

RFE 0601 G

## **COOPERATIVE EASEMENT AGREEMENT**

This Agreement, made and entered into this 6<sup>th</sup> day of Sept., 2007 by and between Three Rivers Park District, a body politic and corporate under the laws of the State of Minnesota, hereinafter referred to as "Park District" (grantee) and the City of Wayzata, a body politic and corporate under the laws of the State of Minnesota, hereinafter referred to as the "City" (grantor).

**Whereas**, the Park District is a political subdivision of the State of Minnesota authorized by statute to acquire, establish, operate and maintain regional recreational facilities including regional trails, and

**Whereas**, the City has requested that Park District participate in the development of a regional trail connection (the "Trail") located within the City as described in attached Exhibit A and referenced on attached Exhibits B & C ; and

**Whereas**, City owns land suitable for development as a regional trail connection; and

**Whereas**, City has expressed its interest in participating in the design and construction of a regional trail connection located within the City; and

**Whereas**, Park District and City desire to cooperate to develop a regional trail connection, from the terminus of the Dakota Rail Regional Trail at County Road 15 to a location in Marina Park located in the City,

**Now Therefore**, in consideration of the mutual covenants herein, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, City and Park District agree as follows:

1. **Land Acquisition.**

City hereby conveys a permanent non-exclusive easement for regional trail purposes over and across the real property legally described on the attached Exhibit A (hereinafter the "Trail Property") to the Park District. Said easement shall provide a continuous and contiguous corridor for the Trail connection. This Agreement shall not be recorded

by Park District until completion of construction of the Trail connection.

City agrees to allow parking in six parking spaces located by the City in the north parking lot in Marina Park for Trail users as part of this agreement; these six spaces will be located in close proximity to the regional trail kiosks and may be designated by the City as Trail parking only.

2. Design.

The Park District will prepare the design documents and specifications for the proposed project at Park District's expense. The City shall have the right to review and suggest reasonable modifications to said design documents prior to the project going to bid, with the understanding that any work outside the scope necessary for the project would be at the City's expense.

3. Construction.

The Park District will administer the Trail construction contract and inspect the construction of all contract work. The City shall have the right to enter the jobsite and make any inspections deemed necessary and shall cooperate with the Park District staff, but the City will have no responsibility for the supervision of the work.

The Park District will construct that portion of the trail extension from the current terminus of the Dakota Rail at County Road 15 along the north side of West Lake Street to the intersection with Ferndale Road at Park District expense.

The Park District and the City agree to share equally the cost for any traffic signal system deemed necessary by the City, and for the required pavement markings at the intersection crossing of Ferndale Road and West Lake Street as part of this project.

The Park District will construct that portion of the Trail that will connect from the intersection crossing of Ferndale Road and West Lake Street along the west side of Ferndale Road to an agreed upon crossing location at Grove Lane as part of this project at Park District expense.

The Park District will construct that portion of the Trail that will connect from the intersection crossing of Ferndale Road and Grove Lane using a portion of the south half of Grove Lane roadway to construct an elevated trail separated by curbing to the Marina Park parking lot cul-de-sac as part of the project at Park District expense.

The Park District and City agree to install trail kiosk signs as a "trailhead" within Marina Park at no cost to the City.

4. Permits.

City shall grant all permits and other official permissions necessary for the Park District to construct the Trail, subject to satisfaction by the Park District of standard requirements and prerequisites for such permits and permission.

5. Trail Uses and Purposes.

The Trail shall be open to the general public, and shall be used exclusively for pedestrian uses including but not limited to walking, jogging, skating, and bicycling. Motorized and equestrian uses shall be prohibited, except that motorized vehicles used by the City or Park District for maintenance or law enforcement activities shall be permitted.

6. Winter Use.

As of the date of this Agreement Park District policy is to close the regional trails to the public in winter and to perform no maintenance on the regional trails. Park District reserves the right to open regional trails for winter use in its sole discretion. If Park District closes the Trail for winter use, City may operate the Trail during the winter periods. To the extent the City so operates the Trail during winter periods, the City shall assume responsibility for maintenance and operation and assume responsibility for liabilities associated with winter use. For purposes of winter use the City may continue to maintain the Trail under its current policies and practices or in accordance with any subsequently adopted policies and practices. Notwithstanding the easement granted to the Park District, the City shall have the right to use the Trail for snow storage for snow plowed from adjoining streets.

7. Maintenance of Trail.

Park District will be responsible for renovation, replacement, repair, maintenance, and upkeep of the Trail except as provided in paragraph 6. Park District shall be solely responsible for establishing maintenance standards for the Trail, subject to City approval which shall not be unreasonably withheld.

8. Signage.

Park District shall be solely responsible for providing signage for the Trail except as provided in paragraph 6. All such signage shall be

reviewed and approved by the City. Signage will indicate that the trail is a regional facility of the Park District. The City may place traffic regulatory signs in the Trail easement to the extent they are necessary for the adjoining roadway. Park District shall install and maintain the trailhead kiosk at the trailhead in Marina Park at Park District expense.

9. Utilities.

City shall at all times retain the right to maintain, repair or replace any utilities and related facilities in, on or under the Trail and install such utilities and related facilities provided, that if any such activities by the City shall or may damage or limit the use of the Trail, the City will give the Park District thirty (30) days prior written notice of the same (except in cases of emergency) , and in any event the City will upon completion of such activities so affecting the Trail or any portion thereof, restore the pedestrian roadway as near as possible to its condition existing before such maintenance, repair, replacement or other activities of the City.

10. Law Enforcement.

The City will patrol and police the Trail in a manner similar to City-owned trails and sidewalks, and otherwise in such manner and by such persons as the City shall deem necessary, and shall enforce all rules and ordinances of the City, and all such rules and ordinances shall be applicable with respect to the Trail, including all applicable provisions of this Agreement and any other agreements of the parties. Notwithstanding anything herein to the contrary, the Park District shall have the right to enforce its rules, regulations and ordinances with respect to the Trail.

11. Indemnification.

The City and Park District each shall indemnify, defend and hold harmless the other from any loss, liability, cost, damage and claim arising from any act or omission on the part of its officers, employees, agents, contractor or representatives in connection with the use, occupancy, development, operation, maintenance and repair of the Trail, including any attorney fees and expenses incurred in defending any such claim. Nothing herein shall change or otherwise affect the liability limits established under Minn. Stat 466.04, as amended. The liability limitations established in Minn. Stat. 446.04 shall apply to undertakings pursuant to this Agreement, and no individual or entity may seek to increase recovery beyond the statutory amounts set forth in Minn. Stat. 466.04 by attempting to aggregate the statutory amounts applicable to the Park District or the City.



If to the City:

City Manager  
City of Wayzata  
600 East Rice Street  
Wayzata, MN 55391

16. Modifications or Termination.

This agreement may be modified or terminated by mutual consent of the parties. In addition, this agreement may be terminated by the Park District or the City if the permit agreement with the Hennepin County Regional Rail Authority to operate the Dakota Rail Regional trail corridor is terminated for any reason.

**IN WITNESS WHEREOF**, Grantor and Grantee have entered into this Agreement as of the date and year first above written.

**CITY OF WAYZATA**

By: \_\_\_\_\_

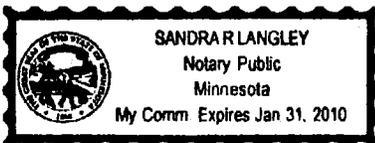
*[Handwritten Signature]*  
Its Mayor

By: \_\_\_\_\_

*[Handwritten Signature]*  
Its City Manager

STATE OF MINNESOTA     )  
  ) ss.  
COUNTY OF HENNEPIN    )

The foregoing instrument was acknowledged before me on this 2<sup>nd</sup> day of October, 2007, by Andrew Humphrey and Alan Orsen, the Mayor and City Manager of the CITY OF WAYZATA, a Minnesota municipal corporation, on behalf of the City.



*[Handwritten Signature]*  
Notary Public  
My Commission Expires: Jan 31, 2010



## **EXHIBIT A**

### **COOPERATIVE EASEMENT AGREEMENT TRAIL DESCRIPTION SEPTEMBER 2007**

A 10.0 foot wide trail with appropriate safety zones as shown on Exhibit C (attached) over and across that part of Shoreline Drive North as depicted by plan drawings Exhibit B (attached) located in the Southeast Quarter of Section 01, Township 117, Range 23 and the Southwest Quarter of the Northeast Quarter of said Section 01 lying immediately adjacent to and northerly of the existing traveled roadway surface.

A 10.0 foot wide trail with appropriate safety zones as shown on Exhibit C (attached) over and across that part of Shoreline Drive North as depicted by plan drawings Exhibit B (attached) located in the Southeast Quarter of Section 01, Township 117, Range 23 lying immediately adjacent to and southerly of the existing traveled roadway surface.

A 10.0 foot wide trail with appropriate safety zones as shown on Exhibit C (attached) over and across that part of Ferndale Road South as depicted by plan drawings Exhibit B (attached) located in the Southeast Quarter of Section 01, Township 117, Range 23 lying immediately adjacent to and westerly of the existing traveled roadway surface.

A 10.0 foot wide trail with appropriate safety zones as shown on Exhibit C (attached) over and across that part of Ferndale Road South as depicted by plan drawings Exhibit B (attached) located in the Southwest Quarter of Section 06, Township 117, Range 22 lying immediately adjacent to and easterly of the existing traveled roadway surface.

A 10.0 foot wide trail with appropriate safety zones as shown on Exhibit C (attached) over and across that part of Grove Lane as depicted by plan drawings Exhibit B (attached) located in the Southwest Quarter of Section 06, Township 117, Range 22 lying immediately adjacent to and southerly of the existing traveled roadway surface.

A 10.0 foot wide trail with appropriate safety zones, as shown on Exhibit C (attached) over and across that part of Shaver Park as depicted by plan drawings Exhibit B (attached) located in the Southwest Quarter of Section 06, Township 117, Range 22.