



Board of County Commissioners Agenda Request

25
Agenda Item #

Requested Meeting Date: March 24, 2020

Title of Item: Additional Temporary Workspace of County Lands

<input type="checkbox"/> REGULAR AGENDA <input checked="" type="checkbox"/> CONSENT AGENDA <input type="checkbox"/> INFORMATION ONLY	Action Requested: <input type="checkbox"/> Approve/Deny Motion <input checked="" type="checkbox"/> Adopt Resolution (attach draft) <i>*provide copy of hearing notice that was published</i>	<input type="checkbox"/> Direction Requested <input type="checkbox"/> Discussion Item <input type="checkbox"/> Hold Public Hearing*
Submitted by: Rich Courtemanche		Department: Land
Presenter (Name and Title): Rich Courtemanche - Land Commissioner		Estimated Time Needed: n/a
Summary of Issue: On December 11, 2018, the Aitkin County Board of Commissioners granted an easement, temporary work space, and temporary road access (20181211-081) to Enbridge Energy, Limited Partnership, with an office located at 4602 Grand Ave; Suite 900, Duluth, MN 55807 (Enbridge) across the Aitkin County managed lands. Enbridge requests an additional 0.090 acres of temporary work space in Section 27, Township, 51N, Range 27W (NWSW, S1/2 SW, S1/2 SE, NESW, NESE, NWSE; PIN 54-0-028200) and an additional 0.240 acres in of temporary work space in Section 29, Township, 51N, Range 26W (SWSW; PIN 20-0-047700), Enbridge will be charged Temporary Work Space costs of \$1,000.00, as appraised by the County Land Commissioner and the minimal fee set by Enbridge.		
Alternatives, Options, Effects on Others/Comments:		
Recommended Action/Motion: Adopt Resolution County Board Chair / County Administrator Sign Temporary Work Space Agreements		
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 checked="" type="checkbox"/> No <i>Please Explain:</i> \$1,000 fee from Enbridge to be deposited in FTS (10-923) account.		

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

TEMPORARY WORK SPACE AGREEMENT

Prepared By:

Rich Kern

11 East Superior Street, Suite 125
Duluth, MN 55802

Return To:

Enbridge Energy, Limited Partnership
4602 Grand Avenue, Suite 900
Duluth, MN 55807

For Recorder's Use Only

The undersigned Pursuant to the authority given to the undersigned County Auditor of **Aitkin County**, by the County Board of said **County of Aitkin**, as set forth in their resolution adopted by the County on _____ (hereinafter called "Lessor"), whether one or more, for and in consideration of **Two Hundred Forty and 00/100ths Dollar (\$240.00)** and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby lease to Enbridge Energy, Limited Partnership, a Delaware limited partnership, with an office located at 11 East Superior Street, Suite 125, Duluth, Minnesota 55802, including its affiliates, subsidiaries, successors and assigns (hereinafter called "Lessee") for use by Lessee, its agents, contractors, subcontractors and invitees, a portion of Lessor's land as described on the attached Exhibit A-10 for Temporary Work Space (hereinafter called "TWS") and , if applicable, Additional Temporary Work Space (hereinafter called "ATWS") in the locations described on the attached Exhibit A-10, and as depicted on attached Exhibit B-10 to this TWS Agreement.

Lessee, its agents, employees, contractors, subcontractors and invitees will be entitled to the exclusive use and possession of the TWS and ATWS during the construction (including cleanup, restoration and monitoring) of a pipeline and associated facilities within Lessee's pipeline right-of-way and easement (hereinafter called "Project"). Use and possession of the TWS and ATWS shall commence immediately upon execution of this Agreement and the use of the TWS and ATWS shall terminate when restoration is complete, excepting Lessee's right to continue to monitor and maintain the TWS and ATWS pursuant to environmental rules and regulations.

Lessee shall also have the right to discharge water from excavations and other work areas onto Lessor's land as described in Exhibit A-10. Water discharges will be performed in conformance with applicable governmental laws and regulations and in a manner intended to minimize adverse impacts on the land, crops and improvements on the land. To the extent reasonably possible, without impacting the cost and timing of Lessee's work, Lessee shall coordinate with Lessor regarding the locations of the discharge sites and locations of discharge filter devices.

Consideration made and acknowledged hereunder includes compensation for timber, if any, that Lessee may remove from the TWS and ATWS and no additional payments or other consideration shall be paid by Lessee to Lessor for such removal. Unless otherwise agreed in writing, any such timber removed shall become property of Lessee.

Lessee agrees to remove all construction materials and debris from the TWS and ATWS and restore to grade said TWS and ATWS, and further agrees to compensate Lessor for the reasonable costs to repair any damage to any improvements on the TWS or ATWS (other than for removed timber) caused by Lessee, its agents, employees, contractors, subcontractors and invitees during the use of said TWS and ATWS that are not repaired by Lessee to substantially the pre-construction condition.

Lessee agrees to indemnify and hold Lessor harmless from any and all losses of or damages to property or injuries to or death of any person to the extent resulting from Lessee's negligence or intentional misconduct in connection with any activity on the TWS or ATWS.

This Agreement shall be freely assignable by Lessee. Upon sale of any portion of the TWS or ATWS, Lessor shall fully disclose to the buyer the existence of this Agreement. This Agreement shall be binding on and inure to the benefit of the parties and their successors and assigns.

This Agreement may be executed in multiple counterparts with the same effect as though each party had executed the same instrument, and is binding upon each party who executes it. Each person signing on behalf of Lessor warrants that Lessor is the fee simple owner of the land described in Exhibit A-10 and the signatory is duly authorized to sign and deliver this Agreement.

[signatures and acknowledgments follow]

IN WITNESS WHEREOF, the parties have caused this instrument to be executed on this ____ day of _____ 20____.

LESSOR: Aitkin County, Minnesota

By: _____

Print Name: _____

Title: _____

ACKNOWLEDGMENT

STATE OF _____ }
COUNTY OF _____ } ss

Personally came before me this _____ day of _____ 20____, _____, the above-named _____, in his/her capacity as _____ of Aitkin County, a political subdivision of the State of Minnesota, to me known to be the person who executed the above in the stated capacity, and acknowledged the same.

Sign Name

_____, Notary Public
Print Name

My Commission Expires: _____

IN WITNESS WHEREOF, the parties have caused this instrument to be executed on this ____ day
of _____ 20____.

LESSOR: Aitkin County, Minnesota

By: _____

Print Name: _____

Title: _____

ACKNOWLEDGMENT

STATE OF _____ }
COUNTY OF _____ } ss

Personally came before me this _____ day of _____ 20____,
_____, the above-named
_____, in his/her capacity as _____ of
Aitkin County, a political subdivision of the State of Minnesota, to me known to be the person who
executed the above in the stated capacity, and acknowledged the same.

Sign Name

_____, Notary Public
Print Name

My Commission Expires: _____

Landowner Copy

LESSEE:

ENBRIDGE ENERGY, LIMITED PARTNERSHIP
BY: ENBRIDGE PIPELINES (LAKEHEAD) L.L.C.
AS MANAGING GENERAL PARTNER

By: _____

Print Name: Rich Kern
Title: Authorized Agent

ACKNOWLEDGMENT

STATE OF _____)
COUNTY OF _____) ss

Personally came before me this _____, Rich Kern, the above-named Authorized Agent, in his capacity as the Authorized Agent of Enbridge Pipelines (Lakehead) L.L.C., Managing General Partner of Enbridge Energy, Limited Partnership, a Delaware limited partnership, to me know to be the person who executed the above in the stated capacity, and acknowledged the same.

Sign Name

_____, Notary Public
Print Name

My Commission Expires: _____

EXHIBIT A-10 to TWS Agreement

This Exhibit A-10 is attached to and made a part of this Temporary Work Space Agreement between, **Aitkin County, Minnesota** (Lessor) and Enbridge Energy, Limited Partnership (Lessee).

LESSOR'S PROPERTY LEGAL DESCRIPTION (LESSOR'S LAND):

The Southwest Quarter of the Southwest Quarter (SW¼ of SW¼), in Section Twenty-nine (29), Township Fifty-one (51) North, Range Twenty-six (26) West of the Fourth P.M., Aitkin County, Minnesota.

Parcel Identification Number (P.I.N.): **20-0-047700**
Tract No. **MN-AI-C5-027.400**

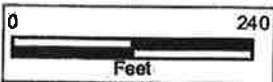
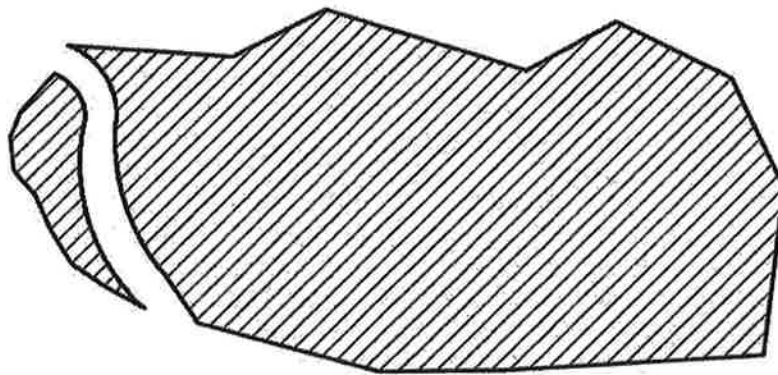
TEMPORARY WORK SPACE DESCRIPTION (TWS) and, if applicable, ADDITIONAL TEMPORARY WORK SPACE DESCRIPTION (ATWS)

As depicted on Exhibit B-10.

EXHIBIT B-10



SW 1/4 OF THE SW 1/4 OF
SECTION 29, T51N R26W IN
AITKIN COUNTY, MN



Note: This is not a
survey product.
This should not
be used for
authoritative
definition of legal
boundary or
property title.

Exhibit is based on
Minnesota State
Plane System,
NAD83,
North Zone, U.S. Foot.

Exhibit prepared for:

ENBRIDGE ENERGY, LIMITED PARTNERSHIP

Summary of Layout:

☐ Temp. Workspace: 0.00 AC. 0 SQ.FT.

☒ Addt'l. Temp. Workspace: 4.81 AC. 209,732 SQ.FT.

PREPARED BY: AJH

Date: 6/14/2019

Tract Number

MN-AI-C5-027.400

TEMPORARY WORK SPACE AGREEMENT

Pursuant to the authority given to the undersigned County Auditor of **Aitkin County**, by the County Board of said **County of Aitkin**, as set forth in their resolution adopted by the County on _____ (hereinafter called "Lessor"), whether one or more, for and in consideration of **Ninety and 00/100ths Dollars (\$90.00)** and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby lease to Enbridge Energy, Limited Partnership, a Delaware limited partnership, with an office located at 11 East Superior Street, Suite 125, Duluth, Minnesota 55802, including its affiliates, subsidiaries, successors and assigns (hereinafter called "Lessee") for use by Lessee, its agents, contractors, subcontractors and invitees, a portion of Lessor's land as described on the attached Exhibit A for Temporary Work Space (hereinafter called "TWS") and, if applicable, Additional Temporary Work Space (hereinafter called "ATWS") in the locations described on the attached Exhibit A and as depicted on attached Exhibit B to this TWS Agreement.

Lessee, its agents, employees, contractors, subcontractors and invitees will be entitled to the exclusive use and possession of the TWS and ATWS during the construction (including cleanup, restoration and monitoring) of a pipeline and associated facilities within Lessee's pipeline right-of-way and easement (hereinafter called "Project"). Use and possession of the TWS and ATWS shall commence immediately upon execution of this Agreement and the use of the TWS and ATWS shall terminate when restoration is complete, excepting Lessee's right to continue to monitor and maintain the TWS and ATWS pursuant to environmental rules and regulations.

Lessee shall also have the right to discharge water from excavations and other work areas onto Lessor's land as described in Exhibit A. Water discharges will be performed in conformance with applicable governmental laws and regulations and in a manner intended to minimize adverse impacts on the land, crops and improvements on the land. To the extent reasonably possible, without impacting the cost and timing of Lessee's work, Lessee shall coordinate with Lessor regarding the locations of the discharge sites and locations of discharge filter devices.

Consideration made and acknowledged hereunder includes compensation for timber, if any, that Lessee may remove from the TWS and ATWS and no additional payments or other consideration shall be paid by Lessee to Lessor for such removal. Unless otherwise agreed in writing, any such timber removed shall become property of Lessee.

Lessee agrees to remove all construction materials and debris from the TWS and ATWS and restore to grade said TWS and ATWS, and further agrees to compensate Lessor for the reasonable costs to repair any damage to any improvements on the TWS or ATWS (other than for removed timber) caused by Lessee, its agents, employees, contractors, subcontractors and invitees during the use of said TWS and ATWS that are not repaired by Lessee to substantially the pre-construction condition.

Lessee agrees to indemnify and hold Lessor harmless from any and all losses of or damages to property or injuries to or death of any person to the extent resulting from Lessee's negligence or intentional misconduct in connection with any activity on the TWS or ATWS.

Aitkin County

Landowner Copy

This Agreement shall be freely assignable by Lessee. Upon sale of any portion of the TWS or ATWS, Lessor shall fully disclose to the buyer the existence of this Agreement. This Agreement shall be binding on and inure to the benefit of the parties and their successors and assigns.

This Agreement may be executed in multiple counterparts with the same effect as though each party had executed the same instrument and is binding upon each party who executes it. Each person signing on behalf of Lessor warrants that Lessor is the fee simple owner of the land described in Exhibit A and the signatory is duly authorized to sign and deliver this Agreement.

[signatures and acknowledgments follow]

Landowner Copy

IN WITNESS WHEREOF, the parties have caused this instrument to be executed on this ____ day of _____ 20__.

LESSOR: Aitkin County, Minnesota

By: _____

Print Name: _____

Title: _____

ACKNOWLEDGMENT

STATE OF _____)
COUNTY OF _____) ss

Personally came before me this _____ day of _____ 20__,
_____, the above-named
_____, in his/her capacity as _____
of Aitkin County, a political subdivision of the State of Minnesota, to me known to be the person
who executed the above in the stated capacity, and acknowledged the same.

Sign Name

_____, Notary Public
Print Name

My Commission Expires: _____

Landowner Copy

IN WITNESS WHEREOF, the parties have caused this instrument to be executed on this ____ day of _____ 20__.

LESSOR: Aitkin County, Minnesota

By: _____

Print Name: _____

Title: _____

ACKNOWLEDGMENT

STATE OF _____)
COUNTY OF _____) ss

Personally came before me this _____ day of _____ 20__,
_____, the above-named
_____, in his/her capacity as _____ of
Aitkin County, a political subdivision of the State of Minnesota, to me known to be the person who
executed the above in the stated capacity, and acknowledged the same.

Sign Name

_____, Notary Public
Print Name

My Commission Expires: _____

LESSEE:

ENBRIDGE ENERGY, LIMITED PARTNERSHIP
BY: ENBRIDGE PIPELINES (LAKEHEAD) L.L.C.
AS MANAGING GENERAL PARTNER

By: _____

Print Name: Rich Kern
Title: Authorized Agent

ACKNOWLEDGMENT

STATE OF _____ }
COUNTY OF _____ } ss

Personally came before me this _____ day of _____, 20____, Rich Kern, the above-named Authorized Agent, in his capacity as the Authorized Agent of Enbridge Pipelines (Lakehead) L.L.C., Managing General Partner of Enbridge Energy, Limited Partnership, a Delaware limited partnership, to me known to be the person who executed the above in the stated capacity, and acknowledged the same.

Sign Name

_____, Notary Public
Print Name

My Commission Expires: _____

EXHIBIT A TO TWS AGREEMENT

This Exhibit A is attached to and made a part of this Temporary Work Space Agreement between, **Aitkin County, Minnesota** (Lessor) and Enbridge Energy, Limited Partnership (Lessee).

LESSOR'S PROPERTY LEGAL DESCRIPTION (LESSOR'S LAND):

**NW¼ of SW¼, Section 27, Township 51, Range 27,
S½ of SW¼, Section 27, Township 51, Range 27,
S½ of SE¼, Section 27, Township 51, Range 27, AND
NE¼ of SW¼, Section 27, Township 51, Range 27,
NE¼ of SE¼, Section 27, Township 51, Range 27,
NW¼ of SE¼, Section 27, Township 51, Range 27, Aitkin County, Minnesota.**

Parcel Identification Number (P.I.N.): **54-0-028200**

Tract No. **MN-AI-C5-004.000**

**TEMPORARY WORK SPACE DESCRIPTION (TWS) and, if applicable, ADDITIONAL
TEMPORARY WORK SPACE DESCRIPTION (ATWS):**

As depicted on Exhibit B

EXHIBIT B



Note: This is not a survey product. This should not be used for authoritative definition of legal boundary or property title.

Exhibit is based on Minnesota State Plane System, NAD83, North Zone, U.S. Foot.

Exhibit prepared for:

ENBRIDGE ENERGY, LIMITED PARTNERSHIP

Summary of Layout:

Temp. Workspace: 7.65 AC. 333,305 SQ.FT. Perm. Easement: 6.16 AC. 268,232 SQ.FT.
Add'l. Temp. Workspace: 0.59 AC. 25,823 SQ.FT. Centerline Alignment: 5,365 FT.

PREPARED BY: AJH

Date: 6/14/2019

Tract Number

MN-AI-C5-004.000

AITKIN COUNTY, MINNESOTA, ADMINISTERED PARCELS

The undersigned acknowledges receipt of Three Hundred Eighty-one Thousand Nine Hundred Forty-six Dollars and no/100ths **(\$1000.00)** paid by Enbridge Energy, Limited Partnership, and its affiliates. This amount represents payment in full for Enbridge Energy, Limited Partnership's exercise of existing easement rights to maintain/construct a pipeline(s), including the use of temporary workspace (TWS) or additional temporary workspace (ATWS) along the existing right-of-way. Furthermore, the undersigned landowner(s) hereby declares and warrants ownership in fee simple or has an interest in all or a portion of the easement and temporary workspace along the existing right-of-way, and is entitled to receive the payment hereby acknowledged and to also receive subsequent damage payment, if any.

Upon sale of premises the Landowner(s) shall fully disclose to buyer the existence of this TWS/ATWS.

Tract Number	Easement Acres X 2,000.00 X 125%	TWS Acres X 2,000 X 50%	ATWS Acres X 2,000 X 50%
MN-AI-C5-004.000	0.000	0.000	0.090
MN-AI-C5-027.400	0.000	0.000	0.240
TOTAL ACRES	0.000	0.000	0.330
Per Acre	\$2,000.00	\$2,000.00	\$2,000.00
SUBTOTAL	<u>\$0.00</u>	<u>\$0.00</u>	<u>\$330.00</u>
TOTAL - Includes W/S	\$330.00	Minimum payment \$1000.00	
GRAND TOTAL	<u><u>\$1,000.00</u></u>		

Signature: _____

Print Name: _____

Print Title: _____

Address: _____

Telephone: _____

Land Owner: **Aitkin County Administered Parcels**

Signature: _____

Print Name: _____

Print Title: _____

Address: _____

Telephone: _____

By Commissioner: XXXX

20200324-xxx

Enbridge Energy Pipeline Easement

WHEREAS, On December 11, 2018, the Aitkin County Board of Commissioners granted a utility easement, temporary work space, and temporary road access (20181211-081) to Enbridge Energy, Limited Partnership, with an office located at 4602 Grand Ave; Suite 900, Duluth, MN 55807 (Enbridge) for a right-of-way easement to survey, locate, construct, install, operate, maintain (including cathodic protection systems), clear, inspect (including aerial patrol and subsurface digging), reclaim, remove, protect, idle in place, repair, replace, relocate, change the size of and reconstruct a single pipeline, together with any associated valves, fittings, location markers and signs, communication systems and lines, utility lines, safety and protective apparatus, and all other equipment and appurtenances, whether above or below grade across the Aitkin County managed lands,

WHEREAS, Enbridge requests an additional 0.090 acres of temporary work space in Section 27, Township, 51N, Range 27W (NWSW, S1/2 SW, S1/2 SE, NESW, NESE, NWSE; PIN 54-0-028200) and an additional 0.240 acres in of temporary work space in Section 29, Township, 51N, Range 26W (SWSW; PIN 20-0-047700),

WHEREAS, said applicant will be charged Temporary Work Space costs of \$330.00, as appraised by the County Land Commissioner,

WHEREAS, said applicant has a minimum payment of \$1,000.00,

WHEREAS, the Aitkin County Land Commissioner, after making an investigation of such application, has advised that he finds no objection to granting such permit and easement,

WHEREAS, the Aitkin County Board of Commissioners resolved its support for Enbridge's proposed Line 3 Replacement Project, their preferred route, and their plan for deactivating the existing Line 3 (20170926-073),

WHEREAS, the Aitkin County Board of Commissioners recognized Enbridge for its longstanding performance and continual efforts to protect the environment, wildlife and habitats, as well as the people who live in the communities in which it operates (20170926-073),

NOW THEREFORE, BE IT RESOLVED, that pursuant to Minnesota Statutes, Section 282.04, Subdivision 4, the County Auditor be and is hereby authorized to issue to Enbridge Energy, Limited Partnership, with an office located at 4602 Grand Ave; Suite 900, Duluth, MN 55807, an easement to use said described land, if consistent with the law, as in the special conditions set forth herein,

BE IT FURTHER RESOLVED, that said easement be granted, subject to the following terms, and conditions:

1. The utility infrastructure shall be constructed and maintained by the grantee or permittee without any cost to the County of Aitkin and the land area shall be open for public use, as long as said easement is in force.
2. Any timber cut or destroyed shall be paid for at the usual rate as soon as determined by the Land Commissioner. (Timber has been included in the easement costs.)
3. Aitkin County manages County owned and tax-forfeited lands to produce direct and indirect revenue for the taxing districts. This management includes the harvesting and extraction of timber, gravel, minerals, and other resources. The issuing and use of this easement shall not adversely affect the management and harvesting of timber and other resources on County owned and tax forfeited land. If for any reason, including township or county road construction or reconstruction, the easement needs to be relocated, the county and township will not be responsible for any relocation costs.
4. Any such easement may be canceled by resolution of the County Board for any substantial breach of its terms or if at any time its continuance will conflict with public use of the land, or any part thereof, on which it is granted, after ninety (90) days written notice, addressed to the record owner of the easement at the last known address.
5. Land affected by this easement may be sold or leased for any legal purpose, but such sale or lease shall be subject to this easement and excepted from the conveyance or lease, while such easement remains in force.
6. Failure to use the right of way described in this document for the purpose for which this easement is granted for a period of five years, shall result in the cancellation of this easement and any rights granted to the grantee by this easement shall cease to exist and shall revert to the grantor.
7. Aitkin County manages the property for many purposes such as a motorized and non-motorized recreation trails, access to county managed and other lands for resource management purposes, including the harvesting of timber, extraction of gravel, peat, fill dirt, etc, and the mining and extraction of minerals. The issuing and use of this easement shall not adversely affect any other Aitkin County authorized uses of this strip of land.
8. After construction, the lessee shall mark the location of the utilities and shall return the land to the same condition as prior to issuing of the easement.
9. If the County shall make any improvements or changes on all or any part of its property upon which utilities have been placed by this permit, the utility owner shall, after notice from the County, change vacate, or remove from County property said works necessary to conform with said changes without cost whatsoever to the County.

Commissioner xxxx moved the adoption of the resolution and it was declared adopted upon the following vote

XXX MEMBERS PRESENT

All Members Voting XXX

STATE OF MINNESOTA}
COUNTY OF AITKIN}

I, Jessica Seibert, County Administrator, Aitkin County, Minnesota do hereby certify that I have compared the foregoing with the original resolution filed in the Administration Office of Aitkin County in Aitkin, Minnesota as stated in the minutes of the proceedings of said Board on the 24th day of March, 2020 and that the same is a true and correct copy of the whole thereof.

Witness my hand and seal this 24th day of March, 2020

Jessica Seibert
County Administrator