



Legislation Text

File #: 21-0595R, **Version:** 1

RESOLUTION AUTHORIZING AN AMENDED AND RESTATED AGREEMENT WITH THE LEDGES ON LAKE SUPERIOR HOMEOWNERS' ASSOCIATION, INC. TO GRANT AN EROSION CONTROL EASEMENT IN EXCHANGE FOR THE CITY'S ACQUISITION OF A TRAIL EASEMENT TO BE USED IN CONNECTION WITH THE LAKEWALK.

CITY PROPOSAL:

WHEREAS, the City owns lakeshore property located approximately between 23rd and 25th Avenues East (the "City Property") that lies between Lake Superior and real property owned by The Ledges on Lake Superior Homeowners' Association, Inc. (the "Ledges");

WHEREAS, a portion of the Lakewalk lying between I-35 and Water Street needs to be improved and its location changed in order to meet Americans with Disabilities Act (ADA) accessibility standards;

WHEREAS, the Ledges desires to obtain an easement over the City Property to allow the Ledges, from time to time, to stabilize the Lake Superior shoreline (the "Erosion Control Easement");

WHEREAS, the City desires to obtain an easement for public recreational, walkway, and trail purposes over property owned by the Ledges to re-design and re-route the Lakewalk (the "Lakewalk Easement"); and

WHEREAS, on or about May 26, 2021, the parties entered into an agreement to grant easements over each other's respective properties in order to obtain these objectives (the "Agreement").

WHEREAS, the Agreement provides that the Erosion Control Easement will be granted at the same time as the Lakewalk Easement.

WHEREAS, the Ledges desires to make improvements in the area of the Erosion Control Easement before the 2021 construction season concludes and needs the Erosion Control Easement before the Ledges can commence work.

WHEREAS, the city's survey of the area to be included within the Lakewalk Easement is not yet complete and the Ledges cannot grant the Lakewalk Easement until the survey is finalized.

WHEREAS, the city wishes to grant the Erosion Control Easement in advance of the Lakewalk Easement, and the parties desire to amend the Agreement to reflect this change in the timing of the exchange of the easements.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an amended and restated agreement with the Ledges, substantially the same as the agreement attached as Exhibit 1, to allow for the granting of the Erosion Control Easement in advance of the Lakewalk Easement.

STATEMENT OF PURPOSE: The purpose of this resolution is to authorize an amended and restated agreement with The Ledges on Lake Superior Homeowners' Association, Inc. (the "Ledges") for: (a) the purchase of a trail easement (to be used in connection with the Lakewalk) over property owned by the Ledges for \$1.00 and (b) the grant of an easement to the Ledges for \$1.00 over city-owned property for the purpose of installing and maintaining erosion control measures. The original agreement required that the exchange of the easement occur concurrently, but this amended and restated agreement provides that the City may grant the Erosion Control Easement in advance of receiving the Lakewalk Easement.

This amended and restated agreement allows for the Ledges to receive the Erosion Control Easement as soon as the amendment is effective so that the Ledges may perform work to stabilize the shoreline of Lake Superior in front of its property within the 2021 construction season. The City's survey of the area to be included in the Lakewalk Easement area has taken longer than expected due to grading and design work. The city continues to actively work on the survey so that the parties can finalize the Lakewalk Easement, and the Ledges will still be contractually obligated to grant the Lakewalk Easement pursuant to the terms of the

agreement.

The board of directors of the Ledges' Homeowners' Association authorized the Lakewalk Easement via resolution on May 17, 2020. The city authorized the granting of the Erosion Control Easement on June 7, 2021 via Ordinance No. 21-018. The City authorized the original agreement on May 24, 2021 via Resolution No. 21-0369.

The approximate locations of the Erosion Control Easement and Lakewalk Easement are depicted on the attached Exhibit 2. The Lakewalk Easement area still needs to be surveyed, but the general location has been identified and is shown on Exhibit 2.