

# LEASE AGREEMENT

THIS LEASE is made as of \_\_\_\_\_, 2019

BETWEEN: Interstate Parking Company of Minnesota LLC  
11 East Superior Street, Suite 120  
Duluth, Minnesota 55802

(the "**Landlord**")

AND: Just Take Action, Inc.  
132 East Superior Street  
Duluth, MN 55802

(the "**Tenant**")

PREMISES: That certain portion of the Lake Place Lot property as specifically shown on the map attached hereto as Exhibit A (the "**Premises**"). The Premises consist of five (5) parking spaces, including two (2) spaces currently designated as loading zone spaces.

WHEREAS LANDLORD manages the Premises under a management agreement (the "**Master Agreement**") with the City of Duluth (herein called "**City**") and the Duluth Economic Development Authority (herein called "**DEDA**") effective as of April 26, 2012 (City Contract No. 21606) which is also the subject of an ancillary agreement (the "**Ancillary Agreement**") between the City and DEDA effective as of April 26, 2012 (City Contract No. 21605), both agreements as may be amended from time to time, and is thereby authorized by the City and DEDA to enter into this Lease and act as Landlord on behalf of City and DEDA;

AND WHEREAS the Tenant would like to lease the Premises from Landlord on the terms and conditions set forth herein for purposes of providing parking for its boutique hotel guests;

THEREFORE, the parties agree as follows:

IN CONSIDERATION of the rents, covenants, conditions, and obligations reserved and contained in this Lease on the part of the Landlord and the Tenant to be respectively paid, kept, observed, and performed, the parties mutually agree as follows:

1 Premises

1.1 The Landlord leases to the Tenant the Premises as is defined herein.

1.2 Tenant has inspected and accepts the Premises as-is and where-is, and Landlord makes no representations, express or otherwise, as to its suitability for Tenant's intended use. Any alterations, improvements, or any other changes including related costs that Tenant may incur to bring the Premises into conformity with any applicable laws, ordinances, or codes to comply with Tenant's intended use as well as the costs, if any, of any related permits, licenses, or any required governmental approvals are at Tenant's sole cost and expense.

## 2 Term

2.1 The Tenant will have and hold the Premises for the term of ten (10) years commencing on May 1, 2019 (the "Commencement Date") and continuing through April 30, 2029 (the "Term").

## 3 Rent

3.1 Beginning on the Commencement Date, the Tenant will pay fixed monthly rent in advance without demand in an amount equal to Twenty-Five and No/100 Dollars (\$25.00), plus applicable taxes, per parking space for a total of One Hundred Twenty-Five and No/100 Dollars (\$125.00), plus applicable taxes, per month (the "Rent"). Commencing on May 1, 2019, and on May 1 of each year thereafter, the monthly rent will increase by Five Percent (5%). Rent shall not exceed the then current published public monthly parking rate for a similar number of parking spaces charged by the Duluth Entertainment Convention Center (the "DECC") unless the DECC charges less than \$25.00, plus applicable taxes, per parking space, in which case Rent shall be a minimum of \$25.00, plus applicable taxes, per parking space. Notwithstanding the above, at no time shall the Rent be decreased below any previous amount of Rent paid.

3.2 The Tenant will pay the Rent, without prompting by invoice or any other demand, at the address of the Landlord set out on the first page of this Lease, or at such other place as the Landlord may direct in writing, monthly in advance by the 1<sup>st</sup> day of each month, commencing with the month of May 2019.

3.3 In addition to the Rent, the Tenant will pay to the Landlord, or appropriate entity, the amount of any Taxes (defined below) on the Rent and/or the Premises.

3.4 For the purposes of this Lease, "Taxes" means any transaction value, property, or sales taxes required by any governmental authority to be collected or paid (or both collected and paid) by the Tenant.

## 4 Tenant's Covenants

4.1 The Tenant covenants with the Landlord:

- (a) to pay the Rent in the manner provided in this Lease;
- (b) to use and allow the use of the Premises solely for the purpose of parking for Tenant's hotel guests at Endion Station, pursuant to the terms and conditions set forth within this Lease (the "Permitted Uses"). The Tenant accepts and agrees that the parking of any of the following is prohibited and may result in immediate towing and/or ticketing at the expense of the vehicle owner or owners:
  - i. Vehicles that are mechanically unsafe;
  - ii. Vehicles that are inoperable;
  - iii. Vehicles undergoing maintenance or repair on the Premises;
  - iv. Vehicles with equipment that is noncompliant with Minnesota law;
  - v. Vehicles that are unlicensed or uninsured;
  - vi. Vehicles or trailers carrying improperly or carelessly secured loads;

- vii. Vehicles or trailers missing one or more required license plates;
  - viii. Vehicles or trailers displaying expired license plate tabs; and
  - ix. Vehicles that, in the opinion of the Landlord, pose any kind of hazard or contain hazardous or objectionable contents or displays;
- (c) to obtain and keep in force during the Term commercial general liability insurance and business automobile liability insurance, providing for liability for premises, operations, completed operations, independent contractors, contractual liability, owned and/or leased automobile liability, non-owned and hired automobile liability, against claims for bodily injury, personal injury, death, or property damage arising out of the use of the Premises by the Tenant, its employees, agents, vendors, contractors, invitees, guests or any other persons utilizing, occupying, or traversing the Premises, in an amount per occurrence of not less than \$2,000,000 and to provide Landlord with certificates evidencing such insurance prior to the initial use of the Premises, annually thereafter by May 1<sup>st</sup> of each following year, and any time upon request. Such insurance will be primary and not call into contribution any insurance held by Landlord; will provide 30 days' notice of cancellation, non-renewal, or material change; will be taken out and maintained in responsible insurance companies organized under the laws of the United States and licensed to do business in the State of Minnesota, will name Landlord, the City, and DEDA as additional insureds; will contain a cross-liability clause and a waiver of the insurer's right of subrogation against Landlord, the City, DEDA, and their respective directors, employees, and agents. The Tenant also shall provide workers' compensation insurance in accordance with the laws of the State of Minnesota;
- (d) to pay all real property, school, local improvement, business and all other taxes, rates, charges, duties, assessments and impositions, both general and special, that may be levied, rated, charged or assessed by any governmental authority with respect to the Premises and its use, including all improvements in existence upon the Premises on the Commencement Date;
- (e) to permit the Landlord and its agents to enter upon the Premises at all reasonable times to review the condition thereof;
- (f) to exercise reasonable care in the use of the Premises and to repair, at its own expense, any damage to the Premises caused by the Tenant, its employees, agents, vendors, contractors, invitees or guests—such repairs to be made promptly without delay and to the reasonable satisfaction of the Landlord.
- (g) at the expiration or sooner termination of the Term, to deliver the Premises to the Landlord in a state and condition materially free from physical defects and in a condition comparable to similar paved surface parking properties owned by the City or DEDA in Canal Park;
- (h) not to carry on, or allow to be carried on, any business on the Premises that would constitute a nuisance or hazard;
- (i) to release and hold harmless Landlord, City, DEDA, and their respective directors, employees, and agents from any and all costs, claims, actions, causes of action,

damages, and expenses which may now or at any time in the future be brought against or suffered by the Tenant, Landlord, the City, DEDA, or any third party, including all legal costs (each a “**Claim**”) arising out of or in connection with the Tenant’s use of the Premises; and

- (j) to indemnify Landlord, DEDA, and the City from and against any and all Claims arising in connection with: (a) Tenant’s use of the Premises; (b) the acts or omissions of the Tenant, its employees, agents, vendors, contractors, invitees or guests; or (c) the breach by the Tenant, its employees, or agents of any covenant, condition, or obligation set forth in this Lease.

## 5 Landlord's Covenants

5.1 The Landlord, subject to the Master Agreement, covenants with the Tenant:

- (a) that the Landlord is authorized by City and DEDA to execute and perform this Lease and to grant the estate hereby demised;
- (b) upon the Tenant paying the Rent and performing the other obligations of the Tenant under this Lease, to allow the Tenant to peaceably and quietly have, hold, and enjoy the Premises during the Term; and
- (c) to enforce and uphold Tenant’s Permitted Uses through management techniques implemented by Landlord at Landlord’s sole discretion including, for example, mobile patrolling, ticketing, towing, and any other parking management techniques available to Landlord at any time during the Term.

## 6 Conditions and Rights

6.1 If the Tenant files a petition of bankruptcy, or makes an assignment for the benefit of creditors, or if the Tenant is adjudicated bankrupt or insolvent, or if the Tenant files any petition or institutes any proceeding under any insolvency or bankruptcy legislation seeking to effect a reorganization or a composition, or if a receiver or trustee of the Premises is appointed by the Tenant, or if the leasehold estate created by this Lease is taken in execution or by any process of law, then, in any such case, the Landlord may, at its option and without notice, declare the Term ended and this Lease terminated, re-enter the Premises, or any part thereof, and repossess and enjoy the Premises as in the Landlord's former estate.

6.2 If the Rent hereby reserved, or any part thereof, is in arrears or unpaid for 15 days after notice or demand has been made therefor, or if a breach or non-performance of any of the other covenants or obligations contained in this Lease on the part of the Tenant has not been rectified within 30 days of written notice to the Tenant (or where such default cannot reasonably be rectified in 30 days, such additional time as reasonably may be required to remedy such default), or if the Premises, without the written consent of the Landlord, become and remain vacant for a period of 30 days, or if the Tenant, without the written consent of the Landlord, abandons the Premises, then, and in any such case, the Landlord may at any time thereafter declare the Term ended and this Lease terminated, re-enter the Premises, or any part thereof, and repossess and enjoy the Premises as in the Landlord's former estate. All Rent and any other fees owed, including collection costs, shall be paid through the termination date.

6.3 If the whole or any portion of the Premises is:

- (a) appropriated or taken under condemnation or the power of eminent domain by any public or quasi-public authority; or
- (b) damaged or destroyed; or
- (c) otherwise rendered unusable as a parking facility;

then, either party may, at its option, terminate this Lease by giving written notice to the other within 30 days after the effective date of such taking, destruction, or other event and this Lease will terminate as of the date of such taking, destruction, or other event. If only a portion of the Premises is affected by such taking, destruction or other event and neither party exercises its option to terminate this Lease, this Lease shall not terminate but shall continue in full force and effect except that the Rent payable under this Lease will be reduced either in proportion to the resulting reduction in the number of usable parking spaces within the Premises, or by such other Rent reduction metric as mutually agreed to by Landlord and Tenant.

6.4 If the Tenant fails to comply with any of the covenants set forth in Section 4 of the Lease, the Landlord may, at its option, declare the Term ended and this Lease terminated, re-enter the Premises, or any part thereof, and repossess and enjoy the Premises as in the Landlord's former estate.

6.5 If, at the expiration of the Term, the Tenant holds over for any reason, the tenancy of the Tenant thereafter shall be from month to month only, and shall be subject to all terms and conditions of this Lease, except to duration, in the absence of written agreement to the contrary.

## 7 General

7.1 The whole contract, inclusive of referenced provisions residing in the Master Agreement, and agreement between the parties is set forth in this Lease, including Exhibit A, and no representations, warranties, or conditions have been made other than those expressed or implied herein.

7.2 Any notice required or permitted to be given pursuant to this Lease shall be valid only if in writing. Any person required to give notice pursuant to this Lease shall have the burden of proving the validity of the notice. All notices or other communications made pursuant hereto shall be deemed properly delivered, given or served when (a) three days after the date such notice is sent by certified mail, (b) one day after the date such notice is sent by Federal Express or similar one-day private carrier service, (c) faxed to the following facsimile numbers, or (d) confirmed electronic delivery (which may include a .pdf, .tif, .gif, .jpeg or similar attachment to the electronic mail message):

If to the Landlord:

Interstate Parking Company of Minnesota LLC  
Attn: City Manager  
11 East Superior Street, Suite 120  
Duluth, Minnesota 55802  
Telephone No.: (218) 727-7275

Facsimile No.: (218) 727-8232

With a copy to:

Interstate Parking Company of Minnesota LLC  
Attn: Paul Schnettler, Chief Operating Officer  
120 South Sixth Street, Suite 2005  
Minneapolis, MN 55402  
Telephone No.: (612) 875-9472  
Facsimile No.: (612) 375-0013  
Email: paul@interstateparking.com

and

With a copy to:

City of Duluth  
Attn: Parking Manager  
411 West First Street  
Duluth, MN 55802  
Telephone: (218) 730-5177  
Facsimile: (218) 730-5953  
Email: mbauer@duluthmn.gov

If to Tenant:

Just Take Action, Inc.  
Attn: Rodney Raymond  
132 East Superior Street  
Duluth, MN 55802  
Telephone No.: (218) 349-1972  
Email: rodraymond@gmail.com

7.3 Tenant shall not assign, sublease, sublicense or in any other way transfer this Lease in whole or in part.

7.4 If the singular or the neuter pronoun is used, the plural or the masculine or feminine is to be construed wherever the circumstances so require.

7.5 Any amendments to this Lease shall be in writing and shall be executed by the same parties who executed the original agreement or their successors in office.

7.6 This Lease will be governed by the laws of the state of Minnesota. The appropriate venue and jurisdiction for any litigation hereunder shall be in a court located in St. Louis County, Minnesota. However, litigation in the federal courts involving the parties shall be in the appropriate federal court within the State of Minnesota.

7.7 Tenant agrees to observe and comply with all laws, ordinances, zoning code, rules, and regulations of the United States of America, the State of Minnesota, Saint Louis County, and the City of Duluth and their respective agencies that are applicable to this Lease.

7.8 In the event any provision herein shall be deemed invalid or unenforceable, the remaining provisions shall continue in full force and effect and shall be binding upon the parties to this Lease.

7.9 No act or omission of either party is to be construed as a waiver of any term of, or right under, this Lease by that party. Any such waiver must be in writing, mutually agreed to by both parties, and delivered by notice as stipulated in Section 7.2.

7.10 Any waiver by either party of any provisions of this Lease shall not imply a subsequent waiver of that or any other provision.

IN WITNESS OF THE ABOVE, the parties have executed this Lease as of the date set out on the first page of this Lease.

**Landlord:**

**INTERSTATE PARKING COMPANY OF  
MINNESOTA LLC**

By: \_\_\_\_\_  
Tony Janowiec, Principal

**Tenant:**

**JUST TAKE ACTION, INC.**

By: \_\_\_\_\_  
Rodney Raymond, Owner

The City of Duluth (“City”) hereby acknowledges and approves the foregoing Lease Agreement (“Lease”), which is by and between Just Take Action, Inc. (“JTA”) and Interstate Parking Company of Minnesota LLC (“IPC”), and agrees that, in the event that the Master Agreement referenced above expires or terminates before the end of the Term of the Lease, the City shall honor the terms of the Lease through the balance of the Term without disruption to the rights of JTA under the Lease. In the event that the Master Agreement expires or terminates before the end of the Term and the City thereafter enters into a new agreement or similar arrangement with another parking operator, the City agrees that such operator also will honor the terms of the Lease through the balance of the Term without disruption to the rights of JTA under the Lease. Notwithstanding the preceding, if the Lease terminates or expires in accordance with Section 6 of the Lease, the City shall not honor the terms of the Lease through any remaining balance of its Term.

CITY OF DULUTH, MINNESOTA

By \_\_\_\_\_  
Mayor

ATTEST: \_\_\_\_\_  
City Clerk

Dated: \_\_\_\_\_

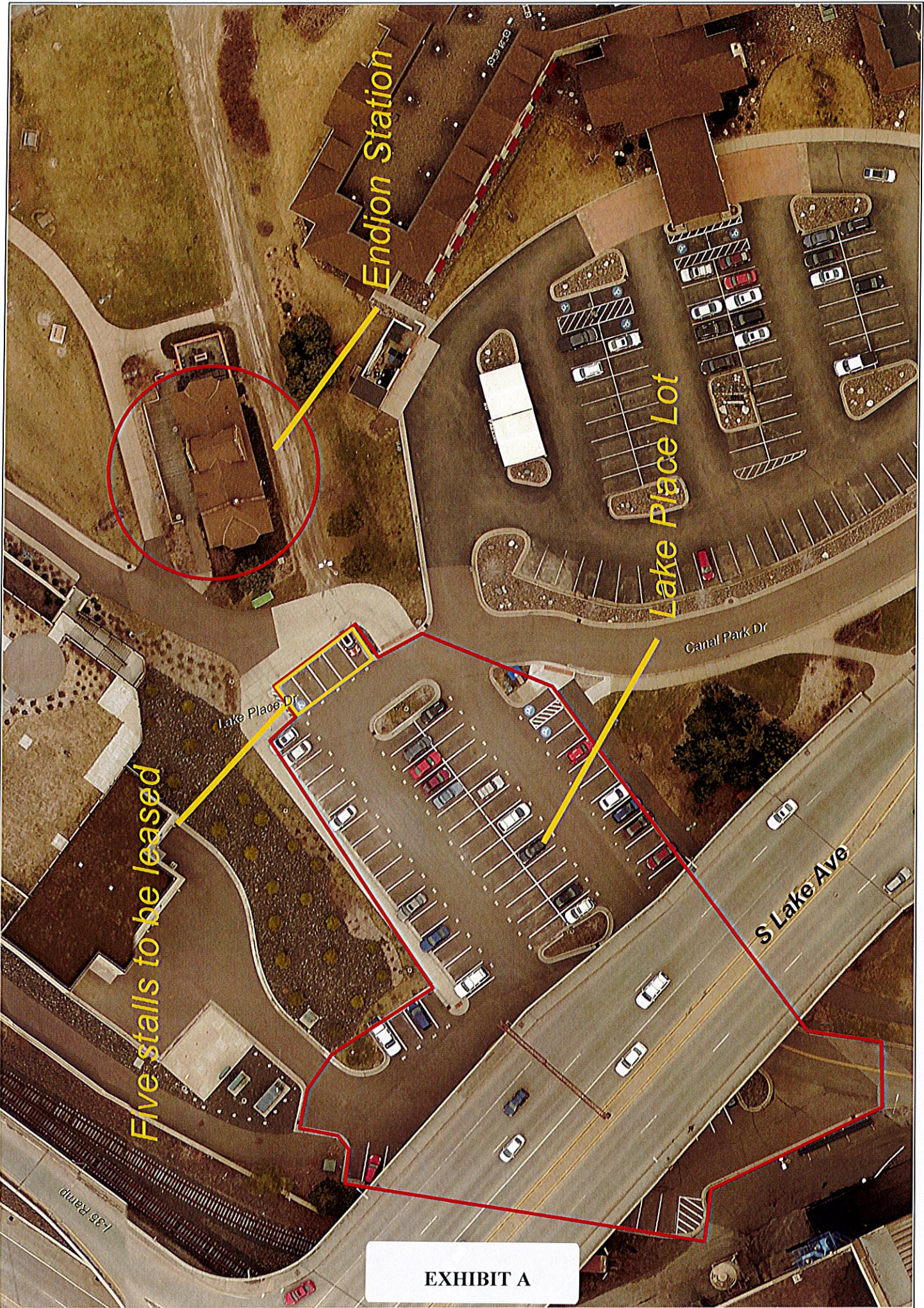
COUNTERSIGNED:

\_\_\_\_\_  
City Auditor

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney





**EXHIBIT A**



photo Date: 2013

0 50  
1 inch = 58 feet



**Duluth GIS Mapping**



The City of Duluth has tried to ensure that the information supplied in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee of the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used as one. The drawing/data is a compilation of records, information and data to be used for reference purposes only. The City of Duluth is not responsible for any errors or omissions contained within this data provided or for any damages in connection with the use of this information contained within.