are necessary to discharge, eliminate, or remove any Mechanics' Lien that is an Indemnity Obligation, cause counsel selected by First American to institute such action or proceeding as is necessary to discharge, eliminate or remove such Mechanics' Lien. Indemnitor may object to First American's choice of counsel for reasonable cause. Indemnitor agrees to cause such counsel to keep First American and its insured(s) apprised as to the status of such action or proceeding, at no cost to First American.
- (d) If an action or proceeding concerning any Mechanics' Lien that is an Indemnity Obligation is instituted by a third party, cause such action or proceeding to be timely defended and resisted by counsel selected by First American, which counsel will protect First American and any and all insured(s) to whom First American may have potential liability as a result of such Mechanics' Lien. Indemnitor may object to First American's choice of counsel for reasonable cause. Indemnitor agrees to cause such counsel to keep First American and its insured(s) apprised as to the status of such action or proceeding, at no cost to First American.
- (e) If the payment of a sum of money will discharge, eliminate, or remove the effect of any Mechanics' Lien that is an Indemnity Obligation, pay such sum as is sufficient to discharge, eliminate, or remove such Mechanics' Lien in a manner legally sufficient to effect the release of such Mechanics' Lien of record, and deliver documents evidencing such payment to First American, in a form satisfactory to First American.
- (f) Take such action with respect to any Mechanics' Lien that is an Indemnity Obligation as First American authorizes Indemnitor in writing to undertake, provided that any such authority shall not be a waiver by First American to require Indemnitor at any time to comply with the foregoing subparagraphs of this Paragraph above, within ten (10) days of First American's written revocation of authority to take action other than that under any other subparagraphs of this Paragraph, and demand that Indemnitor comply with any other subparagraphs of this Paragraph.

Indemnitor covenants and agrees to cooperate with First American and to act diligently and in good faith in connection with First American's rights under this Paragraph 5.4.

5.5. Interest. Indemnitor agrees that any sums which are actually advanced or incurred by First American pursuant to this Agreement or by its exercise of any rights hereunder shall be repaid by Indemnitor to First American within ten (10) days of Indemnitor's receipt of First American's written demand therefor, together with

interest thereon at four percent (4%) above the prime rate as published in the Wall Street Journal as of the date such sum was first advanced by First American, and continuing until it is repaid in full, but in no event shall such rate of interest exceed the lesser of: (a) ten percent (10%) per annum, or (b) the maximum rate permitted by law in the State.

5.6. Determination of Coverage. Any determination of coverage by First American shall be conclusive evidence that the matter is within the Title Policy coverage as to the Mechanics' Liens for purposes of this Agreement. Indemnitor acknowledges and agrees that Indemnitor has no right to participate in First American's coverage decisions. If First American accepts the defense of a matter within the Title Policy as to any Mechanics' Lien that is an Indemnity Obligation with a reservation of rights, then all costs, damages, expenses, and legal fees actually incurred by First American shall be deemed within the terms and obligations of Indemnitor under this Agreement even if the matter is subsequently determined by a court to not be within the Title Policy as to such Mechanics' Lien.

5.7. Indemnitor's Right to Contest. Indemnitor may in good faith contest any Mechanics' Lien filed by any Subcontractor; however, Indemnitor's right to contest such Mechanics' Lien is subordinate to First American's rights under Paragraph 5.4. Indemnitor acknowledges and agrees that First American may, in its discretion, elect to exercise any of its rights under Paragraph 5.4 at any time, notwithstanding Indemnitor's contest of such Mechanics' Lien. Indemnitor covenants and agrees to provide First American written notice of any contested Mechanics' Lien, and Indemnitor covenants and agrees keep First American apprised as to the status of such contest, at no cost to First American.

6. REMEDIES. Indemnitor specifically acknowledges that upon any default by any Indemnitor under this Agreement, First American shall have the right to exercise any and all remedies available at law, in equity, or under this Agreement against any, some, or all of the Indemnitors, including but not limited to injunctive relief, specific performance, damages, self-help, and/or resort to any collateral held by First American to secure the obligations of Indemnitor under this Agreement.

7. SUBROGATION AND SUBORDINATION. Indemnitor hereby unconditionally grants to First American any and all rights of subrogation Indemnitor may have with respect to the Indemnity Obligations. Indemnitor agrees to promptly execute any documents with respect to the Indemnity Obligations or any other matter relating to this Agreement requested by First American with respect to such right of subrogation and to deliver same to First American. Indemnitor hereby subordinates any and all debts owed to any one Indemnitor from any other Indemnitor to the obligations owed to First American under this Agreement. Indemnitor acknowledges and agrees that First American is subrogated under its Title Policy to any obligations of Indemnitor that may be owed to First American's insured under such Title Policy, and nothing in this Agreement modifies, amends, replaces, or supersedes First American's rights under its Title Policy.

8. FINANCIAL INFORMATION.

8.1. Representations and Warranties Regarding Financial Information. Each Indemnitor represents and warrants to First American as follows regarding the financial information delivered with respect to such Indemnitor: (a) such financial statements are true, complete, accurate, and correct in all material respects; (b) such financial statements disclose all material financial information regarding Indemnitor; (c) such financial statements fairly and accurately present the financial condition and operations of Indemnitor; and (d) since the date of the financial statements as reflected thereon and the Effective Date, there has been no material adverse change in the financial condition of Indemnitor.

8.2. Covenants Regarding Financial Information. Should any Indemnitor be notified or become aware of any event which could be a material adverse change in the financial condition of such Indemnitor, then such Indemnitor shall provide written notice to First American as soon as practicable, but in no event later than seven (7) days after such Indemnitor is notified or becomes aware of such event. Upon request by First American, each Indemnitor further agrees to deliver to First American updated financial information. Each Indemnitor agrees that by delivery thereof, such Indemnitor shall be deemed to make all the same representations and warranties as to the updated financial information set forth above, except as otherwise disclosed in writing to First American concurrently with the delivery of the updated financial information.

9. WAIVERS AND RELATED COVENANTS. Indemnitor understands and agrees that First American has no obligation to secure an indemnity from the Property Owner. Indemnitor agrees that the validity of this Agreement and the obligations of Indemnitor hereunder shall in no way be terminated, affected, limited, or

impaired by reason of (a) the assertion by First American of any rights or remedies which it may have under any agreement or cause of action against any other Person (including but not limited to Property Owner); (b) First American's failure to exercise, or delay in exercising, any such right or remedy that First American may have against any other Person (including but not limited to Property Owner); (c) First American's failure to exercise, or delay in exercising, any right or remedy First American may have hereunder or in respect to this Agreement; (d) the commencement of a case under Title 11 of the United States Code and/or any similar State insolvency or creditors' rights laws by or against any Person (including but not limited to Property Owner); or (e) Indemnitor's ownership interest in the Property or lack thereof. Indemnitor further covenants that this Agreement shall remain and continue in full force and effect as to any Title Policies issued at any time by First American with respect to the Property and that First American shall not be under a duty to protect, secure, or enforce any rights it may have under any indemnity agreement or any other right against any third party, and that other indulgences or forbearances may be granted under any or all of such documents, all of which may be made, done or permitted without notice to, or further consent of, Indemnitor. First American may, at its option, proceed directly and at once, without notice, against any Indemnitor to collect and recover the full amount of the liability hereunder or any portion thereof, without proceeding against the Property Owner or any other Person. Indemnitor hereby waives and relinquishes (f) any right or claim of right to cause a marshaling of any Indemnitor's assets; (g) all rights and remedies accorded by applicable law to indemnitors or guarantors, except any rights of subrogation which Indemnitor may have, provided that the assurances and obligations provided for hereunder shall not be contingent upon the existence of any such rights of subrogation; (h) notice of acceptance hereof and of any action taken or omitted in reliance hereon; (i) presentment for payment, demand of payment, protest or notice of nonpayment or failure to perform or observe, or other proof, or notice or demand; (j) any defense based upon an election of remedies by First American, including without limitation an election to proceed in a manner which has impaired, eliminated or otherwise destroyed Indemnitor's rights of subrogation and reimbursement, if any, against the Property Owner or any third party; (k) any defense based upon any statute or rule of law which provides that the obligation of a surety must be neither larger in amount nor in other respects more burdensome than that of the principal; (l) the defense of the statute of limitations in any action hereunder or in any action for the collection or performance of any obligations covered by this Agreement; (m) and any duty on the part of First American to disclose to Indemnitor any facts First American may now or hereafter know about the Property Owner, since Indemnitor acknowledges that Indemnitor is fully responsible for being and keeping informed of the financial condition of the Property Owner and of all circumstances bearing on the risk of nonperformance of any obligations covered by this Agreement.

10. NOTICE. Any notices, demands or communications under this Agreement between Indemnitor and First American shall be in writing, shall include the Reference Information, and may be given either by commercial overnight delivery service, or by mailing via first-class United States certified mail, postage prepaid, return receipt requested. Any such notice, demand, or communication must be addressed to each party as set forth on the signature page of this Agreement. If the address for First American is not completed on the signature page, notice to First American shall be given to First American's office for the State. All notices given in accordance with the requirements in this Paragraph shall be deemed to be received as of the earlier of (a) actual receipt by the addressee thereof, or (b) the expiration of five (5) business days after depositing same with the commercial overnight delivery carrier or the United States Postal System, as applicable.

11. MISCELLANEOUS.

11.1. No Waiver. No delay, error, or omission by First American in exercising any right or power under this Agreement shall impair any such right or power or be construed as a waiver thereof. A waiver by First American of a breach of any of the covenants, agreements, restrictions, obligations, or conditions of this Agreement with respect to the Indemnitor shall not be construed as a waiver of any succeeding breach of the same or other covenants, agreements, restrictions, obligations or conditions under this Agreement. No waiver of any of First American's rights or powers under this Agreement is effective unless in writing and executed by First American.

11.2. No Third Party Beneficiaries. This Agreement is only between Indemnitor and First American, and is not intended to be, nor shall it be construed as being, for the benefit of any third party.

11.3. Partial Invalidity. If any term, provision, condition, or covenant of this Agreement or the application thereof to any party or circumstance is held invalid or unenforceable to any extent, the remainder of this Agreement, or the application of such term, provision, condition, or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, will not be affected thereby, and each term and provision of this Agreement will be valid and enforceable to the fullest extent permitted by law.

11.4. Modification or Amendment. Any alteration, change, modification, amendment, or supplement to this Agreement or any documents incorporated herein, in order to become effective, can only be made by written instrument executed by the party(ies) to be bound by the amendment.

11.5. Execution in Counterpart. This Agreement and any alteration, change, modification, amendment or supplement to this Agreement may be executed by Indemnitor in several counterparts, and as so executed, will constitute one agreement binding on all Indemnitors, notwithstanding that all Indemnitors are not signatories to the original or the same counterpart. Any signature page may be detached from its counterpart and attached to another counterpart so as to form one complete document. Counterparts executed and delivered by electronic means, including but not limited to facsimile or portable document format (PDF), shall be fully effective and binding and shall constitute originals.

11.6. Qualification; Authority. Each natural person executing this Agreement on behalf of an Indemnitor which is an artificial person represents, warrants, and covenants to First American that (a) such artificial person is duly formed, in good standing, and authorized to do business in the State, (b) such natural person is duly authorized to execute and deliver this Agreement on behalf of such artificial person in accordance with authority granted under the organizational documents of such artificial person, and (c) such artificial person is bound under the terms of this Agreement.

11.7. Merger of Prior Agreements and Understandings. This Agreement and other documents incorporated herein by reference contain the entire understanding and agreement between the parties relating to the obligations of the parties with respect to Mechanics' Liens, and all prior or contemporaneous agreements, understandings, representations, warranties, and statements, whether oral or written, shall be of no force or effect.

11.8. Jurisdiction and Venue. Indemnitor hereby submits to the personal jurisdiction of any state or federal court of First American's choosing having subject matter jurisdiction with respect to this Agreement, and Indemnitor waives any objection to venue therein should any action at law or in equity be necessary to enforce or interpret this Agreement. If any action at law or in equity is necessary to enforce or interpret this Agreement, then the prevailing party in such action shall be entitled to recover from the other party the prevailing party's actual attorneys' fees and other expenses incurred in connection with such action or proceeding in addition to its actual court costs.

11.9. Other. This Agreement is to be interpreted according to the laws of the State and is to be construed according to its fair meaning. All parties contributed materially to the preparation and negotiation of this Agreement, and this Agreement is not to be construed against any party. Titles and captions in this Agreement are for convenience only and are not part of the substance of this Agreement. The introduction, recitals, and Reference Information set forth hereinabove are all incorporated into this Agreement as material and essential terms of this Agreement. As used in this Agreement, masculine, feminine or neuter gender and the singular or plural number will each be deemed to include the others wherever and whenever the context so dictates. This Agreement inures to the benefit of and binds the personal representatives, successors, heirs, and assigns of the parties hereto.

12. SECURITY. Indemnitor has provided or will provide security for this Agreement to First American as follows:

<input checked="" type="checkbox"/> None at this time	<input type="checkbox"/> Letter of Credit Agreement w/ Sight Draft
<input type="checkbox"/> Security Agreement (Cash)	<input type="checkbox"/> Control Agreement
<input type="checkbox"/> Security Agreement (Non-Cash)	<input type="checkbox"/> Deed of Trust / Mortgage / Security Deed
<input type="checkbox"/> Security Agreement (Other)	<input type="checkbox"/> Other: _____

(Note: Please be advised that additional documents or actions may be needed to perfect a security interest. Please follow directions on said documents as to additional requirements or consult your local underwriter.)

A breach by an obligor, pledgor or debtor under any of the foregoing documents as well as any documents which may be referenced in such documents shall be deemed a breach by Indemnitor under this Agreement. Unless otherwise agreed in writing, any sums held by First American as security may be held by First American in its general accounts and not deposited into an interest bearing account. Indemnitor understands that as a result of maintaining its accounts with a financial institution and its on-going banking relationship with the specific financial institution, First American may receive certain financial benefits such as an array of bank services,