



City of Duluth

411 West First Street
Duluth, Minnesota 55802

Meeting Agenda

Duluth Economic Development Authority.

Wednesday, September 28, 2022

5:15 PM

CALL TO ORDER

PUBLIC TO ADDRESS THE COMMISSION

PUBLIC HEARINGS

[22D-55](#) RESOLUTION AUTHORIZING AN AGREEMENT WITH CLYDE INDUSTRIAL PARK, INC, FOR THE CONVEYANCE OF LAND IN LINCOLN PARK FOR \$1.00.

Attachments: [22d-55-Clyde Parking LSA- final](#)

[22D-56](#) RESOLUTION CONFIRMING RESOLUTION 22D-31 AUTHORIZING A LAND SALE AGREEMENT WITH SAIA, MOTOR FREIGHT.

Attachments: [22D-56- Land Sale Agreement-Atlas site- SAIA Motor Freight](#)

[22D-58](#) RESOLUTION AUTHORIZING A CONDITIONAL AGREEMENT WITH BIG HILL, LLC., FOR THE CONVEYANCE OF PROPERTY IN THE WOODLAND NEIGHBORHOOD FOR \$185,000.

Attachments: [22D-58-Woodland Spur LSA-final](#)

[22D-59](#) RESOLUTION AUTHORIZING CONVEYANCE OF UTILITY EASEMENT OVER OLD PARK PROPERTY NEAR WHEELER ATHLETIC COMPLEX TO THE CITY OF DULUTH.

Attachments: [22D-59-Wheeler-Easement Exhibit 8-19-22](#)

[22D-59-Utility Easement-Grand Ave \(final\) Wheeler](#)

[22D-60](#) RESOLUTION AUTHORIZING CONVEYANCE OF UTILITY EASEMENT OVER DEDA OWNED PROPERTY TO THE CITY OF DULUTH

Attachments: [22D-60-Exhibit Map-3rd & 10th](#)

[22D-60-Utility Easement-3rd & 10th](#)

APPROVAL OF MEETING MINUTES

[*****](#) AUGUST 24, 2022 REGULAR MEETING MINUTES

Attachments: [08-24-22 DEDA Meeting Minutes-draft](#)

APPROVAL OF CASH TRANSACTIONS

----- AUGUST 01, 2022 TO AUGUST 31, 2022

Attachments: [DEDA Monthly Cash Activity August 2022](#)

OLD BUSINESS

[22D-54](#) RESOLUTION ESTABLISHING THE BUSINESS BOOST MARKETING ASSISTANCE PROGRAM, APPROVING PROGRAM GUIDELINES AND ALLOCATING \$200,000 TO FUND SAID PROGRAM.

Attachments: [22D-54-Duluth Business Boost Marketing Assistance Program Guidelines-upda](#)
[22D-54-Copy of Business Boost Scorecard](#)

NEW BUSINESS

RESOLUTIONS FOR APPROVAL

[22D-55](#) RESOLUTION AUTHORIZING AN AGREEMENT WITH CLYDE INDUSTRIAL PARK, INC, FOR THE CONVEYANCE OF LAND IN LINCOLN PARK FOR \$1.00.

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[22D-56](#) RESOLUTION CONFIRMING RESOLUTION 22D-31 AUTHORIZING A LAND SALE AGREEMENT WITH SAIA, MOTOR FREIGHT.

Attachments: [22D-56- Land Sale Agreement-Atlas site- SAIA Motor Freight](#)

[22D-57](#) RESOLUTION AUTHORIZING FIRST AMENDMENT TO AGREEMENT WITH MERGE LLC MODIFYING THE AMERICAN RESCUE PLAN DEVELOPMENT AGREEMENT.

Attachments: [22D-57-Merge Urbane 1st Amendment FINAL](#)

[22D-58](#) RESOLUTION AUTHORIZING A CONDITIONAL AGREEMENT WITH BIG HILL, LLC., FOR THE CONVEYANCE OF PROPERTY IN THE WOODLAND NEIGHBORHOOD FOR \$185,000.

Attachments: [22D-58-Woodland Spur LSA-final](#)

[22D-59](#) RESOLUTION AUTHORIZING CONVEYANCE OF UTILITY EASEMENT OVER OLD PARK PROPERTY NEAR WHEELER ATHLETIC COMPLEX TO THE CITY OF DULUTH.

Attachments: [22D-59-Wheeler-Easement Exhibit 8-19-22](#)
[22D-59-Utility Easement-Grand Ave \(final\) Wheeler](#)

[22D-60](#)

RESOLUTION AUTHORIZING CONVEYANCE OF
UTILITY EASEMENT OVER DEDA OWNED PROPERTY TO THE CITY
OF DULUTH

Attachments:

[22D-60-Exhibit Map-3rd & 10th](#)

[22D-60-Utility Easement-3rd & 10th](#)

DISCUSSION

DIRECTOR'S REPORT- 2023 DEDA BUDGET

ADJOURN

**LAND SALE AGREEMENT
DULUTH ECONOMIC DEVELOPMENT AUTHORITY
CLYDE INDUSTRIAL PARK INC.
CLYDE PARK PARKING ADDITION**

THIS AGREEMENT (“Agreement”) is entered into this ____ day of _____, 2022 (the “Effective Date”), by and between the DULUTH ECONOMIC DEVELOPMENT AUTHORITY, an economic development authority, created and existing under Minnesota Statutes (1989) Chapter 469, (“DEDA”), and Clyde Industrial Park Inc., (“Developer”).

WHEREAS, the DEDA owns certain real property as more particularly described in Exhibit A attached hereto and incorporated herein by reference, Parcel Number 010-3190-02355, in the Lincoln Park neighborhood of the City of Duluth, which has been acquired by DEDA for cleanup and redevelopment (the "Property");

WHEREAS, Developer is desirous of acquiring the Property for the expansion of parking at the Clyde Park project as well as cleanup and environmental mitigation of the site; and

WHEREAS, DEDA, has determined that the conveyance of the Property to Developer for construction of the Project is in the best interests of the City of Duluth (the “City”) and its people and that the transaction furthers DEDA’s general plan for development in the City;

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

1. Sale of Property.

The proper DEDA officials hereby agree to sell the Property by Quit Claim deed to Developer for the sum of \$1.00 (the “Purchase Price”). Developer also agrees to pay DEDA an administrative fee of \$500 for staff time invested in facilitating this transaction. Within fifteen (15) days of the signing of this Agreement, Developer agrees to deposit the Purchase Price and administrative fee in the form of cash or a certified check with DEDA.

2. Contingent Performance

A. Upon the deposit of the Purchase Price with DEDA and the payment of the administrative fee, all as provided for in Paragraph 1 above, DEDA hereby agrees to convey the Property to Developer under the terms and conditions of this Agreement. The Purchase Price set forth in Paragraph 1 above is anticipated to be sufficient to reimburse DEDA for its out-of-pocket costs of acquiring the Property and selling it to Developer. In addition, the parties hereto anticipate that the sale of the Property to Developer shall have been completed within one (1)

year of the date first above shown. Further, the conveyance to Developer shall be subject to the terms and conditions of Minnesota Statutes Section 469.090 -469.108; and in particular, Developer agrees that it shall begin work on the improvements to the Property to devote it to the Project no later than one (1) year from the date of conveyance of the Property to Developer as required by Minnesota Statutes Section 469.105. The deed to Developer shall be conditioned as provided for herein. If it is not so completed, and either party desiring to terminate this Agreement is not be then in default of any of its obligations hereunder, such party may terminate this Agreement without cause upon fifteen (15) days written notice to the other party as provided for in Paragraph 6 below, in which case, neither party shall have any further rights or obligations to the other party under this Agreement except that, if Developer is not in default, DEDA agrees to return the Purchase Price to Developer.

3. Developers Project

The Project shall be constructed only in conformance with the plans and specifications for the Project approved by DEDA's Executive Director or their designee, which consent shall not be unreasonably withheld, and must conform to all applicable building, zoning, or other codes or ordinances. The Developer will acquire any and all necessary permits for the construction of the project.

4. Environmental Indemnification.

Developer hereby agrees that for itself, its successors and assigns, it will indemnify and save DEDA and its officers, agents, servants and employees and any person who controls DEDA within the meaning of the Securities Act of 1933 harmless from and against all liabilities, losses, damages, costs, expenses, including reasonable attorney's fees and expenses, causes of action, suits, claims, demands and judgments arising out of any condition existing on the Property whether pre-existing or after the closing which constitutes a violation of any environmental law or laws with regard to pollutants or hazardous or dangerous substances promulgated by the government of the United States, the State of Minnesota or of any such duly promulgated rules and regulations of the United States Environmental Protection Agency or the Minnesota Pollution Control Agency or the presence on the Property of any element, compound, pollutant, contaminant or toxic or hazardous substance, material or waste, or any mixture thereof, which otherwise causes injury or death to persons or damage to property and that indemnification granted hereby shall include all the costs of clean up, remediation, together with the costs incurred in proceedings before a court of law or an administrative agency, including attorney's fees, expenses, the fees and expenses of persons providing technical expertise addressing such problems, including expert witnesses, and the cost of preparing and securing approval of Response Action Plans as may be necessary to meet the requirements of the aforesaid agencies

and any other costs and expenses of any kind whatsoever arising out of conditions existing on the Property. Provided, however, that the indemnity provided by Developer to DEDA pursuant to this paragraph is intended to run only to the benefit of DEDA and is not intended to, nor shall it, inure to the benefit of any third party.

5. Default and Remedies.

In the event that Developer fails to perform or to comply with any of the terms, covenants and conditions of this Agreement, including but not limited to those contained in Paragraphs 2 and 3 above, and said failure to so perform or comply shall continue for a term of thirty (30) days after notice from DEDA to Developer of such nonperformance or noncompliance, Developer shall be in default of its obligations hereunder and DEDA may, at its option, exercise any one or more of the following rights and remedies. The remedies provided for under this Paragraph shall be deemed to be cumulative and non-exclusive and the election of one remedy shall not be deemed to be a waiver of any other remedy with regard to any occasion of default hereunder. Further, the waiver by DEDA of any default on the part of Developer hereunder or the failure of DEDA to declare default on the part of Developer of any of its obligations pursuant to this Agreement shall not be deemed to be a waiver of any subsequent event of default on the part of Developer of the same or any other obligation of Developer hereunder and, to be effective, any waiver of any default by Developer hereunder shall be in writing by DEDA.

a. DEDA may seek and be entitled to monetary damages from Developer for any actual damages incurred by DEDA as a result of Developer's default.

b. DEDA may seek and be entitled to receive reconveyance of the Property from Developer, free and clear of all liens and encumbrances whatsoever, if said default occurs prior to certification by DEDA's Executive Director of the completion of the Project (which certification shall not be unreasonably withheld).

c. DEDA may seek and be entitled to injunctive and declaratory relief as is necessary to prevent Developer's violation of the terms and conditions.

d. DEDA may seek such other legal or equitable relief as a court of competent jurisdiction may be determined as available to DEDA.

Notwithstanding the foregoing, if the default reasonably requires more than thirty (30) days to cure, such default shall not constitute an event of default, provided that the curing of the default is promptly commenced upon receipt by the Developer of the notice of the default, and with due diligence is thereafter continuously prosecuted to completion and is completed within a reasonable period of time, and provided that Developer keeps DEDA informed of its progress in curing the default; provided in no event shall such additional cure period extend beyond 90 days.^a

6. Notices.

Any notice, demand or other communication under this agreement by either party to the other shall be deemed to be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, to:

In the Case of DEDA: Duluth Economic Development Authority
City Hall – Room 160
Attn: Executive Director
411 West 1st Street
Duluth, Minnesota 55802

In the Case of Developer: CLYDE INDUSTRIAL PARK, INC.
Attn: Alessandro Giuliani
2920 W Michigan St.
Duluth, MN 55806

7. Force Majeure.

Under the terms of this Agreement, neither the DEDA nor Developer shall be considered in default or in breach of any of the terms with respect to the performance to their respective obligations under this Agreement in the event of enforced delay in the performance of its obligations due to unforeseeable causes beyond its control and without its fault or negligence, including but not limited to acts of God, acts of a public enemy, material or supply chain issues, acts of the federal government, acts of another party, fire, floods, epidemics, strikes or embargoes, or for delays of subcontractors due to such causes. In the event of any such delay, any time for completion or delivery under this Agreement shall be extended for the period of any such delay upon written notice from the party seeking the extension to the other party.

8. Release of right to receive reconveyance.

Upon the determination by DEDA's Executive Director that construction of the Project has been completed and upon Developer's request therefore, the Executive Director will furnish to the Developer a Release of right to receive reconveyance ("Release"), as shown in Exhibit B, certifying the completion of the Project. The Release shall satisfy and terminate the development obligations only of the Developer in this Agreement. The Developer may cause the Release to be recorded in the proper office for recordation of deeds and other instruments pertaining to the Property. Provided, however, the Release shall in no way release Developer from its obligations set forth in Section 3 to offer for lease the 40% of the units built as part of the Project to individuals or families earning 60% or less of the median area income and to offer for lease 60% of the units to individuals and families earning 80% or less of the area median income, as determined by HUD's annual income limits, or the maintenance obligations of Developer set forth in Section 4 above for the duration of the Term.

9. Applicable Law.

This Agreement, together with all of its paragraphs, terms and conditions, is made in the State of Minnesota and shall be construed and interpreted in accordance with the laws of the State of Minnesota.

(The rest of this page is intentionally left blank)

ALESSANDRO GIULIANI

By: Alessandro Giuliani

STATE OF IOWA)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2022, by CLYDE INDUSTRIAL PARK, INC., Its _____, Alessandro Giuliani.

Notary Public

Exhibit A

Legal Descriptions

The real property legally described as follows:

The Lots 4 through 9, block 15 lying northwest of a line 97.79 feet southeast of, at a right angle to, and parallel with the northwest line of block 15, Duluth Proper, West 5th Street, St. Louis County, Minnesota.

Parcel Number: 010-3190-02355

Exhibit B

Release of Right to Receive Reconveyance

Date: _____, 2022

The obligations of the Developer under that certain Land Sale Agreement between the Duluth Economic Development Authority, an economic development authority under Minnesota Statutes (1989) Chapter 469, therein after referred to as "DEDA" and CLYDE INDUSTRIAL PARK, LLC, therein after referred to as "Developer", with regard to the below described property, which Agreement is dated _____, 2022 and filed of record on _____, 2022 in the office of the County Recorder for St. Louis County, Minnesota, as Document Number _____, having been performed, the undersigned on behalf of DEDA hereby certifies that such obligations under said Agreement have been satisfied and hereby releases any right to receive reconveyance of the Property.

The Lots 4 through 9, block 15 lying northwest of a line 97.79 feet southeast of, at a right angle to, and parallel with the northwest line of block 15, Duluth Proper, West 5th Street, St. Louis County, Minnesota.

DULUTH ECONOMIC DEVELOPMENT
AUTHORITY

By: _____
Executive Director

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

The foregoing instrument was acknowledged before me this _____ day of _____, 2022, by Chris Fleege, the Executive Director of the Duluth Economic Development Authority, an economic development authority under Minnesota Statutes Chapter 459, on behalf of the authority.

Notary Public

**LAND SALE AGREEMENT
DULUTH ECONOMIC DEVELOPMENT AUTHORITY
BIG HILL LLC
THE WOODLAND SPUR PROJECT**

THIS AGREEMENT (“Agreement”) is entered into this ____ day of _____, 2022 (the “Effective Date”), by and between the DULUTH ECONOMIC DEVELOPMENT AUTHORITY, an economic development authority, created and existing under Minnesota Statutes (1989) Chapter 469, (“DEDA”), and BIG HILL, LLC, (“Developer”).

WHEREAS, Developer desires to acquire certain parcels of property (collectively the “Property”) owned by the St. Louis County located for the purpose of the Project; and

WHEREAS, DEDA, by virtue of its status as a governmental authority, has the authorization to purchase the Property directly from St. Louis County at its appraised value;

WHEREAS, the DEDA will make best efforts to acquire property as more particularly described in Exhibit A attached hereto and incorporated herein by reference, Parcel Number 010-4670-00590, in the Woodland neighborhood of the City of Duluth, which has been acquired by DEDA for redevelopment (the “Property”);

WHEREAS, Developer is desirous of acquiring the Property for development of a bakery and coffee shop and create 2-3 new full-time jobs and 6-8 part-time jobs; and

WHEREAS, DEDA, has determined that the conveyance of the Property to Developer for construction of the Project is in the best interests of the City of Duluth (the “City”) and its people and that the transaction furthers DEDA’s general plan for development in the City;

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

1. Sale of Property.

Subject to DEDA's acquisition from the State, the proper DEDA officials are hereby authorized to sell to Developer the Property by Quit Claim deed for the sum of \$184,500 (the “Purchase Price”). Developer also agrees to pay DEDA an administrative fee of \$500 for staff time invested in facilitating this transaction. Within fifteen (15) days of the signing of this Agreement, Developer agrees to deposit the Purchase Price and administrative fee in the form of cash or a certified check with DEDA.

2. Contingent Performance

A. Subject to DEDA's acquisition of the Property, the deposit of the Purchase Price with DEDA, and the payment of the administrative fee, all as provided for in Paragraph 1 above, DEDA hereby agrees to convey the Property to Developer under the terms and conditions of this Agreement. The Purchase Price set forth in Paragraph 1 above is anticipated to be sufficient to reimburse DEDA for its out-of-pocket costs of acquiring the Property and selling it to Developer. In addition, the parties hereto anticipate that the sale of the Property to Developer shall have been completed within one (1) year of the date first above shown. Further, the conveyance to Developer shall be subject to the terms and conditions of Minnesota Statutes Section 469.090 - 469.108; and in particular, Developer agrees that it shall begin work on the improvements to the Property to devote it to the Project no later than one (1) year from the date of conveyance of the Property to Developer as required by Minnesota Statutes Section 469.105. The deed to Developer shall be conditioned as provided for herein. If it is not so completed, and either party desiring to terminate this Agreement is not be then in default of any of its obligations hereunder, such party may terminate this Agreement without cause upon fifteen (15) days written notice to the other party as provided for in Paragraph 6 below, in which case, neither party shall have any further rights or obligations to the other party under this Agreement except that, if Developer is not in default, DEDA agrees to return the Purchase Price to Developer.

B. Title Commitment; Survey. Within Thirty (30) days after the Effective Date, Developer will obtain a title commitment of the Property (the "Title Commitment") at its expense. Developer may obtain, at its option and expense, a survey of the Property (the "Survey") prepared by a Minnesota licensed surveyor certified to Developer and the Title Insurer.

3. Developers Project

Developer hereby agrees that, by December 31st, 2023 Developer will have completed construction of the Project as herein defined on the Property. For the purposes of this Agreement, the "Project" shall consist of the construction of a restaurant with drive-thru, renovating the 10,000 sq. foot building with construction to begin 2023 and complete 2024 on the Property of Lots 9 through 11, Block 4, Woodland Park, Second Division, St. Louis County, Minnesota, for the length of the Term, from the date that the City Building Official has issued Certificates of Occupancy under the State Building Code for all units. The Project shall be constructed only in conformance with the plans and specifications for the Project approved by DEDA's Executive Director or their designee, which consent shall not be unreasonably withheld, and must conform to all applicable building, zoning, or other codes or ordinances. The Developer will acquire any and all necessary permits for the construction of the project.

4. Environmental Indemnification.

Developer hereby agrees that for itself, its successors and assigns, it will indemnify and

save DEDA and its officers, agents, servants and employees and any person who controls DEDA within the meaning of the Securities Act of 1933 harmless from and against all liabilities, losses, damages, costs, expenses, including reasonable attorney's fees and expenses, causes of action, suits, claims, demands and judgments arising out of any condition existing on the Property whether pre-existing or after the closing which constitutes a violation of any environmental law or laws with regard to pollutants or hazardous or dangerous substances promulgated by the government of the United States, the State of Minnesota or of any such duly promulgated rules and regulations of the United States Environmental Protection Agency or the Minnesota Pollution Control Agency or the presence on the Property of any element, compound, pollutant, contaminant or toxic or hazardous substance, material or waste, or any mixture thereof, which otherwise causes injury or death to persons or damage to property and that indemnification granted hereby shall include all the costs of clean up, remediation, together with the costs incurred in proceedings before a court of law or an administrative agency, including attorney's fees, expenses, the fees and expenses of persons providing technical expertise addressing such problems, including expert witnesses, and the cost of preparing and securing approval of Response Action Plans as may be necessary to meet the requirements of the aforesaid agencies and any other costs and expenses of any kind whatsoever arising out of conditions existing on the Property. Provided, however, that the indemnity provided by Developer to DEDA pursuant to this paragraph is intended to run only to the benefit of DEDA and is not intended to, nor shall it, inure to the benefit of any third party.

5. Default and Remedies.

In the event that Developer fails to perform or to comply with any of the terms, covenants and conditions of this Agreement, including but not limited to those contained in Paragraphs 2 and 3 above, and said failure to so perform or comply shall continue for a term of thirty (30) days after notice from DEDA to Developer of such nonperformance or noncompliance, Developer shall be in default of its obligations hereunder and DEDA may, at its option, exercise any one or more of the following rights and remedies. The remedies provided for under this Paragraph shall be deemed to be cumulative and non-exclusive and the election of one remedy shall not be deemed to be a waiver of any other remedy with regard to any occasion of default hereunder. Further, the waiver by DEDA of any default on the part of Developer hereunder or the failure of DEDA to declare default on the part of Developer of any of its obligations pursuant to this Agreement shall not be deemed to be a waiver of any subsequent event of default on the part of Developer of the same or any other obligation of Developer hereunder and, to be effective, any waiver of any default by Developer hereunder shall be in writing by DEDA.

- a. DEDA may seek and be entitled to monetary damages from Developer for any actual damages incurred by DEDA as a result of Developer's default.
- b. DEDA may seek and be entitled to injunctive and declaratory relief as is necessary to prevent Developer's violation of the terms and conditions.
- c. DEDA may seek such other legal or equitable relief as a court of

competent jurisdiction may be determined as available to DEDA.

Notwithstanding the foregoing, if the default reasonably requires more than thirty (30) days to cure, such default shall not constitute an event of default, provided that the curing of the default is promptly commenced upon receipt by the Developer of the notice of the default, and with due diligence is thereafter continuously prosecuted to completion and is completed within a reasonable period of time, and provided that Developer keeps DEDA informed of its progress in curing the default; provided in no event shall such additional cure period extend beyond 90 days.^a

6. Notices.

Any notice, demand or other communication under this agreement by either party to the other shall be deemed to be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, to:

In the Case of DEDA:

Duluth Economic Development Authority
City Hall – Room 160
Attn: Executive Director
411 West 1st Street
Duluth, Minnesota 55802

In the Case of Developer:

BIG HILL, LLC
Attn: Adam Ruhland
314 Leicester Ave
Duluth, MN 55803

7. Force Majeure.

Under the terms of this Agreement, neither the DEDA nor Developer shall be considered in default or in breach of any of the terms with respect to the performance to their respective obligations under this Agreement in the event of enforced delay in the performance of its obligations due to unforeseeable causes beyond its control and without its fault or negligence, including but not limited to acts of God, acts of a public enemy, material or supply chain issues, acts of the federal government, acts of another party, fire, floods, epidemics, strikes or embargoes, or for delays of subcontractors due to such causes. In the event of any such delay, any time for completion or delivery under this Agreement shall be extended for the period of any such delay upon written notice from the party seeking the extension to the other party.

8. Release of right to receive reconveyance.

Upon the determination by DEDA's Executive Director that construction of the Project has been completed and upon Developer's request therefore, the Executive Director will furnish to the Developer a Release of right to receive reconveyance ("Release"), as shown in Exhibit B, certifying the completion of the Project. The Release shall satisfy and terminate the development obligations only of the Developer in this Agreement. The Developer may cause the Release to be recorded in the proper office for recordation of deeds and other instruments pertaining to the Property.

9. Applicable Law.

This Agreement, together with all of its paragraphs, terms and conditions, is made in the State of Minnesota and shall be construed and interpreted in accordance with the laws of the State of Minnesota.

(The rest of this page is intentionally left blank)

BIG HILL, LLC

By: Adam Ruhland

STATE OF IOWA)
)ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2022, by BIG HILL, LLC, Its _____, Adam Ruhland.

Notary Public

Exhibit A

Legal Descriptions

The real property legally described as follows:

Lots 9 through 11, Block 4, WOODLAND PARK 2ND DIVISION, St. Louis County, Minnesota

Parcel Number: 010-4670-00590

Exhibit B

Release of Right to Receive Reconveyance

Date: _____, 2022

The obligations of the Developer under that certain Land Sale Agreement between the Duluth Economic Development Authority, an economic development authority under Minnesota Statutes (1989) Chapter 469, therein after referred to as "DEDA" and BIG HILL, LLC, therein after referred to as "Developer", with regard to the below described property, which Agreement is dated _____, 2022 and filed of record on _____, 2022 in the office of the County Recorder for St. Louis County, Minnesota, as Document Number _____, having been performed, the undersigned on behalf of DEDA hereby certifies that such obligations under said Agreement have been satisfied and hereby releases any right to receive reconveyance of the Property.

Lots 9 through 11, Block 4, WOODLAND PARK 2ND DIVISION, St. Louis County, Minnesota

DULUTH ECONOMIC DEVELOPMENT
AUTHORITY

By: _____
Executive Director

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

The foregoing instrument was acknowledged before me this _____ day of _____, 2022, by Chris Fleege, the Executive Director of the Duluth Economic Development Authority, an economic development authority under Minnesota Statutes Chapter 459, on behalf of the authority.

Notary Public

**XMEETING OF THE
DULUTH ECONOMIC DEVELOPMENT AUTHORITY
WEDNESDAY, AUGUST 24, 2022 – 5:15 P.M.
COUNCIL CHAMBERS-CITY HALL
MINUTES**

Present: Matt Cartier, Arik Forsman, Roz Randorf, Terese Tomanek

Absent: Ellie Just, ChaQuana McEntyre

Others Present: Theresa Bajda, Chris Fleege

1. CALL TO ORDER: The August 24, 2022 meeting of DEDA was called to order by President Cartier at 5:18 p.m.

2. PUBLIC TO ADDRESS THE COMMISSION

No comments.

3. PUBLIC HEARINGS

RESOLUTION 22D-51: RESOLUTION AUTHORIZING PURCHASE AGREEMENT WITH CIRRUS DESIGN CORPORATION D/B/A CIRRUS AIRCRAFT CONVEYING THE MRO BUILDING

No public comment.

RESOLUTION 22D-52: RESOLUTION AUTHORIZING BUSINESS SUBSIDY AGREEMENT WITH CIRRUS DESIGN CORPORATION D/B/A CIRRUS AIRCRAFT RELATED TO THE MRO BUILDING

No public comment.

APPROVAL OF MEETING MINUTES

JULY 27, 2022 MEETING MINUTES

No discussion.

VOTE TO APPROVE THE JULY 27, 2022 MEETING MINUTES: (Forsman/Randorf) Vote: Passed (4-0).

APPROVAL OF CASH TRANSACTION

JULY 1, 2022 TO JULY 31, 2022

Director Fleege noted fund 861 reflects activity for payments on TIF notes that happens twice a year.

VOTE TO APPROVE THE JULY 1 TO JULY 31, 2022 CASH TRANSACTIONS: (Randorf/Tomanek)
Vote: Passed (4-0).

NEW BUSINESS

4. RESOLUTIONS FOR APPROVAL

RESOLUTION 22D-40: RESOLUTION APPROVING A DEVELOPMENT AGREEMENT WITH INDEPENDENT SCHOOL DISTRICT NO. 709 AND APPROVING FINDINGS CONCERNING PARCELS WITHIN THE PROPOSED PLAT OF CENTRAL OVERLOOK

Staff: Director Fleege explained this resolution better defines the eligible properties and to preserve the ability for a redevelopment TIF district. Demolition timing was included as well.

Discussion: President Cartier asked for clarification around what the resolution entails.

Vote to approve resolution 22D-40: (Forsman/Tomanek) Vote: Passed (4-0).

RESOLUTION 22D-48: RESOLUTION ELECTING A VICE PRESIDENT

Staff: Director Fleege discussed the VP opportunity with Commissioner McEntyre and she is willing to serve in this capacity.

Discussion: There was discussion about how to nominate a VP and who would need to bring a name forward. Commissioner Tomanek asked if the Commission needed to wait until Commissioner McEntyre was present for the nomination. Director Fleege confirmed he did have a conversation with Commissioner McEntyre and she was willing to serve.

Commissioner Randorf made an amended motion to elect Commissioner McEntyre. Second by Commissioner Forsman.

Vote to approve resolution 22D-48: (Forsman/Tomanek) Vote: Passed (4-0).

RESOLUTION 22D-49: RESOLUTION AUTHORIZING FIRST AMENDMENT TO AGREEMENT WITH THE CITY OF DULUTH AMENDING PROPERTY DESCRIPTION

Staff: This resolution corrects legal descriptions. Attorney Asleson added there was a minor legal description change.

Discussion: This resolution is related to the Lester Park amendment. Commissioner Tomanek asked for a little bit of background relating to this resolution. Director Fleege provided that Council transferred this property to DEDA with the understanding that a section of it would be affordable. 10 acres are set aside along the existing Lester Park area and there is another area that is undefined and is mixed use. Another 34 acres will be the area that DEDA will go out for RFP's on. The legal description just needed to get cleaned up before the RFP process began. Council wanted to have the affordable component and there is a fair amount of stipulations around that. Commissioner Tomanek inquired on the deadline for RFPs. Theresa Bajda provided the deadline is at the end of December to convey the property from City to DEDA and close on it. An environmental assessment and a wetland delineation have been done and the ALTA survey is being wrapped up as they are working through the title commitments. Staff is brainstorming how to make this happen since there is no road going into the development and there are no utilities. Staff is still working on the best route to take. An RFP could be issued and a master developer could assemble it and say they would like someone to respond to a specific tract. Smaller RFP's could be issued. There are a lot of conversations going on for how to best approach. Theresa Bajda confirmed that this is the "Lower 9" that they are speaking about. The bottom two holes and the driving range is the scope. The thought was to keep the clubhouse and parking lot as a trailhead to the remaining greenspace that will still be there. Council also wanted full value of the property.

Vote to approve resolution 22D-49: (Randorf/Forsman) Vote: Passed (4-0).

RESOLUTION 22D-50: RESOLUTION APPROVING A PROJECT ON BEHALF OF ST PAPER 1, LLC AND CONSENTING TO THE ISSUANCE OF TAXABLE CONDUIT REVENUE BONDS BY THE PUBLIC FINANCE AUTHORITY

Staff: Director Fleege provided these bonds are on behalf of ST Paper. DEDA is consenting to allow for the issuance of the bonds for 25 basis points. DEDA wants this project to move forward and ST Paper has been working hard to come up with a financing package. This would be the best course for their project.

Discussion: N/A

Vote to approve resolution 22D-50: (Randorf/Tomanek) Vote: Passed (4-0).

RESOLUTION 22D-51: RESOLUTION AUTHORIZING PURCHASE AGREEMENT WITH CIRRUS DESIGN CORPORATION D/B/A CIRRUS AIRCRAFT CONVEYING THE MRO BUILDING

Staff: Cirrus will be calling this their "Innovation Center". They plan to move their back-office

functions from the south end of the airport to the north end in the Innovation Center. A lot of their prototype work will be in this facility. The term sheet and agreement state \$7 million in spend, but it likely will be in excess of \$10 million. There will be more production capacity freed up as staff relocates. This building has an operating cost of about \$57,000 per month. Selling this building will allow DEDA to focus on economic development rather than maintaining and operating a building. This resolution is for the conveyance.

Discussion: Commissioner Forsman asked if there was any highlights Director Fleege wanted to cover.

Vote to approve resolution 22D-51: (Randorf/Forsman) Vote: Passed (4-0).

RESOLUTION 22D-52: RESOLUTION AUTHORIZING BUSINESS SUBSIDY AGREEMENT WITH CIRRUS DESIGN CORPORATION D/B/A CIRRUS AIRCRAFT RELATED TO THE MRO BUILDING

Staff: The subsidy agreement has the tax abatement elements and documents that. The value of the building has gone up.

Discussion: N/A

Vote to approve resolution 22D-52: (Forsman/Tomanek) Vote: Passed (4-0).

RESOLUTION 22D-53: RESOLUTION AUTHORIZING SIDE LETTER AGREEMENT WITH CIRRUS DESIGN CORPORATION D/B/A CIRRUS AIRCRAFT RELATED TO THE MRO BUILDING

Staff: The side letter agreement is best efforts around supporting Cirrus with employment. Elena Foshay and the workforce team has been working with Cirrus' HR teams around retention and recruitment strategies. This investment likely means Cirrus' headquarters will remain in Duluth for the long term.

Discussion: N/A

Vote to approve resolution 22D-53: (Tomanek/Randorf) Vote: Passed (4-0).

RESOLUTION 22D-54: RESOLUTION ESTABLISHING THE BUSINESS BOOST MARKETING ASSISTANCE PROGRAM, APPROVING PROGRAM GUIDELINES AND ALLOCATING \$200,000 TO FUND SAID PROGRAM

Staff: Council authorized \$500,000 to DEDA to support businesses. Originally it was ARPA dollars and a resolution was brought back to Council for revenue offset. DEDA will be utilizing

\$200,000 of the \$500,000 to target businesses and allow them to do marketing. Forum Communications approached DEDA stating they had run this type of program in different markets and that it had been effective.

Discussion: President Cartier asked about staffing and the management of the program. Director Fleege added that the process has been a little slow due to some staffing shortages. Some external resources may need to be obtained to help administer the program and some details are still being worked out. The slate of individual grants will need to be brought back to DEDA for approval. Commissioner Randorf inquired about the administering party and if they are a neutral party rather than a media company. Director Fleege stated that staff administering. The original resolution talked about qualifying media and number of employees and Commissioner Randorf wanted clarification around whether or not those items were still included. Director Fleege noted that staff missed taking out the references to Forum Communications in the main body of the attachment. Staff will be going back through and adjusting different elements. The idea was to be geared toward smaller businesses. Commissioners will have the opportunity to review and the requests will come in batches. Attorney Asleson added that each application is required to be accompanied by a plan of what the business intends to do.

Commissioner Forsman asked for some additional background on where the idea for the program originated and what the objective is. Director Fleege provided that Forum Communications approached DEDA with this idea. The idea is to help small, local businesses advertise, post-COVID. Forum Communications is providing matches. –clarification is needed around whether or not Forum Communications is providing matches for all of the applicants or only those who are utilizing their advertising platforms. The board chatted about the terminology of “match” and that public funds are being used for this program. Theresa Bajda added a point of suggestion: a request for qualifications could be issued to local media companies who would like to participate. This money was originally ARPA and through revenue replacement this money is removed from the time constraint. There was some discussion around the grants mirroring a 1200 Fund program and the process and details of the proposed program. Business recovery has been lagging and this initiative is a way that DEDA could support small businesses. The Board and Staff discussed the tabling of this resolution until some details are ironed out. Commissioner Randorf asked that the term “matching funds” be pulled out of the resolution and delineated.

Vote to approve resolution 22D-54: Forsman motioned to table this resolution. Randorf 2nd.

DISCUSSION

Director Fleege apologized to the Board for getting items out last minute in relation to the Cirrus items.

9. ADJOURN: President Cartier adjourned the August 24, 2022 meeting of DEDA 6:00p.m.

Respectfully submitted,

Chris Fleege--Executive Director

DRAFT

Duluth Economic Development Authority

August 2022 Cash Activity - all DEDA Funds

ACCUMULATED TRANSACTION LISTING, G/L Date Range 08/01/22 to 08/31/22 (as of 09/10/22)

G/L Date	Journal Number	Sub Ledger	Name	Net Amount	Description
FUND 860 - OPERATING FUND				Beginning Balance \$	2,724,600.22
08/01/22	2022-0000202	GL	Cost Allocation - DEDA	(33,333.33)	Cost Allocation - DEDA
08/01/22	2022-00005803	AP	Ehlers and Associates Inc	(1,785.00)	Brae View Senior Apts
08/01/22	2022-00005803	AP	Ehlers and Associates Inc	(275.00)	Lot D Redevelopment
08/01/22	2022-00005803	AP	Ehlers and Associates Inc	(481.25)	General TIF Consulting
08/01/22	2022-00005803	AP	Duluth Public Utilities - Comfort Systems	(1,897.45)	902 Railroad St 6/4/22-7/6/22
08/01/22	2022-00005803	AP	Short Elliott Hendrickson	(9,761.50)	Survey of Lot D DEDA 22 860 114
08/01/22	2022-00005803	AP	LHB Engineers & Architects	(7,405.10)	Blight analysis for Old Central HS Pre TIF 22 860
08/01/22	2022-00005806	AP	Nearmap US, Inc.	(4,000.00)	NearMap Subscription
08/02/22	2022-00005901	RA	Pay Group O'Reilly LLC	463.73	Building Rent
08/03/22	2022-00005929	RA	Pay Group O'Reilly LLC	(0.02)	Adj 8/2 Receipt
08/12/22	2022-00006205	AP	US Bank	(71.47)	Jul 2022 USB
08/15/22	2022-00006170	AP	Duluth Public Utilities - Comfort Systems	(1,017.03)	335 W Superior St 6/30/22-7/29/22
08/15/22	2022-00006170	AP	Northeast Entrepreneur Fund	(125,000.00)	Envest Program Grant Balance
08/15/22	2022-00006170	AP	St Louis County Recorder	(92.00)	Filing Fees Docs 01447854 01447855
08/15/22	2022-00006170	AP	St Louis County Recorder	(138.00)	Filing Fees Docs 01447774 7775 7776
08/15/22	2022-00006170	AP	St Louis County Recorder	(92.00)	Filing Fees Docs 01446600 01446601
08/15/22	2022-00006170	AP	St Louis County Recorder	(46.00)	Filing Fees Doc 01447723
08/15/22	2022-00006248	RA	Interstate Parking	84,045.65	Parking Report for July 31st
08/17/22	2022-00006315	RA	Red Wagon Popcorn	1,739.98	Jul-22
08/18/22	2022-00006395	RA	Passport Labs	16,843.84	7/1/22-7/31/22
08/22/22	2022-00006445	RA	One Roof Community Housing	1,147.50	Invoice #2022-00000209
08/24/22	2022-00006500	RA	Catalyst Holdings LLC	92.00	Invoice #2022-00000045
08/29/22	2022-00006537	AP	Duluth News Tribune	(14.22)	DEDA Ad 82288-0716-1321 7/16/22
08/29/22	2022-00006537	AP	Duluth Seaway Port Authority	(1,250.00)	GSSC Half DECC Security Security Plan
08/29/22	2022-00006537	AP	Ehlers and Associates Inc	(893.75)	Financial Services DEDA Projects 21 860 132
08/29/22	2022-00006537	AP	Ehlers and Associates Inc	(275.00)	Financial Services DEDA Projects 21 860 132
08/29/22	2022-00006537	AP	Engineering Systems Inc.	(185.00)	Pastoret Terrace Bldg Assessment Services
08/31/22	2022-00006694	GL	Investment Earnings for August	4,786.00	Investment Earnings for August
FUND 860 - OPERATING FUND				Ending Balance: 08-31-2022	2,645,705.80 TB
FUND 861 - DEBT SERVICE				Beginning Balance	1,057,944.53
08/03/22	2022-00005905	AP	Three D I, LLC	(2,191.00)	1st Half 2022 TIF #32
08/03/22	2022-00005905	AP	Colliers Mortgage Holdings LLC	(118,252.00)	1st Half 2022 TIF #27
08/03/22	2022-00005905	AP	Bluestone Commons, LLC	(363,564.37)	1st Half 2022 TIF #25
08/03/22	2022-00005905	AP	Garfield Business Park I LLC	(31,324.78)	1st Half 2022 TIF #21
08/03/22	2022-00005905	AP	Chester Park View Note LLC	(90,964.00)	1st Half 2022 TIF #29
08/03/22	2022-00005905	AP	Sherman Associates, Inc.	(125,163.11)	1st Half 2022 TIF #22
08/03/22	2022-00005905	AP	NorShor Theatre LLC	(64,661.79)	1st Half 2022 TIF #22
08/03/22	2022-00005905	AP	NorShor Theatre LLC	(100,130.49)	1st Half 2022 TIF #22
08/03/22	2022-00005905	AP	Central Hillside Development LLP	(19,337.79)	1st Half 2022 TIF #23
08/31/22	2022-00006694	GL	Investment Earnings for August	1,130.00	Investment Earnings for August
FUND 861 - DEBT SERVICE				Ending Balance: 08-31-2022	143,485.20 TB
FUND 865 - CAPITAL PROJECTS				Beginning Balance	1,766,729.47
08/31/22	2022-00006694	GL	Investment Earnings for August	3,174.00	Investment Earnings for August
FUND 865 - CAPITAL PROJECTS				Ending Balance: 08-31-2022	1,769,903.47 TB
FUND 866 - MRO FACILITY				Beginning Balance	424,412.94
08/01/22	2022-00005803	AP	Duluth Public Utilities - Comfort Systems	(1,906.74)	4600 Stebner Rd - Water - 6/2/22-7/1/22
08/01/22	2022-00005803	AP	Duluth Public Utilities - Comfort Systems	(288.32)	4600 Stebner Rd - Gas - 6/2/22-7/1/22
08/01/22	2022-00005803	AP	Electric Scientific Co Inc	(1,563.46)	MRO Hangar - Service Call for FPI Pipe Tamper Switch Alarm
08/01/22	2022-00005803	AP	Minnesota Dept of Labor & Industry	(100.00)	MRO Annual Elevator Operations
08/01/22	2022-00005803	AP	CenturyLink - Phoenix	(199.61)	Data Services
08/08/22	2022-00006056	RA	Cirrus Design Corporation	57,700.00	Invoice #2022-00000176
08/15/22	2022-00006170	AP	Minnesota Power	(11,200.89)	5447119029 6/30/22-7/31/22
08/29/22	2022-00006537	AP	CenturyLink - Phoenix	(199.61)	Data Services
08/29/22	2022-00006537	AP	Duluth Public Utilities - Comfort Systems	(1,910.08)	4600 Stebner Rd - Water 7/2/22-8/1/22
08/29/22	2022-00006537	AP	Duluth Public Utilities - Comfort Systems	(330.47)	4600 Stebner Rd - Gas - 7/2/22-8/1/22
08/30/22	2022-00006612	RA	Cirrus Design Corporation	57,700.00	Invoice #2022-70000094
08/30/22	2022-00006612	RA	Cirrus Design Corporation	(3,324.89)	Invoice #2022-70000094
08/31/22	2022-00006694	GL	Investment Earnings for August	824.00	Investment Earnings for August
FUND 866 - MRO FACILITY				Ending Balance: 08-31-2022	519,612.87 TB

Duluth Economic Development Authority

August 2022 Cash Activity - all DEDA Funds

ACCUMULATED TRANSACTION LISTING, G/L Date Range 08/01/22 to 08/31/22 (as of 09/10/22)

G/L Date	Journal Number	Sub Ledg	Name	Net Amount	Description
<u>FUND 867 - STOREFRONT LOANS</u>			<i>Beginning Balance</i>	436,207.18	
08/15/22	2022-00006248	RA	City of Duluth	665.42	Women in Construction Account #90012
08/18/22	2022-00006395	RA	Alerus Financial	1,037.10	Loan Payment on Account #70003 Old City Hall
08/31/22	2022-00006694	GL	Investment Earnings for August	785.00	Investment Earnings for August
<u>FUND 867 - STOREFRONT LOANS</u>			Ending Balance: 08-31-2022	438,694.70	TB

Duluth Business Boost Marketing Assistance Program

PURPOSE: The City has determined that the COVID-19 pandemic of 2020-22 has had a material negative impact on businesses in the city of Duluth, particularly its small businesses. The goal of the Duluth Economic Development Authority's Business Boost Marketing Assistance Program (the "Program") is to support the recovery of such impacted businesses. That support, through grants of up to \$2,500, will provide for business marketing assistance selected businesses.

DEDA has allocated \$200,000 to fund the Program. Applications will be accepted, reviewed and ranked based on criteria to be developed by city of Duluth Planning and Economic Development Department ("PED") staff on behalf of DEDA, with final grant agreements approved at a subsequent date by the DEDA Board. Approved applicants will receive the financial assistance in the form of reimbursement for eligible expenditures in accordance with program guidelines.

MINIMUM PROGRAM REQUIREMENTS: In order to be approved for receipt of a grant, applicants must be active businesses located in Duluth. Applicants must be in good standing with the Minnesota Secretary of State, and must have been open and operational for at least 18 months at time of application submittal.

APPLICANT ELIGIBILITY AND SUBMITTAL REQUIREMENTS:

- Applicant must fill out and submit an application on a form supplied by PED, the Applicant's W-9 and Certificate of Good Standing from the state of incorporation which must all be in the same company name.
- The applicant's business must employ no more than 30 full-time-equivalent employees.
- The Applicant must agree to be responsible for any tax implications regarding reimbursement.
- Applications must be complete. Incomplete Applications will not be accepted and will not be eligible to be awarded a Program grant.
- Submission of an application does not guarantee reimbursement.

APPLICATION CRITERIA: Projects will be scored on the basis of the quality of their business marketing plan; the business' capability in meeting key city priorities, such as improving equity outcomes or providing for business retention or

expansion in core investment areas; and the basis of the business' needs related to Covid-19 recovery and the way(s) in which their plan responds to those needs.

ELIGIBLE EXPENDITURES: Eligible uses of program funds may include reimbursement of expenses including but not limited to the following categories:

- Business marketing in print, multi-media, digital, email, social media, video marketing, or other visual means;
- Direct expenditure for marketing and outreach;
- Creation of promotional materials for business enhancement;
- Creation of new business signage or other visual improvements;
- Expenses incurred and/or payments made before grant award date are not be eligible for reimbursement.

Matching funds may be provided by marketing partners. Matching support may also be provided through the Duluth Chamber of Commerce, with credit to existing members or a discount for new members.

APPLICANT REQUIREMENTS:

- Expenditures must meet program eligibility requirements above in order to apply for reimbursement funds.
- The application, W9 and Certificate of Good Standing from state of incorporation must all be in the same Applicant name.
- The applying entity is responsible for any tax implications regarding reimbursement.
- Applications must be complete.
- Projects will not be certified until all required materials are received and reviewed by Program Administrator.

Marketing Match - Small Business Grant

2022 - 2023

Scorecard Criteria

Business Name

[Business Name Here]

Total Overall Points 0

Scorecard Criteria	
Required Information	Points
A Completed full application and submitted all documentation requirements	10 pts
B Demonstrates at least 6 months of revenue	10 pts
C Business owned by BIPOC, women, or other underrepresented group	10 pts
D Demonstrates financial need through narrative and documentation	1-10 pts
* Includes financial statements	
* Includes budget with list of eligible expenses	
* Includes negative financial impact of COVID-19	
E Marketing plan submitted outlines need for eligible expenses	1-10 pts
* Outlines impact of activities on revenue	
* Plan for executing the activities within the timeline	
Total:	50

Key

Total Score Range

<u>Range</u>	<u>Status</u>
0-__	Reject
__ - __	Conduct additional due diligence
__+	Accept

LAND SALE AGREEMENT

THIS LAND SALE AGREEMENT (“**Agreement**”) entered into as of the Effective Date (defined below) by and between the DULUTH ECONOMIC DEVELOPMENT AUTHORITY, an economic development authority under Minnesota Statutes Chapter 469, (“**DEDA**”), and SAIA MOTOR FREIGHT LINE, LLC, a Louisiana limited liability company (“**Developer**”).

WHEREAS, DEDA is the owner of fee simple title to that certain property situated in the City of Duluth (“**City**”), County of St. Louis, State of Minnesota (“**State**”), consisting of: (a) the approximately 3.40 acres of land described as **Lot 2 , Block 3 , Atlas Industrial Park, a subdivision in the City of Duluth, County of St. Louis, State of Minnesota, according to the recorded plat thereof** (the “**Land**”), together with any and all rights, benefits, privileges, easements, hereditaments and appurtenances thereunto belonging or appertaining thereto, and all after acquired interests of every kind and nature therein, (b) any water or mineral rights owned by, or leased to, DEDA, and all recapture rights and entitlements benefiting the Land under any planned development ordinance or other laws or otherwise; and (c) and any and all improvements located thereon, if any, and fixtures thereon (collectively, the “**Property**”); and

WHEREAS, Developer desires to acquire the Property at the Atlas Industrial Park for purpose of constructing on the Property a building consisting of a motor freight trucking terminal with not less than ten (10) dock doors (the “**Project**”) and it is anticipated that Developer will create jobs in Minnesota through the hiring of ten (10) FTEs for at least two (2) years following development of the Property by Developer and commencement of operations thereon; and

WHEREAS, DEDA is desirous of assisting and cooperating with Developer in fostering its project and finds that the conveyance of the Property to Developer is in the best interests of the City and its people and that the transaction furthers DEDA's general plan for development in the area.

NOW, THEREFORE, in consideration of mutual covenants and conditions hereinafter contained, the parties hereto agree as follows:

1. Developer Application Fee.

Pursuant to DEDA’s fee schedule, Developer has paid a non-refundable application fee of \$1,000.00, the receipt of which is hereby acknowledged by DEDA.

2. Sale of the Property.

DEDA agrees to sell and convey to Developer, and Developer agrees to purchase from DEDA, on the terms and conditions herein set forth, the Property for the amount of Seventeen Thousand Six Hundred Eighty Dollars (\$17,680.00) payable at closing into DEDA Fund 860-860-8640-4640.

3. Earnest Money Earnest Money.

In addition to the Application Fee provided for in Paragraph 1 above, within five (5) business days after the Effective Date, Developer agrees to pay to DEDA an earnest money deposit (the "**Earnest Money**") in the amount of Five Hundred Dollars (\$500.00). The Earnest Money shall be applicable to the sale price of the Property as set forth in Paragraph 2 above if Developer closes on its purchase of the Property on or before the Closing Date as set forth hereinbelow. If the Developer chooses to terminate this Agreement in accordance with the provisions of this Agreement, DEDA shall repay the Earnest Money to the Developer within five (5) business days following such termination.

4. Inspections.

1. At all times prior to Closing, including times following the Inspection Period (which "**Inspection Period**" is defined to be the period from and after the Effective Date through and including the date that is ninety (90) days after the Effective Date), Developer, its agents, employees and representatives will be entitled to (i) enter upon the Property in order to perform inspections and tests of the Property, including, without limitation, (A) inspecting the physical condition of the Property, including the condition of the soil in terms of topography, compaction, composition and potability; (B) investigating all relevant wetlands, flood plain and other issues related to site conditions of the Property; and (C) conducting environmental and feasibility audits, tests and studies, including a Phase I and Phase II environmental study as Developer deems necessary; (ii) review status, condition, capacity and utilization requirements of all utility connections and facilities; (iii) review and verify all accounting records relating to the Property since inception of DEDA's ownership and review any other information and documents pertaining to DEDA's ownership of the Property; and ~~(iv)~~ determine the legal and economic feasibility of obtaining all of the various governmental approvals, development incentives and related financing, permits and entitlements (collectively, "**Entitlements**") that are or will be necessary in order to obtain a final building permit for the commencement of development of the Property with one or more industrial/warehouse/distribution facilities (collectively, the "**Improvements**"). DEDA agrees to promptly cooperate and respond to all commercially reasonable requests and inquiries by Developer and its agents, employees and representatives with respect to such inspections, including, but not limited to completion of an ASTM E1527-13 User Questionnaire or similar document for use by Developer's environmental assessment consultant. Developer agrees that, if at the end of the Inspection Period, it determines not to purchase the Property and to terminate this Agreement, it will restore the Property to the condition it was in as of the effective date of this Agreement. If, on or prior to the expiration of the Inspection Period, Developer, in its sole discretion, determines that the results of any inspection, test or examination is inconclusive or the Property does not otherwise meet Developer's criteria for the purchase and

development of the Property in the manner contemplated by Developer, Developer may, in its sole discretion, terminate this Agreement by delivery of a written notice to DEDA, with a copy to the Title Company, given on or before the last day of the Inspection Period, whereupon the Earnest Money will be returned immediately to Developer and neither party will have any further liability to the other hereunder, except as hereinafter specifically provided in this Agreement.

5. Title Commitment; Survey.

Developer, may obtain, at Developer's expense, a commitment for title insurance ("**Title Commitment**") issued by First American Title Insurance Company (the "**Title Company**"), with an address of Attention: Wayne Bennett, 1201 Walnut, Suite 700, Kansas City, MO 64106, wbennett@firstam.com for the Title Policy (defined below). Developer may order, at Developer's expense, a currently dated survey of the Property (the "**Survey**"). Developer may object to matters disclosed by the Title Commitment and/or the Survey (such objected to matters, the "**Defects**") by specifying Developer's objections in writing to DEDA within prior to expiration of the Inspection Period (each such notice, a "**Defects Notice**"). At DEDA's election, DEDA may elect to cure any Defects, or DEDA may elect to decline to cure any Defects by delivering written notice to Developer within ten (10) days of receipt of Defects Notice (each such notice, a "**Cure Notice**"). If DEDA elects to cure the Defects, DEDA shall have until the Closing Date to cure the title defects after which the parties shall proceed to Closing subject to the terms and conditions of this Agreement. If DEDA delivers the Cure Notice identifying Defects which it has elected not to cure, or if DEDA fails to cause all Defects to be cured or insured over by the Title Company at or prior to Closing, then Developer may elect either of the following: (i) to terminate this Agreement by written notice to the DEDA not later than the Closing Date, in which event all Earnest Money will be immediately be returned to Developer and neither party will have any further rights or obligations hereunder except as otherwise specifically provided in this Agreement; or (ii) to proceed to close subject to such uncured Defects. Closing If Developer terminates this Agreement pursuant to this Section, the Earnest Money shall be refunded to Developer and the parties shall have no further obligations to one another pursuant to this Agreement except as may survive termination of this Agreement according to its express terms. If Developer fails to terminate this Agreement pursuant to this Section, the parties shall proceed to the Closing as contemplated by this Agreement, subject to the other terms and conditions in this Agreement.

6. Closing; Closing Conditions.

(a) The closing on the conveyance of the Property from DEDA to Developer pursuant to this Agreement (the "**Closing**") shall occur at the office of the Title Company (which may be via delivery thereto of funds and documents) on a date mutually acceptable to both parties (the "**Closing Date**") within thirty (30) days after the expiration of the Inspection Period. DEDA shall deliver exclusive possession of the Property on the Closing Date. If (a) this Agreement is not terminated by Developer pursuant to the terms of this Agreement, (b) Developer fails to close on the Property on or before the Closing

Date, and (c) DEDA is not in default under this Agreement, then (i) DEDA shall be entitled to retain the Earnest Money as its sole remedy and as liquidated damages, it being further understood that DEDA's actual damages in the event of such default are difficult to ascertain and that such proceeds represent the parties' best current estimate of such damage; (ii) this Agreement shall automatically terminate; (iii) upon request of either party, both parties shall promptly sign a cancellation of this Agreement evidencing the cancellation of this Agreement; and (iv) except as expressly set forth in this Agreement, the parties shall have no further obligation to one another pursuant to this Agreement. Notwithstanding the above, the Closing Date may be extended if DEDA's Executive Director (the "**Executive Director**") and Developer mutually agree to do so in writing prior to the Closing Date.

(b) In addition to the other conditions precedent enumerated in this Agreement, the following will be additional "Conditions Precedent" to Developer's obligations to close hereunder:

i. Availability of Entitlements/Permits. As of the Closing Date, any Entitlements that were available as of the expiration of the Inspection Period will be and remain available, in full force and effect, and in good standing. Further, as of the Closing Date, any additional consents, approvals and permits necessary to commence (i) the development (including, without limitation, grading and foundation development) of the Property, and (ii) the construction and installation of the Improvements on the Property will be in full force and effect.

ii. DEDA's Compliance. DEDA will have complied with all of the terms and conditions set forth in this Agreement.

iii. Pending Actions. As of Closing, there will be no governmental requirement or governmental proceeding of any kind, pending or threatened, that, after Closing, would adversely affect the development or completion of the Property.

iv. Title Policy. At Closing, the Title Company will issue an ALTA current form commercial owner's policy of title insurance (or a "marked-up" Title Commitment) ("**Title Policy**"), dated as of the Closing Date, insuring Developer's interest as the fee owner of the Property and in the amount of the Purchase Price, and otherwise in accordance with the requirements of **Section 5** hereof, with all exceptions other than Permitted Exceptions (as defined below) deleted, which title policy will provide full "extended form" coverage. At Developer's option and expense, the Title Policy will include the following endorsements: (i) a zoning endorsement; (ii) an owner's comprehensive endorsement; (iii) a tax parcel endorsement; (iv) a survey endorsement; (v) an access endorsement; (vi) a contiguity endorsement (to the extent applicable); and (vii) an endorsement to increase coverage to an amount satisfactory to Developer as Developer constructs improvements on the Property. For purposes of this Agreement, the term "**Permitted Exceptions**", will mean both (i) all restrictions, covenants, conditions, matters or exceptions to title (other than Mandatory Cure Items) that are set forth in the Title Evidence (excluding therefrom any liens, claims, encumbrances impairing the marketability of title to the Property), but not objected to by Developer in a Defects

Notice; and (ii) any other Defects to which Developer objects by delivery of a Defects Notice, but DEDA fails to so cure, or if DEDA fails to cause all such other Defects to be insured over by the Title Company (collectively, "**Other Defects**"), and Developer nevertheless elects to close, accepting title to the Property subject to such Other Defects.

v. Representations and Warranties. All representations and warranties made by DEDA in this Agreement will be substantially true, accurate and complete and with respect to all of the Property at the time of the Closing.

vi. Condition of the Property. The Property will be in substantially the same condition as exists on the Effective Date.

In the event that any of the Conditions Precedent or other conditions precedent set forth herein are not satisfied prior to the Closing, Developer, in its sole discretion, may terminate this Agreement by written notice to DEDA, in which event the Earnest Money and all earnings thereon will be promptly returned to Developer and neither party will have any further liability to the other except as specifically set forth in this Agreement.

7. Closing Documents.

At Closing, DEDA shall deliver to the Title Company in escrow for the benefit of Developer, the following original documents:

(a) a special warranty deed ("**Deed**") to Developer conveying marketable fee simple title in the Property to Developer in recordable form and otherwise in form reasonably acceptable to DEDA, the Title Company (for purposes of issuing the Title Policy) and Developer and agreed to prior to expiration of the Inspection Period, conveying the Property to Developer or its assignee, free and clear of all liens, claims and encumbrances except for matters of public record which are Permitted Exceptions and shall include the Deed Covenant (defined below);

(b) A Minnesota Certificate of Real Estate Value form duly completed and executed by DEDA (unless the Deed is exempt from the requirements therefor).

(c) A Minnesota Well Disclosure Certificate duly completed and executed by DEDA (unless the Deed is exempt from the requirements therefor).

(d) If applicable, an Owner's Affidavit or comparable "no lien" statement, in form and substance acceptable to the Title Company as may be required to enable the Title Company to issue ALTA extended coverage for the Title Policy, executed by DEDA (it being understood that DEDA will provide any certificates or undertakings required in order to induce the Title Company to insure over any "gap" period resulting from any delay in the recording of documents or the later-dating of the title insurance file).

(e) A joint Closing statement between DEDA and Developer, conforming to the proration and other relevant provisions of this Agreement.

(f) An "Entity Transferor" certification (as required under Section 1445 of the Internal Revenue Code), confirming DEDA's representation that it is a "United States Person" in form reasonably acceptable to DEDA and Developer and agreed to prior to expiration of the Inspection Period.

(g) Such other documents and instruments as the Title Company reasonably requires to evidence the due organization and valid existence of DEDA and its authority to enter into and perform its obligations under this Agreement.

8. Deed Covenant

The Deed shall contain, as a covenant running with the Land, the following covenant pursuant to Minnesota Statutes, Sections 469.090 to 469.108 relating to the use of the Property, including 469.091 and 469.105:

[§Subd. 5. Contracts. The economic development authority may make contracts for the purpose of economic development within the powers given it in sections 469.090 to 469.108. The authority may contract or arrange with the federal government, or any of its departments, with persons, public corporations, the state, or any of its political subdivisions, commissions, or agencies, for separate or joint action, on any matter related to using the authority's powers or performing its duties. The authority may contract to purchase and sell real and personal property. An obligation or expense must not be incurred unless existing appropriations together with the reasonably expected revenue of the authority from other sources are sufficient to discharge the obligation or pay the expense when due. The state and its municipal subdivisions are not liable on the obligations.

469.105 SALE OF PROPERTY.

§Subd. 1. Power. An economic development authority may sell and convey property owned by it within the city or an economic development district if it determines that the sale and conveyance are in the best interests of the city or district and its people, and that the transaction furthers its general plan of economic development. This section is not limited by other law on powers of economic development authorities.

Subd. 2. Notice; hearing. An authority shall hold a hearing on the sale. At the hearing a taxpayer may testify for or against the sale. At least ten, but not more than 20, days before the hearing the authority shall publish notice of the hearing on the proposed sale in a newspaper. The newspaper must be published and have general circulation in the authority's county and city. The notice must describe the property to be sold and state the time and place of the hearing. The notice must also state that the public may see the terms and conditions of the sale at the authority's office and that at the hearing the authority will meet to decide if the sale

is advisable.

Subd. 3. Decision; appeal. The authority shall make its findings and decision on whether the sale is advisable and enter its decision on its records within 30 days of the hearing. A taxpayer may appeal the decision by filing a notice of appeal with the district court in the city or economic development district's county and serving the notice on the secretary of the authority, within 20 days after the decision is entered. The only ground for appeal is that the action of the authority was arbitrary, capricious, or contrary to law.

Subd. 4. Terms. The terms and conditions of sale of the property must include the use that the bidder will be allowed to make of it. The authority may require the purchaser to file security to assure that the property will be given that use. In deciding the sale terms and conditions the authority may consider the nature of the proposed use and the relation of the use to the improvement of the authority's city and the business and the facilities of the authority in general. The sale must be made on the authority's terms and conditions. The authority may publish an advertisement for bids on the property at the same time and in the same manner as the notice of hearing required in this section. The authority may award the sale to the bid considered by it to be most favorable considering the price and the specified intended use. The authority may also sell the property at private sale at a negotiated price if after its hearing the authority considers that sale to be in the public interest and to further the aims and purposes of sections 469.090 to 469.108.

Subd. 5. One-year deadline. Within one year from the date of purchase, the purchaser shall devote the property to its intended use or begin work on the improvements to the property to devote it to that use. If the purchaser fails to do so, the authority may cancel the sale and title to the property shall return to it. The authority may extend the time to comply with a condition if the purchaser has good cause. The terms of sale may contain other provisions that the authority considers necessary and proper to protect the public interest. A purchaser must not transfer title to the property within one year of purchase without the consent of the authority.

Subd. 6. Covenant running with the land. A sale made under this section must incorporate in the deed as a covenant running with the land the conditions of sections 469.090 to 469.108 relating to the use of the land. If the covenant is violated the authority may declare a breach of the covenant and seek a judicial decree from the district court declaring a forfeiture and a cancellation of the deed.

Subd. 7. Plans; specifications. A conveyance must not be made until the purchaser gives the authority plans and specifications to develop the property sold. The authority must approve the plans and specifications in writing. The authority may require preparation of final plans and specifications before the hearing on the sale.

DEDA will file an appropriate release or satisfaction of such covenants upon

completion of construction of the Project described below in accordance with the approved plans and specifications as evidenced by the issuance of a certificate of occupancy by the City's Construction Services and Inspections Division ("**Certificate of Occupancy**").

9. The Project.

Developer hereby agrees to construct the Project on the Property with a total construction cost of not less than One Million Five Hundred Thousand Dollars (\$1,500,000.00) and its use of the Property shall be for purposes of the Project. Developer further agrees that the Project shall conform to the City of Duluth's Engineering Guidelines and Unified Development Chapter, including but not limited to, storm water policies and requirements, driveway entrance requirements, and parking lot design standards.

10. Plans and Specifications.

Prior to the commencement of any construction work on the Project, Developer shall have presented to DEDA plans and specifications for the Project. Such plans shall be subject to DEDA's approval in the form of approval of the Executive Director in writing, which approval shall not be unreasonably withheld, delayed, or denied. In the event of any proposed change in the plans and specifications after the initial approval by the Executive Director, said proposed change shall be likewise subject to the approval of the Executive Director.

11. Project Deadlines.

A. Completion of Project

On or before the last day of the eighteenth (18th) full calendar month following the Closing Date (the "**Completion Target Date**"), Developer shall have completed construction of the Project as evidenced by Developer's submittal to the Executive Director of a Certificate of Occupancy issued by the City of Duluth's Construction Services and Inspections Division. If Developer fails to complete construction of the Project by the Completion Target Date, provided, that such failure is not the result of any Event Force Majeure (defined below), unreasonable delay, withholding, or denial in the issuance of a Certificate of Occupancy or any other permit or authorization by the City or any other governmental authority (in which case the Completion Target Date shall be extended on a day for day basis upon notice to DEDA by Developer of the fact of such delay), DEDA may declare Developer to be in default under this Agreement, and upon written notice from DEDA, Developer agrees to reconvey to DEDA by deed title to the Property, subject only to the Permitted Exceptions.

B. Completion Covenant

In addition to the foregoing, within one (1) year of the Closing Date, Developer shall have commenced construction of the Project; provided, however, such date shall be extended on a day for day basis upon notice to DEDA by Developer of the fact of such

delay due to any Event Force Majeure (defined below), unreasonable delay, withholding, or denial in the issuance of a Certificate of Occupancy or any other permit or authorization by the City or any other governmental authority. The commencement of construction shall be demonstrated by the issuance of a building permit evidence of the actual physical work on the Property and, upon written request therefore by DEDA, the filing of an affidavit with the Executive Director, executed by Developer, to which are attached pictures of commenced construction.

12. Statutory Disclosures

DEDA staff handling the sale of the Property on behalf of DEDA have no actual knowledge of the following with respect to the Property: (1) the presence of a well, underground storage tank or subsurface sewage treatment system; or (2) methamphetamine production on the Property.

13. Recordation.

At Closing, Developer agrees to direct the Title Company to submit for recording this Agreement and the Deed in the office of the St. Louis County Registrar of Titles and to pay all costs associated therewith. Upon recordation, Developer shall, as soon thereafter as is reasonably practicable in the circumstances, submit to DEDA a copy of the recorded Agreement and a copy of the recorded Deed showing the date and document numbers of record. DEDA will file an appropriate release or satisfaction of this Agreement upon completion of construction of the Project described below in accordance with the approved plans and specifications as evidenced by the issuance of a Certificate of Occupancy.

14. Employment Covenant

Developer agrees and commits that, within thirty (30) days of the issuance of the Certificate of Occupancy referenced in Subparagraph A of Paragraph 10 above, Developer shall be employing no less than ten (10) full-time employees and that such employees shall continue to be employed on the Property for not less than two (2) calendar years after the date of the issuance of the Certificate of Occupancy. For the purposes of this Agreement full-time equivalent employment shall mean two thousand eighty (2,080) working hours per employee per year.

15. Environmental Indemnification.

Developer hereby agrees that for itself, its successors and assigns, it will indemnify and save DEDA and its officers, agents, servants and employees harmless from and against all liabilities, losses, damages, costs, expenses, including attorney's fees and expenses, causes of action, suits, claims, demands and judgments arising out of any condition existing on the Property, as a result of Developer's gross negligence or willful misconduct, which constitutes a violation of any federal, state or local environmental laws, rules or regulations with regard to pollutants or hazardous or dangerous substances or arising out of the presence on the Property of any element, compound, pollutant, contaminant or toxic or hazardous substance, material or waste, or any mixture thereof,

which otherwise causes injury or death to person(s) or damage to property. Indemnification granted hereby shall include all the costs of clean up; remediation; costs incurred in proceedings before a court of law or an administrative agency including reasonably attorney's fees, expenses, and the fees; the cost of preparing and securing approval of Response Action Plans as may be necessary to meet the requirements of the aforesaid agencies if DEDA chooses to require indemnification of the same. Provided, however, that the indemnity provided by Developer to DEDA pursuant to this Section is intended to run only to the benefit of DEDA and is not intended to, nor shall it, inure to the benefit of any third party.

16. Assumption of Risk

Developer agrees that it is experienced in and knowledgeable about the development of real estate and has exclusively relied on its own consultants, advisors, counsel, employees, agents, principals and/or studies, investigations and/or inspections with respect to the Property, its condition, value and potential. The conveyance of the Property to Developer shall constitute Developer's acknowledgment that it has independently inspected and investigated the Property. Upon conveyance, Developer shall assume the risk that adverse matters, including but not limited to adverse physical and environmental conditions and the suitability or unsuitability of the Property for Developer's intended use, may not have been revealed by Developer's investigations.

17. No Representations by DEDA

Without limitation, Developer acknowledges that DEDA has made no representations or warranties (whether express or implied, oral or written) regarding the Property or the Project, including but not limited to the value, quality or condition of the Property or the Project; the status of title to the Property; the suitability of the Property or the Project for any activity or use which Developer may conduct; the compliance of the Property or the Project with any laws or regulations; the habitability, merchantability, marketability, profitability, or fitness of the Property or the Project for a particular purpose; and compliance by the Property or the Project with any and all environmental rules, regulations, orders or laws. Developer acknowledges and agrees that DEDA has no obligation to remove any personal property or debris from the Property. Developer acknowledges and agrees that, to the maximum extent permitted by law, Developer is purchasing the Property in its "AS-IS" condition. This Section 17 shall survive the Closing, cancellation or termination of this Agreement for any reason.

18. Taxes and Costs

DEDA represents and warrants to Developer that there are no property taxes due or special assessments assessed against the Property as of the Effective Date of this Agreement.. In the event that any outstanding property taxes or special assessments become assessed against the Property, DEDA shall pay all real estate taxes and installments of special assessments assessed against the Property before and up to the Closing Date, and Developer shall pay all real estate taxes and installments of special

assessments assessed against the Property on and after the Closing Date. At Closing Developer shall pay: (a) one-half (1/2) of any Closing costs, (b) the costs of any title commitment and title insurance policy premiums, and (c) its own attorneys' fees and costs. At Closing DEDA shall pay (a) one-half (1/2) of any Closing costs, (b) recording fees for recordation of the Deed, and (c) any real estate transfer tax or conveyance fees.

19. Default and Remedies.

In the event that Developer fails to perform or to comply with any of the terms, covenants or conditions of this Agreement, and said failure to so perform or comply shall continue for a term of thirty (30) days after notice from DEDA to Developer of such nonperformance or noncompliance, Developer shall be in default of its obligations hereunder and DEDA may, at its option, and in addition to the remedies set forth in Sections 6 or 11, exercise any one of more of the following rights and remedies. The remedies provided for under this Section shall be deemed to be cumulative and nonexclusive and the election of one remedy shall not be deemed to be a waiver of any other remedy with regard to any occasion of default hereunder. Further, the waiver by DEDA of any default on the part of Developer hereunder or the failure of DEDA to declare default on the part of Developer of any of its obligations pursuant to this Agreement shall not be deemed to be a waiver of any subsequent event of default on the part of Developer of the same or any other obligation of Developer hereunder and, to be effective, any waiver of any Developer default hereunder shall be in writing by DEDA.

a. For a default by Developer under Section 11.A of this Agreement, DEDA may seek and be entitled to receive reconveyance of the Property from Developer, free and clear of all liens and encumbrances created by Developer.

b. DEDA may seek and be entitled to injunctive and declaratory relief as is necessary to prevent Developer's violation of the terms and conditions of Section 6 and Section 11.A of this Agreement.

If, prior to or as of the Closing, DEDA will have failed to perform any of the covenants and agreements contained herein to be performed by DEDA within the time for performance as specified herein (including DEDA's obligation to close), Developer may elect either to (i) terminate this Agreement by written notice to DEDA with a copy to the Title Company, in which event the Earnest Money, together with all interest thereon, will be returned immediately to Developer, and neither party will have any further rights or obligations hereunder except as otherwise expressly provided below or elsewhere in this Agreement; or (ii) proceed to close hereunder, in which event Developer may file an action for specific performance of this Agreement to compel DEDA to close pursuant to this Agreement and cure such default without the requirement to post a bond or other security in such specific performance action; provided that in the event Developer terminates this Agreement pursuant to clause (i) above, Developer will be entitled to sue DEDA for all actual damages suffered by Developer on account of DEDA's failure, non-performance or breach hereunder. Except as provided above, the remedies of Developer hereunder are cumulative and not exclusive, and the exercise of any one remedy will not be in limitation

or derogation of any other remedy herein enumerated or otherwise available at law or in equity.

20. Notices.

Any notice, demand or request which may be permitted, required or desired to be given in connection therewith will be given in writing and directed to DEDA and Developer as follows:

In the case of DEDA: Duluth Economic Development Authority
418 City Hall
411 West First Street
Duluth, Minnesota, 55802
Attn: Executive Director
Email: cfleege@duluthmn.gov

In the case of Developer: Saia Motor Freight Line, LLC
11465 Johns Creek Parkway, Suite 330
Johns Creek, GA 30097
Attention: Real Estate Department
Email: realestate@saia.com

With a copy to: Bryan Cave Leighton Paisner LLP
1200 Main Street
Suite 3800
Kansas City, Missouri 64105
Attn: Michael Humphrey
Email: mrhumphrey@bclplaw.com

Notices will be either (a) personally delivered (including delivery by Federal Express or other courier service) to the offices set forth above, in which case they will be deemed delivered on the date of delivery to said offices; or (b) sent by certified or registered mail, return receipt requested, in which case they will be deemed delivered on the date that is three (3) business days after the date shown on the receipt, unless delivery is refused or delayed by the addressee, in which event they will be deemed delivered on the date of deposit in the U.S. Mail or (c) by confirmed facsimile or by email, in which case they will be deemed delivered on the date sent if sent by 5:00 p.m. (Chicago time). Notices may be delivered on behalf of the parties by their respective attorneys.

21. Subordination

The Executive Director may, in his sole discretion, decide to subordinate this Agreement to liens of other parties. Said consent of the Executive Director will be deemed valid only when reduced to writing

22. Assignment

The parties acknowledge that DEDA is relying upon the qualifications and identity of Developer to complete the Project. Therefore, Developer represents and agrees for itself, its successors and assigns that it has not made or created, and will not make or create or suffer to be made or created, any total or partial sale, assignment, conveyance, lease, trust, lien or power of attorney, and has not or will not otherwise transfer in any other way all or any portion of the Property, the Project, this Agreement or any other contract or agreement entered into in connection with carrying out its obligations hereunder; and Developer will not make or create or suffer to be made any such transfer of Developer's rights hereunder (each of the above, an "**Assignment**"). Notwithstanding the above, the Executive Director may, in his sole discretion, consent in writing to an Assignment by the Developer. If any assignment of Developer's obligations under this Agreement is approved by the Executive Director, any such assignee shall explicitly assume the obligations of Developer under this Agreement and Developer remains principally liable for the performance of Developer's obligations under this Agreement.

23. Real Estate Brokers

DEDA and Developer each represent and warrant to the other that this Agreement is made and entered into as a result of direct negotiations between parties without the aid or assistance of any broker or other agent except for Developer's broker, Fischer & Company, and each of the parties hereby represent and warrants to the other that they have entered into no agreement or made any undertaking of any kind whatsoever as a result of which any claim could properly be brought against the other for any commission, finder's fee or other form of compensation of a similar character as a result of this transaction.

24. Construction

Both parties have contributed to the drafting of this Agreement. In the event of a dispute, this Agreement shall be construed without reference to any rule of construction based on the identity of the drafters of this Agreement.

25. Applicable Law.

This Agreement, together with all of its paragraphs, terms and conditions, is made in the state of Minnesota and shall be construed and interpreted in accordance with the laws of the state of Minnesota. The appropriate venue and jurisdiction for any litigation hereunder shall be in a court located in St. Louis County, Minnesota.

26. No Third Party Claims.

This Agreement is to be construed and understood solely as an Agreement between DEDA and Developer and shall not be deemed to create any rights in any other person. No person shall have the right to make claim that she or he is a third party beneficiary of this Agreement or of any of its terms and conditions, which, as between DEDA and Developer, may be waived at any time by mutual agreement between DEDA and Developer.

27. Severability.

In the event any provision of this Agreement shall be deemed invalid or unenforceable, the remaining provisions shall continue in full force and effect and shall be binding upon the parties to this Agreement.

28. Amendments.

Any amendments to this Agreement shall be in writing and shall be executed by the same parties who executed the original agreement or their successors in office.

29. Entire Agreement.

This Agreement constitutes the entire agreement between parties and supersedes all prior written and oral agreements and negotiations between the parties relating to the subject matter.

30. Counterparts

This Agreement may be executed, acknowledged and delivered in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

31. Force Majeure.

Neither party is responsible for any failure to perform its obligations under this Agreement, if it is prevented or delayed in performing those obligations by an Event of Force Majeure. Where there is an Event of Force Majeure, the party prevented from or delayed in performing its obligations under this Agreement must immediately notify the other party giving full particulars of the Event of Force Majeure and the reasons for the Event of Force Majeure preventing that party from, or delaying that party in performing its obligations under this Agreement and that party must use its reasonable efforts to mitigate the effect of the Event of Force Majeure upon its or their performance of this Agreement and to fulfill its or their obligations under this Agreement. Upon completion of the Event of Force Majeure the party affected must as soon as reasonably practicable recommence the performance of its obligations under this Agreement. An Event of Force Majeure does not relieve party from liability for an obligation which arose before the occurrence of that event, nor does that event affect the obligation to pay money in a timely manner which matured prior to the occurrence of that event. An “**Event of Force Majeure**” is an event or circumstance which is beyond the control and without the fault or negligence of the party affected and which by the exercise of reasonable diligence the party affected was unable to prevent provided that event or circumstance is limited to the following: (a) riot, war, invasion, act of foreign enemies, hostilities (whether war be declared or not) acts of terrorism, civil war, rebellion, revolution, insurrection of military or usurped power, requisition or compulsory acquisition by any governmental or competent authority; (b) ionising radiation or contamination, radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel, radio active toxic explosive or other hazardous

STATE OF GEORGIA)
)ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2022, by _____, the _____ of Saia Motor Freight Line, LLC, a Louisiana limited liability company, on behalf of the company.

Notary Public

This Instrument Drafted By:
This Instrument Drafted By:
Bryan Cave Leighton Paisner LLP
1200 Main Street
Suite 3800
Kansas City, Missouri 64105
Attn: Michael Humphrey
Email: mrhumphrey@bclplaw.com

**DEVELOPMENT AGREEMENT
DULUTH ECONOMIC DEVELOPMENT AUTHORITY
MERGE LLC
FIRST AMENDMENT**

THIS FIRST AMENDMENT entered into this _____ day of _____, 2022, is by and between the DULUTH ECONOMIC DEVELOPMENT AUTHORITY, an economic development authority created and existing under Minnesota Statutes (1989) Chapter 469, (hereinafter referred to as "DEDA") and MERGE, LLC, a Iowa limited liability company (hereinafter referred to as "Developer").

WHEREAS, on June 17, 2022, DEDA and Developer entered into a Development Agreement bearing DEDA Contract No. 21 860 121(1), which Development Agreement is hereinafter collectively referred to as the "Agreement"; and

WHEREAS, the parties desire to enter into a First Amendment to the Agreement adjusting the levels of affordability required

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter contained, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. That paragraph 2 of the Agreement is hereby amended to read as follows:
Upon the issuance of the Certificate of Completion provided for in Paragraph D of Article V of the Development Agreement, Developer agrees that it will commence holding and will hold during the Term of this Agreement 20% of the units of housing which will be held for rent to persons having an income at or below 60% of the area median income , 20% of the units will be held for rent to persons having an income at or below 80% of the area median income, and 60% of the units will be held for rent to persons having an income at or below 70% of the area median income, to create a building average of 70% area median income at rental rates determined by the United States Department of Housing and Urban Development to be affordable to such persons. The reporting requirements of the Development Agreement shall specifically apply to the housing so provided.

2. That in all other respects, the Agreement, together with all of its terms, covenants and conditions, is hereby confirmed in its entirety.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and date shown below.

DULUTH ECONOMIC DEVELOPMENT
AUTHORITY

By: _____
Matt Cartier
Its President

By: _____
Ellie Just
Its Secretary

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

The foregoing instrument was acknowledged before me this ____ day of _____, 2022, by Matt Cartier, the President of the Duluth Economic Development Authority of Duluth, an economic development authority created and existing under Minnesota Statutes, on behalf of the Authority.

Notary Public

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

The foregoing instrument was acknowledged before me this ____ day of _____, 2022, by Ellie Just, the Secretary of the Duluth Economic Development Authority of Duluth, an economic development authority created and existing under Minnesota Statutes, on behalf of the Authority.

Notary Public

MERGE, LLC,
An Iowa limited liability company

By: _____

Its Brent Dahlstrom

STATE OF IOWA)
) ss
COUNTY OF _____)

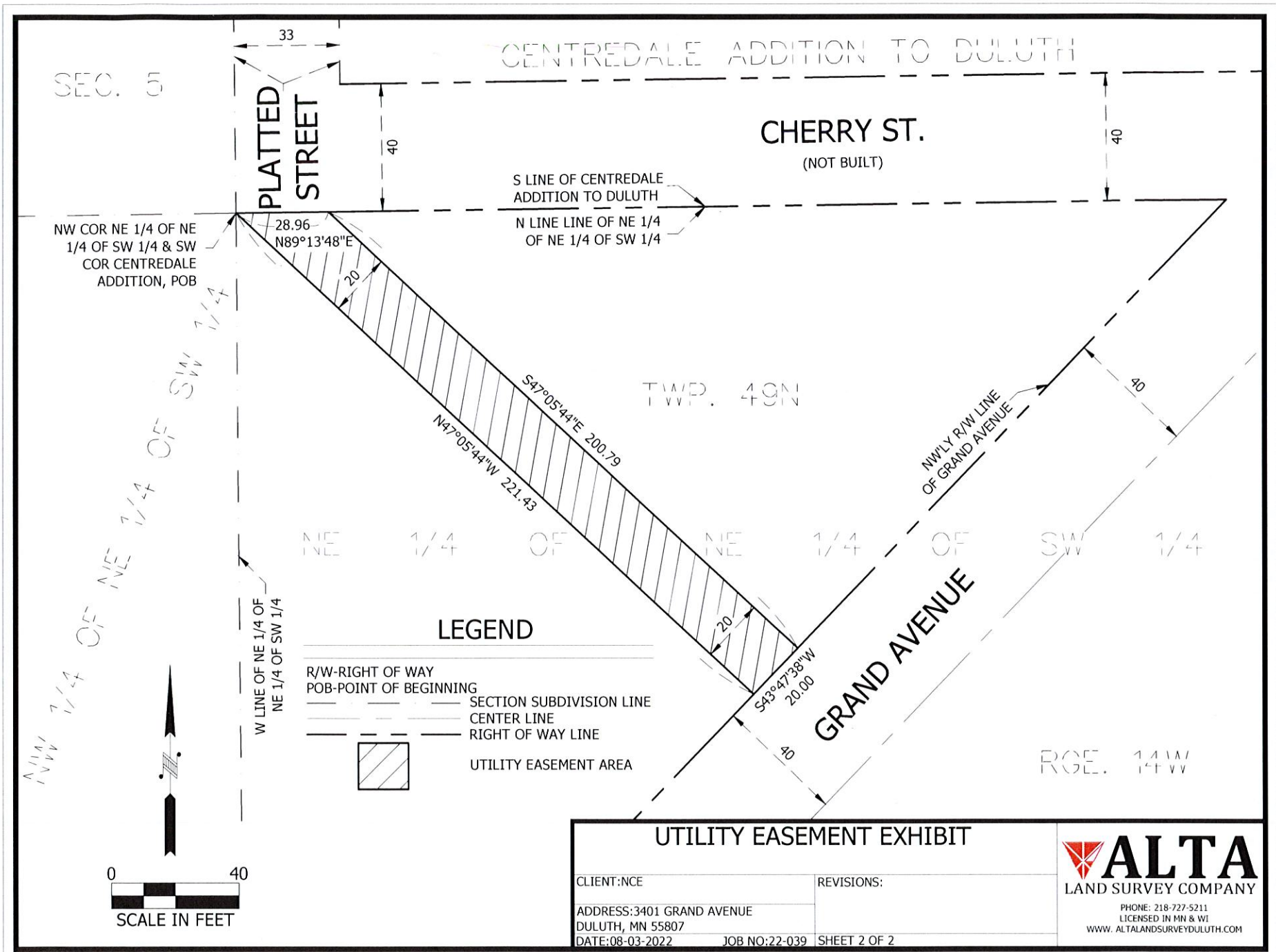
The foregoing instrument was acknowledged before me this ____ day of _____, 2022, by _____, the Managing Member of Merge, LLC, an Iowa limited liability company, on behalf of the company.

Notary Public







My Commission Expires: _____

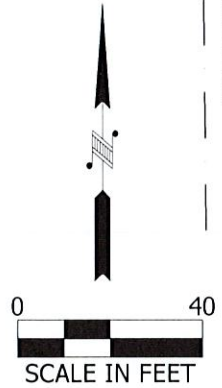
This instrument was drafted by:


Robert E. Asleson
Attorney for the Duluth Economic
Development Authority
440 City Hall
Duluth, MN 55802
(218) 730-5283



LEGEND

-  R/W-RIGHT OF WAY
-  POB-POINT OF BEGINNING
-  SECTION SUBDIVISION LINE
-  CENTER LINE
-  RIGHT OF WAY LINE
-  UTILITY EASEMENT AREA



UTILITY EASEMENT EXHIBIT		 <p>ALTA LAND SURVEY COMPANY</p> <p>PHONE: 218-727-5211 LICENSED IN MN & WI WWW.ALTALANDSURVEYDULUTH.COM</p>
CLIENT: NCE	REVISIONS:	
ADDRESS: 3401 GRAND AVENUE DULUTH, MN 55807 DATE: 08-03-2022	JOB NO: 22-039 SHEET 2 OF 2	

LEGAL DESCRIPTION OF UTILITY EASEMENT

A 20-foot-wide easement for utility purposes lying over, under and across that part of the Northeast Quarter of the Northeast Quarter of the Southwest Quarter of Section 5, Township 49 North, Range 14 West of the Fourth Principal Meridian, St. Louis County, Minnesota described as follows:

Beginning at the Northwest corner of said Northeast Quarter of the Northeast Quarter of the Southwest Quarter, said point also being the Southwest corner of CENTREDALE ADDITION TO DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota; thence on an assumed bearing of North 89 degrees 13 minutes 48 seconds East along the North line of said Northeast Quarter of the Northeast Quarter of the Southwest Quarter, said line also being the South line of said CENTREDALE ADDITION TO DULUTH 28.96 feet; thence South 47 degrees 05 minutes 44 seconds East 200.79 feet to the Northwesterly right of way line of Grand Avenue; thence South 43 degrees 47 minutes 38 seconds West, along said Northwesterly right of way line 20.00 feet; thence North 47 degrees 05 minutes 44 seconds West 221.43 feet to the point of beginning.

Said utility easement contains 4,222 square feet or 0.10 acres.

SURVEYOR'S NOTES

1. BEARINGS ARE BASED ON THE ST. LOUIS COUNTY TRANSVERSE MERCATOR COORDINATE SYSTEM OF 1996. (NAD 83 2011)
2. THIS IS NOT A BOUNDARY SURVEY.

Approved by the City Engineer of the City of Duluth, MN this 4th day of AUG 20 22

By [Signature]

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
David R. Evanson
MN License #49505
DATE:08-03-2022

UTILITY EASEMENT EXHIBIT

CLIENT:NCE
ADDRESS:3401 GRAND AVENUE
DULUTH, MN 55807
DATE:08-03-2022

REVISIONS:
JOB NO:22-039
SHEET 1 OF 2

**ALTA**
LAND SURVEY COMPANY

PHONE: 218-727-5211
LICENSED IN MN & WI
WWW.ALTALANDSURVEYDULUTH.COM

UTILITY EASEMENT

This UTILITY EASEMENT is made by the DULUTH ECONOMIC DEVELOPMENT AUTHORITY, an economic development authority under Minnesota Statutes (1989) Chapter 469 created and existing under the laws of the State of Minnesota (“Grantor”), in favor of the CITY OF DULUTH, a municipal corporation created and existing under the laws of the State of Minnesota (the “City”).

RECITALS

A. Grantor owns the real property in St. Louis County, Minnesota legally described below (the “Property”):

That part of the NE1/4 of NE1/4 of SW1/4 of Section 5, Township 49 North Range 14 West, lying and being North of Grand Avenue or West Third Street, as described as follows: Beginning at the intersection of the East and West line on the North side of said NE1/4 of NE1/4 of SW1/4 with the property line of the NW side of Grand Avenue on West Third Street, thence SW'ly on said property line 214.82 feet, thence NW'ly at an angle of 90 degrees 49 minutes for a distance of 221.25 feet to the SW corner of Centredale Division; thence E'ly along said East and West line on the North side of aforesaid ten acre tract 310.3 feet to point of beginning, containing .55 of an acre more or less.

B. Grantor wishes to grant the City a utility easement over a portion of the Property in trust for the benefit of the public and at no cost to the City (the “Easement”).

C. The location of the Easement is that portion of the Property legally described on the attached Exhibit A and depicted on the attached Exhibit B (the “Easement Area”).

NOW, THEREFORE, for good and valuable consideration, Grantor grants to the City, in trust for the benefit of the public, a perpetual easement for utility purposes over, under and across

EXHIBIT A

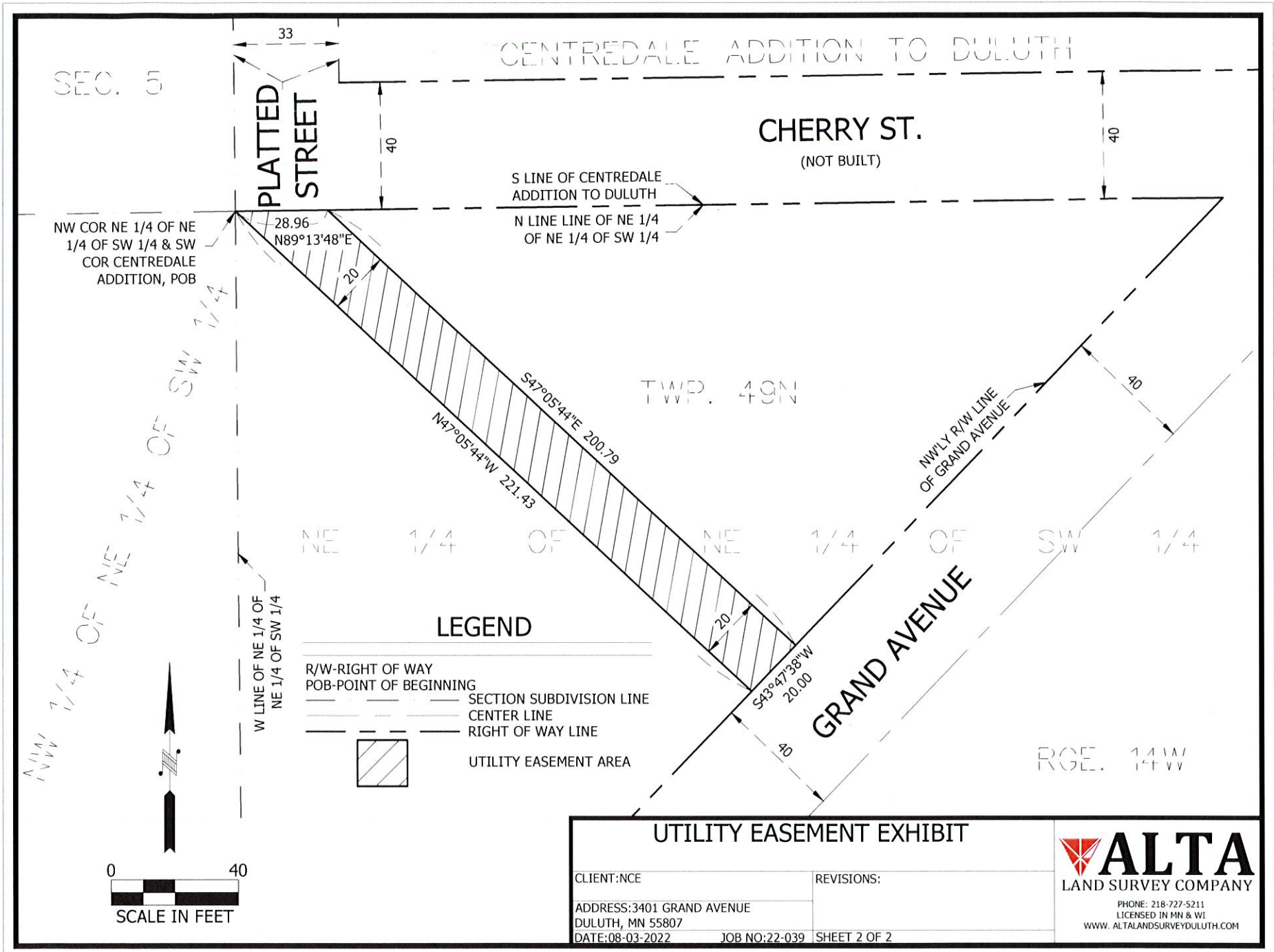


EXHIBIT B

LEGAL DESCRIPTION OF UTILITY EASEMENT

A 20-foot-wide easement for utility purposes lying over, under and across that part of the Northeast Quarter of the Northeast Quarter of the Southwest Quarter of Section 5, Township 49 North, Range 14 West of the Fourth Principal Meridian, St. Louis County, Minnesota described as follows:

Beginning at the Northwest corner of said Northeast Quarter of the Northeast Quarter of the Southwest Quarter, said point also being the Southwest corner of CENTREDALE ADDITION TO DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota; thence on an assumed bearing of North 89 degrees 13 minutes 48 seconds East along the North line of said Northeast Quarter of the Northeast Quarter of the Southwest Quarter, said line also being the South line of said CENTREDALE ADDITION TO DULUTH 28.96 feet; thence South 47 degrees 05 minutes 44 seconds East 200.79 feet to the Northwesterly right of way line of Grand Avenue; thence South 43 degrees 47 minutes 38 seconds West, along said Northwesterly right of way line 20.00 feet; thence North 47 degrees 05 minutes 44 seconds West 221.43 feet to the point of beginning.

Said utility easement contains 4,222 square feet or 0.10 acres.

SURVEYOR'S NOTES

1. BEARINGS ARE BASED ON THE ST. LOUIS COUNTY TRANSVERSE MERCATOR COORDINATE SYSTEM OF 1996. (NAD 83 2011)
2. THIS IS NOT A BOUNDARY SURVEY.

Approved by the City Engineer of the
City of Duluth, MN this 4th day
of AUG 20 22

By [Signature]

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.

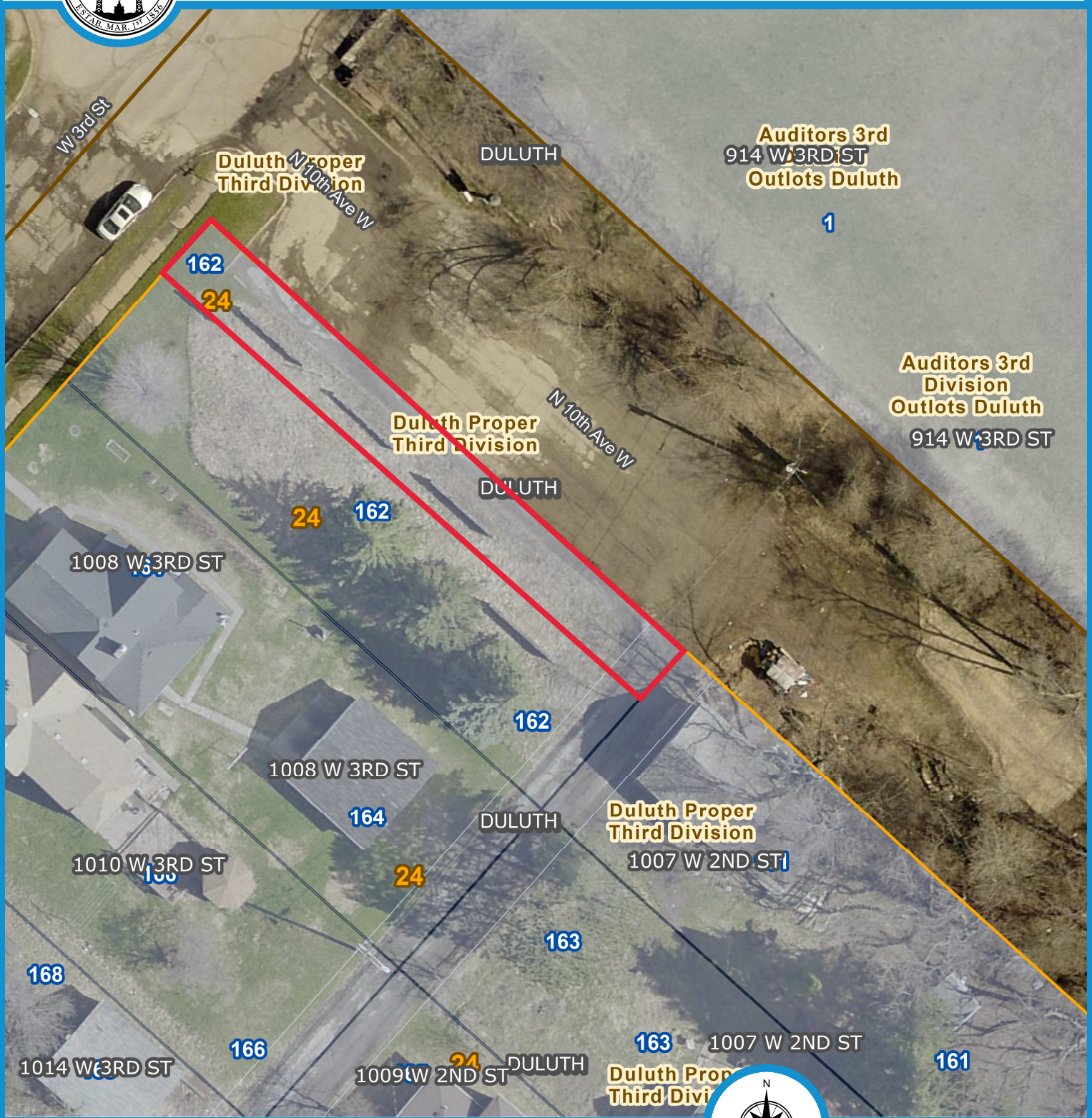
David R. Evanson
David R. Evanson
MN License #49505
DATE:08-03-2022

UTILITY EASEMENT EXHIBIT

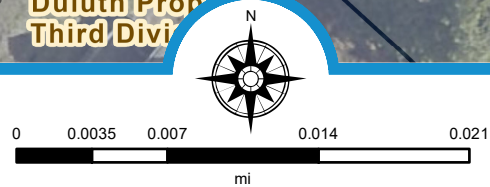
CLIENT:NCE	REVISIONS:
ADDRESS:3401 GRAND AVENUE DULUTH, MN 55807	
DATE:08-03-2022	JOB NO:22-039 SHEET 1 OF 2

**ALTA**
LAND SURVEY COMPANY

PHONE: 218-727-5211
LICENSED IN MN & WI
WWW. ALTALANDSURVEYDULUTH.COM



Proposed Easement Area (Approximate)

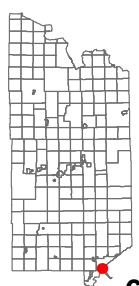


County Land Explorer
St. Louis County www.stlouiscountymn.gov/explorer Minnesota

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

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RECITALS

A. Grantor owns the real property in St. Louis County, Minnesota legally described below (the “Property”):

Lot 162, Block 24, DULUTH PROPER THIRD DIVISION

B. Grantor wishes to grant the City a utility easement over a portion of the Property in trust for the benefit of the public and at no cost to the City (the “Easement”).

C. The location of the Easement is legally described below (the “Easement Area”):

The Northeasterly Fifteen Feet (NE’ly 15’) of Lot 162, Block 24, DULUTH PROPER THIRD DIVISION

NOW, THEREFORE, for good and valuable consideration, Grantor grants to the City, in trust for the benefit of the public, a perpetual easement for utility purposes over, under and across the Easement Area. The Easement shall extend to and bind the heirs, successors and assigns of Grantor and the City and shall run with the land. This easement document shall be governed by the laws of the State of Minnesota, and all terms, conditions, and covenants herein shall be interpreted in accordance therewith. Grantor represents to the City that the individual(s) executing this document on behalf of Grantor have the requisite authority to execute this document, and to bind Grantor thereto.

