

EXHIBIT 1

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (MOU) is entered into by and between, the City of Duluth, a municipal corporation and political subdivision under the laws of the State of Minnesota, hereinafter referred to as "City", and the United States of America, acting by and through the Administrator of General Services hereinafter referred to as "GSA", for the purpose of establishing conditions for and procedures by which the GSA may reimburse City for constructing certain improvements to the Duluth Civic Center Plaza (the "Plaza"), effective on the latest date of execution by either party. A map depicting the Plaza is attached hereto as Exhibit A.

WHEREAS, GSA controls and administers on behalf of the Government of the United States certain property located in the City of Duluth, County of St. Louis, State of Minnesota, on which is situated the Duluth Federal Building, and includes certain adjacent parcels comprising approximately one-third of the area of the Plaza; and

WHEREAS, the United States acquired said property with the understanding expressed at 45 Stat. 600 (Public, No. 420); 45 Stat. 601 (Pub. Res., No. 45); Public Buildings and Grounds: Hearing on H. J. Res, 249 and H. R. 7904 Before the Comm. on Public Buildings and Grounds, 70th Cong. 11-15 (1928); 69 Cong. Rec. 8, 8565-66, 8595, 8714-15, 8775-76, 8783-84, 9064 (1928), attached hereto as Exhibit B, that the adjacent parcels would form, together with parcels owned by the County of St. Louis (County) and City, a unified Civic Center Plaza providing pedestrian and vehicular access to the Duluth Federal Building, the St. Louis County Superior Court, and Duluth City Hall in accordance with the plan created by Daniel Burnham for the City of Duluth; and

WHEREAS, on May 18, 1929, the United States conveyed to City an easement over the adjacent parcels to facilitate the creation of the Plaza, attached hereto as Exhibit C, which easement was vacated and replaced with a new easement in favor of City dated May 17, 2023, granted for the following purpose: "To construct and maintain a public plaza for the benefit of the public and the properties abutting the plaza, providing roadway access, sidewalks, parking, landscaping, and other improvements serving that purpose ", which replacement easement is attached hereto as Exhibit D; and

WHEREAS, the Plaza was listed in the National Register of Historic Places in 1986 as the Duluth Civic Center Historic District, an historic government complex designed by Daniel Burnham in 1909 and recognized for its state-level significance in the themes of architecture and community planning and development; and

WHEREAS, the Plaza provides vehicular access to the Civic Center buildings by a circular driveway situated thereon, designated as Priley Circle, which driveway is not a public road but a component of the Plaza's improvements for providing access to the buildings; and

WHEREAS, City has initiated a project to construct on the Plaza improvements to the Plaza's pedestrian walkways and landscaping, including Priley Circle's streetscape, and other improvements to the Plaza (the Project) as further described in the attached hereto as Exhibit E (the "Scope of Work"); and

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter contained, the parties hereto agree as follows:

1. Improvements.

GSA agrees that the easement conveyed on May 17, 2023 confers upon City the right to access the easement property to construct the improvements described in the Scope of Work, and further that the nature of said improvements are such that GSA is authorized, under 40 U.S.C. §589 to reimburse City for its costs of design and construction amounts commensurate with the benefit received by the United States.

GSA agrees that the benefit received by the United States from the design and construction of the project is equal to one-third of the cost of their design and construction.

GSA shall, with collaboration and documentation support provided by City and their qualified Architect/Engineer of Record, lead the Section 106 consultation process with the Minnesota State Historic Preservation Officer (SHPO) with the goal of seeking SHPO's concurrence with GSA's Determination of Effect for the Project in accordance with 36 CFR Part 800.5 "Assessment of adverse effects." A strategic goal for City's design team will be to design the Project, in adherence with the *Secretary of the Interior's Standards for Rehabilitation* and that in so doing, it will result in a "No Adverse Effect on Historic Properties Determination" by GSA's Historic Preservation Officer and subsequently a concurrence with that determination from SHPO. If City is unable to obtain any required governmental approvals for the Project, City will not be obligated to continue with the Project.

City agrees that work on the Project shall be performed by competent contractors in the best workmanlike manner, using high-quality materials.

The Project shall be performed in stages, starting with the design phase, and followed by construction. City shall use reasonable efforts to enter into an agreement with St. Louis County in which St. Louis County agrees to reimburse City for one-third of the cost for the design and construction of the Project. If City is unable to do so, City will not continue work on the design

or construction of the Project. City will only proceed with the construction phase of the Project after receipt of written, irrevocable consent from GSA and St. Louis County. If either GSA or St. Louis County fails to provide City with written, irrevocable consent to move forward with the construction phase of the Project, City will not move forward with construction of the Project. In the event design and/or construction of the Project commences, but is not completed for any reason other than City's abandonment of the Project, GSA shall reimburse City for one-third of the costs incurred by City.

City shall have the flexibility to alter the construction schedule for the Project to accommodate an upcoming utility infrastructure project that could impact the Plaza. GSA shall be excluded from any cost sharing or work elements stemming from the utility infrastructure project.

2. Access.

City agrees that it shall require its contractors and subcontractors to perform their work on the Project in such a way as to not unnecessarily impede the access of GSA's tenants and members of the general public to the Duluth Federal Building. Construction is anticipated to be completed by September 30, 2027.

3. Reimbursement to City.

GSA shall reimburse City for the costs reasonably incurred by City in designing and constructing the Project, subject to the provisions of the Federal Anti-Deficiency Act. Said costs are hereby stipulated to be one third of the cost to City of designing and constructing all of the improvements constructed at the Plaza, but in no event shall GSA's reimbursement to City exceed the sum of \$1,000,000. City shall submit invoices to GSA for review and approval, showing all costs incurred to date and requesting payment of one third of that amount, and shall further furnish such additional documentation of its costs as GSA shall reasonably request. Thereafter, GSA shall promptly reimburse City for all such properly invoiced amounts. Payments shall only be for work performed. GSA cannot offer advanced or lump sum payment prior to work commencing. In the event design and/or construction of the Project commences, but the Project is not completed for any reason other than City's unreasonable abandonment of the Project, GSA shall reimburse City for one-third of the properly invoiced costs incurred by City thus far.

None of the above creates a contractual privity between GSA and City's agents, contractors and subcontractors.

IN WITNESS WHEREOF, the parties have caused this Memorandum of Understanding to be executed as of the date first written above.

GENERAL SERVICES ADMINISTRATION

Signature

Name

Title

CITY OF DULUTH

By: _____

Mayor

ATTEST:

City Clerk

Dated: _____

COUNTERSIGNED:

City Auditor

APPROVED AS TO FORM:

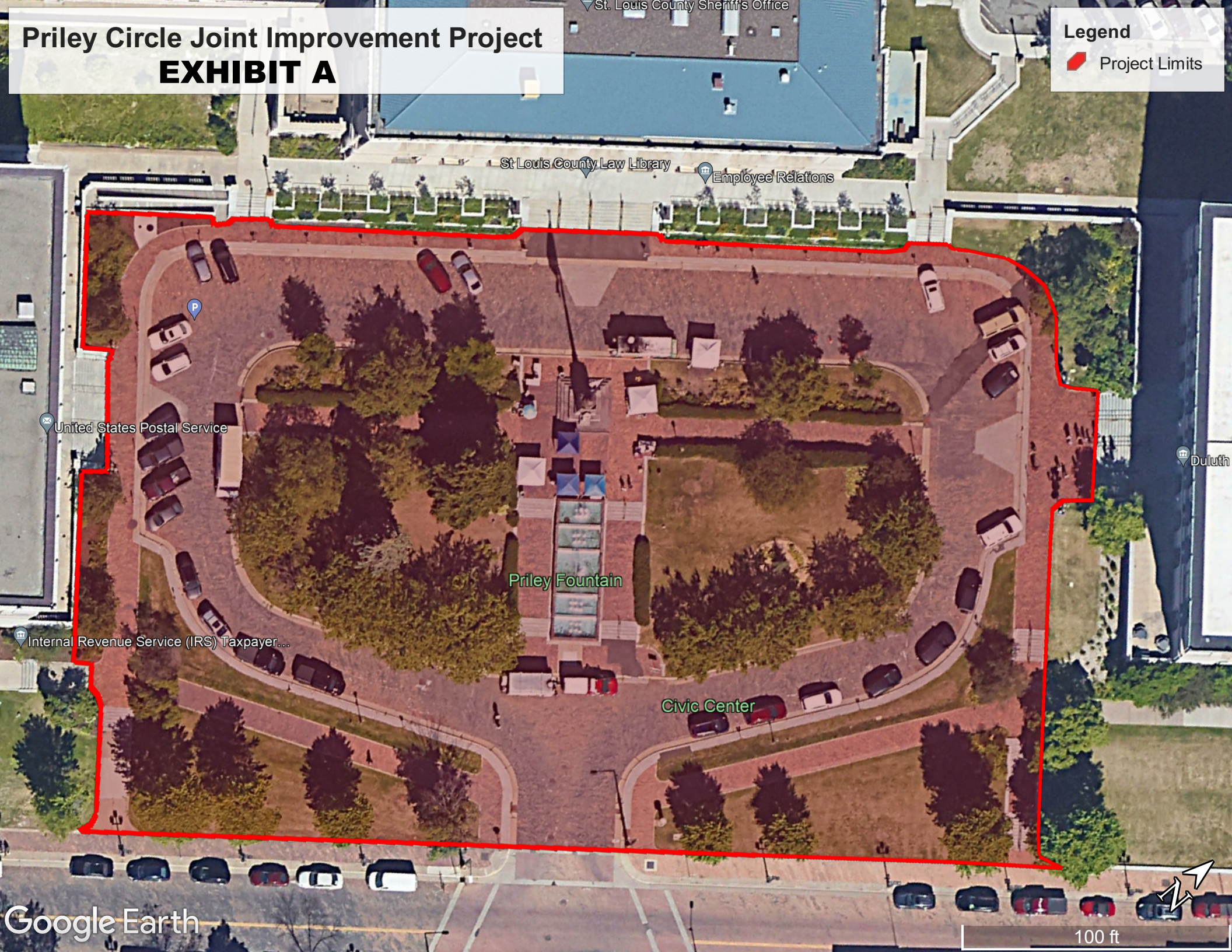
City Attorney

Priley Circle Joint Improvement Project

EXHIBIT A

Legend

-  Project Limits



St. Louis County Law Library

Employee Relations

United States Postal Service

Internal Revenue Service (IRS) Taxpayer...

Priley Fountain

Civic Center

Duluth

said Federal strip, and the construction of retaining walls and storm sewers and the installation of an ornamental lighting system thereon, and other necessary items connected therewith, all as shown on the plans and specifications prepared therefor; be it further

Resolved, That certified copies of this resolution be sent to Senators Henry F. Ashurst and Carl Hayden and to the Hon. Lewis Douglas.

Passed and adopted this 5th day of December, 1927.

Approved this 5th day of December, 1927.

H. J. KARNS, *Mayor*.

Attest: PHIL HEROLD, *City Clerk*.

I hereby certify that the above and foregoing is a true, accurate, correct, and complete copy of resolution No. 105, passed and adopted by the board of aldermen and approved by the mayor of the city of Nogales on December 5, 1927.

In witness whereof I have hereunto set my hand and affixed the seal of said city of Nogales, this 6th day of December, A. D. 1927.

[SEAL.]

P. HEROLD, *City Clerk*.

NOGALES, ARIZ., *March 21, 1928.*

Hon. LEWIS W. DOUGLAS,

House of Representatives, Washington, D. C.:

The board of aldermen and myself sincerely trust that you will be successful in securing the passage of a bill appropriating a sufficient amount for the paving of the Federal strip here. For your information the city bonds have been sold and our funds are available. The railroad company has appropriated for their share of the paving, totaling \$56,000. The county of Santa Cruz and school district have made their appropriations likewise. The city has included in their appropriation the full amount necessary to pave both sides of the Federal building. A number of our preliminary contracts have been let and we will start actual paving within 90 days. The large storm sewer is in course of construction, this sewer taking care of the drainage of the Federal strip.

You can readily see the importance of Federal cooperation in this improvement and same should be simultaneous with the city. Our total civic improvement program for ensuing year aggregates close to eight hundred thousand.

H. J. KARNS, *Mayor*.

(The hearing was thereupon closed and the committee went into executive session.)

HOUSE OF REPRESENTATIVES,
COMMITTEE ON PUBLIC BUILDINGS AND GROUNDS,
Wednesday, April 18, 1928.

The committee met at 10.30 o'clock a. m., Hon. Richard N. Elliott (chairman) presiding.

The CHAIRMAN. The committee will be in order. We will first take up House Joint Resolution 249, introduced by Mr. Carss, granting an easement to the city of Duluth, Minn., and H. R. 7904, also introduced by Mr. Carss, to transfer to the city of Duluth, Minn., the old Federal building, together with the site thereof.

We will first consider House Joint Resolution 249, which reads as follows:

[H. J. Res. 249, Seventieth Congress, first session]

JOINT RESOLUTION Granting an easement to the city of Duluth, Minnesota

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in carrying into effect existing legislation providing for the granting of an easement to the city of Duluth, Minnesota, for the use of lots 81 and 83, in block 20, in exchange for the conveyance to the United States in fee simple of lots 86 and 88 in such block 20, as an addition to the new Federal building site in said city, the Secretary of the Treasury is hereby authorized, in his discretion, to accept a title to said lots 86 and 88, in block 20, subject to the reservation of all iron ore and other valuable minerals in and upon said land with the right to explore for, mine, and remove the same, required by section 638 of the General Statutes of Minnesota of 1923.

The CHAIRMAN. I will put in the record at this point a letter from the Acting Secretary of the Treasury, Mr. Carl T. Schuneman, in which he says:

TREASURY DEPARTMENT,
Washington, April 5, 1928.

MY DEAR CHAIRMAN: Reference is made to the request contained in your letter of April 2, 1928, for a report on joint resolution (H. J. Res. 249, 70th Cong.) which provides that in carrying into effect existing legislation providing for the granting of an easement to the city of Duluth, Minn., for the use of lots 81 and 83, in block 20, in exchange for the conveyance to the United States in fee simple of lots 86 and 88 in said block 20, the Secretary of the Treasury be authorized, in his discretion, to accept a title to said lots 86 and 88 subject to the reservation of all iron ore and other valuable minerals in and upon said land with the right to explore for, mine, and remove the same, required by section 683 of the General Statutes of Minnesota of 1923.

The department has no objection to offer to the passage of the proposed legislation.

Very truly yours,

CARL T. SCHUNEMAN,
Acting Secretary of the Treasury.

Hon. RICHARD N. ELLIOTT,
*Chairman Committee on Public Buildings and Grounds,
House of Representatives.*

Mr. Carss, we will be very glad to hear you now in reference to this joint resolution.

**STATEMENT OF HON. WILLIAM L. CARSS, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF MINNESOTA**

Mr. CARSS. Mr. Chairman and gentlemen of the committee, it is not necessary to say that I appreciate the opportunity of being heard before your honorable body this morning.

I want to give you a brief résumé of the history of this mineral reservation. Way back in the early days, when the State acquired a lot of land, a part of the organic law reserved to the State certain sections of land which, in our State, were section 16 and section 32, called school lands. These lands were located at different places, and the law required the State to reserve all minerals that might be found on such lands. Some of these particular lands are now embraced in the great Mesaba ore range, where the greatest deposit of iron ore known in the world is located.

We have reserved those lands, and we lease them to the various mining companies under a system whereby we receive 35 + cents a ton royalty on all that ore, and that money goes into what is called the sacred school fund. That amounts to about \$90,000,000 at the present time, and it is that fund which enables us to have the wonderful school system we have in the State of Minnesota.

It seems that the county commissioners of Aitkin County attempted to sell some land on the reservation, and it was understood that this land did contain mineral ore.

Under the statutes of Minnesota each county is entitled to do certain things, such, for instance, as to receive and sell land. They had sold this land to a mining company, so the legislature, in order to remedy that situation, enacted legislation in 1923, and I will read you an extract from the law passed at that time. It says:

Powers: Each organized county is a body politic and corporate, and as such empowered to act for the following purposes:

1. To sue and be sued.

2. To acquire and hold real and personal property for the use of the county, and lands sold for taxes as provided by law; and to purchase and hold for the benefit of the county real estate sold by virtue of judicial proceedings, to which the county is a party.

3. To sell, lease, and convey any real or personal estate owned by the county, and to give contracts or options to sell, lease, or convey any such real or personal estate, and make such order respecting the same as may be deemed conducive to the interests of its inhabitants: *Provided*, No sale, lease, or conveyance of any such real estate nor any contract or option therefor shall be valid unless a resolution fixing a time for considering same and setting out the terms and conditions thereof shall be published in the official proceedings of the county commissioners at least thirty days and not more than sixty days prior to the time it shall have been voted upon: *Provided further*, Before causing the publication of any such resolution the commissioners may require a satisfactory bond to be furnished by the person or persons desiring such sale, a lease, conveyance, contract, or option, conditioned to abide by the terms thereof, if granted to him or them: *Provided further*, If at the time so fixed any more favorable proposition or propositions shall have been filed with the auditor affecting the same property and accompanied with like satisfactory bond, all propositions may be at that time considered, and the one most favorable to the county accepted: *Provided further*, That in no case shall any such lands be disposed of, without there being reserved to the county any and all iron ore and other valuable minerals in and upon the same, with right to explore for, mine, and remove same, nor shall such minerals and mineral rights be disposed of, either before or after disposition of the surface rights, otherwise than by mining lease, in similar general form to that provided by section 2491 of the Revised Laws of Minnesota for 1905 for mining leases affecting State lands, such lease to be for a term not exceeding 50 years, and to be issued on a royalty basis, royalty to be not less than 25 cents per ton of 2,240 pounds, and to fix a minimum amount of royalty payable during each year, whether mineral is removed or not: *Provided further*, Prospecting options for such mining leases may be granted for periods not exceeding one year, such options to require, among other things, periodical showings to the county board of the results of exploration done.

Mr. EDWARDS. What is that?

Mr. CARSS. That is section 638 of the General Statutes of Minnesota for 1923.

The CHAIRMAN. The title to these minerals you speak of is in the county in which the city of Duluth is located?

Mr. CARSS. Yes.

Mr. LANHAM. They can not make this conveyance under the law without that reservation, although as a matter of practical application there would be no mining?

Mr. CARSS. No.

Mr. EDWARDS. How long has the Government owned lots 81 and 83 in block 20?

Mr. CARSS. They have been owned by the Government for the last 20 years.

Mr. EDWARDS. The State and county have no reservation as to the minerals on those lots?

Mr. CARSS. No; because they were acquired before the legislation was passed.

Mr. EDWARDS. Does there happen to be any mineral ore under those lots?

Mr. CARSS. No; the mineral closest to the site is about 65 miles away.

Mr. EDWARDS. There is no mineral under these lots that the Government is trading for?

Mr. CARSS. No.

Mr. EDWARDS. This is simply a formality?

Mr. CARSS. Yes.

Mr. LANHAM. To make effective the legislation which has been passed?

Mr. CARSS. Yes; they write me they would like to secure the necessary legislation.

Mr. EDWARDS. You are thoroughly conversant with the lots?

Mr. CARSS. Yes.

Mr. EDWARDS. One of the lots is worth about as much as the others?

Mr. CARSS. Yes. We require the two lots to carry out the Burnham groupning plan, and in return we propose to give an easement to the city for park purposes, for these two lots.

Mr. REED. You have a city plan, and you are working to perfect that plan?

Mr. CARSS. Yes; we have the Burnham grouping plan and in order to carry out that plan we need these lots. This map will show what that is. For instance, here is the courthouse [indicating on map], and here is the new city hall [indicating on map]. We propose to put the new Federal building here [indicating on map], and to do that we had to get a little more land because the Government requires a margin of 40 feet in all cases. Those lots were estimated to be worth \$40,000, and the county condemned them and they have transferred them to the city of Duluth, with the understanding that they were to be sold to the Federal Government to carry out the group plan.

(On motion of Mr. Lanham, the resolution was ordered favorably reported.)

The CHAIRMAN. We will hear you now, Mr. Carss, on your bill (H. R. 7904) to transfer to the city of Duluth, Minn., the old Federal building, together with the site thereof. The bill will be made a part of the record.

(The bill referred to is as follows:)

[H. R. 7904, Seventieth Congress, first session]

A BILL To transfer to the city of Duluth, Minnesota, the old Federal building, together with the site thereof

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That upon completion of the new Federal building, authorized to be erected under the provisions of the act of March 2, 1907, in the city of Duluth, Minnesota, the Secretary of the Treasury is hereby authorized to transfer to the city of Duluth, Minnesota, the old Federal building, together with the site thereof, at such price and on such terms as he deems to be reasonable, and to convey such property to the city of Duluth by the usual quit-claim deed, and deposit the proceeds of such sale in the Treasury of the United States as a miscellaneous receipt.

The CHAIRMAN. There is a letter here from the Secretary of the Treasury in reference to this bill, which says:

TREASURY DEPARTMENT,
Washington, February 8, 1928.

DEAR MR. CHAIRMAN: Reference is made to your letter of December 23, requesting the views of this department on bill (H. R. 7904) authorizing the Secretary of the Treasury, upon the completion of the new Federal building at Duluth, Minn., to transfer to the city the old Federal building, together with the site thereof, at such price and on such terms as he deems to be reasonable.

The department has no objection to offer to the proposed legislation.

It may be added that the Director of the Bureau of the Budget advises that the above statement by this department is not in conflict with the financial program of the President.

EXHIBIT B

PUBLIC BUILDINGS AND GROUNDS

15

An extra copy of this communication is inclosed for the use of your committee.
Very truly yours,

A. W. MELLON,
Secretary of the Treasury.

Hon. RICHARD N. ELLIOTT,
*Chairman Committee on Public Buildings and Grounds,
House of Representatives.*

Mr. EDWARDS. Would that be under the jurisdiction of the Secretary of the Treasury or under the building commission?

The CHAIRMAN. We always give the Secretary of the Treasury the right to convey, and that is what this bill does. That is property that comes under the control of the Treasury Department.

Mr. IRWIN. This is the old Federal building at the present time?

Mr. CARSS. Yes; and we expect to demolish it.

Mr. IRWIN. Then it is not worth very much; you would not use the building?

Mr. CARSS. No.

Mr. IRWIN. It would be a matter of the Secretary of the Treasury and the city of Duluth getting together on the price?

Mr. CARSS. That is all. My idea in introducing this bill was to prevent any speculators from acquiring the building and holding the site for a high price because we propose to take these two lots and make a parkway there, so that we will have a beautiful park in the center of that group of buildings.

Mr. LANHAM. I understand this is a plan in contemplation both of the city and the Government, in reference to your general scheme there, and both the Federal Government and the city of Duluth are agreeable to this plan?

Mr. CARSS. Yes. Of course, the details of the transfer will have to be arranged later on. The city of Duluth desires to secure authorization for a transfer of the old site as well as for the two lots for which provision is made in the Treasury and Post Office appropriation bill.

(On motion of Mr. Lanham, the bill was ordered favorably reported.)

(Thereupon, the committee proceeded to the consideration of other business.)

HOUSE OF REPRESENTATIVES,
COMMITTEE ON PUBLIC BUILDINGS AND GROUNDS,
Wednesday, April 18, 1928.

The committee this day met, Hon. Richard N. Elliott (chairman) presiding.

The CHAIRMAN. We will take up for consideration H. R. 12409, introduced by Mr. Hogg, to grant to the city of Fort Wayne, Ind., an easement over certain Government property. The bill will be made a part of the record.

(The bill referred to is as follows:)

[H. R. 12409, Seventieth Congress, first session]

A BILL To grant to the city of Fort Wayne, Indiana, an easement over certain Government property

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is hereby authorized and directed to grant to the city of Fort Wayne, Indiana, an easement

Prior stock-raising homestead entries in, allowed.

Vol. 39, p. 862.

SEC. 2. The Secretary of the Interior is hereby authorized to consider and allow applications affecting any lands described in this Act which were filed prior to April 1, 1926, under the Stock-raising Homestead Act of December 29, 1916 (Thirty-ninth Statutes, page 862).

Approved, May 17, 1928.

May 17, 1928.
[S. 3565.]
[Public, No. 419.]

CHAP. 612.—An Act To provide compensation for disability or death resulting from injury to employees in certain employments in the District of Columbia, and for other purposes.

District of Columbia. Compensation for injuries to employees in any employment.
Vol. 44, p. 1424.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of the Act entitled "Longshoremen's and Harbor Workers' Compensation Act," approved March 4, 1927, including all amendments that may hereafter be made thereto, shall apply in respect to the injury or death of an employee of an employer carrying on any employment in the District of Columbia, irrespective of the place where the injury or death occurs; except that in applying such provisions the term "employer" shall be held to mean every person carrying on any employment in the District of Columbia, and the term "employee" shall be held to mean every employee of any such person.

Meaning of "employer" and "employee."

Employments excepted.
Vessel crews.
Railroad employees.

SEC. 2. This Act shall not apply in respect to the injury or death of (1) a master or member of a crew of any vessel; (2) an employee of a common carrier by railroad when engaged in interstate or foreign commerce or commerce solely within the District of Columbia; (3) an employee subject to the provisions of the Act entitled "An Act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes," approved September 7, 1916, as amended; and (4) an employee engaged in agriculture, domestic service, or any employment that is casual and not in the usual course of the trade, business, occupation, or profession of the employer.

Government employees.
Vol. 39, p. 742.
U. S. Code, p. 77.

Agricultural, domestic, etc., service.

Effective July 1, 1928.

SEC. 3. This Act shall take effect July 1, 1928.

Approved, May 17, 1928.

May 17, 1928.
[S. 2410.]
[Public, No. 420.]

CHAP. 613.—An Act To transfer to the city of Duluth, Minnesota, the old Federal Building, together with the site thereof.

Duluth, Minn. Transfer of old public building at, on completion of new.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That upon completion of the new Federal building authorized to be erected under the provisions of the Act of March 2, 1907, in the city of Duluth, Minnesota, the Secretary of the Treasury is hereby authorized to transfer to the city of Duluth, Minnesota, the old Federal building, together with the site thereof, at such price and on such terms as he deems to be reasonable, and to convey such property to the city of Duluth by the usual quitclaim deed and deposit the proceeds of such sale in the Treasury of the United States as a miscellaneous receipt.

Approved, May 17, 1928.

May 17, 1928.
[S. 1662.]
[Public, No. 421.]

CHAP. 614.—An Act To change the boundaries of the Tule River Indian Reservation, California.

Tule River Indian Reservation, Calif. Boundaries changed.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the boundaries of the Tule River Indian Reservation, California, created by Executive order dated January 9, 1873, are hereby changed so as

EXHIBIT B

SEVENTIETH CONGRESS. SESS. I. CHS. 614, 615, 623. 1928.

601

to exclude from said reservation the following tracts of land, which were shown by the plat of survey approved on the 2d day of February, 1884, to be a part of the public domain, and were duly patented or granted by the United States as such, but were shown by the plat of resurvey approved on the 12th day of March, 1927, to be within the outer boundaries of the said Indian reservation, to wit: Southwest quarter southwest quarter section 7; all sections 16 and 17; east half northeast quarter, southwest quarter northeast quarter, southeast quarter northwest quarter, east half southeast quarter section 18; east half northwest quarter, northwest quarter northwest quarter, northeast quarter section 20; northwest quarter northwest quarter section 21; and tract numbered 48 in the southeast quarter section 28, all in township 21 south, range 31 east, of the Mount Diablo meridian in California.

Approved, May 17, 1928.

Description.

CHAP. 615.—Joint Resolution Granting an easement to the city of Duluth, Minnesota.

May 17, 1928.
[S. J. Res. 119.]
[Pub. Res., No. 45.]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in carrying into effect existing legislation providing for the granting of an easement to the city of Duluth, Minnesota, for the use of lots 81 and 83, in block 20, in exchange for the conveyance to the United States in fee simple of lots 86 and 88 in such block 20, as an addition to the new Federal building site in said city, the Secretary of the Treasury is hereby authorized, in his discretion, to accept a title to said lots 86 and 88, in block 20, subject to the reservation of all iron ore and other valuable minerals in and upon said land, with the right to explore for, mine and remove the same, required by section 638 of the General Statutes of Minnesota of 1923.

Duluth, Minn.
Granted easement on site for new public building.
Ante, p. 600.

Approved, May 17, 1928.

CHAP. 623.—An Act To confer additional jurisdiction upon the Court of Claims under an Act entitled "An Act authorizing the Chippewa Indians of Minnesota to submit claims to the Court of Claims," approved May 14, 1926.

May 18, 1928.
[H. R. 10360.]
[Public, No. 422.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in case numbered H-76 heretofore filed in the Court of Claims under and in pursuance of an Act of Congress entitled "An Act authorizing the Chippewa Indians of Minnesota to submit claims to the Court of Claims," approved May 14, 1926 (Forty-fourth Statutes at Large, page 555), wherein the Chippewa Indians of Minnesota are parties plaintiff and the United States is party defendant, if the Court of Claims shall determine that the said Chippewa Indians are entitled to recover a judgment against the United States upon the cause of action therein set forth, the said court shall further determine whether such judgment, or any part thereof, shall be paid by the United States out of funds held by the United States in trust for the Red Lake Band of Chippewa Indians of Minnesota, and if the court shall so determine and said funds are found inadequate, then the unsatisfied portion of said judgment shall be paid by the United States, but in no event shall any part of the land of the Red Lake Reservation be used in any way in payment thereof; and the said Red Lake Band of Chippewa Indians is hereby authorized, on the approval of this Act, to appear in said suit by their attorneys employed in accordance with the provisions of existing law, and defend their rights in the matter.

Chippewa Indians of Minnesota.
Court of Claims, if judgment in favor of claim of, to determine whether payment be made from trust funds of Red Lake Band.
Vol. 44, p. 555.

Use of Red Lake Reservation land forbidden.
Attorneys authorized.

Approved, May 18, 1928.

The SPEAKER pro tempore. Is there objection?
There was no objection.

The Clerk read as follows:

Be it enacted, etc., That from and after the beginning of the next fiscal year the compensation of registers of local land offices shall be a salary of \$1,000 per annum each and all fees and commissions now allowed by law to such registers, but the salary, fees, and commissions of such registers shall not exceed \$3,600 each per annum: *Provided,* That the salary of the register of the Juneau land district, Alaska, shall be \$3,600 per annum.

The bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

RELIEF OF CERTAIN MEMBERS OF THE NAVY AND MARINE CORPS

The next business on the Consent Calendar was the bill (H. R. 8327) for the relief of certain members of the Navy and Marine Corps, who were discharged because of misrepresentation of age.

The Clerk read the title to the bill.

The SPEAKER pro tempore. Is there objection?

Mr. LAGUARDIA. Who has charge of this bill?

Mr. REECE. I am not responsible for the bill, but I did sponsor a similar bill for the Army, which has passed the House.

Mr. LAGUARDIA. Is this regardless of the length of service the young man may have in the Army or the Navy? Suppose a young man enters the Navy and gives his age wrongfully. Then immediately thereafter without rendering any actual service he is discharged. Would the gentleman place that boy in the category here provided?

Mr. REECE. The bill which related to the Army applied during the World War and the Spanish War, and it applied without reference to the period of the service.

Mr. LAGUARDIA. Would the gentleman give the boy who served only one day the privileges of the bonus, pension, and so forth? If a boy came into the service and rendered service and on application of the parents without any fault of his own was discharged, I would give that boy an honorable discharge, but where a boy enlists one day and leaves the service in a week I do not believe that he should receive it.

Mr. SCHAFER. What about boys 16 or 17 years old that the recruiting officers take into the service day after day, day in and day out?

Mr. LAGUARDIA. That has nothing to do with it.

Mr. SCHAFER. You do not give them an honorable discharge?

Mr. REECE. Under the compensation law in order to receive a pension for disability the disability must be connected with the service. In the future if we pass a general pension bill they will follow that precedent.

Mr. LAGUARDIA. Mr. Speaker, I will ask to have the bill passed over without prejudice.

The SPEAKER pro tempore. Without objection, it will be so ordered.

There was no objection.

PAN AMERICAN POSTAL UNION RECIPROCAL FREE POSTAGE

The next business on the Consent Calendar was the bill (H. R. 12415), to grant freedom of postage in the United States domestic service to the correspondence of the members of the diplomatic corps and consuls of the countries of the Pan American Postal Union stationed in the United States.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. COLLINS. Mr. Speaker, I object.

POISONS IN THE MAILS

The next business on the Consent Calendar was the bill (H. R. 10441) to amend section 217, as amended, of the act entitled "An act to codify, revise, and amend the penal laws of the United States," approved March 4, 1909.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. LAGUARDIA. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection?

There was no objection.

TRANSFERRING CERTAIN GOVERNMENT PROPERTY TO CITY OF DULUTH

The next business on the Consent Calendar was the bill (S. 2340) to transfer to the city of Duluth, Minn., the old Federal building, together with the site thereof.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. LAGUARDIA. Who introduced this bill?

Mr. SCHAFER. Mr. Speaker, reserving the right to object—
Mr. CARSS. Mr. Speaker, I am ready to answer any questions that the gentlemen may propound, if I am capable of doing it.

Mr. ABERNETHY. I hope the gentleman from Wisconsin will not object.

Mr. SCHAFER. What is the necessity for transferring this land to the city of Duluth?

Mr. CARSS. The city desires this land for park purposes in order to carry out what is known as the Burnham grouping plan. The city will pay the Government for it.

Mr. SCHAFER. How much is the land worth?

Mr. CARSS. I do not know.

Mr. SCHAFER. Is there a saving clause in the bill which will prevent the city of Duluth from reselling the land to a private landowner?

Mr. CARSS. If the gentleman will read the bill I think he will find that that has been taken care of and that the interests of the Government are fully protected.

The SPEAKER pro tempore. Is there objection?

There was no objection.

Mr. CARSS. Mr. Speaker, I ask unanimous consent to substitute S. 2340, an identical bill, for the House bill.

The SPEAKER pro tempore. Is there objection?

There was no objection.

The Clerk read the Senate bill, as follows:

Be it enacted, etc., That upon completion of the new Federal building authorized to be erected under the provisions of the act of March 2, 1907, in the city of Duluth, Minn., the Secretary of the Treasury is hereby authorized to transfer to the city of Duluth, Minn., the old Federal building, together with the site thereof, at such price and on such terms as he deems to be reasonable, and to convey such property to the city of Duluth by the usual quitclaim deed and deposit the proceeds of such sale in the Treasury of the United States as a miscellaneous receipt.

The bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider the vote by which the bill was passed was laid on the table.

A similar House bill was laid on the table.

GRANTING TO FORT WAYNE, IND., AN EASEMENT OVER GOVERNMENT PROPERTY

The next business on the Consent Calendar was the bill (H. R. 12409) to grant to the city of Fort Wayne, Ind., an easement over certain Government property.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury is hereby authorized and directed to grant to the city of Fort Wayne, Ind., an easement over the western portion of lot 113, original plat of such city, being a strip of land 10 feet wide and 150 feet long, extending along the east side of Clinton Street south from the corner of Berry Street, such 10-foot strip being a portion of the present post-office site; such easement to continue so long as the land shall be used exclusively for street purposes: *Provided, however,* That the United States shall retain the right to have that portion of the base of the present tower which encroaches approximately 1 foot and 3 inches on the aforesaid 10-foot strip, remain in place, undisturbed, as though such grant had never been made: *And provided further,* That the city of Fort Wayne, as a consideration for such grant, shall perform all necessary work incident to the relocation of the steps, changes in entrance, approaches, and the grounds of the said post-office site; such work shall be performed under the direction and to the satisfaction of the Treasury Department, all without expense to the United States.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

A motion to reconsider the vote by which the bill was passed was laid on the table.

GRANTING EASEMENT TO CITY OF DULUTH, MINN.

The next business on the Consent Calendar was House joint resolution (H. J. Res. 249), granting an easement to the city of Duluth, Minn.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the present consideration of the joint resolution?

Mr. LAGUARDIA. Mr. Speaker, reserving the right to object, what relation to this resolution has the bill that we just passed a moment ago?

Mr. CARSS. This also refers to the site and permits the Secretary of the Treasury to accept title to some land which

the Government is acquiring from the city, with the mineral reservation included.

The SPEAKER pro tempore. Is there objection to the present consideration of the joint resolution?

There was no objection.

Mr. CARSS. Mr. Speaker, I ask unanimous consent to substitute Senate Joint Resolution 119, an identical joint resolution.

The SPEAKER pro tempore. Is there objection?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

Resolved, etc., That in carrying into effect existing legislation providing for the granting of an easement to the city of Duluth, Minn., for the use of lots 81 and 83, in block 20, in exchange for the conveyance to the United States in fee simple of lots 86 and 88 in such block 20, as an addition to the new Federal building site in said city, the Secretary of the Treasury is hereby authorized, in his discretion, to accept a title to said lots 86 and 88, in block 20, subject to the reservation of all iron ore and other valuable minerals in and upon said land, with the right to explore for, mine and remove the same, required by section 638 of the General Statutes of Minnesota of 1923.

The joint resolution was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider the vote by which the joint resolution was passed was laid on the table.

A similar House joint resolution was laid on the table.

IRRIGATION DAM ON THE GREYBULL RIVER, WYO.

The next business on the Consent Calendar was the bill (H. R. 10308) to investigate and determine the feasibility of the construction of an irrigation dam on the Greybull River, Wyo.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. HOOPER. Mr. Speaker, reserving the right to object, on behalf of the gentleman from Michigan [Mr. CRAMTON] I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection?

There was no objection.

IRRIGATION DAM ON BEAR RIVER, WYO.

The next business on the Consent Calendar was the bill (H. R. 10309) to investigate and determine the feasibility of the construction of an irrigation dam on the Bear River, Wyo.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. HOOPER. Mr. Speaker, reserving the right to object, on behalf of the gentleman from Michigan [Mr. CRAMTON] I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection?

There was no objection.

EXTENDING TIME LIMITATION IN RESPECT TO CERTAIN PATENTS

The next business on the Consent Calendar was the bill (H. R. 10435) providing for the extension of the time limitations under which patents were issued in the case of persons who served in the military or naval forces of the United States during the World War.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. LAGUARDIA. Mr. Speaker, pending the return of the gentleman from Indiana, I ask unanimous consent that this bill be passed over without prejudice.

Mr. LANHAM. Mr. Speaker, will the gentleman yield?

Mr. LAGUARDIA. Yes.

Mr. LANHAM. It is true that this bill was up once before in the last Congress and without adequate hearings with reference to it. At that time the bill passed the House and also passed the Senate, but without proper safeguards. The bill was not signed by the Speaker and did not go to the President. At that time the Commissioner of Patents and various organizations of patent attorneys and manufacturers objected to its provisions.

I will state to the gentleman from New York that at this session of Congress we have had very full hearings with reference to this matter, hearings at which the Commissioner of Patents was present, and the representatives and agents of manufacturers were present, and at which representatives of the organizations of soldiers affected were present. The bill has been amended so that it is entirely satisfactory to all these people, and there is no objection to it.

Mr. LAGUARDIA. How many veterans are really vitally concerned in this matter?

Mr. LANHAM. According to the statistics which the American Legion was able to get, they knew of only seven cases. The number, however, is necessarily somewhat conjectural.

Mr. LAGUARDIA. Do those representing those seven cases still own the patent rights?

Mr. LANHAM. I do not know that of my own information, but I think they do. I will say to the gentleman, however, that one of these men who will be affected by this legislation lives in Kansas City, and he appeared before the committee. He is still the owner of his patent rights, and was deprived of the opportunity of pressing them by reason of his service in the war.

The former objections on the part of the Commissioner of Patents have been met. He has given his approval of this bill in this modified form. It provides ample safeguards in the way of proper notice and opportunity for protest. It provides for notice to be given to everyone affected, hearings on any opposition, and the right of appeal in the case of an adverse decision. We have thrown about it all possible safeguards.

Mr. LAGUARDIA. Are all these men the original inventors of the patents they claim?

Mr. LANHAM. I am not familiar with more than the seven cases. Probably there are more than seven who will be affected.

Mr. LAGUARDIA. Well, say there are 70.

Mr. LANHAM. Perhaps there may be 100. But so far as the officers of the American Legion are concerned, they know of only seven.

The Patent Commissioner offered amendments and they were adopted. The people representing the manufacturers and the patents organizations all agreed to the passage of the bill in this form. We are now drawing so near the end of the session that I fear unless we get some action upon it now it will be deferred indefinitely. Let me call the gentleman's attention to this fact: That patents expire in 17 years from the date of issue, as he knows, and without the privilege of renewal, and unless action is taken relatively soon some of these men will lose their rights through no fault of their own.

Mr. LAGUARDIA. Is it not likely that we shall have another day for the consideration of the Consent Calendar, when this can be taken up?

Mr. LANHAM. That we will have another Consent Calendar day and reach this bill is entirely problematical. The rights of these men will be interfered with if we do not get this bill through. It has been so drawn and so modified that there is no objection to its passage now from anybody. The bill was reported by the committee after full hearings.

Mr. LAGUARDIA. The gentleman will admit that we did make a mistake in hastily passing the bill once before. That is the trouble. The veterans are overplayed. They come in here and say, "This is for the veterans," and we close our eyes and vote for it. The other bill was defectively drawn.

Mr. LANHAM. That happened at the end of a session, without due consideration being given to the measure, and its withdrawal was at the request of the very Patents Committee which has reported this bill—

Mr. SCHAFFER. Regular order, Mr. Speaker.

The SPEAKER pro tempore. The regular order is, Is there objection?

Mr. LAGUARDIA. I object.

The SPEAKER pro tempore. Objection is heard.

Mr. LANHAM. Mr. Speaker, may I ask the gentleman from New York if he will agree to this bill going over without prejudice?

Mr. LAGUARDIA. We have been trying to debate that bill for the past 20 minutes in the endeavor to defer its consideration. That is what we tried to do.

The SPEAKER pro tempore. Is there objection to the bill going over without prejudice?

There was no objection.

The SPEAKER pro tempore. The Clerk will report the next bill.

REPEAL OF SECTION 1445, REVISED STATUTES

The next business on the Consent Calendar was the bill (H. R. 7216) to repeal section 1445 of the Revised Statutes of the United States.

The title of the bill was read.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. LAGUARDIA. Is there anyone from the Navy Committee here? I suggest that the bill go over.

The SPEAKER pro tempore. The gentleman from New York asks unanimous consent that the bill go over without prejudice. Is there objection?

There was no objection.

The SPEAKER pro tempore. The Clerk will report the next bill.

only went to Congress but he remained over 13 years. He had become a fixture in that body, and no thought of opposing him occurred.

Doctor LAZARO had a healthy body, a fine, evenly balanced mind with unbounded cheerfulness and geniality. He was always pleasant, always agreeable. I never heard him utter an unkind word against a human soul. He had convictions and the courage to express these, but this was done in a quiet, easy, unassuming manner.

I am on the wrong side of the book of time. About half my time I am scarcely alive, and a great part of the rest the slave and sport of morbid feeling, due to my disordered condition. I have everything but good health.

Doctor LAZARO had health; had happiness; looked forward to a long, a successful career. His daughters married; he was looking for the advancement of his only son. He intended him for Princeton. Secure in the esteem of his constituents, he was looking forward to many years of usefulness. But he is gone, gone to the undiscovered country from whose bourne no traveler returns. He retreated with the aspects of a victor. His sun went down at noon, but let us hope it sank amid the prophetic splendors of an eternal dawn.

The invalid bereft of one sense, enveloped almost at every turn, is alive to pay tribute to his young friend who, in love with life and raptured with the world, has passed to silence and pathetic dust. Verily, the ways of Providence are past finding out.

Good-by, Doctor. When last I met you I looked forward to your continued health, happiness, and prosperity. To-day I am sorrowfully paying tribute to your usefulness when alive—with the hope that you have secured life everlasting beyond the grave, which you so richly deserve.

The following is an editorial from one of his home papers:

[From the New Era, of Eunice, La., April 7, 1927]

THE LOSS OF CONGRESSMAN LAZARO

In the death of the late Hon. Dr. L. LAZARO, Representative in the House from the seventh congressional district, which composes the southwesterly group of parishes in Louisiana, the territory involved, as well as the entire State and South, lost a most faithful servant, who was not known for flowery speech and oratory but for his loyalty and serfdom for the people whom he served.

For 14 years he labored for his group of parishes. A man of his own convictions, to whom party principles were cast aside when the good of the seventh congressional district was to be considered. A constant reader and student, he had provided himself with a knowledge which fitted him to the cause of his public. Never until a situation had been thoroughly analyzed did the late lamented Congressman decide; but once decided he fought an honest battle to enlighten those in the Chamber as to the true benefits of the proposed measure.

His kindly attitude in the Capitol had marked him as a man worthy of the friendship of many distinguished statesmen who were proud to acclaim him as a friend. To him many of his colleagues often went to seek advice, and to them he never turned a deaf ear. Not only was he known and acclaimed as a friend by the important men of our Nation but, likewise, was he attached to the most common laborer in the Capitol buildings.

In passing to the great beyond he left a memory which can never be erased from the halls of time. At his funeral an outpouring such as has never been seen in this section of the State assembled to pay their last tribute. The towns along the route which the train traveled with the body bowed in sorrow. And again dampened eyes in the town of his birthplace by the citizens announced that Louisiana had not only lost a distinguished son but a friend and upright and honest man.

Though he is dead he can not be forgotten. Children and more aged persons will continue to speak of his noble deeds in the future. When the Seventieth Congress convenes his smile and warm handclasp will be missing, and kindly advice once given can not be secured as before. Time alone will prove that few will enter from this district who can claim the honor of serving their public for 14 years, a goodly portion of which was without opposition. This one achievement alone marks him as a man "of the people and by the people and for the people."

ADJOURNMENT

The SPEAKER pro tempore. In accordance with the resolution already adopted, and as a special mark of respect to the memory of the deceased, the House will now stand adjourned.

Accordingly (at 1 o'clock and 25 minutes p. m.) the House adjourned until to-morrow, Monday, May 14, 1928, at 12 o'clock noon.

SENATE

MONDAY, May 14, 1928

(Legislative day of Thursday, May 3, 1928)

The Senate reassembled at 12 o'clock meridian, on the expiration of the recess.

Mr. CURTIS. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Ashurst	Fletcher	McKellar	Shipstead
Barkley	George	McLean	Shortridge
Bayard	Gerry	McMaster	Simmons
Bingham	Gillett	McNary	Smith
Black	Glass	Mayfield	Smoot
Blaine	Goff	Metcalf	Steck
Borah	Gould	Moses	Steiwer
Bratton	Greene	Neely	Stephens
Brookhart	Hale	Norbeck	Swanson
Broussard	Harris	Norris	Thomas
Bruce	Harrison	Nye	Tydings
Capper	Hawes	Oddie	Tyson
Caraway	Hayden	Overman	Vandenberg
Copeland	Heflin	Phipps	Wagner
Couzens	Howell	Pine	Walsh, Mass.
Curtis	Johnson	Pittman	Walsh, Mont.
Cutting	Jones	Ransdell	Warren
Dale	Kendrick	Reed, Pa.	Waterman
Deneen	Keyes	Robinson, Ind.	Watson
Dill	King	Sackett	Wheeler
Edwards	La Follette	Schall	
Fess	Locher	Sheppard	

Mr. WALSH of Montana. I was requested to announce that the senior Senator from Missouri [Mr. REED] is detained from the Senate on official business.

The VICE PRESIDENT. Eighty-six Senators having answered to their names, a quorum is present.

PERSONAL EXPLANATION—VOTE ON TAX UPON CORPORATIONS

Mr. GLASS. Mr. President, I was unavoidably absent from Washington on Saturday, and since I do not care to appear to have evaded an important vote I want to state that I was paired with the senior Senator from Connecticut [Mr. McLEAN]. Had I been present in the Chamber I should have voted for the graduated tax on corporations and I should likewise have voted against the proposition to raise the tax on corporations as provided by the House.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Haltigan, one of its clerks, announced that the House had passed without amendment the following bills and joint resolutions of the Senate:

S. 766. An act to fix the compensation of registers of local land offices, and for other purposes;

S. 1662. An act to change the boundaries of the Tule River Indian Reservation, Calif.;

S. 2340. An act to transfer to the city of Duluth, Minn., the old Federal building, together with the site thereof;

S. 3026. An act authorizing the construction of a fence along the east boundary of the Papago Indian Reservation, Ariz.;

S. J. Res. 119. Joint resolution granting an easement to the city of Duluth, Minn.;

S. J. Res. 125. Joint resolution authorizing the President of the United States to accept a monumental urn to be presented by the Republic of Cuba, and providing for its erection on an appropriate site on the public grounds in the city of Washington, D. C.;

S. J. Res. 129. Joint resolution to provide for eradication of pink bollworm and authorizing an appropriation therefor.

The message also announced that the House had agreed to the amendment of the Senate to the bill (H. R. 126) to add certain lands to the Missoula National Forest, Mont.

The message further announced that the House had passed the following bills of the Senate, severally with an amendment, in which it requested the concurrence of the Senate:

S. 1341. An act to amend the act entitled "An act to provide that the United States shall aid the States in the construction of rural post roads, and for other purposes," approved July 11, 1916, as amended and supplemented, and for other purposes;

S. 3365. An act to authorize allotments to unallotted Indians on the Shoshone or Wind River Reservation, Wyo.;

S. 3556. An act to insure adequate supplies of timber and other forest products for the people of the United States, to promote the full use for timber growing and other purposes of forest lands in the United States, including farm wood lots and those abandoned areas not suitable for agricultural production, and to secure the correlation and the most economical conduct of forest research in the Department of Agriculture, through research in reforestation, timber growing, protection, utilization, forest economics, and related subjects, and for other purposes; and

S. 4045. An act granting the consent of Congress to the Highway Department of the State of Tennessee to construct a bridge across the French Broad River on the Newport-Asheville (N. C.) road near the town of Del Rio in Cocke County, Tenn.

The message also announced that the House had passed the following bills of the Senate, each with amendments, in which it requested the concurrence of the Senate:

An example will make this clear: Take an estate of \$1,500,000 passing to class A (lineal descendants of decedent), and suppose, to make it as simple as possible, that no variable factors are introduced, so that Federal and State authorities start upon exactly the same basis. The Federal tax on an estate of this size, not deducting the credit, would be \$88,500. The Connecticut tax would be \$46,650. The Connecticut tax being 52.7 per cent of the Federal tax, the executor can take not more than 52.7 per cent credit against the Federal tax, or \$46,639.50, so that the executor will have to pay the Federal Government the balance, or \$41,860.50. This necessitates recomputing the Connecticut tax, using \$41,860.50 as a deduction in ascertaining the net estate. The Connecticut tax on this basis is \$50,325.58. But this figure is 50.8 per cent of the Federal tax, so that the executors ought to be allowed to take that much credit or \$50,268 and would have to pay as Federal tax only the balance, or \$38,232. Again it is necessary to recompute the Connecticut tax on this new basis, and so on ad infinitum. Neither tax can ever be determined by this method. If it is figured back and forth long enough the result will eventually be zero. When this point is reached in such a case, the executor and the State inheritance-tax department usually quit figuring in disgust and decide upon an arbitrary figure which shall represent the amount allowed as a deduction on account of Federal estate tax in ascertaining the net estate subject to Connecticut inheritance tax.

The problems thus raised by two mutually dependent indeterminates can only be solved by a complicated algebraic formula. Executors and administrators are ordinarily in no position to work out such a formula for themselves, and it is unreasonable to expect them to do so. A similar matter was once passed upon by the Supreme Court of the United States in the case of *Edwards v. Slocumb* (264 U. S. 61). This case was under the revenue act of 1918, but the principle is equally applicable to subsequent acts, including those of 1924 and 1926. In the case mentioned decedent, after making specific bequests in her will, had bequeathed the residue to charitable and educational institutions, which bequests were exempt from estate tax. In order to arrive at the amount of residue which would be exempt, the Government claimed that there should be deducted from the gross estate not only the allowable deductions, such as debts, expenses, etc., and the amount of specific bequests, but also the amount of Federal estate tax which was to be paid on this estate. The purpose of this was, of course, to cut down the amount of residue which would be exempt. It resulted in the ridiculous procedure of having to guess at what the Federal estate tax might be in order to use it as a deduction in ascertaining the Federal estate tax itself. This is a *reductio ad absurdum* in taxation.

Justice Holmes, in refuting the Government's contention, said, "The Government offers an algebraic formula by which it would solve the problems raised by two mutually dependent indeterminates. It might fairly be answered, as said by circuit court of appeals, that 'algebraic formulæ are not lightly to be imputed to legislators.'" It was held that the contention of the Government was not supportable and that for the purposes of the deduction on account of charitable bequests the amount of bequests to charity out of the residuary estate is the amount of the residuary estate after State transfer or succession taxes have been paid therefrom by the terms of the will, without further reduction by the amount of the Federal estate tax on the net estate, though such tax in fact does reduce by its amount the residuary estate passing to charity.

This decision by the United States Supreme Court makes clear the attitude of that court toward a tax law which is so arranged that complicated algebraic formulæ must be used in order to arrive at the amount of tax. The present situation, however, is one that calls for an algebraic formula, because of the two mutually dependent indeterminates in any case where the Connecticut inheritance tax is less than the 80 per cent of the Federal estate tax. It is thus manifest that the 80 per cent credit clause in section 301 (b) of the present Federal act contains in itself an absurdity which has already been disapproved by our Supreme Court, and which, therefore, should be wiped off the books.

Since the above-mentioned decision, the Federal Government, so far as is known, has abandoned the use of such formulæ, but because of the absurdity inherent in section 301 (b) of the law, the burden of using such an algebraic formula is thrown squarely upon the Connecticut inheritance-tax department if accuracy is desired, as, of course, it is. The Federal Government does not have to trouble about any formula, because the Federal Government says flatly that it will pay no attention to any claim for credit until the Connecticut tax is correctly determined and paid. This necessitates fixing the Connecticut tax first, which can not be done, as shown above, without the use of an algebraic formula so complicated that, to the knowledge of the Connecticut inheritance-tax department, none has yet been worked out.

The only way to avoid this absurdity is to raise Connecticut rates so high that they will surely absorb the 80 per cent credit. Here appears an added element of coercion upon Connecticut.

Mr. CARAWAY. Mr. President, I wish to offer an amendment. I do not want to have it read.

The PRESIDING OFFICER. The amendment will be received, printed, and will lie on the table.

Mr. FLETCHER. I understand the pending amendment will be the one offered by the Senator from Connecticut?

Mr. SMOOT. That is correct.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Halligan, one of its clerks, announced that the House insisted upon its amendments to the joint resolution (S. J. Res. 82) providing for the erection of a public historical museum on the site of Fort Defiance, Defiance, Ohio, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. LUCE, Mr. ALLEN, Mr. DAVENPORT, Mr. GILBERT, and Mr. BULWINKLE were appointed managers on the part of the House at the conference.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bills and joint resolutions, and they were signed by the Vice President:

S. 766. An act to fix the compensation of registers of local land offices, and for other purposes;

S. 1662. An act to change the boundaries of the Tule River Indian Reservation, Calif.;

S. 2084. An act for the purchase of land in the vicinity of Winnemucca, Nev., for an Indian colony, and for other purposes;

S. 2340. An act to transfer to the city of Duluth, Minn., the old Federal building, together with the site thereof;

S. 3026. An act authorizing the construction of a fence along the east boundary of the Papago Indian Reservation, Ariz.;

S. 3365. An act to authorize allotments to unallotted Indians on the Shoshone or Wind River Reservation, Wyo.;

S. 3456. An act allowing the rank, pay, and allowances of a colonel, Medical Corps, United States Army, to the medical officer assigned to duty as personal physician to the President;

S. 3556. An act to insure adequate supplies of timber and other forest products for the people of the United States, to promote the full use for timber growing and other purposes of forest lands in the United States, including farm wood lots and those abandoned areas not suitable for agricultural production, and to secure the correlation and the most economical conduct of forest research in the Department of Agriculture through research in reforestation, timber growing, protection, utilization, forest economics, and related subjects, and for other purposes;

S. 3565. An act to provide compensation for disability or death resulting from injury to employees in certain employments in the District of Columbia, and for other purposes;

S. 3699. An act for the relief of the land-grant railroad operated between the station formerly known as East Portland, in the State of Oregon, and Roseville, in the State of California;

S. 4034. An act authorizing the Calhoun Bridge Co., an Illinois corporation, its successors and assigns, to construct, maintain, and operate a bridge across the Illinois River at or near Grafton, Ill.;

S. 4045. An act granting the consent of Congress to the Highway Department of the State of Tennessee to construct a bridge across the French Broad River on the Newport-Ashville (N. C.) road near the town of Del Rio, in Cocke County, Tenn.;

S. 4059. An act authorizing the State Highway Commission, Commonwealth of Kentucky, to construct, maintain, and operate a bridge across the Tennessee River at or near the mouth of Clarks River;

S. 4060. An act authorizing the State Highway Commission, Commonwealth of Kentucky, to construct, maintain, and operate a bridge across the Cumberland River at or near Canton, Ky.;

S. 4061. An act authorizing the State Highway Commission, Commonwealth of Kentucky, to construct, maintain, and operate a bridge across the Cumberland River at or near Smithland, Ky.;

S. 4062. An act authorizing the State Highway Commission, Commonwealth of Kentucky, to construct, maintain, and operate a bridge across the Tennessee River at or near Egners Ferry, Ky.;

S. 4253. An act authorizing H. L. McKee, his heirs, legal representatives, and assigns, to construct, maintain, and operate a bridge across Lake Sabine at or near Port Arthur, Tex.;

S. 4254. An act authorizing the State of Texas and the State of Louisiana to construct, maintain, and operate a free highway bridge across the Sabine River at or near Pendleton's Ferry;

S. 4288. An act authorizing the State Highway Commission, Commonwealth of Kentucky, to construct, maintain, and operate a bridge across the South Fork of the Cumberland River at Burnside, Pulaski County, Ky.;

S. 4289. An act authorizing the State Highway Commission, Commonwealth of Kentucky, to construct, maintain, and operate a bridge across the Cumberland River at or near Neelys Ferry, in Cumberland County, Ky.;

S. 4290. An act authorizing the State Highway Commission, Commonwealth of Kentucky, to construct, maintain, and operate a bridge across the Cumberland River at or near Burkesville, Cumberland County, Ky.;

S. 4291. An act authorizing the State Highway Commission, Commonwealth of Kentucky, to construct, maintain, and operate a bridge across the Cumberland River, at or near Arat, Cumberland County, Ky.;

S. 4292. An act authorizing the State Highway Commission, Commonwealth of Kentucky, to construct, maintain, and operate a bridge across the Cumberland River at or near Center Point, in Monroe County, Ky.;

S. 4293. An act authorizing the State Highway Commission, Commonwealth of Kentucky, to construct, maintain, and operate a bridge across the Cumberland River at or near Creelsboro, in Russell County, Ky.;

S. 4294. An act authorizing the State Highway Commission, Commonwealth of Kentucky, to construct, maintain, and operate a bridge across the North Fork of the Cumberland River at or near Burnside, Pulaski County, Ky.;

S. 4295. An act authorizing the State Highway Commission, Commonwealth of Kentucky, to construct, maintain, and operate a bridge across the Cumberland River at or near the mouth of Indian Creek, in Russell County, Ky.;

H. R. 8126. An act to repeal the sixty-first proviso of section 6 and the last proviso of section 7 of "An act to establish the Mount McKinley National Park, in the Territory of Alaska," approved February 26, 1917;

H. R. 13032. An act to amend the act of February 8, 1895, entitled "An act to regulate navigation on the Great Lakes and their connecting and tributary waters";

H. R. 13037. An act to amend section 1, rule 2, rule 3, subdivision (e), and rule 9 of an act to regulate navigation on the Great Lakes and their connecting and tributary waters, enacted February 8, 1895 (chap. 64, 28 Stat. L., sec. 645);

H. J. Res. 184. Joint resolution designating May 1 as Child Health Day;

S. J. Res. 119. Joint resolution granting an easement to the city of Duluth, Minn.;

S. J. Res. 125. Joint resolution authorizing the President of the United States to accept a monumental urn to be presented by the Republic of Cuba, and providing for its erection on an appropriate site on the public grounds in the city of Washington, D. C.; and

S. J. Res. 129. Joint resolution to provide for eradication of pink bollworm and authorizing an appropriation therefor.

POLITICS AND THE COLORADO RIVER

Mr. BINGHAM. Mr. President, I ask to have printed in the RECORD an article entitled "Politics and the Colorado River," published in the Electrical World of the 12th instant, by R. I. Harriman, president of the New England Power Co., of Boston, Mass.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

POLITICS AND THE COLORADO RIVER—SCHEME TO INJECT FEDERAL GOVERNMENT INTO POWER BUSINESS DISGUISED AS SAFEGUARD AGAINST IMPERIAL VALLEY FLOODS

By H. I. Harriman, president New England Power Co., Boston, Mass.

SOUND EXPERT ADVICE

(Impressive because restrained and convincing because it offers a constructive program based on competent personal investigation on the ground, Mr. Harriman's analysis of the Boulder Dam project and the related political program for utilizing the Colorado River at the expense of the Federal Government deserves careful reading by every friend of individual initiative in the United States. Mr. Harriman shows most effectively how protection against floods can be attained at a cost far below the anticipated outlay required to embark the Federal Government in the power business as a gigantic by-product of an apparently innocent scheme to regulate and utilize stream flow in a basin occupying one-thirteenth of the area of the country.)

Under the guise of a beneficent plan to protect the Imperial Valley of California against floods from the Colorado River by damming that stream at Boulder Canyon, developing hydroelectric power for transmission to the Los Angeles district, and constructing a water supply from the Colorado Basin to serve a future population of 5,000,000 in southern California, it is proposed to launch the United States Government into the power business at enormous cost and with all the uncertainties which beset vast political undertakings entered into without due regard to economic factors which should control action in such a situation.

A proper understanding of the problem of the Colorado River demands a brief explanation of the topography of its basin and the characteristics of its river flow. The Colorado Basin lies between the Continental Divide and the Coast Range. It includes southern Wyoming, parts of Utah and Colorado, the western half of New Mexico, substantially all of Arizona, and slight areas in Nevada and California. Its area of more than 200,000 square miles is a territory larger than the German Empire and comprises about one-thirteenth of the entire area of the United States. It is a land of extreme variations in rainfall, in elevation, and in the character of the country. The northerly part of the basin is highly mountainous and heavily timbered, a territory of warm summers and cold winters, a land of deep snowfall, a region that stores snows of winter and pours them forth in irresistible floods in the early summer.

The middle section of the Colorado Basin is a territory of low rainfall (6 or 7 inches), of high plateaus, and of vast canyons. In no place in the world are there such deep, marvelously colored, and wonderfully beautiful gorges and canyons.

The southern portion of the basin is a desert country, relatively low in elevation, with a rainfall varying from 3 to 4 inches, and of tremendous summer heat, 115° to 120° being not unusual temperatures over much of this southern area in the months of June, July, and August. Irrigation is of tremendous importance in the arid West. The normal annual flow of the Colorado River is about 17,000,000 acre-feet, extreme years ranging from 9,000,000 to 25,000,000 acre-feet. Storage of water is vitally essential. The normal flow will irrigate about 5,000,000 acres, but in extremely dry years only half that area can be served. The Reclamation Service estimates that in the United States Basin of the river about 7,000,000 acres could be irrigated if the water supply was sufficient. To this we must add about 1,000,000 acres in the delta region of Mexico. Already about 2,500,000 acres in the United States Basin is irrigated, plus 200,000 in Mexico.

In 1921 representatives of the various States in the basin convened to draw a treaty which would definitely divide the waters of the river between the various States and permit the development of storage without fear that the States not benefited would be deprived of the future use of their just portion of the water.

The conference, while only partially successful, agreed that the four upper basin States should always so regulate their takings for irrigation that over a 10-year period an annual average of not less than 7,500,000 acre-feet should pass Lees Ferry for use by the three lower basin States, and to this was added 1,000,000 acre-feet for the use of the lower basin States represented by the flow of the Gila River.

Unfortunately, the treaty did not attempt to divide the waters between the various States in the upper and lower basins, and so far Arizona has failed to ratify the treaty, fearing that without an agreement with California it would be unsafe for her (Arizona) to consent to a division of the waters between the upper and the lower basins unless simultaneously a treaty were enacted between California and Arizona giving Arizona protection against the immediate appropriation by the Sunset State of more than her share of the flowage into the lower basin States. California's ratification is conditional only and is to be made effective if the United States creates a huge storage reservoir on the lower river.

The upper basin States demand ratification without reservations. The cost of placing water in the Imperial Valley of California is probably not over half the cost of delivery to the high table lands of Arizona, and until there is a division of the water to which the lower basin States are entitled Arizona will probably refuse to ratify the treaty. Both Arizona and the upper basin States fear that Mexico will put to prior use much of the water that otherwise might be used on United States land. Water is the lifeblood of these States and each State fears that Mexico or some other State will deprive it of a part of the water that it might otherwise use and doom a portion of its territory to perpetual desert.

In the canyon section of the river 6,000,000 horsepower can be developed on a 60 per cent load factor. This exceeds the energy that can be developed on the St. Lawrence River or at Niagara Falls. To-day there is little market for this potential power, as the territory is very sparsely settled with no industry and no local use. Only the lower section of the river lies within transmission distance of the large electrical market of southern California, but to anyone who visualizes the phenomenal engineering and industrial progress of the last 50 years it is not difficult to imagine that the entire potential power of the stream may be used within the next half century.

The danger of a break of the river into the Imperial Valley is ever present and the homes of 60,000 people with a taxable value exceeding \$100,000,000 will be in constant danger until the Federal Government takes adequate steps to open a new and proper channel for the sea. Storage on the main Colorado River would, of course, reduce the flood menace to this valley, but the threat of floods from the Gila will still exist and the valley will never be safe, storage or no storage, until a new and adequate channel is cut to the Gulf.

Competent engineers affirm that if the United States and Mexico execute a proper treaty a new channel can be cut at a cost not exceeding \$5,000,000 substantially parallel to the original channel of the

vestment in Mississippi Basin waterways, and can give to all of the people of the United States the most comprehensive system of water transportation in the world.

The matter is in the hands of the National Congress, and Congress will answer patriotically with the vision of statesmen. Millions will silently think, "Well done, thou good and faithful servant."

Mr. NEWTON. Mr. Speaker, in the consideration of H. R. 13512, the gentleman from Illinois [Mr. DENISON] offered an amendment to line 23, on page 4, after the word "facilities," by inserting the words "or unit thereof." Time for debate had been limited. There was not an opportunity for me to discuss the amendment. The intent and purpose of the amendment is to permit the Secretary of War, subject to approval by the President, to sell or lease not only the facilities of the corporation, but the facilities belonging to a unit or system of the corporation. The corporation contains two systems: The Warrior River system and the Mississippi River system and its tributaries. The Warrior River would be a unit under this amendment and likewise the Mississippi River and its tributaries would constitute a unit. The lower river, for example, would not be a unit. It would merely be a part of a unit. That would likewise be the case of the upper river or the Missouri River. I am authorized to say that the gentleman from New York [Mr. PARKER], the distinguished chairman of the committee, is in agreement with these views. This question of authorizing the sale of the activities upon a particular portion of the Mississippi River was gone into by the Committee on Interstate and Foreign Commerce very carefully. The lower river is now a paying proposition. It will be more and more so. It would be a mistake to separately sell the lower river for that reason, if for no other. Furthermore, there is the question of interrelations between the lower-river service and the upper-river service. Some of the barges on the upper river can be sent clear through to New Orleans. That is likewise true of barges commencing at New Orleans. They can at times go clear through to Minneapolis. The committee was very clearly of the opinion that it would be a mistake to authorize sales of parts of the facilities or the activities upon a particular portion of the river or tributaries thereof. By this amendment the Secretary of War is permitted, subject to approval by the President and when the conditions specified in the bill are met, to sell the Warrior River system as a unit or the Mississippi River system as a unit, but not otherwise.

Mr. WILLIAM E. HULL. Mr. Speaker, transportation is to-day the most important legislative feature before Congress for the relief of the Central West.

The Panama Canal destroyed opportunities of the 28 States lying between the Allegheny and Rocky Mountains, because it gave cheap transportation by water from the Atlantic coast to the Pacific coast and vice versa.

The building of the deep waterway between Lake Michigan and the Gulf of Mexico, with its branches extending up the Mississippi River to St. Paul, the Missouri River to Sioux City, the Ohio River to Pittsburgh, and the Intracoastal Canal to Galveston, makes the inland waterway a factor in transportation to compete with the Panama Canal, and puts the Central West on a parity with other parts of the Nation.

The waterways have been established, the projects have been adopted, and will be completed during the next three years.

This bill, known as the barge line bill, is more important to this great section of the country than any other legislation that can be passed. It adds \$10,000,000 to the Inland Waterways Corporation for the building of barges and towboats; it extends the service up the Illinois River from Grafton to Chicago and connects with the Great Lakes; it extends transportation through the Hennepin Canal, connecting the Illinois River with the Mississippi River, thus making a direct line from Peoria to St. Paul, or from Chicago to St. Paul.

The most important feature of this legislation is the compelling of the railroads to make a joint rail, river, and rail rate.

By passing this legislation you will put the river transportation on a basis to secure its just rights in the division of rates with the railroads and this will make it a success. I hope that the Congress of the United States will see the importance of passing this legislation.

Mr. TREADWAY. Mr. Speaker, the principles involved in the Boulder Dam bill and the Mississippi barge bill are so nearly identical that I desire to record my protest against the passage of both measures in one brief statement.

The basic feature of both bills is the putting of the Government into business, to which I am opposed both from the standpoint of good business and from that of proper governmental functions. We have drifted too far in the direction of furnishing financial aid to business, which is not attractive to private

enterprise. There is no more occasion for the Government setting up a corporation, of which it is the sole stockholder, to build and operate barges on the Mississippi River than on the Hudson River, Long Island Sound, or any other waterway of the country. The Government's duty toward business conducted by water ends when it has constructed navigable channels and maintains proper lighthouses and other aids to navigation. To go further than this and establish the Government in the business of furnishing means of transportation is to exceed all just, legal, and constitutional needs.

Elements of socialism seem to predominate in legislation of this character. The establishment of such precedents can only mean broadening the scope of requests for the Government to engage in business in cases where those interested can readily see there will be no financial return to them or to the sections benefited by the expenditure. The line between Government agencies and private enterprise is so distinct and plain that I for one will continue to support the old-fashioned method of carrying on the Government for the people and regulating public service, but leaving the business itself to private enterprise and private investment.

So much has been said over a period of 15 years about Muscle Shoals and so many different methods have been devised to involve the Government in its operation and provide the necessary capital that it is unnecessary to rehearse the arguments at this time. Those who years ago wanted to foist Muscle Shoals onto the shoulders of the Government tried devious and sundry ways unsuccessfully, but eventually, through misconceived exigencies of the war, and with the active support of President Wilson their purpose was accomplished. Since that time the Treasury has furnished \$125,000,000 of capital and the end is not yet. We are now asked to set up another business corporation, furnish the capital and pocket the losses, the principal excuse being the needs of the farmer. The political significance of this fallacious argument is perfectly apparent. I am glad to quote a telegram from the type of farmer who tills the soil in western Massachusetts. It reads as follows:

Muscle Shoals bill in present form not sound business. Farmers here do not want that kind of assistance. Please work to defeat the measure.

They are self-respecting men and women and are not willing to appear either as mendicants or as applicants for charity from the Government.

The Mississippi barge bill and the 1928 Muscle Shoals bill are identical in that they are both based on a misconception of the relationship between the Government and the people. I am opposed to the principle and will vote against the bills and any similar type of legislation seeking to set the Government up in business.

LEAVE OF ABSENCE

Mr. MURPHY, by unanimous consent (at the request of Mr. MORGAN) was granted leave of absence, for three days, on account of illness.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

Mr. CAMPBELL, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills and a joint resolution of the following titles, when the Speaker signed the same:

H. R. 8126. An act to repeal the sixty-first proviso of section 6 and the last proviso of section 7 of "An act to establish the Mount McKinley National Park, in the Territory of Alaska," approved February 26, 1917;

H. R. 13032. An act to amend the act of February 8, 1895, entitled "An act to regulate navigation on the Great Lakes and their connecting and tributary waters";

H. R. 13037. An act to amend section 1, rule 2, rule 3, subdivision (e), and rule 9 of an act to regulate navigation on the Great Lakes and their connecting and tributary waters, enacted February 8, 1895 (ch. 64, 28 Stat. L., sec. 645); and

H. J. Res. 184. Joint resolution designating May 1 as Child Health Day.

The SPEAKER announced his signature to enrolled bills and joint resolutions of the Senate of the following titles:

S. 766. An act to fix the compensation of registers of local land offices, and for other purposes;

S. 1662. An act to change the boundaries of the Tule River Indian Reservation, Calif.;

S. 2084. An act for the purchase of land in the vicinity of Winnemucca, Nev., for an Indian colony, and for other purposes;

S. 2340. An act to transfer to the city of Duluth, Minn., the old Federal building, together with the site thereof;

S. 3026. An act authorizing the construction of a fence along the east boundary of the Papago Indian Reservation, Ariz.;

S. 3365. An act to authorize allotments to unallotted Indians on the Shoshone or Wind River Reservation, Wyo.;

S. 3456. An act allowing the rank, pay, and allowances of a colonel, Medical Corps, United States Army, to the medical officer assigned to duty as personal physician to the President;

S. 3556. An act to insure adequate supplies of timber and other forest products for the people of the United States, to promote the full use for timber growing and other purposes of forest lands in the United States, including farm wood lots and those abandoned areas not suitable for agricultural production, and to secure the correlation and the most economical conduct of forest research in the Department of Agriculture, through research in reforestation, timber growing, protection, utilization, forest economics, and related subjects, and for other purposes;

S. 3565. An act to provide compensation for disability or death resulting from injury to employees in certain employments in the District of Columbia, and for other purposes;

S. 3699. An act for the relief of the land-grant railroad operated between the station formerly known as East Portland, in the State of Oregon, and Roseville, in the State of California;

S. 4034. An act authorizing the Calhoun Bridge Co., an Illinois corporation, its successors and assigns, to construct, maintain, and operate a bridge across the Illinois River at or near Grafton, Ill.;

S. 4045. An act granting the consent of Congress to the Highway Department of the State of Tennessee to construct a bridge across the French Broad River on the Newport-Asheville (N. C.) road near the town of Del Rio in Cocke County, Tenn.;

S. 4059. An act authorizing the State Highway Commission, Commonwealth of Kentucky, to construct, maintain, and operate a bridge across the Tennessee River at or near the mouth of Clarks River;

S. 4060. An act authorizing the State Highway Commission, Commonwealth of Kentucky, to construct, maintain, and operate a bridge across the Cumberland River at or near Canton, Ky.;

S. 4061. An act authorizing the State Highway Commission, Commonwealth of Kentucky, to construct, maintain, and operate a bridge across the Cumberland River at or near Smithland, Ky.;

S. 4062. An act authorizing the State Highway Commission, Commonwealth of Kentucky, to construct, maintain, and operate a bridge across the Tennessee River at or near Egners Ferry, Ky.;

S. 4253. An act authorizing H. L. McKee, his heirs, legal representatives, and assigns, to construct, maintain, and operate a bridge across Lake Sabine at or near Port Arthur, Tex.;

S. 4254. An act authorizing the State of Texas and the State of Louisiana to construct, maintain, and operate a free highway bridge across the Sabine River at or near Pendleton's Ferry;

S. 4288. An act authorizing the State Highway Commission, Commonwealth of Kentucky, to construct, maintain, and operate a bridge across the South Fork of the Cumberland River at or near Burnside, Pulaski County, Ky.;

S. 4289. An act authorizing the State Highway Commission, Commonwealth of Kentucky, to construct, maintain, and operate a bridge across the Cumberland River at or near Neelys Ferry, in Cumberland County, Ky.;

S. 4290. An act authorizing the State Highway Commission, Commonwealth of Kentucky, to construct, maintain, and operate a bridge across the Cumberland River at or near Burkesville, Cumberland County, Ky.;

S. 4291. An act authorizing the State Highway Commission, Commonwealth of Kentucky, to construct, maintain, and operate a bridge across the Cumberland River at or near Arat, Cumberland County, Ky.;

S. 4292. An act authorizing the State Highway Commission, Commonwealth of Kentucky, to construct, maintain, and operate a bridge across the Cumberland River at or near Center Point, in Monroe County, Ky.;

S. 4293. An act authorizing the State Highway Commission, Commonwealth of Kentucky, to construct, maintain, and operate a bridge across the Cumberland River at or near Creelsboro, in Russell County, Ky.;

S. 4294. An act authorizing the State Highway Commission, Commonwealth of Kentucky, to construct, maintain, and operate a bridge across the North Fork of the Cumberland River at Burnside, Pulaski County, Ky.;

S. 4295. An act authorizing the State Highway Commission, Commonwealth of Kentucky, to construct, maintain, and operate a bridge across the Cumberland River at or near the mouth of Indian Creek in Russell County, Ky.;

S. J. Res. 119. Joint resolution granting an easement to the city of Duluth, Minn.;

S. J. Res. 125. Joint resolution authorizing the President of the United States to accept a monumental urn to be presented by the Republic of Cuba, and providing for its erection on an

appropriate site on the public grounds in the city of Washington, D. C.; and

S. J. Res. 129. Joint resolution to provide for eradication of pink bollworm and authorizing an appropriation therefor.

BILLS PRESENTED TO THE PRESIDENT

Mr. CAMPBELL, from the Committee on Enrolled Bills, reported that this day they presented to the President of the United States, for his approval, bills of the House of the following titles:

H. R. 126. An act to add certain lands to the Missoula National Forest, Mont.; and

H. R. 8105. An act to provide for the membership of the Board of Visitors, United States Military Academy, and for other purposes.

LEAVE TO ADDRESS THE HOUSE

Mr. CRAMTON. Mr. Speaker, I ask unanimous consent that on Saturday, after the reading of the Journal and the disposal of business on the Speaker's desk, I may be permitted to speak for 50 minutes on the Yosemite National Park and the Hetch-Hetchy grant to the city of San Francisco.

The SPEAKER. The gentleman from Michigan asks unanimous consent that on Saturday, after the reading of the Journal and the disposal of the business on the Speaker's table, he may have the privilege of addressing the House for 50 minutes. Is there objection?

Mr. SNELL. Reserving the right to object, we have important matters coming up in the latter part of this week.

Mr. CRAMTON. I have consulted with the gentleman from Connecticut [Mr. TILSON]. That seems likely to be the best place for me to take this time. I feel sure I could get the time on the deficiency bill, but it might be that it would be a drag on that bill and would not be desirable.

Mr. TILSON. It is very important to finish the deficiency bill on Friday if possible. I should hate very much to take 50 minutes out of the time on Friday, for it might be just enough to prevent the completion of the bill. If, however, we have to run over into Saturday in any case, then there will be ample time, and it will not matter whether the gentleman takes his 50 minutes before or after the bill is finished. Since this arrangement will interfere least of all, I am for it on Saturday.

The SPEAKER. Is there objection?

There was no objection.

POST OFFICE NIGHT DIFFERENTIAL BILL

Mr. MEAD. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on the night differential bill.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. MEAD. Mr. Speaker, of all of the activities of the Government, the one that touches most intimately every business, every industry, yes, even every citizen of the United States, is the Postal Service. It reaches out and binds 120,000,000 people, spread throughout the vast domain of the United States and its possessions, into a Nation. The welfare and progress of our industrial, commercial, and social life are dependent upon its efficiency.

It is no idle boast but an indisputable fact that it is the best and most efficient service anywhere on earth, and at the same time the American Postal Service is conducted at the lowest unit cost of any postal service in the world. This is so because of the high grade of intelligence, the conscientious zeal, and the intense loyalty among the men and women who make up the postal personnel.

Every day over 70,000,000 pieces of mail—letters, parcels, and newspapers—are deposited in the post offices of the United States. The slogan of the Postal Service is, "Keep the mails moving," and from the time a piece of mail is deposited until it is delivered, it is the aim and the practice of this great army to keep it steadily on the move so that it will reach its destination within the shortest possible time.

Because over 75 per cent of the mail is deposited after 4 o'clock in the afternoon it is necessary for a great many of the post-office clerks to work far into the night in order that it may be properly routed and dispatched on the first train, boat, or airplane that will hasten it toward its destination.

These men are the trained distributors that must learn intricate schemes of distribution involving a mass of train schedules, types of service, and connecting or junction points. Each distributor must know instantly the proper dispatch for each of from 3,000 to 10,000 post offices. He must also enter in his scheme the daily changes and familiarize himself with them. He is examined at least once yearly upon his knowledge of these schemes and upon his proficiency in them depends his chances

the Judicial Code of the United States with respect to the jurisdiction of the United States courts; to the Committee on the Judiciary.

7650. Also, petition of Flatbush Chamber of Commerce (Inc.), of Brooklyn, N. Y., opposing the passage of House bill 8127; to the Committee on Rivers and Harbors.

7651. By Mr. SABATH: Resolution adopted by the Cook County Council at the regular meeting April 4, 1928, urging the Navy Department to name cruiser No. 26 U. S. S. *Chicago*, in honor of the city of Chicago; to the Committee on Naval Affairs.

7652. By Mr. STALKER: Petition of Clayton E. Whipple and other citizens of Dryden, N. Y., urging the enactment of House bill 12241 for the further development of vocational education; to the Committee on Education.

7653. By Mr. WINTER: Resolution re House bill 9956, from Advertising Club of Casper, D. W. Greenburg, president, Casper, Wyo., and A. Fisher, president Wyoming Certified Potato Growers Association, Torrington, Wyo.; to the Committee on Irrigation and Reclamation.

SENATE

WEDNESDAY, May 16, 1928

(Legislative day of Thursday, May 3, 1928)

The Senate reassembled at 11 o'clock a. m., on the expiration of the recess.

Mr. CURTIS. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Ashurst	Fletcher	La Follette	Sheppard
Barkley	George	Locher	Shipstead
Bayard	Gerry	McKellar	Shortridge
Black	Gillett	McLean	Simmons
Blaine	Glass	McNary	Smoot
Borah	Goff	Mayfield	Steak
Bratton	Gould	Metcalf	Steiner
Brookhart	Greene	Moses	Stephens
Broussard	Hale	Neely	Swanson
Bruce	Harris	Norbeck	Thomas
Capper	Harrison	Norris	Tydings
Caraway	Hawes	Nye	Tyson
Copeland	Hayden	Oddie	Vandenberg
Couzens	Heflin	Overman	Wagner
Curtis	Howell	Phipps	Walsh, Mass.
Cutting	Johnson	Pine	Walsh, Mont.
Deneen	Jones	Pittman	Warren
Dill	Kendrick	Reed, Pa.	Waterman
Edge	Keyes	Sackett	Watson
Fess	King	Schall	Wheeler

Mr. JONES. I was requested to announce that the Senator from South Dakota [Mr. McMASTER] is detained in committee.

Mr. GERRY. I desire to announce that the Senator from Louisiana [Mr. RANSELL] is necessarily detained in the Committee on Agriculture and Forestry.

The VICE PRESIDENT. Eighty Senators having answered to their names, a quorum is present.

ORDER FOR SESSION THURSDAY EVENING

Mr. CURTIS. Mr. President, I submit the following unanimous-consent request.

The VICE PRESIDENT. The request will be read.

The Chief Clerk read as follows:

Ordered (by unanimous consent). That on Thursday, May 17, 1928, at not later than 6 o'clock p. m., the Senate shall take a recess until 8 o'clock p. m. and that at the evening session, which shall not continue later than 10.30 o'clock p. m., the Senate proceed to the consideration of bills on the calendar under Rule VIII.

Mr. CURTIS. As I drew the order it read 11 o'clock p. m. However, some Senators suggested that the hour be changed to 10.30, and I was perfectly willing to make the change.

The VICE PRESIDENT. Without objection, the order is agreed to.

RAILWAY RATES ON GRAIN

The VICE PRESIDENT laid before the Senate a communication from the acting chairman of the Interstate Commerce Commission, transmitting, in response to Senate Resolution 208, agreed to April 30, 1928, a report concerning the relative rates on grain in the United States and in Canada, which was ordered to lie on the table and to be printed.

PETITIONS AND MEMORIALS

Mr. WARREN presented resolutions adopted by the Wyoming Certified Potato Growers Association, of Torrington, Wyo., favoring the passage of legislation providing for aided and directed

settlement on Federal reclamation projects, which were referred to the Committee on Irrigation and Reclamation.

Mr. SHORTRIDGE presented petitions of sundry citizens of the State of California praying for the passage of the bill (S. 4054) to authorize an appropriation to provide additional hospital, domiciliary, and out-patient dispensary facilities for persons entitled to hospitalization under the World War veterans' act, 1924, as amended, and for other purposes, which were referred to the Committee on Finance.

He also presented petitions of sundry citizens of the State of California praying for the passage of the bill (S. 3405) granting pensions and increase of pensions to certain soldiers and sailors of the war with Spain, the Philippine insurrection, or the China relief expedition, to certain widows, minor children, helpless children, and dependent parents of such soldiers and sailors, and for other purposes, which were referred to the Committee on Pensions.

He also presented petitions of sundry citizens of the State of California praying for the passage of legislation granting increased pensions to Civil War veterans and their widows, which were referred to the Committee on Pensions.

REPORTS OF COMMITTEES

Mr. NORBECK, from the Committee on Pensions, reported additional amendments intended to be proposed to the bill (H. R. 13511) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war, heretofore reported by him from that committee with amendments.

Mr. BORAH. I ask permission to submit a report as in executive session for the Executive Calendar.

The PRESIDING OFFICER (Mr. COUZENS in the chair). The report will be placed on the Executive Calendar.

ENROLLED BILLS AND JOINT RESOLUTIONS PRESENTED

Mr. GREENE, from the Committee on Enrolled bills, reported that this day that committee presented to the President of the United States the following enrolled bills and joint resolutions:

S. 766. An act to fix the compensation of registers of local land offices, and for other purposes;

S. 1662. An act to change the boundaries of the Tule River Indian Reservation, Calif.;

S. 2084. An act for the purchase of land in the vicinity of Winnemucca, Nev., for an Indian colony, and for other purposes;

S. 2340. An act to transfer to the city of Duluth, Minn., the old Federal building, together with the site thereof;

S. 3026. An act authorizing the construction of a fence along the east boundary of the Papago Indian Reservation, Ariz.;

S. 3365. An act to authorize allotments to unallotted Indians on the Shoshone or Wind River Reservation, Wyo.;

S. 3456. An act allowing the rank, pay, and allowances of a colonel, Medical Corps, United States Army, to the medical officer assigned to duty as personal physician to the President;

S. 3556. An act to insure adequate supplies of timber and other forest products for the people of the United States, to promote the full use for timber growing and other purposes of forest lands in the United States, including farm wood lots and those abandoned areas not suitable for agricultural production, and to secure the correlation and the most economical conduct of forest research in the Department of Agriculture through research in reforestation, timber growing, protection, utilization, forest economics, and related subjects, and for other purposes;

S. 3565. An act to provide compensation for disability or death resulting from injury to employees in certain employments in the District of Columbia, and for other purposes;

S. 3699. An act for the relief of the land-grant railroad operated between the station formerly known as East Portland, in the State of Oregon, and Roseville, in the State of California;

S. 4034. An act authorizing the Calhoun Bridge Co., an Illinois corporation, its successors and assigns, to construct, maintain, and operate a bridge across the Illinois River at or near Grafton, Ill.;

S. 4045. An act granting the consent of Congress to the Highway Department of the State of Tennessee to construct a bridge across the French Broad River on the Newport-Asheville (N. C.) road near the town of Del Rio, in Cocke County, Tenn.;

S. 4059. An act authorizing the State Highway Commission, Commonwealth of Kentucky, to construct, maintain, and operate a bridge across the Tennessee River at or near the mouth of Clarks River;

S. 4060. An act authorizing the State Highway Commission, Commonwealth of Kentucky, to construct, maintain, and operate a bridge across the Cumberland River at or near Canton, Ky.;

S. 4061. An act authorizing the State Highway Commission, Commonwealth of Kentucky, to construct, maintain, and operate a bridge across the Cumberland River at or near Smithland, Ky.;

S. 4062. An act authorizing the State Highway Commission, Commonwealth of Kentucky, to construct, maintain, and operate a bridge across the Tennessee River at or near Egners Ferry, Ky.;

S. 4253. An act authorizing H. L. McKee, his heirs, legal representatives, and assigns, to construct, maintain, and operate a bridge across Lake Sabine at or near Port Arthur, Tex.;

S. 4254. An act authorizing the State of Texas and the State of Louisiana to construct, maintain, and operate a free highway bridge across the Sabine River at or near Pendleton's Ferry;

S. 4288. An act authorizing the State Highway Commission, Commonwealth of Kentucky, to construct, maintain, and operate a bridge across the South Fork of the Cumberland River at Burnside, Pulaski County, Ky.;

S. 4289. An act authorizing the State Highway Commission, Commonwealth of Kentucky, to construct, maintain, and operate a bridge across the Cumberland River at or near Neelys Ferry in Cumberland County, Ky.;

S. 4290. An act authorizing the State Highway Commission, Commonwealth of Kentucky, to construct, maintain, and operate a bridge across the Cumberland River at or near Burkesville, Cumberland County, Ky.;

S. 4291. An act authorizing the State Highway Commission, Commonwealth of Kentucky, to construct, maintain, and operate a bridge across the Cumberland River at or near Arat, Cumberland County, Ky.;

S. 4292. An act authorizing the State Highway Commission, Commonwealth of Kentucky, to construct, maintain, and operate a bridge across the Cumberland River at or near Center Point, in Monroe County, Ky.;

S. 4293. An act authorizing the State Highway Commission, Commonwealth of Kentucky, to construct, maintain, and operate a bridge across the Cumberland River at or near Creelsboro, in Russell County, Ky.;

S. 4294. An act authorizing the State Highway Commission, Commonwealth of Kentucky, to construct, maintain, and operate a bridge across the North Fork of the Cumberland River at or near Burnside, Pulaski County, Ky.;

S. 4295. An act authorizing the State Highway Commission, Commonwealth of Kentucky, to construct, maintain, and operate a bridge across the Cumberland River at or near the mouth of Indian Creek, in Russell County, Ky.;

S. J. Res. 119. Joint resolution granting an easement to the city of Duluth, Minn.;

S. J. Res. 125. Joint resolution authorizing the President of the United States to accept a monumental urn to be presented by the Republic of Cuba, and providing for its erection on an appropriate site on the public grounds in the city of Washington, D. C.; and

S. J. Res. 129. Joint resolution to provide for eradication of pink bollworm and authorizing an appropriation therefor.

BILLS AND JOINT RESOLUTION INTRODUCED

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. WARREN:

A bill (S. 4473) granting an increase of pension to Henrietta B. Doak (with accompanying papers); to the Committee on Pensions.

By Mr. HARRIS:

A bill (S. 4474) authorizing the South Carolina and the Georgia State Highway Departments to construct, maintain, and operate a toll bridge across the Savannah River at or near Burtons Ferry, near Sylvania, Ga.; to the Committee on Commerce.

By Mr. DENEEN:

A bill (S. 4475) granting an increase of pension to Rella M. Lasater; to the Committee on Pensions.

A bill (S. 4476) for the relief of David A. Wright; to the Committee on Claims.

By Mr. NYE (for Mr. FRAZIER):

A bill (S. 4477) to amend the act entitled "An act for the control of floods on the Mississippi River and its tributaries, and for other purposes," approved May 15, 1928; to the Committee on Commerce.

By Mr. COPELAND:

A bill (S. 4478) to promote the public health of all who are engaged in the service or defense of the United States in the Army and Navy and all employees of the Government, and to encourage the dairy industry in the interest of the general welfare; to the Committee on Agriculture and Forestry.

By Mr. REED of Pennsylvania:

A joint resolution (S. J. Res. 155) authorizing the Secretary of War to receive for instruction at the United States Military Academy at West Point Jose J. Jimenez, a citizen of Venezuela; to the Committee on Military Affairs.

AMENDMENT TO SECOND DEFICIENCY APPROPRIATION BILL

Mr. WATERMAN submitted an amendment proposing to pay \$600 to J. Mark Trice for services rendered to Senate committees, intended to be proposed by him to the second deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

SARATOGA RECLAMATION PROJECT

Mr. PHIPPS submitted an amendment, intended to be proposed by him to the bill (S. 4305) to provide for the storage for diversion of the waters of the North Platte River and construction of the Saratoga reclamation project, which was referred to the Committee on Irrigation and Reclamation and ordered to be printed.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hattigan, one of its clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 12286) making appropriations for the Navy Department and the naval service for the fiscal year ending June 30, 1929, and for other purposes; that the House had receded from its disagreement to the amendments of the Senate Nos. 45 and 50 to the said bill and concurred therein; and that the House had receded from its disagreement to the amendments of the Senate Nos. 46 and 52 and concurred therein, each with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had agreed to the amendment of the Senate to the bill (H. R. 9411) for the relief of Maurice P. Dunlap.

The message further announced that the House had passed a bill (H. R. 7729) to divest goods, wares, and merchandise manufactured, produced, or mined by convicts or prisoners of their interstate character in certain cases, in which it requested the concurrence of the Senate.

PRISON-MADE GOODS

Mr. EDGE. I observe that the Senator from Missouri [Mr. HAWES] is not in the Chamber. He announced to me that when House bill 7729 to divest goods, wares, and merchandise manufactured, produced, or mined by convicts or prisoners of their interstate character in certain cases was received from the House he would ask unanimous consent that the House bill be substituted on the calendar for Order of Business 355, Senate bill 1940, the bill introduced and reported by the Senator from Missouri [Mr. HAWES]. The two bills are precisely the same, and, if there is no objection, I simply ask that the House bill take the place on the calendar of the Senate bill, without any action beyond that. I make this request for the Senator from Missouri.

Mr. KING. I should like to ask the Senator from New Jersey if he can speak for all the Senate as to whether there will be objection to substituting the bill which has just been received from the House for the Senate bill reported from the Committee on Interstate Commerce?

Mr. EDGE. The House bill is not given any advanced status, but simply takes the place of the Senate bill on the calendar, and it can be objected to at any time when it is reached on a call of the calendar. I make this request for the Senator from Missouri [Mr. HAWES].

The bill (H. R. 7729) to divest goods, wares, and merchandise manufactured, produced, or mined by convicts or prisoners of their interstate character in certain cases was read twice by its title.

The PRESIDING OFFICER (Mr. McLEAN in the chair). The Senator from New Jersey asks that the House bill take the place of the Senate bill on the calendar. Without objection, it is so ordered.

POSTAL RATES (S. DOC. NO. 105)

Mr. MOSES. I submit a conference report on the postal rates bill, which I ask may lie on the table, be printed, and printed in the RECORD.

The report was ordered to lie on the table and to be printed, and it is as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 12030) to amend Title II of an act approved February 28, 1925 (43 Stat. 1066, U. S. C., title 39), regulating postal rates,

Rulings by both the committee on appeals and review and the solicitor that discovery depletion may be based upon discoveries made after the existence of the mineral is known.

A ruling that the provision barring discovery depletion when the property is acquired as the result of purchase of a proven tract or lease permits the allowance of discovery depletion to the owner of a fee which was a proven tract or lease when he acquired the fee, provided he had an option to purchase when the mineral was discovered.

In the National Aniline & Chemical case a published ruling of the solicitor was violated, and an unpublished ruling, advisory tax board recommendation No. 68, was followed. That this was not an oversight, but was done deliberately, is shown by the record.

In the United Motors Corporation case (3923), committee on appeals and review recommendation No. 6617 is contrary to published recommendation No. 34 providing for the 1913 valuation of corporate stock, yet No. 6617 was not published.

Recommendation No. 6617 is based upon seven unpublished rulings, one of which is L. O. 1117, which the committee states in its ruling was cited by both the unit and by the taxpayer.

It was cited by the taxpayer and by the unit without ever being published, because the taxpayer learned of it through means resulting from the secretive methods employed by the department.

This particular ruling not only shows the extent to which unpublished rulings were relied upon as precedents, but discloses the fact that at least this taxpayer had access to and was able to avail itself of this unpublished precedent.

It may be observed that since June 1, 1925, the commissioner has refused to give this committee copies of unpublished rulings, some of which had been requested but the copying of which had not been finished on June 1, 1925.

That was the time when the authority of the committee expired under the resolution—

It thus appears that some taxpayers are permitted to secure and utilize rulings which even a Senate committee can not secure.

I will skip over here; and I want to make reference to the value of this secrecy to the tax expert.

This system—

That I have just been talking about—

had not only led to the lack of uniformity and lack of consistency in rulings upon the same and closely related questions but has given rise to and now maintains the lucrative business of the tax expert or "fixer." There is nothing so involved, complicated, or technical about the procedure in the Income Tax Unit that anyone of ordinary intelligence can not understand it, provided he has access to the information. Taxpayers generally, however, to secure the advantages accorded others similarly situated find it necessary to employ some one with "inside" information.

I want to point out to Senators that this is not a mere report; it is all sustained by evidence. The evidence is now in the hands of the Senate. If anyone challenges that statement he can go to the records, and deny, if he cares to, the statements I am now making, which are signed by a majority of the committee.

I have no desire to delay action on the proposed amendment; but if anyone is in doubt as to the desirability of adopting this amendment, I can refer him to the testimony that is already in the hands of the Senate, produced by the select committee that examined the Bureau of Internal Revenue, and specifically refer him to the reports from which I have read.

PRESIDENTIAL APPROVALS

A message from the President of the United States, by Mr. Latta, one of his secretaries, announced that the President had approved and signed the following acts and joint resolution:

On May 16, 1928:

S. 2004. An act authorizing the paving of the Federal strip known as International Street, adjacent to Nogales, Ariz.

On May 17, 1928:

S. 1662. An act to change the boundaries of the Tule River Indian Reservation, Calif.;

S. 2340. An act to transfer to the city of Duluth, Minn., the old Federal building, together with the site thereof;

S. 3565. An act to provide compensation for disability or death resulting from injury to employees in certain employments in the District of Columbia, and for other purposes; and

S. J. Res. 119. Joint resolution granting an easement to the city of Duluth, Minn.

CONSTRUCTION OF RURAL POST ROADS (S. DOC. NO. 111)

The PRESIDING OFFICER (Mr. McNARY in the chair) laid before the Senate the following veto message from the President of the United States, which was read, as follows:

To the Senate:

There is returned herewith, without my approval, S. 3674, a bill to amend the act entitled "An act to provide that the United States shall aid the States in the construction of rural post roads, and for other purposes," approved July 11, 1916, as amended and supplemented, and for other purposes.

The bill would authorize appropriations of \$3,500,000 each for the fiscal years 1929, 1930, and 1931, to be allocated to States having more than 5 per cent of their area in unappropriated or unreserved public lands, nontaxable Indian lands, or other Federal reservations, for the construction, by the Bureau of Public Roads, of the main roads through such lands.

From 1917 to 1929, inclusive, Federal appropriations aggregating \$840,000,000 have been authorized for cooperative construction of rural post roads and appropriations aggregating \$733,200,000 have been made to meet the requirements as they have developed. From 1922 to 1929, inclusive, Federal appropriations aggregating \$58,000,000 have been authorized for forest-development roads and forest highways and appropriations thereunder aggregating \$54,055,000 have been made. From 1925 to 1929, inclusive, \$10,000,000 have been appropriated for the construction of roads in national parks.

While expenditures from appropriations for cooperative construction of rural post roads are contingent upon equal contributions by State or local agencies, no such requirement obtains with reference to appropriations for roads in national forests and national parks, since such roads are required for the protection, administration, utilization, or development of Federal resources. The bill would provide for entire construction from Federal funds of main roads through unappropriated or unreserved public lands and nontaxable Indian lands. Such expenditures could not be justified on the basis of protection or development of Federal resources and would constitute a radical departure from the established policy of Federal aid on a cooperative basis in road construction.

Having in mind the increasing ability of the States to finance road construction due to the general adoption of the gasoline tax and the increase in revenue from this source which would accrue to States from roads constructed through public and Indian lands therein, I see no reason why the States should be relieved from their contribution toward the construction of these roads as required by existing law. I am constrained therefore to return this bill without my approval.

CALVIN COOLIDGE.

THE WHITE HOUSE, May 18, 1928.

The PRESIDING OFFICER. The question is, Shall the bill pass, the objections of the President of the United States to the contrary notwithstanding?

Mr. ODDIE. Mr. President—

Mr. CURTIS. Mr. President, I understand that the veto message has to be entered on the Journal before that vote is taken.

The PRESIDING OFFICER. The Senator from Nevada has a perfect right to make a statement, however.

Mr. CURTIS. I beg pardon.

Mr. ODDIE. Mr. President, when the message is entered on the Journal in the proper way, in a short time I shall move that the Senate consider this matter.

The PRESIDING OFFICER. The Chair will state to the Senator that a motion is not necessary. The matter is on the table for that purpose at any time. The message will lie on the table and be printed.

CLAIMS OF INDIANS IN THE STATE OF WASHINGTON (S. DOC. NO. 110)

The PRESIDING OFFICER laid before the Senate the following veto message from the President of the United States, which was read, as follows:

To the Senate:

I am returning herewith Senate bill 1480, "An act authorizing certain Indian tribes and bands, or any of them, residing in the State of Washington, to present their claims to the Court of Claims," without my approval.

These claims amount to approximately \$9,125,000, which represents the value of 6,500,000 acres of land, in the aboriginal possession of the Indians, at \$1.25 per acre, and includes hunting and fishing rights to the value of \$1,000,000. These claims are not based upon any treaty or agreement between the United States and these Indians, nor does it appear to me that they

EXHIBIT C

DULUTH, MINN., P.O. (NEW)

472351 JUN 20 1929 EASEMENT

44 PAGE 627

1
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70

WHEREAS the Act of Congress, approved March 5, 1928, as amended by the Act of Congress, approved May 17, 1928, provides, That the Secretary of the Treasury may, in his discretion, grant an easement to the City of Duluth for the use of Lots 81 and 83 in Block 20, Duluth, Minnesota, in exchange for the conveyance to the United States in fee simple of Lots 86 and 88 in such Block 20 as an addition to the new Federal building site in said city, and, in his discretion, to accept a title to said Lots 86 and 88, in Block 20, subject to the reservation of all iron ore and other valuable minerals in and upon said land, with the right to explore for, mine and remove the same, required by section 638 of the General Statutes of Minnesota of 1923; and

WHEREAS Treasury Department letter of July 13, 1928 accepted the proposal of the City of Duluth to make the exchange of properties authorized by the above cited legislation; and

WHEREAS the Attorney General of the United States, in an opinion dated May 9, 1929, states that title to Lots 86 and 88 in said Block 20 is vested in the City of Duluth.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, That the United States of America (acting by and through A. W. Mellon, Secretary of the Treasury, under and by virtue and authority of the aforesaid acts of Congress) in consideration of the conveyance to the United States of title to Lots 86 and 88 in Block 20, City of Duluth, Minnesota, subject to the reservation of mineral rights in said land required by Section 638 of the General Statutes of Minnesota of 1923, hereby grants unto the City of Duluth, Minnesota, a municipal corporation, an easement for park purposes in and to the following described piece or parcel of land which forms a part of the present new Post Office site at Duluth, Minnesota:

Lots numbered 81 and 83 in Block Numbered (20), Duluth Proper, Third Division, according to recorded plat thereof.

PROVIDED, that such easement shall continue as the land shall be used exclusively for park purposes.

IN WITNESS WHEREOF, the United States of America by and through A. W. Mellon, Secretary of the Treasury, has caused these presents to be executed and the seal of the Treasury Department to be hereunto affixed this 18th day of May A.D. 1929.

By Mayor Snively:
Resolved that the deed of easement from the United States of America to the city of Duluth, covering lots 81 and 83 in block 20, Duluth proper third division, for park purposes, be and the same is hereby approved and accepted; and the proper city officers are hereby authorized and directed to cause said deed to be recorded in the office of the register of deeds in and for St. Louis county, Minnesota.
Mayor Snively moved the adoption of the resolution and it was declared adopted upon the following vote:
Yeas—Commissioners Evens, Foubister, Gustafson, Williams and Mayor Snively—5.
Nays—None.
Adopted June 19, 1929.
Approved June 21, 1929.

Signed, sealed and delivered in the presence of:
[Signature]
[Signature]

UNITED STATES OF AMERICA.
By *[Signature]*
Secretary of the Treasury.

DISTRICT OF COLUMBIA,)
CITY AND COUNTY OF WASHINGTON) SS.

BE IT REMEMBERED, That on this 18 day of May 1929, before me Frank A. Dingfield, a Notary Public within and for the District of Columbia, personally came the hereinbefore mentioned A.W. Mellon known to me to be the identical person described in, and who executed the foregoing easement, and known to me to be the Secretary of the Treasury, and acknowledged the same to be his free act and

FOPIB 5651--TREASURY DEPARTMENT--SUPERVISING ARCHITECT
[Signature]

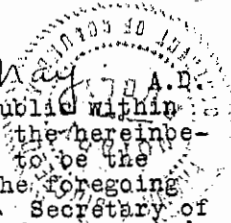


EXHIBIT D

Office of the County Recorder
St. Louis County, Minnesota
Recorded on 05/30/2023
At 12:41PM

Document No. 01467266

Wendy Levitt
County Recorder

By J Worgren Deputy
AFR 10167171

Auditor

Recording Fee: \$46.00
Well Certificate Fee: \$0.00

This page has been added by the St. Louis County Recorder/Registrar of Titles to add the recording information to the attached document.

Notes:

Office of the Registrar of Titles
St. Louis County, Minnesota
Recorded on 05/25/2023
At 10:00AM

Document No. 1068608.0

Affecting Certificate(s) of Title

67009.0

Wendy Levitt
Registrar of Titles

By L Sweet Deputy
TFR 10166774

Auditor

Recording Fee: \$46.00
Well Certificate Fee: \$0.00

This page has been added by the St. Louis County Recorder/Registrar of Titles to add the recording information to the attached document.

Notes:
EASEMENT REVIEWED BY EXAMINER OF TITLES (TWR 5-25-23).

GRANT OF EASEMENT

The United States of America, acting by and through the Administrator of General Services, having a business address at Thomas P. O'Neill, Jr. Federal Building, 10 Causeway Street, Boston, Massachusetts 02222 ("Grantor") under and pursuant to the powers and authority contained in 40 USC §1314(b), and the regulations and orders promulgated thereunder, for consideration of \$1, receipt and sufficiency of which is acknowledged by Grantor, hereby give, grant, bargain, sell and convey to the City of Duluth, Minnesota, a municipal corporation ("Grantee"), together with the unrestricted right to improve the same, free and clear of all encumbrances, a perpetual easement on and over the real property in St. Louis County, Minnesota (the "Property"), legally described on the attached Exhibit A.

1. Easement Purpose.

To construct and maintain a public plaza for the benefit of the public and the properties abutting the plaza, providing roadway access, sidewalks, parking, landscaping, and other improvements serving that purpose.

2. Non-Exclusive Easement.

The easement granted hereby is non-exclusive and shall be exercisable in common with others entitled thereto from time to time, provided that such use shall not materially impair the exercise by the Grantee of the rights herein granted.

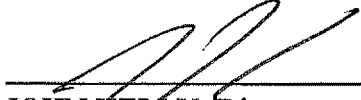
3. Easement in Gross.

The easement shall run in favor of Grantee in perpetuity, but not any successor, and the rights granted herein may not be assigned.

[Continued on Next Page]

IN WITNESS WHEREOF, the UNITED STATES OF AMERICA, acting by and through the Administrator of General Services has caused these presents to be duly executed for and in its name and behalf by John Kelly, Director of Property Utilization and Disposal, Public Buildings Service, New England Region, General Services Administration, who has this 17th day of MAY, 2023, hereunto set his hand and seal.

UNITED STATES OF AMERICA
Acting by and through the
Administrator of General Services



JOHN KELLY, Director
Property Utilization and Disposal
Public Buildings Service
General Services Administration
New England Region, Boston, MA

ACKNOWLEDGEMENT

Commonwealth of Massachusetts)
County of Suffolk) ss.

In Boston, in said County and State, on this 17th day of May, 2023, before me personally appeared John Kelly, Director of Property Utilization and Disposal, Public Buildings Service, General Services Administration, Boston, Massachusetts, proved to me through satisfactory evidence of identification, which was a U.S. General Services Administration ID card, to be the person whose name is signed on the preceding instrument and by him duly executed, to be his free act and deed in his capacity as Director of Property Utilization and Disposal, Public Buildings Service, General Services Administration, Boston, Massachusetts.

 **CAROL H. CHIRICO**
Notary Public, Commonwealth of Massachusetts
My Commission Expires 11-2-2023

Carol H. Chirico
Carol H. Chirico, Notary Public
My commission expires
November 2, 2023



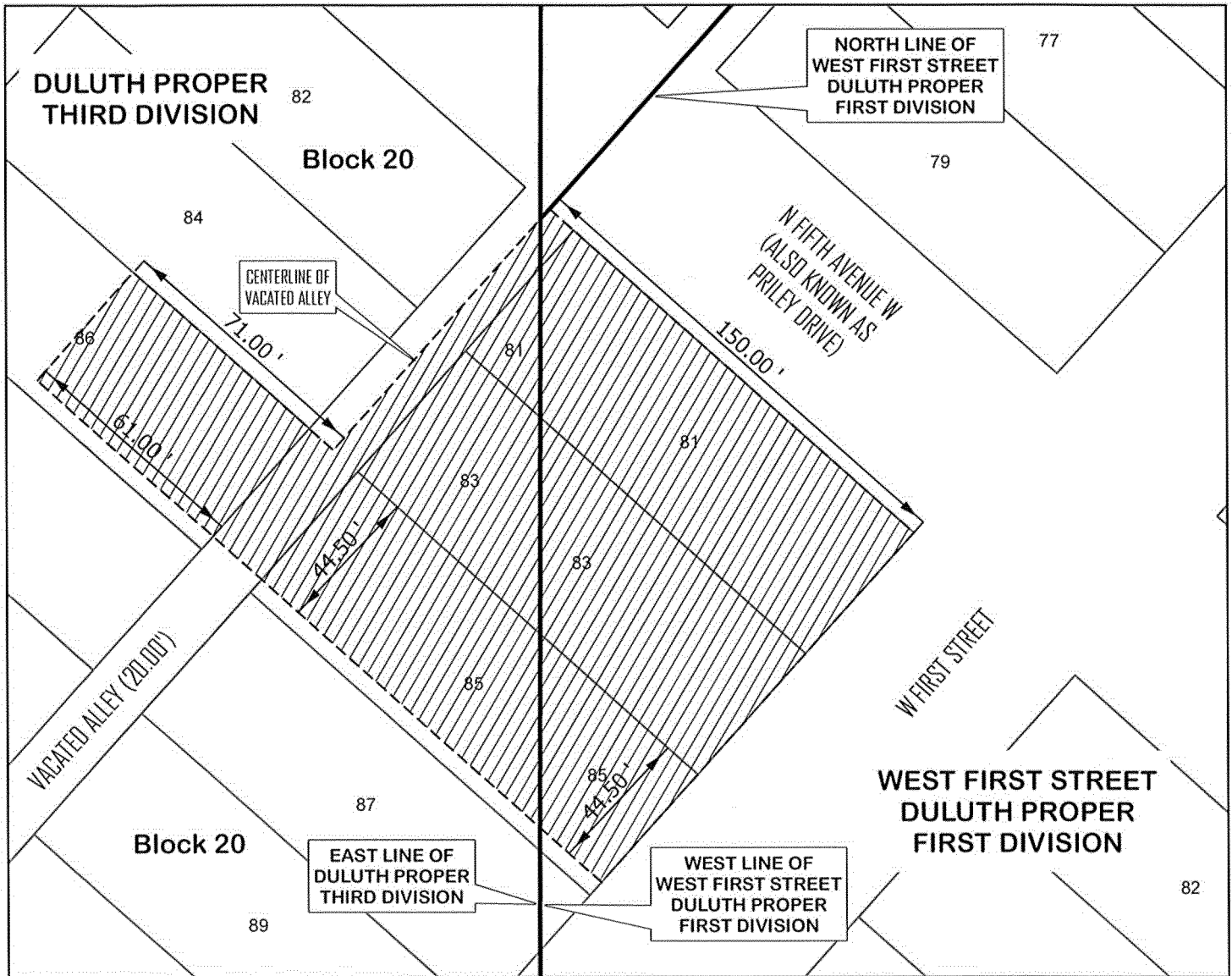
This instrument was drafted by:




Joanna M. Obrochta
Assistant Regional Counsel
Office of the General Counsel
Great Lakes Region
General Services Administration
230 S. Dearborn St. Suite 3786
Chicago, IL 60604

Exhibit A

01467266

1068608.0



-  Easement
-  Subdivision
-  Lots



Lot 81, Lot 83 and the northeast 44.50 feet of Lot 85, and the southeasterly one-half of the vacated alley adjoining the northwest line of Lot 81, WEST FIRST STREET DULUTH PROPER FIRST DIVISION, St. Louis County, Minnesota.

And

Lot 81, Lot 83, the southeasterly one-half of the vacated alley adjoining the northwest line of said Lots 81 and 83, the northeast 44.50 feet of Lot 85, the southeast 61.00 feet of the northeast 44.5 feet of Lot 86, and the vacated alley lying between the northeast 44.50 feet of said Lots 85 and 86, all in Block 20, DULUTH PROPER THIRD DIVISION, St. Louis County, Minnesota.


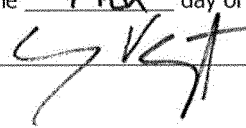
<p>I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.</p> <p> Greg Stoewer</p> <p style="text-align: center;">21774 MN. License #</p> <p style="text-align: center;">Apr. 28, 2023 Date</p>	<p>Approved by the City Engineer of the City of Duluth, MN this the <u>14th</u> day of <u>APRIL</u> 2023.</p> <p>By </p> <p style="text-align: right;">PAGE 1 of 1</p>
--	--

EXHIBIT E



CITY OF DULUTH

REQUEST FOR PROPOSALS FOR

**DESIGN SERVICES
PRILEY CIRCLE RESTORATION**

RFP NUMBER [REDACTED]

ISSUED – [REDACTED], 2024

PROPOSALS DUE – [REDACTED] 2024

SUBMIT TO

**CITY OF DULUTH
ATTN: PURCHASING DIVISION
CITY HALL, ROOM 120
411 WEST 1ST STREET
DULUTH, MN 55802**

PART I - GENERAL INFORMATION

I-1. Introduction. This project seeks proposals from firms to provide design services for restoration of the civil and landscape architectural features of Priley Circle in downtown Duluth.

The selected firm will lead the design process through multiple levels of historic preservation and architectural design review, complete design development through construction documents, assist with bidding and permitting, and perform construction administration services. AE is to consider the following historic and/or modern elements as part of the design fabric: sidewalks, curbs, vehicular pavement, lighting, landscape features, plant materials, outdoor seating, handicapped accessibility, wayfinding, metered parking and EV charging.

The final design solution should pay homage to the 1909 Burnham design, with consideration given to modern materials and construction methods. It is expected that the completed project's aesthetic will prevail against time, and be of minimal maintenance to the property owners.

I-2. Project Overview. Priley Circle, designed by architect Daniel Burnham in 1909 and located within the Duluth Civic Center Historic District, is the primary access route, parking zone, and central landscape venue for three government facilities in downtown Duluth. Today, comprehensive site improvements are needed to renew the various asset conditions and lifespans, maintain unity with the original design intent, and to further activate the historic civic area for greater public use and enjoyment.

Due to the site's listing in the National Register of Historic Places, this project is subject to review under Section 106 of the National Historic Preservation Act, the process of consultation with the Minnesota State Historic Preservation Office, and Duluth's Heritage Preservation Commission. This project is funded by local, state, and federal funds. The supplementary provisions included in Appendix B shall apply.

Additional detail is provided in **Part IV** of this RFP.

I-3. Calendar of Events. The City will make every effort to adhere to the following schedule:

Activity	Date
<i>Request For Proposals</i> is posted	Wednesday, June 5 th , 2024
Mandatory pre-proposal conference	Friday, June 14 th , 2024
Deadline to submit Questions via email to purchasing@duluthmn.gov	Wednesday, June 26 th , 2024
Answers to questions will be posted to the City website no later than this date.	Wednesday, July 10 th , 2024
Proposals must be received in the Purchasing Office by 4:30 PM on this date.	Friday, July 19 th , 2024

I-4. Rejection of Proposals. The City reserves the right, in its sole and complete discretion, to reject any and all proposals or cancel the request for proposals, at any time prior to the time a contract is fully executed, when it is in its best interests. The City is not liable for any costs the Proposer incurs in preparation and submission of its proposal, in participating in the RFP process or in anticipation of award of the contract.

I-5. Pre-proposal Conference. The City will hold a mandatory pre-proposal conference as specified in the Calendar of Events.

I-6. Questions & Answers. Any questions regarding this RFP must be submitted by e-mail to the Purchasing Office at purchasing@duluthmn.gov **no later than** the date indicated on the Calendar of Events. Answers to the questions will be posted as an Addendum to the RFP.

I-7. Addenda to the RFP. If the City deems it necessary to revise any part of this RFP before the proposal response date, the City will post an addendum to its website <http://www.duluthmn.gov/purchasing/bids-request-for-proposals/> . Although an e-mail notification will be sent, it is the Proposer's responsibility to periodically check the website for any new information

I-8. Proposals. To be considered, a hard copy of proposals must be received by the City on or before the time and date specified in the RFP Calendar of Events. The City will not accept proposals received via email. Proposals received after the submittal deadline noted above will not be accepted.

Proposals must be signed by an authorized official. If the official signs the Proposal Cover Sheet attached as Appendix A, this requirement will be met. Proposals must remain valid for 60 days or until a contract is fully executed.

Please submit one (1) paper copy of the Technical Submittal and one (1) paper copy of the Cost Submittal. The Cost Submittal should be in a separate sealed envelope. In addition, Proposers shall submit one copy of the entire proposal (Technical and Cost submittals, along with all requested documents) on flash drive in Microsoft Office-compatible or pdf format.

All materials submitted in response to this RFP will become property of the City and will become public record after the evaluation process is completed and an award decision made.

I-9. Small Diverse Business Information. The City encourages participation by minority, women, and veteran-owned businesses as prime contractors, and encourages all prime contractors to make a significant commitment to use minority, women, veteran-owned and other disadvantaged business entities as subcontractors and suppliers. A list of certified Disadvantaged Business Enterprises is maintained by the Minnesota Unified Certification Program at <http://mnuccp.metc.state.mn.us/> .

I-10. Award. The agreement award will be based on the time and materials submitted in the proposal, but will be a lump-sum, not-to-exceed agreement.

I-11. Term of Contract. The term of the contract will begin once the contract is fully executed and is anticipated to end by **June of 2026**. The selected Proposer shall not start the performance of any work nor shall the City be liable to pay the selected Proposer for any service or work performed or expenses incurred before the contract is executed.

I-12. Prompt Payment of Subconsultants. Per MN Statute 471.425, Subd. 4a., Each contract of a municipality must require the prime contractor to pay any subcontractor within ten days of the prime contractor's receipt of payment from the municipality for undisputed services provided by the subcontractor. The contract must require the prime contractor to pay interest of 1-1/2 percent per month or any part of a month to the subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of \$100 or more is \$10. For an unpaid balance of less than \$100, the prime contractor shall pay the actual penalty due to the subcontractor. A subcontractor who prevails in a civil action to collect interest penalties from a prime contractor must be awarded its costs and disbursements, including attorney's fees, incurred in bringing the action.

I-13. Mandatory Disclosures. By submitting a proposal, each Proposer understands, represents, and acknowledges that:

- A. Their proposal has been developed by the Proposer independently and has been submitted without collusion with and without agreement, understanding, or planned common course of action with any other vendor or suppliers of materials, supplies, equipment, or services described in the Request for Proposals, designed to limit independent bidding or competition, and that the contents of the proposal have not been communicated by the Proposer or its employees or agents to any person not an employee or agent of the Proposer.
- B. There is no conflict of interest. A conflict of interest exists if a Proposer has any interest that would actually conflict, or has the appearance of conflicting, in any manner or degree with the performance of work on the project. If there are potential conflicts, identify the municipalities, developers, and other public or private entities with whom your company is currently, or have been, employed and which may be affected.
- C. It is not currently under suspension or debarment by the State of Minnesota, any other state or the federal government.
- D. The company is either organized under Minnesota law or has a Certificate of Authority from the Minnesota Secretary of State to do business in Minnesota, in accordance with the requirements in M.S. 303.03.

I-14. Notification of Selection. Proposers whose proposals are not selected will be notified in writing.

PART II - PROPOSAL REQUIREMENTS

1. Proposal cover sheet attached as Appendix A
2. Cover letter that includes a description of specifically why Bidder is a good fit for this project and a restatement of the goals and objectives to demonstrate understanding of project details
3. Scope of work envisioned, including but not limited to:
 - a. Specific objectives
 - b. Detailed deliverables
 - c. Timeline of services
4. Background of firm that demonstrates successful completion of comparable projects (commensurate in size and scope to the proposed project) whose designs have been submitted for review under Section 106 of the National Historic Preservation Act and/or a state or local historic district ordinance and have received concurrence and/or approval from the National Park Service, and/or a Municipal government with Certified Local Government status
5. Resumes of key personnel responsible for deliverables, including lead designer for the proposed project team, including landscape architects, who at a minimum meets the professional qualifications for historic architecture as defined by the National Park Service.
6. Five examples of similar project experience of team
7. References
8. A lump sum, not-to-exceed total project cost including any sub-consultant fees, along with the following information:
 - a. A breakdown of the hours by task for each employee
 - b. Identification of anticipated direct expenses
 - c. Miscellaneous charges such as mileage and copies
 - d. Identification of any assumptions made while developing the cost proposal
 - e. Any cost information related to additional services or tasks, to be included as additional costs and not part of the total project cost
 - f. A work plan and detail on the scope of services and deliverables for the initial phase of predesign

PART III - CRITERIA FOR SELECTION

The proposals will be reviewed by City Staff. The intent of the selection process is to review proposals and make an award based upon qualifications as described therein. A 100-point scale will be used to create the final evaluation recommendations. The factors and weighting on which proposals will be judged are:

- | | |
|-----|---|
| 30% | Qualifications of the Bidder and Personnel |
| 30% | Prior experience with historic/preservation design work |
| 20% | Objectives, deliverables and work plan |
| 20% | Cost |

Top scoring candidates will be requested to schedule an interview before a final decision on proposals. Both in-person and virtual interviews will be available.

PART IV – PROJECT DETAIL

(1) Description of Services

The Architect/Engineer (A/E) Professional Services for this Work Order shall consist of, but not be limited to preparing a design, cost estimate, and specifications required to deliver fully executed contract documents. Additionally, the A/E shall provide historic preservation design expertise to facilitate the project's adherence with the Secretary of the Interior's Standards for Rehabilitation along with administrative support services as needed to expedite the Section 106 consultation process, the Federal implementation regulations for the National Historic Preservation Act (36 CFR Part 800) as described in Appendix C. The A/E's responsibilities shall also include participation in public meetings, preparation and delivery of presentations, and communications with government officials and community stakeholders as required to complete the Section 106 consultation process. The project shall consist of the following:

Background

The A/E (Architect/Engineer), along with any specialists and/or consultants shall design and produce construction documents for the following historic and/or modern elements and design: sidewalks, curbs, vehicular pavement, pedestrian and street lighting, landscape features and design, plant materials, outdoor seating, handicapped accessibility, wayfinding, metered parking and EV charging.

The final design solution should pay homage to the 1909 Burnham design, with consideration given to modern materials and construction methods. It is expected that the completed project will include modern construction methods and materials, meet all code requirements and be of minimal maintenance/repairs to the owners.

Expectation

The project will entail alterations and restoration of Priley Circle and bring to the project the best design principles as permitted by the site infrastructure and budget, while adhering to the Secretary of the Interior's Standards for Rehabilitation. In so doing, the final design will qualify for a No Adverse Effect on Historic Properties Determination by GSA's Historic

Preservation Officer and subsequently a concurrence with that determination from the SHPO.

Scope of Work

Prior to award of this contract, the A/E is required to attend a Pre-Proposal meeting to be held at the Duluth City Hall, 411 W 1st St. Duluth, MN 55802. This meeting will be held with the City, County and Federal Project Managers and Property Managers. The A/E should be prepared to ask pertinent questions relating directly to scope requirements, specialty items, historic and other related topics. If necessary, the scope of work will be amended to incorporate any pertinent changes and/or modifications. The A/E shall prepare minutes of this meeting and every subsequent meeting thereafter, and shall deliver them to the project managers for distribution within 3 working days of the meeting.

A follow up meeting shall be planned with the City team on-site to discuss the project parameters and customer expectations. The City will coordinate the final location with the customer.

The AE shall prepare a preliminary cost estimate for the project in order that the City has sufficient time to process the request for funding. Estimates will be required to reflect Improvement costs and are due at 50% design/CD submission. An updated cost estimate shall be provided at 90% with a final estimate at the completion of contract documents.

The AE shall include services of an Architectural Historian and Landscape Architects in the planning, design and execution phases of the project to provide the team with expertise and direction. The persons shall meet the Secretary of the Interior's Professional Qualifications standards for Architectural History and shall be involved throughout the design phases of the project and provide guidance and oversight of the process.

Color renderings are expected at the 50% design/CD's review and shall include 3 unique schemes unless otherwise directed. A final color rendering and 3D fly-through shall be presented at 90% CD's and shall indicate further development of the scheme. Graphic Rendering of each scheme shall be provided to the City for consideration at 50% and 90%.

Special attention and detailing will be required with regard to the historic fabric. City will review costs and aesthetics of proposed products and notify the AE on the desired finish selections.

The AE shall conduct all meetings and provide meeting minutes.

The AIA Masterspec shall be used as the basis for developing the construction contract documents. For Division 15 and 16 specification

sections, the A/E shall develop his/her own specifications edited to full extent necessary for this specific project. Any available specifications (AIA, Navy, Military, NASA, etc.) may be used as a guide in developing the individual specifications for Sections 15 and 16; however, the specifications shall be prepared using the AIA Masterspec Format. Design shall comply with the GSA design guide PBS-P100

(2) Computer Aided Design (CAD) Drawings and Specifications

(2.1) All drawings and specifications shall be developed through computer-based media. All drawings shall be drawn using AutoCAD Release 16 or more current version, operating under MS Windows. AutoCAD (vector) drawing files in format DWG shall be submitted via CD-ROM disk. Layering shall follow the guidelines issued by the American Institute of Architects (AIA). Please refer to www.gsa.gov/greatlakescadpolicy. Only standard AutoCAD fonts shall be used, (i.e. Simplex or Romand). No customized menus. Only standard AutoCAD menus shall be submitted. Also, the .dwf format of all drawing files are to be submitted in addition to the .dwg format for transmission of the drawings in web format. In addition to normal statements of scale for plans, details, etc. such as 1/4" = 1'-0", a graphic scale shall be added at each adjacent to or underneath stated scale. All drawing files shall be stand alone with no required external references.

(2.2) Specifications shall be prepared on Microsoft Word and saved as the current version of MS Word operating under Microsoft Windows, using font Times New Roman 10cpi. The specifications shall include a Table of Contents that indicates all boilerplate and technical specification sections used. All specification sections shall be combined into one complete file.

(3) Scope of Services - Design and Construction Documents

(3.1) Pre-Proposal Meeting with GSA and a separate Post Award-Proposal Meeting with the Government. The design effort(s) and timeline need to include deliverables, time for Section 106 coordination and any coordination requirements for local historic districts.

(3.2) The AE shall provide Conceptual drawings of 3 distinct designs. Design Development shall further develop the selected design and once approved the Construction Document phase shall begin.

(3.3) 50% Documents shall include drawings, specification outline, and estimate.

(3.4) 90% construction documents shall include developed drawings, specifications and estimates.

(3.5) 100% completion A/E will provide all documents via email. Provide drawings in .dwg and .pdf formats.

(4) Option 1 - Pre-Construction Contract Award Negotiation Services

The A/E shall there upon perform the following additional professional services:

The A/E shall assist the Government in evaluating proposal(s) received from potential contractor(s). This option shall be coordinated with the cost estimating services identified in Attachment A of this work order. This option shall be exercised after the A/E has reconciled the variances in the proposal(s) received and the A/E's estimate. This shall encompass the following:

The A/E shall attend one pre-proposal meeting, on-site with the Government and bidding contractors.

The A/E shall, within 7 days of request by the Contracting Officer, provide a written report of variances and/or discrepancies of the proposal(s) in comparison to the Independent Government Estimate (IGE), by CSI division to establish pre-negotiation objectives.

The A/E shall assist in negotiations with the offeror(s) by attending all conference calls and or meetings, as requested by the Contracting Officer, to address any concerns pertaining to the IGE, specifications or drawings.

The A/E shall, within 7 days of request by the Contracting Officer, prepare a written report to the Contracting Officer to determine whether or not the selected proposal(s) is/are considered fair and reasonable.

Prior to the performance of work, under this option, the A/E will be required to sign and return to the Contracting Officer a "Non-Disclosure" document.

(5) Option 2 - Post Construction Contract Award Services

Pricing for this option is to be provided at the time of the base bid for the A/E Services.

The A/E shall perform the following professional services:

(5.1) Review Construction Contractor coordinated and approved shop drawings, equipment lists, and data submittals as called for in the Construction Contract Documents. Any action shown is subject to the requirements of the Construction Contract Documents. Review shall be completed within ten (10) working days of receipt of shop drawings. All shop drawings shall be stamped with Government furnished approval stamp and transmitted on Government furnished transmittal forms.

(5.2) The A/E Project Manager(s) shall attend a pre-construction conference at the site.

(5.3) The A/E shall review general operating instructions, including copies of posted specific instructions and maintenance instructions, followed by tabulated manufacturers' descriptive literature, shop drawings, performance curves and rating data, spare parts lists and contractor's maintenance manuals. Submit one (1) electronic copy to GSA for review and distribution.

(6) Option 3 - Construction Observation Services

Pricing for this option is to be provided at the time of the base bid for the A/E Services

Governments sole discretion to exercise this option shall be given within 24 months of the Government's acceptance of final deliverables required by this work order. The A/E shall there upon perform the following additional professional services:

The A/E shall provide the following construction inspection services for a period of time stated by the construction contract (provided that stated time period may be extended by mutual agreement by both parties hereto), commencing with the approval of this modification or issuance of Notice to Proceed with the Construction Contract, whichever is later. The A/E will provide written meeting minutes for any meeting held on site or conference call.

(6.1) INSPECTION FOR COMPLIANCE: Make sufficient observation of the performance and progress of the contractor to ascertain compliance with plans, specifications, and other construction performance requirements of the contract.

(6.2) REQUESTS FOR INFORMATION: Respond promptly to all questions from responsible prime contractors regarding the requirements of the construction contract documents; provided, however, that any question which cannot be readily answered by reference to the contract documents or which involves an interpretation of the contract documents shall be referred, together with the comments and recommendations of the A/E, to the COR who shall, as promptly as may be feasible, furnish the contractor with a response to the question, an interpretation of the contract documents, or such instruction or directive as he may deem appropriate.

(6.3) MATERIALS: Inspect materials delivered on site and promptly thereafter notify the COR of any materials which do not meet the requirements of the contract documents.

(6.4) CHANGE ORDERS & ESTIMATING: The A/E shall make recommendations to the COR for change orders that could reasonably be anticipated for this type of project. Prepare scopes of work including sketches,

narratives, and product descriptions as required for construction contract modifications using Government standard forms. The A/E shall also review the construction cost submitted from the contractor for each proposal.

(6.5) **FINAL INSPECTION:** Conduct a Final Inspection and prepare the Omissions and Defects List

(6.6) **TESTING SERVICES:** The A/E is to review all testing required by the construction contract. Testing services beyond those required by the construction contract will be requested of the A/E through a separate modification of this contract.

(7) Schedule of Submissions:

(7.1) The A/E shall complete the services required under paragraph (3.2) for the 50% submittal by 12 weeks after the pre-design meeting.

The A/E shall complete the services required under paragraph (3.3) for the 90% submittal by 8 weeks after approval of the 50% drawings.

(8) Fee and Payment

(1) **Base:** In consideration of the A/E's performance of the services required by this Work Order (except those covered by options), the Government shall pay the A/E a fixed fee of

\$ _____.

Prior to the final payment under this Work Order, the A/E shall furnish the Government with a release of claims against the Government under this portion of the contract, other than such claims as the A/E may except. He shall describe and state the amount of each excepted claim.

(2) **Option 1 - Pre-Construction Contract Award Negotiation Services:** Pricing for this option is to be provided at the time of the base bid for the A/E Services. The Government shall pay the A/E a fixed fee of:

\$ _____.

(3) **Option 2 - Post Construction Contract Award Services:** Pricing for this option is to be provided at the time of the base bid for the A/E Services. The Government shall pay the A/E a fixed fee of:

\$ _____.

(4) **Option 3 - Construction Observation Services**: Pricing for this option is to be provided at the time of the base bid for the A/E Services. The Government shall pay the A/E a fixed fee of:

\$_____.

Appendices

Appendix A: Cover Sheet

Appendix B: Supplementary Provisions – State & Federal Funding

Appendix C: National Park Service – Archaeology and Historic Preservation; Secretary of the Interior's Standards and Guidelines

Appendix D: The Secretary of the Interior's Standards for the Treatment of Historic Properties; Guidelines for Preserving, Rehabilitating, Restoring & Reconstructing Historic Buildings

**APPENDIX A - PROPOSAL COVER SHEET
CITY OF DULUTH
RFP# _____**

Proposer Information:	
Proposer Name	
Mailing Address	
Contact Person	
Contact Person's Phone Number	
Contact Person's E-Mail Address	
Federal ID Number	
Authorized Signature	
Title of Authorized Signer	
Email of Authorized Signer	