

PUBLIC WORKS & UTILITIES COMMITTEE

12-0100R

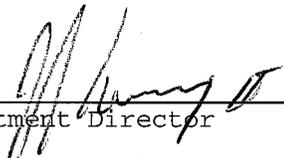
RESOLUTION AUTHORIZING AN AGREEMENT ACCEPTING AN
EASEMENT FROM DULUTH UNITED, LLC.

CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, a copy of which is on file in the office of the city clerk as Public Document No. _____, with Duluth United, LLC granting a water line easement over a portion of the following-described property in St. Louis County, Minnesota to the city at no cost:

The southeast quarter of Section 8, Township 50 North, Range 14 West in the plat of Rearrangement of Duluth Technology Park.

Approved:



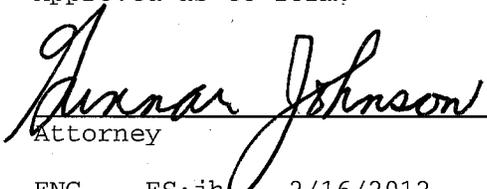
Department Director

Approved for presentation to council:



Chief Administrative Officer

Approved as to form:



Attorney

Approved:



Auditor

ENG ES:jh 2/16/2012

STATEMENT OF PURPOSE: This resolution will authorize an agreement with Duluth United, LLC accepting a small but needed water line easenet over property located east of Technology Drive.

**EASEMENT AGREEMENT FOR
UNDERGROUND WATER LINE**

THIS AGREEMENT, made and entered into effective _____, by and between **DULUTH UNITED, LLC**, a Minnesota limited liability company ("**Grantor**"), and the **CITY OF DULUTH, MINNESOTA**, a Minnesota municipal corporation ("**Grantee**").

WITNESSETH THAT:

WHEREAS, Grantor is the owner of certain property located in the County of St. Louis, State of Minnesota, and desires to grant to Grantee, its successors and assigns, an easement for construction, use and maintenance of an underground water line under and across a portion of Grantor's property legally described on Exhibit A attached hereto ("**Easement Property**").

NOW, THEREFORE, in consideration of One Dollar and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows:

1. Grantor does hereby grant unto Grantee, its successors and assigns, a nonexclusive easement for the construction, use and maintenance of an underground water line under and across the Easement Property. Neither Grantor nor Grantee shall construct any permanent improvement over the Easement Property provided however the foregoing shall not prevent the construction of roads, drives or parking areas thereon. If Grantee shall in connection with construction, maintenance or repair of the water line under and across the Easement Property, damage the same, Grantee shall restore and repair the damage, including without limitation any damage to landscaping, all in accordance with Section 4 below.
2. The Easement herein granted shall be perpetual and shall bind the Grantor and Grantee and their respective successors and assigns.
3. The persons executing this Easement each hereby represent and warrant that they are duly authorized to do so and that the execution of this easement shall bind their respective companies.
4. The Grantee shall be responsible for all costs of construction, use, repair and maintenance of the water line under and across the Easement Property. The Grantee, its successors and assigns, agrees to restore the Easement Property from any damage caused by the Grantee's construction, installation, maintenance, repair or use of the Easement Property. All restoration shall be performed in an expeditious and good and workmanlike manner in order to return the Easement Property to its condition prior to Grantee's work thereon; including but not limited to the following: fine grade lawn or landscaped areas, replace drains to their original line and grade and replace pavement or other surfaces in kind to

previous elevation. Notwithstanding the foregoing, if the Grantee fails to maintain the Easement Property as required herein, Grantor may perform such maintenance and the Grantee agrees to promptly reimburse Grantor for its reasonable costs in performing such maintenance, together with all costs of collection including reasonable attorneys' fees.

- 5. The Grantee shall defend, indemnify and save harmless Grantor against liability or claim thereof whether for injury to persons, including death, or damage to property arising out of the Grantee's use of the Easement Property.

IN WITNESS WHEREOF, the parties hereto have hereby executed this Easement as of the day and year first written above:

DULUTH UNITED, LLC
A Minnesota limited liability company

By: [Signature]
Jeffrey L. Schmier
Manager

STATE OF FLORIDA)
)SS.
COUNTY OF PALM BEACH)

The foregoing instrument was acknowledged before me this 14TH day of FEBRUARY, 2012 by Jeffrey L. Schmier, the Manager of Duluth United, LLC, a Minnesota limited liability company, on behalf of said company.



[Signature]
Notary Public

CITY OF DULUTH

By: _____
Don, Ness, Mayor

Attest: _____
Jeffrey J. Cox, City Clerk

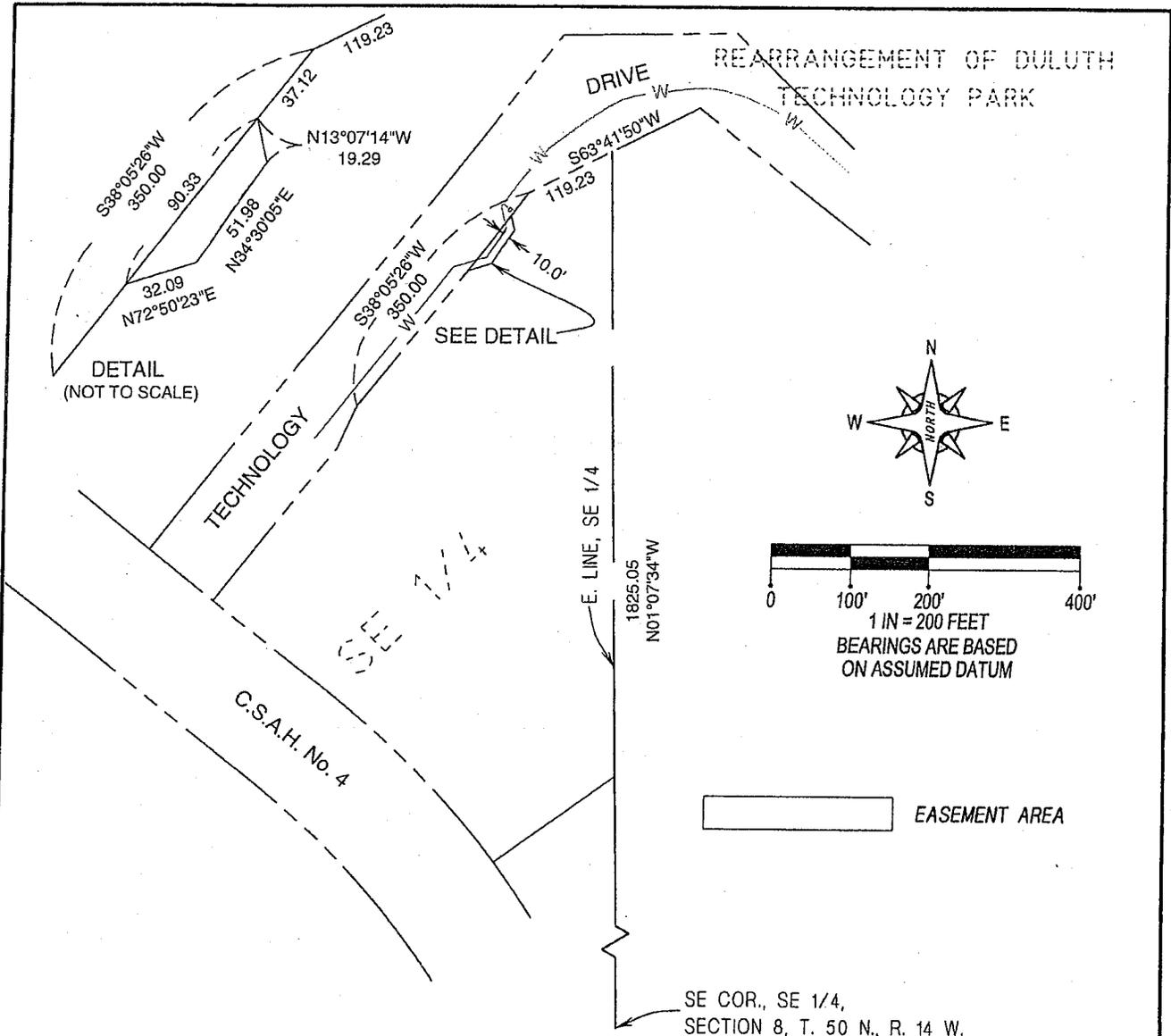
STATE OF MINNESOTA)
)SS.
COUNTY OF ST. LOUIS)

Before me, a Notary Public in and for said County and State, personally appeared Don Ness and Jeffrey J. Cox, by me known to be the Mayor and City Clerk of the City of Duluth, Minnesota, who acknowledged the execution of the foregoing "Easement Agreement" on behalf of said City of Duluth, Minnesota.

WITNESS my hand and Notarial Seal this _____ day of _____, 2012.

Notary Public

EXHIBIT A



LEGAL DESCRIPTION:

That part of the Southeast Quarter of Section 8, Township 50 North, Range 14 West, St. Louis County, Minnesota described as follows:

Commencing at the southeast corner of said Southeast Quarter; thence North 01°07'34" West, assumed bearing along the east line of said Southeast Quarter, a distance of 1825.05 feet to the southeasterly line of Technology Drive in the plat of REARRANGEMENT OF DULUTH TECHNOLOGY PARK; thence South 63°41'50" West 119.23 feet along the southeasterly line of said Technology Drive; thence South 38°05'26" West 37.12 feet along the southeasterly line of said Technology Drive to the point of beginning of the easement to be described; thence continuing South 38°05'26" West 90.33 feet along the southeasterly line of said Technology Drive; thence North 72°50'23" East 32.09 feet; thence North 34°30'05" East 51.98 feet; thence North 13°07'14" West 19.29 feet to the point of beginning.

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.

DATE 2-14-12
James W. Fowlds
 JAMES W. FOWLDS MN. LIC. NO. 18164



ENGINEERS - SURVEYORS - PLANNERS
SALO ENGINEERING, INC.
 4560 Norway Pines Place - Duluth, Minnesota 55802
 SALO JOB NUMBER: 218/727-8796

**UNDERGROUND WATER LINE
 EASEMENT EXHIBIT**