

EXHIBIT 1

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

This Settlement Agreement and Mutual Release (this “Settlement Agreement”) is entered into by and between the City of Duluth, a Minnesota municipal corporation (the “City”) and Marine Iron & Ship Building Company, a Minnesota corporation (“Marine Iron”), collectively referred to as the “Parties.”

RECITALS

WHEREAS, the Parties entered into an agreement dated July 24, 1992, recorded on September 3, 1997 in the Office of the St. Louis County Registrar of Titles as Document No. 553582 and in the Office of the St. Louis County Recorder as Document No. 554771 (the “1992 Agreement”) which, among other things: (1) conveyed a portion of the property known as the Minnesota Slip to the City; and (2) created a 20-foot wide navigational easement within the Minnesota Slip;

WHEREAS, disputes have arisen between the City and Marine Iron regarding the use of the Minnesota Slip, which disputes include disputes over the use of the Minnesota Slip by the Parties, use of the navigational easement provided for in the 1992 Agreement, and the direct and indirect impacts, financial and otherwise, of the City’s 2018 project to repair and reconstruct the western slip wall of the Minnesota Slip (the “Dispute”);

WHEREAS, the City and Marine Iron have now reached a settlement on all issues involved in the Dispute as set forth in this Settlement Agreement; and

WHEREAS, the Parties have defended the claims against them and deny any wrongdoing or liability on their part, expressly agree that this settlement is not and shall not be construed as an admission of fault or liability for any claim, and now wish to settle all issues involved in this Dispute on the terms set forth herein.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, of the conditions, covenants and agreements set forth below, and for other valuable consideration, the amount and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Release and Final Payment of Retainage. In consideration for a full, final and complete compromise of the issues involved in the Dispute:

- a. The City and Marine Iron shall, upon execution of this Settlement Agreement, enter into the Amendment to Agreement attached as Exhibit A, which amends the 1992 Agreement (the “Amendment to Agreement”). In order to properly evidence the conveyance of the interest described in paragraph 1 of the Amendment to Agreement, Marine Iron shall also execute and deliver to the City a quit claim deed in substantially the form attached as Exhibit B (the “Marine Iron Deed”). The City shall record the Marine Iron Deed and the Amendment to Agreement in the Office of the St. Louis County Registrar of Titles at the City’s expense and will pay the deed tax due on the Marine Iron Deed. Marine Iron will cooperate as necessary to record the Marine Iron Deed and the Amendment to Agreement, and with all efforts of the City to obtain a Certificate of Title in the name of the City for the property described in the Marine Iron Deed.
- b. The City and Marine Iron affirm their respective rights to continue longstanding uses of the Minnesota Slip, as permitted by the 1992 Agreement, as amended by the Amendment to Agreement. This includes the City’s right to permit the William A. Irvin (the “Irvin”) to moor on the west side of the Minnesota Slip.
- c. The City will reimburse Marine Iron for documented out-of-pocket, legal expenses and lost revenue resulting from the City’s 2018 Minnesota Slip seawall reconstruction project up to a maximum amount of \$35,000. Within 60 days of execution of this Settlement Agreement, Marine Iron shall provide the City with documentation of out-of-pocket legal expenses and lost revenue resulting from the City’s 2018 Minnesota Slip seawall reconstruction project. Upon receipt of documentation reasonably acceptable to the City, the City will reimburse Marine Iron for the documented amount up to a maximum of \$35,000.
- d. The City and Marine Iron shall enter into an easement agreement (the “Parking Easement Agreement”), substantially in the form attached as Exhibit C. A portion of the property to be encumbered by the Parking Easement Agreement is currently subject to a sublease agreement between Interstate Parking Company of Minnesota LLC, as landlord, and Marine Iron, as tenant (the “Lease”). Prior to execution of the Parking Easement Agreement, Marine Iron shall obtain and deliver to the City an executed termination of the Lease. The City shall record the Parking Easement Agreement in the Office of the St. Louis County

Recorder at the City's expense. Without limitation, Marine Iron acknowledges that the City has made no representations or warranties (whether express or implied, oral or written) regarding the property to be encumbered by the Parking Easement Agreement (the "Easement Area"), including but not limited to the value, quality or condition of the Easement Area; the status of title to the Easement Area; the suitability of the Easement Area for any activity or use which Marine Iron may conduct; the compliance of the Easement Area with any laws or regulations; the habitability, merchantability, marketability, profitability, or fitness of the Easement Area for a particular purpose; and compliance by the Easement Area with any and all environmental rules, regulations, orders or laws. Marine Iron acknowledges and agrees that the City has no obligation to remove any personal property or debris from the Easement Area. Marine Iron acknowledges and agrees that, to the maximum extent permitted by law, Marine Iron is acquiring and accepting the Easement Area in its "AS-IS" condition.

- e. The intention of the Parties is that: (i) the City's ownership within Minnesota Slip following the delivery of the Marine Iron Deed will include one foot of buffer space between the most easterly portion of the easterly hull of the Irvin, as moored in the Minnesota Slip tight to 8" bumpers, and the Parallel Line (as defined in the Marine Iron Deed); and (ii) the Easement Portion (as defined in the Amendment to Agreement) lying west of the Minnesota Slip centerline will be narrowed in an amount necessary to create the intended City ownership of one foot of buffer space. Therefore, within 30 days of the date the Irvin is moored in the Minnesota Slip (tight to 8" bumpers), the City shall engage TKDA to update its survey dated August 28, 2018, Job No. 15513.302 (the "Survey"). Marine Iron and the City shall each be responsible for one-half of the cost of the Survey and any associated TKDA costs relating to the requirements of this paragraph. Upon receipt of the final billing for such costs, City shall bill Marine Iron for its share of such costs and Marine Iron shall reimburse the City for its share of such costs within 30 days thereof. Nothing in this Settlement Agreement shall be construed to require 8" bumpers be used in mooring the Irvin, except at the time TKDA updates the Survey for purposes of this subparagraph e.
 - (A) In the event the Survey reveals that there is less than one foot of buffer space between any point on the easterly hull of the Irvin and the Parallel Line (as defined in the Marine Iron Deed), then:

- (i) Marine Iron shall execute and deliver a quit claim deed to the City in substantially the form attached as Exhibit B, with a revised Exhibit A (the “Second Marine Iron Deed”) conveying that portion of the Minnesota Slip necessary to shift the Parallel Line (as defined in the Marine Iron Deed) east to create a new parallel line (the “Amended Parallel Line”) which results in there being a one-foot buffer space between the most easterly point on the easterly hull of the Irvin and the Amended Parallel Line;
 - (ii) the Parties shall execute and deliver a Second Amendment to Agreement amending the 1992 Agreement as follows: (I) replacing the legal description for the Westerly Portion with the legal description contained in the Second Marine Iron Deed; and (II) replacing the legal description for the Easement Portion with a legal description that narrows the width of the Easement Portion lying west of the Minnesota Slip centerline in an amount equal to the increase in the width of the newly-described Westerly Portion; and
 - (iii) The City shall record the Second Marine Iron Deed and the Second Amendment to Agreement in the Office of the St. Louis County Registrar of Titles at the City’s expense and will pay the deed tax due on the Second Marine Iron Deed. Marine Iron will cooperate as necessary to record the Second Marine Iron Deed and the Second Amendment to Agreement, and with all efforts of the City to obtain a Certificate of Title in the name of the City for the property described in the Second Marine Iron Deed.
- (B) In the event the Survey reveals that there is more than one foot of buffer space between the most easterly portion of the easterly hull of the Irvin and the Parallel Line (as defined in the Marine Iron Deed), then:
 - (i) The City shall execute and deliver a quit claim deed to Marine Iron (the “City Deed”) conveying that portion of the Westerly Portion (as defined in the Amendment to Agreement) necessary to shift the Parallel Line (as defined in the Marine Iron Deed) to the west to create the Amended Parallel Line, resulting in there being a one-foot buffer space between the most easterly point on the easterly hull of the Irvin and the Amended Parallel Line;

- (ii) the Parties shall execute and deliver a Second Amendment to Agreement amending the 1992 Agreement, replacing the legal description for the Easement Portion with a legal description which widens the Easement Portion lying west of the Minnesota Slip centerline in an amount equal to the decrease in the Westerly Portion affected by the City Deed; and
- (iii) The City shall record the City Deed and the Second Amendment to Agreement in the Office of the St. Louis County Registrar of Titles at the City's expense and will pay the deed tax due on the City Deed. Marine Iron will cooperate as necessary to record the City Deed and the Second Amendment to Agreement, and with all efforts of the City to obtain a Certificate of Title in the name of the City for the property described in the Marine Iron Deed, except that portion conveyed to Marine Iron in the City Deed.

2. Mutual Releases. In consideration of the conditions, covenants, and agreements referred to herein, each Party, on behalf of themselves and their affiliates, stockholders, officers, directors, employees, agents, predecessors, successors and assigns, or their owners, shareholders, attorneys, heirs, executors, administrators, representatives, insurers, or assigns, releases and forever discharges the other Party from all claims, demands, costs, expenses, fees and causes of action, of whatever character, nature or kind, known or unknown, which the Parties may now have or may have ever had arising out of or relating in any way to the subject matter of this Dispute, including but not limited to any claim for compensation for the value of the Westerly Portion (as defined in the 1992 Agreement, as amended by the Amendment to Agreement) or the Easement Portion (as defined in the 1992 Agreement, as amended by the Amendment to Agreement), any claim of benefits in the nature of relocation benefits arising therefrom, any financial loss of any kind arising out of execution of the Amendment to Agreement, any financial loss of any kind arising out of the City's 2018 project to repair and reconstruct the western slip wall of the Minnesota Slip and any other claim arising out of the Dispute.

3. General Provisions:

- a. Binding Effect. This Settlement Agreement shall be binding upon and for the benefit of the Parties and their respective affiliates, stockholders, officers, directors, employees, agents, predecessors,

successors and assigns, or their owners, shareholders, attorneys, heirs, executors, administrators, representatives, insurers, or assigns.

- b. No Admission of Liability/Wrongdoing. Nothing contained or incorporated herein shall be deemed to be, nor shall the negotiation, execution and performance of this Settlement Agreement constitute any admission or concession of liability or wrongdoing on the part of any Party, or any other form of admission with respect to any matter, thing or dispute whatsoever. Any such liability or wrongdoing is expressly denied by the Parties.
- c. Representation by Counsel. Each Party warrants that it is and has been represented by independent counsel with respect to this Settlement Agreement and all matters covered by it. Each Party has been fully advised by said counsel with respect to its rights and obligations and with respect to the execution of this Settlement Agreement. Each Party authorizes and directs its respective attorneys or duly authorized employees or agents to execute such papers and take such other action as is necessary and appropriate to effectuate the terms of this Settlement Agreement.
- d. Complete Agreement. Each Party warrants that no promise, inducement or agreement not expressed herein has been made in connection with this Settlement Agreement. This Agreement constitutes the entire agreement between the Parties and supersedes and replaces all prior negotiations or proposed agreements, written or oral.
- e. Written Modification. This Settlement Agreement may not be altered, amended, modified or otherwise changed in any respect whatsoever except by a writing duly executed by an authorized representative of each of the Parties.
- f. Titles and Captions. Titles, captions, or headings in this Settlement Agreement are inserted as a matter of convenience and for reference, and in no way define, limit, extend, describe, alter, or affect the meaning of this Settlement Agreement.
- g. Construction of Settlement Agreement. The language of this Settlement Agreement shall be construed as a whole according to its fair meaning and intent and not strictly for or against any Party regardless of who drafted or was principally responsible for drafting

this Settlement Agreement or any specific term or condition herein. This Settlement Agreement shall be deemed to have been drafted by all parties, and no Party shall urge otherwise. This Settlement Agreement shall be deemed to have been made in the State of Minnesota and shall be governed by, construed, and interpreted in accordance with the laws of the State of Minnesota. The parties consent to personal jurisdiction in the State of Minnesota, and the State District Court for the Sixth Judicial District venued in Duluth, MN, shall be the exclusive forum for resolution of the same.

- h. Multiple Originals. This Settlement Agreement may be executed in multiple originals, each of which is equally admissible in evidence and shall be deemed to be one and the same instrument. Telefax or email signatures shall be binding and have the same effect as an original counterpart executed to the other Party.
- i. Authority to Bind and Execute. Each Party represents and warrants that it has the full authority and power to enter into this Settlement Agreement and to perform all transactions, duties and obligations herein set forth. Each signatory to this Settlement Agreement who signs on behalf of a party represents and warrants that he or she has the authority to sign on behalf of that party.
- j. Severability. The Parties agree that if, for any reason, a provision of this Settlement Agreement is held unenforceable by any court of competent jurisdiction, this Settlement Agreement shall be automatically conformed to the law, and otherwise this Settlement Agreement shall continue in full force and effect.
- k. Costs, Expenses and Attorneys' Fees. Each of the parties will bear its own costs, expenses, and attorneys' fees incurred in connection with the resolution of this Dispute.

I HAVE CAREFULLY READ THE FOREGOING AND KNOW THE CONTENTS THEREOF AND SIGN THIS SETTLEMENT AGREEMENT AND THE RELEASE, FREELY AND VOLUNTARILY.

Dated this _____ day of July, 2019.

MARINE IRON & SHIP BUILDING COMPANY

By: _____

Its: _____

CITY OF DULUTH

By: _____

Emily Larson
Its Mayor

Attest:

By: _____

Its City Clerk

Counter signed:

By: _____

Its City Auditor

Approved as to form:

By: _____

Its City Attorney

EXHIBIT A TO SETTLEMENT AGREEMENT

Amendment to Agreement

AMENDMENT TO AGREEMENT

THIS AMENDMENT TO AGREEMENT (this “Amendment”) is entered into this _____ day of _____, 2019, by and between the CITY OF DULUTH, a municipal corporation created and existing under the laws of the State of Minnesota (the “City”), MARINE IRON & SHIP BUILDING COMPANY, a Minnesota corporation (“Marine Iron”). The City and Marine Iron are collectively referred to in this Amendment as the “Parties.”

WHEREAS, the Parties entered into an agreement dated July 24, 1992, recorded on September 3, 1997 in the Office of the St. Louis County Registrar of Titles as Document No. 553582 and in the Office of the St. Louis County Recorder as Document No. 554771 (the “Agreement”) which, among other things: (1) conveyed a portion of the property known as the Minnesota Slip to the City; and (2) created a 20-foot wide navigational easement within the Minnesota Slip.

WHEREAS, the Minnesota Slip is legally described on the attached Exhibit A.

WHEREAS, the Parties wish to amend the Agreement as set forth in this Amendment.

NOW, THEREFORE, in consideration of the mutual benefits contained herein, the receipt and sufficiency of which is acknowledged, the Parties agree to amend the Agreement as follows:

A. Paragraph 1 of the Agreement is deleted in its entirety and completely replaced with the following Paragraph 1:

1. *Marine Iron hereby grants, conveys and quit claims to the City all interest and right, riparian or otherwise, in the portion of Minnesota Slip (which Minnesota Slip is legally described in Exhibit A, attached hereto) described as follows (the "Westerly Portion"):*

That portion of Minnesota Slip westerly and northwesterly of the following-described lines:

Commencing at the intersection of the Easterly line of Minnesota Slip and the U.S. Government Harbor Line; thence northerly along said Easterly line of Minnesota Slip to the Northeast corner of Minnesota Slip and the point of beginning of the line described herein; thence deflect 146° 38' 02" to the left in a southwesterly direction, on a line (the "Diagonal Line") extending at an angle of 33° 26' 37" from the Northerly line of Minnesota Slip and 33° 21' 58" from the Easterly line of Minnesota Slip, and along said Diagonal Line to its intersection with a line parallel with and sixty-nine (69) feet easterly of the Westerly Line of Minnesota Slip (the "Parallel Line"); thence deflect to the left and southerly along the Parallel Line to its intersection with Line A described below; thence deflect to the right and west along Line A a distance of four (4) feet to its intersection with a line parallel with and sixty-five (65) feet easterly of the Westerly Line of Minnesota Slip; thence deflect to the left and southerly along said line to the U.S. Government Harbor Line, and there terminating.

Line A

Commencing at the Northwestern corner of Minnesota Slip; thence southerly along the Westerly line of Minnesota Slip to a point that is seven hundred (700) feet southerly of said Northwestern corner and the point of beginning of Line A; thence deflect to the left and easterly along a line perpendicular to the Westerly line of Minnesota Slip to its intersection with the centerline of Minnesota Slip.

The interest hereby conveyed includes, but is not limited to the right of the City to use the Westerly Portion as it in its sole discretion sees fit, including but not limited to the temporary or permanent mooring of vessels, ships, or boats, including the William A. Irvin.

B. Paragraph 2 of the Agreement is deleted in its entirety and completely replaced with the following Paragraph 2:

2. *The City and Marine Iron hereby grant, convey and quit claim to each other a non-exclusive easement for navigational purposes in the portion of Minnesota Slip described as follows (the “Easement Portion”):*

That portion of Minnesota Slip bounded on the west by a line parallel with and six (6) feet westerly of the centerline of Minnesota Slip; bounded on the east by a line parallel with and ten (10) feet easterly of the centerline of Minnesota Slip; bounded on the south by Line A described below; and bounded on the north by the Diagonal Line (as defined above).

AND

That portion of Minnesota Slip bounded on the west by a line parallel with and ten (10) feet westerly of the centerline of Minnesota Slip; bounded on the east by a line parallel with and ten (10) feet easterly of the centerline of Minnesota Slip; bounded on the south by the U.S. Government Harbor Line; and bounded on the north by Line A described below.

Line A

Commencing at the Northwestern corner of Minnesota Slip; thence southerly along the Westerly line of Minnesota Slip to a point that is seven hundred (700) feet southerly of said Northwestern corner and the point of beginning of Line A; thence deflect to the left and easterly along a line perpendicular to the Westerly line of Minnesota Slip to its intersection with the centerline of Minnesota Slip.

Neither the City nor Marine Iron shall construct docks in, moor vessels, ships, or boats in, or otherwise obstruct navigation in any part of the Easement Portion.

C. The following paragraph 8 is added to the Agreement:

8. *The City hereby grants to Marine Iron the right to maintain and use one seasonal, non-permanent boat dock in that part of the Westerly Portion lying northwest of the Diagonal Line and east of the Parallel Line, extended northerly to the north end of the Minnesota Slip (the “Dock Area”). The City may at its own expense remove any dock located within the Dock*

Area when and as necessary to repair, maintain or reconstruct storm sewer facilities outletting through the northerly end of the Minnesota Slip. The City will endeavor to repair, maintain and reconstruct storm sewer facilities outletting through the northerly end of the Minnesota Slip during the boating off-season. In the event the City wishes to remove Marine Iron's dock from the Dock Area, the City will (i) give Marine Iron such notice as is reasonable under the circumstances, and (ii) cause Marine Iron's dock to be reinstalled when the City's work has been completed, at the City's expense.

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

IN WITNESS WHEREOF, the City and Marine Iron have caused this Amendment to be executed as of the dates set forth below.

MARINE IRON & SHIP BUILDING
COMPANY, a Minnesota corporation

By: _____

Printed Name: _____

Its: _____

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

This instrument was acknowledged before me this _____ day of _____, 2019 by _____, the _____ of MARINE IRON & SHIP BUILDING COMPANY, a Minnesota corporation.

Notary Public

CITY OF DULUTH

By: _____
Mayor

By: _____
City Clerk

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

The foregoing instrument was subscribed and sworn before me this _____ day of _____, 2019, by Emily Larson and Chelsea Helmer, Mayor and City Clerk, respectively, of the City of Duluth, a municipal corporation organized and existing under the laws of the State of Minnesota.

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 TO AMENDMENT TO AGREEMENT

Minnesota Slip Legal Description

All that part of the Minnesota Slip and all those parts of the Commerce Division of Duluth, Industrial Division of Duluth, Transfer Division of Duluth and Cowell's Addition to Duluth, according to the recorded plats thereof, and all those parts of Government Lot 3 and Government Lot 4, Section 27, Township 50 North, Range 14 West of the Fourth Principal Meridian; all in St. Louis County, Minnesota, described as follows:

Commencing at the intersection of the Easterly right of way line of 5th Avenue West with the U.S.. Government Harbor Line, thence Northeasterly, along said U.S. Government Harbor Line, a distance of 1051.06 feet to the intersection with the Westerly line of said Minnesota Slip and said intersection being the point of beginning of the parcel to be described; thence deflect $66^{\circ} 47' 00''$ to the left in a Northerly direction, along said Westerly line of the Minnesota Slip, a distance of 955.54 feet to the Southeasterly right of way line of Interstate 35; thence deflect $66^{\circ} 43' 56''$ to the right in a Northeasterly direction, along said right of way line, a distance of 163.28 feet to the Easterly line of said Minnesota Slip; thence deflect $113^{\circ} 16' 04''$ to the right in a Southerly direction, along said Easterly line of the Minnesota Slip, a distance of 955.70 feet to the U.S. Government Harbor Line; thence deflect $66^{\circ} 47' 00''$ to the right in a Southwesterly direction, along said U.S. Government Harbor Line, a distance of 163.22 feet to the point of beginning.

EXHIBIT B TO SETTLEMENT AGREEMENT

Marine Iron Deed

QUIT CLAIM DEED

eCRV# _____

DEED TAX DUE: \$1.65

Date: _____, 2019

FOR VALUABLE CONSIDERATION, MARINE IRON & SHIP BUILDING COMPANY, a Minnesota corporation, (“Grantor”), hereby conveys and quitclaims to the CITY OF DULUTH, a municipal corporation and political subdivision under the laws of the State of Minnesota (“Grantee”), real property in St. Louis County, Minnesota, legally described and depicted on EXHIBIT A attached hereto.

Check here if all or part of the described real property is Registered (Torrens) ☒

together with all hereditaments and appurtenances.

Check applicable box:

- ☒ The Seller certifies that the Seller does not know of any wells on the described real property.
- ☐ A well disclosure certificate accompanies this document.
- ☐ I am familiar with the property described in this instrument and I certify that the status and number of wells on the described real property have not changed since the last previously filed well disclosure certificate.
- ☐ The total consideration for this transfer of property is \$500 or less.

MARINE IRON & SHIP BUILDING COMPANY

By _____,
_____, its _____

State of Minnesota, County of St. Louis

This instrument was acknowledged before me on _____, 2019, by _____, the
_____ of MARINE IRON & SHIP BUILDING COMPANY, a Minnesota corporation.

(seal)

(signature of notarial officer)

THIS INSTRUMENT WAS DRAFTED BY:

City of Duluth
Office of the City Attorney
411 W. First Street, Room 410
Duluth, Minnesota 55802

TAX STATEMENTS FOR THE REAL PROPERTY
DESCRIBED IN THIS INSTRUMENT SHOULD BE
SENT TO:

City of Duluth
411 W. First Street, Room 120
Duluth, MN 55802

Exhibit A to Marine Iron Deed

Deed to City Legal Description

That portion of Minnesota Slip, as legally described below, lying westerly and northwesterly of the following-described lines:

Commencing at the intersection of the Easterly line of Minnesota Slip and the U.S. Government Harbor Line; thence northerly along said Easterly line of Minnesota Slip to the Northeast corner of Minnesota Slip and the point of beginning of the line described herein; thence deflect $146^{\circ} 38' 02''$ to the left in a southwesterly direction, on a line (the "Diagonal Line") extending at an angle of $33^{\circ} 26' 37''$ from the Northerly line of Minnesota Slip and $33^{\circ} 21' 58''$ from the Easterly line of Minnesota Slip, and along said Diagonal Line to its intersection with a line parallel with and sixty-nine (69) feet easterly of the Westerly Line of Minnesota Slip (the "Parallel Line"); thence deflect to the left and southerly along the Parallel Line to its intersection with Line A described below; thence deflect to the right and west along Line A a distance of four (4) feet to its intersection with a line parallel with and sixty-five (65) feet easterly of the Westerly Line of Minnesota Slip; thence deflect to the left and southerly along said line to the U.S. Government Harbor Line, and there terminating.

Line A

Commencing at the Northwestern corner of Minnesota Slip; thence southerly along the Westerly line of Minnesota Slip to a point that is seven hundred (700) feet southerly of said Northwestern corner and the point of beginning of Line A; thence deflect to the left and easterly along a line perpendicular to the Westerly line of Minnesota Slip to its intersection with the centerline of Minnesota Slip.

The interest hereby conveyed includes, but is not limited to, the right of Grantee to use the above property as it in its sole discretion sees fit, including but not limited to the temporary or permanent mooring of vessels, ships, or boats, including the William A. Irvin.

Minnesota Slip legal description:

All that part of the Minnesota Slip and all those parts of the Commerce Division of Duluth, Industrial Division of Duluth, Transfer Division of Duluth and Cowell's Addition to Duluth, according to the recorded plats thereof, and all those parts of Government Lot 3 and Government Lot 4, Section 27, Township 50 North, Range 14 West of the Fourth Principal Meridian; all in St. Louis County, Minnesota, described as follows:

Commencing at the intersection of the Easterly right of way line of 5th Avenue West with the U.S.. Government Harbor Line, thence Northeasterly, along said U.S. Government Harbor Line, a distance of 1051.06 feet to the intersection with the Westerly line of said Minnesota Slip and said intersection being the point of beginning of the parcel to be described; thence deflect $66^{\circ} 47' 00''$ to the left in a Northerly direction, along said Westerly line of the Minnesota Slip, a distance of 955.54 feet to the Southeasterly right of way line of Interstate 35; thence deflect $66^{\circ} 43' 56''$ to the right in a Northeasterly direction, along said right of way line, a distance of 163.28 feet to the Easterly line of said Minnesota Slip; thence deflect $113^{\circ} 16' 04''$ to the right in a Southerly

direction, along said Easterly line of the Minnesota Slip, a distance of 955.70 feet to the U.S. Government Harbor Line; thence deflect $66^{\circ} 47' 00''$ to the right in a Southwesterly direction, along said U.S. Government Harbor Line, a distance of 163.22 feet to the point of beginning.

EXHIBIT C TO SETTLEMENT AGREEMENT

Parking Easement Agreement

EASEMENT AGREEMENT

This EASEMENT AGREEMENT, entered into this ____ day of _____, 2019, by and between the CITY OF DULUTH, a municipal corporation created and existing under the laws of the State of Minnesota, hereinafter referred to as “Grantor”, and MARINE IRON & SHIP BUILDING COMPANY, a Minnesota corporation, hereinafter referred to as “Grantee”.

WITNESSETH:

Whereas, Grantor is the owner of the property in St. Louis County, Minnesota legally described on Exhibit A attached hereto and made a part hereof (the “Grantor Property”) and depicted on Exhibit B attached hereto and made a part hereof; and

Whereas, Grantee is the owner of property located adjacent to the Grantor Property and legally described on Exhibit C attached hereto and made a part hereof (the “Grantee Property”), which Grantee and its tenants use for parking and other uses; and

Whereas, Grantor and Grantee have had a dispute over the use of property to the west of the Grantor Property, platted as Minnesota Slip, which dispute the parties are desirous of resolving by agreement, in part based on the granting by Grantor to Grantee of the easement as described and under the condition set forth below.

NOW THEREFORE, in consideration of One (\$1.00) Dollar and other good and valuable consideration, receipt of which is hereby acknowledged, and as part of the settlement of the dispute referenced above, Grantor does grant, sell, bargain and convey to Grantee a perpetual, non-exclusive easement over the Grantor Property for automobile parking and signage purposes (the “Easement”), subject to the following terms, conditions and limitations:

1. Grantee agrees that its use of the Easement shall comply with all applicable Federal, State and City code requirements including Unified Development Chapter, Chapter 50 of the Duluth City Code, and as the same may be from time to time amended or replaced, and Grantor’s storm water run-off and signage requirements.

2. Grantor has disclosed, and Grantee acknowledges, the existence of various Grantor-owned utilities on the Grantor Property (the "Utilities"). Grantor retains the right to maintain, repair, replace, rebuild and install additional Utilities on the Grantor Property. Grantee agrees that it will not construct any improvements on the Grantor Property that cause any damage to the Utilities. In the event that any damage or destruction of any improvements on the Grantor Property occurs in the course of maintenance, repair, replacement or rebuilding of any of the Utilities (the "Utility Maintenance"), the cost of repairing or replacing Grantee's improvements shall be solely that of the party performing the Utility Maintenance, except to the extent that the Utility Maintenance is necessary due to the action or inaction of Grantee.
3. Grantee's use of the Grantor Property shall be subject to all non-Grantor-owned utilities located in or on the Grantor Property and the rights of the owners of such utilities in the use of the Grantor Property. Grantee shall be solely responsible for determining the existence of and the extent of any such utilities and rights and Grantor makes no representation with regard thereto.
4. The cost of any improvements to or constructed on the Grantor Property by Grantee shall be solely that of Grantee. Grantee shall be responsible for all maintenance of its improvements on the Grantor Property, including but not limited to snow and ice removal, lawn care and trash removal.
5. This easement agreement shall be binding upon and inure to the benefit of the parties hereto and their heirs, successors and assigns. The Easement shall burden the Grantor Property and benefit the Grantee Property. The Easement shall run with the land. Grantor reserves the right to use the Grantor Property for purposes that will not obstruct, impede or interfere with the rights granted to Grantee in this easement agreement.
6. The Easement is limited by its terms and is not a public dedication of the use of the Grantor Property.

In Witness whereof, the parties have hereunto set their hands the day and date first above shown.

CITY OF DULUTH, a Minnesota
Municipal Corporation

MARINE IRON & SHIP BUILDING
COMPANY, a Minnesota Corporation

By _____
Emily Larson
Its Mayor

By _____
Its _____

By _____
Chelsea Helmer
Its City Clerk

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

The foregoing instrument was acknowledged before me this _____ day of _____, 2019, by _____, the _____ of Marine Iron & Ship Building Company, a Minnesota corporation, on behalf of the corporation

Notary Public

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

The foregoing instrument was acknowledged before me this _____ day of _____, 2019, by Emily Larson and Chelsea Helmer, the Mayor and City Clerk of the City of Duluth, a Minnesota Municipal corporation, on behalf of the City.

Notary Public

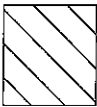
This instrument drafted by:
Robert E. Asleson
Assistant City Attorney, City of Duluth
411 West First Street
Room 410 City Hall
Duluth, MN 55802
(218) 730-5490

LEGAL DESCRIPTION OF EASEMENT FOR PARKING AND SIGNAGE

That part of Lot 15 and the North Half of Lot 14, TRANSFER DIVISION, according to the recorded plat thereof, St. Louis County, Minnesota described as follows:

Commencing at the Northernmost corner of said Lot 14, also being the Easternmost corner of said Lot 15; thence on an assumed bearing of South 64 degrees 49 minutes 58 seconds West, along the Northwest line of Lot 14 for a distance of 4.05 feet to the point of beginning of the easement herein described; thence continue South 64 degrees 49 minutes 58 seconds West, along said Northwest line of Lot 14 for a distance of 113.95 feet to the intersection with a line parallel with and distant 118.00 feet Southwesterly of the Northeastly line of said Lot 14; thence South 25 degrees 10 minutes 02 seconds East, along said parallel line 50.00 feet to the intersection with the Southeastly line of the North Half of said Lot 14; thence South 64 degrees 49 minutes 58 seconds West, along said Southeastly line 71.72 feet; thence North 53 degrees 02 minutes 18 seconds East 22.42 feet; thence North 27 degrees 26 minutes 01 seconds West 20.97 feet; thence North 42 degrees 15 minutes 16 seconds West 29.25 feet; thence North 37 degrees 43 minutes 08 seconds East 25.00 feet; thence North 43 degrees 43 minutes 27 seconds West 31.18 feet; thence North 44 degrees 55 minutes 10 seconds East 68.16 feet; thence North 73 degrees 43 minutes 32 seconds East 6.29 feet; thence North 65 degrees 17 minutes 22 seconds East 44.00 feet; thence North 74 degrees 44 minutes 46 seconds East 26.08 feet; thence South 27 degrees 20 minutes 30 seconds East 44.53 feet; thence North 64 degrees 30 minutes 21 seconds East 18.54 feet; thence South 27 degrees 08 minutes 17.47 feet to the point of beginning.

Said easement contains 11,546 square feet or 0.27 acres.

LEGEND

PROPOSED EASEMENT AREA

POB-POINT OF BEGINNING
CENTERLINE
RIGHT OF WAY LINE
EXISTING EASEMENT LINE
PROPOSED EASEMENT LINE
PLAT LINE
PARCEL LINE

LINE	BEARING	DISTANCE
L1	S64°49'58"W	4.05
L2	S64°49'58"W	113.95
L3	S25°10'02"E	50.00
L4	S64°49'58"W	71.72
L5	N53°02'18"E	22.42
L6	N27°26'01"W	20.97
L7	N42°15'16"W	29.25
L8	N37°43'08"E	25.00
L9	N43°43'27"W	31.18
L10	N44°55'10"E	68.16
L11	N73°43'32"E	6.29
L12	N65°17'22"E	44.00
L13	N74°44'46"E	26.08
L14	S27°20'30"E	44.53
L15	N64°30'21"E	18.54
L16	S27°08'50"E	17.47

Approved by the City Engineer of the City of
Duluth, MN this 3rd day of June 2019

By

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.

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: APRIL 17, 2019

MN Lic. No. 49505

EASEMENT EXHIBIT

CLIENT: NCE

DATE: APRIL 17, 2019

REVISIONS: XXX

SHEET 1 OF 2

ADDRESS: 325 S LAKE AVENUE
DULUTH, MN 55802

JOB NUMBER: 19-058

LAND SURVEY COMPANY

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

EXHIBIT B

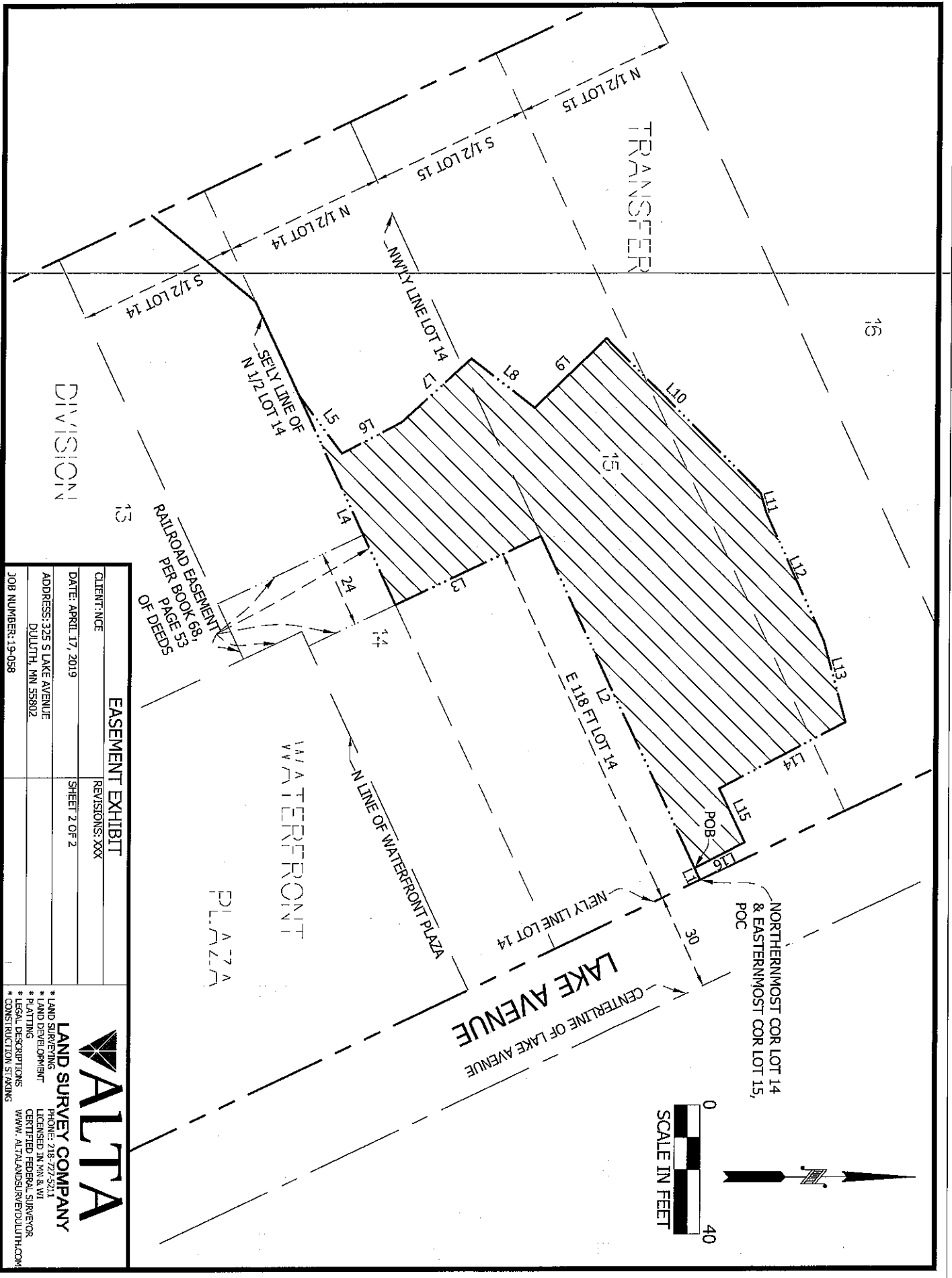


EXHIBIT C

S ½ of Lot 14, TRANSFER DIVISION OF DULUTH, EXCEPT that part platted as Common Interest Community Number 29, Condominium, Waterfront Plaza, filed in the office of the Registrar of Titles, as Document No. 644699

EXCEPT the southeasterly one-half of Lot 14, TRANSFER DIVISION OF DULUTH, according to the duly recoded plat thereof, situate in St. Louis County, Minnesota, which lies northwesterly of the following described line:

Beginning at a point on the southwesterly line of the above described tract, distant 18 feet southeasterly of the most westerly corner thereof; thence run northeasterly to a point on the northwesterly line of said tract, distant 38 feet northeasterly of the most westerly corner thereof and there terminating.

(Torrens property described in Certificate of Title No. 311989.)

And

That part of the N ½ of Lot 14, TRANSFER DIVISION OF DULUTH, lying northeasterly of a line parallel with and distant 118 feet southwesterly of the northeasterly line of said Lot 14.

(Abstract property.)