

City Engineering Department

August 5, 1993

Honorable City Council:

Re: Petition No. 3192, Detroit International Bridge Company Streets and Alleys to Easement; and Temporary Street Closings in the area bounded by 23rd, the Fisher Freeway, 21st, W. Fort, and Porter.

Petition No. 3192 of the "Detroit International Bridge Company (DIBC)" requests the conversion of parts of public streets and alleys in the area (generally) bounded by Twenty-Third Street, the Fisher Freeway, Twenty-First, W. Fort, and Porter (adjoining lots owned by the DIBC) into an easement for public utilities; also the temporary closing of parts of Twenty-Second Street, 50 feet wide, north of W. Lafayette Boulevard (adjoining the easterly line of two lots not owned by the DIBC).

The requested public street and alley vacations were approved by the Community and Economic Development Department and the Department of Public Works — Traffic Engineering Division. The petition was referred to the City Engineering Department for investigation (utility clearances) and report. This is our report:

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.

The U.S. Justice Department — Immigration and Naturalization Service has requested the owners of the Ambassador Bridge (in a letter referenced as File No. DET 10/8/5-C) to construct "a

secured access roadway connecting the United States Customs Cargo Facility adjacent to the Ambassador Bridge to the Canada bound lanes on the Ambassador Bridge. The construction of this roadway is necessary to insure that those truck drivers and or any accompanying passengers found to be inadmissible to the United States are returned to Canada without leaving the confines of the Federal Inspection Facility. The current policy utilized by the United States Customs Service allowing trucks being returned to Canada to exit the Federal Inspection Facility and return to the Ambassador Bridge either under escort or on their own is not acceptable for United States Immigration purposes. At present, there is no means of returning the driver/passengers without having them leave the Federal Inspection Facility."

The City Engineering Department (in a letter to City Council dated July 1, 1993) has indicated that the written consent of property owners at 3307 Howard and 3306 W. Lafayette has not been obtained by the DIBC. Therefore, the City Engineering Department (CED) is not authorized to recommend the vacation of portions of Twenty-Second Street, 50 feet wide, adjoining the two parcels.

The DIBC (in a letter to the CED dated July 22, 1993) has modified their request to vacate all of the remaining part of W. Lafayette Boulevard, 70 feet wide, east of 22nd Street. The petition has been revised to vacate only that part of W. Lafayette Boulevard (70 feet wide) east of a line about 90.00 feet easterly of and parallel to 22nd Street.

However, the DIBC (in a letter to the CED dated July 1, 1993) has asked the City to "consider a temporary closing for those portions of 22nd Street (adjoining properties) not owned by the Bridge." Also, the DIBC has agreed to indemnify the City, if the request for "temporary" public street closing is acceptable.

The petition was brought before the Committee of the Whole on August 3, 1993, including the requested "temporary closing" of two parts of 22nd Street.

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

Respectfully submitted,
CLYDE R. HOPKINS
Director

By Council Member Hill:

Whereas, The United States Department of Justice — Immigration & Naturalization Service has requested the owners of the Ambassador Bridge (in a letter referenced as File No. DET 10.8.5-C) to construct "a secured access road-

way connecting the United States Customs Cargo Facility adjacent to the Ambassador Bridge to the Canada bound lanes on the Ambassador Bridge. The construction of this roadway is necessary to insure that those truck drivers and or any accompanying passengers found to be inadmissible to the United States are returned to Canada without leaving the confines of the Federal Inspection Facility. The current policy by the United States Customs Service allowing trucks being returned to Canada to exit the Federal Inspection Facility and return to the Ambassador Bridge either under escort or on their own is not acceptable for United States Immigration purposes. At present, there is no means of returning the driver/passengers without having them leave the Federal Inspection Facility"; and

Whereas, "The use of any method other than a secured access roadway would create problems in logistics, personnel, physical control and legal issues which would adversely affect the ability of the Immigration and Naturalization Service to effectively execute its duties and responsibilities (according to the above referenced "U.S. Justice Department" correspondence)"; and

Whereas, The City Engineering Department (in a letter to City Council dated July 1, 1993) has indicated that the written consent of property owners at 3307 Howard and 3306 W. Lafayette has not been obtained by the Detroit International Bridge Company (DIBC). Therefore, it is inadvisable to vacate (meaning permanently close) portions of Twenty-Second Street, 50 feet wide, adjoining said properties. However, the DIBC (in a letter to the City Engineering Department dated July 29, 1993) has asked the City "to consider a temporary closing for those portions of 22nd Street (adjoining properties) not owned by the Bridge." Also, the DIBC has agreed to "indemnify" the City, if the request for "temporary" public street closing is acceptable. Further, said parts of Twenty-Second Street shall be subject to the customary "temporary public street closing" provisions; with the City of Detroit retaining all rights and interests in the temporarily closed parts of public street; and

Whereas, It is in the interests of the City of Detroit and the federal government to maintain a secure national boundary; therefore be it

RESOLVED, The City Engineering Department is hereby authorized and directed to issue permits to the "Detroit International Bridge Company (DIBC)" to close the following two parts of Twenty-Second Street, 50 feet wide:

(1) Lying southerly of and abutting the north line of Howard Street, 50 feet wide;

also lying northerly of and abutting the south line extended easterly of Lot 15 of the "Plat of the Subdivision of the Easterly part of Private Claim 20 (Brevoort Farm)", City of Detroit, Wayne County, Michigan as recorded in Liber 48, Page 569, Deeds, Wayne County Records; also

(2) Lying southerly of and abutting the north line extended easterly of Lot 11 of the "Plat of the Subdivision of the Easterly part of Private Claim 20 (Brevoort Farm)", City of Detroit, Wayne County, Michigan as recorded in Liber 48, Page 569, Deeds, Wayne County Records; also lying northerly of and abutting the north line of W. Lafayette Boulevard, 70 feet wide; on a temporary basis to expire on September 1, 1998 (see Provision 9 below for permitted renewals);

PROVIDED, The petitioner shall file with the Finance Department an indemnity agreement in form approved by the Law Department. The agreement shall save and protect the City of Detroit harmless from all claims, damages or expenses that may arise by reason of the issuance of permits and the faithful or unfaithful performance by the petitioner of the terms thereof. Further, the petitioner shall agree to pay all claims, damages or expenses that may arise out of the maintenance of the temporary public street closing; and

PROVIDED, The permit shall be issued after the City Clerk has recorded a certified copy of this resolution with the Wayne County Register of Deeds; and

PROVIDED, The property owned by the petitioner and adjoining the temporary public street closing shall be subject to the proper zoning or regulated use (Board of Zoning Appeals Grant) over the total width and length of the street; and

PROVIDED, No building or other structure (except necessary line fence), shall be constructed on or over the street. The petitioner shall observe the rules and regulations of the City Engineering Department. The City of Detroit retains all rights and interests in the temporarily closed public street. The City and all utility companies retain their rights to service, inspect, maintain, repair, install, remove or replace utilities in the temporarily closed public street. Further, the petitioner shall comply with all specific conditions imposed to insure unimpeded 24-hour-per-day access to the City and utility companies; and

PROVIDED, All of the petitioner's public property fence and gate installation(s) shall be subject to the review and approval of the City Engineering Department (if necessary, in conjunction with the Department of Public Works —

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Traffic Engineering Division, Planning Department, and the Community and Economic Development Department); and

PROVIDED, The petitioner's fence and gate installation shall provide 13 feet horizontal and 15 feet vertical clearance(s) for utility maintenance vehicles; and

PROVIDED, This resolution does not permit the storage of materials, display of merchandise, or signs within the temporarily closed public street. Further, the placement of materials, merchandise, or signs on any adjacent berm area is prohibited. It is the intent of this provision to prohibit private advertising within public rights-of-way, but not signs conforming to the current Michigan Manual of Uniform Traffic Controls Devices; and

PROVIDED, That at the expiration of the permit, all obstructions shall be removed at the petitioner's expense. The public property shall be restored to a condition satisfactory to the City Engineering Department by the petitioner at the petitioner's expense; and

PROVIDED, This resolution is revocable at the will, whim or caprice of the City Council without cause. The petitioner waives the right to claim damages or compensation for removal of encroachments. Further, the permittee acquires no implied or other privileges hereunder not expressly stated herein. If this permit is continued for the five (5) year period, the City Council may (upon written request and if the circumstances justify accordingly) grant an extension thereto; and

PROVIDED, This permit shall not be assigned or transferred without the written approval of the City Council; and be it further

RESOLVED, All that part of Twenty-Second Street, 50 feet wide, between the limited access right-of-way of the Fisher Freeway and Howard Street (50 feet wide); lying southerly of and abutting a line, being more particularly described as follows: Beginning at a point on the easterly line of Lot 21 [of the "Plat of the Subdivision of Easterly part of Private Claim 20 (Brevoort Farm)", City of Detroit, Wayne County, Michigan as recorded in Liber 48, Page 569, Deeds, Wayne County Records;] 22.56 feet north of the southeast corner of said Lot 21, and ending at a point on the westerly line of Lot 68 [of "J. W. Johnston's Subdivision of the East part of the Brevoort Farm, North of Fort Street being part of Private Claim 20", City of Detroit, Wayne County, Michigan as recorded in Liber 1, Page 257, Plats, Wayne County Records;] 86.47 feet north of the southwest corner of said Lot 68; also lying northerly of and abutting the north line of

said Howard Street (50 feet wide); also lying westerly of and abutting the west line of Lot 40, and the vacated east-west public alley (20 feet wide; in the block bounded by 22nd, 21st, Howard, and Brevoort having been previously vacated by City Council on January 17, 1928 — J.C.C. pages 58-59), and Lot 53, and vacated Brevoort Place (50 feet wide; having been previously vacated by City Council on January 17, 1928 — J.C.C. pages 58-59), and Lot 54, and the vacated east-west public alley (20 feet wide; in the block bounded by 22nd, 21st, Brevoort, and Nelson having been previously vacated by City Council on June 13, 1922 — J.C.C. pages 1097-98), and Lot 67, and vacated

Nelson Place (50 feet wide; having been previously vacated by City Council on October 25, 1927 — J.C.C. page 3054), and the south 86.47 feet of Lot 68 of "J. W. Johnston's Subdivision of the East part of the Brevoort Farm, North of Fort Street being part of Private Claim 20", City of Detroit, Wayne County, Michigan as recorded in Liber 1, Page 257, Plats, Wayne County Records; also lying easterly of and abutting the east line of the north 59.92 feet of Lot 16, and Lots 17 thru 20, and the south 22.56 feet of Lot 21 of the "Plat of the Subdivision of Easterly part of private Claim 20 (Brevoort Farm)", City of Detroit, Wayne County, Michigan as recorded in Liber 48, Page 569, Deeds, Wayne County Records; said part of Twenty-Second Street having been previously closed (under permits) by the City Council on July 23, 1968 — J.C.C. pages 1811-12; and

All that part of Twenty-Second Street, 50 feet wide, between W. Lafayette Boulevard and Howard Street; lying westerly of and abutting the west line of the south 128.43 feet of Lot 39, and the east-west public alley (20 feet wide, in the block bounded by 22nd, 21st, W. Lafayette, and Howard), and the north 61.34 feet of Lot 26 of "J. W. Johnston's Subdivision of the East part of the Brevoort Farm, North of Fort Street being part of Private Claim 20", City of Detroit, Wayne County, Michigan as recorded in Liber 1, Page 257, Plats, Wayne County Records; also lying easterly of and abutting the east line of Lots 12 thru 14 of the "Plat of the Subdivision of Easterly part of Private Claim 20 (Brevoort Farm)", City of Detroit, Wayne County, Michigan as recorded in Liber 48, Page 569, Deeds, Wayne County Records; and

All that part of Howard Street, 50 feet wide, between Twenty-Second and Twenty-First Streets; lying southerly of and abutting the south line of Lots 40 thru 46; also lying northerly of and abutting the north line of Lots 33 thru 39 of "J. W.

Johnston's Subdivision of the East part of the Brevoort Farm, North of Fort Street being part of Private Claim 20", City of Detroit, Wayne County, Michigan as recorded in Liber 1, Page 257, Plats, Wayne County Records; and

All that part of Howard Street, 50 feet wide, west of Twenty-First Street (having been opened as a public street in 1880, Rec. Ct. File No. 468; September 28, 1880 — J.C.C. page 547); said part of Howard Street having been platted as part of the north-south public alley, 10 feet wide, within "Holbrook's Subdivision of Lots 1, 2, 3, and 4 of the Subdivision of Private Claim No. 727, between Fort Street and Michigan Central Railroad (as recorded in Liber 99, Page 411, Deeds, Wayne County Records)", City of Detroit, Wayne County, Michigan as recorded in Liber 1, Page 202, Plats, Wayne County Records; said part of public alley being more particularly described (from the resolution of public necessity) as follows: Beginning at the northwest corner of Lot 19 of said "Holbrook's Subdivision"; thence N.26°52'W., along the easterly line of said north-south public alley (10 feet wide) of said "Holbrook's Subdivision", 1.51 feet; thence S.67°13'W., 10.02 feet, to a point on the westerly line of said north-south public alley (10 feet wide); thence S.26°52'E., 50.15 feet, along the westerly line of said north-south public alley (10 feet wide); thence N.67°13'E., 10.02 feet, to a point on the easterly line of said north-south public alley (10 feet wide); thence N.26°52'W., along the easterly line of said north-south public alley (10 feet wide), 48.64 feet to the point of beginning, containing 502.50 square feet more or less; and

All that part of W. Lafayette Boulevard, 70 feet wide, between Twenty-Second and Twenty-First Streets lying southerly of and abutting the south line of Lots 29 thru 32; also lying northerly of and abutting the north line of Lots 19 thru 22 of "J. W. Johnston's Subdivision of the East part of the Brevoort Farm, North of Fort Street being part of Private Claim 20", City of Detroit, Wayne County, Michigan as recorded in Liber 1, Page 257, Plats, Wayne County Records; and

All that part of the north-south public alley, 10 feet wide, in the block bounded by Twenty-Second and Twenty-First Streets, W. Lafayette Boulevard, and Howard Street lying westerly of and abutting the west line of Lot 5; also lying westerly of and abutting the west line of the vacated east-west public alley (10 feet and variable width, with said block; having been previously vacated by City Council on July 31, 1991 — J.C.C. pages 1752-56) as platted in "B. Wurzbarger's Subdivision of Lots 16, 17 and part of Lot 18 of Holbrook's Subdivision of Lots 1, 2, 3, and 4 of the Subdivision of Private Claim 727, between Fort Street and Michigan Central Railroad", City of Detroit, Wayne County, Michigan as recorded in Liber 28, Page 43, Plats, Wayne County Records; and

All that part of the north-south public alley, 10 feet wide, in the blocks bounded by Twenty-Second, Twenty-First, W. Fort, and Howard Streets lying westerly of and abutting the west line of the north 4.98 feet of Lot 5, and Lots 6 thru 15 as platted in "Holbrook's Subdivision of Lots 1, 2, 3 and 4 of the Subdivision of Private Claim 727, between Fort Street and Michigan Central Railroad (as recorded in Liber 99, Page 411, Deeds, Wayne County Records)", City of Detroit, Wayne County, Michigan as recorded in Liber 1, Page 202, Plats, Wayne County Records; and

All of the east-west public alley, 20 feet wide, in the block bounded by Twenty-Second and Twenty-First Streets, W. Lafayette Boulevard, and Howard Street lying southerly of and abutting the south line of Lots 33 thru 39; also lying northerly of and abutting the north line of Lots 26 thru 32 of "J. W. Johnston's Subdivision of the East part of the Brevoort Farm, North of Fort Street being part of Private Claim 20", City of Detroit, Wayne County, Michigan as recorded in Liber 1, Page 257, Plats, Wayne County Records; and

Be and the same are hereby vacated as public streets and alleys and are hereby converted into a public easement of the full width of the streets and 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 streets and alleys and by their heirs, executors, administrators and assigns, forever to wit:

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FIRST, said owners hereby grant to and for the use of the public an easement or right-of-way over said vacated public streets and 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 street or 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 streets and 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 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 streets and 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 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.

Adopted as follows:

Yeas — Council Members Butler, Eberhard, Everett, Hill, Hood, and Kelley — 6.

Nays — Council Members Cleveland, Ravitz, and President Mahaffey — 3.

STATEMENT FOR THE RECORD
REGARDING THE CLOSING OF
THE CITY STREETS
BY COUNCIL PRESIDENT MAHAFFEY
I voted no because this is in violation of the process. It will also further isolate and reduce the potential customers to the only independent duty free stores in that area, as well as, present difficulties

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in further development of the land owned by Mr. Ricardo Lubienski and the development of other property owned by others than the bridge.

There is no reason why this couldn't have waited until September when council returns from recess. The Citizens District Council at an emergency meeting on the 5th day of August voted no. Once again this City Council is in the position of voting against a neighborhood and its development efforts while voting for a monopoly.

I think this is very unwise and very detrimental to everybody but the bridge. The bridge of course benefits in its drive to be the monopoly.

