

**RESOLUTION
OF THE CITY COUNCIL
OF THE
CITY OF MINNEAPOLIS**

**APPROVING ACQUISITION OF PERMANENT AND TEMPORARY
EASEMENTS FOR TRANSPORTATION PURPOSES AND AUTHORIZING
USE OF EMINENT DOMAIN PROCEEDINGS**

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 Council finds that permanent and/or temporary easements encumbering Parcels 16, 17, 19, 21 and 24 described in Exhibit A attached hereto are needed for the Cedar Lake Trail-Phase III Project, and that it is necessary, desirable, convenient and for a public purpose to secure the easements described in Exhibit A, encumbering Parcels 16, 17, 19, 21 and 24 for construction and use of the Cedar Lake Trail and utility purposes, including by use of eminent domain proceedings, if necessary;

WHEREAS, to date City Staff has been unable to acquire permanent and temporary easements as described on Exhibit A attached hereto by voluntary negotiations.

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

1. If the Director of Public Works is unable to acquire permanent and temporary easements encumbering Parcels 16, 17, 19, 21 and 24 for trail and other transportation purposes, including, without limitation, bicycle, vehicular (maintenance and emergency) and foot travel, the location of all public utility and communication facilities, including fiber optic lines, and other public facilities, 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 easements, and to use the quick take provisions of Minn. Stat. § 117.042 to acquire title and possession of such easements 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 City's offer of compensation to the owners prior to the filing of condemnation and the approved appraisal of damages to be paid or deposited by the City pursuant to Minn. Stat. § 117.042.
3. Acquisition of such permanent and temporary easements is hereby determined to be necessary and convenient and for a public purpose.

EXHIBIT A

LEGAL DESCRIPTIONS OF PROPERTIES TO BE ACQUIRED

PARCEL 16

BNSF RAILWAY COMPANY

405 Washington Avenue North
Property Identification No. 22-029-24-13-0107

A permanent easement for trail and other transportation purposes including, without limitation, bicycle, vehicular (maintenance and emergency) and foot travel, the location of all public utility and communication facilities, including fiber optic lines over, under and across that part of Lots 2, 15 and 16, Block 22, **BRADFORD AND LEWIS ADDITION TO MINNEAPOLIS**, Hennepin County, Minnesota and that part of the abandoned alley within said Block 22 lying northerly of the following described "Line A":

"Line A" is described as beginning at a point on the Southwesterly line of Block 10, **HOAG'S ADDITION TO MINNEAPOLIS**, said Hennepin County, distant 29.27 feet Northwesterly from the most Southerly corner of said Block 10; thence Northeasterly along a straight line to a point in the Southwesterly line of said Block 22, distant 107.48 feet Northwesterly from the most Southerly corner of said Block 22; thence Northeasterly along the prolongation of the last described line 105.27 feet; thence Northeasterly along a non-tangential curve concave to the South having a radius of 1875.86 feet, the chord of said curve is measured 13 degrees 24 minutes 52 seconds to the right from said prolongation of the last described line to the Northeasterly line of said Block 22 and said "Line A" there terminating.

Said easement lies 9.00 feet northwesterly and 14.00 feet southeasterly of the following described line: Commencing at the most southerly corner of said Block 10; thence North 45 degrees 01 minutes 39 seconds West, assumed bearing along the southwesterly line of said Block 10, a distance of 17.87 feet to the point of beginning; thence North 45 degrees 03 minutes 49 seconds East a distance of 88.06 feet; thence northeasterly along a tangential curve concave to the southeast having a radius of 1000.00 feet and a central angle of 01 degrees 08 minutes 45 seconds for a distance of 20.00 feet; thence North 46 degrees 12 minutes 34 seconds East, tangent to said curve a distance of 29.86 feet; thence northeasterly along a tangential curve concave to the northwest having a radius of 1015.00 feet and a central angle of 01 degrees 08 minutes 45 seconds for a distance of 20.30 feet; thence North 45 degrees 03 minutes 49 seconds East, tangent to last described curve, a distance of 400.40 feet; thence northeasterly along a tangential curve concave to the southeast have a radius of 550.00 feet and central angle of 18 degrees 33 minutes 00 seconds for a distance of 178.07 feet; thence North 63 degrees 36 minutes 51 seconds East a distance of 30.17 feet to the northeasterly line of said Block 22 and said line there terminating.

The sidelines of said easement should be prolonged or shortened to intersect said "Line A" and the Northeasterly line of said Block 22.

According to the map or plat thereof on file and of record in the Office of the County Recorder in and for Hennepin County, Minnesota.

PARCEL 17

BNSF RAILWAY COMPANY

332-1/2 Washington Avenue North
Property Identification No. 22-029-24-14-0163

A permanent easement for trail and other transportation purposes, including, without limitation, bicycle, vehicular (maintenance and emergency) and foot travel, the location of all public utility and communication facilities, including fiber optic lines over, under and across that portion of Block 33, **Town of Minneapolis**, Minnesota together with the 16.0 foot wide alley within said Block, described as follows: Commencing at the most Westerly corner of said Block 33; thence Northeasterly along the Northwesternly line thereof a distance of 120.00 feet to the True Point of Beginning of the parcel to be described; thence Northeasterly along a straight line to a point on the Northeasterly line of said Block 33 distant 75.0 Southeasterly of the most Northerly corner of said Block 33, as measured along the Northeasterly line thereof; thence Southeasterly along said Northeasterly line a distance of 13.55 feet; thence Southwesterly along a straight line to the point of intersection with said Northwesternly line of Block 33 distant 80.66 feet Northeasterly from the most Westerly corner of Block 33; thence Northeasterly along said Northwesternly line to the True Point of Beginning.

Said permanent easement lies within 10.00 feet northerly of the following described line: Commencing at the most Westerly Corner of said Block 33; thence on an assumed bearing North 44 degrees 35 minutes 51 seconds East, along the Northwesternly line of said Block 33, a distance of 66.11 feet to the point of beginning; thence North 63 degrees 36 minutes 51 seconds East a distance of 195.22 feet; thence Northeasterly along a tangential curve concave to the southeast having a radius of 15,000.00 feet and a central angle of 00 degrees 12 minutes 27 seconds for a distance of 54.30 feet; thence North 63 degrees 49 minutes 17 seconds East, tangent to said curve, for a distance of 41.63 feet to the Northeasterly line of said Block 33 and said line there terminating.

The side lines of said easement should be prolonged or shortened to intersect the Northwesternly and Northeasterly lines of said Block 33.

According to the map or plat thereof on file and of record in the Office of the County Recorder in and for Hennepin County, Minnesota.

PARCEL 19

BNSF RAILWAY COMPANY

322 - 2nd Street North
Property Identification No. 22-029-24-14-0528

A permanent easement for trail and other transportation purposes, including, without limitation, bicycle, vehicular (maintenance and emergency) and foot travel, the location of all public utility and communication facilities, including fiber optic lines over, under and across that part of **Block 26, TOWN OF MINNEAPOLIS**, Hennepin County, Minnesota lying southwesterly of REGISTERED LAND SURVEY NO. 1741, said Hennepin County and lying northerly and northeasterly of the following described line "Line X":

"Line X" is described as beginning at the most westerly corner of Lot 3, said Block 26; thence northeasterly along the northwesterly line of said Lot 3 to a point distant 29 feet southwesterly of most northerly corner of said Lot 3; thence northeasterly to a point on the northeasterly line of Lot 8, said Block 26 distant 4 feet northwesterly of the most easterly corner of said Lot 8 and said "Line X" there terminating.

Said permanent easement lies 10.00 feet on both sides of the following described line: Commencing at the most westerly corner of said Lot 3; thence on an assumed bearing of North 45 degrees 10 minutes 25 seconds West, along the southwesterly line of said Block 26, a distance of 9.86 feet to the point of beginning of the line to be described; thence North 63 degrees 49 minutes 17 seconds East a distance of 30.08 feet to the intersection with said "Line X" and said line there terminating.

The sidelines of said easement should be prolonged or shortened to intersect said southwesterly line of Block 26 and said "Line X".

According to the map or plat thereof on file and of record in the Office of the County Recorder in and for Hennepin County, Minnesota.

PARCEL 21

THREE QUARTERS, LLC
BRUCE STILLMAN

310 - 2nd Street North
Property Identification No. 22-029-24-14-0016

A permanent easement for trail and other transportation purposes including, without limitation, bicycle, vehicular (maintenance and emergency) travel, the location of all public utility and communication facilities, including fiber optic lines over, under and across Lot 4, that part of Lot 3 and that part of the vacated alley accruing to said Lots 3 and 4 lying Southerly of the railroad right-of-way as widened, all in Block 26, **TOWN OF MINNEAPOLIS**, Hennepin County, Minnesota.

Said easement lies 10.00 feet on both sides of the following described line: Commencing at the most westerly corner of said Lot 3; thence on an assumed bearing of North 45 degrees 10 minutes 25 seconds West, along the southwesterly line of said Block 26, a distance of 9.86 feet to the point of beginning of the line to be described; thence North 63 degrees 49 minutes 17 seconds East a distance of 247.25 feet; thence Northeasterly along a tangential curve concave to the southeast, said curve having a radius of 3000.00 feet and a central angle of 01 degrees 33 minutes 49 seconds for a distance of 81.87 feet; thence North 65 degrees 23 minutes 06 seconds East, tangent to said curve, for a distance of 32.02 feet to the intersection with the northeasterly line of said Block 26 and said line there terminating.

The sideline of said easement should be prolonged or shortened to intersect said southwesterly line of Block 26 and said northeasterly line of the vacated alley accruing to said Lots 3 and 4.

According to the map or plat thereof on file and of record in the Office of the County Recorder in and for Hennepin County, Minnesota.

PARCEL 24

BNSF RAILWAY COMPANY

300 - 1st Street North
Property Identification No. 22-029-24-14-0008

A permanent easement for trail and other transportation purposes including, without limitation, bicycle, vehicular (maintenance and emergency) and foot travel, the location of all public utility and communication facilities, including fiber optic lines over, under and across the railroad right-of-way crossing Lots 4, 5, 6, 7 and 8, Block 9, **TOWN OF MINNEAPOLIS**, Hennepin County, Minnesota and the vacated alley in said Block 9.

Said easement lies 10.00 feet on both sides of the following described centerline:

Commencing at the most southerly corner of said Block 9; thence on an assumed bearing of North 45 degrees 11 minutes 48 seconds West, along the southwesterly line of said Block 9, a distance of 60.21 feet to the point of beginning of the centerline to be described; thence North 65 degrees 23 minutes 06 seconds East a distance of 71.93 feet; thence Northeasterly along a tangential curve concave to the southeast, said curve having a radius of 1000.00 feet and a central angle of 04 degrees 45 minutes 42 seconds for a distance of 83.11 feet; thence North 70 degrees 08 minutes 48 seconds East, tangent to said curve, to the intersection with the southeasterly line of said Block 9 and said centerline there terminating.

The sidelines of said easements should be prolonged or shortened to intersect said southwesterly line and the southeasterly line of Block 9.

According to the map or plat thereof on file and of record in the Office of the County Recorder in and for Hennepin County, Minnesota.