



Legislation Text

File #: 51454, **Version:** 1

No City appropriation is required in authorizing the proposed easement amendment to the terms and conditions of the current sanitary sewer easement.

Authorizing the Mayor and City Clerk to execute an Easement Amendment pertaining to the sanitary sewer easement affecting the property located at 2224 Waunona Way, owned by Brian A. Hellmer and Annette E. Hellmer.

WHEREAS, Brian and Annette Hellmer (the "Owners") are the owners of the property located at 2224 Waunona Way (the "Property") and have requested conditional use approval for the construction of an accessory building 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 20, 1951 and recorded as Document No. 861689 (the "Easement"), as follows:

1. The legal description of the easement area set forth on page 1 of the Easement is hereby amended to include the following additional area ("Additional Easement Area"):

An additional six (6) foot-wide area being located in part of Lot 1 of Block 2, Hoboken Beach Subdivision recorded in Volume 3, page 19 as Document Number 258548, Dane County, Wisconsin lying adjacent to and southerly of the existing Sanitary Sewer Easement per Document No. 861689 and being more particularly described as follows:

Commencing at the southwest corner of said Lot 1; thence N 04°34'44" E along the west line of said Lot 1, 181.94 feet to the Point of Beginning; thence continuing N 04° 34'44" E along said west line, 6.01 feet to the south line of an existing 6 foot wide sanitary sewer easement as described in Document Number 861689, Dane County Registry; thence S 88°16' 54" E along said south line of the existing sanitary sewer easement, 58.63 feet to the east line of said Lot 1; thence S 02°42'23" W along said east line of Lot 1, 6.00 feet; thence N 88°16' 54" W parallel with aforementioned sanitary sewer easement, 58.82 feet to the Point of Beginning.

2. The map depicting the 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 Easement Area.
 - 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 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 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 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 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 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.
3. 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.