



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

**Date:** October 26, 2010

**To:** Honorable Sandra Colvin Roy, Chair Transportation & Public Works Committee

**Subject:** **Condemnation of right of way for 25<sup>th</sup> Ave SE Extension (4<sup>th</sup> St SE to Proposed Granary Road) Construction Project No 6734**

### **Recommendation:**

- A. Authorize staff to pursue condemnation of a portion of the following property to be used for the extension of 25<sup>th</sup> Avenue in the Southeast Minneapolis Industrial (SEMI) area:
- PID 30-029-23-21-0059 (Chicago & NW RR merged to Union Pacific RR Co.)
  - PID 30-029-23-12-0009 (Chicago & NW RR merged to Union Pacific RR Co.)
  - PID 30-029-23-21-0049 (Burlington Northern RR Co.)

### **Previous Directives:**

- February 6<sup>th</sup>, 2009: Resolution 2009R-038, City Council authorized pursuit of acquisition through negotiation or condemnation of properties for 25<sup>th</sup> Ave SE
- February 9<sup>th</sup>, 2007: Resolution 2007R-055, City Council accepted and appropriated a Minnesota Department of Employment and Economic Development (DEED) Bioscience Business Development Public Infrastructure Grant; increased the CPED appropriation & revenue budget by \$1,000,000; and authorized execution of an agreement to implement the grant.
- December 22<sup>nd</sup>, 2006: Resolution 2006R-622, City Council amended the 2006 General Appropriation by increasing CPED agency funds and authorized the appropriate City officials to acquire through negotiation, properties to be used for Malcolm Ave and Granary Road.
- December 22<sup>nd</sup>, 2006: Resolution 2006R-621, adopting Modification No. 8 to SEMI Area Redevelopment Plan, Modification 1 to the SEMI Area Phase 1 Tax Increment Finance (TIF) Plan, Modification No. 2 to the SEMI Area Phase 2 TIF Plan, Modification No. 2 to the SEMI Area Phase 3 TIF Plan and Modification No. 1 to the SEMI Area Phase 5 TIF Plan to permit pooling in a Bioscience Subzone.
- January 27<sup>th</sup>, 2006: Resolution 2006R-037, City Council approved revisions to the Comprehensive Plan to incorporate the recommendations of the Revised SEMI Master Plan and AUAR.
- December 23<sup>rd</sup>, 2005: Resolution 2005R-694, City Council authorized staff to acquire by negotiation, a portion of the property located at 601 25<sup>th</sup> Ave SE (PID No. 19-029-23-34-0016) for the purpose of stormwater management facilities.
- July 13<sup>th</sup>, 2001: Resolution 2001R-289, City Council approved the SEMI Revised Master Plan and Alternate Urban Areawide Review (AUAR).

**Prepared by:** Jeff Handeland, P.E., Project Engineer 673-2363  
Don Elwood, P.E., Director of Transportation Planning and Engineering

**Approved by:**

---

Steven A. Kotke, P. E., City Engineer, Director of Public Works

**Presenters:** Bob Carlson, P.E., Principal Project Engineer, Public Works, Transportation Planning and Engineering

**Financial Impact**

Action is within current department budget

**Community Impact**

Neighborhood Notification: The South East Economic Development (SEED) Committee has approved the SEMI Revised Master Plan that includes the roadways for which this acquisition is sought. Adjacent property owners were notified of the project by a mailing and by phone calls and met with City staff when requested.

City Goals: A City That Works, Jobs & Economic Vitality

Sustainability Targets: Provide additional bicycle routes, increase opportunities for workers to earn a livable wage.

Comprehensive Plan: The infrastructure to be constructed with the requested acquisition is consistent with the Minneapolis Plan for Sustainable Growth.

Zoning Code: Consistent.

**Supporting Information**

In early 2009, the City Council authorized staff to pursue acquisition through negotiation with property owners or through condemnation of right-of-way for the extension of 25<sup>th</sup> Avenue SE in the Southeast Minneapolis Industrial (SEMI) area. Since that time, staff and consultants have conducted pre-acquisition activities such as right-of-way alignment determinations, land surveys, title work, and appraisals. In December 2009, the City submitted written offers to purchase the right-of-way from portions of the parcels owned by the two property owners, both railroad companies.

Following months of negotiations, the City reached agreements on land acquisition prices with both property owners. However, negotiations over non-price issues in the purchase agreement with one of the property owners, Burlington Northern Santa Fe Railroad, have reached an impasse. Burlington Northern is calling for non-price provisions relating to indemnities, for example, that are unacceptable to the City Attorney's office. Negotiations over non-price issues with the other property owner, Union Pacific Railroad, are relatively less in dispute, however are not yet concluded.

The plan for the project is to have possession of the right-of-way in time for a start of the street construction at the beginning of the 2011 construction season in the spring. Since negotiations with Burlington Northern are at an impasse and negotiations with Union Pacific are unresolved, to keep the project on track, staff seeks approval to condemn the land needed from the Burlington Northern parcel (PID 30-029-23-21-0049) and the two Union Pacific parcels (PID 30-029-23-21-0059 and PID 30-029-23-12-0009) with the intent of securing possession in time for a spring 2011 construction start.

The City will fund the acquisition of right-of-way using a grant from the Minnesota Department of Employment and Economic Development (DEED) Bioscience Business Development Public Infrastructure Grant that the City Council accepted and appropriated in February 2007 and using tax increment revenue the City Council appropriated in February 2009. The tax increment is the 50% local match necessary for the DEED Bioscience Grant. These parcels are identified as property that may be acquired in the SEMI Area Redevelopment Plan and Modifications and SEMI Area TIF Plan and Modifications.

The extension of 25<sup>th</sup> Avenue SE is one component of a larger infrastructure project in the Southeast Minneapolis Industrial (SEMI) area. In 2009, the City extended Malcolm Avenue SE. These street extensions will be connected by Phase 1 of the proposed Granary Road. Storm water management ponds to handle run-off from the new roads are another component of the larger infrastructure project. The planned road network will provide access to hundreds of acres of underutilized industrial land for redevelopment as a light industrial bioscience research area, taking advantage of the proximity to the University of Minnesota's Biomedical Discovery District. The City-approved master plan for the SEMI area calls for these infrastructure improvements and they are contained in the City's Comprehensive Plan. Further, Granary Road has also been identified in a memorandum of understanding between the City, County, University of Minnesota and Metropolitan Council, as a betterment related to the Central Corridor LRT project. The extension of 25<sup>th</sup> Avenue SE is a critical piece to improving transportation access in this area.

Attachment 1 – Map of properties proposed for partial acquisition with this recommendation

## RESOLUTION

### **Authorizing the proper City officers to pursue acquisition of portions of properties to be used for the 25th Ave portion of the SEMI infrastructure.**

Whereas, CPED and Public Works plan to extend Malcolm Avenue SE and 25<sup>th</sup> Avenue SE and build Granary Road in the Southeast Minneapolis Industrial (SEMI) redevelopment project area; and

Whereas, these roads will provide access in the SEMI area where no public access now exists; and

Whereas, Granary Road has also been identified in a memorandum of understanding between the City, County, University of Minnesota and Metropolitan Council, as a betterment related to the Central Corridor LRT project; and

Whereas, by Resolution No. 2009R-038, the City Council of The City of Minneapolis authorized proper City officers to pursue acquisition of portions of certain properties for the construction of 25<sup>th</sup> Avenue; and

Whereas, the specific lands to be acquired are legally described on the attached Exhibit A (the "Properties"); and

Whereas, the Properties consist of three parcels that comprise two different properties: Parcel 25-1 is owned by BNSF Railway Company and Parcels 25-2 and 25-3 are owned by Union Pacific Railroad Company and

Whereas, the land to be acquired from Parcel 25-1 is approximately 3,127 square feet located in the most northwesterly corner of the parcel, of which 1,600 square feet is already subject to a road and utility easement; and

Whereas, the land to be acquired from Parcels 25-2 and 25-3 is an 80-foot wide strip located at the most northwesterly edge of the property that is subject to three separate existing easements for access, roadway and utility, and ingress and egress purposes;

Whereas, the City has obtained appraisals of the estimated damages caused by the acquisition of the Properties, has provided the appraisal reports to the respective owners of the Properties and has negotiated in good faith with the owners for the acquisition of the Properties; and

Whereas, the owners of the Properties have expressed a willingness to sell their respective Properties to the City, but the City has been unsuccessful in reaching an agreement on terms for the purchase of the Properties.

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

That the proper City officers be authorized to pursue acquisition through negotiation with property owners or through condemnation of the Properties as described on the attached Exhibit A.

## EXHIBIT A

Parcel 25-1/GE16 (PID No. 30-029-23-21-0049) (Abstract)

Property Address: 420 25<sup>th</sup> Avenue Southeast, Minneapolis, MN.

Legal Description of Affected Property:

That part of Lots 6 through 10, inclusive, of Block 12, Regent's Addition to Minneapolis, Hennepin County, Minnesota and the northwesterly half of vacated 26th Avenue Southeast, lying Northeasterly of a line drawn parallel with and distant 26.0 feet Northeasterly of, as measured at right angles to, Burlington Northern Railroad Company's (formerly Northern Pacific Railway Company's) Main Track centerline.

Also

That part of Block 13 lying Northeasterly of a line described as beginning at a point on the Northwesterly line of Lot 6, Block 13 distant 76 feet Northeasterly from the most Westerly corner thereof; thence Southeasterly parallel with the Burlington Northern Railroad Company's most Southerly Spur track centerline to the point of intersection with a line drawn parallel with and distant 56.5 feet Northeasterly of, as measured at right angles to, said Railroad Company's Main Track centerline, as originally located and constructed; thence Southeasterly parallel with said Main Track centerline to the point of intersection with the East line of the Northeast Quarter of the Northwest Quarter of Section 30, Township 29 Range 23 and there terminating.

Also

That part of the Southeasterly half of vacated 26th Avenue Southeast lying Northeasterly of a line beginning a point on the centerline of 26th Avenue South 26 feet Northeasterly of the Burlington Northern Railroad Company's (formerly Northern Pacific Railroad Company's) Main Track Centerline; thence northeasterly to a point on the Northwesterly line of Lot 6, Block 13, Regent's Addition to Minneapolis 76 feet Northeasterly of the most Westerly corner of said Lot 6.

Also

That part of the Southwesterly half of vacated Fifth Street Southeast lying Southwesterly of the centerline of 25th Avenue Southeast including that part lying within Lot 14, Auditor's Subdivision No. 88, according to the recorded plat thereof, and situate in Hennepin County, Minnesota.

Legal Description of Taking:

That part of Lot 6, Block 12, Regents Addition, according to the recorded plat thereof, Hennepin County, Minnesota, and that part of the southwesterly half of vacated Fifth Street S.E., as originally dedicated in said Regents Addition, described as follows:

Commencing at the most northerly corner of Lot 6, AUDITOR'S SUBDIVISION NUMBER EIGHTY-EIGHT (88) HENNEPIN COUNTY, MINN., according to the recorded plat thereof, Hennepin County, Minnesota; thence on an assumed bearing of South 62 degrees 16 minutes 01 second West along the most northwesterly line of Lot 6, said AUDITOR'S SUBDIVISION NUMBER EIGHTY-EIGHT (88) HENNEPIN COUNTY, MINN., a distance of 84.60 feet to a corner common to Lots 6 and Lot 14, said AUDITOR'S SUBDIVISION NUMBER EIGHTY-EIGHT (88) HENNEPIN COUNTY, MINN.; thence South 28 degrees 11 minutes 00 seconds East along a northeasterly line of said Lot 14, a distance of 80.00 feet to the intersection with a line parallel with and 80.00 feet southeasterly of, as measured at a right angle, said most northwesterly line of Lot 6, said AUDITOR'S SUBDIVISION NUMBER EIGHTY-EIGHT (88) HENNEPIN COUNTY, MINN., and its southwesterly extension; thence southwesterly along said parallel line a distance of 286.16 feet; thence southwesterly a distance of 55.55 feet along a tangential curve, concave to the southeast, having a radius of 360.00 feet and a central angle of 08 degrees 50 minutes 27 seconds, to the centerline of said vacated Fifth Street S.E., being the point of beginning of the land to be described; thence continuing along said curve a distance of 145.33 feet to a line parallel with and 26.00 feet northeasterly of, as measured at a right angle, the former location of the Burlington Northern Railroad Company's main track centerline; thence westerly a distance of 0.06 feet along said parallel line, being a non-tangential curve, concave to the southwest, having a radius of 2890.93 feet, a central angle of 00 degrees 00 minutes 04 seconds, a chord distance of 0.06 feet and a chord bearing of North 65 degrees 48 minutes 58 seconds West, to the northwesterly line of Lot 6, said Regents Addition; thence North 29 degrees 13 minutes 53 seconds East along said northwesterly line, a distance of 100.89 feet to the southwesterly line of said vacated Fifth Street S.E.; thence North 60 degrees 42 minutes 54 seconds West along said southwesterly line, a distance of 40.00 feet to the centerline of 25<sup>th</sup> Avenue S.E.; thence North 29 degrees 13 minutes 53 seconds East along the northeasterly extension of said centerline, a distance of 40.00 feet to the centerline of said vacated Fifth Street S.E.; thence South 60 degrees 42 minutes 54 seconds East along said centerline, a distance of 71.62 feet to the point of beginning.

Nature of Interest Acquired: Fee simple absolute title, subject only to the following interests: easement for roadway and utility purposes per Document No. 5019966 and 5020258

Parcel 25-2/GE2 and 25-3/GE3 (PID No.30-029-23-21-0059 and 30-029-23-12-0009)  
(Abstract)

Property Address: 520 25<sup>th</sup> Avenue Southeast, Minneapolis, MN.

Legal Description of Affected Property:

Parcel 25-2

That part of Lots 14 and 15, Auditor's Subdivision No. 88, lying Southeasterly of the Southwesterly extension of the most Northwesterly line of lot 6, Auditor's Subdivision No. 88 and Northeasterly of the center line of 5th Street southeast as formally dedicated in the plat of Regents Addition, according to the recorded plat thereof, and situate in Hennepin County, Minnesota.

Parcel 25-3

That part of Lot 6, Auditor's Subdivision No. 88; Hennepin County, Minnesota, lying North of the following described line:

Commencing at the intersection of the Northeasterly line of said Lot 6 with the Easterly extension of the South line of Lot 5, Auditor's Subdivision No. 88; thence West along said extended line to a point 320 feet East from the Southeast corner of said Lot 5; thence North 0 degrees 38 minutes East 26 feet; thence North 73 degrees 33 minutes West 49.6 feet; thence North 66 degrees 07 minutes West 53.95 feet; thence West parallel with the South line of said Lot 5 extended a distance of 222.7 feet; thence South 5/10 feet to the Northeast corner of said Lot 5; thence West to the Northwest corner thereof; thence continuing West 325 feet; thence South 80 degrees 55 minutes West 177.55 feet; thence South 0 degrees 38 minutes West 30 feet; thence West along the Westerly extension of Lot 5 to the West line of Lot 6 and there terminating.

EXCEPT that part commencing 15 feet North of the Southeast corner of Lot 7 Auditor's Subdivision No. 88; thence 1 degree 24 minutes East 96.8 feet; thence South 58 degrees 48 minutes 30 seconds East 188 feet; thence South 0 degrees 31 minutes West 13.4 feet; thence North 85 degrees 6 minutes 42 seconds West 163.6 feet to the point of beginning.

Also except that part commencing at the Southeast corner of said Lot 7; thence South 1 degree 24 minutes West 15.5 feet to the actual point of beginning; thence North 89 degrees 31 minutes West 357.66 feet; thence South 0 degrees 29 minutes West 23.78 feet; thence South 86 degrees 14 minutes East 204.16 feet; thence South 89 degrees 31 minutes East 90 feet; thence South 0 degrees 29 minutes West 15 feet; thence South 89 degrees East 333.67 feet; thence North 0 degrees 29 minutes East 25.6 feet; thence North 80 degrees 20 minutes 28 seconds West 156.2 feet; thence North 89 degrees 31 minutes

West 115.68 feet to the point of beginning.

Legal Description of Taking:

Parcel 25-2

Those parts of Lots 14 and 15, AUDITOR'S SUBDIVISION NUMBER EIGHTY-EIGHT (88) HENNEPIN COUNTY, MINN., according to the recorded plat thereof, Hennepin County, Minnesota, described as follows:

Commencing at the most northerly corner of Lot 6, said AUDITOR'S SUBDIVISION NUMBER EIGHTY-EIGHT (88) HENNEPIN COUNTY, MINN.; thence on an assumed bearing of South 62 degrees 16 minutes 01 second West along the most northwesterly line of said Lot 6, a distance of 84.60 feet to a corner common to Lots 6 and 14, said AUDITOR'S SUBDIVISION NUMBER EIGHTY-EIGHT (88) HENNEPIN COUNTY, MINN., being the point of beginning of the land to be described; thence South 28 degrees 11 minutes 00 seconds East along a northeasterly line of said Lot 14, a distance of 80.00 feet to the intersection with a line parallel with and 80.00 feet southeasterly of, as measured at a right angle, the most northwesterly line of said Lot 6 and its southwesterly extension; thence southwesterly along said parallel line a distance of 286.16 feet; thence southwesterly a distance of 55.55 feet along a tangential curve, concave to the southeast, having a radius of 360.00 feet and a central angle of 08 degrees 50 minutes 27 seconds, to the centerline of vacated Fifth Street S.E.; thence North 60 degrees 42 minutes 54 seconds West along said centerline a distance of 100.47 feet to the intersection with the southwesterly extension of said most northwesterly line of Lot 6; thence North 62 degrees 16 minutes 01 second East along said southwesterly extension, a distance of 395.56 feet to the point of beginning.

Parcel 25-3

That part of Lot 6, AUDITOR'S SUBDIVISION NUMBER EIGHTY-EIGHT (88) HENNEPIN COUNTY, MINN., according to the recorded plat thereof, Hennepin County, Minnesota, described as follows:

Beginning at the most northerly corner of said Lot 6; thence on an assumed bearing of South 62 degrees 16 minutes 01 second West along the most northwesterly line of said Lot 6, a distance of 84.60 feet to a corner common to Lots 6 and 14, said AUDITOR'S SUBDIVISION NUMBER EIGHTY-EIGHT (88) HENNEPIN COUNTY, MINN.; thence South 28 degrees 11 minutes 00 seconds East along a southwesterly line of said Lot 6, a distance of 80.00 feet to the intersection with a line parallel with and 80.00 feet southeasterly of, as measured at a right angle, the most northwesterly line of said Lot 6; thence northeasterly along said parallel line a distance of 85.13 feet to a northeasterly line of said Lot 6; thence North 28 degrees 33 minutes 43 seconds West along said northeasterly line, a distance of 80.01 feet to the point of beginning.

Nature of Interest Acquired: Fee simple absolute title, subject only to : easement in favor of the University of Minnesota, per Document No. 9036188; easement for driveway purposes per Document No. 6207381.