

EXHIBIT 1

1123 E. 11TH STREET ASSESSMENT AGREEMENT CITY PROJECT NO. 1531

THIS AGREEMENT, effective as of the date of attestation thereto by the City Clerk, by and between the CITY OF DULUTH, a municipal corporation created and existing under the laws of the State of Minnesota, hereinafter referred to as "City" and ROBERT J. and RUTH I. MCCAULEY, husband and wife, as joint tenants, hereinafter referred to as "Owner".

WHEREAS, Owner is the owner of certain property having a street address of 1123 East 11th Street in the City of Duluth, County of St. Louis, State of Minnesota, which property is hereinafter referred to as the "Property" and is legally described as follows:

Lot 6, block 33, LAKEVIEW DIVISION OF DULUTH;
and

WHEREAS, pursuant to procedures authorized by Chapter 45 of the Duluth City Code, 1959, as amended, Owner requested and City caused to be constructed and installed a new sidewalk from the public sidewalk within the right-of-way of platted East 11th Street to their residence as hereinafter described as the "Project" and has requested that the reasonable cost thereof be assessed against the Property as benefitted property as hereinafter set forth and is further willing to execute a note and mortgage securing the repayment of said costs as hereinafter provided for; and

WHEREAS, City caused to be constructed and installed the Project under the terms and conditions hereinafter set forth.

NOW THEREFORE, in consideration of the mutual covenants and conditions hereinafter contained, the parties hereto hereby agree as follows:

Article I.

Definitions

The following terms and phrases shall have the meanings hereinafter ascribed to them:

- A. Assess or Assessment Procedure: shall mean the act or process of collecting all or a portion of the cost of certain public improvements, street improvements by collecting the same from the owners of benefitted properties as provided for in Chapter IX of the Duluth City Charter.
- B. Engineer: shall mean the Duluth City Engineer or such other person as he or she may have designated from time to time in writing.
- C. Fair Share Costs: shall mean the Owner's fair share of the cost of constructing and administering the Project as hereinafter set forth.
- D. Plans: shall mean the specifications on file in the office of the Engineer bearing City Project No.1531.
- E. Project: shall mean the construction of a +/- Three (3) foot wide sidewalk with ten (10) steps leading from the public sidewalk in the right-of-way of East 11th Street to the residence of Owner located on the Property, all as shown on the Plans.
- F. Property: shall mean the property in St. Louis County, Minnesota described above.

ARTICLE II

Project

Owner hereby agrees and acknowledges that City has caused the Project to be constructed and completed in accordance with the Plans and in a satisfactory manner and that City has no further construction obligations related to the Project.

ARTICLE III

Construction Cost & Owner's Fair Share

Owner hereby agrees and acknowledges that City has demonstrated to Owner's satisfaction that the City incurred costs of constructing the Project in the amount of \$7,680.61. City and Owner hereby agree, because of the passage of time and other factors not caused by Owner, that the Fair Share Costs which should be paid by Owner as hereinafter provided for is Four Thousand Three Hundred Thirty-four and 80/100s Dollars (\$4,334.80).

ARTICLE IV

Costs of Project

- A. Benefits of and Payment for the Project

Owner agrees that the construction of the Project constitute public improvements which confer special benefits accruing to the Property which equals or exceeds the Fair Share Costs. It is hereby stipulated and agreed that the value of the benefits conferred upon the Property are equal to or exceed the amounts to be assessed against Property, without reference to any benefits conferred upon other benefitted properties.

B. Owner Agrees to Assessment

Because the Owner agrees that the value of the benefits to the Property arising out of the construction of the Project equals or exceeds the anticipated costs thereof, Owner agrees to accept and to pay an Assessment in the amount of the Fair Share Costs levied against the Property by City to defray the costs of said improvements. Said Assessment shall run for a term of Five (5) years at the City's standardized rate for special assessments then in effect which rate is currently estimated to be Three and Fourteen/One Hundredths (3.14 %) percent per annum.

C. Waiver of Defenses

Owner, for itself and its successors and assigns and for any other affected party, specifically waives, without limitation, all defenses of any kind whatsoever, including, but not limited to, procedural defenses to the Assessments to be levied pursuant to this Article and agrees that Owner and its successors and assigns, if any, shall be bound thereby.

D. Note and Mortgage

As further security for the repayment of the Owner's Fair Share Costs of the Project, Owner hereby agrees to execute and deliver to City a Note in the form of that attached hereto as Exhibit A evidencing Owner's repayment obligation therefore and a Mortgage in the form of that attached hereto as Exhibit B against the Property securing that repayment.

ARTICLE V

General Defaults by Owner and Remedies Therefore

A. General Events of Default

The following shall be deemed to be general events of default by Owner under the terms and conditions of this Agreement to which the remedies set forth in Subparagraph 2 below shall be applicable as otherwise set forth in this Agreement: Owner shall fail to make any payment on any Assessment levied against the Property pursuant to Article IV above, or any installment thereof in a timely manner and in full; provided, however, that to the extent only an installment or a portion of said Assessment(s) is due, then "in full" shall only mean such installment or portion then due.

B. General Remedies

Except as otherwise set forth in this Agreement, City shall have the following remedies in the event of a default by Owner:

1. Seek and be entitled to monetary damages, including consequential damages from Owner for any damages, including consequential damages incurred by City as a result of Owner's default.
2. Seek and be entitled to injunctive or declaratory relief as is necessary to prevent Owner's violation of the terms and conditions of this Agreement or to compel Owner's performance of its obligations hereunder.
3. Enforce the assessment against the benefitted property and collect any

sums due and owing thereunder.

4. Exercise the Mortgage referred to in Paragraph D of Article IV above.
5. Seek such other legal or equitable relief as a court of competent jurisdiction may determine is available to City.

C. Non-Waiver

The waiver by City of any default on the part of Owner or the failure of City to declare default on the part of Owner 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 hereunder. And, to be effective, any waiver of any default by the defaulting party hereunder shall be in writing by the non-defaulting party.

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.

E. Attorneys' Fees

In the event that either party is in default of any of the terms and conditions of this Agreement and the other 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.

ARTICLE VI

Force Majeure

Under the terms of this Agreement, neither the City nor Owner shall be considered in default or in breach of any of the terms with respect to the performance to their respective obligations under this Agreement in the event of enforced delay in the performance of its obligations due to unforeseeable causes beyond its control and without its fault or negligence, including but not limited to acts of God, acts of a public enemy, acts of the federal government, acts of another party, fire, floods, epidemics, strikes or embargoes, or for delays of subcontractors due to such causes. In the event of any such delay, any time for completion or delivery under this Agreement shall be extended for the period of any such delay upon written notice from the party seeking the extension to the other party.

ARTICLE VII

Term

Except as provided for below, the term of this Agreement shall run from the date first above shown until July 5, 2021 unless this Agreement is otherwise terminated as hereinbefore provided for. Nothing to the contrary in the foregoing withstanding the terms and conditions of Articles III, IV and V shall survive the term or termination or both of this Agreement for so long as is

necessary to give effect to their provisions.

Article VIII

Runs with the Land

This Agreement shall be deemed to run with the land and shall inure to the benefit of the parties hereto and to their successors and assigns.

ARTICLE IX

Notices

Any notice, demand or other communication under this Agreement by either party to the other shall be deemed to be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid or deposited with a nationally recognized overnight courier service for next business day delivery to:

In the case of City:

City of Duluth
Office of the City Clerk
Room 326, City Hall
Duluth, MN 55802

In the case of Owner:

Robert and Ruth McCauley
1123 East 11th Street
Duluth, MN 55805

ARTICLE X

Applicable Law

This Agreement together with all of its Articles, paragraphs, terms and provisions is made in the State of Minnesota and shall be construed and interpreted in accordance with the laws of the State.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first shown above.

CITY OF DULUTH, a Minnesota
Municipal Corporation

By _____
Its Mayor

Attest:

By _____
Its City Clerk



Robert J. McCauley, Owner



Ruth I McCauley, Owner

Approved:

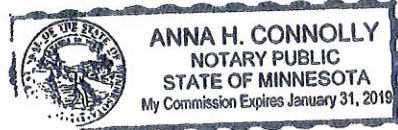
Countersigned:

Assistant City Attorney

City Auditor

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

The foregoing instrument was acknowledged before me this 15th day of May, 2017
by Robert J. McCauley and Ruth I. McCauley, husband and wife, as joint tenants, Owner.



Anna H Connolly
Notary Public

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

The foregoing instrument was acknowledged before me this ____th day of _____,
2017, by Emily Larson and Jeffrey J. Cox, the Mayor and City Clerk of the City of Duluth, a
municipal corporation, on behalf of the City.

Notary Public

Drafted by:
Robert E. Asleson
Assistant City Attorney
Room 410 City Hall
Duluth, MN 55802
(218) 730-5490