

City Engineering Department

April 12, 1994

Honorable City Council:

Re: Petition No. 2400. Detroit Edison Company — Edison Center Parking Area. Temporary Street Closing and Alleys to Easement all in the area bounded by Fifth, Third, Beech and Plum.

Petition No. 2400 of the "Detroit Edison Company" requests the temporary closing of Elizabeth Street (50 feet wide) and Fourth Avenue (50 feet wide); also the conversion of public alleys into an easement for public utilities (all) in the area bounded by Fifth and Third Avenues, Beech and Plum Streets.

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

The Ameritech/Michigan Bell Telephone Company, Detroit Edison Company, Fire Department, Michigan Consolidated Gas Company, Public Lighting Department, and Water and Sewerage Department will require unimpeded access to service their existing facilities. Any (closed street) fence and gate installation must provide 13 feet horizontal and 15 feet vertical clearances for utility maintenance vehicles.

The Public Lighting Department has entered into an agreement with the Detroit Edison Company to maintain 3 — 250 watt mercury vapor street lighting fixtures and 4 — 400 watt high pressure sodium vapor street lighting fixtures within Elizabeth and Fourth. Subject to the terms and conditions of an executed document [entitled: "Agreement for Electric Service (Outdoor Lighting-Energy Limited Maintenance)"], dated September 7, 1993, the Detroit Edison Company will pay the Public Lighting Department a monthly fee in the amount of \$74.99.

The petitioner plans to use the paved alley return entrances (into Elizabeth,

Beech and Plum Streets) and requests such remain in their present status. The petitioner shall pay all incidental removal costs whenever discontinuance of use makes removals necessary.

City departments and privately-owned utility companies have reported no objections to the closings, provided they have the right to ingress and egress at all times to their facilities. Further, 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, containing the necessary conditions, is attached for consideration by your Honorable Body.

Respectfully submitted,
WILLIAM L. TALLEY
Head Engineer
City Engineering Department

By Council Member Everett:

Resolved, The City Engineering Department is hereby authorized and directed to issue permits to the "Detroit Edison Company" to close on a temporary basis, to expire on June 1, 1999, the following public streets all in the area bounded by Fifth and Third Avenues, Beech and Plum Streets (commonly known as part of the Edison Center Parking area):

All of Fourth Avenue, 50 feet wide, between Beech and Plum Streets lying westerly of and abutting the west line of Lots 1 thru 6, Block 59; also lying westerly of and abutting the west line of Elizabeth Street (50 feet wide); also lying westerly of and abutting the west line of Lots 1 thru 6, Block 60; also lying easterly of and abutting the east line of Lots 1 thru 6, Block 61; also lying easterly of and abutting the east line of Elizabeth Street (50 feet wide); also lying easterly of and abutting the east line of Lots 1 thru 6, Block 58, of the "Plat of Subdivision of the Jones' Farm, South of the Grand River Road", City of Detroit, Wayne County, Michigan as recorded in Liber 1, Page 184, Plats, Wayne County Records; also

All that part of Elizabeth Street, 50 feet wide, between Fifth and Fourth Avenues lying southerly of and abutting the south line of Lot 9, Block 8; also lying northerly of and abutting the north line of Lot 9, Block 5, of "Crane and Wessons 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; also lying southerly of and abutting the south line of Lot 6, Block 61; also lying southerly of and abutting the south line of the north-south public alley, 14.70 feet wide (in the

block bounded by Fifth and Fourth Avenues, Elizabeth and Plum Streets), Block 61; also lying southerly of and abutting the south line of Lots 7 and 8, Block 61; also lying northerly of and abutting the north line of Lots 9 and 10, Block 58; also lying northerly of and abutting the north line of the north-south public alley, 14.70 feet wide (in the block bounded by Fifth and Fourth Avenues, Beech and Elizabeth Streets), Block 58; also lying northerly of and abutting the north line of Lot 1, Block 58, of the "Plat of Subdivision of the Jones' Farm, South of the Grand River Road", City of Detroit, Wayne County, Michigan as recorded in Liber 1, Page 184, Plats, Wayne County Records; also

All of Elizabeth Street, 50 feet wide, between Fourth and Third Avenues lying southerly of and abutting the south line of Lot 6, Block 60; also lying southerly of and abutting the south line of the north-south public alley, 14.70 feet wide (in the block bounded by Fourth and Third Avenues, Elizabeth and Plum Streets), Block 60; also lying southerly of and abutting the south line of Lots 7 and 8, Block 60; also lying northerly of and abutting the north line of Lots 9 and 10, Block 59; also lying northerly of and abutting the north line of the north-south public alley, 14.70 feet wide (in the block bounded by Fourth and Third Avenues, Beech and Elizabeth Streets), Block 59; also lying northerly of and abutting the north line of Lot 1, Block 59, of the "Plat of Subdivision of the Jones' Farm, South of the Grand River Road", City of Detroit, Wayne County, Michigan as recorded in Liber 1, Page 184, Plats, Wayne County Records; also lying southerly of and abutting the south

line of Lot 6, Block 67; also lying southerly of and abutting the south line of the north-south public alley, 15 feet wide (in the block bounded by Fourth and Third Avenues, Elizabeth and Plum Streets), Block 67; also lying southerly of and abutting the south line of Lot 7, Block 67; also lying northerly of and abutting the north line of Lot 8, Block 64, of the "Plat of Subdivision of Blocks 52, 61, 67 and part of Blocks 57, 64, 69 and 71 of the Cass Farm", City of Detroit, Wayne County, Michigan as recorded in Liber 1, Page 128, Plats, Wayne County Records; also lying northerly of and abutting the north line of the north-south public alley, 15 feet wide (in the block bounded by Fourth and Third Avenues, Beech and Elizabeth Streets), Block 64; also lying northerly of and abutting the north line of Lot 1, Block 64, of the "Cass Western Addition to the City of Detroit between the Chicago and Grand River Roads by Lewis Cass 1851", City of Detroit, Wayne County, Michigan as recorded in Liber 42, Pages 138, 139,

140 and 141, Deeds, Wayne County Records;

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 closings; 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 closings shall be subject to the proper zoning or regulated use (Board of Zoning Appeals Grant) over the total width and length of the streets; and

Provided, No building or other structure (except necessary line fence), shall be constructed on or over the streets. 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 streets. The City and all utility companies retain their rights to service, inspect, maintain, repair, install, remove or replace utilities in the temporarily closed public streets. 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 installations shall be subject to the review and approval of the City Engineering Department (if necessary, in conjunction with the Department of Public Works — 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 clearances for utility maintenance vehicles; and

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Provided, This resolution does not permit the storage of materials, display of merchandise, or signs within the temporarily closed public streets. Further, the placement of materials, merchandise, or signs on any adjacent public sidewalk space (meaning the space between the lot line of the property and the street curb line) is prohibited; 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, That subject to the terms and conditions of an executed document [entitled: "Agreement for Electric Service (Outdoor Lighting-Energy and Limited Maintenance)"], dated September 7, 1993, the Detroit Edison Company shall pay the Public Lighting Department a monthly fee in the amount of \$74.99 (subject to reasonable price adjustments, based on actual costs to the city or the Public Lighting Department) to maintain 3 — 250 watt mercury vapor street lighting fixtures and 4 — 400 watt high pressure sodium vapor street lighting fixtures; and further

Provided, Billings to the Detroit Edison Company (DE Co.) shall become due and payable to the Public Lighting Department — Accounting Section no later than the fifteenth day of each month; and further

Provided, If it becomes necessary to remove any part of the existing series of public street lighting fixtures within Elizabeth Street (50 feet wide, between Fifth and Third Avenues) and/or Fourth Street (50 feet wide, between Plum and Beech Streets), by way of illustration, but not limitation, such as failure to pay justifiable monthly charges, it shall become the responsibility of the Detroit Edison Company to pay any Public Lighting Department expenses to reinstall street lights prior to the streets being re-opened for public use; such payment shall not be unreasonably withheld or denied in the interests of public health, safety, and welfare; and be it further

Resolved, All of the east-west public alley, 17 feet wide, in the block bounded by Fifth and Fourth Avenues, Elizabeth and Plum Streets lying southerly of and abutting the south line of Lots 9 and 10, Block 61; also lying northerly of and abutting the north line of Lots 7 and 8, Block 61, of the "Plat of Subdivision of

the Jones' Farm, South of Grand River Road", City of Detroit, Wayne County, Michigan as recorded in Liber 1, Page 184, Plats, Wayne County Records; also

All of the north-south public alley, 14.70 feet wide, in the block bounded by Fifth and Fourth Avenues, Elizabeth and Plum Streets lying westerly of and abutting the west line of Lots 1 thru 6, Block 61; also lying easterly of and abutting the east line of Lot 10, Block 61; also lying easterly of and abutting the east line of the east-west public alley, 17 feet wide, Block 61; also lying easterly of and abutting the east line of Lot 7, Block 61, of the "Plat of Subdivision of the Jones' Farm, South of Grand River Road", City of Detroit, Wayne County, Michigan as recorded in Liber 1, Page 184, Plats, Wayne County Records; also

All of the east-west public alley, 17 feet wide, in the block bounded by Fifth and Fourth Avenues, Beech and Elizabeth Streets lying southerly of and abutting the south line of Lots 9 and 10, Block 58; also lying northerly of and abutting the north line of Lots 7 and 8, Block 58, of the "Plat of Subdivision of the Jones' Farm, South of the Grand River Road", City of Detroit, Wayne County, Michigan as recorded in Liber 1, Page 184, Plats, Wayne County Records; also

All of the north-south public alley, 14.70 feet wide, in the block bounded by Fifth and Fourth Avenues, Beech and Elizabeth Streets lying westerly of and abutting the west line of Lots 1 thru 6, Block 58; also lying easterly of and abutting the east line of Lot 10, Block 58; also lying easterly of and abutting the east line of the east-west public alley, 17 feet wide, Block 58; also lying easterly of and abutting the east line of Lot 7, Block 58, of the "Plat of Subdivision of the Jones' Farm, South of the Grand River Road", City of Detroit, Wayne County, Michigan as recorded in Liber 1, Page 184, Plats, Wayne County Records; also

All of the north-south public alley, 14.70 feet wide, in the block bounded by Fourth and Third Avenues, Elizabeth and Plum Streets lying westerly of and abutting the west line of Lot 10, Block 60; also lying westerly of and abutting the west line of the east-west public alley, 17 feet wide, Block 60; also lying westerly of and abutting the west line of Lot 7, Block 60; also lying easterly of and abutting the east line of Lots 1 thru 6, Block 60, of the "Plat of Subdivision of the Jones' Farm, South of the Grand River Road", City of Detroit, Wayne County, Michigan as recorded in Liber 1, Page 184, Plats, Wayne County Records; also

All of the east-west public alley, 17 feet wide in the block bounded by Fourth and Third Avenues, Elizabeth and Plum Streets lying southerly of and abut-

ting the south line of Lots 9 and 10, Block 60; also lying northerly of and abutting the north line of Lots 7 and 8, Block 60, of the "Plat of Subdivision of the Jones' Farm, South of the Grand River Road", City of Detroit, Wayne County, Michigan as recorded in Liber 1, Page 184, Plats, Wayne County Records; also lying southerly of and abutting the south line of Lot 8, Block 67; also lying northerly of and abutting the north line of Lot 7, Block 67, of the "Plat of Subdivision of Blocks 52, 61, 67, and part of Blocks 57, 64, 69 and 71 of the Cass Farm", City of Detroit, Wayne County, Michigan as recorded in Liber 1, Page 128, Plats, Wayne County Records; also

Wayne County, Michigan as recorded in Liber 1, Page 128, Plats, Wayne County Records; also

All of the north-south public alley, 15 feet wide, in the block bounded by Fourth and Third Avenues, Beech and Elizabeth Streets lying westerly of and abutting the west line of Lots 1 thru 6, Block 64, of the "Cass Western Addition to the City of Detroit between the Chicago and Grand River Roads by Lewis Cass 1851", City of Detroit, Wayne County, Michigan as recorded in Liber 42, Pages 138, 139, 140 and 141, Deeds, Wayne County Records; also lying easterly of and abutting the east line of Lot 8, Block 64; also lying easterly of and abutting the east line of the east-west public alley, 17 feet wide, Block 64; also lying easterly of and abutting the east line of Lot 7, Block 64, of the "Plat of Subdivision of Blocks 52, 61, 67 and part of Blocks 57, 64, 69 and 71 of the Cass Farm", City of Detroit, Wayne County, Michigan as recorded in Liber 1, Page 128, Plats, Wayne County Records;

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

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All of the north-south public alley, 15 feet wide, in the block bounded by Fourth and Third Avenues, Elizabeth and Plum Streets lying westerly of and abutting the west line of Lots 1 thru 6, Block 67; also lying easterly of and abutting the east line of Lot 8, Block 67; also lying easterly of and abutting the east line of the east-west public alley, 17 feet wide, Block 67; also lying easterly of and abutting the east line of Lot 7, Block 67, of the "Plat of Subdivision of Blocks 52, 61, 67 and part of Blocks 57, 64, 69 and 71 of the Cass Farm", City of Detroit, Wayne County, Michigan as recorded in Liber 1, Page 128, Plats, Wayne County Records; also

All of the north-south public alleys, 14.70 feet wide, in the block bounded by Fourth and Third Avenues, Beech and Elizabeth Streets lying westerly of and abutting the west line of Lot 10, block 59; also lying westerly of and abutting the west line of the east-west public alley, 17 feet wide, Block 59; also lying westerly of and abutting the west line of Lot 7, Block 59; also lying easterly of and abutting the east line of Lots 1 thru 6, Block 59, of the "Plat of Subdivision of the Jones' Farm, South of the Grand River Road", City of Detroit, Wayne County, Michigan as recorded in Liber 1, Page 184, Plats, Wayne County Records; also

All of the east-west public alley, 17 feet wide, in the block bounded by Fourth and Third Avenues, Beech and Elizabeth Streets lying southerly of and abutting the south line of Lots 9 and 10, Block 59; also lying northerly of and abutting the north line of Lots 7 and 8, Block 59, of the "Plat of Subdivision of the Jones' Farm, South of the Grand River Road", City of Detroit, Wayne County, Michigan as recorded in Liber 1, Page 184, Plats, Wayne County Records; also lying southerly of and abutting the south line of Lot 8, Block 64; also lying northerly of and abutting the north line of Lot 7, Block 64, of the "Plat of Subdivision of Blocks 52, 61, 67 and part of Blocks 57, 64, 69 and 71 of the Cass Farm", City of Detroit,

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 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 if it becomes necessary to remove the paved alley returns at the entrances (into Elizabeth, Beech and Plum Streets), 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 Detroit Edison Company, 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.

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