

## **Exhibit 1**

**DEPARTMENT OF THE ARMY  
EASEMENT FOR PUBLIC ROAD OR STREET AND UTILITIES  
DULUTH PROJECT OFFICE AND CANAL  
DULUTH-SUPERIOR FEDERAL NAVIGATION PROJECT  
ST. LOUIS COUNTY, MINNESOTA**

**THE SECRETARY OF THE ARMY** under and by virtue of the authority vested in the Secretary by Title 10, United States Code, Section 2668, and Title 43, United States Code, Section 961, having found that the granting of this easement will not be against the public interest, hereby grants to the **CITY OF DULUTH**, a municipal corporation and political subdivision organized under the laws of the State of Minnesota, hereinafter referred to as the grantee, an easement for a road or street, and associated utility infrastructure as depicted in the attached **Exhibit "A"**, and associated appurtenances, hereinafter referred to as the facilities, over, across, in, and upon the lands and real property of the United States legally described in **Exhibit "B"**, attached hereto and made a part hereof, hereinafter referred to as the premises.

**WHEREAS**, pursuant to Chapter 79 of the Acts of Congress of 1928, Congress granted its consent to the City of Duluth, Minnesota, to construct, maintain, and operate a bridge across the Duluth Ship Canal;

**WHEREAS**, such authority was granted in accordance with, and subject to, the provisions of the Bridge Act of 1906, codified at 33 U.S.C. § 491 et seq., including Section 2 (33 U.S.C. § 492), which governs the construction of bridges over navigable waters of the United States;

**WHEREAS**, the easement rights granted herein are necessary and incidental to the construction, operation, and maintenance of such

bridge infrastructure authorized under the above-referenced Acts of Congress;

**WHEREAS**, in recognition of the federal authorization granted under said Acts and the public nature of the use, it is deemed appropriate to waive any rental or monetary consideration that might otherwise be due in connection with the grant of this easement;

**WHEREAS**, an administrative effort was performed to create a recordable easement and consolidate appurtenant agreements entered into over time;

**NOW THEREFORE THIS EASEMENT** is granted subject to the following conditions:

**1. TERM**

This easement is granted from bridge completion in 1905 in perpetuity.

**2. CONSIDERATION AND ADMINISTRATIVE FEE**

The consideration for this easement shall be the construction, operation, and maintenance of the existing bridge for the benefit of the United States and the general public in accordance with the terms herein set forth.

**3. NOTICES**

All correspondence and notices to be given pursuant to this easement shall be addressed, if to the grantee, to the City of Duluth, Attn: Clerk, 411 W. First Street, Room 318, Duluth, Minnesota, 55802; and if to the United States, to the U.S. Army Corps of Engineers (USACE), Detroit District, ATTN: Real Estate Office, 477 Michigan Avenue, Detroit, Michigan, 48226; or as may from time to time otherwise be directed by the parties. Notice shall be deemed to have been duly given if and when enclosed in a properly sealed envelope addressed as aforesaid, and deposited, postage prepaid, in a post office regularly maintained by the U.S. Postal Service.

**4. AUTHORIZED REPRESENTATIVES**

Except as otherwise specifically provided, any reference herein to "Secretary", "Real Estate Contracting Officer", or "said officer" shall include their duly authorized representatives. Any reference to "grantee" shall include assignees, transferees and their duly authorized representatives.

**5. SUPERVISION BY THE REAL ESTATE CONTRACTING OFFICER**

The construction, operation, maintenance, repair, or replacement of said facilities, including culverts and other drainage facilities, shall be performed at no cost or expense to the United States and subject to the approval of the Real Estate Contracting Officer,

hereinafter referred to as said officer. Upon the completion of any of the above activities, the grantee shall immediately restore the premises to the satisfaction of said officer. The use and occupation of the premises for the purposes herein granted shall be subject to such rules and regulations as said officer prescribes in writing from time to time.

#### **6. APPLICABLE LAWS AND REGULATIONS**

The grantee shall comply with all applicable Federal, state, county and municipal laws, ordinances, and regulations wherein the premises are located, including, but not limited to, the provisions of the latest edition of the National Electrical Safety Code (NESC) and the Environmental Protection Agency regulations on Polychlorinated Biphenyls (PCB's).

#### **7. CONDITION OF PREMISES**

The grantee acknowledges that it has inspected the premises, knows the condition, and understands that the same is granted without any representation or warranties whatsoever and without any obligation on the part of the United States.

#### **8. INSPECTION AND REPAIRS**

The grantee shall inspect the facilities at reasonable intervals and immediately repair any defects found by such inspection or when required by said officer to repair any such defects.

#### **9. PROTECTION OF GOVERNMENT PROPERTY**

The grantee shall be responsible for any damage that may be caused to property of the United States by the activities of the grantee under this easement and shall exercise due diligence in the protection of all property located on the premises against fire or damage from any and all causes. Any property of the United States damaged or destroyed by the grantee incident to the exercise of the privileges herein granted shall be promptly repaired or replaced by the grantee to a condition satisfactory to said officer, or at the election of said officer, reimbursement made therefor by the grantee in an amount necessary to restore or replace the property to a condition satisfactory to said officer.

#### **10. RIGHT TO ENTER**

The right is reserved to the United States, its officers, agents, and employees to enter upon the facilities and premises at any time and for any purpose necessary or convenient in connection with government purposes, to make inspections, to remove timber or other material, except property of the grantee, to flood the facilities and premises and/or to make any other use of the lands as may be necessary in connection with government purposes, and the grantee shall have no claim for damages on account thereof against the United States or any

officer, agent, or employee thereof.

#### **11. RIGHT TO CONNECT**

The United States reserves the right to make such connections between the road or street herein authorized and roads and streets on other government lands as said officer may from time consider necessary, and also reserves to itself rights-of-way for all purposes across, over, or under the easement hereby granted; provided that such rights shall be used in a manner that will not create unnecessary interference with the use and enjoyment by the grantee of the easement herein granted.

#### **12. OTHER AGENCY AGREEMENTS**

It is understood that the provisions of the conditions on SUPERVISION by the Real Estate Contracting Officer and RIGHT TO ENTER above shall not abrogate or interfere with any agreements or commitments made or entered into between the grantee and any other agency of the United States with regard to financial aid to the grantee in connection with the construction, maintenance, or repair of the facilities herein authorized.

#### **13. TERMINATION**

This easement may be terminated by the Secretary upon thirty (30) days written notice to the grantee if the Secretary shall determine that the easement hereby granted interferes with the use or disposal of said land by the United States, or it may be revoked by the Secretary for failure of the grantee to comply with any or all of the conditions of this easement, or for non-use for a period of two (2) years, or for abandonment.

#### **14. SOIL AND WATER CONSERVATION**

The grantee shall maintain, in a manner satisfactory to said officer, all soil and water conservation structures that may be in existence upon said premises at the beginning of or that may be constructed by the grantee during the term of this easement, and the grantee shall take appropriate measures to prevent or control soil erosion within the easement herein granted. Any soil erosion occurring outside the premises resulting from the activities of the grantee shall be corrected by the grantee as directed by said officer.

#### **15. ENVIRONMENTAL PROTECTION**

a. Within the limits of their respective legal powers, the parties hereto shall protect the premises against pollution of its air, ground, and water. The grantee shall comply with any laws, regulations, conditions, or instructions affecting the activity hereby authorized if and when issued by the U.S. Environmental Protection Agency, or any Federal, state, interstate, or local governmental agency having jurisdiction to abate or prevent pollution. The

disposal of any toxic or hazardous materials within the premises is specifically prohibited. Such regulations, conditions, or instructions in effect or prescribed by the said U.S. Environmental Protection Agency, or any Federal, state, interstate, or local governmental agency are hereby made a condition of this easement. The grantee shall not discharge waste or effluent from the premises in such a manner that the discharge will contaminate streams or other bodies of water, wetlands, or otherwise become a public nuisance.

**b.** The use of any pesticides or herbicides within the premises shall be in conformance with all applicable Federal, state, interstate, and local laws and regulations. The grantee must obtain approval in writing from said officer before any pesticides or herbicides are applied to the premises.

**c.** The grantee will use all reasonable means available to protect the environment and natural resources, and where damage nonetheless occurs arising from the grantee's activities, the grantee shall be liable to restore the damaged resources.

#### **16. HISTORIC PRESERVATION**

The grantee shall not remove or disturb, or cause or permit to be removed or disturbed, any historical, archeological, architectural, or other cultural artifacts, relics, remains, or objects of antiquity. In the event such items are discovered on the premises, the grantee shall immediately notify said officer and protect the site and the material from further disturbance until said officer gives clearance to proceed.

#### **17. NON-DISCRIMINATION**

**a.** The grantee shall not discriminate against any person or persons because of race, color, age, sex, handicap, national origin, or religion.

**b.** The grantee, by acceptance of this easement, is receiving a type of Federal assistance and, therefore, hereby gives assurance that it will comply with the provisions of Title VI of the Civil Rights Act of 1964 as amended (42 U.S.C. § 2000d); the Age Discrimination Act of 1975 (42 U.S.C. § 6102); the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794); and all requirements imposed by or pursuant to the Directive of the Department of Defense (32 CFR Part 300) issued as Department of Defense Directive 5500.11 and 1020.1, and Army Regulation 600-7. This assurance shall be binding on the grantee, its agents, successors, transferees, and assignees.

#### **18. RESTORATION**

On or before the termination or revocation of this easement, the grantee shall, without expense to the United States and within such time as said officer may indicate, restore the premises to the

satisfaction of said officer. In the event the grantee shall fail to restore the premises, at the option of said officer, said improvements shall either become the property of the United States without compensation therefore, or said officer shall have the option to perform the restoration at the expense of the grantee, and the grantee shall have no claim for damages against the United States or its officers or agents for such action.

## **19. DISCLAIMER**

This instrument is effective only insofar as the rights of the United States in the premises are concerned; and the grantee shall obtain such permission as may be required on account of any other existing rights. It is understood that the granting of this easement does not eliminate the necessity for obtaining any Department of the Army Regulatory Permit which may be required pursuant to the provisions of Section 10 of the Rivers and Harbors Act of 3 March 1899 (30 Stat. 1151; 33 U.S.C. § 403), Section 404 of the Clean Water Act (33 U.S.C. § 1344), or any other permit or license which may be required by Federal, state, interstate, or local laws in connection with the use of the premises.

## **20. SPECIAL CONDITIONS**

**a.** This easement authorizes the use of USACE property under the administrative jurisdiction of the Department of the Army at the Duluth Project Office and Canal for (i) the Duluth Aerial Lift Bridge and existing appurtenances associated with the operations of the bridge, and (ii) utilities and appurtenances associated with the operations of the utilities as depicted in the attached **Exhibit "A"**. The overall easement footprint area is legally described on the attached **Exhibit "B"**.

**b.** Transfers and Assignments- Without prior written approval by said Real Estate Contracting Officer, the grantee shall neither transfer nor assign this easement or any part thereof nor grant any interest, privilege, or license whatsoever in connection with this easement. The provisions and conditions of this easement shall extend to and be binding upon, and shall inure to the benefit of the representatives, successors, and assigns of the grantee.

**c.** Indemnity- The United States shall not be responsible for damages to property or injuries to persons which may arise from or be incident to the exercise of the privileges herein granted, or for damages to the property or injuries to the person of the grantee's officers, agents, or employees or others who may be on the premises at their invitation or the invitation of any one of them, and the grantee shall hold the United States harmless from any and all such claims not including damages due to the fault or negligence of the United States or its contractors.

**d.** Subject to Easements- This easement is subject to all other existing easements, or those subsequently granted as well as established access routes for roadways and utilities located, or to be located, on the premises, as well as USACE's navigation mission and authorized purposes, provided that the proposed grant of any new easement or route will be coordinated with the grantee, and easements will not be granted which will, in the opinion of said officer, interfere with the use of the premises by the grantee.

**e.** Required Services- The grantee shall furnish through said facilities such services as may be required from time to time for governmental purposes, provided that payment for such service will be made by the United States at rates which shall be mutually agreeable, but which shall never exceed the most favorable rates granted by the grantee for similar service.

**f.** Relocation of Facilities- In the event all or any portion of the premises occupied by the said facilities shall be needed by the United States, or in the event the existence of said facilities is determined to be detrimental to governmental activities, the grantee shall from time to time, upon notice to do so, and as often as so notified, remove said facilities to such other location on the premises as may be designated by said officer. In the event said facilities shall not be removed or relocated within ninety (90) days after such notice, the United States may cause such relocation at the sole expense of the grantee.

**g.** That the United States reserves to itself the right to construct, use, and maintain across, over and/or under the easement hereby granted, electric transmission, telephone, telegraph, water, gas, gasoline, oil, and sewer lines, and other facilities, in such manner as not to create any unreasonable interference with the use of the easement herein granted.

**h.** All construction and activities on the premises related to the aforementioned authorized uses and improvements specified in this outgrant agreement, including any detailed construction plans and specifications, must be coordinated with and approved by the Operations Manager of the Duluth Project Office, 600 Lake Avenue South, Duluth, Minnesota, 55802, by phone at (218)788-6402. This coordination process is required to ensure that the grantee's construction and activities are consistent with the purpose and integrity of the Duluth-Superior Federal Navigation Project, Minnesota, and is not intended as a detailed engineering review. The Federal Government assumes no responsibility or liability for the technical sufficiency of the grantee's construction.

**i.** The grantee is required to officially record this perpetual easement on the property record for the said facilities with the appropriate county office that manages property deeds at no cost to the Department of Army. Please submit a copy of the recorded document

with liber and page number, or the related document tracking number utilized by the county, to the USACE Real Estate Office listed under Condition No. 3 ("Notices").

j. This easement supersedes Department of the Army Easement No. W911XK-2-08-3002 (City Contract No. 17009) and DACW21-2-67-34 (City Contract No. 20976), previously executed respectively on 16 October 2009 and 22 November 1966.

k. Insurance:

(1) At the commencement of this easement, the grantee shall obtain from a reputable insurance company or companies, liability insurance. The insurance shall provide an amount not less than that which is prudent, reasonable, and consistent with sound business practices or a minimum combined single limit in the amount of one million five hundred thousand and no/100 dollars (\$1,500,000.00), whichever is greater, for any number of persons or claims arising from any one incident with respect to bodily injuries or death resulting therefrom, property damage, or both, suffered or alleged to have been suffered by any person or persons resulting from the operations of the grantee under the terms of this easement. On an annual basis, the grantee shall require its insurance company to furnish to said officer a copy of the policy or policies, or if acceptable to said officer, certificates of insurance evidencing the purchase of such insurance. The minimum amount of liability insurance coverage is subject to revision by said officer every five years or upon renewal or modification of this easement.

(2) The insurance policy or policies shall be of comprehensive form of contract and shall specifically provide protection appropriate for the types of facilities, services, and activities involved. The grantee shall require that the insurance company give said officer thirty (30) days written notice of any cancellation or change in such insurance. Said officer may require closure of any or all of the premises during any period for which the grantee does not have the required insurance coverage.

(3) Easement No. DACW35-2-20-3001 must appear on all insurance related documents submitted annually.

NOTE: IN THE EVENT THE GRANTEE IS SELF-INSURED, THE GRANTEE SHALL CERTIFY SUCH SELF-INSURANCE IN WRITING IN THE MINIMUM AMOUNT SPECIFIED ABOVE TO SAID OFFICER ON AN ANNUAL BASIS.

**THIS EASEMENT** is not subject to Title 10, United States Code, Section 2662, as amended.



IN WITNESS WHEREOF, I have hereunto set my hand by authority of the Secretary of the Army, this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

Andrew M. Shelton  
Chief, Real Estate Technical Services  
Branch  
Real Estate Contracting Officer

## ACKNOWLEDGEMENT

State of Michigan )  
                     ) SS  
         County)

I, the undersigned, a Notary Public in and for the State of Michigan, County of \_\_\_\_\_, whose commission as such expires on the \_\_\_\_ day of \_\_\_\_\_, 2025, do hereby certify that this day personally appeared before me in the State of Michigan, County of \_\_\_\_\_, Andrew M. Shelton, Chief, Real Estate Technical Services Branch, whose name is signed to the foregoing instrument and acknowledged the foregoing instrument to be his free act and deed, dated this \_\_\_\_\_ day of \_\_\_\_\_, 2025, and acknowledged the same for and on behalf of the UNITED STATES OF AMERICA.

Notary Public  
State of Michigan  
My commission expires:

(SEAL)

**CITY OF  
DULUTH**  
a municipal corporation and political  
subdivision

The city certifies that the appropriate persons have  
executed the contract on its behalf as required by  
applicable resolutions, ordinances, or charter  
provisions.

By: \_\_\_\_\_

Date: \_\_\_\_\_

Title: Mayor

**ACKNOWLEDGEMENT**

State of Minnesota    )  
                                  ) SS  
St. Louis County        )

          This instrument was acknowledged before me on the \_\_\_\_ day of  
\_\_\_\_\_, 2025 by Roger J. Reinert as Mayor of the City of Duluth,  
who executed the foregoing instrument.

\_\_\_\_\_  
Notary Public,  
State of Minnesota  
My commission expires: \_\_\_\_\_

(SEAL)

Attested: \_\_\_\_\_

Date: \_\_\_\_\_

Title: City Clerk

**ACKNOWLEDGEMENT**

State of Minnesota    )  
                                  ) SS  
St. Louis County        )

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2025 by \_\_\_\_\_ as City Clerk of the City of Duluth, who executed the foregoing instrument.

\_\_\_\_\_  
Notary Public,  
State of Minnesota  
My commission expires:

(SEAL)

Drafted by:  
U.S. Army Corps of Engineers  
Real Estate Office  
477 Michigan Avenue, 7<sup>th</sup> Floor  
Detroit, Michigan 48226

# EXHIBIT A

## DULUTH AERIAL LIFT BRIDGE EASEMENT

### DESCRIPTION:

Those parts of Lots 239-264, Lake Avenue, UPPER DULUTH, St. Louis County, Minnesota described as follows:

That part of Lake Avenue, UPPER DULUTH, lying southerly of a line connecting the northerly lines of Lots 263 and 264, Lake Avenue, UPPER DULUTH and northerly of the southerly line of Fulton Street, UPPER DULUTH.

AND

The easterly 18.00 feet of the southerly 18.00 feet of the northerly 32.00 feet of Portage Street, UPPER DULUTH, abutting the westerly line of Lake Avenue, UPPER DULUTH.

AND

The westerly 18.00 feet of southerly 18.00 feet of the northerly 32.00 feet of Portage Street, UPPER DULUTH abutting the easterly line of Lake Avenue, UPPER DULUTH.

AND

The southerly 14.00 feet of the easterly 18.00 feet of Lot 244, Lake Avenue, UPPER DULUTH.

AND

The northerly 4.00 feet of the easterly 18.00 feet of Lot 242, Lake Avenue, UPPER DULUTH.

AND

The southerly 14.00 feet of the westerly 18.00 feet of Lot 243, Lake Avenue, UPPER DULUTH.

AND

The northerly 4.00 feet of the westerly 18.00 feet of Lot 241, Lake Avenue, UPPER DULUTH.

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.

Paul A. Vogel

Signed \_\_\_\_\_

Date 8/27/2024 License No. 44075

# EXHIBIT B

## DULUTH AERIAL LIFT BRIDGE EASEMENT

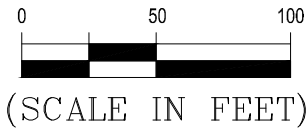
### LEGEND

- U.S. PROPERTY LINE
- CANAL EDGE
- EASEMENT AREA
- BURIED ELECTRICAL
- OVERHEAD ELECTRIC
- GAS MAIN
- WATER MAIN
- SANITARY MAIN
- SANITARY FORCE MAIN
- SANITARY MANHOLE

NOTES:  
LAKE AVENUE, PORTAGE STREET AND FULTON STREET AS SHOWN BETWEEN U.S. PROPERTY LINES ON THIS EXHIBIT ARE CONDEMNED TO THE THE UNITED STATES OF AMERICA AS RECORDED IN DEEDS 151, PAGE 357, ST. LOUIS COUNTY, MINNESOTA.

ALL UTILITIES SHOWN HEREON ARE AS PROVIDED BY THE CITY OF DULUTH.

DULUTH CANAL



(SCALE IN FEET)

Basis of Bearing is Grid North,  
St. Louis County Transverse  
Mercator 96 Coordinate System.

APPROVED BY:

CITY ENGINEER

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 Land Surveyor under the laws of the State of Minnesota.

Print Name: Paul A. Vogel

License # 44075

Signature:

Date: 07/16/2025

DATE PREPARED: 7/16/25

PROJ NO: 150588

FILE: 150588vEXHIB

SHEET 1 of 1 SHEETS



21 W. Superior St., Ste. 500 | Duluth, MN 55802 | 218.727.8446