



Legislation Details (With Text)

**File #:** 18-0022      **Version:** 1      **Name:** 3/19/18 - Agreement with Level 3 Communications, LLC for the Allen Creek Railroad Berm Opening Project

**Type:** Resolution      **Status:** Passed

**File created:** 3/19/2018      **In control:** City Council

**On agenda:** 3/19/2018      **Final action:** 3/19/2018

**Enactment date:** 3/19/2018      **Enactment #:** R-18-099

**Title:** Resolution to Approve an Agreement with Level 3 Communications, LLC (Level 3) for up to \$118,200.00 for Relocation of Fiber Optic Lines for the Allen Creek Railroad Berm Opening Project

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Executed Agreement.pdf

Date	Ver.	Action By	Action	Result
3/19/2018	1	City Council	Approved	Pass

Resolution to Approve an Agreement with Level 3 Communications, LLC (Level 3) for up to \$118,200.00 for Relocation of Fiber Optic Lines for the Allen Creek Railroad Berm Opening Project Attached for your review and consideration for approval is a resolution authorizing an agreement with Level 3 Communications, LLC (Level 3) for up to \$118,200.00 for the relocation of fiber optic lines for the Allen Creek Railroad Berm Opening Project. This agreement includes an advance payment of \$107,390.76, reflecting estimated relocation costs. This resolution also authorizes a recommended contingency of up to \$10,809.24. The City will only be responsible for actual costs and any funds remaining will be returned to the City.

In December of 2013, the City and its consultant, OHM Advisors, completed a feasibility study to determine if it was possible to create openings in the railroad berm to accommodate passage of floodwaters, as well as to allow pedestrians to cross safely under the railroad to get to the park facilities to the north. The feasibility study indicated that it would be possible to lower the floodplain elevation in the area by as much as 6.5 feet as well as accommodate non-motorized access under the railroad.

The project aims at creating a new pedestrian connection linking downtown Ann Arbor and its neighborhoods with the Border to Border (B2B)/Iron Belle Trail through the railroad berm in the vicinity of Allen Creek. Pedestrian access is acceptable to the Michigan Department of Transportation (MDOT), who is the owner of the railroad.

On June 27, 2016, the Michigan State Police-Emergency Management Division (MSP-EM) provided City Staff with a FEMA Hazard Mitigation Assistance Grant agreement for the first phase of a two phase project to construct stormwater culverts in the railroad berm. Phase one consisted of the engineering design, development of construction plans, and preparation of the phase two hazard mitigation grant application.

On January 3, 2017, City Council authorized a Professional Services Agreement with Bergmann Associates, Architects, Engineers, Landscape Architects & Surveyors, D.P.C. (Bergmann) to assist staff in developing and preparing the construction plans and the hazard mitigation grant application, which has now been submitted. Phase two is the construction phase, and is expected to occur in the summer/fall of 2018.

In order to construct the two stormwater culverts and the pedestrian tunnel, the fiber optic lines owned and operated by Level 3 Communications, LLC must be relocated within the railroad right-of-way at the City's expense.

Budget/Fiscal Impact

Funding for the Level 3 advance payment and contingency is available in the existing Allen Creek Railroad Berm project budget.

Prepared by: Nicholas Hutchinson, P.E., City Engineer

Reviewed by: Craig Hupy, Public Services Area Administrator

Approved by: Howard S. Lazarus, City Administrator

Whereas, The Allen Creek Railroad Berm Opening is included in the 2017-2022 Capital Improvements Plan (CIP);

Whereas, It is desired to create openings in the railroad berm to accommodate passage of floodwaters and to allow pedestrians to cross safely under the railroad to access the park facilities to the north;

Whereas, While the Michigan Department of Transportation owns the railroad tracks, Level 3 Communications, LLC owns and operates fiber optic conduits in the railroad right of way that require relocation;

Whereas, Prior to performing the relocation, Level 3 requires the City to enter into an agreement and to remit advance payment to Level 3 Communications, LLC reflecting estimated costs for relocation of the fiber optic lines within the railroad right-of-way for the Allen Creek Railroad Berm Opening Project; and

Whereas, Funding for the Level 3 advance payment and contingency is available in the existing Allen Creek Railroad Berm project;

RESOLVED, That City Council approve an agreement with Level 3 Communications, LLC to relocate fiber optic lines within the railroad right-of-way as necessary for the Allen Creek Railroad Berm Opening Project, including an advance payment of \$107,390.76 to Level 3 reflecting estimated costs for the relocation, and with the condition that the City will only pay the actual costs of relocation and remaining funds, if any, be returned to the City;

RESOLVED, That the Mayor and City Clerk be authorized and directed to execute said agreement, after approval as to form by the City Attorney, and approval as to substance by the City Administrator; and

RESOLVED, That City Council authorize the City Administrator to take the appropriate administrative actions to implement this resolution, including approving up to \$10,809.24 in additional contingency payments for actual costs incurred under the agreement.