



## Legislation Text

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**File #:** RES PH 13-273, **Version:** 1

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Approving the vacation of Rose Avenue and Alley, and the dedication of the easement for Right of Way purposes.

BE IT RESOLVED, that upon the petition of the City of Saint Paul ("Petitioner"), as documented in Office of Financial Services Vacation File Number 09-2013, the public property described and depicted in Exhibit A attached hereto, is hereby vacated and discontinued as public property and, subject to the following conditions, the utility easements within said public property are hereby released:

1. A permanent utility easement shall be retained on, over, under and across the proposed Rose Avenue vacation area on behalf of the Board of Water Commissioners (Board) of the City of Saint Paul to reserve the right of the Board to maintain and operate any water facility in or upon said easement and to enter upon said easement, or any portion thereof, at any time and from time to time, for the purposes of future construction, reconstruction, inspection, maintenance or repair of the same, or any part thereof. Said utility easement shall be subject to the following requirements:

- a. No buildings, structures, trees or any temporary structure, material storage, fixture, or any other objects which may prohibit normal access to water facilities for maintenance purposes will be permitted within the easement area.
- b. Improvements in or upon the above described easement that do not prohibit the Board from exercising its reserved rights may be allowed by obtaining written permission from Saint Paul Regional Water Services with the understanding that the restoration and costs of such improvements shall be the sole responsibility of the Petitioner in the event the Board exercises its reserved easement rights.
- c. Should it be necessary that the Petitioner's works or improvements be removed or damaged as a result of Saint Paul Regional Water Services operations, all removal, replacement or modification costs shall be borne solely by the petitioner.
- d. No change from the existing grade within the easement area shall be permitted without written permission from Saint Paul Regional Water Services.
- e. No change in surfacing within the easement area shall be permitted without written permission from Saint Paul Regional Water Services.
- f. The Petitioner shall fully indemnify, defend, and save harmless the Board of Water Commissioners of the City of Saint Paul, its officers, agents, employees, and servants from all suits, actions or claims which shall arise from any injuries or damages received or sustained by any break in any service pipe, water main, or connection in said reserved easement, arising out of or resulting from any action or negligence of the Petitioner, its employees, agents or, business invitees.

2. A permanent utility easement shall be retained on, over, under and across the proposed Rose Avenue vacation area on behalf of the City of Saint Paul, to maintain and operate it's own sewer rights for the purposes of future construction, reconstruction, inspection, maintenance, or repair of the same or, any part thereof. Said utility easement shall be subject to the following conditions:

- a. No buildings, structures, trees or any temporary structure, material storage, fixture, or any other objects which may prohibit normal access to utility facilities for maintenance purposes will be permitted within the easement area.
- b. Should it be necessary that the Petitioner's works or improvements be removed or damaged as a result of the Department of Public Works operations, all removal, replacement or modification costs shall be borne solely by the Petitioner.
- c. No change from the existing grade within the easement area shall be permitted without written permission from the Department of Public Works Sewer Division.
- d. No change in surfacing within the easement area shall be permitted without written permission from the Department of Public Works Sewer Division.

The Petitioner shall be responsible for the removal or reconstruction of Rose Avenue to eliminate the appearance of public right-of-way. This shall include, but not be limited to, reconstruction and/or construction of storm sewer structures, curb, gutter, sidewalk, and boulevard, to the satisfaction of the City of Saint Paul Public Works. Also, the Petitioner is to provide curb cuts at Greenbrier Street for ingress/egress as part of the proposed east/west alley.

3. An easement shall be retained on, over, under and across the proposed Rose Avenue vacation area on behalf of Northern States Power, d/b/a Xcel Energy (Electric), for the existing electrical pole at the Northwest quadrant of Greenbrier Street and Rose Avenue.

4. An easement shall be retained on, over, under and across the proposed Rose Avenue vacation area on behalf of Northern States Power, d/b/a Xcel Energy (Gas), for the gas main that runs through the center of Rose Avenue

5. An easement shall be retained within the proposed alley vacation area on behalf of Century Link, for the existing overhead cable.

6. This vacation shall be subject to the terms and conditions of Chapter 130, codified March 1, 1981, of the Saint Paul Legislative Code as amended.

BE IT FURTHER RESOLVED, that upon vacation of the alley to be vacated as described on the attached Exhibit A, the City of St. Paul shall convey said vacated alley area to The Arlington Hills Lutheran Church via quit claim deed, and the city council hereby authorizes the appropriate city officials to execute and deliver a recordable quit claim deed to convey said property; and

BE IT FURTHER RESOLVED, that Arlington Hills Lutheran Church shall dedicate a portion of their land as right-of-way easement without cost to the City of Saint Paul for the proposed east/west alley over its church property, as documented in the Dedication of Easement for Right-of-Way attached hereto in Exhibit B, and depicted and described in Exhibit C, Parcel A attached hereto.

Furthermore, Arlington Hills Lutheran Church may petition to vacate the said dedicated right-of-way easement as provided by law at any point in time to allow for future development, and the City of St. Paul shall give such petition all due consideration, including but not limited to whether the easement continues to be necessary for public right-of-way at that time and/or whether an alternative that satisfies the safety and well-being of the community can be provided; and be it finally

RESOLVED, that the Petitioner shall declare a right-of-way easement over its public property to widen the existing east/west alley, as described and depicted in Exhibit C, Parcel B.