

**By Colvin Roy**

**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; and

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; and

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; and

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; and

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; and

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; and

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; and

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; and

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; and

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; and

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; and

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; and

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; and

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; and

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; and

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"); and

Whereas, it is necessary for the City to commence construction of the Cedar Lake Trail-Phase III Project in 2010 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; and

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); and

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; and

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

Whereas, on May 22, 2009, in Resolution No. 2009 R-235, the City Council found 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; and

Whereas, the City has previously commenced eminent domain proceedings to acquire permanent and temporary easements over Parcels 16, 17, 19, 21, and 24 as described in said Resolution 2009 R-235; and

Whereas, the City Council finds that it is necessary, convenient and for a public purpose that the City also acquire a temporary easement for construction purposes over said Parcels 17, 19, and 24, as is legally described in First Amended Exhibit A attached hereto ("Temporary Easement") to expire December 31, 2010, to enable the City to construct the Cedar Lake Trail; and

Whereas, City Staff has been unable to acquire the temporary easement as described on First Amended Exhibit A attached hereto by voluntary negotiations;

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

That if the Director of Public Works is unable to acquire permanent and temporary easements encumbering Parcels 16, 17, 19, 21 and 24, as described on First Amended Exhibit A, 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.

Be It Further Resolved that 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.

Be It Further Resolved that the acquisition of such permanent and temporary easements is hereby determined to be necessary and convenient and for a public purpose.

**FIRST AMENDED  
EXHIBIT A**

**LEGAL DESCRIPTIONS OF PROPERTIES TO BE ACQUIRED**

*The complete legal descriptions of the easements to be acquired are on file in the Office of the City Engineer.*

**PARCEL 16**

BNSF RAILWAY COMPANY

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

**PARCEL 17**

BNSF RAILWAY COMPANY

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

**PARCEL 19**

BNSF RAILWAY COMPANY

322 - 2<sup>nd</sup> Street North  
Property Identification No. 22-029-24-14-0528

**PARCEL 21**

THREE QUARTERS, LLC  
BRUCE STILLMAN

310 - 2<sup>nd</sup> Street North  
Property Identification No. 22-029-24-14-0016

**PARCEL 24**

BNSF RAILWAY COMPANY

300 - 1<sup>st</sup> Street North  
Property Identification No. 22-029-24-14-0008