

AGREEMENT

Between

ST. LOUIS COUNTY-A POLITICAL SUBDIVISION OF THE STATE OF MINNESOTA CITY OF DULUTH-A POLITICAL SUBDIVISION OF THE STATE OF MINNESOTA

THIS AGREEMENT (the "Agreement") is entered into by St. Louis County (the "County") and the City of Duluth (the "City"). The County and the City are collectively referred to as the "Parties."

WHEREAS, certain state tax forfeited parcels located within the boundaries of the City are currently being used to support the City's parks, recreational and storm water infrastructure.

WHEREAS, the County administers these state tax forfeited parcels.

WHEREAS, the Parties desire that a number of these state tax forfeited parcels be transferred from the State of Minnesota in Trust for the Local Taxing Districts to the City (the "Conveyance").

WHEREAS, the Parties wish to enter into this Agreement to set forth their respective rights and obligations relating to the Conveyance.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties agree as follows:

1. City. The City will:
 - a. Engage in preliminary staff-level negotiations with the County.
 - i. Submit by January 15, 2021, an exhibit showing the geographic areas of the City of Duluth that the City would like this Agreement to cover.
 - ii. Submit by January 15, 2021, exhibits listing and depicting the specific parcels in each identified geographic area that the City wishes to acquire under this Agreement.
 - iii. Submit by January 15, 2021, an exhibit listing parcels the City wishes to acquire under this Agreement that the City deems suitable to be conveyed pursuant to Minnesota Statutes § 282.01, Subd. 1a(e) including a statement of fact as to the use to be made of each parcel.
 - iv. Submit by January 15, 2021, an exhibit listing parcels the City deems unsuitable to be conveyed pursuant to Minnesota Statutes § 282.01, Subd. 1a(e) but deems suitable to be conveyed pursuant to Minnesota Statutes § 282.01, Subd. 1a(h) including a statement of fact as to the use of the land for one of the conservation purposes defined in statute.

- b. Engage in final negotiations with St. Louis County
 - i. Seek a City Council resolution accepting the parcels approved by the County for conveyance to the City and stating its support of the County's application to the Commissioner of Revenue for conveyance of the selected parcels to the City pursuant to Minnesota Statutes § 282.01, Subd. 1a(e) and (h).
- c. Transact the change of ownership with St. Louis County
 - i. Pay all costs relating to the change of ownership, including those arising from application for and issuance and recording of deeds received from the Department of Revenue pursuant to this Agreement.
 - ii. Consolidate tax parcels within parks and other areas once state tax forfeited parcels are conveyed.
- d. Pass a City Council resolution of intent substantially like the one approved by the City of Duluth Special Assessment Board on May 10, 2019 expressing the City's intent to not reinstate the assessments on the list of current tax forfeit parcels located within the City's boundaries attached as Exhibit A.

2. County. The County will:

- a. Engage in preliminary staff-level negotiations with the City of Duluth
 - i. Confer with the City regarding the geographic areas of the City that the City would like this Agreement to cover.
 - ii. Confer with the City regarding the list of parcels the City would like to be conveyed to the City under this Agreement.
 - iii. Confer with the City regarding the City's proposed list of parcels suitable to be conveyed pursuant to Minnesota Statute § 282.01, Subds. 1a(e) and (h).
- b. Engage in final negotiations with the City of Duluth
 - i. By March 16, 2021, finalize an exhibit showing the geographic areas of the City to be covered by this Agreement.
 - ii. By March 16, 2021, finalize an exhibit which is a list of all state tax forfeited parcels suitable to be conveyed at no cost to the City for an authorized public use as defined in Minnesota Statutes § 282.01, Subd. 1a(e) as indicated in paragraph 1.a.

- iii. By March 16, 2021, finalize an exhibit which is a list of all tax forfeited parcels that are not suitable for conveyance pursuant to Minnesota Statutes § 282.01, Subd. 1a(e) but are suitable for conveyance for conservation purposes as defined in statute pursuant to Minnesota Statutes § 282.01, Subd. 1a(h).
- iv. Provide a copy of the final list of selected parcels and the statutory mechanism by which each parcel will be conveyed, the acceptance of which will be considered by the City Council on or before May 15, 2021.
- v. Seek the County Board's favorable recommendation on or before April 15, 2021 supporting the conveyance of the selected properties. Consideration for conveyances pursuant to Minnesota Statutes § 282.01, Subd. 1a(e) shall be in kind. Consideration for conveyances pursuant to Minnesota Statutes § 282.01, Subd. 1a(h) shall be a combination of in kind and payments not to exceed 20% percent of each property's estimated market value as determined by the County Assessor. The actual payment for parcels conveyed pursuant to Minnesota Statutes § 282.01, Subd. 1a(h) shall vary according to each parcel's marketability based on metrics such as distance to roads and utilities and presence of shallow bedrock, wetlands, flood plains, and steep grades. Parcels that are less marketable will be priced lower to a minimum of 5% of estimated market value as determined by the County Assessor. If the City and County cannot agree as to the payment for a particular parcel, that parcel shall be removed from consideration for transfer pursuant to this Agreement.

c. Transact the change of ownership with the City of Duluth

- i. Within two years of the County Board's favorable recommendation, upon receipt of a resolution of the City Council accepting and supporting the conveyance of the list of selected parcels, and upon receipt of the City's payment of all costs associated with application for and issuance and recording of deeds received from the Department of Revenue pursuant to this Agreement, prepare applications, including statements of fact regarding the proposed uses of the selected parcels, to be submitted to the Commissioner of Revenue.
- ii. Undertake all actions necessary to record the conditional use deed(s) issued pursuant to Minnesota Statutes § 282.01, Subd. 1a(e) and conservation-related usage deed(s) issued pursuant to § 282.01, Subd. 1a(h) which are received from the Department of Revenue conveying the selected parcels to the City.
- iii. Undertake all actions necessary to effect the change of ownership in a manner that minimizes costs associated with application for and issuance and recording of deeds received from the Department of Revenue pursuant to this Agreement. In accordance with and as permitted by law,

actions shall include, but will not necessarily be limited to, the consolidation of multiple parcels on individual deeds – one for all parcels conveyed for the same authorized public use pursuant to Minnesota Statutes § 282.01, Subd. 1a(e) and one for all parcels conveyed for the same conservation purpose pursuant to § 282.01, Subd. 1a(h).

- iv. Provide the recorded deeds to the City upon the County's receipt thereof after recording.

3. Parcels Conveyed to the City "As-Is". The City acknowledges and agrees that all state tax forfeited parcels conveyed to it pursuant to this Agreement are conveyed "as is." The City further acknowledges and agrees that no representations or warranties regarding the parcels have been or will be made by the State in Trust for the Local Taxing Districts and/or the County, or their employees or agents, including but not limited to environmental conditions, legal flaws, parcel boundaries, and access.

4. Notices. Communications and information concerning the Project or this Agreement shall be directed to the following representatives:

County

Mark Weber, Director
St. Louis County
Land and Minerals Department
Government Services Center
320 West Second Street, Room 302
Duluth, Minnesota 55802-1410

City

Jim Filby Williams, Director
City of Duluth
Property, Parks, and Libraries Department
City Hall
411 W 1st St
Duluth, MN 55802

5. Amendments. The Parties may agree to make alterations, variations, modifications, amendments or waivers of the provisions of this Agreement at any time provided that amendments make specific reference to this Agreement, are made in writing, and signed by duly authorized representatives of the Parties.

6. Liability and Indemnification. Each party to this Agreement shall be liable for its own acts to the extent provided by law, and each party hereby agrees to indemnify, hold harmless and defend the other, its officers, and employees against any and all liability, loss, costs, damages, expenses, claims or

actions, including attorney's fees, which the other, its officers and employees may hereafter sustain, incur or be required to pay, arising out of or by reason of any act of omission of the party, its agents, servants or employees, in the execution, performance, or failure to adequately perform its obligations pursuant to this Agreement.

7. Termination.

- a. If either party fails to perform its obligations set forth herein, such failure shall constitute a breach of this Agreement. The non-breaching party may notify the breaching party in writing of the breach and allow the breaching party ten days to cure the breach. If the breaching party fails to take satisfactory action to cure the breach within the ten-day period provided herein, the non-breaching party may terminate this Agreement.
- b. The Parties may terminate this Agreement, in whole or part, at any time by mutual written consent specifying the effective date of such termination.
- c. In the event that, despite their best efforts to do so, the parties are unable to agree on the list of the list of properties to be conveyed to City pursuant to the Minnesota Statutes § 282.01, Subd. 1a(e) or the list of properties to be conveyed to City pursuant to Minnesota Statutes § 282.01, Subd. 1a(h) or are unable to reach agreement on the payments to be made by City to County pursuant to Section 2 b v above, or for failure of the consideration set forth in Section 2 b v above, either party may terminate this Agreement by giving written notice to the other party as provided for in Section 4 above.

8. Duration. This Agreement will be effective November 30, 2020 and will continue through September 30, 2025, unless sooner completed or terminated as set forth herein. Section 6 (Liability and Indemnification) shall survive completion or termination of this Agreement.

9. Jurisdiction and Venue. This Agreement shall be governed by and construed in accordance with the substantive and procedural laws of the State of Minnesota, without giving effect to the principle of conflict of laws. All proceedings related to this Agreement shall be venued in the State of Minnesota District Court for the Sixth Judicial District in Duluth, Minnesota.

10. Interpretation of this Agreement. The Parties agree that, should any dispute arise over the interpretation of this Agreement, this Agreement will be interpreted neutrally pursuant to Minnesota law. In the event and to the extent that any provision of this Agreement is declared invalid or is unenforceable for any reason, such provision shall be deleted and shall not invalidate any other provision contained in this Agreement.

11. Final Agreement. This Agreement is the final expression of the Parties and the complete and exclusive statement of the terms agreed upon, and will supersede all prior negotiations, understandings and/or agreements. There are no representations, warranties, or stipulations, either oral or written, not herein contained. By signing this Agreement, each Party represents the appropriate officials of

the respective governmental entity are signatories and authorized to bind the entity to the terms and conditions herein.

COUNTY

Michael Jugovich
Chair, Board of Commissioners

Nancy Nilsen
County Auditor

Approved as to form and execution:

Kimberly J. Maki
Assistant County Attorney

Damion no. 2019-013275

CITY

CITY OF DULUTH, a Minnesota Municipal
Corporation

By: _____
Emily Larson
Its Mayor

Attest:

By: _____
Chelsea Helmer
Its City Clerk

