



Request for City Council Committee Action From the Department of Public Works

Date: October 11, 2011

To: Honorable Sandra Colvin Roy, Chair Transportation & Public Works Committee

Subject: **Resolution Holding State of Minnesota Harmless**

Recommendation:

Passage of the accompanying Resolution holding harmless the State of Minnesota from actions that may arise from granting of a variance that would permit the reconstruction of 33rd Avenue Southeast between Como Avenue Southeast and East Hennepin Avenue with less than minimum vertical curve lengths as required by State Aid Rules.

Previous Directives:

- January 14, 2011: Approval of the 33rd Ave SE and Talmage Ave SE Reconstruction Project layout
- April 15, 2011: Resolution 2011R-180 Project Designation for Talmage Ave SE
- August 5, 2011: Authorize Public Works to negotiate to acquire easements and additional right of way if needed
- August 5, 2011: Resolution 2011R-406, Transportation & Public Works Committee directed the City Engineer to proceed with a Variance Request for 33rd Ave SE to be reconstructed with less than minimum vertical curve lengths.

Prepared by: Beverly Jo Warmka, P.E., Transportation Planning & Engineering 673-3762
Don Elwood, P.E., Transportation Planning & Engineering 673-3622

Approved by:

Steven A. Kotke, P.E., City Engineer, Director of Public Works

Presenters: Beverly Jo Warmka, Project Engineer, Transportation Planning & Engineering

Reviews Not Applicable

Financial Impact

No financial impact

Community Impact

Neighborhood Notification: Not Applicable

City Goals: A SAFE PLACE TO CALL HOME: the city's infrastructure will be well-maintained, people will feel safe in the city.

Comprehensive Plan: Not Applicable

Zoning Code: Not Applicable

Background/Supporting Information

The proposed quarter mile long project will reconstruct 33rd Avenue Southeast between Como Avenue Southeast and East Hennepin Avenue. It is a Municipal State Aid (MSA 444) and carries predominantly truck traffic. The existing 33rd Ave SE roadway is an unpaved oil-dirt surface with little to no existing curb and gutter to aid drainage and requires considerable maintenance. The project will be constructed in 2012. The project will consist of the paving with concrete, base, curb, gutter, signage and striping, and sidewalks.

Hold Harmless Resolution

The Public Works Department requests the City Council adopt a resolution that indemnifies, saves, and holds harmless the State of Minnesota and its agents and employees from any action arising out of the reconstruction of 33rd Avenue Southeast in any manner than is in accordance with Minnesota Rule 8820.9936 which requires that vertical alignments accomplish a minimum 30 mile-per-hour design speed as asked in the variance.

On August 5, 2011, Council passed a resolution (2011R-406) which directed the City Engineer to proceed with a variance request from Minnesota Rules Chapter 8820.9936 to permit construction of 33rd Ave SE with a shorter vertical curve length than is required by the Minnesota Rules.

In response to that direction, we have submitted and received conditional approval of that variance by the Commissioner of Transportation. As a condition of granting this Variance, the State requires City Council to adopt a standard form resolution with language as specified in Minnesota Administrative Rules 8820.3300.

Cc: Council Member Kevin Reich, Ward 1

RESOLUTION 2011R - _____

By Colvin Roy

Holding harmless the State of Minnesota from actions that may arise from the reconstruction of 33rd Avenue Southeast between Como Avenue Southeast and East Hennepin Avenue at less than State Aid Standards.

Whereas, the City Engineer has requested a variance from Minnesota Rules, Chapter 8820.9936 for the reconstruction of 33rd Avenue Southeast between Como Avenue Southeast and East Hennepin Avenue in accordance with Resolution 2011R-406 adopted by the Minneapolis City Council on August 5, 2011; and

Whereas, the Commissioner of Transportation did grant said variance with the condition that the City adopt a Resolution concerning legal responsibilities as a result of the grant of said variance at the City Council request;

Now, Therefore, Be it Resolved by the City Council of the City of Minneapolis:

That it indemnifies, saves, and holds harmless the State of Minnesota and its agents and employees of and from claims, demands, actions, or causes of action arising out of or by reason of the granting of the variance, the reconstruction of MSA 141-444-01 33rd Avenue Southeast between Como Avenue Southeast and East Hennepin Avenue in any other manner than in accordance with Minnesota Rule 8820.9936 and further agrees to defend at their sole cost and expense any action or proceeding begun for asserting any claim of whatever character arising as a result of the granting of this variance.