

PUBLIC WORKS & UTILITIES COMMITTEE

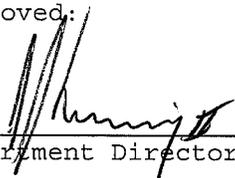
14-0207R

RESOLUTION AUTHORIZING LICENSE AGREEMENT WITH ST. LOUIS COUNTY FOR DISPOSAL OF EXCESS FILL MATERIALS FROM THE HIGHLAND STREET CONSTRUCTION PROJECT ON CITY PROPERTY.

CITY PROPOSAL:

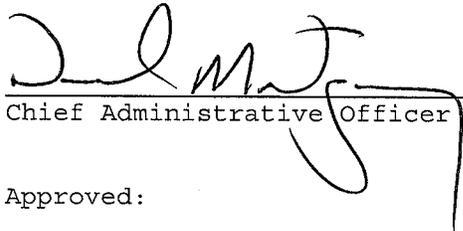
RESOLVED, that the proper city officials are hereby authorized to enter into a license agreement, a copy of which is on file in the office of the city clerk as Public Document No. _____, with St. Louis County to allow St. Louis County and its contractor for the Highland Street construction project to dispose of "clean" excess demolition materials from the project on city-owned property at no cost to St. Louis County.

Approved:



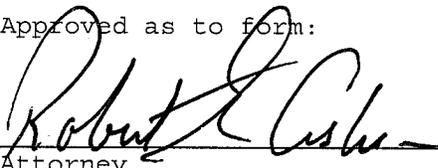
Department Director

Approved for presentation to council:



Chief Administrative Officer

Approved as to form:



Attorney

Approved:



Auditor

ENG/ATTY REA:de 04/24/2014

STATEMENT OF PURPOSE: The purpose of this resolution is to authorize a license agreement allowing St. Louis County and its contractor for the Highland Street

construction project to dispose of excess excavation materials in a mined-out gravel pit on City property in close proximity to the construction zone at no cost to the County.

As part of its highway projects for 2014, the County is contracting with Northland Constructors to re-align and reconstruct a portion of Highland Street (see the attached map). This will require the removal of a substantial amount of earthen materials that are environmentally "clean," but are unsuitable to support the reconstructed road which must be disposed of.

The City is the owner of property in the immediate area (see attached map) which consists of a "mined-out" gravel pit which the City is not using in its present condition and which would be a suitable site for disposal of the materials. Not only will the placement of the materials improve the City's property but the use of the property for disposal in close proximity to the source of the materials will reduce the impacts of hauling the materials on the neighboring properties and will reduce the cost of the project, benefitting all County taxpayers including those in the City.

The agreement, in addition to including the usual requirements for indemnification and insurance, limits access to the site to an acceptable location, requires security fencing to prevent misuse of the site by the general public and requires that the work is carried out in an appropriate manner. In addition, once the disposal is completed the agreement requires that the site be covered with topsoil and appropriate vegetation.

Hermantown

St. Louis County
Highland Street & 57th Ave W
Reconstruction 2014

Duluth

T50N
R15W
34|35
3|2
T49N

T50N
R15W 36|31 R14W
1|6
T49N

R14W
31|32
6|5
T49N

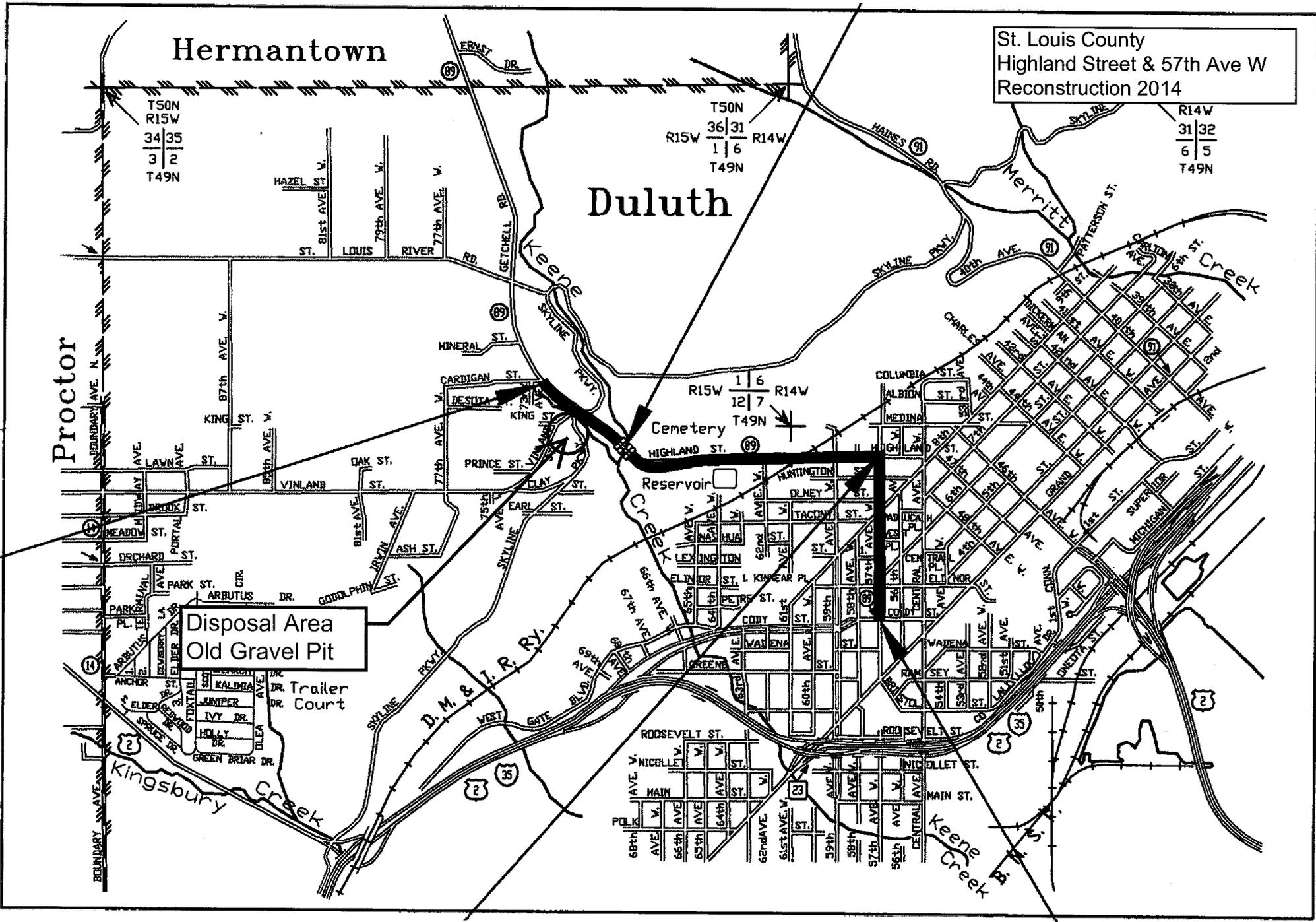
R15W 1|6 R14W
12|7
T49N

Proctor

Disposal Area
Old Gravel Pit

Trailer
Court

Cemetery
Reservoir



**LICENSE AGREEMENT FOR TEMPORARY CONSTRUCTION
ACCESS AND DEPOSITING OF EXCESS CONSTRUCTION MATERIALS
BY AND BETWEEN
THE CITY OF DULUTH AND ST. LOUIS COUNTY**

This LICENSE AGREEMENT ("License Agreement" or this "Agreement") effective on the date of attestation by the City Clerk by and between the City of Duluth ("City"), and St. Louis County ("County").

WHEREAS, the City is the owner of property located near at the top of Highland Street near the intersection of Getchell Road; and

WHEREAS, County is reconstructing Highland Street and desires to utilize City property for the purposes of depositing excess construction materials; and

WHEREAS, the City desires to grant County a license to use subject to the terms and limitations set forth herein.

NOW, THEREFORE, the parties to this License Agreement, in consideration of the sum of One and 00/100 Dollars (\$1.00), paid by County to the City upon the mutual execution and delivery of this Agreement, plus other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and in consideration of the covenants County expresses herein, agree as follows:

1. GRANT OF LICENSE

The City hereby grants to County, its employees, contractors, and subcontractors (collectively "County") responsible for construction or restoration or any related activity as described herein the license, privilege and permission ("the License") to access and use during the term set forth below, that portion of the City's property located in Lots 13, 14 and 15, Block 18, BAYVIEW ADDITION NO. 1, which is shaded on the Map attached hereto as Exhibit A and incorporated herein by reference ("Licensed Area"). The license shall be for the limited purpose of depositing of "clean" excess excavation materials resulting from the County's CSAH No 89 construction project designated as SAP 069-689-004 (the "Project") subject to the terms and limitations set forth below (the "Use"). The materials shall not contain any contaminated or regulated materials.

The City retains the right to inspect Licensed Area, and to exercise its rights or duties in order to protect persons, property or the public interest in the Licensed Area.

2. TERM AND TERMINATION

The term of this Agreement shall be for twelve (12) months, beginning as of the date first set forth above, and concluding when the Project, unless earlier terminated as provided for herein. This Agreement may be terminated by either party for any reason or no reason upon the giving of thirty (30) business days prior notice to the other party as hereinafter provided for herein. Notwithstanding the foregoing sentence, the City reserves the right to immediately terminate this Agreement in the event of an emergency or when necessary, in the City's sole discretion, to protect the public health, welfare or safety.

3. DESIGNATION OF PARTIES' REPRESENTATIVES

3. DESIGNATION OF PARTIES' REPRESENTATIVES

The City designates the Director of the City's Public Works Department (the "City Director") as its authorized representative to receive communication on the City's behalf with respect to this Agreement. County designates its _____, _____, as its duly authorized representative to act on County's behalf with respect to this Agreement. The Parties may designate a different representative so long as the party notifies the other.

4. NO REPRESENTATIONS BY CITY

The City has made no representations with respect to the property or its condition, and that County is not relying on any representations of the City or the City's agents with respect to the use or condition of the property. This License grants County the privilege and permission to use the Licensed Area in its present condition "as is" without any warranties and subject to the conditions set forth herein.

City shall have no liability to County or its Agents for bodily injury, personal injury, death, illness, disease, or property damage, of any character, sustained by either of them; and their respective activities on the Licensed Area shall be conducted at their sole risk, loss, cost and expense, and in compliance with all applicable federal, state, county and municipal laws, rules, ordinance and regulations.

5. RESONSIBILITIES OF COUNTY

- a. County shall be solely responsible for securing all permits legally required by any jurisdiction having such jurisdiction necessary for the prosecution of the Project, including but not limited to a City fill, Excavating and Grading Permit from the City Building Official.
- b. County agrees that it will, for the benefit of the City, enforce the provisions of its construction contract with its contractor attached hereto as Exhibit B and made a part hereof with regard to all work performed related to the Project and that City shall have the right rely on such enforcement.
- c. County agrees that it shall have access to the Licensed Area only from and across the northerly border of Lot 14 of the Licensed Area as described above and that it will install temporary fencing of a type and character approved by the City Director reasonably designed and located to discourage access to the Licensed Area by member of the general public during the term of this License.
- d. County shall be solely responsible for the security of all equipment, employees and the general public while County is using the Licensed Area.
- e. County agrees to maintain the Licensed Area in good condition at all times keeping it free of trash and other debris.
- f. County shall be responsible for the costs of all labor, service, equipment and materials used in the Project and shall not permit any lien or encumbrance upon the Licensed Area resulting from its activities on the Licensed Area. In the event there shall be any lien or encumbrance filed against the Licensed Area, County shall pay to the City the amount of the lien immediately upon demand.
- g. County shall ensure County's Agents shall keep the streets free from construction debris. Sediment, rock, mud and other debris from the Project shall be cleaned immediately.
- h. County agrees to comply with all City ordinances and other rules and regulations regarding permits and approvals related to use of the Licensed Area, as well as those of any other governmental entity having jurisdiction.
- i. Upon completion of the Project or termination of this License Agreement, County shall, at its expense restore the Property, to the City's satisfaction including grading and shaping the Licensed Area, placing of topsoil to an acceptable depth

and planting vegetation including native grasses and trees acceptable to the City to prevent erosion, all of which shall be subject to the approval of the City's Director which approval shall not be unreasonably withheld.

6. INSURANCE AND INDEMNIFICATION

- a. County agrees to defend, indemnify, and hold harmless the City and its officers, agents, servants, employees and contractors from any and all liability, cost and expense of any kind whatsoever, including legal fees and fees and expenses of persons providing technical expertise, arising in any way out of County's occupation of, use of, or operations on the Licensed Area, whether or not on a portion of the Licensed Area upon which the Use is conducted, and upon ten (10) days written notice from City, County will appear and defend any and all such parties. This paragraph shall survive termination of this Agreement.
- b. In addition to the generality of the foregoing above, County hereby agrees that for itself, its successors and assigns that it will indemnify and save the City of Duluth and their officers, agents, servants and employees and any person who controls the City within the meaning of the Securities Act of 1933 harmless from and against all liabilities, losses, damages, costs, expenses, including reasonable attorneys' fees and expenses, causes of action, suits, claims, demands and judgments arising out of any condition created in the Project or the Licensed Area after the date of the signing of this Agreement 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 or of 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 in the Project or the Licensed Area 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 Licensed Area and that indemnification granted hereby shall include all costs of clean-up, remediation, together with the costs incurred in proceedings before court of law or administrative agency including attorney's fees, expenses, the fees and expenses of persons providing technical expertise addressing such problems, including expert witnesses, the costs 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 such conditions existing in the Project or on the Property.
- c. Promptly after receipt by the City of notice of the commencement of any action with respect to which the other party is required to indemnify the party receiving such notice under this Article, such indemnitee shall notify the indemnitor in writing of the commencement thereof, and, subject to the provisions as hereinafter stated, the indemnitor shall assume the defense of such action, including the employment of counsel satisfactory to the indemnitee and the payment of expenses. In so far as such action shall relate to any alleged liability of the indemnitee with respect to which indemnity may be sought against the indemnitor, the indemnitee shall have the right to employ separate counsel in any such action and to participate in the defense thereof, and the fees and expenses of such separate counsel shall be at the expense of the indemnitor.
- d. County shall cause its contractor(s) who are responsible for utilizing the Licensed Area to procure and maintain continuously in force Public Liability Insurance and Automobile Liability Insurance written on an "occurrence" basis

under a Comprehensive General Liability Form in limits of not less than Two Million Dollars (\$2,000,000) aggregate per occurrence for personal bodily injury and death, and twice the limits provided when a claim arises out of the release or threatened release of a hazardous substance. If person limits are specified, they shall be for not less than Two Million Dollars (\$2,000,000) per person and be for the same coverages. The City shall be named as an additional insured therein. Insurance shall cover:

- i. Public Liability, including premises and operations coverage.
 - ii. Independent contractors – protective contingent liability.
 - iii. Personal injury.
 - iv. Owned, non-owned and hired vehicles.
 - v. Contractual liability covering the indemnity obligations set forth herein.
 - vi. Statutory limits of workers' compensation insurance coverage, motor vehicle liability insurance, and a minimum of \$1,000,000 (one million dollars) employer's liability insurance for the duration of this Agreement.
- e. County shall cause its contractor(s) to provide the City with a Certificate of Insurance evidencing such coverage. The City does not represent or guarantee that these types of limits of coverage are adequate to protect the County or its contractor(s) interests and liabilities. If a certificate of insurance is provided, the form of the certificate shall contain an unconditional requirement that the insurer notify the City without fail not less than 30 days prior to any cancellation, non-renewal or modification of the policy or coverages evidenced by said certificate and shall further provide that failure to give such notice to City will render any such change or changes in said policy or coverages ineffective as against the City. The use of an "Accord" form as a certificate of insurance shall be accompanied by two forms: 1) ISO Additional Insured Endorsement (CG-2010 pre-2004) and 2) Notice of Cancellation Endorsement (IL 7002) – or equivalent, as approved by the Duluth City Attorney's Office.

7. MISCELLANEOUS PROVISIONS

- a. All questions concerning the interpretation or application of provisions of this early access shall be decided according to the laws of the State of Minnesota. The appropriate venue and jurisdiction for any litigation hereunder shall be those courts located in St. Louis County, Minnesota. Any incurred legal costs or fees in any way arising out of the Project or this License shall be borne by County.
- b. Unless otherwise provided herein, notice to the City or County shall be sufficient if sent by regular United States mail, postage prepaid, addressed to the parties at the addresses hereinafter set forth or to such other respective persons or addresses as the parties may designate to each other in writing from time to time.

City of Duluth
Director of Public Works
411 W. 1st Street
Room _____, City Hall
Duluth, MN 55802

St. Louis County

Duluth, MN 5580_

- c. It is agreed by both parties that nothing herein contained is intended or should be construed in any manner as creating or establishing a relationship of co-partners between the parties hereto or of constituting County or any of its officers, agents, servants, employees or volunteers as an officer, agent, servant,

representative, employee or volunteer of the City for any purpose or in any manner whatsoever. County's officers, agents, servants, employees or volunteers shall not be considered as employees or volunteers of the City, and any and all claims which may or might arise under the Workers' Compensation Act of the State of Minnesota, and any claims whatsoever on behalf of said officers, agents, servants, employees or volunteers arising out of employment, including, without limitation, claims of discrimination, shall in no way be the responsibility of the City. County's officers, agents, servants, employees and volunteers shall not be entitled to any compensation or right or benefits from the City of any kind whatsoever, including but not limited to, vacation pay, Workers' Compensation, Unemployment Insurance, disability pay, severance pay, etc.

- d. County shall not discriminate in a manner prohibited by the laws of the United States, State of Minnesota, County of St. Louis, or City of Duluth in the use of the Licensed Area.
- e. Nothing in this Agreement is intended to or should be construed as a waiver by the City of any immunities, defenses or other limitations on liability to which the City is entitled by law, including, but not limited to, the liability limits under Minnesota Statutes Chapter 466.
- f. This Agreement, together with all of its paragraphs, terms and provisions is made in the State of Minnesota and shall be construed and interpreted in accordance with the laws of the State of Minnesota.
- g. By this agreement the parties do not create a principle/agent relationship. County shall not be deemed as acting as an agent of the City nor shall it be deemed as acting in an official capacity. County is a user of the Premises and shall not represent itself as an agent of the City.
- h. The waiver by the City or County of any breach of any term, covenant, or condition herein contained, shall not be deemed to be a waiver of any subsequent breach of same or any other term, covenant, or condition herein contained.
- i. The parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.
- j. This Agreement is to be construed and understood solely as an agreement between the parties hereto and shall not be deemed to create any rights in any other person. No person shall have the right to make claim that they are a third party beneficiary of this Agreement or of any of the terms and conditions hereof, which, as between the parties hereto, may be waived at any time by mutual agreement between the parties hereto.
- k. The parties represent to each other that the execution of this Agreement has been duly and fully authorized by their governing bodies or boards, that the officers of the parties who executed this Agreement on their behalf are fully authorized to do so, and that this Agreement when thus executed by said officers of said parties on their behalf will constitute and be the binding obligation and agreement of the parties in accordance with the terms and conditions hereof.
- l. This Agreement may be amended only by a written instrument signed by both parties. This Agreement may be executed in counterparts, each of which shall be deemed to be original and all of which together shall constitute the binding and enforceable agreement of the parties hereto. This Agreement may be

executed and delivered by a party by facsimile or PDF transmission, which transmission copy shall be considered an original and shall be binding and enforceable against such party.

- m. This Agreement, including any Exhibits, constitutes the entire agreement between parties and supersedes all prior written and oral agreements and negotiations between the parties relating to the subject matter.

CITY OF DULUTH

ST. LOUIS COUNTY

By: _____
Its Mayor

By _____

Attest:

Its _____

By: _____
City Clerk
Date:

Title of Representative
Date:

Countersigned:

City Auditor

Approved as to form:

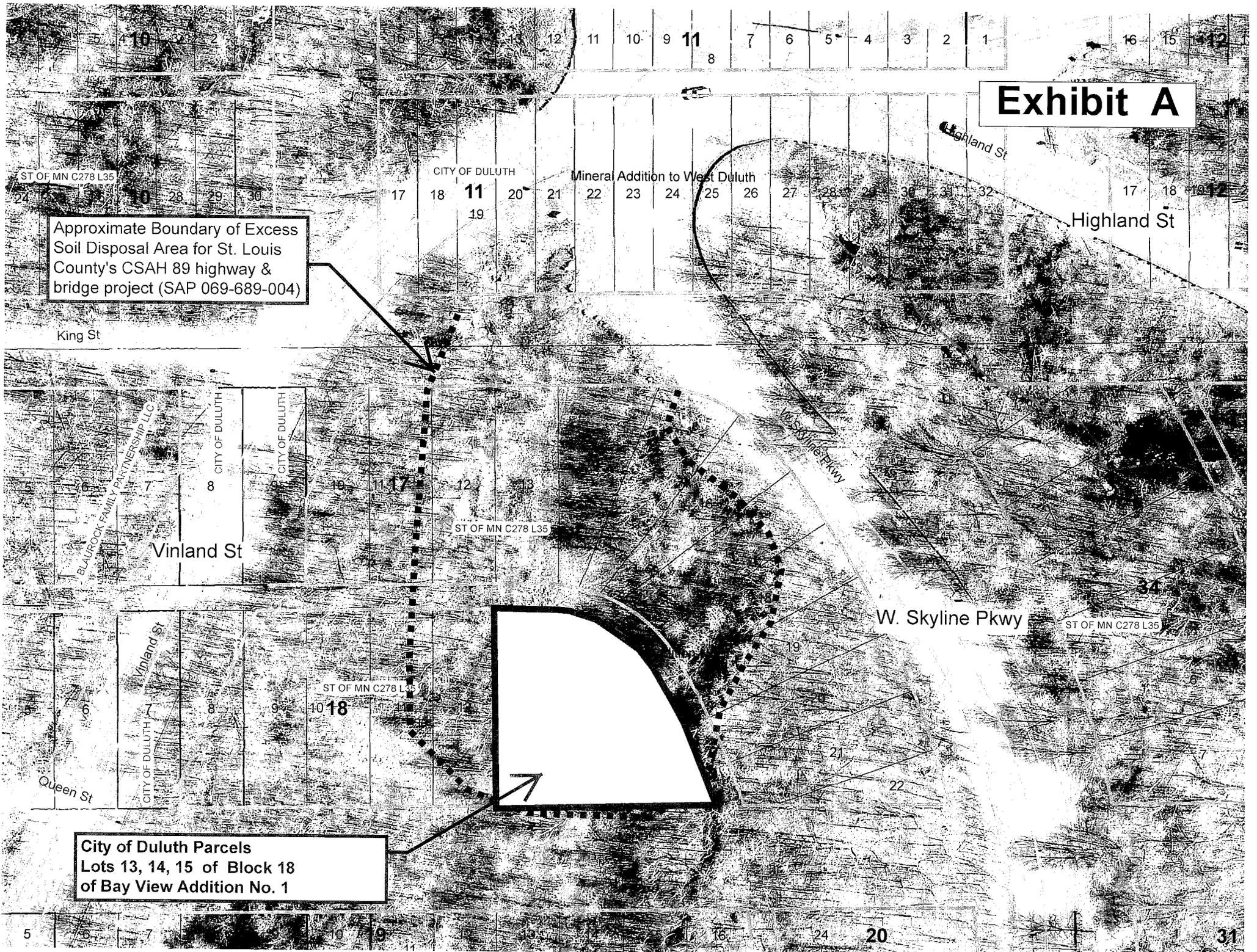
City Attorney

EXHIBIT A

Exhibit A

Approximate Boundary of Excess Soil Disposal Area for St. Louis County's CSAH 89 highway & bridge project (SAP 069-689-004)

City of Duluth Parcels
Lots 13, 14, 15 of Block 18
of Bay View Addition No. 1



- S-17.3 A permit to appropriate or transport any amount of infested water is required to take and transport water from a designated infested water, even if the amount of water to be taken is less than the amount that triggers a water use permit.
- S-17.4 Contractor is solely responsible to determine if water to be used for construction activity is from a designated infested water. Contractor shall consult the most recent DNR-issued Designation of Infested Waters.

S-18 (1701) LAWS TO BE OBSERVED (ON-RIGHT OF WAY CONSTRUCTION ACTIVITIES)

The provisions of MnDOT 1701 are modified and/or supplemented with the following:

- S-18.1 Any environmentally sensitive areas, including wetlands, shown in the Plan are approximate only. If it is anticipated that said areas may be affected by any of the Contractor's operations, the Engineer will determine exact limits on an "as needed basis."

S-19 (1701) LAWS TO BE OBSERVED (OFF-RIGHT OF WAY DISPOSAL AND/OR BORROW SITES)

The provisions of MnDOT 1701 are modified and/or supplemented with the following:

- S-19.1 All debris, concrete items, sewer and utility pipes not designated for salvage, and other unsuitable items, shall become the property of the Contractor and shall be disposed of off the Right-of-Way in accordance with MnDOT 2104.3C. These items shall not be disposed of within the roadbed and shall be removed from the project and recycled or disposed of at a MPCA approved site. The Contractor shall furnish a copy of the MPCA disposal permit to the Engineer.
- S-19.2 The Contractor will not be permitted to deposit any material in contaminated areas listed on the EPA Superfund List, or in any other areas known to contain contaminated materials. The Contractor shall provide the Engineer with documentation which shows the area is not on the EPA Superfund list.
- S-19.3 When Contractor operations involve borrow sites and/or disposal of material off County Right of Way, the Contractor shall secure all necessary permits for the sites. The approval and/or permits from all applicable local, state, and federal agencies shall be included in the Contractor's Disposal and Borrow Site Plan. The Contractor shall be responsible for all expenses related to the Disposal and/or Borrow site. No monetary claims or contract extensions due to delays or loss of time for off-site construction activity will be allowed.

Prior to the disposal of any excess grading materials, concrete rubble, bituminous materials, or any other materials requiring disposal, the Contractor shall have on file a written Disposal and Borrow Site Plan with written approval by the Engineer. The

written Disposal and Borrow Site Plan must reflect not only the above requirements, but also the following points for areas off St. Louis County Right-of-Way:

- A) Legal permission from the property owner has been obtained;
- B) All required local and county disposal permits have been obtained;
- C) The MPCA has reviewed and granted permits as necessary for solid waste disposal and/or Construction Stormwater NPDES Permit;
- D) The sites meet the requirements of the U.S. Fish and Wildlife Service as noted in Executive Order 11990 and Circular 39, and Section 404 of the Clean Water Act, as verified by field review;
- E) The limits of the borrow and/or disposal areas will be staked by the Contractor so as to accommodate a site review and aid the Contractor in limiting disposal operations so that encroachments do not inadvertently occur.

S-19.4 Permits and/or approvals are necessary for disposal or borrow activities in the areas defined below as "environmentally sensitive:"

- A) Wetlands, as described in "Wetlands of the United States," Circular 39, published by the U.S. Department of Interior, Fish and Wildlife Service, and Waters of the US pursuant to Section 404 of the Clean Water Act;
- B) 100-year frequency flood plains;
- C) Archaeological or historic sites; See 1701 (LAWS TO BE OBSERVED (CULTURAL RESOURCES)) for specific requirements;
- D) Areas with stability or settlement problems;
- E) Areas with artesian conditions;
- F) Unique animal or plant communities;
- G) Landscapes or geologic formations with exemplary, unique, rare or threatened/endangered characteristics.

S-19.5 St. Louis County Zoning Ordinance #46, Article 6, Section 26 sets forth performance standards for borrow pits. St. Louis County Borrow Pit Standards, or applicable local Borrow Pit Standards, shall apply on gravel pit areas opened specifically for the project.

S-19.6 No direct compensation will be paid for the preparation of an acceptable Disposal and Borrow Site Plan or for review of off-Right of Way borrow and/or disposal sites. The Contractor shall be solely responsible to secure professional services as necessary in regard to review and documentation of the "environmentally sensitive" areas listed above.

S-19.7 The Contractor is required to present the Disposal and Borrow Site Plan in detail at the Pre-construction Conference.

S-19.8 When Contractor operations involve borrow sites and/or disposal of material off County Right of Way, the Contractor is advised of the following:

MN Statutes Sections 103G.2212 and 103G.241 stipulate that an agent or employee

of another may not:

- 1) drain, excavate, or fill a wetland, wholly or partially; or
 - 2) construct, reconstruct, remove, or make any change in any reservoir, dam, or the course, current, or cross-section of any public water;
- unless the agent or employee has obtained a signed statement from the property owner stating that any permit or wetland replacement plan required for the work has been obtained, or that a permit or replacement plan is not required; AND this statement is mailed to the appropriate office with jurisdiction over the wetland or public water prior to initiating the work.

The "Landowner Statement and Contractor Responsibility For Work in Wetlands or Public Waters" can be found at:

http://www.bwsr.state.mn.us/wetlands/forms/Contractor_Responsibility.doc. The Contractor shall provide the Engineer with a copy of the completed "Landowner Statement and Contractor Responsibility for Work in Wetlands or Public Waters" for the excavation and/or disposal site prior to initiating the work.

S-20 (1701) LAWS TO BE OBSERVED (CULTURAL RESOURCES)

The provisions of MnDOT 1701 are modified and/or supplemented with the following:

- S-20.1 The County shall comply with all applicable cultural and historical laws and provisions for borrow and/or disposal sites and work within the Right of Way.
- S-20.2 If the Contractor operations require the excavation and disposal of material off Right of Way, the Contractor is advised of the following for non-Federally-funded projects:

The US Army Corps of Engineers (USACE) or Minnesota State Historical Preservation Office (SHPO) will review the proposed excavation/disposal area to determine the effect to historic properties. The USACE or SHPO will obtain Minnesota Historical Society (MHS) comment under the Minnesota Historic Sites Act only when there is a potential to affect historic properties listed in the State or National Registers of Historic Places or to consult with MHS and the Office of the State Archaeologist (OSA) under the Field Archaeology Act of Minnesota when the project has the potential to affect known or suspected archaeological sites or the Minnesota Private Cemeteries Act when human burials are an issue. The Contractor must request a review from the USACE or SHPO, at Contractor's expense, before any material taken from the area can be used on the project or any disposal can be made in the area. Typically, this review may take 15 calendar days after receipt of the request. However, in some cases the review period may be longer. Any time delays are the responsibility of the Contractor and are not a basis for claim for damages due to delay of Contract.

(A) Required reviews may be obtained by contacting USACE or SHPO at:
U.S. Army Corps of Engineers
St. Paul District

Chapter 4725, "Wells and Borings," during the work to prevent surface drainage from entering the opening. Cut and remove casing in the well or boring to the elevation as shown on the plans or as directed by the Engineer after sealing. Submit one copy of the sealing record to the Minnesota Department of Health and one copy to the Engineer within 30 calendar days after sealing a well or boring.

C.6 Miscellaneous Items

When removing railroad tracks, remove rails, ties, paving, crossings, track encasements, and other appurtenances.

D Disposal of Materials and Debris

D.1 Disposal Plan

Provide the Engineer with information and documentation substantiating proper disposal arrangements and operations. The Department will not pay for removal before acceptance of the initial disposal plan or, if required, a modified disposal plan.

D.2 Disposal within Right-of-Way

Do not dispose material or debris within the right-of-way, except for wood ashes.

The Contractor may burn untreated wood within the right-of-way, after obtaining the required burning permits. Conduct burning operations under the constant care of a competent caretaker in accordance with 1506.2, "Competent Individual," and in accordance with the requirements of the permit.

The Contractor may incorporate the ashes from a burning operation into the soil on the proposed backslope or dispose off the right-of-way.

D.3 Disposal outside Right-of-Way

Dispose of materials and debris, resulting from removal or demolition operations having no specific disposal provisions, outside the right-of-way.

Assume full responsibility for acceptable disposition of the material and for damages resulting from the disposal operations.

The Engineer may not give final acceptance of the work:

- (1) Unless disposal is made at a publicly controlled dumping site, or
- (2) Until the disposal areas are in acceptable condition with respect to the Contractor's obligations.

E Backfilling Depressions

Backfill depressions with material in accordance with 2105, "Excavation and Embankment."

2104.4 METHOD OF MEASUREMENT

A Area

The Engineer will measure pavements, sidewalks, surfacing, and other uniform thickness items by area without specifying the thickness.

The Engineer will classify pavement removal by kind of paving material when the material is comprised entirely of portland cement concrete (remove concrete pavement) or entirely of bituminous-aggregate mixtures (remove bituminous pavement). If the pavement is comprised of a combination of different paving materials, such as a concrete base or pavement overlaid with bituminous surfacing, the Engineer will measure the removal of the entire structure as the unclassified item of "remove pavement." Regardless of classification, the Engineer will include the removal of integrant curb removed as a part of pavement removal.

The Engineer will separately measure the removal of pavement as part of the excavation of trenches for installation of drainage structures or utility items as the pay item for remove trench pavement. Remove trench pavement will include the removal of paving courses including unclassified materials.

A.10 Organic Soils

Organic soils contain ≥ 5 percent organic content.

2105.2 MATERIALS**A Excavation Material**

The Engineer will classify the excavation using the following categories:

A.1 Common Excavation

Material not classified in any other category.

A.2 Subgrade Excavation

All excavation in the road core below the grading grade, exclusive of rock, muck, channel or rock channel excavation.

A.3 Rock Excavation

Material that requires drilling, blasting or ripping before excavation. This includes boulders and other detached rock larger than 1 cu. yd. [1 cu. m.].

A.4 Muck Excavation

The removal of organic soils as defined in 2105.1.A.10, "Organic Soils," and other unstable soils as designated by the plan, and below the natural ground level of marshes, swamps, or bogs, regardless of the moisture content. Muck excavation is limited to areas over which the roadway embankment or a structure is to be constructed.

A.5 Channel and Pond Excavation

Material from channel changes, waterways, and ponds outside of the roadway embankment not classified as rock channel excavation.

A.6 Rock Channel Excavation

Material classified as rock excavation from channel changes and waterways outside of the roadway embankment.

A.7 Blank**B Borrow Material**

Provide borrow meeting the specifications in Table 2105-1.

Table 2105-1 Borrow Specifications	
Material	Specification
Common Borrow	2105.1A6, "Select Grading Material"
Granular Borrow	3149.2B1, "Granular Material"
Select Granular Borrow	3149.2B2, "Select Granular Material"
Topsoil Borrow	3877, "Topsoil Material"

Materials obtained by the Contractor from sources outside the roadway, must comply with 1601, "Source of Supply and Quality," and 1602, "Natural Material Sources."

Excess materials from within the excavation limits shown on the plans that meet the specified requirements can be used by the Contractor for borrow items shown on the plans. These excess materials must comply with 1405, "Use of Materials Found on the Project."

Select crushing, aggregate quality and bitumen samples using the random sampling method in the Grading and Base manual. Select gradation samples from locations that are at risk of not meeting the specification requirements.

G.2 Compaction Testing

Test for Compaction using either:

- Penetration Index (PI) Method, or
- Specified Density Method, or
- Quality Compaction Method. (Verify by observation that each lift shows no further evidence of consolidation during compaction or under traffic).

Use the Specified Density method for acceptance for materials not meeting the requirements of 2105.1A7, "Granular Materials".

Use the granular penetration index method for materials meeting the requirements of 2105.1A7, "Granular Materials".

Test for compaction in areas with the greatest rutting or deflection, and near structures.

Correct any area represented by a failing test. Perform additional tests in areas with the greatest rutting or deflection.

Use the Specified Density Method for virgin materials only.

H Finishing Operations

Shape and maintain the roadway core to the required grade and cross section and within the tolerance in accordance with 2112.3.E, "Tolerances" until the next layer is placed.

Perform earthwork finishing and topsoil placement operations concurrently to allow timely completion of erosion control items. Shape and maintain disturbed areas outside the road core to final grade prior to placing erosion control. Scarify the surface to a minimum depth of 3 in [75 mm] before placing topsoil. Complete soil preparation, erosion control and turf establishment, as required by 2574, "Soil Preparation", and 2575, "Establishing Turf and Controlling Erosion".

I Disposition of Excavated Material

All surplus materials become the property of the Contractor. Dispose of these materials in accordance with a disposal plan approved by the Engineer. The disposal plan must comply with all applicable environmental regulations, permit requirements and 2104, "Removing Pavement and Miscellaneous Structures". Disposal of materials before acceptance of the disposal plan is unauthorized work in accordance with 1512, "Unacceptable and Unauthorized Work".

2105.4 METHOD OF MEASUREMENT

A Excavation Material

The Engineer will measure and calculate excavated material quantities according to 1901, "Measurement of Quantities".

The Engineer will investigate disputed quantities and may adjust quantities based on excavation and embankment measurements taken during construction and after completion, in accordance with 1901, "Measurement of Quantities".

Quantities are limited to measurements within specified construction limits and variances authorized by the Engineer.

The Engineer will measure excavated quantities by excavated volume (EV).