

EXHIBIT 1

PURCHASE AGREEMENT

THIS PURCHASE AGREEMENT (this “**Agreement**”) is entered into as of the date of the attestation by the City Clerk set forth below (the “**Effective Date**”), by and between CITY OF DULUTH, a municipal corporation and political subdivision under the laws of the State of Minnesota (“**City**” or “**Seller**”), and THE HOUSING AND REDEVELOPMENT AUTHORITY OF DULUTH, MINNESOTA, a public body corporate and politic under the laws of Minnesota (“**HRA**” or “**Buyer**”).

RECITALS

A. Seller is the owner of certain real property in St. Louis County, Minnesota legally described as follows, together with any and all improvements located thereon (the “**Property**”):

East ½ of Lot 326, Block 109, DULUTH PROPER SECOND DIVISION AND
West ½ of Lot 324, Block 109, DULUTH PROPER SECOND DIVISION,

B. Buyer wishes to facilitate an affordable housing project on the Property in conformance with Buyer’s standard practices and organizational objectives (the “**Project**”).

C. Buyer wishes to purchase the Property from City to complete the Project or another project creating housing units and City wishes to sell the Property to Buyer pursuant to the authority granted in Duluth City Code Section 2-177.3.

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 Purchase Price. The purchase price for the Property, which City agrees to accept and Buyer agrees to pay, is \$1.00 (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 the effective date of the City Council ordinance approving the sale of the Property to Buyer (the “**Ordinance**”), at a time and location mutually agreeable to the parties (the “**Closing**”).
- 2.0 Closing. City shall deliver possession of the Property on the date of Closing. On the date of Closing, Buyer shall pay the Purchase Price to City and City shall deliver a quitclaim deed to Buyer conveying City’s interest in the Property to Buyer (the “**Deed**”). If the Closing has not occurred within 90 days of the effective date of the Ordinance, (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.
- 3.0 Evidence of Title. Buyer may obtain, at Buyer’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 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 in a condition that is acceptable to Buyer, Buyer may object to the title defects by specifying Buyer's objections in writing to City with 10 days of receipt of the Title Commitment. At City's election, City may fix any title defects, or may decline to fix any title defects by delivering written notice to Buyer within 10 days of receipt of Buyer's title objections. If City fixes the title defects, the parties shall proceed to Closing subject to the terms and conditions of this Agreement. If City declines to fix the title defects, Buyer may terminate this Agreement by delivering written notice of termination to City within 5 days of receiving notice that City 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. Any title exceptions, defects or encumbrances that are not objected to by Buyer as set forth in this Section 3.0, or are initially objected to but later waived or deemed waived by Buyer as set forth in this Section 3.0, are referred to collectively in this Agreement as the "**Permitted Exceptions**."

4.0 Taxes and Costs. Real estate taxes on the Property 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, any title company costs, and any other costs and expenses required to effectuate the purchase and sale contemplated by this Agreement. The parties intend that City will not incur any out-of-pocket expenses in relation to the purchase and sale contemplated by this Agreement or in relation to the Project.

5.0 Buyer's Conditions to Closing. The Closing of the transaction contemplated by this Agreement and the obligation of Buyer to purchase the Property shall be subject to the following conditions:

- (a) Inspection. Buyer shall have determined on or before the end of the Inspection Period that it is satisfied with the condition of the Property. Buyer and its employees, agents, contractors and subcontractors, shall have a non-exclusive license for 45 days from the effective date of this Agreement (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 City shall not be responsible for the security of or any damage to Buyer's property. The extent of the Site Inspections that may be performed pursuant to the Inspection License shall be in the sole discretion of City's Director of Planning and Economic Development, or their designee. Buyer understands that all Site Inspections done on the Property prior to Closing 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 reimbursement from City or any lien against the Property in relation to the Site Inspections. Buyer shall, at its sole cost and expense, restore the Property to its present condition prior to the end of the Inspection Period. The Inspection License shall terminate automatically upon termination of this Agreement. 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. Buyer will promptly pay when due the costs of all entry and inspections, tests and examinations done with regard to the Property. Buyer shall keep the Property free and clear of any mechanics', materialmen's or similar liens related to Buyer's right of inspection and its due diligence activities. To the extent permitted by law, Buyer agrees to indemnify, defend and hold Seller harmless from and against any and all losses, claims, causes of action, liabilities and costs of defense incurred by Seller arising out of the actions of Buyer, its agents, employees, contractors or invitees in the performance of its inspection of the Property. Buyer and its agents shall comply with all applicable laws and regulations with respect to the inspection and access and shall refrain from interfering with Seller's use of the Property. Buyer shall assume all liability for any damages to the Property or injury to persons resulting from, arising out of or incurred in connection with any inspection or access to the Property by Buyer or its agents. If Buyer is unsatisfied with the condition of the Property, Buyer may terminate this Agreement by delivering written notice of termination to City within 5 days from the end 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 provided for in this Agreement.

- (b) Representations. Seller's representations in this Agreement shall be true at the time of Closing as though such representations were made at such time.
- (c) Title. The status of title to the Property shall have been accepted by Buyer pursuant to the provisions of Section 3.0 of this Agreement.

6.0 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.
- (c) Ordinance. The City Council shall have adopted an ordinance approving the conveyance on the terms and conditions set forth in this Agreement (the "Council Contingency.") The Council Contingency cannot be waived.

If the conditions set forth in Section 6.0(a) and (b) have not been satisfied or waived prior to the Closing Date, this Agreement may be terminated by 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 6.0 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.

7.0 Representations by Buyer. Buyer makes the following representations to Seller:

- (a) Buyer is a public body corporate and politic under the laws of Minnesota and has the full power and authority to (i) enter into this Agreement and (ii) purchase the Property in accordance with this Agreement. No consent or authorization from any other person, entity or government agency is required for Buyer to enter into and perform Buyer'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 Buyer is bound.
- (b) There is no suit, action, legal, administrative or other proceeding or inquiry pending or threatened against Buyer which could affect Buyer's ability to enter into and perform Buyer'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 Buyer, nor are any such proceedings contemplated by Buyer.
- (c) The individuals executing this Agreement on behalf of Buyer have the requisite authority to execute this Agreement and such other documents as are contemplated or to be delivered by Buyer, and to bind Buyer thereto; and Buyer has the full and complete authority to purchase the Property.

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.

8.0 Statutory Disclosures. City staff handling the sale of the Property on behalf of City 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.

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

- (a) The Deed, in substantially the form of the Minnesota Uniform Conveyancing Blank;
- (b) The Ordinance;
- (c) A certificate (or statutory statement on the Deed) signed by Seller warranting that there are no "Wells" on the Property within the meaning of Minn. Stat. Chapter 103I, or if there are "Wells", a Well Certificate in the form required by law; and
- (d) All other documents required by this Agreement to effectuate the provisions of this Agreement.

10.0 Closing Costs. The following costs and expenses shall be paid in connection with the Closing:

- (a) Buyer shall pay the cost of:

- (i) All fees associated with the issuance of the Title Commitment, including state and federal tax lien, judgment and bankruptcy searches and the premium for the Title Policy, if any;
 - (ii) All state deed taxes and/or transfer taxes on deeds;
 - (iii) All recording fees, including but not limited to fees to record the Deed, Buyer's ordinance authorizing the purchase of the Property to Seller, and any and all documents necessary to satisfy any objections to the Title Commitment;
 - (iv) Any surveys, reports or inspection reports obtained by Buyer;
 - (v) Proration as of the Closing Date of all utilities and operating expenses and rents, if any;
 - (vi) Any real property taxes and installments of special assessments to be paid by Buyer as specified in Section 4.0 above;
 - (vii) Any other item allocated to or assumed by Buyer in this Agreement;
 - (viii) The entire Closing fee charged by a title company, if any; and
 - (ix) All attorneys' fees and expenses incurred by Buyer.
- (b) Seller shall pay the cost of:
- (i) Proration as of the Closing Date of all utilities and operating expenses and rents, if any;
 - (ii) Any real property taxes and installments of special assessments to be paid by Seller as specified in Section 4.0 above; and
 - (iii) All attorneys' fees and expenses incurred by Seller.

11.0 Title to Be Delivered. Seller agrees to convey marketable fee simple title in the Property to Buyer at Closing subject only to:

- (a) Reservations of minerals or mineral rights by the State of Minnesota, if any;
- (b) Building, zoning and subdivision laws, ordinances and State and Federal regulations which do not interfere with present improvements; and
- (c) Any Permitted Exceptions, as defined in Section 3.0 above.

12.0 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. This provision shall survive Closing and delivery of the Deed.

- 13.0 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 City, its 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 agrees to assume the benefit and burden of the Property as of the date of Closing. Promptly after receipt by City of notice of the commencement of any action with respect to which Buyer is required to indemnify City under this Agreement, City 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 City and the payment of expenses. In so far as such action shall relate to any alleged liability of City with respect to which indemnity may be sought against Buyer, 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 Section 13.0 shall survive the Closing and cancellation of this Agreement for any reason.
- 14.0 No Representations by City. 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, except as and to the extent expressly set forth in Section 8.0. 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, EXCEPT AS SET FORTH IN SECTION 8, 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.

Buyer acknowledges and agrees that City has no obligation to remove any personal property or debris from the Property. This paragraph Section 14.0 shall survive the Closing and cancellation of this Agreement for any reason.

15.0 No Assignment. This Agreement may not be assigned by either party.

16.0 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 City and its employees, agents, elected officials and attorneys (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 City 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. The foregoing shall not be interpreted to waive any claim of Buyer with respect to any breach by City of any express representations made by City in Section 8.0 above that expressly survive Closing pursuant to this Agreement.

17.0 Buyer Reliance. Buyer is experienced in and knowledgeable about the ownership, development, and management of real estate, and it has relied and will rely exclusively 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 Purchase Price and other terms and conditions contained in this Agreement are the result of negotiations between sophisticated parties experienced in transactions of this kind, and the Purchase Price and other terms and conditions contained in this Agreement take into account the fact that Buyer is not entitled to rely on any information provided by City, any of its agents, or any other person acting for or on behalf of City, except as expressly set forth in Section 8.0 above. All information, whether written or oral, previously, now, or hereafter made available to Buyer by City, its agents, employees, or any other person acting for or on behalf of City, 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 City to Buyer solely as an accommodation, and neither City nor its agents has verified the accuracy of such information or the qualifications of the persons preparing such information, except as expressly set forth in Section 8.0 above. Buyer agrees that, notwithstanding the fact that Buyer has received certain information from City, 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 City, or its agents or consultants, except as expressly set forth in Section 8.0 above.

18.0 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. The representations, warranties, agreements, and obligations of the parties shall survive the Closing. Amendments to this Agreement must be in writing and must be executed by the same officers as executed this Agreement, except that City's City Administrator is authorized, in their discretion, to sign amendments solely to extend timelines set forth in this Agreement up to a maximum of 120 days.

19.0 Default and Remedies.

(A) General Events of Default. The following shall be deemed to be general events of default by Buyer under the terms and conditions of this Agreement to which the

remedies set forth in subparagraph (B) below shall be applicable as otherwise set forth in this Agreement.

- (i) Buyer shall fail to observe or perform any of the terms, conditions, covenants or agreements required to be observed or performed by it or any successor or assigns of Buyer pursuant to this Agreement and such failure shall continue for a period of twenty (20) calendar days after City has, pursuant to the provisions of this Agreement, given written notice to Buyer of such default or, in the event that such default shall be incapable of cure during said twenty-day period, shall have failed to commence to cure said default within twenty (20) days of the date of said notice and to diligently pursue the same to completion.
 - (ii) Any liens are placed on the Property due to the action or inaction of Buyer which effect or encumber City's interest in the Property or this Agreement.
- (B) General Remedies. Except as otherwise set forth in this Agreement, City shall have the following remedies in the event of a default by Buyer:
- (i) Declare this Agreement terminated.
 - (ii) Seek and be entitled to monetary damages, including consequential damages, from Buyer for any damages incurred by City as a result of Buyer's default.
 - (iii) Seek and be entitled to injunctive or declaratory relief as is necessary to prevent Buyer's violation of the terms and conditions of this Agreement or to compel Buyer's performance of its obligations hereunder.
 - (iv) Seek such other legal or equitable relief as a court of competent jurisdiction may determine is available to City.
- (C) Non-Waiver. The failure of either party to enforce any provision of the 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.
- (D) Remedies Cumulative. Except as specifically set forth herein, the remedies provided under this Agreement shall be deemed to be cumulative and non-exclusive and the election of one remedy shall not be deemed to be the waiver of any other remedy with regard to any occasion of default hereunder.

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

City of Duluth
Attn: Senior Property Services Specialist
411W. First St., Room 440
Duluth, MN 55802

The Housing and Redevelopment Authority
of Duluth, Minnesota
Attn: Director of Real Estate and
Rehabilitation
222 E. Second Street
P.O. Box 16900
Duluth, MN 55816

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

- 21.0 Headings. The captions and headings of the various sections of this Agreement are for convenience only and are not to be construed as defining or as limiting in any way the scope or intent of the provisions hereof.
- 22.0 Invalidity. If for any reason any portion or paragraph of this Agreement shall be declared void or unenforceable by any court of law at equity, it shall only affect such particular portion or paragraph of this Agreement and the balance of this Agreement shall remain in full force and effect and shall be binding upon the parties hereto.
- 23.0 Counterparts/Facsimile/Electronic Signatures. This Agreement may be executed in any number of counterparts and by different parties on separate counterparts, each of which counterparts, when so executed and delivered, shall be deemed to be an original and all of which counterparts, taken together, shall constitute one and the same Agreement. Facsimile or electronic signatures shall be binding on the transmitting party and shall have the same force and effect as if the original signature had been delivered.

[Remainder of this page is intentionally left blank.]

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

CITY OF DULUTH

By: _____
Its Mayor

Attest: _____
Its City Clerk
Date Attested: _____

Countersigned:

By: _____
Its Auditor

Approved as to form:

By: _____
Its City Attorney

**THE HOUSING AND REDEVELOPMENT
AUTHORITY OF DULUTH, MINNESOTA**

By: _____

Printed Name: _____

Its: _____

Date: _____