

**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 (HTC) 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, under Minnesota law, the Minnesota Housing Finance Agency (Minnesota Housing) and certain counties and cities are authorized to allocate HTC and the State's Housing Credit Ceiling is divided by statutory formula and reserved for allocation by the respective entities; and

WHEREAS, the City of Duluth is a City which is eligible to receive a reservation of HTC under Minn. Stat. 462A.222, subd. 1; and

WHEREAS, Minnesota Housing and the City of Duluth wishes to enter into a joint powers agreement under Minn. Stat. § 471.59, pursuant to which, except for certain functions expressly set forth in this Agreement, Minnesota Housing will perform all of the HTC allocation, award and compliance monitoring functions on behalf of the City of Duluth with respect to HTC allocated for the calendar year 2020 Housing Credit Ceiling, as that term is defined in 26 CFR § 1.42-14 or awarded in calendar year 2020 to developments financed with volume limited tax exempt bonds; and

WHEREAS, pursuant to Section 42, Minnesota Housing adopts Qualified Allocation Plans (QAPs) which include both procedures for the allocation and award of HTC and compliance monitoring procedures and also contemplate a joint powers agreement as set forth herein; and ‘

WHEREAS, the State of Minnesota Housing Tax Credit 2020 Qualified Allocation Plan (2020 QAP), the 2020 Housing Tax Credit Program Procedural Manual (HTC Procedural Manual), and the 2020 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 and Award.

- a. City of Duluth agrees to transfer its entire 2020 HTC annual tax credit distribution to Minnesota Housing using the form attached hereto. Said credits become part of the Minnesota Housing 2020 housing tax credit ceiling pursuant to Minnesota Statutes Section 462A.223.

- b. With respect to City of Duluth HTC, the parties agree that the 2020 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 2020 QAP. All applicants shall use the application forms included in the 2020 QAP.
 - c. With respect to City of Duluth HTC through the issuance of volume limited tax-exempt bonds, the project must comply with the QAP in effect for the year that the bonds are issued. The parties agree that Minnesota Housing shall conduct all applicable reviews under Section 42(m) and the issuer must provide documentation of its review pursuant to Section 42(m)(2)(d).
 - d. Under Round 1 of the 2020 QAP, Minnesota Housing shall make selections according to the selection processes established by the 2020 QAP and shall allocate HTC in Round 1 and, if applicable, Round 2, pursuant to the requirements and limitations contained in the 2020 QAP.
- 2. **Compliance Monitoring.** For all projects receiving their initial allocation of HTC 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)(1)(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 2020 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' herein below, this Agreement shall be effective on May 13, 2019. 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 awards of tax credits to developments financed with tax exempt bonds, this Agreement shall terminate at the conclusion of calendar year 2020. 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:

Adam Fulton
Deputy Director
Planning and Economic Development
City of Duluth
116 City Hall
Duluth, MN 55802

(b) To Minnesota Housing at:

Minnesota Housing Finance Agency
400 Wabasha Street North, Suite 400
St. Paul, Minnesota 55102

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. **Authority to Enter into Agreement.** Each Party represents that the individual executing this Agreement has been authorized to do so by its governing body.

CITY OF DULUTH

By: _____

Its: _____

Date: _____

CITY CLERK

By: _____

Its: _____

Date: _____

ATTORNEY

By: _____

Its: _____

Date: _____

CITY AUDITOR

By: _____

Its: _____

Date: _____

MINNESOTA HOUSING FINANCE AGENCY

By: _____

Its: _____

Date: _____