



Legislation Details (With Text)

File #: 17-0868R **Name:**

Type: Resolution **Status:** Passed

File created: 12/1/2017 **In control:** Public Works and Utilities

On agenda: 12/11/2017 **Final action:** 12/11/2017

Title: RESOLUTION AUTHORIZING FIRST AMENDMENT TO CITY CONTRACT NO. 22407 WITH PRAXAIR, INC. AND DEDA SUBSTITUTING A NEW ROAD EASEMENT IN ONEOTA III.

Sponsors:

Indexes:

Code sections:

Attachments: 1. EXHIBIT 1-03152018094303

Date	Ver.	Action By	Action	Result
12/11/2017	1	City Council	adopted	

RESOLUTION AUTHORIZING FIRST AMENDMENT TO CITY CONTRACT NO. 22407 WITH PRAXAIR, INC. AND DEDA SUBSTITUTING A NEW ROAD EASEMENT IN ONEOTA III.

CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to enter into a first amendment to city contract no. 22407 with Praxair, Inc., a Delaware corporation, and the Duluth economic development authority ("DEDA"), a copy of which is attached hereto as Exhibit A, pursuant to which previous grants of a temporary and an executory permanent road easement are terminated and accepting a new permanent easement from both DEDA and Praxair for road and utility purposes connecting West Superior Street to Michigan Street generally at platted 38th Avenue West as shown in said first amendment.

STATEMENT OF PURPOSE: The purpose of this resolution is to authorize an agreement with Praxair, Inc. and DEDA to amend an agreement from 2005 to provide street access to property in Oneota III which was intended to facilitate the redevelopment of Praxair and DEDA property.

Prior to the original agreement, DEDA had acquired property between West Superior Street and Michigan Street west of the vacated right-of-way for 38th Avenue West to facilitate its redevelopment. Praxair owned property to the east and north of that property which had previously housed an acetylene manufacturing operation and was then being used as part of their industrial gas distribution business. As a residual of the manufacturing operations, there was a large lime pile on the property that Praxair needed to dispose of before the property could be redeveloped.

In 2005, DEDA and Praxair agreed to grant a temporary easement substantially in the old 38th Avenue West right-of-way to the city and the city agreed to construct a temporary road in it connecting Superior Street to Michigan Street. Then, when the lime pile had been removed, DEDA and Praxair would finalize the grant of a permanent easement which was intended to accommodate a connection from Superior Street to Michigan Street approximately at the location of where 37th Avenue West would have been, matching up with the bridge over I-35 to Oneota Street. At that point, the temporary road would be abandoned and the temporary easement would go out of existence.

An agreement to implement this plan was approved by all parties and signed, creating the temporary easement and the pendent permanent easement, awaiting the events set forth above. It was the belief of the

parties that a road in the permanent easement would be the best way to facilitate the redevelopment of the Praxair property.

The passage of time and experience in the area has since caused the parties to rethink the plan agreed to in 2005. As a result of this review, the parties determined that the concept of a road in what had been intended to be the permanent easement was not the best way to redevelop the properties and a better approach would be to abandon the concept of connecting at 37th Avenue West and to render the existing connection at 38th Avenue West permanent.

This amendment to the 2005 agreement gets rid of the commitments for the 37th Avenue West connection and grants the easement to render the 38th Avenue West connection permanent.