

**SPECIAL MEETING OF THE
DULUTH ECONOMIC DEVELOPMENT AUTHORITY
WEDNESDAY, AUGUST 19, 2020 - 5:15 P.M.
VIA ELECTRONIC MEANS PURSUANT TO MINNESOTA STATUTES
SECTION 13D.021
AGENDA**

Please take notice that the Duluth Economic Development Authority will hold a public hearing by other electronic means pursuant to Minnesota Statutes Section 13D.021 on Wednesday, August 19, 2020, at 5:15 p.m. All persons interested may monitor and participate in the hearing by visiting: <http://dulutheda.org/live-meeting> promptly at 5:15 p.m. on Wednesday, August 19, 2020, and written comments may be submitted to DEDA in advance of the meeting via the DEDA's web site at <http://dulutheda.org/contact-us/> or via email at cfleege@duluthmn.gov, and DEDA will decide if the conveyance is advisable.

The regular meeting place of DEDA is the Duluth City Council Chambers at City Hall, 411 West First Street, in Duluth, Minnesota. At this time board members of DEDA do not intend to attend the meeting in person; due to continually evolving restrictions and guidance from state and federal officials and agencies, the board members of DEDA will attend the meeting remotely via telephone or other electronic means pursuant to Minnesota Statutes Section 13D.021.

CALL TO ORDER

PUBLIC TO ADDRESS THE COMMISSION

PUBLIC HEARINGS

1. **RESOLUTION 20D-51: RESOLUTION AUTHORIZING A FIRST AMENDMENT TO THE LAND SALE AGREEMENT WITH HUGHES OLSEN WORKSHOP LLC RELATED TO THE REBUILD DULUTH PROGRAM.**
2. **RESOLUTION 20D-52: RESOLUTION AUTHORIZING A FIRST AMENDMENT TO THE LAND SALE AGREEMENT WITH HUGHES OLSEN WORKSHOP LLC RELATED TO THE REBUILD DULUTH PROGRAM.**

APPROVAL OF MINUTES: MEETING MINUTES FROM JUNE 24, 2020

APPROVAL OF CASH TRANSACTIONS – JUNE 1, 2020 TO JUNE 30, 2020

APPROVAL OF CASH TRANSACTIONS – JULY 1, 2020 TO JULY 31, 2020

NEW BUSINESS

RESOLUTIONS FOR APPROVAL

1. **RESOLUTION 20D-51:** RESOLUTION AUTHORIZING A FIRST AMENDMENT TO THE LAND SALE AGREEMENT WITH HUGHES OLSEN WORKSHOP LLC RELATED TO THE REBUILD DULUTH PROGRAM.
2. **RESOLUTION 20D-52:** RESOLUTION AUTHORIZING A FIRST AMENDMENT TO THE LAND SALE AGREEMENT WITH HUGHES OLSEN WORKSHOP LLC RELATED TO THE REBUILD DULUTH PROGRAM.
3. **RESOLUTION 20D-53:** RESOLUTION CONSENTING TO THE REFUNDING OF A HEALTH CARE FACILITIES REVENUE NOTE BY THE HOUSING AND REDEVELOPMENT AUTHORITY OF DULUTH, MINNESOTA.
4. **RESOLUTION 20D-54:** RESOLUTION ACCEPTING A CONTAMINATION INVESTIGATION AND REMEDIAL ACTION PLAN (“RAP”) DEVELOPMENT GRANT APPLICATION IN THE AMOUNT OF \$50,000 FROM THE MINNESOTA DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT RELATING TO PROPERTY LOCATED AT 425 SOUTH LAKE AVENUE, AUTHORIZING EXECUTION OF GRANT AGREEMENT AND COMMITTING LOCAL MATCH.
5. **RESOLUTION 20D-55:** RESOLUTION AUTHORIZING LEASE TERMINATION AGREEMENT WITH AAR AIRCRAFT SERVICES INC. AND SETTLING ALL FINANCIAL OBLIGATIONS THEREUNDER.
6. **RESOLUTION 20D-56:** RESOLUTION AUTHORIZING OVERFLOW TEMPORARY PARKING SPACE LEASE AGREEMENT WITH CIRRUS DESIGN CORPORATION D/B/A CIRRUS AIRCRAFT FOR USE OF THE MRO.
7. **RESOLUTION 20D-57:** RESOLUTION AUTHORIZING AN AGREEMENT WITH THE CITY OF DULUTH FOR DEMOLITION OF THE ONEOTA STREET RAILROAD BRIDGE IN THE AMOUNT OF NOT TO EXCEED \$130,000.
8. **RESOLUTION 20D-58:** RESOLUTION AUTHORIZING FIRST AMENDMENT TO AGREEMENT WITH BAKER TILLY MUNICIPAL ADVISERS LLC PERTAINING TO THE UPGRADING AND CONVERSION OF THE DULUTH PAPER MILL AND RECYCLE FIBER PLANT, INCREASING THE AMOUNT PAYABLE THEREUNDER BY \$20,000.

DISCUSSION

1. DIRECTOR’S REPORT

- Rebuild Duluth Update – Round 2
- Budget/Financials Update

RESOLUTION 20D-51

RESOLUTION AUTHORIZING A FIRST AMENDMENT TO THE LAND SALE AGREEMENT WITH HUGHES OLSEN WORKSHOP LLC RELATED TO THE REBUILD DULUTH PROGRAM.

RESOLVED, by the Duluth Economic Development Authority (“DEDA”) that the proper DEDA officials are hereby authorized to enter into a First Amendment to the Land Sale Agreement (DEDA Contract No. 20 860 958 substantially in the form attached hereto, with Hughes Olsen Workshop LLC.

Approved by the Duluth Economic Development Authority this 19th day of August 2020.

ATTEST:

Executive Director

STATEMENT OF PURPOSE: The resolution authorizes a First Amendment to the Land Sale Agreement with Hughes Olsen Workshop LLC (Buyer) for conveyance of property related to the Rebuild Duluth Program. The Buyer applied to acquire a DEDA- owned vacant lot legally described as Lot 1, Block 73, West Duluth Second Division, upon which to construct a Housing Unit for an estimated total construction cost of \$250,451.44. On April 22, 2020, DEDA and the Buyer entered into a Land Sale Agreement pursuant to which DEDA agreed to convey the Property to Buyer. The property is a 25-foot wide corner lot that required City of Duluth Planning Commission approval of a setback variance to allow a home to be constructed. Neighboring property owners and the Planning commission expressed concern over the variance, in particular regarding the inclusion of an Accessory Dwelling Unit (ADU) as part of the design. In order to address these concerns, the Buyer agreed to remove the ADU from the proposal and the Planning Commission approved the variance request. The Buyer has collaborated with One Roof Community Housing to construct the project

and commit to the One Roof Community Land Trust Program, agreeing to sell the completed project for \$150,000 or less. The Amendment also authorizes an extended construction completion date from December 31, 2021 to June 1, 2022 to accommodate construction commencing in the spring of 2021.

RESOLUTION 20D-52

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STATEMENT OF PURPOSE: The resolution authorizes a First Amendment to the Land Sale Agreement with Hughes Olsen Workshop LLC (Buyer) for conveyance of property related to the Rebuild Duluth Program. The Buyer applied to acquire a DEDA-owned vacant lot legally described as Lot 5, Block4, MacFarlanes Grassy Point Addition to Duluth, upon which to construct a Housing Unit for an estimated total construction cost of \$250,451.44. On April 22, 2020, DEDA and the Buyer entered into a Land Sale Agreement pursuant to which DEDA agreed to convey the Property to Buyer. The Buyer has since collaborated with One Roof Community Housing to construct the project and commit to the One Roof Community Land Trust Program, agreeing to sell the completed project for \$150,000 or less. To render the project eligible and feasible for the Land Trust Program, the Buyer has eliminated the accessory dwelling unit (ADU) from the formerly approved design. The Amendment also authorizes an extended construction completion date from December 31, 2021 to June 1, 2022 to accommodate construction commencing in the spring of 2021.

Duluth Economic Development Authority

June 2020 Cash Activity - all DEDA Funds

ACCUMULATED TRANSACTION LISTING, G/L Date Range 06/01/20 - 06/30/20 (as of 7/07/2020)

G/L Date	Journal Number	Sub Ledg	Name	Net Amount	Description
<u>FUND 860 - OPERATING FUND</u>				Beginning Balance	\$ 2,879,026.46 TB
06/01/20	2020-0000359	GL	Cost Allocation - DEDA	(33,333.33)	June 2020 Cost Allocation
06/02/20	2020-00004032	RA	Pay Group O'Reilly	437.09	DEDA Lease Payments
06/08/20	2020-00004101	AP	Duluth News Tribune	(22.00)	DEDA Public Hearing Notice 5/13/20
06/08/20	2020-00004101	AP	LHB Engineers & Architects	(3,448.11)	L30321 - Demolition of RR Bridge L8493 - Oneota St
06/11/20	2020-00004310	RA	MN State MMB	28,350.00	DEDA Sale of Land
06/11/20	2020-00004310	RA	MN State MMB	12,150.00	DEDA Sale of Land
06/12/20	2020-00004335	GL	Clear Due To/From Prior to Posting Pay 12	31,555.82	
06/15/20	2020-00004370	RA	Passport Labs	693.66	May Mobile Phone Parking Payments
06/18/20	2020-00004500	RA	Interstate Parking	13,682.07	Parking Ramp Revenue May 2020 6/16 ACH
06/22/20	2020-00004504	AP	Ehlers and Associates Inc	(325.00)	C19-860-902-Economic development and TIF professional services
06/22/20	2020-00004504	AP	Ehlers and Associates Inc	(331.25)	C19-860-902-Economic development and TIF professional services
06/22/20	2020-00004504	AP	Ehlers and Associates Inc	(1,500.00)	MIF Financial Review - Amsoil
06/22/20	2020-00004504	AP	Etor Properties LLC	(28,384.48)	NW Iron Parking Revise Final 2019
06/22/20	2020-00004504	AP	Duluth Public Utilities - Comfort Systems	(822.15)	335 W Superior St 4/30-5/29/20
06/22/20	2020-00004504	AP	Ehlers and Associates Inc	(1,060.00)	W Superior St Apartments
06/25/20	2020-00004669	AP	Northeast Entrepreneur Fund	(443,000.00)	Duluth Small Business Emergency Fund
06/30/20	2020-00004849	GL	Investment Earnings for June	2,628.00	Investment Earnings for June
<u>FUND 860 - OPERATING FUND</u>				Ending Balance - 6-30-2020	2,456,296.78 TB
<u>FUND 861 - DEBT SERVICE</u>				Beginning Balance	3,840.00 TB
06/30/20	2020-00004849	GL	Investment Earnings for June	4.00	Investment Earnings for June
<u>FUND 861 - DEBT SERVICE</u>				Ending Balance - 6-30-2020	3,844.00 TB
<u>FUND 865 - CAPITAL PROJECTS</u>				Beginning Balance	3,241,488.26 TB
06/30/20	2020-00004849	GL	Investment Earnings for June	3,047.00	Investment Earnings for June
<u>FUND 865 - CAPITAL PROJECTS</u>				Ending Balance - 6-30-2020	3,244,535.26 TB
<u>FUND 866 - MRO FACILITY</u>				Beginning Balance	800,360.40 TB
06/08/20	2020-00004101	AP	Jamar Company	(510.00)	AAR Aircraft Leak 1Flr Shop
06/22/20	2020-00004504	AP	Leo A Daly Company	(10,962.43)	D20-860-949 MRO Fire Suppression System Design
06/30/20	2020-00004849	GL	Investment Earnings for June	749.00	Investment Earnings for June
<u>FUND 866 - MRO FACILITY</u>				Ending Balance - 6-30-2020	789,636.97 TB
<u>FUND 867 - STOREFRONT LOANS</u>				Beginning Balance	235,961.17 TB
06/17/20	2020-00004465	RA	North Shore Bank	1,318.90	DEDA Women in Construction April/ May
06/18/20	2020-00004500	RA	Alerus Financial	1,037.10	DEDA Loan
06/30/20	2020-00004849	GL	Investment Earnings for June	223.00	Investment Earnings for June
<u>FUND 867 - STOREFRONT LOANS</u>				Ending Balance - 6-30-2020	238,540.17 TB

Duluth Economic Development Authority

July 2020 Cash Activity - all DEDA Funds

ACCUMULATED TRANSACTION LISTING, G/L Date Range 07/01/20 - 07/31/20 (as of 8/10/2020)

G/L Date	Journal Number	Sub Ledg	Name	Net Amount	Description
<u>FUND 860 - OPERATING FUND</u>			Beginning Balance	\$ 2,456,296.78	TB
07/01/20	2020-00000359	GL	Cost Allocation - DEDA	(33,333.33)	Cost Allocation Plan July 2020
07/02/20	2020-00004892	RA	Pay Group O'Reilly	437.09	DEDA Lease Payment
07/07/20	2020-00004868	AP	Matthew T Cartier	(35.00)	Special DEDA Meeting 4/3/20
07/07/20	2020-00004868	AP	Craig S Chilcote	(35.00)	Special DEDA Meeting 4/3/20
07/07/20	2020-00004868	AP	Zack Filipovich	(35.00)	Special DEDA Meeting
07/07/20	2020-00004868	AP	Rozalind Randorf	(35.00)	Special DEDA Meeting
07/07/20	2020-00004868	AP	Timothy P McShane	(35.00)	Special DEDA Meeting
07/07/20	2020-00004868	AP	Nancy R. Aronson-Norr	(35.00)	DEDA Meeting 4/22/20
07/07/20	2020-00004868	AP	Matthew T Cartier	(35.00)	DEDA Meeting 4/22/20
07/07/20	2020-00004868	AP	Craig S Chilcote	(35.00)	DEDA Meeting 4/22/20
07/07/20	2020-00004868	AP	Zack Filipovich	(35.00)	DEDA Meeting 4/22/20
07/07/20	2020-00004868	AP	Rozalind Randorf	(35.00)	DEDA Meeting 4/22/20
07/07/20	2020-00004868	AP	Timothy P McShane	(35.00)	DEDA Meeting 4/22/20
07/07/20	2020-00004868	AP	Nancy R. Aronson-Norr	(35.00)	DEDA Meeting 05/27/20
07/07/20	2020-00004868	AP	Matthew T Cartier	(35.00)	DEDA Meeting 5/27/20
07/07/20	2020-00004868	AP	Zack Filipovich	(35.00)	DEDA Meeting 5/27/20
07/07/20	2020-00004868	AP	Timothy P McShane	(35.00)	DEDA Meeting 05/27/20
07/07/20	2020-00004868	AP	Rozalind Randorf	(35.00)	DEDA Meeting 05/27/20
07/07/20	2020-00004868	AP	Zack Filipovich	(35.00)	DEDA Meeting 6/24/20
07/07/20	2020-00004868	AP	Timothy P McShane	(35.00)	DEDA Meeting 6/24/20
07/07/20	2020-00004868	AP	Derek Medved	(35.00)	DEDA Meeting 6/24/20
07/07/20	2020-00004868	AP	Rozalind Randorf	(35.00)	DEDA Meeting 6/24/20
07/07/20	2020-00004868	AP	Duluth News Tribune	(7.60)	DEDA Ad 5/7/20
07/07/20	2020-00004868	AP	Duluth News Tribune	(5.60)	DEDA Ad 5/27/20
07/07/20	2020-00004868	AP	Beauty Lawn Care Service	(110.00)	Lawn Care 5/21 & 5/29/20
07/15/20	2020-00005170	RA	Red Wagon Popcorn LLC	1,111.70	June 2020 rent and electrical use payment
07/16/20	2020-00005205	RA	Interstate Parking	44,708.72	Parking Ramp Revenue June 2020
07/20/20	2020-00005198	AP	First American Title Insurance Company	(600.00)	Vacant Land N 6th Ave E - Rebuild Lot 5
07/20/20	2020-00005198	AP	Debra Kellner	(7,500.00)	C19 860 925 Level I Survery of Pastoret Terrace Bldg & Robeson
07/20/20	2020-00005198	AP	First American Title Insurance Company	(600.00)	Vacant Land Tioga St - Rebuild Lot 2
07/20/20	2020-00005198	AP	First American Title Insurance Company	(600.00)	Vacant Land - Rebuild Lot 13
07/20/20	2020-00005198	AP	First American Title Insurance Company	(600.00)	1438 N 8th Ave E - Rebuild Lot 12
07/20/20	2020-00005198	AP	First American Title Insurance Company	(600.00)	113 E 4th St - Rebuild Lot 11
07/20/20	2020-00005198	AP	First American Title Insurance Company	(600.00)	Vacant Land N 63rd Ave W - Rebuild Lot 9
07/20/20	2020-00005198	AP	Northspan Group Inc	(1,232.25)	C19-860-933 Mayors Affordable Housing Task Force

07/20/20	2020-00005258	RA	Passport Labs	2,340.99	Mobile Payments June 2020
07/22/20	2020-00005332	RA	Duluth Seaway Port Authority	5,000.00	June and July Lot D License Rent
07/31/20	2020-00005602	GL	Investment Earnings for July	1,957.00	Investment Earnings for July
FUND 860 - OPERATING FUND				Ending Balance - 7-31-2020	2,465,363.50 TB
<u>FUND 861 - DEBT SERVICE</u>				Beginning Balance	3,844.00 TB
07/10/20	2020-00005047	GL	receipt 1st half 2020 tax payment	1,408,614.51	receipt 1st half 2020 tax TIF payment
07/31/20	2020-00005602	GL	Investment Earnings for July	801.00	Investment Earnings for July
FUND 861 - DEBT SERVICE				Ending Balance - 7-31-2020	1,413,259.51 TB
<u>FUND 865 - CAPITAL PROJECTS</u>				Beginning Balance	3,244,535.26 TB
07/31/20	2020-00005602	GL	Investment Earnings for July	2,590.00	Investment Earnings for July
FUND 865 - CAPITAL PROJECTS				Ending Balance - 7-31-2020	3,247,125.26 TB
<u>FUND 866 - MRO FACILITY</u>				Beginning Balance	789,636.97 TB
07/20/20	2020-00005198	AP	Leo A Daly Company	(4,956.00)	D20-860-949 Amnd 1 MRO Fire Suppression System - CA
07/31/20	2020-00005602	GL	Investment Earnings for July	629.00	Investment Earnings for July
FUND 866 - MRO FACILITY				Ending Balance - 7-31-2020	785,309.97 TB
<u>FUND 867 - STOREFRONT LOANS</u>				Beginning Balance	238,540.17 TB
07/20/20	2020-00005258	RA	Alerus Financial	1,037.10	DEDA Loan payment
07/31/20	2020-00005602	GL	Investment Earnings for July	191.00	Investment Earnings for July
FUND 867 - STOREFRONT LOANS				Ending Balance - 7-31-2020	239,768.27 TB

RESOLUTION 20D-51

RESOLUTION AUTHORIZING A FIRST AMENDMENT TO THE LAND SALE AGREEMENT WITH HUGHES OLSEN WORKSHOP LLC RELATED TO THE REBUILD DULUTH PROGRAM.

RESOLVED, by the Duluth Economic Development Authority (“DEDA”) that the proper DEDA officials are hereby authorized to enter into a First Amendment to the Land Sale Agreement (DEDA Contract No. 20 860 958 substantially in the form attached hereto, with Hughes Olsen Workshop LLC.

Approved by the Duluth Economic Development Authority this 19th day of August 2020.

ATTEST:

Executive Director

STATEMENT OF PURPOSE: The resolution authorizes a First Amendment to the Land Sale Agreement with Hughes Olsen Workshop LLC (Buyer) for conveyance of property related to the Rebuild Duluth Program. The Buyer applied to acquire a DEDA- owned vacant lot legally described as Lot 1, Block 73, West Duluth Second Division, upon which to construct a Housing Unit for an estimated total construction cost of \$250,451.44. On April 22, 2020, DEDA and the Buyer entered into a Land Sale Agreement pursuant to which DEDA agreed to convey the Property to Buyer. The property is a 25-foot wide corner lot that required City of Duluth Planning Commission approval of a setback variance to allow a home to be constructed. Neighboring property owners and the Planning commission expressed concern over the variance, in particular regarding the inclusion of an Accessory Dwelling Unit (ADU) as part of the design. In order to address these concerns, the Buyer agreed to remove the ADU from the proposal and the Planning Commission approved the variance request. The Buyer has collaborated with One Roof Community Housing to construct the project

and commit to the One Roof Community Land Trust Program, agreeing to sell the completed project for \$150,000 or less. The Amendment also authorizes an extended construction completion date from December 31, 2021 to June 1, 2022 to accommodate construction commencing in the spring of 2021.

REBUILD DULUTH
LAND SALE AGREEMENT
HUGHES OLSEN WORKSHOP LLC
FIRST AMENDMENT

THIS FIRST AMENDMENT TO LAND SALE AGREEMENT (this "First Amendment") is made as of the last date of signature acknowledgement below by and between the DULUTH ECONOMIC DEVELOPMENT AUTHORITY, a public body, corporate and politic and a political subdivision under Minnesota Statutes Chapter 469, hereinafter referred to as "DEDA," and Hughes Olsen Workshop LLC, a Minnesota Limited Liability Company, hereinafter referred to as "Buyer".

RECITALS:

- A. DEDA has a program entitled "Rebuild Duluth" designed to incentivize the construction of innovatively designed, affordable housing units (each and if applicable, collectively, a "Housing Unit") by providing vacant lots at no cost to qualified purchasers who have been selected through an application process (the "Program").
- B. Buyer applied to acquire a vacant lot in St. Louis County, Minnesota, legally described as Lot 1, Block 73, West Duluth Second Division (the "Property"), upon which to construct a Housing Unit pursuant to the Program for an estimated total construction cost of \$250,451.44 as set forth in the Buyer's application on file in the DEDA office (the "Application").
- C. On April 22, 2020, DEDA and Buyer entered into a Land Sale Agreement (the "Agreement") pursuant to which DEDA agreed to convey the Property to Buyer for construction of a Housing Unit on the Property under the terms and conditions set forth in the Agreement.
- D. The Property is a 25 foot wide corner lot that required City of Duluth Planning Commission approval of a setback variance to allow a home to be constructed.

- E. Buyer's application included one single family dwelling and one accessory dwelling unit ("ADU").
- F. Neighboring property owners and the Planning Commission expressed concern over the variance request, in particular regarding the inclusion of the ADU given the lot size.
- G. In order to address these concerns, Buyer conceded to removing the ADU from its proposal, and the Planning Commission approved the variance request.
- H. Buyer has partnered with One Roof Community Housing to construct the Project and commit the Project to the One Roof Community Land Trust Program.
- I. The Land Trust Program offers homes for sale at a significant discount to the market, ensuring their affordability for eligible would-be homeowners.

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter contained, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

- 1. Except as otherwise defined in this First Amendment, terms defined in the Agreement used herein shall have the meaning assigned to them in the Agreement.
- 2. Buyer agrees that, as part of the One Roof Community Land Trust Program, the completed Project will be sold for \$150,000 or less.
- 3. The Second Whereas clause is hereby amended to read:

WHEREAS, Buyer applied to acquire a vacant lot upon which to construct a Housing Unit pursuant to the Program for an estimated total construction cost of \$199,900.00 ~~\$250,451.44 as set forth in the Buyer's application on file in the DEDA office (the "Application");~~ and

- 4. Section 2, Use of the Property, is hereby amended as follows:

The intended use for the Property is the construction of a Housing Unit ~~pursuant to the Application~~ and in accordance with the requirements of the Program and the Plans and Specifications (defined below) (the "Project").

- 5. Section 7, Submittal of Cost Estimate, is hereby amended as follows:

At least thirty (30) days prior to the Closing Date (defined below), Buyer shall submit to DEDA in writing its final estimate of the total cost to construct the Housing Unit

in form and detail acceptable to the Executive Director which shall include a copy of the construction contract (the "Total Project Cost"). In the event the Total Project Cost is 25% or more over the estimate of total construction costs set forth above ~~contained in the Application~~, Buyer at Buyer's option may (i) terminate this Agreement or (ii) may pay the amount of \$5,500 for the purchase of the Property. In the event the Buyer terminates this Agreement, each party shall promptly sign a cancellation of Land Sale Agreement evidencing the cancellation of this Agreement, and except as expressly set forth in this Agreement, the parties shall have no further obligations to one another pursuant to this Agreement.

6. Section 12, Project Contingencies, is hereby amended to read:

Buyer agrees to execute such documents as are necessary to allow DEDA staff and Buyer's lender to communicate and share documents in order to ensure that the Project can be built within the Program requirements and according to the Plans and Specification and for no more than 25% over the estimate of total construction costs set forth above ~~in the Application~~. Additionally, Buyer agrees to provide DEDA staff with sworn construction statements when issued in order to evaluate whether the Project complies with Program requirements and the Plans and Specifications and will not cost more than 25% over the estimate of total construction costs set forth above ~~in the Application~~. If Buyer fails to provide the information required in this Section, or if the Executive Director determines in his discretion that Buyer cannot complete the Project as pursuant to the Program requirements or the Plans and Specifications and at a cost no more than 25% over the total construction costs set forth above ~~in the Application~~, this shall be a default as set forth in Section 19 for which the remedies set forth in said Section 19 shall apply.

7. Section 13, Deadlines, is hereby amended as follows:

Within one year from the Closing Date, Buyer shall have devoted the Property to its intended use by commencing construction on the Project in accordance with the approved Plans and Specifications as evidenced by the issuance of a building permit and the filing of an affidavit with the Executive Director, executed by Buyer, to which are attached pictures of commenced construction.

On or before June 1, 2022 ~~December 31, 2021~~, Buyer shall have devoted the Property to its intended use by completing construction on the Project as evidenced by (i) completion of construction of the Housing Unit in accordance with the requirements of the Program and the Plans and Specifications; and (ii) the issuance of the Certificate of Occupancy. Buyer shall provide the Executive Director evidence of (i) completion of construction of the Housing Unit in accordance with the requirements of the Program and the Plans and Specifications; and (ii) the issuance of the Certificate of Occupancy. If Buyer fails to meet either the one-year deadline or the June 1, 2022 ~~December 31, 2021~~ deadline as stated above, DEDA may cancel the sale and title to the Property shall revert to DEDA. Buyer may transfer title to the Property to a third party within one year of the Closing Date without first obtaining the written consent of DEDA if Buyer has completed construction of the Housing Unit in accordance with the requirements of the Program and the Plans and Specifications, and a Certificate of Occupancy has been issued as set forth above.

8. Buyer agrees to pay all costs, including but not limited to recording fees and state deed tax, associated with the recording of this First Amendment in the office of the St. Louis County Recorder.

9. Except as provided in this First Amendment, all terms and conditions of the Agreement shall remain in force and effect.

10. This First Amendment may be executed, acknowledged and delivered in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

[The remainder of this page intentionally left blank.]

RESOLUTION 20D-52

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REBUILD DULUTH
LAND SALE AGREEMENT
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RECITALS:

- A. DEDA has a program entitled “Rebuild Duluth” designed to incentivize the construction of innovatively designed, affordable housing units (each and if applicable, collectively, a “Housing Unit”) by providing vacant lots at no cost to qualified purchasers who have been selected through an application process (the “Program”).
- B. Buyer applied to acquire a vacant lot in St. Louis County, Minnesota, legally described as Lot 5, Block 4, MacFarlanes Grassy Point Addition to Duluth (the “Property”), upon which to construct a Housing Unit pursuant to the Program for an estimated total construction cost of \$250,451.44 as set forth in the Buyer’s application on file in the DEDA office (the “Application”).
- C. On April 22, 2020, DEDA and Buyer entered into a Land Sale Agreement (the “Agreement”) pursuant to which DEDA agreed to convey the Property to Buyer for construction of a Housing Unit on the Property under the terms and conditions set forth in the Agreement.
- D. Buyer has partnered with One Roof Community Housing to construct the Project and commit the Project to the One Roof Community Land Trust Program.

E. The Land Trust Program offers homes for sale at a significant discount to the market, ensuring their affordability for eligible would-be homeowners.

F. To render the Project eligible and feasible for the Land Trust Program, Buyer has eliminated the accessory dwelling unit (ADU) as proposed in the Application since the ADU increases the cost and makes the Project difficult to finance and to sell.

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter contained, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Except as otherwise defined in this First Amendment, terms defined in the Agreement used herein shall have the meaning assigned to them in the Agreement.
2. Buyer agrees that, as part of the One Roof Community Land Trust Program, the completed Project will be sold for \$150,000 or less.
3. The Second Whereas clause is hereby amended to read:

WHEREAS, Buyer applied to acquire a vacant lot upon which to construct a Housing Unit pursuant to the Program for an estimated total construction cost of ~~\$199,900.00~~ ~~\$250,451.44~~ as set forth in the Buyer's application on file in the DEDA office (the "Application"); and

4. Section 2, Use of the Property, is hereby amended as follows:

The intended use for the Property is the construction of a Housing Unit pursuant to the Application and in accordance with the requirements of the Program and the Plans and Specifications (defined below) (the "Project").

5. Section 7, Submittal of Cost Estimate, is hereby amended as follows:

At least thirty (30) days prior to the Closing Date (defined below), Buyer shall submit to DEDA in writing its final estimate of the total cost to construct the Housing Unit in form and detail acceptable to the Executive Director which shall include a copy of the construction contract (the "Total Project Cost"). In the event the Total Project Cost is 25% or more over the estimate of total construction costs set forth above ~~contained in the Application~~, Buyer at Buyer's option may (i) terminate this Agreement or (ii) may pay the amount of \$5,300 for the purchase of the Property. In the event the Buyer terminates this Agreement, each party shall promptly sign a cancellation of Land Sale

Agreement evidencing the cancellation of this Agreement, and except as expressly set forth in this Agreement, the parties shall have no further obligations to one another pursuant to this Agreement.

6. Section 12, Project Contingencies, is hereby amended to read:

Buyer agrees to executive such documents as are necessary to allow DEDA staff and Buyer's lender to communicate and share documents in order to ensure that the Project can be built within the Program requirements and according to the Plans and Specification and for no more than 25% over the estimate of total construction costs set forth above in the Application. Additionally, Buyer agrees to provide DEDA staff with sworn construction statements when issued in order to evaluate whether the Project complies with Program requirements and the Plans and Specifications and will not cost more than 25% over the estimate of total construction costs set forth above in the Application. If Buyer fails to provide the information required in this Section, or if the Executive Director determines in his discretion that Buyer cannot complete the Project as pursuant to the Program requirements or the Plans and Specifications and at a cost no more than 25% over the total construction costs set forth above in the Application, this shall be a default as set forth in Section 19 for which the remedies set forth in said Section 19 shall apply.

7. Section 13, Deadlines, is hereby amended as follows:

Within one year from the Closing Date, Buyer shall have devoted the Property to its intended use by commencing construction on the Project in accordance with the approved Plans and Specifications as evidenced by the issuance of a building permit and the filing of an affidavit with the Executive Director, executed by Buyer, to which are attached pictures of commenced construction.

On or before June 1, 2022 ~~December 31, 2021~~, Buyer shall have devoted the Property to its intended use by completing construction on the Project as evidenced by (i) completion of construction of the Housing Unit in accordance with the requirements of the Program and the Plans and Specifications; and (ii) the issuance of the Certificate of Occupancy. Buyer shall provide the Executive Director evidence of (i) completion of construction of the Housing Unit in accordance with the requirements of the Program and the Plans and Specifications; and (ii) the issuance of the Certificate of Occupancy. If

Buyer fails to meet either the one-year deadline or the June 1, 2022 ~~December 31, 2021~~ deadline as stated above, DEDA may cancel the sale and title to the Property shall revert to DEDA. Buyer may transfer title to the Property to a third party within one year of the Closing Date without first obtaining the written consent of DEDA if Buyer has completed construction of the Housing Unit in accordance with the requirements of the Program and the Plans and Specifications, and a Certificate of Occupancy has been issued as set forth above.

8. Buyer agrees to pay all costs, including but not limited to recording fees and state deed tax, associated with the recording of this First Amendment in the office of the St. Louis County Recorder.

9. Except as provided in this First Amendment, all terms and conditions of the Agreement shall remain in force and effect.

10. This First Amendment may be executed, acknowledged and delivered in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

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RESOLUTION 20D-53

RESOLUTION CONSENTING TO THE REFUNDING OF A HEALTH CARE FACILITIES REVENUE NOTE BY THE HOUSING AND REDEVELOPMENT AUTHORITY OF DULUTH, MINNESOTA

BE IT RESOLVED by the Board of Commissioners of the Duluth Economic Development Authority, as follows:

Section 1. Definitions. For purposes of this resolution, capitalized terms have the meanings assigned below:

“2006 Note” means DEDA’s \$2,620,000 Health Care Facilities Revenue Note (Aftenro Home Project), Series 2006, dated June 15, 2006.

“2020 Note” means the HRA’s Health Care Facilities Revenue Note (Aftenro Home Project), Series 2020, proposed to be issued in a stated principal amount not to exceed \$2,750,000.

“Aftenro” means Aftenro Society, a Minnesota nonprofit corporation.

“Authorized Officers” means the Chair, Secretary, Executive Director and officers and Commissioners of DEDA, individually or with one or more other officers and Commissioners of DEDA.

“Bond Counsel” means the law firm of Fryberger, Buchanan, Smith & Frederick, P.A.

“DEDA” means the Duluth Economic Development Authority, Duluth, Minnesota.

“Facility” means Aftenro Home, a 61-bed nursing home located at 510 West College Street, Duluth, Minnesota.

“HRA” means the Housing and Redevelopment Authority of Duluth, Minnesota.

“Internal Revenue Code” means the Internal Revenue Code of 1986, as amended,

Section 2. General Recitals.

A. On June 15, 2006, DEDA issued the 2006 Note to refinance tax exempt debt of Aftenro and finance capital improvements to the Facility. The 2006 Note is a bank-qualified tax exempt obligation.

B. Bond Counsel has informed representatives of DEDA that National Bank of Commerce has extended an offer of a loan to Aftenro which would refinance the 2006 Note, refinance commercial indebtedness of Aftenro and finance capital improvements to and capital equipment at the Facility on the condition that the loan is financed as tax exempt and “bank qualified.”

C. DEDA has issued in excess of \$10,000,000 of tax exempt obligations which are “qualified 501(c)(3) bonds” during calendar 2020. Bond Counsel has informed DEDA that Section 265 of the Internal Revenue Code prohibits DEDA from issuing “bank qualified” tax exempt obligations during calendar year 2020.

D. The HRA is willing to issue the Series 2020 Note as a “bank qualified” tax exempt obligation to refund the 2006 Note and finance additional capital improvements to and capital equipment at the Facility.

E. Bond Counsel has informed DEDA that the Minnesota authorizing statute for the Series 2020 Note and the 2006 Note requires DEDA to consent by resolution to the HRA’s refunding of the 2006 Note.

Section 2. Consent. DEDA consents to the refunding of the 2006 Note by the HRA.

Section 3. Authorization to Execute Documents.

A. The Authorized Officers are authorized:

(i) to execute and deliver all other documents which may be required under the terms of the 2006 Note with respect to their redemption or defeasance, as applicable, and to take such other action as may be required or deemed appropriate for the performance of the duties imposed thereby to carry out the purposes thereof; and

(ii) to furnish certified copies of this resolution and all proceedings and records of DEDA relating to the 2006 Note, and such other affidavits and certificates as may be required to show the facts relating to the actions of DEDA respecting the 2006 Note, as such facts appear from the books and records in the Authorized Officers’ custody and control or as otherwise known to them; and all such certified copies, certificates and affidavits, including any heretofore furnished, shall constitute representations of DEDA as to the truth of all statements contained therein.

B. If for any reason an Authorized Officer shall for any reason:

(i) cease to be an officer, employee or agent of DEDA after the execution by such person of any certificate, instrument or other written document, such fact shall not affect the validity or enforceability of such certificate, instrument or other written document; or

(ii) be unavailable to execute certificates, instruments or other written documents for any reason, such certificates, instruments or other written documents may be executed by a deputy or assistant to such officer, or by such other officer of DEDA as in the opinion of DEDA’s attorney is authorized to sign such documents and do all things and execute all instruments and documents

required to be done or executed by such officers, with full force and effect, which execution or acts shall be valid and binding on DEDA.

Approved by the Duluth Economic Development Authority this 19th day of August, 2020.

ATTEST:

Executive Director

STATEMENT OF PURPOSE: This resolution consents to the refunding of a bank qualified tax exempt obligation issued by DEDA in 2006 for the benefit of Aftenro Society, owner and operator of Aftenro Home. Representatives of Aftenro have negotiated a loan with National Bank of Commerce which would refinance DEDA's 2006 Note, refinance a loan from the Northland Foundation and finance approximately \$540,000 of improvements to Aftenro Home on the condition that the new loan be tax exempt and bank qualified. A tax exempt bank qualified loan would bear an interest rate approximately 1.00% lower than a tax exempt loan which is not bank qualified, providing a significant interest cost savings to Aftenro. Bond Counsel has advised DEDA that it cannot issue bank qualified tax exempt debt in calendar year 2020 due to the issuance by DEDA of tax exempt obligations for Essentia Health. The Housing and Redevelopment Authority of Duluth, Minnesota has offered to undertake the proposed financing and refinancing for Aftenro on a bank qualified and tax exempt basis. Bond Counsel has further advised DEDA that under applicable law, the HRA cannot refinance the 2006 Note without DEDA's consent.

EXTRACT OF MINUTES OF A MEETING OF THE DULUTH ECONOMIC
DEVELOPMENT AUTHORITY

Pursuant to due call and notice thereof, a meeting of the Duluth Economic Development Authority, held by teleconference, on August 26, 2020, at 5:15 p.m.

The following Commissioners were present: _____

and the following Commissioners were absent: _____

MOTION: Commissioner _____ moved to adopt Resolution No. _____, entitled "Resolution Consenting to the Refunding of a Health Care Facilities Revenue Note by the Housing and Redevelopment Authority of Duluth, Minnesota."

SECOND: Commissioner _____

RESULT: On a roll call vote the motion was carried.

Ayes: _____

Nays: _____

Not Voting: _____

Absent: _____

RESOLUTION 20D-54

RESOLUTION ACCEPTING A CONTAMINATION INVESTIGATION AND REMEDIAL ACTION PLAN ("RAP") DEVELOPMENT GRANT APPLICATION IN THE AMOUNT \$50,000 FROM THE MINNESOTA DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT RELATING TO PROPERTY LOCATED AT 425 SOUTH LAKE AVENUE, AUTHORIZING EXECUTION OF GRANT AGREEMENT AND COMMITTING LOCAL MATCH.

WHEREAS, Resolution 20D-48 authorized the Duluth Economic Development Authority ("DEDA") to act as the legal sponsor for the project contained in the Contamination Investigation and RAP Development Grant Application for 425 South Lake Avenue, submitted on May 1, 2020, to the Minnesota Department of Employment and Economic Development ("DEED"); and

WHEREAS, the grant application was received, reviewed, and was selected by DEED for funding.

THEREFORE, BE IT RESOLVED, that the proper DEDA officials are hereby authorized to enter into a Contamination Investigation and Remedial Action Plan Development Grant Agreement with the State of Minnesota Department of Employment and Economic Development in the amount of \$50,000 for additional environmental investigation of the so-called Marine Iron Lot located at 425 Lake Avenue; and

BE IT FURTHER RESOLVED, that DEDA hereby commits not less than \$12,500, payable from Fund 860, as local matching funds for the Grant, \$ _____ of which will be reimbursed by Star NW, LLC.

Approved by the Duluth Economic Development Authority this 19th day of August, 2020.

ATTEST:

Executive Director

STATEMENT OF PURPOSE:

DEDA was awarded a \$50,000 grant by DEED for Contamination Investigation and RAP Development. This resolution provides for acceptance of the grant and clarifies the local matching funding to the grant application, provided by Star NW LLC and DEDA.

The subject property, commonly known as the Marine Iron Parking Lot, has been partly owned by the City and partly owned by ETOR Properties and has been managed by DEDA as public parking for a number of years. ETOR is in the process of selling their portion of the lot to Star NW LLC who has been working collaboratively with City and DEDA staff to redevelop the property for commercial and multi-level parking purposes.

The intent of the investigation and RAP development is to continue collaborating with owners Star NW LLC to evaluate the environmental conditions of the property to consider possible public parking and vehicular flow improvements, pedestrian area activation, and new investment.

July 7, 2020

Adam Fulton
Deputy Director, Planning and Development Division
City of Duluth
411 West 1st Street – Room 160
Duluth, MN 55802

Re: Contamination Investigation Grant Award for the Canal Park Redevelopment project

Dear Mr. Fulton:

Congratulations on your recent Contamination Investigation Grant award of \$50,000.00 from the Department of Employment and Economic Development (DEED). I wanted to introduce myself as the DEED project manager for this grant. The purpose of this letter is to share information necessary for the administration of this grant.

Grant Agreement

A grant agreement will be emailed to you shortly after DEED receives DEDA's resolution accepting the grant and authorizing grantee signatures. Please read it carefully, sign, and return to DEED via email as soon as possible. Signatures must be those authorized in the above-referenced resolution. Once the grant agreement is fully executed, funds may be requested and disbursed. A few noteworthy sections of the grant agreement include:

Clause 1.2 Expiration Date: All eligible activities listed in the grant agreement must be completed and all funds must be drawn by June 30, 2022.

Clause 2.1 Duties, Deliverables, and Completion Dates: Grant funds were awarded for the project described in the application. Any modifications to that project, including, but not limited to, the cleanup plan, development plan, budget, or schedule must be approved by DEED. Please notify DEED of any changes to the project immediately.

Clause 4.1 (a) Project Costs: This is the grant's approved budget. Only the activities listed in this section of the grant agreement are eligible for grant reimbursement and/or match.

Clause 4.2 (a) Invoices: DEED makes payments on a reimbursement basis and will provide a payment request form once the grant agreement is fully executed. Payment requests submitted to DEED must be accompanied by supporting invoices that relate to the activities in the approved budget. The state's fiscal year ends June 30th. The grantee should make every effort to submit costs for the same fiscal year in which they were incurred. Additionally, payment requests must be submitted to DEED 30 days prior to the grant-term expiration date.

Clause 6 Authorized Representative: If the grantee's representative changes, please notify DEED immediately.

Mr. Adam Fulton
July 7, 2020
Page 2

Clause 7.2 (b) Grant Adjustment Notices (GANs): If costs for activities in the grant agreement increase, DEED will need to issue a GAN in order to disburse funds. The grantee must provide an explanation for the increase in costs. A GAN cannot increase the grant award amount, nor can it add eligible activities. Please contact DEED prior to submitting a payment request if costs have increased.

Clause 9 Accounting: DEED staff is required to audit the grant within one year of the grant's status change to closed, pending monitoring. This change in grant status typically occurs once 100% of grant funds have been disbursed or the grant term ends. Be sure to retain all documents related to the grant, and that your financial records clearly show the receipt and expenditure of DEED funds. Documentation of the grant match is also required.

Clause 14.2 Termination for Cause: Investigation activities funded by the grant must commence and a request for reimbursement must be submitted to DEED by June 30, 2021. This date was derived from the schedule provided to DEED in the grant application with additional time allocated for challenges associated with the COVID-19 pandemic. Failure to meet this date may result in the termination of the grant. The request for reimbursement must include invoices for eligible investigation costs incurred after the grant was awarded.

Clause 16 Reporting: Annual reports must be submitted to DEED no later than July 25th until project benefits are achieved. The annual report form can be found on DEED's website <http://mn.gov/deed>.

Project Benefits

The application for which this grant award is made was scored using strict criteria. The project benefits included in your application outscored others that did not receive funding. Therefore, it is important that the benefits listed in the application are achieved. It is DEED's expectation that the Minnesota Pollution Control Agency approves the project's Response Action Plan within the term of the grant.

Lastly, DEED wants to emphasize the importance of communication throughout the grant process. DEED staff understands that projects are fluid and changes are sometimes necessary. We are invested in this project and want it to succeed. Clear and open communication is key to making the necessary adjustments to keep the project moving forward.

DEED is excited to partner with you on the Canal Park Redevelopment project. If you have any questions, please contact me at erin.welle@state.mn.us.

Sincerely,



Erin Welle, Project Manager
Brownfields and Redevelopment Unit

RESOLUTION 20D-55

RESOLUTION AUTHORIZING LEASE TERMINATION AGREEMENT WITH AAR AIRCRAFT SERVICES INC. AND SETTLING ALL FINANCIAL OBLIGATIONS THEREUNDER.

RESOLVED, by the Duluth Economic Development Authority ("DEDA") that the proper DEDA officials are hereby authorized to enter into a Lease Termination Agreement (DEDA Contract No. 20 865 _____), substantially in the form of that attached hereto, with AAR Aircraft Services, Inc., terminating AAR's lease of the MRO as amended, which lease and amendments thereto bear DEDA Contract Nos. 12 865 666 and 19 860 921 and providing for the payment by AAR to DEDA of \$210,422.83 in settlement of its obligations under the Lease, said sum to be payable to Fund 865.

Approved by the Duluth Economic Development Authority this 19th day of August, 2020.

ATTEST:

Executive Director

STATEMENT OF PURPOSE: The purpose of this resolution is to authorize the execution of a Lease termination agreement with AAR Aircraft Services Inc. terminating their lease of the MRO facility at the Airport and providing for a settlement of their financial obligations under the Lease.

Because of the financial downturn resulting from the pandemic which resulted in a substantial reduction in air traffic and in turn a substantial decline in the demand for AAR's services, they chose to terminate their lease on 180 days' notice as is permitted by Paragraph C of Article IV of the Lease. DEDA had previously given them forgiveness of three months' rent to encourage them to continue their Duluth operations but AAR made the business judgement to terminate.

During the remainder of the 180 day notice period, there remain a number of payment obligations on AAR under the lease. It is AAR's desire to end the lease and vacate the premises as soon as possible and so they entered into negotiations with DEDA staff to terminate immediately. DEDA staff reviewed the lease and determined what payment obligations remained between now and November 15th. After extensive review and negotiations, the parties agreed that the amount owed is \$210,422.83. See a breakdown of the obligations and the amounts on the attachment.

Pursuant to the agreement, AAR will pay DEDA the costs described above and the lease will be terminated.

RESOLUTION 20D-56

RESOLUTION AUTHORIZING OVERFLOW TEMPORARY PARKING SPACE LEASE AGREEMENT WITH CIRRUS DESIGN CORPORATION D/B/A CIRRUS AIRCRAFT FOR USE OF THE MRO.

RESOLVED, by the Duluth Economic Development Authority ("DEDA") that the proper DEDA officials are hereby authorized to enter into an Overflow Temporary Parking Space Lease Agreement (DEDA Contract No. 20 865 ____), substantially in the form of that attached hereto, with Cirrus Design Corp. D/B/A Cirrus Aircraft, leasing a portion of the MRO hanger facility to Cirrus for the temporary storage of their inventory and work in progress at the rate of \$21,000 per month, payable to Fund 865.

Approved by the Duluth Economic Development Authority this 19th day of August, 2020.

ATTEST:

Executive Director

STATEMENT OF PURPOSE: The purpose of this resolution is to authorize the execution of an Overflow Temporary Parking Space Lease Agreement with Cirrus Design Corp, d/b/a Cirrus Aircraft for the use of approximately 36,000 square feet of space in the MRO building as temporary storage for a portion of their inventory and work in progress.

Due to recent unexpected interruptions in their supply chain, Cirrus is suffering a 90-120 day delay and is unable to complete aircraft for customer delivery. This has resulted in the build-up of inventory that therefore is not yet ready to be delivered to their purchasers.

Cirrus is In need of weatherproof storage for these aircraft until such time as assembly can be completed, allowing deliver of the planes. As DEDA has a large hanger facility that is not currently being used, Cirrus requested that DEDA lease them approximately 36,000 square feet of it to help them protect their inventory until it can be completed and delivered.

The initial term of this agreement will run through the end of the year with the ability of both parties to extend the term for an additional 6 months if need be. The amount of the rent to be received by DEDA will be sufficient to cover the costs of operating the building, not including taxes; AAR is responsible for paying 2020 taxes payable in 2021.

OVERFLOW TEMPORARY PARKING SPACE LEASE AGREEMENT

DULUTH ECONOMIC DEVELOPMENT AUTHORITY

MRO FACILITY

CIRRUS DESIGN CORP. d/b/a CIRRUS AIRCRAFT

THIS LEASE AGREEMENT, entered on the ____ day of _____, 2020, by and between the DULUTH ECONOMIC DEVELOPMENT AUTHORITY, an economic development authority under Minnesota Statutes (1989) Chapter 469, hereinafter referred to as "DEDA", and CIRRUS DESIGN CORP. d/b/a CIRRUS AIRCRAFT and a corporation created and existing under the laws of the State of Wisconsin, hereinafter referred to as "Lessee".

WHEREAS, DEDA is the owner of a MRO designed as a heavy aircraft maintenance facility located on the hereinafter-described "Property" at the Duluth International Airport ("DIAP"); and

WHEREAS, said facility consists of 189,000 square feet of hanger space, office space, shop space and support space, hereinafter referred to as the "MRO"; and

WHEREAS, Lessee is in need of approximately 36,000 square feet of indoor hanger storage space in the MRO suitable for the temporary storage of its inventory and work in process; and

WHEREAS, the design and location of the MRO is suitable for Lessee's purposes but the structure is larger than is needed or useable at this time by Lessee; and

WHEREAS, both DEDA and Lessee believe that it will be in the best interests of DEDA, of Lessee and of the Duluth Airport Authority as operator of the DIAP and of the DIAP itself, as well as the rest of the community for DEDA to lease a portion of the MRO and the Property to Lessee for the purposes set forth above.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements hereinafter contained, the parties covenant and agree for themselves and their successors and assigns as follows:

ARTICLE I

DEFINITIONS

For the purposes of this Agreement, the following terms shall have the meanings hereinafter ascribed to them unless a different meaning clearly appears from the context;

- A. City: shall mean the City of Duluth, Minnesota.
- B. Building Systems: shall mean Standard Building and Mechanical Systems consisting of the electrical system including 400 Hz system, plumbing, heating and air conditioning systems, potable water and wastewater systems, pit ventilation system and pit utilities, wet sprinkler system, hangar doors, structural integrity of interior and exterior load-bearing walls, the roof, footings and foundations systems serving the Buildings and located on the Leased Property and painting of the exterior surfaces of the Buildings. Building Systems shall also include parking lots and aprons but shall not include the reverse-osmosis system or the de-fueling system.
- C. DEDA: shall mean the Duluth Economic Development Authority.
- D. DEDA Equipment: shall mean that DEDA-owned equipment located in the MRO or on the Leased Premises identified and described on Exhibit A attached hereto and made a part hereof.
- E. Director: shall mean the Executive Director of DEDA or the person designated to act on behalf of the Director with regard to this Agreement
- F. Leased Premises: shall mean that portion of the MRO described and depicted on Exhibit B attached hereto and made a part hereof consisting of approximately 36,000 square feet of the hanger portion of the MRO.
- G. MRO: shall mean that MRO Building located north of Runway 09-27 and west of Runway 03-21 on the DIAP consisting of 189,000 square feet of hanger space, office space, shop space and support space originally designed and construct for use as a heavy maintenance base for commercial aircraft.
- H. Property: shall mean that property in St. Louis County, Minnesota legally described on Exhibit C, attached hereto and made a part hereof.

ARTICLE II

LEASED PREMISES

- A. Generally
Subject to the terms and conditions hereinafter set forth, DEDA hereby grants and leases to Lessee, for the Term of this Lease Agreement as hereinafter set forth, the Leased Premises as hereinafter provided, for the storage of its light aircraft inventory and work in process, all in the ordinary course of its business, conforming in all ways to applicable laws, rules and regulations. The use of the Leased Premises shall not include the storage

of fuel or of aircraft containing fuel. During the Term of this Agreement as hereinafter set forth, Lessee shall have use of the Leased Premises for the purposes herein set forth, subject to the terms and conditions of this Lease Agreement and, unless authorized by this Lease Agreement, DEDA will take no action which will prevent Lessee from the quiet and peaceable possession thereof. By entering into this Lease Agreement, DEDA is making no warranty or representation, either expressed or implied, as to the merchantability or fitness for any particular use of the Leased Premises or other representation or warranty, express or implied, with respect to the condition of the Leased Premises except as explicitly set forth herein.

B. Exception-DEDA Equipment

The parties hereby acknowledge that DEDA is the owner of the DEDA Equipment which is presently stored in the MRO but outside of the Leased Premises. Lessee hereby agrees that Lessee shall have no right to use, move or to otherwise have any interaction with the DEDA Equipment or any portion thereof in conjunction with the permitted uses of the Leased Premises. Lessee agrees that, except as hereinafter provided for, Lessee will continue to allow the DEDA Equipment to be stored in the MRO in a location remote and reasonably discrete from the Leased Premises. Lessee further agrees that it will be responsible for any damage or destruction thereof or for any injury to or death of any person or persons or damage to or destruction of property arising out of the storage of the DEDA Equipment in the MRO in the same manner as provided for in Article VIII below unless Lessee can establish by competent evidence that such damage or destruction was caused by DEDA or by third parties.

C. Access to Airport Facilities

In addition to the foregoing, DEDA grants to Lessee the non-exclusive use of that access taxiway and ramp to the Southeast of MRO, which taxiway and ramp are shown on Exhibit C attached hereto and made a part hereof.

D. Other Leases for MRO

Nothing herein shall be deemed to prevent DEDA from leasing any portion of the MRO not included in the Leased Premises to a third party or from granting non-exclusive access to any portion of the Property outside of the Leased Premises to a third party. In the event that DEDA so leases such premises to a third party, Lessee shall be solely responsible for the maintenance, protection and security of the Leased Premises and for any property of Lessee located on the Leased Premises and Lessee agrees that it will waive any claim of any kind arising out of such third party's use or occupancy of the said portion of the MRO and hold DEDA harmless therefore.

ARTICLE III
LEASE PAYMENTS

A. Rent

1. Rent on August 20, 2020

On August 20, 2020, Lessee shall pay to DEDA rent in the amount of Seven Thousand Four Hundred Fifty Dollars (\$7,450) as rent for the period from August 20 2020 through August 31, 2020. Such rents shall be “net” of all costs, charges or other amounts owed by Lessee to DEDA and shall not be subject to any delay, reduction, deduction, credit or set-off of any kind whatsoever except as hereinafter specifically authorized.

2. Rent Commencing on September 1, 2020

Commencing on September 1, 2020 and thereafter on the first day of each month during the term of this Agreement, Lessee shall pay to DEDA rent in the amount of Twenty-one Thousand Dollars (\$21,000) per month or any portion of a month. Such rents shall be “net” of all costs, charges or other amounts owed by Lessee to DEDA and shall not be subject to any delay, reduction, deduction, credit or set-off of any kind whatsoever except as hereinafter specifically authorized.

B. Miscellaneous Payments and Services

1. Maintenance Services

Lessee hereby agrees to maintain the Leased Premises and any other facilities thereon in a neat, clean, orderly and, where applicable, sanitary condition consistent with the condition of the Leased Premises presented to Lessee upon commencement of the Lease Term. In the event that Lessee fails to so maintain the Leased Premises, DEDA may itself maintain or cause to be maintained repaired or replaced, as the Director shall determine in the exercise of his or her discretion, those portions of the Leased Premises not so kept, and Lessee agrees to reimburse DEDA for the direct and indirect costs incurred by DEDA for the performance of said work immediately on being billed therefore by DEDA. DEDA agrees that any maintenance of the MRO not assumed by Lessee pursuant to this Agreement (other than any needed Building Systems repairs that might arise during the Lease Term, which are the responsibility of DEDA) and the need for which does not arise out of the actions or inactions of Lessee shall be the responsibility of DEDA.

2. Refuse and Garbage

Lessee shall have all responsibility for the disposal of refuse and garbage generated by its operations at the Leased Premises and agrees to absorb all costs related thereto. DEDA shall be responsible for disposal of refuse and garbage in

the non-Leased Premises part of the MRO not arising out of the actions or inactions of Lessee.

3. Hanger Doors

Lessee shall be responsible to insure that the hanger doors of the MRO are securely closed at all times except when necessary to move Lessee's inventory and work in process into or out of the Leased Premises.

4. Utilities

DEDA shall be responsible for the costs of utilities provided to the Leased Premises and to the MRO and shall have exclusive control the amount of such utilities so provided, provided that such utilities will be reasonably adequate for the intended use of the Leased Premises as set forth herein.

5. Snow Removal

DEDA shall be responsible for the costs of snow removal and ramp/apron maintenance for the taxiway and ramp areas necessary to provide access to the Leased Premises for Lessee's use thereof.

C. Other Costs of the Leased Premises

In addition to the foregoing costs and charges set forth above, Lessee shall bear, and promptly pay, on or before the date due, all other costs, fees and charges of any kind whatsoever, if any, arising out of the occupancy of the Leased Premises; provided that nothing shall prevent Lessee from contesting in good faith, any such payment requirement except as such contest would negatively affect the DEDA's rights under this Agreement.

D. Payment by DEDA

Should Lessee fail to pay any such costs, fees or charges set forth above arising out of its use or occupancy of the Leased Premises or to Lessee's business thereon, DEDA may, at its sole discretion and upon ten (10) days prior, written notice to Lessee, pay such costs, fees and charges and thereupon, Lessee shall promptly reimburse DEDA for the same and DEDA may collect the same as it deems appropriate including exercising the remedies authorized under Article X of this Agreement.

E. Payment Obligations Unconditional

The obligations of Lessee to pay any amounts due to DEDA under this Lease Agreement in accordance with the terms hereof shall be absolute and unconditional, irrespective of any defense or rights of set off, recoupment or counterclaim which may at any time be available against DEDA. Such payments shall be due without notice or demand therefore except as specifically provided for herein.

F. Time for Payment and Manner of Payment

The first Rent payment hereunder shall be due and payable on August 20, 2020. Thereafter, all Rent payments shall be due and payable on the first day of the month to which they are attributable. All other payments and reimbursements to DEDA called

for by this Agreement shall be due and payable promptly upon being billed by DEDA to Lessee.

ARTICLE IV
TERM

A. Initial Term

The Term of this Lease Agreement shall be deemed to commence on August 20, 2020 and shall run through December 31, 2020, unless sooner terminated as hereinafter provided for.

B. Negotiated Extension

No later than December 1, 2020, Lessee may give notice to DEDA as hereinafter provided for of its desire to extend the Term of this Agreement on a month-to-month basis for a period of up to an additional Six (6) Months beyond the Initial Term. Upon such notification, the parties hereto hereby agree that they will enter into good faith negotiations for the purpose of negotiating such an extension under terms and conditions acceptable to both parties. Both parties agree that the taxability of the Property resulting from this Lease and any extension thereof will be a factor in the negotiations.

C. Termination

Notwithstanding the provisions of Paragraphs A and B above, in the event that the Director determines, in the exercise of the Director's discretion, that the Lease of the Leased Premises to Lessee is interfering with DEDA's ability to lease the MRO to a third party for its design use, the Director may give notice to Lessee as provided for in Article XIV below and may terminate this Lease effective as of Thirty (30) Days after the giving of such notice. Provided, that at the Director's sole discretion, said termination may be extended to up to Sixty (60) Days after the date of such notice. In addition, if Lessee determines that the Leased Premises is no longer needed for the full length of the Initial Term, Lessee may terminate the Lease effective upon thirty (30) days written notice to DEDA.

ARTICLE V
CONSTRUCTION OR ALTERATION

Lessee shall not make, construct or cause to be made or constructed any modification to or alteration of any kind to the Leased Premises, the MRO or to any portion of the Property, except for marking the Leased Premises boundaries with temporary placards and as otherwise agreed to by DEDA in writing.

ARTICLE VI
SURRENDER OF POSSESSION

Upon the expiration or other termination of this Lease Agreement, Lessee's rights to use the MRO and the Leased Premises, facilities and equipment herein granted shall cease and Lessee shall, upon expiration or termination, promptly and in good condition surrender the same to DEDA. In the event that Lessee has in any way changed, altered or modified the MRO or the Leased Premises demised herein, Lessee covenants to return the same to the condition they were in at the time of the signing of this Agreement or, in the alternative, to pay DEDA for the cost of returning them to said condition unless waived by the Director in writing. Upon termination, any Leasehold Improvements which have become part of the realty shall become part of the Leased Premises of DEDA, and the same, together with the MRO and the Leased Premises, shall be immediately returned to the control of DEDA. Any Leasehold Improvements not part of the realty shall be removed therefrom within fifteen (15) days after the termination of this Agreement or the same shall be deemed to have been abandoned to DEDA and the right of the Lessee to possession thereof shall cease. Upon termination of this Agreement, Lessee will waive any and all rights, if any, to relocation benefits under the Uniform Acquisition Assistance and Relocation Act of 1974, as amended, and any laws or regulations promulgated with regard thereto which might arise out of this Agreement.

ARTICLE VII
PROVISION AGAINST LIENS

A. Provision Against Liens

Lessee shall not create or permit any mortgage, encumbrance or allow any mechanic's or materialmen's liens to be filed or established or to remain against the Leased Premises, the MRO, the Property or any part thereof which would materially or adversely affect the DEDA's interest in this Agreement during the term of this Agreement, provided that if Lessee shall first notify DEDA of its intention to do so and post such security as DEDA reasonably deems necessary, Lessee may, in good faith, contest any such mechanic's or other liens filed or established as long as DEDA does not deem its interest or rights in this Agreement to be subject to foreclosure by reason of such context.

B. Provision Against Assignments, Transfers or Change in Identity of Lessee

Lessee represents and agrees for itself, its successors and assigns that it has not made or created, and will not make or create or suffer to be made or created, any total or partial sale, assignment, conveyance, lease, trust, lien or power of attorney, and has not or will not otherwise transfer in any other way all or any portion of the MRO, the Leased Premises, the Lessee, this Agreement or any other contract or agreement entered into in connection with carrying out its obligations hereunder; and except for mortgaging

approved in writing by the Director, Lessee will not make or create or suffer to be made any such transfer of Lessee's rights hereunder without the prior approval of DEDA.

ARTICLE VIII INDEMNIFICATION

A. Generally

Lessee will to the fullest extent permitted by law, protect, indemnify and save DEDA and its officers, agents, servants, employees and any person who controls DEDA within the meaning of Securities Act of 1933, harmless from and against all liabilities, losses, damages, costs, expenses, including attorneys' fees and expenses, causes of action, suits, claims demands and judgements of any nature arising from:

1. Any injury to or death of any person or damage to the MRO, the DEDA Equipment or the Leased Premises in or upon the MRO, the DEDA Equipment or the Leased Premises, arising out of or related to Lessee's negligent, grossly negligent or intentional acts of omissions related to the use or non-use, condition or occupancy of the MRO, or the Leased Premises or any part thereof and also, without limitation, any and all acts or operations related to its use or occupancy any portion of the MRO or the Leased Premises. The foregoing indemnification shall not be limited in any way by any limitation on the amount or type of damage, compensation or benefits payable by or for the Lessee, customers, suppliers or affiliated organizations under any Workers' Compensation Act, Disability Benefit Acts or any other Employee Benefit Acts;
2. Any violation by Lessee of any provision of this Lease Agreement;
3. Any violation of any contract, agreement or restriction related to Lessee's use of the MRO, the DEDA Equipment or the Leased Premises which shall have existed at the commencement of the Term of this Agreement or shall have been approved by the Lessee; and
4. Any violation of any law, ordinance, court order or regulation affecting the MRO, the DEDA Equipment or the Leased Premises or the ownership, occupancy or use thereof.

B. DEDA Equipment

Lessee agrees that, in the event that during Term of this Lease any of the DEDA equipment suffers any damage of any kind or is destroyed or otherwise rendered non-functional for any reason arising out of Lessee's negligent, grossly negligent or intentional acts of omissions, Lessee will indemnify DEDA for cost of repairing or replacing such DEDA Equipment to the condition it was in prior to such damage, destruction or inoperability and Lessee will either itself repair or replace such damaged equipment or, at DEDA's option, DEDA may repair or replace such damaged equipment and Lessee will promptly reimburse DEDA for the costs thereof.

C. DEDA Indemnification

DEDA will to the fullest extent permitted by law, protect, indemnify and save Lessee and its officers, agents, servants, employees, affiliated companies harmless from and against all liabilities, losses, damages, costs, expenses, including attorneys' fees and expenses, causes of action, suits, claims demands and judgements of any nature arising from any injury to or death of any person inside the MRO or damage to the MRO, the Lessee aircraft and other inventory, or the DEDA Equipment solely and directly arising out of or related to the negligence or misconduct of DEDA or its representatives. The foregoing indemnification shall not be limited in any way by any limitation on the amount or type of damage, compensation or benefits payable by or for the Lessee, customers, suppliers or affiliated organizations under any Workers' Compensation Act, Disability Benefit Acts or any other Employee Benefit Acts.

D. Indemnification Procedures

Promptly after receipt by Lessee of notice of the commencement of any action with respect to which the Lessee is required to indemnify such person under this Article, DEDA shall notify the Lessee in writing of the commencement thereof, and, subject to the provisions as hereinafter stated, the Lessee shall assume the defense of such action, including the employment of counsel satisfactory to the indemnitee and the payment of expenses. In so far as such action shall relate to any alleged liability of the DEDA with respect to which indemnity may be sought against the Lessee, DEDA shall have the right to employ separate counsel in any such action and to participate in the defense thereof, and the fees and expenses of such separate counsel shall be at the expense of the Lessee.

ARTICLE IX
INSURANCE

Lessee shall procure and continuously maintain insurance covering all risks of injury to or death of persons or damage to Leased Premises arising in any way out of or as a result of Lessee's occupancy of or use of the Leased Premises, carried in the names of the Lessee, any subtenant and the DEDA as their respective interests may appear, as follows:

A. Liability Insurance

The Lessee shall procure and maintain continuously in force Public Liability Insurance written on an "occurrence" basis under a Commercial General Liability Form in limits of not less than Two Million and No/100s (\$2,000,000.00) Dollars aggregate per occurrence for personal bodily injury and death, and limits of \$Two Million and No/100s (\$2,000,000.00) Dollars for Leased Premises damage liability. If person limits are specified, they shall be for not less than Two Million and No/100 (\$2,000,000.00)

Dollars per person and be for the same coverages. The DEDA shall be named as an additional insured therein. Insurance shall cover:

- a. Public liability, including premises and operations coverage.
- b. Independent contractors
- c. Personal injury.
- d. Owned, non-owned and hired vehicles.
- e. Contractual liability covering the indemnity obligations set forth herein.
- f. Products--completed operations.
- g. Professional liability insurance.
- h. Dram Shop Insurance, if applicable.
- I. Property of Others.

B. Workers' Compensation

Workers' Compensation Coverage in statutory amounts with "all states" endorsement. Such coverage shall be carried in limits of One Hundred Thousand and No/100 (\$100,000.00) Dollars per employee.

C. Requirements for All Insurance

All insurance required in this Article IX shall be taken out and maintained in responsible insurance companies licensed to do business in the State of Minnesota.

D. Policies

The Lessee shall be required to supply to the DEDA written certificates of insurance evidencing all policies required under this Agreement. In addition each insurer providing such policies shall be required to provide evidence satisfactory to the Director that such policies will require the insurer to give the DEDA thirty (30) days' written notice prior to cancellation or modification of said insurance.

ARTICLE X

LESSEE DEFAULTS AND REMEDIES THEREFORE

A. General Defaults and Remedies--Lessee

1. General Events of Default

The following shall be deemed to be general events of default by Lessee under the terms and conditions of this Agreement to which the remedies set forth in Subparagraph 2 below shall be applicable as otherwise set forth in this Agreement.

- a. Lessee shall fail to pay any payment due to DEDA under Article III above within ten (10) days of the date said payment is due.
- b. Lessee shall fail to observe or perform any of the other terms, conditions, covenants or agreements required to be observed or performed by it or any successors or assigns of Lessee pursuant to this Lease Agreement and such failure shall continue for a period of thirty (30) calendar days after DEDA has, pursuant to the provisions of this Lease Agreement, given written notice to

Lessee of such default or, in the event that such default shall be incapable of cure during said thirty (30) day period, shall have failed to commence to cure said default within thirty (30) days of the date of said notice and to diligently pursue the same to completion.

c. Lessee shall permit any liens on the MRO or the Leased.

d. Lessee makes an assignment for the benefit of its creditors or admits in writing its inability to pay its debts as they become due; or an adjudication of bankruptcy or insolvency as made as to Lessee or its business; or Lessee files a petition of bankruptcy or files a petition seeking any reorganization, dissolution, liquidation, or rearrangement, composition, readjustment or similarly under any present or future bankruptcy or insolvency statute, law or regulation; or Lessee files an answer admitting to or not contesting to the material allegations of a petition filed against in such proceeding or fails to have dismissed or vacated within thirty (30) days after its filing such a petition or seeks or consents or acquiesces in the appointment of any trustee, receiver or liquidator of a material part of Lessee's properties or fails to have dismissed or vacated within thirty (30) days after the appointment without the consent or acquiescence of Lessee of any trustee, receiver or liquidator of any material part of Lessee's properties.

2. General Remedies

Except as otherwise set forth in this Agreement, DEDA shall have the following remedies in the event of a default by Lessee:

a. Terminate this Lease Agreement and, at its discretion, retake the Leased Premises from Lessee, subject to rights conferred on Lessee by applicable State Statute.

b. Seek and be entitled to direct monetary damages directly arising from any such Lessee default, but excluding any indirect or consequential damages from Lessee for any damages, including consequential damages incurred by DEDA as a result of Lessee's default.

c. Seek and be entitled to injunctive or declaratory relief as is necessary to prevent Lessee's violation of the terms and conditions of this Agreement or to compel Lessee's performance of its obligations hereunder.

d. Seek such other legal or equitable relief as a court of competent jurisdiction may determine is available to DEDA.

B. General Defaults and Remedies--DEDA

1. General Events of Default

It shall be deemed to be general events of default by DEDA under the terms and conditions of this Agreement to which the remedies set forth in Subparagraph 2 below shall be applicable for DEDA to fail to perform any of its obligations under this

Agreement and to fail to correct such failure for a period of Thirty (30) days after Lessee has given DEDA notice thereof as hereinafter provided for.

2. General Remedies

Except as otherwise set forth in this Agreement, Lessee shall have the following remedies in the event of a default by Lessee:

- a. Terminate this Lease Agreement.
- b. Seek and be entitled to direct monetary damages directly arising from any such DEDA default, but excluding any indirect or consequential damages from Lessee for any damages, including consequential damages incurred by Lessee as a result of DEDA's default.
- c. Seek and be entitled to injunctive or declaratory relief as is necessary to prevent Lessee's violation of the terms and conditions of this Agreement or to compel Lessee's performance of its obligations hereunder.
- d. Seek such other legal or equitable relief as a court of competent jurisdiction may determine is available to Lessee.

C. Non-Waiver

The waiver by either party of any default on the part of the other party or the failure of either party to declare default on the part of the other party of any of its obligations pursuant to this Agreement shall not be deemed to be a waiver of any subsequent event of default on the part of the defaulting party of the same or of any other obligation of the defaulting party hereunder. And, to be effective, any waiver of any default by the defaulting party hereunder shall be in writing by the non-defaulting party.

D. Remedies Cumulative

Except as specifically set forth herein, the remedies provided under this Lease Agreement shall be deemed to be cumulative and non-exclusive and the election of one remedy shall not be deemed to be the waiver of any other remedy with regard to any occasion of default hereunder.

E. Attorneys' Fees

In the event that either party is in default of any of the terms and conditions of this Lease Agreement and the non-defaulting party shall successfully take legal action to enforce said rights herein, in addition to the foregoing, such non-defaulting party shall be entitled to reimbursement for its reasonable attorneys' fees and costs and otherwise for its costs and disbursements occasioned in enforcing its rights hereunder.

ARTICLE XI
FORCE MAJEURE

Under the terms of this Lease Agreement, neither the DEDA nor Lessee shall be considered in default or in breach of any of the terms with respect to the performance of their respective obligations under this Agreement in the event of enforced delay in the performance of its obligations due to unforeseeable causes beyond its control and without its fault or negligence, including but not limited to acts of God, acts of a public enemy, acts of the federal government, acts of another party, fire, floods, epidemics, strikes or embargoes, or for delays of contractors or subcontractors due to such causes. In the event of any such delay, any time for completion or delivery under this Lease Agreement shall be extended for the period of any such delay upon written notice from the party seeking the extension to the other party.

ARTICLE XII
REPRESENTATIONS BY DEDA

DEDA represents and warrants that as of the date hereof:

- A. It is a lawfully constituted municipal corporation under the laws of the State of Minnesota, it is not in material violation of any provisions of State law and that it has full power and authority to enter into this Agreement and perform its obligations hereunder.
- B. There are no actions, suits or proceedings pending, or to the knowledge of DEDA, threatened against DEDA or any Leased Premises of DEDA in any court or before any Federal, State, municipal or governmental agency which, if decided adversely to DEDA, would have a material adverse effect upon DEDA or any business or Leased Premises of DEDA and DEDA is not in default with respect to any order of any court or government agency.
- C. DEDA has investigated and has no knowledge that a DEDA Council Member or other member, official, or employee of DEDA is directly or indirectly financially interested in this Agreement or in any transactions concluded in connection with this Agreement.
- D. DEDA shall do such things as are necessary to cause any information, document, certificate, statement in writing, or report required under this Agreement or otherwise delivered to any third parties under this Agreement to be true, correct and complete in all material respects.

ARTICLE XIII
LESSEE'S REPRESENTATIONS AND WARRANTIES

Lessee represents and warrants that as of the date hereof:

- A. It is a lawfully constituted corporation under the laws of the State of Wisconsin, is not in material violation of any provisions of State law and that it has full power and authority to enter into this Lease Agreement and to perform its obligations hereunder.

- B. That it is fully competent to lease the Leased Premises under all laws, rulings, regulations and ordinances of any governmental authority having jurisdiction and that he agrees to comply with all applicable State, Federal acquisition and relocation laws, wages and hours laws, including Davis-Bacon and local versions thereof or similar laws at its own expense.
- C. That there are no actions, suits or proceedings pending or, to the knowledge of Lessee, threatened against Lessee or any leased premises in any court or before any Federal, State or municipal or other governmental agency which, if decided adversely to Lessee, could have a material adverse affect upon Lessee or any Leased Premises, and that Lessee is not in default of any order of any court or governmental agency.
- D. It is not in default of the payment of principal of or interest on any indebtedness for borrowed money or in default under any instrument or agreement pursuant to which the indebtedness has been incurred.
- E. Lessee shall do such things as are necessary to cause any information, document, certificate, statement in writing, or report required under this Lease Agreement delivered to any third party under this Agreement to be true, correct and complete in all material and respects. If necessary Lessee agrees to perform any survey work prior to construction and all descriptions and exhibits hereto and definitions herein shall be subject to such revisions as are necessary after completion of any survey.

ARTICLE XIV
NOTICES

Any notice, demand or other communication under this Agreement by either party to the other shall be deemed to be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid to:

In the case of DEDA:

DEDA of Duluth
Room 400 City Hall
411 West First Street
Duluth, MN 55802

In the case of Lessee:

Cirrus Design Corp.
4515 Taylor Circle
Duluth, MN 55811
Attn: Purchasing

With copy to:
Cirrus Design Corp.
4515 Taylor Circle
Duluth, MN 55811
Attn: Legal Department

ARTICLE XV
APPLICABLE LAW

This Agreement together with all of its Articles, paragraphs, terms and provisions is made in the State of Minnesota and shall be construed and interpreted in accordance with the laws of the State.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first shown above.

DULUTH ECONOMIC DEVELOPMENT
AUTHORITY, an economic
development authority

CIRRUS DESIGN CORP., a Wisconsin
Corporation

By _____
By: _____
Its President

By: _____
its President

Attest:

"Lessee"

By _____
Secretary

Approved:

Countersigned:

By: _____
Assistant City Attorney

By: _____
City Auditor

This Lease Drafted by:
Robert E. Asleson
Attorney for the DEDA of Duluth
Room 440 DEDA Hall
Duluth, MN 55802
(218) 730-5490

DEDA EQUIPMENT

INSTALLED - GROUND FLOOR	
1	JBI Spray Booth
2	Able Howe 2Ton Crane
3	TC American 10,000 Pound Overhead Crane
4	TC American 6,000 Pound' Overhead Crane
5	Lathe Model EZ-Path NW Tag #002-082058-235 (Replacement For Clausing Lathe Sold)
6	Clausing Lathe with Accessories
8	Bridgeport Series 11 EZ Trak
9	Bridgeport Series 11 (Mill)
14	Torit Booth
15	Torit Welding Booth
16	Docking System Wing & Tail (See Also 18)
17	Docking System Wing & Tail (See Also 18)
20	Manchester Air Compressor Tank
20	Manchester Air Compressor Tank
21	Torit Booth - Adjacent to Hangar Space
26	General Pneumatics TH000A Air Compressor Filter
26	General Pneumatics TH000A Air Compressor Filter
26	Atlas Copco 2T 200 Air Compressor
26	Atlas Copco 2T 200 Air Compressor
27	Atlas Copco GA 22F1 Air Compressor
28	Two (2) Industrial Quality Air Hose/Reel IWO Gil
28	Two (2) Industrial Quality Electric Cord Reel

DEDA EQUIPMENT

INSTALLED - GROUND FLOOR {Continued}	
28	9,000 Pound Rotary Vehicle Lift
32	Cat Emeraency Power Generator
40/41	Vertical Storage/Retrieval Unit
40/41	Vertical Storage/Retrieval Unit
40/41	Vertical Storage/Retrieval Unit
40/41	Vertical Storage/Retrieval Unit
40/41	Vertical Storage/Retrieval Unit
40/41	Vertical Storage/Retrieval Unit
40/41	Vertical Storage/Retrieval Unit
45	Front Desk, Monitorina/Security
	Acetylene Tank Storage Cage
	IS/Comouter Room Eauipment

OTHER - GROUND FLOOR	
18	Docking System Components - Parts of 16/17 Above
22	Modular Furniture and Chairs (Engineering)
23	Modular Furniture and Chairs
24	Modular Furniture and Chairs
25	Modular Furniture and Chairs
28	10-Ton Lincoln Floor Jack
28/29	Two /2\ 1/4" Steel Too Workbench
30	Fuse Cabinet with Scare Fuses
31	Cafeteria Chairs and Tables
39	Clocks (13)
42	Conference Room Table and
43/44	Modular Furniture, Files, and
	Five (5) Rubbermaid Carts
	Assorted Lockset Parts
INSTALLED- UPPER LEVEL	
35	JB I Sorav Booth
36	Torit Booth
38	Trane MCC Air Conditioner Unit
OTHER - UPPER LEVEL	
10	Sewing Machine Console
33	Cafeteria Chairs and Tables
37	Conference Table and Chairs
OUTSIDE	
34	Docking System

Exhibit C

Leased Property Legal Description

The Leased Property is all within Section 1, Township 50 North, Range 14 West and is generally described as follows:

Commencing at the point of intersection of the north line of Section 1, Township 50 North, Range 15 West with the north-south centerline of said Section 1; then south along said north-south centerline on a bearing of South 0 degrees 15 minutes 25 seconds East a distance of 699.87 feet to the point of beginning of the parcel to be described; thence turning to the left and continuing on a bearing of North 70 degrees 0 minutes 44 seconds East a distance of 316.22 feet to a point; thence turning to the right and continuing on a bearing of South 19 degrees 59 minutes 16 seconds East a distance of 600.00 feet to a point; thence turning to the right and continuing on a bearing of South 70 degrees 0 minutes 44 seconds West a distance of 675.23 feet to a point; thence turning to the left and continuing on a bearing of South 19 degrees 59 minutes 16 seconds East a distance of 361.60 feet to a point; thence turning to the right and continuing on a bearing of South 70 degrees 0 minutes 44 seconds West a distance of 673.67 feet to a point; thence turning to the right and continuing on a bearing of North 19 degrees 59 minutes 16 seconds West a distance of 1140.47 feet to a point; thence turning to the right and continuing on a bearing of North 70 degrees 0 minutes 44 seconds East a distance of 100.56 feet to a point; thence turning to the left and continuing on a bearing of North 19 degrees 59 minutes 16 seconds West a distance of 12.00 feet to a point; thence turning to the right and continuing on a bearing of North 70 degrees 0 minutes 44 seconds East a distance of 573.11 feet to a point; thence turning to the right and continuing on a bearing of South 19 degrees 59 minutes 16 seconds East a distance of 190.88 feet to a point; thence turning to the left and continuing on a bearing of North 70 degrees 0 minutes 44 seconds East a distance of 359.01 feet to the point of beginning and there terminating.

4600 Stebner Rd

Exhibit D

DULUTH



RESOLUTION 20D-57

**RESOLUTION AUTHORIZING AN AGREEMENT WITH
THE CITY OF DULUTH FOR DEMOLITION OF THE ONEOTA STREET
RAILROAD BRIDGE IN THE AMOUNT OF NOT TO EXCEED \$130,000.**

RESOLVED, by the Duluth Economic Development Authority (“DEDA”) that the proper DEDA officials are hereby authorized to enter into an agreement with the City of Duluth (the “City”) for the demolition of the DEDA-owned railroad bridge over Oneota Street and granting the City a license to enter onto DEDA property for that purpose, said agreement to be substantially in the form of that attached hereto (Contract No. _____), in the amount of not to exceed \$130,000, payable from Fund 860.

Approved by the Duluth Economic Development Authority this 19th day of August, 2020.

ATTEST:

Executive Director

STATEMENT OF PURPOSE: The purpose of this resolution is to authorize an agreement to reimburse the City of Duluth for tearing down a DEDA-owned railroad bridge over Oneota Street and to grant the City a license to enter onto DEDA property to do the work.

In the 1990’s, the City sought DEDA’s assistance to acquire railroad right-of-way in the Lincoln Park neighborhood which was originally owned by the Soo Line Railroad and which was then owned by the Canadian National Railroad, for the development of Lower Michigan Street and to attempt to incentivize North Star Ford to remain in its historic location in Lincoln Park. But the CN was only willing to sell this right-of-way if it could dispose of all of the old Soo Line right-of-way from Point of Rocks to about 43rd Avenue West. In order to attempt to facilitate those developments, DEDA acquired the entire property.

The City purchased the right-of-way necessary for Lower Michigan Street, the North Star dealership became a Kia dealership and DEDA sold most of the remaining right-of-way property, either for independent development if the parcels were large enough or to adjacent property owners for development purposes.

But there were a few parcels that were not salable including the property upon which is situated an old railroad bridge over Oneota Street east of 37th Avenue West. This bridge is now in dilapidated condition and is in need of removal and DEDA, as the owner of the structure, is responsible for its removal.

Under this agreement, the City has hired LHB to put together the plans and specifications for the demolition work and will bid out the demolition work itself. It will also be responsible to acquire the permission of an adjacent property owner, necessary to the demolition work, to enter onto their property to prosecute the work. DEDA is agreeing to pay LHB directly for its work and to reimburse the City for the cost of the demolition. Based on current estimates the total cost of the project to DEDA should be about \$113,000 but because the demolition contract has not yet been bid, and because there is a desire to get the work started as soon as possible, additional funds are authorized to cover contingencies; however, DEDA's obligation is only to reimburse for actual costs.

PROJECT AGREEMENT

THIS PROJECT AGREEMENT (this “Agreement”) is by and between the DULUTH ECONOMIC DEVELOPMENT AUTHORITY, an economic development authority created and existing under Minnesota Statutes (1989) Chapter 469 (“DEDA”) and the CITY OF DULUTH, a municipal corporation and political subdivision created and existing under the laws of the State of Minnesota (“City”).

WHEREAS, DEDA owns the real property depicted and designated as the “Licensed Premises” on the attached Exhibit A (the “Licensed Premises”).

WHEREAS, DEDA desires to contract with the City to demolish a DEDA-owned railroad bridge on, over, and under the Licensed Premises, as well on property owned by a third party, in western Duluth (the “Project”).

WHEREAS, City hired hereinafter-defined LHB, Inc. (“LHB to perform the hereinafter-defined LHB Work, in an amount not to exceed \$21,189.25.

WHEREAS, City will be hiring a contractor(s) to perform the demolition work on the Project (the “Demolition Work”).

WHEREAS, City desires to access the Licensed Premises and complete the Project, and DEDA wishes to provide City with written permission to do so, as well as provide payment for the LHB Work and reimbursement for the Demolition Work, all in an amount not to exceed \$108,810.75.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained in this Agreement, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

I. DEFINITIONS

The following terms shall have the meanings hereinafter ascribed to them:

A. **Bridge**: shall mean the railroad bridge Owned by DEDA over Oneota Street and 37th Avenue West located on and adjacent to the Licensed Premises.

B. **Contract**: shall mean the contract between the City and the Contractor for the performance of the Demolition work.

C. **Contractor**: shall mean the contractor with whom the City enters into the Contract.

D. **Demolition Work**: shall mean the demolition work as described in the Plans necessary to the demolition and removal of the Bridge and shall include traffic control; removal of existing timber bridge entirely including timber piers, abutments and wingwalls, removal of existing timber piles and steel posts (all removals to 3 feet below grade); regrading of slopes and resurfacing slopes with turf (seed, fertilizer and blankets).

E. License: shall mean the non-exclusive License granted by DEDA to the City to enter upon the Licensed Premises to perform the.

F. Licensed Premises: shall mean that property in St. Louis County, Minnesota owned by DEDA that is outlined in black hashing on the attached Exhibit A.

G. LHB: shall mean the firm of LHB Inc.

H. LHB Work: shall mean all work necessary to the design and construction supervision of the Project including complete site survey, site plans and demolition details, project coordination, and construction administration and inspection on the Project

I. Plans: shall mean the plans and specifications for the Demolition Work prepared by LHB on file in the office of the City Engineer as City Project No. 1883.

J. Project: shall mean the LHB Work and Demolition Work.

K. Other Property: shall mean that Property shown and depicted on Exhibit B immediately adjacent to the Licensed Premises upon which a portion of the Bridge is located.

II. LICENSE

A. DEDA grants to City, and its employees, agents, contractors and subcontractors, the License to enter onto the Licensed Premises with all necessary tools, equipment, vehicles, and related materials for the purpose of completing the Project.

B. City's use of the Licensed Premises shall be limited to the activities and purposes stated herein. This Agreement does not permit the public to use the Licensed Premises. DEDA shall have access to the Licensed Premises during the term of Project.

C. City acknowledges that the License only permits City to access the Licensed Property and to complete the Project on the Licensed Premises. City is responsible to obtain permission to complete the Project on property outside of the Licensed Premises.

III. DESIGN & CONSTRUCTION

A. With DEDA's concurrence, City has hired LHB to prepare the Plans and to provide all design and construction supervision services necessary to the Project. The Plans shall conform to all applicable codes and legal requirements and shall be in a form that is appropriate for competitive bidding.

B. City shall bid out the Contract for the Demolition Work based on the Plans in accordance with its standard competitive bidding policies and practices and shall award the Contract to the lowest responsible bidder in accordance therewith; said Contract payable from City Fund 411-035-5530. The Contract shall require the Contractor to indemnify DEDA from liability in conformance with Section XII below and shall require the Contractor to insure DEDA in the same manner as the City is insured under the City's standard construction insurance requirements.

IV. REIMBURSEMENT AND SALVAGE

A. The City and DEDA hereby agree that DEDA shall pay LHB directly for the its work pursuant to the hereinbefore-referenced contract between the City and LHB related to the Project in an amount not to exceed \$21,189.25 payable from DEDA Fund 860 upon receiving LHB's invoice therefore approved for payment by the City Engineer.

B. DEDA shall reimburse the City for the cost of the Contract upon being invoiced therefore by the City in an amount not to exceed \$108,810.75, payable from DEDA Fund 860 and payable into City Fund 411-035-4263. DEDA will reimburse the City within 45 days of invoice.

C. The parties agree that the City or its contractor may retain any salvage material from the Bridge Demolition Project at no cost. All salvage material from Project must be removed from the Licensed Premises once the Project is completed.

V. TERM

Notwithstanding the date of execution of this Agreement, the term of this Agreement shall deemed to have commenced as of February 4, 2020 and shall terminate at the end of the day on June 31, 2021 (the "Term"). Notwithstanding the above, the Term of this Agreement may be extended upon the prior written approval of DEDA's Executive Director and the City's Director of Public Works.

VI. LAWS, RULES AND REGULATIONS

During the term of this Agreement, City will conduct its activities related to this Agreement in strict compliance with the United States Constitution and with the applicable laws, rules, and regulations of the United States, State of Minnesota, St. Louis County, and City of Duluth.

VII. NO THIRD PARTY RIGHTS

This Agreement is to be construed and understood solely as an agreement between the parties hereto regarding the subject matter herein and shall not be deemed to create any rights in any other person or on any other matter. No person, organization, or business shall have the right to make claim that they are a third party beneficiary of this Agreement or of any of the terms and conditions hereof, which, as between the parties hereto, may be waived at any time by mutual agreement between the parties hereto.

VIII. NOTICES

Notices sent pursuant to this Agreement shall be sufficient if sent by regular United States mail, postage prepaid, addressed to:

City
City of Duluth
Attn: Director of Public Works
411 W. First Street, Room 274
Duluth, Minnesota 55802

DEDA
Duluth Economic Development Authority
Attn: Executive Director
418 City Hall
411 West First Street
Duluth, Minnesota 55802

or to such other persons or addresses as the parties may designate to each other in writing from time to time.

IX. COMPLIANCE WITH AGREEMENT

The rights of City to occupy and use the Licensed Premises are subject to City's compliance with the undertakings, provisions, covenants, and conditions herein.

X. APPLICABLE LAW

The laws of the State of Minnesota shall govern all interpretations of this Agreement, and the appropriate venue and jurisdiction for any litigation that may arise under this Agreement will be in and under those state courts located within St. Louis County, Minnesota.

XI. AMENDMENTS

Any amendments to this Agreement shall be in writing and shall be executed by the same individuals who executed this Agreement or their successors in office.

XII. SEVERABILITY

If any term or provision of this Agreement is declared by a court of competent-jurisdiction to be illegal or in conflict with any law, then the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

XIII. INDEMNIFICATION

A. Generally

City will to the fullest extent permitted by law, protect, indemnify and save DEDA and its officers, agents, servants, employees and any person who controls DEDA within the meaning of Securities Act of 1933, harmless from and against all liabilities, losses, damages, costs, expenses, including attorneys' fees and expenses, causes of action, suits, claims demands and judgments of any nature arising from:

1. Any injury to or death of any person or damage to property in or upon the Project or the Licensed Premises or growing out of or in connection with the use or non-use, condition or occupancy of the

Project or the Licensed Premises or any part thereof and the construction or installation of the Project on any portion of the Project and the Licensed Premises. The foregoing indemnification shall not be limited in any way by any limitation on the amount or type of damage, compensation or benefits payable by or for the City, customers, suppliers or affiliated organizations under any Workers' Compensation Act, Disability Benefit Acts or any other Employee Benefit Acts.

2. Any violation by City of any provision of this Agreement.
3. Any violation of any contract, agreement or restriction related to the Licensed Premises which shall have existed at the commencement of the term of this Agreement or shall have been approved by the City.
4. Any violation of any law, ordinance, court order or regulation affecting the Licensed Premises, or the ownership, occupancy or use thereof.

B. Environmental Indemnification

In addition to the generality of the foregoing above, City hereby agrees that for itself, its successors and assigns that it will indemnify and save the DEDA and its officers, agents, servants and employees and any person who controls the DEDA within the meaning of the Securities Act of 1933 harmless from and against all liabilities, losses, damages, costs, expenses, including reasonable attorneys' fees and expenses, causes of action, suits, claims, demands and judgments arising out of any condition created in the Licensed Premises after the date of the signing of this Agreement which constitutes a violation of any environmental law or laws with regard to pollutants or hazardous or dangerous substances promulgated by the government of the United States or of the State of Minnesota or of any such duly promulgated rules and regulations of the United States Environmental Protection Agency or the Minnesota Pollution Control Agency or the presence in the Licensed Premises of any element, compound, pollutant, contaminant, or toxic or hazardous substance, material or waste, or any mixture thereof, which otherwise causes injury or death to persons or damage to property and that indemnification granted hereby shall include all costs of clean-up, remediation, together with the costs incurred in proceedings before court of law or administrative agency including attorney's fees, expenses, the fees and expenses of persons providing technical expertise addressing such problems, including expert witnesses, the costs of preparing and securing approval of Response Action Plans as may be necessary to meet the requirements of the aforesaid agencies and

any other costs and expenses of any kind whatsoever arising out of such conditions existing on the Property.

C. Indemnification Procedures

Promptly after receipt by DEDA of notice of the commencement of any action with respect to which the other party is required to indemnify the party receiving such notice under this Article, such indemnitee shall notify the indemnitor in writing of the commencement thereof, and, subject to the provisions as hereinafter stated, the indemnitor shall assume the defense of such action, including the employment of counsel satisfactory to the indemnitee and the payment of expenses. In so far as such action shall relate to any alleged liability of the indemnitee with respect to which indemnity may be sought against the indemnitor, the indemnitee shall have the right to employ separate counsel in any such action and to participate in the defense thereof, and the fees and expenses of such separate counsel shall be at the expense of the indemnitor.

XIV. ENTIRE AGREEMENT

This Agreement, including Exhibits A and B, constitutes the entire agreement between the parties and supersedes all prior written and oral agreements and negotiations between the parties relating to the subject matter hereof. This Agreement may be executed and delivered by a party by facsimile or PDF transmission, which transmission copy shall be considered an original and shall be binding and enforceable against such party. This Agreement may be executed in counterparts, which together shall form one original.

[Remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as indicated below.

CITY OF DULUTH

**DULUTH ECONOMIC DEVELOPMENT
AUTHORITY**

By: _____
Mayor

By: _____
President

Attest:

By: _____
Secretary

City Clerk
Date Attested: _____

Dated: _____

Approved as to form:

City Attorney

Countersigned:

City Auditor

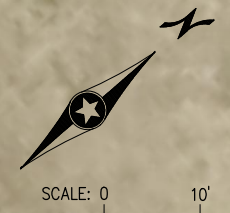
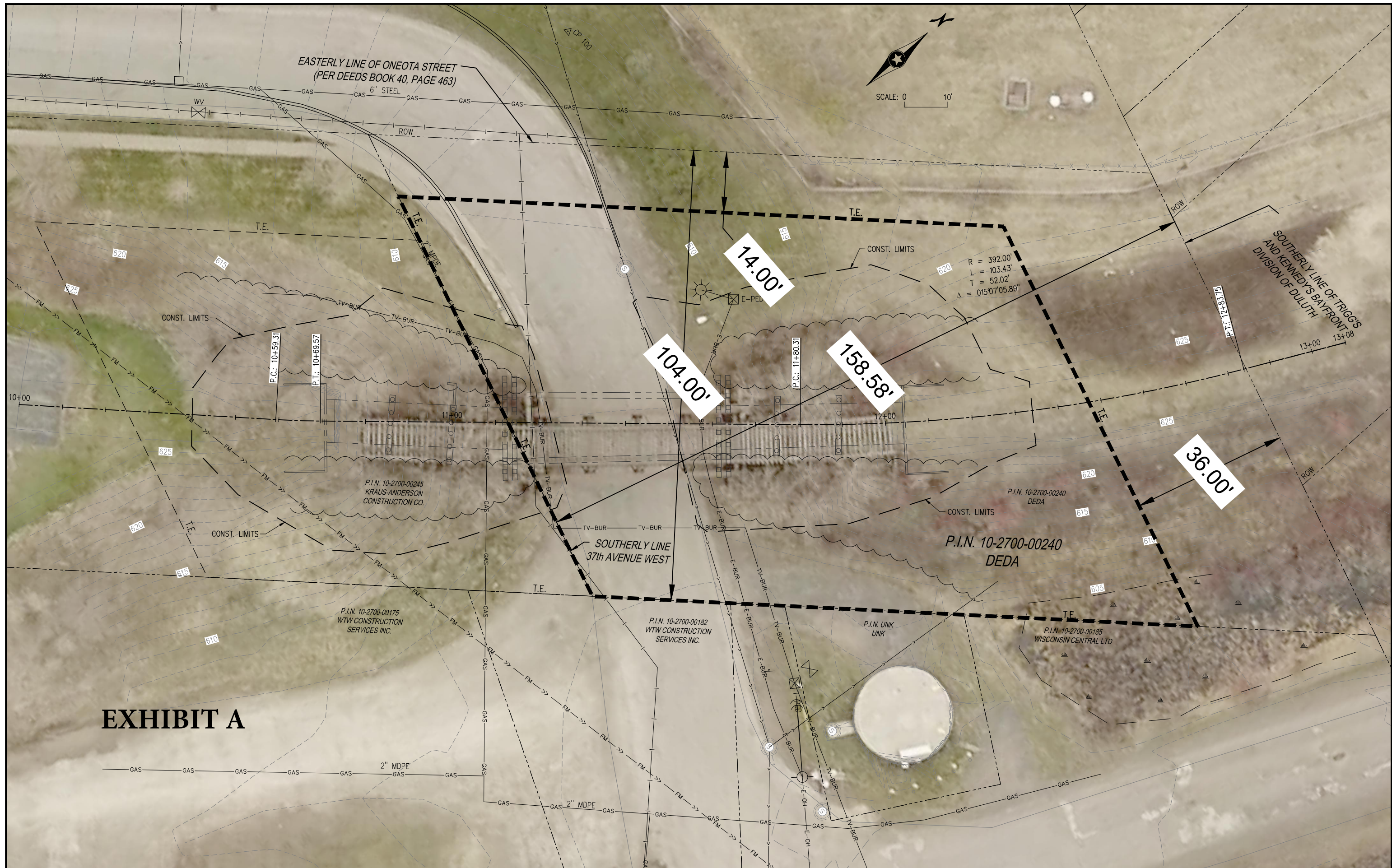


EXHIBIT A

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, 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.
 NAME: Paul A. Vogel LIC. NO. 44075 DATE 07/24/2020

CITY OF DULUTH

DEDA PARCEL 1 OF 1
 Sheet No. 1 of 1 Sheets

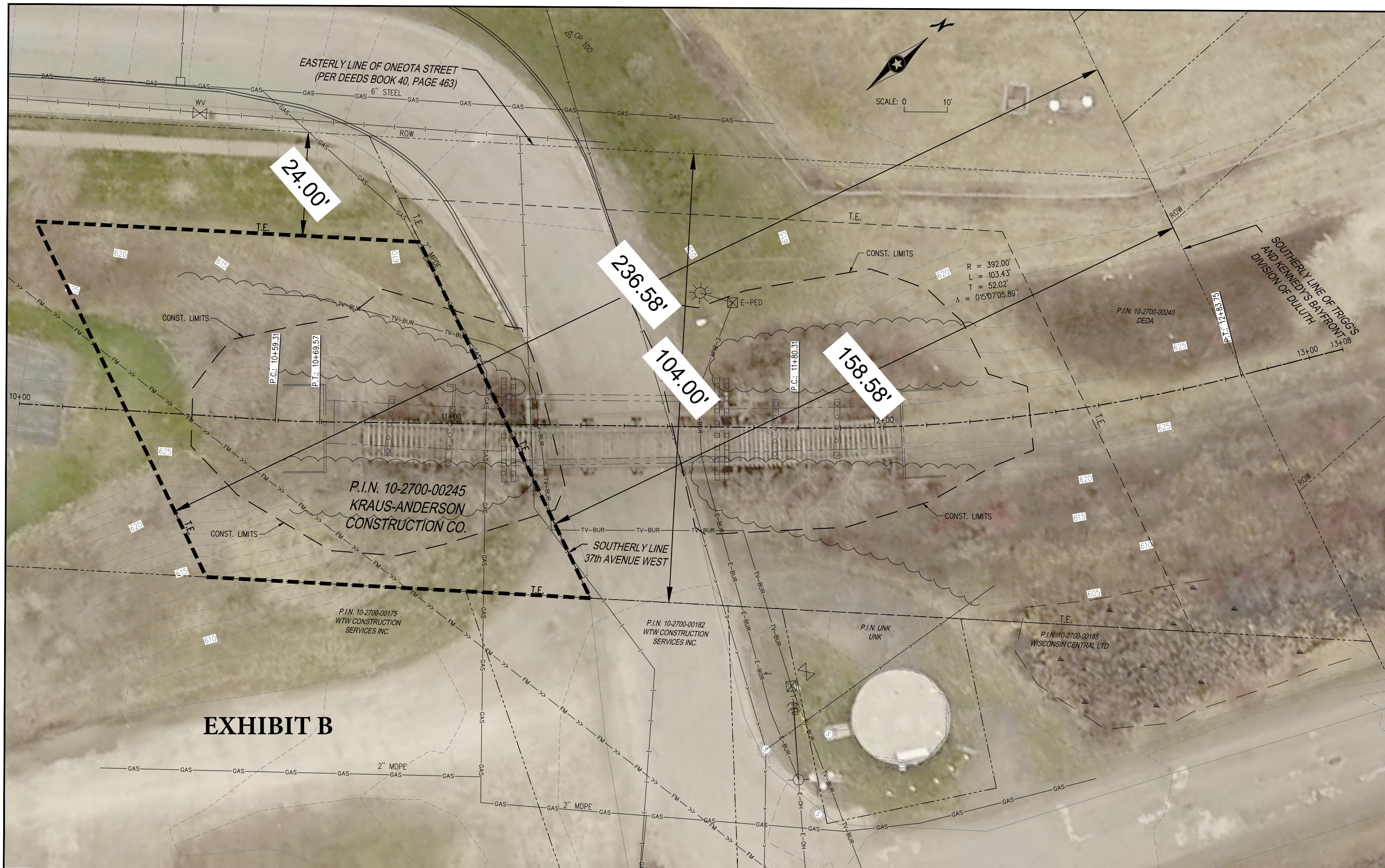


EXHIBIT B

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, 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.
 NAME: Paul A. Vogel LIC. NO. 44075 DATE 07/24/2020

CITY OF DULUTH

KRAUS ANDERSON PARCEL 1 OF 1
 Sheet No. 1 of 1 Sheets

RESOLUTION 20D-58

RESOLUTION AUTHORIZING FIRST AMENDMENT TO AGREEMENT WITH BAKER TILLY MUNICIPAL ADVISERS LLC PERTAINING TO THE UPGRADING AND CONVERSION OF THE DULUTH PAPER MILL AND RECYCLE FIBER PLANT, INCREASING THE AMOUNT PAYABLE THEREUNDER BY \$20,000.

RESOLVED, by the Duluth Economic Development Authority ("DEDA") that the proper DEDA officials are hereby authorized to enter into the First Amendment to Agreement for Professional Services (DEDA Contract No. 20 865 955₍₁₎) amending DEDA Contract No. 20 860 955 with Baker Tilly Municipal Advisors, LLC, substantially in the form of that attached hereto, to perform additional services related to assistance in marketing a project of upgrading and converting the Duluth Paper Mill and Recycle Fiber Plant to Community Development Entities ("CDEs") as a New Market Tax Credit project and increasing the amount payable under the amended agreement by \$20,000, said sum to be payable to Fund 865.

Approved by the Duluth Economic Development Authority this 19th day of August, 2020.

ATTEST:

Executive Director

STATEMENT OF PURPOSE: The purpose of this resolution is to authorize the execution of a First Amendment to Agreement for Professional Services with Baker Tilly Municipal Advisors, LLC ("Baker Tilly") to expend the scope of services to be provided by Baker Tilly under its existing contract related to the upgrading and conversion of the Duluth Paper Mill and Recycled Fiber Plant (the "Facilities").

Since the Facilities were closed earlier this year, DEDA, the City and other stakeholders have working with the Facilities' owner to determine what would be necessary to allow them to be re-opened. Possibilities would include their sale, there being upgraded and their conversion to another process.

On July 24, 2020, the Executive Director on behalf of DEDA and pursuant to the authority delegated to him, entered into an Agreement for Professional Services with Baker Tilly to assist DEDA and the other parties in explore and determine the viability of the various options and to explore the financing and other sources that would be available to implement options. A copy of that agreement with its appendices is

attached hereto.

After initial review, it has been determined that it is advantageous to further pursue the use of New Market Tax Credits and the availability of Community Development Entities to participate in any possible project. Staff has determined that it is in need of further assistance to effectively explore this option and that Baker Tilly is able and willing to provide that assistance. This amendment would provide for this assistance.

The amendment brings the total contract price, as amended, to \$59,610.00.

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT, by and between the Duluth Economic Development Authority (ADEDA) and Baker Tilly Municipal Advisors, LLC, a limited liability corporation under the laws of Wisconsin, ("Service Provider") for the purpose of rendering services to DEDA.

WHEREAS, DEDA desires to utilize Service Provider's professional services to provide technical support, expertise and facilitation for the development of a strategic and competitive financial incentive package to facilitate the sale and capital upgrade of the Duluth Paper Mill and Recycle Fiber Plant; and

WHEREAS, Service Provider has represented that it is qualified and willing to perform said services.

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter contained, the parties hereto agree as follows:

1. Services to be Performed.

Service Provider will provide the services identified in Appendix A attached hereto and incorporated herein. In the event of a conflict between the terms and conditions of this Agreement and Appendix A, the terms and conditions of this Agreement shall be deemed to be controlling.

2. Compensation.

It is agreed between the parties that the Service Provider's maximum compensation for services provided herein shall not exceed Thirty-nine Thousand Six Hundred Ten and no/100ths Dollars (\$39,610.00), inclusive of all travel and other expenses associated with the services provide hereunder, payable from Fund 860. Services shall be billed at the rates set forth in Appendix B. Payment of expenses is subject to the City's receipt of reasonable substantiation/back-up supporting such expenses. All bills for services rendered shall be submitted to DEDA's Executive Director or designee (the "Executive Director").

3. General Terms and Conditions.

A. Standard of Performance.

Service Provider agrees that all services to be provided to DEDA pursuant to this Agreement shall be in accordance with the generally accepted standards of the profession for the provisions of services of this type.

- B. Amendments. Any alterations, variations, modifications or waivers of terms of this Agreement shall be binding upon DEDA and Service Provider only upon being reduced to writing and signed by a duly authorized representative of each party.
- C. Assignment. Service Provider represents that it will utilize only its own personnel in the performance of the services set forth herein; and further agrees that it will neither assign, transfer or subcontract any rights or obligations under this Agreement without prior written consent of the Executive Director.
- D. Data and Confidentiality.
- (1) DEDA agrees that it will make available all pertinent information, data and records under its control for Service Provider to use in the performance of this Agreement, or to assist Service Provider wherever possible to obtain such records, data and information.
 - (2) Service Provider must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided by the DEDA under this contract, and as it applies to all data created, collected, received, stored, used, maintained or disseminated by Service Provider under this contract. Service Provider agrees to hold DEDA, its officers, and employees harmless from any claims resulting from Service Provider's failure to comply with this law. The civil remedies of Minnesota Statutes Section 13.08 apply to the release of the data referred to in this clause by Service Provider. If Service Provider receives a request to release the data referred to in this clause, Service Provider must promptly notify the DEDA and consult with the DEDA as to how Service Provider should respond to the request. Service Provider's response to the request must comply with applicable law.
 - (3) All reports, records and other deliverables prepared for DEDA by Service Provider under this Agreement (each a "Deliverable") shall be deemed to become the property of DEDA upon payment to the

date of preparation. Service Provider represents and warrants that the work created or prepared by Service Provider will be original and will not infringe upon the rights of any third party. Service Provider shall retain all right, title and interest in and to: (a) all patent, copyright, trademark and other intellectual property rights therein; and (b) all methodologies, processes, techniques, trade secrets and know-how embodied in the Deliverables or that Service Provider may develop or supply in connection with this Agreement (the "Service Provider Knowledge"). Subject to the confidentiality restrictions contained in Section 3, Service Provider may use the Service Provider Knowledge for any purpose. To the extent that any Service Provider Knowledge is incorporated into the Deliverables, Service Provider grants to DEDA a non-exclusive, paid up, perpetual royalty-free worldwide license to use such Service Provider Knowledge in connection with the Deliverables.

- (4) All other documentation for this engagement, including the workpapers, is not part of the Deliverables, is the property of Service Provider and constitutes confidential information to the extent allowed by law. Service Provider may have a responsibility to retain the documentation for a period of time sufficient to satisfy any applicable legal or regulatory requirements for records retention. If Service Provider is required by law or regulation to make certain documentation available to Regulators, DEDA hereby authorizes Service Provider to do so to the extent allowed by law.

E. Records and Inspections.

(1) Establishment and Maintenance of Records.

Records shall be maintained by Service Provider in accordance with requirements prescribed by DEDA and with respect to all matters covered by this Agreement. Such records shall be maintained for a period of six (6) years after receipt of final payment under this Agreement.

(2) Documentation of Costs.

Service Provider will ensure that all costs shall be supported by properly executed payrolls, time records, invoices, contracts, vouchers or other official documentation evidencing in proper detail the nature and propriety of the charges.

(3) Reports and Information.

Service Provider shall be responsible for furnishing to the Executive Director any records, data and information he may require pertaining to Deliverables or billing and invoicing matters covered by this Agreement.

(4) Inspections.

Service Provider shall ensure that upon no less than five (5) business days' advance written notice, at any time during normal business hours and as often as DEDA may deem necessary, there shall be made available to DEDA for examination, all of its records with respect to all Deliverables and billing and invoicing matters covered by this Agreement.

4. Contract Period.

This Agreement shall commence upon execution by the parties and shall expire on September 30, 2020, unless earlier terminated as provided for herein. Notwithstanding the above, the term of this Agreement may be extended upon the prior written approval of the parties.

5. Termination of Services.

DEDA may, by giving written notice specifying the effective date thereof, terminate this Agreement in whole or in part, with or without cause. In the event of termination of this Agreement due to breach by Service Provider, DEDA shall retain all remedies available to it, and DEDA shall be relieved from payment of any fees with respect to the services of Service Provider not yet performed. In the event of termination, DEDA shall be required to compensate Service Provider for the services satisfactorily rendered and expenses incurred up to the date of termination.

6. Independent Contractor.

The relationship between Service Provider and DEDA shall be that of an independent contractor. Service Provider shall have no authority to bind DEDA to any third party agreements. Though the services may include Service Provider's advice and recommendations, all decisions regarding the implementation of any such advice or recommendation shall be the responsibility of, and made by, DEDA. Nothing herein shall in any way make or create any employer-employee relationship between the DEDA and Service Provider. Except for compensation provided in Paragraph 2 of this Agreement, Service Provider's employees shall not be entitled to any compensation or rights or benefits of any kind whatsoever from DEDA, including without limitation, tenure rights, medical and hospital care, sick and vacation leave, Workers' Compensation, Unemployment Insurance, disability or severance pay and P.E.R.A (Public Employees Retirement Association). Further, DEDA shall in no way be responsible to defend or indemnify Service Provider from liability or judgments arising out of acts or omissions of Service Provider or its employees while performing the work specified by this Agreement.

7. Indemnity and Limitation of Liability.

To the extent allowed by law, Service Provider shall defend, indemnify and hold DEDA and its employees, officers, and agents harmless from and against any and all costs or expenses, claims or liabilities, including but not limited to, reasonable attorneys' fees and expenses in connection with any third party claims resulting from the Service Provider's a) negligence or willful misconduct or that of its agents or contractors in performing the services hereunder or b) any claims arising in connection with Service Provider's employees or contractors, or c) the use of any written materials supplied by the Service Provider to DEDA alleging that such written materials constitute copyright infringement or violation of other intellectual property rights, unless such material was modified by DEDA and such modification is the cause of such claim. This Section shall survive the termination of this Agreement for any reason.

The liability (including attorney's fees and ALL other costs) of Service Provider and its present or former partners, principals, agents or employees related to any claim

for damages relating to the services performed under this Agreement shall not exceed a multiple of three times (3x) the fees paid to Service Provider for the portion of the work to which the claim relates, except to the extent finally determined to have resulted from the willful misconduct or fraudulent behavior of Service Provider relating to such services. This limitation of liability is intended to apply to the full extent allowed by law, regardless of the grounds or nature of any claim asserted.

In no event shall either party be liable for any consequential, special, incidental, exemplary or punitive damages arising out of or related to this Agreement even if the other party has been advised of the possibility of such damages.

Because of the importance of the information that DEDA provides to Service Provider with respect to Service provider's ability to perform the services, DEDA hereby releases Service Provider and its present and former partners, principals, agents and employees from any liability, damages, fees, expenses and costs, including attorney's fees, relating to the services, that arise solely from any information, including representations by management, provided by DEDA, its personnel or agents, that is not complete, accurate or current.

DEDA accepts and acknowledges that any legal proceedings arising from or in conjunction with the services provided under this Agreement must be commenced within twenty four (24) months after the completion of the services.

8. Insurance

Service Provider shall obtain and maintain for the term of this Agreement the following minimum amounts of insurance from insurance companies authorized to do business in the State of Minnesota.

- A. Commercial General Liability with limits not less than \$1,500,000 single limit; and shall provide for the following: Liability for Premises, Operations, Completed Operations, and Contractual Liability; and Automobile Liability Insurance with limits not less than \$500,000 single limit, shall be in a company approved by DEDA. DEDA and the City of Duluth shall be named as Additional Insureds by endorsement under the Commercial General and Automobile Liability, or as an alternate,

Service Provider may provide Owners-Contractors Protective policy, naming itself, DEDA and City of Duluth. Upon execution of this Agreement, Service Provider shall provide Certificate of Insurance evidencing such coverage. Service Provider shall provide 30-days' notice of cancellation, non-renewal or material change provisions included.

- B. Service Provider shall also provide evidence of Statutory Minnesota Workers' Compensation Insurance.
- C. A certificate showing continued maintenance of such insurance shall be on file with DEDA during the term of this Agreement.
- D. DEDA does not represent or guarantee that these types or limits of coverage are adequate to protect Service Provider's interests and liabilities.

9. Notices.

Notices shall be sufficient if sent by regular United States mail, postage prepaid, addressed to DEDA as follows: Duluth Economic Development Authority Attn: Executive Director, 418 City Hall, Duluth, Minnesota 55802; and addressed to Service Provider as follows: Baker Tilly Municipal Advisors, LLC, 380 Jackson Street, Suite 300, St. Paul, MN 55101 or to such other persons or addresses as the parties may designate to each other in writing from time to time.

10. Laws, Rules and Regulations.

Service Provider agrees to observe and comply with all laws, ordinances, rules and regulations of the United States of America, the State of Minnesota and the City of Duluth with respect to their respective agencies which are applicable to its activities under this Agreement.

11. Choice of Law.

This Agreement, together with all of its paragraphs, terms and provisions is made in the State of Minnesota and shall be construed and interpreted in accordance with the laws of the State of Minnesota. The appropriate venue and jurisdiction for any litigation hereunder shall be in a court located in St. Louis County, Minnesota. However, litigation in the federal courts involving the parties shall be in the

appropriate federal court within the State of Minnesota.

12. No Third Party Rights.

Nothing in this Agreement confers or purports to confer on any third party any benefit or any right to enforce any term of this Agreement.

13. Severability.

In the event any provision herein shall be deemed invalid or unenforceable, the remaining provisions shall continue in full force and effect and shall be binding upon the parties to this Agreement.

14. Counterparts

This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon, but all of which together shall constitute but one and the same instrument. Signatures to this Agreement transmitted by facsimile, by electronic mail in "portable document format" (".pdf"), or by any other electronic means which preserves the original graphic and pictorial appearance of the Agreement, shall have the same effect as physical delivery of the paper document bearing the original signature.

15. Entire Agreement.

This Agreement, including Appendix A and Appendix B, constitutes the entire agreement between DEDA and Service Provider and supersedes all prior written or oral agreements and negotiations between the parties relating to the subject matter hereto.

16. Service Provider Entity.

Baker Tilly Municipal Advisors, LLC is a wholly owned subsidiary of Baker Tilly Virchow Krause, LLP. Baker Tilly Virchow Krause, LLP is an independent member of Baker Tilly International. Baker Tilly International Limited is an English company. Baker Tilly International provides no professional services to clients. Each member firm is a separate and independent legal entity and each describes itself as such. Baker Tilly Virchow Krause, LLP is not Baker Tilly International's agent and does not have the authority to bind Baker Tilly International or act on Baker Tilly International's behalf. None of Baker Tilly International, Baker Tilly

Virchow Krause, LLP, nor any of the other member firms of Baker Tilly International has any liability for each other's acts or omissions. The name Baker Tilly and its associated logo is used under license from Baker Tilly International Limited.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and date first below shown.

DULUTH ECONOMIC DEVELOPMENT AUTHORITY

BAKER TILLY MUNICIPAL ADVISORS, LLC

By: Christopher E. Flege
Executive Director

By: Kate Crowley
Company Representative

By: [Signature]
Purchasing Agent

Its Principal
Title of Representative

Date: 7/24/2020, 2020

Date: 7/24/2020 2020