

## **EXHIBIT 1**

### **EASEMENT AGREEMENT**

THIS EASEMENT AGREEMENT (this "Easement") is entered into by and between LAKE SUPERIOR CENTER AUTHORITY, a public corporation created and existing under the laws of the State of Minnesota ("Authority") and the CITY OF DULUTH, a municipal corporation and political subdivision created and existing under the laws of the State of Minnesota ("City").

WITNESSETH, that Authority, in consideration of the sum of One Dollar and other good and valuable consideration (\$1.00) to it in hand paid by City, the receipt and sufficiency of which is hereby acknowledged, does hereby Grant, Bargain, Sell and Convey unto City, its successors and assigns, without warranty, a permanent easement for construction, operation, repair, and maintenance of a seawall and related apparatus under, over, upon, across and along the parcel of land located in the County of St. Louis, State of Minnesota, legally described on the attached Exhibit A and depicted on the attached Exhibit B (the "Property").

Except as specifically set forth in this Easement, Authority retains any and all riparian rights held by or accruing to the Authority as a result of its ownership of the Property.

Authority specifically does not warrant or represent that it will take any action to protect the Property from erosion. City specifically does not warrant or represent that it will take any action to protect the Property from erosion. City shall have the option, but not the obligation, to construct a new seawall and supporting apparatus on the Property. In the event City constructs a new seawall and supporting apparatus on the Property, City shall have the option, but not the obligation, to operate, repair, and maintain the seawall and supporting apparatus on the Property. All activities undertaken on the Property by City or its agents or contractors shall be done in a reasonable and professional manner. City shall indemnify Authority against any damage or loss to Authority arising out of City's activities on the Property; however, City shall have no obligation to indemnify Authority in relation to damages or loss due to erosion.

At its sole choice, City may record this Easement and any amendments hereto with the St. Louis County Recorder and/or Registrar of Titles, as applicable, and Authority shall make available all necessary title instruments for such recording. All costs of recording shall be borne by City.

Authority represents to City that the execution of this Easement has been duly and fully authorized by its governing body or board and that the officers of Authority who executed this Easement on its behalf are fully authorized to do so.

No amendment, modification, or waiver of any condition, provision, or term of this Easement shall be valid or of any effect unless made in writing, signed by the party or parties to be bound or its duly authorized representative, and approved in writing by the Minnesota Department of Employment and Economic Development and the Commissioner of Minnesota Management and Budget, and specifying with particularity the extent and nature of such amendment, modification, or waiver. Any waiver by any

party of any default of another party shall not affect or impair any right arising from any subsequent default.

The Authority may not create or allow any voluntary lien or encumbrance or involuntary lien or encumbrance that can be satisfied by the payment of monies and which is not being actively contested against the Easement, or the City's interest in the Easement, or mortgage or otherwise encumber its estate and interest in this Easement, without prior written consent of the Minnesota Department of Employment and Economic Development and the Commissioner of Minnesota Management and Budget.

Whenever there shall exist a conflict between the provisions of this Easement and that certain Grant Agreement by and between the City and Minnesota Department of Employment and Economic Development pertaining to the project authorized under the Laws of Minnesota 2020, 5<sup>th</sup> Spec. Sess., chapter 3, article 1, section 21, subd. 16 ("Grant Agreement"), the Grant Agreement shall prevail. Notwithstanding any contrary provision in this Easement or the Grant Agreement, by executing this Easement the Authority is not subjecting its fee interest in the Property, as encumbered by the easement granted herein, to the rights of any other party under the Easement or Grant Agreement, except that the Authority shall not convey the underlying fee interest in the Easement without first obtaining the written consent of the Commissioner of Minnesota Management and Budget.

IN TESTIMONY WHEREOF, the parties have caused this Easement to be executed as of the dates set forth below.

LAKE SUPERIOR CENTER AUTHORITY

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

Its: \_\_\_\_\_

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

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2023, by \_\_\_\_\_, the \_\_\_\_\_ of Lake Superior Center Authority, a public corporation, created and existing under the laws of the State of Minnesota.

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Notary Public

CITY OF DULUTH

By: \_\_\_\_\_  
Its Mayor

By: \_\_\_\_\_  
Its City Clerk

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

The foregoing instrument was acknowledged before me this \_\_\_\_ day of  
\_\_\_\_\_, 2023, by Emily Larson, Mayor, of the City of Duluth, a Minnesota  
municipal corporation and political subdivision.

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Notary Public

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

The foregoing instrument was acknowledged before me this \_\_\_\_ day of  
\_\_\_\_\_, 2023, by Ian B. Johnson, City Clerk, of the City of Duluth, a Minnesota  
municipal corporation and political subdivision.

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Notary Public

This instrument was drafted by:  
Office of the City Attorney  
Room 440 City Hall  
411 West 1st Street  
Duluth, MN 55802-1198

**CONSENT**

The Commissioner of Minnesota Management and Budget hereby consents and approves of the easement interest granted above.

Date: \_\_\_\_\_, 2023

MINNESOTA MANAGEMENT AND BUDGET

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

STATE OF MINNESOTA      )  
                                    ) ss.  
COUNTY OF RAMSEY      )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of  
\_\_\_\_\_, 2023, by \_\_\_\_\_, the Commissioner of  
Minnesota Management and Budget.

\_\_\_\_\_  
Notary Public



## EXHIBIT A

Building a Better World  
for All of Us®

City of Duluth  
Easement Description  
PIN: 010-3150-00010  
010-3150-00015  
010-3150-00020  
010-0200-00010  
SEH No. DULUT 146416

Easement Description:

All those parts of the following described parcels:

That part of vacated 5th Avenue West, in the recorded plat of MUNGERS SUBDIVISION OF DULUTH, and those parts of Section 34, Township 50 North, Range 14 West, St. Louis County, Minnesota, bounded by the following described lines: On the East by the Easterly line of 5th Avenue West and the Southerly extension of said Easterly line; on the South by the U.S. Government Harbor Line as approved by the Secretary of War on November 17, 1899; on the West by the Westerly line of 5th Avenue West and the Southerly extension of said Westerly line; on the North by the line described as follows: Commencing at the Northeast corner of Lot 4, Block 4, MUNGERS SUBDIVISION OF DULUTH, thence Westerly, along the North line of said Lot 4, a distance of 80.00 feet; thence Easterly, along a straight line, to the Southeast corner of said Lot 4 and said Southeast corner being the beginning of the line to be described; thence continue Easterly, along the last described line, to the Easterly line of 5th Avenue West and said line there terminating,

AND

Lots 5 through 8, inclusive, MCLACHLANS DIVISION OF DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota,

AND

That part of Commerce Slip located in part of Section Twenty-seven (27), Township Fifty (50) North, Range Fourteen (14) West, and also located in part of Section Thirty-four (34), Township Fifty (50) North, Range Fourteen (14) West, St. Louis County, Minnesota, being lands covered, or formerly covered, by water, bounded as follows: On the North by the Northerly line of the plat of McLachlan's Division of Duluth, according to the recorded plat thereof, extended Westerly in a straight line; on the East by a line parallel with and distant one hundred forty feet (140') Westerly of the Westerly line of Fifth Avenue West, also being the Westerly line of said McLachlan's Division; on the West by the Easterly line of Block 1 of the recorded plat of Bay Front Division of Duluth, according to the recorded plat thereof, on the South by the U.S. Government harbor line as approved by the Secretary of War on November 17, 1899,

AND

Lots 1 through 3, inclusive, Block 1, BAY FRONT DIVISION OF DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota,

I:\PUBLICADMIN\Architec\P&FM\Property Services\Land & Property\DECC\EDA Grant\Aquarium Survey\Exhibit A-Aquarium Easement 1-11-23.docx

Engineers | Architects | Planners | Scientists

Short Elliott Hendrickson Inc., 418 West Superior Street, Suite 200, Duluth, MN 55802-1512  
SEH is 100% employee-owned | [sehinc.com](http://sehinc.com) | 218.279.3000 | 888.722.0547 | 888.908.8166 fax

LYING

Northwesterly of the US Government Harbor Line as approved by the Secretary of War on November 17, 1899,

Southwesterly of the northeasterly line of said platted 5<sup>th</sup> Avenue West and its southeasterly extension to the said US Government Harbor Line of 1899, and

Southeasterly and northeasterly of the following described line:

Commencing at the intersection of the northeasterly line of said 5<sup>th</sup> Avenue West and the Dock Line, said MCLACHLANS DIVISION OF DULUTH; thence North 48 degrees 21 minutes 32 seconds West, assigned bearing, along the said northeasterly line of said 5<sup>th</sup> Avenue West, a distance of 75.80 feet to the POINT OF BEGINNING; thence South 41 degrees 36 minutes 34 seconds West a distance of 99.50 feet; thence South 48 degrees 54 minutes 18 seconds East a distance of 6.85 feet; thence South 41 degrees 40 minutes 42 seconds West a distance of 70.94 feet; thence South 25 degrees 17 minutes 03 seconds East a distance of 32.85 feet; thence South 64 degrees 58 minutes 38 seconds West a distance of 117.98 feet; thence South 28 degrees 08 minutes 17 seconds East a distance of 10.47 feet; thence South 41 degrees 36 minutes 34 seconds West a distance of 32.45 feet; thence South 48 degrees 23 minutes 26 seconds East a distance of 37.96 feet; thence South 65 degrees 57 minutes 23 seconds West a distance of 70.03 feet; thence South 48 degrees 21 minutes 32 seconds East a distance of 66.50 feet to the southeasterly line of said Lot 1, Block 1, BAY FRONT DIVISION OF DULUTH; thence continuing South 48 degrees 21 minutes 32 seconds East a distance of 0.96 feet to the said US Government Harbor Line, and there terminating.

Containing 0.59 acres. Subject to easements, restrictions, and reservations of record.

**CERTIFICATION**

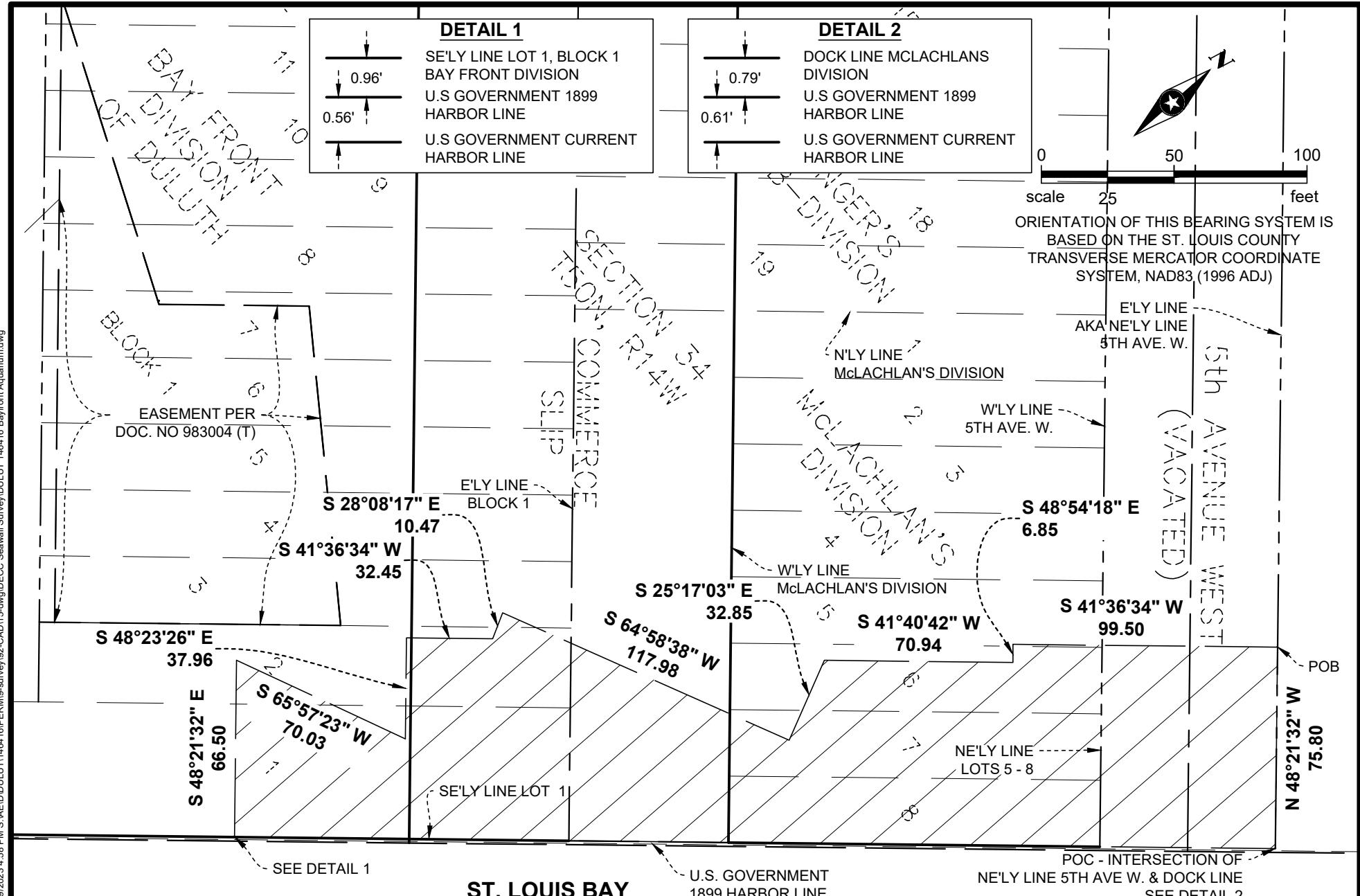
I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.



Chris A. Larsen, PLS  
Minnesota License No. 45848

December 29, 2022

Date



## EXHIBIT B

### EASEMENT EXHIBIT FOR:

CITY OF DULUTH

SEH Project DULUT 146416  
Drawn By KLA  
Surveyed By SEH  
Checked By CAL

I HEREBY CERTIFY THAT THIS PLAN WAS PREPARED BY ME OR  
UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED  
PROFESSIONAL SURVEYOR UNDER THE LAWS OF THE STATE OF  
MINNESOTA.

CHRIS A. LARSEN, L.S.  
DATE 12-21-2022 LICENSE NO. 45848

**SEH**  
PHONE: 218.279.3000  
418 W SUPERIOR ST.  
STE 200  
DULUTH, MN 55802-1512  
www.sehicn.com