

EXHIBIT 1

PURCHASE AGREEMENT

This Purchase Agreement (this “Agreement”) is entered into by and between RMM Limited Liability Company, a Minnesota limited liability company (“RMM”), together with its assigns (“Seller”) and the City of Duluth, a municipal corporation under the laws of the State of Minnesota (“City”).

RECITALS

WHEREAS, Seller owns certain real property in St. Louis County, Minnesota, legally described on the attached Exhibit A, together with any and all improvements located thereon and all privileges, rights and easements appurtenant thereto (the “Property”).

WHEREAS, upon completion of certain conditions precedent, City wishes to purchase the Property from Seller and Seller wishes to sell the Property to City.

In consideration of this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, Seller and City agree as follows:

1. Purchase. Seller agrees to sell to City and City agrees to purchase from Seller, on the terms and conditions set forth in this Agreement, all of Seller’s right, title and interest in the Property.

2. Purchase Price and Closing. The purchase price for the Property, which Seller agrees to accept and City agrees to pay, is \$20,000.00 (the “Purchase Price”), to be paid in cash at Closing (defined below). The closing on the purchase and sale shall occur within 90 days of execution of this Agreement, at a time and location mutually agreeable to the parties (the “Closing”). Seller shall deliver possession of the Property on the date of Closing. On the date of Closing, City shall pay the Purchase Price to Seller and Seller shall deliver a Quit Claim Deed to City conveying Seller’s interest in the Property to City. City and Seller shall also execute and deliver all other documents reasonably necessary to complete the sale and purchase of the Property, including documents required by the title company conducting the Closing. Seller shall remove any personal property and debris from the Property prior to Closing. If the Closing has not occurred within 90 days of execution of this Agreement: (i) this Agreement shall automatically terminate; (ii) upon request, each party shall promptly sign a cancellation of purchase 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.

3. Contingencies to City’s Obligation to Purchase. City’s obligation to close on the sale of the Property is contingent on the occurrence of the following events within the time periods set forth below (the “Contingencies”):

(A) Prior to Closing, City obtaining any approvals required under the City and/or St. Louis County subdivision ordinances, to the extent applicable, to subdivide the Property from adjacent land owned by Seller. Seller agrees to cooperate, at no expense to Seller, with any applications and procedures necessary to obtain such approvals, including but not limited to, execution of any necessary documents as owner of the Property.

(B) Title to the Property being acceptable, or being made acceptable, pursuant to paragraph 6 below.

(C) All of Seller's representations set forth in this Agreement shall be true and correct as of the date of Closing.

(D) Prior to Closing, Seller obtaining a written release of the Property, in form acceptable to City, from the lease in favor of BendTec.

If the Contingencies are not satisfied within the required time periods set forth above, this Agreement shall automatically terminate and except as expressly set forth in this Agreement, the parties shall have no further obligations to one another pursuant to this Agreement. The Contingencies are for the benefit of City and can only be waived by City.

4. Taxes and Special Assessments. Real estate taxes on the Property for the year in which the Closing occurs shall be prorated as of the date of Closing based upon the latest available tax statement. City shall be responsible for all special assessments pending as of the date of Closing. City shall be responsible for all real estate taxes for the year following Closing and all subsequent years. Seller shall be responsible for all real estate taxes and assessments for the years prior to the year in which the Closing occurs, including all special assessments that have been certified or levied as of the date of Closing. Seller represents that Seller has not received any notice of any work or improvements, payment for which will be assessed against the Property.

5. Closing Costs. Seller shall pay the deed tax and recording fees for any documents necessary to place title in the name of Seller or to correct any title defects Seller agrees to correct pursuant to paragraph 6 below. City shall pay to record the warranty deed from Seller. City and Seller shall each pay ½ of any closing fee charged by the title company conducting the Closing.

6. Title. City may obtain, at City's expense, a title insurance commitment for an ALTA Owner's Policy of Title Insurance insuring title to the Property (the "Title Commitment"). The premium for a title insurance policy, if City elects to obtain title insurance, shall be paid for by City. In the event that the Title Commitment reflects that title to the Property is not in a condition that is acceptable to City, City may object to the title defects by specifying City's objections in writing to Seller within 20 days of receipt of the Title Commitment. At Seller's election, Seller may fix any title defects, or may decline to fix any title defects by delivering written notice to City within 10 days of receipt of City's title objections. If Seller fixes the title defects, the parties shall proceed to Closing subject to the terms and conditions of this Agreement. If Seller declines to fix the title defects, City may (i) accept the Property subject to the title defects and proceed to Closing, or (ii) terminate this Agreement by delivering written notice of termination to Seller within 5 days of receiving notice that Seller will not fix the title defects. If City 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.

7. Statutory Disclosures. Seller has no knowledge of the following with respect to the Property: (i) the presence of a well, underground storage tank or subsurface sewage treatment system; or (ii) methamphetamine production on the Property.

8. Seller Representations. Seller makes the following representations:

(A) Seller has the full power and authority to enter into this Agreement and sell the Property in accordance with this Agreement. No consent or authorization from any other person, entity or government agency is required for Seller to enter into and perform Seller's obligations under this Agreement except as has already been obtained. The execution of the Agreement will not constitute a breach or default under any agreement to which Seller is bound.

(B) There is no suit, action, legal, administrative or other proceeding or inquiry pending or threatened against Seller which could affect Seller's ability to enter into and perform Seller's obligations under this Agreement. No attachments, execution proceedings, assignments for the benefit of creditors, insolvency, bankruptcy, reorganization, or other proceedings are pending or threatened against Seller, nor are any such proceedings contemplated by Seller.

(C) All taxes for all prior years, all governmental liens and assessments which are currently due and payable are paid or will be paid by Seller as of the date of Closing.

(D) Seller has had no work performed on the Property within any operative statutory period that would allow a mechanic's lien to attach to the Property before or after Closing.

(E) Except for this Agreement, Seller has no knowledge of any agreement: (i) for the sale of the Property or any part thereof; (ii) which grants a third party an option to purchase the Property or any part thereof; or (iii) which gives a third party a right of first refusal with respect to the Property or any part thereof.

(F) Seller knows of no lease of the Property other than a lease to BendTec, and will arrange for the release of the Property from that lease prior to Closing.

Each of the above representations is material and is relied upon by City. Each of the above representations shall be deemed to have been made as of the Closing and shall survive the Closing.

9. Risk of Loss. If there is any loss or damage to the Property between the date of this Agreement and the date of Closing, the risk of loss shall be on the Seller. If the Property is destroyed or damaged prior to the Closing, City may cancel this Agreement upon written notice to Seller and in such event, the parties shall have no further obligations to one another pursuant to this Agreement except as expressly set forth in this Agreement.

10. Real Estate Broker. The parties represent to one another that no real estate broker is entitled to any commission as a result of the sale of the Property to City.

11. AS-IS. Without limitation, City acknowledges that Seller has made no representations or warranties (whether express or implied, oral or written) regarding the Property, including but not limited to the value, quality or condition of the Property; the suitability of the Property for any activity or use which City may conduct; the compliance of the Property with any laws or regulations; the habitability, merchantability, marketability, profitability, or fitness of the Property for a particular purpose; and compliance by the Property with any and all environmental rules, regulations, orders or laws. City acknowledges and agrees that, to the maximum extent permitted by law, City is purchasing the Property in its "AS-IS" condition. This paragraph 11 shall survive the Closing.

12. Miscellaneous. This Agreement constitutes the entire agreement between the parties pertaining to the subject matter contained in it and supersedes all prior and contemporaneous agreements, representations, and understandings between the parties regarding the Property. There are no oral agreements that change this Agreement and no waiver of any of its terms shall be effective unless in a writing executed by the parties. Time is of the essence in all terms of this Agreement. This Agreement binds and benefits the parties and their successors in interest. This Agreement shall be construed under the laws of the state of Minnesota. This Agreement, each provision of it, and all warranties and representations in this Agreement shall survive the Closing. This document may be executed in counterparts, which together shall be deemed an original for all purposes.

13. Waiver. The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Agreement.

14. Default and Remedies. In the event of a default of this Agreement by either party, the non-defaulting party shall be entitled to pursue either of the following remedies: (1) cancellation of this Agreement; or (2) specific performance of this Agreement. Neither party shall be entitled to damages for a breach of this Agreement. The waiver by either party of any default on the part of the other party or the failure of said party to declare default on the part of the other party of any of its obligations pursuant to this Agreement shall not be deemed to be a waiver of any subsequent event of default on the part of the defaulting party of the same or of any other obligation of the defaulting party. And, to be effective, any waiver of any default by the defaulting party shall be in writing by the non-defaulting party. In the event that either party is in default of any of the terms and conditions of this Agreement and the non-defaulting party shall successfully take legal action to enforce said rights herein, in addition to the foregoing, such non-defaulting party shall be entitled to reimbursement for its reasonable attorneys' fees and costs and otherwise for its costs and disbursements occasioned in enforcing its rights hereunder.

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

City
City of Duluth
Attn: Property and Facilities Manager
1532 W. Michigan Street
Duluth, MN 55806

Seller
Wendy Meierhoff-Aldrich
c/o RMM Limited Liability Company
366 Garfield Avenue
Duluth, MN 55802

With a copy to:
William M. Burns
Hanft Fride, P.A.
130 W. Superior St. #1000
Duluth, MN 55802

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

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date indicated below.

Dated: October 24, 2017.

SELLER:


CITY OF DULUTH:

RMM LIMITED LIABILITY COMPANY

By _____
Its Mayor

By: 
Wendy Meierhoff-Aldrich, Member

Attest: _____
Its City Clerk

By: 
David Meierhoff, Member

Date Attested: _____, 2017

Countersigned:

By: _____
Its Auditor

Approved as to form:

By: _____
Its City Attorney

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

PARCEL 1:

Those parts of Lots 2 and 3, First Subdivision of Rice's Point, according to the recorded plat thereof (being parts of former Blocks 43, 58 and 59 of the original plat of Rice's Point), being a strip of land 40.0 feet in width, described as follows: Commencing at the Northwest corner of Lot 18, Block F, Duluth Proper Second Division, according to the recorded plat thereof; thence Easterly, along the North line of said Lot 18, a distance of 402.59 feet; thence deflect $94^{\circ}58'00''$ to the right in a Southerly direction a distance of 702.49 feet to the extension of the north line of Lot 25 of said Block F, being the point of beginning of the land to be described; thence continuing Southerly along last described line a distance of 351.47 feet to the Westerly extension of the line formally known as South line of Lot 46 of said Block 58; thence deflect $85^{\circ}02'00''$ to the right in a Westerly direction, along said Westerly extension of the former South line of Lot 46 a distance of 40.15 feet; thence deflect $94^{\circ}58'00''$ to the right in a Northerly direction a distance of 351.47 feet to said extension of the north line of Lot 25; thence deflect $85^{\circ}02'00''$ to the right in a Easterly direction along said extension of the north line Lot 25 a distance of 40.15 feet to the point of beginning.

PARCEL 2:

That part of Lot 2, First Subdivision of Rice's Point, according to the recorded plat thereof, described as follows: Commencing at the Northwest corner of Lot 18, Block F, Duluth Proper Second Division, according to the recorded plat thereof, thence Easterly, along the North line of said Lot 18, a distance of 362.44 feet; thence deflect $94^{\circ}58'00''$ to the right in a Southerly direction a distance of 764.69 feet to the point of beginning of the land to be described; thence continue Southerly, along the last described line, a distance of 289.27 feet; thence deflect $85^{\circ}02'00''$ to the right in a Westerly direction, along the former Westerly extension of the South line of Lot 46, Block 58 of the original plat of Rice's Point, a distance of 4.01 feet; thence deflect $94^{\circ}58'00''$ to the right in a Northerly direction a distance of 192.15 feet; thence deflect $2^{\circ}21'00''$ to the right in a Northerly direction a distance of 97.55 feet to the point of beginning.

PARCEL 3:

Those parts of Lots 2 and 3, First Subdivision of Rice's Point, according to the recorded plat thereof, described as follows: Commencing at the Northwest corner of Lot 18, Block F, Duluth Proper Second Division, according to the recorded plat thereof, thence Easterly, along the North line of said Lot 18, a distance of 402.59 feet, thence deflect $94^{\circ}58'00''$ to the right in a Southerly direction a distance of 801.29 feet to the point of beginning of the land to be described; thence continue Southerly, along the last described line, a distance of 252.67 feet; thence deflect $94^{\circ}58'00''$ to the left in an Easterly direction, along the former Westerly extension of the South line of Lot 46, Block 58 of the original plat of Rice's Point, a distance of 4.01 feet; thence deflect $85^{\circ}02'00''$ to the left in a Northerly direction a distance of 107.61 feet; thence deflect $1^{\circ}35'00''$ to the left in a Northerly direction a distance of 144.77 feet to the point of beginning.