

ecute State Contract No. 76-1346 in behalf of the City of Detroit; and

BE IT FURTHER RESOLVED, That, the Finance Director is hereby authorized to transfer funds as follows:

From:

Appropriation No. 4189, Traffic Signals—Urban, Street Fund Major, \$197,358

Appropriation No. 4870, Federal Participation, Force Account & Construction Engineering, \$55,300

Appropriation No. 4870, State Participation, Force Account & Construction Engineering, \$1,028

To:

Appropriation No. 4870, Harper: Mt. Elliott to Moross, Urban Project M-2000 (022), \$253,686.

Adopted as follows:

Yeas—Council Members Cleveland, Eberhard, Hood, Kelley, Rogell, and President Levin—6.

Nays—None.

**Detroit Water and
Sewerage Department**

November 8, 1976

Honorable City Council:

Re: Petition No. 4243 of General Motors Corp. Requesting the Vacation of the Sewer Easements in Hall Street, McGregor Street and Adjacent Alleys and Permission to Encroach Into a Sewer Easement and Construct a Private Water Main in Merritt Avenue; Also Granting Of a Sewer Easement.

There is returned herewith Petition No. 4243 of the General Motors Corporation (Cadillac Division) requesting the following: the vacation of the existing easements in Hall Street, Merritt Avenue, McGregor Street and certain adjacent alleys that had been retained in Council actions of September 14, 1915, J.C.C. pages 1588-1589, July 24, 1934, J.C.C. page 1403, and April 1, 1941, J.C.C. page 924 whereby these streets and alleys were vacated; the acceptance by the City of a new sewer easement for an existing live 12-inch lateral sewer to replace the easements requested to be vacated; permission to construct a private 12-inch fire protection line in a portion of the public right-of-way of existing Merritt Avenue; and permission to construct a building over the 12-inch lateral sewer north of and parallel to Merritt and over the public sewer in vacated McKinstry Avenue north of Merritt Avenue.

The requests made in this petition are necessary in order that the Petitioner can construct a proposed new warehouse facility on property located at the northwest corner of Merritt and McKinstry.

An investigation of the records shows that the westerly half of McKinstry from Merritt to the railroad has never officially been opened as a street. The McKinstry sewer is located in the westerly half of the street.

In order to correct the above situa-

tion, the General Motors Corporation has agreed to grant a sewer easement to the City covering the westerly half of McKinstry in the area of the proposed building. This easement is an addition to the sewer easement originally submitted with the petition.

In the easement grant for both the McKinstry sewer and the 12-inch lateral sewer, the General Motors Corporation has reserved the right to construct their proposed warehouse over these sewers.

There is attached an executed copy of the easement agreement. The document has been approved as to form and execution by the Law Department.

The plans for the proposed warehouse have been reviewed by the Water and Sewerage Department. Adequate engineering precautions have been provided to protect both the sewers and the building.

The request to construct a 12-inch fire protection line in Merritt has been reviewed by the Environmental Protection and Maintenance Department.

It is recommended that the Petitioner's requests to vacate certain street and alley easements and to construct a private fire line in Merritt be granted in accordance with the attached resolution and that the attached executed sewer easement grants be confirmed.

Respectfully submitted,
CHARLES R. SCALES, JR.,
Director, DWSD

Approved:

JAMES W. WATTS
Director, EPMD

By Council Member Cleveland:

Resolved, That the sewer easement for the lateral sewer located in the alley north of and parallel to Merritt Avenue (formerly Annexation Street) which was retained by Council action of September 14, 1915, J.C.C. pages 1588-1589, in the vacation of McGregor Street and portions of Hall Street and the alleys all as shown on the plat of Joseph Hall's Subdivision of O.L. 43, PC30, L21, P42 of Plats, Wayne County, Michigan; also the sewer easement over that part of Outlot 43 of Plat of PC30 and Back Concession thereof as laid out by the Commissioners for dividing the estate of the late General John R. Williams, deceased 1857 as recorded in L1, P67 of Plats, Wayne County, Michigan, which was retained by Council action of July 24, 1934, J.C.C. page 1403; also the sewer easement retained by Council action of April 1, 1941 in the vacation of a portion of Hall St. and the alley north of and parallel to Merritt as platted in the aforementioned Joseph Hall's Subdivision be and the same are hereby cancelled as sewer easements and further

Resolved, That the easement granted to the City by General Motors Corporation for the 12-inch lat-

eral sewer in the vacated alley north of and parallel to Merritt and for the McKinstry sewer in the area north of Merritt and which has been executed by the General Motors Corporation and the Board of Water Commissioners is hereby confirmed and further

Resolved, That the Environmental Protection and Maintenance Department is hereby authorized and directed to issue a permit to the General Motors Corporation to construct a 12-inch water main for fire protection (with the necessary hydrants) to be located in the northerly 12 feet of Merritt Avenue, 50 feet wide, said encroachment shall be in an area described as: A portion of the Merritt Avenue (50 feet wide) right-of-way being the northerly 12 feet of said street extending from the westerly line of lot 3 of "Joseph Hall's Subdivision of part of Outlot 43, Private Claim 30", as recorded in Liber 21, Page 42, Plats, Wayne County records, easterly to the centerline of McKinstry Avenue, 50 feet wide,

PROVIDED, That the necessary permit be obtained from the Environmental Protection and Maintenance Department and that same shall be constructed and maintained under the rules and regulations of the Environmental Protection and Maintenance Department and the Building and Safety Engineering Department, in accordance with plans submitted to and approved by those Departments; and

PROVIDED, That said permittee shall be subject to any tax which may be properly assessed and levied against it; and

PROVIDED, That permittee at the time of obtaining said permit file with the Finance Department an indemnity agreement in form approved by the Law Department saving and protecting the City of Detroit harmless from any and all claims, damages, or expenses that may arise by reason of the issuance of said permit and the faithful performance by the permittee of the terms thereof; and in addition to pay all claims, damages or expenses that may arise out of the maintenance of said encroachment; and

PROVIDED, That the permittee shall acquire no implied or other privileges hereunder not expressly stated herein; that no rights in the public street or other public property shall be considered waived by this permission, which is granted expressly on the condition that the encroachment hereby permitted shall be removed at the expense of the permittee at any time said structure or installation is remodeled, rebuilt or otherwise changes so that the street or other public property affected thereby shall remain free of such encroachment; and

PROVIDED, That said permit shall be issued only after a certified copy

of this resolution has been duly recorded in the office of the Wayne County Register of Deeds, by and at the permittee's expense; and

PROVIDED, That this resolution is revocable at the will, whim or caprice of the City Council and that at any time the permit is revoked by the Council the said encroachment shall be removed by the permittee within the time directed, and that upon failure to do so, the Director of the Building and Safety Engineering Department or his agents may enter into and upon the premises and remove at the permittee's expense any part of said structures or installation which encroaches into or upon said street or other public property, and further provided, that the permittee hereby waives any right to claim damages or compensation from the City of Detroit, or from any official agent thereof, due to the trespass or damages resulting from removing any such encroachment upon street or other public property; and

PROVIDED, That the filing of the indemnity agreement and the securing of the necessary permit referred to herein shall be construed as acceptance of the terms of this resolution by the permittee; and

PROVIDED, That this permit shall not be assigned or transferred without the written approval of the City Council.

Adopted as follows:

Yeas — Council Members Cleveland, Eberhard, Hood, Kelley, Rogell, and President Levin — 6.

Nays — None.

Water & Sewerage Department

November 10, 1976

Honorable City Council:

Re: Second Amendatory Agreement to Lease-Purchase Agreement of August 3, 1959

On August 3, 1959 (JCC 1576) your Honorable Body approved an agreement between the County of Wayne, acting through its Board of Road Commissioners, and the City of Detroit, acting through its Board of Water Commissioners. This agreement, known as the Lease-Purchase Agreement, provided for the transfer of the Wayne County Metropolitan Water Supply System to this department.

On April 30, 1962 (JCC 941) your Honorable Body approved an amendment to the Lease-Purchase Agreement which provided for the design and construction of certain water mains. All of the requirements of the first amendatory agreement have been complied with to the satisfaction of the City.

The original agreement provided for annual payments by the City through the year 1991. No payments have been made since 1962 when a dispute arose regarding the schedule of payments.

During April of this year, after considerable negotiation between Wayne