

City Engineering Department

August 5, 1993

Honorable City Council:

Re: Petition No. 3084, Ammex, Inc.
Street to Easement, part of 23rd
between Porter Street and Lambie Place.

Petition No. 3084 of "Ammex, Inc." requests the conversion of a part of Twenty-Third Street, 60 feet wide, between Porter Street and Lambie Place into an easement for public utilities. (NOTE: The "residential" public alley (20 feet wide; in the block bounded by 24th, 23rd, Porter, and Lambie Place) portion of this petition, will be processed by the Community and Economic Development Department in conjunction with the Law Department under Detroit Code Section 50, Article 6.)

The public street closing request was approved by the Community and Economic Development Department, Traffic Engineering Division — Department of Public Works, and Planning Department. The public street part of the request was referred to the City Engineering Department for investigation (utility clearances) and report. This is our report:

The City is owner in fee of a part of Twenty-Third Street (60 feet wide; between Porter and Lambie Place), having been acquired by deed and/or court condemnation in 1882. Therefore, the Finance Director must execute a quit-claim deed to transfer a part of vacated public right-of-way.

City departments and privately-owned utility companies have reported no objections to the conversion of public rights-of-way into a utility easement. Provisions protecting utility installations are part of the resolution.

An appropriate resolution is attached

for consideration by your Honorable Body.

Respectfully submitted,

CLYDE R. HOPKINS

Director

By Council Member Everett:

Resolved, All that part of Twenty-Third Street, 60 feet wide, between Porter Street and Lambie Place lying westerly of and abutting the west line of the south 24.13 feet of Lot 77, and Lots 75 and 76; also lying easterly of and abutting the east line of Lots 72 thru 74 of the "Subdivision of Lots 51, 50, 47 and the North Half of 46, Porter Farm," City of Detroit, Wayne County, Michigan as recorded in Liber 1, Page 25, Plats, Wayne County Records; also lying westerly of and abutting the west line of the remaining part of the easterly 149.52 feet of Out Lot 46 of the "Plat of part of the late Governor Porter's Farm as divided into lots by J. Mullett, Surveyor, July 6, 1835 (recorded July 24, 1835)", City of Detroit, Wayne County, Michigan as recorded in Liber 13, Page 78, Deeds, Wayne County Records; also lying westerly of and abutting the west line of Lots 1 thru 4 of "Thomas W. Ward's Subdivision of the Westerly 139.44 feet of the Easterly 149.44 feet of the Southerly 106 feet of Out Lot 46, Subdivision of the Porter Farm (except the Southerly 180 feet thereof)", City of Detroit, Wayne County, Michigan as recorded in Liber 15, Page 76, Plats, Wayne County Records; also lying westerly of and abutting the west line of Lots 1 and 2; also lying easterly of and abutting the east line of Lots 19 and 20 of the "Subdivision of Lot 43, G.B. Porter Farm," City of Detroit, Wayne County, Michigan as recorded in Liber 1, Page 21, Plats, Wayne County Records;

also lying easterly of and abutting the east line of the remaining part of the westerly 300.00 feet of Out Lot 46 [lying between the south line of said "Subdivision of Lots 51, 50, 47 and the North Half of 46, Porter Farm," as recorded in Liber 1, Page 25, Plats, Wayne County Records; and the north line of said "Subdivision of Lot 43, G.B. Porter Farm", as recorded in Liber 1, Page 21, Plats, Wayne County Records;] of the "Plat of part of the late Governor Porter's Farm as divided into lots by J. Mullett, Surveyor, July 6, 1835 (recorded July 24, 1835)", City of Detroit, Wayne County, Michigan as recorded in Liber 13, Page 78, Deeds, Wayne County Records;

Be and the same is hereby vacated as a 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 including, but not limited to, concrete slabs or driveways, retaining or partition walls, (except necessary line fence) 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 be it further

Resolved, The Finance Director is hereby authorized and directed to issue a quit-claim deed to transfer the following vacated public street right-of-way to the "Ammex, Inc." and/or its assigns, for the fair market value and/or other valuable considerations:

Land in the City of Detroit, Wayne County, Michigan being all that part of Twenty-Third Avenue, 60 feet wide, between Porter Street and Lambie Place (having been opened as a public street in 1882, Recorder's Court File No. 508: resolution of necessity adopted by City Council on December 13, 1881 — J.C.C. page 618); said portion of Twenty-Third having been platted as easterly 60.00 feet of the westerly 360.00 feet of the southerly 198.00 feet of Out Lot 46 of the "Plat of the part of the late Governor Porter's Farm as divided into lots by J. Mullett, Surveyor, July 6, 1835 (recorded July 24, 1835)" as recorded in Liber 13, Page 78, Deeds, Wayne County Records, containing 11,800 square feet or 0.2727 acres more or less, subject to an easement for existing public utilities."

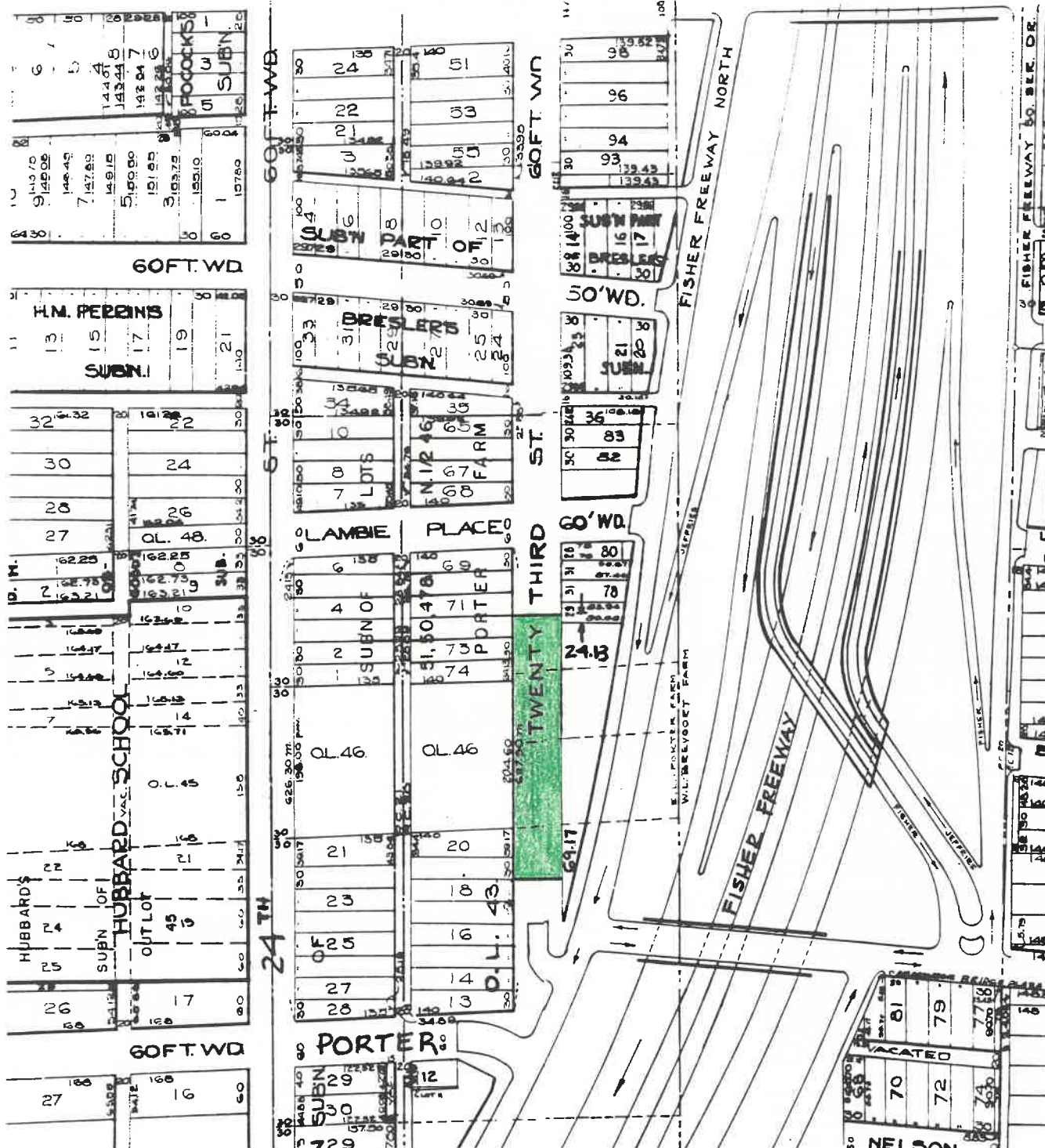
Adopted as follows:

Yeas — Council Members Butler, Cleveland, Everett, Hood, Kelley, and President Pro Tem Hill — 6.

Nays — Council Member Ravitz — 1.

DEC. 1, 1993

J.C.C. Pgs. 2500-02



STREET TO EASEMENT