

Exhibit 1

STATE OF MINNESOTA DEPARTMENT OF TRANSPORTATION

LIMITED USE PERMIT

C.S. 6910 (T.H. 23)
County of St. Louis
LUP # 6910-0083
Permittee: City of Duluth
Expiration Date: 11/20/2035
Coop./Const. Agmt # NA

In accordance with Minnesota Statutes Section 161.434, the State of Minnesota, through its Commissioner of Transportation, ("MnDOT"), hereby grants a Limited Use Permit (the "LUP") to City of Duluth, ("Permittee"), to use the area within the right of way of Trunk Highway No. 23 as shown in red on Exhibit "A", (the "Area") attached hereto and incorporated herein by reference. This Limited Use Permit is executed by the Permittee pursuant to resolution, a certified copy of which is attached hereto as Exhibit B.

Snowmobile Trail - Nighttime, Two Way Use

The Permittee's use of the Area is limited to only the constructing, maintaining and operating a snowmobile trail ("Facility")...Nighttime two-way use is authorized in the opinion of the Minnesota Department of Transportation District Traffic Engineer, DNR Enforcement Office and District State Patrol Office. It has been deemed safer to use only one side of the road for two way snowmobile traffic. This decision averts the need for trail users driving in the opposite direction to cross the road twice to avoid oncoming snowmobile trail traffic. This LUP is unique to other trail permits. The definition and operation of snowmobiles shall be in accordance with Minnesota Statutes §84.81 and §84.87. Approved signs must be in accordance with Minnesota Rules for the Department of Natural Resources §6100.5300 and §6102.0060 and also in accordance with "Minnesota Snowmobile Safety, Laws, Rules and Regulations".

In addition, the following special provisions shall apply:

SPECIAL PROVISIONS

1. **TERM.** This LUP terminates at 11:59PM on 11/20/2035 (“Expiration Date”) subject to the right of cancellation by MnDOT, with or without cause, by giving the Permittee ninety (90) days written notice of such cancellation. This LUP will not be renewed except as provided below.

Provided this LUP has not expired or terminated, MnDOT may renew this LUP for a period of up to ten (10) years, provided Permittee delivers to MnDOT, not later than ninety (90) days prior to the Expiration Date, a written request to extend the term. Any extension of the LUP term will be under the same terms and conditions in this LUP, provided:

- (a) At the time of renewal, MnDOT will review the Facility and Area to ensure the Facility and Area are compatible with the safe and efficient operation of the highway and the Facility and Area are in good condition and repair. If, in MnDOT’s sole determination, modifications and repairs to the Facility and Area are needed, Permittee will perform such work as outlined in writing in an amendment of this LUP; and
- (b) Permittee will provide to MnDOT a certified copy of the resolution from the applicable governmental body authorizing the Permittee’s use of the Facility and Area for the additional term.

If Permittee’s written request to extend the term is not timely given, the LUP will expire on the Expiration Date.

Permittee hereby voluntarily releases and waives any and all claims and causes of action for damages, costs, expenses, losses, fees and compensation arising from or related to any cancellation or termination of this LUP by MnDOT. Permittee agrees that it will not make or assert any claims for damages, costs, expenses, losses, fees and compensation based upon the existence, cancellation or termination of the LUP. Permittee agrees not to sue or institute any legal action against MnDOT based upon any of the claims released in this paragraph.

2. **REMOVAL.** Upon the Expiration Date or earlier termination, at the Permittee’s sole cost and expense Permittee will:
 - (a) Remove the Facility and restore the Area to a condition satisfactory to the MnDOT District Engineer; and
 - (b) Surrender possession of the Area to MnDOT.

If, without MnDOT’s written consent, Permittee continues to occupy the Area after the Expiration Date or earlier termination, Permittee will remain subject to all conditions, provisions, and obligations of this LUP, and further, Permittee will pay all costs and expenses, including attorney’s fees, in any action brought by MnDOT to remove the Facility and the Permittee from the Area.

3. **CONSTRUCTION.** The construction, maintenance, and supervision of the Facility shall be at no cost or expense to MnDOT.

Before construction of any kind, the plans for such construction shall be approved in writing by the MnDOT's District Engineer. Approval in writing from MnDOT District Engineer shall be required for any changes from the approved plan.

The Permittee will construct the Facility at the location shown in the attached Exhibit "A", and in accordance with MnDOT-approved plans and specifications. Further, Permittee will construct the Facility using construction procedures compatible with the safe and efficient operation of the highway.

Upon completion of the construction of the Facility, the Permittee shall restore all disturbed slopes and ditches in such manner that drainage, erosion control and aesthetics are perpetuated.

The Permittee shall preserve and protect all utilities located on the lands covered by this LUP at no expense to MnDOT and it shall be the responsibility of the Permittee to call the Gopher State One Call System at 1-800-252-1166 at least 48 hours prior to performing any excavation.

Any crossings of the Facility over the trunk highway shall be perpendicular to the centerline of the highway and shall provide and ensure reasonable and adequate stopping sight distance.

4. **MAINTENANCE.** Any and all maintenance of the Facility shall be provided by the Permittee at its sole cost and expense, including, but not limited to, plowing and removal of snow and installation and removal of regulatory signs. No signs shall be placed on any MnDOT or other governmental agency sign post within the Area. MnDOT will not mark obstacles for users on trunk highway right of way.
5. **USE.** Other than as identified and approved by MnDOT, no permanent structures or no advertising devices in any manner, form or size shall be allowed on the Area. No commercial activities shall be allowed to operate upon the Area.

Any use permitted by this LUP shall remain subordinate to the right of MnDOT to use the property for highway and transportation purposes. This LUP does not grant any interest whatsoever in land, nor does it establish a permanent park, recreation area or wildlife or waterfowl refuge. No rights to relocation benefits are established by this LUP.

This LUP is non-exclusive and is granted subject to the rights of others, including, but not limited to public utilities which may occupy the Area.

6. **APPLICABLE LAWS.** This LUP does not release the Permittee from any liability or obligation imposed by federal law, Minnesota Statutes, local ordinances, or other agency regulations relating thereto and any necessary permits relating thereto shall be applied for and obtained by the Permittee.

Permittee at its sole cost and expense, agrees to comply with, and provide and maintain the Area, Facilities in compliance with all applicable laws, rules, ordinances and regulations issued by any federal, state or local political subdivision having jurisdiction and authority in connection with said Area including the Americans with Disabilities Act ("ADA"). If the Area and Facilities are not in compliance with the ADA or other applicable laws MnDOT may enter the Area and perform such obligation without liability to Permittee for any loss or damage to Permittee thereby incurred, and Permittee shall reimburse MnDOT for the cost thereof, plus 10% of such cost for overhead and supervision within 30 days of receipt of MnDOT's invoice.

7. **CIVIL RIGHTS.** The Permittee for itself, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that in the event improvements are constructed, maintained, or otherwise operated on the Property described in this Limited Use Permit for a purpose for which a MnDOT activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the Permittee will maintain and operate such improvements and services in compliance with all requirements imposed by the Acts and Regulations relative to nondiscrimination in federally-assisted programs of the United States Department of Transportation, Federal Highway Administration, (as may be amended) such that no person on the grounds of race, color, national origin, sex, age, disability, income-level, or limited English proficiency will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said improvements.
8. **SAFETY.** MnDOT shall retain the right to limit and/or restrict any activity, including the parking of vehicles and assemblage of Facility users, on the highway right of way over which this LUP is granted, so as to maintain the safety of both the motoring public and Facility users.
9. **ASSIGNMENT.** No assignment of this LUP is allowed.
10. **IN WRITING.** Except for those which are set forth in this LUP, no representations, warranties, or agreements have been made by MnDOT or Permittee to one another with respect to this LUP.
11. **ENVIRONMENTAL.** The Permittee shall not dispose of any materials regulated by any governmental or regulatory agency onto the ground, or into any body of water, or into any container on the State's right of way. In the event of spillage of regulated materials, the Permittee shall notify in writing MnDOT's District Engineer and shall provide for cleanup of the spilled material and of materials contaminated by the spillage in accordance with all applicable federal, state and local laws and regulations, at the sole expense of the Permittee.
12. **MECHANIC'S LIENS.** The Permittee (for itself, its contractors, subcontractors, its materialmen, and all other persons acting for, through or under it or any of them), covenants that no laborers', mechanics', or materialmens' liens or other liens or claims of any kind whatsoever shall be filed or maintained by it or by any subcontractor, materialmen or other person or persons acting for, through or under it or any of them against the work and/or against said lands, for or on account

of any work done or materials furnished by it or any of them under any agreement or any amendment or supplement thereto.

13. **NOTICES.** All notices which may be given, by either party to the other, will be deemed to have been fully given when served personally on MnDOT or Permittee or when made in writing addressed as follows: to Permittee at:

City of Duluth
1532 West Michigan Street
Duluth, MN 55806-1101

and to MnDOT at:

State of Minnesota
Department of Transportation
District 1 Right of Way
1123 Mesaba Avenue
Duluth, MN 55811

The address to which notices are mailed may be changed by written notice given by either party to the other.

14. **INDEMNIFICATION AND RELEASE.** Permittee shall indemnify, defend to the extent authorized by the Minnesota Attorney General's Office, hold harmless and release the State of Minnesota, its Commissioner of Transportation, employees, the FHWA, and any successors and assigns of the foregoing, from and against all claims, demands, and causes of action for injury to or death of persons or loss of or damage to property (including Permittee's property) occurring on the Area and Facility or arising out of or associated with Permittee's use and occupancy of the Area and Facility, regardless of whether such injury, death, loss, or damage (i) is caused in part by the negligence (but not the gross negligence or willful misconduct) of MnDOT or (ii) is deemed to be the responsibility of MnDOT because of its failure to supervise, inspect, or control the operations of Permittee or otherwise discover or prevent actions or operations of Permittee giving rise to liability to any person. Nothing in this LUP shall obligate Permittee to indemnify or save MnDOT harmless from (a) any gross negligence or willful misconduct of MnDOT or its employees, contractors, agents, or anyone for whom MnDOT is legally responsible, or (b) any claims, demands or causes of action not arising out of or associated with Permittee's occupancy or use of the Area and Facility.

Permittee hereby releases the State of Minnesota, its Commissioner of Transportation, employees, the FHWA, and any successors and assigns of the foregoing, from and against all claims, demands, suits, losses, costs, expenses, and causes of action for loss of or damages to the Area and Facility or to Permittee's property on or about the Area and Facility, except when such loss or damage is caused solely by the negligence of MnDOT or its employees, contractors, agents, or anyone for whom MnDOT is legally responsible.

MnDOT's liability is subject to the Minnesota Tort Claims Act, Minn. Stat. §3.736 and other applicable law.

MINNESOTA DEPARTMENT
OF TRANSPORTATION
RECOMMENDED FOR APPROVAL
By: _____
District Engineer

Date: _____

APPROVED BY:
COMMISSIONER OF TRANSPORTATION

By: _____
Director, Office of Land Management

Date: _____

CITY OF DULUTH
By: _____
Mayor

Attested: _____
City Clerk

Date: _____

Approved as to form:

City Attorney

Countersigned:

Auditor

The Commissioner of Transportation
by the execution of this permit
certifies that this permit is
necessary in the public interest
and that the use intended is for
public purposes.

EXHIBIT A



BLOCK 8

2013 CONST POT 369+92.55 =
2014 CL POT KNOWLTON CREEK

SLOPE/WALL EASEMENT DOCUMENT NUMBER 158333

SLOPE/WALL

370

370

20' TRAIL LUP ➔

BLOCK 9

2013 R/W POT 370+70.42
2013 R/W PT 370+70.42

2015 INPL PT 368+48.53

SLOPE/WALL EASEMENT DOCUMENT NUMBER


KNOWLTON CREEK
LUP# 6910-0083

SEE MAP 219-106



Property & Facilities Management

1532 West Michigan Street
Duluth, Minnesota 55806

 218-730-4430

July 26, 2024

Via email only: duane.hill@state.mn.us

Duane Hill
Transportation District Engineer
Minnesota Department of Transportation
1123 Mesaba Ave
Duluth, MN 55811

RE: Knowlton Creek Underpass Trail
Request for Limited Use Permit

Dear Duane:

Knowlton Creek runs under Grand Avenue (TH23) northeast of the intersection Grand Avenue and Warwick St. The enclosed Exhibit A is a map depicting the location of Knowlton Creek as it passes under Grand Avenue.

The City has had a snowmobile trail underneath the bridge for a number of years. This trail sustained a complete washout in the rain events from June and July this year. The City desires to rebuild the trail, but the rain events caused the trail to now be under the ordinary high water mark and a public waters permit from the DNR is needed. During the application process with the DNR, it was discovered that the City does not have a limited use permit or other agreement with MnDOT for the crossing. We would like to formally request a limited use permit for the snowmobile trail.

Initially, we did not know we needed permission from MnDOT and the City's public waters permit is conditioned upon receiving approval from MnDOT. We understand the process and timeline for a limited use permit can take a while, so we would also like to request an emergency permit to perform the work as soon as possible. We currently have contractors mobilized in the area for three weeks and would like to complete the trail repairs/rebuild within that window.

Enclosed as Exhibit B are the plans and specs for the trail. We are not changing elevations under the overpass. We just intend to rebuild the trail as it existed prior to June 2024 and fix the washouts and ruts underneath MnDOT's bridge.

Duane Hill
July 26, 2024
Page 2

Please review and let me know if the City can obtain an emergency permit to conduct the work in advance of a limited use permit. I am available to connect to address any questions or concerns you may have. I can be reached at (218) 409-3816 or derjavec@duluthmn.gov.

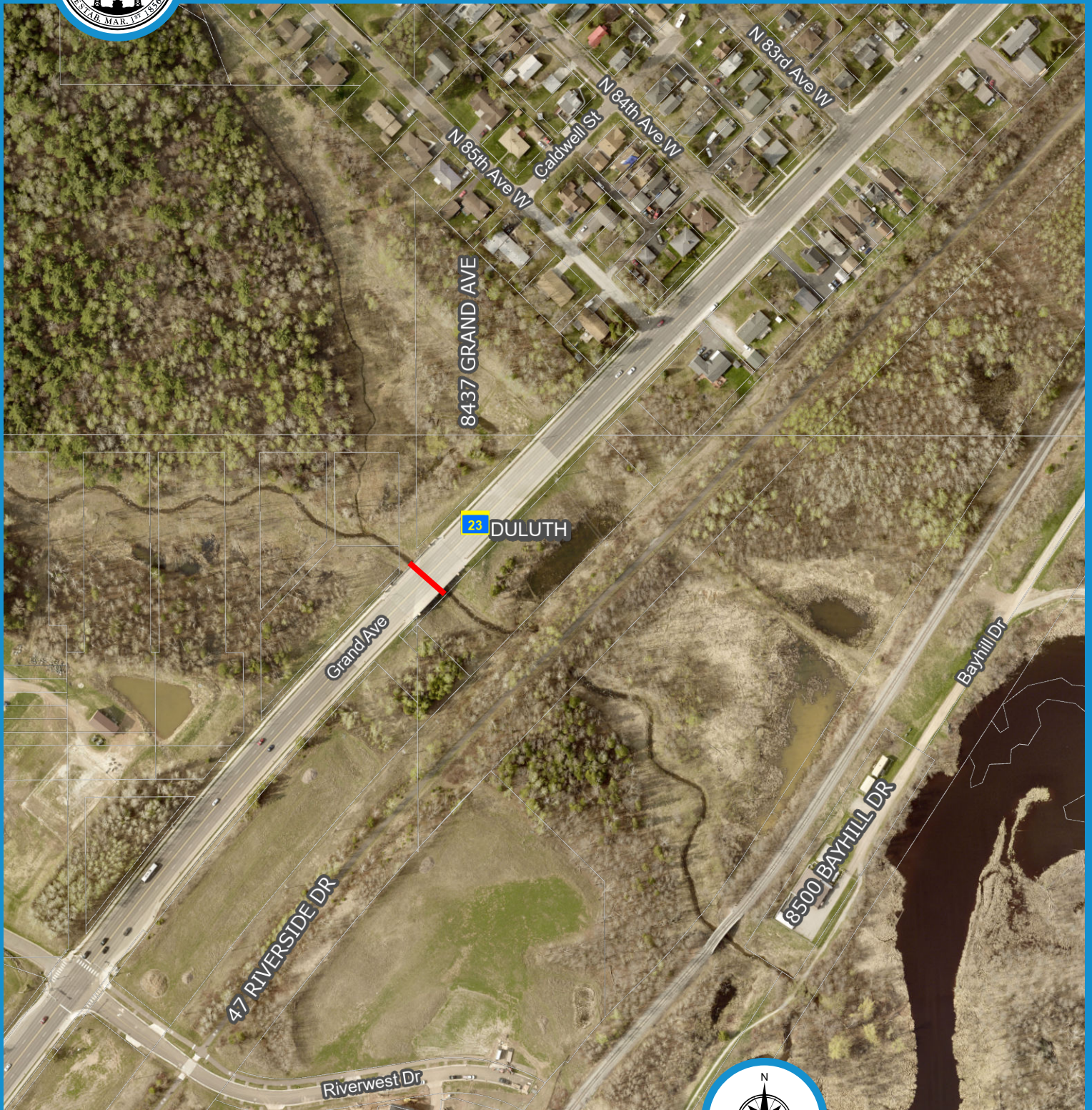
Thank you.

Sincerely yours,

Danielle Erjavec

Danielle Erjavec
Senior Property Services Specialist

Enclosures



Knowlton Creek Underpass Trail



County Land Explorer

St. Louis County

www.stlouiscountymn.gov/explorer

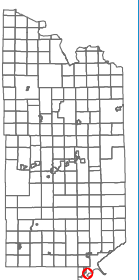
Minnesota

Disclaimer

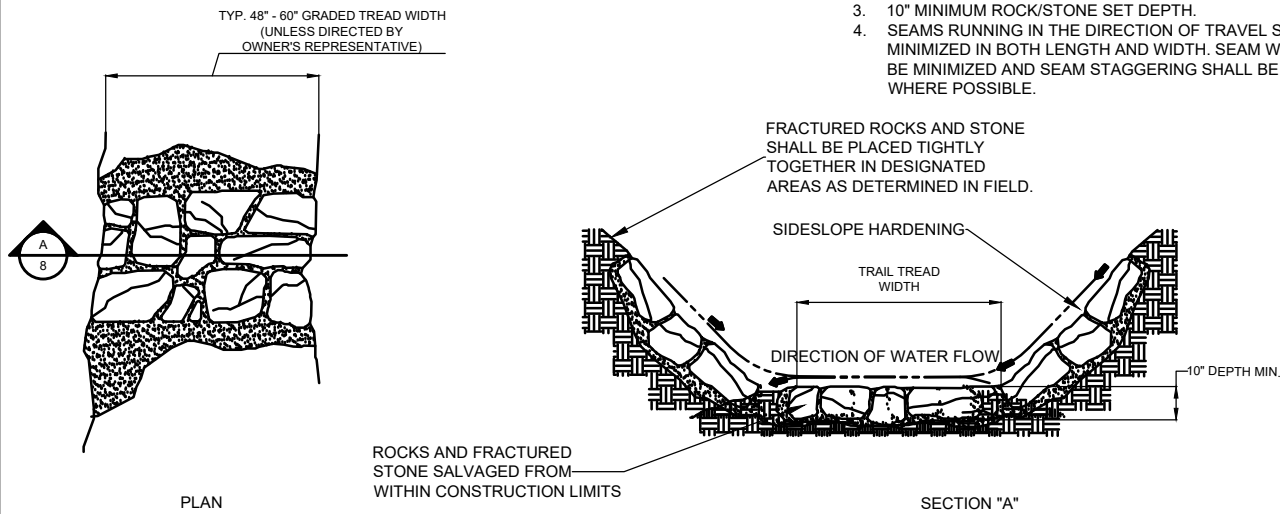
This is a compilation of records as they appear in the Saint Louis County Offices affecting the area shown. This drawing is to be used only for reference purposes and the County is not responsible for any inaccuracies herein

Map created using County Land Explorer
www.stlouiscountymn.gov/explorer

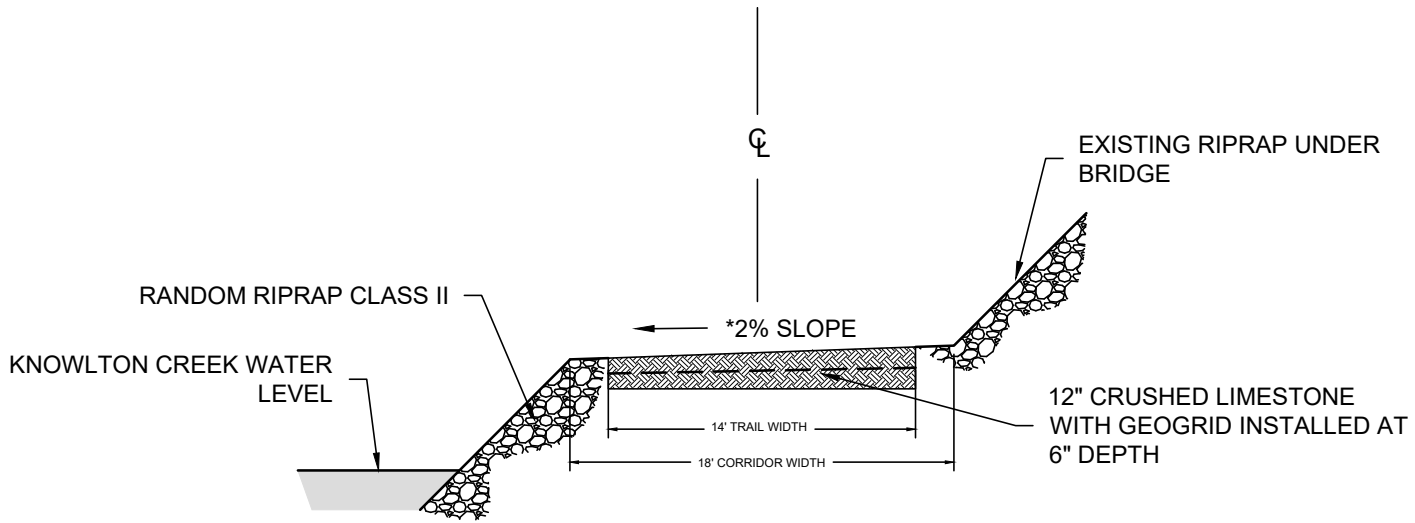
City Contract #
© Copyright St. Louis County Minnesota | All Rights Reserved Printed: 7/26/2024



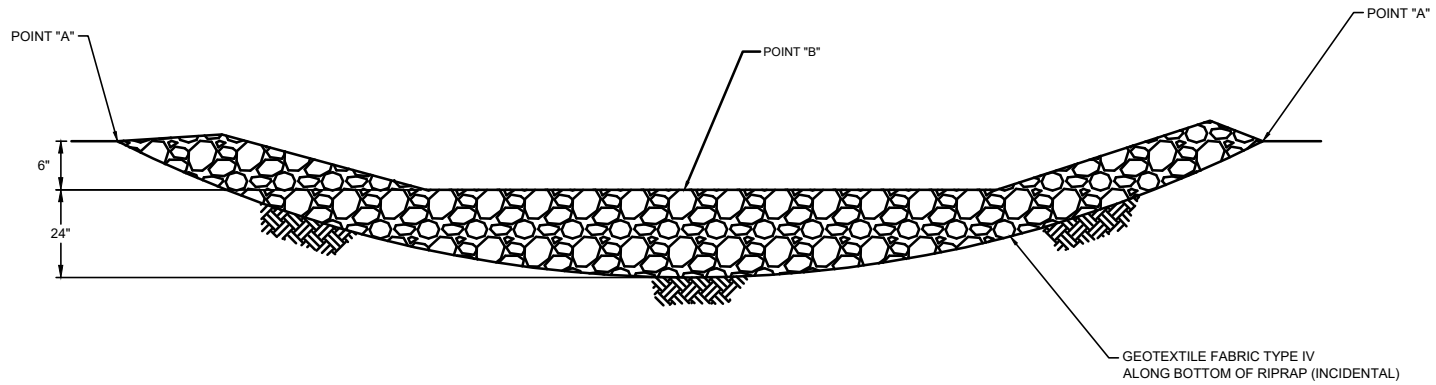
- NOTES:
1. PAYMENT FOR TREAD HARDENING WILL BE ON A SQUARE YARD BASIS.
 2. BACKFILL BEDDING MATERIAL SHALL BE 3" - 6" OF 3/4" CRUSHED ROCK. THE SAME CRUSHED ROCK CAN BE UTILIZED FOR FILL BETWEEN THE SET ROCK/STONE.
 3. 10" MINIMUM ROCK/STONE SET DEPTH.
 4. SEAMS RUNNING IN THE DIRECTION OF TRAVEL SHALL BE MINIMIZED IN BOTH LENGTH AND WIDTH. SEAM WIDTH SHALL BE MINIMIZED AND SEAM STAGGERING SHALL BE USED WHERE POSSIBLE.



1 TRAIL TREAD AND SIDESLOPE ROCK ARMORING
8 NO SCALE

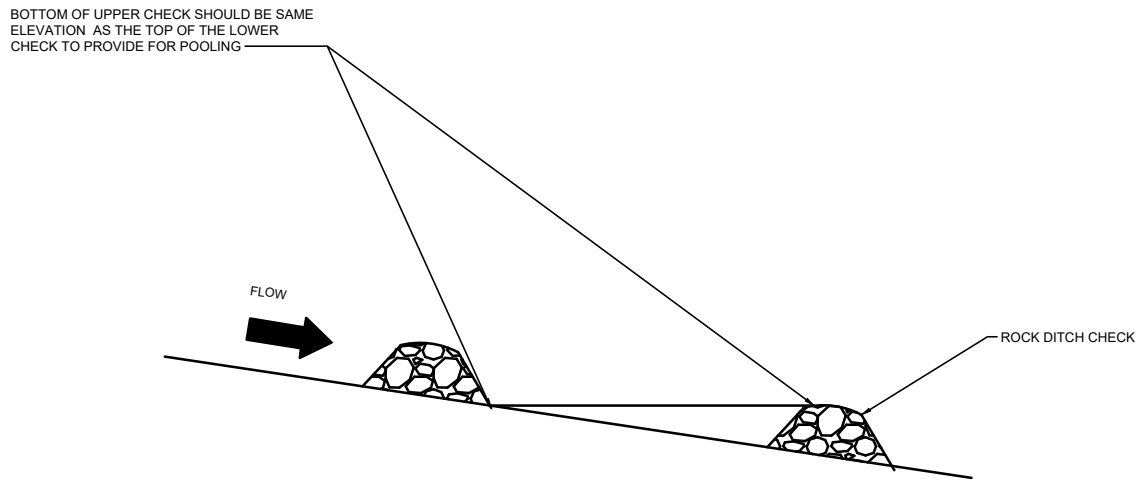


2 BRIDGE UNDERPASS TRAIL SECTION
8 NO SCALE



3 ROCK DITCH CHECK
8 NO SCALE

- CONSTRUCTION NOTES:
1. POINT "A" MUST BE A MINIMUM OF 6" HIGHER THAN POINT "B" TO ENSURE THAT WATER FLOWS OVER THE DIKE AND NOT AROUND THE ENDS.
 2. SEE PLANS FOR SPACING.
 3. DETAIL IS EQUIVALENT TO MNDOT FILTER TYPE 5 (ROCK)



PLOT DATE: May 07, 2024 - 9:52pm
FILENAME: K:\a\duluth_City\20747000\04_Production\01_CAD\02_Sheets\DETAILS.dwg

NO.	DATE	BY	DESCRIPTION OF REVISIONS
4	4/2/24	ERM	ISSUED FOR CONSTRUCTION

DESIGNED	ERM	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 PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.
DRAWN	IDR	
CHECKED	ERM	SIGNATURE: <i>Emily R. Major</i> DATE: 1/25/2024 NAME: EMILY R. MAJOR LIC. NO.: 52201



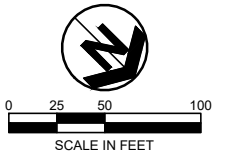
11 E. Superior Street, Suite 420
Duluth, MN 55802
218.724.8578
tkda.com

SPRIT MOUNTAIN
SNOWMOBILE TRAILS
CITY OF DULUTH, MINNESOTA

DETAILS City Contract # _____

PROJ. NO. 20747.000
DRAWING NO. 8

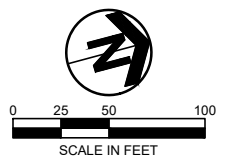
1. CONTRACTOR SHALL MINIMIZE DISTURBANCE TO WHITE PINE & CEDAR TREE ROOTS. USE WOOD CHIPS FROM THE SITE TO PROTECT.



LOWER CONNECTOR TRAIL

SEDIMENT CONTROL
LOG TYPE COMPOST

SEE SHEET 11



BRIDGE UNDERPASS

PROJ. NO.	20747.000
DRAWING NO.	12