



Legislation Text

File #: 51816, **Version:** 1

Fiscal Note

The proposed resolution authorizes an Easement Amendment to accommodate the as-built location of sanitary sewer facilities and amend the terms and conditions of the Easement for property located at 2702 Waunona Way. The Owners have requested conditional use approval for an addition to the single-family residence on the Property. The Easement Amendment has been prepared by the City Office of Real Estate Services and approved by City Engineering and signed by the Owners. No City appropriation is required.

Title

Authorizing the Mayor and City Clerk to execute an Easement Amendment pertaining to the sanitary sewer easement affecting the property located at 2702 Waunona Way, owned by Ann E. Thompson and Kai O. Thompson. (14th A.D.)

Body

WHEREAS, Ann and Kai Thompson (the "Owners") are the owners of the property located at 2702 Waunona Way (the "Property") and have requested conditional use approval for an addition to the single-family residence on the Property; and

WHEREAS, the City of Madison (the "City") has an easement for sanitary sewer purposes across the Property; and

WHEREAS, during the City's review of the Owners' conditional use request, it was discovered that the existing sanitary sewer facilities are not located entirely within the defined easement area; and

WHEREAS, as a condition of approval of the conditional use, the City Engineering Division requires that the easement be amended to revise the description of the easement area to accommodate the as-built location of the sanitary sewer facilities; and

WHEREAS, the Office of Real Estate Services has prepared an Easement Amendment, which document has been reviewed and approved by the City Engineering Division and signed by the Owners.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and City Clerk are authorized to execute an Easement Amendment amending the terms and conditions of that certain Easement for sanitary sewer purposes, dated September 19, 1951 and recorded as Document No. 861664 (the "Easement"), as follows:

1. The legal description of the easement area set forth on page 1 of the Easement is hereby deleted in its entirety and the following is inserted in its place ("Amended Easement Area"):

Part of the Southwest $\frac{1}{2}$ of Lot 3, Block 2, Raywood Heights, recorded as Document No. 234817, Dane County Register of Deeds, City of Madison, Dane County, Wisconsin, described as follows:

Commencing at the Southerly most corner of said Lot 3; thence N42°00'12"W, 139.03 feet along the Southwest line of said Lot 3 to the point of beginning; thence continuing along said Southwest line N42°00'12"W, 10.55 feet; thence N29°22'57"E, parallel with and 5 feet northwesterly of the existing sanitary sewer line, 55.81 feet to the Northeast line of said Southwest $\frac{1}{2}$ of Lot 3; thence S46°51'48"E, 10.30 feet along said Northeast line; thence S29°22'57"W, parallel with and 5 feet southeasterly of the existing sanitary sewer line, 56.73 feet to the said Southwest line and the point of beginning.

2. The map depicting the Amended Easement Area attached as Exhibit A shall be inserted and made a part of the Easement.

3. The Easement shall be amended to include the following clarifying terms and conditions:

a. Use. The Easement granted and amended herein is a permanent limited easement for public sanitary sewer purposes, including, but not limited to, the right of ingress and egress; the right to excavate, install, operate, maintain, repair, replace and modify the sanitary sewer facilities and improvements (collectively, the "Facilities"); and the right to perform all work incidental thereto in the "Amended Easement Area" legally described herein and depicted on attached Exhibit A.

b. Repair and Maintenance.

i. All work by the City shall be done and completed in a good and professional manner at the sole expense of the City and shall be performed in such a manner as in no way to interfere with or endanger the use of the Amended Easement Area. In all cases, the City shall be responsible for following all applicable ordinances, codes, statutes, and laws, and obtaining all permits required for any repair or maintenance activity.

ii. All areas affected by the work of the City shall be promptly restored to original grade by and at the expense of the City after completion of said work (or as soon thereafter as weather reasonably permits) and in a manner satisfactory to the Owners.

iii. No grade change to the Amended Easement Area shall be made by the Owners without the prior written approval of the City's Engineer.

iv. No above-ground improvements shall be located in the Amended Easement Area by either party, with the exception that grates, sewer access structure (SAS) covers, and other access points to the Facilities shall be permitted at grade level.

c. Reservation of Use by Owners. The Owners reserve the right to use and occupy the Amended Easement Area in a manner consistent with the rights herein conveyed, provided that such use and occupancy shall not interfere with or disturb the installation, operation, maintenance, repair, replacement and/or modification of any Facilities located therein.

d. Landscaping by Owners. Plantings and landscaping within the Amended Easement Area shall not obstruct routine maintenance by the City. In the event repair or reconstruction of the Facilities is necessary, plantings and landscaping may be removed by the City without replacement or compensation to the Owners. The City shall, however, restore the disturbed area with either grass seed or sod.

e. Compliance. The City and the Owners shall comply with all applicable laws, including, but not limited to, any laws, standards, regulations, or permit requirements relating to environmental pollution or contamination or to occupational health and safety.

f. Amendment. This Easement may not be amended, modified, terminated, or released without the written consent of all the parties hereto, or their respective successors-in-interest.

g. Binding Effect. The rights and easement granted herein shall be deemed to be covenants running with the land and shall inure to the benefit of and shall be binding upon the parties hereto and their respective successors and assigns.

- h. Applicable Law. This Easement shall be construed in accordance with the laws of the State of Wisconsin.
- i. Severability. If any term or provision of this 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 this Easement and the same shall continue to be effective to the fullest extent permitted by law.
- j. Public Record. This Easement and any amendments thereto will be recorded at the office of the Dane County Register of Deeds.

4. All other provisions of the Easement shall remain in full force and affect.

BE IT FURTHER RESOLVED that the Mayor and City Clerk are hereby authorized to execute, deliver and record such documents and to take such other actions as shall be necessary or desirable to accomplish the purposes of this Resolution.