Midtown Greenway
Phase I

MIDTOWN GREENWAY TRAIL

RESOLUTION NO. 36-HCRRA-95

The following resolution was offered by Commissioner Opat, seconded by Commissioner Tambornino:

WHEREAS, the Hennepin County Regional Railroad Authority (HCRRA) has invested in a transportation corridor paralleling Lake Street and lying between France Avenue and Hiawatha Avenue in the City of Minneapolis known as the 29th Street Rail Corridor (Corridor), principally for the purpose of implementing Light Rail Transit (LRT) and other permitted future transportation uses; and

WHEREAS, Hennepin County has identified this transportation corridor and its proposed transportation improvements as an integral part of a vision for long-range property value enhancements and business development known as Hennepin Community Works; and

WHEREAS, the Minneapolis neighborhoods adjoining this corridor, together with the City of Minneapolis (City), Hennepin County and HCRRA have named this Community Works project, the "Midtown Greenway"; and

WHEREAS, the HCRRA, the City, and the neighborhoods are proposing to develop a master plan for the LRT and bicycle transportation improvements within the corridor owned by HCRRA; and

WHEREAS, the City and HCRRA desire to enter into an agreement to develop a master plan for the Corridor and engineering plans for the first stage of construction, and provide for a division of cost for planning and construction of the bicycle trail between France Avenue and I-35W as an integral part of the Hennepin Community Works initiative,

BE IT RESOLVED, that Agreement No. A09775 with the City of Minneapolis, providing for planning, engineering and bikeway construction in the 29th Street Rail Corridor, between France Avenue and Hiawatha Avenue in the City of Minneapolis, for an indefinite time period commencing with Board approval, at a Hennepin County Regional Railroad Authority (HCRRA) cost not to exceed $304,200, be approved, and that the Chair be authorized to sign the Agreement on behalf of the Authority.

The question was on the adoption of the resolution and there were 4 YEAS and 1 NAYS as follows:

BOARD OF COMMISSIONERS HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY	YEA	NAY	OTHER
Mike Opat	X		
Sandra Hilary	X		
Mark Andrew			ABSENT
Randy Johnson			ABSENT
Mary Tambornino	X		
Penny Steele		X	
Peter McLaughlin, Chair	X		

RESOLUTION ADOPTED SEPTEMBER 12, 1995

ATTEST: Mary Tambornino

Mary Tambornino, Secretary

MIDTOWN GREENWAY - PHASE I
FRANCE TO 5TH AVE.

SECOND AMENDMENT TO PERMIT AGREEMENT NO. AO9775

THIS AGREEMENT, made and entered into by and between the HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY ("Permittor"), a Minnesota political subdivision, and the City of Minneapolis ("Permittee"), a Minnesota political subdivision;

W I T N E S S E T H:

WHEREAS, Permittor and Permittee entered into a certain Permit Agreement bearing Agreement No. AO9775 and the First Amendment to Permit Agreement No. AO9775, for the right to construct and operate a temporary trail on property commonly described as the Hennepin County Regional Rail Authority "29th Street Rail Corridor", said Permit and ~~First~~ Second Amendment being set forth *in Exhibit "B"*, attached hereto and made a part hereof by reference;

WHEREAS, Permittor and Permittee desire to amend the Permit in certain particulars;

NOW, THEREFORE, the parties mutually agree as follows:

Clause 5. "Premises" of the Permit is hereby amended by substituting the following therefor:

5. Premises

HCRRA hereby agrees to grant certain rights and benefits to the City hereinafter described with regard to that certain real property described as follows:

That part of HCRRA's right of way OF THE 29TH STR. RR Corridor, located in the City of Minneapolis, between France Ave. So. and 5th Ave. So., the northerly limits being the northerly HCRRA property line and the southerly limits being the southerly construction limits shown on the construction plans for the 29th St. Midtown Greenway – Phase I, attached hereto as, Exhibit "A1"

The said real estate shall be hereinafter described as the "Premises."

The effective date of this First Amendment to Permit Agreement No. AO9775 is June 1, 2003.

Except as herein above amended, the terms, conditions and provisions of Permit Agreement No.AO9775, shall apply to and govern the provisions of this Agreement.

MINNESOTA DEPARTMENT OF TRANSPORTATION
MINNEAPOLIS DEPT. OF PUBLIC WORKS

CONSTRUCTION PLAN FOR

TRAIL AND GRADING IMPROVEMENTS

29TH STREET MIDTOWN GREENWAY – PHASE I

MPLS. DEPARTMENT
OF PUBLIC WORKS
STATE PROJ. NO. 141-090-03

BETWEEN INTERSECTION OF CHOWEN AVE. AND 31ST STREET AND 29TH STREET RAILROAD CORRIDOR AND 5TH AVE.

GROSS LENGTH	14,774.41	FEET	2.798	MILES
BRIDGES-LENGTH		FEET		MILES
EXCEPTIONS-LENGTH		FEET		MILES
NET LENGTH	14,774.41	FEET	2.798	MILES

FROM A POINT 270 FEET SOUTH AND 1210 FEET EAST OF THE NORTHWEST CORNER OF SECTION 5, TOWNSHIP 28, RANGE 24, HENNEPIN COUNTY, MINNESOTA

TO A POINT 700 FEET NORTH AND 300 FEET WEST OF THE SOUTHEAST CORNER OF SECTION 34, TOWNSHIP 29, RANGE 24, HENNEPIN COUNTY, MINNESOTA

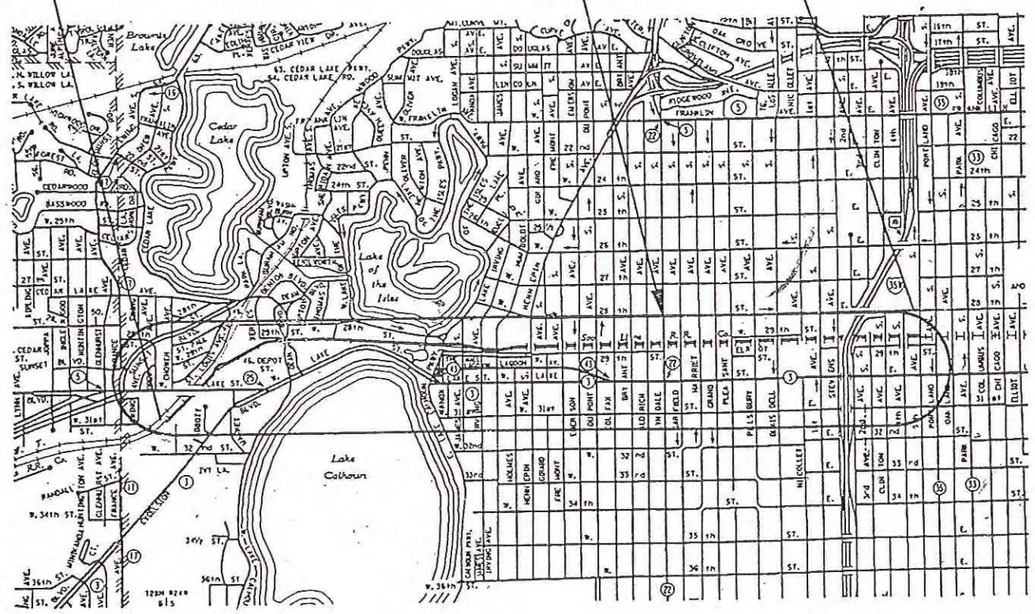
1-9-97

MIDTOWN GREENWAY TRAIL
EXHIBIT A1

BEGIN S.P. 141-090-03
STA. 101+00.00

PROJECT LOCATION

END S.P. 141-090-03
STA. 248+74.41



PLAN SYMBOLS

STATE LINE
COUNTY LINE
TOWNSHIP OR RANGE LINE
SECTION LINE
QUARTER LINE
SIXTEENTH LINE
RIGHT-OF-WAY LINE
PRESENT RIGHT-OF-WAY LINE
CONTROL OF ACCESS LINE
PROPERTY LINE (Except Land Lines)
VACATED PLATTED PROPERTY
CORPORATE OR CITY LIMITS
TRUNK HIGHWAY CENTER LINE
RETAINING WALL
RAILROAD
RAILROAD RIGHT-OF-WAY LINE
RIVER OR CREEK
DRY RUN
DRAINAGE DITCH (SIZE)
DRAIN TILE
CULVERT
DROP INLET
GUARD RAIL
BARBED WIRE FENCE
WOVEN WIRE FENCE
CHAIN LINK FENCE
RAILROAD SNOW FENCE
STONE WALL OR FENCE
HEDGE
RAILROAD CROSSING SIGN
RAILROAD CROSSING BELL
ELECTRIC WARNING SIGN
CROSSING GATE
MEANDER CORNER
SPRINGS
MARSH
TIMBER
ORCHARD
BRUSH
NURSERY
CATCH BASIN
FIRE HYDRANT
CATTLE GUARD
OVERPASS (Highway Over)
UNDERPASS (Highway Under)
BRIDGE
BUILDING (One Story Frame)
F-FRAME C-CONCRETE
S-STONE T-TILE
B-BRICK ST-STUCCO
IRON PIPE OR ROD
MONUMENT (STONE, CONCRETE, OR METAL)
WOODEN MUD
GRAVEL PIT
SAND PIT
BORROW PIT
ROCK QUARRY

UTILITY SYMBOLS

POWER POLE LINE
TELEPHONE OR TELEGRAPH POLE LINE
JOINT TELEPHONE AND POWER ON POWER POLES ON TELEPHONE POLES
ANCHOR
STEEL TOWER
STREET LIGHT
PEDESTAL (TELEPHONE CABLE TERMINAL)
GAS MAIN
WATER MAIN
CONDUIT
TELEPHONE CABLE IN CONDUIT
ELECTRIC CABLE IN CONDUIT
TELEPHONE MANHOLE
ELECTRIC MANHOLE
BURIED TELEPHONE CABLE
BURIED ELECTRIC CABLE
AERIAL TELEPHONE CABLE
SEWER (SANITARY)
SEWER (STORM)
SEWER MANHOLE
MANHOLE

NAME: COV 348.PLN DATE: Nov. 25, 1996

PLAN REVISIONS		
DATE	SHEET NO.	APPROVED BY

DESIGN DATA

	STATE PROJ. NO. 141-090-03
FUNCTIONAL CLASSIFICATION	N/A
NO. OF TRAFFIC LANES	N/A
NO. OF PARKING LANES	N/A
STRUCTURAL DESIGN	N/A
R VALUE	N/A
DESIGN SPEED	20 MPH
BASED ON SIGHT DISTANCE	STOPPING
HEIGHT OF EYE	3.75'
HEIGHT OF OBJECT	0.0'

SCALES

PLAN	50'
PROFILE	5' V 50' H
INDEX MAP	1500'
GENERAL LAYOUT	200'
X-SECTION	10' V 10' H

DESIGN SPEED NOT ACHIEVED AT:

STA. 74+49.00 TO STA. 74+65.55	STOP CONDITION
STA. 20+01.70 TO STA. 20+37.13	15 MPH HOR. CURVE
STA. 40+06.82 TO STA. 40+22.02	STOP CONDITION
STA. 52+50.74 TO STA. 52+66.40	STOP CONDITION
STA. 60+08.71 TO STA. 60+21.66	STOP CONDITION
STA. 150+68.64 TO STA. 153+25.68	LESS THAN MIN. WIDTH
STA. 154+55.84 TO STA. 156+11.93	LESS THAN MIN. WIDTH
STA. 70+00.00 TO STA. 70+40.00	STOP CONDITION
STA. 73+30.00 TO STA. 74+70.00	STOP CONDITION
STA. 21+35.00 TO STA. 21+65.00	STOP CONDITION
STA. 40+07.00 TO STA. 40+27.00	STOP CONDITION
STA. 42+40.00 TO STA. 42+60.00	STOP CONDITION
STA. 50+00.00 TO STA. 50+20.00	STOP CONDITION
STA. 52+55.00 TO STA. 52+75.00	STOP CONDITION
STA. 60+07.00 TO STA. 60+27.00	STOP CONDITION
STA. 63+40.00 TO STA. 63+60.00	STOP CONDITION
STA. 101+40.50	

MINNESOTA PROJECT NO. STP 2796 (069)

GOVERNING SPECIFICATIONS

THE 1988 EDITION OF THE MINNESOTA DEPARTMENT OF TRANSPORTATION "STANDARD SPECIFICATIONS FOR CONSTRUCTION" AS AMENDED BY THE JANUARY 02, 1991 SUPPLEMENTAL SPECIFICATION SHALL GOVERN.

INDEX

SHEET NO.	SHEET DESCRIPTION
1	TITLE SHEET
2	STATEMENT OF ESTIMATED QUANTITIES
3	GENERAL LAYOUT
4	CONSTRUCTION/SOILS NOTES, STANDARD PLATES, AND EARTHWORK SUMMARY
5-6	SIGNING & STRIPING DETAILS
7	RETAINING WALL DETAILS
8	MISCELLANEOUS DETAILS
9	TYPICAL SECTIONS
10-12	ALIGNMENT PLAN AND TABULATION
13	TABULATIONS
14-24	CONSTRUCTION PLANS AND PROFILES
25	RAMP PROFILES
26-31	ELECTRICAL LIGHTING PLAN
32	ELECTRICAL LIGHTING DETAILS
33-37	EROSION CONTROL DETAILS
38-83	CROSS SECTIONS

THIS PLAN CONTAINS 83 SHEETS

I HEREBY CERTIFY THAT THIS PLAN WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY REGISTERED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.

ENGR. _____

Date _____ Reg. No. _____

I HEREBY CERTIFY THAT THIS PLAN WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY REGISTERED PROFESSIONAL LANDSCAPE ARCHITECT UNDER THE LAWS OF THE STATE OF MINNESOTA.

L. ARCH. _____

Date _____ Reg. No. _____

SRF CONSULTING GROUP, INC.

I HEREBY CERTIFY THAT THIS PLAN WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY REGISTERED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.

E. ENGR. _____

Date _____ Reg. No. _____

CAIN OUSE ASSOCIATES
CONSULTING ENGINEERS

Recommended for Approval _____ 19 ___
MINNEAPOLIS DEPT. OF PUBLIC WORKS

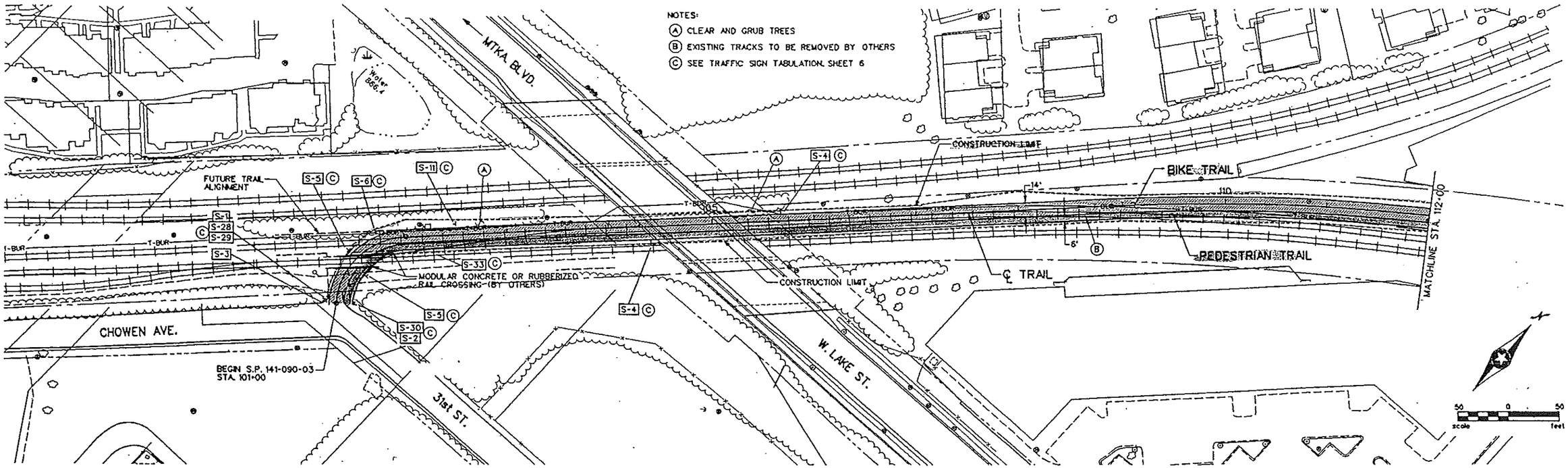
Recommended for Approval _____ 19 ___
METRO-ASSISTANT DIVISION ENGINEER-STATE AID

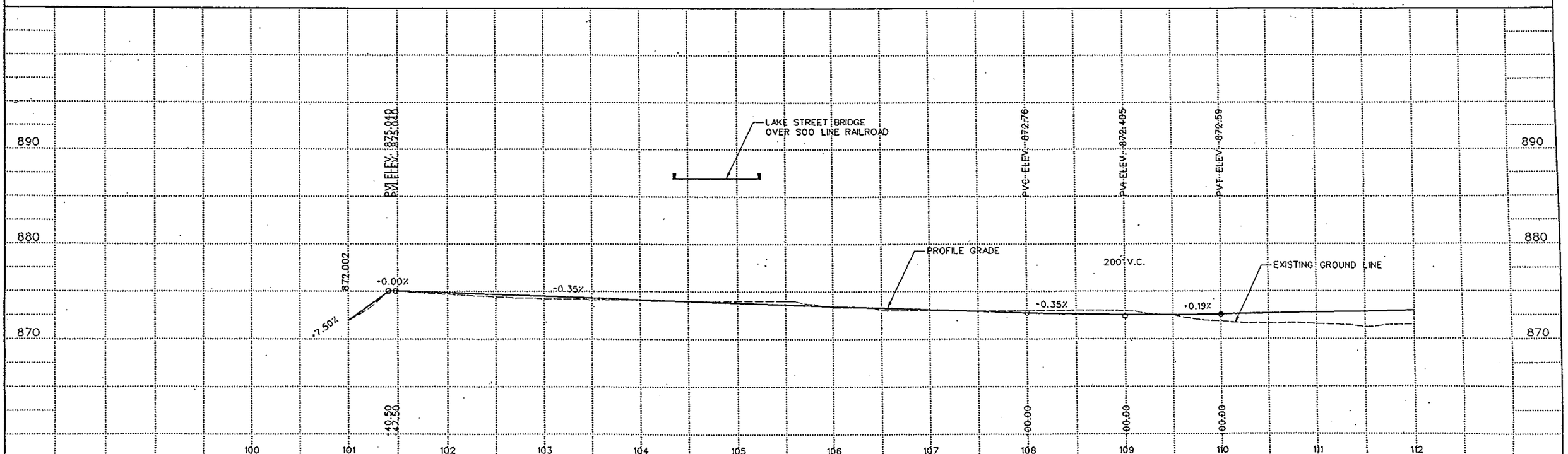
Recommended for Approval _____ 19 ___
FOR STATE AID DIVISION

Approved _____ 19 ___
STATE AID ENGINEER

MPLS. DEPT. OF PUBLIC WORKS PROJ. NO. _____
STATE PROJECT NO. 141-090-03

NOTES:
(A) CLEAR AND GRUB TREES
(B) EXISTING TRACKS TO BE REMOVED BY OTHERS
(C) SEE TRAFFIC SIGN TABULATION, SHEET 6





NO	DATE	BY	CKD	APPR	REVISION

NAME: CP1 348.PLN DATE: Oct. 17, 1996

I hereby certify that this plan, specification or report was prepared by me or under my direct supervision and that I am a duly Registered Professional Engineer under the laws of the State of Minnesota.

Date _____ Reg. No. _____

STATE AID PROJECT NO. 141-090-03

CITY PROJECT NO.

		DATE
DRAWN BY	L. VAN DRASEK	5-96
DESIGNED BY	R. LEWIS	5-96
CHECKED BY	D. JULIFF	5-96

COMM. NO. 0952348

SRF CONSULTING GROUP, INC.

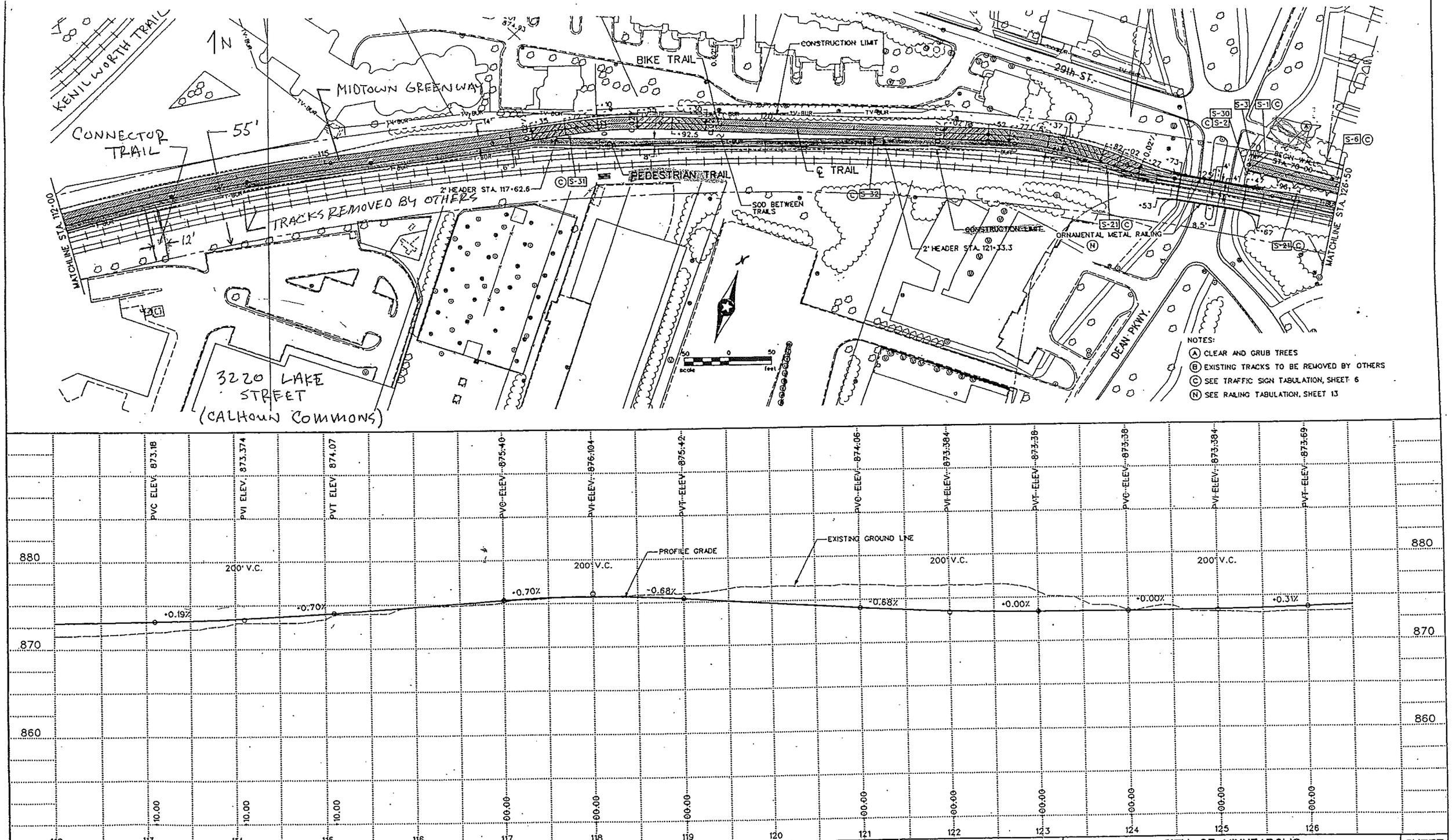
CITY OF MINNEAPOLIS

PLAN & PROFILE

29TH STREET MIDTOWN GREENWAY

STA. 101+00 TO STA. 112+00

SHEET 14 OF 83



NO	DATE	BY	CKD	APPR	REVISION

NAME: CP2 348.PLN DATE: Oct. 17, 1996

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Date _____ Reg. No. _____

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DRAWN BY L. VAN DRASEK DATE 5-96
DESIGNED BY R. LEWIS 5-96
CHECKED BY D. JEFF 5-96
COMM. NO. 0952348

SRF CONSULTING GROUP, INC.

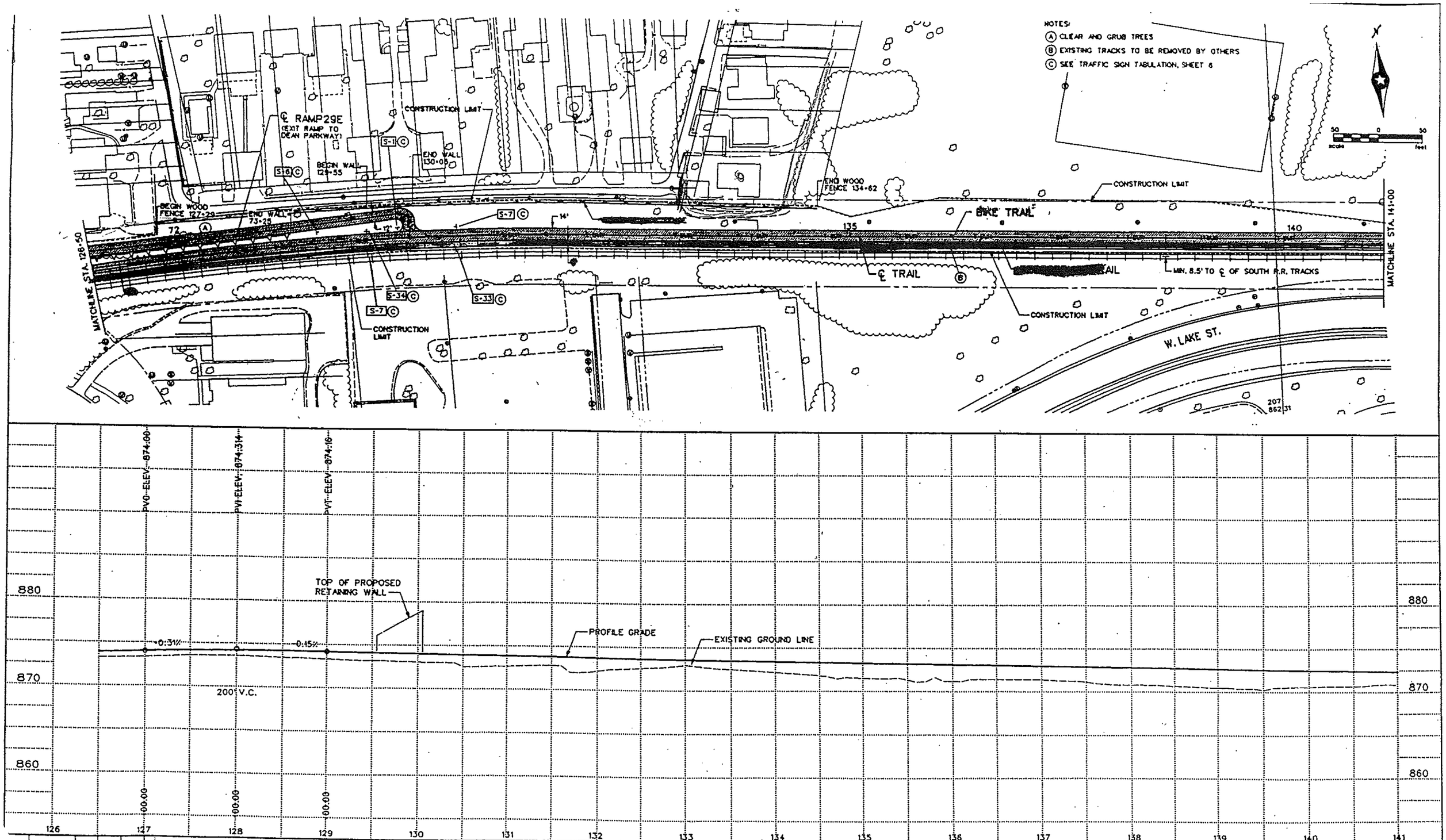
CITY OF MINNEAPOLIS

PLAN & PROFILE

29TH STREET MIDTOWN GREENWAY

STA. 112+00 TO STA. 126+50

SHEET 15 OF 83



DATE	BY	CKD	APPR	REVISION
23 348.PLN	DATE: Oct. 17, 1996			

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COMM. NO. 0952348

SRF CONSULTING GROUP, INC.

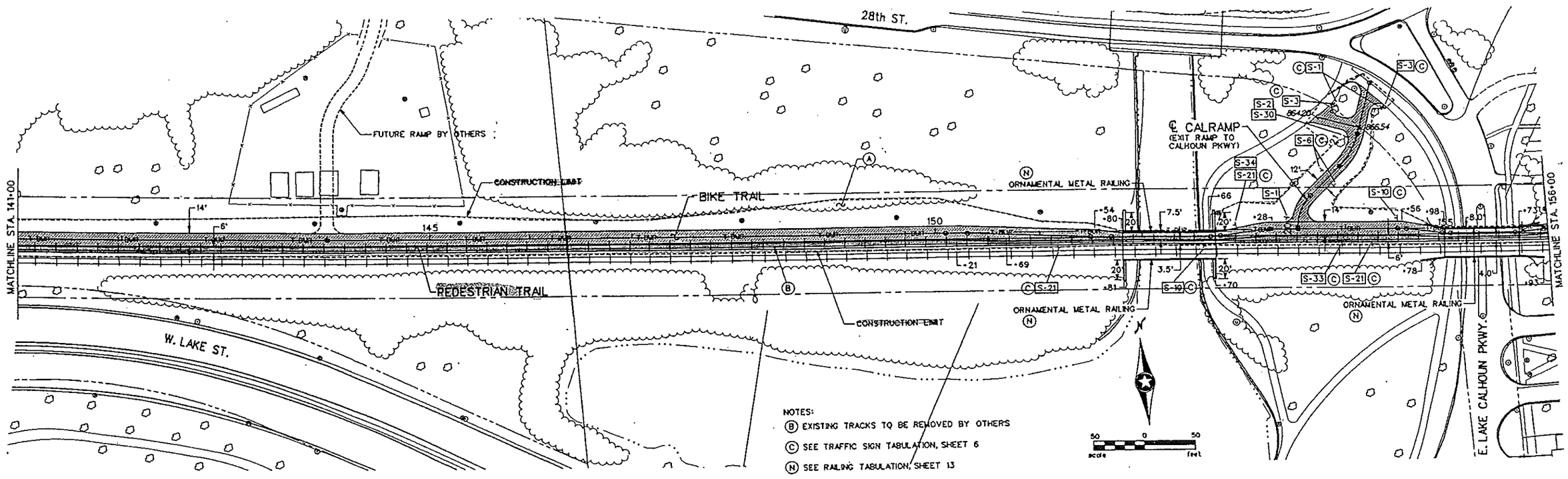
CITY OF MINNEAPOLIS

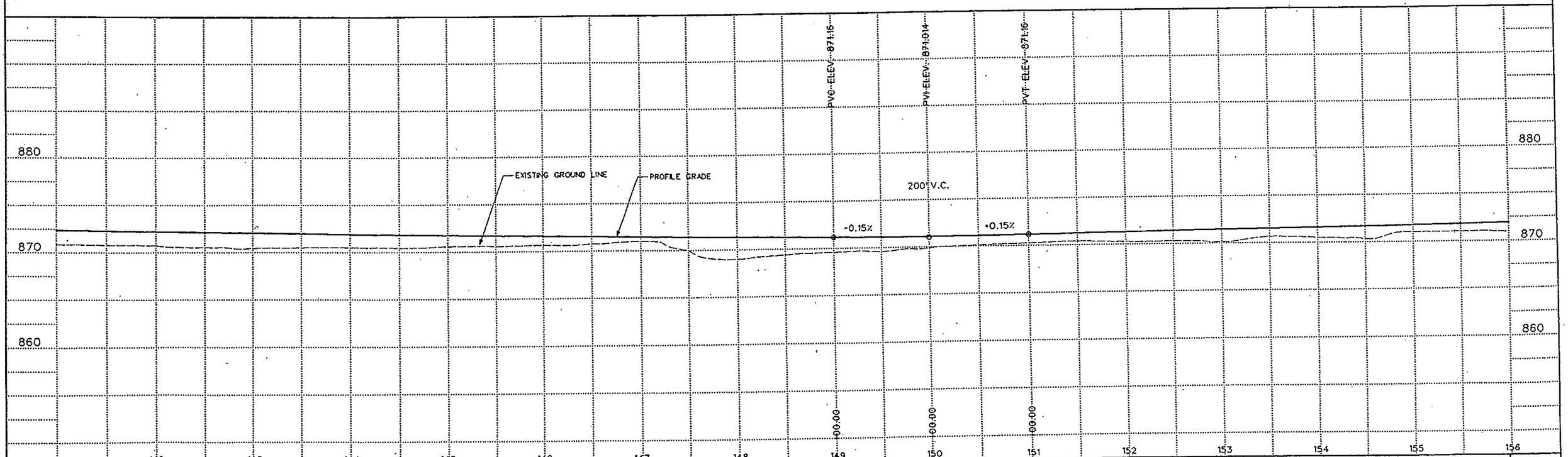
PLAN & PROFILE

29TH STREET MIDTOWN GREENWAY

STA. 126+50 TO STA. 141+00

SHEET 16 OF 83





NO	DATE	BY	CKD	APPR	REVISION

NAME: CP4 348.PLN DATE: Oct. 17, 1996

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Date _____ Reg. No. _____

STATE AID PROJECT NO. 141-090-03

CITY PROJECT NO.

DRAWN BY L. VAN DRASEK DATE 5-96
DESIGNED BY R. LEWIS 5-96
CHECKED BY D. JAEFF 5-96
CONT. NO. 095:348

SRF CONSULTING GROUP, INC.

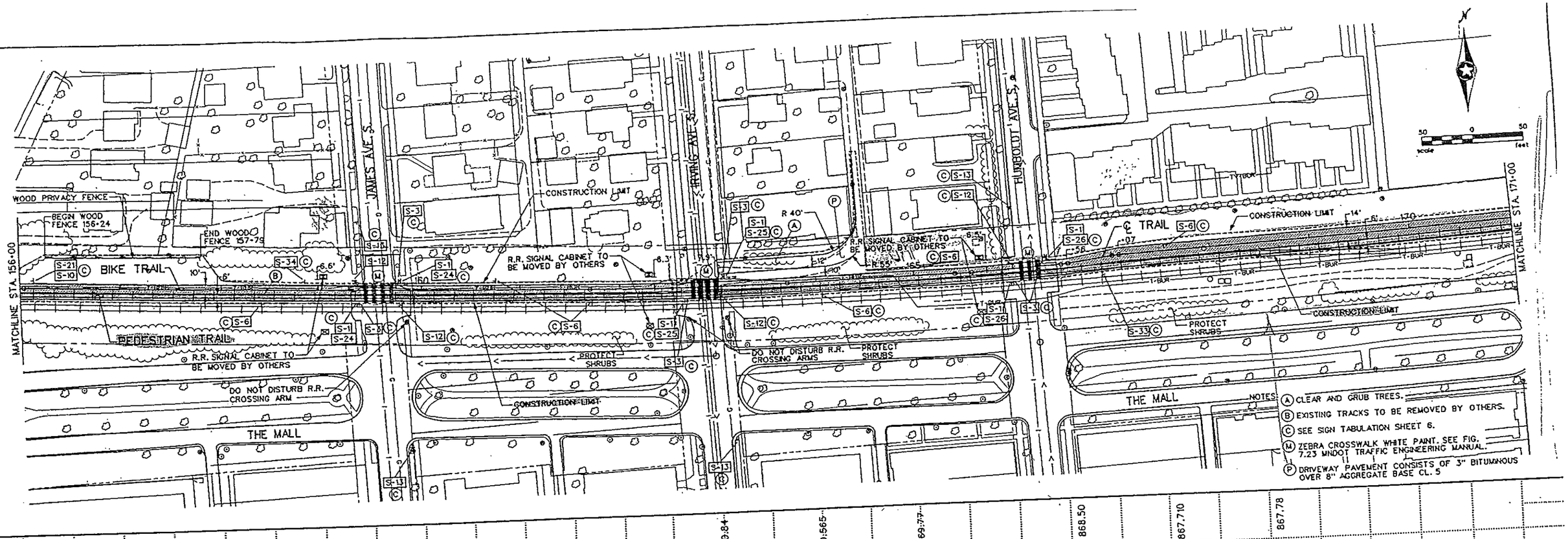
CITY OF MINNEAPOLIS

PLAN & PROFILE

29TH STREET MIDTOWN GREENWAY

STA. 141+00 TO STA. 156+00

SHEET 17 OF 83



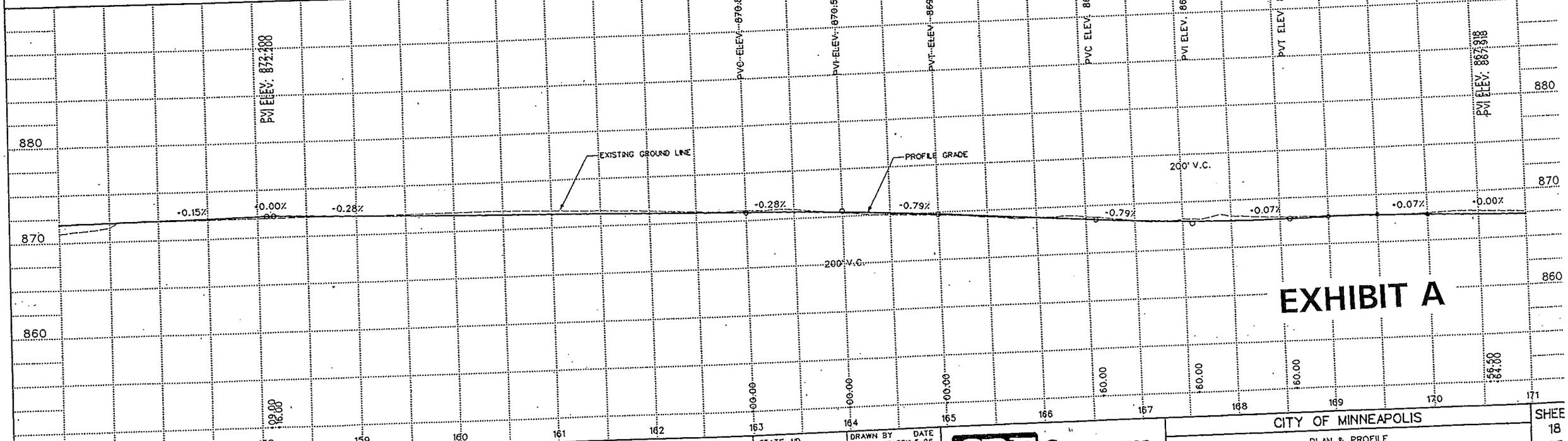


EXHIBIT A

NO	DATE	BY	CKD	APPR	REVISION

NAME: CP5 348.PLN DATE: Oct. 17, 1996

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STATE AID PROJECT NO. 141-090-03

CITY PROJECT NO.

DRAWN BY L. VAN DRASEK DATE 5-96
DESIGNED BY R. LEWIS 5-96
CHECKED BY D. JULIFF 5-96
COMM. NO. 0952348

SRF CONSULTING GROUP, INC.

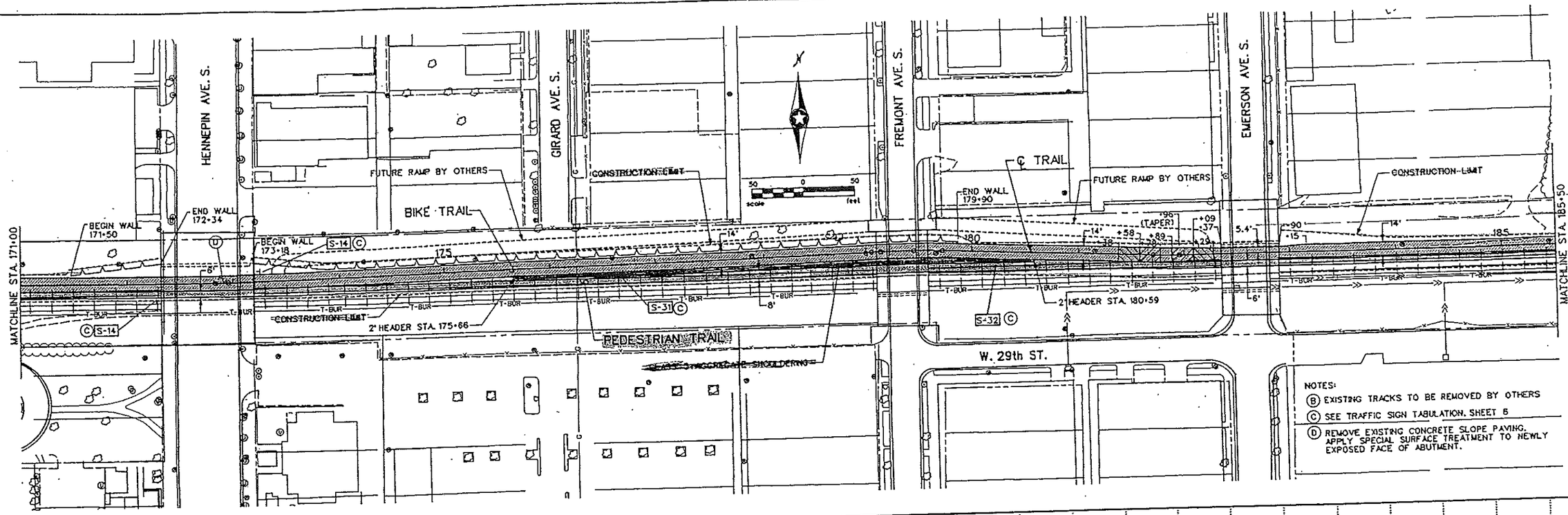
CITY OF MINNEAPOLIS

PLAN & PROFILE

29TH STREET MIDTOWN GREENWAY

STA. 156+00 TO STA. 171+00

SHEET 18 OF 83



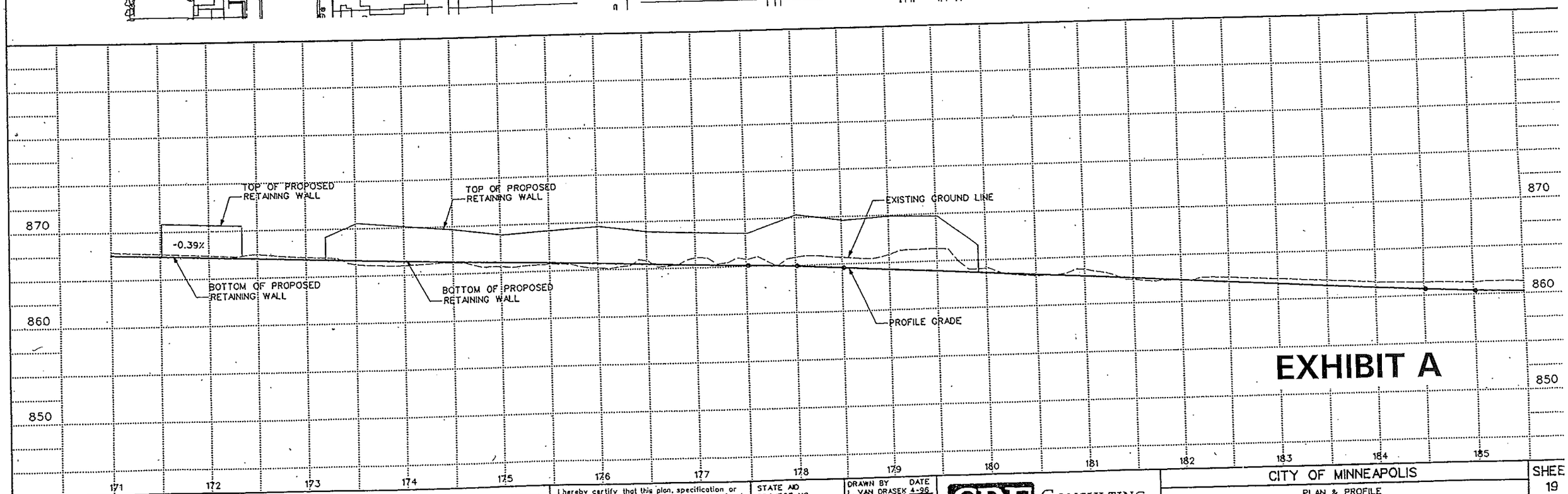


EXHIBIT A

NO	DATE	BY	CKD	APPR	REVISION

NAME: CP6 348.PLN DATE: Oct. 17, 1996

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Date _____ Reg. No. _____

STATE AID PROJECT NO. 141-090-03

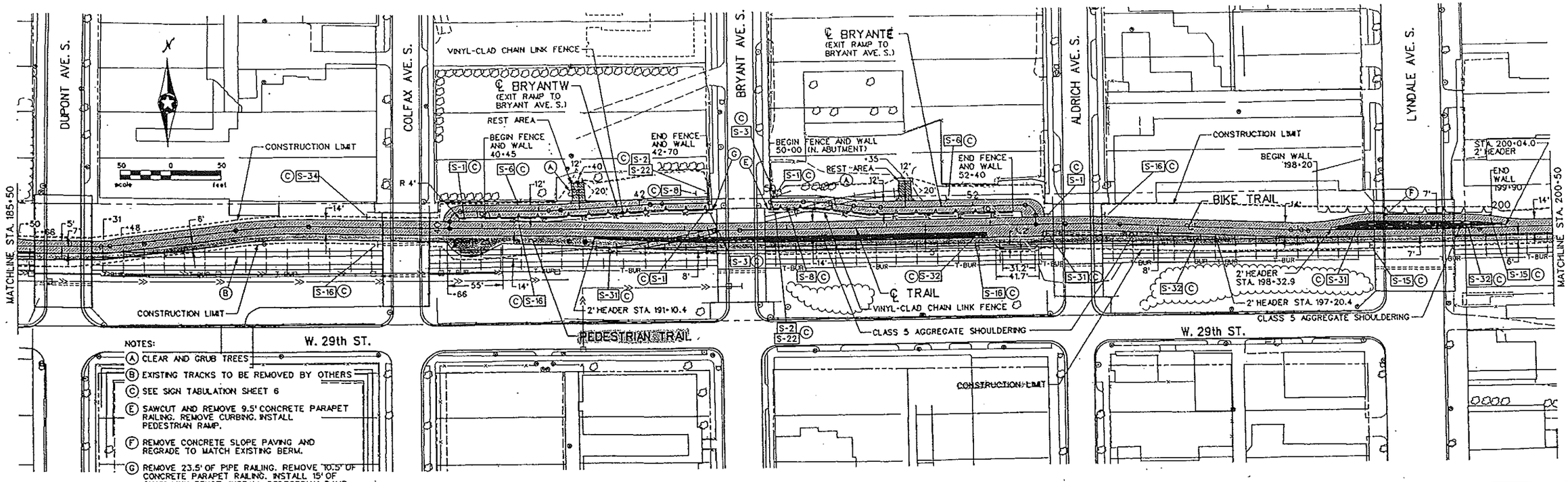
CITY PROJECT NO.

DRAWN BY L. VAN ORASEK DATE 4-96
DESIGNED BY R. LEWIS 4-96
CHECKED BY D. JULIFF 5-96
COMM. NO. 0952348

SRF CONSULTING GROUP, INC.

CITY OF MINNEAPOLIS
PLAN & PROFILE
29TH STREET MIDTOWN GREENWAY
STA. 171+00 TO STA. 185+50

SHEET 19 OF 83



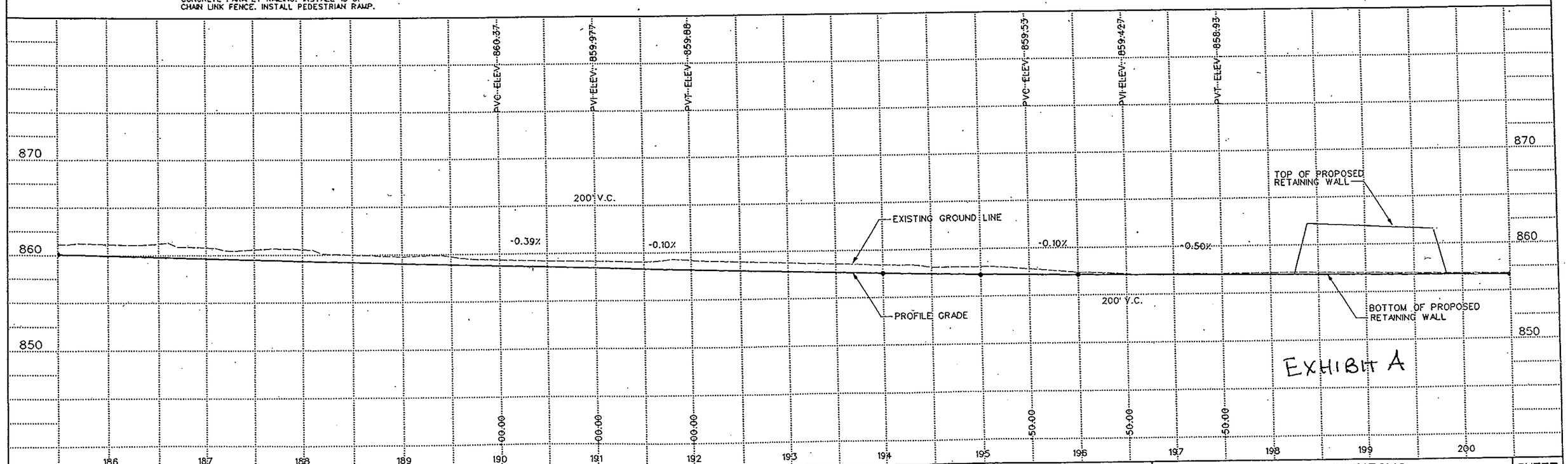


EXHIBIT A

NO	DATE	BY	CKD	APPR	REVISION

NAME: CP7 348.PLN DATE: Oct. 17, 1996

I hereby certify that this plan, specification or report was prepared by me or under my direct supervision and that I am a duly Registered Professional Engineer under the laws of the State of Minnesota.

Date _____ Reg. No. _____

STATE AID PROJECT NO. 141-090-03

CITY PROJECT NO.

DRAWN BY L. VAN DRASEK DATE 5-96
DESIGNED BY R. LEWIS 5-96
CHECKED BY D. JULIFF 5-96
COMM. NO. 0952348

SRF CONSULTING GROUP, INC.

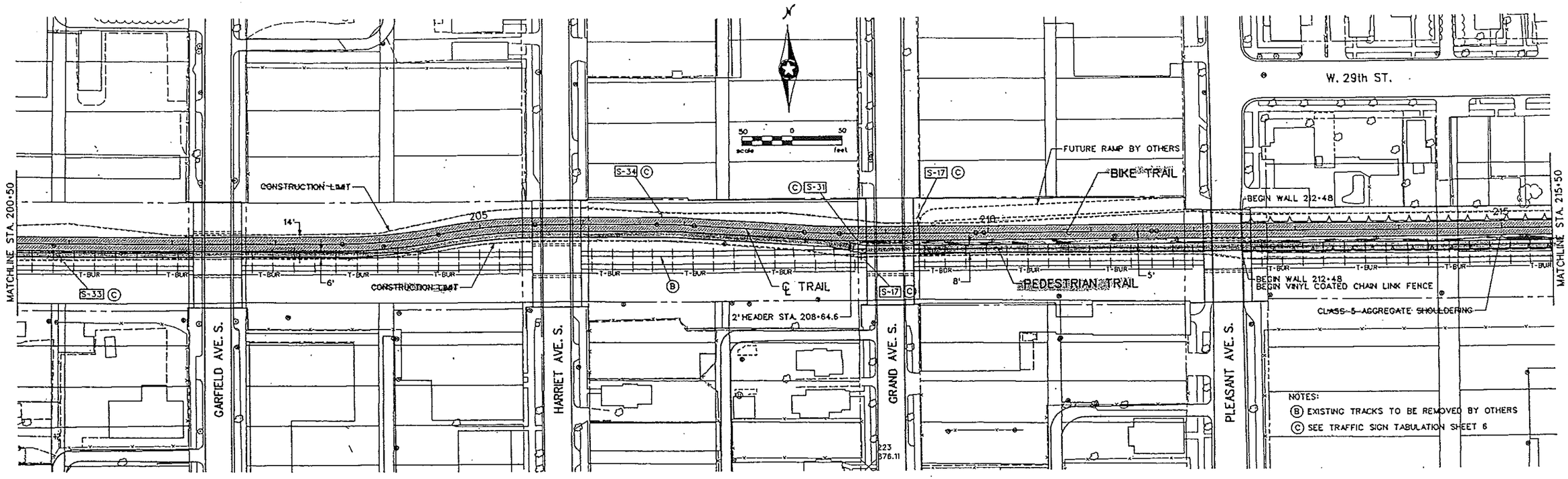
CITY OF MINNEAPOLIS

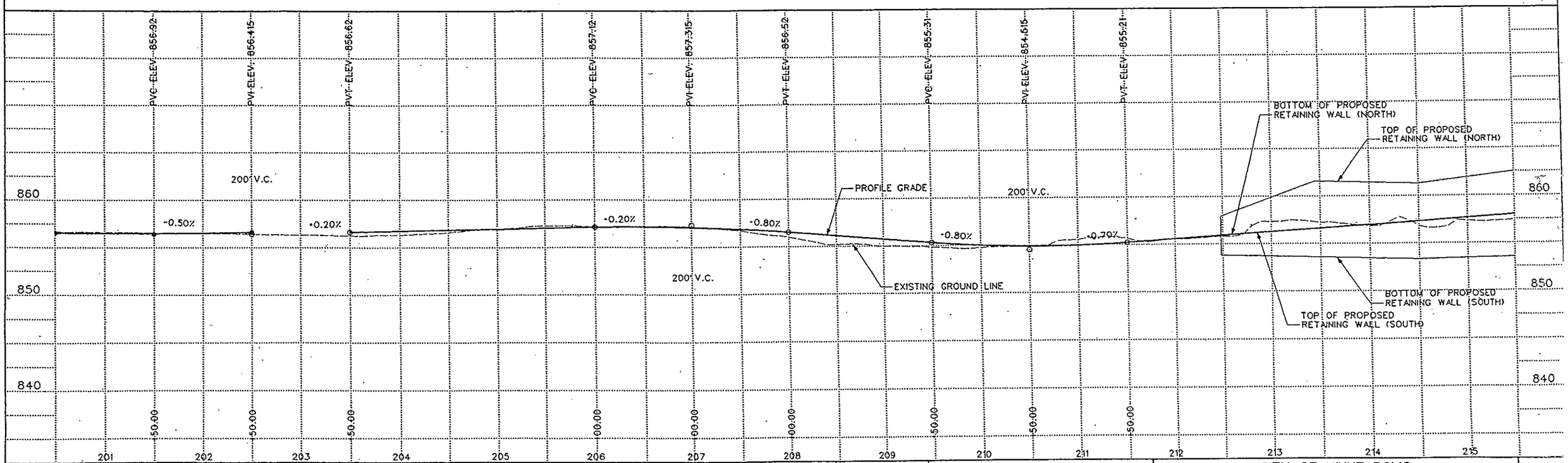
PLAN & PROFILE

29TH STREET MIDTOWN GREENWAY

STA. 185+50 TO STA. 200+50

SHEET 20 OF 83





NO	DATE	BY	CKD	APPR	REVISION

NAME: CPB 348.PLN DATE: Oct. 17, 1996

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Date _____ Reg. No. _____

STATE AID PROJECT NO. 141-090-03

CITY PROJECT NO.

DRAWN BY L. VAN DRASEK DATE 5-96
DESIGNED BY R. LEWIS 4-96
CHECKED BY D. JULIFF 5-96
COMM. NO. 0952348

SRF CONSULTING GROUP, INC.

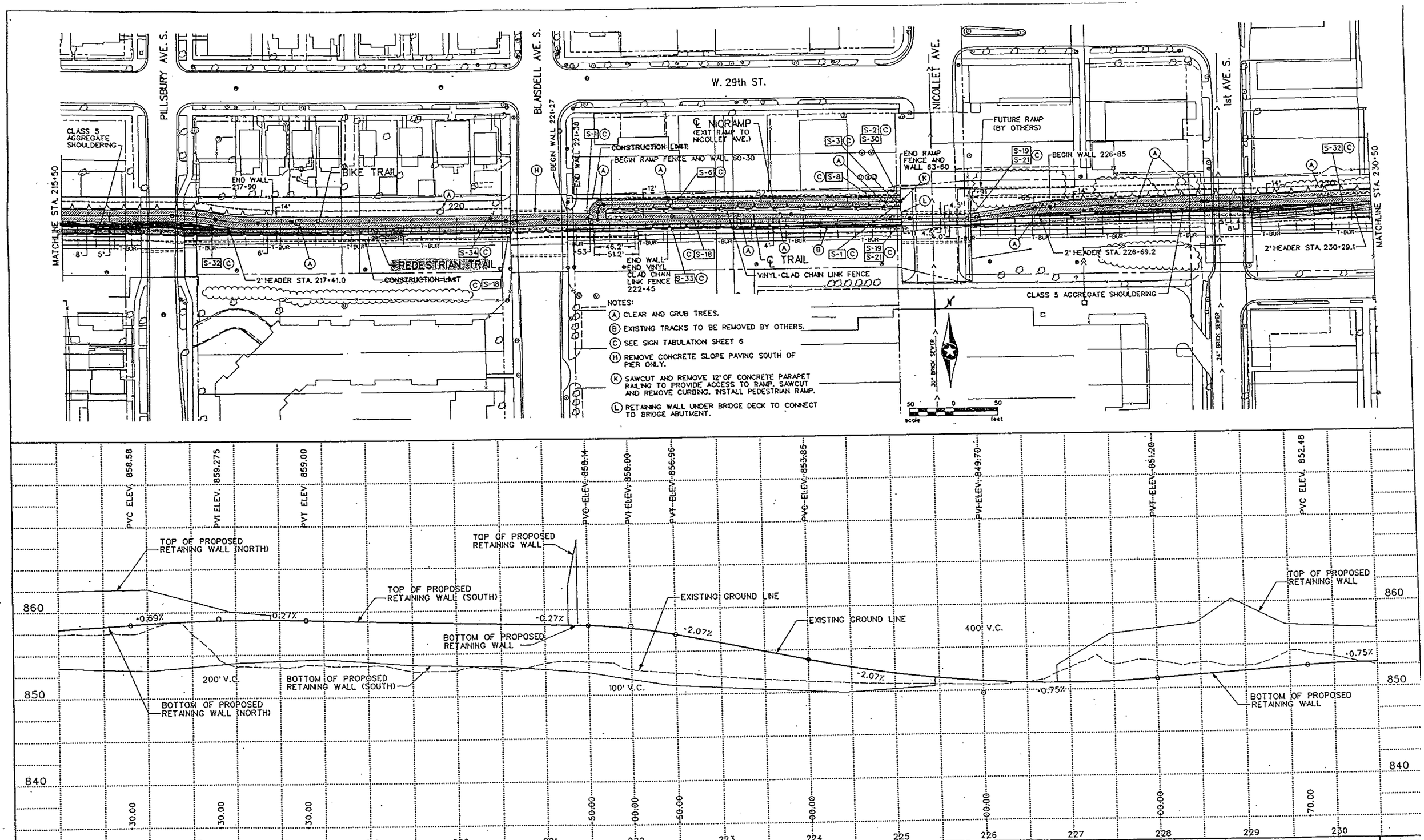
CITY OF MINNEAPOLIS

PLAN & PROFILE

29TH STREET MIDTOWN GREENWAY

STA. 200+50 TO STA. 215+50

SHEET 21 OF 83



NO	DATE	BY	CKD	APPR	REVISION

NAME: CP9 348.PLN DATE: Oct. 17, 1996

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STATE AID PROJECT NO. 141-090-03

CITY PROJECT NO.

DRAWN BY L. VAN DRASEK DATE 5-96
DESIGNED BY R. LEWIS 5-96
CHECKED BY D. JULIFF 5-96
COMM. NO. 0952348

SRF CONSULTING GROUP, INC.

CITY OF MINNEAPOLIS

PLAN & PROFILE

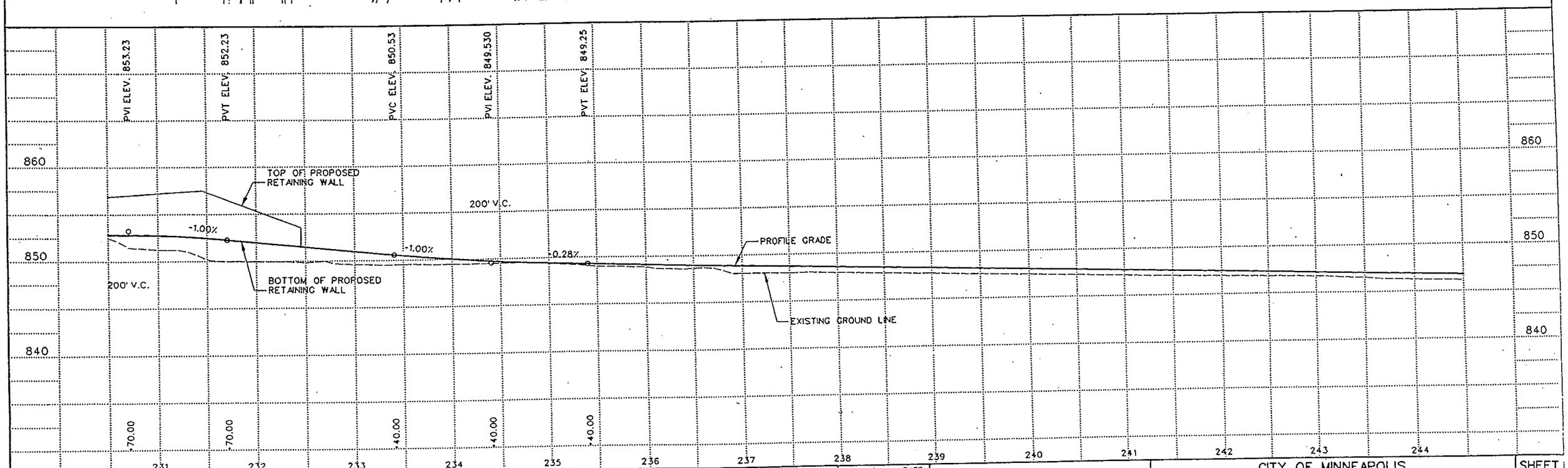
29TH STREET MIDTOWN GREENWAY

STA. 215+50 TO STA. 230+50

SHEET 22 OF 83

NOTES:
(A) CLEAR AND GRUB TREES
(B) EXISTING TRACKS TO BE REMOVED BY OTHERS
(C) SEE TRAFFIC SIGN TABULATION, SHEET 6

STEVENS AVE.
S.B. 35W
N.B. 35W
BIKE TRAIL
CONSTRUCTION LIMIT
END WALL 232+45
S-20
SOD BETWEEN TRAILS
S-31
2' HEADER STA. 232+56.3
℄ TRAIL
CONSTRUCTION LIMIT
E. 29th ST.
2nd AVE. S.
24" BRICK SEWER
3rd AVE. S.
PEDESTRIAN TRAIL
CLASS 5 AGGREGATE SHOULDERING
2' HEADER STA. 243+48
CLINTON AVE. S.
MATCHLINE STA. 230+50
MATCHLINE STA. 244+50
T-BUR
scale 50 0 50 feet
231
862.25



NO	DATE	BY	CKD	APPR	REVISION

NAME: CP10 348.PLN DATE: Oct. 17, 1996

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Date _____ Reg. No. _____

STATE AID PROJECT NO. 141-090-03

CITY PROJECT NO.

		DATE
DRAWN BY	L. VAN DRASEK	5-96
DESIGNED BY	R. LEWIS	5-96
CHECKED BY	D. JULIFF	5-96
COMM. NO.	0952348	

SRF CONSULTING GROUP, INC.

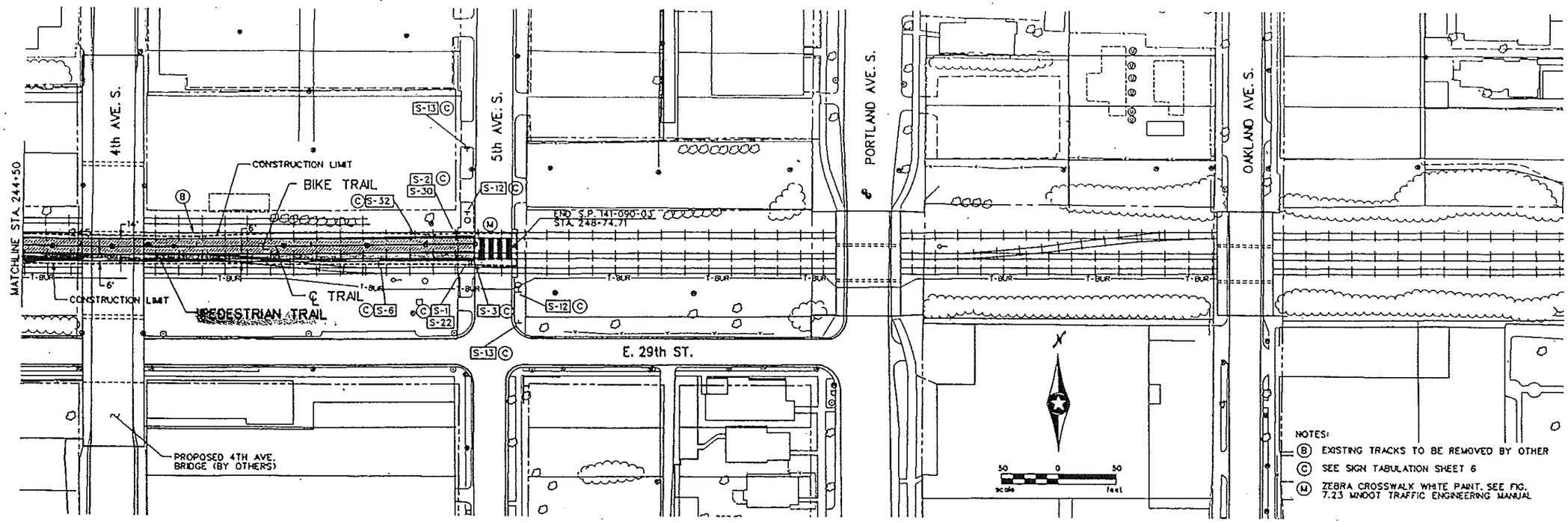
CITY OF MINNEAPOLIS

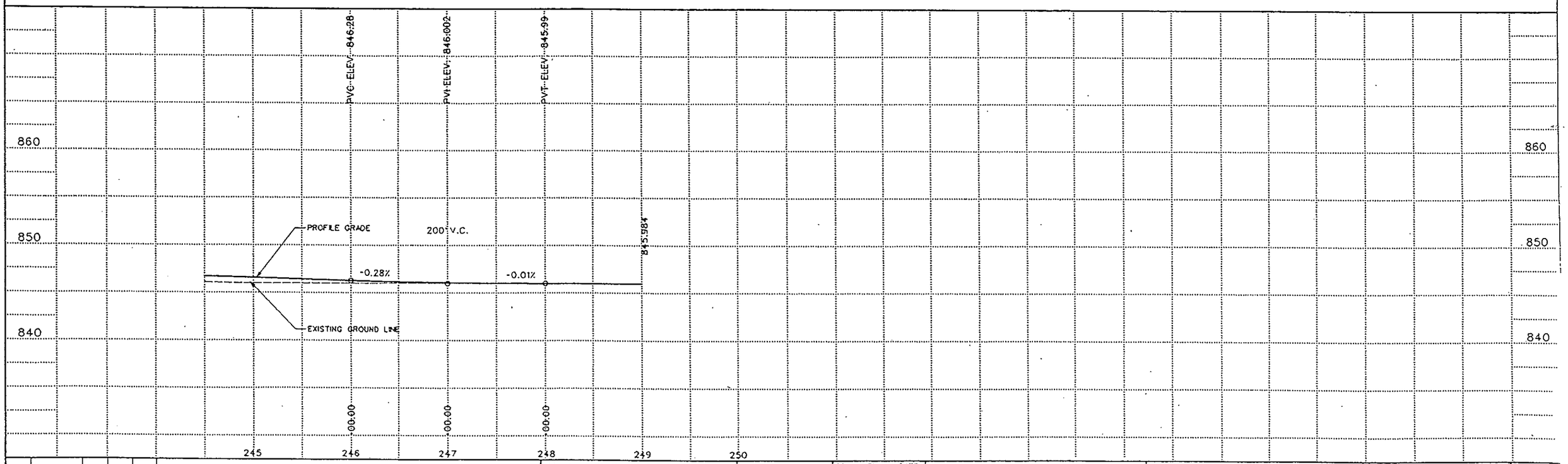
PLAN & PROFILE

29TH STREET MIDTOWN GREENWAY

STA. 230+50 TO STA. 244+50

SHEET 23 OF 83





NO	DATE	BY	CKD	APPR	REVISION

NAME: CP11 348.PLN DATE: Oct. 17, 1996

I hereby certify that this plan, specification or report was prepared by me or under my direct supervision and that I am a duly Registered Professional Engineer under the laws of the State of Minnesota.

Date _____ Reg. No. _____

STATE AID PROJECT NO. 141-090-03

CITY PROJECT NO.

DRAWN BY L. VAN DRASEK DATE 5-96
DESIGNED BY R. LEWIS 4-96
CHECKED BY D. JULIFF 5-96
COMM. NO. 0952348

SRF CONSULTING GROUP, INC.

CITY OF MINNEAPOLIS

PLAN & PROFILE

29TH STREET MIDTOWN GREENWAY

STA. 244+50 TO STA. 249+00

SHEET 24 OF 83

APPROVED BY CITY COUNCIL
JUL 8 1998
, 19
City Clerk

3948
mod 1

Permit Agreement No. A09775

First Amendment

TO HCRRA PERMIT AGREEMENT A09775 AND BETWEEN THE HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY (Authority) AND THE CITY OF MINNEAPOLIS (City).

WITNESSETH:

WHEREAS, the Hennepin County Regional Railroad Authority (HCRRA) has invested in a transportation corridor paralleling Lake Street and lying between France Avenue and Hiawatha Avenue in the City of Minneapolis known as the 29th Street Rail Corridor (Corridor), principally for the purpose of implementing Light Rail Transit (LRT) and other permitted future transportation uses; and

WHEREAS, Hennepin County has identified this transportation corridor and its proposed transportation improvements as an integral part of a vision for long-range property value enhancements and business development known as Hennepin Community Works; and

WHEREAS, the Minneapolis neighborhoods adjoining this corridor, together with the City of Minneapolis (City), Hennepin County and HCRRA have named this Community Works project, the "Midtown Greenway"; and

WHEREAS, resolution 36-HCRRA-95 approved Agreement No. A09775 with the City of Minneapolis, providing for planning, engineering and bikeway construction in the 29th Street Rail Corridor, between France Avenue and Hiawatha Avenue in the City of Minneapolis, for an indefinite time period, at a Hennepin County Regional Railroad Authority (HCRRA) cost not to exceed $304,200; and

WHEREAS, additional costs to construct retaining walls were found necessary to complete the design and construction of the bikeway; and

WHEREAS, $45,800.00 of the additional costs of the retaining walls was found to be justified as necessary expense for the construction of a future Light Rail line in the corridor,

In consideration of the covenants by and between the parties, it is hereby agreed:

1. Authority hereby agrees to payment of $45,800.00 as additional costs for construction of retaining walls, bringing its total not to exceed for Agreement A09775 to $350,000.00 as shown in revised Exhibit A1 attached hereto.

IN WITNESS WHEREOF, the parties hereto have signed this Agreement as of _____ _____, 1998.

Hennepin County Regional Railroad Authority

Upon proper execution, this agreement Will be legally valid and binding.

Chair, Board of Commissioners
Date: _____

Assistant County Attorney
Date: 7/30/98

Dept Executive Director
Date: 10-26-98

City of Minneapolis

Minneapolis City Attorney
Date: 8/25/98

ACTING Mayor
Date: _____

Approved as to execution:

Assistant/City Clerk
Date: _____

Assistant County Attorney
Date: 10-26-98

10/20/98

Asst. Finance Officer

Minneapolis City Attorney
Date: _____

Midtown Greenway Cost Estimate and Division of Cost:

HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY, HENNEPIN COUNTY AND CITY OF MINNEAPOLIS

ITEM	HCRRA	HENNEPIN COUNTY	CITY OF MINNEAPOLIS	ISTEA
Master Plan: France-Hiawatha (Includes PE to I-35W)	$ 50,000		$ 100,000	$ 0
Final Design/Construction Specs. (France to I-35W)	0		190,000	0
SUB-TOTAL	**$ 50,000**		**$ 290,000**	**$ 0**
Construction of Bikeway ISTEA Project No. _____				
Clear and Grub	$ 0		$ 0	$ 3,000
Pedestrian Trail	0		0	87,720
Bike Trail	0		0	176,000
Access	5,000		0	7,750
Fine Grading	0		0	50,000
Retaining Walls	245,000	962,500	0	35,500
Fence	0		0	69,000
Sign/Maps	0		0	23,800
Lighting	0		0	317,000
Site Furnishing	0		0	20,000
Erosion Control	0		0	15,000
Landscape	50,000		0	200,000
SUB-TOTAL	**$ 300,000**	**$ 962,500**	**$ 0**	**$1,016,700**
Total	**$350,000**	**$ 962,500**	**$290,000**	**$1,016,700**

Contract No. A09775
EXHIBIT A

Midtown Greenway Cost Estimate and Division of Cost:

HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY AND CITY OF MINNEAPOLIS

Item	HCRRA	City of Minneapolis	ISTEA
Master Plan: France-Hiawatha (Includes PE to I-35W)	$ 50,000	$ 100,000	$ 0
Final Design/Construction Spec's. (France to I-35W)	0	190,000	0
SUB-TOTAL	**$ 50,000**	**$ 290,000**	**$ 0**
Construction of Bikeway ISTEA Project No. _____			
Clear and Grub	$ 0	$ 0	$ 3,000
Pedestrian Trail	0	0	87,720
Bike Trail	0	0	176,000
Access	5,000	0	7,750
Fine Grading	0	0	50,000
Retaining Walls	199,200	0	35,500
Fence	0	0	69,000
Sign/Maps	0	0	23,800
Lighting	0	0	317,000
Site Furnishing	0	0	20,000
Erosion Control	0	0	15,000
Landscape	50,000	0	200,000
SUB-TOTAL	**$ 254,200**	**$ 0**	**$ 1,016,700**
Total	**$ 304,200**	**$ 290,000**	**$ 1,016,700**

73-51603

APPROVED BY CITY COUNCIL

13 0 1995, 19

City Clerk

Permit Agreement

Contract No. A09775

This Permit Agreement made and entered into by and between the HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY, a Minnesota political subdivision, Southwest Street Level, Government Center, 300 South Sixth Street, Minneapolis, Minnesota 55487-0016, hereinafter referred to as the "Authority," and the CITY OF MINNEAPOLIS, a Minnesota political subdivision, City Hall, 350 South Fifth Street, Minneapolis, Minnesota 55415, hereinafter referred to as the "City."

WITNESSETH:

WHEREAS, the Hennepin County Regional Railroad Authority (HCRRA) has invested in a transportation corridor paralleling Lake Street and lying between France Avenue and Hiawatha Avenue in the City of Minneapolis known as the 29th Street Rail Corridor (Corridor), principally for the purpose of implementing Light Rail Transit (LRT) and other permitted future transportation uses; and

WHEREAS, Hennepin County has identified this transportation corridor and its proposed transportation improvements as an integral part of a vision for long-range property value enhancements and business development known as Hennepin Community Works; and

WHEREAS, the Minneapolis neighborhoods adjoining this corridor, together with the City of Minneapolis (City), Hennepin County and HCRRA have named this Community Works project, the "Midtown Greenway"; and

WHEREAS, the HCRRA, the City, and the neighborhoods are proposing to develop a master plan for the LRT and bicycle transportation improvements within the corridor owned by HCRRA; and

WHEREAS, the City has applied and received approval for an ISTEA grant for construction of a bicycle trail within the HCRRA Corridor between France Avenue and I-35W; and

WHEREAS, the City and HCRRA desire to enter into an agreement to develop a master plan for the Corridor and engineering plans for the first stage of construction, and provide for a division of cost for planning and construction of the bicycle trail between France Avenue and I-35W as an integral part of the Hennepin Community Works initiative.

In consideration of the covenants by and between the parties, it is hereby agreed:

1. Master Plan

City shall develop a master plan for the 29th Street Rail Corridor from France Avenue to Hiawatha Avenue. Such plan shall include, but not be limited to, locations for LRT, LRT stations, and the conceptual bikeway and its amenities.

The Authority shall participate in discussion, review, and comment regarding LRT, LRT station location and design, bikeway, and other facilities and/or amenities, and their location within the corridor. Authority reserves the right to reject any plans proposed by the City on the grounds, in Authority's sole discretion, that said plans are inappropriate or incompatible with its future use of the Premises or with the operations of any railroad operating on the right of way adjacent to the Premises.

2. Preliminary Engineering Plans

City shall complete preliminary engineering plans for the bicycle trail (ISTEA Project No. S.P. 141-090-03) within the Corridor between France Avenue and Fifth Avenue South. Authority agrees to cooperate with City in the development of such plans.

3. Final Design and Construction

City shall complete final design plans, contract for and supervise construction of the bicycle trail (ISTEA Project No. S.P. 141-090-03) between France Avenue and Fifth Avenue South.

4. Payment

Payment for the master plan, preliminary engineering, final design, and construction will be made by the parties as shown on the Division of Cost, Exhibit A, attached hereto and made a part of this agreement by this reference.

5. Premises

Authority hereby agrees to grant certain rights and benefits to City hereinafter described with regard to that certain real property described as follows:

That part of the Hennepin County Regional Railroad Authority (HCRRA) right of way in the City of Minneapolis, generally consisting of the northerly 35 feet between France Avenue and Fifth Avenue South, all as delineated and colored green on HCRRA Property Maps numbered and attached hereto as Exhibit B.

The description of the Premises as determined by the parties will provide exceptions for future LRT station areas at Abbott Avenue, Hennepin Avenue, Lyndale Avenue, Nicollet Avenue, and any other potential LRT station area all as determined by Authority.

A more complete legal description will be prepared upon the completion of construction of the bike trail, and will replace and supersede the above description. The said real estate shall be hereinafter described as the "Premises."

6. Use of Premises

The Premises shall be for the temporary use of City, its agents, officers, employees, assignees and invitees for trail purposes. Authority reserves the right to limit, reject or refuse to permit the use of the Premises by City or any assignees for any purpose which Authority, in its sole discretion, deems inappropriate or incompatible with its future use of the Premises or the operations of any railroad operating on the right of way adjacent to the Premises. City

shall submit any proposed development or other physical alterations to the Premises to Authority to determine its acceptability to Authority prior to contracting any obligations or commitments in connection therewith.

7. Term

The term of this Permit Agreement shall be for an indefinite period, commencing on execution by the Chair of the Hennepin County Regional Railroad Authority until termination in accordance with Paragraph 8.

8. Termination

Either party may, at any time and for any reason, terminate this Permit by giving one hundred eighty (180) days' written notice of its intention to do so. Such notice may be served upon the Hennepin County Regional Railroad Authority by delivering a copy thereof to the Executive Director at the principal office in the Hennepin County Government Center, Minneapolis, Minnesota, 55487, or by depositing the same in the United States Post Office directed to the Executive Director at the principal office. Such notice may be served on the City of Minneapolis by delivering a copy thereof to City Engineer, Room 203, City Hall, 350 South Fifth Street, Minneapolis, Minnesota 55415. Except as provided herein, this Agreement may not be terminated or revoked by either party hereto.

9. Rights Upon Termination

On the expiration of one hundred eighty (180) days after such service of said notice, this Permit, and all rights hereunder, shall thereupon terminate and be at an end, saving and excepting such rights as may have accrued to either party hereunder prior to such termination. City shall, without further notice or demand, deliver possession of the Premises to the Authority at the expiration of said one hundred eighty (180) days and shall, before the

expiration of said one hundred eighty (180) days, remove all buildings and property placed upon the Premises which it may desire and have the right to remove. If it shall fail to remove buildings and property, its right shall, at the option of the Authority, cease and City's interest thereto shall be forfeited and at the same time shall belong to Authority or, in such case, if the Authority shall elect, it may, at any time after the expiration of said period of one hundred eighty (180) days, tear down and/or remove any or all such buildings and property at the expense of City without any liability for damages thereof in any respect whatsoever and City shall thereupon promptly reimburse Authority for all expenses incurred by it in doing so.

10. Joint Use of Corridor

City acknowledges that the Premises was acquired by Authority specifically and solely for the purpose of constructing a light rail transit system or other permitted transportation uses and its associated facilities and that it is Authority's intention to allow City to use the Premises only until it is needed for that purpose. Nothing in this Permit shall be deemed to evidence any change by Authority of its intended use of the Premises for light rail transit purposes or other permitted transportation uses. Rather, Authority has agreed to the terms of this Permit to provide a temporary use for the Premises during the time required for further planning and development of the light rail transit system or other permitted transportation uses, including, without limitation of the foregoing, mainline and station locations, all as determined by the Authority.

11. Rent

Upon any such termination of this Permit, rent shall be paid by the City to the date of termination fixed by said notice at the rate of $1.00 per year.

12. Subpermits

City may grant permits to assignees only upon written agreement of Authority. Any subpermit shall be on the same terms and conditions and for the same uses as are contained in this Permit.

13. Signage

City shall provide, install and maintain signage, including kiosks, on the Premises identifying that the Premises are being used by the City of Minneapolis by permission of the owner, the Hennepin County Regional Railroad Authority, until the Premises are used for light rail transit or other future transportation uses. Any such signage shall also identify the improvement as part of Hennepin Community Works.

14. Nuisance, Waste

City shall not permit the existence of any nuisance on said Premises. City, at all times, shall keep said Premises clean and shall comply with all laws, ordinances and regulations respecting City's business and use and occupation of said Premises. City, at its sole cost, shall make any and all improvements, alterations, repairs and additions, and install all appliances required on said Premises by or under any such regulations, ordinances or laws. No bills, posters or advertising matter of any kind shall be posted on said Premises; provided, however, that City may post on appropriate structures, informational materials relating to the permitted uses. City shall use all reasonable precautions to prevent any waste, injury, death or property damage and shall modify, repair or replace any railings, pathways or other improvements on the Premises when necessary.

15. Utilities, Title, Existing Rights of Others

City accepts said Premises subject to the rights of any person, firm or corporation, including the Authority in and to any existing telephone, telegraph and/or other wires, poles and facilities of any kind whatsoever, whether or not of record, and should it, at any time, become necessary because of City's use of the Premises to relocate any of said poles, wires or facilities by reason of this Permit, City shall bear and pay the cost of so doing.

City also accepts said Premises subject to any want or failure at any time of Authority's title to said Premises or any part thereof and City shall assume any damages sustained by City in connection therewith. City also accepts such Premises subject to rights of any party, including Authority, in and to any roadways, easements, leases and permits, whether granted, at Authority's sole discretion, either prior to or after the date of this Permit Agreement. City agrees to provide to Authority or other tenants of Authority access over and through the Premises on these roadways and easements should such access be deemed necessary by Authority. City accepts said Premises subject to the right of Authority, its employees, agents, permittees, lessees, and contractors when reasonably necessary to walk upon said Premises to repair adjacent property and the right of Authority, its employees, agents, permittees, lessees, and contractors to temporarily place equipment upon the property when reasonably necessary for the purpose of maintaining, repairing, inspecting or constructing upon Authority's property.

16. Indemnification

City shall defend, indemnify and hold harmless Authority, its Commissioners, officers, agents, and employees from any liability, claims, demands, personal injury, costs, judgments, or expenses, including reasonable attorney's fees, resulting directly or indirectly from an act

or omission of City, its agents, employees, customers, invitees, assignees, permittees, lessees or others on the Premises.

Authority shall not be liable to City or those claiming by, through, or under City for any injury, death or property damage occurring in, on or about the Premises based upon the design, construction, operation or maintenance of the Premises by City or any assignees, nor for the loss or damage by reason of the present or future condition of repair of the Premises, or for the loss or damage arising from the acts or omissions of City, its agents, employees, customers, invitees, assignees, permittees, lessees, or others on the Premises.

17. Insurance

City further agrees that if in any case the release and indemnity provided in this section shall not be valid, Authority shall have the full benefit of any insurance effected by the City upon the property injured, destroyed or damaged and/or against the hazard involved; and City agrees that any and all such insurance shall be so written that the insurer shall have no claim or recourse of any kind whatsoever against Authority in connection therewith.

18. Covenant

City, in consideration of the permitting of the said Premises, as herein provided, hereby covenants and agrees to pay the rent therefor promptly, as above provided, and fully to abide by and perform all and singular the conditions, covenants and agreements herein contained and to be observed and performed by said City and to yield up said Premises unto the Authority at the expiration or termination of the Permit Agreement in as good condition as when entered upon.

19. Quiet Enjoyment

Authority has the right and authority to enter into this Agreement and if City pays the rent required hereby and otherwise performs the terms hereof to be performed by City, City shall, during the term hereof, be entitled to quiet enjoyment and possession of the Premises subject to the termination provisions hereof. Notwithstanding the foregoing, City acknowledges that the rights provided to it by virtue of the Permit are subject to the provisions of Paragraph 15.

20. Waiver

No receipt of money by Authority from City after any default by City or after the expiration of this Permit or after the service of any notice or after the commencement of any suit or after final judgment for possession of said Premises, shall waive such default or reinstate, continue or extend the term of this Permit or affect any such notice or suit, as the case may be. No waiver of any default of City shall be implied from omission by Authority to take any action on account of such default, and no express waiver shall affect any default other than the default specified in the express waiver and that only for the time and to the extent therein stated.

21. Breach

It is further agreed between the parties hereto, that if the said City shall breach or make default in any of the conditions, covenants or agreements of this Permit, which breach or default shall continue for fifteen (15) days after City's receipt of written notice thereof from Authority, then it shall be lawful for the Authority, then or at any time thereafter, to declare this Permit ended, and to re-enter said Premises and take possession thereof, with or without process of law, and to use any reasonable or necessary lawful force for regaining

possession; whereupon the rights and obligations of the parties shall be the same as above specified in the case of termination pursuant to Paragraph 8; and it is hereby further agreed and provided that any waiver at any time of a breach of any condition, covenant or agreement of this Permit shall extend only to the particular breach so waived and shall, in no manner, impair or affect the existence of such condition, covenant or agreements, or the right of Authority thereafter to avail itself of same and any subsequent breach thereof. In the event Authority has to take action for repossession of said property, City, its assigns or heirs shall be liable for reasonable attorney's fees incurred by Authority.

22. Assignment

The benefits and obligations of this Permit shall extend to and shall bind the heirs, administrators, executors, leases, successors or assigns of the parties hereto, but no interest in this Permit shall be assigned, nor said Premises or any part thereof shall be subpermitted, used or occupied by any party other than the City unless specifically stated herein. Authority reserves the right to review and revise the rental rate applicable to this Permit upon any change in the status of the Permit, the City or person occupying the Premises during the term of this Permit or any renewal thereof.

23. Improvements, Maintenance

City shall be responsible for the construction of all improvements necessary to its use of the Premises and shall be responsible for the maintenance of said Premises. City shall also be responsible for the construction of all bridges and crossings deemed necessary for City to provide for any trails on the Premises or to otherwise use the Premises. Construction plans shall be submitted to the Authority for review and comment. Authority reserves the right to reject any plans for construction proposed by City on the grounds, in Authority's sole

discretion, that said plans are inappropriate or incompatible with its future use of the Premises or with the operations of any railroad operating on the right of way adjacent to the Premises.

24. Environmental Concerns

City shall not create or permit any condition on the Premises that could present a threat to human health or to the environment. City shall bear the expense of all practices or work, preventative, investigative or remedial, which may be required because of any conditions of the Premises introduced by City, assignees or invitees during City's period of use, including conditions introduced by City, assignees, or invitees which affect other lands. City expressly agrees that the obligations it hereby assumes shall survive cancellation of this Permit. City agrees that statutory limitation periods on actions to enforce these obligations shall not be deemed to commence until Authority discovers any such health or environmental impairment, and City hereby knowingly and voluntarily waives the benefits of any shorter limitation period.

Authority shall have the right, but not the duty, to enter upon the Premises from time to time as set forth below to inspect the Premises for environmental contamination and in the course thereof to conduct soil and groundwater testing and to perform environmental investigation, remediation or mitigation. Authority may enter the Premises during regular business hours of City without prior notice, and may enter the Premises during periods other than regular business hours either with prior written consent of City or without if Authority reasonably believes that an emergency exists on the Premises. Authority shall conduct any such inspections or testing so as to minimize interference with City's operations. Authority's

entry on to the Premises pursuant to this paragraph shall not relieve the City's obligation to pay rent under this Permit.

In addition to the foregoing provisions of this Paragraph 24, and in exchange for the rights and privileges granted in this Permit Agreement, City hereby agrees to bear the expense of all practices or work, preventative, investigative or remedial necessary to comply with all federal, state, local and other governmental statutes, rules and regulations necessary for City's use of the Premises for trail and park purposes regarding any hazardous waste, pollutant, contaminant or petroleum related material on the Premises regardless of whether or not the same was present on the Premises before or after the commencement of this Permit Agreement. Further, City agrees to defend, indemnify and hold harmless Authority, its Commissioners, officers, agents and employees from any liability, claims, demands, personal injury, costs, judgments, or expenses, including reasonable attorney's fees arising from exercise of the rights granted by this Permit Agreement and resulting from the presence of any hazardous waste, pollutant, contaminant or petroleum related material on the Premises regardless of whether or not the same was present on the Premises before or after the commencement of this Permit Agreement. City expressly agrees that the obligations it hereby assumes shall survive the cancellation of this Permit.

Notwithstanding the foregoing, the Authority agrees to assert its rights against the Soo Line Railroad Company for environmental work on the site pursuant to Paragraph 17 of the Purchase Agreement dated December 23, 1992, between the Authority and the Soo Line Railroad Company. The City agrees to immediately notify the Authority of any environmental concerns which arise during the construction of the bicycle trail so that the Authority may inform and confer with the Soo Line with respect to management of any

required remediation. The City's obligation to the Authority pursuant to this paragraph 24 is limited to that which is not covered by the Soo Line Railroad agreement with the Authority.

25. Compliance with Laws, Ordinances and Rules

City agrees to comply with all laws, ordinances and regulations of federal, state, municipal and local government agencies as they apply to use of the Premises. City agrees to comply with rules as may be promulgated from time to time by Authority.

26. Condition of Premises Inspection

City accepts the Premises in an "AS IS" condition with no express or implied representations or warranties by Authority as to the physical condition or fitness or suitability for any particular purpose, express or implied. City is responsible for and has had ample opportunity to inspect the Premises, is familiar with the same, and has determined to its satisfaction the fitness of the Premises for its intended use.

City acknowledges and assumes all risks associated with the location of the Premises and its proximity to the railroad right of way adjacent to the Premises and to any railroad operations by any railroad company thereon.

27. Liens and Encumbrances

City shall not permit any liens or encumbrances to be established or remain against the Premises, including but not limited to, encumbrances with respect to work performed or equipment or materials furnished in connection with use of the Premises by City, its agents, employees, customers, invitees, assignees, lessees or other occupiers of the Premises pursuant to this Permit.

IN WITNESS WHEREOF, the parties hereto have signed this Agreement as of _____, 1995.

Hennepin County Regional Railroad Authority

Chair, Board of Commissioners
Date: _____

Executive Director
Date: 9/12/95

Upon proper execution, this agreement will be legally valid and binding.

Assistant County Attorney
Date: 8-17-95

City of Minneapolis

Mayor
Date: 8-29-95

Minneapolis City Attorney
Date: 8/23/95

ASST. CITY CLERK
Date: 8-31-95

Approved as to execution:

Assistant County Attorney
Date: 9-15-95

9/8/95
ASSISTANT FINANCE OFFICER

Minneapolis City Attorney
Date: _____

Contract No. A09775
EXHIBIT A

Midtown Greenway Cost Estimate and Division of Cost:

HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY AND CITY OF MINNEAPOLIS

Item	HCRRA	City of Minneapolis	ISTEA
Master Plan: France-Hiawatha (Includes PE to I-35W)	$ 50,000	$ 100,000	$ 0
Final Design/Construction Spec's. (France to I-35W)	0	190,000	0
SUB-TOTAL	**$ 50,000**	**$ 290,000**	**$ 0**
Construction of Bikeway ISTEA Project No. _____			
Clear and Grub	$ 0	$ 0	$ 3,000
Pedestrian Trail	0	0	87,720
Bike Trail	0	0	176,000
Access	5,000	0	7,750
Fine Grading	0	0	50,000
Retaining Walls	199,200	0	35,500
Fence	0	0	69,000
Sign/Maps	0	0	23,800
Lighting	0	0	317,000
Site Furnishing	0	0	20,000
Erosion Control	0	0	15,000
Landscape	50,000	0	200,000
SUB-TOTAL	**$ 254,200**	**$ 0**	**$ 1,016,700**
Total	**$ 304,200**	**$ 290,000**	**$ 1,016,700**

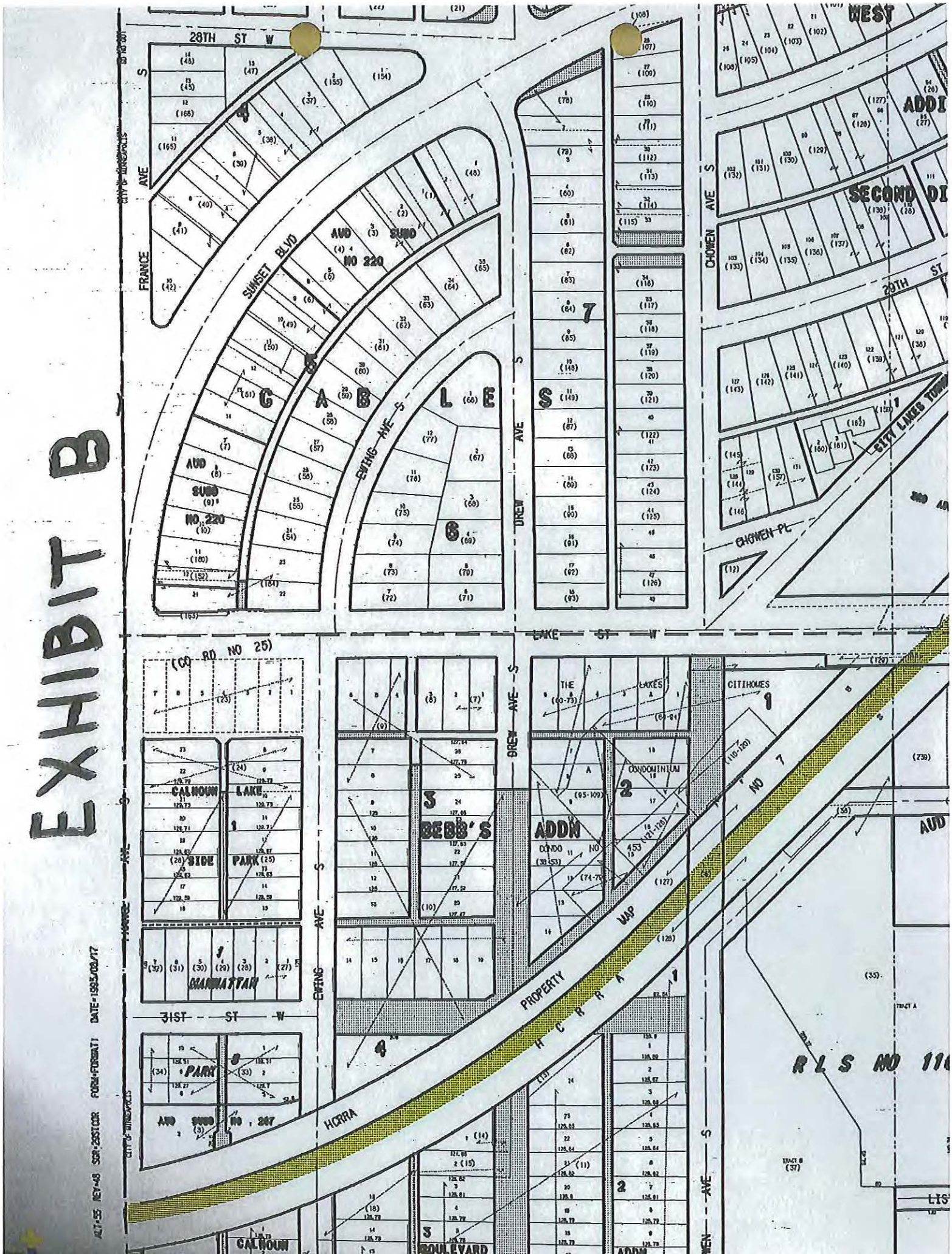
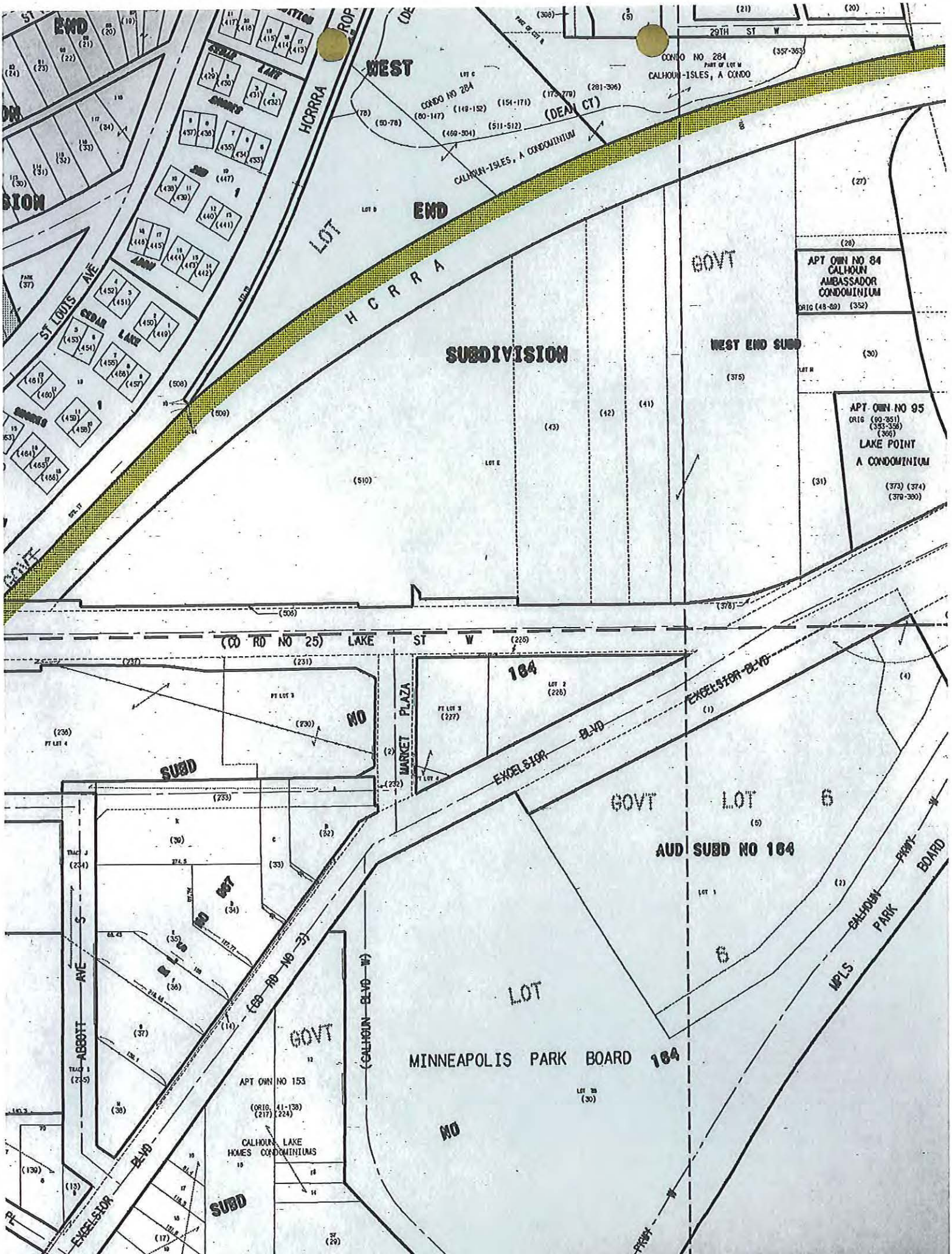
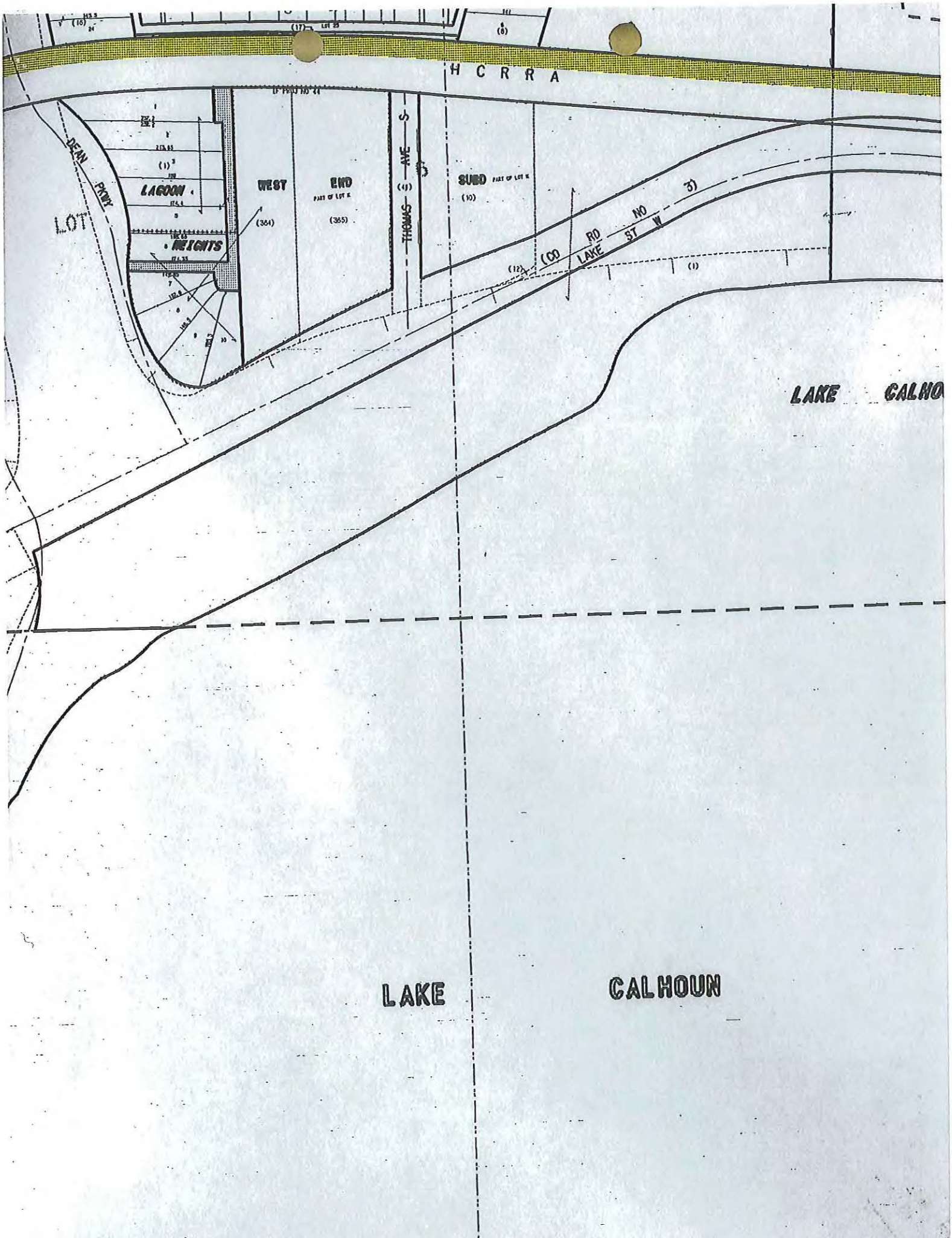
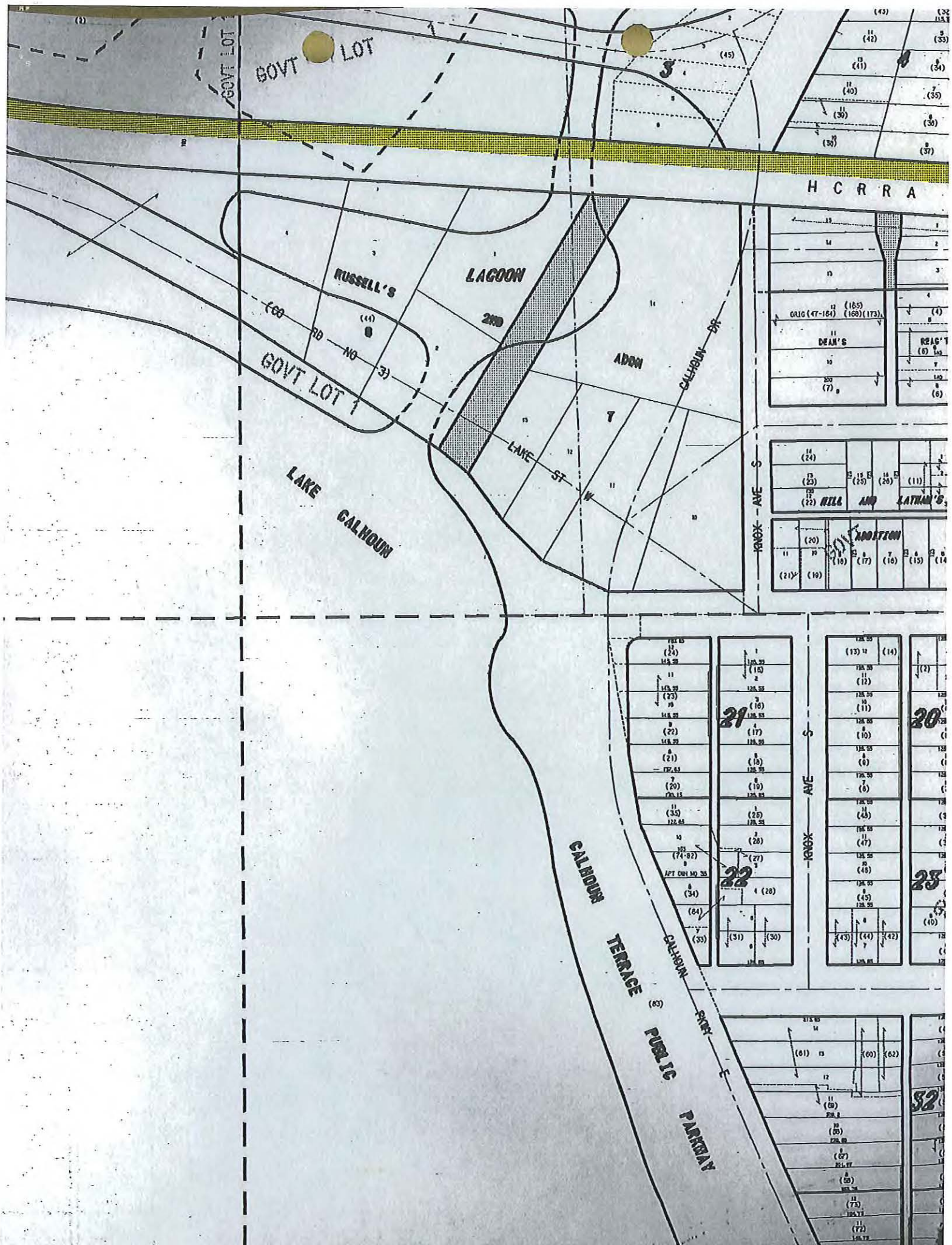
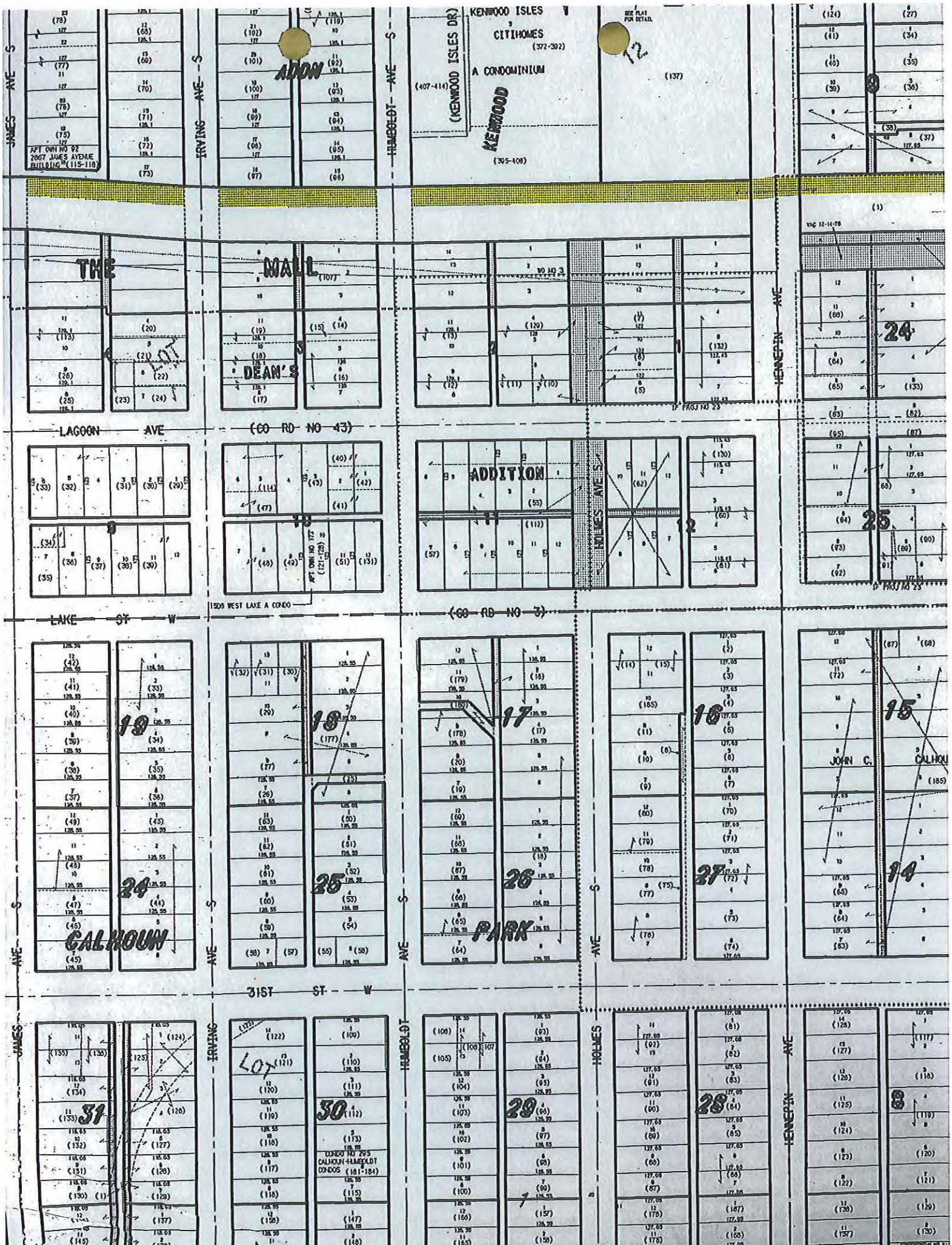


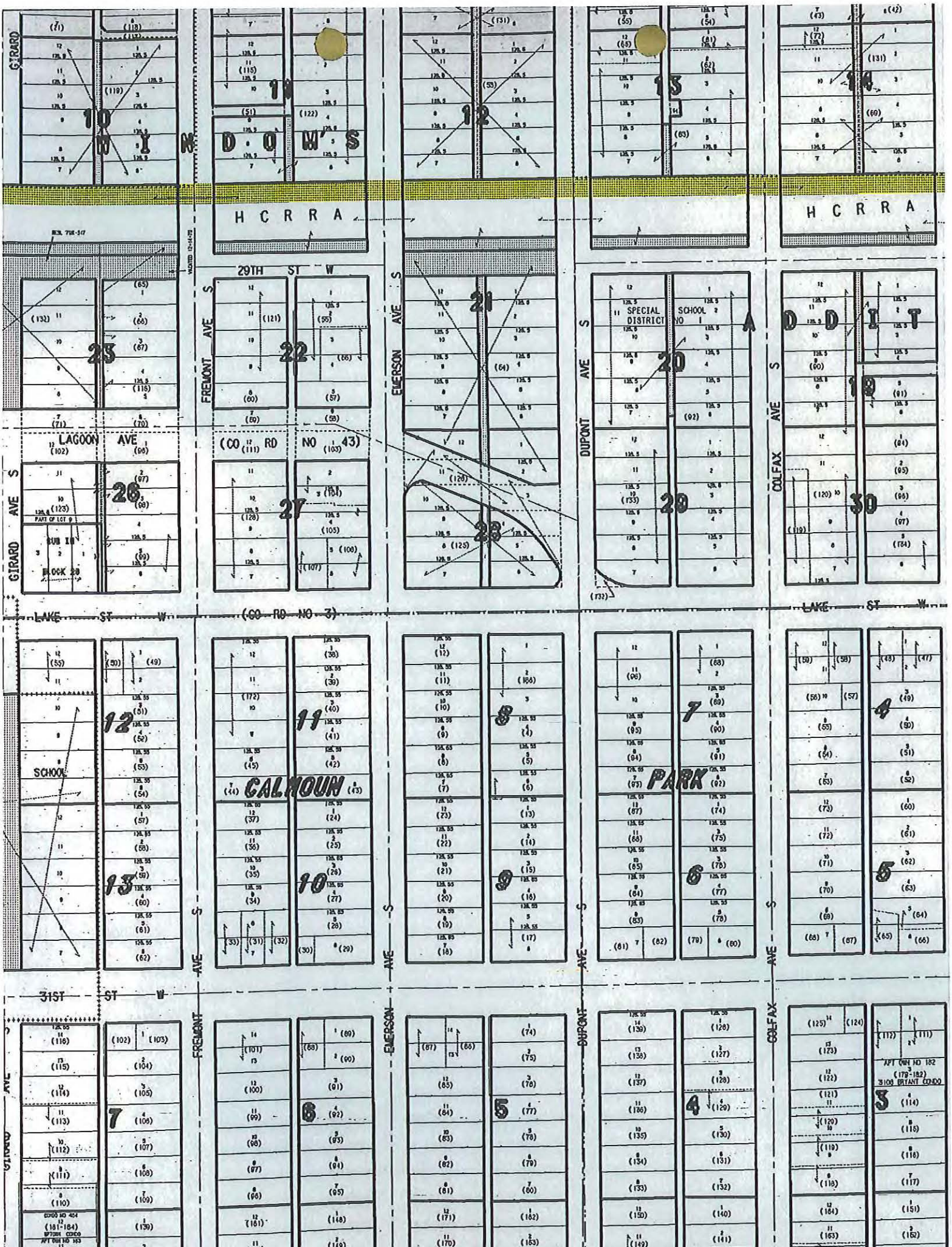
EXHIBIT B
28TH ST W
FRANCE AVE S
SUNSET BLVD
AUD SUBD NO 220
CABLES
EWING AVE S
DREW AVE S
CHOWEN AVE S
29TH ST
CHOWEN PL
CITY LAKES TOWN
WEST
ADDI
SECOND DI
LAKE ST W
(CO RD NO 25)
CALHOUN LAKE
SIDE PARK
MANHATTAN
31ST ST W
PARK
AUD SUBD NO 267
BEBB'S ADDN
THE LAKES
CONDOMINIUM
CITIHOMES
NO 7
PROPERTY MAP
HCRRA
HCRRA
BOULEVARD
CALHOUN
R L S NO 11
ALT=55 REV=48 SGR=29STCOR FORM=FORMAT1 DATE=1995/08/17


29TH ST W
CONDO NO 284
CALHOUN-ISLES, A CONDO
WEST END
(DEAN CT)
HCRRA
CALHOUN-ISLES, A CONDOMINIUM
GOVT
APT OWN NO 84
CALHOUN
AMBASSADOR
CONDOMINIUM
SUBDIVISION
WEST END SUBD
APT OWN NO 95
LAKE POINT
A CONDOMINIUM
ST LOUIS AVE
CEDAR LAKE
(CO RD NO 25) LAKE ST W
164
MARKET PLAZA
EXCELSIOR BLVD
GOVT LOT 6
AUD SUBD NO 164
MPLS PARK BOARD
ABBOTT AVE S
(CO RD NO 3)
(CALHOUN BLVD W)
LOT 6
MINNEAPOLIS PARK BOARD 164
APT OWN NO 153
CALHOUN LAKE
HOMES CONDOMINIUMS
SUBD

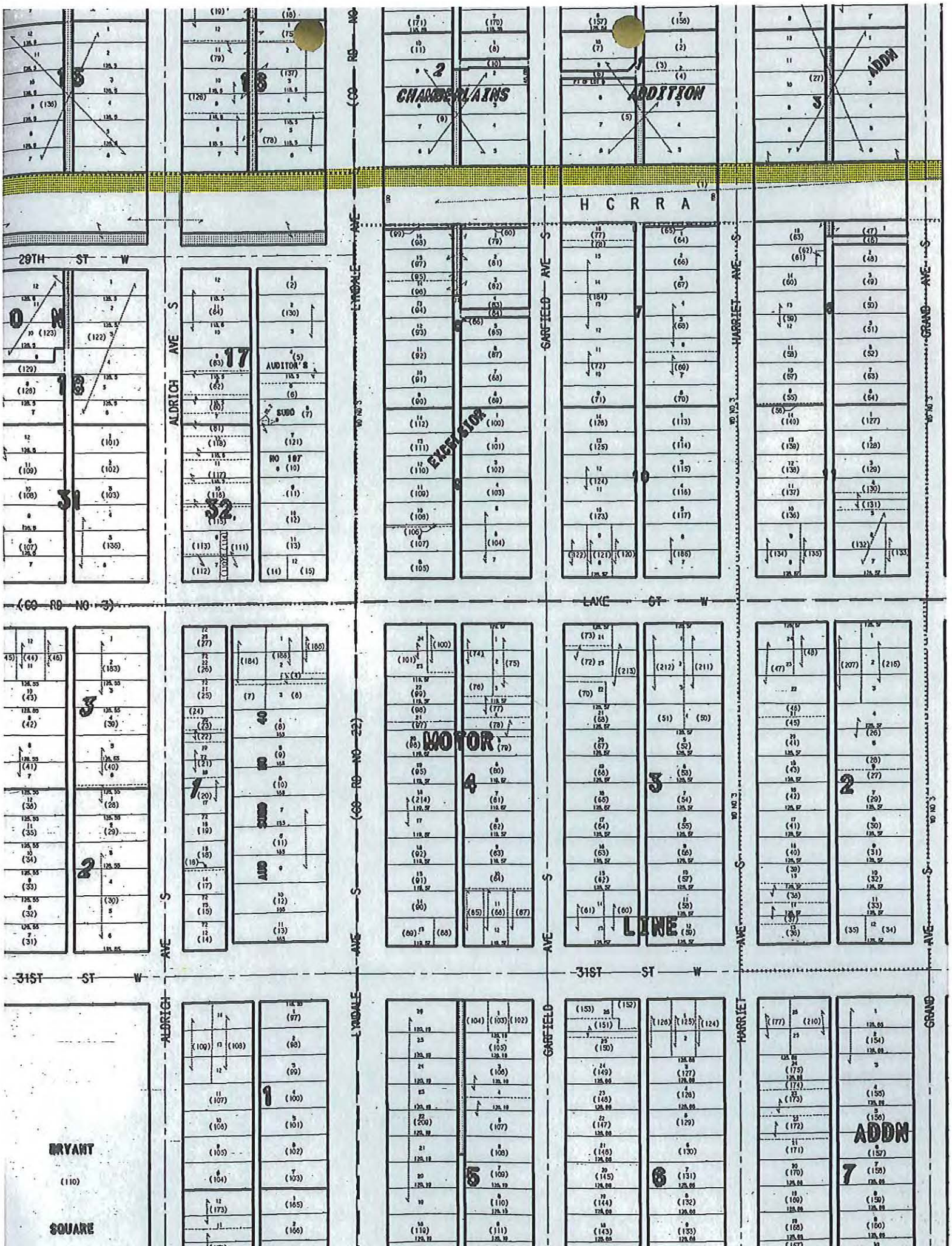

H C R R A
DEAN PKWY
LOT
LAGOON
HEIGHTS
WEST
END
(364)
(365)
THOMAS AVE S
SUBD
(10)
(12)
(CO RD NO 3)
LAKE ST W
(1)
LAKE CALHO
LAKE CALHOUN

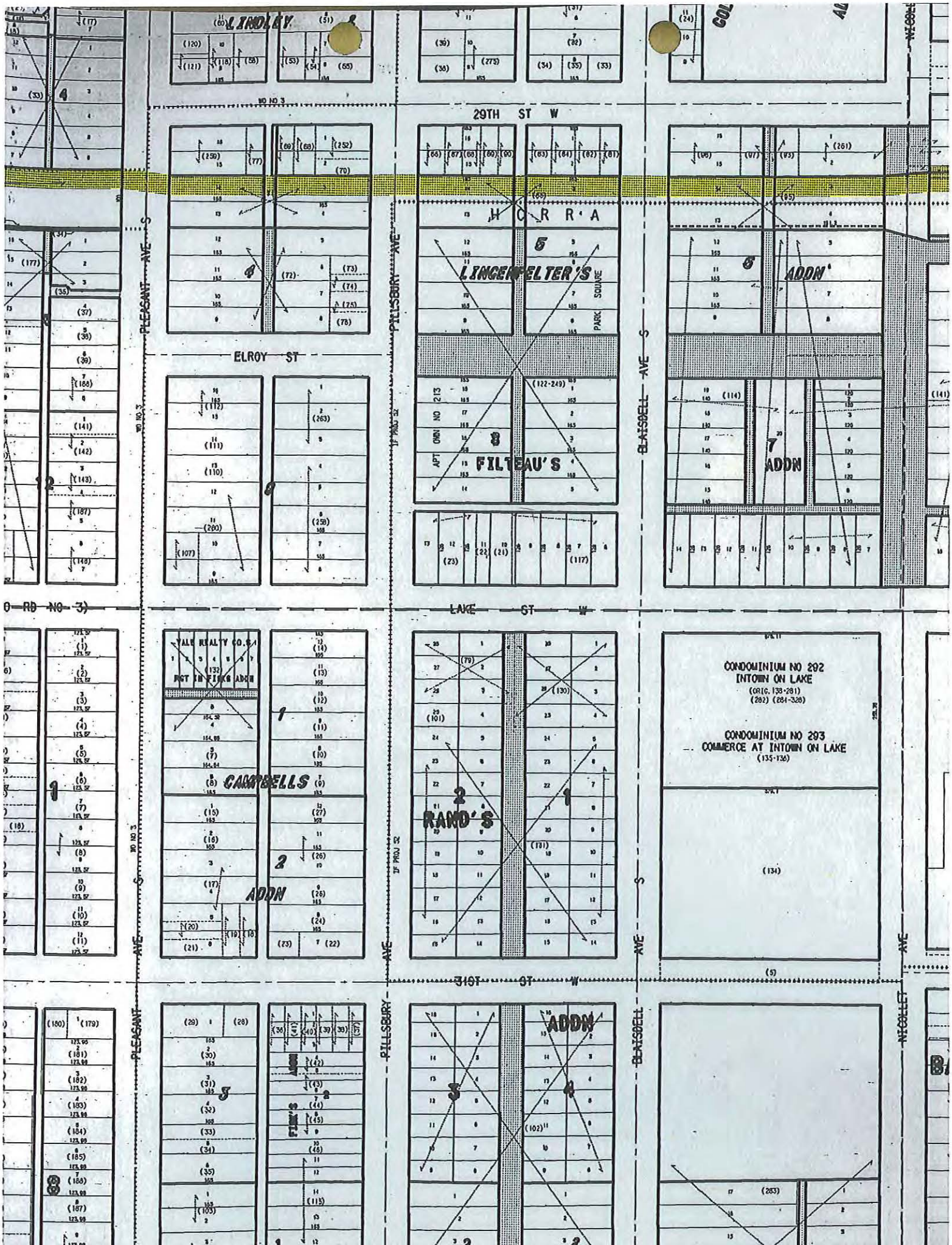

GOVT LOT
GOVT LOT
3
4
H C R R A
RUSSELL'S
LAGOON
2ND
ADDN
CALHOUN DR
(CO RD NO 3)
GOVT LOT 1
7
LAKE ST W
LAKE CALHOUN
KNOX AVE S
DEAN'S
ORIG (47-164) (165) (168) (173)
HILL AND LATHAM'S
ADDITION
21
22
20
23
CALHOUN TERRACE PUBLIC PARKWAY
CALHOUN PKWY E
32

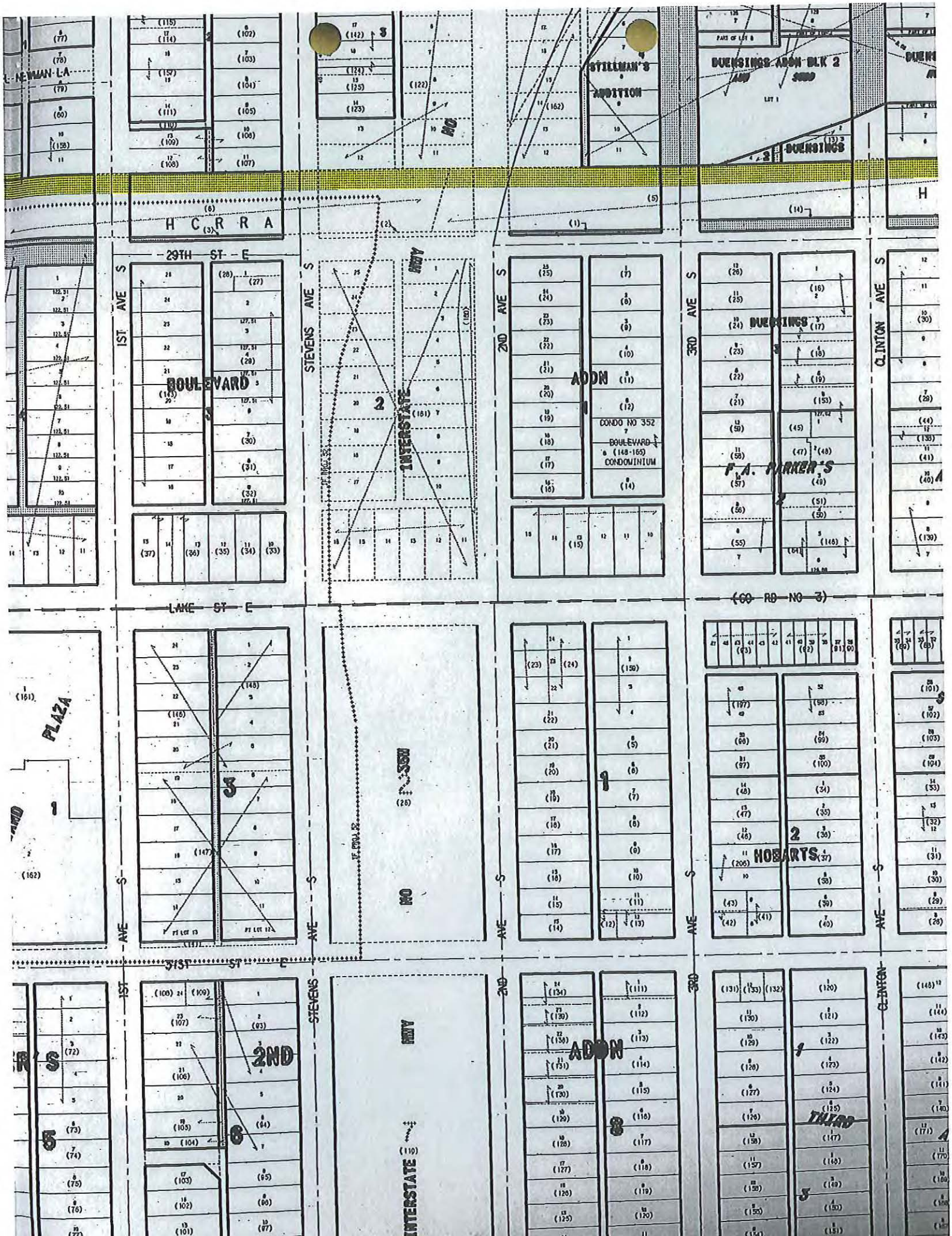

KENWOOD ISLES
CITIHOMES
A CONDOMINIUM
(KENWOOD ISLES DR)
KENWOOD
ADDN
THE MALL
DEAN'S
LOT
ADDITION
LAGOON AVE
(CO RD NO 43)
LAKE ST W
(CO RD NO 3)
1508 WEST LAKE A CONDO
CALHOUN
PARK
JOHN C. CALHOU
31ST ST W
JAMES AVE S
IRVING AVE S
HUMBOLDT AVE S
HOLMES AVE S
HENNEPIN AVE
APT OWN NO 92
2067 JAMES AVENUE
BUILDING (115-118)
CONDO NO 795
CALHOUN + HUMBOLDT
CONDOS (181-184)

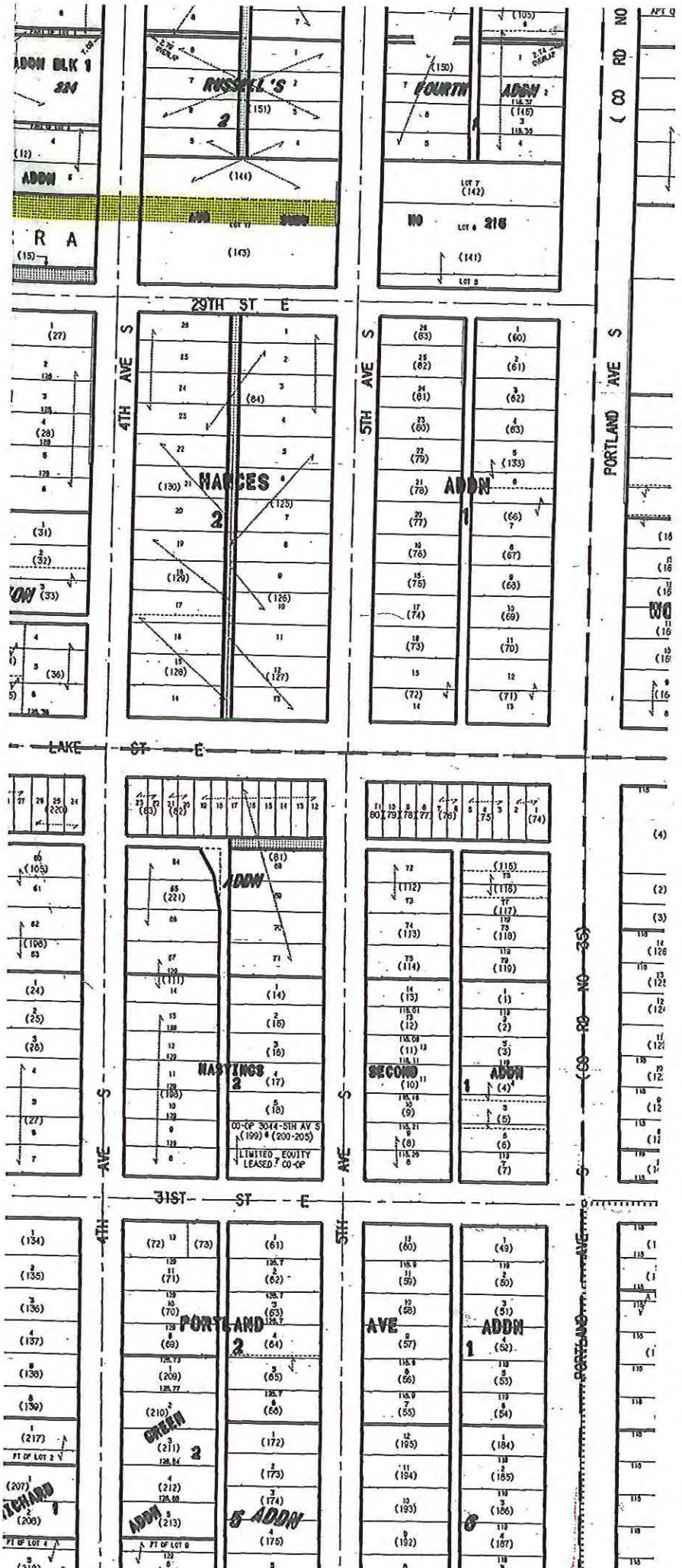


GIRARD
WINDOW'S
H C R R A
29TH ST W
FREMONT AVE S
EMERSON AVE S
DUPONT AVE S
COLFAX AVE S
SPECIAL SCHOOL DISTRICT NO 1
ADDIT
LAGOON AVE
(CO RD NO 43)
GIRARD AVE S
SUB IN BLOCK 28
LAKE ST W
(CO RD NO 3)
SCHOOL
CALHOUN
PARK
31ST ST W
APT OWN NO 182
3108 BRYANT CONDO


CHAMBERLAINS
ADDITION
ADDN
H C R R A
29TH ST W
ALDRICH AVE S
LYNDALE AVE S
(CO RD NO 3)
EXCELSIOR
GARFIELD AVE S
HARRIET AVE S
GRAND AVE S
AUDITOR'S
SUBD
NO 107
LAKE ST W
MOTOR
LINE
(CO RD NO 22)
31ST ST W
BRYANT
SQUARE
ADDN


LINDLEY
29TH ST W
HORA
LINGENFELTER'S
PARK SQUARE
ADDN
ELROY ST
APT OWN NO 213
FILTEAU'S
ADDN
LAKE ST W
YALE REALTY CO.
CAMPBELLS
ADDN
RAND'S
CONDOMINIUM NO 292
INTOWN ON LAKE
(ORIG. 138-281)
(282) (284-328)
CONDOMINIUM NO 293
COMMERCE AT INTOWN ON LAKE
(135-136)
31ST ST W
ADDN
PLEASANT AVE S
PILLSBURY AVE
BLAISDELL AVE S
NICOLLET AVE


NEWMAN LA
H C R R A
29TH ST E
1ST AVE S
BOULEVARD
STEVENS AVE S
INTERSTATE
HWY
2ND AVE S
ADDN
CONDO NO 352
BOULEVARD
(148-165)
CONDOMINIUM
STILLMAN'S
ADDITION
DUENSINGS ADDN BLK 2
DUENSINGS
3RD AVE S
F.A. PARKER'S
CLINTON AVE S
LAKE ST E
(CO RD NO 3)
PLAZA
HOBARTS
31ST ST E
2ND
THIRD



ADDN BLK 1
RUSSELL'S
2
FOURTH
ADDN
NO
216
29TH ST E
4TH AVE S
5TH AVE S
PORTLAND AVE S
NARCES
2
ADDN
1
LAKE ST E
ADDN
HASTINGS
2
SECOND
ADDN
1
CO-OP 3044-5TH AV S
(199) (200-205)
LIMITED EQUITY
LEASED CO-OP
31ST ST E
PORTLAND
2
AVE
ADDN
1
GREEN
2
ADDN
5 ADDN
6
(CO RD NO 35)

Memorandum of Understanding
Between
The City of Minneapolis, Department of Public Works
And
Hennepin County

The City of Minneapolis wishes to complete the Midtown Greenway Trail Phase I project from the west city limits to Fifth Avenue South. This will require cost sharing from the City of Minneapolis, Department of Public Works (City), Hennepin County Community Works (Community Works) and Hennepin County Regional Railroad Authority (HCRRA). The City and HCRRA shared in the cost of the Master Plan (2/3 and 1/3 costs split respectively). The City has paid for final design and construction specifications. The City will pay for construction engineering.

The purpose of this Memorandum of Understanding is to identify the cost sharing between the City and Hennepin County for construction of Midtown Greenway Phase I project.

The construction bid for the project is $2,857,330. The City has secured $1,016,376 from ISTEA for the project. Hennepin County will be responsible for $962,500 (not to exceed this amount). Subject to a separate Memorandum of Understanding, the Hennepin County Regional Railroad Authority is requested to consider providing up to $350,000 for this project. Minnesota Department of Transportation will request these funds when the contract is awarded.

This Memorandum is a summary and represents the cost sharing agreed to between the parties. All agreements and legal issues are subject to the necessary City Council approvals and Hennepin County Commissioners' approvals.

David J. Sonnenberg
City Engineer-Director of Public Works

Jeff Spartz
Hennepin County Administrator

APPROVED AS TO FORM.

Assistant County Attorney

29TH STREET-

QUITCLAIM DEED

MIDTOWN GREENWAY - FRANCE TO HIAWATHA

RECORDED IN
Abstract
8-5-93
DOC #6128880

CLM

(reserved for valuation and tax data)

(reserved for recording data)

Date: July 20, 1993

For valuable consideration, Soo Line Railroad Company ("Grantor" or "Seller"), a corporation under the laws of the State of Minnesota, hereby conveys and quitclaims to Hennepin County Regional Railroad Authority ("Grantee"), a political subdivision and local government unit under the laws of the State of Minnesota, real property in Hennepin County, State of Minnesota, described below, together with all hereditaments and appurtenances thereto. The real property is described as follows:

See attached Exhibit A

SOO LINE RAILROAD COMPANY

By: Edwin V. Dodge

Edwin V. Dodge

Its: President and CEO

9211-MPLS-HCRRA-2 (REVISED)

STATE OF MINNESOTA
)SS
COUNTY OF HENNEPIN

The foregoing quitclaim deed was acknowledged before me this 20th day of July, 1993 by Edwin V. Dodge, the President and CEO of Soo Line Railroad Company, a corporation under the laws of the State of Minnesota, on behalf of the corporation.

Teresa L. Revell
Notary Public

Tax statements for the property should be sent to Grantee at:

Hennepin County Regional Railroad Authority
Government Center, Mpls, MN 55487-0016
Attn: Deputy Executive Director

TERESA L. REVELL
Public, HENNEPIN C...
Commission Expires Apr 2, 1993

This instrument was drafted by:
John P. Nail
Soo Line Railroad Company
P.O. Box 530
Minneapolis, MN 55440

Mtge Code 763

9211-MPLS-HCRRA-2 (REVISED)

EXHIBIT A

All that part of the Soo Line Railroad Company right of way passing through the Northwest Quarter of the Southwest Quarter, the Southwest Quarter of the Southwest Quarter, and the Southeast Quarter of the Southwest Quarter, all in Section 36, Township 29, Range 24; all of which lies westerly of the easterly right of way line of Hiawatha Avenue.

also:

All that part of the Soo Line Railroad Company right of way passing through the South Half of the Southeast Quarter and the South Half of the Southwest Quarter, Section 35, Township 29, Range 24; the South Half of the Southeast Quarter and the South Half of the Southwest Quarter, Section 34, Township 29, Range 24; the South Half of the Southeast Quarter and the South Half of the Southwest Quarter, Section 33, Township 29, Range 24; the South Half of the Southeast Quarter and the Southeast Quarter of the Southwest Quarter, Section 32, Township 29, Range 24; and the North Half of the Northwest Quarter of Section 5, Township 28, Range 24.

(Abstract Property)

All that part of the North Half of the Southeast Quarter of the Southwest Quarter of Section 35, Township 29, Range 24, lying South of the South line of Block 3, "Avery's Chicago Avenue Addition to Minneapolis", and between the extensions South of the East and West lines of said Block 3.

According to the recorded plats thereof and according to the Government Survey thereof, as evidenced by Certificate of Title No. 371889.

(Torrens Property)

QUITCLAIM BILL OF SALE

KNOW ALL PERSONS BY THESE PRESENTS:

Soo Line Railroad Company ("Seller"), in consideration of the sum of $1.00 and other valuable consideration to it paid, receipt of which is hereby acknowledged, hereby conveys and quitclaims to Hennepin County Regional Railroad Authority ("Buyer") the following property: all personal property to be conveyed by Seller to Buyer pursuant to that certain Purchase Agreement dated December 23, 1992 between Seller and Buyer.

This conveyance is made strictly on an "as is, where is" basis, and Seller makes no express or implied representation or warranty whatsoever concerning said property (including, without limitation, express or implied representations or warranties of title, merchantability, or fitness for a particular purpose).

SOO LINE RAILROAD COMPANY

By: [signature]

Its: Sr. V.P. + CLO

Date: July 30, 1993

29th ST. MIDTOWN GREENWAY

PURCHASE AGREEMENT
BETWEEN
SOO LINE RAILROAD COMPANY AND
HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY

THIS AGREEMENT, made and entered into this 23 day of December, 1992 by and between the Soo Line Railroad Company, a Minnesota corporation, hereinafter sometimes called "Soo", and the Hennepin County Regional Railroad Authority, a political subdivision and local government unit of the State of Minnesota, hereinafter sometimes called the "Authority".

RECITALS

Soo presently owns and operates a line of railroad parallel with the approximate alignment of 29th Street South in the City of Minneapolis, County of Hennepin, State of Minnesota between Hiawatha Avenue and France Avenue sometimes referred to as the 29th Street Corridor.

The State of Minnesota Department of Transportation and the City of Minneapolis propose to reconstruct Hiawatha Avenue between Lake Street and 24th Street South in the City of Minneapolis and desire to eliminate all Soo rail crossings of Hiawatha Avenue within this segment.

Soo is willing to alter its operations in and through the City of Minneapolis to accommodate the Hiawatha Avenue improvements and is willing to sever its rail line across Hiawatha Avenue, providing alternate rail routes are provided for Soo and other railroads presently using the Soo crossings of Hiawatha Avenue under trackage

rights agreements. Soo also expects to be compensated for any increased operating expense resulting from use of alternate routes.

Elimination of rail links across Hiawatha between Lake Street and 24th Street will save substantial sums of money for all governmental agencies involved in funding the Hiawatha Avenue reconstruction.

The Authority desires to acquire by purchase the 29th Street Corridor from Hiawatha Avenue west to France Avenue for future use for public transportation purposes. Acquisition and utilization of said corridor will sever the rail links across Hiawatha substantially accommodating the Hiawatha Avenue reconstruction.

NOW THEREFORE, in consideration of the foregoing, the parties agree as follows:

SECTION 1 - DEFINITIONS

A. "Agreement" shall mean this Agreement dated 12-23, 1992. All references in this document to Exhibits are to those attached to, and made a part of, this Agreement.

B. "Property" is defined in Section 2A and shown on Exhibit A and Exhibit B to this Agreement.

C. "Railroad Easement" shall mean the easement created by this Agreement and legally described in Exhibit C, providing for the continuation of Soo's present operation of common carrier freight railroad service for a limited period of time and the use of the Property to be acquired by the Authority as a result of this Agreement as may be necessary for said railroad operations.

D. "Loss or Damage" includes any and all claims, liabilities, damages, costs, judgments, and expenses (including reasonable attorneys' fees and expenses) of every character incident to loss or destruction of or damage to Property and injury to or death of persons, arising upon or as a result of any operations conducted under the terms of this Agreement.

E. "Sole Employees" and "Sole Property" shall mean employees, agents, contractors, passengers, invitees, railroad and motor vehicle equipment, including lading, and other equipment of each of the parties or their agents or contractors while engaged in, or about to engage in, maintaining, using, operating, constructing, repairing, renewing, replacing and improving the trackage in the Railroad Easement, or in switching or handling railroad cars of the respective parties hereto.

F. "Taxes" shall mean lawfully imposed real estate taxes and assessments including, but not limited to, special assessments.

G. "Trackage" shall mean all rail, cross ties, related track appliances such as spikes and tie plates (sometimes known as other track material), ballast, all grade crossing signals and other signal and communication equipment located upon the Property, and including trackage laid in and across public streets and highways.

H. "Environmental Site" shall mean the physical location from which emanates any claims, damages, liabilities, costs, including costs and expenses of response, removal, remediation or disposal expenses (including reasonable experts' and attorneys' fees), suits or obligations of any and every nature resulting from

the generation, treatment, use, handling, storage, transportation, manufacture, release, discharge or disposal of any toxic or hazardous substances or wastes, pollutants, or contaminants (including, without limitation, asbestos, urea formaldehyde, the group of organic compounds known as polychlorinated biphenyls, petroleum products including gasoline, fuel oil, crude oil and various constituents of such products) on or from the Property.

SECTION 2 - PROPERTY TO BE ACQUIRED

A. Soo agrees to sell and the Authority agrees to buy all of Soo's interest in the railroad right-of-way presently owned and operated by Soo along the approximate alignment of 29th Street South in the City of Minneapolis between the east right-of-way line of Hiawatha Avenue and the westerly city limits of the City of Minneapolis all as shown and described in Exhibits A and B attached (the Property). Included in the Property to be sold are the following:

(1) Soo's interest in all lines of railroad between Cedar Avenue and Hiawatha Avenue, some of which cross Hiawatha Avenue in the vicinity of 28th Street and the other crossing Hiawatha Avenue in the vicinity of 26th Street.

(2) Soo's interest in any industrial spurs or other spur track rights of way appurtenant to the right-of-way.

(3) Soo's interest in any bridges, retaining walls, and other similar structures upon, over, under, across, or appurtenant to the right-of-way, but excluding grade

crossing protection signals and other signal and communication equipment.

(4) Soo's interest in any permits, licenses, ordinances, easements, or other rights permitting the occupation of the right-of-way and the operation of a railroad over the Property including (but not limited to) rights to cross, traverse, or operate in or upon public streets and rights of way, but excluding Soo's rights and obligations to provide common carrier freight rail service on the Property.

(5) Soo's interest in the railroad right-of-way located in public streets and other public rights of way.

(6) Valuation maps, plats, deeds of conveyance, and other similar records relating to Soo's ownership of the right-of-way. Except as provided herein, the originals of such records shall be delivered to the Authority within a mutually convenient and reasonable time following the closing. A copy may be delivered in lieu of the original under the following circumstances: (i) the original is unavailable, (ii) the record also pertains to Soo property other than the 29th Street Corridor, or (iii) the original record is reasonably required by Soo during the term of the Railroad Easement (as defined in this Agreement), in which event the original shall be delivered to the Authority promptly after the termination of the Railroad Easement.

B. Trackage is excluded from the property to be sold, except as otherwise provided by Section 12.

C. Notwithstanding acquisition of the Property by the Authority, the Authority grants use of a portion of the Property for purposes of the Railroad Easement and limited access to other portions of the Property solely for maintaining and performing Railroad operations upon the Railroad Easement, under the terms set forth in this Agreement. The Authority reserves the right to enter, and make alterations upon, the Railroad Easement, provided that such entry and alterations do not unreasonably interfere with Soo railroad operations and are in accord with other provisions of this Agreement.

SECTION 3 - CONVEYANCE AND CLOSING

A. The property will be conveyed at the closing by quit claim deed and bill of sale in a form consistent with Exhibits D and E and such other documents or evidence as the Authority or its counsel may reasonably request or as required by applicable law.

B. The Railroad Easement will be conveyed in a form consistent with Exhibit C which provides that the Railroad Easement is governed by the terms of this Agreement and shall be delivered at the closing .

C. The closing of this transaction shall occur on or before June 1, 1993, at 10:00 a.m. at the office of the Authority, Southwest Street Level Government Center, Minneapolis, Minnesota or at such other time or place as may be mutually agreed upon by the parties.

D. The Authority will purchase, affix, and cancel any and all documentary stamps in the amount prescribed by statute, and will pay any and all deed taxes, transfer taxes, excise taxes, sales taxes, use taxes, and fees incidental to the transfer of the Property or the recordation or filing of the deed or deeds.

SECTION 4 - PAYMENT

A. The Authority agrees to pay funds in the following amounts to Soo for the Property in accordance with the terms and conditions of this Section and in accordance with other terms of this Agreement. All amounts are net to Soo and shall be paid by immediately negotiable warrant . The funds so paid will constitute full and final payment by the Authority to Soo for each of the following defined items:

(1) $9,000,000 for all of the Property described in Section 2 and Exhibits A and B.

(2) As full and final compensation for all increased operating costs and trackage rights:

(a) $688,000 for trackage rights incurred by Soo and its railroad tenants in transporting rail traffic via alternate routes that now originates or terminates on the Property, or traverses the Property, so long as such traffic continues, subject to adjustment as a result of audit accepted by the Minnesota Department of Transportation or its designee before payment. The Authority

anticipates the audit will be completed by closing and will use its best efforts to achieve that goal.

(b) $158,000 for increased operating costs incurred by Soo to continue to serve customers originating or terminating traffic on the Property after Soo's present line of railroad is severed at Hiawatha Avenue, all subject to adjustment as a result of audit accepted by the Minnesota Department of Transportation or its designee before payment. The Authority anticipates the audit will be completed by closing and will use its best efforts to achieve that goal.

(c) Payment for increased operating costs and trackage rights will be adjusted in accordance with audit and paid at the later of closing, completion of the audit or at such time as the existing Soo rail connections across Hiawatha Avenue are severed. Said payments for increased operating costs and trackage rights may be made directly by the Authority to Soo or, in lieu thereof, by the governmental agencies participating in the Hiawatha Avenue reconstruction project. Provided, however, that the obligation to make such payments to Soo, or to cause said payments to be made to Soo by others, shall be and remain the obligation of the Authority.

B. The payments described in 4A will be paid in the amounts and at the times set forth as follows:

(1) $8,250,000 at closing.

(2) $ 750,000 after termination of the Railroad Easement in accordance with Section 12 of this Agreement. Said sum will be deposited as the Railroad Easement Escrow in an interest bearing escrow account or certificate of deposit with interest earned to be reinvested in the escrow account. The entire balance of the Railroad Easement Escrow account including accrued interest, less the costs associated with said account, will be disbursed to Soo upon the written authorization of the Authority, which shall be given upon termination of the Railroad Easement in accordance with Section 12.

C. The payments described in 4A(2) for increased operating costs and trackage rights will be adjusted in accordance with audit and paid at the later of closing, completion of the audit or at such time as the existing Soo rail connections across Hiawatha Avenue are severed. Said payments for increased operating costs and trackage rights may be made directly by the Authority to Soo or, in lieu thereof, by the governmental agencies participating in the Hiawatha Avenue reconstruction project. Provided, however, that the obligation to make such payments to Soo, or to cause said payments to be made to Soo by others, shall be and remain the obligation of the Authority.

SECTION 5 - CONDITIONS PRECEDENT TO CLOSING

A. General Conditions. The obligations of the Authority to consummate the transaction contemplated by this Agreement will be subject to fulfillment on or before the closing date of all of the following conditions, any of which may only be waived by the Authority in writing.

(1) Closing of this transaction is contingent upon obtaining of any required regulatory and other governmental approvals.

(2) Closing of this transaction is contingent upon the Authority obtaining commitments satisfactory to it to pay all of the increased operating costs and trackage rights set forth in Section 4A(2) of this Agreement.

(3) Provision by Soo of any and all documents to comply with the terms of this Agreement and execution of any and all instruments, documents and consents as necessary, including quit claim deeds, releases executed by any secured parties and in a form acceptable to insurers of title as to any and all security interests, mortgages or other encumbrances on the Property. Within 90 days after the closing, Soo shall cause to be recorded partial releases or satisfactions of any mortgages or deeds of trust of Soo which may appear of record as a lien against the Property, and Soo shall indemnify the Authority, and the Authority's title insurer, for any loss or expense sustained by either of them as a result of Soo's failure

to have such lien so released or satisfied. The existence of any such lien will not afford a basis for objecting to the marketability of Soo's title.

(4) Any judgment against Soo which may appear of record as a lien against the Property shall be settled and satisfied by Soo within 30 days after it becomes final and unappealable, and Soo shall indemnify the Authority, and the Authority's title insurer, for any loss sustained by either of them as a result of Soo's failure to have such lien so settled and satisfied. The existence of any such lien will not afford a basis for objecting to the marketability of Soo's title.

(5) Soo shall provide agreements by present tenants of the Property to vacate or terminate trackage rights presently in effect, to take effect no later than such time as the Railroad Easement is terminated.

(6) The Property will be conveyed subject to facts which would be disclosed by a comprehensive survey, rights and claims of parties in possession, rights of the public, and those easements, leases, licenses and permits listed in Exhibit F. The Authority may object to the marketability of Soo's title on the basis of such matters. Soo is under no obligation to cure title defects. If a title defect is not cured, the Authority at its option may terminate this Agreement at any time prior to closing.

(7) The Property shall be conveyed subject to the rights of CMC Real Estate Corporation or its successors or assigns to the location of certain billboards on the Property shown by arrows on Exhibit G and which shall not afford a basis for objecting to the marketability of Soo's title.

B. **Environmental Conditions.** The obligations of the Authority and Soo to consummate the transaction contemplated by this Agreement are subject to the fulfillment on or before the closing date of all of the following environmental conditions, any of which may only be waived by the other party in writing:

(1) All of the environmental representations and warranties of the Soo contained in this Agreement shall be true and correct on and as of the closing date.

(2) Soo shall have completed a Phase II environmental investigation of the Property and a supplemental Phase I environmental investigation and shall have shared all final reports and recommendations of such investigations with the Authority within 30 days from the execution of this Agreement.

(3) The Authority shall have performed an environmental investigation of the Property supplemental to the Phase II, the scope of which shall be in the sole discretion of the Authority.

(4) If the highest estimated cost to remediate the Property to federal, state and local environmental regulatory standards for use as a transportation corridor exceeds $2 million, either party may terminate this Agreement by written notice to the other prior to the closing and thereupon neither party shall have any further rights or obligations under this Agreement. The estimate of remediation cost shall be based upon remediation techniques that reasonably accommodate the Authority's time needs in using the Property as a transportation corridor.

(5) Soo shall have sealed or caused to have been sealed in accordance with the requirements of Minnesota law any existing wells known to Soo and shall have delivered the required Sealed Well Certification to the Minnesota Department of Health except for the two monitoring wells which are the subject of a right of entry in an agreement between the Soo and the Minneapolis Community Development Agency (designated in said agreement as MW304 and MW306), for which a partial assignment shall be made to the Authority.

C. **Corporate Authority Conditions.** The obligations of the Authority to consummate the transaction contemplated by this Agreement are subject to delivery by Soo to the Authority of a certificate or certificates dated as of the closing date and signed

on behalf of Soo by its Secretary or Assistant Secretary to the effect that:

(1) The copy of Soo's restated Certificate of Incorporation or Articles of Incorporation attached to the certificate are true, correct and complete;

(2) No amendment to said Articles or Certificate has occurred since the date of the last amendment annexed;

(3) A true and correct copy of the By-Laws of Soo as in effect on the date thereof and at all times since the adoption of the resolutions referred to in the following paragraph is annexed to such certificate;

(4) The resolutions by the Board of Directors of Soo authorizing the actions taken in connection with the sale of the Property including the execution and delivery of this Agreement and any related agreements, were duly adopted and continue in force and effect (a copy of such resolutions to be annexed to such certificate).

(5) The officers of Soo executing this Agreement and any other related agreements executed and delivered pursuant to or in connection with this Agreement are incumbent officers of Soo and that their signatures as shown on such certificate or certificates are genuine.

(6) Soo is a corporation in good standing in the State of Minnesota.

D. <u>Municipal Corporate Authority Conditions</u>. The obligation of Soo to consummate the transaction contemplated by this Agreement

is subject to the provision by the Authority to Soo of a certified copy of the resolution of the Board of the Authority certifying its approval of the transaction pursuant to the authority of Minnesota Statutes § 398A.04.

E. Opinion of Counsel to Soo. The obligations of the Authority to consummate the transaction contemplated by this Agreement are subject to delivery by Soo to the Authority of an opinion of Counsel to Soo, which may be house Counsel, that:

(1) To Soo's knowledge, no proceeding is pending, nor is there a substantial threat of such a proceeding, before any court or governmental agency in which it is sought to restrain or prohibit, or to obtain labor or environmental protection, conditions or provisions or damages or to obtain other relief in connection with, this Agreement or any other agreement to be executed in connection with this Agreement or the consummation of the transactions contemplated hereby or which, if adversely decided, would materially affect or impair either party's right or ability to perform its obligations hereunder or to obtain the benefits hereof, and no investigation that might eventuate in any such suit, action or proceeding is pending or threatened; and

(2) To Soo's knowledge, there are no labor disputes in progress or threatened with respect to Soo or the transaction contemplated by this Agreement.

F. Opinion of Counsel to Authority. The obligation of Soo to consummate the transaction contemplated by this Agreement will be subject to delivery by the Authority to Soo of an opinion of counsel as follows:

(1) All actions, proceedings, resolutions, instruments and documents required to carry out this Agreement and all other related legal matters shall have been approved on or before the closing date by the Hennepin County Attorney or the law firm of Felhaber, Larson, Fenlon & Vogt, P.A., counsel to the Authority in the exercise of its or their reasonable judgment, and the Authority or its counsel shall have been furnished with copies, satisfactory in form and substance to counsel to the Authority in the exercise of its or their reasonable judgment, of all of such required material corporate records and related proceedings of Soo authorizing its execution, delivery and performance of this Agreement as the Authority or its counsel shall reasonably require.

G. Alternate Routing Conditions. The obligation of the parties to consummate the transaction contemplated by this Agreement is subject to fulfillment on or before the closing date of the following condition, which may only be waived by either party in writing. The Authority agrees to cooperate and assist Soo in obtaining the agreements contemplated by this condition :

Soo shall have obtained agreements satisfactory to Soo with Chicago and North Western Transportation Company, Burlington Northern Railroad, and other railroads affording Soo and Twin Cities and Western Railroad

Company alternate routing for rail traffic that is currently routed via the 29th Street Corridor.

SECTION 6 - ENVIRONMENTAL INVESTIGATION

The Authority may enter the Property and, to the extent necessary, Soo's land in the vicinity of the Property (jointly referred to as the Site in this Section 6) for the purpose of surveying and conducting the supplemental environmental investigation referred to in Section 5 of this Agreement, including, but not limited to, soil borings, water samplings and other environmental inspections and tests the Authority in its sole discretion deems necessary subject to the following conditions:

(1) The Authority shall give Soo advance notice of the date and time of each entry and the nature of the activities to be conducted on the Site at each such date and time.

(2) Soo may elect to be present during the conduct of such activities and to monitor same. Such monitoring shall not relieve the Authority of any liability under this Section.

(3) Prior to entering the Property, the Authority shall secure the permission of any tenant then in possession of same.

(4) Upon the completion of its activities, the Authority shall remove any debris resulting from such activities and shall restore the Site to the condition it was in prior to the commencement of such activities.

(5) Only to the extent permitted by law, including but not limited to Minnesota Statutes Chapter 466, as amended, and only to the extent of the Authority's fault or negligence, the Authority shall indemnify Indemnitees against all claims, demands, actions, suits, judgments, losses, damages (including, but not limited to, actual, compensatory, direct, consequential, punitive, and exemplary damages), expenses, penalties, fines, sanctions, court costs, litigation costs, environmental response and remediation costs, and reasonable attorneys' fees (collectively, Claims) arising out of or relating to any loss of (or damage to) any property or business or any injury to (or death of) any persons, where such loss, damage, injury, or death actually or allegedly arises (whether directly or indirectly, wholly or in part) from:

(a) any action or omission of the Authority (or its employees, agents, or contractors) while on the Site pursuant to this Section; or

(b) the exercise by Authority (or its employees, agents, or contractors) of the permission granted by this Section; or

(c) the escape or release of any pollutant, contaminant, or hazardous substance resulting (directly or indirectly, wholly or in part) from any action or omission of Authority (or its

employees, agents, or contractors) while on the Site pursuant to this Section.

Indemnitees means the following companies and their officers, directors, employees, and agents: Soo Line Corporation, Soo Line Railroad Company, Tri-State Land Company, Tri-State Management Company, The Milwaukee Motor Transportation Company, Hiawatha Transfer Company, Canadian Pacific Limited, and CP Rail, and their respective parent companies, subsidiaries, and affiliated companies.

(6) The Authority (and its employees, agents, and contractors) shall comply with all applicable laws while on the Site.

(7) The Authority will provide Soo with complete copies of the test data and test reports as soon as they are available to the Authority.

(8) The cost of any test or survey will be borne solely by the Authority.

(9) Unless reasonably necessary to complete the Authority's environmental investigation, test holes shall be located no closer than 10 feet from the nearest rail of any railroad track located on or adjacent to the Site and drilling equipment and related equipment shall not be placed closer than 10 feet from the nearest rail of any such track. Before the Authority proceeds with test holes or placement of drilling equipment in such manner

Soo must have given written permission to do so which shall not be unreasonably withheld.

(10) While on the Site, the Authority (and its employees, agents, and contractors) shall comply with Soo's safety rules, including any requirement regarding the use of flagmen. All costs associated with compliance with such rules shall be borne by the Authority. If Soo shall incur any costs in connection therewith, the Authority shall reimburse Soo within 30 days after receipt of Soo's invoice.

(11) Unless disclosure is required by court order or applicable law, the Authority shall maintain, and shall cause its employees, agents, and contractors to maintain, the confidentiality of all information pertaining to any environmental test performed on the Site.

(12) If any mechanics' or materialmen's lien, or similar lien, is asserted against the Site, the Property, or any other property of Soo or Indemnitees as a result of the exercise of the permission granted in this Section, the Authority shall immediately satisfy and/or obtain the release of such lien, all at the Authority's expense, and the Authority shall indemnify and defend Soo from and against all Claims arising out of or connected with such lien.

(13) Notwithstanding the foregoing, the terms of this Agreement are not to be construed as nor operate as

waivers of the Authority's statutory or common law immunities or limitations on liability, including but not limited to Minn. Ch. 466. Further, the Authority's obligations set forth in this Section and otherwise in this Agreement are expressly limited and governed by the provisions of Minn. Stat. Ch. 466, Minn. Stat. Ch. 604, and any other applicable law or regulation.

SECTION 7 - ASSIGNMENTS OF CONTRACTS, LEASES AND RELATED INSTRUMENTS

A. Soo will assign to and the Authority or its designee will accept, all right, title, interest and obligations held by the Soo, to the extent transferrable and/or assignable, and relating to the interests in the Property to be transferred to the Authority, under leases, contracts, permits, licenses and other instruments which, to the extent discovered by Soo after diligent search of its files and records, have been listed and described in Exhibit F, attached hereto and hereby made a part of this Agreement.

B. Soo will also assign all other interests of any nature of the Soo, to the extent transferrable and/or assignable, and relating to the interests in the Property to be transferred to the Authority, including rights in and to general intangibles and contract rights in addition to those identified or described in Exhibit F, including franchises, governmental and contractual operating rights and other contracts, leases, licenses, permits and privileges, except to the extent such rights relate to Soo's rights

and obligations to provide common carrier freight rail service on the Property.

C. Soo reserves to itself all prepaid rentals attributable to any lease, license or easement whereby a third party has been granted the right to install and maintain a fiberoptic transmission line. Payments for rentals due under said instruments after closing shall be prorated between Soo and the Authority based upon their respective ownership of the affected areas. Otherwise, there shall be no proration of lease rentals.

SECTION 8 - PAYMENTS FOR TAXES

A. The Authority agrees to pay promptly to taxing authorities when due all Taxes, if any, duly levied on the Property with respect to the Authority's ownership, leases, air rights development, and/or operations. Soo agrees to pay promptly to taxing authorities when due all Taxes, if any, with respect to its use or operations duly levied, to the extent Soo's property right has been separately assessed by the appropriate assessing authority to Soo while conducting operations over the Railroad Easement. To the extent Soo's property right is not so separately assessed to Soo, but the underlying fee in the Railroad Easement is assessed as railroad operating property and would be exempt except for Soo's use in operations, then Soo agrees to pay all such taxes duly levied while conducting operations over the Railroad Easement. Soo reserves the right to protest to a taxing authority any such Taxes it deems to be unfair or excessive and may in good faith

litigate and settle with the taxing authority any such protested amount.

B. The Authority shall pay without reimbursement from Soo all Taxes, if any, attributable to any passenger transportation system installed by or at the direction of the Authority.

SECTION 9 - GRANT OF RAILROAD EASEMENT

A. Subject to all of the terms and conditions of this Agreement, the Authority hereby agrees to grant to Soo at closing a Railroad Easement to continue its present railroad operations and to continue to meet its common carrier obligations at Soo's sole cost and obligation subject to the terms of this Agreement, on its solely owned Trackage located upon said Railroad Easement as described in Exhibit C, including the right to:

(1) Exclusively provide freight railroad service to any industry, team, or house track existing in the 29th Street Corridor on the date of this Agreement or as otherwise may be required by law.

(2) Permit current third party users for bridge rights only or admit a third party only for emergency detour purposes to use all or any portion of said Trackage.

(3) Construct or modify tracks connecting to or crossing said Trackage, including track connections with the Chicago and North Western owned trackage located on Authority owned right-of-way West of France Avenue , subject to provisions of this Agreement, and the prior written approval by the Authority, which approval shall not be

unreasonably withheld and shall be deemed given if required by law.

(4) Use the existing roadbed, bridges, and other existing railroad facilities, if any, acquired by the Authority as a result of this Agreement.

(5) Admit a third party operator as assignee of Soo's common carrier freight service obligation subject to the consent of the Authority which shall not be unreasonably withheld.

SECTION 10 - RAILROAD EASEMENT RENTAL

A. Until termination of the Railroad Easement in accordance with Section 12 of this Agreement, Soo will pay an annual rental of $40,000 to the Authority for the Property utilized by the Railroad Easement. The first payment of $40,000 shall be due one month after the closing date and shall thereafter be paid annually by the same date.

(1) In the event of termination of the Railroad Easement upon other than the anniversary of the closing date, remaining rental due shall be prorated accordingly.

(2) The rental amount may be adjusted upward by the Authority each five (5) years, but each upward adjustment shall be no greater than ten percent of the previous rate.

B. At such time as the Railroad Easement is terminated, Soo shall have no further obligation to pay rental to the Authority and shall have no claim against the Authority for any payment of any

kind except as may have arisen prior to such termination or by reason of other provisions of this Agreement.

SECTION 11 - RAIL CAR STORAGE

Effective no later than six (6) months after closing, Soo and its tenants shall cease storing or parking railroad cars at any location on the Property except such cars as are actually used to service rail users located on or adjacent to the Property. Any rail cars required to be stored for the use of such rail users shall be parked in the vicinity of the loading or unloading tracks of said users.

SECTION 12 - TERMINATION OF RAILROAD EASEMENT

A. As provided in this Section 12, the Railroad Easement and the rental obligation under Section 10 will terminate, and the Railroad Easement Escrow account referred to in Section 4B(2) including accrued interest will be paid to Soo, no later than 90 days (unless winter conditions have prevented removal of Soo Trackage, then 180 days) after the effective date of an abandonment authorization order issued by the Interstate Commerce Commission ("ICC") or an ICC Notice of Exemption, and upon the occurrence of the events in (1) and either (2) or (3) below (unless otherwise provided by this Agreement):

(1) (a) Written notice of termination by either party to the other party;

(b) Soo delivers a release of Railroad Easement suitable for recordation;

(c) The Authority accepts relinquishment of the Railroad Easement in writing which shall be given

when Soo satisfies the conditions in either (2) or (3).

(2) Upon notification by Soo in writing to the Authority that Soo intends to remove the Trackage, and Soo completes salvage of the Trackage and removal of rails located in and across public streets and highways and restores paving (or has reimbursed the Authority for the cost of doing the same). All such removal and repaving shall be completed in a workmanlike manner and shall include removal of all debris and waste materials including scrap ties. If Soo has not completed salvage, and removal of rails and restoration of paving in and across public streets and highways, within ninety days after the effective date of the abandonment authorization (unless winter conditions have prevented removal of Soo Trackage, then within 180 days), the Trackage not salvaged shall be abandoned in place without compensation from the Authority and Soo shall reimburse the Authority for the cost of completing any removal and repaving which may be deducted from the Railroad Easement Escrow payment.

However, the Authority may, at its sole option, declare that the Trackage is to be left in place and pay to Soo within 90 days of the effective date of the abandonment order the market value of the track materials, less the cost of removal and the value of any additions or betterments previously provided at the

expense of the Authority. In such event, Soo shall have no obligation to restore street and highway crossings.

(3) Upon notification by Soo in writing to the Authority that Soo does not intend to remove the Trackage from the Property and Soo completes the removal of rails located in and across public streets and highways and the restoration of paving (or Soo reimburses the Authority for the cost of doing the same) no later than ninety days after the effective date of the abandonment authorization (unless winter conditions have prevented removal of Soo Trackage, then within 180 days). All such removal and repaving shall be completed in a workmanlike manner and shall include removal of all debris and waste materials including scrap ties. The Trackage not salvaged shall be deemed abandoned in place without compensation from the Authority. If Soo has not completed removal of rails and restoration of paving in and across public streets and highways within ninety days after the effective date of the abandonment authority (unless winter conditions have prevented removal of Soo Trackage, then within 180 days). Soo shall reimburse the Authority for the cost of completing any remaining removal and repaving, which may be deducted from the Railroad Easement Escrow payment.

B. Both Soo and the Authority shall have the right to terminate the Railroad Easement at any time in accordance with the provisions of this Agreement. Any such termination must be

initiated by written notice to the other party of its desire to terminate the Railroad Easement. Notwithstanding any other provisions of this Agreement, the Railroad Easement will terminate no later than 15 years following the date of closing, at which time the provisions of Section 12, paragraph E will apply. At that time, Soo agrees to transfer its railroad freight service common carrier obligation to the Authority or the Authority's designee.

C. If Soo desires to terminate the Railroad Easement, Soo shall have the obligation to seek to obtain, by Notice of Exemption, abandonment application, or such other filing as may be appropriate, any necessary ICC and other regulatory approval to terminate common carrier railroad freight service. In such event, Soo shall have no right to any payment for lost freight revenue. The Authority agrees to cooperate in seeking regulatory approval.

D. In the event of cessation of local rail freight traffic for a period of one year or more, or in the event the last user of rail freight service along the Railroad Easement ceases operations or otherwise makes clear that it has no further need for rail service, Soo shall have the obligation to seek to obtain, by Notice of Exemption, abandonment application, or such other filing as may be appropriate, any necessary ICC and other regulatory authority to terminate common carrier railroad freight service. Soo agrees to make filing of any such request for abandonment authority within six months after the last user ceases operations or after a year in which no local railroad traffic has originated or terminated on the Railroad Easement. Soo further agrees to use its best efforts to

obtain any necessary regulatory abandonment approval for itself and any other users within one year of said filing.

(1) The Authority agrees to cooperate in any such effort. In the event more than one year elapses before necessary regulatory approval is obtained by Soo, or earlier at Soo's request, the Authority may, at its option, proceed in the name of the Soo to prosecute and complete any necessary regulatory procedure to obtain authorization for such cessation, including cessation of operations by users.

(2) In the event regulatory approval to cease rail operations is not received within one year of said filing, or is denied in whole or in part, Soo agrees to transfer its railroad freight service common carrier obligations to the Authority or the Authority's designee, if requested by the Authority, in which case Section 12E(2) will apply.

(3) Soo shall not be entitled to any payment for lost freight revenue, except as provided in paragraph (2) above.

(4) Soo shall have no obligation to appeal an adverse regulatory decision, but shall be obligated to refile for abandonment approval no later than one year after any such denial. In any event, Soo shall have no obligation to refile for abandonment approval subsequent to a denial more than twice.

(5) The Authority shall have the right at any time to require Soo to divulge its most recent two years freight traffic and revenues generated on the Railroad Easement.

E. In the event the Authority requests termination of the Railroad Easement, the Authority shall have the obligation to obtain regulatory approval at its expense. Soo agrees to cooperate in any such effort at its expense, including preparation of necessary traffic, accounting and financial data in form suitable for ICC or other regulatory application. Soo also agrees that the Authority may proceed in the name of the Soo to prosecute and complete any such procedure. Soo agrees to provide any requested data for regulatory filing within ninety days of request by the Authority.

(1) In the event regulatory approval to cease rail operations is not received within one year of said filing, or is denied in whole or in part, Soo agrees to transfer its railroad freight service common carrier obligations to the Authority or the Authority's designee, if requested by the Authority, in which case, Sec. 12E(2) will apply.

(2) In the event the Authority requests termination of the Railroad Easement prior to cessation of active rail freight shipping via the Easement, the Authority will make an additional payment at the time termination takes place for lost net revenue calculated in accordance with the provisions of Exhibit H based on average freight revenues for the most recent two years prior to the

request by the Authority and based upon the assumption that revenue will continue for a maximum term of 20 years from the date of closing and further based on the cost of capital as determined by the Interstate Commerce Commission on the date of the request by the Authority to terminate the freight railroad easement. Revenues used in the projection shall be adjusted to reflect those revenues reasonably expected to continue. No payment for lost revenue will be made under any other circumstances.

F. In the event the Authority shall cause, contribute to, or assist in the relocation of any customer facility located adjacent to the Railroad Easement and currently used for rail shipping, the Authority shall:

1. Give Soo advance notice of the proposed relocation.
2. Keep Soo advised as to the particulars of the proposed relocation.

In the event such facility is relocated with the financial assistance of the Authority on a line of railroad not served by Soo, CP Rail or their affiliates, successors or assigns, the provisions of Section 12E(2) will apply.

SECTION 13 - OBLIGATIONS FOLLOWING TERMINATION

Upon termination of the Railroad Easement, the parties hereto are relieved from any and all obligations relating thereto, except for any obligations which may have accrued or which may have been incurred prior to the date of such termination or in accordance with the terms of this Agreement.

SECTION 14 - RAILROAD EASEMENT MAINTENANCE, OPERATIONS, CONTROL AND ENTRY

A. Until termination of the Railroad Easement, Soo shall have the exclusive direction and control of the Trackage upon said Easement, at its sole cost and expense, subject to the rights of the Authority as set forth in this Agreement. Soo shall perform all construction, derailment or wreck clearing, maintenance, repair and renewal of the Trackage, including any additions thereto it may deem necessary or desirable for the safe and efficient operation of all trains. Soo's obligation for maintenance and repairs shall include any repairs to overhead bridges necessitated by reason of interference with freight railroad operations, which repairs are not required for any other purpose.

B. The management and operation of the Railroad Easement shall be under the direction and control of Soo. Soo shall have the power to change its operations, management and operating practices on or over the Railroad Easement as in its judgment may be necessary, expedient or proper for the operations herein intended, consistent with the provisions of this Agreement.

C. Soo shall have the right to operate trains, engines and cars over the Railroad Easement for its sole benefit, and shall not, except as otherwise provided in this Agreement without prior written permission by the Authority, which permission shall not unreasonably be withheld, permit any third party to operate trains, engines or cars over the Railroad Easement except as already provided in existing trackage rights agreements or as a temporary emergency detour.

D. Soo shall, at its sole cost and expense, determine all means and employ all persons necessary to operate, maintain, repair and renew the Trackage, as well as crossings, crossing signals, ditches, roadbeds, bridges, and communication lines within the Railroad Easement which may be necessary for its use of the Trackage.

E. Soo shall have a right of access over other portions of the Property for the sole purpose of maintaining and performing freight railroad operations over the Railroad Easement. Such access shall not unreasonably interfere with activities of the Authority or other users permitted by the Authority upon Property not part of the Railroad Easement.

F. The Authority shall not pay the expenses of any public crossing of the Railroad Easement which may be opened or improved, including all expenses of crossing protection, unless such crossings are requested or opened by the Authority. The Authority shall not be responsible for any expenses incurred by Soo as a result of activities of third parties not authorized by the Authority occupying or otherwise interfering with the Railroad Easement.

G. The Authority may enter upon, and make alterations to, the Railroad Easement subject to the following conditions:

(1) The Authority shall give Soo at least three working days advance notice of the date, time, and location of each entry upon the Railroad Easement and the precise nature

of the activities to be conducted on the Railroad Easement at each such date, time and location.

(2) The Authority and its contractors shall not interfere with the operations of any trains or railroad facilities upon the Railroad Easement except with the consent of Soo which consent shall not be unreasonably withheld.

(3) The Authority shall take (and shall cause its contractors to take) such actions as are required to afford Soo the benefit of any applicable insurance held by the Authority or its contractors. In any case where the circumstances would cause a prudent railroad to require the Authority or its contractors to do so, the Authority or its contractors shall procure and maintain in effect railroad protective liability insurance (occurrence form), in Soo's name and issued by an insurer and in a form acceptable to Soo, with limits of $2,000,000 per occurrence and $6,000,000 aggregate for bodily injury (including death) and property damage.

(4) While on the Railroad Easement, the Authority and its contractors shall comply with all applicable laws and with Soo's safety rules, all at no expense to Soo.

(5) No work shall be done or obstruction placed over any track or within the Railroad Easement until the Authority or its contractors shall have arranged for Soo to furnish, at the Authority's or its contractors' expense, such flagging as Soo deems necessary for the protection

of railroad operations. Such flagging shall not relieve the Authority or its contractors from any liability.

(6) Construction equipment and related equipment shall not be placed closer than 10 feet from the nearest rail of any track.

(7) If the Authority desires to construct facilities upon the Railroad Easement, such construction shall be effected in strict accordance with plans which have been approved in advance by Soo. The Authority shall submit the plans to Soo no less than forty-five (45) days prior to the commencement of construction. Soo may require the Authority to make changes in the plans if, in Soo's judgment, the planned construction would create a safety hazard with respect to, or interfere with, railroad operations. Soo assumes no responsibility for, and shall not under any circumstances be held liable for, any error, omission, defect, or deficiency in the plans.

(8) The Authority shall not construct any facility over any track where the vertical distance between the top of the rail and any part of the facility is less than 23 feet.

SECTION 15 - LIABILITY

A. While conducting operations over the Railroad Easement, Soo agrees to defend, indemnify, and hold harmless the Authority, its Commissioners, officers, agents, and employees from any liability, claims, damages, costs, judgments, or expenses resulting directly or indirectly from the act or omission of Soo, its agents,

employees, customers, tenants, or invitees, occurring on or from the Property (including, without limitation, reasonable attorney's fees and compensation for harm resulting from the handling, storage or release of toxic or hazardous substances or wastes, pollutants or contaminants including, without limitation, asbestos, urea formaldehyde, the group of organic compounds known as polychlorinated biphenyls, petroleum products including gasoline, fuel oil, crude oil and various constituents of such products).

B. Notwithstanding anything in this Agreement to the contrary, in case of collision occurring on the Property involving railroad cars, locomotives, rail passenger cars, motor vehicles, other vehicles or equipment operated by the respective parties which causes Loss or Damage involving the Sole Property or Sole Employees of each of the parties hereto, the party whose Sole Employees are alone at fault shall be solely responsible for and shall settle for and pay the entire Loss and Damage caused thereby, or, if caused by the fault of the Sole Employees of both parties hereto, each party hereto shall bear and pay for all Loss or Damage which its Sole Employees and Sole Property may have suffered as a result thereof, and each party shall bear the percentage of Loss or Damage for which it is legally responsible to third parties.

C. Each party hereto shall pay all Loss or Damage for which such party shall be liable under the provisions of this Agreement, and shall defend, indemnify and save harmless the other party against such Loss or Damage, including any such damages in any court action. Each party hereto shall have the right to settle, or

cause to be settled for it, all claims for Loss or Damage for which such party shall be liable under the provisions of this Agreement, and to defend or cause to be defended all suits for the recovery of any such Loss or Damage.

D. Each party shall give the other prompt written notice of any and all claims or suits arising from operations on or about the Railroad Easement.

E. Notwithstanding the foregoing, the terms of this Agreement are not to be construed as nor operate as waivers of the Authority's statutory or common law immunities or limitations on liability, including but not limited to Minn. Stat. Ch. 466. Further, the Authority's obligations set forth in this Section 15 and otherwise in this Agreement are expressly limited and governed by the provisions of Minn. Stat. Ch. 466, Minn. Stat. Ch. 604, and any other applicable law or regulation.

SECTION 16 - ENVIRONMENTAL REPRESENTATIONS AND WARRANTIES

A. Soo hereby represents and warrants as follows to the Authority, such representations and warranties to be true and correct on the closing date, that:

(1) Soo has provided to the Authority within 30 days of the execution of this Agreement all relevant and material environmental information with respect to the Property which is in Soo's possession. Soo may provide such information in summary fashion, but warrants that any summary so provided is fully representative of the environmental conditions of the Property known to Soo and

that Soo has promptly provided all other relevant documents, data, test results, reports and recommendations requested by the Authority as it pertains to said summarized information. The summarized information will be set forth in Soo's Environmental Disclosure schedule which shall be identified as Exhibit I to this Agreement.

(2) Except as disclosed in any documentation provided by Soo to the Authority pursuant to this Section 16 hereof and except as disclosed on Exhibit I (which is to be provided to the Authority within 30 days after the date of this Agreement), Soo has not generated, treated, stored, released or disposed of, or otherwise placed, deposited in or located any toxic or hazardous substances or wastes, pollutants or contaminants (including, without limitation, asbestos, urea formaldehyde, the group of organic compounds known as polychlorinated biphenyls, petroleum products including gasoline, fuel oil, crude oil and various constituents of such products, and any hazardous substance as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. Section 9601-9647, as amended) on the Property, nor has Soo undertaken any activity on the Property which has caused, or, to Soo's knowledge, would contribute to:

(i) the Property being or becoming a treatment, storage or disposal facility within the meaning of the Resource Conservation and Recovery Act of 1976 ("RCRA"), 42 U.S.C. Section 6901 et seq., or any similar state law or local ordinance,

(ii) a release or threatened release of toxic or hazardous wastes or substances, pollutants or contaminants from the Property within the meaning of CERCLA or any similar state law or local ordinance,

(iii) the discharge from the Property of pollutants or effluent into any water source or system, the dredging or filling of any waters or the discharge into the air of any emissions, that would require a permit under the Federal Water Pollution Control Act, 33 U.S.C. Section 1251 et seq., or the Clean Air Act, 42 U.S.C. Section 7401 et seq., or any similar law or local ordinance.

(3) Except as disclosed in Exhibit I, to Soo's knowledge, there is no existing claim or cause of action and there is no pending claim or cause of action against the Property under RCRA, CERCLA or any federal, state or local environmental statutes, regulations, ordinances or other environmental regulatory requirements, including without limitation, the Minnesota Environmental Response and Liability Act, Minn. Stat. § 115B ("MERLA") and the

Minnesota Petroleum Tank Release Cleanup Act, Minn. Stat. § 115C.

(4) Except as disclosed on Exhibit I, no above ground or underground tanks (i) have been located on the Property by Soo, or (ii) have been located on the Property by Soo and subsequently removed or filled. There are no known wells within the meaning of Minn. Stat. § 103I.005 on the Property except as described on Exhibit I.

SECTION 17 - ENVIRONMENTAL INDEMNIFICATION

A. Except as limited by this Section 17, Soo shall defend, indemnify and hold the Authority harmless from and against all claims, damages, liabilities, costs, including costs and expenses of response, removal, remediation or disposal expenses (including reasonable experts' and attorneys' fees), suits or obligations of any and every nature whatsoever to the extent that they (i) result from or arise out of Soo's breach of any of the representations and warranties in Section 16 of this Agreement, or (ii) result from or arise as a result of the generation, treatment, use, handling, storage, transportation, manufacture, release, discharge or disposal of any toxic or hazardous substances or wastes, pollutants or contaminants (including, without limitation, asbestos, urea formaldehyde, the group of organic compounds known as polychlorinated biphenyls, petroleum products including gasoline, fuel oil, crude oil and various constituents of such products) on or from the Property to the extent that same occurred prior to transfer of ownership of the Property to the Authority.

B. Soo's obligation to the Authority for responding to, removing, remediating or disposing of any pollutant, contaminant, toxic or hazardous substance or waste is restricted to that where the response, removal, remediation or disposal is ordered or required by any federal, state or local government agency with jurisdiction over the same; however, response, removal, remediation or disposal shall be based upon techniques that reasonably accommodate the time needs of the Authority in using the Property as a transportation corridor.

C. Soo's obligation to the Authority for responding to, removing, remediating or disposing of any pollutant, contaminant, toxic or hazardous substance or waste is further limited to that necessary for the Authority's use of the Property as a transportation corridor, including, but not limited to, use as a railroad right-of-way, roadway, bike, pedestrian or other trailway and necessary facilities, including without limitation, station sites, maintenance facilities and other buildings incidental to use as a transportation corridor.

D. The Authority is responsible for the first $50,000 attributable to each Environmental Site up to an aggregate total of $250,000 for all Environmental Sites.

E. Soo is obligated to defend, indemnify and hold the Authority harmless for amounts over $50,000 attributable to each Environmental Site and for amounts in excess of the Authority's aggregate amount of $250,000.

F. Notwithstanding anything else to the contrary in this Section 17, Soo's obligation to defend and indemnify the Authority with respect to Environmental Sites shall be limited to an aggregate amount of $2,000,000.00 for any and all Environmental Sites.

G. Soo is not responsible for defending or indemnifying the Authority for Environmental Sites discovered after termination, pursuant to Section 12, of the Railroad Easement.

H. Each Party agrees to inform the other of notices and investigations of Environmental Sites and the Parties further agree to confer with respect to management of remediation.

I. All the terms, covenants, and conditions of this Agreement shall be binding upon, and inure to the benefit of and be enforceable by the parties hereto and their respective successors, heirs, executors and assigns.

SECTION 18 - SURVIVAL

All of the terms of this Agreement, including all warranties, representations, and indemnification given by each party in this Agreement, all of which are relied upon by the each party shall survive and be enforceable after the closing date and any subsequent transfer of title of the Property.

SECTION 19 - LAWS GOVERNING

This Agreement shall be governed, and the parties agree to be bound, by the laws of the State of Minnesota; and the parties agree

to comply with or abide by all laws relevant to this Agreement governing their respective operations in the State of Minnesota.

SECTION 20 - LABOR RELATIONS

Soo and the Authority each shall be responsible for conducting their own labor relations with any labor organization either representing or seeking representation among either's employees, and each shall regulate or seek to adjust all disputes that may arise with respect to their employees without involving the other party. Either party may freely enter into any contract with any labor organization representing or seeking representation among its own employees. Neither party shall obligate the other party to its employees or to any union representing its employees. Each party shall give written notice to the other of any labor dispute that prevents or threatens to prevent timely performance under this Agreement, including all relevant information concerning the dispute that may impact upon this Agreement.

SECTION 21 - INDEPENDENCE OF PARTIES

Soo and the Authority hereby declare that they are acting independently, and agree that in the performance of this Agreement their actions are as independent contractors and not as an employee of the other; nor are any of their respective employees considered at any time an employee of the other. Soo has and hereby retains full control of its business in the performance of this Agreement and full control of all the employment, compensation and discharge of all employees of Soo assisting in its performance hereunder.

Soo and the Authority each shall be fully responsible for all matters relating to payment of their employees, including compliance with Social Security, Railroad Retirement, withholding taxes and all other laws and regulations governing such matters. Soo and the Authority each shall be responsible for their own acts and those of their agents, officers, employees, lessees, and contractors during the term of this Agreement.

SECTION 22 - REMEDIES FOR BREACH. If the Authority fails to perform any of the terms or conditions of this Agreement within the specified time limits, Soo may declare this Agreement terminated or may have this Agreement specifically enforced. Likewise, if Soo fails to perform any of the terms or conditions of this Agreement within the specified time limits, the Authority may declare this Agreement terminated or may have this Agreement specifically enforced. The rights and remedies granted to the parties in this Section 22 are intended to be cumulative to all other rights and remedies available to the parties (whether under this Agreement, at law, in equity, or otherwise); accordingly, the exercise by either party of any such right or remedy shall not preclude it from exercising any other such right or remedy.

SECTION 23 - ENTIRE AGREEMENT. This Agreement constitutes the entire Agreement between the parties with respect to the sale and purchase of the Property. Neither party has relied on any statements or representations by the other party except as are set forth in this Agreement.

SECTION 24 - ASSIGNMENT; BINDING EFFECT. The terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, including without limitation any entities into or by which either of the parties is merged, combined, reorganized or acquired.

SECTION 25 - NOTICES. Unless explicitly stated to the contrary elsewhere in this Agreement, all notices and other communications required or contemplated by this Agreement must be in writing and shall be deemed given when delivered in legible form to the business address of the party to whom addressed. If delivered at the closing, a notice shall be deemed given when hand-delivered to the party's representative at the closing. The business addresses of the parties are as follows:

SOO

mailing address:	P. O. Box 530 Minneapolis, Minnesota 55440 Attn: Director - Real Estate
delivery address:	1380 Soo Line Building 105 South 5th Street Minneapolis, Minnesota 55402 Attn: Director - Real Estate
telecopier:	(612) 347-8170 Attn: Director - Real Estate

THE AUTHORITY

mailing address:	Hennepin County Regional Railroad Authority Southwest Street Level Government Center Minneapolis, MN 55487-0016 Attn: Director - Light Rail Transit

delivery address: Hennepin County Regional Railroad Authority
Southwest Street Level
Government Center
Minneapolis, MN 55487-0016
Attn: Principal Right-of-way Agent

telecopier: (612) 348-9710
Attn: Principal Right-of-way Agent

Notices not given in the manner or within the time limits set forth in this Agreement are of no effect and may be disregarded by the party to whom they are directed. Either party may change its business address, for notice purposes, by giving notice of the change to the other party.

ATTEST:

Teresa A. Keener
Assistant Secretary

SOO LINE RAILROAD COMPANY

By B. Frank Hilton
Its Senior Vice President
Development

ATTEST:

Mary Ellen Hudson

HENNEPIN COUNTY REGIONAL
RAILROAD AUTHORITY

By Mark Andrew
Its Chairman

and

By Vert Hazlinger
Its Executive Director

Approved as to execution:

Assistant County Attorney

Dated: 1-5-93

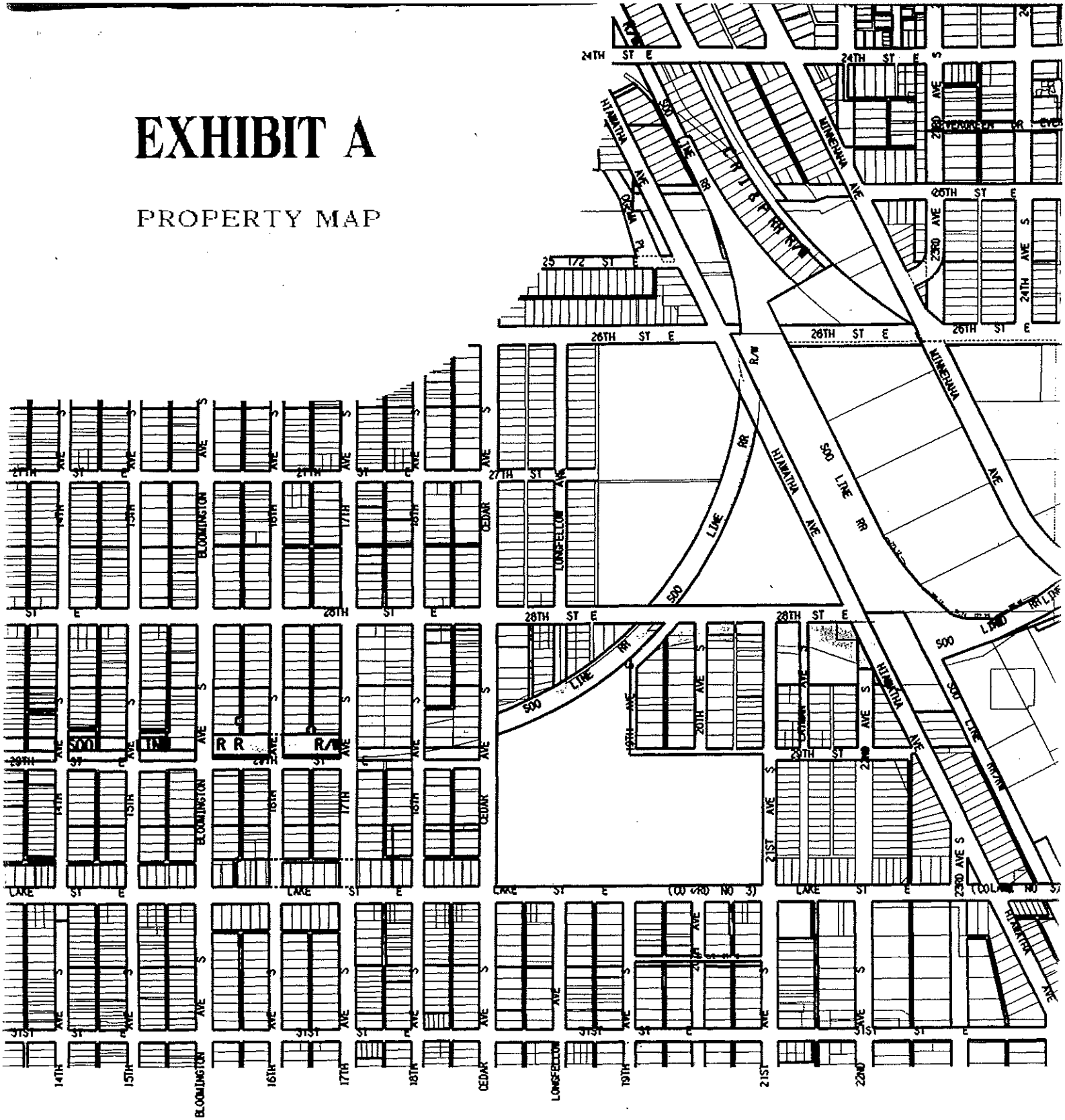
Approved as to legality:

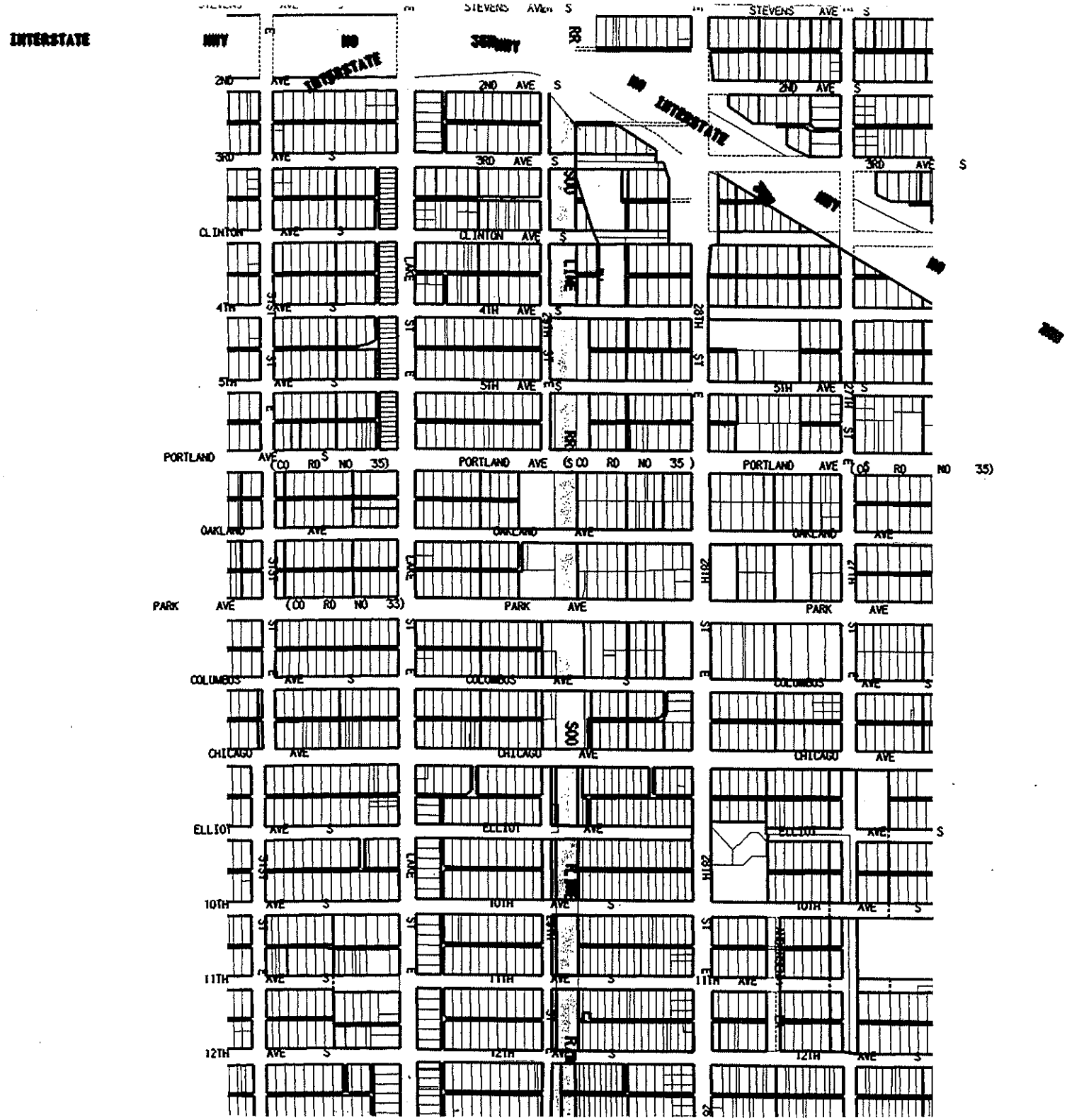
Assistant County Attorney

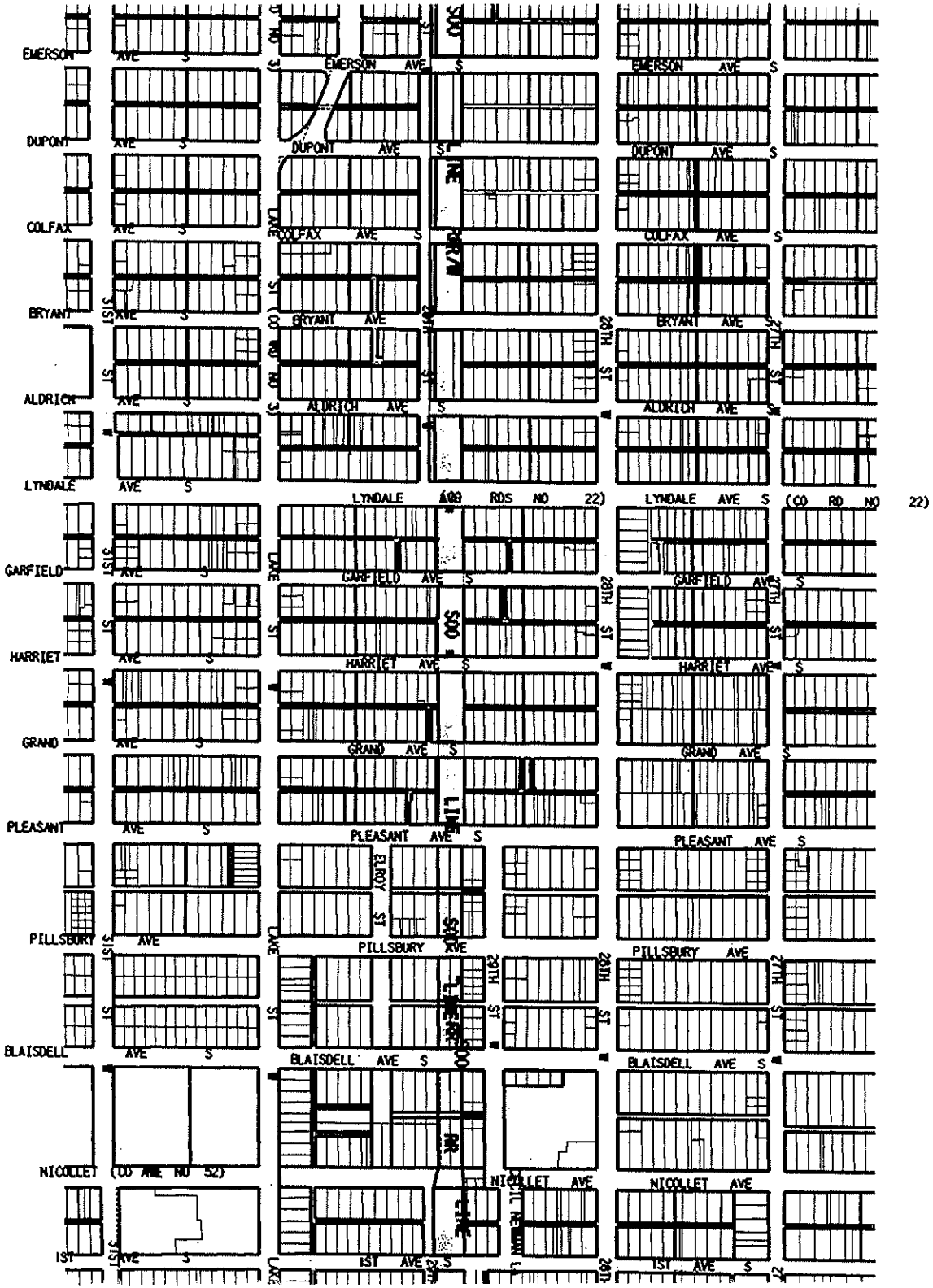
Dated: 12-23-92

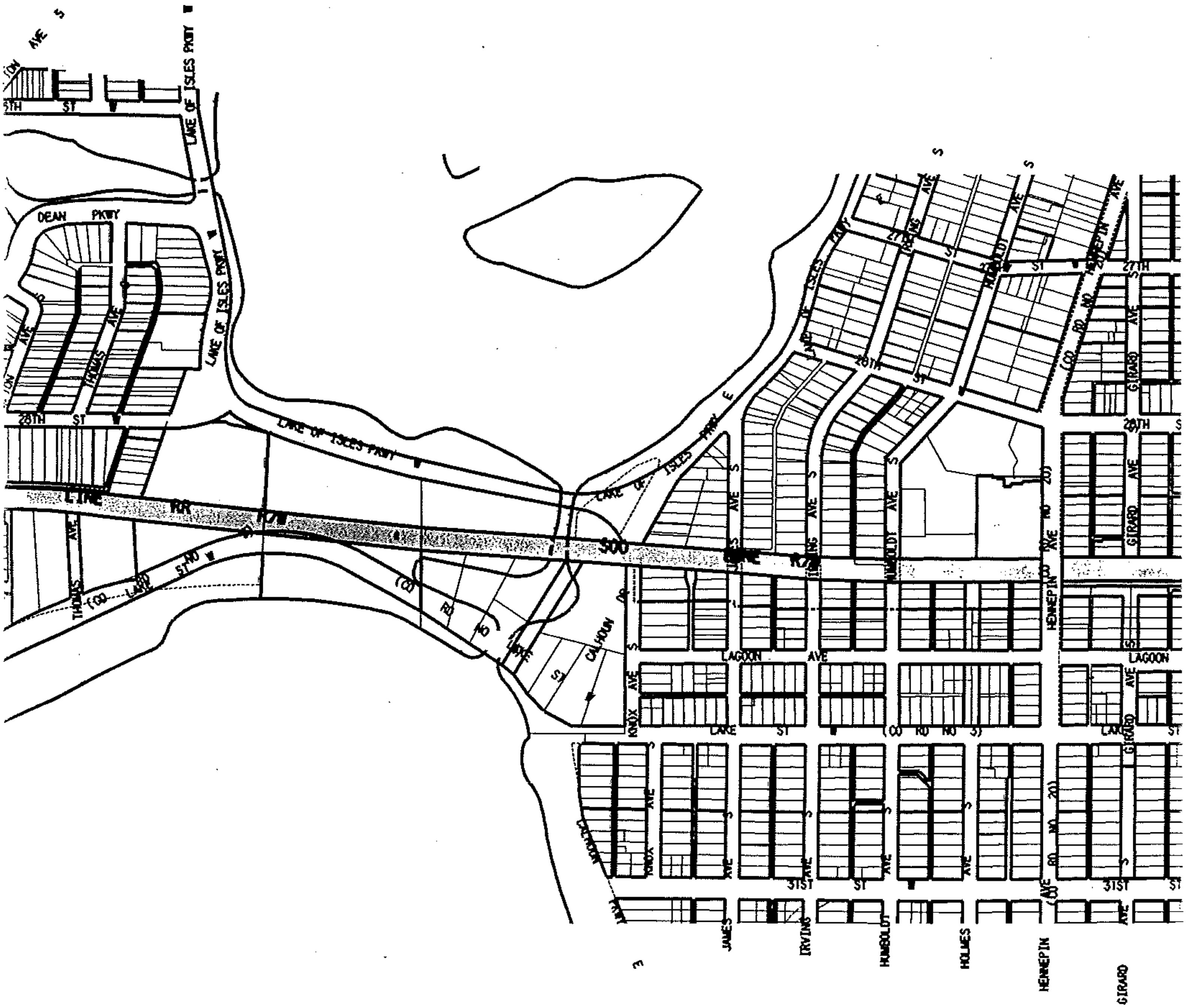
EXHIBIT A

PROPERTY MAP




INTERSTATE
STEVENS AVE S
2ND AVE S
3RD AVE S
CLINTON AVE S
4TH AVE S
5TH AVE S
PORTLAND AVE (CO RD NO 35)
OAKLAND AVE
PARK AVE (CO RD NO 33)
COLUMBUS AVE S
CHICAGO AVE
ELLIOT AVE S
10TH AVE S
11TH AVE S
12TH AVE S
LAKE
SOO LINE
28TH ST E
27TH ST E


EMERSON AVE S
DUPONT AVE S
COLFAX AVE S
BRYANT AVE S
ALDRICH AVE S
LYNDALE AVE S
GARFIELD AVE S
HARRIET AVE S
GRAND AVE S
PLEASANT AVE S
PILLSBURY AVE
BLAISDELL AVE S
NICOLLET AVE
1ST AVE S
31ST ST
LAKE ST
28TH ST
27TH ST
ELROY ST
SOO LINE RR
(CO RD NO 22)
(CO RD NO 52)


LAKE OF ISLES PKWY W
DEAN PKWY
28TH ST
LAKE OF ISLES PKWY E
27TH ST
HUMBOLDT AVE
HENNEPIN AVE
(CO RD NO 20)
GIRARD AVE
SOO LINE RR R/W
LAKE ST W (CO RD NO 3)
LAGOON AVE
CALHOUN DR
KNOX AVE
31ST ST
JAMES
IRVING
HUMBOLDT
HOLMES
HENNEPIN
GIRARD

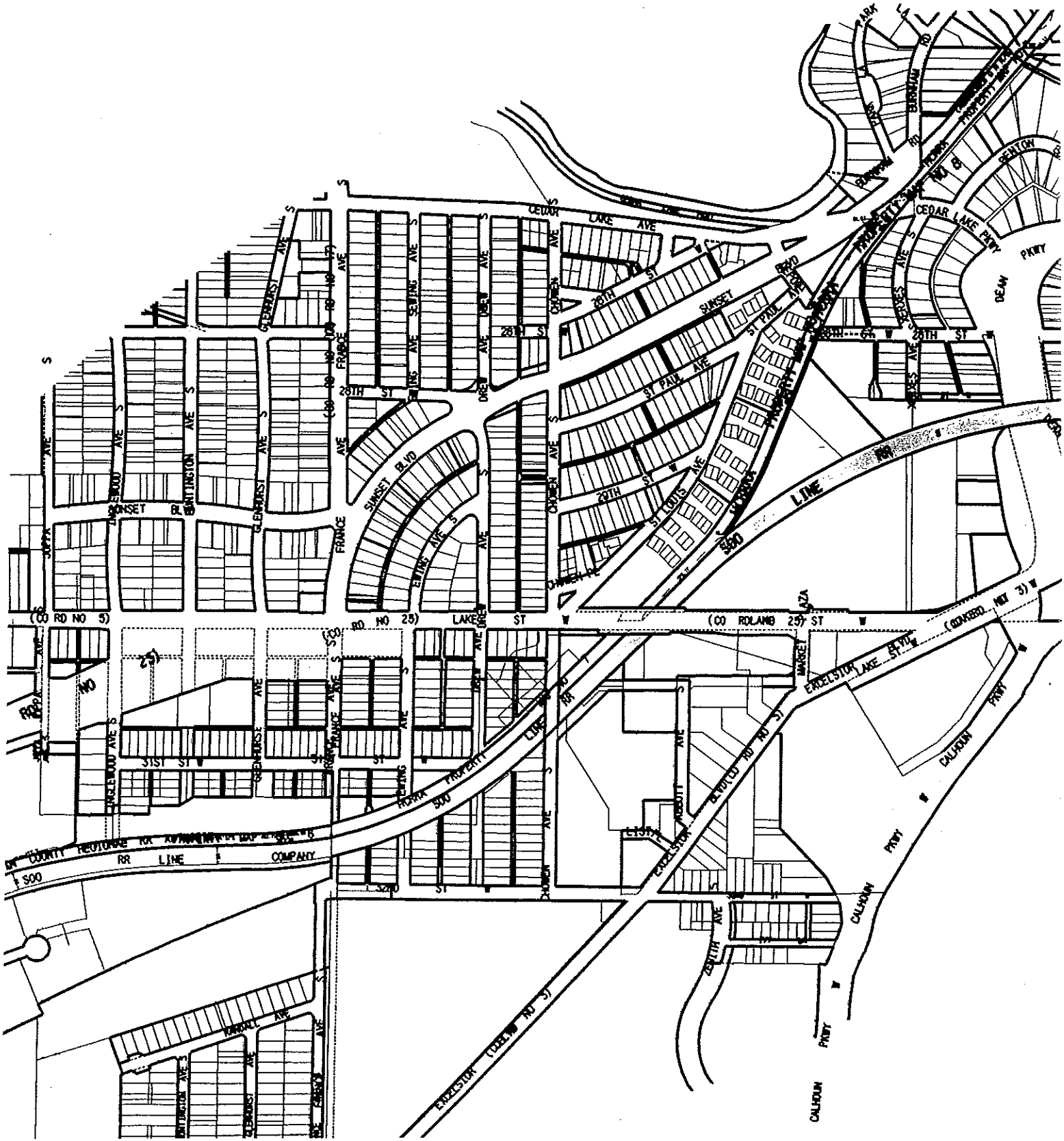

CEDAR LAKE AVE
CEDAR LAKE PKWY
DEAN PKWY
SUNSET BLVD
ST PAUL AVE
28TH ST
29TH ST
ST LOUIS AVE
FRANCE AVE
CHOWEN AVE
DREW AVE
SEWING AVE
EWING AVE
GLENHURST AVE
INGLEWOOD AVE
HUNTINGTON AVE
JOPPA AVE
(CO RD NO 5)
(CO RD NO 25)
LAKE ST W
(CO RD NO 25) ST W
EXCELSIOR BLVD
EXCELSIOR LAKE ST W
(CO RD NO 3)
31ST ST W
32ND ST W
ZENITH AVE
CALHOUN PKWY
KANDALL AVE
SOO LINE RR
SOO RR LINE COMPANY
HCRRA PROPERTY
COUNTY REGULATOR RR
MARKET
ABBOTT AVE
BURNHAM RD
PARK LA
BENTON

EXHIBIT B

Legal Description of Property

All that part of the Soo Line Railroad Company right of way passing through the Northwest Quarter of the Southwest Quarter, the Southwest Quarter of the Southwest Quarter, and the Southeast Quarter of the Southwest Quarter, all in Section 36, Township 29, Range 24; all of which lies westerly of the easterly right of way line of Hiawatha Avenue.

also:

All that part of the Soo Line Railroad Company right of way passing through the South Half of the Southeast Quarter and the South Half of the Southwest Quarter, Section 35, Township 29, Range 24; the South Half of the Southeast Quarter and the South Half of the Southwest Quarter, Section 34, Township 29, Range 24; the South Half of the Southeast Quarter and the South Half of the Southwest Quarter, Section 33, Township 29, Range 24; the South Half of the Southeast Quarter and the Southeast Quarter of the Southwest Quarter, Section 32, Township 29, Range 24; and the North Half of the Northwest Quarter of Section 5, Township 28, Range 24.

(Abstract Property)

All that part of the North Half of the Southeast Quarter of the Southwest Quarter of Section 35, Township 29, Range 24, lying South of the South line of Block 3, "Avery's Chicago Avenue Addition to Minneapolis", and between the extensions South of the East and West lines of said Block 3.

According to the recorded plats thereof and according to the Government Survey thereof, as evidenced by Certificate of Title No. 371889.

(Torrens Property)

RAILROAD EASEMENT

(reserved for valuation and tax data) (reserved for recording data)

STATE DEED TAX DUE HEREON: $_____

Date: _____, 19_____

FOR VALUABLE CONSIDERATION, the Hennepin County Regional Railroad Authority, a political subdivision and local government unit under the laws of the State of Minnesota, Grantor, hereby conveys and quitclaims to the Soo Line Railroad Company, a corporation under the laws of the State of Minnesota, Grantee, a temporary railroad easement over real property in Hennepin County, Minnesota, the terms of which are set forth in Purchase Agreement between Soo Line Railroad Company and the Hennepin County Regional Railroad Authority dated December 23, 1992. The real property is described as follows:

(Legal description on reverse of this document)

Hennepin County Regional Railroad Authority

By_____
Its Chairman

By_____
Its Executive Director

STATE OF MINNESOTA)
)ss
COUNTY OF HENNEPIN)

The foregoing was acknowledged before me this _____ day of _____, 199__, by _____ and Vern T. Genzlinger, the Chairman and Executive Director of Hennepin County Regional Railroad Authority, a political subdivision and local government unit under the laws of Minnesota, on behalf of the Authority.

_____
Notary Public

This Instrument was drafted by:

Hennepin County Regional Railroad Authority
Southwest Street Level Government Center
300 South Sixth Street
Minneapolis, MN 55487-0016

Tax Statements for the real property described in this instrument should be sent to:

Description of Property Affected

All that part of the Hennepin County Regional Railroad Authority right of way, formerly the right of way of the Soo Line Railroad Company, passing through the Northwest Quarter of the Southwest Quarter, the Southwest Quarter of the Southwest Quarter, and the Southeast Quarter of the Southwest Quarter, all in Section 36, Township 29, Range 24; all of which lies westerly of the easterly right of way line of Hiawatha Avenue.

also:

All that part of the Hennepin County Regional Railroad Authority right of way, formerly the right of way of the Soo Line Railroad Company, passing through the South Half of the Southeast Quarter and the South Half of the Southwest Quarter, Section 35, Township 29, Range 24; the South Half of the Southeast Quarter and the South Half of the Southwest Quarter, Section 34, Township 29, Range 24; the South Half of the Southeast Quarter and the South Half of the Southwest Quarter, Section 33, Township 29, Range 24; the South Half of the Southeast Quarter and the Southeast Quarter of the Southwest Quarter, Section 32, Township 29, Range 24; and the North Half of the Northwest Quarter of Section 5, Township 28, Range 24.

(Abstract Property)

also:

All that part of the North Half of the Southeast Quarter of the Southwest Quarter of Section 35, Township 29, Range 24, lying South of the South line of Block 3, "Avery's Chicago Avenue Addition to Minneapolis", and between the extensions South of the East and West lines of said Block 3.

According to the recorded plats thereof and according to the Government Survey thereof, as evidenced by Certificate of Title No. 371889.

(Torrens Property)

Description of Railroad Easement to Expire (Insert Date of Severence at Hiawatha)

Strips of land 30 feet in width lying 15 feet on either side of the centerlines of: all main tracks, spurs, sidings and tail tracks as they are now laid out and constructed over the above described property.

Description of Railroad Easement to Expire December 31, 2008

Strips of land 30 feet in width lying 15 feet on either side of the centerlines of all existing trackage over the above described property lying between the west boundary of Fifth Avenue and the west boundary line of Bloomington Avenue, in the City of Minneapolis

also

a strip of land 30 feet in width lying 15 feet on either side of the centerline of the south main track over the above described property lying west of the west boundary line of Fifth Avenue, and east of the west boundary of Bloomington Avenue to the east boundary line of Cedar Avenue, in the City of Minneapolis

QUITCLAIM DEED

(reserved for valuation and tax data)	(reserved for recording data)

Date:_____, 199__

For valuable consideration, Soo Line Railroad Company ("Grantor" or "Seller"), a corporation under the laws of the State of Minnesota, hereby conveys and quitclaims to Hennepin County Regional Railroad Authority ("Grantee"), a political subdivision and local governmental unit under the laws of the State of Minnesota, real property in Hennepin County, State of Minnesota, described below, together with all hereditaments and appurtenances thereto. The real property is described as follows:

That part of the Soo Line Railroad Company right of way passing through the Northwest Quarter of the Southwest Quarter, the Southwest Quarter of the Southwest Quarter, the Southeast Quarter of the Southwest Quarter, all in Section 36, Township 29, Range 24; all of which lies westerly of the easterly right of way line of Hiawatha Avenue.

also:

That part of the Soo Line Railroad Company right of way passing through the South Half of the Southeast Quarter and the South Half of the Southwest Quarter, Section 35, Township 29, Range 24; the South Half of the Southeast Quarter and the South Half of the Southwest Quarter, Section 34, Township 29, Range 24; the South Half of the Southeast Quarter and the South Half of the Southwest Quarter, Section 33, Township 29, Range 24: the South Half of the Southeast Quarter and the Southeast Quarter of the Southwest Quarter, Section 32, Township 29, Range 24; and the North Half of the Northwest Quarter of Section 5, Township 28, Range 24.

(Abstract Property)

also:

That part of the North Half of the Southeast Quarter of the Southwest Quarter of Section 35, Township 29, Range 24, lying south of the South line of Block 3, "Avery's Chicago Avenue Addition to Minneapolis", and between the extensions South of the East and West lines of said Block 3.

According to the recorded plats thereof and according to the Government Survey thereof, as evidenced by Certificate of Title No. 371889.

(Torrens Property)

[Seller certifies that seller does not know of any wells on the real property.] (insert as necessary)

SOO LINE RAILROAD COMPANY

By: _____

Its: _____

STATE OF MINNESOTA

)SS

COUNTY OF HENNEPIN

The foregoing quitclaim deed was acknowledged before me this _____ day of _____ 199___ by _____ the _____ of Soo Line Railroad Company, a corporation under the laws of the State of Minnesota, on behalf of the corporation.

_____

Notary Public

Tax statements for the property
should be sent to Grantee at:

_____

_____

_____

_____

This instrument was drafted by:
John P. Nail
Soo Line Railroad Company
P. O. Box 530
Minneapolis, MN 55440

EXHIBIT E

QUITCLAIM BILL OF SALE

KNOW ALL PERSONS BY THESE PRESENTS:

Soo Line Railroad Company ("Seller"), in consideration of the sum of $1.00 and other valuable consideration to it paid, receipt of which is hereby acknowledged, hereby conveys and quitclaims to Hennepin County Regional Railroad Authority the following property:

_____

_____

This conveyance is made strictly on an "as is, where is" basis, and Seller makes no express or implied representation or warranty whatsoever concerning said property (including, without limitation, express or implied representations or warranties of title, merchantability, or fitness for a particular purpose).

SOO LINE RAILROAD COMPANY

By: _____

Its: _____

Date: _____

EXHIBIT F

LIST OF LEASES, CONTRACTS, PERMITS, LICENSES, AND OTHER INSTRUMENTS

Lessee/Licensee	Number	Type Agreement
Roland Millwork Co.	24055	Land lease
Bituminous Roadways, Inc.	24126	Land lease
Sears, Roebuck & Co.	24191	Land lease
Donald K. Raymond	24400	Land lease
Bituminous Roadways, Inc.	24767	Land lease
Northern States Power	25034	Wire crossing
KBL Cablesystems of Minnesota	25391	Wire crossing
KBL Cablesystems of Minnesota	25392	Wire crossing
KBL Cablesystems of Minnesota	25393	Wire crossing
KBL Cablesystems of Minnesota	25394	Wire crossing
KBL Cablesystems of Minnesota	25395	Wire crossing
KBL Cablesystems of Minnesota	25396	Wire crossing
Northern States Power	25420	Pole & wire agreement
Northern States Power	25445	Overhead wire crossing
Northern States Power	25457	Wire crossing
Northern States Power	25464	Pole & wire agreement
Northern States Power	25466	Pole & wire agreement
U. S. West Communications	25604	Conduit agreement
U. S. West Communications	25606	Conduit agreement
U. S. West Communications	25620	Conduit agreement
U. S. West Communications	25624	Pole line attachment
U. S. West Communications	25632	Pole & wire agreement
U. S. West Communications	25645	Pole & wire agreement
KBL Cablesystems of Minnesota	25680	Wire crossing
KBL Cablesystems of Minnesota	25681	Wire crossing
AT & T Communications Inc.	26086	Fiber optic agreement
Northern States Power	26292	Wire crossing
Northern States Power	26632	Pole & wire agreement
Minnegasco	27116	Gas pipe line agreement
Northern States Power	27384	Overhead wire crossing
Northern States Power	27612	Wire crossing
Northern States Power	27627	Overhead wire crossing
John A. Dalsin & Sons, Inc.	27878	Land lease
KBL Cablesystems of Minnesota	28039	Wire crossing
KBL Cablesystems of Minnesota	28040	Wire crossing
Northern States Power	28066	Overhead wire crossing
Paragon Cable TV	28080	Overhead wire crossing
U. S. West Communications	28202	Pole & wire agreement
Smith Foundry Company	28285	Land lease and shed
L. H. Sowles Company	28487	Land lease
N. C. Bennett Lumber Company	28625	Land lease
Minneapolis Gas Light Co.	N7226	Gas pipe agreement
City of Minneapolis	V68	Bridge agreement
City of Minneapolis	V74	Bridge agreement
City of Minneapolis	V210	Land sale agreement
City of Minneapolis	V2368	Bridge agreement
Minneapolis Gas Light Co.	W1406	Gas pipe agreement
City of Minneapolis	W2272	Sewer line agreement
City of Minneapolis	W2427	Sewer line agreement
Minneapolis Gas Light Co.	W3509	Gas pipe agreement
Minneapolis Gas Light Co.	W3937	Gas pipe agreement
Minneapolis Gas Light Co.	W4106	Gas pipe agreement
Minneapolis Gas Light Co.	W4111	Gas pipe agreement
City of Minneapolis	W5320	Water pipe agreement
City of Minneapolis	W6469	Storm sewer agreement
Naegele Outdoor Advertising	SOL-726	Sign board
Midwest Outdoor Adv, Inc.	SOL-776	Sign board
Midwest Outdoor Adv, Inc.	SOL-777	Sign board
Midwest Outdoor Adv, Inc.	SOL-791	Sign board
Minneapolis Com. Dev. Agency	None	Environ. Rt. of Entry

MCI Fiber-optics

26093

Exhibit H

Formula to Calculate the Net Present Value of Future Lost Net Freight Revenue

Lost Net Revenue = The product of "A" and "T" discounted to the present value, using "C" as the discount rate when:

A = Average annual lost net freight revenue, before tax, from the then available records of the most recent two-year period. Revenues used in the projection should be adjusted to reflect those revenues reasonably expected to continue.

C = Cost of Capital determined by I.C.C. on the date of request by the Authority.

D_1 = Date of closing plus 20 years.

D_2 = Date of termination of Railroad Easement.

T = D_1 - D_2 (remaining term).

Exhibit H

Formula to Calculate the Net Present Value of Future Lost Net Freight Revenue

Lost Net Revenue = The product of "A" and "T" discounted to the present value, using "C" as the discount rate when:

A = Average annual lost net freight revenue, before tax, from the then available records of the most recent two-year period. Revenues used in the projection should be adjusted to reflect those revenues reasonably expected to continue.

C = Cost of Capital determined by I.C.C. on the date of request by the Authority.

D_1 = Date of closing plus 20 years.

D_2 = Date of termination of Railroad Easement.

T = D_1 - D_2 (remaining term).

Minneapolis to Hopkins Trail

HOPKINS TO MINNEAPOLIS TRAIL AGREEMENT
(THIS APPROVES EXTENDING TRAIL FROM BELTLINE BLVD. TO WEST END MIDTOWN GREENWAY TRAIL)

RESOLUTION NO. 46-HCRRA-00.

The following Resolution was offered by Commissioner Opat, seconded by Commissioner Dorfman:

BE IT RESOLVED, that First Amendment to Permit Agreement No. 73-32001 with Suburban Hennepin Regional Park District, extending the Hopkins to Minneapolis Recreational Trail on Hennepin County Regional Railroad Authority property, from Beltline Boulevard in St. Louis Park, to the west end of the 29th Street Midtown Greenway - Phase I Trail at Chowen Avenue in Minneapolis, be approved; and that the Chair of the Board be authorized to sign the First Amendment on behalf of the Authority.

The question was on the adoption of the Resolution and there were 6 YEAS and 0 NAYS, as follows:

BOARD OF COMMISSIONERS HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY	YEA	NAY	OTHER
Michael Opat	X		
Mark Stenglein			ABSENT
Gail Dorfman	X		
Peter McLaughlin	X		
Randy Johnson	X		
Penny Steele	X		
Mary Tambornino, Chair	X		

RESOLUTION ADOPTED ON 10/03/00

ATTEST: _____
Secretary, HCRRA

RESOLUTION NO. 49-HCRRA-98

The following resolution was offered by Commissioner Opat, seconded by Commissioner Stenglein:

WHEREAS, Resolution 8-HCRRA-84 authorized the purchase of abandoned Chicago and NorthWestern Transportation Company (CNW) right of way, located between the City of Hopkins and the City of Minneapolis; and

WHEREAS, the Suburban Hennepin Regional Park District (Hennepin Parks) desires to construct a recreational trail between the proposed 29th Street Greenway Trail and the existing Hopkins-to-Chaska Trail; and

WHEREAS, Hennepin Parks desires to enter into a permit agreement with Hennepin County Regional Railroad Authority for the purpose of constructing and maintaining a recreational trail in the Hopkins-to-Minneapolis Corridor, between 11th Avenue South, in the City of Hopkins, and Beltline Boulevard, in the City of St. Louis Park,

BE IT RESOLVED, that Permit Agreement 73-32001, with the Suburban Hennepin Regional Park District, for recreational trail purposes, be approved, and that the Chair be authorized to sign the Agreement on behalf of the Authority.

The question was on the adoption of the resolution and there were 6 YEAS and 0 NAYS as follows:

BOARD OF COMMISSIONERS HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY	YEA	NAY	OTHER
Mike Opat	X		
Mark Stenglein	X		
Mark Andrew	X		
Peter McLaughlin	X		
Randy Johnson	X		
Penny Steele	X		
Mary Tambornino, Chair			ABSENT

RESOLUTION ADOPTED SEPTEMBER 1, 1998

ATTEST: _____
Mark Andrew, Secretary

MPLS. TO HOPKINS

FIRST AMENDMENT TO PERMIT AGREEMENT NO. 73-32001

THIS AGREEMENT, made and entered into by and between the HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY ("Permittor"), a Minnesota political subdivision, and Suburban Hennepin Regional Park District ("Permittee"), a Minnesota political subdivision;

W I T N E S S E T H:

WHEREAS, Permittor and Permittee entered into a certain Permit Agreement bearing Agreement No. 73-32001, for the right to construct and operate a temporary trail on property commonly described as the Hennepin County Regional Rail Authority "Hopkins to Minneapolis Rail Corridor", said Permit being set forth in Exhibit "I", attached hereto and made a part hereof by reference;

WHEREAS, Permittor and Permittee desire to amend the Permit in certain particulars;

NOW, THEREFORE, the parties mutually agree as follows:

Clause 1. "Premises" of the Permit is hereby amended by substituting the following therefor:

1. Premises

Permittor hereby agrees to grant certain rights and benefits to Permittee hereinafter described with regard to that certain real property described as follows:

That part of the Hennepin County Regional Railroad Authority (HCRRA) right of way from 11th Avenue South in the City of Hopkins, and including that part of the HCRRA Hopkins to Minneapolis Rail Corridor in the City of St. Louis Park, to the intersection of Chowen Avenue South and West 31st Street in the City of Minneapolis, generally conforming to the center 16 feet of the rail corridor, or generally conforming to that part within 8 feet on each side of the centerline of the trail where trail is not located in the center of the HCRRA rail corridor, and including a crossing of the HCRRA "Kenilworth" railroad trackage approximately 1,475 feet easterly of the east line of Beltline Boulevard in St. Louis Park, Minnesota, said trackage currently being used by the Twin Cities and Western Railroad Company, and including a connection to the west end of the existing 29th Street Midtown Greenway – Phase I Trail at Chowen Avenue South and West 31st Street, as delineated and colored green on HCRRA Property Maps numbered 28, 29, 2, 3, 4, 5, 6, and 31 and attached hereto as Exhibit A.

A more complete description will be prepared upon the completion of construction of the trail and the completion of "as built" construction plans and will replace and supersede the above description.

The said real estate shall be hereinafter described as the "Premises".

Clause 8. "Other Users" of the Permit is hereby amended by substituting the following therefore:

8. Other Users

Permittor shall use its best efforts to terminate or amend any permits or leases, or other written permission to the Premises, except as provided herein, which may previously have been extended to others by Permittor and which conflict with this Permit.

Permittee hereby acknowledges the presence and use of portions of the Premises and adjacent property for railroad purposes by the Soo Line Railroad Company and other users, including without limitation, Permittor and the Twin Cities and Western Railroad. Permittee agrees to coordinate activities with the railroad use to avoid disrupting or otherwise adversely affecting continued railroad use.

Clause 23. "Conditions of Premises Inspection" of the Permit is hereby amended by substituting the following therefore:

23. Conditions of Premises Inspection

Permittee accepts the Premises in an "AS IS" condition with no express or implied representations or warranties by Permittor as to the physical condition or fitness or suitability for any particular purpose, express or implied. Permittee is responsible for and has had ample opportunity to inspect the Premises, is familiar with the same, and has determined to its satisfaction the fitness of the Premises for its intended use.

Permittee acknowledges and assumes all risks associated with the proximity of the Premises to the railroad right of way upon portions of the Premises and adjacent to the Premises and to any railroad operations thereon including, but not limited to, operations of The Soo Line Railroad Company and the Twin Cities and Western Railroad.

Clause 26. "Railroad Operations" is added as a new provision of the Permit:

26. Railroad Operations

Permittee agrees that the rights contained in this Permit Agreement are subject to and subordinate to the rights granted and contained in any agreements entered into by Permittor as to railroad operations over right of way upon portions of the Premises and adjacent to the Premises, including without limitation, agreements with the Soo Line Railroad Company and the Twin Cities and Western Railroad whether or not entered into on or after the commencement of this Permit Agreement. Permittee shall comply with all rules and regulations in regards to railroad operations on the right of way, including without limitation, those regarding safety. This Permit and all provisions thereof shall be subject to revision at any time if made necessary by any order or finding of the Surface Transportation Board or state authorities having jurisdiction over railroad operations.

Without limiting the foregoing, Permittee agrees that the rights contained in this Agreement are subject to and subordinate to the rights granted in the Trackage Rights

Agreement between Soo Line Railroad Company, Twin Cities and Western Railroad Company and Hennepin County Regional Railroad Authority entered into on August 10, 1998, Contract No. A18158, and Permittee agrees to be bound by the terms therein regarding the Kenilworth Trail including without limitation those contained in Sections 4.5 and 4.8. A copy of the Trackage Rights Agreement is attached hereto as Exhibit II and made a part of this Agreement. Further, Permittee agrees that the rights contained in this Agreement are subject to and subordinate to the rights granted in the Purchase Agreement between Soo Line Railroad Company and Hennepin County Regional Railroad entered into on December 23, 1992, and Permittee agrees to be bound by the terms therein regarding the easement granted, which covers the 29th Street Corridor including without limitation those contained in Section 14 regarding entry into the easement area. A copy of the Purchase Agreement is attached hereto as Exhibit III and made a part of this Agreement.

The effective date of this First Amendment to Permit Agreement No. 73-32001 is October 4, 2000.

Except as herein above amended, the terms, conditions and provisions of Permit Agreement No. 73-32001, shall apply to and govern the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have signed this Permit Agreement as of _____, 20___.

HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY

By: _____
Chair, Board of Commissioners

And: _____
Executive Director

Approved as to form:

_____
Assistant County Attorney
Date: 9/28/00

Approved as to form:

_____
Attorney for Suburban Hennepin Regional Park District
Date: _____

SUBURBAN HENNEPIN REGIONAL PARK DISTRICT

_____
Superintendent

Date: 9-22-2000

Approved as to execution:

_____
Assistant County Attorney
Date: 9/28/00

_____
Chair, Board of Commissioners

Date: 9-21-00

Approved as to execution:

_____
Attorney for the Suburban Hennepin Regional Park District
Date: _____

EXHIBIT I

Agreement No. 73-32001

PERMIT AGREEMENT

Hopkins to Minneapolis Trail

This agreement, entered into by and between the Hennepin County Regional Railroad Authority, a Minnesota political subdivision, ("Permittor") and Suburban Hennepin Regional Park District ("Permittee") a Minnesota political subdivision.

In consideration of the covenants by and between the parties, it is hereby agreed:

1. Premises

Permittor hereby agrees to grant certain rights and benefits to Permittee hereinafter described with regard to that certain real property described as follows:

That part of the Hennepin County Regional Railroad Authority (HCRRA) right of way, located in the Cities of St Louis Park and Hopkins, generally conforming to the center 16 feet of the rail corridor, delineated and marked in green, as shown on the construction plans for the Southwest LRT Extension Trail and attached hereto as, Exhibit "A"

The said real estate shall be hereinafter described as the "Premises."

2. Uses

The Premises shall be for the temporary use of Permittee, its agents, officers, employees, subpermittees and invitees for trail purposes, including but not limited to pedestrian use, cross country skiing, bicycles and other non motorized uses, and all requirements necessary to the enjoyment of the Premises for said uses. Permittee shall be granted temporary use of adjacent lands controlled by Permittor as reasonably required for construction and maintenance of the Premises.

3. Term

The term of this Permit shall be for an indefinite period, commencing on execution of this Agreement by the Chair of the Hennepin County Regional Railroad Authority until termination in accordance with Paragraph 4.

4. Termination

Either party may, at any time and for any reason, terminate this Permit by giving ninety (90) days' written notice of its intention to do so. Such notice may be served upon the Hennepin County Regional Railroad Authority by delivering a copy thereof to the Executive Director at the principal office in the Hennepin County Government Center,

Agreement No. 73-32001

PERMIT AGREEMENT

Hopkins to Minneapolis Trail

This agreement, entered into by and between the Hennepin County Regional Railroad Authority, a Minnesota political subdivision, ("Permittor") and Suburban Hennepin Regional Park District ("Permittee") a Minnesota political subdivision.

In consideration of the covenants by and between the parties, it is hereby agreed:

1. Premises

Permittor hereby agrees to grant certain rights and benefits to Permittee hereinafter described with regard to that certain real property described as follows:

That part of the Hennepin County Regional Railroad Authority (HCRRA) right of way, located in the Cities of St Louis Park and Hopkins, generally conforming to the center 16 feet of the rail corridor, delineated and marked in green, as shown on the construction plans for the Southwest LRT Extension Trail and attached hereto as, Exhibit "A"

The said real estate shall be hereinafter described as the "Premises."

2. Uses

The Premises shall be for the temporary use of Permittee, its agents, officers, employees, subpermittees and invitees for trail purposes, including but not limited to pedestrian use, cross country skiing, bicycles and other non motorized uses, and all requirements necessary to the enjoyment of the Premises for said uses. Permittee shall be granted temporary use of adjacent lands controlled by Permittor as reasonably required for construction and maintenance of the Premises.

3. Term

The term of this Permit shall be for an indefinite period, commencing on execution of this Agreement by the Chair of the Hennepin County Regional Railroad Authority until termination in accordance with Paragraph 4.

4. Termination

Either party may, at any time and for any reason, terminate this Permit by giving ninety (90) days' written notice of its intention to do so. Such notice may be served upon the Hennepin County Regional Railroad Authority by delivering a copy thereof to the Executive Director at the principal office in the Hennepin County Government Center,

Minneapolis, Minnesota, 55487, or by depositing the same in the United States Post Office directed to the Executive Director at the principal office. Such notice may be served on the Suburban Hennepin County Park District by delivering a copy thereof to its Superintendent, 12615 County Road 9, Plymouth, Minnesota 55441. Except as provided herein, this Agreement may not be terminated or revoked by either party hereto.

5. Temporary Nature of Use

Permittee acknowledges that the Premises was acquired by Permittor specifically and solely for the purpose of constructing a light rail transit system or other permitted transportation uses and its associated facilities and that it is Permittor's intention to allow Permittee to use the Premises only until it is needed for that purpose. Nothing in this Permit shall be deemed to evidence any change by Permittor of its intended use of the Premises for light rail transit purposes or other permitted transportation uses. Rather, Permittor has agreed to the terms of this Permit to provide a temporary use for the Premises during the time required for further planning and development of the light rail transit system or other permitted transportation uses.

6. Rights Upon Termination

On the expiration of ninety (90) days after such service of said notice of termination, this Permit, and all rights hereunder, shall thereupon terminate and be at an end, saving and excepting such rights as may have accrued to either party hereunder prior to such termination. Permittee shall, without further notice or demand, deliver possession of the Premises to the Permittor at the expiration of said ninety (90) days and shall, before the expiration of said ninety (90) days, remove all buildings and property placed upon the Premises which it may desire and have the right to remove. If it shall fail to remove buildings and property, its right shall, at the option of the Permittor, cease and Permittee's interest thereto shall be forfeited and at the same time shall belong to Permittor or, in such case, if the Permittor shall elect, it may, at any time after the expiration of said period of ninety (90) days, tear down and/or remove any or all such buildings and property at the expense of Permittee without any liability for damages thereof in any respect whatsoever and Permittee shall thereupon promptly reimburse Permittor for all expenses incurred by it in doing so.

7. Rent

Upon any such termination of this Permit, rent shall be paid by the Permittee to the date of termination fixed by said notice at the rate of $1.00 per year.

8. Other Users

Permittor shall use its best efforts to terminate or amend any permits or leases, or other written permission to the Premises which may previously have been extended to others by Permittor and which conflict with this permit.

9. Subpermits

Permittee may grant permits to subpermittees only upon written agreement of Permittor. Any subpermit shall be on the same terms and conditions and for the same uses as are contained in this Permit.

10. Signage

Permittee shall provide, install and maintain signage, including kiosks, on the Premises identifying the Premises as a temporary trail corridor of the Suburban Hennepin Regional Park District, by permission of the owner, the Hennepin County Regional Railroad Authority, until the Premises are used for light rail transit or other transportation uses.

11. Nuisance, Waste

Permittee shall not permit the existence of any nuisance on said Premises. Permittee, at all times, shall keep said Premises clean and shall comply with all laws, ordinances and regulations respecting Permittee's business and use and occupation of said Premises. Permittee, at its sole cost, shall make any and all improvements, alterations, repairs and additions, and install all appliances required on said Premises by or under any such regulations, ordinances or laws. No bills, posters or advertising matter of any kind shall be posted on said Premises; provided, however, that Permittee may post on appropriate structures, informational materials relating to the permitted uses. Permittee shall use all reasonable precautions to prevent any waste, injury, death or property damage and shall modify, repair or replace any railings, pathways or other improvements on the Premises when necessary.

12. Utilities, Title, Existing Rights of Others

Permittee accepts said Premises subject to the rights of any person, firm or corporation, including the Permittor in and to any existing telephone, telegraph and/or other wires, poles and facilities of any kind whatsoever, whether or not of record, and should it, at any time, become necessary because of Permittee's use of the Premises to relocate any of said poles, wires or facilities by reason of this Permit, Permittee shall bear and pay the cost of so doing.

Permittee also accepts said Premises subject to any want or failure at any time of Permittor's title to said Premises or any part thereof and Permittee shall assume any damages sustained by Permittee in connection therewith. Permittee also accepts such Premises subject to rights of any party, including Permittor, in and to any roadways, easements, leases and permits, whether granted, at Permittor's sole discretion, either prior to or after the date of this Permit Agreement. Permittee agrees to provide to Permittor or other tenants of Permittor access over and through the Premises on these roadways and easements should such access be deemed necessary by Permittor. Permittee accepts said Premises subject to the right of Permittor, its employees, agents, permittees, lessees, and contractors

when reasonably necessary to walk upon said Premises to repair adjacent property and the right of Permittor, its employees, agents, permittees, lessees, and contractors to temporarily place equipment upon the property when reasonably necessary for the purpose of maintaining, repairing, inspecting or constructing upon Permittor's property.

13. Indemnification

Permittee shall defend, indemnify and hold harmless Permittor, its Commissioners, officers, agents, and employees from any liability, claims, demands, personal injury, costs, judgments, or expenses, including reasonable attorney's fees, resulting directly or indirectly from an act or omission of Permittee, its agents, employees, customers, invitees, subpermittees, permittees, lessees or other occupiers of the Premises.

Permittor shall not be liable to Permittee or those claiming by, through, or under Permittee for any injury, death or property damage occurring in, on or about the Premises based upon the construction, operation or maintenance of the Premises by Permittee or any subpermittee, nor for the loss or damage by reason of the present or future condition of repair of the Premises, or for the loss or damage arising from the acts or omissions of Permittee, its agents, employees, customers, invitees, subpermittees, permittees, lessees, or other occupiers of the Premises.

14. Insurance

Permittee further agrees that if in any case the release and indemnity provided in this section shall not be valid, Permittor shall have the full benefit of any insurance effected by the Permittee upon the property injured, destroyed or damaged and/or against the hazard involved; and Permittee agrees that any and all such insurance shall be so written that the insurer shall have no claim or recourse of any kind whatsoever against Permittor in connection therewith.

15. Covenant

Permittee, in consideration of the permitting of the said Premises, as herein provided, hereby covenants and agrees to pay the rent therefor promptly, as above provided, and fully to abide by and perform all and singular the conditions, covenants and agreements herein contained and to be observed and performed by said Permittee and to yield up said Premises unto the Permittor at the expiration or termination of the Permit Agreement in as good condition as when entered upon.

16. Quiet Enjoyment

Permittor has the right and authority to enter into this Agreement and if Permittee pays the rent required hereby and otherwise performs the terms hereof to be performed by Permittee, Permittee shall, during the term hereof, be entitled to quiet enjoyment and possession of the Premises subject to the termination provisions hereof. Notwithstanding

the foregoing, Permittee acknowledges that the rights provided to it by virtue of the Permit are subject to the provisions of Paragraph 12.

17. Waiver

No receipt of money by Permittor from Permittee after any default by Permittee or after the expiration of this Permit or after the service of any notice or after the commencement of any suit or after final judgment for possession of said Premises, shall waive such default or reinstate, continue or extend the term of this Permit or affect any such notice or suit, as the case may be. No waiver of any default of Permittee shall be implied from omission by Permittor to take any action on account of such default, and no express waiver shall affect any default other than the default specified in the express waiver and that only for the time and to the extent therein stated.

18. Breach

It is further agreed between the parties hereto, that if the said Permittee shall breach or make default in any of the conditions, covenants or agreements of this Permit, which breach or default shall continue for fifteen (15) days after Permittee's receipt of written notice thereof from Permittor, then it shall be lawful for the Permittor, then or at any time thereafter, to declare this Permit ended, and to re-enter said Premises and take possession thereof, with or without process of law, and to use any reasonable or necessary lawful force for regaining possession; whereupon the rights and obligations of the parties shall be the same as above specified in the case of termination pursuant to Paragraph 4; and it is hereby further agreed and provided that any waiver at any time of a breach of any condition, covenant or agreement of this Permit shall extend only to the particular breach so waived and shall, in no manner, impair or affect the existence of such condition, covenant or agreements, or the right of Permittor thereafter to avail itself of same and any subsequent breach thereof. In the event Permittor has to take action for repossession of said property, Permittee, its assigns or heirs shall be liable for reasonable attorney's fees incurred by Permittor.

19. Assignment

The benefits and obligations of this Permit shall extend to and shall bind the heirs, administrators, executors, leases, successors or assigns of the parties hereto, but no interest in this Permit shall be assigned, nor said Premises or any part thereof shall be subpermitted, used or occupied by any party other than the Permittee unless specifically stated herein. Permittor reserves the right to review and revise the rental rate applicable to this Permit upon any change in the status of the Permit, the Permittee or person occupying the Premises during the term of this Permit or any renewal thereof.

20. Improvements, Maintenance

Permittee shall be responsible for the construction of all improvements necessary to its use of the Premises and shall be responsible for the maintenance of said Premises. Permittee shall also be responsible for the construction of all bridges and crossings including, without limitation, under or over passes, required pursuant to Paragraph 25 deemed necessary for Permittee to provide for any trails on the Premises or to otherwise use the Premises. Construction plans, if any, shall be submitted to the Permittor for review and comment. Permittor reserves the right to reject any plans for construction proposed by Permittee on the grounds, in Permittor's sole discretion, that said plans are inappropriate or incompatible with its future use of the Premises, or with the operations of the Soo Line Railroad Company or other railroad companies operating on the right of way adjacent to the Premises.

21. Environmental Concerns

Permittee shall not create or permit any condition of the Premises that could present a threat to human health or to the environment. Permittee shall bear the expense of all practices or work, preventative, investigative or remedial, which may be required because of any conditions of the Premises introduced by Permittee, subpermittees or invitees during Permittee's period of use, including conditions introduced by Permittee, subpermittees, or invitees which affect other lands. Permittee expressly agrees that the obligations it hereby assumes shall survive cancellation of this Permit. Permittee agrees that statutory limitation periods on actions to enforce these obligations shall not be deemed to commence until Permittor discovers any such health or environmental impairment, and Permittee hereby knowingly and voluntarily waives the benefits of any shorter limitation period.

Permittor shall have the right, but not the duty, to enter upon the Premises from time to time as set forth below to inspect the Premises for environmental contamination and in the course thereof to conduct soil and groundwater testing and to perform environmental investigation, remediation or mitigation. Permittor may enter the Premises during regular business hours of Permittee without prior notice, and may enter the Premises during periods other than regular business hours either with prior written consent of Permittee or without if Permittor reasonably believes that an emergency exists on the Premises. Permittor shall conduct any such inspections or testing so as to minimize interference with Permittee's operations. Permittor's entry on to the Premises pursuant to this paragraph shall not relieve the Permittee's obligation to pay rent under this Permit.

Permittee may make any inspections, tests, audits or reviews of the physical condition of the premises, all at Permittee's sole cost and expense. Such inspections and tests may include, without limitation, soil tests, soil borings, surveys, environmental audits, and other tests of the premises ("environmental inspections"). If Permittee elects to abandon its trail project and terminate this agreement due to its "environmental inspection", Permittee shall restore the property to its prior condition, and provide the Permittor with copies of all reports and test result. Permittee agrees to indemnify, defend, and hold the Permitor harmless from any and all actual out-of- pocket expenses incurred by

the by the Permittor related to containing or disposing of any contaminated materials released by such inspections.

In addition to the foregoing provisions of this Paragraph 21, and in exchange for the rights and privileges granted in this Permit Agreement Permittee hereby agrees to bear the expense of all practices or work, preventative, investigative or remedial necessary to comply with all federal, state, local and other governmental statutes, rules and regulations necessary for Permittee's use of the Premises for trail and park purposes regarding any hazardous waste, pollutant, contaminant or petroleum-related material on the Premises regardless of whether or not the same was present on the Premises before or after the commencement of this Permit Agreement provided, however, that should Permittee elect in its sole discretion to abandon its trail project and terminate this agreement, due to its "environmental Inspections, " Permitee shall not be obliged to bear expenses enumerated in this sentence. Further, Permittee agrees to defend, indemnify and hold harmless Permittor, its Commissioners, officers, agents and employees from any liability, claims, demands, personal injury, costs, judgments, or expenses, including reasonable attorney's fees arising from exercise of the rights granted by this Permit Agreement and resulting from the presence of any hazardous waste, pollutant, contaminant or petroleum-related material on the Premises regardless of whether or not the same was present on the Premises before or after the commencement of this Permit Agreement. Permittee expressly agrees that the obligations it hereby assumes related to construction and operation of the park trail, shall survive the cancellation of this Permit.

22. Compliance with Laws, Ordinances and Rules

Permittee agrees to comply with all laws, ordinances and regulations of federal, state, municipal and local government agencies as they apply to use of the Premises. Permittee agrees to comply with rules as may be promulgated from time to time by Permittor. Permittee may enforce its ordinances on the premises, as it applies to third parties.

23. Condition of Premises Inspection

Permittee accepts the Premises in an "AS IS" condition with no express or implied representations or warranties by Permittor as to the physical condition or fitness or suitability for any particular purpose, express or implied. Permittee is responsible for and has had ample opportunity to inspect the Premises, is familiar with the same, and has determined to its satisfaction the fitness of the Premises for its intended use.

Permittee acknowledges and assumes all risks associated with the proximity of the Premises to the railroad right of way adjacent to the Premises and to any railroad operations thereon including, but not limited to, operations of The Soo Line Railroad Company.

24. Liens and Encumbrances

Permittee shall not permit any liens or encumbrances to be established or remain against the Premises, including but not limited to, encumbrances with respect to work performed or equipment or materials furnished in connection with use of the Premises by Permittee, its agents, employees, customers, invitees, subpermittees, lessees or other occupiers of the Premises pursuant to this Permit.

25. Relocation

Not withstanding the provisions of Paragraph 8 regarding other users, in the event relocation of Permittee's trail is required to accommodate the relocation of rail traffic pursuant to Minn. Stat. 398A.04, Subd.1, as it may be amended, or otherwise is required to accommodate Permittor's use of the corridor, Permittee shall be required at no cost to Permittor to relocate, remove or alter all or any part of Permittee's trail improvements necessary to accommodate such use.

IN WITNESS WHEREOF, the parties hereto have signed this Permit Agreement as of _____, 199___.

HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY

By: _____
Chair, Board of Commissioners

And: _____
Executive Director

Approved as to form:

_____
Assistant County Attorney
Date: 8/25/98

_____
Attorney for Suburban Hennepin Regional Park District
Date: _____

Approved as to execution:

_____
Assistant County Attorney
Date: _____

_____
Attorney for Suburban Hennepin Regional Park District
Date: _____

SUBURBAN HENNEPIN REGIONAL PARK DISTRICT

_____
Superintendent
Date: 9-18-98

_____
Chair Board of Commissioners
Date: 9-17-98

T:/Tre/HCRRA/Permits/8/25/98/8:55

EXHIBIT II

A18158
HCRRA: Contract No. ~~A18158~~
August 3, 1998

TRACKAGE RIGHTS AGREEMENT
BETWEEN
SOO LINE RAILROAD COMPANY,
TWIN CITIES & WESTERN RAILROAD COMPANY
AND
HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY

THIS Agreement, made and entered into this 10th day of August, 1998 by and between the SOO LINE RAILROAD COMPANY, a Minnesota corporation doing business as Canadian Pacific Railway (hereinafter sometimes called "Soo"), TWIN CITIES & WESTERN RAILROAD COMPANY, a Minnesota corporation (hereinafter sometimes called "TCW") and the HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY, a political subdivision and local government unit of the State of Minnesota (hereinafter sometimes called the "Authority").

RECITALS

The Authority presently owns a line of railroad approximately 2.5 miles in length, extending from a point of connection with Soo trackage in the City of St. Louis Park, in the vicinity of Lake Street and the westerly city limits of the City of Minneapolis, northeasterly to a point of connection with trackage owned and operated by The Burlington Northern and Santa Fe Railway Company in the vicinity of Cedar Lake, in the City of Minneapolis. The Authority acquired the right-of-way, bridges and other related structures, but not the trackage, west from the Chicago and NorthWestern Transportation Company (hereinafter called "CNW") in 1984. CNW retained ownership of the trackage, including rails and ties, and was granted an easement to continue freight service over said line of railroad.

On July 26, 1993, CNW granted overhead trackage rights to Soo and TCW over said trackage, subject to an Operating Agreement dated December 31, 1990 between CNW and the Authority.

CNW subsequently abandoned its operating rights over said railroad line and sold its interest in the trackage, including rail and ties, to the Authority. The Authority acquired the trackage subject to the trackage rights held by the Soo and TCW.

Soo and the Authority entered into an Agreement dated December 23, 1992 in which the parties agreed to cooperate in obtaining a rail route alternative to the 29th Street trackage in the City of Minneapolis, being acquired by the Authority pursuant to said Agreement. The Cedar Lake line of railroad described in the first recital has been identified by the parties as an alternative route under the December 23, 1992 Agreement.

The Soo and TCW desire to commence operations over this trackage on or after the date of this Agreement as a result of the implementation of the earlier agreements mentioned above.

The parties, therefore, agree as follows:

SECTION 1 - DEFINITIONS

1.1. "Agreement" shall mean this Agreement dated _____, 1998. All references in this document to Exhibits are to those attached to, and made a part of, this Agreement.

1.2. "Rail Line" is defined as the trackage and underlying right-of-way formerly owned by the CNW, extending from a point of connection with Soo Line trackage at or near CNW milepost 16.2 in the City of St. Louis Park, easterly to CNW milepost 13.7 at a point of connection with BNSF in the City of Minneapolis.

1.3. "Rail Corridor" shall mean the area where a right of use is created by this Agreement providing for operation by Soo and TCW over the Rail Line consisting of a corridor 50 feet in width centered on the Rail Line, except where the Authority does not own sufficient land to provide a 50-

foot corridor, and where the Kenilworth Trail as described in Section 1.5 is to be located less than 25 feet from the center line of the Rail Line. The Rail Corridor is further described in Exhibit A.

1.4 "Railroad(s)" shall mean the Soo and TCW.

1.5 "Kenilworth Trail" shall mean the public trail described in Exhibit B attached hereto.

1.6. "Sole Employees" and "Sole Property" shall mean employees, agents, contractors, passengers, invitees, railroad and motor vehicle equipment, including lading, and other equipment of each of the parties or their agents or contractors while engaged in, or about to engage in, maintaining, using, operating, constructing, repairing, renewing, replacing and improving the trackage in the Rail Corridor, or in switching or handling railroad cars of the respective parties hereto.

1.7. "Taxes" shall mean lawfully imposed real estate taxes and assessments including, but not limited to, special assessments.

1.8. "Trackage" shall mean all rail, cross ties, related track appliances such as spikes and tie plates (sometimes known as "other track material"), ballast, all grade crossing signals and other signal and communication equipment located upon the Rail Line, and including trackage laid in and across public streets and highways.

SECTION 2 - GRANT OF RIGHTS

2.1. Subject to the terms and conditions in this Agreement, Authority grants to Soo and TCW, and their respective permitted assigns, non-exclusive rights to conduct railroad operations over the Rail Line within the Rail Corridor for the operation of freight trains, occasional passenger trains, locomotives, cabooses , rail cars, maintenance-of-way equipment and other rail equipment in common with other railroad users the Authority may admit to the joint use of the Rail Line in the future. This grant of rights shall be known as the Rail Corridor rights under this Agreement and

supersedes and replaces all other agreements, including trackage rights agreements between CNW and Soo, and between CNW and TCW, governing use of the Rail Line in the Rail Corridor.

2.2 The Authority shall convey a Railroad Easement to TCW in the form shown on Exhibit C attached.

2.3. Soo and TCW shall not have the right to set out, pick up or store cars or switch any existing or future industries on the Rail Line, or serve any industry or team tracks now or hereafter located on the Rail Line without the express written consent of the Authority. Neither Soo nor TCW may admit additional tenants, and assignment of existing operating rights shall require the consent of the Authority, except as otherwise provided in this Agreement.

2.4. Nothing in this Agreement is to be construed as establishing any common carrier status on the part of the Authority.

2.5. Soo and TCW acknowledge that, concurrent with the exercise of their rights and obligations under this Agreement, the City of Minneapolis will exercise rights granted to it by the Authority for the Kenilworth Trail (State Project No. 141-090-05) in proximity to the Rail Corridor as more fully described in Exhibit B and made a part of this acknowledgment.

SECTION 3 - RENT

3.1. The rental for use of the Rail Corridor payable by TCW or Soo, in addition to payment of any expenses provided elsewhere in this Agreement, shall be $7.50 per train mile, for each train operated by either TCW or Soo. To compute charges, the train mile rate shall be multiplied by 2.5 miles. Any movement of one or more pieces of railroad equipment over the Rail Corridor, except maintenance-of-way equipment and work trains while actually engaged in work on the Rail Corridor, shall be considered a train movement.

3.2. Rent shall be payable to the Authority quarterly. The rate of $7.50 per train mile shall be adjusted retroactively to July 1, 1992 and on each July 1 thereafter, by utilization of the Annual

Indices of Charge-Out Prices and Wage Rates (1977= 100) Series RCR, included in the "AAR Railroad Cost Recovery Index", and supplements thereto, issued by the Association of American Railroads. In making such adjustment, the final "Material prices, wage rates and supplements combined (excluding fuel)" Index for the Western District for the calendar year 1990 shall be compared to the final Index for the calendar year immediately preceding the year in which such adjustment is to become effective. Said Train Mile Rate shall then be adjusted by the percentage of increase or decrease, as the case may be, in the Index of the year to be escalated as related to the year 1990, provided, however, that said Train Mile Rate shall never be less than $7.50. If the Association of American Railroads, or any successor organization or association, discontinues such Index, an appropriate substitute for determining in a similar manner the percentage of increase or decrease in the Train Mile Rate shall be agreed upon by the parties hereto.

3.3. At such time as use of, and the right to use, the Rail Corridor is terminated by written notice by either Soo or TCW, the terminating party shall have no further obligation to pay rental to the Authority and shall have no claim against the Authority for any payment of any kind, except as may have arisen prior to such termination or by reason of other provisions of this Agreement. At such time as TCW relinquishes its right to use the Rail Corridor, Soo shall become obligated to pay a minimum Annual Rental until such time as Soo provides written notice to the Authority of its intention to permanently abandon Railroad rights to use the Rail Corridor. Soo shall be obligated to pay a minimum Annual Rental of $10,000 for any year in which rentals payable in accordance with Sections 3.1 and 3.2 do not reach $10,000. In such case, the minimum Annual Rental payment shall be in lieu of rental required under Section 3.1 and Section 3.2.

SECTION 4 - MAINTENANCE, CONTROL AND OPERATIONS

4.1. TCW shall have the exclusive management, direction and control of the Rail Corridor, including the obligation to dispatch rail traffic, at its sole cost and expense. In dispatching,

directing and controlling use of the Rail Corridor, TCW shall not discriminate against the trains of Soo or any other railroad tenants admitted to use of the rail line. In the event the Authority seeks to admit additional railroad tenants to use of the Rail Line, the Authority agrees to require such tenant to agree to terms, including liability, substantially as contained in this Agreement. The parties agree to renegotiate this Section 4 in the event any additional railroad tenants are admitted to use of the Rail Line by the Authority in order that additional costs incurred by TCW that are attributable to such additional tenants may be fairly compensated.

4.2(1) TCW shall perform all construction, derailment and wreck clearing, maintenance, repair and renewal of the Trackage, including any additions Soo or TCW may deem necessary or desirable for the safe and efficient operation of all trains. Any additions deemed necessary or desirable for the safe and efficient operation of trains will be paid for by the Railroad or Railroads requesting the same. The cost of derailment and wreck clearing are governed by Section 10. The Authority shall reimburse TCW for construction, maintenance, repair and renewal costs, as outlined in Section 4.3. The provisions of Sections 4.2(2) through 4.2(6) shall control as between the Railroads in the case of conflict with other provisions of this Agreement.

4.2(2) TCW shall employ all persons necessary to operate, maintain, repair and renew the Rail Corridor. TCW shall be bound to use only reasonable and customary care, skill and diligence in the operation, maintenance, repair, renewal and management of the Rail Corridor and Soo shall not, by reason of TCW's performing or failing, or neglecting to perform any operation, maintenance, repair, renewal or management of the Rail Corridor, have or make against TCW any claim or demand for delay, loss, damage, destruction, injury or death whatsoever resulting from TCW's performance, failure or neglect, except as otherwise provided in Section 10.3.

4.2(3) Soo, at its expense, shall install and maintain upon its trains, locomotives, cabooses and cars such equipment or devices as may now or in the future be necessary or appropriate, in the reasonable judgment of TCW for the safe and efficient operation of trains over the Rail Corridor.

4.2(4) If the use of the Rail Corridor is at any time interrupted or traffic over the Rail Corridor is delayed for any cause, TCW shall, with reasonable diligence, restore the line for the passage of trains of the parties. Neither Railroad shall have or make any claim against the other for loss or damage of any kind resulting from such interruption or delay.

4.2(5) The operation of Soo over the Rail Corridor shall at all times be in accordance with the General Code of Operating Rules, or such other rules as TCW and Soo agree upon, TCW timetables, bulletins, instructions and restrictions, but such rules, instructions and restrictions shall be reasonable, just and fair between all Railroads using the Rail Corridor and shall not unjustly discriminate against any of them. TCW shall provide Soo with a copy of existing rules and instructions and provide Soo with prior, written notice of any changes in such rules or instructions. These rules and instructions shall include, but not be limited to, General Code of Operating Rules, Timetables, Special Instructions, Bulletins, General Orders and authoritative directions of Train Dispatchers and Operating Officers and all applicable federal statutes and regulations regarding railroad safety.

4.2(6) All employees of Soo engaged in the operation of Soo trains over the Rail Corridor shall be required to qualify, at Soo's expense, to operate over the Rail Corridor. TCW shall have the right to bar Soo employees from service over the Rail Corridor for cause until such time the barred individual is deemed to be qualified.

4.3. The Authority will reimburse TCW for construction, maintenance, repair and renewal costs on an annual basis upon presentation of a complete description of work done and materials used for the preceding calendar year. The Authority shall have the right to audit such billings and

to inspect work done upon reasonable notice. The Authority's obligation to reimburse TCW for such costs shall be limited to sixty percent (60%) of the trackage rights fees paid to the Authority by all users for the calendar year during which the maintenance charges were incurred, subject to an authorized minimum expenditure for maintenance cost of $16,000 per year in any year when trackage rights fees are not sufficient to justify expenditures to that level. The authorized minimum expenditure shall be adjusted annually from $16,000 beginning July 1, 1999 and thereafter in accordance with the formula set forth in Section 3.2 hereof. The authorized expenditures for maintenance, as limited by the foregoing, shall be known as the *Maintenance Allowance*. Any unexpended Maintenance Allowance may be drawn upon in future years for authorized expenditures, including the above minimum expenditure. TCW may draw, as additional Maintenance Allowance, an amount equivalent to a maximum of 100% of the prior year's rentals as calculated under Section 3, only for the following purposes:

1. To reach the authorized minimum expenditure for maintenance of $16,000 per year; or

2. To carry out necessary bridge repairs or repairs to crossing signals.

If at any time the cumulative Maintenance Allowances justified by rental payments and this Section 4.3 are not sufficient to permit the safe and continued operation of the Rail Line, the additional maintenance and repair costs will be borne by the Authority. The Authority shall have no other obligation to reimburse TCW for construction, maintenance, repair or renewal costs, including long-term rehabilitation and capital expenditures.

4.4. Prior to commencement of operations over the Rail Corridor under this Agreement, MNDOT will arrange for rehabilitation of the Rail Line to FRA Class 2 standards. Following said commencement of operations, all maintenance, rehabilitation, renewal, reconstruction, repairs and improvements, replacement, including bridges, grade crossings and signals, will be the sole

responsibility of TCW to perform, the costs of which shall be reimbursed by the Authority, in accordance with Section 4.3.

4.5. TCW shall have a right of access over other portions of the Rail Corridor within 25 feet either side of the center line of the now existing Trackage for the sole purpose of maintaining said Trackage over the Rail Corridor, except as limited by the physical proximity of fencing for the pedestrian and bicycle trails as provided for in the Kenilworth Trail (Exhibit B). Provided, however, that TCW shall not have the right to remove trees and other vegetation found more than 15 feet either side of the center line of the now existing trackage, except for purposes of wreck clearance, track repair, visibility at grade crossings, or with the consent of the Authority.

4.6. Neither Soo nor TCW shall be permitted to erect any structures in or upon the Rail Corridor without the express written permission of the Authority. The Authority shall not construct any facility in or over the Rail Corridor where the vertical distance between the top of the rail or the ground surface of the Rail Corridor, and any part of the facility, is less than 23 feet.

4.7. Unless otherwise ordered by the State, the Authority shall not pay the expenses of any public crossing of the Rail Corridor which may be opened or improved, including all expenses of crossing protection, unless such crossings are requested or opened by the Authority. The Authority shall not be responsible for any expenses incurred by Soo or TCW as a result of activities of third parties not authorized by the Authority occupying or otherwise interfering with the Rail Corridor, except as otherwise provided in this Agreement.

4.8. The Authority will permit construction of pedestrian and bicycle trails in proximity to the Rail Line as shown in Exhibit B. At any point where a trail is located within 25 feet of the center line of the Trackage, a fence along the boundary of the trail corridor will be provided, maintained and promptly repaired at no expense to Soo or TCW by the City of Minneapolis. No

trespassing and other appropriate warning signs shall be provided by the City. The Authority will require that the City agree to the terms of this provision.

SECTION 5 - TERMINATION

5.1. The Rail Corridor rights shall become effective upon execution of this Agreement, and shall continue in full force and effect until terminated by either TCW or Soo as to the respective rights of the terminating party upon thirty (30) days' written notice, which notice may be given at any time. Trackage, other facilities and all improvements to the Rail Corridor will remain the property of the Authority. The permanent easement conveyed, however, may not be terminated by the Authority, except in accordance with this Agreement.

5.2. At such time as either Railroad desires to terminate its rights over the Rail Corridor, such Railroad shall have the obligation to obtain necessary Surface Transportation Board ("STB") and other regulatory approval that may be required. The Authority agrees to cooperate in seeking regulatory approval.

5.3. TCW and Soo will vacate all use of, and permanently terminate all rights to use, the Rail Corridor no later than thirty (30) days after a new connection between the Soo Hopkins line (TCW's current operating route) and the former Minneapolis, Northfield & Southern line in St. Louis Park (MNS connection), and between the MNS and The Burlington Northern and Santa Fe Railway (BNSF connection) becomes operational, or at such time as any other feasible alternative to use of the Rail Corridor satisfactory to TCW becomes available and is operational. The MNS connection and the BNSF connection are shown on Exhibit D attached to this Agreement.

SECTION 6 - CONDITIONS PRECEDENT

Operation over the Rail Corridor is contingent upon obtaining any required regulatory and government approvals, and any necessary corporate authorization.

SECTION 7 - TAXES

7.1. The Authority agrees to pay promptly to taxing authorities when due all Taxes, if any, duly levied on the Property with respect to the Authority's ownership, leases, air rights development, and/or operations. TCW and Soo agree to pay promptly to taxing authorities when due all Taxes, if any, with respect to their use or operations duly levied, to the extent Soo or TCW's property rights have been separately assessed by the appropriate assessing authority while either TCW or Soo are conducting operations over the Rail Corridor. To the extent TCW's property right is not so separately assessed to TCW, but the underlying fee in the Rail Corridor is assessed as railroad operating property and would be exempt except for TCW's use in operations, then TCW agrees to pay all such Taxes duly levied while conducting operations over the Rail Corridor. TCW reserves the right to protest to a taxing authority any such Taxes it deems to be unfair or excessive and may in good faith litigate and settle with the taxing authority any such protested amount. This subparagraph 7.1 will apply to Soo for any period during which Soo exercises its operating rights.

7.2. The Authority shall pay without reimbursement from Soo or TCW all Taxes, if any, attributable to any passenger transportation system installed by or at the direction of the Authority.

SECTION 8 - ASSIGNMENT RIGHT

Soo may admit a third-party operator as assignee of Soo's common carrier freight service obligation, or in connection with the sale of, or merger of, all or most of its railroad system, subject to the consent of the Authority, which shall not be unreasonably withheld, and subject to orders of the Surface Transportation Board ("STB"). TCW may admit a third-party operator as assignee of TCW's common carrier freight service obligation in connection with the sale of, or merger of all or most of its railroad system, subject to the consent of the Authority, which shall not be unreasonably withheld, subject to the orders of the STB.

SECTION 9 - OBLIGATIONS FOLLOWING TERMINATION.

Upon termination of all rights to the Rail Corridor, the parties hereto are relieved from any and all obligations relating thereto, except for any obligations which may have accrued or which may have been incurred prior to the date of such termination or in accordance with the terms of this Agreement.

SECTION 10 - LIABILITY AND ENVIRONMENTAL INDEMNIFICATION.

10.1. TCW agrees to defend, indemnify and hold harmless the Authority, its commissioners, officers, agents and employees from any liability, claims, damages, costs, judgments, or expenses, including reasonable attorneys' fees, resulting directly or indirectly from any act or omission of TCW, its agents, employees, customers, tenants, or invitees, occurring on or from the Rail Corridor after the effective date of this Agreement, except that portion of liability caused by, or contributed to by, acts or omissions of the Authority, its agents, employees and invitees, notwithstanding the provisions of Section 12.

10.2. Soo agrees to defend, indemnify and hold harmless the Authority, its commissioners, officers, agents and employees from any liability, claims, damages, costs, judgments, or expenses, including reasonable attorneys' fees, resulting directly or indirectly from any act or omission of Soo, its agents, employees, customers, tenants, or invitees, occurring on or from the Rail Corridor after the effective date of this Agreement, except that portion of liability caused by, or contributed to by, acts or omissions of the Authority, its agents, employees and invitees, notwithstanding the provisions of Section 12.

10.3 The Authority agrees to defend, indemnify and hold harmless Soo and TCW, their respective officers, agents and employees from any liability, claims, damages, costs, judgments, or expenses, including reasonable attorneys' fees, resulting directly or indirectly from any act or omission of the Authority, its commissioners, officers, agents and employees, tenants, customers or

invitees occurring on the Rail Corridor after the effective date of this Agreement, except that the Authority shall not be required to defend, indemnify or hold TCW harmless to the extent the liability is caused or contributed by acts or omissions of TCW, and the Authority shall not be required to defend, indemnify or hold Soo harmless to the extent the liability is caused or contributed by acts or omissions of Soo, notwithstanding the provisions of Section 12.

10.4 Railroads. In the event Soo commences operations on the Rail Corridor, Soo and TCW shall allocate liability as between them only as follows.

Definition: Whenever the expression "Loss or Damage" is used in this Section 10.4, it means all costs, liabilities, judgments, fines, fees (including without limitation reasonable attorneys' fees and disbursements) and expenses of any nature arising from or in connection with death of or injury to persons, including without limitation employees of the Railroads, or damage to or destruction of property including without limitation property of the Railroads or the Rail Corridor, in connection with operations of the Railroads over or on the Rail Corridor.

Definition: Whenever the expression "proportionally by the Railroads" is used in this Section, it means that expenses will be borne in proportion to the total trains handled by each Railroad over any part of a segment of the Rail Corridor on which the Loss or Damage occurs during the three calendar months prior to the month of the occurrence, or if the occurrence is in any of the first three months of operation under this Agreement, such lesser period as precedes the date of occurrence. For the purposes of determining proportionality as herein provided, light engines shall not be considered a trains. In case of conflict with other provisions of this Agreement, the provisions of Section 10.4 shall control as between the Railroads.

10.4(1) The employees of either Railroad while operating, maintaining or directing operation along the Rail Corridor shall not be considered as joint employees but will remain the sole employees of either Railroad. However, when any sole employee of TCW or Soo is engaged in the

direct activity of maintaining, repairing, renewing, removing, or inspecting the Rail Corridor, or in dispatching, giving orders for or directing the movement of trains over the Rail Corridor for the common benefit of the Railroads, and Loss or Damage to TCW, Soo or a third party, arises out of such service for the common benefit of the Railroads, then the expense of the Loss or Damage shall be borne proportionally by the Railroads; provided that the terms of this Section 10.4(1) shall control in the case of conflict with the provisions of Section 10.4(3) below, but in the case of conflict with Section 10.4(2) below, that Section shall control.

10.4(2) Notwithstanding anything else contained in this Agreement, liability for Loss or Damage resulting from or in connection with the operation of locomotives, trains or cars of either Railroad, or in connection with the presence on the Rail Corridor of locomotives, trains, cars or property of either Railroad, shall be borne and paid by the Railroads as follows:

(a) When the same shall involve the train or equipment of only one of the Railroads, regardless of any third party involvement, all Loss or Damage, including but not limited to, restoration and repair of the Rail Corridor and third party persons or property will be borne by that Railroad.

(b) When the same shall involve the trains or equipment of both Railroads, Loss or Damage shall be borne by each Railroad as to its own employees, property, or property in its custody (except for damage to the Rail Corridor). As to third party persons or property and the Rail Corridor, Loss or Damage shall be borne equally by the Railroads.

10.4(3) Liability for Loss or Damage not involving the train or equipment of either Railroad, or where the identity of the train or equipment involved is unknown, shall be borne and paid by the Railroads as follows:

(a) Liability for Loss or Damage shall be borne by each Railroad as to its own employees (except for employees performing services for the common benefit of the

Railroads), property (other than the Rail Corridor), or property in its custody, but as to third party persons or property, employees performing service for the common benefit of the Railroads, and the Rail Corridor, the cost of Loss of Damage shall be borne proportionally by the Railroads.

(b) Third party claims for Loss or Damage arising out of the killing or injuring of livestock or the setting of fires on or along the Rail Corridor, when caused by the locomotive, train, care or fusee of one of the Railroads, shall be handled or settled by the Railroads whose locomotive, train, car or fusee caused such Loss or Damage, but if it cannot be determined whose locomotive, train or car caused such Loss or Damage, the claim will be handled or settled on behalf of both Railroads in the first instance by TCW, and the Loss or Damage will then be borne equally by the Railroads.

10.4(4) Each Railroad agrees that it will pay for all Loss or Damage, the risk of which it has herein assumed, the judgment of any court to the contrary notwithstanding, and will forever indemnify and save harmless the other Railroad, its successors and assigns, from such payment; provided, however, the indemnifying Railroad shall be assigned any rights which the indemnified Railroad may have against any third party or parties for recovery of any indemnified amount.

10.4(5) In the event that both Railroads hereto shall be liable under the Agreement for Loss or Damage, and the same shall be compromised and settled by voluntary payment of money or valuable consideration by one of the Railroads, the settling Railroad shall obtain a valid and enforceable release from liability for TCW and Soo Line Railroad Company, Soo Line Corporation and their Parents, Subsidiaries and Affiliated Companies, and all of their Officers, Agents, and Employees, etc. Neither Railroad shall make any such compromise or settlement in excess of $5,000 without prior, written authority of the other Railroad having liability, but any settlement made by

one Railroad in consideration of $5,000 or less shall be a settlement releasing all liability of both Railroads and shall be binding upon both Railroads.

10.4(6) In case a lawsuit or lawsuits shall be commenced against either Railroad hereto for or on account of any Loss or Damage for which the other Railroad would be solely or jointly liable under this Agreement, the Railroad thus sued shall give the other Railroad timely written notice of the pendency of such suit, and thereupon the Railroad so notified shall assume or join in the defense thereof, and if the Railroad so notified is liable therefore under this Agreement, such Railroad shall save harmless the Railroad so sued from all Loss or Damage in accordance with the liability allocation set forth in this Agreement. Neither Railroad shall be bound by any judgment against the other Railroad unless it shall have been so notified and shall have had reasonable opportunity to assume or join in the defense of the action. When so notified, and said opportunity to join in the defense of the action has been afforded, the Railroad so notified shall to the extent of its liability under this Agreement be bound by such judgment.

10.4(7) If trains, locomotives or cars of Soo are wrecked or derailed on the Rail Corridor, TCW shall arrange to pick up and remove said equipment, and Soo shall bear the entire cost of such service (except to the extent that the allocation of liability in this Agreement provides otherwise), except that if TCW does not have the necessary personnel or equipment, Soo may furnish both as required, at its own expense; provided, however, that in the case of a minor derailment where the derailed equipment can be promptly rerailed by rerailers or blocking by Soo's employees, then in such event Soo may, at its sole expense, rerail such equipment unless TCW's supervisory employees direct otherwise.

10.4(8) It is understood and agreed that a number of vehicular crossings on the Rail Corridor presently exist, or may be constructed. Soo agrees to accept all crossings in whatever condition they may be during the term of this Agreement and will not assert any claim, demand or cause of action

against TCW and will hold TCW harmless from any claim, demand or cause of action arising out of any crossing accident on the Rail Corridor in which the engines, cars or trains of Soo only are involved; provided, however, that nothing in this Section 10.4(8) shall relieve TCW or Soo from liability arising from its gross negligence or intentional acts.

10.5. Soo shall remediate any environmental pollution or contamination on the Rail Corridor that is in violation of any applicable environmental statute ,ordinance, rule or regulation which first occurred during its period of use and was caused by Soo or its invitees. Soo shall bear the expense of all practices or work, preventative, investigative or remedial, which may be required because of any such conditions on the Rail Corridor caused by Soo, or its invitees during Soo's period of use, including conditions caused by Soo or its invitees which affect other lands. Soo expressly agrees that the obligations it hereby assumes shall survive cancellation of this Agreement. Soo agrees that statutory limitation periods on actions to enforce these obligations shall not be deemed to commence until the Authority discovers any such conditions and Soo hereby knowingly and voluntarily waives the benefits of any shorter limitation period.

10.6. TCW shall remediate any environmental pollution or contamination on the Rail Corridor that is in violation of any applicable environmental statute, ordinance, rule or regulation which first occurred during its period of use and was caused by TCW or its invitees. TCW shall bear the expense of all practices or work, preventative, investigative or remedial, which may be required because of any such conditions on the Rail Corridor caused by TCW, or its invitees during TCW's period of use, including conditions caused by TCW or its invitees which affect other lands. TCW expressly agrees that the obligations it hereby assumes shall survive cancellation of this Agreement. TCW agrees that statutory limitation periods on actions to enforce these obligations shall not be deemed to commence until the Authority discovers any such conditions and TCW hereby knowingly and voluntarily waives the benefits of any shorter limitation period.

10.7. Authority shall have the right, but not the duty, to enter upon the Rail Corridor from time to time as set forth below to inspect the Rail Corridor for environmental contamination and in the course thereof to conduct soil and groundwater testing and to perform environmental investigation, remediation or mitigation. Authority may enter the Rail Corridor upon 24 hour notice to TCW and Soo, and may enter the Corridor in the case of an emergency, without prior notice, but the Authority shall give TCW and Soo immediate notice of the emergency. Authority shall conduct any such inspections or testing so as to not to interfere with Soo's and TCW's operations and shall provide sufficient notice of actions that might impair safe train operation. Authority's entry on to the Rail Corridor pursuant to this paragraph shall not relieve Soo's and TCW's obligations to pay rent under this Agreement.

10.8. At the request of the Authority, Soo (if Soo commences operations over the rail corridor) and TCW shall pay for the services of a state-approved contractor to sample what appears to be any visibly contaminated areas of the Rail Corridor for which they respectively appear to be responsible. For any contaminated areas, Soo's and TCW's respective contractor shall provide remediation recommendations to the Authority, and shall provide remediation as may be required by law. Copies of the results shall be forwarded to the Authority to ensure that the Rail Corridor is returned to the Authority reasonably free of contamination and in compliance with all applicable environmental law, ordinances, regulations and requirement. The provisions of this paragraph shall survive the termination of this Agreement.

Notwithstanding the foregoing, Soo and TCW is not responsible, by virtue of the terms of this Agreement, for any testing or sampling costs resulting from contamination existing on the Rail Corridor prior to their respective use or occupancy of the Rail Corridor, or which was not caused by TCW or Soo or their invitees, or where no contamination was found.

10.9. Each party shall give the other parties prompt written notice of any and all claims or suits arising from operations on or about the Rail Corridor.

10.10. Notwithstanding the foregoing, the terms of this Agreement are not to be construed as, nor operate as, waivers of the Authority's statutory or common law immunities or limitations on liability, including, but not limited to, Minnesota Statutes Chapter 466. Further, the Authority's obligations set forth in this Section and otherwise in this Agreement, are expressly limited and governed by the provisions of Minnesota Statutes Chapter 466, Minnesota Statutes Chapter 604, and any other applicable law or regulation.

SECTION 11 - INSURANCE.

11.1 TCW, at its own cost or expense, will procure and maintain in effect during the term of this Agreement, a policy or policies of insurance covering the liability to which TCW is or may be subject under this Agreement. Such policy shall name Soo as an additional insured which shall provide the following total coverage:

> Third party liability coverage covering injury to or death of persons and damage to property in any one occurrence in the amount of not less than $10,000,000 (ten million dollars) with a maximum deductible of $100,000 (one hundred thousand dollars) per occurrence. Such coverage shall include all employees and shall insure named insureds against workmen's compensation and Federal Employers' Liability Act claims. Soo agrees to cooperate in the processing of insurance claims.

11.2. If the insurance procured by TCW, pursuant to this Section, takes the form of a claims-made policy and is cancelled or allowed to expire without renewal, TCW may provide evidence of insurance that provides per occurrence and annual aggregate limits of not less than those

required pursuant to Section 11.1 Such coverage must be retroactive to the original inception date of the cancelled or non-renewed policy.

11.3. At any time not less than sixty (60) days prior to an anniversary date of this Agreement, Soo, in consideration of current and reasonably anticipated claims and litigation costs, may notify TCW of Soo's intent to increase the amount of insurance required by this Agreement or to require that the terms and conditions of such insurance be modified. Should TCW object to any such increase or modification, TCW and Soo will attempt in good faith to negotiate a resolution of their disagreement. If TCW and Soo are not able to agree and such disagreement continues for thirty (30) days past the anniversary date of this Agreement, then the matter or matters in disagreement will be submitted to arbitration in accordance to the rules of the American Arbitration Association.

11.4. Each policy of insurance obtained by TCW pursuant to the requirement of this Section will contain provisions requiring that the insurance carrier give Soo, through the Soo's Director of Insurance, at least thirty (30) days' notice, in writing, of any proposed policy cancellation or any modification of the terms and conditions of any policy of insurance TCW is required to provide under this Section.

11.5. The terms and conditions of each policy of insurance obtained by TCW to satisfy the requirements of this Section will be subject to the approval of Soo, which approval shall not be unreasonably withheld or delayed. TCW will furnish to Soo's Director of Risk Management an accurate copy of each policy of insurance obtained pursuant to the requirements of this Section. Neither compliance with this requirement nor Soo's approval of the terms and conditions of any such policy will in any way limit or modify the obligation of TCW to provide the specific insurance coverage required by this Section.

11.6. In the event TCW fails to maintain the levels of insurance coverage required in this Section, or fails to properly notify Soo of said coverage, after giving TCW written notice of

noncompliance and then (10) days from receipt of such notice within which to comply, Soo may require TCW to suspend operations over the Rail Corridor until such time as TCW complies with the insurance requirements hereunder or otherwise provides Soo evidence of financial responsibility acceptable to Soo in its sole discretion.

SECTION 12 - REPRESENTATIONS AND WARRANTIES

Soo and TCW accept the Rail Corridor and the Rail Line in an "as is" condition, with no express or implied representations or warranties by the Authority as to the physical condition or fitness or suitability for any particular purpose, express or implied, except as otherwise provided in this Agreement. Soo and TCW are responsible for, had ample opportunity to inspect the Rail Line and are familiar with the same. As between the parties, Soo and TCW acknowledge the risks to their rail operations associated with the proximity of the Rail Line to the pedestrian and bicycle trails adjacent to the Rail Corridor. Soo and TCW do not assume liability for damages to the property of third persons or for injury to third persons by reason of Soo or TCW rail operations on the Rail Corridor nor waive any claims they might have against such third persons.

SECTION 13 - SURVIVAL

All of the terms of this Agreement, including all warranties, representations, and indemnification given by each party to this Agreement, all of which are relied upon by each party, shall survive and be enforceable after the execution of this Agreement and any subsequent transfer of title of the Property.

SECTION 14 - LAWS GOVERNING

This Agreement shall be governed to the extent applicable and not preempted by federal law, and the parties agree to be bound, by the laws of the State of Minnesota; and the parties agree to comply with or abide by all laws relevant to this Agreement governing their respective operations in the State of Minnesota.

SECTION 15 - REMEDIES FOR BREACH

Should Soo or TCW default in any payments to be made hereunder or fail to faithfully perform any of their covenants herein or violate any term or condition of this Agreement and, if such default, failure or violation shall continue for a period of sixty (60) days after the Authority shall have given Soo or TCW notice of an "event of default", the Authority may thereupon exclude Soo or TCW, as the case may be, from all the rights and privileges granted to it hereunder, and Soo and TCW shall have no claim or depend upon the authority at law or in equity on account of such exclusion. The rights and remedies granted to the parties in this Section 14 are intended to be cumulative to all other rights and remedies available to the parties (whether under this Agreement, at law, in equity or otherwise); accordingly, the exercise by any party of any such right or remedy shall not preclude it from exercising any other such right or remedy.

SECTION 16 - ASSIGNMENT; BINDING EFFECT

The terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns, including without limitation, any entities into or by which either of the parties is merged, combined, reorganized or acquired.

SECTION 17 - NOTICES

Unless explicitly stated to the contrary elsewhere in this Agreement, all notices and other communications required or contemplated by this Agreement must be in writing and shall be deemed given when delivered in legible form to the business address of the party to whom addressed. The business addresses of the parties are as follows:

SOO:

Mailing Address: P.O. Box 530
Minneapolis, Minnesota 55440
Attention: Director - Commercial Development

Delivery Address:	1710 Soo Line Building 105 South 5th Street Minneapolis, Minnesota 55402 Attention: Director - Commercial Development
Fax:	612/347-8064 Attention: Director - Commercial Development

TCW:

Mailing Address:	2925 - 12th Street East Glencoe, MN 55336 Attention: President
Fax:	320/864-7220

THE AUTHORITY:

Mailing Address: and Delivery	Hennepin County Regional Railroad Authority A2300 Government Center Minneapolis, MN 55487-0230 Attention: Executive Director
Fax:	612/348-8228

Notices not given in the manner or within the time limits set forth in this Agreement are of no effect and may be disregarded by the party to whom they are directed. Either party may change its business address, for notice purposes, by giving notice of the change to the other party.

ATTEST:

Title: MGR- CONTRACTS

SOO LINE RAILROAD COMPANY

By:

Its: VP

ATTEST:

Title: Assistant Secretary

TWIN CITIES & WESTERN RAILROAD COMPANY

By:

Its: Chairman

Approved as to Form

Assistant Hennepin County Attorney

Date: 8/5/98

Approved as to Execution

Assistant Hennepin County Attorney

Date: 8-6-98

HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY

By: Mary Lambarnino
Its: Chair

and

By: Jeff Spartz
Its: Executive Director

RAILROAD EASEMENT

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)
)
)
)
)
)

(reserved for valuation and tax data) (reserved for recording data)

STATE DEED TAX DUE HEREON: $_____

Date: August 10, 1998

FOR VALUABLE CONSIDERATION, the Hennepin County Regional Railroad Authority, a political subdivision and local government unit under the laws of the State of Minnesota, Grantor, hereby conveys and quitclaims to the Twin Cities and Western Railroad Company, a corporation under the laws of the State of Minnesota, Grantee, a railroad easement over real property in Hennepin County, Minnesota, the terms of which are set forth in Trackage Rights Agreement between the Twin Cities and Western Railroad Company, Soo Line Railroad Company and the Hennepin County Regional Railroad Authority dated August 10, 1998. The real property is described as follows:

(Legal description on Exhibit A)

Hennepin County Regional Railroad Authority

By Mary Tamborrino
Its Chairman

By Jeff Spartz
Its Executive Director

STATE OF MINNESOTA)
)ss
COUNTY OF HENNEPIN)

The foregoing was acknowledged before me this 10th day of August, 1998, by Mary Tamborrino and Jeff Spartz, the Chairman and Executive Director of Hennepin County Regional Railroad Authority, a political subdivision and local government unit under the laws of Minnesota, on behalf of the Authority.

Mary Ellen Hudson
Notary Public

This instrument was drafted by:

Hennepin County Regional Railroad Authority
417 North Fifth Street, Suite 320
Minneapolis, MN 55401-1362

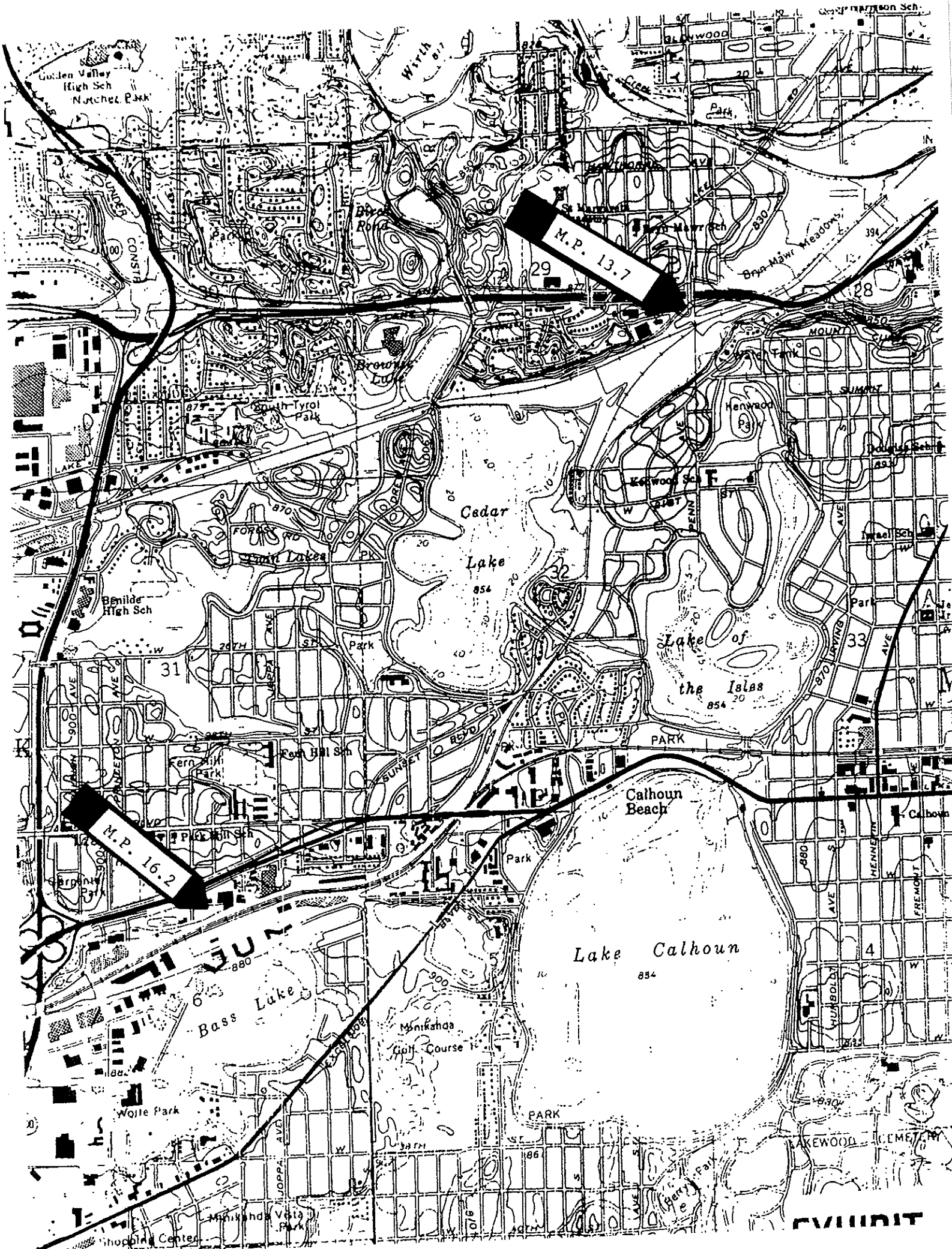
Tax Statements for the real property described in this instrument should be sent to:

MARY ELLEN HUDSON
NOTARY PUBLIC - MINNESOTA
My Commission Expires Jan. 31, 2000

EXHIBIT A

Description of Railroad Easement

A strip of land fifty feet in width lying 25 feet on either side of the centerline of the railroad tracks extending from the point of connection with Soo Line trackage at or near Chicago North Western Railway milepost 16.2 in the City of St. Louis Park, easterly to Chicago North Western Railway milepost 13.7 at a point of connection with Burlington Northern Santa Fe Railway in the City of Minneapolis except as the width is limited by the Trackage Rights Agreement between the Twin Cities and Western Railroad, Soo Line Railroad Company and the Hennepin County Regional Railroad Authority dated Aug. 10, 1998.



M.P. 13.7
M.P. 16.2
Golden Valley High Sch
Notchez Park
Birch Pond
Browns Lake
South Tyrol Park
Cedar Lake
Twin Lakes
Benilde High Sch
Fern Hill Park
Fern Hill Sch
Park Hill Sch
Lake of the Isles
Calhoun Beach
Lake Calhoun
Bass Lake
Minikahda Golf Course
Wolfe Park
Minikahda Vista Park
Kenwood Park
Kenwood Sch
Bryn Mawr Sch
Bryn Mawr Meadows
Water Tank
Douglas Sch
Israel Sch
Park
PARK
LAKEWOOD CEMETERY
Shopping Center

EXHIBIT III

PURCHASE AGREEMENT
BETWEEN
SOO LINE RAILROAD COMPANY AND
HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY

THIS AGREEMENT, made and entered into this 23 day of December, 1992, by and between the Soo Line Railroad Company, a Minnesota corporation, hereinafter sometimes called "Soo", and the Hennepin County Regional Railroad Authority, a political subdivision and local government unit of the State of Minnesota, hereinafter sometimes called the "Authority".

RECITALS

Soo presently owns and operates a line of railroad parallel with the approximate alignment of 29th Street South in the City of Minneapolis, County of Hennepin, State of Minnesota between Hiawatha Avenue and France Avenue sometimes referred to as the 29th Street Corridor.

The State of Minnesota Department of Transportation and the City of Minneapolis propose to reconstruct Hiawatha Avenue between Lake Street and 24th Street South in the City of Minneapolis and desire to eliminate all Soo rail crossings of Hiawatha Avenue within this segment.

Soo is willing to alter its operations in and through the City of Minneapolis to accommodate the Hiawatha Avenue improvements and is willing to sever its rail line across Hiawatha Avenue, providing alternate rail routes are provided for Soo and other railroads presently using the Soo crossings of Hiawatha Avenue under trackage

rights agreements. Soo also expects to be compensated for any increased operating expense resulting from use of alternate routes.

Elimination of rail links across Hiawatha between Lake Street and 24th Street will save substantial sums of money for all governmental agencies involved in funding the Hiawatha Avenue reconstruction.

The Authority desires to acquire by purchase the 29th Street Corridor from Hiawatha Avenue west to France Avenue for future use for public transportation purposes. Acquisition and utilization of said corridor will sever the rail links across Hiawatha substantially accommodating the Hiawatha Avenue reconstruction.

NOW THEREFORE, in consideration of the foregoing, the parties agree as follows:

SECTION 1 - DEFINITIONS

A. "Agreement" shall mean this Agreement dated 12-23, 1992. All references in this document to Exhibits are to those attached to, and made a part of, this Agreement.

B. "Property" is defined in Section 2A and shown on Exhibit A and Exhibit B to this Agreement.

C. "Railroad Easement" shall mean the easement created by this Agreement and legally described in Exhibit C, providing for the continuation of Soo's present operation of common carrier freight railroad service for a limited period of time and the use of the Property to be acquired by the Authority as a result of this Agreement as may be necessary for said railroad operations.

D. "Loss or Damage" includes any and all claims, liabilities, damages, costs, judgments, and expenses (including reasonable attorneys' fees and expenses) of every character incident to loss or destruction of or damage to Property and injury to or death of persons, arising upon or as a result of any operations conducted under the terms of this Agreement.

E. "Sole Employees" and "Sole Property" shall mean employees, agents, contractors, passengers, invitees, railroad and motor vehicle equipment, including lading, and other equipment of each of the parties or their agents or contractors while engaged in, or about to engage in, maintaining, using, operating, constructing, repairing, renewing, replacing and improving the trackage in the Railroad Easement, or in switching or handling railroad cars of the respective parties hereto.

F. "Taxes" shall mean lawfully imposed real estate taxes and assessments including, but not limited to, special assessments.

G. "Trackage" shall mean all rail, cross ties, related track appliances such as spikes and tie plates (sometimes known as other track material), ballast, all grade crossing signals and other signal and communication equipment located upon the Property, and including trackage laid in and across public streets and highways.

H. "Environmental Site" shall mean the physical location from which emanates any claims, damages, liabilities, costs, including costs and expenses of response, removal, remediation or disposal expenses (including reasonable experts' and attorneys' fees), suits or obligations of any and every nature resulting from

the generation, treatment, use, handling, storage, transportation, manufacture, release, discharge or disposal of any toxic or hazardous substances or wastes, pollutants, or contaminants (including, without limitation, asbestos, urea formaldehyde, the group of organic compounds known as polychlorinated biphenyls, petroleum products including gasoline, fuel oil, crude oil and various constituents of such products) on or from the Property.

SECTION 2 - PROPERTY TO BE ACQUIRED

A. Soo agrees to sell and the Authority agrees to buy all of Soo's interest in the railroad right-of-way presently owned and operated by Soo along the approximate alignment of 29th Street South in the City of Minneapolis between the east right-of-way line of Hiawatha Avenue and the westerly city limits of the City of Minneapolis all as shown and described in Exhibits A and B attached (the Property). Included in the Property to be sold are the following:

(1) Soo's interest in all lines of railroad between Cedar Avenue and Hiawatha Avenue, some of which cross Hiawatha Avenue in the vicinity of 28th Street and the other crossing Hiawatha Avenue in the vicinity of 26th Street.

(2) Soo's interest in any industrial spurs or other spur track rights of way appurtenant to the right-of-way.

(3) Soo's interest in any bridges, retaining walls, and other similar structures upon, over, under, across, or appurtenant to the right-of-way, but excluding grade

crossing protection signals and other signal and communication equipment.

(4) Soo's interest in any permits, licenses, ordinances, easements, or other rights permitting the occupation of the right-of-way and the operation of a railroad over the Property including (but not limited to) rights to cross, traverse, or operate in or upon public streets and rights of way, but excluding Soo's rights and obligations to provide common carrier freight rail service on the Property.

(5) Soo's interest in the railroad right-of-way located in public streets and other public rights of way.

(6) Valuation maps, plats, deeds of conveyance, and other similar records relating to Soo's ownership of the right-of-way. Except as provided herein, the originals of such records shall be delivered to the Authority within a mutually convenient and reasonable time following the closing. A copy may be delivered in lieu of the original under the following circumstances: (i) the original is unavailable, (ii) the record also pertains to Soo property other than the 29th Street Corridor, or (iii) the original record is reasonably required by Soo during the term of the Railroad Easement (as defined in this Agreement), in which event the original shall be delivered to the Authority promptly after the termination of the Railroad Easement.

B. Trackage is excluded from the property to be sold, except as otherwise provided by Section 12.

C. Notwithstanding acquisition of the Property by the Authority, the Authority grants use of a portion of the Property for purposes of the Railroad Easement and limited access to other portions of the Property solely for maintaining and performing Railroad operations upon the Railroad Easement, under the terms set forth in this Agreement. The Authority reserves the right to enter, and make alterations upon, the Railroad Easement, provided that such entry and alterations do not unreasonably interfere with Soo railroad operations and are in accord with other provisions of this Agreement.

SECTION 3 - CONVEYANCE AND CLOSING

A. The property will be conveyed at the closing by quit claim deed and bill of sale in a form consistent with Exhibits D and E and such other documents or evidence as the Authority or its counsel may reasonably request or as required by applicable law.

B. The Railroad Easement will be conveyed in a form consistent with Exhibit C which provides that the Railroad Easement is governed by the terms of this Agreement and shall be delivered at the closing .

C. The closing of this transaction shall occur on or before June 1, 1993, at 10:00 a.m. at the office of the Authority, Southwest Street Level Government Center, Minneapolis, Minnesota or at such other time or place as may be mutually agreed upon by the parties.

D. The Authority will purchase, affix, and cancel any and all documentary stamps in the amount prescribed by statute, and will pay any and all deed taxes, transfer taxes, excise taxes, sales taxes, use taxes, and fees incidental to the transfer of the Property or the recordation or filing of the deed or deeds.

SECTION 4 - PAYMENT

A. The Authority agrees to pay funds in the following amounts to Soo for the Property in accordance with the terms and conditions of this Section and in accordance with other terms of this Agreement. All amounts are net to Soo and shall be paid by immediately negotiable warrant . The funds so paid will constitute full and final payment by the Authority to Soo for each of the following defined items:

(1) $9,000,000 for all of the Property described in Section 2 and Exhibits A and B.

(2) As full and final compensation for all increased operating costs and trackage rights:

(a) $688,000 for trackage rights incurred by Soo and its railroad tenants in transporting rail traffic via alternate routes that now originates or terminates on the Property, or traverses the Property, so long as such traffic continues, subject to adjustment as a result of audit accepted by the Minnesota Department of Transportation or its designee before payment. The Authority

anticipates the audit will be completed by closing and will use its best efforts to achieve that goal.

(b) $158,000 for increased operating costs incurred by Soo to continue to serve customers originating or terminating traffic on the Property after Soo's present line of railroad is severed at Hiawatha Avenue, all subject to adjustment as a result of audit accepted by the Minnesota Department of Transportation or its designee before payment. The Authority anticipates the audit will be completed by closing and will use its best efforts to achieve that goal.

(c) Payment for increased operating costs and trackage rights will be adjusted in accordance with audit and paid at the later of closing, completion of the audit or at such time as the existing Soo rail connections across Hiawatha Avenue are severed. Said payments for increased operating costs and trackage rights may be made directly by the Authority to Soo or, in lieu thereof, by the governmental agencies participating in the Hiawatha Avenue reconstruction project. Provided, however, that the obligation to make such payments to Soo, or to cause said payments to be made to Soo by others, shall be and remain the obligation of the Authority.

B. The payments described in 4A will be paid in the amounts and at the times set forth as follows:

(1) $8,250,000 at closing.

(2) $ 750,000 after termination of the Railroad Easement in accordance with Section 12 of this Agreement. Said sum will be deposited as the Railroad Easement Escrow in an interest bearing escrow account or certificate of deposit with interest earned to be reinvested in the escrow account. The entire balance of the Railroad Easement Escrow account including accrued interest, less the costs associated with said account, will be disbursed to Soo upon the written authorization of the Authority, which shall be given upon termination of the Railroad Easement in accordance with Section 12.

C. The payments described in 4A(2) for increased operating costs and trackage rights will be adjusted in accordance with audit and paid at the later of closing, completion of the audit or at such time as the existing Soo rail connections across Hiawatha Avenue are severed. Said payments for increased operating costs and trackage rights may be made directly by the Authority to Soo or, in lieu thereof, by the governmental agencies participating in the Hiawatha Avenue reconstruction project. Provided, however, that the obligation to make such payments to Soo, or to cause said payments to be made to Soo by others, shall be and remain the obligation of the Authority.

SECTION 5 - CONDITIONS PRECEDENT TO CLOSING

A. General Conditions. The obligations of the Authority to consummate the transaction contemplated by this Agreement will be subject to fulfillment on or before the closing date of all of the following conditions, any of which may only be waived by the Authority in writing.

(1) Closing of this transaction is contingent upon obtaining of any required regulatory and other governmental approvals.

(2) Closing of this transaction is contingent upon the Authority obtaining commitments satisfactory to it to pay all of the increased operating costs and trackage rights set forth in Section 4A(2) of this Agreement.

(3) Provision by Soo of any and all documents to comply with the terms of this Agreement and execution of any and all instruments, documents and consents as necessary, including quit claim deeds, releases executed by any secured parties and in a form acceptable to insurers of title as to any and all security interests, mortgages or other encumbrances on the Property. Within 90 days after the closing, Soo shall cause to be recorded partial releases or satisfactions of any mortgages or deeds of trust of Soo which may appear of record as a lien against the Property, and Soo shall indemnify the Authority, and the Authority's title insurer, for any loss or expense sustained by either of them as a result of Soo's failure

to have such lien so released or satisfied. The existence of any such lien will not afford a basis for objecting to the marketability of Soo's title.

(4) Any judgment against Soo which may appear of record as a lien against the Property shall be settled and satisfied by Soo within 30 days after it becomes final and unappealable, and Soo shall indemnify the Authority, and the Authority's title insurer, for any loss sustained by either of them as a result of Soo's failure to have such lien so settled and satisfied. The existence of any such lien will not afford a basis for objecting to the marketability of Soo's title.

(5) Soo shall provide agreements by present tenants of the Property to vacate or terminate trackage rights presently in effect, to take effect no later than such time as the Railroad Easement is terminated.

(6) The Property will be conveyed subject to facts which would be disclosed by a comprehensive survey, rights and claims of parties in possession, rights of the public, and those easements, leases, licenses and permits listed in Exhibit F. The Authority may object to the marketability of Soo's title on the basis of such matters. Soo is under no obligation to cure title defects. If a title defect is not cured, the Authority at its option may terminate this Agreement at any time prior to closing.

(7) The Property shall be conveyed subject to the rights of CMC Real Estate Corporation or its successors or assigns to the location of certain billboards on the Property shown by arrows on Exhibit G and which shall not afford a basis for objecting to the marketability of Soo's title.

B. **Environmental Conditions**. The obligations of the Authority and Soo to consummate the transaction contemplated by this Agreement are subject to the fulfillment on or before the closing date of all of the following environmental conditions, any of which may only be waived by the other party in writing:

(1) All of the environmental representations and warranties of the Soo contained in this Agreement shall be true and correct on and as of the closing date.

(2) Soo shall have completed a Phase II environmental investigation of the Property and a supplemental Phase I environmental investigation and shall have shared all final reports and recommendations of such investigations with the Authority within 30 days from the execution of this Agreement.

(3) The Authority shall have performed an environmental investigation of the Property supplemental to the Phase II, the scope of which shall be in the sole discretion of the Authority.

(4) If the highest estimated cost to remediate the Property to federal, state and local environmental regulatory standards for use as a transportation corridor exceeds $2 million, either party may terminate this Agreement by written notice to the other prior to the closing and thereupon neither party shall have any further rights or obligations under this Agreement. The estimate of remediation cost shall be based upon remediation techniques that reasonably accommodate the Authority's time needs in using the Property as a transportation corridor.

(5) Soo shall have sealed or caused to have been sealed in accordance with the requirements of Minnesota law any existing wells known to Soo and shall have delivered the required Sealed Well Certification to the Minnesota Department of Health except for the two monitoring wells which are the subject of a right of entry in an agreement between the Soo and the Minneapolis Community Development Agency (designated in said agreement as MW304 and MW306), for which a partial assignment shall be made to the Authority.

C. **Corporate Authority Conditions**. The obligations of the Authority to consummate the transaction contemplated by this Agreement are subject to delivery by Soo to the Authority of a certificate or certificates dated as of the closing date and signed

on behalf of Soo by its Secretary or Assistant Secretary to the effect that:

(1) The copy of Soo's restated Certificate of Incorporation or Articles of Incorporation attached to the certificate are true, correct and complete;

(2) No amendment to said Articles or Certificate has occurred since the date of the last amendment annexed;

(3) A true and correct copy of the By-Laws of Soo as in effect on the date thereof and at all times since the adoption of the resolutions referred to in the following paragraph is annexed to such certificate;

(4) The resolutions by the Board of Directors of Soo authorizing the actions taken in connection with the sale of the Property including the execution and delivery of this Agreement and any related agreements, were duly adopted and continue in force and effect (a copy of such resolutions to be annexed to such certificate).

(5) The officers of Soo executing this Agreement and any other related agreements executed and delivered pursuant to or in connection with this Agreement are incumbent officers of Soo and that their signatures as shown on such certificate or certificates are genuine.

(6) Soo is a corporation in good standing in the State of Minnesota.

D. **Municipal Corporate Authority Conditions**. The obligation of Soo to consummate the transaction contemplated by this Agreement

is subject to the provision by the Authority to Soo of a certified copy of the resolution of the Board of the Authority certifying its approval of the transaction pursuant to the authority of Minnesota Statutes § 398A.04.

E. <u>Opinion of Counsel to Soo</u>. The obligations of the Authority to consummate the transaction contemplated by this Agreement are subject to delivery by Soo to the Authority of an opinion of Counsel to Soo, which may be house Counsel, that:

(1) To Soo's knowledge, no proceeding is pending, nor is there a substantial threat of such a proceeding, before any court or governmental agency in which it is sought to restrain or prohibit, or to obtain labor or environmental protection, conditions or provisions or damages or to obtain other relief in connection with, this Agreement or any other agreement to be executed in connection with this Agreement or the consummation of the transactions contemplated hereby or which, if adversely decided, would materially affect or impair either party's right or ability to perform its obligations hereunder or to obtain the benefits hereof, and no investigation that might eventuate in any such suit, action or proceeding is pending or threatened; and

(2) To Soo's knowledge, there are no labor disputes in progress or threatened with respect to Soo or the transaction contemplated by this Agreement.

F. <u>Opinion of Counsel to Authority</u>. The obligation of Soo to consummate the transaction contemplated by this Agreement will be subject to delivery by the Authority to Soo of an opinion of counsel as follows:

(1) All actions, proceedings, resolutions, instruments and documents required to carry out this Agreement and all other related legal matters shall have been approved on or before the closing date by the Hennepin County Attorney or the law firm of Felhaber, Larson, Fenlon & Vogt, P.A., counsel to the Authority in the exercise of its or their reasonable judgment, and the Authority or its counsel shall have been furnished with copies, satisfactory in form and substance to counsel to the Authority in the exercise of its or their reasonable judgment, of all of such required material corporate records and related proceedings of Soo authorizing its execution, delivery and performance of this Agreement as the Authority or its counsel shall reasonably require.

G. <u>Alternate Routing Conditions</u>. The obligation of the parties to consummate the transaction contemplated by this Agreement is subject to fulfillment on or before the closing date of the following condition, which may only be waived by either party in writing. The Authority agrees to cooperate and assist Soo in obtaining the agreements contemplated by this condition :

Soo shall have obtained agreements satisfactory to Soo with Chicago and North Western Transportation Company, Burlington Northern Railroad, and other railroads affording Soo and Twin Cities and Western Railroad

Company alternate routing for rail traffic that is currently routed via the 29th Street Corridor.

SECTION 6 - ENVIRONMENTAL INVESTIGATION

The Authority may enter the Property and, to the extent necessary, Soo's land in the vicinity of the Property (jointly referred to as the Site in this Section 6) for the purpose of surveying and conducting the supplemental environmental investigation referred to in Section 5 of this Agreement, including, but not limited to, soil borings, water samplings and other environmental inspections and tests the Authority in its sole discretion deems necessary subject to the following conditions:

(1) The Authority shall give Soo advance notice of the date and time of each entry and the nature of the activities to be conducted on the Site at each such date and time.

(2) Soo may elect to be present during the conduct of such activities and to monitor same. Such monitoring shall not relieve the Authority of any liability under this Section.

(3) Prior to entering the Property, the Authority shall secure the permission of any tenant then in possession of same.

(4) Upon the completion of its activities, the Authority shall remove any debris resulting from such activities and shall restore the Site to the condition it was in prior to the commencement of such activities.

(5) Only to the extent permitted by law, including but not limited to Minnesota Statutes Chapter 466, as amended, and only to the extent of the Authority's fault or negligence, the Authority shall indemnify Indemnitees against all claims, demands, actions, suits, judgments, losses, damages (including, but not limited to, actual, compensatory, direct, consequential, punitive, and exemplary damages), expenses, penalties, fines, sanctions, court costs, litigation costs, environmental response and remediation costs, and reasonable attorneys' fees (collectively, Claims) arising out of or relating to any loss of (or damage to) any property or business or any injury to (or death of) any persons, where such loss, damage, injury, or death actually or allegedly arises (whether directly or indirectly, wholly or in part) from:

(a) any action or omission of the Authority (or its employees, agents, or contractors) while on the Site pursuant to this Section; or

(b) the exercise by Authority (or its employees, agents, or contractors) of the permission granted by this Section; or

(c) the escape or release of any pollutant, contaminant, or hazardous substance resulting (directly or indirectly, wholly or in part) from any action or omission of Authority (or its

employees, agents, or contractors) while on the Site pursuant to this Section.

Indemnitees means the following companies and their officers, directors, employees, and agents: Soo Line Corporation, Soo Line Railroad Company, Tri-State Land Company, Tri-State Management Company, The Milwaukee Motor Transportation Company, Hiawatha Transfer Company, Canadian Pacific Limited, and CP Rail, and their respective parent companies, subsidiaries, and affiliated companies.

(6) The Authority (and its employees, agents, and contractors) shall comply with all applicable laws while on the Site.

(7) The Authority will provide Soo with complete copies of the test data and test reports as soon as they are available to the Authority.

(8) The cost of any test or survey will be borne solely by the Authority.

(9) Unless reasonably necessary to complete the Authority's environmental investigation, test holes shall be located no closer than 10 feet from the nearest rail of any railroad track located on or adjacent to the Site and drilling equipment and related equipment shall not be placed closer than 10 feet from the nearest rail of any such track. Before the Authority proceeds with test holes or placement of drilling equipment in such manner

Soo must have given written permission to do so which shall not be unreasonably withheld.

(10) While on the Site, the Authority (and its employees, agents, and contractors) shall comply with Soo's safety rules, including any requirement regarding the use of flagmen. All costs associated with compliance with such rules shall be borne by the Authority. If Soo shall incur any costs in connection therewith, the Authority shall reimburse Soo within 30 days after receipt of Soo's invoice.

(11) Unless disclosure is required by court order or applicable law, the Authority shall maintain, and shall cause its employees, agents, and contractors to maintain, the confidentiality of all information pertaining to any environmental test performed on the Site.

(12) If any mechanics' or materialmen's lien, or similar lien, is asserted against the Site, the Property, or any other property of Soo or Indemnitees as a result of the exercise of the permission granted in this Section, the Authority shall immediately satisfy and/or obtain the release of such lien, all at the Authority's expense, and the Authority shall indemnify and defend Soo from and against all Claims arising out of or connected with such lien.

(13) Notwithstanding the foregoing, the terms of this Agreement are not to be construed as nor operate as

waivers of the Authority's statutory or common law immunities or limitations on liability, including but not limited to Minn. Ch. 466. Further, the Authority's obligations set forth in this Section and otherwise in this Agreement are expressly limited and governed by the provisions of Minn. Stat. Ch. 466, Minn. Stat. Ch. 604, and any other applicable law or regulation.

SECTION 7 - ASSIGNMENTS OF CONTRACTS, LEASES AND RELATED INSTRUMENTS

A. Soo will assign to and the Authority or its designee will accept, all right, title, interest and obligations held by the Soo, to the extent transferrable and/or assignable, and relating to the interests in the Property to be transferred to the Authority, under leases, contracts, permits, licenses and other instruments which, to the extent discovered by Soo after diligent search of its files and records, have been listed and described in Exhibit F, attached hereto and hereby made a part of this Agreement.

B. Soo will also assign all other interests of any nature of the Soo, to the extent transferrable and/or assignable, and relating to the interests in the Property to be transferred to the Authority, including rights in and to general intangibles and contract rights in addition to those identified or described in Exhibit F, including franchises, governmental and contractual operating rights and other contracts, leases, licenses, permits and privileges, except to the extent such rights relate to Soo's rights

and obligations to provide common carrier freight rail service on the Property.

C. Soo reserves to itself all prepaid rentals attributable to any lease, license or easement whereby a third party has been granted the right to install and maintain a fiberoptic transmission line. Payments for rentals due under said instruments after closing shall be prorated between Soo and the Authority based upon their respective ownership of the affected areas. Otherwise, there shall be no proration of lease rentals.

SECTION 8 - PAYMENTS FOR TAXES

A. The Authority agrees to pay promptly to taxing authorities when due all Taxes, if any, duly levied on the Property with respect to the Authority's ownership, leases, air rights development, and/or operations. Soo agrees to pay promptly to taxing authorities when due all Taxes, if any, with respect to its use or operations duly levied, to the extent Soo's property right has been separately assessed by the appropriate assessing authority to Soo while conducting operations over the Railroad Easement. To the extent Soo's property right is not so separately assessed to Soo, but the underlying fee in the Railroad Easement is assessed as railroad operating property and would be exempt except for Soo's use in operations, then Soo agrees to pay all such taxes duly levied while conducting operations over the Railroad Easement. Soo reserves the right to protest to a taxing authority any such Taxes it deems to be unfair or excessive and may in good faith

litigate and settle with the taxing authority any such protested amount.

B. The Authority shall pay without reimbursement from Soo all Taxes, if any, attributable to any passenger transportation system installed by or at the direction of the Authority.

SECTION 9 - GRANT OF RAILROAD EASEMENT

A. Subject to all of the terms and conditions of this Agreement, the Authority hereby agrees to grant to Soo at closing a Railroad Easement to continue its present railroad operations and to continue to meet its common carrier obligations at Soo's sole cost and obligation subject to the terms of this Agreement, on its solely owned Trackage located upon said Railroad Easement as described in Exhibit C, including the right to:

(1) Exclusively provide freight railroad service to any industry, team, or house track existing in the 29th Street Corridor on the date of this Agreement or as otherwise may be required by law.

(2) Permit current third party users for bridge rights only or admit a third party only for emergency detour purposes to use all or any portion of said Trackage.

(3) Construct or modify tracks connecting to or crossing said Trackage, including track connections with the Chicago and North Western owned trackage located on Authority owned right-of-way West of France Avenue , subject to provisions of this Agreement, and the prior written approval by the Authority, which approval shall not be

unreasonably withheld and shall be deemed given if required by law.

(4) Use the existing roadbed, bridges, and other existing railroad facilities, if any, acquired by the Authority as a result of this Agreement.

(5) Admit a third party operator as assignee of Soo's common carrier freight service obligation subject to the consent of the Authority which shall not be unreasonably withheld.

SECTION 10 - RAILROAD EASEMENT RENTAL

A. Until termination of the Railroad Easement in accordance with Section 12 of this Agreement, Soo will pay an annual rental of $40,000 to the Authority for the Property utilized by the Railroad Easement. The first payment of $40,000 shall be due one month after the closing date and shall thereafter be paid annually by the same date.

(1) In the event of termination of the Railroad Easement upon other than the anniversary of the closing date, remaining rental due shall be prorated accordingly.

(2) The rental amount may be adjusted upward by the Authority each five (5) years, but each upward adjustment shall be no greater than ten percent of the previous rate.

B. At such time as the Railroad Easement is terminated, Soo shall have no further obligation to pay rental to the Authority and shall have no claim against the Authority for any payment of any

kind except as may have arisen prior to such termination or by reason of other provisions of this Agreement.

SECTION 11 - RAIL CAR STORAGE

Effective no later than six (6) months after closing, Soo and its tenants shall cease storing or parking railroad cars at any location on the Property except such cars as are actually used to service rail users located on or adjacent to the Property. Any rail cars required to be stored for the use of such rail users shall be parked in the vicinity of the loading or unloading tracks of said users.

SECTION 12 - TERMINATION OF RAILROAD EASEMENT

A. As provided in this Section 12, the Railroad Easement and the rental obligation under Section 10 will terminate, and the Railroad Easement Escrow account referred to in Section 4B(2) including accrued interest will be paid to Soo, no later than 90 days (unless winter conditions have prevented removal of Soo Trackage, then 180 days) after the effective date of an abandonment authorization order issued by the Interstate Commerce Commission ("ICC") or an ICC Notice of Exemption, and upon the occurrence of the events in (1) and either (2) or (3) below (unless otherwise provided by this Agreement):

(1) (a) Written notice of termination by either party to the other party;

(b) Soo delivers a release of Railroad Easement suitable for recordation;

(c) The Authority accepts relinquishment of the Railroad Easement in writing which shall be given

when Soo satisfies the conditions in either (2) or (3).

(2) Upon notification by Soo in writing to the Authority that Soo intends to remove the Trackage, and Soo completes salvage of the Trackage and removal of rails located in and across public streets and highways and restores paving (or has reimbursed the Authority for the cost of doing the same). All such removal and repaving shall be completed in a workmanlike manner and shall include removal of all debris and waste materials including scrap ties. If Soo has not completed salvage, and removal of rails and restoration of paving in and across public streets and highways, within ninety days after the effective date of the abandonment authorization (unless winter conditions have prevented removal of Soo Trackage, then within 180 days), the Trackage not salvaged shall be abandoned in place without compensation from the Authority and Soo shall reimburse the Authority for the cost of completing any removal and repaving which may be deducted from the Railroad Easement Escrow payment.

However, the Authority may, at its sole option, declare that the Trackage is to be left in place and pay to Soo within 90 days of the effective date of the abandonment order the market value of the track materials, less the cost of removal and the value of any additions or betterments previously provided at the

expense of the Authority. In such event, Soo shall have no obligation to restore street and highway crossings.

(3) Upon notification by Soo in writing to the Authority that Soo does not intend to remove the Trackage from the Property and Soo completes the removal of rails located in and across public streets and highways and the restoration of paving (or Soo reimburses the Authority for the cost of doing the same) no later than ninety days after the effective date of the abandonment authorization (unless winter conditions have prevented removal of Soo Trackage, then within 180 days). All such removal and repaving shall be completed in a workmanlike manner and shall include removal of all debris and waste materials including scrap ties. The Trackage not salvaged shall be deemed abandoned in place without compensation from the Authority. If Soo has not completed removal of rails and restoration of paving in and across public streets and highways within ninety days after the effective date of the abandonment authority (unless winter conditions have prevented removal of Soo Trackage, then within 180 days). Soo shall reimburse the Authority for the cost of completing any remaining removal and repaving, which may be deducted from the Railroad Easement Escrow payment.

B. Both Soo and the Authority shall have the right to terminate the Railroad Easement at any time in accordance with the provisions of this Agreement. Any such termination must be

initiated by written notice to the other party of its desire to terminate the Railroad Easement. Notwithstanding any other provisions of this Agreement, the Railroad Easement will terminate no later than 15 years following the date of closing, at which time the provisions of Section 12, paragraph E will apply. At that time, Soo agrees to transfer its railroad freight service common carrier obligation to the Authority or the Authority's designee.

C. If Soo desires to terminate the Railroad Easement, Soo shall have the obligation to seek to obtain, by Notice of Exemption, abandonment application, or such other filing as may be appropriate, any necessary ICC and other regulatory approval to terminate common carrier railroad freight service. In such event, Soo shall have no right to any payment for lost freight revenue. The Authority agrees to cooperate in seeking regulatory approval.

D. In the event of cessation of local rail freight traffic for a period of one year or more, or in the event the last user of rail freight service along the Railroad Easement ceases operations or otherwise makes clear that it has no further need for rail service, Soo shall have the obligation to seek to obtain, by Notice of Exemption, abandonment application, or such other filing as may be appropriate, any necessary ICC and other regulatory authority to terminate common carrier railroad freight service. Soo agrees to make filing of any such request for abandonment authority within six months after the last user ceases operations or after a year in which no local railroad traffic has originated or terminated on the Railroad Easement. Soo further agrees to use its best efforts to

obtain any necessary regulatory abandonment approval for itself and any other users within one year of said filing.

(1) The Authority agrees to cooperate in any such effort. In the event more than one year elapses before necessary regulatory approval is obtained by Soo, or earlier at Soo's request, the Authority may, at its option, proceed in the name of the Soo to prosecute and complete any necessary regulatory procedure to obtain authorization for such cessation, including cessation of operations by users.

(2) In the event regulatory approval to cease rail operations is not received within one year of said filing, or is denied in whole or in part, Soo agrees to transfer its railroad freight service common carrier obligations to the Authority or the Authority's designee, if requested by the Authority, in which case Section 12E(2) will apply.

(3) Soo shall not be entitled to any payment for lost freight revenue, except as provided in paragraph (2) above.

(4) Soo shall have no obligation to appeal an adverse regulatory decision, but shall be obligated to refile for abandonment approval no later than one year after any such denial. In any event, Soo shall have no obligation to refile for abandonment approval subsequent to a denial more than twice.

(5) The Authority shall have the right at any time to require Soo to divulge its most recent two years freight traffic and revenues generated on the Railroad Easement.

E. In the event the Authority requests termination of the Railroad Easement, the Authority shall have the obligation to obtain regulatory approval at its expense. Soo agrees to cooperate in any such effort at its expense, including preparation of necessary traffic, accounting and financial data in form suitable for ICC or other regulatory application. Soo also agrees that the Authority may proceed in the name of the Soo to prosecute and complete any such procedure. Soo agrees to provide any requested data for regulatory filing within ninety days of request by the Authority.

(1) In the event regulatory approval to cease rail operations is not received within one year of said filing, or is denied in whole or in part, Soo agrees to transfer its railroad freight service common carrier obligations to the Authority or the Authority's designee, if requested by the Authority, in which case, Sec. 12E(2) will apply.

(2) In the event the Authority requests termination of the Railroad Easement prior to cessation of active rail freight shipping via the Easement, the Authority will make an additional payment at the time termination takes place for lost net revenue calculated in accordance with the provisions of Exhibit H based on average freight revenues for the most recent two years prior to the

request by the Authority and based upon the assumption that revenue will continue for a maximum term of 20 years from the date of closing and further based on the cost of capital as determined by the Interstate Commerce Commission on the date of the request by the Authority to terminate the freight railroad easement. Revenues used in the projection shall be adjusted to reflect those revenues reasonably expected to continue. No payment for lost revenue will be made under any other circumstances.

F. In the event the Authority shall cause, contribute to, or assist in the relocation of any customer facility located adjacent to the Railroad Easement and currently used for rail shipping, the Authority shall:

1. Give Soo advance notice of the proposed relocation.
2. Keep Soo advised as to the particulars of the proposed relocation.

In the event such facility is relocated with the financial assistance of the Authority on a line of railroad not served by Soo, CP Rail or their affiliates, successors or assigns, the provisions of Section 12E(2) will apply.

SECTION 13 - OBLIGATIONS FOLLOWING TERMINATION

Upon termination of the Railroad Easement, the parties hereto are relieved from any and all obligations relating thereto, except for any obligations which may have accrued or which may have been incurred prior to the date of such termination or in accordance with the terms of this Agreement.

SECTION 14 - RAILROAD EASEMENT MAINTENANCE, OPERATIONS, CONTROL AND ENTRY

A. Until termination of the Railroad Easement, Soo shall have the exclusive direction and control of the Trackage upon said Easement, at its sole cost and expense, subject to the rights of the Authority as set forth in this Agreement. Soo shall perform all construction, derailment or wreck clearing, maintenance, repair and renewal of the Trackage, including any additions thereto it may deem necessary or desirable for the safe and efficient operation of all trains. Soo's obligation for maintenance and repairs shall include any repairs to overhead bridges necessitated by reason of interference with freight railroad operations, which repairs are not required for any other purpose.

B. The management and operation of the Railroad Easement shall be under the direction and control of Soo. Soo shall have the power to change its operations, management and operating practices on or over the Railroad Easement as in its judgment may be necessary, expedient or proper for the operations herein intended, consistent with the provisions of this Agreement.

C. Soo shall have the right to operate trains, engines and cars over the Railroad Easement for its sole benefit, and shall not, except as otherwise provided in this Agreement without prior written permission by the Authority, which permission shall not unreasonably be withheld, permit any third party to operate trains, engines or cars over the Railroad Easement except as already provided in existing trackage rights agreements or as a temporary emergency detour.

D. Soo shall, at its sole cost and expense, determine all means and employ all persons necessary to operate, maintain, repair and renew the Trackage, as well as crossings, crossing signals, ditches, roadbeds, bridges, and communication lines within the Railroad Easement which may be necessary for its use of the Trackage.

E. Soo shall have a right of access over other portions of the Property for the sole purpose of maintaining and performing freight railroad operations over the Railroad Easement. Such access shall not unreasonably interfere with activities of the Authority or other users permitted by the Authority upon Property not part of the Railroad Easement.

F. The Authority shall not pay the expenses of any public crossing of the Railroad Easement which may be opened or improved, including all expenses of crossing protection, unless such crossings are requested or opened by the Authority. The Authority shall not be responsible for any expenses incurred by Soo as a result of activities of third parties not authorized by the Authority occupying or otherwise interfering with the Railroad Easement.

G. The Authority may enter upon, and make alterations to, the Railroad Easement subject to the following conditions:

(1) The Authority shall give Soo at least three working days advance notice of the date, time, and location of each entry upon the Railroad Easement and the precise nature

of the activities to be conducted on the Railroad Easement at each such date, time and location.

(2) The Authority and its contractors shall not interfere with the operations of any trains or railroad facilities upon the Railroad Easement except with the consent of Soo which consent shall not be unreasonably withheld.

(3) The Authority shall take (and shall cause its contractors to take) such actions as are required to afford Soo the benefit of any applicable insurance held by the Authority or its contractors. In any case where the circumstances would cause a prudent railroad to require the Authority or its contractors to do so, the Authority or its contractors shall procure and maintain in effect railroad protective liability insurance (occurrence form), in Soo's name and issued by an insurer and in a form acceptable to Soo, with limits of $2,000,000 per occurrence and $6,000,000 aggregate for bodily injury (including death) and property damage.

(4) While on the Railroad Easement, the Authority and its contractors shall comply with all applicable laws and with Soo's safety rules, all at no expense to Soo.

(5) No work shall be done or obstruction placed over any track or within the Railroad Easement until the Authority or its contractors shall have arranged for Soo to furnish, at the Authority's or its contractors' expense, such flagging as Soo deems necessary for the protection

of railroad operations. Such flagging shall not relieve the Authority or its contractors from any liability.

(6) Construction equipment and related equipment shall not be placed closer than 10 feet from the nearest rail of any track.

(7) If the Authority desires to construct facilities upon the Railroad Easement, such construction shall be effected in strict accordance with plans which have been approved in advance by Soo. The Authority shall submit the plans to Soo no less than forty-five (45) days prior to the commencement of construction. Soo may require the Authority to make changes in the plans if, in Soo's judgment, the planned construction would create a safety hazard with respect to, or interfere with, railroad operations. Soo assumes no responsibility for, and shall not under any circumstances be held liable for, any error, omission, defect, or deficiency in the plans.

(8) The Authority shall not construct any facility over any track where the vertical distance between the top of the rail and any part of the facility is less than 23 feet.

SECTION 15 - LIABILITY

A. While conducting operations over the Railroad Easement, Soo agrees to defend, indemnify, and hold harmless the Authority, its Commissioners, officers, agents, and employees from any liability, claims, damages, costs, judgments, or expenses resulting directly or indirectly from the act or omission of Soo, its agents,

employees, customers, tenants, or invitees, occurring on or from the Property (including, without limitation, reasonable attorney's fees and compensation for harm resulting from the handling, storage or release of toxic or hazardous substances or wastes, pollutants or contaminants including, without limitation, asbestos, urea formaldehyde, the group of organic compounds known as polychlorinated biphenyls, petroleum products including gasoline, fuel oil, crude oil and various constituents of such products).

B. Notwithstanding anything in this Agreement to the contrary, in case of collision occurring on the Property involving railroad cars, locomotives, rail passenger cars, motor vehicles, other vehicles or equipment operated by the respective parties which causes Loss or Damage involving the Sole Property or Sole Employees of each of the parties hereto, the party whose Sole Employees are alone at fault shall be solely responsible for and shall settle for and pay the entire Loss and Damage caused thereby, or, if caused by the fault of the Sole Employees of both parties hereto, each party hereto shall bear and pay for all Loss or Damage which its Sole Employees and Sole Property may have suffered as a result thereof, and each party shall bear the percentage of Loss or Damage for which it is legally responsible to third parties.

C. Each party hereto shall pay all Loss or Damage for which such party shall be liable under the provisions of this Agreement, and shall defend, indemnify and save harmless the other party against such Loss or Damage, including any such damages in any court action. Each party hereto shall have the right to settle, or

cause to be settled for it, all claims for Loss or Damage for which such party shall be liable under the provisions of this Agreement, and to defend or cause to be defended all suits for the recovery of any such Loss or Damage.

D. Each party shall give the other prompt written notice of any and all claims or suits arising from operations on or about the Railroad Easement.

E. Notwithstanding the foregoing, the terms of this Agreement are not to be construed as nor operate as waivers of the Authority's statutory or common law immunities or limitations on liability, including but not limited to Minn. Stat. Ch. 466. Further, the Authority's obligations set forth in this Section 15 and otherwise in this Agreement are expressly limited and governed by the provisions of Minn. Stat. Ch. 466, Minn. Stat. Ch. 604, and any other applicable law or regulation.

SECTION 16 - ENVIRONMENTAL REPRESENTATIONS AND WARRANTIES

A. Soo hereby represents and warrants as follows to the Authority, such representations and warranties to be true and correct on the closing date, that:

(1) Soo has provided to the Authority within 30 days of the execution of this Agreement all relevant and material environmental information with respect to the Property which is in Soo's possession. Soo may provide such information in summary fashion, but warrants that any summary so provided is fully representative of the environmental conditions of the Property known to Soo and

that Soo has promptly provided all other relevant documents, data, test results, reports and recommendations requested by the Authority as it pertains to said summarized information. The summarized information will be set forth in Soo's Environmental Disclosure schedule which shall be identified as Exhibit I to this Agreement.

(2) Except as disclosed in any documentation provided by Soo to the Authority pursuant to this Section 16 hereof and except as disclosed on Exhibit I (which is to be provided to the Authority within 30 days after the date of this Agreement), Soo has not generated, treated, stored, released or disposed of, or otherwise placed, deposited in or located any toxic or hazardous substances or wastes, pollutants or contaminants (including, without limitation, asbestos, urea formaldehyde, the group of organic compounds known as polychlorinated biphenyls, petroleum products including gasoline, fuel oil, crude oil and various constituents of such products, and any hazardous substance as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. Section 9601-9647, as amended) on the Property, nor has Soo undertaken any activity on the Property which has caused, or, to Soo's knowledge, would contribute to:

(i) the Property being or becoming a treatment, storage or disposal facility within the meaning of the Resource Conservation and Recovery Act of 1976 ("RCRA"), 42 U.S.C. Section 6901 et seq., or any similar state law or local ordinance,

(ii) a release or threatened release of toxic or hazardous wastes or substances, pollutants or contaminants from the Property within the meaning of CERCLA or any similar state law or local ordinance,

(iii) the discharge from the Property of pollutants or effluent into any water source or system, the dredging or filling of any waters or the discharge into the air of any emissions, that would require a permit under the Federal Water Pollution Control Act, 33 U.S.C. Section 1251 et seq., or the Clean Air Act, 42 U.S.C. Section 7401 et seq., or any similar law or local ordinance.

(3) Except as disclosed in Exhibit I, to Soo's knowledge, there is no existing claim or cause of action and there is no pending claim or cause of action against the Property under RCRA, CERCLA or any federal, state or local environmental statutes, regulations, ordinances or other environmental regulatory requirements, including without limitation, the Minnesota Environmental Response and Liability Act, Minn. Stat. § 115B ("MERLA") and the

Minnesota Petroleum Tank Release Cleanup Act, Minn. Stat. § 115C.

(4) Except as disclosed on Exhibit I, no above ground or underground tanks (i) have been located on the Property by Soo, or (ii) have been located on the Property by Soo and subsequently removed or filled. There are no known wells within the meaning of Minn. Stat. § 103I.005 on the Property except as described on Exhibit I.

SECTION 17 - ENVIRONMENTAL INDEMNIFICATION

A. Except as limited by this Section 17, Soo shall defend, indemnify and hold the Authority harmless from and against all claims, damages, liabilities, costs, including costs and expenses of response, removal, remediation or disposal expenses (including reasonable experts' and attorneys' fees), suits or obligations of any and every nature whatsoever to the extent that they (i) result from or arise out of Soo's breach of any of the representations and warranties in Section 16 of this Agreement, or (ii) result from or arise as a result of the generation, treatment, use, handling, storage, transportation, manufacture, release, discharge or disposal of any toxic or hazardous substances or wastes, pollutants or contaminants (including, without limitation, asbestos, urea formaldehyde, the group of organic compounds known as polychlorinated biphenyls, petroleum products including gasoline, fuel oil, crude oil and various constituents of such products) on or from the Property to the extent that same occurred prior to transfer of ownership of the Property to the Authority.

B. Soo's obligation to the Authority for responding to, removing, remediating or disposing of any pollutant, contaminant, toxic or hazardous substance or waste is restricted to that where the response, removal, remediation or disposal is ordered or required by any federal, state or local government agency with jurisdiction over the same; however, response, removal, remediation or disposal shall be based upon techniques that reasonably accommodate the time needs of the Authority in using the Property as a transportation corridor.

C. Soo's obligation to the Authority for responding to, removing, remediating or disposing of any pollutant, contaminant, toxic or hazardous substance or waste is further limited to that necessary for the Authority's use of the Property as a transportation corridor, including, but not limited to, use as a railroad right-of-way, roadway, bike, pedestrian or other trailway and necessary facilities, including without limitation, station sites, maintenance facilities and other buildings incidental to use as a transportation corridor.

D. The Authority is responsible for the first $50,000 attributable to each Environmental Site up to an aggregate total of $250,000 for all Environmental Sites.

E. Soo is obligated to defend, indemnify and hold the Authority harmless for amounts over $50,000 attributable to each Environmental Site and for amounts in excess of the Authority's aggregate amount of $250,000.

F. Notwithstanding anything else to the contrary in this Section 17, Soo's obligation to defend and indemnify the Authority with respect to Environmental Sites shall be limited to an aggregate amount of $2,000,000.00 for any and all Environmental Sites.

G. Soo is not responsible for defending or indemnifying the Authority for Environmental Sites discovered after termination, pursuant to Section 12, of the Railroad Easement.

H. Each Party agrees to inform the other of notices and investigations of Environmental Sites and the Parties further agree to confer with respect to management of remediation.

I. All the terms, covenants, and conditions of this Agreement shall be binding upon, and inure to the benefit of and be enforceable by the parties hereto and their respective successors, heirs, executors and assigns.

SECTION 18 - SURVIVAL

All of the terms of this Agreement, including all warranties, representations, and indemnification given by each party in this Agreement, all of which are relied upon by the each party shall survive and be enforceable after the closing date and any subsequent transfer of title of the Property.

SECTION 19 - LAWS GOVERNING

This Agreement shall be governed, and the parties agree to be bound, by the laws of the State of Minnesota; and the parties agree

to comply with or abide by all laws relevant to this Agreement governing their respective operations in the State of Minnesota.

SECTION 20 - LABOR RELATIONS

Soo and the Authority each shall be responsible for conducting their own labor relations with any labor organization either representing or seeking representation among either's employees, and each shall regulate or seek to adjust all disputes that may arise with respect to their employees without involving the other party. Either party may freely enter into any contract with any labor organization representing or seeking representation among its own employees. Neither party shall obligate the other party to its employees or to any union representing its employees. Each party shall give written notice to the other of any labor dispute that prevents or threatens to prevent timely performance under this Agreement, including all relevant information concerning the dispute that may impact upon this Agreement.

SECTION 21 - INDEPENDENCE OF PARTIES

Soo and the Authority hereby declare that they are acting independently, and agree that in the performance of this Agreement their actions are as independent contractors and not as an employee of the other; nor are any of their respective employees considered at any time an employee of the other. Soo has and hereby retains full control of its business in the performance of this Agreement and full control of all the employment, compensation and discharge of all employees of Soo assisting in its performance hereunder.

Soo and the Authority each shall be fully responsible for all matters relating to payment of their employees, including compliance with Social Security, Railroad Retirement, withholding taxes and all other laws and regulations governing such matters. Soo and the Authority each shall be responsible for their own acts and those of their agents, officers, employees, lessees, and contractors during the term of this Agreement.

SECTION 22 - REMEDIES FOR BREACH. If the Authority fails to perform any of the terms or conditions of this Agreement within the specified time limits, Soo may declare this Agreement terminated or may have this Agreement specifically enforced. Likewise, if Soo fails to perform any of the terms or conditions of this Agreement within the specified time limits, the Authority may declare this Agreement terminated or may have this Agreement specifically enforced. The rights and remedies granted to the parties in this Section 22 are intended to be cumulative to all other rights and remedies available to the parties (whether under this Agreement, at law, in equity, or otherwise); accordingly, the exercise by either party of any such right or remedy shall not preclude it from exercising any other such right or remedy.

SECTION 23 - ENTIRE AGREEMENT. This Agreement constitutes the entire Agreement between the parties with respect to the sale and purchase of the Property. Neither party has relied on any statements or representations by the other party except as are set forth in this Agreement.

SECTION 24 - ASSIGNMENT; BINDING EFFECT. The terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, including without limitation any entities into or by which either of the parties is merged, combined, reorganized or acquired.

SECTION 25 - NOTICES. Unless explicitly stated to the contrary elsewhere in this Agreement, all notices and other communications required or contemplated by this Agreement must be in writing and shall be deemed given when delivered in legible form to the business address of the party to whom addressed. If delivered at the closing, a notice shall be deemed given when hand-delivered to the party's representative at the closing. The business addresses of the parties are as follows:

SOO

mailing address:	P. O. Box 530 Minneapolis, Minnesota 55440 Attn: Director - Real Estate
delivery address:	1380 Soo Line Building 105 South 5th Street Minneapolis, Minnesota 55402 Attn: Director - Real Estate
telecopier:	(612) 347-8170 Attn: Director - Real Estate

THE AUTHORITY

mailing address:	Hennepin County Regional Railroad Authority Southwest Street Level Government Center Minneapolis, MN 55487-0016 Attn: Director - Light Rail Transit

delivery address: Hennepin County Regional Railroad Authority
Southwest Street Level
Government Center
Minneapolis, MN 55487-0016
Attn: Principal Right-of-way Agent

telecopier: (612) 348-9710
Attn: Principal Right-of-way Agent

Notices not given in the manner or within the time limits set forth in this Agreement are of no effect and may be disregarded by the party to whom they are directed. Either party may change its business address, for notice purposes, by giving notice of the change to the other party.

SOO LINE RAILROAD COMPANY

ATTEST:

Teresa A. Keener
Assistant Secretary

By B. Frank Nixon
Its SENIOR VICE PRESIDENT DEVELOPMENT

HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY

ATTEST:

Mary Ellen Hudson

By Mark Andrew
Its Chairman

and

By [illegible]
Its Executive Director

Approved as to execution:

Assistant County Attorney

Dated: 1-5-93

Approved as to legality:

Assistant County Attorney

Dated: 12-23-92

RAILROAD EASEMENT ESCROW AGREEMENT

This Agreement is made by and among Hennepin County Regional Railroad Authority (Buyer), Norwest Bank Minnesota, National Association (Escrow Agent), and Soo Line Railroad Company (Seller) on the 30th day of July, 1993.

WHEREAS, Buyer has entered into a Purchase Agreement (the Purchase Agreement) dated December 23, 1992 with Seller for the purchase of certain real estate identified as the 29th Street Corridor.

WHEREAS, a copy of the Purchase Agreement is attached hereto as Exhibit A.

WHEREAS, pursuant to Section 9 of the Purchase Agreement, Buyer will grant to Seller a Railroad Easement; and, pursuant to Section 4.B. (2) of the Purchase Agreement, $750,000 of the purchase price for the 29th Street Corridor is to be held in a Railroad Easement Escrow and paid to Seller upon termination of the Railroad Easement.

WHEREAS, Buyer and Seller desire to engage the services of the Escrow Agent to hold and invest that portion of the purchase price and disburse it upon written authorization of Buyer.

WHEREAS, the Escrow Agent is willing to act as the escrow agent on the terms and conditions set forth below.

NOW THEREFORE,

1. Buyer shall deposit the sum of $750,000 (which amount, together with the interest and other earnings thereafter earned in connection therewith, is referred to as the Escrow Funds) with the Escrow Agent, who shall receive and hold the Escrow Funds in accordance with the terms of this Agreement.

2. Upon receipt of the Escrow Funds, Escrow Agent shall immediately invest the Escrow Funds in such interest bearing accounts, certificates of deposit, direct obligations of the United States Government, or mutual funds (collectively, Accounts) as shall have been designated in a written notice from Seller's Chief Financial Officer. Thereafter, Escrow Agent shall invest the Escrow Funds in such Account or Accounts as may be designated from time to time in written notices from Seller's Chief Financial Officer. If no such written notice has been given at the time the Escrow Funds are received, Escrow Agent shall immediately deposit the Escrow Funds in an interest bearing account of Escrow Agent's choosing and shall thereupon request in writing that Seller's Chief Financial Officer give notice of the Accounts into which the Escrow Funds are to be invested. Upon receipt of such notice, Escrow Agent shall invest the Escrow Funds in the Accounts so designated. (All references in this Agreement to Seller's Chief Financial Officer include any successor to the current Chief Financial Officer and any person holding a comparable position with Seller's successor or assign.)

3. All income (i.e., interest, capital gains, dividends, and other earnings) from the Accounts shall be reinvested in the Accounts and shall be considered part of the Escrow Funds.

4. All income earned on the Accounts shall be reported in the name of Seller for tax purposes.

5. Escrow Agent shall receive fees for its services pursuant to the Escrow Fee Schedule attached hereto as Schedule "A." Escrow Agent will deduct said fees from income earned on the Accounts.

6. Escrow Agent shall furnish to Seller a monthly statement of account reflecting an inventory of assets in the Accounts, all activity during the previous month, and a market value for the assets of the Accounts. Escrow Agent will also furnish such other reports as the Seller or Buyer may reasonably request, including reports to the Seller's or Buyer's accountants or other examiners as may be necessary or appropriate.

7. This Agreement may only be amended by written agreement of the parties.

8. Escrow Agent shall hold the Escrow Funds until it receives written authorization from Buyer (or its successor or assign) to disburse the entire balance of the Escrow Funds (less Escrow Agent's fees) to Seller (or its successor or assign), which consent shall be given upon termination of the Railroad Easement in accordance to Section 12 of the Purchase Agreement. Written authorization from Buyer may be given by the Executive Director of Buyer. Written authorization from Buyer's successor or assign may be given by any officer of such successor or assign.

9. Disbursement of the balance of the Escrow Funds to the Seller shall be made as directed by Seller's Chief Financial Officer.

10. This Agreement shall be effective on the date of deposit of the Escrow Funds with Escrow Agent pursuant to paragraph 1 of this Agreement and shall terminate upon the full performance by each of the parties of their respective obligations hereunder.

11. Except as otherwise provided in this Agreement, the sole duty of Escrow Agent shall be to receive the Escrow Funds and hold them subject to release, in accordance herewith, and Escrow Agent shall be under no duty to determine if Buyer or Seller are complying with the requirements for termination of the Railroad Easement. Escrow Agent may conclusively rely upon, and shall be protected in acting upon, any statement, certificate, notice, request, consent, order, or other document believed by it to be genuine and to have been signed or presented by the proper party or parties. Escrow Agent shall have no duty or liability to verify any such statement, certificate, notice, request, consent, order, or other document, and its sole responsibility shall be to act only as expressly set forth in this Agreement. Escrow Agent shall be under no obligation to institute or defend any action, suit, or proceeding in connection with this Agreement unless first indemnified to its satisfaction.

Escrow Agent may consult counsel in respect of any question arising under this Agreement, and Escrow Agent shall not be liable for any action taken or omitted in good faith upon advice of such counsel.

12. Buyer and Seller hereby agree to indemnify and hold Escrow Agent harmless from and against any and all claims, liabilities, and expenses (including attorneys' fees) which Escrow Agent may incur by reason of its acting as the escrow agent under this Agreement. Notwithstanding the foregoing, it is specifically understood and agreed that in the event Escrow Agent has committed negligence or malfeasance in the exercise of its responsibilities hereunder, the indemnification provisions of this Agreement shall not apply. Further, nothing in this Agreement shall be deemed to waive any of Buyer's statutory defenses and immunities or limitations on liability.

13. The books, records, documents, accounting procedures, and practices of Escrow Agent relevant to this Agreement are subject to examination by Buyer and Seller or their agents.

14. This Agreement and all transactions hereunder shall be governed by, and interpreted, construed, and enforced in accordance with, the laws of the State of Minnesota.

15. All notices, authorizations, and directives required or contemplated by this Agreement shall be in writing and shall be effective when actually received by the party to whom addressed. Such notices and authorizations shall be addressed as follows. A party may change its address for notice purposes by giving notice of the change to the other parties.

Notices to Buyer shall be directed as follows:

Don Lawrence
Hennepin County Regional Railroad
Authority
Southwest Street Level
Hennepin County Government Center
Minneapolis, MN 55487
Fax (612) 348-9710

Notices to Seller shall be directed as follows:

James A. Lee
Senior Vice President and Chief Financial Officer
Soo Line Railroad Company
925 Soo Line Building
105 South Fifth Street
Minneapolis, MN 55402
Fax (612) 337-0434

with a copy to:

Director of Real Estate Development
Soo Line Railroad Company
1380 Soo Line Building
105 South Fifth Street
Minneapolis, MN 55402
Fax (612) 347-8170

Notices to Escrow Agent shall be directed as follows:

Attn: Alice I. Weibye
Norwest Bank Minnesota, N.A.
Corporate Custody Services
Sixth Street & Marquette Avenue
Minneapolis, MN 55479-0065
Fax (612) 667-3822

16. This Agreement contains the entire understanding among the parties hereto with respect to the escrow contemplated hereby and supersedes and replaces all prior and contemporaneous agreements and understandings, oral or written, with regard to such escrow.

17. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute the same instrument.

18. Escrow Agent may resign upon 30 days advance written notice to Buyer and Seller. If Seller and Buyer are unable to agree upon a successor Escrow Agent within the 30-day period following such notice, Escrow Agent may petition any court of competent jurisdiction to name a successor escrow agent. Escrow Agent will continue to serve as the escrow agent under this Agreement until such time as the successor escrow agent is able to assume its duties under this Agreement.

19. Seller acknowledges and agrees that the terms of this Agreement meet the requirements contained in Section 4.B.(2) of the Purchase Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first written above.

HENNEPIN COUNTY REGIONAL
RAILROAD AUTHORITY

By Sandra M. Hilary

Its Chair

NORWEST BANK MINNESOTA,
NATIONAL ASSOCIATION

By Alice Wesley

Its Asst Vice President

SOO LINE RAILROAD COMPANY

By

Its Sr. V.P. + C L O

****

APPROVED AS TO FORM AND LEGALITY:

Asst. Hennepin County Attorney

Dated 7-29-93

APPROVED AS TO EXECUTION:

Asst. Hennepin County Attorney

Dated 7-30-93

JAMES R. UFER James R. Ufer

~~Asst~~. Hennepin County Investment
and Financial Manager

Dated July 29, 1993

LINE RAILROAD COMPANY COPY

SUPPLEMENT NO. 1 TO PURCHASE AGREEMENT

This is Supplement No. 1 dated May 27, 1993, to that certain Purchase Agreement dated December 23, 1992 (the Purchase Agreement), by and between Soo Line Railroad Company (Soo) and the Hennepin County Regional Railroad Authority (the Authority).

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, Soo and the Authority hereby agree as follows:

Section 3 C of the Purchase Agreement is amended by changing June 1, 1993, to July 1, 1993.

SOO LINE RAILROAD COMPANY

By _____

Its Sr. V.P. + C.L.O.

APPROVED AS TO FORM

_____

Law Department
Glenn Olander - Quamme

HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY

By _____
Its Chair

and

By _____
Its Executive Director

****

Approved as to execution:

_____
Assistant County Attorney
Dated: May 27, 1993

Approved as to legality:

_____
Assistant County Attorney
Dated: May 27, 1993

SUPPLEMENT NO. 2 TO PURCHASE AGREEMENT

This is Supplement No. 2 dated June 25, 1993, to that certain Purchase Agreement dated December 23, 1992 (the Purchase Agreement), by and between Soo Line Railroad Company (Soo) and the Hennepin County Regional Railroad Authority (the Authority).

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, Soo and the Authority hereby agree as follows:

Section 3 C of the Purchase Agreement is amended by changing June 1, 1993, to August 1, 1993.

This Supplement No. 2 supersedes Supplement No. 1 to Purchase Agreement (which Supplement No. 1 is dated May 27, 1993).

SOO LINE RAILROAD COMPANY

By _____

Its Sr. Vice President

HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY

By _____
Its Chair

and

By _____
Its Executive Director

****

Approved as to execution:

_____
Assistant County Attorney
Dated: June 25, 1993

Approved as to legality:

_____
Assistant County Attorney
Dated: June 25, 1993

CP COUNTERPART
7/26/93

RELINQUISHMENT AGREEMENT

THIS IS AN AGREEMENT dated July 27, 1993, between Soo Line Railroad Company (Soo) and Twin Cities & Western Railroad Company (TCW). The premises of this agreement are as follow:

a. Soo and TCW are parties to that certain Twin Cities Trackage Rights Agreement dated July 26, 1991 (the Base Agreement), whereby Soo granted TCW trackage rights with respect to certain railroad trackage owned by Soo in the Minneapolis-St. Paul metropolitan area, including the "Merriam Park Line" (as that term is defined in the Base Agreement) which is shown in red coloration on the attached Exhibit A.

b. The Base Agreement permits TCW to traverse the Merriam Park Line to reach Soo's St. Paul Yard but prohibits TCW from serving any rail freight customers located on and along the Merriam Park Line.

c. The Merriam Park Line includes a line of railroad that extends from the westerly city limit of the City of Minneapolis to the easterly line of Hiawatha Avenue, all in the City of Minneapolis, referred to as the 29th Street Corridor.

d. Section 8.2 of the Base Agreement stipulates that TCW agrees to relinquish all its rights over the Merriam Park Line in the event of a sale or abandonment of any portion of the Merriam Park Line, provided that Soo shall secure an alternate route to St. Paul Yard for TCW.

e. By Purchase Agreement dated December 23, 1992 (the Purchase Agreement), between Soo and the Hennepin County Regional Railroad Authority (the Authority), Soo agreed to sell the 29th Street Corridor to the Authority. The Purchase Agreement contemplates that Soo and TCW may continue to use the 29th Street Corridor for a period of time after the consummation of the sale.

f. Pursuant to Section 5 A (4) of the Purchase Agreement, the obligation of the Authority to consummate the purchase of the 29th Street Corridor is subject to the condition that Soo provide agreements by present users of trackage rights to vacate or terminate those trackage rights in a timely manner.

g. The Purchase Agreement contemplates that the existing Merriam Park Line track crossings at Hiawatha Avenue will be permanently severed in order to accomodate the reconstruction of Hiawatha Avenue. The exact date of severance is not known at this time. Once the track crossings at Hiawatha Avenue are severed, TCW will no longer be able to utilize the Merriam Park Line to reach Soo's St. Paul Yard.

h. Soo has procured alternate trackage rights for TCW that give TCW an alternate route to Soo's St. Paul Yard using the tracks of other railroads, all as specified in the Base Agreement. TCW has accepted such alternate trackage rights.

i. TCW is willing to surrender its trackage rights with respect to a portion of the Merriam Park Line as shown in yellow coloration on Exhibit A on the terms set forth below.

NOW, THEREFORE, in consideration of the foregoing premises, and in further consideration of the promises and undertakings set forth below, Soo and TCW agree as follows:

1. TCW hereby surrenders its trackage rights (as granted by the Base Agreement) with respect to that portion of the Merriam Park Line lying between the westerly limits of the City of Minneapolis (milepost 428.00) and Merriam Park (milepost 416.43), all as shown in yellow coloration on the attached Exhibit A.

Said surrender shall take effect at the earlier of the following:

(a) upon receipt of written demand from Soo demanding such surrender, or

(b) at such time as the railroad crossings at Hiawatha Avenue are severed;

provided, however, that if, upon the happening of either of the events specified in subparagraphs (a) or (b) above, TCW has not yet received authority or exemption from the Interstate Commerce Commission ("ICC") to discontinue its trackage rights, then said surrender shall not take effect as specified above, but, instead, shall take effect upon receipt by TCW of such authority or exemption; provided further that said surrender shall not take effect until TCW has received ICC approval or exemption therefrom, for the alternate trackage rights described in paragraph h above.

2. TCW will cooperate in good faith with Soo to obtain any regulatory approval (or exemption in lieu thereof) necessary to effectuate the purposes of this agreement.

3. This agreement is expressly intended for the benefit of the Authority.

4. TCW shall remain obligated, pursuant to Section 8 of the Base Agreement, to relinquish its trackage rights with respect to that portion of the Merriam Park Line located west of milepost 428.00 in the event such portion (or any part thereof) is abandoned or sold to a third party.

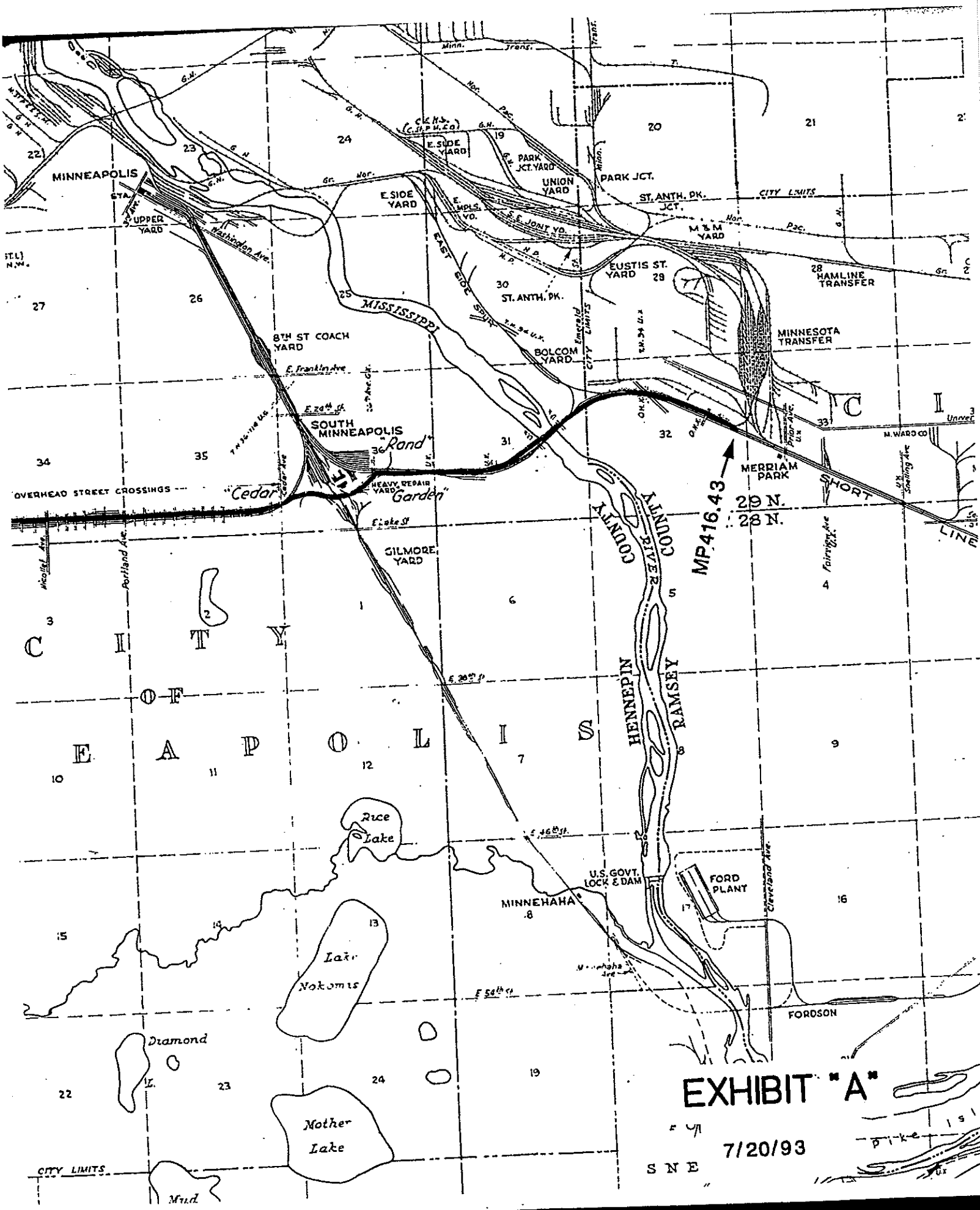
SOO LINE RAILROAD COMPANY

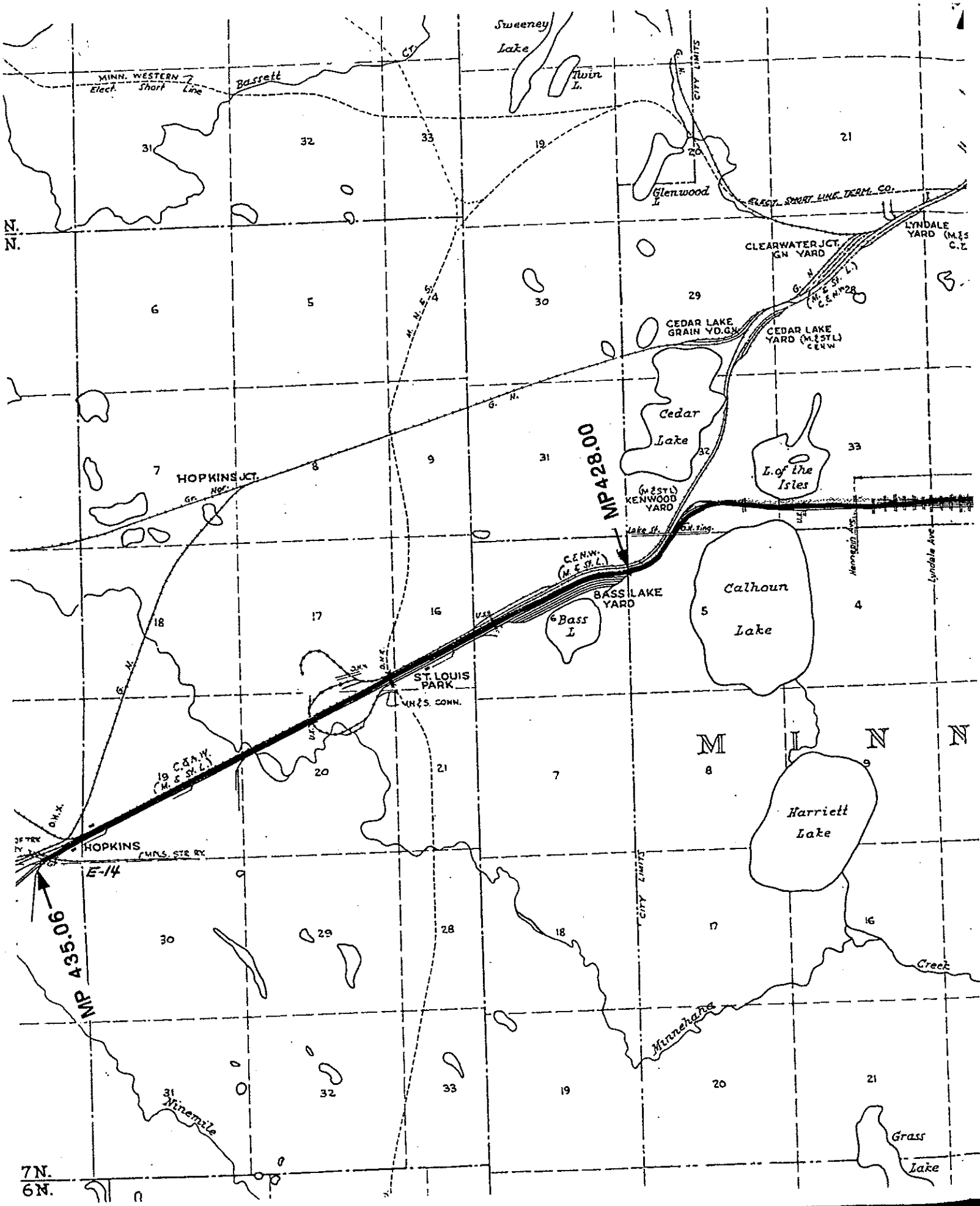
By _____
P. A. Pender
Vice President and
Chief Operating Officer

TWIN CITIES & WESTERN
RAILROAD COMPANY

By _____
Chairman

OK as to legal form


MINNEAPOLIS
UPPER YARD
Washington Ave.
E. SIDE YARD
E. SIDE YARD
PARK JCT. YARD
UNION YARD
PARK JCT.
ST. ANTH. PK. JCT.
CITY LIMITS
M & M YARD
EUSTIS ST. YARD
HAMLINE TRANSFER
ST. ANTH. PK.
MISSISSIPPI
EAST SIDE SPUR
8TH ST COACH YARD
BOLCOM YARD
MINNESOTA TRANSFER
E. Franklin Ave.
E. 24th St.
SOUTH MINNEAPOLIS
"Rand"
"Garden"
HEAVY REPAIR YARD
"Cedar"
OVERHEAD STREET CROSSINGS
MERRIAM PARK
SHORT LINE
MP 416.43
29 N.
28 N.
COUNTY
RIVER
COUNTY
HENNEPIN
RAMSEY
E. Lake St.
GILMORE YARD
Nicollet Ave.
Portland Ave.
Cedar Ave.
Fairview Ave.
Snelling Ave.
Prior Ave.
Cleveland Ave.
CITY OF MINNEAPOLIS
Rice Lake
E. 46th St.
U.S. GOVT. LOCK & DAM
FORD PLANT
MINNEHAHA
Lake Nokomis
E. 54th St.
FORDSON
Diamond
Mother Lake
CITY LIMITS
Mud
SNE
EXHIBIT "A"
7/20/93



Sweeney Lake
Twin L.
MINN. WESTERN
Elect. Short Line
Bassett
Cr.
CITY LIMITS
Glenwood L.
ELECT. SHORT LINE TERM. CO.
LYNDALE YARD
CLEARWATER JCT. GN YARD
CEDAR LAKE GRAIN YD. G.N.
CEDAR LAKE YARD (M.&STL) C.E.N.W.
Cedar Lake
L. of the Isles
HOPKINS JCT.
Gr. Nor.
MP 428.00
(M.&STL) KENWOOD YARD
Lake St.
C.E.N.W. (M.&St.L.)
BASS LAKE YARD
Bass L.
Calhoun Lake
Hennepin Ave.
Lyndale Ave.
ST. LOUIS PARK
MN.&S. CONN.
M I N N
Harriett Lake
C.&N.W. (M.&St.L.)
HOPKINS
MPLS. STR. RY.
E-14
MP 435.06
CITY LIMITS
Creek
Minnehaha
Ninemile
Grass Lake
N.
N.
7N.
6N.

RAILROAD EASEMENT

(reserved for valuation and tax data) (reserved for recording data)

STATE DEED TAX DUE HEREON: $_____

Date: July 30, 1993

FOR $1.00 AND OTHER VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, the Hennepin County Regional Railroad Authority, a political subdivision and local government unit under the laws of the State of Minnesota, Grantor, hereby conveys and quitclaims to the Soo Line Railroad Company, a corporation under the laws of the State of Minnesota, Grantee, a temporary railroad easement over real property in Hennepin County, Minnesota, the terms of which are set forth in that certain Purchase Agreement (the Purchase Agreement) between Soo Line Railroad Company and the Hennepin County Regional Railroad Authority dated December 23, 1992. The real property is described as follows: see attached Exhibit A.

Hennepin County Regional Railroad Authority

By Sandra M. Hilary
Sandra M. Hilary
Its Chair

By James M. Bourey
James M. Bourey
Its Executive Director

STATE OF MINNESOTA)
)ss
COUNTY OF HENNEPIN)

The foregoing was acknowledged before me this 30th day of July, 1993, by Sandra M. Hilary and James M. Bourey, respectively the Chair and Executive Director of Hennepin County Regional Railroad Authority, a political subdivision and local government unit under the laws of Minnesota, on behalf of the Authority.

Donald A Lawrence
Notary Public

DONALD A. LAWRENCE
NOTARY PUBLIC — MINNESOTA
HENNEPIN COUNTY
My commission expires 2-28-94

This instrument was drafted by:

Soo Line Railroad Company
P.O. Box 530
Minneapolis, MN 55440

Tax statements for the real property described in this instrument should be sent to:

Hennepin County Regional
Railroad Authority
Southwest Street Level
Government Center
300 South Sixth Street
Minneapolis, MN 55487-0016

Temporary Easement No. 1:

Strips of land 30 feet in width lying 15 feet on either side of the centerlines of: all main tracks, spurs, sidings and tail tracks as they are now laid out and constructed over Parcel A (described below).

Except for that portion of Parcel A described as Temporary Easement No. 2, below, and unless terminated earlier pursuant to Section 12 of the Purchase Agreement, Temporary Easement No. 1 shall terminate at the earlier of the following: 15 years after the date of this Easement or at such time as all of Grantee's railroad crossings of Hiawatha Avenue between 26th Street East and Lake Street are permanently severed.

Temporary Easement No. 2:

Strips of land 30 feet in width lying 15 feet on either side of the centerlines of all existing trackage over that portion of Parcel A lying between the west boundary of Fifth Avenue and the west boundary line of Bloomington Avenue, in the City of Minneapolis

also

a strip of land 30 feet in width lying 15 feet on either side of the centerline of the south main track over that portion of Parcel A lying west of the west boundary line of Fifth Avenue, and east of the west boundary of Bloomington Avenue to the east boundary line of Cedar Avenue, in the City of Minneapolis

Temporary Easement No. 2 shall terminate 15 years after the date of this Easement, unless earlier terminated pursuant to Section 12 of the Purchase Agreement.

Parcel A:

All that part of the Hennepin County Regional Railroad Authority right of way, formerly the right of way of the Soo Line Railroad Company, passing through the Northwest Quarter of the Southwest Quarter, the Southwest Quarter of the Southwest Quarter, and the Southeast Quarter of the Southwest Quarter, all in Section 36, Township 29, Range 24; all of which lies westerly of the easterly right of way line of Hiawatha Avenue.

also:

All that part of the Hennepin County Regional Railroad Authority right of way, formerly the right of way of the Soo Line Railroad Company, passing through the South Half of the Southeast Quarter and

the South Half of the Southwest Quarter, Section 35, Township 29, Range 24; the South Half of the Southeast Quarter and the South Half of the Southwest Quarter, Section 34, Township 29, Range 24; the South Half of the Southeast Quarter and the South Half of the Southwest Quarter, Section 33, Township 29, Range 24; the South Half of the Southeast Quarter and the Southeast Quarter of the Southwest Quarter, Section 32, Township 29, Range 24; and the North Half of the Northwest Quarter of Section 5, Township 28, Range 24.

(Abstract Property)

also:

All that part of the North Half of the Southeast Quarter of the Southwest Quarter of Section 35, Township 29, Range 24, lying South of the South line of Block 3, "Avery's Chicago Avenue Addition to Minneapolis", and between the extensions South of the East and West lines of said Block 3.

According to the recorded plats thereof and according to the Government Survey thereof, as evidenced by Certificate of Title No. 371889.

(Torrens Property)

{Note: since the legal description has been completely re-typed, it should be checked with great care by all concerned.}

CP RAIL SYSTEM COPY

ASSIGNMENT AND ASSUMPTION AGREEMENT

1. As used in this agreement, "Purchase Agreement" means that certain Purchase Agreement dated December 23, 1992, between Hennepin County Regional Railroad Authority (the Authority) and Soo Line Railroad Company (Soo), together with any modifications, amendments, and supplements thereto.

2. Terms defined in the Purchase Agreement are used with the same meanings in this agreement.

3. In accordance with and subject to the terms of Section 7 of the Purchase Agreement, Soo hereby assigns to the Authority Soo's rights, and the Authority hereby assumes Soo's obligations, under the following documents (the "Documents"):

Party	Identifying Number	Type
Roland Millwork Co.	24055	Land lease
Bituminous Roadways, Inc.	24126	Land lease
Sears, Roebuck & Co.	24191	Land lease
Donald K. Raymond	24400	Land lease
Bituminous Roadways, Inc.	24767	Land lease
Northern States Power	25034	Wire crossing
KBL Cablesystems of Minnesota	25391	Wire crossing
KBL Cablesystems of Minnesota	25392	Wire crossing
KBL Cablesystems of Minnesota	25393	Wire crossing
KBL Cablesystems of Minnesota	25394	Wire crossing
KBL Cablesystems of Minnesota	25395	Wire crossing
KBL Cablesystems of Minnesota	25396	Wire crossing
Northern States Power	25420	Pole & wire agreement
Northern States Power	25445	Overhead wire crossing
Northern States Power	25457	Wire crossing
Northern States Power	25464	Pole & wire agreement
Northern States Power	25466	Pole & wire agreement
U. S. West Communications	25604	Conduit agreement
U. S. West Communications	25620	Conduit agreement
U. S. West Communications	25624	Pole line attachment
U. S. West Communications	25632	Pole & wire agreement
U. S. West Communications	25645	Pole & wire agreement
KBL Cablesystems of Minnesota	25680	Wire crossing
KBL Cablesystems of Minnesota	25681	Wire crossing
MCI	26093	Fiber optic agreement
Northern States Power	26292	Wire crossing
Northern States Power	26632	Pole & wire agreement
Minnegasco	27116	Gas pipe line agreement
Northern States Power	27384	Overhead wire crossing
Northern States Power	27612	Wire crossing
Northern States Power	27627	Overhead wire crossing
John A. Dalsin & Sons, Inc.	27878	Land lease
Northern States Power	28066	Overhead wire crossing
Paragon Cable TV	28080	Overhead wire crossing
U. S. West Communications	28202	Pole & wire agreement
Smith Foundry Company	28285	Land lease and shed
L. H. Sowles Company	28487	Land lease
N. C. Bennett Lumber Company	28625	Land lease
Minneapolis Gas Light Co.	N7226	Gas pipe agreement
City of Minneapolis	V68	Bridge agreement
City of Minneapolis	V74	Bridge agreement
City of Minneapolis	V210	Land sale agreement

City of Minneapolis	V2368	Bridge agreement
Minneapolis Gas Light Co.	W1406	Gas pipe agreement
City of Minneapolis	W2272	Sewer line agreement
City of Minneapolis	W2427	Sewer line agreement
Minneapolis Gas Light Co.	W3509	Gas pipe agreement
Minneapolis Gas Light Co.	W3937	Gas pipe agreement
Minneapolis Gas Light Co.	W4106	Gas pipe agreement
Minneapolis Gas Light Co.	W4111	Gas pipe agreement
City of Minneapolis	W5320	Water pipe agreement
City of Minneapolis	W6469	Storm sewer agreement
Naegele Outdoor Advertising	SOL-726	Sign board
~~Midwest Outdoor Adv, Inc.~~	~~SOL-776~~	~~Sign board~~
~~Midwest Outdoor Adv, Inc.~~	~~SOL-777~~	~~Sign board~~
Midwest Outdoor Adv, Inc.	SOL-791	Sign board
Minneapolis Com. Dev. Agency	None	Environ. Rt. of Entry
Twin City Ready Mix	S-2045	Side track agreement
City of Minneapolis	S-2195	Side track agreement

4. The foregoing assignment and assumption is limited to those rights and obligations under the Documents that pertain to the Property.

5. Notwithstanding paragraph 3, above, Soo reserves to itself 100% of the prepaid gross revenue attributable to the following Document: Identifying Number 26093.

6. Soo also assigns to the Authority all other interests of any nature of the Soo, to the extent transferrable and/or assignable, and relating to the interests in the Property transferred to the Authority pursuant to the Purchase Agreement, including rights in and to general intangibles and contract rights in addition to those identified in paragraph 3, above, including franchises, governmental and contractual operating rights and other contracts, leases, licenses, permits and privileges, except to the extent such rights relate to Soo's rights and obligations to provide common carrier freight rail service on the Property. The Authority hereby assumes Soo's obligations and duties with respect to the various interests identified in this paragraph 6, provided that such assumption shall be limited to obligations and duties relating to the Property.

7. This agreement is dated July 30, 1993.

SOO LINE RAILROAD COMPANY

By [signature]

Its Sr. V.P. + CLO

APPROVED AS TO FORM

[signature]

Law Department
Glenn Olander - Cuamme

HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY

By Sandra M. Haley

Its Chair

Approved as to Form and Legality

[signature]

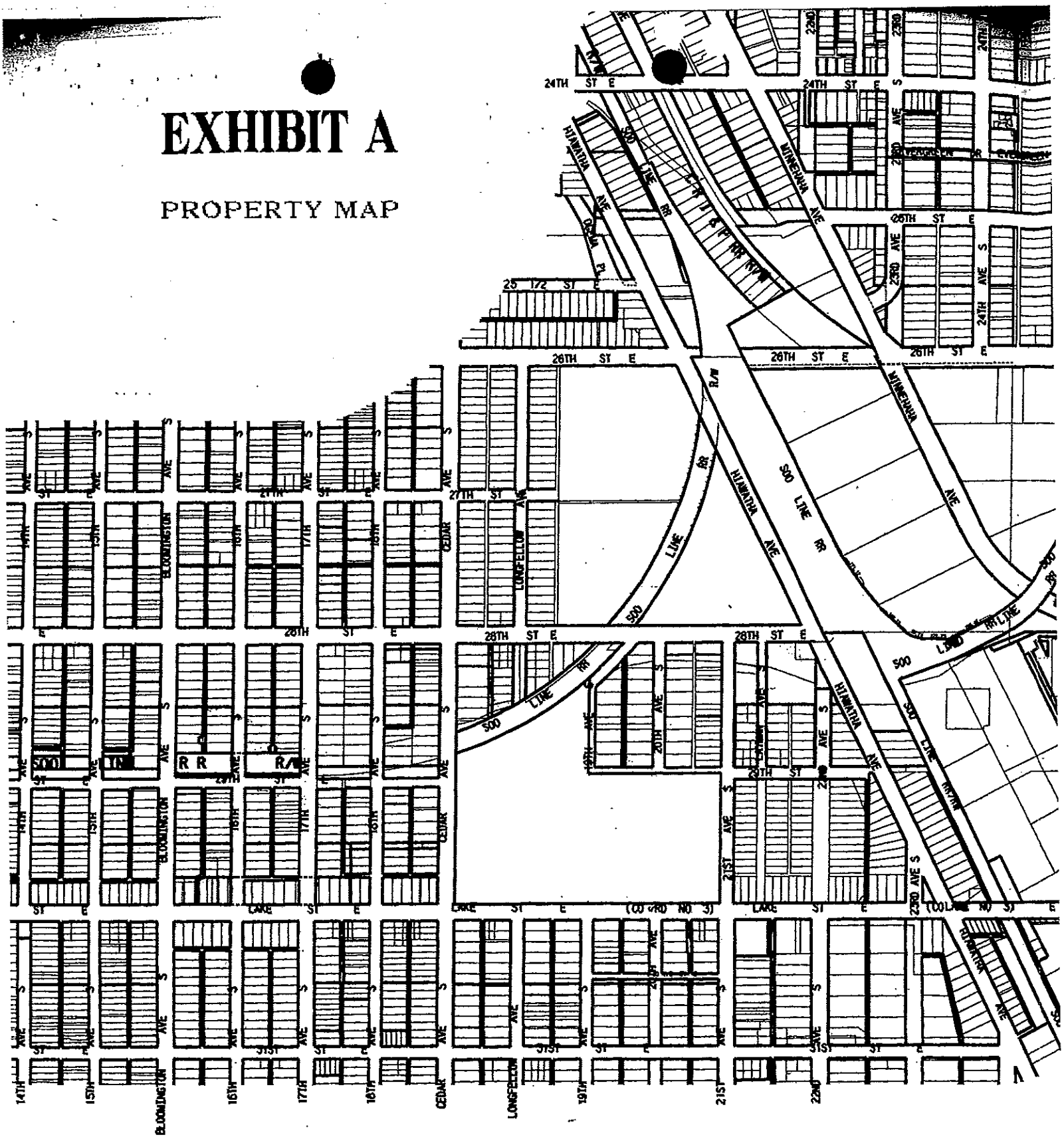
7-29-93

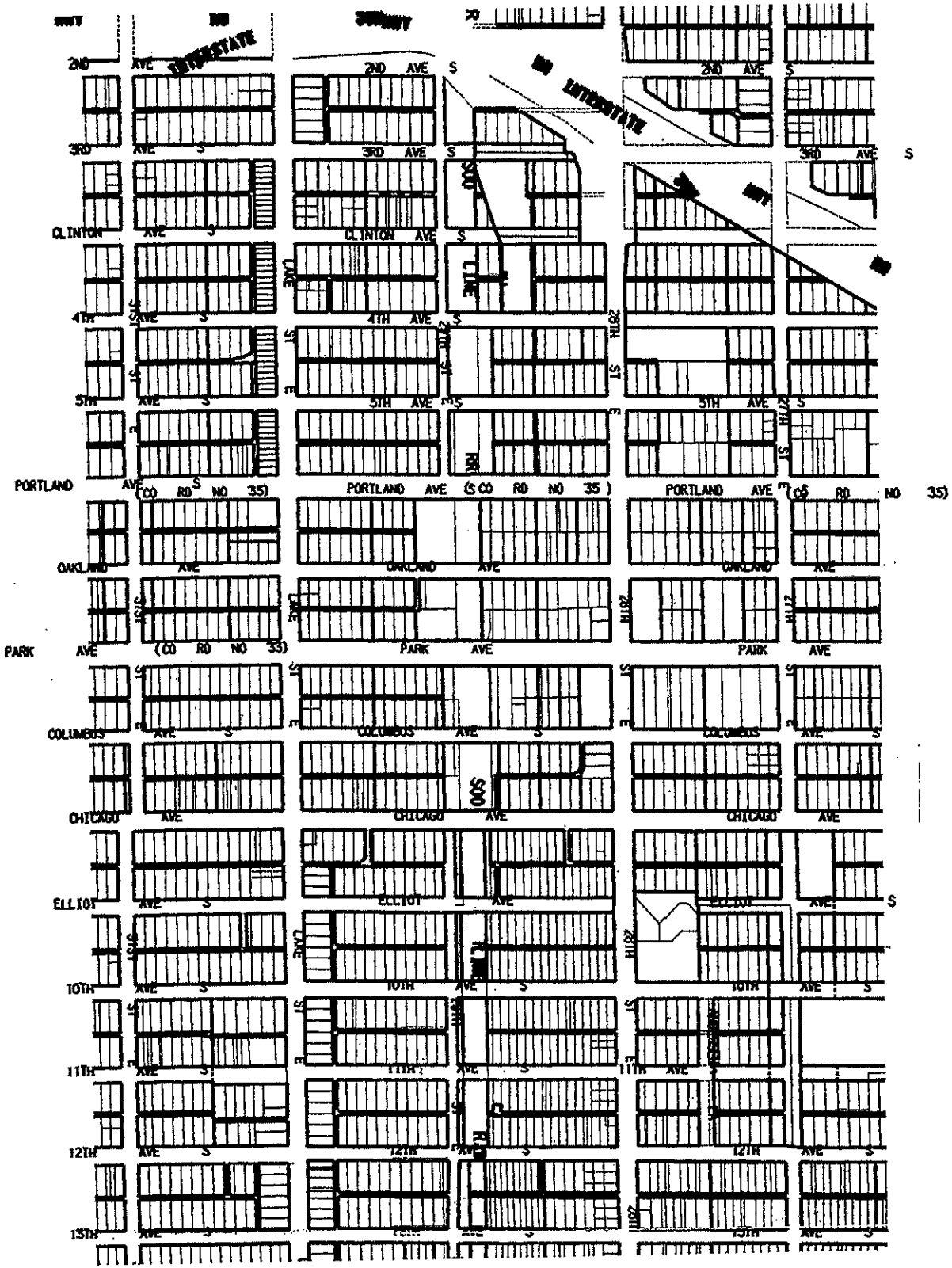
approved as to Execution

[signature]

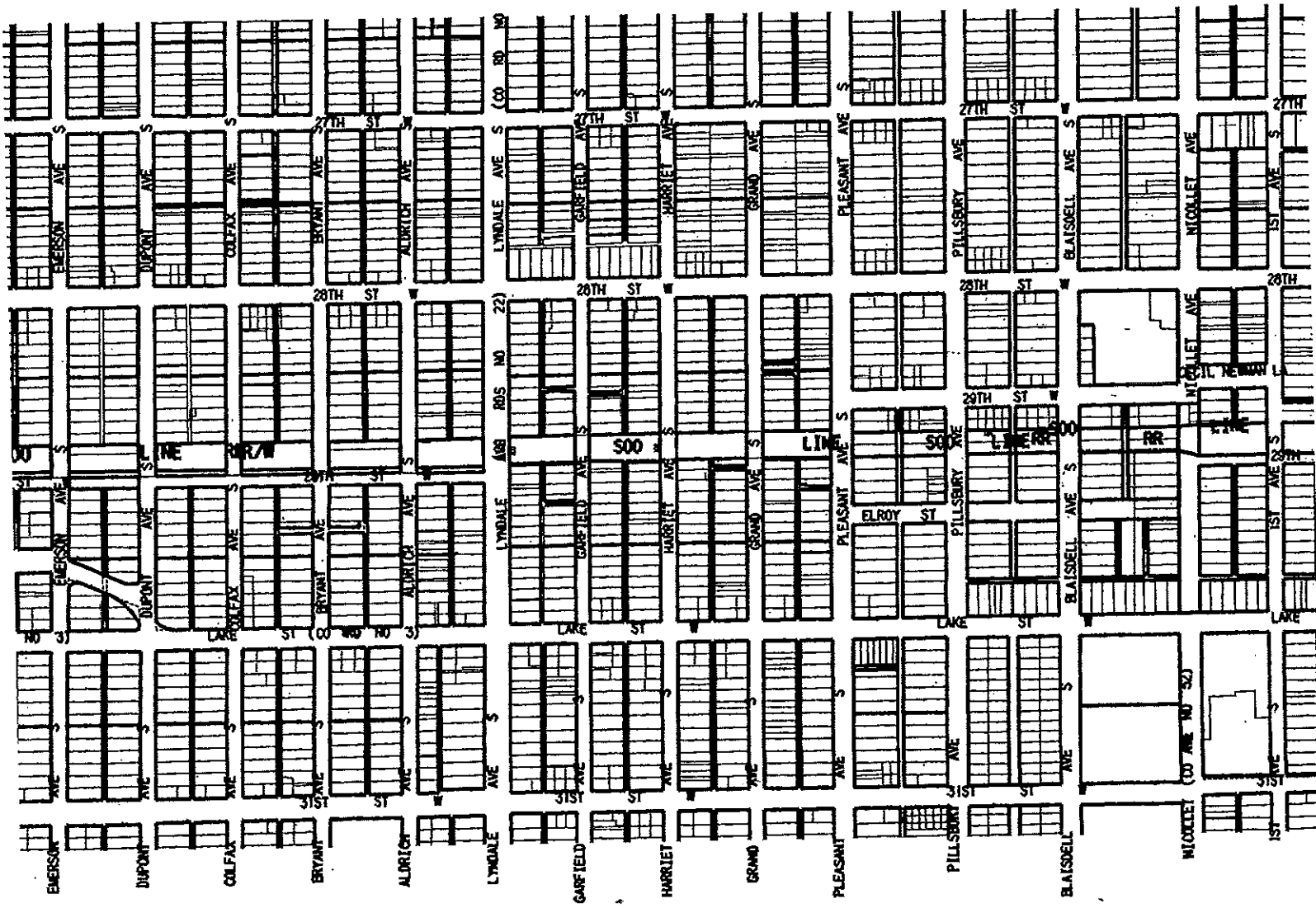
EXHIBIT A

PROPERTY MAP

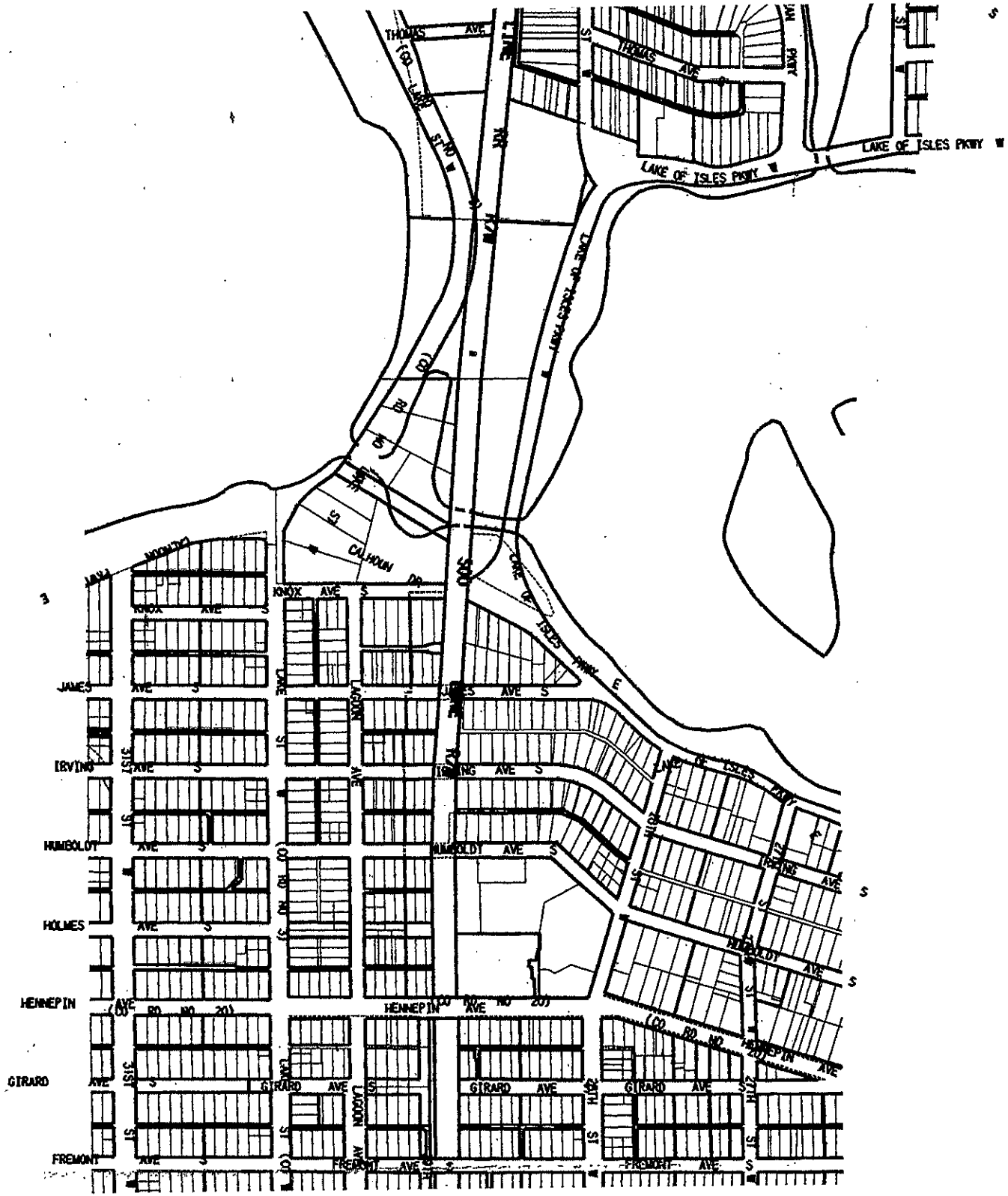




INTERSTATE
2ND AVE S
3RD AVE S
CLINTON AVE S
4TH AVE S
5TH AVE S
PORTLAND AVE (CO RD NO 35)
OAKLAND AVE
PARK AVE (CO RD NO 33)
COLUMBUS AVE S
CHICAGO AVE
ELLIOT AVE S
10TH AVE S
11TH AVE S
12TH AVE S
13TH AVE S
LAKE
SOO LINE
28TH ST
27TH ST



27TH ST W
28TH ST W
29TH ST W
LAKE ST W
31ST ST W
EMERSON AVE S
DUPONT AVE S
COLFAX AVE S
BRYANT AVE S
ALDRICH AVE S
LYNDALE AVE S
GARFIELD AVE S
HARRIET AVE S
GRAND AVE S
PLEASANT AVE S
PILLSBURY AVE
BLAISDELL AVE S
NICOLLET AVE
1ST AVE S
ELROY ST
SOO LINE RR/W
SOO LINE RR


THOMAS AVE
THOMAS AVE
LAKE OF ISLES PKWY W
LAKE OF ISLES PKWY W
LAKE OF ISLES PKWY E
CALHOUN PKWY
CALHOUN
KNOX AVE S
JAMES AVE S
IRVING AVE S
HUMBOLDT AVE S
HOLMES AVE S
HENNEPIN AVE
(CO RD NO 201)
GIRARD AVE S
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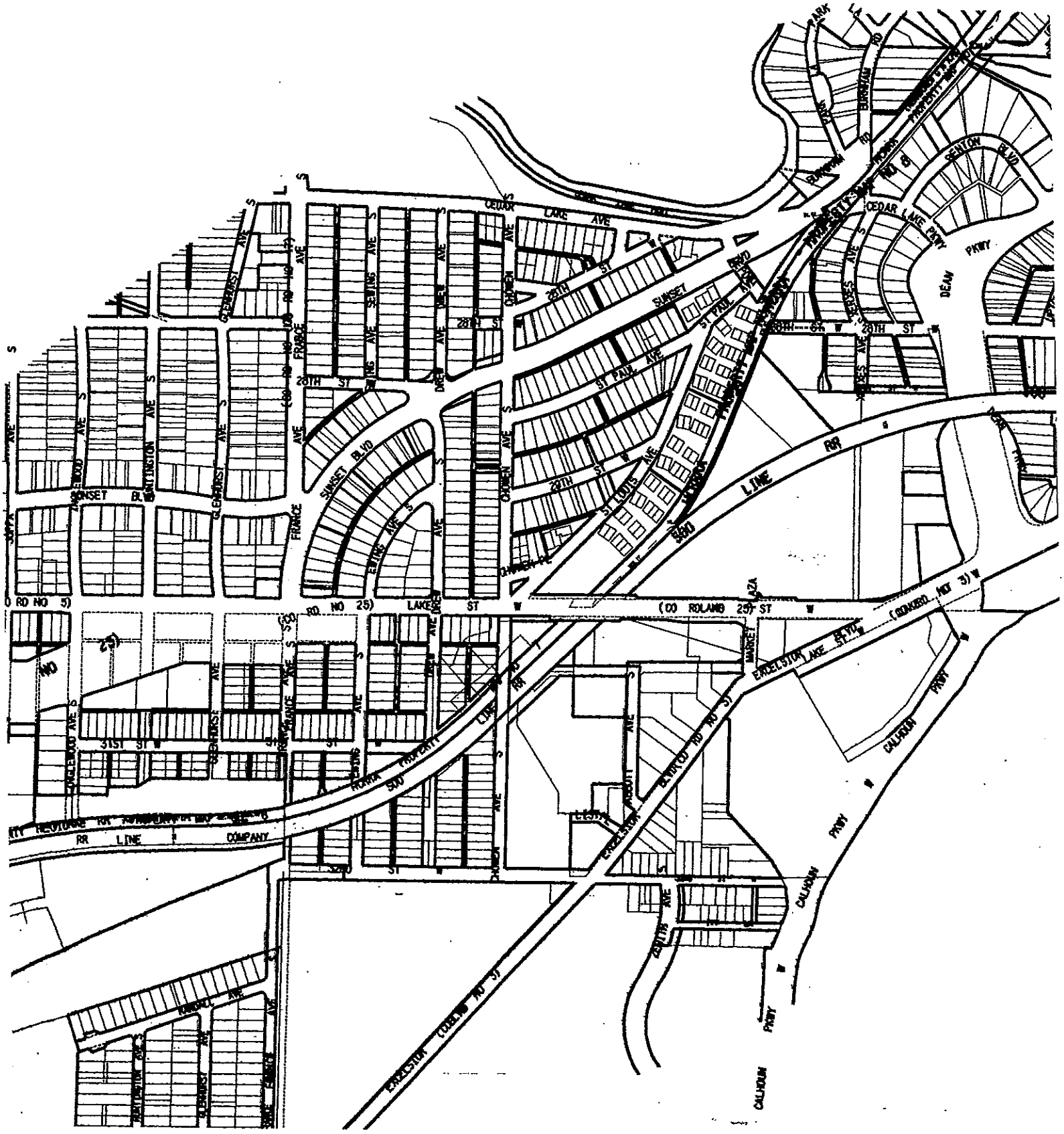
CEDAR LAKE AVE
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SUNSET BLVD
ST PAUL AVE
29TH ST
ST LOUIS AVE
SOO LINE RR
DEAN PKWY
CEDAR LAKE PKWY
SENTON BLVD
BURNHAM RD
FRANCE AVE
SEWING AVE
DREW AVE
CHOWEN AVE
GLENHURST AVE
HUNTINGTON AVE
ZANGEWOOD AVE
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(CO ROLAND 25) ST W
(CO RD NO 25)
31ST ST W
EXCELSIOR BLVD
EXCELSIOR LAKE ST W
CALHOUN PKWY
RR LINE COMPANY
SOO LINE RR
HONRA PROPERTY
ZENITH AVE
EXCELSIOR (COBLRD NO 3)
KANDALL AVE

EXHIBIT B

Legal Description of Property

All that part of the Soo Line Railroad Company right of way passing through the Northwest Quarter of the Southwest Quarter, the Southwest Quarter of the Southwest Quarter, and the Southeast Quarter of the Southwest Quarter, all in Section 36, Township 29, Range 24; all of which lies westerly of the easterly right of way line of Hiawatha Avenue.

also:

All that part of the Soo Line Railroad Company right of way passing through the South Half of the Southeast Quarter and the South Half of the Southwest Quarter, Section 35, Township 29, Range 24; the South Half of the Southeast Quarter and the South Half of the Southwest Quarter, Section 34, Township 29, Range 24; the South Half of the Southeast Quarter and the South Half of the Southwest Quarter, Section 33, Township 29, Range 24; the South Half of the Southeast Quarter and the Southeast Quarter of the Southwest Quarter, Section 32, Township 29, Range 24; and the North Half of the Northwest Quarter of Section 5, Township 28, Range 24.

(Abstract Property)

All that part of the North Half of the Southeast Quarter of the Southwest Quarter of Section 35, Township 29, Range 24, lying South of the South line of Block 3, "Avery's Chicago Avenue Addition to Minneapolis", and between the extensions South of the East and West lines of said Block 3.

According to the recorded plats thereof and according to the Government Survey thereof, as evidenced by Certificate of Title No. 371889.

(Torrens Property)

RAILROAD EASEMENT

(reserved for valuation and tax data) (reserved for recording data)

STATE DEED TAX DUE HEREON: $_____

Date: _____, 19_____

FOR VALUABLE CONSIDERATION, the Hennepin County Regional Railroad Authority, a political subdivision and local government unit under the laws of the State of Minnesota, Grantor, hereby conveys and quitclaims to the Soo Line Railroad Company, a corporation under the laws of the State of Minnesota, Grantee, a temporary railroad easement over real property in Hennepin County, Minnesota, the terms of which are set forth in Purchase Agreement between Soo Line Railroad Company and the Hennepin County Regional Railroad Authority dated _____. The real property is described as follows:

(Legal description on reverse of this document)

Hennepin County Regional Railroad Authority

By_____
Its Chairman

By_____
Its Executive Director

STATE OF MINNESOTA)
)ss
COUNTY OF HENNEPIN)

The foregoing was acknowledged before me this _____ day of _____, 199__, by _____ and Vern T. Genzlinger, the Chairman and Executive Director of Hennepin County Regional Railroad Authority, a political subdivision and local government unit under the laws of Minnesota, on behalf of the Authority.

_____
Notary Public

This Instrument was drafted by:

Hennepin County Regional Railroad Authority
Southwest Street Level Government Center
300 South Sixth Street
Minneapolis, MN 55487-0016

Tax Statements for the real property described in this instrument should be sent to:

Description of Property Affected

All that part of the Hennepin County Regional Railroad Authority right of way, formerly the right of way of the Soo Line Railroad Company, passing through the Northwest Quarter of the Southwest Quarter, the Southwest Quarter of the Southwest Quarter, and the Southeast Quarter of the Southwest Quarter, all in Section 36, Township 29, Range 24; all of which lies westerly of the easterly right of way line of Hiawatha Avenue.

also:

All that part of the Hennepin County Regional Railroad Authority right of way, formerly the right of way of the Soo Line Railroad Company, passing through the South Half of the Southeast Quarter and the South Half of the Southwest Quarter, Section 35, Township 29, Range 24; the South Half of the Southeast Quarter and the South Half of the Southwest Quarter, Section 34, Township 29, Range 24; the South Half of the Southeast Quarter and the South Half of the Southwest Quarter, Section 33, Township 29, Range 24; the South Half of the Southeast Quarter and the Southeast Quarter of the Southwest Quarter, Section 32, Township 29, Range 24; and the North Half of the Northwest Quarter of Section 5, Township 28, Range 24.

(Abstract Property)

also:

All that part of the North Half of the Southeast Quarter of the Southwest Quarter of Section 35, Township 29, Range 24, lying South of the South line of Block 3, "Avery's Chicago Avenue Addition to Minneapolis", and between the extensions South of the East and West lines of said Block 3.

According to the recorded plats thereof and according to the Government Survey thereof, as evidenced by Certificate of Title No. 371889.

(Torrens Property)

Description of Railroad Easement to Expire (Insert Date of Severence at Hiawatha)

Strips of land 30 feet in width lying 15 feet on either side of the centerlines of: all main tracks, spurs, sidings and tail tracks as they are now laid out and constructed over the above described property.

Description of Railroad Easement to Expire December 31, 2008

Strips of land 30 feet in width lying 15 feet on either side of the centerlines of all existing trackage over the above described property lying between the west boundary of Fifth Avenue and the west boundary line of Bloomington Avenue, in the City of Minneapolis

also

a strip of land 30 feet in width lying 15 feet on either side of the centerline of the south main track over the above described property lying west of the west boundary line of Fifth Avenue, and east of the west boundary of Bloomington Avenue to the east boundary line of Cedar Avenue, in the City of Minneapolis

QUITCLAIM DEED

(reserved for valuation and tax data)	(reserved for recording data)

Date:_____, 199__

For valuable consideration, Soo Line Railroad Company ("Grantor" or "Seller"), a corporation under the laws of the State of Minnesota, hereby conveys and quitclaims to Hennepin County Regional Railroad Authority ("Grantee"), a political subdivision and local governmental unit under the laws of the State of Minnesota, real property in Hennepin County, State of Minnesota, described below, together with all hereditaments and appurtenances thereto. The real property is described as follows:

That part of the Soo Line Railroad Company right of way passing through the Northwest Quarter of the Southwest Quarter, the Southwest Quarter of the Southwest Quarter, the Southeast Quarter of the Southwest Quarter, all in Section 36, Township 29, Range 24; all of which lies westerly of the easterly right of way line of Hiawatha Avenue.

also:

That part of the Soo Line Railroad Company right of way passing through the South Half of the Southeast Quarter and the South Half of the Southwest Quarter, Section 35, Township 29, Range 24; the South Half of the Southeast Quarter and the South Half of the Southwest Quarter, Section 34, Township 29, Range 24; the South Half of the Southeast Quarter and the South Half of the Southwest Quarter, Section 33, Township 29, Range 24: the South Half of the Southeast Quarter and the Southeast Quarter of the Southwest Quarter, Section 32, Township 29, Range 24; and the North Half of the Northwest Quarter of Section 5, Township 28, Range 24.

(Abstract Property)

also:

That part of the North Half of the Southeast Quarter of the Southwest Quarter of Section 35, Township 29, Range 24, lying south of the South line of Block 3, "Avery's Chicago Avenue Addition to Minneapolis", and between the extensions South of the East and West lines of said Block 3.

According the recorded plats thereof and according to the Government Survey thereof, as evidenced by Certificate of Title No. 371889.

(Torrens Property)

[Seller certifies that Seller does not know of any wells on the real property.] (insert as necessary)

SOO LINE RAILROAD COMPANY

By:_____

Its:_____

STATE OF MINNESOTA)SS

COUNTY OF HENNEPIN

The foregoing quitclaim deed was acknowledged before me this _____ day of _____ 199___ by _____ the _____ of Soo Line Railroad Company, a corporation under the laws of the State of Minnesota, on behalf of the corporation.

_____

Notary Public

Tax statements for the property should be sent to Grantee at:

_____

_____

_____

_____

This instrument was drafted by:
John P. Nail
Soo Line Railroad Company
P. O. Box 530
Minneapolis, MN 55440

EXHIBIT E

QUITCLAIM BILL OF SALE

KNOW ALL PERSONS BY THESE PRESENTS:

Soo Line Railroad Company ("Seller"), in consideration of the sum of $1.00 and other valuable consideration to it paid, receipt of which is hereby acknowledged, hereby conveys and quitclaims to Hennepin County Regional Railroad Authority the following property:

_____

_____

This conveyance is made strictly on an "as is, where is" basis, and Seller makes no express or implied representation or warranty whatsoever concerning said property (including, without limitation, express or implied representations or warranties of title, merchantability, or fitness for a particular purpose).

SOO LINE RAILROAD COMPANY

By: _____

Its: _____

Date: _____

HOPKINS TO MINNEAPOLIS
SM. ADDITIONAL PARCEL

+ effected by Lase. to State – 9-24-85
2nd Purchase

Authorization No. 7164
Registered Title Property

DEED NO. 83871

Description: Deed to small portion of two city lots near U.S. 12 (I-394) overpass in Kenwood area of Mpls.

THE GRANTOR, CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY, a Delaware corporation, whose principal office is located at 165 N. Canal Street, Chicago, Illinois 60606, for the consideration of TEN AND NO/100 ($10.00) DOLLARS, the provisions hereinafter set forth, and other good and valuable consideration, conveys and quitclaims to HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY, a political subdivision and local government unit of the State of Minnesota, 2400-A Government Center, Minneapolis, Minnesota 55487, GRANTEE, all interest in the following described real estate situated in the County of Hennepin, and the State of Minnesota, to wit:

That part of Lot 12 lying Southerly of a line drawn from a point on the Westerly line of said lot, distant 75 feet along said West line from the Northwest corner of said lot, to a point in the East line of said lot, 50 feet Southerly at right angles to the Northerly line of said lot;

ALSO:

That part of Lot 13 lying Southerly of a line drawn from a point in the East line of said lot, which is 75 feet Southerly at right angles to the Northerly line of said lot, to a point in the East line of Lot 16, distant 190 feet North from the Southeast corner of said Lot 16, except the West 56 feet, front and rear thereof; all in Block 2, Lakeview Addition to Minneapolis, according to the plat thereof on file or of record in the office of the Register of Deeds in and for said Hennepin County.

Not affected

EXCEPT

That part thereof lying Southeasterly of a line drawn in a Northeasterly and Southwesterly direction from a point in the East line of said Lot 12, 96.2 feet South of the Northeast corner thereof, through a point in the East line of said Lot 13, 106.3 feet South of the Northeast corner thereof, and said line continued Southwestwardly in a straight line to the West line of said Lot 13. The above part of Lot 13 is subject to a reservation by the State of Minnesota to mineral and mineral rights.

Subject to covenants, easements, conditions, and restrictions of record.

TOGETHER with and including all of Grantor's right, title and interest in "as is" condition as of the date of this deed, in and to all buildings, bridges and roadbed, if any, situated upon said real estate.

DATED this 1st day of May, 1984.

Signed, Sealed and Delivered in Presence of:

Irwin G. Fatterman

Keith E. Feures

CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY

By Robert W. Mickey
Robert W. Mickey, Vice President

Attest [signature]
J. S. Edwards, Assistant Secretary

STATE OF ILLINOIS)
) SS
COUNTY OF C O O K)

I, Richard S. Kennerley, a Notary Public duly commissioned and qualified in and for the County and State aforesaid, DO HEREBY CERTIFY that Robert W. Mickey and J. S. Edwards, to me personally known and known to me to be, respectively, -- Vice President and Assistant Secretary of CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY, a Delaware corporation, and the identical persons whose names are subscribed to the foregoing instrument, appeared before me this day in person, and being first duly sworn by me, severally acknowledged to me that they are, respectively, -- Vice President and Assistant Secretary of said corporation; that as such officers they signed, sealed and delivered said instrument in behalf of said corporation by authority and order of its Board of Directors, as the free and voluntary act and deed of said corporation, and as their own free and voluntary act; that the seal affixed to said instrument is the seal of said corporation; and that said corporation executed said instrument for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal as such Notary Public, at Chicago, Illinois, this 1st of May, 1984.

Notary Public, in and for the County of Cook, In the State of Illinois
Richard S. Kennerley

My Commission Expires: November 8, 1984

This instrument was prepared by Chicago and North Western Transportation Company, 165 North Canal Street, Chicago, Illinois 60606.

L/19-1R/T(11/28)

Certificate of Title

№ 305938

DISTRICT COURT № 8880

Transfer from No. 154920 Originally registered the 23rd day of November

A. D. 1948 Volume 446 Page 136798

STATE of MINNESOTA, } S.S.
COUNTY of HENNEPIN. }

REGISTRATION

This is to certify that The Minneapolis & St. Louis Railway Company, a Minnesota corporation having its principal place of business at 111 East Franklin Avenue in the City of Minneapolis, County of Hennepin and State of Minnesota

is now the owner of an estate, to wit: in fee simple

of and in the following described land, situated in the County of Hennepin and State of Minnesota, to wit:

That part of Lot 12 lying southerly of a line drawn from a point on the westerly line of said lot, distant 75 feet along said west line from the northwest corner of said lot, to a point in the east line of said lot, 50 feet southerly at right angles to the northerly line of said lot; also

that part of Lot 13 lying southerly of a line drawn from a point in the east line of said lot, which is 75 feet southerly at right angles to the northerly line of said lot, to a point in the east line of Lot 16, distant 190 feet north from the southeast corner of said Lot 16, except the West Fifty Six (56) feet, front and rear, thereof; all in Block 2, Lakeview Addition to Minneapolis, according to the plat thereof on file or of record in the office of the Register of Deeds in and for said Hennepin County.

Except that part thereof lying southeasterly of a line drawn in a northeasterly and southwesterly direction from a point in the east line of said Lot 12, 96.2 feet south of the northeast corner thereof, through a point in the east line of said Lot 13, 106.3 fe south of the northeast corner thereof, and said line continued southwestwardly in a straight line to the west line of said Lot 13.

The above part of lot 13 is subject to a reservation by the State of Minnesota to mineral and mineral rights. Also

Subject to and together with an easement for driveway purposes over the east Eight feet of the West Sixty (60) feet of that par of Lot 13 lying southerly of a line drawn from a point in the east line of said lot, which is 75 feet southerly at right angles to t northerly line of said lot, to a point in the east line of Lot 16, distant 190 feet north from the southeast corner of said Lot 16, as shown in deed Doc. No. 310143, Files of Registrar of Titles. Also

---

Subject to the incumbrances, liens and interest noted by the memorial underwritten or indorsed hereon; and subject to the following rights or incumbrances subsisting, as provided in the twenty-fourth section of "An act concerning the registration of land and the title thereto" of the General Laws of the State of Minnesota for the year 1905, and the amendments thereof, namely:

1. Liens, claims or rights arising under the laws or the constitution of the United States, which the statutes of this state cannot require to appear of record.

2. Any tax or special assessment for which a sale of the land has not been had at the date of the certificate of title.

3. Any lease for a period not exceeding three years, when there is actual occupation of the premises under the lease;

4. All public highways embraced in the description of the lands included in the certificates shall be deemed to be included.

5. Such right of appeal or right to appeal and contest the application as is allowed by law.

6. The rights of any person in possession under deed or contract for deed from the owner of the certificate of title.

~~*That the said*~~

In Witness Whereof, I have hereunto subscribed my name and affixed the seal of my office this Nineteenth *day of* November *19* 53

Registrar of Titles,

In and for the County of Hennepin and State of Minnesota.

By _____ DEPUTY

REGISTRAR OF TITLES HENNEPIN COUNTY, MINN.

MEMORIAL

OF ESTATES, EASEMENTS OR CHARGES ON THE LAND DESCRIBED IN THE CERTIFICATE OF TITLE HERETO ATTACHED.

DOCUMENT NUMBER	KIND OF INSTRUMENT	DATE OF INSTRUMENT			DATE OF REGISTRATION			HOUR		AMOUNT	RUNNING IN FAVOR OF	SIGNATURE OF REGISTRAR
		MONTH	DAY	YEAR	MONTH	DAY	YEAR	A.M.	P.M.			

SEE OVER

SEE OVER

DOCUMENT NUMBER	KIND OF INSTRUMENT	DATE OF INSTRUMENT MONTH	YEAR	DATE OF REGISTRATION MONTH	DAY	YEAR	HOUR A.M.	P.M.	AMOUNT	RUNNING IN FAVOR OF	SIGNATURE OF REGISTRAR

M.+St.L. 4696-E.

VOLUME 680 PAGE 206938

Certificate of Title

No. 206938

DISTRICT COURT No. 8880

The Minneapolis & St. Louis Railway Company

Owner

IMPORTANT

In dealing with the land described in this certificate, the names of the parties and description of property should be exactly the same as written herein.

Hennepin County

MINNESOTA.

1165 EB

ATTENTION

DELAY and EXPENSE will be caused by the loss of this certificate.

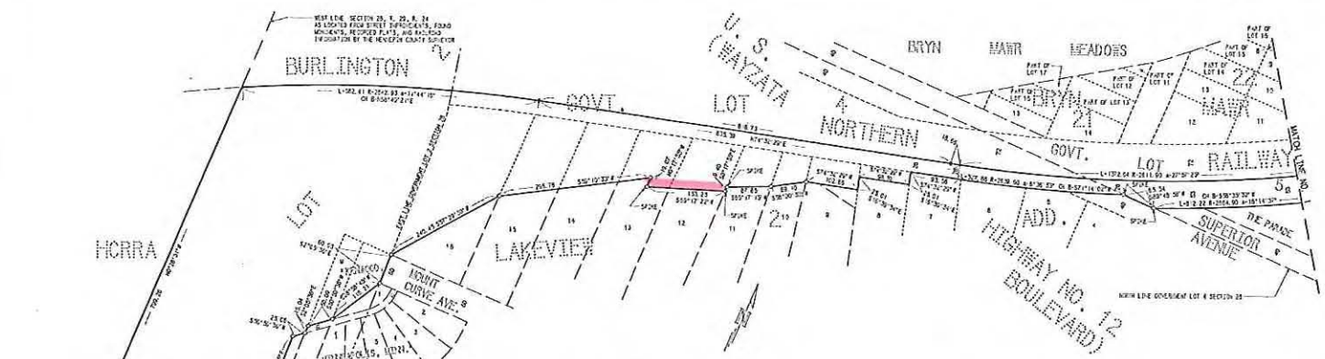
OFFICIAL PLAT

HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY
PROPERTY MAP NO. 10

C. R. DOC. NO. 5523297

R.T. DOC. NO. 4687650

CTF NO. SEE COVER SHEET



NORTH LINE, SECTION 28, T. 29, R. 24 AS LOCATED FROM STREET IMPROVEMENTS, FOUND MONUMENTS, RECORDED PLATS, AND RECORDED INFORMATION BY THE HENNEPIN COUNTY SURVEYOR

SOUTHWEST CORNER SECTION 28, T. 29, R. 24 AS LOCATED FROM STREET IMPROVEMENTS, FOUND MONUMENTS, RECORDED PLATS, AND RECORDED INFORMATION BY THE HENNEPIN COUNTY SURVEYOR

KNOW ALL PERSONS BY THESE PRESENTS: THAT THE COUNTY OF HENNEPIN, A BODY POLITIC AND CORPORATE UNDER THE LAWS OF THE STATE OF MINNESOTA, HAS CAUSED PART OF THE REGIONAL RAILROAD AUTHORITY PROPERTY RIGHT-OF-WAY TO BE SURVEYED AND MAPPED. SAID RIGHT-OF-WAY IS COMPRISED OF THE FOLLOWING DESCRIBED LANDS SITUATE IN THE COUNTY OF HENNEPIN, STATE OF MINNESOTA, TO WIT:

THOSE PARTS EMBRACED WITHIN SECTION 21, TOWNSHIP 29, RANGE 24 DESCRIBED, AS FOLLOWS:

PART OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER.

THOSE PARTS EMBRACED WITHIN SECTION 28, TOWNSHIP 29, RANGE 24 DESCRIBED, AS FOLLOWS:

LOT 8 AND PART OF LOT 1, ALL IN BLOCK 1, "KENWOOD, MINNEAPOLIS, MINN."
PART OF LOTS 8 THROUGH 16 INCLUSIVE, BLOCK 2, LAKEVIEW ADD.
PART OF THE PARADE;
PART OF SUPERIOR AVE., AS SHOWN ON THE PARADE;
LOT 2, PART OF LOTS 3 (ALSO KNOWN AS ONTARIO AVENUE) THROUGH 5 INCLUSIVE, AND PART OF LOTS 11 THROUGH 14 INCLUSIVE, ALL IN BLOCK 1, SPRING LAKE ADDITION TO MINNEAPOLIS;
LOT 1, PART OF LOTS 2 THROUGH 4 INCLUSIVE, AND PART OF LOTS 15 THROUGH 19 INCLUSIVE, ALL IN BLOCK 3, SPRING LAKE ADDITION TO MINNEAPOLIS;
PART OF TWENTY FOURTH STREET, PART OF VACATED TWENTY FIFTH STREET AND PART OF VACATED TWENTY SIXTH STREET, ALL AS DEDICATED IN SPRING LAKE ADDITION TO MINNEAPOLIS;
PART OF LOTS 1, 10, 11 AND 12, ALL IN BLOCK 7, "GROVELAND ADDITION TO MINNEAPOLIS";
PART OF LOTS 3 THROUGH 6 INCLUSIVE, AND PART OF LOTS 8 THROUGH 10 INCLUSIVE, ALL IN BLOCK 21, "GROVELAND ADDITION TO MINNEAPOLIS";
PART OF LOT 4, BLOCK 22, "GROVELAND ADDITION TO MINNEAPOLIS";
PART OF LOTS 1 AND 2, AND PART OF LOTS 8 THROUGH 12 INCLUSIVE, ALL IN BLOCK 23, "GROVELAND ADDITION TO MINNEAPOLIS";
PART OF LOTS 11 AND 12, BLOCK 41, "GROVELAND ADDITION TO MINNEAPOLIS";
PART OF LOTS 4 THROUGH 7 INCLUSIVE, BLOCK 42, GROVELAND ADDITION TO MINNEAPOLIS";
PART OF LOTS 3 THROUGH 10 INCLUSIVE, BLOCK 43, "GROVELAND ADDITION TO MINNEAPOLIS";
PART OF LOT 12, BLOCK 44, "GROVELAND ADDITION TO MINNEAPOLIS";
PART OF LOTS 1 THROUGH 5 INCLUSIVE, AND PART OF LOTS 8 THROUGH 10 INCLUSIVE, ALL IN BLOCK 58, "GROVELAND ADDITION TO MINNEAPOLIS";
PART OF 24TH STREET, ONTARIO AVE., 23RD STREET, LAUREL AVE., 22ND STREET, VACATED KARTHORNE AVE., KARTHORNE AVE., 21ST STREET, VACATED 21ST STREET, VACATED 20TH STREET, VACATED LINDEN AVE., VACATED 19TH STREET, 17TH STREET, AND CHESTNUT AVE., ALL AS DEDICATED IN "GROVELAND ADDITION TO MINNEAPOLIS";
PART OF GOVERNMENT LOTS 2, 4 AND 5.

"and was filed in Doc. No. ___ of the Registrar of Titles on this 10th day of SEP 2001 at 3 o'clock P.M.

Michael H. Quinn, Registrar of Titles

By: _____ Deputy

LOCATION DETAIL
(NOT TO SCALE)
T 29 N, R 24 W

THIS PROPERTY MAP, COMPILED BY THE SURVEY DIVISION, HENNEPIN COUNTY BUREAU OF PUBLIC SERVICE, IS HEREBY CERTIFIED AS THE OFFICIAL MAP OF HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY PROPERTY MAP NO. 10, FILED PURSUANT TO BOARD RESOLUTION DATED MARCH 22, 1988.

I HEREBY CERTIFY THAT THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION THIS 11th DAY OF April, 19 01, AND, THAT I AM DULY REGISTERED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.

Bernard H. Larson

BERNARD H. LARSON, HENNEPIN COUNTY SURVEYOR, MINNESOTA LICENCE NO. 9745

COUNTY RECORDER, HENNEPIN COUNTY, MINNESOTA

I HEREBY CERTIFY THAT THE WITHIN MAP OF HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY PROPERTY MAP NO. 10 WAS FILED IN THIS OFFICE THIS 11th DAY OF APRIL, 19 01 AT 8:25 O'CLOCK A. M.*

R. DAN CARLSON, COUNTY RECORDER, BY A. L. Willis
DEPUTY

LEGEND

- ● DENOTES A FOUND ST. PAUL, MINNEAPOLIS AND MANITOBA RAILWAY (NOW KNOW AS BURLINGTON NORTHERN RAILWAY COMPANY) ORIGINAL CAST IRON MONUMENT.
- ○ DENOTES A RIGHT OF WAY MONUMENT CAP ENGRAVED WITH "HENNEPIN COUNTY R/W".
- ⊖—— SPIKE DENOTES A 60 PENNY NAIL.

NOTE: A NORTH BEARING ON THIS PROPERTY MAP IS GRID NORTH AS BASED UPON THE MINNESOTA COORDINATE SYSTEM, SOUTHERN ZONE.

COUNTY SURVEYORS PROJECT NO. 30.18
MAP AUTHORIZED BY THE BOARD OF HENNEPIN COUNTY COMMISSIONERS.

SCALE 0 50 100 200 FEET

HOPKINS TO MINNEAPOLIS
SM. ADDITIONAL PARCEL

+ effected by Lasc. to State — 9-24-85
2nd Purchase

Authorization No. 7164
Registered Title Property

DEED NO. 83871

Description: Deed to small portion of two city lots near U.S. 12 (I-394) overpass in Kenwood area of Mpls.

THE GRANTOR, CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY, a Delaware corporation, whose principal office is located at 165 N. Canal Street, Chicago, Illinois 60606, for the consideration of TEN AND NO/100 ($10.00) DOLLARS, the provisions hereinafter set forth, and other good and valuable consideration, conveys and quitclaims to HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY, a political subdivision and local government unit of the State of Minnesota, 2400-A Government Center, Minneapolis, Minnesota 55487, GRANTEE, all interest in the following described real estate situated in the County of Hennepin, and the State of Minnesota, to wit:

That part of Lot 12 lying Southerly of a line drawn from a point on the Westerly line of said lot, distant 75 feet along said West line from the Northwest corner of said lot, to a point in the East line of said lot, 50 feet Southerly at right angles to the Northerly line of said lot;

ALSO:

That part of Lot 13 lying Southerly of a line drawn from a point in the East line of said lot, which is 75 feet Southerly at right angles to the Northerly line of said lot, to a point in the East line of Lot 16, distant 190 feet North from the Southeast corner of said Lot 16, except the West 56 feet, front and rear thereof; all in Block 2, Lakeview Addition to Minneapolis, according to the plat thereof on file or of record in the office of the Register of Deeds in and for said Hennepin County.

Not affected

EXCEPT

That part thereof lying Southeasterly of a line drawn in a Northeasterly and Southwesterly direction from a point in the East line of said Lot 12, 96.2 feet South of the Northeast corner thereof, through a point in the East line of said Lot 13, 106.3 feet South of the Northeast corner thereof, and said line continued Southwestwardly in a straight line to the West line of said Lot 13. The above part of Lot 13 is subject to a reservation by the State of Minnesota to mineral and mineral rights.

Subject to covenants, easements, conditions, and restrictions of record.

TOGETHER with and including all of Grantor's right, title and interest in "as is" condition as of the date of this deed, in and to all buildings, bridges and roadbed, if any, situated upon said real estate.

DATED this 1st day of May, 1984.

Signed, Sealed and Delivered in Presence of:

Irwin G. Fullerman

Keith E. Feurer

CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY

By Robert W. Mickey
Robert W. Mickey, Vice President

Attest [signature]
J. S. Edwards, Assistant Secretary

STATE OF ILLINOIS)
) SS
COUNTY OF C O O K)

I, Richard S. Kennerley, a Notary Public duly commissioned and qualified in and for the County and State aforesaid, DO HEREBY CERTIFY that Robert W. Mickey and J. S. Edwards, to me personally known and known to me to be, respectively, -- Vice President and Assistant Secretary of CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY, a Delaware corporation, and the identical persons whose names are subscribed to the foregoing instrument, appeared before me this day in person, and being first duly sworn by me, severally acknowledged to me that they are, respectively, -- Vice President and Assistant Secretary of said corporation; that as such officers they signed, sealed and delivered said instrument in behalf of said corporation by authority and order of its Board of Directors, as the free and voluntary act and deed of said corporation, and as their own free and voluntary act; that the seal affixed to said instrument is the seal of said corporation; and that said corporation executed said instrument for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal as such Notary Public, at Chicago, Illinois, this 1st of May, 1984.

Notary Public, in and for the County of Cook, In the State of Illinois
Richard S. Kennerley

My Commission Expires: November 8, 1984

This instrument was prepared by Chicago and North Western Transportation Company, 165 North Canal Street, Chicago, Illinois 60606.

L/19-1R/T(11/28)

Certificate of Title

No. 205940

District Court No. 6050

Transfer from No. 154920 Originally registered the 23rd day of November

A. D. 1948 Volume 446 Page 136798

State of Minnesota, County of Hennepin. } SS

REGISTRATION

This is to certify that The Minneapolis & St. Louis Railway Company, a Minnesota corporation having its principal place of business at 111 East Franklin Avenue in the City of Minneapolis, County of Hennepin and State of Minnesota

is now the owner of an estate, to wit: in fee simple

of and in the following described land, situated in the County of Hennepin and State of Minnesota, to wit:

That part of Lot 12 lying southerly of a line drawn from a point on the westerly line of said lot, distant 75 feet along said west line from the northwest corner of said lot, to a point in the east line of said lot, 50 feet southerly at right angles to the northerly line of said lot; also

that part of Lot 13 lying southerly of a line drawn from a point in the east line of said lot, which is 75 feet southerly at right angles to the northerly line of said lot, to a point in the east line of Lot 16, distant 190 feet north from the southeast corner of said Lot 16, except the West Fifty Six (56) feet, front and rear, thereof; all in Block 2, Lakeview Addition to Minneapolis, according to the plat thereof on file or of record in the office of the Register of Deeds in and for said Hennepin County.

Except that part thereof lying southeasterly of a line drawn in a northeasterly and southwesterly direction from a point in the east line of said Lot 12, 98.2 feet south of the northeast corner thereof, through a point in the east line of said Lot 13, 106.3 fe south of the northeast corner thereof, and said line continued southwestwardly in a straight line to the west line of said Lot 13.

The above part of lot 13 is subject to a reservation to the State of Minnesota to mineral and mineral rights. Also

Subject to and together with an easement for driveway purposes over the east Eight feet of the West Sixty (60) feet of that par of Lot 13 lying southerly of a line drawn from a point in the east line of said lot, which is 75 feet southerly at right angles to t northerly line of said lot, to a point in the east line of lot 16, distant 190 feet north from the southeast corner of said Lot 16, as shown in deed Doc. No. 310143, Files of Registrar of Titles. Also

Subject to the incumbrances, liens and interest noted by the memorial underwritten or indorsed hereon; and subject to the following rights or incumbrances subsisting, as provided in the twenty-fourth section of "An act concerning the registration of land and the title thereto" of the General Laws of the State of Minnesota for the year 1905 and the amendments thereof, namely:

1. Liens, claims or rights arising under the laws or the constitution of the United States, which the statutes of this state cannot require to appear of record.
2. Any tax or special assessment for which a sale of the land has not been had at the date of the certificate of title.
3. Any lease for a period not exceeding three years when there is actual occupation of the premises under the lease;
4. All public highways embraced in the description of the lands included in the certificates shall be deemed to be included.
5. Such right of appeal or right to appeal and contest the application as is allowed by law.
6. The rights of any person in possession under deed or contract for deed from the owner of the certificate of title.

~~That the owner~~

In Witness Whereof, I have hereunto subscribed my name and affixed the seal of my office this Nineteenth day of November 19 53

Registrar of Titles,
In and for the County of Hennepin and State of Minnesota

By _____ DEPUTY

REGISTRAR OF TITLES HENNEPIN COUNTY MINN.

MEMORIAL

OF ESTATES, EASEMENTS OR CHARGES ON THE LAND DESCRIBED IN THE CERTIFICATE OF TITLE HERETO ATTACHED.

DOCUMENT NUMBER	KIND OF INSTRUMENT	DATE OF INSTRUMENT			DATE OF REGISTRATION			HOUR		AMOUNT		RUNNING IN FAVOR OF	SIGNATURE OF REGISTRAR
		MONTH	DAY	YEAR	MONTH	DAY	YEAR	A.M.	P.M.				

SEE OVER

SEE OVER

DOCUMENT NUMBER	KIND OF INSTRUMENT	DATE OF INSTRUMENT MONTH	YEAR	DATE OF REGISTRATION MONTH	DAY	YEAR	HOUR A.M.	P.M.	AMOUNT	RUNNING IN FAVOR OF	SIGNATURE OF REGISTRAR

M. + St. L. 4696-E.

VOLUME 680 PAGE 206938

Certificate of Title

No. 206938

DISTRICT COURT No. 8880

The Minneapolis & St. Louis Railway Company

Owner

IMPORTANT

In dealing with the land described in this certificate, the names of the parties and description of property should be exactly the same as written herein.

Hennepin County

MINNESOTA.

1165 EB

ATTENTION

DELAY and EXPENSE will be caused by the loss of this certificate.

OFFICIAL PLAT

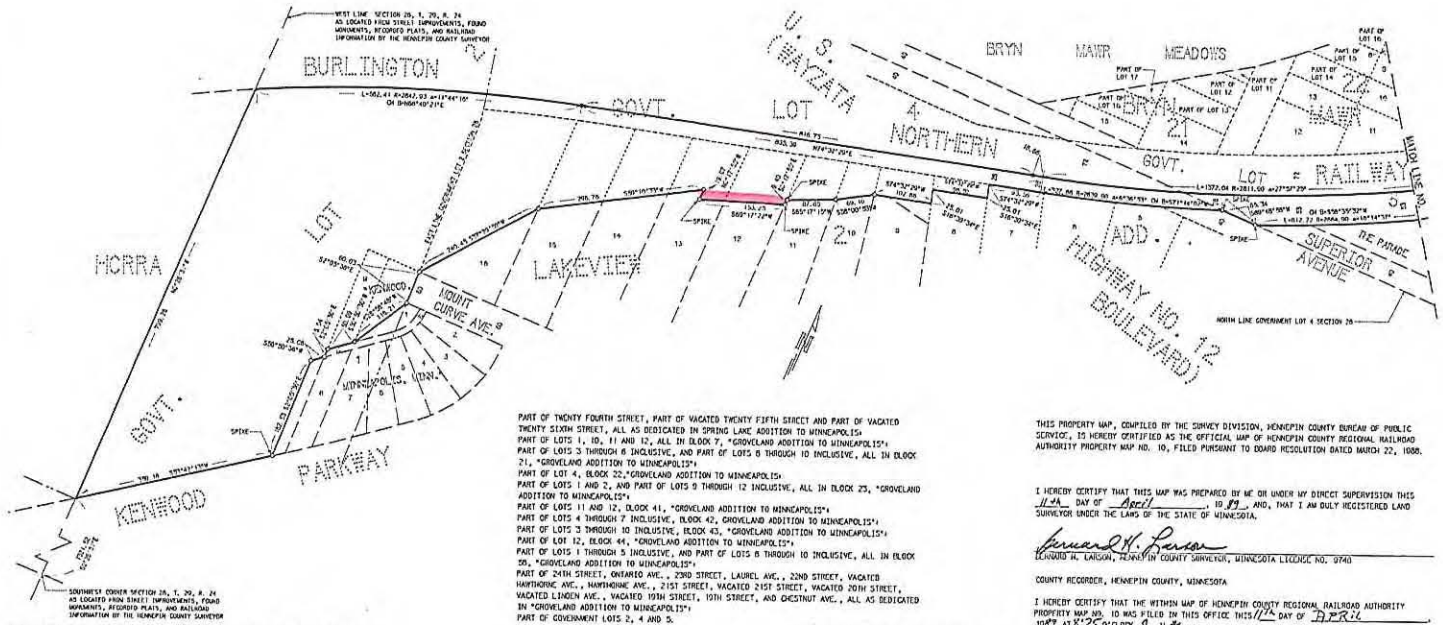
11 APR 97 8:25 A 5523297 Doc. $38.00

HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY
PROPERTY MAP NO. 10

C. R. DOC. NO. 5523297

R.T. DOC. NO. 4687650

CTF NO. SEE COVER SHEET



KNOW ALL PERSONS BY THESE PRESENTS: THAT THE COUNTY OF HENNEPIN, A BODY PUBLIC AND CORPORATE UNDER THE LAWS OF THE STATE OF MINNESOTA, HAS CAUSED PART OF THE REGIONAL RAILROAD AUTHORITY PROPERTY RIGHT-OF-WAY TO BE SURVEYED AND MAPPED. SAID RIGHT-OF-WAY IS COMPRISED OF THE FOLLOWING DESCRIBED LANDS SITUATE IN THE COUNTY OF HENNEPIN, STATE OF MINNESOTA, TO WIT:

THOSE PARTS EMBRACED WITHIN SECTION 21, TOWNSHIP 29, RANGE 24 DESCRIBED, AS FOLLOWS:

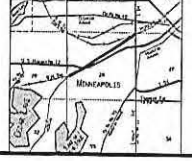
PART OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER.

THOSE PARTS EMBRACED WITHIN SECTION 28, TOWNSHIP 29, RANGE 24 DESCRIBED, AS FOLLOWS:

LOT 9 AND PART OF LOT 1, ALL IN BLOCK 1, "KENWOOD, MINNEAPOLIS, MINN.";
PART OF LOTS 6 THROUGH 16 INCLUSIVE, BLOCK 2, LAKEVIEW ADD.;
PART OF THE PARADE;
PART OF SUPERIOR AVE., AS SHOWN ON THE PARADE;
LOT 2, PART OF LOTS 3 (ALSO KNOWN AS ONTARIO AVENUE) THROUGH 5 INCLUSIVE, AND PART OF LOTS 11 THROUGH 14 INCLUSIVE, ALL IN BLOCK 1, SPRING LAKE ADDITION TO MINNEAPOLIS;
LOT 1, PART OF LOTS 2 THROUGH 4 INCLUSIVE, AND PART OF LOTS 16 THROUGH 18 INCLUSIVE, ALL IN BLOCK 3, SPRING LAKE ADDITION TO MINNEAPOLIS;

PART OF TWENTY FOURTH STREET, PART OF VACATED TWENTY FIFTH STREET AND PART OF VACATED TWENTY SIXTH STREET, ALL AS DEDICATED IN SPRING LAKE ADDITION TO MINNEAPOLIS;
PART OF LOTS 1, 10, 11 AND 12, ALL IN BLOCK 7, "GROVELAND ADDITION TO MINNEAPOLIS";
PART OF LOTS 3 THROUGH 8 INCLUSIVE, AND PART OF LOTS 8 THROUGH 10 INCLUSIVE, ALL IN BLOCK 21, "GROVELAND ADDITION TO MINNEAPOLIS";
PART OF LOT 4, BLOCK 22, "GROVELAND ADDITION TO MINNEAPOLIS;
PART OF LOTS 1 AND 2, AND PART OF LOTS 9 THROUGH 12 INCLUSIVE, ALL IN BLOCK 23, "GROVELAND ADDITION TO MINNEAPOLIS";
PART OF LOTS 11 AND 12, BLOCK 41, "GROVELAND ADDITION TO MINNEAPOLIS";
PART OF LOTS 4 THROUGH 7 INCLUSIVE, BLOCK 42, GROVELAND ADDITION TO MINNEAPOLIS";
PART OF LOTS 3 THROUGH 10 INCLUSIVE, BLOCK 43, "GROVELAND ADDITION TO MINNEAPOLIS";
PART OF LOT 12, BLOCK 44, "GROVELAND ADDITION TO MINNEAPOLIS";
PART OF LOTS 1 THROUGH 5 INCLUSIVE, AND PART OF LOTS 8 THROUGH 10 INCLUSIVE, ALL IN BLOCK 55, "GROVELAND ADDITION TO MINNEAPOLIS";
PART OF 24TH STREET, ONTARIO AVE., 23RD STREET, LAUREL AVE., 22ND STREET, VACATED HAWTHORNE AVE., HAWTHORNE AVE., 21ST STREET, VACATED 21ST STREET, VACATED 20TH STREET, VACATED LINDEN AVE., VACATED 19TH STREET, 19TH STREET, AND CHESTNUT AVE., ALL AS DEDICATED IN "GROVELAND ADDITION TO MINNEAPOLIS";
PART OF GOVERNMENT LOTS 2, 4 AND 5.

LOCATION DETAIL
(NOT TO SCALE)
T 29 N, R 24 W



THIS PROPERTY MAP, COMPILED BY THE SURVEY DIVISION, HENNEPIN COUNTY BUREAU OF PUBLIC SERVICE, IS HEREBY CERTIFIED AS THE OFFICIAL MAP OF HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY PROPERTY MAP NO. 10, FILED PURSUANT TO BOARD RESOLUTION DATED MARCH 22, 1988.

I HEREBY CERTIFY THAT THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION THIS 11th DAY OF April, 19 97, AND, THAT I AM DULY REGISTERED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.

Bernard H. Larson

BERNARD H. LARSON, HENNEPIN COUNTY SURVEYOR, MINNESOTA LICENSE NO. 9740

COUNTY RECORDER, HENNEPIN COUNTY, MINNESOTA

I HEREBY CERTIFY THAT THE WITHIN MAP OF HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY PROPERTY MAP NO. 10 WAS FILED IN THIS OFFICE THIS 11th DAY OF APRIL, 1997 AT 8:25 O'CLOCK A. M.

R. DAN CARLSON, COUNTY RECORDER, BY A. Williams
DEPUTY

*and was filed in the office of the Registrar of Titles on this 10th day of Sept 2001 at 3 o'clock P. M.

Michael H. Cunniff, Registrar of Titles

By Lynda Lowenstein Deputy

LEGEND

* DENOTES A FOUND ST. PAUL, MINNEAPOLIS AND MANITOBA RAILWAY (NOW KNOW AS BURLINGTON NORTHERN RAILWAY COMPANY) ORIGINAL CAST IRON MONUMENT.

○ DENOTES A RIGHT OF WAY MONUMENT CAP EMBOSSED WITH "HENNEPIN COUNTY R/W".

○— SPIKE DENOTES A 60 PENNY NAIL.

NOTE: A NORTH BEARING ON THIS PROPERTY MAP IS GRID NORTH AS BASED UPON THE MINNESOTA COORDINATE SYSTEM, SOUTHERN ZONE.

COUNTY SURVEYORS PROJECT NO. 3018
MAP AUTHORIZED BY THE BOARD OF HENNEPIN COUNTY COMMISSIONERS.

SCALE 0 100 200 FEET

Midtown Greenway
Phase II

MIDTOWN GREENWAY - PHASE II
5th TO HIAWATHA AVE.

018971

Agreement No. 73-51017

File No. 73-51017

PERMIT AGREEMENT
29th St. Greenway – Phase II Trail

This agreement, entered into by and between the Hennepin County Regional Railroad Authority, (hereinafter referred to as the "HCRRA"), a Minnesota political subdivision, and the City of Minneapolis, a Minnesota political subdivision (hereinafter referred to as the "City").

WHEREAS, HCRRA has invested in a transportation corridor paralleling Lake Street and lying between France Avenue and Hiawatha Avenue in the City of Minneapolis known as the 29th Street Rail Corridor ("Corridor") for the purpose of implementing Light Rail Transit ("LRT") and other permitted future transportation uses; and

WHEREAS, Hennepin County has identified this transportation corridor and its proposed transportation improvements as an integral part of a vision for long-range property value enhancements and business developments known as Hennepin Community Works; and

WHEREAS, the Minneapolis neighborhoods adjoining this corridor, together with the City of Minneapolis, Hennepin County and HCRRA have named this Community Works project, the "Midtown Greenway".

In consideration of the covenants by and between the parties, it is hereby agreed:

1. Premises

HCRRA hereby agrees to grant certain rights and benefits to the City hereinafter described with regard to that certain real property described as follows:

That part of HCRRA's right of way, located in the City of Minneapolis, between 5th Ave. So. and Hiawatha Ave., the northerly limits being the northerly HCRRA property line and the southerly limits being the southerly construction limits shown on the construction plans for the 29th St. Midtown Greenway – Phase II, attached hereto as, Exhibit "A"

The said real estate shall be hereinafter described as the "Premises."

2. Uses

The Premises shall be for the temporary use of the City, its agents, officers, employees, sub-permittees and invitees for trail purposes, including but not limited to pedestrian use, in-line skating, bicycles and other non motorized uses, and all requirements necessary to the enjoyment of the Premises for said uses. The City shall be granted temporary use of adjacent lands controlled by HCRRA as reasonably required for maintenance of the Premises.

3. Term

The term of this Permit shall be for an indefinite period, commencing on execution of this Agreement by the Chair of HCRRA until termination in accordance with Paragraph 4.

4. Termination

Either party may, at any time and for any reason, terminate this Permit by giving one-hundred eighty (180) days' written notice of its intention to do so. Such notice may be served upon HCRRA by delivering a copy thereof to the Executive Director at the principal office in the Hennepin County Government Center, Minneapolis, Minnesota, 55487, or by depositing the same in the United States Post Office directed to the Executive Director at the principal office. Such notice may be served on the City of Minneapolis Department of Public Works by delivering a copy thereof to its Director of Public Works. Except as provided herein, this Agreement may not be terminated or revoked by either party hereto.

5. Temporary Nature of Use

The City acknowledges that the Premises was acquired by HCRRA specifically and solely for the purpose of constructing a light rail transit system or other permitted transportation uses and its associated facilities and that it is HCRRA's intention to allow the City to use the Premises only until it is needed for that purpose. Nothing in this Permit shall be deemed to evidence any change by HCRRA of its intended use of the Premises for light rail transit purposes or other permitted transportation uses. Rather, HCRRA has agreed to the terms of this Permit to provide a temporary use for the Premises during the time required for further planning and development of the light rail transit system or other permitted transportation uses.

6. Rights Upon Termination

On the expiration of one-hundred eighty (180) days after such service of said notice of termination, this Permit, and all rights hereunder, shall thereupon terminate and be at an end, saving and excepting such rights as may have accrued to either party prior to termination. The City shall, without further notice or demand, deliver possession of the Premises to HCRRA at the expiration of said one-hundred eighty (180) days and shall, before the expiration of said one-hundred eighty (180) days, remove all buildings and property placed upon the Premises which it has the right to remove. If it shall fail to remove the buildings and property, its right to remove them, at the option of HCRRA, shall cease and the City's interest to the buildings and property shall be forfeited and the same shall belong to HCRRA. If HCRRA elects, it may, at any time after the expiration of said period of one-hundred eighty (180) days, tear down and/or remove any or all such buildings and property without any liability for damages in any respect whatsoever at the expense of the City. The City shall thereupon promptly reimburse HCRRA for all expenses incurred by it in doing so.

7. Rent

Upon any termination of this Permit, rent shall be paid by the City to the date of termination at the rate of $1.00 per year.

8. Sub-Permits

The City may grant permits to sub-permittees upon written approval by HCRRA. The City shall submit a copy of the permit to HCRRA for approval. Any sub-permit shall be on the same terms and conditions and limited to the same uses as are contained in this Permit.

HCRRA consents to, and the City will grant to the County of Hennepin and other third parties a temporary construction and access easement for purpose of constructing improvements necessary for the City's use of the Premises and for construction related environmental clean up in a form substantially as contained in Exhibit "B" hereto. HCRRA's consent does not relieve the City of any of the obligations it has undertaken pursuant to this Permit Agreement, including, but not limited to, the City's obligation to defend, indemnify and hold HCRRA harmless contained in Paragraph 12. Upon the City granting such easement, the County of Hennepin and the other third parties shall be considered the City's sub-permittees for purposes of Paragraph 12.

9. Signage

The City shall provide, install and maintain signage, including kiosks, on the Premises identifying the Premises as a temporary trail corridor of the City, by permission of the owner, HCRRA, until the Premises are used for light rail transit or other transportation uses. Any such signage shall also identify the improvement as part of Hennepin Community Works.

10. Nuisance, Waste

The City shall not permit the existence of any nuisance on the Premises. The City, at all times, shall keep the Premises clean and shall comply with all laws, ordinances and regulations respecting the City's business and use and occupation of the Premises. The City, at its sole cost, shall make any and all improvements, alterations, repairs and additions, and install all appliances required on the Premises by or under any such regulations, ordinances or laws. No bills, posters or advertising matter of any kind shall be posted on the Premises; provided, however, that the City may post on appropriate structures, informational materials relating to the permitted uses. The City shall use all reasonable precautions to prevent any waste, injury, death or property damage and shall modify, repair or replace any railings, pathways or other improvements on the Premises when necessary.

11. Utilities, Title, Existing Rights of Others

The City accepts the Premises subject to the rights of any person, firm or

corporation, including HCRRA in and to any existing telephone, telegraph and/or other wires, poles and facilities, above and underground, of any kind whatsoever, whether or not of record, and should it, at any time, become necessary because of the City's use of the Premises to relocate any of said poles, wires or facilities by reason of this Permit, the City shall bear and pay the cost of so doing. Notwithstanding the foregoing as to the Communication Systems placed on the 29th Street Corridor pursuant to Easement Agreement dated November 17, 1998 between Williams Communication, Inc. and HCRRA, and Easement Agreement dated August 22, 2000 by and between Enron Broadband Services, Inc. and HCRRA, City may ask that HCRRA provide the Communication Company with ninety (90) days notice of the need for a required change or alteration to the Communication System due to the operations or planned operations of the City related to the Midtown Greenway pursuant to Par.14.1 of the respective Easement Agreements. HCRRA shall under no circumstances be responsible for the costs of relocation of the Communication System nor shall it be responsible for any failure of the Communications Company to comply with the provisions of Par.14.

The City also accepts the Premises subject to any want or failure at any time of HCRRA's title to the Premises or any part thereof and the City shall assume any damages sustained by the City in connection therewith. The City also accepts such Premises subject to rights of any party, including HCRRA, in and to any roadways, easements, leases and permits, whether granted, at HCRRA's sole discretion, either prior to or after the date of this Permit Agreement. The City agrees to provide to HCRRA or other tenants of HCRRA access over and through the Premises on these roadways and easements should such access be deemed necessary by HCRRA. The City accepts said Premises subject to the right of HCRRA, its employees, agents, the City, lessees, and contractors when reasonably necessary to walk upon said Premises to repair adjacent property and the right of HCRRA, its employees, agents, the City, lessees, and contractors to temporarily place equipment upon the property when reasonably necessary for the purpose of maintaining, repairing, inspecting or constructing upon HCRRA's property.

12. Indemnification

The City shall defend, indemnify and hold harmless HCRRA, its Commissioners, officers, agents, and employees from any liability, claims, causes of action, judgments, damages, losses, costs or expenses, including reasonable attorney's fees, resulting directly or indirectly from an act or omission of the City, its contractors, subcontractors, officers, agents, employees, customers, invitees, sub-permittees, permittees, lessees or other occupiers of the Premises.

Notwithstanding the foregoing, the City is not responsible to defend, indemnify and hold HCRRA harmless for the acts or omission of "other occupiers" who are present on the Premises pursuant to an easement, lease or permit granted to them by HCRRA.

HCRRA shall not be liable to the City or those claiming by, through, or under the City for any injury, death or property damage occurring in, on or about the Premises based upon the design, construction, operation or maintenance of the Premises by the City or any other entity, nor for the loss or damage by reason of the present or future condition of repair

of the Premises, or for the loss or damage arising from the acts or omissions of the City, its contractors, subcontractors, officers, agents, employees, customers, invitees, sub-permittees, permittees, lessees, or other occupiers of the Premises, including those "other occupiers" present on the Premises pursuant to an easement, lease or other permit granted to them by HCRRA.

13. Insurance

The City further agrees that if in any case the release and indemnity provided in this section shall not be valid, HCRRA shall have the full benefit of any insurance effected by the City upon the property injured, destroyed or damaged and/or against the hazard involved; and the City agrees that any and all such insurance shall be so written that the insurer shall have no claim or recourse of any kind whatsoever against HCRRA in connection therewith.

14. Covenant

The City, in consideration of the rights granted herein, covenants and agrees to pay the rent promptly, and to fully abide by and perform all and singular the conditions, covenants and agreements to be observed and performed by the City and to yield up the Premises unto HCRRA at the expiration or termination of the Permit Agreement in as good condition as when entered upon.

15. Quiet Enjoyment

HCRRA has the right and authority to enter into this Agreement and if the City pays the rent required hereby and otherwise performs the terms hereof to be performed by the City, the City shall, during the term hereof, be entitled to quiet enjoyment and possession of the Premises subject to the termination provisions hereof. Notwithstanding the foregoing, City acknowledges that the rights provided to it by virtue of the Permit are subject to the provisions of Paragraph 11.

16. Waiver

No receipt of money by HCRRA from the City after any default by the City or after the expiration of this Permit or after the service of any notice or after the commencement of any suit or after final judgment for possession of said Premises, shall waive such default or reinstate, continue or extend the term of this Permit or affect any such notice or suit, as the case may be. No waiver of any default of the City shall be implied from omission by HCRRA to take any action on account of such default, and no express waiver shall affect any default other than the default specified in the express waiver and that only for the time and to the extent therein stated.

17. Breach

It is further agreed between the parties hereto, that if the City shall breach or make default in any of the conditions, covenants or agreements of this Permit, which breach or

default shall continue for fifteen (15) days after the City's receipt of written notice thereof from HCRRA, then it shall be lawful for HCRRA, then or at any time thereafter, to declare this Permit ended, and to re-enter the Premises and take possession thereof, with or without process of law, and to use any reasonable or necessary lawful force for regaining possession; whereupon the rights and obligations of the parties shall be the same as above specified in the case of termination pursuant to Paragraph 4; and it is hereby further agreed and provided that any waiver at any time of a breach of any condition, covenant or agreement of this Permit shall extend only to the particular breach so waived and shall, in no manner, impair or affect the existence of such condition, covenant or agreements, or the right of HCRRA thereafter to avail itself of same and any subsequent breach thereof. In the event HCRRA has to take action for repossession of the Premises, the City, its assigns or heirs shall be liable for reasonable attorney's fees incurred by HCRRA.

18. Assignment

The benefits and obligations of this Permit shall extend to and shall bind the heirs, administrators, executors, lessees, successors or assigns of the parties hereto, but no interest in this Permit shall be assigned, nor said Premises or any part thereof shall be sub-permitted, used or occupied by any party other than the City unless specifically stated herein. HCRRA reserves the right to review and revise the rental rate applicable to this Permit upon any change in the status of the Permit, the City or person occupying the Premises during the term of this Permit or any renewal thereof.

19. Improvements, Maintenance

The City shall be responsible for the construction of all improvements necessary to its use of the Premises whether constructed by itself or others, and shall be responsible for the construction of all bridges and crossings including, without limitation, under or over passes, required pursuant to Paragraph 24 deemed necessary for the City to provide trails on the Premises or to otherwise use the Premises. Plans, if any, shall be submitted to HCRRA for prior review and comment. HCRRA reserves the right to reject any plans for construction proposed by The City on the grounds, in HCRRA's sole discretion, that said plans are inappropriate or incompatible with its future use of the Premises. The City shall be responsible for maintenance of the Premises at its own expense. Maintenance includes, but is not limited to, maintaining the trail during the winter months, including snow and ice removal, mowing vegetation in areas abutting trails, fences and retaining walls and maintaining vegetation at 6 inches or less, except for those areas identified by HCRRA, from time to time in writing, as Midtown Greenway Landscaping and Planting Sites which shall be maintained in a manner consistent with the character of the landscaping and plantings.

20. Environmental Concerns

The City shall not create or permit any condition of the Premises that could present a threat to human health or to the environment. The City shall bear the expense of all practices or work, preventative, investigative or remedial, which may be required because of any conditions of the Premises introduced by the City, sub-permittees or invitees during the

City's period of use, including conditions introduced by the City, sub-permittees, or invitees which affect other lands. The City expressly agrees that the obligations it hereby assumes shall survive cancellation of this Permit. The City agrees that statutory limitation periods on actions to enforce these obligations shall not be deemed to commence until HCRRA discovers any such health or environmental impairment, and a remedial action plan necessary for development of the Premises to its highest and best use has been identified and approved by the appropriate local, state and federal regulatory agencies. The City hereby knowingly and voluntarily waives the benefits of any shorter limitation period.

HCRRA shall have the right, but not the duty, to enter upon the Premises from time to time as set forth below to inspect the Premises for environmental contamination and in the course thereof to conduct soil and groundwater testing and to perform environmental investigation, remediation or mitigation. HCRRA may enter the Premises during regular business hours of the City without prior notice, and may enter the Premises during periods other than regular business hours either with prior written consent of the City or without if HCRRA reasonably believes that an emergency exists on the Premises. HCRRA shall conduct any such inspections or testing so as to minimize interference with the City's operations. HCRRA's entry on to the Premises pursuant to this paragraph shall not relieve the City's obligation to pay rent under this Permit.

The City may make any inspections, tests, audits or reviews of the physical condition of the Premises, all at the City's sole cost and expense. Such inspections and tests may include, without limitation, soil tests, soil borings, surveys, environmental audits, and other tests of the Premises ("Environmental Inspection"). If the City elects to abandon its trail project and terminate this agreement due to its Environmental Inspection, the City shall restore the property to its prior condition, and provide HCRRA with copies of all reports and test result. The City agrees to indemnify, defend, and hold HCRRA harmless from any and all actual out-of- pocket expenses incurred by HCRRA related to containing or disposing of any contaminated materials released by such inspections.

In addition to the foregoing provisions of this Paragraph 20, and in exchange for the rights and privileges granted in this Permit Agreement the City hereby agrees to bear the expense of all practices or work, preventative, investigative or remedial necessary to comply with all federal, state, local and other governmental statutes, rules and regulations regarding any hazardous waste, pollutant, contaminant or petroleum-related material (collectively "contamination.") on the Premises necessary for the City's use of the Premises for trail and park purposes regardless of whether or not the same was present on the Premises before or after the commencement of this Permit Agreement. However, should the City elect in its sole discretion to abandon its trail project and terminate this agreement, due to its Environmental Inspection, the City shall not be obliged to bear expenses enumerated in this sentence. Further, the City agreed to defend, indemnify and hold harmless HCRRA, its Commissioners, officers, agents and employees from any liability, claims, causes of action, judgements, damages, losses, costs or expenses, including reasonable attorney's fees arising from exercise of the rights granted by this Permit Agreement and resulting from the presence of any hazardous waste, pollutant, contaminant or petroleum-related material on the Premises regardless of whether or not the same was present on the Premises before or after the commencement of this Permit Agreement. The City expressly agrees that the

obligations it hereby assumes related to construction and operation of the park trail, shall survive the cancellation of this Permit.

For the below listed sites only, and only where such costs are not covered by third parties, HCRRA agrees to be responsible for contamination cleanup costs necessary for implementing Construction Plans dated August 1, 2002 for the 29th Street Midtown Greenway-Phase II Project in that said costs are also necessary for implementing future rail transit on the Corridor:

a) the Sears Tunnel asbestos clean up Project identified as Minnesota Pollution Control Agency VIC Project No. VP16060;

b) that portion of the Minnesota Department of Agriculture CMC Lite Yard Site located within the boundaries of the Permitted Premises on HCRRA's right of way generally known as the south wye.

21. Compliance with Laws, Ordinances and Rule

The City agrees to comply with all laws, ordinances and regulations of federal, state, municipal and local government agencies as they apply to use of the Premises. The City agrees to comply with rules as may be promulgated from time to time by HCRRA. The City may enforce its ordinances on the Premises, as it applies to third parties.

22. Condition of Premises Inspection

The City accepts the Premises in an "AS IS" condition with no express or implied representations or warranties by HCRRA as to the physical condition or fitness or suitability for any particular purpose, express or implied. The City is responsible for and has had ample opportunity to inspect the Premises, is familiar with the same, and has determined to its satisfaction the fitness of the Premises for its intended use.

23. Liens and Encumbrances

The City shall not permit any liens or encumbrances to be established or remain against the Premises, including but not limited to, encumbrances with respect to work performed or equipment or materials furnished in connection with use of the Premises by the City, its agents, employees, customers, invitees, sub-permittees, or other occupiers of the Premises pursuant to this Permit.

24. Relocation

In the event HCRRA determines, at its sole discretion, that relocation of the City's trail and any trail related facilities including, but not limited to, bridges and crossings added by the City or added on behalf of the City for trail purposes, is required to accommodate HCRRA's use of the Corridor for transportation purposes,, the City shall be required at its expense, and at

no cost to HCRRA to relocate, remove or alter all or any part of the City's trail improvements necessary to accommodate such use.

IN WITNESS WHEREOF, the parties hereto have signed this Permit Agreement as of _____, 20___.

HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY

By: _____
Chair, of Its Board
Date: 3/14/03

And: _____
Deputy/Executive Director
Date: 3/14/03

Attest: _____
Deputy/Clerk of Authority Board
Date: 3-14-03

Approved as to form and execution:

_____
Assistant County Attorney
Date: 03/03/03

Approved as to form [redacted]

_____
Attorney for City of Minneapolis
Date: 1/27/03

CITY OF MINNEAPOLIS

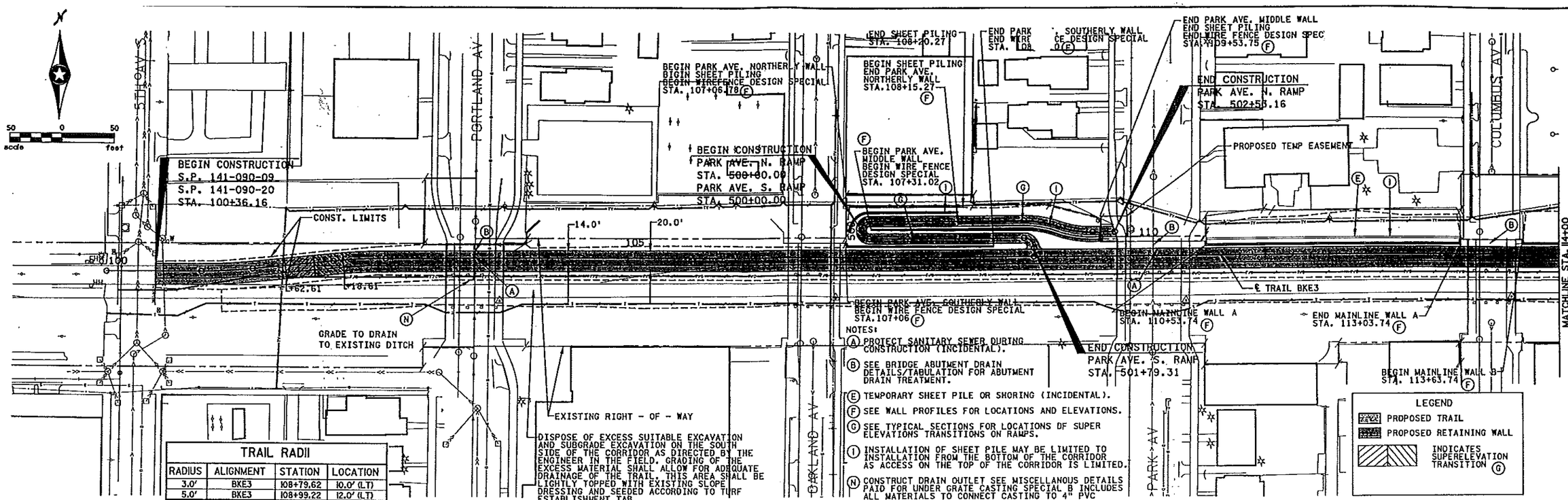
By: _____
Mayor
Date: _____

Attest: _____
Assistant City Clerk
Date: 2/14/2003

And: Brian J. Lockesmoe
Director of Public Works
Date: 2-4-03

And: _____
Acting Assistant/City Finance Officer

Date: _____



NOTES:

(A) PROTECT SANITARY SEWER DURING CONSTRUCTION (INCIDENTAL).

(B) SEE BRIDGE ABUTMENT DRAIN DETAILS/TABULATION FOR ABUTMENT DRAIN TREATMENT.

(E) TEMPORARY SHEET PILE OR SHORING (INCIDENTAL).

(F) SEE WALL PROFILES FOR LOCATIONS AND ELEVATIONS.

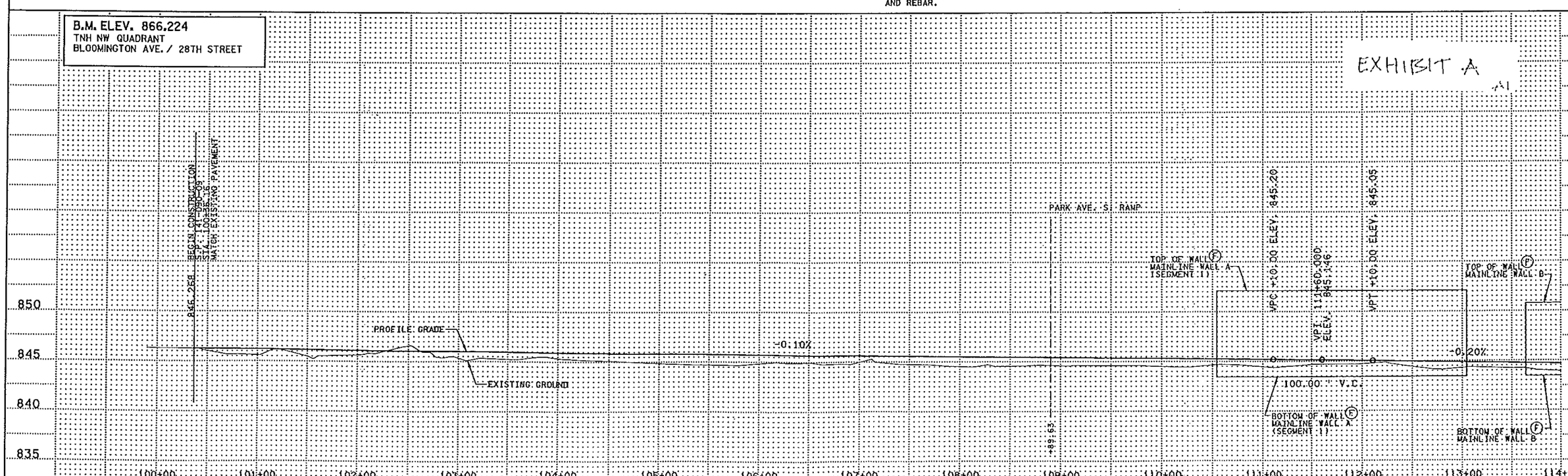
(G) SEE TYPICAL SECTIONS FOR LOCATIONS OF SUPER ELEVATIONS TRANSITIONS ON RAMPS.

(I) INSTALLATION OF SHEET PILE MAY BE LIMITED TO INSTALLATION FROM THE BOTTOM OF THE CORRIDOR AS ACCESS ON THE TOP OF THE CORRIDOR IS LIMITED.

(N) CONSTRUCT DRAIN OUTLET SEE MISCELLANOUS DETAILS PAID FOR UNDER GRATE CASTING SPECIAL B INCLUDES ALL MATERIALS TO CONNECT CASTING TO 4" PVC ABUTMENT DRAIN MANIFOLD, CONCRETE SLABS, AND REBAR.

TRAIL RADII

RADIUS	ALIGNMENT	STATION	LOCATION
3.0'	BKE3	108+79.62	10.0' (LT)
5.0'	BKE3	108+99.22	12.0' (LT)



NO	DATE	BY	CKD	APPR	REVISION
1	12/05/02	MRT	DJJ	MRT	ADDED TEMPORARY EASEMENT NOTE

NAME: 4129.CPA DATE: Jan. 03, 2002

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota.

Print Name: MICHAEL R. TURNER

Date 12/04/2002 License # 40120

STATE PROJECT NO. 141-090-09 141-090-20

COUNTY PROJECT NO. 0209

		DATE
DRAWN BY	S. PICKUS	1-02
DESIGNED BY	M. TURNER	1-02
CHECKED BY	D. JULIFF	3-02
COMM. NO.	0004127	

SRF CONSULTING GROUP, INC.

HENNEPIN COUNTY

CONSTRUCTION PLAN AND PROFILE

29TH STREET MIDTOWN GREENWAY, PHASE II

STA. 99+88.86 TO STA. 114+00

SHEET 45 OF 118

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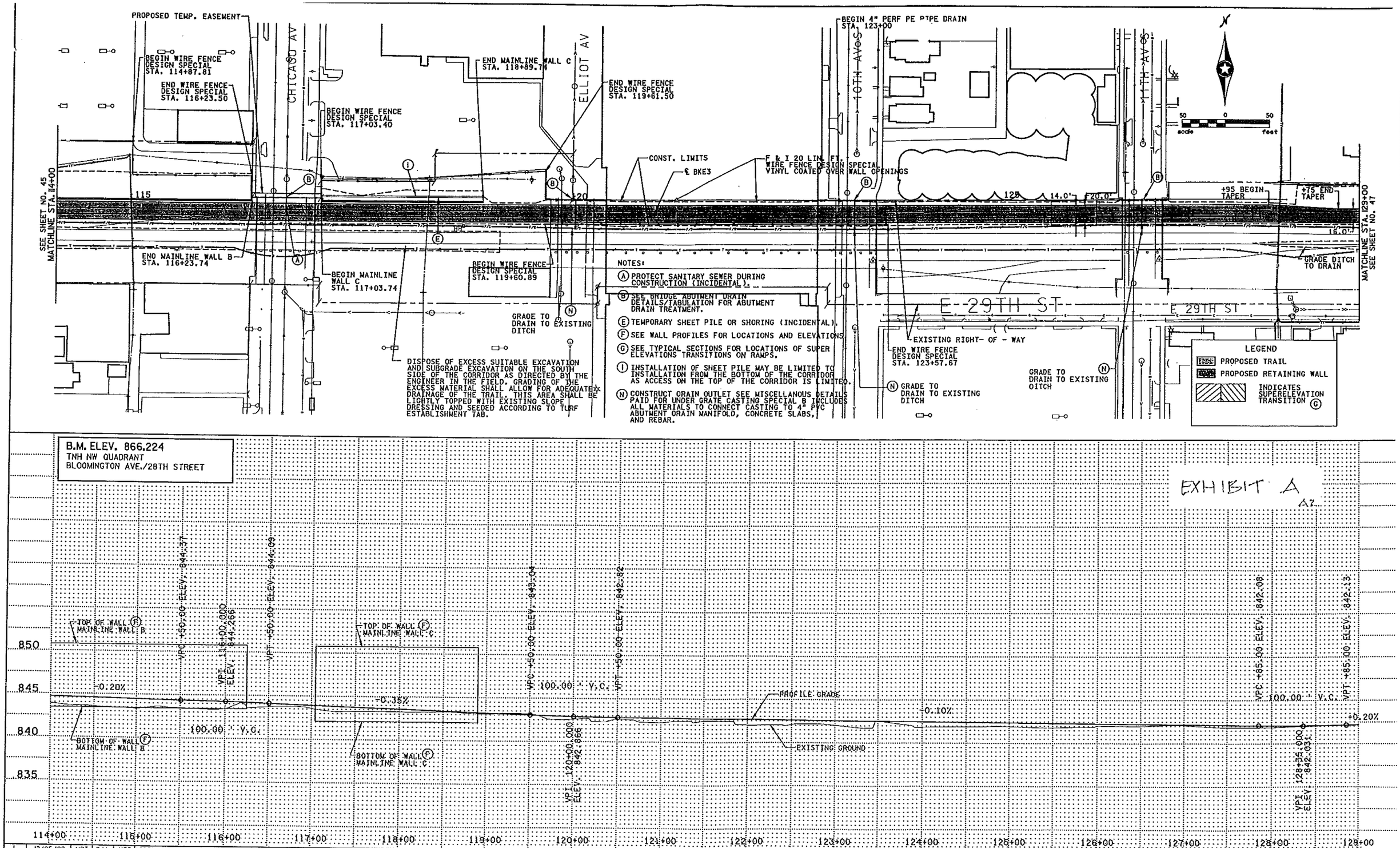

NO	DATE	BY	CKD	APPR	REVISION
1	12/05/02	MRT	DJJ	MRT	ADDED TEMPORARY EASEMENT NOTE

NAME: 4129.CPB DATE: Jan. 04, 2002

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota.

Print Name: MICHAEL R. TURNER

Date 12-06-2002 License # 40120

STATE PROJECT NO. 141-090-09 141-090-20

COUNTY PROJECT NO. 0209

		DATE
DRAWN BY	S. PICKUS	1-02
DESIGNED BY	M. TURNER	1-02
CHECKED BY	D. JULIFF	3-02
COMM. NO.	0004127	

SRF CONSULTING GROUP, INC.

HENNEPIN COUNTY

CONSTRUCTION PLAN AND PROFILE

29TH STREET MIDTOWN GREENWAY, PHASE II

STA. 114+00 TO STA. 129+00

SHEET 46 OF 118

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NOTES:

(A) PROTECT SANITARY SEWER DURING CONSTRUCTION (INCIDENTAL).

(B) SEE BRIDGE ABUTMENT DRAIN DETAILS/TABULATION FOR ABUTMENT DRAIN TREATMENT.

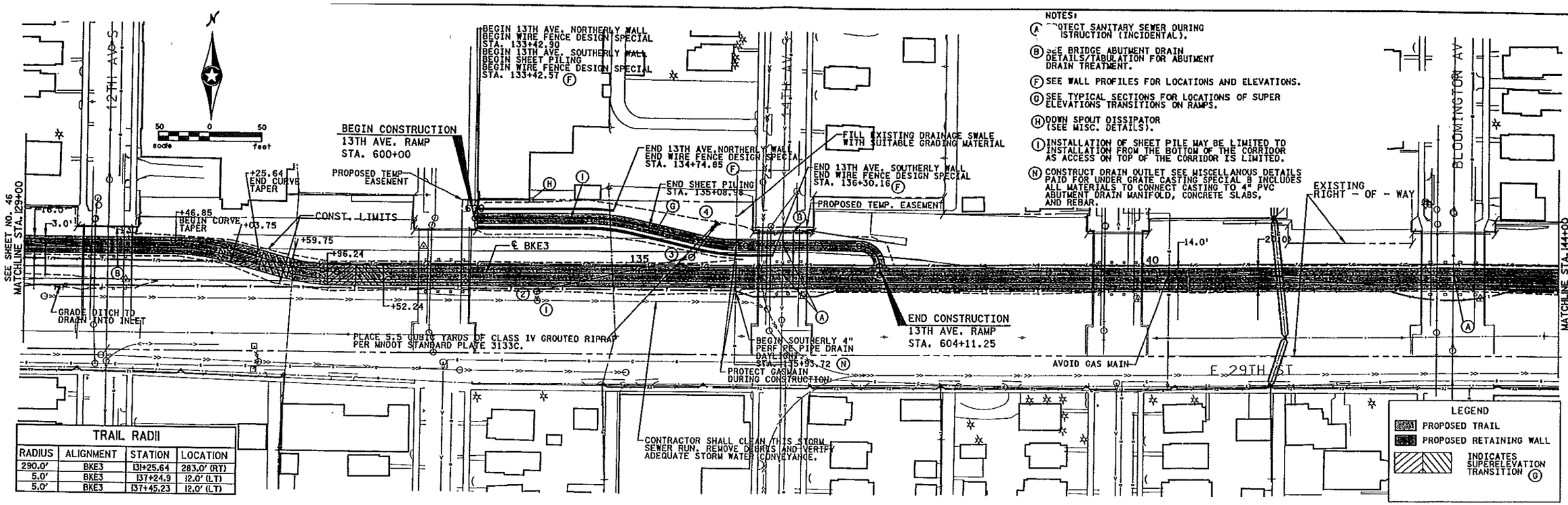
(F) SEE WALL PROFILES FOR LOCATIONS AND ELEVATIONS.

(G) SEE TYPICAL SECTIONS FOR LOCATIONS OF SUPER ELEVATIONS TRANSITIONS ON RAMPS.

(H) DOWN SPOUT DISSIPATOR (SEE MISC. DETAILS).

(I) INSTALLATION OF SHEET PILE MAY BE LIMITED TO INSTALLATION FROM THE BOTTOM OF THE CORRIDOR AS ACCESS ON TOP OF THE CORRIDOR IS LIMITED.

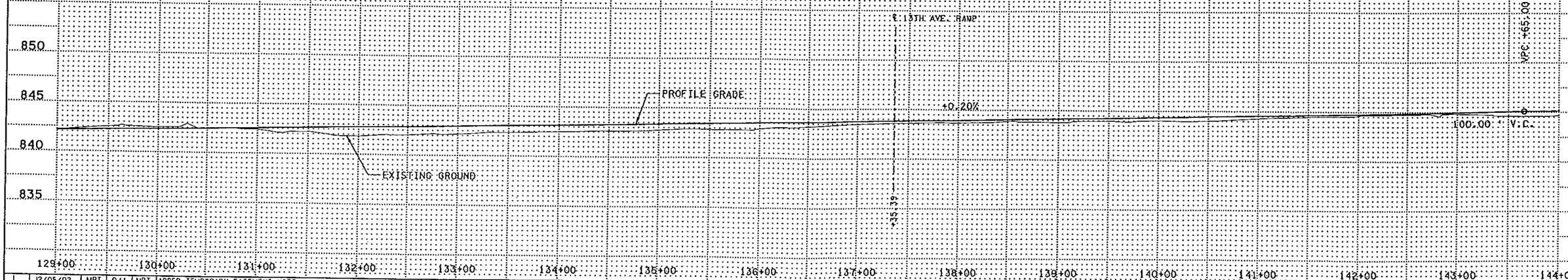
(N) CONSTRUCT DRAIN OUTLET SEE MISCELLANOUS DETAILS PAID FOR UNDER GRATE CASTING SPECIAL B INCLUDES ALL MATERIALS TO CONNECT CASTING TO 4" PVC ABUTMENT DRAIN MANIFOLD, CONCRETE SLABS, AND REBAR.



TRAIL RADII			
RADIUS	ALIGNMENT	STATION	LOCATION
290.0'	BKE3	131+25.64	283.0' (RT)
5.0'	BKE3	137+24.9	12.0' (LT)
5.0'	BKE3	137+45.23	12.0' (LT)

B.M. ELEV. 866.224
TNH NW QUADRANT
BLOOMINGTON AVE. / 28TH STREET

EXHIBIT A



NO	DATE	BY	CKD	APPR	REVISION
1	12/05/02	MRT	DJJ	MRT	ADDED TEMPORARY EASEMENT NOTE

NAME: 4129.CPC DATE: Jan. 04, 2002

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota.

Print Name: MICHAEL R. TURNER

Date 12-06-2002 License # 40120

STATE PROJECT NO. 141-090-09 141-090-20

COUNTY PROJECT NO. 0209

DRAWN BY S. PICKUS DATE 1-02
DESIGNED BY M. TURNER 1-02
CHECKED BY D. JULIEF 1-02
COMM. NO. 0004127

SRF CONSULTING GROUP, INC.

HENNEPIN COUNTY

CONSTRUCTION PLAN AND PROFILE

29TH STREET MIDTOWN GREENWAY, PHASE II

STA. 129+00 TO STA. 144+00

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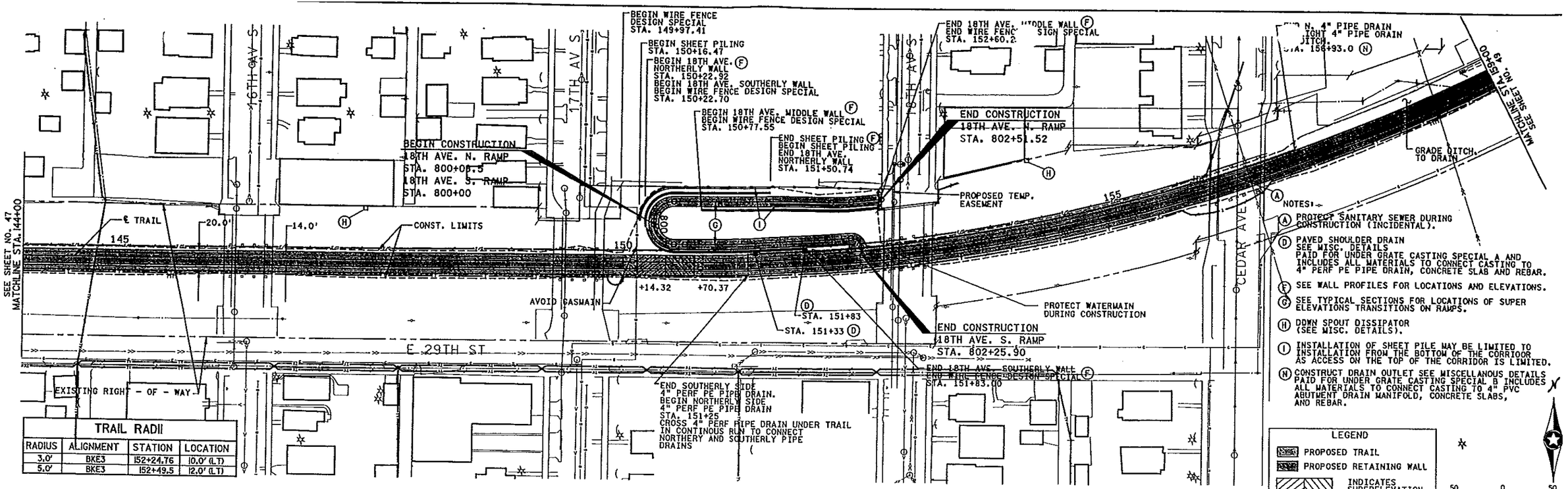
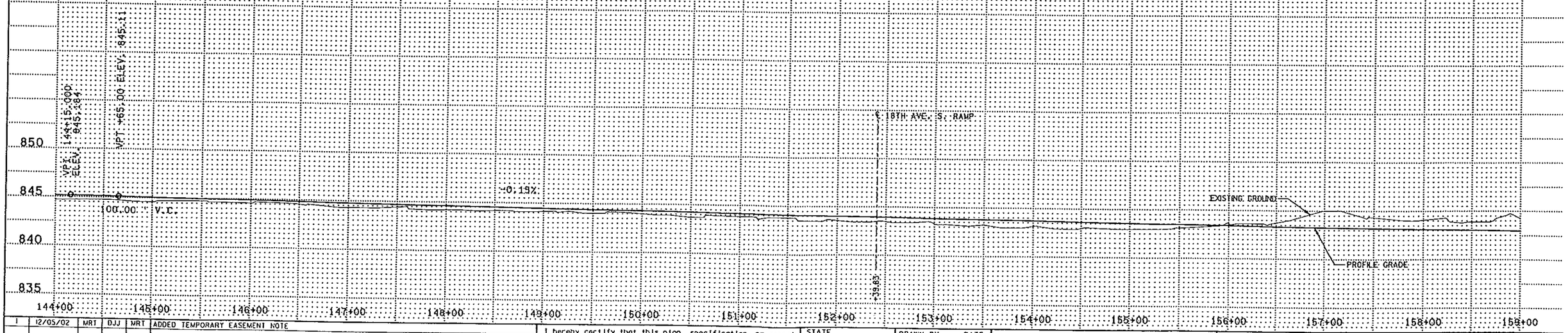


TRAIL RADII			
RADIUS	ALIGNMENT	STATION	LOCATION
3.0'	BKE3	152+24.76	10.0' (LT)
5.0'	BKE3	152+49.5	12.0' (LT)

B.M. ELEV. 866.224
TNH NW QUADRANT
BLOOMINGTON AVE. / 28TH STREET

EXHIBIT A
A4



NO	DATE	BY	CKD	APPR	REVISION
1	12/05/02	MRT	DJJ	MRT	ADDED TEMPORARY EASEMENT NOTE

NAME: 4129.CPD DATE: Jan. 04, 2002

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota.
Print Name: MICHAEL R. TURNER
Date 12-06-2002 License # 40120

STATE PROJECT NO. 141-090-09 141-090-20
COUNTY PROJECT NO. 0209

DRAWN BY S. PICKUS DATE 1-02
DESIGNED BY M. TURNER 1-02
CHECKED BY D. JULIEF 3-02
COMM. NO. 0004127

SRF CONSULTING GROUP, INC.

HENNEPIN COUNTY
CONSTRUCTION PLAN AND PROFILE
29TH STREET MIDTOWN GREENWAY, PHASE II
STA. 144+00 TO STA. 159+00

SHEET 48 OF 118

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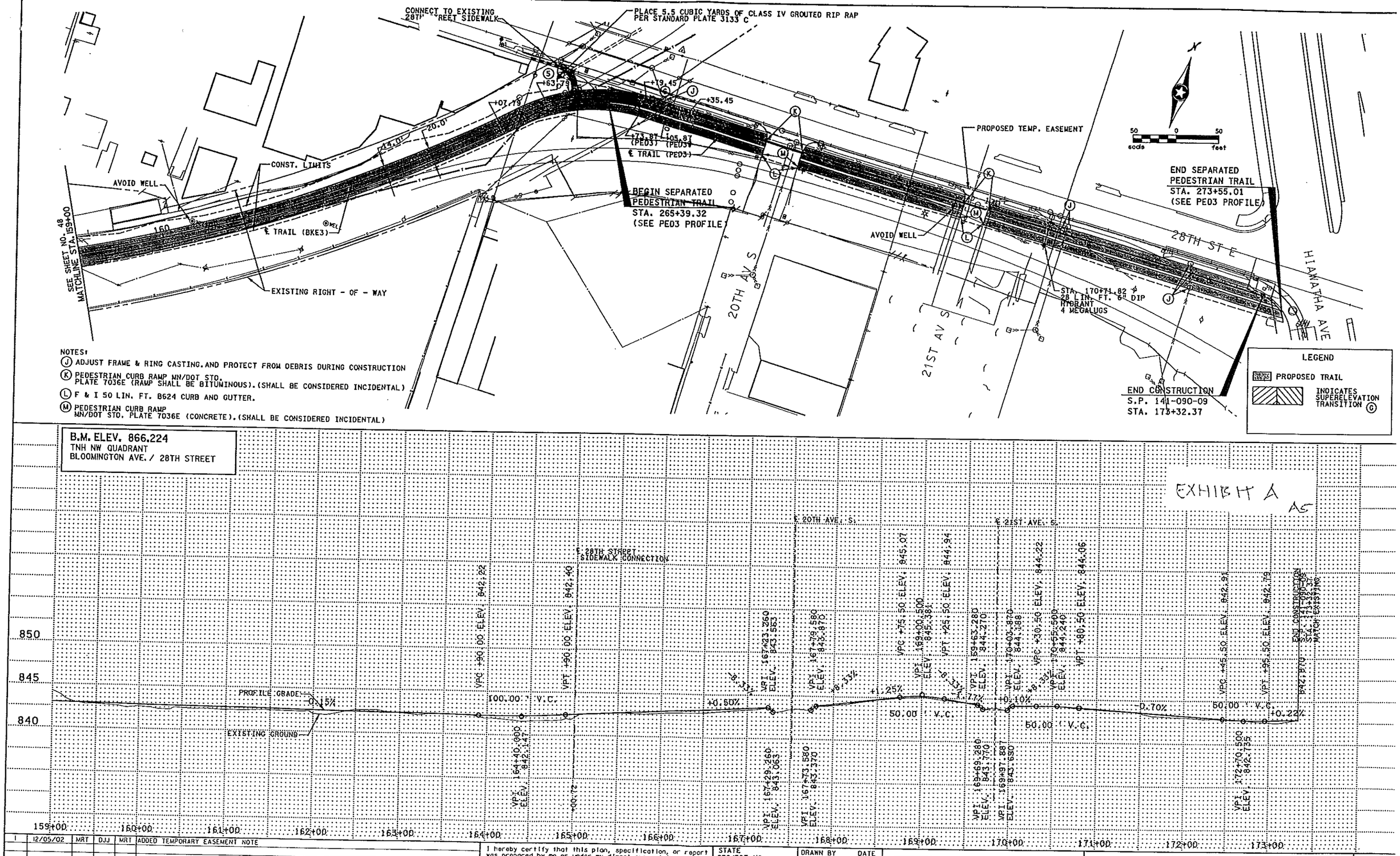

NO	DATE	BY	CKD	APPR	REVISION
1	12/05/02	MRT	DJJ	MRT	ADDED TEMPORARY EASEMENT NOTE

NAME: 4129.CPE DATE: Jan. 04, 2002

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota.

Print Name: MICHAEL R. TURNER

Michael R. Turner

Date 12-06-2002 License # 40120

STATE PROJECT NO. 141-090-09 141-090-20

COUNTY PROJECT NO. 0209

DRAWN BY S. PICKUS DATE 1-02
DESIGNED BY M. TURNER 1-02
CHECKED BY D. JULIFF 1-02
COMM. NO. 0004127

SRF CONSULTING GROUP, INC.

HENNEPIN COUNTY

CONSTRUCTION PLAN AND PROFILE

29TH STREET MIDTOWN GREENWAY, PHASE II

STA. 159+00 TO STA. 173+32.37

SHEET 49 OF 118

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A030330 03-159

FILE 51017

City Agreement No. 018970
County Agreement No. _____
Midtown Greenway Trail Phase 2 & 3

AGREEMENT FOR COST PARTICIPATION FOR MIDTOWN GREENWAY TRAIL PHASE 2 & 3

STATE PROJECT NOS. 141-090-09, 141-090-13, 141-090-20, and 27-090-02

THIS AGREEMENT, made and entered into this 25th day of March, 2003 by and among the County of Hennepin, a body politic and corporate under the laws of the State of Minnesota, hereinafter referred to as the "County", and the City of Minneapolis, a body politic and corporate under the laws of the State of Minnesota, hereinafter referred to as the "City".

WINESSETH:

WHEREAS, the City and County are preparing to improve the 29th Midtown Street Railroad Corridor for use as a bike trail between 5th Avenue South and Hiawatha Avenue South (Phase 2) and Hiawatha Avenue South and the Mississippi River (Phase 3) under State Project Nos. 141-090-09, 141-090-13, 141-090-20, and 27-090-02, which improvements contemplate construction of a trail, ramp access, retaining walls, signing, lighting, and security systems along the corridor to be described in each phase's project memorandum, hereinafter referred to as the "Project" and,

WHEREAS, the County and the City agree that the Project improvements contemplated herein should be developed jointly by the County and City as defined in the attached Memorandum of Agreement, hereinafter referred to as the "MOU", whose interests include the HCRRA, Hennepin County, and City property and the immediate vicinity; and

WHEREAS, in order to properly serve the City and County as it relates to public affairs and acceptance of the Project by neighborhoods and business, the City and County will maximize community involvement and support for the Project; and

WHEREAS, the County will take the lead in project management for the Project but may not possess the expertise to design and/or engineer the improvements contemplated and therefore will enter into agreements with consultants to perform the necessary work within the desired timeframe; and

WHEREAS, the above described project lies within the corporate limits of the City; and

WHEREAS, the City and County have applied for and received commitments for Federal funding for a portion of the Project construction costs and the State of Minnesota Department of Transportation, herein after referred to as the "State", is the fiscal agent of those Federal funds; and the County and City have expressed their willingness to fund costs incurred by the Project under the aforesaid MOU; and

WHEREAS, it is contemplated that said work be carried out by the parties hereto under the provisions of Minnesota Statutes Section 162.17, Subdivision 1, and Section 471.59.

MPLS. CITY FINANCE DEPT. COPY

CONTRACT # 018970

RETURN WITH ORIGINAL SIGNATURES

It is further understood and agreed by the parties hereto that the Federal share of the Federal TE Safety S.P. 141-090-20 and Federal STP Trail S.P.141-090-09 and S.P. 141-090-13 are for Project construction improvements only and that the Federal High Priority S.P. 27-090-02 funds may be used for any Project cost.

It is further understood that the local matching funds shall be provided by the City and County. The MOU states that the County and City will participate financially in 50 percent of all Phase II Project costs that are not covered by Federal funds and that exceed the costs defined in the MOU.

If construction costs exceed the budgeted and programmed funds defined in the MOU, all parties will negotiate a cost sharing arrangement that will be defined in supplemental agreement(s) to the construction bidding contract(s).

5

The Project total revenues and costs are expected to be Seven Million, Six Hundred Eighty-Five Thousand, Six Hundred Seventy-eight and 00/100 Dollars ($7,685,678.00). The sharing of these estimated costs is defined below and in the MOU.

The City, by executing this Agreement, hereby agrees to fund its share of the costs incurred by Project as defined in the MOU. The City's share of the Project costs is estimated at Seven Hundred Thousand and 00/100 Dollars ($700,000.00).

The County, by executing this Agreement, hereby agrees to fund its share of the costs incurred by Project as defined in the MOU. The County's share of the Project costs is estimated at Two Million, One Hundred Forty Thousand and 00/100 Dollars ($2,140,000.00).

The State, as the Federal funding fiscal agent, hereby agrees to transfer the federal funds as defined above. The Federal funds are estimated at Four Million, Seven Hundred Fifty Thousand, Six Hundred Seventy-Eight and 00/100 Dollars ($4,750,678.00).

The City agrees to continue its actions to obtain the necessary NRP neighborhood funds in the amount of Ninety-Five Thousand and 00/100 Dollars ($95,000.00) as defined in the MOU.

All parties understand and agree that during the duration of the Project there may be reason for any party to request amendment to aforesaid agreements that may result in additional costs in excess of the maximum amounts set forth above. All parties further understand that such needs may subsequently result in an amendment to this Agreement for additional funding for the Project. Project construction changes will be addressed through the State's Supplemental Agreement process with the execution and signatures by the individuals designated in Section 15 below.

6

It is understood by the parties that the County will accept the lead role for the Project (Phase 2 and Phase 3 as defined herein). All correspondence between any of the parties related to this Project shall be carbon copied to all the parties.

9

It is understood by the parties hereto that the County has budgeted for the years 2001 and 2002, One Million, Seven Hundred Eighty-Four Thousand Dollars and 00/100 Dollars ($1,784,000.00) for its share of the costs to be incurred by the Project under the above-cited agreements. It is further understood and agreed by the parties hereto that the County will provide documentation of County paid expenses to the City and State for the 2001 and 2002 calendar years with supporting documentation of such expenses.

The remaining funds designated by the County and committed to the Project will be paid by the County as the work is completed in the subsequent years of the contract. Similar documentation as provided for year 2002 shall be provided to the City and State for subsequent years as described above.

10

It is anticipated that all work and services required under the terms of the above-cited agreements with consultants and/or contractors will be completed by December 31, 2004.

Unless terminated pursuant to the immediately following paragraph, this Agreement shall be in full force and effect from the date of execution to December 31, 2005 or until the services provided pursuant to this Agreement have been completed, whichever occurs earlier.

All parties may terminate this Agreement with or without cause upon sixty (60) days written notice to the other parties that said Agreement shall cease and terminate at the end of said sixty-day period. Expenses incurred up to the date of termination shall be shared in the same proportions and be subject to the same conditions as those expenses prior to termination.

The County's failure to insist upon strict performance of any provision or to exercise any right under this Agreement shall not be deemed a relinquishment or waive of the same, unless consented to in writing. Such consent shall not constitute a general waiver or relinquishment throughout the entire term of the Agreement.

The City's failure to insist upon strict performance of any provision or to exercise any right under this Agreement shall not be deemed a relinquishment or waive of the same, unless consented to in writing. Such consent shall not constitute a general waiver or relinquishment throughout the entire term of the Agreement

11

The County and the City shall comply with all applicable federal, state and local statutes, regulations, rules and ordinances in force or hereafter enacted in the completion of the work and services herein agreed to.

16

It is understood and agreed that the entire Agreement between the parties is contained herein and that this Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter thereof. All items referred to in this Agreement are incorporated or attached and are deemed to be part of this Agreement.

Any alterations, variations, modifications, or waivers of provisions of this Agreement shall only be valid when they have been reduced to writing as an amendment to this Agreement signed by the parties hereto.

17

The provisions of Minnesota Statutes 181.59 and of any applicable local ordinance relating to civil rights and discrimination and the Affirmative Action Policy statement of Hennepin County shall be considered a part of this Agreement as though fully set forth herein.

18

The Laws of the State of Minnesota shall govern all questions and interpretations concerning the validity and construction of this contract and the legal relations between the herein parties and performance under it. The appropriate venue and jurisdiction for any litigation hereunder will be those courts located within the County of Hennepin, State of Minnesota. Litigation, however, in the federal courts involving the herein parties will be in the appropriate federal court within the State of Minnesota. If any provision of this contract is held invalid, illegal or unenforceable, the remaining provisions will not be affected.

19

To the extent that there are any inconsistencies between the MOU and this agreement, the terms of contained in this agreement shall govern.

ATTACHMENTS:

- Memorandum of Understanding, City of Minneapolis and Hennepin County, dated November 5, 2002

(This space left intentionally blank)

29th STREET MIDTOWN GREENWAY
MEMORANDUM OF UNDERSTANDING

Principal Responsibilities

Phase II Trail

Hennepin County

1. Be the responsible party for managing overall Phase II design and construction.
2. Execute agreement with consultant for the design of Phase II.
3. Prepare the Section 106 report necessary for the project.
4. Arrange for consultants to design security system.
5. Arrange for consultant and/or artists to design artistic elements into the project per the Midtown Community Works Partnership efforts.
6. Establish, with City approval, the design standards for Phase II.
7. Confer and gain approval with City staff on major aspects of the Project.
8. Provide full, unmatched funding for the Phase II design, if City is unable to participate, subject to overall funding requirement listed next.
9. Participate financially in 50 percent of all Phase II Project costs, including overruns, not covered by Federal or other funds, exclusive of County's own funding.
10. Select and contract with consultant to provide in-construction services for Phase II. County and City forces will have the right of first refusal to perform these services.
11. Arrange for, or otherwise be responsible for, the entire railroad abandonment process (Phase II).
12. Arrange for, or otherwise be responsible for removal of remaining grain in the CEPRO elevator of the Rahr Malting Company.
13. Demolish and remove the CEPRO elevator, if the county decides to have the facility removed. At a minimum, the metal loading and unloading shed may need to be removed to accommodate the trail.
14. Pay severance and relocation costs, if any, resulting from removal of the CP's railroad tracks and/or the CEPRO elevator.
15. Afford City opportunity to review and approve the construction in progress and respond to City initiated comments.
16. Designate a Project Manager responsible for the overall Project.
17. Coordinate and manage the public participation process.

City of Minneapolis

1. Initiate and make arrangements with Minnesota Department of Transportation (Mn/DOT) to preserve the availability of federal funds obtained by the City for use on the project.
2. Provide timely review and approval of Phase III design standards.
3. Operate and maintain the Phase III Trail, at no cost to the County, or HCRRA.
4. Participate financially in 50 percent of all Project costs, including overruns, not covered by Federal or other funds, exclusive of City's own funding. In no event shall the City's participation exceed that of Hennepin County or Hennepin County Regional Railroad Authority combined.
5. Real estate and right-of-way related costs for Phase III are included in Project costs.
6. Designate a staff person who will be responsible for all City activities including, but not limited to, design reviews, funding approvals, etc.
7. Provide; free of charge, any available mapping information required by the County for preliminary or final design.
8. Administer and coordinate the safety and security elements for the Project. Assist the County and consultant in the design of the security system.
9. Exclusive of right of way to be acquired by the County from CP Rail, the City shall pursue and secure all additional right of way required for Phase III Trail.

Design of Grade-Separated Bridge Crossing over Hiawatha Avenue

Hennepin County

1. Be the responsible party for managing the design efforts.
2. Hire consultant to study alignment options, perform preliminary design and provide initial cost estimates.
3. Coordinate and manage the public participation process.
4. Establish, with City approval, the design standards.
5. Confer and gain approval with City staff on major aspects of the Project.
6. Apply for TEA-21 funds for this project. Local match of TEA-21 application will be determined at a later date.
7. Designate a Project Manager.

City of Minneapolis

1. Provide timely review and approval of alignment and design standards.
2. Designate a staff person who will be responsible for all City activities including, but not limited to, all permits design reviews, funding approvals, etc.
3. Provide; free of charge, any available mapping information required by the County for preliminary or final design.

Schedule Responsibilities

Phase II Trail

- Final Design – Fall 2001 and Spring 2002
- SHPO review – Fall 2001 and Spring 2002
- Cepro Grain Elevator – grain removed in 2001, prepare reuse plan for the Cepro facility by Fall 2001
- CP Rail Roadway – abandonment and required track removal by Spring 2002
- Construction – Begin Spring 2003/Summer 2003

Phase III Trail

- Preliminary Design – Summer 2002
- Negotiate with CP Rail – Summer/Fall 2002
- Final Design – Fall 2002/Winter 2003
- Construction – Begin Fall 2003/Spring 2004

Design of Grade-Separated Bridge Crossing over Hiawatha Avenue

- Study alignment options, perform preliminary design and provide initial cost estimates – Summer 2001
- Submit TEA-21 Application – Summer 2001

Hopkins to Chaska Trail
Three Rivers Park District

HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY
417 North Fifth Street, Suite 320, Minneapolis, MN 55401-1362 (612) 348-9260
FAX: (612) 348-9710

PERMIT

File No. **73-33001B**

Permit No. **24-06**

Name of Applicant **Three Rivers Park District**, Permittee, (Address) **3000 Xenium Lane, Plymouth, Minnesota 55441**, for installation, use, relocation and maintenance of: **A regional trail signage program consisting of directional standards (direction signs), individual trail orientation kiosk, system-wide orientation kiosks, and related appurtenances, more or less as shown on Exhibit A** (Permitted Facility), at Permittee's sole cost, over, on or under Hennepin County Regional Railroad Authority (HCRRA) property (the "Permitted Property") described as:

That part of the below described property:

1) **Hennepin County Regional Railroad Authority's - Hopkins to Victoria right-of-way, said right-of-way being described on HCRRA Property Map No. 1 (C.R. Doc. No. 5404251), and HCRRA Property Map No. 12 (C.R. Doc. No. 5518920);**

2) **Hennepin County Regional Railroad Authority's - Hopkins to Chaska right-of-way, said right-of-way being described on HCRRA Property Maps No.'s 13 through 30 (C.R. Doc. No.'s 189393, 189394, 189395, 189396, 6525334, 6525335, 6525336, 6525337, 6525338, 6525339, 6540289, 6540290, 6540291, 6540292, 6540293, 6540294, 6540295, 6540296);**

3) **Hennepin County Regional Railroad Authority's - Hopkins to Minneapolis right-of-way, said right-of-way being described on HCRRA Property Maps No.'s 2 through 6 (C.R. Doc. No.'s 5496762, 5496763, 5503256, 5503257, 5504276), and HCRRA Property Map No. 40 (C.R. Doc. No. 8350163), and HCRRA Property Maps No. 31 (C.R. Doc. No. 6760097),**

which generally conforms to the center portion of the corridor and more or less as shown on Exhibit A.

Exhibit A is attached and incorporated by reference in this Permit.

GENERAL REQUIREMENTS

1. Permittee shall not make changes in the use of this Permit without the permission of HCRRA.

BOARD OF COMMISSIONERS

Peter McLaughlin, Chair | Linda Koblick, Vice Chair | Mark Stenglein, Secretary | Gail Dorfman, Treasurer | Mike Opat | Randy Johnson | Penny Steele

2. Permittee acknowledges and understands that HCRRA at its sole discretion may modify or remove any sign of Permitted Facility placed on the Permitted Property due to future implementation of Light Rail Transit or other transportation improvements, or for any other reason.
3. Permittee is responsible to abide by all local, state or federal ordinances or regulations in the exercise of the rights herein given.
4. Permittee must protect all existing utilities, including fiber optics, waterways and drainage lines.
5. Permittee is responsible for correcting any failures due to settlement, erosion, lack of vegetation growth, rutting, or other problems related to the use of this Permit, at the expense of the Permittee.
6. Permittee shall restore all disturbed areas to original or better condition.
7. Permittee shall not use, employ, store, dispose of, or otherwise release any hazardous substance or pollutants or contaminants on HCRRA property.
8. The cost of this Permit shall be **One and 00/100 Dollars ($1.00)**.

SPECIAL PROVISIONS

1. Permittee is aware that underground fiber optic communication cables, in addition to other underground utilities, may have been installed on the Permitted Property, it is the Permittee's sole responsibility, at the Permittee's sole expense, to properly locate and protect these and all utilities.
2. At all times during its occupancy of the Permitted Property, Permittee shall be responsible for 100 percent of the expense of maintaining the Permitted Property.
3. Permittee and HCRRA entered into a certain Permit Agreement bearing Agreement No. 73-32001 dated September 1, 1998, as amended with First Amendment to Permit Agreement 73-32001, dated October 3, 2000, on file in the office of HCRRA, for the right to construct and operate a temporary trail on property commonly described as the Hennepin County Regional Railroad Authority "Hopkins to Minneapolis Rail Corridor" located in Hennepin County, Minnesota; not withstanding the above and below, other than generally conforming to the center of said Hopkins to Minneapolis Rail Corridor, but not necessarily conforming to the center 16 feet of said Rail Corridor as stated in said Permit Agreement No. 73-32001, Permitted Facility, located more or less as shown on Exhibit A, will conform to and be subject to all other terms, all conditions, rights, and obligations of said Permit Agreement No. 73-32001, especially those pertaining to *Term, Termination, Temporary Nature of Use, Rights Upon Termination, Indemnification, Insurance, Quiet Enjoyment, Environmental Concerns, and Relocation.*

4. Permittee and HCRRA entered into a certain Permit Agreement bearing Agreement No. 73-33001, dated July 14, 1992, on file in the office of HCRRA, for the right to construct and operate a temporary trail on property commonly described as the Hennepin County Regional Railroad Authority "Hopkins to Chaska Rail Corridor", located in Hennepin and Carver Counties, Minnesota; not withstanding the above and below, other than generally conforming to the center of said Hopkins to Chaska Rail Corridor, but not necessarily conforming to the center 16 feet of said Rail Corridor as stated in said Permit Agreement No. 73-33001, Permitted Facility, located more or less as shown on Exhibit A, will conform to and be subject to all other terms, all conditions, rights, and obligations of said Permit Agreement No. 73-33001, especially those pertaining to *Term, Termination, Temporary Nature of Use, Rights Upon Termination, Indemnification, Insurance, Quiet Enjoyment, Environmental Concerns, and Relocation.*
5. Permittee and HCRRA entered into a certain Permit Agreement bearing Agreement No. 73-34001, dated July 14, 1992, on file in the office of HCRRA, for the right to construct and operate a temporary trail on property commonly described as the Hennepin County Regional Railroad Authority "Hopkins to Victoria Rail Corridor", located in Hennepin and Carver Counties, Minnesota; not withstanding the above and below, other than generally conforming to the center of said Hopkins to Victoria Rail Corridor, but not necessarily conforming to the center 16 feet of said Rail Corridor as stated in said Permit Agreement No. 73-34001, Permitted Facility, located more or less as shown on Exhibit A, will conform to and be subject to all other terms, all conditions, rights, and obligations of said Permit Agreement No. 73-34001, especially those pertaining to *Term, Termination, Temporary Nature of Use, Rights Upon Termination, Indemnification, Insurance, Quiet Enjoyment, Environmental Concerns, and Relocation.*
6. Permittee agrees to include the Hennepin County logo on the *Trail Kiosks* with the following accompanying language:

> *This trail corridor was acquired by the Hennepin County Regional Railroad Authority for future light rail transit use. A cooperative agreement with Three Rivers Park District allows the corridor to be used for interim recreational purposes.*

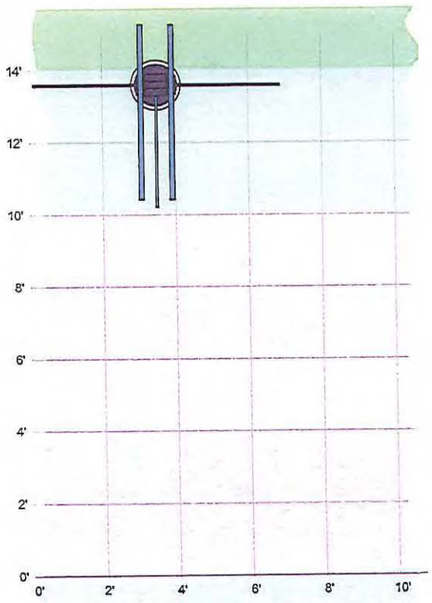
(I, We), the undersigned, herewith accept the terms and conditions of the regulations as laid down by HCRRA and agree to fully comply therewith to the satisfaction of the HCRRA.

Permittee _____ Date 8-30-06
Three Rivers Park District

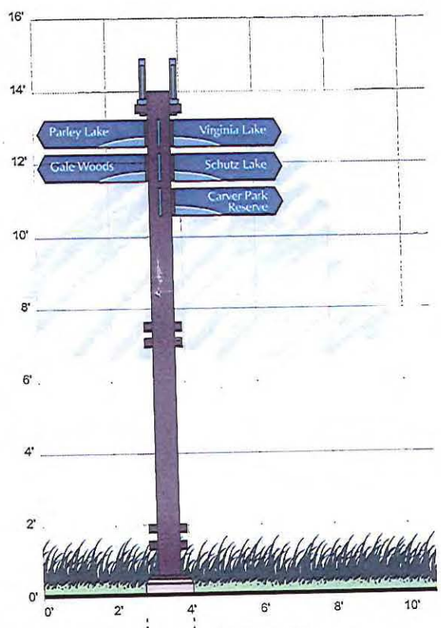
HCRRA _____ Date 6/15/06
Director, Housing, Transit and Community Works

ILLUSTRATIONS

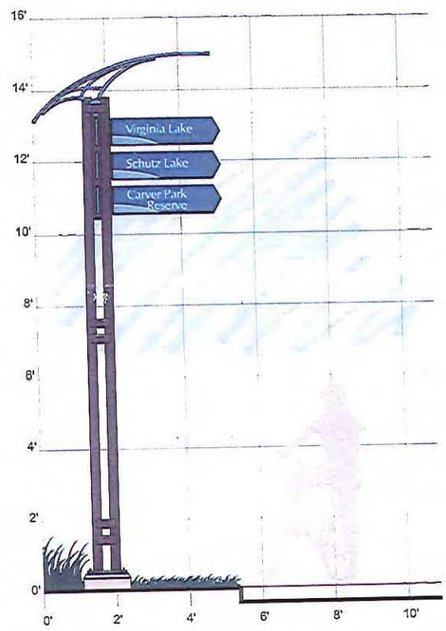
DIRECTIONAL STANDARD (DS)



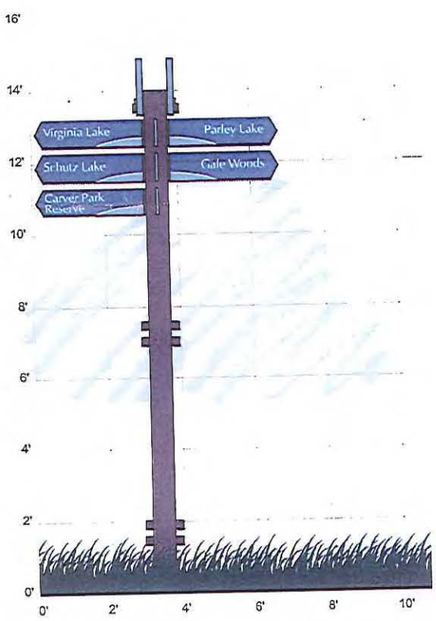
DIRECTIONAL STANDARD / PLAN



DIRECTIONAL STANDARD / FRONT



DIRECTIONAL STANDARD / PROFILE



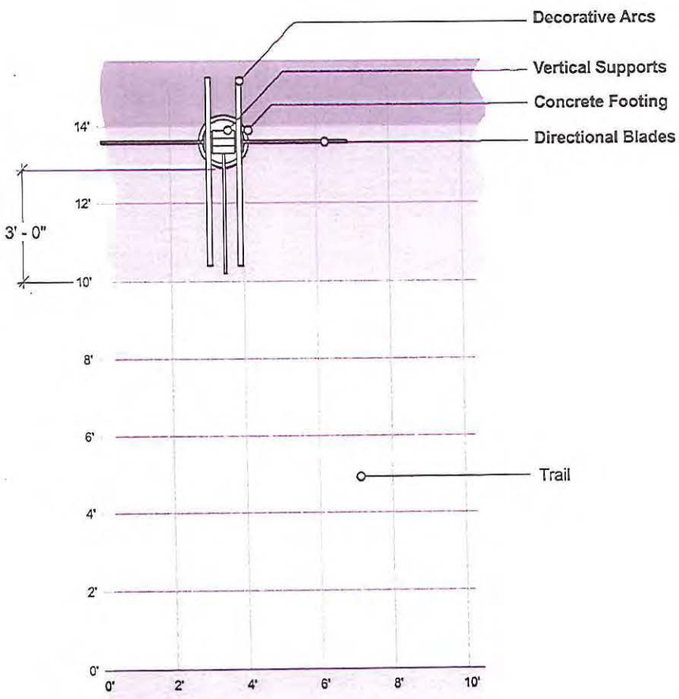
DIRECTIONAL STANDARD / BACK

DIRECTIONAL STANDARD / BLADES

EXHIBIT A
SHEET 1 OF 10

DESIGN DEVELOPMENT

DIRECTIONAL STANDARD (DS)



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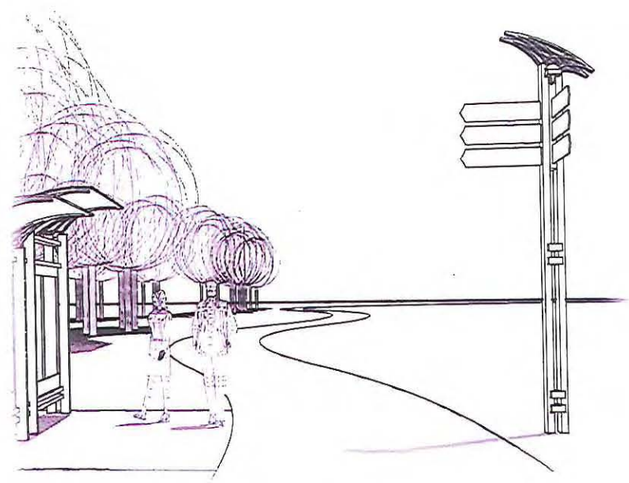
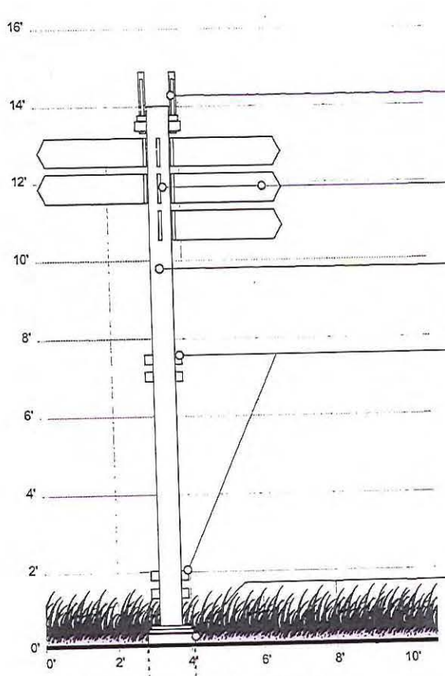
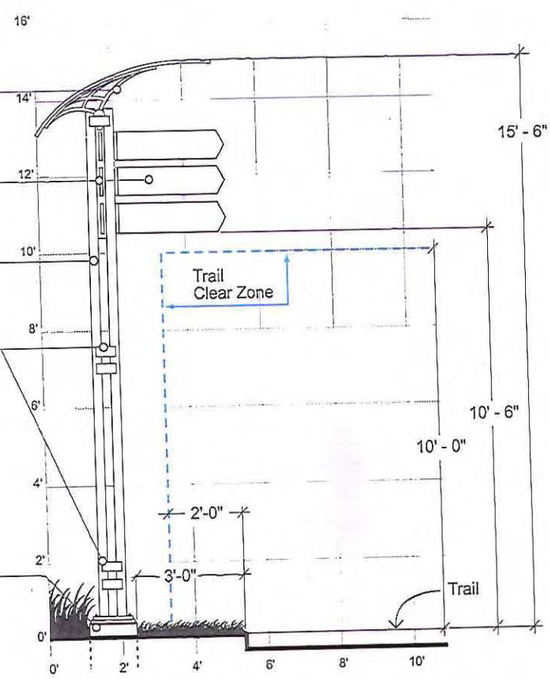


DIRECTIONAL STANDARD / PERSPECTIVE



DIRECTIONAL STANDARD / FRONT



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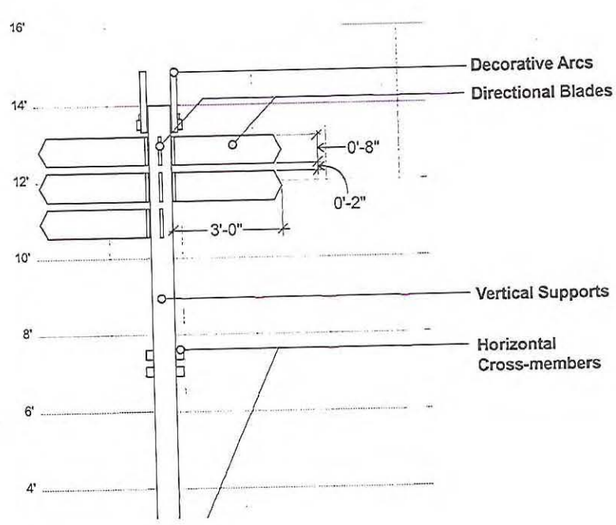
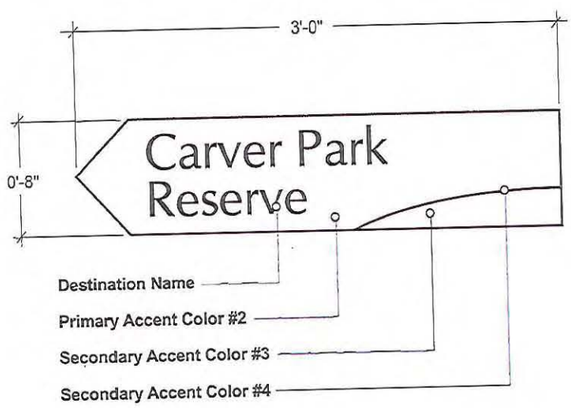


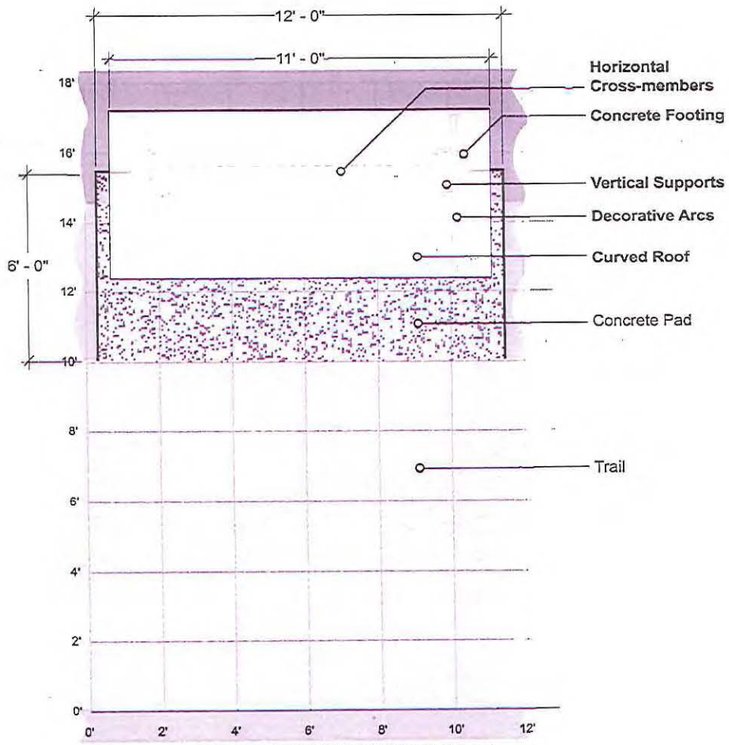


DIRECTIONAL STANDARD / BLADES

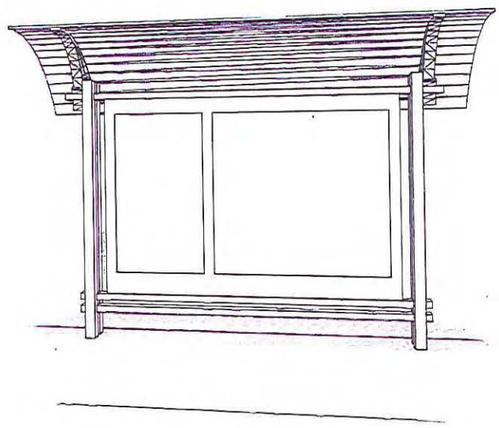
EXHIBIT A
SHEET 2 OF 10

DESIGN DEVELOPMENT

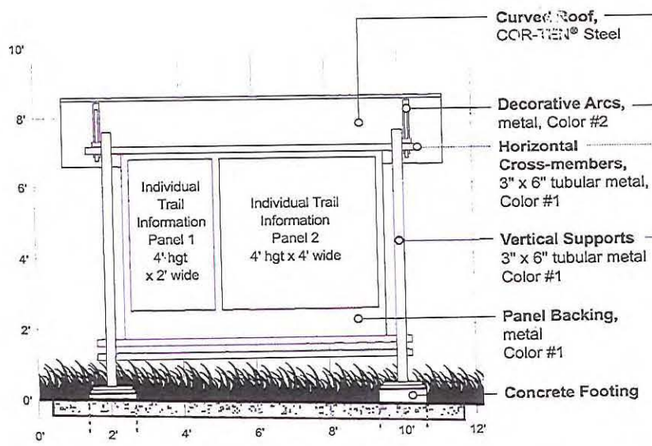
INDIVIDUAL TRAIL ORIENTATION KIOSK (IT)



INDIVIDUAL TRAIL ORIENTATION KIOSK / PLAN



INDIVIDUAL TRAIL ORIENTATION KIOSK / PERSPECTIVE



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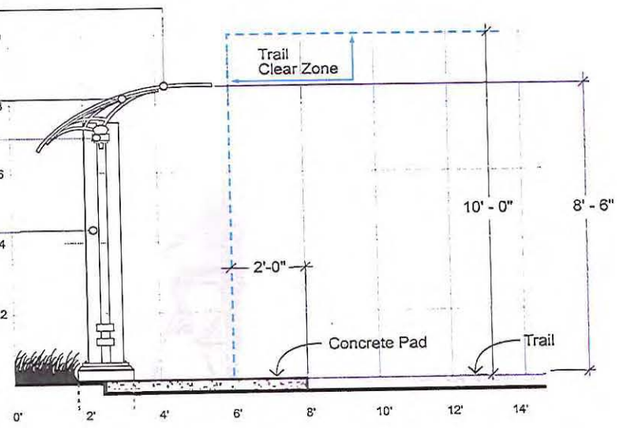
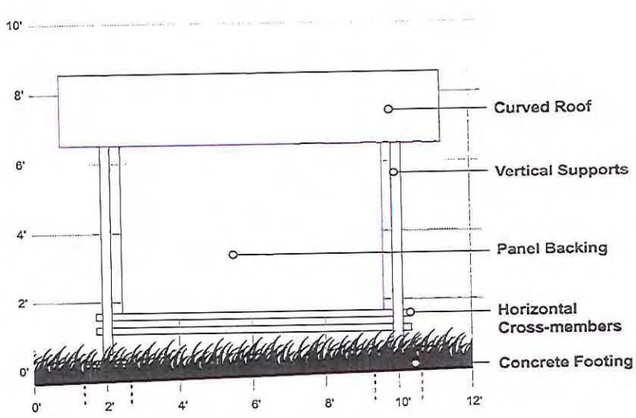


INDIVIDUAL TRAIL ORIENTATION KIOSK / PROFILE

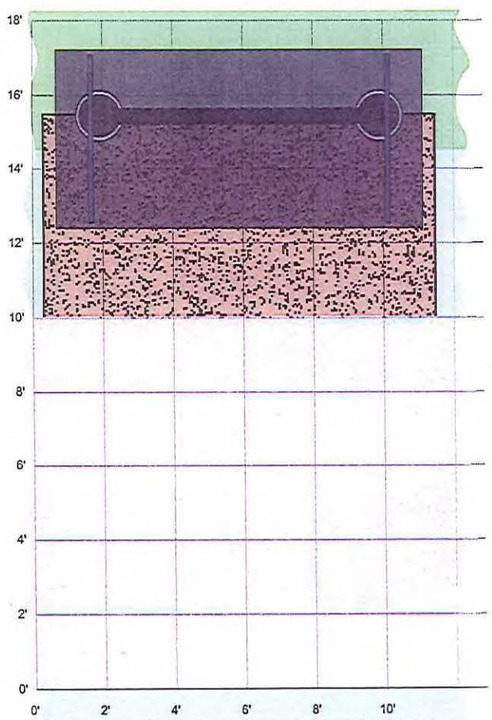


INDIVIDUAL TRAIL ORIENTATION KIOSK / BACK

EXHIBIT A
SHEET 3 OF 10

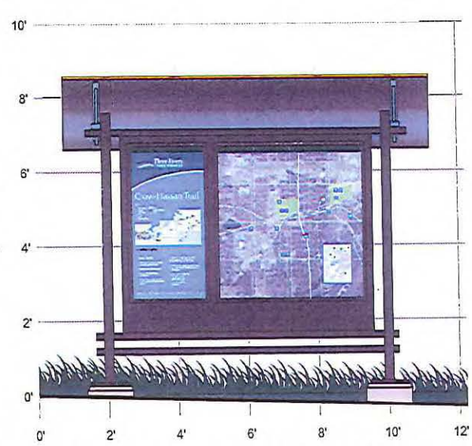
DESIGN DEVELOPMENT

INDIVIDUAL TRAIL ORIENTATION KIOSK (IT)



INDIVIDUAL TRAIL ORIENTATION KIOSK / PLAN

INDIVIDUAL TRAIL ORIENTATION KIOSK / ROOF SUPPORT DETAIL



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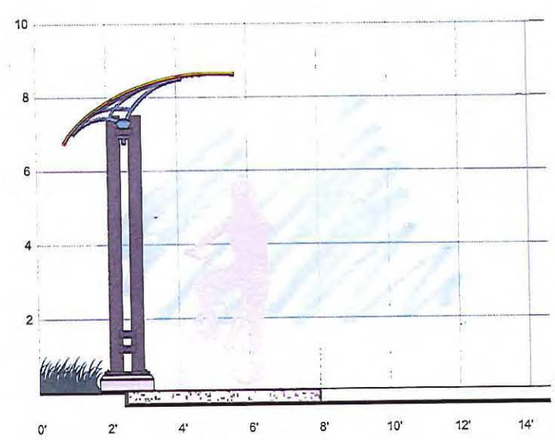
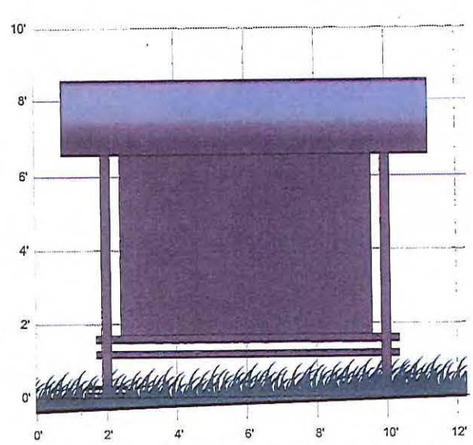


INDIVIDUAL TRAIL ORIENTATION KIOSK / PROFILE

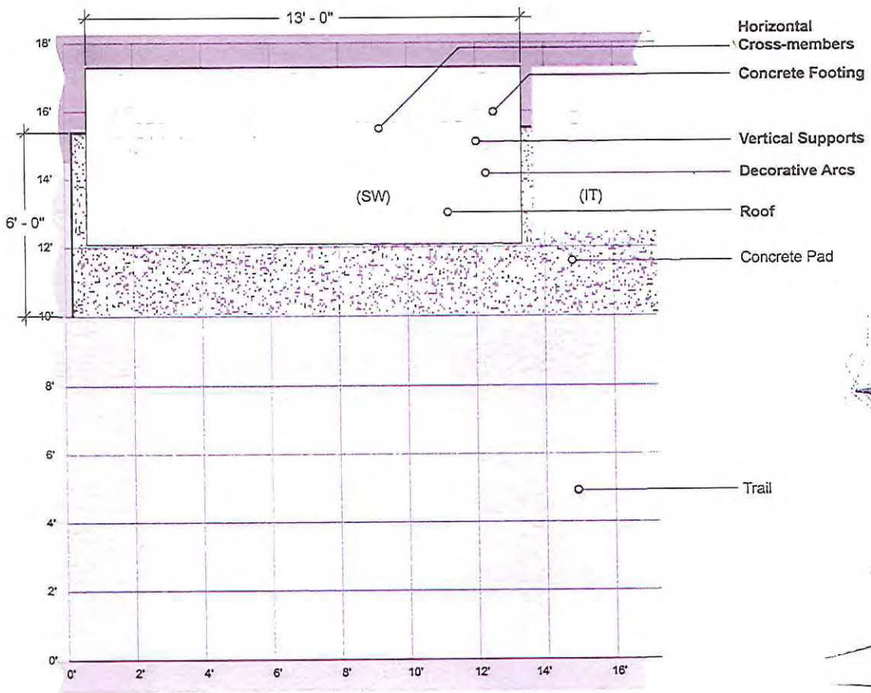


INDIVIDUAL TRAIL ORIENTATION KIOSK / BACK

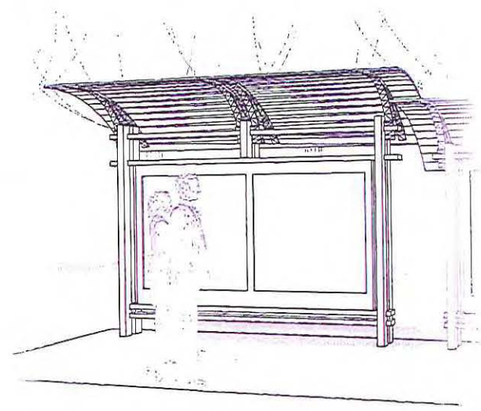
EXHIBIT A
SHEET 4 OF 10

DESIGN DEVELOPMENT

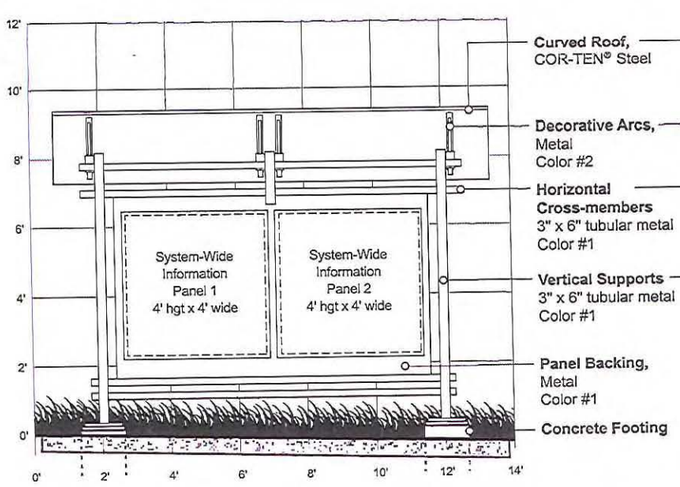
SYSTEM-WIDE ORIENTATION KIOSK (SW)



SYSTEM-WIDE ORIENTATION KIOSK / PLAN



SYSTEM-WIDE ORIENTATION KIOSK / PERSPECTIVE



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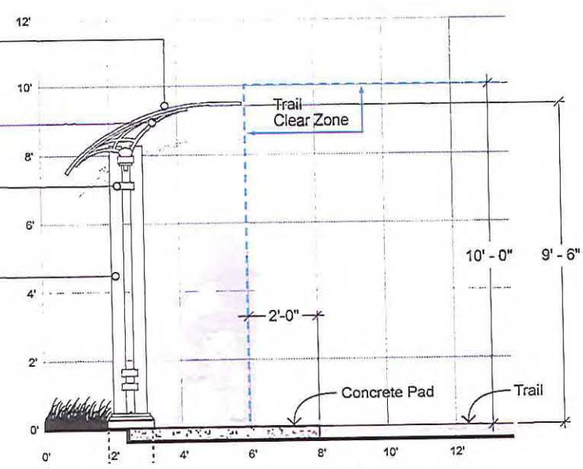

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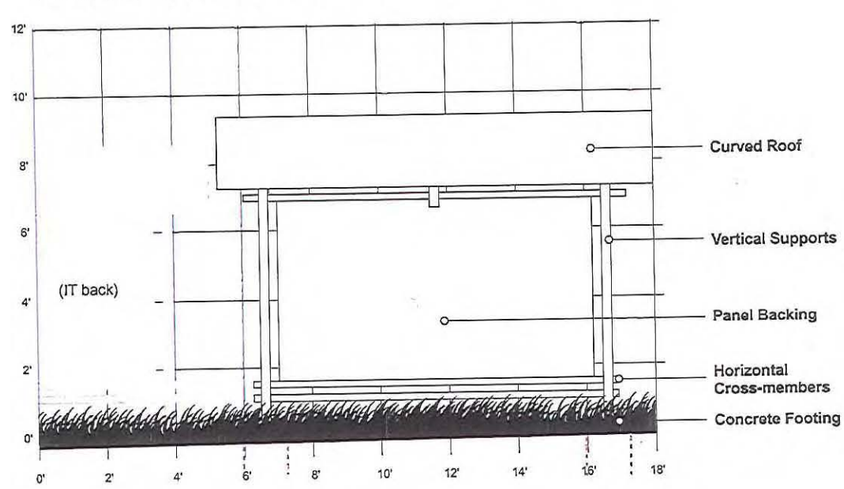
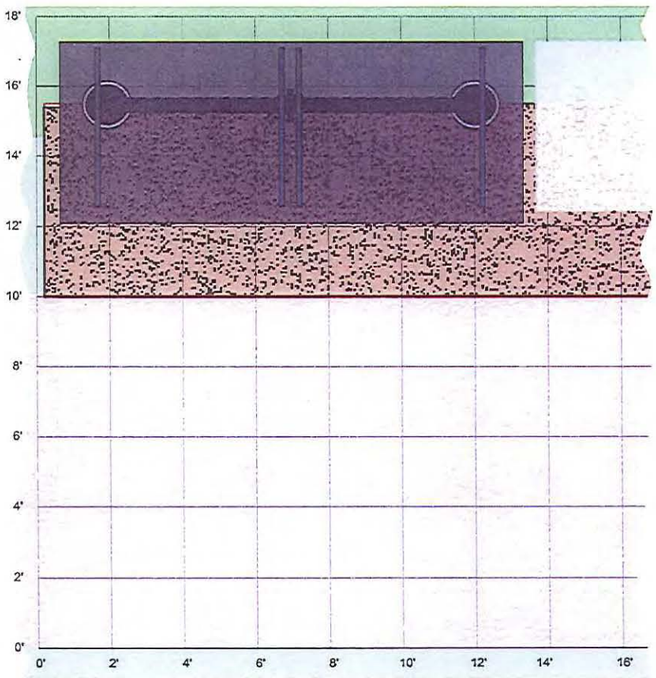


SYSTEM-WIDE ORIENTATION KIOSK / BACK

EXHIBIT A
SHEET 5 OF 10

ILLUSTRATION

SYSTEM-WIDE ORIENTATION KIOSK (SW)



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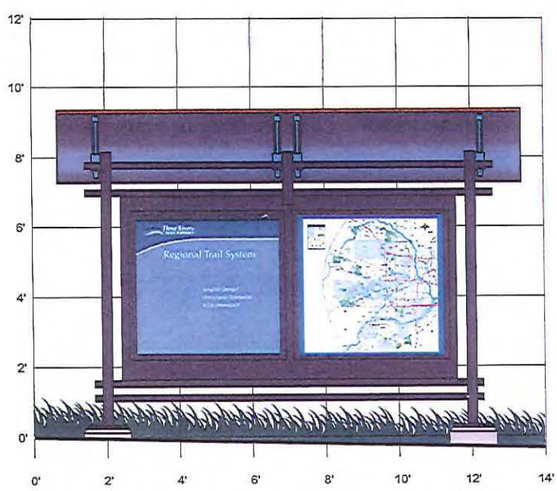
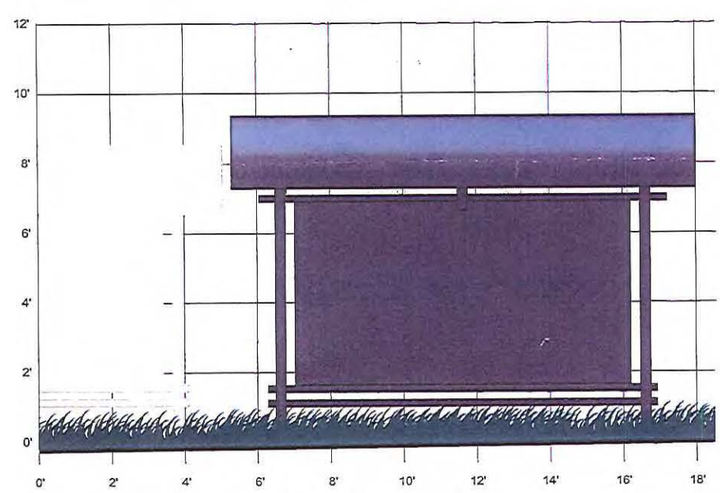


SYSTEM-WIDE ORIENTATION KIOSK / FRONT

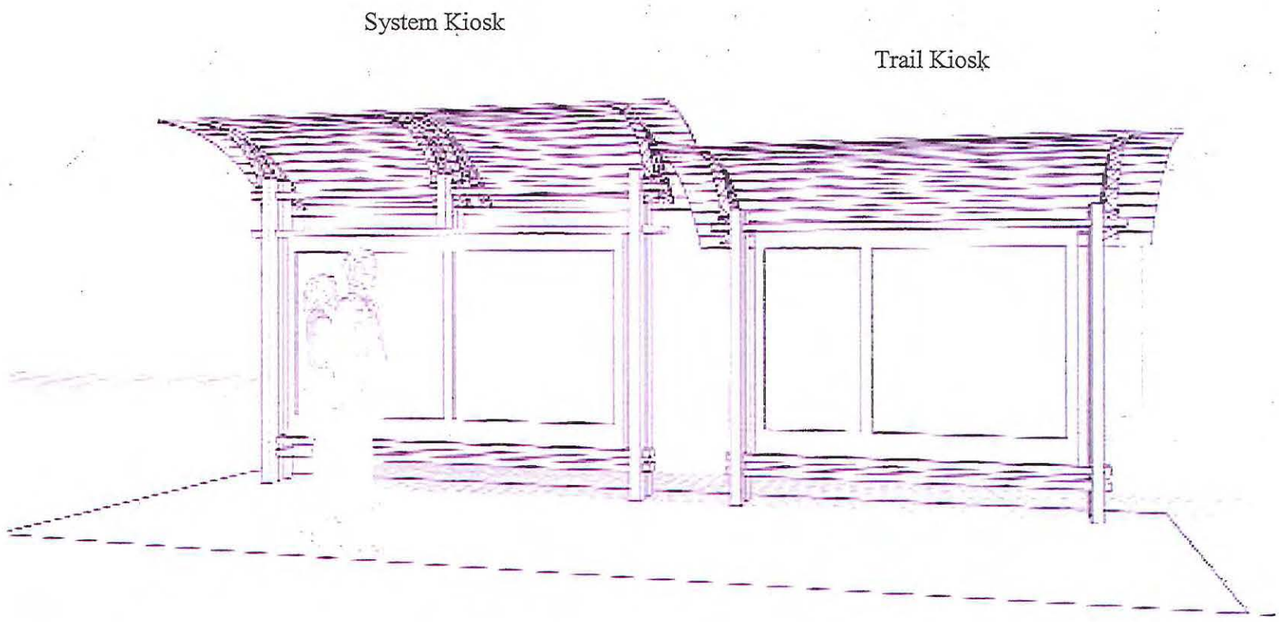
SYSTEM-WIDE ORIENTATION KIOSK / PROFILE



SYSTEM-WIDE ORIENTATION KIOSK / BACK

EXHIBIT A
SHEET 6 OF 10

ILLUSTRATIONS

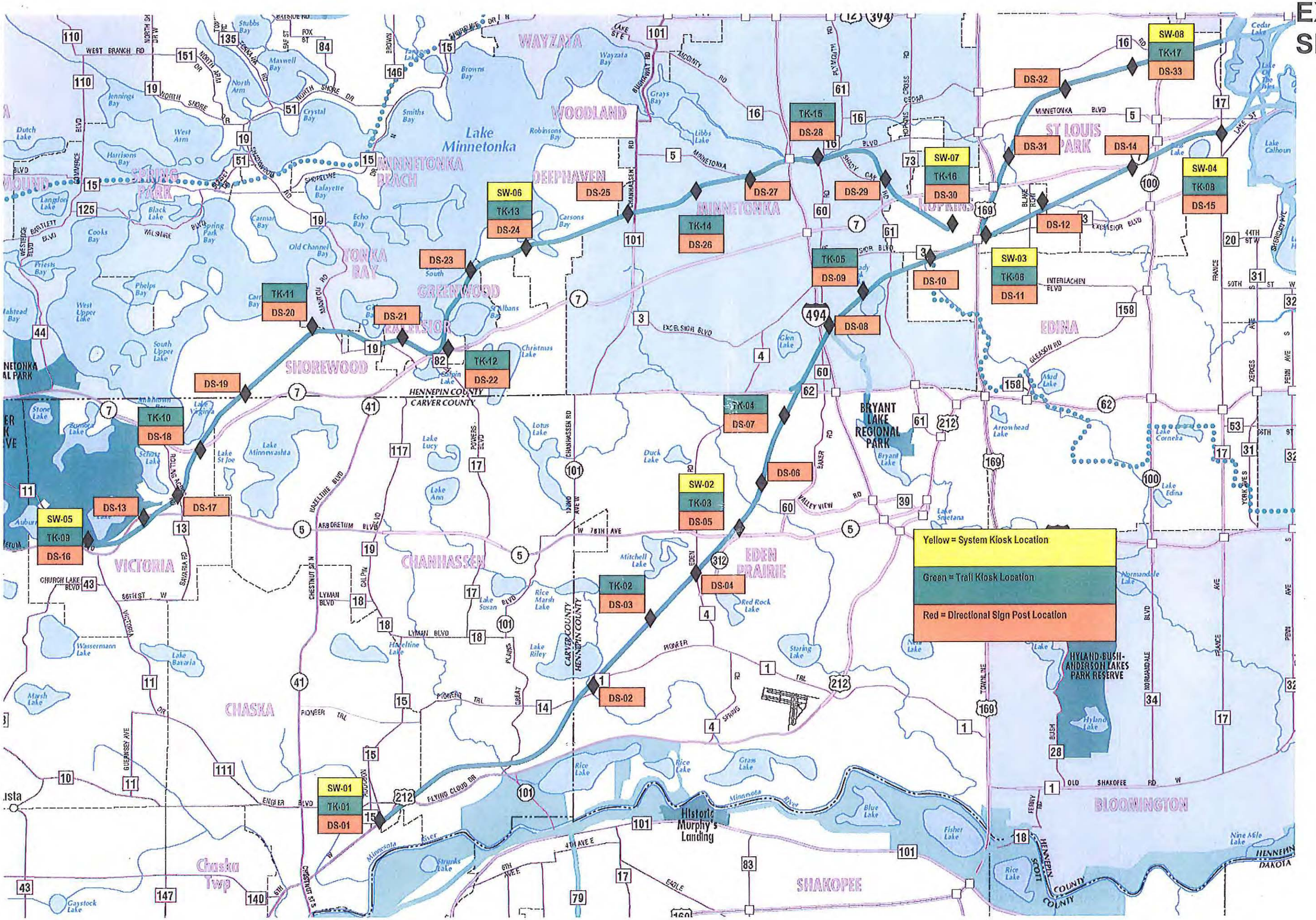


APPROACH 4

IMAGE EDIT

EXHIBIT A
SHEET 7 OF 10

EXHIBIT A
SHEET 8 OF 1



Site	System K#	Trail K#	Direction S#	GPS	UTM	Location	Description	Site Category	Special Notes
1	1	1	1	15T0456391	4962406	Bluff Creek Drive trailhead parking lot	At end of parking lot where old kiosk is located.	1.5 feet of fill needed to level with trail	Staff to rip out old kiosk and move benches.
2	-	-	2	15T0459500	4964597	Riley Lk Rd	20 feet west of road on south side of trail.	Flat	
3	-	2	3	15T0460431	4965579	Dell Rd	12 feet east of road. Kiosk on south side of trail (Center on "no motor" sign). Directional across from kiosk.	Flat	Will need to move No motor V sign. Directional post needs careful placement due to buried cable in area.
4	-	-	4	15T0461682	4966898	Eden Prairie Rd	East side of road. 25 feet east of sidewalk. South side of trail.	Flat	Detour blade needed. No blades pointing SW until Hwy 212 construction is completed.
5	2	3	5	15T0462587	4967769	Venture Lane	Place kiosks on south side of trail. System Kiosk starts 65 feet south of Venture Ln (aligned with third small tree behind). Directional on north side of trail 75 feet from edge of road.	Flat	
6	-	-	6	15T0463139	4968604	Valleyview Rd bridge	Place in Y between local trail connection east of Valleyview. 15 feet from end of Y and centered in Y.	Flat	
7	-	4	7	15T0463724	4970356	Edenvale Blvd	East of Edenvale. Kiosk on north side of trail 35 feet in from road edge. 1 foot fill needed for kiosk. Directional sign across from kiosk - also 35 feet from road. Flat for that.	1 foot fill needed	
8	-	-	8	15T0464852	4972472	Roland Road	East side of road. 20 feet east of curb on north side of trail	Flat	Need directional blade pointing south saying "Bryant Lake Park" Also need small directional signs along Roland, at turn into small parking lot @ Clearwater, and at Y in trail 200 yards past turn (replace Hennepin Parks sign at that location)
9	-	5	9	15T0465595	4973217	Dominick Rd	East of Dominick Rd. North side of trail 85 ' east from road. Directional and kiosk on same side with DS closest to road.	2 to 3 foot fill needed	
10	-	-	10	15T0467275	4974086	11th Ave crossing in Hopkins	South side of trail. 15' east of sidewalk.	Flat	verify ROW
11	3	6	11	na	na	Hopkins Depot	Nate has exact location.	Flat	Part of Depot remodel
12	-	-	12	15T0469932	4975229	Blake Road	East of Blake Road but west of Minnehaha Creek by existing park benches. 10 feet west of existing park benches on south side.	Flat	
14	-	-	14	15T0471947	4976183	Wooddale	East of Wooddale. South side of trail. 15 feet east start of trail edge.	Flat	
15	4	8	15	15T0474027	4976957	France Ave spur trail/Mpls border	South side of trail. Start where trail pavement changes. System K, then Trail K, the Directional sign in a row moving west.	Flat	Mpls border
16	5	9	16	15T0447768	4967679	DT Vicoria by THRP Amphitheater	25 feet west of sidewalk/path coming down from main street. Locate kiosks on north side, with System K farthest east. Directional sign on south side across from trail kiosk.	Flat, with slight rise at back of about 1 foot.	Check status of new local trail behind Kiosk location.
13	-	-	13	15T0448808	4968500	Old kiosk site west of Park Rd	10 feet west of park trail access on north side of trail.	Flat	Leave old kiosk for time being, may eventually replace with Park trail kiosk. Staff to remove Buckthorn bush next to Directional sign location. Original Site 13 was wrongly placed on map, that is why this is out of geographic order along the trail.
17	-	-	17	15T0449513	4968975	Rolling Acres Rd	East of road, 10 feet east of spur trail. South side of trail	1' drop	
18	-	10	18	15T0450207	4970051	East side of Hwy 7	Start trail kiosk even with blacktop. Locate kiosk posts on south edge of spur trail that runs to Hwy 7, with concrete pad going 8 feet into spur trail. Directional on north side of regular trail, which has a 1 foot drop.	1' drop for DS	Staff will need to stake this one carefully and will need to do make sure spur trail works with concrete pad of sign. Want to direct people to use tunnel, not Hwy crossing.
19	-	-	19	15T0451037	4971076	West 62nd St	20 feet west of road on north side of trail	Flat	
20	-	11	20	15T0452215	4972102	Eureka Rd/Smithtown	90 feet west of intersection on north side of trail (kiosk), Direction on south side.	3 feet fill needed for Kiosk; 1 foot drop for DS.	
21	-	-	21	15T0455040	4972294	Water Street in DT Excelsior	West of Water St at end of paved portion of trail. Start at pavement end on south side.	Flat	Have a blade point to DT Excelsior.
22	-	12	22	15T0455807	4972294	Excelsior Blvd	50 feet west of Excelsior on north side of trail (kiosk). Directional should be on same side but 5 feet closer to road.	1 foot fill for kiosk, flat for DS.	
23	-	-	23	15T0456541	4973962	Linwood Circle in Greenwood	West of Linwood there is a lake overlook. Directional sign should be centered across from overlook on south side of trail.	4 foot drop - need sign extension.	
24	6	13	24	15T0457711	4974478	Minnetonka Blvd	Locate at old kiosk site on north side of trail. System kiosk should be furthest east. Directional sign should be across from trail kiosk.	Flat	Staff needs to rip out old kiosk - move benches across trail on each side of new directional sign.
25	-	-	25	15T0460280	4975266	Hwy 101	West side of 1010, center in V created by 101 spur trail and LRT trail - 5 feet in from V point.	Flat	
26	-	14	26	15T0461892	4975892	Tonkawood Rd	140 feet west of Tonkawood Rd, kiosk on north side, directional on south side.	1.5 feet fill needed for Kiosk.	
27	-	-	27	15T0463131	4976122	Williston Rd	40 feet west of Williston Road edge on south side of trail	Flat	Blade pointing north to Mtka City Hall and services.
28	-	15	28	NA	NA	Shady Oak Rd/ Plymouth Rd	Place kiosk next to bench on trail up on hill east of Shady Oak. Place kiosk on south side of trail in line with local spur that crosses Mtka Blvd at Plymouth Road.	Flat	Blade pointing north to Burwell house site.

EXHIBIT A SHEET 9 OF 10

Site	System K#	Trail K#	Direction S#	GPS	UTM	Location	Description	Site Category	Special Notes
29	-	-	29	15T0466197	4975922	Minnetonka Mills Rd	South side of road, Directional on south side of trail 20 feet before existing rules and regulations sign.	Flat	
30	7	16	30	15T0467596	4974790	DT Hopkins old kiosk site	North side of trail at old kiosk location. All in a row with system kiosk furthest east, then trail kiosk, then directional sign.	Flat	Staff to demolish old kiosk, move rules and stop ahead signs, clean up trail in this area to make worthy of a trailhead status.
31	-	-	31	15T0469020	4976301	36th St	15 feet east of sidewalk; south side of trail	Flat	verify ROW
32	-	-	32	15T0469789	4977808	Virginia Ave	Just west of Virginia Ave. Trail splits north to parking lot. Put post 20 feet east of V split on north side of trail.	Flat	Need SLP permission
33	8	17	33	15T0471201	4978334	Dakota Park by new Rec Center	75 feet west of telephone pole that is directly north of new rec center. System kiosk, then trail kiosk, then directional sign in a row moving west.	Flat	Site requested by SLP Parks

Note. There is no Trail Kiosk # 7

Minneapolis to Hopkins Trail
Three Rivers Park District

MPLS. TO HOPKINS
PERMIT FOR KIOSKS

HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY

417 North Fifth Street, Suite 320, Minneapolis, MN 55401-1362 (612) 348-9260
FAX: (612) 348-9710

PERMIT

File No. **73-33001B**

Permit No. **24-06**

Name of Applicant **Three Rivers Park District**, Permittee, (Address) **3000 Xenium Lane, Plymouth, Minnesota 55441**, for installation, use, relocation and maintenance of: **A regional trail signage program consisting of directional standards (direction signs), individual trail orientation kiosk, system-wide orientation kiosks, and related appurtenances, more or less as shown on Exhibit A** (Permitted Facility), at Permittee's sole cost, over, on or under Hennepin County Regional Railroad Authority (HCRRA) property (the "Permitted Property") described as:

That part of the below described property:

1) **Hennepin County Regional Railroad Authority's - Hopkins to Victoria right-of-way, said right-of-way being described on HCRRA Property Map No. 1 (C.R. Doc. No. 5404251), and HCRRA Property Map No. 12 (C.R. Doc. No. 5518920);**

2) **Hennepin County Regional Railroad Authority's - Hopkins to Chaska right-of-way, said right-of-way being described on HCRRA Property Maps No.'s 13 through 30 (C.R. Doc. No.'s 189393, 189394, 189395, 189396, 6525334, 6525335, 6525336, 6525337, 6525338, 6525339, 6540289, 6540290, 6540291, 6540292, 6540293, 6540294, 6540295, 6540296);**

3) **Hennepin County Regional Railroad Authority's - Hopkins to Minneapolis right-of-way, said right-of-way being described on HCRRA Property Maps No.'s 2 through 6 (C.R. Doc. No.'s 5496762, 5496763, 5503256, 5503257, 5504276), and HCRRA Property Map No. 40 (C.R. Doc. No. 8350163), and HCRRA Property Maps No. 31 (C.R. Doc. No. 6760097),**

which generally conforms to the center portion of the corridor and more or less as shown on Exhibit A.

Exhibit A is attached and incorporated by reference in this Permit.

GENERAL REQUIREMENTS

1. Permittee shall not make changes in the use of this Permit without the permission of HCRRA.

BOARD OF COMMISSIONERS

Peter McLaughlin, Chair | Linda Koblick, Vice Chair | Mark Stenglein, Secretary | Gail Dorfman, Treasurer | Mike Opat | Randy Johnson | Penny Steele

2. Permittee acknowledges and understands that HCRRA at its sole discretion may modify or remove any sign of Permitted Facility placed on the Permitted Property due to future implementation of Light Rail Transit or other transportation improvements, or for any other reason.
3. Permittee is responsible to abide by all local, state or federal ordinances or regulations in the exercise of the rights herein given.
4. Permittee must protect all existing utilities, including fiber optics, waterways and drainage lines.
5. Permittee is responsible for correcting any failures due to settlement, erosion, lack of vegetation growth, rutting, or other problems related to the use of this Permit, at the expense of the Permittee.
6. Permittee shall restore all disturbed areas to original or better condition.
7. Permittee shall not use, employ, store, dispose of, or otherwise release any hazardous substance or pollutants or contaminants on HCRRA property.
8. The cost of this Permit shall be **One and 00/100 Dollars ($1.00)**.

SPECIAL PROVISIONS

1. Permittee is aware that underground fiber optic communication cables, in addition to other underground utilities, may have been installed on the Permitted Property, it is the Permittee's sole responsibility, at the Permittee's sole expense, to properly locate and protect these and all utilities.
2. At all times during its occupancy of the Permitted Property, Permittee shall be responsible for 100 percent of the expense of maintaining the Permitted Property.
3. Permittee and HCRRA entered into a certain Permit Agreement bearing Agreement No. 73-32001 dated September 1, 1998, as amended with First Amendment to Permit Agreement 73-32001, dated October 3, 2000, on file in the office of HCRRA, for the right to construct and operate a temporary trail on property commonly described as the Hennepin County Regional Railroad Authority "Hopkins to Minneapolis Rail Corridor" located in Hennepin County, Minnesota; not withstanding the above and below, other than generally conforming to the center of said Hopkins to Minneapolis Rail Corridor, but not necessarily conforming to the center 16 feet of said Rail Corridor as stated in said Permit Agreement No. 73-32001, Permitted Facility, located more or less as shown on Exhibit A, will conform to and be subject to all other terms, all conditions, rights, and obligations of said Permit Agreement No. 73-32001, especially those pertaining to *Term, Termination, Temporary Nature of Use, Rights Upon Termination, Indemnification, Insurance, Quiet Enjoyment, Environmental Concerns, and Relocation.*

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6. Permittee agrees to include the Hennepin County logo on the *Trail Kiosks* with the following accompanying language:

> *This trail corridor was acquired by the Hennepin County Regional Railroad Authority for future light rail transit use. A cooperative agreement with Three Rivers Park District allows the corridor to be used for interim recreational purposes.*

(I, We), the undersigned, herewith accept the terms and conditions of the regulations as laid down by HCRRA and agree to fully comply therewith to the satisfaction of the HCRRA.

Permittee _____ Date 8-30-06
Three Rivers Park District

HCRRA _____ Date 6/15/06
Director, Housing, Transit and Community Works

HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY
417 North Fifth Street, Suite 320, Minneapolis, MN 55401-1362 (612) 348-9260
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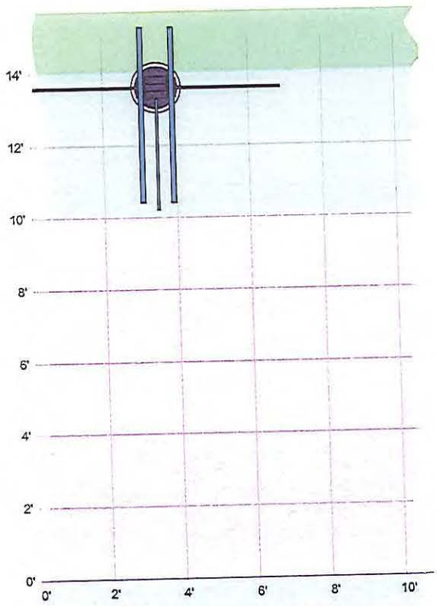
Three Rivers Park District

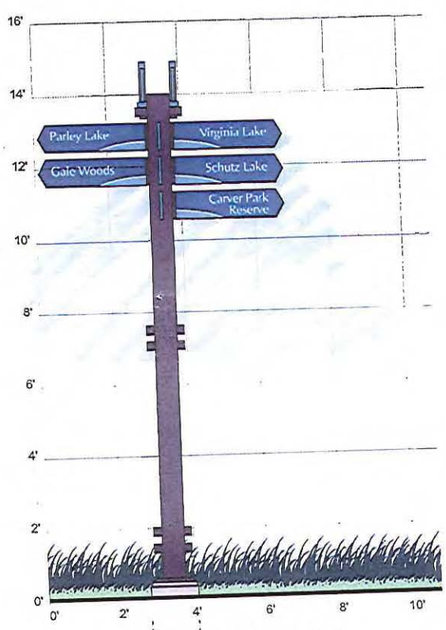
HCRRA _____ Date 6/15/06
Director, Housing, Transit and Community Works

ILLUSTRATIONS

DIRECTIONAL STANDARD (DS)



DIRECTIONAL STANDARD / PLAN



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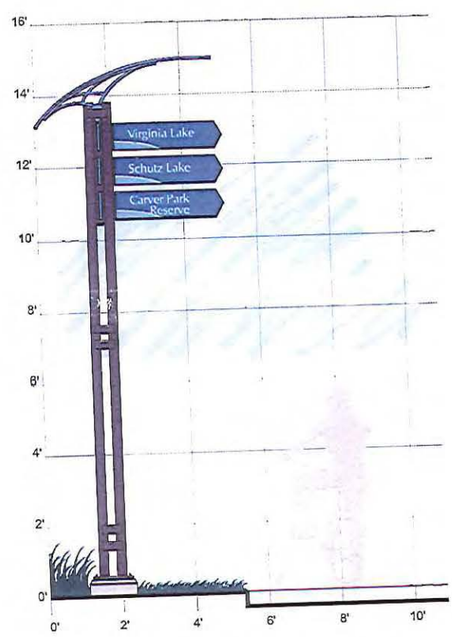
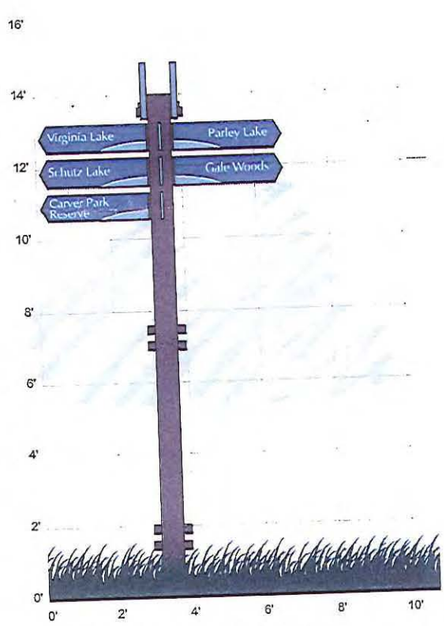


DIRECTIONAL STANDARD / PROFILE



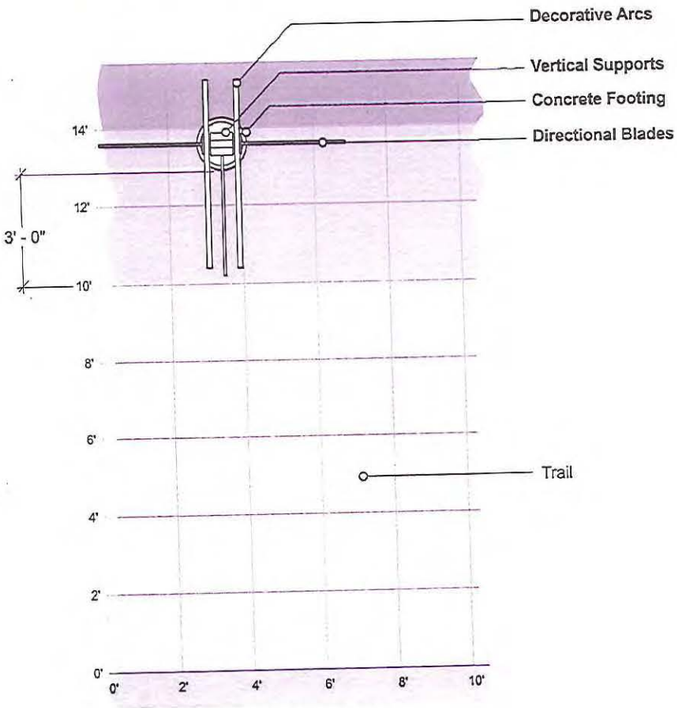
DIRECTIONAL STANDARD / BACK

DIRECTIONAL STANDARD / BLADES

EXHIBIT A
SHEET 1 OF 10

DESIGN DEVELOPMENT

DIRECTIONAL STANDARD (DS)



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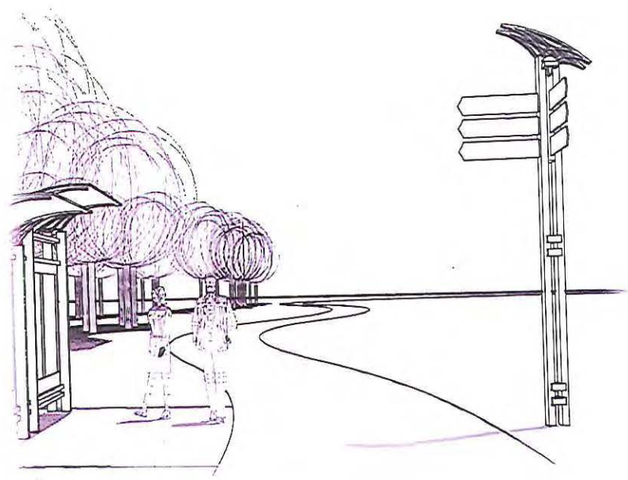

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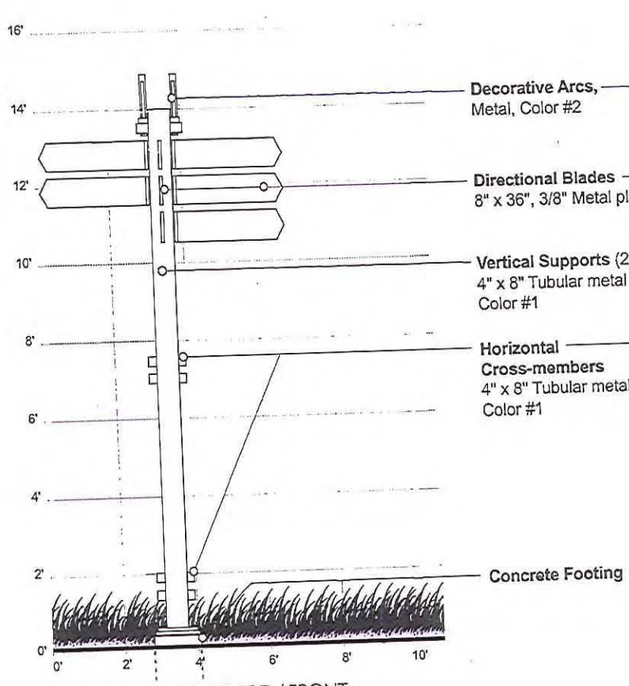

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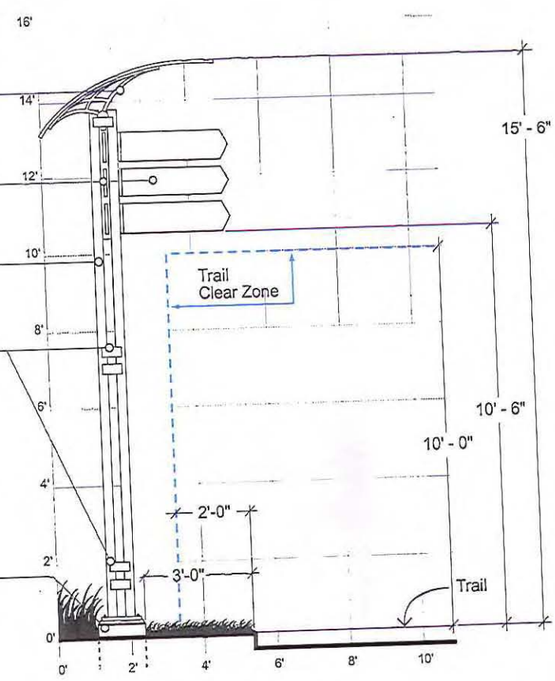

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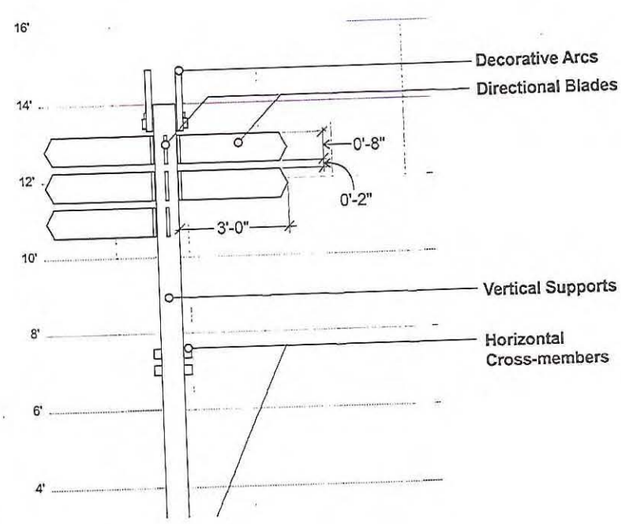
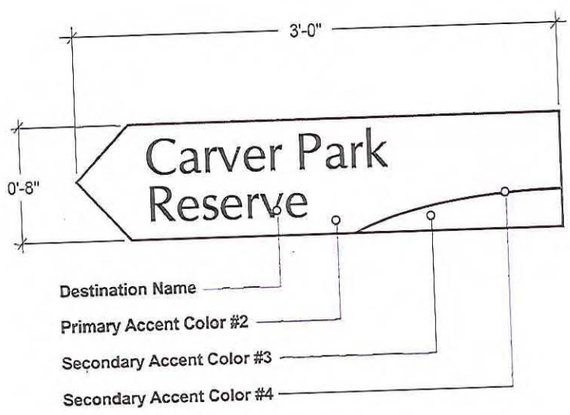


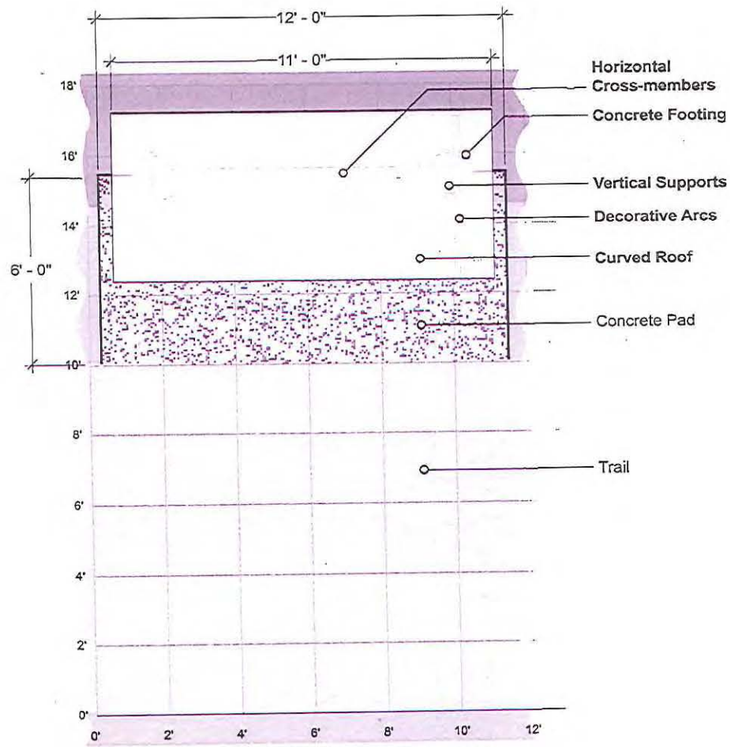


DIRECTIONAL STANDARD / BLADES

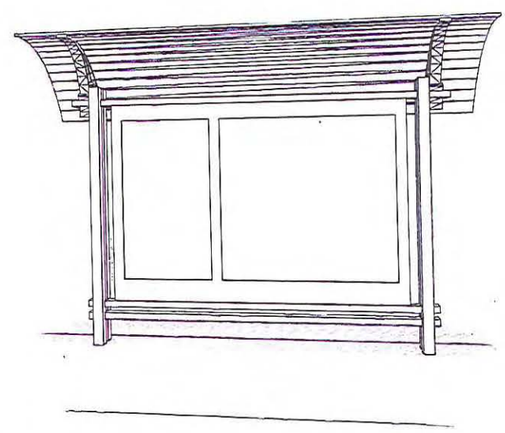
EXHIBIT A
SHEET 2 OF 10

DESIGN DEVELOPMENT

INDIVIDUAL TRAIL ORIENTATION KIOSK (IT)



INDIVIDUAL TRAIL ORIENTATION KIOSK / PLAN



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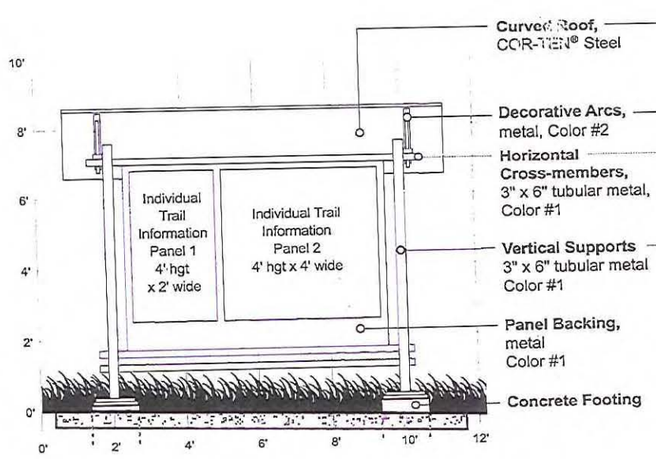

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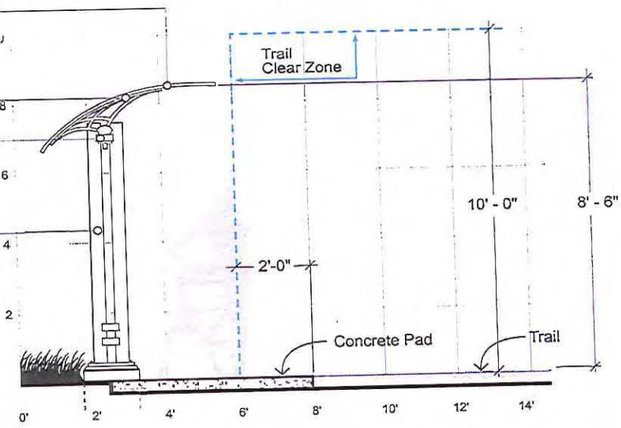
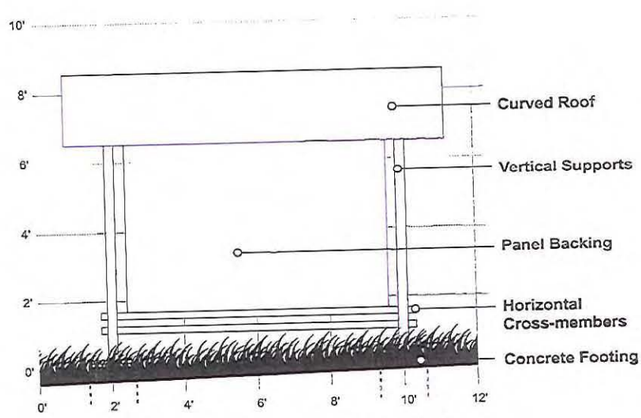


INDIVIDUAL TRAIL ORIENTATION KIOSK / PROFILE

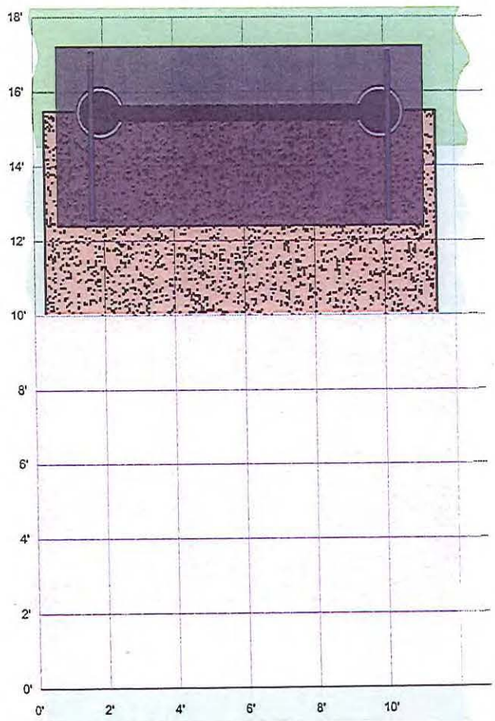


INDIVIDUAL TRAIL ORIENTATION KIOSK / BACK

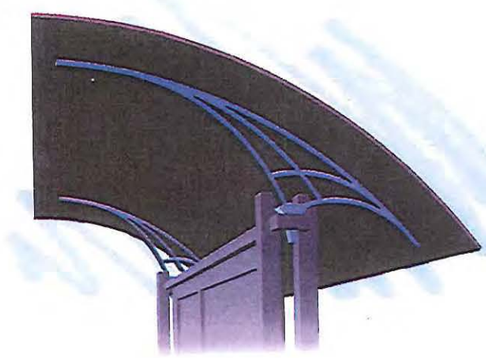
EXHIBIT A
SHEET 3 OF 10

DESIGN DEVELOPMENT

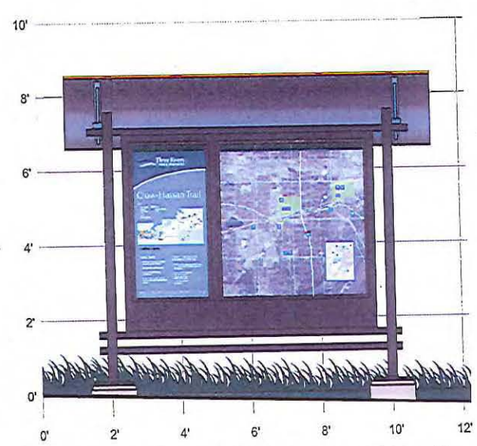
INDIVIDUAL TRAIL ORIENTATION KIOSK (IT)



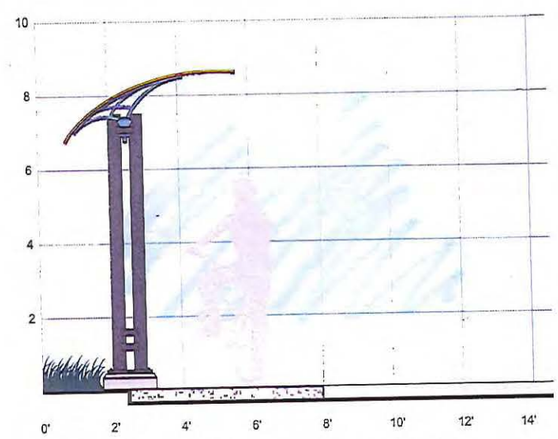
INDIVIDUAL TRAIL ORIENTATION KIOSK / PLAN



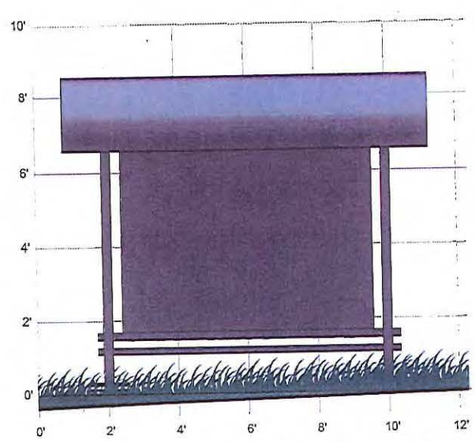
INDIVIDUAL TRAIL ORIENTATION KIOSK / ROOF SUPPORT DETAIL



INDIVIDUAL TRAIL ORIENTATION KIOSK / FRONT



INDIVIDUAL TRAIL ORIENTATION KIOSK / PROFILE

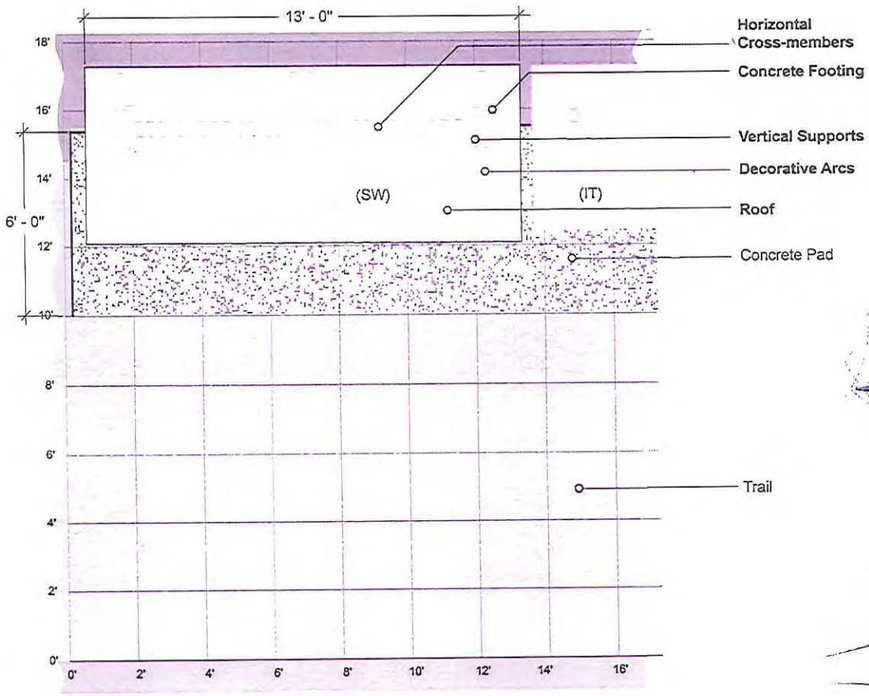


INDIVIDUAL TRAIL ORIENTATION KIOSK / BACK

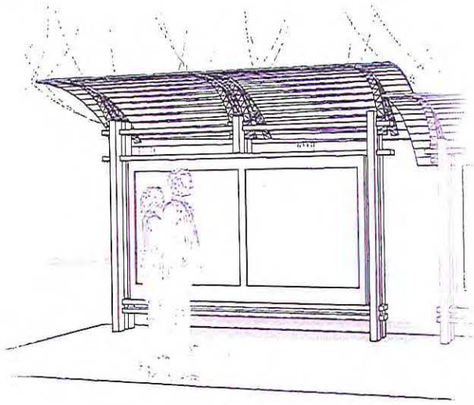
EXHIBIT A
SHEET 4 OF 10

DESIGN DEVELOPMENT

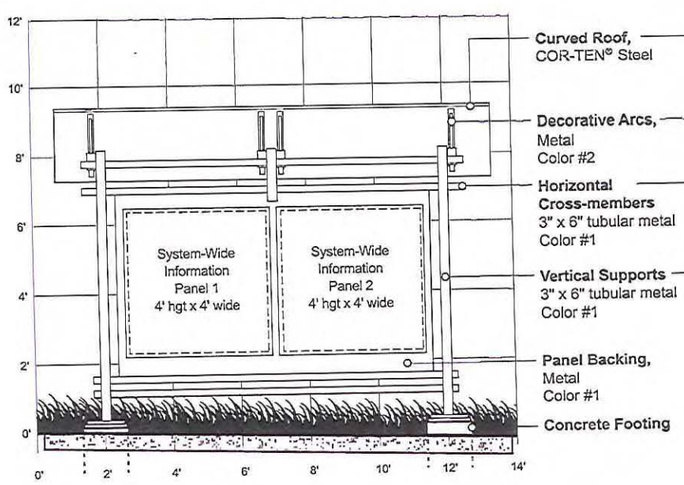
SYSTEM-WIDE ORIENTATION KIOSK (SW)



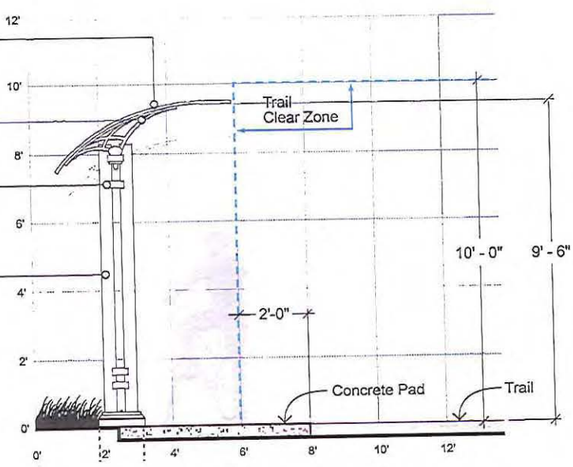
SYSTEM-WIDE ORIENTATION KIOSK / PLAN



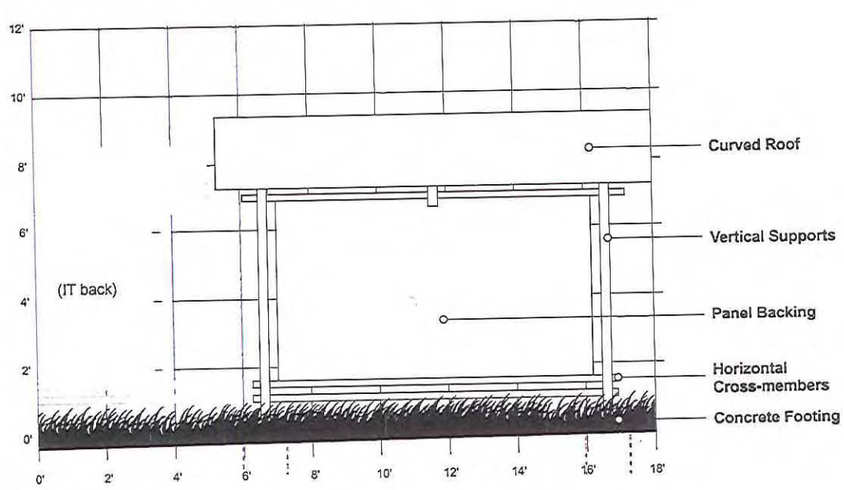
SYSTEM-WIDE ORIENTATION KIOSK / PERSPECTIVE



SYSTEM-WIDE ORIENTATION KIOSK / FRONT



SYSTEM-WIDE ORIENTATION KIOSK / PROFILE

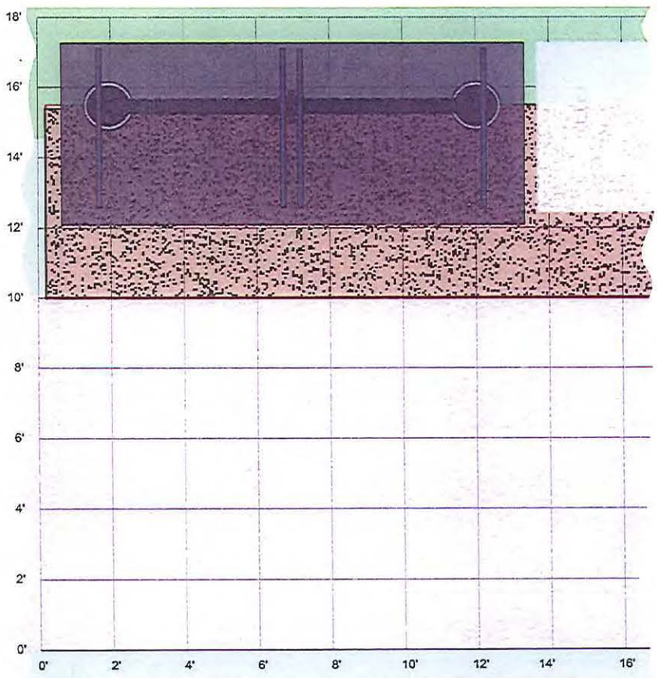


SYSTEM-WIDE ORIENTATION KIOSK / BACK

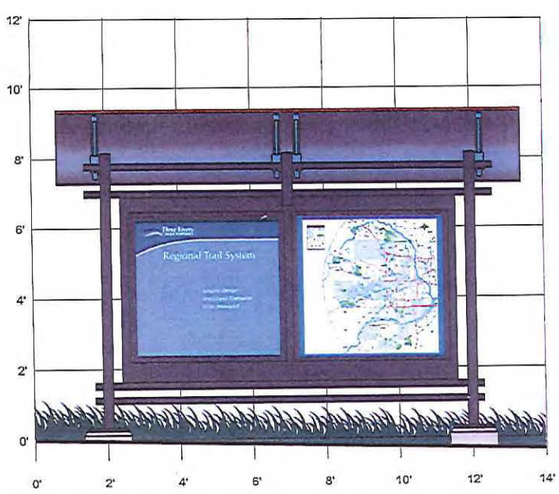
EXHIBIT A
SHEET 5 OF 10

ILLUSTRATION

SYSTEM-WIDE ORIENTATION KIOSK (SW)

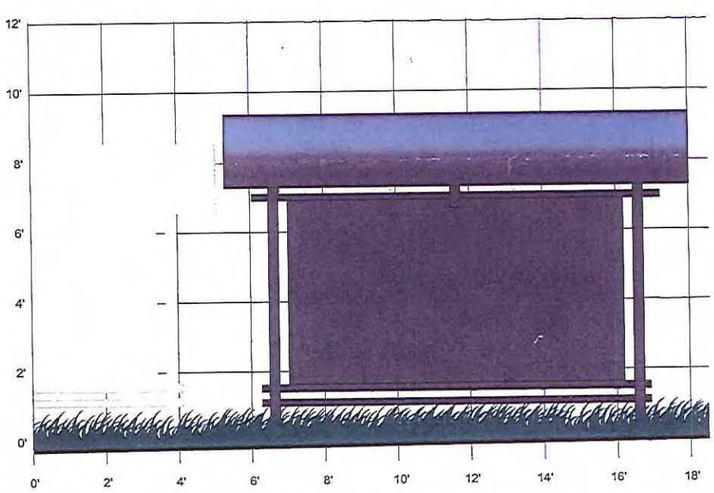


SYSTEM-WIDE ORIENTATION KIOSK / PLAN



SYSTEM-WIDE ORIENTATION KIOSK / FRONT

SYSTEM-WIDE ORIENTATION KIOSK / PROFILE



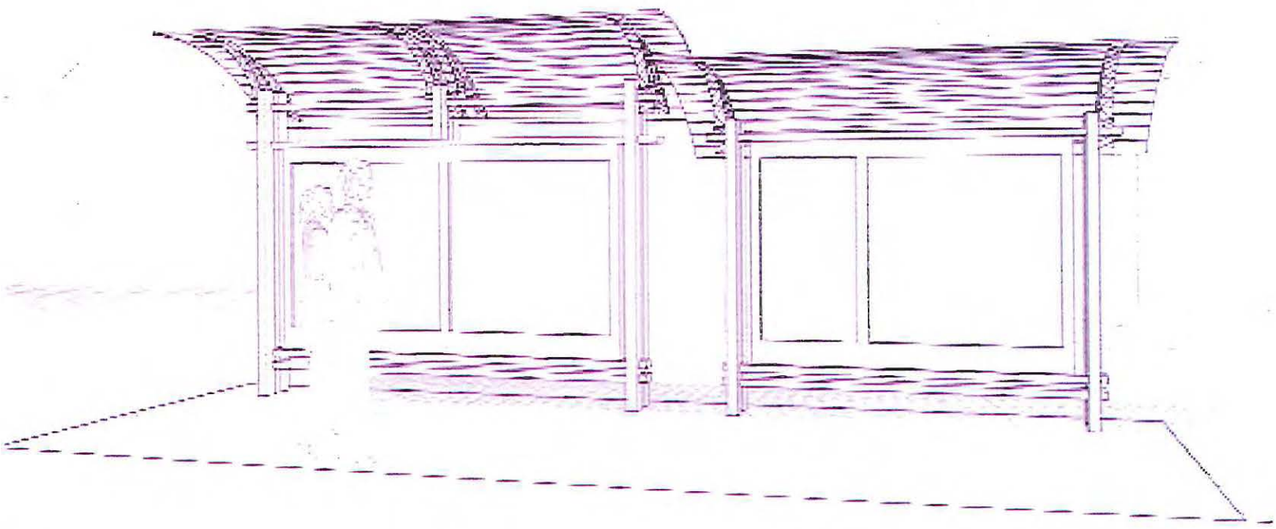
SYSTEM-WIDE ORIENTATION KIOSK / BACK

EXHIBIT A
SHEET 6 OF 10

ILLUSTRATIONS

System Kiosk

Trail Kiosk

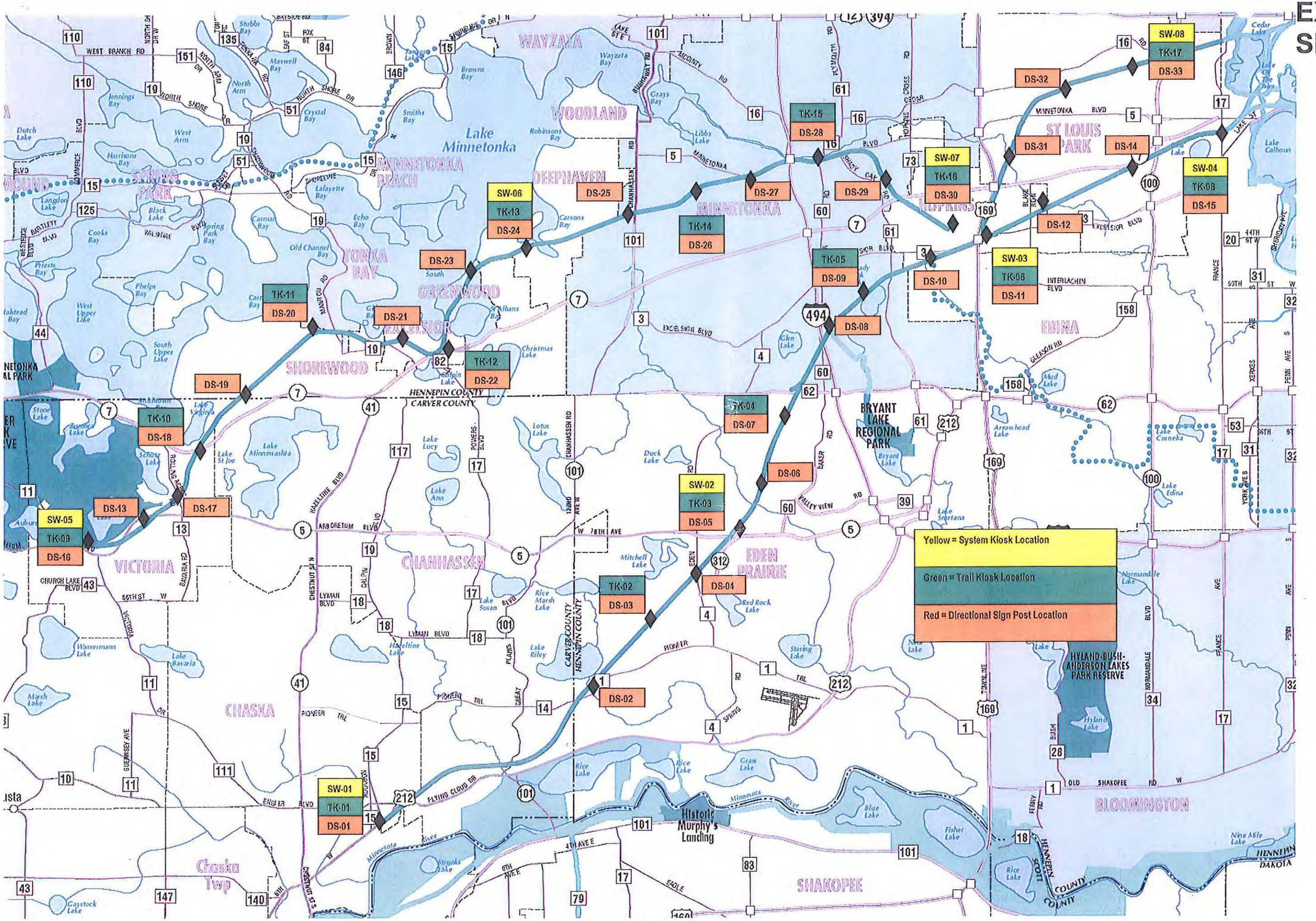


APPROACH 4

IMAGE EDIT

EXHIBIT A
SHEET 7 OF 10

EXHIBIT A
SHEET 8 OF 1



Site	System K#	Trail K#	Direction S#	GPS	UTM	Location	Description	Site Category	Special Notes
1	1	1	1	15T0456391	4962406	Bluff Creek Drive trailhead parking lot	At end of parking lot where old kiosk is located.	1.5 feet of fill needed to level with trail	Staff to rip out old kiosk and move benches.
2	-	-	2	15T0459500	4964597	Riley Lk Rd	20 feet west of road on south side of trail.	Flat	
3	-	2	3	15T0460431	4965579	Dell Rd	12 feet east of road. Kiosk on south side of trail (Center on "no motor" sign). Directional across from kiosk.	Flat	Will need to move No motor V sign. Directional post needs careful placement due to buried cable in area.
4	-	-	4	15T0461682	4966898	Eden Prairie Rd	East side of road. 25 feet east of sidewalk. South side of trail.	Flat	Detour blade needed. No blades pointing SW until Hwy 212 construction is completed.
5	2	3	5	15T0462587	4967769	Venture Lane	Place kiosks on south side of trail. System Kiosk starts 65 feet south of Venture Ln (aligned with third small tree behind). Directional on north side of trail 75 feet from edge of road.	Flat	
6	-	-	6	15T0463139	4968604	Valleyview Rd bridge	Place in Y between local trail connection east of Valleyview. 15 feet from end of Y and centered in Y.	Flat	
7	-	4	7	15T0463724	4970356	Edenvale Blvd	East of Edenvale. Kiosk on north side of trail 35 feet in from road edge. 1 foot fill needed for kiosk. Directional sign across from kiosk - also 35 feet from road. Flat for that.	1 foot fill needed	
8	-	-	8	15T0464852	4972472	Roland Road	East side of road. 20 feet east of curb on north side of trail	Flat	Need directional blade pointing south saying "Bryant Lake Park" Also need small directional signs along Roland, at turn into small parking lot @ Clearwater, and at Y in trail 200 yards past turn (replace Hennepin Parks sign at that location)
9	-	5	9	15T0465595	4973217	Dominick Rd	East of Dominick Rd. North side of trail 85 ' east from road. Directional and kiosk on same side with DS closest to road.	2 to 3 foot fill needed	
10	-	-	10	15T0467275	4974086	11th Ave crossing in Hopkins	South side of trail. 15' east of sidewalk.	Flat	verify ROW
11	3	6	11	na	na	Hopkins Depot	Nate has exact location.	Flat	Part of Depot remodel
12	-	-	12	15T0469932	4975229	Blake Road	East of Blake Road but west of Minnehaha Creek by existing park benches. 10 feet west of existing park benches on south side.	Flat	
14	-	-	14	15T0471947	4976183	Wooddale	East of Wooddale. South side of trail. 15 feet east start of trail edge.	Flat	
15	4	8	15	15T0474027	4976957	France Ave spur trail/Mpls border	South side of trail. Start where trail pavement changes. System K, then Trail K, the Directional sign in a row moving west.	Flat	Mpls border
16	5	9	16	15T0447768	4967679	DT Vicoria by THRP Amphitheater	25 feet west of sidewalk/path coming down from main street. Locate kiosks on north side, with System K farthest east. Directional sign on south side across from trail kiosk.	Flat, with slight rise at back of about 1 foot.	Check status of new local trail behind Kiosk location.
13	-	-	13	15T0448808	4968500	Old kiosk site west of Park Rd	10 feet west of park trail access on north side of trail.	Flat	Leave old kiosk for time being, may eventually replace with Park trail kiosk. Staff to remove Buckthorn bush next to Directional sign location. Original Site 13 was wrongly placed on map, that is why this is out of geographic order along the trail.
17	-	-	17	15T0449513	4968975	Rolling Acres Rd	East of road, 10 feet east of spur trail. South side of trail	1' drop	
18	-	10	18	15T0450207	4970051	East side of Hwy 7	Start trail kiosk even with blacktop. Locate kiosk posts on south edge of spur trail that runs to Hwy 7, with concrete pad going 8 feet into spur trail. Directional on north side of regular trail, which has a 1 foot drop.	1' drop for DS	Staff will need to stake this one carefully and will need to do make sure spur trail works with concrete pad of sign. Want to direct people to use tunnel, not Hwy crossing.
19	-	-	19	15T0451037	4971076	West 62nd St	20 feet west of road on north side of trail	Flat	
20	-	11	20	15T0452215	4972102	Eureka Rd/Smithtown	90 feet west of intersection on north side of trail (kiosk), Direction on south side.	3 feet fill needed for Kiosk; 1 foot drop for DS.	
21	-	-	21	15T0455040	4972294	Water Street in DT Excelsior	West of Water St at end of paved portion of trail. Start at pavement end on south side.	Flat	Have a blade point to DT Excelsior.
22	-	12	22	15T0455807	4972294	Excelsior Blvd	50 feet west of Excelsior on north side of trail (kiosk). Directional should be on same side but 5 feet closer to road.	1 foot fill for kiosk, flat for DS.	
23	-	-	23	15T0456541	4973962	Linwood Circle in Greenwood	West of Linwood there is a lake overlook. Directional sign should be centered across from overlook on south side of trail.	4 foot drop - need sign extension.	
24	6	13	24	15T0457711	4974478	Minnetonka Blvd	Locate at old kiosk site on north side of trail. System kiosk should be furthest east. Directional sign should be across from trail kiosk.	Flat	Staff needs to rip out old kiosk - move benches across trail on each side of new directional sign.
25	-	-	25	15T0460280	4975266	Hwy 101	West side of 1010, center in V created by 101 spur trail and LRT trail - 5 feet in from V point.	Flat	
26	-	14	26	15T0461892	4975892	Tonkawood Rd	140 feet west of Tonkawood Rd, kiosk on north side, directional on south side.	1.5 feet fill needed for Kiosk.	
27	-	-	27	15T0463131	4976122	Williston Rd	40 feet west of Williston Road edge on south side of trail	Flat	Blade pointing north to Mtka City Hall and services.
28	-	15	28	NA	NA	Shady Oak Rd/ Plymouth Rd	Place kiosk next to bench on trail up on hill east of Shady Oak. Place kiosk on south side of trail in line with local spur that crosses Mtka Blvd at Plymouth Road.	Flat	Blade pointing north to Burwell house site.

EXHIBIT A SHEET 9 OF 10

Site	System K#	Trail K#	Direction S#	GPS	UTM	Location	Description	Site Category	Special Notes
29	-	-	29	15T0466197	4975922	Minnetonka Mills Rd	South side of road, Directional on south side of trail 20 feet before existing rules and regulations sign.	Flat	
30	7	16	30	15T0467596	4974790	DT Hopkins old kiosk site	North side of trail at old kiosk location. All in a row with system kiosk furthest east, then trail kiosk, then directional sign.	Flat	Staff to demolish old kiosk, move rules and stop ahead signs, clean up trail in this area to make worthy of a trailhead status.
31	-	-	31	15T0469020	4976301	36th St	15 feet east of sidewalk; south side of trail	Flat	verify ROW
32	-	-	32	15T0469789	4977808	Virginia Ave	Just west of Virginia Ave. Trail splits north to parking lot. Put post 20 feet east of V split on north side of trail.	Flat	Need SLP permission
33	8	17	33	15T0471201	4978334	Dakota Park by new Rec Center	75 feet west of telephone pole that is directly north of new rec center. System kiosk, then trail kiosk, then directional sign in a row moving west.	Flat	Site requested by SLP Parks

Note. There is no Trail Kiosk # 7

12. City of Eden Prairie Temporary Occupancy Exception Concurrence Letter for Purgatory Creek Park

U.S. Department
of Transportation
**Federal Transit
Administration**

REGION V
Illinois, Indiana,
Michigan, Minnesota,
Ohio, Wisconsin

200 West Adams Street
Suite 320
Chicago, IL 60606-5253
312-353-2789
312-886-0351 (fax)

December 3, 2015

City of Eden Prairie
Robert Ellis
City Center
8080 Mitchell Road
Eden Prairie, MN 55344

**Re: Section 4(f) Temporary Occupancy Exception – City of Eden Prairie Concurrence
Southwest Light Rail Transit Project, Hennepin County, Minnesota**

Dear Mr. Ellis:

The Federal Transit Administration (FTA) is writing to request formal concurrence for the Southwest Light Rail Transit Project (Project) Section 4(f) temporary occupancy exemption for the Purgatory Creek Park, from the City of Eden Prairie (City). This letter provides the background and rationale that supports the temporary occupancy exemption determination. FTA acknowledges the receipt of the July 21, 2015, letter from the City concerning the Southwest LRT Supplemental Draft Environmental Impact Statement (SDEIS), which includes comments on the Draft Section 4(f) Evaluation Update that was included in the SDEIS. Please note that substantive comments from the City concerning the Draft Section 4(f) Evaluation Update will be addressed in the project's Final Section 4(f) Evaluation, planned to be included as part of the Final Environmental Impact Statement (FEIS). Please respond in writing to this request for concurrence by January 4, 2016.

The Metropolitan Council (Council) is seeking federal funding under the Capital Investment Grant program from the FTA; therefore, the Project must comply with the federal statute for Section 4(f) of the U.S. Department of Transportation (USDOT) Act of 1966.

A. Section 4(f) Description

Section 4(f) of the USDOT Act is a federal law that protects publicly-owned parks, recreation areas, wildlife and/or waterfowl refuges, as well as significant historic sites, whether publicly or privately owned. Section 4(f) requirements apply to all transportation projects that require funding or other approvals by the USDOT. As a USDOT agency, FTA must comply with Section 4(f). FTA's Section 4(f) regulations are located in 23 CFR Part 774.

Temporary occupancy results when a Section 4(f) property, in whole or in part, is required for project construction-related activities. The property is not permanently incorporated into a transportation facility but the activity is considered to be adverse in terms of the preservation purpose of Section 4(f). Title 23 CFR 774.13(d) provides the conditions under which temporary

occupancies of land are minimal so as to not constitute a use within the meaning of Section 4(f). The conditions under which a temporary occupancy may occur are: 1) duration of occupancy must be temporary and there is no change in ownership of the land; 2) the scope of work must be minor; 3) there can be no anticipated permanent adverse physical impacts, nor can there be interference with the activities, features or attributes of the property, on either a temporary or permanent basis; 4) the land being used must be fully restored and returned to a condition that is at least as good as that which existed prior to the project; 5) written concurrence must be obtained from the official(s) with jurisdiction, documenting agreement with the above conditions (23 CFR 774.13(d)). Upon City concurrence on the temporary occupancy exemption determination for the Purgatory Creek Park, FTA will publish the Final Section 4(f) Evaluation in the FEIS.

B. Section 4(f) Property Description

Located at 13001 Technology Drive, Purgatory Creek Park contains a 125 person-capacity pavilion, bicycle and walking trails, the Mayor Jean Harris Gathering Bridge, gardens, a dock, a fountain, the Eden Prairie Veterans' Memorial, the Lambert Pavilion, a 54-space parking lot, and restrooms. Activities within the park include walking, running, bicycling, picnicking, various organized events and leisure activities. Events at the memorial, which is within the park, include an annual Memorial Day celebration. Purgatory Creek Park is publicly owned, accessible, and of local significance; therefore, FTA considers the park as a Section 4(f) property. Further information about Purgatory Creek Park can be found in Appendix L of the Supplemental Draft EIS.

C. **Description of Project Changes to the Purgatory Creek Park**

The Project will not result in a permanent incorporation of land from Purgatory Creek Park, therefore, there will not be a Section 4(f) permanent use of the property. The Project will require a temporary easement of approximately 0.3 acre along the northeastern edge of Purgatory Creek Park to facilitate Project construction activities, which could result in sidewalk and trail detours affecting pedestrian access to the park. Detour routes and continued access will be provided for users of the park during construction. Temporary short-term disruption of vehicle access to Purgatory Creek Park via Prairie Center Drive and the adjacent commercial parking may occur, but automobile access will be maintained at the other entrances to the park. Council staff will coordinate construction activities with park staff from the City to schedule construction activities so that they avoid park programs, events and other activities identified by the City. Impacts related to temporary changes to parking and access will be mitigated by development of a Construction Communication Plan, which will include advance notice of construction activities and highlighting road, sidewalk, and trail closures and detour routes. Parkland within the area of construction will be restored to prior conditions or better, in consultation with City staff.

Further information on the long term and short term impacts to the Purgatory Creek Park can be found in the SDEIS, including the Draft Section 4(f) Evaluation Update (see Section 3.5).

D. **Temporary Occupancy Exception Determination**

Following are the Section 4(f) temporary occupancy exception criteria as applied to Purgatory Creek Park: 1) the duration of the construction activities for the portion of the project at the Purgatory Creek Park property is temporary, estimated at approximately less than 24 months (additional time may be needed for restoration activities within the park) and ownership will remain with the City; 2) the scope of the work will be minor relative to the size of the Park, with approximately 0.3 acres to be temporarily occupied during construction; 3) there will be no

anticipated permanent adverse physical impacts to the property; the activities, features or attributes of the property will be maintained through construction and operation of the Project; and detours will be provided to maintain access to the park throughout construction; all roadway connections will be restored after construction; 4) the area of the park being impacted by construction will be restored to previous or better condition; 5) this letter, signed by the City, constitutes City's written concurrence with FTA's temporary occupancy exception determination.

Based on the above findings, FTA has determined that the temporary occupancy conditions under 23 CFR 774.13(d) are met for this property and there will be no permanent Section 4(f) use of the Purgatory Creek Park.

This letter, as signed by City, serves as documented concurrence by City that the above criteria have been met for a temporary occupancy exception for Project construction activities at the Purgatory Creek Park.

If you require additional assistance, please contact William Wheeler at (312) 353-2639 (William.Wheeler@dot.com) or Maya Sarna at (202) 366-5811 (Maya.Sarna@dot.gov). Thank you for your consideration of this request.

Sincerely,

Marisol R. Simón
Regional Administrator

The City, as owner and manager of Purgatory Creek Park, concurs with the FTA's assessment that a Section 4(f) use will not occur within Purgatory Creek Park and that construction activities that will occur within the Purgatory Creek Park as a result of the Project will meet the criteria for a temporary occupancy exception described in 23 CFR 774.13(d).

Signature: _____ Date: 12-31-15

Name: JAY LOTTHAMMER Title: PARKS & RECREATION DIRECTOR

13. Minnesota State Historic Preservation Office Temporary Occupancy Exception Concurrence Letter for Minikahda Club

2009-0080

U.S. Department
of Transportation
**Federal Transit
Administration**

REGION V
Illinois, Indiana,
Michigan, Minnesota,
Ohio, Wisconsin

200 West Adams Street
Suite 320
Chicago, IL 60606-5253
312-353-2789
312-886-0351 (fax)

December 3, 2015

RECEIVED
DEC 07 2015

Minnesota State Historic Preservation Office
Sarah Beimers
345 Kellogg Boulevard West
St. Paul, MN 55102

**Re: Section 4(f) Temporary Occupancy Exception for Minikahda Club – Minnesota State Historic Preservation Office
Southwest Light Rail Transit Project, Hennepin County, Minnesota**

Dear Ms. Beimers:

The Federal Transit Administration (FTA) is writing to request formal concurrence for the Southwest Light Rail Transit Project (Project) Section 4(f) temporary occupancy exemption for the Minikahda Club historic property, from the Minnesota State Historic Preservation Office (MnSHPO). This letter provides the background and rationale that supports the temporary occupancy exemption determination. Please respond in writing to this request for concurrence by January 4, 2016.

The Metropolitan Council (Council) is seeking federal funding under the Capital Investment Grant program from the FTA; therefore, the Project must comply with the federal statute for Section 4(f) of the U.S. Department of Transportation (USDOT) Act of 1966.

A. Section 4(f) Description

Section 4(f) of the USDOT Act is a federal law that protects publicly-owned parks, recreation areas, wildlife and/or waterfowl refuges, as well as significant historic sites, whether publicly or privately owned. Section 4(f) requirements apply to all transportation projects that require funding or other approvals by the USDOT. As a USDOT agency, FTA must comply with Section 4(f). FTA's Section 4(f) regulations are located in 23 CFR Part 774.

Temporary occupancy results when a Section 4(f) property, in whole or in part, is required for project construction-related activities. The property is not permanently incorporated into a transportation facility but the activity is considered to be adverse in terms of the preservation purpose of Section 4(f). Title 23 CFR 774.13(d) provides the conditions under which temporary occupancies of land are minimal so as to not constitute a use within the meaning of Section 4(f). The conditions under which a temporary occupancy may occur are: 1) duration of occupancy must be temporary and there is no change in ownership of the land; 2) the scope of work must be minor; 3) there can be no anticipated permanent adverse physical impacts, nor can there be interference with the activities, features or attributes of the property, on either a temporary or permanent basis;

4) the land being used must be fully restored and returned to a condition that is at least as good as that which existed prior to the project; 5) written concurrence must be obtained from the official(s) with jurisdiction, documenting agreement with the above conditions (23 CFR 774.13(d)). Upon MnSHPO concurrence on the temporary occupancy exemption determination for the Minikahda, FTA will publish the Final Section 4(f) Evaluation in the Final Environmental Impact Statement (EIS).

B. Section 4(f) Property Description

The Minikahda Club, located at 3205 Excelsior Boulevard in Minneapolis, has been determined eligible for the National Register of Historic Places (NRHP). Further information related to the historic significance of the Minikahda Club can be reviewed in Section 3.4 of the Supplemental Draft EIS.

C. **Description of Project Changes to the Minikahda Club**

Project will not result in a permanent incorporation of land from the Minikahda Club historic resource therefore, there will not be a Section 4(f) permanent use of the property. During construction of the Project, a small portion of Minikahda Club property (at the very northern edge of the property in the landscaped triangle at the driveway entrance to the club) will be required to be closed during construction while the intersection of Excelsior Boulevard and W. 32nd Street is repaved and restriped. Further information on the long term and short term impacts to the Minikahda Club can be found in the Supplemental Draft EIS, including the Draft Section 4(f) Evaluation Update (see Section 3.5).

D. **Temporary Occupancy Exception Determination**

Following are the Section 4(f) temporary occupancy exception criteria as applied to the Minikahda Club historic property: 1) the duration of the construction activities for the portion of the project at the Minikahda Club property is temporary, estimated at approximately less than one month; 2) the scope of the work will be minor, as the part of the Minikahda Club property to be temporarily occupied is only a small portion of the property at the entrance to the club, not affecting the accessibility to the Minikahda Club; 3) there will be no anticipated permanent adverse physical impacts to the property, and the activities, features or attributes of the property will be maintained through construction and operation of the Project; 4) the property will be restored to the same or better condition that existed prior to the project; 5) this letter, signed by the MnSHPO, constitutes MnSHPO's written concurrence with FTA's temporary occupancy exception determination.

Based on the above findings, FTA has determined that the temporary occupancy conditions under 23 CFR 774.13(d) are met for this property and there will be no permanent Section 4(f) use of the Minikahda Club.

This letter, as signed by MnSHPO, serves as documented concurrence by MnSHPO that the above criteria have been met for a temporary occupancy exception for Project construction activities at the Minikahda Club.

If you require additional assistance, please contact William Wheeler at (312) 353-2639 (William.Wheeler@dot.com) or Maya Sarna at (202) 366-5811 (Maya.Sarna@dot.gov). Thank you for your consideration of this request.

Sincerely,

Marisol R. Simón
Regional Administrator

The MnSHPO concurs with the FTA's assessment that a Section 4(f) use will not occur within Minikahda Club and that construction activities that will occur within the Minikahda Club as a result of the Project will meet the criteria for a temporary occupancy exception described in 23 CFR 774.13(d).

Signature: Sarah J. Beimers Date: 12/15/2015

Name: Sarah J. Beimers Title: Mgr. of Government Programs & Compliance

Minnesota SHPO

14. Minnesota State Historic Preservation Office Temporary Occupancy Exception Concurrence Letter for Cedar Lake Parkway

2009-0080

U.S. Department
of Transportation
**Federal Transit
Administration**

REGION V
Illinois, Indiana,
Michigan, Minnesota,
Ohio, Wisconsin

200 West Adams Street
Suite 320
Chicago, IL 60606-5253
312-353-2789
312-886-0351 (fax)

December 3, 2015

RECEIVED
DEC 07 2015

Minnesota State Historic Preservation Office
Sarah Beimers
345 Kellogg Boulevard West
St. Paul, MN 55102

**Re: Section 4(f) Temporary Occupancy Exception for Cedar Lake Parkway – Minnesota State Historic Preservation Office
Southwest Light Rail Transit Project, Hennepin County, Minnesota**

Dear Ms. Beimers:

The Federal Transit Administration (FTA) is writing to request formal concurrence for the Southwest Light Rail Transit Project (Project) Section 4(f) temporary occupancy exemption for the Cedar Lake Parkway historic property, from the Minnesota State Historic Preservation Office (MnSHPO). This letter provides the background and rationale that supports the temporary occupancy exemption determination. Please respond in writing to this request for concurrence by January 4, 2016.

The Metropolitan Council (Council) is seeking federal funding under the Capital Investment Grant program from the FTA; therefore, the Project must comply with the federal statute for Section 4(f) of the U.S. Department of Transportation (USDOT) Act of 1966.

A. Section 4(f) Description

Section 4(f) of the USDOT Act is a federal law that protects publicly-owned parks, recreation areas, wildlife and/or waterfowl refuges, as well as significant historic sites, whether publicly or privately owned. Section 4(f) requirements apply to all transportation projects that require funding or other approvals by the USDOT. As a USDOT agency, FTA must comply with Section 4(f). FTA's Section 4(f) regulations are located in 23 CFR Part 774.

Temporary occupancy results when a Section 4(f) property, in whole or in part, is required for project construction-related activities. The property is not permanently incorporated into a transportation facility but the activity is considered to be adverse in terms of the preservation purpose of Section 4(f). Title 23 CFR 774.13(d) provides the conditions under which temporary occupancies of land are minimal so as to not constitute a use within the meaning of Section 4(f). The conditions under which a temporary occupancy may occur are: 1) duration of occupancy must be temporary and there is no change in ownership of the land; 2) the scope of work must be minor; 3) there can be no anticipated permanent adverse physical impacts, nor can there be interference with the activities, features or attributes of the property, on either a temporary or permanent basis;

4) the land being used must be fully restored and returned to a condition that is at least as good as that which existed prior to the project; 5) written concurrence must be obtained from the official(s) with jurisdiction, documenting agreement with the above conditions (23 CFR 774.13(d)). Upon MnSHPO concurrence on the temporary occupancy exemption determination for the Cedar Lake Parkway, FTA will publish the Final Section 4(f) Evaluation in the Final Environmental Impact Statement (EIS).

B. Section 4(f) Property Description
Cedar Lake Parkway, located in Minneapolis, is considered a contributing historic site within the overall Grand Rounds Historic District, which has been determined eligible for the National Register of Historic Places (NRHP). Further information related to the historic significance of the Cedar Lake Parkway can be reviewed in Section 3.4 of the Supplemental Draft EIS.

C. **Description of Project Changes to the** Cedar Lake Parkway
Project will not result in a permanent incorporation of land from the Cedar Lake Parkway historic property therefore, there will not be a Section 4(f) permanent use of the property. The Project will remove and reconstruct an approximately 220 foot long segment of the parkway in order to construct a shallow light rail tunnel under it at the existing Kenilworth Corridor crossing. The 220 foot long segment of roadway to be reconstructed is relatively minor in relation to the entire extent of the parkway. The Project will design the segment of Cedar Lake Parkway to be reconstructed in accordance with the *Secretary of Interior's Standards*. Therefore, reconstruction of a portion of Cedar Lake Parkway will result in a minimal, non-adverse change to the design, feeling, and association of the parkway where it crosses the existing freight railroad corridor. To avoid diminishing the visual character of the setting of the parkway, which could result in an adverse effect, the Project will design elements of the Project within and in the vicinity of the parkway in accordance with the *SOI's Standards* and will continue to consult with MnSHPO on the design of project elements in the view shed of the Kenilworth Corridor crossing.

Further information on the long term and short term impacts to the Cedar Lake Parkway can be found in the SDEIS, including the Draft Section 4(f) Evaluation Update (see Section 3.5).

D. **Temporary Occupancy Exception Determination**
Following are the Section 4(f) temporary occupancy exception criteria as applied to the Cedar Lake Parkway historic property: 1) the duration of the construction activities for the portion of the project at the Cedar Lake Parkway property is temporary, estimated at approximately less than 18 months and ownership will remain the same; 2) the scope of the work will be minor, with approximately 220 feet of the much larger parkway to be reconstructed and the elevation of the parkway will change by less that approximately eight inches; 3) there will be no anticipated permanent adverse physical impacts, and detours will be provided and maintained through construction of the Project and all roadway and trail connections will be restored after construction; 4) the area of the parkway being impacted by construction will be reconstructed to existing or better condition; 5) this letter, signed by the MnSHPO, constitutes MnSHPO's written concurrence with FTA's temporary occupancy exception determination.

Based on the above findings, FTA has determined that the temporary occupancy conditions under 23 CFR 774.13(d) are met for this property and there will be no permanent Section 4(f) use of the Cedar Lake Parkway.

This letter, as signed by MnSHPO, serves as documented concurrence by MnSHPO that the above criteria have been met for a temporary occupancy exception for Project construction activities at the Cedar Lake Parkway.

If you require additional assistance, please contact William Wheeler at (312) 353-2639 (William.Wheeler@dot.com) or Maya Sarna at (202) 366-5811 (Maya.Sarna@dot.gov). Thank you for your consideration of this request.

Sincerely,

Marisol R. Simón
Regional Administrator

The MnSHPO concurs with the FTA's assessment that a Section 4(f) use will not occur within Cedar Lake Parkway and that construction activities that will occur within the Cedar Lake Parkway as a result of the Project will meet the criteria for a temporary occupancy exception described in 23 CFR 774.13(d).

Signature: Sarah J. Beimers Date: 12/15/2015

Name: Sarah J. Beimers Title: Mgr. of Government Programs & Compliance

Minnesota SHPO

15. Minneapolis Park and Recreation Board Temporary Occupancy Exception Concurrence Letter for Cedar Lake Park

U.S. Department
of Transportation
**Federal Transit
Administration**

REGION V
Illinois, Indiana,
Michigan, Minnesota,
Ohio, Wisconsin

200 West Adams Street
Suite 320
Chicago, IL 60606-5253
312-353-2789
312-886-0351 (fax)

December 3, 2015

Minneapolis Park and Recreation Board
Superintendent Jayne Miller
2117 West River Rd. N.
Minneapolis, MN 55441

**Re: Section 4(f) Temporary Occupancy Exemption for Cedar Lake Park – Minneapolis Park and Recreation Board
Southwest Light Rail Transit Project, Hennepin County, Minnesota**

Dear Superintendent Miller:

The Federal Transit Administration (FTA) is writing to request formal concurrence for the Southwest Light Rail Transit Project (Project) Section 4(f) temporary occupancy exemption for the Cedar Lake Park, from the Minneapolis Park and Recreation Board (MPRB). This letter provides the background and rationale that supports the temporary occupancy exemption determination. FTA acknowledges the receipt of the July 21, 2015, letter from the MPRB concerning the Southwest LRT Supplemental Draft Environmental Impact Statement (SDEIS), which includes comments on the Draft Section 4(f) Evaluation Update that was included in the SDEIS. Please note that substantive comments from the MPRB concerning the Draft Section 4(f) Evaluation Update will be addressed in the project's Final Section 4(f) Evaluation, planned to be included as part of the Final Environmental Impact Statement (FEIS). Please respond in writing to this request for concurrence by January 4, 2016.

The Metropolitan Council (Council) is seeking federal funding under the Capital Investment Grant program from the FTA; therefore, the Project must comply with the federal statute for Section 4(f) of the U.S. Department of Transportation (USDOT) Act of 1966.

A. Section 4(f) Description

Section 4(f) of the USDOT Act is a federal law that protects publicly-owned parks, recreation areas, wildlife and/or waterfowl refuges, as well as significant historic sites, whether publicly or privately owned. Section 4(f) requirements apply to all transportation projects that require funding or other approvals by the USDOT. As a USDOT agency, FTA must comply with Section 4(f). FTA's Section 4(f) regulations are located in 23 CFR Part 774.

Temporary occupancy results when a Section 4(f) property, in whole or in part, is required for project construction-related activities. The property is not permanently incorporated into a transportation facility but the activity is considered to be adverse in terms of the preservation purpose of Section 4(f). Title 23 CFR 774.13(d) provides the conditions under which temporary occupancies of land are minimal so as to not constitute a use within the meaning of Section 4(f). The conditions under which a temporary occupancy may occur are: 1) duration of occupancy must

be temporary and there is no change in ownership of the land; 2) the scope of work must be minor; 3) there can be no anticipated permanent adverse physical impacts, nor can there be interference with the activities, features or attributes of the property, on either a temporary or permanent basis; 4) the land being used must be fully restored and returned to a condition that is at least as good as that which existed prior to the project; 5) written concurrence must be obtained from the official(s) with jurisdiction, documenting agreement with the above conditions (23 CFR 774.13(d)). Upon MPRB concurrence on the temporary occupancy exemption determination for the Cedar Lake Park, FTA will publish the Final Section 4(f) Evaluation in the FEIS.

B. Section 4(f) Property Description

Cedar Lake Park is a 288-acre regional park located at Cedar Lake Parkway and Basswood Road in Minneapolis and is part of the Chain of Lakes Regional Park. Cedar Lake Trail traverses the northernmost portion of the park. Facilities within the park include Cedar Lake, beaches, wooded areas, picnic areas, a canoe/kayak launch and racks, trails, paths, and off-street parking. Recreational activities within the park include boating, fishing, cross country skiing, skating, picnicking, hiking, running, and bicycling. Cedar Lake Park is publicly owned, accessible, and of local significance; therefore, FTA considers the park as a Section 4(f) property. Further information about Cedar Lake Park can be found in Appendix L of the Supplemental Draft EIS.

C. Description of Project Changes to the Cedar Lake Park

The Project will result in the extension of a sidewalk into Cedar Lake Park in the vicinity of East Cedar Beach, which will require temporary construction activities within the park. The Draft Section 4(f) Evaluation Update identified the need for a permanent maintenance easement associated with the sidewalk extension. The MPRB notified the Council that it would maintain the proposed new sidewalk within the park, obviating the need for a permanent maintenance easement within the park, and thereby maintaining the ownership of the park with MPRB.

The existing alignment of Cedar Lake Trail in the northwest corner of the park will be slightly altered within the park to accommodate a new location of the trail's crossing of freight rail and light rail tracks, which will require temporary construction activities within the park. Council staff will coordinate construction activities with park staff from the MPRB to schedule construction activities so that they avoid park activities identified by the MPRB that should be considered when setting the schedule for construction activities. The Council will also consult with MPRB staff in determining the post-construction conditions of the parkland. The Council will also develop and implement a Construction Communication Plan, which will include advance notice of construction activities and will highlight road, sidewalk, and trail closures and detour routes. All connections associated with the Cedar Lake Trail will be maintained during and after construction. Parkland within the area of construction, both at Cedar Lake Beach and associated with realignment of Cedar Lake Trail, will be restored to prior conditions or better.

Further information on the long term and short term impacts to the Cedar Lake Park can be found in the Project's upcoming Final EIS, and the Final Section 4(f) Evaluation.

D. Temporary Occupancy Exception Determination

Following are the Section 4(f) temporary occupancy exception criteria as applied to Cedar Lake Park: 1) the duration of the construction activities for the portion of the project at the Cedar Lake Park property is temporary, estimated at approximately less than 18 months (additional time may be needed for restoration activities within the park), and ownership will remain with MPRB; 2) the

scope of the work will be minor relative to the size of the Park, with approximately 1.1 acres to be temporarily occupied during construction; 3) there will be no anticipated permanent adverse physical impacts, and the activities, features or attributes of the property will be maintained through construction and operation of the Project;; 4) the area of the park being impacted by construction will be restored to previous or better condition; 5) this letter, signed by the MPRB, constitutes MPRB's written concurrence with FTA's temporary occupancy exception determination.

Based on the above findings, FTA has determined that the temporary occupancy conditions under 23 CFR 774.13(d) are met for this property and there will be no permanent Section 4(f) use of the Cedar Lake Park.

This letter, as signed by MPRB, serves as documented concurrence by MPRB that the above criteria have been met for a temporary occupancy exception for the Project's construction activities at the Cedar Lake Park.

If you require additional assistance, please contact William Wheeler at (312) 353-2639 (William.Wheeler@dot.com) or Maya Sarna at (202) 366-5811 (Maya.Sarna@dot.gov). Thank you for your consideration of this request.

Sincerely,

Marisol R. Simón
Regional Administrator

The MPRB, as owner and manager of Cedar Lake Park, concurs with the FTA's assessment that a Section 4(f) use will not occur within Cedar Lake Park and that construction activities that will occur within the Cedar Lake Park as a result of the Project will meet the criteria for a temporary occupancy exception described in 23 CFR774.13(d).

Signature _____ Date: 1/4/2016

Name: Jayne Miller Title: Superintendent

16. Minneapolis Park and Recreation Board *De Minimis* Concurrence Letter for Bryn Mawr Meadows Park

U.S. Department
of Transportation
**Federal Transit
Administration**

REGION V
Illinois, Indiana,
Michigan, Minnesota,
Ohio, Wisconsin

200 West Adams Street
Suite 320
Chicago, IL 60606-5253
312-353-2789
312-886-0351 (fax)

December 3, 2015

Minneapolis Park and Recreation Board
Superintendent Jayne Miller
2117 West River Rd. N.
Minneapolis, MN 55441

**Re: Section 4(f) *de minimis* Use Determination for Bryn Mawr Meadows Park – Minneapolis Park and Recreation Board Concurrence
Southwest Light Rail Transit Project, Hennepin County, Minnesota**

Dear Superintendent Miller:

The Federal Transit Administration (FTA) is writing to request formal concurrence for the Southwest Light Rail Transit Project (Project) Section 4(f) *de minimis* impact determination for Bryn Mawr Meadows Park, from the Minneapolis Park and Recreation Board (MPRB). This letter provides the background and rationale that supports the *de minimis* impact determination. FTA acknowledges the receipt of the July 21, 2015, letter from the MPRB concerning the Southwest LRT Supplemental Draft Environmental Impact Statement (SDEIS), which includes comments on the Draft Section 4(f) Evaluation Update that was included in the SDEIS. Please note that substantive comments from the MPRB concerning the Draft Section 4(f) Evaluation Update will be addressed in the project's Final Section 4(f) Evaluation, planned to be included as part of the Final Environmental Impact Statement (FEIS). Please respond in writing to this request for concurrence by January 4, 2016.

The Metropolitan Council (Council) is seeking federal funding under the Capital Investment Grant program from the FTA; therefore, the Project must comply with the federal statute for Section 4(f) of the U.S. Department of Transportation (USDOT) Act of 1966.

A. Section 4(f) Description

Section 4(f) of the USDOT Act is a federal law that protects publicly-owned parks, recreation areas, wildlife and/or waterfowl refuges, as well as significant historic sites, whether publicly or privately owned. Section 4(f) requirements apply to all transportation projects that require funding or other approvals by the USDOT. As a USDOT agency, FTA must comply with Section 4(f). FTA's Section 4(f) regulations are located in 23 CFR Part 774.

De minimis impacts to parks are defined as those that do not adversely affect the features, attributes, or activities qualifying the property for protection under Section 4(f). (23 CFR 774.17). The official(s) with jurisdiction over the property and the public must be informed of the intent to make a *de minimis* use determination. If the official(s) with jurisdiction concurs in writing that the project will not adversely affect the activities, features, or attributes that the property eligible for Section 4(f) protection, then the FTA may finalize the *de minimis* impact determination. Upon MPRB concurrence on the *de minimis* determination for Bryn Mawr Meadows Park, FTA will publish the Final Section 4(f) Evaluation in the FEIS.

B. Section 4(f) Property Description

Bryn Mawr Meadows Park is a 51-acre regional park located at 601 Morgan Avenue South in Minneapolis. Bryn Mawr Meadows Park is owned and operated by MPRB and contains two baseball fields, two broomball rinks, cricket field, ice rink, a 10-table picnic area, restroom facilities, soccer field, eleven softball fields, biking path, sports facility, tennis court, tot lot/playground, wading pool, and walking path. Bryn Mawr Meadows Park is publicly owned, accessible, and of local significance; therefore, FTA considers the park as a Section 4(f) property. Further information about Bryn Mawr Meadows Park can be found in Appendix L of the Supplemental Draft EIS.

C. Description of Project Changes to Bryn Mawr Meadows Park

The Project will result in a variety of permanent and short-term (construction-related) changes to Bryn Mawr Meadows Park. In summary, the proposed changes will affect the Luce Line Trail in Bryn Mawr Meadows Park, as well as two internal park trails. Luce Line Trail will be realigned within Bryn Mawr Meadows Park, connecting to the proposed Van White Station and Cedar Lake Trail (which provides connections to the Kenilworth Trail). A new bicycle/pedestrian bridge will be constructed partially within park property. The current design of the new bridge has been prepared based on the Council's *Visual Quality Guidelines for Key Structures* (Council, 2015), which was developed in coordination with staff from MPRB. The realignment of the Luce Line Trail will require a permanent maintenance easement, which will be acquired by the City of Minneapolis. Decisions related to the realignment of the trails within park property will be determined through continued coordination between FTA, the Council, and MPRB.

All existing trail connections for the Luce Line Trail will be maintained in the long-term under the Project. Except for the potential for short-term trail closures to ensure trail user safety, all existing trail connections will be maintained during construction of the new trail alignment and elevated trail crossing. During short trail closures, trail users will be provided with detour routes and information. Under the current construction plan, temporary trails will be constructed to allow for the removal of existing trail segments and construction of new trail segments. Construction activities within Bryn Mawr Meadows Park will be closely coordinated with MPRB to help avoid and minimize effects on recreational activities within the park. The Project will also provide the MPRB and the public with ongoing notification of construction activities within the park, such as the timing and location of trail detours. All areas of the park that are affected by construction activities outside of the permanent easement area will be restored to existing conditions or better.

Further information on the long term and short term impacts to Bryn Mawr Park can be found in the SDEIS, Draft Section 4(f) Evaluation Update (see Section 3.5).

D. Section 4(f) *de minimis* Use Determination

Consultation between FTA, the Council, MPRB, and City of Minneapolis on design issues related to the park has occurred throughout the design refinement process since the publication of the Draft EIS. FTA has determined that the construction and operation of the Project will not adversely affect the features, attributes or activities that qualify Bryn Mawr Meadows Park for Section 4(f) protection. Based on the analysis, design, and avoidance, minimization, and mitigation measures identified to date as summarized in the Project's SDEIS and consistent with the requirements of 23 CFR 774.5(b), FTA has concluded that a *de minimis* use determination is appropriate for Bryn Mawr Meadows Park.

This letter, as signed by the MPRB, serves as documented concurrence by the MPRB that Project actions would result in *de minimis* impacts at Bryn Mawr Meadows Park.

If you require additional assistance, please contact William Wheeler at (312) 353-2639 (William.Wheeler@dot.com) or Maya Sarna at (202) 366-5811 (Maya.Sarna@dot.gov). Thank you for your consideration of this request.

Sincerely,

Marisol R. Simón
Regional Administrator

The MPRB, as owner and manager of Bryn Mawr Meadows Park, concurs with the FTA's determination that the Southwest LRT Project will result in a Section 4(f) *de minimis* use on Bryn Mawr Meadows Park, as defined in 23 CFR 774.17 and as demonstrated in this letter.

Signature: _____ Date: 1/4/2016

Name: Jayne Miller Title: Superintendent

Minneapolis Park and Recreation Board, MN

17. Minnesota Park and Recreation Board *De Minimis* Concurrence Letter for Kenilworth Channel/Lagoon

U.S. Department
of Transportation
**Federal Transit
Administration**

REGION V
Illinois, Indiana,
Michigan, Minnesota,
Ohio, Wisconsin

200 West Adams Street
Suite 320
Chicago, IL 60606-5253
312-353-2789
312-886-0351 (fax)

December 3, 2015

Minneapolis Park and Recreation Board
Superintendent Jayne Miller
2117 West River Rd. N.
Minneapolis, MN 55441

**Re: Section 4(f) *de minimis* Use Determination for the Kenilworth Channel/Lagoon – Minneapolis Park and Recreation Board Concurrence
Southwest Light Rail Transit Project, Hennepin County, Minnesota**

Dear Superintendent Miller:

The Federal Transit Administration (FTA) is writing to request formal concurrence for the Southwest Light Rail Transit Project (Project) Section 4(f) *de minimis* impact determination for Kenilworth Channel/Lagoon (an element of the Minneapolis Chain of Lakes Regional Park), from the Minneapolis Park and Recreation Board (MPRB). This letter provides the background and rationale that supports the *de minimis* impact determination. FTA acknowledges the receipt of the July 21, 2015, letter from the MPRB concerning the Southwest LRT Supplemental Draft Environmental Impact Statement (SDEIS), which includes comments on the Draft Section 4(f) Evaluation Update that was included in the SDEIS. Please note that substantive comments from the MPRB concerning the Draft Section 4(f) Evaluation Update will be addressed in the project's Final Section 4(f) Evaluation, planned to be included as part of the Final Environmental Impact Statement (FEIS). Please respond in writing to this request for concurrence by January 4, 2016.

The Metropolitan Council (Council) is seeking federal funding under the Capital Investment Grant program from the FTA; therefore, the Project must comply with the federal statute for Section 4(f) of the U.S. Department of Transportation (USDOT) Act of 1966.

A. Section 4(f) Description

Section 4(f) of the USDOT Act is a federal law that protects publicly-owned parks, recreation areas, wildlife and/or waterfowl refuges, as well as significant historic sites, whether publicly or privately owned. Section 4(f) requirements apply to all transportation projects that require funding or other approvals by the USDOT. As a USDOT agency, FTA must comply with Section 4(f). FTA's Section 4(f) regulations are located in 23 CFR Part 774.

De minimis impacts to parks are defined as those that do not adversely affect the features, attributes, or activities qualifying the property for protection under Section 4(f). (23 CFR 774.17). The official(s) with jurisdiction over the property and the public must be informed of the intent to make a *de minimis* use determination. If the official(s) with jurisdiction concurs in writing that the

project will not adversely affect the activities, features, or attributes that the property eligible for Section 4(f) protection, then the FTA may finalize the *de minimis* impact determination. Upon MPRB concurrence on the *de minimis* determination for the Kenilworth Channel/Lagoon, FTA will publish the Final Section 4(f) Evaluation in the FEIS.

B. Section 4(f) Property Description

The Kenilworth Channel/Lagoon is an approximately 10.3-acre waterway that connects Cedar Lake and Lake of the Isles. While most of the land making up the Kenilworth Channel/Lagoon is owned fee simple by the MPRB, two areas located approximately mid-point in the channel/lagoon are owned fee simple by BNSF and Hennepin County Regional Railroad Authority, within which the MPRB owns, for park purposes, a permanent easement for a right-of-way for a canal connecting Lake of the Isles and Cedar Lake.

Recreational features within the channel/lagoon include a large curved lagoon to the east and a relatively narrow channel to the west, as well as a mix of vegetated and grassy banks. During summer months, activities through the waterway include canoeing, kayaking, and paddle boarding. During winter months, activities through the frozen waterway include cross country skiing, snowshoeing, fat-tire biking, and walking. Activities on the northern grassy banks of the lagoon, between West Lake of the Isles Parkway and South Upton Avenue, include picnicking, walking, sightseeing, wildlife viewing, and passive relaxation.

The Kenilworth Channel/Lagoon is a publicly-owned, publicly-accessible park of local significance; therefore, FTA considers the park as a Section 4(f) property. Further information about The Kenilworth Channel/Lagoon can be found in Appendix L of the Supplemental Draft EIS.

C. Description of Project Changes to the Kenilworth Channel/Lagoon

The Project will result in changes to the facilities currently located within the Kenilworth Channel/Lagoon, including: 1) removal of the two existing wood bridges that carry the existing freight rail tracks and multipurpose trail; 2) construction of three new separate bridges with two new supporting piers in the channel (supporting the freight rail bridge); and 3) modifications to vegetation and retaining walls. Note that the design of the new bridges has changed and advanced since publication of the SDEIS as a part of the FTA's Section 106 and 4(f) consultation processes, which will be reflected in the project's forthcoming Section 106 Memorandum of Agreement (MOA) and Final Section 4(f) Evaluation. The proposed modifications will occur within approximately 0.3 acres of the approximately 10.3-acre Kenilworth Channel/Lagoon.

The horizontal clearances between the banks and the new bridge piers will be of sufficient width to accommodate recreational activities that currently occur within the channel/lagoon. The project will also include noise mitigation, to be specified in the Project's MOA and Final EIS.

Under the Project, construction activities within the easement area will occur to allow for the removal of the two existing wood bridges and construction of the three new bridges. Those construction activities will require temporary closure/s of the lagoon for safety. Minimization and mitigation measures related to the closure/s will be developed during the Section 106 process, with MPRB consultation, and will be included in the project's Section 106 MOA.

Further information on the long term and short term impacts to the Kenilworth Channel/Lagoon can be found in the SDEIS, Draft Section 4(f) Evaluation Update (see Section 3.5).

D. Section 4(f) *de minimis* Use Determination

Consultation between FTA, the Council, MPRB, and City of Minneapolis on design issues related to the Kenilworth Channel/Lagoon has occurred throughout the design refinement process since the publication of the Draft EIS. FTA has determined that the construction and operation of the Project will not adversely affect the features, attributes or activities that qualify the Kenilworth Channel/Lagoon for Section 4(f) protection. Based on the analysis, design, and avoidance, minimization, and mitigation measures identified to date as summarized in the Project's SDEIS and consistent with the requirements of 23 CFR 774.5(b), FTA has concluded that a *de minimis* use determination is appropriate for the Kenilworth Channel/Lagoon.

This letter, as signed by the MPRB, serves as documented concurrence by the MPRB that Project actions would result in *de minimis* impacts at the Kenilworth Channel/Lagoon.

If you require additional assistance, please contact William Wheeler at (312) 353-2639 (William.Wheeler@dot.com) or Maya Sarna at (202) 366-5811 (Maya.Sarna@dot.gov). Thank you for your consideration of this request.

Sincerely,

Marisol R. Simón
Regional Administrator

TheMPRB, as owner and manager of the Kenilworth Channel/Lagoon, concurs with the FTA's determination that the Southwest LRT Project will result in a Section 4(f) *de minimis* use on the Kenilworth Channel/Lagoon, as defined in 23 CFR 774.17 and as demonstrated in this letter.

Signature: _____ Date: 1/4/2016

Name: Jayne Miller Title: Superintendent

18. City of Minnetonka *De Minimis* Concurrence Letter for Unnamed Open Space B

U.S. Department
of Transportation
**Federal Transit
Administration**

REGION V
Illinois, Indiana,
Michigan, Minnesota,
Ohio, Wisconsin

200 West Adams Street
Suite 320
Chicago, IL 60606-5253
312-353-2789
312-886-0351 (fax)

March 7, 2016

Julie Wischnack, Community Development Director
City of Minnetonka
14600 Minnetonka Boulevard
Minnetonka, MN 55345

Re: Section 4(f) *de minimis* Use Determination for Unnamed Open Space B – City of Minnetonka Concurrence
Southwest Light Rail Transit Project, Hennepin County, Minnesota

Dear: Ms. Wischnack

The Federal Transit Administration (FTA) is writing to request formal concurrence for the Southwest Light Rail Transit Project's (Project) Section 4(f) *de minimis* impact determination for Unnamed Open Space B, from the City of Minnetonka. A preliminary Section 4(f) *de minimis* determination for the open space was included in the Amended Draft Section 4(f) Evaluation, which was published in the Federal Register by FTA and the Metropolitan Council (Council) on January 11, 2016. This letter provides the background and rationale that supports the *de minimis* impact determination. Please respond in writing to this request for concurrence by March 21, 2016.

The Council is seeking federal funding under the Capital Investment Grant program from the FTA; therefore, the Project must comply with the federal statute for Section 4(f) of the U.S. Department of Transportation (USDOT) Act of 1966, 49 USC §303.

A. Section 4(f) Description

Section 4(f) of the USDOT Act is a federal law that protects publicly-owned parks, recreation areas, wildlife and/or waterfowl refuges, as well as significant historic sites, whether publicly or privately owned. Section 4(f) requirements apply to all transportation projects that require funding or other approvals by the USDOT. As a USDOT agency, FTA must comply with Section 4(f). FTA's Section 4(f) regulations are located in 23 CFR Part 774.

De minimis impacts to parks are defined as those that do not adversely affect the features, attributes, or activities qualifying the property for protection under Section 4(f). (23 CFR Part 774.17). The official(s) with jurisdiction over the property and the public must be informed of the intent to make a *de minimis* use determination. 23 CFR Pt. 771.5(b)(2)(ii). If the official(s) with jurisdiction concurs in writing that the Project will not adversely affect the activities, features, or attributes that qualify the property for Section 4(f) protection, then the FTA may finalize the *de minimis* impact determination.

Upon the City of Minnetonka's concurrence on the *de minimis* determination for the Unnamed Open Space B, FTA will publish the Final Section 4(f) Evaluation in the final environmental impact statement (FEIS).

B. Section 4(f) Property Description

Unnamed Open Space B is a 49-acre open space located generally south of Smetana Road, west of Green Circle Drive, North of Bren Road West, and east of Claremont Apartments. Unnamed Open Space B is predominantly naturally vegetated (e.g., wooded, riparian, and wetland features), with some areas of landscaping and pavement (i.e., roadway and trail segments that cross the property). The recreational activities within Unnamed Open Space B that are related to those natural features include bird watching, wildlife viewing, native plant observation and identification, nature photography, picnicking, work breaks (from adjacent offices), solitude and contemplation, off-trail walking/hiking, and cross country skiing (weather permitting). Within Unnamed Open Space B there are a few park benches located adjacent to the trail segments that traverse the open space.

Additional recreation activities that occur within Open Space B are those that occur on the segments of the Opus development area trail network that pass through the property. Those recreation activities include walking, running, bicycling, nature and wildlife observation, cross country skiing, and other similar activities. The trail network is the primary way in which recreational users of Unnamed Open Space B access the property. Further information about Unnamed Open Space B can be found in the Amended Draft Section 4(f) Evaluation.

C. Description of Project Changes to Unnamed Open Space B

The Project will result in a variety of permanent and short-term (construction-related) changes to Unnamed Open Space B. The Council will permanently acquire from the City of Minnetonka an approximately 1.0-acre portion of Unnamed Open Space B (approximately 2 percent of the property). The acquired property will be incorporated into the Project for transportation purposes, including the Project's proposed light rail alignment, a traction power substation and double-crossover bungalow, and an access driveway between the substation/bungalow and Bren Road West. Most of the natural areas of Unnamed Open Space B, which are predominantly located in the northern portion of the property, will not be directly affected by the Project. Those areas, such as the wetland, will not be altered by the Project, either permanently or temporarily.

Project construction activities will be confined to the southern portion of Unnamed Open Space B. Those construction activities will predominantly occur within the area of Unnamed Open Space B that will be permanently acquired for the Project. Some construction activities will also occur within the approximately 1.6 acres of Unnamed Open Space B located outside and immediately to the east of the area of the property to be permanently acquired for the Project. Construction activities within Unnamed Open Space B will be closely coordinated with the City of Minnetonka to help avoid and minimize effects on recreational activities within the park. The Project will also provide the City of Minnetonka and the public with ongoing notification of construction activities within the park, such as the timing and location of trail detours. All areas of the open space that are affected by construction activities outside of the area to be acquired for the Project will be restored to existing conditions or better.

Re: Section 4(f) *de minimis* Use Determination for Unnamed Open Space B – City of Minnetonka Concurrence
Southwest Light Rail Transit Project, Hennepin County, Minnesota

Further information on the long term and short term impacts to Unnamed Open Space B can be found in the Amended Draft Section 4(f) Evaluation.

D. Section 4(f) *de minimis* Use Determination

Consultation between FTA, the Council, and the City of Minnetonka on design issues related to the park has occurred throughout the design refinement process since the publication of the Draft EIS. FTA has determined that the construction and operation of the Project will not adversely affect the features, attributes or activities that qualify the Unnamed Open Space B for Section 4(f) protection. Based on the analysis, all possible planning to minimize harm has been identified to date, as summarized in the Project's Amended Draft Section 4(f) Evaluation and consistent with the requirements of 23 CFR 774.5(b), FTA has concluded that a *de minimis* use determination is appropriate for Unnamed Open Space B.

This letter, as signed by the City of Minnetonka, serves as documented concurrence by the City of Minnetonka that Project actions would result in *de minimis* impacts at Unnamed Open Space B.

If you require additional assistance, please contact Reggie Arkell at (312) 886-3704/ reginald.arkell@dot.gov or Maya Sarna at (202) 366-5811/maya.sarna@dot.gov. Thank you for your consideration of this request.

Sincerely,

Marisol R. Simón
Regional Administrator

The City of Minnetonka, as owner and manager of Open Space B, concurs with the FTA's determination that the Southwest LRT Project will result in a Section 4(f) *de minimis* use on Unnamed Open Space B, as defined in 23 CFR 774.17 and as demonstrated in this letter.

Signature: _____ Date: 3/11/16

Name: Julie Wischnack Title: Community Dev. Dir.

19. City of Minnetonka *De Minimis* Concurrence Letter for Local Trail Network in Opus Woods Area

U.S. Department
of Transportation
**Federal Transit
Administration**

REGION V
Illinois, Indiana,
Michigan, Minnesota,
Ohio, Wisconsin

200 West Adams Street
Suite 320
Chicago, IL 60606-5253
312-353-2789
312-886-0351 (fax)

March 7, 2016

Julie Wischnack, Community Development Director
City of Minnetonka
14600 Minnetonka Boulevard
Minnetonka, MN 55345

**Re: Section 4(f) *de minimis* Use Determination for the Opus Development Area Trail Network – City of Minnetonka Concurrence
Southwest Light Rail Transit Project, Hennepin County, Minnesota**

Dear: Ms. Wischnack

The Federal Transit Administration (FTA) is writing to request formal concurrence for the Southwest Light Rail Transit Project's (Project) Section 4(f) *de minimis* impact determination for the Opus development area trail network, from the City of Minnetonka. A preliminary Section 4(f) *de minimis* determination for the open space was included in the Amended Draft Section 4(f) Evaluation, which was published in the Federal Register by FTA and the Metropolitan Council (Council) on January 11, 2016. This letter provides the background and rationale that supports the *de minimis* impact determination. Please respond in writing to this request for concurrence by March 21, 2016.

The Council is seeking federal funding under the Capital Investment Grant program from the FTA; therefore, the Project must comply with the federal statute for Section 4(f) of the U.S. Department of Transportation (USDOT) Act of 1966, 49 USC §303.

A. Section 4(f) Description

Section 4(f) of the USDOT Act is a federal law that protects publicly-owned parks, recreation areas, wildlife and/or waterfowl refuges, as well as significant historic sites, whether publicly or privately owned. Section 4(f) requirements apply to all transportation projects that require funding or other approvals by the USDOT. As a USDOT agency, FTA must comply with Section 4(f). FTA's Section 4(f) regulations are located in 23 CFR Part 774.

De minimis impacts to parks are defined as those that do not adversely affect the features, attributes, or activities qualifying the property for protection under Section 4(f). (23 CFR Part 774.17). The official(s) with jurisdiction over the property and the public must be informed of the intent to make a *de minimis* use determination. 23 CFR Pt. 771.5(b)(2)(ii). If the official(s) with jurisdiction concurs in writing that the Project will not adversely affect the activities, features, or attributes that qualify the property for Section 4(f) protection, then the FTA may finalize the *de minimis* impact determination.

Re: Section 4(f) *de minimis* Use Determination for the Opus Development Area Trail Network – City of Minnetonka Concurrence
Southwest Light Rail Transit Project, Hennepin County, Minnesota

Upon the City of Minnetonka's concurrence on the *de minimis* determination for the Opus development area trail network, FTA will publish the Final Section 4(f) Evaluation in the final environmental impact statement (FEIS).

B. Section 4(f) Property Description

The Opus development area trail network is an eight-mile (approximately 42,000 feet) length of trail corridor that generally serves the mixed-use Opus development area in Minnetonka, Minnesota. The Opus development trail network is owned and maintained by the City of Minnetonka. The Opus development area trail network is located between Smetana Road to the north, Highway 169 to the east, Highway 62 to the south and Shady Oak Road to the west. The Opus development trail network was originally designed and constructed as an element of the Opus mixed use development. The Opus development area trail network is a collection of trails that are paved with asphalt, with short sections of concrete pavement. Most of the trail network is at-grade, with some short sections of trails crossing under local roads. The primary recreation facilities within the Opus development area trail network are the trails themselves. The primary recreation activities that occur within the Opus development area trail network occur on the trails, and include walking, running, bicycling, nature and wildlife observation, cross-country skiing (conditions allowing), and other similar activities. Transportation activities also occur within the trail network. Further information about the Opus development area trail network can be found in the Amended Draft Section 4(f) Evaluation.

C. Description of Project Changes to the Opus development area trail network

The Council will permanently alter relatively short sections of the Opus development area trail network to accommodate the introduction of the light rail alignment, station, and related improvements. Alterations to the trail network by the Project will include removal of relatively short sections of paved trail to be replaced with new paved trail sections in different locations, resulting in a net increase in the size of the trail network. In summary, approximately 1.5 acres of existing trail will be removed and replaced with approximately 1.8 acres of new trail, resulting in a net increase of approximately 0.3 acres of trail. All connections currently provided through the Opus development area trail network will be maintained during and post construction.

Some temporary construction activities associated with the Project will affect the Opus development area trail network within and directly adjacent to the segments of trail that will be removed and replaced with a new trail segment. Construction activities within the Opus development area trail network include grading, vegetation removal and replacement, repaving segments of the trail that will remain in place to match new trail segments, temporary trail connections and signage, and other activities associated with reconstruction of affected trails. The Project will provide the public and the City of Minnetonka with construction detour information. Further, the Project will restore all segments of the Opus development area trail network (i.e., the Project will alter trail segments but will not permanently remove trail area) to pre-construction conditions or better, based on specifications agreed to between the Council and the City of Minnetonka. Further information on the long term and short term impacts to the Opus development area trail network can be found in the Amended Draft Section 4(f) Evaluation.

Re: Section 4(f) *de minimis* Use Determination for the Opus Development Area Trail Network – City of Minnetonka Concurrence
Southwest Light Rail Transit Project, Hennepin County, Minnesota

D. Section 4(f) *de minimis* Use Determination

Consultation between FTA, the Council, and the City of Minnetonka on design issues related to the park has occurred throughout the design refinement process since the publication of the Draft EIS. FTA has determined that the construction and operation of the Project will not adversely affect the features, attributes or activities that qualify the Opus development area trail network for Section 4(f) protection. Based on the analysis, all possible planning to minimize harm has been identified to date, as summarized in the Project's Amended Draft Section 4(f) Evaluation and consistent with the requirements of 23 CFR 774.5(b), FTA has concluded that a *de minimis* use determination is appropriate for the Opus development area trail network.

This letter, as signed by the City of Minnetonka, serves as documented concurrence by the City of Minnetonka that Project actions would result in *de minimis* impacts at the Opus development area trail network.

If you require additional assistance, please contact Reggie Arkell at (312) 886-3704/ reginald.arkell@dot.gov or Maya Sarna at (202) 366-5811/maya.sarna@dot.gov. Thank you for your consideration of this request.

Sincerely,

Marisol R. Simón
Regional Administrator

The City of Minnetonka, as owner and manager of the Opus development area trail network, concurs with the FTA's determination that the Southwest LRT Project will result in a Section 4(f) *de minimis* use on the Opus development area trail network, as defined in 23 CFR 774.17 and as demonstrated in this letter.

Signature: _____ Date: March 11, 2016

Name: Julie Wischnack Title: Comm Dev. Dir.

20. Materials from City of Minnetonka Official with Jurisdiction Meeting, January 2016

Meeting Title:	Section 4(f) Coordination – Newly Identified Section 4(f) Properties within the City of Minnetonka
Date:	01/05/2016 **Time:** 1:00 p.m. **Duration:** 1.0 hour
Location:	SPO Conf. Rm. 6A Call in #: 1 888.742.5095; code: 1109269062
Meeting called by:	Nani Jacobson, Assistant Director, Environmental & Agreements
Invitees:	FTA: Maya Sarna; Minnetonka: Julie Wischnack, Phil Olsen, William Manchester; SPO: Jim Alexander, Sarah Ghandour, Ryan Kronzer, Sam O'Connell, Dan Pfeiffer, James Mockovciak, Kim Proia, Mark Bishop, Don Demers, Jeanne Witzig, Leon Skiles
Purpose of Meeting:	Discuss Newly Identified Section 4(f) properties under jurisdiction of the City of Minnetonka, Section 4(f) process and analysis.

Agenda

1. Welcome and Introductions
2. Overview of Section 4(f) Requirements (handout)
3. Identification of Section 4(f) Properties (handouts)
   a. Properties Evaluated:
      - Opus Development Area Trail Network
      - Unnamed Open Space B
      - Unnamed Open Space A
   b. Process for Determining Section 4(f) Status
      - Initial Status Determinations
      - Current Status Determinations
   c. Preliminary Section 4(f) *de minimis* Impact Determinations (handout)
4. Next Steps
   a. Publication of the Amended Draft Section 4(f) Evaluation
   b. Receipt of Public and Agency Comments and Review by FTA, City, Council
   c. FTA Request to City for Written Concurrence on the Two Section 4(f) *de minimis* Impact Determinations
   d. Publication of the Final Section 4(f) Evaluation

DISCUSSION:

ACTION ITEMS:	PERSON RESPONSIBLE:	DEADLINE:

January 5, 2015 – DRAFT Work in Process

Section 4(f) of the Department of Transportation Act
Overview

1. What is the intent of Section 4(f)?

- To prohibit a transportation project from using a qualifying park/recreation area, historic site or wildlife/ waterfowl refuge, unless there is no prudent and feasible avoidance alternative or the use would be *de minimis*

2. What is a 4(f) *Use*?

- The permanent incorporation of any portion of a 4(f) property into a project through the fee simple acquisition of the property or acquiring a property right that allows permanent access to the property (e.g., easement)
- Use has a greater than *de minimis* impact (*de minimis* = no adverse effect to the activities, features or attributes of the 4(f) property, after minimization and mitigation)
- A *proximity impact* (e.g., noise, visual) that *substantially impairs* use of the property = *Constructive Use*
- A short-term construction use that cannot meet five *Temporary Occupancy* criteria

3. What is a *de minimis* impact?

- (1) For historic sites, a Section 106 finding of no adverse effect or no historic properties affected on a historic property, or (2) For parks, recreation areas, and wildlife and waterfowl refuges, the project would not adversely affect the activities, features, or attributes qualifying a park, recreation area, or refuge for protection under Section 4(f).

4. What is a Constructive Use?

- Occurs when the transportation project does not incorporate land from a Section 4(f) property, but the project's proximity impacts are so severe that the protected activities, features, or attributes that qualify the property for protection under Section 4(f) are substantially impaired. Substantial impairment occurs only when the protected activities, features or attributes of the property are substantially diminished.

5. What is a Temporary Occupancy?

- Temporary occupancies of land that are so minimal as to not constitute a use under 4(f). These must meet:
  - Duration must be temporary, i.e. less than the time needed for construction of the project and no change in ownership of the land
  - Scope of work must be minor, i.e. both the nature and magnitude of the changes to the 4(f) property are minimal
  - No anticipated permanent adverse physical impacts, nor will it interfere with protected activities, features or attributes of the property
  - The land being used must be fully restored (returned to a condition which is at least as good as that which existed prior to the project)
  - Documented agreement with the official(s) with jurisdiction

6. How is the eligibility of a 4(f) park/recreation area determined?

- Primary purpose of the property is recreation
- Property is publically-owned, publically-accessible and of local significance

DRAFT

7. **What is an Official with Jurisdiction?**

- Parks: Officials with the agency/ies that own or administer the 4(f) property
- Historic sites: SHPO

8. How are Section 4(f) and Section 106 related?

- Section 106 process determines the eligibility of historic/archaeological resources for potential 4(f) protection
- Section 106 determines level of 4(f) *use* (e.g., use + no adverse effect = *de minimis*; use + adverse effect = non-*de-minimis* 4(f) use)
- 106 Agreement documents 4(f) *All Possible Planning to Minimize Harm*

9. **What is a *Feasible and Prudent Avoidance Alternative?***

- Completely avoids the permanent use of a 4(f) property
- Feasibility: Can be built as a matter of sound engineering
- Prudence: No severe problems that outweigh protecting the 4(f) property, considering:
  - Meeting Purpose/Need
  - Safety
  - Severe impacts (after mitigation)
  - Extraordinary costs
  - Unique problems/factors
  - Cumulative impact of multiple factors

10. What happens if the LPA *uses* a protected property?

- FTA issues a 4(f) Evaluation (draft and final), including three required determinations:
  - There is ***No Prudent/Feasible Avoidance Alternative***
  - ***All Possible Planning to Minimize Harm*** has occurred (includes all reasonable mitigation measures)
  - LPA must have ***Least Overall Harm*** compared to other alternatives that have a 4(f) use

11. What is a Least Overall Harm Analysis?

- When there is no feasible and prudent avoidance alternative, the comparison of the LPA with other alternatives under consideration that would have a use of any 4(f) property
- Comparative criteria used to reach the determination:
  - Relative value of and impacts to 4(f) properties, after similar mitigation efforts – criteria:
    - Ability to mitigate adverse impacts to each 4(f) property
    - Relative severity of harm to protected characteristics of the 4(f) properties (after mitigation)
    - Relative significance of the 4(f) properties
    - Views of officials with jurisdiction over the 4(f) properties
  - Consideration of substantial problem/s – criteria:
    - Degree to which the alternative meets P&N
    - Magnitude of adverse impacts to non-4(f) resources (after mitigation)
    - Substantial cost differences
- Only the alternative/s with the Least Overall Harm may be approved by FTA

Sources: 23 USC 138; 49 USC 303; 23 CFR Part 774; *Section 4(f) Policy Paper* (USDOT: July 20, 2012)

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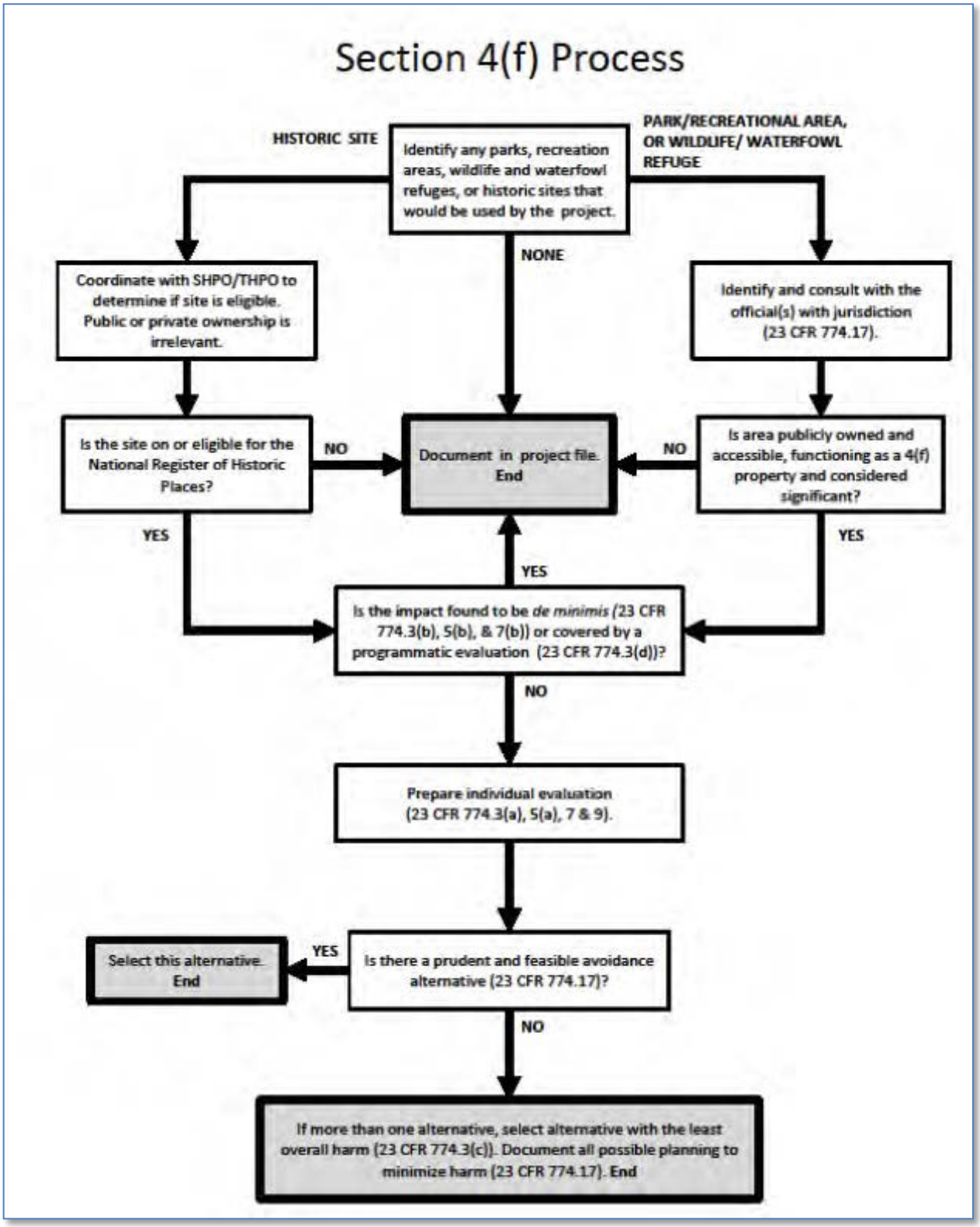


Source: *Section 4(f) Policy Paper* (p. 62; USDOT: July 20, 2012)

6 Newly Identified Section 4(f) Properties in Minnetonka

This section addresses the newly identified Section 4(f) properties within the City of Minnetonka, Minnesota. Table 6-1 lists the resource name, location, and jurisdictional owner. Exhibit 6-1 shows the location of the two park properties within the context of the larger Project and within the area of the Project's alignment in Minnetonka.

TABLE 6-1
Section 4(f) Properties Evaluated in this Amended Draft Section 4(f) Evaluation

Property Name	Property Type	Location	Official with Jurisdiction	Section 4(f) Qualifying Description[a]
Unnamed Open Space B	Park	14600 Minnetonka Boulevard	City of Minnetonka	49.0 acre open space
Opus Development Area Trail Network	Park	Located generally between Smetana Road to the north, Hwy 169 to the east, W 62nd St to the South and Hwy 61 to the west	City of Minnetonka	9.6 acre recreational trails

[a] All listed parks are publicly owned, publicly accessible and of local significance.

Table 6-2 summarizes FTA's Section 4(f) use determinations for each of the Section 4(f) park and recreation properties within the Project's study area. Table 6-2 also includes how many acres, if any, of the property will be incorporated under the Project (compared to the property's acreage). Park and recreation properties are generally listed from south-to-north in the Project study area.

TABLE 6-2
Summary of Permanent Section 4(f) Park and Recreational Property Uses

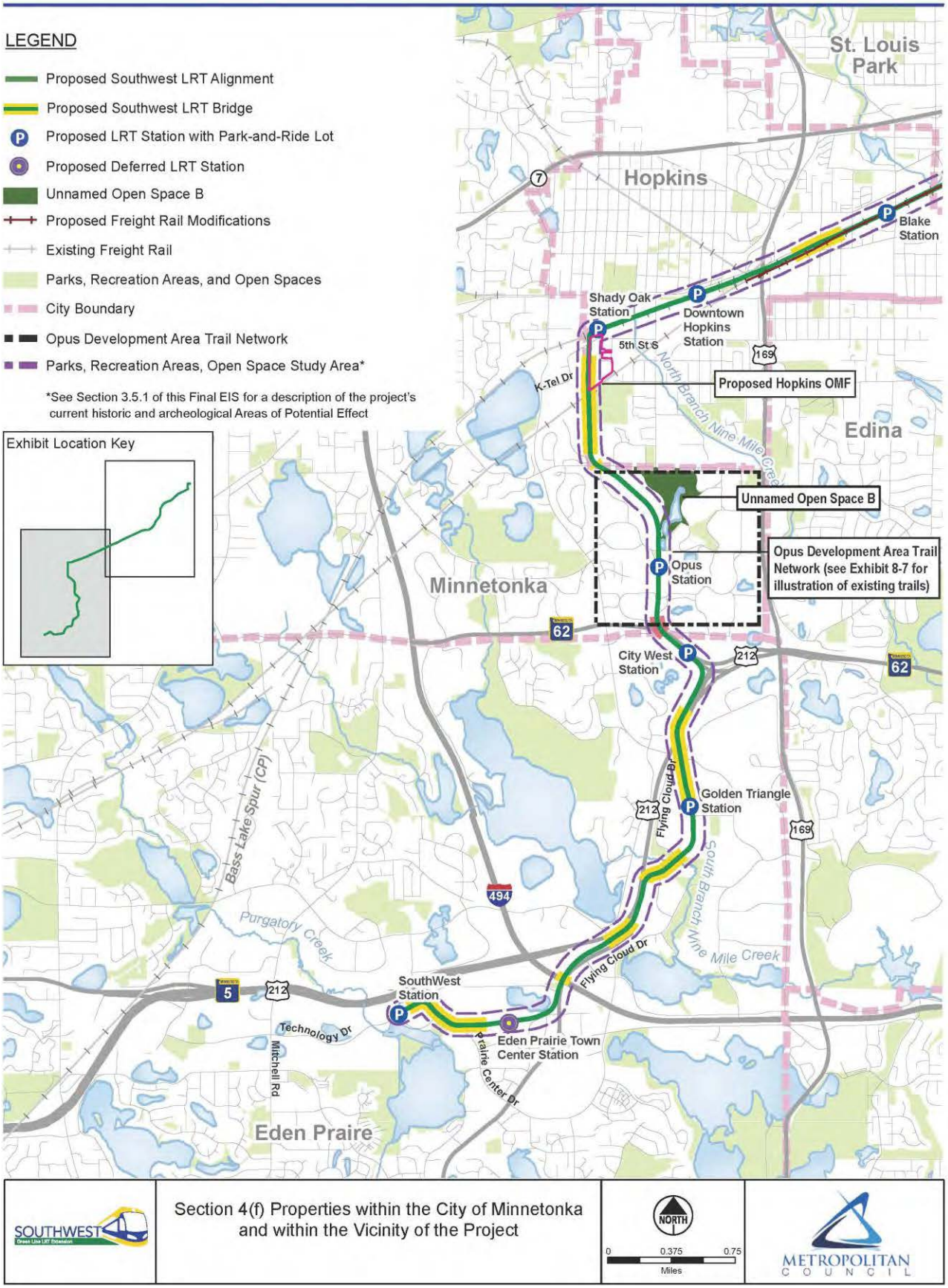
Section 4(f) Property	Non-*de minimis* Use	*De minimis* Impact	No Use	Existing Property Acreage	Acres Permanently Used	% of Property Used
Unnamed Open Space B		•		49.0	1.0	2.0%
Opus Development Area Trail Network		•		9.6	0.0[c]	0.0%[a]

[a] Approximately 1.5 acres of the Opus development area trail network will be removed due to the Project and it will be replaced with approximately 1.8 acres of new trails with the same connections and functions, for a net increase of 0.3 acres of additional trail area within the Opus development area trail network.

The following property in the City of Minnetonka is not considered a Section 4(f) park/recreation property:

- **Unnamed Open Space A.** Composed of one generally naturally vegetated parcel (approximately 3.0 acres), Unnamed Open Space A is located immediately east of Bren Road E. This parcel's official plan designation in the City Minnetonka 2030 Comprehensive Plan (Figure IV-15) is "Mixed Use" (and not "Parks" or "Open Space"). A paved trail, which is part of the Opus development area trail network, (see Section 6.1.2) crosses the parcel in an east-west manner at a point approximately 830 feet north of the intersection of Bren Road East and Red Circle Drive. Unnamed Open Space A also contains an easement owned by Hennepin County for drainage purposes. Based on deed/title information on this property there are no park/recreation-related easements or other park/recreational legal agreements attached to this property. Further, there is no deed covenant restricting the future use of this parcel to "parkland" or "open space." Therefore, FTA does not consider Unnamed Open Space A to be a Section 4(f) property.

EXHIBIT 6-1
Section 4(f) Properties in Minnetonka and within the vicinity of the Proposed Project



Following is a description of the two Section 4(f) park and recreation properties within the Project's park and recreation are study area within the City of Minnetonka (generally from south to north), including:

- A description of the Section 4(f) property
- A Section 4(f) *de minimis* impact determination

6.1 Unnamed Open Space B – Preliminary *De Minimis impact* Determination

A. Section 4(f) Property Description

Unnamed Open Space B is an approximately 49-acre regional park located at 14600 Minnetonka Boulevard in Minnetonka (see Exhibit 6-2). Unnamed Open Space B is owned and operated by the City of Minnetonka. The open space is generally located between Bren Road West on the south, Smetana Road on the north, Green Circle Drive on the east, and private residential and commercial properties on the west. This parcel is designated as "Open Space" in the City Minnetonka 2030 Comprehensive Plan (Figure IV-5) versus Open Space A which is designated as "mixed use.", the City's Plan notes that the purpose of "open spaces" is to preserve as many of the natural features of the land as possible.[1]

Unnamed Open Space B is predominantly naturally vegetated (e.g., wooded, riparian, and wetland features), with some areas of landscaping and pavement (i.e., roadway and trail segments that cross the property). The primary recreation features and attributes of Unnamed Open Space B are: 1) the naturally vegetated areas of the property that make up the majority of the recreation area; and 2) segments of the Opus development area trail network, which is also a Section 4(f) property (see Section 6.2).

The natural areas of Unnamed Open Space B are predominantly made up of the following: an established and functioning wetland in the northern portion of the property; a meandering minor waterway connecting to the wetland; and areas of natural woods, meadow and brush. These natural areas of the property attract an array of wildlife, which are also attracted to and move about between other natural areas that are located on nearby private properties within the Opus development area. The recreational activities within Unnamed Open Space B that are related to those natural features include bird watching, wildlife viewing, native plant observation and identification, nature photography, picnicking, work breaks (from adjacent offices), solitude and contemplation, off-trail walking/hiking, and cross country skiing (weather permitting). Within Unnamed Open Space B there are a few park benches located adjacent to the trail segments that traverse the open space.

Additional recreation activities that occur within Open Space B are those that occur on the segments of the Opus development area trail network that pass through the property. Those recreation activities include walking, running, bicycling, nature and wildlife observation, cross country skiing, and other similar activities. The trail network is the primary way in which recreational users of Unnamed Open Space B access the property.

As Unnamed Open Space B is a publicly owned, publicly accessible recreation area of local significance, FTA considers Unnamed Open Space B to be a Section 4(f)-protected property. Consultation between City of Minnetonka and Project staff on design issues related to Open Space B has occurred throughout the design refinement process that occurred after publication of the Draft EIS. In addition, Project staff held a meeting with City staff on January 5, 2016,[2] which focused on recreation areas owned and operated by the City of Minnetonka, the Section 4(f) process and documentation, and FTA's preliminary Section 4(f) determinations for the two City recreation areas addressed in this document.

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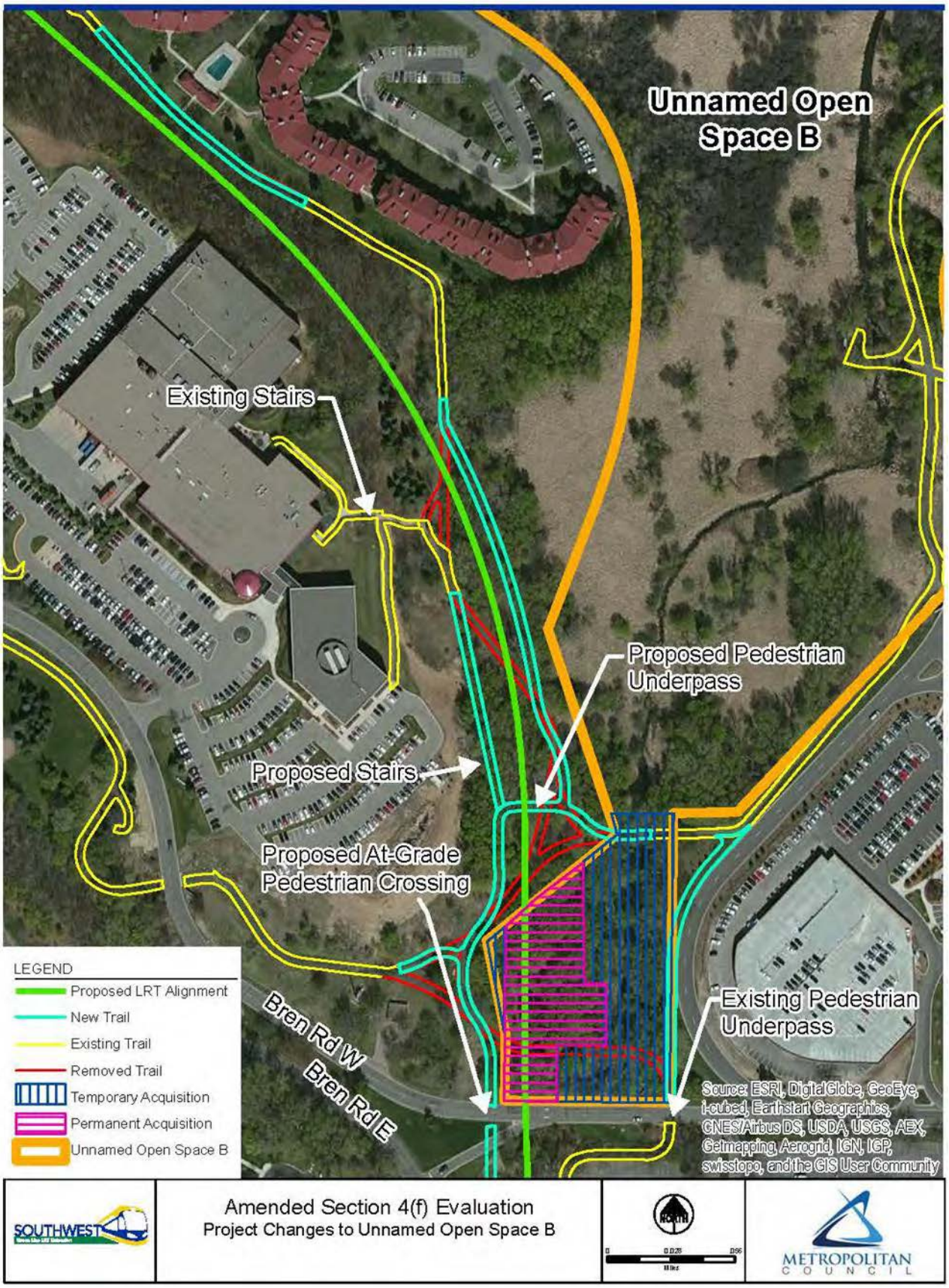
[1] There is a covenant restricting the future use of this parcel to "parkland" or "open space" (see Deed Document No. 1260164). The covenant restriction will be addressed through the Council's and MnDOT's property acquisition process by implementing a real property condemnation process for the portion of Open Space B that will be permanently acquired for the Project. Open Space B also includes an easement for right-of-way across the northwest portion of the property, which includes an existing paved roadway by the Claremont Apartments to access Smetana Road. Other easements affecting the property include those for flowage rights of the City of Hopkins, drainage, and utilities.

[2] See Section 7 for a more detailed description of the FTA's and the Council's Section 4(f) consultation process and activities.

EXHIBIT 6-2
Amended Draft Section 4(f) Evaluation – Unnamed Open Space B



B. Determination of Permanent Section 4(f) Use

As illustrated in Exhibit 6-2, the Project will result in a variety of permanent and short-term (construction-related) changes to Unnamed Open Space B, described as follows.

The Council will permanently acquire from the City of Minnetonka an approximately 1.0 acre portion of Unnamed Open Space B (approximately 2 percent), as illustrated on Exhibit 6-2). The acquired property will be incorporated into the Project for transportation purposes. In particular, the acquired portion of Unnamed Open Space B will be used by the Project for the following:

- A short section of the proposed light rail alignment, including a double crossover and grading required to accommodate the light rail alignment;
- A traction power substation and a double-crossover bungalow, and
- An access driveway between the substation/bungalow and Bren Road West.

Most of the natural areas of Unnamed Open Space B, which are predominantly located in the northern portion of the property, will not be directly affected by the Project. Those areas, such as the wetland, will not be altered by the Project, either permanently or temporarily. In addition, the proposed light rail alignment will generally be screened from view from those natural areas due to retained trees and existing residential buildings located between the proposed alignment and those natural areas.

The portion of the property that will be acquired by the Project includes some natural vegetation; however, that area is generally isolated from the larger natural areas located in the northern portion of the property. Further, the area that will be acquired by the Project has somewhat different attributes than the northern natural areas, in that it is directly bordered on three sides – by large commercial development immediately to the east and west and by an arterial roadway (Bren Road West) to the south. Additionally, some of the area to be acquired for the Project is currently landscaped, rather than naturally vegetated. Finally, over half the southern portion of the property will not be acquired for the Project and will be retained in City ownership; this remaining area of the southern portion of Unnamed Open Space B will provide a vegetative buffer between a new trail segment on the southwest edge of the property and commercial development located to the west.

Project construction activities will be confined to the southern portion of Unnamed Open Space B. Those construction activities will predominantly occur within the area of Unnamed Open Space B that will be permanently acquired for the Project. Those construction activities will include clearing, grubbing, and grading, construction of the light rail alignment, new trail sections, the new traction power substation and signal bungalow, and revegetation of the site.

Some construction activities will also occur within the approximately 1.6 acres of Unnamed Open Space B located outside and immediately to the east of the area of the property to be permanently acquired for the Project. In general, those construction activities will be related to regrading that will be required to match the grading within the area to be permanently acquired, as well as the removal and replacement of trail segments. Those construction activities may also include the construction and removal of potential temporary trail connections.

Construction activities within Unnamed Open Space B will be closely coordinated with the City of Minnetonka to help avoid and minimize effects on recreational activities within the open space. The Council will also provide the City of Minnetonka and the public with ongoing notification of construction activities within the open space, such as the timing and location of heavy construction activities and trail detours. All areas of the remaining Unnamed Open Space B property that will be affected by Project construction activities will be restored to existing conditions or better and restoration plans will be developed and implemented in consultation with the City of Minnetonka.

Relative to the segments of the Opus development area trail network that traverse portions of Unnamed Open Space B, portions of the existing at-grade trail will be relocated to accommodate construction of the light rail alignment and other facilities. New sections of trail will be located within the remaining adjacent portion of Unnamed Open Space B, as illustrated on Exhibit 6-2. The realignment of the trails within the open

space will ultimately be determined through continued consultation between FTA, the Council, and the City of Minnetonka, which will work to avoid, minimize, and mitigate impacts to the open space's Section 4(f)-qualifying activities, features, and attributes. As noted in Section 6.2, existing trail connections for portions of the Opus development area trail network that are within Unnamed Open Space B will be maintained in the long-term under the Project. Except for the potential for short-term trail closures to ensure trail user safety, all existing trail connections will be maintained during construction of the new trail alignment. During those short-term temporary trail closures, trail users will be provided with detour routes and information. Temporary trails may be constructed to allow for the removal of existing trail segments and construction of new trail segments.

FTA, the City of Minnetonka, and the Council have made efforts to help avoid, minimize, and mitigate impacts to Unnamed Open Space B, including participation in a Section 4(f) coordination meeting in January 2016. See Appendix B for the notes and materials from that meeting. In particular, the Project minimized the amount of area of the property needed to be acquired for transportation purposes and designed the modified trail network to ensure continued connections and minimal trail modifications. Further, the recreation activities that currently occur within the area unaffected by the Project in Unnamed Open Space B will be maintained both during and after construction of the Project.

C. Preliminary Section 4(f) Use Determination

Based on the design and analysis as described in this section, and consistent with the requirements of 23 CFR 774.5(b), FTA has preliminarily determined, in coordination with the City of Minnetonka, that Project actions will not adversely affect the features, attributes, or activities that qualify Unnamed Open Space B for Section 4(f) protection. As such, FTA has concluded that Project actions will result in a Section 4(f) *de minimis* impact at Unnamed Open Space B, consistent with 23 CFR 774.17.

FTA, the Council, and the City of Minnetonka will consider all comments received during the public comment period for this Amended Draft Section 4(f) Evaluation that address this preliminary Section 4(f) *de minimis* impact determination for Unnamed Open Space B. Following the close of the public comment period on this Amended Draft Section 4(f) Evaluation and after consideration of the comments, FTA will request written concurrence from the City of Minnetonka prior to making a final *de minimis* use determination for this property. FTA intends to make the final *de minimis* impact determination for Unnamed Open Space B in the Project's Final EIS/Final Section 4(f) Evaluation.

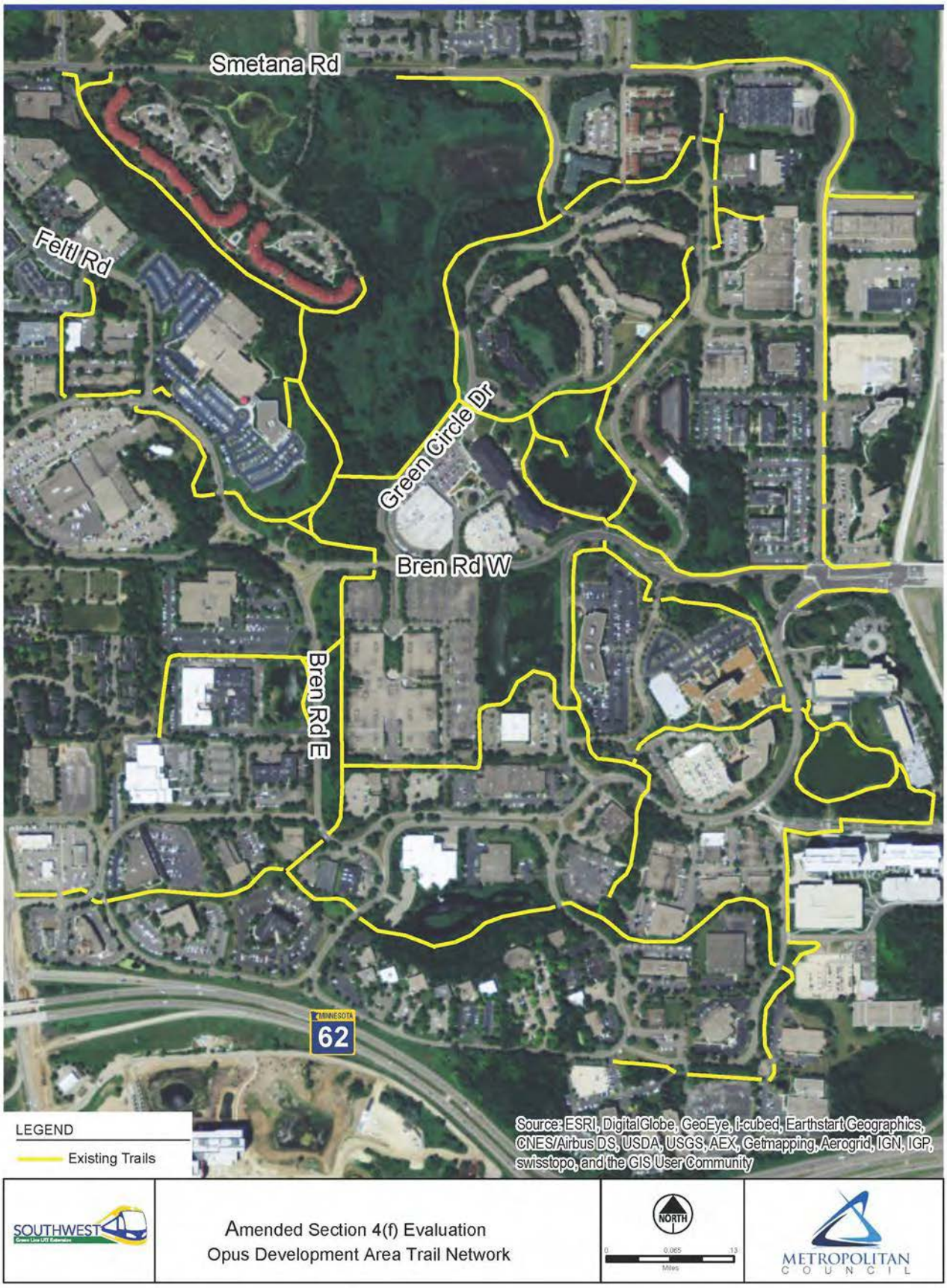
6.2 Opus Development Area Trail Network – Preliminary *De Minimis* Impact Determination

A. Section 4(f) Property Description

The Opus development trail network is an approximately eight-mile (approximately 42,000 feet) length of trail corridor that generally serves the mixed-use Opus development area in Minnetonka, Minnesota (see Exhibit 6-3). In general, the Opus development trail network is owned and maintained by the City of Minnetonka. Portions of the trail network are on land owned fee simple by the City of Minnetonka (e.g., within Unnamed Open Space B); portions of the trail network are on land owned fee simple by a private entity or individual within an easement owned by the City of Minnetonka (e.g., south of the Claremont Apartments); and portions of the trail network are located on land owned fee simple by a private entity or individual.

The Opus development area trail network is generally located between Smetana Road to the north, Highway 169 to the east, West 62nd Street to the south and Highway 61 to the west. The Opus development trail network was originally designed and constructed as an element of the Opus mixed use development, which includes office, retail, residential, institutional, recreation, and other uses. Overall, trails within the City of Minnetonka, including the Opus development area trail network, are designated as both a recreation and a transportation facility in the City Minnetonka 2030 Comprehensive Plan (Chapter VII – Parks, Open Space and Trail Plan; Figure VII-2 – Existing Trail System within the Comprehensive Plan; Chapter 8 – Transportation Plan).

EXHIBIT 6-3


Smetana Rd
Feltl Rd
Green Circle Dr
Bren Rd W
Bren Rd E
MINNESOTA
62
LEGEND
Existing Trails
Source: ESRI, DigitalGlobe, GeoEye, i-cubed, Earthstart Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community
SOUTHWEST
Amended Section 4(f) Evaluation
Opus Development Area Trail Network
NORTH
0
0.065
.13
Miles
METROPOLITAN
COUNCIL

The Opus development area trail network is a collection of trails that are generally paved with asphalt, with short sections of concrete pavement. Most of the trail network is at-grade, with some short sections of trails crossing under local roads. Maintaining and improving the road/trail grade separations are a priority of the City of Minnetonka. The primary recreation facilities within the Opus development area trail network are the trails themselves. There are scattered benches, picnic tables, directional signs, and the like that are located adjacent to the trail network and are utilized by trail users. Segments of the Opus development area trail network cross through and are included within Unnamed Open Space B, which is a Section 4(f) property (see Section 6.1 for additional information on Unnamed Open Space B). The primary recreation activities that occur within the Opus development area trail network occur on the trails. Those recreation activities include walking, running, bicycling, nature and wildlife observation, cross-country skiing (conditions allowing), and other similar activities. There are also ancillary passive and active recreation activities occurring on other public and private recreation areas or open spaces that connect to the trail network, for example, where trail users stop to observe or use a recreation area or open space. Transportation activities also occur within the trail network, providing pedestrians and bicyclists with connections between residential, commercial retail, and other uses within and outside of the Opus development area. Much of the trail network is plowed of snow during the winter.

As the Opus development area trail network is a publicly owned, publicly accessible recreation area of local significance, FTA considers the Opus development area trail network to be a Section 4(f)-protected property. Consultation between the City of Minnetonka and Project staff on design issues related to the Opus development area trail network has occurred throughout the design refinement process that occurred after publication of the Draft EIS. In addition, Project staff held a meeting with City staff on January 5, 2016,[3] which focused on recreation areas owned and operated by the City of Minnetonka, the Section 4(f) process and documentation, and FTA's preliminary Section 4(f) determinations for the recreation areas.

B. Determination of Permanent Section 4(f) Use

As illustrated on Exhibits 6-4 and 6-5, the Project will result in a variety of permanent and short-term (construction-related) changes to the Opus development area trail network, described as follows.

The Council will permanently alter relatively short sections of the Opus development area trail network to accommodate the introduction of the light rail alignment, station, and related improvements (as illustrated on Exhibits 6-4 and 6-5). In general, alterations to the trail network by the Project will include removal of relatively short sections of paved trail to be replaced with new paved trail sections in different locations, resulting in a net increase in the size of the trail network. In summary, approximately 1.5 acres of existing trail will be removed and replaced with approximately 1.8 acres of new trail, resulting in a net increase of approximately 0.3 acres of trail. The Project will also maintain the number of trail undercrossings beneath roadways and will include a new trail undercrossing beneath the proposed light rail alignment. All alterations to the trail network will result in maintaining all connections currently provided through the Opus development area trail network. Each new trail segment will be designed and constructed to have the same or better physical and functional characteristics of the trail segment that it will replace. For example, new trail segments will be paved with asphalt where the current trail segment is paved with asphalt and a trail segment that is currently 10 feet wide will be replaced with a trail segment that is at least 10 feet wide. Specifications for the new replacement trail segments have and will be developed in consultation with the City of Minnetonka.

[3] See Section 7 for a more detailed description of the FTA's and the Council's Section 4(f) consultation process and activities.

EXHIBIT 6-4

Amended Draft Section 4(f) Evaluation – Project Changes to the Opus Development Area Trail Network (north of Bren Rd W)

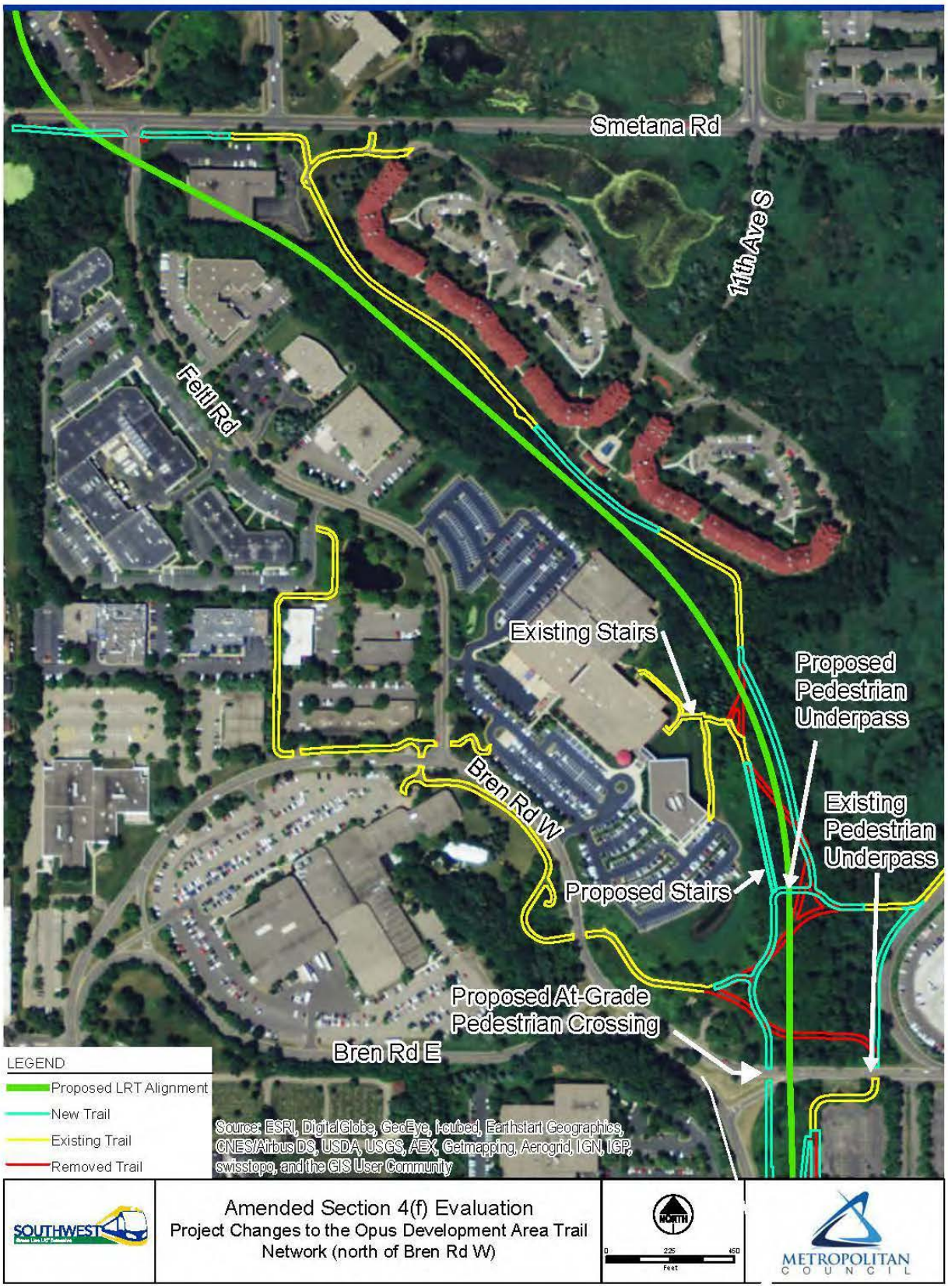
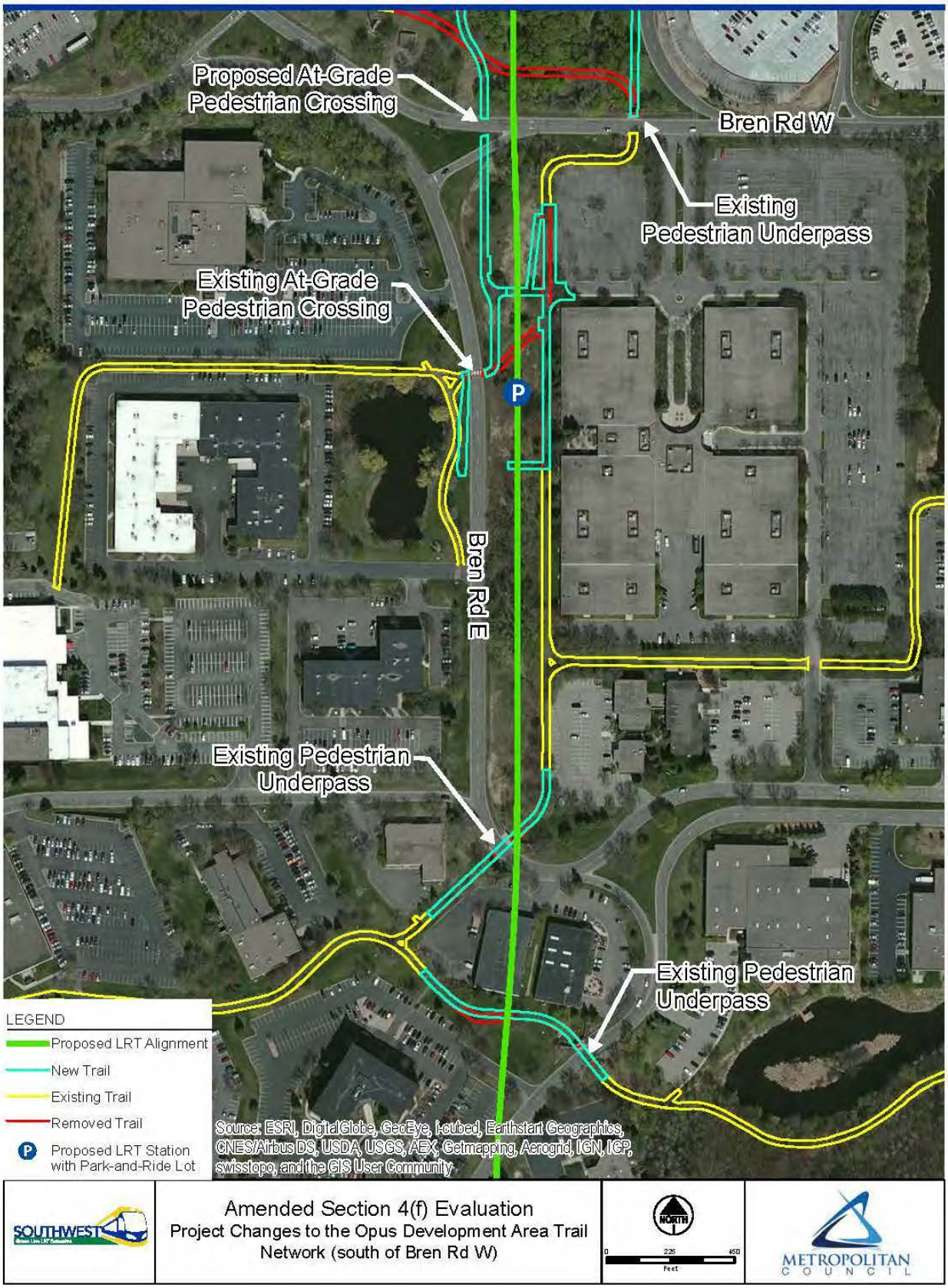


EXHIBIT 6-5

Amended Draft Section 4(f) Evaluation – Project Changes to the Opus Development Area Trail Network (south of Bren Rd W)



Some temporary construction activities associated with the Project will affect the Opus development area trail network within and directly adjacent to the segments of trail that will be removed and replaced with a new trail segment. Construction activities within the Opus development area trail network include grading, vegetation removal and replacement, repaving segments of the trail that will remain in place to match new trail segments, temporary trail connections and signage, and other activities associated with reconstruction of affected trails. The Project will provide the public and the City of Minnetonka with construction detour information. Further, the Project will restore all segments of the Opus development area trail network altered but not permanently moved by the Project (e.g., regrading a trail segment to match a new trail segment) to pre-construction conditions or better, based on specifications agreed to between the Council and the City of Minnetonka.

All existing trail connections provided by the Opus development area trail network will be maintained in the long-term under the Project. Except for the potential for short-term trail closures to ensure trail user safety during construction, all existing trail connections will be maintained during construction of the new trail. During those temporary trail closures, trail users will be provided with detour routes, signage, and other information as appropriate. Temporary trails may be constructed to allow for the removal of existing trail segments and construction of new trail segments. Construction activities within the Opus development area trail network will be closely coordinated with the City of Minnetonka to help avoid and minimize effects on recreational activities within the trail network. The Council will also provide the City of Minnetonka and the public with ongoing notification of construction activities within the trail network, such as the timing and location of trail detours.

FTA, the City of Minnetonka, and the Council have made efforts to help avoid, minimize, and mitigate impacts to the Opus development area trail network, including participation in a Section 4(f) coordination meeting on January 5, 2016 (see Appendix B for copies of the notes and materials for that meeting). For the areas of the Opus development area trail network that will be permanently and temporarily affected by the Project, FTA, the City of Minnetonka, and the Council have coordinated to define ways to help avoid, minimize, and mitigate impacts to the open space. In particular, the Project minimized the amount of area of the trail network to be modified. Further, Project designs have and will ensure that all existing trail connections will be maintained during and after construction of the Project. In addition, the modifications to the trail network have avoided the removal of any existing trail undercrossings of roadways of trails within the network. Further, a new trail undercrossing of the proposed light rail alignment will be provided just north of Bren Road West. Finally, the design of the Project has and will continue to ensure that recreation activities that currently occur within the Opus development area trail network will be maintained both during and after construction of the Project.

C. Preliminary Section 4(f) Use Determination

Based on the design and analysis as described in this section, and consistent with the requirements of 23 CFR 774.5(b), FTA has preliminarily determined, in coordination with the City of Minnetonka, that Project actions will not adversely affect the features, attributes, or activities that qualify the Opus development area trail network for Section 4(f) protection. As such, FTA has concluded that Project actions will result in a Section 4(f) *de minimis* impact of the Opus development area trail network, consistent with 23 CFR 774.17.

FTA, the Council, and the City of Minnetonka will consider all comments received during the public comment period for this Amended Draft Section 4(f) Evaluation that address this preliminary Section 4(f) *de minimis* impact determination for the Opus development area trail network. Following the close of the public comment period on this Amended Draft Section 4(f) Evaluation and after consideration of the comments, FTA will request written concurrence from the City of Minnetonka prior to making a final *de minimis* impact determination for this property. FTA intends to make the final *de minimis* impact determination for the Opus development area trail network in the Project's Final EIS/Final Section 4(f) Evaluation.

Minnetonka 2030 Comprehensive Plan – Chapter VII – Parks, Open Space and Trail Plan

Open Space Related Exerpts

Chapter VII. Parks, Open Space and Trail Plan

The Minnetonka park, open space and trail system has become one of the more important community assets and serves city residents and businesses, alike. The park and open space system contributes a substantial amount of property for public activities in the community and reflects the city's commitment towards natural resource stewardship. Further, the trail system provides connections between public spaces and community-oriented activity areas within and outside the city.

The Minnetonka parks and recreation system has expanded and grown as the city has developed. Through thoughtful planning by community leaders in response to understanding the values and interests of the community, residents and workers enjoy diverse opportunities for leisure. As demographic changes continue to impact the city, it will be important to understand which recreational amenities can maintain the city's vitality and attractiveness.

The following chapter of the comprehensive guide plan provides a framework for the overall park, open space and trail planning activities through 2030. Much of the information within this chapter is based on the Minnetonka *Park, Open Space and Trail System Plan* (POST Plan) prepared and adopted by the city in 2000 and is referenced for specific park planning information. The POST Plan establishes a balanced approach to managing community and neighborhood parks, open space, athletic field and trail resources in the city.

The chapter includes:

- a review of the park planning history in the city,
- a summary of park, open space, trails, recreation resources in the city,
- current strategic planning efforts,
- future park, open space and trail improvements, and
- concludes with implementation strategies and tools.

The basis for this chapter is represented in the Minnetonka 2030 Vision, and the community policies included in Chapter III – Overall City Policies.

4. Open Space Preservation

Minnetonka has long been committed to open space preservation, most recently reflected by the passage of the 2001 bond referendum, a shift to conservation development, and updates of land use ordinances related to preservation of steep slopes, shore land and trees. Following the 2001 referendum, the park board and city council prioritized approximately 50 areas throughout the community for possible preservation. The rankings were based on factors developed by the citizen open space preservation task force and adopted by the city council. These factors include sensitive environmental features, buffers for neighborhoods, high visibility, size and linkage to other open areas.

Preservation strategies were developed for each of these areas, ranging from the negotiation of easements to outright purchase. Following the passage of the referendum, the city successfully negotiated acquisitions of five parcels along Minnehaha Creek. Additionally, the city acquired an option to purchase a 30 acre property across from Meadow Park. The city still holds that option, and the resident has donated a conservation easement over the entire property to the Minnesota Land Trust.

Additionally, conservation development agreements have been negotiated for a number of properties to preserve as many of the natural features of the land as possible. Often a property owner has dedicated a conservation easement that prohibits future development activity. Between 2000 and 2006, 159 acres of private land have been placed in conservation easements.

In addition to the donation of easements, other conservation techniques continue to promote the quality of the environment. These include smaller road widths, which allow more open space and less impervious surface, and rain gardens or infiltration systems to treat the storm water run off and promote better water quality.

Additionally, the Park Board has adopted goals and specific strategic objectives (the order does not reflect priority) for the future, that are updated on an annual basis. The 2008 goals and objectives follow the policies included in Chapter III – Overall Policies pertaining to parks, open space and recreation:

1. To protect natural resources and open space

    a. Conduct an ongoing evaluation of the open space process

    b. Continue to review and comment on the implementation of the natural resources stewardship plan

    c. Assist staff in managing the open space process through successful completion

    d. Review options to enhance natural resources & open space

    e. Review all proposed changes to the city's code of ordinances that pertain to natural resources and open space

    f. Actively participate in development of the city's Minnehaha Creek Visioning Plan

    g. Consider a program to recognize historical aspects of the park system

3. Open Space and Natural Area Connections

The 2030 Minnetonka Vision shown as Figure III-1 in Chapter III – Overall Policies depicts the park and open space areas in the city under public control, water resources and areas of important vegetation in the city. The creek corridors, associated floodplain and wetlands, and trails create natural "greenways" within the city, often connecting the city's parks that feature preservation and natural resource stewardship.

The 2000 POST Plan established the need to develop an overall program (with funding) for the preservation of open space under city control based upon the ecological qualities of the area. In the coming years, further study is needed by the city to determine the potential for other private and public stewardship activities to foster connections between the natural "greenways", public open space and areas of important vegetation. Additionally, investigation is needed to review incorporating new stormwater sustainability techniques and address concerns with the growing number and type of plant and animal invasive species.

An update to the POST Plan is needed to further examine the potential for connections between the greenways, open space, and other conservation and sustainability efforts. Information pertaining to MLCCS data and other water quality management inventories reviewed in Chapter VI – Resource Management should be consulted and refined during the POST plan update process to determine the appropriate strategies for the city to manage public open space and encourage private conservation efforts on an ecological neighborhood basis.

3. Open Space

a) Utilize the city open space preservation program and the management of natural resources policy to obtain, manage and improve open space for the public.
b) Convert properties acquired for open space preservation to a park or natural setting environment.
c) Continue to eradicate invasive plant and animal species from open space and other city property and maintain open space in accordance with the Park Maintenance Standards, as may be amended.
d) Seek grants, funding partners and other outside funding opportunities to increase the amount of publically held open space in the city.

Section IV Bicycle and Trail System Plan

Minnetonka has a well-developed system of trails (Figure VIII-12). These trails may help reduce traffic by encouraging the use of alternatives to the automobile, including non-motorized transportation modes such as bicycle and pedestrian.

The City will strive to achieve the following trail system goals as related to transportation:

- ✓ To enhance the transportation system through provisions for multiple modes of travel and intermodal connections;
- ✓ To encourage pedestrian travel for local trips and the use of transit facilities;
- ✓ To provide direct and continuous access for destination-oriented pedestrian and bicycle trips;
- ✓ To provide pedestrian and bicycle-oriented improvements that overcome natural and man-made barriers and promote neighborhood connectivity;
- ✓ To provide safe, attractive and convenient pedestrian-oriented improvements which recognize the differing needs of bicyclists and pedestrian, especially the needs of the elderly, disabled and children;
- ✓ To provide for the integration of street and park systems, so as to support the transportation, park and land-use elements of the City's Comprehensive Plan.

Chapter VII - Parks, Open Space and Trails Plan – Trail-Related Excerpts

2. Existing Trail System

The city's existing trail system, shown on Figure VII-2 consists of off-road trails, walkways (asphalt trails that parallel roadways) and on-road pedestrian-bicycle lanes. The original Loop Trail System was designed to connect the city's major parks and activity centers, and to function as both a transportation and recreation system. Its 33 miles of trails is the centerpiece of the entire trail system that includes neighborhood connectors, sidewalks, pedestrian-bicycle lanes and regional connectors. The main city trail system connects with the Three Rivers Park District's combined 27 mile south segment of Lake Minnetonka and Minnesota River Bluffs LRT regional trails (formerly Southwest Regional LRT). Both corridors begin in Hopkins; the north corridor extends to Victoria, while the south corridor extends to Chanhassen. The city's trail and walkway system also connects with a DNR state trail, the 62 mile Luce Line Trail, in Plymouth just north of Minnetonka.

Trail facilities, including restrooms and drinking fountains, are located at each of the city's five community parks. Much of the main trail system is plowed during the winter months, making it usable throughout the year.

Each year, the city continues to add to the trail system. New trails are generally added with major road reconstruction projects (e.g., CR 101 and the planned 2008-09 improvements to Shady Oak Road). Internal trails have been included with the park renewal projects.

b. Local trail connections and pathways

Although there are numerous trails within the city, the trail system is many years from completion. As noted in Chapter VIII – Transportation, several trail connections are planned in conjunction with roadway improvements scheduled in the coming years. These trails will be physically separated from vehicular traffic.

However, there are numerous other trails and pathways that are needed to establish connections to the village centers, parks, schools, existing trails and other activity centers. Figure VII-3 shows the future overall trail plan and identifies numerous trails that currently remain unfunded. It is anticipated that the necessary right of way control and construction of the unfunded trails and pathways will eventually be accomplished as part of the following activities:

- future roadway reconstruction,
- new development and private development activities,
- outside funding from other government agencies or private entities, and
- future capital improvement programming.

2. Trail/Pathway Development and Maintenance

a. Continue yearly investments into the Future Trail Plan according to the schedule identified in the capital improvements program.
b. Provide safe neighborhood trail connections to the overall trail system and community amenities in response to neighborhood requests or Park Board recommendations. Chapter VII. Parks, Open Space and Trails Plan VII-16 2030 Comprehensive Guide Plan
c. Review and prioritization of the unfunded portions of the trail system by the Park Board to connect the village areas, community parks and adjacent communities.
d. Incorporate identified trails, sidewalks and pathways connections in roadway reconstruction projects.
e. Continue investments to rehabilitate older trail segments and improve signage (identification and wayfinding).
f. Maintain trails in accordance with the Park Maintenance Standards, as may be amended, to improve “wheel-ability” for all age groups, sustainability and year round use, as appropriate.

01/30/85
02/05/85

1814167

LAND PRIOR TAXES PAID
DEPT. OF PROPERTY TAX & PUBLIC RECORDS
TRANSFER ENTERED

MAR 18 1987

HENNEPIN COUNTY MINN.
DEPUTY

DECLARATION OF RESTRICTIVE COVENANT

THIS DECLARATION OF RESTRICTIVE COVENANT is made as of this ____ day of February, 1985, by and between THE CITY OF MINNETONKA, a municipal corporation (hereinafter referred to as the "City"), and OPUS CORPORATION, a Minnesota corporation (hereinafter referred to as "Opus"), with reference to the following facts and circumstances:

A. By that certain Quit Claim Deed dated September 19, 1977, filed February 15, 1978, as Document No. 4356924 in the Office of the County Recorder for Hennepin County, Minnesota, Opus (then known as Rauenhorst Corporation) conveyed to the City the fee title to that certain tract of land legally described as:

> Outlot A, Opus 2 Fourth Addition, according to the recorded plat thereof

(hereinafter referred to as the "Subject Property").

EMBRACES ALL LAND IN CTF 562892 (BALANCE NT)

B. The Subject Property was conveyed upon the express condition that it be used only as "parkland and open space purposes", and with the provision that the Subject Property would revert to Opus if it were ever used for any purpose other than parkland or open space.

C. In connection with its issuance of a permit for the proposed development of certain adjoining property legally described as Tract A, Registered Land Survey No. 1530, Files of Registrar of Titles, County of Hennepin, Nine Mile Creek Watershed District has required that no further development of the Subject Property be permitted which would require fill or encroachment within the 100-year frequency floodplain of Nine Mile Creek (hereinafter referred to as the "Floodplain"), and the City has agreed that such restriction is acceptable for the Subject Property.

D. Opus has agreed that a development restriction as set forth in Paragraph C above would be appropriate for the Subject Property and Opus has further agreed that should Opus, or its successors or assigns, acquire the Subject Property by operation of the reverter contained in said Quit Claim Deed, Opus and its successors and assigns would be bound by such development restriction.

E. The City and Opus desire to set forth in writing this development restriction.

NOW, THEREFORE, in consideration of the foregoing facts and circumstances, and for other good and valuable consideration, the City and Opus hereby agree as follows:

1. The Subject Property shall hereafter be held and conveyed subject to the restriction that there be no further filling or encroachment within the Floodplain, as such area from time to time may be situated within the Subject Property.

2. This development restriction shall apply to and bind each and every owner of any part of the Subject Property, and its respective successors and assigns, to the extent such part of the Subject Property lies within the Floodplain, and shall operate as a covenant passing with the title to the Subject Property.

IN WITNESS WHEREOF, the City and Opus have caused this Declaration to be executed as of the day and year first above written.

THE CITY OF MINNETONKA

By James G. Hanlin
Its Mayor

And James F. Miller
Its City Manager

OPUS CORPORATION

By Ralph A. DeGrisa
Its VICE PRESIDENT - REAL ESTATE DIVISION

36-117-22-21-0002

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

The foregoing was acknowledged before me this 7th day of ~~February~~ March, 1985, by Larry A. Donlin, Mayor, and James F. Miller, City Manager, of The City of Minnetonka, a municipal corporation, on behalf of the municipality.

Betty L. Norton
Notary Public

BETTY L. NORTON
NOTARY PUBLIC — MINNESOTA
HENNEPIN COUNTY
My Commission Expires Nov. 6, 1988

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

The foregoing was acknowledged before me this 21st day of February, 1985, by Ralph O. Robinson, Vice President-Real Estate Division, of Opus Corporation, a corporation under the laws of Minnesota, on behalf of the Corporation.

Marc L. Kruger
Notary Public

MARC L. KRUGER
NOTARY PUBLIC — MINNESOTA
HENNEPIN COUNTY
My commission expires Oct. 31, 1990

INSTRUMENT DRAFTED BY:

Marc L. Kruger
800 Opus Center
9900 Bren Road East
Minnetonka, MN 55343

1814167

REGISTERED VOL. 1866 PAGE 562892

562892

OFFICE OF THE REGISTRAR
OF TITLES
HENNEPIN COUNTY, MINNESOTA
CERTIFIED FILED ON

MAR 18 1987

9am

R. Dos Carlos
REGISTRAR OF TITLES
BY _____ DEPUTY

10 50

TRANSFER ENTERED
DEPT. OF PROPERTY TAX & PUBLIC RECORDS

AUG 7 1991

HENNEPIN COUNTY MINN.
BY _____ DEPUTY

CityMtka
07/11/91 MLK

5812670

EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT is made this 22 day of July, 1991, by and between OPUS CORPORATION, a Minnesota corporation (hereinafter referred to as "Owner"), and the CITY OF MINNETONKA, a Minnesota municipal corporation (hereinafter referred to as "City"), with reference to the following facts and circumstances:

A. Owner is the fee owner of certain real property legally described as follows:

Lots 3 and 4, Block 4, Opus 2 Ninth Addition, according to the recorded plat thereof, Hennepin County, Minnesota

(hereinafter referred to as the "Property").

B. Owner has constructed across certain portions of the Property a bituminous surfaced path, and related improvements, all as part of a trail system in the Opus 2 development (such paths and related improvements collectively hereinafter referred to as the "Secondary Road Improvements"), and Owner has agreed to grant to City an easement for the Secondary Road Improvements upon certain terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the foregoing facts and circumstances, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties hereto, Owner and City hereby agree as follows:

1. Owner hereby grants to City a perpetual, non exclusive easement for the construction, installation, use and maintenance of the Secondary Road Improvements over those portions of the Property lying within the fifteen (15) foot wide drainage and utility easement dedicated in the plat of Opus 2 Ninth Addition which lies along the Northeast boundary of the Property. The use of the Secondary Road Improvements permitted pursuant to this easement grant shall be limited to pedestrian and nonmotorized vehicular travel by the general public and by City, its employees and agents; provided, however, that City may use the Secondary Road Improvements as a means of access for emergency vehicles in instances where public health or safety necessitates such access, and for City maintenance vehicles.

2. Owner hereby grants, bargains, quit claims and conveys to City, its successors and assigns, forever, the Secondary Road Improvements. City accepts the Secondary Road Improvements, and agrees that from and after the date hereof City shall be solely responsible for maintaining, repairing and replacing all of the Secondary Road Improvements and the area within the easement described in Paragraph 1 hereof. Without limiting the generality of the foregoing, City agrees that it shall be responsible for mowing all grass immediately adjoining such bituminous surfaced paths.

3. Nothing in this Easement Agreement to the contrary shall prohibit Owner from using the easement area described in Paragraph 1 hereof for such purposes as Owner may deem appropriate, provided that such use by Owner does not materially interfere with the enjoyment by City of the rights and easement herein granted.

4. The easement hereby granted and the agreement herein contained shall be an easement and agreement running with the Property, and shall inure to the benefit of and be binding upon Owner and City and their respective successors and assigns

IN WITNESS WHEREOF, Owner and City have caused this Easement Agreement to be executed as of the day and year first above written.

OPUS CORPORATION

By _____
Jeffrey W. Essen, Vice President-General Manager Real Estate

CITY OF MINNETONKA

By _____
Timothy M. Bergstedt, Mayor

And _____
James F. Miller, City Manager

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

The foregoing was acknowledged before me this 18th day of July, 1991, by Jeffrey W. Essen, the Vice President-General Manager Real Estate of Opus Corporation, a corporation under the laws of Minnesota, on behalf of the corporation.

_____
Notary Public

IRENE V. ANDERSON
NOTARY PUBLIC—MINNESOTA
HENNEPIN COUNTY
My Commission Expires Dec. 7, 1995

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

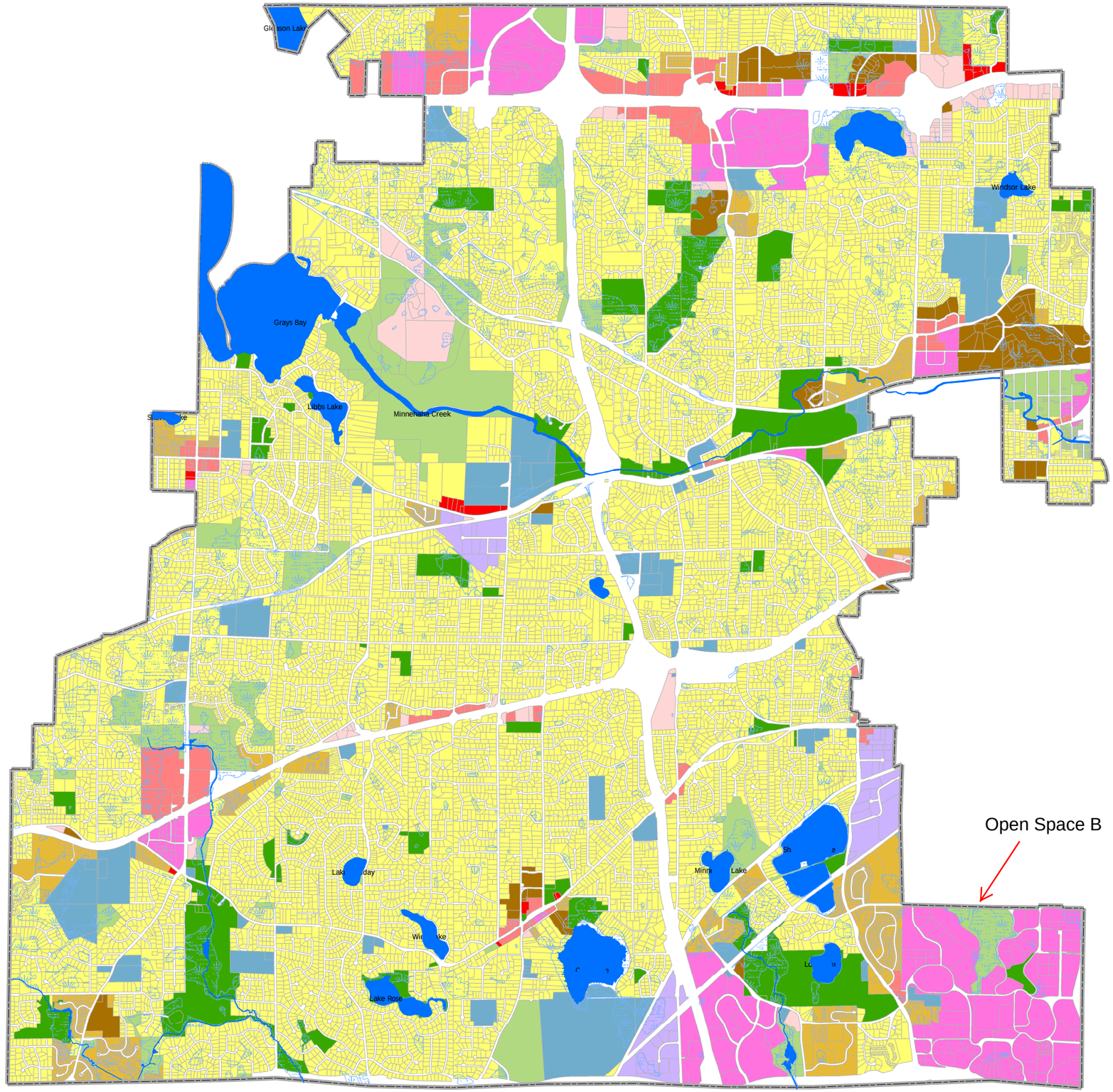
The foregoing was acknowledged before me this 22nd day of July, 1991, by Timothy M. Bergstedt and James F. Miller, the Mayor and City Manager of the City of Minnetonka, a municipal corporation under the laws of Minnesota, on behalf of the municipal corporation.

_____
Notary Public

DESYL L. PETERSON
NOTARY PUBLIC—MINNESOTA
HENNEPIN COUNTY
My Commission Expires Nov 6 1996

This instrument was drafted by:

Marc L. Kruger
800 Opus Center
9900 Bren Road East
Minnetonka, Minnesota 55343



City of minnetonka
Where quality is our nature

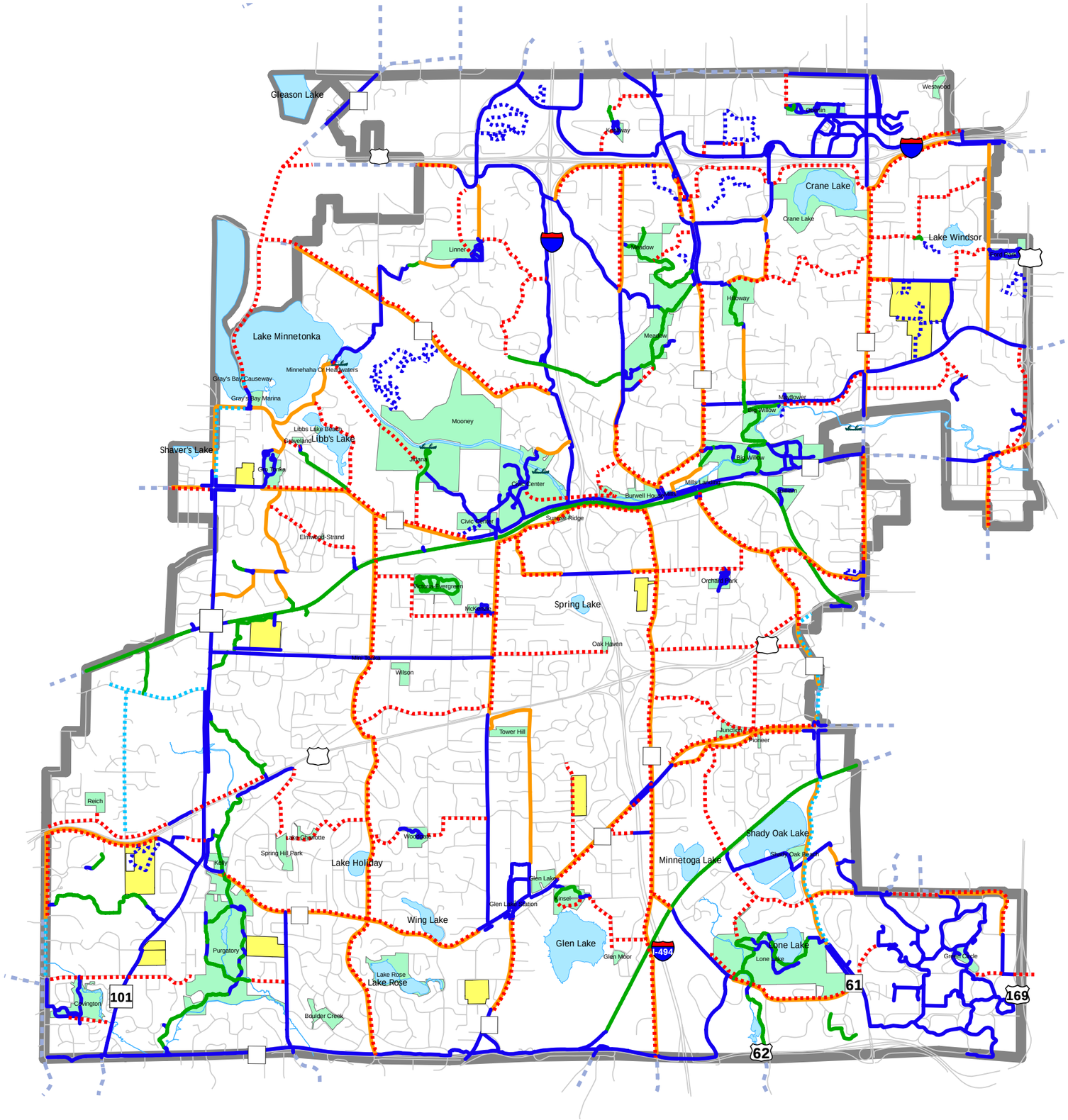
Land Use Catagory

- Low Density Residential (2 - 4 units per acre)
- Medium Density Residential (5 to 12 units per acre)
- High Density Residential (over 12 units per acre)
- Commercial
- Service Commercial
- Office
- Mixed Use
- Industrial
- Institutional
- Open Space
- Parks
- Wetlands
- Lakes

0 2,050 4,100 8,200 Feet

Figure IV-15
2030 Land Use Plan

Source: City of Minnetonka



City of minnetonka
Where quality is our nature

Legend

Trails
Existing

- Intercity Connections
- Off Road (Paved/Concrete)
- Off Road (Gravel)
- On Road
- Private

Future Trail System

- Scheduled Segments
- Unscheduled Segments

Amenities

- Canoe Landing
- Parks
- School Parcels

Trail Map

Map prepared by: City of Minnetonka

Figure VIII-12

Meeting Title:	Section 4(f) Coordination – Newly Identified Section 4(f) Properties within the City of Minnetonka
Date:	01/05/2016 **Time:** 1:00 p.m. **Duration:** 1.0 hour
Location:	SPO Conf. Rm. 6A Call in #: 1 888.742.5095; code: 1109269062
Meeting called by:	Nani Jacobson, Assistant Director, Environmental & Agreements
Attendees:	FTA: Maya Sarna (phone); Minnetonka: Julie Wischnack, Phil Olsen, William Manchester; SPO: Jim Alexander, Sarah Ghandour, Dan Pfeiffer, James Mockovciak, Jeanne Witzig, Leon Skiles, Leila Bunge
Purpose of Meeting:	Discuss Newly Identified Section 4(f) properties under jurisdiction of the City of Minnetonka, Section 4(f) process and analysis.

Agenda

1. Welcome and Introductions
2. Overview of Section 4(f) Requirements (handout)
3. Identification of Section 4(f) Properties (handouts)
   a. Properties Evaluated:
      - Opus Development Area Trail Network
      - Unnamed Open Space B
      - Unnamed Open Space A
   b. Process for Determining Section 4(f) Status
      - Initial Status Determinations
      - Current Status Determinations
   c. Preliminary Section 4(f) *de minimis* Impact Determinations (handout)
4. Next Steps
   i) Publication of the Amended Draft Section 4(f) Evaluation
   ii) Receipt of Public and Agency Comments and Review by FTA, City, Council
   iii) FTA Request to City for Written Concurrence on the Two Section 4(f) *de minimis* Impact Determinations
   iv) Publication of the Final Section 4(f) Evaluation

DISCUSSION:

2) Overview of Section 4(f) Requirements
SPO staff provided an overview of Section 4(f) requirements and the process for a *de minimis* use of the newly identified Section 4(f) properties under jurisdiction of the City of Minnetonka (Refer to handout "Section 4(f) of the Department of Transportation Act").
   a) The intent of Section 4(f) is to prohibit a transportation project from using a qualifying park/recreation area, historic site or wildlife/waterfowl refuge, unless there is no prudent and feasible avoidance alternative or the use would be *de minimis.*
   b) The use of a Section 4(f) property includes the incorporation of the park property into a transportation use through a physical use or through a permanent change in property ownership.
   c) A *de minimis* impact is a physical use of the 4(f) property; however, the project would not adversely affect the activities, features, or attributes qualifying a park, recreation area, or refuge for protection under Section 4(f).
   d) For *de minimis* impacts, reasonable mitigation measures are identified for the 4(f) property, and FTA issues a preliminary determination in a draft Section 4(f) Evaluation for public comment. Following the comment period, the local jurisdiction has the opportunity to concur in writing that the affected property has a *de minimis* use. Final Section 4(f) determinations will be made by FTA, reflecting consideration of comments on the preliminary determinations and on continued consultation with the Officials with Jurisdiction.

3) Identification of Section 4(f) Properties
SPO staff described the Section 4(f) Properties within the City of Minnetonka and the project area that are proposed to have a preliminary *de minimis* use determination.

a) Properties described (Refer to handout "Newly Identified Section 4(f) Properties in Minnetonka", Section 6.1 for full descriptions of the properties) include:

- Opus Development Area Trail Network (Refer to handout "Newly Identified Section 4(f) Properties in Minnetonka", Exhibit 6-4 for location)
  - A 2-foot buffer on either side of the trail is provided where it would need to be maintained (a total of about 9 acres)
  - The multi-use trails are the features and the activities on the trail including walking, biking, cross-country skiing, etc.
  - Trail provides access to secluded areas and to workplaces, for both commercial and residential destinations
  - Certain sections of the trail will be moved for the construction of the LRT and will be repaved later (Refer to Exhibit 6-4 for those changes)
  - No part of the trail will be permanently removed without its current connectivity function being replaced
  - The project preserves the pedestrian grade separated crossings in the Opus development area trail networkAfter construction the amount of trail acreage will slightly increase
- Unnamed Open Space B (Refer to handout "Newly Identified Section 4(f) Properties in Minnetonka", Exhibit 6-1 for location)
  - Primarily open space use (undeveloped, meadows, forested area, landscaped area)
  - Trail going through Open Space B is paved and goes through the natural areas within open space (part of the Opus development area trail network)
  - No traditional recreational features (i.e. ball park, playground, etc.)
  - Uses are typical things that would occur in natural areas, like bird watching, plant identification, areas for solitude, appreciation of nature, etc.
  - City staff mentioned that the area in the north of Open Space B (West of Green Circle Drive) is a wetland restoration area and that the Opus area is officially named Opus 2 Business Park
  - Changes to Open Space B – approximately 1.5 acres of the property will be permanently incorporated into the project through the acquisition process (Refer to Exhibit 6-2 for permanent acquisition location) as well as temporary trail impacts; however, the detour routes will be provided for the trail during construction. A TPSS and signal bungalow will be located on this property and will require some permanent realignment of trails in Open Space B; however there be no long or short-term adverse effects on the trails
  - There will be no noise impact on the noise sensitive uses of the property and those areas will generally be shielded from view of the LRT alignment by existing trees and other vegetation
  - Natural areas will be maintained with no adverse effects
- Unnamed Open Space A (Refer to handout "Newly Identified Section 4(f) Properties in Minnetonka", page 1)
  - **Not considered a Section 4(f) park/recreation property**
  - Based on deed/title information on this property there are no park/recreation-related easements or other park/recreational legal agreements attached to this property
  - There is no deed covenant restricting the future use of this parcel to "parkland" or "open space"
  - FTA does not consider Unnamed Open Space A to be a Section 4(f) property
  -

b) Preliminary Section 4(f) *de minimis* Impact Determinations (Refer to handout "Newly Identified Section 4(f) Properties in Minnetonka")

- Open Space B – the Project actions will not adversely affect the features, attributes, or activities that qualify Open Space B for Section 4(f) Projection. FTA has preliminarily concluded that Project actions will result in a Section 4(f) *de minimis* impact.
- Opus Development Area Trail Network - the Project actions will not adversely affect the features, attributes, or activities that qualify Opus Development Area Trail Network for Section 4(f) Projection. FTA has preliminarily concluded that Project actions will result in a Section 4(f) *de minimis* impact.

4) Next Steps

i) Publication of the Amended Draft Section 4(f) Evaluation

- The Amended Draft Section 4(f) Evaluation will be published separately from the NEPA documentation because these two properties are newly identified and not initially included in previous Section 4(f) preliminary evaluations included with NEPA documentation (e.g., DEIS and SDEIS).
- City Staff asked where the document would be published. SPO Staff stated that it will be published in the *Federal Register*, the EQB Monitor, and on the Project website. Hard copies will be available at the SPO, State Legislative Library, MnDOT Library, Met Council Library, Minnetonka public library and Minnetonka City Hall.
- It is anticipated to be published on January 11, 2016. The document will include two appendices: Plan sheets and meeting materials/notes

ii) Receipt of Public and Agency Comments and Review by FTA, City, Council

- SPO will respond, in coordination with City of Minnetonka, to the comments received after the 45-day public comment period
- No public hearing will be held, or required under Section 4(f)
- With publication on January 11, February 25, 2016 ends the 45-day comment period

iii) FTA Request to City for Written Concurrence on the Two Section 4(f) *de minimis* Impact Determinations

- City Staff asked what their role is in this process. SPO staff responded that it is an active action that both parties (i.e., FTA and the City) agree on after the comment period closes and both need to agree that this is a *de minimis* finding
- City Staff provided the contact for the written concurrence letter to be Julie Wischnack

iv) Publication of the Final Section 4(f) Evaluation

- Will be included in the FEIS

ACTION ITEMS:	**PERSON RESPONSIBLE:**	**DEADLINE:**
Notify adjacent property owners (AMS and Claremont) that this document will be published	SPO Outreach Staff	1/11/2016
Review Amended Draft Section 4(f) Evaluation for comments and changes	City Staff	1/6/2016
Publish Amended Draft Section 4(f) Evaluation for comments	SPO Staff	1/11/2016
Respond to comments with input from City Staff	FTA, SPO Staff	After 2/25/2016

21. Open Space A and B: Property Legal Documents

Open Space A Property Legal Documents

A23
06-002

DUPLICATE

MINNESOTA DEPARTMENT OF TRANSPORTATION

C.S. _____ **PARCEL NO.** _____

COUNTY OF HENNEPIN **JOB NO.** T9N635

TITLE OPINION

I hereby certify to the State of Minnesota that I have examined the title to the real estate herein described as shown by the records in the office of the County Recorder, Registrar of Titles, County Auditor and County Treasurer, and as shown by said records the title to the following described tract:

Outlot E, The Townhouses of Shady Oak

NE SW of section 36, Township 116 North, Range 22 Hennepin County,

is at the date of this certificate in the following named persons: (if the title is registered, note the certificate number.)

REGISTERED LAND TORRENS CERTIFICATE NO. **548328**

Name	Nature of Interest	Date of Document & Recording Date	Book and Page and/or Document No.	Name of Spouse or if Single, so state
City of Minnetonka	Fee	D: May 17, 1976 R: June 17, 1977	T-1224135	

During the past five years the title to said tract was in the following persons, if different from above:

Name	Nature of Interest	Date of Document & Recording Date	Book and Page and/or Document No.	Name of Spouse or if Single, so state

SUBJECT ONLY TO THE FOLLOWING: (Here enumerate encumbrances and liens of every nature, giving names and addresses of parties, date of instrument, date of recording, document number, and other pertinent information; also enumerate other defects, if any, in the title; any judgments docketed in the office of the Court Administrator that would be a lien against this property should be shown here. Show docket number, date of entry and amount of judgment, names of judgment debtor and creditor and attorney for the creditor.)

EASEMENT for drainage in favor of Hennepin County, filed of record as Document A-3781501.

EASEMENT in favor of The City of Minnetonka, dated May 27, 1976, and filed of record on August 30, 1976, as Document T-1188618.

I further certify that all taxes and assessments against said tracts are paid, except:
P.I.D.
36-117-22-31-0002

Last Tract Entry or Certificate Memorial Book - of - Page	SIGNATURE Attorney or Abstracter	EFFECTIVE DATE (Per County Recorder's Office)
T-1376364	by: Danielle D. Holder	November 5, 2013

Certificate of Title

1224135

Certificate Number: **548328**

Transfer From Certificate Number: **545668**

Originally registered June 25, 1973 Volume:1634, Certificate No: 493155, District Court No: 17255

State of Minnesota
County of Hennepin } **s.s.** **Registration**

This is to certify that

City of Minnetonka a Minnesota municipal corporation , whose address is 14600 Minnetonka Boulevard, Minnetonka, Minnesota

is now the owner of an estate in fee simple

In the following described land situated in the County of Hennepin and State of Minnesota:

Outlot E, The Townhouses Of Shady Oak.

Subject to an easement for drainage purposes in favor of the County of Hennepin as contained in Book 69 of Hennepin County Records page 3781501;

Subject to and together with the easements, covenants, liens and restrictions contained in Document No. 1086026, as amended by Document No. 1165854, the easement over common areas being limited to the following common area Lots: Lot 28, Block 1 and Lot 18, Block 2, The Townhouses of Shady Oak and Lots 4, 5 and 6, Block 1, The Townhouses of Shady Oak 2nd Addition as determined in Torrens Case No. A-18335;

Subject to the interests shown by the following memorials and to the following rights or encumbrances set forth in Minnesota statutes chapter 508, namely:

1. **Liens, claims, or rights arising under the laws or the Constitution of the United States, which the statutes of this state cannot require to appear of record;**
2. **Any real property tax or special assessment for which a sale of the land has not been had at the date of the certificate of title;**
3. **Any lease for a period not exceeding three years, when there is actual occupation of the premises under the lease;**
4. **All rights in public highways upon the land;**
5. **Such right of appeal or right to appear and contest the application as is allowed by law;**
6. **The rights of any person in possession under deed or contract for deed from the owner of the certificate of title;**
7. **Any outstanding mechanics lien rights which may exist under sections 514.01 to 514.17.**

Memorials

Document Number	Document Type	Date of Filing Month Day, Year Time	Amount ($)	Running in Favor Of
1188618	Quit Claim Deed	Aug 30, 1976 4:15 PM		City of Minnetonka. Granting a perpetual easement for public right-of -way purposes over pt of above land
Expired 1376364	Quit Claim Deed	Apr 1, 1980 12:00 PM		Rauenhorst Corporation. Granting a temporary eaesment for construction & installation of a walkway to expire Mar 1, 1981, over pt of above land. (See Inst)

Indexes Verified through **11/5/2013**

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of my office this 17th day of June, 1977.

Wayne A. Johnson
Registrar of Titles,
In and for the County of Hennepin and State of Minnesota.

1224135

Limited Warranty Deed.
Corporation to Corporation.

Form No. 23–M.

Miller-Davis Co., Minneapolis
Minnesota Uniform Conveyancing Blanks (Revised 1974)

36-18

1224135

This Indenture, *Made this* 17th *day of* May, *19* 77, *between* FIRST WISCONSIN NATIONAL BANK OF MILWAUKEE, a national banking association organized and existing ~~xxxxxxxxxx~~ *under the laws of the* ~~*State of*~~ United States, *party of the first part, and* the City of Minnetonka, a municipal ~~xx~~*corporation under the laws of the State of* Minnesota, *party of the second part,*

Witnesseth, *That the said party of the first part, in consideration of the sum of* One Dollar and other good and valuable consideration ~~DOLLARS~~, *to it in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, does hereby Grant, Bargain, Sell, and Convey unto the said party of the second part, its successors and assigns, Forever, all the tract or parcel of land lying and being in the County of* Hennepin *and State of Minnesota, described as follows, to-wit:*

Outlot E, The Townhouses of Shady Oak, according to the plat thereof on file or of record in the office of the Registrar of Titles in and for said county, subject to and together with the easements, covenants, conditions, liens and restrictions contained within document number 1086026, files of the Registrar of Titles as amended by document number 1165854 files of the Registrar of Titles in and for said county.

None

State Deed Tax Paid Hereon ~~$2.20~~

To Have and to Hold the Same, *Together with all the hereditaments and appurtenances thereunto belonging or in anywise appertaining, to the said party of the second part, its successors and assigns, Forever. And the said party of the first part, for itself and its successors, does covenant with the said party of the second part, its successors and assigns, that it has not made, done, executed or suffered any act or thing whatsoever whereby the above described premises or any part thereof, now or at any time hereafter, shall or may be imperiled, charged or incumbered in any manner whatsoever,* subject to all installments of unpaid real estate taxes, special assessments and previous easements to the City of Minnetonka.

TRANSFER ENTERED
JUN 1 [illegible]
FINANCE DIVISION
HENNEPIN COUNTY, MINN.
BY [illegible] DEPUTY

And the title to the above granted premises against all persons lawfully claiming the same from, through or under it, except items, if any, hereinbefore mentioned, the said party of the first part will Warrant and Defend.

In Testimony Whereof, *The said first party has caused these presents to be executed in its corporate name by its* Mortgage ~~xxxxxxxxxxxx~~ Banking Officers *and its corporate seal to be hereunto affixed the day and year first above written.*

FIRST WISCONSIN NATIONAL BANK OF MILWAUKEE
CORPORATE SEAL

FIRST WISCONSIN NATIONAL BANK OF MILWAUKEE

By [signature] /Banking Officer
Its Mortgage ~~President~~

In the presence of

Alexander W. Walter

[signature]
Richard C. Palmiter *Its* Mortgage Banking Officer

TORRENS 534672 545668

1224135

State of Minnesota, } ss.
County of HENNEPIN

The foregoing instrument was acknowledged before me

this 17th *day of* May, *19* 77,

by Alexander W. Walter, Mortgage Banking Officer
(NAME OF OFFICER OR AGENT, TITLE OF OFFICER OR AGENT)

and by Richard C. Palmiter, Mortgage Banking Officer
(NAME OF OFFICER OR AGENT, TITLE OF OFFICER OR AGENT)

of First Wisconsin National Bank of Milwaukee
(NAME OF CORPORATION ACKNOWLEDGING)

a national banking association ~~corporation~~, *on behalf of the* association ~~corporation~~.
(STATE OR PLACE OF INCORPORATION)

CHRISTINE S. BRANDLE
HENNEPIN COUNTY
NOTARY PUBLIC-MINNESOTA
MY COMMISSION EXPIRES AUG. 5, 1982

Christine S Brandle
(SIGNATURE OF PERSON TAKING ACKNOWLEDGMENT)

Notary Public
(TITLE OR RANK)
My commission expires 8-5-82

THIS INSTRUMENT WAS DRAFTED BY
C. S. Brandle
(Name)
8200 Normandale Blvd. Suite 425
Bloomington, Mn 55437 (Address)

CTF. NO 548328 1224135

Reg. Vol 1809 Page 545668

OFFICE OF REGISTRAR OF TITLES
STATE OF MINNESOTA
COUNTY OF HENNEPIN

I hereby certify that the within instrument was filed in this office on the 17 day of JUN A.D. 1977 at 30 o'clock P M.

REGISTRAR OF TITLES
By D S Little
DEPUTY REGISTRAR OF TITLES

13 30 4818

Minnesota Form No. 22.

Doc. No.

LIMITED WARRANTY DEED
Corporation to Corporation

TO

Office of Register of Deeds,
State of Minnesota

County of

I hereby certify that the within Deed was filed in this office for record on the day of 19 at o'clock M. and was duly recorded in Book of Deeds, page or ☐ Noroxed ☐ Microfilmed and was duly recorded as instrument No.

Register of Deeds.
By Deputy.

No Delinquent Taxes and Transfer entered this day of 19

County Auditor.
By Deputy.

Tax statements for the real property described in this instrument should be sent to:

CITY OF MINNETONKA
TAXES MINNETONKA BLVD.
MINNETONKA, MINNESOTA 55343
Name
Address

1188618

Quit Claim Deed (Statutory Short Form) by Corporation. Form No. 34—M. Miller-Davis Co., Minneapolis, Minn. Minnesota Uniform Conveyancing Blanks (1931). 36-15

1188618

Know All Men by these Presents, *That the Grantor* First Wisconsin National Bank of Milwaukee,-a National Banking Association, a ~~corporation~~ *under the laws of the* ~~State of~~ United States *for and in consideration of the sum of* One Dollar and other good and valuable consideration *DOLLARS, to in hand paid, does hereby Convey and Quitclaim to* the City of Minnetonka, a municipal corporation,

of Hennepin *County, State of* Minnesota, *as Grantee, the Real Estate, situate in the County of* Hennepin, *State of Minnesota, described as follows, to-wit:*

A perpetual easement for public right-of-way purposes over, under and across that part of the following described property:

Outlot E, The Townhouses of Shady Oak, according to the plat thereof on file or of record in the office of the Registrar of Titles in and for said Hennepin County.

Which lies westerly, northwesterly and northerly of a line described as follows:

Commencing at the northwest corner of said Outlot E; thence on an assumed bearing of South 20 degrees 04 minutes 27 seconds East, along the westerly line of said Outlot E, a distance of 127.73 feet, to the beginning of the line to be described; thence northeasterly a distance of 173.12 feet, along a nontangential curve concave to the southeast having a radius of 104.41 feet and a central angle of 95 degrees 00 minutes 10 seconds, the chord of said curve has a length of 153.96 feet and bears North 44 degrees 18 minutes 37 seconds East; thence South 88 degrees 11 minutes 18 seconds East, parallel with the north line of said Outlot E, to the easterly line of said Outlot E and said line there terminating.

PT O.L. E, CTY 534673

TRANSFER ENTERED
AUG 25 1976
FINANCE DIVISION
HENNEPIN COUNTY, MINN.

STATE DEED TAX DUE: EXEMPT

FIRST WISCONSIN NATIONAL BANK OF MILWAUKEE

Dated at MILWAUKEE, WISCONSIN *this* 27th *day of* MAY 1976.

In Presence of

FIRST WISCONSIN NATIONAL BANK OF MILWAUKEE, a Natl. Banking Assoc.
By EARL D. LILLYDAHL
Its MORTGAGE BANKING OFFICER ~~President~~

WAYNE H. BROGLEMAN
Its MORTGAGE BANKING OFFICER

State of ~~Minnesota,~~ WISCONSIN
County of MILWAUKEE } ss.

On this 27th *day of* MAY, 1976, *before me, a* NOTARY PUBLIC *within and for said county, personally appeared* EARL D. LILLYDAHL *and* WAYNE H. BROGLEMAN *to me personally known, who, being each by me duly sworn* they *did say that they are respectively the* ~~President and the~~ MORTGAGE BANKING OFFICERS *of the corporation named in the foregoing instrument, and that the seal affixed to said instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of* DIRECTORS, *and said* EARL D. LILLYDAHL *and* WAYNE H. BROGLEMAN *acknowledged said instrument to be the free act and deed of said corporation.*

M. R. KUHNKE
Notary Public Milwaukee *County,* ~~*State*~~ WISC.
My commission expires September 28, 1977

THIS INSTRUMENT WAS DRAFTED BY
Carl F. Dever
(Name)
14600 Minnetonka Blvd.
Minnetonka, Minnesota 55343
(Address)

534672

1188618

Minnesota Form No. 34.

Doc. No.....

QUIT CLAIM DEED

(Statutory Short Form)
By Corporation

.....

.....

TO

.....

.....

Office of Register of Deeds,
State of Minnesota,
County of .....

I hereby certify that the within Deed was filed in this office for record on the ..... day of ....., 19....., at ..... o'clock ..... M., and was duly recorded in Book ..... of Deeds, page .....

.....
Register of Deeds.
By ..... Deputy.

Taxes paid and Transfer entered this ..... day of ..... 19.....

.....
County Auditor.
By ..... Deputy.

Tax statements for the real property described in this instrument should be sent to:

.....
Name

.....

.....
Address

Recording Fee $2.00

1188618

Registered Vol 1772 Page 534673

(2)

534673

OFFICE OF REGISTRAR OF TITLES
STATE OF MINNESOTA
COUNTY OF HENNEPIN

8

I hereby certify that the within instrument was filed in this office on the 30 day of AUG A.D. 1976 at 4:15 o'clock P M.

REGISTRAR OF TITLES

By

DEPUTY REGISTRAR OF TITLES

3.25 COUNTY CHARGE

Warranty Deed.
Individual to Corporation.

Form No. 3-M.

Miller-Davis Co., Minneapolis, Minn.
Minnesota Uniform Conveyancing Blanks (1931).

3 781 501

3781501

This Indenture, *Made this* 27th *day of* May, 1969,
between Frank Holy and Hildagard M. Holy, husband and wife

of the County of Hennepin *and State of* Minnesota,
parties of the first part, and The County of Hennepin, a body politic and corporate,
~~xxxxxxxxxx~~ *under the laws of the State of* Minnesota, *party of the second part,*

Witnesseth, *That the said parties of the first part, in consideration of the sum of* Four Thousand One Hundred Twenty Five *DOLLARS,* *to* them *in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, do hereby Grant, Bargain, Sell, and Convey unto the said party of the second part, its successors and assigns, Forever, all the tract or parcel of land lying and being in the County of* Hennepin *and State of Minnesota described as follows, to-wit:*

THE ATTACHED

THE ATTACHED

All that part of the following described tracts;

The West 198 feet of the North 188.5 feet of the Northwest 1/4 of Southwest 1/4 of Section 36, Township 117, Range 22, and that part of the Northwest 1/4 of the Northwest 1/4 of Southwest 1/4 of Section 36, Township 117, Range 22, lying South of the North 188.5 feet thereof, and
Commencing at the Northwest corner of the Southwest 1/4 of Northwest 1/4 of Southwest 1/4 of Section 36, Township 117, Range 22, thence South 165 feet; thence East 216 feet to the center line of County Road; thence Northerly along said center line to the North line of said Southwest 1/4 of Northwest 1/4 of Southwest 1/4; thence West 120 feet to point of beginning, except roads.

which lies within a distance of 40 feet on each side of the following described line: Beginning at a point on the North line of the South 1/2 of Section 35, Township 117, Range 22, distant 242.42 feet Westerly of the East Quarter corner of said section; thence deflect Southeasterly at an angle of 126° 30' with said North line, a distance of 401.37 feet; thence deflect to the right along a tangential curve having a radius of 1432.39 feet (delta angle 29° 19' 10") a distance of 732.98 feet and there terminating.

Also a permanent easement for drainage purposes over that part of the first above described tracts not acquired herein, which lie within 15 feet on each side of a line 75 feet in length being a radial line of the curve of the above described line and drawn from a point thereon distant 445.04 feet Southeasterly of the North line of the South half of said section as measured along said line.

manner and form aforesaid, and that the same are free from all incumbrances,

JUN 26 1969

STATE OF MINNESOTA DEPT. OF TAXATION

STATE TAX DUE HEREON $ 9.90

And the above bargained and granted lands and premises, in the quiet and peaceable possession of the said party of the second part, its successors and assigns, against all persons lawfully claiming or to claim the whole or any part thereof, subject to incumbrances, if any, hereinbefore mentioned, the said parties of the first part will Warrant and Defend.

In Testimony Whereof, *The said parties of the first part have hereunto set their hands the day and year first above written.*

In Presence of

Frank Holy

Hildagard M. Holy

Open Space B Property Legal Documents

AA
07-003

1 of 2
DUPLICATE

MINNESOTA DEPARTMENT OF TRANSPORTATION

C.S. _____ **PARCEL NO.** _____

COUNTY OF HENNEPIN **JOB NO.** T9N635

TITLE OPINION

I hereby certify to the State of Minnesota that I have examined the title to the real estate herein described as shown by the records in the office of the County Recorder, Registrar of Titles, County Auditor and County Treasurer, and as shown by said records the title to the following described tract:

Outlot A Opus 2 Fourth Addition
EXCEPT
That part of Outlot A embraced within the North 10 acres of the West half of the Northwest Quarter of the Northeast Quarter of Section 36, Township 117, Range 22, Opus 2 Fourth Addition.

NENW of section 36, Township 117 North, Range 22 Hennepin County,

is at the date of this certificate in the following named persons: (if the title is registered, note the certificate number.)

REGISTERED LAND TORRENS CERTIFICATE NO. _____

Name	Nature of Interest	Date of Document & Recording Date	Book and Page and/or Document No.	Name of Spouse or if Single, so state
City of Minnetonka	Fee	D: September 19, 1977 R: February 15, 1978	A-4356924✓	

During the past five years the title to said tract was in the following persons, if different from above:

Name	Nature of Interest	Date of Document & Recording Date	Book and Page and/or Document No.	Name of Spouse or if Single, so state

SUBJECT ONLY TO THE FOLLOWING: (Here enumerate encumbrances and liens of every nature, giving names and addresses of parties, date of instrument, date of recording, document number, and other pertinent information; also enumerate other defects, if any, in the title; any judgments docketed in the office of the Court Administrator that would be a lien against this property should be shown here. Show docket number, date of entry and amount of judgment, names of judgment debtor and creditor and attorney for the creditor.)

VACATION filed of record on October 12, 1977 as Document A-4323765. ✓

RESTRICTION for use as Parkland shown in Deed Doc No. 1260164. ✓

EASEMENT for Right of Way described in Book 1074 of Deeds, page 300. ✓

EASEMENT in favor of the City of Hopkins for flowage described in Book 1951 Deeds page 173. ✓

I further certify that all taxes and assessments against said tracts are paid, except:
P.I.D.
Part of 36-117-22-21-0002

Last Tract Entry or Certificate Memorial Book - of - Page	SIGNATURE Attorney or Abstracter	EFFECTIVE DATE (Per County Recorder's Office)
T-4437117	by: Danielle D. Holder	July 31, 2013

AA ☒

DUPLICATE 2 of 2

MINNESOTA DEPARTMENT OF TRANSPORTATION

C.S. _____ **PARCEL NO.** _____

COUNTY OF HENNEPIN **JOB NO.** T9N635

TITLE OPINION

I hereby certify to the State of Minnesota that I have examined the title to the real estate herein described as shown by the records in the office of the County Recorder, Registrar of Titles, County Auditor and County Treasurer, and as shown by said records the title to the following described tract:

That part of Outlot A embraced within the North 10 acres of the West half of the Northwest Quarter of the Northeast Quarter of Section 36, Township 117, Range 22, Opus 2 Fourth Addition

NENW of section 36, Township 117 North, Range 22 Hennepin County,

is at the date of this certificate in the following named persons: (if the title is registered, note the certificate number.)

REGISTERED LAND TORRENS CERTIFICATE NO. **562892**

Name	Nature of Interest	Date of Document & Recording Date	Book and Page and/or Document No.	Name of Spouse or if Single, so state
City of Minnetonka	Fee	D: September 19, 1977 R: February 15, 1978	T-1260164✓	

During the past five years the title to said tract was in the following persons, if different from above:

Name	Nature of Interest	Date of Document & Recording Date	Book and Page and/or Document No.	Name of Spouse or if Single, so state

SUBJECT ONLY TO THE FOLLOWING: (Here enumerate encumbrances and liens of every nature, giving names and addresses of parties, date of instrument, date of recording, document number, and other pertinent information; also enumerate other defects, if any, in the title; any judgments docketed in the office of the Court Administrator that would be a lien against this property should be shown here. Show docket number, date of entry and amount of judgment, names of judgment debtor and creditor and attorney for the creditor.)

VACATION filed of record on October 12, 1977 as Document T-1241181

RESTRICTION for use as Parkland shown in Deed Doc No. 1260164.

RESTRICTIONS COVENANTS and EASEMENTS shown on Certificate of Title No. 562892.

EASEMENT for Right of Way described in Book 1074 of Deeds, page 300.

EASEMENT in favor of the City of Hopkins for flowage described in Book 1951 Deeds page 173.

I further certify that all taxes and assessments against said tracts are paid, except:
P.I.D.
Part of 36-117-22-21-0002

Last Tract Entry or Certificate Memorial Book - of - Page	SIGNATURE Attorney or Abstracter	EFFECTIVE DATE (Per County Recorder's Office)
T-4437117	by: Danielle D. Holder	July 31, 2013

Certificate of Title

Certificate Number: **562892**

Transfer From Certificate Number: **492736** 1260164

Originally registered July 15, 1955 Volume:781, Certificate No: 237190, District Court No: 12339

State of Minnesota
County of Hennepin } **s.s.** **Registration**

This is to certify that

City of Minnetonka a Minnesota municipal corporation , whose address is 14600 Minnetonka Boulevard, Minnetonka, Minnesota

is now the owner of an estate in fee simple

In the following described land situated in the County of Hennepin and State of Minnesota:

That part of Outlot A embraced within the North 10 acres of the West half of the Northwest Quarter of the Northeast Quarter of Section 36, Township 117, Range 22, Opus 2 Fourth Addition.

Subject to drainage and utility easements as shown on plat;

Subject to the right-of-way mentioned in deed of record in Book 1074 of Deeds, page 300, the flowage rights of the City of Hopkins created by an instrument of record in Book 1951 of Deeds, page 173;

Subject to drainage and utility easements as shown on plat of Opus II 1st Addition;

Subject to the condition that above land shall be used solely for parkland and open space purposes, as shown in Deed Doc No 1260164, with reversionary clause;

Subject to the interests shown by the following memorials and to the following rights or encumbrances set forth in Minnesota statutes chapter 508, namely:

1. **Liens, claims, or rights arising under the laws or the Constitution of the United States, which the statutes of this state cannot require to appear of record;**
2. **Any real property tax or special assessment for which a sale of the land has not been had at the date of the certificate of title;**
3. **Any lease for a period not exceeding three years, when there is actual occupation of the premises under the lease;**
4. **All rights in public highways upon the land;**
5. **Such right of appeal or right to appear and contest the application as is allowed by law;**
6. **The rights of any person in possession under deed or contract for deed from the owner of the certificate of title;**
7. **Any outstanding mechanics lien rights which may exist under sections 514.01 to 514.17.**

Memorials

Document Number	Document Type	Date of Filing Month Day, Year Time	Amount ($)	Running in Favor Of
1241181	Resolution	Oct 12, 1977 8:00 AM		By the City Council of the City of Minnetonka; Vacating public right-of-way and drainage and utility easements in Opus II 1st Addition.
1814167	Declaration	Mar 18, 1987 9:00 AM		Creating restrictive covenant.
4437117	Ordinance	Oct 16, 2007 4:00 PM		Ordinance No. 2007-26 By the City Council of the City of Minnetonka. Modifying a wetland overlay district boundary, conditional use permit for wetland buffer impacts and flood plain alteration for the opus corporation redevelopment at 5700, 5720, 5740green circle drive and 10350 bren road west. (See Inst)

Indexes Verified through 9/25/2013

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of my office this 14th day of February, 1978.

Wayne A. Johnson

Registrar of Titles,

In and for the County of Hennepin and State of Minnesota.

164

Quit Claim Deed.
Corporation to Corporation.

Form No. 31-M.

1260164

No. 36-25

4356924

RETURN TO TORRENS DEPT.

This Indenture, *Made this* 19th *day of* September, *19* 77, *between*

RAUENHORST CORPORATION

a corporation under the laws of the State of Minnesota, *party of the first part, and*

CITY OF MINNETONKA

municipal *a corporation under the laws of the State of* Minnesota, *party of the second part,*

Witnesseth, *That the said party of the first part, in consideration of the sum of* One Dollar ($1.00) and other good and valuable consideration ~~DOLLARS,~~ *to it in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, does hereby Grant, Bargain, Quitclaim, and Convey unto the said party of the second part, its successors and assigns, Forever, all the tract or parcel of land lying and being in the County of* Hennepin *and State of Minnesota, described as follows, to-wit:*

PT FIRST - EMBRACES ALL OF THE PORTION OF OL A IN FOLLOW DESC

Outlot A, Opus 2 Fourth Addition, according to the recorded plat thereof, upon the express condition that said property shall be used solely for parkland and open space purposes and if such property shall be used for any purposes other than parkland or open space purposes, said property shall revert to party of first part, its successors and assigns.

This instrument is a conveyance of fee title.

C. V. FILED ☐ NOT REQ. ☑

FEB 5 1978

BY

STATE DEED TAX DUE HEREON None

To Have and to Hold the Same, *Together with all the hereditaments and appurtenances thereunto belonging or in anywise appertaining, to the said party of the second part, its successors and assigns, Forever.*

In Testimony Whereof, *The said first party has caused these presents to be executed in its corporate name by its* President and its Real Estate Div. Asst. Secy. *and its corporate seal to be hereunto affixed the day and year first above written.*

RAUENHORST CORPORATION

By PRESIDENT, REAL ESTATE DIV.

Its President

Its Asst. Secretary

RETURN TO
TORRENS DEPT.

T 492736

State of Minnesota, } ss.
County of Hennepin

The foregoing instrument was acknowledged before me

this 19th *day of* September, *19* 77,

by Robert J. Dahlin, PRESIDENT, REAL ESTATE DIV.
(NAME OF OFFICER OR AGENT, TITLE OF OFFICER OR AGENT)

and by James L. Tucker, Assistant Secretary
(NAME OF OFFICER OR AGENT, TITLE OF OFFICER OR AGENT)

of Rauenhorst Corporation
(NAME OF CORPORATION ACKNOWLEDGING)

a Minnesota *corporation, on behalf of the corporation.*
(STATE OR PLACE OF INCORPORATION)

GWEN L. PEARSON
NOTARY PUBLIC - MINNESOTA
HENNEPIN COUNTY
My Commission Expires Sep. 3, 1981

Gwen L Pearson
(SIGNATURE OF PERSON TAKING ACKNOWLEDGMENT)

Notary Public
(TITLE OR RANK)

THIS INSTRUMENT WAS DRAFTED BY

(Name)

(Address)

INSTRUMENT PREPARED BY:
JAMES L. TUCKER
2700 Northwest to Financial Center
7900 Xerxes Avenue South
Minneapolis, Minnesota 55431

CTF. NO. 562892 1260164

RESIDUE
REGISTERED VOL. 1633 PAGE 492736

RETURN TO
TORRENS DEPT.

492736

OFFICE OF REGISTRAR OF TITLES
STATE OF MINNESOTA 88
COUNTY OF HENNEPIN
I hereby certify that the within instrument was filed in this office on the
14 day of FEB A.D. 1978 at
3 15 o'clock P. M.

REGISTRAR OF TITLES
By [signature]
DEPUTY REGISTRAR OF TITLES

No delinquent taxes and transfer entered
FINANCE DIVISION
HENNEPIN COUNTY, MINN.
FEB 10 1978
1375

FINANCE DIVISION DIRECTOR
BY [signature] DEPUTY
This certificate does not relate to taxes for the current year 1978 which may or may not be paid.

RETURN TO
TORRENS DEPT.

1375 CO. CHARGE

Minnesota Form No. 31.

Doc. No. 4356924

QUIT CLAIM DEED
Corporation to Corporation 1603.25 Bg B
FEB-15-78 6924 #3.75 DTS

RETURN TO
TORRENS DEPT.

TO

Office of County Recorder
State of Minnesota

OFFICE OF COUNTY RECORDER
HENNEPIN COUNTY, MINNESOTA
CERTIFIED FILED AND/OR RECORDED ON
1978 FEB 15 AM 8:16
AS DOCUMENT # 4356924
CO. RECORDER
BY [signature] DEPUTY

THIS DOCUMENT IS RECORDED
ON BOTH ABSTRACT
AND TORRENS PROPERTY
entered this ___ day of ___
19 ___ REC FEE 3
COPY FEE
By ___ County Auditor. Deputy.

Tax statements for the real property described in this instrument should be sent to:
CITY OF MTKA
14600 MTKA BLVD
MTKA MN 55343
Name
Address

RETURN TO
TORRENS DEPT.

2795770

FLOWAGE EASEMENT

THIS INDENTURE, made this 19 day of November, 1952, between Charles Vasko and Anna Vasko, husband and wife, of the County of Hennepin and State of Minnesota, parties of the first part and City of Hopkins, a municipal corporation located and being in the County of Hennepin and State of Minnesota, party of the second part,

WITNESSETH, That

WHEREAS, the City of Hopkins has this year deepened and widened that part of Nine Mile Creek lying within the limits of the City of Hopkins, and

WHEREAS, the City of Hopkins has agreed to maintain the said Creek, at not less than substantially its present average depth and width, and

NOW THEREFORE, in consideration of the party of the second part hereafter maintaining Nine Mile Creek at not less than substantially its present depth and width and cutting any weeds growing on the bottom of said Creek at reasonable time and using reasonable efforts to keep the water flowing freely through that portion of said Creek located within the City of Hopkins, the parties of the first part do hereby grant, bargain, quit claim and convey unto the said party of the second part, its successors and assigns, forever, the perpetual right, privilege and easement to overflow with waters from Nine Mile Creek, except sewage, all the tract or parcel of land lying and being in the County of Hennepin and State of Minnesota, described as follows: to-wit: The South (S) Three hundred (300) feet of the North (N) Ten (10) acres of the West (W) one-half of the Northwest Quarter (NW¼) of the Northeast Quarter (NE¼) of Section Thirty-six (36), Township One Hundred Seventeen (117), Range Twenty-two (22);

TO HAVE AND TO HOLD THE SAME, together with all the hereditaments and appurtenances thereunto belonging or in anywise appertaining to said party of the second part, its successors and assigns, subject however, to the provisions above set forth to be performed by party of the second part.

IN TESTIMONY WHEREOF the said parties of the first part have hereunto set their hands the day and year first above written.

DEED
Book-1951-Page 174

In Presence of:
Gwendolyn Graupmann } ex to
J. D. Nunan
Frank H. Whitney } ex to City of Hopkins

Charles Vasko
Charles Vasko
Anna Vasko
Anna Vasko

CITY OF HOPKINS
By W. Harlan Perbix
W. Harlan Perbix, Mayor
and W. R. L. Taylor
Walton R.L. Taylor, City Manager

* * * * * * *

STATE OF MINNESOTA)
) SS
COUNTY OF HENNEPIN)

On this 29 day of November, 1952, before me, a notary Public within and for said county, personally appeared Charles Vasko and Anna Vasko, husband and wife, to me known to be the persons described in, and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

John D. Nunan
JOHN D. NUNAN
Notary Public, Hennepin County, Minn.
My Commission Expires Mar. 28, 1959.

* * * * * * *

STATE OF MINNESOTA)
) SS
COUNTY OF HENNEPIN)

On this 17 day of ~~November~~ January, 1953, before me, a Notary Public within and for said county, personally appeared W. Harlan Perbix and Walton R. L. Taylor, to be personally known, who, being each by me duly sworn, they did say that they are respectively the Mayor and the City Manager of the City of Hopkins, Hennepin County, Minnesota, and that the seal affixed to said instrument is the corporate seal of said City, and that said instrument was signed and sealed on behalf of said City by authority of its City Council, and said W. Harlan Perbix and Walton R. L. Taylor acknowledged said instrument to be the free act and deed of said City.

Frank H. Whitney
FRANK H. WHITNEY
Notary Public, Hennepin County, Minn.
My commission expires Jan. 9, 1955

Filed for record on the 20 day of Jan A.D. 1953 at 10:50 o'clock A.M.
1953

Doc. No. 1[illegible]5711, Filed April 7 1926, at 3 30 o'clock P M.

THIS INDENTURE, Made this 2nd day of April in the year of our Lord one thousand nine hundred and Twenty six between Cora A. Matteson and Judson D. Matteson, her husband,

of the County of Los Angeles and State of California, parties of the first part, and Charles Vasko and Anna Vasko, his wife as joint tenants and not tenants in common,

of the County of Hennepin and State of Minnesota, parties of the second part:

WITNESSETH, That the said parties of the first part, for and in consideration of the sum of Twenty Seven Hundred Fifty and No. 1100 DOLLARS, to the in hand paid by the said parties of the second part, the receipt whereof is hereby acknowledged, do hereby Grant, Bargain, Sell and Convey unto the said parties of the second part, heirs and assigns, Forever, all that tract or parcel of land lying and being in the County of Hennepin and State of Minnesota, described as follows, to-wit:

The North Ten (10) acres of the West half (W. 1/2) of the Northwest quarter (N.W. 1/4) of the North East quarter (N.E. 1/4) of Section Thirty Six (36) in Township One Hundred Seventeen (117) North of range Twenty-two (22) West of the Fifth (5) Principal Meridian containing Ten (10) acres be it more or less according to the Government Survey thereof, The parties of the first part reserve the right to at all times to have the privilege of using a strip of ground a rod wide along the west line of this Ten (10) acres for a roadway to connect with Ninth avenue as is now laid out in the town of Hopkins also known as West Minneapolis Hennepin Co., Minn.

See Doc. No. 1868234 Book 353 Mins 209

See Doc. No. 1803128 Book 1393 Deeds 86

TO HAVE AND TO HOLD THE SAME, Together with all the hereditaments and appurtenances thereunto belonging or in anywise appertaining to the said parties of the second part heirs and assigns, FOREVER. And the said Cora A. Matteson and Judson D. Matteson her husband,

parties of the first part, for themselves their heirs, executors and administrators, do covenant with the said parties of the second part heirs and assigns, that they are well seized in fee of the lands and premises aforesaid, and have good right to sell and convey the same in manner and form aforesaid, and that the same are free from all encumbrances

and the above bargained and granted lands and premises, in the quiet and peaceable possession of the said parties of the second part heirs and assigns, against all persons lawfully claiming or to claim the whole or any part thereof, the said parties of the first part will WARRANT and DEFEND

IN TESTIMONY WHEREOF, The said parties of the first part have hereunto set their hands and seals the day and year first above written.

Signed, Sealed and Delivered in Presence of

C. W. Welter
Philura L. Clemens

Cora A. Matteson (Seal)
Judson D. Matteson (Seal)
(Seal)
(Seal)

STATE OF California
County of Los Angeles } ss.

On this 2nd day of April, A. D. 1926, before me, a Notary Public within and for said County, personally appeared Cora A. Matteson and Judson D. Matteson, her husband,

to me known to be the person described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

J. H. Fouke Notary Public
In and for the County of Los Angeles,
State of California
My Commission Expires December 8, 1926.

(Notarial Seal)

1241181

Feltl Rd. Vacation

4323765

RETURN TO TORRENS DEPT.

1241181 RESOLUTION NO. 77 - 5177

RESOLUTION ORDERING THE VACATION OF PUBLIC RIGHT OF WAY AND DRAINAGE AND UTILITY EASEMENTS FOR RAUENHORST CORPORATION OPUS II 1ST ADDITION.

RETURN TO TORRENS DEPT.

WHEREAS, the Rauenhorst Corporation has petitioned the City Council of the City of Minnetonka to vacate the following portion of City easement to wit:

Legal Description for Vacation of Feltl Road

All that part of Feltl Road lying within the Southwest Quarter of the Northwest Quarter of Section 36, Township 117, Range 22, Hennepin County, Minnesota, which lies West of the East 205.70 feet thereof.

Legal Description for Vacation of Streets and Drainage and Utility Easements in Opus II 1st Addition

ONLY DOMINICK DRIVE AFFECTS REGISTERED LAND.

All that part of Bren Road West, Bren Road East, Bren Road Connection, Bren Road, Red Circle Drive, Yellow Circle Drive, Green Circle Drive, Dominick Drive, 11th Street, Westward Way and County Road No. 62, all as dedicated within the plat of OPUS II 1st Addition, according to the recorded plat thereof, on file or of record in the office of County Recorder in and for said Hennepin County,

and

All that part of Blue Circle Drive as dedicated within the plat of OPUS II 1st Addition, according to the recorded plat thereof, on file or of record in the office of County Recorder, in and for said Hennepin County; Except that part of said Blue Circle Drive lying Westerly of "Line A" to be hereinafter described and lying Easterly of "Line B" to be hereinafter described:

Commencing at the Northeast corner of Lot 4, Block 10, OPUS II 1st Addition, according to the recorded plat thereof on file or of record in the office of County Recorder, in and for said Hennepin County; thence South 4 degrees 31 minutes 17 seconds East (assumed bearing) along the Easterly line of said Lot 4, a distance of 239.79 feet; thence Southwesterly along the Southeasterly line of said Lot 4, on a tangential curve, concave to the Northwest, having a radius of 275.38 feet, a central angle of 52 degrees 00 minutes 55 seconds, and a chord bearing of South 21 degrees 29 minutes 11 seconds West, for a distance of 250.00 feet, to the point of beginning of the line to be described; thence South 15 degrees 26 minutes 03 seconds West a distance of 53.30 feet to the Northwesterly line of Outlot E, said OPUS II 1st Addition and there terminating.

Line B is described as follows:

Beginning at the most northerly corner of Lot 1, Block 11, said OPUS II 1st Addition; thence Northerly to the point of reverse curve on the Westerly line of Lot 5, Block 10, said OPUS II 1st Addition and there terminating,

and

All of the drainage and utility easements as dedicated on the plat OPUS II 1st Addition, according to the recorded plat thereof; Except those drainage and utility easements lying within Blocks 10 and 11 of said OPUS II 1st Addition.

WHEREAS, a Notice of Hearing on said petition was published in the official newspaper of the City of Minnetonka on the 25th day of May, 1977, and the 1st day of June, 1977, and was duly posted as required by law; and,

RETURN TO TORRENS DEPT.

1241181

WHEREAS, a hearing on such petition was held on the 6th day of June, 1977, at which time all persons for and against the granting of said petition were heard, and

WHEREAS, the City Council of the City of Minnetonka, Minnesota, finds that the petitioner is the majority land owner of the land abutting said portions of the City easements sought to be vacated and therefore, the proper petitioner, and that the public interest will be served by vacating said portions of City easements.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MINNETONKA, MINNESOTA.

1. That the above described portions of City easements be and hereby are vacated.

2. That the vacating of Feltl Road shall take place simultaneously with the filing of the plat of OPUS 2 Fourth Addition, which creates "Feltl Lane" on the West 33 feet thereof and "Feltl Road" as shown on said plat with the Registrar of Titles; otherwise said remaining portion of Feltl Road is not to be vacated by these proceedings.

Adopted by the City Council of the City of Minnetonka, Minnesota, this 6th day of June, 1977.

I. SAM HIGUCHI, MAYOR

ATTEST:

Margaret E. Mullen, City Clerk

Action on the above resolution:

Motion for adoption: Gray
Seconded by: Larsen
Voted in favor of: Gray, Hanus, Larsen, Bastable, Higuchi
Voted against or abstained: Shaw excused; DeChetto was absent
Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held on the 6th day of June, 1977.

Margaret E. Mullen, City Clerk

RETURN TO
TORRENS DEPT.

1241181

1241181

REGISTERED VOL. 1633 PAGE 492736

44

4323765

492736

RETURN TO
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OCT 12 77 4323765 $0003.00

RETURN TO
TORRENS DEPT.

OFFICE OF REGISTRAR OF TITLES
STATE OF MINNESOTA
COUNTY OF HENNEPIN

8

I hereby certify that the within instrument was filed in this office on the 12 day of OCT A.D. 1977 at 8⁰⁰ o'clock A M.

REGISTRAR OF TITLES

By DS Lollie
DEPUTY REGISTRAR OF TITLES

OFFICE OF COUNTY RECORDER
HENNEPIN COUNTY, MINNESOTA
CERTIFIED FILED AND OR RECORDED ON

1977 OCT 12 PM 1:46

AS DOCUMENT # 4323765

CO. RECORDER

BY C S Ward DEPUTY

THIS DOCUMENT IS RECORDED
ON BOTH ABSTRACT
AND TORRENS PROPERTY

RETURN TO
TORRENS DEPT.

3⁰⁰ CO. CHARGE

RETURN TO
TORRENS DEPT.

22. Notices of Publication of the Amended Draft Section 4(f) Evaluation

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Notice of Availability of Southwest Light Rail Transit Project Amended Draft Section 4(f) Evaluation

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of availability and request for comments on the Southwest Light Rail Transit Project Amended Draft Section 4(f) Evaluation.

SUMMARY: This notice announces the availability of the Southwest Light Rail Transit (LRT) Project Amended Draft Section 4(f) Evaluation, which includes preliminary Section 4(f) *de minimis* impact determinations for two newly identified Section 4(f) properties.

DATES: By this notice, FTA requests that comments to the Amended Draft Section 4(f) Evaluation must be received by February 25, 2016.

FOR FURTHER INFORMATION CONTACT: Kathryn Loster, FTA Regional Counsel at (312) 353–3869, *kathryn.loster@dot.gov;* Maya Sarna, FTA Office of Environmental Programs at (202) 366–5811, *maya.sarna@dot.gov*. Comments may be submitted to Nani Jacobson, Assistant Director, Environmental and Agreements, Metro Transit-Southwest LRT Project Office, 6465 Wayzata Boulevard, Suite 500, St. Louis Park, MN 55426 or via email at *swlrt@metrotransit.org*.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the FTA is releasing an Amended Draft Section 4(f) Evaluation (Amended Evaluation) for the Southwest LRT Project (Project), evaluating two additional Section 4(f) properties in the City of Minnetonka, Minnesota.

Federal Lead Agency: FTA.

Project Sponsor: Metropolitan Council.

Project Description: The proposed project is a 14.5-mile light rail transit service that would connect downtown Minneapolis to the southwestern region of the metropolitan area through the cities of St. Louis Park, Hopkins, Minnetonka, and Eden Prairie, Minnesota. The Amended Evaluation includes FTA's preliminary determination of *de minimis* impact on two park properties located within the City of Minnetonka, Minnesota. Pursuant to 23 CFR 774.5, FTA requests public and agency comments only on the two properties discussed in Amended Evaluation. Comments received on the Amended Evaluation and the preliminary Section 4(f) *de minimis* impact determinations will be included, and responded to, in the Project's Final EIS, which will include the Southwest LRT Final Section 4(f) Evaluation.

To obtain a copy of the Amended Evaluation, please visit the Project's Web site at *www.swlrt.org* or by request by contacting Nani Jacobson at *swlrt@metrotransit.org* or Maya Sarna at *maya.sarna@dot.gov*.

Authority: 49 U.S.C. 303.

Issued on: January 11, 2016.

Marisol Simon,

Regional Administrator, FTA, Chicago, Illinois.

[FR Doc. 2016–267 Filed 1–8–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2015–0121]

Developing Evidence Based Fatigue Risk Management Guidelines for Emergency Medical Services

AGENCY: National Highway Traffic Safety Administration (NHTSA), U.S. Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: The National Highway Traffic Safety Administration (NHTSA) is announcing a meeting that will be held in Washington, DC on February 2nd, 2016 to announce a new initiative and accept comments from the public about the development of voluntary evidence-based guidelines (EBGs) for fatigue risk management tailored to the Emergency Medical Services (EMS) occupation. The meeting will include presentations by NHTSA and the project team. These presentations will address the following: (1) A brief overview of the potential dangers of drowsy and fatigued driving and the work of EMS practitioners, including the risk of traffic crashes and providing patient care; (2) a summary of the project goals and methods for coming to consensus on EBG fatigue risk management guidelines, (3) the plan for dissemination of EBGs, and (4) additional project related activities and information. Due to space limitations, attendance at the meeting is limited to invited participants and those who register in advance. Time for comment and questions from attendees will be included. Written comments can also be made on *http://www.regulations.gov*.

DATES: The meeting will be held on February 2nd, 2016 from 8:00 a.m. to 12:00 p.m.

ADDRESSES: The meeting will be held in the Conference Center of the U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Dr. J. Stephen Higgins, Telephone: 202–366–3976; email address: *james.higgins@dot.gov*.

SUPPLEMENTARY INFORMATION: The National Highway Traffic Safety Administration (NHTSA) is announcing a meeting that will be held in Washington, DC on February 2nd, 2016 to announce a new initiative and accept comments from the public about the development of voluntary evidence-based guidelines (EBGs) for fatigue risk management tailored to the EMS occupation. This initiative (*http://www.ems.gov/pdf/nemsac/2013/NEMSAC-AdvisoryFatigueJan2013.pdf*) was started at the behest of the National Emergency Medical Services Advisory Committee (NEMSAC), a congressionally authorized Federal Advisory Committee; sponsored by NHTSA; and the work performed by the National Association of State EMS Officials (NASEMSO). The fatigue risk management guidelines for the EMS community will be developed by an interdisciplinary team of sleep and fatigue scientists, Evidence Based Guideline (EBG) development specialists, and experts in emergency medicine and EMS. Final results and dissemination are expected within the next two years. The evidence based fatigue risk management guidelines will be widely disseminated across the EMS community through publications, presentations, and at national stakeholder meetings.

The meeting will be attended by members of the project team, the EBG panel, members of the public, and members of the EMS community. The meeting will begin with short presentations by NHTSA staff and the project team discussing the dangers of drowsy and fatigued driving and work, a summary of the project goals and methods for coming to consensus on the guidelines, the eventual dissemination of the guidelines, and additional project related activities. A majority of the time in the meeting will be set aside to accept questions and comments from the registered attendees after the brief initial presentations. This is to ensure that the voluntary fatigue risk management guidelines will address the needs of the entire and diverse EMS community. Due to space limitations, attendance at the meeting is limited to invited participants and those who register in advance. All attendees must bring

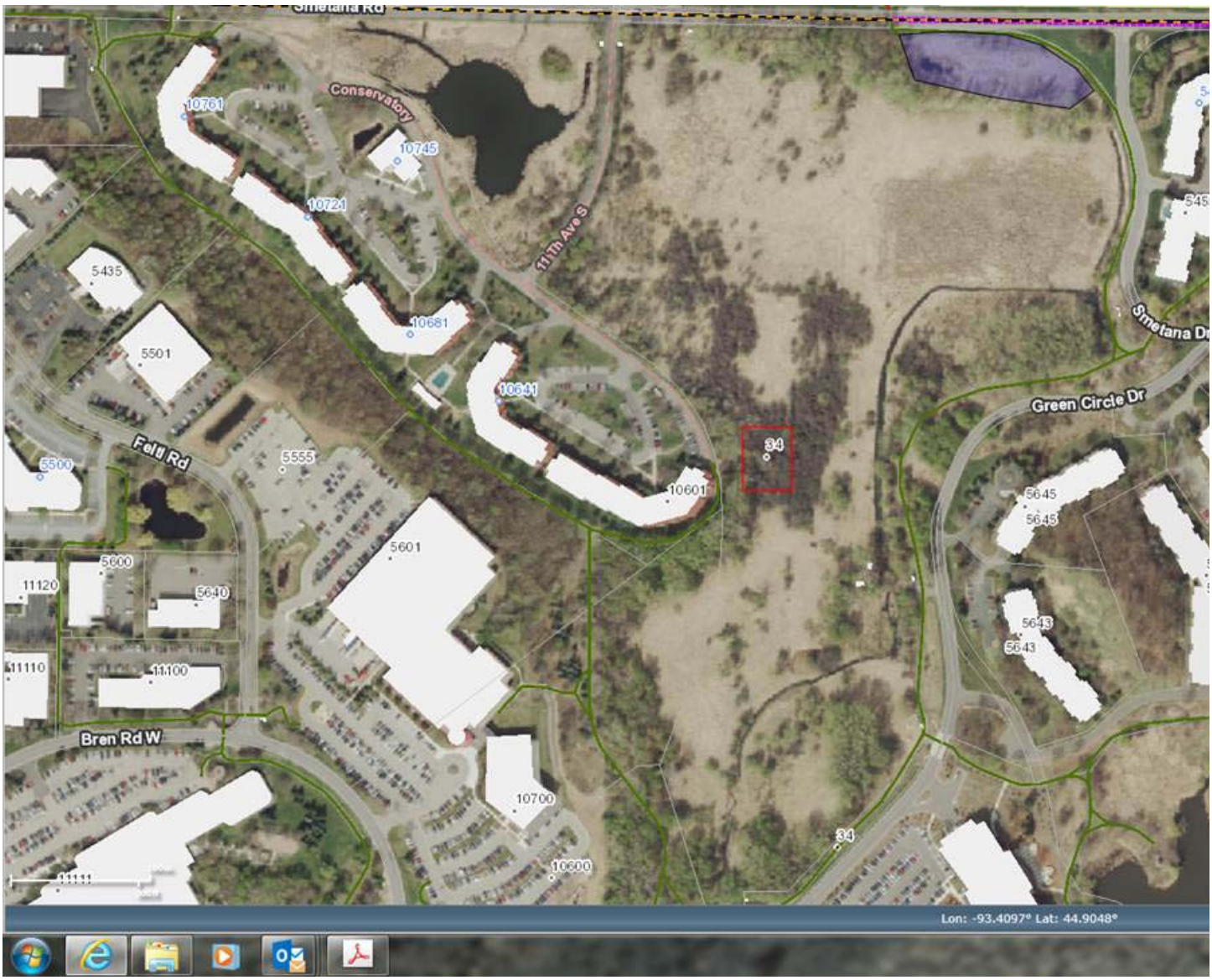
23. Open Space B: Correspondence and Documentation Regarding Wetlands

Lucy Kozub

From: Jo Colleran <jcolleran@eminnetonka.com>
Sent: Wednesday, February 03, 2016 12:31 PM
To: Lucy Kozub
Cc: Aaron Schwartz; Ben Hodapp
Subject: RE: SWLRT Inquiry: Opus Area Wetland
Attachments: WCA Declaration of Restrictions and Covenants EXHIBIT B 9.10.13.pdf

I don't believe that any portion of this wetland has ever been restored. There is a mitigation area on the northeastern area of the parcel highlighted in purple. The WCA documents (declaration of restrictive covenants etc.) have taken a long time to get processed and they were submitted to the county for filing this past December. I have not yet received a recorded copy.

I also attached the final exhibit which illustrates the mitigation areas.



I hope this helps.

Jo Colleran | Natural Resources Manager | City of Minnetonka
11522 Minnetonka Boulevard | Minnetonka, MN 55305
952.988.8415 | jcolleran@eminnetonka.com

From: Lucy Kozub [mailto:LKozub@ae-mn.com]
Sent: Wednesday, February 03, 2016 10:01 AM
To: Jo Colleran
Cc: Aaron Schwartz; Ben Hodapp
Subject: SWLRT Inquiry: Opus Area Wetland

Hello Jo,

I am wondering if you can provide us with any history/information on the City of Minnetonka owned parcel highlighted in the below photo (PID 3611722210002). We have looked at the city's wetland inventory for this area, but we are wondering if any of the wetland on this parcel is restored wetland. If so, would it be possible to obtain the boundaries for the restored portion(s)? This inquiry is related to the Southwest LRT Project's Final EIS Section 4(f) analysis.

Thank you,
Lucy

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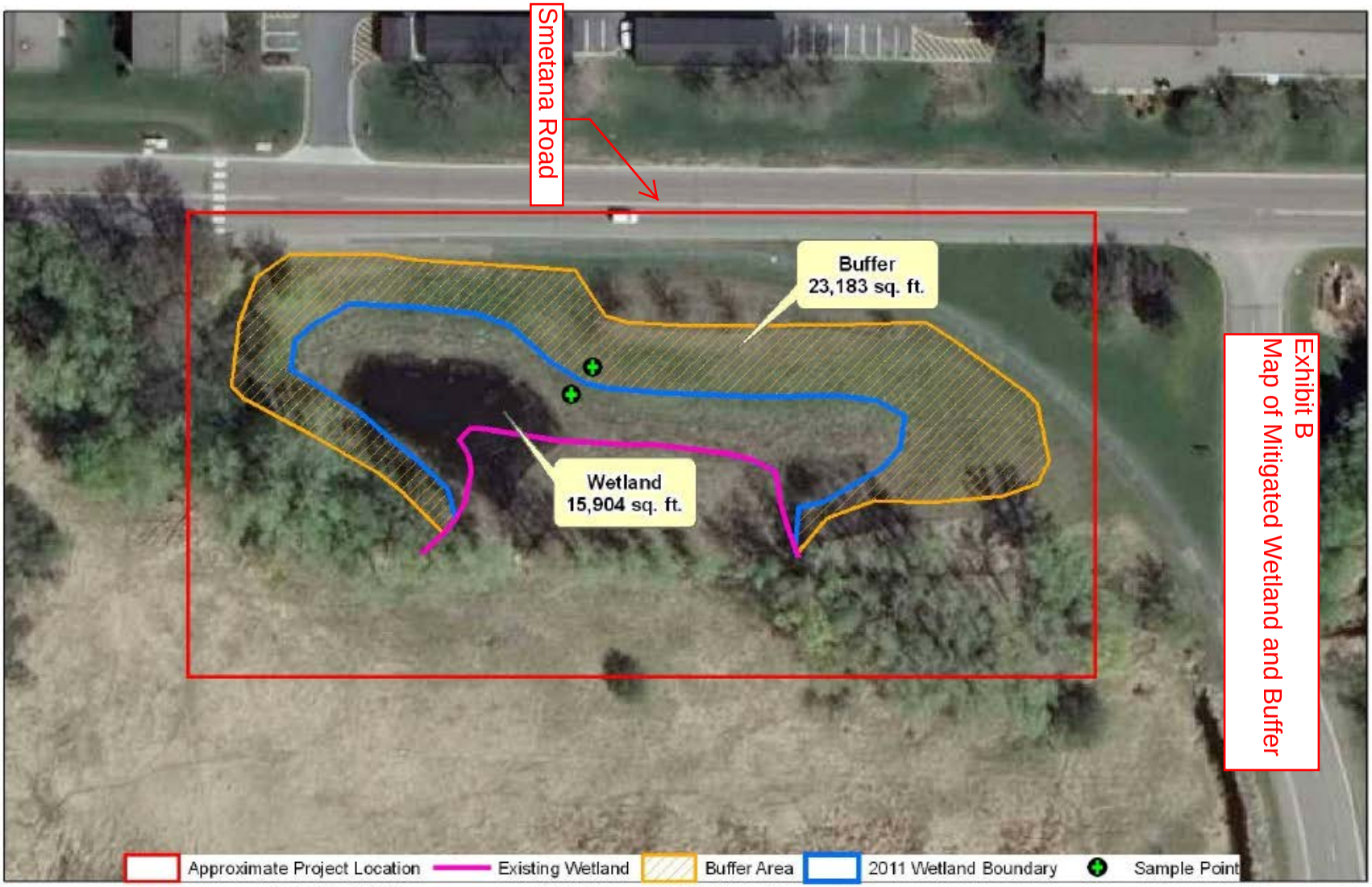
Exhibit B
Map of Mitigated Wetland and Buffer



Part of the NE 1/4
of Sec. 36, T117N, R22W.

arrowhead
environmental
consulting

Wetland Mitigation Map

Overlaid on 2010 Aerial Photo

0 50 100 200 Feet

Figure 5

Opus Mitigation Site
Minnetonka, MN