

**RESOLUTION OF THE CITY
COUNCIL OF THE CITY OF
MINNEAPOLIS
Approving Stipulation of Final
Settlement For Cedar Lake Trail
– Phase III**

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;

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;

WHEREAS, BNSF Railway Company (“BNSF”) owns property lying between Royalston Avenue and West River Parkway which the City desires to cross with the Cedar Lake Trail – Phase III, and which is legally described in Exhibit A attached hereto (“BNSF Property”);

WHEREAS, pursuant to previous City Council resolution, the City commenced eminent domain proceedings to acquire permanent and temporary easements over the BNSF Property;

WHEREAS, the Easements acquired by the City over the BNSF Property are also described in Exhibit A (“Easements”);

WHEREAS, the City and BNSF entered into a Stipulation of Partial Settlement under which the City obtained the desired Easements, which agreement was approved by the City Council, but did not resolve the total amount of compensation to be paid for the Easements;

WHEREAS, the City staff and counsel retained by the City have negotiated a proposed Stipulation of Final Settlement which, if approved, will resolve the amount of total compensation to be paid by the City for the Easements and all other issues relating to the City’s acquisition of the Easements;

WHEREAS, under the Stipulation of Final Settlement, the City will pay BNSF a total of \$535,000 for the Easements, including amounts previously paid, which will satisfy all claims of BNSF in the eminent domain proceeding or otherwise in relation to the City's acquisition of the Easements;

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

Upon approval of the proposed Stipulation of Final Settlement by the City Attorney and execution and delivery of that agreement on behalf of BNSF, the City Contracting Officer is authorized to execute the agreement on behalf of the City and to pay BNSF Railway Company \$112,891.32, which is the unpaid remainder of the \$535,000 total compensation agreed to in the Stipulation of Final Settlement.

EXHIBIT A

Legal Description of BNSF Property

Legal Descriptions of the Easements To Be Acquired

Parcel No. 16 (Affects Tax Parcel No. 22-029-24-13-0107):
Property Address: 405 Washington Avenue North
Minneapolis, Minnesota

Description of Easement Being Acquired:

A permanent easement for the construction, operation, repair, maintenance, and reconstruction of a recreational trail and its appurtenances (including, but not limited to, storm sewer, communication facilities, and other utility facilities ancillary to said recreational trail, use of said trail for bicycle and foot travel, and use of said trail by maintenance vehicles, law enforcement vehicles, and emergency vehicles) on, upon, over, under, and across that part of Lots 2, 15 and 16, Block 22, **BRADFORD AND LEWIS ADDITION TO MINNEAPOLIS**, Hennepin County, Minnesota and that part of the abandoned alley within said Block 22 lying northerly of the following described "Line A":

"Line A" is described as beginning at a point on the Southwesterly line of Block 10, HOAG'S ADDITION TO MINNEAPOLIS, said Hennepin County, distant 29.27 feet Northwesterly from the most Southerly corner of said Block 10; thence Northeasterly along a straight line to a point in the Southwesterly line of said Block 22, distant 107.48 feet Northwesterly from the most Southerly corner of said Block 22; thence Northeasterly along the prolongation of the last described line 105.27 feet; thence Northeasterly along a non-tangential curve concave to the South having a radius of 1875.86 feet, the chord of said curve is measured 13 degrees 24 minutes 52 seconds to the right from said prolongation of the last described line to the Northeasterly line of said Block 22 and said "Line A" there terminating.

The permanent easement to be acquired is that part of the above-described property that lies 9.00 feet northwesterly and 14.00 feet southeasterly of the following described line: Commencing at the most southerly corner of said Block 10; thence North 45 degrees 01 minutes 39 seconds West, assumed bearing along the southwesterly line of said Block 10, a distance of 17.87 feet to the point of beginning; thence North 45 degrees 03 minutes 49 seconds East a distance of 88.06 feet; thence northeasterly along a tangential curve concave to the southeast having a radius of 1000.00 feet and a central angle of 01 degrees 08 minutes 45 seconds for a distance of 20.00 feet; thence North 46 degrees 12 minutes 34 seconds East, tangent to said curve a distance of 29.86 feet; thence northeasterly along a tangential curve concave to the northwest having a radius of 1015.00 feet and a central angle of 01 degrees 08 minutes 45 seconds for a distance of 20.30 feet; thence North 45 degrees 03 minutes 49 seconds East, tangent to last described curve, a distance of 400.40 feet; thence northeasterly along a tangential curve concave to the southeast having a radius of 550.00 feet and central angle of 18 degrees 33 minutes 00 seconds for a distance of 178.07 feet; thence North 63 degrees 36 minutes 51 seconds East a distance of 30.17 feet to the northeasterly line of said Block 22 and said line there terminating.

The sidelines of said permanent easement shall be prolonged or shortened to intersect said “Line A” and said Northeasterly line of said Block 22.

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.

The area of the permanent easement is 3,072 square feet.

Interests Being Encumbered:

It is the intention of the Petitioner to encumber herein all interests in the above described real property of those parties named below.

NAME	NATURE OF INTEREST
BNSF Railway Company, a Delaware corporation (fka Burlington Northern, Inc.; fka Burlington Northern Railroad Company; fka Great Northern Pacific & Burlington Lines, Inc.; fka Burlington Northern Transportation Company; and fka The Burlington Northern and Santa Fe Railway Company)	Fee Owner

Parcel No. 17: Permanent easement affects Tax Parcel No. 22-029-24-14-0163)
(Temporary easement affects Tax Parcels Nos. 22-029-24-14-0157 and
22-029-24-14-0163)
Property Address: 332 ½ Washington Avenue North
Minneapolis, Minnesota

Description of Easements Being Acquired:

A permanent easement for the construction, operation, repair, maintenance, and reconstruction of a recreational trail and its appurtenances (including, but not limited to, storm sewer, communication facilities, and other utility facilities ancillary to said recreational trail, use of said trail for bicycle and foot travel, and use of said trail by maintenance vehicles, law enforcement vehicles, and emergency vehicles) on, upon, over, under, and across that portion of Block 33, TOWN OF MINNEAPOLIS, Hennepin County, Minnesota, together with the 16.0 foot wide alley within said Block, described as follows:

Commencing at the most Westerly corner of said Block 33; thence Northeasterly along the Northwesterly line thereof a distance of 120.00 feet to the True Point of Beginning of the parcel to be described; thence Northeasterly along a straight line to a point on the Northeasterly line of said Block 33 distant 75.0 feet Southeasterly of the most Northerly corner of said Block 33, as measured along the Northeasterly line thereof; thence Southeasterly along said Northeasterly line a distance of 13.55 feet; thence Southwesterly along a straight line to the point of intersection with said Northwesterly line of Block 33 distant 80.66 feet Northeasterly from the most Westerly corner of Block 33; thence Northeasterly along said Northwesterly line to the True Point of Beginning.

and

That part of Block 33, TOWN OF MINNEAPOLIS, Hennepin County, Minnesota described as lying Northwesterly of a line running from a point on the Northwesterly line of said Block 33 distant 120 feet Northeasterly from the most Westerly corner of said Block 33 to a point on the Northeasterly line of said Block 33 distant 75.00 feet Southeasterly from the most Northerly corner of said Block 33.

The permanent easement to be acquired is that part of the above-described property that lies within 10.00 feet northerly of the following described centerline:

Commencing at the most Westerly Corner of said Block 33; thence on an assumed bearing North 44 degrees 38 minutes 50 seconds East, along the Northwesterly line of said Block 33, a distance of 65.36 feet to the point of beginning; thence North 63 degrees 36 minutes 51 seconds East a distance of 195.96 feet; thence Northeasterly along a tangential curve concave to the southeast having a radius of 15,000.00 feet and a central angle of 00 degrees 12 minutes 27 seconds for a distance of 54.30 feet; thence North 63 degrees 49 minutes 17 seconds East, tangent to said curve, for a distance of 41.61 feet to the Northeasterly line of said Block 33 and said line there terminating.

The sidelines of said permanent easement shall be prolonged or shortened to intersect the Northwesterly and Northeasterly lines of said Block 33.

Together with a temporary 10-foot-wide easement for construction and access purposes that lies northwesterly of and adjacent to said permanent easement. The sidelines of said temporary easement shall be prolonged or shortened to intersect the Northwesterly and Northeasterly lines of said Block 33.

The temporary easement shall commence on April 1, 2010 and shall expire on the earlier of (i) completion of the construction work, as determined by the City of Minneapolis project manager, or (ii) 11:59:59 p.m. central standard time, December 31, 2010.

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.

The area of the permanent easement is 1,202 square feet.

The area of the temporary easement is 2,431 square feet.

Interests Being Encumbered:

It is the intention of the Petitioner to encumber herein all interests in the above described real property of those parties named below.

NAME	NATURE OF INTEREST
BNSF Railway Company, a Delaware corporation (fka Burlington Northern, Inc.; fka Burlington Northern Railroad Company; fka Great Northern Pacific & Burlington Lines, Inc.; fka Burlington Northern Transportation Company; and fka The Burlington Northern and Santa Fe Railway Company)	Fee Owner

Parcel No. 19 (Affects Tax Parcel No. 22-029-24-14-0528)
Property Address: 322 Second Street North
Minneapolis, Minnesota

Description of Easements Being Acquired:

A permanent easement for the construction, operation, repair, maintenance, and reconstruction of a recreational trail and its appurtenances (including, but not limited to, storm sewer and other utility facilities ancillary to said recreational trail, use of said trail for bicycle and foot travel, and

use of said trail by maintenance vehicles, law enforcement vehicles, and emergency vehicles) on, upon, over, under, and across that part of Lots 1, 2, 3, 7, 8, 9, 10, and 11, and the vacated alley, all in Block 26, TOWN OF MINNEAPOLIS, Hennepin County, Minnesota lying southeasterly of REGISTERED LAND SURVEY NO. 1741, said Hennepin County and also lying northerly of a line running parallel with and 25 feet southerly of the hereinafter described Line 1:

AND

That part of Lot 2, Block 26, TOWN OF MINNEAPOLIS, Hennepin County, Minnesota lying southerly of a line running parallel with and 25 feet southerly of the following described Line 1:

Line 1: From the point of intersection of the centerline of 3rd Avenue North and the centerline of Washington Avenue North, in the City of Minneapolis, run northwesterly on an azimuth of 314 degrees 20 minutes 02 seconds (azimuth oriented to Minnesota State Plane Coordinate System, South Zone) for 448.40 feet to the point of beginning of Line 1; thence on an azimuth of 63 degrees 16 minutes 41 seconds for 771.37 feet; thence deflect to the right on a 01 degree 00 minute 00 second curve (delta angle of 06 degrees 31 minutes 15 seconds) for 652.08 feet and there terminating.

The permanent easement to be acquired is that part of the above-described property that lies 10.00 feet on both sides of the following described centerline:

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 centerline 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 permanent easement shall be prolonged or shortened to intersect said southwesterly line of said Block 26 and the northeasterly line of said Block 26.

Together with a temporary 10-foot-wide easement for construction and access purposes that lies northwesterly of a line lying 10.00 feet northwesterly of the above-described centerline and its extensions and also lying southeasterly of a line lying 20.00 feet northwesterly of the above-described centerline and its extensions. The sidelines of said temporary easement shall be prolonged or shortened to intersect said southwesterly line of said Block 26 and the northeasterly line of said Block 26.

The temporary easement shall commence on April 1, 2010 and shall expire on the earlier of (i) completion of the construction work, as determined by the City of Minneapolis project manager, or (ii) 11:59:59 p.m. central standard time, December 31, 2010.

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.

The area of the permanent easement is 1,754 square feet.

The area of the temporary easement is 3,610 square feet.

Interests Being Encumbered:

It is the intention of the Petitioner to encumber herein all interests in the above described real property of those parties named below.

NAME	NATURE OF INTEREST
BNSF Railway Company, a Delaware corporation (fka Burlington Northern, Inc.; fka Burlington Northern Railroad Company; fka Great Northern Pacific & Burlington Lines, Inc.; fka Burlington Northern Transportation Company; and fka The Burlington Northern and Santa Fe Railway Company)	Fee Owner

Parcel No. 24 (Affects Tax Parcel No. 22-029-24-14-0008)
Property Address: 300 First Street North
Minneapolis, Minnesota

Description of Easements Being Acquired:

A permanent easement for the construction, operation, repair, maintenance, and reconstruction of a recreational trail and its appurtenances (including, but not limited to, storm sewer and other utility facilities ancillary to said recreational trail, use of said trail for bicycle and foot travel, and use of said trail by maintenance vehicles, law enforcement vehicles, and emergency vehicles) on, upon, over, under, and across the BNSF Railway Company right-of-way crossing Lots 4, 5, 6, 7 and 8, Block 9, **TOWN OF MINNEAPOLIS**, Hennepin County, Minnesota and the vacated alley in said Block 9.

The permanent easement to be acquired is that part of the above-described property that lies 10.00 feet on both sides of the following described centerline:

Commencing at the most southerly corner of said Block 9; thence on an assumed bearing of North 45 degrees 13 minutes 59 seconds West, along the southwesterly line of said Block 9, a distance of 60.96 feet to the point of beginning of the centerline to be described; thence North 65 degrees 23 minutes 06 seconds East a distance of 71.69 feet; thence Northeasterly along a tangential curve concave to the southeast, said curve having a radius of 1000.00 feet and a central angle of 04 degrees 45 minutes 42 seconds for a distance of 83.11 feet; thence North 70 degrees 08 minutes 48 seconds East, tangent to said curve, to the intersection with the southeasterly line of said Block 9 and said centerline there terminating.

The sidelines of said permanent easement shall be prolonged or shortened to intersect said southwesterly and southeasterly lines of said Block 9.

Together with a temporary 10-foot-wide easement for construction and access purposes that lies northwesterly of a line lying 10.00 feet northwesterly of the above-described centerline and its extensions and also lying southeasterly of a line lying 20.00 feet northwesterly of the above-described centerline and its extensions. The sidelines of said temporary easement shall be prolonged or shortened to intersect said southwesterly line and the southeasterly line of said Block 9.

The temporary easement shall commence on April 1, 2010 and shall expire on the earlier of (i) completion of the construction work, as determined by the City of Minneapolis project manager, or (ii) 11:59:59 p.m. central standard time, December 31, 2010.

The area of the permanent easement is 1134 square feet.

The area of the temporary easement is 2006 square feet.

Interests Being Encumbered:

It is the intention of the Petitioner to encumber herein all interests in the above described real property of those parties named below.

NAME	NATURE OF INTEREST
BNSF Railway Company, a Delaware corporation (fka Burlington Northern, Inc.; fka Burlington Northern Railroad Company; fka Great Northern Pacific & Burlington Lines, Inc.; fka Burlington Northern Transportation Company; and fka The Burlington Northern and Santa Fe Railway Company)	Fee Owner