

cle access to all existing building structures and hydrants.

Detroit Water and Sewerage Department (DWSD) has no objection to the requested conversion to easement vacations, provided certain conditions are met. The specific DWSD conditions and provisions for granting of private easements are included in the resolution.

All other involved City Departments, and privately owned utility companies informed of this petition have reported no objections to the vacations. Milano Bakery's commitment to continue working with all involved public and private utilities to protect their installations is incorporated in the attached resolution.

I am recommending adoption of the attached resolution and further respectfully request that your Honorable Body adopt the following resolution with a Waiver of Reconsideration.

Respectfully submitted,
RICHARD DOHERTY, P.E.

City Engineer

City Engineering Division — DPW

By Council Member Benson:

Resolved, For the outright vacation all of the following parts of Eliot Street in the City of Detroit, Wayne County, Michigan further described as:

Eliot Street, 50 feet wide, from Russell Street, 86 feet wide to Riopelle Street, 50 feet wide: lying southerly of and adjoining the southerly line of Lots 17 through 24, both inclusive and the vacated alleys adjoining said Lots 17, 18 and 24 "Walter Crane's Subdivision of Out Lot No. 24 Guoin Farm" as recorded in Liber 20, Page 24 of Plats, Wayne County Records; also lying southerly of and adjoining the southerly line of Lot 24 and vacated alley adjoining, and lying northerly of and adjoining the northerly line of Lot 25 and vacated alley adjoining "Subdivision of Lots 55, 56, 59, 60, 63 and part of 52 of the Riopelle Farm, North of Gratiot Street" as recorded in Liber 1, Page 20 of Plats, Wayne County Records; also lying northerly of and adjoining the northerly line of a parcel of land being die south 296 feet of the north 321 feet of the west 306.60 feet, measured (306.90 feet, record) of Out Lot 25 lying east of and adjoining the east line of Russell Street "A part of the Guoin Farm, North of the Gratiot Road as subdivided at the request of the Corporation, Oct. 19, 1834 A. Hathon - Surveyor" as recorded in Liber 9, Page 83 of City Records, Wayne County Records.

Be and the same is hereby vacated as a public right-of-way and converted into a private easement for public utilities of the full width of the right-of-way, 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 right-of-way 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 task, 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 fences), shall be built or placed upon said easements, nor change of surface grade made, without prior approval of the City Engineering Division DPW, provided, however, said owners may maintain, repair and replace any existing concrete slabs or driveways and all existing fences in their location existing on the date hereof.

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 making such request 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 negligent or wrongful 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 causing such damage shall be liable for all costs incidental to the repair of such broken or damaged utility; and

Provided, That the Public Lighting Department shall have unimpeded access to their facilities in the easement area for maintenance and repairs, and further,

Provided, That the petitioner maintain Fire Department vehicle access to all buildings, structures, fire hydrants, and fire department connections, and further

Provided, That an easement, the full width of the existing right-of-way is reserved for DTE Electric Company (DTE) for the purpose of installing, maintaining, repairing, removing, or replacing any overhead and underground utilities facilities which may consist of underground vaults, pipelines, poles, guys, anchors, wires, manholes, conduits, pipes, cables, transformers, and accessories (collectively DTE facilities) with the right of ingress/egress at any time to, and over said easement for the purpose above set forth, and further

Provided, That free and easy access to the DTE facilities within the easement is reserved for DTE equipment including the use of backhoes, bulldozers, cranes or pipe trucks, and other heavy construction equipment, as necessary for the alteration or repair of the facilities, and further

Provided, Said owners of the adjoining property for themselves, 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, shall be built or placed upon said easements, nor changes or storage of materials, shall be made within said easement without prior written approval of DTE, provided, however, said owners may maintain, repair and replace any existing concrete slabs or driveways and all existing fences in their location existing on the date hereof, and further

Provided, That an easement, the full width of the existing right-of-way, is reserved for the Detroit Water and Sewerage Department for the purpose of installing, maintaining, repairing, removing, or replacing any sewers, water mains, fire hydrants and appurtenances, with the right of ingress and egress at any time to, and over said easement for the purpose above set forth; and be it further

Provided, That free and easy access to the sewers, water mains, fire hydrants and appurtenances within the easement is required for Detroit Water and Sewerage Department equipment, including the use of backhoes, bulldozers, cranes or pipe trucks, and other heavy construction equipment, as necessary for the alteration or repair of the sewer or water main facilities; and be it further

Provided, That the Detroit Water and

Sewerage Department retains the right to install suitable permanent main location guide posts over its water mains at reasonable intervals and at points of deflection; and be it further

Provided, That said owners of the adjoining property, for themselves, their heirs and assigns, agree that no building or structure of any nature whatsoever, including porches, patios, balconies, etc., shall be built upon or over said easement, or that no grade changes or storage of materials shall be made within said easement without prior written approval and agreement with the Detroit Water and Sewerage Department, provided, however, said owners may maintain, repair and replace any existing concrete slabs or driveways and all existing fences in their location existing on the date hereof; and be it further

Provided, That if any time in the future, the owners of any lots abutting on said vacated street shall request the removal and/or relocation of the aforementioned utilities in said easement, such owners making such request shall pay all costs incident to such removal and/or relocation. It is further provided that if sewers, water mains, and/or appurtenances in said easement shall break or be damaged as a result of any negligent or wrongful action on the part of the owner, or assigns, then in such event, the owner or assigns causing such damage shall be liable for all costs incident to the repair of such broken or damaged sewers and water mains; and be it further

Provided, That if it becomes necessary to remove the paved street return at the entrances (into Russell Street, and/or Riopelle 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 abutting owner(s), their heir 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; and further

Resolved, That the Planning and Development Department Director, or his authorized designee, be and is hereby authorized to issue a quit claim deed conveying the vacated right of way described hereinabove to Milano Bakery, Inc., confirming the transfer of the right of way as described in that certain deed given by the City to Milano Bakery, Inc. on October 28, 1997 and recorded in Liber 29745, Page 1003, Wayne County Records; and

Be It Finally

Resolved, That the Director of the Planning and Development Department, or his authorized designee, be and is hereby authorized to execute any required instruments to make or incorporate technical amendments or changes to the deed and

