



To: Members of the Edina Housing & Redevelopment Authority **Agenda Item #:** HRA V.

From: Chad A. Millner, PE, Director of Engineering

Action

Discussion

Date: April 7, 2015

Information

Subject: 7101 France Avenue, Rue de France, Easement Settlement,
Hazelton Road Improvement BA-417

Action Requested:

Approve Settlement Agreement and authorize City Attorney to execute the Stipulation of Settlement.

Information / Background:

This roadway improvement project was authorized by City Council & HRA in June 2013. The majority of the Hazelton Road Improvement project was completed in 2014. Completion of the final elements is anticipated in 2015.

The feasibility study showed a schematic of a standard four access point roundabout to serve traffic and four adjacent properties. This design required the Rue de France and Guitar Center properties to agree on a cross-access easement. This would allow patrons of each business to share a single driveway to enter and exit the properties. After prolonged negotiations, the owners were unable to come to an agreement on a cross-access easement. Staff developed an alternate roundabout design with five access points that would provide a separate access point for each of the properties and constructed the project with that revised alignment.

As stated in the feasibility report, “permanent right-of-way and temporary easements will be needed from the Rue de France, Guitar Center, Szechaun Star, and Byerly’s. It is anticipated all right-of-way needed will be donated by the adjacent properties”.

All easements were donated with the exception of the Rue de France property.

The City negotiated a settlement value for the permanent easement of \$142,000. This will be funded by the Centennial Lakes Tax Increment Financing (TIF) district.

Staff recommends the City Council approve the Settlement Agreement and authorize the city attorney to execute the Stipulation of Settlement.

Attachment:

Stipulation of Settlement

reBD.com

FAEGRE BAKER DANIELS

USA ▼ UK ▼ CHINA

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Faegre Baker Daniels LLP
2200 Wells Fargo Center ▼ 90 South Seventh Street
Minneapolis ▼ Minnesota 55402-3901
Phone +1 612 766 7000
Fax +1 612 766 1600

March 3, 2015

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Thomas M. Scott
Campbell Knutson Professional Association
1380 Corporate Center Curve, Suite 317
Eagan, MN 55121

Re: Sun Life Property in Edina, Minnesota

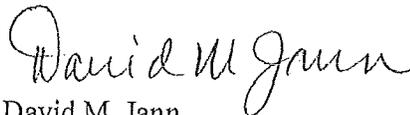
Dear Mr. Scott:

Enclosed please find two signed copies each of the Grant of Permanent Easement and Stipulation of Settlement concerning the property owned by Sun Life in Edina, Minnesota. The Grant of Permanent Easement document is provided to you subject to the following conditions:

- 1) The Grant of Permanent Easement is hereby delivered in escrow only.
- 2) You agree to hold the Grant of Permanent Easement in escrow at your law office.
- 3) You agree to hold the Grant of Permanent Easement in escrow until I authorize you to release it to the City of Edina, which authorization will be provided when the Edina City Council approves the Stipulation of Settlement and issues a check payable to Sun Life in the amount \$142,000.
- 4) You agree to comply with items 1 through 3, above, and if you do not, you agree that you will immediately return the Grant of Permanent Easement document to me.

Thank you for your assistance in this matter, and please do not hesitate to call me should you have any questions.

Very truly yours,



David M. Jann

JANDM

Enclosures

US.55824655.01

STIPULATION OF SETTLEMENT

This Stipulation of Settlement is made and entered into by and between the CITY OF EDINA, a Minnesota municipal corporation ("City"), and SUN LIFE ASSURANCE COMPANY OF CANADA, a Delaware corporation ("Sun Life"). The parties hereto agree as follows:

1. Sun Life will execute and deliver to City a Grant of Permanent Easement in the form attached hereto as Exhibit A.
2. The City will pay a total amount of \$142,000.00 to Sun Life in settlement of any and all claims relating to or arising out of the Hazelton Road Improvement Project, the acquisition by the City of the permanent easement described on Exhibit A hereto, and the Waiver of Trespass/Right of Entry Agreement between the parties, including compensation for damages, reimbursement for appraisal costs, interest, attorney's fees, right of first refusal pursuant to Minn. Stat. §117.226, costs and disbursements. Payment will be made within ten (10) days of receipt of the original Grant of Permanent Easement and approval by the City Council, which approval shall be considered within thirty (30) days of receipt of this stipulation and easement from Sun Life.
3. Sun Life shall be responsible for any tenant claims relating to any construction interferences arising from and directly related to the City's road construction project on the Sun Life property conducted during the Summer of 2014.

4. The easement conveyed to the City is subject to the following condition: should the City at any time in the future alter the configuration of access to and from the property, or uses the easement rights conveyed to undertake any action that limits or diminishes the visibility of the property from surrounding roadways, the City shall be responsible for any damages that are compensable in accordance with applicable law.

5. This Stipulation of Settlement contains all the terms and conditions of the parties' agreement.

CAMPBELL KNUTSON
Professional Association

Date: _____, 20__.

By: _____

Thomas M. Scott, #98498
317 Eagandale Office Center
1380 Corporate Center Curve
Eagan, Minnesota 55121
651-452-5000
Attorneys for City of Edina

SUN LIFE ASSURANCE COMPANY
OF CANADA

Date: March 2, 2015.

By: _____

Name: Alena R. Tverskoy
Authorized Signer

Title: _____

By: _____

Name: Charles S. Andes
Authorized Signer

Title: _____

**EXHIBIT A
TO
STIPULATION OF SETTLEMENT**

GRANT OF PERMANENT EASEMENT

SUN LIFE ASSURANCE COMPANY OF CANADA, a Delaware corporation, hereinafter referred to as "Grantor", in consideration of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby grant unto the CITY OF EDINA, a municipal corporation organized under the laws of the State of Minnesota, the Grantee, hereinafter referred to as the "City", its successors and assigns, forever, a permanent easement for street purposes over, across, on, under, and through land situated within the County of Hennepin, State of Minnesota, as legally described on the attached Exhibit "A".

The above named Grantor, for itself, its successors and assigns, does covenant with the City, its successors and assigns, that it is well seized in fee title of the above described easement premises; and that it has the sole right to grant and convey the easements to the City.

IN TESTIMONY WHEREOF, the Grantor hereto has signed this document this 2nd day of March, 2015.

GRANTOR:
SUN LIFE ASSURANCE COMPANY
OF CANADA

Date: March 2, 2015.

By: [Signature]
Name: Alena R. Tverskoy
 Authorized Signer

Title: _____
By: [Signature]

Name: Charles S. Andes
 Authorized Signer
Title: _____

STATE OF Massachusetts)
) ss.
COUNTY OF Norfolk)

The foregoing instrument was acknowledged before me this 2nd day of March, 2015, by Alena R. Tverskoy and Charles S. Andes, respectively the Authorized Signer and Authorized Signer of Sun Life Assurance Company of Canada, a Delaware corporation, on behalf of said corporation.

[Signature]
NOTARY PUBLIC

DRAFTED BY:
CAMPBELL KNUTSON
Professional Association
317 Eagandale Office Center
1380 Corporation Center Curve
Eagan, Minnesota 55121
Telephone: 651-452-5000
TMS/cjh

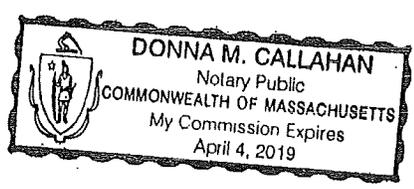


EXHIBIT "A"

Parcel 18

A permanent easement for street purposes over, under and across that part of Lot 5, Block 1, Yorktown as is on file and of record in the Office of the County Recorder, Hennepin County Minnesota, which lies southerly and southeasterly of the Line A described as follows:

Line A: Commencing at the northeast corner of said Lot 5; thence South 00 degrees 11 minutes 54 seconds East, assumed bearing along the east line thereof, 245.84 feet to the point of beginning of Line A to be hereinafter described; thence South 88 degrees 56 minutes 18 seconds West, 38.35 feet; thence South 00 degrees 00 minutes 00 second East, 7.08 feet; thence southwesterly along a non-tangential curve, concave the northwest, 23.58 feet, having a radius of 34.00 feet, central angle of 39 degrees 44 minutes 06 seconds, chord bearing of South 51 degrees 17 minutes 36 seconds West and a chord distance of 23.11 feet; thence continue southwesterly along a compound curve, tangent to the last described, 65.18 feet, having a radius of 187.50 feet, central angle of 19 degrees 54 minutes 59 seconds, chord bearing of South 81 degrees 07 minutes 09 West and a chord distance of 64.85 feet; thence North 88 degrees 55 minutes 20 seconds West, 100.87 feet; thence westerly along a tangential curve, concave to the south, 28.63 feet, having a radius of 1027.00 feet, central angle of 01 degrees 35 minutes 51 seconds, chord bearing of North 89 degrees 43 minutes 15 seconds West and a chord distance of 28.63 feet; thence South 89 degrees 28 minutes 49 seconds West, tangent to last described curve, 123.54 feet the northerly highway easement line as described in Document Number 2189613.

(Torrens Certificate of Title No. 1367504)

GRANT OF PERMANENT EASEMENT

SUN LIFE ASSURANCE COMPANY OF CANADA, a Delaware corporation, hereinafter referred to as "Grantor", in consideration of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby grant unto the **CITY OF EDINA**, a municipal corporation organized under the laws of the State of Minnesota, the Grantee, hereinafter referred to as the "City", its successors and assigns, forever, a permanent easement for street purposes over, across, on, under, and through land situated within the County of Hennepin, State of Minnesota, as legally described on the attached Exhibit "A".

The above named Grantor, for itself, its successors and assigns, does covenant with the City, its successors and assigns, that it is well seized in fee title of the above described easement premises; and that it has the sole right to grant and convey the easements to the City.

IN TESTIMONY WHEREOF, the Grantor hereto has signed this document this 2nd day of March, 2015.

GRANTOR:
SUN LIFE ASSURANCE COMPANY
OF CANADA

Date: March 2, 2015.

By: [Signature]

Name: Alena R. Tverskoy
Authorized Signer

Title: _____

By: [Signature]

Name: Charles S. Andes
Authorized Signer

Title: _____

STATE OF Massachusetts
COUNTY OF Norfolk) ss.

The foregoing instrument was acknowledged before me this 2nd day of March, 2015, by Alena R. Tverskoy and Charles S. Andes, respectively the Authorized Signer and Authorized Signer of Sun Life Assurance Company of Canada, a Delaware corporation, on behalf of said corporation.

[Signature]
NOTARY PUBLIC

DRAFTED BY:
CAMPBELL KNUTSON
Professional Association
317 Eagandale Office Center
1380 Corporation Center Curve
Eagan, Minnesota 55121
Telephone: 651-452-5000
TMS/cjh

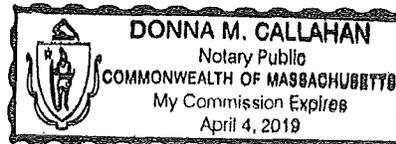


EXHIBIT "A"

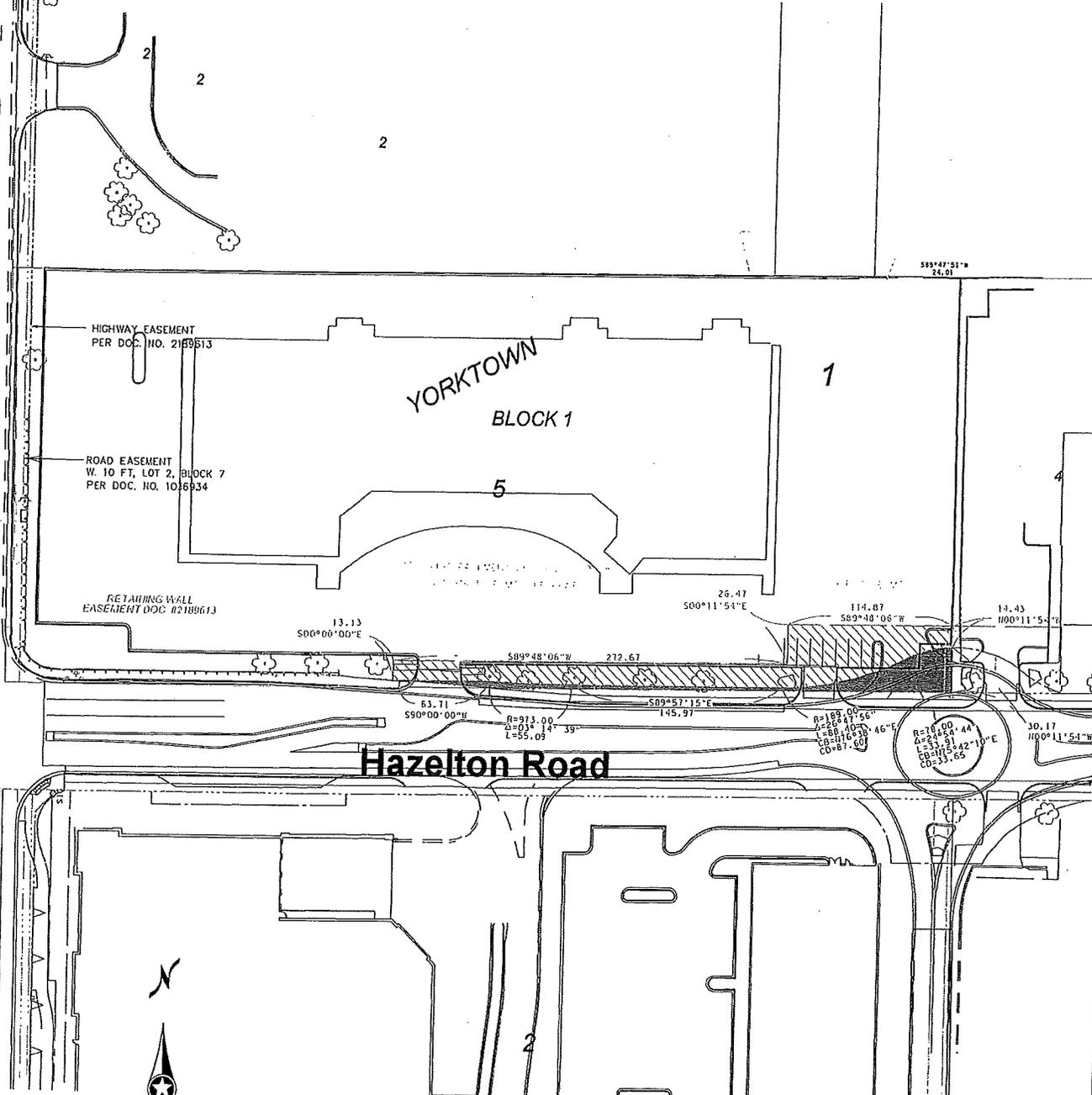
Parcel 18

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(Torrens Certificate of Title No. 1367504)

PARCEL 3



 PROPOSED PERMANENT ROADWAY, SIDEWALK AND DRAINAGE AND UTILITY EASEMENT AREA = 2,272 sq ft
 PROPOSED TEMPORARY CONSTRUCTION EASEMENT AREA = 7,614 sq ft

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 763-541-4800 • Fax 763-541-1700
 INFRASTRUCTURE • ENGINEERING • PLANNING • CONSTRUCTION

France Avenue Improvements
 Easement Parcel Sketch
 City of Edina, Minnesota



WSB Project No. 1686-400
 REVISED DATE: 2/7/2014
 Parcel No. 18
 Exhibit B