



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

Date: April 5, 2011

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 Easement Amendments and Right of Entry and Parking Relocation Agreement**

Recommendation:

- a) Approval and execution of Amendment #1 with the Burlington Northern Santa Fe Railway Company (BNSF) to extend the duration of the temporary construction easement for the Cedar Lake Trail Phase III Project.
- b) Approval and execution of First Amendment to Trail and Construction Easement Agreement Between Federal Reserve Bank of Minneapolis and City of Minneapolis to authorize a minor encroachment and to extend the duration of the temporary construction easement for the Cedar Lake Trail Phase III Project.
- c) Approval and execution of an agreement amending the right of entry & parking relocation agreement with 127 Building Partners, LLC.

Previous Directives:

- Resolution 2010R-565 (November 19, 2011) Final Settlement for easements with the Land Partners II (Parcel 14)
- Resolution 2010R-451 (September 24, 2010) Approving Stipulation of Final Settlement for Cedar Lake Trail - Phase III Easement Acquisition with Threequarters LLC/Bruce Stillman
- 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 was begun in July 2010. Construction was suspended over the winter and is anticipated to start April 2011. We anticipate substantial completion and opening of the trail to users by this June.

Easement Amendments

Burlington Northern Santa Fe Railway Company (BNSF) - Temporary Construction Easement

Since 2006, City staff has worked with BNSF Railway Company (BNSF) on how the Cedar Lake Trail Phase III project would pass along its right-of-way. In order to maintain the project schedule, in May 2009 the City Council authorized Public Works the use of eminent domain to acquire the BNSF easements. In April 2010 final settlement reached which included temporary construction easement.

The construction of the project began later than anticipated and could not be completed as desired by November 2010. Therefore, In order to complete the remaining work the city requested an extension of the construction easement from BNSF through June 2011. Based on the appraised value of the temporary easement, the City will compensate BNSF in the amount of \$6,500.

Federal Reserve Bank of Minneapolis – First Amendment to Trail and Construction Easement Agreement Between Federal Reserve Bank of Minneapolis and City of Minneapolis

Public Works first submitted an offer of compensation to the Federal Reserve Bank of Minneapolis (FRB) for necessary easements for the Cedar Lake Trail Phase III project in March 2009. On December 18, 2009, the City Council adopted Resolution 2009R-622 Approving Trail Easement Agreement for the Cedar Lake Trail Phase III with the Federal Reserve Bank. On January 26, 2010, the City and FRB entered into the easement agreement, which was recorded against FRB's property. During the course of construction of the trail improvements, the City determined that, due to a survey error, portions of the trail improvements are 1.37 feet outside of the original permanent easement and encroach onto the remainder of the FRB property. Construction was not completed on FRB property prior to the expiration of the original temporary easement term. In order to permit the permanent trail improvements to remain where constructed and to permit completion of construction of trail improvements, the City has requested amendment of the permanent trail easement and extension of the temporary easement through June 30, 2011. FRB has waived payment of additional compensation.

Right of Entry and Parking Relocation Agreement

127 Building Partners, LLC - Compensation for Loss of Parking

Public Works entered into right of entry and temporary construction easement agreement with 127 Building Partners, LLC for the loss of parking spaces. The cost for the parking spaces was \$100 per month per space for 27 spaces for 5 months. The total cost incurred due to the displacement was \$13,500.

Attachments Resolution
 Cedar Lake Trail Phase III Map

cc: CM Goodman, Ward 7

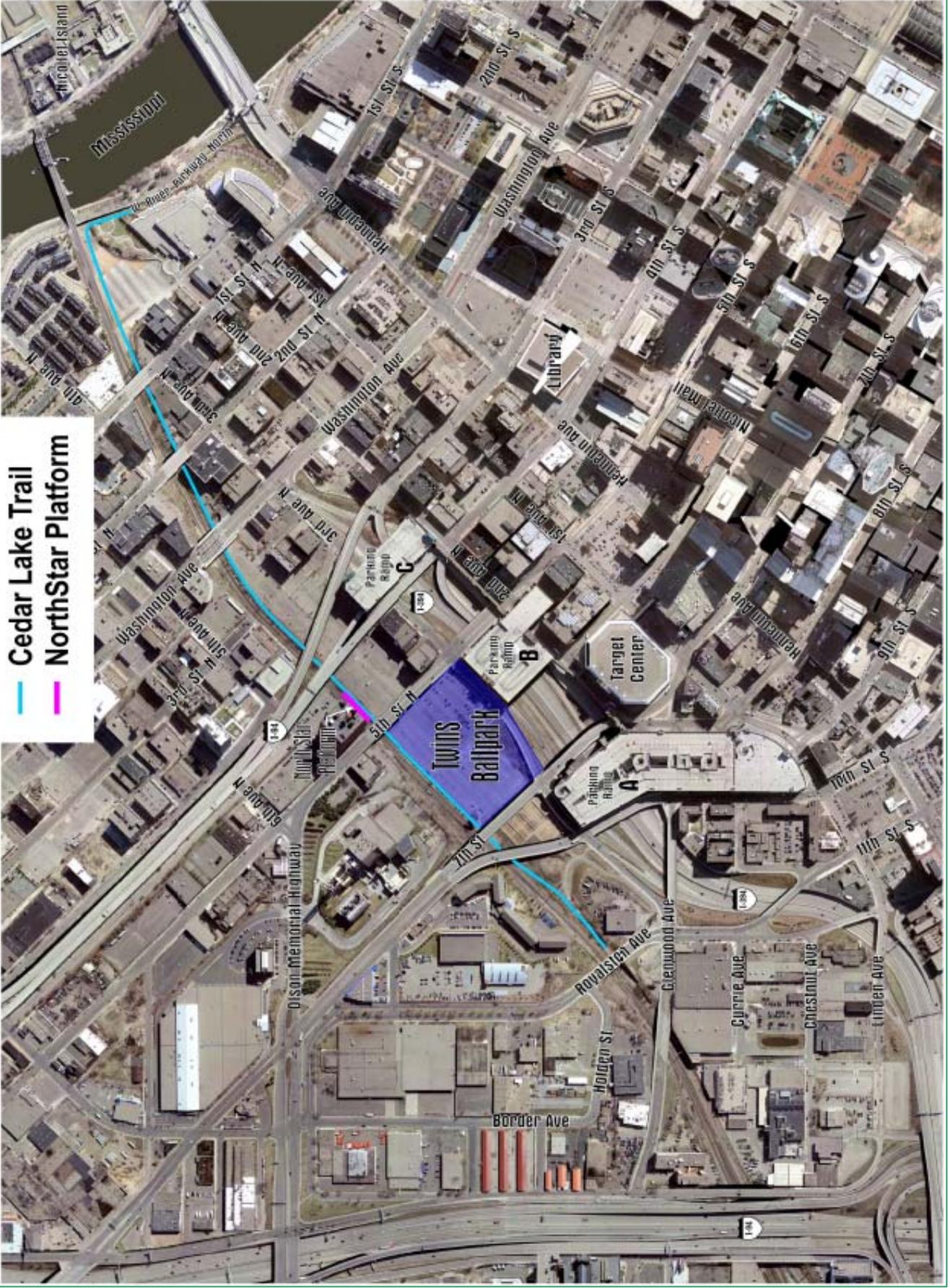
T&PW & W&M/Budget – Your Committee, having under consideration the Cedar Lake Trail extension from Royalston Ave to W. River Pkwy, now recommends passage of the accompanying resolution authorizing the execution of Amendment #1 with the Burlington Northern Santa Fe Railway Company (BNSF) to extend the duration of the temporary construction easement for the Cedar Lake Trail Phase III Project, at a cost of \$6,500, payable from the Cedar Lake Trail Phase III Fund.

Your Committee further recommends that proper City officers be authorized to execute the required documents amending the right of entry & parking relocation agreement with 127 Building Partners, LLC, at a cost of \$13,500, payable from the Cedar Lake Trail Phase III Fund.

Your Committee further recommends passage of the accompanying resolution authorizing the execution of First Amendment To Trail Construcion Easement Agreement Between Federal Reserve Bank of Minneapolis and City of Minneapolis to amend the permanent easement and extend the duration of the temporary construction easement for the Cedar Lake Trail Phase III Project, without payment to FRB of additional compensation.

Cedar Lake Trail - Phase III

MINNESOTA STATE UNIVERSITY
June 18, 2008



— Cedar Lake Trail
— NorthStar Platform

**RESOLUTION OF THE CITY
COUNCIL OF THE CITY OF
MINNEAPOLIS
Approving First Amendment
To Trail and Construction
Easement Agreement Between
Federal Reserve Bank of
Minneapolis and City of
Minneapolis 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, the Federal Reserve Bank of Minneapolis (“Bank”) located at 90 Hennepin Avenue, owns property lying between Azine Alley 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 (“Bank Property”);

WHEREAS, on December 18, 2009, the City Council adopted Resolution 2009R-622, Approving Trail Easement Agreement for the Cedar Lake Trail Phase III with the Federal Reserve Bank;

WHEREAS, on January 26, 2010, the parties entered into that certain Trail and Construction Easement Agreement Between Federal Reserve Bank of Minneapolis and City of Minneapolis which was subsequently recorded on January 27, 2010, in the Office of the Registrar of Titles for Hennepin County as Document No. T4725086;

WHEREAS, during the course of constructing the trail improvements, the City determined that, due to a survey error, portions of the trail improvements are 1.37 feet outside of the original permanent easement and encroach onto the remainder of the Bank Property, and construction on Bank Property was not completed prior to expiration of the original temporary easement term;

WHEREAS, in order to permit the permanent trail improvements to remain where constructed and to permit completion of construction of trail improvements, City staff and counsel retained by the City have negotiated First Amendment to Trail and Construction Easement Agreement Between Federal Reserve Bank of Minneapolis and City of Minneapolis relating to the Easement Tracts which are legally described in First Amendment Exhibit B attached hereto (“First Amended Easement Agreement”);

WHEREAS, the Bank has agreed to execute and deliver the First Amended Easement Agreement without payment of additional compensation.

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

Upon approval of the proposed First Amended Easement Agreement by the City Attorney and execution and delivery of the First Amended Easement Agreement on behalf of the Federal Reserve Bank of Minneapolis, the City Contracting Officer is authorized to execute the First Amended Easement Agreement on behalf of the City.

EXHIBIT A

Legal Description of Bank Property

Par 1: Tracts B, C & L, Registered Land Survey No. 1684, Hennepin County, Minnesota.

Par 2: Tracts A, D, E, F, G, H, I, J & K, Registered Land Survey No. 1684, Hennepin County, Minnesota, except that part of said Tracts embraced within the part of said Survey lying Westerly of "Line A" described as follows: Commencing at said most Easterly corner of Block 11, Town of Minneapolis; thence South 44 degrees 12 minutes 47 seconds West (basis for bearings is the Minnesota Coordinate System, South Zone) 61.55 feet; thence North 45 degrees 41 minutes 17 seconds West, 6.30 feet; thence South 44 degrees 13 minutes 02 seconds West, 23.49 feet; thence North 45 degrees 46 minutes 58 seconds West, 100.00 feet; thence South 44 degrees 13 minutes 02 seconds West, 72.50 feet to said Northeasterly line of the Northwesterly-Southeasterly alley in Block 11, Town of Minneapolis; thence North 45 degrees 46 minutes 58 seconds West, along said Northeasterly line, 88.39 feet to the beginning of said described "Line A"; thence North 7 degrees 20 minutes 19 seconds West, 29.45 feet; thence North 5 degrees 52 minutes 15 seconds West 64.51 feet; thence North 5 degrees 21 minutes 18 seconds West, 232.39 feet; thence Northerly and Northeasterly 365.31 feet along a tangential curve concave to the East, having a radius of 280.00 feet and a central angle of 74 degrees 45 minutes 07 seconds; thence North 69 degrees 23 minutes 49 seconds East, tangent to said curve a distance of 50 feet and there said "Line A" terminating.

Subject to an easement Agreement dated June 27, 1995 recorded August 21, 1995 as Doc No 6465369 by and between The Market Hotel Limited Partnership, a Michigan limited partnership, and The Federal Reserve Bank of Minneapolis, a United States corporation; (as to above land except Tracts I, J & K)

Together with an easement to develop and maintain a public plaza on lands adjoining the above-described land as described in Doc No 2563173; (as to above land except Tracts I, J & K)

Together with an easement for installing and maintaining utility lines and ingress and egress over adjoining lands as more fully described in Doc No 2563172; (as to above land except Tracts I, J & K)

**FIRST AMENDMENT
EXHIBIT B**

Legal Description of Easement Tracts

Legal Description of the Trail Easement Tract.

Tract A, REGISTERED LAND SURVEY No. 1684, Hennepin County, Minnesota except that part of said Tract embraced within the part of said Survey lying Westerly of Line A described as follows:

Commencing at the most Easterly corner of Block 11, Town of Minneapolis; thence South 44 degrees 12 minutes 47 seconds West (basis of bearings is the Minnesota Coordinate System, South Zone) 61.55 feet; thence North 45 degrees 41 minutes 17 seconds West, 6.30 feet; thence South 44 degrees 13 minutes 02 seconds West, 23.49 feet; thence North 45 degrees 46 minutes 58 seconds West, 100.00 feet; thence South 44 degrees 13 minutes 02 seconds West, 72.50 feet to the Northeasterly line of Northwesterly-Southeasterly alley in Block 11, Town of Minneapolis; thence North 45 degrees 46 minutes 58 seconds West, along said Northeasterly line, 88.39 feet to the point of beginning of said described "Line A"; thence North 7 degrees 20 minutes 19 seconds West, 29.45 feet; thence North 5 degrees 52 minutes 15 seconds West, 64.51 feet; thence North 5 degrees 21 minutes 18 seconds West, 232.39 feet; thence Northerly and Northeasterly 365.31 feet along a tangential curve concave to the East having a radius of 280.00 feet and a central angle of 74 degrees 45 minutes 07 seconds; thence North 69 degrees 23 minutes 49 seconds East, tangent to said curve a distance of 50 feet and there said Line A terminating.

Said easement lies 10.5 feet to the right of and 11.00 feet to the left of the following described "Line Z."

"Line Z" is described as commencing at the most northerly corner of said Tract A; thence on an assumed bearing of South 69 degrees 45 minutes 51 seconds West, along the north line of said Tract A, a distance of 1.99 feet to the point of beginning of said "Line Z"; thence South 19 degrees 48 minutes 33 seconds East a distance of 145.00 feet to a point hereinafter called "Point B"; thence continue South 19 degrees 48 minutes 33 seconds East a distance of 121.51 feet and said "Line Z" there terminating.

AND

That part of said aforescribed Tract A described as follows:

Beginning at the point of termination of said "Line Z"; thence North 70 degrees 11 minutes 27 seconds East a distance of 1.72 feet to the east line of said Tract A; thence South 19 degrees 45 minutes 02 seconds East, along said east line, a distance of 31.00 feet; thence South 70 degrees 14 minutes 58 seconds West a distance of 10.68 feet to the intersection with the southwesterly extension of a line lying 9.00 feet westerly of said "Line Z"; thence North 19 degrees 48 minutes 33 seconds West, along said southwesterly extension, a distance of 30.99 feet to a point 9.00 feet southwesterly of the point of termination of said "Line Z"; thence North 70 degrees 11 minutes 27 seconds East a distance of 9.00 feet to the point of beginning.

Legal Description of Construction Easement Tract:

A 30.00 foot temporary easement for construction purposes that lies westerly of and adjoining said first above described Trail Easement Tract and also lying northerly of the following described "Line C" and its extensions:

"Line C" is described as beginning at the aforescribed "Point B"; thence South 70 degrees 11 minutes 27 seconds West a distance of 39.00 feet and said "Line C" there terminating.

ALSO TOGETHER WITH a 15.00 foot temporary easement for construction purposes that lies westerly of and adjoining said first above described Trail Easement Tract and lying southerly of the aforescribed "Line C" and also lying northerly of the following described "Line D" and its extensions:

"Line D" is described as beginning at the point of termination of the aforescribed "Line Z"; thence North 70 degrees 11 minutes 27 seconds West a distance of 24.00 feet and said "Line D" there terminating.

ALSO TOGETHER WITH a temporary easement for construction purposes over, under and across the aforescribed Tract A described as follows:

Commencing at the point of termination of said "Line Z"; thence South 70 degrees 11 minutes 27 seconds West a distance of 9.00 feet to the point of beginning; thence South 19 degrees 48 minutes 33 seconds East a distance of 30.99 feet; thence North 70 degrees 14 minutes 58 seconds East a distance of 10.68 feet to the East line of said Tract A; thence southerly along said East line a distance of 35.00 feet; thence South 70 degrees 11 minutes 27 seconds West a distance of 26.06 to the intersection with the southwesterly extension of a line lying 24 feet westerly of said "Line Z"; thence North 19 degrees 48 minutes 33 seconds West, along said southwesterly extension, a distance of 66.00 feet to the point of intersection with a line bearing South 70 degrees 11 minutes 27 seconds West from the point of beginning; thence North 70 degrees 11 minutes 27 seconds East a distance of 15.00 feet to the point of beginning.