



CITY COUNCIL AGENDA ITEM

Date: September 8, 2016

To: Brian Kischnick, City Manager

From: Mark F. Miller, Director of Economic and Community Development
David J. Roberts, Fire Chief
Steven J. Vandette, City Engineer
Brent Savidant, Planning Director
Larysa Figol, Sr. Right-of-Way Representative

Subject: Request to Declare a Permanent Easement for Public Utilities Over a Portion of City Owned Property, 2117 Maple Road, Fire Station #4, Project #16.917.3, Sidwell #88-20-25-352-073

History

As part of the development and construction of the new Fire Station #4, located in the southeast $\frac{1}{4}$ of Section 25, on the north side of Maple Road east of John R, DTE Electric Company asked the City for a 12 foot underground easement (right of way) to construct and maintain the necessary facilities for the new fire station.

In lieu of granting an easement solely to DTE Electric Company, the City would prefer to declare a permanent easement for public utilities allowing the use of this easement corridor for other utilities at a future date if necessary.

The City of Troy Planning Commission gave preliminary site plan approval for the new fire station at their June 28, 2016 meeting.

Financial

There is no financial consideration on this document as the City is declaring an easement on its own property.

Recommendation

City Management recommends that City Council authorize the establishment of a permanent easement for public utility purposes by recording a Declaration of Permanent Easement with the Oakland County Register of Deeds.

DECLARATION OF A PERMANENT EASEMENT

Sidwell #88-20-25-352-073 (part of)
Resolution #2016-09

THE CITY OF TROY, a Michigan municipal corporation, Declarant, whose address is 500 West Big Beaver Road, Troy, Michigan, is the owner of property located in the City of Troy, County of Oakland, Michigan, described as:

Town 2 North, Range 11 East, Section 25, Supervisor's Plat of Maple Acres, the East 63.27 feet of Lot 13, also all of Lots 14, 15 & 16, except the south 27 feet of all said lots taken for road, more particularly described as beginning at a point distant S 88-39-40 E 33.01 feet, then N 00-14-00 E 60.01 feet then S 88-39-40 E 465.89 feet from SW corner of said section thence N 01-39-30 E 193 feet, thence S 88-39-40 E 363.12 feet, thence S01-42-43 W 193 feet, thence N 88-39-40 W 362.94 feet to the point of beginning.

The Declarant hereby establishes a **permanent easement for public utilities**, upon property more particularly described as:

SEE EXHIBIT "A" ATTACHED HERETO AND BY REFERENCE MADE A PART HEREOF

and to authorize entry upon sufficient land adjacent to said property for the purpose of the construction, operation, maintenance, repair and/or replacement of public utility lines, systems, and equipment.

If the premises is disturbed by the use of the easement, the user shall restore it to its original condition. The user of the easement shall not interfere with or impede the operation of essential emergency municipal services.

This easement shall run with the land, and shall be binding upon all successors in interest.

IN WITNESS WHEREOF, the undersigned hereunto affixed their signature(s) this day _____ of September, 2016.

CITY OF TROY,
a Michigan municipal corporation

By _____(L.S.)
Dane M. Slater

By _____(L.S.)
M. Aileen Dickson
Its: City Clerk

STATE OF MICHIGAN)
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of September, 2016, by Dane M. Slater, Mayor, and M. Aileen Dickson, City Clerk, on behalf of the City of Troy, a Michigan municipal corporation.

*
Notary Public, _____ County, Michigan
Acting in _____ County, Michigan
My Commission Expires _____

Prepared by: Larysa Figol, SR/WA
City of Troy
500 West Big Beaver
Troy, MI 48084

Return to: City Clerk
City of Troy
500 West Big Beaver
Troy, MI 48084

EXHIBIT "A"

Description of Proposed 12 Feet Wide Public Utility Easement:

Part Lots 13-16, inclusive, of "Supervisor's Plat of Maple Acres", as recorded in Liber 48, Page 57 of Oakland County, Michigan, said plat being part of the Southwest $\frac{1}{4}$ of Section 25, Town 2 North, Range 11 East, City of Troy, Oakland County, Michigan records. Being more particularly described as: Commencing at the Southwest Corner of said Section 25; thence S 88°39'40" E 33.01 feet and N 00°14'00" E 60.01 feet and S 88°39'40" E 465.89 feet and N 01°39'30" E 172.25 feet to the Point of Beginning of the centerline of a 12 feet wide easement; thence N 82°46'09" E 58.70 feet; thence S 88°39'40" E 239.93 feet; thence S 46°11'25" E 83.79 feet; thence S 88°39'40" E 3.00 to the east line of said Lot 16 and the Point of Ending. Containing 4,625 Square Feet or 0.106 Acres more or less and being subject to all encumbrances of record.

July 14, 2016

City of Troy
500 W. Big Beaver
Troy, MI 48084
Attn: Steve Vandete

Re: Work Order# 45602141-45602218

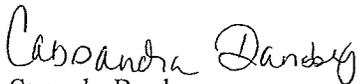
Dear Mr. Vandete:

Please review the enclosed documents that permit DTE Electric Company to construct and maintain the necessary facilities to serve your project. A work sketch is included for your review. As for the trees and branches, unfortunately instructions cannot be included in the easement document however instructions can and should be given at the time of tree trimming.

Signature(s) in **black ink** of the authorized person(s) witnessed by a notary is required. Print the name of the person signing directly under the signature. Please return the executed easement document to Cassandra Dansby, DTE Electric Company, 37849 Interchange Dr., Farmington Hills, MI 48335 at your earliest convenience. Should you have difficulty locating a notary, please call me at 248-427-2357.

Your prompt execution of these documents is required so that your job will continue on the agreed upon schedule.

Sincerely,



Cassandra Dansby
Right of Way Facilitator
NW Planning & Design

Enclosures

DTE Electric Company Underground Easement (Right of Way) No. 45602141-45602218

On _____, 2016, for the consideration of system betterment, Grantor grants to Grantee a permanent, non-exclusive underground easement ("Right of Way") in, on, and across a part of Grantor's Land called the "Right of Way Area".

"Grantor" is: CITY OF TROY, A MICHIGAN MUNICIPAL CORPORATION, WHOSE ADDRESS IS 500 W. BIG BEAVER, TROY, MI 48084

"Grantee" is: DTE Electric Company, a Michigan corporation, One Energy Plaza Drive, Detroit, Michigan 48226

"Grantor's Land" is in SW 1/4, SEC 25, T2N, R11E, TROY TOWNSHIP, County of OAKLAND, and State of Michigan, and is described as follows:

T2N, R11E, SEC 25 SUPERVISOR'S PLAT OF MAPLE ACRES E 63.27 FT OF LOT 13, ALSO ALL OF LOTS 14, 15 & 16 EXC S 27 FT OF ALL SD LOTS TAKEN FOR RD DESC AS BEG AT PT DIST S 88-39-40 E 33.01 FT & N 00-14-00 E 60.01 FT & S 88-39-40 E 465.89 FT FROM SW COR OF SD SEC TH N 01-39-30 E 193 FT, TH S 88-39-40 E 363.12 FT, TH S 01-42-43 W 193 FT, TH N 88-39-40 W 362.94 FT TO BEG 4-15-16 FR 030 & 059

Tax Identification Number(s): 20-25-352-073
More Commonly Known As: 2103 E MAPLE RD, TROY, MI 48083

2117

The "Right of Way Area" is a twelve (12') foot wide easement on part of Grantor's Land. The centerline of the Right of Way Area shall be established in the as-built location of the centerline of Grantee's facilities, and shall be installed on Grantor's Land in the approximate location described as follows:

THE LEGAL DESCRIPTION OR EASEMENT DRAWING IS MORE PARTICULARLY DESCRIBED ON EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF.

Tax Identification Number(s): 20-25-352-073
More Commonly Known As: 2103 E MAPLE RD, TROY, MI 48083

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- 1. Purpose:** The purpose of this Right of Way is to construct, reconstruct, modify, add to, repair, replace, inspect, operate and maintain underground utility line facilities, which may consist of poles, guys, anchors, wires, manholes, conduits, pipes, cables, transformers and accessories.
- 2. Access:** Grantee has the right of pedestrian and vehicular ingress and egress to and from the Right of Way Area over and across Grantor's Land. ** Grantee shall not interfere with the operation of installation*
- 3. Buildings or other Permanent Structures:** No buildings or other permanent structures or improvements may be constructed or placed in the Right of Way Area without Grantee's prior, written consent. Grantor agrees, at its own expense, to remove any improvement that interferes with the safe and reliable operation, maintenance and repair of Grantee's facilities upon the written demand of Grantee. If Grantor fails to comply with such demand, Grantor agrees that Grantee may remove any such improvement and bill Grantor for the cost thereof, which cost Grantor shall pay within thirty (30) days after demand therefor.
- 4. Excavation:** Pursuant to 2013 Public Act 174, MISS DIG (1-800-482-7171 or 811 in some areas) must be called before any excavation in the Right of Way Area may proceed.
- 5. Trees, Bushes, Branches, Roots, Structures and Fences:** Grantee may trim, cut down, remove or otherwise control any trees, bushes, branches and roots growing or that could grow or fall in the Right of Way Area and remove any structures, improvements, fences, buildings or landscaping in the Right of Way Area that Grantee believes could interfere with the safe and reliable construction, operation, maintenance and repair of Grantee's facilities. No landscaping, trees, plant life, structures, improvements or fences may be planted, grown or installed within 8 feet of the front door, or within 2 feet of the other sides, of transformers or switching cabinet

enclosures, and Grantee shall not be responsible for any damage to, or removal of, landscaping, trees, plant life, structures, improvements and/or fences located in such areas.

6. **Restoration:** If Grantee's agents, employees, contractors, subcontractors, vehicles or equipment damage Grantor's Land while entering Grantor's Land for the purposes stated in this Right of Way, then Grantee will restore Grantor's Land as nearly as is reasonably practicable to the condition in which it existed prior to such damage. Restoration with respect to paved surfaces shall consist of asphalt cold patching of the damaged portion of any asphalted surfaces when the weather conditions suggest such use and the cement patching of the damaged portion of any cemented surfaces. Grantee shall have no liability, however, for the restoration or cost of any improvements located within the Right of Way Area, including, but not limited to, parking islands, gutters, fences or landscaping such as trees, bushes, or flowers (but not a simple lawn which, if damaged, will be patched and re-seeded by Grantee) that are damaged by Grantee in the course of constructing, reconstructing, modifying, adding to, repairing, replacing, operating or maintaining its facilities as described in paragraph 1 above.

7. **Successors:** This Right of Way runs with the land and binds and benefits Grantor's and Grantee's successors and assigns.

8. **Exemptions:** This Right of Way is exempt from transfer tax pursuant to MCL 207.505(a) and MCL 207.526(a).

9. **Governing Law:** This Right of Way shall be governed by the laws of the State of Michigan.

Grantor(s): City of Troy

By: _____
Name: _____
Title _____

} *ed*

Acknowledged before me in _____ County, Michigan, on _____, 2016,
 by _____, Its: _____ for City of Troy, a Michigan municipal company.
and City Clerk

Notary's Stamp _____ Notary's Signature _____
 Acting in _____ County, Michigan

Drafted by and when recorded, return to: Cassandra Dansby, DTE Electric Company, NW Planning & Design, 37849 Interchange Dr., Farmington Hills, MI 48335

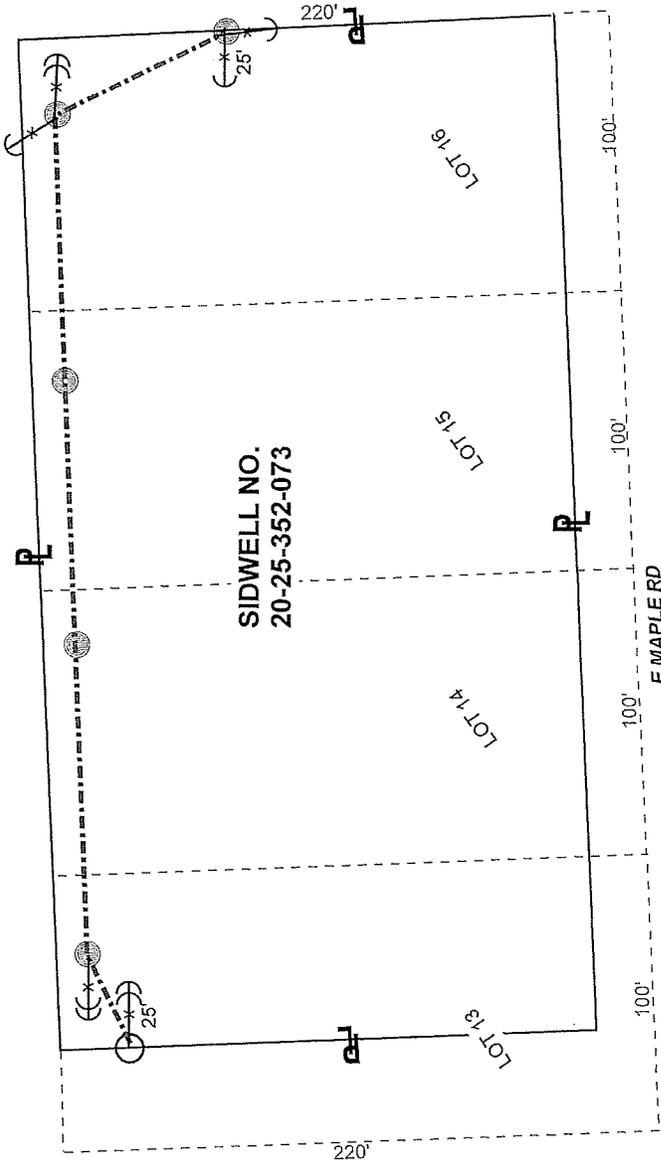
clerk signature



EXHIBIT A

E 63.27 FT OF LOT 13, ALSO ALL OF LOTS 14, 5 & 16
 EXC S 27 FT OF ALL SD LOTS TAKEN FOR E MAPLE RD
 SUPERVISOR'S PLAT OF MAPLE ACRES
 LIBER 48, PG 57
 OAKLAND COUNTY PLATS

SECURE A 12 FT EASEMENT FOR
 OVERHEAD FACILITIES AS SHOWN



ALL DIMENSIONS AND LOCATIONS ARE APPROXIMATE

LEGEND

- EXISTING DECO POLE
- PROPOSED POLE
- FOREIGN POLE
- EXISTING ANCHOR
- PROPOSED ANCHOR
- TREE
- 120/240 V. LINE
- 4.8 KV LINE
- 15.2 KV LINE
- 40 KV LINE

Work Order # 45602141	Work Order Description OVERHEAD EASEMENTS FOR RELOCATION - E MAPLE RD	GIS-DSN 45602218	SRW CUG	PH CUL	PLC CUS
Service Center PONTIAC	Circuit #1	COS	CUG	CUL	CUS
Worksite City TROY	Circuit #2	COH	CUG	CUL	CUS
Town 2N	Range 11E	Section 25	Qtr 25	Planner Name TINA BOYES	Targ Fin Date
				Plot Date 7/11/16	Scale NONE
				CUE Req#	Ver
				Worksite County OAKLAND	