

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 [NOTE: If part of a public sewer in the east-west public alley, 20 feet wide, is abandoned by the Water and Sewerage Department; then protection of the abandoned part of sewer is limited by other provisions in this resolution.], 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, retaining or partition walls, (except approved surface parking lot appurtenances, and part of the proposed multi-level parking garage encroachment, including its underground footings, as referenced above in the encroachment portion of this resolution, including related construction that may be required by the Water and Sewerage Department, Comcast Cablevision Company, and the Detroit Edison Company designed to prevent damages to public sewer or manholes, buried Edison conduit(s) or manholes, buried CATV conduit(s) and/or overhead utility wires; also except necessary line fence; said fence and gate installations shall be subject to the review and approval of the Fire Marshal and Buildings and Safety Engineering Department, if necessary)

shall be built or placed upon said easement, nor change of surface grade made, without prior approval of the City Engineering Division — DPW,

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; [NOTE: If part of a public sewer in the east-west public alley, 20 feet wide, is abandoned by the Water and Sewerage Department then protection of the abandoned part of sewer is limited by other provisions in this resolution.]; and further

Provided, That nothing in this resolution shall be construed as giving any authority, permission or grant to "Orchestra Hall" or their contractors for any part of the "Orchestra Place" development project to be placed upon the surface, underground, or air rights of privately-owned property. The "Orchestra Hall" and/or their contractors shall obtain any written permission necessary to construct, stage, barricade, or occupy space within the privately-owned properties, such as the "Milner Arms Apartments" (address: 40 Davenport Street, Detroit, Michigan 48201). "Orchestra Hall" shall be solely liable for damages (caused or alleged to be caused by "Orchestra Hall" facilities or related construction) to the rerouted public sewer service connections, including DWSD manholes, for the "Milner Arms Apartments". Additionally, when it becomes necessary to modify any rerouted public sewer connections, the contractors for "Orchestra Hall" shall take precautions to prevent sewer service disruptions to the "Milner Arms Apartments"; said "Milner Arms Apartments" property described as follows: being all of Lots 4, 5, and 6, together with the reversionary interest in the southerly half of the east-west public alley (20 feet wide), and the reversionary interest in the westerly half of the north-south public alley (20 feet wide) of the "Subdivision of Park Lot 66 by R. P. Toms and Henry Russell Trustees of the Estate of Sarah Davenport", City of Detroit, Wayne County, Michigan as recorded in Liber 5, Page 44, Plats, Wayne County Records; [NOTES: The decision to abandon any part of the public sewer that services the Milner Arms Apartments rests entirely with DWSD. It appears the DWSD decision is based upon a non-notarized and unrecorded letter (dated January 17, 1997) written by contractors for "Orchestra Hall," presumably signed by Ron Milner, owner of

Milner Arms Apartments. The processing of an encroachment petition does not constitute approval by the Survey Bureau, City Engineering Division, DPW for the abandonment of a part of public sewer in the east-west public alley.]; and further

Provided, That one sewer manhole shall be constructed over the remaining part of public sewer within said private utility easement for the Water and Sewerage Department. The sewer manhole shall be placed 564.00 feet (more or less) westerly of the west line of Woodward Avenue, 120 feet wide, within said private utility easement for the Water and Sewerage Department. The costs for plan review, sewer manhole, bulkheading, or other related construction that may be

~~required by the Water and Sewerage Department~~ required by the Water and Sewerage Department (designed to prevent damage to that part of an existing sewer that must remain publicly-owned to service the Milner Arms Apartment Building or other properties down-stream from the above described vacated public alley) including inspection and permits, shall be paid by "Detroit Symphony Orchestra Hall, Inc."; and further

Provided, That if it becomes necessary to remove the paved alley return at the entrance (into Davenport Street), such removal and construction and 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 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 Cockrel, Everett, Hill, Hood, Ravitz, Scott, Tinsley-Williams and President Mahaffey — 8.

Nays — None.

March 5, 1997
J.C.C. pp. 455-462

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Provided, The City of Detroit retains all rights and interests in said above described area(s) of public street rights-of-way. Further, the city and all utility companies retain their rights to establish, maintain, inspect and service any utilities within or over said area. The utility companies shall have the right to cross or use the driveway and yard of the adjoining property for ingress and egress at any time to and over said area with any necessary equipment to perform the above mentioned tasks. The utility companies shall use due care in such crossing or use. Any property damaged by the utility companies (other than that specifically prohibited by this resolution) shall be restored to a satisfactory condition; and further

Provided, If it becomes necessary to repair or replace the utilities located (or to be located) in the public rights-of-way, by the acceptance of this permission, the encroachment owners for themselves, their heirs or assigns, waive claims for any damages to the encroaching installations and agree to pay the costs incurred in their removal (or alteration), if their removal (or alteration) becomes necessary, and to restore the property affected to a condition satisfactory to the City Engineering Division — DPW at the

encroachment owner's expense; and further

Provided, The issuance of encroachment permits does not waive the rights of the city to use the area for street widening or other purposes; and further

Provided, That said permittee shall be subject to any tax under the provisions of the General Property Tax Act which may be levied against it pursuant to law; and further

Provided, That no rights in the public streets, alleys or other public places shall be considered waived by this permission which is granted expressly on the condition that said encroachment(s) shall be removed at the expense of the permittee at any time when so directed by the City Council, and the public property affected shall be restored to a condition satisfactory to the City Engineering Division — DPW at the permittee's sole cost and expense; and further

Provided, That said permits issued by the City Engineering Division — DPW and/or the Buildings and Safety Engineering Department are granted with the distinct understanding that in the event the City Charter, or Detroit Code(s), or ordinance(s), or resolution(s), or City policies (governing the placement of encroachments in public rights-of-way) are amended to provide for the levying thereafter, of a fee, charge or rental, to be hereafter determined upon, for the occupancy of public streets, alleys or other public places, that the permittee will pay said fee, charge or rental provided for in said Charter, or code(s), or ordinance(s), or resolution(s), or policies; also said permittee does hereby bind itself thereunto, and to accept said permits on the conditions hereby imposed, and in the event said permittee shall contest the validity of said Charter, or code(s), or ordinance(s), or resolution(s), or policies of said fee, charge or rental, or upon refusal to pay same, these permits shall immediately become void; and further

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

Provided, The installation and maintenance of encroachments [part of the underground footing(s) of a multi-story parking garage (now under construction), extending about 2.50 feet into a southern part of Parsons Street, 60 feet wide, between Cass and Woodward Avenues, abutting the above described properties; said installations require the filing of an indemnity agreement, bonds or insurance, and the securing of permit(s)] referred to herein shall be construed as acceptance of this resolution by the permittee; and further

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

Resolved, All that part of the north-south public alley, 20 feet wide, first west of Woodward Avenue between Davenport and Parsons Streets lying westerly of and abutting the west line of the northerly 35.00 feet of Lot 1, and Lots 2 thru 4; also lying easterly of and abutting the east line of Lot 5 of "Bagg's Subdivision of Park Lot 65", City of Detroit, Wayne County, Michigan as recorded in Liber 1, Page 192, Plats, Wayne County Records;

Be and the same is hereby vacated (outright) as part of a public (alley) right-of-way to become part and parcel of the abutting property; subject to the following provisions, easements, building and use restrictions for the Water and Sewerage Department:

Provided, That before any construction

shall be permitted within the vacated (outright) part of, the north-south public alley, 20 feet wide, first west of Woodward Avenue between Davenport and Parsons Streets, mentioned above, "Detroit Symphony Orchestra Hall, Inc.", shall apply to the Buildings and Safety Engineering Department for a building permit. Simultaneously, the petitioner shall submit said building plans to the Water and Sewerage Department (DWSD) for review and approval. All costs for plan review associated with the relocation of public sewer(s) and/or other construction that may be required by DWSD [designed to prevent damages and maintain public sewer(s), including but not limited to inspection and permits, shall be paid by "Detroit Symphony Orchestra Hall, Inc." and/or their contractors, and further

Provided, That "Detroit Symphony Orchestra Hall, Inc., a Michigan corporation, whose address is 3663 Woodward, Detroit, MI 48202" shall grant to Water and Sewerage Department through the Board of Water Commissioners (for and on behalf of the City of Detroit) a satisfactory easement for the relocated public sewer(s) across property owned by "Orchestra Hall". After said easement has been reviewed and accepted by the Board of Water Commissioners (for and on behalf of the City of Detroit), then said grant of public sewer(s) easement shall be conveyed by a properly executed document, containing a legal description suitable for recording. Additionally, the Water and Sewerage Department shall record said executed document in the Wayne County Register of Deeds; and further

Provided, That upon satisfactory completion of the construction of said relocated public sewer(s), the public sewer(s) shall become property of the City of Detroit and part of the DWSD sewer system; and further

Provided, That if it becomes necessary to remove the paved alley return at the entrance (into Parsons Street), such removal and construction and 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 "Detroit Symphony Orchestra Hall, Inc." (the abutting owner), their heirs or assigns; and be it further

Resolved, All that part of the east-west public alley, 20 feet wide, in the block bounded by Cass and Woodward Avenues, Davenport and Parsons Streets lying southerly of and abutting the south line of the eastern 10.00 feet of Lot 16, and Lots 5 thru 15 of "Bagg's Subdivision of Park Lot 65", City of Detroit, Wayne County, Michigan as recorded in Liber 1, Page 192, Plats, Wayne County Records; also lying northerly of and abutting the north line of the western 40.00 feet of Lot 4, and Lots 5 thru 10 of the "Subdivision of Park Lot 66 by R. P. Toms and Henry Russell Trustees of the Estate of Sarah Davenport", City of Detroit, Wayne County, Michigan as recorded in Liber 5, Page 44, Plats, Wayne County Records; also

All of the remaining part of the north-south public alley, 20 feet wide and variable width, first west of Woodward Avenue between Davenport and Parsons Streets lying easterly of and abutting the east line of the northern half of the east-west public alley [20 feet wide, in the block bounded by Cass and Woodward Avenues, Davenport and Parsons Streets]; also lying westerly of and abutting the west line of the southern 12.86 feet of Lot 1 of "Bagg's Subdivision of Park Lot 65", City of Detroit, Wayne County, Michigan as recorded in Liber 1, Page 192, Plats, Wayne County Records; also lying easterly of and abutting the east line of the southern half of the east-west public alley

[20 feet wide; in the block bounded by Cass and Woodward Avenues, Davenport and Parsons Streets]; also lying westerly of and abutting the west line of Lots 1 thru 3; also lying easterly of abutting the east line(s) of Lot 4 of the "Subdivision of Park Lot 66 by R. P. Toms and Henry Russell Trustees of the Estate of Sarah Davenport", City of Detroit, Wayne County, Michigan as recorded in Liber 5, Page 44, Plats, Wayne County Records;

Be and the same are hereby vacated as public alleys and are hereby converted into a private easement for public utilities 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 [NOTE: If part of a public sewer in the east-west public alley, 20 feet wide, is abandoned by the Water and Sewerage Department; then protection of the abandoned part of sewer is limited by other provisions in this resolution.], 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.

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Provided, All encroaching parts of the multi-story parking structure, including its underground footing(s), shall be installed and maintained in accord with the terms and conditions of an agreement [see letter prepared by Bene Cummings, Drafting Technician, Comcast Cablevision; dated January 7, 1997; phone: 313-934-2600; Subject: "Alley behind Milner Apts."; addressed to Perini Building Company; Attention: Scott A. Wortman;] between the Comcast Cablevision Company (CATV) and "Orchestra Hall". Due to buried conduit(s) and/or utility services, "Orchestra Hall" shall arrange for "pre-construction" meetings and/or independent CATV "inspections". Should damages to CATV facilities occur "Orchestra Hall" shall be liable for all expenses, incidental repair, adjustments and/or relocation costs; also "Orchestra Hall" waives all claims for damages to the encroaching installations; and further

Provided, All encroaching parts of the multi-story parking structure, including its underground footing(s), shall be installed and maintained in accord with the terms and conditions of an agreement [see letter prepared by Robert M. Barrette, Distribution Planning Engineer, Detroit Edison Company — System Optimization & Planning; dated January 6, 1997; phone: 313-235-9629; Subject: "Orchestra Place — Alley Vacation"; copy to Scott A. Wortman of Perini Building Company;] between the Detroit Edison Company (Edison) and "Orchestra Hall". Due to buried electrical conduit(s), manholes and other Edison services, "Orchestra Hall" shall arrange for "pre-construction" meetings and/or independent Edison "inspections". Should damages to Edison facilities occur "Orchestra Hall" shall be liable for all expenses, incidental repair, adjustments and/or relocation costs, also "Orchestra Hall" waives all claims for damages to the encroaching installations; and further

Provided, If the public sewer or manholes, buried Edison conduit(s) or manholes, buried CATV conduit(s) and/or overhead utility wires located (or to be located) in said (converted public) alley shall break, causing damage to any privately-owned construction, property or materials, "Orchestra Hall" or their assigns [by acceptance of permits for construction over or near the public sewer or manholes, buried Edison conduit(s) and/or overhead utility wires] waives all claims for damages to the encroaching installations and agree to pay the costs incurred in their removal (or alteration), if removal (or alteration) becomes necessary; and further

Provided, If the public sewer or manholes, buried Edison conduit(s) or manholes, buried CATV conduit(s) and/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 "Orchestra Hall" 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 through 4 above), then "Orchestra Hall" or their assigns shall be liable for all costs incidental to the repair of the broken or damaged public sewer or manholes, buried Edison conduit(s) or manholes, buried CATV conduit(s) and/or overhead utility wires. "Orchestra Hall" or their assigns shall be liable for all claims, damages or expenses resulting from their action(s) or negligence; and be it further

Provided, The petitioner, "Detroit Symphony Orchestra Hall, Inc.", shall file with the Finance Department an indemnity agreement approved by the Law Department, saving and protecting the City of Detroit from any and all claims, damages or expenses that may arise by

damages or expenses that may arise by reason of the issuance of said permits and the faithful or unfaithful performance by the permittee of the terms thereof, and in addition to pay all claims, damages or expenses that may arise out of the maintenance of said part of a multi-story parking garage (now under construction), including its underground footing(s), extending about 5.50 feet into a northern part of the east-west (converted public) alley, and further

Provided, That said permittee shall be subject to any tax under the provisions of the General Property Tax Act which may be levied against it pursuant to law; and further

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

Provided, The installation and maintenance of encroachments [part of a multi-story parking garage (now under construction), including its underground footing(s), extending about 5.50 feet into a northern part of the east-west (converted public) alley, 20 feet wide, in said block, abutting the above described properties; said installations require the filing of an indemnity agreement, and the securing of permit(s)] referred to herein shall be construed as acceptance of this resolution by the permittee; and further

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

Resolved, The City Engineering Division — DPW is hereby authorized and directed to issue permits to "Detroit Symphony Orchestra Hall, Inc., a Michigan corporation, whose post office address is 3663 Woodward, Detroit, MI 48202" to construct and maintain all that part of a multi-story parking structure extending about 2.50 feet into a southern part of Parsons Street, 60 feet wide, between Cass and Woodward Avenues, abutting property described (in part) as follows:

The eastern 10.00 feet of Lot 15 and Lots 5 thru 14; also part of the north-south public alley, 20 feet wide, first west of Woodward Avenue between Davenport and Parsons Streets; also Lot 4 of "Bagg's Subdivision of Park Lot 65", City of Detroit, Wayne County, Michigan as recorded in Liber 1, Page 192, Plats, Wayne County Records.

Encroachment to consist of part of the underground footing(s) of a multi-story parking garage (now under construction), extending about 2.50 feet into a southern part of Parsons Street, 60 feet wide, between Cass and Woodward Avenues, abutting the above described properties:

Provided, The "Detroit Symphony Orchestra Hall, Inc." shall make application to the Buildings and Safety Engineering Department for a building permit. Simultaneously, the petitioner shall make application to the Detroit Building Authority (in conjunction with the Public Lighting Department — Engineering Services Section, if necessary). This is necessary to prevent damages or maintain public lighting services, and operate an existing underground fed "ornamental lighting" system. All encroaching parts of the multi-story parking structure, including its underground footing(s), shall be installed and maintained in accord with plans submitted to and approved by the Buildings and Safety Engineering Department, the Detroit Building Authority (Contact: Clarence White; phone: 313-224-4599), and the Public Lighting Department — Engineering Services Section (Contact: Satish Sadwal; phone: 313-267-7232). All costs for plan review, inspection, and permits shall be paid by

"Orchestra Hall" or their assigns; and further

Provided, The petitioner, "Detroit Symphony Orchestra Hall, Inc.", shall file with the Finance Department an indemnity agreement approved by the Law Department, saving and protecting the City of Detroit from any and all claims which may arise therefrom. Also, "Orchestra Hall" shall be required by the Law Department in conjunction with the Finance Department — Risk Management Division to present proof of financial capability (bonds or insurance) to pay any claims, damages or expenses that may arise as a result of the installation, maintenance or use of part of the footing(s) of a multi-story parking garage (now under construction), extending underground within public street right-of-way; and further

Provided, That "Orchestra Hall" shall replace and maintain a safe and convenient concrete public sidewalk along said south berm area [or public sidewalk space, meaning the space between the lot line of the property and the street curb line] of Parsons Street. The public sidewalk line and grades, including proposed commercial driveways and removal of the public alley return into Parsons, shall be reviewed and approved by the City Engineering Division — DPW prior to any new concrete pour in accord with Detroit Code Section 50, Article 4. The construction, placement, and maintenance of any public sidewalk shall be subject to city permits, inspection, and specifications. Further, the petitioner shall pay all costs to construct and maintain the concrete public sidewalk in front of property owned by "Detroit Symphony Orchestra Hall, Inc." [NOTE: All public rights-of-way shall be maintained safe and convenient for public travel.] "Orchestra Hall" shall be liable for all claims, demands, costs, damages, expenses, and causes of action of every kind and character arising in favor of any person, or other legal entity on account of personal injuries or death or damage to property caused by or claimed or alleged to have arisen out of failure to properly install and maintain any berm area encroachments, and public sidewalk within public street rights-of-way. The installation and maintenance of said encroachment(s) shall comply with the rules and regulations of the City Engineering Division — DPW, Department of Public Works — Traffic Engineering Division, Detroit Building Authority, and the Public Lighting Department; and further

Department of Public Works
City Engineering Division
February 25, 1997

Honorable City Council:

Re: Petition Nos. 2184, Detroit Symphony Orchestra Hall, Inc., and 2557 & 2754 Rossetti Assoc. Orchestra Place Development Project Parking Garage. Vacation of Alleys; also Encroachments in the block bounded by Cass, Woodward, Davenport and Parsons.

Petition No. 2184 of "Orchestra Hall" requests the (outright) vacation of the northerly half of the north-south public alley, 20 feet wide, first west of Woodward Avenue between Davenport and Parsons Streets; also the conversion of the southerly half of the north-south public alley, 20 feet wide, first west of Woodward Avenue between Davenport and Parsons Streets into a private easement for public utilities; also the conversion of part of the east-west public alley, 20 feet wide, in the block bounded by Cass and Woodward Avenues, Davenport and Parsons Streets into a private easement for public utilities (subject to proposed encroachments).

Petition No. 2557 of "Orchestra Hall" requests permission to place and maintain an underground footing (part of a multi-story parking garage now under construction) extending about 2.50 feet into a southern part of Parsons Street, 60 feet wide, between Cass and Woodward Avenues. This is an encroachment.

Petition No. 2754 of "Orchestra Hall" requests permission to place and maintain an underground footing (part of a multi-story parking garage now under construction) extending about 5.50 feet into a northern part of the east-west public alley, 20 feet wide, in the block bounded by Cass and Woodward Avenues, Davenport and Parsons Streets. This is an encroachment.

The Milner Arms Apartment agreed to the development plan. Orchestra Hall is paying for utility relocation costs to maintain services to the apartment.

The petition was referred to the City Engineering Division — DPW for investigation (utility clearances) and report. This is our report:

The Traffic Engineering Division — DPW approved the partial public alley closing that leaves a dead end (at this time) behind 123 Parsons Street and 118 Davenport Street.

"Orchestra Hall" will pay all costs to adjust or relocate the utility services of Ameritech/Michigan Bell Telephone Company, Comcast Cablevision, and Detroit Edison Company.

The Water and Sewerage Department [DWSD] will retain a private utility easement (outside the north-south vacated public alley) to maintain certain services to the Milner Arms Apartment. However, DWSD decided to abandon a part of the public sewer in the east-west public alley. A connecting sewer line will cross private property not owned by the Milner Arms Apartment. This allows for the underground footing (part of a multi-story parking garage now under construction) extending about 5.50 feet into a northern

part of the east-west public alley, 20 feet wide. [NOTES: The decision to abandon any part of the public sewer that services the Milner Arms Apartment rests entirely with DWSD. It appears the DWSD decision is based upon a non-notarized and unrecorded letter (dated January 17, 1997) written by contractors for "Orchestra Hall", presumably signed by Ron Milner, owner of Milner Arms Apartments. The processing of an encroachment petition does not constitute approval by the Survey Bureau, City Engineering Division, DPW, for the abandonment of a part of public sewer in the east-west public alley.]

The Public Lighting Department reports (facsimile transmission to the Survey Bureau, City Engineering Division, DPW; dated February 13, 1997; prepared by S. Sadwal; phone: 313-267-7232;): "Petition: X-2557; The construction contractor for this project hand-carried this petition to the Public Lighting Department and mistakenly took it to the 'Miss Dig' section instead of Engineering. The answer 'not involved' is incorrect for this petition. The Public Lighting Department has one underground-fed street lighting standard located in the sidewalk on the south side of Parsons Street, near the area of the requested encroachment. We also have 85 feet of conduit and one handhole associated with this street light. We require a clearance from Public Lighting facilities as follows: 'A horizontal clearance (i.e., a distance away from) equal to the vertical distance (i.e., the depth) of the proposed footing. Note: The pedestrian lighting conduit, handholes, cable and ornamental lighting standards located in the sidewalk, near the area of encroachment, are the property of the Detroit Building Authority (D.B.A.). Contact Mr. Clarence White of the D.B.A. at 224-4599 for D.B.A. requirements on this request for encroachment.'"

One additional agency, the Detroit Building Authority, will need to review and approve building plans before construction to place underground footings within Parsons Street, 60 feet wide. "Orchestra Hall" will make application to Buildings and Safety Engineering Department for a building permit. Simultaneously, "Orchestra Hall" must submit building plans to the Detroit Building Authority (in conjunction with the Public Lighting Department — Engineering Services Section, if necessary). This is necessary to prevent damages or maintain public lighting services, and operate the "ornamental lighting" system. The resolution contains provisions to protect the "ornamental lighting" system and utility services.

I am recommending adoption of the attached resolution.

Respectfully submitted,
SUNDAY JAIYESIMI
City Engineer

By Council Member Ravitz:

Whereas, City Council approved the "Project Plan" for the Detroit Symphony Orchestra Hall Development site on May 22, 1996 (J.C.C. pages 1115-17); and

Whereas, The Milner Arms Apartment agreed to the development plan. Orchestra Hall is paying for utility relocation costs to maintain services to the apartment; and

Whereas, The Traffic Engineering Division — DPW approved the partial public alley closing that leaves a dead end (at this time) behind 123 Parsons Street and 118 Davenport Street; and

Whereas, The Water and Sewerage Department [DWSD] will retain a private utility easement (outside the north-south vacated public alley) to maintain certain services to the Milner Arms Apartment. However, DWSD decided to abandon a part of the public sewer in the east-west public alley. A connecting sewer line will

cross private property not owned by the Milner Arms Apartment. This allows for the underground footing (part of a multi-story parking garage now under construction) extending about 5.50 feet into a northern part of the east-west public alley, 20 feet wide. [NOTES: The decision to abandon any part of the public sewer that services the Milner Arms Apartment rests entirely with DWSD. It appears the DWSD decision is based upon a non-notarized and unrecorded letter (dated January 17, 1997) written by contractors for "Orchestra Hall", presumably signed by Ron Milner, owner of Milner Arms Apartments. The processing of an encroachment petition does not constitute approval by the Survey Bureau, City Engineering Division, DPW for the abandonment of a part of public sewer in the east-west public alley]; and

Whereas, One additional agency, the Detroit Building Authority, will need to review and approve building plans before construction to place underground footings within Parsons Street, 60 feet wide. "Orchestra Hall" will make application to Buildings and Safety Engineering Department for a building permit. Simultaneously, "Orchestra Hall" must submit building plans to the Detroit Building Authority (in conjunction with the Public Lighting Department — Engineering Services Section, if necessary). This is necessary to prevent damages or maintain public lighting services, and operate the "ornamental lighting" system. Provisions to protect the "ornamental lighting" system and utility services are below in this resolution, therefore be it

Resolved, The City Engineering Division — DPW is hereby authorized and directed to issue permits to "Detroit Symphony Orchestra Hall, Inc.", a Michigan corporation, whose post office address is 3663 Woodward, Detroit, MI 48202 to construct and maintain all that part of a multi-story parking structure extending about 5.50 feet into a northern part of the east-west (converted public) alley, 20 feet wide, in the block bounded by Cass and Woodward Avenues, Davenport and Parsons Streets, abutting property described (in part) as follows:

The eastern 10.00 feet of Lot 15 and Lots 5 thru 14; also part of the north-south public alley, 20 feet wide, first west of Woodward Avenue between Davenport and Parsons Streets; also Lot 1 of "Bagg's Subdivision of Park Lot 65", City of Detroit, Wayne County, Michigan as recorded in Liber 1, Page 192, Plats, Wayne County Records;

Encroachment to consist of part of a multi-story parking garage (now under construction), including its underground footing(s), extending about 5.50 feet into a northern part of the east-west (converted public) alley, 20 feet wide, in said block, abutting the above described properties:

Provided, The "Detroit Symphony Orchestra Hall, Inc." shall make application to the Buildings and Safety Engineering Department for a building permit. Simultaneously, the petitioner shall make application to the Water and Sewerage Department to obtain approval to construct over (or near) the existing public sewer. [NOTE: If part of a public sewer in the east-west public alley, 20 feet wide, is abandoned by the Water and Sewerage Department; then protection of the abandoned part of sewer is limited by other provisions in this resolution.] All encroaching parts of the multi-story parking structure, including its underground footing(s), shall be installed and maintained in accord with plans submitted to and approved by the Buildings and Safety Engineering Department, and the Water and Sewerage Department — Sewer Services Section. All costs for plan review, inspection, and permits shall be paid by "Orchestra Hall" or their assigns; and further

Department of Public Works
City Engineering Division
December 19, 1996

Honorable City Council:

Re: Petition No. 394. Cass Corridor Neighborhood Development Corp., Inc. Alley to Easement, northerly part of north-south public alley in the block bounded by Second, Cass, M.L. King and Brainard.

Petition No. 394 of "Cass Corridor Neighborhood Development Corp., Inc." requests the conversion of a northerly part of the north-south public alley, 20 feet wide, in the block bounded by Second Boulevard, Cass Avenue, M.L. King Jr. Boulevard and Brainard Street into a private easement for public utilities.

The requested conversion was approved by the Solid Waste Division — DPW, and the Traffic Engineering Division — DPW. The petition was referred to the City Engineering Division — DPW for investigation (utility review) and report. This is our report:

The petitioner(s) plan to use the paved alley return entrance (into Brainard Street), and requests such remain in its present status. Cass Corridor Neighborhood Development Corp., Inc. shall pay all incidental removal costs whenever discontinuance of use makes removal necessary.

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

I am recommending adoption of the attached resolution.

Respectfully submitted,
SUNDAY JAIYESIMI
City Engineer

By Council Member Hill:

Resolved, All that part of the north-south public alley, 20 feet wide, in the block bounded by Second Boulevard, Cass Avenue, M.L. King Jr. Boulevard, and Brainard Street lying westerly of and abutting the north 40.00 feet of the western line of Lot 5, and Lots 6 thru 8; also lying easterly of and abutting the eastern line of Lot 9 as platted in Block 89 of the "Subdivision of part of the Cass Farm to be known as Blocks 89 to 96, inclusive." City of Detroit, Wayne County, Michigan as recorded in Liber 1, Pages 175, 176 and 177, Plats, Wayne County Records;

Be and the same is hereby vacated as a public alley and is hereby converted into a private easement for public utilities of the full width of the alley, 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 alley 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 alley 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 alley 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; said fence and gate installations shall be subject to the review and approval of the Fire Marshal and Buildings and Safety Engineering Department, if necessary) shall be built or placed upon said easement, nor change of surface grade made, without prior approval of the City Engineering Division — DPW.

Fourth, that if the owners of any lots abutting on said vacated alley 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

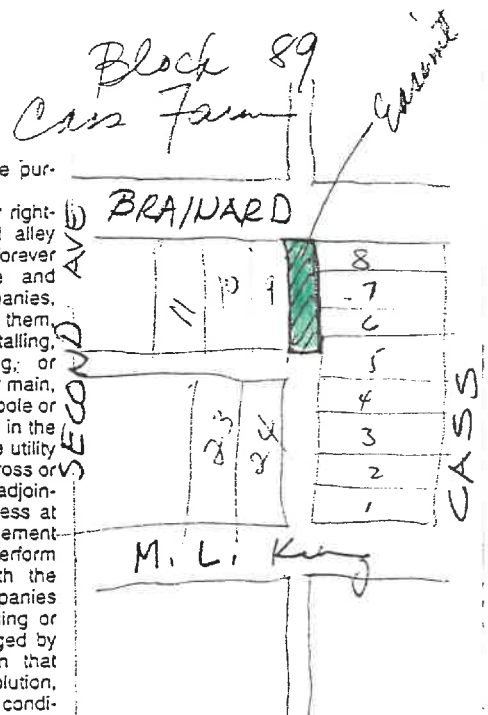
Provided, That if it becomes necessary to remove the paved alley return at the entrance (into Brainard Street), such removal and construction of new curb and sidewalk shall be done under City permit and inspection according to City Engineering Division — DPW specifications with all costs borne by the owner(s) of the Cass Corridor Neighborhood Development Corp., Inc. properties, 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.



CARTO 29-B
(SKETCH ABOVE)

