

MEETING DATE: March 24, 2016

TITLE: Authorization to grant Hennepin County easements on two District Properties to install Weather Stations

RESOLUTION NUMBER: 16-027

PREPARED BY: Tiffany Schaufler

E-MAIL: tschaufler@minnehahacreek.org

TELEPHONE: 952-641-4513

REVIEWED BY: Administrator Counsel Program Mgr. (Name): _____
 Board Committee Engineer Other

WORKSHOP ACTION:

Advance to Board mtg. Consent Agenda. Advance to Board meeting for discussion prior to action.

Refer to a future workshop (date): _____ Refer to taskforce or committee (date): _____

Return to staff for additional work. No further action requested.

Other (specify): Not reviewed at Workshop. Seeking approval at March 24, 2016 Board Meeting.

PURPOSE or ACTION REQUESTED:

Authorization to grant Hennepin County easements on two District properties to install weather stations.

PROJECT/PROGRAM LOCATION:

Former "Rita Johnson" property along Painter Creek at 301 Rolling Hills Drive in Minnetrista and the former "Gould" property along Six Mile Creek at 8251 State Highway 7 in Minnetrista.

PROJECT TIMELINE:

Install weather stations in spring/summer of 2016.

PAST BOARD ACTION:

June 2, 2005, Resolution 05-036: Authorization to Enter into an Agreement to Purchase Approximately 34-acres in Fee Title and a Conservation Easement on Approximately 36-acres along Mud Lake and Six Mile Creek in the City of Minnetrista

November 29, 2005, Resolution 05-066: Authorization to Enter into an Agreement to Purchase Approximately 38-acres in Fee Title in the Painter Creek Subwatershed in the City of Minnetrista

SUMMARY:

During the 2014 flooding, Hennepin County Emergency Management (HCEM) was a valuable resource to the District to help identify flood risks, provide direct emergency response and assist in disseminating flood information. Post 2014 flooding, HCEM and the District continue to coordinate to discuss opportunities to improve flood preparedness and resiliency across the District. During recent discussions, HCEM inquired if the District would be willing to grant Hennepin County a 40-foot by 40-foot easement on two District properties to install weather stations as part of their Hennepin West Mesonet network (<http://hennepinwestmesonet.org/#/>). These weather stations would track temperature, humidity, pressure, rainfall, solar irradiance, soil temperature, soil water content, soil conductivity, soil permittivity, wind speed, wind gust, and wind direction. Hennepin County would be responsible for upkeep and maintenance of the weather stations.

The Hennepin West Mesonet is the only system in the nation that receives data every single minute. Those local data feed directly into the National Weather Service (NWS) local forecast models which allows the local forecasts to be better refined. The NWS and District recently coordinated to develop a hydrologic forecast model for Lake Minnetonka. Through this coordination the NWS has tested its ability to utilize the existing District XP-SWMM model to input weather forecasts in an effort to predict total inflow into Lake Minnetonka. Allowing Hennepin County to install these two weather stations would provide the NWS with real time data along Painter Creek and Six Mile Creek which would help refine local forecasts and the Lake Minnetonka hydrologic forecast model which would benefit the District.

Another benefit of the weather stations is the opportunity they would provide for the District to calibrate the upper watershed XP-SWMM model. Since both of the weather stations would be located directly upstream of continuous stream monitoring sites along Painter Creek and Six Mile Creek, the precipitation data gathered at the weather station would be used to understand the immediate downstream effects on creek levels and flows.

The weather stations would also benefit the District by being able to have real-time weather data in areas where the District is actively planning and implementing projects. This would allow District staff to know how much precipitation an area has received which helps provide insight on vegetation establishment for projects.

The easements will not interfere with the District's present conservation management of these tracts. If in the future the District should determine to use or dispose of either of these tracts in a manner inconsistent with the weather stations, it may terminate the easement. However, because of the cost to move the stations and the need to timely find an alternate site to maintain continuity, under the easement the District would give the County three years notice of termination.

At the March 17, 2016 Policy and Planning Committee, staff discussed the potential partnership opportunity with Hennepin County to install two weather stations on District properties and the potential benefits to the District. Following discussion the Committee voted to recommend to the Board of Managers that Hennepin County's request for weather station easements be approved at the next Board Meeting.

ATTACHMENTS:

- Attachment 1: Easement Agreement for 301 Rolling Hills Drive, Minnetrista
- Attachment 2: Easement Agreement for 8251 State Highway 7, Minnetrista

RESOLUTION

RESOLUTION NUMBER: 16-027

TITLE: Authorization to grant Hennepin County easements on two District Properties to install Weather Stations

- WHEREAS,** The District's Comprehensive Water Resources Management Plan includes a Land Conservation Program; and
- WHEREAS,** at its June 2, 2005 meeting, the Board of Managers authorized the District Administrator to sign a Purchase and Sale Agreement to acquire property located at 8251 State Highway No. 7, Minnetrista in fee title; and
- WHEREAS,** at its November 29, 2005 meeting, the Board of Managers authorized the District Administrator to sign a Purchase and Sale Agreement to acquire property located at 301 Rolling Hills Drive, Minnetrista in fee title; and
- WHEREAS,** the District owns these two tracts in fee and manages them for water resource and conservation purposes; and
- WHEREAS,** Hennepin County Emergency Management approached the District to inquire about the possibility of installing two weather stations on District properties; and
- WHEREAS,** at the March 17, 2016 Planning and Policy Committee, the Committee voted to recommend to the Board of Managers that Hennepin County's request for weather stations be approved; and
- WHEREAS,** the Board of Managers finds benefit to the District and the public by allowing Hennepin County to install and maintain weather stations on District properties.

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers hereby authorizes the Board President to execute the proposed easements, with non-material changes and on advice of counsel, granting Hennepin County the right to install and maintain weather stations on two District properties.

Resolution Number 16-027 was moved by Manager _____, seconded by Manager _____.
Motion to adopt the resolution ___ ayes, ___ nays, ___ abstentions. Date: _____.

Secretary Date: _____

EASEMENT AGREEMENT

This Easement Agreement is made by and between the Minnehaha Creek Watershed District (“Grantor”) and the County of Hennepin (“Grantee”), political subdivisions of the State of Minnesota.

RECITALS

WHEREAS, Grantor is the fee owner of that certain real property legally described on **Exhibit A**, attached (“Burdened Parcel”) and;

WHEREAS, Grantee desires to site a weather station on the Burdened Parcel for public benefit.

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt of which is hereby acknowledged, Grantor and Grantee agree as follows:

AGREEMENT

1. Grantor does hereby grant, bargain, quitclaim and convey to Grantee a non-exclusive easement over and across the Burdened Parcel, as indicated on the attached **Exhibit B**, for access to, and the construction, operation, and maintenance of, a weather station as described on the attached **Exhibit B**. The easement is perpetual except as it may be terminated pursuant to paragraph 9, below.
2. The area within which Grantee may exercise easement rights under this Agreement (“Easement Area”) must be located within the bounded area depicted on Exhibit B. The Easement Area will not exceed a squared area measuring 40 feet on each side. Within the Easement Area, Grantee may erect and maintain chain-link fencing no more than five feet high and may secure access. Before installing fencing, Grantee will stake the intended fenced area and the parties will meet on site to concur in the location.
3. Grantee may enter and exit the Easement Area from the public way by means of the corridor labeled as “Access Route” on Exhibit B. Grantor may adjust the Access Route by

written notice to Grantee, provided it remains reasonably convenient for Grantee. Grantee will restore any part of the Access Route disturbed by its use. At Grantor's request, Grantee will stake or post signage on the Access Route to prevent unnecessary disturbance by those using the Access Route under Grantee's authority.

4. Grantee may disturb the Burdened Property outside of the Easement Area only to the extent reasonably necessary to install fencing pursuant to paragraph 2, above. Any such disturbance will be promptly restored to the preexisting condition and seeded to native species acceptable to Grantor.

5. Grantee shall be solely responsible to maintain the Easement Area and to keep it in a clean and safe condition. Grantee will maintain those parts of the Easement Area not occupied by structures or hard surface in native species acceptable to Grantor, may mow to a height of not less than six inches, and will prevent non-native or invasive species from establishing. At Grantor's request, Grantee will afford access to the Easement Area so that Grantor may perform vegetation maintenance.

6. Grantor will not place equipment or materials, install a gate or fence, or perform any other act on the Easement Area so as to interfere with the intended use of the Easement Area by Grantee. Before conducting a controlled burn on the Burdened Parcel, Grantor will notify Grantee so that Grantee may take steps to protect Grantee's equipment as it deems appropriate. Grantee may be present during controlled burns but shall be subject to the direction of the burn manager.

7. Grantee holds Grantor harmless, and agrees to indemnify and defend Grantor, with respect to all claims, causes of action, damages, costs and liabilities, including reasonable attorney fees, to which Grantor is subject arising from Grantee's use of the Easement Area, except to the extent attributable to Grantor's negligent act or omission, or the negligent act or omission of Grantor's employee, agent, licensee or invitee. Nothing herein waives any limitation of liability set forth in Minnesota Statutes Chapter 466, as amended.

8. This Easement Agreement is for the benefit of the Grantee, will run with the land and will bind and inure to the benefit of Grantor and Grantee, and their respective successors and assigns.

9. Grantee may assign this Easement Agreement to any other public agency to support a weather station. If Grantee or another public agency ceases to operate a weather station within the Easement Area, the parties will execute a release of easement or Grantor may seek a remedy of abandonment in accordance with state law. Notwithstanding any other term of this paragraph or this Easement Agreement, Grantor may unilaterally terminate this Easement Agreement by filing a termination of easement on the title of the Burdened Property and delivering a copy of same to Grantee. The termination of easement will state the date on which the Easement Agreement terminates, which will be no less than three years from the date of filing. Before filing the termination of easement, Grantor will advise Grantee in writing of its intention and afford a reasonable opportunity for consultation.

10. Grantee’s rights under this Easement Agreement may be exercised by any employee, agent, representative, contractor or invitee of Grantee. Nothing in this Easement Agreement establishes any right of access on or across the Burdened Property in the general public.

11. This Easement Agreement shall be governed by the laws of the State of Minnesota.

MINNEHAHA CREEK WATERSHED DISTRICT (“Grantor”)

By: Sherry Davis White, President

Date:

STATE OF MINNESOTA
COUNTY OF HENNEPIN

This instrument was acknowledged before me this _____ day of _____, 2016, by Sherry Davis White as President of the Minnehaha Creek Watershed District.

Notary Public

COUNTY OF HENNEPIN (“Grantee”)

COUNTY OF HENNEPIN

Reviewed by County Attorney

Jan Callison, Chair of the Board of Commissioners

Clerk of the Board of Commissioners

STATE OF MINNESOTA
COUNTY OF HENNEPIN

This instrument was acknowledged before me this _____ day of _____, 2016, by
Jan Callison, Chair of the Hennepin County Board of Commissioners, and
_____, Clerk of the Board of Commissioners.

Notary Public

Prepared by:
Smith Partners, P.L.L.P.
400 Second Avenue South
Suite 1200
Minneapolis MN 55401

DRAFT

EXHIBIT A

LEGAL DESCRIPTION: BURDENED PARCEL

That part of The West half of The Northwest quarter of Section 2, Township 117, Range 24, situated in Hennepin County, Minnesota, lying South of the center line of County Road 26, Hennepin County, except as follows:

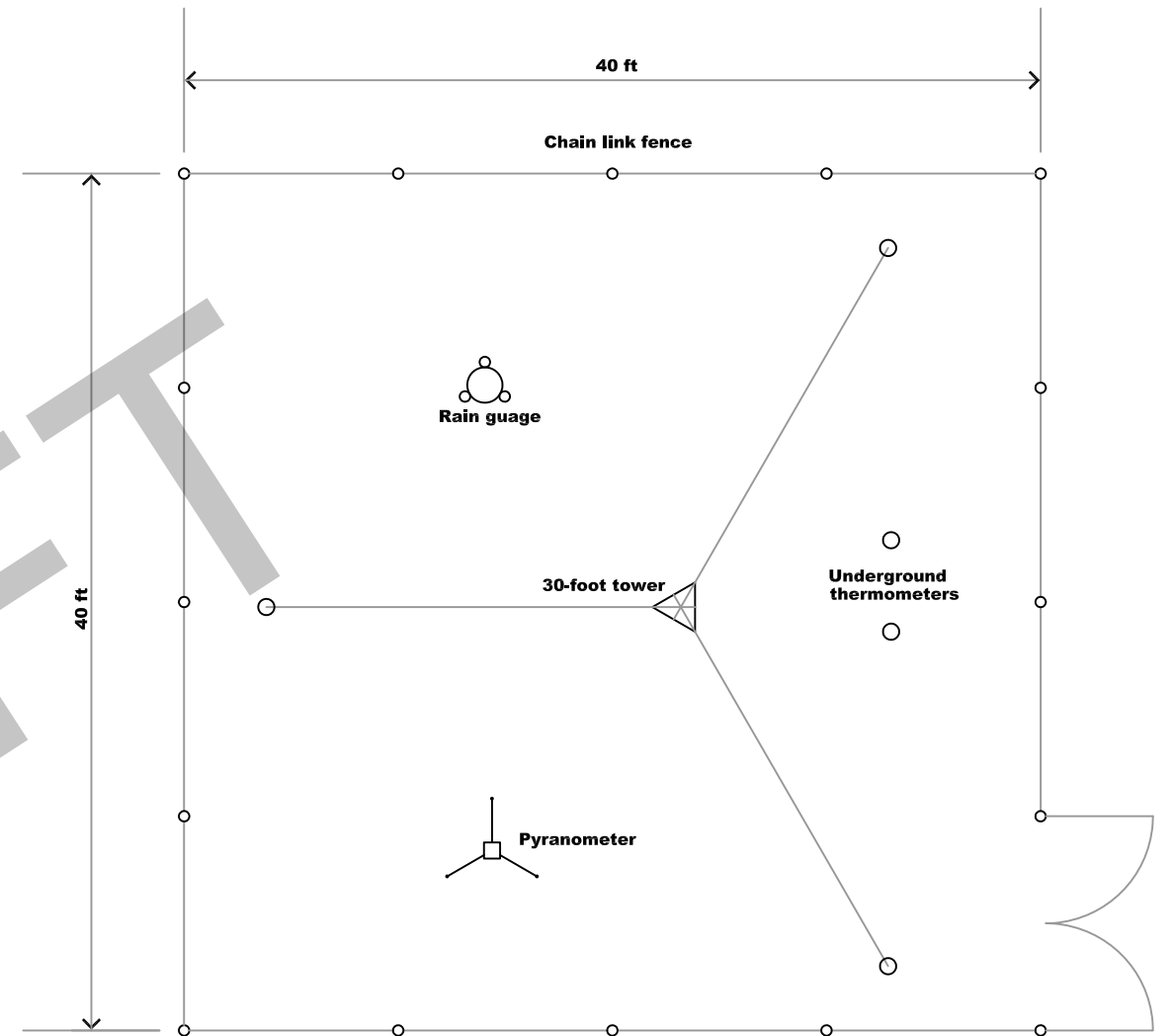
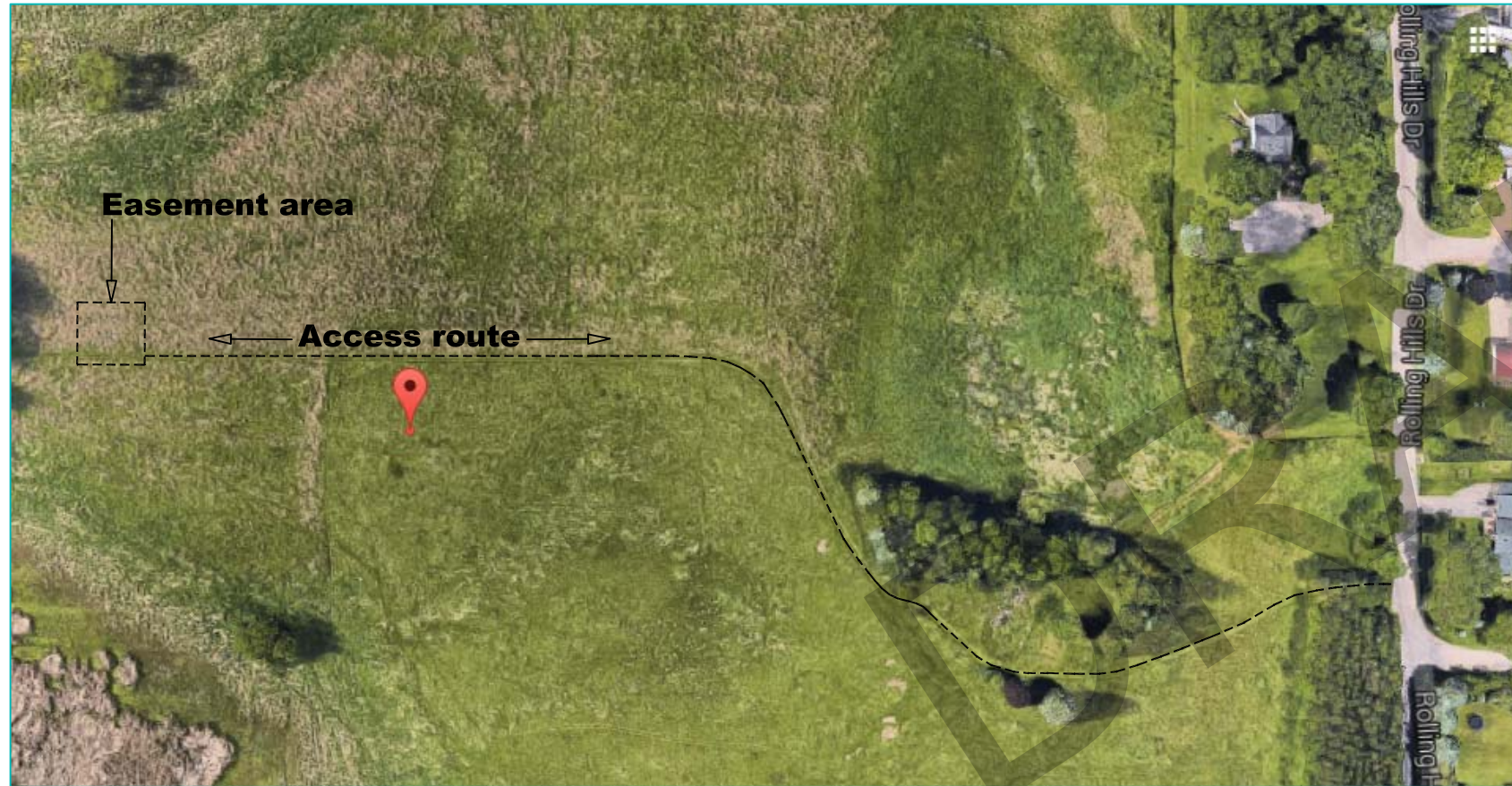
Commencing at the intersection of the east line of the west half of the Northwest quarter and the center of County Road 26, Hennepin County, thence south along said East line 412 feet to place of beginning, thence west at right angles 186 feet, thence south at right angles 400 feet, thence east at right angles 186 feet, thence north along said East line 400 feet to place of beginning.

DRAFT

EXHIBIT B

SITE PLAN & WEATHER STATION TOP SCHEMATIC

DRAFT



PROPOSED WEATHER STATION COMPOUND (NTS)

EASEMENT AGREEMENT

This Easement Agreement is made by and between the Minnehaha Creek Watershed District (“Grantor”) and the County of Hennepin (“Grantee”), political subdivisions of the State of Minnesota.

RECITALS

WHEREAS, Grantor is the fee owner of that certain real property legally described on **Exhibit A**, attached (“Burdened Parcel”) and;

WHEREAS, Grantee desires to site a weather station on the Burdened Parcel for public benefit.

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt of which is hereby acknowledged, Grantor and Grantee agree as follows:

AGREEMENT

1. Grantor does hereby grant, bargain, quitclaim and convey to Grantee a non-exclusive easement over and across the Burdened Parcel, as indicated on the attached **Exhibit B**, for access to, and the construction, operation, and maintenance of, a weather station as described on the attached **Exhibit B**. The easement is perpetual except as it may be terminated pursuant to paragraph 9, below.
2. The area within which Grantee may exercise easement rights under this Agreement (“Easement Area”) must be located within the bounded area depicted on Exhibit B. The Easement Area will not exceed a squared area measuring 40 feet on each side. Within the Easement Area, Grantee may erect and maintain chain-link fencing no more than five feet high and may secure access. Before installing fencing, Grantee will stake the intended fenced area and the parties will meet on site to concur in the location.
3. Grantee may enter and exit the Easement Area from the public way by means of the corridor labeled as “Access Route” on Exhibit B. Grantor may adjust the Access Route by

written notice to Grantee, provided it remains reasonably convenient for Grantee. Grantee will restore any part of the Access Route disturbed by its use. At Grantor's request, Grantee will stake or post signage on the Access Route to prevent unnecessary disturbance by those using the Access Route under Grantee's authority.

4. Grantee may disturb the Burdened Property outside of the Easement Area only to the extent reasonably necessary to install fencing pursuant to paragraph 2, above. Any such disturbance will be promptly restored to the preexisting condition and seeded to native species acceptable to Grantor.

5. Grantee shall be solely responsible to maintain the Easement Area and to keep it in a clean and safe condition. Grantee will maintain those parts of the Easement Area not occupied by structures or hard surface in native species acceptable to Grantor, may mow to a height of not less than six inches, and will prevent non-native or invasive species from establishing. At Grantor's request, Grantee will afford access to the Easement Area so that Grantor may perform vegetation maintenance.

6. Grantor will not place equipment or materials, install a gate or fence, or perform any other act on the Easement Area so as to interfere with the intended use of the Easement Area by Grantee. Before conducting a controlled burn on the Burdened Parcel, Grantor will notify Grantee so that Grantee may take steps to protect Grantee's equipment as it deems appropriate. Grantee may be present during controlled burns but shall be subject to the direction of the burn manager.

7. Grantee holds Grantor harmless, and agrees to indemnify and defend Grantor, with respect to all claims, causes of action, damages, costs and liabilities, including reasonable attorney fees, to which Grantor is subject arising from Grantee's use of the Easement Area, except to the extent attributable to Grantor's negligent act or omission, or the negligent act or omission of Grantor's employee, agent, licensee or invitee. Nothing herein waives any limitation of liability set forth in Minnesota Statutes Chapter 466, as amended.

8. This Easement Agreement is for the benefit of the Grantee, will run with the land and will bind and inure to the benefit of Grantor and Grantee, and their respective successors and assigns.

9. Grantee may assign this Easement Agreement to any other public agency to support a weather station. If Grantee or another public agency ceases to operate a weather station within the Easement Area, the parties will execute a release of easement or Grantor may seek a remedy of abandonment in accordance with state law. Notwithstanding any other term of this paragraph or this Easement Agreement, Grantor may unilaterally terminate this Easement Agreement by filing a termination of easement on the title of the Burdened Property and delivering a copy of same to Grantee. The termination of easement will state the date on which the Easement Agreement terminates, which will be no less than three years from the date of filing. Before filing the termination of easement, Grantor will advise Grantee in writing of its intention and afford a reasonable opportunity for consultation.

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11. This Easement Agreement shall be governed by the laws of the State of Minnesota.

MINNEHAHA CREEK WATERSHED DISTRICT (“Grantor”)

By: Sherry Davis White, President

Date:

STATE OF MINNESOTA
COUNTY OF HENNEPIN

This instrument was acknowledged before me this _____ day of _____, 2016, by Sherry Davis White as President of the Minnehaha Creek Watershed District.

Notary Public

COUNTY OF HENNEPIN (“Grantee”)

COUNTY OF HENNEPIN

Reviewed by County Attorney

Jan Callison, Chair of the Board of Commissioners

Clerk of the Board of Commissioners

STATE OF MINNESOTA
COUNTY OF HENNEPIN

This instrument was acknowledged before me this _____ day of _____, 2016, by
Jan Callison, Chair of the Hennepin County Board of Commissioners, and
_____, Clerk of the Board of Commissioners.

Notary Public

Prepared by:
Smith Partners, P.L.L.P.
400 Second Avenue South
Suite 1200
Minneapolis MN 55401

DRAFT

EXHIBIT A

LEGAL DESCRIPTION: BURDENED PARCEL

That part of Section 32, Township 117, Range 24, Hennepin County, Minnesota as described follows:

Commencing at the center of said Section 32; thence East 990.80 feet; thence South 29 degrees 13 minutes 00 seconds West, a distance of 606.80 feet; thence South 64 degrees 28 minutes 00 seconds West, a distance of 775.50 feet to the West line of the Southeast Quarter of said Section; thence North to the beginning, except road.

Also the following piece or parcel of land:

Commencing at the center of said Section 32; thence North 36 rods; thence North 60 degrees 07 minutes 00 seconds East, a distance of 1150.70 feet to the center of St. Bonifacious and Excelsior Road; thence South 39 degrees 33 minutes 00 seconds East along the center of said road, a distance of 224.10 feet; thence South 46 degrees 01 minute 00 seconds East along the center of said road 200.00 feet; thence South 19 degrees 11 minutes 00 seconds West, a distance of 924.40 feet to the South line of the Northeast Quarter of said Section; thence West 990.80 feet to the point of beginning, excepting road, all in Section 32, Township 117, Range 24, Hennepin County, Minnesota.

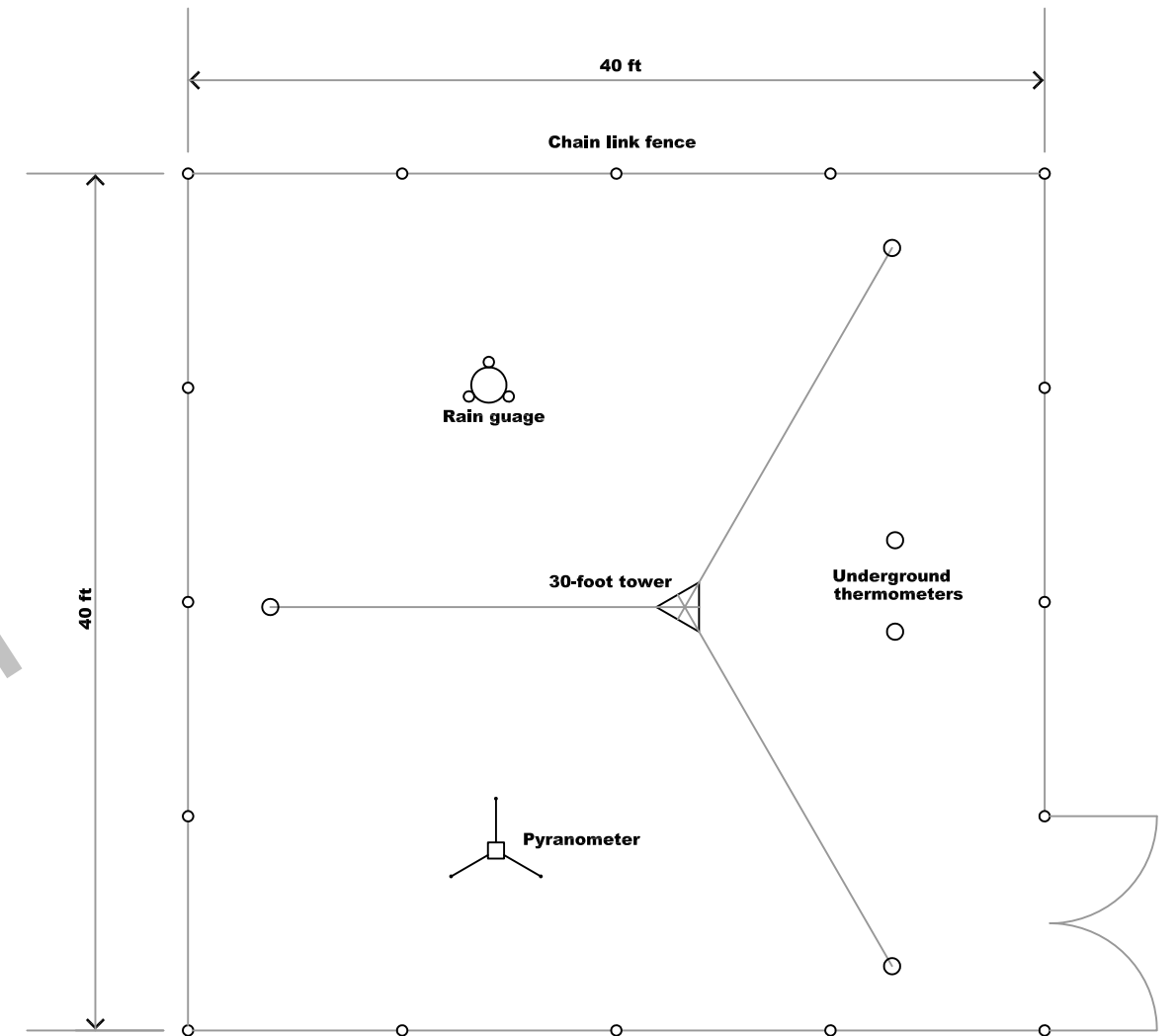
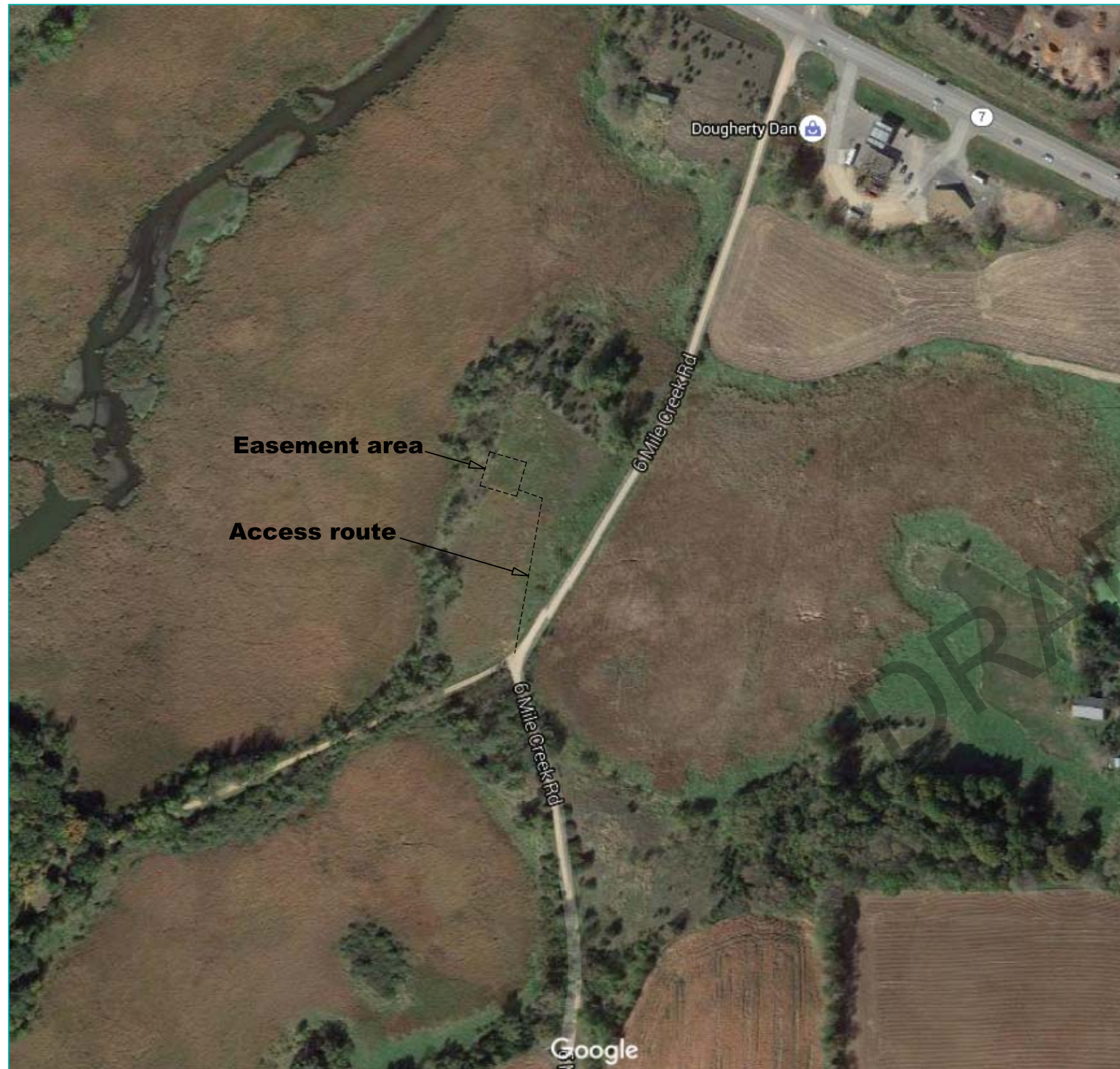
EXCEPTING therefrom the following:

That part of the Northeast Quarter of Section 32, Township 117, Range 24, lying Southeasterly of a line bearing North 60 degrees 07 minutes 00 seconds East, from a point in the West line of said Northeast Quarter distant 36 rods North, measured along said West line from the center of said Section 32 and included within the Westerly Right-of-Way line of the Chaska-Greenwood Road and the Northeasterly Right-of-Way line of State Highway No. 7.

EXHIBIT B

SITE PLAN & WEATHER STATION TOP SCHEMATIC

DRAFT



PROPOSED WEATHER STATION COMPOUND (NTS)