

underground fuel oil tank encroaching beneath the public right-of-way into the east side of Fourteenth Avenue, 80 feet wide, between Bagley Avenue and Marantette Street, property described as:

Lots 73, 76, 79, 82, 85, 88, 91, 94 of "Plat of Subdivision of part of Peter Godfroys Farm, being part of Private Claim 726, South of the Chicago Road," City of Detroit, Wayne County, Michigan as recorded in Liber 1, Page 132, Plats, Wayne County Records;

Encroachment(s) to consist of two underground 6,000 gallon fuel oil tanks (one existing, one new installation) and appurtenances, including secondary-containment-liner(s), extending 16.58 feet by 60.50 feet (approximately) beneath the public right-of-way into the east side of Fourteenth Avenue (80 feet wide), in front of the above described property;

Provided, Said underground fuel tank installation shall be according to construction plans drawn by MJK Architects, Engineers, Planners, Inc., dated September 25, 1986; sheet numbers 1.1, 2.1 and 15.1; drawing number CA-8049 (submitted by petitioner); and

Provided, Said encroachment(s) shall be subject to all Detroit ordinances and codes governing below-ground fuel storage tank systems. The fuel tank encroachments shall be installed and maintained in accord with plans submitted to and approved by the Buildings and Safety Engineering Department and the Fire Marshall. These approvals shall be obtained before the issuance of a City Engineering Department encroachment permit; and

Provided, The use and placement of underground fuel tank systems shall comply with the rules and regulations of the Department of Transportation, the Fire Marshall and the Buildings and Safety Engineering Department; and

Provided, Said underground fuel tank installation requiring street opening, pavement replacement and barricade of City rights-of-way shall be done under City permit bonds and inspection with all costs borne by the petitioner; and

Provided, Said underground fuel tank installation shall be according to the horizontal and vertical clearance requirements (minimum 5 feet) from all Public Lighting Department street lights; and

Provided, The petitioner shall use care and caution to protect an existing Detroit Edison Company primary service line during construction; and

Provided, that the petitioner shall be liable for all incidental repair costs and/or damages to any public or private utility installations located therein. Ad-

ditionally, if it becomes necessary to repair or replace the utilities located or to be located in said public rights-of-way, by the acceptance of this permission, the owners for themselves, their heirs and assigns, waive claims for any damages to the encroaching installations and agree to pay the costs incurred in their removal, if their removal becomes necessary; and

Provided, That permittee at the time of obtaining said permits 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 permits 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 this resolution is revocable at the will, whim or caprice of the City Council, and permittee hereby waives any right to claim damages or compensation for removal of encroachment, and further, that permittee acquires no implied or other privileges hereunder not expressly stated herein; and

Provided, That this permit shall not be assigned or transferred without the written approval of the City Council; and

Provided, That a certified copy of this resolution shall be recorded with the Wayne County Register of Deeds. The petitioner shall pay all incidental recording costs.

Adopted as follows:

Yeas — Council Members Eberhard, Hood, Kelley, Mahaffey, Peoples, Ravitz, and President Henderson — 7.

Nays — None.

City Engineering Department

September 16, 1987

Honorable City Council:

Re: Petition No. 1111, F.O.C.U.S., Inc. Trinity Episcopal Church Conversion to easement of portion of north-south public alley first west of Trumbull between Sycamore and M. L. King Jr. Blvd.

Petition No. 1111 of F.O.C.U.S., Inc. requests the conversion of a portion of north-south public alley, 18 feet wide, first west of Trumbull Avenue between Sycamore Street and Martin Luther King Jr. Boulevard into an easement for public utilities.

The requested conversion into a public utility easement was approved by the Community and Economic Development Department. The petition was

referred to the City Engineering Department for investigation and report. This is our report:

The petitioner plans to use the paved street return entrance and requests such remain in its present status. The petitioner shall pay all incidental removal costs whenever discontinuance of use makes removal necessary.

City departments and privately-owned utility companies have reported no objection to the conversion of public right-of-way into a utility easement. Provisions protecting utility installations are part of the resolution.

The adoption of the attached resolution is recommended.

Respectfully submitted,
CLYDE R. HOPKINS
Director

By Council Member Eberhard:

Resolved, That all that part of the north-south public alley, 18 feet wide, first west of Trumbull Avenue between Sycamore Street and Martin Luther King Jr. Boulevard lying westerly of and abutting the west line of the north 16.00 feet of Lot 39, Lots 37 and 38; also lying easterly of and abutting the east line of Lot 36 of the "Plat of McKeown's Sub-division of the South part of Outlot 96, Woodbridge Farm, City of Detroit, Wayne County, Michigan, Town 2 South, Range 12 East," as recorded in Liber 3, Page 50, Plats, Wayne County Records;

Be and the same is hereby vacated as a public alley and is hereby converted into a public easement of the full width of the alley, 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 alley 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 alley in the City of Detroit, with the right to ingress and egress at any time to 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, remov-

ing, 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 tasks, with the understanding that the utility companies shall use due care in such crossing or use, and that any property damaged by the utility companies, other than that specifically prohibited by this resolution, shall be restored 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 fence and appurtenances incidental to playground development) shall be built or placed upon said easement, nor any change of surface grade made, without prior approval of the City Engineering Department,

Fourth, that if the owners of any lots abutting on said vacated alley 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, them 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 if it becomes necessary to remove the paved alley return at the entrance, such removal and construction of new curb and sidewalk shall be done under City permit and inspection according to City Engineering Department specifications with all costs borne by the petitioner, their heirs or assigns; and

Provided Further, That a certified copy of this resolution shall be recorded with the Wayne County Register of Deeds. The petitioner shall pay all incidental recording costs.

Adopted as follows:

Yeas — Council Members Eberhard, Hood, Kelley, Mahaffey, Peoples, Ravitz, and President Henderson — 7.

Nays — None.