



City of Duluth

411 West First Street
Duluth, Minnesota 55802

Meeting Agenda

Duluth Economic Development Authority.

Wednesday, February 23, 2022

5:15 PM

CALL TO ORDER

PUBLIC TO ADDRESS THE COMMISSION

PUBLIC HEARINGS

[22D-12](#) RESOLUTION AUTHORIZING THE SALE OF LAND TO JESSICA BENSON

[22D-14](#) RESOLUTION AUTHORIZING A LAND SALE AGREEMENT WITH OFFICE HUGHES OLSEN LLC RELATED TO THE REBUILD DULUTH PROGRAM

Attachments: [22D-14-Land Sale Agreement OHOW](#)

APPROVAL OF MEETING MINUTES

[....](#) JANUARY 26, 2022 REGULAR MEETING MINUTES

Attachments: [1-26-22 DEDA Meeting Minutes-draft](#)

[...](#) FEBRUARY 16, 2022 SPECIAL MEETING MINUTES

Attachments: [02-16-22 Special DEDA Meeting Minutes-draft](#)

APPROVAL OF CASH TRANSACTIONS

[.](#) JANUARY 1, 2022 TO JANUARY 31, 2022

Attachments: [DEDA Monthly Cash Activity January 2022](#)

NEW BUSINESS

RESOLUTIONS FOR APPROVAL

[22D-11](#) RESOLUTION AUTHORIZING ACQUISITION OF CERTAIN TAX FORFEITED REAL PROPERTY FROM THE STATE OF MINNESOTA THROUGH ST. LOUIS COUNTY

Attachments: [22D-11-Exhibit A Location map-Woodland Spur](#)

- [22D-12](#) RESOLUTION AUTHORIZING THE SALE OF LAND TO JESSICA BENSON
- [22D-13](#) RESOLUTION AUTHORIZING REIMBURSEMENT OF CITY FOR TAX ABATEMENT PAYMENTS TO CIRRUS DESIGN CORP. FOR TAX ABATEMENT PAYMENTS IN 2022 OF UP TO \$60,000.
- [22D-14](#) RESOLUTION AUTHORIZING A LAND SALE AGREEMENT WITH OFFICE HUGHES OLSEN LLC RELATED TO THE REBUILD DULUTH PROGRAM

Attachments: [22D-14-Land Sale Agreement OHOW](#)

- [22D-15](#) RESOLUTION APPROVING THE DULUTH PRODUCTION INCENTIVE PROGRAM TO INCENTIVIZE VISUAL MEDIA PRODUCTION IN DULUTH, ESTABLISH PROGRAM GUIDELINES FOR THE PROGRAM AND AUTHORIZING AGREEMENT WITH UPPER MIDWEST FILM OFFICE FOR PROGRAM ADMINISTRATIVE SERVICES.

Attachments: [22D-15-Duluth Production Incentive Program Guidelines](#)
[22D-15-PSA with UMFO](#)

DISCUSSION

ADJOURN

REBUILD DULUTH
LAND SALE AGREEMENT
OFFICE HUGHES OLSEN 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 Office Hughes Olsen 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 \$199,900.00 (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:

N 31 FT OF S 60 FT OF LOTS 1 2 3 4 AND 4 ½, Block 189, WEST DULUTH
7th DIVISION St. Louis County, Minnesota

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 45 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 15 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 15 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 15 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 \$7,200 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 or after 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 December 31, 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 Buyer shall remain liable for the performance of Buyer's obligations under this Agreement.

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 acceptable to the Executive Director in the Plans and Specifications 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
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In the Case of Buyer:	Office Hughes Olsen C/O Benjamin Olsen 2369 Doswell Avenue St. Paul, Minnesota 55108
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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.

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.

**MEETING OF THE
DULUTH ECONOMIC DEVELOPMENT AUTHORITY
WEDNESDAY, JANUARY 26, 2022 – 5:15 P.M.
VIA ELECTRONIC MEANS PURSUANT TO MINNESOTA STATUTES
SECTION 13D.021
MINUTES**

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 26, 2022, 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 26, 2022, 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.

Present: Matt Cartier, ChaQuana McEntyre, Tim McShane, Roz Randorf

Absent: Ellie Just, Derek Medved, Renee Van Nett

Others Present: Chris Fleege, Theresa Bajda, Amanda Anderson, Jason Hale, Brett Crecelius, Robert Asleson, Jenn Moses, Kevin Bell, Nancy Cashman, Heidi Timm-Bijold, Mark Poirier

1. CALL TO ORDER: The January 26, 2022 meeting of DEDA was called to order by President Cartier at 5:15 p.m.

2. PUBLIC TO ADDRESS THE COMMISSION

No public comment.

3. PUBLIC HEARINGS

RESOLUTION 22D-02: RESOLUTION AUTHORIZING AN OPTION AGREEMENT WITH CENTER CITY HOUSING CORPORATION RELATED TO AN AFFORDABLE HOUSING DEVELOPMENT IN THE RAMSEY NEIGHBORHOOD

No public comment.

4. APPROVAL OF MEETING MINUTES

- MINUTES FROM DECEMBER 15, 2021 REGULAR MEETING

Vote to approve the December 15, 2021 meeting minutes (Randorf/McShane) (Roll call vote: Cartier, McEntyre, McShane, Randorf) Passed (4-0).

5. APPROVAL OF CASH TRANSACTIONS

- DECEMBER 1, 2021 TO DECEMBER 31, 2021

Director Fleege wanted to note for Commissioners the \$100,000 for Visit Duluth which was originally charged against the City fund and has since cleared through DEDA as the City finishes up year-end items. All other transactions are normal expenses.

Vote to approve the December 1 to December 31, 2021 cash transactions (McEntyre/Randorf) (Roll call vote: Cartier, McEntyre, McShane, Randorf) Passed (4-0).

6. NEW BUSINESS

7. RESOLUTIONS FOR APPROVAL

RESOLUTION 22D-01 RESOLUTION ELECTING OFFICERS FOR THE YEAR 2022

Staff: Director Fleege talked about taking nominations for the slate of officers that he is recommending from staff. The Commissioners will still have to approve it. There is going to be a natural progression for those acting as Secretary to move up through the ranks in the future so we have opportunity to have a change in leadership.

Discussion: Attorney Asleson advised there should be a nomination of the slate of officers as proposed and then the commission can vote on the resolution.

Councilor Randorf nominates the slate of officers brought forward for 2022 and Commissioner McEntyre seconds.

Vote to approve resolution 22D-01: (Randorf/McShane) (Roll call vote: Cartier, McEntyre, McShane, Randorf) Passed (4-0).

RESOLUTION 22D-02: RESOLUTION AUTHORIZING AN OPTION AGREEMENT WITH CENTER CITY HOUSING CORPORATION RELATED TO AN AFFORDABLE HOUSING DEVELOPMENT IN THE RAMSEY NEIGHBORHOOD

Staff: Director Fleege indicated this is an option agreement that shows site control as Center City Housing moves forward with a request to MN Housing for Low Income Housing Tax Credits. Proposed 60 units of permanent supportive housing with a three-year option to develop the

property.

Discussion: Commissioner McShane stated that Center City Housing under Nancy's leadership has done a stellar job so happy to see another project moving forward.

Jason Hale indicated the property is broken up into two sections, so if CCHC is successful there is a northern segment that could be a second phase of the project.

Vote to approve resolution 22D-02: (McShane/Randorf) (Roll call vote: Cartier, McEntyre, McShane, Randorf) Passed (4-0).

RESOLUTION 22D-03: RESOLUTION APPROVING AMERICAN RESCUE PLAN ACT AGREEMENT WITH THE CITY OF DULUTH AND MERGE LLC FOR DEVELOPMENT OF THE URBANE DULUTH PROJECT

Staff: Director Fleege stated that an existing TIF District was approved for this project with all units being rented at 80%, but this additional ARPA funding will buy down additional affordability to 70% of AMI for up to 10 years.

Discussion: Bob Asleson indicated having it authorized by DEDA and City allowed provisions to stay in place without having to draft an entirely new agreement.

Commissioner Randorf questioned if the affordability terms could be broken down in simple terms.

Jason Hale stated that the Redevelopment TIF district calls for all units at 80% AMI for the term of the TIF district and now the ARPA funding buys down the rents to 70% for 10 years. 70% AMI a studio max rent is \$936/month and \$1,070 at 80% (roughly a \$140 difference per unit).

Vote to approve resolution 22D-03: (McEntyre/Randorf) (Roll call vote: Cartier, McEntyre, McShane, Randorf) Passed (4-0).

RESOLUTION 22D-04: RESOLUTION AUTHORIZING A DEVELOPMENT AGREEMENT WITH THE CITY OF DULUTH REGARDING THE ACQUISITION AND REDEVELOPMENT OF A PART OF THE LESTER GOLF COURSE PROPERTY

Staff: Director Fleege indicated this resolution aligns with Council's approval of DEDA acquiring this property (roughly 35 acres), located at the southern portion of the Lester Golf Course. This provides a seven-year window for DEDA to develop the site. Two parcels/tracts; one for

affordable housing and one for mixed-use. Stipulations for the transaction have been approved by City Council, such as the type of commercial businesses allowed. DEDA will not get stuck with property if nothing happens after seven years in terms of development. There are use agreements built in that allow for golfing. Lester will host one more year of golf while Enger course is under construction. DEDA will try to receive full market value for the property that could be re-invested in the Enger Park facility. There will be a public process for these tracts. A vast majority will remain green space.

Discussion: President Cartier wanted to clarify that this is just vacant land and there are no historic buildings that would need demolition and Director Fleege confirmed there are no buildings needing demolition. Commissioner McShane asked when the public process or RFP's would commence. Jason Hale explained the golf course property will continue to operate and Staff is hopeful for RFP's to go out in the summer of 2022 to get projects vetted and queued up before the 2023 date. Additionally, they intend to do RFP's concurrent to get the affordable component available as soon as possible. The remaining balance of 27 acres will take more programming.

Commissioner McShane inquired about the contractor Short Elliott Hendrickson being called out in the agreement and if that is common or are proposals put out. Jason Hale added Short Elliott Hendrickson has already been engaged with surveying on this site specifically (boundary survey) and there is a standing contract.

There was discussion around the 'Assumption of Risk' and whether or not DEDA would hold any liability or if any liabilities would follow the property. The sale price of the property will be remitted to the City upon transaction closing. If there is some contamination found on the property, the value of the property would be based on the value less the cost to remediate.

Vote to approve resolution 22D-04: (Randorf/McShane) (Roll call vote: Cartier, McEntyre, McShane, Randorf) Passed (4-0).

RESOLUTION 22D-05: RESOLUTION AUTHORIZING PURCHASE OF CERTAIN TAX FORFEITED REAL PROPERTY FROM THE STATE OF MINNESOTA THROUGH ST. LOUIS COUNTY

Staff: Director Fleege noted that this site had some condemned in 2015 and had a fire in 2017. There is a proposal for redevelopment, which includes four units of housing. DEDA owns the adjacent property.

Discussion: No discussion.

Vote to approve resolution 22D-05: (Randorf/McShane) (Roll call vote: Cartier, McEntyre, McShane, Randorf) Passed (4-0).

RESOLUTION 22D-06: RESOLUTION AUTHORIZING A THIRD AMENDMENT TO THE DEVELOPMENT AGREEMENT WITH LSC FLATS, LLC RELATED TO CONSTRUCTION OF STUDENT HOUSING NEAR LAKE SUPERIOR COLLEGE, EXTENDING THE CLOSING DATE THEREUNDER

Staff: Director Fleege provided this resolution will extend the closing date due to some issues during the pandemic. The project is moving forward.

Discussion: No discussion.

Vote to approve resolution 22D-06: (McShane/McEntyre) (Roll call vote: Cartier, McEntyre, McShane, Randorf) Passed (4-0).

RESOLUTION 22D-07: RESOLUTION AUTHORIZING A REDEVELOPMENT GRANT APPLICATION TO THE MINNESOTA DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT RELATED TO PROPERTY LOCATED AT 1301 LONDON ROAD AND COMMITTING A MATCH OF NOT LESS THAN FIFTY PERCENT OF THE AWARDED AMOUNT

Staff: Director Fleege stated this is related to redevelopment at the Armory Building to move it forward. Developer providing the matching dollars. \$600,000 request determined with equal match from the developer.

Discussion: Heidi Timm-Bijold is representing George Sherman to help develop the project to include identifying funding sources. Heidi requested the DEDA board would also support an application that supports the demolition of the Armory Annex building. The approximate demolition cost of the Annex would be \$70K. There were several estimates from JE Dunn and Don Holm.

Vote to approve resolution 22D-07: (Randorf/McEntyre) (Roll call vote: Cartier, McEntyre, McShane, Randorf) Passed (4-0).

RESOLUTION 22D-08: RESOLUTION AUTHORIZING AN ADDENDUM TO DEDA CONTRACT NO. 15 860 770 WITH LIFT BRIDGE PARTNERS LCC AND AN ASSIGNMENT AND ASSUMPTION AGREEMENT BETWEEN LIFT BRIDGE PARTNERS LLC AND ENDI PLAZA LLC TO FACILITATE THE CONVEYANCE OF THE ENDI PROPERTY DEVELOPMENT AND DEVELOPMENT AGREEMENT TO ENDI PLAZA LLC.

Staff: Director Fleege stated the owner of Endi wants to sell interest in property. Part of the transaction will be keeping the existing TIF note and obligations, but transfer ownership to new party. Time sensitive and will need to close.

Discussion: President Cartier inquired about the TIF obligation not transferring with the property. Director Fleege noted that there are certain TIF notes that are more difficult to separate from properties. Attorney Asleson provided the reason the amendment is coming forward is so the project can move forward. In the event that a subsequent buyer should fail to comply with the continuing requirements of the development agreement, the original developer would need to ensure the purchaser comply. There was no affordability component so it is not as critical for the TIF note to stay with the property. The TIF note was a financial instrument as part of the deal.

Vote to approve resolution 22D-08: (McEntyre/McShane) (Roll call vote: Cartier, McEntyre, McShane, Randorf) Passed (4-0).

8. DISCUSSION

I. DIRECTORS REPORT

Staff: Director Fleege touched on Cirrus and hopes to bring elements to Council in February for MN Investment Fund Application and other potential business subsidies. Cirrus looking at a lease with option to buy the MRO facility. Cirrus intends to use as space for support staff and increase overall production capacity across the entire Duluth campus. Term sheet has not been executed; likely to happen by the end of the week. Eventually bringing a Development Agreement and Lease before DEDA as owner.

9. ADJOURN: President Cartier adjourned the January 26, 2022 meeting of DEDA at 6:27 p.m.

Respectfully submitted,

Chris Fleege
Executive Director

**SPECIAL MEETING OF THE
DULUTH ECONOMIC DEVELOPMENT AUTHORITY
WEDNESDAY, FEBRUARY 16, 2022 – 12:00 P.M.
VIA ELECTRONIC MEANS PURSUANT TO MINNESOTA STATUTES
SECTION 13D.021
MINUTES**

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, February 16, 2022, at 12:00 p.m. All persons interested may monitor and participate in the hearing by visiting: <http://dulutheda.org/live-meeting> promptly at 12:00 p.m. on Wednesday, February 16, 2022, 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.

Present: Matt Cartier, Arik Forsman, Ellie Just, ChaQuana McEntyre, Roz Randorf

Absent: Tim McShane, Renee Van Nett

Others Present: Amanda Anderson, Robert Asleson, Chris Fleege, Jenn Moses, Emily Nygren

1. CALL TO ORDER: The February 16, 2022 special meeting of DEDA was called to order by President Cartier at 12:00 p.m.

2. PUBLIC TO ADDRESS THE COMMISSION

No public comments.

3. PUBLIC HEARINGS

No public hearings.

NEW BUSINESS

4. RESOLUTIONS FOR APPROVAL

RESOLUTION 22D-09: RESOLUTION AUTHORIZING A FIRST AMENDMENT TO A PROFESSIONAL SERVICES AGREEMENT WITH ENGINEERING SYSTEMS INC. (Esi) FOR ADDITIONAL

PROFESSIONAL SERVICES TO EXPAND THE SCOPE OF WORK, INCREASE THE CONTRACT AMOUNT BY \$155,000 FOR A NEW TOTAL AMOUNT NOT TO EXCEED \$183,000 AND EXTEND THE TERMINATION DATE TO DECEMBER 31, 2022.

Staff: Director Fleege added this agreement is to provide for defense witness testimony for the trial in July, in relation to the ongoing litigation for the Pastoret Terrace. This will also go to Council for approval.

Discussion: No discussion.

Vote to approve resolution 22D-09: (Just/Randorf) (Roll call vote: Cartier, Forsman, Just, McEntyre, Randorf) Passed (5-0).

RESOLUTION 22D-10: RESOLUTION AUTHORIZING LEASE OPTION AGREEMENT WITH CIRRUS DESIGN CORP. PERTAINING TO THE MRO

Staff: Director Fleege stated this agreement would allow Cirrus to compensate DEDA back to February 1st. The agreement acts as a bridge until a lease agreement is entered into with Cirrus. The agreement takes a large financial burden off of DEDA--\$57,000 a month.

President Cartier questioned if this would change the DEDA budget. Director Fleege confirmed that it would as this was not currently figured into the budget.

Discussion: No discussion.

Vote to approve resolution 22D-10: (Forsman/McEntyre) (Roll call vote: Cartier, Forsman, Just, McEntyre, Randorf) Passed (5-0).

Discussion: N/A

9. ADJOURN: President Cartier adjourned the February 16, 2022 special meeting of DEDA at 12:08 p.m.

Respectfully submitted,

Chris Fleege--Executive Director

Duluth Economic Development Authority

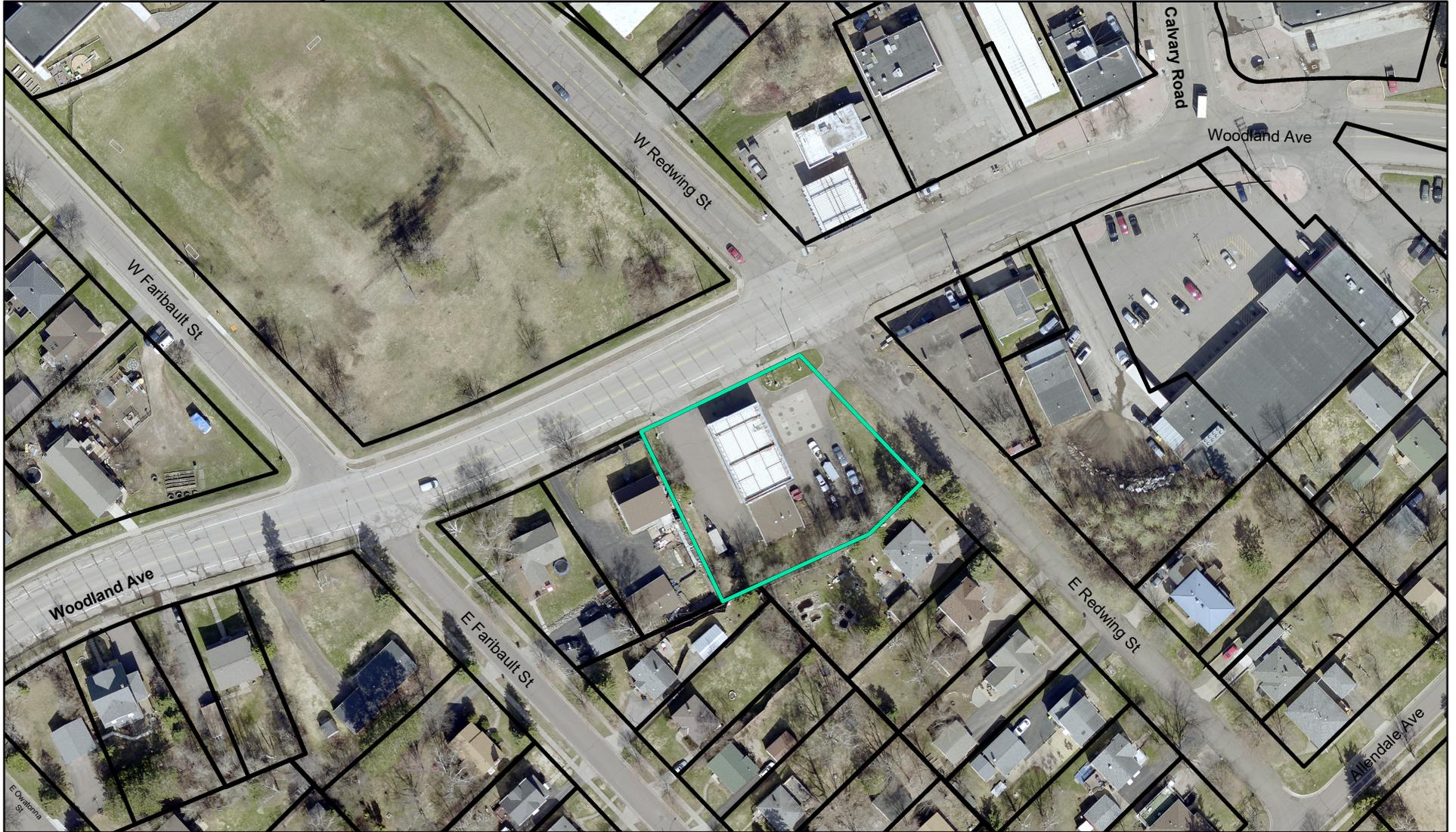
January 2022 Cash Activity - all DEDA Funds

ACCUMULATED TRANSACTION LISTING, G/L Date Range 01/01/22 -01/31/22 (as of 02/02/22)

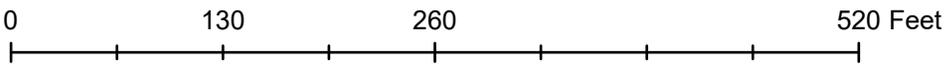
G/L Date	Journal Number	Sub Ledg	Name	Net Amount	Description
FUND 860 - OPERATING FUND			Beginning Balance	\$ 2,854,430.21	
01/01/22	2022-00000202	GL	Cost Allocation - DEDA	(33,333.33)	Cost Allocation - DEDA
01/03/22	2022-00000011	AP	Rozalind Randorf	(35.00)	DEDA Meeting 12/15/21
01/03/22	2022-00000011	AP	St Louis County Recorder	(92.00)	Amendments - Urban Ventures, 1LLC
01/03/22	2022-00000011	AP	St Louis County Recorder	(46.00)	Amendment - Rebuild, Hughes Olsen Workshop
01/03/22	2022-00000011	AP	Matthew T Cartier	(35.00)	DEDA 12/15/21 Meeting
01/03/22	2022-00000011	AP	Ehlers and Associates Inc	(255.00)	Financial Services DEDA Projects 21 860 132
01/03/22	2022-00000011	AP	Zack Filipovich	(35.00)	DEDA Meeting 12/15/21
01/03/22	2022-00000011	AP	Ellie Ann Just	(35.00)	DEDA Meeeting 12/15/21
01/03/22	2022-00000011	AP	Timothy P McShane	(35.00)	DEDA Meeting 12/15/21
01/03/22	2022-00000011	AP	Derek Medved	(35.00)	DEDA Meeting 12/15/21
01/03/22	2022-00000011	AP	Ehlers and Associates Inc	(588.75)	Financial Services DEDA Projects 21 860 132
01/04/22	2022-00000113	RA	Pay Group O'Reilly LLC	463.71	Building Rent
01/10/22	2022-00000284	GL	Reimb IT for (1) Cisco 8865 IP Phone (1/10/22	(223.00)	
01/11/22	2022-00000330	RA	Ehlers	7,500.00	Refund for 2nd TIF Payment
01/12/22	2022-00000375	RA	Passport Labs	483.88	December 2021 Parking Revenue
01/14/22	2021-00010124	AP	US Bank	(1,200.00)	Dec 2021 USB
01/18/22	2022-00000369	AP	Engineering Systems Inc.	(927.50)	Pastoret Terrace Bldg Assessment
01/18/22	2022-00000369	AP	LHB Engineers & Architects	(4,798.00)	21 860 137 TIF Analysis Shoppers Parking Ramp
01/18/22	2022-00000369	AP	St Louis County Auditor	(587.65)	2101-5 W 3rd St Blight Removal-Infill Site
01/18/22	2022-00000369	AP	St Louis County Recorder	(46.00)	Quit Claim Ded Doc 01433034 Acquisition HRA to HTF
01/18/22	2022-00000369	AP	St Louis County Recorder	(66.00)	Cert of Compliance Doc 1051028 Board of Trade
01/18/22	2022-00000369	AP	EntryPoint, LLC	(5,000.00)	21 860 124 Broadband Service Proposal
01/18/22	2022-00000463	RA	Interstate Parking	(13,360.82)	Parking Revenue for December 2021
01/21/22	2022-00000590	RA	Crown Properties LLLP	255.00	Invoice #2021-00000336
01/28/22	2022-00000768	GL	Reimburse City Contingent Account - Checks #38539 - 39725	(20.00)	Reimburse City Contingent Account - Checks #38539 - 39725
01/31/22	2022-00000713	AP	Duluth Public Utilities - Comfort Systems	(914.72)	335 W Superior St 12/1/21-12/29/21 Storm
01/31/22	2022-00000713	AP	Ehlers and Associates Inc	(390.00)	Financial Services DEDA Projects 21 860 132
01/31/22	2022-00000713	AP	Ehlers and Associates Inc	(1,012.50)	Financial Services DEDA Projects 21 860 132
01/31/22	2022-00000713	AP	LHB Engineers & Architects	(570.00)	20 860 985 Pastoret Maintenance Repair Consulting
01/31/22	2022-00000713	AP	Barr Engineering Co	(461.00)	21-860-119 Environmental permitting assistance
01/31/22	2022-00000713	AP	Barr Engineering Co	(907.50)	21-860-119 Environmental permitting assistance
01/31/22	2022-00000851	GL	Investment Earnings for January	1,129.00	Investment Earnings for January
FUND 860 - OPERATING FUND			Ending Balance: 01-31-2022	2,799,252.03	TB

<u>FUND 861 - DEBT SERVICE</u>			<i>Beginning Balance</i>	986,644.60	
01/26/22	2022-00000679	GL	Receipt Cash for 3rd Tax Pmt From SLC for 2021 (Jan 2022 Pmt)	62,856.77	Receipt Cash for 3rd Tax Pmt From SLC for 2021 (Jan 2022 Pmt)
01/31/22	2022-00000851	GL	Investment Earnings for January	399.00	Investment Earnings for January
FUND 861 - DEBT SERVICE			Ending Balance: 01-31-2022	1,049,900.37	TB
<u>FUND 865 - CAPITAL PROJECTS</u>			<i>Beginning Balance</i>	4,100,581.81	
01/24/22	2022-00000506	AP	St Louis County Auditor	(3,223,420.00)	TIF District 19 and 24-Return of Excess TIF to SLC per Resolution
01/31/22	2022-00000851	GL	Investment Earnings for January	1,306.00	Investment Earnings for January
FUND 865 - CAPITAL PROJECTS			Ending Balance: 01-31-2022	878,467.81	TB
<u>FUND 866 - MRO FACILITY</u>			<i>Beginning Balance</i>	499,190.30	
01/03/22	2022-00000011	AP	Viking Automatic Sprinkler Co	(7,242.00)	Annual Inspection Fire Protection at MRO
01/18/22	2022-00000369	AP	Minnesota Power	(11,779.29)	5447119029 11/30/21-12/31/21
01/18/22	2022-00000369	AP	CenturyLink - Phoenix	(199.68)	Data Services
01/24/22	2022-00000615	RA	Lake Superior Helicopter	3,591.46	Invoice #2022-00000006 and #2022-00000018
01/31/22	2022-00000713	AP	CenturyLink - Phoenix	(199.61)	Data Service
01/31/22	2022-00000713	AP	Duluth Public Utilities - Comfort Systems	(14,567.30)	4600 Stebner Rd 12/2/21-1/3/22 Gas
01/31/22	2022-00000713	AP	Duluth Public Utilities - Comfort Systems	(559.83)	4600 Stebner Rd 12/2/21-1/3/22 Water
01/31/22	2022-00000851	GL	Investment Earnings for January	195.00	Investment Earnings for January
FUND 866 - MRO FACILITY			Ending Balance: 01-31-2022	468,429.05	TB
<u>FUND 867 - STOREFRONT LOANS</u>			<i>Beginning Balance</i>	372,243.19	
01/07/22	2022-00000269	RA	North Shore Bank (December Payment)	663.93	Women in Construction Loan 90012-Cash Held In NS Bank for DEDA
01/20/22	2022-00000549	RA	Alerus Financial	1,037.10	Payment on Loan 70003 for Old City Hall LLP
01/31/22	2022-00000851	GL	Investment Earnings for January	149.00	Investment Earnings for January
FUND 867 - STOREFRONT LOANS			Ending Balance: 01-31-2022	374,093.22	TB

Exhibit A Location Map



- Parcel boundaries
- SLC Parcel for Conveyance



REBUILD DULUTH
LAND SALE AGREEMENT
OFFICE HUGHES OLSEN 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 Office Hughes Olsen 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 \$199,900.00 (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:

N 31 FT OF S 60 FT OF LOTS 1 2 3 4 AND 4 ½, Block 189, WEST DULUTH
7th DIVISION St. Louis County, Minnesota

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 45 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 15 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 15 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 15 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 \$7,200 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 or after 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 December 31, 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 Buyer shall remain liable for the performance of Buyer's obligations under this Agreement.

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 acceptable to the Executive Director in the Plans and Specifications 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
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In the Case of Buyer:	Office Hughes Olsen C/O Benjamin Olsen 2369 Doswell Avenue St. Paul, Minnesota 55108
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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.

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.

Duluth Production Incentive Program

PURPOSE: The Duluth Economic Development Authority’s Duluth Production Incentive Program’s goal is to support the development of television, film, and digital media production within the City of Duluth, while also supporting local businesses and talent.

The program’s initial allocation is \$200,000. Applications are accepted, reviewed and scored and approved until funds are exhausted. Approved applicants will receive the financial assistance in the form of reimbursement where approved applicants receive reimbursement for eligible expenditures in accordance with program guidelines and requirements.

REQUIREMENTS: Selected applicants must be conducting eligible television, film, or digital media activities in Duluth, which must be validated and certified by the Program Administrator before a project can be enrolled in the program. To be eligible, Applicants must commit to expend a minimum of \$10,000 inside Duluth City limits with service providers residing in or located in Duluth. Qualified project types are: films, television, series, documentaries and commercials. The applicant must be in good standing with the Secretary of State wherein they reside.

APPLICANT REQUIREMENTS:

- Projects must meet program eligibility requirements in order to apply for reimbursement funds.
- Applicant must supply application, the Applicant’s W-9 and Certificate of Good Standing from the state of incorporation which must all be in the same company name.
- The Applicant is responsible for any tax implications regarding reimbursement.
- Applications must be complete.
- Projects will not be accepted into the Program until all required materials are received and reviewed by Program Administrator.
- Expenses incurred and/or payments made before project acceptance (the date on the project acceptance letter) will not be eligible for reimbursement. Submission of an application does not guarantee reimbursement.

- Additional requirements may be required by the Program Administrator to determine project and production eligibility.

APPLICATION CRITERIA:

Projects are scored on quality and quantity of wages, hires and local spend. In addition, previous professional experience and compliance are taken into account.

PROOF OF FUNDING:

Applicant must provide proof of funding that shows 100% of projected Duluth spend is secured (signed bank letter and statement, completion bond, valid contract, or equivalent). This proof is required 30 days prior to principal start date. If the application is processed within 30 days of principal photography, the applicant must provide proof at the time of application.

STRUCTURE: Up to 25% of the total cost for listed eligible expenses may be reimbursed to the certified projects when associated with production and post production of film and television content creation within the City of Duluth. An additional 5% of eligible expenses as shown in the budget may be reimbursed to the Applicant for expenditures at BIPOC-owned (Black, Indigenous, People of Color), veteran and women owned Duluth businesses (must be 51% owner of business). This program may be used jointly with the St. Louis County's Production Incentive Program, the Iron Range Regional Production Rebate and all State of MN programs.

ELIGIBLE EXPENDITURES: Eligible uses of program funds may include reimbursement of expenses made at Duluth businesses, included but not limited to the following categories:

- Food and catering expenses (alcoholic beverages excluded); itemized receipts are required.
- Production office rental (short term), office equipment rental and supplies.
- Studio rental and equipment rental
- Editing and post-production related expenses including digital media and storage devices including film transfer and dailies

- Lodging within the City of Duluth
- Transportation expenses within the City of Duluth not to exceed federal U.S. General Administration and Internal Revenue Service Guidelines (required to submit mileage log, parking, fuel for generators and rental vehicles only)
- Local musicians and artists (compensation and licensing)
- Sets, props and wardrobe (including construction materials) and rentals
- Wardrobe and makeup
- Production related services (including legal, accounting and payroll processing fees)
- Wages and salaries (including benefits) for personnel and crew from the Duluth labor force.
- Location and permit fees as required by film locations
- Other direct costs of production cost or post production work paid to a Duluth company

A Duluth company is defined as a business located and conducts business within the Duluth City limits and files Minnesota tax returns with a Duluth address indicated on a W-9. A Duluth resident is defined as someone whose primary home residence is located within the City limits of Duluth. A physical address in Duluth is required. Any questionable production expenses will be reviewed by Duluth's Program Administrator in consultation with Duluth Economic Development Authority for approval. The Duluth Economic Development Authority and or its Program Administrator reserves the right to refuse any project's application or expense for any reason. This determination is at the discretion of the Duluth Economic Development Authority and/or Its Program Administrator; all decisions are final and non-negotiable.

INELIGIBLE EXPENDITURES (including but not limited to):

- Alcoholic beverages and tobacco (even if purchased as props).
- Fees relating to development, marketing (promotions) or business set up (including legal fees)
- Permanent office space (rent) and related utilities (internet, phone, power, etc.). If the production has a permanent office operating in the city of Duluth,

these expenses are not qualified as they are considered normal operating expenses.

- Fuel for personal vehicles.
- Online purchases with the exception of intermediary vendors such as Airbnb and Uber which are qualified as long as the overhead or service fee is deducted for Duluth purchases. Receipt must include a Duluth address (e.g. online order from local store for pick up).
- Capital equipment purchases with the exception of portable hard drives.
- Purchases sourced outside of Minnesota (pass-through).
- Wrap parties, gifts, recreation and entertainment.
- Festival submission fees or related costs.
- Expenses relating to illegal activities including, but not limited to tickets issued for parking or moving violations, towing fees, etc.
- Unpaid invoices.
- Damages due to accidents, loss or theft.
- Pass-thru expenses (e.g. internal invoices including but not limited to equipment rental or studio space)

APPLICANT REQUIREMENTS:

- Projects must meet program eligibility requirements in order to apply for reimbursement funds.
- The application, W9 and Certificate of Good Standing from state of incorporation must all be in the same production company name.
- The applying entity is responsible for any tax implications regarding reimbursement.
- Applications must be complete.
- Projects will not be certified until all required materials are received and reviewed by Program Administrator.
- Expenses incurred and/or payments made before project certification (the date on the project certification letter) will not be eligible for reimbursement. Submission of an application does not guarantee reimbursement.
- Additional requirements may be required to determine project and production eligibility.

APPLICATION CRITERIA:

Projects are scored based on a number of metrics such as quality and quantity of wages, hires and local spend. Previous professional experience and compliance are taken into consideration.

Losing Eligibility or Disqualification: Projects will be disqualified from the Program and will be disqualified from receiving reimbursement if:

- The Applicant falls out of good standing with the Secretary of State in the state where the entity is incorporated.
- Production is delayed or suspended, the applicant loses funding for the project or the production will no longer take place in Duluth.
- Program Administrator determines that the production will not occur.
- Program Administrator determines that the Applicant is engaged in fraudulent or unlawful behavior (e.g., submitting inaccurate or falsified information, wage theft, etc.).
- Applicant has not fulfilled financial obligations of using St. Louis County labor, vendors or goods and services.
- Applicant or the project no longer meets eligibility criteria.
- Applicant fails to meet Rebate Expenditure Report submission deadlines. Extensions may be considered on a case-by-case basis.
- Applicant no longer qualifies for any other reason.
- Program Administrator determines that the project is engaged in detrimental, unprofessional, indecent or acts in bad faith.
- If principal photography on the project does not start within 6 months of approval of the project.

REQUIREMENTS FOR REIMBURSEMENT

During production of the project the Program Administrator must:

- Receive daily call sheets, production logs or equivalent for the project
- Be provided the name and contact information for the unit publicist or person responsible for interfacing with media

- Be allowed the ability to arrange set visits for Duluth officials
- Be allowed the ability to arrange behind the scenes video footage to be taken and used for marketing promotions

Before reimbursement Applicants are required to:

- Provide the City of Duluth's Program Administrator with proof that all expenses incurred in Duluth are paid in full.
- Provide final crew list to City of Duluth's Program Administrator including contact information (phone or email)
- Provide Program Administrator with a list of locations used in the project.
- Agree to provide Program Administrator with 3-5 production stills in electronic format with rights cleared for promotional use by DEDA and/or the s Program Administrator.
- Agree to provide DEDA and or Program Administrator with poster art.
- Agree to provide DEDA and or Program Administrator with a minimum 60 seconds of video from production.
- Agree to provide at least one producer/talent for local media promotion/interview (if requested).
- All files must be provided in electronic format
- Once certified Production/Post production activity is complete, Applicants must complete and submit a Rebate Expenditure Report (RER) on a form which will be provided to the applicant and all supporting documentation as required by the Guidelines or as requested by the Program Administrator in order to receive reimbursement.

*All projects with onscreen credits must include the Duluth Economic Development Authority's and the Program Administrator's logos and permit the City of Duluth and or Program Administrator to identify the production in its marketing and promotional materials. Allow the City of Duluth government to use all material provided to its Program Administrator under these guidelines for its said purposes.

OTHER REQUIREMENTS:

Projects with budgets that exceed 1,000,000 must submit a review of expenditures by a Minnesota Certified Public Accountant that has been approved by the Program Administrator.

Production Delay:

A certified project must start principal photography within 6 months of certification. If a certified project is delayed beyond that, the project will be moved into “pending” status. While a project is in pending status, the funds may be allocated to other active projects on the production waiting list. When the pending project is ready to begin principal production, and only if incentive program funds are available, the certified project will move back to “active” status. If a certified project is delayed and does not start principal photography within 12 months of certification, it will lose eligibility. A certified project that loses eligibility or is disqualified due to significant production delays or loss of funding may reapply by completing and submitting a new project certification application with new attachments.

Funding Availability:

If applications received for the Duluth rebate exceed the total amount appropriated for the program, the Program Administrator will maintain a waiting list. Projects that meet eligibility may be provisionally certified in amounts up to 25% in the event that funds become available. Submission and/or provisional certification of an application does not in any way guarantee that a project will be reimbursed or that funds will be available.

**AGREEMENT FOR PROFESSIONAL SERVICES
BY AND BETWEEN**

**UPPER MIDWEST FILM OFFICE
AND
DULUTH ECONOMIC DEVELOPMENT AUTHORITY**

THIS AGREEMENT, effective as of the date of attestation by the DEDA Secretary (the “Effective Date”), by and between the Duluth Economic Development Authority, hereinafter referred to as DEDA, and The Upper Midwest Film Office located at 1910 Middle Lane, Duluth, MN 55811, hereinafter referred to as Consultant for the purpose of rendering services to the DEDA.

WHEREAS, the DEDA has requested consulting services for the Duluth Production Incentive Program, (the “Project”); and

WHEREAS, Consultant has represented itself as qualified and willing to perform the services required by the DEDA; and

WHEREAS, Consultant submitted a proposal to provide services for the Project (the “Proposal”), a copy of which is attached hereto as Exhibit A; and

WHEREAS, the DEDA desires to utilize Consultant’s professional services for the Project;
NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter contained, the parties hereto agree as follows:

I. Services

Consultant will provide services related to the Project as described in Consultant’s Proposal (the “Services”). Consultant agrees that it will provide its services at the direction of DEDA's Executive Director (the "Director"). In the event of a conflict between the Proposal and this Agreement, the terms and conditions of this Agreement shall be deemed controlling.

II. Fees

It is agreed between the parties that Consultant’s maximum fee for the Project and Services shall not exceed the sum of twenty thousand dollars and 00/100th dollars (\$20,000) inclusive of all travel and other expenses associated with the Project, payable from Fund 860-860-8640-5434. All invoices for services rendered shall be submitted monthly to the attention of the Director. Payment of expenses is subject to the DEDA’s receipt of reasonable substantiation/back-up supporting such expenses.

III. General Terms and Conditions

1. Amendments

Any alterations, variations, modifications or waivers of terms of this Agreement shall be binding upon the DEDA and Consultant only upon being reduced to writing and signed by a duly authorized representative of each party.

2. Assignment

Consultant represents that it will utilize only its own personnel in the performance of the services set forth herein; and further agrees that it will neither assign, transfer or subcontract any rights or obligations under this Agreement without prior written consent of the DEDA. The Primary Consultant(s) assigned to this project will be Shari Marshik (the “Primary Consultant”). The Primary Consultant shall be responsible for the delivery of professional services required by this Agreement and, except as expressly agreed in writing by the DEDA in its sole discretion, the DEDA is not obligated to accept the services of any other employee or agent of Consultant in substitution of the Primary Consultant. The foregoing sentence shall not preclude other employees of Consultant from providing support to the Primary Consultant in connection with Consultant’s obligations hereunder.

3. Data and Confidentiality, Records and Inspection

- a. The DEDA agrees that it will make available all pertinent information, data and records under its control for Consultant to use in the performance of this Agreement, or assist Consultant wherever possible to obtain such records, data and information.
- b. All reports, data, information, documentation and material given to or prepared by Consultant pursuant to this Agreement will be confidential and will not be released by Consultant without prior authorization from the DEDA.
- c. Consultant agrees that all work created by Consultant for the DEDA is a “work made for hire” and that the DEDA shall own all right, title, and interest in and to the work, including the entire copyright in the work (“DEDA Property”). Consultant further agrees that to the extent the work is not a “work made for hire” Consultant will assign to DEDA ownership of all right, title and interest in and to the work, including ownership of the entire copyright in the work. Consultant agrees to execute, at no cost to DEDA, all documents necessary for DEDA to perfect its ownership of the entire copyright in the work. Consultant represents and warrants that the work created or prepared by Consultant will be original and will not infringe upon the rights of any third party, and Consultant further represents that the work will not have been previously assigned, licensed or otherwise encumbered.
- d. Records shall be maintained by Consultant in accordance with requirements

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

- e. Consultant will ensure that all costs shall be supported by properly executed payrolls, time records, invoices, contracts, vouchers, or other official documentation evidencing in proper detail the nature and propriety of the charges. All checks, payrolls, invoices, contracts, vouchers, orders, or other accounting documents pertaining in whole or in part to this Agreement shall be clearly identified and readily accessible.
- f. Consultant shall be responsible for furnishing to DEDA records, data and information as DEDA may require pertaining to matters covered by this Agreement.
- g. Consultant shall ensure that at any time during normal business hours and as often as the DEDA may deem necessary, there shall be made available to the DEDA for examination, all of its records with respect to all matters covered by this Agreement. Consultant will also permit the DEDA to audit, examine, and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment, and other data relating to all matters covered by this Agreement.

4. Consultant Representation and Warranties

Consultant represents and warrants that:

- a. Consultant and all personnel to be provided by it hereunder has sufficient training and experience to perform the duties set forth herein and are in good standing with all applicable licensing requirements.
- b. Consultant and all personnel provided by it hereunder shall perform their respective duties in a professional and diligent manner in the best interests of the DEDA and in accordance with the then current generally accepted standards of the profession for the provisions of services of this type.
- c. Consultant has complied or will comply with all legal requirements applicable to it with respect to this Agreement. Consultant will observe all applicable laws, regulations, ordinances and orders of the United States, State of Minnesota and agencies and political subdivisions thereof.
- d. The execution and delivery of this Agreement and the consummation of the transactions herein contemplated do not and will not conflict with, or constitute a breach of or a default under, any agreement to which the Consultant is a party or by which it is bound, or result in the creation or imposition of any lien, charge

or encumbrance of any nature upon any of the property or assets of the Consultant contrary to the terms of any instrument or agreement.

- e. There is no litigation pending or to the best of the Consultant's knowledge threatened against the Consultant affecting its ability to carry out the terms of this Agreement or to carry out the terms and conditions of any other matter materially affecting the ability of the Consultant to perform its obligations hereunder.
- f. The Consultant will not, without the prior written consent of the DEDA, enter into any agreement or other commitment the performance of which would constitute a breach of any of the terms, conditions, provisions, representations, warranties and/or covenants contained in this Agreement.

5. Agreement Period

The term of this Agreement shall commence on the Effective Date and performance shall be completed by August,1 2023, unless terminated earlier as provided for herein. Either party may, by giving written notice, specifying the effective date thereof, terminate this Agreement in whole or in part without cause. In the event of termination, all property and finished or unfinished documents and other writings prepared by Consultant under this Agreement shall become the property of the DEDA and Consultant shall promptly deliver the same to DEDA. Consultant shall be entitled to compensation for services properly performed by it to the date of termination of this Agreement. In the event of termination due to breach by Consultant, the DEDA shall retain all other remedies available to it, and the DEDA shall be relieved from payment of any fees in respect of the services of Consultant which gave rise to such breach.

6. Independent Contractor

- a. It is agreed that nothing herein contained is intended or should be construed in any manner as creating or establishing the relationship of copartners between the parties hereto or as constituting Consultant as an agent, representative or employee of the DEDA for any purpose or in any manner whatsoever. The parties do not intend to create any third party beneficiary of this Agreement. Consultant and its employees shall not be considered employees of the DEDA, and any and all claims that may or might arise under the Worker's Compensation Act of the State of Minnesota on behalf of Consultant's employees while so engaged, and any and all claims whatsoever on behalf of Consultant's employees arising out of employment shall in no way be the responsibility of DEDA. Except for compensation provided in Section II of this

Agreement, Consultant's employees shall not be entitled to any compensation or rights or benefits of any kind whatsoever from DEDA, including without limitation, tenure rights, medical and hospital care, sick and vacation leave, Worker's Compensation, Unemployment Insurance, disability or severance pay and P.E.R.A. Further, DEDA shall in no way be responsible to defend, indemnify or save harmless Consultant from liability or judgments arising out of intentional or negligent acts or omissions of Consultant or its employees while performing the work specified by this Agreement.

- b. The parties do not intend by this Agreement to create a joint venture or joint enterprise, and expressly waive any right to claim such status in any dispute arising out of this Agreement.
- c. Consultant expressly waives any right to claim any immunity provided for in Minnesota Statutes Chapter 466 or pursuant to the official immunity doctrine.

7. Indemnity

To the extent allowed by law, Consultant shall defend, indemnify and hold DEDA and its employees, officers, and agents harmless from and against any and all cost or expenses, claims or liabilities, including but not limited to, reasonable attorneys' fees and expenses in connection with any claims resulting from the Consultant's a) breach of this agreement or b) its negligence or misconduct or that of its agents or contractors in performing the Services hereunder or c) any claims arising in connection with Consultant's employees or contractors, or d) the use of any materials supplied by the Consultant to the DEDA unless such material was modified by DEDA and such modification is the cause of such claim. This Section shall survive the termination of this Agreement for any reason.

8. Insurance

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

- a. Public Liability and Automobile Liability Insurance with limits not less than **\$1,500,000** Single Limit, shall be in a company approved by the Duluth Economic Development Authority; and shall provide for the following: Liability for Premises, Operations, Completed Operations, and Contractual Liability. **Duluth Economic Development Authority shall be named as Additional Insured by endorsement** under the Public Liability and Automobile Liability, or as an alternate, Consultant may provide Owners-Contractors Protective policy, naming himself and Duluth Economic

Development Authority. **Upon execution of this Agreement**, Consultant shall provide Certificate of Insurance evidencing such coverage with 30-days' notice of cancellation, non-renewal or material change provisions included.

- b. Professional Liability Insurance in an amount not less than \$1,500,000 Single Limit; provided further that in the event the professional malpractice insurance is in the form of "claims made," insurance, 60 days' notice prior to any cancellation or modification shall be required; and in such event, Consultant agrees to provide the DEDA with either evidence of new insurance coverage conforming to the provisions of this paragraph which will provide unbroken protection to the DEDA, or, in the alternative, to purchase at its cost, extended coverage under the old policy for the period the state of repose runs; the protection to be provided by said "claims made" insurance shall remain in place until the running of the statute of repose for claims related to this Agreement.
- c. Consultant shall also provide evidence of Statutory Minnesota Workers' Compensation Insurance.
- d. A certificate showing continued maintenance of such insurance shall be on file with the DEDA during the term of this Agreement.
- e. The Duluth Economic Development Authority does not represent or guarantee that these types or limits of coverage are adequate to protect the Consultant's interests and liabilities.

9. Notices

Unless otherwise expressly provided herein, any notice or other communication required or given shall be in writing and shall be effective for any purpose if served, with delivery or postage costs prepaid, by nationally recognized commercial overnight delivery service or by registered or certified mail, return receipt requested, to the following addresses:

DEDA: Duluth Economic Development Authority
411 W First Street
City Hall Room 400
Duluth MN 55802
Attn: Executive Director

Consultant: Upper Midwest Film Office

Attn: Shari Marshik
1910 Middle Lane
Duluth, MN, 55811
Attn: Shari Marshik

10. Civil Rights Assurances

Consultant, as part of the consideration under this Agreement, does hereby covenant and agree that:

- a. No person on the grounds of race, color, creed, religion, national origin, ancestry, age, sex, marital status, status with respect to public assistance, sexual orientation, and/or disability shall be excluded from any participation in, denied any benefits of, or otherwise subjected to discrimination with regard to the work to be done pursuant to this Agreement.
- b. That all activities to be conducted pursuant to this Agreement shall be conducted in accordance with the Minnesota Human Rights Act of 1974, as amended (Chapter 363), Title 7 of the U.S. Code, and any regulations and executive orders which may be affected with regard thereto.

11. Laws, Rules and Regulations

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

12. Applicable Law

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

13. Force Majeure

Neither party shall be liable for any failure of or delay in performance of its obligations under his Agreement to the extent such failure or delay is due to circumstances beyond its reasonable control, including, without limitation, acts of God, acts of a public enemy, fires, floods, wars, civil disturbances, sabotage, accidents, insurrections, blockades, embargoes, storms, explosions, labor disputes, acts of any governmental body (whether civil or military, foreign or domestic), failure or delay of third parties or governmental bodies from whom a party is obtaining or must obtain approvals, franchises or permits, or inability to obtain labor, materials, equipment, or transportation. Any such delays shall not be a breach of or failure to perform this Agreement or any part thereof and the date on which

the party's obligations hereunder are due to be fulfilled shall be extended for a period equal to the time lost as a result of such delays.

14. Severability

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

15. Entire Agreement

It is understood and agreed that the entire agreement of the parties including all exhibits is contained herein and that 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 the original agreement or their successors in office.

16. Counterparts

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

IN WITNESS WHEREOF, the parties have hereunto set their hands as of the date of attestation shown below.

**DULUTH ECONOMIC
DEVELOPMENT AUTHORITY**

UPPER MIDWEST FILM OFFICE

By:

By:

President

Company Representative

Attest:

Its:

Secretary

Title of Representative

Date Attested: _____

Date

Approved:

City Attorney

