

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, 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 including, but not limited to, concrete slabs or driveways, retaining or partition walls, (except necessary line fence; said fence and gate installations shall be subject to the review and approval of the Fire Marshal and Buildings and Safety Engineering Department, if necessary) 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 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, 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 if it becomes necessary to remove the paved alley return at the entrance (into Brainard Street), such removal and construction of new curb and

sidewalk shall be done under City permit and inspection according to City Engineering Division — DPW specifications with all costs borne by the owner(s) of the Cass Corridor Neighborhood Development Corp., Inc. properties, their heirs or assigns; 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.

Adopted as follows:

Yeas — Council Members Cleveland, Cockrel, Everett, Hill, Hood, Ravitz, Scott, Tinsley-Williams, and President Mahaffey — 9.

Nays — None.

**Department of Public Works
City Engineering Division**

December 19, 1996

Honorable City Council:

Re: Petition No. 1725 - Amended Resolution. Difco Laboratories. Utility Easement to Vacation a 12.50 feet by 30.00 feet part of the eastern side of Fifth between Henry and Pine.

Petition No. 1725 of "Difco Laboratories, Inc." requests the outright vacation of a part (12.50 feet by 30.00 feet) of the converted utility easement being part of the eastern side of Fifth Street (50 feet wide) between Henry and Pine Streets. City Council granted the petition on July 31, 1996 (J.C.C. page 1823). However, Difco made an adjustment in the location of a proposed truck loading dock by 1.50 feet. The adjustment requires an amended resolution, that changes the legal description by 1.50 feet. One measurement will change from 92.50 feet to 91.00 feet in the legal description.

The 1.50 feet adjustment in the legal description does not harm utility installations.

I am recommending adoption of the attached (amended) resolution.

Respectfully submitted,
SUNDAY JAIYESIMI
City Engineer

By Council Member Hill;

Whereas, Petition No. 1725 of "Difco Laboratories, Inc." requests the outright vacation of a part (12.50 feet by 30.00 feet) of the converted utility easement being part of the eastern side of Fifth Street (50 feet wide) between Henry and Pine Streets [said Fifth Street having been converted into a private easement for public utilities by City Council on February 1, 1984 - J.C.C. pages 170-71]; and

Whereas, City Council previously granted Petition No. 1725 on July 31, 1996 (J.C.C. page 1823). However, "Difco" made an adjustment in the location of a proposed truck loading dock by 1.50 feet. The adjustment requires an amended resolution, that changes the legal descrip-

tion by 1.50 feet. One measurement will change from 92.50 feet to 91.00 feet in the legal description, and

Whereas, "Difco Laboratories, Inc." submitted a letter (dated November 25, 1996) to the City Engineering Division - Department of Public Works requesting an adjustment in the location of a proposed truck loading dock by 1.50 feet, and

Whereas, The 1.50 feet adjustment in the legal description does not harm utility installations; therefore be it *(for the purpose of amending one measurement in the legal description)*

Resolved, All that part of the private easement for public utilities being the northerly 30.00 feet of the southerly 91.00 feet of the easterly 12.50 feet of Fifth Street (50 feet wide, between Henry and Pine Streets; said Fifth Street having been converted into a private easement for public utilities by City Council on February 1, 1984 - J.C.C. pages 170-71); also being an easterly part of said Fifth Street lying westerly of and abutting the west line of the northern 23.00 feet of Lot 6, and the southern 7.00 feet of Lot 7, Block 16, of "Crane and Wesson's Section of the Forsyth Farm between Chicago and Grand River Roads", City of Detroit, Wayne County, Michigan as recorded in Liber 44, Pages 10 and 11, Deeds, Wayne County Records;

Be and the same is hereby vacated (outright) as part of a private easement for public utilities to become part and parcel of the abutting property, subject to the following provisions:

Provided, That before any construction shall be permitted within said vacated (outright) part of the converted utility easement, mentioned above, Difco Laboratories, Inc., shall apply to the Buildings and Safety Engineering Department for a building permit. Simultaneously, the petitioner shall submit said building plans to the Water and Sewerage Department (DWSD) for review and approval. All costs for plan review associated with the protection of a water main and/or other construction that may be required by DWSD [designed to prevent damages and maintain minimum clearances from public sewer(s) and water main(s)], including but not limited to inspection and permits, shall be paid by Difco Laboratories, Inc. and/or their contractors; 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.

Adopted as follows:

Yeas — Council Members Cleveland, Cockrel, Everett, Hill, Hood, Ravitz, Scott, Tinsley-Williams, and President Mahaffey — 9.

Nays — None.

Department of Public Works City Engineering Division

December 4, 1996

Honorable City Council:

Re: Petition No. 2083. Fitzgerald Finishing Company. Utility Easement to Vacation and Alleys to Easement southern part of Brimson, east of Filer; also remaining public alleys in the block bounded by Filer, Railroad, McNichols and Davison.

Petition No. 2083 of "Fitzgerald Finishing Company" requests the (outright) vacation of the southern 35.00 feet of Brimson Avenue, 70 feet wide, east of Filer Avenue. The southern 35.00 feet of Brimson was previously converted into a private easement for public utilities by City Council on October 25, 1995 (J.C.C. pages 2718-19). The petition also requests the conversion of the remaining public alleys (16, 18 and 20 feet wide) in the block bounded by Filer Avenue, New York Central Railroad, E. McNichols Road, and E. Davison Avenue.

The requests were approved by the Traffic Engineering Division - DPW and the Solid Waste Division - DPW. The petition was referred to the City Engineering Division - DPW for investigation (utility review) and report. This is our report:

The City is owner in fee of the east-west public alley, 20 feet wide, first south of Brimson Avenue and east of Filer Avenue. The public alley was acquired by deed on April 23, 1929 (J.C.C. page 1048). Therefore, the Finance Director must execute a Quit-Claim Deed to transfer the vacated public right-of-way to Fitzgerald Finishing Company.

Satisfactory arrangements have been made with the Ameritech/Michigan Bell Telephone Company, and the Detroit Edison Company regarding the relocation and/or alteration of their facilities in the utility easement or (former public street) right-of-way.

All other City departments and privately owned utility companies have reported no objections to the requested (outright) vacation. Provisions protecting utility installations (in the public alleys) are a part of the resolution.

Fitzgerald Finishing Company plans to use the paved public street return into Filer Avenue; and requests such remain in its present status. Fitzgerald Finishing Company will pay all expenses to remove the paved public street return whenever discontinuance of use makes removal necessary; subject to City specifications, permits and inspection.

I am recommending adoption of the attached resolution.

Respectfully submitted,
SUNDAY JAIYESIMI
City Engineer

By Council Member Hill:

Resolved, All that part of the southern 35.00 feet of Brimson Avenue, 70 feet