



City Council Memorandum

To: Mayor Fasbender & City Councilmembers
From: Chris Jenkins, Parks & Recreation Director
Date: October 7, 2024
Item: Trail Easement

Council Action Requested: Approve easement for a segment of the Three Rivers Trail.

Background Information: Portions of the Three Rivers Trail were constructed within drainage and utility easements, which is not the preferred easement type. Along with that, a short segment of trail is proposed to be added to the trail to help with trail user experience as well as maintenance efforts. This new segment is outside of the existing drainage and utility easement and was included as a part of this process.

Staff worked with representatives of the two Homeowners' Associations, surveyors and legal to prepare the easement. Staff recommend approval of this new permanent trail easement.

Financial Impact: Some costs were incurred for survey and legal fees, however those will be allocated to the approved trail budget.

Advisory Commission Discussion: N/A

Council Committee Discussion: N/A

Attachments:

- Permanent Trail Easement

PERMANENT TRAIL EASEMENT

THIS PERMANENT TRAIL EASEMENT (“Easement”) is made, granted and conveyed this _____ day of _____, 2024, by and between and Spruce Twinhome Association, Inc., a Minnesota nonprofit corporation, and South Pines Townhomes Association II, Inc., a Minnesota nonprofit corporation (“Landowner”), and the City of Hastings, a Minnesota municipal corporation (“City”).

PROPERTY DESCRIPTION

Landowner owns real property in Dakota County, Minnesota legally described as follows:

Lots 17 and 18, Block 1, South Pines Townhomes

Abstract Property

(the “Landowner’s Property”).

PERMANENT EASEMENT DESCRIPTION

Landowner for and in consideration of One Dollar and other good and valuable consideration, the receipt whereof is hereby acknowledged, does hereby grant and convey to the City, its successors and assigns, forever the following:

A permanent easement for sidewalk, trail and right of way purposes and all such purposes ancillary, incident or related thereto, including but not limited to a retaining wall, for construction, maintenance, improvement, repair and replacement, and restoration purposes and all such purposes ancillary thereto (“Permanent Easement”), under, over, across, through and upon that real property legally described on Exhibit A and depicted on Exhibit B (“Permanent Easement Area”), attached hereto and incorporated herein by reference.

EXEMPT FROM STATE DEED TAX

The rights of the City also include the right of the City, its contractors, agents and servants:

- (a) To enter upon the Permanent Easement Area at all reasonable times for the purposes of construction, reconstruction, inspection, repair, replacement, grading, sloping, and restoration relating to the purposes of the Permanent Easement; and
- (b) To maintain the Permanent Easement Area, together with the right to excavate and refill ditches or trenches for the location of such sidewalks, trails, right-of-way, retaining walls, streetlights, hydrants, curb, gutter or other street project improvements; and
- (c) To remove from the Permanent Easement Area trees, brush, herbage, aggregate, undergrowth and other obstructions interfering with the location, construction and maintenance of the sidewalks, trails, right-of-way, retaining walls, streetlights, hydrants, curb, gutter or other street project improvements and to deposit earthen material in and upon the Permanent Easement Area; and
- (d) To remove or otherwise dispose of all earth or other material excavated from the Permanent Easement Area as the City may deem appropriate.

In consideration of the Permanent Easement, the City agrees to maintain, repair and provide snow removal of the trail within the Permanent Easement Area. The City shall be liable for any and all costs and expenses associated with maintaining and repairing the Permanent Easement Area.

The City shall not be responsible for any costs, expenses, damages, demands, obligations, penalties, attorneys' fees and losses resulting from any claims, actions, suits, or proceedings based upon a release or threat of release of any hazardous substances, petroleum, pollutants, and contaminants which may have existed on, or which relate to, the Permanent Easement Area or the Landowner's Property prior to the date hereof.

Nothing contained herein shall be deemed a waiver by the City of any governmental immunity defenses, statutory or otherwise. Further, any and all claims brought by Landowner or its successors or assigns, shall be subject to any governmental immunity defenses of the City and the maximum liability limits provided by Minnesota Statute, Chapter 466.

The Landowner, for itself and its successors and assigns, does hereby warrant to and covenant with the City, its successors and assigns, that it is well seized in fee of the Landowner's Property described above, the Permanent Easement Area described on Exhibit A and depicted on Exhibit B and has good right to grant and convey the Permanent Easement herein to the City.

This agreement is binding upon the heirs, successors, executors, administrators and assigns of the parties hereto.

This agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.

[Remainder of this page has been intentionally left blank]

IN TESTIMONY WHEREOF, the parties have caused this Easement to be executed as of the day and year first above written.

**CITY:
CITY OF HASTINGS**

By: _____
Mary Fasbender
Mayor

By: _____
Kelly Murtaugh
City Clerk

STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)

On this ____ day of _____, 2024, before me a Notary Public within and for said County, personally appeared Mary Fasbender and Kelly Murtaugh to me personally known, who being each by me duly sworn, each did say that they are respectively the Mayor and the City Clerk of the City of Hastings, the Minnesota municipal corporation named in the foregoing instrument, and that it was signed on behalf of said municipal corporation by authority of its City Council and said Mayor and City Clerk acknowledged said instrument to be the free act and deed of said municipal corporation.

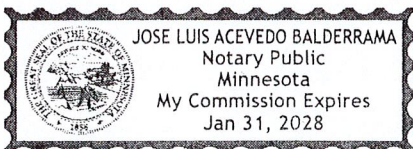
Notary Public

LANDOWNER:
SPRUCE TWINHOME ASSOCIATION, INC.

By: Patricia Galles *Pat Galles*
SPRUCE Twinhomes
Its: PRESIDENT

STATE OF MINNESOTA)
)
COUNTY OF Dakota) ss.

The foregoing instrument was acknowledged before me on this 13 day of Sept, 2024, by Patricia S. Galles, who being by me duly sworn, did say that s/he is the President of Spruce Twinhome Association, Inc., a Minnesota nonprofit corporation, the entity named in the foregoing instrument, and that said instrument was signed on behalf of said entity by authority of its Board of Governors and said City of Hastings acknowledged said instrument to be the free act and deed of the entity.



Jose Luis Acevedo Balderrama

Notary Public

LANDOWNER:
SOUTH PINES TOWNHOMES ASSOCIATION II, INC.

By: Michael J. McCARTNEY
 Its: President

STATE OF MINNESOTA)
) ss.
 COUNTY OF Dakota)

The foregoing instrument was acknowledged before me on this 16th day of September, 2024, by Michael J. McCARTNEY, who being by me duly sworn, did say that s/he is the President of South Pines Townhomes Association II, Inc., a Minnesota nonprofit corporation, the entity named in the foregoing instrument, and that said instrument was signed on behalf of said entity by authority of its Board of Governors and said Michael J. McCARTNEY acknowledged said instrument to be the free act and deed of the entity.

Molly L. Kieffer
 Notary Public



**THIS INSTRUMENT WAS DRAFTED BY
 AND AFTER RECORDING RETURN TO:**

Korine L. Land (#262432)
 LeVander, Gillen & Miller, P.A.
 1305 Corporate Center Drive, Suite 300
 Eagan, MN 55121
 651-451-1831

EXHIBIT A
LEGAL DESCRIPTION OF PERMANENT EASEMENT AREA

A perpetual easement for ingress and egress purposes over and across that part of Lots 17 and 18, Block 1, South Pines Townhomes, according to the recorded plat on file and of record in the office of the County Recorder, Dakota County, Minnesota, lying westerly, northerly and southwesterly of a line described as follows:

Commencing at the northwest corner of said Lot 18; thence north 89 degrees 59 minutes 17 seconds east, assumed bearing, along the north line of said Lot 18, a distance of 262.30 feet to the point of beginning of the line to be described; thence south 11 degrees 35 minutes 01 seconds west, a distance of 71.46 feet; thence south 89 degrees 59 minutes 17 seconds west, parallel to southerly 50 feet of said north line, a distance of 106.96 feet; thence south 28 degrees 12 minutes 07 seconds west, a distance of 54.37 feet to the northeasterly line of the southwesterly 20 feet of said Lots 17 and 18; thence southeasterly a distance of 345.10 feet along a non-tangential curve, being the northeasterly line of said southwesterly 20 feet, concave northeasterly, having a radius of 3198.42 feet, a central angle of 06 degrees 10 minutes 56 seconds, a chord bearing of south 41 degrees 48 minutes 08 seconds east and a chord length of 344.94 feet; thence continuing south 44 degrees 53 minutes 36 seconds east along said northeasterly line of the southwesterly 20 feet, a distance of 291.80 feet to the southeasterly line of said Lot 17 and there terminating.

Subject to any easements and encumbrances of record.

EXHIBIT B
DEPICTION OF PERMANENT EASEMENT AREA

