

PUBLIC WORKS AND UTILITIES COMMITTEE

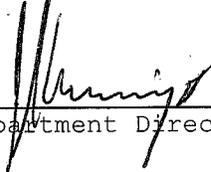
12-0176R

RESOLUTION ACCEPTING PERMANENT AND TEMPORARY EASEMENTS  
FROM USEPA FOR CONSTRUCTION, OPERATION AND MAINTENANCE  
OF LAKEWALK EAST OF 61<sup>ST</sup> AVENUES EAST.

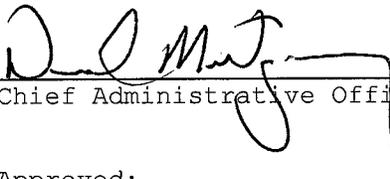
CITY PROPOSAL:

RESOLVED, that the proper city officials are authorized to accept permanent trail easements and temporary construction easements substantially in the form of those on file in the office of the city clerk as Public Document No. \_\_\_\_\_ from the United States Environmental Protection Agency for the construction, operation and maintenance of the Lakewalk Recreational trail on portions of Lot 1, Block 1, EDGESHORE PARK DIVISION OF DULUTH, at substantially no cost to city.

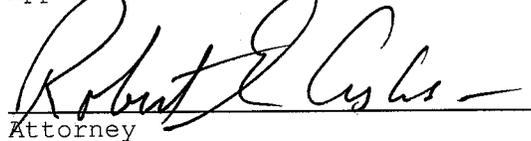
Approved:

  
\_\_\_\_\_  
Department Director

Approved for presentation to council:

  
\_\_\_\_\_  
Chief Administrative Officer

Approved as to form:

  
\_\_\_\_\_  
Attorney

Approved:

  
\_\_\_\_\_  
Auditor

ENG/ATTY REA:cjk 3/30/2012

STATEMENT OF PURPOSE: This resolution will authorize accepting temporary construction and permanent trail easements across property owned by the EPA on the north side of Highway 61 in the vicinity of the main entrance to the water quality lab for the extension of Lakewalk.

## EASEMENT AGREEMENT

This Agreement is made and entered into by and between the United States of America, acting by and through the Director, Facilities Management and Services Division, U.S. Environmental Protection Agency (EPA), hereinafter called the "Grantor" and the City of Duluth, a public body corporate and politic created and existing under the laws of the State of Minnesota, hereinafter called the "Grantee."

### **RECITALS:**

- A. By virtue of the provisions of 40 U.S.C. 1314, the Administrator of EPA has the authority to grant to any State, political subdivision or agency thereof or any person, such rights-of-way or easements in land under her supervision and control as she determines will not be adverse to interests of the United States, under such terms and conditions as she deems advisable.
- B. The Administrator of EPA delegated the authority to acquire and dispose of real property and to make determinations required by law regarding real property and interests therein to the Director, Facilities Management and Services Division.
- C. The Grantor is owner of certain federal land know as the Mid-Continent Ecology Division (MED) of the National Health and Environmental Effects Research Laboratory, Office of Research and Development, EPA as shown on the site plan attached hereto as ATTACHMENT A (Site Plan).
- D. The Grantee requested a right-of-way permanent easement from EPA for the construction and use for a pedestrian trail know as the "Lakewalk." The Lakewalk will cross under Minnesota State Highway #61 near the intersection of the main entrance road to the EPA property. The no fee easement is for approximately 3,000 square feet of EPA property located 40' either side of line described as

lying within Lot 1 Block 1, Edgeshore Park Division of Duluth. Easement location is shown on the Site Plan.

- E. This portion of the property is not currently used by the EPA and no future use is currently anticipated. Therefore, the use by the Grantee is for an EXCLUSIVE right-of-way.
- F. The Grantor has determined that the Easement is not adverse to the interests of the United States provided that the Grantee complies with the conditions hereinafter described.

NOW, THEREFORE, the Grantor, by virtue of the aforesaid authority does hereby give, grant and convey to the Grantee, its successors and assigns, subject to the conditions and provisions hereinafter set forth, an EXCLUSIVE right-of-way for construction and use of a public pedestrian "Lakewalk" trail.

The Easement is granted subject to existing easements of record for roads, highways, railroads, pipelines and public utilities.

### CONDITIONS AND PROVISIONS

- 1) The construction, installation, use, repair, replacement, security and maintenance of said Lakewalk shall be performed without cost or expense to the Grantor.
- 2) The Grantee agrees to indemnify and hold the United States harmless for all claims for damage, loss or personal injury arising out of the Grantee's use of the Easement.
- 3) Any property of the Grantor damaged or destroyed by the Grantee incident to the use and occupation of the Easement shall be promptly repaired or replaced by the Grantee to the satisfaction of the MED Division Director.
- 4) All or any part of the Easement herein granted may be terminated by the Grantor for failure to comply with any or all of the terms or conditions of this grant, or for non-use for a two year period or for abandonment of rights granted herein.
- 5) The Grantee shall comply with all federal laws and regulations and with all applicable laws, ordinances, and regulation of the state, county, and municipality wherein the Easement is located.
- 6) The right-of-way Easement is binding upon and inures to the benefit of the parties hereto, their successors and assigns.

IN WITNESS WHEREOF, the Grantor has caused this instrument to be executed in its name and cause the seal of the Environmental Protection Agency to be affixed on this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

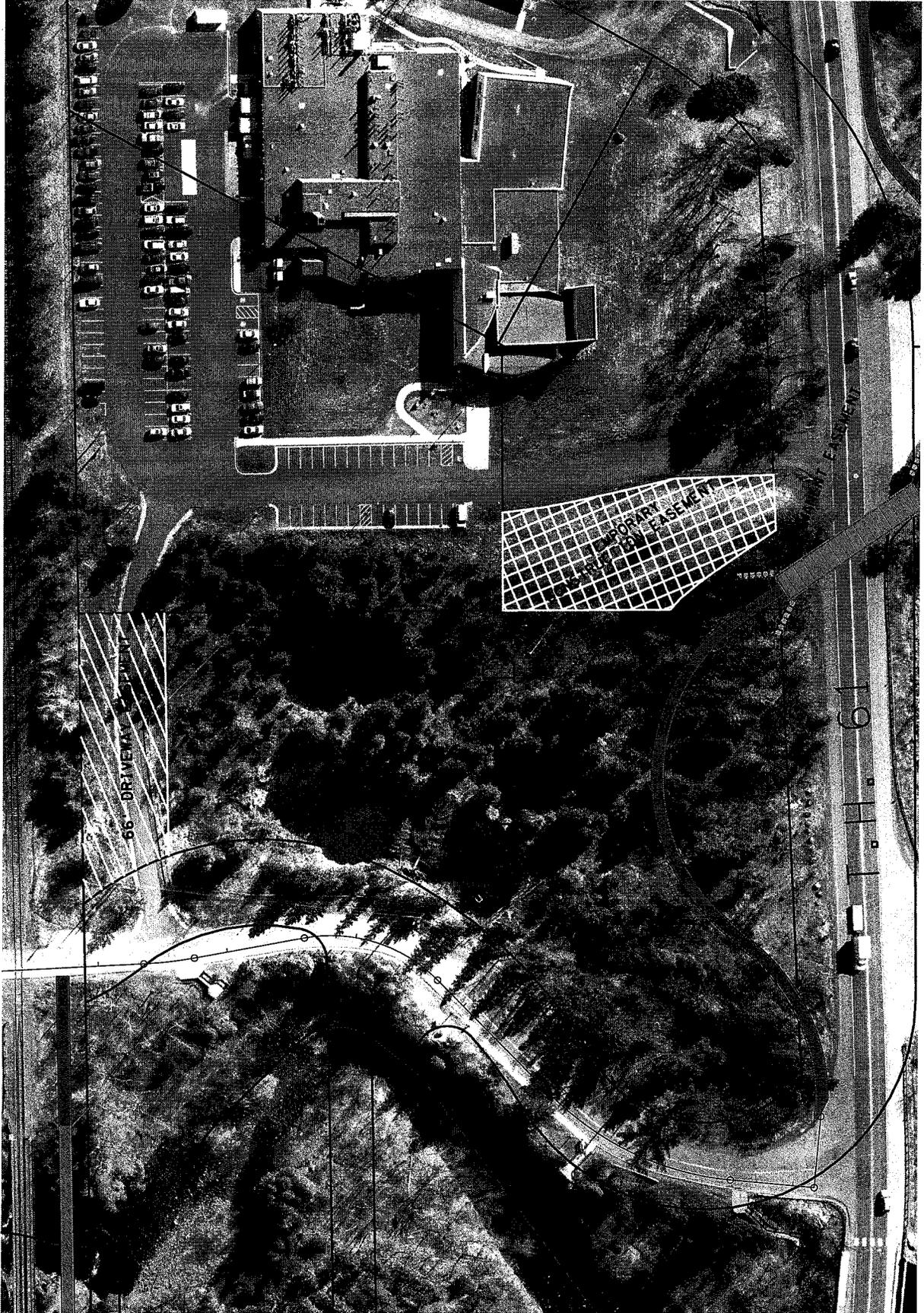
UNITED STATES OF AMERICA

BY: \_\_\_\_\_  
Bridget Shea, Director  
Facilities Management and Services Division  
U.S. Environmental Protection Agency

The provisions and conditions of the within easement right-of-way grant are hereby approved and accepted this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

CITY OF DULUTH, MINNESOTA

BY: \_\_\_\_\_



## **EASEMENT AGREEMENT**

This Agreement is made and entered into by and between the United States of America, acting by and through the Director, Facilities Management and Services Division, U.S. Environmental Protection Agency (EPA), hereinafter called the "Grantor" and the City of Duluth, a public body corporate and politic created and existing under the laws of the State of Minnesota, hereinafter called the "Grantee."

### **RECITALS:**

- A. By virtue of the provisions of 40 U.S.C. 1314, the Administrator of EPA has the authority to grant to any State, political subdivision or agency thereof or any person, such rights-of-way or easements in land under her supervision and control as she determines will not be adverse to interests of the United States, under such terms and conditions as she deems advisable.
- B. The Administrator of EPA delegated the authority to acquire and dispose of real property and to make determinations required by law regarding real property and interests therein to the Director, Facilities Management and Services Division.
- C. The Grantor is owner of certain federal land know as the Mid-Continent Ecology Division (MED) of the National Health and Environmental Effects Research Laboratory, Office of Research and Development, EPA as shown on the site plan attached hereto as ATTACHMENT A (Site Plan).
- D. The Grantee requested a temporary easement from EPA for the construction of a pedestrian trail know as the "Lakewalk." The Lakewalk will cross under Minnesota State Highway #61 near the intersection of the main entrance road to the EPA property. The no fee easement is the property described as lot 1, block 1, Edgshore Park Division. Easement location is shown on the Site Plan.
- E. The Grantor has determined that the Easement is not adverse to the interests of the United States provided that the Grantee complies with the conditions hereinafter described.

NOW, THEREFORE, the Grantor, by virtue of the aforesaid authority does hereby give, grant and convey to the Grantee, its successors and assigns, subject to the conditions and provisions hereinafter set forth, a temporary easement for construction of a public pedestrian "Lakewalk" trail.

The Easement is granted subject to existing easements of record for roads, highways, railroads, pipelines and public utilities.

### **CONDITIONS AND PROVISIONS**

- 1) The construction, installation, use, repair, replacement, security and maintenance of said Lakewalk shall be performed without cost or expense to the Grantor and without conflicting with the Grantor's use of or access to adjacent property.
- 2) The Grantee agrees to indemnify and hold the United States harmless for all claims for damage, loss or personal injury arising out of the Grantee's use of the Easement.
- 3) Any property of the Grantor damaged or destroyed by the Grantee incident to the use and occupation of the Easement shall be promptly repaired or replaced by the Grantee to the satisfaction of the MED Division Director.
- 4) All or any part of the Easement herein granted may be terminated by the Grantor for failure to comply with any or all of the terms or conditions of this grant, or for non-use for a two year period or for abandonment of rights granted herein.
- 5) The Grantee shall comply with all federal laws and regulations and with all applicable laws, ordinances, and regulation of the state, county, and municipality wherein the Easement is located.
- 6) The right-of-way Easement is binding upon and inures to the benefit of the parties hereto, their successors and assigns.

IN WITNESS WHEREOF, the Grantor has caused this instrument to be executed in its name and cause the seal of the Environmental Protection Agency to be affixed on this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

UNITED STATES OF AMERICA

BY: \_\_\_\_\_  
Bridget Shea, Director  
Facilities Management and Services Division  
U.S. Environmental Protection Agency

The provisions and conditions of the within easement right-of-way grant are hereby approved and accepted this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

CITY OF DULUTH, MINNESOTA

BY: \_\_\_\_\_

