

# **T** Transportation Committee

For the Metropolitan Council meeting of December 10, 2008

## **ADVISORY INFORMATION**

**Date Prepared:** December 9, 2008

**Subject:** Acquire Property at 155<sup>th</sup> and Cedar Avenue in Apple Valley

### **Proposed Action:**

That the Metropolitan Council authorizes the Regional Administrator to acquire fee title and temporary easements on property located at 15455, 15425, 15415, 15405 and 15350 Cedar Ave. in Apple Valley by direct negotiation or by condemnation in accordance with the attached resolution.

### **Summary of Committee Discussion / Questions:**

Peter Hanf, Associate General Counsel presented this item and answered questions regarding the temporary and permanent easements, as well as described the businesses that exist in the area.  
Motion was made, seconded and passed by the committee members.

# T Transportation Committee

Item: **SW** 2008-361

**Meeting date: December 8, 2008**

**For Metropolitan Council meeting: December 10, 2008**

## ADVISORY INFORMATION

<b>Date:</b>	December 1, 2008
<b>Subject:</b>	Acquire Property at 155th and Cedar Ave. in Apple Valley
<b>District(s), Member(s):</b>	District 16 – Brian McDaniel
<b>Policy/Legal Reference:</b>	Minnesota Statutes Sections 473.129 & 473.405
<b>Staff Prepared/Presented:</b>	Arlene McCarthy, MTS Director (651 602-1754) Peter A. Hanf, Associate General Counsel (651 602-1749)
<b>Division/Department:</b>	Metropolitan Transportation Services (MTS)

### Proposed Action

That the Metropolitan Council authorizes the Regional Administrator to acquire fee title and temporary easements on property located at 15455, 15425, 15415, 15405 and 15350 Cedar Ave. in Apple Valley by direct negotiation or by condemnation in accordance with the attached resolution.

### Issue(s)

- Council approval is required for the acquisition of property which has a value over \$250,000 or which is acquired by condemnation.

### Background

- Dakota County Regional Rail Authority (DCRRA) acquired fee title for the necessary property on the east side of Cedar Avenue just north of 155<sup>th</sup> Street in Apple Valley for a park-and-ride and a northbound side platform for Cedar Avenue BRT. The Council will pass through a total of \$5,507,350 to Dakota County to fund the acquisition.
- In order to complete the project by the 12/31/09 UPA deadline, property must be acquired for the southbound side platform prior to issuing a notice to proceed (NTP) for the construction of the southbound platform by no later than April 2009. In addition, a temporary construction easement must be acquired for the northbound side platform prior to issuing a NTP for the construction of the northbound platform by no later than February 2009.
- To maintain the project schedule and ensure compliance with the UPA deadline, the Council, at the request of DCRRA in early November 2008, agreed to assume the lead role for the remaining property acquisition.
- DCRRA has provided the Council with completed appraisals and review appraisals for the one property on the east side and the four properties on the west side. The combined appraised value for the properties is estimated at \$616,900.

### Rationale

Approving eminent domain action ensures that the Council will control the property as needed in order to proceed with construction completion in 2009.

### Funding

Funding for this acquisition is available from State GO Bonds and Federal 5309 funds.

### Known Support / Opposition

The land owners oppose the taking.



**METROPOLITAN COUNCIL**

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**RESOLUTION NO. 2008 – 50**

**RESOLUTION AUTHORIZING ACQUISITION OF FEE TITLE AND TEMPORARY EASEMENTS  
at 15455, 15425, 15415, 15405 and 15350 Cedar Avenue in Apple Valley, Minnesota**

**Apple Valley Transit Station**

**WHEREAS**, the Council requires acquisition of fee title and temporary easements to property located at 15455, 15425, 15415, 15405 and 15350 Cedar Ave. in Apple Valley, Minnesota, as shown on the attached exhibits for the construction of the Apple Valley Transit Station; and

**WHEREAS**, the Metropolitan Council hereby finds and declares that it must acquire possession of the land required for the Apple Valley Transit Station prior to the filing of an award by the court-appointed commissioners;

**NOW, THEREFORE, BE IT RESOLVED:**

1. That the acquisition of the fee title and temporary easements all as shown on the attached exhibits, is for a public purpose and public use as defined by Minnesota Statutes § 117.025, is necessary for the furtherance of the construction of the Apple Valley Transit Station and in the judgment of the Metropolitan Council such acquisition will further the public health, safety and welfare, and be undertaken in accordance with Minnesota Statutes and the Real Property Acquisition Policy of the Metropolitan Council; and
2. That, pursuant to Minnesota Statutes Chapter 473, the Council has the authority to acquire the property interests by eminent domain, that the Council hereby directs its attorney to acquire by eminent domain the fee title and temporary easements on the property located at 15455, 15425, 15415, 15405 and 15350 Cedar Ave. in Apple Valley, Minnesota, as shown on the attached exhibits if the property cannot be acquired by direct negotiation and that such acquisition be in accordance with the procedures authorized under Minnesota Statutes Chapters 473 and 117, including, specifically, 117.042 and 473.405 subdivision 3; and
3. That the Council hereby approves and certifies that the total just compensation for the fee title and temporary easements to property located at 15455, 15425, 15415, 15405 and 15350 Cedar Ave. in Apple Valley, Minnesota, as shown on the attached exhibits as indicated in the appraisals submitted to the Council.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Peter Bell, Chair

\_\_\_\_\_  
Pat Curtiss, Recording Secretary

MINNESOTA VALLEY TRANSIT AUTHORITY  
ACQUISITION DESCRIPTION  
SRF No. 0086543  
NOVEMBER 25, 2008

PARCEL 1

DI-JO-MI FAMILY LIMITED PARTNERSHIP  
P.I.N. 01-20001-030-01

Fee Right of Way Acquisition

The East 19.0 feet of Lot 3, Block 1, DELEGARD SECOND ADDITION, according to the recorded plat thereof.

Temporary Easement

A temporary easement for construction purposes over, under, across and through the West 28.0 feet of the East 47.0 feet of Lot 3, Block 1, DELEGARD SECOND ADDITION, according to the recorded plat thereof.

Said temporary easement to expire December 31, 2009.

MINNESOTA VALLEY TRANSIT AUTHORITY  
ACQUISITION DESCRIPTION  
SRF NO. 0086543  
NOVEMBER 25, 2008

PARCEL 2

S. JENSEN ENTERPRISES, LLC  
P.I.N. 01-20001-040-01

Fee Right of Way Acquisition

The East 19.0 feet of Lot 4, Block 1, DELEGARD SECOND ADDITION, according to the recorded plat thereof.

Temporary Easement

A temporary easement for construction purposes over, under, across and through the West 28.0 feet of the East 47.0 feet of Lot 4, Block 1, DELEGARD SECOND ADDITION, according to the recorded plat thereof.

Said temporary easement to expire December 31, 2009.

MINNESOTA VALLEY TRANSIT AUTHORITY  
ACQUISITION DESCRIPTION  
SRF NO. 0086543  
NOVEMBER 25, 2008

PARCEL 3

2269 FORD-FS PARTNERSHIP, LLP  
P.I.N. 01-20001-050-01

Fee Right of Way Acquisition

The East 19.0 feet of Lot 5, Block 1, DELEGARD SECOND ADDITION, according to the recorded plat thereof.

Temporary Easement

A temporary easement for construction purposes over, under, across and through the West 28.0 feet of the East 47.0 feet of Lot 5, Block 1, DELEGARD SECOND ADDITION, according to the recorded plat thereof.

Said temporary easement to expire December 31, 2009.

MINNESOTA VALLEY TRANSIT AUTHORITY  
ACQUISITION DESCRIPTION  
SRF NO. 0086543  
NOVEMBER 25, 2008

PARCEL 4

ADE LEASING  
P.I.N. 01-20001-060-01

Fee Right of Way Acquisition

The East 10.0 feet of Lot 6, Block 1, DELEGARD SECOND ADDITION, according to the recorded plat thereof.

Temporary Easement

A temporary easement for construction purposes over, under, across and through the West 37.0 feet of the East 47.0 feet of Lot 6, Block 1, DELEGARD SECOND ADDITION, according to the recorded plat thereof.

Said temporary easement to expire December 31, 2009.



MINNESOTA VALLEY TRANSIT AUTHORITY  
ACQUISITION DESCRIPTION  
SRF NO. 0086543  
NOVEMBER 25, 2008

PARCEL 5

SUPERVALU HOLDINGS, INC.  
P.I.N. 01-11775-010-01

Temporary Easement

A temporary easement for construction purposes over, under, across and through the South 50.0 feet of the West 75.0 feet of Lot 1, Block 1, APPLE VALLEY RETAIL ADDITION, according to the recorded plat thereof.

Said temporary easement to expire December 31, 2009.