



## Legislation Text

---

**File #:** 30381, **Version:** 1

---

### **Fiscal Note**

No expenditure required.

### **Title**

Authorizing the execution of an easement to the County of Dane for public bicycle path purposes across a portion of Dunn's Marsh open space, located at 4899 Crescent Road.

### **Body**

WHEREAS, the County of Dane ("County") desires to construct, at its sole cost and expense, a mountain bike trail, to be commonly known as the "Seminole Mountain Bike Trail", over a portion of City-owned Dunn's Marsh open space (the "City's Property"), located at 4899 Crescent Road; and

WHEREAS, the County has requested an easement for public bicycle path purposes across a portion of the City's Property to accommodate the construction and maintenance of said mountain bike trail; and

WHEREAS, the City of Madison Engineering Division staff have reviewed and approve of the granting of such an easement.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and the City Clerk are hereby authorized to execute a an easement for public bicycle path purposes (the "Easement") to the County of Dane ("County"), allowing for the construction and maintenance of segment of the Seminole Mountain Bike Trail (the Path") through a portion of City-owned Dunn's Marsh open space ( the "City's Property") located at 4899 Crescent Road, under the following terms and conditions:

1. The County shall construct and maintain the Path at its sole cost and expense, in accordance with the plans to be approved by the City Engineer.
2. The Path shall be constructed across the City's Property within the "Easement Area" more particularly described below and depicted on attached Exhibit A
3. Construction shall be performed and completed in good and workmanlike manner and shall not interfere with or endanger the use of the remainder of the City's Property by the City or by the general public.
4. The County shall be responsible for following all applicable ordinances, codes, statutes and laws, and obtaining all permits required for any construction, repair or maintenance of the Path. This includes all necessary permits from City Engineering and/or the Wisconsin Department of Natural Resources, and shall install and maintain all erosion control measures required under such permits; if applicable.
5. No buildings or structures of any kind shall be built over the Easement Area, except trail amenities as approved by the City.
6. The City reserves the right to use and occupy the Easement Area in a manner consistent with the Easement, provided that such use and occupancy shall not interfere with or disturb the County's use of the Easement Area.
7. Following construction of the Path by the County, no grade change to the Easement Area shall be

made by either party without the prior written approval of the other party.

8. Either part shall have the right, at its sole option, to terminate the Easement by giving the other part a minimum of 180-days written notice.

9. Upon termination of the Easement, the County, at the County's cost, shall remove from the Easement Area all mountain bike path improvements and restore the Easement Area by grading, adding top soil, and seeding with grass. Removal and restoration shall be accomplished within sixty (60) days of termination of the Easement, except as may be adjusted by the City to allow for winter conditions.

10. The County shall supervise, regulate and maintain the Easement Area to permit public mountain bike trail use only.

11. Each party shall be responsible for any injuries, claims or losses arising from or caused by the acts or omissions of their respective agents or employees acting within the scope of their employment, in accordance with Wis. Stats. Secs. 893.80 and 895.46(1).

**Legal Description of the City's Property:**

1st Addition to Allied Terrace, Lands Dedicated to the Public, being part of the Northwest Quarter of Section 5, T6N, R9E, City of Madison, Dane County Wisconsin.

**Easement Area:**

That portion of the City's Property, generally located Southwesterly of a line created by the Southwesterly line of an existing permanent easement for public pedestrian/bike path purposes recorded on June 18, 1998 in the Dane County Register of Deeds Office as Document Number 2983312. Containing approximately 1.86 acres.