

**RECREATIONAL CROSS CITY TRAIL
EASEMENT AGREEMENT**

THIS RECREATIONAL CROSS CITY TRAIL EASEMENT AGREEMENT (this "Agreement") is entered into as of _____, 2019, by and between MOLINE MACHINERY LLC, a Minnesota limited liability company ("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 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 public recreational, walkway, and trail purposes (the "Easement") over, under and across that portion of the Grantor Property legally described on the attached Exhibit B and depicted on the attached Exhibit C (the "Easement Area").

The Easement includes the right of City, its contractors, agents, and employees to enter the Easement Area, with five-business days written notice to Grantor, for the purposes of locating, constructing, operating, installing, maintaining, and repairing a multi-use recreational trail and other improvements within the Easement Area. No advance notice to City is necessary in the event of an emergency or public safety issue. 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 in City's discretion. City, its contractors, agents and employees may construct erosion control structures necessary to maintain a clear, dry passage through the Easement Area, including the right to install, maintain, repair and replace waterbars, steps, and other trail surface structures, as well as 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 existing infrastructure on the Grantor Property.

City shall be solely responsible for maintenance of the recreational trail and its other improvements within the Easement Area and shall keep the recreational trail in safe and working condition. Grantor shall have no obligation or duty to maintain, repair, or replace any improvements or vegetation in the Easement Area. This includes any disruptions to the recreational trail or other improvements due to repairs or maintenance of the sanitary sewer line that is near the Easement Area and which serves Grantor's adjacent factory.

No work conducted by City and no improvement made by City shall cause any nuisance or trespass onto any other property, whether or not owned by Grantor. City

shall be responsible to keep a safe work site and to prevent its activities within the Easement Area from creating a nuisance, public or private, temporary or permanent. Once work is commenced by City within the Easement Area, it shall be diligently pursued to completion. City shall use its best efforts to control dust and noxious odors during construction within the Easement Area. City may store equipment or materials on the Easement Area only while construction or maintenance activities are being conducted on the Easement Area.

All costs and expenses arising out of or relating to the recreational trail to be constructed within the Easement Area, including, without limitation, all costs and expenses for construction, approvals, permitting, engineering, repairs, maintenance, recording and surveying shall be paid by City.

To the extent permitted by law, Grantor shall have and enjoy all of the protection from liability afforded an owner granting an easement for the use of land for recreational purposes as provided in Chapter 604A of Minnesota Statutes and such statutory protection and limitations on duties, including but not limited to those set forth in Minn. Stat. §§ 604A.22 and 604A.23, which are hereby incorporated by reference.

To the extent permitted by Minnesota law, City shall indemnify, hold harmless and defend Grantor from all liabilities, actions, claims, costs, damages and expenses, arising out of any injuries or damages to persons or property on account of or arising out of City's negligent acts in carrying out its obligations under this Agreement. City's indemnification, hold harmless and defense obligations will survive the expiration or termination of this Agreement.

The parties represent to each other that the execution of this Agreement has been duly and fully authorized by their respective governing bodies, boards or partners, 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.

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 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 rest of this page is intentionally left blank.]

CITY OF DULUTH

By: _____
Emily Larson, Mayor

By: _____
Chelsea Helmer, City Clerk

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

The foregoing instrument was subscribed and sworn before me this _____ day of _____, 2019, by Emily Larson and Chelsea Helmer, Mayor and City Clerk, respectively, 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

That certain tract of land in WEST DULUTH FIRST DIVISION, described as follows:

Commencing at the intersection of the center line of Fifty-fifth Avenue West and the dividing line between Lots 5 and 6, Block 51, West Duluth First Division, as extended, as the place of beginning; thence along said center line of Fifth-fifth Avenue West to a point where said line intersects a line parallel with and 33 feet North of the center line of Raleigh Street; thence left along a line parallel with and 33 feet North of the center line of Raleigh Street to a point where said line intersects the center line of Fifty-fourth Avenue West; thence left along the center line of Fifth-fourth Avenue West to a point where said center line intersects a line which runs parallel with and distant 7.5 feet S'ly from the center line of the main track of the Northern Pacific Railway Company, a Wisconsin corporation, as the same is now constructed and operated within Polk Street between the East line of Fifty-fourth Avenue West and the West line of Fifty-fifth Avenue West, said line being parallel with and approximately 9.2 feet S'ly of the center line of said Polk Street; thence left along said line to a point where said line intersects the center line of the alley lying between Blocks 50 and 51, West Duluth First Division; thence left along the center line of said alley to a point where said center line intersects the dividing line between Lots 5 and 6, Block 51, West Duluth First Division, as extended, thence along said dividing line to the place of beginning.

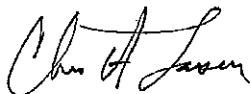
EXHIBIT B
EASEMENT AREA

Over, under, and across that part of Lot 1, Block 50, and including part of vacated Polk Street and vacated platted alley, WEST DULUTH FIRST DIVISION, according to the recorded plat thereof, St. Louis County, Minnesota, being southerly of the south line of the main track of the Northern Pacific Railway Company (a.k.a. Northern Pacific Spur Track No. 1) and northerly of the following described line:

Commencing at an Iron Pin in Monument Box at the centerline intersection of Main Street and N 56th Avenue West (First Ave. W. per plat), thence North 89 degrees 55 minutes 22 seconds East, along the centerline of Main Street a distance of 379.19 feet to the west line of Lot 3, Block 1, LAKE SUPERIOR PAPER DIVISION, according to the recorded plat thereof, St. Louis County, Minnesota; thence South 00 degrees 04 minutes 38 seconds East, along said west line a distance of 472.56 feet to the south line of said Lot 3 and the centerline of vacated Polk Street; thence North 89 degrees 55 minutes 22 seconds East along said line a distance of 193.25 feet; thence South 45 degrees 33 minutes 34 seconds West a distance of 11.99 feet to the said south line of the main track of the Northern Pacific Railway Company (a.k.a. Northern Pacific Spur Track No. 1) and POINT OF BEGINNING; thence continuing South 45 degrees 33 minutes 34 seconds West a distance of 25.65 feet; thence North 51 degrees 05 minutes 06 seconds West a distance of 28.97 to said south line of the main track of the Northern Pacific Railway Company (a.k.a. Northern Pacific Spur Track No. 1) and there terminating.

CERTIFICATION

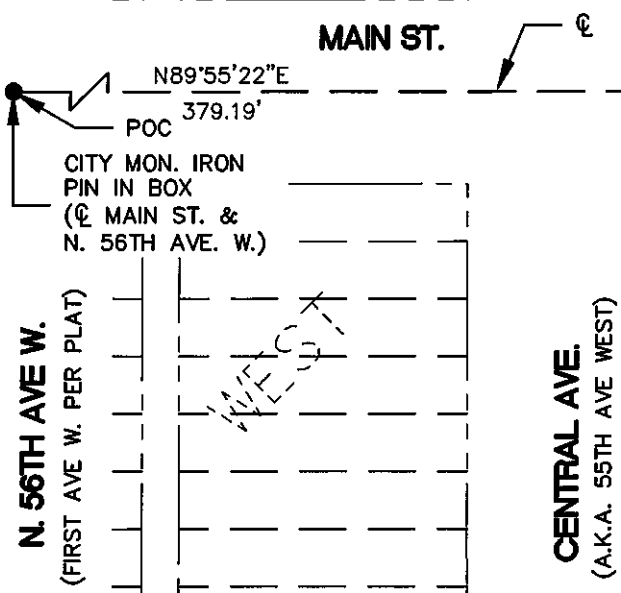
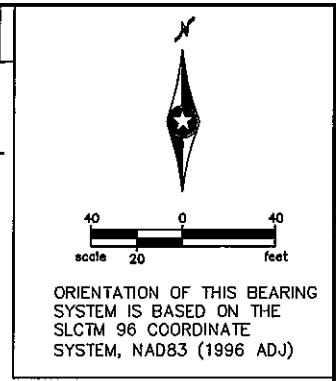
I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.



Chris A. Larsen, PLS
Minnesota License No. 45848

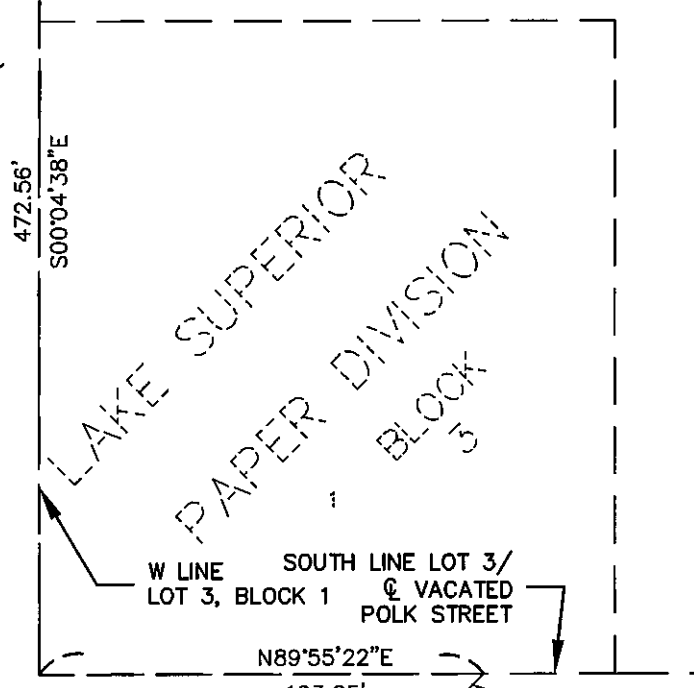
May 31, 2019
Date

EXHIBIT C

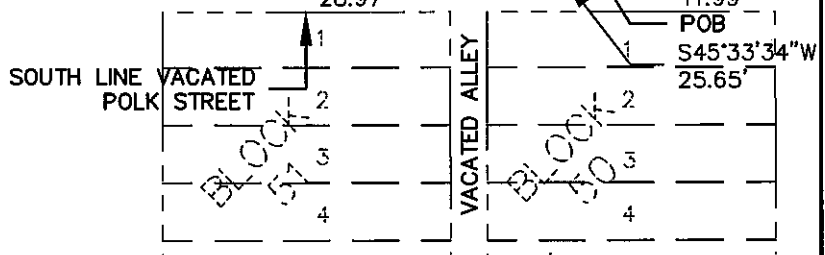
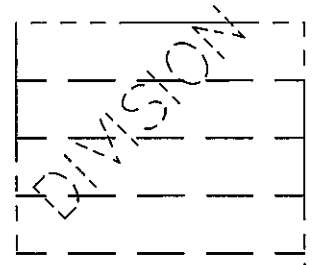


DULUTH FIRST

CENTRAL AVE.
(A.K.A. 55TH AVE WEST)



S'LY R/W NP MAIN TRACK
(a.k.a. NP SPUR TRACK No. 1)



EASEMENT AREA (369 S.F.)

S:\AE\DULUTH\09680\9-survey\CAD\moline machinery CCT.dwg 6/7/2019 2:44 PM acrfeskie

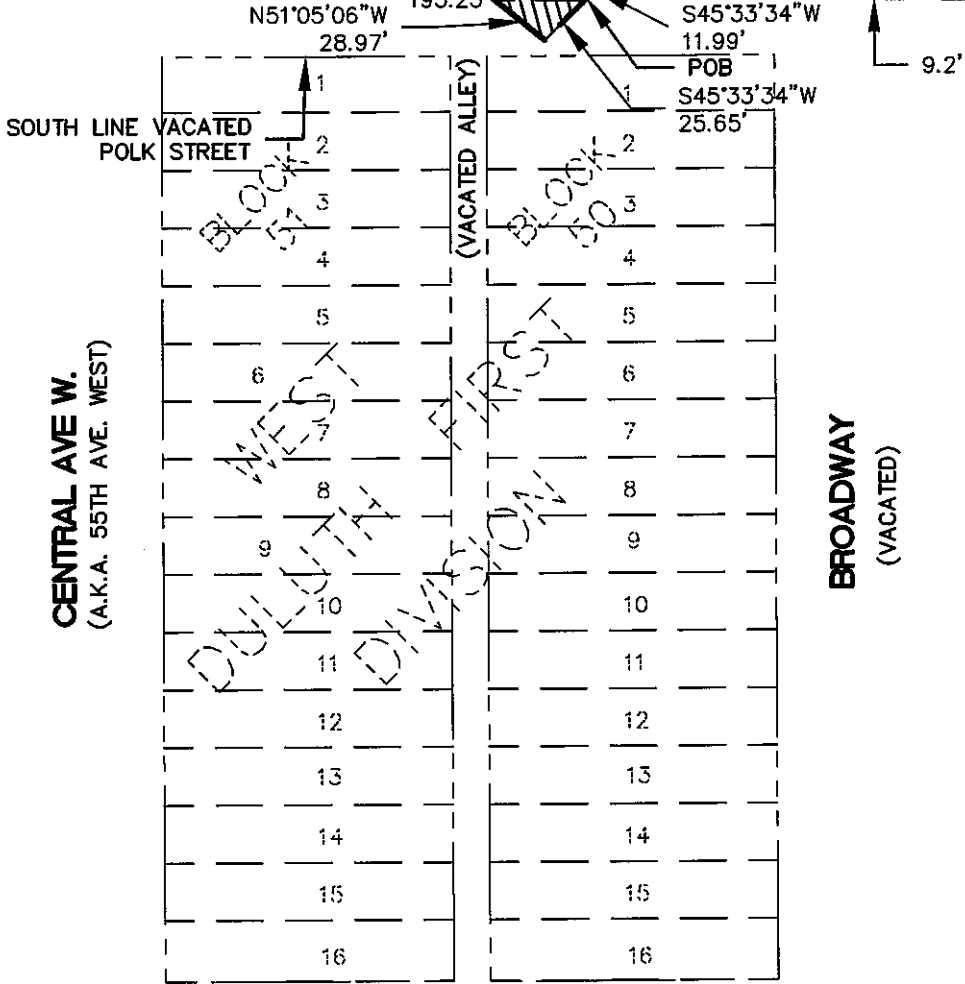
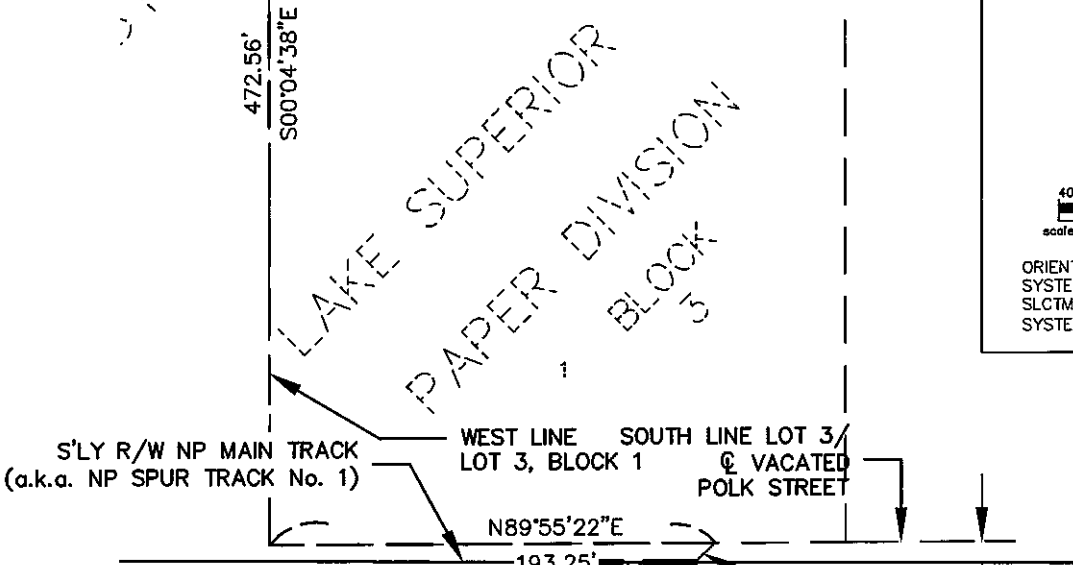
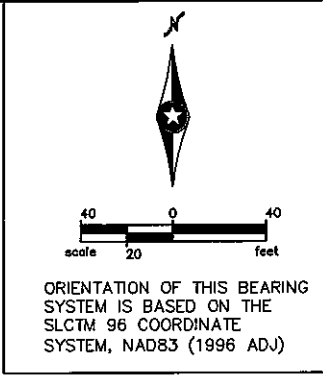
DRAWN BY: ACO
CHECKED BY: CAL
SURVEYED BY: N/A

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.
Signature:
Lic. No. 45848
Printed Name: CHRIS A. LARSEN Date: 06/07/2019


**SHARED USE PATH
DULUTH, MN**

I hereby certify that this exhibit has been checked and approved this ___ day of _____, 20__.
Signature: _____
City Engineer
Printed Name: _____ Date: _____

FILE NO.
DULUT 109680
DATE
06/07/2019
SHEET
1 OF 2



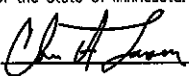
WASECA INDUSTRIAL ROAD
(PLATTED SECOND ST. SOUTH)

 **EASEMENT AREA**
(369 S.F.)

S:\AE\DULUTH\109680\9--survey\CAD\moline machinery CCT.dwg 6/7/2019 2:35 PM carleskie

DRAWN BY: ACO
 CHECKED BY: CAL
 SURVEYED BY: N/A

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.

Signature:  Lic. No. 45848
 Printed Name: CHRIS A. LARSEN Date: 06/07/2019

SHARED USE PATH
DULUTH, MN

I hereby certify that this exhibit has been checked and approved this _____ day of _____, 20____.

Signature: _____
 City Engineer

Printed Name: _____ Date: _____

FILE NO.
DULUT 109680

DATE
06/07/2019

SHEET
2 OF 2