

EXHIBIT 1

PURCHASE AGREEMENT

THIS PURCHASE AGREEMENT (this “**Agreement**”) is made as of _____, 2022 (“**Effective Date**”), by and between CITY OF DULUTH, a Minnesota municipal corporation (“**Seller**”) and DULUTH ECONOMIC DEVELOPMENT AUTHORITY, a public body, corporate and politic and political subdivision under the laws of the State of Minnesota (“**Buyer**”).

RECITALS

A. Seller is the owner of vacant real property in Duluth, St. Louis County, Minnesota legally described on the attached **Exhibit A** (the “**Real Property**”). Seller has agreed to convey the Property (defined below) to Buyer and Buyer is desirous of purchasing the same.

B. Seller desires to sell and Buyer desires to purchase the Property pursuant to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth in this Agreement, and other good and valuable consideration, the receipt, sufficiency and mutuality of which are acknowledged, Buyer and Seller agree as follows:

- 1.0 Property To Be Purchased. Subject to compliance with the terms and conditions of this Agreement, Seller shall sell to Buyer and Buyer shall purchase from Seller the following (collectively, the “**Property**”):
 - (a) the Real Property; and
 - (b) all improvements located on the Real Property, if any.
- 2.0 Purchase Price. The purchase price to be paid by Buyer for the purchase of the Property shall be One and no/100 Dollars (\$1.00) (the “**Purchase Price**”), to be paid in cash at Closing (defined below). It is the intention of the parties that Seller will not incur any out of pocket costs in relation to this transaction.
- 3.0 Closing Date. The closing of the purchase and sale contemplated by this Agreement (the “**Closing**”) shall occur on or before November 30, 2022 (the “**Closing Date**”) or such earlier date as may be agreed upon by the parties.
- 4.0 Title. Buyer may investigate the status of title to the Property at its own expense. In the event Buyer determines that title to the Property is unacceptable, Buyer may terminate this Agreement prior to the Closing. Seller shall have no obligation to remedy any title issues identified by Buyer. If Buyer does not cancel this Agreement prior to Closing, Buyer shall accept title to the Property in as-is condition as of the Closing.
- 5.0 Seller’s Conditions To Closing. The Closing of the transaction contemplated by this Agreement and the obligation of Seller to sell the Property shall be subject to the following conditions:

- (a) Representations. Buyer's representations in this Agreement shall be true at the time of Closing as though such representations were made at such time.
- (b) Performance by Buyer. Buyer shall have performed all of its obligations under this Agreement.

If the conditions set forth at 5.0(a) and (b) have not been satisfied or waived prior to the Closing Date, this Agreement may be terminated, at the option of Seller, by written notice from Seller to Buyer delivered to Buyer no later than the Closing Date. All of the contingencies set forth in Section 5.0 of this Agreement are for the sole and exclusive benefit of Seller and Seller shall have the right to unilaterally waive any contingency by written notice to Buyer.

- 6.0 Statutory Disclosures and Environmental Declaration. Seller's staff handling the sale of the Property on behalf of Seller 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. Seller discloses and Buyer acknowledges environmental contamination of the Property, including but not limited to the contamination described in the attached Exhibit B.
- 7.0 As Is Provisions. Buyer is purchasing the Property "AS IS" and "WHERE IS", and with all faults. Seller makes no representations or warranties, whether express or implied, by operation of law or otherwise, with respect to the quality, physical condition or value of the Property, the compliance of the Property with applicable building or fire codes or other laws or regulations. Buyer agrees that Seller is not liable or bound by any guarantees, promises, statements, representations or information pertaining to the Property made or furnished by Seller or any agent, officer, director, employee or other person representing or purporting to represent Seller. To the fullest extent allowed by Minnesota and Federal law, Buyer and Seller agree as follows: Buyer expressly waives the requirement of any disclosure not expressly contained in this Agreement (including, without limitation, any disclosure required pursuant to Minn. Stat. §513.52-513.60), and Buyer agrees to take the Property "As Is" notwithstanding any matter set forth in any disclosure statement required by Minnesota law.

BUYER ACKNOWLEDGES AND AGREES THAT SELLER HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, AS TO, CONCERNING OR WITH RESPECT TO:

- (A) THE VALUE, NATURE, QUALITY OR CONDITION OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, THE WATER, SOIL AND GEOLOGY;

- (B) THE INCOME TO BE DERIVED FROM THE PROPERTY;
- (C) THE SUITABILITY OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH BUYER MAY CONDUCT THEREON;
- (D) THE COMPLIANCE OF OR BY THE PROPERTY OR ITS OPERATION WITH ANY LAWS, RULES, ORDINANCE OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY OR BODY OR ANY FRANCHISE LICENSE OR AGREEMENT OR ANY GRANT OR SIMILAR AGREEMENT;
- (E) THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY;
- (F) THE MANNER OR QUALITY OF THE CONSTRUCTION OR MATERIALS, IF ANY, INCORPORATED INTO THE PROPERTY;
- (G) THE MANNER, QUALITY, STATE OF REPAIR OR LACK OF REPAIR OF THE PROPERTY;
- (H) THE AVAILABILITY OF WATER OR OTHER RESOURCES OR UTILITIES; OR
- (I) ANY OTHER MATTER WITH RESPECT TO THE PROPERTY, AND SPECIFICALLY, THAT SELLER HAS NOT MADE, DOES NOT MAKE, AND SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS REGARDING COMPLIANCE WITH ANY ENVIRONMENTAL PROTECTION OR POLLUTION RULES, REGULATIONS, ORDERS OR REQUIREMENTS, INCLUDING SOLID WASTE, AND INCLUDING THE DISPOSAL, RELEASE OR EXISTENCE, IN OR ON THE PROPERTY, OF ANY HAZARDOUS SUBSTANCE.

7.1 Independent Investigation. The consummation of this transaction shall constitute Buyer's acknowledgment that Buyer has independently inspected and investigated the Property and has made and entered into this Agreement based upon such inspection and investigation and its own examination of the condition of the Property. Upon Closing, Buyer shall assume the risk that adverse matters, including but not limited to construction defects and adverse physical and environmental conditions and the suitability or unsuitability of the Property for Buyer's intended uses, may not have been revealed by Buyer's investigations. Buyer, upon Closing, shall be deemed to have waived, relinquished and released Seller and its employees and agents (collectively, the "**Seller-Related Parties**") from and against, and covenanted not to sue any of the foregoing with regard to, any and all claims, demands, causes of action (including causes of action in tort or under any environmental law), losses, damages, liabilities (whether based on strict liability or otherwise), losses, damages, liabilities, costs and expenses (including attorneys' fees and court costs) of any and every kind or character, known or unknown, which Buyer might have asserted or alleged against Seller and/or the Seller-Related Parties at any time (including without limitation to the extent covered by or that would be covered by [as opposed to paid] by insurance) by reason of or arising out of any latent or patent construction defects or physical conditions, violations of any applicable

laws (including, without limitation, any environmental laws), the suitability of the Property for any purposes contemplated by Buyer and any and all other acts, omissions, events, circumstances or matters regarding the Property.

7.2 Buyer Reliance. All information, whether written or oral, previously, now, or hereafter made available to Buyer by Seller, its agents, or any other person acting for or on behalf of Seller, whether in the form of appraisals, market studies, projections, brochures, maps, surveys, soil reports, engineering studies, environmental studies, inspection reports, plans and specifications, and all other information and materials have been or will be furnished by Seller to Buyer solely as an accommodation, and neither Seller nor its agents has verified the accuracy of such information or the qualifications of the persons preparing such information. Buyer agrees that, notwithstanding the fact that Buyer has received certain information from Seller, or its respective agents or consultants, Buyer has relied solely upon and will continue to rely solely upon its own analysis and will not rely on any information provided by Seller, or its agents or consultants.

7.3 Reconveyance Requirements. In the event Buyer conveys the Property, or any portion thereof, to a third party, Buyer must enter into a written agreement with each grantee (referred to as “Developer” in the language below) and include the following provisions, which written agreement must provide that the following language survives delivery of the deed to the grantee (any variation from the language below or additional language modifying or limiting the language below, must be approved, in advance and in writing, by Seller’s Chief Administrative Officer):

(a) *Developer shall comply with the Minnesota Pollution Control Agency’s Construction Contingency Plan for the Property, as it may be modified or amended from time to time, and any other requirements of the Minnesota Pollution Control Agency with respect to the Property.*

(b) A. Generally. *Developer shall, to the fullest extent permitted by law, protect, indemnify and save DEDA and the City and their officers, agents, servants, employees and any person who controls DEDA within the meaning of Securities Act of 1933, harmless from and against all liabilities, losses, damages, costs, expenses, including attorneys’ fees and expenses, causes of action, suits, claims demands and judgments of any nature arising from:*

1. *Any injury to or death of any person or damage to property in or upon the Project or the Property, or growing out of or in connection with the use or non-use, condition or occupancy of the Project or the Property or any part thereof and also, without limitation, the construction or installation of the Project or any portion of the Project. The foregoing indemnification shall*

not be limited in any way by any limitation on the amount or type of damage, compensation or benefits payable by or for Developer, customers, suppliers or affiliated organizations under any Workers' Compensation Act, Disability Benefit Acts or any other Employee Benefit Acts.

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

B. Environmental Indemnification. In addition to the generality of the above, Developer hereby agrees that for itself, its successors and assigns that it will indemnify and save DEDA and 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 reasonable attorneys' fees and expenses, causes of action, suits, claims, demands and judgments arising out of any condition existing in the Project or on the Property, whether pre-existing or after-created, which constitutes a violation of any environmental law or laws with regard to pollutants or hazardous or dangerous substances promulgated by the government of the United States or of the State of Minnesota or of any such duly promulgated rules and regulations of the United States Environmental Protection Agency or the Minnesota Pollution Control Agency or the presence in the Project or on the Property, or the release or threatened release of any element, compound, pollutant, contaminant, or toxic or hazardous substance, material or waste, or any mixture thereof, which otherwise causes injury or death to persons or damage to property, and that indemnification granted hereby shall include all costs of clean-up and remediation and response costs, together with the costs incurred in proceedings

before a court of law or administrative agency including attorneys' fees, expenses, the fees and expenses of persons providing technical expertise addressing such problems including expert witnesses, the costs of preparing and securing approval of Response Action Plans as may be necessary to meet the requirements of the aforesaid agencies and any other costs and expenses of any kind whatsoever arising out of such conditions existing in the Project or on the Property.

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

7.4 Survival. Sections 7.0, 7.1, 7.2, and 7.3 shall survive the Closing and any termination of this Agreement forever.

8.0 Real Estate Taxes and Special Assessments. The Property is currently tax-exempt and Buyer and Seller do not expect there to be any current or past due taxes or assessments outstanding as of the Closing. In the event that there are any current or past due taxes or assessments outstanding as of the Closing, Buyer shall pay them at Closing as a part of the Closing Costs. Buyer shall be responsible for all real estate taxes and assessments for the year following Closing and all subsequent years.

9.0 Closing Documents. At or prior to Closing, the parties shall execute and deliver the following:

- (a) A quitclaim deed (the “**Deed**”) in the form attached as Exhibit C.
- (b) Ordinance by Seller, in recordable form, authorizing the conveyance of the Property to Buyer;

- (c) Resolution by Buyer, in recordable form, authorizing the acquisition of the Property by Buyer;
 - (d) All other documents required by this Agreement to effectuate the provisions of this Agreement.
- 10.0 Closing Costs. Buyer shall pay all costs and expenses in connection with the Closing, including but not limited to the following:
 - (a) All state deed taxes and/or transfer taxes on deeds;
 - (b) Recording fees for Seller's ordinance authorizing the sale of the Property to Buyer;
 - (c) Any title investigation-related expenses;
 - (d) Any reports or inspection reports obtained by Buyer; and
 - (e) Recording fees for recording the Deed and Buyer's resolution authorizing acquisition of the Property.
- 11.0 Commission. Seller and Buyer represent and warrant to each other that they have not engaged the services of any broker in connection with the sale and purchase contemplated by this Agreement. Seller and Buyer shall each indemnify and hold the other harmless of any claim made by any broker or sales agent or similar party for a commission due or alleged to be due under the terms of any brokerage agreement entered into by said party.
- 12.0 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 Seller. If the Property is destroyed or damaged prior to the Closing, Buyer 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.
- 13.0 Assignment. Neither Seller or Buyer may assign its interest in this Agreement.
- 14.0 Miscellaneous.
 - 14.1.1 Time of Essence. Time is of the essence of this Agreement.
 - 14.1.2 Governing Law. This Agreement is made and executed under and in all respect to be governed by the laws of the State of Minnesota. Any dispute that may arise between the parties arising out of this Agreement shall be adjudicated before a court located in St. Louis County, Minnesota and the parties irrevocably submit to the exclusive jurisdiction of the federal and state courts of the State of Minnesota located in St. Louis County with respect to any action or legal proceeding commenced by any party.

14.1.9 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.

[Remainder of this page is intentionally left blank.]

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

**DULUTH ECONOMIC
DEVELOPMENT AUTHORITY**

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

CITY OF DULUTH

By: _____
Its Mayor

Attest: _____
Its City Clerk

Date Attested: _____, 2022

Countersigned:

By: _____
Its Auditor

Approved as to form:

By: _____
Its City Attorney

EXHIBIT A TO PURCHASE AGREEMENT
Legal Description

Lots 4-16, Block 2, Clinton Place Addition to Duluth
Lots 11-16, Block 3, Clinton Place Addition to Duluth
Lots 5-16, Block 5, Clinton Place Addition to Duluth

St. Louis County, Minnesota

EXHIBIT B TO PURCHASE AGREEMENT
Recorded MNDOT Affidavit

EXHIBIT C TO PURCHASE AGREEMENT

QUIT CLAIM DEED

eCRV Number: N/A

Deed Tax Due: \$1.65

Date: _____, 2022

FOR VALUABLE CONSIDERATION, the CITY OF DULUTH, a municipal corporation under the laws of the State of Minnesota, “Grantor,” hereby conveys and quitclaims to DULUTH ECONOMIC DEVELOPMENT AUTHORITY, a public body, corporate and politic and political subdivision under the laws of the State of Minnesota, “Grantee,” real property in St. Louis County, Minnesota, described as follows (the “Property”):

Lots 4-16, Block 2, Clinton Place Addition to Duluth
Lots 11-16, Block 3, Clinton Place Addition to Duluth
Lots 5-16, Block 5, Clinton Place Addition to Duluth

together with all hereditaments and appurtenances belonging thereto, and subject to the following:

(1) an easement for trail right-of-way purposes as described in the Ordinance of the City of Duluth recorded in the office of the St. Louis County, Minnesota Recorder on June 29, 2016 as Document No. 1287776.

(2) all other existing easements, restrictions and reservations of record; and

(3) the Property and all improvements, if any, is being conveyed as-is and where-is.

As used in the paragraphs below,

- “Claims” means any and all present, past, or future liabilities, suits, claims, cross claims, counterclaims, causes of action, demands, penalties, debts, obligations, promises, acts, fines, judgments, damages, consequential damages, losses, costs, and expenses of every kind (including without limitation any attorney's fees, consultant's fees, costs, remedial action costs, cleanup costs and expenses which may be related to any Claims);

- “Environmental Law” means all federal, state and local laws, statutes, ordinances, regulations, standards, rules, policies, common law rule and other-binding and non-binding governmental requirements in effect on the date hereof or adopted or modified after the date of this agreement, and any judicial or administrative interpretation thereof having the force and effect of law, including, without limitation, any applicable judicial or administrative order, consent decree, judgment, order or requirement conferring rights or imposing duties at common law (including without limitation the common law respecting nuisance and tortious liability) relating in any way to the environment, natural resources, plants and animals, and human health and safety, including without limitation, the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. §9601, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. §6901, et seq.; Minn. Stat. § 115B.01, et seq. (2014); the Federal Water Pollution Control Act, 33 U.S.C. §1201, et seq.; the Clean Water Act, 33 U.S.C. §1321, et seq.; the Clean Air Act, 42 U.S.C. §7401, et seq.; the Toxic Substances Control Act, 33 U.S.C. §1251, et seq.; the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §136, et seq.; the Atomic Energy Act, 42 U.S.C. §2011, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. §5101, et seq.; the Endangered Species Act, 7 U.S.C. §136; 16 U.S.C. §460 et seq.; and any similar or comparable state or local law; and
- “Hazardous substance” means any pollutant, contaminant, hazardous substance or waste, solid waste, petroleum product, distillate, or fraction, radioactive material, chemical known to cause cancer or reproductive toxicity, polychlorinated biphenyl or any either chemical, element, compound, chemical mixture, substance or material listed or identified in or regulated by any Environmental Law.

Grantee, for itself and its successors and assigns, agrees that Grantee has had the opportunity to inspect the Property and is not relying on any representations or warranties, express or implied, of any kind whatsoever from Grantor as to any matters concerning the Property, including, but not limited to, the physical condition of the Property and any defects thereof, zoning status, tax consequences of this transaction, utilities, operating history or projections, valuation, governmental approvals, the presence of any Hazardous Substances in, on, under, or in proximity to the Property; the condition or existence of any of the above ground or underground structures or improvements, including tanks, transformers, and asbestos or lead containing structures or materials in, on or under the Property, the condition of title to the Property and the leases, easements, permits, orders, licenses, or other agreements, affecting the Property. Grantee acknowledges that Hazardous Substances may be on, at, under, or emanating from and in proximity to the Property which may or may not be in violation of Environmental Laws and that Grantee's investigation may not have disclosed all such Hazardous Substances or violations or the extent thereof. AS SUCH, GRANTEE ACCEPTS AND IS AWARE THAT GRANTEE IS ACQUIRING THE PROPERTY ON AN "AS-IS WITH ALL FAULTS" BASIS WITH ANY AND ALL PATENT AND LATENT DEFECTS, INCLUDING THOSE RELATING TO, ASSOCIATED WITH, OR ARISING FROM THE ENVIRONMENTAL CONDITION OF THE PROPERTY, AND THAT GRANTEE IS NOT RELYING ON ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, OF ANY KIND WHATSOEVER FROM GRANTOR AS TO ANY MATTERS CONCERNING THE PROPERTY.

Grantee, in full acknowledgement and aware of such risks shall defend (with counsel acceptable to Grantor), indemnify, hold harmless and hereby waives, releases and discharges forever Grantor (and its officers, directors, employees, agents and contractors, successors and

assigns) from any and all Claims and any and all damages, losses, injury, liability, claims or costs, including fines, penalties and judgments, and attorneys' fees and court costs (collectively, "Damages") whether known or unknown, arising from ,or in any way related to the condition of the Property, any patent or latent defects or alleged or actual presence, use, storage, generation, manufacture, transport, release, leak, spill, disposal or other handling of any Hazardous Substances in, on or under the Property. Grantee's release and indemnity to Grantor includes any and all such Claims and Damages whether based in contract, tort, strict liability or Grantor's past, present, sole, concurrent, or contributory negligence as operator, owner, lessor, or landlord. Losses shall include without limitation (a) the cost of any investigation, removal, remedial or other response that is required by any Environmental Law, that is required by judicial order or by order of or agreement with any governmental authority, or that is necessary or otherwise is reasonable under the circumstances, (b) losses for injury or death of any person, (c) and losses arising under any Environmental Law enacted in the future, and (d) losses for property damage including diminution in value thereof. This indemnity specifically includes the obligation of Grantee to remove, close, remediate, reimburse or take other actions requested or required by any governmental agency concerning any Hazardous Substances on the Property.

Grantee agrees not to sue or to assert any claim or cause of action against Grantor arising out of the release of a Hazardous Substance or a pollutant or contaminant occurring on or in the Property pursuant to any right of contribution or indemnification provided by any state or federal statutory or common law including, but not limited to Environmental Laws and any other federal, state, local governmental statute, regulation or ordinance, the subject of which is the protection of human health, safety, natural resources, or the environment now in existence or hereafter enacted.

If Grantee causes or allows the Property to become contaminated in any manner by a Hazardous Substance or a pollutant or contaminant, Grantee will defend (with counsel acceptable to Grantor), indemnify and hold harmless Grantor. If Grantee causes or permits the release or threatened release of any Hazardous Substance or pollutant or contaminant on or in the Property, Grantee shall promptly, at no expense to Grantor, take any and all actions necessary to return the Property to a condition that is in accordance with all applicable federal, state, and local laws and regulations.

These covenants shall run with the land and be binding upon Grantee, its assigns and other successors in title or interest of Grantee.

Check here if all or part of the described real property is Registered (Torrens) X.

Grantor certifies that the Grantor does not know of any wells on the Property.

The total consideration for this conveyance is less than \$3,000.00.

[Remainder of this page is intentionally left blank.]

CITY OF DULUTH:

By: _____
Mayor

By: _____
City Clerk

STATE OF MINNESOTA)
) SS
COUNTY OF ST. LOUIS)

This instrument was acknowledged before me on _____, 2022, by Emily Larson, Mayor of the City of Duluth, a municipal corporation organized and existing under the laws of the State of Minnesota.

Notary Public

STATE OF MINNESOTA)
) SS
COUNTY OF ST. LOUIS)

This instrument was acknowledged before me on _____, 2022, by Ian B. Johnson, City Clerk of the City of Duluth, a municipal corporation organized and existing under the laws of the State of Minnesota.

Notary Public

This Instrument was drafted by:
City of Duluth
Office of the City Attorney
411 W. First Street, Room 410
Duluth, Minnesota 55802

Tax Statements should be sent to:
DEDA

