



Legislation Text

File #: 12601, **Version:** 1

Fiscal Note

Payment by Metro of \$18,200.50 for Easement improvements will be included among various appropriations proffered under a separate, year-end Resolution from the Comptroller.

Title

Authorizing the termination of an Easement for Public Bus Shelter and Bike Rack and accepting a grant of a Limited Non-Exclusive Access Easement for Municipal Transit Purposes (the "Access Easement") from Sherman Plaza, Inc. and authorizing funding of improvements within the Access Easement.

Body

On February 26, 1980 (Resolution No. 35,482 in File Number 823E-80) the Common Council accepted an Easement for Public Bus Shelter and Bike Rack (the "Easement") from Sherman Plaza, Inc. (the "Owner") which allowed the City of Madison to install a public bus shelter and bike rack in the Sherman Plaza parking lot and to have access to the shelter and bike rack from Northport Drive and North Sherman Avenue. The Easement further provides for the Owner to be responsible for the maintenance for the route of travel and parking facilities for use of passengers using the express bus service. The Easement contains a 30-day cancellation clause with the City of Madison being responsible for the removal of the public bus shelter and bike rack.

The City and the Owner have agreed upon the termination of the Easement and the grant by the Owner and acceptance by the City of a Limited Non-Exclusive Access Easement for Municipal Transit Purposes (the "Access Easement") across Sherman Plaza in return for the City of Madison sharing in the cost of making repairs and improvements within the Access Easement.

NOW, THEREFORE BE IT RESOLVED, that the Common Council of the City of Madison authorizes the termination of the Easement for Public Bus Shelter and Bike Rack with Sherman Plaza, Inc. (the "Owner") and the acceptance of a grant of a Limited Non-Exclusive Access Easement for Municipal Transit Purposes (the "Access Easement") from the Owner for ingress and egress purposes to enable the City of Madison Metro Transit Utility ("Metro") to operate its transit services in, over and on a strip of land within the Owner's property (the "Owner's Property") described in the attached Exhibit A and depicted on the attached Exhibit B, on the following terms and conditions:

1. **Purpose.** The purpose of the Access Easement is to enable the City of Madison Metro Transit Utility ("Metro") to operate its transit service including a public bus shelter and bike rack within the Owner's Property. The Owner shall provide parking on the Owner's Property for passengers using Metro's transit service within the Access Easement.
2. **Term.** The term of the Access Easement shall be ten (10) years.
3. **Renewal.** The Access Easement may be extended for one (1) additional ten (10) year term upon agreement of the parties.
4. **Maintenance.** The Owner shall be responsible for all maintenance of the Access Easement including, but not limited to, paving, repaving, repairing, marking, and plowing. Metro shall be responsible for maintaining the public bus shelter and bike rack in a neat and attractive manner.

5. Removal of Improvements. Metro shall, at its sole cost, remove the public bus shelter and bike rack upon expiration of the Access Easement.
6. Reservation of Use. The Owner reserves the right to use and occupy the Access Easement in a manner consistent with the rights herein conveyed, provided that such use and occupancy shall not interfere with or disturb Metro's use of the Access Easement.
7. Notices. All notices under the Access Easement shall be delivered in person or sent by certified mail, postage prepaid, return receipt to such party at such party's last known address. If a party's address is not known to the party desiring to send a notice, the address to which property tax bills are sent for the property owned by such party may be used. Any party may change its address for notice by written notice to the other parties.
8. Binding Effect. All the terms, conditions, covenants and other provisions contained in the Access Easement, including the benefits and burdens, shall run with the land and shall be binding upon the Owner, its successors and assigns, and shall inure to the benefit of and be enforceable by the City of Madison, its successors and assigns.
9. Severability. If any term or provision of the Access Easement is held to be invalid or unenforceable by a court of competent jurisdiction, then such holding shall not affect any of the remaining terms and provisions of the Access Easement and the same shall continue to be effective to the fullest extent permitted by law.
10. Applicable Law. The Access Easement shall be governed by and construed, interpreted and enforced in accordance with the laws of the State of Wisconsin.
11. Entire Agreement. No alteration, amendment, change, or addition to the Access Easement shall be binding upon the parties unless made in writing and signed by them and consented to in writing by Metro's General Manager.
12. Public Record. The Access Easement shall be recorded at the office of the Dane County Register of Deeds.

BE IT FURTHER RESOLVED that Metro shall provide funding of \$18,200.50 to pay for its share of the cost of improvements within the Access Easement.

BE IT STILL FURTHER RESOLVED that the Mayor and City Clerk are authorized to sign any and all documents and legal instruments to complete the transactions contemplated in this resolution.

EXHIBIT A

Legal Description of the Owner's Property:

Lots one (1) and two (2) of Certified Survey Map No. 1214, Recorded in Dane County Register of Deeds in Volume 5 Page 118 of Certified Surveys.

EXHIBIT B

Please see attached site plan.