

**STATE OF MINNESOTA
DEPARTMENT OF TRANSPORTATION**

LIMITED USE PERMIT

C.S. 1902 T.H. 13
SP 091-090-056
County of Ramsey
LUP # 1902-0063
Permittee: City of St. Paul
Terminates: March 21, 2022

In accordance with Minnesota Statutes Section 161.434, the State of Minnesota, through its Commissioner of Transportation, MnDOT, hereby grants a Limited Use Permit to City of St. Paul, Permittee, to use the area within the right of way of Trunk Highway No. 13 as shown in red on Exhibit "A", (the Area) attached hereto and incorporated herein by reference. This permit is executed by the Permittee pursuant to resolution, a certified copy of which is attached hereto and incorporated herein.

NONMOTORIZED RECREATIONAL TRAIL

The Permittee's use of the Area is limited to only the constructing, maintaining and operating a nonmotorized recreational trail (the Facility) and the use thereof may be further limited by 23 C.F.R. 652 also published as the Federal-Aid Policy Guide.

In addition, the following special provisions shall apply:

SPECIAL PROVISIONS

1. **TERM.** This permit will terminate at 11:59PM on March 21, 2022. This permit will not be renewed. This permit is also subject to cancellation and termination by the Minnesota Department of Transportation, with or without cause, by giving the Permittee 90 days written notice of such intent. Prior to termination, or within 90 days of the cancellation notice, the Facility shall be removed by the Permittee. The Permittee is required to return and restore the area to a condition satisfactory to the Minnesota Department of Transportation District Engineer. The removal of the Facility and the return and restoration of the Area shall be at no cost to the Minnesota Department of Transportation and at the sole expense of the Permittee. If Permittee desires to continue its use of the Area, the Permittee must reapply to the Minnesota Department of Transportation, at least 90 days prior to termination, for a new limited use permit.

After termination, any continued occupancy or use, under this permit, of the Area is not authorized. However, if such continued occupancy or use occurs, all provisions of this

permit related to Permittee's liability or responsibility remain in effect. Permittee will pay MnDOT all costs and expenses, including attorney's fees, in any successful action brought by State of Minnesota to remove the facility and stop the continued occupancy or use.

2. **CONSTRUCTION.** The construction, maintenance, and supervision of the Facility shall be at no cost or expense to MnDOT.

Before construction of any kind, the plans for such construction shall be approved in writing by the Minnesota Department of Transportation, through the District Engineer. Approval from Minnesota Department of Transportation District Engineer shall be required for any changes from the approved plan.

The Permittee shall construct the Facility at the location shown in the attached Exhibit "A" subject to verification by the Minnesota Department of Transportation District Engineer that the construction geometrics and procedures result in a Facility that is compatible with the safe and efficient operation of the highway.

Upon completion of the construction of the Facility, the Permittee shall restore all disturbed slopes and ditches in such manner that drainage, erosion control and aesthetics are perpetuated.

The Permittee shall preserve and protect all utilities located on the lands covered by this permit at no expense to MnDOT and it shall be the responsibility of the Permittee to call the Gopher State One Call System at 1-800-252-1166 at least 48 hours prior to performing any excavation.

Any crossings of the Facility over the trunk highway shall be perpendicular to the centerline of the highway and shall provide and ensure reasonable and adequate stopping sight distance.

3. **MAINTENANCE.** Any and all maintenance of the Facility shall be provided by the Permittee at its sole cost and expense, including, but not limited to, plowing and removal of snow and installation and removal of regulatory signs. No signs shall be placed on any MnDOT or other governmental agency sign post within the Area. MnDOT will not mark obstacles for users on trunk highway right of way.
4. **USE.** Other than as identified and approved by MnDOT, no permanent structures or no advertising devices in any manner, form or size shall be allowed on the Area. No commercial activities shall be allowed to operate upon the Area.

Any use permitted by this permit shall remain subordinate to the right of the Minnesota Department of Transportation to use the property for highway and transportation purposes. This permit does not grant any interest whatsoever in land, nor does it

establish a permanent park, recreation area or wildlife or waterfowl refuge Facility that would become subject to Section 4 (f) of the Federal-Aid Highway Act of 1968, nor does this permit establish a Bikeway or Pedestrian way which would require replacement pursuant to Minnesota Statutes Section 160.264. No rights to relocation benefits are established by this permit.

This permit is non-exclusive and is granted subject to the rights of others, including, but not limited to public utilities which may occupy the Area.

5. **APPLICABLE LAWS.** This permit does not release the Permittee from any liability or obligation imposed by federal law, Minnesota Statutes, local ordinances, or other agency regulations relating thereto and any necessary permits relating thereto shall be applied for and obtained by the Permittee.
6. **CIVIL RIGHTS.** The Permittee, for itself, its successors, and assigns, agrees to abide by the provisions of Title VI Appendix C of the Civil Rights Act of 1964, which provides in part that no person in the United States, shall on the grounds of race, color, or national origin, be excluded from, or denied use of any Facility.
7. **SAFETY.** MnDOT shall retain the right to limit and/or restrict any activity, including the parking of vehicles and assemblage of Facility users, on the highway right of way over which this permit is granted, so as to maintain the safety of both the motoring public and Facility users.
8. **ASSIGNMENT.** No assignment of this permit is allowed.
9. **IN WRITING.** Except for those which are set forth in this permit, no representations, warranties, or agreements have been made by MnDOT or Permittee to one another with respect to this permit.
10. **ENVIRONMENTAL.** The Permittee shall not dispose of any materials regulated by any governmental or regulatory agency onto the ground, or into any body of water, or into any container on the State's right of way. In the event of spillage of regulated materials, the Permittee shall provide for cleanup of the spilled material and of materials contaminated by the spillage in accordance with all applicable federal, state and local laws and regulations, at the sole expense of the Permittee.
11. **MECHANIC'S LIENS.** The Permittee (for itself, its contractors, subcontractors, its materialmen, and all other persons acting for, through or under it or any of them), covenants that no laborers', mechanics', or materialmens' liens or other liens or claims of any kind whatsoever shall be filed or maintained by it or by any subcontractor, materialmen or other person or persons acting for, through or under it or any of them against the work and/or against said lands, for or on account of any work done or

materials furnished by it or any of them under any agreement or any amendment or supplement thereto.

- 12 NOTICES. All notices which may be given, by either party to the other, will be deemed to have been fully given when served personally on MnDOT or Permittee or when made in writing addressed as follows:

to Permittee at:

St. Paul Parks and Recreation
400 City Hall Annex
25 West 4th Street
Saint Paul, MN 55102

and to MnDOT at:

State of Minnesota
Department of Transportation
Metro District Right of Way
1500 W. County Road B2
Roseville, MN 55113

The address to which notices are mailed may be changed by written notice given by either party to the other.

- 13 INDEMNITY. Permittee shall defend, indemnify, hold harmless and release the State of Minnesota, its Commissioner of Transportation and employees and its successors and assigns, from and against:

(a) all claims, demands, and causes of action for injury to or death of persons or loss of or damage to property (including Permittee's property) occurring on the Facility or connected with Permittee's use and occupancy of the Area, regardless of whether such injury, death, loss or damage is caused in part by the negligence of State of Minnesota or is deemed to be the responsibility of State of Minnesota because of its failure to supervise, inspect or control the operations of Permittee or otherwise discover or prevent actions or operations of Permittee giving rise to liability to any person.

(b) claims arising or resulting from the temporary or permanent termination of Facility user rights on any portion of highway right of way over which this permit is granted;

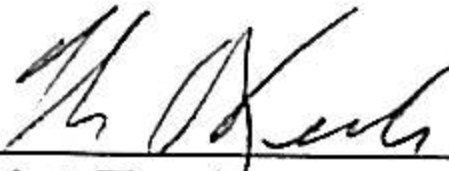
(c) claims resulting from temporary or permanent changes in drainage patterns resulting in flood damages;

(d) any laborers', mechanics', or materialmen's liens or other liens or claims of any kind whatsoever filed or maintained for or on account of any work done or materials furnished; and

(e) any damages, testing costs and clean-up costs arising from spillage of regulated materials attributable to the construction, maintenance or operation of the Facility.

MINNESOTA DEPARTMENT
OF TRANSPORTATION

RECOMMENDED FOR APPROVAL

By: 
District Engineer

Date 4/10/12

CITY OF ST. PAUL

By _____
Mayor

And _____
Its _____

APPROVED BY:

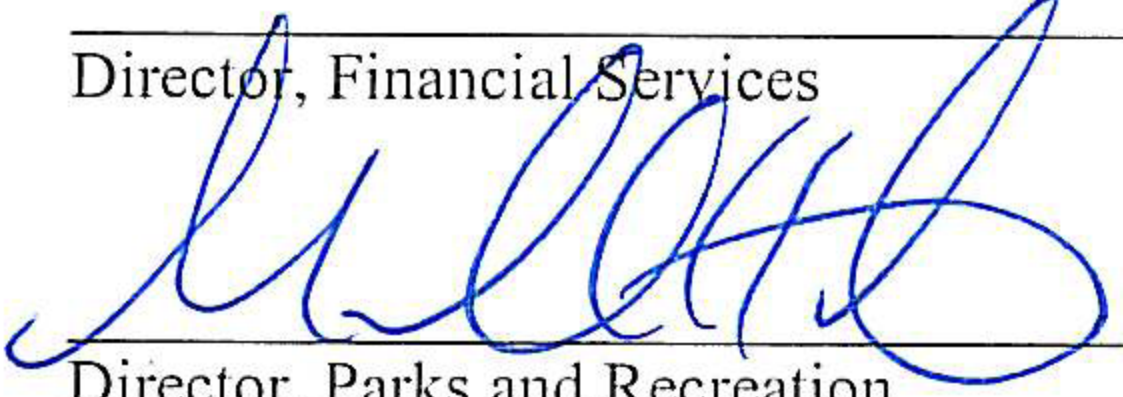
COMMISSIONER OF TRANSPORTATION

By: _____
Director, Office of Land Management

Date _____

City Attorney

Director, Financial Services



Director, Parks and Recreation



The Commissioner of Transportation
by the execution of this permit
certifies that this permit is
necessary in the public interest
and that the use intended is for
public purposes.



City of Saint Paul

Certified Copy

Resolution: RES 12-162

City Hall and Court
House
15 West Kellogg
Boulevard
Phone: 651-266-8560

File Number: RES 12-162

Authorizing the the City of Saint Paul to enter into and execute a Limited Use Permit with the State of Minnesota Department of Transportation for a regional trail in the right-of-way of Trunk Highway 13 at Cherokee Boulevard and pedestrian curb ramp improvements in the right-of-way of Trunk Highway 149 at George Street.

WHEREAS, the City of Saint Paul is a political subdivision, organized and existing under the laws of the State of Minnesota; and

WHEREAS, the City Council of the City of Saint Paul has approved a plan to construct a regional trail in the right-of-way of Trunk Highway 13 and pedestrian curb improvements in the right-of-way of Trunk Highway 149 at George Street; and

WHEREAS, the State of Minnesota, Department of Transportation requires a Limited Use Permit for the construction and utilization of said regional trail and pedestrian curb enhancements; and

WHEREAS, Minnesota DOT requires that in order to apply for the Limited Use Permit that the City Council authorize application for the same by resolution; now, therefore, be it

RESOLVED, that the City Council of the City of Saint Paul hereby authorizes application for a Limited Use Agreement with the State of Minnesota, Department of Transportation for the following purposes:

1. To construct, operate, and maintain a regional trail within the right-of-way of Trunk Highway 13 at Cherokee Boulevard and pedestrian ramp improvements in the right-of-way of Trunk Highway 149 at George Street. The City of Saint Paul shall construct, operate, and maintain said trail and pedestrian ramp enhancements in accordance with the Limited Use Permit granted by the Minnesota Department of Transportation.

I, Shari Moore, City Clerk of the City of Saint Paul, Minnesota, do hereby certify that I have compared RES 12-162, as adopted by the City Council on 2/1/2012 and approved by the Mayor on 2/7/2012, with the original thereof on file in my office.

Attest:

Shari Moore

February 08, 2012

Date Certified

DATE: 12/14/2011 TIME: 2:49:32 PM
 FILENAME: K:\n-z\StPaul-ParksRec\14644000\hwy-brdg\hwy-plr-sht\Cherokee_cpa.dwg

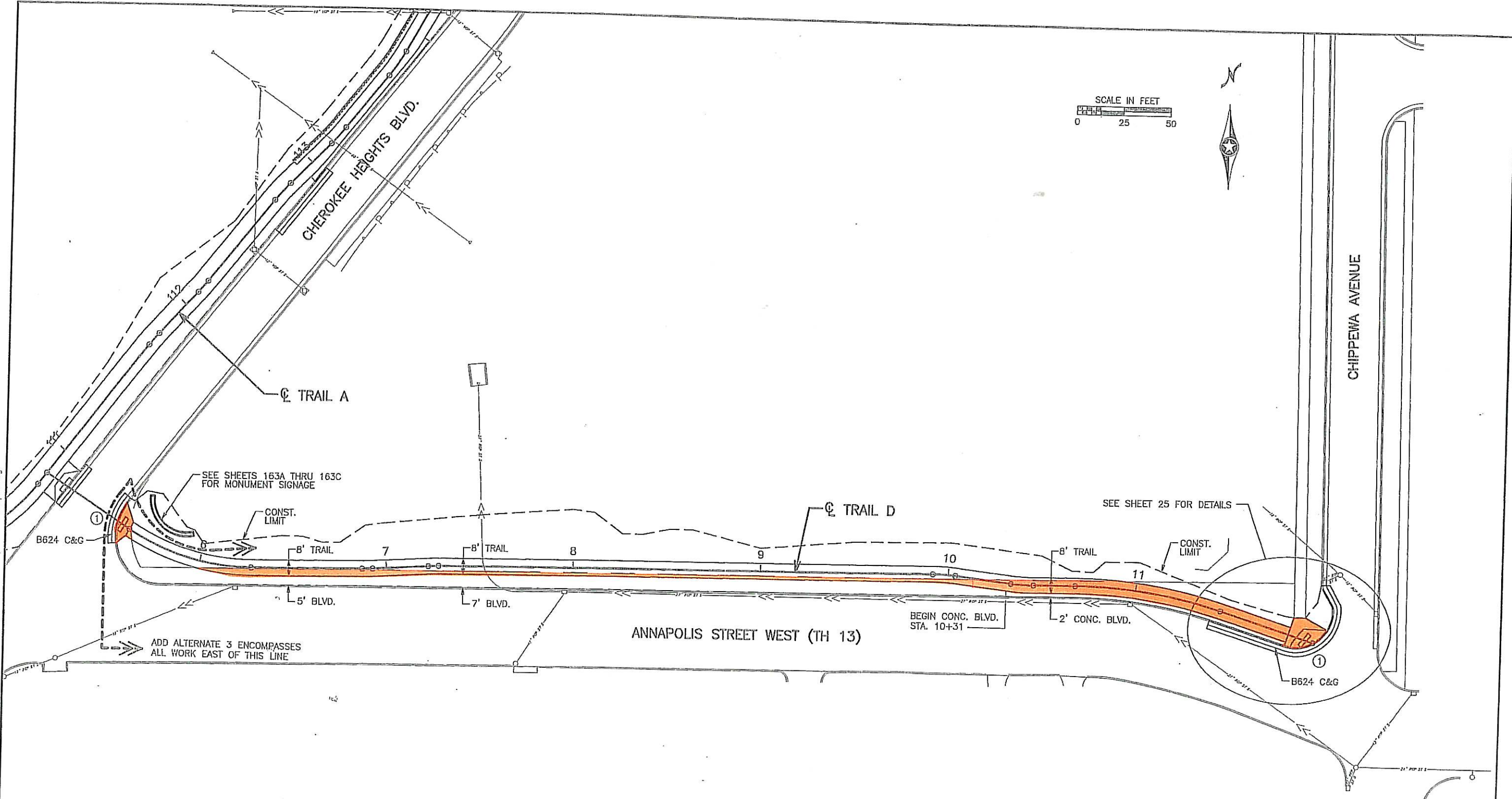
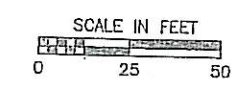


EXHIBIT A REALMS LUP # 1902-0063 (1 of 2)

- NOTES:**
- ① PEDESTRIAN CURB RAMP. SEE STANDARD PLATE 7036 AND SHEETS 22 THRU 22D FOR DETAILS.

| NO. | DATE | BY | DESCRIPTION OF REVISIONS |
|-----|------|----|--------------------------|
| | | | |

I HEREBY CERTIFY THAT THIS PLAN WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.

SIGNATURE: _____
 PRINTED NAME: DRET FARMER
 DATE: _____ LIC. NO. 24661



CHEROKEE REGIONAL TRAIL
 Saint Paul Parks and Recreation

CONSTRUCTION PLAN
 TRAIL D STA. 5+05 TO STA. 11+98.52

SHEET 1 OF 14
 S.P. 091-090-056
 Sheet No. 85 of 219 Sheets



Limited Use Permit

Cherokee Regional Trail - Trunk Highway 13 and Cherokee Blvd.
 SP091-090-056

February 22, 2012

Sheet 1 of 2



EXHIBIT A REALMS LUP # 1902-0063 (2 of 2)