File #: 26-016-O, **Version:** 1

AN ORDINANCE GRANTING MINNESOTA POWER A CONCURRENT USE PERMIT TO INSTALL A NEW TRANSFORMER AND TRANSITION CABINET WITHIN THE RIGHT-OF-WAY BETWEEN 602 W MICHIGAN ST AND 530 W MICHIGAN ST.

CITY PROPOSAL:
The city of Duluth does ordain:

Section 1. Under the authority of Section 100 of the 1912 Home Rule Charter of the city of Duluth, as amended, and subject to the conditions in Section 2 below, permission is granted to Minnesota Power, and its successor(s) in interests, referred to herein as the permittee, to use a portion of a public street right-of-way that is not physically being used or occupied by the public to construct and maintain the following:

(a) The installation of a transformer and transition cabinet occupying approximately 491 square feet of the right-of-way between 602 W Michigan St and 530 W Michigan St, as shown in Attachment 1.

Section 2. Before this ordinance shall be effective, the permittee shall file with the planning division a certification of insurance approved by the city attorney evidencing that the permittee has in force a policy of insurance meeting the following requirements:

(a) Comprehensive general liability insurance in an amount not less than $1,500,000 for bodily injuries and in an amount not less than $500,000 for property damage or $1,500,000 single limit coverage; and

(b) Insurance coverage shall include all permittee's activities occurring upon or within public right of way or easement occupied pursuant to this ordinance whether said activities are performed by the permittee or its agents or representatives; and

(c) The insurance policy shall contain a condition that it may not be canceled without 30 days written notice to the city of Duluth, directed to the attention of the director of planning and economic development; and

(d) The city of Duluth shall be named as an additional insured; and

(e) The certificate shall also reference this ordinance by its ordinance number.

Section 3. The city of Duluth may terminate the permit granted by this ordinance at any time by the city official exercising departmental authority of the public easement if the city of Duluth determines to use the area occupied by the permittee for any public purpose in accordance with the duly dedicated public easement or other lawful use.

In exercising its right of termination, the city shall give the permittee 60 days written notice delivered to the last known electronic address, facsimile number, or mailing address of the permittee, unless a shorter notice period is necessitated by emergency circumstances or permittee's violation of the conditions set forth in this ordinance.

Upon termination of this permit, permittee shall cause all private improvements to be removed by the deadline provided in the termination notice. Permittee shall be responsible for all costs incurred to remove the private improvements, including any costs associated with repairing damage caused to the public easement by the removal and without right to claim from the city of Duluth, or any of its officers, agents or servants, any compensation or reimbursement for damages of any kind whatsoever.

Section 4. By accepting the terms of this ordinance, the permittee agrees to hold harmless and defend and indemnify the city of Duluth against claims or demands which may arise against the city of Duluth by reason of the existence of private improvements, or any act or omission of the permittee, its employees, agents, and assigns. The permittee agrees that the city of Duluth shall not be liable for damage caused to the private improvements while the city engages in the repair and maintenance to, or replacement of, the public improvements or public utilities, including any snow removal operations. The permittee agrees to pay to the city of Duluth all extra costs of installation of any public improvements or public utilities made necessary by the

presence of the private improvements.

Section 5. The permittee shall, at its expense, protect, support, temporarily disconnect, or permanently remove from the public easement, the private improvements when required by city officials by reason of snow removal, traffic conditions, public safety, street vacation, freeway and street construction, change or establishment of street grade, sidewalks, installation of sewers, drains, water pipes, power lines, signal lines and tracks, the installation or repair of any type of structures or improvements by governmental agencies, when acting in a governmental or proprietary capacity. Permittee shall immediately reimburse City for any costs incurred by City arising out of permittee's failure to fulfill its obligations under the section.

Section 6. The terms and conditions of this ordinance shall be deemed to run with the land. Upon the sale or transfer of permittee's interest in the permit granted by this ordinance, the permittee shall provide written notice to the planning division within five days of such transfer. The permittee's successor in interest shall file with the planning division within ten days of such transfer a duly executed and acknowledged written acceptance of the terms of this ordinance and the certificate of insurance required in Section 2 above.

Section 7. The permit granted by this ordinance is subject to termination by the city of Duluth upon permittee's failure to comply with any of the terms and conditions of this permit. Upon the occurrence of such failure, ten days written notice, delivered as provided in Section 3 above shall be sufficient notice of termination. Upon termination, permittee shall remove the private improvements as provided in Section 3.

Section 8. The permittee shall observe the following conditions:

(a) Permittee's use of the public right of way or easement shall be limited to the designated area described in Section 1 above and further shown on the Attachment 1; and

(b) Permittee agrees that the private improvements shall be constructed and maintained in such a manner so as in no way interfere with or damage any portion of any public improvement, or other public utilities now or to be hereinafter located in any part of said public easement; and

(d) Within 45 days of installing the private improvements, permittee shall submit record drawings showing the location and nature of such improvements. The record drawings shall comply with the city of Duluth Public Works and Utilities' "Engineering guidelines for Professional Services and Developments"; and

(e) Permittee shall provide notice to City Engineer at 218-730-5200 at least two working days in advance of any work permitted under this permit or any other permits related to such work and shall schedule such work to coordinate with any required inspections; and

(f) Permittee shall obtain all other permits as may be required by the city, other governmental agencies, including, but not limited to obstruction, excavation, electrical, stormwater, etc; and

(g) Permittee must repair or replace at their expense and to the city's reasonable satisfaction any damage to anything in the right-of-way caused by the permittee's permitted installation or operations; and

(h) Permittee shall maintain the private improvements in a good and safe condition, and in compliance with all applicable fire, health, building or other codes or permits as applicable.

(i) Permittee shall coordinate with the City to facilitate new access to the parking structure at 602 W Michigan St during construction. Following construction, access to the parking structure will not be impacted.

Section 9. The following events shall constitute cause for the immediate termination of the permit granted by this ordinance:

(a) The failure by the permittee to file the required insurance certificate as specified in Section 2 within 60 days after this ordinance takes effect, or to file the insurance certificates annually thereafter; or

(b) The failure of the permittee to commence the improvements authorized by this ordinance within 180 days after this ordinance takes effect.

Section 10. Permittee shall cause this ordinance to be recorded against the benefited property in the office of the St. Louis County Recorder, and shall forward a copy of the recorded document to the city of Duluth planning division within 5 days of recordation

Section 11. By accepting the permit authorized by this ordinance, permittee, for itself and its

successors in interest, is agreeing to be bound by its terms.

Section 12. That this ordinance shall take effect and be in force the later of 30 days from and after its passage and publication or the date upon which this ordinance is recorded as provided for in Section 10 above, whichever is later.

STATEMENT OF PURPOSE: This concurrent use permit allows for the installation of a new transformer and transition cabinet within the loading bay between the existing parking structure at 602 W Michigan St and the St. Louis County Depot at 530 W Michigan St. The proposed location of the new utilities will be within new landscape island. The additional utilities will support the internal renovations to improve The Depot's mechanical and electrical systems.

On May 12, 2026, the Duluth city planning commission held a public hearing on the proposal as described in Attachment 2 and voted 9 yeas, 0 nays, 0 abstentions, to recommend that the city council approve the request for a concurrent use of streets.

Petition received: April 7, 2026
Action deadline: August 5, 2026
Applicant: Minnesota Power
PLCUP-2604-0009

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