



Legislation Text

File #: 52271, **Version:** 1

Fiscal Note

No Appropriation Required

Title

Authorization to accept from Dane County, at no cost to the City of Madison, a Public Storm Sewer and Storm Water Drainage Easement across a portion of the property located at 102 Koster Street. (14th AD)

Body

WHEREAS, Dane County is the owner of property (Lyckberg Park) located at 102 Koster Street, City of Madison, Wisconsin, Wisconsin (the "Property"); and

WHEREAS, on January 15, 2016 Dane County granted, within the Property, a Public Storm Sewer and Storm Water Drainage Easement ("Existing Easement) to improve drainage, treat storm water and mitigate flooding issues within the Property and adjacent lands; and

WHEREAS, currently, storm water drainage from Koster Street passes through the southerly portion of the Property and onto lands lying westerly of the Property (the "Westerly Lands) contributing to flooding of those Westerly Lands ; and

WHEREAS, the City of Madison ("City") Engineering Division established Engineering Project No. 11676 - Koster Street and Rusk Avenue Reconstruction for the design and reconstruction of Koster Street, including the construction of public street improvements and storm sewer that will assist in mitigating the flooding within the Westerly Lands; and

WHEREAS, there will be low point in the future reconstructed Koster Street which will require an emergency storm water overflow from Koster Street onto the Property; and

WHEREAS, to further mitigate flooding and improve drainage within the Westerly Lands, the City has requested that Dane County cooperate allowing the emergency overflow storm water runoff water from Koster Street to flow through the Property and into the storm water management facility within the Existing Easement; and

WHEREAS, Dane County has agreed to grant a Public Storm Sewer & Storm Water Drainage Easement ("Easement") to the City to construct and maintain necessary storm water drainage facilities on the Property from Koster Street to the storm water management facility.

NOW, THEREFORE, BE IT RESOLVED that the City is hereby authorized to accept and the Mayor and the City Clerk are hereby authorized to execute a Public Storm Sewer & Storm Water Drainage Easement from Dane County, at no cost to the City, across a portion of the Property (the "Easement Area") more particularly described on attached Exhibit A and depicted on attached Exhibit B, subject to the following general terms and conditions:

- 1) The City shall be responsible for the repair and maintenance of the existing public storm sewer and storm water drainage facilities and improvements, (collectively, the "Facilities"). Such work shall be completed in a good and professional manner at the City's sole expense.
- 2) In all cases, Dane County and the City shall comply with all applicable laws, including, but not limited to

standards, regulations, ordinances, codes, and statutes, as well as obtain all permits, required for any construction, repair, or maintenance activity, or any other activity related to environmental pollution, contamination, or occupational health and safety.

- 3) All work shall be performed in such a manner as in no way to permanently interfere with or endanger the use of the Easement Area.
- 4) All areas shall be promptly restored to the original grade and surface condition, including the repair or replacement of pavement, concrete and turf, by and at the expense of the party performing any work, after completion of said work (or as soon thereafter as weather reasonably permits) and in a manner satisfactory to all parties. The City shall repair any damage caused to any pavement, concrete or turf located within the Easement Area and/or the adjacent properties as a result of the use of the Easement Area by or on behalf of the City as provided herein.
- 5) Plantings and landscaping within the Easement Area shall not obstruct routine maintenance by the City. In the event of repair or reconstruction, plantings and landscaping may be removed by the City without replacement or compensation to Dane County.
- 6) No above-ground improvements will be allowed 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. No buildings, structures or fences of any kind unrelated to the Facilities shall be constructed in or over the Easement Area without the written permission of the City - Engineering Division.
- 7) Dane County reserves the right to use and occupy the Easement Area for any purpose, in a manner consistent with the Easement rights of the City herein conveyed, provided that such use and occupancy shall not interfere with or disturb the operation, maintenance, repair, replacement and/or modification of any Facilities herein. No grade change shall be made to the Easement Area without the written consent of the City Engineer.
- 8) The City shall have the further right of ingress and egress to and from the Easement Area in order to exercise its rights and privileges hereunder, and to cut and remove trees, vegetation and other impediments in the Easement Area which may obstruct or interfere with the actual or potential use of the Easement Area for the foregoing purposes.
- 9) All provisions of this Easement, including the benefits and burdens, run with the land and are binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.
- 10) The City shall record this Easement with the Dane County Register of Deeds. By the recording of this Easement, the City acknowledges that it accepts this Easement and that it agrees to the terms and conditions contained herein.

TOGETHER WITH a Temporary Limited Easement (“TLE”) over the Property described on attached Exhibit A and depicted in attached Exhibit B (the “TLE Area”), subject to the following conditions:

1. The purpose of this TLE is to allow the City to perform sloping and grading on lands located outside of the new permanent Public Storm Sewer & Storm Water Drainage Easement, in association with the construction of said Facilities.
2. The City’s use of the TLE shall be for construction, sloping, grading and soil storage purposes including, but not limited to, the right of ingress and egress, the right to operate necessary equipment thereon, and

the right to preserve, protect, remove or plant thereon any vegetation that the City may deem desirable to prevent erosion of the soil.

3. Construction shall be performed and completed in a good and workmanlike manner and shall not interfere with or endanger the use of the abutting Property by Dane County.
4. The City will promptly restore the TLE Area after completion of the construction and/or grading of the TLE Area (or as soon thereafter as weather reasonable permits) and in a manner satisfactory to Dane County.
5. Dane County reserves the right to use and occupy the TLE Area in a manner consistent with the rights conveyed herein, provided that such use and occupancy shall not interfere with or disturb the construction and/or grading of the Easement Areas.
6. This TLE shall terminate upon the completion of the construction activities.