



Legislation Text

File #: 53940, **Version:** 1

Fiscal Note

No Appropriation Required

Title

Authorizing the City of Madison to enter into a Public Sanitary Sewer Access Easement Agreement with Dane County, and to accept two Public Sanitary Sewer Access Easements from Dane County, to allow access to existing public sanitary sewer facilities across the properties located at 1650, 1702, and 1802 Pankratz Street. (12th A.D.)

Body

WHEREAS, Dane County, a Wisconsin quasi-municipal corporation ("Owner") is owner of in fee simple of three contiguous properties (collectively, the "Owner's Property"), legally described as follows:

1702 Pankratz Street

Lot 46, Second Addition to Truax Air Park West, recorded in the Office of the Dane County Register of Deeds as Document No. 3101354 in Volume 57-120A of Plats on pages 473-476, located in the City of Madison, Dane County, Wisconsin.

1650 Pankratz Street

Lot 3 of Certified Survey Map No. 13328, recorded in the Office of the Dane County Register of Deeds as Document No. 4893393 in Volume 86 of Certified Survey Maps on pages 141-147, located in the City of Madison, Dane County, Wisconsin.

1802 Pankratz Street

Lot 47, Second Addition to Truax Air Park West, recorded in the Office of the Dane County Register of Deeds as Document No. 3101354 in Volume 57-120A of Plats on pages 473-476, located in the City of Madison, Dane County, Wisconsin; and

WHEREAS, the City has public sewer facilities (the "Facilities") in, on and through portions of the Owner's Property, as set forth by a Perpetual Easement for Public Storm Sewer and Sanitary Sewer Purposes recorded with the Dane County Register of Deeds as Document No. 3268680, as well as the Second Addition to Truax Air Park West, recorded as Document No. 3101354 (the "City's Sewer Easements"); and

WHEREAS, the City requires access to the Facilities located within the City's Sewer Easements for the purpose of maintenance and repairs, particularly the manholes to access and maintain the Facilities within the City's Sewer Easements; and

WHEREAS, maintenance and repairs to the Facilities benefit the Owner's Property and the Owner agrees to grant two Public Sanitary Sewer Access Easements to the City, at no cost to the City; and

WHEREAS, one of the public sanitary sewer access easements is defined as Sanitary Sewer Access Easement "A", legally defined on attached Exhibit A and depicted on attached Exhibit B. The second public sanitary sewer access easement is defined as Sanitary Sewer Access Easement "B", legally defined on attached Exhibit C and depicted on attached Exhibit D (together, the "Access Easement Areas").

NOW, THEREFORE, BE IT RESOLVED, that the Common Council of the City of Madison hereby authorizes the City of Madison to enter into a Public Sanitary Sewer Access Easement Agreement with Dane County (the

“Agreement”.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Common Council of the City of Madison hereby authorizes the acceptance of two Public Sanitary Sewer Access Easements, by virtue of the Agreement, at no cost, from the Owner over and across a portion of the Owner's Property, subject to the following terms and conditions:

1. Grant of Easements. The Owner hereby grants and conveys to the City, and the City hereby accepts from the Owner, two Public Sanitary Sewer Access Easements upon, over, and across portions of the Owner's Property, as legally described on attached Exhibits A and C, and depicted on attached Exhibits B and D.
2. Use of Access Easement Areas.
 - a. The City, its employees and agents, shall have the right to use the Access Easement Areas for purpose of ingress and egress of motor vehicles, construction equipment and pedestrians in conjunction with the maintenance, repair, inspection and reconstruction of the Facilities located within the City's Sewer Easements.
 - b. In addition to the right of ingress and egress as stated in Paragraph 2.a., the City shall have the right to use the Access Easement Areas for the short-term parking of sewer operations vehicles during the performance of repairs to or maintenance of the Facilities.
 - c. The City agrees for itself and its employees and agents to use the Access Easement Areas in a manner fully complying with all laws and other legal requirements.
3. Limitations of Easements.
 - a. The Access Easement Areas shall be used by the City as provided herein, in common with the Owner and the Owner's agents, employees, tenants, licensees, invitees, successors and assigns (collectively, the “Owner's Parties” or individually an “Owner's Party”).
 - b. The Owner's Parties shall not erect or permit to be erected any sign, fence, wall, pole, post, structure, or other facility so as to prevent the City's use of the Access Easement Areas.
 - c. The City's use of the Access Easement Areas shall not unreasonably interfere with the use of the Owner's Property by the Owner's Parties, including, but not limited to, the driving of vehicles.
 - d. The City shall not use the Access Easement Areas for open storage or permanent parking of vehicles or equipment of any kind. The short-term parking of sewer operations vehicles shall be permitted as provided in Paragraph 2.b.
 - e. The City shall use the Access Easement Areas only as a route of travel from Pankratz Street to and from the Facilities on the Owner's Property. The City shall not permit the Access Easement Areas to become, or to be construed to be, a route of access by the general public to reach public lands.
 - f. While exercising rights granted under this Agreement, the City shall not permit the use or placement within the Access Easement Areas of any equipment or other objects extending 25 feet above existing ground level.
4. Maintenance of Access Easement Areas. The Owner shall maintain the pavement and turf located in

the Access Easement Areas at all times, including repairing and plowing of paved areas. The temporary closure of the Access Easement Areas for repairs and/or snow plowing activities shall be permitted. The City shall promptly repair, at its expense, any damage caused to the Access Easement Areas as a result of the use of the Access Easement Areas by or on behalf of the City as provided herein, to the condition existing immediately preceding the time at which the damage shall have occurred. The storage of snow from areas other than from those areas within the Access Easement Areas shall be prohibited.

5. Amendment. This Agreement may not be amended, modified, terminated, or released without the written consent of all the parties hereto, or their respective successors-in-interest.
6. 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 the City, its successors and assigns, and shall be binding upon the Owner, its respective successors and assigns.
7. Applicable Law. This Agreement shall be construed in accordance with the laws of the State of Wisconsin.
8. Severability. If any term or provision of this Agreement 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 Agreement and the same shall continue to be effective to the fullest extent permitted by law.
9. Public Record. This Agreement will be recorded at the office of the Dane County Register of Deeds.

BE IT FURTHER RESOLVED that the Mayor and Clerk are authorized to sign and accept any and all documents and legal instruments required to complete the transactions contemplated in this resolution, on a form and in a manner that has been approved by the City Attorney.