



Legislation Details (With Text)

File #: RES PH 13-18 **Version:** 1

Type: Resolution-Public Hearing **Status:** Passed
In control: City Council
Final action: 1/16/2013

Title: Approving the petition of the Ordway Center for the Performing Arts to vacate a portion of Washington Street, including air rights above Washington Street, and to release and establish other easements in connection with the development of a new 1,100-seat theatre on the Ordway property.

Sponsors: Dave Thune

Indexes:

Code sections:

Attachments: 1. Exhibit A.pdf, 2. Exhibit B.pdf, 3. Exhibit C.pdf, 4. Exhibit D.pdf

| Date | Ver. | Action By | Action | Result |
|-----------|------|----------------|---------|--------|
| 1/22/2013 | 1 | Mayor's Office | Signed | |
| 1/16/2013 | 1 | City Council | Adopted | Pass |

Approving the petition of the Ordway Center for the Performing Arts to vacate a portion of Washington Street, including air rights above Washington Street, and to release and establish other easements in connection with the development of a new 1,100-seat theatre on the Ordway property.

WHEREAS, the Ordway Center for the Performing Arts ("Petitioner") plans to construct a new 1,100-seat concert hall on the site of the existing 306-seat McKnight Theatre; and

WHEREAS, the proposed theatre would extend into the existing Washington Street right-of-way, thus requiring vacation of a portion of said right-of-way, as described and depicted in Exhibit A attached hereto; and

WHEREAS, the proposed theatre would also extend over portions of existing Washington Street and Fifth Street right-of-way, thus requiring vacation of air rights within said right-of-way, as described and depicted in Exhibit B attached hereto; and

WHEREAS, Petitioner also proposes to vacate an existing four-foot sidewalk easement located in front of the main Ordway Theatre entrance and westerly of the existing Washington Street right-of-way, as described and depicted in Exhibit C attached hereto; and replace said easement with a proposed Public Access Easement, as described and depicted in Exhibit D attached hereto; now, therefore be it

RESOLVED, that upon the petition of said Petitioner, as documented in Office of Financial Services Vacation File Number 16-2012, the public property described and depicted in Exhibits A, B and C is hereby vacated and discontinued as public property, and the utility easements within said public property are hereby released, all subject to the following conditions:

1. An easement shall be retained on, over, under and across the proposed Washington Street vacation area (Exhibit A) on behalf of District Energy St. Paul, Inc. and District Cooling St. Paul, Inc. until existing district heating service facilities are relocated from said Washington Street vacation area to Fifth Street, as agreed to between the Ordway and District Energy St. Paul. The shutdown of said facilities in Washington Street shall not occur until the new service in Fifth Street is connected within the Ordway building, which

connection will need to occur only between June 15 and August 15 due to the impact on other customers. After said relocation, and upon approval by District Energy St. Paul, Inc., the easement within the Washington Street vacation area shall automatically be released. Financial arrangements are being handled separately by the two parties.

2. In the event the Ordway Center for the Performing Arts building is removed in the future, the proposed Washington street vacation area (Exhibit A) and the proposed air rights vacation area (Exhibit B) shall automatically revert back to public street right-of-way, and said reversion shall be at no cost to the City of Saint Paul ("City").

3. Petitioner shall maintain a minimum 12-foot sidewalk width on the west side of Washington Street between Fifth Street on the north and the drop-off bay in front of the main theatre entrance on the south. This width may be accomplished by constructing curb on a new alignment closer to the centerline of Washington Street as part of the theatre project.

4. Petitioner shall grant to the City of Saint Paul ("City") the proposed Public Access Easement (Exhibit D). Said easement shall include dedication of utility easement rights within the easterly 10 feet of the described easement area.

5. Petitioner must maintain a minimum horizontal distance of 24 inches between the overhang structure of the proposed new theatre and the face of curb on the south side of Fifth Street. This distance may be accomplished by constructing curb on a new alignment closer to the centerline of Fifth Street as part of the theatre project.

6. Petitioner must maintain a minimum vertical distance of 13 feet 6 inches between the bottom of the overhang structure of the proposed new theatre and the street surface on Washington Street and Fifth Street.

7. The City, through its Public Works Department, shall be permitted to install street lighting and traffic signal facilities within the portion of the proposed air rights vacation area (Exhibit B) that does not contain building structure.

8. If the theatre project will impact, damage or remove City-owned and maintained street trees, Petitioner shall compensate the City for said trees using standard shade tree appraisal methods and values.

9. Ongoing and regular programs and events in Rice Park and Landmark Plaza shall continue to have unrestricted access from streets and sidewalks on all sides of the parks; and streets, sidewalks and air rights shall not be blocked or impacted by construction. Any damage to park property shall be restored to the satisfaction of the City's Department of Parks and Recreation. There shall be no staging, storage or parking within the parks related to construction. Park property shall be protected as needed during construction.

10. This vacation shall be subject to the terms and conditions of Chapter 130, codified March 1, 1981, of the Saint Paul Legislative Code as amended.

11. Petitioner, its successors and assigns shall pay \$1,200.00 to the City of Saint Paul as an administrative fee for this vacation which is due and payable within 60 days of the effective date of this resolution.

12. Petitioner, its successors and assigns shall, within 60 days of the effective date of this resolution, file with the Office of Financial Services Real Estate Section, an acceptance in writing of the conditions of this resolution and shall, within the period specified in the terms and conditions of this resolution, comply in all respects with these terms and conditions.

13. Petitioner, its successors and assigns agree to indemnify, defend and save harmless the City of Saint Paul, its officers and employees from all suits, actions or claims of any character brought as a result of injuries

or damages received or sustained by any person, persons or property on account of this vacation, or the Petitioner's use of this property, including but not limited to, a claim brought because of any act of omission, neglect, or misconduct of said Petitioner or because of any claims or liability arising from any violation of any law or regulation made in accordance with the law, whether by the Petitioner or any of its agents or employees.

Financial analysis is not applicable.