

PROPERTY DEMOLITION AGREEMENT

THIS AGREEMENT is entered into this _____ day of _____, 2018, by and between the Duluth Economic Development Authority, an economic development authority under Minnesota Statutes, Chapter 469 (DEDA) and the City of Duluth, Minnesota, a municipal corporation under the laws of the State of Minnesota (City).

WHEREAS, the City has issued condemnation for demolition orders on certain substandard and blighted properties in western neighborhoods in Duluth; and

WHEREAS, DEDA desires to assist in such blight removal by providing funding to the City for the demolition.

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

1. Services to be Performed

Subject to the terms and conditions hereinafter set forth, the City agrees to provide all services necessary to demolish the structures on the blighted properties set forth in Exhibit A as may be amended from time to time by mutual agreement of DEDA's Executive Director (the "Executive Director") and the City's Chief Administrative Officer, any such amended exhibit shall be attached to this Agreement (the "Properties"). The City agrees that all services to be provided pursuant to the Agreement shall be in accordance with the generally accepted standards of the profession for the provision of services of this type. The City shall demolish or cause to be demolished all structures on the Properties condemned for demolition in accordance with Section 10-3 of the Duluth City Code, 1959, as amended, and the most current Minimum Specifications for Demolition of Condemned Buildings on file in the City's Construction Services and Inspections Division. Additionally, in the event that City staff are unable to obtain from a Property owner written or verbal consent to enter the structure located on the Property to complete hazardous materials assessment and

abatement, to prepare an inventory of personal property, and to demolish the structure, whether because the Property owner refuses consent or simply cannot be found, the City shall seek and obtain an Administrative Search Warrant from the District Court of the Sixth Judicial District permitting the City to enter the structure on the Property for such purposes. The City shall proceed with such measures in accordance with the requirements of such Administrative Search Warrant.

2. Reimbursement

The City shall be reimbursed for the City's demolition services provided under this Agreement in an amount not to exceed Forty-Three Thousand One Hundred and Twenty-Nine and no/100 (\$43,129.00) Dollars payable from Housing Projects District No. 7, Fund 865, Org. 8607, Object 5319. Demolition expenses include out-of-pocket costs including hazardous material assessment and removal, demolition, debris removal and disposal, utility disconnection costs, court costs, license and permit costs and other costs associated with the demolition of the Properties as may be approved in writing by DEDA's Executive Director (the "Executive Director"). No City staff time shall be reimbursed. Requests for reimbursement shall be accompanied by such documentation as DEDA shall reasonably request. Upon receipt of said request and the appropriate documentation, DEDA shall promptly reimburse the City for the cost of acquisition and demolition services provided up to the amount set forth above.

3. Term

The term of this Agreement shall be deemed to commence upon execution of this Agreement by all parties, and shall remain in effect until December 31, 2019, unless terminated earlier as provided for herein.

4. Reports and Records

The City shall be responsible for furnishing to DEDA such statements, records, data and information as DEDA may request pertaining to the matters covered by this Agreement.

5. Non-Discrimination

The City shall abide by all federal, state or local laws, statutes, ordinances, rules and regulations now in effect or hereinafter adopted pertaining to unlawful discrimination.

6. Establishment and Maintenance of Records

Records shall be maintained by the City in accordance with requirements prescribed by City, in accordance with Generally Accepted Accounting Practices (“GAAP”) 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.

7. Audits and Examination

The City shall ensure that at any time during normal business hours and as often as DEDA may deem necessary, there shall be made available to DEDA for examination all of its records with respect to all matters covered by this Agreement.

8. Termination

DEDA or the City may terminate this Agreement without cause upon thirty (30) days’ notice in writing to the other party as provided for in Paragraph 14. In the event of such termination, all finished or unfinished documents, data, studies and reports obtained or prepared by the City under this Agreement shall be promptly delivered to DEDA at DEDA’s office as set forth in Paragraph 14. The City shall be entitled to compensation for performance of any unreimbursed services satisfactorily performed prior to the date of termination of this Agreement.

9. Assignability

The City shall not assign any interest in this Agreement and shall not transfer any interest in the same (whether by assignment or novation) without the prior written approval of the Executive Director; and further provided that claims for money due or to become due to the City from DEDA under this Agreement may be assigned to any bank without such approval. Notice of any such assignment to a bank shall be furnished promptly to DEDA by regular mail as provided for in Paragraph 14.

10. Subcontracting

The City shall be responsible for performance of and compensation to any subcontractor.

11. Indemnification Clause

The City agrees that it shall defend, indemnify and save harmless DEDA from any and all claims for damages, demands, suits, judgments, costs and expenses asserted by any person or persons arising out of any act or omission of the City or its employees in the performance of services under this Agreement.

12. Funding Contingency

It is understood and agreed by the parties that DEDA shall be obligated to provide payment to the City only to the extent that sufficient captured tax increment proceeds from Tax Increment District No. 7 are received and retained by DEDA from the St. Louis County Auditor’s Office. In the event that insufficient captured tax increment revenues from Tax Increment District No. 7 are received and retained by DEDA from the St. Louis County Auditor’s Office, DEDA shall have the right in its sole and unfettered discretion to reduce or eliminate the funding available to the City under this Agreement or to terminate or otherwise modify this Agreement.

13. Laws, Rules and Regulations

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

14. Notices

Notices to DEDA provided for herein shall be sufficient if sent by regular United States Mail, postage prepaid, addressed to DEDA at 402 City Hall, 411 West First Street, Duluth, Minnesota 55802 Attn: Executive Director; and notices to the City if sent by regular United States Mail, postage prepaid, addressed to the City of Duluth, 402 City Hall, 411 West First Street, Duluth, Minnesota 55802 Attn: Chief Administrative

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

15. 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.

16. Waiver

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

17. 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.

18. No Third Party Rights

This Agreement is to be construed and understood solely as an Agreement between the City and DEDA and 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 the City, may be waived at any time by mutual agreement between DEDA and the City.

19. Entire Agreement

It is understood and agreed that the entire agreement of the parties 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.

DULUTH ECONOMIC DEVELOPMENT

CITY OF DULUTH

DEVELOPMENT AUTHORITY

By _____
Its President

By _____
Its Secretary

By: _____
Mayor

Attest: _____
City Clerk

Countersigned:

City Auditor

Approved as to form:

City Attorney

I:\ATTORNEY\DEDA (015)\Other Projects (OP)\West Duluth Demolition (15-0077)\Agreements\Demolition Agreement with City 11-08-18.doc

EXHIBIT A

319 1/2 North 28th Avenue West

320 North 83rd Avenue West
2111 West 4th Street