

**EXHIBIT 1**

**FIRST AMENDMENT TO  
DEVELOPMENT AGREEMENT**

**between**

**CITY OF DULUTH**

**and**

**INDEPENDENT SCHOOL DISTRICT NO. 709**

**Dated as of \_\_\_\_\_, 202\_\_**

**FIRST AMENDMENT TO  
DEVELOPMENT AGREEMENT**

THIS FIRST AMENDMENT TO DEVELOPMENT AGREEMENT (this “First Amendment”), effective as of the date of attestation hereof by the City Clerk, is by and between the City of Duluth, a municipal corporation under the laws of the State of Minnesota (“City”), and Independent School District No. 709 (“Developer”).

WHEREAS, on August 3, 2022, Developer and City entered into a Development Agreement (as amended by this First Amendment, the “Development Agreement”) in relation to the property owned by Developer that is to be legally described (upon completion of the replatting process) as set forth on the attached Exhibit A (the “Property”).

WHEREAS, the Development Agreement was registered in the Office of the St. Louis County Registrar of Titles on March 3, 2023 as Document No. 1066443 and recorded in the Office of the St. Louis County Recorder on March 3, 2023 as Document No. 1462722; and

WHEREAS, Developer and City wish to amend the Development Agreement as set forth in this First Amendment.

NOW, THEREFORE, City and Developer agree to amend the Development Agreement as follows:

1. Capitalized terms used in this First Amendment that are not defined in this First Amendment have the meanings set forth in the Development Agreement.

2. Paragraph 4.A. of the Development Agreement is amended and replaced in its entirety with the following paragraph 4.A.:

A. *Recording of Agreement. Immediately following recording of the Plat, Developer shall record this Agreement, and any then-existing amendments hereto, against the District Development Property in the Offices of the County Recorder and the Registrar of Titles for St. Louis County, Minnesota and shall deliver recorded copies of this Agreement and*

*all amendments to City's Director of Planning and Economic Development (the "Director").*

3. The following paragraph 22 is added to the Development Agreement:

*22. Dedication of Public Easement for Roadway Purposes. Within 60 days of a written request by City, Developer shall dedicate to City, its successors and assigns, in trust for the benefit of the public, a permanent easement (the "Future Road Easement") for roadway purposes over, under and across that portion of the District Development Property legally described and depicted on the attached Exhibit B (the "Future Road Easement Area"). The Future Road Easement shall be recorded in the St. Louis County real estate records by City, at City's expense. The Future Road Easement shall be granted (i) at no cost to City; and (ii) free and clear of all mortgages, liens and other encumbrances. City and Developer acknowledge and agree that the existing pavement and other improvements within the Future Road Easement Area do not meet the minimum standards for a city street and the existing roadway has not been constructed, maintained or opened as a public street. Notwithstanding the provisions of Paragraph 6 above, Developer and successor owners of the District Development Property shall not be responsible for costs relating to the initial construction or subsequent maintenance, repair, or replacement of a public street and related public improvements on the Future Road Easement Area (collectively, the "Future Road Costs"); EXCEPT AS FOLLOWS: (1) if (a) initial construction of a public street or related public improvements is required solely for the development or use of the District Development Property, or any portion thereof, and (b) a change in use on all or a portion of the District Development Property necessitates public access over a public street in the Future Road Easement Area, then City may require the owner of the portion of the District Development Property on which the change in use will take place to pay the Future Road Costs for*

*the initial construction and/or subsequent maintenance, repair, or replacement of a public street and related public improvements on the Future Road Easement Area, and (2) if (a) initial construction of a public street or related public improvements on the Future Road Easement Area has been completed, and (b) a change in use on all or a portion of the District Development Property necessitates public access over a public street in the Future Road Easement Area, then City may require the owner of the portion of the District Development Property on which the change in use will take place to pay a reasonable share of the Future Road Costs for subsequent maintenance, repair, or replacement of a public street and related public improvements. The obligations and benefits of this Paragraph 22 shall run solely with the District Development Property (and no other land within the Plat) and shall not terminate upon the written certification to be delivered by the Director and the City Engineer pursuant to Paragraph 16 above. Developer's obligation to grant the Future Road Easement shall terminate upon the recording of the Future Road Easement.*

4. Except as specifically amended pursuant to this First Amendment, the Development Agreement remains in full force and effect. In the event of a conflict between the provisions of this First Amendment and the provisions of the Development Agreement, the provisions of this First Amendment shall govern.

5. This First Amendment may be executed, acknowledged and delivered in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

*[Signature pages follow]*





## **EXHIBIT A**

### Legal Description of the Property

Block 1, Lots 1, 2, and 3, and Block 2, Lot 1, Central Overlook, St. Louis County,  
Minnesota

# EXHIBIT B

## LEGAL DESCRIPTION OF ROADWAY EASEMENT

A 66.00 foot wide roadway easement lying over, under and across a part of Lot 1, Block 1, CENTRAL OVERLOOK, according to the recorded plat thereof, St. Louis County, Minnesota, said easement is described as follows:

Commencing at the Southwest corner of said CENTRAL OVERLOOK; thence on an assumed bearing of North 00 degrees 33 minutes 26 seconds East, along the West line of said CENTRAL OVERLOOK for a distance of 195.10 feet; thence South 89 degrees 26 minutes 34 seconds East 33.00 feet to the East line of Blackman Avenue as dedicated on said CENTRAL OVERLOOK, said point being the point of beginning of the easement herein described; thence North 89 degrees 29 minutes 15 seconds East 251.04 feet; thence Northeasterly 182.01 feet, along a tangential curve, concave to the Northwest, having a radius of 233.00 feet and a delta angle of 44 degrees 45 minutes 27 seconds; thence North 44 degrees 43 minutes 48 seconds East 417.64 feet; thence Northeasterly 234.09 feet, along a tangential curve, concave to the Northwest, having a radius of 333.00 feet and a delta angle of 40 degrees 16 minutes 38 seconds; thence Northerly 23.32 feet, along a non-tangential curve, concave to the East, having a radius of 267.00 feet and a delta angle of 05 degrees 00 minutes 15 seconds, the chord of said curve bears North 06 degrees 42 minutes 17 seconds East for a chord distance of 23.31 feet to the Southwesterly line of Portia Johnson Drive, as dedicated on said CENTRAL OVERLOOK; thence North 80 degrees 48 minutes 00 seconds West, along said Southwesterly line 66.00 feet; thence Southerly 27.59 feet, along a non-tangential curve, concave to the East, having a radius of 333.00 feet and a delta angle of 04 degrees 44 minutes 51 seconds, the chord of said curve bears of South 06 degrees 49 minutes 55 seconds West for a chord distance of 27.58 feet; thence Southwesterly 188.89 feet, along a non-tangential curve, concave to the Northwest, having a radius of 267.00 feet and delta angle of 40 degrees 32 minutes 02 seconds, the chord of said curve bears South 24 degrees 27 minutes 46 seconds West for a chord distance of 184.98 feet; thence South 44 degrees 43 minutes 48 seconds West 417.64 feet; thence Southwesterly 130.46 feet, along a tangential curve, concave to the Northwest, having a radius of 167.00 feet and a delta angle of 44 degrees 45 minutes 27 seconds; thence South 89 degrees 29 minutes 15 seconds West 249.81 feet to said East line of Blackman Avenue; thence South 00 degrees 33 minutes 26 seconds West, along said East line 66.00 feet to the point of beginning.

Said Roadway Easement contains 70,042 Sq. Feet or 1.61 Acres.

Approved by the City Engineer of the City of Duluth, MN this 13 day of DEC 20 23

By [Signature]

**SURVEYOR'S NOTES**

1. BEARINGS ARE BASED ON THE ST. LOUIS COUNTY TRANSVERSE MERCATOR COORDINATE SYSTEM OF 1996. (NAD 83 2011)
2. THIS IS NOT A BOUNDARY SURVEY.

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.

David R. Evanson  
David R. Evanson  
 MN License #49505

DATE: 11-04-2022

### ROADWAY EASEMENT EXHIBIT

CLIENT: NCE

REVISIONS:

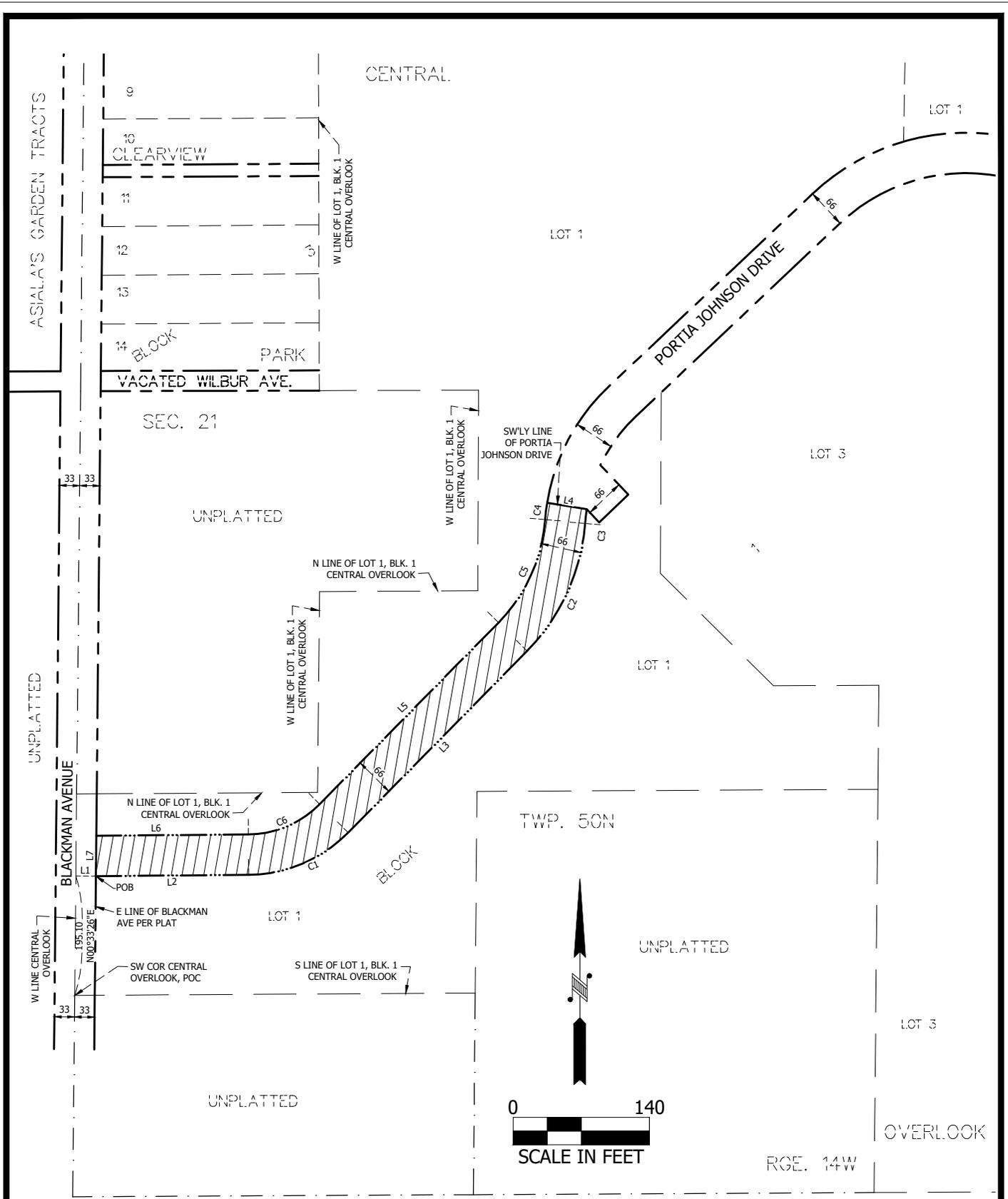
ADDRESS: 802 CENTRAL ENTRANCE  
 DULUTH, MN 55811

DATE: 11-04-2022

JOB NO: 21-105 SHEET 1 OF 2



PHONE: 218-727-5211  
 LICENSED IN MN & WI  
 WWW.ALTLANDSURVEYDULUTH.COM



**LEGEND**

- PROPOSED ROADWAY EASEMENT
- POC-POINT OF COMMENCEMENT
- POB-POINT OF BEGINNING
- SECTION SUBDIVISION LINE
- RIGHT OF WAY LINE
- PROPOSED EASEMENT LINE
- SURVEY LINE
- EXISTING PLAT LINE

LINE	BEARING	DISTANCE
L1	S89°26'34"E	33.00
L2	N89°29'15"E	251.04
L3	N44°43'48"E	417.64
L4	N80°48'00"W	66.00
L5	S44°43'48"W	417.64
L6	S89°29'15"W	249.81
L7	S00°33'26"W	66.00

CURVE	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	182.01	233.00	44°45'27"	N67°06'31"E	177.42
C2	234.09	333.00	40°16'38"	N24°35'29"E	229.30
C3	23.32	267.00	5°00'15"	N06°42'17"E	23.31
C4	27.59	333.00	4°44'51"	S06°49'55"W	27.58
C5	188.89	267.00	40°32'02"	S24°27'46"W	184.98
C6	130.46	167.00	44°45'27"	S67°06'31"W	127.16

**ROADWAY EASEMENT EXHIBIT**

CLIENT:NCE  
 ADDRESS:802 CENTRAL ENTRANCE  
 DULUTH, MN 55811  
 DATE:11-04-2022

REVISIONS:  
 JOB NO:21-105 SHEET 2 OF 2

**ALTA**  
 LAND SURVEY COMPANY  
 PHONE: 218-727-5211  
 LICENSED IN MN & WI  
 WWW. ALTALANDSURVEYDULUTH.COM