



City of West Allis

Legislation Text

File #: R-2009-0175, **Version:** 1

Resolution Granting an Improvement Easement between the City of West Allis, GK MACS, LLC, and Anderson Management, Inc. to construct an entrance feature for the Towne Centre at the southwest corner of the Burger King Property located at 6746 W. Greenfield Ave. (Tax Key No. 439-0001-010)

WHEREAS, Ramco-Gershenson Properties, L.P. ("Ramco"), owner of the West Allis Towne Centre, has agreed with the City of West Allis to construct certain improvements at the entrance to the Shopping Center in connection with a bus stop in front of the Shopping Center, but a portion of such improvements will be located upon a portion of the Burger King Property; and,

WHEREAS, the improvements that are to be located within the Easement Area (the "Improvements"), which include, but are not limited to, certain landscaping features, brick pavers, trash containers, benches, lighting fixtures and a retaining wall, will be constructed in accordance with the final plans approved by the Plan Commission on January 28, 2009; and,

WHEREAS, GK MACS, LLC, owner of the Burger King Property, and Anderson Management, Inc., lessee, have agreed to grant the City of West Allis a permanent, non-exclusive easement over the Property for the purpose of allowing Ramco to install and maintain the Improvements on behalf of the City of West Allis and to allow the public to use the Easement Area; and,

WHEREAS, the City faces potential liability of a lawsuit action by any person for damages, injuries or death arising from the use of the Easement Area, however, Ramco has agreed to reimburse the City up to the maximum amount recoverable by any person, \$50,000, consistent with Wisconsin Statute section 893.80; and,

WHEREAS, the reimbursement agreement between the City and Ramco, along with the low risk of any lawsuit action, justifies the City entering into the Improvement Agreement with GK MACS, LLC and Anderson Management, Inc.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis as follows:

1. That the Improvement Easement between the City of West Allis, GK MACS, LLC, and Anderson Management, Inc. to construct an entrance feature for the Towne Centre at the southwest corner of the Burger King property located at 6746 W. Greenfield Ave., in the form attached hereto and incorporated herein by reference, be and the same is hereby approved.
2. That the Mayor and the City Administrative Officer, Clerk/Treasurer be and are hereby authorized and directed to execute and deliver the attached Improvement Easement on behalf of the City of West Allis.
3. That the City Attorney be and is hereby authorized to make such non-substantive changes, modifications, additions and deletions to and from the various provisions of the easement, including any and all attachments, exhibits, addendums and amendments, as may be necessary and proper to correct inconsistencies, eliminate ambiguity and otherwise clarify and supplement said provisions to preserve and maintain the general intent thereof, and to prepare and deliver such other and further documents as may be reasonably necessary to complete the transactions contemplated therein.

DEV-R-561-8-4-09

Cc: Department of Development