

EXHIBIT 1

RECREATIONAL TRAIL EASEMENT AGREEMENT

THIS RECREATIONAL TRAIL EASEMENT AGREEMENT (this “Agreement”) is entered into as of _____, 2022, by and between INDEPENDENT SCHOOL DISTRICT NO. 709, a public corporation and political subdivision created and existing under the laws of the State of Minnesota (“Grantor”) and the CITY OF DULUTH, a municipal corporation and political subdivision created and existing under the laws of the State of Minnesota (“City”).

WHEREAS, Grantor is the fee owner of the land legally described on the attached **Exhibit A** (the “Grantor Property”).

WHEREAS, City wishes to obtain and Grantor is willing to grant an easement over a portion of the Grantor Property legally described on the attached **Exhibit B** and depicted on the attached **Exhibit C** (the “Easement Area”) in favor of City on the terms set forth in this Agreement.

NOW THEREFORE, Grantor, for good and valuable consideration, the receipt and sufficiency of which is acknowledged, does grant to City, its successors and assigns, a perpetual, non-exclusive easement for use by the public of a recreational trail (the “Trail”)

for hiking, bicycling, and other non-motorized means of transportation (the “Easement”) over, under and across the Easement Area.

The Easement includes the right of City, its contractors, agents, and employees to enter the Easement Area at all reasonable times for the purposes of locating, constructing, operating, installing, maintaining, and repairing the Trail and other improvements within the Easement Area necessary to the construction, operation, installation, maintenance, and repair of the Trail. City, its contractors, agents and employees may add, remove, cut, trim, or remove from the Easement Area bituminous material, bark, sand, stones, boards, grass, trees, shrubs, other vegetation, or other landscaping at City’s discretion. City, its contractors, agents and employees may construct, maintain, repair and replace erosion control structures within the Easement Area necessary to maintain a clear, dry passage through the Easement Area, including waterbars, steps, and other trail surface structures and culverts as necessary to traverse surface waters within the Easement Area. City’s erosion control structures shall be designed and installed in a manner which does not adversely affect any then existing infrastructure on the Grantor Property.

Although the use of motor vehicles within the Easement Area is otherwise specifically prohibited by this Agreement, motor vehicles are permitted for the following uses: (i) City, its contractors, agents and employees may use motor vehicles within the Easement Area to the extent necessary for any construction, maintenance, repair, or replacement permitted or required in this Agreement, and (ii) members of the public who, because of age or disability, use a motorized scooter, motorized wheelchair, or similar vehicle to assist or provide for mobility may use that vehicle on the Trail.

Except as expressly provided in this Agreement, City may not construct or maintain any buildings or any other structures within the Easement Area.

While open to the public, City shall keep the Trail and all improvements made by City, its contractors, agents and employees within the Easement Area in safe condition. City may temporarily or permanently close any portion of the Trail in its sole discretion.

Subject to the limitations set forth in this Agreement, Grantor shall have the right to relocate the Easement Area and the Trail to accommodate development of the Grantor Property. To exercise this right, Grantor must provide City with not less than 120 days written notice of its intention to relocate the Easement Area and the Trail, together with (a) a proposed amendment to this Agreement including revised versions of Exhibit B (legally describing the new location of the Easement Area) and Exhibit C (depicting the new location of the Easement Area), and (b) design plans (prepared by a professional engineer licensed in the State of Minnesota) for the reconstruction of the Trail and any related improvements made by City, its contractors, agents and employees within the Easement Area. The location and design of the proposed relocated Trail must meet City's then-current standards for a recreational trail for hiking, bicycling, and other non-motorized means of transportation. City's review and approval, including its assessment of whether the proposed Trail meets City's then-current standards, shall be in City's sole discretion, however, City's approval shall not be unreasonably conditioned, delayed or withheld. The proposed amendment to this Agreement shall be subject to approval by the City Council. All costs relating to relocating the Easement Area, reconstructing the Trail and other improvements and amending this Agreement, including but not limited to

design, engineering, survey, construction and recording costs, shall be paid for by Grantor.

This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota. This Agreement may be amended only in writing, signed by both of the parties hereto (or their successors in interest) and recorded in the real estate records in St. Louis County, Minnesota. This Agreement and each and every covenant, agreement, and other provision hereof shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns. The Easement shall be perpetual and the Easement and all other rights granted in this Agreement shall run with the land.

The parties represent to each other that the execution of this Agreement has been duly and fully authorized by their respective governing bodies or boards, that the officers of the parties who executed this Agreement on their behalf are fully authorized to do so, and that this Agreement when executed by said officers will constitute and be the binding obligation and agreement of the parties in accordance with the terms and conditions hereof.

[Remainder of this page is intentionally left blank.]

5

CITY OF DULUTH

By: _____
Emily Larson, Mayor

By: _____
Ian B. Johnson, City Clerk

STATE OF MINNESOTA)
) SS
COUNTY OF ST. LOUIS)

The foregoing instrument was subscribed and sworn before me this _____ day of _____, 2022, by Emily Larson, Mayor, of the City of Duluth, a municipal corporation and political subdivision organized and existing under the laws of the State of Minnesota.

Notary Public

STATE OF MINNESOTA)
) SS
COUNTY OF ST. LOUIS)

The foregoing instrument was subscribed and sworn before me this _____ day of _____, 2022, by Ian B. Johnson, City Clerk, of the City of Duluth, a municipal corporation and political subdivision organized and existing under the laws of the State of Minnesota.

Notary Public

This instrument was drafted by:

Office of the City Attorney
Room 410 City Hall
411 West 1st Street
Duluth, MN 55802-1198

EXHIBIT A

GRANTOR PROPERTY

Commencing at the SE corner of Section 21, Township 50 North, Range 14 West of the Fourth Principal Meridian; thence North 05 degrees 00 minutes 00 seconds West (assumed bearing) along the East line of said Section 21 a distance of 410.24 feet; thence North 89 degrees 57 minutes 00 seconds West 451.75 feet; thence North 05 degrees 00 minutes 00 seconds West 275.00 feet to the Point of Beginning; thence North 19 degrees 24 minutes 00 seconds East 649.90 feet; thence North 53 degrees 31 minutes 51 seconds West 746.25 feet; thence South 00 degrees 28 minutes 57 seconds West 232.48 feet; thence S'ly along a tangential curve concave to the West, having a radius of 993.01 feet, and a central angle of 34 degrees 51 minutes 37 seconds for a distance of 604.17 feet; thence South 48 degrees 39 minutes 10 seconds East 200.00 feet; thence South 73 degrees 17 minutes 13 seconds East 425.17 feet to the point of beginning and there terminating.

AND

E1/2 of SE1/4 Section 21 Township 50 North of Range 14 West of the Fourth Principal Meridian

EXCEPT those parts described as follows:

1. That part of the SE1/4 of SE1/4 of Section 21 Township 50 North of Range 14 described as follows: Commencing at a Granite Monument at the Southeast corner of said Section 21, thence North 5 degrees 00 minutes West (magnetic bearing) along the common section line of said Section 21 and Section 22 a distance of 410.24 feet to a concrete monument, said monument being the point of beginning, thence North 89 degrees 57 minutes West a distance of 451.75 feet to a concrete monument; thence North 5 degrees 00 minutes West a distance of 275.00 feet to a concrete monument, thence North 19 degrees 24 minutes East, a distance of 649.90 feet to a concrete monument on the North line of said SE1/4 of SE1/4, thence North 83 degrees 59 minutes East along said North line, a distance of 80.00 feet to a concrete monument, thence South 53 degrees 55 minutes East, a distance of 134.61 feet to a point on the common section line of Section 21 and Section 22, thence South 5 degrees 00 minutes East along said Section line, a distance of 819.50 feet to the point of beginning;
2. That part of the Easterly 1/2 of the SE1/4 of Section 21 in Township 50 North of Range 14 West of the Fourth Principal Meridian lying Northerly of the Central Entrance, a public highway, as the same is laid out and constructed over and across said SE1/4;
3. That portion thereof bounded as follows: On the Northwest by the Southeasterly line of Fourteenth Street, produced Southwesterly in the same straight line until it intersects the Northeasterly line of First Avenue East

produced Northwesterly in the same straight line; on the Southwest by the Northeasterly line of First Avenue East produced Northwesterly in the same straight line until it intersects the Southeasterly line of Fourteenth Street produced Southwesterly in the same straight line; and on the East by the Westerly line of Block 193, Duluth Proper, Third Division according to the recorded plat thereof on file and of record in the office of the Register of Deeds.

SUBJECT also to an easement for roadway over and across said land as appears by the Award of Condemnation, dated September 17, 1909, and filed in the office of the Register of Deeds in and for said County on October 13, 1909, in Book 292 of Deeds on page 120, as appears by No. 52 of Abstract;

4. That portion of the above described premises bounded by the following described lines: The Westerly line of the E1/2 of SE1/4 of Section 21 Township 50 North, Range 14 West of the 4th Principal Meridian; the Southerly line of Swan Lake Road (also known as Sundby Road) and the center line of Highway 194;
5. That part Commencing at the Southeast corner of Section 21 Township 50 North, Range 14 West of the Fourth Principal Meridian; thence North 05 degrees 00 minutes 00 seconds West (assumed bearing) along the East line of said Section 21 a distance of 410.24 feet; thence North 89 degrees 57 minutes 00 seconds West 451.75 feet; thence North 05 degrees 00 minutes 00 seconds West 275.00 feet to the POINT OF BEGINNING; thence North 19 degrees 24 minutes 00 seconds East 649.90 feet; thence North 53 degrees 31 minutes 51 seconds West 746.25 feet; thence South 00 degrees 28 minutes 57 seconds West 232.48 feet; thence Southerly along a tangential curve concave to the West, having a radius of 993.01 feet; and a central angle of 34 degrees 51 minutes 37 seconds for a distance of 604.17 feet; thence South 48 degrees 39 minutes 10 seconds East 200.00 feet; thence South 73 degrees 17 minutes 13 seconds East 425.17 feet to the POINT OF BEGINNING and there terminating.
6. Registered Land Survey No. 65.

St. Louis County, Minnesota.

EXHIBIT B

LEGAL DESCRIPTION

A 20-foot-wide strip of land lying over, under and across that part of the East Half of the Southeast Quarter of Section 21, Township 50 North, Range 14 West of the Fourth Principal Meridian, St. Louis County, Minnesota, the center line of said strip of land is described as follows:

Commencing at the Southeast corner of said Section 21; thence on an assumed bearing of South 89 degrees 42 minutes 12 seconds West, along the South line of said East Half of the Southeast Quarter 1258.80 feet to the point of beginning of said center line; thence North 22 degrees 28 minutes 10 seconds East 17.54 feet; thence North 45 degrees 38 minutes 57 seconds East 235.98 feet; thence North 31 degrees 49 minutes 36 seconds East 122.08 feet; thence Northeasterly 116.66 feet, along a non-tangential curve, concave to the Southeast, having a radius of 402.38 feet and a delta angle of 16 degrees 36 minutes 44 seconds, the chord of said curve bears North 18 degrees 59 minutes 57 seconds East for a chord distance of 116.26 feet; thence North 42 degrees 37 minutes 19 seconds East 326.88 feet; thence Northerly 202.27 feet, along a non-tangential curve, concave to the West, having a radius of 337.07 feet and a delta angle of 34 degrees 22 minutes 54 seconds, the chord of said curve bears North 16 degrees 55 minutes 18 seconds East for a chord distance of 199.25 feet; thence North 10 degrees 27 minutes 15 seconds West 74.61 feet; thence North 22 degrees 28 minutes 06 seconds East 34.57 feet; thence North 64 degrees 37 minutes 33 seconds East 51.71 feet; thence North 35 degrees 13 minutes 36 seconds East 62.27 feet; thence North 14 degrees 52 minutes 36 seconds East 86.01 feet; thence North 26 degrees 28 minutes 06 seconds East 68.70 feet; thence North 09 degrees 43 minutes 20 seconds East 393.06 feet; thence North 38 degrees 18 minutes 46 seconds West 115.54 feet; thence North 01 degrees 47 minutes 47 seconds West 29.76 feet; thence North 32 degrees 29 minutes 31 seconds East 55.66 feet; thence North 11 degrees 09 minutes 27 seconds East 57.73 feet; thence North 28 degrees 26 minutes 59 seconds West 34.05 feet; thence North 49 degrees 52 minutes 24 seconds West 62.04 feet; thence North 20 degrees 12 minutes 58 seconds West 116.92 feet; thence North 28 degrees 35 minutes 45 seconds West 67.37 feet; thence North 48 degrees 18 minutes 51 seconds West 186.77 feet; thence North 07 degrees 56 minutes 19 seconds East 19.28 feet; thence North 81 degrees 47 minutes 08 seconds West 80.97 feet to the Northeasterly extension of the Southerly right of way line of Swan Lake Road in the plat of Clearview Park and said line there terminating. The side lines of said easement are to be prolonged or shortened to terminate on said Northeasterly extension of the Southerly right of way line of Swan Lake Road and on the South line of the East Half of the Southeast Quarter of said Section 21.

Said strip of land contains 52,383 square feet or 1.20 acres.

LINE	BEARING	DISTANCE
L1	N22°28'10"E	17.54
L2	N45°38'57"E	235.98
L3	N31°49'36"E	122.08
L4	N42°37'19"E	326.88
L5	N10°27'15"W	74.61
L6	N22°28'06"E	34.57
L7	N64°37'33"E	51.71
L8	N35°13'36"E	62.27
L9	N14°52'36"E	86.01
L10	N26°28'06"E	68.70
L11	N09°43'20"E	393.06
L12	N38°18'46"W	115.54
L13	N01°47'47"W	29.76
L14	N32°29'31"E	55.66
L15	N11°09'27"E	57.73
L16	N28°26'59"W	34.05
L17	N49°52'24"W	62.04
L18	N20°12'58"W	116.92
L19	N28°35'45"W	67.37
L20	N48°18'51"W	186.77
L21	N07°56'19"E	19.28
L22	N81°47'08"W	80.97

CURVE	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	116.66	402.38	16°36'44"	N18°59'57"E	116.26
C2	202.27	337.07	34°22'54"	N16°55'18"E	199.25

SURVEYOR'S NOTES

Approved by the City Engineer of the City of Duluth, MN this 29 day of April 2023

By S. [Signature]

1. BEARINGS ARE BASED ON THE ST. LOUIS COUNTY TRANSVERSE MERCATOR COORDINATE SYSTEM OF 1996. (NAD 83 2011)
2. NO SPECIFIC SOILS INVESTIGATION HAS BEEN COMPLETED ON THIS LOT BY ALTA LAND SURVEY COMPANY. THE SUITABILITY OF SOILS TO SUPPORT THE SPECIFIC STRUCTURE PROPOSED IS NOT THE RESPONSIBILITY OF ALTA LAND SURVEY COMPANY OR THE SURVEYOR.
3. THIS IS NOT A BOUNDARY SURVEY.

I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

David R. Evanson
DATE: 10-26-2021
MN License #49505

EASEMENT EXHIBIT

CLIENT: NCE

REVISIONS:

ADDRESS: 802 CENTRAL ENTRANCE
DULUTH, MN 55811

DATE: 10-26-2021

JOB NO: 21-105 SHEET 1 OF 2

ALTA
LAND SURVEY COMPANY
PHONE: 218-727-5211
LICENSED IN MN & WI
WWW.ALTLANDSURVEYDULUTH.COM

EXHIBIT C

