

**MEETING OF THE
DULUTH ECONOMIC DEVELOPMENT AUTHORITY
WEDNESDAY, JANUARY 27, 2021 – 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, January 27, 2021, 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, January 27, 2021, 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.

1. CALL TO ORDER

2. PUBLIC TO ADDRESS THE COMMISSION

3. PUBLIC HEARINGS

RESOLUTION 21D-01: RESOLUTION AUTHORIZING A LAND SALE AGREEMENT WITH REBUILD LLC RELATED TO THE REBUILD DULUTH PROGRAM

RESOLUTION 21D-02: RESOLUTION AUTHORIZING A LAND SALE AGREEMENT WITH STONY POINT CONSTRUCTION, LLC RELATED TO THE REBUILD DULUTH PROGRAM

RESOLUTION 21D-03: RESOLUTION AUTHORIZING A LAND SALE AGREEMENT WITH SIMPLY TINY DEVELOPMENT, LLC RELATED TO THE REBUILD DULUTH PROGRAM

RESOLUTION 21D-04: RESOLUTION AUTHORIZING A LAND SALE AGREEMENT WITH SIMPLY TINY DEVELOPMENT, LLC RELATED TO THE REBUILD DULUTH PROGRAM

RESOLUTION 21D-05: RESOLUTION AUTHORIZING A LAND SALE AGREEMENT WITH THOMAS JONANOVICH RELATED TO THE REBUILD DULUTH PROGRAM

RESOLUTION 21D-06: RESOLUTION AUTHORIZING A REDEVELOPMENT GRANT APPLICATION IN AN AMOUNT NOT EXCEED \$478,000 TO THE MINNESOTA DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT RELATING TO PROPERTY LOCATED AT 521 WEST 2ND STREET AND COMMITTING A MATCH OF NOT LESS THAN FIFTY PERCENT OF THE AWARDED AMOUNT.

4. APPROVAL OF MINUTES

-MEETING MINUTES FROM DECEMBER 16, 2020 MEETING

-MEETING MINUTES FROM DECEMBER 28, 2020 SPECIAL MEETING

5. APPROVAL OF CASH TRANSACTIONS

DECEMBER 1, 2020 TO DECEMBER 31, 2020

NEW BUSINESS

7. RESOLUTIONS FOR APPROVAL

RESOLUTION 21D-01: RESOLUTION AUTHORIZING A LAND SALE AGREEMENT WITH REBUILD LLC RELATED TO THE REBUILD DULUTH PROGRAM

RESOLUTION 21D-02: RESOLUTION AUTHORIZING A LAND SALE AGREEMENT WITH STONY POINT CONSTRUCTION, LLC RELATED TO THE REBUILD DULUTH PROGRAM

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RESOLUTION 21D-07: RESOLUTION ELECTING OFFICERS FOR THE YEAR 2021

RESOLUTION 21D-08: RESOLUTION OF THE DULUTH ECONOMIC DEVELOPMENT AUTHORITY FINDING PARCELS ARE OCCUPIED BY STRUCTURALLY SUBSTANDARD BUILDINGS AND MEETS THE REQUIREMENTS OF A REDEVELOPMENT TAX INCREMENT FINANCING DISTRICT UNDER MINNESOTA STATUTES §469.174, SUBD. 10

RESOLUTION 21D-09: RESOLUTION AUTHORIZING LEASE AGREEMENT WITH RED WAGON POPCORN LLC FOR THE LEASE OF SPACE IN THE LIGHTHOUSE LOT FOR OPERATION OF A VENDING BUSINESS

RESOLUTION 21D-10: RESOLUTION AUTHORIZING FIRST AMENDMENT TO THE LEASE AGREEMENT WITH LAKE SUPERIOR HELICOPTERS, INC. EXTENDING THE TERM AND AUTHORIZING ADDITIONAL USE OF THE MRO.

8. DISCUSSION

DIRECTORS REPORT

9. ADJORN

Duluth Economic Development Authority

December 2020 Cash Activity - all DEDA Funds

ACCUMULATED TRANSACTION LISTING, G/L Date Range 12/01/20 - 12/31/20 (as of 01/20/2021)

G/L Date	Journal Number	Sub Ledg	Name	Net Amount	Description
<u>FUND 860 - OPERATING FUND</u>			Beginning Balance	\$ 2,689,015.80	
12/01/20	2020-00000359	GL	Cost Allocation - DEDA	(33,333.37)	Cost Allocation - DEDA
12/02/20	2020-00008741	RA	Pay Group OReilly LLC	450.20	Building Rent
12/07/20	2020-00008776	AP	Zack Filipovich	(35.00)	DEDA Meeting 11/18/20
12/07/20	2020-00008776	AP	LHB Engineers & Architects	(3,066.38)	L30321 - Demolition of RR Bridge L8493 - Oneota St
12/07/20	2020-00008776	AP	ChaQuana McEntyre	(35.00)	DEDA Meeting 11/18/20
12/07/20	2020-00008776	AP	Timothy P McShane	(35.00)	DEDA Meeting 11/18/20
12/07/20	2020-00008776	AP	Derek Medved	(35.00)	DEDA Meeting 11/18/20
12/07/20	2020-00008776	AP	Rozalind Randorf	(35.00)	DEDA Meeting 11/18/20
12/07/20	2020-00008776	AP	JMM, LLLP	(25,339.54)	Holiday Inn Parking Ramp
12/07/20	2020-00008776	AP	Lawyer's Trust Account	(939.35)	Appellate Court Order A19-2031
12/07/20	2020-00008776	AP	Beauty Lawn Care Service	(580.00)	Kozy Bar Lawn Maintenance 10/7/20
12/07/20	2020-00008776	AP	Northeast Entrepreneur Fund	(125,000.00)	COVID19 Grant Relief
12/08/20	2020-00008899	RA	First American Title Insurance Company	786,560.48	Pier B Holding LLC Payoff
12/14/20	2020-00008970	AP	SHI International Corp.	(67.04)	2021 Adobe Licenses
12/14/20	2020-00009049	RA	Frattalone Companies Inc	5,000.00	DEDA Atlas Industrial Park Fill Material Removal Project Deposit
12/15/20	2020-00009079	RA	Pier B Resort	508.37	DEDA Pier-B Loan Payoff (interest due)
12/16/20	2020-00009162	RA	Passport Labs	259.99	November Parking Revenue
12/16/20	2020-00009162	RA	Interstate Parking	(3,885.25)	November Interstate Parking Activity
12/21/20	2020-00009176	AP	Star NW LLC	(96,499.00)	NW Iron Parking Lot 2020
12/21/20	2020-00009176	AP	Duluth Airport Authority	(675.00)	Plowing 11/17/20
12/21/20	2020-00009176	AP	Ehlers and Associates Inc	(625.00)	Saturday Properties - Zenith DCSH
12/21/20	2020-00009176	AP	Federal Express Corp	(5.84)	Freight
12/21/20	2020-00009176	AP	Arrowhead Printing Inc	(77.00)	Locally Rooted Tags
12/29/20	2020-00009405	GL	Record Admin Fees for TIF District #13	3,835.00	Record Admin Fees for TIF District #13
12/29/20	2020-00009423	RA	Aeon Housing Development	5,000.00	DEDA Agreement 860-987 (Res 20D-75)
12/29/20	2020-00009438	GL	Record DEDA Share for 1883	(40,175.00)	Record DEDA Share for 1883
12/31/20	2020-00009543	GL	Allocated a Portion of 2020 Cost Allocation Charges	100,860.00	Allocated a Portion of 2020 Cost Allocation Charges to TIF Distr
12/31/20	2020-00009560	GL	Investment Earnings for December	1,960.00	Investment Earnings for December
<u>FUND 860 - OPERATING FUND</u>			Ending Balance - 12-31-2020	3,263,007.07	TB
<u>FUND 861 - DEBT SERVICE</u>			Beginning Balance	275,481.37	
12/01/20	2020-00008706	GL	receipt 2nd half 2020 tax payment	1,735,136.07	receipt 2nd half 2020 tax payment
12/29/20	2020-00009405	GL	Record Admin Fees for TIF District #13	(3,835.00)	Record Admin Fees for TIF District #13
12/31/20	2020-00009508	GL	Record Wire Transfer to Collier Funding for PierB TIF27 2ndHalf	(119,083.00)	Record Wire Transfer to Collier Funding for PierB TIF27 2ndHalf
12/31/20	2020-00009519	GL	Transfer TIF Dist 22 Fund 861 Debt PMT 2nd Half 2020 to Fund 505	(197,799.86)	Transfer TIF Dist 22 Fund 861 Debt PMT 2nd Half 2020 to Fund 505
12/31/20	2020-00009520	GL	Transfer Dist 23 TIF 2020 2nd Half to Fund 264 Sec	(16,378.84)	Transfer Dist 23 TIF 2020 2nd Half to Fund 264 Sec 108 Loan
12/31/20	2020-00009545	AP	Glen Place Apartments Ltd	(50,311.90)	2nd Half 2020 TIF
12/31/20	2020-00009545	AP	Chester Park View Note LLC	(107,317.00)	2nd Half 2020 TIF

Duluth Economic Development Authority

December 2020 Cash Activity - all DEDA Funds

ACCUMULATED TRANSACTION LISTING, G/L Date Range 12/01/20 - 12/31/20 (as of 01/20/2021)

G/L Date	Journal Number	Sub Ledg	Name	Net Amount	Description
12/31/20	2020-00009545	AP	Summit Management, LLC	(199,126.06)	2nd Half 2020 TIF
12/31/20	2020-00009545	AP	Garfield Business Park I LLC	(10,857.62)	2nd Half 2020 TIF
12/31/20	2020-00009545	AP	Lift Bridge Partners LLC	(160,356.00)	2nd Half 2020 TIF
12/31/20	2020-00009545	AP	Central Hillside Development LLP	(179.85)	2nd Half TIF 2020 - TIF District #23
12/31/20	2020-00009545	AP	NorShor Theatre LLC	(74,102.63)	2nd Half TIF 2020 - TIF District #22 - Sheraton II
12/31/20	2020-00009545	AP	NorShor Theatre LLC	(58,085.58)	2nd Half TIF 2020 - TIF District #22 - multiple parcels
12/31/20	2020-00009545	AP	Sherman Associates, Inc.	(92,628.29)	2nd Half TIF 2020 - TIF District #22 - Sheraton I
12/31/20	2020-00009560	GL	Investment Earnings for December	677.00	Investment Earnings for December
FUND 861 - DEBT SERVICE			Ending Balance - 12-31-2020	921,232.81	TB
<u>FUND 865 - CAPITAL PROJECTS</u>			Beginning Balance	3,257,027.26	
12/31/20	2020-00009543	GL	Allocated a Portion of 2020 Cost Allocation Charges	(100,860.00)	Allocated a Portion of 2020 Cost Allocation Charges to TIF
12/31/20	2020-00009560	GL	Investment Earnings for December	2,039.00	Investment Earnings for December
FUND 865 - CAPITAL PROJECTS			Ending Balance - 12-31-2020	3,158,206.26	TB
<u>FUND 866 - MRO FACILITY</u>			Beginning Balance	893,793.67	
12/01/20	2020-00008692	AP	US Bank	(145.57)	Oct 2020 USB P-Card Purchase
12/07/20	2020-00008776	AP	Electric Scientific Co Inc	(14,120.00)	20 860 986 DEDA MRO Fire Suppression Panel
12/07/20	2020-00008776	AP	Electric Scientific Co Inc	(380.00)	Central Station Monitoring MRO Hangar
12/07/20	2020-00008776	AP	Jamar Company	(6,045.00)	AAR Hangar Door Wheel Change Out
12/07/20	2020-00008776	AP	CenturyLink - Phoenix	(199.44)	Data Services-Internet
12/07/20	2020-00008776	AP	Jamar Company	(7,725.00)	20 860 982 MRO Facility Maintenance
12/07/20	2020-00008776	AP	Federal Express Corp	(32.56)	Shipping Charges
12/18/20	2020-00009237	RA	Lake Superior Helicopter	1,000.00	Invoice #2020-00000275
12/21/20	2020-00009176	AP	Leo A Daly Company	(605.98)	D20-860-949 MRO Fire Suppression System Design
12/21/20	2020-00009176	AP	Leo A Daly Company	(1,662.50)	D20-860-949 MRO Fire Suppression System Design
12/21/20	2020-00009176	AP	Leo A Daly Company	(395.60)	D20-860-949 MRO Fire Suppression System Design
12/21/20	2020-00009176	AP	Minnesota Power	(2,970.54)	5447119029 10/31-11/30/20
12/21/20	2020-00009176	AP	Chad Ronchetti	(96.95)	Sept-Nov 2020 Mileage
12/21/20	2020-00009176	AP	Duluth Public Utilities - Comfort Systems	(4,081.65)	4600 Stebner Rd 11/3-12/1 Gas
12/21/20	2020-00009176	AP	Duluth Public Utilities - Comfort Systems	(501.06)	4600 Stebner Rd 11/3-12/1/20 Water/Sewer
12/29/20	2020-00009461	AP	US Bank	(568.07)	Nov 2020 USB P-Card Purchase
12/31/20	2020-00009560	GL	Investment Earnings for December	543.00	Investment Earnings for December
FUND 866 - MRO FACILITY			Ending Balance - 12-31-2020	855,806.75	TB
<u>FUND 867 - STOREFRONT LOANS</u>			Beginning Balance	247,298.90	
12/18/20	2020-00009237	RA	Alerus Financial	1,037.10	Old City Hall DEDA Loan payment
12/31/20	2020-00009560	GL	Investment Earnings for December	155.00	Investment Earnings for December
FUND 867 - STOREFRONT LOANS			Ending Balance - 12-31-2020	248,491.00	TB

RESOLUTION 21D-01

RESOLUTION AUTHORIZING A LAND SALE AGREEMENT WITH REBUILD LLC RELATED TO THE REBUILD DULUTH PROGRAM

RESOLVED, by the Duluth Economic Development Authority (“DEDA”) that DEDA does hereby make the following determinations and findings:

- A. That the sale of property to Rebuild LLC is in the best interests of the City of Duluth and its people and that the transaction furthers the general plan for economic development in the area.
 - B. That, after not less than ten (10) or more than twenty (20) days' published notice, the public hearing was held by other electronic means pursuant to Minnesota Statutes Section 13D.021, at or shortly after 5:15 p.m. on December 16, 2020, regarding the proposed sale.
 - C. That the sale of the property described below to Rebuild LLC conforms in all respects to the requirements of Minnesota Statutes 469.105.
2. That the proper DEDA officials are hereby authorized to execute the Rebuild Duluth Land Sale Agreement, substantially in the form of the copy attached hereto, with Rebuild LLC for the sale of that property in St. Louis County, Minnesota, legally described below at no cost to Rebuild LLC:

Lots one (1) thru six (6), Block twelve (12), Carlton Place Addition to Duluth, St. Louis County, Minnesota (the “Property”).
 3. That the proper DEDA officials are hereby further authorized to execute all documents necessary to effectuate the sale of the Property to Rebuild LLC.

Approved by the Duluth Economic Development Authority this 27th day of January, 2021.

ATTEST:

Executive Director

STATEMENT OF PURPOSE: The Rebuild Duluth Program is designed to incentivize the construction of innovatively designed, affordable housing units by providing vacant lots at no cost to qualified purchasers who have been selected through a formal application and selection process. The purpose of this resolution is to authorize the sale of certain property in the Fairmont neighborhood depicted on the attachment to this resolution to Rebuild LLC as part of the Rebuild Duluth Program.

REBUILD DULUTH
LAND SALE AGREEMENT
REBUILD LLC

THIS LAND SALE AGREEMENT (this "Agreement") is made as of the last date of signature acknowledgement below (the "Effective Date") 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 Rebuild LLC, a Minnesota limited liability company, hereinafter referred to as "Buyer".

WHEREAS, DEDA has a program entitled "Rebuild Duluth", the materials of which are on file in the DEDA office, 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"); and

WHEREAS, Buyer has submitted an application (the "Application") to acquire the hereinafter-described vacant Property and has proposed to construct thereon a Housing Unit conforming substantially to that shown on the plans and specifications appended to the Application (the "Application Plans") at an estimated total construction cost of \$1,337,731 (the "Application Project Cost"); and

WHEREAS, DEDA has determined that the conveyance of said Property to Buyer for construction of a Housing Unit on the Property under the terms and conditions set forth in the Application and this Agreement is in the best interests of the City of Duluth (the "City") and its people and that the transaction furthers DEDA's general plan for development.

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. Earnest Money

Buyer shall not be required to pay any earnest money for the acquisition of the Property.

2. Conveyance of Property

Subject to the terms and conditions of this Agreement, DEDA will convey to Buyer and Buyer will acquire from DEDA, by quitclaim deed at no cost to Buyer except as set forth herein, real property located in St. Louis County, Minnesota and legally described as follows: Lots 1 thru 6, Block 12, Carlton Place Addition to Duluth, together with any and all improvements located thereon and all privileges, rights and easements appurtenant thereto (the "Property").

3. Use of the Property

Buyer agrees to construct a Housing Unit substantially in conformance with the Application Plans for a cost not in excess of the Application Project Cost except as provided for below pursuant to the Application and in accordance with the requirements of the Program (the "Project").

4. Inspection and Due Diligence Contingency

Buyer and its employees, agents, contractors and subcontractors, shall have a non-exclusive license for 120 days commencing on the Effective Date (the "Inspection Period") to enter onto the Property (the "Inspection License") with all necessary tools, equipment and related materials for the purpose of conducting inspections related to the condition of the Property (the "Site Inspections"). No tools, equipment or related materials shall be stored on the Property, and DEDA shall not be responsible for the security of or any damage to Buyer's property. Any Site Inspections activities that constitute earth-disturbing activities, including but not limited to soil boring, excavation or earth removal shall be subject to the prior written approval of DEDA's Executive Director or his designee (the "Executive Director"). Under no circumstances may any unapproved excavation, construction site-disturbing activities or storage of materials or equipment occur on the Property prior to Closing (defined below). Additionally, Buyer shall use the Inspection Period to obtain all construction cost and site-information necessary to finance the Project prior to Closing (defined below).

Buyer agrees that all Site Inspections done on the Property prior to Closing (defined below) shall be at the sole risk and expense of Buyer, and in the event that the Closing does not occur for any reason, Buyer will not be entitled to any lien against the Property in relation to the Site Inspections. Buyer shall restore the Property to its condition as of the effective date of this Agreement prior to the end of the Inspection Period. If Buyer fails to restore the Property, DEDA may itself cause the Property to be so restored and Buyer agrees to fully reimburse DEDA for the cost thereof; this obligation shall survive the termination of this Agreement as applicable. The Inspection License shall terminate automatically upon termination of this Agreement.

If Buyer is unsatisfied with the condition of the Property, Buyer may terminate this Agreement by delivering written notice of termination to DEDA before the expiration of the Inspection Period. If Buyer terminates this Agreement pursuant to this paragraph, the parties shall have no further obligations to one another pursuant to this Agreement except as expressly set forth in this Agreement.

5. Title Commitment

Within 25 days of the Effective Date, DEDA will order at DEDA's cost a title insurance commitment for an ALTA Owner's Policy of Title Insurance insuring title to the Property from a title company selected by DEDA (the "Title Commitment"). The premium for a title insurance policy, if Buyer elects to obtain title insurance, shall be paid for by Buyer. In the event that the Title Commitment reflects that title to the Property is not "marketable," Buyer may object to the title defects by specifying Buyer's objections in writing to DEDA within 15 days of receipt of the Title Commitment. At DEDA's election, DEDA may fix any title defects, or alternatively DEDA may decline to fix any title defects by delivering written notice to Buyer within 10 days of receipt of Buyer's title objections. If DEDA fixes the title defects, the parties shall proceed to Closing subject to the terms and conditions of this Agreement. If DEDA declines to fix the title defects, Buyer may waive any such title objection or may terminate this Agreement by delivering written notice of termination to DEDA within 5 days of receiving notice that DEDA will not fix the title defects. If Buyer terminates this Agreement pursuant to this paragraph, the parties shall have no further obligations to one another pursuant to this Agreement except as expressly set forth in this Agreement. If Buyer

fails to terminate this Agreement pursuant to this paragraph, the parties shall proceed to the Closing as contemplated by this Agreement.

6. Approval of Plans and Specifications

No later than 30 days following the Inspection Period, Buyer shall deliver to the Executive Director complete design development plans and related specifications for the Project together with landscaping plans, elevations and floorplans in a form acceptable to the Executive Director in his sole discretion (the "Plans and Specifications"). The Plans and Specifications shall conform substantially to the Application Plans except as approved by the Executive Director. The Plans and Specifications shall be subject to the written approval of the Executive Director, which approval shall not be unreasonably withheld. In the event of any proposed change in the Plans and Specifications after the initial approval by the Executive Director, the Plans and Specifications for said proposed change shall be likewise subject to the reasonable approval of the Executive Director. Upon approval by the Executive Director of the Plans and Specifications for the Project, Buyer shall provide a Release to the Executive Director in the form of that attached hereto as Exhibit A.

7. Submittal of Cost

No later than 30 days following the Inspection Period, Buyer shall submit to DEDA in writing a certified bid and/or a construction contract from a licensed contractor committing to construct the Project in conformance with the Plans and Specifications and stating the total cost thereof (the "Total Project Cost"). Total Project Cost shall equal and not exceed the Application Project Cost and an amount of up to an additional 25% of the Application Project Cost. In the event the Total Project Cost is 25% or more over the Application Project Cost, Buyer at Buyer's option may (i) terminate this Agreement or (ii) may pay the amount of \$34,900 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.

8. Closing

The closing on the Property (the "Closing") shall occur i) after DEDA receives from Buyer and has approved the Plans and Specifications, the evidence of Total Project Cost as required in Section 7 above, and evidence that a building permit application has been conditionally approved by the City's Construction Services and Inspections Division for the construction of the Project conforming to the Plans and Specifications, ii) proof reasonably satisfactory to the Executive Director that the Buyer's construction financing for the Project is committed and in place, iii) the Executive Director has received a signed construction contract or certified bid for the construction of the Project in conformance with the Plans and Specifications between Buyer and a contractor capable of constructing the Project and iv) at a time mutually agreeable to the parties but in no event later than June 1, 2021 (the "Closing Date"). Closing on the Property and on Buyer's construction financing shall occur at the title company selected by DEDA. DEDA shall deliver possession of the Property on the Closing Date. Notwithstanding the above, the Closing Date may be extended in writing in the sole discretion of the Executive Director upon the Executive Director's determination that the delay in Closing is for good cause beyond the control of Buyer. In the event that the Executive Director so extends the Closing, it shall be to a date certain as set forth in the written grant of extension. If the Closing has not occurred on or before the Closing Date unless so extended, (i) this Agreement shall automatically terminate; (ii) upon request, each party shall promptly sign a Cancellation of Land Sale Agreement evidencing the cancellation of this Agreement; and (iii) except as expressly set forth in this Agreement, the parties shall have no further obligations to one another pursuant to this Agreement.

9. Quitclaim Deed

On the Closing Date, DEDA shall deliver a quitclaim deed to Buyer conveying DEDA's interest in the Property to Buyer. Subject to the provisions of Section 5, above, the conveyance of title to the Property shall be subject to covenants, conditions, restrictions, declarations, easements and encumbrances of record, if any; the reservation of minerals and mineral rights by the State of Minnesota, if applicable; unpaid real estate taxes and assessments; restrictions related to the use or improvement of the Property without effective forfeiture provision; and any law,

ordinance, or governing regulations including but not limited to building and zoning ordinances restricting, regulating or prohibiting the occupancy, use, enjoyment, improvement or subdivision of the Property.

10. Deed Covenant

The deed conveying the Property shall incorporate, as a covenant running with the Property, the conditions of Minnesota Statutes Sections 469.090 to 469.108 relating to the use of the Property, and shall provide that if said covenant is violated, DEDA may declare a breach of the covenant and seek a judicial decree from the District Court declaring a forfeiture and a cancellation of the deed. DEDA will file an appropriate release or satisfaction of such covenants upon (i) completion of construction of the Housing Unit in accordance with the requirements of the Program and the Plans and Specifications as determined in the sole discretion of the Executive Director, and (ii) issuance of a certificate of occupancy by the City's Construction Services and Inspections Division (the "Certificate of Occupancy").

11. Recordation

Buyer agrees to pay all costs, including but not limited to recording fees and state deed tax, associated with the recording of this Agreement and the quitclaim deed in the office of the St. Louis County Recorder and/or Registrar of Titles, as applicable. DEDA shall cooperate by timely providing information necessary to any such filing or recordation.

12. Project Contingencies

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 the Total Project Cost. Additionally, Buyer agrees to provide DEDA staff with sworn construction statements or final pricing from a licensed contractor showing that the Project complies with Program requirements and the Plans and Specifications and did not cost more than the Total Project Cost. If Buyer fails to provide the information required in this Section, this shall be a default as set forth in Section 19 for which the remedies set forth in said Section 19 shall apply.

13. Deadlines

Within one year from the Closing Date, Buyer shall have commenced construction on the Project in accordance with the requirements of this Agreement and have filed an affidavit with the Executive Director, executed by Buyer, to which are attached pictures of commenced construction.

On or before December 31, 2022, Buyer shall provide the Executive Director (i) evidence of completion of construction of the Housing Unit in accordance with the requirements of this Agreement; and (ii) evidence of the issuance of the Certificate of Occupancy. If Buyer fails to meet either the one-year deadline or the December 31, 2022 deadline as stated above, DEDA may, but shall not be obligated to, cancel the sale and title to the Property shall revert to DEDA.

14. Statutory Disclosures

DEDA staff handling the sale of the Property on behalf of DEDA have no actual knowledge of the following with respect to the Property: (1) the presence of a well, underground storage tank or subsurface sewage treatment system; or (2) methamphetamine production on the Property.

15. Indemnity

Buyer shall be liable for any damage or injury to any person or property occasioned by the acts of Buyer, its employees, agents, contractors and subcontractors, relating to the Property. Buyer shall indemnify and hold harmless DEDA and the City and their officers, directors, agents and employees from any and all liens, liabilities, losses, claims, costs, or damages, including reasonable attorney fees and costs, causes of action, suits, claims, demands, and judgments of any nature arising out of the use of the Property, except any such liability arising solely out of the negligent or intentional acts or omissions of DEDA or its officers, agents, servants, and employees.

Buyer hereby agrees that for itself, its successors and assigns it will indemnify and save DEDA, the City and their officers, agents, servants and employees and any person who controls DEDA or the City within the meaning of the Securities Act of 1933 harmless from and against all liabilities, losses, damages, costs, expenses, including attorney's fees and expenses, causes of action, suits, claims, demands and judgments arising out of any condition, existing on the Property, whether pre-existing or after created, which constitutes a violation of any federal, state or local environmental laws,

rules or regulations with regard to pollutants or hazardous or dangerous substances or arising out of the presence on the Property 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 person(s) or damage to property. Buyer's indemnification shall include all the costs of clean up; remediation; costs incurred in proceedings before a court of law or an administrative agency including attorney's fees, expenses, and the fees and expenses of persons providing technical expertise addressing such problems, including expert witnesses; the cost 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 conditions existing on the Property. Provided, however, that the indemnity provided by Buyer to DEDA and the City pursuant to this paragraph is intended to run only to the benefit of DEDA and the City and is not intended to, nor shall it, inure to the benefit of any other third party. The obligations of Buyer hereunder do not extend to conditions actually known to DEDA and/or the City which the DEDA and/or City has failed to disclose.

Promptly after receipt by DEDA of notice of the commencement of any action with respect to which Buyer is required to indemnify DEDA or the City under this Agreement, DEDA shall notify Buyer in writing of the commencement of the action, and, subject to the provisions as hereinafter stated, Buyer shall assume the defense of the action, including the employment of counsel selected by Buyer and the payment of expenses. In so far as such action shall relate to any alleged liability of DEDA and/or the City with respect to which indemnity may be sought against Buyer, DEDA and/or the City shall have the right to employ separate counsel and to participate in the defense thereof, and the fees and expenses of such separate counsel shall be at the expense of Buyer. This paragraph 15 shall survive the cancellation of this Agreement for any reason.

16. Assumption of Risk

Buyer agrees that it is experienced in and knowledgeable about the development of real estate and has exclusively relied on its own consultants, advisors, counsel, employees, agents, principals and/or studies, investigations and/or inspections with

respect to the Property, its condition, value and potential. The conveyance of the Property to Buyer shall constitute Buyer's acknowledgment that it has independently inspected and investigated the Property. Upon conveyance, and subject to the terms of this Agreement, Buyer shall assume the risk that adverse matters, including but not limited to adverse physical and environmental conditions and the suitability or unsuitability of the Property for Buyer's intended use may not have been revealed by Buyer's investigations.

17. No Representations by DEDA

Except as set forth herein, without limitation, Buyer acknowledges that neither DEDA nor any of its officers, agents, servants, employees or any other person or entity representing or purporting to represent DEDA has made any representations or warranties (whether express or implied, oral or written) regarding the Property or the Project, including but not limited to the value, quality or condition of the Property or the Project; the status of title to the Property; the suitability of the Property or the Project for any activity or use which Buyer may conduct; the compliance of the Property or the Project with any laws or regulations; the habitability, merchantability, marketability, profitability, or fitness of the Property or the Project for a particular purpose; and compliance by the Property or the Project with any and all environmental rules, regulations, orders or laws. Buyer acknowledges and agrees that DEDA has no obligation to remove any personal property or debris from the Property. Buyer acknowledges and agrees that, to the maximum extent permitted by law, Buyer is purchasing the Property in its "AS-IS" condition. This paragraph 16 shall survive the Closing and cancellation of this Agreement for any reason.

Notwithstanding the above or anything to the contrary herein, DEDA represents and warrants that it has no actual knowledge of the existence of any hazardous or dangerous substances as set forth in Section 15 on the Property.

18. Taxes and Costs

Any real estate taxes on the Property as of the Closing Date shall be prorated as of the Closing based upon the latest available tax statement (though the parties believe the Property is currently property tax-exempt). From and after Closing, Buyer and its successors in interest shall be responsible for all real estate taxes payable on the

Property and assessments against the Property arising by reason of its private ownership. Buyer shall pay all closing costs, recording fees, any real estate transfer tax or conveyance fees, all title company costs, except for the cost of the Title Commitment which will be paid by DEDA, and any other costs and expenses required to effectuate the conveyance and acquisition contemplated by this Agreement.

19. Default and Remedies

In the event that Buyer fails to perform or to comply with any of the terms, covenants and conditions of this Agreement, DEDA shall give written notice of such default, specifying the nature of the default and, as appropriate, the corrective measures required and allowing Buyer reasonable time to cure, said cure period not to exceed thirty (30) days, unless any default cannot reasonably be cured in this time, in which case Buyer shall have additional time to cure so long as the Executive Director determines that the Buyer is working with reasonable diligence toward curing the default. If the default is not corrected within such cure period, or is incapable of being cured, DEDA may, in addition to the remedies set forth in Paragraph 13, at its option, exercise any one or more of the rights and remedies described below. The remedies provided for under this Agreement shall be deemed to be cumulative and non-exclusive and the election of one remedy shall not be deemed to be a waiver of any other remedy with regard to any occasion of default hereunder. Further, the waiver by DEDA of any default on the part of Buyer hereunder or the failure of DEDA to declare default on the part of Buyer 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 Buyer of the same or any other obligation of Buyer hereunder and, to be effective, any waiver of any default by Buyer hereunder shall be in writing by DEDA.

- a. DEDA may seek and be entitled to monetary damages, from Buyer for any damages incurred by DEDA as a result of Buyer's default.
- b. DEDA may seek and be entitled to receive reconveyance of the Property from Buyer, free and clear of all liens and encumbrances whatsoever, excepting any liens and encumbrances which may have been on the Property at the time of its conveyance from DEDA to Buyer, and free and clear of all personal property.

- c. DEDA may seek and be entitled to injunctive and declaratory relief as is necessary to prevent Buyer's violation of the terms and conditions.
- d. DEDA may seek such other legal or equitable relief as a court of competent jurisdiction may be determined as available to DEDA.

20. Subordination

The Executive Director may, in his sole discretion, decide to subordinate this Agreement to liens or rights of other parties. Said consent of the Executive Director will be deemed valid only when reduced to writing.

21. Assignment

a. Assignments

 The parties acknowledge that DEDA is relying upon the qualifications and identity of Buyer to complete the Project. Therefore, Buyer represents and agrees that until a Certificate of Occupancy has been issued for the Project, 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 of, assignment of, conveyance of, lease of, trust, lien or power of attorney, of this Agreement or of the Property, nor has it nor will it allow any change in the identity of the principals or their respective percentages of ownership or voting rights, if such change would result in a change of control, and has not or will not otherwise transfer in any other way all or any portion of the Property, Buyer, the Project, the Housing Unit, this Agreement or any other contract or agreement entered into in connection with carrying out its obligations hereunder; and Buyer will not make or create or suffer to be made any such transfer of Buyer's rights hereunder (an "Assignment").

Notwithstanding the above, the Executive Director may, in his sole discretion, consent in writing to an Assignment by Buyer. Further, notwithstanding the above, the Buyer may without further consent of DEDA assign this Agreement to an entity solely owned and controlled by Buyer subject to the provisions below; Buyer shall give written notice of any such assignment to DEDA within Fifteen (15) days of any such assignment. If an Assignment is so approved or permitted, the assignee

shall explicitly assume the obligations of Buyer under this Agreement and Buyer shall remain liable for the performance of Buyer's obligations under this Agreement.

Notwithstanding anything to the contrary herein, Buyer or its assign shall be entitled to sell, transfer or convey interests or ownership or financial interests and take on additional members/owners, so long as the original members/owners as of the date of this Agreement remain collectively in ownership/control of more than 50% of the voting/controlling interest of the Buyer or its assign.

b. Pre-sales

Nothing herein shall be deemed to prevent Buyer from pre-selling the Housing Units constructed pursuant to this Agreement prior to the issuance by DEDA of the release or satisfaction provided for in Section 10 above but Buyer shall not close on the conveyance of any such Housing Units prior the issuance by DEDA of such release or satisfaction.

22. Publicity

Within 30 days of issuance of the Certificate of Occupancy, Buyer shall provide the following information regarding the Project to the Executive Director: photos of the interior and exterior of the Housing Unit, the Plans and Specifications including a license or such other grant of right of use as provided for in Exhibit A in favor of the City and the general public, the construction timeline and budget, and other pertinent information regarding the construction of the Housing Unit (collectively, the "Project Information"). Buyer agrees that the Project may be featured publicly and may include publication of the Project Information. Project Information may also be published on the City's website.

23. 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 regular U.S. Mail, registered mail, or certified mail, postage prepaid; or hand delivered to:

In the Case of DEDA: Duluth Economic Development Authority
402 City Hall
Duluth, Minnesota 55802
Attn: Executive Director

In the Case of Buyer: Rebuild LLC
401 Main St. SE, Ste. 3031
Minneapolis, MN 55414

With a copy (which copy shall not constitute notice to Buyer) to Buyer's legal counsel:

Jon R. Steckler
The Coleman Law Firm, LLC
800 Washington Ave. N. #620
Minneapolis, MN 55401
jrs@jwcolaw.com

24. No Real Estate Broker

Buyer represents and warrants to DEDA that this Agreement is made and entered into without the aid or assistance of a Buyer's broker or other Buyer's agent, and Buyer hereby represents and warrants to DEDA that Buyer has not entered into an agreement or made any undertaking of any kind whatsoever as a result of which any claim could properly be brought against DEDA for any commission, finder's fee or other form of compensation of a similar character as a result of this transaction.

25. Construction

Both parties have contributed to the drafting of this Agreement. In the event of a dispute, this Agreement shall be construed without reference to any rule of construction based on the identity of the drafters of this Agreement.

26. Applicable Law

This Agreement, together with all of its paragraphs, terms and conditions, 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.

27. No Third Party Rights

This Agreement is to be construed and understood solely as an Agreement between Buyer and DEDA and, except as provided for in Paragraph 14 with respect to the City, shall not be deemed to create any rights in any other person. No person shall have the right to make claim that she or he is a third party beneficiary of this Agreement or of any of the terms and conditions hereof, which, as between DEDA and Buyer, may be waived at any time by mutual agreement between DEDA and Buyer.

28. Independent Contractor

Nothing herein contained is intended or shall be construed in any manner as creating or establishing a relationship of co-partners between the parties hereto or of constituting Buyer as an agent, representative or employee of DEDA for any purpose or in any manner whatsoever.

29. 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.

30. Entire Agreement

The entire agreement of the parties is contained herein and this Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter hereof. Any amendment to this Agreement shall be in writing and shall be executed by the same parties who executed this Agreement or their successors in office.

31. Counterparts

This Agreement 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.

EXHIBIT A
RELEASE

I certify by signing below that I own all legal rights including all rights of use and the copyright on _____ (insert the title shown on the design development plans and specifications) dated _____ including all final renderings, floorplans, site plans and elevations, (the "Plans and Specifications") submitted to the City of Duluth ("City") by me, my agents or representatives in connection with:
DEDA Contract No. _____

Project: _____
(Name of project)

Located at: _____
(Street address)

I agree to grant and release to the City the limited right to copy and disseminate the following concept level digital data related to the Project: site plans, floor plans, building elevations, and exterior renderings and digital photographs prepared by me or on my behalf for the Project, and to publish the same to the public for the limited purpose of disclosure, marketing, and public information and use.

City acknowledges that the Plans and Specifications were prepared for a specific party and specific application. The Plans and Specifications are not permitted, released, licensed or authorized to, or for use by, any person or party other than that for which they were originally prepared. The signor specifically disclaims any guaranty or warranty of any kind as to their applicability, appropriateness or utility in any other application, which is strictly prohibited. Any use of the Plans and Specifications by any other person or in any other application is solely at the risk of the user and the signor shall have no liability for such use or arising out of such use. Signor reserves and does not disclaim any rights, including but not limited to proprietary rights, or claims with respect to the Plans and Specifications.

I represent and warrant that the work created or prepared by me or on my behalf is original and does not infringe upon the rights of any third party, and I further represent that the work will not have been previously assigned, licensed or otherwise encumbered.

I have read the foregoing before signing below and warrant that I fully understand the contents thereof.

Signed: _____

Date: _____

By: _____

(Print name)

Position (if applicable): _____

Firm (if applicable): _____

Address: _____

City: _____ State: _____ Zip Code: _____

Phone: _____ Email: _____

DATA PRACTICES NOTICE:

According to the Minnesota Government Data Practices Act, the information you provide on this form will be classified as government data. Most government data, including your name, address, e-mail address and telephone number, is public and is available to the public upon request. Some of the information you provide may be classified as private data. Furnishing the requested information is voluntary, but if you refuse to supply the requested information, you may not be considered for participation in the Project.

RESOLUTION 21D-02

**RESOLUTION AUTHORIZING A LAND SALE AGREEMENT WITH
STONY POINT CONSTRUCTION, LLC RELATED TO THE REBUILD DULUTH
PROGRAM**

RESOLVED, by the Duluth Economic Development Authority (“DEDA”) that DEDA does hereby make the following determinations and findings:

- A. That the sale of property to Stony Point Construction, LLC is in the best interests of the City of Duluth and its people and that the transaction furthers the general plan for economic development in the area.
 - B. That, after not less than ten (10) or more than twenty (20) days' published notice, the public hearing was held by other electronic means pursuant to Minnesota Statutes Section 13D.021, at or shortly after 5:15 p.m. on December 16, 2020, regarding the proposed sale.
 - C. That the sale of the property described below to Stony Point Construction, conforms in all respects to the requirements of Minnesota Statutes 469.105.
2. That the proper DEDA officials are hereby authorized to execute the Rebuild Duluth Land Sale Agreement, substantially in the form of the copy attached hereto, with Stony Point Construction, LLC for the sale of that property in St. Louis County, Minnesota, legally described below at no cost to Stony Point Construction, LLC:
- Lot Twenty-three (23), East Fourth Street, DULUTH PROPER FIRST DIVISION
St. Louis County, Minnesota (the “Property”).
3. That the proper DEDA officials are hereby further authorized to execute all documents necessary to effectuate the sale of the Property to Stony Point Construction, LLC.

Approved by the Duluth Economic Development Authority this 27th day of January, 2021.

ATTEST:

Executive Director

STATEMENT OF PURPOSE: The Rebuild Duluth Program is designed to incentivize the construction of innovatively designed, affordable housing units by providing vacant lots at no cost to qualified purchasers who have been selected through a formal application and selection process. The purpose of this resolution is to authorize the sale of certain property in the Hillside neighborhood depicted on the attachment to this resolution to Stony Point Construction, LLC as part of the Rebuild Duluth Program.

REBUILD DULUTH
LAND SALE AGREEMENT
STONE POINT CONSTRUCTION, LLC

THIS LAND SALE AGREEMENT (this "Agreement") is made as of the last date of signature acknowledgement below (the "Effective Date") 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 Stoney Point Construction, LLC, a Minnesota Liability Company, hereinafter referred to as "Buyer".

WHEREAS, DEDA has a program entitled "Rebuild Duluth", the materials of which are on file in the DEDA office, 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"); and

WHEREAS, Buyer has submitted an application (the "Application") to acquire the hereinafter-described vacant Property and has proposed to construct thereon a Housing Unit conforming substantially to that shown on the plans and specifications appended to the Application (the "Application Plans") at an estimated total construction cost of \$669,272 (the "Application Project Cost"); and

WHEREAS, DEDA has determined that the conveyance of said Property to Buyer for construction of a Housing Unit on the Property under the terms and conditions set forth in the Application and this Agreement is in the best interests of the City of Duluth (the "City") and its people and that the transaction furthers DEDA's general plan for development.

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. Earnest Money

Buyer shall not be required to pay any earnest money for the acquisition of the Property.

2. Conveyance of Property

Subject to the terms and conditions of this Agreement, DEDA will convey to Buyer and Buyer will acquire from DEDA, by quitclaim deed at no cost to Buyer except as set forth herein, real property located in St. Louis County, Minnesota and legally described as follows: Lot 23, East 4th Street, Duluth Proper First Division, together with any and all improvements located thereon and all privileges, rights and easements appurtenant thereto (the "Property").

3. Use of the Property

Buyer agrees to construct a Housing Unit substantially in conformance with the Application Plans for a cost not in excess of the Application Project Cost except as provided for below pursuant to the Application and in accordance with the requirements of the Program (the "Project").

4. Inspection and Due Diligence Contingency

Buyer and its employees, agents, contractors and subcontractors, shall have a non-exclusive license for 120 days from the Effective Date (the "Inspection Period") to enter onto the Property (the "Inspection License") with all necessary tools, equipment and related materials for the purpose of conducting inspections related to the condition of the Property (the "Site Inspections"). No tools, equipment or related materials shall be stored on the Property, and DEDA shall not be responsible for the security of or any damage to Buyer's property. Any Site Inspections activities that constitute earth-disturbing activities, including but not limited to soil boring, excavation or earth removal shall be subject to the prior written approval of DEDA's Executive Director or his designee (the "Executive Director"). Under no circumstances may any unapproved excavation, construction site-disturbing activities or storage of materials or equipment occur on the Property prior to Closing (defined below). Additionally, Buyer shall use the Inspection Period to obtain all construction cost and site-information necessary to finance the Project prior to Closing (defined below).

Buyer agrees that all Site Inspections done on the Property prior to Closing (defined below) shall be at the sole risk and expense of Buyer, and in the event that the Closing does not occur for any reason, Buyer will not be entitled to any lien against the Property in relation to the Site Inspections. Buyer shall restore the Property to its condition as of the effective date of this Agreement prior to the end of the Inspection Period. If Buyer fails to restore the Property, DEDA may itself cause the Property to be so restored and Buyer agrees to fully reimburse DEDA for the cost thereof; this obligation shall survive the termination of this Agreement as applicable. The Inspection License shall terminate automatically upon termination of this Agreement.

If Buyer is unsatisfied with the condition of the Property, Buyer may terminate this Agreement by delivering written notice of termination to DEDA before the expiration of the Inspection Period. If Buyer terminates this Agreement pursuant to this paragraph, the parties shall have no further obligations to one another pursuant to this Agreement except as expressly set forth in this Agreement.

5. Title Commitment

Within 75 days of the Effective Date, DEDA will order at DEDA's cost a title insurance commitment for an ALTA Owner's Policy of Title Insurance insuring title to the Property from a title company selected by DEDA (the "Title Commitment"). The premium for a title insurance policy, if Buyer elects to obtain title insurance, shall be paid for by Buyer. In the event that the Title Commitment reflects that title to the Property is not "marketable", Buyer may object to the title defects by specifying Buyer's objections in writing to DEDA within 10 days of receipt of the Title Commitment. At DEDA's election, DEDA may fix any title defects, or alternatively DEDA may decline to fix any title defects by delivering written notice to Buyer within 10 days of receipt of Buyer's title objections. If DEDA fixes the title defects, the parties shall proceed to Closing subject to the terms and conditions of this Agreement. If DEDA declines to fix the title defects, Buyer may waive any such title objection or may terminate this Agreement by delivering written notice of termination to DEDA within 5 days of receiving notice that DEDA will not fix the title defects. If Buyer terminates this Agreement pursuant to this paragraph, the parties shall have no further obligations to one another pursuant to this Agreement except as expressly set forth in this Agreement. If Buyer

fails to terminate this Agreement pursuant to this paragraph, the parties shall proceed to the Closing as contemplated by this Agreement.

6. Approval of Plans and Specifications

No later than 30 days following the Inspection Period, Buyer shall deliver to the Executive Director complete design development plans and related specifications for the Project together with landscaping plans, elevations and floorplans in a form acceptable to the Executive Director in his sole discretion (the "Plans and Specifications"). The Plans and Specifications shall conform substantially to the Application Plans except as approved by the Executive Director. The Plans and Specifications shall be subject to the written approval of the Executive Director. In the event of any proposed change in the Plans and Specifications after the initial approval by the Executive Director, the Plans and Specifications for said proposed change shall be likewise subject to the approval of the Executive Director. Upon approval by the Executive Director of the Plans and Specifications for the Project, Buyer shall provide a Release to the Executive Director in the form of that attached hereto as Exhibit A.

7. Submittal of Cost

No later than 30 days following the Inspection Period, Buyer shall submit to DEDA in writing a certified bid and/or a construction contract from a licensed contractor committing to construct the Project in conformance with the Plans and Specifications and stating the total cost thereof (the "Total Project Cost"). In the event the Total Project Cost is 25% or more over the Application Project Cost, Buyer at Buyer's option may (i) terminate this Agreement or (ii) may pay the amount of \$26,900 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.

8. Closing

The closing on the Property (the "Closing") shall occur i) after DEDA receives from Buyer and has approved the Plans and Specifications, the evidence of Total Project Cost as required in Section 7 above, and evidence that a building permit

application has been conditionally approved by the City's Construction Services and Inspections Division for the construction of the Project conforming to the Plans and Specifications, ii) proof reasonably satisfactory to the Executive Director that the Buyer's construction financing for the Project is committed and in place, iii) the Executive Director has received a signed construction contract or certified bid for the construction of the Project in conformance with the Plans and Specifications between Buyer and a contractor capable of constructing the Project and iv) at a time mutually agreeable to the parties but in no event later than June 1, 2021 (the "Closing Date"). Closing on the Property and on Buyer's construction financing shall occur at the title company selected by DEDA. DEDA shall deliver possession of the Property on the Closing Date. Notwithstanding the above, the Closing Date may be extended in writing in the sole discretion of the Executive Director upon the Executive Director's determination that the delay in Closing is for good cause beyond the control of Buyer. In the event that the Executive Director so extends the Closing, it shall be to a date certain as set forth in the written grant of extension. If the Closing has not occurred on or before the Closing Date unless so extended, (i) this Agreement shall automatically terminate; (ii) upon request, each party shall promptly sign a Cancellation of Land Sale Agreement evidencing the cancellation of this Agreement; and (iii) except as expressly set forth in this Agreement, the parties shall have no further obligations to one another pursuant to this Agreement.

9. Quitclaim Deed

On the Closing Date, DEDA shall deliver a quitclaim deed to Buyer conveying DEDA's interest in the Property to Buyer. The conveyance of title to the Property shall be subject to covenants, conditions, restrictions, declarations, easements and encumbrances of record, if any; the reservation of minerals and mineral rights by the State of Minnesota, if applicable; unpaid real estate taxes and assessments; restrictions related to the use or improvement of the Property without effective forfeiture provision; and any law, ordinance, or governing regulations including but not limited to building and zoning ordinances restricting, regulating or prohibiting the occupancy, use, enjoyment, improvement or subdivision of the Property.

10. Deed Covenant

The deed conveying the Property shall incorporate, as a covenant running with the Property, the conditions of Minnesota Statutes Sections 469.090 to 469.108 relating to the use of the Property, and shall provide that if said covenant is violated, DEDA may declare a breach of the covenant and seek a judicial decree from the District Court declaring a forfeiture and a cancellation of the deed. DEDA will file an appropriate release or satisfaction of such covenants upon (i) completion of construction of the Housing Unit in accordance with the requirements of the Program and the Plans and Specifications as determined in the sole discretion of the Executive Director, and (ii) issuance of a certificate of occupancy by the City's Construction Services and Inspections Division (the "Certificate of Occupancy").

11. Recordation

Buyer agrees to pay all costs, including but not limited to recording fees and state deed tax, associated with the recording of this Agreement and the quitclaim deed in the office of the St. Louis County Recorder and/or Registrar of Titles, as applicable.

12. Project Contingencies

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 the Total Project Cost. Additionally, Buyer agrees to provide DEDA staff with sworn construction statements or final pricing from a licensed contractor showing that the Project complies with Program requirements and the Plans and Specifications and did not cost more than the Total Project Cost. If Buyer fails to provide the information required in this Section, this shall be a default as set forth in Section 19 for which the remedies set forth in said Section 19 shall apply.

13. Deadlines

Within one year from the Closing Date, Buyer shall have commenced construction on the Project in accordance with the requirements of this Agreement and have filed an affidavit with the Executive Director, executed by Buyer, to which are attached pictures of commenced construction.

On or before December 31, 2022, Buyer shall provide the Executive Director (i) evidence of completion of construction of the Housing Unit in accordance with the

requirements of this Agreement, and (ii) evidence of the issuance of the Certificate of Occupancy. If Buyer fails to meet either the one-year deadline or the December 31, 2022 deadline as stated above, DEDA may, but shall not be obligated to, cancel the sale and title to the Property shall revert to DEDA.

14. Statutory Disclosures

DEDA staff handling the sale of the Property on behalf of DEDA have no actual knowledge of the following with respect to the Property: (1) the presence of a well, underground storage tank or subsurface sewage treatment system; or (2) methamphetamine production on the Property.

15. Indemnity

Buyer shall be liable for any damage or injury to any person or property occasioned by the acts of Buyer, its employees, agents, contractors and subcontractors, relating to the Property. Buyer shall indemnify and hold harmless DEDA and the City and their officers, directors, agents and employees from any and all liens, liabilities, losses, claims, costs, or damages, including reasonable attorney fees and costs, causes of action, suits, claims, demands, and judgments of any nature arising out of the use of the Property by Buyer or its successors in interest or out of this Agreement.

Buyer hereby agrees that for itself, its successors and assigns, it will indemnify and save DEDA, the City and their officers, agents, servants and employees and any person who controls DEDA or the City within the meaning of the Securities Act of 1933 harmless from and against all liabilities, losses, damages, costs, expenses, including attorney's fees and expenses, causes of action, suits, claims, demands and judgments arising out of any condition existing on the Property, whether pre-existing or after created, which constitutes a violation of any federal, state or local environmental laws, rules or regulations with regard to pollutants or hazardous or dangerous substances or arising out of the presence on the Property 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 person(s) or damage to property. Buyer's indemnification shall include all the costs of clean up; remediation; costs incurred in proceedings before a court of law or an administrative agency including attorney's fees, expenses, and the fees and expenses of persons providing technical expertise

addressing such problems, including expert witnesses; the cost 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 conditions existing on the Property. Provided, however, that the indemnity provided by Buyer to DEDA and the City pursuant to this paragraph is intended to run only to the benefit of DEDA and the City and is not intended to, nor shall it, inure to the benefit of any other third party.

Promptly after receipt by DEDA of notice of the commencement of any action with respect to which Buyer is required to indemnify DEDA or the City under this Agreement, DEDA shall notify Buyer in writing of the commencement of the action, and, subject to the provisions as hereinafter stated, Buyer shall assume the defense of the action, including the employment of counsel satisfactory to DEDA and/or the City and the payment of expenses. In so far as such action shall relate to any alleged liability of DEDA and/or the City with respect to which indemnity may be sought against Buyer, DEDA and/or the City shall have the right to employ separate counsel and to participate in the defense thereof, and the fees and expenses of such separate counsel shall be at the expense of Buyer. This paragraph 15 shall survive the cancellation of this Agreement for any reason.

16. Assumption of Risk

Buyer agrees that it is experienced in and knowledgeable about the development of real estate and has exclusively relied on its own consultants, advisors, counsel, employees, agents, principals and/or studies, investigations and/or inspections with respect to the Property, its condition, value and potential. The conveyance of the Property to Buyer shall constitute Buyer's acknowledgment that it has independently inspected and investigated the Property. Upon conveyance, Buyer shall assume the risk that adverse matters, including but not limited to adverse physical and environmental conditions and the suitability or unsuitability of the Property for Buyer's intended use may not have been revealed by Buyer's investigations.

17. No Representations by DEDA

Without limitation, Buyer acknowledges that neither DEDA nor any of its officers, agents, servants, employees or any other person or entity representing or purporting to

represent DEDA has made any representations or warranties (whether express or implied, oral or written) regarding the Property or the Project, including but not limited to the value, quality or condition of the Property or the Project; the status of title to the Property; the suitability of the Property or the Project for any activity or use which Buyer may conduct; the compliance of the Property or the Project with any laws or regulations; the habitability, merchantability, marketability, profitability, or fitness of the Property or the Project for a particular purpose; and compliance by the Property or the Project with any and all environmental rules, regulations, orders or laws. Buyer acknowledges and agrees that DEDA has no obligation to remove any personal property or debris from the Property. Buyer acknowledges and agrees that, to the maximum extent permitted by law, Buyer is purchasing the Property in its "AS-IS" condition. This paragraph 16 shall survive the Closing and cancellation of this Agreement for any reason.

18. Taxes and Costs

Any real estate taxes on the Property as of the Closing Date shall be prorated as of the Closing based upon the latest available tax statement (though the parties believe the Property is currently property tax-exempt). From and after Closing, Buyer and its successors in interest shall be responsible for all real estate taxes payable on the Property and assessments against the Property arising by reason of its private ownership. Buyer shall pay all closing costs, recording fees, any real estate transfer tax or conveyance fees, all title company costs, except for the cost of the Title Commitment which will be paid by DEDA, and any other costs and expenses required to effectuate the conveyance and acquisition contemplated by this Agreement.

19. Default and Remedies

In the event that Buyer fails to perform or to comply with any of the terms, covenants and conditions of this Agreement, DEDA shall give written notice of such default, specifying the nature of the default and, as appropriate, the corrective measures required and allowing Buyer reasonable time to cure, said cure period not to exceed thirty (30) days. If the default is not corrected within such cure period, or is incapable of being cured, DEDA may, in addition to the remedies set forth in Paragraph 13, at its option, exercise any one or more of the rights and remedies described below. The remedies provided for under this Agreement shall be deemed to be cumulative and non-

exclusive and the election of one remedy shall not be deemed to be a waiver of any other remedy with regard to any occasion of default hereunder. Further, the waiver by DEDA of any default on the part of Buyer hereunder or the failure of DEDA to declare default on the part of Buyer 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 Buyer of the same or any other obligation of Buyer hereunder and, to be effective, any waiver of any default by Buyer hereunder shall be in writing by DEDA.

- a. DEDA may seek and be entitled to monetary damages, from Buyer for any damages incurred by DEDA as a result of Buyer's default.
- b. DEDA may seek and be entitled to receive reconveyance of the Property from Buyer, free and clear of all liens and encumbrances whatsoever, excepting any liens and encumbrances which may have been on the Property at the time of its conveyance from DEDA to Buyer, and free and clear of all personal property.
- c. DEDA may seek and be entitled to injunctive and declaratory relief as is necessary to prevent Buyer's violation of the terms and conditions.
- d. DEDA may seek such other legal or equitable relief as a court of competent jurisdiction may be determined as available to DEDA.

20. Subordination

The Executive Director may, in his sole discretion, decide to subordinate this Agreement to liens or rights of other parties. Said consent of the Executive Director will be deemed valid only when reduced to writing.

21. Assignment

a. Assignments

The parties acknowledge that DEDA is relying upon the qualifications and identity of Buyer to complete the Project. Therefore, Buyer 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, nor has it nor will it allow any change in the identity of the principals or their respective percentages of ownership or voting rights, if

such change would result in a change of control, and has not or will not otherwise transfer in any other way all or any portion of the Property, Buyer, the Project, the Housing Unit, this Agreement or any other contract or agreement entered into in connection with carrying out its obligations hereunder; and Buyer will not make or create or suffer to be made any such transfer of Buyer's rights hereunder (an "Assignment").

Notwithstanding the above, the Executive Director may, in his sole discretion, consent in writing to an Assignment by Buyer. Further, notwithstanding the above, the Buyer may without further consent of DEDA assign the this Agreement to an entity solely owned and controlled by Buyer subject to the provisions below; Buyer shall give written notice of any such assignment to DEDA within Fifteen (15) days of any such assignment. If an Assignment is so approved or permitted, the assignee shall explicitly assume the obligations of Buyer under this Agreement and Buyer shall remain liable for the performance of Buyer's obligations under this Agreement.

b. Pre-sales

Nothing herein shall be deemed to prevent Buyer from pre-selling the Housing Units constructed pursuant to this Agreement prior to the issuance by DEDA of the release or satisfaction provided for in Section 10 above but Buyer shall not close on the conveyance of any such Housing Units prior the issuance by DEDA of such release or satisfaction.

22. Publicity

Within 30 days of issuance of the Certificate of Occupancy, Buyer shall provide the following information regarding the Project to the Executive Director: photos of the interior and exterior of the Housing Unit, the Plans and Specifications including a license or such other grant of right of use as provided for in Exhibit A in favor of the City and the general public, the construction timeline and budget, and other pertinent information regarding the construction of the Housing Unit (collectively, the "Project Information"). Buyer agrees that the Project may be featured publicly and may include publication of the Project Information. Project Information may also be published on the City's

website.

23. 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 regular U.S. Mail, registered mail, or certified mail, postage prepaid; or hand delivered to:

In the Case of DEDA:	Duluth Economic Development Authority City Hall –Room 402 411 W 1 st ST. Duluth, Minnesota 55802 Attn: Executive Director
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In the Case of Buyer:	Stoney Point Construction, LLC 912 Chester Park Dr Duluth, MN 55812
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24. No Real Estate Broker

Buyer represents and warrants to DEDA that this Agreement is made and entered into without the aid or assistance of a Buyer's broker or other Buyer's agent, and Buyer hereby represents and warrants to DEDA that Buyer has not entered into an agreement or made any undertaking of any kind whatsoever as a result of which any claim could properly be brought against DEDA for any commission, finder's fee or other form of compensation of a similar character as a result of this transaction.

25. Construction

Both parties have contributed to the drafting of this Agreement. In the event of a dispute, this Agreement shall be construed without reference to any rule of construction based on the identity of the drafters of this Agreement.

26. Applicable Law

This Agreement, together with all of its paragraphs, terms and conditions, 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.

27. No Third Party Rights

This Agreement is to be construed and understood solely as an Agreement between Buyer and DEDA and, except as provided for in Paragraph 14 with respect to the City, shall not be deemed to create any rights in any other person. No person shall have the right to make claim that she or he is a third party beneficiary of this Agreement or of any of the terms and conditions hereof, which, as between DEDA and Buyer, may be waived at any time by mutual agreement between DEDA and Buyer.

28. Independent Contractor

Nothing herein contained is intended or shall be construed in any manner as creating or establishing a relationship of co-partners between the parties hereto or of constituting Buyer as an agent, representative or employee of DEDA for any purpose or in any manner whatsoever.

29. 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.

30. Entire Agreement

The entire agreement of the parties is contained herein and this Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter hereof. Any amendment to this Agreement shall be in writing and shall be executed by the same parties who executed this Agreement or their successors in office.

31. Counterparts

This Agreement 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.

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

DULUTH ECONOMIC DEVELOPMENT AUTHORITY

By _____
Its President

By _____
Its Secretary

STATE OF MINNESOTA)

)ss.

COUNTY OF ST. LOUIS)

The foregoing instrument was acknowledged before me this _____ day of _____, 2020, by _____ and _____, the President and Secretary respectively, of the Duluth Economic Development Authority, a public body, corporate and politic and political subdivision under Minnesota Statutes Chapter 469.

Notary Public

EXHIBIT A
RELEASE

I certify by signing below that I own all legal rights including all rights of use and the copyright on _____ (insert the title shown on the design development plans and specifications) dated _____ including all final renderings, floorplans, site plans and elevations, (the "Plans") submitted to the City of Duluth ("City") by me, my agents or representatives in connection with: DEDA Contract No. _____

Project: _____
(Name of project)

Located at: _____
(Street address)

I agree to grant and release to the City the limited right to copy and disseminate the Plans and other related documents and electronic media prepared by me or on my behalf for the Project, and to publish the same to the public for the limited purpose of disclosure, marketing, and public information and use.

City acknowledges that the Plans were prepared for a specific party and specific application. The Plans are not permitted, released, licensed or authorized to, or for use by, any person or party other than that for which they were originally prepared. The signor specifically disclaims any guaranty or warranty of any kind as to their applicability, appropriateness or utility in any other application. Any use of the Plans by any other person or in any other application is solely at the risk of the user and the signor shall have no liability for such use or arising out of such use. Signor reserves and does not disclaim any rights, including but not limited to proprietary rights, or claims with respect to the Plans.

I represent and warrant that the work created or prepared by me or on my behalf is original and does not infringe upon the rights of any third party, and I further represent that the work will not have been previously assigned, licensed or otherwise encumbered.

I have read the foregoing before signing below and warrant that I fully understand the contents thereof.

Signed: _____

Date: _____

By: _____
(Print name)

Position (if applicable): _____

Firm (if applicable): _____

Address: _____

City: _____ State: _____ Zip Code: _____

Phone: _____ Email: _____

DATA PRACTICES NOTICE:

According to the Minnesota Government Data Practices Act, the information you provide on this form will be classified as government data. Most government data, including your name, address, e-mail address and telephone number, is public and is available to the public upon request. Some of the information you provide may be classified as private data. Furnishing the requested information is voluntary, but if you refuse to supply the requested information, you may not be considered for participation in the Project.

RESOLUTION 21D-03

**RESOLUTION AUTHORIZING A LAND SALE AGREEMENT WITH
SIMPLY TINY DEVELOPMENT, LLC RELATED TO THE REBUILD DULUTH
PROGRAM**

RESOLVED, by the Duluth Economic Development Authority (“DEDA”) that DEDA does hereby make the following determinations and findings:

- A. That the sale of property to Simply Tiny Development, LLC is in the best interests of the City of Duluth and its people and that the transaction furthers the general plan for economic development in the area.
 - B. That, after not less than ten (10) or more than twenty (20) days' published notice, the public hearing was held by other electronic means pursuant to Minnesota Statutes Section 13D.021, at or shortly after 5:15 p.m. on December 16, 2020, regarding the proposed sale.
 - C. That the sale of the property described below to Simply Tiny Development, LLC conforms in all respects to the requirements of Minnesota Statutes 469.105.
2. That the proper DEDA officials are hereby authorized to execute the Rebuild Duluth Land Sale Agreement, substantially in the form of the copy attached hereto, with Simply Tiny Development, LLC for the sale of that property in St. Louis County, Minnesota, legally described below at no cost to Simply Tiny Development, LLC:
- Lots ten (10) and eleven (11), Block one hundred twenty-eight (128), Portland Division of Town of Duluth, St. Louis County, Minnesota (the “Property”).
3. That the proper DEDA officials are hereby further authorized to execute all documents necessary to effectuate the sale of the Property to Simply Tiny Development, LLC.

Approved by the Duluth Economic Development Authority this 27th day of January, 2021.

ATTEST:

Executive Director

STATEMENT OF PURPOSE: The Rebuild Duluth Program is designed to incentivize the construction of innovatively designed, affordable housing units by providing vacant lots at no cost to qualified purchasers who have been selected through a formal application and selection process. The purpose of this resolution is to authorize the sale of certain property in the East Hillside neighborhood depicted on the attachment to this resolution to Simply Tiny Development, LLC as part of the Rebuild Duluth Program.

**REBUILD DULUTH
LAND SALE AGREEMENT
SIMPLY TINY DEVELOPMENT, LLC**

THIS LAND SALE AGREEMENT (this "Agreement") is made as of the last date of signature acknowledgement below (the "Effective Date") 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 Simply Tiny Development, LLC, a Minnesota Limited Liability Company, hereinafter referred to as "Buyer".

WHEREAS, DEDA has a program entitled "Rebuild Duluth", the materials of which are on file in the DEDA office, 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"); and

WHEREAS, Buyer has submitted an application (the "Application") to acquire the hereinafter-described vacant Property and has proposed to construct thereon a Housing Unit conforming substantially to that shown on the plans and specifications appended to the Application (the "Application Plans") at an estimated total construction cost of \$849,083 (the "Application Project Cost"); and

WHEREAS, DEDA has determined that the conveyance of said Property to Buyer for construction of a Housing Unit on the Property under the terms and conditions set forth in the Application and this Agreement is in the best interests of the City of Duluth (the "City") and its people and that the transaction furthers DEDA's general plan for development.

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. Earnest Money

Buyer shall not be required to pay any earnest money for the acquisition of the Property.

2. Conveyance of Property

Subject to the terms and conditions of this Agreement, DEDA will convey to Buyer and Buyer will acquire from DEDA, by quitclaim deed at no cost to Buyer except as set forth herein, real property located in St. Louis County, Minnesota and legally described as follows: Lots 10 and 11, Block 128, Portland Division of Town of Duluth, together with any and all improvements located thereon and all privileges, rights and easements appurtenant thereto (the "Property").

3. Use of the Property

Buyer agrees to construct a Housing Unit substantially in conformance with the Application Plans for a cost not in excess of the Application Project Cost except as provided for below pursuant to the Application and in accordance with the requirements of the Program (the "Project").

4. Inspection and Due Diligence Contingency

Buyer and its employees, agents, contractors and subcontractors, shall have a non-exclusive license for 75 days from the Effective Date (the "Inspection Period") to enter onto the Property (the "Inspection License") with all necessary tools, equipment and related materials for the purpose of conducting inspections related to the condition of the Property (the "Site Inspections"). No tools, equipment or related materials shall be stored on the Property, and DEDA shall not be responsible for the security of or any damage to Buyer's property. Any Site Inspections activities that constitute earth-disturbing activities, including but not limited to soil boring, excavation or earth removal shall be subject to the prior written approval of DEDA's Executive Director or his designee (the "Executive Director"). Under no circumstances may any unapproved excavation, construction site-disturbing activities or storage of materials or equipment occur on the Property prior to Closing (defined below). Additionally, Buyer shall use the Inspection Period to obtain all construction cost and site-information necessary to finance the Project prior to Closing (defined below).

Buyer agrees that all Site Inspections done on the Property prior to Closing (defined below) shall be at the sole risk and expense of Buyer, and in the event that the Closing does not occur for any reason, Buyer will not be entitled to any lien against the Property in relation to the Site Inspections. Buyer shall restore the Property to its condition as of the effective date of this Agreement prior to the end of the Inspection Period. If Buyer fails to restore the Property, DEDA may itself cause the Property to be so restored and Buyer agrees to fully reimburse DEDA for the cost thereof; this obligation shall survive the termination of this Agreement as applicable. The Inspection License shall terminate automatically upon termination of this Agreement.

If Buyer is unsatisfied with the condition of the Property, Buyer may terminate this Agreement by delivering written notice of termination to DEDA before the expiration of the Inspection Period. If Buyer terminates this Agreement pursuant to this paragraph, the parties shall have no further obligations to one another pursuant to this Agreement except as expressly set forth in this Agreement.

5. Title Commitment

Within 75 days of the Effective Date, DEDA will order at DEDA's cost a title insurance commitment for an ALTA Owner's Policy of Title Insurance insuring title to the Property from a title company selected by DEDA (the "Title Commitment"). The premium for a title insurance policy, if Buyer elects to obtain title insurance, shall be paid for by Buyer. In the event that the Title Commitment reflects that title to the Property is not "marketable", Buyer may object to the title defects by specifying Buyer's objections in writing to DEDA within 10 days of receipt of the Title Commitment. At DEDA's election, DEDA may fix any title defects, or alternatively DEDA may decline to fix any title defects by delivering written notice to Buyer within 10 days of receipt of Buyer's title objections. If DEDA fixes the title defects, the parties shall proceed to Closing subject to the terms and conditions of this Agreement. If DEDA declines to fix the title defects, Buyer may waive any such title objection or may terminate this Agreement by delivering written notice of termination to DEDA within 5 days of receiving notice that DEDA will not fix the title defects. If Buyer terminates this Agreement pursuant to this paragraph, the parties shall have no further obligations to one another pursuant to this Agreement except as expressly set forth in this Agreement. If Buyer

fails to terminate this Agreement pursuant to this paragraph, the parties shall proceed to the Closing as contemplated by this Agreement.

6. Approval of Plans and Specifications

No later than 30 days following the Inspection Period, Buyer shall deliver to the Executive Director complete plans and specifications for the Project including working drawings, construction specifications, landscaping plans, elevations and floorplans in a form acceptable to the Executive Director in his sole discretion (the "Plans and Specifications"). The Plans and Specifications shall conform substantially to the Application Plans except as approved by the Executive Director. The Plans and Specifications shall be subject to the written approval of the Executive Director. In the event of any proposed change in the Plans and Specifications after the initial approval by the Executive Director, the Plans and Specifications for said proposed change shall be likewise subject to the approval of the Executive Director. Upon approval by the Executive Director of the Plans and Specifications for the Project, Buyer shall provide a Copyright Release to the Executive Director in the form of that attached hereto as Exhibit A.

7. Submittal of Cost

No later than 30 days following the Inspection Period, Buyer shall submit to DEDA in writing a certified bid and/or a construction contract from a licensed contractor committing to construct the Project in conformance with the Plans and Specifications and stating the total cost thereof (the "Total Project Cost"). In the event the Total Project Cost is 25% or more over the Application Project Cost, Buyer at Buyer's option may (i) terminate this Agreement or (ii) may pay the amount of \$29,500 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.

8. Closing

The closing on the Property (the "Closing") shall occur i) after DEDA receives from Buyer and has approved the Plans and Specifications, the evidence of Total Project Cost as required in Section 7 above, and evidence that a building permit

application has been conditionally approved by the City's Construction Services and Inspections Division for the construction of the Project, ii) concurrent with the closing on Buyer's construction financing for the Project, and iii) at a time mutually agreeable to the parties but in no event later than June 1, 2021 (the "Closing Date"). Closing on the Property and on Buyer's construction financing shall occur at the title company selected by DEDA DEDA shall deliver possession of the Property on the Closing Date.

Notwithstanding the above, the Closing Date may be extended in writing in the sole discretion of the Executive Director. If the Closing has not occurred on or before the Closing Date, (i) this Agreement shall automatically terminate; (ii) upon request, each party shall promptly sign a Cancellation of Land Sale Agreement evidencing the cancellation of this Agreement; and (iii) except as expressly set forth in this Agreement, the parties shall have no further obligations to one another pursuant to this Agreement.

9. Quitclaim Deed

On the Closing Date, DEDA shall deliver a quitclaim deed to Buyer conveying DEDA's interest in the Property to Buyer. The conveyance of title to the Property shall be subject to covenants, conditions, restrictions, declarations, easements and encumbrances of record, if any; the reservation of minerals and mineral rights by the State of Minnesota, if applicable; unpaid real estate taxes and assessments; restrictions related to the use or improvement of the Property without effective forfeiture provision; and any law, ordinance, or governing regulations including but not limited to building and zoning ordinances restricting, regulating or prohibiting the occupancy, use, enjoyment, improvement or subdivision of the Property.

10. Deed Covenant

The deed conveying the Property shall incorporate, as a covenant running with the Property, the conditions of Minnesota Statutes Sections 469.090 to 469.108 relating to the use of the Property, and shall provide that if said covenant is violated, DEDA may declare a breach of the covenant and seek a judicial decree from the District Court declaring a forfeiture and a cancellation of the deed. DEDA will file an appropriate release or satisfaction of such covenants upon (i) completion of construction of the Housing Unit in accordance with the requirements of the Program and the Plans and Specifications as determined in the sole discretion of the Executive Director, and (ii)

issuance of a certificate of occupancy by the City's Construction Services and Inspections Division (the "Certificate of Occupancy").

11. Recordation

Buyer agrees to pay all costs, including but not limited to recording fees and state deed tax, associated with the recording of this Agreement and the quitclaim deed in the office of the St. Louis County Recorder and/or Registrar of Titles, as applicable.

12. Project Contingencies

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 the Total Project Cost. Additionally, Buyer agrees to provide DEDA staff with sworn construction statements or final pricing from a licensed contractor showing that the Project complies with Program requirements and the Plans and Specifications and did not cost more than the Total Project Cost. 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 in conformance with the above requirements, this shall be a default as set forth in Section 19 for which the remedies set forth in said Section 19 shall apply.

13. Deadlines

Within one year from the Closing Date, Buyer shall have commenced construction on the Project in accordance with the requirements of this Agreement and have filed an affidavit with the Executive Director, executed by Buyer, to which are attached pictures of commenced construction.

On or before December 31, 2022, Buyer shall provide the Executive Director (i) evidence of completion of construction of the Housing Unit in accordance with the requirements of this Agreement and the Plans and Specifications; and (ii) evidence of the issuance of the Certificate of Occupancy. If Buyer fails to meet either the one-year deadline or the December 31, 2022 deadline as stated above, DEDA may, but shall not be obligated to, cancel the sale and title to the Property shall revert to DEDA.

14. Statutory Disclosures

DEDA staff handling the sale of the Property on behalf of DEDA have no actual knowledge of the following with respect to the Property: (1) the presence of a well, underground storage tank or subsurface sewage treatment system; or (2) methamphetamine production on the Property.

15. Indemnity

Buyer shall be liable for any damage or injury to any person or property occasioned by the acts of Buyer, its employees, agents, contractors and subcontractors, relating to the Property. Buyer shall indemnify and hold harmless DEDA and the City and their officers, directors, agents and employees from any and all liens, liabilities, losses, claims, costs, or damages, including reasonable attorney fees and costs, causes of action, suits, claims, demands, and judgments of any nature resulting from the use of the Property pursuant to this Agreement.

Buyer hereby agrees that for itself, its successors and assigns, it will indemnify and save DEDA, the City and their officers, agents, servants and employees and any person who controls DEDA or the City within the meaning of the Securities Act of 1933 harmless from and against all liabilities, losses, damages, costs, expenses, including attorney's fees and expenses, causes of action, suits, claims, demands and judgments arising out of any condition existing on the Property, whether pre-existing or after created, which constitutes a violation of any federal, state or local environmental laws, rules or regulations with regard to pollutants or hazardous or dangerous substances or arising out of the presence on the Property 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 person(s) or damage to property. Buyer's indemnification shall include all the costs of clean up; remediation; costs incurred in proceedings before a court of law or an administrative agency including attorney's fees, expenses, and the fees and expenses of persons providing technical expertise addressing such problems, including expert witnesses; the cost 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 conditions existing on the Property. Provided, however, that the indemnity provided by Buyer to DEDA and the City pursuant to this paragraph is

intended to run only to the benefit of DEDA and the City and is not intended to, nor shall it, inure to the benefit of any other third party.

Promptly after receipt by DEDA of notice of the commencement of any action with respect to which Buyer is required to indemnify DEDA or the City under this Agreement, DEDA shall notify Buyer in writing of the commencement of the action, and, subject to the provisions as hereinafter stated, Buyer shall assume the defense of the action, including the employment of counsel satisfactory to DEDA and/or the City and the payment of expenses. In so far as such action shall relate to any alleged liability of DEDA and/or the City with respect to which indemnity may be sought against Buyer, DEDA and/or the City shall have the right to employ separate counsel and to participate in the defense thereof, and the fees and expenses of such separate counsel shall be at the expense of Buyer. This paragraph 14 shall survive the Closing and cancellation of this Agreement for any reason.

16. Assumption of Risk

Buyer agrees that it is experienced in and knowledgeable about the development of real estate and has exclusively relied on its own consultants, advisors, counsel, employees, agents, principals and/or studies, investigations and/or inspections with respect to the Property, its condition, value and potential. The conveyance of the Property to Buyer shall constitute Buyer's acknowledgment that it has independently inspected and investigated the Property. Upon conveyance, Buyer shall assume the risk that adverse matters, including but not limited to adverse physical and environmental conditions and the suitability or unsuitability of the Property for Buyer's intended use may not have been revealed by Buyer's investigations.

17. No Representations by DEDA

Without limitation, Buyer acknowledges that neither DEDA nor any of its officers, agents, servants, employees or any other person or entity representing or purporting to represent DEDA has made any representations or warranties (whether express or implied, oral or written) regarding the Property or the Project, including but not limited to the value, quality or condition of the Property or the Project; the status of title to the Property; the suitability of the Property or the Project for any activity or use which Buyer may conduct; the compliance of the Property or the Project with any laws or regulations;

the habitability, merchantability, marketability, profitability, or fitness of the Property or the Project for a particular purpose; and compliance by the Property or the Project with any and all environmental rules, regulations, orders or laws. Buyer acknowledges and agrees that DEDA has no obligation to remove any personal property or debris from the Property. Buyer acknowledges and agrees that, to the maximum extent permitted by law, Buyer is purchasing the Property in its "AS-IS" condition. This paragraph 16 shall survive the Closing and cancellation of this Agreement for any reason.

18. Taxes and Costs

Any real estate taxes on the Property as of the Closing Date shall be prorated as of the Closing based upon the latest available tax statement (though the parties believe the Property is currently property tax-exempt). Buyer shall be responsible for all real estate taxes and assessments for the year following Closing and all subsequent years. Buyer shall pay all closing costs, recording fees, any real estate transfer tax or conveyance fees, all title company costs, except for the cost of the Title Commitment which will be paid by DEDA, and any other costs and expenses required to effectuate the conveyance and acquisition contemplated by this Agreement.

19. Default and Remedies

In the event that Buyer fails to perform or to comply with any of the terms, covenants and conditions of this Agreement, DEDA shall give written notice of such default, specifying the nature of the default and, as appropriate, the corrective measures required and allowing Buyer reasonable time to cure, said cure period not to exceed thirty (30) days. If the default is not corrected within such cure period, or is incapable of being cured, DEDA may, in addition to the remedies set forth in Paragraph 13, at its option, exercise any one or more of the rights and remedies described below. The remedies provided for under this Agreement shall be deemed to be cumulative and non-exclusive and the election of one remedy shall not be deemed to be a waiver of any other remedy with regard to any occasion of default hereunder. Further, the waiver by DEDA of any default on the part of Buyer hereunder or the failure of DEDA to declare default on the part of Buyer 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 Buyer of the

same or any other obligation of Buyer hereunder and, to be effective, any waiver of any default by Buyer hereunder shall be in writing by DEDA.

- a. DEDA may seek and be entitled to monetary damages, including consequential damages, from Buyer for any damages incurred by DEDA as a result of Buyer's default.
- b. DEDA may seek and be entitled to receive reconveyance of the Property from Buyer, free and clear of all liens and encumbrances whatsoever and free and clear of all structures or buildings and personal property.
- c. DEDA may seek and be entitled to injunctive and declaratory relief as is necessary to prevent Buyer's violation of the terms and conditions.
- d. DEDA may seek such other legal or equitable relief as a court of competent jurisdiction may be determined as available to DEDA.

20. Subordination

The Executive Director may, in his sole discretion, decide to subordinate this Agreement to liens or rights of other parties. Said consent of the Executive Director will be deemed valid only when reduced to writing.

21. Assignment

The parties acknowledge that DEDA is relying upon the qualifications and identity of Buyer to complete the Project. Therefore, Buyer 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, nor has it nor will it allow any change in the identity of the principals or their respective percentages of ownership or voting rights, if such change would result in a change of control, and has not or will not otherwise transfer in any other way all or any portion of the Property, Buyer, the Project, the Housing Unit, this Agreement or any other contract or agreement entered into in connection with carrying out its obligations hereunder; and Buyer will not make or create or suffer to be made any such transfer of Buyer's rights hereunder (an "Assignment"). Notwithstanding the above, the Executive Director may, in his sole discretion, consent in writing to an Assignment by Buyer. If an Assignment is approved by the Executive Director, the assignee shall explicitly assume the obligations of Buyer under this Agreement and

claim could properly be brought against DEDA for any commission, finder's fee or other form of compensation of a similar character as a result of this transaction.

25. Construction

Both parties have contributed to the drafting of this Agreement. In the event of a dispute, this Agreement shall be construed without reference to any rule of construction based on the identity of the drafters of this Agreement.

26. Applicable Law

This Agreement, together with all of its paragraphs, terms and conditions, 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.

27. No Third Party Rights

This Agreement is to be construed and understood solely as an Agreement between Buyer and DEDA and, except as provided for in Paragraph 14 with respect to the City, shall not be deemed to create any rights in any other person. No person shall have the right to make claim that she or he is a third party beneficiary of this Agreement or of any of the terms and conditions hereof, which, as between DEDA and Buyer, may be waived at any time by mutual agreement between DEDA and Buyer.

28. Independent Contractor

Nothing herein contained is intended or shall be construed in any manner as creating or establishing a relationship of co-partners between the parties hereto or of constituting Buyer as an agent, representative or employee of DEDA for any purpose or in any manner whatsoever.

29. 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.

Simply Tiny Development

By _____

Sarah Wright

Its Owner

STATE OF MINNESOTA)

) ss.

COUNTY OF ST. LOUIS)

The foregoing instrument was acknowledged before me this _____ day of _____, 2020, by _____, the _____ of _____, a _____, on behalf of the _____.

Notary Public

This Instrument Drafted By:

Robert Asleson

Assistant City Attorney

440 City Hall

Duluth, Minnesota 55802

EXHIBIT A
COPYRIGHT RELEASE

I certify by signing below that I own all legal rights including all rights of use and the copyright on _____ (insert the title shown on the design plans and specifications) dated _____ including all renderings, floorplans, site plans and elevations, submitted to the City of Duluth ("City") by me, my agents or representatives in connection with:

Project: _____
(Name of project)

Located at: _____
(Street address)

I agree to unconditionally transfer and assign to the City all copyright claims, trade secrets or other proprietary rights with respect to the design plans and specifications and other documents and electronic media prepared by me or on my behalf for the Project, and I grant the City the right to publish and to permit use of the same by the public.

I agree that all design plans and specifications and other documents and electronic media prepared by me or on my behalf for the Project are the sole property of the City and its assigns free of any retention rights.

I represent and warrant that the work created or prepared by me or on my behalf will be original and will not infringe upon the rights of any third party, and I further represent that the work will not have been previously assigned, licensed or otherwise encumbered.

I have read the foregoing before signing below and warrant that I fully understand the contents thereof.

Signed: _____

Date: _____

By: _____
(Print name)

Position (if applicable): _____

Firm (if applicable): _____

Address: _____

City: _____ State: _____ Zip Code: _____

Phone: _____

Email: _____

DATA PRACTICES NOTICE:

According to the Minnesota Government Data Practices Act, the information you provide on this form will be classified as government data. Most government data, including your name, address, e-mail address and telephone number, is public and is available to the public upon request. Some of the information you provide may be classified as private data. Furnishing the requested information is voluntary, but if you refuse to supply the requested information, you may not be considered for participation in the Project.

RESOLUTION 21D-04

**RESOLUTION AUTHORIZING A LAND SALE AGREEMENT WITH
SIMPLY TINY DEVELOPMENT, LLC RELATED TO THE REBUILD DULUTH
PROGRAM**

RESOLVED, by the Duluth Economic Development Authority (“DEDA”) that DEDA does hereby make the following determinations and findings:

- A. That the sale of property to Simply Tiny Development, LLC is in the best interests of the City of Duluth and its people and that the transaction furthers the general plan for economic development in the area.
 - B. That, after not less than ten (10) or more than twenty (20) days' published notice, the public hearing was held by other electronic means pursuant to Minnesota Statutes Section 13D.021, at or shortly after 5:15 p.m. on December 16, 2020, regarding the proposed sale.
 - C. That the sale of the property described below to Simply Tiny Development, LLC conforms in all respects to the requirements of Minnesota Statutes 469.105.
2. That the proper DEDA officials are hereby authorized to execute the Rebuild Duluth Land Sale Agreement, substantially in the form of the copy attached hereto, with Simply Tiny Development, LLC for the sale of that property in St. Louis County, Minnesota, legally described below at no cost to Simply Tiny Development, LLC:
- Lots one (1), two (2), three (3) and four (4), Block twenty-three (23), New Duluth 1st Division, St. Louis County, Minnesota (the “Property”).
3. That the proper DEDA officials are hereby further authorized to execute all documents necessary to effectuate the sale of the Property to Simply Tiny Development, LLC.

Approved by the Duluth Economic Development Authority this 27th day of January, 2021.

ATTEST:

Executive Director

STATEMENT OF PURPOSE: The Rebuild Duluth Program is designed to incentivize the construction of innovatively designed, affordable housing units by providing vacant lots at no cost to qualified purchasers who have been selected through a formal application and selection process. The purpose of this resolution is to authorize the sale of certain property in the Gary New Duluth neighborhood depicted on the attachment to this resolution to Simply Tiny Development, LLC as part of the Rebuild Duluth Program.

REBUILD DULUTH
LAND SALE AGREEMENT
SIMPLY TINY DEVELOPMENT, LLC

THIS LAND SALE AGREEMENT (this "Agreement") is made as of the last date of signature acknowledgement below (the "Effective Date") 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 Simply Tiny Development, LLC, a Minnesota Limited Liability Company, hereinafter referred to as "Buyer".

WHEREAS, DEDA has a program entitled "Rebuild Duluth", the materials of which are on file in the DEDA office, 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"); and

WHEREAS, Buyer has submitted an application (the "Application") to acquire the hereinafter-described vacant Property and has proposed to construct thereon a Housing Unit conforming substantially to that shown on the plans and specifications appended to the Application (the "Application Plans") at an estimated total construction cost of \$1,529,447 (the "Application Project Cost"); and

WHEREAS, DEDA has determined that the conveyance of said Property to Buyer for construction of a Housing Unit on the Property under the terms and conditions set forth in the Application and this Agreement is in the best interests of the City of Duluth (the "City") and its people and that the transaction furthers DEDA's general plan for development.

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. Earnest Money

Buyer shall not be required to pay any earnest money for the acquisition of the Property.

2. Conveyance of Property

Subject to the terms and conditions of this Agreement, DEDA will convey to Buyer and Buyer will acquire from DEDA, by quitclaim deed at no cost to Buyer except as set forth herein, real property located in St. Louis County, Minnesota and legally described as follows: Lots 1, 2, 3 and 4, Block 23, New Duluth 1st Division, together with any and all improvements located thereon and all privileges, rights and easements appurtenant thereto (the "Property").

3. Use of the Property

Buyer agrees to construct a Housing Unit substantially in conformance with the Application Plans for a cost not in excess of the Application Project Cost except as provided for below pursuant to the Application and in accordance with the requirements of the Program (the "Project").

4. Inspection and Due Diligence Contingency

Buyer and its employees, agents, contractors and subcontractors, shall have a non-exclusive license for 75 days from the Effective Date (the "Inspection Period") to enter onto the Property (the "Inspection License") with all necessary tools, equipment and related materials for the purpose of conducting inspections related to the condition of the Property (the "Site Inspections"). No tools, equipment or related materials shall be stored on the Property, and DEDA shall not be responsible for the security of or any damage to Buyer's property. Any Site Inspections activities that constitute earth-disturbing activities, including but not limited to soil boring, excavation or earth removal shall be subject to the prior written approval of DEDA's Executive Director or his designee (the "Executive Director"). Under no circumstances may any unapproved excavation, construction site-disturbing activities or storage of materials or equipment occur on the Property prior to Closing (defined below). Additionally, Buyer shall use the Inspection Period to obtain all construction cost and site-information necessary to finance the Project prior to Closing (defined below).

Buyer agrees that all Site Inspections done on the Property prior to Closing (defined below) shall be at the sole risk and expense of Buyer, and in the event that the Closing does not occur for any reason, Buyer will not be entitled to any lien against the Property in relation to the Site Inspections. Buyer shall restore the Property to its condition as of the effective date of this Agreement prior to the end of the Inspection Period. If Buyer fails to restore the Property, DEDA may itself cause the Property to be so restored and Buyer agrees to fully reimburse DEDA for the cost thereof; this obligation shall survive the termination of this Agreement as applicable. The Inspection License shall terminate automatically upon termination of this Agreement.

If Buyer is unsatisfied with the condition of the Property, Buyer may terminate this Agreement by delivering written notice of termination to DEDA before the expiration of the Inspection Period. If Buyer terminates this Agreement pursuant to this paragraph, the parties shall have no further obligations to one another pursuant to this Agreement except as expressly set forth in this Agreement.

5. Title Commitment

Within 75 days of the Effective Date, DEDA will order at DEDA's cost a title insurance commitment for an ALTA Owner's Policy of Title Insurance insuring title to the Property from a title company selected by DEDA (the "Title Commitment"). The premium for a title insurance policy, if Buyer elects to obtain title insurance, shall be paid for by Buyer. In the event that the Title Commitment reflects that title to the Property is not "marketable", Buyer may object to the title defects by specifying Buyer's objections in writing to DEDA within 10 days of receipt of the Title Commitment. At DEDA's election, DEDA may fix any title defects, or alternatively DEDA may decline to fix any title defects by delivering written notice to Buyer within 10 days of receipt of Buyer's title objections. If DEDA fixes the title defects, the parties shall proceed to Closing subject to the terms and conditions of this Agreement. If DEDA declines to fix the title defects, Buyer may waive any such title objection or may terminate this Agreement by delivering written notice of termination to DEDA within 5 days of receiving notice that DEDA will not fix the title defects. If Buyer terminates this Agreement pursuant to this paragraph, the parties shall have no further obligations to one another pursuant to this Agreement except as expressly set forth in this Agreement. If Buyer

fails to terminate this Agreement pursuant to this paragraph, the parties shall proceed to the Closing as contemplated by this Agreement.

6. Approval of Plans and Specifications

No later than 30 days following the Inspection Period, Buyer shall deliver to the Executive Director complete plans and specifications for the Project including working drawings, construction specifications, landscaping plans, elevations and floorplans in a form acceptable to the Executive Director in his sole discretion (the "Plans and Specifications"). The Plans and Specifications shall conform substantially to the Application Plans except as approved by the Executive Director. The Plans and Specifications shall be subject to the written approval of the Executive Director. In the event of any proposed change in the Plans and Specifications after the initial approval by the Executive Director, the Plans and Specifications for said proposed change shall be likewise subject to the approval of the Executive Director. Upon approval by the Executive Director of the Plans and Specifications for the Project, Buyer shall provide a Copyright Release to the Executive Director in the form of that attached hereto as Exhibit A.

7. Submittal of Cost

No later than 30 days following the Inspection Period, Buyer shall submit to DEDA in writing a certified bid and/or a construction contract from a licensed contractor committing to construct the Project in conformance with the Plans and Specifications and stating the total cost thereof (the "Total Project Cost"). In the event the Total Project Cost is 25% or more over the Application Project Cost, Buyer at Buyer's option may (i) terminate this Agreement or (ii) may pay the amount of \$34,900 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.

8. Closing

The closing on the Property (the "Closing") shall occur i) after DEDA receives from Buyer and has approved the Plans and Specifications, the evidence of Total Project Cost as required in Section 7 above, and evidence that a building permit

application has been conditionally approved by the City's Construction Services and Inspections Division for the construction of the Project, ii) concurrent with the closing on Buyer's construction financing for the Project, and iii) at a time mutually agreeable to the parties but in no event later than June 1, 2021 (the "Closing Date"). Closing on the Property and on Buyer's construction financing shall occur at the title company selected by DEDA; DEDA shall deliver possession of the Property on the Closing Date.

Notwithstanding the above, the Closing Date may be extended in writing in the sole discretion of the Executive Director. If the Closing has not occurred on or before the Closing Date, (i) this Agreement shall automatically terminate; (ii) upon request, each party shall promptly sign a Cancellation of Land Sale Agreement evidencing the cancellation of this Agreement; and (iii) except as expressly set forth in this Agreement, the parties shall have no further obligations to one another pursuant to this Agreement.

9. Quitclaim Deed

On the Closing Date, DEDA shall deliver a quitclaim deed to Buyer conveying DEDA's interest in the Property to Buyer. The conveyance of title to the Property shall be subject to covenants, conditions, restrictions, declarations, easements and encumbrances of record, if any; the reservation of minerals and mineral rights by the State of Minnesota, if applicable; unpaid real estate taxes and assessments; restrictions related to the use or improvement of the Property without effective forfeiture provision; and any law, ordinance, or governing regulations including but not limited to building and zoning ordinances restricting, regulating or prohibiting the occupancy, use, enjoyment, improvement or subdivision of the Property.

10. Deed Covenant

The deed conveying the Property shall incorporate, as a covenant running with the Property, the conditions of Minnesota Statutes Sections 469.090 to 469.108 relating to the use of the Property, and shall provide that if said covenant is violated, DEDA may declare a breach of the covenant and seek a judicial decree from the District Court declaring a forfeiture and a cancellation of the deed. DEDA will file an appropriate release or satisfaction of such covenants upon (i) completion of construction of the Housing Unit in accordance with the requirements of the Program and the Plans and Specifications as determined in the sole discretion of the Executive Director, and (ii)

issuance of a certificate of occupancy by the City's Construction Services and Inspections Division (the "Certificate of Occupancy").

11. Recordation

Buyer agrees to pay all costs, including but not limited to recording fees and state deed tax, associated with the recording of this Agreement and the quitclaim deed in the office of the St. Louis County Recorder and/or Registrar of Titles, as applicable.

12. Project Contingencies

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 the Total Project Cost. Additionally, Buyer agrees to provide DEDA staff with sworn construction statements or final pricing from a licensed contractor showing that the Project complies with Program requirements and the Plans and Specifications and did not cost more than the Total Project Cost. 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 in conformance with the above requirements, this shall be a default as set forth in Section 19 for which the remedies set forth in said Section 19 shall apply.

13. Deadlines

Within one year from the Closing Date, Buyer shall have commenced construction on the Project in accordance with the requirements of this Agreement and have filed an affidavit with the Executive Director, executed by Buyer, to which are attached pictures of commenced construction.

On or before December 31, 2022, Buyer shall provide the Executive Director (i) evidence of completion of construction of the Housing Unit in accordance with the requirements of this Agreement and the Plans and Specifications; and (ii) evidence of the issuance of the Certificate of Occupancy. If Buyer fails to meet either the one-year deadline or the December 31, 2022 deadline as stated above, DEDA may, but shall not be obligated to, cancel the sale and title to the Property shall revert to DEDA.

14. Statutory Disclosures

DEDA staff handling the sale of the Property on behalf of DEDA have no actual knowledge of the following with respect to the Property: (1) the presence of a well, underground storage tank or subsurface sewage treatment system; or (2) methamphetamine production on the Property.

15. Indemnity

Buyer shall be liable for any damage or injury to any person or property occasioned by the acts of Buyer, its employees, agents, contractors and subcontractors, relating to the Property. Buyer shall indemnify and hold harmless DEDA and the City and their officers, directors, agents and employees from any and all liens, liabilities, losses, claims, costs, or damages, including reasonable attorney fees and costs, causes of action, suits, claims, demands, and judgments of any nature resulting from the use of the Property pursuant to this Agreement.

Buyer hereby agrees that for itself, its successors and assigns, it will indemnify and save DEDA, the City and their officers, agents, servants and employees and any person who controls DEDA or the City within the meaning of the Securities Act of 1933 harmless from and against all liabilities, losses, damages, costs, expenses, including attorney's fees and expenses, causes of action, suits, claims, demands and judgments arising out of any condition existing on the Property, whether pre-existing or after created, which constitutes a violation of any federal, state or local environmental laws, rules or regulations with regard to pollutants or hazardous or dangerous substances or arising out of the presence on the Property 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 person(s) or damage to property. Buyer's indemnification shall include all the costs of clean up; remediation; costs incurred in proceedings before a court of law or an administrative agency including attorney's fees, expenses, and the fees and expenses of persons providing technical expertise addressing such problems, including expert witnesses; the cost 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 conditions existing on the Property. Provided, however, that the indemnity provided by Buyer to DEDA and the City pursuant to this paragraph is

intended to run only to the benefit of DEDA and the City and is not intended to, nor shall it, inure to the benefit of any other third party.

Promptly after receipt by DEDA of notice of the commencement of any action with respect to which Buyer is required to indemnify DEDA or the City under this Agreement, DEDA shall notify Buyer in writing of the commencement of the action, and, subject to the provisions as hereinafter stated, Buyer shall assume the defense of the action, including the employment of counsel satisfactory to DEDA and/or the City and the payment of expenses. In so far as such action shall relate to any alleged liability of DEDA and/or the City with respect to which indemnity may be sought against Buyer, DEDA and/or the City shall have the right to employ separate counsel and to participate in the defense thereof, and the fees and expenses of such separate counsel shall be at the expense of Buyer. This paragraph 14 shall survive the Closing and cancellation of this Agreement for any reason.

16. Assumption of Risk

Buyer agrees that it is experienced in and knowledgeable about the development of real estate and has exclusively relied on its own consultants, advisors, counsel, employees, agents, principals and/or studies, investigations and/or inspections with respect to the Property, its condition, value and potential. The conveyance of the Property to Buyer shall constitute Buyer's acknowledgment that it has independently inspected and investigated the Property. Upon conveyance, Buyer shall assume the risk that adverse matters, including but not limited to adverse physical and environmental conditions and the suitability or unsuitability of the Property for Buyer's intended use may not have been revealed by Buyer's investigations.

17. No Representations by DEDA

Without limitation, Buyer acknowledges that neither DEDA nor any of its officers, agents, servants, employees or any other person or entity representing or purporting to represent DEDA has made any representations or warranties (whether express or implied, oral or written) regarding the Property or the Project, including but not limited to the value, quality or condition of the Property or the Project; the status of title to the Property; the suitability of the Property or the Project for any activity or use which Buyer may conduct; the compliance of the Property or the Project with any laws or regulations;

the habitability, merchantability, marketability, profitability, or fitness of the Property or the Project for a particular purpose; and compliance by the Property or the Project with any and all environmental rules, regulations, orders or laws. Buyer acknowledges and agrees that DEDA has no obligation to remove any personal property or debris from the Property. Buyer acknowledges and agrees that, to the maximum extent permitted by law, Buyer is purchasing the Property in its "AS-IS" condition. This paragraph 16 shall survive the Closing and cancellation of this Agreement for any reason.

18. Taxes and Costs

Any real estate taxes on the Property as of the Closing Date shall be prorated as of the Closing based upon the latest available tax statement (though the parties believe the Property is currently property tax-exempt). Buyer shall be responsible for all real estate taxes and assessments for the year following Closing and all subsequent years. Buyer shall pay all closing costs, recording fees, any real estate transfer tax or conveyance fees, all title company costs, except for the cost of the Title Commitment which will be paid by DEDA, and any other costs and expenses required to effectuate the conveyance and acquisition contemplated by this Agreement.

19. Default and Remedies

In the event that Buyer fails to perform or to comply with any of the terms, covenants and conditions of this Agreement, DEDA shall give written notice of such default, specifying the nature of the default and, as appropriate, the corrective measures required and allowing Buyer reasonable time to cure, said cure period not to exceed thirty (30) days. If the default is not corrected within such cure period, or is incapable of being cured, DEDA may, in addition to the remedies set forth in Paragraph 13, at its option, exercise any one or more of the rights and remedies described below. The remedies provided for under this Agreement shall be deemed to be cumulative and non-exclusive and the election of one remedy shall not be deemed to be a waiver of any other remedy with regard to any occasion of default hereunder. Further, the waiver by DEDA of any default on the part of Buyer hereunder or the failure of DEDA to declare default on the part of Buyer 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 Buyer of the

same or any other obligation of Buyer hereunder and, to be effective, any waiver of any default by Buyer hereunder shall be in writing by DEDA.

- a. DEDA may seek and be entitled to monetary damages, including consequential damages, from Buyer for any damages incurred by DEDA as a result of Buyer's default.
- b. DEDA may seek and be entitled to receive reconveyance of the Property from Buyer, free and clear of all liens and encumbrances whatsoever and free and clear of all structures or buildings and personal property.
- c. DEDA may seek and be entitled to injunctive and declaratory relief as is necessary to prevent Buyer's violation of the terms and conditions.
- d. DEDA may seek such other legal or equitable relief as a court of competent jurisdiction may be determined as available to DEDA.

20. Subordination

The Executive Director may, in his sole discretion, decide to subordinate this Agreement to liens or rights of other parties. Said consent of the Executive Director will be deemed valid only when reduced to writing.

21. Assignment

The parties acknowledge that DEDA is relying upon the qualifications and identity of Buyer to complete the Project. Therefore, Buyer 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, nor has it nor will it allow any change in the identity of the principals or their respective percentages of ownership or voting rights, if such change would result in a change of control, and has not or will not otherwise transfer in any other way all or any portion of the Property, Buyer, the Project, the Housing Unit, this Agreement or any other contract or agreement entered into in connection with carrying out its obligations hereunder; and Buyer will not make or create or suffer to be made any such transfer of Buyer's rights hereunder (an "Assignment"). Notwithstanding the above, the Executive Director may, in his sole discretion, consent in writing to an Assignment by Buyer. If an Assignment is approved by the Executive Director, the assignee shall explicitly assume the obligations of Buyer under this Agreement and

claim could properly be brought against DEDA for any commission, finder's fee or other form of compensation of a similar character as a result of this transaction.

25. Construction

Both parties have contributed to the drafting of this Agreement. In the event of a dispute, this Agreement shall be construed without reference to any rule of construction based on the identity of the drafters of this Agreement.

26. Applicable Law

This Agreement, together with all of its paragraphs, terms and conditions, 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.

27. No Third Party Rights

This Agreement is to be construed and understood solely as an Agreement between Buyer and DEDA and, except as provided for in Paragraph 14 with respect to the City, shall not be deemed to create any rights in any other person. No person shall have the right to make claim that she or he is a third party beneficiary of this Agreement or of any of the terms and conditions hereof, which, as between DEDA and Buyer, may be waived at any time by mutual agreement between DEDA and Buyer.

28. Independent Contractor

Nothing herein contained is intended or shall be construed in any manner as creating or establishing a relationship of co-partners between the parties hereto or of constituting Buyer as an agent, representative or employee of DEDA for any purpose or in any manner whatsoever.

29. 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.

Simply Tiny Development

By _____

Sarah Wright

Its Owner

STATE OF MINNESOTA)

) ss.

COUNTY OF ST. LOUIS)

The foregoing instrument was acknowledged before me this _____ day of _____, 2020, by _____, the _____ of _____, a _____, on behalf of the _____.

Notary Public

This Instrument Drafted By:

Robert Asleson

Assistant City Attorney

440 City Hall

Duluth, Minnesota 55802

EXHIBIT A
COPYRIGHT RELEASE

I certify by signing below that I own all legal rights including all rights of use and the copyright on _____ (insert the title shown on the design plans and specifications) dated _____ including all renderings, floorplans, site plans and elevations, submitted to the City of Duluth ("City") by me, my agents or representatives in connection with:

Project: _____
(Name of project)

Located at: _____
(Street address)

I agree to unconditionally transfer and assign to the City all copyright claims, trade secrets or other proprietary rights with respect to the design plans and specifications and other documents and electronic media prepared by me or on my behalf for the Project, and I grant the City the right to publish and to permit use of the same by the public.

I agree that all design plans and specifications and other documents and electronic media prepared by me or on my behalf for the Project are the sole property of the City and its assigns free of any retention rights.

I represent and warrant that the work created or prepared by me or on my behalf will be original and will not infringe upon the rights of any third party, and I further represent that the work will not have been previously assigned, licensed or otherwise encumbered.

I have read the foregoing before signing below and warrant that I fully understand the contents thereof.

Signed: _____

Date: _____

By: _____
(Print name)

Position (if applicable): _____

Firm (if applicable): _____

Address: _____

City: _____ State: _____ Zip Code: _____

Phone: _____

Email: _____

DATA PRACTICES NOTICE:

According to the Minnesota Government Data Practices Act, the information you provide on this form will be classified as government data. Most government data, including your name, address, e-mail address and telephone number, is public and is available to the public upon request. Some of the information you provide may be classified as private data. Furnishing the requested information is voluntary, but if you refuse to supply the requested information, you may not be considered for participation in the Project.

RESOLUTION 21D-05

RESOLUTION AUTHORIZING A LAND SALE AGREEMENT WITH THOMAS JONANOVICH RELATED TO THE REBUILD DULUTH PROGRAM

RESOLVED, by the Duluth Economic Development Authority (“DEDA”) that DEDA does hereby make the following determinations and findings:

- A. That the sale of property to Thomas Jovanovich is in the best interests of the City of Duluth and its people and that the transaction furthers the general plan for economic development in the area.
 - B. That, after not less than ten (10) or more than twenty (20) days' published notice, the public hearing was held by other electronic means pursuant to Minnesota Statutes Section 13D.021, at or shortly after 5:15 p.m. on December 16, 2020, regarding the proposed sale.
 - C. That the sale of the property described below to Thomas Jovanovich conforms in all respects to the requirements of Minnesota Statutes 469.105.
2. That the proper DEDA officials are hereby authorized to execute the Rebuild Duluth Land Sale Agreement, substantially in the form of the copy attached hereto, with Thomas Jovanovich for the sale of that property in St. Louis County, Minnesota, legally described below at no cost to Thomas Jovanovich:
- W ½ of lot twelve (12), East Fifth Street, DULUTH PROPER FIRST DIVISION, St. Louis County, Minnesota; and
- E ½ of lot twelve (12), East Fifth Street, DULUTH PROPER FIRST DIVISION, St. Louis County, Minnesota
3. That the proper DEDA officials are hereby further authorized to execute all documents necessary to effectuate the sale of the Property to Thomas Jovanovich.

Approved by the Duluth Economic Development Authority this 27th day of January, 2021.

ATTEST:

Executive Director

STATEMENT OF PURPOSE: The Rebuild Duluth Program is designed to incentivize the construction of innovatively designed, affordable housing units by providing vacant lots at no cost to qualified purchasers who have been selected through a formal application and selection process. The purpose of this resolution is to authorize the sale of certain property in the Central Hillside neighborhood depicted on the attachment to this resolution to Thomas Jovanovich as part of the Rebuild Duluth Program.

**REBUILD DULUTH
LAND SALE AGREEMENT
THOMAS JOVANOVICH**

THIS LAND SALE AGREEMENT (this "Agreement") is made as of the last date of signature acknowledgement below (the "Effective Date") 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 Thomas Jovanovich, a married person, hereinafter referred to as "Buyer".

WHEREAS, DEDA has a program entitled "Rebuild Duluth", the materials of which are on file in the DEDA office, 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"); and

WHEREAS, Buyer has submitted an application (the "Application") to acquire the hereinafter-described vacant Property and has proposed to construct thereon a Housing Unit conforming substantially to that shown on the plans and specifications appended to the Application (the "Application Plans") at an estimated total construction cost of \$149,737 (the "Application Project Cost"); and

WHEREAS, DEDA has determined that the conveyance of said Property to Buyer for construction of a Housing Unit on the Property under the terms and conditions set forth in the Application and this Agreement is in the best interests of the City of Duluth (the "City") and its people and that the transaction furthers DEDA's general plan for development.

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. Earnest Money

Buyer shall not be required to pay any earnest money for the acquisition of the Property.

2. Conveyance of Property

Subject to the terms and conditions of this Agreement, DEDA will convey to Buyer and Buyer will acquire from DEDA, by quitclaim deed at no cost to Buyer except as set forth herein, real property located in St. Louis County, Minnesota and legally described as follows: Eastern ½ and Western ½ of Lot 12, Duluth Proper 1st Division East 5th Street, together with any and all improvements located thereon and all privileges, rights and easements appurtenant thereto (the "Property").

3. Use of the Property

Buyer agrees to construct a Housing Unit substantially in conformance with the Application Plans for a cost not in excess of the Application Project Cost except as provided for below pursuant to the Application and in accordance with the requirements of the Program (the "Project").

4. Inspection and Due Diligence Contingency

Buyer and its employees, agents, contractors and subcontractors, shall have a non-exclusive license for 120 days from the Effective Date (the "Inspection Period") to enter onto the Property (the "Inspection License") with all necessary tools, equipment and related materials for the purpose of conducting inspections related to the condition of the Property (the "Site Inspections"). No tools, equipment or related materials shall be stored on the Property, and DEDA shall not be responsible for the security of or any damage to Buyer's property. Any Site Inspections activities that constitute earth-disturbing activities, including but not limited to soil boring, excavation or earth removal shall be subject to the prior written approval of DEDA's Executive Director or his designee (the "Executive Director"). Under no circumstances may any unapproved excavation, construction site-disturbing activities or storage of materials or equipment occur on the Property prior to Closing (defined below). Additionally, Buyer shall use the Inspection Period to obtain all construction cost and site-information necessary to finance the Project prior to Closing (defined below).

Buyer agrees that all Site Inspections done on the Property prior to Closing (defined below) shall be at the sole risk and expense of Buyer, and in the event that the Closing does not occur for any reason, Buyer will not be entitled to any lien against the Property in relation to the Site Inspections. Buyer shall restore the Property to its condition as of the effective date of this Agreement prior to the end of the Inspection Period. If Buyer fails to restore the Property, DEDA may itself cause the Property to be so restored and Buyer agrees to fully reimburse DEDA for the cost thereof; this obligation shall survive the termination of this Agreement as applicable. The Inspection License shall terminate automatically upon termination of this Agreement.

If Buyer is unsatisfied with the condition of the Property, Buyer may terminate this Agreement by delivering written notice of termination to DEDA before the expiration of the Inspection Period. If Buyer terminates this Agreement pursuant to this paragraph, the parties shall have no further obligations to one another pursuant to this Agreement except as expressly set forth in this Agreement.

5. Title Commitment

Within 75 days of the Effective Date, DEDA will order at DEDA's cost a title insurance commitment for an ALTA Owner's Policy of Title Insurance insuring title to the Property from a title company selected by DEDA (the "Title Commitment"). The premium for a title insurance policy, if Buyer elects to obtain title insurance, shall be paid for by Buyer. In the event that the Title Commitment reflects that title to the Property is not "marketable", Buyer may object to the title defects by specifying Buyer's objections in writing to DEDA within 10 days of receipt of the Title Commitment. At DEDA's election, DEDA may fix any title defects, or alternatively DEDA may decline to fix any title defects by delivering written notice to Buyer within 10 days of receipt of Buyer's title objections. If DEDA fixes the title defects, the parties shall proceed to Closing subject to the terms and conditions of this Agreement. If DEDA declines to fix the title defects, Buyer may waive any such title objection or may terminate this Agreement by delivering written notice of termination to DEDA within 5 days of receiving notice that DEDA will not fix the title defects. If Buyer terminates this Agreement pursuant to this paragraph, the parties shall have no further obligations to one another pursuant to this Agreement except as expressly set forth in this Agreement. If Buyer

fails to terminate this Agreement pursuant to this paragraph, the parties shall proceed to the Closing as contemplated by this Agreement.

6. Approval of Plans and Specifications

No later than 30 days following the Inspection Period, Buyer shall deliver to the Executive Director complete design development plans and related specifications for the Project together with landscaping plans, elevations and floorplans in a form acceptable to the Executive Director in his sole discretion (the "Plans and Specifications"). The Plans and Specifications shall conform substantially to the Application Plans except as approved by the Executive Director. The Plans and Specifications shall be subject to the written approval of the Executive Director. In the event of any proposed change in the Plans and Specifications after the initial approval by the Executive Director, the Plans and Specifications for said proposed change shall be likewise subject to the approval of the Executive Director. Upon approval by the Executive Director of the Plans and Specifications for the Project, Buyer shall provide a Release to the Executive Director in the form of that attached hereto as Exhibit A.

7. Submittal of Cost

No later than 30 days following the Inspection Period, Buyer shall submit to DEDA in writing a certified bid and/or a construction contract from a licensed contractor committing to construct the Project in conformance with the Plans and Specifications and stating the total cost thereof (the "Total Project Cost"). In the event the Total Project Cost is 25% or more over the Application Project Cost, Buyer at Buyer's option may (i) terminate this Agreement or (ii) may pay the amount of \$25,700 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.

8. Closing

The closing on the Property (the "Closing") shall occur i) after DEDA receives from Buyer and has approved the Plans and Specifications, the evidence of Total Project Cost as required in Section 7 above, and evidence that a building permit

application has been conditionally approved by the City's Construction Services and Inspections Division for the construction of the Project conforming to the Plans and Specifications, ii) proof reasonably satisfactory to the Executive Director that the Buyer's construction financing for the Project is committed and in place, iii) the Executive Director has received a signed construction contract or certified bid for the construction of the Project in conformance with the Plans and Specifications between Buyer and a contractor capable of constructing the Project and iv) at a time mutually agreeable to the parties but in no event later than June 1, 2021 (the "Closing Date"). Closing on the Property and on Buyer's construction financing shall occur at the title company selected by DEDA. DEDA shall deliver possession of the Property on the Closing Date. Notwithstanding the above, the Closing Date may be extended in writing in the sole discretion of the Executive Director upon the Executive Director's determination that the delay in Closing is for good cause beyond the control of Buyer. In the event that the Executive Director so extends the Closing, it shall be to a date certain as set forth in the written grant of extension. If the Closing has not occurred on or before the Closing Date unless so extended, (i) this Agreement shall automatically terminate; (ii) upon request, each party shall promptly sign a Cancellation of Land Sale Agreement evidencing the cancellation of this Agreement; and (iii) except as expressly set forth in this Agreement, the parties shall have no further obligations to one another pursuant to this Agreement.

9. Quitclaim Deed

On the Closing Date, DEDA shall deliver a quitclaim deed to Buyer conveying DEDA's interest in the Property to Buyer. The conveyance of title to the Property shall be subject to covenants, conditions, restrictions, declarations, easements and encumbrances of record, if any; the reservation of minerals and mineral rights by the State of Minnesota, if applicable; unpaid real estate taxes and assessments; restrictions related to the use or improvement of the Property without effective forfeiture provision; and any law, ordinance, or governing regulations including but not limited to building and zoning ordinances restricting, regulating or prohibiting the occupancy, use, enjoyment, improvement or subdivision of the Property.

10. Deed Covenant

The deed conveying the Property shall incorporate, as a covenant running with the Property, the conditions of Minnesota Statutes Sections 469.090 to 469.108 relating to the use of the Property, and shall provide that if said covenant is violated, DEDA may declare a breach of the covenant and seek a judicial decree from the District Court declaring a forfeiture and a cancellation of the deed. DEDA will file an appropriate release or satisfaction of such covenants upon (i) completion of construction of the Housing Unit in accordance with the requirements of the Program and the Plans and Specifications as determined in the sole discretion of the Executive Director, and (ii) issuance of a certificate of occupancy by the City's Construction Services and Inspections Division (the "Certificate of Occupancy").

11. Recordation

Buyer agrees to pay all costs, including but not limited to recording fees and state deed tax, associated with the recording of this Agreement and the quitclaim deed in the office of the St. Louis County Recorder and/or Registrar of Titles, as applicable.

12. Project Contingencies

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 the Total Project Cost. Additionally, Buyer agrees to provide DEDA staff with sworn construction statements or final pricing from a licensed contractor showing that the Project complies with Program requirements and the Plans and Specifications and did not cost more than the Total Project Cost. If Buyer fails to provide the information required in this Section, this shall be a default as set forth in Section 19 for which the remedies set forth in said Section 19 shall apply.

13. Deadlines

Within one year from the Closing Date, Buyer shall have commenced construction on the Project in accordance with the requirements of this Agreement and have filed an affidavit with the Executive Director, executed by Buyer, to which are attached pictures of commenced construction.

On or before December 31, 2022, Buyer shall provide the Executive Director (i) evidence of completion of construction of the Housing Unit in accordance with the

requirements of this Agreement, and (ii) evidence of the issuance of the Certificate of Occupancy. If Buyer fails to meet either the one-year deadline or the December 31, 2022 deadline as stated above, DEDA may, but shall not be obligated to, cancel the sale and title to the Property shall revert to DEDA.

14. Statutory Disclosures

DEDA staff handling the sale of the Property on behalf of DEDA have no actual knowledge of the following with respect to the Property: (1) the presence of a well, underground storage tank or subsurface sewage treatment system; or (2) methamphetamine production on the Property.

15. Indemnity

Buyer shall be liable for any damage or injury to any person or property occasioned by the acts of Buyer, its employees, agents, contractors and subcontractors, relating to the Property. Buyer shall indemnify and hold harmless DEDA and the City and their officers, directors, agents and employees from any and all liens, liabilities, losses, claims, costs, or damages, including reasonable attorney fees and costs, causes of action, suits, claims, demands, and judgments of any nature arising out of the use of the Property by Buyer or its successors in interest or out of this Agreement.

Buyer hereby agrees that for itself, its successors and assigns, it will indemnify and save DEDA, the City and their officers, agents, servants and employees and any person who controls DEDA or the City within the meaning of the Securities Act of 1933 harmless from and against all liabilities, losses, damages, costs, expenses, including attorney's fees and expenses, causes of action, suits, claims, demands and judgments arising out of any condition existing on the Property, whether pre-existing or after created, which constitutes a violation of any federal, state or local environmental laws, rules or regulations with regard to pollutants or hazardous or dangerous substances or arising out of the presence on the Property 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 person(s) or damage to property. Buyer's indemnification shall include all the costs of clean up; remediation; costs incurred in proceedings before a court of law or an administrative agency including attorney's fees, expenses, and the fees and expenses of persons providing technical expertise

addressing such problems, including expert witnesses; the cost 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 conditions existing on the Property. Provided, however, that the indemnity provided by Buyer to DEDA and the City pursuant to this paragraph is intended to run only to the benefit of DEDA and the City and is not intended to, nor shall it, inure to the benefit of any other third party.

Promptly after receipt by DEDA of notice of the commencement of any action with respect to which Buyer is required to indemnify DEDA or the City under this Agreement, DEDA shall notify Buyer in writing of the commencement of the action, and, subject to the provisions as hereinafter stated, Buyer shall assume the defense of the action, including the employment of counsel satisfactory to DEDA and/or the City and the payment of expenses. In so far as such action shall relate to any alleged liability of DEDA and/or the City with respect to which indemnity may be sought against Buyer, DEDA and/or the City shall have the right to employ separate counsel and to participate in the defense thereof, and the fees and expenses of such separate counsel shall be at the expense of Buyer. This paragraph 15 shall survive the cancellation of this Agreement for any reason.

16. Assumption of Risk

Buyer agrees that it is experienced in and knowledgeable about the development of real estate and has exclusively relied on its own consultants, advisors, counsel, employees, agents, principals and/or studies, investigations and/or inspections with respect to the Property, its condition, value and potential. The conveyance of the Property to Buyer shall constitute Buyer's acknowledgment that it has independently inspected and investigated the Property. Upon conveyance, Buyer shall assume the risk that adverse matters, including but not limited to adverse physical and environmental conditions and the suitability or unsuitability of the Property for Buyer's intended use may not have been revealed by Buyer's investigations.

17. No Representations by DEDA

Without limitation, Buyer acknowledges that neither DEDA nor any of its officers, agents, servants, employees or any other person or entity representing or purporting to

represent DEDA has made any representations or warranties (whether express or implied, oral or written) regarding the Property or the Project, including but not limited to the value, quality or condition of the Property or the Project; the status of title to the Property; the suitability of the Property or the Project for any activity or use which Buyer may conduct; the compliance of the Property or the Project with any laws or regulations; the habitability, merchantability, marketability, profitability, or fitness of the Property or the Project for a particular purpose; and compliance by the Property or the Project with any and all environmental rules, regulations, orders or laws. Buyer acknowledges and agrees that DEDA has no obligation to remove any personal property or debris from the Property. Buyer acknowledges and agrees that, to the maximum extent permitted by law, Buyer is purchasing the Property in its "AS-IS" condition. This paragraph 16 shall survive the Closing and cancellation of this Agreement for any reason.

18. Taxes and Costs

Any real estate taxes on the Property as of the Closing Date shall be prorated as of the Closing based upon the latest available tax statement (though the parties believe the Property is currently property tax-exempt). From and after Closing, Buyer and its successors in interest shall be responsible for all real estate taxes payable on the Property and assessments against the Property arising by reason of its private ownership. Buyer shall pay all closing costs, recording fees, any real estate transfer tax or conveyance fees, all title company costs, except for the cost of the Title Commitment which will be paid by DEDA, and any other costs and expenses required to effectuate the conveyance and acquisition contemplated by this Agreement.

19. Default and Remedies

In the event that Buyer fails to perform or to comply with any of the terms, covenants and conditions of this Agreement, DEDA shall give written notice of such default, specifying the nature of the default and, as appropriate, the corrective measures required and allowing Buyer reasonable time to cure, said cure period not to exceed thirty (30) days. If the default is not corrected within such cure period, or is incapable of being cured, DEDA may, in addition to the remedies set forth in Paragraph 13, at its option, exercise any one or more of the rights and remedies described below. The remedies provided for under this Agreement shall be deemed to be cumulative and non-

exclusive and the election of one remedy shall not be deemed to be a waiver of any other remedy with regard to any occasion of default hereunder. Further, the waiver by DEDA of any default on the part of Buyer hereunder or the failure of DEDA to declare default on the part of Buyer 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 Buyer of the same or any other obligation of Buyer hereunder and, to be effective, any waiver of any default by Buyer hereunder shall be in writing by DEDA.

- a. DEDA may seek and be entitled to monetary damages, from Buyer for any damages incurred by DEDA as a result of Buyer's default.
- b. DEDA may seek and be entitled to receive reconveyance of the Property from Buyer, free and clear of all liens and encumbrances whatsoever, excepting any liens and encumbrances which may have been on the Property at the time of its conveyance from DEDA to Buyer, and free and clear of all personal property.
- c. DEDA may seek and be entitled to injunctive and declaratory relief as is necessary to prevent Buyer's violation of the terms and conditions.
- d. DEDA may seek such other legal or equitable relief as a court of competent jurisdiction may be determined as available to DEDA.

20. Subordination

The Executive Director may, in his sole discretion, decide to subordinate this Agreement to liens or rights of other parties. Said consent of the Executive Director will be deemed valid only when reduced to writing.

21. Assignment

a. Assignments

_____ The parties acknowledge that DEDA is relying upon the qualifications and identity of Buyer to complete the Project. Therefore, Buyer 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, nor has it nor will it allow any change in the identity of the principals or their respective percentages of ownership or voting rights, if

such change would result in a change of control, and has not or will not otherwise transfer in any other way all or any portion of the Property, Buyer, the Project, the Housing Unit, this Agreement or any other contract or agreement entered into in connection with carrying out its obligations hereunder; and Buyer will not make or create or suffer to be made any such transfer of Buyer's rights hereunder (an "Assignment").

Notwithstanding the above, the Executive Director may, in his sole discretion, consent in writing to an Assignment by Buyer. Further, notwithstanding the above, the Buyer may without further consent of DEDA assign the this Agreement to an entity solely owned and controlled by Buyer subject to the provisions below; Buyer shall give written notice of any such assignment to DEDA within Fifteen (15) days of any such assignment. If an Assignment is so approved or permitted, the assignee shall explicitly assume the obligations of Buyer under this Agreement and Buyer shall remain liable for the performance of Buyer's obligations under this Agreement.

b. Pre-sales

Nothing herein shall be deemed to prevent Buyer from pre-selling the Housing Units constructed pursuant to this Agreement prior to the issuance by DEDA of the release or satisfaction provided for in Section 10 above but Buyer shall not close on the conveyance of any such Housing Units prior the issuance by DEDA of such release or satisfaction.

22. Publicity

Within 30 days of issuance of the Certificate of Occupancy, Buyer shall provide the following information regarding the Project to the Executive Director: photos of the interior and exterior of the Housing Unit, the Plans and Specifications including a license or such other grant of right of use as provided for in Exhibit A in favor of the City and the general public, the construction timeline and budget, and other pertinent information regarding the construction of the Housing Unit (collectively, the "Project Information"). Buyer agrees that the Project may be featured publicly and may include publication of the Project Information. Project Information may also be published on the City's

website.

23. 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 regular U.S. Mail, registered mail, or certified mail, postage prepaid; or hand delivered to:

In the Case of DEDA: Duluth Economic Development Authority
City Hall –Room 402
411 W 1st ST.
Duluth, Minnesota 55802
Attn: Executive Director

In the Case of Buyer: Thomas Jovanovich
901 Anderson Rd.
Duluth, MN 55811

24. No Real Estate Broker

Buyer represents and warrants to DEDA that this Agreement is made and entered into without the aid or assistance of a Buyer's broker or other Buyer's agent, and Buyer hereby represents and warrants to DEDA that Buyer has not entered into an agreement or made any undertaking of any kind whatsoever as a result of which any claim could properly be brought against DEDA for any commission, finder's fee or other form of compensation of a similar character as a result of this transaction.

25. Construction

Both parties have contributed to the drafting of this Agreement. In the event of a dispute, this Agreement shall be construed without reference to any rule of construction based on the identity of the drafters of this Agreement.

26. Applicable Law

This Agreement, together with all of its paragraphs, terms and conditions, 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.

27. No Third Party Rights

This Agreement is to be construed and understood solely as an Agreement between Buyer and DEDA and, except as provided for in Paragraph 14 with respect to the City, shall not be deemed to create any rights in any other person. No person shall have the right to make claim that she or he is a third party beneficiary of this Agreement or of any of the terms and conditions hereof, which, as between DEDA and Buyer, may be waived at any time by mutual agreement between DEDA and Buyer.

28. Independent Contractor

Nothing herein contained is intended or shall be construed in any manner as creating or establishing a relationship of co-partners between the parties hereto or of constituting Buyer as an agent, representative or employee of DEDA for any purpose or in any manner whatsoever.

29. 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.

30. Entire Agreement

The entire agreement of the parties is contained herein and this Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter hereof. Any amendment to this Agreement shall be in writing and shall be executed by the same parties who executed this Agreement or their successors in office.

31. Counterparts

This Agreement 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.

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

DULUTH ECONOMIC DEVELOPMENT AUTHORITY

By _____
Its President

By _____
Its Secretary

STATE OF MINNESOTA)

)ss.

COUNTY OF ST. LOUIS)

The foregoing instrument was acknowledged before me this _____ day of _____, 2020, by _____ and _____, the President and Secretary respectively, of the Duluth Economic Development Authority, a public body, corporate and politic and political subdivision under Minnesota Statutes Chapter 469.

Notary Public

EXHIBIT A
RELEASE

I certify by signing below that I own all legal rights including all rights of use and the copyright on _____ (insert the title shown on the design development plans and specifications) dated _____ including all renderings, floorplans, site plans and elevations, (the "Plans") submitted to the City of Duluth ("City") by me, my agents or representatives in connection with:
DEDA Contract No. _____

Project: _____
(Name of project)
Located at: _____
(Street address)

I agree to unconditionally grant and release to the City an unconditional right to use, copy, disseminate and use all copyright claims, trade secrets or other proprietary rights with respect to the Plans and other documents and electronic media prepared by me or on my behalf for the Project, and I grant the City the right to publish and to permit use of the same by the public.

City acknowledges that the Plans were prepared for a specific application and that the signor specifically disclaims any guaranty or warranty of any kind to their applicability, appropriateness or utility in any other application. Any use of the Plans in any other application is solely at the risk of the user and the signor shall have no liability for such use or arising out of such use.

I represent and warrant that the work created or prepared by me or on my behalf will be original and will not infringe upon the rights of any third party, and I further represent that the work will not have been previously assigned, licensed or otherwise encumbered.

I have read the foregoing before signing below and warrant that I fully understand the contents thereof.

Signed: _____

Date: _____

By: _____
(Print name)

Position (if applicable): _____

Firm (if applicable): _____

Address: _____

City: _____ State: _____ Zip Code: _____

Phone: _____ Email: _____

DATA PRACTICES NOTICE:

According to the Minnesota Government Data Practices Act, the information you provide on this form will be classified as government data. Most government data, including your name, address, e-mail address and telephone number, is public and is available to the public upon request. Some of the information you provide may be classified as private data. Furnishing the requested information is voluntary, but if you refuse to supply the requested information, you may not be considered for participation in the Project.

RESOLUTION 21D-06

RESOLUTION AUTHORIZING A REDEVELOPMENT GRANT APPLICATION IN AN AMOUNT NOT EXCEED \$478,000 TO THE MINNESOTA DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT RELATING TO PROPERTY LOCATED AT 521 WEST 2ND STREET AND COMMITTING A MATCH OF NOT LESS THAN FIFTY PERCENT OF THE AWARDED AMOUNT.

RESOLVED, by the Duluth Economic Development Authority ("DEDA") that DEDA act as the legal sponsor, subject to the receipt of legally required approvals, for the project contained in the Redevelopment Grant Program Application for a project redeveloping a residential structure, 20% of the units of which will be rented at rates affordable to people earning 60% or less of the area median income in an amount not to exceed \$478,000 to be submitted on February 1, 2021, and that the President and Secretary of DEDA are hereby authorized to apply to the Department of Employment and Economic Development (DEED) for funding of this project on behalf of DEDA.

BE IT FURTHER RESOLVED, that DEDA has the legal authority to apply for financial assistance and the institutional, managerial and financial capability to ensure adequate project administration.

BE IT FURTHER RESOLVED, that the sources and amounts of DEDA match identified in the application in the amount of not less than fifty (50) percent of the grant award are committed to the project identified, subject to the foregoing.

BE IT FURTHER RESOLVED, that if the project identified in the application fails to substantially provide the public benefits listed in the application within five years from the date of the grant award, DEDA may be required to repay 100 percent of the grant awarded per Minn. Stat. § 116J.575 Subd. 4;

BE IT FURTHER RESOLVED, that DEDA has not violated any Federal, State or local laws pertaining to fraud, bribery, graft, kick-back, collusion, conflict of interest or other unlawful or corrupt practice.

BE IT FURTHER RESOLVED, that upon approval of its application by the state, DEDA may enter into an agreement with the State of Minnesota for the above referenced project, and that DEDA certifies that it will comply with all applicable laws and regulations as stated in all contract agreements so entered into.

BE IT FURTHER RESOLVED, that the president and secretary are hereby authorized to execute such agreements as are necessary to implement the project on behalf of the applicant subject to the foregoing.

Approved by the Duluth Economic Development Authority this 27th day of January 2021.

ATTEST:

Executive Director

STATEMENT OF PURPOSE: Minnesota-based developer Blue Limit, LLC (Developer) intends to work with the current property owner, Jail Holding LLC to redevelop the former St. Louis County Jail site at 521 West 2nd Street, on which it will redevelop into a 32-unit apartment building. The Developer has agreed to lease at least 20% of the units at rates that are at or below 60% of Area Median Income.

The purpose of this resolution is to authorize DEDA to submit a Minnesota DEED Redevelopment Grant application to assist the Developer with costs associated with building rehabilitation, including demolition of the annex portion of the structure, utility improvements, and lead paint removal and abatement. The Developer has secured initial approval of State and Federal Historic Tax Credits to assist with redevelopment.

The DEED Redevelopment Grant provides a grant award for up to 50% of the estimated total cost of the redevelopment work and requires a local match of not less than 50% of the total costs. This resolution also commits the DEDA to support the project through the provision of the local share, subject to the approvals required from the City Council, and to potentially repay the amount of the state grant in the event that the project should fail to meet its objectives.

RESOLUTION 21D-07

RESOLUTION ELECTING OFFICERS FOR THE YEAR 2021

RESOLVED, by the Duluth Economic Development Authority ("DEDA") that the following DEDA Commissioners are hereby elected to the offices ascribed to them for the year 2021.

President: _____
Vice President: _____
Secretary: _____
Treasurer: _____

Approved by the Duluth Economic Development Authority this 27th day of January, 2021.

ATTEST:

Executive Director

STATEMENT OF PURPOSE: The purpose of this Resolution is to elect DEDA officers for the year 2021.

RESOLUTION 21D-08

**RESOLUTION OF THE DULUTH ECONOMIC DEVELOPMENT
AUTHORITY FINDING PARCELS ARE OCCUPIED BY
STRUCTURALLY SUBSTANDARD BUILDINGS AND MEETS THE
REQUIREMENTS OF A REDEVELOPMENT TAX INCREMENT
FINANCING DISTRICT UNDER MINNESOTA STATUTES §469.174,
SUBD. 10**

WHEREAS, it has been proposed that Duluth Economic Development Authority (“DEDA”) create a tax increment financing district in an area within the City of Duluth, Minnesota (the “City”) to be designated a redevelopment district as defined in Minnesota Statutes, Section 469.174, Subd. 10; and

WHEREAS, in order to create this type of tax increment financing district, DEDA must make a determination that before the demolition or removal of any substandard buildings, certain conditions existed; and

WHEREAS, the conditions found by DEDA to exist throughout the proposed tax increment financing district are that parcels consisting of 70 percent of the area of the district are occupied by buildings, streets, utilities, paved or gravel parking lots, or other similar structures and more than 50 percent of the buildings, not including outbuildings, are structurally substandard to a degree requiring substantial renovation or clearance; and

WHEREAS, in order to deem a parcel as being occupied by a structurally substandard building, DEDA must first pass a resolution before the demolition or removal that the parcel was occupied by one or more structurally substandard buildings and that after demolition and clearance DEDA intended to include the parcel within the proposed tax increment financing district; and

WHEREAS, there exists in the City on the parcel described in Exhibit A attached hereto (the “Parcel”) one or more structurally substandard buildings to be demolished or removed (the “Substandard Building Condition”); and

WHEREAS, a parcel is deemed to be occupied by a structurally substandard building if the Substandard Building Condition is met within three years of the filing of the request for certification of the parcel as part of the tax increment financing district with the county auditor; and if certain other conditions are met.

NOW, THEREFORE, BE IT RESOLVED by the DEDA that:

1. DEDA has received from LHB, Inc. the “Kemps Redevelopment TIF District” dated January 11, 2021 (the “Inspection Report”), finding that, based on an inspection of the building located on the Parcel, such building was determined to be substandard under the definition set forth in Minnesota Statutes §§ 469.174 to 469.1794, as amended, (the

“TIF Act”). Based on the Inspection Report and other information available to DEDA, DEDA finds that the Parcel consisting of 70 percent of the area of the proposed tax increment financing district is occupied by buildings, streets, utilities, paved or gravel parking lots, or other similar structures and more than 50 percent of the buildings, not including outbuildings, are structurally substandard to a degree requiring substantial renovation or clearance as required by the TIF Act.

2. After the date of approval of this resolution, the building on the Parcel may be demolished or removed by DEDA, or such demolition or removal may be financed by DEDA, or may be undertaken by a developer under a development agreement with DEDA.

3. DEDA intends to include the Parcel in a redevelopment tax increment financing district, and to file the request for certification of such district with the St. Louis County Auditor within 3 years after the date of demolition of the building on the Parcel.

4. DEDA staff and consultants are authorized to take any actions necessary to carry out the intent of this resolution.

Approved by the Duluth Economic Development Authority this 27th day of January, 2021.

ATTEST:

Executive Director

STATEMENT OF PURPOSE: The property formerly operated by Kemps Dairy and known as Franklin Foods, 1928 W 1st St., has been vacant since 2014. The new owner of the property anticipates that a meaningful project may require TIF assistance; before they demolish the structures, we need to establish the property’s eligibility for a redevelopment tax increment financing district. The structurally-substandard condition of those structures contributes to the district meeting statute-based requirements for a redevelopment TIF district. Approval of this resolution memorializes the condition of the structure on the parcel so that, after its removal from the site, its structurally substandard condition will continue to contribute to the findings for a redevelopment tax increment financing district should such a district be established.

EXHIBIT A

PARCEL IDENTIFICATION NUMBER

Parcel Number	Address	Owner Name
010-1120-05620	32 N 20 th Ave W	Northridge Accommodations LLC
010-1120-05600	1928 W 1 st St	Northridge Accommodations LLC
010-1120-05560	1926 W 1 st St	Northridge Accommodations LLC
010-1120-05540	N/A	Northridge Accommodations LLC
010-1120-05541	21 N 19th Ave W	Northridge Accommodations LLC
010-1120-05540	N/A	Northridge Accommodations LLC

RESOLUTION 21D-09

**RESOLUTION AUTHORIZING LEASE AGREEMENT
WITH RED WAGON POPCORN LLC FOR THE LEASE
OF SPACE IN THE LIGHTHOUSE LOT FOR OPERATION
OF A VENDING BUSINESS**

RESOLVED, by the Duluth Economic Development Authority ("DEDA") that the proper DEDA officials are hereby authorized to enter into a Lease Agreement (DEDA Contract No. 21 860 ____), substantially in the form of that attached hereto, with Red Wagon Popcorn, LLC for the lease of space in the Lighthouse Lot in Canal Park for the operation of Lessee's vending business for rental of 10% of gross sales, payable to Fund 866.

Approved by the Duluth Economic Development Authority this 27th day of January, 2021.

ATTEST:

Executive Director

STATEMENT OF PURPOSE: The purpose of this resolution is to authorize the execution of a lease for the continued operation of the Red Wagon Popcorn business in the Lighthouse Lot in Canal Park. This business has operating in this location under a lease from DEDA for many years from at least May to September; they pay DEDA a percentage of gross sales. This resolution would authorize their continued operation through 2021.

VENDING SERVICE LEASE AGREEMENT

THIS AGREEMENT, entered into this ____ day of _____, 2021, by and between the DULUTH ECONOMIC DEVELOPMENT AUTHORITY, an economic development authority created under Minnesota Statutes (1989) Chapter 469 ("DEDA"), and RED WAGON POPCORN, LLC. , a Minnesota limited liability company ("Vendor").

WHEREAS, Vendor purchased and assumed operations of the vending facility in the Lighthouse Lot that historically operated under various lease agreements with the City of Duluth (the "City") and DEDA; the most current such agreement was entered into on November 19, 2015, and terminated on December 31 , 2019, which lease was continued on a month-to-month basis (the "DEDA Lease"); and

WHEREAS, DEDA desires to have Vendor continue his vending operation in substantially the same manner and in the same parking lot as had been previously agreed to between Vendor and DEDA under the DEDA Lease.

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

1. This Agreement shall be deemed to commence on May 1, 2021 and shall continue through December 31, 2021 unless earlier terminated as provided for herein. DEDA's Executive Director (the Executive Director), at his/her sole discretion or Vendor, may terminate the Agreement without cause prior to any Operating Season (as more specifically described below) by giving written notice of said termination on or before April 1 of the upcoming season said Operating Season.

2. During the Operating Season (as more specifically described below), Vendor shall have the right to sell popcorn, snow cones/shaved ice, cotton candy, pop and hot beverages from a permitted cart (the "Services"), at a location designated by DEDA's Executive Director or his/her designee (the "Executive Director") in the Lighthouse Lot. The Lighthouse Lot is legally described as follows:

All that part of Lots 270, 272, 274, 276, 278, 280, LAKE SHORE, UPPER DULUTH, lying easterly of the westerly line of St. Croix Avenue (as such west line is located by condemnation plat, filed November 24, 1896, in said Register of Deeds office, bearing Register's number 5764) and also lying between the prolongation of the southerly line of Lot 270, Lake Shore, on the south and the prolongation of the center line of Morse Street in said plat of Upper Duluth on the North, to the low watermark on Lake Superior, together with the riparian rights belonging to said lands and lots above described.

The portion of the Lighthouse Lot currently designated for the Vendor consists of two parking spaces, located in the southwest corner of the Lighthouse Lot as shaded in red on the attached Exhibit A (the "Leased Premises"). Vendor is taking the Leased Premises in an "as is" condition and DEDA has no obligation to make any improvements or alterations to the Leased Premises to prepare them for Vendor's use

3. Vendor shall operate his Services on a regular daily basis from a minimum of May 15 through September 30, weather permitting (the "Operating Season"). Vendor may extend the Operating Season by a one (1) month period on either side of the Operating Season if he determines in good faith that the extension of Services will benefit both the seasonal tourists and his business. Any extension beyond the forgoing 1 -month period must have the prior written approval of the Executive Director.

4. In consideration for the concession, the Vendor agrees to pay DEDA a sum equal to ten percent (10%) of gross receipts from his operation in the Canal Park Parking Lot, excluding retail sales taxes. Said sum shall be paid to DEDA by the 15th day of each month for the preceding month, and a monthly report of receipts shall be submitted on a form approved by the Auditor of the City of Duluth by the same date.

5. Vendor shall reimburse DEDA for electricity used in the operation of his Services. The Vendor shall use the locking, metered outlet provided by DEDA and shall contact the Executive Director to have the meter read at the beginning and end of each year's operations. During the Operating Season, Vendor shall pay DEDA, in addition to the amount required under Paragraph 4, the sum of \$50.00 per month toward the cost of this electrical usage payable on the 15th day of each month for the preceding month. At the end of each Operating Season after the final meter reading, the electrical cost shall be reconciled and the Vendor shall pay, or be refunded as the case may be, the difference between his monthly payments and the actual cost of the electricity.

6. All payments and monthly reports should be sent to:

DEDA
Attn: Executive Director
411 W. First Street, Room 418
Duluth, MN 55802

7. Vendor shall maintain adequate books and records relating to the operation for Vendor's permitted business in the Lighthouse Parking Lot, which books and records shall be available to DEDA for inspection and audit.

8. Vendor shall maintain Commercial General Liability insurance on a claims made basis with limits of not less than One Million Five Hundred and Noll OOS Dollars (\$1 per claim and One Million Five Hundred and OO Dollars (\$1,500,000) per occurrence for personal and bodily injury and, property damage liability. Insurance shall cover:

- a. Public liability, including premises and operations coverage.
- b. Personal injury.
- c. Contractual liability covering the indemnity obligations set forth herein.
- d. Products—completed operations.

Vendor shall maintain Workers' Compensation Insurance in accordance with the laws of the State of Minnesota. All insurance required herein shall be taken out and maintained in responsible insurance companies organized under the laws of the states of the United States and licensed to do business in the State of Minnesota and with companies or underwriters satisfactory to the City Attorney. All insurance policies required above shall be primary and shall not require contribution from any coverage maintained by DEDA and/or City. Vendor agrees to provide a Certificate of Insurance to DEDA prior to the beginning of each operating season, evidencing such coverage and naming DEDA and the City of Duluth as additional insureds on the Commercial General Liability insurance. The Certificates shall provide that the policies shall not be canceled during the life of this Agreement without at least thirty (30) days' advance written notice to DEDA Neither

DEDA nor the City represents or guarantees that these types or limits of coverage are adequate to protect the Vendor's interests and liabilities. It shall be the obligation and responsibility of Vendor to insure, as it deems prudent, its own personal property, against damage. Neither DEDA nor the City has insurance coverage for Vendor's property and DEDA and the City expressly disclaim any and all liability for any and all losses, damage and/or claims to vehicles and/or personal possessions of Vendor.

9. Vendor hereby agrees to indemnify, save harmless, and defend DEDA and the City from any and all claims, including a claim for contribution or indemnity, suits, losses, costs, damages, or expenses on account of injuries or death of any person, including employees of the said Vendor and on account of any and all damages to property to whomsoever belonging, including property owned by, leased to, or in the care, custody and control of Vendor, or for any claim or cause of action arising or growing out of the use of the Leased Premises or the vending activity allowed herein.

10. Vendor shall not assign or transfer any of his rights or interests under this Agreement in any way whatsoever without the prior written consent of the Executive Director. Further, Vendor shall not assign any other person as being primarily responsible for the operation of the vending activity hereunder without the prior written consent of Executive Director.

11. Vendor shall keep the Leased Premises in a neat, orderly condition and shall perform all necessary and proper cleaning. Vendor shall be responsible for providing trash receptacles or utilizing a trash receptacle provided by the City, and picking up litter within 50 feet of Vendor's operation.

12. Vendor shall promptly pay or cause to be paid all lawful taxes and governmental charges, including real estate taxes and fees or taxes in lieu of real estate taxes at any time levied upon or against it or on the Leased Premises. Vendor shall further be obligated to pay any sales and use taxes imposed by any governmental entity entitled to impose such taxes on or before the date they are due and to file all required reports and forms in proper form related thereto on or before their due date; provided that nothing shall prevent Vendor from contesting in good faith, any such payment requirement except as such contest would negatively affect DEDA's rights under this Agreement or result in a lien being placed on the Leased Premises.

13. Vendor shall not create or permit any mortgage, encumbrance or lien or allow any mechanic's or materialmen's liens to be filed or established or to remain against the Leased Premises or any part thereof.

14. Any and all employees of Vendor or any other persons, while engaged in the performance of any service required by Vendor under this Agreement, shall not be considered employees of DEDA and/or the City of Duluth; and any and all claims that may or might arise under the Workers' Compensation Act of the State of Minnesota on behalf of said employees or any other persons while so engaged, and any and all claims made by third parties as a consequence of any act or omission on the part of Vendor or its agents and employees, or any other persons, while so engaged in any of the Services provided herein, shall in no way be the obligation or responsibility of DEDA or the City of Duluth.

15. Should the Vendor be in default under any terms and conditions of this Agreement, DEDA shall provide the Vendor with written notice of said conditions of default and shall allow the Vendor thirty (30) days within which to cure any defaults set forth therein. If the default is not cured within thirty (30) days, DEDA may immediately terminate this Agreement.

16. Notices to DEDA shall be sufficient if sent by regular United States Mail, postage prepaid, addressed to DEDA at Room 402 City Hall, 411 West First Street, Duluth, Minnesota 55802; and notices to Vendor if sent by regular United States Mail, postage prepaid, addressed to Michael Amendola, 5797 Castle Road, Duluth, Minnesota 55803 or to such other respective persons or addresses as the parties may designate to each other in writing from time to time.

17. The Vendor shall, within one (1) week after the end of the operating season or, in the event the Agreement is terminated, within one (1) week of said termination, remove from the premises all Vendor property, goods and effects, and upon failure to do so, DEDA by its officers and agents may cause such removal to be made and said property, goods and effects to be stored at the cost and expense of the Vendor; and DEDA shall have a lien thereon for the cost and expense of such removal and the storage of such goods, property, and effects. Vendor property, goods and effects not claimed within 30 days after the termination of this Agreement shall be deemed to have been abandoned to DEDA and the rights of Vendor to possession thereof shall cease.

18. Vendor shall maintain active membership in the Canal Park Business Association during the term of this Agreement.

19. Vendor agrees to comply in all respects with all federal, state and local laws, statutes, ordinances, rules and regulations now in effect or hereinafter promulgated pertaining to unlawful discrimination.

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

21. 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.

22. Any amendment to this Agreement shall be in writing and shall be executed by the same parties who executed the original Agreement or their successors in office.

23. Any waiver by any party of any provision of this Agreement shall not imply a subsequent waiver of that or any other provision.

24. This Agreement constitutes the entire Agreement between DEDA and Vendor and supersedes all prior written or oral agreements and negotiations between the parties relating to the subject matter hereto.

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

**DULUTH ECONOMIC DEVELOPMENT
AUTHORITY**, a Minnesota Economic
Development Authority

RED WAGON POPCORN, LLC., a
Minnesota Limited
Liability Company

By: _____
Its President

By: _____
Its: _____

By: _____
Its Secretary

Approved:

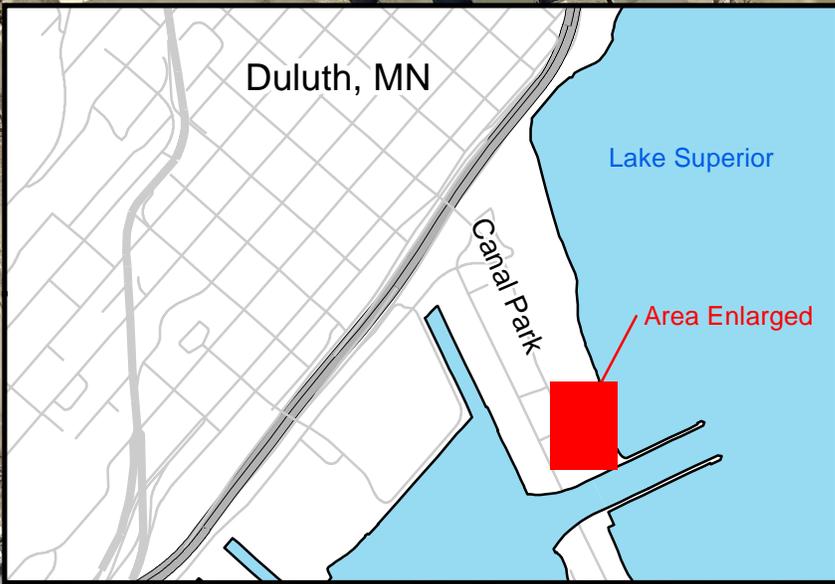
Assistant City Attorney

Countersigned:

Auditor

EXHIBIT A
Leased Premises

Exhibit A



Leased Premises



Parcel Boundary



N

0 25 50

Feet



RESOLUTION 21D-10

RESOLUTION AUTHORIZING FIRST AMENDMENT TO THE LEASE AGREEMENT WITH LAKE SUPERIOR HELICOPTERS, INC. EXTENDING THE TERM AND AUTHORIZING ADDITIONAL USE OF THE MRO.

RESOLVED, by the Duluth Economic Development Authority ("DEDA") that the proper DEDA officials are hereby authorized to enter into the attached First Amendment (DEDA contract no 20 866 988₁) to the Overflow Temporary Parking Space Lease Agreement bearing DEDA contract no. 20 866 988 with Lake Superior Helicopters extending the term to December 31, 2021 and allowing service of non-owned aircraft.

Approved by the Duluth Economic Development Authority this 27th day of January, 2021.

ATTEST:

Executive Director

STATEMENT OF PURPOSE: The purpose of this resolution is to authorize the first amendment to DEDA's lease of 2,800 square feet of the MRO to Lake Superior Helicopters ("LSH") to allow them to continue to operate its aircraft service and repair business out of the MRO for another year, subject to DEDA's right to terminate the lease if it would interfere with DEDA's ability to lease the building to a commercial aircraft repair and maintenance operation. The rent remains the same during the extension period.

LSH has been operating out of the MRO since November, specializing in avionics repair but has been limited to working only on owned aircraft. Their lease was deemed temporary because of DEDA's tentative commitments to Borsight and DEDA's need to be able to lease the entire facility to a major MRO operator.

With Borsight out of the picture and nothing else imminent, it seems prudent to use a portion of the building to encourage the continuation of this new business and to allow them expand into servicing non-owned aircraft. The lease is still terminable on very short notice if the opportunity to put a major tenant in the building should arise.

**FIRST AMENDMENT TO
OVERFLOW TEMPORARY PARKING SPACE LEASE AGREEMENT
DULUTH ECONOMIC DEVELOPMENT AUTHORITY
MRO FACILITY**

LAKE SUPERIOR HELICOPTER

THIS FIRST AMENDMENT TO LEASE AGREEMENT, entered on the ____ day of _____, 2021, by and between the DULUTH ECONOMIC DEVELOPMENT AUTHORITY, an economic development authority under Minnesota Statutes (1989) Chapter 469, hereinafter referred to as "DEDA", and LAKE SUPERIOR HELICOPTER a corporation created and existing under the laws of the State of Minnesota, hereinafter referred to as "Lessee".

WHEREAS, on November 23, 2020, DEDA and Lessee entered into the Overflow Temporary Parking Space Lease Agreement bearing DEDA contract no. 20 866 988 (the "Lease Agreement") for the lease of approximately 2,800 square feet of space in DEDA's MRO Facility as described therein to allow Lessee to operate its aircraft maintenance business on the Duluth International Airport; and

WHEREAS, DEDA leased the space to Lessee at a preferential, below-market rate to encourage the development of Lessee's new business on an "incubator" basis; and

WHEREAS, Lessee is desirous of extending the term of the lease beyond that provided for in the Lease Agreement and of modifying the permitted uses of the Leased Premises to expand Lessee's business; and

WHEREAS, DAA is willing to do so to facilitate the establishment of Lessee's business under the terms of the Lease Agreement as herein modified.

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

1. That Paragraph A of Article II of the Lease Agreement is hereby amended to read as follows:

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 and general maintenance of light aircraft, whether owned by Lessee or by third parties, 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.

2. That Paragraph B of Article IV of the Lease Agreement is hereby deleted in its entirety and the following substituted therefore:

B. Extension Term

Commencing on January 1, 2021, the Initial Term of this Lease Agreement shall be extended on a month-to-month basis through December 31, 2021, subject to the provisions of Paragraph C below.

3. That Paragraph A of Article IX of the Lease agreement is hereby deleted in its entirety and the following substituted therefore:

A. Liability Insurance:

Lessee shall carry commercial general liability insurance and aircraft liability insurance on each aircraft owned and/or operated by Operator or any permitted sub-lessee at the Airport. Lessee shall carry hangar-keepers liability insurance on all buildings capable of housing aircraft. All such insurance shall be in at least the following amounts and shall be in a form acceptable to the DEDA and shall provide for ten (10) days' written notice to the City and DEDA of any cancellation or modification thereof. The City of Duluth and DEDA shall be made an additional insured on Lessee's CGL liability policy, which must provide coverage for claims arising out of the Lessee's operation at the Duluth International Airport. The endorsement should state that the additional insured, City of Duluth and DEDA, is covered for claims arising out of the operation of Lessee. Language that the additional insured is covered for damages caused in whole or part by Operator is not acceptable. Certified copies thereof or appropriate certificates of insurance evidencing the existence thereof shall be delivered to DEDA. DEDA reserves the right and Operator agrees to revisions upward or downward in the minimum insurance requirements hereinafter set forth, provided, that any such revisions shall be reasonable and non-discriminatory as with respect to any other tenants of the Authority.

- I. Comprehensive general liability or owners, landlords and tenants bodily injury and property damage liability insurance, including complete operations and contractual obligation coverage in the limits of at least two million dollars (\$2,000,000).

2. Aircraft bodily injury liability insurance for bodily injury and property damage liability limit no less than One Million Dollars (\$ 1,000,000)
3. Aircraft passenger liability insurance of limits no less than One Hundred Thousand dollars (\$100,000) for each passenger seat.
4. Hangar-keepers liability insurance in limits of at least One Million Dollars (\$1,000,000) provided, however, that Operator agrees that, prior to housing any airplanes in any hangars covered by this insurance requirement which individually or in aggregate would exceed the insurance limits hereinbefore set down, that it will secure insurance coverage in an amount at least adequate to cover the value of said airplanes, both singly and in aggregate.
5. Products Liability and Completed Operations insurance in the amount of at least two million dollars (\$2,000,000).

4. That in all other respects, the Lease Agreement, together with all of its terms, covenants and conditions, are hereby confirmed in their entirety.

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

DULUTH ECONOMIC DEVELOPMENT LAKE SUPERIOR HELICOPTER,
AUTHORITY,

an economic development authority

A Minnesota Limited Liability Company

By _____

Its President

By: _____

its Chief Executive Officer

"Lessee"

Attest:

By _____

Secretary

Approved:

Countersigned:

Assistant City Attorney

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