

4-19

Taxes Paid and Transfer entered this

19th day of April, 2022

Nadean Inman

Benton County Aud/Treas

LL

Deputy

DOCUMENT #: 4600069

Recorded: 04-19-2022 at 12:21 PM

Cheryl L Kantor

County Recorder

Benton County MN

Fee: \$46.00

BS

Recording stamp digitally applied

09.00401.00
09.00401.10

PERMANENT UTILITY AND DRAINAGE EASEMENT

THIS EASEMENT is made this 14th day of April, 2022, by and between Larry A. Besser, Jr., Lorin E. Besser, and Robert Kovell, as Trustees of Restated Revocable Trust Agreement for George A. Besser, Jr., dated July 28, 2010 ("Grantor") and the City of Foley, a municipal corporation organized under the laws of Minnesota ("City").

RECITALS

- A. Grantor is the fee owner of the real property located in Benton County, Minnesota, as described in **Exhibit A** ("Property");
- B. The City is in the process of undertaking a public wastewater project that may include a buried sanitary sewer force main, buried fiber optic cable, and related utility infrastructure (the "Project") and requires a permanent utility and drainage easement over the Property in order to facilitate construction, installation, operation and maintenance of the Project, including the installation of facilities and related equipment on the Property; and
- C. The Grantor desires to grant a permanent utility easement (the "Easement") over the Property to the City for the Project as described in **Exhibit B** and depicted in **Exhibit C**.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained in this Easement, and for other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, the parties agree as follows:

1. **Grant of Permanent Easement.** Grantor grants to the City and its agents, hired contractors, and employees a permanent easement over and across the portion of the Property described **Exhibit B** and depicted in **Exhibit C** for right-of-way, drainage, and utility purposes, including the acquisition of all vegetation ("Easement"). Grantor retains the right to use the Easement so long as the use does not interfere with the City's use of and access to the Easement.
2. **Scope of Easement.** The Easement includes the right of the City, its contractors, agents, officers, employees, and inspectors to enter the Easement area at all reasonable times for the purposes of performing such construction, excavation, reconstruction, inspection, alteration, pumping, and related work as is needed to install, operate, maintain, repair, improve, and replace

the Project. This Easement grants the City the right to cut, trim, or remove trees, shrubs, or other vegetation within the Easement, now or in the future, that, in the City's judgment unreasonably interferes with the use, safety, or maintenance of the Easement. The City may remove structures, pavement, soil, gravel or other materials with the Easement. Signage, manholes, and testing access may be placed above ground within the Easement. Grantor and the City will work together to minimize the disruption to Grantor by the excavation and work. The City shall also require the contractors to restore any excavated areas and to repair any damage done to the Property from their work, except that there shall be no obligation to restore or replace trees or shrubs cut or removed as part of the installation, repair, maintenance, or replacement of the Project. The Easement includes a temporary construction easement, as described in **Exhibit B** and depicted in **Exhibit C**, for the purpose performing any necessary grading, excavating, construction of slope, parking of construction machinery, storing of Project materials, restoration work, and any other use related to the construction of the Project (the "Temporary Easement"). The Temporary Easement shall expire upon completion of the Project, but in any event will expire no later than June 30, 2024, whichever occurs first.

3. **Obstructions and Placement of Structures Prohibited.** Grantor shall not erect any structure under, on, across or within the Easement without obtaining the prior written consent of City. The Easement includes the right of the City to remove any object, including landscaping, trees, shrubs, timber and wood, which in the opinion of the City or its contractors will interfere with the Project.

4. **Grantor's Covenants.** Grantor specifically covenants with the City that:

- a. Grantor holds the Property in fee simple title, except for the permitted encumbrances identified in **Exhibit D**, for which Grantor agree to assist in securing consent;
- b. Grantor has full and good lawful authority to convey the Easement for the purposes stated in this Easement; and
- c. Grantor will defend the Easement against claims of all persons whomsoever.

5. **Easement Runs with the Land.** This Easement shall be deemed to be a perpetual easement and shall run with the land and be binding upon the Grantor's heirs, successors and assigns, and the Property.

6. **Amendment.** This document represents the entire agreement between the parties and there are no oral or collateral agreements or understandings. Only an instrument in writing signed by both parties may amend this document.

7. **Counterparts.** This document may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original, but such counterparts shall together constitute one and the same instrument.

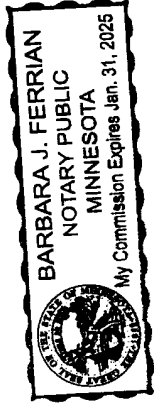
GRANTOR SIGNATURE PAGE

GRANTOR:


Larry A. Besser, Jr., as Trustee of Restated
Revocable Trust Agreement for George A.
Besser, Jr., dated July 28, 2010

STATE OF MINNESOTA)
) SS
COUNTY OF STEARNS)

This instrument was acknowledged before me this 7th day of April, 2022,
by Larry A. Besser, Jr., as Trustee of Restated Revocable Trust Agreement for George A. Besser,
Jr., dated July 28, 2010.




Notary Public

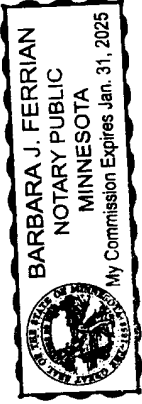
GRANTOR SIGNATURE PAGE

GRANTOR:


Lorin E. Besser, as Trustee of Restated
Revocable Trust Agreement for George A.
Besser, Jr., dated July 28, 2010

STATE OF MINNESOTA)
) SS
COUNTY OF STEARNS)

This instrument was acknowledged before me this 14th day of April, 2022,
by Lorin E. Besser, as Trustee of Restated Revocable Trust Agreement for George A. Besser, Jr.,
dated July 28, 2010.




Notary Public

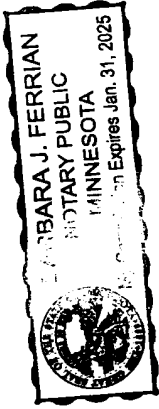
GRANTOR SIGNATURE PAGE

GRANTOR:

Robert Kovell
Robert Kovell, as Trustee of Restated
Revocable Trust Agreement for George A.
Besser, Jr., dated July 28, 2010

STATE OF MINNESOTA)
) SS
COUNTY OF SEARNS)

This instrument was acknowledged before me this 8th day of April, 2022,
by Robert Kovell, as Trustee of Restated Revocable Trust Agreement for George A. Besser, Jr.,
dated July 28, 2010.



Barbara J. Ferrian
Notary Public

CITY SIGNATURE PAGE

CITY OF FOLEY, MINNESOTA

By Gerard S. Bettendorf
Gerard Bettendorf, Its Mayor

Attest:

By Sarah Brunn
Sarah Brunn, Its City Administrator

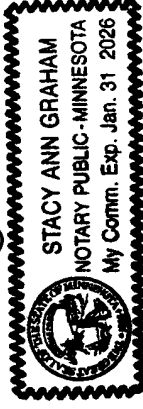
STATE OF MINNESOTA)
) SS
COUNTY OF BENTON)

On this 12 day of April, 2022, before me, a Notary Public for this County, personally appeared Gerard Bettendorf, who, being by me duly sworn, did say that he is the Mayor of the City of Foley, a Minnesota municipal corporation, and that this instrument was signed on behalf of said corporation by authority of its City Council and acknowledged said instrument to be the free act and deed of said corporation.

Stacy Ann Graham
Notary Public

STATE OF MINNESOTA)
) SS
COUNTY OF BENTON)

On this 12 day of April, 2021, before me, a Notary Public for this County, personally appeared Sarah Brunn, who, being by me duly sworn, did say that she is the City Administrator of the City of Foley, a Minnesota municipal corporation, and that this instrument was signed on behalf of said corporation by authority of its City Council and acknowledged said instrument to be the free act and deed of said corporation.



Stacy Ann Graham
Notary Public



THIS INSTRUMENT DRAFTED BY:

Rinke Noonan (AAR/mjr)
1015 W. St. Germain St., Suite 300
P.O. Box 1497
St. Cloud, MN 56302-1497
(320) 251-6700
Our File No. 04313-0262

EXHIBIT A

(Property Description)

That part of the Northeast Quarter of the Northeast Quarter (NE1/4 of NE 1/4), Section Twenty-seven (27), Township Thirty-six (36), Range Thirty (30), lying Northwesterly of Highway #23 except the West 19 feet thereof and Subject to Highway #23 and Township Road except .33 acres for County Highway, less part of 218A on MNDOT Right-of-way Plat No. 05-9, Benton County, Minnesota.

AND

The West 19 feet of that part of the Northeast Quarter of the Northeast Quarter (NE 1/4 NE 1/4), Section Twenty-seven (27), Township Thirty-six (36), Range Thirty (30), lying Northwesterly of Highway #23, Subject to Highway except South 17 feet of North 50 feet of West 19 feet of Northeast Quarter of Northeast Quarter (NE 1/4 NE 1/4) for County Highway, less part 218 on MNDOT Right-of-way Plat No. 05-9. According to the U.S. Government Survey thereof, Benton County, Minnesota.

EXHIBIT B

(Easement Legal Description)

Permanent Easement

A perpetual easement for drainage and utility purposes over, under and across that part of the hereinbefore described PREMISES described as follows:

Commencing at the northeast corner of the Northeast Quarter of the Northeast Quarter of Section 27, Township 36, Range 30, Benton County, Minnesota; thence on an assumed bearing of North 88 degrees 55 minutes 12 seconds West, along the north line of said Northeast Quarter of the Northeast Quarter, a distance of 1327.76 feet, to the west line of the Northeast Quarter of the Northeast Quarter; thence South 01 degrees 04 minutes 28 seconds East, along said west line of said Northeast Quarter of the Northeast Quarter, a distance of 592.10 to the point of beginning; thence North 47 degrees 30 minutes 03 seconds East, a distance of 187.68 feet; thence North 89 degrees 15 minutes 59 seconds East, a distance of 53.20 feet, to the northwesterly right of way line of Minnesota Highway 23, according to MINNESOTA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY PLAT NO. 05-9, according to the recorded plat thereof, Benton County, Minnesota; thence South 47 degrees 30 minutes 03 seconds West, along said northwesterly right of way line, a distance of 258.25 feet; thence South 30 degrees 51 minutes 14 seconds West, along said northwesterly right of way line, a distance of 0.55 feet, to said west line of the Northeast Quarter of the Northeast Quarter; thence North 01 degrees 04 minutes 28 seconds West, along said west line, a distance of 47.47 feet to the point of beginning.

Temporary Easement

A temporary easement for construction purposes over, under and across that part of the hereinbefore described PREMISES described as follows:

Commencing at the northeast corner of the Northeast Quarter of the Northeast Quarter of Section 27, Township 36, Range 30, Benton County, Minnesota; thence on an assumed bearing of North 88 degrees 55 minutes 12 seconds West, along the north line of said Northeast Quarter of the Northeast Quarter, a distance of 1327.76 feet, to the west line of the Northeast Quarter of the Northeast Quarter; thence South 01 degrees 04 minutes 28 seconds East, along said west line of said Northeast Quarter of the Northeast Quarter, a distance of 592.10 to the point of beginning; thence North 47 degrees 30 minutes 03 seconds East, a distance of 187.68 feet; thence North 89 degrees 15 minutes 59 seconds East, a distance of 53.20 feet, to the northwesterly right of way line of Minnesota Highway 23, according to MINNESOTA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY PLAT NO. 05-9, according to the recorded plat thereof, Benton County, Minnesota; thence North 47 degrees 30 minutes 03 seconds East, along said northwesterly right of way line, a distance of 72.38 feet; thence North 40 degrees 33 minutes 06 seconds East, along said northwesterly right of way line, a distance of 0.52 feet; thence North 82 degrees 28 minutes 44 seconds West, a distance of 65.17 feet;

thence South 47 degrees 30 minutes 03 seconds West, a distance of 245.53 feet, to said west line of the Northeast Quarter of the Northeast Quarter; thence South 01 degrees 04 minutes 28 seconds East, along said west line, a distance of 19.42 feet to the point of beginning.

Temporary easement to expire on June 30, 2024.

EXHIBIT C

(Easement Sketch)

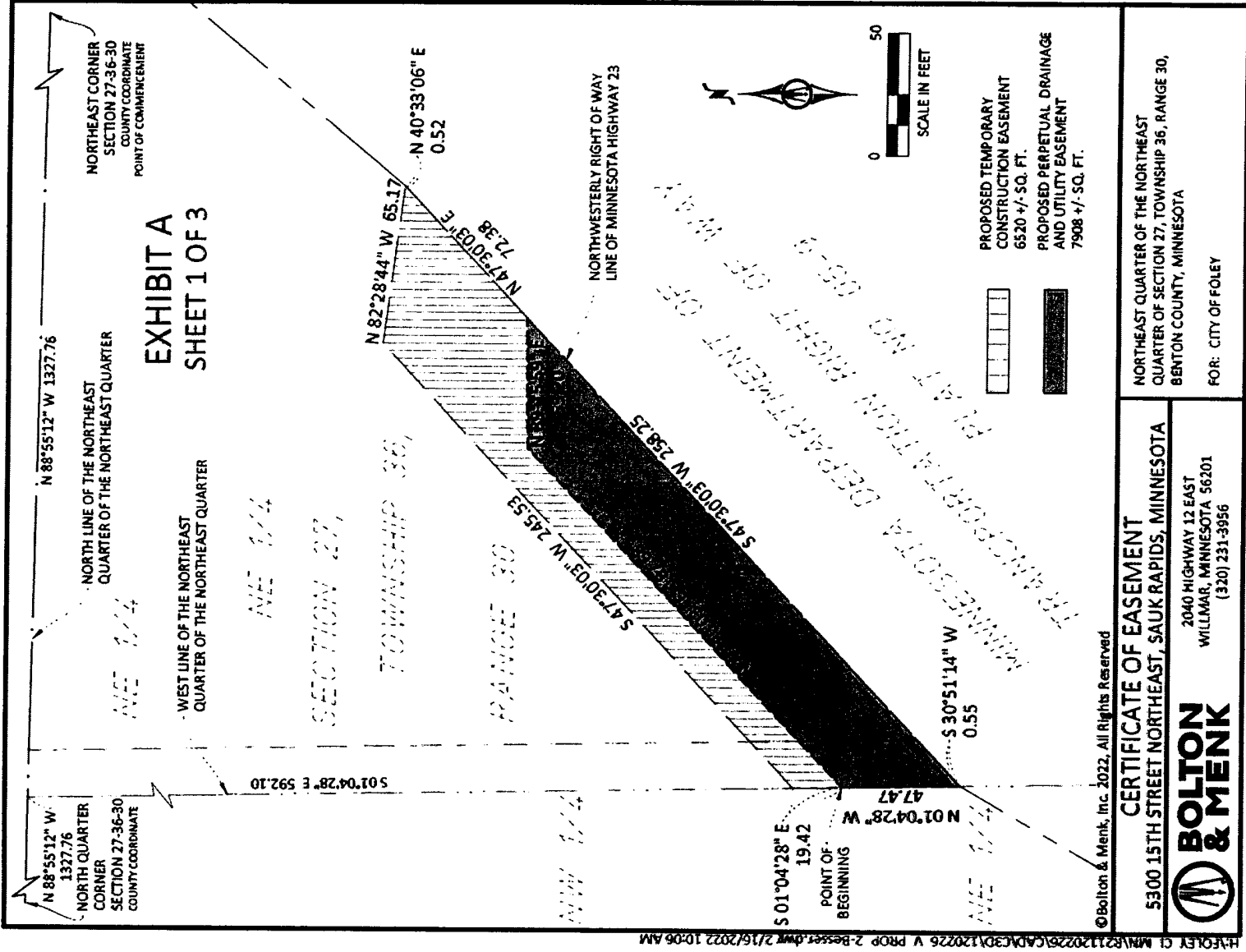




EXHIBIT D

(Permitted Encumbrances)

If blank, indicates none.