

**STATE OF MINNESOTA
DEPARTMENT OF TRANSPORTATION**

**LIMITED USE PERMIT FOR
NONMOTORIZED RECREATIONAL TRAIL**

C.S. 4203 T.H. 23
County of Lyon
LUP # -0002

4203

In accordance with Minnesota Statutes Section 161.434 and 23 C.F.R. 652 also published as the Federal-Aid Policy Guide, a Limited Use Permit is hereby granted to City of Marshall, Permittee. This permit is granted solely for the purpose of constructing, maintaining and operating a nonmotorized recreational trail, (hereinafter called trail), within the right of way of Trunk Highway No(s). 23 as shown in red on Exhibit "M", which is considered the same as the signed plans SP 139-090-003 and Minn. Proj. No. TEAX 4209(215). This permit is executed by the Permittee pursuant to the attached resolution. In addition, the following special provisions shall apply:

SPECIAL PROVISIONS

1. The construction, maintenance, and operation of the trail shall be at no expense, or cost to the Minnesota Department of Transportation. This permit shall not allow the construction of any permanent buildings, structures, or other obstructions.
2. Before construction of any kind, the plans for such construction shall be concurred to in writing by the Minnesota Department of Transportation, through the District Engineer. Concurrence in writing by the Minnesota Department of Transportation will be required for any changes in the plan that has been signed and dated 4/30/2009 by the Marshall City Engineer. All design will be done by the permittee and with the concurrence of the Minnesota Department of Transportation prior to letting. Approval of the design will not relieve the permittee of the responsibility for the proper execution of the work or the consequence of any act, neglect, omission, or misconduct in execution or non-execution of work of the Permittee or its contractor.
3. No obstructions of any manner or advertising device(s) in any manner, form or size shall be constructed, placed or permitted to be constructed or placed upon the state lands of Minnesota right of way. The Permittee shall provide regulatory signing and enforcement relating to the safe and proper utilization of the pedestrian and bicycle underpass and approach roadways. Signing is to be in accordance with the *Minnesota Manual of Uniform Traffic Control Devices* and construction and maintenance shall be in accordance with *the Minnesota Bicycle Transportation Planning & Design*.
4. No commercial activity or activities shall be allowed to operate upon said State of Minnesota right of way.

5. Any and all maintenance of the trail shall be provided by the Permittee with concurrence from the Minnesota Department of Transportation; this includes, but is not limited to, the patching and repair, the plowing and removal of snow, and the installation and removal of regulatory signs at no cost or expense to the Minnesota Department of Transportation. The Permittee shall obtain all necessary permits from Mn/DOT to perform maintenance and repairs when working on state right of way.
6. This permit is non-exclusive and is granted subject to the rights of others, including, but not limited to public utilities which exist at present or may be permitted by the Minnesota Department of Transportation in the future.
7. The Permittee shall preserve and protect all utilities located on the lands covered by this permit at no expense to the Minnesota Department of Transportation 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.
8. Any crossings of the trail over the trunk highway shall be perpendicular to the centerline of the highway and shall provide and ensure reasonable and adequate stopping sight distance.
9. The Permittee shall construct the trail at the location shown in the attached Exhibit "M" subject to verification by the Minnesota Department of Transportation District Engineer that the construction geometrics and procedures result in a trail that is compatible with the safe and efficient operation of the highway facility. The Permittee shall conduct its operations in accordance with the requirements of the "Minnesota Field Manual on Temporary Traffic Control Layouts".
10. Approval from Minnesota Department of Transportation District Engineer shall be required for any changes from the approved plan.
11. Upon completion of the construction of the trail, the Permittee shall restore all disturbed slopes and ditches in such manner that drainage, erosion control and aesthetics are perpetuated to a condition that is satisfactory to the Minnesota Department of Transportation's District Engineer.
12. This permit does not release the Permittee from any liability or obligation imposed by federal law, Minnesota Statutes, local ordinances, or other regulations relating thereto and any necessary permits relating thereto shall be applied for and obtained by the Permittee. No reassignment of this permit is allowed directly or indirectly.
13. 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.

14. This permit shall be subject to cancellation and termination by the Minnesota Department of Transportation, with or without cause, by giving the Permittee 7 days written notice of such intent. Upon said notice of cancellation the trail shall be removed within 7 days by the Permittee. Upon cancellation of said permit, or any portion thereof, the Permittee will be required to return and restore the area to a condition satisfactory to the Minnesota Department of Transportation District Engineer. The removal of the trail and the return and restoration of the area shall be at no cost or expense to the Minnesota Department of Transportation and at the sole expense and cost of the Permittee.
15. The Permittee, for itself its heirs, personal representatives, its successors in interest 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 trail.
16. The State of Minnesota, through its Commissioner of Transportation, shall retain the right to limit and/or restrict the parking of vehicles and assemblage of trail 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 trail users.
17. 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.
18. The Permittee shall hold harmless and indemnify the State of Minnesota, its Commissioner of Transportation and employees and its successors and assigns, from liability claims for damages because of bodily injury, death, property damage, sickness, disease, or loss and expense arising from the operations of the trail or from the use of the portion of highway right of way over which this permit is granted.
19. The Permittee shall hold harmless and indemnify the State of Minnesota, its Commissioner of Transportation and employees and its successors and assigns from claims arising or resulting from the temporary or permanent termination of trail user rights on any portion of state of Minnesota right of way over which this permit is granted.
20. The Permittee will hold harmless and indemnify the State of Minnesota, its Commissioner of Transportation and employees from claims resulting from temporary or permanent changes in drainage patterns resulting in flood damage.
21. 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; agrees assume liability for and, to indemnify and hold harmless the State of Minnesota from all such liens and claims.

22. If the Permittee desires to abandon the trail and or trail area in the future, the Permittee will remove and recondition the state right of way according to Mn/DOT requirements. The area will be reconditioned in a manner that is satisfactory to the Minnesota Department of Transportation's District Engineer at no cost or expense to the State of Minnesota.

MINNESOTA DEPARTMENT
OF TRANSPORTATION

RECOMMENDED FOR
APPROVAL

CITY OF MARSHALL

By 

Its Mayor

And 

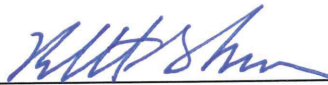
Its Finance Director/City Clerk

By: 
District Engineer

Date July 13, 2009

APPROVED BY:

COMMISSIONER OF TRANSPORTATION

By: 
Director, Office of Land Management

Date 8/3/2009

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.

RESOLUTION NUMBER 3251, SECOND SERIES

RESOLUTION APPROVING PROJECT
AND ALLOWING AUTHORIZATION TO EXECUTE

WHEREAS, plans and specifications have been prepared under the following project in the following location:

PROJECT Y51 / S.P. 139-090-03
NORTH BIKE AND PEDESTRIAN TRAIL IMPROVEMENTS PROJECT
From the intersection of T.H. 23 & T.H. 19/68 Looping North/West then Southwest to T.H. 23 at the Wayside Rest Area in Southwest Marshall, Minnesota

and said plans and specifications have been presented to the Council for approval; and

WHEREAS, a Limited Use Permit for Nonmotorized Recreational Trail has been provided by Mn/DOT for execution by the City of Marshall, a copy of which is hereby attached and made part of this resolution; and

WHEREAS, the City is required to approve said Trail Project and allow authorization to execute the Limited Use Permit for Nonmotorized Recreational Trail.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF MARSHALL, MINNESOTA:

1. Such plans and specifications, a copy of which is attached to the Limited Use Permit and made a part thereof, are hereby approved.
2. The Mayor is hereby authorized to be the signatory of the Limited Use Permit for Nonmotorized Recreational Trail which will be attested to by the City Clerk/Financial Director.

Passed and adopted by the Council this 29th day of June, 2009.



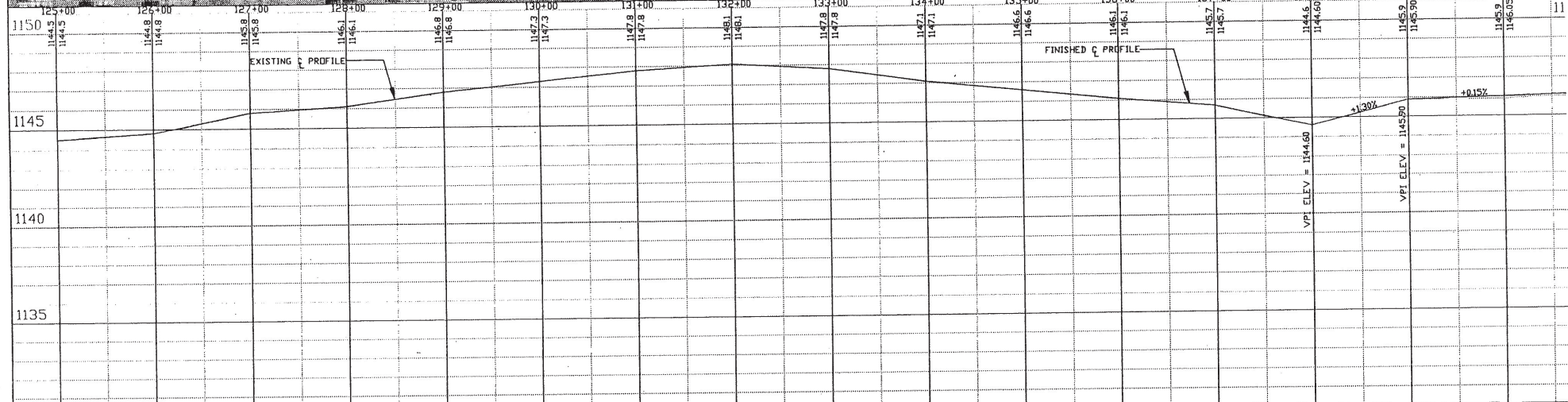
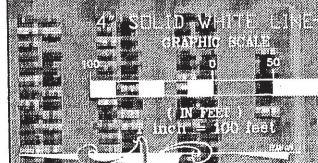
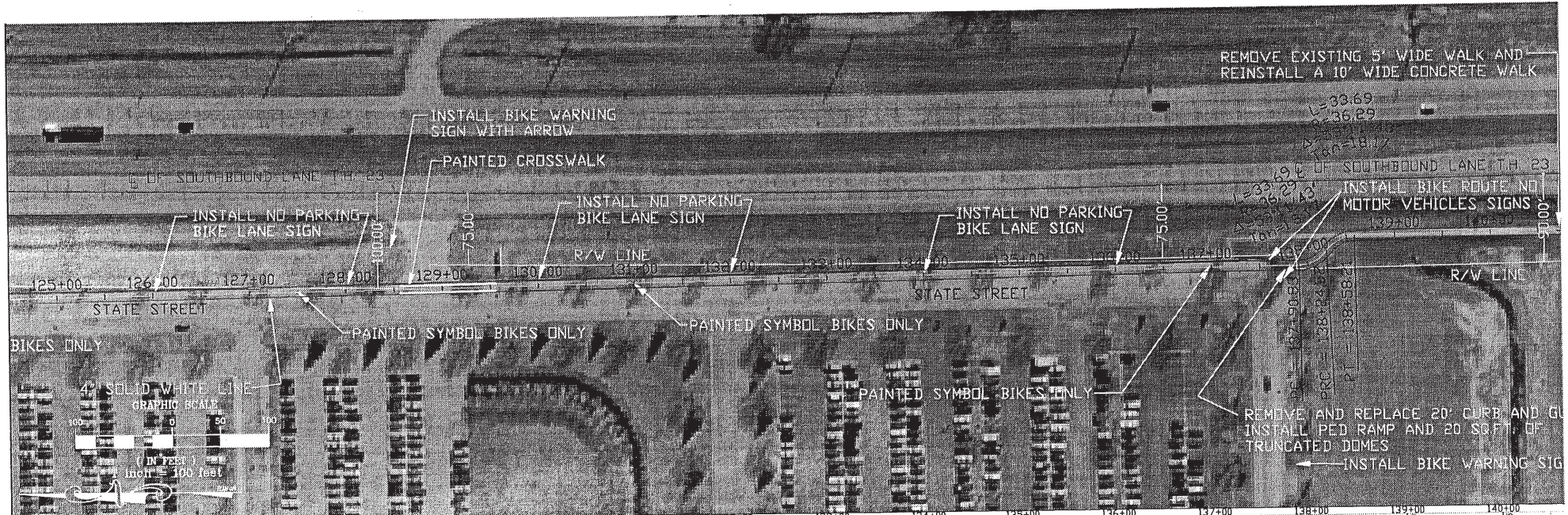
Mayor


ATTEST:



City Clerk/Financial Director

This Instrument Drafted by:
Director of Public Works/City Engineer Glenn J. Olson, P.E.



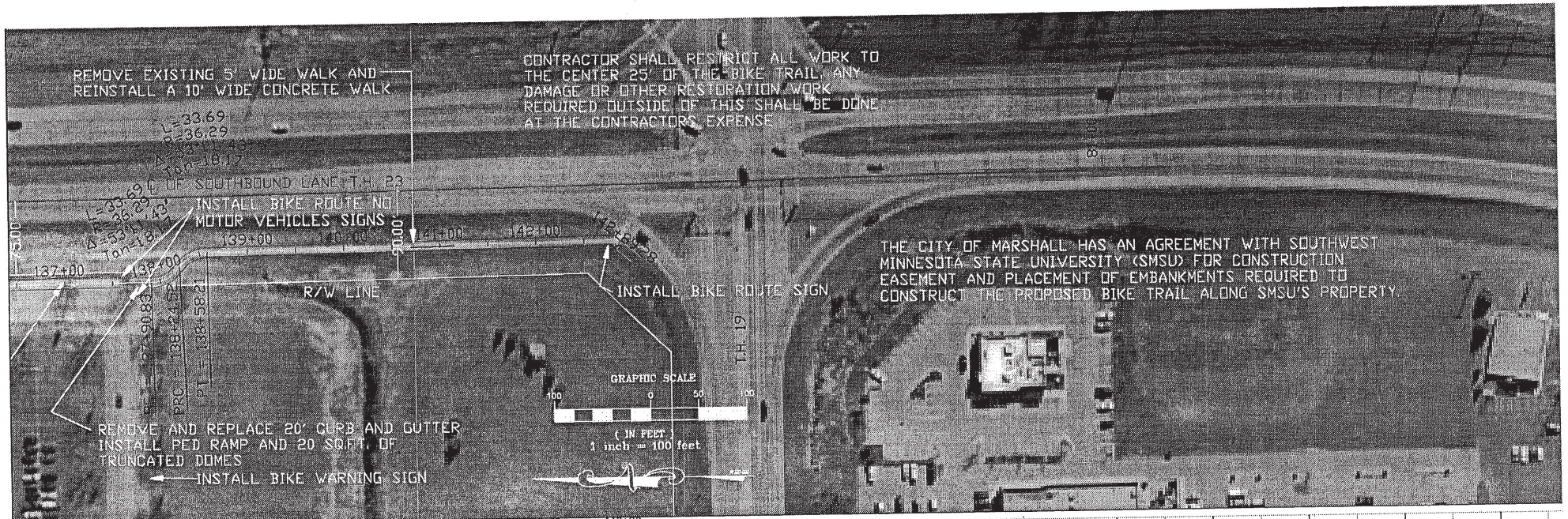

CITY ENGINEERS OFFICE
 344 WEST MAIN STREET
 MARSHALL, MINNESOTA
 58258

BIKE TRAIL EAST CORRIDOR
PLAN AND PROFILE SHEET

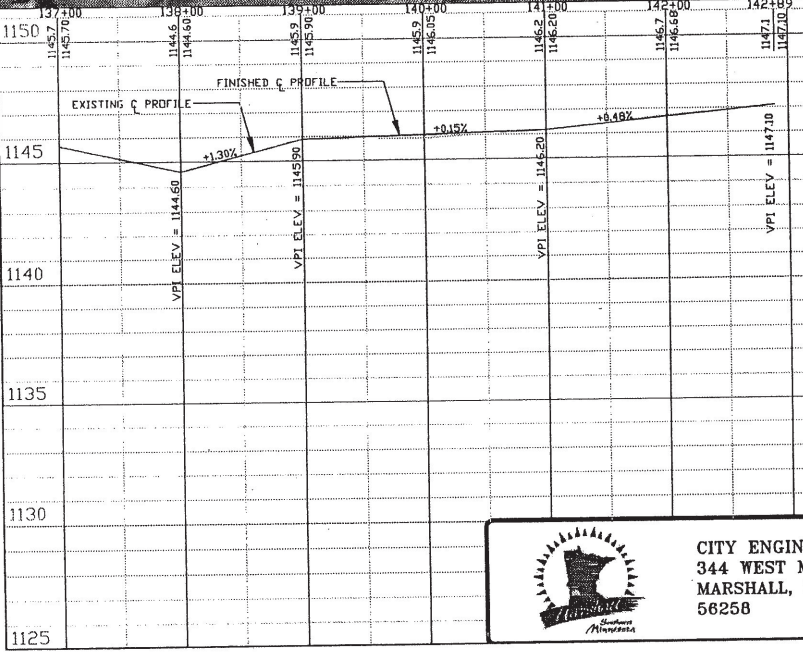
I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.
 DATE _____ REGISTRATION NO. 41557


DATE 02/13/09
 DESIGNED BY S.L.W.
 DRAWN BY G.J.S.
 CHECKED BY _____

CITY PROJEC Y5
 STATE PROJ 139-09
 SHEET NO. 23



THE CITY OF MARSHALL HAS AN AGREEMENT WITH SOUTHWEST MINNESOTA STATE UNIVERSITY (SMSU) FOR CONSTRUCTION EASEMENT AND PLACEMENT OF EMBANKMENTS REQUIRED TO CONSTRUCT THE PROPOSED BIKE TRAIL ALONG SMSU'S PROPERTY.



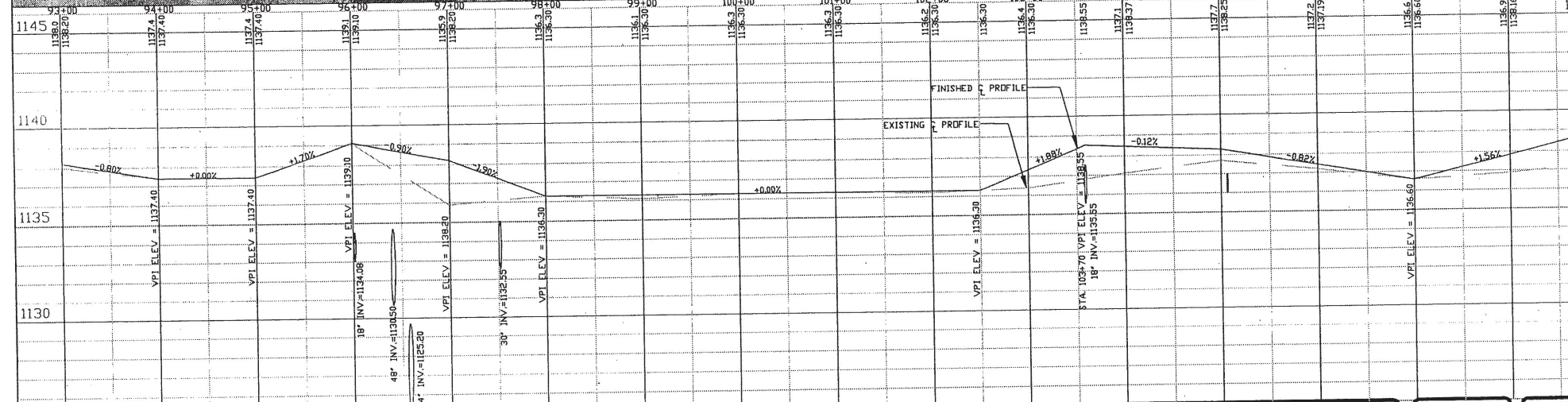
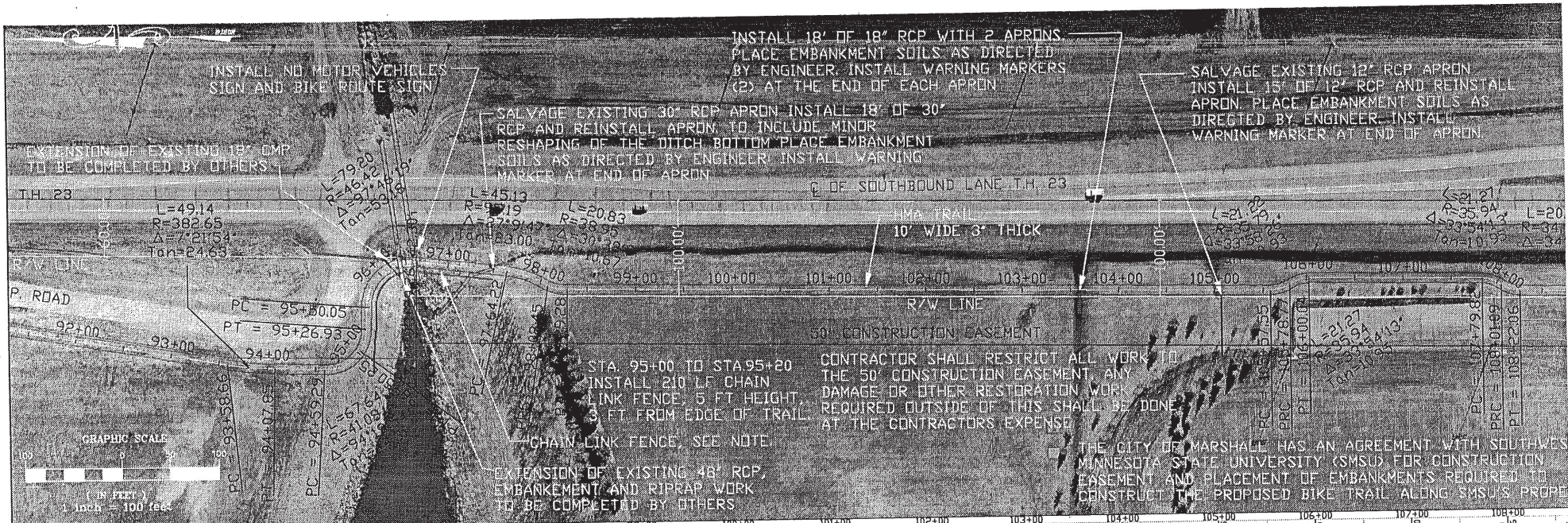
 CITY ENGINEERS OFFICE
344 WEST MAIN STREET
MARSHALL, MINNESOTA
58258


BIKE TRAIL EAST CORRIDOR
PLAN AND PROFILE SHEET

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.
DATE _____ REGISTRATION NO. 41557

DATE 02/13/09
DESIGNED BY S.L.V.
DRAWN BY G.J.S.
CHECKED BY _____

CITY PROJECT Y5
STATE PROJECT 139-09
SHEET NO. 24



 <p>CITY ENGINEERS OFFICE 344 WEST MAIN STREET MARSHALL, MINNESOTA 56258</p>	BIKE TRAIL EAST CORRIDOR		I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA. DATE _____ REGISTRATION NO. 41557	DATE 02/13/09	CITY PROJ Y5 STATE PROJ 139-09
	PLAN AND PROFILE SHEET			DESIGNED BY S.L.W. DRAWN BY G.J.S. CHECKED BY _____	SHEET NO. 21 OF 20

INSTALL NO MOTOR VEHICLES SIGN AND BIKE ROUTE SIGN

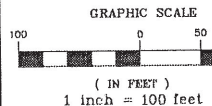
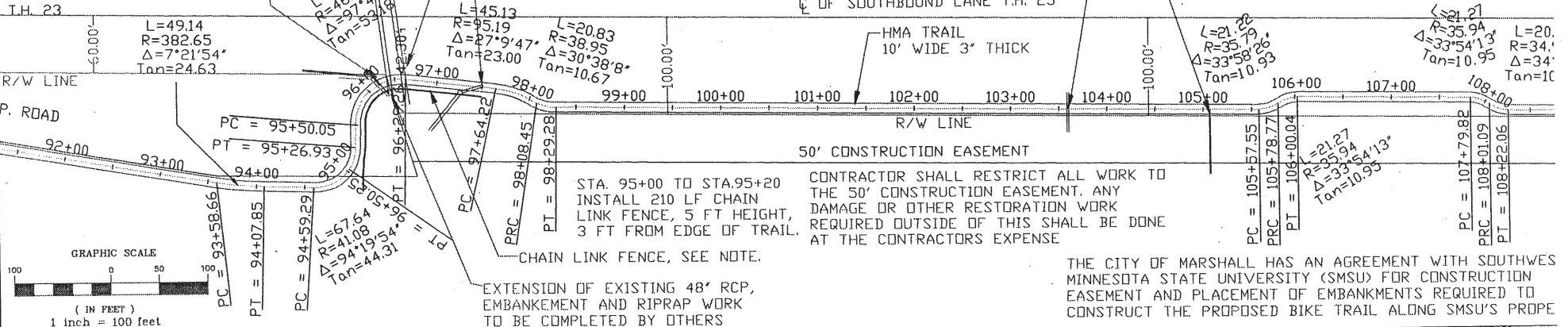
INSTALL 18' OF 18" RCP WITH 2 APRONS. PLACE EMBANKMENT SOILS AS DIRECTED BY ENGINEER. INSTALL WARNING MARKERS (2) AT THE END OF EACH APRON

SALVAGE EXISTING 12" RCP APRON. INSTALL 15' OF 12" RCP AND REINSTALL APRON. PLACE EMBANKMENT SOILS AS DIRECTED BY ENGINEER. INSTALL WARNING MARKER AT END OF APRON.

EXTENSION OF EXISTING 18" CMP TO BE COMPLETED BY OTHERS

SALVAGE EXISTING 30" RCP APRON. INSTALL 18' OF 30" RCP AND REINSTALL APRON. TO INCLUDE MINOR RESHAPING OF THE DITCH BOTTOM. PLACE EMBANKMENT SOILS AS DIRECTED BY ENGINEER. INSTALL WARNING MARKER AT END OF APRON

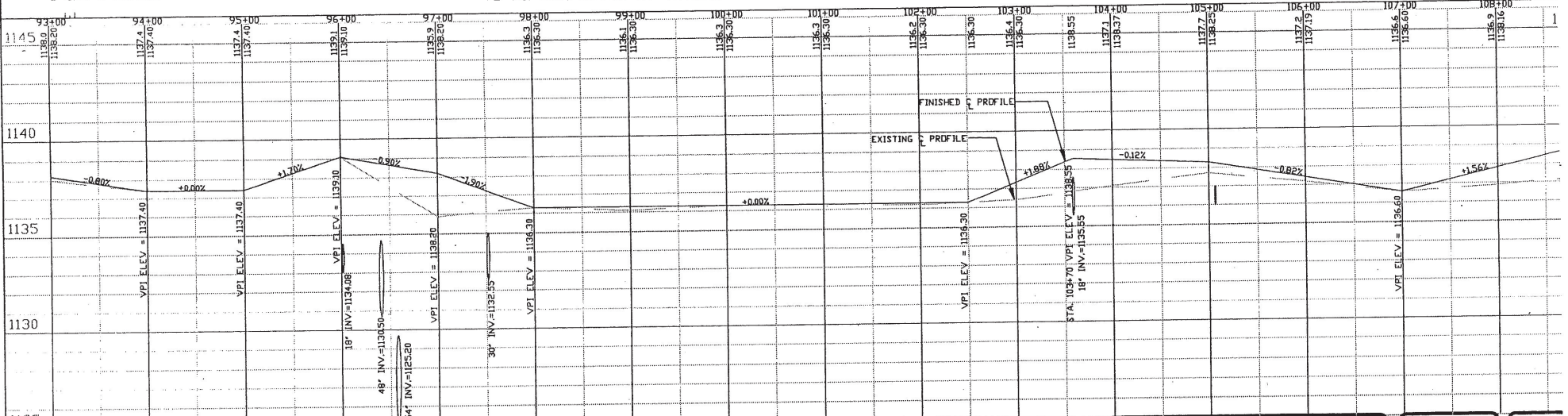
CL OF SOUTHBOUND LANE T.H. 23



STA. 95+00 TO STA. 95+20
INSTALL 210 LF CHAIN LINK FENCE, 5 FT HEIGHT, 3 FT FROM EDGE OF TRAIL.

CONTRACTOR SHALL RESTRICT ALL WORK TO THE 50' CONSTRUCTION EASEMENT. ANY DAMAGE OR OTHER RESTORATION WORK REQUIRED OUTSIDE OF THIS SHALL BE DONE AT THE CONTRACTORS EXPENSE

THE CITY OF MARSHALL HAS AN AGREEMENT WITH SOUTHWEST MINNESOTA STATE UNIVERSITY (SMSU) FOR CONSTRUCTION EASEMENT AND PLACEMENT OF EMBANKMENTS REQUIRED TO CONSTRUCT THE PROPOSED BIKE TRAIL ALONG SMSU'S PROPE



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344 WEST MAIN STREET
MARSHALL, MINNESOTA
56258

BIKE TRAIL EAST CORRIDOR

PLAN AND PROFILE SHEET

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DATE 02/13/09
DESIGNED BY S.L.W.
DRAWN BY G.J.S.
CHECKED BY
CITY PROJ Y5
STATE PROJ 139-09
SHEET NO. 21 OF