



## Legislation Text

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**File #:** 52683, **Version:** 1

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### **Fiscal Note**

The proposed resolution authorizes an amendment to a Permanent Limited Easement to add a third party, Gialamas Properties, LLC and a new sidewalk and fiber optic cable connection in between the original Easement Area and the third property located at 1289 Deming Way. City Engineering has reviewed and approved the amendment as requested. No additional City appropriation is required.

### **Title**

Authorizing the City's execution of a Second Amendment to Permanent Limited Easement for Private Sidewalk and Fiber Optic Cable purposes to The Dean Health Plan, Inc., Newcomb Properties, LLC, and Gialamas Properties, LLC, across a portion of City Storm Water Utility Parcel 533 located at 8308 Excelsior Drive. (9th A.D.)

### **Body**

WHEREAS, the City of Madison (the "City") granted a Non-Exclusive Permanent Limited Easement for Private Sidewalk and Fiber Optic Cable Purposes (the "Easement"), recorded on May 8, 2013 in the Office of the Dane County Register of Deeds as Document Number 4985596, to The Dean Health Plan, Inc. and Newcomb Properties, LLC (together, the "Owners"); and

WHEREAS, the Easement granted the Owners the right to install and maintain a private sidewalk and fiber optic cable (the "Facilities") in, on, under and through a portion of the City's Storm Water Utility Parcel 533, located at 8308 Excelsior Drive (the "City's Property"); and

WHEREAS, the City and the Owners amended the Easement for the installation and maintenance of private light fixtures, related bollards, and underground electric service for said light fixtures, located on the City's Property in the area defined as the Easement Area, as memorialized by that certain Amendment to Nonexclusive Permanent Limited Easement For Private Sidewalk and Fiber Optic Purposes, recorded on February 25, 2014 in the Office of the Dane County Register of Deeds as Document Number 5055429; and

WHEREAS, the Owners desire to amend the Easement again to add a third party, Gialamas Properties, LLC (collectively, the "Owners"), and a new sidewalk and fiber optic cable connection in between the original Easement Area and a third property located at 1289 Deming Way; and

WHEREAS, the three properties benefitting from the Easement and all subsequent amendments are legally described on attached Exhibit A; and

WHEREAS, City's Engineering Division has reviewed and approved of the amending the Easement as requested.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and the City Clerk are hereby authorized to execute a Second Amendment to a Non-Exclusive Permanent Limited Easement for Private Sidewalk and Fiber Optic Cable Purposes granted to The Dean Health Plan, Inc., Newcomb Properties, LLC, and Gialamas Properties, LLC, across a portion of the City's Stormwater Utility Parcel #533 located at 8308 Excelsior Drive, subject to the following terms and conditions:

1. The Easement shall hereby be amended to provide for the installation and maintenance of additional private sidewalk, fiber optic cable and a retaining wall to be located in the new Amended Easement Area, legally described on Exhibit A and depicted on attached Exhibit B.

2. The Owners shall maintain the new sidewalk, fiber optic cable and retaining wall in a manner that is satisfactory to the City.
3. The Owners shall each furnish evidence of commercial general liability insurance covering as named insured the Owners and naming the City, its officers, officials, agents and employees as additional insureds, with a minimum limit of \$1,000,000 per occurrence. This policy shall also be endorsed for contractual liability in the same amount, apply on a primary and noncontributory basis, and provide the City thirty (30) days advance written notice of cancellation, non-renewal or material changes to the policy during the term of this Easement. As evidence of this coverage, the Owners shall furnish the City with a certificate of insurance on a form approved by or approved by, the City. If the coverage required above expires while this Easement is in effect, the Owners shall provide a renewal certificate to the City.
4. If the Owner's desire to amend the Easement for future fiber optic cable facility expansion or connections, said facilities will carry annual fees in accordance with Madison General Ordinances.
5. All other provisions of the original Easement per Document No. 4985596 and Amendment to Easement per Document No. 5055429 shall apply to the Second Amendment to Nonexclusive Permanent Limited Easement for Private Sidewalk and Fiber Optic Cable Purposes and shall remain in full force and affect.