

By Colvin Roy and Ostrow

Approving right of entry agreement with Minnesota Ballpark Authority 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, 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;

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;

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;

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;

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;

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;

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;

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;

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;

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;

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;

Whereas, in 2006, the City Council adopted its Resolution No. 2006R-634, authorizing City representatives to enter into negotiations with abutting owners for the acquisition of trail easements;

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

Whereas, in Resolution 2009R-079 on March 6, 2009, the City Council authorized the execution of an agreement between the City and Hennepin County Regional Railroad Authority (HCRRA) for cooperation in the acquisition of transportation easements by the City for construction of a portion of the Cedar Lake Trail-Phase III (and anticipating other possible transportation and utility uses of those easements) ("HCRRA Agreement");

Whereas, it is necessary for the City to commence construction of the Cedar Lake Trail-Phase III Project in 2009 in order to meet state and federal funding deadlines and the City's obligations under an agreement with the Minnesota Department of Transportation, the Northstar Corridor Development Authority and the Metropolitan Council;

Whereas, construction of the Cedar Lake Trail-Phase III Project requires that the City secure use permits to permit construction of the trail on four parcels owned by HCRRA (which permits HCRRA has agreed to issue pursuant to the HCRRA Agreement);

Whereas, the City has begun the right of way acquisition process for the Cedar Lake Trail-Phase III Project, including an approximately 12 foot trail easement parallel to the property secured for the Northstar project between North 5th Street and Washington Avenue in the vicinity of where the Northstar Commuter Rail Line and the Hiawatha Light Rail Line connect, and where several other rail transit lines currently under study will converge at an intermodal station;

Whereas, it is necessary and convenient to install stormwater improvements within portions of the Cedar Lake Trail-Phase III Project;

Whereas, the City has requested permanent easements from the Minnesota Ballpark Authority ("MBA") to enable the City to construct the portion of the Cedar Lake Trail between Royalston Avenue and Fifth Street North across property owned by MBA ("MBA Property");

Whereas, the City has retained an independent real estate appraiser ("City's Appraiser") to express an opinion of the damages which will be caused to the MBA Property by the granting of the easements;

Whereas, the City's Appraiser has not yet completed his work so that the City will not be able to present a formal written offer to the MBA before June 15, 2009;

Whereas, the City's agreement with Northstar Corridor Development Authority relating to the Northstar commuter train requires the City to construct temporary access to the Northstar platform for emergency and maintenance vehicles by -*August 1, 2009;

Whereas, City staff believe that they will be able to secure a right of entry from the owners of Cedar Lake Trail Parcels 14 and 15 upon terms and conditions under which the City will be able to begin construction of the temporary access to the Northstar platform for emergency and maintenance vehicles on those Parcels by July 6, 2009;

Whereas, representatives of MBA and City Staff have reached tentative eagrreement on the terms and conditions of a proposed Right of Entry Agreement which is attached hereto and incorporated herein as Exhibit A ("MBA Right of Entry Agreement");

Now, Therefore, Be It Resolved by The City Council f The City Of Minneapolis:

That the Finance Officer and Director of Public Works of the City are hereby authorized to execute the MBA Right of Entry Agreement with respect to the MBA Property, in substantially the form as set forth in Petn No _____ on file in the office of the City Clerk, and deliver it to the MBA if MBA will do the same.