

MEETING DATE: October 27, 2016

TITLE: Authorization to Amend Hennepin County Easement on District Property to Install Space Hazard Monitor

RESOLUTION NUMBER: 16-079

PREPARED BY: Laura Domyancich

E-MAIL: ldomyancich@minnehahacreek.org

TELEPHONE: 952-641-4582

REVIEWED BY: Administrator Counsel Program Mgr. (Name): _____
 Board Committee Engineer Other

WORKSHOP ACTION:

<input type="checkbox"/> Advance to Board mtg. Consent Agenda.	<input type="checkbox"/> Advance to Board meeting for discussion prior to action.
<input type="checkbox"/> Refer to a future workshop (date): _____	<input type="checkbox"/> Refer to taskforce or committee (date): _____
<input type="checkbox"/> Return to staff for additional work.	<input type="checkbox"/> No further action requested.
<input checked="" type="checkbox"/> Other (specify): Not reviewed at Workshop. Seeking approval at October 27, 2016 Board Meeting.	

PURPOSE or ACTION REQUESTED:

Authorization to amend a Hennepin County easement on District property to install a space hazard monitor.

PROJECT/PROGRAM LOCATION:

The former "Gould" property along Six Mile Creek and Mud Lake at 8251 State Highway No. 7 in Minnetrista.

PROJECT TIMELINE:

Install space hazard monitor in late fall of 2016.

PAST BOARD ACTION:

June 2, 2005, Resolution 05-036: Authorization to Enter into an Agreement to Purchase Approximately 34-acres in Fee Title and a Conservation Easement on Approximately 36-acres along Mud Lake and Six Mile Creek in the City of Minnetrista

March 24, 2016, Resolution 16-027: Authorization to Grant Hennepin County Easements on two District Properties for Weather Stations

SUMMARY:

In March 2016, the District granted Hennepin County Emergency Management (HCEM) a 40-foot by 40-foot easement on the former Gould property at 8251 State Highway No. 7 in Minnetrista. Within this easement area, a weather station was installed as part of their Hennepin West Mesonet network (<http://hennepinwestmesonet.org/#/>). HCEM and the District have continued to coordinate to discuss opportunities

to improve preparedness and resiliency across the District, and HCEM recently approached the District to request that the earlier easement be amended to allow for the installation of a space hazard monitor (SHM) adjacent to the weather station equipment. The easement area would be expanded to 150-foot by 200-foot area to accommodate the new equipment. General support for amending the easement to allow for installation of the SHM was voiced by the Managers at the September 22, 2016 Board of Managers meeting.

The SHM would be the first within the North Central United States and part of a national network of space hazard monitors that monitor ground induced currents and disturbances in Earth's magnetic field that are produced by solar storms. The impacts to the electrical grid from such solar storms can range from very limited to catastrophic. The monitor aims to understand the transmission of geomagnetic currents in our region and provide 30 minutes of warning to electric utilities, pipeline operations, and telecommunications companies to take measures to protect their infrastructure

The SHM equipment includes 4 ground induced current sensors that are aligned in an "L" shape. All infrastructure is below surface level aside from two small above-ground poles that hold a solar panel and battery and a data logger transmitter, and small markers to indicate the location of the subsurface sensor. The solar panel will be contained within the chain link fence delimiting the weather station, which will remain restricted to the original 40x40-foot easement. As with the weather station equipment, Hennepin County would also be responsible for upkeep and maintenance of the SHM equipment and the vegetation within the easement area.

The existence of the subsurface equipment will not interfere with the District's present conservation management of this tract. If in the future the District should determine to use or dispose of the property in a manner inconsistent with the weather stations, it may terminate the easement. However, because of the cost to move the equipment and the need to timely find an alternate site to maintain continuity, under the easement the District would give the County three years notice of termination. This is the same arrangement for easement termination set forth in the existing easement agreement.

ATTACHMENTS:

- Attachment 1: Easement Agreement for 8251 State Highway 7, Minnetrista
- Attachment 2: Amendment No.1 to Easement Agreement for 8251 State Highway 7, Minnetrista

RESOLUTION

RESOLUTION NUMBER: 16-079

TITLE: Authorization to Amend Hennepin County Easement on District Property to Install Space Hazard Monitor

- WHEREAS,** The District's Comprehensive Water Resources Management Plan includes a Land Conservation Program; and
- WHEREAS,** at its June 2, 2005 meeting, the Board of Managers authorized the District Administrator to sign a Purchase and Sale Agreement to acquire property located at 8251 State Highway No. 7, Minnetrista in fee title; and
- WHEREAS,** the District owns this tract in fee and manages it for water resource and conservation purposes; and
- WHEREAS,** at its March 24, 2016 meeting, the Board of Managers authorized the execution of an easement allowing Hennepin County Emergency Management to install weather stations at 8251 State Highway No. 7, Minnetrista and 301 Rolling Hills Drive, Minnetrista; and
- WHEREAS,** Hennepin County Emergency Management approached the District to inquire about amending the existing easement to allow the installation of space hazard monitoring equipment at the 8251 State Highway No. 7 site and to expand the existing easement area from 40 by 40 feet to 150 by 200 feet; and
- WHEREAS,** the Board of Managers finds benefit to the District and the public by allowing Hennepin County to install and maintain a space hazard monitor on District property.

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers hereby authorizes the Board President to execute the proposed easement amendment, with non-material changes and on advice of counsel, granting Hennepin County the right to install and maintain a space hazard monitor on District property.

Resolution Number 16-079 was moved by Manager _____, seconded by Manager _____.
Motion to adopt the resolution ___ ayes, ___ nays, ___ abstentions. Date: _____.

Secretary Date: _____

EASEMENT AGREEMENT

This Easement Agreement is made by and between the Minnehaha Creek Watershed District (“Grantor”) and the County of Hennepin (“Grantee”), political subdivisions of the State of Minnesota.

RECITALS

WHEREAS, Grantor is the fee owner of that certain real property legally described on **Exhibit A**, attached (“Burdened Parcel”) and;

WHEREAS, Grantee desires to site a weather station on the Burdened Parcel for public benefit.

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt of which is hereby acknowledged, Grantor and Grantee agree as follows:

AGREEMENT

1. Grantor does hereby grant, bargain, quitclaim and convey to Grantee a non-exclusive easement over and across the Burdened Parcel, as indicated on the attached **Exhibit B**, for access to, and the construction, operation, and maintenance of, a weather station as described on the attached **Exhibit B**. The easement is perpetual except as it may be terminated pursuant to paragraph 9, below.
2. The area within which Grantee may exercise easement rights under this Agreement (“Easement Area”) must be located within the bounded area depicted on Exhibit B. The Easement Area will not exceed a squared area measuring 40 feet on each side. Within the Easement Area, Grantee may erect and maintain chain-link fencing no more than five feet high and may secure access. Before installing fencing, Grantee will stake the intended fenced area and the parties will meet on site to concur in the location.
3. Grantee may enter and exit the Easement Area from the public way by means of the corridor labeled as “Access Route” on Exhibit B. Grantor may adjust the Access Route by

written notice to Grantee, provided it remains reasonably convenient for Grantee. Grantee will restore any part of the Access Route disturbed by its use. At Grantor's request, Grantee will stake or post signage on the Access Route to prevent unnecessary disturbance by those using the Access Route under Grantee's authority.

4. Grantee may disturb the Burdened Property outside of the Easement Area only to the extent reasonably necessary to install fencing pursuant to paragraph 2, above. Any such disturbance will be promptly restored to the preexisting condition and seeded to native species acceptable to Grantor.

5. Grantee shall be solely responsible to maintain the Easement Area and to keep it in a clean and safe condition. Grantee will maintain those parts of the Easement Area not occupied by structures or hard surface in native species acceptable to Grantor, may mow to a height of not less than six inches, and will prevent non-native or invasive species from establishing. At Grantor's request, Grantee will afford access to the Easement Area so that Grantor may perform vegetation maintenance.

6. Grantor will not place equipment or materials, install a gate or fence, or perform any other act on the Easement Area so as to interfere with the intended use of the Easement Area by Grantee. Before conducting a controlled burn on the Burdened Parcel, Grantor will notify Grantee so that Grantee may take steps to protect Grantee's equipment as it deems appropriate. Grantee may be present during controlled burns but shall be subject to the direction of the burn manager.

7. Grantee holds Grantor harmless, and agrees to indemnify and defend Grantor, with respect to all claims, causes of action, damages, costs and liabilities, including reasonable attorney fees, to which Grantor is subject arising from Grantee's use of the Easement Area, except to the extent attributable to Grantor's negligent act or omission, or the negligent act or omission of Grantor's employee, agent, licensee or invitee. Nothing herein waives any limitation of liability set forth in Minnesota Statutes Chapter 466, as amended.

8. This Easement Agreement is for the benefit of the Grantee, will run with the land and will bind and inure to the benefit of Grantor and Grantee, and their respective successors and assigns.

9. Grantee may assign this Easement Agreement to any other public agency to support a weather station. If Grantee or another public agency ceases to operate a weather station within the Easement Area, the parties will execute a release of easement or Grantor may seek a remedy of abandonment in accordance with state law. Notwithstanding any other term of this paragraph or this Easement Agreement, Grantor may unilaterally terminate this Easement Agreement by filing a termination of easement on the title of the Burdened Property and delivering a copy of same to Grantee. The termination of easement will state the date on which the Easement Agreement terminates, which will be no less than three years from the date of filing. Before filing the termination of easement, Grantor will advise Grantee in writing of its intention and afford a reasonable opportunity for consultation.

10. Grantee's rights under this Easement Agreement may be exercised by any employee, agent, representative, contractor or invitee of Grantee. Nothing in this Easement Agreement establishes any right of access on or across the Burdened Property in the general public.

11. This Easement Agreement shall be governed by the laws of the State of Minnesota.

MINNEHAHA CREEK WATERSHED DISTRICT ("Grantor")



Date: 3-30-16

By: Sherry Davis White, President

STATE OF MINNESOTA
COUNTY OF HENNEPIN

This instrument was acknowledged before me this 30 day of March, 2016, by Sherry Davis White as President of the Minnehaha Creek Watershed District.

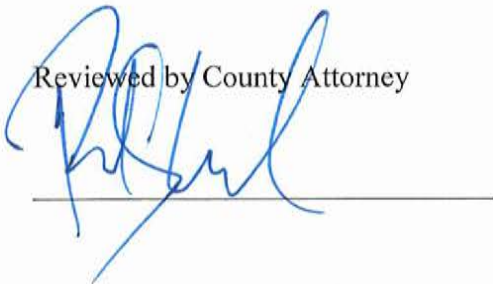

Notary Public



COUNTY OF HENNEPIN ("Grantee")

COUNTY OF HENNEPIN

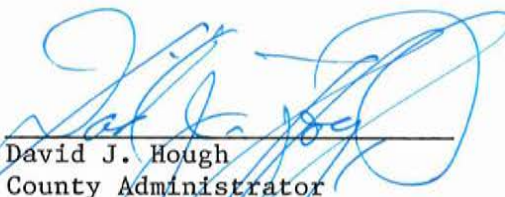
Reviewed by County Attorney




Jan Callison, Chair of the Board of Commissioners

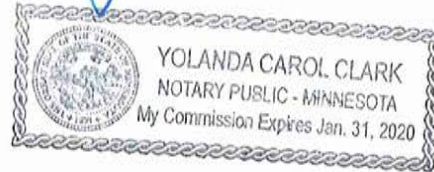

Clerk of the Board of Commissioners

STATE OF MINNESOTA
COUNTY OF HENNEPIN


David J. Hough
County Administrator

This instrument was acknowledged before me this 17th day of May, 2016, by Jan Callison, Chair of the Hennepin County Board of Commissioners, and Maria Rose, Clerk of the Board of Commissioners.

Y. Clark
Notary Public



Prepared by:
Smith Partners, P.L.L.P.
400 Second Avenue South
Suite 1200
Minneapolis MN 55401

EXHIBIT A

LEGAL DESCRIPTION: BURDENED PARCEL

That part of Section 32, Township 117, Range 24, Hennepin County, Minnesota as described follows:

Commencing at the center of said Section 32; thence East 990.80 feet; thence South 29 degrees 13 minutes 00 seconds West, a distance of 606.80 feet; thence South 64 degrees 28 minutes 00 seconds West, a distance of 775.50 feet to the West line of the Southeast Quarter of said Section; thence North to the beginning, except road.

Also the following piece or parcel of land:

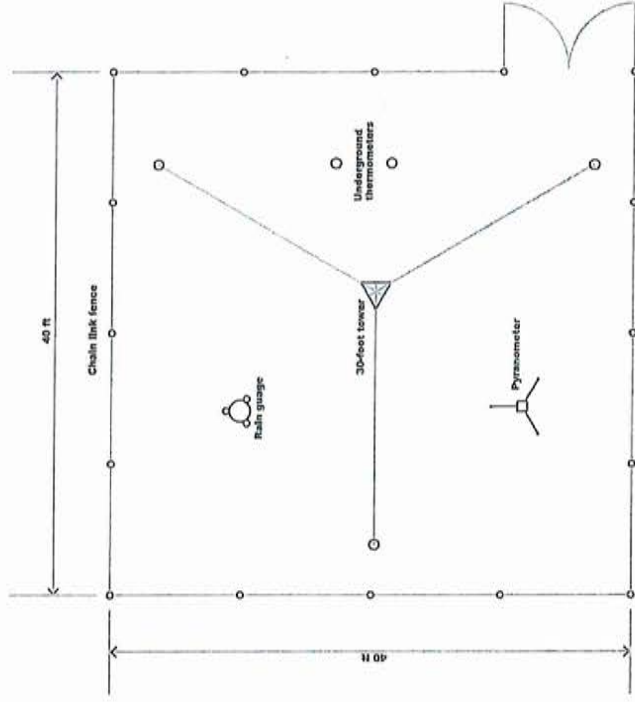
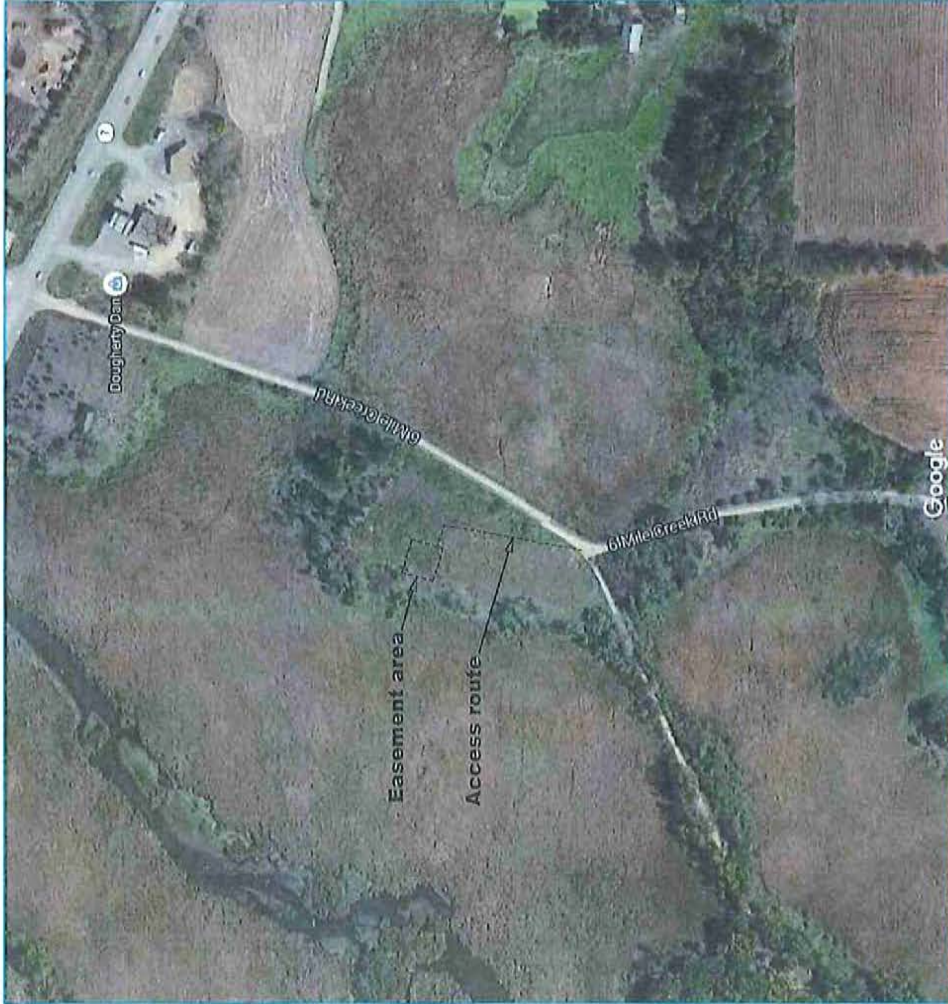
Commencing at the center of said Section 32; thence North 36 rods; thence North 60 degrees 07 minutes 00 seconds East, a distance of 1150.70 feet to the center of St. Bonifacious and Excelsior Road; thence South 39 degrees 33 minutes 00 seconds East along the center of said road, a distance of 224.10 feet; thence South 46 degrees 01 minute 00 seconds East along the center of said road 200.00 feet; thence South 19 degrees 11 minutes 00 seconds West, a distance of 924.40 feet to the South line of the Northeast Quarter of said Section; thence West 990.80 feet to the point of beginning, excepting road, all in Section 32, Township 117, Range 24, Hennepin County, Minnesota.

EXCEPTING therefrom the following:

That part of the Northeast Quarter of Section 32, Township 117, Range 24, lying Southeasterly of a line bearing North 60 degrees 07 minutes 00 seconds East, from a point in the West line of said Northeast Quarter distant 36 rods North, measured along said West line from the center of said Section 32 and included within the Westerly Right-of-Way line of the Chaska-Greenwood Road and the Northeasterly Right-of-Way line of State Highway No. 7.

EXHIBIT B

SITE PLAN & WEATHER STATION TOP SCHEMATIC



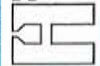
PROPOSED WEATHER STATION COMPOUND (NTS)

File location: R:\22208_P\Design & Construction\Projects\1002489 - Medina Weather Station

**MINNEHAHA WATERSHED DISTRICT
SITE PLAN SOUTH**

File name: PW_Medina_Weather_Station.dwg

HENNEPIN COUNTY
PROPERTY SERVICES



REVISED 22 MAR 2016

Sheet **1** of 1

AMENDMENT NO. 1 TO EASEMENT AGREEMENT

This Amendment No. 1 to Easement Agreement is made by and between the Minnehaha Creek Watershed District (“Grantor”) and the County of Hennepin, a political subdivision of the State of Minnesota (“Grantee”)

RECITALS

WHEREAS, Grantor is the fee owner of that certain real property legally described on **Exhibit A**, attached (“Burdened Parcel”).

WHEREAS, by means of an Easement Agreement dated _____, 2016 (“Easement Agreement”), Grantor has conveyed to Grantee an easement to site a weather station on the Burdened Parcel for public benefit.

WHEREAS, Grantee would like to site a Space Hazard Monitor (SHM) sensor, consisting of a buried fluxgate magnetometer, electrodes, a data logger and associated appurtenances, on the Burdened Parcel, for the public purpose of assessing the impacts of ground magnetic disturbances on the electric power grid and other public utility systems (“SHM Equipment”).

WHEREAS, the area required for the SHM Equipment is larger than the Easement Area defined in the Easement Agreement.

WHEREAS, the parties desire to amend the Easement Agreement to allow for the location of the SHM Equipment on the Burdened Parcel.

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt of which is hereby acknowledged, Grantor and Grantee agree as follows:

1. Grantor hereby grants to Grantee a non-exclusive easement over and across the Burdened Parcel for access to, and the construction, operation, and maintenance of, an SHM sensor and appurtenances (“SHM Equipment Easement”). All elements of the weather station and SHM sensor constructed and maintained under the Easement Agreement and this Amendment No. 1 to Easement Agreement will be located within a rectangular perimeter substantially in the location indicated on **Exhibit B** to this Amendment No. 1 to Easement Agreement and measuring no more than 150 feet by 200 feet. (“SHM Easement Area”) This Amendment No. 1 to Easement Agreement is perpetual except as it may be terminated pursuant to the terms of the Easement Agreement.
2. The SHM sensor will be installed below the ground surface and at a depth that Grantee determines sufficient to avoid conflict with Grantor’s management of surface vegetation and its use of the surface for conservation and other public purposes. On completing installation, Grantee will deliver to Grantor a signed as-built drawing specifying the location and elevation of the installed sensor. Other than a data logger transmitter and

markers to identify the location of buried elements, Grantee will not install or maintain appurtenances related to the SHM sensor, or any fencing or other structures or improvements, above ground and outside of the easement area established by the Easement Agreement (“Easement Area”). Grantee may install and maintain any additional SHM sensor appurtenances within the Easement Area.

3. Grantee may access the SHM Easement Area as provided in the Easement Agreement.
4. Grantee may disturb the Burdened Property within the SHM Easement Area to the extent reasonably necessary to install the SHM sensor and data logger transmitter. Any such disturbance will be promptly restored to the preexisting condition and seeded to native species acceptable to Grantor. Before any subsequent disturbance of the land surface or vegetation for operation, maintenance, repair or replacement of any feature, Grantee will consult with Grantor and conform to reasonable conditions imposed by Grantor to limit disturbance.
5. Grantor retains all authority with respect to surface use and maintenance of the Burdened Parcel outside of the Easement Area, and may undertake all activities convenient or necessary to maintain the vegetation, ecology and public use of the Burdened Parcel, subject to its obligations under paragraph 6 of the Easement Agreement. Before any subsurface disturbance other than that related to ordinary vegetation maintenance, Grantor will consult with Grantee and will avoid any activity that Grantee reasonably determines will interfere with the integrity or function of the SHM sensor.
6. This Amendment No. 1 to Easement Agreement modifies the Easement Agreement, which otherwise remains in full force and effect.

MINNEHAHA CREEK WATERSHED DISTRICT (“Grantor”)

By: Sherry Davis White, President

Date:

STATE OF MINNESOTA
COUNTY OF HENNEPIN

This instrument was acknowledged before me this _____ day of _____, 2016, by Sherry Davis White as President of the Minnehaha Creek Watershed District.

Notary Public

COUNTY OF HENNEPIN (“Grantee”)

Reviewed by County Attorney

Jan Callison, Chair of the Board of
Commissioners

Clerk of the Board of Commissioners

STATE OF MINNESOTA
COUNTY OF HENNEPIN

This instrument was acknowledged before me this _____ day of _____, 2016, by
Jan Callison, Chair of the Hennepin County Board of Commissioners, and
_____, Clerk of the Board of Commissioners.

Notary Public

Prepared by:
Smith Partners, P.L.L.P.
400 Second Avenue South
Suite 1200
Minneapolis MN 55401