

Exhibit 1

PUBLIC RECREATIONAL, WALKWAY, AND TRAIL EASEMENT AGREEMENT

THIS PUBLIC RECREATIONAL, WALKWAY, AND TRAIL EASEMENT AGREEMENT (this "Agreement") is entered into this 9th day of December, 2021, by and between The Ledges On Lake Superior Homeowners' Association, Inc., a Minnesota nonprofit corporation ("Grantor") in favor of the City of Duluth, a municipal corporation created and existing under the laws of the State of Minnesota ("City").

RECITALS

A. The unit owners in Common Interest Community No. 78 own the following property located in St. Louis County, Minnesota (the "Grantor Property") in undivided interest:

The Common Elements in Common Interest Community No. 78 The Ledges on Lake Superior First Amended, St. Louis County, Minnesota.

B. Grantor has the power to convey a public easement through over or under the Grantor Property pursuant to Minn. Stat. § 515B.3-102(a)(9).

C. Grantor wishes to grant and City wishes to accept a public recreational, walkway, and trail easement over a portion of the Grantor Property in trust for the benefit of the public.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

1. Grant of Easement. Grantor does hereby grant to City, its successors and assigns, a perpetual, non-exclusive easement (the "Lakewalk Easement") for public recreational, walkway, and trail purposes under, over, upon, across and along that portion of the Grantor Property legally described on the attached Exhibit A and depicted on the attached Exhibit B (the "Lakewalk Easement Area") for uses consistent with the remainder of City's Lakewalk. Grantor reserves

the right to use the Lakewalk Easement Area for purposes that do not interfere with City's and the public's full enjoyment of the rights granted in this Agreement, provided Grantor shall not erect or construct any buildings or other structures in the Lakewalk Easement Area.

2. Construction, Repair and Maintenance.

- a. City may, at its sole cost and expense, install and maintain a public recreational, walkway and trail ("Lakewalk") on the Lakewalk Easement Area, without the need for any further approvals of Grantor or the unit owners in Common Interest Community No. 78. Prior to entering the Lakewalk Easement Area for the purpose of installing or maintaining the Lakewalk, City shall submit to Grantor a concept design of the proposed Lakewalk (or maintenance of existing improvements) along with detailed plans, including a drawing showing the location of the proposed Lakewalk within the Lakewalk Easement Area. These documents shall be submitted to Grantor at least sixty (60) days before the planned commencement of the work. Grantor may provide City with input and feedback regarding the concept design, but the final concept design shall be in City's sole discretion. The City's 60 days' advance notice requirement to Grantor does not include routine maintenance activities such as snow and ice removal, mowing, seasonal landscaping, patching, and similar activities. Notwithstanding the foregoing discretion, the City agrees to the following: the City shall plant mature vegetation and plantings along the Lakewalk within the Lakewalk Easement Area that provide physical and visual barriers between the Lakewalk and the remainder of the Grantor's Property (and the units and other common elements in Common Interest Community No. 78); the City shall minimize the length of the Lakewalk in the Lakewalk Easement Area to the greatest extent feasible; and the City shall not disrupt or displace the existing shed located on the Grantor's Property. No work may begin on any approved project until all necessary permits are secured. All work shall conform to state law and the Duluth City Code. All improvements or installations within the Lakewalk Easement Area shall become the property of City and be maintained by City as required by this Agreement. Notwithstanding anything in this Agreement to the contrary, the following terms and conditions shall apply to the use of the Lakewalk Easement Area: (i) the Lakewalk may be used for walking, running, rollerblading, biking, cross-country skiing and other non-motorized uses; (ii) use of the Lakewalk Easement Areas shall not be open to the public until the Lakewalk is constructed; (iii) the Lakewalk shall not be lit; and (iv) there will be no benches, picnic tables, stairs or other physical accommodations in the Lakewalk Easement Area to encourage persons to pause or linger along the Lakewalk.
- b. City, its contractors, agents and employees may enter the Lakewalk Easement Area at all reasonable times for the purposes of locating, constructing, operating, maintaining, repairing, replacing and monitoring a multi-use recreational trail within the Lakewalk Easement Area. All work shall be performed in a safe and professional manner and any constructing, operating, maintaining, repairing and replacing activities will minimize, to the extent reasonably possible, safety risks, noise and physical disruption to the Grantor Property and surrounding property. City may not store or stockpile construction or landscaping materials within the Lakewalk Easement Area, except on a short-term basis during installation or maintenance activities.

- c. City, its contractors, agents and employees may construct erosion control structures necessary to maintain a clear, dry passage through the Lakewalk Easement Area, including the installation, maintenance, repair and replacement of waterbars, steps, and other trail surface structures, as well as culverts as necessary to traverse surface waters within the Lakewalk Easement Area, provided that no such structures or culverts shall cause water to damage the Grantor Property by flowing onto or flooding any portion of the Grantor Property beyond the Lakewalk Easement Area.
- d. City, its contractors, agents and employees may add, remove, cut, trim, or remove from the Lakewalk Easement Area bituminous material, bark, sand, stones, boards, grass, trees, shrubs, other vegetation, or other landscaping in City's discretion.
- e. All of City's rights listed above with respect to the Lakewalk Easement Area are optional and City shall have no obligation or duty to construct, install, maintain, repair or replace any improvements, erosion control structures or vegetation in the Lakewalk Easement Area; provided that, after construction or installation of any improvements, erosion control structures, or vegetation in the Lakewalk Easement Area, City, at its sole cost and expense, shall maintain such improvements, erosion control structures or vegetation in a good, safe and serviceable condition, or, in lieu of continued maintenance, shall have the option to remove any improvements, erosion control structures or vegetation installed pursuant to this Agreement.

3. Liability and Indemnification

- a. To the extent permitted by law, Grantor shall have and enjoy all of the protection from liability afforded an owner granting an easement for the use of land for recreational purposes as provided in Chapter 604A of Minnesota Statutes and such statutory protection and limitations on duties, including but not limited to those set forth in Minn. Stat. §§ 604A.22 and 604A.23, which are hereby incorporated by reference. Grantor shall not be liable to City for any injury or damage resulting from any defect in the Grantor Property, nor for any damage that may result from the negligence of any other person whatsoever, except the negligence of Grantor, its officers, members, agents, servants and employees.
- b. To the extent permitted by law, City agrees to indemnify, save harmless, and defend Grantor and its officers, agents, servants, employees, residents and visitors from and against any and all claims, suits, loss, judgments, costs, damages and expenses asserted by any person by reason of injury to or death of any and all persons, including employees or agents of City or Grantor, and including any and all damages to property to whomsoever belonging, including property owned by, leased to, or in the care, custody, and control of City arising out of, related to or associated with City's negligent acts in its use of the Lakewalk Easement Area or performance of its obligations under this Agreement. Promptly after receipt by Grantor of notice of the commencement of any action with respect to which City is required to indemnify Grantor, Grantor shall notify City in writing of the commencement thereof, and, subject to the provisions of this Agreement, City shall assume the defense of such action, including the employment of counsel satisfactory to Grantor and the payment of expenses. In so far

as such action shall relate to any alleged liability of Grantor with respect to which indemnity may be sought against City, Grantor shall have the right to employ separate counsel in any such action and to participate in the defense thereof, and the fees and expenses of such separate counsel shall be at the expense of City. This indemnification provision shall survive expiration or termination of this Agreement for any reason, for a period of six (6) years.

4. Signage. City will maintain signage in the Lakewalk Easement Area identifying the area that is open to the public and that which is private. The signage will be generally consistent with signage used on other portions of City's trails and shall be maintained by City in a first-class and safe condition and appearance.
5. Severability. If any term, provision or condition contained in this Agreement shall to any extent be invalid or unenforceable, the remainder of this Agreement or the application of such term, provision or condition to persons or circumstances other than those in respect of which it is invalid or unenforceable, shall not be affected thereby and each term, provision or condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
6. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota.
7. Amendment. This Agreement may be amended only in writing, signed by both of the parties hereto, or their successors in interest, and recorded in the real estate records in St. Louis County, Minnesota.
8. Notices. Unless otherwise provided herein, notice to City or Ledges shall be sufficient if sent by regular United States mail, postage prepaid, addressed to the parties at the addresses hereinafter set forth or to such other respective persons or addresses as the parties may designate to each other in writing from time to time.

City of Duluth
Attn: Property & Facilities Manager
1532 West Michigan Street
Duluth, MN 55806
(218) 730-4430

The Ledges On Lake Superior
Homeowners' Association, Inc.
Attn: President
The Ledges 2200 Water St
Duluth, MN 55812

9. Binding Effect. This Agreement and each and every covenant, agreement, and other provision hereof shall inure to the benefit of and be binding upon the each of parties hereto and their respective successors and assigns. The Lakewalk Easement shall be perpetual and the Lakewalk Easement and all other rights granted in this Agreement shall run with the land.
10. Title and Authority. Grantor represents to City that (i) this easement document has been properly approved by Grantor; (ii) the individual(s) executing this document on behalf of Grantor have the requisite authority to execute this document and to bind Grantor thereto; and (iii) no further permissions or authorizations from Grantor or owners of lots within the plat of

Common Interest Community No. 78 The Ledges On Lake Superior are needed in order to permit City to fully enjoy the rights granted in this Agreement.

11. Termination of Easement. This Agreement shall terminate if City fails to complete construction of a multi-use recreational trail within the Lakewalk Easement Area within fifteen (15) years from the date of this Agreement.
12. Consent Not Unreasonably Withheld. Whenever the consent or approval of Grantor is required or permitted under this Agreement, such consent or approval shall not be unreasonably withheld, conditioned or delayed.

[Remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto as of the day and year first above written.

GRANTOR:

The Ledges On Lake Superior Homeowners' Association, Inc.

By: Bradley W. Oachs

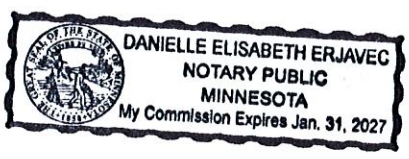
Printed Name: Bradley W. Oachs

Its: President

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

This instrument was acknowledged before me this 9th day of December, 2021 by Bradley W. Oachs, the President of The Ledges On Lake Superior Homeowners' Association, Inc., a Minnesota nonprofit corporation.

Danielle Erjavec
Notary Public



GRANTEE:

CITY OF DULUTH

By: _____
Emily Larson, Mayor

Attest: _____
Chelsea Helmer, City Clerk

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

This instrument was acknowledged before me this ____ day of _____, 2021,
by Emily Larson, Mayor of the City of Duluth, a Minnesota municipal corporation.

Notary Public

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

This instrument was acknowledged before me this ____ day of _____, 2021,
by Chelsea Helmer, City Clerk, of the City of Duluth, a Minnesota municipal corporation.

Notary Public

This instrument was drafted by:
Office of the City Attorney
Room 410 City Hall
411 West 1st Street
Duluth, MN 55802-1198

EXHIBIT A

Lakewalk Easement Area Legal Description

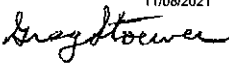
Easement Area Legal Description

That portion of the Common Element, Common Interest Community No. 78, A Condominium, The Ledges On Lake Superior, First Amended Plat, according to the recorded plat thereof, St. Louis County, Minnesota, that lies westerly and northwesterly of a line described as follows:

Commencing at the south corner of said Common Element; thence North 37 degrees 42 minutes 08 seconds West, assumed bearing along the southwest line of the Common Element, 29.00 feet to the point of beginning of the line to be described; thence North 6 degrees 51 minutes 18 seconds East 33.16 feet; thence 183.80 feet along a tangential curve, concave to the southeast, central angle 44 degrees 16 minutes 06 seconds, radius 237.89 feet; thence North 49 degrees 08 minutes 37 seconds East 177.98 feet to a point on the northwest line of Common Element, said point is 363.06 feet from the west corner of Common Element, said point being the end of the described line.

Said easement is 8837 square feet (0.20 acres) more or less.

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.

11/08/2021

Greg Stoewer
MINNESOTA LICENSE NO. 21774

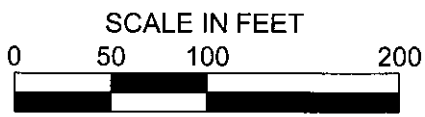
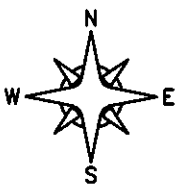
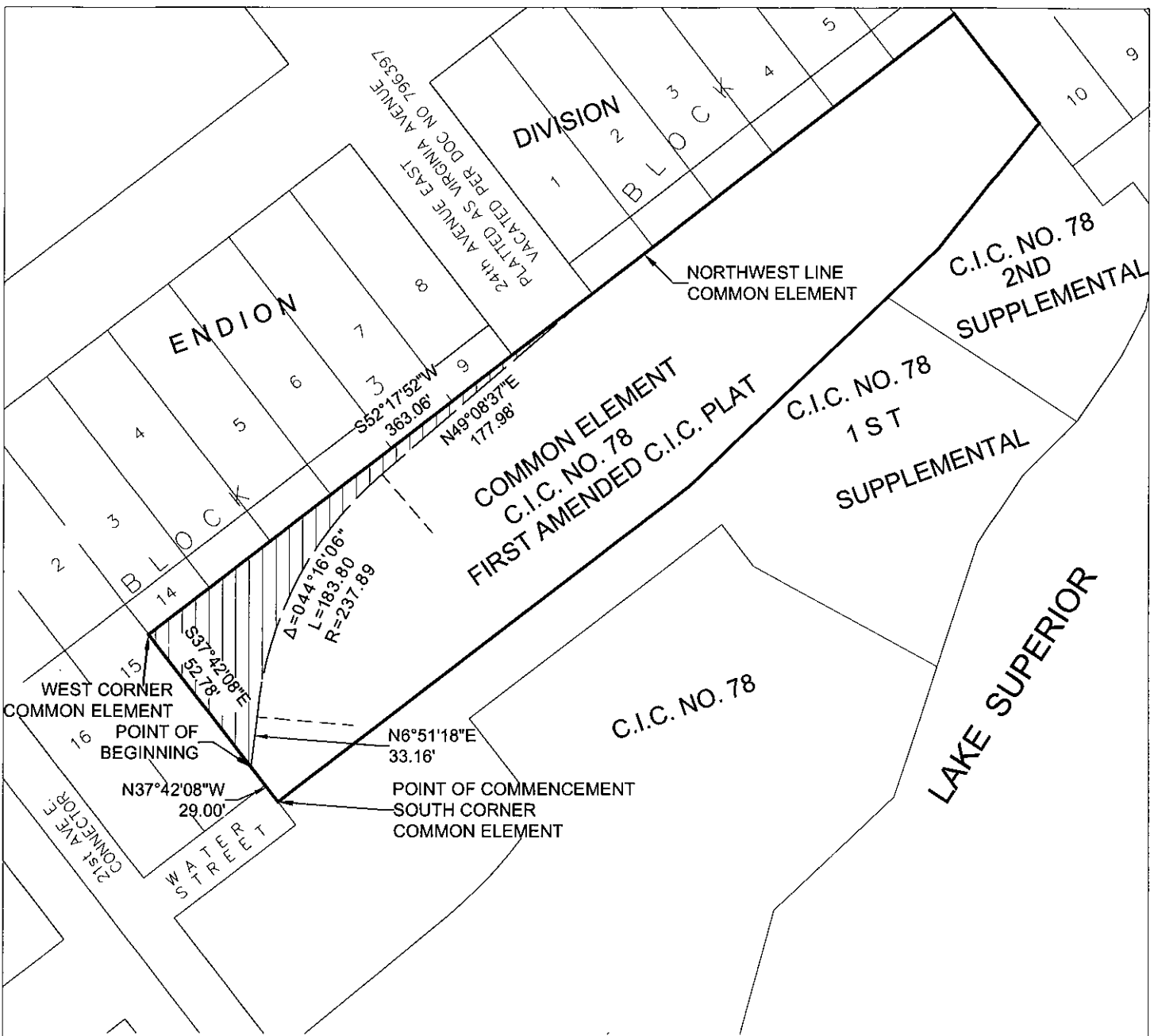


11 East Superior Street
Suite 420
Duluth, MN 55802
218-724-8578
tkda.com
Job Number: 15513.415

EASEMENT EXHIBIT in
C.I.C. NO. 78 THE LEDGES
FIRST AMENDED PLAT
Sheet 1 of 2 Sheets

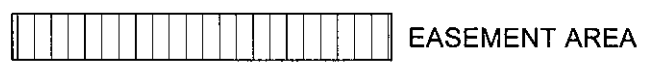
EXHIBIT B

Lakewalk Easement Area Depiction



1 inch = 100 feet

Bearings, Distances, and Coordinates are based on the St Louis County TM96 Coordinate System



APPROVED BY THE CITY ENGINEER OF THE CITY OF DULUTH, MINNESOTA, THIS 9th DAY OF DECEMBER 2021, BY [Signature]

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. Greg Stoewer
Greg Stoewer
MINNESOTA LICENSE NO. 21774



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Suite 420
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EASEMENT EXHIBIT in
C.I.C. NO. 78 THE LEDGES
FIRST AMENDED PLAT
Sheet 1 of 2 Sheets

**AFFIDAVIT OF SECRETARY OF
THE LEDGES ON LAKE SUPERIOR HOMEOWNERS' ASSOCIATION, INC.**

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

The undersigned, being duly sworn on oath, states as follows:

That I am the duly elected and acting Secretary of The Ledges On Lake Superior Homeowners' Association, Inc., a Minnesota nonprofit corporation (the "Association").

That the foregoing Public Recreational, Walkway, and Trail Easement has been approved by resolution of the Board of Directors of the Association pursuant to Minn. Stat. § 515B.3-102(a)(9) and Section 5 of by the Declaration of Common Interest Community No. 78, A Condominium, The Ledges On Lake Superior recorded in the office of the Registrar of Titles of St. Louis County, Minnesota, as Document No. 847127, as subsequently amended from time to time (the "Declaration").

IN WITNESS WHEREOF, I have hereunto subscribed my name this 9th day of December, 2021.



Secretary

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

This instrument was acknowledged before me this 9th day of December, 2021 by Michael Edmunds, the Secretary of The Ledges On Lake Superior Homeowners' Association, Inc., a Minnesota nonprofit corporation.



Notary Public

