



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

**Date:** August 12, 2003  
**To:** Honorable Sandra Colvin Roy, Chair Transportation & Public Works Committee  
**Referral to:** Honorable Barb Johnson, Chair Ways & Means Committee

**Subject:** Skyway connection between Hennepin County Public Safety Facility and Government Center Municipal Parking Ramp.

### **Recommendation:**

1. That the Director of Public Works be authorized to negotiate and sign a Right of Entry Agreement allowing Hennepin County to begin skyway construction work in the Government Center Municipal Parking Ramp.
2. That the Director of Public Works be authorized to negotiate and sign a letter of intent expressing the City and County intent to enter agreements for the construction, operation, and maintenance of the skyway and outlining the understanding and processes to be used in constructing a skyway which starts at the Hennepin County Public Safety Facility, crosses Fifth Street, enters and proceeds through the Government Center Ramp and terminates at a point joining it to the existing skyway system.
3. That staff be authorized to negotiate and prepare contracts for the signature of the proper city officers for the easements for the skyway into and through the Government Center Ramp and for the construction, maintenance, and operation of the skyway into and through the Government Center ramp. These contracts may also include provisions for the future skyway connection from the Public Safety Facility to the Haaf Municipal Ramp.
4. That staff be authorized to negotiate and prepare contracts for the signature of the proper city officers that will modify the existing skyway agreement (City Contract #40129) between Hennepin County and City of Minneapolis as may be necessary to incorporate the additional requirements for the Public Safety Facility skyway.

### **Previous Directives:**

- None

**Prepared by:** Mike Sachi, Parking and Skyway Systems Engineer, 673-2159

**Approved by:**

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Klara A. Fabry, P. E., City Engineer, Director of Public Works

**Presenters:** Mike Sachi, Parking and Skyway Systems Engineer

**Financial Impact** (Check those that apply)

- No financial impact - or - Action is within current department budget.  
(If checked, go directly to Background/Supporting Information)
- Action requires an appropriation increase to the Capital Budget
- Action requires an appropriation increase to the Operating Budget
- Action provides increased revenue
- Action requires use of contingency or reserves
- Other financial impact (Explain):
- Request provided to the Budget Office when provided to the Committee Coordinator

**Background/Supporting Information:**

The Government Center skyway crossing from the City's Government Center Municipal Parking Ramp to the Hennepin County Government Center is one of Minneapolis' oldest. It is also one of the busiest and most successful public skyways and will often see over 8,000 users in a typical business day. The Hennepin County plan for adding to the Government Center Skyway would result in increased pedestrian traffic through this portion of the skyway system.

Hennepin County has approached City staff with the concept of connecting its new Public Safety Facility to the skyway system generally and to the Government Center skyway in particular. The County plan in its most basic form would have the County construct a skyway connection from their facility, crossing Fifth Street, and continuing through the City's Government Center Ramp to a point meeting the old skyway in the Government Center Ramp. The new skyway at all points would be constructed using County funds and the City of Minneapolis would be compensated for any parking revenues lost due to construction and the removal of parking stalls as a result of the skyway.

This particular skyway connection is a requirement under the County's Conditional Use Permit for the Public Safety Facility. Also required is an additional skyway connection from the Public Safety Facility to the Jerry Haaf Municipal Ramp, which will be constructed sometime after this initial connection.

Light Rail Transit construction has created pressures to start work on the County's skyway soon. In particular, once Light Rail work is completed on Fifth Street, Minnesota Department of Transportation permits for crossing their right of way on the street will become considerably more difficult to obtain and any work proposed will have to accommodate Light Rail facilities. The solution for the County is to lay in its steel supports in the Government Center Ramp prior to the completion of the Light Rail project.

To allow the start of work on the County's skyway and to allow the County to start work in the Government Center Municipal Parking Ramp, two documents are needed: a right of entry (Exhibit A) to the Government Center Ramp, allowing installation of steel supports for a skyway, and a letter of intent (Exhibit B) stating that the City and County intend to contract to have the new skyway constructed. These documents, drafts of which are attached to this letter as Exhibits A and B, would be signed by the Director of Public Works. Additionally, Council authority is needed authorizing staff to negotiate and prepare agreements, for the signature of proper City officials, granting easements for the skyway construction entry into and through the Government Center Ramp and agreements for the construction, operation and maintenance of the skyway to and through the Ramp.

Staff recommend that the County be allowed to construct a skyway through the Government Center Ramp. The plan is shown as Exhibit C to this letter. The development will cause the loss of some parking stalls, but the easy access that the skyway provides to the Public Safety Facility should make the City's ramp spaces more accessible to patrons. The outcome of this project supports and continues the City's commitment to the downtown skyway system.

#### **ATTACHMENTS**

1. Exhibit A -Proposed draft for right of entry agreement
2. Exhibit B -Proposed draft of Letter of Intent
3. Exhibit C- Proposed skyway plan

cc: Tim Blazina, Manager of Off Street Parking

/tpwintentletter

**DRAFT**

**RIGHT OF ENTRY**

**THIS AGREEMENT**, made this \_\_\_\_\_ day of \_\_\_\_\_ 2003 by and between Hennepin County, a public body corporate and politic under the laws of Minnesota (hereinafter "County"), and the City of Minneapolis, a Minnesota municipal corporation and home-rule chartered city (hereinafter "City"), acting by and through its Public Works Department (hereinafter the "Department").

**WHEREAS**, the City is the fee owner of certain real property known as the Government Center Municipal Parking Ramp located at 415 South 5<sup>th</sup> Street, Minneapolis, MN (hereinafter "Ramp"); and

**WHEREAS**, the County is fee owner of certain real property known as the Hennepin County Detention Center, and

**WHEREAS**, the City and County agree to participate in the Minneapolis downtown skyway system through the completion of a skyway link from the Hennepin County Government Center through the City's Ramp to the County's Detention Center; and

**WHEREAS**, the City and the County have contemplated through Minneapolis City Council action dated \_\_\_\_\_ and Hennepin County Board action dated \_\_\_\_\_ that certain construction, easement and operating agreements for the construction, operation and maintenance of a skyway crossing Fifth Street and proceeding through the Ramp shall be negotiated, approved and executed; and

**WHEREAS**, the County desires to enter onto that portion of the Ramp as depicted on Exhibit A, attached hereto and incorporated herein (the "Premises"), to construct a portal and steel supports necessary for the construction of a downtown skyway.

**NOW, THEREFORE**, in consideration of the mutual promises of the parties contained herein, the parties hereto agree as follows:

1. **Right of Entry.** The City hereby authorizes the County and its employees, agents, contractors or invitees to enter upon the Premises for the following purposes; and the County specifically agrees that its conduct shall be limited to those purposes only:
  - (a) **Permitted Use.** The County is permitted during the term of this Right of Entry to use the Premises as a construction staging area only for the construction of a portal for a public skyway, erecting steel supports and making such modifications to the Ramp as may

be required by the same to allow the timely construction of a skyway.

The County shall be allowed to use portions of the Premises for materials storage provided that prior to using the Premises for storage, the County shall notify the City of all equipment and materials to be located on the Premises and seek the City's consent to store such materials, such consent not to be unreasonably withheld or delayed.

- (b) Permits and Approvals. The County shall secure, at its sole cost, all permits, licenses and approvals necessary and required for the permitted use of the Premises. Such approvals shall be construed to include those encroachment permits, consents, or architectural drawings as may be required by the City or Minnesota Department of Transportation Right-of-Way departments.
- (c) No Liens or Encumbrances. The County, in its use of the Premises, shall not permit or grant any security interest in, or create or allow to exist, any liens, charges or encumbrances in or to the Premises.
- (d) Applicable Laws. The County shall comply with all applicable federal, state and local laws, ordinances and regulations in the use of the Premises.
- (e) Hazardous Waste. The County, in its use of the Premises, shall not, nor cause to be, nor allow any other person to deposit, store, dispose of, place or otherwise locate or allow to be located on or within the Premises, any hazardous substances, hazardous wastes, pollutants or contaminants, including petroleum-based products, as those terms are defined under any federal, State of Minnesota or local statute, ordinance, code or regulations, except such hazardous substances as are ordinarily used in and necessary for the construction of the Public Parking Ramp, provided that such use is in accordance with all applicable laws, and that in the event any such hazardous substances are found on or within the Premises, the County shall indemnify the City as provided in Section 4 herein, subject to no statutory or insurance limitations.
- (f) Conduct. The County and its employees, agents, or contractors shall conduct their activities in an orderly and lawful manner and shall clean up the Premises on a daily basis.
- (g) Security. The County shall be responsible at all times for the security of its employees as well as any persons, materials, equipment, and personal property of invitees, guests, employees,

contractors, and of the general public on the Premises. Said obligation shall be construed to commence with the exercise of any right conferred by this Right of Entry and shall survive its termination until the Premises are restored to original condition as provided for herein.

(h) Access. The County shall maintain and allow customer access through the Fifth Street Entrance to the Ramp at all times.

2. Fees and Costs. The County shall be responsible for the cost of all services, equipment, labor and materials used in conducting its permitted activities on the Premises. Said responsibility shall include payment for any parking stalls removed due to County construction or temporarily lost due to contractor requirements.

The parties agree the granting of this right of entry confers no rights for free parking in the Ramp or adjoining areas.

3. Term and Right of Entry. The County shall have the right to enter upon the Premises for the purposes described herein from August 22, 2003, through August 21, 2004, after which time the County right to use the Premises shall terminate.

The parties hereto agree that upon such termination any right of use conferred by this Right of Entry or any easement so granted, whether express or implied, shall also end. The parties agree that any permanent or ongoing right, easement, or obligation incurred benefiting the County shall be expressed in the construction and easement agreements to follow execution of this Right of Entry.

4. Hold Harmless and Indemnity. The County shall defend, protect, indemnify and save the City, its agents, officers and employees, harmless from and against any and all liabilities, losses, damages, costs and expenses, including reasonable attorney's fees, from any act or negligence or the County, its officers, employees, agents, servants, contractors, or invitees, arising out of their activities as related to the Premises, except for the negligent or intentional torts of the City.
5. Insurance. The County shall provide an Owner Controlled Insurance Program insurance policy, providing general liability, personal injury, property and casualty, and all risk coverage of the County for the use of the Premises. The County shall provide the City with a copy of this insurance policy and shall name the City as an additional insured under the policy, and will provide proof of said insurance at the time it executes this Agreement.

The County agrees that at any time upon review of this Right of Entry or upon reviewing any proposed work or modifications to the same, for the Premises or in the Ramp, the City's Risk Manager, using such standards as are reasonable, prudent, or

commonly found in skyway construction projects in Minneapolis, shall be allowed to request that County procure additional insurance (Builders Risk, Fire, or other risk insurance) as may be needed to protect the City's interests in its Ramp and the County shall procure such insurance as requested.

Any insurance requirements contained in this agreement shall be required of all County Subcontractors who shall name the City of Minneapolis and Municipal Parking Inc. as additional insureds in such policies.

6. **Condition of Premises.** The County shall keep the Premises in neat, clean and safe condition during the term hereof, and agrees not to make any improvements or modifications to the Premises or work otherwise proposed, without the prior written approval of the City.
7. **Scope of Right of Entry.** The grant of this Right of Entry to the County by the City shall be non-assignable and not confer any estate, title, nor exclusive possessory rights in the Premises to the County, and may be terminated for cause upon sixty (60) days written notice by the City to the County provided that provisions of Section 4 hereof shall survive termination of this Right of Entry.
8. **Events on Termination.** In the event the parties hereto do not enter into the construction and operational agreements contemplated herein by the end of the Term of this Right of Entry as set forth in Article 3, the County shall diligently undertake all efforts to restore the Premises to its original condition as they were on August 21, 2003. Restoration shall mean, but not be limited to: steel supports removed, portals closed, walls restored, and parking stalls reconstructed. Such work shall include repair of holes or nuts in pavement or adjoining driving areas, and destroyed or dismantled lights or wiring repaired.
9. **Utilities.** The County shall be responsible for all utilities including water, heating (if any), lighting, and electricity required for its construction activities or use of the Premises.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement as of the day and year first written above.

**FOR THE CITY OF MINNEAPOLIS**

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Klara A. Fabry, P. E., City Engineer, Director of Public Works

FOR HENNEPIN COUNTY

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By:  
Its:

August \_\_\_\_, 2003

Klara A. Fabry  
City Engineer, Director of Public Works  
City of Minneapolis  
Room 203 City Hall  
350 South Fifth Street  
Minneapolis, MN 55415

Dear Ms. Fabry:

This letter shall serve as a Letter of Intent between the City of Minneapolis, hereinafter referred to as the "City", and the County of Hennepin, hereinafter referred to as the "County", concerning the construction and operation of a skyway across Fifth Street in downtown Minneapolis, which connects the Hennepin County Public Safety Facility to the City parking ramp known as the City's Government Center Municipal Parking Ramp, hereinafter referred to as the Ramp.

Although this is not a contract binding on either party, this letter accurately reflects the intentions of the County and the City to finalize agreements concerning right of entry for the County to erect the structural steel connected to the City's Ramp and to finalize certain skyway, easement, maintenance, and operating agreements for a skyway crossing Fifth Street from the County's Public Safety Facility to and through the City's Ramp.

The purpose of this letter is to allow the County to go forward with the process of obtaining necessary approvals for the construction of the skyway in order that the structural steel can be erected prior to the commencement of public operation of passenger service on the light rail transit (LRT) line in April 2004. Although the parties require additional time in order to finalize all of the details of a skyway operating agreement, this letter accurately reflects the intentions of the parties to finalize those matters.

Now therefore the City and the County agree that:

1. The City and the County will negotiate with the intent of ultimately entering a skyway construction and operating agreement that meets the parties satisfaction regarding the following provisions:
  - a. Authorize the County to construct the skyway crossing Fifth Street, the skyway connection to the City's Ramp, and the skyway corridor passing through the City's Ramp and connecting to the existing skyway system.
  - b. County will own the skyway.
  - c. County will be responsible for construction costs relating to erection of the structural steel, the skyway, the connection of the skyway to the Government Center Ramp, and the skyway corridor.
  - d. Granting the County proper temporary and permanent easements for the construction, operation, maintenance and repair of the skyway from the connection of the skyway with the City's Ramp to the connection of the skyway corridor in the City's Ramp with the existing skyway system.
  - e. Establish hours of operation.

- f. County will be responsible for the operation, maintenance and repair of the skyway and the skyway corridor.
  - g. County will be responsible for utilities.
  - h. Establish responsibility for security of the skyway and the skyway corridor.
  - i. The County shall defend, protect, indemnify and save the City, its agents, officers and employees, harmless from and against any and all liabilities, losses, damages, costs and expenses, including reasonable attorney's fees, from any act or negligence of the County, its officers, employees, agents, servants, contractors, or invitees, arising out of their activities as related to the Premises, except for the negligent or intentional torts of the City.
  - j. County will be responsible for any damage, destruction, and replacement of the skyway, the County's improvements, and of the City's Ramp premises when such damage or destruction arises out of the County's exercise of its rights pursuant to a right of entry or to a construction, operating, or maintenance agreement.
  - k. County will compensate the City for loss of available parking spaces due to County's construction activities related to the erection of structural steel, of the skyway, and of the skyway corridor, and for loss of parking spaces due to restricted access to parking caused by any of the construction related activities. .
  - l. Other standard terms included in skyway agreements and including the insurance required of the County and hazardous substances provisions.
  - m. Granting the County a right of entry to the City's parking ramp for purposes of constructing the structural steel that must be erected prior to the commencement of public operation of passenger service of the LRT.
  - n. Address extensions or modifications in anticipation of connections with existing and future skyways of the downtown skyway system.
3. The City will cooperate with the County in obtaining and issuing all necessary permits, including right of way, for the construction of the skyway across Fifth Street and the construction of the skyway corridor in the Government Center Ramp.
  4. The county shall obtain all necessary permits, licenses, and easements; pay all charges, fees, and taxes, and give all necessary notices necessary and incidental to the due and lawful prosecution of the work.
  5. In the event that there is no skyway construction and/or operating agreement agreed to by both parties, the County will restore, at its expense, the City's parking ramp to its pre-construction condition and parking stall capacity, including removal of pre- structural steel so that the City's full and current use of the parking ramp will be restored.

The City of Minneapolis and the County of Hennepin and their respective staffs hereby agree that the terms and conditions set forth in this Letter of Intent accurately reflect the intentions of the City and the County to finalize all unresolved issues which are to be addressed in a skyway construction, maintenance, and operating agreement.

**CITY OF MINNEAPOLIS:**

Approved as to form:

By: \_\_\_\_\_  
Assistant City Attorney

\_\_\_\_\_  
City Engineer & Director of Public Works

**COUNTY OF HENNEPIN:**

Approved as to form:

\_\_\_\_\_  
Assistant County Attorney

By: \_\_\_\_\_  
Chair of County Board

By: \_\_\_\_\_  
Assistant/Deputy/County Administrator

ATTEST:

\_\_\_\_\_  
Deputy/Clerk of the Board

