

PERMANENT WATER LINE EASEMENT AGREEMENT

This Permanent Water Line Easement Agreement ("Agreement") is entered into by Duluth Economic Development Authority, an Economic Development Authority created and existing under Minnesota Statutes (1989) Chapter 469 ("Grantor") and by the Western Lake Superior Sanitary District, a Public Corporation and political subdivision of the State of Minnesota which has its principal place of business at 2626 Courtland Street, Duluth, Minnesota ("Grantee").

RECITALS

WHEREAS, Grantor is the owner of real property located in St. Louis County, Minnesota, and legally described on **Exhibit A** attached hereto (the "Property");

WHEREAS, Grantee has a water line ("Water Line") located on a portion of the Property;

WHEREAS, Grantee desires to obtain from Grantor a perpetual easement over the Property (the "Permanent Easement Area"), legally described on **Exhibit B** attached hereto, and as shown by a dashed box on the drawing ("Plan") attached hereto as **Exhibit C**.

WHEREAS, Grantee wishes to provide for the future maintenance, repair and replacement of the Water Line.

NOW, THEREFORE, in consideration of mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. The Recitals are included as a part hereof.
2. Grantor grants Grantee a right-of-way and perpetual easement (the "Perpetual Easement") to construct, maintain, inspect, operate, protect, repair, replace, change the size of and/or remove the water line or water lines and appurtenances for the transportation of water or other liquids on, over, under and across the Permanent Easement Area, together with the right to locate the Permanent Easement Area by surveying and the placement of appropriate markers, if necessary, and the right to clear and keep cleared the Permanent Easement Area so as to prevent damage to or interference with the efficient operation of the Water Line.
3. Grantor grants to Grantee the right of ingress to and egress from the Permanent Easement Area across the Property by means of roads and lanes on the Property as and if they exist, otherwise, by such road, roads or paths as shall occasion the least practical damage and inconvenience to Grantor.
4. Grantee shall promptly backfill any trench made by it within the Permanent Easement Area and shall restore the surface area, including any roadway improvement, to its condition prior to the work by the Grantee. This provision shall not prevent Grantee from exercising its right to clear away trees and brush which Grantee shall not be required to replace.
5. Grantee shall have the right to assign the Perpetual Easement to the City of Duluth in whole as to all of the rights accruing hereunder, subject always to the terms of this Agreement.

Parcel_____

6. Grantee shall indemnify and hold Grantor harmless from and against any and all loss and damage that shall be caused by any construction, operation, use, maintenance, repair, leakage or replacement of Grantee's Water Line and through any act or omission of Grantee or of its agents or employees in the course of their employment.

7. Grantor reserves the right to use the surface portions of the Permanent Easement Area for purposes that will not interfere with Grantee's full enjoyment of the rights granted by this Agreement; provided that Grantor shall not erect or construct any building or other structure, build or operate any wells, construct any reservoir or other obstruction on the Permanent Easement Area or substantially add to the ground cover over the Water Line and that Grantor will not carry on any excavation, installation, construction or other activity over, on or under the Permanent Easement Area such as to interfere with the rights granted to the Grantee hereunder without the prior written consent of the Grantee.

8. The Perpetual Easement shall be perpetual and the Perpetual Easement shall run with the land and shall be binding upon the heirs, successors and assigns of the parties.

IN WITNESS WHEREOF, the Grantor and Grantee have caused this Agreement to be executed this _____ day of _____, 20____.

WESTERN LAKE SUPERIOR SANITARY DISTRICT

By: _____
Its: _____

STATE OF MINNESOTA)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____ the _____ of Western Lake Superior Sanitary District, a public corporation, on behalf of the corporation.

Notary Public

Parcel_____

**DULUTH ECONOMIC DEVELOPMENT
AUTHORITY**

By: _____
Its: President

By: _____
Its: Secretary

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

The foregoing instrument was acknowledged before me this _____ day of _____, 2020, by _____, the President of the Duluth Economic Development Authority.

Notary Public

STATE OF MINNESOTA)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2020, by _____, the Secretary of the Duluth Economic Development Authority.

Notary Public

This instrument was drafted by:

Fryberger, Buchanan, Smith &
Frederick, P.A.
700 Lonsdale Building
302 West Superior Street
Duluth, Minnesota 55802
(218) 722-0861

Parcel _____

EXHIBIT A

Duluth Economic Development Authority – Legal Description

010-1110-00170

ALL of Tract A described below:

TRACT A

That part of FIRST SUBDIVISION OF DULUTH PROPER SECOND DIVISION, described as follows: From the point of intersection of the SE line of Michigan Street with the West line of 25th Avenue West run South 48 degrees 49 minutes 38 seconds East (assumed bearing) along the SE'ly extension of the SW'ly line of said 25th Avenue West 670.27 feet; thence N'ly and E'ly along a curve to the left with a long chord of 53.41 feet bearing North 27 degrees 37 minutes 10 seconds East, a radius of 1878.86 feet and a central angle of 01 degrees 37 minutes 44 seconds, an arc distance of 53.42 feet along the right of way line of Trunk Highway No. 35; thence North 28 degrees 58 minutes 37 seconds West along said highway right of way line a distance of 59.63 feet; thence N'ly and E'ly along a curve to the left with a long chord of 110.17 feet bearing North 24 degrees 01 minutes 48 seconds East, a radius of 1829.86 feet and a central angle of 03 degrees 27 minutes 00 seconds, an arc distance of 110.18 feet along said highway right of way line; thence North 53 degrees 11 minutes 10 seconds East along said highway right of way line a distance of 57.74 feet; thence North 21 degrees 48 minutes 05 seconds East along said highway right of way line a distance of 42.05 feet to the point of beginning of Tract A to be described; thence North 20 degrees 07 minutes 10 seconds West along said highway right of way line a distance of 79.7 feet; thence N'ly and W'ly along a curve to the right with a long chord of 76.58 feet bearing North 16 degrees 44 minutes 15 seconds West, a radius of 649.12 feet and a central angle of 06 degrees 45 minutes 49 seconds, an arc distance of 76.63 feet along said highway right of way line; thence South 76 degrees 38 minutes 39 seconds West along said highway right of way line a distance of 12.5 feet; thence North 31 degrees 11 minutes 06 seconds West along said highway right of way line a distance of 44.63 feet; thence North 00 degrees 08 minutes 52 seconds East along said highway right of way line a distance of 105.86 feet; thence North 06 degrees 28 minutes 57 seconds East along said highway right of way line a distance of 104.33 feet; thence N'ly and E'ly along a curve to the right with a long chord of 103.82 feet bearing North 12 degrees 44 minutes 39 seconds East, a radius of 661.62 feet and a central angle of 09 degrees 00 minutes 00 seconds, an arc distance of 103.93 feet along said highway right of way line; thence North 72 degrees 45 minutes 21 seconds West 70.46 feet; thence North 41 degrees 10 minutes 22 seconds East 305.69 feet on a line parallel with and 140 feet SE'ly of the SE'ly line of Michigan Street to an intersection with a line run parallel with and distant 25 feet SE'ly from the center line of the Soo Line Railroad Company--formerly the Wisconsin Central Railway Company as the same was on May 12, 1909, surveyed, staked out and located; thence North 61 degrees 35 minutes 22 seconds East 24.2 feet along the SE'ly right of way line of the Soo Line Railroad Company; thence deflect to the left on a tangential curve, concave to the NW, having a radius of 979.93 feet and a delta angle of 20 degrees 25 minutes 00 seconds for a distance of 349.19 feet; thence South 48 degrees 49 minutes 38 seconds East a distance of 6.11 feet; thence South 44 degrees 08 minutes 50 seconds West a distance of 342 feet;

thence deflect to the left on a tangential curve concave to the East, having a radius of 611.62 feet and a delta angle of 53 degrees 54 minutes 12 seconds for a distance of 575.4 feet; thence South 80 degrees 14 minutes 38 seconds West a distance of 12.5 feet; thence Sly on a non-tangential curve concave to the East, having a radius of 624.12 feet, delta angle of 10 degrees 21 minutes 48 seconds and a chord bearing of South 14 degrees 56 minutes 16 seconds East, for a distance of 112.89 feet; thence South 20 degrees 07 minutes 10 seconds East a distance of 51.86 feet thence South 21 degrees 48 minutes 05 seconds West a distance of 37.42 feet to the point of beginning.

EXCEPT:

That part of FIRST SUBDIVISION OF DULUTH PROPER SECOND DIVISION, described as follows: From the point of intersection of the SE line of Michigan Street with the West line of 25th Avenue West run South 48 degrees 49 minutes 38 seconds East (assumed bearing) along the SE'ly extension of the SW'ly line of said 25th Avenue West 670.27 feet; thence N'ly and E'ly along a curve to the left with a long chord of 53.41 feet bearing North 27 degrees 37 minutes 10 seconds East, a radius of 1878.86 feet and a central angle of 01 degrees 37 minutes 44 seconds, an arc distance of 53.42 feet along the right of way line of Trunk Highway No. 35; thence North 28 degrees 58 minutes 37 seconds West along said highway right of way line a distance of 59.63 feet; thence N'ly and E'ly along a curve to the left with a long chord of 110.17 feet bearing North 24 degrees 01 minutes 48 seconds East, a radius of 1829.86 feet and a central angle of 03 degrees 27 minutes 00 seconds, an arc distance of 110.18 feet along said highway right of way line; thence North 53 degrees 11 minutes 10 seconds East along said highway right of way line a distance of 57.74 feet; thence North 21 degrees 48 minutes 05 seconds East along said highway right of way line a distance of 42.05 feet; thence North 20 degrees 07 minutes 10 seconds West along said highway right of way line a distance of 79.7 feet; thence N'ly and W'ly along a curve to the right with a long chord of 76.58 feet bearing North 16 degrees 44 minutes 15 seconds West, a radius of 649.12 feet and a central angle of 06 degrees 45 minutes 49 seconds, an arc distance of 76.63 feet along said highway right of way line; thence South 76 degrees 38 minutes 39 seconds West along said highway right of way line a distance of 12.5 feet; thence North 31 degrees 11 minutes 06 seconds West along said highway right of way line a distance of 44.63 feet; thence North 00 degrees 08 minutes 52 seconds East along said highway right of way line a distance of 105.86 feet; thence North 06 degrees 28 minutes 57 seconds East along said highway right of way line a distance of 104.33 feet; thence N'ly and E'ly along a curve to the right with a long chord of 103.82 feet bearing North 12 degrees 44 minutes 39 seconds east, a radius of 661.62 feet and a central angle of 09 degrees 00 minutes 00 seconds, an arc distance of 103.93 feet along said highway right of way line; thence North 72 degrees 45 minutes 21 seconds West 59.52 feet to the point of beginning of the parcel to be described; thence continuing North 72 degrees 45 minutes 21 seconds West 10.94 feet; thence North 41 degrees 10 minutes 22 seconds East 305.69 feet on a line parallel with and 140 feet SE'ly of the SE'ly line of Michigan Street to an intersection with a line run parallel with and distant 25 feet SE'ly from the center line of the Soo Line Railroad Company--formerly the Wisconsin Central Railway Company--as the same was on May 12, 1909, surveyed, staked out and located; thence North 61 degrees 35 minutes 22 seconds East 24.2 feet along the SE'ly right of way line of the Soo Line Railroad Company; thence deflect to the left on a tangential curve, concave to the NW, having a radius of 979.93 feet and a delta angle of 00 degrees 15 minutes 44 seconds for a

distance of 4.49 feet; thence South 41 degrees 10 minutes 22 seconds West on a line parallel with and 150 feet SE'ly of the SE'ly line of Michigan Street 328.14 feet to the point of beginning and there terminating.

SUBJECT to the following restrictions: No access shall be permitted to Trunk Highway No. 390 renumbered 35 from the lands herein conveyed except that access shall be permitted along Line 1 described below for the purposes of operating and maintaining a tract under Bridge Number 69835;

~~Line 1: Beginning at the point of beginning of Tract A hereinbefore described; thence North 21 degrees~~
48 minutes 05 seconds East 37.42 feet and there terminating; Reserving, however, unto the City of Duluth, its successors and assigns, an easement for sanitary sewer purposes, in, under and across that part of Tract A hereinbefore described, lying within a distance of 7.5 feet on each side of Line 2 described below, except that the easement in that part of the land which will be occupied by a sanitary sewer protective structure, will be restricted to that portion of the land which lies below Elevation 617.18 - the top elevation of the aforementioned sanitary sewer protective structure. Elevation 617.18 is based on United States Coast and Geodetic Survey Mean Sea Level Datum as adjusted in 1929;

Line 2: Beginning at the point of intersection of a line run parallel with and distant 8 feet NE'ly of the SW'ly line of 23rd Avenue West extended with a line run parallel with and distant 4 feet NW'ly of the SE'ly line of Michigan Street; thence run SE'ly to an angle of 35 degrees 42 minutes 33 seconds with said 8 foot parallel line for 742.07 feet and there terminating;

It is understood that the City of Duluth, at its own expense, will repair all damages caused to said land or any improvements thereon by reason of the operation, maintenance, and repair of said sanitary sewer or protective structure, so that the same shall be and remain in substantially the same condition in accordance with the mutual covenants contained in Agreement No. 114 between the City and the State of Minnesota.

RESERVING, however, to the State, as required by law, all minerals and mineral rights in said lands.

Parcel_____

EXHIBIT B

LEGAL DESCRIPTION FOR UTILITY EASEMENT OVER DEDA PID NO. 010-1110-00170

An easement for utility purposes lying over, under and across that part of Tract 2, FIRST SUBDIVISION OF DULUTH PROPER, SECOND DIVISION, according to the recorded plat thereof, St. Louis County, Minnesota described as follows:

Commencing at the point of intersection of the Southeastery line of Michigan Street with the Southwesterly line of 25th Avenue West; thence on an assumed bearing of South 48 degrees 49 minutes 38 seconds East, along the Southeastery extension of the Southwesterly line of said 25th Avenue West 570.27 feet to a point on the Northwesterly right of way line of Interstate Highway No. 35; thence Northerly and Easterly 53.42, along said Northwesterly right of way line and along a non-tangential curve, concave to the left, having a radius of 1878.76 feet and a central angle of 01 degree 37 minutes 44 seconds, the chord of said curve bears North 27 degrees 37 minutes 10 seconds East for a chord distance of 53.41 feet; thence North 28 degrees 58 minutes 37 seconds West; along said Northwesterly right of way line 59.63 feet; thence Northerly and Easterly 110.18 feet, along said Northwesterly right of way line and along a non-tangential curve, concave to the left, having a radius of 1829.86 and a central angle of 03 degrees 27 minutes 00 seconds, the chord of said curve bears North 24 degrees 01 minutes 48 seconds East for a chord distance of 110.17 feet; thence North 53 degrees 11 minutes 10 seconds East along said Northwesterly right of way line 57.74 feet; thence North 21 degrees 48 minutes 05 seconds East along said Northwesterly right of way line 42.05 feet to the point of beginning of the utility easement herein described; thence North 20 degrees 07 minutes 10 seconds West along said Northwesterly right of way line 79.70 feet; thence Northerly and Westerly 76.63 feet, along said Northwesterly right of way line and along a non-tangential curve to the right, having a radius of 649.12 feet and a central angle of 06 degrees 45 minutes 49 seconds, the chord of said curve bears North 16 degrees 44 minutes 16 seconds West for a chord distance of 76.58 feet; thence South 76 degrees 38 minutes 39 seconds West along said Northwesterly right of way line 12.50 feet; thence North 31 degrees 11 minutes 06 seconds West along said Northwesterly right of way line 44.63 feet; thence North 00 degrees 08 minutes 52 seconds East along said Northwesterly right of way line 105.86 feet; thence North 06 degrees 28 minutes 57 seconds East along said Northwesterly right of way line a distance of 72.92 feet; thence South 03 degrees 01 minutes 49 seconds East 59.11 feet; thence South 09 degrees 31 minutes 19 seconds East 62.99 feet; thence South 03 degrees 04 minutes 44 seconds East 49.21 feet; thence South 22 degrees 47 minutes 45 seconds East 112.30 feet; thence South 15 degrees 33 minutes 01 seconds East 59.36 feet; thence South 20 degrees 07 minutes 10 seconds East 17.97 feet; thence South 21 degrees 48 minutes 05 seconds West 14.97 feet to the point of beginning.
Said utility easement contains 5,296 Sq. Feet or 0.12 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 SOUTHWEST LINE OF 25TH AVENUE WEST WHICH IS ASSUMED TO HAVE A BEARING OF S48°49'38"E.
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 within the State of Minnesota.
David R. Erwin
David R. Erwin
DATE: 11-5-2019
MN Lic. No. 49593

EASEMENT EXHIBIT

CLIENT: WESSD
ADDRESS: 24TH AVE WEST AND W
MICHIGAN STREET DULUTH, MN 55806
DATE: 11-5-2019

REVISIONS:

JOB NO: 19-352 SHEET 1 OF 2

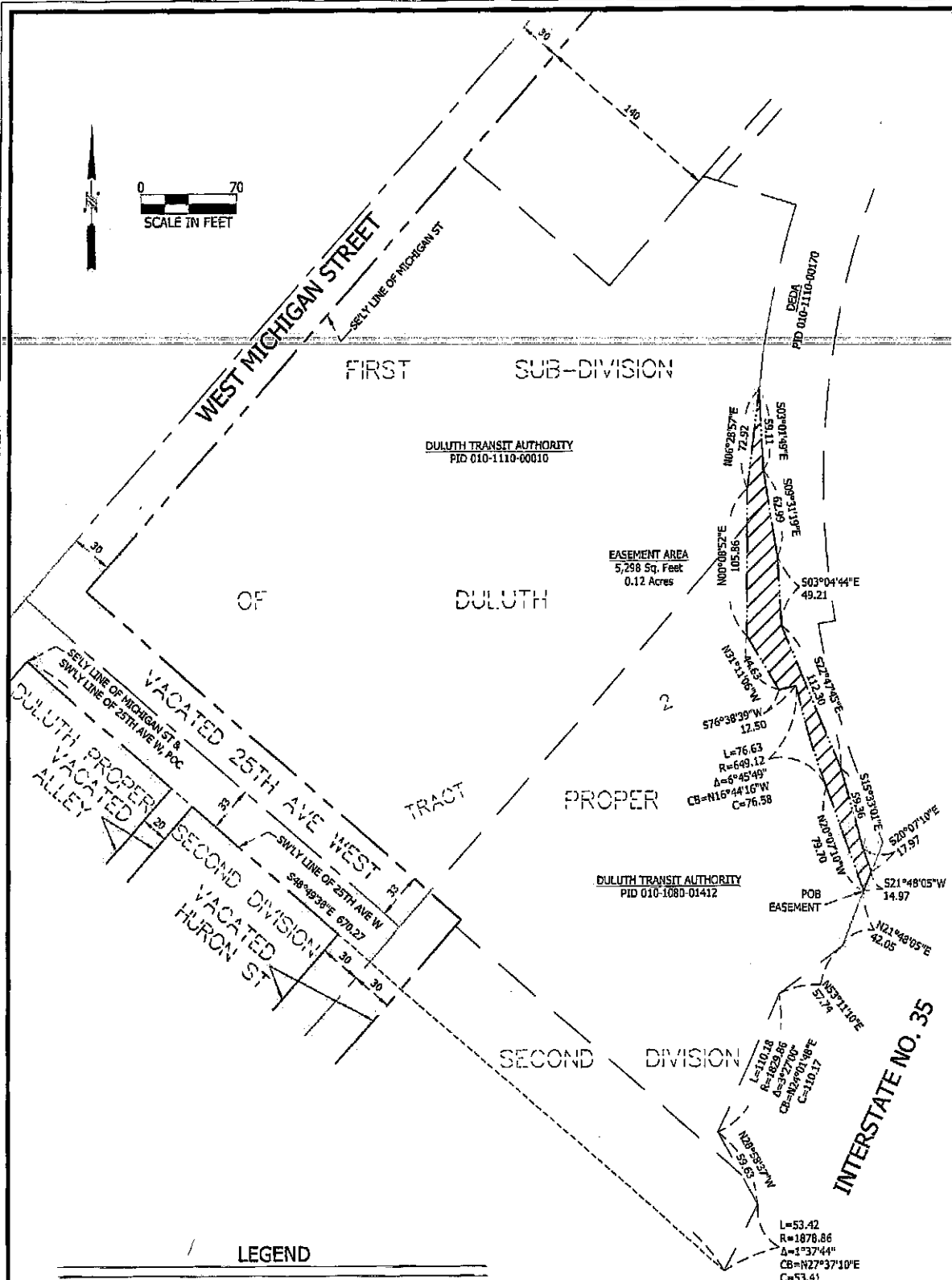
ALTA
LAND SURVEY COMPANY
PHONE: 218-721-5211
LICENSED IN MN & WI
WWW.ALTLANDSURVEYDULUTH.COM

Parcel _____

EXHIBIT C



0 70
SCALE IN FEET



LEGEND

- PROPOSED UTILITY EASEMENT
- POC-POINT OF COMMENCEMENT
- POB-POINT OF BEGINNING
- CENTER LINE
- RIGHT OF WAY LINE
- PROPOSED EASEMENT LINE
- SURVEY LINE

EASEMENT EXHIBIT	
CLIENT: WLSSD	REVISIONS:
ADDRESS: 24TH AVE WEST AND W MICHIGAN STREET DULUTH, MN 55806	
DATE: 12-3-2019	JOB NO: 19-357
SHEET 2 OF 2	
ALTA LAND SURVEY COMPANY PHONE: 218-727-8211 LICENSED IN MN & WI WWW.ALTA-SURVEYING.COM	