

EXHIBIT A
EASEMENT

This agreement (hereinafter "Easement" or "Agreement") made this _ day of _____, 2015, between the City of Duluth, a municipal corporation created and existing under the laws of the State of Minnesota (hereinafter "Grantor") and the State of Minnesota, a sovereign entity (hereinafter "Grantee"), acting by and through its Department of Administration.

WHEREAS, Grantor is the owner of certain property in St. Louis County, Minnesota legally described as follows:

The Southwest Quarter of the Southwest Quarter (SW 1/4 of SW 1/4) of
Section 31, Township 51 North, Range 14 West of the Fourth Principal Meridian

(hereinafter "Property");

WHEREAS, Grantee is the owner of certain property in St. Louis County, Minnesota legally described as follows:

All that part of the Northwest Quarter of the Northwest Quarter (NW 1/4 of NW 1/4) of
Section 6, Township 50 North, Range 14 West of the Fourth Principal Meridian, according to
the Government Survey thereof, which lies Southeasterly of a line parallel with and distant
500 feet Southeasterly of the center line and the extended center line of that Runway at the
Duluth International Airport known as the Southwest-Northeast Runway,

which property is adjacent to and south of the Property;

WHEREAS, Grantee has extended gravel, pavement, landscaping and fencing encroaching onto the Property and wishes to make further improvements to and acquire an easement from Grantor over the land legally described in the attached Exhibit A, the contents of which are incorporated herein by reference, (hereinafter "Easement Area");

WHEREAS, Grantor desires to grant to the Grantee an easement subject to the terms and conditions contained herein and restricted by easements, reservations and restrictions of record.

NOW, THEREFORE, in consideration of all the covenants, terms and conditions herein contained, and intending to be legally bound hereby, the parties agree to the following terms and conditions:

1. Grant of Easement.

- 1.1 For and in consideration of the sum of One and 00/100 Dollar (\$1.00), the receipt of which is hereby acknowledged and in consideration of the promises, conditions, and

covenants contained herein, Grantor hereby grants an exclusive, permanent, and perpetual easement for ingress and egress, landscaping, roadway improvements, structures, and fencing over, under and across the Easement Area shown on Exhibit B attached hereto and made a part hereof.

1.2 Grantor provides no warranties of fitness of any kind pertaining to the Property. Grantee takes the Easement Area "as is" in its existing physical condition. Further, Grantor makes no warranty or representation as to the safe condition of Property or the suitability of said Property for the purposes set forth.

1.3 This Easement shall be granted subject to and restricted by easements, reservations and restrictions of record.

2. Use. The purpose of the Easement is to allow Grantee, its invitees, successors and assigns, the right to continue to occupy and use the Easement Area for ingress and egress, landscaping, roadway improvements, structures, and fencing purposes. Grantor reserves the right to use the Easement Area provided that such use is coordinated with the Grantee and does not interfere with or in any way damage Grantee's improvements located throughout the Easement Area.

3. Repair and Maintenance. Grantee shall be solely responsible to repair and maintain the Easement Area including but not limited to lighting, inspections and any other measures necessary to maintain the safety and utility of the Easement Area.

4. Sale or Lease of Easement Area. The Easement Area shall remain subject to sale or lease; such sale or lease shall not serve to revoke this Easement.

5. Compliance with Laws. In conducting its activities hereunder, Grantee will, at its sole expense and effort, comply with all applicable laws, ordinances, permits, rules and regulations, enacted by any federal, state, or local governmental agency having jurisdiction or control over any activity occurring upon the Easement Area resulting from or applicable to usage based upon this Easement. Grantee further agrees to obtain all applicable required permits for its activities hereunder at its sole expense and to comply with all such permits.

6. Liability. The Grantor and Grantee agree that each party will be responsible for its own acts and the results thereof to the extent authorized by law and shall not be responsible for the acts of any others and the results thereof.

7. Term of Easement. The Easement shall continue in effect in perpetuity and may only be canceled by a written instrument executed on behalf of each of the parties hereto by the authorized representative(s) of each party, and neither party shall, at any time or in any way, assert or contend that cancellation of the Easement Agreement (or any part or parts, including this paragraph) has been made other than by a written instrument so executed.

8. Assumption of Obligations Under Landfill Cleanup Agreement. Pursuant to the Landfill Cleanup Act, Minn. Stat. §§ 115B.39 – 115B.445, the City of Duluth and the Western Lake Superior Sanitary District entered into that certain Landfill Cleanup Agreement with the Commissioner of the Minnesota Pollution Control Agency (“MPCA”) affecting the Property dated October 19, 2004 and recorded December 11, 2004 as Document No. 00966670 in the Office of the County Recorder, St. Louis County, Minnesota, and recorded December 11, 2004 as Document No. 789342.0 in the Office of the Registrar of Titles, St. Louis County, Minnesota (the “LCA”). This Easement is subject to the LCA. During the term of this Easement, Grantee agrees to assume all obligations and commitments of the Grantor under the LCA as it pertains to the Easement Area, provided that the Minnesota Department of Military Affairs and the Minnesota Pollution Control Agency enter into a mutually agreeable Interagency Agreement or Joint Powers Agreement addressing the obligations of the LCA as it pertains to the Easement Area.

9. Indemnification.

9.1 Each party will be responsible for its own acts and the results thereof and shall not be responsible for the acts of any others and the results thereof. The State’s liability shall be governed by the provisions of the Minnesota Tort Claims Act, Minnesota Statutes, Chapter §3.736 and other applicable law. Grantee’s liability shall be limited by the provisions of Minnesota Statutes Chapter 466 and other applicable law. The provisions of this Section shall survive the termination of this Agreement and any subsequent amendments to it.

9.2 The Grantee agrees to require its contractor(s) to indemnify, defend and hold harmless Grantor, including its subsidiaries, facilities, employees, officers, agents, successors and assigns from and against any and all claims, costs, demands, damages, liabilities, judgments, or expenses, including attorney fees, court costs, consultant fees and other legal costs, for any personal injury, death or property damage arising out of or resulting from, or in any way associated with the activities described herein of Grantee, its employees, agents, invitees, licensees, successors, and assigns except for Grantor’s willful misconduct or negligence.

9.3 The obligations set forth in this section shall continue after any termination of this Agreement as to any matters that occurred during or resulted from the term of this Agreement.

10. Assignment. This Easement shall not be assignable by the Grantee except upon written consent of the Grantor.

11. Recording. Grantor shall file the Easement for recording with the Office of the St. Louis County Recorder and provide a copy of such recorded Easement to Grantee. Grantee shall reimburse Grantor for the recording fees.

12. Captions. The paragraph headings or captions appearing in this Agreement are for convenience only, are not a part of this Agreement and are not to be considered in interpreting

this Agreement.

13. Entire Agreement; Modification. This written Agreement constitutes the complete agreement between the parties and supersedes any prior oral or written agreements between the parties regarding the easement. There are no verbal agreements that change this Agreement and no waiver of any of its terms will be effective unless in writing executed by the parties.

14. Binding Effect. This Agreement binds and benefits the parties and their successors in interest.

15. Controlling Law. This Agreement has been made under the laws of the State of Minnesota, and such laws will control its interpretation.

16. Authority. Grantee represents and warrants that it has full power and authority to execute, deliver and perform under this Agreement.

17. Waiver. Neither the failure by any party hereto, in anyone or more instances, to insist upon the complete and total observance or performance of any term or provision hereof, or to exercise any right, privilege, or remedy conferred hereunder or afforded by law shall be construed as waiving any breach of such term, provision, or the right to exercise such right, privilege, or remedy thereafter. In addition, no delay on the part of any party hereto in exercising any right or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right or remedy preclude other or further exercise thereof or the exercise of any other right or remedy.

18. Severability. If any provision of this Agreement is finally judged by a court of competent jurisdiction to be invalid, then the remaining provisions shall remain in full force and effect and they shall be interpreted, performed, and enforced as if the invalid provision did not appear herein.

19. Time of Essence. Time is of the essence with respect to all of the matters contained in this Agreement.

20. Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be an original, but such counterparts shall together constitute one and the same instrument.

21. Recitals. The recitals on pages 1 are hereby incorporated herein.

22. Notices. All notices or communications between Grantor and Grantee shall be deemed sufficiently given or rendered if in writing and delivered to either party personally; or if mailed by United States registered or certified mail to the addresses set forth below, or such future addresses as may be subsequently supplied by the parties hereto to each other, return receipt requested, postage

prepaid; or if transmitted by facsimile copy followed by mailed notice; or if deposited cost paid with a nationally recognized, reputable overnight courier, properly addressed as follows:

Grantor: City Attorney
City of Duluth
Room 402 City Hall
411 West First Street
Duluth, MN 55802

With copy to: City of Duluth
Dept. of Public Works / Utilities
211 City Hall
Duluth, MN 55802

Grantee: Minnesota Dept. of Administration
Real Estate & Construction Services
50 Sherburne Avenue, Room 309
St. Paul, MN 55155
Attn: Director of Real Estate and Construction Services

IN WITNESS WHEREOF, the parties hereto have set their hands on the date(s) indicated below intending to be bound thereby.

GRANTEE
STATE OF MINNESOTA

BY: _____
MATT MASSMAN
Commissioner of Administration

DATE: _____

STATE OF MINNESOTA }
 } ss.
COUNTY OF _____ }

The foregoing was acknowledged before me this _____ day of _____, 2015, by MATT MASSMAN, Commissioner of Administration, on behalf of the State of Minnesota.

NOTARY PUBLIC
BY: _____

APPROVED:
DEPARTMENT OF MILITARY AFFAIRS

BY: _____

TITLE: _____

DATE: _____

CONSENTED TO AND APPROVED BY:
MINNESOTA POLLUTION CONTROL AGENCY

BY: _____

TITLE: _____

DATE: _____

GRANTOR
CITY OF DULUTH

BY: _____
Don Ness, Its Mayor

Attest:

By _____
City Clerk

Approved:

Assistant City Attorney

Countersigned:

City Auditor

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

The foregoing was acknowledged before me this _____ day of _____, 2015,
by _____, the _____ of the City of Duluth, a body politic
and corporate under the laws of Minnesota.

NOTARY PUBLIC

BY: _____

Exhibit A

Easement Area

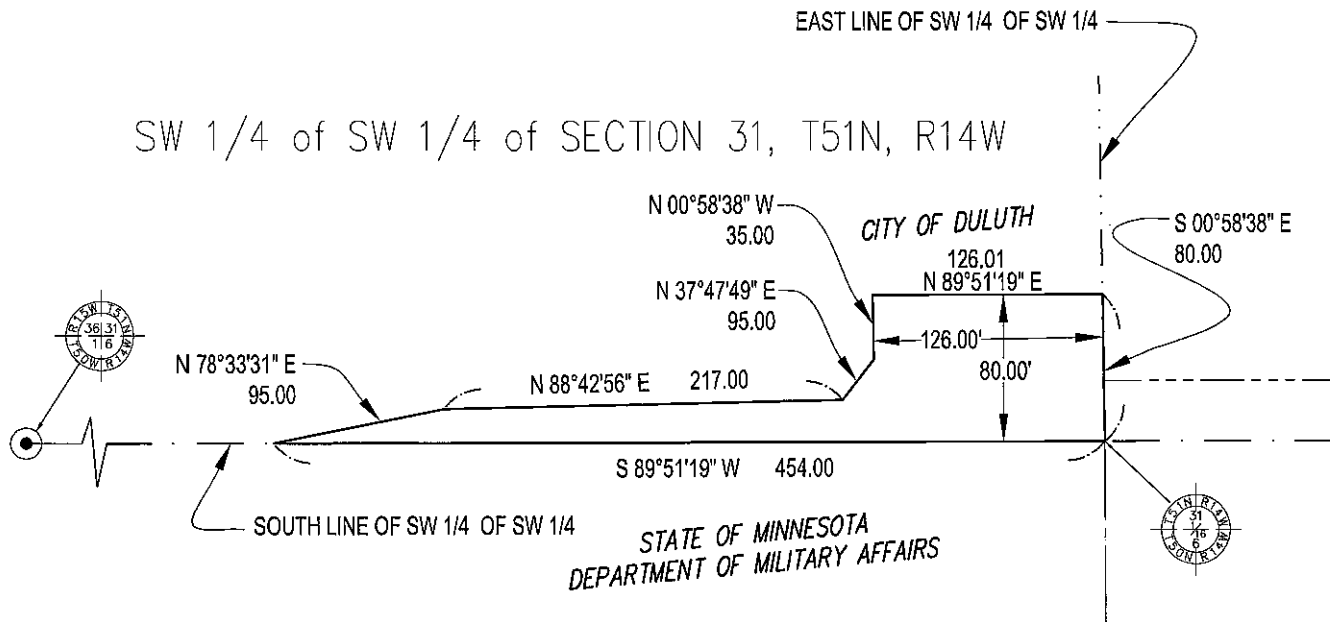
EXHIBIT

part of the SW 1/4 of the SW 1/4
Section 31, T.51N., R.14W.

DESCRIPTION:

An easement over, under and across that part of the Southwest Quarter of the Southwest Quarter (SW1/4 of SW1/4) of Section Thirty-one (31), Township Fifty-one (51) North, Range Fourteen (14) West of the Fourth (4th) Principal Meridian, St. Louis County described as follows:

Beginning at the Southeast Corner of the Southwest Quarter of the Southwest Quarter (SW1/4 of SW1/4) of said Section 31; thence South 89 degrees 51 Minutes 19 seconds West along the south line of said SW1/4 of SW1/4, a distance of 454.00 feet; thence North 78 degrees 33 Minutes 31 seconds East, a distance of 95.00 feet; thence North 88 degrees 42 Minutes 56 seconds East, a distance of 217.00 feet; thence North 37 degrees 47 Minutes 49 seconds East, a distance of 95.00 feet to the intersection of a line 126.00 feet westerly of, measured at right angles to and parallel with, the east line of said SW1/4 of SW1/4; thence North 00 degrees 58 Minutes 38 seconds East along said line parallel with said east line, a distance of 35.00 feet to the intersection of a line 80.00 feet northerly of, measured at right angles to and parallel with, the south line of said SW1/4 of SW1/4; thence North 89 degrees 51 Minutes 19 seconds East along said line parallel with said south line, a distance of 126.01 feet to the east line of said SW1/4 of SW1/4; thence South 00 degrees 58 Minutes 38 seconds East along said east line, a distance of 80.00 feet to the point of beginning.



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: 09/16/2015

DATE REVISED: 09/16/15 scrivener error fix

DATE REVISED: 09/03/15

DATE REVISED: 09/02/15

DATE PREPARED: 08/03/15

PROJ NO: 120094

FILE: 120094cSurvey

SHEET 1 of 1 SHEETS

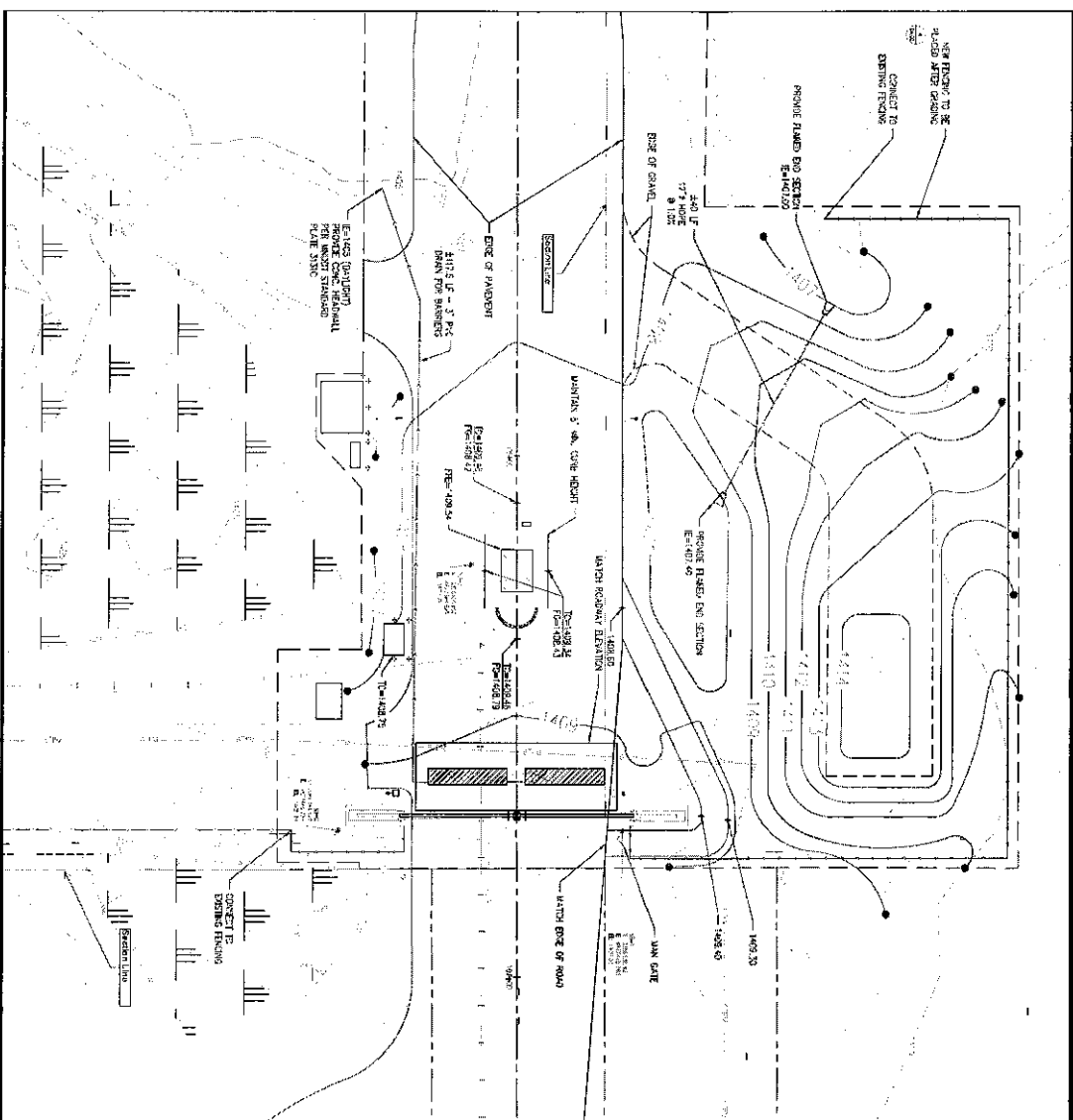


PERFORMANCE
DRIVEN DESIGN.
LHBcorp.com

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

Exhibit B

Easement Area Improvements



LEGEND

- [illegible]

PLEASE DO NOT



WARNING
LOCATION OF ALL
UNDERGROUND UTILITIES
SHALL BE VERIFIED BY THE
CONTRACTOR.
CALL BEFORE DIGGING

MINNESOTA
ONE-CALL SYSTEM
1-800-252-1166
REQUIRED BY
MN STATUTE 216D



**PERFORMANCE
DRIVEN DESIGN**
DPR.com

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E-mail: zhang@math.ucsd.edu

148th FIGHTER WING
MINNESOTA AIR
NATIONAL GUARD

DULUTH LAKE, MINNESOTA

MC: 0125-24678

NO	DATE	REMARKS
1	1/24/94	100% 12.0-14.0mm/10
2	4/1/94	100% 12.0-14.0mm/10
NO	DATE	REMARKS

PRELIMINARY
NOT FOR CONSTRUCTION
04-17-14

CONCRETE TODAY
DECEMBER 2007
RIDGEVIEW ROAD
INFRASTRUCTURE

FLMKM062059B
Standard Title
**SITE FENCING, GRADING,
& UTILITIES PLAN**

C2.00

C3.00