



## Legislation Text

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**File #:** 19-0469, **Version:** 1

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Resolution to Approve an Agreement with DTE Gas Company for Storm Water and Sidewalk Easements and a Temporary Construction Permit at 841 Broadway for the Allen Creek Railroad Berm Opening Project **(8 Votes Required)**

DTE has signed an easement agreement in fulfillment of an obligation in a prior agreement between DTE and the City, approved by Council on June 18, 2018 (R-18-256). This easement agreement grants the City a temporary construction permit and permanent storm water and sidewalk easements across DTE's property at 841 Broadway that are essential for the Allen Creek Railroad Berm Opening Project.

The Allen Creek Railroad Berm Opening Project includes installing a culvert through the railroad berm to provide flood relief in the Depot Street area and an adjacent pedestrian tunnel to allow nonmotorized access connecting Depot Street to Argo Nature Area and the Border-to-Border Trail. The project is partly funded with federal and state grants.

It is required that the City obtain these easements (and the easements on 115 and 201 Depot, which are also before Council on March 18, 2019) before the project can enter the MDOT bidding process. After going to bid, the project will be ready to proceed to the construction phase, which is anticipated to begin in the summer of 2019.

**Background:** Council has taken a number of actions in furtherance of this project, including:

On August 15, 2016, Council passed a resolution (R-16-331) to accept a \$3,085,550 phased FEMA Hazard Mitigation Assistance Grant.

On January 3, 2017 Council passed a resolution (R-17-004) to authorize a \$674,656.50 professional services agreement with Bergmann Associates, Architects, Engineers, Landscape Architects & Surveyors, D.P.C. (Bergmann) for the design of the project.

On March 20, 2017, Council passed a resolution (R-17-083) to approve a grant application to the Michigan Natural Resources Trust Fund (MNRTF) Program for the project.

On May 15, 2017, Council passed a resolution (R-17-176) to approve a Design Phase Agreement with the National Railroad Passenger Corporation (Amtrak) for \$97,020.00 for review of design plans for the project.

On February 5, 2018, Council passed a resolution (R-18-033) to approve and appropriate \$971,250 in Transportation Alternative Program grant funding and \$614,255 in Major Street Fund balance to the project.

On March 19, 2018, Council passed a resolution (R-18-099) to approve an agreement with Level 3 Communications, LLC for \$118,200.00 to relocate fiber optic lines for the project.

On June 18, 2018, Council passed a resolution (R-18-256) to enter an agreement with DTE Gas Company regarding these easements for the project.

On August 9, 2018, Council passed a resolution (R-18-319) to approve a Michigan Natural Resources Trust Fund Grant Agreement and to accept and appropriate up to \$300,000.00 in grant funds for the project.

On February 4, 2019, Council passed a resolution (R-19-050) to approve a contract with MDOT for the project.

On February 19, 2019, Council passed a resolution (R-19-067) to accept and appropriate the second phase of a Hazard Mitigation Assistance Grant from FEMA for the project.

**Budget Impact:** The cost of the easement is \$114,000 for the permanent easement and \$.028 per square foot per month of use by the City for the temporary construction permit. Based on the project schedule, the estimated maximum cost of the temporary construction permit is up to \$20,798. The value of the easement and permit was determined by appraisal as required by the grants used for this project. Funding for this acquisition is available in the existing Allen Creek Berm Opening project budget.

**Sustainability Framework:** The proposed work completed under this project furthers the Sustainable Systems and Safe Community goals of the City's Sustainability Framework.

Prepared by: Michele Yanga, Legal Assistant

Reviewed by: Christopher Frost, Senior Assistant City Attorney

Approved by: Howard S. Lazarus, City Administrator

Whereas, DTE Gas Company is the owner of 841 Broadway, Ann Arbor, Michigan 48105; and

Whereas, DTE has signed an easement agreement that grants the City a temporary construction permit and a permanent easement for a sidewalk and storm water culvert at 841 Broadway, as described in the exhibits attached to this resolution.

RESOLVED, That the City of Ann Arbor hereby approves the easement agreement with DTE Gas Company;

RESOLVED, That the Mayor and City Clerk are authorized and directed to sign the easement agreement on behalf of the City, after approval as to form by the City Attorney and approval as to content by the City Administrator; and

RESOLVED, That the City Administrator is authorized to take all appropriate action to implement the easement agreement.

Sponsored by: Mayor Taylor