

# Exhibit 1

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(above space reserved for recording information)

## EASEMENT AGREEMENT

This EASEMENT AGREEMENT (this “**Agreement**”), entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2022, is by and between Unique Opportunities Duluth LLC, a Minnesota limited liability company (“**Unique Opportunities Duluth**”), Unique Opportunities Land Holdings LLC, a Minnesota limited liability company (“**Unique Opportunities Land Holdings**”), and the City of Duluth, a municipal corporation under the laws of the State of Minnesota (the “**City**”). Unique Opportunities Duluth and Unique Opportunities Land Holdings are hereinafter collectively referred to as “**Grantor**.”

### WITNESSETH:

**WHEREAS**, Unique Opportunities Duluth is the owner of certain property in St. Louis County, Minnesota legally described as Lot 1, Block 2, Sam Herzogs Arrowhead Acres (the “Unique Opportunities Duluth Property”);

**WHEREAS**, Unique Opportunities Land Holdings is the owner of certain property in St. Louis County, Minnesota legally described as Lot 3, Block 2, Sam Herzogs Arrowhead Acres (the “Unique Opportunities Land Holdings Property”);

**WHEREAS**, the Unique Opportunities Duluth Property and the Unique Opportunities Land Holdings Property are hereinafter collectively referred to as the “**Property**”;

**WHEREAS**, the Property, together with additional property owned by Grantor, is subject to a Development Agreement between Grantor and the City dated \_\_\_\_\_, 2022, recorded in the Office of the St. Louis County Registrar of Titles on \_\_\_\_\_, 2022 as Document No. \_\_\_\_\_ (the “**Development Agreement**”);

**WHEREAS**, the Development Agreement requires Grantor to enter into this Agreement and, once certain conditions set forth in the Development Agreement have been met, to construct a bituminous trail no less than eight feet (8’) in width on the Property (the “**Trail**”); and

**WHEREAS**, as required by the Development Agreement and subject to the terms and conditions of this Agreement, Grantor wishes to convey to the City, in trust for the general public,

a permanent easement for pedestrian purposes over and across a portion of the Property, as hereinafter described, at no cost to the City.

**NOW THEREFORE**, in consideration of the mutual covenants and conditions herein contained, the parties hereby agree as follows:

1. Recitals Incorporated. The foregoing recitals are incorporated herein by reference and made part of this grant of easement.
2. Grant of Easement. Grantor does hereby grant to the City, in trust for the public, a permanent easement for pedestrian purposes (the “**Easement**”) over and across that portion of the Property legally described on the attached Exhibit A and depicted on the attached Exhibit B (the “**Easement Area**”). The Easement Area may be used by the public only for walking, running, rollerblading, biking, cross-country skiing and other non-motorized uses.
3. Maintenance. Following construction of the Trail, the owner or owners of the Property on which the Trail is located shall maintain the Trail and the Easement Area located on such owner’s portion of the Property in a clean and neat condition and shall take such measures as are reasonably necessary to control grass, weeds, blowing dust, dirt, litter, snow, ice or debris thereon and in compliance with all applicable ordinances, rules, regulations and laws of the City and the State of Minnesota. Such owner or owners shall also: (i) maintain the Trail on such owner’s portion of the Property in good condition and repair, ordinary wear and tear excepted; and (ii) reconstruct the Trail on such owner’s portion of the Property as needed from time to time in order to permanently maintain a safe and operational bituminous trail no less than eight feet (8’) in width on the Easement Area. In the event any such owner fails to perform its maintenance, repair or replacement obligations set forth in this Paragraph 3, City may, in its sole discretion, following written notice to such owner of such default and a reasonable time to cure such default, perform such maintenance, repair and replacement actions and in such event, such owner shall pay to City upon demand the actual, reasonable costs incurred by City to perform the actions, including but not limited to reimbursement for City employee time at the standard rate billed for such time.
4. Covenants to Run with Land. It is intended that each of the easements, covenants, conditions, restrictions, rights and obligations set forth herein shall run with the land for the benefit of the public, shall bind every owner and/or every other person or entity now or hereafter having any fee, leasehold or other interest in the Property and shall inure to the benefit of the public, the parties to this Agreement, and their successors, assigns, heirs, and personal representatives.
5. Successors In Interest. The successors in interest to Grantor shall take title to the Easement Area, or any portion thereof, subject to each and all of the easements, covenants, conditions, restrictions and obligations contained herein.
6. Entire Agreement. This Agreement, together with the Development Agreement, contains the complete understanding and agreement of the parties hereto with respect to all

matters referred to herein, and all prior representations, negotiations, and understandings are superseded hereby.

7. Notices. Notices or other communication hereunder shall be in writing and shall be sent certified or registered mail, return receipt requested, or by other national overnight courier company, or personal delivery, to Grantor (or any successor owner(s) of any portion of the Property), at the address in the records of the St. Louis County Auditor's office as the place to send property tax statements, and if to City as follows:

City:           City of Duluth  
                  Attn: City Clerk  
                  411 West First Street, Room 318  
                  Duluth, MN 55802

8. Governing Law, Jurisdiction and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota, and all questions concerning the meaning, intention or validity of the terms of this Agreement, as well as the performance of the parties hereto, shall be determined and resolved in accordance therewith. The parties agree to submit to the exclusive jurisdiction of the State and Federal Courts sitting in St. Louis County, Minnesota, and waive any objections to such location based on jurisdiction, venue or inconvenient forum.
9. Construction of Agreement. Grantor and the City have participated jointly in the negotiation and drafting of this Agreement. If an ambiguity or question of intent or interpretation arises, this Agreement is to be construed as if drafted jointly by the parties and no presumption or burden of proof will arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.
10. Severability. In the event any provision herein shall be deemed invalid or unenforceable, the remaining provisions shall continue in full force and effect and shall be binding upon the parties to this Agreement.

\* \* \* \* \*

{*Signatures Follow*}

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first shown above.

**GRANTOR:**

Unique Opportunities Duluth LLC,  
a Minnesota limited liability company

By: \_\_\_\_\_

Samuel Herzog

Its: Chief Manager

STATE OF MINNESOTA )

) ss.

COUNTY OF \_\_\_\_\_)

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by Samuel Herzog, as Chief Manager of, and on behalf of Unique Opportunities Duluth LLC, a Minnesota limited liability company.

\_\_\_\_\_  
Notary Public

Unique Opportunities Land Holdings LLC,  
a Minnesota limited liability company

By: \_\_\_\_\_

Samuel Herzog

Its: Chief Manager

STATE OF MINNESOTA )

) ss.

COUNTY OF \_\_\_\_\_)

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by Samuel Herzog, as Chief Manager of, and on behalf of Unique Opportunities Land Holdings LLC, a Minnesota limited liability company.

\_\_\_\_\_  
Notary Public

**CITY:**

CITY OF DULUTH

By: \_\_\_\_\_

Its Mayor

Attest:

By: \_\_\_\_\_

City Clerk

STATE OF MINNESOTA    )

) ss.

COUNTY OF ST. LOUIS    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by Emily Larson, Mayor, of the City of Duluth, a Minnesota municipal corporation.

\_\_\_\_\_  
Notary Public

STATE OF MINNESOTA    )

) ss.

COUNTY OF ST. LOUIS    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by Ian B. Johnson, Clerk, of the City of Duluth, a Minnesota municipal corporation.

\_\_\_\_\_  
Notary Public

This instrument drafted by:  
Office of the City Attorney  
Room 440 City Hall  
411 West 1st Street  
Duluth, MN 55802-1198

# EXHIBIT A

## LEGAL DESCRIPTION OF PEDESTRIAN EASEMENT

A 20-foot-wide easement lying over, under and across that part of Lots 1 and 3, Block 2, SAM HERZOGS ARROWHEAD ACRES, according to the recorded plat thereof, St. Louis County, Minnesota, said easement is described as follows:

Beginning at the Southeast corner of said Lot 1; thence on an assumed bearing of North 00 degrees 21 minutes 30 seconds West, along the East line of said Block 2 for a distance of 511.29 feet; thence South 89 degrees 38 minutes 30 seconds West 44.02 feet; thence North 33 degrees 36 minutes 22 seconds West 166.67 feet; thence North 61 degrees 19 minutes 34 seconds West 157.90 feet; thence North 25 degrees 30 minutes 04 seconds West 44.36 feet; thence North 74 degrees 02 minutes 52 seconds West 24.46 feet to the right of way line of Eischen Court; thence Southwesterly 20.17 feet, along said right of way line, along a non-tangential curve, concave to the Northwest, said curve having a radius of 90.00 feet and a delta angle of 12 degrees 50 minutes 23 seconds, the chord of said curve bears South 22 degrees 22 minutes 19 seconds West for a chord distance of 20.13 feet; thence South 74 degrees 02 minutes 52 second East 17.69 feet; thence South 25 degrees 30 minutes 04 seconds East 41.81 feet; thence South 61 degrees 19 minutes 34 seconds East 159.43 feet; thence South 33 degrees 36 minutes 22 seconds East 172.54 feet; thence North 89 degrees 38 minutes 30 seconds East 34.83 feet; thence South 00 degrees 21 minutes 30 seconds East 491.29 feet to the South line of said Block 2; thence North 89 degrees 38 minutes 30 seconds East, along said South line 20.00 feet to the point of beginning.

Said easement contains 18,655 square feet or 0.43 acres.


## SURVEYOR'S NOTES

1. THIS SURVEY HAS BEEN PREPARED WITHOUT BENEFIT OF A TITLE COMMITMENT OR TITLE OPINION. A TITLE SEARCH FOR RECORDED OR UNRECORDED EASEMENTS WHICH MAY BENEFIT OR ENCUMBER THIS PROPERTY HAS NOT BEEN COMPLETED BY ALTA LAND SURVEY COMPANY. THE SURVEYOR ASSUMES NO RESPONSIBILITY FOR SHOWING THE LOCATION OF RECORDED OR UNRECORDED EASEMENTS OR OTHER ENCUMBRANCES NOT PROVIDED TO THE SURVEYOR AS OF THE DATE OF THE SURVEY.
2. BEARINGS ARE BASED ON THE ST. LOUIS COUNTY TRANSVERSE MERCATOR COORDINATE SYSTEM OF 1996. (NAD 83 2011)
3. THIS IS NOT A BOUNDARY SURVEY.

Approved by the City Engineer of the City of Duluth, MN  
this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

By \_\_\_\_\_

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

  
David R. Evanson  
DATE: 08-09-2021 MN License #49505

## EASEMENT EXHIBIT

CLIENT: UNIQUE OPPORTUNITIES, LLC

REVISIONS:

ADDRESS: XXXX W. ARROWHEAD ROAD  
DULUTH, MN 55811

DATE: 08-09-2021

JOB NO: 20-337

SHEET 1 OF 2

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

# EXHIBIT B

EISCHEN  
COURT

SAM  
SAVI

EXISTING UTILITY  
EASEMENT PER PLAT

HERZOGS

ARROWHEAD

BLOCK

ACRES

WEST MARBLE STREET

S LINE SAM HERZOGS  
ARROWHEAD ACRES

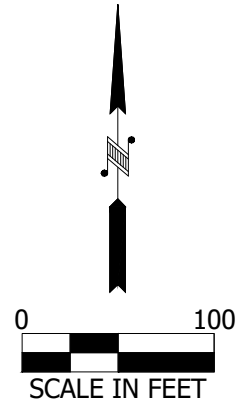
S LINE BLK. 1

EXISTING UTILITY  
EASEMENT PER PLAT

SE COR LOT 1,  
BLK. 2, POB

## EASEMENT EXHIBIT

LINE	BEARING	DISTANCE
L1	N00°21'30"W	511.29
L2	S89°38'30"W	44.02
L3	N33°36'22"W	166.67
L4	N61°19'34"W	157.90
L5	N25°30'04"W	44.36
L6	N74°02'52"W	24.46
L7	S74°02'52"E	17.69
L8	S25°30'04"E	41.81
L9	S61°19'34"E	159.43
L10	S33°36'22"E	172.54
L11	N89°38'30"E	34.83
L12	S00°21'30"E	491.29
L13	N89°38'30"E	20.00
CURVE	ARC LENGTH	RADIUS
C1	20.17	90.00
DELTA ANGLE	CHORD BEARING	CHORD LENGTH
12°50'23"	S22°22'19"W	20.13



## LEGEND

POB-POINT OF BEGINNING

- RIGHT OF WAY
- PEDESTRIAN
- EASEMENT LINE
- EXISTING PLAT LINE
- PEDESTRIAN  
EASEMENT AREA

CLIENT:UNIQUE OPPORTUNITIES, LLC

REVISIONS:

ADDRESS:XXXX W. ARROWHEAD ROAD  
DULUTH, MN 55811

DATE:08-09-2021

JOB NO:20-337

SHEET 2 OF 2

**ALTA**  
LAND SURVEY COMPANY

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