

Further, I believe the garage is being sold for less than fair market value and that loss of available parking spots to Comerica is unfair to other downtown workers who will have to find alternative parking spaces.

City Engineering Department
September 20, 1990

Honorable City Council:

Re: Planning Department — Street to Easement. Additional portion of remaining Bates Street, south of E. Jefferson.

A petition from the "Planning Department" requests the conversion of an additional portion of remaining Bates Street, 50 feet wide, south of E. Jefferson Avenue into an easement for public utilities.

Bates Street, 50 feet wide, was previously closed between the north line of old Atwater Street (50 feet wide) and the south line of E. Jefferson Avenue (210 feet wide) by City Council on August 2, 1955 to construct the (existing) underground garage. However, to retain the "as built" condition of said garage it is necessary to close an additional portion of said Bates Street.

A "letter of understanding" (LOU), associated with the Comerica Headquarters project, called for the sale of the underground garage. The LOU was approved by your Honorable Body on July 18, 1990.

The request 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 City Engineering Department has contacted all involved City departments and/or utilities. Existing access and maintenance rights will be retained. Provisions protecting utility installations are part of the resolution.

The adoption of the attached resolution is recommended with a waiver of reconsideration (as requested by the Planning Department).

Respectfully submitted,
CLYDE R. HOPKINS,
Director

By Council Member Kelley:

Resolved, All that part of the remaining portion of Bates Street, 50 feet wide, lying between the north line of (vacated) Atwater Street (50 feet wide) and a line 15.50 feet southerly of and parallel to said north line of Atwater Street of the "Plan of Section numbered four in the City of Detroit in the Territory of Michigan, confirmed by the Governor and Judges" (also known as the Governor and Judges Plan) as recorded in Liber 34, Pages 546 and 547, Deeds, Wayne County Records;

Be and the same is hereby vacated as public street and is hereby converted into a public easement of the full width of the street, 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 street 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 street 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 street 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 street 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 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 (except the existing underground parking structure, subject to and/or together with all previously granted easements or rights of record; also except the proposed public plaza development associated with the Comerica Headquarters project) shall be built or placed upon said easement, nor 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 street 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 further

Provided, That the City Clerk shall within 30 days, record a certified copy of this resolution with the Wayne County Register of Deeds, and send a certified copy to the State Treasurer.

Adopted as follows:

Yeas — Council Members Cleveland, Collins, Eberhard, Hill, Hood, and Kelley — 6.

Nays — Council Members Butler, Ravitz, and President Mahaffey — 3.

*WAIVER OF RECONSIDERATION (No. 3), per Motions before Adjournment.

City Engineering Department

September 11, 1990

Honorable City Council:

Re: Planning Department Street to Easement Auditorium Drive, south of E. Jefferson.

A petition from the "Planning Department" requests the conversion of Auditorium Drive, 40 feet wide, south of E. Jefferson Avenue into an easement for public utilities.

Auditorium Drive was established as a public street by City Council on May 25, 1971 (J.C.C. pgs. 1191-92).

A "letter of understanding" (LOU), associated with the Comerica Headquarters project, called for the development of a public plaza, including all of said Auditorium Drive. The LOU was approved by your Honorable Body on July 18, 1990.

The request 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 City Engineering Department has contacted all involved City departments and/or utilities. Existing access and maintenance rights will be retained. Provisions protecting utility installations are part of the resolution.

The adoption of the attached resolution is recommended with a waiver of reconsideration (as requested by the Planning Department).

Respectfully submitted,

CLYDE R. HOPKINS

Director

By Council Member Kelley:

Resolved, All of Auditorium Drive, 40 feet wide, south of E. Jefferson Avenue, described as follows:

Land in the City of Detroit, County of Wayne, Michigan, being part of Lots 3, 4, 59, 60, 61, 62, 63, 64, 68, 69 and 70 of the "Plan of section numbered four in the City of Detroit in the Territory of Michigan confirmed unanimously by the Governor and the Judges and ordered to be a record (27th day of April 1807) and attested by the Secretary of the Board, Liber 34 Page 546 and 547 of Deeds, Wayne County Records"; and part of Lot 5 of a Plat of Lots 1 and 2 in Section No. 4 (Governor and Judges Plan) in the City of Detroit, as the same have been subdivided into lots for P. J. Desnoyer by John Mullett, Surveyor, recorded July 20, 1831 and in Liber 5 Page 181 of Deeds, Wayne County Records, and parts of vacated North-South and East-West public alleys (20 feet wide) vacated on August 2, 1955 by the Common Council, J.C.C. Page 1623, and parts of vacated Woodbridge Street, 50 feet wide, and vacated Bates Street, 50 feet wide, vacated on July 26, 1955 by the Common Council, J.C.C. Page 1579, being more particularly described as follows:

Beginning at the point of intersection of the South line of Jefferson Avenue, 210 feet wide, and the center line of said Auditorium Drive, 40 feet wide, said point being 114.17 feet N. 59° 50' 26" E., from the East line of Woodward Avenue 120 feet wide; thence 232.83 feet S. 30° 09' 34" E. along the centerline of Auditorium Drive, 40 feet wide, to a point of curvature; thence along the arc of a curve concave to the north, a radius of 31.90 feet with a chord length of 43.33 feet which bears S. 72° 58' 12" E. to a point of compound curve; thence along the arc of a curve concave to the north, a radius of 275.00 feet, a chord length of 42.00 feet which bears N. 59° 50' 26" E., to a point of compound curve; thence along the arc of a curve concave to the north, a radius of 31.90 feet, a chord length of 43.33 feet, which bears N. 12° 39' 04" E., to a point of tangency; thence 232.83 feet N. 30° 09' 34" W. to a point of intersection of the center line of said Auditorium Drive and said south line of Jefferson Avenue; thence S. 59° 50' 26" W., 100.90 feet to the point of beginning, (said Auditorium Drive having been established as a public street by City Council on May 25, 1971 — J.C.C. pgs. 1191-92);

Be and the same is hereby vacated as public street and is hereby converted into a public easement of the full width of the street, 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 street

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 street 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 street 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 street 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 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 (except the existing underground parking structure, subject to and/or together with all previously granted easements or rights of record; also except the proposed public plaza development associated with the Comerica Headquarters project) shall be built or placed upon said easement, nor 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 street 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 con-

struction 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 further

Provided, That the City Clerk shall within 30 days, record a certified copy of this resolution with the Wayne County Register of Deeds, and send a certified copy to the State Treasurer.

Adopted as follows:

Yeas — Council Members Cleveland, Collins, Eberhard, Hill, Hood, and Kelley — 6.

Nays — Council Members Butler, Ravitz, and President Mahaffey — 3.

*WAIVER OF RECONSIDERATION (No. 4), per Motions before Adjournment.

Community & Economic Development Department

September 14, 1990

Honorable City Council:

Re: Comerica Headquarters Project:
Acceptance of Ford Auditorium Garage From the Detroit Building Authority (DBA) and The Subsequent Transfer of Ford Auditorium Garage from the City of Detroit to the Downtown Development Authority of the City of Detroit (DDA) for sale to Comerica Center Limited Partnership, a Michigan Limited Partnership.

On July 18, 1990, your Honorable Body approved and ratified a certain letter agreement dated July 9, 1990 (the "Letter of Understanding"). The Letter of Understanding requires the Ford Auditorium Garage (Garage) to be deeded by the City to the DDA free and clear of all encumbrances, liens, leases, and licenses, and of all parties in possession (except Permitted Encumbrances, as defined in the Letter of Understanding, which shall include the rights of the State of Michigan, if any, in the portion of the Garage lying under Jefferson Avenue). The Letter of Understanding calls for the DBA to transfer the Garage to the City for the sum of \$5,000,000 in immediately available funds, and other good and valuable consideration (consisting of the public benefits anticipated to be derived from the Project) to be paid by the City with funds provided by the DDA in consideration for the City's simultaneous transfer of the Garage to the DDA.

It also calls for the City to enter into a Transfer Agreement with the DDA for the transfer of the Garage to the DDA in accordance with the foregoing. The DDA will negotiate a Development and Loan Agreement with Developer, calling for the transfer of the Garage to the Developer. The DDA shall in turn convey the Garage to the Developer for the sum of \$724,000, together with other good and