

**RESOLUTION OF THE CITY
COUNCIL OF THE CITY OF
MINNEAPOLIS
Approving Stipulation of Final
Settlement For Cedar Lake Trail
Phase III – Parcel 14**

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, Land Partners II, LLLP (“Land Partners”) owns property lying between Royalston Avenue 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 (“Land Partners Property”);

WHEREAS, pursuant to previous City Council resolution, the City commenced eminent domain proceedings to acquire permanent and temporary easements over the Land Partners Property;

WHEREAS, the Easements acquired by the City over the Land Partners Property are also described in Exhibit A (“Easements”);

WHEREAS, the City and Land Partners entered into a Stipulation of Partial Settlement under which the City obtained the desired Easements, in return for the City’s deposit with the District Court Administrator of \$453,500, the City’s approved appraisal of damages for the Easements, which agreement was approved by the City Council, but did not resolve the total amount of compensation to be paid for the Easements;

WHEREAS, the City staff and counsel retained by the City have negotiated a proposed Stipulation of Final Settlement which, if approved, will resolve the amount of total compensation to be paid by the City for the Easements and all other issues relating to the City's acquisition of the Easements;

WHEREAS, under the Stipulation of Final Settlement, the City will pay Land Partners a total of \$276,500 for the Easements, in addition to amounts previously paid, which will satisfy all claims of Land Partners in the eminent domain proceeding or otherwise in relation to the City's acquisition of the Easements;

WHEREAS, pursuant to a Memorandum of Agreement between the City and the Hennepin County Regional Railroad Authority (HCRRA), HCRRA will be contributing toward payment of the \$276,500 settlement amount in consideration for the City acquiring a permanent transportation easement over the Land Partners Property in said eminent domain proceeding rather than a permanent trail easement.

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

Upon approval of the proposed Stipulation of Final Settlement by the City Attorney and execution and delivery of that agreement on behalf of Land Partners, the City Contracting Officer is authorized to execute the agreement on behalf of the City and to pay Land Partners, LLLP \$276,500, which is the additional compensation agreed to in the Stipulation of Final Settlement, and the Director of Public Works is directed to seek contribution from HCRRA of such amounts in relation to acquisition of the Easements encumbering the Land Partners Property as are consistent with the Memorandum of Agreement.

EXHIBIT A

Legal Description of Land Partners Property

Legal Descriptions of the Easements Acquired

Parcel No. 14 (Torrens Certificate of Title No. 1056073 (ID No. 22-029-24-42-0110; 22-029-24-42-0111; 22-029-24-42-0112; 22-029-24-42-0113):

Property Address: 408 Fourth Avenue No., Minneapolis, MN

Description of Subject Property:

That part of Section 22, Township 29, Range 24, part of Blocks 4, 5, 9-85 HOAG'S ADDITION TO MINNEAPOLIS, part of vacated 5th and 6th Streets North, and part of vacated 4th Avenue North, formerly Dakota Street, all described as follows:

Beginning at the intersection of a line drawn parallel with and 25 feet Southeasterly from the centerline of the East bound track of the Burlington Northern Railroad and a line drawn 43 feet Northeasterly from and concentric with a curve, hereinafter referred to as Curve "A", described as commencing at a point on the centerline of 2nd Avenue North distant 12.15 feet Northeasterly from its intersection with the centerline of 7th Street North; thence Northwesterly, deflecting 88 degrees 00 minutes 48 seconds, measured from Northeast to Northwest, from said centerline of 2nd Avenue North, a distance of 849.63 feet to the actual point of beginning of said Curve "A"; thence Northwesterly 295.14 feet along a tangential curve concave to the Southwest, having a radius of 11,459.16 feet and a central angle of 01 degree 28 minutes 32 seconds and said Curve "A" there terminating; thence Southeasterly along said line drawn concentric with said Curve "A" to its intersection with a radial line drawn Northeasterly passing through the point of beginning of said Curve "A"; thence Southeasterly tangent to said line drawn concentric with Curve "A" to the following described Line "A";

Line "A" is described as commencing at the most Southerly corner of the Northeasterly 210 feet of said Block 4; thence Northwesterly along the Southwesterly line of said Northeasterly 210 feet a distance of 258.36 feet; thence Southwesterly, deflecting to the left 83 degrees 57 minutes 10 seconds 105.6 feet, being the actual point of beginning of said Line "A"; thence Southwesterly, deflecting to the left 06 degrees 06 minutes 50 seconds to the Northeasterly line of said vacated 6th Street North; thence Southwesterly, deflecting to the right 17 degrees 29 minutes 10 seconds to the Southwesterly line of said vacated 6th Street North; thence Southwesterly, deflecting to the left 02 degrees 54 minutes 44 seconds a distance 156.74 feet to a point hereinafter referred to as Point "A"; thence Southwesterly 5.49 feet along a non-tangential curve concave to the Northwest, having a radius of 5,779.58 feet and a chord which deflects 10 degrees 13 minutes 52 seconds to the left, from the last-described line; thence Southwesterly, deflecting to the right 08 degrees 01 minutes 42 seconds from the chord of the last-described curve, a distance of 235 feet and said Line "A" there terminating.

Thence Northeasterly along said Line "A" to said Point "A"; thence Northeasterly along a curve concave to the Northwest, having a radius of 5,779.58 feet to a point on said Southwesterly line of said vacated 6th Street North distant 30 feet Northwesterly from its intersection with said Line "A"; thence Southeasterly along said Southwesterly line of vacated 6th Street North to said Line "A"; thence Northeasterly along said Line "A" to the point of beginning of said Line "A"; thence Northeasterly to a point on the Northeasterly line of said Block 4 distant 268.14 feet Northwesterly from the most Easterly corner of said Block 4; thence Northeasterly to a point on the Southwesterly line of said Block 85 distant 267.56 feet Northwesterly from the most Southerly corner of said Block 85; thence Northeasterly to a point on the Northeasterly line of said Block 85 distant 265.87 feet Northwesterly from the most Easterly corner of said Block 85; thence Northwesterly along the last-described Northeasterly line to the most Northerly corner of said Block 85; thence Northwesterly to the most Easterly corner of said Block 9; thence Northwesterly along the Northeasterly line of said Block 9 to said line drawn parallel with and 25 feet Southeasterly from the centerline of the East bound track of the Burlington Northern Railroad; thence Southwesterly along the last-described parallel line to the point of beginning.

Registered Property, as is evidenced by Certificate of Title No. 1056073, Hennepin County, Minnesota.

Description of Takings:

A permanent easement for transportation purposes and related facilities, including, without limitation, rail, bus, bicycle, road and foot travel, the location of utility and communication facilities, including fiber optic lines, and for other future transportation and public facilities, over, under and across that part of Section 22, Township 29, Range 24, part of Blocks 4, 5, 9, 85, HOAG'S ADDITION TO MINNEAPOLIS, part of vacated 5^h and 6^h Streets North, and part of vacated 4th Avenue North, formerly Dakota Street, all described as follows:

Beginning at the intersection of a line drawn parallel with and 25 feet Southeasterly from the centerline of the East bound track of the Burlington Northern Railroad (now known as BNSF Railway Company) as said centerline was located and established on November 1, 2000, and a line drawn 43 feet Northeasterly from and concentric with a curve, hereinafter referred to a Curve "A", described as commencing at a point on the centerline of 2nd Avenue North distant 12.15 feet Northeasterly from its intersection with the centerline of 7^h Street North; thence Northwesterly, deflecting 88 degrees 00 minutes 48 seconds, measured from Northeast to Northwest, from said centerline of 2^d Avenue North, a distance of 849.63 feet to the actual point of beginning of said Curve "A", thence Northwesterly 295.14 feet along a tangential curve concave to the Southwest, having a radius of 11,459.16 feet and a central angle of 01 degree 28 minutes 32 seconds and said Curve "A" there terminating; thence Southeasterly along said line drawn concentric with said Curve "A" to its intersection with a radial line drawn. Northeasterly passing through the point of beginning of said Curve "A"; thence Southeasterly tangent to said line drawn concentric with Curve "A" to the following described Line "A",

Line "A" is described as commencing at the most Southerly corner of the Northeasterly 210 feet of said Block 4; thence Northwesterly along the Southwesterly line of said Northeasterly 210 feet a distance of 258.36 feet; thence Southwesterly, deflecting to the left 83 degrees 51 minutes 10 seconds 105.6 feet, being the actual point of beginning of said Line "A"; thence Southwesterly, deflecting to the left 06 degrees 06 minutes 50 seconds to the Northeasterly line of said vacated 6th Street North; thence Southwesterly deflecting to the right 17 degrees 29 minutes 10 seconds to the Southwesterly line of said vacated 6th Street North; thence Southwesterly, deflecting to the left 02 degrees 54 minutes 44 seconds a distance of 156.74 feet to a point hereinafter referred to as Point "A", thence Southwesterly 5.49 feet along a non-tangential curve concave to the Northwest, having a radius of 5,779.58 feet and a chord which deflects 10 degrees 13 minutes 52 seconds to the left, from the last described line; thence Southwesterly, deflecting to the right 08 degrees 01 minutes 42 seconds from the chord of the last-described curve, a distance of 235 feet and said Line "A" there terminating.

Thence Northeasterly along said Line "A" to said Point "A"; thence Northeasterly along a curve concave to the Northwest, having a radius of 5,779.58 feet to a point on said Southwesterly line of said vacated 6th Street North distant 30 feet Northwesterly from its intersection with said Line "A"; thence Southeasterly along said Southwesterly line of vacated 6th Street North to said Line "A"; thence Northeasterly along said Line "A" to the point of beginning of said Line "A"; thence Northeasterly to a point on the Northeasterly line of said Block 4 distant 268.14 feet Northwesterly from the most Easterly corner of said Block 4; thence Northeasterly to a point on the Southwesterly line of said Block 85 distant 267.56 feet Northwesterly from the most

Southerly corner of said Block 85; thence Northeasterly to a point on the Northeasterly line of said Block 85 distant 265.87 feet Northwesterly from the most Easterly corner of said Block 85; thence Northwesterly along the last-described Northeasterly line to the most Northerly corner of said Block 85; thence Northwesterly to the most Easterly corner of said Block 9; thence Northwesterly along the Northeasterly line of said Block 9 to said line drawn parallel with and 25 feet Southeasterly from the centerline of the East bound track of the Burlington Northern Railroad (now known as BNSF Railway Company) as said centerline was located and established on November 16, 2000; thence Southwesterly along the last-described parallel line to the point of beginning.

Being registered land as evidenced by Certificate of Title No. 1056073.

Which lies northeasterly of the following described line:

Beginning at the most westerly corner of said Block 9; thence southeasterly along the southwesterly line of said Block 9 to the most southerly corner of said Block 9; thence southeasterly to the most westerly corner of said Block 85; thence southeasterly along the southwesterly line of said Block 85 to the most southerly corner of said Block 85 and said line there terminating.

Said permanent easement lies within 9.00 feet northwesterly of and 14.00 feet southeasterly of the following described line:

Commencing at the most southerly corner of said Block 9; thence on an assumed bearing of North 45 degrees 00 minutes 09 seconds West, along the southwesterly line of said Block 9, a distance of 17.00 feet to the point of beginning of the line to be described; thence North 45 degrees 03 minutes 49 seconds East a distance of 134.75 feet and said line there terminating.

Together with a permanent easement for transportation purposes and related facilities, including, without limitation, rail, bus, bicycle, road and foot travel, the location of utility and communication facilities, including fiber optic lines, and for other future transportation and public facilities over, under and across the described property. Said easement lies within 9.00 feet northwesterly of and 15.00 feet southeasterly of the following described line:

Beginning at the terminus of the above described line; thence North 45 degrees 03 minutes 49 seconds East, along the prolongation of above described line a distance of 139.84 feet; thence northeasterly on a tangential curve concave to the northwest, said curve 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 43 degrees 55 minutes 05 seconds East, tangent to said curve, a distance of 29.86 feet; thence northeasterly along a tangential curve concave to the southeast, said curve having a radius of 1000.00 feet and central angle of 00 degrees 53 minutes 16 seconds for a distance of 15.50 feet to the northeasterly line of said Block 9 and said described line there terminating.

Together with a 21.00 foot wide temporary easement for construction purposes lying southeasterly of and adjoining said permanent easements.

Said temporary easement to expire on: December 31, 2010.

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

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

Subject to an easement for highway purposes in favor of the State of Minnesota as contained in Final Certificate filed as County Recorder Document No. 4799825 and Amended Width Order No. 80683 (a certified copy of which is on file in Hennepin County District Court Torrens File No. 20230) over the northeasterly part of the above-described land, as more fully described therein;

Subject to an easement for bridge purposes in favor of the City of Minneapolis, over all of vacated Fifth Street North above described, pursuant to Order dated November 1, 1988 and filed December 1, 1988 as County Recorder Document No. 5482816;

Subject to an underground storm water and sewer easement agreement in favor of the City of Minneapolis, dated November 16, 1988, and filed March 23, 1988 as County Recorder Document No. 5518166;

Subject to an easement for public bridge in favor of the City of Minneapolis dated November 16, 1988 and filed March 23, 1989 as County Recorder Document No. 5518167 as to vacated Fifth Street North;

Subject to an easement for transmission line in favor of the County of Hennepin dated March 22, 1991 and filed April 17, 1991 as County Recorder Document No. 5769585.

Subject to an easement for underground storm sewer line in favor of the lands described on Exhibit B attached to County Recorder Document No. 6506644 over part of the above described Lots 1 and 10, Block 85, Lots 5 and 6, Block 4, and vacated Sixth Street North and vacated Fifth Street North, dated November 22, 1995, filed November 30, 1995 as County Recorder Document No. 6506644.

Subject to easements as shown and dedicated on record plat, if any.

Interests Being Encumbered

The names of the parties having an interest in the above-described land and the nature of their interests to the best of Petitioner's knowledge based upon a review of records in the office of the County Recorder and Registrar of Titles in and for Hennepin County, Minnesota are set forth below. It is the intention of the Petitioner to encumber all interests in the above described real

property, and to acquire all rights and possession thereof including, but not limited to, all of the interests of those parties named below.

Name	Nature of Interest
Land Partners II, LLLP, a Minnesota limited liability partnership	Fee Owner
Duddy, LLLP, a Minnesota limited liability partnership;	Easement
Hines Northstar Crossings Limited Partnership, a Texas limited partnership;	Optionee
Minikahda Ministorage IV, LLLP, a Minnesota limited liability limited partnership;	Easements
American Strategic Income Portfolio, Inc.-II, a Minnesota corporation	Mortgagee
City of Minneapolis	Assessments
Hennepin County	Real estate taxes and special assessments
All other parties known and unknown, including those listed herein as possible claimants, tenants, judgment creditors or holders of tax or other liens, having any right, title or interest in the premises herein, together with the unknown heirs or devisees, if any, of the parties named that may be deceased, together with the spouses of the parties named, if any	Possible holder of an interest