

City Engineering Department

November 27, 1989

Honorable City Council:

Re: Petition No. 913, Ace-Tex Corporation (a/k/a Mechanics Laundry Co.), All's to Easement portion of the north-south and east-west public alleys north of W. Warren between 14th and 15th; also requesting permission to encroach across the (north-south) alley with a roof-canopy and an overhead conveyor system.

(In an addendum letter submitted to the City Engineering Department, dated November 10, 1989) Petition No. 913 of "Ace-Tex Corporation" requests the conversion of a portion of the north-south and the east-west public alleys, (both) 20 feet wide, north of W. Warren Avenue between Fifteenth and Fourteenth Streets into an easement for public utilities; also to encroach along the west side of and across the (converted) north-south public alley with a roof canopy and an overhead conveyor system to transport laundry between buildings (2244 W. Warren and 5021 Fourteenth) owned by the petitioner.

The owner of H and H Wheel Service at 5111 Fourteenth, abutting the east-west public alley (20 feet wide; having been deeded to the City of Detroit on April 15, 1919 — J.C.C. page 531), has agreed (in a letter submitted to the City Engineering Department, dated November 10, 1989) to the public alley closings and the encroachment.

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 owner of H and H Wheel Service plans to use the alley return entrance (into Fourteenth) for access to employee parking. The business owner shall pay all incidental costs to construct an approved concrete commercial driveway, or alley return removal costs whenever discontinuance of use makes removal necessary.

Further, the City owns the east-west public alley (20 feet wide; west of Fourteenth Street and north of W. Warren Avenue) in fee. Therefore, the Finance Director must execute a quit-claim deed to transfer converted public right-of-way to H and H Wheel Service, Inc.

The Detroit Edison Company has agreed to the proposed roof canopy and

overhead conveyor encroachment, provided the petitioner maintains clearance from Edison (overhead) primary service utility wire. Edison will provide their clearance requirements to the petitioner. Detroit Edison has reached satisfactory agreement with the petitioner regarding the relocation of (overhead) secondary service utility wire near the proposed encroachment.

To protect the Public Lighting Department's (PLD) existing access rights to their "Warren Substation" site, the southerly 68.00 (linear) feet of the north-south public alley, 20 feet wide, will remain open. (NOTE: An easement, 20'x51', for access was reserved for the PLD — Warren Substation on January 17, 1967 — J.C.C. page 51, over property described as follows: The north 20.00 feet of the south 28.00 feet of the west 51.00 feet of Lot 492 of the "Plat of Part of the Godfrey Farm, Private Claim 726, lying North of Grand River Avenue," City of Detroit, Wayne County, Michigan as recorded in Liber 7, Page 55, Plats, Wayne County Records.)

Provisions protecting the Water and Sewerage Department's interests in the public sewer are incorporated into the resolution.

All other City departments and privately-owned utility companies have replied they have no objection to the proposed conversion or the encroachment. Should damages to utilities occur the petitioner shall be liable for all incidental repair costs and waives all claims for damages to the encroaching installations.

An appropriate resolution is attached for consideration by your Honorable Body.

Respectfully submitted,

CLYDE R. HOPKINS

Director

By Council Member Kelley:

Resolved, The City Engineering Department is hereby authorized to issue permits to "Ace-Tex Corporation" to construct and maintain a roof canopy and an overhead conveyor system (to transport laundry between buildings at 2244 W. Warren and 5021 Fourteenth, owned by the petitioner) encroaching along the west side and across the north-south (converted public) alley, 20 feet wide, north of W. Warren Avenue between Fifteenth and Fourteenth Streets, property described as:

The north 12.00 feet of Lot 492, and Lots 493 thru 497, inclusive, also Lot 498 (except that part of the north 15.00 feet of the east 105.00 feet) of the "Plat of Part of the Godfrey Farm, Private Claim 726, lying North of Grand River Avenue," City of Detroit, Wayne County, Michigan as recorded in Liber 7, Page 55, Plats, Wayne County Records; also a part of

Private Claim 44 (lying east of Fifteenth Street and north of W. Warren Avenue) as platted in "Obrien's Subdivision of the East Half of the Private Claim No. 44 known as the LaFontaine Farm, North of Warren Avenue, Town 2 South, Range 11 East (Springwells Township)," City of Detroit, Wayne County, Michigan as recorded in Liber 8, Page 84, Plats, Wayne County Records;

Encroachment to consist of a roof canopy and an overhead conveyor system (to transport laundry between buildings at 2244 W. Warren and 5021 Fourteenth, a/k/a Mechanics Laundry Company, owned by the petitioner) along the west side and across the north-south (converted public) alley, 20 feet wide, abutting the above described property;

Provided, The petitioner shall make application to the Buildings and Safety Engineering Department for a building permit. The roof canopy and the overhead conveyor system encroachment shall be installed and maintained in accord with plans (prepared and sealed by a professional architect registered in the State of Michigan) submitted to and approved by the Buildings and Safety Engineering Department (B&SE) and the Water and Sewerage Department (DWSD) — Sewer Services Section. All costs for plan review, inspection, and permits shall be paid by the petitioner; and further

Provided, The height of the proposed roof canopy shall be adjusted to maintain a minimum ground clearance (16 to 18 feet: required by public and/or private utilities) from the proposed overhead conveyor system, installed beneath said canopy, and the (converted public) alley pavement; and further

Provided, The proposed roof canopy shall be clear of any existing utility poles in the (converted public) alley as required by the Detroit Edison Company. Also the petitioner shall maintain clearance from Edison (overhead) primary service utility wire. (Edison will provide their clearance requirements to the petitioner.) Additionally, the petitioner shall pay all costs to relocate Edison (overhead) secondary service utility wire(s) and/or poles near the proposed encroachment, and further

Provided, That prior to any necessary overhead wire and/or utility pole relocation work within (remaining) public rights-of-way, the petitioner shall obtain permits from the Public Lighting Department (Detroit Code Section 42). All costs for plan review, inspection, and permits shall be paid by the petitioner; and further

Provided, If the public sewer or overhead utility wires located (or to be located) in said (converted public) alley shall break, causing damage to any construction, property or materials, the petitioner or their assigns (by acceptance of

permits for construction over the public sewer or near overhead utility wires) waives all claims for damages to the encroaching installations and agree to pay the costs incurred in their removal, if removal becomes necessary, and further

Provided, If the public sewer or overhead utility wires located (or to be located) in said (converted public) alley shall break or be damaged as a result of any action on the part of the petitioner or their assigns (by way of illustration but not limitation, such as storage of excessive weights of materials, or any construction not in accordance with Provisions 1 thru 4 above), then the petitioner or assigns shall be liable for all costs incidental to the repair of the broken or damaged public sewer and/or overhead utility wires. The petitioner and assigns shall be liable for all claims, damages, or expenses resulting from their action(s); and further

Provided, The permittee (at the time of obtaining said permits) shall file with the Finance Director 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 expense that may arise out of the maintenance of said encroachment; and further

Provided, The (encroachment) resolution is revocable at the will, whim or caprice of the City Council, and the permittee hereby waives any right to claim damages or compensation for removal of encroachment, and further, that the permittee acquires no implied or other privileges hereunder not expressly stated herein, and

Provided, That the (encroachment) permit shall not be assigned or transferred without the written approval of the City Council, and be it further

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Resolved All that part of the north-south public alley (not previously vacated), 20 feet wide, north of W. Warren Avenue between Fifteenth and Fourteenth Streets lying westerly of and abutting the west line of the north 12.00 feet of Lot 492 and Lots 493 thru 498, inclusive, also lying westerly of and abutting the west line of the south 20.00 feet of Lot 499 of the "Plat of Part of the Godfroy Farm Private Claim 726, lying North of Grand River Avenue," City of Detroit, Wayne County, Michigan as recorded in Liber 7, Page 55, Plats, Wayne County Records; also lying easterly of and abutting the east line of a part of Private Claim 44 (described as the northerly 272.00 feet of the southerly 340.00 feet

of the westerly 106.85 feet of that part of Private Claim 44; lying east of Fifteenth Street, 60 feet wide, and north of W. Warren Avenue, 70 feet wide) as platted in "Obrien's Subdivision of the East Half of the Private Claim No. 44 known as the LaFontaine Farm, North of Warren Avenue, Town 2 South, Range 11 East (Springwells Township)," City of Detroit, Wayne County, Michigan as recorded in Liber 8, Page 84, Plats, Wayne County Records; also

All of the east-west public alley, 20 feet wide, north of W. Warren Avenue between Fifteenth and Fourteenth Streets, having been platted as the south 20.00 feet of Lot 499 of the "Plat of Part of the Godfroy Farm, Private Claim 726, lying North of Grand River Avenue," City of Detroit, Wayne County, Michigan as recorded in Liber 7, Page 55, Plats, Wayne County Records (having been deeded to the City of Detroit for public alley purposes on April 15, 1919—J.C.C. page 531);

Be and the same are hereby vacated as public alleys and are hereby converted into a public easement of the full width of the alleys, 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 alleys 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 alleys 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 alleys 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 other structures of any nature whatsoever including, but not limited to, concrete slabs or driveways, retaining or partition walls (except necessary line fence; also except the DWSD and B&SE approved roof canopy and overhead conveyor system encroachment, installed along the west side and across the herein above described north-south public alley, referenced above in the encroachment portion of this resolution) 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 alleys 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 material, 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

Provided, That if the alley return entrance (into Fourteenth) is used for access to employee parking, the owner of H and H Wheel Service, Inc. shall pay all costs to construct an approved concrete commercial driveway; subject to City Engineering Department specifications, permit, and inspection and

Provided, That if it becomes necessary to remove the alley return at the (Fourteenth Street) 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 owner of H and H Wheel Service, Inc. 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, and be it further

Resolved, The Finance Director is hereby authorized and directed to execute a quit-claim deed to transfer the following converted public (alley) right-of-way to "H and H Wheel Service, Inc.," 5111 Fourteenth Street, Detroit, Michigan 48208 (for the fair market value and/or other considerations):

Land in the City of Detroit, Wayne County, Michigan being the south 20.00 feet of Lot 499 of the "Plat of Part of the Godfroy Farm, Private Claim 726, lying North of Grand River Avenue," as recorded in Liber 7, Page 55, Plats, Wayne County Records; containing 2,900 square feet or 0.0666 acres, more or less; subject to an easement for public utilities.

Adopted as follows:

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

Nays — None.

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