



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

Date: September 14, 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 21 Easements**

Recommendation:

- a) Approval and execution of final settlement agreement for easements with the Threequarters LLC/Bruce Stillman for the Cedar Lake Trail Phase III Project.

Previous Directives:

- 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.

Prepared by: Jack Yuzna, P.E., Principal Project Engineer, 673-2415

Approved by:

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

Permanent Review Committee (PRC):	Approval	NA	Date
Civil Rights Affirmative Action Plan	Approval	NA	Date
Policy Review Group (PRG):	Approval	NA	Date

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 this November.

Threequarters LLC/Bruce Stillman (Threequarters LLC) Final Settlement

Since 2006, City staff has worked with the representatives of the affected properties on how the Cedar Lake Trail Phase III project would pass along its property. The property owners also held a lease to use a portion of the abutting Hennepin County Regional Railroad (HCRRA) Parcel 20. Their lease with HCRRA required them to remove any improvements and restore the property upon the lease's termination. Though the lease explicitly stated the property owners were obligated to restore Parcel 20 at their cost, the property owners felt the relocation of their property and the parcel's restoration should be paid for by the Cedar Lake Trail project. (The property owner later provided documentation claiming expenses to relocate in excess of \$66,000.)

In order to maintain the project schedule, in May 2009 the City Council authorized the acquisition of property rights and the use of eminent domain to acquire the necessary easement. The value of the easement (appraised at \$6,000) was deposited with the District Court and negotiations continued in an effort to reach settlement. As construction of the project was about to begin, Public Works determined that additional property rights were needed from Threequarters LLC. The City also found that Threequarters LLC also held easement rights encumbering Parcel 22 which the City sought to subordinate to its acquired easement rights over Parcel 22. In July, Council authorized the use of eminent domain for the acquisition of the additional rights.

Agreement was recently reached with the property owners to settle all claims for \$31,000 (\$6,000 previously deposited plus an additional \$25,000). Public Works agreed on the tentative settlement valuation based on the following factors. The settlement resulted in the immediate right of entry to all of the easements areas which the City needed for this Project (which the City otherwise would not have obtained before September 16th) and includes a longer duration of use for the temporary construction easement. The additional property rights acquired by this settlement are greater than the initial authorized acquisition. The City will surely incur additional attorney, appraisal and commissioners fees of its own to complete its eminent domain proceedings. The amount of relocation benefit payment is a reasonable compromise of their claims. Due to the recently enacted state eminent domain statute, property owner rights to recover attorney fees after condemnation have been strengthened. The

settlement avoids the risk of paying Threequarters LLC appraisal and attorney's fees. The hearings before the court appointed commissioners will be significantly abbreviated reducing their cost to the City.

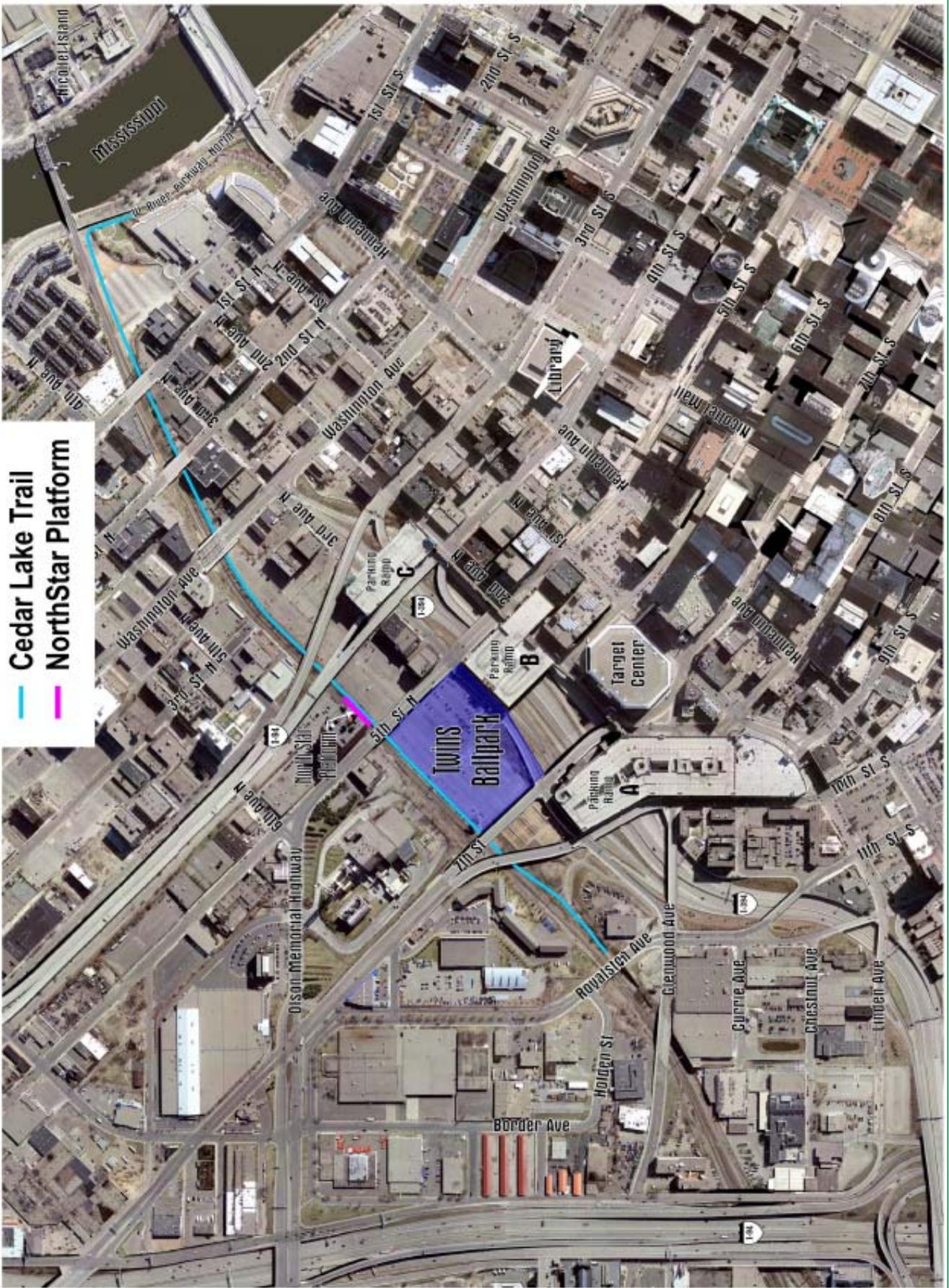
As Threequarters LLC has notified us that they will accept the tentative settlement, Public Work requests the approval of the terms and compensation and request authorization to have the proper City officers execute the final settlement agreement with the Threequarters LLC.

Attachments Resolution
 Cedar Lake Trail Phase III Map

cc: CM Goodman, Ward 7

Cedar Lake Trail - Phase III

June 18, 2008



-  Cedar Lake Trail
-  NorthStar Platform