

2010R-_____
RESOLUTION
OF THE CITY OF MINNEAPOLIS
By _____

Approving acquisition of easements for trail purposes, and authorizing use of eminent domain proceeding.

WHEREAS, the City of Minneapolis (the “City”) completed Phase I and Phase II of the Cedar Lake Trail between the West City limits and Royalston Avenue in 1995; and

WHEREAS, extension of the Cedar Lake Trail from Royalston Avenue to the Mississippi River (“Cedar Lake Trail Phase III a/k/a Cedar Lake Bike Trail Phase III”) is a high priority for the City of Minneapolis (“City”) and its residents; and

WHEREAS, in a Council action on December 17, 1999, the City Council authorized the City to enter into two easements for the Cedar Lake Bike Trail Phase III; and

WHEREAS, in a Council Action on March 2, 2001, the City Council authorized the Director of 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; and

WHEREAS, in 2001, the City Council adopted Resolution No. 2001R-147, amending the 2001 Capital Improvement Appropriation Resolution, which included an increase to the budget for 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 the off-site public improvements; and

WHEREAS, in a Council action on August 24, 2001, the City Council authorized the proper City officers to apply for a series of federal funds (TEA-21) including \$2,160,000 for Cedar Lake Bike Trail Phase III; and

WHEREAS, in a Council Action on September 28, 2001, the City Council authorized the expenditure of \$40,000 from the Commuter Bike Fund System (4100-943-9470-Project A7002990) for a temporary bike lanes alignment for the Cedar Lake Trail Phase III; and

WHEREAS, in 2004, the City Council adopted Resolution No. 2004R-580, approving the 2005-2009 Five Year Capital Budget, which included an appropriation of \$2,160,000 for the Cedar Lake Trail Phase III Project with the revenue source being the Federal Government; and

WHEREAS, in 2005, the City Council adopted its Resolution No. 2005R-075, Supporting the Completion of the Cedar Lake Bike Trail to the Mississippi River; and

WHEREAS, in 2005, the City Council adopted its Resolution No. 2005R-661, Requesting the issuance and sale of bonds including the Cedar Lake Bike Phase III Project; and

WHEREAS, in 2005, the City Council adopted its Resolution No. 2005R-658, 2006-2010 Five Year Capital Budget which included an appropriation of \$583,000 for the Cedar Lake Bike Phase III Project, with the revenue source being Net Debt Bonds; and

WHEREAS, on November 17, 2006, the City Council authorized execution of Metropolitan Council Grant Agreement No. SG-2006-145 in the amount of \$1,800,000 for the Cedar Lake Trail Phase III Project; and

WHEREAS, in 2006, the City Council adopted its Resolution No. 2006R-584, Appropriation Increase to PW-Fund (0600-943-9480) by \$1,800,000 and increasing the revenue source (0600-943-9480-3215) by \$1,800,000; and increasing the appropriation in PW-Fund (4100-943-9470-BIKOI) by \$1,800,000 and increasing the revenue source (4100-943-9470-3215) by \$1,800,000; and

WHEREAS, in a Council action on December 22, 2006, the City authorized the proper City officers to enter into negotiations with abutting owners for the acquisition of trail easements; and

WHEREAS, on March 9, 2007, the City Council authorized the acquisition by negotiation or condemnation of permanent and temporary trail easements for completion of the Cedar Lake Trail-Phase III Project; and

WHEREAS, in a resolution adopted by it on May 22, 2009, the City Council found that a permanent easement for trail and other transportation purposes over Parcel 21 described in Exhibit A to that Resolution ("Parcel 21") was needed for the Cedar Lake Trail--Phase III Project, and authorized acquisition of said easement for construction, operation, repair, maintenance and reconstruction of the Cedar Lake Trail over Parcel 21, including by use of eminent domain proceedings, if necessary; and

WHEREAS, the City filed eminent domain proceedings to acquire said permanent easement over Parcel 21 on May 28, 2009; and

WHEREAS, the Hennepin County District Court filed its Findings of Fact, Conclusions of Law and Order Approving Petition and Appointing Commissioners with respect to Parcel 21 on July 17, 2009, and its Findings of Fact, Conclusions of Law and Order Transferring Title and Possession with respect to Parcel 21 on July 17, 2009; and

WHEREAS, it is necessary for the City to commence construction of the Cedar Lake Trail Phase III in 2010 in order to meet state and federal funding deadlines and its obligations under an agreement with the Minnesota Department of Transportation, the Northstar Corridor Development Authority and the Metropolitan Council; and

WHEREAS, as of January 2010, the City Public Works Department had believed all the right of way acquisition process for the Cedar Lake Trail--Phase III Project had been concluded, subject to completion of pending eminent domain proceedings; and

WHEREAS, the construction of the Cedar Lake Trail--Phase III Project is scheduled to begin on or about July 12, 2010;

WHEREAS, the Director of Public works has recommended that the City acquire a larger permanent easement, two temporary easements and a permanent slope easement over Parcel 21, as described in Seventh Amended Exhibit A attached hereto (collectively “Additional Easements”), to facilitate construction of the Cedar Lake Trail-Phase III Project and has requested that counsel representing the City in the pending eminent domain proceedings be authorized and directed to amend said eminent domain proceedings to acquire the Additional Easements; and

WHEREAS, the City Council finds that it is necessary, convenient and for a public purpose that the City acquire the Additional Easements over Parcel 21, to facilitate construction, operation, repair, maintenance and reconstruction of the Cedar Lake Trail—Phase III Project.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MINNEAPOLIS:

1. Acquisition of such Additional Easements is hereby determined to be necessary and convenient and for a public purpose (completion of the Cedar Lake Trail—Phase III Project).
2. The City Attorney and outside counsel retained by the City are hereby authorized and directed to amend the currently pending eminent domain proceedings to acquire the Additional Easements encumbering Parcel 21, and to use the quick take provisions of Minn. Stat. § 117.042 to acquire title and possession of such Additional Easements prior to the filing of the Court Appointed Commissioners’ report of damages caused by the taking.
3. With the assistance of the reports of independent real estate appraisers secured on behalf of the City, the Director of Public Works is hereby authorized to determine the amount of the City’s offer of compensation to the owners of Parcel 21 for the Additional Easements and the approved appraisal of damages for such Additional Easements to be paid or deposited by the City pursuant to Minn. Stat. § 117.042.

SEVENTH AMENDED EXHIBIT A

Parcel No. 21 (Tax Parcel No. 22-029-24-14-0016)
Property Address: 310 Second Street North
Minneapolis, Minnesota

Description of Subject Property:

Lot 4, that part of Lot 3 and that part of the vacated alley accruing to said Lots 3 and 4 lying Southerly of the railroad right-of-way as widened, all in Block 26, **TOWN OF MINNEAPOLIS**, Hennepin County, Minnesota.

According to the map or plat thereof on file and of record in the Office of the County Recorder in and for Hennepin County, Minnesota.

Description of Taking:

1. Permanent Easement Over Alley

A permanent easement for trail and other transportation purposes including, without limitation, bicycle, vehicular (maintenance and emergency) travel, and the location of all public utility and communication facilities, including fiber optic lines over, under and across that part of the vacated alley accruing to Lots 3 and 4 lying Southerly of the railroad right-of-way as widened, all in Block 26, TOWN OF MINNEAPOLIS, Hennepin County, Minnesota which is described as follows:

Said easement lies 20.45 feet on both sides of the following described line: Commencing at the most westerly corner of said Lot 3; thence on an assumed bearing of North 45 degrees 18 minutes 14 seconds West, along the Southwesterly line of said Block 26, a distance of 9.76 feet to the point of beginning of the line to be described; thence North 63 degrees 49 minutes 17 seconds East a distance of 246.93 feet; thence Northeasterly along a tangential curve concave to the Southeast, said curve having a radius of 3000.00 feet and a central angle of 01 degrees 33 minutes 49 seconds for a distance of 81.87 feet; thence North 65 degrees 23 minutes 06 seconds East, tangent to said curve, for a distance of 32.18 feet to the intersection with the Northeasterly line of said Block 26 and said line there terminating.

The sidelines of said easement should be prolonged or shortened to intersect the Southwesterly and Northeasterly lines of the vacated alley accruing to said Lots 3 and 4.

Said permanent easement shall include the right of the Petitioner, its contractors, agents and employees to enter said permanent easement at all reasonable times to place, construct, operate, repair, maintain, relocate, replace and reconstruct thereon facilities and improvements for such purposes, and to grade and excavate thereon, and to cut, trim

and remove trees, shrubbery, growing crops and surface improvements to the extent necessary to facilitate Petitioner's use of its easement rights within said easement tract.

The area of the permanent easement is 161 square feet.

2. Temporary Easement (Over Alley).

A temporary easement 4.55 feet wide for construction purposes, that lies Southeasterly of and adjoining said permanent easement.

Said temporary easement shall terminate not later than December 31, 2010.

Said temporary easement shall include the right of Petitioner, its contractors, agents, and employees to enter said temporary easement tract at all reasonable times to grade and excavate thereon, and to cut, trim and remove trees, shrubbery, growing crops and surface improvements within said temporary easement tract, as needed to facilitate Petitioner's construction and access activities within said permanent and temporary easement tracts.

The area of said temporary easement is 37 square feet, more or less.

3. Temporary Easement (Over Parking Lot)

A temporary easement for construction purposes over, under and across the Southwesterly 68.00 feet of the Northwesterly 15.00 feet of said Lot 4, Block 26, and the Southwesterly 73.00 feet of said Lot 3, Block 26, lying Southerly of the railroad right of way as widened.

Said temporary construction easement shall be 10 days in length which shall begin upon not fewer than 10 days' written notice from Petitioner to the property owner and shall terminate no later than December 31, 2010.

Said temporary easement shall include the right of Petitioner, its contractors, agents, and employees to enter said temporary easement tract at all reasonable times to grade and excavate thereon, and to cut, trim and remove trees, shrubbery, growing crops and surface improvements within said temporary easement tract, as needed to facilitate Petitioner's construction and access activities within said permanent and temporary easement tracts.

The area of said temporary easement is 4,272 square feet, more or less.

4. Slope Easement (Over Alley)

A permanent non-exclusive slope easement for grading and maintaining the grade over, under and across that part of the vacated alley accruing to Lots 3 and 4 lying Southerly of the railroad right of way as widened, all in Block 26, TOWN OF MINNEAPOLIS, Hennepin County, Minnesota.

Said easement lies 25.00 feet on both sides of the following described line: Commencing at the most Westerly corner of said Lot 3, thence on an assumed bearing of North 45 degrees 18 minutes 14 seconds West, along the Southwesterly line of said Block 26, a distance of 9.76 feet to the point of beginning of the line to be described, thence North 63 degrees 49 minutes 17 seconds East a distance of 246.93 feet; thence Northeasterly along a tangential curve concave to the Southeast, said curve having a radius of 3000 feet and a central angle of 01 degrees 33 minutes 49 seconds for a distance of 81.87 feet; thence North 65 degrees 23 minutes 06 seconds East, tangent to said curve, for a distance of 32.18 feet to the intersection with the Northeasterly line of said Block 26 and said line there terminating.

The sidelines of said easement shall be prolonged or shortened to intersect the Southwesterly and Northeasterly lines of the vacated alley accruing to said Lots 3 and 4.

Said permanent slope easement shall include the right of the Petitioner, its contractors, agents, and employees to enter said slope easement tract at all reasonable times to establish, re-establish, inspect, grade, construct, alter, repair and use both cuts and fills on said real property and excavate thereon, and to cut, trim and remove trees, shrubbery, growing crops and surface improvements and change the grade and permanently provide lateral support to and protect Petitioner's trail and utility improvements within said easement tracts and adjacent property and the owner's improvements on the Subject Property, as needed in the discretion of Petitioner, to construct, operate, repair, maintain, remove and reconstruct Petitioner's improvements.

The area of said permanent slope easement is 198 square feet, more or less.

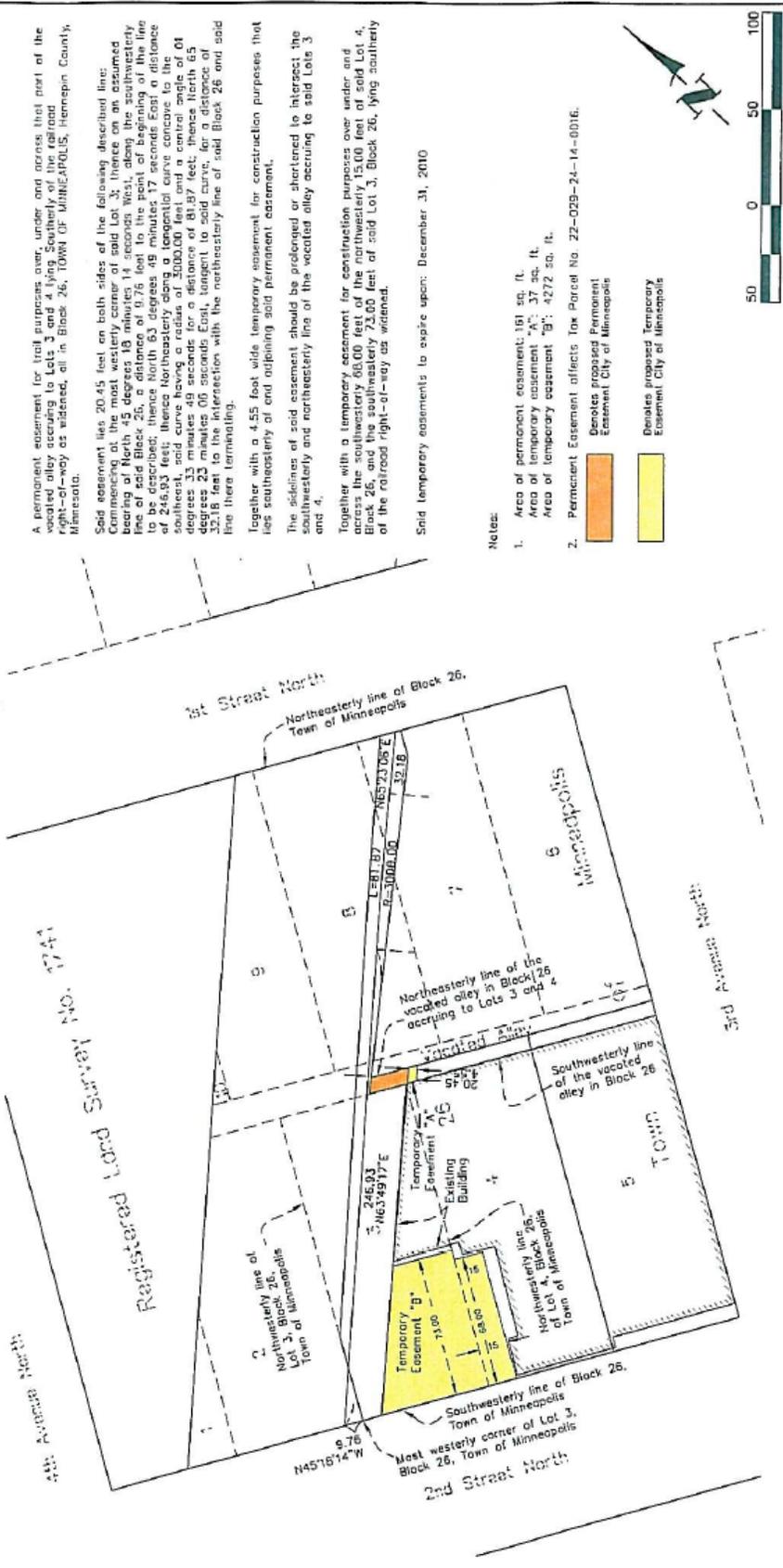
All of said easements shall take effect upon Petitioner's payment to the owner or deposit with the Court of Petitioner's approved appraisal of value for the Additional Easements, as provided in Minn. Stat. § 117.042.

Interests Being Encumbered:

The names of the parties having an interest in the above-described land and the nature of their interests to the best of Petitioner’s knowledge based upon a review of records in the office of the County Recorder and Registrar of Titles in and for Hennepin County, Minnesota are set forth below. It is the intention of the Petitioner to encumber all rights and interests in the above described real property, including, but not limited to, all of the interests of those parties named below.

NAME	NATURE OF INTEREST
Threequarters, LLC, a Minnesota limited liability company	Fee owner of an undivided three-quarters interest
Bruce Stillman, aka Bruce H. Stillman	Fee owner of an undivided one-fourth interest
Spouse of Bruce Stillman, aka Bruce H Stillman, if any	Possible holder of an interest
City of Minneapolis	Special Assessments
Wells Fargo Bank, National Association (fka Norwest Bank Minneapolis, National Association)	Mortgage
Bremer Bank, National Association	Mortgage, UCC Financing Statement and Assignment of Rents

Easement Exhibit ~for~ City of Minneapolis



A permanent easement for trail purposes over, under and across that part of the vacated alley accruing to Lots 3 and 4 lying Southwesterly of the railroad right-of-way as widened, all in Block 26, TOWN OF MINNEAPOLIS, Hennepin County, Minnesota.

Said easement lies 20.45 feet on both sides of the following described line: Commencing at the most westerly corner of said Lot 3; thence on an assumed bearing of 115 degrees 16 minutes 14 seconds South 76 degrees 16 minutes 14 seconds West a distance of 9.76 feet to the point of beginning; thence South 63 degrees 49 minutes 17 seconds East a distance of 246.93 feet; thence North 63 degrees 49 minutes 17 seconds East a distance of 11.00 feet; thence North 63 degrees 49 minutes 17 seconds East a distance of 8.40 feet; thence North 63 degrees 49 minutes 17 seconds East a distance of 1.5 feet; thence North 63 degrees 49 minutes 17 seconds East, tangent to said curve, for a distance of 1.5 feet to the intersection with the northeasterly line of said Block 26 and said line there terminating.

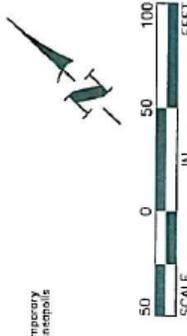
Together with a 4.55 foot wide temporary easement for construction purposes that lies southeasterly of and adjoining said permanent easement.

The sidelines of said easement should be prolonged or shortened to intersect the southeasterly and northeasterly line of the vacated alley accruing to said Lots 3 and 4.

Together with a temporary easement for construction purposes over, under and across the southwesterly 60.00 feet of the northwesterly 15.00 feet of said Lot 4, Block 26, and the southwesterly 73.00 feet of said Lot 3, Block 26, lying southwesterly of the railroad right-of-way as widened.

Said temporary easements to expire upon: December 31, 2010

- Notes:
1. Area of permanent easement: 161 sq. ft.
Area of temporary easement "A": 37 sq. ft.
Area of temporary easement "B": 4272 sq. ft.
 2. Permanent Easement affects Tax Parcel No. 22-029-24-14-0016.
- Denotes proposed Permanent Easement City of Minneapolis
- Denotes proposed Temporary Easement City of Minneapolis



DATE	REVISION	ISSUED BY:	BOOK/PAGE:
10/27/09	Easement Description	DRS/BRP	
06/14/10	Added temporary easement and revised permanent easement	DRS/BRP	
		DATE:	7/23/08
		BOOK #:	2158.04
		CRC	

I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Land Surveyor under the laws of the State of Minnesota.

Chyngia C. Christopherson
Date: 06/14/10 Lic. No. 18420

City of Minneapolis

Three Quarters LLC
Cedar Lake Trail
City of Minneapolis
(Minneapolis Parcel No. 21)

Hokanson Anderson Assoc., Inc.
Civil Engineers and Land Surveyors
5891 Horton Ave. Avoka, Minnesota 55303
763-437-5810 FAX 763-437-0520

Minneapolis City of Lakes

