



Board of County Commissioners Agenda Request

2P
Agenda Item #

Requested Meeting Date: September 8, 2020

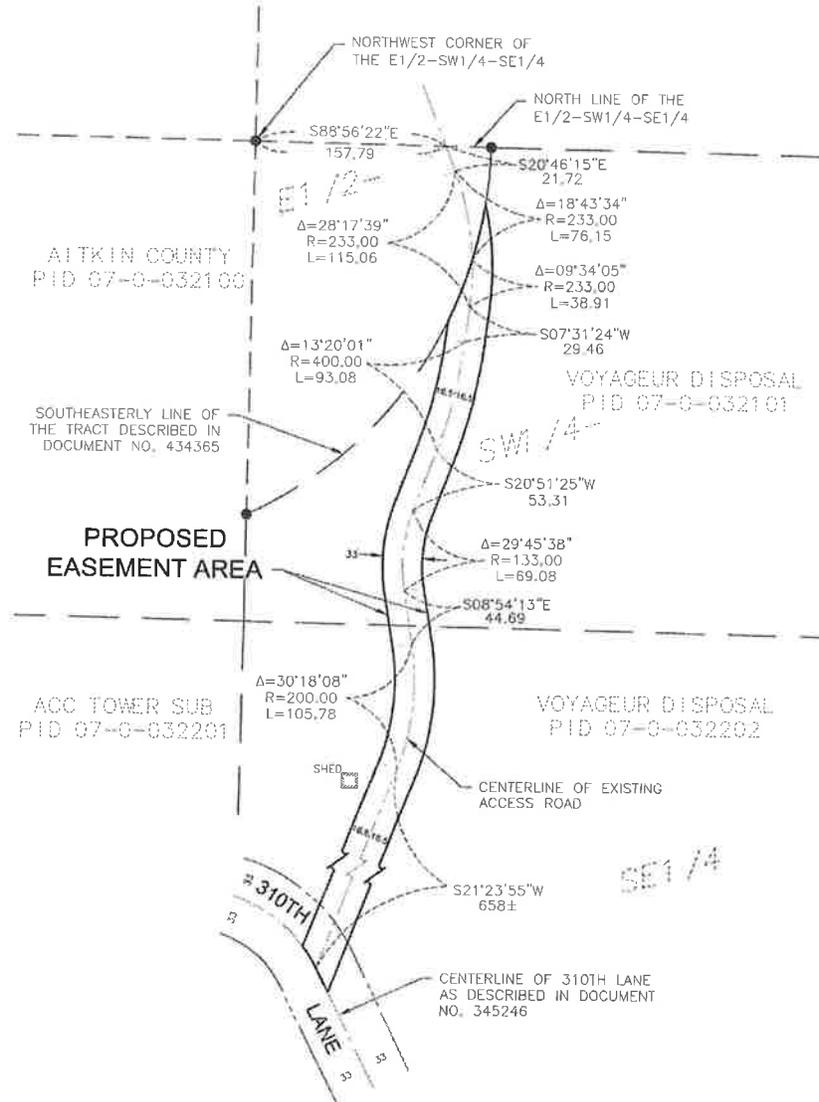
Title of Item: Easement for Access to Compost Site

<input type="checkbox"/> REGULAR AGENDA <input checked="" type="checkbox"/> CONSENT AGENDA <input type="checkbox"/> INFORMATION ONLY	Action Requested: <input checked="" type="checkbox"/> Approve/Deny Motion <input type="checkbox"/> Adopt Resolution (attach draft)	<input type="checkbox"/> Direction Requested <input type="checkbox"/> Discussion Item <input type="checkbox"/> Hold Public Hearing* <i>*provide copy of hearing notice that was published</i>
Submitted by: Terry Neff, Environmental Services Director		Department: Environmental Services
Presenter (Name and Title): N/A		Estimated Time Needed: 0 min
Summary of Issue: <p>In order to have suitable access to our Yard Waste Composting site I have received approval from Waste Management to use their existing road through the Demolition Landfill site. To complete the approval for the use of the road, we have drafted an easement (see attached) which needs the County Board Chairs signature. After signing I will have it recorded.</p> <p>I will open the compost site for public use on Thursday mornings and by appointment if available through the end of October. A notice will be put in the Aitkin Age of the site opening.</p>		
Alternatives, Options, Effects on Others/Comments: The site would remain closed.		
Recommended Action/Motion: Approve of the Board Chairs signature on the easement document.		
Financial Impact: Is there a cost associated with this request? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No What is the total cost, with tax and shipping? \$ Is this budgeted? <input type="checkbox"/> Yes <input type="checkbox"/> No Please Explain:		

Legally binding agreements must have County Attorney approval prior to submission.

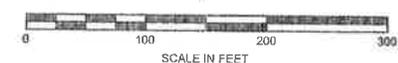
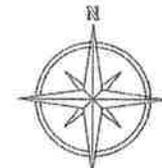
SKETCH AND DESCRIPTION

PART OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER,
SECTION 15, TOWNSHIP 46, RANGE 27,
AITKIN COUNTY, MINNESOTA



Proposed Easement Description:

A 33.00 foot wide easement for ingress and egress purposes lying over and across that part of the Southwest Quarter of the Southeast Quarter (SW1/4-SE1/4), Section 15, Township 46, Range 27, Aitkin County, Minnesota, which lies 16.50 feet on each side of the following described centerline: Commencing at the northwest corner of the East half of said SW1/4-SE1/4 (E1/2-SW1/4-SE1/4), thence South 88 degrees 56 minutes 22 seconds East, bearing based on the Aitkin County Coordinate Database NAD 83, 157.79 feet along the north line of said E1/2-SW1/4-SE1/4; thence South 20 degrees 46 minutes 15 seconds East 21.72 feet; thence southerly 76.15 feet along a tangential curve concave to the west, having a central angle of 18 degrees 43 minutes 34 seconds and a radius of 233.00 feet to the southeasterly line of the tract described in Document No. 434365, of record and on file in the Aitkin County Recorder's office, the point of beginning of the centerline to be described; thence continuing southerly 38.91 feet along an extension of the last described curve concave to the west, said extension having a central angle of 09 degrees 34 minutes 05 seconds and a radius of 233.00 feet; thence South 07 degrees 31 minutes 24 seconds West, tangent to the last described curve, 29.46 feet; thence southerly 93.08 feet along a tangential curve concave to the west, having a central angle of 13 degrees 20 minutes 01 second and a radius of 400.00 feet; thence South 20 degrees 51 minutes 25 seconds West, tangent to the last described curve, 53.31 feet; thence Southerly 69.08 feet along a tangential curve concave to the east, having a central angle of 29 degrees 45 minutes 38 seconds and a radius of 133.00 feet; thence South 08 degrees 54 minutes 13 seconds East, tangent to the last described curve, 44.69 feet; thence southerly 105.78 feet along a tangential curve concave to the west, having a central angle of 30 degrees 18 minutes 08 seconds and a radius of 200.00 feet; thence South 21 degrees 23 minutes 55 seconds West, tangent to the last described curve, 658 feet, more or less, to the centerline of 310th Lane as described in Document No. 345246, of record and on file in said Aitkin County Recorder's office, and said centerline there terminating. Sidelines of said easement are to be lengthened or shortened to begin at said southeasterly line of the tract described in Document No. 434365 and to terminate on said centerline of 310th Lane.



SCALE IN FEET
BEARING DATUM BASED ON AITKIN COUNTY
COORDINATE DATABASE NAD 83
● = DENOTES FOUND IRON MONUMENT

I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

Handy A. Gable
Handy A. Gable, Lic. No. 42630
Aitkin County Surveyor

06-17-2020
Date

Prepared by and return to:

Voyageur Disposal Processing, Inc.
c/o Corporate Real Estate Department
720 East Butterfield Road, 4th Floor
Lombard IL 60148
telephone number: 630-572-2418

THIS DOCUMENT IS AN EASEMENT CONVEYED TO A GOVERNMENTAL BODY AND DOES NOT REQUIRE AN ELECTRONIC CERTIFICATE OF REAL ESTATE VALUE AND IS NOT SUBJECT TO DEED TRANSFER TAX PURSUANT TO MINNESOTA STATUTES 287.22(13).

TERM EASEMENT AGREEMENT
(Easement in Gross)

This Term Easement Agreement ("Agreement") is made this 25th day of August, 2020 ("Effective Date"), by and between **VOYAGEUR DISPOSAL PROCESSING, INC.**, a Minnesota corporation ("Grantor") with a mailing address of c/o Corporate Real Estate Department, 720 East Butterfield Rd., 4th Floor, Lombard, IL 60148, and **AITKIN COUNTY**, a political subdivision under the laws of the State of Minnesota ("Grantee", and together with the Grantor, collectively, the "Parties"), with a mailing address of _____.

RECITALS

WHEREAS, Grantor is the owner of the real property known as 42500 310th Ln. located in Aitkin County, Minnesota (the "Grantor's Property") being Parcel Identification Numbers: 07-0-032101 and 07-0-032202, as further described on **Exhibit A** attached hereto and made a part hereof;

WHEREAS, Grantee is the owner of the real property adjacent to Grantor's Property, located in Aitkin County, Minnesota (the "Grantee's Property") being Parcel Identification Number: 07-0-032100, as further described on **Exhibit B** attached hereto and made a part hereof; and

WHEREAS, Grantee desires to obtain an easement and right of way across a portion of the Grantor's Property for the purpose of pedestrian and motor vehicle ingress and egress to access the Grantee's Property.

NOW THEREFORE, intending to be legally bound, the Parties agree as follows:

1. **Recitals.** The foregoing recitals are true and correct and are incorporated herein by reference.

2. **Grant and Use of Easement.** For and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged and in consideration of the mutual covenants and agreements hereinafter set forth, the Grantor, its successors and assigns, do hereby grant and convey to Grantee, a non-exclusive easement in gross on a portion of the Grantor's Property being thirty three feet (33') in width which lies 16.50 feet on each side as more fully described on Exhibit C-1 and depicted on Exhibit C-2 attached hereto and made a part hereof ("Easement Area") for the purpose of pedestrian and motor vehicle ingress and egress to access the Grantee's Property subject to the terms of this Agreement. The sole purpose of the easement is to provide the Grantee and its employees and invitees access to the Grantee's yard waste drop off center located on the Grantee's Property. The Easement may not be used for any other purposes except with the prior written consent of the Grantor.

3. **Term.** This Agreement shall commence on the Effective Date and continue in full force until ~~8-25-2030~~ the "Term"), provided however, if alternative access becomes available to the Grantee's Property during the Term, this Agreement shall terminate and the Grantee will promptly record a release of this Agreement in the appropriate public office and the Agreement shall terminate and be of no further force and effect.

4. **Maintenance and Repair.** The Grantee, at its sole cost and expense, shall keep the Easement Area in good order and repair in order to provide safe access to the Grantee's Property, including but not limited to snow removal and performance of all repairs and maintenance. Grantee shall periodically inspect the Easement Area to ensure the safe, lawful and reasonable use of the Easement Area. In the event the Grantor's Property outside of the Easement Area is damaged by Grantee's exercise of any of its easement rights under this Agreement, such area shall be restored by the Grantee or, at the option of the Grantor, restored by the Grantor, at Grantee's sole cost and expense, to the condition in which it existed immediately prior to such damage. Grantee shall maintain adequate security of the Easement Area, including installation of fencing or gates if deemed necessary or desirable by the Grantor, to ensure employees and invitees (or any other third party trying to access the Grantee's Property) do not trespass outside of the Easement Area.

5. **Indemnification.** To the extent permitted by law, Grantee shall indemnify, defend, and hold Grantor, its successors and assigns, transferees, employees, agents, lessees, contractors, subcontractors, as well as trustees, beneficiaries, relatives, partners, officers, directors and related or affiliated entities harmless from any and all liability, liens, demands, judgments, suits, attorneys' fees, costs and claims of any kind or character arising out of, in connection with, or relating to the Grantee and its employees, contractors and invitees use of the Easement Area and/or exercise of rights under this Agreement and/or breach of this Agreement, including claims for injury to or death of any persons, damage, loss or destruction of any property, real or personal. Grantor, if it so elects, shall have the right to participate, at its sole expense, in its defense in any suit or suits in which it may be a party, without relieving Grantee of the obligation to defend Grantor. It is the intention of Grantee and Grantor that Grantee shall not be liable to Grantor in respect of (and the foregoing indemnity shall not cover) any claim to the extent the same resulted from the gross negligence or willful misconduct of the Grantor. This provision shall survive the termination of the Agreement.

6. **Insurance.** Grantee shall keep in full force and effect, at Grantee's sole cost and expense, with companies licensed to do business in the State of Minnesota and otherwise reasonably acceptable to Grantor: (a) Comprehensive General Liability Insurance policy with a minimum policy limit of One Million

Dollars (\$1,000,000) per occurrence limit, Two Million Dollars (\$2,000,000) in the aggregate; and (b) Automobile Liability insurance for each automobile owned or leased by Grantee, with a \$1,000,000 per occurrence policy limit. The Grantee is a member of the Minnesota Counties of Intergovernmental Trust, a joint power entity of counties and other public entities. The insurance required herein may be met through self-insurance through the pooled resources of the MCIT members, a combination of primary, excess, and self-insurance. Grantee shall provide proof of self-insurance upon the date hereof and upon request from the Grantor.

7. **Reservations.** Notwithstanding anything to the contrary contained herein, all right, title and interest in and to the Easement Area under this Agreement, which may be used and enjoyed without unreasonably interfering with the rights conveyed by this Agreement are reserved to Grantor. Grantor shall have the right to use the Easement Area and grant additional easement rights in the Easement Area, provided same shall not unreasonably interfere with, or otherwise adversely affect any of Grantee's rights herein, including the right to place surfacing materials over and across the Easement Area and to use the same for driveways, walkways, utility connections and drainage.

8. **AS IS.** Grantee agrees that this Agreement is made under and subject to all matters of record and accepts the condition of the easement on an "AS IS" basis. Grantor makes no warranty or representation with respect to its right, title, and interest in and to the Easement Area or the condition thereof; and the easements and/or right of ways granted by this agreement are subject to all leases, easements, rights-of-way, encumbrances, covenants, conditions, exceptions, agreements, restrictions, servitudes, and reservations heretofore granted or reserved, of record, and physical obstructions.

9. **Non-Transferability; Easement in Gross.** Grantee acknowledges that the rights granted to and duties assumed by Grantee under this Agreement may not be assigned or delegated by Grantee without the prior written consent of Grantor, which consent may be given or withheld in Grantor's sole and absolute discretion. This Easement is an easement in gross for the sole benefit of the Grantee and may not be sold or assigned.

10. **Notices.** All notices, waivers, demands, requests or other communications required or permitted hereunder shall, unless otherwise expressly provided, be in writing and be deemed to have been properly given, served and received, (i) if mailed, on the third (3rd) business day after deposit in the United States mail, certified or registered, postage prepaid, return receipt requested; or (ii) if delivered by reputable overnight express courier, freight prepaid, the next business day after delivery to such courier, in every case addressed to the party to be notified at the addresses first designated above or to such other address(es) or addressee(s) as any party entitled to receive notice hereunder shall designate to the others in the manner provided herein for the service of notices. Rejection, refusal to accept, or inability to deliver because of changed address or because no notice of changed address was given, shall be deemed receipt.

11. **Entire Agreement.** This Agreement constitutes the entire agreement between Parties and supersedes all prior verbal agreements, representations or understandings pertaining to the subject matter of this agreement and may only be modified by a written agreement signed by all Parties. This Agreement shall be deemed to be made under, and shall be governed by, construed, interpreted and enforced in accordance with the internal laws of the State of Minnesota in effect as of the date of this Agreement, without regard to conflict of law provisions and regardless whether the law of any other jurisdiction is consistent with Iowa law. The failure of a party to seek redress for violation of, or to insist upon strict performance of, any provision of this Agreement shall not be a waiver of that provision by that party or estop that party from asserting fully any and all of its rights under this Agreement.

[signature pages follow]

IN WITNESS WHEREOF, the Parties and/or their duly authorized representatives have signed this Agreement as of the Effective Date.

GRANTOR:

Voyageur Disposal Processing, Inc.

By: 
James A. Wilson, Vice President

STATE OF ILLINOIS }
COUNTY OF DUPAGE } **SS:**

I, the undersigned, a Notary Public in and for said County and State, do hereby certify that James A. Wilson, personally known to me to be a Vice President of Voyageur Disposal Processing, Inc., a Minnesota corporation, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as Vice President pursuant to authority given by the Board of Directors of said corporation as his free and voluntary act, and as the free and voluntary act of said corporation, for the uses and purposes set forth therein.

The foregoing instrument was acknowledged before me this 25th day of August, 2020, by James A. Wilson.

My commission expires: 9-23-22

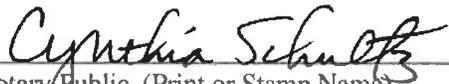
x 
Notary Public, (Print or Stamp Name)



Exhibit A

Description of Grantor's Property

Parcel One

The East Half of the Southwest Quarter of the Southeast Quarter (E1/2 of SW1/4 of SE1/4), EXCEPT the North 400 ft. thereof, AND the West 200 ft. of the Southeast Quarter of the Southeast Quarter (SE1/4 of SE1/4) all in Section Fifteen (15), Township Forty-six (46), Range Twenty-seven (27).

Parcel Two

The North 400 feet of the East one half of the Southwest Quarter of the Southeast Quarter (E 1/2-SW 1/4-SE 1/4) Section Fifteen (15) Township Forty-six (46) Range Twenty-seven (27) Containing approx. 6.06 acres.

LESS the following real property, legally described as follows:

That part of the north 400.00 feet of the East Half of the Southwest Quarter of the Southeast Quarter of Section 15, Township 46, Range 27, Aitkin County, Minnesota, lying westerly of the following described line: Commencing at the northwest corner of said north 400.00 feet; thence South 88 degrees 56 minutes 22 seconds East, bearing based on the Aitkin County Coordinate System, 195.35 feet along the north line of said north 400.00 feet, to the point of beginning of the line to be described; thence 386.32 feet southwesterly along said line on a non-tangential curve, concave to the northwest, with a radius of 344.75 feet, a central angle of 64 degrees 12 minutes 16 seconds and a chord bearing of South 33 degrees 09 minutes 46 seconds West and a chord length of 366.42 feet, to a point on the west line of said north 400.00 feet and said line there terminating.

Said tract contains 1.00 acres, more or less.

Exhibit B

Description of Grantee's Property

Parcel One

The Northwest Quarter of the Southeast Quarter (NW1/4 of SE1/2), less the North Four Hundred (400) feet thereof, and the North Four Hundred (400) feet of the Southwest Quarter of the Southeast Quarter (SW 1/4 of SE1/4) of Section Fifteen (15), Township Forty-six (46), Range Twenty-seven (27).

Parcel Two

The real property, legally described as follows:

That part of the north 400.00 feet of the East Half of the Southwest Quarter of the Southeast Quarter of Section 15, Township 46, Range 27, Aitkin County, Minnesota, lying westerly of the following described line: Commencing at the northwest corner of said north 400.00 feet; thence South 88 degrees 56 minutes 22 seconds East, bearing based on the Aitkin County Coordinate System, 195.35 feet along the north line of said north 400.00 feet, to the point of beginning of the line to be described; thence 386.32 feet southwesterly along said line on a non-tangential curve, concave to the northwest, with a radius of 344.75 feet, a central angle of 64 degrees 12 minutes 16 seconds and a chord bearing of South 33 degrees 09 minutes 46 seconds West and a chord length of 366.42 feet, to a point on the west line of said north 400.00 feet and said line there terminating.

Said tract contains 1.00 acres, more or less.

Exhibit C -1

Description of Easement Area

A 33.00 foot wide easement for ingress and egress purposes lying over and across that part of the Southwest Quarter of the Southeast Quarter (SW1/4-SE1/4), Section 15, Township 46, Range 27, Aitkin County, Minnesota, which lies 16.50 feet on each side of the following described centerline: Commencing at the northwest corner of the East half of said SW1/4-SE1/4 (E1/2-SW1/4-SE1/4), thence South 88 degrees 56 minutes 22 seconds East, bearing based on the Aitkin County Coordinate Database NAD 83, 157.79 feet along the north line of said E1/2-SW1/4-SE1/4; thence South 20 degrees 46 minutes 15 seconds East 21.72 feet; thence southerly 76.15 feet along a tangential curve concave to the west, having a central angle of 18 degrees 43 minutes 34 seconds and a radius of 233.00 feet to the southeasterly line of the tract described in Document No. 434365, of record and on file in the Aitkin County Recorder's office, the point of beginning of the centerline to be described; thence continuing southerly 38.91 feet along an extension of the last described curve concave to the west, said extension having a central angle of 09 degrees 34 minutes 05 seconds and a radius of 233.00 feet; thence South 07 degrees 31 minutes 24 seconds West, tangent to the last described curve, 29.46 feet; thence southerly 93.08 feet along a tangential curve concave to the west, having a central angle of 13 degrees 20 minutes 01 second and a radius of 400.00 feet; thence South 20 degrees 51 minutes 25 seconds West, tangent to the last described curve, 53.31 feet; thence Southerly 69.08 feet along a tangential curve concave to the east, having a central angle of 29 degrees 45 minutes 38 seconds and a radius of 133.00 feet; thence South 08 degrees 54 minutes 13 seconds East, tangent to the last described curve, 44.69 feet; thence southerly 105.78 feet along a tangential curve concave to the west, having a central angle of 30 degrees 18 minutes 08 seconds and a radius of 200.00 feet; thence South 21 degrees 23 minutes 55 seconds West, tangent to the last described curve, 658 feet, more or less, to the centerline of 310th Lane as described in Document No. 345246, of record and on file in said Aitkin County Recorder's office, and said centerline there terminating. Sidelines of said easement are to be lengthened or shortened to begin at said southeasterly line of the tract described in Document No. 434365 and to terminate on said centerline of 310th Lane.

Exhibit C -2

Depiction of Easement Area

[SEE ATTACHED]