

EXHIBIT 1

(above space reserved for recording information)

EASEMENT AGREEMENT

This EASEMENT AGREEMENT (this “**Agreement**”), entered into this ____ day of _____, 2022, by and between DULUTH GOSPEL TABERNACLE, a Minnesota nonprofit corporation, its successors and assigns (“**Grantor**”), and the City of Duluth, a municipal corporation under the laws of the State of Minnesota (the “**City**”).

A. Grantor is the owner of certain property in St. Louis County, Minnesota legally described as follows (the “**Property**”):

Lot 3, Block 1, HARBOR LIGHT EXCEPT That part of Lot 3, Block 1, HARBOR LIGHT lying southerly of the following described line: Commencing at the southwest corner of Lot 4, Block 1 of said HARBOR LIGHT; thence North 00 degrees 21 minutes 19 seconds West along the westerly line of said Lot 4, a distance of 185.00 feet; thence continuing North 46 degrees 48 minutes 49 seconds East along the westerly line of said Lot 4, a distance of 206.00 feet to the most northwesterly corner of said Lot 4 and being the Point of Beginning of the line to be described; thence South 89 degrees 38 minutes 41 seconds West along the westerly extension of the north line of said Lot 4, a distance of 431.58 feet to the west line of said Lot 3 and said line there terminating. EXCEPT minerals.

B. Subject to the terms and conditions of this Agreement and as required by the Development Agreement (defined below), Grantor wishes to convey to the City a permanent, exclusive easement for recreational, walkway, and trail purposes over and across a portion of the Property, in trust for the benefit of the public and at no cost to the City.

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein contained, the parties 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 general public, a permanent, exclusive easement for recreational, walkway, and trail purposes (the “**Easement**”) over, under and across that portion of the Property legally described on the attached Exhibit A and depicted on the attached Exhibit B (the “**Easement Area**”).
3. Construction of Temporary Trail. On or before September 30, 2022, Grantor, at Grantor’s sole expense, shall design and complete construction of a gravel trail within the Easement Area of at least eight feet in width and conforming to the standards set forth in Exhibit C (the “**Trail**”). The bituminous pavement depicted on Exhibit C shall not be installed until the Trail is paved as discussed in Paragraph 4 below. Construction of the Trail shall include installation of signage in form and content acceptable to the City. The deadline for completing construction of the Trail may be extended up to a maximum of 120 days by the City’s Director of Planning and Economic Development, in their sole discretion.
4. Paving of Trail and Possible Relocation of Easement Area. On or before the earliest of the following dates: (i) the date of issuance of a Certificate of Occupancy for the Property; or (ii) July 1, 2032, Grantor shall, at Grantor’s expense, pave the Trail with a bituminous surface as required by this paragraph. Paving of the Trail shall conform to the following standards (collectively, the “**Bituminous Trail Standards**”): (i) the then-current standards for a 20 mile per hour design speed trail according to the State of Minnesota, Department of Transportation’s Bicycle Facility Design Manual, or such similar State of Minnesota design standard manual as may exist at that time; and (ii) all standards set forth in Exhibit C. If the location of the Easement Area does not allow the Trail to be paved in a manner that would meet the Bituminous Trail Standards, Grantor shall, prior to paving the Trail, cause to be designed (by an professional engineer licensed in the State of Minnesota) a new alignment for the Easement Area and the Trail within the Property, in a location acceptable to the City. In the event the Easement Area and the Trail must be relocated or widened in order to accommodate paving the Trail as required by this paragraph, the City and Grantor shall enter into a written amendment to this Agreement reflecting the new location of the Easement Area, which amendment shall be recorded in the St. Louis County real estate records. All costs relating to paving the Trail, relocating/reconstructing the Trail and the Easement Area and amending this Agreement, including but not limited to design, engineering, survey, construction and recording costs, shall be paid for by Grantor. The need to relocate the Easement Area and the Trail and amend this Agreement shall not: (i) extend the deadline set forth in this paragraph for completing the paving of the Trail; or (ii) be considered a taking for eminent domain purposes.
5. Remedies; Failure to Construct, Maintain or Pave Trail or to Amend this Agreement. In the event Grantor fails to comply with this Agreement or perform any obligations under this Agreement, the City may pursue any remedy available to it by law, including but not

limited to specific performance. If Grantor fails to construct, maintain or pave the Trail as required by this Agreement, the City may, but shall not be obligated to, undertake Grantor's obligations and immediately collect all costs from Grantor by any legal means available, including but not limited to assessing the costs against the Property. Grantor agrees that the construction, maintenance and paving of the Trail, and any relocation of the Easement Area and/or the Trail, will constitute public improvements that confer special benefits accruing to the Property. In the event Grantor: (i) fails to design a new alignment for the Trail and the Easement Area as required by paragraph 4 above, or (ii) fails to enter into an amendment to this Agreement to reflect the new location of the Easement Area as required by paragraph 4 above, then the City shall be permitted to design a new alignment and prepare and record an affidavit or other document in the Offices of the St. Louis County Registrar of Titles and/or Recorder reflecting the new location of the Easement Area, which recorded affidavit or other document shall be deemed to amend this Agreement. No remedy conferred by this Agreement is intended to be exclusive. The election of any one or more remedies by the City shall not constitute a waiver of any other remedy.

6. Maintenance. Until such time as the Trail is paved as required by paragraph 4 above, Grantor shall, at Grantor's expense, be responsible for fully maintaining the Trail and the Easement Area, in a safe and passable condition, including but not limited to the following: regularly smoothing and filling washouts and rutted areas, adding aggregate as needed to maintain the Trail's surface, and maintaining the Easement Area in a clean and neat condition including such measures as are necessary to control grass, weeds, blowing dust, dirt, litter or debris. After the Trail is paved, Grantor's maintenance obligations as to the Easement Area shall be limited to the following: Grantor shall maintain the Easement Area in a clean and neat condition and shall take such measures as are necessary to control grass, weeds, blowing dust, dirt, litter, snow, ice or debris. All maintenance activities shall be in compliance with all applicable ordinances, rules, regulations and laws of the City and State of Minnesota.
7. Covenants to Run with Land. It is intended that each of the easements, covenants, conditions, restrictions, rights and obligations set forth in this Agreement shall run with the land and create equitable servitudes in favor of the real property benefited thereby, 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 respective parties and their successors, assigns, heirs, and personal representatives.
8. Grantee's Acceptance. The grantee of the Property or any portion thereof, by acceptance of a deed conveying title thereto or the execution of a contract for the purchase thereof, whether from Grantor or from a subsequent owner of the Property, shall accept such deed or contract upon and subject to each and all of the easements, covenants, conditions, restrictions and obligations contained in this Agreement. By such acceptance, any such grantee shall for themselves and their successors, assigns, heirs, and personal representatives, covenant, consent, and agree to and with Grantor to keep, observe, comply with, and perform the obligations and agreements set forth in this Agreement with respect to the Property.

9. Authority. Grantor represents to the City that the individual(s) executing this document on behalf of Grantor have the requisite authority to execute this Agreement, and to bind Grantor thereto.
10. Entire Agreement and Development Agreement. The purpose of this Agreement is to address the requirements, such as they apply to the Property only, relating to the “North-South Easement” set forth in the Development Agreement between the City and Duluth Gospel Tabernacle dated April 5, 2019 and recorded in the Office of the St. Louis County Registrar of Titles on January 23, 2020 as Document No. 1019871 (the “**Development Agreement**”). This Agreement contains the complete understanding and agreement of the parties with respect to the North-South Easement as it affects the Property, and all prior representations, negotiations, and understandings as to the North-South Easement over and across the Property are superseded by this Agreement. Except with respect to that portion of the North-South Easement lying over and across the Property, nothing in this Agreement modifies, replaces or is in substitute for the requirements set forth in the Development Agreement. To the extent that the terms of the Development Agreement as to that portion of the North-South Easement affecting the Property differ from the terms of this Agreement, the terms of this Agreement shall control.
11. 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.
12. 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.
13. Severability. In the event any provision in this Agreement shall be deemed invalid or unenforceable, the remaining provision shall continue in full force and effect and shall be binding upon the parties to this Agreement.

* * * * *

{Signatures Follow}

CITY OF DULUTH

Attest:

[illegible]

Notary Public

Notary Public

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EXHIBIT A

A twenty foot wide easement over, under and across those parts of Lots 3 and 4, Block 1, HARBOR LIGHT, City of Duluth, St. Louis County, Minnesota centered on the following described line:

Commencing at the southwest corner of Lot 4, Block 1, HARBOR LIGHT; thence North 89 degrees 40 minutes 02 seconds East (bearings referenced to the St. Louis County Transverse Mercator 1996 coordinate system) along the south line of said Lot 4, a distance of 40.55 feet to the Point of Beginning of the centerline to be described; thence North 00 degrees 18 minutes 41 seconds West, a distance of 142.04 feet; thence North 66 degrees 35 minutes 53 seconds West, a distance of 24.76 feet; thence 57.05 feet along a non-tangential curve concave southeasterly having a radius of 112.67 feet, a central angle of 29 degrees 00 minutes 48 seconds and a chord bearing North 14 degrees 09 minutes 04 seconds East; thence 47.14 feet along a non-tangential curve concave southwesterly having a radius of 100.00 feet, a central angle of 27 degrees 00 minutes 43 seconds and a chord bearing North 52 degrees 07 minutes 51 seconds West; thence North 65 degrees 38 minutes 13 seconds West, a distance of 39.30 feet; thence 57.28 feet along a tangential curve concave northeasterly having a radius of 50.00 feet and a central angle of 65 degrees 38 minutes 13 seconds; thence North 00 degrees 00 minutes 00 seconds East, a distance of 70.14 feet; thence 22.30 feet along a tangential curve concave westerly having a radius of 50.00 feet and a central angle of 25 degrees 33 minutes 24 seconds; thence North 25 degrees 33 minutes 24 seconds West, a distance of 17.10 feet; thence 96.44 feet along a tangential curve concave easterly having a radius of 154.00 feet and a central angle of 35 degrees 52 minutes 54 seconds; thence 35.13 feet along a compound tangential curve concave southeasterly having a radius of 36.00 feet and a central angle of 55 degrees 54 minutes 42 seconds; thence North 66 degrees 14 minutes 10 seconds East, a distance of 137.12 feet; thence 15.45 feet along a tangential curve concave northwesterly having a radius of 14.00 feet and a central angle of 63 degrees 14 minutes 10 seconds; thence North 03 degrees 00 minutes 00 seconds East, a distance of 11.79 feet; thence 105.45 feet along a tangential curve concave southeasterly having a radius of 76.00 feet and a central angle of 79 degrees 30 minutes 00 seconds; thence North 82 degrees 30 minutes 00 seconds East, a distance of 48.18 feet; thence 27.86 feet along a tangential curve concave northwesterly having a radius of 84.00 feet and a central angle of 19 degrees 00 minutes 00 seconds; thence North 63 degrees 30 minutes 00 seconds East, a distance of 49.05 feet; thence North 23 degrees 09 minutes 57 seconds East, a distance of 20.71 feet to the easterly line of said Lot 3 at Evergreen Circle in the plat of HARBOR LIGHT and said centerline there terminating.

The southerly sidelines of said easement are prolonged or shortened to terminate on the south line of Block 1, HARBOR LIGHT. The northerly sidelines of said easement are prolonged or shortened to terminate on the lot line of Lot 3, BLOCK 1, HARBOR LIGHT at Evergreen Circle.

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

Paul A. Vogel


Signed 
Date 03/11/2022 License No. 44075

EXHIBIT B

TRAIL EASEMENT

APPROVED BY:

CITY ENGINEER

HARBOR

EASTERLY LINE
LOT 3

EVERGREEN
CIRCLE

LOT 2

LOT 3

BLOCK 1

LIGHT

NORTHWEST LOT LINE
LOT 4

LOT 4

SOUTHWEST CORNER
LOT 4
POINT OF
COMMENCEMENT,
THIS DESCRIPTION

N 89°40'02" E
40.55

WEST MARBLE STREET

(NOT TO SCALE)

Basis of Bearing is Grid North,
St. Louis County Transverse
Mercator 96 Coordinate System.

CURVE TABLE				
CURVE	RADIUS	CENTRAL ANGLE	ARC LENGTH	CHORD BEARING
C1	112.67	29°00'48"	57.05	N14°09'04"E
C2	100.00	27°00'43"	47.14	N52°07'51"W
C3	50.00	65°38'13"	57.28	N32°49'07"W
C4	50.00	25°33'24"	22.30	N12°46'42"W
C5	154.00	35°52'54"	96.44	N07°36'57"W
C6	36.00	55°54'42"	35.13	N38°16'50"E
C7	14.00	63°14'10"	15.45	N34°37'05"E
C8	76.00	79°30'00"	105.45	N42°45'00"E
C9	84.00	19°00'00"	27.86	N73°00'00"E

LINE TABLE		
LINE	BEARING	LENGTH
L1	N00°18'41"W	142.04
L2	N66°35'53"W	24.76
L3	N65°38'13"W	39.30
L4	N00°00'00"E	70.14
L5	N25°33'24"W	17.10
L6	N66°14'10"E	137.12
L7	N03°00'00"E	11.79
L8	N82°30'00"E	48.18
L9	N63°30'00"E	49.05
L10	N23°09'57"E	20.71

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

Print Name: Paul A. Vogel

License # 44075

Signature:

Date: 03/11/2022

REVISED: 3/11/22

DATE PREPARED: 1/24/20

PROJ NO: 150732

FILE: 150732vEXHIB

SHEET 1 of 1 SHEETS



PERFORMANCE
DRIVEN DESIGN.
LHBcorp.com

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