



## **Request for City Council Committee Action From the Department of Public Works**

**Date:** November 9, 2010

**To:** Honorable Sandra Colvin Roy, Chair Transportation & Public Works Committee

**Referral:** Honorable Betsy A. Hodges, Chair Ways & Means Committee

**Subject:** **Cedar Lake Trail Phase III Final Settlement Agreement for Parcel 14 Easements**

**Recommendation:**

Approval and execution of final settlement agreement for easements with the Land Partners II, LLLP for the Cedar Lake Trail Phase III Project.

**Previous Directives:**

- Resolution 2010R-451 (September 24, 2010) Approving Stipulation of Final Settlement for Cedar Lake Trail - Phase III Easement Acquisition with Threequarters LLC/Bruce Stillman
- Resolution 2010R-330 (July 2, 2010) Approving acquisition of easements for trail purposes and authorizing use of eminent domain proceeding.
- Resolution 2010R-329 (July 2, 2010) Approving Stipulation of Final Settlement for Cedar Lake Trail - Phase III Easement Acquisition with Duddy LLLP
- Resolution 2010R-140 (April 2, 2010) Approving Stipulation of Final Settlement for Cedar Lake Trail - Phase III Easement Acquisition with Burlington Northern Santa Fe Railway Company.
- Resolution 2010R-058 (February 12, 2010) Authorizing the execution of Amendment #1 to MnDOT Agreement #92797 allocating 100% of Federal High Priority Grant Funds for right-of-way acquisition.
- Resolution 2010R-009 (January 15, 2010) Approving a trail easement agreement with the Minnesota Ballpark Authority.
- Resolution 2009R-625 (December 18, 2009) Approving Stipulation of Settlement with State of Minnesota and Metropolitan Council for Cedar Lake Trail - Phase III.
- Resolution 2009R-624 (December 18, 2009) Approving Stipulation of Partial Settlement with DUDDY LLP Railway Company for Cedar Lake Trail - Phase III.
- Resolution 2009R-622 (December 18, 2009) Approving Trail Easement Agreement for the Cedar Lake Trail Phase III with the Federal Reserve Bank.
- Resolution 2009R-537 (October 30, 2009) Authorizing the acquisition through negotiations or condemnation of temporary construction easements and permanent easements across the parcels therein for trail and other transportation-related uses.
- Resolution 2009R-328 (July 17, 2009) Authorizing the filing of an amendment to the condemnation petition in the City of Minneapolis v. DUDDY LLP Railway Company, et al. for the purpose of acquiring temporary construction easements.
- Resolution 2009R-327 (July 17, 2009) Authorizing the filing of an amendment to the condemnation petition in the City of Minneapolis v. Land Partners II, et al. for the purpose of acquiring an additional temporary access easement over Parcel 15 (Duddy Limited Partnership).

- Resolution 2009R-307 (June 26, 2009), Approving a right of entry agreement with Minnesota Ballpark Authority for Cedar Lake Trail - Phase III.
- Resolution 2009R-235 (May 22, 2009), Approving the acquisition of permanent and temporary easements for transportation purposes and authorizing the use of eminent domain proceedings from the owners of Parcels 16; 17;19; 21; and 24.
- Resolution 2009R-079 (March 6, 2009), Approving an agreement with the Hennepin County Regional Railroad Authority (“HCRRA”) for the acquisition of permanent and temporary easements for transportation purposes, and authorizing use of eminent domain proceeding.
- Resolution 2008R-320 (July 25, 2008) Authorizing the execution of Amendment No 1 to Metropolitan Council Agreement No. SG-2006-145 (City Contract No. C-23910)
- Resolution 2008R-319 (July 25, 2008) Authorizing the execution of an Inter-Agency Agreement with the Minnesota Department of Transportation for federal participation in right-of-way.
- Council Action (December 7, 2007) Authorization to execute the required documents to acquire a permanent trail easement from 127 Building Partners, LLC.
- Council Action (December 7, 2007) Authorization to execute a Cooperative Agreement with Northstar Corridor Development Authority for the acquisition of a Trail Use Permit.
- Council Action (March 9, 2007) Authorization to enter into negotiations or condemnation for the Cedar Lake Trail Phase III Project.
- Resolution 2006R-634, Authorization to enter into negotiations with abutting property owners for the acquisition of trail easements.
- Resolution 2006R-584, Appropriation Increase to PW- Fund (0600-943-9480) by \$1,800,000 & increasing the revenue source (0600-943-9480-3215) by \$1,800,000; and Increasing the appropriation in PW- Fund (4100-943-9470- BIK01) by \$1,800,000 and increasing the revenue source (4100-943-9470-3215) by \$1,800,000.
- Council Action (November 17, 2006), Authorization to execute a Metropolitan Council Grant Agreement (No. SG-2006-145) in the amount of \$1,800,000 for the Cedar Lake Trail.
- Resolution 2005R-658, 2006-2010 Five Year Capital Budget which included an appropriation of \$583,000 for the Cedar Lake Bike Phase 3 Project with the revenue source being Net Debt Bonds
- Resolution 2005R-661, Requesting the issuance and sale of bonds including the Cedar Lake Bike Phase 3 Project
- Resolution 2005R-075, Supporting the completion of the Cedar Lake Bike Phase to the Mississippi River • Resolution 2004R-580, 2005-2009 Five Year Capital Budget which included an appropriation of \$2,160,000 for the Cedar Lake Bike Phase 3 Project with the revenue source being Federal Government
- Council Action (September 28, 2001), Authorizing the expenditure of \$40,000 from the Commuter Bike Fund System (4100-943-9470 - Project A7002990) for a temporary Cedar Lake Trail Phase III bike lanes alignment.
- Council Action (August 24, 2001), Recommendation that the proper City officers apply for a series of federal funds (TEA-21) including \$2,160,000 for Cedar Lake Bike Trail Phase III
- Resolution 2001R-147, Amending the 2001 Capital Improvement Appropriation Resolution which included an increase to the Cedar Lake Bike Trail of \$300,000 with the revenue source being the settlement from the Federal Reserve Bank Project Tax Increment Financing District for off-site public improvements.
- Council Action (March 2, 2001), Directing Public Works to develop a temporary bike route plan for Cedar Lake Trail Phase III due to construction delays caused by other projects in the area.
- Council Action (December 17, 1999), Authorization to enter into two easements for the Cedar Lake Bike Trail Phase III.

**Approved by:**

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Steven A. Kotke, P.E., City Engineer, Director of Public Works

**Presenters:** Jack Yuzna, P.E., Principal Project Engineer,  
Department of Public Works, Transportation Planning & Engineering Division

**Reviews** Not Applicable

**Financial Impact**

Action is within current department budget

**Community Impact**

Neighborhood Notification: Not Applicable

City Goals: The city's infrastructure will be well-maintained, people will feel safe in the city.

Comprehensive Plan: Not Applicable

Zoning Code: Not Applicable

**Background/Supporting Information**

The construction of Cedar Lake Trail Phase III from Royalston Avenue to West River Parkway has begun. We anticipate substantial completion and opening of the trail to users by the end of November.

Land Partners II, LLLP (Land Partners) Final Settlement

Since 2006, City staff has worked with the representatives of Land Partners on how the Cedar Lake Trail Phase III project would pass along its property. In order to maintain the project schedule, in March 2009 the City Council authorized the use of eminent domain to acquire the necessary easements.

During this time discussions were also underway to use portions of parcels owned by Hennepin County Regional Railroad Authority (HCRRA). In early 2008, HCRRA contacted Public Works requesting that we investigate how the Cedar Lake Trail could be integrated with a possible future rail transit Multimodal Station. HCRRA had recently reevaluated their long-term transit vision and foresaw a higher rail transit volume for the corridor adjacent to the Trail than previously anticipated. The discussions culminated with HCRRA requesting that the City acquire permanent transportation easements in lieu of the trail easements Public Works had intended to obtain from Land Partners. In March 2009, HCRRA and the City executed an agreement granting the use of its property and specifying, among other things, how the Land Partners easement acquisition costs would be shared.

As the eminent domain process proceeded, the City and Land Partners continued to negotiate and the parties shared their appraisals. The City's transportation and temporary construction easements appraised valuation of \$453,500 was submitted to the District Court Administrator as our Quick Take Deposit. In their appraisal, Land Partners' valued the easements at \$980,000 (a difference of \$526,500 between appraisers' opinions of valuation).

After further negotiations, the parties agreed to \$276,500 above the Quick Take Deposit as the tentative valuation for the settlement of all claims. The total payment for all cost associated with the acquisition of the permanent transportation and temporary construction easements would be \$730,000 (\$453,500 + \$276,500). Based on the City's agreement with HCRRA (which included HCRRA's contribution for acquiring a transportation easement instead of a trail easement) the City will bear \$569,000 and HCRRA \$161,000 of the total cost of \$730,000.

Public Works agreed on the tentative settlement valuation based on the following factors. The City will surely incur additional attorney, appraisal and commissioners fees of its own to complete its eminent domain proceedings. Due to the recently enacted state eminent domain statute, property owner rights

to recover attorney fees after condemnation have been strengthened. In our counsel's opinion along with the additional compensation above the Quick Take Deposit for the easements, Land Partners would clearly be awarded compensation for these additional fees. As required by our agreement, HCRRA has been consulted regarding the terms of the settlement and determined it is reasonable. Since Land Partners has notified us that they will accept the tentative settlement, Public Work requests the approval of the terms and compensation and request authorization to have the proper City officers execute the final settlement agreement with the Land Partners.

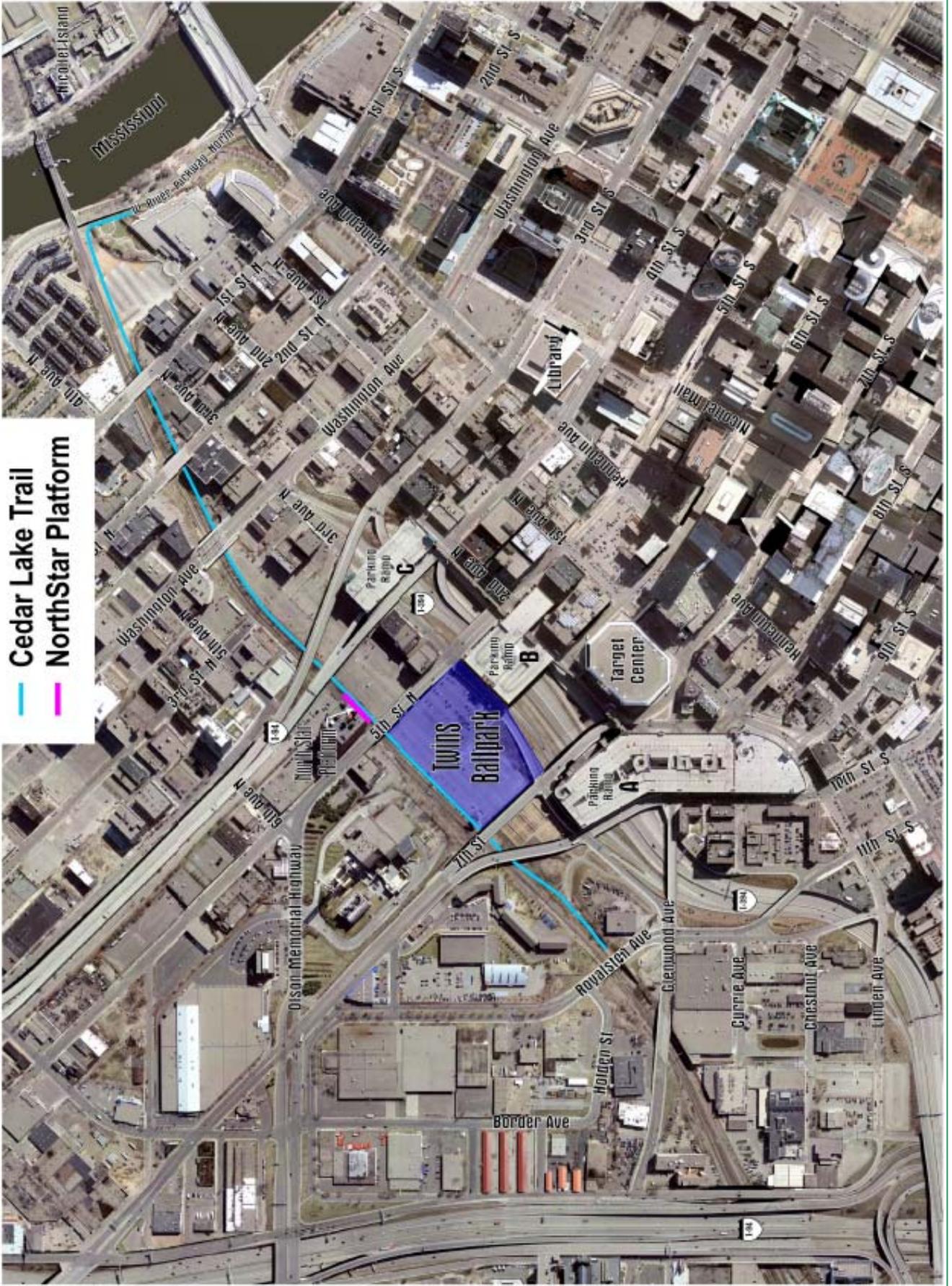
Primarily due to higher than anticipated costs for easement acquisitions and settlements we expect to exceed the project appropriation. We are evaluating sources of additional funding from present and future capital projects and while this funding has not been specifically identified at the time, it will be included in the 4100 Fund report to Ways and Means in January, 2011.

Attachments Resolution  
Cedar Lake Trail Phase III Map

cc: CM Goodman, Ward 7

# Cedar Lake Trail - Phase III

June 14, 2008



-  Cedar Lake Trail
-  NorthStar Platform