

or about June 27, 1986, and that said amount be paid upon receipt of Judgment of Lawsuit No. 86-630-903 NI approved by the Law Department.

Approved:

DONALD PAILEN
Corporation Counsel
By: ABIGAIL ELIAS
Deputy Corporation Counsel

Adopted as follows:

Yeas — Council Members Butler, Cleveland, Collins, Eberhard, Hill, Hood, Kelley, Ravitz, and President Mahaffey — 9.

Nays — None.

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

Law Department

March 27, 1990

Honorable City Council:

Re: Robert Price vs. City of Detroit, a municipal corporation, Detroit Police Department, Police Officer Gregory Riffle and Police Officer David Malhalab, Jointly and Severally. Civil Action No. 88 804 344 NZ Our File No. 87-8088 (ELP).

We have reviewed the above-entitled matter. Judgment was entered in the amount of Eight Thousand Five Hundred and 00/100 Dollars (\$8,500.00). It is our considered opinion that payment of the amount of Eight Thousand Eight Hundred Fourteen and 90/100 Dollars (\$8,814.90), which includes interest to April 27, 1990 plus interest in the amount of \$2.35 per day from April 27, 1990 to date of payment, is in the best interest of the City of Detroit.

We, therefore, request this Honorable Body to direct the Finance Director to issue her draft in the amount of \$8,814.90 payable to Robert Price and his attorneys, Turner & Turner, P.C., plus interest of \$2.35 per day from April 27, 1990, until date of payment, to be delivered upon receipt of properly executed Satisfaction of Judgment. Waiver of reconsideration is requested in this matter.

Respectfully submitted,
LARRY R. FARMER
Supervising Assistant
Corporation Counsel

Approved:

DONALD PAILEN
Corporation Counsel
By: ABIGAIL ELIAS
Deputy Corporation Counsel

By Council Member Kelley:

Resolved, That the Finance Director be and she is hereby authorized and directed to draw her warrant upon the proper fund in favor of Robert Price and his attorneys, Turner & Turner, P.C., in the sum of Eight Thousand Eight Hun-

dred Fourteen and 90/100 Dollars (\$8,814.90), including interest computed to April 27, 1990, plus additional interest of \$2.35 per day from April 27, 1990, until date of payment in full of any claims which they may have against the City of Detroit as a result of alleged injuries sustained and that said amount be paid upon presentation of properly executed Satisfaction of Judgment of Lawsuit No. 88-804-344 NZ approved by the Law Department. Waiver of reconsideration is requested in this matter.

Approved:

DONALD PAILEN
Corporation Counsel
By: ABIGAIL ELIAS
Deputy Corporation Counsel

Adopted as follows:

Yeas — Council Members Butler, Cleveland, Collins, Eberhard, Hill, Hood, Kelley, Ravitz, and President Mahaffey — 9.

Nays — None.

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

City Engineering Department

May 4, 1990

Honorable City Council:

Re: Petition No. 3880 (b), Community and Economic Development Department, Forest Park Rehabilitation Project No. 2, (Pepsi-Cola Company Production Facility), Rail Spur Easement, to allow for the optional installation of a privately-owned side track across (proposed) Dequindre, south of E. Canfield.

To develop properties and operate a bottling facility (in Forest Park Rehabilitation Project No. 2) the Pepsi-Cola Company wants the option to install a privately-owned side (railroad) track across (proposed) Dequindre Street, 78 feet wide, south of E. Canfield Avenue.

Under a Development Agreement between the City of Detroit, the Economic Development Corporation and the Pepsi-Cola Metropolitan Bottling Company (Pepsi-Cola), the City agreed to grant Pepsi-Cola a perpetual easement for a rail spur track crossing Dequindre Street from the Pepsi-Cola property. Under the terms of the attached resolution, if Pepsi-Cola desires to exercise its rights it must comply with the requirements of City Code Sec. 45, Article 2. The attached resolution has been approved by the Community and Economic Development Department and there is no legal objection by the Law Department.

It is necessary for City Council to grant a "rail spur easement" to allow for the optional installation of any side track or spur track.

An appropriate resolution is attached

for consideration by your Honorable Body.

Respectfully submitted,
ELMORE M. KENNEDY
Deputy Director

By Council Member Hood:

Resolved, The following portion of (proposed) Dequindre Street, 78 feet wide, south of E. Canfield Avenue, is hereby granted to the Pepsi-Cola Metropolitan Bottling Company, a New Jersey corporation (the "Grantee") as a perpetual rail spur easement to allow for the optional installation of a privately-owned spur track and related improvements across a public street right-of-way; being described as follows:

Land in the City of Detroit, County of Wayne, Michigan being part of Lots 1, 31 and 32 of the "Plat of Subdivision of Lot 6 of Out Lot 4, Dequindre Farm," as recorded in Liber 7, Page 67 of Plats, Wayne County Records; a 30 foot wide railroad easement whose centerline is more particularly described as follows: Commencing at the intersection of the easterly line of Russell Street, 60 feet wide, and a line 140.00 feet northerly of and parallel to the southerly line of Superior Street, 50 feet wide, said point being also the northwest corner of Lot 5 of "F. P. Russell's Subdivision of that part of Out Lots 18 and 19, Guoin Farms, lying between Willis Avenue and Superior Street," as recorded in Liber 21, Page 29 of Plats, Wayne County Records; thence N. 63°53'58"E., along said parallel line 1138.71 feet to a line 48.0 feet westerly of and parallel to the westerly line of Dequindre Street, 30 feet wide; thence S. 26°10'06"E., along said parallel line 389.42 feet to the point of beginning of the railroad easement; thence N. 10°06'45"W., 282.04 feet to the easterly line of Dequindre Street, 30 feet wide, platted in the above said "Plat of the Subdivision of Lot 6 of Out Lot 4, Dequindre Farm," as recorded in Liber 7, Page 67 Plats, Wayne County Records and the point of ending, containing 8,460 square feet or 0.1942 acres more or less.

Provided, The Grantee and its tenants, subtenants, licensees, invitees and concessionaires, and their respective employees, customers, guests and invitees (including governmental authorities, contractors, suppliers and the like) may use the rail spur easement for the following purposes (the "Permitted Uses"):

(a) To install, construct, operate, repair, maintain and replace a rail spur track (including switches, railway crossing lights and gates and related improvements; collectively, the "Rail Spur Improvements") within the (proposed) public street right-of-way as permitted by Detroit Code Section 45, Article 2, and to

conduct within the (proposed) public street right-of-way all construction, maintenance, engineering or other activities reasonably incidental thereto.

(b) To repair or otherwise keep clear for rail car passage the portion of the (proposed) public street right-of-way upon which the Rail Spur Improvements will be installed and constructed.

(c) To install, construct, maintain, repair and replace within the (proposed) public street right-of-way any utilities or improvements reasonably necessary or desirable for the operation, use, maintenance, repair and replacement of the Rail Spur Improvements.

(d) To use the Rail Spur Improvements installed and constructed within the (proposed) public street right-of-way to ship, receive, or transfer freight cars upon such spur track in accord with the terms and conditions of Detroit Code Section 45, Article 2.

(e) To provide access to the portion of the (proposed) public street right-of-way upon which the Rail Spur Improvements will be installed and constructed for trucks, graders, bulldozers and other construction vehicles to the extent reasonably necessary to construct, install, maintain, repair or replace the Rail Spur Improvements; and further

Provided, The City retains the right (at its discretion) to install, repair, maintain and replace (or authorize a third party to do so) utilities and Greater Detroit Resource Recovery Authority facilities within the (proposed) public right-of-way, provided that such utilities are installed or located underground (at such depths) or above ground (at such heights) so as to avoid interference with the Grantee's right to make Permitted Use of the (proposed) public right-of-way; and

Provided, The rail spur easement is subject to the rights of the public to travel across (proposed) Dequindre Street for ordinary vehicular and pedestrian passage and normal public access; and

Provided, The construction, installation, use, maintenance, repair and replacement of the Rail Spur Improvements shall be performed and conducted in accordance with all applicable laws, regulations and ordinances and otherwise in a manner which prevents any damage to existing utility improvements and Greater Detroit Resource Recovery Authority facilities located within the (proposed) public right-of-way and further enables the installation of additional underground utility improvements without extraordinary expense or difficulty; and

Provided, The Grantee (at the time of obtaining permits) shall file with the Finance Director of the City of Detroit a combined surety bond and agreement,

approved as to form and execution by the Law Department, binding the Grantee to abide by and perform the terms and conditions of Detroit Code Section 45, Article 2, including:

(a) The payment of the annual fee required by Detroit Code Section 45, Article 2;

(b) The regulated paving, repaving or repairing, at the sole cost and expense of the Grantee, the roadway and the sidewalk between the rails and for a distance of eighteen (18) inches outside thereof (or further, if necessary to cover the approaches), for installing and repairing the necessary drainage in connection therewith (whenever such is deemed necessary for public safety by the City Engineering Department);

(c) The repairing or rebuilding, at the sole cost and expense of the Grantee, any spur track included in any permit whenever such shall be deemed necessary for public safety by the City Engineering Department;

(d) The indemnifying and saving the City of Detroit harmless from any loss or damage, cost and expenses, including any arising from personal injury and property damage, it may suffer or may be recovered against it arising through accidents or otherwise from the Grantee's use of such (proposed) public street right-of-way, or by reason of the issuance of such permit, or growing out of the defective condition of so much of the public right-of-way as the Grantee is obligated to maintain under the provisions of Detroit Code Section 45, Article 2;

(e) The waiver of all grade separation damages which may be suffered by the Grantee in connection with any spur track included in any permit, and to perform all such further conditions in connection therewith as the City Council shall require;

(f) The installation and maintenance, at the sole cost and expense of the Grantee, of any crossing protection devices deemed necessary by the City or the State public service commission for the protection of the public.

Adopted as follows:

Yeas — Council Members Butler, Cleveland, Collins, Eberhard, Hill, Hood, Kelley, Ravitz and President Mahafey — 9.

Nays — None.

*WAIVER OF RECONSIDERATION
(No. 5) per motions before Adjournment.

Economic Development Corporation
May 4, 1990

Honorable City Council:
Re: Superb Manufacturing, Inc. Request
for Public Hearing on Project Plan.
On April 27, 1990 the Economic Development Corporation (EDC) requested a

public hearing be held on the Project Plan for Superb Manufacturing. Subsequently, your Honorable Body approved a resolution setting the public hearing on said Project Plan for May 11, 1990 at 9:55 a.m.

However, Public Act 338, as amended, requires the EDC to mail, post and publish notices of the public hearing a minimum of 15 days prior to the public hearing date.

In order to fulfill this statutory notification period, the EDC respectfully requests rescheduling of the May 11, 1990 public hearing to a date and time on or between June 1 and June 6, 1990.

Respectfully submitted,

JACK PRYOR

Executive Vice President

**City Council Resolution Setting
Hearing Date For The Economic
Development Corporation Of The City
of Detroit (Superb Manufacturing, Inc.
Project)**

By Council Member Hood:

Whereas, This City Council, in conformity with Act 338 of Public Acts of 1974, as amended ("Act 338"), has previously approved a Project Area and Project District Area with respect to The Economic Development Corporation of the City of Detroit (Superb Manufacturing, Inc. Project); and

Whereas, This City Council has received a Project Plan for said Project and wishes to set the date for public hearing on said Project Plan, including the issuance of Four Million Five Hundred Thousand (\$4,500,000) Dollars Limited Obligation Economic Development Revenue Bonds;

Now, Therefore, Be It Resolved By The City Council Of The City Of Detroit, As Follows:

1. A public hearing on the Project Plan, including the issuance of \$4,500,000 Limited Obligation Economic Development Revenue Bonds (Superb Manufacturing, Inc. Project) for said Project shall be held at 10:00 o'clock, a.m., local time, on THE 4TH DAY OF JUNE, 1990, or such other date to which the public hearing may be adjourned in the City Council Chambers, in the City-County Building, in the City of Detroit, County of Wayne, Michigan. At such hearing, the City Council of the City of Detroit shall provide an opportunity for interested persons to be heard and shall receive and consider communications in writing with reference to the hearing and the proposed Plan. The hearing shall provide the fullest opportunity for the expression of opinion, for arguments on the merits, for introduction of documentary evidence pertinent to the proposed Project Plan and the proposed bond issue, and the location and nature of the