MINNESOTA HOUSING FINANCE AGENCY
HOUSING TAX CREDIT ADMINISTRATION
JOINT POWERS AGREEMENT

WHEREAS, Section 42 of the Internal Revenue code of 1986 ("Section 42") provides for a low-income housing credits (the "Housing Credit") to be allocated by Housing Credit Agencies as that term is defined in Section 42((h)(8)(A), pursuant to a Qualified Allocation Plan ("QAP") as that term is defined in Section 42(m)(1); and

WHEREAS, Minnesota Statutes Section 462A.221, subdivision 1(a) (2015) defines allocating agency under Minnesota law as the Minnesota Housing Finance Agency ("Minnesota Housing") and "each county and city that allocates reserved tax credits as provided by section 462A.222, subdivision 1"; and

WHEREAS, the city of Duluth is a city which allocates reserved credits pursuant to Section 462A.222, subdivision 1(a); and

WHEREAS, Minnesota Housing and the city of Duluth wish to enter into a joint powers agreement pursuant to Minnesota Statutes, Section 471.59 (2017), pursuant to which, except for certain functions expressly set forth in this Agreement, Minnesota Housing will perform all of the housing tax credit allocation and compliance monitoring functions on behalf of the city of Duluth with respect to housing credits allocated for the calendar years 2017 Housing Credit Ceiling, as that term is defined in 26 CFR Section 1.42-14; and

WHEREAS, pursuant to Section 42 Minnesota Housing has adopted a Qualified Allocation Plan which include both procedures for the allocation of low-income Housing Credits ("*Allocation Procedures*") and compliance monitoring procedures ("*Monitoring Procedures*") and also contemplate a joint powers agreement as set forth herein; and '

WHEREAS, the State of Minnesota Housing Tax Credit 2017 Qualified Allocation Plan ("2017 QAP"), the 2017 Housing Tax Credit Program Procedural Manual ("HTC Procedural Manual"), and the 2017 Housing Tax Credit Program Compliance Manual ("HTC Compliance Manual"), and any revisions and amendments thereto, are hereby incorporated in their entirety into this Agreement by reference.

NOW, THEREFORE, IT IS AGREED:

1. **Allocation.**

   a. City of Duluth agrees to transfer its entire 2017 housing tax credit allocation to Minnesota Housing using the form attached hereto. Said credits become part of the Minnesota Housing 2017 housing tax credit ceiling pursuant to Minnesota Statutes Section 462A.223.

   b. With respect to city of Duluth housing tax credits, excluding housing tax credits through the issuance of tax-exempt bonds, the parties agree that

the 2017 QAP will apply to all projects and that Minnesota Housing shall perform all of the allocation duties on behalf of the city of Duluth using the 2017 QAP. All applicants shall use the application forms included in the 2017 QAP.

c. With respect to city of Duluth housing tax credits through the issuance of tax-exempt bonds, the project must comply with the applicable qualified allocation plan as set forth in the 2017 QAP. The parties agree that Minnesota Housing shall conduct the Section 42(m)(1)(d) review and the bond issuer shall conduct the Section 42(m)(2)(d) review for said credits.

d. Under Round 1 of the 2017 QAP, Minnesota Housing shall make selections according to the selection processes established by the 2017 QAP and shall allocate housing tax credits only to the highest ranking project of the city of Duluth and only to the extent housing tax credits are available, subject to the limitations contained in Article 8 of the 2017 QAP. The city of Duluth understands that if said project does not score high enough relative to all of the projects competing for housing tax credits said project may receive only a portion, or none, of the housing tax credits sought under Round 1.

e. Unsuccessful applicants may apply for housing tax credits under Round 2 of the 2017 QAP.

2. **Compliance Monitoring.** For all projects receiving their initial allocation of housing tax credits from Minnesota Housing, all compliance monitoring functions throughout the Compliance Period and Extended Use Period for each project, as those terms are defined in Internal Revenue Code Sections 42(i)(l)(i) and 42(h)(6)(D), shall be performed by Minnesota Housing. Minnesota Housing shall perform the compliance monitoring responsibilities for the projects pursuant to the compliance monitoring provisions of the 2017 QAP, the HTC Compliance Manual and 26 CFR Section 1.42.5, all as may be amended from time to time.

3. **Compensation.** Only Minnesota Housing shall charge and receive compensation for the allocation and compliance duties and shall do so in accordance with the HTC Procedural Manual and the HTC Compliance Manual. The compensation shall be paid to Minnesota Housing directly by the tax credit applicant/owner at the times and in the amounts set forth therein.

4. **Term of Contract.** Subject to execution by all of the parties' hereinbelow, this Agreement shall be effective on **April 1, 2016**. With respect to the allocation responsibilities herein, this Agreement shall not terminate until all allocation responsibilities under this Agreement have been completed. With respect to the compliance monitoring responsibilities herein, said responsibilities shall continue from the beginning of the Compliance Period through the end of the Extended Use Period, as those terms are defined under IRC Section 42.

6. **Addresses for Notices**. All notices to be given by either party to the other hereunder shall be in writing addressed as follows:

   (a)   To the city of Duluth at:

   Community Planning Division
   City of Duluth – City Hall
   411 W. 1st St. – Room 332
   Duluth, MN 55802

   (b)   To Minnesota Housing at:

   Minnesota Housing Finance Agency
   400 Sibley Street, Suite 300
   St. Paul, Minnesota 55101-1998

   or addressed to any such party at such other address as such party shall hereafter furnish by notice to the other party.

7. **Records.** Both Minnesota Housing and the city of Duluth agree that it will make available all pertinent information, data and records under their respective control for each other's use in the performance of this Agreement, and will assist the other, whenever possible, to obtain such records, data and information.

8. **Liability.** Each party shall be responsible for its own acts and omissions, the acts and omissions of its employees, and results thereof to the extent authorized by law. The parties shall not be responsible for the acts of any others and the results thereof.

9. **Assignment.** Neither party shall assign any interest in this Agreement without prior written consent of the parties and subject to such conditions and provisions as are deemed necessary.

10. **Independent Contractors.** The parties agree that the employees of Minnesota Housing shall always be considered employees of Minnesota Housing for all purposes including workers' compensation and the employees of the city of Duluth shall always be considered employees of the city of Duluth for all purposes including workers' compensation. No employee of either party shall be entitled to any claim or benefit from the other party from any event or occurrence arising out of the performance of the Agreement. This agreement is not intended and should not be construed in any manner as creating or establishing a relationship of co-partners between the parties hereto. Neither party under any circumstances shall be liable for any employee benefits of the other party's employees. This Agreement shall be construed in such a manner as to not interfere with the contractual obligations of either party with its employees under any valid collective bargaining agreement.

11.   **Amendments.** This Agreement may be amended only in writing signed by the parties.

12.   **Validity of Agreement.**   Pursuant to Minnesota Statutes Section 16C.05, this Agreement is not valid until all necessary signatures have been obtained.

CITY OF DULUTH

By: _____
Its: _____

Date: _____

CITY CLERK

By: _____
Its: _____

Date: _____

MINNESOTA HOUSING FINANCE AGENCY

By: _____
Its: _____

Date: _____

APPROVED BY

COMMISSIONER OF ADMINISTRATION

By: _____
Its: _____

Date: _____