



Legislation Text

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Fiscal Note

The proposed resolution authorizes a Permanent Limited Easement across a portion of Reindahl Park for sewer purposes to Madison Metropolitan Sewerage District (MMSD). MMSD has agreed to construct a paved pedestrian path through Reindahl Park and to compensate for loss of trees due to the construction. The Parks Division 2019 Capital Budget Park Land Improvements project (Munis 17421) will be amended to reflect \$16,000 in revenue and expenditures to replant the trees after the sewer line work is completed. No additional appropriation is required.

Title

SUBSTITUTE Amending the 2019 Parks Division Capital Budget and authorizing the Mayor and City Clerk to execute a Permanent Limited Easement for Sanitary Interceptor Sewer Purposes to Madison Metropolitan Sewerage District across a portion of Reindahl Park located at 1818 Portage Road. (17th A.D.)

Body

WHEREAS, the Madison Metropolitan Sewerage District (MMSD) will be constructing new sanitary sewer interceptor facilities in connection with its Northeast Interceptor - Truax Extension project (the "Project"); and

WHEREAS, said Project, which will run from the intersection of Lien Road and Thierer Road northerly to the intersection of Highway 51 and Rieder Road, will increase capacity and boost resiliency of MMSD's wastewater collection system; and

WHEREAS, in connection with the Project, MMSD requires a permanent easement, together with a temporary construction easement, over a portion of Reindahl Park located at 1818 Portage Road; and

WHEREAS, MMSD has briefed the Park Commission on the Project and has worked with Parks staff to develop an acceptable route for the easement through Reindahl Park; and

WHEREAS, as consideration for the easement grant, MMSD has agreed to construct a paved pedestrian path through Reindahl Park and to compensate for loss of trees; and

WHEREAS, the adopted 2019 Parks Division Capital Budget will need to be amended to recognize the additional revenue received in 2019 which will be used to replant trees in 2020 in Reindahl Park; and

WHEREAS, the Office of Real Estate Services has prepared the easement, and the document has been reviewed and approved by MMSD, Parks staff and the City Attorneys office.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and City Clerk are hereby authorized to execute a Permanent Limited Easement For Sanitary Interceptor Sewer Purposes to Madison Metropolitan Sewerage District, subject to the following key terms and conditions:

1. The easement grant shall be a non-exclusive permanent limited easement for sanitary interceptor sewer purposes ("PLE") in, on, under and through the "PLE Area," together with a temporary limited easement for construction and grading purposes ("TLE") in, on, under and through the "TLE Area." The PLE Area and TLE Area are described on attached Exhibit A and depicted on attached Exhibit B.

2. MMSD shall have the right to construct, maintain, operate, repair, replace and/or remove sanitary interceptor sewer facilities, (collectively, the "Facilities"), together with the right of ingress and egress across said easement areas for the purpose of access to and use of the Facilities; and the right to perform all work incidental thereto.
3. In conjunction with the work of installation of the Facilities, and as consideration for the granting of the easement, MMSD shall construct, for the benefit of the City, and at no cost to the City, a paved pedestrian path (the "Path") at the locations shown on attached Exhibit C (the "Path Area"). The Path shall be constructed in accordance with plans and specifications approved by the City's Park Superintendent and/or the City Engineer. Upon completion of construction of the Path by MMSD, and acceptance of the improvement by the City, the City shall be responsible for all maintenance, repair and replacement of the Path. Once accepted by the City, MMSD may use the Path to access its Facilities. MMSD shall be responsible for any damages or repairs attributable to its use of the Path for access purposes.
4. Initial construction of the Facilities and the Path shall not commence without the prior written approval of applicable plans and specifications by the City Park Superintendent and/or the City Engineer.
5. Unless specifically identified in the approved construction plans and specifications for the Facilities and the Path, no trees or plantings shall be removed from the PLE Area, the TLE Area or the Path Area, or otherwise disturbed, without the prior written approval of the City Parks Division. MMSD shall pay to the City the sum of \$16,000 as compensation for the trees and plantings identified for removal in the approved plans.
6. No above-ground improvements shall be located in the PLE Area by MMSD, with the exception that grates, sewer access structure (SAS) covers, and other access points to the Facilities shall be permitted in the PLE Area at grade level, with prior approval of the City. If any reasonable use and occupation of the PLE Area by the City shall necessitate MMSD to remove or relocate the above-ground improvements or any part thereof, MMSD shall perform such work at such time as the City may approve and without any cost to the City.
7. No boxes, meters, valves, or other above-ground facilities will be allowed in the TLE Area or Path Area.
8. Except during construction, replacement, repair or removal of the Facilities, MMSD shall not use the PLE Area, the TLE Area, or the Path Area for open storage of or permanent parking of vehicles or equipment of any kind. Except in the case of emergency, any such storage or parking must be coordinated with the Parks Division and approved by the Parks Superintendent or designee. This approval shall not be unreasonably withheld.
9. The City shall have the right of reasonable use and occupation of the PLE Area, the TLE Area, and the Path Area, provided that such use and occupancy shall not interfere with or disturb the installation, operation, maintenance, repair, replacement and/or modification of the Facilities or the Path. No buildings or structures of any kind shall be built over the PLE Area. Trees and vegetation may be planted in the PLE Area, but shall be removed at the City's expense if necessary for MMSD's purposes.
10. Unless mutually extended by the parties, the TLE shall terminate upon the earlier of: (a) completion of the construction; or (b) a term of 24 months commencing on the date hereof and automatically expiring on December 31, 2021.
11. Each Party shall be responsible for its own acts, errors or omissions and for the acts, errors or omissions of its employees, officers, officials, agents, boards, committees and commissions, and shall be responsible for any losses, claims, and liabilities that are attributable to such acts, errors, or

omissions including providing its own defense, arising out of this Agreement or the completion of the Project. In situations involving joint liability, each Party shall only be responsible for such losses, claims, and liabilities that are attributable to its own acts, errors, or omissions and the acts, errors or omissions of its employees, officers, officials, agents, boards, committees and commissions. It is not the intent of either Party to waive, limit or otherwise modify the protections and limitations of liability found in Wis. Stat. §893.80 or any other protections available to the Parties by law or by insurance coverage, and both Parties hereby preserve any and all said rights to the full extent of the law. This paragraph shall survive the termination or expiration of this Agreement.

AND BE IT FURTHER RESOLVED, that the adopted 2019 Parks Division Capital Budget be amended to reflect the additional \$16,000 in miscellaneous revenues received for the tree loss in 2019 that will be used to replant trees in 2020 after the sewer line work is completed.