

## **Appendix A**

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FILED FOR  
RECORD AT St. Louis SEP 23 1977

260508

DONATION DEED

KNOW ALL MEN BY THESE PRESENTS, That BURLINGTON NORTHERN INC., a corporation duly organized and existing under and by virtue of the laws of the State of Delaware, successor in interest to Northern Pacific Railway Company, Grantor, in consideration of its friendly interest in the people of the County of St. Louis, State of Minnesota, has given and by these presents does give, grant and convey to the CITY OF DULUTH, a municipal corporation of the State of Minnesota, Grantee, its successors and assigns, for exclusively public purposes, the following described Real Estate, to-wit:

All of the 200-foot wide right of way, being 100 feet wide on each side of the track center line of Burlington Northern Inc.'s Spirit Lake to West Duluth, Minnesota Branch Line as it crosses Government Lots 1, 3, 4 and 5 of Section 2, Government Lots 4, 6 and 7 and the Southeast Quarter of the Northeast Quarter (SE $\frac{1}{4}$  NE $\frac{1}{4}$ ) of Section 10, Government Lot 3 and the Northwest Quarter (NW $\frac{1}{4}$ ) of Section 11, all in Township 48 North, Range 15 West of the Fourth Principal Meridian and across Government Lots 4 and 5, the Northeast Quarter of the Southwest Quarter (NE $\frac{1}{4}$  SW $\frac{1}{4}$ ) and the West Half of the Southeast Quarter (W $\frac{1}{2}$  SE $\frac{1}{4}$ ) of Section 26, Government Lots 2, 3, 4 and 5 and the West Half of the Northeast Quarter (W $\frac{1}{2}$  NE $\frac{1}{4}$ ), Southeast Quarter of the Northwest Quarter (SE $\frac{1}{4}$  NW $\frac{1}{4}$ ) and the West Half of the Southeast Quarter (W $\frac{1}{2}$  SE $\frac{1}{4}$ ) of Section 35, all in Township 49 North, Range 15 West of the Fourth Principal Meridian, all of the above being in St. Louis County, Minnesota, EXCEPTING, therefrom, that portion of Government Lot 4 of said Section 10, Township 48 North, Range 15 West previously conveyed by the Northern Pacific Railway Company to Gladys M. Paton by Quitclaim Deeds dated March 24, 1955 and October 12, 1956; also,

All that part of the 150-foot wide right of way of Burlington Northern Inc., being 100 feet wide on the Westerly side and 50 feet wide on the Easterly side of the track center line of Burlington Northern Inc.'s Spirit Lake to West Duluth, Minnesota Branch Line lying within Government Lot 3 of Section 26 and Northerly of the East-West center line of Section 26, Township 49 North, Range 15 West of the Fourth Principal Meridian, St. Louis County, Minnesota and Southerly of a line drawn parallel with and distant 1,687.5 feet Southerly, as measured along said track center line, of the North line of said Section 26; also,

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All that part of the 100-foot wide right of way, being 50 feet wide on each side of the track center line of Burlington Northern Inc.'s Spirit Lake to West Duluth, Minnesota Branch Line, lying between the South line of Section 2 and the Northerly shore of Mud Lake, as measured along said track center line and located in Township 48 North, Range 15 West of the Fourth Principal Meridian, St. Louis County, Minnesota.

Dated this 19th day of September, 1977.

BURLINGTON NORTHERN INC.

BY Thomas I. Campbell  
President

ATTEST:

BY John C. Ashton  
Secretary

STATE OF MINNESOTA )  
                          ) ss.  
COUNTY OF RAMSEY )

The foregoing instrument was acknowledged before me this 19th day of September, 1977, by Thomas I. Campbell President, and John C. Ashton, Secretary, of Burlington Northern Inc., a Delaware corporation, on behalf of the corporation.

~~~~~  
R. H. BROKOPP  
NOTARY PUBLIC - MINNESOTA  
RAMSEY COUNTY  
My Comm. Expires April 22, 1982  
~~~~~

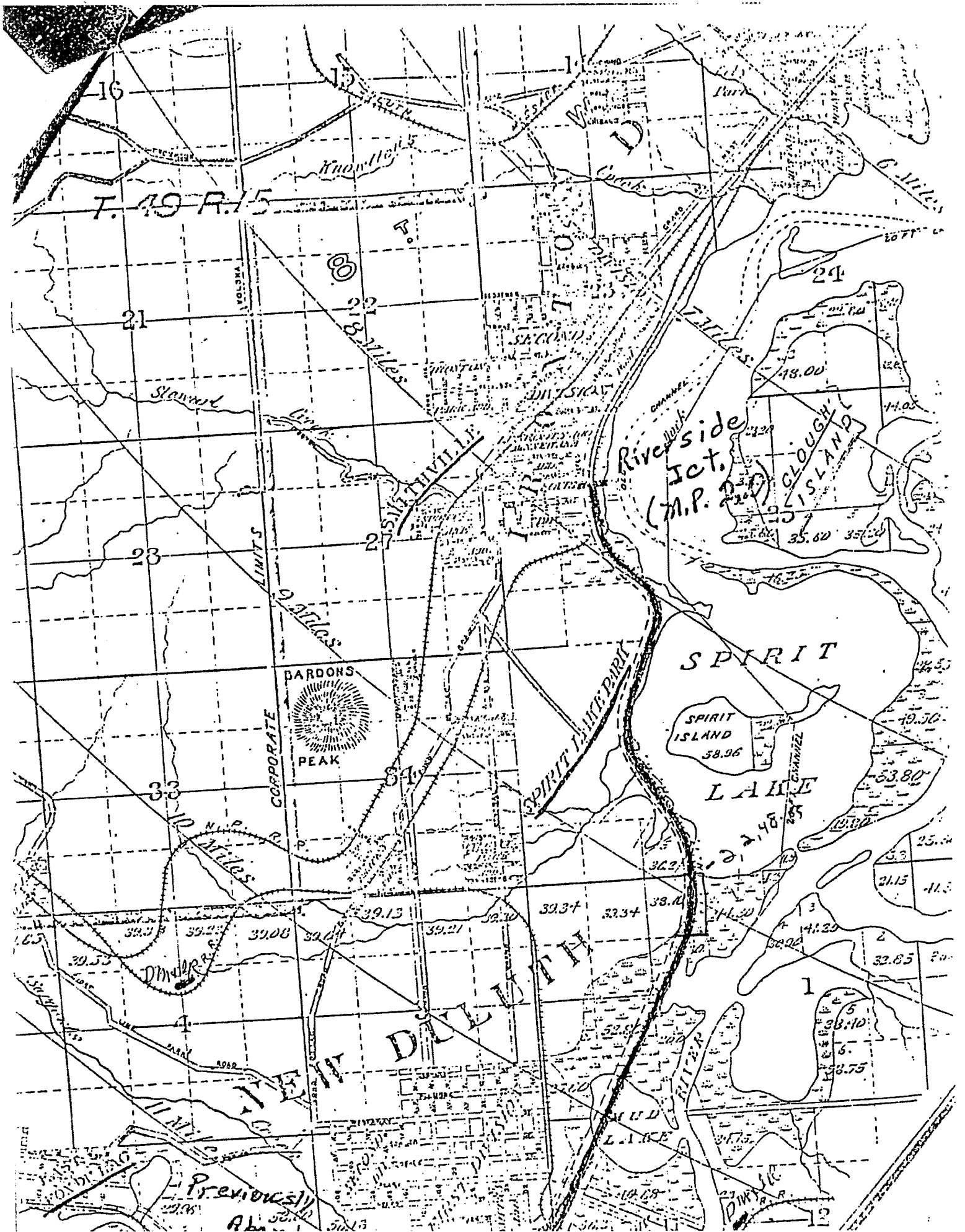
R. H. Brokopp

This instrument was drafted by Industrial Development and Property Management Department, Burlington Northern Inc., 176 East Fifth Street, St. Paul, Minnesota 55101.

State Deed Tax Due Hereon \$ -0-, EXEMPT.

Tax statements for the real property described in this instrument should be sent to:

City of Duluth



DONATION BILL OF SALE

Effective as of the date hereof BURLINGTON NORTHERN RAILROAD COMPANY, a Delaware corporation, for One and no/100 Dollar (\$1.00) to it in hand paid by the CITY OF DULUTH, a body politic and municipal corporation of the State of Minnesota, receipt whersof is hereby acknowledged, has granted, bargained, sold and delivered, and by these presents does hereby grant, bargain sell and deliver unto said City of Duluth, all of its right, title and interest in and to the railroad trackage, known as Fond Du Lac Branch of the former Northern Pacific Railway Company, now Burlington Northern Railroad Company, in the City of Duluth, St. Louis County, Minnesota, together with all ties, rail, fastenings, fittings and appurtenances thereto, located upon and within the following described parcels:

PARCEL 1

That part of the Easterly 60 feet of the Burlington Northern Railroad Company's Fond Du Lac Branch right of way which lies within Government Lot 3 in the South Half (S1/2) of Section 23, Township 49 North, Range 15 West of the Fourth Principal Meridian, lying Southerly of the center line of Spring Street extended.

PARCEL 2

That part of the Easterly 114 feet of the Burlington Northern Railroad Company's Fond Du Lac Branch right of way in the North Half (N1/2) of Section 26, Township 49 North, Range 15 West of the Fourth Principal Meridian, which lies between the North line of said Section 26 and the Easterly extension of the Southerly line of the Plat of Minnewaken Addition to Duluth.

PARCEL 3

That part of the Easterly 64 feet of the Burlington Northern Railroad Company's Fond Du Lac Branch right of way which lies in the North Half (N1/2) of Section 26, Township 49 North, Range 15 West of the Fourth Principal Meridian, and lies between the Easterly extension of the Southerly line of the Plat of Minnewaken Addition to Duluth and Northerly of a line drawn parallel with and distant 1,687.5 feet Southerly of, as measured along said track center line from the North line of said Section 26.

All of the above described parcels being situate in the City of Duluth, St. Louis County, Minnesota.

EXCEPTING, however, therefrom, those portions of herein described Parcels 1 and 2 lying Easterly of a line located 25 feet at right angles and radially distant, Easterly of, parallel and concentric with the center line of railroad track known as The Duluth Transfer Track of former Northern Pacific Railway Company, now Burlington Northern Railroad Company.

The City of Duluth hereby agrees that the trackage being conveyed herein is being made to the City of Duluth with the understanding and agreement that the trackage being conveyed and the right of way therefor as granted by a separate easement to the City of Duluth will be available for use by the Lake Superior Museum of Transportation in connection with the future development of its facilities and operations of a tourist railroad from Riverside to New Duluth, Minnesota.

TO HAVE AND TO HOLD the same unto the said City of Duluth, its successors and assigns, forever.

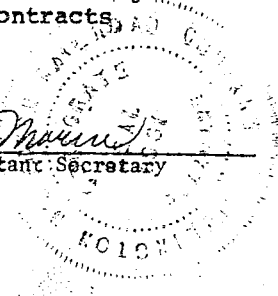
Dated this 15th day of November, 19 82.

BURLINGTON NORTHERN RAILROAD COMPANY

BY H. D. Shane  
 Director, Land Management  
 and Contracts

ATTEST:

BY R. J. Morin  
 Assistant Secretary



STATE OF MINNESOTA )  
 )ss.  
 COUNTY OF RAMSEY )

The foregoing instrument was acknowledged before me this 15th day of December 1982, by H. D. Shane, Director, Land Management and Contracts, and R. J. Morin, Assistant Secretary of Burlington Northern Railroad Company, a Delaware corporation, on behalf of the corporation.

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX  
 J. W. THAYER  
 NOTARY PUBLIC - MINNESOTA  
 RAMSEY COUNTY  
 My Commission Expires Nov. 17, 1985  
 XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

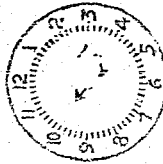
J. W. Thayer  
 Notary Public.

This instrument was drafted by Industrial Development and Property Management Department, Burlington Northern Railroad Company, 176 East Fifth Street, St. Paul, Minnesota 55101.

353750

285119

DEC 22 '82 PM



Filed For Record

St. Louis County  
CLARK A. ILSE  
COUNTY RECORDER

By Lecky Reed Deputy

OFFICE OF COUNTY RECORDER  
STATE OF MINNESOTA  
County of St. Louis ss.

I hereby certify that this within Instru-  
ment was filed in this office for record  
as Document No. 353750

DEC 22 1982 at 3 P M

CLARK A. ILSE  
Deputy Recorder  
Alice M. Mansel  
Deputy

File

Return to Charlotte

W. J. of Duluth



EASEMENT

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KNOW ALL MEN BY THESE PRESENTS, that BURLINGTON NORTHERN RAILROAD COMPANY (formerly Burlington Northern Inc.), a Delaware corporation, of 176 East Fifth Street, St. Paul, Minnesota 55101, Grantor, for One and no/100 Dollar (\$1.00) to it paid by the CITY OF DULUTH, a body politic and municipal corporation of the State of Minnesota, Grantee, and the promises of the Grantee hereinafter specified, does hereby remise, release and quitclaim unto the Grantee, subject to the terms and conditions hereinafter set forth, an EASEMENT for the construction, maintenance and use by the public, of hiking and bicycling trails, excursion train rides and three (3) pedestrian access crossings, hereinafter called public facilities, and for no other purposes over, upon and across the following described premises, situated in St. Louis County, State of Minnesota, to-wit:

The right to construct and maintain public hiking and bicycling trails upon, over and across the following described parcels:

PARCEL 1

All those portions of Lots 22, 23, 24, 25, 26, 27 and 28, Block 22; Lots 13, 14, 15 and 16, Block 23; Lots 31 and 32, Block 25; Lots 8, 9 and 17, North and South alley, Block 24, Hunter & Markell's Grassy Point Addition, owned by Burlington Northern Railroad Company, lying between two lines located 100 feet and 150 feet, respectively, Southeasterly of, parallel and concentric with the center line of Burlington Northern Railroad Company's St. Paul to Duluth main line railroad track.

PARCEL 2

The 150-foot wide right of way of Burlington Northern Railroad Company's Fond Du Lac Branch as it crosses Government Lot 1 and the Northeast Quarter of the Northeast Quarter (NE1/4 NE1/4) of Section 23, Township 49 North, Range 15 West of the Fourth Principal Meridian.

PARCEL 3

The 200-foot wide right of way of Burlington Northern Railroad Company's Fond Du Lac Branch as it crosses Government Lot 2 in the North Half of the Southeast Quarter (N1/2 SE1/4) of Section 23, Township 49 North, Range 15 West of the Fourth Principal Meridian.



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PARCEL 4

That part of the Westerly 75 feet of the Burlington Northern Railroad Company's Fond Du Lac Branch right of way which lies within Government Lot 3 in the South Half (S1/2) of Section 23, Township 49 North, Range 15 West of the Fourth Principal Meridian, lying Northernly of the center line of Spring Street extended.

PARCEL 5

That part of the Easterly 60 feet of the Burlington Northern Railroad Company's Fond Du Lac Branch right of way which lies within Government Lot 3 in the South Half (S1/2) of Section 23, Township 49 North, Range 15 West of the Fourth Principal Meridian, lying Southerly of the center line of Spring Street extended.

PARCEL 6

That part of the Easterly 114 feet of the Burlington Northern Railroad Company's Fond Du Lac Branch right of way in the North Half (N1/2) of Section 26, Township 49 North, Range 15 West of the Fourth Principal Meridian, which lies between the North line of said Section 26 and the Easterly extension of the Southerly line of the Plat of Mimewaken Addition to Duluth.

PARCEL 7

That part of the Easterly 64 feet of the Burlington Northern Railroad Company's Fond Du Lac Branch right of way which lies in the North Half (N1/2) of Section 26, Township 49 North, Range 15 West of the Fourth Principal Meridian, and lies between the Easterly extension of the Southerly line of the Plat of Mimewaken Addition to Duluth and Northernly of a line drawn parallel with and distant 1,687.5 feet Southerly of, as measured along said track center line from the North line of said Section 26.

The right to construct, maintain and operate excursion trains upon, over and across herein described Parcels 5, 6 and 7.

The right to construct and maintain three (3) pedestrian access crossings upon, over and across the following described parcels:

PARCEL 8

That part of the Burlington Northern Railroad Company's 200-foot wide St. Paul to Duluth main line right of way abutting the Plat of Hunter & Markell's Grassy Point Addition, which lies within 33 feet on each side of the following described line:

Beginning at the intersection of the center line of 71st Avenue West in said Plat with the Northwest line of said right of way; then proceed along a line which is at a 90° angle to said Northwest right of way line in a Southeasterly direction for a distance of 200 feet, more or less, to the Southeast line of said right of way and there terminating.

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PARCEL 9

That part of Burlington Northern Railroad Company's 50-foot wide right of way, being 18 feet wide on the Westerly side and 52 feet wide on the Easterly side of the center line of railroad track known as The Duluth Transfer Track of former Northern Pacific Railway Company, now Burlington Northern Railroad Company, that crosses Outlot 2, Ironton First Division in Government Lot 2, Section 23, Township 49 North Range 15 West of the Fourth Principal Meridian, described as follows:

Beginning at the intersection of the North line of said Outlot 2 and the Westerly line of said Burlington Northern Railroad Company's right of way; thence Southwesterly along a curve to the left along said Westerly right of way line 66 feet; thence Southeasterly, radially distant, 50 feet to a point in the Easterly line of said right of way; thence Easterly along a curve to the right along said Easterly right of way line 66 feet; thence Northeasterly 50 feet to the point of beginning.

PARCEL 10

Those parts of the 200-foot wide right of way known as the Fond Du Lac Branch of former Northern Pacific Railway Company, now Burlington Northern Railroad Company, and Seilwood Street, described as follows:

Beginning at the Southeast corner of Lot 1, Block J, Ironton First Division; thence Southeasterly along the Southeasterly extension of the Southerly line of said Lot 1, Block J, to a point 25 feet at right angles, Southeasterly from the center line of railroad track known as The Duluth Transfer Track of former Northern Pacific Railway Company, now Burlington Northern Railroad Company; thence Southwesterly along a line parallel with said railroad track to a point in the Southeasterly extension of the Northerly line of Lot 16, Block I, of said Ironton First Division; thence Northwesterly along said Southeasterly extension of the Northerly line of Lot 16 and the Northerly line of said Lot 16 to a point located 50 feet Northwesterly at right angles from the Northeasterly extension of the Easterly line of said Block I; thence Northeasterly along a line located 50 feet Northwesterly at right angles and parallel with the said Northeasterly extension of the Easterly line of said Block I and the Easterly line of said Block J to the said Southerly line of Lot 1; thence Southeasterly along the said Southerly line of Lot 1 to the point of beginning.

PARCEL 11

The Northerly 20 feet of that part of the Burlington Northern Railroad Company's 200-foot wide St. Paul to Duluth main line right of way which lies between the following described lines:

Beginning at the extended Southerly center line of platted 71st Avenue West, Westerly to the Southerly extension of the Southwesterly line of Lot 10, Block 17, Hunter & Markell's Grassy Point Addition.

All of the above described parcels being situate in the City of Duluth, St. Louis County, State of Minnesota.

EXCEPTING, however, therefrom, those portions of herein described Parcels 3, 4, 5 and 6 lying Westerly of a line located 25 feet at right angles and radially distant, Easterly of, parallel and concentric with the center line of railroad track known as The Duluth Transfer Track of former Northern Pacific Railway Company, now Burlington Northern Railroad Company.

The Grantor does hereby also grant to the Grantee, permission to use during the construction of the aforesaid facilities, a temporary hiking and bicycling trail upon the following described property, which right shall cease five (5) years from the date hereof, or on such earlier date as the Grantee determines by formal order that it is no longer needed for trail purposes.

All that part of the Burlington Northern Railroad Company's right of way which lies within the Southwest Quarter of the Southeast Quarter (SW1/4 SE1/4) of Section 23, Township 49 North, Range 15 West of the Fourth Principal Meridian, more particularly described as follows:

Beginning at a point where the centerline of Spring Street and the Westerly line of the Burlington Northern Railroad Company right of way intersect; thence Northeasterly along the Westerly Burlington Northern Railroad Company right of way line for a distance of 420 feet to a point; thence deflect 90° to the right, Southeasterly to a point, said point being 25 feet Easterly of the centerline of the Burlington Northern Railroad Company main tracks; thence Southwesterly, parallel with said centerline of Burlington Northern main line tracks 50 feet to a point; thence deflect 90° to the right a distance of 50 feet to a point, said point being 25 feet Northwesterly of the centerline of said Burlington Northern main tracks; thence deflect to the left 90°, Southwesterly parallel with said Burlington Northern main line tracks a distance of 370 feet, more or less, to the centerline of Spring Street and there terminating.

And, also, That portion of the Grantor's right of way adjacent to the hereinabove described Parcels No. 3 and 4, which lies between two lines located 15 feet and 25 feet, respectively, at right angles and radially distant, Easterly of, parallel and concentric with the centerline of railroad track known as the Duluth Transfer Track of the former Northern Pacific Railway Company, now Burlington Northern Railroad Company, and between two points therein distant, respectively, 420 feet, more or less, and 1900 feet Northeasterly, measured along said track centerline from the West line of said Spring Street.

RESERVING, however, unto the Grantor, the right to construct, maintain, use, operate, relocate, reconstruct and renew such tracks and facilities as it may at any time, and from time to time, desire within the limits of the land hereinbefore described, including the right and privilege to use said land for any and all purposes, not inconsistent with the use thereof for public purposes.

The foregoing easement is made subject to and upon the following express conditions:

1. The Grantee hereby agrees that the grant of easements herein is being made to the said City of Duluth with the understanding and agreement that

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the right of way being granted and the trackage being conveyed by separate instrument to the said City of Duluth will be available for use by the Lake Superior Museum of Transportation in connection with the future development of its facilities and operations of a tourist railroad from Riverside to New Duluth, Minnesota.

2. To existing interests in the above described premises to whomsoever belonging and of whatsoever nature and any and all extensions and renewals thereof, including but not limited to underground pipe line or lines, or any type of wire line or lines, if any.

3. Any and all cuts and fills, excavations or embankments necessary in the construction, maintenance, or future alteration of said facilities shall be made and maintained in such manner, form and extent as will provide adequate drainage of and from the adjoining lands and premises of the Grantor; and wherever any such fill or embankment shall or may obstruct the natural and pre-existing drainage from such lands and premises of the Grantor, the Grantee shall construct and maintain such culverts or drains as may be requisite to preserve such natural and pre-existing drainage, and shall also wherever necessary, construct extensions of existing drains, culverts or ditches through or along the premises of the Grantor, such extensions to be of adequate sectional dimensions to preserve the present flowage of drainage or other waters, and of materials and workmanship equally as good as those now existing.

4. The Grantee shall bear the cost of removal, relocation or reconstruction of any and all right of way fences, telephone or telegraph poles, or other facilities, the removal, relocation or reconstruction of which may be made necessary by reason of the use of said premises for said public purposes.

5. The Grantee shall, at its own cost and expense, make adjustment with industries or other lessees of Grantor for buildings or improvements that may have to be relocated, reconstructed or destroyed by reason of the construction and maintenance of said facilities on said premises.

6. Grantee, in its acceptance hereof, hereby agrees to indemnify and save harmless said Grantor, from and against all lawful claims, demands, judgments, losses, costs and expenses, for injury to or death of the person or less or damage to the property of any person or persons whomever, including the parties hereto, in any manner arising from or growing out of the acts or omissions, negligent or otherwise of Grantee, its successors, assigns, licensees and invitees, in connection with the entry upon, occupation or use of the said premises herein described, or the location, construction, operation, restoration, repair, renewal or maintenance of said public upon the herein described premises or otherwise.

7. The Grantee shall notify the Division Superintendent of the Grantor located at Superior, Wisconsin at least five days prior to entering the Grantor's right of way.

8. If said described premises, or any part thereof, shall at any time cease to be used by said Grantee, or by the public, for the purpose, as aforesaid, or should they be converted to any other use whatsoever, or should the Grantee fail to perform any of the conditions herein expressed, then and in any such event, all the right, title, interest, benefits and enjoyment of said Grantee, or of the public, in and to said premises, for any purpose whatsoever, shall immediately cease and determine, and the said Grantor, its successors and assigns, may, at its or their option, re-enter, retake and hold said described lands and premises as of the present estate of said Grantor without compensation to said Grantee, the public, or any other person whomsoever, for improvements or property removed, taken or destroyed, or liability for loss of, or damage to any premises or the improvements thereon abutting on said easement area or any part thereof.

The Grantor does not warrant its title to said premises nor undertake to defend the Grantee in the peaceable possession, use or enjoyment thereof; and the grant herein made is subject to all outstanding rights or interest of others, including the tenants and licensees of the Grantor.



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TO HAVE AND TO HOLD THE SAME, together with all the hereditaments and appurtenances thereunto belonging, to Grantee for public use and enjoyment for the purposes aforesaid and for no other purpose whatsoever subject to the terms and conditions hereinbefore stated.

IN WITNESS WHEREOF, the Grantor has caused its corporate seal to be hereunto affixed, and these presents to be executed by its duly authorized officers this 15th day of November, 19 82.

BURLINGTON NORTHERN RAILROAD COMPANY

BY H. D. Shane  
Director, Land Management and Contracts

ATTEST:

BY G. F. Steinhibel  
Assistant Secretary

ACCEPTED:  
CITY OF DULUTH, Minnesota

BY [Signature]  
Title: MAYOR



STATE OF MINNESOTA )  
                          ) ss.  
COUNTY OF RAMSEY   )

The foregoing instrument was acknowledged before me this 15th day of November, 19 82, by H. D. Shane, Director and G. F. Steinhibel, Assistant Secretary, of Burlington Northern Railroad Company, a Delaware corporation, on behalf of the corporation.

[Signature]  
J. W. THAYER  
NOTARY PUBLIC - MINNESOTA  
RAMSEY COUNTY  
My Commission Expires Nov. 17, 1985

This instrument was drafted by Industrial Development and Property Management Department, Burlington Northern Railroad Company, 176 East Fifth Street, St. Paul, Minnesota 55101.