

## **Special School Board Meeting**

Friday, May 5, 2023 12:00 PM

LS-H MS/HS Media Center, 901 Ferry St., Le Sueur, MN 56058

1. **CALL TO ORDER**

2. **PLEDGE OF ALLEGIANCE**

3. **APPROVAL OF AGENDA**

4. **NEW BUSINESS**

4.1. Approve the LSH Developer's Agreement for the  
City of Le Sueur.

5. **ADJOURN**

RESERVED FOR RECORDING INFORMATION

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LE SUEUR - HENDERSON PUBLIC SCHOOLS ELEMENTARY SCHOOL ADDITION  
DEVELOPMENT AGREEMENT

THIS AGREEMENT, made this \_\_\_\_ day of \_\_\_\_\_, 2023, by and between Le Sueur-Henderson Public School District, organized as Independent School District No. 2397 under the laws of the State of Minnesota, (hereinafter referred to as “Developer”), and the City of Le Sueur, Minnesota, a Minnesota municipal corporation, (hereinafter referred to as “City”):

RECITALS:

A. Developer is the fee owner of a parcel of real property located in the City of Le Sueur, Le Sueur County, Minnesota, identified as Parcel Identification No. 21.999.0040, which contains approximately 10.95 acres and is legally described on Exhibit A, (the “Property”); and

B. Developer is proposing to develop the Property as a Planned Unit Development (“PUD”) consisting of a campus of public educational facilities, including the Le Sueur-Henderson High School, Middle School related athletic and other facilities, and a new elementary school; and

C. The parties hereto wish to provide for the orderly use and development of the Property including the installation of public and private infrastructure to serve the Property.

## AGREEMENT

NOW, THEREFORE, it is hereby agreed by and between the undersigned as follows:

1. Definitions.

In this Agreement, unless a different meaning clearly appears from the context, the following terms, when capitalized, shall have the meaning set forth in this Paragraph 1:

“Agreement” means this Agreement, as the same may be from time to time modified, amended, or supplemented.

“City” means the City of Le Sueur, Minnesota.

“City Code” means the City Code of Ordinances for the City of Le Sueur, Minnesota.

“Developer” means Le Sueur-Henderson Public School District, organized as Independent School District No. 2397 under the laws of the State of Minnesota.

“Property” means the Developer-owned real property located in the City of Le Sueur, Le Sueur County, Minnesota, identified as Parcel Identification No. 21.999.0040, which contains approximately 10.95 acres and is legally described on Exhibit A.

“PUD” means a Planned Unit Development pursuant to Section 153.027 of the City Code.

“Project” means the further development of the Property as a PUD consisting of a campus of public educational facilities, including the Le Sueur-Henderson High School, Middle School related athletic and other facilities, and a new elementary school to be constructed generally on the eastern side of the Property as part of the Project, all according to the Project Plans.

“Project Plans” means the plans and specifications identified in Paragraph 3 below.

“Public Improvements” means the removal of the City’s existing sanitary sewer main and water main located within an easement that crosses the southeastern portion of the Property at a diagonal angle, and installation of a new sanitary sewer main and water main within the easement shown on Exhibit B hereto in accordance with City

standard specifications and as approved by the City Engineer or his/her designee, and other public improvements as shown on the Project Plans such as, boulevard trees, surface and subsurface storm water collection, detention, storage and drainage systems designed and constructed in accordance with local, state and NPDES regulations to collect, detain, store and dispose of storm water from the Property and adjacent rights-of-way.

“State” means the State of Minnesota.

2. Easements and Vacations.

- (a) City shall, by reason of this Agreement, have a temporary easement over, upon and under the Property to enter into and upon the same for the observation and inspection of Developer’s construction and installation of Public Improvements. Such easement shall cease upon the completion of construction of all Public Improvements pursuant to this Agreement.
- (b) Prior to the City’s issuance of a Land Use/Grading permit, Developer shall provide to the City the below described permanent easements by executing permanent easement agreements in a form substantially consistent with the draft easement agreements attached hereto **Exhibits B through F**, as applicable:
  - i. a permanent utility easement 45 feet in width over, under and across that portion of the Property as depicted on the draft permanent easement agreement attached hereto as **Exhibit B** and incorporated herein by reference, within which easement area the new sanitary sewer main and water main will be installed as part of the Public Improvements.
  - ii. a permanent utility easement ten feet in width immediately north of and running parallel to the western right-of-way boundary of Kingsway Drive as depicted on the permanent easement agreement attached hereto as **Exhibit C** and incorporated herein by reference, within which easement area underground electric lines and associated utility facilities will be installed and/or maintained.
  - iii. a permanent utility easement 33 feet in width immediately north of and running parallel to the northern right-of-way boundary of Ferry Street as depicted on the draft permanent easement agreement attached hereto as **Exhibit D** and incorporated herein by reference,

within which easement area underground electric lines and associated utility facilities will be installed and/or maintained.

- iv. a permanent easement 15 feet in width for public safety and utility purposes running immediately north of and parallel to approximately the eastern most 303 feet of the permanent easement described in subparagraph iii. above, as depicted on the draft permanent easement agreement attached hereto as **Exhibit E** and incorporated herein by reference, within which the City's existing emergency siren is located and will be continued to be operated and maintained.
  - v. a permanent easement for ingress, egress and utility purposes over, under and across that portion of the Property as depicted on the draft permanent easement agreement attached hereto as **Exhibit F** and incorporated herein by reference, in order to facilitate Le Sueur Electric Utility's instillation of electric utility facilities convenient or necessary to provide electric service to the proposed new development on the Property. Developer shall be responsible for all electric charges imposed by Le Sueur Municipal Utilities for electricity provided to the Property.
- (c) Except for fences, no fixed structures shall be placed within or upon any easement area upon the Property.
  - (d) The City shall be entitled to access and enter into and upon each easement area on the Property at such times and for such purposes as the City deems necessary and appropriate. The City shall also be entitled to make such improvements, modifications and alterations within the easement areas as are deemed by the City to be necessary and appropriate. The City may remove any items as may be required for such improvements, modifications, and alterations within the permanent easement areas, and shall not be responsible for its replacement. City shall otherwise restore the soil and any grass to its condition prior to the commencement of such work.
  - (e) Following the completion of the Public Improvements and acceptance thereof by the City pursuant to Paragraph 7 below, the City shall initiate any proceedings necessary to vacate the following existing utility easements:
    - i. that certain easement memorialized in an agreement between the parties dated March 17, 1975 and recorded in Book 169 of Deeds on

Page 600, Document Number 161369 in the Office of the Registrar of Deeds of the County of Le Sueur, Minnesota, within which the existing sanitary sewer main and water main is located.

- ii. that certain permanent electrical utility easement memorialized in that certain easement agreement dated March 18, 1976 and recorded as Document No. 164656 in the Office of the Registrar of Deeds of the County of Le Sueur, Minnesota, within which the existing electric service facilities are located.

### 3. Project Plans.

The Property shall be developed in accordance with the following plans where applicable. The plans shall not be attached to this Agreement. If the plans vary from the written terms of this Agreement, the written terms of this Agreement shall control. The plans are:

- (a) Plan A – Site Plan (required as part of PUD approval);
- (b) Plan B – Stormwater Management Plan / SWPPP
- (c) Plan C – Civil Plans (including grading, utility plans and traffic control plan)
- (d) Plan D – Final Construction Plans and Specifications for Public Improvements
- (e) Plan E – Landscape Plan (required as part of PUD approval)
- (f) Plan F – Building Plans
- (g) Plan G – Photometric Plan

The foregoing plans and specifications shall be prepared by a competent registered professional engineer, licensed in the State of Minnesota, that has been engaged by the Developer and shall be subject to the City's review and approval. The Public Improvements shall be installed in accordance with the City approved plans for such improvements and the policies, rules, regulations, standards and ordinances of the City. No work shall commence on the Project or the Project Improvements until the Developer obtains a building permit for the Project Improvements, and pays all costs and fees required in connection with the procurement of the building permit.

#### 4. Permits and Approvals.

- (a) Planned Unit Development. The Property must be approved as a PUD pursuant to City Code Section 153.027. Such approval may be given in accordance with the procedures applicable to conditional use permits pursuant to City Code Section 153.027 (H).
- (b) Grading Permit. The Developer shall obtain or require its contractors or subcontractors to obtain a grading permit for the Project before commencing work to grade or otherwise disturb the earth, remove trees, construct sewer lines, water lines, streets, utilities, public or private improvements, or any buildings within the Property pursuant to City Code Section 153.027 (D)(3)(f).
- (c) Other approvals. The Developer shall obtain or require its contractors and subcontractors to obtain all necessary and required permits for the Project from the Minnesota Pollution Control Agency (MPCA), Minnesota Department of Health (MDH), and all other agencies and governmental authorities with jurisdiction over the Project before proceeding with construction of the Project. Copies of these permits shall be provided to the City Engineer, and may include but are not limited to the following:
  - MPCA Construction Stormwater Permit
  - Wetlands permits as applicable
  - DNR for Dewatering as applicable
  - Minnesota Dept. of Labor and Industry (“DOLI”) for Building and Plumbing Permits
  - Other permits as applicable

The Developer or its engineer shall schedule a pre-construction meeting for the Project Improvements with all the parties concerned, including City staff, to review the program for the construction work.

#### 5. Development of the Property.

- (a) Right to Proceed; Conditions Precedent. Unless separate written approval has been given by the City, within the Property, the Developer may not grade or otherwise disturb the earth, remove trees, construct sewer lines, water lines, streets, utilities, public or private improvements, or any buildings within the Property until all of the following conditions have been satisfied:

- i. This Agreement has been fully executed by both parties and filed with the City Clerk. This Agreement shall be recorded by the City at the Developer's Cost within 15 days following execution hereof;
  - ii. If the City requires security pursuant to Paragraph 9 below, the same has been received by the City;
  - iii. The Project has been approved as a Planned Unit Development pursuant to the procedures applicable to conditional use permits pursuant to City Code Section 153.027 (H).
  - iv. The site plan for the project on the Property has been approved by the Planning Department and the plans and specifications for the Public Improvements related thereto have been approved and signed by the City Engineer with such conditions as required by the City Code;
  - v. The Project Plans as required by the City have been approved and signed by the Planning Department, City Engineer and Le Sueur Electric Utility, as applicable;
  - vi. A grading permit has been issued by the Zoning Administrator pursuant to City Code Section 153.027 (D)(3)(f);
  - vii. A certificate of public liability and property damage insurance as described in this Agreement has been filed with the City Clerk; and
  - viii. The Zoning Administrator has notified Developer that all conditions have been satisfied and that the Developer may proceed.
- (b) Developer shall construct the Project Improvements, at its sole cost and expense and subject to the terms and conditions contained herein, in compliance with City-approved Project Plans prepared in accordance with all policies, rules, regulations, standards, specifications and ordinances of the City and as summarized below:
- i. Surface Water Facilities (pipe, ponds, rain gardens, and similar improvements);
  - ii. Grading, Drainage and Erosion Control;
  - iii. Utilities (gas, electric, cable, telephone, etc.);

- iv. Soil Correction;
  - v. Landscaping Required by the City Code as part of the PUD approval;
  - vi. Lighting Equipment, Facilities and Photometrics;
  - vii. Parking Improvements;
  - viii. Surveying and Monuments Required by Minnesota Statutes;
  - ix. A new elementary school addition to Developer's existing educational campus and associated parking, lighting, utility improvements, and stormwater management facilities;
  - x. Miscellaneous facilities or other elements defined by the guiding documents.
- (c) The Project Improvements shall be constructed and installed in accordance with the latest versions in place at the time of this Agreement of the City Code, zoning ordinance and subdivision regulations, and City standards and policies, as applicable.
- (d) The Developer shall be solely responsible for the costs of constructing the required Project Improvements. The costs of constructing the Project Improvements shall include the actual construction costs, the actual engineering, administration and any legal costs related thereto, and all other costs relating to the construction of the Project Improvements. The engineering, administration and legal costs shall include the actual outside construction engineering assistance costs and the legal costs.

6. Site, Grading, Utility Plan and Implementation.

- (a) The Developer shall furnish the City Engineer with satisfactory construction plans after completion of construction. No grading permit for the Property will be issued until all elements of such Civil Plans necessary to accommodate or permit the improvement of such property has been performed on the Property and completed to the City's satisfaction. The Developer shall be responsible for all costs associated with preparing and implementing the Civil Plans.

- (b) Prior to initiating site grading, the erosion and sediment control measures included in the SWPPP shall be implemented by the Developer and inspected and approved by the City Engineer. Site inspections to ensure compliance with the SWPPP shall be conducted by the Developer or its designee on a weekly basis, at a minimum, per MPCA requirements. The City Engineer or his/her designee will perform periodic site inspections pursuant to City Storm Water Permit requirements. Erosion and sediment control practices must comply with the Minnesota Pollution Control Agency's (MPCA) Best Management Practices and applicable MPCA NPDES permit requirements for construction activities and the Developer's SWPPP. The City may impose additional erosion and sediment control requirements if they would be beneficial in the City's reasonable judgment. The parties recognize that time is of the essence in controlling erosion. If the Developer does not comply with the erosion control measures in the SWPPP or supplementary instructions received from the City Engineer, the City may take such action as it deems appropriate to control erosion. The City will endeavor to notify the Developer in advance of any proposed action, but failure of the City to do so will not affect the Developer's and City's rights or obligations hereunder. The Developer shall be responsible for the costs incurred by the City in conducting such work. No development will be allowed and no grading permits will be issued unless the Project plans for the Property, as applicable, are in full compliance with the erosion control measures in the approved SWPPP.
- (c) The Developer shall secure all rights and easements necessary or appropriate for the drainage of storm water from the Property to public waterways.
- (d) The Developer is responsible for the cost of installing all private utilities of any nature or kind whatsoever such as gas, electric, phone, cable, etc. The Developer shall contact the utility companies to coordinate the installation of the utilities. All utilities shall be installed underground. The City Engineer must approve of the final location for all private utilities. Joint trenching of the utilities is strongly encouraged. All utilities must be located in public rights-of-way or within drainage and utility easements.

#### 7. Public Improvements.

The Developer shall construct and install the Public Improvements as shown on the final Project Plans, subject to the following requirements:

- (a) The Public Improvements shall be constructed and installed in accordance with the latest versions in place at the time of this Agreement of the City Code, zoning ordinance and subdivision regulations, City standard specifications for utilities and street construction, and the City's engineering guidelines and standard detail plates, as applicable. The Developer shall submit plans and specifications that have been prepared by a registered professional engineer licensed in the State of Minnesota to the City for approval by the City Engineer. The Developer shall provide field inspection and soil testing personnel from a qualified engineering firm, under the direct supervision of a professional engineer in the State of Minnesota. The Developer shall provide inspection services for the Public Improvements at their expense, to assure an acceptable level of quality control for the construction of all Public Improvements and certify that the construction work meets the City's requirements, specifications, standards and approved plans. In addition, the Developer's engineer will be required to certify that the construction work meets the approved City requirements, specifications, and standards as a condition of City acceptance and provide record drawings for all Public Improvements. The Developer, its contractors and subcontractors, shall follow all instructions received from the inspectors and engineers to the extent applicable to comply with the approved plans and specifications, or applicable City Code or statutes for which the inspectors have jurisdiction. The Developer's engineer shall provide for on-site project management. The Developer's engineer is responsible for design changes and contract administration between the Developer and the Developer's contractor. As required by the City, the Developer or its engineer shall schedule a pre-construction meeting at a mutually agreeable time at City Hall, or another location acceptable to the City, with all parties concerned, including City staff, to review the program for the construction work.
- (b) Upon final approval by the City of the installation of the Public Improvements installed by Developer and, except as otherwise noted herein, all such Public Improvements shall become the property of the City.
- (c) All labor and work shall be done and performed in the best and most workmanlike manner and in strict conformance with the approved plans and specifications. No deviations from the approved plans and specifications will be permitted unless approved in writing by the City Engineer, which approval shall not be unreasonably withheld. The Developer agrees to furnish to the City a list of contractors being

considered for retention by the Developer for the performance of the work required by this Agreement. If applicable, the contractor(s) shall have experience in the installation of municipal water and sanitary services and mains; shall demonstrate the successful completion of at least three such installations and municipal acceptance thereof; and shall be able to obtain the requisite performance and payment bonds for the purchase and installation of the minimum Public Improvements required hereby. The Developer shall not do any work or furnish any materials not covered by the plans and specifications and special conditions of this Agreement, for which reimbursement is expected from the City, unless such work is first ordered in writing by the City Engineer as provided in the plans and specifications.

- (d) The Developer shall replace or repair any damage or destruction to any property or improvements located on City land or in City streets, boulevards and rights-of-way, or adjacent private property not owned by Developer, caused by Developer, or its contractors and subcontractors, during the construction of the required Public Improvements and the Project. Any contaminated soils encountered during the construction of the Public Improvements and development on the Property shall be addressed as set forth in a Response Action Plan to be approved by the MPCA or other applicable agency having jurisdiction.
- (e) The Developer shall be solely responsible for the costs of constructing the required Public Improvements, including the actual construction costs, the actual engineering costs, administration and any legal costs related thereto, and all other costs relating to the construction of the Public Improvements.
- (f) Upon completion of the work and construction required by this Agreement and acceptance of Public Improvements by the City, the Public Improvements shall become City property without further notice or action upon completion and City acceptance thereof unless noted otherwise within this Agreement. Prior to acceptance of the Public Improvements by the City, the Developer must furnish the following affidavits certifying that all construction has been completed in accordance with the terms of this Agreement:
  - Contractor's Certificate;
  - Engineer's Certificate;
  - Land Surveyor's Certificate; and
  - Developer's Certificate;

The requisite forms will be furnished by the City of Le Sueur and are examples are attached hereto as **Exhibit G**. Upon receipt of the required affidavits, the City Engineer will accept the completed Public Improvements. Within thirty (30) days after the completion of the Public Improvements, the Developer shall supply the City with a complete set of reproducible "record" plans, an electronic file of the "record" plans in a format acceptable to the City Engineer (e.g., AutoCAD format, DWG or a .DXF file), and one complete set of hard copy "record" plans, all prepared in accordance with City standards. Upon receipt of these documents, and the warranty documents specified in this Agreement, the City Engineer will certify acceptance of the completed Public Improvements.

(g) If this Agreement is terminated for any reason the City shall have no obligation to construct the Project Improvements or Public Improvements.

8. City Engineering Administration and Construction Observation. Prior to the City's issuance of a Grading permit, the Developer shall deposit into escrow with the City \$10,000 to cover the actual expenses incurred by the City for in-house engineering administration for the Public Improvements. City engineering administration will include monitoring of construction observation, consultation with Developer and the Developer's engineer on status or problems regarding the Public Improvements, coordination for final inspection and acceptance of the Public Improvements, Public Improvements monitoring during the warranty period, and processing of requests for reduction in security, if applicable. The Developer's escrow payment may also be used by the City to compensate the City for its actual expenses incurred for construction observation performed by the City's in-house engineering staff or consulting engineer. If the City's costs exceed the deposit, the Developer agrees to reimburse the City within 30 days of billing. Should the costs be less than the amount of the deposit, upon completion of the Developer Improvements, the amount of the remaining deposit shall be returned to the Developer. No construction of the Developer Improvements will be authorized until the construction observation fees have been paid to the City.

9. Security.

(a) As a precondition to Developer installing any portion of the Public Improvements, the City may require that Developer supply to the City adequate proof and guarantees that Developer has adequate financial

resources to complete the proposed portion of the Public Improvements to be installed by Developer. The City may also require that the Developer provide the City with security deemed adequate by the City to complete the Public Improvements in the event that Developer fails to do so as and when proposed by the Developer.

- (b) During the installation of any Public Improvements by Developer, Developer shall employ the services of a licensed professional engineer to oversee and supervise the inspection of the installation of the Public Improvements to ensure that the same are installed in accordance with industry standards and the plans approved by the City. Such engineer shall report weekly to the City Engineer on the progress and performance of such improvements and shall, upon completion of the installation of such improvements, certify to the City in such form as the City deems appropriate, that such improvements have been fully and completely installed in accordance with the City approved plans and are fully functional for their intended use. The Developer shall also provide to the City a full set of as-built plans, transmitted electronically, within ninety (90) days after City acceptance of the Public Improvements, signed by a licensed engineer. The electronic files shall be in an AutoCAD 2016 or newer and PDF format.
- (c) During installation of, and upon completion of Developer's installation of any Public Improvements, the City shall be entitled to inspect the same to ensure that such Public Improvements are made in accordance with the plans and specifications approved by the City. To the extent that such improvements are deemed by the City to be deficient in any manner, Developer shall promptly and completely rectify all such deficiencies to the satisfaction of the City.

#### 10. Warranty.

The Developer warrants all Public Improvements required to be constructed by it pursuant to this Agreement against poor material and faulty workmanship. The warranty period for streets and utilities is two (2) years and shall commence following completion and final written acceptance of the work by the City Engineer. The required warranty period for sod, trees, and landscaping is two growing seasons following installation. The Developer shall post a security in the form of either a) a warranty/ maintenance bond for 100% of the cost of the Public Improvements, or b) a letter of credit or cash escrow for 25% of the amount of the original cost of the Public Improvements as warranty for the Improvements prior to the City authorizing the commencement of work on the Public Improvements and Project Improvements specified in this Agreement. The retainage

from the Project securities identified in this Agreement, if applicable, may also be used to pay for warranty work. The City standard specifications for utilities and street construction identify the procedures for final acceptance of streets and utilities.

11. Additional Development Charges.

- (a) Developer shall pay to the Le Sueur Electric Utility its then current charges for its installation of any utility system to serve the Property within 30 days after receiving the City's invoice for such installation.
- (b) The owner of the Property shall be responsible for all costs associated with the repair or replacement of any of the Public Improvements damaged during the development of such Property. Upon notice of such damage, based upon the City's determination of damage to such Public Improvements, the owner shall cause such repairs to be made within six months of such notice. To the extent that such repairs are not made as and when required hereby, the City may cause the same to be repaired or replaced and the entire cost thereof will be assessed against the Property.
- (c) In addition to the charges and special assessments referred to herein, other charges and special assessments may be imposed such as but not limited to sewer availability charges ("SAC"), City water connection ("WAC") charges, City sewer connection charges, City storm water connection charges, and building permit fees, which shall be paid by Developer.

12. Responsibility for Costs.

- (a) Except as otherwise specified herein, the City shall not be obligated to pay Developer or any of its agents or contractors for any costs incurred in connection with the construction of the Public Improvements or Project Improvements or the development of the Property, including but not limited to, all costs of persons and entities doing work or furnishing skills, tools, machinery, equipment and materials; insurance premiums; legal, planning and engineering fees; the preparation and recording of this Agreement and all easements and other documents relating to the the Property, as applicable; all traffic studies, environmental assessments and/or engineering and other studies and reports; all permits and approvals; and all City's costs incurred in connection with approval and acceptance of the PUD. Developer agrees to defend, indemnify, and hold the City and its mayor, council members, employees, agents and contractors harmless from any and all claims of whatever kind or nature

and for all costs, damages or expenses which the City may pay or incur in consequence of such claims, including reasonable attorneys' fees, which may arise as a result of PUD approval, the Project, this Agreement, the construction of the Public Improvements or Project Improvements (except for the negligence or intentional misconduct of the City with respect to the construction of the Public Improvements), the development of the Property or the acts of Developer, and its employees, agents, contractors or subcontractors, in relationship thereto.

- (b) The Developer hereby covenants and agrees that Developer will not permit or allow any mechanic's or materialman's liens to be placed on the City's interest in any property that is the subject of the Project or this Agreement during the term hereof. Notwithstanding the previous sentence, however, in the event any such lien shall be so placed on the City's interest, the Developer shall take all steps necessary to see that it is removed within thirty (30) business days of its being filed; provided, however, that the Developer may contest any such lien provided the Developer first posts a surety bond, in favor of and insuring the City, in an amount equal to 125% of the amount of any such lien.
- (c) The Developer shall reimburse the City for the actual third-party, out-of-pocket reasonable costs, fees or expenses incurred by the City in connection with the Project described in this Agreement, including but not limited to the costs of the engineering and planning consultants and attorney(s), as well as for the preparation of this Agreement.
- (d) The Developer shall reimburse the City for reasonable costs incurred in the enforcement of this Agreement, including engineering and attorneys' fees.
- (e) The Developer shall pay in full all bills submitted to it by the City for obligations incurred under this Agreement within 30 days of the date of the City's invoice to Developer. If Developer fails to pay a required bill, then after providing the Developer with at least fifteen (15) days prior written notice, the City may draw on the Security or alternatively declare the same an event of default, and the City may thereafter assess and certify such unpaid charges to the County Auditor for collection in like manner with property taxes on the Property, or the City may take any other actions as may be available under this Agreement, at law, or in equity. Bills not paid within sixty (60) days shall accrue interest at the rate of eight percent (8%) per year.

13. Summary of Cash Requirements.

The following is a summary of the cash requirements under this Agreement which must be furnished at the time of approval of the grading permit or approval of this Agreement, as applicable. The Developer shall not proceed with any Improvements until these cash requirements have been paid to the City:

City Engineering Construction Observation and City Engineering Administration	\$10,000 deposit
City Legal Expenses	\$ actual
Sanitary Sewer Availability Charge	\$62,500
Water Availability Charge	\$62,500

**TOTAL CASH REQUIREMENTS** **\$135,000 + actual legal fees**

14. Construction Management.

During construction of the Public Improvements, Project Improvements and the Project, the Developer and its contractors and subcontractors shall minimize impacts from construction on the surrounding neighborhood, as follows:

- (a) Definition of Construction Area. The limits of the Project Area shall be as shown in the City approved Grading, Drainage and Erosion Control Plan and shall be demarcated with construction fencing approved by the City Engineer. Any grading, construction or other work outside this area requires approval by the City Engineer and the affected property owner.
- (b) Parking and Storage of Materials. Adequate on-site parking for construction vehicles and workers must be provided or provisions must be made to have workers park off site and be shuttled to the Project Area. No fill, excavating material or construction materials shall be stored in the public right-of-way.
- (c) Hours of Construction. Hours of construction, including moving of equipment shall be limited to the hours between 7 a.m. and 10 p.m. on weekdays and 9 a.m. and 9 p.m. on weekends or as otherwise provided in the City Code.
- (d) Site Maintenance. Developer shall ensure that its contractor maintains a clean work site. Measures shall be taken to prevent debris, refuse or other materials from leaving the site. Construction debris and other refuse generated from the Project shall be removed from the site in a timely fashion and/or upon the request by the City Engineer. After Developer

has received at least forty-eight (48) hour verbal notice, the City may complete or contract to complete the site maintenance work at Developer's expense. Any trash that leaves the site shall be immediately picked up and disposed of. Refuse containers shall be covered to prevent trash from being blown off site.

- (e) Project Identification Signage. Project identification signs shall comply with City Code requirements.

15. Declaration of Covenants and Agreement for Maintenance of Stormwater Facilities.

In order to provide stormwater management and control, to meet the City's stormwater permitting requirements, City Code and state law and regulations, as applicable, and to promote the water quality and volume control to the City's stormwater system and water bodies, the Developer and the City agree that it is reasonable for the City to require the Developer and all subsequent owners of the Property to construct, inspect, operate, repair, maintain and replace, at the Developer's cost and expense, City required stormwater facilities, including Developer's expansion of an existing stormwater detention pond on the Property. Developer shall maintain such basin in good working order at all times at Developer's expense. In the event Developer fails to so maintain said basin, the City may maintain said basin and the Developer shall reimburse the City for all costs incurred in maintaining said pond within 30 days of invoicing. In the event Developer fails to reimburse the City, the City may certify such costs to the Le Sueur County Auditor for collection with the property taxes on the Property, or may take whatever other action the City deems necessary in order to be fully reimbursed for such costs. Prior to commencement of construction of the Project and pursuant to City Code, the City and Developer shall enter into an agreement for the Developer's installation of and ongoing operation, repair, maintenance and replacement of such stormwater facilities as required by applicable City Code and law at the Developer's and the Developer's successors' and assigns' cost and expense, in a form substantially consistent with the draft stormwater facilities maintenance agreement attached hereto as Exhibit H. The agreement shall be in the form of a recordable instrument.

16. Developer's Default.

In the event of default by the Developer as to any of the work to be performed by it hereunder or the failure to comply with all terms and conditions of this Agreement, the City may, at its option, take one or more of the following actions:

- (a) Perform the work and the Developer shall promptly reimburse the City for any expense incurred by the City, provided the Developer, except in

an emergency as determined by the City, is first given notice of the work in default, not less than forty-eight (48) hours in advance. When the City does any such work, the City may, in addition to its other remedies, assess the cost in whole or in part for collection with the property taxes on the Property;

- (b) Obtain an order from a court of competent jurisdiction requiring Developer to perform its obligations pursuant to the terms and provisions of this Agreement;
- (c) Obtain an order from a court of competent jurisdiction enjoining the continuation of an event of default;
- (d) Halt all development work and construction of improvements until such time as the event of default is cured;
- (e) Withhold the issuance of any City permit, certificate or approval related to the Project until the event of default has been cured;
- (f) Draw upon and utilize the Security to cover the City's costs to correct the default, the costs to complete any unfinished Public Improvements and/or the costs to enforce this Agreement; or
- (g) Exercise any other remedies which may be available to it at law or in equity.

In addition to the remedies and amounts payable set forth or permitted above, upon the occurrence of an event of default by Developer, the Developer shall pay to the City all fees and expenses, including reasonable attorneys' fees, incurred by the City as a result of the event of default, whether or not a lawsuit or other action is formally taken.

#### 17. Expiration of Agreement.

This Agreement shall remain in effect until such time as the Developer shall have fully performed all of its duties and obligations under this Agreement. Upon the written request of the Developer and upon the adoption of a resolution by the City Council finding that the Developer has fully complied with all the terms of this Agreement and finding that the Developer has completed performance of all Developer's duties mandated by this Agreement, the City shall issue to the Developer on behalf of the City an appropriate Certificate of Compliance/Completion. Upon issuance of the Certificate of Compliance/Completion by the City, this Agreement shall terminate.

18. Termination; Conditions Precedent.

- (a) If Developer fails to: a) receive PUD approval for the Project, and b) record this Agreement in the office of the Le Sueur County Recorder, as applicable and as provided herein, within one (1) year after approval of this Agreement, as applicable, by the City Council, this Agreement shall terminate and the approval of the PUD shall be null and void, subject to the following:
  - i. All costs, fees and other amounts previously paid to the City in connection with the PUD, the Public Improvements, the Project Improvements, this Agreement and the Project shall belong to and be retained by the City;
  - ii. The obligations of the Developer for costs incurred shall survive such termination and continue with respect to unpaid costs, fees and expenses incurred prior to such termination;
  - iii. The indemnifications of Developer shall survive and continue after such termination; and
  - iv. The parties shall be released from all other obligations and liabilities under this Agreement not specified above.
- (b) In the event of the termination of this Agreement, the parties agree, if requested by the other party, to execute and deliver to the other party a written termination acknowledgment in a form reasonably satisfactory to both parties.
- (c) Developer's right to construct the Project is contingent upon its (i) receiving a land use/grading permit from the City for the Project, and (ii) obtaining a building permit from DOLI following submission of a complete and valid application for same. Nothing contained in this Agreement shall be construed to contain a covenant, either express or implied, for Developer to commence the development of the Property as set forth herein.

19. Miscellaneous.

- (a) Upon the completion and City acceptance of the Public Improvements pursuant to Paragraph 7 above, the City-owned water main loop on the Property shall be transferred to the Developer and established as a

private service line of the Developer; provided, however, that the fire hydrants located on the Property and connected to this service line shall be considered privately owned hydrants and shall be subject to the City of Le Sueur Private Fire Hydrant Inspection and Maintenance Policy attached hereto as **Exhibit I** and incorporated herein by reference. Developer covenants that it shall maintain its privately owned hydrants in accordance with the requirements of this policy. The City and its agents shall at all times after the effective date of this Agreement have a license to enter onto the Property for purposes of inspecting, maintaining or repairing the fire hydrants on the Property and otherwise fulfilling its responsibilities and functions under the policy. The City shall execute any documentation reasonably requested by Developer to document the transfer of ownership of this service line to the Developer. The provisions of this subparagraph (a) shall survive the expiration or termination of this Agreement.

- (b) Developer shall take out and maintain or cause to be taken out and maintained until six (6) months after the Project is completed and the City has accepted the Public Improvements, liability and property damage insurance covering bodily injury, including death, and claims for property damage which may arise out of Developer's work or the work of its subcontractors or by one directly or indirectly employed by any of them. Limits for bodily injury and death shall be not less than \$500,000 for one person and \$1,500,000 for each occurrence; limits for property damage shall be not less than \$1,000,000 for each occurrence. The City shall be named as an additional insured on the policy, and the Developer shall file with the City a certificate evidencing coverage prior to the City authorizing the commencement of work on the Public Improvements or Project Improvements specified in this Agreement. The certificate shall provide that the City must be given thirty (30) days advance written notice of the cancellation of the insurance.
- (c) For so long as Developer continues to own the Property after completion of construction of the Project, the Developer shall manage or cause the Project to be managed so as to comply with all federal, state and local laws, ordinances and regulations, including but not limited to the City's solid waste disposal, right-of-way, public protection and public nuisance ordinances, and Developer shall further cooperate fully with the City in resolution of any traffic, parking, trash removal, public safety, or nuisance problems, which may arise in connection with the construction, operation or maintenance of the Project.

- (d) This Agreement shall be permanent and run with the Property, and at all times prior to the Agreement's expiration pursuant to Paragraph 17 above, the rights granted and responsibilities assumed thereby shall inure to, and be binding upon, the parties' heirs, successors, assigns and mortgagees.
- (e) The Developer may not assign this Agreement without the written permission of the City Council. The Developer's obligation hereunder shall continue in full force and effect even if the Developer sells the Property, or any part thereof.
- (f) Third parties shall have no recourse against the City or Developer under this Agreement.
- (g) Nothing in this Agreement shall preclude the City from (a) constructing or causing to be constructed additional public improvements adjacent to or in the vicinity of the Property, or (b) specially assessing or taxing all or a portion of the cost of such improvements against the Property, as may be allowed by law.
- (h) Developer agrees that all instruments of sale or conveyance of interests within the Property shall contain a statement that the grantee agrees to all previously constructed Public Improvements, and any apportionment of previously levied special assessments of the costs of such improvements against such interest in accordance with the terms of this Agreement. All such instruments shall also bear a memorial indicating that any interest so acquired shall be subject to the terms of this Agreement.
- (i) Developer agrees that the Property shall be subject to all subdivision, zoning and building regulations established by the City's City Code, and in its zoning regulations found in Appendix A to the City Code, as except insofar as variances or conditional use permits may be properly applied for and approved.
- (j) Within 60 days following execution hereof, this Agreement shall be filed with the Le Sueur County Recorder at Developer's expense and the same shall be a covenant running with the Property, superior in interest to any other covenant, easement or encumbrance affecting the Property.
- (k) The Developer covenants with the City, its successors and assigns, that the Developer is well seized in fee title of the Property; that there are no

unrecorded interests in the Property; and that the Developer will indemnify and hold the City harmless for any breach of the foregoing covenants.

- (l) The Developer agrees to comply with all local, state and federal laws, ordinances and regulations applicable to the development of the Property and Public Improvements and Project Improvements.

20. General Provisions.

- (a) Voluntary and Knowing Action. The parties, by executing this Agreement, state that they have carefully read this Development Agreement and understand fully the contents thereof; that in executing this Agreement they voluntarily accept all terms described in this Agreement without duress, coercion, undue influence, or otherwise, and that they intend to be legally bound thereby.
- (b) Authorized Signatories. The parties each represent and warrant to the other that (1) the persons signing this Agreement are authorized signatories for the entities represented, and (2) no further approvals, actions or ratifications are needed for the full enforceability of this Agreement against it; each party indemnifies and holds the other harmless against any breach of the foregoing representation and warranty.
- (c) Notices. Any notice provided for or permitted under this Agreement, unless otherwise provided herein, will be treated as having been received (a) when delivered personally, (b) when sent by confirmed email to the addresses listed below or (c) three (3) days following when sent by certified mail, to the party to be notified, at the address set forth below, or at such other place of which the other party has been notified in accordance with the provisions of this subparagraph (c).

i. If to the Developer, at:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ii. If to the City, at:

Joe Roby

City Administrator  
City of Le Sueur  
203 South 2<sup>nd</sup> Street  
Le Sueur, Minnesota 56058

- (d) Modifications/Amendment. Any alterations, variations, modifications, amendments or waivers of the provisions of this Agreement shall only be valid when they have been reduced to writing, and signed by authorized representative of the parties.
- (e) Governing Law. This Agreement shall be deemed to have been made and accepted in Le Sueur County, Minnesota, and the laws of the State of Minnesota shall govern any interpretations or constructions of this Agreement without regard to its choice of law or conflict of laws principles.
- (f) Data Practices. The parties acknowledge that this Agreement is subject to the requirements of Minnesota's Government Data Practices Act, Minnesota Statutes, Section 13.01 et seq.
- (g) No Waiver. Nothing in this Agreement shall be construed to waive any immunities or limitations to which the City is entitled under Minn. Stat. Chapter 466 or otherwise. No waiver by any party to this Agreement of any condition or of any breach of any provision of this Agreement will be effective unless in writing. No waiver by any party of any such condition or breach, in any one instance, will be deemed to be a further or continuing waiver of any such condition or breach or a waiver of any other condition or breach of any other provision contained in this Agreement.
- (h) No Joint Venture or Partnership. Nothing herein shall be deemed to create or establish the City as a co-partner or joint venturer with Developer in the design, construction or operation of the Public Improvements; nor shall the City be entitled to control the development or sale of the Property or receive any proceeds or revenues from the operation or sale of the Property.
- (i) Headings and Captions. Any titles of the several parts, sections, paragraphs and subparagraphs of the Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

- (j) Severability. If any provision of this Agreement is held invalid by a court of a competent jurisdiction or in the event such a court shall determine that a party does not have the power to perform any such provision, such provision shall be deemed to be deleted herefrom and the invalidity thereof shall not affect any of the other provisions contained herein, and such judgment or decree shall relieve such party from performance under such invalid provision of this Agreement.
  
- (k) Execution. This Agreement may be executed simultaneously in two or more counterparts that, when taken together, shall be deemed an original and constitute one and the same document. The signature of any party to the counterpart shall be deemed a signature to the Agreement, and may be appended to, any other counterpart, facsimile and email transmissions of executed signature pages shall be deemed as originals and sufficient to bind the executing party.

[signature pages to follow]





**Exhibit A**

**Legal Description of the Property**

Southeast Quarter of the Southwest Quarter of Section 36, Township 112 North, Range 26 West, Le Sueur County, Minnesota, EXCEPT:

All of that part and portion of the Southeast Quarter of the Southwest Quarter (SE1/4 of SW1/4) of Section 36, Township 112 North, Range 26 West, Le Sueur County, Minnesota, lying and being, Northerly and Easterly of the centerline of Kingsway Drive as the same is presently located and situated in the year 1986.

**Exhibit B**

**Permanent Utility Easement Agreement**

(Do not write in the space above. Reserved for recording/transfer data)

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**PERMANENT PUBLIC UTILITY EASEMENT**

This Agreement is made this \_\_\_\_ day of \_\_\_\_\_, 2023, by and between Le Sueur-Henderson Public Schools, organized as Independent School District No. 2397 under the laws of the State of Minnesota, 901 Ferry Street, Le Sueur, Minnesota, referred to hereinafter as “Grantor,” and the City of Le Sueur, Minnesota, a municipal corporation organized under the laws of the State of Minnesota, 203 South Second Street, Le Sueur, MN 56058, referred to hereinafter as “Grantee”; (collectively referred to herein as the “parties”).

**AGREEMENT**

That for good and valuable consideration, including the mutual exchange of promises and covenants between the parties contained in that certain Development Agreement dated \_\_\_\_\_, the receipt and sufficiency of which is hereby acknowledged, the Grantor and Grantee do hereby agree as follows:

1. The undersigned Grantor hereby grants and conveys to the Grantee a Permanent Easement, 45 feet in width, for utility purposes (the “Permanent Easement”), over, under and across that part of the tract of land legally described on Exhibit 1, which is attached hereto and incorporated herein by reference, in the City of Le Sueur, Le Sueur County, Minnesota; which Permanent Easement is legally described on Exhibit 2, which is attached hereto and incorporated by reference (the “Permanent Easement Area”).
2. The Permanent Easement Area described above is depicted on Exhibit 3, which is attached hereto and incorporated herein by reference.
3. The Grantor states and hereby covenants that the Grantor is the lawful owner of the above-described real property, is lawfully seized and possessed of said real property, and that the Grantor has good and lawful right to grant the Permanent Easement described herein.

4. The Grantee shall have the right to construct, excavate, grade, inspect, install, remove, demolish, operate, maintain, place, replace, reconstruct, improve, enlarge and repair, as it may find reasonably necessary, public utility facilities and improvements, and such other improvements appurtenant thereto, in the Permanent Easement described herein, and, in the Grantee's sole discretion, to permit private utilities and telecommunications facilities to be installed in the Permanent Easement Area.
5. The Grantee and its employees, agents, permittees and licensees shall have the right of ingress and egress to and from the Permanent Easement Area at all times and without notice to Grantor by such route, in the judgment of the Grantee, as shall occasion the least practical damage and inconvenience to the Grantor.
6. The Grantee shall have the right to trim, remove and keep the Permanent Easement Area clear of all buildings, structures, roots, shrubbery, trees, bushes, undergrowth and all other obstructions that may interfere with or endanger the Grantee's exercise of any of the rights pursuant to this Permanent Easement.
7. The Grantor shall not erect, construct or locate in the Permanent Easement area any new structure or object that was not in existence on the date of this Permanent Easement, which would prevent the Grantee's reasonable access to the Permanent Easement Area or prevent the public's full enjoyment of the rights granted hereunder, without the written consent of the Grantee.
8. The Grantee shall restore any and all disturbed areas within the Permanent Area(s) back to as close to original condition as, in Grantee's judgment, is reasonably practicable given the rights granted hereunder.
9. The provisions hereof shall inure to the benefit of and bind the heirs, successors and assigns of the respective parties hereto, and all covenants shall apply to and run with the land.
10. This Permanent Easement shall be recorded as soon as practicable following its execution with the understanding that the Grantee has complete and absolute sole ownership, use and control of the public sewer and water utility facilities and improvements constructed in the Permanent Easement Area, and such other improvements appurtenant thereto, in accordance with the grant of rights conveyed herein.
11. Grantor and Grantee agree to correct any legal descriptions contained herein if there is a mistake discovered, including any mistakes or discrepancies revealed by an accurate survey of the property identified herein, and to accordingly replace the corresponding corrected exhibit herein, as applicable.

IN WITNESS WHEREOF, the parties have hereunto executed this document the day and year first above written.



**GRANTEE:**

**CITY OF LE SUEUR, MINNESOTA**

By: \_\_\_\_\_  
Shawn Kirby, Its Mayor

By: \_\_\_\_\_  
Joe Roby, Its City Administrator

STATE OF MINNESOTA    )  
  ) ss.  
COUNTY OF LE SUEUR    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2023, by Shawn Kirby as Mayor and Joe Roby as City Administrator on behalf of the City of Le Sueur, a municipal corporation under the laws of the State of Minnesota, Grantee.

\_\_\_\_\_  
Notary Public

**THIS INSTRUMENT WAS DRAFTED BY:**

FLAHERTY & HOOD, P.A,  
525 Park Street, Suite 470  
St. Paul, MN 55103  
(651) 225-8840

**EXHIBIT 1 [TO PERMANENT EASEMENT AGREEMENT]**

**LEGAL DESCRIPTION OF REAL PROPERTY**

The real property referenced in this Permanent Easement is legally described as follows:

**LEGAL DESCRIPTION:**

Southeast Quarter of the Southwest Quarter of Section 36, Township 112 North, Range 26 West, Le Sueur County, Minnesota, EXCEPT:

All of that part and portion of the Southeast Quarter of the Southwest Quarter (SE1/4 of SW1/4) of Section 36, Township 112 North, Range 26 West, Le Sueur County, Minnesota, lying and being, Northerly and Easterly of the centerline of Kingsway Drive as the same is presently located and situated in the year 1986.

**EXHIBIT 2 [TO PERMANENT EASEMENT AGREEMENT]**

**LEGAL DESCRIPTION OF PERMANENT EASEMENT**

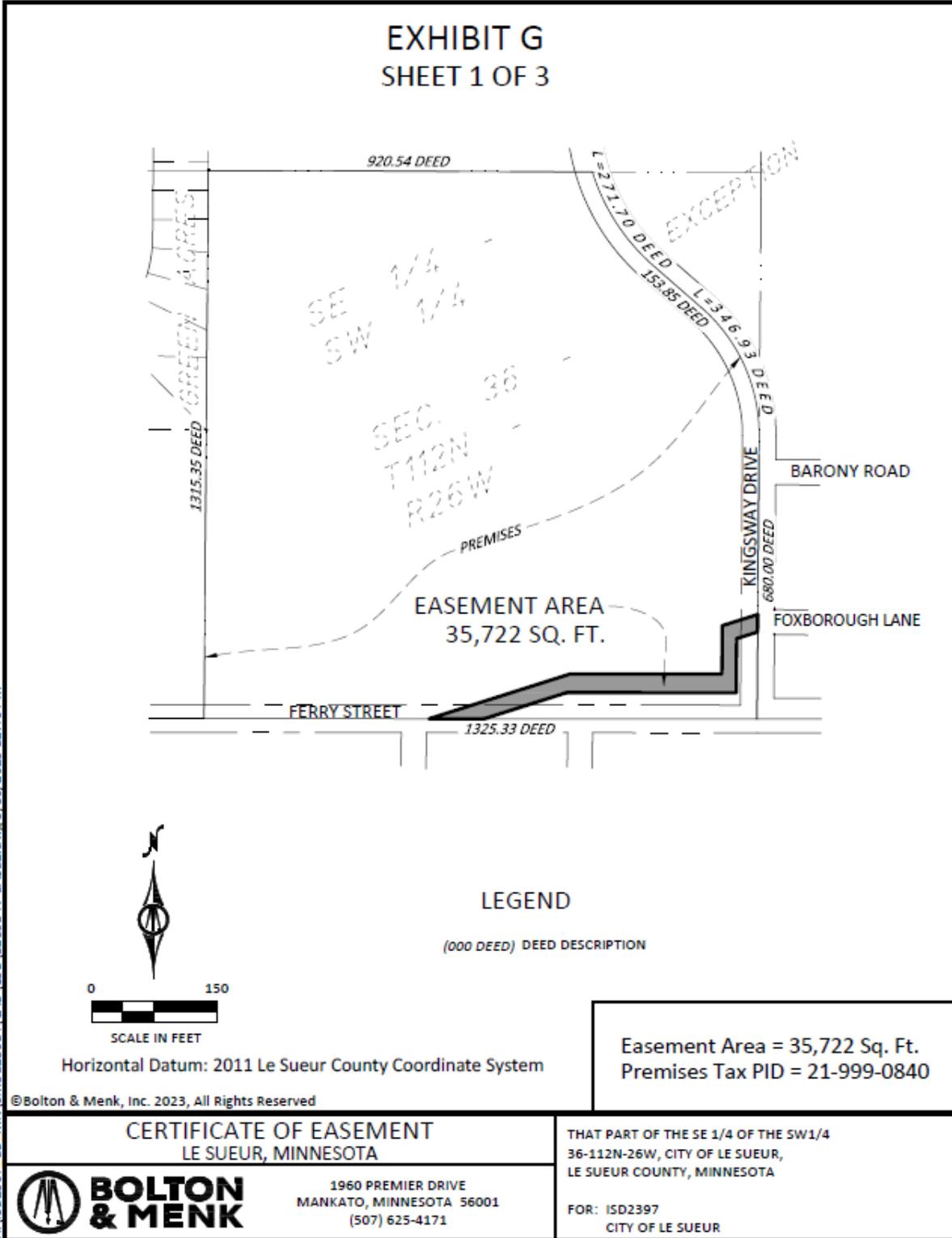
**LEGAL DESCRIPTION:**

That part of the Southeast Quarter of the Southwest Quarter of Section 36, Township 112 North, Range 26 West, Le Sueur County, Minnesota described as follows:

Commencing at the southeast corner of the Southeast Quarter of the Southwest Quarter; thence North 00 degrees 25 minutes 55 seconds East, along the east line of said Southeast Quarter of the Southwest Quarter, a distance of 208.96 feet to the point of beginning; thence South 72 degrees 21 minutes 35 seconds West, a distance of 52.59 feet; thence South 00 degrees 25 minutes 55 seconds West, a distance of 129.99 feet; thence North 89 degrees 57 minutes 41 seconds West, a distance of 406.92 feet; thence South 72 degrees 21 minutes 35 seconds West, a distance of 207.45 feet to the south line of said Southeast Quarter of Southwest Quarter; thence North 89 degrees 57 minutes 41 seconds West, along said south line, a distance of 131.72 feet; thence North 72 degrees 21 minutes 35 seconds East, a distance of 355.63 feet; thence South 89 degrees 57 minutes 41 seconds East, a distance of 362.73 feet; thence North 00 degrees 25 minutes 55 seconds East, a distance of 115.88 feet; thence North 72 degrees 21 minutes 35 seconds East, a distance of 89.41 feet to the said east line of Southeast Quarter of the Southwest Quarter; thence South 00 degrees 25 minutes 55 seconds West along said line, a distance of 42.08 feet to the point of beginning.

**EXHIBIT 3 [TO PERMANENT EASEMENT AGREEMENT]**

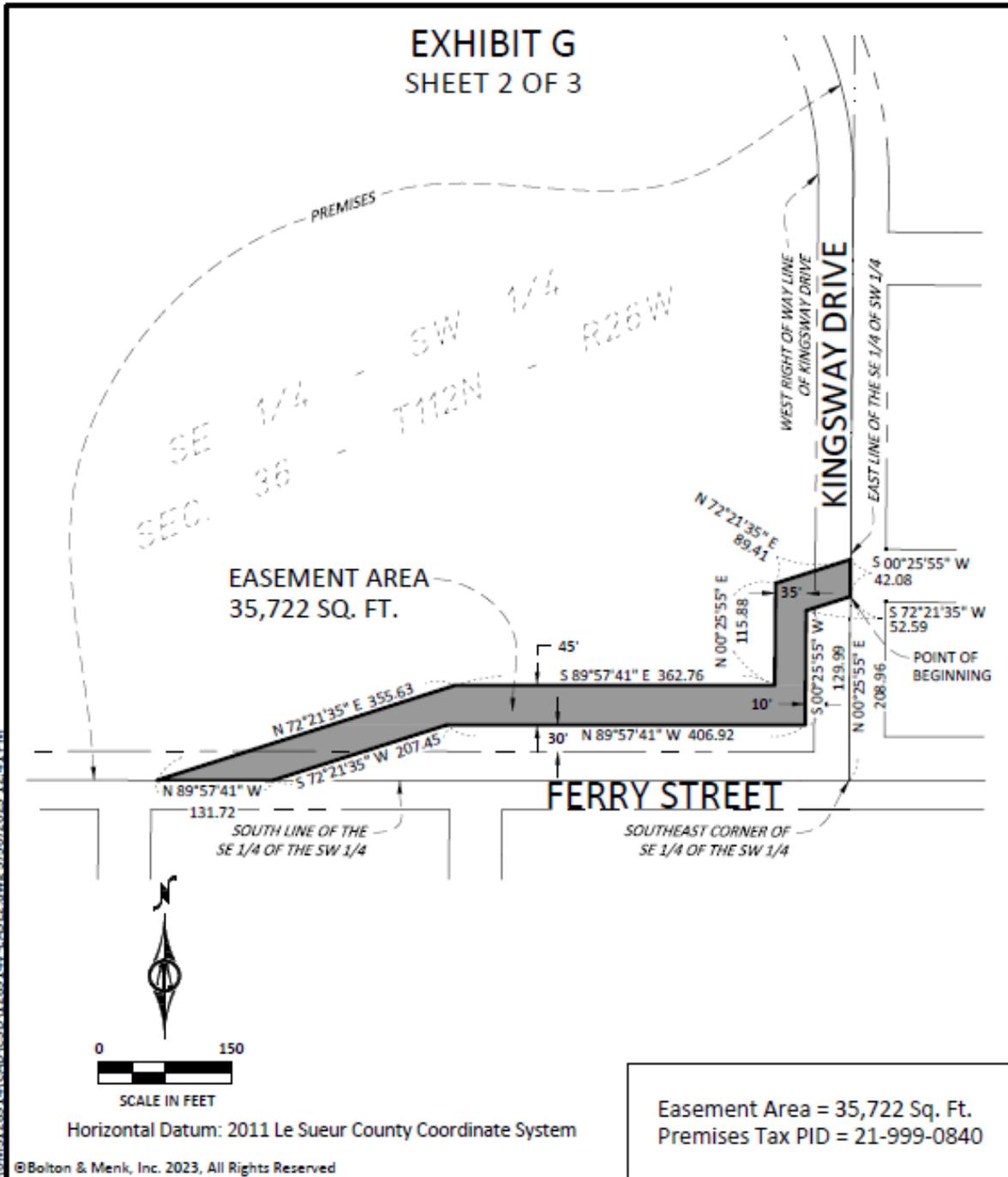
**DEPICTION OF PERMANENT EASEMENT**



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SHEET 1 OF 3

EXHIBIT G  
SHEET 2 OF 3



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**CERTIFICATE OF EASEMENT**  
LE SUEUR, MINNESOTA

**BOLTON & MENK**

1960 PREMIER DRIVE  
MANKATO, MINNESOTA 56001  
(507) 625-4171

THAT PART OF THE SE 1/4 OF THE SW 1/4  
36-112N-26W, CITY OF LE SUEUR,  
LE SUEUR COUNTY, MINNESOTA

FOR: ISD2397  
CITY OF LE SUEUR

S36-T112N-R26W

## Exhibit C

### Permanent Easement Agreement - Ferry Street

(Do not write in the space above. Reserved for recording/transfer data)

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#### **PERMANENT PUBLIC UTILITY EASEMENT**

This Agreement is made this \_\_\_\_ day of \_\_\_\_\_, 2023, by and between Le Sueur-Henderson Public Schools, organized as Independent School District No. 2397 under the laws of the State of Minnesota, 901 Ferry Street, Le Sueur, Minnesota, referred to hereinafter as “Grantor,” and the City of Le Sueur, Minnesota, a municipal corporation organized under the laws of the State of Minnesota, 203 South Second Street, Le Sueur, MN 56058, referred to hereinafter as “Grantee”; (collectively referred to herein as the “parties”).

#### **AGREEMENT**

That for good and valuable consideration, including the mutual exchange of promises and covenants between the parties contained in that certain Development Agreement dated \_\_\_\_\_, the receipt and sufficiency of which is hereby acknowledged, the Grantor and Grantee do hereby agree as follows:

1. The undersigned Grantor hereby grants and conveys to the Grantee a Permanent Easement, 33 feet in width, for utility purposes (the “Permanent Easement”), over, under and across that part of the tract of land legally described on Exhibit 1, which is attached hereto and incorporated herein by reference, in the City of Le Sueur, Le Sueur County, Minnesota; which Permanent Easement is legally described on Exhibit 2, which is attached hereto and incorporated by reference (the “Permanent Easement Area”).
2. The Permanent Easement Area described above is depicted on Exhibit 3, which is attached hereto and incorporated herein by reference.

3. The Grantor states and hereby covenants that the Grantor is the lawful owner of the above-described real property, is lawfully seized and possessed of said real property, and that the Grantor has good and lawful right to grant the Permanent Easement described herein.
4. The Grantee shall have the right to construct, excavate, grade, inspect, install, remove, demolish, operate, maintain, place, replace, reconstruct, improve, enlarge and repair, as it may find reasonably necessary, public utility facilities and improvements, and such other improvements appurtenant thereto, in the Permanent Easement described herein, and, in the Grantee's sole discretion, to permit private utilities and telecommunications facilities to be installed in the Permanent Easement Area.
5. The Grantee and its employees, agents, permittees and licensees shall have the right of ingress and egress to and from the Permanent Easement Area at all times and without notice to Grantor by such route, in the judgment of the Grantee, as shall occasion the least practical damage and inconvenience to the Grantor.
6. The Grantee shall have the right to trim, remove and keep the Permanent Easement Area clear of all buildings, structures, roots, shrubbery, trees, bushes, undergrowth and all other obstructions that may interfere with or endanger the Grantee's exercise of any of the rights pursuant to this Permanent Easement.
7. The Grantor shall not erect, construct or locate in the Permanent Easement area any new structure or object that was not in existence on the date of this Permanent Easement, which would prevent the Grantee's reasonable access to the Permanent Easement Area or prevent the public's full enjoyment of the rights granted hereunder, without the written consent of the Grantee.
8. The Grantee shall restore any and all disturbed areas within the Permanent Area(s) back to as close to original condition as, in Grantee's judgment, is reasonably practicable given the rights granted hereunder.
9. The provisions hereof shall inure to the benefit of and bind the heirs, successors and assigns of the respective parties hereto, and all covenants shall apply to and run with the land.
10. This Permanent Easement shall be recorded as soon as practicable following its execution with the understanding that the Grantee has complete and absolute sole ownership, use and control of the public sewer and water utility facilities and improvements constructed in the Permanent Easement Area, and such other improvements appurtenant thereto, in accordance with the grant of rights conveyed herein.
11. Grantor and Grantee agree to correct any legal descriptions contained herein if there is a mistake discovered, including any mistakes or discrepancies revealed by an accurate survey of the property identified herein, and to accordingly replace the corresponding corrected exhibit herein, as applicable.



**GRANTEE:**

**CITY OF LE SUEUR, MINNESOTA**

By: \_\_\_\_\_  
Shawn Kirby, Its Mayor

By: \_\_\_\_\_  
Joe Roby, Its City Administrator

STATE OF MINNESOTA    )  
  ) ss.  
COUNTY OF LE SUEUR    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2023, by Shawn Kirby as Mayor and Joe Roby as City Administrator on behalf of the City of Le Sueur, a municipal corporation under the laws of the State of Minnesota, Grantee.

\_\_\_\_\_  
Notary Public

THIS INSTRUMENT WAS DRAFTED BY:

FLAHERTY & HOOD, P.A,  
525 Park Street, Suite 470  
St. Paul, MN 55103  
(651) 225-8840

**EXHIBIT 1 [TO PERMANENT EASEMENT AGREEMENT]**

**LEGAL DESCRIPTION OF REAL PROPERTY**

The real property referenced in this Permanent Easement is legally described as follows:

**LEGAL DESCRIPTION:**

Southeast Quarter of the Southwest Quarter of Section 36, Township 112 North, Range 26 West, Le Sueur County, Minnesota, EXCEPT:

All of that part and portion of the Southeast Quarter of the Southwest Quarter (SE1/4 of SW1/4) of Section 36, Township 112 North, Range 26 West, Le Sueur County, Minnesota, lying and being, Northerly and Easterly of the centerline of Kingsway Drive as the same is presently located and situated in the year 1986.

**EXHIBIT 2 [TO PERMANENT EASEMENT AGREEMENT]**

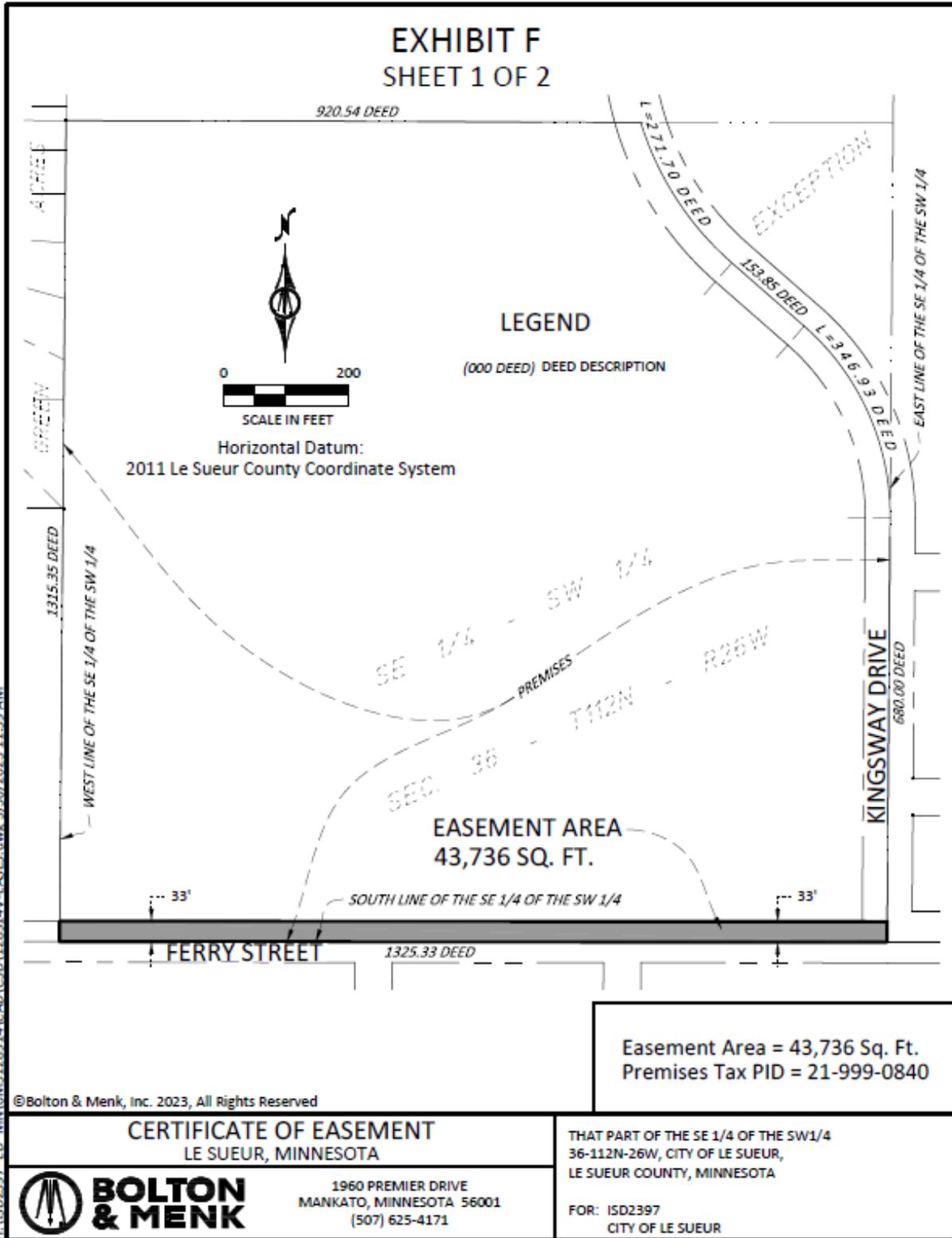
**LEGAL DESCRIPTION OF PERMANENT EASEMENT**

**LEGAL DESCRIPTION:**

The south 33.00 feet of the Southeast Quarter of the Southwest Quarter of Section 36, Township 112 North, Range 26 West, Le Sueur County, Minnesota.

**EXHIBIT 3 [TO PERMANENT EASEMENT AGREEMENT]**

**DEPICTION OF PERMANENT EASEMENT**



## Exhibit D

### Permanent Easement Agreement - Kingsway Drive

(Do not write in the space above. Reserved for recording/transfer data)

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#### PERMANENT PUBLIC UTILITY EASEMENT

This Agreement is made this \_\_\_\_ day of \_\_\_\_\_, 2023, by and between Le Sueur-Henderson Public Schools, organized as Independent School District No. 2397 under the laws of the State of Minnesota, 901 Ferry Street, Le Sueur, Minnesota, referred to hereinafter as “Grantor,” and the City of Le Sueur, Minnesota, a municipal corporation organized under the laws of the State of Minnesota, 203 South Second Street, Le Sueur, MN 56058, by and through its Public Utilities Commission, referred to hereinafter as “Grantee”; (collectively referred to herein as the “parties”).

#### AGREEMENT

That for good and valuable consideration, including the mutual exchange of promises and covenants between the parties contained in that certain Development Agreement dated \_\_\_\_\_, the receipt and sufficiency of which is hereby acknowledged, the Grantor and Grantee do hereby agree as follows:

1. The undersigned Grantor hereby grants and conveys to the Grantee a Permanent Easement, 10 feet in width, for utility purposes (the “Permanent Easement”), over, under and across that part of the tract of land legally described on Exhibit 1, which is attached hereto and incorporated herein by reference, in the City of Le Sueur, Le Sueur County, Minnesota; which Permanent Easement is legally described on Exhibit 2, which is attached hereto and incorporated by reference (the “Permanent Easement Area”).
2. The Permanent Easement Area described above is depicted on Exhibit 3, which is attached hereto and incorporated herein by reference.
3. The Grantor states and hereby covenants that the Grantor is the lawful owner of the above-described real property, is lawfully seized and possessed of said real property, and that the Grantor has good and lawful right to grant the Permanent Easement described herein.

4. The Grantee shall have the right to construct, excavate, grade, inspect, install, remove, demolish, operate, maintain, place, replace, reconstruct, improve, enlarge and repair, as it may find reasonably necessary, public utility facilities and improvements, and such other improvements appurtenant thereto, in the Permanent Easement described herein, and, in the Grantee's sole discretion, to permit private utilities and telecommunications facilities to be installed in the Permanent Easement Area.
5. The Grantee and its employees, agents, permittees and licensees shall have the right of ingress and egress to and from the Permanent Easement Area at all times and without notice to Grantor by such route, in the judgment of the Grantee, as shall occasion the least practical damage and inconvenience to the Grantor.
6. The Grantee shall have the right to trim, remove and keep the Permanent Easement Area clear of all buildings, structures, roots, shrubbery, trees, bushes, undergrowth and all other obstructions that may interfere with or endanger the Grantee's exercise of any of the rights pursuant to this Permanent Easement.
7. The Grantor shall not erect, construct or locate in the Permanent Easement area any new structure or object that was not in existence on the date of this Permanent Easement, which would prevent the Grantee's reasonable access to the Permanent Easement Area or prevent the public's full enjoyment of the rights granted hereunder, without the written consent of the Grantee.
8. The Grantee shall restore any and all disturbed areas within the Permanent Area(s) back to as close to original condition as, in Grantee's judgment, is reasonably practicable given the rights granted hereunder.
9. The provisions hereof shall inure to the benefit of and bind the heirs, successors and assigns of the respective parties hereto, and all covenants shall apply to and run with the land.
10. This Permanent Easement shall be recorded as soon as practicable following its execution with the understanding that the Grantee has complete and absolute sole ownership, use and control of the public sewer and water utility facilities and improvements constructed in the Permanent Easement Area, and such other improvements appurtenant thereto, in accordance with the grant of rights conveyed herein.
11. Grantor and Grantee agree to correct any legal descriptions contained herein if there is a mistake discovered, including any mistakes or discrepancies revealed by an accurate survey of the property identified herein, and to accordingly replace the corresponding corrected exhibit herein, as applicable.

IN WITNESS WHEREOF, the parties have hereunto executed this document the day and year first above written.





**EXHIBIT 1 [TO PERMANENT EASEMENT AGREEMENT]**

**LEGAL DESCRIPTION OF REAL PROPERTY**

The real property referenced in this Permanent Easement is legally described as follows:

**LEGAL DESCRIPTION:**

Southeast Quarter of the Southwest Quarter of Section 36, Township 112 North, Range 26 West, Le Sueur County, Minnesota, EXCEPT:

All of that part and portion of the Southeast Quarter of the Southwest Quarter (SE1/4 of SW1/4) of Section 36, Township 112 North, Range 26 West, Le Sueur County, Minnesota, lying and being, Northerly and Easterly of the centerline of Kingsway Drive as the same is presently located and situated in the year 1986.

## **EXHIBIT 2 [TO PERMANENT EASEMENT AGREEMENT]**

### **LEGAL DESCRIPTION OF PERMANENT EASEMENT**

#### **LEGAL DESCRIPTION:**

A 10.00 foot wide strip of land being part of the Southeast Quarter of the Southwest Quarter, Section 36, Township 112 North, Range 26 West, Le Sueur County, Minnesota, lying westerly of and adjoining the west right of way line created per the Deed of Dedication recorded in Book 185 of Deeds on Page 394-397, Document Number 174575, Le Sueur County, Minnesota. Said Deed of Dedication defines the right of way (now known as Kingsway Drive) as being the below:

Easement as recorded in Book 185 of Deeds on Page 394, Document Number 174575, Le Sueur County, Minnesota. The Easement Area being defined within said document to be the below: Beginning at the South Quarter corner of Section Thirty-six (36), Township One Hundred Twelve (112) North, Range Twenty-six (26) West; thence North 00 degrees 00 minutes 00 seconds East (assumed bearing) along the North-South centerline of Section Thirty-six (36) (the same being the westerly line of Barony Hill Addition to the City of Le Sueur) a distance of 622.76 feet to the Northwest corner of Barony Hill Addition; thence North 90 degrees 00 minutes 00 seconds East along the North line of Barony Hill Addition, a distance of 40.00 feet; thence North 00 degrees 00 minutes 00 seconds East and parallel with the North-South centerline of Section Thirty-six (36) a distance of 57.24 feet to the point of curvature of a circular curve to the left; thence northwesterly along a 443.61 foot radius curve, central angle = 49 degrees 15 minutes 00 seconds, an arc distance of 381.32 feet to the point of tangency of said curve; thence North 49 degrees 15 minutes 00 seconds West along the tangent of said curve, 153.85 feet to the point of curvature of a circular curve to the right; thence northwesterly along a 450.88 foot radius curve, central angle = 49 degrees 15 minutes 00 seconds, an arc distance of 387.56 feet to the point of tangency of said curve; thence North 00 degrees 00 minutes 00 seconds East and parallel with the North-South centerline of Section Thirty-six (36) a distance of 287.32 feet to the point of curvature of a circular curve to the right; thence northeasterly along a 440.59 foot radius curve, central angle = 23 degrees 30 minutes 30 seconds, an arc distance of 180.77 feet to the point of tangency of said curve; thence North 23 degrees 30 minutes, 30 seconds East, along the tangent of said curve, 523.05 feet to the point of curvature of a circular curve to the left; thence northeasterly along a 658.07 foot radius curve, central angle: 09 degrees 15 minutes 00 seconds, an arc distance of 106.24 feet to the point of tangency of said curve; thence North 14 degrees 15 minutes 30 seconds East along the tangent of said curve, 132.35 feet to a point on the East- West centerline of Section Thirty-six (36); thence easterly along said East-West centerline, 75 feet to the center of Section Thirty-six (36); thence North 00 degrees 00 minutes 00 seconds East along the North-South centerline of Section Thirty-six (36) a distance of 1314.75 feet to the Southwest corner of the Northwest Quarter of the Northeast Quarter of Section Thirty-six (36); said point being the point of curvature of a circular curve to the right; thence northeasterly along a 383.29 foot radius curve, central angle = 21 degrees 12 minutes 00 seconds, an arc distance of 141.82 feet to the point of tangency of said curve; thence North 68 degrees 48 minutes 00 seconds West, radially to said curve, 20.00 feet; thence North 21

degrees 12 minutes 00 seconds East, 55.31 feet to the point of curvature of a circular curve to the left; thence northeasterly along a 483.29 foot radius curve, central angle = 21 degrees 12 minutes 00 seconds; an arc distance of 178.82 feet to the point of tangency of said curve; thence North 00 degrees 00 minutes 00 seconds East and parallel with the North-South centerline of Section Thirty-six (36) a distance of 367.21 feet to the point of curvature of a circular curve to the left; thence northwesterly along a 372.88 foot radius curve, central angle = 68 degrees 06 minutes 42 seconds an arc distance of 443.27 feet to the point of tangency of said curve; thence South 21 degrees 53 minutes 18 seconds West, radially to said curve, 80.00 feet to the point of curvature of a circular curve which center of radius bears South 21 degrees 53 minutes 18 seconds West; thence southeasterly along a 292.88 foot radius curve, central angle = 68 degrees 06 minutes 42 seconds, an arc distance of 348.16 feet to the point of tangency of said curve, thence South 00 degrees 00 minutes 00 seconds West along the tangent of said curve, and parallel with the North-South centerline of Section Thirty-six (36) a distance of 367.21 feet to the point of curvature of a circular curve to the right; thence southwesterly along a 403.29 foot radius curve, central angle = 21 degrees 12 minutes 00 seconds, an arc distance of 149.22 feet to the point of tangency of said curve; thence South 21 degrees 12 minutes 00 seconds West along the tangent of said curve, 55.31 feet to the point of curvature of a circular curve to the left; thence southwesterly along a 483.29 foot radius curve, central angle = 21 degrees 12 minutes 00 seconds, an arc distance of 178.82 feet to the point of tangency of said curve; thence South 00 degrees 00 minutes 00 seconds West, along the tangent of said curve and parallel with the North-South centerline of Section Thirty-six (36) a distance of 993.95 feet to the point of curvature of a circular curve to the right; thence southwesterly along a 759.53 foot radius curve, central angle = 14 degrees 15 minutes 30 seconds, an arc distance of 189.01 feet to the point of tangency of said curve; thence South 14 degrees 15 minutes 30 seconds West along the tangency of said curve, 250.00 feet to the point of curvature of a circular curve to the right; thence Southwesterly along a 578.07 foot radius curve, central angle = 09 degrees 15 minutes 00 seconds, an arc distance of 93.33 feet to the point of tangency of said curve; thence South 23 degrees 30 minutes 30 seconds West, along the tangent of said curve, 523.05 feet to the point of curvature of a circular curve to the left; thence southwesterly along a 520.59 foot radius curve, central angle = 23 degrees 30 minutes 30 seconds, an arc distance of 213.60 feet to the point of tangency of said curve; thence South 00 degrees 00 minutes 00 seconds East along the tangent of said curve, and parallel with the North-South centerline of Section Thirty-six (36) a distance of 287.32 feet to the point of curvature of a circular curve to the left; thence southeasterly along a 530.88 foot radius curve, central angle = 49 degrees 15 minutes 00 seconds an arc distance of 456.33 feet to the point of tangency of said curve; thence South 49 degrees 15 minutes 00 seconds East along the tangent of said curve, 153.85 feet to the point of curvature of a circular curve to the right; thence southeasterly along a 363.61 foot radius curve, central angle = 49 degrees 15 minutes 00 seconds, an arc distance of 312.55 feet to the point of tangency of said curve; thence South 00 degrees 00 minutes 00 seconds West along the tangent of said curve, and parallel with the North-South centerline of Section Thirty-six (36) a distance of 580.27 feet to a point on the South line of Section Thirty-six (36); thence easterly along said South line a distance of 40.00 feet to the point of beginning.

NOTES TO LEGAL DESCRIBED IN DOCUMENT 174575:

The 2nd to last call in the description reads "580.27 feet to the point on the South line". This distance call is an error and it appears it should have read 680.27 feet. The call to the South line of the Section controls so the distance is inconsequential.



**Exhibit E**

**Permanent Public Safety and Utility Easement Agreement**

(Do not write in the space above. Reserved for recording/transfer data)

---

**PERMANENT PUBLIC SAFETY AND UTILITY EASEMENT**

This Agreement is made this \_\_\_\_ day of \_\_\_\_\_, 2023, by and between Le Sueur-Henderson Public Schools, organized as Independent School District No. 2397 under the laws of the State of Minnesota, 901 Ferry Street, Le Sueur, Minnesota, referred to hereinafter as “Grantor,” and the City of Le Sueur, Minnesota, a municipal corporation organized under the laws of the State of Minnesota, 203 South Second Street, Le Sueur, MN 56058, by and through its Public Utilities Commission, referred to hereinafter as “Grantee”; (collectively referred to herein as the “parties”).

**AGREEMENT**

That for good and valuable consideration, including the mutual exchange of promises and covenants between the parties contained in that certain Development Agreement dated \_\_\_\_\_, the receipt and sufficiency of which is hereby acknowledged, the Grantor and Grantee do hereby agree as follows:

1. The undersigned Grantor hereby grants and conveys to the Grantee a Permanent Easement, 15 feet in width, for public safety and public utility purposes (the “Permanent Easement”), over, under and across that part of the tract of land legally described on Exhibit 1, which is attached hereto and incorporated herein by reference, in the City of Le Sueur, Le Sueur County, Minnesota; which Permanent Easement is legally described on Exhibit 2, which is attached hereto and incorporated by reference (the “Permanent Easement Area”).
2. The Permanent Easement Area described above is depicted on Exhibit 3, which is attached hereto and incorporated herein by reference.

3. The Grantor states and hereby covenants that the Grantor is the lawful owner of the above-described real property, is lawfully seized and possessed of said real property, and that the Grantor has good and lawful right to grant the Permanent Easement described herein.
4. The Grantee shall have the right to construct, excavate, grade, inspect, install, remove, demolish, operate, maintain, place, replace, reconstruct, improve, enlarge and repair, as it may find reasonably necessary, public safety and public utility facilities and improvements associated with Grantee's operation of an emergency siren and associated facilities, and such other improvements appurtenant thereto, in the Permanent Easement described herein.
5. The Grantee and its employees, agents, permittees and licensees shall have the right of ingress and egress to and from the Permanent Easement Area at all times and without notice to Grantor by such route, in the judgment of the Grantee, as shall occasion the least practical damage and inconvenience to the Grantor.
6. The Grantee shall have the right to trim, remove and keep the Permanent Easement Area clear of all buildings, structures, roots, shrubbery, trees, bushes, undergrowth and all other obstructions that may interfere with or endanger the Grantee's exercise of any of the rights pursuant to this Permanent Easement.
7. The Grantor shall not erect, construct or locate in the Permanent Easement area any new structure or object that was not in existence on the date of this Permanent Easement, which would prevent the Grantee's reasonable access to the Permanent Easement Area or prevent the public's full enjoyment of the rights granted hereunder, without the written consent of the Grantee.
8. The Grantee shall restore any and all disturbed areas within the Permanent Area(s) back to as close to original condition as, in Grantee's judgment, is reasonably practicable given the rights granted hereunder.
9. The provisions hereof shall inure to the benefit of and bind the heirs, successors and assigns of the respective parties hereto, and all covenants shall apply to and run with the land.
10. This Permanent Easement shall be recorded as soon as practicable following its execution with the understanding that the Grantee has complete and absolute sole ownership, use and control of the public sewer and water utility facilities and improvements constructed in the Permanent Easement Area, and such other improvements appurtenant thereto, in accordance with the grant of rights conveyed herein.
11. Grantor and Grantee agree to correct any legal descriptions contained herein if there is a mistake discovered, including any mistakes or discrepancies revealed by an accurate survey of the property identified herein, and to accordingly replace the corresponding corrected exhibit herein, as applicable.

IN WITNESS WHEREOF, the parties have hereunto executed this document the day and year first above written.



**GRANTEE:**

**CITY OF LE SUEUR, MINNESOTA**

By: \_\_\_\_\_  
Shawn Kirby, Its Mayor

By: \_\_\_\_\_  
Joe Roby, Its City Administrator

STATE OF MINNESOTA    )  
  ) ss.  
COUNTY OF LE SUEUR    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2023, by Shawn Kirby as Mayor and Joe Roby as City Administrator on behalf of the City of Le Sueur, a municipal corporation under the laws of the State of Minnesota, Grantee.

\_\_\_\_\_  
Notary Public

THIS INSTRUMENT WAS DRAFTED BY:

FLAHERTY & HOOD, P.A,  
525 Park Street, Suite 470  
St. Paul, MN 55103  
(651) 225-8840

**EXHIBIT 1 [TO PERMANENT EASEMENT AGREEMENT]**

**LEGAL DESCRIPTION OF REAL PROPERTY**

The real property referenced in this Permanent Easement is legally described as follows:

**LEGAL DESCRIPTION:**

Southeast Quarter of the Southwest Quarter of Section 36, Township 112 North, Range 26 West, Le Sueur County, Minnesota, EXCEPT:

All of that part and portion of the Southeast Quarter of the Southwest Quarter (SE1/4 of SW1/4) of Section 36, Township 112 North, Range 26 West, Le Sueur County, Minnesota, lying and being, Northerly and Easterly of the centerline of Kingsway Drive as the same is presently located and situated in the year 1986.

**EXHIBIT 2 [TO PERMANENT EASEMENT AGREEMENT]**

**LEGAL DESCRIPTION OF PERMANENT EASEMENT**

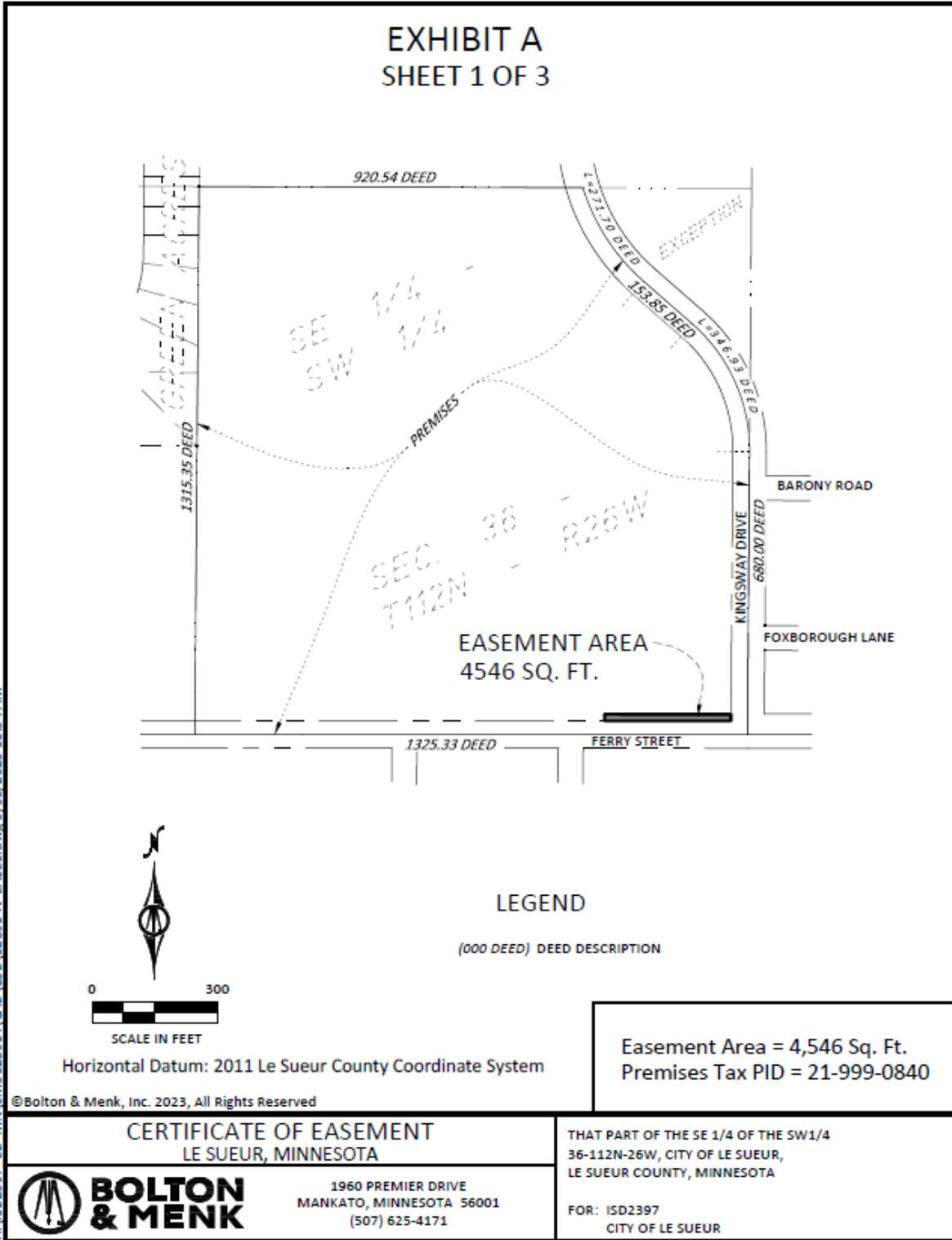
**LEGAL DESCRIPTION:**

That part of the Southeast Quarter of the Southwest Quarter of Section 36, Township 112 North, Range 26 West, Le Sueur County, Minnesota, described as follows:

Commencing at the southeast corner of the said Southeast Quarter of the Southwest Quarter thence North 00 degrees 25 minutes 55 seconds East, along the east line of the said Southeast Quarter of the Southwest Quarter, a distance of 33.00 feet to a point on a line being 33.00 feet northerly of the south line of the said Southeast Quarter of the Southwest Quarter, as measured perpendicular to said south line; thence North 89 degrees 57 minutes 41 seconds West on said line, a distance of 40.00 feet to the point of beginning; thence continuing on said line North 89 degrees 57 minutes 41 seconds West, a distance of 303.02 feet; thence North 00 degrees 02 minutes 19 seconds East, a distance of 15.00 feet; thence South 89 degrees 57 minutes 41 seconds East, a distance of 303.13 feet to a point on a line being 40.00 feet westerly of the east line of said the Southeast Quarter of the Southwest Quarter, as measured perpendicular to said east line; thence South 00 degrees 25 minutes 55 seconds West on said line, a distance of 15.00 feet to the point of beginning.

**EXHIBIT 3 [TO PERMANENT EASEMENT AGREEMENT]**

**DEPICTION OF PERMANENT EASEMENT**



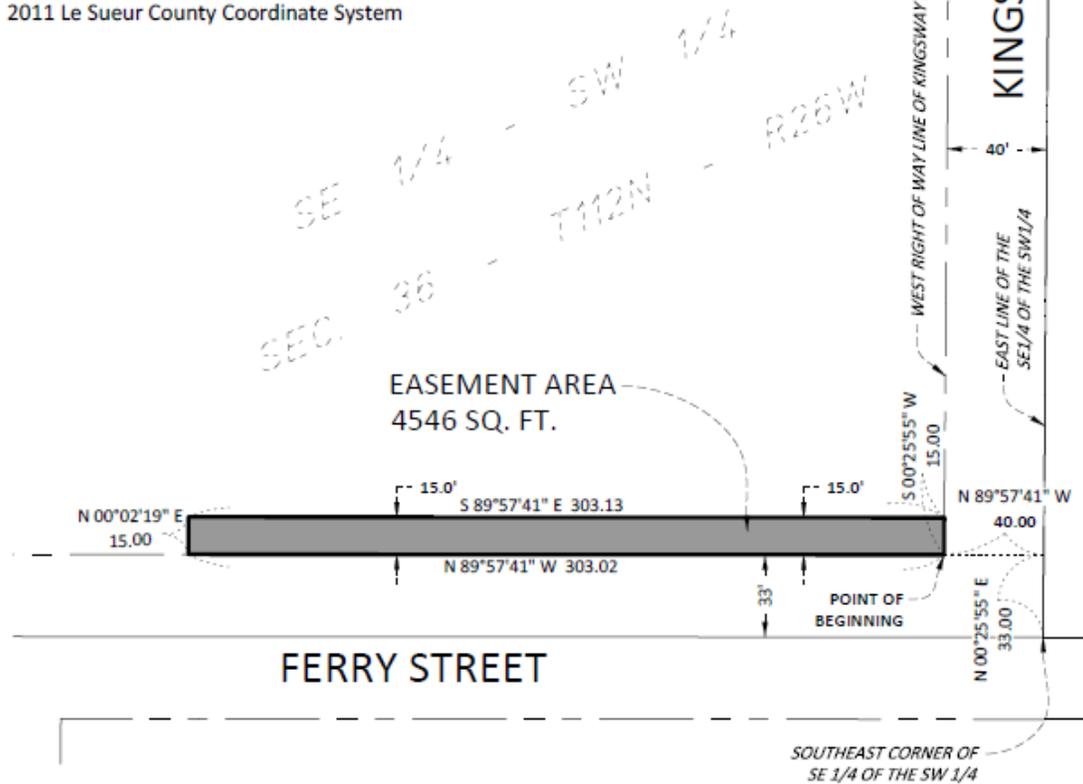
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36-112N-26W

EXHIBIT A  
SHEET 2 OF 3



Horizontal Datum:  
2011 Le Sueur County Coordinate System



Easement Area = 4,546 Sq. Ft.  
Premises Tax PID = 21-999-0840

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CERTIFICATE OF EASEMENT  
LE SUEUR, MINNESOTA



1960 PREMIER DRIVE  
MANKATO, MINNESOTA 56001  
(507) 625-4171

THAT PART OF THE SE 1/4 OF THE SW 1/4  
36-112N-26W, CITY OF LE SUEUR,  
LE SUEUR COUNTY, MINNESOTA

FOR: ISD2397  
CITY OF LE SUEUR

JOB NUMBER: 0M3.128914

FIELD BOOK:

DRAWN BY: JPB

P:\ISD\2397 - E.U. MIN\03128914\CAD\36-112N-26W-EASEL.DWG 3/30/2025 11:54 AM

36-112N-R26W

**Exhibit F**

**Permanent Electric Utility Easement Agreement**

(Do not write in the space above. Reserved for recording/transfer data)

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**PERMANENT PUBLIC UTILITY EASEMENT**

This Agreement is made this \_\_\_\_ day of \_\_\_\_\_, 2023, by and between Le Sueur-Henderson Public Schools, organized as Independent School District No. 2397 under the laws of the State of Minnesota, 901 Ferry Street, Le Sueur, Minnesota, referred to hereinafter as “Grantor,” and the City of Le Sueur, Minnesota, a municipal corporation organized under the laws of the State of Minnesota, 203 South Second Street, Le Sueur, MN 56058, by and through its Public Utilities Commission, referred to hereinafter as “Grantee”; (collectively referred to herein as the “parties”).

**AGREEMENT**

That for good and valuable consideration, including the mutual exchange of promises and covenants between the parties contained in that certain Development Agreement dated \_\_\_\_\_, the receipt and sufficiency of which is hereby acknowledged, the Grantor and Grantee do hereby agree as follows:

1. The undersigned Grantor hereby grants and conveys to the Grantee a Permanent Easement, 20 feet in width, for ingress, egress and electric utility purposes (the “Permanent Easement”), over, under and across that part of the tract of land legally described on Exhibit 1, which is attached hereto and incorporated herein by reference, in the City of Le Sueur, Le Sueur County, Minnesota; which Permanent Easement is legally described on Exhibit 2, which is attached hereto and incorporated by reference (the “Permanent Easement Area”).
2. The Permanent Easement Area described above is depicted on Exhibit 3, which is attached hereto and incorporated herein by reference.

3. The Grantor states and hereby covenants that the Grantor is the lawful owner of the above-described real property, is lawfully seized and possessed of said real property, and that the Grantor has good and lawful right to grant the Permanent Easement described herein.
4. The Grantee shall have the right to construct, excavate, grade, inspect, install, remove, demolish, operate, maintain, place, replace, reconstruct, improve, enlarge and repair, as it may find reasonably necessary, electric utility facilities, and such other improvements appurtenant thereto, in the Permanent Easement described herein.
5. The Grantee and its employees, agents, permittees and licensees shall have the right of ingress and egress to and from the Permanent Easement Area at all times and without notice to Grantor by such route, in the judgment of the Grantee, as shall occasion the least practical damage and inconvenience to the Grantor.
6. The Grantee shall have the right to trim, remove and keep the Permanent Easement Area clear of all buildings, structures, roots, shrubbery, trees, bushes, undergrowth and all other obstructions that may interfere with or endanger the Grantee's exercise of any of the rights pursuant to this Permanent Easement.
7. The Grantor shall not erect, construct or locate in the Permanent Easement area any new structure or object that was not in existence on the date of this Permanent Easement, which would prevent the Grantee's reasonable access to the Permanent Easement Area or prevent the public's full enjoyment of the rights granted hereunder, without the written consent of the Grantee.
8. The Grantee shall restore any and all disturbed areas within the Permanent Area(s) back to as close to original condition as, in Grantee's judgment, is reasonably practicable given the rights granted hereunder.
9. The provisions hereof shall inure to the benefit of and bind the heirs, successors and assigns of the respective parties hereto, and all covenants shall apply to and run with the land.
10. This Permanent Easement shall be recorded as soon as practicable following its execution with the understanding that the Grantee has complete and absolute sole ownership, use and control of the public sewer and water utility facilities and improvements constructed in the Permanent Easement Area, and such other improvements appurtenant thereto, in accordance with the grant of rights conveyed herein.
11. Grantor and Grantee agree to correct any legal descriptions contained herein if there is a mistake discovered, including any mistakes or discrepancies revealed by an accurate survey of the property identified herein, and to accordingly replace the corresponding corrected exhibit herein, as applicable.

IN WITNESS WHEREOF, the parties have hereunto executed this document the day and year first above written.



**GRANTEE:**

**CITY OF LE SUEUR, MINNESOTA**

By: \_\_\_\_\_  
Shawn Kirby, Its Mayor

By: \_\_\_\_\_  
Joe Roby, Its City Administrator

STATE OF MINNESOTA    )  
  ) ss.  
COUNTY OF LE SUEUR    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2023, by Shawn Kirby as Mayor and Joe Roby as City Administrator on behalf of the City of Le Sueur, a municipal corporation under the laws of the State of Minnesota, Grantee.

\_\_\_\_\_  
Notary Public

THIS INSTRUMENT WAS DRAFTED BY:

FLAHERTY & HOOD, P.A,  
525 Park Street, Suite 470  
St. Paul, MN 55103  
(651) 225-8840

**EXHIBIT 1 [TO PERMANENT EASEMENT AGREEMENT]**

**LEGAL DESCRIPTION OF REAL PROPERTY**

The real property referenced in this Permanent Easement is legally described as follows:

**LEGAL DESCRIPTION:**

Southeast Quarter of the Southwest Quarter of Section 36, Township 112 North, Range 26 West, Le Sueur County, Minnesota, EXCEPT:

All of that part and portion of the Southeast Quarter of the Southwest Quarter (SE1/4 of SW1/4) of Section 36, Township 112 North, Range 26 West, Le Sueur County, Minnesota, lying and being, Northerly and Easterly of the centerline of Kingsway Drive as the same is presently located and situated in the year 1986.

**EXHIBIT 2 [TO PERMANENT EASEMENT AGREEMENT]**

**LEGAL DESCRIPTION OF PERMANENT EASEMENT**

**LEGAL DESCRIPTION:**

A 20.00 foot strip of land being part of the Southeast Quarter of the Southwest Quarter of Section 36, Township 112 North, Range 26 West, Le Sueur County, Minnesota. The centerline of said strip is described as follows:

Commencing at the southeast corner of the said Southeast Quarter of the Southwest Quarter thence North 89 degrees 57 minutes 41 seconds West, along the south line of the said Southeast Quarter of the Southwest Quarter, a distance of 904.32 feet; thence North 00 degrees 05 minutes 50 seconds East, a distance of 469.78 feet to the point of beginning of the centerline to be described; thence North 00 degrees 05 minutes 50 seconds East, a distance of 86.78 feet; thence South 89 degrees 50 minutes 40 seconds East, a distance of 299.56 feet; thence South 54 degrees 58 minutes 01 seconds East, a distance of 233.38 feet; thence South 89 degrees 54 minutes 54 seconds East, a distance of 24.27 feet and said centerline there terminating.

**EXHIBIT 3 [TO PERMANENT EASEMENT AGREEMENT]**

**DEPICTION OF PERMANENT EASEMENT**

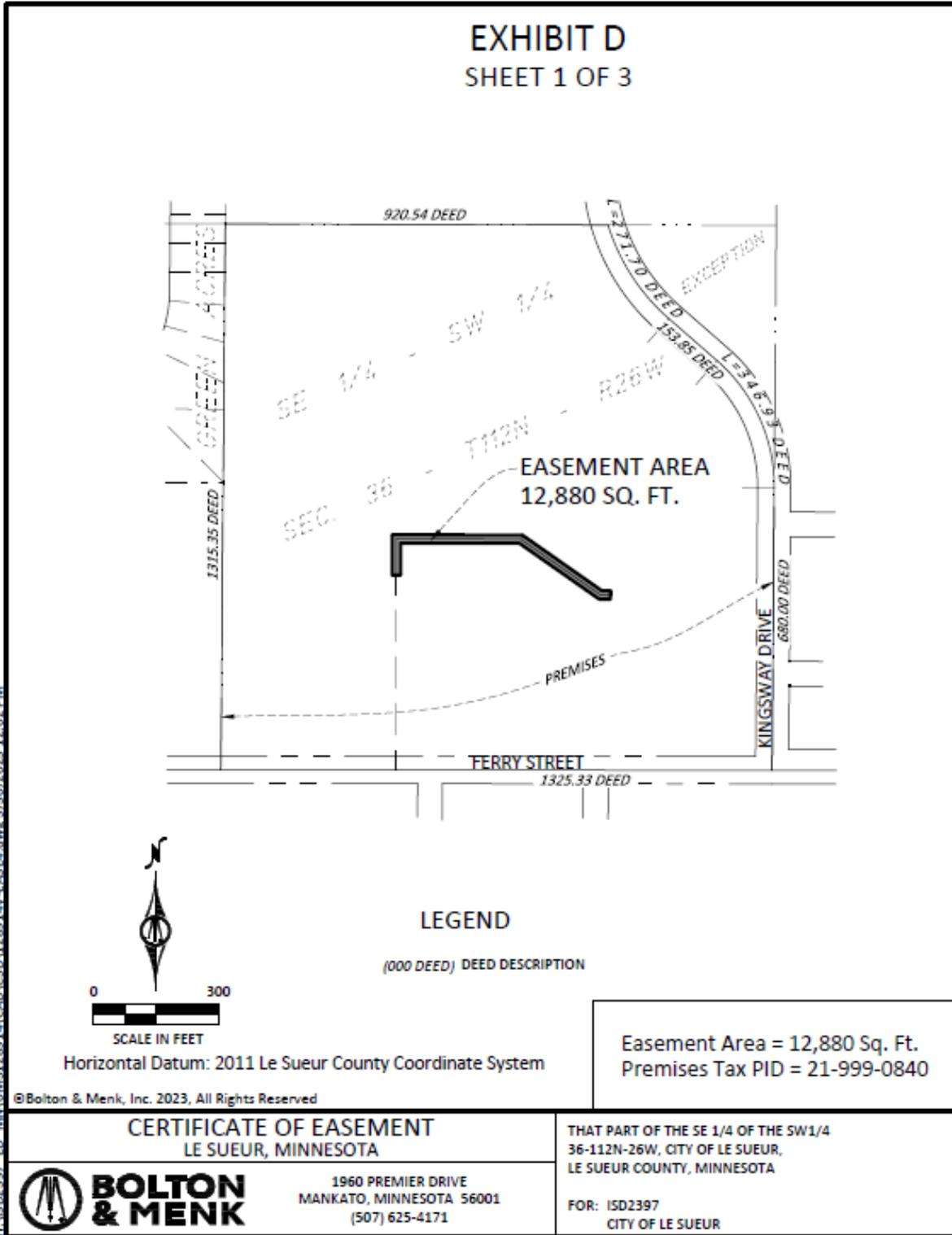
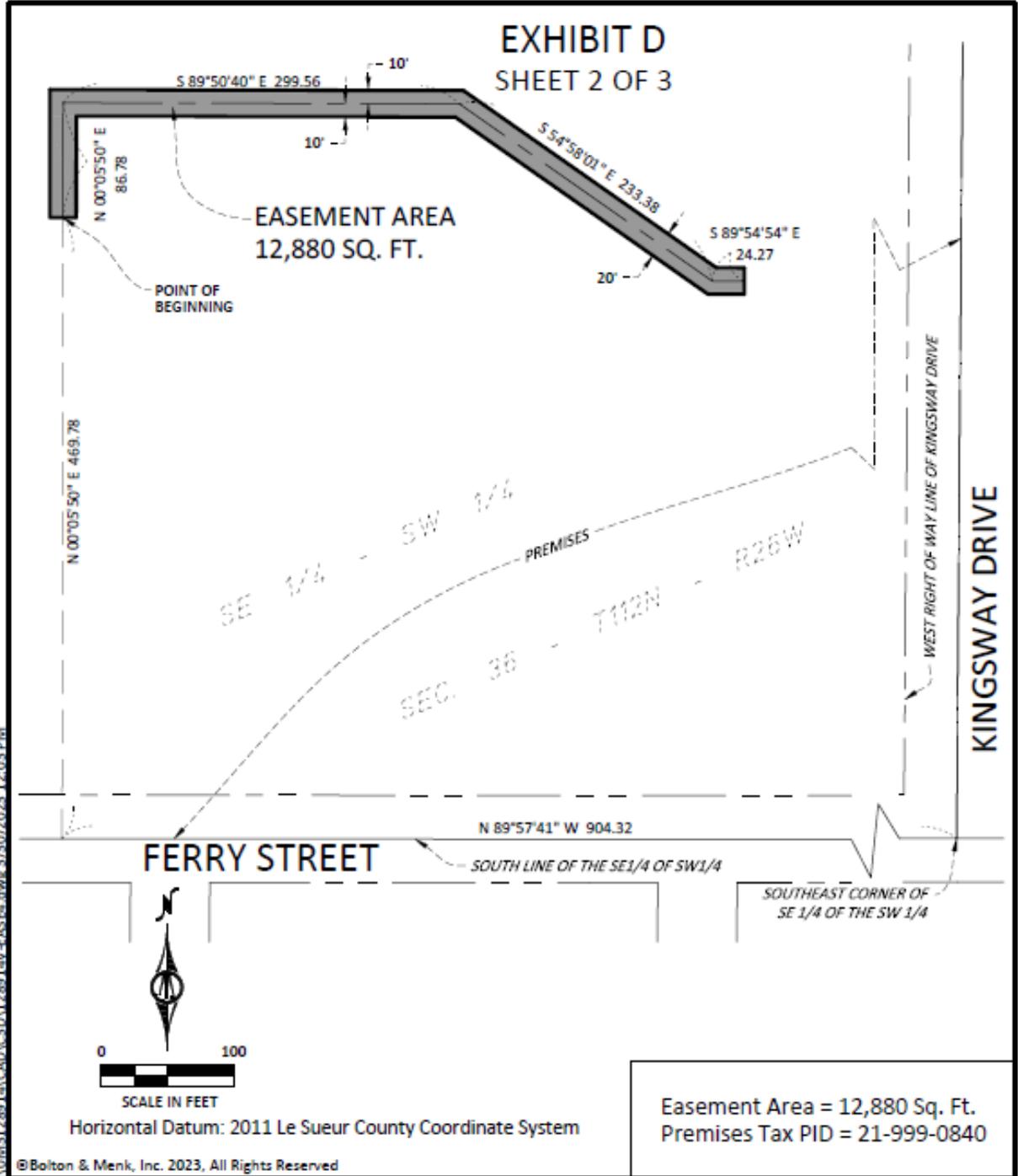
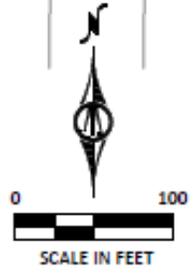


EXHIBIT D  
SHEET 2 OF 3



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Horizontal Datum: 2011 Le Sueur County Coordinate System

©Bolton & Menk, Inc. 2023, All Rights Reserved

Easement Area = 12,880 Sq. Ft.  
Premises Tax PID = 21-999-0840

**CERTIFICATE OF EASEMENT**  
LE SUEUR, MINNESOTA



**BOLTON & MENK**

1960 PREMIER DRIVE  
MANKATO, MINNESOTA 56001  
(507) 625-4171

THAT PART OF THE SE 1/4 OF THE SW 1/4  
36-112N-26W, CITY OF LE SUEUR,  
LE SUEUR COUNTY, MINNESOTA

FOR: ISD2397  
CITY OF LE SUEUR

S36-112N-R26W

## **Exhibit G**

### **Certificates**

Pursuant to the Development Agreement, prior to acceptance of the Public Improvements by the City, the Developer must complete and furnish the following certificates:

- Contractor's Certificate;
- Engineer's Certificate;
- Land Surveyor's Certificate; and
- Developer's Certificate;

in substantially the form provided herein, certifying that all construction has been completed in accordance with the terms of the Development Agreement.







## DEVELOPER'S CERTIFICATE OF COMPLIANCE

Project: \_\_\_\_\_

I/we, the undersigned, certify that the construction of those certain improvements (the "Project") required to be made by \_\_\_\_\_ (the "Developer") pursuant to that certain Development Agreement (the "Agreement") dated \_\_\_\_\_, 20\_\_\_\_, by and between the City of Le Sueur (the "City") and the Developer, are complete and have been completed all in accordance with the provisions of the Agreement, that the Developer has complied to date with all requirements set forth in the Agreement, and that the work under the above named Project including all appurtenances thereto has been completed in accordance with the City Code, City Standard Specifications and the City's Engineering Standard Specifications.

I/we further certify that all charges or bills for labor or services performed or materials furnished, and other charges by the subcontractors for the required Project improvements have been paid in full and in accordance with the terms of that/those contract(s).

I/we further certify that the required Project improvements are free and clear of any and all liens and encumbrances; that no notice of intention to claim liens is outstanding, and that no suits are pending by reason of the Project.

I/we finally certify that the required improvements are free from all defects in material and workmanship from the date of acceptance thereof by the City, that the Developer agrees to remedy all defects arising within the warranty period at the Developer's expense, and that the Developer is now and will remain in compliance with the Warranty/Maintenance Guarantee required by Le Sueur City Code, and City Standard Specifications for the required periods stated therein.

This affidavit is made for the purpose of inducing the City of Le Sueur to accept the Project improvements made as part of the Project for public ownership thereof in accordance with the Agreement.



## Exhibit H

### City of Le Sueur Stormwater Facilities Maintenance Agreement

(Top 3 inches reserved for recording data)

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#### **DECLARATION OF COVENANTS, EASEMENT AND AGREEMENT FOR MAINTENANCE OF STORMWATER FACILITIES**

This Declaration of Covenants, Easement and Agreement for Maintenance of Stormwater Facilities (the “Agreement”) is made by and between Le Sueur-Henderson Public Schools, organized as Independent School District No. 2397 under the laws of the State of Minnesota, 901 Ferry Street, Le Sueur, Minnesota, referred to hereinafter as “Owner” or “Responsible Party” and the City of Le Sueur, Minnesota, a municipal corporation organized under the laws of the State of Minnesota, 203 South Second Street, Le Sueur, MN 56058 (the “City”); (collectively the “parties”).

#### RECITALS:

WHEREAS, the Owner is the owner of certain real property located in the City of Le Sueur, Le Sueur County, Minnesota, legally described as follows:

See Exhibit A attached hereto and incorporated herein by reference (the “Property”); and

WHEREAS, the City approved a Planned Unit Development and Development for improvements for a development consisting of a campus of public educational facilities, including the Le Sueur-Henderson High School, Middle School related athletic and other facilities, and a new elementary school and associated improvements including sanitary sewer, storm sewer, water, storm water management facilities, grading and erosion control facilities and other private improvements (the “project”) upon the Property; and

WHEREAS, the City and the Owner have entered into a Development Agreement, dated \_\_\_\_\_, for the project on the Property (the “Development Agreement”); and

WHEREAS, all construction and site improvements for the project must be in conformance with the approved site plan (the "Site Plan") and in conformance with City Code; and

WHEREAS, the Owner plans to install, operate, repair and maintain storm water facilities consisting of a stormwater infiltration system, filtration basin, and related appurtenances (the "Facilities") on a portion of the Property for future use and benefit of the project; and

WHEREAS, the Facilities on the Property were designed by \_\_\_\_\_  
*[insert name of engineering company who drafted the exhibits for this document]*; and

WHEREAS, the Owner shall install, operate, repair, and maintain the Facilities pursuant to City Code and in accordance with those approved plans and specifications, including but not limited to the following plans, attached hereto as Exhibits and incorporated herein by reference, hereinafter collectively referred to as the "specifications":

- Exhibit 1 Civil Site Plan
- Exhibit 2 Drainage, Erosion Control and Grading Plan
- Exhibit 3 Utility Plan
- Exhibit 4 Landscape Plan
- Exhibit 5 Utilities Details
- Exhibit 6 Stormwater Pollution Prevention Plan
- Exhibit 7 Stormwater Systems and Inspection Guide
- Exhibit 8 Stormwater Management, Operation and Maintenance Plan/Checklist (The Plan is on file with the City of Le Sueur. The Plan outlines the schedule for inspections and the locations and items to be inspected. The Plan shall provide guidance as to when and where maintenance should be completed.)

WHEREAS, in order to provide stormwater management and control, to meet the City's stormwater permitting requirements, and to promote the water quality and volume control to the City's stormwater system and water bodies, the Owner and the City agree that it is reasonable and appropriate for the City to require the Owner and all subsequent owners of the Property to inspect, operate, repair, maintain and replace, at the Owner's cost and expense, the Facilities on a regular basis to ensure that the Facilities function as intended in compliance with the specifications, applicable law, stormwater permitting requirements, as applicable, and this Agreement; and

WHEREAS, pursuant to City Code, the Owner and the City desire to set forth, in this recordable instrument, their agreement to establish covenants and declarations upon the Property for the installation of and ongoing operation, repair, maintenance and replacement of the Facilities on the Property by the Owner and the Owner's successors and assigns at the Owner's and the Owner's successors' and assigns' cost and expense.

NOW, THEREFORE, in consideration of the foregoing facts and circumstances, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Installation, Construction and Maintenance.

- a. Construction and Installation Requirements. The Owner shall construct and install the Facilities in accordance with the Site Plan, Development Agreement, the approved specifications and this Agreement, at the Owner's sole cost and expense.
- b. Maintenance Obligation. The Owner shall operate, maintain, repair and replace, as applicable, the Facilities in accordance with the Site Plan, Development Agreement, the approved specifications, this Agreement, and applicable law and City Code, as amended, at the Owner's sole cost and expense.
- c. Snow and Leaf Removal and Prohibited Storage. The Owner shall sweep clean the private streets, driveways, parking area and walkways on the Property in April or May and October or November each year to remove from the Property all sand and salt deposited on the private streets, driveways, parking area and walkways. The Owner shall also remove all tree leaves from the Property after they fall to the ground in October or November each year.
- d. Personal Property or Debris Storage Prohibited. The Owner shall not deposit or store any personal property or debris, litter, or other objects within the Facilities or in any manner that will otherwise interfere with the proper operation and maintenance of the Facilities, and the Owner shall use reasonable efforts to keep the Facilities free of any debris, leaves, litter, or other objects.
- e. Maintenance of Vegetation. As applicable, the Owner shall maintain and, when necessary, replace approved plants and vegetation set forth in the specifications. Notwithstanding normal plant maintenance, such as pruning, dividing or thinning vegetation, the Owner shall seek approval from the City before materially altering the plants used as part of or in relation to the Facilities. The Owner shall not use any chemicals within the Facilities unless first approved by the City and only when necessary for the protection of the Facilities or vegetation associated therewith. The Owner shall repair any erosion within or surrounding the Facilities. The Owner shall conduct monthly inspections of the Facilities during the growing season, at the Owner's sole cost and expense, to ensure the Facilities and associated vegetation are maintained in material compliance with the specifications, this Agreement, and applicable law and City Code, as amended. If necessary, the Owner shall repair the Facilities if not in conformance with the standards set forth herein. Repairing landscape and vegetation to maintain a healthy plant community associated with the Facilities may include replacement of dead or diseased plants, vegetation or mulch and removal of noxious weeds, litter or other debris.
- f. Maintenance Costs. The Owner shall incur and pay all costs associated with operating, maintaining, repairing and replacing the Facilities on the Property

pursuant to the terms and conditions of this Agreement and applicable law and City Code, as amended.

- g. Record Drawing Submittal. The Owner shall submit a record drawing to the City of the installed Stormwater Management Facilities. The Owner shall include all information referenced in the Record Plan Requirement document.

## 2. Inspections.

- a. Annual Inspections. The Facilities shall be inspected annually by a Qualified Person selected by the Owner to determine whether or not the same are functioning in accordance with the specifications, this Agreement, and applicable law and City Code, as amended. As used in this Agreement, the term “Qualified Person” shall mean a professional engineer licensed by the State of Minnesota, or a person approved by the City Engineer based on training and experience. The Owner’s responsibilities under this Section shall be at the Owner’s sole cost and expense. If, as a result of the inspection, the Facilities or any portion thereof are determined not to be functioning in accordance with the specifications, this Agreement, or applicable law and the City Code, as amended, the Owner shall restore/repair/replace, as necessary, the Facilities, or portions thereof, as necessary or required by the City, to function as specified herein. Upon request from the Owner, the City Engineer may establish an inspection schedule permitting such inspections to be performed less frequently than annually, but the City Engineer may reinstate the annual inspection schedule at any time by notice to the Owner in the City Engineer’s sole judgment and discretion.
- b. City Notification of Inspection. The City shall be notified at least 48 hours prior to the annual inspections or any repair, maintenance or replacement of the Facilities and, at the sole cost of the City, a representative of the City may observe any inspection, repair, maintenance or replacement. The same shall be subject to any permitting that is applicable to the same.
- c. City Right of Entry and Independent Inspection. The City shall have right of entry onto the Property to inspect the Facilities at any reasonable time and in a reasonable manner, provided that the City shall use reasonable efforts to provide prior written notice to the Owner of its intent to enter the Property to inspect in order to allow a representative of the Owner to be present and observe any inspection. The City shall have the right to enter the Property upon reasonable notice to Owner (except in the event of an emergency) when the City has a reasonable basis to believe that a violation of the specifications, this Agreement, or applicable law and City Code, as amended, is occurring or has occurred and to enter upon the Property when necessary, in the City Engineer’s sole judgment and discretion, for abatement of a public nuisance or correction and enforcement of a violation of City Code or this Agreement. The City shall not be subject to or liable for any claims of trespass by the Owner in exercising its rights under this Agreement.

- d. Inspection and Maintenance Report. The Owner shall submit a report to the City, no later than two (2) weeks after any annual inspection or maintenance of the Facilities, providing the following information:
  - i. Date and time of inspection;
  - ii. Log of findings;
  - iii. Date and time of maintenance; and
  - iv. Log of maintenance performed.

3. Remediation and Waiver of Rights.

- a. Remediation Plan. If the City Engineer determines that the Facilities do not conform to the Site Plan, the approved specifications, this Agreement, or applicable law and City Code, as amended, the City Engineer shall notify the Owner of the deficiency in writing. The Owner shall submit a proposed remediation plan and schedule to the City Engineer within thirty (30) days after receipt of such written notice from the City. City and Owner shall use good faith efforts to agree on remediation plans. If the proposed remediation plan and schedule are not acceptable to the City Engineer, the City Engineer shall provide written notice to the Owner of the deficiency, and the Owner shall submit a revised plan to the City Engineer within fourteen (14) days after receipt of such written notice. If the City Engineer approves the proposed remediation plan and schedule, the Owner shall perform the remediation in compliance therewith at the Owner's sole cost and expense, subject to any applicable permitting requirements.
- b. Failure to Repair. If the Owner fails to submit a proposed remediation plan and schedule to the City Engineer as prescribed above, or fails to implement a City Engineer approved remediation plan to bring the Facilities into compliance with the specifications, this Agreement, or applicable law and City Code, as amended, then the same shall constitute an event of default, and at the sole cost and expense of the Owner, the City shall have the right, but no obligation, to prepare a remediation plan for the Facilities, enter upon the Property and complete all work necessary to correct the Facilities so as to bring the Facilities into compliance.
- c. Reimbursement to the City. The Owner shall reimburse the City within thirty (30) days after receipt of an invoice from the City for any and all reasonable costs incurred by the City in connection with preparing a remediation plan for the Facilities and all work completed by the City to bring the Facilities back into compliance or cure an event of default of any of the terms and conditions of this Agreement.
- d. Waiver of Rights and Certification. If the Owner does not timely reimburse the City as required above, the City may recover its costs by levying a special assessment against the Property certifying the same to the Le Sueur County Auditor for collection in the same manner as property taxes upon the Property. The Owner, on behalf of itself and its successors and assigns, hereby acknowledges the benefit

of such inspection/maintenance/repair/replacement of the Facilities to the Property by the City and hereby expressly waives any rights to hearings, notice of hearings, objections or appeal relating to the levying of any City assessments, the right to contest the City levied assessments under Minnesota Statutes § 429.081 or the certification of such levied assessments to the Le Sueur County Auditor for collection with property taxes upon the Property.

- e. Right of Entry. The City shall have the right to enter the Property to implement the terms of this Agreement, and applicable law. The City shall not be subject to or liable for any claims of trespass by the Owner.
4. Standards for Performance. Any act of construction, installation, operation, maintenance, repair or replacement to be performed under this Agreement shall be performed in a good and workmanlike manner pursuant to sound engineering practices and in compliance with all applicable governmental requirements, City Code, the Site Plan, the approved specifications, and applicable law and rules.
  5. Grant of Easement. For valuable consideration, Owner conveys to the City an easement for inspection, maintenance and repair of the Facilities for purposes over, under, and across the Property (the "Easement"). The Easement hereby conveyed includes the right of the City, its contractors, employees, agents and assigns to:
    - a. reasonable right of ingress and egress to inspect the Facilities in accordance with the Agreement;
    - b. reasonable right of ingress and egress to perform the Owner's remediation obligations upon default by Owner in accordance with this Agreement;
    - c. locate, construct, reconstruct, replace, operate, maintain, inspect, alter and repair the Facilities in accordance with this Agreement in the event the Owner fails to timely perform such obligations to the City Engineer's satisfaction following notice thereof from the City to the Owner; and
    - d. cut, trim, or remove trees, shrubs, or other vegetation that, in the City's judgment, unreasonably interfere with the Facilities in the event the Owner fails to timely perform such obligations to the City Engineer's satisfaction following notice thereof from the City to the Owner.
  6. Amendment, Release or Termination. Notwithstanding anything herein to the contrary, no amendment, release or termination of any of the provisions of this Agreement shall be effective or may be filed of record unless the City consents in writing to the amendment, release or termination. Such consent must be evidenced by a resolution duly approved by the City Council, or successor body. The Owner, on behalf of itself and its successors and assigns, expressly acknowledges and agrees that the City has no obligation whatsoever to approve or act upon any proposed amendment, release or termination, and may withhold or delay consent for any reason or no reason whatsoever, or may condition consent upon

such terms and conditions as the City deems desirable, it being the City's absolute right and prerogative to insist that the terms of this Agreement remain in effect and unaltered and to permit amendment, release or termination only at such times and under such circumstances, if any, as the City deems necessary or desirable in the exercise of the City's sole judgment and discretion. The Owner, on behalf of itself and its successors and assigns, further agrees and covenants, consistent with this acknowledgment, not to institute any legal proceedings against the City on the grounds that the City failed to respond appropriately to a proposed amendment, release or termination, and to indemnify the City against any expense, including litigation costs and attorneys fees, which the City incurs as a result of any violation by that party of this covenant. The City may, at any time, give up the right to approval granted hereunder, said action to be evidenced by City Council resolution. Notwithstanding anything herein to the contrary, the Property shall not be deemed dedicated to the public or otherwise public land. The City shall have no obligation and no right, other than as provided in this Agreement or under the ordinances, statutes and other laws, as applicable, under which the City operates, to maintain or administer the Property.

7. Duration. This Agreement shall constitute a covenant running with the land and shall be binding upon and inure to the benefit of the parties, and any and all of their successors and assigns.
8. Authority. The Owner covenants with the City that they are the fee owners of the Property as described above and have good right to create the covenants contained herein.
9. Attorney's Fees. If any action at law or in equity shall be brought by the City on account of any breach or default of this Agreement by the Owner, the City shall be entitled to recover from the Owner reasonable attorney's fees, the amount of which shall be fixed by the Court and shall be made a part of any judgment or decree rendered.
10. General Terms.
  - a. **RECITALS**. The recitals to this Agreement are made a part hereof and incorporated herein by reference.
  - b. **VOLUNTARY AND KNOWING ACTION**. The parties, by executing this Agreement, state that they have carefully read this Agreement and understand fully the contents thereof; that in executing this Agreement they voluntarily accept all terms described in this Agreement without duress, coercion, undue influence, or otherwise, and that they intend to be legally bound thereby.
  - c. **AUTHORIZED SIGNATORIES**. The parties each represent and warrant to the other that (1) the persons signing this Agreement are authorized signatories for the entities represented, and (2) no further approvals, actions or ratifications are needed for the full enforceability of this Agreement against it; each party indemnifies and holds the other harmless against any breach of the foregoing representation and warranty.

- d. **NOTICES.** All communications, demands, notices, or objections permitted or required to be given or served under this Agreement shall be in writing and shall be deemed to have been duly given or served if delivered in person to the other party or its authorized agent or if deposited in the United States mail, postage prepaid, for mailing by certified or registered mail, and addressed to the other party to this Agreement, to the address set forth in this Agreement, or if to a party not a party to this Agreement, to the address designated by a party to this Agreement in the foregoing manner. Any party may change its address by giving notice in writing, stating its new address, to any other party as provided in the foregoing manner. Commencing on the 10th day after the giving of such notice, such newly designated address shall be such address for the purpose of all communications, demands, notices, or objections permitted or required to be given or served under this Agreement.
- e. **NOT PARTNERSHIP, JOINT VENTURE, OR FIDUCIARY RELATIONSHIP CREATED HEREBY.** Nothing contained in this Agreement shall be interpreted as creating a partnership, joint venture, or relationship of principal and agent between the City and the Owner.
- f. **CUMULATIVE RIGHTS.** Except as otherwise expressly stated herein, no right or remedy herein conferred on or reserved to the City is intended to be exclusive of any other right or remedy hereby provided by law, but each shall be cumulative in, and in addition to, every other right or remedy given herein or hereafter existing at law, in equity, or by statute.
- g. **COMPLIANCE WITH LAWS.** Owner shall abide by all Federal, State and local laws, statutes, ordinances, rules and regulations now in effect or hereinafter adopted pertaining to this Agreement or to the Facilities, improvements, personal property, programs and staff for which the Owner is responsible.
- H. **GOVERNING LAW.** This Agreement shall be deemed to have been made and accepted in Le Sueur County, Minnesota, and the laws of the State of Minnesota shall govern any interpretations or constructions of the Agreement without regard to its choice of law or conflict of laws principles.
- i. **DATA PRACTICES.** The parties acknowledge that this Agreement is subject to the requirements of Minnesota's Government Data Practices Act, Minnesota Statutes, Section 13.01 et seq.
- j. **NO WAIVER.** Any party's failure in any one or more instances to insist upon strict performance of any of the terms and conditions of this Agreement or to exercise any right herein conferred shall not be construed as a waiver or relinquishment of that right or of that party's right to assert or rely upon the terms and conditions of this Agreement. Any express waiver of a term of this Agreement shall not be binding and effective unless made in writing and properly executed by the waiving party.

- k. SEVERABILITY. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision. Any invalid or unenforceable provision shall be deemed severed from this Agreement to the extent of its invalidity or unenforceability, and this Agreement shall be construed and enforced as if the Agreement did not contain that particular provision to the extent of its invalidity or unenforceability.
- l. HEADINGS AND CAPTIONS. Headings and captions contained in this Agreement are for convenience only and are not intended to alter any of the provisions of this Agreement and shall not be used for the interpretation of the validity of the Agreement or any provision hereof.
- m. SURVIVABILITY. All covenants, indemnities, guarantees, releases, representations and warranties by any party or parties, and any undischarged obligations of City and Owner arising prior to the expiration of this Agreement (whether by completion or earlier termination), shall survive such expiration.
- n. RECORDING. This Agreement shall bind the heirs, executors, administrators, assigns and successors of the parties. This Agreement shall be recorded by the City at the expense of the Owner within 30 days of full execution hereof.

*[Remainder of page left intentionally blank.]*





**EXHIBIT 1 [TO STORMWATER FACILITIES MAINTENANCE AGREEMENT]**

**Legal Description of Property**

**LEGAL DESCRIPTION:**

Southeast Quarter of the Southwest Quarter of Section 36, Township 112 North, Range 26 West, Le Sueur County, Minnesota, EXCEPT:

All of that part and portion of the Southeast Quarter of the Southwest Quarter (SE1/4 of SW1/4) of Section 36, Township 112 North, Range 26 West, Le Sueur County, Minnesota, lying and being, Northerly and Easterly of the centerline of Kingsway Drive as the same is presently located and situated in the year 1986.

**EXHIBIT 2 [TO STORMWATER FACILITIES MAINTENANCE AGREEMENT]**

**Site Plan**



**EXHIBIT 3 [TO STORMWATER FACILITIES MAINTENANCE AGREEMENT]**

**Erosion Control and Grading Plan**

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**EXHIBIT 4 [TO STORMWATER FACILITIES MAINTENANCE AGREEMENT]**

**Utility Plan**

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**EXHIBIT 5 [TO STORMWATER FACILITIES MAINTENANCE AGREEMENT]**

**Landscape Plan**

**EXHIBIT 6 [TO STORMWATER FACILITIES MAINTENANCE AGREEMENT]**

**Utilities Details**

**EXHIBIT 7 [TO STORMWATER FACILITIES MAINTENANCE AGREEMENT]**

**Stormwater Maintenance Plan**

Post Construction Long Term Maintenance Plan for  
Le Sueur-Henderson Public Schools Elementary School Addition PUD Stormwater Facilities

**System Description:**

The site consists of a single storm water basin to capture runoff from the public school campus and allow filtration into the soil. The site contains native grasses and plants within and around the public school campus. The site contains trees around the perimeter for the purposes of visual screening.

**System Maintenance**

**Landscape Maintenance**

- The facility should be checked bi-annually for signs of erosion, vegetation loss, and channelization of the flow.
- The grass should not be allowed to grow greater than 42" in height within the solar array footprint. Site shall be mowed as needed to appropriate site coverage and manage height. Clippings shall be left on site or removed as determined by site manager.

**Filtration Areas**

<b>Activity</b>	<b>Frequency</b>
Water plants	As necessary during first growing season
Water plants during dry periods	As needed after first growing season
Re-mulch void areas	As needed
Treat diseased trees and shrubs	As needed

- Erosion  
The soil and mulch in the facility and in areas draining to the facility shall be inspected for eroded areas. Eroded areas shall be filled with soil or mulch and vegetated.

- **Plant Maintenance**

Vegetation maintenance includes watering plants during dry periods, re-mulching void areas, treating diseased trees and shrubs and mowing turf areas.

- **Basin Drainage**

Basins have been designed to drain within 48 hours of rainfall event to prevent standing water.

## **Exhibit I**

### **City of Le Sueur Private Fire Hydrant Inspection and Maintenance Policy**

**Purpose:** Provide the fire code requirements for maintenance and inspection of private fire hydrants.

**Scope:** All new and existing fire hydrants privately owned and operated or located on private property.

**Definition:** "Privately Owned Fire Hydrants" or "hydrants" as used herein are those fire hydrants not a part of the City of Le Sueur water system located upon private property that are connected directly or indirectly to a public water supply.

1. Section 507 of the Minnesota State Fire Code (MSFC) requires inspection and maintenance of fire hydrant systems. Privately owned fire hydrants shall be subject to periodic tests and maintained in an operative condition at all times in accordance with NFPA 25. MSFC section 101 authorizes the City of Le Sueur to adopt policies to implement MSFC.
  - 1.1. Hydrants shall be inspected annually and after each use and repaired where defective.
  - 1.2. Hydrants shall be for the exclusive use of the City of Le Sueur and shall not be used for purposes other than emergencies as deemed by the City of Sueur.
    - 1.2.1. The City of Le Sueur may allow use of hydrants for testing and maintenance of the system with special permission.
2. The City of Le Sueur shall be responsible for:
  - 2.1. Directing and scheduling all hydrant maintenance and inspection activities.
  - 2.2. Contracting outside vendors, as necessary, for maintenance and repair services.
  - 2.3. Reviewing plans for and monitoring the installation of hydrants (public and private) in new developments to ensure conformance with city needs and specifications.
  - 2.4. Monitoring the use of hydrants during responses to disasters and other emergencies.
  - 2.5. Documenting hydrants needing repair.
  - 2.6. Ensuring timely repair of hydrants.
  - 2.7. Inspecting hydrants for proper operation, flow, and unhindered access.
  - 2.8. Ensuring caps are secured, flag/pole is attached and color/thread pitch matches City of Le Sueur specifications.

3. Private hydrant repairs: In the event a City of Le Sueur inspection indicates that repairs are required, the City of Le Sueur shall notify the owner of the hydrant in writing of the repairs required. All costs and repairs are the responsibility of the owner.
  - 3.1. The City of Le Sueur will repair the hydrant using City personnel. In some cases, the repair will need to be completed by a qualified contractor.
  - 3.2. The cost of any materials, equipment, and labor will be billed to the property owner. Fees for equipment and labor are set by the City of Le Sueur.
  - 3.3. Repairs to hydrants will be prioritized based upon City of Le Sueur needs. Every attempt will be made to return non-working hydrants to service within one business day.
  
4. Hydrant Access:
  - 4.1. There shall be no less than 36" of horizontal clearance on all sides of the hydrant.
  - 4.2. All hydrants shall be free of obstacles, including snow, so the hydrant may be easily identified by approaching fire trucks at a minimum distance of 200'.
  - 4.3. Posts, fences, vehicles, vegetation, trash and other items shall not be placed or kept near fire hydrants.
  - 4.4. The fire department shall not be deterred or hindered from gaining immediate access to a fire hydrant.
  - 4.5. Fire hydrants deemed inoperative shall be marked and readily identified as "out of service".