



## Legislation Text

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**File #:** 39136, **Version:** 1

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### **Fiscal Note**

\$500 administrative fee to be deposited into Munis Charge Code 63029.

### **Title**

Authorizing the execution of an Amendment to Easement pertaining to the Public Utility Easement from the City of Madison to Mt. Vernon Telephone Company located within the Engineering Stormwater Utility parcel at 7437 East Pass (Outlot 2, The Crossing).

### **Body**

WHEREAS, the City of Madison and Mt. Vernon Telephone Company, d/b/a TDS Telecom ("Utility") are parties to a certain Public Utility Easement, dated August 17, 1999 (the "Easement"), allowing Utility to install cabinets and related equipment within the City's Stormwater Utility parcel located at 7437 East Pass; and

WHEREAS, the Easement was authorized by Resolution No. 56305, ID No. 25602, adopted by the Common Council on June 15, 1999 and was recorded with the Dane County Register of Deeds on August 19, 1999, as Document No. 3146739; and

WHEREAS, it has come to the attention of the parties that the legal description and map contained in the Easement do not accurately reflect the as-built location of Utility's facilities; and

WHEREAS, the Easement allows for Utility's installation of two (2) telephone cabinets on a pad within the Easement Area; and

WHEREAS, Utility has requested that it be allowed to install additional facilities within the Easement area; and

WHEREAS, Engineering Division staff have reviewed and approve of amending the easement to correct the legal description and map and to allow for the additional facilities.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and the City Clerk are hereby authorized to execute an Amendment to Easement pertaining to the existing Public Utility Easement from the City of Madison to Mt. Vernon Telephone Company ("MVTC") dated August 17, 1999 and recorded August 19, 1999 as Document No. 3146739 (the "Easement"), which Amendment to Easement shall be on the following terms and conditions:

1. Exhibit A to the Easement shall be deleted in its entirety and replaced with attached Exhibit A (Revised 2015).
2. Paragraph 1 of the Easement concerning the use of the Easement Area shall be deleted in its entirety and replaced with the following:

Use. MVTC's use of the Easement Area shall be limited to the right to install, maintain, operate and/or remove one (1) pad, one (1) RCU-800C telephone cabinet, one (1) cross connect box; one (1) BD7 pedestal for cable distribution; and one (1) OminReach FDH (fiber distribution hub) 3000 cabinet, together with supporting underground cables and conduit used in the provision of communication and/or information services (collectively, the "Facilities"), together with the right of ingress and egress across the Easement Area for the purpose of access to and use of the Facilities.

3. Paragraph 2.a. of the Easement concerning the restriction on use for the operation of a cable television system shall be deleted in its entirety and replaced with the current statutory reference as follows:

This Easement shall not be used for the purpose of constructing or operating a video service, as that term is defined by Wis. Stat. Section 66.0420(2)(y), without first obtaining a franchise from the State of Wisconsin.

4. All other provisions of the Easement shall remain in full force and effect.