

PUBLIC WORKS AND UTILITIES COMMITTEE

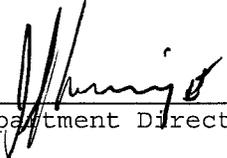
13-0367R

RESOLUTION AUTHORIZING THE ACCEPTANCE OF A GRANT OF A
UTILITY EASEMENT FROM CVS 6686 MN, L.L.C.

CITY PROPOSAL:

RESOLVED, that the proper city officials are authorized to enter into an agreement, substantially the same as that on file in the office of the city clerk as Public Document No. _____ and subject to further legal review and approvals, with CVS 6686 MN, L.L.C., accepting the grant of a utility easement, in trust for the general public, over certain property in the vicinity of 46th Avenue West and Grand Avenue.

Approved:



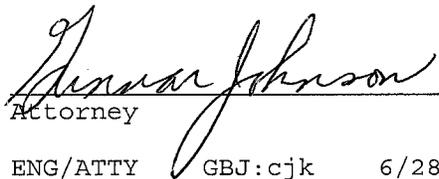
Department Director

Approved for presentation to council:



Chief Administrative Officer

Approved as to form:



Attorney

Approved:



Auditor

ENG/ATTY GBJ:cjk 6/28/2013

STATEMENT OF PURPOSE: This resolution will authorize the acceptance of a utility easement from CVS 6686 MN, LLC in the vicinity of 46th Avenue West and Grand Avenue. Supporting documents and legal descriptions are included with this resolution and are subject to further legal review and approvals by the city attorney's office.

EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT, entered into this ___ day of June, 2013, by and between **CVS 6686 MN, L.L.C.**, a Delaware limited liability company ("Grantor"), and the **City of Duluth**, a municipal corporation created and existing under the laws of the State of Minnesota ("Grantee").

WITNESSETH:

WHEREAS, Grantor is the owner of the property shown and depicted adjacent to 46th Avenue W. as the "CVS Pharmacy Tract" on the plan attached hereto as Exhibit A (the "Site Plan") and legally described in Exhibit B attached hereto and incorporated by reference herein (the "Property"); and

WHEREAS, Grantor wishes to convey to Grantee easements as hereinafter described for utility purposes over the Property for the benefit of the Property.

NOW, THEREFORE, in consideration of One Dollar (\$1.00) and other good and valuable consideration, receipt of which is hereby acknowledged, Grantor does grant to Grantee permanent, perpetual and non-exclusive easements for utility purposes (water and storm sewer) over, under and across the portions of the Property: (i) labeled as the "Proposed Easement Area" on the plan attached hereto as Exhibit C and legally described in Exhibit C attached hereto and incorporated by reference herein, and (ii) labeled as the "Proposed Easement Area" on the plan attached hereto as Exhibit D and legally described in Exhibit D attached hereto and incorporated by reference herein.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, Grantor has executed this agreement the day and year first written above.

CVS 6686 MN, L.L.C.,
a Delaware limited liability company

By: _____
Toni A. Motta, Assistant Secretary

CVS LEGAL APPROVAL:
Hinckley, Allen & Snyder LLP
David I. Lough, Esq.

STATE OF RHODE ISLAND
COUNTY OF _____

In _____ on this ____ day of June, 2013, before me personally appeared _____, _____ of CVS 6686 MN, L.L.C., a Delaware limited liability company, who proved to me through satisfactory evidence of identification, which was FORMCHECKBOX photographic identification with signature issued by a federal or state governmental agency, or FORMCHECKBOX personal knowledge of the undersigned, to be the party executing the foregoing instrument and he/she acknowledged said instrument, by him/her executed to be his/her free act and deed, his/her free act and deed in said capacity and the free act and deed of CVS 6686 MN, L.L.C.

Notary Public
Printed Name: _____
My Commission Expires: _____

[Affix Notary Seal]

This document was drafted by:

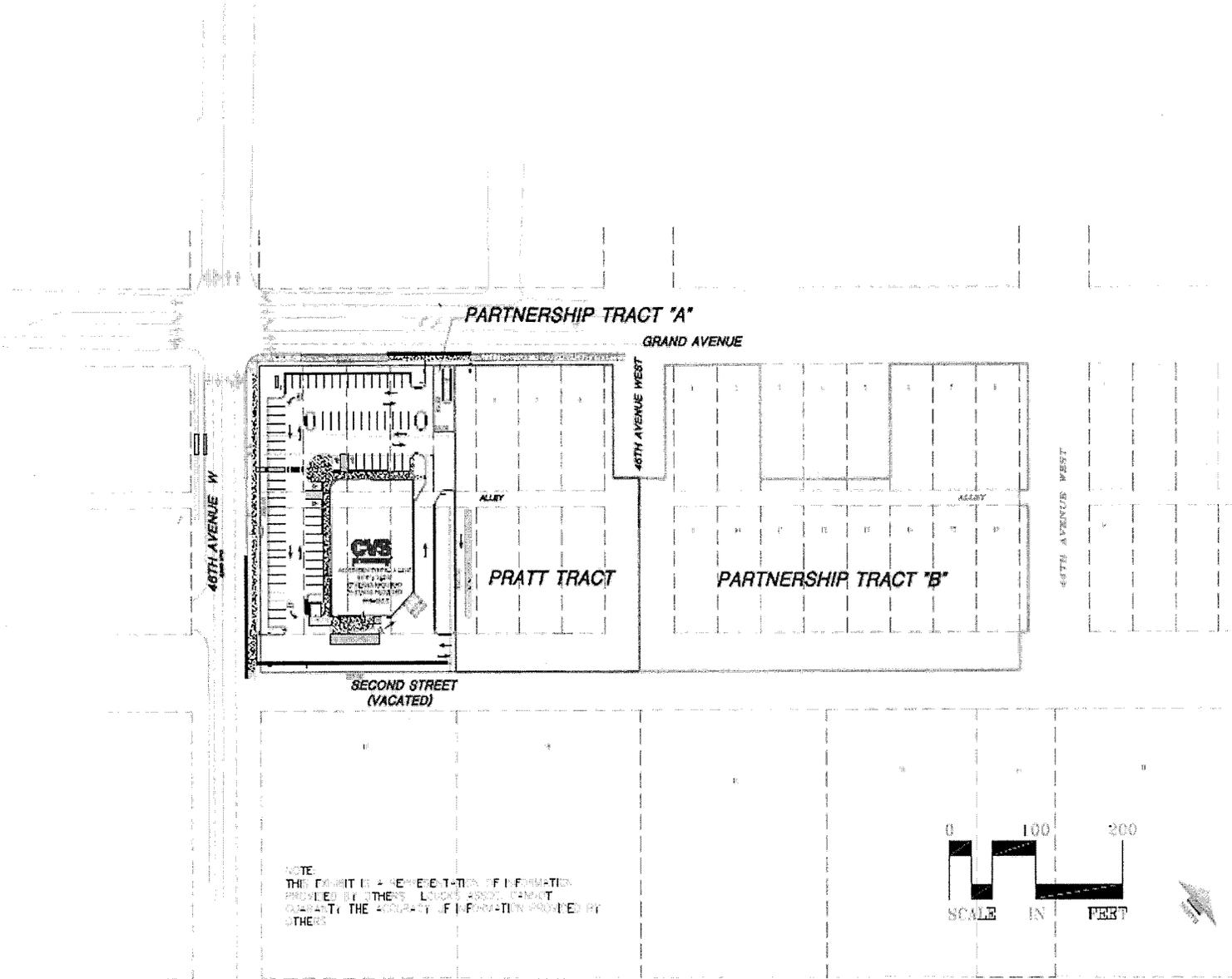
David I. Lough, Esq.
Hinckley, Allen & Snyder LLP
50 Kennedy Plaza
Suite 1500
Providence, RI 02903
(401) 274-2000

EXHIBIT A

(Site Plan)

[Attached]

#51650982
596975V1



NOTE:
THIS EXHIBIT IS A REPRESENTATION OF INFORMATION
PROVIDED BY OTHERS. LOCKS ASSOCIATES, INC. MAKES
NO WARRANTY OF THE ACCURACY OF INFORMATION PROVIDED BY
OTHERS.

CVS
pharmacy
HERE TO SERVE YOU
1816
GRAND AVENUE
AND
46TH AVENUE W.
CVS STORE #02040
CVS STORE # 02040
1816
ST. LOUIS, MISSOURI 63103

VELMEIR
CORPORATION
1816 GRAND AVENUE
ST. LOUIS, MO 63103

LOCKES ASSOCIATES
1816 GRAND AVENUE
ST. LOUIS, MO 63103

NORR

NORR
1816 GRAND AVENUE
ST. LOUIS, MO 63103

1816 GRAND AVENUE ST. LOUIS, MO 63103

EXHIBIT B

(Legal Description of the Property)

PARCEL 1:

ALL THAT PART OF LOTS 1 AND 2, BLOCK 69, ONEOTA, THAT LIES SOUTHEAST OF A LINE DRAWN PARALLEL WITH AND 81 FEET SOUTHEAST OF THE SOUTHEAST LINE OF GRAND AVENUE IN THE CITY OF DULUTH, EXCEPT THAT PORTION OF SAID LOTS THAT LIES WITHIN 100 FEET OF THE CENTER LINE OF THE SOUTH BOUND MAIN TRACK OF THE NORTHERN PACIFIC RAILWAY COMPANY AS THE SAID TRACK IS CONSTRUCTED ACROSS OR ADJACENT TO THE SAID PREMISES.

AND

THAT PART OF LOT 5, BLOCK 69, ONEOTA, WHICH LIES BETWEEN THE SOUTHWESTERLY LINE OF LOT 5 AND A LINE PARALLEL WITH AND 25.00 FEET NORTHEASTERLY THEREFROM AND WHICH LIES SOUTHEASTERLY OF A LINE DRAWN PARALLEL AND DISTANT 69.22 FEET SOUTHEASTERLY OF THE NORTHWESTERLY LINE OF LOT 5, BLOCK 10, GRAND CENTRAL DIVISION, EXCEPTING RAILROAD RIGHT OF WAY, AND EXCEPTING ALL INSTRUMENTS WHICH AFFECT THAT CERTAIN STRIP OF LAND CONVEYED TO THE LAKE SUPERIOR AND MISSISSIPPI RAILROAD COMPANY, BY DEED RECORDED IN BOOK "N" OF DEED, PAGE 522

PARCEL 2:

ALL OF LOTS 9, 10, 11, AND 12, INCLUSIVE, AND LOT 13, EXCEPT THE EAST 1/2 THEREOF, BLOCK 69, IN THE TOWN OF ONEOTA (NOW CITY OF DULUTH), ACCORDING TO THE PLAT THEREOF ON FILE IN THE REGISTER OF DEEDS OFFICE IN AND FOR ST. LOUIS COUNTY, MINNESOTA, TOGETHER WITH THOSE PORTIONS OF LOTS 1, 2, 3, AND 4, AND THAT PART OF LOT 5 WHICH LIES BETWEEN THE SOUTHWESTERLY LINE OF SAID LOT 5 AND A LINE PARALLEL WITH AND 25 FEET NORTHEASTERLY THEREFROM, ALL IN SAID BLOCK 69, ONEOTA, LYING SOUTHEASTERLY OF A LINE DRAWN 100.00 FEET NORMALLY DISTANT NORTHWESTERLY OF THE MAIN TRACK CENTERLINE OF THE FORMER NORTHERN PACIFIC RAILWAY COMPANY, TOGETHER WITH 16 FOOT WIDE ALLEY IN SAID BLOCK 69, AND BEING A PORTION OF THE SAME PROPERTY DESCRIBED IN DEED FROM H.W. WHEELER TO THE LAKE SUPERIOR AND MISSISSIPPI RAILROAD COMPANY FILED FOR RECORD MAY 6, 1978, IN BOOK N OF DEEDS, PAGE 522, IN AND FOR SAID COUNTY, TOGETHER WITH THE NORTHWESTERLY 40 FEET OF 80 FOOT WIDE VACATED TRAVERSE STREET LYING CONTIGUOUS TO AND SOUTHEASTERLY OF SAID BLOCK 69

PARCEL 3:

LOT 3, BLOCK 10, GRAND CENTRAL DIVISION OF DULUTH, INCLUDING

LOT 3, BLOCK 69, ONEOTA, EXCEPT THAT PORTION OF SAID LOT THAT LIES WITHIN 100 FEET OF THE CENTER LINE OF THE SOUTH BOUND MAINTRACK, OF THE NORTHERN PACIFIC RAILWAY COMPANY, AS THE SAID TRACK IS CONTRUCTED ACROSS OR ADJACENT TO THE SAID PREMISES.

LOT 4, BLOCK 69, ONEOTA, EXCEPT THAT PART LYING WITHIN THE RIGHT OF WAY FORMERLY OWNED BY LAKE SUPERIOR AND MISSISSIPPI RAILROAD COMPANY AND NOW OWNED BY NORTHERN PACIFIC RAILWAY COMPANY

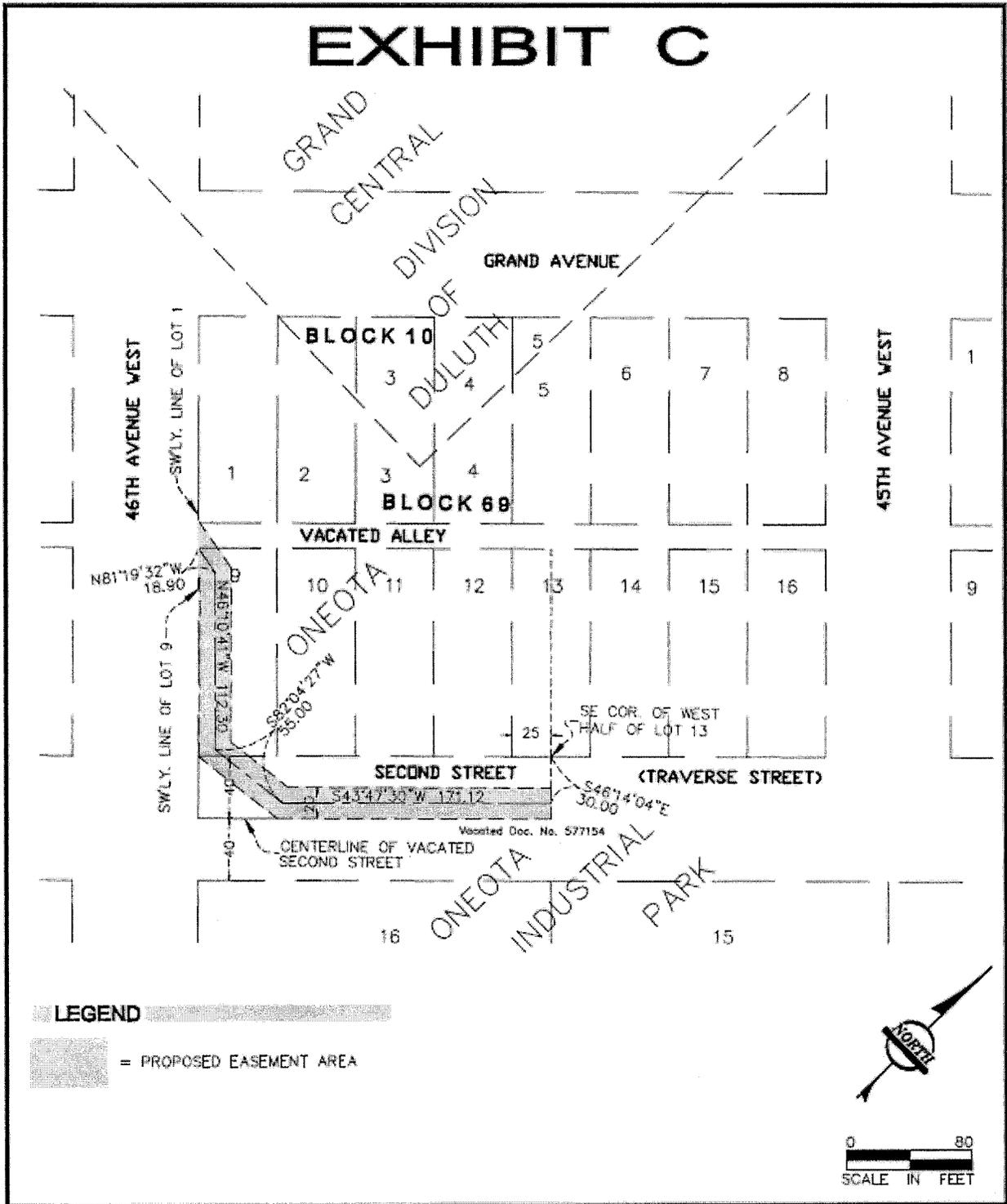
LOT 4, BLOCK 10, GRAND CENTRAL DIVISION OF DULUTH, AND

THE NORTHERLY 81 FEET OF LOTS 1 AND 2, BLOCK 69, ONEOTA, AND

ALL THAT PART OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 7, TOWNSHIP 49 NORTH, RANGE 14 WEST, DESCRIBED BY METES AND BOUNDS AS FOLLOWS, TO-WIT:

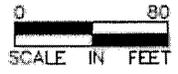
BEGINNING AT THE INTERSECTION OF THE SOUTH LINE OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 7, TOWNSHIP 49 NORTH, RANGE 14 WEST, WITH THE SOUTHERLY LINE OF GRAND AVENUE, IN THE CITY OF DULUTH, AS THE SAME IS LOCATED THROUGH SAID TRACT; THENCE EASTERLY ALONG THE SOUTHERLY LINE OF SAID GRAND AVENUE TO A POINT ON SAID SOUTHERLY LINE OF SAID AVENUE 100 EET EASTERLY FROM ITS INTERSECTION WITH THE EASTERLY LINE OF 46TH AVENUE WEST IN THE CITY OF DULUTH (FORMERLY MOUNTAIN AVENUE IN ONEOTA); THENCE AT RIGHT ANGLES TO GRAND AVENUE AND SOUTHERLY TO AN INTERSECTION WITH THE SOUTH LINE OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 7 AFORESAID; THENCE WEST TO PLACE OF BEGINNING, ST. LOUIS COUNTY, MINNESOTA

EXHIBIT C



LEGEND

= PROPOSED EASEMENT AREA



Duluth
 Highway
 Maintenance
 Office
 211 7th Street
 Duluth, MN 55802
 Phone: 218 725 6214
 Fax: 218 725 6257
 www.duluthmn.com

PROPOSED UTILITY EASEMENT
 CVS - GRAND STREET

SHEET #
 2/2
 PROJECT #
 2010148H

EXHIBIT C

PROPOSED UTILITY EASEMENT

A 20.00 foot perpetual utility easement over, under and across that part of Lots 1 and 9, Block 69 of ONEOTA, a duly recorded plat, St. Louis County, Minnesota, and that part of the vacated alley lying adjacent to said Lot 9, and that part of the northwesterly 40.00 feet of vacated West Second Street (AKA Traverse Street) abutting lots 9, 10, 11, 12 and the West Half of Lot 13, said Block 69 thereof.

The centerline of said easement is described as follows: Commencing at the southeast corner of the West Half of Lot 13, said Block 69; thence South 46 degrees 14 minutes 04 seconds East, assumed bearing, along the southeasterly extension of the northeasterly line of the West Half of said Lot 13, a distance of 30.00 feet to a line 10.00 feet northwesterly of, parallel with and adjacent to the centerline of said vacated West Second Street and the point of beginning of the centerline to be described; thence South 43 degrees 47 minutes 30 seconds West, along said adjacent line, 171.12 feet; thence South 82 degrees 04 minutes 27 seconds West 55.00 feet; thence North 46 degrees 10 minutes 41 seconds West 112.30 feet; thence North 81 degrees 19 minutes 32 seconds West 18.90 feet to the southwesterly line of said Lot 9 and said centerline terminating thereat.

The sidelines of said easement are to be lengthened or shortened to terminate on the southeasterly extension of the northeasterly line of the West Half of said Lot 13 and the southwesterly lines of said Lots 1 and 9.

I hereby certify that this easement sketch and description was prepared by me or under my direct supervision and that I am a duly Licensed Professional Land Surveyor under the laws of the State of Minnesota.

Timothy D. Larson

Timothy D. Larson, Professional Land Surveyor
Minnesota License Number 43809
September 11, 2012



802 Garfield Avenue • Suite 105 • Duluth, MN 55802

Duluth, MN
Blaine, MN
Hibbing, MN
Moorhead, MN
Ontonagon, MN
Phone: 218 725 6511
Fax: 218 725 6507
www.rlk.com

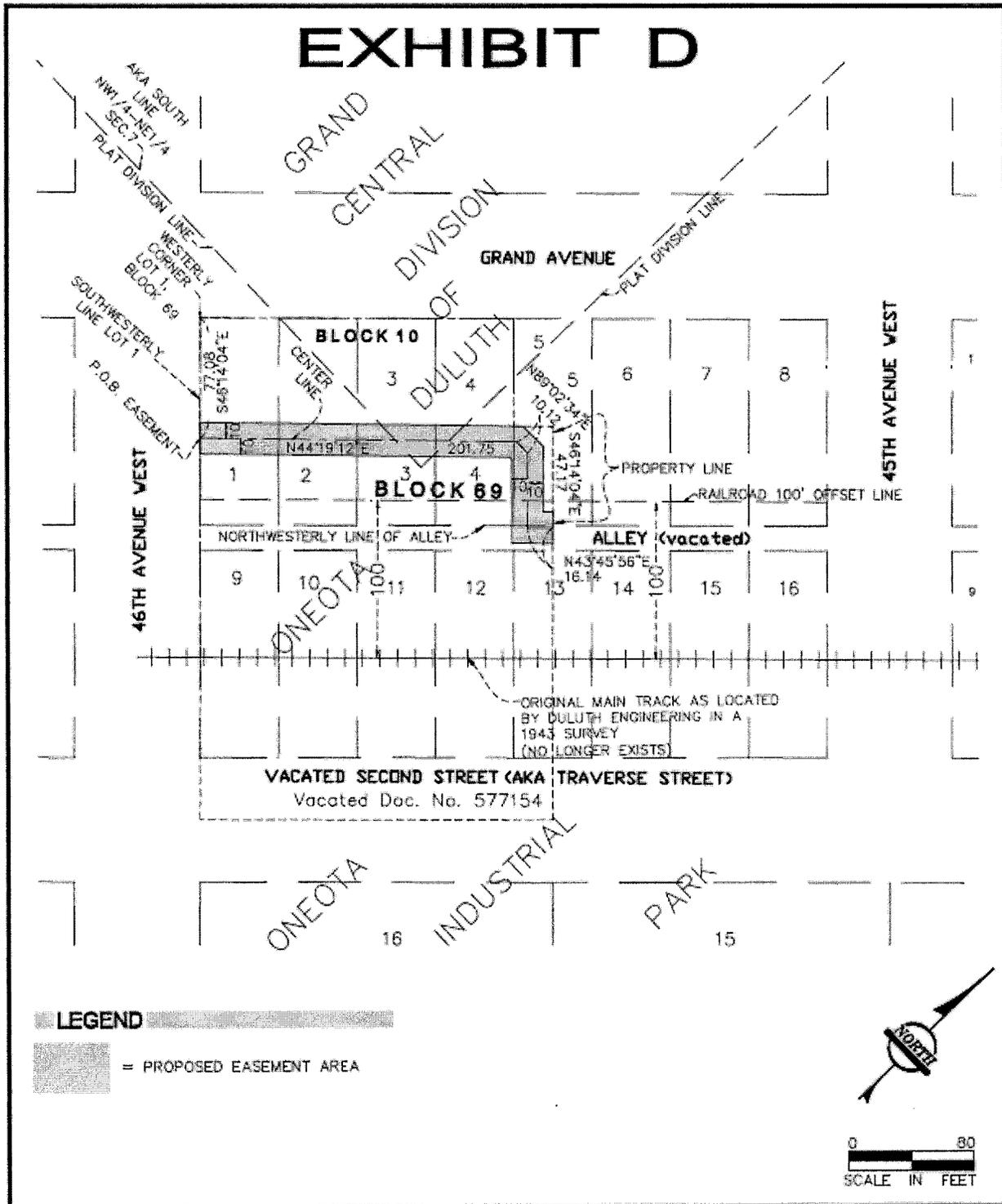
PROPOSED UTILITY EASEMENT

CVS — GRAND STREET

SHEET #
1/2

PROJECT #
2010148H

EXHIBIT D



RLK
REGISTERED LAND SURVEYOR

Duluth, MN
800.225.4217
www.rlkinc.com

802 Gasfield Avenue • Suite 105 • Duluth, MN 55802

PROPOSED UTILITY EASEMENT

CVS - GRAND STREET

SHEET #
2/2

PROJECT #
2010148H

EXHIBIT D

PROPOSED UTILITY EASEMENT

A 20.00 foot perpetual utility easement over, under and across that part of Lots 1 through 5, Block 69, ONEOTA, a duly recorded plat, St. Louis County, Minnesota, and Lots 3 and 4, Block 10, GRAND CENTRAL DIVISION OF DULUTH, a duly recorded plat, St. Louis County, Minnesota, and that part of the vacated alley lying adjacent to Lots 4 and 5, Block 69, of said ONEOTA. Said easement lies southwesterly of a line drawn parallel with and 25.00 northeasterly of the southwesterly line of said Lot 5 and lies southeasterly of a line drawn 69.22 feet southeasterly of the northwesterly line of Lot 5, Block 10, said GRAND CENTRAL DIVISION OF DULUTH.

The centerline of said easement is described as follows: Commencing at the most westerly corner of Lot 1, Block 69, said ONEOTA; thence South 46 degrees 14 minutes 04 seconds East, assumed bearing, along the southwesterly line of said Lot 1, a distance of 77.08 feet to the point of beginning of the centerline to be described; thence North 44 degrees 19 minutes 12 seconds East 201.75 feet; thence North 89 degrees 02 minutes 34 seconds East 10.12 feet; thence South 46 degrees 14 minutes 04 seconds East 47.17 feet; thence North 43 degrees 45 minutes 56 seconds East 16.14 feet and said centerline terminating thereat.

The sidelines of said easement are to be lengthened or shortened to terminate on the southwesterly line of said Lot 1 and on a line drawn parallel with and 25.00 northeasterly of the southwesterly line of Lot 5, Block 69, said ONEOTA.

I hereby certify that this easement sketch and description was prepared by me or under my direct supervision and that I am a duly Licensed Professional Land Surveyor under the laws of the State of Minnesota.


Timothy D. Larson, Professional Land Surveyor
Minnesota License Number 43809
September 11, 2012



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PROPOSED UTILITY EASEMENT

CVS - GRAND STREET

SHEET #
1/2

PROJECT #
2010148H