



Resolution 2023-113

RESOLUTION EXTENDING THE TERM OF A PREVIOUSLY GRANTED TEMPORARY EASEMENT AND AN ASSOCIATED CONSTRUCTION PERMIT GRANTED TO THE METROPOLITAN COUNCIL THROUGH RESOLUTION 2022-209 RELATED TO THE CONSTRUCTION OF A TUNNEL AT THE KENILWORTH CORRIDOR WITHIN AND NEAR PORTIONS OF MINNEAPOLIS CHAIN OF LAKES REGIONAL PARK, AS A PART OF THE SOUTHWEST LIGHT RAIL TRANSIT/GREEN LINE EXTENSION PROJECT, THROUGH SEPTEMBER 29, 2023

Whereas, The Minneapolis Park and Recreation Board (MPRB) was created by the Minnesota Legislature in April 1883 and has the authority to manage and operate park facilities;

Whereas, The MPRB owns and operates parkland near and surrounding the Kenilworth Corridor and Cedar Lake Parkway as part of the Minneapolis Chain of Lakes Regional;

Whereas, The Metropolitan Council (Council) has authority for implementing and operating transit systems within its jurisdiction, including light rail transit;

Whereas, The Council has been granted necessary permissions by authorities having jurisdiction over lands encumbered or impacted by the Southwest Light Rail Transit project, also referred to as the Green Line Extension project (Project), a project that introduces light rail transit between Minneapolis and Eden Prairie;

Whereas, The route of the Project aligns, in part, with the Kenilworth Corridor and nearby parklands under the jurisdiction of the MPRB;

Whereas, The Council is in the process of constructing the Project, including a tunnel extending from a point easterly of West Lake Street to a point westerly of the Kenilworth Channel through which the transit line will pass;

Whereas, According to the Council and its contractor for the Project, the complexities of constructing a tunnel in the area of the Kenilworth Corridor, including delays due to work to protect nearby buildings and the encounter of unsuitable soils below water table elevations, will result in an unanticipated extended construction timeline and the need to occupy MPRB parkland longer in order to facilitate construction of certain improvements related to the tunnel;

Whereas, The Council was previously granted a Temporary Easement and Construction Permit by the Board of Commissioners through Resolution 2022-209, which allowed for the activities to be conducted by the Council utilizing a closure of Cedar Lake Parkway through the end of June 2023 for activities related to the construction of the tunnel;



Whereas, The Council now indicates an extension to the Temporary Easement and Construction Permit issued through Resolution 2022-209 will be required due to continued complexities of construction and encountered conditions unanticipated at the time of the application for the original permissions from the MPRB;

Whereas, During the extended closure the Council will continue to occupy portions of the closed parkway and will continue to provide access through the tunnel work zone for pedestrians and bicyclists;

Whereas, The Council will continue to meet or exceed all terms identified in the MPRB's Construction Permit, including all insurance requirements for the Council and its contractors;

Whereas, The Council has indicated the need to perpetuate the current closure of Cedar Lake Parkway until September 29, 2023;

Whereas, The Board of Commissioners, through Resolution 2022-209, indicated its desires for additional protections for natural resources under its jurisdiction for activities related to this permission, particularly with regard to impacts to water resources and related to the MPRB's Construction Permit guidance to "create[s] no detrimental impacts to parkland or park users," and the MPRB's mission noting the preservation and protection of its natural resources; and

Whereas, This resolution is supported by the MPRB 2021-2036 Parks for All Comprehensive Plan, which sets forth Goal #4: "Work from our Strengths and Determine Our Role in Partnerships;"

RESOLVED, That the Board of Commissioners extends the term of a previously granted Temporary Easement and an associated Construction Permit granted to the Metropolitan Council through Resolution 2022-209 related to the construction of a tunnel at the Kenilworth Corridor within and near portions of Minneapolis Chain of Lakes Regional Park, as a part of the Southwest Light Rail Transit/Green Line Extension Project, through September 29, 2023;

RESOLVED, That the Board of Commissioners shall require the Metropolitan Council to continue providing to the MPRB Director of Environmental Management erosion and sediment control inspection reports and other special inspections related to site controls and water quality through the extended period of the Temporary Easement and Construction Permit, including direction for corrective actions made necessary due to failed inspections;

RESOLVED, That Board of Commissioners directs that the additional fees resulting from the extended Temporary Easement be used in association with natural resource areas planning and projects at Cedar Lake, as was required with the original Temporary Easement fees collected from the Metropolitan Council by the MPRB; and



RESOLVED, That the President of the Board and Secretary to the Board are authorized to take all necessary administrative actions to implement this resolution.



TO: Minneapolis Park and Recreation Board

FROM: Michael Schroeder, Assistant Superintendent, Planning

DATE: 7 June 2023

SUBJECT: RESOLUTION EXTENDING THE TERM OF A PREVIOUSLY GRANTED TEMPORARY EASEMENT AND AN ASSOCIATED CONSTRUCTION PERMIT GRANTED TO THE METROPOLITAN COUNCIL THROUGH RESOLUTION 2022-209 RELATED TO THE CONSTRUCTION OF A TUNNEL AT THE KENILWORTH CORRIDOR, A PART OF THE SOUTHWEST LIGHT RAIL TRANSIT/GREEN LINE EXTENSION PROJECT, THROUGH SEPTEMBER 29, 2023

BACKGROUND

This resolution considers extending the term of a previously granted Temporary Easement and an associated Construction Permit granted to the Metropolitan Council (Council) for its work in the Southwest Light Rail Transit/Green Line Extension Project (SWLRT Project) through September 29, 2023. The original Temporary Easement and Construction Permit were approved by the Board of Commissioners through Resolution 2022-209. The previously granted Temporary Easement allowed for the closure and partial occupation of Cedar Lake Parkway, part of Minneapolis Chain of Lakes Regional Park, to facilitate the construction of a tunnel. Features of the approved resolution related to inspection reports and corrective actions as well as the use of the fees stemming from the Temporary Easement would be perpetuated in the new term, if approved by the Board of Commissioners.

The subject of the Construction Permit remains focused on a tunnel allowing the light rail tracks, a freight rail line, and trail to pass through a very narrow section of the Kenilworth Corridor, which is managed by the Minneapolis Park and Recreation Board (MPRB). The tunnel allows for the two light rail tracks to move below grade while providing sufficient space at grade for the freight rail and the trail. The area impacted by construction is shown in *Attachment A*. Of note for this resolution, the actual crossing of Cedar Lake Parkway is controlled by the Council through an agreement with Hennepin County Regional Railroad Authority, which has transferred its jurisdiction to the Council during the term of the Project.

The original permissions granted to the Council allow for the parkway closure and occupation of parkland until June 30, 2023, as mapped in *Attachment B*. Since the original Temporary Easement and Construction Permit were authorized, the Council notes the construction has faced continued complexities and difficult conditions which are resulting in a slower pace of construction than originally anticipated by the Council's contractor. In particular, progress was stopped for some time when issues with an adjacent building were discovered and required



remedial work. Progress has also been slowed due to the need to extract poor soils located below the water table and within the limits of the tunnel construction. The Council has reassessed the project’s timeline and is now requesting the Temporary Easement and Construction Permit be extended until September 29, 2023. The Council also notes the need for a future shorter closure as portions of the freight rail are relocated to their planned alignment; that work is slated for 2025 and will require a closure, to be permitted separately, of approximately two months.

Other conditions related to granting the Temporary Easement and Construction Permit remain the same as indicated in Resolution 2022-209. Importantly, staff has perpetuated other aspects of the Board of Commissioner’s approval including:

- Requiring erosion control and special inspections reports to be delivered to the MPRB’s Director of Environmental Management and requiring the Council to take corrective actions for deficiencies; and
- Directing the additional fees resulting from the extended Temporary Easement to natural resource areas planning and projects at Cedar Lake and Lake of the Isles, following the same methods used with the original Temporary Easement fees.

While the term of the extended Construction Permit is less than 180 days, staff interprets the extension to be time added to the original permit which had a term of greater than 180 days and therefore requires consideration by the Board of Commissioners.

The continued impacts to routes used by motorists, pedestrians, and bicyclists will be posted on the MPRB website and promoted by the Council’s outreach staff.

The value of the temporary easement is calculated using the area of parkland occupancy, an average land value based on similarly situated and nearby properties with values determined using information from Hennepin County, and the percentage of annual occupancy. Because this is a temporary easement, a factor based on MPRB practice (and the practice of other government agencies) is applied. The result for this temporary easement is a value of \$16,533. The following chart offers the key information for the calculation. More detail is offered in *Attachment C*.

Value of Temporary Easement		
Area of temporary occupancy	22544	square feet
Average land value per square foot	\$37.18	
Base value of permanent occupancy	\$838,154	
Occupancy proportion (based on annual occupancy)	0.247	
Temporary occupancy factor (based on MPRB practice)	0.08	
Base value of temporary occupancy	\$16,533	



The Metropolitan Council will be invoiced for its temporary occupancy using the value as calculated above.

RECOMMENDATION

Staff recommends that the Board of Commissioners extends the term of a previously granted Temporary Easement and an associated Construction Permit granted to the Metropolitan Council through Resolution 2022-209 related to the construction of a tunnel at the Kenilworth Corridor within and near Minneapolis Chain of Lakes Regional Park, as a part of the Southwest Light Rail Transit/Green Line Extension Project, through September 29, 2023. Staff also recommends that the Board of Commissioners require the Metropolitan Council to continue providing to the MPRB Director of Environmental Management erosion and sediment control inspection reports and other special inspections related to site controls and water quality through the extended period of the Temporary Easement and Construction Permit, including direction for corrective actions made necessary due to failed inspections. Staff further recommends that the Board of Commissioners direct the additional fees resulting from the extended Temporary Easement be used in association with natural resource areas planning and projects at Cedar Lake as was required with the original Temporary Easement fees collected from the Metropolitan Council by the MPRB.

This action is supported by the following goals and strategies in Parks for All, the MPRB Comprehensive Plan 2021-2036.

Goal:

04. Work from our strengths and determine our role in partnerships

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Strategy:

01. Establish well-defined programmatic, facilities, and events-based partnerships with clear goals, evaluated through an equity lens, to increase the MPRB's level of service that support a wide range of partnership types including individuals, businesses, organizations large and small, and other government agencies.

08. Create system-wide connections to and through parks for pedestrians, cyclists, and transit riders based on master plans and in collaboration with agency partners.

Attachments:

1. Attachment A – SWLRT - Kenilworth Tunnel Drawing
2. Attachment B - E3 -ROW PUBLIC PARCELS
3. Attachment C - SWLRT - Estimated Value of Temporary Easement

Jbr 6.7.2023.