



Adopted as follows:
 Yeas — Council Members Ayers, Benson, McCalister, Jr., Tate and President Pro Tem. Sheffield — 5.
 Nays — None.

**Department of Public Works
 City Engineering Division**

September 17, 2021

Honorable City Council:

Re: Petition No. 1555 — Henry Ford Health System request to vacate to utility easement part of the public alley bounded between Seward Street, the southbound M-10 Service Drive, vacated Delaware Avenue, and Merrill Street. Also, for the outright vacation of part of vacated Delaware Avenue and the dedication of land for the use of public right of way from said alley to Seward Street.

Petition No. 1555 — Henry Ford Health System request to vacate to utility easement part of the public alley, various widths, bounded between Seward Street, 80 ft. wide, the southbound M-10 Service Drive, 50 ft. wide, vacated Delaware Avenue, 60 ft. wide, and Merrill Street, 60 ft. wide. Also, for the outright vacation of part of vacated Delaware Avenue and for the dedication of land for the use of public right of way from said alley to Seward Street.

The petition was referred to the City Engineering Division DPW for investigation (utility review) and report. This is our report.

The request is made as part of a consolidation of property by adjacent owners.

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

Detroit Water and Sewerage Depart-

ment (DWSD) has no objection provided certain provisions are met. The DWSD provisions are a part of the attached resolution.

All other involved City Departments, and privately owned utility companies have reported no objections. Provisions protecting utility installations are part of the attached resolution.

I am recommending adoption of the attached resolution.

Respectfully submitted,
 RICHARD DOHERTY
 City Engineer

City Engineering Division — DPW
 By Council Member Benson:

Resolved, The public alley, various widths, bounded between Seward Street, 80ft. wide, the southbound M-10 Service Drive, 50 ft. wide, vacated Delaware Avenue, 60 ft. wide, and Merrill Street, 60 ft. wide, further described as land in the City of Detroit, Wayne County, Michigan being: the public alley lying northerly of and adjacent to lots 1 through 4 of "Irving Place Subdivision" as recorded in Liber 1, Page 5 of Plats, Wayne County Records, and lying southerly of and adjacent to lot 1, lot 14 and the easterly 18 ft. of lot 13 of "Sullivan's Subdivision" as recorded in Liber 15, Page 69 of Plats, Wayne County Records.

Be and the same is hereby vacated as public right-of-way and converted into a private easement for public utilities of the full width of the right-of-way, which easement shall be subject to the following covenants and agreements, uses, reservations and regulations, which shall be observed by the owners of the lots abutting on said right-of-way and by their heirs, executors, administrators and assigns, forever to wit:

First, Said owners hereby grant to and for the use of the public an easement or

right-of-way over said vacated public alley herein above described for the purposes of maintaining, installing, repairing, removing, or replacing public utilities such as water mains, sewers, gas lines or mains, telephone, electric light conduits or poles or things usually placed or installed in a public right-of-way in the City of Detroit, with the right to ingress and egress at any time and over said easement for the purpose above set forth.

Second, Said utility easement or right-of-way in and over said vacated alley herein above described shall be forever accessible to the maintenance and inspection forces of the utility companies, or those specifically authorized by them, for the purpose of inspecting, installing, maintaining, repairing, removing, or replacing any sewer, conduit, water main, gas line or main, telephone or light pole or any utility facility placed or installed in the utility easement or right-of-way. The utility companies shall have the right to cross or use the driveways and yards of the adjoining properties for ingress and egress at any time to and over said utility easement with any necessary equipment to perform the above mentioned task, with the understanding that the utility companies, other than that specifically prohibited by this resolution, shall restore the easement surface to a satisfactory condition.

Third, Said owners for their heirs and assigns further agree that no buildings or structures of any nature whatsoever including, but not limited to, concrete slabs or driveways, retaining or partition walls (except necessary line fences or gates), shall be built or placed upon said easement, nor change of surface grade made, without prior approval of the City Engineering Division — DPW,

Fourth, That if the owners of any lots abutting on said vacated alleys shall request the removal and/or relocation of any existing poles or other utilities in said easement; such owners shall pay all costs incidental to such removal and/or relocation, unless such charges are waived by the utility owners,

Fifth, That if any utility located in said property shall break or be damaged as a result of any action on the part of said owners or assigns (by way of illustration but not limitation) such as storage of excessive weights of materials or construction not in accordance with Section 3, mentioned above, then in such event said owners or assigns shall be liable for all costs incidental to the repair of such broken or damaged utility; and

Provided, That property owners maintain for DTE Energy, full access to their facilities at all times (i.e. gated access with DTE locks at all ends of the easement) and that free and easy access to the DTE facilities is reserved for DTE equipment, including the use of back-

hoes, bulldozers, cranes or pipe trucks, and other heavy construction equipment, as necessary for the alteration or repair of DTE facilities, And Further

Provided, That an easement, the full width of the existing right-of-way, is reserved for the Detroit Water and Sewage Department for the purpose of installing, maintaining, repairing, removing, or replacing any sewers, water mains, fire hydrants and appurtenances, with the right of ingress and egress at any time to, and over said easement for the purpose above set forth; And Be It Further

Provided, That free and easy access to the sewers, water mains, fire hydrants and appurtenances within the easement is required for the Detroit Water and Sewerage Department equipment including the use of backhoes, bulldozers, cranes or pipe trucks, and other heavy construction equipment, as necessary for the alteration or repair of the sewer or water main facilities; And Be It Further

Provided, That the Detroit Water and Sewerage Department retains the right to install suitable permanent main location guide post over its water mains at reasonable intervals and at points deflection; And Be It Further

Provided, That said owners of the adjoining property, for themselves, their heirs and assigns, agree that no building or structure of any nature whatsoever, including porches, patios, balconies, etc., shall be built upon said easement without prior written approval and agreement with the Detroit Water and Sewerage Department; And Be It Further

Provided, That if any time in the future, the owners of any lots abutting on said vacated alley shall request the removal and/or relocation of the aforementioned utilities in said easement, such owners shall pay all costs incident to such removal and/or relocation. It is further provided that if sewers, water mains, and/or appurtenances in said easement shall break or be damaged as a result of any action on the part of the owner, or assigns, then in such event, the owner or assigns shall be liable for the costs incident to the repair of such broken or damaged sewers and water mains, and shall also be liable for all claims for damages resulting from his action And Be It Further

Provided, That if it becomes necessary to remove the paved alley returns at the entrances such removal and construction of the new curb and sidewalk shall be done under city permit and inspection according to City Engineering Division — DPW specification with all costs borne by the abutting owner(s), their heirs or assigns; And Further

Resolved, Delaware Street, vacated with reserve of a utility easement per City Council resolution on April 30th, 1980, lying southerly of and adjacent to lots 1

through 7 of and the easterly 13 ft. of lot 8 of "Block 4 of Delaware Irving Place Subdivision" as recorded in Liber 11, Page 5 of Plats, Wayne County Records, and lying northerly of and adjacent to lots 2, 3, 6, 7, 10, 11, 14 and the easterly 13 ft. of lot 15 of "Block 3 of Delaware Irving Place Subdivision" as recorded in Liber 11, Page 5 of Plats, Wayne County Records

Be and the same are hereby vacated (outright) as public rights-of-way to become part and parcel of the abutting property, subject to the following provisions:

Provided, That petitioner/property owner make satisfactory arrangements with any and all utility companies for cost and arrangements for the removing and/or relocating of the utility companies and city departments services, And Further

Provided, That the petitioner/property owner acknowledge that DWSD relinquishes all responsibility for underground sewers, if any, And Further

Provided, That the petitioner/property owner bear the entire cost of any modification to the sewer, in any, including costs related to construction, demolition, permitting, inspection, and survey, And Further

Provided, That any construction in the

public rights-of-way such as curbs and sidewalks shall be done under city permit and inspection according to City Engineering Division — DPW specifications with all costs borne by the abutting owner(s), their heir or assigns; And Further

Resolved, That your Honorable Body authorize the acceptance of the following described properties owned by the City of Detroit for public street purposes:

1. Land within "Sullivan's Subdivision" as recorded in Liber 15, Page 69 of Plats, Wayne County Records, described as being the westerly 16 ft. of lot 13.

Provided, That the entire work in constructing the new streets is to be performed in accordance with plans and specifications approved by City Engineering Division — DPW (CED) and constructed under the inspection and approval of CED; And Further

Provided, That the petitioner obtain Traffic Engineering Division, signature of approval on the final design and plans for the construction of the streets: 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.

