



CITY OF DETROIT
DEPARTMENT OF PUBLIC WORKS
CITY ENGINEERING DIVISION

COLEMAN A. YOUNG MUNICIPAL CENTER
2 WOODWARD AVE. SUITE 601
DETROIT, MICHIGAN 48226
PHONE: (313) 224-3949 • TTY:711
FAX: (313) 224-3471
WWW.DETROITMI.GOV

November 22, 2019

Honorable City Council:

RE: Amended and Restated Petition No. 1061 — Detroit Department of Public Works City Engineering Division, request for approval of Amended and Restated Resolution relating to conversion to easement portions of the following streets: Marcus Avenue, and Rugg Street, Richardson Street and the outright vacation of Filer Avenue and certain alleys for the development of a parking lot for Cedar Investments, LLC

On October 1, 2019, Detroit City Council approved a resolution relating to Petition No. 1061 submitted by Detroit Department of Public Works City Engineering Division (“CED”) on behalf of Crown Enterprises, Inc., (“Crown”) which resolution was subsequently recorded in Wayne County Records on October 9, 2019 in Liber 55325, Page 1203 (the “Original Resolution”). It was subsequently determined that the Original Resolution did not include certain provisions agreed to by CED and Crown and further contained certain scrivener’s errors with respect to legal descriptions contained therein. Further, Crown’s affiliate, Cedar Investments, LLC, (“Cedar”) has subsequently acquired fee title to the land adjacent to the impacted rights of way and is now the appropriate petitioner.

CED, on behalf of Crown, respectfully requests that Detroit City Council adopt the attached resolution (the “Amended Resolution”), which Amended Resolution amends and restates and supersedes in its entirety the Original Resolution.

Amended and Restated Petition No. 1061 — Detroit Department of Public Works City Engineering Division on behalf of Cedar Investments, LLC requesting the conversion to easement and the outright vacation of certain streets and certain alley segments as more particularly described in the attached Amended Resolution, in the area generally bounded by Huber Avenue on the north, Mt. Elliot Avenue on the west, Georgia Avenue on the south, and New York Central Rail Line on the east.

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

The request is being made for the proposed development of CEDAR INVESTMENTS, LLC’s parking lot on the east side of Mt. Elliot. CEDAR INVESTMENTS, LLC shall pay the costs required to abandon and relocate active utility lines in the subject streets and alleys. Alternatively, CEDAR INVESTMENTS, LLC may grant private easements to existing utilities to allow them to remain in place while providing access for repairs or replacement.

The request was approved by the Solid Waste Division – DPW, and Traffic Engineering Division – DPW (TED), and City Engineering – DPW (CED). The construction of the proposed turnaround on Marcus Avenue upon lots 761 & 835 of Bessenger & Moore’s Mt. Elliot Avenue Sub., L.33 P.19, will be done under plans approved by both TED and CED.



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Provisions for the turnaround to be constructed under plans approved by TED and permits from CED are a part of the resolution.

DTE Gas Company reports involvement but no objection.

AT&T objects to the property change. CEDAR INVESTMENTS, LLC continues to work with AT&T to make mutually satisfactory arrangements for removal of AT&T facilities or granting of a private easement.

DTE Energy – Electric objects to the property change. CEDAR INVESTMENTS, LLC continues to work with DTE to make mutually satisfactory arrangements for removal of DTE facilities or granting of a private easement.

Detroit Fire Department (DFD) reports involvement but no objection provided CEDAR INVESTMENTS, LLC maintains emergency vehicle access to all existing building structures and hydrants.

Detroit Water and Sewerage Department (DWSD) has no objection to the requested conversion to easement vacations and outright vacation of alleys, provided certain conditions are met. The specific DWSD conditions and provisions for granting of private easements are included in the resolution. DWSD reports that there are water mains in Marcus, Rugg, and Richardson Streets and that for all of the subject alleys the existing sewers can be removed.

All other involved City Departments, and privately owned utility companies informed of this petition have reported no objections to the vacations. CEDAR INVESTMENTS, LLC's commitment to continue working with all involved public and private utilities to protect their installations is incorporated in the attached resolution.

I am recommending adoption of the attached Amended Resolution, which Amended Resolution amends and restates and supersedes in its entirety the Original Resolution, and further respectfully request that your Honorable Body adopt the Amended Resolution with a Waiver of Reconsideration.

Respectfully submitted,

Richard Doherty, P.E., City Engineer
City Engineering Division – DPW

/JD-JK

Cc: Ron Brundidge, Director, DPW
Mayor's Office – City Council Liaison

AMENDED AND RESTATED RESOLUTION

BY COUNCIL MEMBER _____

PROVIDED, on October 1, 2019, Detroit City Council approved a resolution relating to Petition No. 1061 submitted by Detroit Department of Public Works City Engineering Division on behalf of CROWN ENTERPRISES, INC. for CEDAR INVESTMENTS, LLC which resolution was subsequently recorded in Wayne County Records on October 9, 2019 in Liber 55325, Page 1203 (the "Original Resolution"); and further

PROVIDED, it was subsequently determined that the Original Resolution did not include certain provisions agreed to by CED and Cedar and further contained certain scrivener's errors with respect to legal descriptions contained therein; and further

PROVIDED, this Amended and Restated Resolution amends and restate and supersedes in its entirety the Original resolution; and further

PROVIDED, CEDAR INVESTMENTS, LLC is working with the involved agencies and utilities to make satisfactory arrangements for the abandonment, removal and/or rerouting of their services and facilities; and further

PROVIDED, CEDAR INVESTMENTS, LLC will grant private easements to any involved agencies and utilities for facilities that will remain in the vacated streets and alleys as mutually agreed to within the reasonable discretion of CEDAR INVESTMENTS, LLC and the agencies and utilities; and further

PROVIDED, CEDAR INVESTMENTS, LLC will grant private easements upon parts of lots 65, 66, 67, 94 and 95 of Howe's Subdivision, Liber 13, Page 24 of Wayne County Records of Wayne County Records to the adjacent property owner, BRESLER-GORDON METALS, for the purpose of allow ingress/egress to property; and assume costs associated to work related to construction of ingress/egress.

RESOLVED, that all of the following parts of Marcus Avenue, 50 feet wide, Rugg Street, 55 feet wide, and Richardson, 60 feet wide, and alley segments, being land in the City of Detroit, Wayne County, Michigan further described as:

- 1) Marcus Avenue, 50 feet wide, from east line of Mt. Elliot Avenue, 66 feet wide, to the east line of the lots 761 & 835 of Bessenger & Moore's Mt. Elliot Avenue Sub., L.33 P.19, west of Pease Avenue, 50 feet wide; Marcus Avenue lying south of and adjoining the south line of lots 798, and 782 through 779, and 764 through 761 of Bessenger & Moore's Mt. Elliot Avenue Subdivision, Liber 33 Page 19 of Wayne County Records; also lying north of and adjoining lots 799, and 844 through 835 of Bessenger &

Moore's Mt. Elliot Avenue Sub., Liber 33 Page 19 of Wayne County Records; and bounded on the west by Mt. Elliot Avenue, 66 feet wide, and Pease Avenue, 50 feet wide.

- 2) Rugg Street, 55 feet wide, from the east line of Mt. Elliot Avenue, 66 feet wide, to the east line of lot 827 Bessenger & Moore's Mt. Elliot Avenue Sub., L.33 P.19, and the east line of lot 140 of Howe's Sub., L.13 P.24, west of New York Central Rail Road; Rugg Street lying south of and adjoining the south line of lots 810 through 827 of Bessenger & Moore's Mt. Elliot Avenue Sub., Liber 33, Page 19 of Wayne County Records; also lying north of and adjoining lots 124 through 140 of Howe's Subdivision, Liber 13, Page 24 of Wayne County Records; and bounded on the west by Mt. Elliot Avenue, 66 feet wide, and west of New York Central Rail Road.
- 3) Richardson Street, 60 feet wide, from the east line of Mt. Elliot Avenue, 66 feet wide, to the east line of lots 101 & 100 of Howe's Sub., L.13 P.24, west of New York Central Rail Road; Richardson Street lying south of and adjoining the south line of lots 117 through 101 of Howe's Subdivision, Liber 13, Page 24 of Wayne County Records of Wayne County Records; also lying north of and adjoining lots 84 through 100 of Howe's Subdivision, Liber 13, Page 24 of Wayne County Records; and bounded on the west by Mt. Elliot Avenue, 66 feet wide, and west of New York Central Rail Road.
- 4) Filer Avenue, 50 feet wide; Filer Avenue from the north-east corner of lot 779 to the north-west corner of lot 764 from the south-east corner of lot 778 to the south-west corner of lot 765; bounded by Marcus Avenue, 50 feet wide, to the south, between Mt. Elliot Avenue, 66 feet wide, and Pease Avenue, 50 feet wide.
- 5) The north/south alley segment, 16 feet wide, from the north line of lots 793 & the south line of lot 778 to south line of lots 798 & 782 of Bessenger & Moore's Mt. Elliot Avenue Sub., L.33 P.19, south of Huber Avenue, 66 feet wide, and north of Marcus Avenue, 50 feet wide; north-south alley, 16 feet wide, lying easterly of and adjoining lots 793 through 798; westerly of lot 782 and westerly of the east-west alley bounded by lots 778 & 782 of Bessenger & Moore's Mt. Elliot Avenue Sub., Liber 33, Page 19 of Wayne County Records; and bounded by Marcus Avenue, 50 feet wide, and Outlot 3 Plat of Subdivision of Section 21, Liber 3, Page 12 of Wayne County Records.
- 6) The east/west alley segment, 16 feet wide, from the west line of lots 778 & 782 to the east line of lots 765 & to a point 16.46 feet east from the west line of lot 761 of Bessenger & Moore's Mt. Elliot Avenue Sub., L.33 P.19, east of Mt. Elliot Avenue, 66 feet wide, and west of Pease Avenue, 50 feet wide; east-west alley, 16 feet wide, lying northerly of and adjoining lots 782 through 779, and lying northerly of and adjoining lots 764 through 762 and the west 16.46 feet of lot 761; lying southerly of lot 778, lying southerly of and adjoining lot 765 of Bessenger & Moore's Mt. Elliot Avenue Sub., L.33 P.19; north of Marcus Avenue, 50 feet wide, between Mt. Elliot Avenue, 66 feet wide, and Pease Avenue, 50 feet wide.

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- 7) The north/south alley segment, 16 feet wide, from the north line of lots 799 & 844 to south line of lots 810 & 811 of Bessenger & Moore's Mt. Elliot Avenue Sub., L.33, P.19, south of Marcus Avenue, 50 feet wide, and north of Rugg Street, 55 feet wide: north-south alley, 16 feet wide, lying easterly of and adjoining lots 799 through 810; westerly of lots 844 and 811 of Bessenger & Moore's Mt. Elliot Avenue Sub., Liber 33 Page 19 of Wayne County Records; and bounded by Marcus Avenue, 50 feet wide, and Rugg Street, 55 feet wide.
 - 8) The east/west alley segment, 16 feet wide, from the west line of lots 844 and 811 to the east line of lots 821 and 834, also from the east line of lots 827 & 828 to the west line of lots 827 & 828 of Bessenger & Moore's Mt. Elliot Avenue Sub., L.33 P.19, south of Marcus Avenue, 50 feet wide, and north of Rugg Street, 55 feet wide: east-west alley, 16 feet wide, lying northerly of and adjoining lots 811 through 821, and lot 827; southerly of lots 844 through 834, and lot 828 of Bessenger & Moore's Mt. Elliot Avenue Sub., Liber 33 Page 19 of Wayne County Records; East of Mt. Elliot Avenue, 66 feet wide, and between Marcus Avenue, 50 feet wide, and Rugg Street, 55 feet wide.
 - 9) The north/south alley segment, 20 feet wide, from the north line of lots 124 & 125 to south line of lots 117 & 116 of Howe's Sub., L.13 P.24, south of Rugg Street, 55 feet wide, and north of Richardson Street, 60 feet wide: north-south alley, 20 feet wide, lying easterly of and adjoining lot 117 through 124; westerly of and adjoining lot 125 & 116 of Howe's Subdivision, Liber 13, Page 24 of Wayne County Records of Wayne County Records; East of Mt. Elliot Avenue, 66 feet wide, between Rugg Street, 55 feet wide, and Richardson Street, 60 feet wide.
 - 10) The east/west alley segment, 20 feet wide, from the west line of lots 116 & 125 to east line of lots 140 & 101 of Howe's Sub., L.13 P.24 east of Mt. Elliot Avenue, 66 feet wide, and west of New York Central Rail Road: east-west alley, 20 feet wide, lying northerly of and adjoining lot 116 through 101; southerly of and adjoining lot 125 through 140 of Howe's Subdivision, Liber 13, Page 24 of Wayne County Records of Wayne County Records; East of Mt. Elliot Avenue, 66 feet wide, between Rugg Street, 55 feet wide, and Richardson Street, 60 feet wide.
 - 11) The north/south alley segment, 20 feet wide, from the south line of lots 77 & 76 to the north line of lots 84 & 85 of Howe's Sub., L.13 P.24, south of Richardson Street, 60 feet wide, and north of Georgia Avenue, 50 feet wide: north-south alley, 20 feet wide, lying easterly of and adjoining lot 84 through lot 77; westerly of and adjoining lots 85 and 76 of Howe's Subdivision, Liber 13, Page 24 of Wayne County Records of Wayne County Records; East of Mt. Elliot Avenue, 66 feet wide, between Richardson Street, 60 feet wide, and Georgia Avenue, 50 feet wide.
 - 12) The east/west alley segment, varied width, from the west line of lots 85 & 76 to east line of lots 96 & 65 and the east-west alley segment, 20 feet wide, from the west line

of lots 100 & 61 to the east line of lots 100 & 61 of Howe's Sub., L.13 P.24 east of Mt. Elliot Avenue, 66 feet wide, and west of the New York Central Rail Road; east-west alley, varied width, lying northerly of and adjoining lots 65 through 76 and lot 61; southerly of and adjoining lots 85 through 96 and lot 100 of Howe's Subdivision, Liber 13, Page 24 of Wayne County Records of Wayne County Records; East of Mt. Elliot Avenue, 66 feet wide, between Richardson Street, 60 feet wide, and Georgia Avenue, 50 feet wide.

be and the same is hereby vacated as a public right-of-way to become part and parcel of the abutting property and is hereby converted to an easement for public utilities of the full width of the right-of-way, 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 right-of-way and by their heirs, executors, administrators and assigns, forever to wit:

Said owners hereby grant to and for the use of Detroit Water and Sewerage Department (DWSD), AT&T, ITC Holdings (if applicable), and DTE Electric Company (DTE), respectively, an easement as herein above described for the purposes of maintaining, installing, repairing, removing, inspecting or replacing public utilities such as water mains, sewers, gas lines or mains, telephone, electric light conduits or poles or related infrastructure and equipment, with the right of ingress and egress, including on adjacent property, for the purpose above set forth herein, and DWSD, AT&T, ITC Holdings, and DTE, respectively, shall use due care in accessing their infrastructure and any property damaged by the utility companies shall be restored to a satisfactory condition,

Said owners for their heirs and assigns further agree that no buildings, shall be built or placed upon said easements without prior approval of DWSD or any other utility companies actually having facilities located in the affected easements, provided, that except for the restriction on buildings, nothing in this condition shall prevent Cedar from utilizing the easement in accordance with an approved site plan for the currently contemplated use as of the date hereof, which contemplated use does not include any buildings,

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 making such request shall pay all reasonable costs for such removal and/or relocation, unless such charges are waived by the utility owners,

If any utility located in said property shall break or be damaged as a result of any negligent or wrongful 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 code then in such event said owners or assigns causing such damage shall be liable for all reasonable costs incidental to the repair of such broken or damaged utility,

In the event that any current or future site plan requires the relocation of any existing sewers water mains or related DWSD infrastructure within said easements or construction of any new

sewers water mains or related DWSD infrastructure, CEDAR INVESTMENTS, LLC or their assigns shall design and construct proposed sewers and or water mains to interconnect their proposed project with the existing public sewers and or water mains as required by DWSD prior to construction of the proposed sewers and or water mains in accordance with the following: (i) the plans for the sewers and or water mains shall be prepared by a registered engineer; (ii) DWSD be and is hereby authorized to review the drawings for the proposed sewers and or water mains and to issue permits for the construction of the sewers; (iii) the entire work is to be performed in accordance with plans and specifications approved by DWSD and constructed under the inspection and approval of DWSD; (iv) the entire cost of the proposed sewers and or water mains construction, including inspection, survey and engineering shall be borne by the CEDAR INVESTMENTS, LLC or their assigns; (v) CEDAR INVESTMENTS, LLC or their assigns shall deposit with DWSD, in advance of engineering, inspection and survey, such amounts as the department deems necessary to cover the costs of these services; (vi) CEDAR INVESTMENTS, LLC or their assigns shall grant to the City a satisfactory easement for the sewers and or water mains; (vii) the Board of Water Commissioners shall accept and execute the easement grant on behalf of the City; (viii) CEDAR INVESTMENTS, LLC or their assigns shall provide a one (1) year warranty for the proposed sewers and or water mains; and (ix) that upon satisfactory completion, any public sewers and or water mains shall become City property and become part of the City system, and any existing sewers and or water mains that were abandoned shall belong to CEDAR INVESTMENTS, LLC or their assigns and will no longer be the responsibility of the City,

PROVIDED, that the petitioner maintain Fire Department vehicle access to all buildings, structures, fire hydrants, and fire department connections; and further

PROVIDED, that free and easy access to the DTE facilities within the easement is reserved for DTE equipment including the use of backhoes, bull dozers, cranes or pipe trucks, and other heavy construction equipment, as necessary for the alteration or repair of the facilities, and further and be it also

RESOLVED, that all of the following parts of Filer Avenue, 50 feet wide, and alley segments being land in the City of Detroit, Wayne County, Michigan further described as:

- 1) Filer Avenue, 50 feet wide, from the north line of lots 771 and 772 to the south line of lots 778 and 765 of Bessenger & Moore's Mt. Elliot Avenue Sub. Liber 33, Page 19: Filer Avenue lying east of and adjoining the east line of lots 772 through 778 and lying west of and adjoining lots the west line of 765 through 771 of Bessenger & Moore's Mt. Elliot Avenue Sub., Liber 33 Page 19 of Wayne County Records; and bounded on the south by Marcus Avenue, 50 feet wide, and on the north by Outlot 3 Plat of Subdivision of Section 21, Liber 3, Page 12 of Wayne County Records.
- 2) Filer Avenue, 50 feet wide, from the north line of lots 779 and 764 to the south line of lots 779 and 764 of Bessenger & Moore's Mt. Elliot Avenue Sub. Liber 33, Page 19: Filer Avenue lying east of and adjoining the east line of lot 779 and lying west of and adjoining the west line of lot 764 of Bessenger & Moore's Mt. Elliot Avenue Sub.,

Liber 33 Page 19 of Wayne County Records; and bounded on the south by Marcus Avenue, 50 feet wide, and on the north by Outlot 3 Plat of Subdivision of Section 21, Liber 3, Page 12 of Wayne County Records.

- 3) The north/south alley segment, 16 feet wide, from the south line of lots 792 & 778 to the north line of lots 772 & 783 of Bessenger & Moore's Mt. Elliot Avenue Sub., L.33 P.19, south of Huber Avenue, 66 feet wide, and north of Marcus Avenue, 50 feet wide: north-south alley, 16 feet wide, lying easterly of and adjoining lots 783 through 792; westerly of and adjoining lots 772 through 778 of Bessenger & Moore's Mt. Elliot Avenue Sub., Liber 33, Page 19 of Wayne County Records; and bounded by Marcus Avenue, 50 feet wide, and Outlot 3 Plat of Subdivision of Section 21, Liber 3, Page 12 of Wayne County Records.
- 4) The north/south alley segment, 18 feet wide, from the north line of lots 820 & the east 12 feet of lot 821 to south line of lots 820 & the east 12 feet of lot 821 of Bessenger & Moore's Mt. Elliot Avenue Sub., L.33 P.19, south of Marcus Avenue, 50 feet wide, and north of Rugg Street, 55 feet wide: north-south alley, 18 feet wide, lying easterly of and adjoining lot 820; westerly of and adjoining the east 12 feet of lot 821 of Bessenger & Moore's Mt. Elliot Avenue Sub., Liber 33 Page 19 of Wayne County Records.

Be and the same is hereby vacated (outright) as public right-of-way to become part and parcel of the abutting property, subject to the following provisions:

PROVIDED, that petitioner/property owner make satisfactory arrangements with DWSD, the City's Public Lighting Department, if applicable, DTE, COMCAST (if applicable), AT&T, and ITC HOLDINGS (if applicable) for cost and arrangements for removing and/or relocating of the utility companies, with the cost borne by the petitioner; and further

PROVIDED, that the petitioner make the necessary arrangements with DWSD for the abandonment of DWSD facilities through bulk heading and flowable fill placement or the removal of their facilities and miscellaneous associated work, all in accordance with specifications approved by DWSD, with the cost borne by the petitioner, including but not limited to inspection, survey and engineering, and further

PROVIDED, that any existing sewers that are so abandoned shall belong to the petitioner and will no longer be the responsibility of DWSD; and further

PROVIDED, that any construction in the public rights-of-way such as curbs and sidewalks 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 heir or assigns; and be it also

RESOLVED, that that your Honorable Body authorize the acceptance of the following described property from CEDAR INVESTMENTS, LLC for public right-of-way purposes:

Part of Lots 761 and 835, Block 1 “Bessenger & Moore’s Mt. Elliot Avenue Subdivision” as recorded in Liber 33, Page 19 of Plats, Wayne County Records; and being more particularly described as follows: the south 20 feet of the east 20 feet of lot 761 and vacated Marcus Street adjacent to the south 20 feet of the east 20 feet of lot 761 of “Bessenger & Moore’s Mt. Elliot Avenue Subdivision” as recorded in Liber 33, Page 19 of Plats, Wayne County Records, and the north 20 feet of the east 20 feet of lot 835 and vacated Marcus Street adjacent to the north 20 feet of the east 20 feet of lot 835 of “Bessenger & Moore’s Mt. Elliot Avenue Subdivision” as recorded in Liber 33 Page 19 of Plats, Wayne County Records

PROVIDED, that CEDAR INVESTMENTS, LLC or their assigns shall design and construct the new alley turnaround on Marcus Ave as required by the City Engineering Division – DPW (CED)/Street Design Bureau and the Traffic Engineering Division – DPW; and further

PROVIDED, that CEDAR INVESTMENTS, LLC or their assigns shall be responsible for arranging the financing of the entire cost of the proposed right-of-way construction, including inspection, survey and engineering; and further

PROVIDED, that the entire work is to be performed in accordance with plans and specifications approved by CED and constructed under the inspection and approval of CED; and further

PROVIDED, that all taxes with respect to property of which the Dedication Area is a part of shall be paid and proof thereof furnished to the Law Department and/or City Engineering Division – DPW; and further

PROVIDED, that proof of compliance with Detroit Ordinance No. 29-94, Detroit Code Sections 2-1-11 through 2-1-15 also known as the Environmental Review Guidelines, is furnished to the Law Department and/or City Engineering Division – DPW; and further

PROVIDED, that the fee owner submit a properly executed deed acceptable to the Law Department and/or City Engineering Division – DPW; and further

PROVIDED, That the petitioner obtain Traffic Engineering Division, signature of approval on the final design and plans for the construction of the alley turnaround; 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 further

PROVIDED, that upon such recordation, this resolution shall amend and restate and supersede in its entirety that certain resolution recorded in Wayne County Records on October 9, 2019 in Liber 55325, Page 1203 and such resolution shall be of no further force and effect.

