RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MINNEAPOLIS

Authorizing use of eminent domain proceeding to acquire easements 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 3 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 3 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, on March 6, 2009, and on May 22, 2009, the City Council authorized the acquisition by negotiation or condemnation of permanent and temporary trail easements encumbering various parcels of the real estate required for completion of the Cedar Lake Trail Phase 3 Project;

WHEREAS, it is necessary for the City to obtain authority to commence construction of the Cedar Lake Trail Phase III in 2009 in order to assure meeting state and federal funding deadlines and to permit the City to take advantage of the most favorable climate for bidding construction of the project;

WHEREAS, construction of the Cedar Lake Trail Phase III requires that the City secure a permanent easement to permit construction of the trail on that part of the real estate described in Exhibit A attached hereto ("Authority Property Description") which is described in Exhibit B attached hereto ("Trail Parcel Description").

WHEREAS, the City Council finds that the Trail Parcel is needed for the Cedar Lake Trail Phase III Project, and it is necessary, desirable, convenient and for a public purpose to secure a permanent easement encumbering the Trail Parcel for trail purposes and related utility facilities for construction, maintenance and operation of the Cedar Lake Trail over the Trail Parcel, including by use of eminent domain proceedings, if necessary;

WHEREAS, City Staff has been unable to acquire a permanent trail easement burdening the Trail Parcel and such an easement is necessary and convenient to enable the City to complete construction and enable use of the Cedar Lake Trail Phase III Project; and

WHEREAS, a portion of the Tail Parcel is encumbered by a deed restriction in favor of the BNSF Railway Company which the City has been unable to satisfy through negotiation and which has precluded the City from obtaining a permanent easement over the Trail Parcel by negotiations with the owner;

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

- 1. If the Director of Public Works is unable to acquire a permanent easement encumbering the Trail Parcel for trail purposes, upon terms acceptable to the City, the City Attorney and outside counsel retained by the City are hereby authorized and directed to initiate and complete eminent domain proceedings to acquire such an easement, and to use the quick take provisions of Minn. Stat. § 117.042 to acquire title and possession of such an easement prior to the filing of the Court Appointed Commissioners' report of damages caused by the taking.
- 2. With the assistance of the reports of independent real estate appraisers secured on behalf of the City, the Director of Public Works is hereby authorized to determine the amount of the approved appraisal of damages to be paid or deposited by the City pursuant to Minn. Stat. § 117.042.
- 3. Acquisition of such a permanent easement is hereby determined to be necessary and convenient and for a public purpose.

EXHIBIT A

AUTHORITY PROPERTY DESCRIPTION

Those parts of the following 6 Parcels:

Parcel 1.

Lots 1, 2, 3, 4, 5, 7, 8, 9, 10, 11 and 12, Block 3; and

Lots 1, 2, 3, 4, 9, 10 and 11, Block 6;

Wilson Bell and Wagner's Addition to Minneapolis;

Vacated or to be vacated 11th Street North (dedicated in the plat of Wilson Bell and Wagner's Addition to Minneapolis as GROVE ST.) and vacated or to be vacated Holden Street (dedicated in the plat of Wilson Bell and Wagner's Addition to Minneapolis as 6TH St.);

Parcel 2.

Lot 13, Block 3, CAMP and WALKER'S ADDITION TO MINNEAPOLIS, Except that part of said lot lying within "Rearrangement of Blocks two (2) and three (3) of Camp and Walkers Addition to Minneapolis";

Parcel 3.

Lots 1, 2, 3, 4, 5, 10, 11, 12 and 13, Block 3; and

Lots 1 through 7, inclusive, Block 2;

"Rearrangement of Blocks two (2) and three (3) of Camp and Walkers Addition to Minneapolis";

Vacated or to be vacated THIRD AVENUE NORTH and vacated or to be vacated SEVENTH STREET NORTH, dedicated in the plat of "Rearrangement of Blocks two (2) and three (3) of Camp and Walkers Addition to Minneapolis";

Vacated or to be vacated THIRD AVENUE NORTH and vacated or to be vacated SEVENTH STREET NORTH, dedicated in the plat of CAMP and WALKER'S ADDITION TO MINNEAPOLIS;

Parcel 4.

Lots 3 and 8, Block 85; and Lots 1 through 10, inclusive, Block 4; and Lots 1, 2 and 10, Block 5;

HOAG'S ADDITION TO MINNEAPOLIS;

Vacated or to be vacated THIRD AVENUE NORTH (dedicated in the plat of HOAG'S ADDITION TO MINNEAPOLIS as ITASKA STREET), vacated or abandoned FOURTH AVENUE NORTH (dedicated in the plat of HOAG'S ADDITION TO MINNEAPOLIS as DACOTA STREET), and vacated or abandoned SIXTH STREET and FIFTH STREET, dedicated in the plat of HOAG'S ADDITION TO MINNEAPOLIS;

Parcel 5.

HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY PROPERTY MAP NO. 11, Except that part of said land lying within Block 3, Wilson Bell and Wagner's Addition to Minneapolis;

Parcel 6.

The unplatted parts of the Northwest Quarter of the Southeast Quarter and the Northeast Quarter of the Southwest Quarter of Section 22, Township 29, Range 24;

described as follows:

Commencing at the southwest corner of Section 22, Township 29, Range 24; thence, along the west line of said Section 22, on an assumed bearing of North 0 degrees 01 minute 47 seconds East, a distance of 886.34 feet; thence South 85 degrees 09 minutes 04 seconds East a distance of 1722.10 feet; thence easterly on a non-tangential curve, concave to the north, having a radius of 170.00 feet, a central angle of 22 degrees 46 minutes 53 seconds and a chord which bears North 78 degrees 44 minutes 17 seconds East, a distance of 67.59 feet to a point on the westerly line of Lot 9, Block 6, Wilson Bell and Wagner's Addition to Minneapolis and the actual point of beginning of the land to be described; thence continue northeasterly on the last described curve, concave to the northwest, having a radius of 170.00 feet and a central angle of 26 degrees 04 minutes 18 seconds and a chord which bears North 54 degrees 18 minutes 42 seconds East, a distance of 77.37 feet; thence North 41 degrees 16 minutes 32 seconds East tangent to said curve a distance of 523.93 feet; thence northeasterly on a non-tangential curve, concave to the southeast, having a radius 1694.42 feet, a central angle of 8 degrees 57 minutes 40 seconds and a chord which bears North 50 degrees 37 minutes 16 seconds East, a distance of 265.01 feet to the center line of SEVENTH STREET NORTH, as dedicated in "Rearrangement of Blocks two (2) and three (3) of Camp and Walkers Addition to Minneapolis"; thence South 44 degrees 56 minutes 07 seconds East, along said center line, a distance of 123.46 feet; thence North 54 degrees 02 minutes 33 seconds East a distance of 55.06 feet; thence South 43 degrees 16 minutes 02 seconds East a distance of 4.03 feet; thence North 49 degrees 44 minutes 44 seconds East a distance of 9.51 feet; thence South 43 degrees 16 minutes 02 seconds East a distance of 18.65 feet; thence northeasterly on a non-tangential curve, concave to the northwest, having a radius of 14086.50 feet, a central angle of 00 degrees 20 minutes 13 seconds and a chord which

bears North 57 degrees 07 minutes 01 second East, a distance of 82.84 feet; thence North 56 degrees 56 minutes 54 seconds East not tangent to said curve a distance of 28.13 feet; thence deflect to the left on a tangential curve, having a radius of 959.02 feet and a central angle of 12 degrees 18 minutes 40 seconds, a distance of 206.06 feet to a point of compound curvature; thence deflect to the left on a tangential curve, having a radius of 1039.99 feet and a central angle of 06 degrees 12 minutes 46 seconds, a distance of 112.77 feet; thence North 39 degrees 40 minutes 10 seconds East a distance of 46.91 feet; thence North 35 degrees 19 minutes 24 seconds East a distance of 38.40 feet; thence deflect to the right on a tangential curve, having a radius of 801.98 feet and a central angle of 09 degrees 46 minutes 26 seconds, a distance of 136.81 feet; thence North 45 degrees 05 minutes 50 seconds East a distance of 54.36 feet; thence North 44 degrees 54 minutes 10 seconds West a distance of 3.89 feet; thence North 45 degrees 05 minutes 08 seconds East a distance of 12.55 feet; thence North 00 degrees 02 minutes 39 seconds East a distance of 22.42 feet to the northwesterly line of THIRD AVENUE NORTH (dedicated in the plat of HOAG'S ADDITION TO MINNEAPOLIS as ITASKA STREET); thence North 44 degrees 30 minutes 52 seconds East, along said northwesterly line, a distance of 39.03 feet to the centerline of vacated or abandoned FIFTH STREET NORTH, as dedicated in the plat of HOAG'S ADDITION TO MINNEAPOLIS; thence North 44 degrees 59 minutes 51 seconds West, along said centerline, a distance of 30.65 feet to an intersection with a line drawn at right angles from the northeasterly line of Block 4, HOAG'S ADDITION TO MINNEAPOLIS from a point on said northeasterly line distant 31 feet northwesterly from the most easterly corner of said Block 4; thence South 45 degrees 00 minutes 09 seconds West, along said line drawn at right angles from the northeasterly line of said Block 4 a distance of 41.23 feet to the northeasterly line of said Block 4; thence North 44 degrees 59 minutes 51 seconds West, along said northeasterly line, a distance of 105.82 feet to an intersection with the southwesterly extension of the northwesterly line of the southeasterly 2.64 feet of Lot 3, Block 85, HOAG'S ADDITION TO MINNEAPOLIS; thence North 44 degrees 43 minutes 45 seconds East, along said southwesterly extension, a distance of 82.45 feet to the southwesterly line of said Block 85; thence North 44 degrees 59 minutes 51 seconds West, along the southwesterly line of said Block 85, a distance of 35.36 feet to the most southerly corner of the northwesterly 26.00 feet of the southeasterly 64.00 feet of Lot 3, said BLOCK 85; thence North 44 degrees 43 minutes 45 seconds East, along the southeasterly line of the northwesterly 26.00 feet of the southeasterly 64.00 feet of Lots 3 and 8, said Block 85, a distance of 340.00 feet to the northeasterly line of said Block 85; thence North 44 degrees 59 minutes 51 seconds West, along said northeasterly line, a distance of 26.00 feet to the most northerly corner of the southeasterly 64.00 feet of Lot 8, said Block 85; thence South 44 degrees 43 minutes 45 seconds West, along the northwesterly line of the southeasterly 64.00 feet of Lots 3 and 8, said Block 85, a distance of 340.00 feet to the southwesterly line of said Block 85; thence North 44 degrees 59 minutes 51 seconds West, along said southwesterly line and along a line drawn from the most westerly corner of said Block 85 to the most southerly corner of Block 9, HOAG'S ADDITION TO MINNEAPOLIS, and along the southwesterly line of said Block 9, a distance of 293.66 feet to an intersection with a line drawn parallel with and distant 25 feet southeasterly from the centerline of the East bound track of the Burlington Northern Santa Fe Railroad, as said centerline was located and established on

November 16, 2000; thence South 45 degrees 06 minutes 27 seconds West, along said parallel line, a distance of 214.11 feet to a point hereinafter referred to as Point A; thence continuing South 45 degrees 06 minutes 27 seconds West, along said parallel line, a distance of 89.74 feet to a point hereinafter referred to as Point B; thence South 63 degrees 38 minutes 00 seconds West a distance of 17.84 feet; thence South 57 degrees 04 minutes 22 seconds West a distance of 82.18 feet; thence South 49 degrees 21 minutes 28 seconds West a distance of 125.35 feet; thence South 45 degrees 52 minutes 40 seconds West a distance of 138.40 feet; thence South 40 degrees 30 minutes 48 seconds West a distance of 95.19 feet; thence South 30 degrees 52 minutes 01 second West a distance of 42.41 feet; thence South 35 degrees 37 minutes 59 seconds West a distance of 95.92 feet to a point hereinafter referred to as Point C; thence South 35 degrees 34 minutes 55 seconds West a distance of 26.88 feet; thence southwesterly on a non-tangential curve concave to the northwest, having a radius of 623.80 feet, a central angle of 09 degrees 32 minutes 24 seconds and a chord which bears South 40 degrees 19 minutes 54 seconds West, a distance of 103.87 feet; thence South 45 degrees 06 minutes 06 seconds West a distance of 112.72 feet; thence southwesterly on a non-tangential curve concave to the southeast, having a radius of 2826.93 feet, a central angle of 02 degrees 48 minutes 55 seconds and a chord which bears South 43 degrees 35 minutes 07 seconds West, a distance of 138.91 feet; thence South 42 degrees 10 minutes 39 seconds West a distance of 155.83 feet; thence southwesterly and southerly on a tangential curve concave to the east, having a radius of 100.12 feet and a central angle of 48 degrees 41 minutes 58 seconds, a distance of 85.10 feet to a southeasterly boundary line of HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY PROPERTY MAP NO. 11; thence South 52 degrees 13 minutes 40 seconds West, along said southeasterly boundary line, a distance of 58.79 feet to the southerly line of Block 3, Wilson Bell and Wagner's Addition to Minneapolis; thence South 89 degrees 55 minutes 59 seconds East, along said southerly line, a distance of 81.40 feet; thence southeasterly on a non-tangential curve concave to the northeast, having a radius of 80.12 feet, a central angle of 05 degrees 16 minutes 44 seconds and a chord which bears South 38 degrees 58 minutes 37 seconds East, a distance of 7.38 feet; thence southeasterly on a reverse curve concave to the southwest, having a radius of 142.83 feet and a central angle of 25 degrees 07 minutes 15 seconds, a distance of 62.62 feet to the northerly line of Block 6, Wilson Bell and Wagner's Addition to Minneapolis; thence North 89 degrees 55 minutes 59 seconds West, along said northerly line, a distance of 35.07 feet, to the northwest corner of Lot 4, Block 6, Wilson Bell and Wagner's Addition to Minneapolis; thence South 00 degrees 04 minutes 30 seconds West, along the westerly line of said Lot 4 and the westerly line of Lot 9, said Block 6, a distance of 261.66 feet to the point of beginning.

EXHIBIT B

TRAIL PARCEL DESCRIPTION

All that part of the above depicted "Authority Property" which lies westerly and northwesterly of the hereinafter described "Line 1", except that part thereof which lies northwesterly and northerly of the hereinafter described "Line 2"; also except that part of said "Authority Property" which lies northwesterly and westerly of a line drawn parallel with and distant 18.00 feet northwesterly and westerly of said "Line 1", said line drawn parallel with and distant 18.00 feet northwesterly and westerly of "Line 1" shall begin on the westerly line of said "Authority Property" and terminate on the southerly line of Holden Street, as dedicated by the recorded plat of Wilson Bell and Wagner's Addition to Minneapolis; also except that part of said "Authority Property" which lies westerly and northwesterly of said "Line 1", and which lies northeasterly of a tangential line drawn through and extending northwesterly from the point of reverse curvature as described in said "Line 1" and which lies southeasterly of tangency of the reverse curve as described in said "Line 1"; also except those parts thereof on which Twins Ballpark structural members or other improvements now or hereafter exist.

"Line 1":

"Line 1" is described as beginning at the most southerly corner of said hereinbefore described property; thence northeasterly for 32.60 feet along a non-tangential curve, concave to the northwest, having a radius of 170.00 feet, a central angle of 10 degrees 59 minutes 17 seconds, and a chord which bears North 61 degrees 51 minutes 12 seconds East; thence northerly for 40.67 feet along a non-tangential curve, concave to the west, having a radius of 65.00 feet, a central angle of 35 degrees 50 minutes 59 seconds, and a chord which bears North 18 degrees 00 minutes 05 seconds East; thence North 00 degrees 04 minutes 36 seconds East for 167.47 feet; thence northwesterly for 103.93 feet along a tangential curve, concave to the southwest, having a radius of 142.83 feet, and a central angle of 41 degrees 41 minutes 35 seconds, to a point of reverse curvature; thence northerly for 117.17 feet along a tangential curve, concave to the east, having a radius of 80.12 feet and a central angle of 83 degrees 47 minutes 38 seconds; thence North 42 degrees 10 minutes 39 seconds East for 155.83 feet; thence northeasterly for 137.90 feet along a tangential curve, concave to the southeast, having a radius of 2806.93 feet and a central angle of 02 degrees 48 minutes 54 seconds; thence North 45 degrees 06 minutes 06 seconds East, not tangent to last described curve, for 112.70 feet; thence northeasterly for 107.18 feet along a tangential curve, concave to the northwest, having a radius of 643.80 feet and a central angle of 09 degrees 32 minutes 20 seconds; thence North 35 degrees 38 minutes 05 seconds East, not tangent to last described curve, for 119.33 feet to the southwesterly exterior wall of the Twins Ballpark at Service Level; thence northwesterly and northeasterly along said southwesterly exterior wall and the northwesterly exterior wall of the Twins Ballpark at Service Level to a point on a line drawn parallel with and distant 25 feet southeasterly from the centerline of the East bound track of the Burlington Northern Santa Fe Railroad, as said centerline was located and established on November 16, 2000, distant 105.84 feet northeasterly from the abovedescribed POINT C (as defined in Exhibit A above), as measured along said parallel line, which has a bearing of North 45 degrees 06 minutes 27 seconds East; thence continue northeasterly along said northwesterly exterior wall of the Twins Ballpark at Service Level to a point on said line drawn parallel with and distant 25 feet southeasterly from the centerline of the East bound track of the Burlington Northern Santa Fe Railroad, as said centerline was located and established on November 16, 2000, distant 87.53 feet southwesterly from the above-described POINT B (as defined in Exhibit A above), as measured along said parallel line; thence continue northeasterly along said northwesterly exterior wall of the Twins Ballpark at Service Level to the intersection with a line which has a bearing of South 45 degrees 03 minutes 49 seconds West and is drawn from a point on the northeasterly line of the hereinbefore described property distant 23.42 feet southeasterly of the termination of the hereinafter described "Line 2", as measured along said northeasterly line; thence North 45 degrees 03 minutes 49 seconds East for 117.35 feet to said northeasterly line and said "Line 1" there terminating;

"Line 2":

"Line 2" is described as commencing at the above-described POINT B (as defined in Exhibit A above); thence South 45 degrees 06 minutes 27 seconds West along said line drawn parallel with and distant 25 feet southeasterly from the centerline of the East bound track of the Burlington Northern Santa Fe Railroad, as said centerline was located and established on November 16, 2000, for 13.14 feet to the point of beginning of "Line 2" to be described; thence North 63 degrees 37 minutes 54 seconds East for 46.59 feet; thence northeasterly for 64.99 feet along a tangential curve, concave to the northwest, having a radius of 390.58 feet and a central angle of 09 degrees 32 minutes 02 seconds; thence North 54 degrees 05 minutes 51 seconds East for 50.76 feet; thence northeasterly for 5.91 feet along a tangential curve, concave to the northwest, having a radius of 190.58 feet and a central angle of 01 degree 46 minutes 32 seconds; thence North 45 degrees 03 minutes 49 seconds East, not tangent to last described curve, for 153.85 feet to the northeasterly line of the hereinbefore described property and said "Line 2" there terminating.