



Legislation Text

File #: 23-0660R, Version: 1

RESOLUTION PARTIALLY VACATING A UTILITY AND DRAINAGE EASEMENT AFFECTING A PORTION OF LOTS 4 AND 5, BLOCK 2, ATLAS INDUSTRIAL PARK, ACCEPTING A REPLACEMENT EASEMENT OVER A DIFFERENT PORTION OF THE SAME, AND AUTHORIZING THE ENCUMBRANCE OF THE REPLACEMENT EASEMENT INTEREST AS REQUIRED BY THE STATE OF MINNESOTA.

CITY PROPOSAL:

WHEREAS, the city council finds a sufficient petition was filed with the city requesting partial vacation of an easement for utility and drainage purposes registered in the Office of the St. Louis County Registrar of Titles on December 21, 2012 as Document No. 924480, with the portion of the easement area to be vacated legally described on the attached Exhibit 1;

WHEREAS, pursuant to Section 100 of the City Charter and Section 50-37.6 of Chapter 50 of the Duluth City Code, as amended, such petition was duly referred to the city planning commission and such commission gave due notice of public hearing and did consider same in a public hearing and the city planning commission found that the portion of the easement for utility and drainage purposes described on the attached Exhibit 1 is not needed for public purposes;

WHEREAS, the city planning commission, at its regular meeting on Tuesday, July 11, 2023, recommended approval of the vacation petition; and

WHEREAS, the city council finds that the portion of the easement proposed to be vacated:

(i) is not and will not be needed for the safe and efficient circulation of automobiles, trucks, bicycles, or pedestrians or the efficient supply public services in the city as long as a replacement easement is dedicated; and

(ii) is not otherwise needed to promote the public health, safety or welfare of the citizens of Duluth.

NOW, THEREFORE, BE IT RESOLVED that the city council of the city of Duluth approves the vacation of that portion of the easement area legally described and depicted on the attached Exhibit 1, contingent on: (i) the dedication of a replacement easement, substantially in the form attached as Exhibit 2, on and over the real property legally described on Exhibit A attached to Exhibit 2 and depicted on Exhibit B attached to Exhibit 2; and (ii) written approval of the State of Minnesota as required by the Declaration dated December 20, 2012 and registered in the Office of the St. Louis County Registrar of Titles on December 21, 2012 as Document No. 924481 (the "Declaration").

FURTHER RESOLVED, that the city council of the city of Duluth accepts a replacement easement for utility and drainage purposes, substantially in the form attached as Exhibit 2, from the Duluth Economic Development Authority, over, under and across the real property legally described on Exhibit A attached to Exhibit 2 and depicted on Exhibit B attached to Exhibit 2, at no cost to the City.

FURTHER RESOLVED, that the proper city officials are hereby authorized to amend the Declaration or enter into such other declaration, in the form required by the State of Minnesota, in order to encumber the

easement legally described on Exhibit A attached to Exhibit 2.

FURTHER RESOLVED, that the city clerk is, pursuant to Section 100 (b)(7) of the Home Rule Charter of the city of Duluth, 1912, as amended, authorized to record, with the register of deeds and/or the registrar of titles of St. Louis County, Minnesota: (i) a certified copy of this resolution showing the portion of the easement area to be vacated, (ii) the easement substantially in the form attached as Exhibit 2; and (iii) the amendment to the Declaration or other such declaration, in the form required by the State of Minnesota.

FURTHER RESOLVED, that the vacation shall lapse if this resolution is not recorded within 90 days of city council approval.

STATEMENT OF PURPOSE: This resolution vacates a portion of an easement for utility and drainage purposes dedicated by the Duluth Economic Development Authority (“DEDA”) in 2012 (the “Easement”). The Easement was dedicated to the City after the City was awarded a grant by the State of Minnesota Department of Employment and Economic Development in the amount of \$500,000 to pay for a portion of a street and utility construction project within Atlas Industrial Park (the “Grant”). A condition of the Grant required the City to record a Declaration in the St. Louis County real estate records to reflect that the Easement cannot be sold or otherwise disposed of without the written approval of the State of Minnesota.

DEDA owns the lots affected by the Easement and is looking to sell the lots for future development. The location of existing utilities conflicts with the proposed improvements, which conflict could be eliminated with the relocation of a portion of the existing utilities. This resolution vacates the portion of the Easement that conflicts with the proposed development to allow for relocation of the utilities. The new easement to be granted by DEDA includes the area to which the utilities will be relocated. The relocation of the utilities will occur at no cost to the State of Minnesota. As such, the State of Minnesota is willing to consent to the vacation described on the attached Exhibit 1 on the condition that the replacement easement attached as Exhibit 2 is granted. The replacement easement must also be encumbered by a declaration in favor of the State of Minnesota.

At its regular Planning Commission meeting on July 11, 2023, the commission held a public hearing on the proposal and voted 6 yeas, 0 nays, and 0 abstentions to recommend the city council approve the vacation. The staff report associated with this matter is attached as Exhibit 3.

The motion to approve the vacation by the city council must prevail with at least six affirmative votes.

Petitioner: Duluth Economic Development Authority
PL 23-116