

CONSENT TO OCCUPY EASEMENT

RE: Existing Sanitary Sewer Easement per Document Number 975456 over the South 150 feet of the West 6 feet of Lot 2, Block 1, Spring Park, City of Madison, Dane County, Wisconsin.

This Consent to Occupy Easement is made and entered into this ____ day of _____, 2014, by the **City of Madison**, a Wisconsin municipal corporation (the "City"), to and for the benefit of **Chris Carpenter** (the "Owner") owner of the property located at 5006 Lake Mendota Drive, Madison, Wisconsin.

RECITALS

- A. The City has sanitary sewer facilities located within the existing 6-foot wide public sanitary sewer easement (the "City Easement") as per Document Number 975456.
- B. During the City's review of the plan for construction of a new garage in the southwest corner of the Owner's property, it was discovered that several existing site improvements including retaining walls and a corner of the existing house along with a proposed stone retaining wall encroach into the City Easement (the "Occupancy Area"), as more particularly depicted on attached Exhibit A. The Owner desires to obtain the consent of the City for those improvements shown on attached Exhibit A to be allowed by the City of Madison to occupy the easement.
- C. The City is willing to permit the existence and maintenance of the improvements depicted on attached Exhibit A by the Owner within the Occupancy Area under the terms and conditions specified herein.

RETURN TO:	City of Madison Office of Real Estate Services P.O. Box 2983 Madison, WI 53701-2983
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Tax Parcel Nos.: 251-0709-184-0135-1

CONSENT

NOW, THEREFORE, the City hereby grants to and for the benefit of the Owner this Consent to Occupy Easement ("Consent"), subject to the following terms and conditions:

- 1. Grant of Permission. The City does hereby grant the property Owner, its successors and assigns, permission to occupy the Occupancy Area for the limited purposes allowing the existing retaining walls, existing house corner and proposed new stone retaining wall as depicted on attached Exhibit A to reside within the Occupancy Area for use as permitted by the City of Madison (collectively, the "Permitted Improvements"), all in accordance with the site plan which has been approved by the City Engineering Division.
- 2. Construction and Maintenance.
 - a. Owner shall be responsible for all costs of the maintenance of the Permitted Improvements in compliance with applicable codes and ordinances.
 - b. With the exception of routine maintenance and repairs and normal utilization of the Permitted Improvements, no changes to, additions to or alterations of the Permitted Improvements shall be allowed without the prior written approval of applicable plans and specifications by the City Engineer.
- 3. Use. Owner shall use and occupy the Occupancy Area in a manner consistent with the rights herein conveyed, and shall ensure that such use and occupancy shall not interfere with or disturb the City's rights under the City Easement.
- 4. Type of Grant. The granting of this Consent does not transfer, release, or convey any of the rights the City may have in the Occupancy Area by virtue of the City Easements. The granting of this Consent shall be deemed to be permissive and shall preclude Owner from any claim of adverse possession against the City by virtue of any encroachment on or into the City Easements and by virtue of the granting of this Consent.
- 5. Compensation for Damages. Both parties understand and agree that the Permitted Improvements may be removed by the City without replacement or compensation to Owner.

EXHIBIT A