



CITY OF DULUTH

Community Planning Division

411 W 1st St, Rm 208 * Duluth, Minnesota 55802-1197

Phone: 218/730.5580 Fax: 218/723-3559

File Number	PL 19-022	Contact	Steven Robertson	
Type	Concurrent Use Permit	Planning Commission Date	May 29, 2019	
Deadline for Action	Application Date	May 8, 2019*	60 Days	July 7, 2019
	Date Extension Letter Mailed	May 21, 2019	120 Days	September 5, 2019
Location of Subject				
Applicant	Essentia Health	Contact	Scot Ramsey, Vice President Facilities	
Agent	LHB	Contact	Evan Aljoe, Healthcare Studio Lead	
Legal Description	See Attached			
Site Visit Date	May 11, 2019	Sign Notice Date	May 15, 2019	
Neighbor Letter Date	May 14, 2019	Number of Letters Sent	243	

Proposal

The applicant is seeking a concurrent use permit to construct private underground utilities within the public right-of-way of Fifth Avenue, to provide electrical duct banks from the existing emergency generators.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	MU-N/MU-C/F-8	Medical	Medical District
North	MU-I	Medical	Neighborhood Mixed Use/Urban Res.
South	F-8/I-G	Highway/Commercial	Tourism/Open Space
East	MU-N/MU-I	Residential	Urban Residential
West	MU-N/F-5/F-8	Commercial	Central Business Primary/Secondary

Summary of Code Requirements

UDC Section 50-37.7C. The planning commission shall review the application, and council shall approve the application or approve it with modifications, if it determines that:

1. The proposed concurrent use will not harm or inconvenience the health, safety and general welfare of the city;
2. Any proposed skywalk will significantly improve the circulation of pedestrians in the city without exposure to weather conditions;
3. No portion of a public easement proposed for use is being physically used or occupied by the public.

Comprehensive Plan Governing Principle and/or Policies and Current History (if applicable):

Principle #5 -Promote reinvestment in neighborhoods.

Duluth is strongly defined by its neighborhoods. This system should be supported through land use and transportation that foster neighborhood reinvestment. New development or redevelopment should maximize public investment that strengthens neighborhood commercial centers or diversifies residential opportunities that fit the neighborhood's character.

Governing Principle #8 - Encourage mix of activities, uses and densities

Cities have evolved as a mix of land uses, building types, housing types, and activities. Accommodating choice while protecting investment is a balance to strike in land use regulation. Mixed uses provide opportunity for a diversity of activity that segregated, uniform uses do not provide.

Future Land Use

Future Land Use Institutional. Applicable to medical, university/college, public school, religious, or governmental campuses. Can include adjacent areas that support them, with related commercial and/or office uses, and residential uses in the fringe areas of the district.

Review and Discussion Items

- 1) The applicant is seeking a concurrent use permit to construct private underground utilities within the public right-of-way of Fifth Avenue, to provide electrical duct banks from the existing emergency generators. It is one of three concurrent use permits being submitted as part of the MU-I Planning Review (PL 19-018) for the new 940,000 square foot medical facility proposed by Essentia Health.
- 2) The area proposed for the concurrent use permit will not take away from the public's ability to use the public right-of-way, nor will it harm or inconvenience the health, safety and general welfare of the city.
- 3) Concurrent use permits are approved by the City Council via an ordinance. Unlike street right-of-way vacations, concurrent use permits are not recorded at with St. Louis County as they are voidable agreements between the City and property owners. At the time that this staff report was written, City engineering is still reviewing the legal exhibits for accuracy; concurrent use permits are not sent to the City Council for their consideration until the review has been completed.
- 4) The City of Duluth requires concurrent use permits to include liability insurance to indemnify the City against all occurrences in the right-of-way. Other protections for the city and the public are typically included in the ordinance that is submitted for the City Council's review. The ordinance will require that the project proposer will locate any underground items in accordance with Gopher State One Call rules, and that the city will bear no responsibility for locating any facility related to the concurrent use permit except as it is legally responsible under the Gopher State One Call rules.
- 5) No comments were received from the public or other government agencies at the time this staff report was written (May 22, 2019)
- 6) Per UDC Sec. 50-37.1.N, approved concurrent use permits lapse if the project or activity authorized by the permit has not begun within one-year.

Staff Recommendation

Based on the above findings, Staff recommends that Planning Commission approve the concurrent use permit with the following conditions:

- 1) Applicant construct and maintain the project as identified in the attached exhibits.
- 2) Applicant provide annual proof of liability insurance to indemnify the City against any occurrences in the right of way that are due to items covered under this permit.
- 3) Applicant will remove the obstructions at the applicant's expense if directed to by the City with appropriate notice.
- 4) The structure will need to comply with any applicable engineering standards, or building or fire code requirements.
- 5) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission approval; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.



PL 19-022 CUP North Fifth Avenue East

PL 19-021 CUP East First Street

PL 19-019 CUP East First Street Alley



Legend

- Gas Main
- Water Main
- Hydrant

Sanitary Sewer Mains

- CITY OF DULUTH
- WLSSD; PRIVATE
- Sanitary Sewer Forced Main

- Storage Basin
- Pump Station

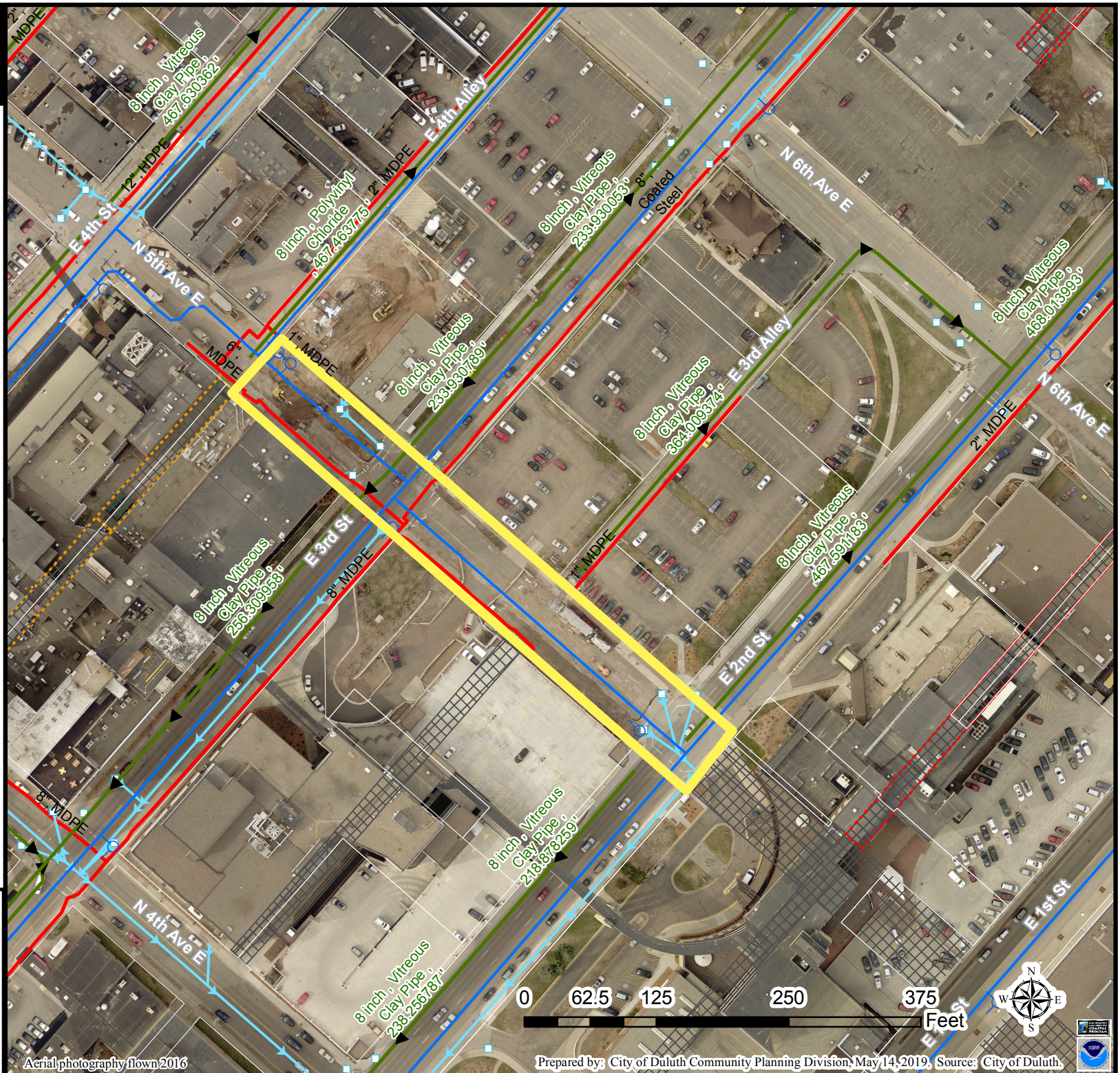
Storm Sewer Mains

- Storm Sewer Pipe
- Storm Sewer Catch Basin

Vacated ROW

- Utility Easement
- Other Easement

Easement Type



The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used as one. The drawing/data is a compilation of records, information and data located in various City, County and State offices and other sources affecting the area shown and is to be used for reference purposes only. The City of Duluth shall not be liable for errors contained within this data provided or for any damages in connection with the use of this information contained within.

LEGAL DESCRIPTION:

All that part of Fifth Avenue East and East Second Street easterly of a line 10.00 feet westerly of the west line of said Fifth Avenue East and northerly of the south line of East Second Street adjacent to Lot 16, Block 47, PORTLAND DIVISION OF DULUTH, City of Duluth, St. Louis County, Minnesota.

AND

All that part of Fifth Avenue East and East Second Street westerly of east line of said Fifth Avenue East and northerly of the south line of East Second Street adjacent to Lot 1, Block 46, PORTLAND DIVISION OF DULUTH, City of Duluth, St. Louis County, Minnesota.

AND

All that part of Fifth Avenue East and East Second Street easterly of a line 10.00 feet westerly of the west line of said Fifth Avenue East adjacent to Lot 16, Block 49, PORTLAND DIVISION OF DULUTH, City of Duluth, St. Louis County, Minnesota.

AND

All that part of Fifth Avenue East and East Second Street westerly of east line of said Fifth Avenue East adjacent to Lot 1, Block 50, PORTLAND DIVISION OF DULUTH, City of Duluth, St. Louis County, Minnesota.

AND

All that part of Fifth Avenue East and East Third Street easterly of west line of said Fifth Avenue East adjacent to Lot 16, Block 69, PORTLAND DIVISION OF DULUTH, City of Duluth, St. Louis County, Minnesota.

AND

All that part of Fifth Avenue East and East Third Street westerly of east line of said Fifth Avenue East adjacent to Lot 1, Block 68, PORTLAND DIVISION OF DULUTH, City of Duluth, St. Louis County, Minnesota.

AND

All that part of Fifth Avenue East and East Third Street easterly of west line of said Fifth Avenue East adjacent to Lot 16, Block 70, PORTLAND DIVISION OF DULUTH, City of Duluth, St. Louis County, Minnesota.

AND

All that part of Fifth Avenue East and East Third Street westerly of east line of said Fifth Avenue East adjacent to Lot 1, Block 71, PORTLAND DIVISION OF DULUTH, City of Duluth, St. Louis County, Minnesota.

AND

All that part of Fifth Avenue East adjacent to Lot 79, East Third Street, DULUTH PROPER FIRST DIVISION, City of Duluth, St. Louis County, Minnesota and southerly of the south line of alley adjacent, now vacated.

AND

All that part of Fifth Avenue East adjacent to Lot 81, East Third Street, DULUTH PROPER FIRST DIVISION, City of Duluth, St. Louis County, Minnesota and southerly of the south line of alley adjacent, now vacated.

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 5/07/2019 License No. 44075



EXHIBIT CONCURRENT USE

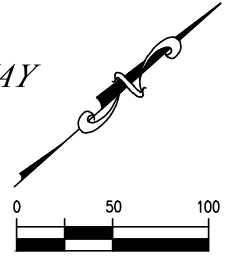
PRIVATE ELECTRICAL DUCT BANK IN CITY RIGHT-OF-WAY

Part of Streets and Avenues


PORTLAND DIVISION OF DULUTH

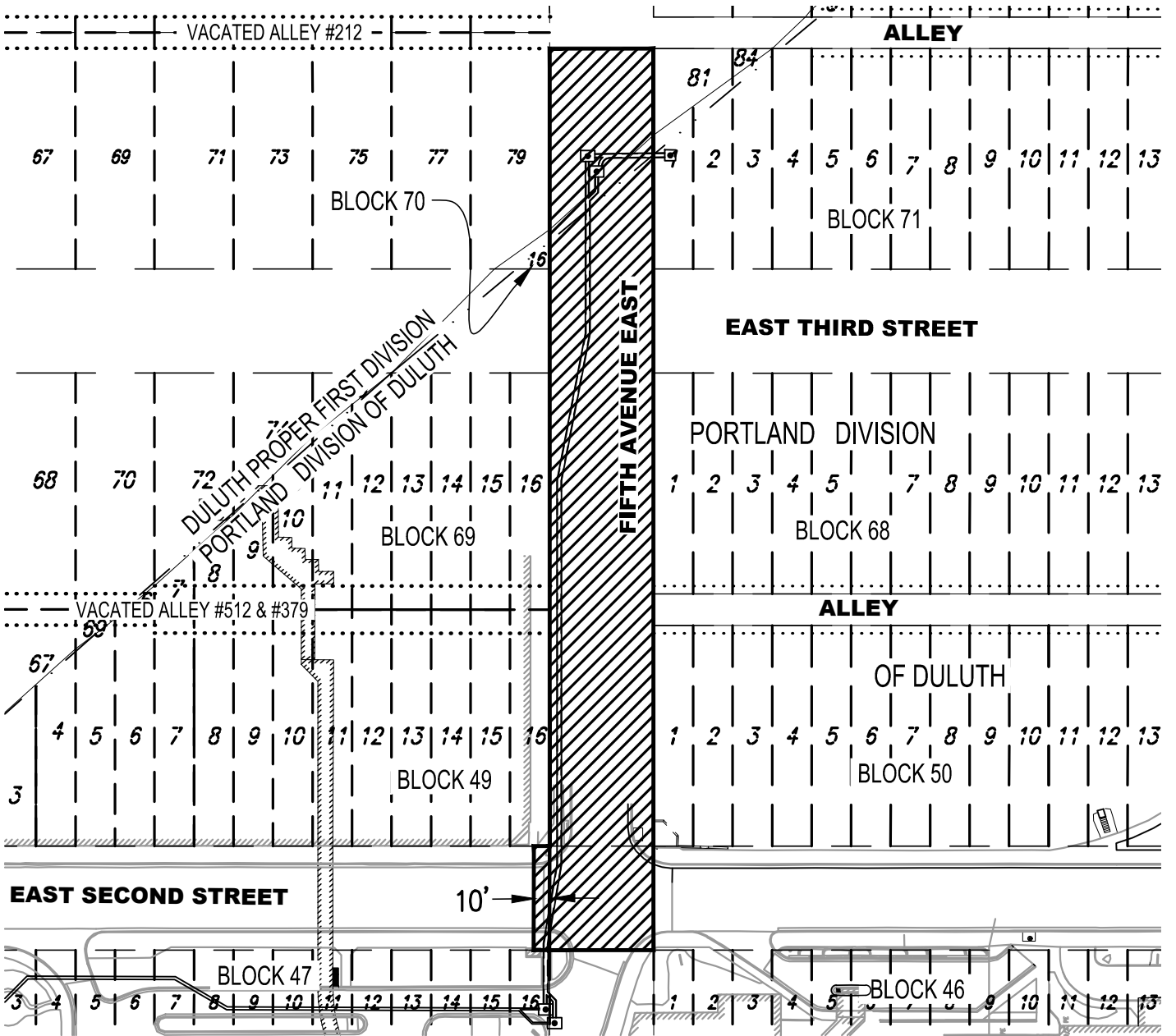
AND

DULUTH PROPER FIRST DIVISION



LEGEND

 = CONDITIONAL USE AREA



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: 03/05/2019

REVISED: 05/07/19

DATE PREPARED: 03/05/19

PROJ NO: 180203

FILE: 180203 Concu

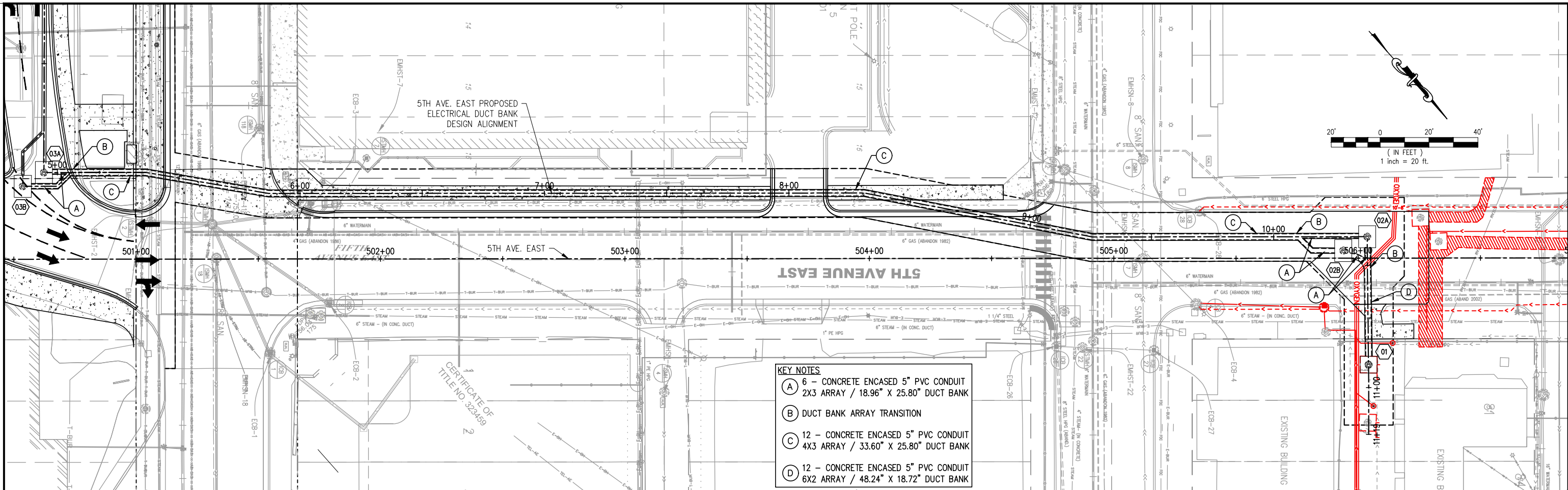
SHEET 1 of 1 SHEETS



**PERFORMANCE
DRIVEN DESIGN.**

LHBcorp.com

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



- KEY NOTES**
- (A) 6 - CONCRETE ENCASED 5" PVC CONDUIT
2X3 ARRAY / 18.96" X 25.80" DUCT BANK
 - (B) DUCT BANK ARRAY TRANSITION
 - (C) 12 - CONCRETE ENCASED 5" PVC CONDUIT
4X3 ARRAY / 33.60" X 25.80" DUCT BANK
 - (D) 12 - CONCRETE ENCASED 5" PVC CONDUIT
6X2 ARRAY / 48.24" X 18.72" DUCT BANK

